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ATTORNEYS FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

MISSOULA DIVISION

UNITED STATES OF AMERICA,	CR 11-61-M-DLC
Plaintiff,	MOTION FOR
vs.	PRELIMINARY ORDER OF
JASON WASHINGTON,	FORFEITURE AND ENTRY
Defendant.	OF ORDER AS TO CERTAIN
	SUBSTITUTE ASSETS

The United States of America, by and through Timothy J. Racicot,
Assistant U.S. Attorney for the District of Montana, moves for entry of
a preliminary order of forfeiture and an order of forfeiture as to

substitute assets, pursuant to 21 U.S.C. § 853(p) and Fed. R. Crim. P. 32.2, and in support thereof submits the following. Counsel for Washington has been contacted concerning this motion and objects to the filing. L.R. CR 47.1(a).

1. On October 3, 2012, a Second Superseding Indictment was returned charging Washington with conspiracy to manufacture and distribute marijuana in violation of 21 U.S.C. § 846 (Count I), and possession with intent to distribute marijuana in violation of 21 U.S.C. § 841(a)(1) (Count II).

2. The Second Superseding Indictment sought forfeiture to the United States of \$232,890.58, pursuant to 21 U.S.C. § 853, which represented a least a portion of the proceeds involved in the commission of the drug offenses referenced above.

3. Beginning on January 14, 2013, a jury trial was held before this Court. On January 17, 2013, the jury found Washington guilty on both Counts I and II of the Second Superseding Indictment.

4. On January 18, 2013, the jury returned a verdict of "Yes" on the forfeiture count, thereby making \$232,890.58 subject to forfeiture pursuant to 21 U.S.C. § 853(a)(1), which states in part:

(a) Any person convicted of a violation of this subchapter or subchapter II of this chapter punishable by imprisonment for more than one year shall forfeit to the United States, irrespective of any provision of State law –

(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation

5. As a result of the jury verdict finding that Washington violated 21 U.S.C. §§ 846 and 841(a)(1), the Court shall order forfeiture of \$232,890.58 to the United States, relinquishing any right, title or interest that Washington may have in it, pursuant to the provisions of 21 U.S.C. § 853(a)(1), which property was constituted or derived from any proceeds Washington obtained, directly or indirectly, as the result of his violations of 21 U.S.C. §§ 846 and 841(a)(1).

6. If any of the funds in the amount of \$232,890.58, as a result of any act or omission on the part of WASHINGTON:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

the Court shall order, pursuant to 21 U.S.C. § 853(p), the forfeiture of any other property belonging to Washington up to the value of the funds in the amount of \$232,890.58, to satisfy the jury's forfeiture verdict.

7. The United States has conducted, and continues to conduct, an extensive investigation of Washington's current and past assets in order to satisfy the jury's verdict. That investigation has resulted in the seizure of the following property, which is available to partially satisfy the jury's verdict:

a. \$116,787.06, which represents the currency seized from Washington's bank accounts, businesses, safety deposit boxes, and Washington himself, on November 16, 2011;

b. \$1068.74, which the Court restrained on January 29, 2013, in Washington's bank account at American Federal Savings Bank, account number ending in 2158;

- c. one black, Casio G-Shock watch (Exhibit 1);
- d. one white, Casio, G-Shock watch (Exhibit 1);
- e. one red, Casio, G-Shock watch (Exhibit 1);
- f. one Jason of Beverly Hills lapel accent (Exhibit 2);
- g. one set of Jason of Beverly Hills cuff links (Exhibit 3);
- h. one diamond cross necklace (Exhibit 4);
- i. one Michael Kors watch (Exhibit 5);
- j. one Jacob and Co. diamond bracelet (Exhibit 6);
- k. one Jacob and Co. black, beaded bracelet (Exhibit 6);
- l. one Invicta watch (Exhibit 7);
- m. one Jacob and Co. watch (Exhibit 8);
- n. one Chronotech watch (Exhibit 9); and

o. one Chris Aire, gold, "dog tag" pendant (Exhibit 10).¹

8. The United States requests that the Court enter an order finding the property in Paragraph 7 to be substitute assets and enter an order of forfeiture as to the foregoing property, for disposition according to law.

9. Upon entry of a preliminary order of forfeiture, pursuant to the provisions of 21 U.S.C. § 853, the United States respectfully requests that the above-described property be turned over and deposited with the United States Marshals Service or the DEA pending the resolution of any third party claims.

10. Also upon entry of a preliminary order of forfeiture, the United States will provide written notice to all third parties asserting a legal interest in the property referenced in Paragraph 7. The government will also post notice on an official government internet site – www.forfeiture.gov – for at least 30 consecutive days as required by Rule G(4)(a)(iv)(c) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, of the Court's Preliminary Order

¹ Digital Photos of items c-o are attached to this motion as exhibits 1-10.

and the United States' intent to dispose of the property in such manner as the Attorney General may direct. 21 U.S.C. § 853(n)(1).

11. Pursuant to the provisions of 21 U.S.C. § 853(n)(2), any person, other than Washington, asserting a legal interest in the property that has been ordered forfeited to the United States may, within 30 days of the final publication of notice or his/her receipt of notice under Paragraph 10, whichever is earlier, petition the Court for a hearing to adjudicate the validity of the alleged interest in the property. The hearing shall be held before the Court alone, without a jury.

12. Following the Court's disposition of all third party interests, the Court shall, if appropriate, enter a final order of forfeiture as to the property which is the subject of this order of forfeiture, vesting clear title in the United States of America.

13. After entry of a final order of forfeiture, the United States will dispose of the property in Paragraph 7 in accordance with the law, apply the value of the property to the forfeiture judgment of \$232,890.58, and file a partial satisfaction of judgment with the Court,

apprising the Court of the amount of the judgment that has been satisfied and the amount that remains outstanding.

14. Pursuant to the provisions of 21 U.S.C. § 853(p), the United States has the authority to forfeit additional substitute assets to satisfy the remaining balance of the forfeiture judgment.

WHEREFORE, pursuant to the provisions of 21 U.S.C. § 853 and Fed. R. Crim. P. 32.2, the United States requests that this Court enter a preliminary order of forfeiture as to the property described above in paragraph 7, representing substitute assets, in accordance with the proposed order of forfeiture that is submitted with this motion.

Respectfully submitted this 15th day of March, 2013.

MICHAEL W. COTTER
United States Attorney

/s/ Timothy J. Racicot
Assistant U.S. Attorney
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2013, a copy of the foregoing document was served on the following persons by the following means:

(1-2) CM/ECF

- ☐ Hand Delivery
- ☐ U.S. Mail
- ☐ Overnight Delivery Service
- ☐ Fax
- ☐ E-Mail

1. Clerk, United States District Court
2. Kwame J. Manley
Patton Boggs LLP
2550 M Street, NW
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/s/ Timothy J. Racicot
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Attorney for Plaintiff