

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED 3/25/09

*Buehner*

UNITED STATES OF AMERICA

-v.-

PHILLIP R. BENNETT,

Defendant.

FINAL ORDER ✓  
OF FORFEITURE AS TO  
SPECIFIC PROPERTY

S3 05 Cr. 1192 (NRB)

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FILED

WHEREAS, on or about January 16, 2007, Phillip R. Bennett (the "defendant") was charged in a twenty-count Superseding Indictment S3 05 Cr. 1192 (NRB) (the "Indictment") with conspiracy to commit securities fraud, wire fraud, bank fraud, money laundering and making false filings with the SEC and material misstatements to auditors, in violation of Title 18, United States Code, Section 371 (Count One); securities fraud in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5 (Counts Two and Three); making a false filing with the SEC under the Securities Exchange Act of 1934, in violation of Title 15, United States Code, Sections 78o(d) and 78ff, and Title 17, Code of Federal Regulations, Section 240.15d-2 (Count Four); making a false filing with the SEC under the Securities Act of 1933, in violation of Title 15, United States Code, Sections 77x (Counts Five and Six); wire fraud, in violation of Title 18, United States Code, Section 1343 (Counts Seven through Thirteen); making material misstatements to auditors, in violation of Title 15, United States Code, Sections

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78m and 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-2 (Count Fourteen); bank fraud in violation of Title 18, United States Code, Section 1344 (Count Fifteen); and money laundering in violation of Title 18, United States Code, Section 1957(a) (Counts Sixteen through Twenty);

WHEREAS, the Indictment included a forfeiture allegation charging that the defendant shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the securities fraud, wire fraud, bank fraud and money laundering offenses, including but not limited to, (i) A sum of money equal to \_\_\_\_\_ in United States currency, representing the amount of proceeds obtained as a result of the offenses;

WHEREAS, on or about February 14, 2008, the defendant pled guilty to all Counts of the Indictment;

WHEREAS, on or about July 9, 2008, the Court entered an Order of Forfeiture/Preliminary Order of Forfeiture as to Specific Property ("First Order of Forfeiture"), including that (i) the defendant is liable for a personal money judgment in the amount of \_\_\_\_\_ representing the amount of proceeds obtained as a result of the offenses, with said sum including all right, title and interest of the defendant in certain specific property, which

constitutes proceeds traceable to the said offenses, and property traceable to such property (the "Money Judgment"); and (ii) all right, title and interest of the defendant in certain specific property, on the ground that it constitutes proceeds obtained as a result of the offenses charged, and property traceable to such property, and which shall be applied to the Money Judgment;

WHEREAS, on or about July 16, 2008, the defendant was sentenced;

WHEREAS, the Government has identified additional specific assets, which are forfeitable under the First Order of Forfeiture, as containing traceable proceeds, and the parties agreed that the defendant will forfeit the following to the United States, including but not limited to the following:

- a. \_\_\_\_\_ as Proceeds from the sale of One 1997 Porsche 993 GT1, Chassis No. \_\_\_\_\_
- b. \_\_\_\_\_ as Proceeds from the sale of a 1980 Ed Ruscha painting titled "Romance";
- c. Funds in Account No. \_\_\_\_\_ held in the name of Phillip and Valerie Bennett's Asset Account, held at JP Morgan Chase Private Bank;
- d. The contents of Account No. \_\_\_\_\_ in the name of Valerie Bennett, held at Merrill Lynch, New York;
- e. The contents of Partners' Capital Falcon A Fund held in the name of Valerie Bennett;
- f. Any right, title and interest in Phillip R. Bennett 1988 Irrevocable Life Insurance Trust;

