ADAMS & ASSOCIATES PLC
ASHLEY D. ADAMS (Bar No. AZ 013732)
E-mail: aadams@azwhitecollarcrime.com
CHASE WORTHAM (Bar No. AZ 038651)
E-mail: chase@azwhitecollarcrime.com
7502 E Monterey Way
Scottsdale, AZ 85251
Telephone: 480.219.1366
Fax: 480.219.1451

MANATT, PHELPS & PHILLIPS, LLP
NAEUN RIM (*pro hac vice*)
E-mail: NRim@manatt.com
ANDREW BESHAI (*pro hac vice*)
E-mail: ABeshai@manatt.com
2049 Century Park East, Suite 1700
Los Angeles, California 90067
Telephone: 310.312.4000
Facsimile: 310.312.4224

REBECCA FINKEL (*pro hac vice* motion forthcoming)
Email: RFinkel@manatt.com
151 North Franklin Street, Suite 2600
Chicago, Illinois 60606
Telephone: 312.529.6300
Facsimile: 312.529.6315

Attorneys for Claimant
Suradet Totsaponvised

MITCHELL | STEIN | CAREY | CHAPMAN, PC
Anne Chapman (#025965)
Email: anne@mscclaw.com
2600 North Central Avenue, Suite 1000
Phoenix, AZ 85004
Telephone: 602.388.1232
Facsimile: 602.358.0291

Attorneys for Claimant
Kosit Sisawigon

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

United States of America

Plaintiff,

vs.

5,012,294.90 in TetherUS ("USDT"), *et al.*,

Defendants *In Rem*,

Case No. CV-23-01988-JJT

CLAIMAINTS TOTSAPONVISED AND SISAWIGON'S MOTION TO DISMISS FOR LACK OF *IN REM* JURISDICTION AND VENUE AND FAILURE TO STATE A CLAIM

(Oral Argument Requested)

MOTION

Claimants Suradet Totsaponvised and Kosit Sisawigon ("Claimants"), by and through undersigned counsel, hereby file this Motion to Dismiss Plaintiff United States of America's Verified Complaint for Forfeiture *In Rem* for lack of *in rem* jurisdiction and venue and for failure to state a claim. This Motion is brought pursuant to Supp. R. Fed. R. Civ. P.G(8)(b)(i), Supp. R. Fed. R. Civ. P. G(2)(f), Fed. R. Civ. P. 12(b)(2), Fed. R. Civ. P. 12(b)(3), Fed. R. Civ. P. 12(b)(6), and 28 U.S.C. § 1355(b)(1)(A).

This Motion is supported by the attached Memorandum of Points and Authorities, the concurrently filed Request for Judicial Notice, the pleadings, papers, and records on file in this action, oral argument, and any such additional materials as may be presented to the Court in connection with the hearing on this Motion.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This case is one of astonishing government overreach. Plaintiff United States of America ("Plaintiff") has seized and seeks to forfeit *all* of the cryptocurrency held in two Binance Accounts—the contents of which are currently worth over $100 million[1]—based on allegations that approximately $908,912 worth of the funds are allegedly traceable to an alleged wire fraud scheme. Plaintiff alleges zero facts connecting Claimants Suradet Totsaponvised and Kosit Sisawigon (together, "Claimants") to the alleged wire fraud. The Complaint does not identify a single person who actually perpetrated the wire fraud by name, description, or location. Neither does it include any non-conclusory facts suggesting that Claimants had a relationship with any of these unidentified perpetrators or knew what crimes they had committed. The only alleged "connection" between Claimants and the underlying fraud allegations are: (1) Claimants live in Thailand, a country from which "pig butchering" wire fraud schemes apparently originate, and (2) Claimants purchased a large sum of cryptocurrency and kept those funds in their Binance accounts, a

[1] *See* Request for Judicial Notice ("RJN"), concurrently filed with this motion.

fraction of which ended up allegedly being traceable to four wire fraud victims—none of whom live in Arizona. These thin allegations do not come close to meeting the heightened pleading standard for civil forfeiture—or even the ordinary pleading requirements of Federal Rule of Civil Procedure ("Rule") 8(a). They certainly do not justify seizure of everything in the Binance accounts, especially given that the vast majority of the funds are *not* alleged to be traceable to any crime. If such allegations were enough to justify forfeiture of untraceable as well as traceable funds, any Thai resident who unwittingly purchased tainted cryptocurrency on Binance would be at risk of having to forfeit to the United States everything in their Binance accounts. The law does not permit this draconian result.

Claimants Totsaponvised and Sisawigon jointly bring this motion to dismiss. As an initial matter, the Court must dismiss the Complaint for lack of *in rem* jurisdiction and venue for failure to allege that any act or omission "giving rise" to the forfeiture occurred in this District. *See* 28 U.S.C. § 1355(b)(1)(A). The only reference the Complaint makes to this District is to an alleged victim from Arizona whose funds were *not* traced to Claimants' accounts. Plaintiff attempts to manufacture a connection by claiming that the alleged Arizona victim and one of the victims whose funds were allegedly traceable to the defendant property were both directed to websites that used the name "NTU Capital." But the Complaint includes no further allegations to connect the two fraud schemes—no common actors, common IP addresses, or even a common website. This feeble connection is insufficient grounds to connect this District to the defendant property.

Even if jurisdiction and venue in this District were proper (they are not), the Court must dismiss the Complaint for failure to state a claim. Plaintiff seeks to forfeit all $100 million+ worth of the cryptocurrency held in Claimants' accounts, even though only approximately $900,000 worth of the funds are alleged to be traceable to a specified unlawful activity ("SUA"). In the first claim ("Claim 1"), Plaintiff alleges that the entirety of Claimants' funds constitute or are derived from "proceeds traceable" to a wire fraud scheme or conspiracy. Compl.¶ 1. *See* 18 U.S.C. § 981(a)(1)(C). In the second claim

("Claim 2"), Plaintiff alleges that all of the funds were "involved in" the facilitation of money laundering. Compl. ¶ 2. *See* 18 U.S.C. § 981(a)(1)(A). But the Complaint is devoid of any basis to support the theory that *the entirety* of Claimants' accounts were either derived from traceable proceeds or used to conceal such proceeds, and thus both claims fail. Even as to the small percentage of funds allegedly traceable to wire fraud, those tracing allegations are altogether vague, leaving this Court to guess which of the funds in Claimants' accounts are properly subject to forfeiture. That is not an appropriate inquiry under forfeiture law. Finally, Plaintiff's overreach in its wholesale seizure of the accounts is in clear violation of the Eighth Amendment. *See* U.S. Const. amend. VIII (prohibiting excessive fines); *Austin v. United States*, 509 U.S. 602, 604, 621-622 (1993) (Eighth Amendment applies to civil forfeiture actions). The Complaint must be dismissed.

