

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION**

2:13cv18

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	
2012 GMC SAVANA VAN, et al.,)	
)	
Defendant.)	
_____)	

ORDER

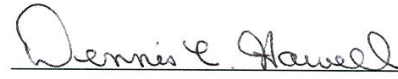
Pending before the Court is the Government’s Motion to Compel and for More Definite Statement [# 11]. This is a forfeiture action against various vehicles, firearms, and currency. Paragraph 8 of the Complaint specifically incorporated the individually enumerated paragraphs in the affidavit of Billy Stites, an agent with the Bureau of Indian Affairs. The affidavit was attached to the Complaint. Subsequently, Claimant Jackie Rattler filed an Answer to the Complaint, but he did not admit or deny the individually enumerated paragraphs in the affidavit of Agent Stites. The Government now moves the Court to compel Claimant Rattler to admit or deny the factual paragraphs contained in the affidavit of Agent Stites.

As the Government correctly points out, both this Court and at least one district court in this Circuit have ordered a claimant to submit a verified claim and

answer that specifically admitted or denied the factual allegations in a declaration that was incorporated by reference into the complaint. See United States v. \$67,775.00 in U.S. Currency, 278 F.R.D. 345, 346 (D. Md. 2012); United States v. \$28,182, Civil Action No. 1:12cv8 (W.D.N.C. Sept. 13, 2012) (Howell, Mag. J.). Similarly to the situations in these cases, the Court finds that an Order directing Claimant Rattler to admit or deny each of the enumerated paragraphs in Agent Stites's affidavit that was incorporated by reference into the Complaint is appropriate in this case. The Court, however, notes that the Government could eliminate the need for orders such as this and eliminate the confusion to claimants by specifically including the factual allegations set forth in an affidavit attached to the complaint in the body of the complaint.

The Court **GRANTS** the Government's motion [# 11]. The Court **DIRECTS** Claimant Rattler to submit an Amended Answer by August 27, 2013, that admits or denies each of the enumerated paragraphs in the Complaint as well as each of the enumerated paragraphs in the affidavit of Agent Stites. The failure to comply with this Order and submit an Amended Answer that specifically admits or denies each of the allegations in the Complaint and affidavit of Agent Stites will result in the Court deeming admitted each of the factual allegations to which Claimant Rattler did not admit or deny.

Signed: August 5, 2013



Dennis L. Howell
United States Magistrate Judge

