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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
VARIOUS FIREARMS,
Defendant.

Case No.18-cv-03039-VKD

**ORDER GRANTING IN PART AND
DENYING IN PART MOTION FOR
DEFAULT JUDGMENT**

Re: Dkt. No. 32

This is an *in rem* action for civil forfeiture of nine firearms seized after execution of a search warrant at a private residence. Dkt. No. 1. The United States now moves for default judgment. Dkt. No. 32. On May 14, 2019, the Court heard oral argument on the United States' motion. Dkt. No. 37. Having considered the United States' moving papers and arguments at the hearing, the Court grants the United States' motion for default judgment as to one of the grounds for forfeiture asserted, and denies the motion as to the other.

This Court has jurisdiction over this matter under 28 U.S.C. § 1355, which vests district courts with original jurisdiction in civil forfeiture proceedings.¹ 28 U.S.C. § 1355(a). In addition, this action is properly venued in this district because the defendant property is located in this district, and the acts or omissions giving rise to their forfeiture occurred in this district. Dkt. No. 1 ¶ 3; 28 U.S.C. § 1355 (b)(1).

I. BACKGROUND

On May 22, 2018, the United States commenced this action by filing a verified forfeiture

¹ The United States has consented to proceed before a magistrate judge. Dkt. No. 13; *Williams v. King*, 875 F.3d 500, 504 (9th Cir. 2017) (noting that a property owner's consent to magistrate judge jurisdiction is not a prerequisite to entry of default against his or her interest in property subject to an *in rem* action); 28 U.S.C. § 636(c); Fed. R. Civ. P. 73.

1 complaint against the following property (“the defendant property”):

- 2 1) One (1) Colt .38 Super caliber, Government model pistol bearing
serial number 2933159;
- 3 2) One (1) Colt .38 Super caliber, Custom model pistol bearing serial
number ELCEN8536;
- 4 3) One (1) Colt .38 Super caliber, Super 38 model pistol bearing serial
number 36756;
- 5 4) One (1) Colt .38 Super caliber, Commander model pistol bearing
serial number 27057-LW;
- 6 5) One (1) Colt .38 Super caliber, Government model pistol bearing
serial number 38SS05430;
- 7 6) One (1) Colt .38 Super caliber, Government model pistol bearing
serial number 38SS09144;
- 8 7) One (1) Colt .38 Super caliber, Government model pistol bearing
serial number 38SS09196;
- 9 8) One (1) Colt .38 Super caliber, Government model pistol bearing
serial number MHE252; and
- 10 9) One (1) Colt .380 caliber, MKIV Mustang model pistol bearing
serial number MU24832.

11
12 Dkt. No. 1 ¶ 1.

13 The United States seized the defendant property on December 20, 2017 pursuant to a
14 federal search warrant issued in conjunction with an investigation into the unlicensed dealing of
15 firearms. *See id.* ¶¶ 7, 15-19; *see also* Dkt. No. 32 at 5. The defendant property was found at a
16 private residence in Salinas, California alleged to be the residence of Oscar Camacho, Jr., along
17 with evidence of drug trafficking, including cocaine, methamphetamine, heroin, \$12,951 in cash,
18 and four digital scales. *Id.* ¶¶ 16, 18. Mr. Camacho, Jr. is a convicted felon. *Id.* ¶ 9. According
19 the complaint, Mr. Camacho, Jr. obtained the firearms from Carlos Fernandez, a police detective
20 who purchased firearms available only to law enforcement and illegally resold them to private
21 buyers through Ronin Tactical Group (“Ronin Tactical”). *Id.* ¶¶ 7-11, 12-14. The complaint also
22 alleges that Mr. Camacho, Jr.’s father, Oscar Camacho, Sr., and his brother, Rafael Camacho,
23 acted as straw buyers who purchased firearms from Mr. Fernandez for Mr. Camacho, Jr. *Id.* ¶¶ 9,
24 13, 19, 29, 31-33, 35-37, 41.

