

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v.

86.8684 ETH FROM CHANGENOW
ACCOUNT CONTAINING ETHEREUM
ADDRESS 0xE6d503962cE577279EEBf54
FfDCD2536FAbB6401,
Defendant in Rem.

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No. 3:25-CV-999-S

**FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Before the Court is Plaintiff United States of America's Motion for Default Judgment of Forfeiture filed on September 8, 2025. (Dkt. No. 10.) No party has filed a response to the motion. United States District Judge Karen Gren Scholer referred the motion to the undersigned magistrate judge for recommendation pursuant to 28 U.S.C. § 636(b). (Dkt. No. 11.) For the reasons discussed below, the motion should be **GRANTED**.

I. BACKGROUND

The government filed this in rem action on April 22, 2025, seeking forfeiture of a certain amount of cryptocurrency under 18 U.S.C. §§ 981(a)(1)(A) and (C). (Dkt. No. 1 ("Compl.")). In its complaint—which is verified by FBI Special Agent David Miller—the government avers that the Federal Bureau of Investigation is responsible for investigating federal law violations involving computers and related

technologies. (Compl. ¶ 6.) In late February 2024, the Cyber Squad of the FBI Dallas Division received information from a Dallas-based company about a fraud scheme involving the purchase, sale, and exchange of virtual currency. (*Id.* ¶ 8.) The scheme resulted in the diversion of virtual currency valued at approximately \$1,600,000 to an unknown subject. (*Id.*) According to the complaint, the company was the victim of an “address poisoning attack” by which it transferred virtual currency to what it believed was the legitimate intended recipient. (*See id.* ¶¶ 9-14.) On February 20, 2024, the company transferred 1,698,335 US Dollar Coin (“USDC”)—an amount of stable coin cryptocurrency equivalent to \$1,698,335 to the bad actor at a specified account the complaint identifies as the “Theft Address.” (*Id.* ¶¶ 13, 15.) The company initiated an investigation and notified the FBI. (*See id.* ¶¶ 8, 16.)

Investigators traced transfers of cryptocurrency out of the Theft Address through multiple smaller transactions. (Compl. ¶¶ 16-17.) In its complaint, the government identifies a transaction of 86.8684 ETH (Ethereum)—another virtual currency—from the Theft Address to an address at ChangeNOW, a cryptocurrency exchange based in Saint Vincent and the Grenadines. (*Id.* ¶ 18.) Special Agent Miller states based on his training and experience that it appears the transaction was made to obfuscate the source and destination of the stolen property. (*Id.*) Prompted by a notification from the victim company, ChangeNOW transferred the 86.8684

ETH from the account that then held it to an account controlled by ChangeNow.

(*Id.* ¶ 19.)

FBI agents have obtained information from ChangeNOW concerning the address that first received the subject property from the Theft Address but so far have been unable to identify the name, email address, phone number, or other identifying information about the account holder because ChangeNOW does not collect that information. (*Id.* ¶ 20.) Agents obtained a seizure warrant for the 86.8684 ETH and, at that point, ChangeNOW transferred that property to a government-controlled account at 0xE6d503962cE577279EEBf54FfDCD2536FAbB6401, which is the account that is the subject of this in rem action. (*Id.* ¶ 22.) The complaint alleges that the subject property is derived from wire fraud, in violation of 18 U.S.C. § 1343, and that, as property relating to money laundering, it is subject to forfeiture under 18 U.S.C. § 981(a)(1)(A). (*Id.* ¶¶ 24-36.)

On September 7, 2025, the government filed its notice of publication in which it certified that it posted a notice of this forfeiture action identifying the subject property on an official government website (www.forfeiture.gov) for at least 30 consecutive days beginning on May 2, 2025. (Dkt. No. 7.) That same day, it requested an entry of default as to all persons and entities. (Dkt. No. 8.) The clerk posted Entry of Default the following day. (Dkt. No. 9.) The government followed with the instant motion for default judgment. (Dkt. No. 10.)

II. LEGAL STANDARDS

Rule 55 of the Federal Rules of Civil Procedure governs the entry of a default judgment. “The entry of default judgment is the culmination of three events:

(1) default, which occurs when a defendant has failed to plead or otherwise respond to the complaint within the time allowed under Federal Rule of Civil Procedure 12; (2) entry of default by the clerk after such default is established by affidavit or otherwise; and (3) application by plaintiff to the Court for a default judgment after the entry of default.” *United States v. \$25,000 in U.S. Currency*, No. 3:23-CV-456-S-BK, 2023 WL 4494773, at *1 (N.D. Tex. June 23, 2023) (citing Fed. R. Civ. P. 55(a), (b)(2)), *accepted*, 2023 WL 4494356 (N.D. Tex. July 12, 2023).

