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

UNITED STATES OF AMERICA *v.* CARLA JACKSON	Criminal Action No. 1:20-CR-296-JPB

UNITED STATES' MOTION FOR PRELIMINARY ORDER OF FORFEITURE FOR FORFEITURE MONEY JUDGMEENT

The United States of America, by Ryan K. Buchanan, United States Attorney, and Norman L. Barnett, Assistant United States Attorney, for the Northern District of Georgia, respectfully moves the Court, pursuant to Federal Rule of Criminal Procedure 32.2(b),[1] for entry of a forfeiture money judgment against Defendant Carla Jackson in the amount of $39,700.00. A proposed preliminary order of forfeiture is submitted concurrently herewith. In support thereof, the government shows the Court the following:

I. Relevant Procedural History

On August 10, 2021, a Grand Jury, sitting in the Northern District of Georgia, returned a Second Superseding Indictment against the Defendant, Carla Jackson, charging her with two money laundering offenses relating to a Paycheck Protection Plan ("PPP")/COVID-19 Economic Injury Disaster Loan ("EIDL") fraud scheme. (Doc. 290). Specifically, Defendant Jackson was charged with two

[1] Unless otherwise noted, all statutory references shall be to the Federal Rules of Criminal Procedure.

counts of money laundering in violation of 18 U.S.C. § 1956(a)(1)(B)(i). (Doc. 290). The Second Superseding Indictment included a forfeiture provision that notified Defendant Jackson that, upon conviction of the money laundering offenses, she shall forfeit "any property, real or personal, involved in such offense, or any property traceable to such property," pursuant to 18 U.S.C. § 982(a)(1). The Second Superseding Indictment expressly notified Defendant Jackson that the property to be forfeited included a forfeiture money judgment, representing the amount of proceeds obtained as a result of Counts Forty-Six and Forty-Seven of the Second Superseding Indictment.

The jury trial began on February 6, 2024. (Doc. 904). The jury found Defendant Jackson guilty of two counts of money laundering on February 15, 2024. (Doc. 929). As set forth below, the evidence at trial showed that, by a preponderance of the evidence, the entry of a money judgment in the amount of $39,700.00 is appropriate as to Defendant Jackson.

II. Argument and Citation of Authority

A. Forfeiture is Mandatory After Convictions for Money Laundering.

Rule 32.2(b) requires a court to enter a preliminary order of forfeiture against a criminal defendant, "after a verdict or finding of guilty," once the court determines "property is subject to forfeiture under the applicable statute":

> As soon as practical after a verdict or finding of guilty, or after a plea of guilty or nolo contendere is accepted, 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 seeks a personal money judgment, the court must determine the amount of money that the defendant will be ordered to pay.

FED. R. CRIM. P. 32.2(b)(1)(A). *See also United States v. Monsanto*, 491 U.S. 600, 606 (1989) ("Congress could not have chosen stronger words to express its intent that forfeiture be mandatory in cases where the statute applied . . ."); *United States v. Brummer*, 598 F.3d 1248, 1250 (11th Cir. 2020) (rejecting the defendant's contention that district court had discretion to decline to order forfeiture); *United States v. Gilbert*, 244 F.3d 888, 909 (11th Cir. 2001) ("order of forfeiture is a required element of sentencing"). The government must prove forfeiture by a preponderance of the evidence. *United States v. Hasson*, 333 F.3d 1264, 1277-78 (11th Cir. 2003). A court may base its determination on whether property identified for forfeiture is subject to forfeiture on "evidence already in the record," and "any additional record or information submitted by the parties and accepted by the court as relevant and reliable." FED. R. CRIM. P. 32.2(b)(1)(B).

Here, the applicable statutes mandate forfeiture. Specifically, Defendant Jackson was found guilty by the jury of money laundering. Under 18 U.S.C. § 982(a)(1), the court "in imposing sentence on a person convicted of an offense in violation of section 1956, 1957, or 1960 of this title, shall order that the person forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property." Thus, under a money laundering offense, the government is entitled to forfeit property that was involved in the offense or is traceable to property involved in the offense. *See United States v.*

Hatum, 969 F.3d 1156, 1165 (11th Cir. 2020) (noting that 18 U.S.C. § 982(a)(1) contains neither a 'proceeds' nor an 'obtained' limitation). Thus, the Defendant's conviction for money laundering authorizes forfeiture of a broad range of property.

