

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 8:12-cv-2582-T-30AEP

\$80,000 IN U.S. CURRENCY

Defendant.

DEFAULT JUDGMENT OF FORFEITURE

THIS CAUSE comes before the Court upon the United States' Motion for entry of a Default Judgment of Forfeiture for \$80,000.00 in U.S. currency (Defendant Funds), pursuant to Fed. R. Civ. P. Rule 55(b)(2), and Local Rule 7.03(i)(1).

Being fully advised of the relevant facts, the Court hereby finds that:

On November 14, 2012, the United States filed a Verified Complaint for Forfeiture *in Rem* seeking judicial forfeiture of the Defendant Property, pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 1956(c)(7)(D), on the ground that the funds were the proceeds of a tax refund fraud scheme involving the theft of government funds in violation of 18 U.S.C. § 641, and identity theft, in violation of 18 U.S.C. § 1028. Doc. 1.

The Defendant Funds have since been seized pursuant to a Warrant of Arrest *in Rem* issued by this Court as required by Supp'l Rule G(3)(b) & (c).

Doc. 6.

On November 17, 2012, the United States commenced publication of the above-referenced civil forfeiture action on its official website, www.forfeiture.gov, for a period of 30 consecutive days, through and including December 16, 2012, as required by Supplemental Rule G(4)(a)(i) & (iv)(C) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Federal Rules of Civil Procedure (Supp'l Rule G). Doc. 7.

On November 28, 2012, in accordance with the requirements of Supp'l Rule G(4)(b), the United States sent a package to Ylenia Peres Jaren and David Garces Delgado at the address listed on the claim they filed in the administrative forfeiture proceeding, which was also their last known address. The package was sent both via certified United States mail and via first class mail, and included: (1) a Notice of Complaint for Forfeiture *in Rem*, (2) copies of the Verified Complaint for Forfeiture *in Rem* and Warrant of Arrest *in Rem*, (3) an Acknowledgment of Receipt of Notice of Verified Complaint for Forfeiture, and (4) the Notice of Designation Under Local Rule 3.05. The Notice of Forfeiture directed the recipients to file a Statement of Right or Interest with the Clerk of Court within 35 days after receipt of the notice.

The Notice of Forfeiture specifically advised the recipients that, in order to contest the United States' civil forfeiture complaint, an individual was required to: (a) file a Statement of Right or Interest within 35 days after receipt of the notice; and (b) file an Answer within 21 days after filing the Statement of Right or

Interest. The notice further instructed the potential claimants to file their Statement of Right or Interest and Answer with the Office of the Clerk, United States District Court, Sam Gibbons Federal Courthouse, 2nd Floor, 801 North Florida Avenue, Tampa, Florida 33602. Finally, the notice advised that the “[f]ailure to follow the requirements set forth above may result in judgment by default taken against you for relief demanded in the Complaint. You may wish to seek legal advice to protect your interests.”

The United States has thus fulfilled its duties of notice under Local Rule 7.03 and Yilenia Peres Jaren and David Garces Delgado have failed to timely file a statement of right or interest. The time for these individuals to file a claim or otherwise contest the forfeiture of the Defendant Funds has expired.

On January 9, 2013, pursuant to the United States’ Motion, the Clerk properly entered a Default for Yilenia Peres Jaren and David Garces Delgado as to the Defendant Funds. Docs. 9-10.

As no person or entity has filed either a claim or an answer to the complaint for forfeiture, or has otherwise appeared or answered in this regard, and the time to do so has expired, it is accordingly, hereby:


ORDERED, ADJUDGED and DECREED that the United States’ motion is GRANTED,

It is FURTHER ORDERED that pursuant to Fed. R. Civ. P. 55(b)(2) and Local Rule 7.03(i)(1), judgment of default is hereby entered against Yilenia

Peres Jaren and David Garces Delgado, for failure to file a claim within 35 days from the receipt of notice of the forfeiture, as required under Supp'l Rule G(5)(a)(ii)(A). Any further claims or statements of interest are time-barred.

It is FURTHER ORDERED that all right, title, and interest in the Defendant Funds are hereby forfeited to the United States of America, pursuant to 21 U.S.C. § 881(a)(6), Fed. R. Civ. P. 55(b)(2) and Local Rule 7.03(i)(1), and clear title to the Defendant Funds is vested in the United States of America for disposition according to law.

DONE and ORDERED in Tampa, Florida, this 16 day
of Jan., 2013.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies to:
Natalie Hirt Adams