25 In January 2018, a grand jury indicted Mr. Camacho, Jr. for possession of cocaine with
26 intent to distribute in violation of 21 U.S.C. §§ 831(a)(1) and (b)(1)(B)(ii) and unlawful possession
27 of ammunition by a convicted felon in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). *Id.* ¶ 45;
28 *United States v. Camacho*, No. 18-cr-00001-BLF, Dkt. No. 7 (Jan. 4, 2018). No trial has been

1 scheduled in that action. The United States asserts that the defendant property is subject to
2 forfeiture pursuant to 18 U.S.C. § 924(d)(1) as firearms possessed by a convicted felon, and
3 pursuant to 21 U.S.C. § 881(a)(6) as property constituting or derived from proceeds obtained,
4 directly or indirectly, as a result of distribution or possession with intent to distribute a controlled
5 substance. *Id.* ¶¶ 1, 46-52.

6 On June 21, 2018, the United States served via certified mail copies of the complaint,
7 notice of forfeiture action, warrants of arrest of property *in rem*, and other documents related to
8 this action on Mr. Camacho, Jr. and four other potential claimants (collectively, “the potential
9 claimants”): Oscar Camacho, Sr., Rafael Camacho, Carlos Fernandez, and Rudy Fernandez. Dkt.
10 No. 24. The United States also published a notice of forfeiture action on an official government
11 Internet site (www.forfeiture.gov) for 30 consecutive days beginning on July 28, 2018. Dkt. No.
12 25. None of the potential claimants nor any other person has filed a claim in this action.

13 On January 29, 2019, the United States requested entry of default as to the potential
14 claimants. Dkt. No. 28. The Clerk of the Court entered default against the potential claimants on
15 January 30, 2019.² Dkt. No. 29. The United States now seeks entry of default judgment declaring
16 the defendant property forfeited to the United States. Dkt. No. 32.

17 **II. LEGAL STANDARDS**

18 **A. Forfeiture**

19 Civil forfeiture proceedings are governed by specific forfeiture statutes, the Civil Asset
20 Forfeiture Reform Act of 2000 (18 U.S.C. § 983), the Supplemental Rules for Certain Admiralty
21 and Maritime Claims (“Supplemental Rules”), and this district’s Admiralty Local Rules. Because
22 civil forfeiture is generally disfavored due to the limited procedural protections available to
23 property owners, *United States v. \$191,910.00 in U.S. Currency*, 16 F.3d 1051, 1069 (9th Cir.
24 1994), the Ninth Circuit requires strict adherence to the procedural rules governing civil forfeiture
25 proceedings. *See United States v. Marolf*, 173 F.3d 1213, 1217 (9th Cir. 1999) (denying forfeiture
26 where government “erred” by failing to provide due notice to property owner); *\$191,910.00 in*

27 _____
28 ² The entry of default against the potential claimants was in error, as the correct defendant in this
in rem action is the Various Firearms.

1 *U.S. Currency*, 16 F.3d at 1068–69 (strictly construing currency forfeiture provisions of 19 U.S.C.
2 § 615 against government and holding that “the burden on the government to adhere to procedural
3 rules should be heavier than on claimants”).

4 **B. Default Judgment**

5 Pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, a district court may
6 enter default judgment where the Clerk of the Court, pursuant to Rule 55(a), has previously
7 entered default based upon a failure to plead or otherwise defend an action. Fed. R. Civ. P. 55(a).
8 However, entry of default judgment in the plaintiff’s favor is not automatic. *Aldabe v. Aldabe*,
9 616 F.2d 1089, 1092 (9th Cir. 1980) (noting that the district court’s decision on whether to enter
10 default judgment is discretionary).

11 In deciding whether to enter default judgment, a court should consider the following
12 factors: (1) the possibility of prejudice to the plaintiff; (2) the merits of the plaintiff’s substantive
13 claim; (3) the sufficiency of the complaint; (4) the sum of money at stake in the action; (5) the
14 possibility of a dispute concerning material facts; (6) whether the default was due to excusable
15 neglect; and (7) the strong policy underlying the Federal Rules of Civil Procedure favoring
16 decisions on the merits. *Eitel v. McCool*, 782 F.2d 1470, 1471–72 (9th Cir. 1986). In considering
17 these factors, all factual allegations in the plaintiff’s complaint are taken as true, except those
18 relating to damages. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917–18 (9th Cir. 1987).

