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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
APPROXIMATELY \$8,800 IN )  
AMERICAN EXPRESS TRAVELERS' )  
CHECKS; AND ONE PENTAX 35mm )  
CAMERA, SERIAL NUMBER 1318242 )  
 )  
Defendant. )

No. 09-02308 WHA

CASE MANAGEMENT CONFERENCE  
STATEMENT AND ~~PROPOSED~~ ORDER TO  
STAY

Plaintiff, United States of America, and claimant Claimant Gary Hardeman respectfully  
submit this Joint Case Management Statement.

**1. Jurisdiction and Service**

This Court has jurisdiction under Title 28, United States Code, Sections 1345 and  
1355(a); Title 18, United States Code, Section 981(a)(1)(A); Title 18, United States Code,  
Sections 2254; Title 18, United States Code, Section 2428. There are no counterclaims. Plaintiff  
has served notice of this action on all persons who may have an interest in the property, including  
the following: Claimant Gary Hardeman

1           **2. Facts**

2           On November 30, 2008, Gary Hardeman was arrested at the San Francisco International  
3 Airport after boarding a flight to Mexico. Among his belongings, agents found and seized the  
4 defendant property. Hardeman was arrested on an outstanding warrant for failing to register as a  
5 sex offender, and charges are currently pending in San Francisco County Superior Court.  
6 Hardeman was also arrested for Engaging in Illicit Sexual Conduct in Foreign Places, and  
7 charges are currently pending in the federal District Court for the Northern District of California.

8           **3. Principal Factual and Legal Issues**

9           The principal factual and legal issues in dispute are: 1) whether plaintiff can establish by  
10 a preponderance of the evidence that the defendant property is property intended to be used to  
11 commit or promote the sexual exploitation of children, illegal sexual activity, or child  
12 pornography; (2) whether plaintiff can establish by a preponderance of the evidence that the  
13 defendant property is property involved money laundering relating to illegal sexual activity or the  
14 sexual exploitation of children; 3) whether claimant Gary Hardeman can establish by a  
15 preponderance of the evidence that he is an innocent owner of the defendant property.

16           **4. Anticipated Motions**

17           On January 5, 2011, Court stayed the instant civil forfeiture case until April 7, 2011, due  
18 to claimant's pending criminal prosecution: United States v. Hardeman, 10-cr-00859 RS. As Mr.  
19 Hardeman's criminal cases are still ongoing, the parties respectfully request an additional stay of  
20 this case, so as not to raise the risk of self-incrimination or adversely affect the ability of the  
21 government to prosecute the related criminal cases.

22           **5. Relief/Damages**

23           Plaintiff seeks a judgment of forfeiture of the defendant property. This is not a damages  
24 case. Claimant Gary Hardeman seeks the return of the defendant property.

25           **6. Settlement**

26           Given the stay of this action necessitated by the pending criminal cases, it is too early to  
27 anticipate settlement with any accuracy.

28       ///

1           **7. Discovery**

2           This is an in rem forfeiture case and is exempt from initial disclosures pursuant to  
3 Federal Rule of Civil Procedure 26(a)(1)(B)(ii). Given the stay of this action necessitated by the  
4 pending criminal cases, no discovery has occurred.

5           **8. Alternative Means of Disposition**

6           The parties would be amenable to the assignment of a settlement magistrate, after the  
7 resolution of the pending criminal cases.

8           **9. Related Cases**

9           This case is related to claimant's pending criminal prosecution.

10  
11 Dated: 3/28/11

12                               /S/  
13                               \_\_\_\_\_  
14                               DANIEL PAUL BLANK  
15                               Attorney for Claimant

16  
17 Dated: 3/28/11

18                               /S/  
19                               \_\_\_\_\_  
20                               DAVID B. COUNTRYMAN  
21                               Assistant United States Attorney

22                               **[PROPOSED] ORDER TO STAY**

23           Based upon claimant Gary Hardeman's request to continue the stay of the current  
24 forfeiture proceedings, the United States' non-opposition, and for good cause appearing, it is  
25 HEREBY ORDERED that the instant case be, and hereby is, STAYED, pursuant to 18 U.S.C.  
26 § 981(g) until a status conference can be held on September 1, 2011.

27 SO ORDERED.

28 Dated: 4/5/2011.

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WILLIAM H. ALSUP  
United States District Judge