II. BACKGROUND AND PROCEDURAL HISTORY

Claimant Suradet Totsaponvised is an ultra-high-net-worth individual and a citizen of Thailand. Dkt 26. He is an entrepreneur, investor, philanthropist, and cryptocurrency enthusiast. *Id*. He accumulated his wealth as an early investor and trader of virtual in-game currency and later as a prolific investor in publicly-traded securities and mutual funds around the world. *Id*. In 2021, Mr. Totsaponvised developed an interest in cryptocurrency and opened an account with Binance using his *real* identity. *Id*. The Binance account Mr. Totsaponvised opened is the account defined in the Complaint as Binance Account 2. *Id*.; Compl. ¶ 6.

Mr. Totsaponvised employed Kosit Sisawigon as his personal assistant and cryptocurrency consultant. Dkt. 25. Mr. Sisawigon opened his own Binance account, defined in the Complaint as Binance Account 1. *Id*.; Compl. ¶ 5. Mr. Sisawigon regularly identified purchasing opportunities and effectuated the purchase of cryptocurrency on Mr. Totsaponvised's behalf using Binance Account 1. Dkt. 25. Once Mr. Sisawigon purchased the cryptocurrency on Mr. Totsaponvised's behalf using Binance Account 1, it was his practice to transfer the funds to Mr. Totsaponvised's account, Binance Account 2. *Id*.

On November 24, 2023, the FBI seized all of the funds in Claimants' accounts, which included the following amounts of cryptocurrency:

Account Seized & Claimant	Contents of Account
Binance Account 1 held in the name of Kosit Sisawigon	a) 79.15015536 in BNB b) 0.09379305 in BTC c) 935,793.055308 in USDT
Binance Account 2 held in the name of Suradet Totsaponvised	a) 75,589,553.407047 in GALA b) 3,873,201.805214 in USDT c) 141.75987631 in BNB d) 1,264.0644196 in BTC

Compl. ¶¶ 5-6. As of the date of filing, the U.S. dollar equivalent value of the cryptocurrency held in Claimants' accounts is **$115,294,093.97**. *See* RJN.

On September 20, 2023, Plaintiff filed a complaint seeking forfeiture of all funds from Claimant's accounts and Binance Account 3, held in the name of Low Li Yu. Dkt. 1. Claimants have no knowledge of or connection to Binance Account 3 or Low Li Yu.

After the filing of the Complaint, Plaintiff and Claimants engaged in extensive settlement discussions and received several extensions of the claim deadline. Ultimately, the parties were not able to reach a settlement.

On February 10, 2025, Mr. Sisawigon filed a verified claim as to Binance Account 1, and Mr. Tostaponvised filed a verified claim as to Binance Account 2. Dkts. 23-24. On February 26, 2025, Claimants filed amended verified claims clarifying details about the nature of their interest in the accounts. Dkts. 25-26.

III. COMPLAINT ALLEGATIONS

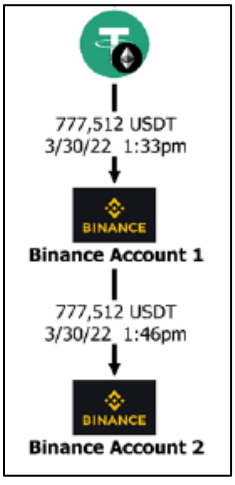
A. The Complaint Alleges Claimants Registered Accounts with Binance, a Cryptocurrency Exchange, Using Their Real Names

Binance is a virtual currency exchange ("VCE") on which users can buy, sell, trade, and store cryptocurrency. Comp. ¶¶ 8, 11. To trade cryptocurrency, one must have a virtual currency "address," which is "analogous to a bank account number," that is often held in a virtual "wallet." Compl. ¶¶ 9-10. VCEs make wallets available to their customers for storing and trading crypto. *Id*. VCEs like Binance are legally required to conduct due

diligence into the identity and location of their customers (known as "know your customer" or "KYC" requirements) and to maintain an anti-money laundering ("AML") program. Compl. ¶ 11, 18 fn.1, 51.

Not everyone uses a VCE to buy, sell, and trade crypto. Cryptocurrency trades that occur outside of a VCE are recorded on a publicly available ledger known as the "blockchain." Comp. ¶ 12. While the blockchain records every transaction that has ever occurred with virtual currencies within that blockchain, "blockchain data generally consist only of alphanumeric strings and timestamps"—it does not show the identity or location of any person behind any address, wallet, or transaction. *Id*. In other words, blockchain wallets are anonymous. Thus, while the date, time, and amount of crypto transactions are publicly visible on the blockchain, "it is impossible to look at a single transaction on a blockchain and immediately ascertain the identity of the individual behind the transaction." Compl. ¶ 13. In contrast, due to KYC and AML requirements, VCEs like Binance are required to know the identities of everyone who registers an account and keep records of that person's transaction history. Compl. ¶ 11, 18 fn.1, 51. Although VCE transactions are not recorded on the public blockchain, law enforcement can easily obtain such information from the VCE through a subpoena or cooperation, as Plaintiff apparently did here, just as is the case with banks. *Id*.

The Complaint makes allegations about financial transactions through the use of charts. *See*, e.g., Compl. ¶ 36. Blockchain wallets are depicted in green with a "T" symbol, while Binance accounts are depicted with a black rectangle bearing a Binance logo. *E.g.*, Compl. ¶ 36. Most of the transactions discussed in the Complaint involve USDT or "Tether," which is a cryptocurrency whose value is tied to the value of the U.S. dollar. Thus, 1 USDT is equal to $1 USD.



In Plaintiff's 77-paragraph complaint, Claimants' names are mentioned once: Mr. Sisawigon is alleged to have registered Binance Account 1 in his real name on February 13, 2021, in Thailand, and Mr. Totsaponvised is alleged to have

registered Binance Account 2 in his real name on February 9, 2021, in Thailand. Compl. ¶¶ 5-6. There are no allegations suggesting that Claimants own or control any of the blockchain wallets depicted in the transaction charts. There are no allegations suggesting that Claimants own or control Binance Account 3.

