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

MOTION FOR PRELIMINARY ORDER OF FORFEITURE

The United States of America, by Theodore S. Hertzberg, United States Attorney, and Kelly K. Connors, Assistant United States Attorney, for the Northern District of Georgia, respectfully moves the Court, pursuant to Federal Rule of Criminal Procedure 32.2(b), for a preliminary order of forfeiture against the Defendant, Carl Delano Torjagbo, also known as Karl Lucius Delano ("Defendant"), following a jury verdict of guilty. In support, the government shows the Court the following:

1. Relevant Procedural History

On July 1, 2025, a grand jury, sitting in the Northern District of Georgia, returned a ten-count third superseding indictment, charging Defendant Torjagbo with one count of bank fraud in violation of 18 U.S.C. § 1344 (Count One), two counts of wire fraud in violation of 18 U.S.C. § 1343 (Counts Two through Three), three counts of concealment money laundering in violation of 18 U.S.C. § 1956(a)(1)(B)(i) (Counts Four through Six), and four counts of transactional money laundering in violation of 18 U.S.C. § 1957 (Counts Seven through Ten) based on a Paycheck Protection Program ("PPP") loan fraud scheme and tax fraud scheme. Specifically, the government alleged in Count One that Defendant Torjagbo defrauded Chase Bank when he signed and submitted to Chase Bank a fraudulent PPP loan application on behalf of his fake company, Kremkov Industries. (Doc. 198, ¶ 13.) The government alleged in Counts Two through Three that Defendant Torjagbo committed wire fraud when he electronically filed two fraudulent U.S. individual income tax returns for tax year 2020, claiming substantial earnings and withholdings related to Kremkov Industries. (*Id.*, ¶ 18.) The government lastly alleged in Counts Four through Ten that Defendant Torjagbo laundered the proceeds of the bank fraud scheme and wire fraud scheme through various monetary transactions, including purchases of real property and vehicles. (*Id.*, ¶¶ 35-37.)

The third superseding indictment included a forfeiture provision, notifying Defendant Torjagbo that, upon conviction, the United States would seek to forfeit all property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of the bank fraud offense, all property, real or personal, constituting, or derived from, proceeds traceable to the wire fraud offenses and any property, real or personal, involved in any money laundering offenses, or any property traceable to such property. The forfeiture provision further identified the property below as subject to forfeiture upon conviction of the charged offenses:

FUNDS:

a. Approximately $1,141.89 in funds seized from PNC Bank account ending 9499 held in the name of Kremkov Industries.

b. Approximately $1,750,018.12 in funds seized from PNC Bank account ending 9849 held in the name of Carl Torjagbo.

("Subject Funds").

VEHICLES:

a. 2022 BMW M850xi, Vehicle Identification Number: WBAGV8C06NCH96608.

b. 2021 Land Rover Range Rover Velar Sports Utility Vehicle, Vehicle Identification Number: SALYM2FU7MA302651.

c. 2014 Lamborghini Aventador, Vehicle Identification Number: ZHWUC1ZD3ELA02216,

("Subject Vehicles").

REAL PROPERTY:

a. 5114 Greythorne Lane, Marietta, Cobb County, Georgia 30068, and all buildings and appurtenances thereto.

b. 101 Holt Drive, Acworth, Cherokee County, Georgia 30101, and all buildings and appurtenances thereto.

c. Tract 4 Fiber Drive, Cartersville, Bartow County, Georgia 30120, and all buildings and appurtenances thereto,

("Subject Real Property").

(collectively, "Subject Property"). The forfeiture provision also notified Defendant Torjagbo that the Government would seek a forfeiture money judgment upon conviction.

The jury trial began on July 21, 2025, and, on July 25, 2025, the jury returned a verdict finding Defendant Torjagbo guilty on all counts. Defendant Torjagbo waived a jury determination of forfeiture as to the Subject Funds, Subject Vehicles, and Subject Real Property, consenting to this Court making such determination.

Because the evidence at trial showed that the requisite nexus exists between the Subject Property and the offenses of conviction, the government respectfully requests that the Court enter a preliminary order of forfeiture directing forfeiture of said property. The evidence at trial also demonstrated that Defendant Torjagbo obtained $6,366,240.76 in proceeds and property as a result of his offenses of conviction. Accordingly, the Government also asks the Court to set forth in the preliminary order of forfeiture a forfeiture money judgment in the amount of $6,366,240.76.

