

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA

Plaintiff,

v.

2015 INFINITI QX80,
VIN JN8AZ2NF1F9570164 and
2007 BIG DOG CHOPPER,
VIN 5J11YBJD47W000181,

No. 17-1428-SB

Defendants in rem.

MEMORANDUM OPINION

October 5, 2023

BIBAS, *Circuit Judge*, sitting by designation.

The United States seeks default judgment and *in rem* forfeiture against the Defendant Property. I grant default judgment because the government followed procedure, stated a viable cause of action, and would be prejudiced if I denied default judgment.

First, the government complied with Rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. The verified complaint met all the requirements of Rule G(2). And the government followed the notice requirements of Rule G(4): It published a notice of this forfeiture action on an official

government website for thirty straight days. The content of that notice satisfied Rule G(4)(a)(ii). The government also mailed copies of both the Complaint and Notice to all known potential claimants, satisfying Rule G(4)(b)(ii).

Yet no potential owner filed a claim before the deadline. So I directed the clerk to enter the default under Federal Rule of Civil Procedure 55(a). D.I. 22. The government now moves for default judgment under Rule 55(b)(2).

Next, I must determine whether the government's well-pleaded factual allegations state a legitimate cause of action. *Broad. Music, Inc. v. Spring Mount Area Bavarian Resort, Ltd.*, 555 F. Supp. 2d 537, 541 (E.D. Pa. 2008). In doing so, I accept those factual allegations as true. *Id.* Here, the Defendant Property was bought with the proceeds of illegal drug activity. D.I. 2, at 2–6. Because ill-gotten goods are forfeitable, the verified complaint states a legitimate cause of action under 18 U.S.C. §981(a)(1)(C) and 21 U.S.C. §881(a)(6).

Finally, three factors guide my discretion on entering default judgment: “(1) prejudice to the plaintiff if default is denied, (2) whether the defendant appears to have a litigable defense, and (3) whether defendant's delay is due to culpable conduct.” *Chamberlain v. Giampapa*, 210 F.3d 154, 164 (3d Cir. 2000). Each factor supports default judgment. First, the government will be prejudiced if I deny summary judgment because “it has no other remedy against” the Defendant Property. *United States v. Approximately \$147,800.00 in U.S. Currency*, 2018 WL 6198361, at *4 (M.D. Pa. Nov. 28, 2018). Second, because no one has “asserted any meritorious defenses,” I cannot conclude that any owner has a “viable, litigable defense.” *Id.* Third, the

potential claimants were well warned and have no excuse for failing to respond apart from their culpability. *Id.* So the *Chamberlain* factors favor default judgment.

Because the government has followed proper procedures in a viable cause of action, I grant the United States's motion for default judgment. An appropriate order follows.

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ORDER FOR DEFAULT JUDGMENT AND FINAL ORDER OF FORFEITURE

AND NOW, this 5th day of October, 2023, upon considering the United States's motion for entry of a Default Judgment, under Federal Rule of Civil Procedure 55(b)(2), and entry of a Judgment and Final Order of Forfeiture, under Federal Rules of Civil Procedure 58(a) and (b), against the Defendants *in rem*, 2015 Infiniti QX80, VIN JN8AZ2NF1F9570164 and 2007 Big Dog Chopper, VIN 5J11YBJD47W000181 ("Defendant Property"), for the reasons set forth in the memorandum opinion, I conclude that I should grant the motion and enter judgment, and thus hereby ORDER, ADJUDGE, and DECREE:

1. I **GRANT** The Motion of United States of America for Default Judgment and Final Order of Forfeiture.
2. All right, title, and interest of all persons, and their heirs and assigns, in the Defendant Property, that is, 2015 Infiniti QX80, VIN

JN8AZ2NF1F9570164 and 2007 Big Dog Chopper motorcycle, VIN 5J11YBJD47W000181, is hereby fully and finally vested in the United States of America, under 18 U.S.C. § 981(a)(1)(C) and 21 U.S.C. § 881(a)(6).

3. No right, title, or interest in the Defendant Property shall exist in any other party.
4. The United States Marshals Service shall dispose of the Defendant Property in accordance with applicable law.

Dated: October 5, 2023



UNITED STATES CIRCUIT JUDGE