- g. The contents of AXA Equitable Account Nos. ending in            and            , held in the name of Valerie Bennett;
- h. The contents of Account No. ending in            , held in the name of Valerie Bennett, at Fidelity Investments, Morristown, New Jersey;
- i. Jasper Johns print ("Flag", circa 1960);
- j. Robert Mapplethorpe black and white photographs (Calla Lily 1988, Calla Lilly 1986);
- k. David Hockney print of vase of red flowers;
- l. Pair of painted pottery dancing horses (Tang Dynasty, 618-907 AD);
- m. Painted pottery kneeling Bactrian Camel with saddle pack (Northern Qi, 550-577 AD);
- n. Ansel Adams, black and white photograph "Yosemite Winter storm";
- o. Picasso print, in brown and black, of head;
- p. Johns print "Numbers" (metal);
- q. Johns print "Painting with two balls";
- r. Lichtenstein "Water Lilies" mirror painting;
- s. Warhol silkscreen print "Self-Portrait," in possession of a New York-based art dealer;
- t. Chinese prancing horse;
- u. Small round wooden worktable;
- v. Rectangular wood occasional table;
- w. Pair of Italian obelisks;
- x. Desk with leather top;
- y. Wine cooler (gold color);
- z. Regency parcel gilt side table;

- aa. Queen Ann bookcase;
- bb. Empire marble top table;
- cc. Pair of mahogany marble top tables;
- dd. Faux Bergere Chair;
- ee. Regency painted cabinet;
- ff. Wooden sofa table with fold-down leaves;
- gg. Rembrandt Bugatti impressionistic bronze model ("Walking Panther", early 20<sup>th</sup> Century);
- hh. The contents of Account No. \_\_\_\_\_ in the name of Phillip R. Bennett, held at Citibank, New York, above \_\_\_\_\_ if any;
- ii. The contents of checking Account No. \_\_\_\_\_ in the name of Phillip R. Bennett, held at Commerce Bank, Mount Laurel, New Jersey (approximately \_\_\_\_\_);
- jj. The contents of savings Account No. \_\_\_\_\_ in the name of Phillip R. Bennett, held at Commerce Bank, Mount Laurel, New Jersey (approximately \_\_\_\_\_);
- kk. AXA Equitable Account numbers \_\_\_\_\_ and \_\_\_\_\_ in the name of Phillip R. Bennett;
- ll. Legal fee escrow account, in the name of Phillip R. Bennet, held by Golenback Eiseman Assor Bell & Peskoe LLP (approximately \_\_\_\_\_ and \_\_\_\_\_);
- mm. Proceeds from the sale of the real property known as Flat 1 Yeomans Lodge, 10 Ashley Road, New Milton BH256DA, Hampshire, United Kingdom;

and all property traceable to such property, including but not limited to all interest and income accrued thereon (hereinafter, the "Specific Property");

WHEREAS, on December 15, 2008, the Court entered a Stipulated Preliminary Order of Forfeiture as to the Specific

Property, forfeiting the defendant's right, title and interest in the Specific Property (a copy of the Stipulated Preliminary Order of Forfeiture is attached hereto as Exhibit A);

WHEREAS, on January 13, 2009, the Court entered a Final Order of Forfeiture with respect to the First Order of Forfeiture giving the United States clear title to the certain specific property listed therein pursuant to 21 U.S.C. § 853(n)(7);

WHEREAS, the provisions of 21 U.S.C. § 853(n)(1) require publication of notice of forfeiture and of the Government's intent to dispose of the forfeited property before the United States can have clear title to the forfeited property;

WHEREAS, notice of forfeiture was posted on an official government internet site ([www.forfeiture.gov](http://www.forfeiture.gov)) for at least 30 consecutive days, beginning on December 19, 2008, as required by Rule G(4)(a)(iv)(C) of the supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, and proof of such publication was filed with the Clerk of the Court on March 13, 2009 (a copy of the proof of publication is attached hereto as Exhibit B);

WHEREAS, as set forth in Rule G(4)(a)(ii) and Rule G(5)(a)(ii), the notice of forfeiture specified the Specific Property and the intent of the United States to forfeit and dispose the Specific Property, thereby notifying all third parties of their right to file a petition to adjudicate the validity of their

alleged interest in the Specific Property within sixty days from the first day of publication of the Notice on the official government internet web site;