B. The Complaint Describes Several Unfortunate "Pig Butchering" Fraud Schemes That Make No Meaningful Reference to Claimants

According to the Complaint, "pig butchering schemes" are fraud schemes originating out of China and Southeast Asia where scammers lure victims into a close relationship and then deceive them into making a fraudulent investment. Compl. ¶¶ 18-19. The Complaint describes several "pig butchering" victims—K.C., W.C., Y.C., D.M., W.L., and K.Z.—who were allegedly deceived by a scammer into purchasing cryptocurrency and investing it with fraudulent investment platforms using fake websites.[2] *E.g.*, Compl. ¶¶ 26, 30, 40, 44, 46, 69. After receiving instructions from a scammer, each victim allegedly attempted to fund their investment by sending cryptocurrency to a blockchain wallet. *Id.*; Compl. ¶ 50. As part of the fraud, the victims were led to believe their initial investment was generating significant gains, inducing them to invest even more. Compl. ¶¶ 28, 32, 48. But when the victims were ready to withdraw their funds, they were unable to do so, at which point the victims realized they had been scammed. Compl. ¶¶ 29, 34, 41, 44, 48.

Apart from generally claiming that pig butchering scams "originate" from China and Southeast Asia, the Complaint does not identify the name or location of a single "scammer" who interacted with these victims. Compl. ¶ 18 fn.1. The Complaint alleges no facts suggesting that the scammers know each other or know Claimants. Claimants are not alleged to have induced victims, instructed victims where to route their funds, controlled the fraudulent investments platforms or websites, controlled the blockchain wallets that received the victim's funds, or prevented victims from accessing their investments. The

[2] The Complaint identifies five such trading platforms: NTU Capital Limited, Create Wealth Global, Deribit, Aly Financial, and Gemini. (Compl. ¶¶ 26, 30, 33, 40, 44, 47.)

only reference to Claimants in the discussion of the pig butchering schemes is a footnote alleging that their Binance accounts were "registered from a country from which pig butchering schemes originate (Thailand and Malaysia)." *Id*.

C. The Complaint Appears to Trace Approximately 908,912 USDT from Four Victims—None Who Live in Arizona—to Claimants' Accounts

According to the Complaint, law enforcement officials traced some of the funds invested by four of the victims, W.C., Y.C., D.M., and W.L. (together, "Allegedly Traced Victims"), through a series of blockchain wallets and ultimately to Claimant's accounts. Compl. ¶¶ 36, 43, 45, 49. There are no allegations that Claimants had any ownership in, control over, or access to any of the intermediary blockchain wallets through which the victims' funds allegedly passed. Even though Plaintiff conducted an IP address analysis, there are no allegations that Claimants' accounts were accessed from the same IP addresses as any of the intermediary blockchain wallets. Compl. ¶ 55. Instead, the IP address allegations establish only that Mr. Sisawigon and Mr. Totsaponvised occasionally accessed their own accounts, Binance Accounts 1 and 2, from the same locations. *Id*.

Plaintiff does not specify the amount of funds traceable from each victim to the Claimants' accounts. In reviewing the transaction charts, it appears that the following amounts may be traceable from the alleged underlying fraud schemes: 340,000 USDT for W.C.,[3] 164,253 USDT for Y.C.,[4] 179,726 for D.M., and 224,933 USDT for W.L.[5] Compl. ¶¶ 36, 43, 45, 49. It is not clear what tracing methodology or accounting principles were used. Apart from the 908,912 USDT in allegedly "traceable funds," Plaintiff does not

[3] While W.C. allegedly invested 495,272 USDT, that amount was reduced to two transactions of 170,000 USDT each before reaching Claimants' accounts. Compl. ¶ 36.
[4] While Y.C. allegedly invested approximately 1,600,000 USDT worth of Etherium, that amount was reduced to three transactions of 46,852 USDT, 73,335 USDT, and 44,066 USDT before reaching Claimants' accounts. Compl. 43.
[5] While W.L. allegedly invested approximately 620,000 USDT worth of Etherium, that amount was reduced to three transactions of 91,401 USDT, 57,127 USDT, and 76,404 USDT before reaching Claimants' accounts.

plead facts suggesting that any of other funds in Claimants' accounts, now worth more than $100 million, are traceable to a specific crime.

Plaintiff does not allege that any of the Allegedly Traced Victims live in or were located in Arizona at the time they were scammed. The only victim mentioned in the Complaint alleged to live in Arizona is K.C. Compl. ¶ 26. But the Complaint does not trace K.C.'s funds to Claimants' accounts—in fact, the Complaint does not trace K.C.'s funds to any destination at all. Compl. ¶¶ 26-29. There is not a single allegation in the Complaint tying K.C.'s funds to Claimants.

The Complaint references another alleged victim, K.Z., but neither traces K.Z.'s funds to Claimants' accounts nor alleges that K.Z. lives in Arizona. Instead, the Complaint traces K.Z.'s funds to a blockchain wallet that Plaintiff has nicknamed "Tron 1." Compl. ¶¶ 68-70. The Complaint alleges that Tron 1 was one of the blockchain wallets that made transfers to Binance Account 1, but does not specify dates or amounts of any specific transaction and does not connect any such transfers to Victim K.Z.'s funds. *Id*.

D. The Complaint Describes Obfuscation Techniques That Occur *Before* Any Funds Reach Claimants' Accounts

While the Complaint alleges that techniques were used to "obfuscate the flow of funds *into* Binance Accounts 1 and 2," Compl. ¶ 51 (emphasis added), all of the actual "obfuscation" transactions are alleged to have been conducted by upstream "intermediary" blockchain wallets and Binance accounts *that are not alleged to be controlled by Claimants*. The Complaint alleges, for example, that Binance Account 1 received 1.4 million USDT from a blockchain wallet called Tron 2. Compl. ¶ 71. The Complaint then alleges that those funds were sent to Tron 2 from multiple upstream wallets "in a coordinated manner" from a separate blockchain. *Id*. While these transactions allegedly "indicate a concerted effort to obfuscate the flow of funds and to hide entirely the location and source of the funds," none are alleged to actually have been made by Claimants, nor are they alleged to be traceable to a victim or a crime. Compl. ¶ 72.

As to the transactions attributed to Claimants' accounts, no obfuscation is alleged. According to the Complaint, Binance Account 1 was a pass-through account that immediately sent almost all funds received to Binance Account 2. Compl. ¶ 57. The Complaint alleges that Binance Account 1 tended to transfer funds to Binance Account 2 "within approximately one hour" in the exact same amounts as received. *E.g.*, Compl. ¶¶ 57, 59. Once the funds hit Binance Account 2, the Complaint does not allege that the funds were transferred anywhere else.

