IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

CARL DELANO TORJAGBO,
A/K/A KARL LUCIUS DELANO

Criminal Action No.

1:22-cr-00171-MLB-RDC

UNITED STATES' MOTION FOR INTERLOCUTORY SALE

The United States of America, by Ryan K. Buchanan, United States Attorney, and Radka T. Nations, Assistant United States Attorney, for the Northern District of Georgia, hereby move this Court pursuant to Rule 32.2(b)(7) of the Federal Rules of Criminal Procedure for an order authorizing the immediate sale of each of the following pieces of real property which are listed in the forfeiture provision of the Criminal Indictment:

a. Real property located at 5114 Greythorne Lane, Marietta, Georgia 30068 and all buildings, appurtenances, improvements and attachments thereon;
b. Real property located at 101 Holt Drive, Acworth, Georgia 30101 and all buildings, appurtenances, improvements and attachments thereon; and,
c. Tract 4 Fiber Drive, Cartersville, Georgia 30120 and all buildings, appurtenances, improvements and attachments thereon,

(collectively, "Subject Real Properties"). In support of this motion, the Government shows the Court the following:

1. Relevant Factual and Procedural Background

On May 10, 2022, a Grand Jury, sitting in the Northern District of Georgia, returned a seven-count Criminal Indictment against the Defendant for one count of bank fraud and multiple counts of money laundering. (Doc. 1.) The Indictment alleged that beginning in or about January 2021 and continuing through at least March 2021, the Defendant submitted false and fraudulent information to certain financial institutions in order to obtain over $9 million in loan proceeds under the Paycheck Protection Program. The Indictment included a forfeiture provision that notified the Defendant that, upon conviction, the government would seek to forfeit property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of bank fraud and property, real or personal, involved in the money laundering offenses, and all property traceable to such money laundering offenses. The Indictment listed each of the Subject Real Properties as property that the government alleged was subject to forfeiture. The Defendant, alone, owns each of the real properties either in his own name, in the name of his alias, Karl Lucius Delano or in the name of an entity solely owned and controlled by him, FlyingJack Freight & Logistics LLC.

The Defendant was ordered detained pending trial on May 12, 2022. (Doc. 11.) Since that time, the Subject Real Properties have been vacant and/or have not been maintained and are rapidly deteriorating. Moreover, public records reflect that property taxes have not been paid on 5114 Greythorne Lane since 2022 and are approximately $38,000 in arrears. Accordingly, the Government seeks the Court's approval to immediately sell each of the Subject Real Properties and to hold the net proceeds of such sales *in lieu* of the Subject Real Properties pending resolution of this matter.

2. Argument and Citation of Authority

Federal Rule of Criminal Procedure 32.2(b)(7) authorizes a district court, at any time before the entry of a final order of forfeiture, to permit the interlocutory sale of property that is alleged to be forfeitable in accordance with Rule G(7) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions (hereinafter, "Supplemental Rules"). Supplemental Rules G(7)(a)-(b) authorizes a court to enter any order to preserve property subject to a pending forfeiture action that is not in the government's possession if:

> (A) the property is perishable or at risk of deterioration, decay, or injury by being detained in custody pending the action;
>
> (B) the expense of keeping the property is excessive or is disproportionate to its fair market value;
>
> (C) the property is subject to a mortgage or to taxes on which the owner is in default; or
>
> (D) the court finds other good cause.

(Supp. R. G(7)(b)). The proceeds of an interlocutory sale "are a substitute res subject to forfeiture in place of the property that was sold" and "must be held in an interest-bearing account maintained by the United States pending conclusion of the forfeiture action." Supp. R. G(7)(b)(iv). If, at the conclusion of a case, the court orders the forfeiture of the sale proceeds, the proceeds are disposed of as provided by law. Supp. R. G(7)(c).

Here, interlocutory sale of each of the Subject Real Properties is warranted because the properties are at risk of deterioration or decay. Specifically, the Subject Real Properties have a total fair market value of over $1.5 million. Since indictment, however, the Defendant has been incarcerated. Accordingly, the properties have not been maintained, leading to the potential risk that the properties will deteriorate and negatively affect the fair market values. Indeed, at least as to the 5114 Greythorne Lane property, the government has been notified that the property has physically deteriorated and become an eyesore in the neighborhood. Moreover, the property taxes have not been paid on 5114 Greythorne Lane for almost two years, which places the property at risk of becoming encumbered. The sale of each of the real properties, therefore, would allow the preservation of funds for disposition at the conclusion of this matter.

Therefore, there is good cause under Federal Rule of Criminal Procedure 32.2(b)(7) and Supplemental Rule G(7) to sell each of the Subject Real Properties prior to the entry of a final order of forfeiture.

The Government contacted counsel for Defendant prior to filing this motion, but has not received a response as to whether the Defendant opposes or consents to the motion.

Conclusion

For all the foregoing reasons, the Government respectfully requests that the Court grant this motion.

Respectfully submitted,

RYAN K. BUCHANAN
United States Attorney

/S/ RADKA T. NATIONS
Assistant United States Attorney
Georgia Bar No. 618248
Radka.Nations2@usdoj.gov