2. Argument and Citation of Authority

A. Legal Framework for the Entry of a Preliminary Order of Forfeiture

Pursuant to Rule 32.2(b)(1)(A) of the Federal Rules of Criminal Procedure, "[a]s soon as practical after a verdict or finding of guilty . . . on any count in an indictment or information regarding which criminal forfeiture is sought, the court must determine what property is subject to forfeiture under the applicable statute." If the government establishes the "requisite nexus" between property that the government seeks to forfeit and an offense of conviction, the Court "must promptly enter a preliminary order of forfeiture" that directs the forfeiture of such property, "without regard to any third party's interest in the property." *See* Fed. R. Crim. P. 32.2(b)(1)(A) & (b)(2)(A). If the government seeks a forfeiture money judgment, the Court also must set forth the amount of the forfeiture money judgment in the preliminary order of forfeiture. *See id.*

While a defendant may request that a trial jury determine whether specific property is forfeitable or waive the determination in order to allow the court to make the determination, *see* Fed. R. Crim. P. 32.2(b)(5)(A), a court has sole responsibility for determining the applicability and amount of a forfeiture money judgment. *See, e.g., United States v. Esformes,* 60 F.4th 621, 639 (11th Cir. 2023) (interpreting Fed. R. Crim. P. 32.2 to require "two types of forfeiture determinations" . . . "forfeiture of an amount of money" as determined by the court and forfeiture of "specific property" as determined by the trial jury); *United States v. Curbelo*, 726 F.3d 1260, 1278 (11th Cir. 2013) ("We remain persuaded that the court, not a jury, should determine the amount of a money judgment forfeiture"). A defendant may only be ordered to pay a forfeiture money judgment equal to the amount of proceeds that he, himself, actually acquired. *See Honeycutt v. United States*, 581 U.S. 443, 454 (2017) (finding that a forfeiture money judgment pursuant to 21 U.S.C. § 853 "is limited to property the defendant himself actually acquired as the result of the crime"); *see also United States v. Hatum*, 969 F.3d 1156, 1164–65 (11th Cir. 2020) (finding that a forfeiture money judgment under 18 U.S.C. § 982(a)(1) that included the total amount of funds laundered did not violate *Honeycutt*, even though the defendant money launderer did not personally retain all of the funds).

A court may base its forfeiture determination, including the amount of a forfeiture money judgment, on "evidence already in the record," and "any additional evidence or information submitted by the parties and accepted by the court as relevant and reliable." Fed. R. Crim. P. 32.2(b)(1)(B).

The "court must enter the preliminary order sufficiently in advance of sentencing to allow the parties to suggest revisions or modifications before the order becomes final as to the defendant." Fed. R. Crim. P. 32.2(b)(2)(B). Moreover, if a court is unable to "calculate the total amount of the money judgment, the court may enter a forfeiture order that . . . states that the order will be amended . . . when . . . the amount of the money judgment has been calculated." Fed. R. Crim. P. 32.2(b)(2)(C)(iii). Any third party's interest in property that has been forfeited as to a defendant is exclusively determined in the ancillary proceeding under Fed. R. Crim. P. 32.2(c). However, "no ancillary proceeding is required to the extent that the forfeiture consists of a money judgment." Fed. R. Crim. P. 32.2(c)(1).

The government must prove forfeiture by a preponderance of the evidence. *United States v. Hasson*, 333 F.3d 1264, 1277-1278 (11th Cir. 2003).

B. The Applicable Forfeiture Statutes Mandate Forfeiture.

The government sought forfeiture under each of the offenses of conviction, including the imposition of a forfeiture money judgment. (Doc. 198, at pp. 13-17.) Under Federal Rule of Criminal Procedure 32.2(b)(1)(A), this Court must now "determine what property is subject to forfeiture under the applicable forfeiture statute." As detailed below, the applicable forfeiture statutes mandate forfeiture of proceeds or property. *See Hatum*, 969 F.3d at 1162 ("The Supreme Court has made clear that when Congress provides that a district court 'shall order' forfeiture, it 'could not have chosen stronger words to express its intent that forfeiture be mandatory'") (citing *United States v. Monsanto*, 491 U.S. 600, 607 (1989)).

