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United States of America

11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION
14

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 v.

18 RICHARD AYVAZIAN,
Aka "Richard Avazian" and
19 "Iuliia Zhadko," et al.

20 Defendants.
21
22
23

No. CR 20-00579-SVW-6

GOVERNMENT'S APPLICATION FOR
PRELIMINARY ORDERS OF
FORFEITURE PURSUANT TO PLEA
AGREEMENT AS TO DEFENDANT ARMAN
HAYRAPETIAN

Sentencing Hearing

Date: 9/20/21
Time: 11:00 a.m.
Courtroom: 10A

24
25 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

26 Plaintiff United States of America hereby applies for
27 issuance of a Preliminary Orders of Forfeiture ("POFs") lodged
28

1 contemporaneously herewith,¹ pursuant to Fed. R. Crim. P. 32.2(b)
2 and the Plea Agreement filed in this case, wherein defendant
3 ARMAN HAYRAPETYAN ("Hayrapetyan") has agreed to forfeit to the
4 United States of America all right, title, and interest in and
5 to all monies, properties, and/or assets of any kind, derived or
6 acquired as a result of the illegal activity to which defendant
7 has plead guilty. These assets the ("Forfeitable Property") are
8 as follows:

9 a. \$74,557.79 in bank funds seized from Bank of America
10 account number ending in 7695 held in the name of Allstate
11 Towing & Transport LLC;

12 b. \$65,990.43 in bank funds seized from Bank of America
13 account ending in 9700 held in the name of Runyan Tax Service
14 Inc.;

15 c. \$451,185.00 in U.S. Currency seized on November 5,
16 2020, in various areas and backyard of a Tarzana, California
17 residence;

18 d. One Santos De Cartier stainless steel wrist watch,
19 model 4183, serial number 163389YX;

20 e. One Audermars Piguet, Royal Oak 18 carat rose gold
21 wrist watch, model 26331, serial number J52335 seized on
22 November 5, 2020 in various areas and backyard of a Tarzana,
23 California residence;
24

25
26 ¹ The government has lodged a total of four POFs - one for each
27 of the three real properties described below and one for the
28 remaining assets. Individual POFs are required for each parcel
of real property because orders purporting to effect title to
multiple parcels of real property cannot be recorded.

1 f. One Rolex Datejust stainless steel wrist watch, model
2 126334, serial number 4U95Z313 seized on November 5, 2020 in
3 various areas and backyard of a Tarzana, California residence;

4 g. One Audemars Piguet, Royal Oak Offshore black ceramic
5 wrist watch, serial number K23313 seized on November 5, 2020 in
6 various areas and backyard of a Tarzana, California residence;

7 h. One Audemars Piguet Royal Oak Offshore black ceramic
8 wrist watch, serial number LU44845K seized on November 5, 2020
9 in various areas and backyard of a Tarzana, California
10 residence;

11 i. One Rolex Day-Date watch, serial number W44P7238
12 seized on October 20, 2020 at the Miami International Airport
13 from Richard Ayvazyan and Marietta Terabelian;

14 j. Sixty Gold Bullion Coins seized on November 5, 2020 in
15 various areas and backyard of a Tarzana, California residence;

16 k. One 14 carat yellow gold 24" neck chain seized on
17 October 20, 2020 at the Miami International Airport from Richard
18 Ayvazyan and Marietta Terabelian;

19 l. One Pair of 14 carat white gold earrings with diamond
20 stud seized on October 20, 2020 at the Miami International
21 Airport from Richard Ayvazyan and Marietta Terabelian;

22 m. The real property located at 4910 Topeka Drive,
23 Tarzana, California, APN: 2176-029-031, more particularly
24 described as:

25 DESCRIPTION: THE LAND REFERRED TO HEREIN IS SITUATED IN THE
26 COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS
27 DESCRIBED AS FOLLOWS:
28

1 PARCEL 1:

2 THOSE PORTIONS OF LOT 71 and 72 OF TRACT 2605, IN THE CITY
3 OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA,
4 AS PER MAP RECORDED IN BOOK 27 PAGE 55 ET SEQ. OF MAPS, AND
5 THAT PORTION OF PARCEL "A" OF PARCEL MAP L.A. NO. 2015 AS
6 PER MAP FILED IN BOOK 32 PAGE 19 OF PARCEL MAPS, IN THE
7 OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS
8 FOLLOWS:

