

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Case No. 21-cr-00165-RM

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. RUSSELL FOREMAN, and
2. CHANDLER SIMBECK

Defendants.

UNITED STATES' MOTION FOR FINAL ORDER OF FORFEITURE

COMES NOW the United States of America ("United States"), by and through United States Attorney Cole Finegan and Assistant United States Attorney Elizabeth Young, and respectfully requests that this Court enter a Final Order of Forfeiture in this case pursuant to 18 U.S.C. §§ 981(a)(1)(C), 982(a)(1), and 982(a)(8); 28 U.S.C. § 2461(c); and Fed. R. Crim. P. 32.2.

A. Background

1. On May 18, 2021, the grand jury charged defendants Russell Foreman and Chandler Simbeck with violations of federal criminal laws. Doc. 1 at 1-13. In the Indictment, the United States also sought forfeiture from the defendants pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)¹ of all property constituting and derived

¹ Title 28, United States Code, Section 2461(c) provides for the criminal forfeiture of any property that may be forfeited civilly. Title 18, United States Code, Section 981(a)(1)(C) provides for the forfeiture of any property constituting or derived from proceeds traceable to a "specified unlawful activity" as defined in 18 U.S.C. § 1956(c)(7), which includes any act identified in 18 U.S.C. § 1961(1) within the definition of "specified

from any proceeds obtained directly and indirectly as a result of the named violations, and provided notice of the United States' intent to seek a money judgment in the amount of proceeds obtained by the defendants as a result of the scheme. Doc. 1 at 13-14.

2. On March 25, 2022, defendant Russell Foreman pleaded guilty to Counts 5 and 9, violations of 18 U.S.C. § 1343 and 18 U.S.C. § 1657. Doc. 47 at 1. Defendant Foreman also agreed to the entry of a forfeiture order as detailed in the Plea Agreement. Doc. 47 at 2, 4-6.

3. On August 10, 2022, the Court entered a Preliminary Order of Forfeiture as to defendant Russell Foreman, forfeiting to the United States any and all of defendant Foreman's right, title, and interest in the following assets:

- a. Approximately \$36,106.22 seized from Citizens Bank account #6441,
- b. Approximately \$425.00 seized from Federal Credit Union account #3025,
- c. Approximately \$999.33 seized from Navy Federal Credit Union account #8829 held in the name of Russell R. Foreman,
- d. Approximately \$183.33 seized from FanDuel account #3300 held in the name of Russell Foreman,
- e. Approximately \$282.49 seized from FanDuel account #5854 held in the name of Chandler Simbeck, and
- f. Approximately \$36.58 seized from TD Ameritrade account #9345 in the name of Russell Ray Foreman.

unlawful activity." Violation of 18 U.S.C. § 1343 is included in 18 U.S.C. § 1961.

Doc. 63 at 2.

4. On April 21, 2023, On April 21, 2024, defendant Chandler Simbeck pleaded guilty to Count 12, violation of 18 U.S.C. § 371. Doc. 105 at 1. Defendant Simbeck also agreed to the entry of a forfeiture order as detailed in his Plea Agreement. Doc. 105 at 2, 4-6.

5. On December 7, 2023, the Court entered a Preliminary Order of Forfeiture as to defendant Chandler Simbeck, forfeiting to the United States any and all of defendant Simbeck's right, title, and interest in the following assets:

- a. Approximately \$36,106.22 seized from Citizens Bank account #6441 held in the name of Etola Leippy, and
- b. Approximately \$282.49 seized from FanDuel account #5854 held in the name of Chandler Simbeck.

Doc. 119 at 2.

B. Analysis

Federal Rule of Criminal Procedure 32.2(b)(6)(A) requires that the government send notice to "any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding." In this case, the United States sent direct notice to two individuals as evidenced by the *Notice of Preliminary Order of Forfeiture* filed on December 15, 2022. Doc. 100 at 5. The notice mailed via first-class mail to M.I. at the first listed address was not returned to the United States as undeliverable. Similarly, the notice mailed via first-class mail to E.L. at the first listed address was not returned to the United States as undeliverable. Pursuant to 21 U.S.C. § 853(n), the deadline for either individual to file a petition in this case was within 30 days of receipt of the notice. Doc. 100 at 2.

In addition, the United States published notice of the forfeiture via an official government internet website for thirty consecutive days, from October 14, 2022 to November 12, 2022, consistent with Fed. R. Crim. P. 32.2(b)(6)(C). Pursuant to 21 U.S.C. § 853(n)(2), the deadline for any interested party who received notice of the forfeiture through the website to file a claim asserting an interest in the items to be forfeited was December 12, 2022.

To date no third party has asserted an interest in the items that the United States seeks to forfeit in this case, and the deadline to do so has elapsed.

C. Conclusion

Accordingly, the United States respectfully requests that this Court enter the Final Order of Forfeiture tendered herewith, in accordance with 18 U.S.C. §§ 981(a)(1)(C), 982(a)(1), and 982(a)(8); 28 U.S.C. § 2461(c); and Fed. R. Crim. P. 32.2, forfeiting the following items to the United States:

- a. Approximately \$36,106.22 seized from Citizens Bank account #6441,
- b. Approximately \$425.00 seized from Federal Credit Union account #3025,
- c. Approximately \$999.33 seized from Navy Federal Credit Union account #8829 held in the name of Russell R. Foreman,
- d. Approximately \$183.33 seized from FanDuel account #3300 held in the name of Russell Foreman,
- e. Approximately \$282.49 seized from FanDuel account #5854 held in the name of Chandler Simbeck, and
- f. Approximately \$36.58 seized from TD Ameritrade account #9345 in the name of Russell Ray Foreman.

Dated: April 17, 2024

Respectfully submitted,

COLE FINEGAN
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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of April 2024, I electronically filed the foregoing with the Clerk of Court using the ECF system which will send notice to all counsel of record.

s/ Sheri Gidan
FSA Federal Paralegal
Office of the U.S. Attorney