1. Upon a Conviction for Bank Fraud, the Applicable Forfeiture Statute Mandates the Forfeiture of Proceeds Constituting or Derived from the Offense.

18 U.S.C. § 982(a)(2)(A) authorizes forfeiture upon a conviction for bank fraud and, therefore, guides the Court's determination as to what property is subject to forfeiture under Count One. This forfeiture statute provides that a court "shall order" a person found guilty of a violation of 18 U.S.C. § 1344, among other criminal offenses, to forfeit "any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation." 18 U.S.C. § 982(a)(2)(A).

2. Upon a Conviction for Wire Fraud, the Applicable Forfeiture Statute Mandates Forfeiture of Proceeds Traceable to the Offense.

18 U.S.C. § 981(a)(1)(C), as incorporated by 28 U.S.C. § 2461(c),[1] authorizes forfeiture upon a conviction for wire fraud and, therefore, guides the Court's determination as to what property is subject to forfeiture under Count Two. These forfeiture statutes provide that a court "shall order" a person found guilty of a "specified unlawful activity," such as wire fraud, to forfeit "[a]ny property, real or

[1] 18 U.S.C. § 981(a)(1)(C) governs property subject to civil forfeiture. 28 U.S.C. § 2461(c) grants a court authority to forfeit in criminal matters property subject to civil forfeiture.

personal, which constitutes or is derived from proceeds traceable to" the specified unlawful activity. Wire fraud is a specified unlawful activity.[2]

3. Upon a Conviction for Money Laundering, the Applicable Forfeiture Statute Mandates Forfeiture of Property Involved In the Offense.

18 U.S.C. § 982(a)(1) authorizes forfeiture upon a conviction for money laundering and, therefore, guides the Court's determination as to what property is subject to forfeiture under Counts Four through Ten. This forfeiture statute provides that a court "shall order" a person found guilty of an offense under 18 U.S.C. §§ 1956, 1957 or 1960" to forfeit "any property, real or personal, involved in such offense, or any property traceable to such property."

Property "involved in" a money laundering offense or "property traceable to such property" consists of "that money or property which was actually laundered (the corpus), along with any commissions or fees paid to the launderer and any property used to facilitate the laundering offense." *Hatum*, 969 F.3d at 1162. (internal quotation and citation omitted). "Involved in" property also includes those money laundering transactions where "the transaction had the purpose of concealing the proceeds…." *Hasson*, 333 F.3d at 1279. Property facilitates an offense "if it makes the prohibited conduct less difficult or more or less free from obstruction or hindrance." *United States v. Seher*, 562 F.3d 1344, 1368 (11th Cir. 2009) (internal quotation marks omitted).

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[2] "Specified unlawful activity" under 18 U.S.C. § 981(a)(1)(C) is defined in 18 U.S.C. § 1956(c)(7), which also expressly incorporates RICO predicates listed in 18 U.S.C. § 1961(1).

C. The Requisite Nexus Exists Between the Offenses of Conviction and the Subject Property and, as a Result, the Subject Property Must Be Forfeited.

1. $1,141.89 in Funds Seized from PNC Bank Account Number Ending 9499 and $1,750,018.12 in Funds Seized from PNC Bank Account Number Ending 9849 Should Be Forfeited as Proceeds of the Bank Fraud and Wire Fraud Offenses.

The government seeks to forfeit $1,141.89 in funds that the FBI seized from PNC Bank account number ending 9499 and $1,750,018.12 in funds that the FBI seized from PNC Bank account number ending 9849. Both assets are proceeds of the bank fraud scheme proved in Count One and wire fraud scheme in Count Two for which Defendant Torjagbo was convicted and, as a result, should be forfeited.

The facts proved at trial showed that, on or about February 16, 2021, Defendant Torjagbo submitted a false and fraudulent PPP loan application to Chase Bank on behalf of his sham mining company, Kremkov Industries. The application was approved, and on March 29, 2021, $9,554,425 was deposited into JPMorgan Chase Bank account number ending 8755 ("JPMC 8755"), titled in the name of Kremkov Industries LLC.