19 **III. DISCUSSION**

20 **A. Application of the *Eitel* Factors**

21 The Court first considers whether the *Eitel* factors support entry of default judgment in
22 favor of the United States.

23 **1. Possibility of prejudice to the United States**

24 The first *Eitel* factor considers whether the United States would suffer prejudice if default
25 judgment is not entered, and whether such potential prejudice weighs in favor of granting
26 default judgment. *Eitel*, 782 F.2d at 1471; *Craigslis, Inc. v. Naturemarket, Inc.*, 694 F. Supp. 2d
27 1039, 1054 (N.D. Cal. 2010). The United States maintains that a civil forfeiture action is the only
28 means by which it may recover the defendant property, and that it would be left without recourse

1 if the Court does not enter default judgment. *See also United States v. \$22,520 in United States*
2 *Currency*, No. 13-cv-05107-HSG (KAW), 2015 WL 7769163, at * 3 (N.D. Cal. Nov. 10, 2015).

3 This favor weighs in favor of granting default judgment.

4 **2. Merits of the United States’ claim and sufficiency of complaint**

5 The second and third *Eitel* factors concern the merits of the claim and the sufficiency of the
6 complaint. *Eitel*, 782 F.2d at 1471. The Ninth Circuit suggests that these factors require that a
7 plaintiff state a claim for relief on which it may recover. *Kloeping v. Fireman’s Fund*, No. C 94-
8 2684 TEH, 1996 WL 75314, at *2 (N.D. Cal. Feb. 13, 1996) (citing *Danning v. Lavine*, 572 F.2d
9 1386, 1388 (9th Cir. 1978)).

10 The United States’ claim for civil forfeiture is premised on two forfeiture statutes: 18
11 U.S.C. § 924(d)(1) and 21 U.S.C. § 881(a)(6). Dkt. No. 1 ¶¶ 1, 46-52. The Court considers the
12 merits of each claim and the sufficiency with which each has been pled.

13 **i. Section 924(d)(1) claim**

14 The United States seeks forfeiture of the defendant property pursuant to 18 U.S.C.
15 § 924(d)(1), which provides for forfeiture of “any firearm or ammunition involved in or used in
16 any knowing violation of” 18 U.S.C. §§ 922(g) and 924. The statute requires that any action for
17 forfeiture be commenced within 120 days of the seizure. 21 U.S.C. § 924(d)(1). Here, the
18 defendant property was seized on December 20, 2017, and this action was initiated on May 22,
19 2018—33 days after the expiration of the 120-day limitation period. Dkt. No. 1 ¶¶ 15-17.

20 At the hearing on this motion, the United States stated that an administrative forfeiture
21 proceeding concerning the defendant property took place before the Bureau of Alcohol, Tobacco,
22 Firearms and Explosives (“ATF”) at some point between December 20, 2017 and May 22, 2018,
23 and that such proceeding satisfies the statutory requirement. Dkt. No. 37. However, neither the
24 complaint nor the United States’ motion for default judgment mentions any such proceeding or the
25 date on which it occurred. There is likewise nothing in the complaint or the motion demonstrating
26 that the potential claimants were given notice of such proceeding.

27 Even if the Court were to credit the United States’ unsupported representations that an
28 administrative proceeding was timely conducted in advance of filing this action, it appears the

1 United States’ section 924(d)(1) claim would still be untimely. Specifically, the United States
2 argued at the hearing that 18 U.S.C. § 983(a)(1)(A) allows it 60 days to provide notice of an
3 administrative forfeiture proceeding to potential claimants, and then an additional 90 days under
4 section 983(a)(3)(A) to file a civil forfeiture complaint in district court. Assuming that the United
5 States did indeed have 150 days from the date of the seizure to file a civil forfeiture complaint in
6 this Court, its deadline to file the complaint was May 21, 2018.³ The complaint was filed May 22,
7 2018—one day late. Dkt. No. 1.

8 As the complaint makes no mention of any administrative forfeiture proceeding or any
9 other justification for the delay in filing this forfeiture action, the United States’ claim under
10 section 924(d)(1) is time-barred. The United States is not entitled to default judgment on this
11 claim.