9 BEGINNING AT A POINT IN THE CENTERLINE OF TOPEKA DRIVE, 40
10 FEET WIDE, AS SHOWN ON SAID MAP, DISTANT THEREON SOUTH 15°
11 10' 00" WEST 178.55 FEET FROM THE NORTHEASTERLY TERMINUS OF
12 THAT CERTAIN COURSE IN THE CENTERLINE OF TOPEKA DRIVE SHOWN
13 ON SAID MAP AS HAVING A BEARING OF NORTH 15° 10' 00" EAST
14 AND LENGTH OF 1055.19 FEET;

15 THENCE SOUTH 74° 50' 00" EAST 56.09 FEET TO THE BEGINNING
16 OF A TANGENT CURVE, CONCAVE TO THE NORTHWEST, HAVING A
17 RADIUS OF 129.86 FEET;

18 THENCE EASTERLY ALONG SAID CURVE 128.40 FEET; TO THE TRUE
19 POINT OF BEGINNING;

20 THENCE TANGENT TO SAID CURVE NORTH 48° 30' 50" EAST 147.14
21 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE
22 SOUTHEAST, HAVING A RADIUS OF 100.05 FEET;

23 THENCE EASTERLY ALONG SAID CURVE, 125.14 FEET, A RADIAL
24 LINE TO SAID POINT BEARS NORTH 30° 10' 46" EAST;

25 THENCE NORTH 10° 52' 46" EAST 45.32 FEET;

26 THENCE SOUTH 84° 29' 18" EAST 182.82 FEET;

1 THENCE SOUTH $04^{\circ} 13' 10''$ WEST 195.63 FEET TO A POINT IN A
2 CURVE CONCAVE WESTERLY HAVING A RADIUS OF 175.31 FEET; A
3 RADIAL LINE TO SAID POINT BEARS NORTH $62^{\circ} 22' 50''$ EAST;
4 THENCE CONTINUING EASTERLY AND SOUTHERLY ALONG SAID CURVE
5 THROUGH A CENTRAL ANGLE OF $50^{\circ} 06' 30''$ AN ARC DISTANCE OF
6 153.32 FEET;

7 THENCE TANGENT TO SAID CURVE SOUTH $22^{\circ} 29' 20''$ WEST 63.38
8 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE
9 NORTHWEST HAVING A RADIUS OF 375.00 FEET;

10 THENCE SOUTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL
11 ANGLE OF $13^{\circ} 52' 00''$ 90.76 FEET TO THE BEGINNING OF A
12 REVERSE CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF
13 161.89 FEET;

14 THENCE SOUTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL
15 ANGLE OF $17^{\circ} 46' 00''$ 50.20 FEET TO THE BEGINNING OF A
16 REVERSE CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF
17 75.69 FEET;

18 THENCE SOUTHWESTERLY AND WESTERLY ALONG SAID CURVE, THROUGH
19 A CENTRAL ANGLE OF $33^{\circ} 58' 30''$ 44.88 FEET TO A POINT OF
20 CUSP IN THE NORTHERLY LINE OF SAID PARCEL "A" SAID
21 NORTHERLY LINE BEING A CURVE CONCAVE SOUTHWESTERLY HAVING A
22 RADIUS OF 30.00'; A RADIAL LINE TO SAID POINT BEARS SOUTH
23 $38^{\circ} 26' 10''$ EAST;

24 THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE
25 $116^{\circ} 31' 20''$ AN ARC DISTANCE OF 61.01 FEET;

26 THENCE SOUTH $10^{\circ} 54' 50''$ EAST 92.71 FEET;

27 THENCE SOUTH $80^{\circ} 16' 17''$ WEST 20.00 FEET;

1 THENCE NORTH 31° 28' 33" WEST 120.33 FEET;
2 THENCE NORTH 22° 17' 48" WEST 20.00 FEET TO THE BEGINNING
3 OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 55.69
4 FEET;
5 THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL
6 ANGLE OF 49° 06' 52" AN ARC DISTANCE OF 47.74 FEET TO THE
7 BEGINNING OF A REVERSE CURVE CONCAVE SOUTHEASTERLY HAVING A
8 RADIUS OF 181.89 FEET;
9 THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL
10 ANGLE OF 17° 46' 00" AN ARC DISTANCE OF 56.40 FEET TO THE
11 BEGINNING OF A REVERSE CURVE CONCAVE NORTHWESTERLY HAVING A
12 RADIUS OF 355.00 FEET;
13 THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL
14 ANGLE OF 12° 45' 16" AN ARC DISTANCE OF 79.03 FEET;
15 THENCE NORTH 67° 12' 02" WEST 268.30 FEET;
16 THENCE NORTH 15° 10' 00" EAST 43.00 FEET;
17 THENCE NORTH 47° 02' 30" WEST 175.00 FEET TO THE TRUE POINT
18 OF BEGINNING.
19

