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9 Attorneys for United States of America

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION  
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14  
15 UNITED STATES OF AMERICA, )  
16 )  
17 Plaintiff, )  
18 v. )  
19 APPROXIMATELY \$144,001 IN )  
UNITED STATES CURRENCY, )  
20 Defendant. )  
21 \_\_\_\_\_ )  
JAMES ANTHONY POMPEY, )  
22 Claimant. )  
23 \_\_\_\_\_ )

No. CV 09-4182 JSW

24  
25 JOINT CASE  
26 MANAGEMENT STATEMENT

27 Date: March 28, 2013  
28 Time: 1:30 p.m.  
Place: Courtroom 11, 19th Floor  
450 Golden Gate Ave.  
San Francisco, CA

1 This is a judicial forfeiture action. The Court has jurisdiction over defendant \$144,001 under  
2 21 U.S.C. § 881(a)(6).

3 Following the filing of this action, the action was stayed pending resolution of a federal  
4 criminal case in the Middle District of Georgia against claimant Pompey and a state criminal drug  
5 trafficking case in Superior Court for Santa Clara County against claimant Pompey. Those cases  
6 have since been resolved. In October 2011, Pompey was convicted on criminal drug trafficking  
7 charges in the Middle District of Georgia involving a conspiracy to distribute between 50 and 150  
8 kilograms of cocaine.<sup>1</sup> In August 2012, Pompey was convicted on criminal drug trafficking charges  
9 in Superior Court for Santa Clara County and admitted that defendant \$144,001 in this action was  
10 proceeds of the state drug trafficking charges on which he was convicted.<sup>2</sup> Pompey is represented  
11 in the state criminal case and in this federal civil forfeiture case by counsel David Cohen.

12 Following Pompey's entry of a guilty plea on August 3, 2012, the United States requested  
13 Mr. Cohen to have his client, Pompey, stipulate to a judgment of forfeiture of defendant \$144,001  
14 and an order dismissing this action because Pompey had already admitted in the state court case that  
15 defendant \$144,001 is the proceeds of drug trafficking. *See* Joint Case Management Statement, filed  
16 November 30, 2013. On January 25, 2013, Mr. Cohen emailed the undersigned AUSA, agreeing that

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18 <sup>1</sup> In 2009, a grand jury in the Middle District of Georgia indicted James Anthony Pompey  
19 with conspiracy to distribute cocaine and cocaine base in violation of 21 U.S.C. § 846, 21 U.S.C.  
20 § 841(a)(1), 21 U.S.C. § 841(b)(1)(A)(ii) and 18 U.S.C. § 2. *United States v. Pompey*, No.  
21 7:09-CR-15(HL) (M.D. Ga.), Indictment, filed September 16, 2009. On October 6, 2011, Pompey  
22 plead guilty to a conspiracy to distribute cocaine between 50 and 150 kilograms of cocaine between  
early in 2005 to on or about November 2006. *See* Opposition of the United States to Claimant  
Pompey's Motion to Release Funds for Legal Fees, filed October 28, 2011, and Exhibit A. In the  
federal case, Pompey admitted that law enforcement seized \$828,970 in November 2006 intended  
as payment to him for cocaine he had sold. *Id.*

23 <sup>2</sup> On August 3, 2012, claimant Pompey plead guilty to Count 9 of an Indictment in  
24 Superior Court for Santa Clara County charging him with conspiracy to violate California Health and  
25 Safety Code 11352, and admitted a number of overt acts in furtherance of that conspiracy. *United*  
26 *States v. Pompey*, No. 211412 (Sup. Ct., Santa Clara County), Indictment, filed June 25, 2009;  
27 August 3, 2012 Transcript; Certified Docket Sheet. One of the six overt acts which defendant  
28 Pompey admitted was that he "on or about March 18, 2009, possessed \$144,001 in illegal drug  
proceeds at 36676 Port Fogwood, Newark, California." Defendant \$144,001 in this civil forfeiture  
action is the same \$144,001 which defendant Pompey admitted were drug proceeds. *See* Complaint  
for Forfeiture, at 3, paragraph 17.

1 Pompey's state court admission is a basis for the federal forfeiture of that same \$144,001 in this case.  
2 At that time, Mr. Cohen suggested that due to "logistical issues with the Bureau of Prisons" it would  
3 take additional time for Mr. Cohen to obtain his client's signature and asked the Court to reschedule  
4 the CMC for early April by which time he hoped to have this matter resolved. Subsequently, the  
5 clerk rescheduled the CMC for March 28, 2013. *See* Clerk's Notice, filed January 29, 2013.

6 Since the filing of the JSMS on January 28, 2013, an issue has arisen as to defendant  
7 Pompey's sentence in the state criminal case. The state court judge sentenced Pompey to 16 years  
8 to run concurrently with his federal sentence. Today, March 22, 2013, Mr. Cohen is filing a writ of  
9 habeas corpus to withdraw the plea so that Pompey can be returned to San Jose where the Deputy  
10 District Attorney (DDA) Patrick Vanier, Mr. Cohen and Pompey can work out, if possible, the  
11 custody and credit issues which have arisen. The DDA has not yet responded. If the state court were  
12 to allow Pompey to withdraw his plea, however, then Mr. Cohen contends that the admission during  
13 the change of plea in state court that the \$144,001 is proceeds could not be used in this forfeiture

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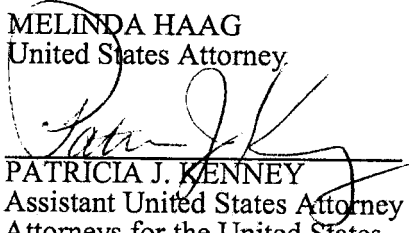
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1 action. As a result, Mr. Cohen asks the Court to reschedule the case management conference for  
2 May 2, 2013 to allow the DDA and him an opportunity to resolve the issues in connection with the  
3 state criminal matter.

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5 IT IS SO STIPULATED:


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7 Dated: March 22, 2013

MELINDA HAAG  
United States Attorney

  
PATRICIA J. KENNEY  
Assistant United States Attorney  
Attorneys for the United States

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9  
10 Bay Area Criminal Lawyers, PC

11 Dated: March 22, 2013

  
DAVID COHEN  
Attorney for Claimant  
James Anthony Pompey

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15 PURSUANT TO THE FOREGOING STIPULATION IT IS SO ORDERED ON THIS 25th  
16 DAY OF MARCH, 2013, AND THE CASE MANAGEMENT CONFERENCE IS  
17 RESCHEDULED FOR ~~MAY 2, 2013 AT 9:00 A.M.~~ <sup>May 10, 2013 at 1:30 p.m.</sup> AND THE PARTIES ARE TO FILE A JOINT  
18 CASE MANAGEMENT STATEMENT ON OR BEFORE ~~APRIL 25, 2013.~~ <sup>XXXXXXXXXXXXX</sup> May 3, 2013.

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HONORABLE JEFFREY S. WHITE  
United States District Judge