WHEREAS, no petitions to contest the forfeiture have been filed or made in this action, no parties have appeared to contest the action to date, and the statutory time periods, as set forth in Rule G(5)(a)(ii), have expired for doing so;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

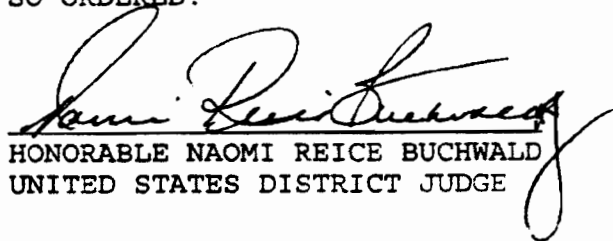
1. Pursuant to 21 U.S.C. § 853(n)(7) the United States of America shall and is hereby deemed to have clear title to the Specific Property.

2. The United States Marshals Service shall take possession of the Specific Property and dispose of the same according to law, in accordance with 21 U.S.C. § 853(h).

3. The Clerk of the Court shall forward four certified copies of this Order to Assistant United States Attorney Amy Lester, One St. Andrew's Plaza, New York, New York 10007.

Dated: New York, New York  
March 23, 2009

SO ORDERED:

  
HONORABLE NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE

# **EXHIBIT A**

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 12-15-08

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- -x  
UNITED STATES OF AMERICA  
-v.-  
PHILLIP R. BENNETT,  
Defendant.  
----- -x

STIPULATED PRELIMINARY ORDER  
OF FORFEITURE AS TO  
SPECIFIC PROPERTY  
S3 05 Cr. 1192 (NRB)

WHEREAS, on or about January 16, 2007, Phillip R. Bennett (the "defendant") was charged in a twenty-count Superseding Indictment S3 05 Cr. 1192 (NRB) (the "Indictment") with conspiracy to commit securities fraud, wire fraud, bank fraud, money laundering and making false filings with the SEC and material misstatements to auditors, in violation of Title 18, United States Code, Section 371 (Count One); securities fraud in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5 (Counts Two and Three); making a false filing with the SEC under the Securities Exchange Act of 1934, in violation of Title 15, United States Code, Sections 78o(d) and 78ff, and Title 17, Code of Federal Regulations, Section 240.15d-2 (Count Four); making a false filing with the SEC under the Securities Act of 1933, in violation of Title 15, United States Code, Sections 77x (Counts Five and Six); wire fraud, in violation of Title 18, United States Code, Section 1343 (Counts Seven through Thirteen); making material misstatements to auditors, in violation of Title 15, United States Code, Sections

78m and 78ff, and Title 17, Code of Federal Regulations, Section 240.13b2-2 (Count Fourteen); bank fraud in violation of Title 18, United States Code, Section 1344 (Count Fifteen); and money laundering in violation of Title 18, United States Code, Section 1957(a) (Counts Sixteen through Twenty);

WHEREAS, the Indictment included a forfeiture allegation charging that the defendant shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the securities fraud, wire fraud, bank fraud and money laundering offenses, including but not limited to, (i) A sum of money equal to \_\_\_\_\_ in United States currency, representing the amount of proceeds obtained as a result of the offenses;

WHEREAS, on or about February 14, 2008, the defendant pled guilty to all Counts of the Indictment;

WHEREAS, on or about July 9, 2008, the Court entered an Order of Forfeiture/Preliminary Order of Forfeiture, including that (i) the defendant is liable for a personal money judgment in the amount of \_\_\_\_\_ representing the amount of proceeds obtained as a result of the offenses, with said sum including all right, title and interest of the defendant in Specific Property, which constitutes proceeds traceable to the said offenses, and

property traceable to such property (the "Money Judgment"); and (ii) all right, title and interest of the defendant in Specific Property, on the ground that it constitutes proceeds obtained as a result of the offenses charged, and property traceable to such property, and which shall be applied to the Money Judgment;

