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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,
Plaintiff,
v.
\$15,186.00 IN U.S. CURRENCY, et al.,
Defendants.

Case No.: 17-CV-1886 W (BGS)

**ORDER GRANTING APPLICATION
FOR DEFAULT JUDGMENT
[DOC. 8]**

On September 14, 2017, Plaintiff filed this action alleging forfeiture pursuant to 21 U.S.C. § 881(a)(6). On January 12, 2018, Plaintiff obtained an entry of default. (*See Clerk's Entry of Default* [Doc. 7].) On January 16, Plaintiff applied for default judgment. (*See App. for Default Judgment* [Doc. 8].) The Court decides the matter on the papers submitted and without oral argument pursuant to Civil Local Rule 7.1(d)(1). For the reasons outlined below, the Court **GRANTS** the application.

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1 **I. BACKGROUND**

2 This lawsuit arises from the seizure of two parcels sent via the U.S. Postal Service
3 by a U.S. Postal Inspector under the authority of a federal search warrant. (*Compl.* [Doc.
4 1].)

5 On November 4, 2016, a U.S. Postal Service Inspector observed a trained and
6 certified narcotics detection dog conduct exterior examinations of two parcels. (*Compl.*
7 [Doc. 1] ¶ 5.) The dog alerted to both packages, and the handling San Diego Police
8 Department officer explained the meaning of the alerts to the inspector. (*Id.*) The
9 inspector successfully applied to a U.S. Magistrate for a search warrant and searched both
10 packages. (*Id.* [Doc. 1] ¶¶ 6–8.)

11 The packages in question contained \$15,186.00 and \$12,000 in U.S. currency,
12 respectively. (*Compl.* [Doc. 1] ¶¶ 7–8.) A third package seized on March 13, 2017 in
13 connection with the first two contained approximately 2,321.8 grams of “high[-]quality,
14 expensive ‘bud’ marijuana, a Schedule I Controlled Substance.” (*Id.* [Doc. 1] ¶ 24A.)

15 On September 18, 2017, a Notice of Judicial Forfeiture Proceedings and a copy of
16 the Complaint were sent by Federal Express to Chase Cole and Kevin Cole, two potential
17 claimants and their addresses of record. (*Smith Decl.* [Doc. 8-3] ¶ 4.) Additionally,
18 notice of this action was posted on an official government website www.forfeiture.gov,
19 for at least 30 consecutive days, beginning on September 17, 2017, as required by Rule
20 G(4)(a)(iv)(c) of the Supplemental Rules for Admiralty or Maritime Claims and Asset
21 Forfeiture Actions. (*Id.* [Doc. 8-3] ¶ 5.) No claim or answer has been filed. (*Id.*)

22 On January 12, 2018, Plaintiff obtained an entry of default. (*Clerk’s Entry of*
23 *Default* [Doc. 7].) Plaintiff filed the instant application for default judgment on January
24 16, 2018. (*App. for Default Judgment* [Doc. 8].)

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26 **II. LEGAL STANDARD**

27 Federal Rule of Civil Procedure 55(b)(2) governs applications for default
28 judgment. Default judgment is available as long as the plaintiff establishes that: (1) the

1 defendant has been served with the summons and complaint and default was entered for
2 their failure to appear; (2) the defendant is neither a minor nor an incompetent person; (3)
3 the defendant is not in military service or not otherwise subject to the Servicemembers
4 Civil Relief Act; and (4) if the defendant has appeared in the action, that the defendant
5 was provided with notice of the application for default judgment at least seven days prior
6 to the hearing. See, e.g., 50 U.S.C. § 3931; Fed. R. Civ. P. 55; Twentieth Century Fox
7 Film Corp. v. Streeter, 438 F. Supp. 2d 1065, 1070 (D. Ariz. 2006).

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

17 Upon entry of default, the factual allegations in plaintiff's complaint, except those
18 relating to damages, are deemed admitted. See, e.g., Televideo Sys., Inc. v. Heidenthal,
19 826 F.2d 915, 917–18 (9th Cir. 1987) (quoting Geddes v. United Fin. Grp., 559 F.2d 557,
20 560 (9th Cir. 1977)). Where the amount of damages claimed is a liquidated sum or
21 capable of mathematical calculation, the court may enter a default judgment without a
22 hearing. See Davis v. Fendler, 650 F.2d 1154, 1161 (9th Cir. 1981). When it is
23 necessary for the plaintiff to prove unliquidated or punitive damages, the court may
24 require plaintiff to file declarations or affidavits providing evidence for damages in lieu
25 of a full evidentiary hearing. Transportes Aereos De Angola v. Jet Traders Invest. Corp.,
26 624 F. Supp. 264, 266 (D. Del. 1985).

1 **III. DISCUSSION**

2 This action is governed by Rule G(5) of the Supplemental Rules for Admiralty or
3 Maritime and Asset Forfeiture Claims. The rule requires the filing of a claim with the
4 U.S. Southern District Court Clerk within 35 days after service the notice of judicial
5 forfeiture proceedings, or within such additional time as the court may allow. Under 18
6 U.S.C. § 983(a)(4)(B), any person asserting an interest in the seized property must then
7 file an answer to the forfeiture complaint “not later than 20 days after the date of the
8 filing of the claim.”

9 Here, on September 18, 2017, Plaintiff served a notice of forfeiture to all known
10 potential claimants. To date, no claim or answer has been filed by any potential claimant.
11 (*Smith Decl.* [Doc. 8-3] ¶ 5.) Based on the uncontested evidence and allegations in the
12 Complaint, Plaintiff has satisfied the requirements of 18 U.S.C. § 983(c). Specifically,
13 Plaintiff has established by a preponderance of the evidence that the currency was
14 involved in a transaction or attempted transaction in violation of 21 U.S.C. § 881(a)(6).
15 Accordingly, Plaintiff is entitled to default judgment. See Fed. R. Civ. P. 55(b)(2).

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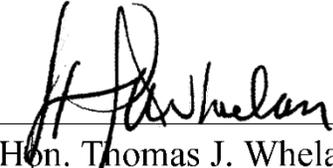
1 **IV. CONCLUSION & ORDER**

2 Plaintiff's application for default judgment is **GRANTED**.

3 The interest of Chase Cole, Kevin Cole, and any other potential claimants in
4 defendant \$15,186.00 and \$12,000.00 in U.S. currency, is hereby **ORDERED**
5 condemned and forfeited to the United States.

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7 **IT IS SO ORDERED.**

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9 Dated: April 3, 2018

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12 Hon. Thomas J. Whelan
United States District Judge