

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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UNITED STATES OF AMERICA,	)	<b>Civ. No. 08-5348 (ADM/JSM)</b>
	)	
Plaintiff,	)	
	)	
vs.	)	<b>STIPULATION FOR THE</b>
	)	<b>APPROVAL OF THE SALE OF</b>
THOMAS J. PETTERS, et. al.,	)	<b>REAL PROPERTY KNOWN AS</b>
	)	<b>CASA TRANQUILA LOCATED</b>
Defendants	)	<b>IN COSTA RICA</b>

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Pursuant to the Court’s Order for Entry of Preliminary Injunction, Appointment of Receiver, and Other Equitable Relief, dated October 16, 2008, Plaintiff United States of America, Defendant Michael Catain, d/b/a Beyond the River S.A., through his counsel Michael J. Colich and Douglas A. Kelley, as Receiver for Defendant, hereby stipulate to the approval of the sale of real property known as Casa Tranquila located in Costa Rica (“the property”).

**Whereas**, Michael Catain formed a Costa Rican corporation in the name of Beyond the River S.A., Corporate ID Number 3-301-362555 in 2004.

**Whereas**, Catain purchased Casa Tranquila in the name of Beyond the River in 2004 for \$1.1 million dollars cash. There is no mortgage on the property.

**Whereas**, according to the Public Registry of Costa Rica, Michael Catain is the only legal representative of Beyond the River S.A. with full powers over the company and its assets.

**Whereas**, Casa Tranquila consists of a three bedroom, three and a half bathroom main house, a separate one bedroom suite with kitchenette, and two additional bedrooms, each with separate entrances built over garages. It includes an infinity edge pool, a small deck and lawn, and a supplemental electric generator.

**Whereas**, it is difficult to value property in Costa Rica. There is virtually no mortgage industry as real estate is either purchased for cash or with short-term financing. Since banks or mortgage companies are not involved in the transactions, there are no appraisals or comparable sale market analyses.

**Whereas**, sales prices of property in Costa Rica are not a matter of public record. Property is recorded in a national registry. Owners put a value on their own property in this record. Since this value is used for real estate tax purposes, the values recorded in the registry grossly understate the actual value of most property.

**Whereas**, Casa Tranquila is registered with a value of \$20,000 for tax purposes.

**Whereas**, there is no multiple listing service in Costa Rica. Much real estate is often sold by word of mouth. As a result, it is difficult to identify comparable listings in any locale.

**Whereas**, the real estate industry is unregulated in Costa Rica. Real estate agents are

unlicensed and undergo no formal training.

**Whereas,** the real estate market in Costa Rica, even at its peak, was quite limited. The market of willing buyers possessing a million dollars or more with which to purchase real estate without financing is even smaller.

**Whereas,** Casa Tranquila is located on Flamingo Bay, a narrow peninsula that juts into the Pacific Ocean. The real estate market in the Flamingo Bay area, as in the rest of Costa Rica, has suffered as a result of present economic conditions.

**Whereas,** certain other factors affect the value of Casa Tranquila. Flamingo is a small community and news of Michael Catain's legal problems traveled quickly to this area. Local residents are aware of Mr. Catain's arrest and believe Casa Tranquila must be sold. The property is considered to be distressed. This is exemplified in four separate offers that have been made for the property, ranging from \$200,000 to \$800,000. Potential buyers are content to wait until the seller is forced to meet their offers in a down market.

**Whereas,** when Casa Tranquila was purchased by Catain, it had an unobstructed view to the south of the Flamingo coastline with its white sand beaches. Construction of new homes has eliminated all views to the south and destroyed the most dramatic views from the property.

**Whereas,** an offer to purchase Casa Tranquila was received from Dietmar Lerch, a German citizen, on March 17, 2009 in the amount of \$1,000,000 dollars. The offer was extended to April 15, 2009, April 22, 2009 and again to April 30, 2009. During the

extension process, the purchase price was raised to \$1,050,000 through an all cash offer. (Exhibit 1, Offer and Extensions to Purchase).

**Whereas**, Robert Richman, a former Minneapolis attorney presently lives in Costa Rica. He has purchased and sold real estate in Costa Rica and is generally familiar with the purchase and sale of real estate there. He has done research on Casa Tranquila. Based on his research, and given the current state of the market and the reduced shoreline and beach views of Casa Tranquila, he believes \$1 million dollars is a reasonable offer for that property today. (Exhibit 2, Richman affidavit).

**Whereas**, Richman computes the value of the land in Casa Tranquila property to be worth \$606,000 and the home \$240,000. The home was constructed in 2001 and needs maintenance. The Receiver is expending approximately \$2500 per month for upkeep of the home. For these reasons, Richman believes a sale price of \$1 million dollars is reasonable.

**Whereas**, this is an arms-length transaction by a disinterested third party.

**Now, Therefore**, Plaintiff, Defendant and the Receiver hereby stipulate to the sale of the property under the terms of the purchase agreement and jointly request that the Court issue an order approving the sale.

Date: May 7, 2009

**FRANK J. MAGILL JR.**  
**United State Attorney**

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Date: 5/5/09

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