On April 8, 2021, Defendant Torjagbo withdrew $3 million of these fraudulent PPP loan proceeds, via check made payable to Kremkov Industries, and deposited the check into the account from which funds were seized by the government, that is, PNC Bank account number ending 9499, titled in the name of Kremkov Industries LLC, on April 9, 2021 ("PNC 9499").[3]

[3] JPMorgan Chase clawed back the remaining $6,544,515 in fraudulent PPP loan proceeds on May 18, 2021.

A few weeks later, on April 27, 2021, Defendant Torjagbo deposited $3.3 million in proceeds from the tax fraud scheme into PNC 9499. These fraud proceeds resulted from Defendant Torjagbo's filing of fraudulent income tax returns. Specifically, on or about February 13, 2021, Defendant Torjagbo electronically filed two fraudulent Form 1040, U.S. Individual Income Tax Returns with the IRS, reporting, among other things, fictitious wages, withholdings, and nonpassive losses for Kremkov Industries. As established at trial, as a result of the fraudulent tax return alleged in Count Two, the IRS issued a refund check in the amount of $3,366,240.76. On April 27, 2021, Defendant Torjagbo deposited this check into PNC 9499.

The evidence at trial further established that after Defendant Torjagbo deposited fraud proceeds into PNC 9499, he transferred the proceeds to another bank account that he controlled. Specifically, on April 19, 2021, Defendant Torjagbo transferred $100,000 from PNC 9499 to a different account that he controlled, which is the second account that the government seized funds from, that is, PNC Bank account number ending 9849, titled in the name of Carl Torjagbo ("PNC 9849"). Approximately three weeks later, on May 11, 2021, Defendant Torjagbo transferred the vast majority of the remaining funds in PNC 9499—$6 million—to PNC 9849.

The FBI seized the Subject Funds, pursuant to federal seizure warrants, on May 12, 2022. From the time of the deposit of the fraud proceeds until the seizures, there were no other significant deposits into PNC 9499 or PNC 9849.

Because the preponderance of the evidence shows a sufficient nexus between the Subject Funds and an offense of conviction, that is, Counts One and Two, this Court should enter a preliminary order of forfeiture as to the Seized Funds. Attached hereto for the Court's convenience is Government Trial Exhibits 501 and 502, which summarize the flow of the fraudulent PPP loan proceeds and tax fraud proceeds into and through Defendant Torjagbo's various accounts.

2. The Subject Real Property and Subject Vehicles Should Be Forfeited as Property Traceable to the Money Laundering.

As discussed above, and proven at trial, PNC 9849 and PNC 9499 were funded with proceeds of the PPP loan fraud scheme and tax fraud scheme. Defendant Torjagbo dissipated the fraud proceeds from these accounts through various means, including by purchasing vehicles and real property and transferring $1,560,000 to Bank of America account number ending 1199 ("Bank of America 1199") to purchase additional vehicles and real property. (*See* Gov. Trial Exs. 501-502.)

As relevant here, Defendant Torjagbo purchased each piece of the Subject Real Property and each Subject Vehicles identified below—that are the objects of the money laundering offenses for which Defendant Torjagbo was convicted—using proceeds of the fraudulent PPP loan scheme and tax fraud scheme from PNC 9849 and Bank of America 1199. Accordingly, each item is traceable to a money laundering offense and, therefore, forfeitable under 18 U.S.C. § 982(a)(1).

Count	Date	Originating Bank Account	Subject Property
5	10/27/2021	PNC 9849	Tract 4 Fiber Drive, Cartersville, Bartow County, Georgia 30120
6	3/7/2021	Bank of America 1199	101 Holt Drive, Acworth Georgia
7	5/28/2021	PNC 9849	5114 Greythorne Lane, Marietta Georgia
8	8/04/2021	PNC 9849	2021 Land Range Rover Velar
9	1/24/2022	Bank of America 1199	2022 BMW M850i
10	4/22/2022	Bank of America 1199	2014 Lamborghini Aventador