12 **ii. Section 881(a)(6) claim**

13 The United States also seeks forfeiture of the defendant property pursuant to 21 U.S.C.
14 § 881(a)(6), which provides for forfeiture of “[a]ll . . . things of value furnished or intended to be
15 furnished by any person in exchange for a controlled substance or listed chemical in violation of
16 this subchapter” and “all proceeds traceable to such an exchange.” The statute of limitations
17 governing forfeitures under section 881 is drawn from the customs laws. *See* 21 U.S.C. § 881(d).
18 The applicable statute of limitations provides:

19 No suit or action to recover . . . any pecuniary penalty or forfeiture of
20 property accruing under the customs laws shall be instituted unless
21 such suit or action is commenced within five years after the time when
22 the alleged offense was discovered, or in the case of forfeiture, within
2 years after the time when the involvement of the property in the
alleged offense was discovered, which ever was later

23 19 U.S.C. § 1621; *see also United States v. James Daniel Good Real Prop.*, 114 U.S. 43, 63
24 (1993) (noting that 19 U.S.C. § 1621 provides the applicable statute of limitations for a section
25 881(a) claim).

26 _____
27 ³ 150 days from December 20, 2017 is May 19, 2018. Because May 19, 2018 was a Saturday, the
28 United States’ deadline was the next court day, Monday, May 21, 2018. Fed. R. Civ. P.
6(a)(1)(C).

1 Because the United States brought this forfeiture action within the two-year statute of
2 limitations for section 881 forfeitures, the action is timely with respect to this claim. Dkt. No. 1 ¶
3 7.

4 With regard to the merits of the claim, the United States must show by a preponderance of
5 the evidence that there is a substantial connection between the illegal drug activities and the
6 defendant property. *United States v. \$11,500 in U.S. Currency*, 710 F.3d 1006, 1013 (9th Cir.
7 2013) (citing 18 U.S.C. § 983(c)(1)); *United States v. The Sum of \$185,336.07 United States*
8 *Currency Seized from Citizen’s Bank Account L7N01967*, 731 F.3d 189, 196 (2d Cir. 2013). The
9 Court must consider whether, taking the factual allegations of the complaint as true, the United
10 States has shown that the defendant property is subject to forfeiture under this standard.

11 In the complaint, the United States asserts that there is “probable cause” to believe that the
12 defendant property represents proceeds traceable to illegal drug activities of Mr. Camacho, Jr.
13 Dkt. No. 1 ¶ 51. The United States does not refer to any standard in its motion, but acknowledged
14 at the hearing that the standard is “preponderance of the evidence” rather than “probable cause.”
15 Dkt. No. 37. The United States relies on the following allegations of the complaint to establish
16 that the defendant property is traceable to illegal drug activities:

17 Between June 2, 2016 and July 29, 2017, Mr. Camacho, Sr. and Rafael Camacho
18 purchased various firearms from Mr. Fernandez and Ronin Tactical, which they then purportedly
19 passed on to Mr. Camacho, Jr. Dkt. No. 1 ¶¶ 9, 13. During this period, Mr. Camacho, Sr. and
20 Rafael Camacho each purchased several firearms from Mr. Fernandez, Mr. Fernandez’s relatives,
21 or Ronin Tactical. *Id.* ¶¶ 10, 13, 32-33, 35-36, 41. For example, Instagram messages between and
22 posts by both Mr. Camacho, Jr. and Mr. Fernandez suggested that, through Mr. Camacho, Sr., Mr.
23 Camacho, Jr. was the true purchaser of a Colt pistol bearing serial number 27057-LW, one of the
24 firearms for which forfeiture is now sought. *Id.* ¶¶ 7, 12-14. Between May 30, 2016 and February
25 28, 2017, Mr. Camacho, Jr.’s phone was in communication with Mr. Fernandez’s phone
26 approximately 34 times. *Id.* ¶ 11.

