UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-80141-CR-MIDDLEBROOKS

UNITED STATES OF AMERICA

v.

EMMANUEL BULLY, JR.,

Defendant.

UNITED STATES OF AMERICA'S UNOPPOSED MOTION FOR PRELIMINARY ORDER OF FORFEITURE

Pursuant to 18 U.S.C. § 982(a)(2)(A), and the procedures set forth in 21 U.S.C. § 853 and Rule 32.2 of the Federal Rules of Criminal Procedure, the United States of America (the "United States"), by and through the undersigned Assistant United States Attorney, hereby moves for the entry of a Preliminary Order of Forfeiture against Defendant EMMANUEL BULLY, JR., (the "Defendant") in the above-captioned matter. The United States seeks a forfeiture money judgment in the amount of $503,235 in U.S. currency. In support of this motion, the United States provides the following factual and legal bases.

I. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

On or around August 17, 2023, a federal grand jury returned an Indictment charging the Defendant with wire fraud in violation of 18 U.S.C. § 1343. Indictment, ECF No. 1. The Indictment also contained forfeiture allegations, which alleged that, upon conviction of a violation of 18 U.S.C. § 1343, affecting a financial institution, the Defendant shall forfeit to the United States any property, real or personal, which constitutes or is 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 9 - 10.

On September 19, 2025, the Defendant pled guilty to wire fraud, in violation of 18 U.S.C. § 1343. *See* Minute Entry, ECF No. 15; Plea Agreement ¶ 1, ECF No. 16. As part of the Defendant's guilty plea, the Defendant agreed to forfeiture, including the entry of a forfeiture money judgment in the amount of $503,335 in U.S. currency, and the forfeiture of substitute property. *See* Plea Agreement ¶ 15, ECF No. 16. 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. 17. The Factual Proffer also provided a basis for the forfeiture of property. *See id.* at 4. The United States Probation Office has since conducted a presentence investigation, which, in relevant part, included information on the Defendant's forfeiture, addressing a Scrivener's error in the plea agreement specifically that the correct forfeiture money judgment amount is $503,235, not $503,335. *See* Presentence Investigation Report ¶¶ 4 and 25, ECF No. 25.

II. MEMORANDUM OF LAW

A. Directly Forfeitable Property

Any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of a violation of 18 U.S.C. § 1343, is subject to forfeiture to the United States. 18 U.S.C. § 982(a)(2)(A).

If a defendant is convicted of such violation, the Court "shall order" the forfeiture of property as part of the sentence. *See* 18 U.S.C. § 982(a)(2)(A); 28 U.S.C. § 2461(c). Criminal forfeiture is governed by the preponderance standard. *See United States v. Hasson*, 333 F.3d 1264, 1277 (11th Cir. 2003). Upon finding that property is subject to forfeiture by a preponderance, the Court:

> . . . must promptly enter a preliminary order of forfeiture setting forth the amount of any money judgment, directing the forfeiture of specific property, and directing the forfeiture of any substitute property if the government has met the statutory criteria. The court must enter the order without regard to any third party's interest in the property. Determining whether a third party has such an interest must be deferred until any third party files a claim in an ancillary proceeding under Rule 32.2(c).

Fed. R. Crim. P. 32.2(b)(2)(A).

B. Forfeiture Money Judgments

A forfeiture order may be sought as a money judgment. *See* Fed. R. Crim. P. 32.2(b)(1)(A), (2)(A); *see also United States v. Padron*, 527 F.3d 1156, 1162 (11th Cir. 2008) (holding that Federal Rules of Criminal Procedure "explicitly contemplate the entry of money judgments in criminal forfeiture cases"). The forfeiture money judgment is final as to the defendant "[a]t sentencing—or at any time before sentencing if the defendant consents." *See* Fed. R. Crim. P. 32.2(b)(4)(A). No ancillary proceeding is required when forfeiture consists solely of a money judgment. *See* Fed. R. Crim. P. 32.2(c)(1). As additional property is identified to satisfy the forfeiture money judgment, the Court must order the forfeiture of such property. *See* Fed. R. Crim. P. 32.2(e)(1) ("[T]he court may at any time enter an order of forfeiture or amend an existing order of forfeiture to include property that . . . is subject to forfeiture under an existing order of forfeiture but was located and identified after that order was entered; or . . . is substitute property . . . ."); *see also* Fed. R. Crim. P. 32.2(b)(2)(C).

The amount of the money judgment should represent the full sum of directly forfeitable property, regardless of the defendant's ability to satisfy the judgment at the time of sentencing. *See United States v. McKay*, 506 F. Supp. 2d 1206, 1211 (S.D. Fla. 2007) (adopting the majority rule); *see also United States v. Blackman*, 746 F.3d 137, 143-44 (4th Cir. 2014) ("The fact that a defendant is indigent or otherwise lacks adequate assets to satisfy a judgment does not operate to frustrate entry of a forfeiture order."). The Court determines 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)(B). The Court in imposing a forfeiture money judgment may rely on an agent's reliable hearsay. *See United States v. Stathakis*, 2008 WL 413782, at *14 n.2 (E.D.N.Y. Feb. 13, 2008). The defendant's money judgment amount can be based on a reasonable estimate on the amount of property subject to forfeiture. *See, e.g., United States v. Roberts*, 660 F.3d 149, 166 (2d Cir. 2011); *United States v. Peithman*, 917 F.3d 635, 651 (8th Cir. 2019); *United States v. Vico*, Case No. 15-CR-80057-ROSENBERG/HOPKINS, 2016 WL 233407, at *7 (S.D. Fla. Jan. 20, 2016) (calculation of money judgment does not require mathematical exactitude; district court may make a reasonable extrapolation supported by a preponderance of the evidence).

