UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. RICHARD AYVAZYAN and MARIETTA TARABELIAN, Defendants.	No. CV 20-00579-SVW **[PROPOSED] ORDER AUTHORIZING INTERLOCUTORY SALE** 74203 Anastacia Lane, Palm Desert, CA

Plaintiff United States of America having filed an ex parte application for an order authorizing the interlocutory sale of certain real property commonly known as 74203 Anastacia Lane, Palm Desert, California, ("Application"), the Court having considered the Application, and being fully informed concerning the matter, it is hereby ORDERED as follows:

1. The Application is granted subject to the terms of this Order.

2. The government shall sell the defendants' asset listed in paragraph 4, below, according to the processes and protocols used by the United States Marshals Service when disposing of similar, forfeited property. The net proceeds of sale, as described below, if any, shall be substituted for the asset as the substitute *res* in this action.

3. Upon entry of this Order, the government, to include the United States Marshals Service ("USMS") and whatever contractors it may choose to retain to assist in the execution of this Order, shall take exclusive custody, possession, and control of the asset for the purpose of preparing and marketing the asset for sale at public auction.

4. The defendants' asset to be sold pursuant to this Order is Real Property located at 74203 Anastacia Lane, Palm Desert, California, A.P.N. 694-331-008 (the "Palm Desert Real Property") is to be sold for fair market value, and the net proceeds of the sale, if any, should be substituted to the real property as substitute *res* in this action.

5. An interlocutory sale of Palm Desert Real Property is appropriate and necessary under Rule G(7)(b)(i) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions because (i) the property is at risk of deterioration and damage as it will likely be uninhabited during the pendency of this litigation if it is not sold to a third party; (ii) the expense of keeping the property is excessive and/or is disproportionate to its fair market value; and (iii) the property is subject to mortgage payments on which the title owner is in default.

6. The procedures set forth in 28 U.S.C. §§ 2001, 2002 and 2004 (providing for public sale of property under court control) are not reasonable, appropriate or likely to yield the highest price for the Palm Desert Real Property. Because the titled owner(s) of the Palm Desert Real Property are fugitives and the expertise needed to sell and market real estate of this nature to the public, the Court orders the interlocutory sale according to the terms described herein.

7. The legal description of the Palm Desert Real Property is:

Described real property in the County of Riverside, State of California:
PARCEL 1:

LOT 8 OF TRACT NO. 36554-1 IN THE CITY OF PALM DESERT, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA AS PER MAP RECORDED IN THE BOOK 438 PAGES 98 AND 99, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF CALIFORNIA.

PARCEL 2:

NON-EXCLUSIVE EASEMENTS APPURTENANT TO PARCEL 1 ABOVE, ON AND OVER THE "COMMON AREA" AS DEFINED IN THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR ENCORE PALM DESERT ("DECLARATION") RECORDED IN THE OFFICE OF SAID COUNTY RECORDER OF CALIFORNIA ON DECEMER 23, 2013 AS INSTRUMENT NO. 2013-0591271, FOR ACCESS, USE, OCCUPANCY, ENJOYMENT, INGRESS AND EGRESS OF THE AMENITIES LOCATED THEREON. THE COMMON AREA IS FOR THE USE OF OWNERS OF LOTS WHICH ARE SUBJECT TO THE DECLARATION AND IS NOT FOR THE USE OF THE GENERAL PUBLIC. A.P.N. 694-331-008.

8. The USMS shall have full discretion to determine appropriate auction and sale procedures and the terms of auction and sale between it and buyers, including but not limited to registration requirements, acceptance or rejection of bids, the completion of payment by the high bidder, and the Certificate of Title to transfer

ownership of the defendants. The USMS shall follow the process it ordinarily follows when selling similar forfeited property in this district.

9. The proceeds of the sale of the Palm Desert Real Property shall be distributed as follows:

a. First, payment of all costs of sale, including applicable fees triggered by the sale of the Palm Desert Real Property and actual costs incurred by the government in preparing the Palm Desert Real Property for sale, to include all expenses for transportation, storage, maintenance, repair, administrative and sales commission fees, which shall be deducted from the gross proceeds of sale;

b. Second, the amount of the first lien due to United Wholesale Mortgage or MERS shall be paid to United Wholesale Mortgage or MERS by electronic transfer. United Wholesale Mortgage or MERS shall provide all information and complete all documents requested by the government to facilitate the payment.

c. Third, to the extent funds remain (the "net proceeds"), such funds shall constitute the substitute *res* subject in this forfeiture action in place of the defendants sold. The net proceeds shall be wired from the public auction vendor directly to an interest-bearing account to be designated by the government, where such funds shall be held pending resolution of this forfeiture matter. The government shall provide wiring instructions directly to the vendor handling the sale of the Palm Desert Real Property. Upon delivery of the net proceeds to this interest-bearing account, the government shall notify the parties and this Court of the amount that has been deposited as the substitute res by filing a notice with the

Court. The notice shall state the amount of net proceeds received for Palm Desert Real Property sold.

10. Defendants shall execute any and all documents necessary to consummate the sale of Palm Desert Real Property, convey clear title of the Palm Desert Real Property to the buyer, and further implement the terms of the Order for Interlocutory Sale.

11. The Court shall retain jurisdiction over Palm Desert Real Property to effectuate the terms of the sale and resolve any issues or disputes that may arise regarding the interlocutory sale of Palm Desert Real Property.

Dated: October , 2021

HON. STEPHEN V. WILSON
United States District Judge

Respectfully submitted,

TRACY L. WILKISON
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JONATHAN GALATZAN
Assistant United States Attorney
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/s/ Brent A. Whittlesey
BRENT A. WHITTLESEY
Assistant United States Attorney

Attorneys for Plaintiff
UNITED STATES OF AMERICA

PROOF OF SERVICE BY MAILING

I am over the age of 18 and not a party to the within action. I am employed by the Office of the United States Attorney, Central District of California. My business address is 312 North Spring Street, 14th Floor, Los Angeles, CA 90012.

On **October 8, 2021**, I served a copy of: **EX PARTE APPLICATION FOR ORDER AUTHORIZING INTERLOCUTORY SALE OF REAL PROPERTY SUBJECT TO FORFEITURE; DECLARATION OF BRENT A. WHITTLESEY, and [PROPOSED] ORDERS** upon each person or entity named below by enclosing a copy in an envelope addressed as shown below and placing the envelope for collection and mailing on the date and at the place shown below following our ordinary office practices.

TO: SEE SERVICE LIST

X I am readily familiar with the practice of this office for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on: **October 8, 2021** at Los Angeles, California.

/s/ ***S. Beckman***
SHANNEN BECKMAN

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