WHEREAS, the Government has identified additional specific assets, which are forfeitable under the first Order of Forfeiture/Preliminary Order of Forfeiture, as containing traceable proceeds, and the parties have agreed that the defendant will forfeit the following to the United States, including but not limited to the following:

- a. \_\_\_\_\_ as Proceeds from the sale of One 1997 Porsche 993 GT1, Chassis No. \_\_\_\_\_
- b. \_\_\_\_\_ as Proceeds from the sale of a 1980 Ed Ruscha painting titled "Romance";
- c. Funds in Account No. \_\_\_\_\_ held in the name of Phillip and Valerie Bennett's Asset Account, held at JP Morgan Chase Private Bank;
- d. The contents of Account No. \_\_\_\_\_ in the name of Valerie Bennett, held at Merrill Lynch, New York;
- e. The contents of Partners' Capital Falcon A Fund held in the name of Valerie Bennett;
- f. Any right, title and interest in Phillip R. Bennett 1988 Irrevocable Life Insurance Trust;
- g. The contents of AXA Equitable Account Nos. ending in \_\_\_\_\_ and \_\_\_\_\_ held in the name of Valerie Bennett;

- h. The contents of Account No. ending in . . . . . held in the name of Valerie Bennett, at Fidelity Investments, Morristown, New Jersey;
- i. Jasper Johns print ("Flag", circa 1960);
- j. Robert Mapplethorpe black and white photographs (Calla Lily 1988, Calla Lilly 1986);
- k. David Hockney print of vase of red flowers;
- l. Pair of painted pottery dancing horses (Tang Dynasty, 618-907 AD);
- m. Painted pottery kneeling Bactrian Camel with saddle pack (Northern Qi, 550-577 AD);
- n. Ansel Adams, black and white photograph "Yosemite Winter storm";
- o. Picasso print, in brown and black, of head;
- p. Johns print "Numbers" (metal);
- q. Johns print "Painting with two balls";
- r. Lichtenstein "Water Lilies" mirror painting;
- s. Warhol silkscreen print "Self-Portrait," in possession of a New York-based art dealer;
- t. Chinese prancing horse;
- u. Small round wooden worktable;
- v. Rectangular wood occasional table;
- w. Pair of Italian obelisks;
- x. Desk with leather top;
- y. Wine cooler (gold color);
- z. Regency parcel gilt side table;
- aa. Queen Ann bookcase;
- bb. Empire marble top table;

- cc. Pair of mahogany marble top tables;
- dd. Faux Bergere Chair;
- ee. Regency painted cabinet;
- ff. Wooden sofa table with fold-down leaves;
- gg. Rembrandt Bugatti impressionistic bronze model ("Walking Panther", early 20<sup>th</sup> Century);
- hh. The contents of Account No. \_\_\_\_\_ in the name of Phillip R. Bennett, held at Citibank, New York, above \_\_\_\_\_; any;
- ii. The contents of checking Account No. \_\_\_\_\_ in the name of Phillip R. Bennett, held at Commerce Bank, Mount Laurel, New Jersey (approximately \_\_\_\_\_);
- jj. The contents of savings Account No. \_\_\_\_\_ in the name of Phillip R. Bennett, held at Commerce Bank, Mount Laurel, New Jersey (approximately \_\_\_\_\_);
- kk. AXA Equitable Account numbers \_\_\_\_\_ and \_\_\_\_\_ in the name of Phillip R. Bennett;
- ll. Legal fee escrow account, in the name of Phillip R. Bennet, held by Golenback Eiseman Assor Bell & Peskoe LLP (approximately \_\_\_\_\_); and
- mm. Proceeds from the sale of the real property known as \_\_\_\_\_, New Milton BH256DA, Hampshire, United Kingdom;

and all property traceable to such property, including but not limited to all interest and income accrued thereon (hereinafter, the "Specific Property");

