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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
\$3,275.00 IN U.S. CURRENCY,  
Defendant.

Case No. 12-cv-543-L(WVG)

**ORDER GRANTING MOTION FOR  
DEFAULT JUDGMENT AS TO MAMIE  
LEE ROBBINS [DOC. 16]**

Pending before the Court is Plaintiff United States of America (“Government”)’s motion for default judgment seeking forfeiture of the interests of Mamie Lee Robbins. This action was brought against Defendant \$3,275.00 in U.S. Currency (“defendant property”), constituting money furnished in exchange for a controlled substance that is liable for condemnation and forfeiture under 21 U.S.C. § 881(a)(6). None of the potential claimants, including Ms. Robbins, have opposed.

The Court found this motion suitable for determination on the papers submitted and without oral argument. *See* Civ. L.R. 7.1(d.1). (Doc. 18.) For the following reasons, the Court **GRANTS** Plaintiff’s motion for default judgment. (Doc. 16.)

//

1 **I. BACKGROUND**

2 On September 6, 2011, Escondido Police Department detectives had a state search  
3 warrant for Ms. Robbins, her vehicle, and her residence. (Compl. ¶ 3 [Doc. 1].) Ms. Robbins  
4 and Ellen Hall were contacted in Ms. Robbins' vehicle in Escondido, California, and detained  
5 pursuant to the search warrant. (*Id.*)

6 Ms. Robbins admitted possessing methamphetamine on her person, in her vehicle, and her  
7 apartment. (Compl. ¶ 4.) A detective retrieved a container from Ms. Robbins' front pocket that  
8 contained twenty small baggies that appeared to be marked by weight with a total weight of  
9 approximately 35.61 grams of methamphetamine. (*Id.*) The container also had numerous  
10 hydrocodone pills in baggies inside of it. (*Id.*) Ms. Robbins told the detective that there was  
11 more dope in the car and that it was going to be a "sales case". (*Id.*) The detective found a  
12 handbag in the car that contained the following items: (1) \$3,275.00 in U.S. Currency, (2) a box  
13 containing a baggie with approximately 2.69 grams of methamphetamine in it, (3) packaging  
14 materials, (4) a digital scale, and (5) a metal container with approximately 0.79 grams of  
15 methamphetamine in it. (*Id.*)

16 Ms. Hall told detectives that she had a small bag of methamphetamine, which she pulled  
17 out of her pants pocket. (Compl. ¶ 5.) She said that it was given to her by Ms. Robbins. (*Id.*)

18 The detectives then went to Ms. Robbins' apartment to finish serving the search warrant.  
19 (Compl. ¶ 6.) The detectives noticed several surveillance cameras connected to monitors  
20 oriented towards the outside of the apartment. (*Id.*) Packaging materials and a pay-and-owe  
21 sheet were also found. (*Id.*) Other items found include mail addressed to Ms. Robbins, two  
22 digital scales, and approximately 15 grams of methamphetamine. (*Id.*)

23 Ms. Robbins said that she did not have another job, and selling drugs is how she makes  
24 money. (Compl. ¶ 7.)

25 Based on training and experience, the narcotics detectives believed "the defendant  
26 currency represented the proceeds of selling methamphetamine and was in an amount and  
27 denominations consistent with the sales of methamphetamine at that level and that the  
28 methamphetamine found on Robbins' person, in her purse, and in her apartment was being

1 distributed and sold for profit.” (Compl. ¶ 8.) This opinion is based upon the quantity of  
2 methamphetamine, scales, currency, packaging, pay-and-owe sheet, and Ms. Robbins’  
3 statements concerning the sales of methamphetamine. (*Id.*)

4 Ms. Robbins eventually pled guilty to violating California Health and Safety Code §§  
5 11378 and 11351, Possession of Methamphetamine for Sale and Possession of Hydrocodone for  
6 Sale, in the San Diego Superior Court. (Compl. ¶ 8.)

7 On March 2, 2012, the Government filed a complaint for forfeiture against the defendant  
8 property. (Doc. 1.) On March 8, 2012, an agent of the United States Marshal Service seized and  
9 arrested the defendant property under the Court’s order appointing him as custodian. (Running  
10 Decl. ¶ 3.)

