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16 **UNITED STATES DISTRICT COURT**

17 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

18 ANQIN WANG an individual,

19 Plaintiff,

20 v.

21 CALIFORNIA INVESTMENT
22 IMMIGRATION FUND, LLC, a
23 California, a limited liability company,
24 VICTORIA CHAN, an individual,
25 HARRIS LAW GROUP, USA LLC, a
26 California limited liability company, TAT
27 CHAN, an individual, ZHENG CHANG,
28 an individual, FANG ZENG, an
individual, Harris Group, LP, and DOES 1
through 10, inclusive,

Defendants.

CASE NO. 2:17-cv-07149-MWF

**MOTION FOR ORDER
ENTERING DEFAULT OF
DEFENDANTS TAT CHAN AND
FANG ZENG OR, IN THE
ALTERNATIVE, FOR SERVICE
BY PUBLICATION**

Date: April 23, 2018
Time: 10:00 am
Courtroom: Courtroom 5A
First Street Courthouse
350 W 1st Street,
Los Angeles, CA 90012

(Hon. Michael W. Fitzgerald)

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **A. Introduction**

3 Plaintiff’s investigator and process server Lynda Larsen and Larsen AVR
4 Group, Inc. have been unsuccessful in locating and attempting personal service on
5 the individual defendants Tat Chan and Fang Zeng (the “unlocated defendants”)¹ at
6 each of their last possible known locations. Declaration of Lynda Larsen (“Larsen
7 Decl.”), ¶¶ 4-13. However, Larsen AVR has succeeded in personally serving
8 defendant Victoria Chan, in her individual capacity, and in her capacity as agent
9 for the unlocated defendants. *Id.* ¶¶ 2-3. Plaintiff therefore asks this Court to enter
10 the default of the unlocated defendants.

11 Moreover, the unlocated defendants are certainly aware of this proceeding.
12 Indeed, defendant Fang Zeng has provided her written consent to three consent
13 judgments in the forfeiture proceedings before this Court in Case Nos. 17-cv-
14 03887, 17-cv-01031, and 17-cv-01034. In fact, given the pending criminal
15 proceedings against at least one of the defendants, a reasonable belief exists that
16 the unlocated defendants are evading service.

17 Accordingly, if this Court declines to enter the unlocated defendants’
18 default, Plaintiff respectfully requests an order permitting service of the unlocated
19 defendants by publication. *See* Fed.R.Civ.P. 4(e)(1); C.C.P. § 415.50(a).

20 **B. Factual Background**

21 As alleged by the Government in several civil forfeiture actions filed
22 pending in this Court², and in the FBI’s April 4, 2017 sworn search warrant
23 application in Case no. 8:17-MJ-00088, between January 2009 and August 2016,
24 Defendants utilized at least 72 bank accounts to redirect and sequester more than
25 \$50 million of the investment funds fraudulently acquired from more than 100
26

27 ¹ Pending resolution of his investigation, Plaintiff presently intends to dismiss unserved
28 defendant Zheng Chang without prejudice.

² Case Nos. 17-cv-03887, 01031, 01034, 01029, 01030, 01033, and 03890.

1 foreign Chinese nationals, including accounts at East West Bank, CTBC Bank,
2 Bank of America, JPMorgan Chase Bank, Wells Fargo Bank, HSBC Bank, and Far
3 East National Bank. According to the FBI, unlocated defendants Tat Chan and
4 Fang Zeng were the signatories on most of the CIIF-related bank accounts, and
5 “much of those funds originated from accounts in China and Hong Kong.” (*Id.*,
6 pp. 8-9, ¶ 21)

7 In a criminal case pending in this district, Case No. 8:17-cr-00153-CJC, *USA*
8 *v. Chan*, defendant Victoria Chan has pleaded guilty to Conspiracy to Commit
9 Visa Fraud (18 U.S.C. § 371), Conspiracy to Commit Wire Fraud (18 U.S.C. §
10 1349, and International Promotional Money Laundering 918 U.S.C. §
11 1956(a)(2)(A)(2) (Docket No. 25)

12 In this action, plaintiff avers that he is a foreign national from the People’s
13 Republic of China who is one of the victims of a \$50,000,000 securities fraud
14 scheme in which the Defendants, primarily based in California, preyed on Chinese
15 nationals for whom English was not their first language who wished to emigrate
16 from China and provide their families with the opportunities in the United States
17 through the EB-5 program. (Complaint in this action (Doc 1)(“Complaint”), p. 2, ¶
18 3). Defendants absconded with \$560,000 of Plaintiff’s funds by fraudulently
19 inducing him to invest in a bogus enterprise created and maintained by Defendants,
20 which Defendants misrepresented was a real, valid, and compliant EB-5 project.
21 (Declaration of Plaintiff Anqin Wang, Document 31-2, ¶ 3; Complaint, p. 2-3, ¶ 4)

22 Defendants used Plaintiff’s funds to purchase for themselves multiple real
23 properties for their own personal use, luxury cars, and other accoutrements of a life
24 of luxury. (*Id.*, ¶ 6) None of Plaintiff’s funds were ever used to develop the EB-5
25 project, and no jobs were created with Plaintiff’s funds to date. (*Id.*, ¶ 7)

26 Defendants Victoria Chan and Tat Chan misrepresented that Plaintiff’s
27 investment would be in a targeted employment area (TEA) and that the investment
28 capital was being invested in a project that would be accepted by USCIS. (*Id.*, p. 7,

