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10
11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13

14 EMPYREAL ENTERPRISES dba
EMPYREAL LOGISTICS,
15
16 Plaintiff,
17 v.
18 UNITED STATES OF AMERICA ET
AL.,
19 Defendants

No. CV 22-0094 JWH (SHK)

**FEDERAL DEFENDANTS'
OPPOSITION TO PLAINTIFF'S
APPLICATION FOR TEMPORARY
RESTRAINING ORDER;
MEMORANDUM IN SUPPORT; AND
DECLARATION OF COUNSEL**

No Hearing Set

Honorable John W. Holcomb

OPPOSITION

Federal Defendants, by and through undersigned counsel, hereby oppose Plaintiff's Application for Temporary Restraining Order. The following memorandum is submitted in support of the Defendants' opposition.

MEMORANDUM IN SUPPORT OF OPPOSITION

I. INTRODUCTION

Plaintiff has not properly served the complaint or the application for temporary restraining order ("TRO") on the Federal Defendants. Plaintiff admits to making no attempt to speak with anyone in the U.S. Attorney's Office in advance of the filing to discuss the claims and possible resolution. Declaration of David Bass, ("Bass Dec."), ¶ 6. Instead, Plaintiff emailed copies of the complaint, the application, two declarations and proposed order to a general email box in the late afternoon on the Friday before a long holiday weekend. *See* Osinoff Declaration, ¶¶ 4-5, attached hereto and submitted herewith. As demonstrated herein, Plaintiff has failed to meet the legal standards required for the issuance of a TRO and thus, the application for TRO should be denied.

II. LEGAL STANDARD

A TRO is "an extraordinary remedy that may only be awarded upon a clear showing that the Petitioner is entitled to such relief." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). For a TRO to issue, the moving party must demonstrate (1) that he is likely to succeed on the merits, (2) that he is likely to suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in his favor, and (4) that an injunction is in the public interest. *See id.* at 20. "In exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction." *Id.* at 24 (citation and internal quotation marks omitted).

An injunction is "unavailable absent a showing of irreparable injury, a requirement that cannot be met where there is no showing of any real or immediate threat that the Petitioner will be wronged [] – a 'likelihood of substantial and immediate

1 irreparable injury.” *Los Angeles v. Lyons*, 461 U.S. 95, 111 (1983). A district court
2 should enter a preliminary injunction only “upon a clear showing that the [movant] is
3 entitled to such relief.” *Winter*, 555 U.S. at 22.

4 The purpose of a TRO is to preserve the status quo. Here, Plaintiff does not seek
5 to preserve the status quo but rather to essentially decide the dispute at its inception via
6 an ex parte application for TRO. Such relief is especially disfavored. *See Granny Goose*
7 *Foods, Inc. v. Teamsters*, 415 U.S. 423, 438–39 (1974) (noting that TROs “should be
8 restricted to serving their underlying purpose of preserving the status quo and preventing
9 irreparable harm just so long as is necessary to hold a hearing, and no longer”); *Reno Air*
10 *Racing Ass’n., Inc. v. McCord*, 452 F.3d 1126, 1131 (9th Cir. 2006) (noting that “courts
11 have recognized very few circumstances justifying the issuance of an ex parte TRO”);
12 *Anderson v. United States*, 612 F.2d 1112, 1114 (1979) (“[m]andatory preliminary relief,
13 which goes well beyond simply maintaining the status quo pendente lite, is particularly
14 disfavored, and should not be issued unless the facts and law clearly favor the moving
15 party”).

16 A temporary restraining order, as a form of preliminary injunctive relief, “is an
17 extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is
18 entitled to such relief.” *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008).
19 The moving party has the burden of persuasion. *Hill v. McDonough*, 547 U.S. 573, 584
20 (2006).

21 **III. PLAINTIFF HAS FAILED TO MEET HIS BURDEN**

22 The standard for issuing a temporary restraining order (“TRO”) and issuing a
23 preliminary injunction are substantially identical. *Stuhlbarg Int’l Sales Co., Inc. v. John*
24 *D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). Either is “an extraordinary
25 remedy that may only be awarded upon a clear showing that the Petitioner is entitled to
26 such relief.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008).

27 Plaintiff has failed to establish any of the factors required for the issuance of a
28 TRO. It has failed to establish that the likelihood of success on the merits, that it will

1 suffer immediate and irreparable harm in the absence of preliminary relief, that the
2 balance of equities tips in its favor, or that an injunction is in the public interest.

