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6 UNITED STATES DISTRICT COURT

7 DISTRICT OF ARIZONA

8 United States of America,

9 Plaintiff,

10 v.

- 11 1) \$16,238.99 Seized from Wells Fargo
Bank Account Number XX2758;
12 2) \$189.44 Seized from Wells Fargo Bank
Account Number XX0892;
13 3) \$4,811.75 Seized from Wells Fargo Bank
Account Number XX1531;
14 4) \$8,006.83 Seized from Wells Fargo Bank
Account Number XX5746;
15 5) \$43.46 Seized from Wells Fargo Bank
Account Number XX4887;
16 6) \$288.56 Seized from Wells Fargo Bank
Account Number XX3579,
17 7) \$119,980.00 Seized from Wells Fargo
Safety Deposit Box XX1721;
18 8) \$4,842.55 Seized from Wells Fargo Bank
Account Number XX7693;
19 9) \$2,163.00 in United States Currency; and
20 10) MidFirst Bank Cashier's check no
1196582 in the amount of \$76,635.97,
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25 Defendants.

CV 11-02571-PHX-SPL

**FIRST AMENDED
VERIFIED COMPLAINT FOR
FORFEITURE IN REM**

1 Plaintiff, United States of America, by and through its attorneys, JOHN S. LEONARDO,
2 United States Attorney for the District of Arizona, and Donald E. Conrad, Assistant United
3 States Attorney brings this complaint and alleges as follows in accordance with Supplemental
4 Rule G(2) of the Federal Rules of Civil Procedure.

5 **NATURE OF THE ACTION**

6 1. This is a verified complaint for forfeiture *in rem* seeking to forfeit and condemn to
7 the use and benefit of the United States of America the following property: 1) \$16,238.99
8 Seized from Wells Fargo Bank Account Number XX2758; 2) \$189.44 Seized from Wells Fargo
9 Bank Account Number XX0892; 3) \$4,811.75 Seized from Wells Fargo Bank Account Number
10 XX1531; 4) \$8,006.83 Seized from Wells Fargo Bank Account Number XX5746; 5) \$43.46
11 Seized from Wells Fargo Bank Account Number XX4887; 6) \$288.56 Seized from Wells Fargo
12 Bank Account Number XX3579, 7) \$119,980.00 Seized from Wells Fargo Safety Deposit Box
13 XX1721; 8) \$4,842.55 Seized from Wells Fargo Bank Account Number XX7693; [and] 9)
14 \$2,163.00 in United States currency; and , 10) MidFirst Bank Cashier's check no 1196582 in the
15 amount of \$76,635.97, (cumulatively referred to as "defendant currency").

16 2. This is a civil action *in rem*, seeking the forfeiture of [United States] defendant
17 currency pursuant to 21 U.S.C. § 881(a)(6) because [the currency] it represents proceeds of
18 trafficking in controlled substances or was used or intended to be used in exchange for controlled
19 substances or was used or intended to be used to facilitate a violation of Title II of the Controlled
20 Substances Act, 21 U.S.C. §§ 801, et seq.

21 3. This is a civil action in rem, seeking the forfeiture of United States currency pursuant
22 to 18 U.S.C. § 981(a)(1)(A) and (C) because the defendant currency constitutes or is derived
23 from proceeds traceable to a violation of, or conspiracy to commit a violation of, 21 U.S.C. §
24 841 and/or § 846, which are offenses constituting "specified unlawful activity" under 18 U.S.C.
25 § 1956(c)(7) and or 1957 or property traceable to such property.

1 investigation of the drug trafficking and money laundering activities of a large scale
2 methamphetamine and cocaine drug trafficking organization based in the Republic of Mexico
3 and Arizona.

4 15. The investigation identified Efrain Gustavo Lopez -Gutierrez (“CHOLO”) and his
5 associates, Irvin Manuel Coronel (“GORDO”) and Michael Navarette-Lopez (“CUATE”) as
6 significant members involved in the Phoenix-based drug trafficking organization.

7 16. From May 3, 2011 - May 18, 2011, law enforcement intercepted wire
8 communications over a cellular telephone utilized by Efrain Gustavo Lopez -Gutierrez
9 (hereafter, “CHOLO”).

10 17. During the monitoring period, numerous telephone conversations were intercepted
11 between Wilfrido Aldana-Cantu (“ARQUI”), an unidentified person known only as “UM2783”,
12 CHOLO, GORDO, CUATE, and other drug-trafficking associates during which they discussed
13 what appeared to be drug trafficking activity.

14 **May 10, 2011**

15 18. On May 10, 2011, law enforcement intercepted a series of conversations between
16 ARQUI, CHOLO, UM2783, GORDO and CUATE in which they discussed the apparent
17 delivery of \$320,000 in drug proceeds to ARQUI.