11 On March 6, 2012, the Government sent a Notice of Judicial Forfeiture Proceedings and a  
12 copy of the Complaint for Forfeiture to Mamie Lee Robbins at three different addresses, Jill  
13 Wageman, and Ellen Gay Hall as potential claimants. (Running Decl. ¶ 4.) On May 24, 2012,  
14 the same notice and complaint was sent to Mamie Lee Robbins at a fourth address as a potential  
15 claimant. (*Id.* ¶ 5.) Notice of this civil forfeiture action was posted on [www.forfeiture.gov](http://www.forfeiture.gov) for at  
16 least thirty consecutive days beginning on March 7, 2012. (*Id.* ¶ 6.) No claim or answer has  
17 been filed regarding the defendant property. (*Id.*)

18 On June 6, 2012, the Clerk of the Court entered default against any and all potential  
19 claimants except Mamie Lee Robbins. (Doc. 8.) Thereafter, the Government filed this motion  
20 for default judgment. (Doc. 9.) None of the potential claimants have opposed. Thereafter, the  
21 Court granted the Government’s motion. (Doc. 11.)

22 The Government now moves for default judgment against Mr. Robbins. (Doc. 16.)  
23

## 24 **II. LEGAL STANDARD**

25 Rule 55(b)(2) of the Federal Rules of Civil Procedure governs applications to the court  
26 for default judgment. *See* Fed. R. Civ. P. 55(b)(2). Default judgment is available as long as the  
27 plaintiff establishes: (1) defendant has been served with the summons and complaint and default  
28 was entered for their failure to appear; (2) defendant is neither a minor nor an incompetent

1 person; (3) defendant is not in military service or not otherwise subject to the Soldiers and  
2 Sailors Relief Act of 1940; and (4) if defendant has appeared in the action, that defendant was  
3 provided with notice of the application for default judgment at least three days prior to the  
4 hearing. *See, e.g.*, 50 U.S.C. § 521; Fed. R. Civ. P. 55; *Twentieth Century Fox Film Corp. v.*  
5 *Streeter*, 438 F. Supp. 2d 1065, 1070 (D. Ariz. 2006).

6 Upon entry of default, the factual allegations in plaintiff's complaint, except those relating  
7 to damages, are deemed admitted. *E.g.*, *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18  
8 (9th Cir. 1987) (quoting *Geddes v. United Fin. Group*, 559 F.2d 557, 560 (9th Cir. 1977)).

9 Where the amount of damages claimed is a liquidated sum or capable of mathematical  
10 calculation, the court may enter a default judgment without a hearing. *Davis v. Fendler*, 650  
11 F.2d 1154, 1161 (9th Cir. 1981). When it is necessary for the plaintiff to prove unliquidated or  
12 punitive damages, the court may require plaintiff to file declarations or affidavits providing  
13 evidence for damages in lieu of a full evidentiary hearing. *Transportes Aereos De Angola v. Jet*  
14 *Traders Invest. Corp.*, 624 F. Supp. 264, 266 (D. Del. 1985).

15 Entry of default judgment is within the trial court's discretion. *See Taylor Made Golf Co.*  
16 *v. Carsten Sports, Ltd.*, 175 F.R.D. 658, 660 (S.D. Cal. 1997) (Brewster, J.) (citing *Lau Ah Yew*  
17 *v. Dulles*, 236 F.2d 415, 416 (9th Cir. 1956)). In making this determination, the court considers  
18 the following factors: (1) the possibility of prejudice to the plaintiff, (2) the merits of plaintiff's  
19 substantive claim, (3) the sufficiency of the complaint, (4) the sum of money at stake in the  
20 action, (5) the possibility of a dispute concerning the material facts, (6) whether the default was  
21 due to excusable neglect, and (7) the strong policy underlying the Federal Rules of Civil  
22 Procedure favoring decisions on the merits. *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir.  
23 1986).

