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 Counsel for Plaintiff

7 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

8 UNITED STATES OF AMERICA,)
 9)
 Plaintiff,)
 10)
 v.) 2:10-CV-727-PMP (LRL)
 11)
 \$9,088.28 IN UNITED STATES CURRENCY;)
 12 \$2,400.00 IN UNITED STATES CURRENCY;)
 \$5,891.45 IN UNITED STATES CURRENCY;)
 13 \$5,884.68 IN UNITED STATES CURRENCY;)
 and \$64,361.89 IN UNITED STATES)
 14 CURRENCY,)
 15 Defendants.)

16 **THE UNITED STATES OF AMERICA’S UNOPPOSED MOTION TO**
 17 **EXTEND THE TIME TO FILE A CIVIL COMPLAINT FOR FORFEITURE IN REM**
 18 **AGAINST \$9,088.28 IN UNITED STATES CURRENCY; \$2,400.00 IN UNITED STATES**
 19 **CURRENCY; \$5,891.45 IN UNITED STATES CURRENCY; \$5,884.68 IN UNITED**
STATES CURRENCY; and \$64,361.89 IN UNITED STATES CURRENCY
(Sixth Request)

20 The United States of American (“United States”), by and through Daniel G. Bogden, United
 21 States Attorney for the District of Nevada and Michael A. Humphreys, Assistant United States
 22 Attorney, respectfully move this Court to grant an extension of time for an additional 120 days, until
 23 and including Tuesday, April 17, 2012, to allow the United States to files its forfeiture complaint
 24 against the following allotments of seized cash:

25 ...
 26 ...

1 \$9,088.28 IN UNITED STATES CURRENCY;
2 \$2,400.00 IN UNITED STATES CURRENCY;
3 \$5,891.45 IN UNITED STATES CURRENCY;
4 \$5,884.68 IN UNITED STATES CURRENCY; and
5 \$64,361.89 IN UNITED STATES CURRENCY.

6 The Government's Complaint is currently due on December 19, 2011. Paul Yavorski,
7 through his counsel, Sabastian M. Bio, consents to this motion.

8 DATED this 14th day of December, 2011.

9 DANIEL G. BOGDEN
10 United States Attorney

11 /s/Michael A. Humphreys
12 MICHAEL A. HUMPHREYS
13 Assistant United States Attorney
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. Statement of Facts**

3 On or about April 27, 2009, the Immigration and Customs Enforcement ("ICE") in Las
4 Vegas, Nevada executed a seizure warrant for all money in Bank of America Checking Account
5 Number XXXX- XXXX- 9650 in the Name of Paul Yavorski, 49 Reynolds Avenue, Whippany,
6 New Jersey 07981, located at 300 South 4th Street, Las Vegas, Nevada 89101.

7 On or about May 19, 2009, the Customs and Border Protection Office of Fines, Penalties
8 & Forfeitures ("FP&F") mailed notice of seizure certified return receipt requested.

9 On February 23, 2010, FP&F received a claim requesting judicial action from Yavorski.

10 On May 18, 2010, Sebastian M, Bio, Yavorski's attorney, agreed to the extension of time
11 and authorized counsel for the United States to file this Unopposed Application with this Court.

12 On or about August 21, 2010, Yavorski' s counsel again agreed to the extension of time
13 and authorized counsel for the United States to file this Unopposed Application with this Court.

14 On or about November 10, 2010, Yavorski's counsel again agreed to the extension of time
15 and authorized counsel for the United States to file this Unopposed Application with this Court.

16 On or about February 17, 2011, Yavorski' s counsel again agreed to the extension of time
17 and authorized counsel for the United States to file this Unopposed Application with this Court.

18 On or about July 19, 2011, Yavorski' s counsel again agreed to the extension of time and
19 authorized counsel for the United States to file this Unopposed Application with this Court.

20 On or about December 14, 2011, Yavorski' s counsel again agreed to the extension of
21 time and authorized counsel for the United States to file this Unopposed Application with this
22 Court.

