

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA, :
 :
 :
 PLAINTIFF, :
 :
 :
 vs. :
 :
 \$304,980.00 IN UNITED STATES :
 CURRENCY; ONE 2006 PETERBILT :
 SEMI TRACTOR TRAILER, MODEL 379, :
 VIN: 1XP5DB9X46N888901, AND ONE :
 2004 GREAT DANE REFRIGERATED :
 SEMI TRAILER MODEL SE, :
 VIN: 1GRAA06254W700194, WITH ALL :
 ACCESSORIES, ATTACHMENTS :
 AND COMPONENTS THEREON :
 :
 DEFENDANTS. :

Case No. 12-cv-0044-MJR-SCW

STIPULATED ORDER OF FORFEITURE

REAGAN, District Judge:

Upon Stipulation by Plaintiff United States of America (by and through its attorneys, Stephen R. Wigginton, United States Attorney for the Southern District of Illinois, and Michael Thompson, Assistant United States Attorney for the Southern District of Illinois) and Claimants Randy Davis and Delores Davis (by their attorney, Richard B. Jones), the Court hereby FINDS, ORDERS, and DECREES as follows:

1. The Claimants have asserted and continue to assert that the traffic stop and search of the subject-matter tractor-trailer on August 26, 2011 were done unlawfully and that all evidence of the search should be suppressed.
2. The Claimants stipulate that their defense on this case is based on the premise that the evidence should have been suppressed and that once the evidence has not been suppressed,

they have no viable defense to the forfeiture. The Claimants further stipulate that upon a trial on the merits of the matter, the preponderance of the evidence would indicate that the property is forfeitable and that the United States would be entitled to a judgment for forfeiture of the seized cash and of the proceeds from the interlocutory sale of the tractor-trailer.

3. The Claimants do not want to incur the time and expense involved in defending the forfeiture at trial but do wish to retain the right to argue on appeal that the Court's determination of the legality of the traffic stop and search, as stated in its Order of January 3, 2013 (Doc. 31), should be reversed.

4. The Claimants therefore consent to the entry of a judgment of forfeiture forfeiting the seized cash and the proceeds from the sale of the tractor-trailer to the United States, subject to the right of the Claimants to appeal the Court's ruling of January 3, 2013 on the suppression issue.

5. The United States stipulates that the consent by the Claimants to the entry of the Judgment will not waive their right to attack the Court's ruling on the suppression issue on appeal and that, if the Court of Appeals determines that the evidence from the search should be suppressed, the forfeiture judgment may be vacated for reconsideration by the District Court.

6. The Court hereby adopts and APPROVES the above consents and stipulations by the parties and ORDERS that all right, title, and interest of Randy Davis and Delores Davis in the subject-matter \$304,980.00 and all of the proceeds received from the interlocutory sale of the 2006 Peterbilt Semi Truck Tractor, Model 379, VIN: 1XP5DB9X46N888901, and 2004 Great Dane Refrigerated Semi Trailer, VIN: 1GRAA06254W700194, with all accessories, attachments and components thereon, shall be forfeited to the United States. Upon filing by the United States

of the documents showing that due publication of the forfeiture has occurred and that all other potential claimants have been defaulted, the United States shall submit to the Court a proposed final Judgment and Decree of Forfeiture. Upon entry of the final Judgment and Decree of Forfeiture, the time period for the Claimants to file an appeal, if they still wish to pursue one, shall commence.

7. The parties agree and the Court ORDERS that, pending the appeal in this matter, or until the time for filing an appeal has lapsed without the filing of a notice of appeal by the Claimants, the execution of the judgment shall be stayed pursuant to 28 U.S.C. §1355(c), and the seized \$304,980.00 and the proceeds from the sale of the truck shall remain in the custody of the United States Marshal, pending further Orders of the Court.

DATED March 13, 2013.

s/ *Michael J. Reagan*
MICHAEL J. REAGAN
United States District Court Judge

Approved by:

/s/ Michael Thompson
MICHAEL THOMPSON
Assistant United States Attorney
Nine Executive Drive
Fairview Heights, Illinois 62208

/s/ Richard B. Jones w/consent
RICHARD B. JONES
Attorney for Claimants Randy and Delores Davis
898 W. Calle de los Higos
Tucson, AZ 85745