

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	:	
	:	
<b>Plaintiff,</b>	:	<b>2:13-cr-183(1)</b>
	:	<b>JUDGE WATSON</b>
<b>v.</b>	:	
	:	
<b>AMER AHMAD,</b>	:	
	:	
<b>Defendant.</b>	:	

**UNITED STATES' MOTION FOR ENTRY OF A  
FIFTH PRELIMINARY ORDER OF FORFEITURE**

The United States, by and through the undersigned Assistant United States Attorney for the Southern District of Ohio, hereby moves this Court, pursuant to Fed. R. Crim. P. 32.2(e) and 21 U.S.C. § 853(p), to issue a Fifth Preliminary Order to forfeit property of Defendant Amer Ahmad, specifically the contents of Defendant Amer Ahmad's Inmate Trust Account, Register No. 71545-061, except \$300.00, as substitute property to partially satisfy the money judgment of forfeiture entered against Defendant Amer Ahmad in the amount of \$3,212,877.91. This motion is supported by the record in this case and the following Memorandum in Support.

Respectfully submitted,

BENJAMIN C. GLASSMAN  
United States Attorney

s/Douglas W. Squires  
\_\_\_\_\_  
DOUGLAS W. SQUIRES (0073524)  
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**MEMORANDUM IN SUPPORT**

**I. Background**

On February 17, 2015, the Court entered a Final Order of Forfeiture Nunc Pro Tunc (Doc. 91) in this case ordering Defendant Amer Ahmad to forfeit \$3,212,877.91 in the form of a forfeiture money judgment. The Final Order of Forfeiture Nunc Pro Tunc included a substitute asset clause and identified previously located substitute assets totaling \$134,169.44 in United States Currency in partial satisfaction of the forfeiture money judgment.

Following the entry of the Final Order of Forfeiture Nunc Pro Tunc, additional assets belonging to Defendant Amer Ahmad were located and on June 18, 2015, the Court entered a Third Preliminary Order of Forfeiture (Doc. 96) ordering Defendant Amer Ahmad to forfeit to the United States \$3,029.78 in United States Currency which had been seized from the defendant's City of Chicago 457 Deferred Compensation Plan as a substitute asset in partial satisfaction of the forfeiture money judgment. On September 15, 2015, a Second Final Order of Forfeiture (Doc. 102) was entered forfeiting the \$3,029.78 in United State Currency to the United States.

Following entry of the Second Final Order, the United States determined that Defendant Amer Ahmad held an account with E\*Trade Financial containing approximately \$220.00. On January 5, 2016, the Court entered a Fourth Preliminary Order of Forfeiture (Doc. 108) ordering Defendant Amer Ahmad to forfeit to the United States \$220.98 in United States Currency as a substitute asset in partial satisfaction of the forfeiture money judgment. On March 9, 2016, a Third Final Order of Forfeiture (Doc. 112) was entered forfeiting the \$220.98 in United States Currency

to the United States. As such, the current balance of the forfeiture money judgment owed by Defendant Amer Ahmad is \$3,075,457.71.<sup>1</sup>

## II. Law and Argument

Rule 32.2(e) of the Federal Rules of Criminal Procedure authorizes the entry of an order for forfeiture of substitute assets as follows:

### **(e) Subsequently Located Property; Substitute Property.**

**(1) In General.** On the government's motion, the court may at any time enter an order of forfeiture or amend an existing order of forfeiture to include property that:

- (A) is subject to forfeiture under an existing order of forfeiture but was located and identified after that order was entered; or
- (B) is substitute property that qualifies for forfeiture under an applicable statute.

**(2) Procedure.** If the government shows that the property is subject to forfeiture under Rule 32.2(e)(1), the court must;

- (A) enter an order forfeiting that property, or amend an existing preliminary or final order to include it; and
- (B) if a third party files a petition claiming an interest in the property, conduct an ancillary proceeding under Rule 32.2(c).

**(3) Jury Trial Limited.** There is no right to a jury trial under Rule 32.2(e).

The applicable statute in these proceedings, 21 U.S.C. § 853(p), provides as follows:

### **(p) Forfeiture of substitute property**

#### **(1) In general**

Paragraph (2) of this subsection shall apply, if any property described in subsection (a), as a result of any act or omission of the defendant –

- (A) cannot be located upon the exercise of due diligence;
- (B) has been transferred or sold to, or deposited with, a third party;
- (C) has been placed beyond the jurisdiction of the court;
- (D) has been substantially diminished in value, or
- (E) has been commingled with other property which cannot be divided without difficulty.