3 A. Plaintiff Lacks Standing to Assert Constitutional Claims

4 Article III of the Constitution confines the federal courts to adjudicating cases and
5 controversies. Accordingly, Plaintiff must show: (i) an “injury in fact,” consisting of “an
6 invasion of a legally protected interest which is (a) concrete and particularized, and (b)
7 actual or imminent, not conjectural or hypothetical;” (ii) “a causal connection between
8 the injury and the conduct complained of;” and (iii) that it is “likely, as opposed to
9 merely speculative, that the injury will be redressed by a favorable decision.” *Lujan v.*
10 *Defenders of Wildlife*, 504 U.S. 555, 561 (1992).

11 “No principle is more fundamental to the judiciary’s proper role in our system of
12 government than the constitutional limitation of federal-court jurisdiction to actual cases
13 or controversies.” *Raines v. Byrd*, 521 U.S. 811, 818 (1997). That is because the
14 standing doctrine ““serves to prevent the judicial process from being used to usurp the
15 powers of the political branches.”” *Hollingsworth v. Perry*, 133 S. Ct. 2652, 2661
16 (2013).

17 Importantly, where, as here, the relief sought is prospective relief only, a plaintiff
18 must demonstrate a risk of future injury that is both “real” and “immediate” and neither
19 “conjectural” nor “hypothetical.” *City of Los Angeles v. Lyons*, 461 U.S. 95, 102-03
20 (1983). Thus, a plaintiff seeking forward-looking relief bears the burden of proving the
21 existence of a future ““threatened injury [that is] certainly impending.”” *Clapper v.*
22 *Amnesty Int’l USA*, 568 U.S. 398, 401 (2013) (quoting *Whitmore v. Arkansas*, 495 U.S.
23 149, 158 (1990)). And a risk of injury is not the same as proving the injury.

24 The injury alleged is the November and December 2021 seizures of over \$1
25 million dollars by the San Bernardino Sheriff’s Department which was allegedly
26 transferred to the FBI. But Plaintiff is a transport service; it is not the owner of the
27 monies seized. The monies seized were from its customers, marijuana dispensaries,
28 restaurants and other businesses. Accordingly, the injury, if any, rests with the owners of

1 the currency who are not plaintiffs in this action. Moreover, Plaintiff has presented no
 2 evidence whatsoever that demonstrates a risk of future injury that is both “real” and
 3 “immediate.”

4 Plaintiff lacks standing as well for the Fifth Amendment challenge on the same
 5 basis. Plaintiff’s allegations are generalized and unsupported.

6 Plaintiff also argues that the stops and seizures within California were politically
 7 motivated for financial gain, referencing the equitable sharing program and an
 8 appropriations rider which Plaintiff claims prohibits the use of funds to interfere with
 9 state medical cannabis laws. Even if Plaintiff’s claims of prohibited use of appropriated
 10 funds were accurate, and Defendants assert they are not, Plaintiff’s claims are belied by
 11 Plaintiff’s own admission that not all monies carried in its vehicles were from
 12 exclusively medical marijuana dispensaries. *See* O’Gorman Dec. ¶ 31. Moreover,
 13 Plaintiff’s claims of political motivation are speculative and unsupported.¹

14 The legality of asset forfeiture, specifically the equitable sharing program which
 15 Plaintiff attacks, has long been upheld. *Bennis v. Michigan*, 516 U.S. 442 (1996)
 16 (forfeiture is not a “taking” within meaning of the Fifth Amendment); *McCutchen v.*
 17 *United States*, 145 Fed. Cl. 42, 51 (Fed. Cl. 2019) (“There are certain exercises of the
 18 police power that have repeatedly been treated as legitimate even in the absence of
 19 compensation to the owners of the property. Among these are government actions taken
 20 to require the forfeiture of property used in connection with criminal activity”); *United*
 21 *States v. Segal*, 432 F.3d 767, 779 (7th Cir. 2005) (following *Bennis*; criminal forfeiture
 22 is not a “taking” under Takings Clause); *United States v. \$7,999 in U.S. Currency*, 170
 23 F.3d 843, 845 (8th Cir. 1999) (civil forfeiture does not violate Takings Clause; it is an
 24 exercise of the police power; following *Bennis*); The authority to seize property does not
 25

26 ¹ In multiple paragraphs, the declarations of O’Gorman and Bass refer to
 27 unspecified “information provided to me.” Defendants object to the O’Gorman and Bass
 28 declarations on grounds of lack of foundation and hearsay. *See* Fed.R.Ev. 602, 603, 801,
 802, 805; *Bank Melli Iran v. Pahlavi*, 58 F.3d 1406, 1412-13 (9th Cir. 1995) (a
 declaration of an attorney must establish personal knowledge, not knowledge based on
 hearsay). The declarations are deficient and inadmissible.