E. The Complaint Seeks to Forfeit All Funds in Claimants' Accounts, Whether Alleged to be Traceable or Untraceable

The Complaint defines the "defendant property" as *all of the virtual currency seized from Binance Accounts 1, 2 and 3*. Compl. ¶¶ 4-7. Plaintiff brings two claims to forfeit the defendant property in its entirety. First, the Complaint alleges a "proceeds" claim for forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) under the theory that the defendant property constitutes or is derived from proceeds traceable to wire fraud or a conspiracy to commit wire fraud. Compl. ¶ 75. Second, the Complaint alleges a "laundering" claim for forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A) under the theory that the defendant property was involved in money laundering transactions in violation of 18 U.S.C. § 1956 and/or 1957. Compl. ¶ 77. Both of these claims must be dismissed.

IV. THE COMPLAINT FAILS TO ESTABLISH *IN REM* JURISIDCTION OR VENUE IN THE DISTRICT OF ARIZONA

Plaintiff has failed to plead the minimal facts required to justify jurisdiction or venue in this District. This *in rem* civil forfeiture action is governed by the Supplemental Rules ("Supp. R.") of the Federal Rules of Civil Procedure. *See* Supp. R. A(1)(A)(ii). A civil forfeiture complaint must state the grounds for *in rem* jurisdiction and for venue over the defendant property. Supp. R. G(2)(b). In an *in rem* forfeiture action, 28 U.S.C. § 1355 establishes the statutory requirements for both jurisdiction and venue. *United States v. Approximately $1.67 Million*, 513 F.3d 991, 998 (9th Cir. 2008). Jurisdiction and venue in a civil asset forfeiture action are proper (i) in any district where the property to be

forfeited is located (28 U.S.C. § 1355(b)(1)(B); 28 U.S.C. § 1395(b)), or (ii) in "the district in which any of the acts or omissions giving rise to the forfeiture occurred" (28 U.S.C. § 1355(b)(1)(A)).

Plaintiff bears the burden of establishing proper jurisdiction and venue. *Menken v. Emm*, 503 F.3d 1050, 1056 (9th Cir. 2007); *Piedmont Label Co. v. Sun Garden Packing Co.*, 598 F.2d 491, 496 (9th Cir. 1979). The Complaint concedes the Binance accounts at issue were registered in Thailand. Compl. ⁋⁋ 5-6. Thus, the only way Plaintiff can establish jurisdiction and venue is by alleging that "acts or omissions giving rise to the forfeiture occurred" in the District of Arizona. *See* 28 U.S.C. § 1355(b)(1)(A). To do so, "[Plaintiff] must establish the existence of the requisite jurisdictional facts" to make a prima facie showing that amounts to "more than bare allegations of jurisdiction." *See United States v. 3 Parcels in La Plata County, Colo.*, 919 F. Supp. 1449, 1452 (D. Nev. 1995). Plaintiff fails to do so here.

A. No Acts or Omissions Giving Rise to The Forfeiture Are Alleged to Have Occurred In This District

District courts "asserting jurisdiction on the basis of § 1355(b)" are instructed to "make clear findings of acts or omissions occurring in the district upon which the court bases its jurisdiction." *United States v. Approximately $1.67 Million*, 513 F.3d at 998 n.4. For example, in *Approximately $1.67 Million*, the Ninth Circuit held that *in rem* jurisdiction was established where claimants were alleged to have attended meetings, stored cash and narcotics, and mailed false identity documents in the relevant district in furtherance of the alleged criminal scheme. *Id* at 998.[6] There are no such similar allegations here.

[6] *Approximately 1.67 Million* was recently called into question by the Ninth Circuit based on due process concerns, which suggested that the district court was actually too loose with its *in rem* requirements, making a finding of jurisdiction even more of a stretch here. *See U.S. v. Nasri*, 119 F.4th 1172 (9th Cir. 2024).

Indeed, Claimants are not alleged to have ever stepped foot in Arizona. None of the defendant property is alleged to have ever passed through Arizona. None of the Allegedly Traced Victims are alleged to be Arizona residents or have been present in Arizona when the alleged acts of fraud occurred. (Compl. ¶¶ 30-50). None of the other wallets through which the victims' funds allegedly flowed are alleged to have been controlled by people or entities in Arizona. Compl. ¶ 50.

Apart from conclusory statements regarding jurisdiction and venue, the only reference to Arizona relates to victim K.C., an alleged Arizona resident. Compl. ¶ 26. But K.C.'s funds were not traced to any of the defendant property Binance accounts, nor were they traced to any of the upstream intermediary wallets. Compl. ¶¶ 26-29. There are no allegations explaining where K.C.'s funds ended up at all.

Plaintiff appears to have included K.C. for the sole purpose of creating a tenuous link between K.C. and W.C., one of the Allegedly Traced Victims, on the basis that both were defrauded by being directed to websites for a fake platform called "NTU Capital." Compl. ¶¶ 26, 30. But Plaintiff does not allege W.C. was ever in the District, nor do the facts support that W.C. and K.C. were victims of the same fraud or conspiracy. The Complaint does not allege that the scammers who defrauded K.C. and W.C. were the same people, knew each other, or ever communicated. While both K.C. and W.C. are alleged to have been directed to a website for NTU Capital, the Complaint makes a point of alleging that "NTU Capital" utilized a variety of domain names and does not specify whether K.C. and W.C. were directed to the same domain name.[7] Compl. ¶¶ 21-32. Thus, it is not even clear they were subject to the same NTU Capital scheme. More importantly, *the Complaint does not allege that the W.C. funds that were traced to Claimants' accounts were the proceeds of an NTU Capital scam*—instead, the traced funds are alleged to have been the proceeds of a fraudulent platform called Create Wealth Global. Compl. ¶¶ 33-36.

[7] One cannot assume that every scammer using an "NTU Capital" interface was part of a conspiracy or common scheme, just as there is no basis to conclude that everyone who counterfeits Louis Vuitton bags is working together.

This scant, manufactured connection between K.C. and W.C. does not give rise to forfeiture in this District. There is no basis for jurisdiction or venue here.

A district court rejected similar efforts to assert jurisdiction and venue in a civil forfeiture case brought in the District of Massachusetts. *United States v. $50,900*, No. CV 15-14125, 2016 WL 4257328, at *3 (D. Mass. Aug. 11, 2016). In *$50,900*, the government was attempting to forfeit funds sent to an entity located in Oklahoma City for the ostensible purchase of an aircraft. *Id*. at *2. The government argued that jurisdiction and venue were proper in Massachusetts because an undercover agent had been instructed to send drug money from Massachusetts that was eventually traced to a payment made for the same aircraft. *Id*. at *1-2. The funds traced to the undercover agent, however, were not the same as the funds that were being subject to forfeiture. As to the defendant funds, the court found that the government had failed to allege "any connection at all to the undercover account or to Massachusetts" or any facts "connecting any acts or omissions of claimants to this district," even though the funds had been sent to purchase the same plane. *Id*. at *3. The facts are even weaker here—the funds alleged to have originated from K.C. are never alleged to have been sent to the same place as the funds of W.C. or any of the other Allegedly Traceable Victims. Nor are K.C.'s funds alleged to have been sent to Claimants' accounts or even to intermediary wallets that allegedly sent funds to Claimants. The facts alleged as to K.C. do not constitute an "act or omission" giving rise for forfeiture in this District.

V. THE COMPLAINT FAILS TO STATE A CLAIM

Even if jurisdiction and venue were proper, the Complaint should be dismissed for failure to state a claim. *See* Supp. R. G(8)(b)(i); Fed. R. Civ. P. 12(b)(6). Civil forfeiture complaints are subject to two pleading standards. *United States v. One White Crystal Covered Bad Tour Glove*, No. CV 11-3582, 2012 WL 8455336, at *2 (C.D. Cal. Apr. 12, 2012). First, FRCP 8(a)(2) requires the familiar plausibility standard: a complaint must allege "enough facts to state a claim to relief that is plausible on its face." *Taylor v. Yee*, 780 F.3d 928, 935 (9th Cir. 2015) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570

(2007)) (internal quotation marks omitted). A claim has facial plausibility only when the plaintiff pleads "factual content"—not just "[t]hreadbare recitals of the elements" or "conclusory statements"—that "allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). To avoid dismissal, a plaintiff must set forth sufficient factual allegations "to raise a right to relief above the speculative level." *Twombly*, 550 U.S. at 555. Although the Court must accept all well-pleaded facts as true, it need not accept legal conclusions, and "a formulaic recitation of the elements of a cause of action will not do[.]" *Id*.

Second, a civil forfeiture complaint must also "state sufficiently detailed facts to support a reasonable belief that the government will be able to meet its burden of proof at trial," Supp. R. G(2)(f). *See One White Crystel Covered Bad Tour Glove*, 2012 WL8455336 at *2 (citing Supp. R. G(2)(f)). The Supplemental Rules thus impose a particularity requirement on civil *in rem* complaints. *United States v. One Gulfstream G-V Jet Aircraft*, 941 F. Supp. 2d 1, 14 (D.D.C. 2013) ("This heightened particularity requirement is designed to guard against the improper use of seizure proceedings and to protect property owners against the threat of seizure upon conclusory allegations.") Relatedly, the alleged crime must actually be connected to the seized property. *Id.* ("Absent some specific indication that the Jet is derived from or traceable to illicit activity, the complaint must be dismissed"). A plaintiff has not met these requirements when "[f]aced with [a] complaint, the claimants would find it difficult to know where to begin their investigation, what individuals to interview, or what documents to review." *Id.*

The Complaint fails to meet either pleading standard. Plaintiff has asserted a proceeds claim (Claim 1) and a laundering claim (Claim 2), both seeking to forfeit all $100 million+ worth of cryptocurrency seized from Claimants' accounts. Neither of these claims provides a basis for Plaintiff's extraordinary wholesale seizure of all funds held in the accounts. The Complaint appears to rely on nebulous concepts of "conspiracy" and "commingling" to establish the illusion of a connection between the allegedly traceable and untraceable funds—but a close reading shows that none of the non-conclusory facts

link anything beyond approximately 900,000 USDT to an SUA or money laundering. Even the tracing allegations are so vague as to require the Court to speculate as to what portions of the defendant property are actually tied to any potential crime. Both claims must be dismissed.

A. Claim 1 Must be Dismissed Because Plaintiff Fails to Plead That the Defendant Property Is Derived From Proceeds of an SUA

In Claim 1, Plaintiff seeks to forfeit property which "constitutes or is derived from proceeds traceable to" the SUA of wire fraud or conspiracy to commit wire fraud. Compl. ¶ 75. *See* 18 U.S.C. § 981(a)(1)(C). "Proceeds" are defined as "property that a person would not have but for the criminal offense." *United States v. Nicolo*, 597 F.Supp. 2d 342, 346 (W.D.N.Y. 2009). "If the Government is seeking to forfeit property under a proceeds theory, and the proceeds subject to forfeiture have been commingled with other funds, the forfeiture is limited to the portion of the commingled funds traceable to the proceeds." *U.S. v. One 1980 Rolls Royce*, 905 F.2d 89, 90 (5th Cir. 1990) (claimant could avoid forfeiture to the extent that he could prove what portions of the property were purchased with legitimate funds). "For example, if a person invests $100,000 in fraud proceeds in a $600,000 house, and pays for the balance of the house with money from another source, a forfeiture based on a proceeds theory would be limited to 1/6th of the market value of the house at the time of the forfeiture." S.D. Cassella, *Asset Forfeiture Law in the United States* § 25-4 (2d ed. 2013).

There is no question that the Complaint does not come close to pleading that all $100 million+ worth of cryptocurrency seized from Claimants' accounts constitute "proceeds" of an SUA. At best, the various charts in the Complaint potentially allege that approximately 908,912 USDT from the Allegedly Traced Victims constitute fraud proceeds. Compl. ¶¶ 36, 43, 45, 49. But there are no allegations suggesting that any of the other funds were proceeds of a crime. Plaintiff asks the Court to simply assume the untraceable funds are tainted because they were held in Claimants' accounts along with the allegedly traceable funds. But "merely pooling tainted and untainted funds in an

account does not, without more, render that account subject to forfeiture." *United States v. Tencer*, 107 F.3d 1120, 1134 (5th Cir. 1997). Plaintiff must independently establish that the untraceable funds are also proceeds derived from an SUA. Plaintiff has failed to do so.

To the extent Plaintiff relies on an undefined "conspiracy" to seek forfeiture of everything in Claimants' accounts, that theory must be rejected. The Complaint refers only twice—without a shred of supporting detail—to a "conspiracy." Compl. ¶¶ 1, 75. Beyond these two cursory references, the Complaint is a "barren document" that "fails to state any other facts or circumstances pertaining to the conspiracy or any overt acts done in furtherance thereof." *United States v. Cecil*, 608 F.2d 1294, 1297 (9th Cir. 1979). The mere reference to a "conspiracy" is not enough to transform what are otherwise untraceable funds into "proceeds" of a crime.