27 Following the search of Mr. Camacho, Jr.’s residence, federal agents recovered iPhones
28 from Mr. Camacho, Jr.’s bedroom which contained numerous photos of various firearms,

1 including some of the defendant firearms, and messages with Mr. Fernandez concerning at least
2 one of the defendant firearms. *Id.* ¶¶ 25, 27, 28-29, 31-33, 35, 38-41. Other messages found on
3 the iPhones included a photo of what appeared to be drugs, photos of at least some of the
4 defendant firearms, and statements by Mr. Camacho, Jr. asserting or suggesting his ownership of
5 the firearms. *See, e.g., id.* ¶ 30 (describing photo of suspected heroin); *id.* ¶ 33 (describing Mr.
6 Camacho, Jr.’s transmission of a photo of the Colt .38 caliber Mustang pistol bearing serial
7 number MU24832 and statement that it was “for [his] home”). For example, one of the iPhones
8 contained WhatsApp messages between Mr. Fernandez and Mr. Camacho, Jr. concerning the
9 purchase of the Colt .38 pistol bearing serial number 27057-LW, which federal agents found with
10 other defendant firearms in the bottom drawer of the dresser in the master bedroom of the
11 residence. *Id.* ¶¶ 17, 41. One iPhone also contained a message including two photographs of the
12 Colt .38 pistol bearing serial number MHE252, which federal agents found with another defendant
13 firearm in the garage attic of the residence. *Id.* ¶¶ 17, 29.

14 Federal agents also recovered over 1,300 grams of cocaine, smaller amounts of
15 methamphetamine and heroin, and \$12,951 in cash wrapped in rubber bands and plastic inside Mr.
16 Camacho, Jr.’s bedroom. *Id.* ¶¶ 16, 18. Mr. Camacho, Jr. admitted that he sold cocaine, and that
17 he was the only person residing in the house who did so. *Id.* ¶ 23. Although he stated that he
18 earned money working for his parents’ respective businesses, the United States contends this
19 assertion was false and that his income was derived from the sale of illegal drugs. The complaint
20 pleads that the California Employment Development Department reported no record of a work
21 address for Mr. Camacho, Jr. under the social security number known to law enforcement. *Id.* ¶
22 24. Furthermore, the complaint pleads that Mr. Camacho, Sr. (his father) no longer owned or
23 managed a business, and that Rafael Camacho (his brother) was a student who worked at Smart
24 and Final. *Id.*

25 The Court finds these facts sufficient to state a claim that Mr. Camacho, Jr. purchased,
26 either directly or through his family members, the defendant property with money obtained
27 through the sale of cocaine and other controlled substances, as opposed to money obtained from
28 other sources. *See, e.g., United States v. Contents of Wells Fargo Bank Inv. Account No. 1687332*

1 *in the Name of Johanna Leal*, No. 1:09-cv-000007-OWW-SMS, 2009 WL 3625138, at * 4–5
2 (E.D. Cal. Oct. 27, 2009) (finding that records showing that potential claimants had not worked
3 for two years and received disability compensation, and that tax documents, public records, and
4 evidence at potential claimants’ homes revealed that they would not be able to afford luxury
5 vehicles without drug proceeds as income).

6 These factors weigh in favor of default judgment with respect to the section 881(a)(6)
7 claim.

8 **3. Amount of money at stake**

9 The fourth *Eitel* factor considers the amount of money at stake in the litigation. *Eitel*, 782
10 F.2d at 1471. When the amount of money is substantial or unreasonably large, default judgment is
11 discouraged. *See id.* at 1472 (finding that three-million dollar judgment, considered in light of
12 parties’ dispute as to material facts, supported decision not to enter default judgment); *Tragni v. S.*
13 *Elec. Inc.*, No. 09-32 JF (RS), 2009 WL 3052635, at *5 (N.D. Cal. Sept. 22, 2009); *Bd. of Trustees*
14 *v. RBS Washington Blvd, LLC*, No. C 09-00660 WHA, 2010 WL 145097, at *3 (N.D. Cal. Jan. 8,
15 2010).

16 Here, the United States asserts that the value of the defendant property is unknown, given
17 that these particular firearms are available only to law enforcement and may not be sold legally to
18 the public. Dkt. No. 1 ¶¶ 7-8; Dkt. No. 32 at 9. However, the United States estimates the value of
19 the defendant property to be approximately \$10,400. Dkt. No. 36 at 2.