18 19. Investigation revealed that on May 10, 2011 CHOLO instructed CUATE to retrieve
19 \$320,000 of drug proceeds from a black Honda Accord parked in the garage area of 4719 N.
20 Avenue, Phoenix, Arizona. CHOLO and UM2783 then coordinated the delivery of \$320,000
21 in drug proceeds to ARQUI.

22 20. Later that same day, ARQUI deposited \$9,000 into his personal checking account
23 number XX7693 and \$9,200 in joint saving account number XX1060 at the Wells Fargo
24 Branch located at 23405 N Scottsdale Road, Scottsdale, Arizona.

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1 21. On May 11, 2011, ARQUI deposited a total of \$80,800 in ten Wells Fargo bank
2 accounts, at various branches in amounts that never exceeded \$10,000. All the accounts are
3 associated with ARQUI or a family member.

4 22. On May 11, 2011, ARQUI also opened and accessed safety deposit box XX721
5 at the Wells Fargo branch located at 13015 N. Tatum Blvd., Phoenix, Arizona.

6 23. On May 12, 2011, the funds deposited in accounts XX1060, XX7319, XX4014
7 were transferred online to ARQUI's personal checking account. The funds deposited to account
8 XX0892 were transferred to account XX3579.

9 24. Agents identified eleven Wells Fargo bank accounts and the safety deposit box
10 mentioned above that pertain to ARQUI, his father-in-law Oscar Verdugo-Cardenas
11 ("OSCAR"), and another relative, Jose Pedro Cardenas ("JOSE").

12 25. ARQUI has one sole checking account numbered XX7693; a joint savings
13 account with his wife, Claudia Rosalva Cardenas Marquez (Claudia) numbered XX1060; a joint
14 checking account with Claudia numbered XX7160; a joint checking account with Maria Aurora
15 Cantu de Aldana (Maria), believed to be his mother, numbered XX7319; and a joint savings
16 account with Maria numbered XX4014.

17 26. Bank records indicate Claudia and Maria are homemakers and have no reported
18 income. ARQUI is a self-employed architect and lists his business phone number as a Mexican
19 phone number.

20 27. JOSE has control over four accounts at Wells Fargo Bank. One money market
21 savings account numbered XX4887; one checking account numbered XX3579; and two
22 business checking accounts in the name of Sonmex Fund LLC numbered XX0892 and XX2758.

23 28. OSCAR has control of two joint accounts with his wife Rosalva Cardenas
24 (Rosalva): one joint checking account numbered XX1531 and one joint savings account
25 numbered XX5746.

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1 29. Bank records indicate OSCAR is an attorney with a gross income of \$3,000 per
2 month. All but one of the phone numbers listed are Mexican phone numbers. No Social
3 Security number is listed.

4 30. Investigation revealed that from October 12, 2010 to March 30, 2011, twenty cash
5 deposits totaling \$128,050 were made among four accounts on seven occasions. The deposits
6 were made in amounts never exceeding \$10,000 dollars and were subsequently transferred to
7 ARQUI's personal checking account.

8 31. On May 11, 2011, ARQUI wrote a check to OSCAR for \$56,000 from his
9 personal checking account.

10 32. On May 13, 2011, JOSE wrote a check to OSCAR for \$36,500 from Account
11 number XX3579.

12 33. On May 13, 2011, OSCAR deposited both checks to Account number XX1531
13 to fund the cashier's check used to purchase the residence located at 6505 E. Betty Elyse Lane,
14 Scottsdale Road, Scottsdale, Arizona 85254.

15 34. Through investigation and surveillance law enforcement determined that ARQUI,
16 OSCAR and JOSE deposited and stored drug proceeds through their various Wells Fargo
17 accounts and safe deposit box and converted those proceeds into real property and transferred
18 a portion of the proceeds into Mexico in an attempt to launder the illicit funds.

19 35. On May 24, 2011 at 9:54 a.m. two individuals made deposits at two different
20 tellers at the Wells Fargo Branch located at 250 E 4th St., Calexico, California. The deposits
21 were made to ARQUI's personal checking account and account number XX7319 in the amount
22 of \$9,000 each.

23 36. On the same day, ARQUI crossed northbound into the United States from Mexico
24 at the Nogales West Port of Entry at 12:06 p.m. Law Enforcement databases confirmed that
25 ARQUI did not declare the transportation of U.S. currency in excess of \$10,000 dollars.

