

DEC 31 2003

For The Northern Mariana Islands
By _____
(Deputy Clerk) 

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

UNITED STATES OF AMERICA,)
)
Plaintiff)
)
v.)
)
\$8,600.00 UNITED STATES)
CURRENCY,)
)
Defendant)
_____)

Civil No. 03-0019

ORDER GRANTING MOTION
FOR ORDER TO SHOW CAUSE
WHY \$8,600.00 SHOULD NOT
BE FORFEITED TO UNITED
STATES

THIS MATTER came before the court on Monday, December 29, 2003,
on an order to show cause why the relief prayed for by plaintiff; *i.e.* that the
currency described above should be forfeited to the United States pursuant to 21
U.S.C. § 881(a)(6), should not be granted. Plaintiff appeared by and through
Assistant U.S. Attorney Gregory Baka; claimant WANG, Yang appeared by

1 and through his attorney, G. Anthony Long.

2 THE COURT, having heard and considered the evidence presented, finds
3 as follows. This forfeiture proceeding was conducted pursuant to 18 U.S.C. §§
4 981 - 984. Section § 983(c) provides that the burden of proof is initially on
5 plaintiff to establish, by a preponderance of the evidence, that the property is
6 subject to forfeiture. Under 21 U.S.C. § 881(a)(6), money furnished or intended
7 to be furnished by any person in exchange for a controlled substance, all
8 proceeds traceable to such an exchange, or money used or intended to be used to
9 facilitate any violation of Chapter 13, Drug Abuse Prevention and Control, is
10 forfeitable to the United States. When the subject property is cash, it is not
11 necessary for plaintiff to identify the specific property involved in the offense
12 that is the basis for the forfeiture. 18 U.S.C. § 984(a)(1)(A). If plaintiff makes its
13 *prima facie* showing by a preponderance of the evidence, the burden shifts to
14 claimant to show that he is an innocent owner by a preponderance of the
15 evidence. 18 U.S.C. § 983(d).

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17 Claimant WANG, Yang pleaded guilty to two counts of distribution and
18 possession with intent to distribute a controlled substance, in violation of 21
19 U.S.C. §§ 841(a)(1) and 841(b)(1)(C), for a drug transaction which occurred on
20 December 12, 2002. During that transaction Wang was given \$2,200.00 by
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1 US/CNMI Drug Task Force Agent Ray Renguul for purchase of
2 methamphetamine hydrochloride, commonly known as "ice." While executing
3 a search warrant of claimant's apartment on February 20, 2003, police officers
4 found an additional quantity of methamphetamine with a street value of
5 approximately \$3,800.00, and a quantity of marijuana with a street value of
6 approximately \$900.00. Agent Renguul testified as an expert on drug
7 transactions that cash, drugs, paraphernalia, and weapons are usually found in
8 close proximity. During the search of claimant's apartment, the officers found,
9 in addition to the drugs, a scale, a .38 caliber handgun, and \$8,600.00 cash. All
10 of the items were in fairly close proximity to each other in claimant's bedroom.

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15 Claimant Wang offered the testimony of his girlfriend and co-worker
16 JIANG, Lixia. Mr. Yen translated her testimony. However, all of Jiang's
17 testimony was to the effect that the money was *hers*, not claimant Wang's. Jiang
18 testified that on the evening of February 19, 2003, she and claimant had gone to
19 a local electronic poker establishment, where she had won \$9,900.00. Claimant
20 offered into evidence without objection from plaintiff a purported receipt from
21 the "Lucky Spot Gameroom," bearing the title "10% Gaming Machine Jackpot
22 Tax for Winnings Over \$1,000.0." The receipt was made out to Wang and
23 showed that \$1,980.00 had been deducted from the \$9,900.00 jackpot, leaving
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1 the sum of \$7,920.00. No explanation was offered for the 20% deduction, rather
2 than the 10% stated on the form. Jiang testified that she had won the money
3 but that the receipt had been made out to Wang because she did not have any
4 identification with her. She said that after going out to celebrate early in the
5 morning of February 20, 2003, she had returned to their apartment and hidden
6 the money for safekeeping, before again going out. She testified that when she
7 returned to the apartment the police were there conducting their search and that
8 her money was gone when she later looked for it. She maintained that the
9 \$8,600.00 taken during the search was her money. No explanation was offered
10 as to the discrepancy in the amounts (\$8,600.00 versus \$7,920.00), other than
11 that she and Wang were in the habit of putting their cash in a drawer in the
12 television stand. Jiang also confirmed during her testimony that she had assisted
13 the US/CNMI Drug Task Force in an investigation of another person and
14 Agent Renguul had conceded that he would deem any testimony from her
15 credible.
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17 Officer Renguul testified that Jiang and claimant's sister were searched
18 when they arrived back at the apartment on the morning of February 20, 2003,
19 and that one of them had approximately \$10,000.00 in her purse. Both women
20 were taken in for questioning, although neither was arrested. None of the
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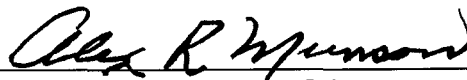
1 police reports received into evidence makes any mention of the \$10,000.00
2 assertedly being carried in a purse by one of the two women.
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4 Given the evidence presented by plaintiff, and the complete lack of any
5 evidence presented by claimant Wang in support of his assertion that the
6 \$8,600.00 was his, the court concludes that plaintiff met its burden of proving
7 by a preponderance of the evidence that the cash found at claimant's apartment
8 on the morning of February 20, 2003, was the proceeds from the illegal sale of
9 controlled substances including the sale on December 12, 2002, to which
10 claimant Wang pleaded guilty. Because Jiang is not a proper claimant before the
11 court, the court makes no determination about the plausibility of her story.
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13 Accordingly, plaintiff's motion for an order to show cause why the
14 \$8,600.00 taken during the search on February 20, 2003, should not be forfeited
15 to the United States is granted and it is ordered that the sum shall be forfeited to
16 the United States.
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18 IT IS SO ORDERED.
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20 DATED this 31st day of December, 2003.
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ALEX R. MUNSON
Judge