20 Given the connection between the alleged illegal drug activities and the defendant
21 property, the estimated value of the defendant property does not weigh against default judgment.

22 **4. Possibility of a dispute concerning material facts or excusable neglect**

23 The fifth and sixth *Eitel* factors concern the potential for factual disputes and whether a
24 claimant’s failure to respond was likely due to excusable neglect. *Eitel*, 782 F.2d at 1471–72.

25 With respect to the fifth factor, no potential claimants have participated in this action or
26 attempted to contest the United States’ allegations of material facts or legal assertions.
27 Furthermore, no potential claimant has moved to set aside the entry of default despite notice of
28 filings in this matter, including the verified complaint, request for entry of default, and the instant

1 motion for default judgment. Dkt. Nos. 24, 26, 31; Dkt. No. 28 at 4, Dkt. No. 32 at 11. The
2 United States served the complaint via certified mail and is in possession of certified mail receipts
3 signed by the potential claimants. Dkt. No. 36 at 6.

4 As there is no evidence suggesting that a potential claimant’s failure to file a claim or
5 otherwise participate in this litigation is due to excusable neglect, the factor weighs in favor of
6 default judgment.

7 **5. Policy favoring decisions on the merits**

8 The seventh *Eitel* factor requires consideration of the strong policy favoring decisions on
9 the merits. *Eitel*, 782 F.2d at 1472; *see also Pena v. Seguros La Comercial, S.A.*, 770 F.2d 811,
10 814 (9th Cir. 1985). Although default judgment is disfavored, “[t]he very fact that [Rule] 55(b)
11 exists shows that this preference, standing alone, is not dispositive.” *Kloeping*, 1996 WL 75314
12 at *3. “While the Federal Rules do favor decisions on the merits, they also frequently permit
13 termination of cases before the court reaches the merits [,] . . . [as] when a party fails to defend
14 against an action” *Id.*

15 While the Court prefers to decide matters on the merits, the potential claimants’ failure to
16 participate in this litigation makes that impossible. Default judgment against the defendant
17 property is the United States’ only recourse. *See United States v. Roof Guard Roofing Co., Inc.*,
18 No. 17-cv-02592-NC, 2017 WL 6994215, at *3 (N.D. Cal. Dec. 14, 2017) (“When a properly
19 adversarial search for the truth is rendered futile, default judgment is the appropriate outcome.”).

20 This factor also weighs in favor of default judgment.

21 **B. Procedural Requirements for Forfeiture**

22 The Court next considers whether the United States has met the procedural requirements
23 for forfeiture of the defendant property. Pursuant to the Supplemental Rules, the United States
24 must initiate a forfeiture action by filing a verified complaint that describes the property at issue
25 with reasonable particularity. Supp. R. Admir. Mar. Claims C(2), G(2). The complaint must also
26 include sufficient factual allegations to support a “reasonable belief” that the United States will be
27 able to meet its burden at trial. The Supplemental Rules also require that the United States
28 provide notice of the forfeiture action directly to known potential claimants and by publication in a

1 newspaper of general circulation in this district. Supp. R. Admir. Mar. Claims C(4),
2 G(4)(a)(iv)(A), G(4)(b)(iii)(B). That notice must include the time for filing a claim. *Id.* Finally,
3 the United States must also comply with the further requirements of Admiralty Local Rules 6-1
4 and 6-2.

5 The Court address each of the requirements below.

6 **1. Adequacy of the complaint**

7 Here, the United States filed a verified complaint for forfeiture in accordance with 18
8 U.S.C. § 981(b)(2)(A). The complaint provides the grounds for jurisdiction and venue, a
9 description of the defendant property, and the federal statutes under which the forfeiture action
10 was brought. Dkt. No. 1 ¶¶ 1-6. As explained above, the facts alleged support a reasonable belief
11 that the United States will meet its burden of proof at trial as to the forfeiture claim based on 21
12 U.S.C. § 881(a)(6). *See supra* Section III.A.2.ii. The Court, therefore, concludes that the United
13 States has met the requirements set forth in the Supplemental Rules, discussed above, for civil
14 forfeiture actions with respect to its section 881(a)(6) claim.

