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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

No. 2:11-cv-00967 MCE KJN PS

v.

APPROXIMATELY \$658,830.00 IN  
U.S. CURRENCY,

Defendant.

ORDER

On August 6, 2012, the magistrate judge filed findings and recommendations (ECF No. 101) which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed and served within fourteen (14) days of service with the findings and recommendations, and that any response to the objections were to be filed and served within fourteen (14) days after service of the objections. Claimant Robert Gibson submitted numerous filings in response to the findings and recommendations, including two sets of objections (ECF Nos. 104, 105), and the United States filed a response to the filings (ECF No. 107).

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1           This court reviews *de novo* those portions of the proposed findings of fact to  
2 which objection has been made. 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v.  
3 Commodore Bus. Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920  
4 (1982). As to any portion of the proposed findings of fact to which no objection has been made,  
5 the court assumes its correctness and decides the matter on the applicable law. See Orand v.  
6 United States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge’s conclusions of law are  
7 reviewed *de novo*. See Britt v. Simi Valley Unified Sch. Dist., 708 F.2d 452, 454 (9th Cir.  
8 1983).

9           Having carefully reviewed the entire file, including the objections, the Court finds  
10 the findings and recommendations to be supported by the record and by proper analysis. To the  
11 extent that Claimant Robert Gibson requests “reconsideration” of his late-filed opposition to the  
12 United States’s motion for summary judgment (ECF No. 104), that request is without merit. As  
13 the magistrate judge noted in the findings and recommendations:

14           Mr. Gibson filed three materially deficient briefs in opposition to  
15 the government’s motion to strike ([ECF] Nos. 86, 88, 95), all of  
16 which failed to comply with Local Rule 260(b)’s requirement that  
17 his opposition include an itemized Statement of Disputed Facts  
18 with Mr. Gibson’s admission or denial of each fact and citation to  
19 evidence in support of any such denials. See E. Dist. Local Rule  
20 260(b). On May 24, 2012, after Mr. Gibson filed the first two  
21 nonconforming opposition briefs, this court *sua sponte* filed an  
22 order that informed Mr. Gibson of the requirements of Local Rule  
23 260(b) and granted him leave to file a conforming brief. ([ECF]  
24 No. 92.) On June 18, 2012, Mr. Gibson filed his third  
25 nonconforming opposition brief. ([ECF] No. 95.) On June 22,  
26 2012, this court granted Mr. Gibson’s request for additional time,  
until July 10, 2012, to file a revised brief and reminded Mr. Gibson  
again of Local Rule 260(b)’s requirements, along with a repeated  
warning that “[f]ailure to comply with this order may result in the  
court taking the government’s evidence as the truth and entering  
summary judgment for the government, which will strike Mr.  
Gibson’s claim and terminate completely his involvement in this  
civil forfeiture action.” ([ECF] No. 97.) The extended deadline  
for Mr. Gibson to file a revised opposition brief passed, and Mr.  
Gibson failed to file a brief that complies with Local Rule 260(b).  
Accordingly, the undersigned accepts the government’s evidence  
as the truth.

1 (ECF No. 101 at 2 n.2.) Based on the foregoing, the Court finds that Mr. Gibson was provided  
2 with copious warnings and opportunities to file a compliant opposition and failed to do so. As  
3 such, the Court declines to consider Mr. Gibson's Fourth Amended Opposition, filed several  
4 weeks late on August 6, 2012. (ECF No. 102.)

5 Accordingly, IT IS HEREBY ORDERED that:


6 1. Claimant Robert D. Gibson's "request for reconsideration of late filed  
7 opposition to motion for summary judgment" (ECF No. 104) is DENIED;

8 2. The findings and recommendations (ECF No. 101) are ADOPTED IN FULL;

9 3. The United States's motion to strike Mr. Gibson's claim and answer for failing  
10 to comply with Supplemental Rules G(5) and G(6), or alternatively, for summary judgment (ECF  
11 No. 77) is GRANTED;

12 4. This court having granted summary judgment to the United States and stricken  
13 Mr. Gibson's claim against the defendant property, the following motions by Mr. Gibson are  
14 DISMISSED AS MOOT: Motion to Strike Plaintiff's Complaint (ECF No. 65); Motion to  
15 Enjoin Third-Party Counterclaim (ECF No. 68); Motion to Suppress (ECF No. 75); Motion for  
16 an Accounting Disclosure of Seized Funds (ECF No. 87); Motion for "Ejusdem Generis" Interest  
17 of 25% APR (ECF No. 91); Motion for Clarification (ECF No. 100); Request that the  
18 Government's "Statement of Undisputed Facts" be disqualified (ECF No. 103); and Request for  
19 Hearing (ECF No. 106).

20 Dated: September 24, 2012

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23 MORRISON C. ENGLAND, JR.  
24 UNITED STATES DISTRICT JUDGE  
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