

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CASE NO. 1:15CV239-MOC

United States of America,

v.

\$153,957.88 in funds, derived from seizure of
funds from Wells Fargo Bank Account
XXXXXX2137, such account held in the name
of Rite-Way Pharmaceuticals, and seizure of
cashier's checks drawn on the same account, et
al.;

\$2,662.74 in funds seized from Wells Fargo
Bank Account XXXXXX2145, such account
held in the name of Liberty Wholesale LLC;

\$36,666.27 in funds seized from Pacific
Western Bank Account XXXXXX0083, such
account held in the name of Raven Paul and
Company (CFA Six Kids North Carolina);

\$183,514.00 in funds seized from Pacific
Western Bank Account XXXXXX0075, such
account held in the name of Raven Paul and
Company (CFA Six Kids Holding);

\$60,428.00 in funds seized from Pacific
Western Bank Account XXXXXX3394, such
account held in the name of Highest Star, Inc.;

One note receivable from Tree Top Industries,
Incorporated (face value \$192,000) formerly
held by Raven Paul and Company and now in
the custody of the United States Marshals; and

The real property at 1637 US HWY 19E,
Spruce Pine, North Carolina, more particularly
described in a Deed filed in Mitchell County
on November 10, 2011 at Deed Book RE 518
Pages 24-25.

DEFAULT JUDGMENT

THIS MATTER is before the Court on the United States of America's Amended Motion pursuant to Fed. R. Civ. P. 55(b)(2), for Default Judgment in this case. For good cause shown, the Court will GRANT the Motion and enter Default Judgment. In support hereof, the Court finds as follows:

I. Background

On October 19, 2015, the Government filed a verified Complaint for Forfeiture *In Rem* [Doc. 1] of the above-captioned funds and property (hereafter "Properties"). The Government contended that the Properties constituted, derived from, or were traceable to proceeds of mail fraud in violation of 18 U.S.C. § 1341 and wire fraud in violation of 18 U.S.C. § 1344, and conspiracy to commit same in violation of 18 U.S.C. § 371, and property involved in monetary transactions in violation of 18 U.S.C. § 1957. Thereafter, the Clerk issued a Warrant of Arrest *In Rem* [Doc. 2] for the properties already in law enforcement possession and the Government posted a notice of the Complaint on the real property and served the Complaint on the property owner, all in compliance with Fed. R. Civ. P., Supp. R. G(3)(b) and 18 U.S.C. § 985(a)(c)(1).

Then, the Government provided notice by publication as to all persons in the world with potential claims to the Properties. Specifically, from October 29, 2015 through November 27, 2015, the Government published notice via www.forfeiture.gov as shown on the Submission of Declaration of Publication dated and filed on December 17, 2015 [Doc. 11]. Based on that notice, the deadline for filing claims was December 27, 2015. The Government also submitted documentation of direct notice to individuals and entities with potential claims to the Properties as shown on the Submission of Documentation of Direct Notice dated and filed on December 17, 2015 [Doc 12]. Specifically, the Government provided direct notice to the following individuals and entities:

Six Kids Holding Corporation
Liberty Wholesale, LLC c/o Diana L. Kilgore, Registered Agent
Wade Dahlberg c/o Pete Anderson, Esq.
Wade Dahlberg
Patricia Dahlberg
Six Kids North Carolina Limited Partnership
Rite-Way Pharmaceuticals, LLC c/o Diana L. Kilgore, Registered Agent
North Inc., c/o Wade Dahlberg
J&A Pharmaceuticals, Inc. c/o Wade Dahlberg
Karen Turner c/o Jack Stewart, Esq.
Rick Turner
J&A Pharmaceuticals, Inc. c/o Karen Turner
Rite-Way Pharmaceuticals, LLC
Karen Turner
Highest Star, Inc.
Liberty Wholesale, LLC
Rita Kilpatrick
Raven Paul and Company c/o Marc S. Harris, Esq
Raven Paul
Steve Paul Facilitation and Accommodation Co., Inc.
Six Kids North Carolina Limited Partnership c/o Wade Dahlberg, Registered Agent
North Inc., c/o Karen Turner

Prior to the deadline for filing claims, Karen Turner, Wade Dahlberg, and Six Kids Holding Corporation filed Verified Claims of Interest in the Properties [Docs. 5-9].

On January 2, 2018, the Government filed a Notice of Withdrawal of Claims (hereinafter “Notice”) [Doc. 22] by Turner, Dahlberg, and Six Kids. The United States affixed an Affidavit [Doc. 22-1] and Notice of Settlement and Withdrawal of Claims [Doc. 22-2] to the Notice. In the Affidavit, Claimant Turner stipulated to the nexus between the Properties in this case and the crimes of conspiracy to defraud drug manufacturers and drug distributors to which she ultimately pled guilty in a related criminal case (WDNC Case 1:17CR109), withdrew her Claim [Doc.5], and relinquished all of her right, title and interest in the Properties. In the Notice of Settlement and Withdrawal of Claims, Claimants Dahlberg and Six Kids agreed to withdraw any and all Claims

[Docs. 6, 7, 8, and 9] to all of the Properties identified for forfeiture in the Complaint and consented to final forfeiture and disposition of those Properties.

Based on the foregoing, process has been fully issued and returned according to law, all pending Claimants have withdrawn their Claims and consented to forfeiture, and no other claims have been filed within the time period provided by law. Therefore, on February 20, 2017, on Motion [Doc.23] of the Government, the Clerk of Court entered a default pursuant to Fed. R. Civ. P. 55(a) [Doc. 24]. Thus, default judgment is now appropriate.

II. Legal Conclusions

Fed. R. Civ. P. 55(b) provides for entry of the requested Default Judgment by the Court. Here, the United States has provided notice of forfeiture in accordance with Federal Rules of Civil Procedure, Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Rule G. Further, the time period for filing claims has expired, and no claims have been filed. Finally, the Clerk has entered default. Therefore, the requested Default Judgment is appropriate.

BASED ON THE FOREGOING FINDINGS, THE COURT CONCLUDES that the Government is entitled to a Judgment of Forfeiture by Default against the Defendant Property.

JUDGMENT

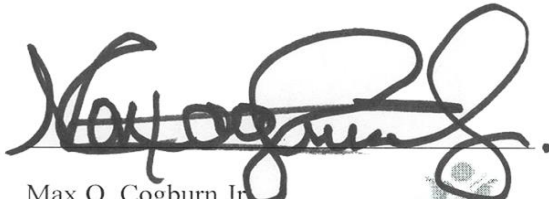
IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Government's Motion for Default Judgment is hereby GRANTED.
2. Any and all right, title, and interest of all persons in the world in or to the Defendant Property is hereby forfeited to the United States, and no other right, title, or interest shall exist therein:

- 153,957.88 in funds, derived from seizure of funds from Wells Fargo Bank Account XXXXXX2137, such account held in the name of Rite-Way Pharmaceuticals, and seizure of cashier's checks drawn on the same account, et al.;
- \$2,662.74 in funds seized from Wells Fargo Bank Account XXXXXX2145, such account held in the name of Liberty Wholesale LLC;
- \$36,666.27 in funds seized from Pacific Western Bank Account XXXXXX0083, such account held in the name of Raven Paul and Company (CFA Six Kids North Carolina);
- \$183,514.00 in funds seized from Pacific Western Bank Account XXXXXX0075, such account held in the name of Raven Paul and Company (CFA Six Kids Holding);
- \$60,428.00 in funds seized from Pacific Western Bank Account XXXXXX3394, such account held in the name of Highest Star, Inc.;
- One note receivable from Tree Top Industries, Incorporated (face value \$192,000) formerly held by Raven Paul and Company and now in the custody of the United States Marshals; and
- The real property at 1637 US HWY 19E, Spruce Pine, North Carolina, more particularly described in a Deed filed in Mitchell County on November 10, 2011 at Deed Book RE 518 Pages 24-25.

3. The United States is hereby directed to dispose of the Defendant Property as provided by law.

Signed: March 8, 2018


 Max O. Cogburn Jr.
 United States District Judge