1 rest on the equitable sharing program. *USA v. 434 Main Street, Tewksbury, Mass.*, 862
2 F.Supp.2d 24 (D. Mass. 2012).

3 A TRO should not issue where the civil forfeiture process provides an available
4 remedy for Plaintiff for the return of the seized monies, a remedy that Plaintiff is
5 obviously familiar with and already employing in Kansas. Plaintiff is a claimant in a
6 pending civil forfeiture action in Kansas seeking the return of monies.² Thus, seeking
7 relief in this Court is duplicative and amounts to forum shopping, which is not proper.

8 Plaintiff's TRO application is similar to a Rule 41 motion or complaint which asks
9 a court to exercise its equitable power to return seized property. Rule 41 motions are
10 generally denied as the civil forfeiture process provides an adequate remedy at law. The
11 same is true here. Civil forfeiture proceedings provide plaintiff a means of challenging
12 the seizure and recovering seized property. *United States v. U.S. Currency \$83,310.78*,
13 851 F.2d 1231, 1235 (9th Cir. 1988) (upholding dismissal of Rule 41 motion filed before
14 civil forfeiture proceedings were commenced, reasoning that equitable remedy not
15 needed where civil forfeiture proceeding would allow claimant to challenge Fourth
16 Amendment violation). That is the process that Plaintiff should be invoking.

17 For the reasons stated above, Plaintiff cannot and has not demonstrated the
18 likelihood of success on the merits and the application for TRO should be denied.

19 B. Plaintiff Fails to Establish That It Will Suffer Irreparable Harm Absent the
20 Issuance of a TRO

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22
23 ² Plaintiff is actively engaged in litigation seeking the return of the monies
24 collected from marijuana dispensaries Kansas City and bound for a Colorado credit
25 union in the pending civil forfeiture action. *See United States of America v. \$165,620.00*
26 *in United States Currency*, 6:2021-cv-01215-HLT-KGG (D. Kansas, complaint filed
27 9/3/2021) (ECF #1)(copy attached for the convenience of the Court). The Kansas district
28 court issued a warrant in rem and ruled that there was probable cause to seize the money.
Id., ECF #3 (copy attached for the convenience of the Court). The Court can take judicial
notice of these filings. *See also*
[https://www.bizjournals.com/kansascity/news/2021/10/25/kansas-sheriff-seizes-cash-](https://www.bizjournals.com/kansascity/news/2021/10/25/kansas-sheriff-seizes-cash-missouri-dispensaries.html)
[https://www.usnews.com/news/best-](https://www.usnews.com/news/best-states/kansas/articles/2021-10-27/company-challenges-seizure-of-marijuana-proceeds-in-kansas)
[states/kansas/articles/2021-10-27/company-challenges-seizure-of-marijuana-proceeds-](https://www.usnews.com/news/best-states/kansas/articles/2021-10-27/company-challenges-seizure-of-marijuana-proceeds-in-kansas)
[in-kansas. https://www.usnews.com/news/best-states/kansas/articles/2021-10-](https://www.usnews.com/news/best-states/kansas/articles/2021-10-27/company-challenges-seizure-of-marijuana-proceeds-in-kansas)
[27/company-challenges-seizure-of-marijuana-proceeds-in-kansas.](https://www.usnews.com/news/best-states/kansas/articles/2021-10-27/company-challenges-seizure-of-marijuana-proceeds-in-kansas)