The elements of conspiracy are "(1) an agreement to accomplish an illegal objective, and (2) the intent to commit the underlying offense." *United States v. Espinoza-Valdez*, 889 F.3d 654, 656 (9th Cir. 2018). Plaintiff does not allege facts to meet either element. There is no alleged agreement among Claimants and those alleged to have perpetuated the underlying fraud or sent the proceeds through anonymous blockchain wallets. Simply put, conclusory conspiracy allegations cannot save the complaint. *See Buchanan v. Gandhi*, No. CV-22-01482-PHX-SMB, 2023 WL 3388835, at *5 (D. Ariz. May 11, 2023) (plaintiff "fail[ed] to state a claim for his conspiracy allegation" when plaintiff did not "state which Defendants are involved, does not offer any factual allegations of support, evidence, or identification of such conduct, and does not allege the elements of conspiracy"); *see also Calisesi ex rel. U.S. v. Hot Chalk, Inc.,* No. CV-13-01150-PHX-NVW, 2015 WL 1966463, at *13 (D. Ariz. May 1, 2015) (When "Plaintiffs' factual allegations provide no basis for concluding that all the Defendant Institutions acted in concert with one another" the district court held that plaintiffs had not established a civil conspiracy); *see also Bronner v. San Francisco Superior Ct*., No. C 09-5001 SI, 2010 WL 890162, at *5 (N.D. Cal. Mar. 8, 2010) (dismissing complaint when plaintiff "allege[d] that defendants are part of a criminal conspiracy, but makes only conclusory

allegations lacking factual support"); *see also United States v. Clarine*, 138 F. App'x 940, 942–43 (9th Cir. 2005) (unpublished) (conspiracy "lacked factual particularity" because it spanned "an open-ended time frame" in "uncertain locations" and "could well have included anyone who could have had any involvement in the conspiracy anywhere[.]").

The Complaint describes a few other allegedly suspicious transactions that do not involve funds from the Allegedly Traced Victims. But these extraneous allegations are just more smoke and mirrors. None establish that any additional tainted proceeds flowed into Claimants' accounts. The Complaint describes, for example, the flow of funds from a Victim K.Z. to the blockchain wallet Tron 1. Despite including a detailed tracing chart for K.Z., the Complaint *never* traces K.Z.'s funds to Claimants' accounts. While approximately 331,510 USDT of K.Z.'s funds were allegedly traced to Tron 1 on January 11, 2012, the Complaint does not go on to trace those funds to Binance Accounts 1 or 2. Instead, the Complaint alleges that Tron 1 sold 11,046,102 USDT to Binance Account 1 over multiple transactions on unspecified dates. Compl. ¶ 69. Does Plaintiff suggest that because Tron 1 received approximately 300,000 USDT in tainted funds from K.Z., it follows that all ~11 million USDT in funds Tron 1 transferred to Claimants was also tainted? Even though there is no way to tell from the Complaint when those transactions were made or in what amounts? Under what theory? What tracing methodology? There is no allegation that Claimants knew about any fraud on K.Z. or were aware of any of the upstream transactions. The Complaint also includes two additional transaction charts showing the flow of funds into Claimants' accounts from other blockchain wallets and Binance Accounts—*but neither of these charts indicate a link between the funds and an underlying SUA or a victim.* Compl. ¶¶ 62, 71. Plaintiff only alleges that these upstream Binance Accounts and blockchain wallets engaged in some suspicious transfers because they split up or layered some transactions. But there is nothing to suggest that Claimants knew about those transactions, nor does the Complaint allege facts sufficient to show that the funds being traded were derived from proceeds of any crime. *Id*. In short, nothing ties Claimants to the sprawling pig-butchering scheme described throughout the Complaint,

and hodge-podgeing together different, vague tracing analyses which are wholly disconnected from Claimants' accounts does not change that.

Even as to the purportedly traceable funds, the allegations are too vague for the Court to determine exactly how much is alleged to be traceable, what tracing methodology was used, and what portion of the seized defendant property should constitute the "proceeds" to be forfeited. While Claimants have analyzed the charts closely to estimate that approximately 908,912 USDT is alleged to be traceable, that analysis is ultimately based on assumptions and conjecture about the upstream transactions. Moreover, while the funds from the Allegedly Traced Victims are alleged to have flowed into Claimants' accounts in the form of USDT, most of the cryptocurrency held in the accounts at the time of seizure was in the form of Bitcoin. When did Claimants convert the allegedly tainted USDT to another cryptocurrency? What is the value of that currency today? What, exactly, is Plaintiff's theory as to how Claimants fit into these tracing allegations? The Complaint fails to answer such questions. It is therefore unclear what constituted traceable proceeds and what property can be considered "derived" from it.

The Complaint requires Claimants and the Court to decipher the various theories and piece together the conclusory, vague allegations just to understand the claims. This alone is an independent basis for dismissal. *See In re New Century*, 588 F. Supp. 2d 1206, 1218–19 (C.D. Cal. 2008) ("Neither courts nor defendants should have to wade through the morass of 'puzzle pleadings' as this wastes judicial resources and undermines the requisite notice for a defendant to respond"). When tracing allegations are unacceptably vague, as they are here, the forfeiture complaint should be dismissed. *See United States v. $39,000 In Canadian Currency*, 801 F.2d 1210, 1220-21 (10th Cir. 1986) (holding complaint failed to state civil forfeiture claims against the property); *see U.S. v. Approx. 32133.63 in Tether*, No. 22-cv-989-pp, 2023 WL 1108729 (Jan. 30, 2023 E.D. WI) (denying motion for default and requiring amendment to forfeiture complaint because fraud alleged by victim was not tied to the 32,133 in Tether sought by the Government).

B. Claim 2 Must be Dismissed Because Plaintiff Fails to Allege the Defendant Property Was "Involved In" A Violation of § 1956 or § 1957

Plaintiff's purported "money laundering" allegations do not justify the expansive inclusion of all of the funds in Claimants' accounts in this forfeiture action. In Claim 2, Plaintiff seeks to forfeit funds that were "involved in a transaction or attempted transaction in violation of 18 U.S.C. §§ 1956 and/or 1957." Compl. ¶ 77. Setting aside that Plaintiff does not even specify which subsections of the sprawling money laundering statutes serve as the basis for this claim, the Complaint does not establish that any Claimant funds were "involved" in money laundering under any theory.

1. Amorphous "Commingling" and "Obfuscation" allegations do not show that Claimant funds were "Involved In" a § 1956 Violation.

Section 1956 requires Plaintiff to allege that the seized property was involved in a financial transaction "with the intent to promote the carrying on of specified unlawful activity" (often called "promotional laundering") or "to conceal or disguise the nature, location, the source, the ownership, or the control of the proceeds of the specified unlawful activity" (often called "concealment laundering). *See* 18 U.S.C. § 1956(a)(1)(A)(i), (B). Because the Complaint alleges no facts to support a theory of "promotional laundering," Claimants focus on "concealment laundering" in this motion.[8]

To plead concealment money laundering, the Complaint must establish that a person conducting the "laundering" transaction "knew that the transaction [was] designed in whole or in part—to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity." *United States v. French*, 748 F.3d 922, 937 (9th Cir. 2014). Vague allegations of "commingling" are not enough—"courts agree innocent funds are not forfeitable simply because they have been commingled with tainted funds. The innocent funds must have been used in some way to hide the nature of the tainted funds." *United States v. Contents in Acct. No. 059-644190-*

[8] Claimants reserve the right to address promotional laundering in reply if Plaintiff clarifies this theory in opposition.