#### **(2) Substitute property**

In any case described in any of subparagraphs (A) through (E) of paragraph (1), the court shall order the forfeiture of any other property of the defendant, up

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<sup>1</sup> Defendant Amer Amhad's co-conspirators Douglas E. Hampton, Mohammad Noure Alo, and Jopseph M. Chiavaroli are jointly and severally liable for a portion of the forfeiture money judgment. To date, the United States has forfeited and applied a total of \$1,185,493.71 in United States Currency in partial satisfaction of the forfeiture money judgment.

to the value of any property described in subparagraphs (A) through (E) of paragraph (1), as applicable.

**(3) Return of property to jurisdiction.**

In the case of property described in paragraph (1)(C), the court may, in addition to any other action authorized by this subsection, order the defendant to return the property to the jurisdiction of the court so that the property may be seized and forfeited.

The United States may move the court at any time to enter an order of forfeiture or amend an existing order of forfeiture to include property that is substitute property that qualifies for forfeiture under an applicable statute. Fed. R. Crim. P. 32.2(e)(1)(B). If the United States shows that the substitute asset is subject to forfeiture under Rule 32.2(e)(1), the forfeiture of the substitute asset is mandatory. Fed. R. Crim. P. 32.2 (e)(2)(A).

On December 23, 2013, a Plea Agreement (Doc. 29) was filed in which Defendant Amer Ahmad agreed to the entry of a forfeiture money judgment in the amount of \$3,212,877.91 representing the total revenue received in commissions as criminally derived proceeds. Defendant Amer Ahmad further agreed to provide all of his financial information to the United States and the Probation Office and, if requested, to participate in a debtor's examination at any time. Defendant Amer Ahmad acknowledged that he understood that if the Court imposed a schedule of payments, said schedule would merely be a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment.

Through its investigation, in early July of 2017, the United States Marshals Service ("USMS") determined that the balance in Defendant Amer Ahmad's Inmate Trust Account, Register No. 71545-061, exceeded \$7,000.00. *See* Exhibit A, Declaration of Brian Baptist. On August 15, 2017, the United States, through USMS Senior Inspector Brian Babtist, sent a letter to the Warden of Federal Correctional Institute – Terminal Island advising the Warden of the outstanding balance of the forfeiture money judgment against Defendant Amer Ahmad and the

United States' intent to seek an Order of Forfeiture authorizing the Bureau of Prisons ("BOP") to surrender the monies from Defendant Amer Ahmad's trust account in partial satisfaction of the forfeiture money judgment. *Id.* On August 22, 2017, the United States received notice from the BOP advising that on August 21<sup>st</sup>, pursuant to BOP policy, the Warden encumbered Defendant Amer Ahmad's Inmate Trust Account. The balance in the account on that date was \$8,024.34. *Id.*

To date Defendant Amer Ahmad has not provided the United States with any financial information which would assist in the location of property which constitutes, or is derived from, proceeds obtained by Defendant Amer Ahmad, directly or indirectly, as a result of the violations to which he has pled guilty. *Id.* Other than the previously forfeited property, no other assets of Defendant Amer Ahmad have been located which might be forfeited to satisfy the forfeiture money judgment nor has the defendant made any payments toward the forfeiture money judgment. *Id.*

Therefore, the United States submits that it has met its burden under Fed. R. Crim. P. 32.2(e) and 21 U.S.C. § 853(p) and an Order of Forfeiture should be entered forfeiting the subsequently located subject property, namely the contents of Defendant Amer Ahmad's Inmate Trust Account, Register No. 71545-061, except for \$300.00, as a substitute asset to partially satisfy Defendant Amer Ahmad's forfeiture money judgment.

Upon the issuance of an Order of Forfeiture, the United States will provide written notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding in accordance with Fed. R. Crim. P. 32.2(b)(6). In addition the United States will publish notice of this Order and notice of its intent to dispose of the subject property in such manner as the Attorney General may direct, pursuant to 21 U.S.C. § 853(n).

**III. Conclusion**

Therefore, the United States respectfully requests that the Court enter a Fifth Preliminary Order of Forfeiture forfeiting to the United States of America the subject property described herein, namely the contents of Defendant Amer Ahmad's Inmate Trust Account, Register No. 71545-061, except for \$300.00, as a substitute asset to partially satisfy the \$3,212,877.91 forfeiture money judgment.