20 PARCEL 2:

21 THE RIGHT OF INGRESS AND EGRESS FOR SAID PROPERTY OVER A
22 ROADWAY EASEMENT FROM TOPEKA DRIVE OVER THAT PORTION OF LOT
23 71, OF TRACT NO. 2605, IN THE CITY OF LOS ANGELES, COUNTY
24 OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN
25 BOOK 27, PAGE 55, ET SEQ., OF MAPS, IN THE OFFICE OF THE
26 COUNTY RECORDER OF SAID COUNTY, INCLUDED WITHIN A STRIP OF
27 LAND 30.00 FEET IN WITH, LYING 15.00 FEET ON EACH SIDE OF
28 THE FOLLOWING DESCRIBED CENTER LINE:

BEGINNING AT THE SOUTHWESTERLY CORNER OF THE LAND CONVEYED TO CIRELLA G. SMITH AND HUSBAND, BY DEED RECORDED JULY 8, 1943 AS INSTRUMENT NO. 118, IN BOOK 20132 PAGE 100, OFFICIAL RECORDS, SAID CORNER BEING DISTANT 261.45 FEET NORTHERLY FROM THE SOUTHWESTERLY CORNER OF LOT 71, SAID TRACT 2605; THENCE NORMAL TO THE EASTERLY LINE OF TOPEKA DRIVE, SOUTH 74° 50' 00" EAST 36.09 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 129.86 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE, 128.40 FEET; THENCE TANGENT TO SAID CURVE, NORTH 48° 30' 50" EAST 147.14 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 100.05 FEET; THENCE EASTERLY ALONG SAID CURVE, 144.70 FEET; THENCE TANGENT TO SAID CURVE, SOUTH 48° 37' 10" EAST, 161.06 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 175.31 FEET, THENCE SOUTHERLY ALONG SAID CURVE, 217.57 FEET; THENCE TANGENT TO SAID CURVE, SOUTH 22° 29' 20" WEST 42.15 FEET TO A POINT.

n. The real property located 834 Calle La Primavera, Glendale, California, APN: 5663-036-33, more particularly described as:

Parcel 1:

Lot 56 of Tract No. 45375, in the City of Glendale, County of Los Angeles, State of California, as per map recorded in Book 1128, Page(s) 55 to 63 inclusive of Maps, in the office of the County Recorder of said County.

1 Except therefrom all oil and minerals in, on and under said
2 land as reserved by Benjamin Dreyfus in deeds recorded in
3 Book 101, Pages 551 and in Book 107, Page 447 both of
4 Deeds, in said Office of the County Recorder.

5 Parcel 2:

6 Non-exclusive easements for access, ingress, egress,
7 encroachments, maintenance, repair, drainage, support and
8 other purposes, all as described in the Master Declaration
9 recorded March 7, 1989 as Instrument No. 1989-354873 and
10 any amendments thereto.

11 o. The real property located at 74203 Anastacia Lane,
12 Palm Desert, California, APN: 684-331-008, more particularly
13 described as:
14

15 Parcel 1:

16 Lot 56 of Tract No. 45375, in the City of Glendale, County
17 of Los Angeles, State of California, as per map recorded in
18 Book 1128, Page(s) 55 to 63 inclusive of Maps, in the
19 office of the County Recorder of said County.

20 Except therefrom all oil and minerals in, on and under said
21 land as reserved by Benjamin Dreyfus in deeds recorded in
22 Book 101, Pages 551 and in Book 107, Page 447 both of
23 Deeds, in said Office of the County Recorder.

24 Parcel 2:

25 Non-exclusive easements for access, ingress, egress,
26 encroachments, maintenance, repair, drainage, support and
27 other purposes, all as described in the Master Declaration
28

1 recorded March 7, 1989 as Instrument No. 1989-354873 and
2 any amendments thereto.

3 This application, which deals solely with the specific
4 property as to which forfeiture is sought (described in detail
5 above) is supported by defendant's guilty plea, the factual
6 basis stated during defendant's plea proceeding, and the matters
7 set forth in the accompanying Memorandum of Points and
8 Authorities.

