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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 UNITED STATES OF AMERICA,

No. CV-13-5035-EFS

8 Plaintiff,

**ORDER GRANTING THE USAO'S MOTION
FOR ENTRY OF THE FINAL ORDER OF
FORFEITURE**

9 v.

10 2008 CHEVROLET IMPALA, WASHINGTON
11 LICENSE PLATE AGN2822, VIN:
2G1WB58K189171597,

12 Defendant.

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14 The U.S. Attorney's Office (USAO) asks the Court to enter a final
15 order of forfeiture as to the Claimants' claims and/or potential
16 interests in the 2008 Chevrolet Impala at issue in this case. The Court
17 finds the requested relief appropriate pursuant to 28 U.S.C. §§ 1345,
18 1355, and 1395.

19 On April 22, 2013, the U.S. Marshals Service executed the Warrant
20 of Arrest In Rem. The returned warrant was filed with the Court on May
21 15, 2013. ECF No. 5. A Notice of Civil Forfeiture Action was posted
22 on the official government website beginning March 29 through April 27,
23 2013, as required by Rule G(4)(a)(iv)(C) of the Supplemental Rules for
24 Admiralty or Maritime Claims and Asset Forfeiture Actions, as evidenced
25 by the Notice of Publication filed on June 14, 2013. ECF Nos. 9, 9-1,
26 & 9-2. At the latest, the claim period expired on May 28, 2013.

1 On or about May 15, 2013, the United States served the Notice of
2 Complaint for Forfeiture, the Verified Complaint for Forfeiture *In Rem*,
3 and the executed Warrant of Arrest *In Rem*, via certified mail, return
4 receipt requested, upon Homero Sanchez Cruz, in care of his attorney,
5 Ricardo Hernandez, as outlined in the Certificate of Service of Notice
6 by Mail filed herein. ECF No. 6 & 6-1. On or about May 20, 2013, the
7 certified mail return receipt "green card" for this mailing was received
8 by the United States. On February 4, 2014, Homero Sanchez Cruz and the
9 United States filed a Stipulation for Order of Forfeiture, pursuant to
10 the terms of his plea agreement, filed in the related Eastern District
11 of Washington criminal case, *United States v. Homero Sanchez Cruz*, Case
12 Number: CR-12-6053-EFS-7. Homero Sanchez Cruz agreed in the stipulation
13 to the forfeiture of the Defendant vehicle and waived any further
14 hearing and notice of the forfeiture.

15 On or about May 15, 2013, the United States served the Notice of
16 Complaint for Forfeiture, the Verified Complaint for Forfeiture *In Rem*,
17 and the executed Warrant of Arrest *In Rem*, via certified mail, return
18 receipt requested, upon Teresa Birrueta Baltazar, as outlined in the
19 Certificate of Service of Notice by Mail. ECF No. 7 & 7-1. On or about
20 May 22, 2013, the mailing was received by the USAO stamped "Return to
21 Sender" with a handwritten circle around "Birrueta" on the mailing label
22 and on the return receipt "green card" on the back of the mailing. On
23 or about May 22, 2013, the United States served the Notice of Complaint
24 for Forfeiture, the Verified Complaint for Forfeiture *In Rem*, and the
25 executed Warrant of Arrest *In Rem*, via certified mail, return receipt
26 requested, upon Teresa Birrueta Baltazar, as outlined in the Certificate

1 of Service of Notice by Mail. ECF No. 8 & 8-1. On or about May 28,
2 2013, the certified mail return receipt "green card" for this mailing
3 was received by the United States. Based upon the receipt of the "green
4 card," the United States contends that Teresa Birrueta Baltazar was
5 properly served.

6 The Notice of Complaint for Forfeiture stated that Ms. Birrueta
7 Baltazar's Claim was due June 26, 2013, and that an Answer to the
8 Complaint or a Rule 12 motion was due 21 days after the filing of a
9 Verified Claim. ECF No. 8-1. On June 26, 2013, Ms. Birrueta Baltazar
10 filed a claim. ECF No. 10. Based upon the June 26, 2013, claim filing
11 date, pursuant to Supplemental Rule G(5)(b), her answer to the Complaint
12 or Rule 12 motion was due no later than July 17, 2013. To date, Ms.
13 Birrueta Baltazar has neither filed an answer or a motion, nor moved
14 for an extension of time in which to do so. On July 29, 2014, Ms.
15 Birrueta Baltazar failed to appear at the court-scheduled telephonic
16 scheduling conference. In the hearing minutes, the Court indicates that
17 the Notice Resetting Scheduling Conference "was mailed to Ms. Birrueta
18 Baltazar at the address on file and was not returned as undeliverable".
19 ECF No. 22.

20 On September 12, 2014, the United States filed its Motion for
21 Order Striking Claim. ECF No. 23 and 23-1. On September 12, 2014, the
22 United States served a copy of the Motion for Order Striking Claim, and
23 proposed Order, via certified mail, return receipt requested, upon
24 Teresa Birrueta Baltazar. On or about October 6, 2014, the mailing was
25 received by the USAO, with a printed label affixed to it with "Return
26 to Sender" "Unclaimed" and "Unable to Forward" and handwritten notations

1 of "9/13," "9-20," and "9-28." U.S. Postal online tracking records
2 indicate "Notice Left (No Authorized Recipient Available)" on September
3 13, 2014. On October 7, 2014, the Court entered an Order granting the
4 USAO's motion for order striking claim.

5 The record reflects that any and all potential claimants' interests
6 in the Defendant vehicle have been resolved by the Stipulation for Order
7 of Forfeiture, entered by the United States and Homero Sanchez Cruz;
8 and, through the entry of the Court's Order striking claim as to Teresa
9 Birrueta Baltazar. And because no other timely claims have been made
10 to the Defendant property, **IT IS HEREBY ORDERED:**

11 1. The USAO's Motion for Entry of the Final Order of Forfeiture,
12 **ECF No. 25**, is **GRANTED**.

13 2. The Defendant property, a 2008 Chevrolet Impala, Washington
14 License Plate AGN2822, VIN: 2G1WB58K189171597, is **FORFEITED**
15 to the United States of America, and no right, title, or
16 interest shall exist in any other person.

17 3. The United States shall dispose of the forfeited property in
18 accordance with the law.

19 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this
20 Order and provide copies to all counsel and Ms. Baltazar.

21 **DATED** this 14th day of November 2014.

22
23 s/Edward F. Shea

EDWARD F. SHEA

24 Senior United States District Judge
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