69, 253 F. Supp. 2d 789, 799–800 (D. Vt. 2003). To prevail on a concealment theory, Plaintiff must demonstrate "a substantial nexus between the money laundering offense and the legitimate funds." *Tencer*, 107 F.3d at 1134.

Importantly, allegations that previous transactions were laundered do not establish that a subsequent transaction was also an act of laundering. *United States v. Garcia-Emanuel*, 14 F.3d 1469, 1474 (10th Cir. 1994). "Merely engaging in a transaction with money whose nature has been concealed through other means is not in itself a crime." *Id*.; *see United States v. Dobbs*, 63 F.3d 391, 398 (5th Cir. 1995) (quoting same). To justify forfeiture on a concealment basis, the plaintiff "must prove that the specific transactions in question were designed, at least in part, to launder money, *not that the transactions involved money that was previously laundered through other means*." *Garcia-Emanuel*, 14 F.3d at 1474 (emphasis added). "[T]he government is required to demonstrate something more than the fact of commingling, even across a series of complicated transactions, to establish that legitimate money is forfeitable by virtue of its commingling with tainted funds." *Contents in Acct. No. 059-644190-69*, 253 F. Supp. 2d at 799-800.

To justify seizure of Claimants' entire Binance accounts, Plaintiff must plead facts demonstrating that *funds constituting the defendant property*—not funds from previous or upstream transactions—were used in transactions designed to conceal the origin or nature of the funds. There are no such allegations here. Once funds are alleged to have been received by Binance Account 1, there are no allegations of any kind suggesting an effort to conceal. In fact, the Complaint pleads the exact opposite. First, Claimants allegedly signed up for Binance accounts using their real names. Compl. ¶¶ 5-6. Instead of remaining anonymous by using blockchain wallets, Claimants chose to sign up for accounts with Binance, a VCE that was subject to KYC and AML requirements, enabling any law enforcement agency to obtain their identities, their location, and their Binance transactions. Compl. ¶ 11, 18 fn.1, 51. Second, Binance Account 1 is alleged to have immediately transferred funds to Binance Account 2 *without commingling*. Compl. ¶¶ 57-59. In paragraph 59, for example, the Complaint describes five transactions in which

Binance Account 1 transfers funds to Binance Account 2 *in the exact same amounts they were received*, "within approximately one hour" upon receiving them. Even as to two of the transactions allegedly traceable to Victims W.C. and Y.C., the Complaint alleges that Binance Account 1 sent those funds to Binance Account 2 *without any commingling*. Compl. ¶ 36, 43. If there was an effort to conceal the link between those funds and W.C. or Y.C., that effort is not alleged to have been made by Claimants. Finally, once funds are sent from Binance Account 1 to Binance Account 2, the Complaint does not allege that they were sent anywhere else. Instead, the funds apparently stay in the account and are stored there and converted into other cryptocurrencies, much like a savings or investment account. Compl. ¶¶ 36, 43, 45, 49. These allegations simply do not fit the hallmark signs of concealment, which generally involve things like the use of false names, splitting up transactions into different amounts, or depositing them into the account of a legitimate business. *See, e.g. Garcia-Emanuel*, 14 F.3d at 1475-76 (describing types of evidence indicative of intent to conceal); *see also United States v. Valdez*, 726 F.3d 684, 690 (5th Cir. 2013) (holding there was no intent to conceal where "[n]one of the transactions pointed to by the government show a specific intent to conceal the nature, location, source or ownership of the funds used" and the defendant "did not use false names, third parties, or any particularly complicated financial maneuvers, which are usual hallmarks of an intent to conceal").

As for the commingling and obfuscation allegations, none are attributed to Claimants. All are attributed to transactions performed by anonymous blockchain wallets and other Binance accounts in upstream transactions that predate Claimants coming into possession of any defendant property. Compl. ¶¶ 39, 43, 45, 49, 62, 69, 71. To tie the defendant property to these allegedly suspicious transactions, Plaintiff must make non-conclusory allegations establishing that Claimants knew about these transactions or had some control over these wallets or accounts. The Complaint fails to do so. While the Complaint includes a detailed chart of IP address analysis, this chart shows only a

relationship between Binance Accounts 1 and 2, a fact which is uncontested.[9] Compl. ¶ 55. What the chart does *not* show is any connection between Claimants and the unidentified actors behind the alleged "obfuscating" upstream transactions. This is simply not enough to tie Claimants to any "money laundering" scheme. It certainly does not justify the forfeiture of untraceable funds simply by virtue of being held in the same account as allegedly traceable funds. "[T]he government is required to demonstrate something more than the fact of commingling, even across a series of complicated transactions, to establish that legitimate money is forfeitable by virtue of its commingling with tainted funds." *United States v. Contents in Acct. No. 059-644190-69*, 253 F. Supp. 2d at 799–800.

2. Section 1957 only permits forfeiture of proceeds of an SUA.

Plaintiff also fails to state a laundering claim based on a § 1957 theory. Section 1957 requires the Government to allege that a person "knowingly engage[d] or attempt[ed] to engage in a monetary transaction in criminally derived property that is of a value greater than $10,000 *and is derived from specified unlawful activity*." 18 U.S.C. § 1957(a) (emphasis added). Under Section 1957, the Government must allege that the money to be forfeited is traceable to illegal conduct. *See United States v. Rutgard*, 116 F.3d 1270, 1291 (9th Cir. 1997) (explaining that the Government can only establish a violation of Section 1957 with "proof of a deposit of $10,000 of *criminally-derived funds*," or by showing "that all the funds in the [seized] account are *the proceeds of crime*") (emphasis added). Put differently, Plaintiff cannot prove a violation of Section 1957 based on concealment or commingled funds—it must trace the funds directly to an SUA. *Id*. at 1292 (explaining that "commingling with innocent funds can defeat application" of Section 1957 because of the traceability requirement). Plaintiff has not

[9] The IP address allegations also purport to show a connection to a Binance Account A, which is likely an account belonging to an associate of Claimants—but there are no allegations suggesting that any criminal proceeds were ever traced to Binance Account A, nor is Binance Account A included as part of the defendant property. *Id*.

done so. Thus, for the same reasons Plaintiff has failed to plead a proceeds claim under Claim 1, Plaintiff has also failed to plead a § 1957 laundering claim under Claim 2.

