

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 17-cv-61119-GAYLES

**UNITED STATES OF AMERICA,
Plaintiff,**

v.

**ONE HUNDRED FORTY-SIX MILLION
FIVE HUNDRED THOUSAND DOLLARS
(\$146,500,000.00) IN UNITED STATES
CURRENCY,
Defendant.**

FINAL DEFAULT JUDGMENT OF FORFEITURE

THIS CAUSE comes before the Court on the United States' Motion for Final Default Judgment of Forfeiture against Defendant One Hundred Forty-Six Million, Five Hundred Thousand Dollars (\$146,500,000.00) in United States Currency, pursuant to Fed. R. Civ. P. 55(b), Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Rule G(5) and Local Admiralty Rule 3(i), and it appearing that no person has filed a claim, answer, or other responsive pleading in response to the forfeiture Complaint in this action, that publication was duly made in this matter, and that due notice was given accordingly, the Court finds:

1. Process was duly issued in this cause, and that Defendant property was duly seized pursuant to said process.

2. On June 2, 2017, the United States filed a Complaint for Forfeiture In Rem against a \$146,500,000.00 in Funds paid by the Western Union Company ("Western Union") pursuant to a Deferred Prosecution Agreement with the United States government. All known possible claimants were notified of the pending action.

3. Examination of the Court files and records in this cause shows that Defendant currency was served with a copy of the Warrant of Arrest *in Rem*, together with a copy of Plaintiff's Complaint, on July 6, 2017. [ECF No. 6].

4. In accordance with Rule G(4)(a)(iv)(C), of the Supplemental Rules of Admiralty or Maritime Claims and Asset Forfeiture Actions, the United States' notice of the publication of forfeiture was posted on an official government site (www.forfeiture.gov) for thirty (30) consecutive days beginning June 9, 2017, and ending on July 8, 2017.

5. The proof of publication for the Public Notice of Action and Arrest was filed with the Court on June 10, 2017. [ECF No. 7]

6. On June 5, 2016, in addition to the legal notice by publication, Plaintiff issued personal notice in accordance with Supplemental Rule G(4)(b) of this pending lawsuit with a true and correct copy of the Complaint and warrant to:

Ms. Alice S. Fisher, Esq.
Latham & Watkins, LLP
555 Eleventh Street, Suite 1000
Washington, DC, 20004
(FedEx Tracking receipt #779304761020)

7. Ms. Alice S. Fisher, Esq., represented Western Union during the Deferred Prosecution Agreement negotiations with the United States Department of Justice and the Federal Bureau of Investigation.

8. On or about January 19, 2017, the government and Western Union entered into a Deferred Prosecution Agreement based on the government's investigation of the pattern of certain Western Union Agent locations operating or affirmatively facilitating schemes in violation of 18 U.S.C. § 1343. In the Agreement, Western Union admitted, accepted, and acknowledged, among

other things, that it was responsible under United States law for the acts of its officers, directors, and employees, as well as for certain conduct of its Agents.

9. Western Union further agreed to pay to the United States Southern District of Florida the sum of \$146,500,000.00, which funds were to be forfeited to the United States as proceeds of the scheme described herein. To the extent that the monies to be paid to the government were not the actual proceeds of the underlying offense(s), Western Union agreed that the monies paid would be treated as a substitute res, to be treated as though they were the actual proceeds of the scheme described herein.

10. Western Union has made the payment called for in the Deferred Prosecution Agreement, and Defendant funds are a portion of the total amount paid and are now with the United States Marshals Service.

11. More than 60 days, the time period for filing a timely claim from the first day of the internet publication, have elapsed. In this case the last day for filing a petition was August 8, 2017. Supplemental Rule G(4)(a)(iv)(C) and (5)(a)(ii)(B).

12. There has been no answer or claim filed in response to the Complaint by Western Union or its representative Ms. Alice S. Fisher, Esq., Latham & Watkins LLP, or any other potential claimant.

13. On August 16, 2017, the Clerk of the Court entered a Default against Defendant property [ECF No. 9], pursuant to Fed. R. Civ. P. 55(a) and Local Admiralty Rule 3(i). *See Solaroll Shade & Shutter Corp., Inc. v. Bio-Energy Systems, Inc.*, 803 F.2d 1130, 1134 (11th Cir. 1986).

14. Further, whenever a judgment by default is sought, application shall be made to the Court and such judgment may be entered by the Court so long as the default party is not an infant or otherwise incompetent. Fed. R. Civ. P. 55(b)(2); Local Admiralty Rule 3(i); *Bonanza Intern., Inc. v. Corceller*, 480 F.2d 613 (5th Cir. 1973);¹ *Southern Gen. Ins. Co. v. O'Keefe*, 275 F. Supp. 107 (D. Md. 1967).

15. The United States is entitled to a final default judgment of forfeiture because Defendant property was forfeitable pursuant to 18 U.S.C. § 981(a)(1)(C) arising from violations of 18 U.S.C. § 1343 or proceeds traceable thereto.

Based upon the above findings, and the Court being otherwise fully advised in the matter, it is hereby

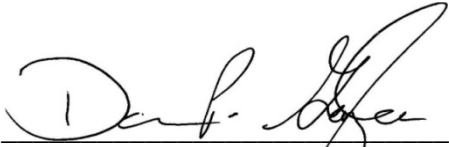
ORDERED AND ADJUDGED:

1. The allegations of the Complaint are taken as admitted.
2. Any and all persons, claiming any interest, including potential claimant Western Union or its representative Ms. Alice S. Fisher, Esq., Latham & Watkins LLP, and all other potential claimants, to Defendant property are held in default.
3. Final default judgment of forfeiture is hereby entered against Defendant property, approximately One Hundred Forty-Six Million, Five Hundred Thousand Dollars (\$146,500,000.00) in United States Currency.
4. All interest in Defendant currency described above is forfeited to the United States of America, pursuant to 18 U.S.C. § 981(a)(1)(C) arising from violations of 18 U.S.C. § 1343 or proceeds traceable thereto.

¹ In *Bonner v. City of Prichard*, 661 F.2d 1206, 1207 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding precedent all decisions of the Fifth Circuit issued prior to October 1, 1981.

5. The United States Marshals Service is hereby directed to dispose of Defendant property in accordance with law.

DONE AND ORDERED in Chambers at Miami, Florida, this 25th day of August, 2017.



DARRIN P. GAYLES
UNITED STATES DISTRICT JUDGE