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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. REAL PROPERTY AND
IMPROVEMENTS IDENTIFIED BY
MENDOCINO COUNTY APN 051-290-
04,051-300-02,0510310-01,051-320-01;

2. REAL PROPERTY AND
IMPROVEMENTS IDENTIFIED BY
MENDOCINO COUNTY APN 051-180-08,
051-190-05, 052-010-01, 052-010-02, 052-010-
03, 052-010-09, 052-010-14, 052-010-15, 052-
010-16, 052-010-17 AND HUMBOLDT
COUNTY APN 222-024-003, 222-025-003;

3. REAL PROPERTY AND IMPROVEMENTS
IDENTIFIED BY MENDOCINO COUNTY
APN 051-180-09, 051-180-10.

Defendants.

No. C 08 3093 WHA

STIPULATION AND ORDER RE
INTERLOCUTORY SALE OF DEFENDANT
REAL PROPERTY

Plaintiff, United States of America, and claimant, Diana Mendes, through counsel
Jonathan Howden, ("the parties") agree, subject to the Court's approval, to the interlocutory sale
of the defendant real property, which is described as:

1 REAL PROPERTY AND IMPROVEMENTS IDENTIFIED BY MENDOCINO
 2 COUNTY APN 051-180-08, 051-190-05, 052-010-01, 052-010-02, 052-010-03, 052-
 010-09, 052-010-14, 052-010-15, 052-010-16, 052-010-17 AND HUMBOLDT
 3 COUNTY APN 222-024-003, 222-025-003

4 (hereinafter "defendant real property") as follows:

5 1. On or about June 26, 2008, plaintiff commenced this forfeiture action against the
 6 defendant real property alleging that it was subject to forfeiture, pursuant Title 21, United States
 7 Code, Section 881(a)(7), as property which facilitated the cultivation of marijuana.

8 2. Lost Paradise Land Corporation (hereinafter "LPLC"), is the owner of record for
 9 the defendant real property. Lost Paradise Land Corporation has never filed a claim in this
 10 action. On September 15, 2009, the United States requested the Clerk to enter a default for the
 11 defendant real property, which if granted, will be followed by a Motion for Default Judgement.

12 3. Claimant Diana Mendes claims a secured interest in defendant real property
 13 pursuant to a note secured by a deed of trust to the defendant property. *See* Answer filed
 14 September 3, 2008. She is the only entity to appear in this case and make a claim to the
 15 defendant real property.

16 4. No payments have been made by LPLC on Claimant Mendes' note since June of
 17 2008. Interest and late fees have been accruing since that time and the lack of timely payments.
 18 diminishes the equity in the property for both parties.

19 5. An interlocutory sale will prevent further accrual of debt on the note and deed of
 20 trust and will facilitate the prompt disposition of this forfeiture action.

21 6. The parties agree to an interlocutory sale of the defendant real property on the
 22 following terms:

- 23 a. The United States Marshals Service shall sell and dispose of the defendant
 24 property in accordance with law. The Marshals Service may exercise their
 25 discretion to employ the services of a duly qualified agent and title
 26 company to facilitate the sale of the defendant property. Both the United
 27 States and Claimant Diana Mendes must approve the sales price of the

1 defendant property before the property may be sold. The parties will not
2 unreasonably withhold their approval of the sales price.

3 b. The net proceeds from the sale of the defendant real property shall be paid
4 to the United States Marshals Service upon the close of escrow. "Net
5 Proceeds" are defined in paragraph f. below.

6 c. Diana Mendes agrees to provide a release of her claims of the secured
7 interest in defendant real property to the escrow officer at the title
8 company handling the escrow for the interlocutory sale, along with
9 directions to the escrow officer to record her release with the county
10 recorder upon payment to the United States by the escrow officer of the
11 net proceeds of the sale pursuant to the terms of this stipulation and order.

12 d. Upon receipt of the net proceeds of the sale of the defendant property, the
13 United States Marshals Service shall deposit and maintain the net proceeds
14 in an interest bearing account until further order of this court.

15 e. The net proceeds shall be deemed the substitute for the defendant real
16 property and the claims of the respective parties shall apply against that
17 substitute res. The parties to this stipulation and proposed order further
18 reserve the right to challenge the merits of those claims in this proceeding.

19 f. The "net proceeds" of the sale of the defendant real property will be
20 determined by deducting only the ordinary costs of sale, such as real estate
21 commission, recording fees and other customary closing costs, but not
22 including attorneys' fees. The United States must approve, in writing, the
23 estimated closing costs before the closing can take place.

24 g. The United States will provide a release of its *lis pendens* on the defendant
25 real property to the escrow officer at the title company handling the escrow
26 along with directions to the escrow officer to record the release with the

27 ///

1 county recorder upon payment to the United States by the escrow officer
2 of the net proceeds of the sale of the defendant real property as set forth
3 above.

4
5 7. The United States reserves the right to approve any potential buyer and purchase
6 price.

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10 IT IS SO STIPULATED:

11 Dated: September 15, 2009

JOSEPH P. RUSSONIELLO
United States Attorney

SUSAN B. GRAY
Assistant United States Attorney

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13 Dated: 9-15-09

JONATHAN HOWDEN
Counsel for Claimant Diana Mendes

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15
16 Dated: 9-15-09

Diana Mendes
Diana Mendes, Claimant, Lienholder

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22 IT IS SO ORDERED ON THIS 29th DAY OF September, 2009, PURSUANT TO
23 THE FOREGOING STIPULATION.

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26 DATED: September 29, 2009

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28 **STIPULATION AND ORDER RE INTERLOCUTORY SALE**
[C 08-3093 WHA] 4

