

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

VS.

BENJAMIN PEREZ-GONZALEZ and
MARIA DE JESUS HERNANDEZ,

Defendants.

Case No. CR-06-236-S-BLW

FINAL ORDER OF FORFEITURE

WHEREAS, on July 16, 2007, and September 4, 2007, Preliminary Orders of forfeiture were entered separately against Benjamin Perez-Gonzalez, Docket No. 92, and Maria de Jesus Hernandez, Docket No. 95, forfeiting the defendants' interests in the properties set out in the Preliminary Orders; (Docket No. 146),

WHEREAS the Court finds that the defendants had an interest in the properties that are subject to forfeiture pursuant to 21 U.S.C. § 853;

WHEREAS, the United States caused to be published in the Idaho Statesman, a newspaper of general circulation in the State of Idaho, notice of this forfeiture and of the intent of the United States (or a designee) to dispose of the property in accordance with the law and as specified in the Preliminary Order, and further notifying all third parties of their right to petition the Court within thirty (30) days for a hearing to adjudicate the validity of their alleged legal interest in the property;

WHEREAS, CitiFinancial Mortgage Company, Inc. filed a petition on October 11, 2007, Docket No. 105, for payment of unpaid mortgage principal and interest in the amount of \$54,543.70, as to which the Government entered into a stipulation and agreement for settlement of Petitioner's claim on July 8, 2008, Docket No. 134;

WHEREAS, Sylvan and JD Adamson dba Park Centre Plaza filed a petition on October 19, 2007, Docket No. 106, for payment in the amount of \$4,042.31, being the

amount of the judgment entered June 20, 2002 and recorded as instrument number 200231721 on July 15, 2005, records of Canyon County, Idaho, as to which the Government entered into a stipulation and agreement for settlement of Petitioner's claim on November 2, 2007, Docket No. 110;

WHEREAS, LDS Hospital filed a petition on November 1, 2007, for payment in the amount of \$2,969.85, being the amount of the default judgment entered March 26, 2003 and recorded as instrument number 200321047 on July 15, 2002, records of Bonneville County, Idaho, as to which the Government entered into a stipulation and agreement for settlement of Petitioner's claim on July 31, 2008, Docket No. 138;

WHEREAS, Bernardino Barraza filed a petition on November 1, 2007, Docket No. 109, for payment of \$28,060, consisting of all monies he expended for the down payment and repair expenses on the real property located at 1104 10th Avenue S., Nampa, Idaho, as to which the Government entered into a stipulation and agreement for settlement of Petitioner's claim on September 9, 2008, Docket No. 140, allowing for Barraza to purchase the real property and pay the claims of CitiFinancial Mortgage Company, Inc., Sylvan and J.D. Adamson, and LDS Hospital at closing, with the remaining sale proceeds paid to the Government as cash in lieu of the real property;

WHEREAS, on or about September 27, 2007, the United States was notified of a claim on behalf of Lupe Wissel, and upon review of the property records it was determined that claimant had a prior, superior interest in the real property located at 612 W. Benton, Nampa, Idaho;

AND WHEREAS, no other timely claim has been filed as a result of this notice;

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the following property is hereby forfeited to the United States of America pursuant to 21 U.S.C. § 853:

A. Cash Proceeds: Cash proceeds in the amount of \$20,000 as to Benjamin Perez-Gonzalez and cash proceeds in the amount of \$2,160 as to Maria de Jesus Hernandez;

B. Seized Currency: The sum of \$6,929.00 more or less, in United States currency, seized from the defendants' possession and property;

C. Cash in lieu of real property: \$563.99 in lieu of all that certain parcel of land located at 1104 10th Avenue S., Nampa, Idaho, more fully described as follows:

The Northwesterly Half of Lot 2 in Block 55 of WATERHOUSE ADDITION TO NAMPA, Canyon County, Idaho, according to the official plat thereof, filed in Book 1 of Plats at Page 15, records of said County.

IT IS FURTHER ORDERED that all right, title and interest to the property described above is hereby condemned, forfeited and vested in the United States of America (or its designee), and shall be disposed of according to law.

IT IS FURTHER ORDERED that any and all forfeited funds, including but not limited to currency, currency equivalents and certificates of deposit, as well as any income derived as a result of the United States Department of Justice's management of any property forfeited herein, and the proceeds from the sale of any forfeited property, after the payment of costs and expenses incurred in connection with the forfeiture, sale and disposition of the forfeited property, shall be deposited forthwith by the United States Department of Justice into the Justice Asset Forfeiture Fund in accordance with Title 21, United States Code, Section 881(e).

IT IS FURTHER ORDERED that the real property located at 612 W. Benton, Nampa, Idaho, shall be excluded from this final order of forfeiture and that the Government's notice of *lis pendens* shall be – if not already– released.

IT IS FURTHER ORDERED that the United States District Court shall retain jurisdiction in the case for the purpose of enforcing this Order and as to related forfeiture matters herein; and

IT IS FURTHER ORDERED that all parties herein shall bear their own costs and fees.



DATED: **February 6, 2009**

A handwritten signature in black ink, reading "B. Lynn Winmill".

B. LYNN WINMILL

Chief Judge

United States District Court