

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil No.
	:	
ONE PARCEL OF PROPERTY	:	
LOCATED AT 115 MT PLEASANT	:	
ROAD, ROUTE 6,	:	
NEWTOWN, CONNECTICUT	:	
WITH ALL APPURTENANCES AND	:	
IMPROVEMENTS THEREON,	:	
	:	
Defendant.	:	
	:	
[CLAIMANTS: DONALD T. EVANS;	:	March 9, 2007
THE PANACEA COMPANY AND	:	
JP MORGAN CHASE BANK]	:	

MEMORANDUM IN SUPPORT OF
MOTION FOR WRIT OF ENTRY

Pursuant to 18 U.S.C. §§ 983(j) and 985(b)(1), the United States of America respectfully requests that the Court issue a Writ of Entry for the purpose of conducting an appraisal of the Defendant Property pursuant to 19 U.S.C. § 1606. As alleged in the Verified Complaint for Forfeiture in Rem, which was filed in this District on March 9, 2007, the Defendant Property is subject to forfeiture for violation of federal laws.

The Civil Asset Forfeiture Reform Act of 2000, Pub. L. No. 106-185, 114 Stat. 202 ("CAFRA") enacted a new provision, codified at 18 U.S.C. § 985, regarding forfeitures of real property. That statute provides that forfeitures of real property are initiated by filing a complaint, posting notice on the property and serving the property owner with a copy of the complaint. No other action needs to be taken to give the court jurisdiction over the property. 18 U.S.C. §

985(c)(3).

Subsection 985(b)(2) explicitly allows for a writ of entry to executed "for the purpose of conducting an inspection and inventory of the property" and further provides that execution of such a writ of entry "shall not be considered a seizure." See also 19 U.S.C. § 1606 (providing that "[t]he appropriate customs officer shall determine the domestic value, at the time and place of appraisement, of any vessel, vehicle, aircraft, merchandise, or baggage seized under the customs laws.") (incorporated by 18 U.S.C. § 981(d)).

The need to inspect the premises is especially important where the property is only constructively seized, as is the case here. This inspection should, among other things, enable the United States to appraise the condition and value of the property, and permit the United States to take an inventory of the property, including the use of still and video photography of the premises.

Moreover, as provided in 18 U.S.C. § 983(j)(1), the court has broad discretion to enter protective orders and to "take any other action" in order to "secure, maintain or preserve the availability of property subject to civil forfeiture." Without such an inspection at the outset of the case, it would be difficult to "secure, maintain or preserve the availability of property" that is subject to forfeiture because there would not be an accurate record documenting the condition of the property.

Finally, the provisions of 18 U.S.C. § 2232(b), also enacted as part of CAFRA, make it a crime for anyone to take any action that would impair the Court's in rem jurisdiction over property that is subject to forfeiture. Thus, the writ of entry should also provide that any interference with its execution shall be deemed a violation of a Court order, punishable as a contempt, as a violation of 18 U.S.C. § 2232.

For all the above reasons, the United States requests that the Court issue a writ of entry to permit the inspection of the above named real property defendant.

Respectfully submitted,

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