1 The Supreme Court’s “frequently reiterated standard requires plaintiffs seeking
 2 preliminary relief to demonstrate that irreparable injury is likely in the absence of an
 3 injunction.” *Winter*, 555 U.S. at 22. “Issuing a preliminary injunction based only on a
 4 possibility of irreparable harm is inconsistent with our characterization of injunctive
 5 relief as an extraordinary remedy that may only be awarded upon a clear showing that
 6 the plaintiff is entitled to such relief.” *Id.* Conclusory or speculative allegations are not
 7 enough to establish a likelihood of irreparable harm. *Herb Reed Enters., LLC v. Florida*
 8 *Entm’t Mgmt., Inc.*, 736 F.3d 1239, 1250 (9th Cir. 2013); *see also Caribbean Marine*
 9 *Servs. Co. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (“Speculative injury does not
 10 constitute irreparable injury sufficient to warrant granting a preliminary injunction.”);
 11 *Am. Passage Media Corp. v. Cass Commc’ns, Inc.*, 750 F.2d 1470, 1473 (9th Cir. 1985)
 12 (finding irreparable harm not established by statements that “are conclusory and without
 13 sufficient support in facts”). Moreover, the threat of a likely injury must be “immediate.”
 14 *See Caribbean Marine Servs. Co.*, 844 F.2d at 674.

15 Here, in the O’Gorman declaration, Plaintiff alleges primarily that it has suffered
 16 monetary losses. Money losses do not constitute immediate and irreparable harm. The
 17 other alleged losses in the declaration are also monetary and speculative. For example,
 18 Plaintiff claims that it expects to lose business opportunities and investors due to the
 19 Kansas seizure and the two stops in California. Plaintiff’s claim is speculative by its own
 20 description. Plaintiff claims that it is losing rents on its facility, but the building has not
 21 been disturbed by the Federal Defendants; it is available for Plaintiff’s use. Plaintiff also
 22 claims projected losses if its operations are suspended, but Plaintiff’s operations have not
 23 been stopped or suspended by the Federal Defendants. Plaintiff by its own admissions is
 24 re-routing its drivers. Conclusory arguments fail to establish that Plaintiff will suffer
 25 irreparable harm in the absence of a TRO. *See Herb Reed*, 736 F.3d at 1250. Plaintiff’s
 26 claim of future injury is hypothetical and based on a conjectural injury it has not suffered
 27 and may never suffer. *See Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 416 (2013)
 28 (finding standing based on fear, even one that is reasonable, “improperly waters down

1 the fundamental requirements of Article III.”).

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3 C. Balance of the Equities and the Public Interest Support Denial of the TRO

4 It is well-settled that the public has a significant interest in the enforcement of
 5 criminal laws of the United States. “There are certain exercises of the police power “that
 6 ha[ve] repeatedly been treated as legitimate even in the absence of compensation to the
 7 owners of the ... property.” [citing *Acadia Tech., Inc. v. United States*, 458 F.3d 1327,
 8 1332-33 (Fed. Cir. 2006)]. Among these are government actions taken to enforce
 9 prohibitions on the use or possession of dangerous contraband, or to require the
 10 forfeiture of property used in connection with criminal activity. *See e.g., Bennis v.*
 11 *Michigan*, 516 U.S. 442, 453, 116 S.Ct. 994, 134 L.Ed.2d 68 (1996) (holding that the
 12 forfeiture of an innocent owner's property that was used in a crime was not a taking).”
 13 *McCutchen v. United States*, 145 Fed. Cl. 42, 51 (2019), *aff’d* on other grounds, 14 F.4th
 14 1355 (Fed. Cir. 2021). Even if Plaintiff could show irreparable harm, it is outweighed by
 15 the public interest.

16 **IV. CONCLUSION**

17 Plaintiff has failed to meet its heavy burden to establish that it is entitled to the
 18 extraordinary relief of a temporary restraining order. Therefore, the Court should deny
 19 Plaintiff’s application for a temporary restraining order.

20 Dated: January 15, 2021

Respectfully submitted,

21 TRACY L. WILKISON
 22 United States Attorney
 23 DAVID M. HARRIS
 Assistant United States Attorney
 Chief, Civil Division

24 /s/ Joanne S. Osinoff
 25 JOANNE S. OSINOFF
 26 Assistant United States Attorney
 27 Chief, General Civil Section
 28 Attorneys for Federal Defendants

DECLARATION OF JOANNE OSINOFF

I, Joanne Osinoff, hereby declare and state:

1. I am employed as an Assistant United States Attorney and Chief of the General Civil Section, in the Civil Division of the United States Attorney's Office for the Central District of California ("USAO"). My duties include supervision of the defense of civil actions against the United States, its agencies and officers.

2. I make this declaration based upon my personal knowledge of the facts and my review of official records of the USAO. If called to testify, I would and could do so.

