1 2 3 4 5 UNITED STATES DISTRICT COURT 6 7 EASTERN DISTRICT OF CALIFORNIA 8 9 UNITED STATES OF AMERICA, **CASE NO. 1:15-CV-1878 AWI MJS** 10 **Plaintiff** ORDER ADOPTING FINDINGS AND 11 RECOMMENDATION IN PART. ORDER FOR DEFAULT JUDGMENT 12 APPROXIMATELY \$460,520.00 IN U.S. AGAINST POTENTIAL CLAIMANTS CURRENCY, JUAN PLAZOLA AND EDUARDO 13 MAYA-PEREZ, and ORDER FOR **Defendant** SUPPLEMENTAL BRIEFING 14 15 (Doc. Nos. 9, 12) 16 17 18 On March 11, 2016, Plaintiff filed an ex parte motion for default judgment and final order 19 of forfeiture. See Doc. No. 9. On April 26, 2016, the magistrate judge assigned to this action 20 issued a Findings and Recommendations ("F&R") recommending Plaintiff's motion be granted 21 and that all right, title, and interest in the defendant funds be forfeited to the United States. See 22 Doc. No. 12. The F&R contained notice that any objections were to be filed within fourteen (14) 23 days. To date, no party has filed objections. 24 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a 25 de novo review of this case. Having carefully reviewed the entire file, the Court finds that the 26 F&R to be generally supported by the record and by proper analysis. As the F&R concluded, it is

appropriate to grant default judgment against any right, title, or interest that potential claimants

Juan Plazola and Eduardo Maya-Perez may have in the approximately \$460,520.00.

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However, the Court respectfully cannot grant a final order of forfeiture as to all potential claimants at this time. Plaintiff's motion shows that the funds at issue were found in an automobile. Plazola was the driver and Maya-Perez was the passenger. Both denied knowledge of any drugs, weapons, or cash in the vehicle. However, the vehicle appears to have been owned by someone named "Marcia." Police officers appear to have spoken to Marcia over the telephone. Marcia confirmed that she loaned the vehicle to Plazola. Like Plazola and Maya-Perez, Marcia denied that there were any drugs, weapons, or cash in the vehicle.

Local Rule 500(d) and Supplemental Rule G(4)(b) require direct notice be sent to any person who reasonably appears to be a potential claimant. When an owner of an automobile is not present, items recovered in the automobile may reasonably belong to the owner, the driver, or any passenger. Since direct notice was attempted with respect to Plazola and Maya-Perez, it is not clear why such notice was not attempted on Marcia, the purported owner.

Before a final forfeiture order as to all potential claimants is entered, the Court finds it appropriate for Plaintiff to submit additional briefing concerning the owner of the vehicle. In light of the attempts at direct notice with respect to Plazola and Maya-Perez, Plaintiff should explain whether the ownership of the vehicle was known or could have been reasonably ascertained through the California Department of Motor Vehicles, whether direct notice was attempted on Marcia or the registered owner of the vehicle, or otherwise explain why direct notice on Marcia or the registered owner was not needed. For now, the Court will partially grant Plaintiff's motion with respect to Plazola and Maya-Perez. Once the Court receives Plaintiff's additional briefing, the Court will rule on the remainder of Plaintiff's motion.

## **ORDER**

Accordingly, IT IS HEREBY ORDERED that:

1. The F&R (Doc. No. 12) is ADOPTED in part, as discussed above;

2. Plaintiff's ex parte motion for default judgment and final order of forfeiture (Doc. No. 9) is

GRANTED IN PART;

3. Default judgment is GRANTED with respect to potential claimants Juan Plazola and Eduardo Maya-Perez;

be p	right, title, and interest in the Defendant funds (approximately \$460,520.00) that may ossessed by potential claimant Juan Plazola is FORFEITED to the United States; right, title, and interest in the Defendant funds (approximately \$460,520.00) that may
5. All	
	ight title and interest in the Defendant funds (approximately \$460.520.00) that may
be p	Tem, the, and interest in the Detendant runds (approximately \$400,320.00) that may
	ossessed by potential claimant Eduardo Maya-Perez is FORFEITED to the United
Stat	es;
6. With	nin fourteen (14) days of service of this order, Plaintiff shall file supplemental briefing
with	respect to "Marcia" and the registered owner of the vehicle (if the registered owner
coul	d be reasonably ascertained); and
7. Foll	owing receipt of Plaintiff's supplemental briefing, the Court will rule on the remainder
of P	laintiff's motion.
IT IS SO O	RDERED.
Dated: M	ay 25, 2016 SENIOR DISTRICT JUDGE
	SENIOR DISTRICT JUDGE
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