UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 21-20231-CR-MIDDLEBROOKS

UNITED STATES OF AMERICA

vs.

CARLOS VAZQUEZ,

Defendant.
_______________________________/

PRELIMINARY ORDER OF FORFEITURE

THIS MATTER is before the Court upon motion of the United States of America (the "United States") for entry of a Preliminary Order of Forfeiture ("Motion") against Defendant CARLOS VAZQUEZ (the "Defendant"). The Court has considered the Motion, is otherwise advised in the premises, and finds as follows:

On April 15, 2021, a federal grand jury returned an Indictment charging the Defendant in Counts 1 and 2 with wire fraud in violation of 18 U.S.C. § 1343. Indictment, ECF No. 19. The Indictment also contained forfeiture allegations, which alleged that, upon conviction of a violation of 18 U.S.C. § 1343, the Defendant shall forfeit to the United States any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of such violation, pursuant to 18 U.S.C. § 982(a)(2)(A). *See id.* at 5 - 6.

On September 13, 2021, the Defendant pleaded guilty to Counts 1 and 2, more specifically to wire fraud, in violation of 18 U.S.C. § 1343. *See* Minute Entry, ECF No. 42; Transcript of Change of Plea, ECF No. 54.

The Report and Recommendation on Change of Plea recommended that the Defendant's guilty plea to Counts 1 and 2 of the Indictment be accepted, and a sentencing hearing was scheduled for November 16, 2021. *See* Report and Recommendation on Change of Plea, ECF No. 44; Notice of Sentencing Hearing, ECF Nos. 46 and 55.

In support of the guilty plea, the Defendant executed a Factual Proffer, and the Court found that there was a factual basis to support the Defendant's conviction. *See* Factual Proffer, ECF No. 43.

At all material times, the Defendant is and was CEO and 100% owner of Big League L.L.C. ("Big League"). *See* Factual Proffer 1, ECF No. 43. On or about June 30, 2020, Defendant, with the assistance of Individual #1, submitted an application for a Paycheck Protection Program ("PPP") loan in the amount of $921,875 on behalf of Big League to a Georgia-based internet loan processor and PPP lender, Lender #1. *Id.* The note in the amount of $921,875 was executed on the same day and contained the Defendant's Docusign signature. *Id.* The Defendant and Individual transmitted in interstate commerce this PPP application from Miami, Florida to Georgia. *See id.* This PPP application contained materially false statements that Defendant and Individual #1 knew to be untrue at the time they submitted the PPP application, specifically:

- The application certifies that the applicant, Big League, "was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC;
- The application state that Big League's Average Monthly Payroll was $368,750.00;
- The application state that Big League has 64 employees; and
- A purported IRS Form W-3 for the 2019 tax year was submitted in support of the application which claims Big League paid wages in the amount of $4,425,000.

See id. at 1 – 2.

As of February 15, 2020, Big League was not in operation and did not have employees or payroll. *See id.* at 2. Big League has never registered to file taxes in Florida with the Florida Department of Revenue. *Id.* Thus, the representations that Defendant and Individual #1 made to Lender #1 were false, and Defendant and Individual #1 intended to defraud Lender #1. *See id.*

A few days after reinstating Big League, on June 29, 2020, Defendant opened a Chase business account for Big League on which Defendant was the sole signatory. *Id.* Chase Bank's business records show that, on June 30, 2020, someone logged into Defendant's Chase Business account for Big League from the same IP address, 172.58.11.67, that was used to apply for the PPP loan that day. *Id.* A week later, on July 6, 2020, $921,875 in PPP loan funds were deposited into this Chase Bank account in Miami, Florida, from outside of Florida by Lender #1. *Id.*

Based on the record in this case, the total value of the proceeds traceable to the offense of conviction is $921,875, which sum may be sought as a forfeiture money judgment pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

In addition, also based on the record in this case, the following specific property is directly subject to forfeiture, pursuant to 18 U.S.C. § 982(a)(2)(A):

(i.) a cashier's check in the amount of $175,957.40, which represents proceeds obtained as a result of the wire fraud, in violation of 18 U.S.C. §1343, to which the Defendant pleaded guilty.

The Defendant turned over this cashier's check in the amount of $175,975.40 to the United States. *See* Presentence Investigation Report ¶15 (ECF No. 57). After the cashier's check in the amount of $175,975.40 is forfeited to the United States, this amount shall be credited toward the Defendant's forfeiture money judgment balance.

Accordingly, based on the foregoing, the evidence in the record, and for good cause shown, the Motion is **GRANTED**, and it is hereby **ORDERED** that:

1. Pursuant to 18 U.S.C. § 982(a)(2)(A), 21 U.S.C. § 853, and Rule 32.2 of the Federal Rules of Criminal Procedure, a forfeiture money judgment in the amount of $921,875 is hereby entered against the Defendant.

2. Pursuant to 18 U.S.C. § 982(a)(2)(A), 21 U.S.C. § 853, the following specific property is hereby forfeited and vested in the United States of America:

   (i.) A cashier's check in the amount of $175,957.40 which the Defendant turned over to the United States and represents proceeds obtained as a result of the wire fraud, in violation of 18 U.S.C. §1343, to which the Defendant pleaded guilty.

3. Any duly authorized law enforcement agency may seize and take possession of the forfeited property according to law.

4. The United States shall send and publish notice of the forfeiture in accordance with Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure and 21 U.S.C. § 853(n).

5. The United States is authorized to conduct any discovery that might be necessary to identify, locate, or dispose of forfeited property, and to resolve any third-party petition, pursuant to Rule 32.2(b)(3), (c)(1)(B) of the Federal Rules of Criminal Procedure and 21 U.S.C. § 853(m).

6. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Order is final as to the Defendant.

7. The Court shall retain jurisdiction in this matter for the purpose of enforcing this Order, and pursuant to Rule 32.2(e)(1) of the Federal Rules of Criminal Procedure, shall amend this Order, or enter other orders as necessary, to forfeit additional specific property when identified.

It is further **ORDERED** that upon adjudication of all third-party interests, if any, the Court will enter a final order of forfeiture as to the property in which all interests will be addressed. Upon notice from the United States that no claims have been filed within 60 days of the first day of publication or within 30 days of receipt of notice, whichever is earlier, then, pursuant to Rule 32.2(c)(2) of the Federal Rules of Criminal Procedure and 21 U.S.C. § 853(n)(7), this Order shall become a Final Order of Forfeiture and any duly authorized law enforcement agency shall dispose of the property in accordance with applicable law.

DONE AND ORDERED in Miami, Florida, this _______ day of November 2021.

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DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE