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F. #2013V01124

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

STIPULATION OF SETTLEMENT

Plaintiff,

Civil Docket No. 13-CV- 6286

-against-

ONE TRIANGULAR FRESCO FRAGMENT,

Defendant in rem.

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WHEREAS, One Triangular Fresco Fragment (the “Defendant in rem”) was shipped to the United States by Andrew Baker (“Baker”) on behalf of Etablissement Finagran on or about April 19, 2011;

WHEREAS, after arriving at Liberty International Airport, located in Newark, New Jersey, the Defendant in rem was detained, and, upon further review, seized by officers of the United States Department of Homeland Security, U.S. Customs and Border Protection (“CBP”), under CBP Case no. 2012-4671-00005-01;

WHEREAS, on or about August 20, 2012, CBP received a letter from Baker on behalf of Etablissement Finagran requesting the commencement of administrative forfeiture proceedings and enclosing an Affidavit of Provenance to petition for the remission of the Defendant in rem;

WHEREAS, on or about November 5, 2012, CBP denied Baker’s petition;

WHEREAS, on or about March 26, 2013, counsel for Baker requested that CBP grant an extension of time to prepare a supplemental petition;

WHEREAS, on or about October 30, 2013, counsel for Baker requested that CBP refer the matter to a United States Attorney's Office for the commencement of judicial forfeiture proceedings;

WHEREAS, the United States is contemporaneously filing a Verified Complaint in rem in the above-captioned civil forfeiture action seeking the forfeiture of the Defendant in rem (the "Complaint") and alleging that the Defendant in rem is property that was introduced or attempted to be introduced into the United States contrary to law, and is therefore subject to forfeiture pursuant to Title 19, United States Code, Section 1595a(c)(1)(A);

WHEREAS, Baker, Director of Establisement Finagran, by and through their attorney, represent that they reasonable relied in good faith on the representations made by the donor of the fragment to Establisement Finagran;

WHEREAS, Baker, as Director, of Establisement Finagran, by and through their attorneys and agents, officers and employees, have denied any knowledge that the fragment was stolen;

WHEREAS, Baker, as Director of Establisement Finagran, cooperated with the USAO in this investigation immediately upon being advised by the USAO of Italy's interest in the Defendant in rem and the information contained in the Complaint; and

WHEREAS, all parties agree that the Defendant in rem should be repatriated to Italy;

WHEREAS, the United States, Baker and Etablissement Finagran, by and through counsel, wish to settle and resolve this matter without further judicial intervention;

IT IS HEREBY STIPULATED AND AGREED by and between the United States, Baker and Etablissement Finagran, by and through counsel, as follows:

1. Baker and Etablissement Finagran, having already received a copy of the Complaint, waive service of the Complaint and the Warrant for Arrest of Article in rem to be filed contemporaneously in this Court.
2. Baker and Etablissement Finagran agree not to file an Answer or claim of right, title or interest to the Defendant in rem in the above-captioned proceeding or any ancillary proceedings.
3. Baker and Etablissement Finagran understand and agree tht by entering into this Agreement, they waive any rights to further litigate any claimed interest in the Defendant in rem or to petition for remission or mitigation of the forfeiture of Defendant in rem. Baker and Etablissement Finagran waive their rights, if any, to use the above-captioned action as a basis for statutory or constitutional defense in any administrative or judicial action.
4. Baker and Etablissement Finagran hereby release, remise and forever discharge any claims, rights, title or interest they may have in the Defendant in rem.
5. Baker and Etablissement Finagran hereby consent to the seizure and forfeiture of the Defendant in rem pursuant to Title 19, United States Code, Section 1595a(c)(1)(A).
6. Baker and Etablissement Finagran, and their heirs, assigns and representatives, hereby agree to release, indemnify and hold harmless the United States, and

any officers, agents, and employees, past and present, of the United States, including, but not limited to, the United States Department of Justice, the United States Attorney's Office for the Eastern District of New York, DHS, Homeland Security-Investigations and CBP, from and against any and all claims for relief or cause of action for any conduct or action in any way connected to the detention, seizure, custody, and forfeiture of the Defendant in rem or arising from the provisions of the above-captioned action and this stipulation.

7. This stipulation shall not be construed as an admission of culpability, liability, or guilt on behalf of Baker, as Director of Etablissement Finagran, or of the United States or any of their respective agents, officers or employees, past and present. Forfeiture of the Defendant in rem shall not be construed as a punishment or penalty.

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8. Each party shall bear its own cost and attorney's fees.

Dated: TRIESEN, LIECHTENSTEIN
City Country

November 6, 2013.



ANDREW J. BAKER, Individually,
and as Sole Director of ETABLISSEMENT FINAGRAN

ATTORNEY AT LAW
NOTARY PUBLIC:

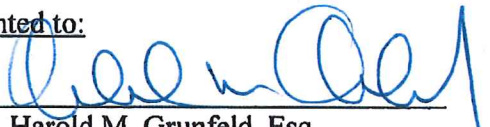
RECHTSANWALT
MAG. MATZLER


On NOVEMBER 6, 2013, before me,
ATTORNEY AT LAW STEFAN MATZLER, personally
came Andrew J. Baker, known to me to be the person who signed the foregoing
document, and he acknowledged that he signed it in his individual capacity and as

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sole director ~~owner~~ of Etablissement Finagran.

Agreed and Consented to:

By: 

Harold M. Grunfeld, Esq.
(212) 973-7750
Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP
399 Park Avenue, 25th Floor
New York, New York 10022
Attorney for Andrew J. Baker, on behalf of Etablissement Finagran

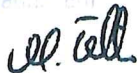
LORETTA E. LYNCH
United States Attorney
Eastern District of New York

By: 

Karin K. Orenstein
Assistant United States Attorney
Eastern District of New York
(718) 254-6188

Die Echtheit der Unterschrift des
Herrn Mag. Stefan MÄTZLER, LL.M.,
geb. 14.01.1977, wird beglaubigt.
Fürstliches Landgericht

Vaduz am



Marlis Hilti
Urkundsperson

06. Nov. 2013

Die Echtheit der Unterschrift des
Herrn Andrew J. BAKER,
Punkelstrasse 37, FL-1105 Triesen,
wird am 06.11.2013 beglaubigt.



Marlis Hilti
Urkundsperson

06. Nov. 2013

APOSTILLE

(Convention de La Haye du 5 octobre 1961)

1. Land: Fürstentum Liechtenstein
- Diese öffentliche Urkunde
2. ist unterschrieben von *Markus Hilti*
3. in der Eigenschaft als Beglaubigungsperson
4. sie ist versehen mit dem Siegel / Stempel der Fürstl. Liecht. Landgerichtskanzlei

Bestätigt

5. in 9490 Vaduz
6. am **06. Nov. 2013**
7. durch Regierungskanzlei Vaduz
8. unter Nr. *13.11754-*

9. Siegel / Stempel

10. Unterschrift



CSK

Christoph Scherzer
Verwaltungs Angestellter