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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH M. CUELLAR,

Defendant and Judgment Debtor.

CALIFORNIA PUBLIC EMPLOYEES’
RETIREMENT SYSTEM,

Garnishee.

Case No.: 1:16-mc-00060-BAM

**FINAL ORDER OF CONTINUING
GARNISHMENT (RETIREMENT ANNUITY)**

CRIMINAL CASE NO: 1:10-CR-00285-LJO

Pending before the Court is the United States’ application for a final order of garnishment (the Garnishment Application) against defendant Joseph M. Cuellar’s Retirement Annuity at garnishee, California Public Employees’ Retirement System (CalPERS). As set forth in the Garnishment Application, the United States sought and obtained the writ to collect the \$1,625,736.38 Defendant owes for the unpaid balance of his criminal judgment and a statutorily authorized litigation surcharge. The Clerk issued the writ, which the United States served upon CalPERS and the Defendant.

CalPERS served and filed its acknowledgment of service and answer of garnishee (the Answer) to the writ, which identifies a retirement annuity in which the Defendant maintains an interest. The

1 Defendant did not file a timely claim of exemption to the proposed garnishment of the CalPERS
2 retirement annuity; objected to the Answer; requested a hearing, or otherwise objected to the United
3 States' garnishment action.

4 In accordance with 28 U.S.C. § 3205(c)(7), after the Garnishee files an Answer, and if no
5 hearing is requested within the required time period, the court shall promptly enter an order directing the
6 Garnishee as to the disposition of the Judgment Debtor's property.

7 Accordingly, having reviewed the Court files and the United States' Application for Final Order
8 of Continuing Garnishment (Retirement Annuity), and finding good cause appearing, the Court
9 GRANTS the application and HEREBY ORDERS that:

10 1. The United States' Garnishment Application is GRANTED.

11 2. Garnishee CalPERS shall, within twenty (20) days of the filing of this Order, PAY and
12 DELIVER a cashier's check, money order or company draft in the sum of all amounts previously
13 withheld by CalPERS pursuant to the writ of continuing garnishment, made payable to the Clerk of
14 Court. CalPERS shall also provide the United States a written accounting, by pay period, of the
15 amounts withheld from Defendant's retirement payments during the period from service of the writ of
16 continuing garnishment to entry of this final order.

17 3. Following its payment of the withheld amount as stated in paragraph 2, above, CalPERS
18 shall thereafter DELIVER, on a monthly basis, defendant Joseph M. Cuellar's monthly non-exempt,
19 disposable retirement payments at the rate of 25% from each payment until: the restitution amount is
20 paid in full; further order of this Court, or CalPERS no longer has custody, possession or control of any
21 property belonging to the Defendant. CalPERS shall NOTIFY the United States, within 30 days, of any
22 change: in the amount of Defendant's monthly retirement benefit; in Defendant's entitlement to the
23 retirement payment; or affecting CalPERS status as garnishee under this order.

24 4. This is a CONTINUING writ of garnishment against Defendant's CalPERS benefits
25 which shall remain in place until further Court order. The Court shall RETAIN jurisdiction to resolve
26 matters through ancillary proceedings in the case, if necessary.

27 5. All payments shall be made payable to the "Clerk of the Court" at the Office of the Clerk,
28 United States District Court, Eastern District of California, 501 I Street, Suite 4-200, Sacramento,

1 California 95814. CalPERS shall also state the docket number (Case No.: 1:10-cr-285-LJO) on the
2 payment instrument and, if it desires a payment receipt, shall include a self-addressed, stamped envelope
3 with the payment.

4 IT IS SO ORDERED.

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6 Dated: June 9, 2017

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

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