The Hon. John C. Coughenour

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA, Plaintiff, v. ERIC SHIBLEY, Defendant.	NO. CR20-174-JCC **MOTION FOR ENTRY OF A COMBINED PRELIMINARY ORDER OF FORFEITURE AND ORDER OF FORFEITURE** NOTE ON MOTION CALENDAR: December 31, 2021

The United States, by and through its undersigned counsel, moves pursuant to Federal Rule of Criminal Procedure ("Fed. R. Crim. P.") 32.2(b) for entry of a Combined Preliminary Order of Forfeiture and Order of Forfeiture, seeking to forfeit, to the United States, Defendant Eric Shibley's interest in the following property (collectively, the "Subject Property"):

1. $49,500.86 in U.S. funds, seized on or about May 29, 2020 from Navy Federal Credit Union account #******7528, held in the name of Eric R. Shibley MD PLLC ("Subject Property 1");
2. $100,000.00 in U.S. funds, seized on or about May 29, 2020 from Wells Fargo account #******2378, held in the name of ES1 LLC ("Subject Property 2");

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3. $804,816.63 in U.S. funds, seized on or about May 27, 2020 from Wells Fargo account #******3536, held in the name of The A Team Holdings LLC ("Subject Property 3")**;**

4. $114,440.00 in U.S. funds, seized on or about June 30, 2020 from Verity Credit Union account #***5390, held in the name of Dituri Construction LLC ("Subject Property 4");

5. $114,743.59 in U.S. funds, seized on or about June 30, 2020 from Verity Credit Union account #***5320, held in the name of SS1 LLC ("Subject Property 5"); and

6. A sum of money in the amount of $254,199, reflecting the remainder of the proceeds the Defendant personally obtained from the offenses ("Subject Property 6").

This motion is based on the following facts, which are reflected in the record.

I. Preliminary Order of Forfeiture

The United States submits that entry of a Preliminary Order of Forfeiture regarding Subject Properties 1-5 is appropriate because:

A. *Wire Fraud*:

- The Defendant has been convicted of *Wire Fraud*, in violation of 18 U.S.C. §§ 1343 and 2, as charged in Counts 1 – 7 of the Indictment (Dkt. No. 31 at pp. 9 – 13);
- Property that constitutes or is traceable to proceeds of a *Wire Fraud* scheme is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C), by way of 28 U.S.C. § 2461(c);
- The evidence presented at trial established that Subject Properties 1 – 5 constitute or are traceable to proceeds of the Defendant's *Wire Fraud* scheme;

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- The evidence in the record established the requisite nexus between Subject Properties 1 – 5 and the offense of conviction (*Wire Fraud*), pursuant to Federal Rule of Criminal Procedure ("Fed. R. Crim. P.") 32.2.(b)(1)(A)-(B).

B. <u>*Bank Fraud*</u>:

- The Defendant has been convicted of *Bank Fraud*, in violation of 18 U.S.C. §§ 1344(2) and 2, as charged in Counts 8 – 10 (Dkt. No. 31 at pp. 14 – 15) of the Indictment;
- Property that constitutes or is traceable to proceeds of a *Bank Fraud* scheme is subject to forfeiture pursuant to 18 U.S.C. § 982(a)(2);
- The evidence presented at trial established that Subject Properties 1 – 3 constitute or are traceable to proceeds of the Defendant's *Bank Fraud* scheme;
- The evidence in the record established the requisite nexus between Subject Properties 1 – 3 and the offense of conviction (*Bank Fraud*), pursuant to Fed. R. Crim. P. 32.2.(b)(1)(A)-(B).

C. <u>*Money Laundering*</u>:

- The Defendant has been convicted of *Money Laundering*, in violation of 18 U.S.C. §§ 1957 and 2, as charged in Counts 11 – 15 (Dkt. No. 31 at p. 16);
- Property involved in *Money Laundering* is subject to forfeiture pursuant to 18 U.S.C. § 982(a)(1);
- The evidence presented at trial established that Subject Properties 4 – 5 are involved in, or traceable to property involved in, one or more of the Defendant's *Money Laundering* offenses;

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- The evidence in the record established the requisite nexus between Subject Properties 4 – 5 and the offense of conviction (*Money Laundering*), pursuant to Fed. R. Crim. P. 32.2.(b)(1)(A)-(B).

II. Order of Forfeiture

The United States submits that forfeiture of all proceeds the Defendant obtained from his *Wire Fraud* and *Bank Fraud* schemes – $2,821,200 – is appropriate. To the extent any of these proceeds have not been recovered by the United States and the Financial Institutions, entry of an Order of Forfeiture forfeiting a sum of money reflecting these unrecovered proceeds is appropriate. The United States submits that entry of an Order of Forfeiture in the amount of $254,199, reflecting the unrecovered proceeds of the Defendant's *Wire Fraud* and *Bank Fraud* schemes, is appropriate because:

A. <u>*Wire Fraud*</u>:

- The proceeds of *Wire Fraud*, in violation of 18 U.S.C. §§ 1343 and 2, are subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C), by way of 28 U.S.C. § 2461(c);

B. <u>*Bank Fraud*</u>:

- The proceeds of *Bank Fraud*, in violation of 18 U.S.C. §§ 1344(2) and 2, are subject to forfeiture pursuant to 18 U.S.C. § 982(a)(2);

C. <u>*Based on the evidence presented at trial*</u>:

- The Defendant obtained proceeds of approximately $2,821,200 from his *Wire Fraud* and *Bank Fraud* schemes;
- The Defendant withdrew approximately $200,000 of these proceeds in bulk cash;
- The United States seized a total of approximately $1,183.501 (Subject Properties 1 - 5) with seizure warrants;

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- Financial institutions recovered a total of approximately $1,383,500; and
- A sum of money in the amount of $254,199 reflects the remaining unrecovered proceeds received by the Defendant.

To comply with the timing requirements of Fed. R. Crim. P. 32.2(b)(2)(B), the United States now moves for entry of a Preliminary Order of Forfeiture forfeiting the Defendant's interest in Subject Properties 1-5 and an Order of Forfeiture forfeiting the Defendant's interest in Subject Property 6. A proposed Combined Order is submitted with this motion.

DATED this 17th day of December, 2021.

Respectfully submitted,

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s/Krista K. Bush

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CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which automatically serves the parties of record.

s/Hannah G. Williams
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