### 24 25 **III. DISCUSSION**

#### 26 **A. Verified Claim and Answer**

27 This *in rem* civil forfeiture action is governed by the Supplemental Rules for Admiralty or  
28 Maritime Claims and Asset Forfeiture Actions. *See United States v. Approximately \$1.67*

1 *Million*, 513 F.3d 991, 996 (9th Cir. 2008). *In rem* jurisdiction is obtained “by arrest under  
2 process of the court.” *United States v. 2,164 Watches, More or Less, Bearing a Registered*  
3 *Trademark of Guess?, Inc.*, 366 F.3d 767, 771 (9th Cir. 2004) (internal quotation marks  
4 omitted).

5 Under Rule G(5) of the Supplemental Rules, “[a] person who asserts an interest in the  
6 defendant property may contest the forfeiture by filing a claim in the court where the action is  
7 pending.” The claim must: (A) identify the specific property claimed; (B) identify the claimant  
8 and state the claimant’s interest in the property; (C) be signed by the claimant under penalty of  
9 perjury; and (D) be served on the government attorney designated under Rule G(4)(a)(ii)(C) or  
10 (b)(ii)(D). Rule G(5)(b) also provides that “[a] claimant must serve and file an answer to the  
11 complaint or a motion under Rule 12 within 21 days after filing the claim. A claimant waives  
12 any objection to *in rem* jurisdiction or to venue if the objection is not made by motion or stated  
13 in the answer.”

14 The Government served Notice of Forfeiture on all known potential claimants on March  
15 6, 2012. And on May 24, 2012, the Government sent a Notice of Judicial Forfeiture Proceedings  
16 and a copy of the Complaint for Forfeiture by certified mail to Ms. Robbins at a new address.  
17 Since the time of notice, Ms. Robbins has communicated with the Government, but no claim or  
18 answer has been filed by Ms. Robbins regarding the defendant property. Therefore, with the  
19 expiration of the 21-day filing period, Ms. Robbins has waived any objection to *in rem*  
20 jurisdiction or to venue.

21  
22 **B. The Government Establishes Its Case by a Preponderance of the Evidence.**

23 Under the Civil Asset Forfeiture Reform Act of 2000, the burden of proof for the civil  
24 forfeiture of any property is on the Government to establish, by a preponderance of the evidence,  
25 that the property is subject to forfeiture. 18 U.S.C. § 983(c). Furthermore, “the Government  
26 may use evidence gathered after the filing of the complaint for forfeiture to establish, by  
27 preponderance of the evidence, that the property is subject to forfeiture,” and “if the  
28 Government’s theory of forfeiture is that the property was used to commit or facilitate the

1 commission of a criminal offense, or was involved in the commission of a criminal offense, the  
2 Government shall establish that there was a substantial connection between the property and the  
3 offense.” *Id.*


4 In this case, the Government’s evidence is not disputed by any claimant, including Ms.  
5 Robbins. Moreover, upon entry of default, the factual allegations in the Government’s verified  
6 complaint are deemed admitted. Therefore, assuming the allegations in the complaint as true,  
7 the Government has shown by a preponderance of the evidence that the defendant property was  
8 involved in a transaction or attempted transaction, or was property traceable to property involved  
9 in violation in violation of 21 U.S.C. § 801 *et seq.*, and in particular, under 21 U.S.C. § 881.  
10 Furthermore, based on the allegations in the complaint, the Government has both proven its case  
11 by a preponderance of the evidence and established the requisite nexus between the defendant  
12 property and the offense.

13  
14 **IV. CONCLUSION & ORDER**

15 In light of the foregoing, the Court **GRANTS** Plaintiff’s motion for default judgment.  
16 (Doc. 16.) Accordingly, the Court **ORDERS** that the interests of Mamie Lee Robbins be  
17 condemned and forfeited to the United States of America.

18 **IT IS SO ORDERED.**

19  
20 DATED: March 27, 2013

  
\_\_\_\_\_  
M. James Lorenz  
United States District Court Judge

21  
22 COPY TO:

23 HON. WILLIAM V. GALLO  
24 UNITED STATES MAGISTRATE JUDGE

25 ALL PARTIES/COUNSEL  
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