“Where parties with an interest in property at issue in a forfeiture proceeding fail to timely file an answer or claim to the property, default against those properties is proper.” *United States v. \$744,166.67 from Treasury Customs Suspense Acct.*, No. 3:25-CV-0865-B, 2025 WL 2654112, at *2 (N.D. Tex. Sept. 16, 2025). Even so, “[d]efault judgments are a drastic remedy, not favored by the Federal Rules and resorted to by courts only in extreme situations.” *Lewis v. Lynn*, 236 F.3d 766, 767 (5th Cir. 2001) (quoting *Sun Bank of Ocala v. Pelican Homestead & Sav. Ass’n*, 874 F.2d 274, 276 (5th Cir. 1989)). But this policy is “counterbalanced by considerations of social goals, justice and expediency, a weighing process [that] lies largely within the domain of the trial judge’s discretion.” *Rogers v. Hartford Life & Acc. Ins. Co.*, 167 F.3d 933, 936 (5th Cir. 1999) (quoting *Pelican Prod. Corp. v. Marino*, 893 F.2d 1143, 1146

(10th Cir. 1990) (internal quotations omitted)); *see also Merrill Lynch Mortg. Corp. v. Narayan*, 908 F.2d 246, 253 (7th Cir. 1990) (noting that default judgments allow courts to manage their dockets “efficiently and effectively”).

“A party is not entitled to a default judgment as a matter of right, even where the defendant is technically in default.” *Ganther v. Ingle*, 75 F.3d 207, 212 (5th Cir. 1996). “There must be a sufficient basis in the pleadings for the judgment entered.” *Nishimatsu Const. Co. v. Houston Nat. Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975). Only well-pleaded facts, not conclusions of law, are presumed to be true. *Id.* Default judgment “should not be granted on the claim, without more, that the defendant had failed to meet a procedural time requirement.” *Mason & Hanger-Silas Mason Co. v. Metal Trades Council of Amarillo, Tex. & Vicinity, AFL-CIO*, 726 F.2d 166, 168 (5th Cir. 1984). A defaulting defendant is deemed to admit all well-pleaded facts in the plaintiff’s complaint, but not facts that are not well pled or conclusions of law. *Nishimatsu Const. Co.*, 515 F.2d at 1206.

III. ANALYSIS

A. The government has given notice.

Rule G of the Federal Rules of Civil Procedure Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions (“FRCP Supp.”) applies to this in rem forfeiture action. Rule G(4) sets out the notice required before the government can obtain a judgment of forfeiture. *See \$25,000 in U.S. Currency*, 2023 WL 4494773, at *2. It requires that notice of the action be published within a

reasonable amount of time after the complaint is filed. FRCP Supp. G(4)(a)(i). One method of publication is by “posting a notice on an official internet government forfeiture site for at least 30 consecutive days.” *Id.* G(4)(a)(iv)(C). The government must also “send notice of the action and a copy of the complaint to any person who reasonably appears to be a potential claimant on the facts known to the government.” *Id.* G(4)(b)(i). That notice to a potential claimant “must state: (A) the date when the notice is sent; (B) the deadline for filing a claim, at least 35 days after the notice is sent; (C) that an answer or Rule 12 motion must be filed not later than 21 days after filing the claim; and (D) the name of the government attorney to be served with the claim and answer.” *Id.* G(4)(b)(ii).

Having reviewed the record, the undersigned concludes that the Government has satisfied notice requirements. It served the victim company with a notice of the complaint that complies with Supplemental Rule G(4)(b)(ii). (Dkt. No. 8-2.) It also published a sufficient notice of this action on its official forfeiture website for at least 30 consecutive days beginning on May 2, 2025. (Dkt. No. 7-1.)

B. The complaint sufficiently alleges that the property was derived from wire fraud and is subject to forfeiture.

“Under the Civil Asset Forfeiture Reform Act (‘CAFRA’), which governs all federal forfeiture proceedings, the Government bears the initial burden of establishing by a preponderance of the evidence that the property is subject to forfeiture.” *\$25,000 in U.S. Currency*, 2023 WL 4494773, at *2 (citing 18 U.S.C. § 9981(c)(1)). The government’s complaint filed in this action presents facts

sufficient to establish a reasonable belief that it can meet its burden to show by a preponderance of the evidence that the specified property is subject to forfeiture. First, the government's complaint is verified. (Compl. at ECF p. 10.) *See* FRCP Supp. G(2)(a). The complaint sufficiently alleges grounds for subject matter jurisdiction under 28 U.S.C. §§ 1345 and 1355(a) and in rem jurisdiction under 28 U.S.C. § 1355(b). (Compl. ¶ 2.) And it sufficiently alleges proper venue because acts giving rise to the forfeiture occurred in this district. (*Id.* ¶¶ 3, 8.) Third, the government describes the property with reasonable particularity by identifying the precise amount of Ethereum—86.8684 ETH—and the account at ChangeNOW holding it. Fourth, the government identifies the statutes authorizing forfeiture: (1) forfeiture of property related to wire fraud under 18 U.S.C. 981(a)(1)(C); and (2) forfeiture of property related to money laundering under 18 U.S.C. § 981(a)(1)(A). (Compl. ¶¶ 24-36.) *See* \$744,166.67 from Treasury Customs Suspense Account, 2025 WL 2654112, at *4.

