

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Civil No. 2:13-cv-10571

vs.

Honorable Robert H. Cleland
Magistrate Judge Michael J. Hluchaniuk

TEN THOUSAND ONE HUNDRED
NINETY FIVE DOLLARS AND
SIXTY-SEVEN CENTS (\$10,195.67)
IN U.S. CURRENCY FROM COMERICA
BANK ACCOUNT #1852648870,

Defendant *in rem*.

**STIPULATION FOR ENTRY OF CONSENT JUDGMENT
AND FINAL ORDER OF FORFEITURE AS TO
DEFENDANT TEN THOUSAND ONE HUNDRED NINETY-FIVE
DOLLARS AND SIXTY-SEVEN CENTS (\$10,195.67) IN U.S. CURRENCY
FROM COMERICA BANK ACCOUNT NO. 1852648870**

NOW COMES the Plaintiff, the UNITED STATES OF AMERICA (hereinafter the “United States”), by and through its counsel, BARBARA L. McQUADE, United States Attorney, and JONATHAN J.C. GREY, Assistant United States Attorney, and Claimant MAYSEER MIKHAIL, on behalf of M&M CELLULAR, INC., d/b/a DIAMOND COMMUNICATION, by and through their attorney, ELIAS MUAWAD, ESQ., (hereinafter “the parties”) who enter into this Stipulation for Entry of Consent Judgment and Final Order of Forfeiture as to Defendant Ten Thousand One Hundred Ninety-Five Dollars and Sixty-Seven Cents (\$10,195.67) in United States Currency from Comerica Bank account no. 1852648870 as evidenced by their signatures below, under the terms and conditions hereinafter set forth:

WHEREAS, on or about August 16, 2012, Ten Thousand One Hundred Ninety-Five Dollars and Sixty-Seven Cents (\$10,195,67) in United States Currency from Comerica Bank account no. 1852648870 (the “defendant currency”) was seized by members of the United States Internal Revenue Service (“IRS”).

WHEREAS, an administrative claim contesting the forfeiture were filed with the IRS by claimant MAYSEER MIKHAIL on behalf of M&M CELLULAR, INC., d/b/a DIAMOND COMMUNICATION, and thereafter, the matter was referred to the United States Attorney’s Office for judicial forfeiture;

WHEREAS, a Complaint for Forfeiture in this matter was filed on or about February 11, 2013, by the United States alleging that the defendant currency was subject to forfeiture pursuant to 31 U.S.C. § 5317(c)(2) in accordance with 18 U.S.C. § 981(a)(1)(A), resulting from violations of 31 U.S.C. § 5324(a)(3);

WHEREAS, notice by publication has been completed in this case;

WHEREAS, claimant MAYSEER MIKHAIL on behalf of M&M CELLULAR, INC., d/b/a DIAMOND COMMUNICATION filed a Claim of Interest on March 12, 2013, as to the defendant currency;

WHEREAS, no other verified claims of interest have been filed by any party with the United States District Court in this judicial action, and the time for filing such pleadings has expired;

WHEREAS, claimant MAYSEER MIKHAIL on behalf of M&M CELLULAR, INC., d/b/a DIAMOND COMMUNICATION agrees to withdraw their respective claim filed in this matter;

WHEREAS, the parties are aware of their respective rights in this matter and wish to resolve this matter without further litigation and expense;

NOW, THEREFORE, the parties hereby stipulate and agree as follows:

1) This is an *in rem* civil forfeiture action brought pursuant to 31 U.S.C. § 5317(c)(2) in accordance with 18 U.S.C. § 981(a)(1)(A).

2) The Court has jurisdiction and venue over this matter pursuant to 28 U.S.C. §§ 1345, 1355, 1391 and 1395.

3) The allegations of the Complaint for Forfeiture are well taken, the United States and its agents had reasonable cause for the seizure of the defendant currency as provided in 28 U.S.C. § 2465, the position of the United States in this action is and has been substantially justified as set forth in 28 U.S.C. § 2412, and claimant MAYSEER MIKHAIL on behalf of M&M CELLULAR, INC., d/b/a DIAMOND COMMUNICATION shall not claim or seek attorney fees from the United States under the Civil Asset Forfeiture Reform Act, the Equal Access to Justice Act, or any other act, statute or regulation.