Respectfully submitted,

BENJAMIN C. GLASSMAN  
United States Attorney

s/Douglas W. Squires  
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Assistant United States Attorney  
Attorney for Plaintiff  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 29th day of August 2017, the foregoing Motion to Amend the Preliminary Order of Forfeiture was served electronically on all parties of record using the Court's CM/ECF system.

s/Douglas W. Squires  
DOUGLAS W. SQUIRES (0073524)  
Assistant United States Attorney

**DECLARATION IN SUPPORT OF THE  
MOTION TO FORFEIT SUBSTITUTE ASSETS**

I, Brian Babbist, make the following declaration in support of the United States' Motion for Entry of a Fifth Preliminary Order of Forfeiture:

1. I am a Senior Inspector with the United States Marshals Service ("USMS") and have been employed with the USMS since July 2003. As a Senior Inspector I am responsible for pre-seizure planning, investigation, analysis, execution of court orders, and the collection of forfeiture money judgments. As part of my duties, I am responsible for identifying, locating, and seizing assets to satisfy forfeiture money judgments.
2. On February 17, 2015, the Court entered a Final Order of Forfeiture in *United States v. Amer Ahmad*, Criminal Case No. 2:13-cr-183(1), ordering Defendant Amer Ahmad to forfeit to the United States a forfeiture money judgment in the amount of \$3,212,877.91, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), which represents the total revenue received in commission as criminally derived proceeds. The Final Order of Forfeiture also provided for the forfeiture of substitute assets from the defendant up to the value of the forfeiture money judgment. It also identified substitute assets in the amount \$134,169.44 in United States Currency in partial satisfaction of the forfeiture money judgment.
3. On September 15, 2015, the Court entered a Second Final Order of Forfeiture forfeiting an additional \$3,029.78 in United States Currency in partial satisfaction of the forfeiture money judgment.
4. On March 9, 2016, the Court entered a Third Final Order of Forfeiture forfeiting an additional \$220.98 in United States currency in partial satisfaction of the forfeiture money judgment.
5. The current balance of the forfeiture money judgment owed by Defendant Amer Ahmad is \$3,075,457.71.
6. In July of 2017 I received information regarding the balance in the Bureau of Prisons Inmate Trust Account of Amer Ahmad, Register No. 71545-061. Upon reviewing the information available to me, I learned that the balance in Amer Ahmad's account was approximately \$7,213.90.
7. On or about August 15, 2017, I sent a letter to the Warden of Federal Correctional Institute ("FCI") – Terminal Island, on behalf of Assistant United States Attorney Douglas W. Squires, advising the Warden that a forfeiture money judgment in the amount of \$3,212,877.91 had been entered against Amer Ahmad. It also advised the Warden that the United States intended to seek forfeiture of the balance of Amer Ahmad's account in partial satisfaction of the outstanding balance of the money judgment. Finally, the letter requested that the Warden restrain Amer Ahmad's Inmate Trust Account up to the current balance of the forfeiture money judgment, such that no monies on deposit may be withdrawn from or

Exhibit A



transferred out of the account, in accordance with BOP policy, pending issuance of a Court Order.

8. On August 22, 2017, I received an email from BOP FCI – Terminal Island advising that on August 21, 2017, Warden Felicia Ponce issued a Notice of Encumbrance, pursuant to Program Statement 4500.11, Trust Fund/Deposit Fund Manual, for Amer Ahmad's Inmate Trust Account, Register No. 71545-061. The email further advised that as of August 21<sup>st</sup>, the account had been encumbered in the amount of \$8,024.34.
9. Although Amer Ahmad agreed in his December 23, 2013, Plea Agreement to assist the United States to identify the location of forfeitable assets, he has failed to provide any information to the United States. Amer Ahmad has also not made any payments toward the forfeiture money judgment.
10. To date, I have searched various databases and reviewed several sources of information available to me in an effort to locate and identify assets of Amer Ahmad. Despite due diligence, I have been unable to locate the proceeds Amer Ahmad acquired as a result of his illegal activity.
11. Based on the above information, your declarant believes that all of the contents of the Inmate Trust Account of Amer Ahmad, Register No. 71545-061, except for \$300.00, is subject to forfeiture to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) and 21 U.S.C. § 853(p), as a substitute asset to partially satisfy the balance of the \$3,212,877.91 forfeiture money judgment entered against Amer Ahmad.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 29<sup>th</sup> day of August 2017.



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BRIAN BABBIST  
Senior Inspector, United States Marshals Service