
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

\$28,000 in U.S. CURRENCY; and \$9,000 in
U.S. CURRENCY,

Defendants *in rem*.

**MEMORANDUM DECISION AND
ORDER GRANTING UNITED STATES'
[12] MOTION FOR DEFAULT
JUDGMENT AND ORDER OF
FORFEITURE**

Case No. 2:21-cv-00749-DBB

District Judge David Barlow

The matter before the court is the United States' Motion for Default Judgment and Order of Forfeiture.¹ The United States seeks entry of default judgment and forfeiture of \$5,000 in U.S. Currency ("Defendant Property") as to all persons and entities, for failure to file a claim or answer this action pursuant to Rule G(5) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions ("Supplemental Rules"), 18 U.S.C. § 983(a)(4), and Federal Rule of Civil Procedure 55. For the reasons below, the court grants the motion.

BACKGROUND

On December 22, 2021, the United States filed its Complaint for an *in rem* action for forfeiture against \$37,000 in U.S. Currency.² Pursuant to Supplemental Rule G(4)(a)(iv)(C), the United States posted notice of the *in rem* forfeiture action on www.forfeiture.gov, an official government forfeiture site, for thirty consecutive days.³ The notice described the property *in rem*

¹ ECF No. 12.

² ECF No. 2.

³ See Advertisement Certification Report ("Advertisement") 1, 3, ECF No. 5-2, filed Feb. 24, 2022.

with reasonable particularity, stated the applicable times under Supplemental Rule G(5) to file a claim and to answer, and named the government attorney to be served.⁴ Further, the government gave timely notice of the forfeiture action to all putative interested parties.⁵

The court approved a settlement agreement between the United States and potential claimants Manny Dos Santos and Michael Dos Santos (the “Dos Santos brothers”) on March 24, 2022.⁶ The parties agreed that the United States would return \$32,000 in U.S. Currency to the Dos Santos brothers in return for their forfeiture of the remaining \$5,000 to the government.⁷ Specifically, the two brothers waived and disclaimed “any and all interest in this property.”⁸ No other claims, answers, or responsive pleadings have been filed as to the Defendant Property, and the allotted time to do so has passed under Supplemental Rule G(5).⁹

On October 24, 2022, the United States filed a motion for entry of default pursuant to Federal Rule of Civil Procedure 55(a).¹⁰ The Clerk of Court entered default on November 11, 2022, against “all putative claimants, and all other persons and entities for failure to plead, file a claim, answer, or otherwise defend this action” as to the Defendant Property.¹¹ On November 28, 2022, the United States filed the instant motion for default judgment and forfeiture.¹²

⁴ *See id.* at 2, 4; Supplemental Rule G(4)(a)(ii).

⁵ *See* ECF No. 4.

⁶ ECF No. 7.

⁷ Settlement Agreement 3, ECF No. 6-1, filed Mar. 23, 2022.

⁸ *Id.*

⁹ *See* Supplemental Rule G(5).

¹⁰ ECF No. 9.

¹¹ Entry of Default, ECF No. 11, filed Nov. 22, 2022.

¹² ECF No. 12.

DISCUSSION

Rule 55(b) of the Federal Rules of Civil Procedure allows for default judgment in the court's discretion against a party "who has been defaulted for not appearing and who is neither a minor nor an incompetent person" who is not "represented by a general guardian, conservator, or other like fiduciary who has appeared."¹³ Here, process was duly issued and served on all reasonably known interested parties, including the Dos Santos brothers.¹⁴ Neither of the brothers is an infant or otherwise incompetent, and there is no indication that any person served is in the military service.¹⁵ Pursuant to Supplemental Rule G(4)(a)(iv)(C), the United States published notice of the *in rem* forfeiture action on the official government forfeiture website for thirty consecutive days.¹⁶ Additionally, the Dos Santos brothers settled with the United States for \$32,000 in U.S. Currency and agreed to forfeit any claim to the remaining Defendant Property.¹⁷ To date, no other person or entity has come forward with a claim, answer, or other responsive pleading in defense of this action. Finally, the United States has satisfied Federal Rule of Civil Procedure 55(a) by seeking, and then obtaining, an entry of default from the Clerk of Court.¹⁸

ORDER

Accordingly, the court GRANTS the United States' Motion for Default Judgment and Forfeiture.¹⁹ The court will file separately an Order of Forfeiture as to the Defendant Property identified above.

¹³ Fed. R. Civ. P. 55(b).

¹⁴ See ECF No. 4; Decl. of Default ¶ 6, ECF No. 9-1, filed Oct. 24, 2022.

¹⁵ Decl. of Default ¶ 12; see 50 U.S.C. § 3931.

¹⁶ See Advertisement.

¹⁷ Settlement Agreement 3.

¹⁸ See ECF No. 9.

¹⁹ ECF No. 12.

Signed November 30, 2022.

BY THE COURT



David Barlow
United States District Judge