D. A Forfeiture Money Judgment in the Amount of $6,366,240.76 Should Be Imposed Against Defendant Torjagbo.

The Eleventh Circuit has long recognized that the Government is entitled to forfeiture money judgments. *See, e.g.*, *Hatum*, 969 F.3d at 1156 ("... our Court approved forfeiture money judgment judgments against defendants convicted of money laundering... And ... we explained that money that is the proceeds of a criminal offense constitutes a defendant's interest in property and is subject to forfeiture via an *in personam* money judgment") (citations and quotations omitted);

United States v. Baker, 2022 U.S. App. LEXIS 6149, *7-8 (11th Cir. Mar. 9, 2022) ("Courts can impose forfeiture of cash proceeds resulting from a crime by a money judgment or order"); *United States v. Padron*, 527 F.3d 1156, 1162 (11th Cir. 2008) (". . . it is equally clear that the federal rules explicitly contemplate the entry of money judgments in criminal forfeiture cases"). The Eleventh Circuit also has held that the Government is entitled to a personal forfeiture money judgment in addition to any other specific property that may be subject to forfeiture. *See, e.g., Esformes*, 60 F.4th at 639 (affirming forfeiture of specific property as determined by the trial jury and a forfeiture money judgment as determined by the district court).

A forfeiture money judgment does not require an exact calculation. Rather, district courts may use general points of reference as a starting point for a forfeiture calculation and make "reasonable extrapolations supported by the preponderance of the evidence." *United States v. Vico*, 2016 U.S. Dist. LEXIS 6579 at *20 (S.D. Fla. Jan. 20, 2016) (citing *United States v. Prather*, 456 F. App'x 622, 626 (8th Cir. 2012); *see United States v. Dennis*, 41 F.4th 732, 746 (5th Cir. 2022) (reasonable estimates for calculating criminal forfeiture permissible); *United States v. Vance*, 2021 U.S. App. LEXIS 33034, *33 (6th Cir. 2021) (district courts may "use general points of reference as a starting point" for a forfeiture calculation and "make reasonable extrapolations" supported by a preponderance of the evidence); *United States v. Peithman*, 917 F.3d 635,651 (8th Cir. 2019) ("district courts may use general points of reference as a starting point for a forfeiture calculation and make reasonable extrapolations supported by a preponderance of the evidence"); *United States v. Roberts*, 660 F.3d 149, 166 (2d Cir. 2011) (. . . "the law does not demand mathematical exactitude in calculating the proceeds subject to forfeiture. Indeed, because the purpose of forfeiture is punitive rather than restitutive, district courts are not required to conduct an investigative audit to ensure that a defendant is not deprived of a single farthing more than his criminal acts produced. Rather, district courts may use general points of reference as a starting point for a forfeiture calculation and make reasonable extrapolations supported by a preponderance of the evidence") (citations and quotations omitted). However, the amount of the money judgment should represent the "full amount of illegal proceeds irrespective of whether monies are in the defendant's possession at the time the court makes findings regarding forfeiture." *United States v. McKay*, 506 F. Supp. 2d 1206, 1211 (S.D. Fla. Mar. 13, 2007).

Here, the amount of the money judgment can be calculated exactly. As the government proved at trial, Defendant Torjagbo fraudulently obtained a $9,554,425 PPP loan and withdrew $3,000,000 of the funds before JPMC clawed back the remainder. He also obtained a $3,366,240.76 fraudulent tax refund check from the IRS. All of the fraud proceeds were deposited into bank accounts solely controlled by Defendant Torjagbo. Accordingly, $6,366,240.76 represents the amount of proceeds that Defendant Torjagbo personally received from the two fraudulent schemes of which he was convicted and a forfeiture money judgment in this amount is appropriate.[4]

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[4] If the Court orders forfeiture of the Subject Funds seized from PNC 9499 and PNC 9849, totaling $1,751,160.01, the Court may reduce the amount of the forfeiture money judgment to account for these Funds. The resulting amount of the forfeiture money judgment would be $4,615,080.75.

Conclusion

For all the foregoing reasons, the United States respectfully requests that the Court issue a preliminary order of forfeiture that (1) directs forfeiture of the Subject Property, and (2) sets forth a forfeiture money judgment in the amount of $6,366,240.76.

Prior to sentencing, the United States will provide to the Court a proposed preliminary order of forfeiture.

Respectfully submitted,

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