C. Property Subject to Forfeiture in Instant Criminal Case

The Coronavirus Aid, Relief, and Economic Security ("CARES") Act was a federal law enacted in or around March 2020, to provide financial assistance to Americans suffering from economic harm from the COVID-19 pandemic. *See* Factual Proffer 1, ECF No. 17. One source of relief provided through the CARES Act was the authorization of forgivable loans to businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program ("PPP"). *Id.* at 1.

The PPP allowed qualifying small businesses and other organizations to receive PPP loans. *Id.* Businesses were required to use PPP loan proceeds on payroll costs, interest on mortgages, rent, and utilities. *Id.* The PPP allowed the interest and principal on the PPP loan to be entirely forgiven if the business spent the loan proceeds on these expense items within a designated period of time and used a defined portion of the PPP loan proceeds on payroll expenses. *Id.* The amount of a PPP loan that a small business was entitled to receive was determined by the number of employees employed by the business and the average monthly payroll costs of the business. *Id.* at 2.

To obtain a PPP loan, a qualifying business was required to submit a PPP loan application, which was signed by an authorized representative of the business. *Id.* The PPP loan application required the business (through its authorized representative) to acknowledge the program rules and make certain affirmative certifications in order to be eligible to obtain the PPP loan. *Id.* In the PPP loan application, the small business (through its authorized representative) was required to state, among other things, its average monthly payroll expenses of employees. *Id*. These figures were used to calculate the amount of money the small business was eligible to receive under the PPP. *Id.* In addition, businesses applying for a PPP loan were required to provide documentation confirming their payroll expenses. *Id.*

A PPP loan application was processed by a participating lender. *Id.* If a PPP loan application was approved, the participating lender funding the PPP loan using its own funds. *Id.* While a participating lender issued the PPP loan, the loan was 100% guaranteed by the United States Small Business Administration ("SBA"), an executive branch agency of the United States government. *Id.* Bank of America, an approved SBA lender of PPP loans, was a financial institution that was headquartered in Charlotte, North Carolina. *Id.*

Another source of relief provided by the CARES Act was the authorization for the SBA to provide Economic Injury Disaster Loans ("EIDLs") of up to $2 million to eligible small businesses experiencing substantial financial disruption due to the COVID-19 pandemic. *Id.* In order to obtain an EIDL, a qualifying business was required to submit an application to the SBA and provide information about its operations, such as the number of employees, gross revenues for the 12-month period preceding the disaster, and cost of goods sold in the 12-month period preceding the disaster. *Id*. at 2 – 3. The applicant was further required to certify that all information was true and correct to the best of the applicant's knowledge. *Id*. at 3.

EIDL applications were submitted directly to the SBA which processed the applications with support from a government contractor. *Id*. The amount of loan was determined based, in part, on the information provide in the application concerning the number of employees, gross revenues, and cost of goods sold. *Id*. Any EIDL funds were issued directly by the SBA. *Id*.

As set forth in the Factual Proffer, the Defendant became aware of the opportunity to obtain funds through the CARES Act relief programs during the COVID-19 pandemic. *Id*. The Defendant learned how to apply for PPP loans and EIDLs. *Id*.

On April 29, 2020, the Defendant submitted a PPP loan application on behalf of MB Tax Services Consultants (the "April 2020 Loan"), claiming that he controlled that corporation and that it had a principal place of business in Delray Beach, Florida. *Id*. In reality, MB Tax Services Consultants was not an active business with an office in Delray Beach. *Id*. In the PPP application, the Defendant also falsely and fraudulently represented the corporation's average monthly payroll and the number of employees, both of which were material to the size of the loan received. *Id*.

As a result of the false and fraudulent PPP application, Bank of America approved and funded the PPP loan for MB Tax Services Consultants. *Id*. On or about May 13, 2020, Bank of America transferred approximately $20,835.00 to a bank account controlled by the Defendant. *Id*. The Defendant spent these PPP loan proceeds on personal expenses, including jewelry and travel, and not on any legitimate business expenses for MB Tax Services Consultants. *Id*. at 4.

In addition to the April 2020 Loan, the Defendant applied for multiple other PPP loans or

EIDLs using his various corporations or as a sole proprietor. *Id*. Just as with the April 2020 Loan, these applications contained false and fraudulent information. *Id*. Many of these loan applications were denied; however, some were funded. *Id*. Ultimately, the Defendant succeeded in receiving $503,235 in CARES Act funds. *See* Presentence Investigation Report ¶¶ 4 and 25, ECF No. 25. The Defendant spent these fraudulently obtained funds on personal expenses and not on legitimate business expenses like payroll. *See* Factual Proffer, ECF No. 17, at 4; *see also* Presentence Investigation Report ¶ 25, ECF No. 25.

Based on the record in this case, the total value of the proceeds traceable to the offense of conviction is $503,235, which sum may be sought as a forfeiture money judgment pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

Accordingly, the Court should issue the attached proposed order, which provides for the entry of a forfeiture money judgment against the Defendant; the inclusion of the forfeiture as part of the Defendant's sentence and judgment in this case; and permission to conduct discovery to locate assets ordered forfeited.

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WHEREFORE, pursuant to 18 U.S.C. § 982(a)(2)(A), and the procedures set forth in 21 U.S.C. § 853 and Rule 32.2 of the Federal Rules of Criminal Procedure, the United States respectfully requests the entry of the attached order.

LOCAL RULE 88.9 CERTIFICATION

Pursuant to Local Rule 88.9, I hereby certify that I, the undersigned Assistant United States Attorney, have conferred with defense counsel, Jason Bravo, Esq., via e-mail on December 6, 8, and 13, 2023, and there is no objection to the relief sought herein.

Respectfully submitted,

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