IT IS HEREBY STIPULATED, ORDERED AND AGREED, by and between the office of Lev L. Dassin, Acting United States Attorney by and through Assistant United States Attorneys Sharon Cohen Levin

and Amy Lester, and the defendant Phillip Bennett, and his attorney, Christopher J. Clark, Esq., that:

1. The defendant Phillip Bennett agrees to forfeit all of his right, title and interest in the Specific Property to the United States for disposition in accordance with law, subject to the provisions of 21 U.S.C. § 853(n)(1), as property constituting proceeds traceable to the offenses set forth in the Indictment, and property traceable to such property. The defendant agrees that he will not file a claim or a petition for remission or mitigation in any forfeiture proceeding involving the Specific Property and will not assist anyone else in doing so.

2. The aforementioned Specific Property is to be seized pursuant to this Stipulated Preliminary Order of Forfeiture and is to be held thereafter by the United States Marshals Service (or its designee) in its secure custody and control.

3. Pursuant to Rule G(4)(a) of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions, the United States is permitted to publish forfeiture notices on the government internet site, [www.forfeiture.gov](http://www.forfeiture.gov). This site incorporates the forfeiture notices that have been traditionally published in newspapers. The United States forthwith shall publish the internet ad for at least 30 consecutive days. Any person, other than the defendant in this case, claiming interest in the Specific Property must file a Petition within 60

days from the first day of publication of the Notice on this official government internet web site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier, pursuant to Rule G(5) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title or interest in the Specific Property, the time and circumstances of the petitioner's acquisition of the right, title and interest in the Specific Property and any additional facts supporting the petitioner's claim and the relief sought, pursuant to 21 U.S.C. § 853(n).

4. The United States may also, to the extent practicable, provide direct written notice to any person known to have an alleged interest in the Specific Property, which is the subject of this Order of Forfeiture, as a substitute for published notice as to those persons so notified.

5. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C. § 853(n), in which all interests will be addressed.


6. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

7. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, upon entry of this Stipulated Preliminary Order of Forfeiture as to Specific Property the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of the property, including depositions, interrogatories, requests for production of documents and subpoenas, pursuant to Rule 45 of the Federal Rules of Civil Procedure.

8. The Clerk of the Court shall forward four certified copies of this Order to Assistant United States Attorney Amy Lester, One St. Andrew's Plaza, New York, New York 10007.

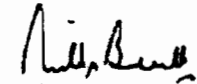
For the United States:

LEV L. DASSIN  
Acting United States Attorney  
Southern District of New York


By:   
Sharon Cohen Levin  
Amy Lester  
Assistant United States Attorneys

Date 12/9/08

For the Defendant:

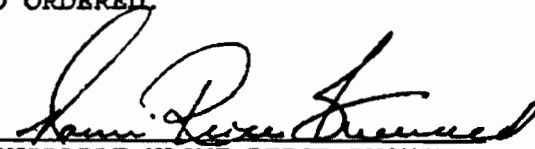
By:   
Phillip R. Bennett

Date  
12/8/08.

By:   
Attorney for Defendant  
Christopher J. Clark, Esq.  
Dewey & LeBoeuf, LLP

Date  
12/8/08

SO ORDERED.

  
HONORABLE NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE

Date  
12/15/08

# **EXHIBIT B**



Attachment 1

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK  
COURT CASE NUMBER: 05 CR 1192 (NRB); NOTICE OF FORFEITURE

Notice is hereby given that on December 15, 2008, in the case of U.S. v. Phillip R. Bennett, Court Case Number 05 CR 1192 (NRB), the United States District Court for the Southern District of New York entered an Order condemning and forfeiting the following property to the United States of America:

Proceeds from the sale of One 1997 Porsche 993 GT1, Chassis No.

