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 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT  
 12 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
 13 WESTERN DIVISION

14 UNITED STATES OF AMERICA,  
 15 Plaintiff,  
 16 v.  
 17 \$41,471.00 IN U.S. CURRENCY,  
 18 Defendant.

No. CV 15-00696-R(SSx)

**STATEMENT OF UNCONTROVERTED FACTS  
 AND CONCLUSIONS OF LAW**

**DATE: October 19, 2015**  
**TIME: 10:00 a.m.**  
**COURTROOM: 8**

19  
 20 TYRONE HAWKINS,  
 21 Claimant.

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1 Pursuant to Rule 56 of the Federal Rules of Civil Procedure and  
2 Rule 56-1 of the Local Rules of the Central District of California,  
3 the Court issues its Statement of Uncontroverted Facts and  
4 Conclusions of Law.

5 **I.**

6 **UNCONTROVERTED FACTS**

7 1. The defendant currency was seized from Nina Haywood  
8 ("Haywood") on June 27, 2014, Haywood filed a timely claim and an  
9 answer on March 26, 2015. Dkts. 13 & 14.

10 2. On June 8, 2015, Haywood withdrew her claim after the  
11 government filed a motion to strike based on her failure to answer  
12 Special Interrogatories that had been served by the government on  
13 March 12, 2015. Dkt. 20.

14 3. On June 11, 2015, Tyrone Hawkins filed an untimely claim  
15 and answer. Dkts. 23 & 24. Hawkins' verified claim asserted that he  
16 had loaned the defendant currency to a relative so that the relative  
17 could buy a truck. Dkt. 24.

18 4. On June 18, 2015, the government served Hawkins with  
19 Special Interrogatories. Kortum Declaration ¶ 3 & Exh. "D".

20 5. The government received Hawkins' answers to the  
21 government's Special Interrogatories on July 13, 2015. Special  
22 Interrogatory No. 3 asked Hawkins for information about how he  
23 acquired the defendant currency. In response to this Special  
24 Interrogatory, Hawkins stated:

25 the sum of \$41,471.00 dollars was obtained over many years.  
26 Mainly through 19 years of working. (Bonuses, loans).  
27 Claimant does not have an exact paper trail for every  
28 dollar, but he has old tax statements and check stubs from

1 the past five years. [Claimant has previously submitted  
2 some this information, and will submit additional  
3 information if requested.]

4 Kortum Declaration ¶ 4 & Exh. "E". Counsel for Hawkins was  
5 advised on July 14, 2015 that Hawkins' response was too  
6 conclusory to be acceptable. Id. ¶ 5 & Exh. "F".

7 6. On July 29, 2015, Hawkins provided an amended response  
8 to Special Interrogatory No. 3, stating that:

9 The monies were acquired through the years by loans,  
10 working and work bonuses. I would take most of the money  
11 and put it away. My mortgage has been \$550 dollars from  
12 200 until 2014. Further, my tenant pays the majority of  
13 the bills since his family (two children) have lived there  
14 since 2009. I drove a 1992 Legend automobile from 2006 to  
15 2015; and, a 1986 Monte Carlo before that. I drove a 1989  
16 Mustang race care from 2004 through 2009 and then sold that  
17 vehicle for \$20,000 dollars. I could not find the receipt  
18 for the sale of that vehicle. Finally, I took out a second  
19 mortgage from Wells Fargo to finance the building of that  
20 vehicle.

21 Kortum Decl. ¶ 6 & Exh. "G".

22 7. To the extent that any findings of fact contained herein  
23 can be considered to be or are deemed to be conclusions of law, they  
24 are incorporated by reference into the Conclusions of Law.

## 25 II.

### 26 CONCLUSIONS OF LAW

27 1. This is a civil forfeiture action brought pursuant to 21  
28 U.S.C. § 881(a)(6).

1           2.     This court has subject matter jurisdiction under 28 U.S.C.  
2 §§ 1345 and 1355.

3           3.     Venue lies in this district pursuant to 28 U.S.C. §  
4 1395(b).

5           **The Standard Governing Summary Judgment**

6           4.     This matter is before the Court on Plaintiff's Motion for  
7 Summary Judgment. Summary judgment is appropriate where there is no  
8 genuine issue of material fact and the moving party is entitled to  
9 judgment as a matter of law. Celotex Corporation v. Catrett, 477  
10 U.S. 317, 323 (1986). To meet its burden of production, the moving  
11 party must either produce evidence negating an essential element of  
12 the nonmoving party's claim or defense or show that the nonmoving  
13 party does not have enough evidence of an essential element to carry  
14 its ultimate burden of persuasion at trial. Nissan Fire and Marine  
15 Insurance v. Fritz Cos., 210 F.3d 1099, 1102 (9th Cir. 2000). Once  
16 the moving party meets its initial burden of showing there is no  
17 genuine issue of material fact, the opposing party has the burden of  
18 producing competent evidence and cannot rely on mere allegations or  
19 denials in the pleadings. Matsushita Electric Industries Co. v.  
20 Zenith Radio Corp., 475 U.S. 574, 587 (1986). Where the record taken  
21 as a whole could not lead a rational trier of fact to find for the  
22 nonmoving party there is no genuine issue for trial.

23           5.     The Civil Asset Forfeiture Reform Act of 2000, Title 18  
24 United States Code Section 983, governs all in rem civil forfeiture  
25 proceedings commenced on or after August 23, 2000. Those forfeiture  
26 proceedings are also governed by the Supplemental Rules for Admiralty  
27 or Maritime Claims and Asset Forfeiture Actions. 18 U.S.C. §  
28 983(a)(4)(A).