3. I make this declaration in support of the Defendants' Opposition to the Plaintiff's Application for TRO filed in *Empyreal Enterprises d/b/a/ Empyreal Logistics v. United States of America, et al.*, CV 22-0094 JWH (SHK).

4. I learned of the filing of the complaint and application for temporary Restraining Order (TRO) in *Empyreal Enterprises*, supra, on Friday, January 14, 2022 at approximately 5:40 p.m. I did not personally receive any phone call or voicemail or email from Plaintiff regarding the filing of the complaint and TRO. Plaintiff made no attempt to provide notice to me or to engage in a meet and confer to discuss the claims or possible resolution. My name and title are listed on the USAO public website.

5. Plaintiff's counsel emailed copies of the complaint, the application, two declarations and proposed order to a general email box in the late afternoon on the Friday before a long holiday weekend. I have access to this general email box, however, I receive no computer notification or notification of any kind when an email is received therein.

6. Friday, January 14, 2022 is the Friday before Martin Luther King Day, which falls on Monday, January 17, 2022 and is designated a Federal holiday. Federal offices, including the USAO, are closed on Monday, January 17, 2022. It is difficult to reach representatives of client agencies on a Friday afternoon and that difficulty is compounded by the holiday weekend.

7. Attached hereto as Exhibit 1 is a true and correct copy of the complaint

1 filed on September 3, 2021, in *United States of America v. \$165,620.00 in United States*
2 *Currency*, 6:2021-cv-01215 HLT (D. Kansas).

3 8. Attached hereto as Exhibit 2 is a true and correct copy of the Warrant of
4 Arrest In Rem and Order for Notice also filed in *United States of America v.*
5 *\$165,620.00 in United States Currency*, 6:2021-cv-01215 HLT (D. Kansas).

6 I declare under penalty of perjury that the foregoing is true and correct.

7 Executed on January 15, 2022, at Los Angeles, California.

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9 /s/ Joanne Osinoff
10 JOANNE OSINOFF
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UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 21- 01215
)	
\$165,620.00 IN UNITED STATES)	
CURRENCY, More or less,)	
)	
Defendant.)	
_____)	

COMPLAINT FOR FORFEITURE IN REM

Plaintiff, United States of America, by and through its attorneys, Dustin J. Slinkard, Acting United States Attorney for the District of Kansas, and Colin Wood, Special Assistant United States Attorney, brings this complaint and alleges as follows in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure:

NATURE OF THE ACTION

1. This is an action to forfeit and condemn to the use and benefit of the United States of America the following property: \$165,620.00 in U.S. Currency, more or less (hereinafter "defendant property"), for violations of 21 U.S.C. § 841.

THE DEFENDANT IN REM

2. The defendant property consists of: \$165,620.00 in United States currency, more or less, that was seized by the Dickinson County Sheriff on or about May 18, 2021 during an investigation of a Ford Transit van operated by operated by Empyreal Logistics and driven by

Jamie Jordan on I-70 at milepost 281 in Dickinson County, in the District of Kansas. The currency is currently in the custody of the United States Marshal Service.

JURISDICTION AND VENUE

3. Plaintiff brings this action *in rem* in its own right to forfeit and condemn the defendant property. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345, and over an action for forfeiture under 28 U.S.C. § 1355.

4. This Court has *in rem* jurisdiction over the defendant property under 28 U.S.C. 1355(b). Upon filing this complaint, the plaintiff requests that the Court issue an arrest warrant *in rem* pursuant to Supplemental Rule G(3)(b), which the plaintiff will execute upon the property pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).

5. Venue is proper in this district pursuant to 28 U.S.C. § 1355(b)(1), because the acts or omissions giving rise to the forfeiture occurred in this district and/or pursuant to 28 U.S.C. § 1395, because the defendant property is located in this district.

BASIS FOR FORFEITURE

6. The defendant property is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6) because it constitutes 1) money, negotiable instruments, securities and other things of value furnished or intended to be furnished in exchange for a controlled substance in violation of the Controlled Substances Act; and/or 2) proceeds traceable to such an exchange; and/or 3) money, negotiable instruments, and securities used or intended to be used to facilitate a violation of the Controlled Substances Act.