Proceeds from the sale of a 1980 Ed Ruscha painting titled Romance

Funds in Account No. , held in the name of Phillip and Valerie Bennett  
Asset Account, held at JP Morgan Chase Private Bank

The contents of Account No. , in the name of Valerie Bennett, held at Merrill  
Lynch, New York )

The contents of Partners Capital Falcon A Fund held in the name of Valerie Bennett

Any right title and interest in Phillip R. Bennett 1988 Irrevocable Life Insurance Trust

The contents of AXA Equitable Account Nos. ending in and eld in the name  
of Valerie Bennett

AXA Equitable Account numbers x-3964 in the name of Phillip R.  
Bennett

The contents of Account No. ending in i, held in the name of Valerie Bennett, at  
Fidelity Investments, Morristown, New Jersey

Jasper Johns print (Flag, circa 1960)

Robert Mapplethorpe black and white photographs (Calla Lilly 1986)

Robert Mapplethorpe black and white photograph "Calla Lily" 1988

David Hockney print of vase of red flowers

Pair of painted pottery dancing horses (Tang Dynasty 618-907 AD)

Painted pottery kneeling Bactrian Camel with saddle pack (Northern Qi 550-577 AD)

Ansel Adams, black and white photograph Yosemite Winter Storm

Picasso print in brown and black of head

Jasper Johns print "Numbers" (metal)

Jasper Johns print "Painting with two balls" )

Lichtenstein "Water Lillies" mirror painting

Warhol silkscreen print "Self-Portrait" in possession of a New York based art dealer

Chinese prancing horse

- Small round wooden worktable
- Rectangle wood occasional table
- Pair of Italian obelisks
- Desk with leather top
- Wine cooler (gold color)
- Regency parcel bolt side table
- Queen Ann bookcase
- Empire marble top table
- Pair of mahogany marble top tables
- Faux Bergere chair
- Regency painted cabinet
- Wooden sofa table with fold down leaves

Rembrandt Bugatti impressionistic bronze model Walking Panther early 20th Century

The contents of Account No. \_\_\_\_\_ in the name of Phillip R. Bennett, held at  
Citibank, New York, above \_\_\_\_\_ if any )

The contents of checking Account No. \_\_\_\_\_ name of Phillip R. Bennett,  
held at Commerce Bank, Mount Laurel, New Jersey (approximately

The contents of savings Account No. \_\_\_\_\_ in the name of Phillip R. Bennett, held  
at Commerce Bank, Mount Laurel, New Jersey (approximately

AXA Equitable account number \_\_\_\_\_ in the name of Phillip R. Bennett

**AXA Equitable account number x-1710 in the name of Phillip R. Bennett**

**Legal fee escrow account, in the name of Phillip R. Bennet, held by Golenback Eiseman Assor Bell & Peskoe LLP (approximately**

**Proceeds from the sale of the real property known as Flat 1 Yeomans Lodge, 10 Ashley Road, New Milton BH256DA, Hampshire, United Kingdom**

The United States hereby gives notice of its intent to dispose of the forfeited property in such manner as the United States Attorney General may direct. Any person, other than the defendant(s) in this case, claiming interest in the forfeited property must file a Petition within 60 days of the first date of publication (December 19, 2008) of this Notice on this official government internet web site, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure and 21 U.S.C. § 853(n)(1). The petition must be filed with the Clerk of the Court, United States District Court, 500 Pearl Street, Room 120, New York, NY 10007, and a copy served upon Assistant United States Attorney Amy Lester, One St. Andrew's Plaza, New York, NY 10007. The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title or interest in the forfeited property, the time and circumstances of the petitioner's acquisition of the right, title and interest in the forfeited property and any additional facts supporting the petitioner's claim and the relief sought, pursuant to 21 U.S.C. § 853(n).

Following the Court's disposition of all petitions filed, or if no such petitions are filed, following the expiration of the period specified above for the filing of such petitions, the United States shall have clear title to the property and may warrant good title to any subsequent purchaser or transferee.