1 ¶ 16) Defendants further materially misrepresented to Plaintiff, among other
2 things, that: (i) Plaintiff's investment funds and fees would be refunded in the
3 unlikely event the I-526 petition was denied; (ii) Plaintiff's investment funds
4 would be held in escrow until the I-526 petitions were approved; (iii) upon
5 approval of Plaintiffs' petition, the investment funds would be exclusively used in
6 the project associated with the new commercial enterprise which would create the
7 necessary employment for EB-5 purposes; and (iv) what CIIF was doing was
8 permissible under United States law and policy. (*Id.*, ¶ 17)

9 Defendants forged Plaintiff's signatures on U.S. Immigration forms to
10 further perpetrate their fraud, keep the Plaintiff's immigration case ongoing, and
11 maintain Plaintiff's ignorance. (*Id.*, ¶ 20) All Defendants shared in the financial
12 gain of the misrepresentations. (*Id.*, pp. 7-8, ¶¶ 17-18)

13 **C. Substitute Service on Unlocated Defendants**

14 Plaintiff's counsel retained the licensed investigation firm of Larsen AVR
15 Group, Inc. located in Pasadena, California to locate and serve the defendants in
16 this action. Ms. Lynda Larsen has submitted a concurrently filed declaration
17 which sets forth her efforts in this regard and how, on January 18, 2018, her firm
18 personally served the summons and complaint in this action on defendant Victoria
19 Chan individually, on behalf of the entity defendants of which Ms. Chan is agent
20 for service of process, *and as an agent for the unlocated defendants*. Declaration
21 of Lynda Larsen ("Larsen Decl."), ¶ 2 and Exhibit A. The Declaration sets forth
22 the details of Larsen AVR Group, Inc.'s attempts to find the unlocated defendants
23 on January 18, 2018. *Id.* ¶¶ 2-13.

24 Moreover, defendant Chan is an attorney who has represented many of the
25 players in the fraud scheme. She would likely recognize she should forward
26 service papers that are delivered to her on behalf of the unlocated defendants.
27 Thus, the unlocated defendants were subserved with the complaint in this action by
28 Ms. Larsen's firm leaving a copy of the summons and complaint at their mailing

1 address with the person apparently in charge, and thereafter mailing the same to
2 that address. Cal. Civ. Proc. Code § 415.20. That service became effective ten
3 days later on January 28, 2018 (*Id.*) which required the defendants to respond to
4 the complaint on or before February 20, 2018. The defendants have not done so,
5 and their default should therefore be entered.

6 **D. Legal Standard for Service by Publication**

7 In the event this Court for some reason declines to enter the default of the
8 unlocated defendants, Plaintiff respectfully requests an order permitting service by
9 publication under California law. Service of process upon an individual defendant
10 may be effected pursuant to the law of the state where the district court is located.
11 *See* Fed.R.Civ.P. 4(e)(1). Under Cal.Code Civ. Proc. § 415.50(a), service by
12 publication is permissible when “it appears to the satisfaction of the court . . . that
13 the party to be served cannot with reasonable diligence be served in another
14 manner specified in this article and that ... “[a] cause of action exists against the
15 party upon whom service is to be made or he or she is necessary or proper party to
16 the action.” Such service may be effected if the defendant cannot with “reasonable
17 diligence” be served by another available method. Cal.Code Civ. Proc. § 415.50(e).

18 In making this determination, a court must examine the affidavit required by
19 the statute to see whether the Plaintiff took steps that “a reasonable person who
20 truly desired to give notice would have taken.” *Donel, Inc. v. Badalian*, 87
21 Cal.App.3d 327, 333 (1978). Reasonable diligence denotes a “thorough systematic
22 investigation and inquiry conducted in good faith by the party or his agent or
23 attorney.” *Watts v. Crawford*, 10 Cal.4th 743, 749 n.5 (1995).

24 In *Aevoe Corp. v. Pace*, No. C 11–3215 MEJ, 2011 WL 3904133, at *1
25 (N.D.Cal. Sept. 6, 2011), the court found that service by publication was
26 appropriate where Plaintiff (1) hired a private investigator to track down defendant,
27 (2) attempted personal service and service by mail to defendant’s two addresses,
28 (3) emailed and called defendant, which did not lead to a response.

1 Moreover, when there is evidence that a defendant is evading service, courts
2 are more willing to allow alternative methods such as service by publication. *See*
3 *Miller v. Superior Court*, 195 Cal. App. 2d 779, 786 (1961) (“A person who
4 deliberately conceals himself to evade service of process is scarcely in a position to
5 complain over much of unfairness in substitutive methods of notification [namely
6 service by publication] enacted by the Legislature to cope with such situations”).

7 **E. Plaintiff Should be Permitted to Serve his Complaint by Publication**
8 **on the Unlocated Defendants**

9 Investigator Larsen’s efforts to locate the unlocated defendants were
10 thorough and in good faith, yet unsuccessful. Given the pending criminal and civil
11 proceedings brought by the Government, it is reasonable to conclude that the
12 unlocated defendants are evading service.

13 Plaintiff therefore respectfully requests permission to serve defendants by
14 publication.

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16
17 DATED: March 20, 2018

18 T.D. Knowles & Associates, PLLC
19 LAW OFFICES JACK G. CAIRL, APC

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21 By: /s/ Jack G. Cairl
22 Jack G. Cairl
23 Attorneys for Plaintiffs
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