1           6. Supplemental Rule G permits any person claiming an interest  
2 in the property to contest the forfeiture by filing a claim in the  
3 court where the action is pending.

4           7. Unlike in typical civil proceedings, the Government may  
5 commence limited discovery immediately after a verified claim is  
6 filed. Supplemental Rule G(6)(A) provides that the Government may  
7 serve special interrogatories limited to the claimant's identity and  
8 relationship to the defendant property without the court's leave at  
9 any time after the claim is filed and before discovery is closed.  
10 The purpose of the rule is to permit the Government to file limited  
11 interrogatories at any time after the claim is filed to gather  
12 information that bears on the claimant's standing. Rule G, 2006  
13 Advisory Committee Notes, Subdivision (6).

14           8. At any time before trial the Government may move to strike  
15 the claimant's claim on the grounds that the claim does not comply  
16 with Supplemental Rule G(5), that the claimant has not responded to  
17 special interrogatories pursuant to Rule G(6)(A), or that the  
18 claimant lacks standing. Supplemental Rule G(8)(c)(i)(A) & (B). The  
19 motion to strike may be presented as a motion for summary judgment.  
20 Supplemental Rule G(8)(2)(B); United States v. \$133,420 in U.S.  
21 Currency, 672 F.3d 629, 635 (9th Cir. 2012).

22           9. The government argues that the claimant's insufficient  
23 response to its interrogatories fail to establish Article III  
24 standing, and accordingly asks this Court to strike claimant's claim  
25 and grant summary judgment.

26           10. A claimant bears the burden of establishing Article III  
27 standing, the threshold function of which is to ensure that the  
28 Government is put to its proof only where someone acting with a

1 legitimate interest contests the forfeiture. United States v.  
2 \$557,933.89, more or less, in U.S. Funds, 287 F.3d 66, 79 (2d Cir.  
3 2002). A claimant must therefore demonstrate that he has a  
4 sufficient interest in the property to create a case or controversy.  
5 United States v. Real Property Located at 475 Martin Lane, 545 F.3d  
6 1134, 1139 (9th Cir. 2008).

7 11. Because standing requirements are not mere pleading  
8 requirements but rather an indispensable part of a case, standing  
9 must be supported with the manner and degree of evidence required at  
10 the successive stages of the litigation. Lujan v. Defenders of  
11 Wildlife, 504 U.S. 555, 561 (1992). Therefore, while general  
12 allegations are sufficient at the pleading stage, they are no longer  
13 sufficient at the summary judgment and trial stages, where some  
14 evidence of standing is required. In \$133,420, supra, the Ninth  
15 Circuit concluded that in a civil forfeiture action, a claimant's  
16 bare assertion of an ownership or possessory interest in the absence  
17 of some other evidence is not enough to survive a motion for summary  
18 judgment at the summary judgment stage. 672 F.3d at 638. The  
19 District Court must ask itself whether a fair minded jury would find  
20 that the claimant had standing on the evidence presented. Id.

21 12. A conclusory self-serving affidavit lacking detailed facts  
22 and any supporting evidence is insufficient to create a genuine issue  
23 of material fact. F.T.C. v. Publishers Clearing House, Inc., 104  
24 F.3d 1168, 1171 (9th Cir. 1997).

25 13. In response to the Government's special interrogatory No.  
26 3, which asked how claimant acquired the defendant currency, claimant  
27 stated that the sum of \$41,471.00 was obtained over many years,  
28 "mainly through 19 years of working, bonuses and loans. Claimant

1 does not have an exact paper trail of every dollar but he has old tax  
2 statements and check stubs for the past five years." Kortum Decl. ¶  
3 4 & Exh. "E".

4 14. When the Government informed claimant that his response was  
5 too conclusory to be acceptable, claimant amended his response to  
6 special interrogatory No. 3, adding in part: "I drove a 1989 Mustang  
7 race car from 2004 through 2009, and then sold that vehicle for  
8 \$20,000. I could not find the receipt for the sale of that vehicle."  
9 Id. ¶ 6 & Exh. "G".

10 15. Claimant's conclusory statements are not sufficient to  
11 establish his standing. Claimant has not provided this Court or the  
12 Government with any supporting evidence other than his own self-  
13 serving statements made by the same lawyer who represented a previous  
14 claimant in this case. Although at the summary judgment stage of a  
15 civil forfeiture proceeding claimant need only show some evidence  
16 that he owned the defendant property, he has failed to do so.

17 **III.**

18 **CONCLUSION**

19 16. For the reasons stated above, the Court hereby grants the  
20 government's motion for summary judgment.

21 19. To the extent that any conclusions of law contained herein  
22 can be considered to be or are deemed to be Statements of  
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1 Uncontroverted Fact, they are incorporated by reference into the  
2 Statements of Uncontroverted Fact.

3 **IT IS SO ORDERED.**



4 Dated: January 6, 2016

5 UNITED STATES DISTRICT JUDGE

6 Respectfully submitted:

7  
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9 United States Attorney  
10 LAWRENCE S. MIDDLETON  
11 Assistant United States Attorney  
12 Chief, Criminal Division  
13 STEVEN R. WELK  
14 Assistant United States Attorney  
15 Chief, Asset Forfeiture Section

16 /s/

17 FRANK D. KORTUM  
18 Assistant United States Attorney  
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20 Attorneys for Plaintiff  
21 United States of America  
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