

United States District Court
Northern District of California

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6 UNITED STATES OF AMERICA,
7 Plaintiff,
8 v.
9 APPROXIMATELY \$22,520 IN UNITED
10 STATES CURRENCY,
11 Defendant.

Case No.: 13-05107-JSW (KAW)

ORDER REQUIRING FURTHER BRIEFING
REGARDING PLAINTIFF'S MOTION FOR
DEFAULT JUDGMENT; ORDER
VACATING APRIL 3, 2014 HEARING

12 In this *in rem* forfeiture action, Plaintiff United States moves for default judgment against
13 Defendant Approximately \$22,520 in United States Currency, pursuant to 21 U.S.C. 881(a)(6).

14 The motion for default judgment was referred to the undersigned for report and recommendation.

15 Upon review of the moving papers, the Court seeks further briefing on whether the
16 verification accompanying the complaint is fatally defective under California Code of Civil
17 Procedure sections 446 and 2015.5 for failure to specify the place the declaration was executed
18 within the State of California. (*See* Verification by Shameka Jackson-Amacker, Compl. at 5.)
19 Verification is a threshold issue, because the Government's failure to properly verify the
20 complaint deprives the district court of *in rem* jurisdiction over the subject property. *United States*
21 *v. \$84,740.00 U.S. Currency*, 900 F.2d 1402, 1405-06 (9th Cir.1990), rev'd on other grounds by
22 *Republic Nat'l Bank v. United States*, 506 U.S. 80, 89 (1992). "When a party fails to properly
23 verify a complaint, the appropriate procedure is for the district court to dismiss the complaint
24 without prejudice" and to allow the defective verification to be corrected by amendment. *United*
25 *States v. \$84,740.00 U.S. Currency*, 900 F.2d at 1406 (citing *United States v. \$38,000.00 Dollars*
26 *in U.S. Currency*, 816 F.2d 1538, 1547-49 (11th Cir. 1987)).

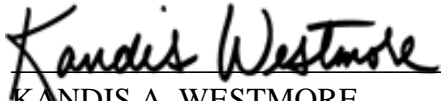
27 Accordingly, the April 3, 2014 hearing date on the motion for default judgment is
28 VACATED and the Government shall file its supplemental brief, not to exceed 10 pages, on or

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before **April 2, 2014**. Upon review of the supplemental brief, the Court will decide whether a hearing is necessary or if the motion for default judgment may be resolved without oral argument pursuant to Civil L.R. 7-1(b).

IT IS SO ORDERED.

Dated: March 18, 2014


KANDIS A. WESTMORE
United States Magistrate Judge