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7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA,) CR-S-05-0496-GEB
)
12 Plaintiff,) STIPULATION FOR SETTLEMENT
) AND ORDER THEREON
13 v.)
)
14 ERNESTO MANUEL AGUILA,)
)
15 Defendant.)
)
16 _____)

17 This stipulated settlement is entered into between plaintiff
18 United States of America, and Petitioner American Honda Finance
19 Corporation, by and through their respective counsels, according
20 to the following terms:

21 1. On May 18, 2007, the Court entered a Preliminary Order
22 of Forfeiture, forfeiting to the United States all right, title,
23 and interest of defendant Ernesto Manuel Aguila in the following
24 property:

25 a). 2004 Honda Accord, VIN:1HGCM66574A100279,
26 License Number 5JQB367.

27 2. Pursuant to 21 U.S.C. § 853(n)(2), third parties
28 asserting a legal interest in the above-described forfeited

1 property are entitled to a judicial determination of the validity
2 of the legal claims or interests they assert.

3 3. On April 3, 2008, American Honda Finance Corporation
4 filed a Petition of American Honda Finance Corporation for
5 Ancillary Hearing. American Honda Finance Corporation asserts a
6 claim to the 2004 Honda Accord, VIN:1HGCM66574A100279, License
7 Number 5JQB367 for the following reasons:

8 a. On or about August 18, 2004, defendant Ernesto M.
9 Aguila and Veronica Gallo entered into a Retail Installment Sale
10 Contract with Stockton Honda ("Contract") for the purchase of a
11 2004 Honda Accord, VIN:1HGCM66574A100279 ("vehicle"), in the
12 amount of \$29,207.60. The length of time and payment provisions
13 of the Contract were: \$9,950.00 down payment followed by 60
14 monthly installments of \$320.96 each.

15 b. The Contract was subsequently assigned to American
16 Honda Finance Corporation by Stockton Honda. American Honda
17 Finance Corporation is listed as the lien holder on the vehicle
18 in the records of the California Department of Motor Vehicles.
19 As of April 1, 2008, the amount due and owing to American Honda
20 Finance Corporation pursuant to the Contract is \$12,793.30. The
21 Contract is presently in default as a consequence of Gallo and
22 Aguila's failure to pay installments as provided therein. The
23 Contract has been continuously in default since June 30, 2006.

24 4. The parties herein desire to settle the claim of
25 American Honda Finance Corporation regarding its claim to the
26 vehicle. Plaintiff United States of America agrees that upon
27 entry of a Final Order of Forfeiture forfeiting the vehicle to
28 the United States and sale of the vehicle, the United States will

1 not contest payment to petitioner American Honda Finance
2 Corporation the following:

3 a. In full and final satisfaction of its Contract with
4 Ernesto M. Aguila and Veronica Gallo, a sum of \$12,793.30, less
5 any principal payments made between April 1, 2008, and the date
6 of payment; plus interest on the unpaid principal sum at the
7 contractual (not default) rate. This amount includes principal
8 in the amount of \$12,217.37, interest in the amount of \$511.73,
9 and late charges in the amount of \$64.20. The exact amount to be
10 paid to petitioner shall be determined at the time of payment.
11 This settlement satisfies the petition filed by American Honda
12 Finance Corporation on April 3, 2008.

13 5. Petitioner American Honda Finance Corporation releases
14 plaintiff United States of America and its servants, agents, and
15 employees and all other public entities, their servants, agents,
16 and employees, from any and all liability arising out of or in
17 any way connected with seizure, detention, forfeiture and sale of
18 the vehicle. This is a full and final release applying to all
19 unknown and unanticipated injuries, and/or damages arising out of
20 said seizure, detention, forfeiture and sale, as well as to those
21 now known or disclosed. The parties to this agreement waive the
22 provisions of California Civil Code § 1542 which provides that a
23 general release does not extend to claims which the creditor does
24 not know or suspect to exist in its favor at the time of
25 executing the release, which if known by it must have materially
26 affected the settlement.

27 6. No final order shall be entered in this action
28 inconsistent with or adverse to any provisions of this

1 stipulation, and to the extent any final order entered in this
2 action is inconsistent with or adverse thereto, such order shall
3 be void as against American Honda Finance Corporation.

4 7. American Honda Finance Corporation understands and
5 agrees that the United States reserves the right to void this
6 agreement if, before payment of the lien, the U.S. Attorney
7 obtains new information indicating that the lien holder is not an
8 "innocent owner" or "bona fide purchaser" pursuant to the
9 applicable forfeiture statutes. The U.S. Attorney also reserves
10 the right, in its discretion, to terminate the forfeiture at any
11 time and release the property. In either event, the Government
12 shall promptly notify the lien holder of such action. A
13 discretionary termination of forfeiture shall not be a basis for
14 any award of fees.

15 8. The parties agree to execute further documents, to the
16 extent necessary, to further implement the terms of this
17 settlement.

18 9. The terms of this settlement agreement are contingent
19 upon forfeiture of the above listed vehicle to the United States
20 and the Court's entry of a Final Order of Forfeiture. Further,
21 the terms of this settlement agreement shall be subject to
22 approval by the United States District Court and any violation of
23 any terms or conditions shall be construed as a violation of an
24 Order of the Court.

25 10. In accepting the payoff specified in paragraph 4(a)
26 above, American Honda Finance Corporation shall be considered to
27 be acting in accordance with the Court's Final Order of
28 Forfeiture.

1 11. All parties will bear their own costs and attorney's
2 fees.

3 DATED: 4/15/08

McGREGOR W. SCOTT
United States Attorney

4
5 /s/ Jason Hitt
6 JASON HITT
Assistant U.S. Attorney

7
8 DATED: 4/14/08

/s/ Carey Melton
CAREY L. MELTON, ESQ.
Attorney for Petitioner American
Honda Finance Corporation

(Original signature retained by
attorney)

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12 **IT IS SO ORDERED.**

13 Dated: April 15, 2008

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15 
16 GARLAND E. BURRELL, JR.
United States District Judge