9 DATED: September 1, 2021

Respectfully submitted,

10 TRACY L. WILKISON
11 Acting United States Attorney

12 SCOTT M. GARRINGER
13 Assistant United States Attorney
Chief, Criminal Division

14 /s/Brent A. Whittlesey
15 BRENT A. WHITTLESEY
16 Assistant United States Attorney
Asset Forfeiture Section

17 Attorneys for Plaintiff
18 UNITED STATES OF AMERICA
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendant ARMAN HAYRAPETYAN entered a plea of guilty to Count Twenty-six of the First Superseding Indictment in this case, charging him, with a violation of 18 U.S.C. § 1956(h) (conspiracy to commit money laundering). Defendant received notice in the First Superseding Indictment of the government's intent to seek forfeiture in the event of his conviction on Count 26. The requested entry of the POFs are supported by defendant's guilty plea because the Forfeitable Property constitutes or is traceable to proceeds of defendant's illegal activities in violation of 18 U.S.C. § 1956 (h), and is therefore subject to forfeiture pursuant to 18 U.S.C. § 982. The forfeiture of defendant's interest in the Forfeitable Property, if any, shall be final upon the Court's entry of the proposed POFs, subject to Defendant's appeal of his conviction on Count Twenty-six. Fed. R. Crim. P. 32.2(b)(4)(A).

Pursuant to Rule 32.2(b), the government now applies for the entry of the Preliminary Order of Forfeiture of the Forfeitable Property (the proposed order is lodged contemporaneously herewith). The government also requests that the forfeiture of the Forfeitable Property be stated orally at defendant's sentencing and set forth in defendant's Judgment and Commitment Order.

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1 **II. ARGUMENT**

2 **A. The Nexus Between Defendant's Crime and the**
3 **Forfeitable Property Has Been Established by the Plea Agreement**

4 Rule 32.2 of the Federal Rules of Criminal Procedure
5 provides, in pertinent part:

6 As soon as practicable after entering a guilty verdict or
7 accepting a plea of guilty or nolo contendere on any count in an
8 indictment or information with regard to which criminal
9 forfeiture is sought, the court must determine whether the
10 government has established the requisite nexus between the
11 property and the offense. . . . The court's determination may be
12 based on . . . any written plea agreement

13 Fed. R. Crim. P. 32.2(b)(1). The Advisory Committee Notes for
14 this provision explain that for the preliminary order of
15 forfeiture, the court must determine "if the property was
16 subject to forfeiture under the applicable statute, e.g.,
17 whether the property represented the proceeds of the offense . .
18 . ." Advisory Committee Notes to Rule 32.2, subdivision (a)
19 (2000 Adoption). The standard of proof regarding the
20 forfeitability of property in a criminal case is preponderance
21 of the evidence. See United States v. Najjar, 300 F.3d 466,
22 485-86 (4th Cir. 2002); United States v. Shryock, 342 F.3d 948,
23 991 (9th Cir. 2003) (following Najjar); United States v.
24 DeFries, 129 F.3d 1293, 1312 (D.C. Cir. 1997); United States v.
25 Hernandez-Escarsega, 886 F.2d 1560, 1576-77 (9th Cir. 1989)
26 (interpreting language in 21 U.S.C. § 853); United States v.
27 Bieri, 21 F.3d 819 (8th Cir. 1994) (§ 853).

1 Thus, the only question before the Court in connection with
2 the requested entry of the proposed Preliminary Order is whether
3 the evidence before the Court is enough to establish by a
4 preponderance of the evidence that there is a nexus between the
5 specific property to be forfeited, and the offenses to which
6 defendant pled guilty. See Rule 32.2(b)(1).

7 The existence or extent of third-party interests in the
8 specific property will be determined after the entry of the
9 preliminary order. See United States v. Lazarenko, 476
10 F.3d 642, 648 (9th Cir. 2007) ("Upon a finding that the property
11 involved is subject to forfeiture, a court must promptly enter a
12 preliminary order of forfeiture without regard to a third
13 party's interests in the property."). The preliminary order
14 should be entered promptly in order to avoid unnecessary delay
15 in the forfeiture process and resolve potential third party
16 rights. United States v. Yeje-Cabrera, 430 F.3d 1, 15 (1st Cir.
17 2005). The defendant need not be present when the preliminary
18 order is entered. United States v. Segal, 495 F.3d 826, 837-38
19 (7th Cir. 2007).