Additionally, the government's verified complaint alleges sufficiently detailed facts that support "a reasonable belief that [it] will be able to meet its burden of proof at trial." *See* FRCP Supp. G(2)(f). It alleges that an unknown person used a scheme—an "address poisoning attack"—to appear as a legitimate receiver of USDC cryptocurrency from a local company. (Compl. ¶ 8-12.) Based on that scheme, the victim transferred USDC having a value of almost \$1.7 million. (*Id.* ¶¶ 13-15.) The complaint sufficiently establishes that the stolen funds were then apportioned into

several smaller amounts and transferred out of the receiving account, including the 86.8684 ETH that is the subject of this forfeiture action. (*Id.* at ¶¶ 17-18.) The complaint traces the movement of the subject property from the initial ChangeNOW account that received it from the Theft Address, to the ChangeNOW-controlled account that held it once the victim notified ChangeNOW, and then to the government-controlled ChangeNOW account that holds the property now. (*Id.* ¶¶ 18-22.) The FBI has been unable to identify any person who has control of the ChangeNow account that first received the subject property from the Theft Address. (*Id.* ¶ 20.) Agent Miller states his belief, based his training and experience investigating similar crimes, that the subject property was moved in the manner it was in an attempt to obfuscate the source and destination for the illegal proceeds. (*Id.* ¶ 18.) Based on these allegations, the undersigned concludes that the government has alleged sufficiently detailed facts establishing a reasonable belief that it would be able to meet its burden at trial under §§ 981(a)(1)(A) and 981(a)(1)(C).

C. The *Lindsey* factors favor granting the motion.

The Fifth Circuit has provided factors a court may consider when assessing a motion for default judgment: (1) whether material issues of fact are at issue; (2) whether there has been substantial prejudice; (3) whether the grounds for default are clearly established; (4) whether the default was caused by a good faith mistake or excusable neglect; (5) the harshness of a default judgment; and (6) whether the court would think itself obliged to set aside the default on the defendant's motion. *Lindsey*

v. Prive Corp., 161 F.3d 886, 893 (5th Cir. 1998). The undersigned concludes that these factors together weigh in favor of granting the motion for default judgment.

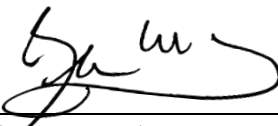
Because no one has appeared or contested the facts alleged in the complaint, there are no material facts in dispute. *See Nishimatsu Const. Co.*, 515 F.2d at 1206 (“The defendant, by his default, admits the plaintiff’s well-pleaded allegations of fact.”). The failure of potential claimants to respond to notices and appear in this action precludes the case from advancing and is prejudicial to Plaintiff. *See \$25,000 in U.S. Currency*, 2023 WL 4494773, at *3 (citing *United States v. Holland*, No. 3:17-CV-0938-B, 2018 WL 354542, at *2 (N.D. Tex. Jan. 10, 2018)). Third, the undersigned has confirmed that the government has given required notices, clearly establishing the grounds for default. Fourth, there exists no evidence from which the undersigned can infer that potential claimants’ failure to file a claim is the result of good faith mistake or excusable neglect. In fact, facts showing that the subject property was taken through fraud suggests that potential claimants have made a deliberate decision to abandon the proceeds. Fifth, entry of default will not be unusually harsh. *See id.* And sixth, the undersigned is unaware of facts that would justify setting aside a default judgment. Considering all of these factors, the undersigned concludes that they weigh in favor of granting the motion.

IV. RECOMMENDATION

For the foregoing reasons, the undersigned **RECOMMENDS** that the government’s motion for default judgment (Dkt. No. 10) be **GRANTED**, and a

judgment declaring that any and all right, title, and interest in the subject property is **FORFEITED** to the United States.

SO RECOMMENDED on November 12, 2025.



BRIAN McKAY
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

A copy of this report and recommendation will be served on all parties in the manner provided by law. Any party who objects to any part of this report and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). To be specific, an objection must identify the finding or recommendation to which objection is made, state the basis for the objection, and indicate the place in the magistrate judge's report and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996), *modified by statute on other grounds*, 28 U.S.C. § 636(b)(1) (extending the time to file objections to 14 days).