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Instr:200006020055094 Page: 1 OF 6
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MAY 18 2000
U.S. DISTRICT COURT
MID. DIST. TENN.

UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF TENNESSEE

NASHVILLE DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. REAL PROPERTY AND PREMISES KNOWN AS 789 JAYWOOD DRIVE, OLD HICKORY, DAVIDSON COUNTY, TENNESSEE, WITH ALL APPURTENANCES AND IMPROVEMENTS THEREON, Defendant.	Civil No. 3:00-0064 Judge Trauger

ATTEST AND CERTIFY
A TRUE COPY
Clerk
U.S. District Court
Middle District of Tennessee
By: Deputy Clerk

AGREED DECREE OF FORFEITURE

On January 24, 2000, a Verified Complaint for Forfeiture *In Rem* was filed against the Defendant real property and premises known as 789 Jaywood Drive, Old Hickory, Davidson County, Tennessee, with all appurtenances and improvements thereon. The Complaint alleged that the Defendant property was purchased with proceeds from the distribution of cocaine and constitutes proceeds traceable to the exchange of controlled substances in violation of 21 U.S.C. § 841(a)(1) and therefore is forfeitable to the United States of America pursuant to 21 U.S.C. § 881(a)(6).

It appearing that process was fully issued in this action and returned according to law;

That on February 15, 2000, a *Lis Pendens* giving notice of the pendency of this action was recorded with the Office of the

This document was entered on the docket in compliance with Rule 58 and / or Rule 79 (a).
FRCP, on 5/24/00 by DLT

21

Register of Deeds for Davidson County, Tennessee, as Instrument Number 200002150015226 (Docket No. 8);

That on February 23, 2000, a copy of the Verified Complaint for Forfeiture and the Warrant of Arrest *In Rem* were personally served upon Terrell McMurry by a Deputy U.S. Marshal (Docket No. 9);

That on March 1, 2000, M&I Mortgage Corporation was served with a copy of the Verified Complaint for Forfeiture and the Warrant of Arrest *In Rem* via certified mail;

That on March 2, 9 and 16, 2000, notice of said forfeiture action was published in the Nashville Record newspaper (Docket No. 16);

That on March 7, 2000, a copy of the Verified Complaint for Forfeiture and the Warrant of Arrest *In Rem* were served upon the Defendant property by a Deputy U.S. Marshal (Docket No. 13);

That on March 14, 2000, Sharron McMurry accepted service of a copy of the Verified Complaint for Forfeiture and the Warrant of Arrest *In Rem* on behalf of Robert W. McMurry, Jr. by a Deputy U.S. Marshal (Docket No. 14);

That on March 22, 2000, a copy of the Verified Complaint for Forfeiture and the Warrant of Arrest *In Rem* were personally served upon Wanda F. Claybrooks by a Deputy U.S. Marshal (Docket No. 15);

That on April 5, 2000, Patrina McMurry accepted service of a copy of the Verified Complaint for Forfeiture and the Warrant of Arrest *In Rem* on behalf of her husband, Shawn McMurry, by a Deputy U.S. Marshal (Docket No. 17);

That on April 10, 2000, M&I Mortgage Corporation filed a Verified Claim to the Defendant real property (Docket No. 18) and an Answer to the Complaint (Docket No. 19);

That on April 17, 2000, M&I Mortgage Corporation filed an Amended Verified Claim (Docket No. 20);

That no claim has been filed by or on behalf of any other person or entity, and the time within which to do so has expired;

That the Claim of third party M&I Mortgage Corporation was resolved as follows:

> 1. The United States recognizes in full the Claim of M&I Mortgage Corporation, which is supported by a promissory note and Deed of Trust of record in Book 7905, at page 600, Register of Deeds for Davidson County, and re-recorded on August 9, 1989, in Book 7911, at page 21, Register of Deeds for said County.
>
> 2. The United States agrees that upon entry of the Agreed Decree of Forfeiture forfeiting the Defendant property to the United States, it will pay M&I Mortgage Corporation for mortgage principal, interest and other fees in the amount of $80,534.75 as of May 1, 2000, with interest accruing under the Note at a the rate of $717.80 per month on the principal balance of $78,305.02 from May 1, 2000 until the date of payment, together with late charges of $37.00 being due on the 15th day of each month from May 15, 2000 until the date of payment. The United States further agrees to pay attorney's fees in the amount of $500.00. The parties agree that if the balance of the escrow account is negative (resulting from payment of taxes and/or insurance on the property), the payoff amount to M&I Mortgage Corporation shall be increased by the amount of the escrow account balance, and conversely, if the

escrow account balance is positive, the payoff shall be decreased by said balance. The United States further agrees to reimburse M&I Mortgage Corporation for advances expended to protect and/or secure the property or defend the security interest. M&I Mortgage Corporation agrees that if any prepaid mortgage insurance is refundable, that it shall be refunded to the United States.

3. The payments to M&I Mortgage Corporation shall be in full settlement and satisfaction of all claims by M&I Mortgage Corporation to the Defendant property, and of all claims resulting from the incidents or circumstances giving rise to this action. M&I Mortgage Corporation agrees not to pursue against the United States any other rights that it may have under the mortgage instrument, including but not limited to the right to initiate a foreclosure action.

4. Upon payment, M&I Mortgage Corporation agrees to sign and convey its security interest to the United States via recordable documents and to release and hold harmless the United States, and any agents, servants, and employees of the United States or any state or local law enforcement agency acting in their individual or official capacities, from any and all claims by M&I Mortgage Corporation and its agents which currently exist or which may arise as a result of the United States' action against the Defendant property. M&I Mortgage Corporation agrees that upon the receipt of the payoff funds, it shall execute whatever documentation that may be necessary in order to transfer clear title of the property to the United States or a purchaser designated by the United States.

4. M&I Mortgage Corporation understands and agrees that by entering into this settlement of its interests in the Defendant property, it waives any rights to further litigate its interest in the property and to petition for remission or mitigation of the forfeiture.

Now, therefore, the settlement terms are hereby approved and it is hereby **ORDERED, ADJUDGED AND DECREED** that probable cause exists for forfeiture of the Defendant real property and premises known as 789 Jaywood Drive, Old Hickory, Davidson County, Tennessee, with all appurtenances and improvements thereon; that

the Defendant real property shall be forfeited to the United States with no right, title or interest existing in any other party; that the Defendant property shall be disposed of according to law; and that upon entry of this Order, the United States Marshals Service shall pay the security interest held by M&I Mortgage Corporation pursuant to the above-described terms. The United States Marshals Service shall seize the Defendant property and shall be authorized to take any action necessary to seize, secure, dispose of or protect the United States' interest in the forfeited property. The net proceeds from the sale of the Defendant property, if any, the net proceeds being the amount remaining after the United States Marshals Service has paid the security interest of M&I Mortgage Corporation, and all expenses attributable to the seizure, maintenance, forfeiture and sale of the Defendant property, shall be deposited in the Asset Forfeiture Fund and further disbursed according to law.

It is further **ORDERED, ADJUDGED AND DECREED** that any tenant of the Defendant real property shall vacate the premises and surrender possession of the Defendant property to the United States Marshal within ten (10) days of the entry of this order.

The entry of this decree shall serve as the final judgment in this action.

Entered the 19th day of May, 2000.

ALETA A. TRAUGER
United States District Judge

AGREED TO AND APPROVED FOR ENTRY:

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