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6
 7
 8 IN THE UNITED STATES DISTRICT COURT
 9 EASTERN DISTRICT OF CALIFORNIA

10
 11 UNITED STATES OF AMERICA,
 12 Plaintiff,

2:18-CV-00748-KJM-CKD

13 v.

STIPULATION AND ORDER RE
 INTERLOCUTORY SALE OF
 REAL PROPERTY LOCATED AT 474
 LAURELLEN ROAD

14 REAL PROPERTY LOCATED 6480
 MARYSVILLE ROAD, BROWNS VALLEY,
 15 CALIFORNIA, YUBA COUNTY, APN: 044-
 270-024-000, INCLUDING ALL
 16 APPURTENANCES AND IMPROVEMENTS
 THERETO,

17 REAL PROPERTY LOCATED 10357
 18 BECKLEY WAY, ELK GROVE,
 CALIFORNIA, SACRAMENTO COUNTY,
 19 APN: 132-1580-060-0000, INCLUDING ALL
 APPURTENANCES AND IMPROVEMENTS
 20 THERETO, and

21 REAL PROPERTY LOCATED 474
 LAURELLEN ROAD, MARYSVILLE,
 22 CALIFORNIA, YUBA COUNTY, APN: 018-
 280-016, INCLUDING ALL
 23 APPURTENANCES AND IMPROVEMENTS
 THERETO,

24 Defendants.

25
 26 The United States of America and claimant lienholder Zinc Financial, Inc., a California corporation
 27 (“Zinc Financial”), agree and stipulate to the following interlocutory sale pursuant to Rule G(7) of the
 28 Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions:

1 1. The defendant property subject to this stipulation is Real Property located at 474 Laurellen
2 Road, Marysville, California, Yuba County, APN: 018-280-016, including all appurtenances and
3 improvements thereto (“defendant property”), and more fully described in Exhibit A attached hereto.

4 2. On April 3, 2018, the United States filed a Verified Complaint for Forfeiture *In Rem* alleging
5 that the defendant property, including any right, title and interest in the whole of any lot or tract of land
6 and any appurtenances or improvements thereon, is subject to forfeiture to the United States pursuant to 21
7 U.S.C. §§ 881(a)(6) and 881(a)(7), because it constitutes other things of value furnished in exchange for a
8 controlled substance or listed chemical, or proceeds traceable to such an exchange, and/or was used and
9 intended to be used to commit or facilitate a violation of 21 U.S.C. §§ 841 *et seq.*

10 3. The recorded owner of the defendant real property is Yifeng Ren.

11 4. Beginning on May 9, 2018, for at least thirty consecutive days, the United States published
12 Notice of the Forfeiture Action on the official internet government forfeiture site www.forfeiture.gov. A
13 Declaration of Publication was filed on July 13, 2018. (ECF No. 21)

14 5. The defendant Laurellen Road Property was posted with a copy of the Verified Complaint
15 for Forfeiture *In Rem* and Notice of the Complaint on April 30, 2018, by the U.S. Marshals Service. *See*
16 Process Receipt and Return filed May 16, 2018. (ECF No. 4)

17 6. On May 25, 2018, lien holder Zinc Financial, Inc. filed a claim (ECF No. 9), and an answer
18 to the complaint on June 15, 2018 (ECF No. 12). The Note is presently in default as a result of Yifeng
19 Ren’s failure to make the regular monthly payment due on May 1, 2018 and has continuously been in
20 default since May 3, 2018.

21 7. Yifeng Ren has not filed a claim or answer. The Clerk of the Court entered a Clerk’s
22 Certificate of Entry of Default against Yifeng Ren on July 17, 2018. (ECF No. 23)

23 8. No other parties have filed claims or answers in this matter as to the Laurellen Road
24 Property, and the time in which any person or entity may file a claim and answer has expired.

25 9. The parties agree Zinc Financial (or their designee) shall be authorized to sell the Laurellen
26 Road Property in accordance with the terms and conditions of this Stipulation pursuant to Paragraphs 10
27 through 18 below.

28 10. Upon entry of an order granting this Stipulation, claimant Zinc Financial (or their designee)

1 shall list the Laurellen Road Property for sale and shall have sole power and authority, other than review
2 and approval by the U.S. Attorney's Office to: (a) select the means of sale, including sale by internet or
3 through a licensed real estate broker, and (b) market and sell the Laurellen Road Property. Claimant Zinc
4 Financial's (or their designee's) request for the U.S. Attorney's Office approval shall be made by e-mail to
5 kevin.khasigian@usdoj.gov and shall not be unreasonably delayed or withheld. In the event the U.S.
6 Attorney's Office fails to approve or disapprove claimant Zinc Financial's (or their designee's) request for
7 approval within 48 hours of the request being made, said request for approval shall be deemed
8 automatically approved.

