

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

CIVIL NO. 3:09CV53-FDW

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
vs. )  
)  
APPROXIMATELY \$113,583.27 IN UNITED )  
STATES FUNDS, )  
)  
Defendant. )

**CONSENT JUDGMENT**

WHEREAS, on or about September 22, 2008, based on an affidavit submitted by Special Agent Joshua R. Zaukas, United States Secret Service, the Honorable David C. Keesler, United States Magistrate Judge, found probable cause for forfeiture of the defendant property and issued a seizure warrant, which was duly executed and returned by Agent Zaukas; and,

WHEREAS, on February 13, 2009, the United States filed a verified complaint for the civil forfeiture *in rem* of the defendant property; and,

WHEREAS, on February 18, 2009, the Honorable Frank Johns, Clerk of the Court, issued warrant for arrest in rem with regard to the defendant property pursuant to Rule G(3)(b)(I) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, which was duly executed and returned on February 9, 2010; and,

WHEREAS, on or about February 20, 2009, the United States mailed copies of the complaint and warrant by certified mail, return receipt requested, to Eben Rawls, Attorney for Dong Sik Kim (hereinafter "claimant"), the person from whose bank account the defendant property was seized; and,

WHEREAS, claimant has duly filed a claim and an answer herein; and,

WHEREAS, claimant hereby states that he is the sole owner of the defendant property; and,

WHEREAS, claimant stipulates that there is probable cause for forfeiture of the defendant property and that the United States District Court for the Western District of North Carolina has in rem jurisdiction over the defendant property; and,

WHEREAS, the parties have agreed to forfeiture of \$40,000.00 of the defendant property, with the remaining \$73,583.27 to be transferred to claimant's attorney's trust account and held pending claimant's filing of all required federal income tax returns or amended returns, at which time some portion or all of this \$73,583.27 shall be remitted to the Internal Revenue Service to the extent necessary to satisfy any amount due for federal income taxes owed by claimant, with any remaining funds to be released to claimant, in full settlement of all claims herein; and,

WHEREAS, claimant hereby releases and forever discharges the United States, its agents, servants and employees, its successors or assigns, and all state or local governmental entities or law enforcement agencies in North Carolina and their agents, servants and employees, their heirs, successors, or assigns, from any and all actions, causes of action, suits, proceedings, debts, dues, contracts, judgments, damages, claims, and/or demands whatsoever in law or equity which claimant or his heirs, successors, or assigns ever had, now have, or may have in the future in connection with this investigation, seizure, detention, and forfeiture; and,

WHEREAS, the parties consent to the United States Magistrate Judge conducting all proceedings, including entry of this Consent Judgment, pursuant to 28 U.S.C. §636(c);

THE COURT FINDS THAT:


1. A verified complaint for forfeiture in rem of the defendant property was filed on February 13, 2009. This Court, having previously found probable cause for forfeiture, issued a warrant for arrest in rem.
2. Process was fully issued in this action and returned according to law.
3. The parties have agreed to forfeiture of \$40,000.00 of the defendant property, with the remaining \$73,583.27 to be transferred to claimant's attorney's trust account and held pending claimant's filing of all required federal income tax returns or amended returns, at which time some portion or all of this \$73,583.27 shall be remitted to the Internal Revenue Service to the extent necessary to satisfy any amount due for federal income taxes owed by claimant, with any remaining funds to be released to claimant, in full settlement of all claims herein
4. The actions taken by the United States were reasonable and proper.

Based on the foregoing findings, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED

that:

1. The sum of \$40,000.00 is forfeited to the United States, to be disposed of according to law.
2. The remaining \$73,583.27 shall be transferred to claimant's attorney's trust account and held pending claimant's filing of all required federal income tax returns or amended returns, at which time some portion or all of this \$73,583.27 shall be remitted to the Internal Revenue Service to the extent necessary to satisfy any amount due for federal income taxes owed by claimant, with any remaining funds to be released to claimant, in full settlement of all claims herein.
3. Each party is to bear its own costs of this action, including attorneys fees.

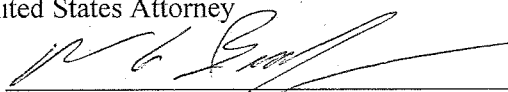
Signed this the 10<sup>th</sup> day of February, 2010.

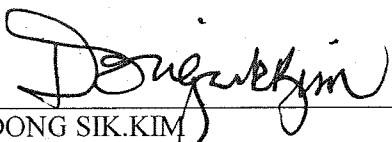
  
FRANK D. WHITNEY  
UNITED STATES DISTRICT JUDGE

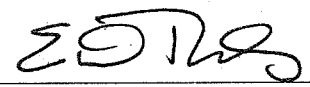
ON MOTION OF AND WITH CONSENT OF THE PARTIES:

FOR THE UNITED STATES OF AMERICA:

EDWARD R. RYAN  
United States Attorney

By  Date: February 10, 2010  
WILLIAM A. BRAFFORD  
Assistant United States Attorney

  
DONG SIK KIM  
Claimant Date: Feb 2, 2010

  
EBEN RAWLS  
Attorney for Dong S. Kim Date: 2 February 2010