

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

APPROXIMATELY \$26,805.00 IN U.S.
CURRENCY, and

2015 DODGE 1500 TRUCK, VIN:
3C6JR6AT5FG554362, CALIFORNIA
LICENSE NUMBER: 95046T1,

Defendants.

2:15-cv-01273-TLN-KJN

FINDINGS AND
RECOMMENDATIONS

This case, commenced on June 15, 2015, is a civil action *in rem* to forfeit to the United States several assets allegedly involved in violations of federal drug laws. (ECF No. 1.) To date, no claims to the defendant assets have been filed. On July 24, 2015, the Clerk of Court entered the default of potential claimants Roderick Battle, Brianna Bennallack, Susan Gee, Carole Loy, Daniel Potter, and Mark Spooner. (ECF No. 12.)

Presently pending before the court is the United States' motion for default judgment and final judgment of forfeiture, which was filed on August 14, 2015. (ECF No. 13.) On August 18, 2015, the court issued an order requiring any opposition to the motion to be filed no later than September 15, 2015. (ECF No. 16.) That order, along with the underlying motion papers, was served on potential claimants Roderick Battle, Brianna Bennallack, Susan Gee, Carole Loy, Daniel Potter, and Mark

1 Spooner at their last-known addresses. (ECF No. 17.) Although the deadline for filing an opposition
2 has now passed, no opposition or other response to the motion was filed by Roderick Battle, Brianna
3 Bennallack, Susan Gee, Carole Loy, Daniel Potter, Mark Spooner, or any other person.

4 After carefully considering the United States' motion, as well as the files and records of the
5 court, the court FINDS as follows:

6 1. This action arose out of a Verified Complaint for Forfeiture *In Rem* filed on or about
7 June 15, 2015.

8 2. The United States has moved this Court, pursuant to Local Rule 540, for entry of default
9 judgment of forfeiture against potential claimants Daniel Potter, Susan Gee, Mark Spooner, Carole
10 Loy, Roderick Battle and Brianna Bennallack.

11 3. The United States has shown that a complaint for forfeiture was filed; that potential
12 claimants Daniel Potter, Susan Gee, Mark Spooner, Carole Loy, Roderick Battle and Brianna
13 Bennallack received notice of the forfeiture action; that any and all other unknown potential claimants
14 have been served by publication; and that grounds exist for entry of a final judgment of forfeiture.

15 Therefore, IT IS RECOMMENDED as follows:

16 1. That Daniel Potter, Susan Gee, Mark Spooner, Carole Loy, Roderick Battle and Brianna
17 Bennallack be held in default;

18 2. That the United States' motion for default judgment and final judgment of forfeiture
19 (ECF No. 13) be granted;

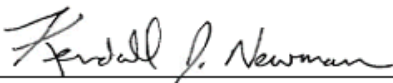
20 3. That judgment by default be entered against any right, title, or interest of potential
21 claimants Daniel Potter, Susan Gee, Mark Spooner, Carole Loy, Roderick Battle and Brianna
22 Bennallack in the defendant assets referenced in the above caption;

23 4. That a final judgment be entered, forfeiting all right, title, and interest in the defendant
24 assets to the United States, to be disposed of according to law;

25 These findings and recommendations are submitted to the United States District Judge assigned
26 to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) days after being
27 served with these findings and recommendations, any party may file written objections with the court
28 and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate

1 Judge's Findings and Recommendations." Any reply to the objections shall be served on all parties and
2 filed with the court within fourteen (14) days after service of the objections. The parties are advised
3 that failure to file objections within the specified time may waive the right to appeal the District Court's
4 order. Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57
5 (9th Cir. 1991).

6 Dated: October 21, 2015

7 
8 _____
9 KENDALL J. NEWMAN
10 UNITED STATES MAGISTRATE JUDGE
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28