9 11. Zinc Financial (or their designee) shall instruct the escrow officer to wire all of the net
10 proceeds from the sale of the Laurellen Road Property to the U.S. Marshals Service and to contact the U.S.
11 Attorney's Office, Asset Forfeiture Unit, to obtain specific wiring instructions.

12 12. The "net proceeds" from the sale of the defendant property will include all money realized
13 from the sale of the defendant property, except for the following:

- 14 a. Real estate commissions;
- 15 b. Amounts due to the holder of any valid lien which was recorded prior to the time
16 the United States' Lis Pendens was recorded, which includes Zinc Financial;
- 17 c. Real estate property taxes which are due and owing;
- 18 d. Insurance costs, if any;
- 19 e. Title fees;
- 20 f. Escrow fees and expenses;
- 21 g. County transfer taxes; and
- 22 h. Any amounts paid by Zinc Financial to cure items "red tagged" by the County of
23 Yuba, including violations of the Yuba County Code of Ordinances.

24 13. The United States will receive the remaining net proceeds from the sale of the defendant
25 property. All right, title, and interest in said funds shall be substituted for the defendant property and
26 forfeited to the United States pursuant to 21 U.S.C. §§ 881(a)(6) and 881(a)(7), to be disposed of according
27 to law.

28 14. Each party to this Stipulation shall execute all documents and provide signatures necessary

1 to close escrow, as required by the title company.

2 15. All parties to this Stipulation hereby release the United States and its servants, agents, and
3 employees from any and all liability arising out of or in any way connected with the posting or sale of the
4 defendant property. This is a full and final release applying to all unknown and unanticipated injuries,
5 and/or damages arising out of said posting or sale, as well as to those now known or disclosed. The parties
6 to this Stipulation waive the provisions of California Civil Code § 1542, which provides:

7 A general release does not extend to claims which the creditor does not know
8 or suspect to exist in his or her favor at the time of executing the release,
9 which if known by him or her must have materially affected his or her
settlement with the debtor.

10 16. All parties are to bear their own costs and attorneys' fees in connection with the sale of the
11 defendant property and the preparation of this stipulation. Except as so indicated, this provision is not
12 intended as a waiver of claimants' right to seek fees upon resolution of the forfeiture action.

13 17. Pending the sale of the property, and the disposition of the proceeds, the Court shall maintain
14 jurisdiction to enforce the terms of this stipulation.

15 18. The interlocutory sale of the defendant property, the substitution of the net sales
16 proceeds in the civil case, and this stipulation shall not affect any rights or remedies the parties may have
17 to litigate their claims to the property.

18 IT IS SO STIPULATED.

19 Dated: 9/28/2018

McGREGOR W. SCOTT
United States Attorney

21 By: /s/ Kevin C. Khasigian
22 KEVIN C. KHASIGIAN
Assistant U.S. Attorney

24 Dated: September 17, 2018

25 /s/ Steven K. Vote
PATRICK D. TOOLE
STEVEN K. VOTE
Attorneys for Lien Holder Zinc Financial, Inc.

27 (Signature retained by attorney)

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EXHIBIT A

Real property at 474 Laurellen Road, Marysville, California

The land described herein is situated in the State of California, County of Yuba, unincorporated area, described as follows:

Portion of Lot 10, as shown on the map entitled, "Laurellen Tract", filed in the office of the County Recorder of Yuba County, California, in Book 3 of Maps, Page 26, and being more particularly described as follows:

Beginning at the Northwesterly corner of said Lot 10; thence North 89° 30' 00" East along the Northerly line of said Lot 10, a distance of 218.00 feet; thence South 0° 10' 00" West, a distance of 121.44 feet; thence South 47° 53' 13" East, a distance of 13.81 feet; thence South 00° 10' 00" West 133.22 feet to the Southerly line of said certain parcel of land described in Affidavit of Death-Trustee, recorded November 15, 2007, as instrument no. 2007R-019281, Official Records; thence South 89° 30' 00" West along said Southerly line, a distance of 225.20 feet to the Westerly line of said Lot 10; thence along said Westerly line, north 00° 30' 00" West, a distance of 264.00 feet, more or less, to the point of beginning.

EXCEPTING therefrom that portion conveyed to the County of Yuba, by Grant Deed recorded May 4, 1964, Book 392, Page 496, Official Records.

APN: 018-280-016