B. A Forfeiture Money Judgment in the Amount of $39,700.00 is Appropriate Here Based on Defendant Jackson's Convictions for Money Laundering.

Because the trial jury convicted Defendant Jackson of money laundering, forfeiture of any property involved in the money laundering offenses, or traceable to the money laundering offenses, is mandatory. Such forfeited property includes a forfeiture money judgment. The Eleventh Circuit has long recognized that the government is entitled to forfeiture money judgments. *See, e.g., 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 consistently 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., United States v. Esformes*, 60 F.4th 621, 639 (11th Cir. 2023) (affirming forfeiture of specific property as determined by the trial jury and a forfeiture money judgment as determined by the district court).

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). While a trial jury determines whether specific property is forfeitable, only the court determines the forfeiture of a forfeiture money judgment. *See Esformes*, 60 F.4th at 639 (interpreting Rule 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, 1277 (11th Cir. 2013) (". . . the jury only determines 'the forfeitability of specific property,' and a 'party is not entitled to a jury finding regarding a money judgment.'"). Accordingly, if the government seeks a forfeiture money judgment, the court must determine the amount of the money judgment "based on evidence already in the record, including any written plea agreement, 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)(A) & (B).

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, *20 (S.D. Fla. Jan. 20, 2016) (citing *United States v. Prather,* 456 F. App'x 622, 626 (8th Cir. 2012); *United States v. Roberts*, 660 F.3d 149, 166 (2d Cir. 2011)), *aff'd*, 691 F. App'x 594 (11th Cir. 2017); *see also United States v. Dennis*, 41 F.4th 732, 746 (5th Cir. 2022) (reasonable estimates for calculating criminal forfeiture permissible); *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") (quoting *Roberts*, 660 F.3d at 166); *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) (citing *Roberts*, 660 F.3d at 166).

Here, the amount of the money judgment can be calculated. Evidence at trial demonstrated that Defendant Jackson, at a minimum, obtained $39,700.00 as a result of the offenses for which she was convicted. At trial, the government proved, beyond a reasonable doubt, that Defendant Jackson laundered fraud proceeds obtained from fraudulent PPP loan applications. Specifically, the jury convicted Defendant Jackson of money laundering, in violation of 18 U.S.C. § 1956(a)(1)(B)(i) for a transaction involving $155,252.50 in fraudulent PPP loan proceeds on June 8, 2020 (Count Forty-Six) and a transaction involving $179,985.72 (Count Forty-Seven) in fraudulent PPP loan proceeds on June 22, 2020. (Gov. Tr. Ex. 1166; Doc. 290 at 66-67; Doc. 929). These money laundering transactions involved the transfer of funds from an account controlled by Gaines Reservation and Travel, a company used by Defendant Jackson's co-conspirators to obtain a fraudulent PPP loan, to an account in the name of Management Resources Services Inc., an account solely controlled by Defendant Jackson. (Gov. Tr. Exs. 3000, 1166 at 2). On June 18, 2020, shortly after depositing these funds, and prior to the government seizing $295,717.61 from the account pursuant to a Federal seizure warrant, Defendant Jackson withdrew $39,7000.00 from the account. (Gov. Tr. Ex. 1166).

Thus, the evidence at trial showed that Defendant Jackson obtained at least $39,700.00 as a result of the scheme. Accordingly, because $39,700.00 represents, at a minimum, a portion of the property that Defendant Jackson obtained as a result of the offenses upon which Defendant Jackson was convicted, the Court should impose a forfeiture money judgment in this amount.

Conclusion

For all the foregoing reasons, the United States respectfully requests that the Court issue a forfeiture money judgment against Defendant Jackson in the amount of $39,700.00.

Respectfully submitted,

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