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 9 Attorneys for Plaintiff

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

13 UNITED STATES OF AMERICA,)
 14)
 Plaintiff,)
 15)
 v.)
 16)
 17 1. 1997 LAMBORGHINI DIABLO, VIN)
 ZA9RU37P6VLA12636,)
 18 2. 2006 PORSCHE CAYENNE TURBO, VIN)
 WP1AC29P96LA91296,)
 19)
 20 3. \$8,692.42 IN FUNDS SEIZED FROM)
 COMMERCE BANK ACCOUNT HELD)
 IN THE NAME OF PSA, LLC.,)
 21)
 22 4. \$6,314.76 IN FUNDS SEIZED FROM)
 COMMERCE BANK ACCOUNT HELD)
 IN THE NAME OF PHARMACY USA,)
 23 LLC, AND)
 24 5. \$1,076,636.89 IN FUNDS SEIZED FROM)
 TD AMERITRADE ACCOUNT HELD IN)
 25 NAME OF CHRISTOPHER NAPOLI,)
 26 Defendants.)
 27)
 28)

Case No. C 07-3120 RMW

**PLAINTIFF'S REQUEST FOR DISMISSAL
 WITHOUT PREJUDICE AND
~~PROPOSED~~
 ORDER**

1 Pursuant to Rule 41(a)(2) of Federal Rules of Civil Procedure, plaintiff hereby submits this request to
2 dismiss the above-captioned action without prejudice. Plaintiff contends that dismissal without prejudice
3 of this action is appropriate because the property subject to forfeiture in this civil action is now subject to
4 forfeiture in a related criminal action captioned *United States v. Christopher Napoli, et al*, CR 10-0642
5 RS, currently pending in United States District Court in San Francisco. Upon stipulation of the parties,
6 the civil action had been stayed pending resolution of the underlying criminal investigation of Napoli and
7 others related to the unlawful distribution of controlled substances over the internet and for related
8 money laundering violations. That investigation has now resulted in the above-referenced criminal
9 indictment and includes the property subject to forfeiture in this civil forfeiture action. Although
10 claimant Christopher Napoli has filed an Answer in the civil action seeking return of the property, he can
11 adjudicate those claims if he successfully defends the criminal action. Plaintiff thus requests that this
12 matter be dismissed without prejudice and that each party bear their own costs for this action.

13 DATED: 9/1/10

Respectfully submitted,

MELINDA HAAG
United States Attorney

STEPHANIE M. HINDS
Assistant United States Attorney

PROPOSED ORDER

20 Having reviewed plaintiff's request for dismissal without prejudice, any opposition filed thereto
21 if any, and good cause appearing, IT IS HEREBY ORDERED that the above-captioned action without
22 prejudice. The Court further orders that each party bears its own costs in this action.

23 IT IS SO ORDERED.

24 Dated: 9/13/10

Ronald M. Whyte
RONALD M. WHYTE
UNITED STATES DISTRICT JUDGE