20 The government is not required to establish the defendant's
21 ownership of the property either to seize it or to obtain a
22 preliminary order of forfeiture, and third parties are
23 prohibited from intervening in the criminal case, and cannot
24 complain that they have to wait for the ancillary proceeding to
25 assert their rights. Almeida v. United States, 459 F.3d 377,
26 381 (2d Cir. 2006); 18 U.S.C. § 1963(i). As explained in the
27 Advisory Committee Notes to Rule 32.2 (2000), the Rule was
28 revised with the intent to eliminate confusion over whether the

1 extent of the defendant's ownership interest should be
2 determined by the finder of fact. The new rule clarified that
3 the only question upon conviction or a guilty plea is whether
4 there is a nexus between the violation of which the defendant
5 has been convicted (or to which he has pled) and the property
6 sought - if there is, the court should enter an order forfeiting
7 "whatever interest a defendant may have in the property without
8 having to determine exactly what that interest is."² A
9 defendant cannot object to the entry of a preliminary order on
10 the ground that the property at issue does not belong to him.
11 United States v. Schlesinger, 396 F. Supp. 2d 267, 273 (E.D.N.Y.
12 2005).

13 Here, all the proof that is necessary is contained in the
14 defendant's written plea agreement.³ Defendant pled guilty to
15 Count Twenty-six of the First Superseding Indictment.
16 Therefore, the requirements of Rule 32.2(b) have been met and
17 the proposed Preliminary Orders should be entered.
18
19

20 ² Criminal forfeiture is part of the defendant's sentence,
21 so it is available only if the defendant is convicted of the
22 underlying substantive offense. Lazarenko, supra. If the
23 defendant is convicted, his interest in the property must be
24 forfeited regardless of what that interest is, so it is not
25 necessary to determine the extent of the interest. The only
26 issues left to be determined concerning ownership are those of
27 non-defendant third parties, whose interests are determined in
28 the ancillary process. Only after that process is complete does
the government obtain a Final Order of Forfeiture.

26 ³ The defendant's admissions are more than sufficient to
27 establish forfeitability, but the Court is not required to find
28 a factual basis for the defendant's agreement to criminal
forfeiture. See United States v. Ken Int'l Co., Ltd., 113 F.3d
1243, 1997 WL 229114, at *3 (9th Cir. 1997).

1 **B. The Mechanics of the Criminal Forfeiture**

2 The Preliminary Order of Forfeiture becomes final as to the
3 defendant at the time of sentencing (or before sentencing, if
4 defendant consents). Rule 32.2(b)(3). After entry of the
5 preliminary order, the second phase of the forfeiture
6 proceedings may begin, to determine whether any third party
7 rights may exist in the specific property to be forfeited. Fed.
8 R. Crim. P. 32.2(c)(1).

9 Accordingly, the government respectfully requests that the
10 Court enter the proposed Preliminary Orders of Forfeiture lodged
11 contemporaneously herewith, authorizing the government to seize
12 the property subject to forfeiture (to the extent it has not
13 already done so) and to commence proceedings governing
14 third-party rights. Fed. R. Crim. P. 32.2(b)(3). The government
15 will publish notice generally. Following such notification and
16 completion of any necessary ancillary proceedings, the
17 government will submit, as appropriate, a final orders of
18 forfeiture pursuant to Fed. R. Crim. P. 32.2(c).

19 **III. FORFEITURE MUST BE PRONOUNCED AT SENTENCING**

20 At sentencing, pursuant to Rule 32.2(b)(3) of the Federal
21 Rules of Criminal Procedure, the "order of forfeiture becomes
22 final as to the defendant and shall be made a part of the
23 sentence and included in the judgment."

24 The Court must pronounce the forfeiture conditions orally
25 as part of the sentence imposed on the defendant, and must
26 include the forfeiture in the judgment and commitment order.
27 See United States v. Gaviria, 116 F.3d 1498, 1530 (D.C. Cir.
28 1997) (forfeiture portion of the defendant's sentence must be

announced in his presence pursuant to Fed. R. Crim. P. 43(a)).
The government recommends the following language be read to the
defendant and modified as necessary for inclusion in the
judgment and commitment order at the time of his sentencing:

Pursuant to 21 U.S.C. § 853 and Count Twenty-six of
the First Superseding Indictment, defendant ARMAN
HAYRAPETYAN has forfeited all of his right, title, and
interest in the specific property more particularly
described in the Preliminary Orders of Forfeiture
entered on [date].

IV. CONCLUSION

For the foregoing reasons, the government respectfully
requests that the Court forthwith enter the proposed Preliminary
Orders of Forfeiture lodged herewith.

DATED: _September 1, 2021

Respectfully submitted
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SCOTT M. GARRINGER
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Chief, Criminal Division

/s/Brent A. Whittlesey
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