



1 U.S.C. § 881(a)(6), believing the currency to have been furnished in exchange for controlled  
2 substances. Shortly after the seizure, a drug-detection dog alerted to the currency.

3 On December 5, 2012, Gibbar filed an administrative claim with the Drug Enforcement  
4 Agency (“DEA”) for the seized currency. The government filed its Complaint on March 4, 2013,  
5 and the court issued a warrant for the arrest of the currency under Supplemental Rule G of the  
6 Federal Rules of Civil Procedure on March 14 (#3). The government served notice of its Complaint  
7 and the arrest warrant on Gibbar and published the notice on the government forfeiture site,  
8 [www.forfeiture.gov](http://www.forfeiture.gov).

9 Gibbar—and anyone else with an interest in the seized currency—failed to timely file a  
10 claim or answer pursuant to Supplemental Rule G. On May 15, 2013, the government moved for  
11 entry of default (#7), which the clerk of court granted the next day. The government now seeks  
12 entry of default judgment.

13 Under Rule 55(b)(2) of the Federal Rules of Civil Procedure, a court may enter default  
14 judgment where the clerk has previously entered default based on the defendant’s (or, as here,  
15 claimaint’s) failure to defend. Following entry of default, the factual allegations in the complaint  
16 are taken as true. *Geddes v. United Fin. Grp.*, 559 F.2d 557, 560 (9th Cir. 1977). The determination  
17 of whether to grant default judgment lies within the court’s discretion, though the court may  
18 consider factors such as

19 (1) the possibility of prejudice to the plaintiff, (2) the merits of plaintiff’s substantive claim,  
20 (3) the sufficiency of the complaint, (4) the sum of money at stake in the action; (5) the  
21 possibility of a dispute concerning material facts; (6) whether the default was due to  
excusable neglect, and (7) the strong policy underlying the Federal Rules of Civil Procedure  
favoring decisions on the merits.

22 *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986).

23 Here, the *Eitel* factors counsel in favor of granting default judgment. The government  
24 provided adequate service and notice to the parties known to have an interest in the currency, there  
25 is no evidence of excusable neglect justifying the failure to respond, and the amount of money is  
26 not so great as to preclude default judgment. *See, e.g., United States v. Approximately \$72,000 in*

1 U.S. *Currency*, 2009 WL 506866, at \*4 (N.D. Cal. Feb. 27, 2009) (holding that the sum of \$72,000  
2 was not large enough to “warrant a denial of the motion” for default judgment). Furthermore, the  
3 government has complied with the procedural requirements for forfeiture under Supplemental Rule  
4 G, and the allegations in the Complaint are sufficient to warrant forfeiture of the currency under 21  
5 U.S.C. § 881(a)(6) as “moneys . . . furnished or intended to be furnished by any person in exchange  
6 for a controlled substance [or as] proceeds traceable to such an exchange.” Therefore, default  
7 judgment is appropriate.

8  
9 IT IS THEREFORE ORDERED that the United States of America’s Motion for Default  
10 Judgment of Forfeiture (#9) is GRANTED. The court hereby certifies pursuant to 28 U.S.C.  
11 § 2465(a)(2) that there was reasonable cause for the seizure, arrest, and forfeiture of the defendant  
12 property.

13 IT IS SO ORDERED.

14 DATED this 22nd day of July, 2013.



15  
16 \_\_\_\_\_  
17 LARRY R. HICKS  
18 UNITED STATES DISTRICT JUDGE  
19  
20  
21  
22  
23  
24  
25  
26