4) The parties herein wish to resolve this matter without incurring further litigation expenses. As such, the parties stipulate that Five Thousand Ninety-Seven Dollars and Eighty-Three Cents (\$5,097.83) of the defendant currency shall **NOT** be forfeited, but shall be **RETURNED** to claimant MAYSEER MIKHAIL on behalf of M&M CELLULAR, INC., d/b/a DIAMOND COMMUNICATION. The United States agrees to release this sum to the claimant less any debt owed to the United States, any agency of the United States, or any other debt the United States is authorized to collect from the claimants, including but not limited to any debts collected through the Treasury Offset Program. Following entry of this Stipulation and Order

and receipt by the U.S. Attorney's Office, and after claimants' attorney has supplied Automated Clearing House (ACH) information to the government for electronic fund transfer, the IRS or its delegate shall disburse the funds through the Electronic Payment System (EPS). Funds will only be disbursed after the IRS has received the claimant's social security numbers and/or tax identification numbers and the ACH information required for electronic deposit of the funds into the attorney's IOLTA account.

5) The parties agree that no other costs or charges shall be assessed against the amount of \$5,097.83 the claimant is to receive under paragraph 4.

6) Claimant MAYSEER MIKHAIL on behalf of M&M CELLULAR, INC., d/b/a DIAMOND COMMUNICATION hereby withdraws its claim to the remaining Five Thousand Ninety-Seven Dollars and Eight-Four Cents (\$5,097.84) in U.S. Currency, including any interest accrued on the defendant currency since the date of seizure.

7) Claimant MAYSEER MIKHAIL on behalf of M&M CELLULAR, INC., d/b/a DIAMOND COMMUNICATION agrees that the \$5,097.84 in U.S. Currency, plus any interest accrued since the date of seizure on the defendant currency, (collectively, "forfeited currency") shall be **FORFEITED** to the United States of America pursuant to 31 U.S.C. § 5317(c)(2) in accordance with 18 U.S.C. § 981(a)(1)(A). Further, any right, title or interest of claimant MAYSEER MIKHAIL on behalf of M&M CELLULAR, INC., d/b/a DIAMOND COMMUNICATION, its successors and assigns, and any right, title and ownership interest of all other persons in the forfeited currency is hereby and forever **EXTINGUISHED**, and that clear title to the forfeited currency shall hereby be **VESTED** in the United States of America, and that the IRS, or its delegate, is **AUTHORIZED** to dispose of the forfeited currency according to law.

8) Upon signing below, claimant MAYSEER MIKHAIL on behalf of M&M CELLULAR, INC., d/b/a DIAMOND COMMUNICATION releases, remise and forever discharges the plaintiff, United States of America, and its agents, officers, employees, past and present, and all other persons, including but not limited to the IRS, any individual local law enforcement officers or departments or agencies, and any other persons who participated in or assisted in any aspect of this forfeiture action and underlying investigation, from any and all claims or causes of action which claimant, and their agents, officers, employees, past and present, and which claimant and their assigns, agents, officers, employees and successors in interest hereafter can, shall or may have for, or on account of, the incidents or circumstances giving rise to the above-captioned action.

9) Claimant MAYSEER MIKHAIL on behalf of M&M CELLULAR, INC., d/b/a DIAMOND COMMUNICATION has discussed this settlement with counsel and is aware of their rights in this matter.

10) The parties agree that each party shall bear its own costs and attorneys fees in this matter.

WHEREFORE, the parties stipulate to entry of this Stipulated Consent Judgment and Final Order of Forfeiture.

APPROVED AS TO SUBSTANCE AND FORM:

s/ Jonathan J.C. Grey
JONATHAN J.C. GREY
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Illinois Bar No. 6292918

Dated: May 31, 2013

s/ Elias Muawad
ELIAS MUAWAD, ESQ.
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(248) 594-4700
e:mail: elias@muawadpc.com
(P-41632)

Dated: May 27, 2013

s/ Mayseer Mikhail, please see attached page
MAYSEER MIKHAIL on behalf of
M&M CELLULAR, INC., d/b/a DIAMOND
COMMUNICATION, Claimant

Dated: May 27, 2013

CONSENT JUDGMENT AND FINAL ORDER OF FORFEITURE

IT IS SO ORDERED.

Dated: June 4, 2013

s/Robert H. Cleland
HONORABLE ROBERT H. CLELAND
United States District Court Judge

APPROVED AS TO SUBSTANCE AND FORM:

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Dated:

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(P-41632)

Dated: 5-27-13

MAYSTRA MIKHAIL
MAYSTRA MIKHAIL on behalf of
M&M CELLULAR, INC., d/b/a DIAMOND
COMMUNICATION, Claimant

Dated: 5-27-13

CONSENT JUDGMENT AND FINAL ORDER OF FORFEITURE

IT IS SO ORDERED.

Dated:

HONORABLE ROBERT L. CLELAND
United States District Court Judge