VI. THE SEIZURE VIOLATES THE EIGHTH AMENDMENT

Finally, Plaintiff's overreach here is an obvious violation of the Eighth Amendment. The Excessive Fines Clause of the Eighth Amendment provides that "excessive fines shall not be imposed." U.S. Const. amend. VIII. The Supreme Court has held that both civil and criminal forfeitures are punishment for the purposes of applying the Excessive Fines Clause. *See Austin*, 509 U.S. at 604, 621-622 (holding that a modern statutory fine is a "fine" if it constitutes punishment even in part regardless of whether the proceeding is criminal or civil). In determining whether a forfeiture violates the Excessive Fines Clause, the court may weigh three factors, none dispositive on its own: "(i) the inherent gravity of the offense compared with the harshness of the penalty; (ii) whether the property was an integral part of the commission of the crime; and (iii) whether the criminal activity involving the defendant property was extensive in terms of time and/or spatial use[.]" *United States v. Real Prop. Located at 6625 Zumirez Drive, Malibu, Cal.*, 845 F. Supp. 725, 732 (C.D. Cal. 1994) ("*Zumirez*").

With respect to the first factor, "the court must be careful to focus only on the inherent gravity of the offensive conduct engaged in by the claimant himself, rather than the inherent gravity of the offense or offenses that the government had probable cause to believe were committed on the property." *Id.* at 733. Relatedly, "[t]he Eighth Amendment's Excessive Fines Clause requires the property owner's culpability to be considered." *United States v. Ferro*, 681 F.3d 1105, 1115 (9th Cir. 2012). As described throughout this Motion, the Complaint does not contain a single plausible allegation that Claimants had knowledge of let alone involvement in the pig butchering scheme. The alleged obfuscation occurred upstream of Claimants' accounts. Thus, the harshness of the penalty in seizing $100+ million worth of currency, 99% of which bears no relation to any alleged crime whatsoever, is unquestionably too harsh. Next, the seized property was not an integral part of the commission of the offense. *Zumirez*, 845 F. Supp. at 732. Again, the

seized funds did not actually facilitate any criminal activity, given that the alleged obfuscation occurred upstream. There are no allegations tying most of the funds in Claimants' accounts to an SUA, and the mere fact that certain funds ended up in the same account as potentially traceable funds does not mean the clean funds facilitated any crime. In another case, where the government seized a vehicle that was allegedly used to carry out criminal activity but the vehicle "did not facilitate the criminal activity in a particularly significant way[,]" the government failed to meet this second prong under the Eighth Amendment analysis. *People v. One 2005 Acura RSX*, 2017 IL App (4th) 160595, ¶ 29, 77 N.E.3d 783, 789. The final prong also indicates the excessiveness of the forfeiture. Plaintiff's allegations are certainly sprawling, but the allegations actually relating to Claimants are extremely narrow. Thus, the overreach in violation of the Eighth Amendment is yet another reason the Complaint should be dismissed.

VII. CONCLUSION

For over two years, Plaintiff has improperly deprived Claimants of access to their rightful property based on speculative allegations that appear to be nothing more than a recitation of the transaction history from blockchain ledgers and Binance records. While the losses suffered by the alleged victims are no doubt unfortunate, they do not justify the United States seizing more than $100 million worth of funds from foreign nationals, the vast majority of which have neither been derived from proceeds of an SUA nor involved in an act of money laundering. The owners of such funds should certainly not be required to fight for their property back in a district that has no connection to them or any of the alleged criminal acts. For the above reasons, the case must be dismissed.

Date: March 3, 2025

Respectfully submitted,

MANATT, PHELPS & PHILLIPS, LLP

By: */s/ Naeun Rim*
Naeun Rim (admitted *pro hac vice*)
Andrew Beshai (admitted *pro hac vice*)
Rebecca Finkel (*pro hac vice* forthcoming)
Attorneys for Claimant
SURADET TOTSAPONVISED

Date: March 3, 2025

ADAMS & ASSOCIATES, PLC

By: */s/ Ashley Adams*
Ashley Adams
Attorneys for Claimant
SURADET TOTSAPONVISED

Date: March 3, 2025

MITCHELL | STEIN | CAREY | CHAPMAN, PC

By: */s/ Anne Chapman*
Anne Chapman
Attorney for Claimant
KOSIT SISAWIGON

CLAIMANTS' LRCiv. 12.1(C) NOTICE OF CERTIFICATION

I, Anne Chapman, am counsel for Claimant Kosit Sisawigon. I make this certification pursuant to Local Rule of Federal Civil Procedure ("LRCiv") 12.1. Claimants' Motion to Dismiss seeks, *inter alia*, dismissal pursuant to FRCP 12(b)(6) for the Government's failure to state a claim upon which relief can be granted.

I certify that prior to filing the Motion to Dismiss, Claimants notified Government's counsel of the issues asserted in the portion of Claimants' motion which seeks dismissal pursuant to FRCP 12(b)(6).

Specifically, myself on behalf of Claimant Sisawigon, and Rebecca Finkel and Naeun Rim on behalf of Claimant Totsaponvised, participated in a telephone call on the morning of March 3, 2025 with Plaintiff's Counsel AUSA Joseph Bozdech and AUSA Lindsay Short. During that call, Ms. Finkel, Ms. Rim and I notified AUSAs Bozdech and Short of the issues asserted in the Motion to Dismiss under FRCP 12(b)(6). During that call, the parties were unable to agree that the Plaintiff's *In Rem* Civil Forfeiture Complaint ("Complaint") was curable in any part by a permissible amendment offered by the Plaintiff for the Complaint.

I hereby declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed on March 3, 2025, in Phoenix, Arizona.

By: */s/ Anne Chapman*
Anne Chapman, Esq.
Counsel for Kosit Sisawigon

CERTIFICATE OF SERVICE

I hereby certify that on March 3, 2025 I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ ECF registrants:

The Honorable John J. Tuchi
United States District Court
Sandra Day O'Connor U.S. Courthouse
401 W. Washington Street
Phoenix, AZ 85003
Tuchi_chambers@azd.uscourts.gov

Joseph F. Bozdech
Assistant U.S. Attorneys
United States Attorneys' Office
40 N. Central Avenue, Suite 1200
Phoenix, AZ 85004
joseph.bozech@usdoj.gov
Attorneys for Plaintiff

By: */s/ Naeun Rim*
Naeun Rim (admitted *pro hac vice*)
Attorney for Claimant
SURADET TOTSAPONVISED