23 **II. Argument**

24 This Court should grant this application for an extension of time to file the Civil
25 Complaint for Forfeiture *In Rem* against the \$9,088,28 in United States Currency, \$2,400,00 in
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1 United States Currency, \$5,891.45 in United States Currency, \$5,884,68 in United States
2 Currency, and \$64,361.89 in United States Currency under 18 U.S.C. § 983(a)(3)(A), which
3 states:

4 [T]he Government shall file a complaint for forfeiture in the manner set forth in
5 the Supplemental Rules for Certain Admiralty and Maritime Claims, ' , a court in
6 the district in which a complaint will be filed may extend the period for filing a
7 complaint for good cause shown or *upon agreement of the parties*, (emphasis
8 added)

9 A district court has the authority under § 983(a)(3)(A) to extend the period for filing a
10 Civil Complaint For Forfeiture *In Rem*.

11 On or about February 17, 2010, Yavorski's counsel agreed to the extension of time and
12 authorized counsel for the United States to file this Unopposed Application with this Court.

13 Because the parties have agreed to the extension of time to file a Civil Complaint For Forfeiture
14 *In Rem*, this Court should extend the time.

15 On May 18, 2010, an application for an extension of time to file the Civil Complaint For
16 Forfeiture *In Rem* was requested and subsequently granted on May 24,2010, by United States
17 District Judge Phillip M. Pro.

18 On August 23, 2010, an application for an extension of time to file the Civil Complaint
19 For Forfeiture *In Rem* was requested and subsequently granted on August 24, 2010, by United
20 States District Judge Phillip M. Pro.

21 On November 10, 2010, an application for an extension of time to file the Civil
22 Complaint For Forfeiture *In Rem* was requested and subsequently granted on November 18,
23 2010, by United States District Judge Lawrence R. Leavitt.

24 On February 18, 2011, an application for an extension of time to file the Civil Complaint
25 For Forfeiture *In Rem* was requested and subsequently granted on February 22, 2011, by United
26 States District Judge Phillip M. Pro.

...

1 On July 20, 2011, an application for an extension of time to file the Civil Complaint For
2 Forfeiture *In Rem* was requested and subsequently granted on July 20, 2011, by United States
3 District Judge Phillip M. Pro

4 The United States now requests an additional 120-day extension of time due to the
5 ongoing investigation. This Unopposed Application is not submitted solely for the purpose of
6 delay or for any other purpose.

7 **II. Conclusion**

8 The United States prays that this Court will grant an extension of time until Tuesday,
9 April 17, 2012, pursuant to 18 U.S.C. § 983(a)(3)(A), for the United States to file a Civil
10 Complaint For Forfeiture *In Rem* against the \$9,088.28 in United States Currency, \$2,400.00 in
11 United States Currency, \$5,891.45 in United States Currency, \$5,884.68 in United States
12 Currency, and \$64,361.89 in United States Currency because the United States and Yavorski's
13 counsel have agreed to the extension of time.

14 DATED this ___ day of December, 2011.

15 Respectfully submitted,
16 DANIEL G. BOGDEN
17 United States Attorney

18 /s/Michael A. Humphreys
19 MICHAEL A. HUMPHREYS
20 Assistant United States Attorney

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22 IT IS SO ORDERED:

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24 _____
25 UNITED STATES JUDGE

26 DATED: December 14, 2011.

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PROOF OF SERVICE

I, Dana A. Chrystall, Forfeiture Support Associate Paralegal III, certify that the following individual was served with a copy of the attached document on December 14, 2011, by the below identified method of service:

US Mail and Fax

Sebastian M. Bio
331 Central Ave.
Orange, New Jersey 07050
973-675-7333 (fax)
Counsel for Paul Yavorski

/s/Dana A. Chrystall
Dana A. Chrystall
Forfeiture Support Associate Paralegal III