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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

A REAL PROPERTY LOCATED IN LOS
ANGELES,

Defendant,

VYACHESLAV ASTAKHOV,

Appellant.

No. 13-56800

D.C. No. 2:12-cv-01118-MMM-
RZ

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Margaret M. Morrow, District Judge, Presiding

Submitted December 10, 2015**
Pasadena, California

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: GOULD and BERZON, Circuit Judges, and ZOUHARY, *** District Judge.

Vyacheslav Astakhov appeals the district court's orders entering default and default judgment, forfeiting to the United States real estate that was the proceeds of bankruptcy fraud. We have jurisdiction under 28 U.S.C. § 1291 and affirm.

1. The court properly granted the Government's application for default before granting default judgment. In making each decision, the court considered Astakhov's relevant briefs.

2. Because his Opening Brief effectively ignores the district court's finding that Astakhov's culpable conduct led to the default, Astakhov waived any challenge to the finding. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999). In any event, the culpable-conduct finding is not clearly erroneous. *See Alan Neuman Prods., Inc. v. Albright*, 862 F.2d 1388, 1391 (9th Cir. 1988). The court did not abuse its discretion in denying relief from default or default judgment on that ground alone. *See United States v. Signed Pers. Check No. 730 of Yubran S. Mesle*, 615 F.3d 1085, 1091 (9th Cir. 2010).

*** The Honorable Jack Zouhary, United States District Judge for the Northern District of Ohio, sitting by designation.

3. The Request for Judicial Notice is denied as moot.

AFFIRMED.