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10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA  
 12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,	)	No. CV 11-1024 WHA
14 Plaintiff,	)	CASE MANAGEMENT STATEMENT
15 v.	)	AND ORDER CONTINUING CMC
16 \$160,302.98 IN FUNDS SEIZED FROM	)	CMC Date: June 23, 2011
17 WELLS FARGO BANK ACCT. #	)	Time: 3:00 p.m.
18 XXXXXX0819,	)	Location: 19 <sup>th</sup> Floor
19 Defendant.	)	

20 Plaintiff, United States of America respectfully submits this Case Management Statement.

21 **1. Jurisdiction and Service**

22 The seizure and forfeiture are authorized by 31 U.S.C. § 5324(a)(1) and (3), 31 U.S.C. §  
 23 5317(c)(2) and 18 U.S.C. § 984. There are no counterclaims. Plaintiff has served notice of this  
 24 action on all persons who may have an interest in the property, including the following: Nicolas  
 25 Munoz and Yolanda Munoz.

26 **2. Facts**

27 This is a forfeiture action. The defendant funds were seized pursuant to a federal seizure  
 28 warrant signed by the Honorable Patricia V. Trumbull, United States Magistrate Judge. The

CASE MANAGEMENT STATEMENT  
 CV-1024 WHA

1 defendant funds were seized based on structuring of cash deposits into a Wells Fargo Bank  
2 account held in the name of Yolanda Munoz from January 19, 2010 to February 17, 2010 in  
3 violation of 31 U.S.C. §§ 5324(a)(1) and (3).

### 4 **3. Legal Issues**

5 The principal factual and legal issues in dispute are: 1) whether plaintiff can establish by a  
6 preponderance of the evidence that the defendant funds are funds involved in or traceable to the  
7 intent to evade the reporting requirements of section 5313(a), or any regulation prescribed under  
8 that section and 2) whether any claimant can establish by a preponderance of the evidence that  
9 he/she is the innocent owner of the defendant funds.

### 10 **4. Motions**

11 The United States intends to move for a stay of the proceedings as there is an ongoing  
12 criminal investigation involving the defendant funds and a potential claimant of the defendant  
13 funds. Additionally, the Government intends to move for summary judgment once it has  
14 completed its discovery.

### 15 **5. Amendment of Pleadings**

16 None at this time.

### 17 **6. Evidence Preservation**

18 The United States is not aware of any voice mails or other electronically-recorded material  
19 that needs to be preserved.

### 20 **7. Disclosures**

21 No disclosures have been required at this time.

### 22 **8. Discovery**

23 This is an in rem forfeiture case and is exempt from initial disclosures pursuant to  
24 Federal Rule of Civil Procedure 26 (a)(1)(B)(ii). Parties intend on propounding requests for  
25 production of documents, requests for admissions, interrogatories, and possibly noticing  
26 deposition.

### 27 **9. Class Actions**

28 This case will not involve a class action certification.

1        **10. Related Cases**

2        There is no filed related case at this time. However, there is an ongoing criminal  
3 investigation in the Northern District of California related to the defendant funds.

4        **11. Relief**

5        Plaintiff seeks a judgment of forfeiture of the defendant funds. This is not a damages case.

6        **12. Settlement and ADR**

7        The Government is not seeking settlement or ADR at this time.

8        **13. Consent to Magistrate Judge For All Purposes**

9        The Government does not consent to Magistrate Jurisdiction.

10       **14. Other references**

11       The Government does not request a referral to arbitration.

12       **15. Narrowing of Issues**

13       The Government is not in a position to stipulate to facts or narrow the issues at this time.

14       The Government is willing to revisit this issue with the Court once discovery has been  
15 undertaken.

16       **16. Expedited Schedule**

17       The Government has not undertaken discovery at this time. The United States does not seek  
18 to have an expedited schedule.

19       **17. Scheduling**

20       The Government is asking that the Case Management Conference currently schedule be  
21 continued for 90 days as the Government has provided the potential claimants with an extension  
22 to file their claim and answer until August, 2011.

23       **18. Trial**

24       The United States will be requesting a Jury trial. The length of trial is yet to be determined.

25       **19. Disclosure of Non-Party Interested Entities or Persons**

26       None expected at this time.

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**20. Other Matters.**

There is an ongoing criminal investigation and the Government is requesting that the case management conference currently scheduled for June 23, 2011 at 3:00 p.m. be continued for 90 days. If the Court so requires, the Government is prepared to file a formal motion requesting a stay of the proceeds and discovery pursuant to 18 U.S.C. § 981(g)(1).

Dated: June 13, 2011

/S/ \_\_\_\_\_

ARVON J. PERTEET  
Assistant United States Attorney

ORDER

SO GRANTED. The case management conference is continued to September 15, 2011, at 3:00 p.m.

Dated: June 16, 2011.