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1 37. Later that day, at the same Calexico, California Wells Fargo branch, two
2 additional deposits of \$9,900 each were made to ARQUI's personal checking account and
3 account number XX7160. The cash deposits made to Accounts XX7160 and XX7319 were
4 later transferred to ARQUI's personal checking account.

5 38. On May 25, 2011, JOSE and OSCAR crossed northbound into the United States
6 from Mexico at the Nogales Port of Entry in the early evening. Law Enforcement databases
7 confirmed that neither JOSE nor OSCAR declared the transportation of U.S. currency in excess
8 of \$10,000 dollars.

9 39. On May 26, 2011, ARQUI made three deposits under \$10,000 each, to his
10 personal checking account, account number XX7160 and account number XX7319 totaling
11 \$27,050 (\$8,550, \$9,500, & \$9,000) at the Wells Fargo branch located at 13015 N Tatum Blvd,
12 Phoenix, Arizona. ARQUI also accessed his safe deposit box located at the same branch during
13 this same time period.

14 40. On May 26, 2011, OSCAR purchased Cashier's Check #0631302601 in the
15 amount of \$105,595.16 made payable to First American Title for the remaining down payment
16 for the purchase of the residence located at 6505 E. Betty Elyse Lane, Scottsdale, Arizona
17 85254.

18 41. Prior to the purchase of the Cashier's Check, OSCAR transferred funds to and
19 from Account number XX5746 netting a remaining co-mingled balance in ARQUI's personal
20 checking account.

21 42. On May 26, 2011, ARQUI also wrote a \$25,000 check made payable to Banco
22 Monex SA which was later endorsed in Mexico.

23 43. On June 3, 2011, OSCAR and ARQUI crossed northbound into the United States
24 from Mexico at the Nogales Port of Entry in the early evening. Law Enforcement databases
25 confirmed that neither JOSE nor OSCAR declared the transportation of U.S. currency in excess
26 of \$10,000 dollars.

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1 44. On June 3, 2011, the United States District Court issued an order authorizing the
2 interception of wire communication over another cellular telephone utilized by CHOLO.

3 45. Investigation revealed that on June 4, 2011, ARQUI received \$56,000 of drug
4 proceeds from CHOLO and CUATE.

5 46. On the same day investigation revealed ARQUI accessed his safety deposit box
6 located at 13015 N Tatum Blvd, Phoenix, Arizona.

7 47. On June 10, 2011, ARQUI crossed northbound into the United States from
8 Mexico at the Nogales Port of Entry. Law Enforcement databases confirmed that ARQUI did
9 not declare the transportation of U.S. currency in excess of \$10,000 dollars.

10 48. On June 11, 2011, ARQUI made three deposits in account numbers XX7693,
11 XX7160 and XX7319 \$15,000 (\$7,000, \$3,000, & \$5,000) at the Wells Fargo branch located
12 at 14595 N Scottsdale Rd, Scottsdale, Arizona.

13 49. To summarize the recent Wells Fargo banking activity, from May 10, 2011
14 through June 11, 2011, \$184,415 was deposited and transferred between eleven account
15 associated with ARQUI or one of his family members. The funds ultimately were disposed of
16 through the purchase of Cashier's Checks for the down payment of real property; transfers to
17 Mexico; payment for services; travel, spending, etc.

18 50. Between May 10, 2011 and June 4, 2011 ARQUI received \$376,000 in cash from
19 CHOLO. The source of the money is from the drug trafficking organization under
20 investigation. Only \$184,415 was deposited into the eleven various accounts.

21 51. ARQUI accessed the Wells Fargo Safe deposit box three times. The first time
22 was May 10, 2011, the day he received \$320,000, the second occasion was May 26, 2011, and
23 the third time was the same day he received \$56,000, June 4, 2011.

24 **Surveillance and Traffic Stop of ARQUI**

1 approximately \$111,000.

2 63. The down payment consisted of a personal check written by Oscar Verdugo
3 Cardenas for \$5,000 on March 31, 2011 from his personal account at Wells Fargo numbered
4 XX1531 and a Cashier's Check purchased from Wells Fargo on May 26, 2011 in the amount
5 of \$105,595.16 from account number XX5746.

6 **Income / Source of Funds**

7 64. A review of bank records indicate that ARQUI is an architect in Mexico.

8 65. ARQUI utilizes Social Security number XXX-XX-2349, but is not a United
9 States Citizen. Arizona Department of Economic Security records were queried and no records
10 of wages were located.

11 66. JOSE utilizes Social Security number XXX-XX-1435, but is not a United States
12 Citizen. Arizona Department of Economic Security records were queried and no records of
13 wages were located.

14 67. According to bank records OSCAR is an attorney with gross monthly income of
15 \$3,000. OSCAR does not have a Social Security Number and is not a United States Citizen.