7. Supplemental Rule G(2)(f) requires this complaint to state *sufficiently detailed facts to support a reasonable belief that the government will be able to meet its burden of proof*

at trial. Such facts and circumstances supporting the seizure and forfeiture of the defendant property are contained in Exhibit A which is attached hereto and incorporated by reference.

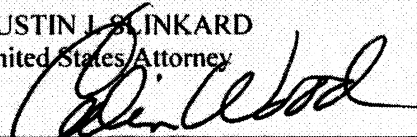
CLAIM FOR RELIEF

WHEREFORE, the plaintiff requests that the Court issue a warrant for the arrest of the defendant property; that notice of this action be given to all persons who reasonably appear to be potential claimants of interests in the properties; that the defendant property be forfeited and condemned to the United States of America; that the plaintiff be awarded its costs and disbursements in this action; and for such other and further relief as this Court deems proper and just.

The United States hereby requests that trial of the above entitled matter be held in the City of Wichita, Kansas.

Respectfully submitted,

DUSTIN J. BLINKARD
United States Attorney



COLIN D. WOOD, #19800
Special Assistant United States Attorney
1200 Epic Center, 301 N. Main
Wichita, Kansas 67202
(316) 269-6481
Fax (316) 269-6484

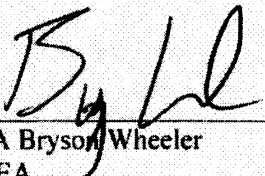
DECLARATION

I, Bryson Wheeler, Special Agent with the Drug Enforcement Administration in the District of Kansas.

I have read the contents of the foregoing Complaint for Forfeiture, and the exhibit thereto, and the statements contained therein are true to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 24 day of August, 2021.



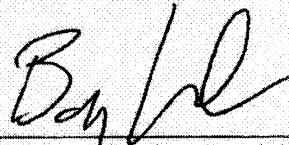
SA Bryson Wheeler
DEA

AFFIDAVIT

I, Bryson Wheeler, being first duly sworn, depose and state:

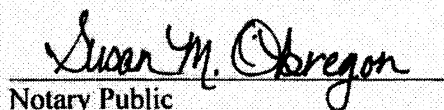
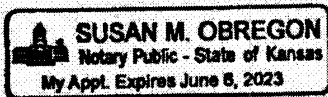
1. Affiant is a Special Agent with the Drug Enforcement Administration and stationed in the District of Kansas. My duties include investigation of violations of the Controlled Substance Act, Title 21 of the United States Code and the forfeiture thereto.
2. The information contained in this affidavit is known to me through personal direct knowledge, and/or through a review of official reports prepared by other law enforcement personnel. This affidavit is submitted in support of a forfeiture proceeding.
3. On May 17, 2021, Dickinson County Sheriff's Deputy Kalen Robison stopped for a traffic violation a Ford Transit van on I-70 near milepost 275 in Dickinson County, Kansas. The van driver was Jamie Jordan, an employee of Empyrean Logistics, in Denver, Colorado. Jordan told Robison that her company transports cash from state marijuana dispensaries in Kansas City, Missouri across Kansas to a credit union in Colorado. Jordan was then on her way to Kansas City and the next morning would be collecting the cash proceeds from the marijuana businesses on the route. Jordan was released.
4. On May 18, 2021, following DEA surveillance of Jordan stopping at and entering multiple state marijuana dispensaries in Kansas City, Missouri, on I-70 near milepost 281 in Dickinson County, Kansas, Deputy Robison again stopped the Ford Transit van driven by Jordan.
5. Seized from the van was \$165,620.00 in U.S. currency in 5 bags. Jordan confirmed to Robison that all of the currency was from multiple marijuana dispensaries in Kansas City, Missouri.

6. Later, at another location, a certified drug detection canine alerted to the odor of marijuana coming from the currency.
7. Affiant is aware that marijuana is a controlled substance and illegal under both federal and Kansas state law.
8. Based upon the information set out above, Affiant has probable cause to believe that the \$165,620.00 seized by the Dickinson County Sheriff constitutes money or other things of value furnished or intended to be furnished in exchange for a controlled substance, or proceeds traceable to such an exchange, or was used or intended to be used to facilitate one or more violations of Title 21, U.S.C. § 841 et. seq. Accordingly, the property is subject to forfeiture pursuant to Title 21, U.S.C. § 853 and 881.



Bryson Wheeler, Special Agent
DEA

Sworn to and subscribed before me this 24th day of August 2021.



Notary Public

My Commission Expires: June 6, 2023