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12 Attorneys for United States of America

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,)
16 Plaintiff,)
17 v.)
18 APPROXIMATELY \$57,890 IN UNITED)
19 STATES CURRENCY,)
20 Defendant.)

No. 10- 01829 JL

CASE MANAGEMENT CONFERENCE
STATEMENT

21 Plaintiff hereby submits this Status Conference Statement¹:

22 **1. Nature of Case**

23 This is a forfeiture action. Plaintiff contends that the defendant currency constitutes: (1)
24 proceeds of drug trafficking and/or funds to be used to facilitate the sale and distribution of
25 controlled substances and subject to forfeiture, pursuant to Title 21, United States Code, Section
26 881(a)(6); and (2) as smuggled currency pursuant to Title 31, United States Code, Sections
27 5317(c) and 5332(c).

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¹ At present, there are no other parties in this action.

1 **2 Status of Service**

2 The United States of America (“United States”) served the three known potential
3 defendants: Jesus Guerrero, Rosendo Garcia Guerrero, and Angelica Prado Ochoa. In the
4 interests of settlement, on June 1, 2010, the United States agreed to extend the time to file a
5 claim for Jesus Guerrero, Rosendo Garcia Guerrero, and Angelica Prado Ochoa by 30 days, until
6 July 1, 2010. Before that deadline expired, the United States has entered into a settlement
7 agreement with Jesus Guerrero. Defendant is approximately \$57,890 in United States Currency
8 (“defendant currency”). That agreement is being filed concurrently with this statement. No other
9 claims, answers, or settlements have been received.

10 In addition, the government published notice of this forfeiture action on an official
11 government forfeiture website from April 30, 2010, through May 29, 2010. For those receiving
12 individual notice by mail, and only receiving notice of this action by publication, the deadline to
13 file a claim is 60 days after the first date of publication – by June 28, 2010.

14 **3. Primary Factual and Legal Issues**

15 Given that no claims nor Answers have been filed in this action, plaintiff contends that
16 there are no issues in dispute. Should anyone else file a Claim and Answer in this action,
17 plaintiff anticipates that the following issues would be disputed: (1) whether claimant’s claim
18 was timely; (2) whether claimant is an innocent owner of the defendant funds; and (3) whether
19 plaintiff can establish by a preponderance of the evidence that the defendant funds drug proceeds,
20 was used to facilitate a drug trafficking offense, or was smuggled into the United States.

21 **4. Narrowing of Issues**

22 Plaintiff contends that the legitimacy of the prospective claimant’s alleged innocent
23 ownership interest in the defendant funds can be narrowed through discovery.

24 **5. Anticipated Motions**

25 As noted above, no claims nor Answers have been filed in this matter. Accordingly,
26 plaintiff anticipates that it may file a motion seeking default judgment for failure to plead and/or
27 defend the action and/or a motion for terminating and other sanctions. Should the matter survive
28 a default motion, plaintiff intends to file a motion for summary judgment and/or summary

1 adjudication on probable cause at the close of discovery.

2 **6. Relief/Damages**

3 Plaintiff seeks a judgment of forfeiture of the defendant currency. This is not a damages
4 case.

5 **7. Class Action**

6 This is not a class action.

7 **7. Other**

8 As there are no active parties other than the United States, the United States respectfully
9 requests that the case management conference be continued for 60 days to allow the United
10 States to file a motion seeking default judgment, and for that motion to be heard.

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12 DATED: July 30, 2010

Respectfully submitted,

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14 JOSEPH P. RUSSONIELLO
United States Attorney

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DAVID COUNTRYMAN
Assistant United States Attorney

18 The Case Management Conference is continued to October 6, 2010 at 10:30 a.m.
19

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21 August 2, 2010