16 68. According to Wells Fargo records OSCAR's business phone number is a Mexican
17 phone number.

18 69. Agents have not identified any legitimate sources of income that would generate
19 large amounts of United States currency in the United States for ARQUI, JOSE, or OSCAR.

20 **INDICTMENT**

21 70. On September 6, 2011, a Federal Grand Jury returned a Second Superceding
22 indictment charging Wilfrido Aldana-Cantu, aka ARQUI, Oscar Verdugo-Cardenas, aka
23 OSCAR, Jose Pedro Cardenas, aka JOSE, with one count of Conspiracy to Commit Promotional
24 Money Laundering and one count of Conspiracy to Commit Concealment of Money Laundering
25 in violation of 18 U.S.C. § 1956(h).

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Verified Claims

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2 71. On September 29, 2011, JOSE Pedro Cardenas submitted a seized asset claim to the
3 IRS claiming ownership of Wells Fargo bank account number XX2758 and Wells Fargo Bank
4 Account Number XX0892, held in the name of Sonmex Fund, LLC.

5 72. On September 29, 2011, Rosalva Cardenas submitted a seized asset claim to the IRS
6 claiming ownership of Wells Fargo bank account number XX1531 and Wells Fargo Bank
7 Account Number XX5746, held in the name of Oscar V. Cardenas and Rosalva Cardenas.

8 73. On September 29, 2011, OSCAR Verdugo Cardenas submitted a seized asset claim
9 to the IRS claiming ownership of Wells Fargo bank account number XX1531 and Wells Fargo
10 Bank Account Number XX5746, held in the name of Oscar V. Cardenas and Rosalva Cardenas.

11 74. On September 29, 2011, JOSE Pedro Cardenas submitted a seized asset claim to
12 the IRS claiming ownership of Wells Fargo bank account number XX4487 and Wells Fargo
13 Bank Account Number XX3579, held in the name of Jose P. Cardenas.

14 75. On September 26, 2011, Wilfrido Aldana "ARQUI" submitted a seized asset claim
15 to the IRS claiming ownership of Wells Fargo bank accounts XX7693, XX1060, XX7160,
16 XX7319, XX4014, XX721 and United States currency in the amount of \$2,163.00.

17 **FIRST CLAIM FOR RELIEF**

18 76. Based upon the aforementioned facts and circumstances, the defendant currency
19 represents proceeds of trafficking in controlled substances or was used or intended to be used
20 in exchange for controlled substances or were used or intended to be used to facilitate a
21 violation of Title II of the Controlled Substance Act, 21 U.S.C. § 801, *et seq.* and are, therefore,
22 subject to forfeiture to the United States pursuant to 21 U.S.C. § 881 (a)(6).

23 **SECOND CLAIM FOR RELIEF**

24 77. Based upon the aforementioned facts and circumstances, the defendant currency
25 represents proceeds that has been involved in a transaction or attempted transaction in violation
26 of 18 U.S.C. §§ 1956 or 1957 or a conspiracy to commit such a violation and are, therefore,
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1 subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A).

2 **THIRD CLAIM FOR RELIEF**

3 78. Based upon the aforementioned facts and circumstances, the defendant currency
4 constitutes proceeds traceable to a violation of, or conspiracy to commit a violation of 21 U.S.C.
5 §§ 841 and/or 846, which are offenses constituting “specified unlawful activity” under 18
6 U.S.C. § 1956 (c)(7) or 1957, or property traceable to such property and is, therefore, subject
7 to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C).

8 **FOURTH CLAIM FOR RELIEF**

9 79. Based upon the aforementioned facts and circumstances, the above described
10 defendants are property within the jurisdiction of the United States which is subject to forfeiture
11 pursuant to the provisions of 18 U.S.C. § 981(a)(1)(A) as currency involved in a violation of
12 18 U.S.C. § 1956(a)(2)(B)(ii) or a conspiracy to commit such a violation, to wit: currency in
13 an amount greater than \$10,000 at one time was received into the United States from or through
14 a place outside the United States to avoid with the intent to evade the currency reporting
15 requirement of 31 U.S.C. § 5316.

16 **FIFTH CLAIM FOR RELIEF**

17 80. Based upon the aforementioned facts and circumstances, the above described
18 defendants are subject to forfeiture pursuant to 31 U.S.C. § 5317(c)(2) for the forfeiture of
19 funds involved in structuring activities in an effort to avoid the requirement to file a Currency
20 Transaction Report pursuant to 31 U.S.C. § 5313, or any conspiracy to commit any such
21 violation, and any property traceable to any such violation or conspiracy in violation of 31
22 U.S.C. § 5324.

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