15 **2. Adequacy of notice and arrest of property**

16 The Admiralty Local Rules of this district required that the United States demonstrate due
17 notice of the action and arrest of the property. Admir. L.R. 6–1(a). Since this forfeiture action
18 arises under federal statute, the notice and arrest requirements must comply with Supplemental
19 Rule G(3)-(4). Admir. L.R. 6–1(a)(1).

20 If the defendant is not real property, “the clerk must issue a warrant to arrest the property if
21 it is in the government’s possession, custody, or control.” Supp. R. Admir. Mar. Claims
22 G(3)(b)(i). Here, the United States seized the defendant property pursuant to a search warrant
23 executed on December 20, 2017, and the Clerk of the Court issued arrest warrants on June 19,
24 2018. Dkt. Nos. 15, 16, 17, 18, 19, 20, 21, 22, 23. Thus, arrest was proper.

25 Supplemental Rule G(4) requires the United States to provide both general notice to the
26 public and direct notice of the forfeiture action to any known person who reasonably appears to be
27 a potential claimant, so that the person has an opportunity to file a timely claim and defend the
28 forfeiture action as a party to the litigation. Supp. R. Admir. Mar. Claims G(4). This notice may

1 be sent to the potential claimant’s attorney in a criminal matter that is related to the forfeiture
2 action. Supp. R. Admir. Mar. Claims G(4)(b)(iii)(B). The public notice requirement may be met
3 by publishing the notice on an official government forfeiture website for at least thirty consecutive
4 days. Supp. R. Admir. Mar. Claims G(4)(a)(iv)(C), (4)(b)(i).

5 Here, the United States’ notice contained a description of the defendant property and the
6 applicable deadlines to submit verified claims—specifically, any person or entity having an
7 interest in the defendant property was required to file a verified claim or statement within sixty
8 days of the first date of publication of notice. Dkt. No. 25. The published notice was posted
9 online from July 28, 2018 through August 26, 2018, which was thirty consecutive days. *Id.*

10 In addition, Supplemental Rule G(4)(b)(iii)(E) requires that “[n]otice to a person from
11 whom the property was seized . . . may be sent to the last address that person gave to the agency
12 that seized the property.” On June 21, 2018, the United States sent the notice of forfeiture action,
13 the complaint, and other documents to the potential claimants at their home addresses, including
14 the address at which the defendant property was seized. Dkt. No. 24. On February 1, 2019, the
15 United States sent the notice of entry of default to the potential claimants at their home addresses,
16 as well as to Mr. Camacho, Jr.’s criminal defense counsel. Dkt. No. 31.

17 **3. Absence of timely claim**

18 The United States must show that no one has filed timely and responsive pleadings
19 pursuant to Supplemental Rule G(5). Admir. L.R. 6–2(a). As of January 19, 2019, the date the
20 United States requested an entry of default, the period to respond had long expired. To date, no
21 claims or answers have been filed.

22 **IV. CONCLUSION**

23 For the foregoing reasons, the Court grants the United States’ motion for default judgment
24 of forfeiture of the defendant property based on 21 U.S.C. § 881(a)(6). The *Eitel* factors weigh in
25 favor of default judgment on that claim, and the United States has complied with the procedural
26 requirements of the Supplemental Rules and the Admiralty Local Rules for obtaining a default
27 judgment against *in rem* defendant property. The Court denies the motion for default judgment
28 for forfeiture based on 18 U.S.C. § 924(d)(1).

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The Clerk of the Court shall issue a corrected entry of default as to defendant Various Firearms. *See supra* n.2.

Following the issuance of a corrected entry of default, the Court will enter judgment in favor of the United States as to its request for forfeiture pursuant to 21 U.S.C. § 881(a)(6) only. The appropriate federal agency shall dispose of the defendant firearms in accordance with the law.

IT IS SO ORDERED.

Dated: July 2, 2019


VIRGINIA K. DEMARCHI
United States Magistrate Judge