UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v. Case No. 2:21-cr-107-SPC-MRM

EDRICA LEANN WATSON

UNITED STATES' MOTION
FOR ORDER OF FORFEITURE

Pursuant to 18 U.S.C. § 982(a)(2)(A) and Rule 32.2(b)(2) of the Federal Rules of Criminal Procedure, the United States of America hereby files this motion for an order of forfeiture against the defendant in the amount of $392,563.00, representing the amount of proceeds she obtained as a result of making a false statement to a lending institution, charged in Count Two of the Indictment.

The United States further asks that, in accordance with her Plea Agreement (Doc. 35 at 11), the order of forfeiture become final as to the defendant at the time it is entered. In support of its motion, the United States submits the following memorandum of law.

MEMORANDUM OF LAW

I. Statement of Facts

A. Allegations Against the Defendant

1. The defendant was charged in an Indictment, in relevant part, with making a false statement to a lending institution, in violation of 18 U.S.C. §§ 1014 and 2. Doc. 1.

2. The Indictment also contained forfeiture allegations putting the defendant on notice that, pursuant to 18 U.S.C. § 982(a)(2)(A), the United States would seek an order of forfeiture in the amount of approximately $392,563.00, representing the proceeds obtained from the offenses. *Id.* at 7.

B. Finding of Guilt and Admissions of Fact

3. On March 22, 2022, the defendant pled guilty to Count Two (making a false statement to a lending institution) before United States Magistrate Judge Mac R. McCoy, who recommended that the defendant's guilty plea be accepted. Docs. 34, 36. On the same date, United States District Judge Sheri Polster Chappell accepted the defendant's plea and adjudicated her guilty. Doc. 38. The defendant's sentencing is currently set for June 21, 2022.

4. On pages 20 and 21 of her Plea Agreement (Doc. 35), the defendant admitted, among other things, that on or about April 2, 2021, she signed and submitted or caused to be submitted a Payroll Protection Program (PPP) Loan to Customers Bank to obtain approximately $392,563.00 in funding for Unity Home Care Services, LLC (UHC), in which the defendant is listed both as the registered agent and title manager.

The defendant knowingly submitted or caused to be submitted to Customers Bank materially false representations on a loan application and supporting documentation. Specifically, UHC's number of employees, wages, and income were misrepresented on the loan application and fraudulent tax documents and an income statement were submitted to Customers Bank to support the loan amount of $392,563.00.

Subsequently, the loan was approved, and funds were dispersed into a Chase Bank account ending in 8086 on April 7, 2021. The account was in the name of UHC and the defendant was the sole signatory listed on the account. Customers Bank materially relied on the representations submitted on the loan application and supporting documentation when approving and depositing the loan for UHC.

C. Admissions Relating to Forfeiture

5. In paragraph 12 of her Plea Agreement, pursuant to 18 U.S.C. § 982(a)(2), the defendant agreed to forfeit $392,563.00, which she agreed represents the proceeds she obtained from the offense. Doc. 35 at 9. Additionally, the defendant agreed to the administrative forfeiture of a $45,000 cashier's check ending in 7353, which was voluntarily tendered by the defendant to the United States Secret Service on December 15, 2021. The defendant further agreed that the $45,000 cashier's check will be credited towards the defendant's $392,563.00 order of forfeiture, which will reduce the amount owed accordingly. *Id.* The defendant further admitted that as a result of the acts and omissions of the defendant, the proceeds have been transferred to third parties and cannot be located by the United States upon the exercise of due diligence. *Id* at 10.

II. Applicable Law

The United States is entitled to an order of forfeiture against the defendant, pursuant to 18 U.S.C. § 982(a)(2)(A), which provides for the forfeiture of any property which constitutes, or is derived from, proceeds obtained directly or indirectly, as a result of a violation of 18 U.S.C. § 1014 (making a false statement to a lending institution).

For cases in which a defendant no longer has the actual dollars or property traceable to proceeds in her possession, or the government cannot locate those assets, the obligation to forfeit simply takes the form of an order of forfeiture in favor of the United States. *See United States v. Padron*, 527 F.3d 1156, 1161-62 (11th Cir. 2008). Rule 32.2(b)(1) provides that, where the government seeks an order of forfeiture, the Court must determine the amount of money that the defendant will be ordered to pay.

The defendant admitted that she has dissipated the criminal proceeds that she obtained from her offense. Doc. 35 at 10. Because the United States could not locate the specific property constituting or derived from the proceeds the defendant obtained from making a false statement to a lending institution, the United States seeks an order of forfeiture against the defendant in the amount of $392,563.00, pursuant to Rule 32.2(b)(2). As the defendant has agreed, she obtained $392,563.00 in proceeds as a result of making a false statement to a lending institution. If the Court finds that at least $392,563.00 was obtained by the defendant, and that she has dissipated those proceeds, then it is appropriate for the Court to enter an order of forfeiture against the defendant in that amount pursuant to Rule 32.2(b)(2).

III. <u>Conclusion</u>

For the reasons stated above, the United States requests that, pursuant to 18 U.S.C. § 982(a)(2)(A) and Rule 32.2(b)(2), the Court enter an order of forfeiture against the defendant in the amount of $392,563.00, for which she will be held liable.

The United States further requests that, because the $392,563.00 in proceeds was dissipated by the defendant, the United States may seek, as a substitute asset, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1), forfeiture of any of the defendant's property up to the value of $392,563.00. The $45,000 cashier's check ending in 7353 voluntarily tendered by the defendant to the United States Secret Service on December 15, 2021, which is being administratively forfeited, will be credited towards the defendant's $392,563.00 order of forfeiture.

The United States further requests that, in accordance with her Plea Agreement (Doc. 35 at 11), the order of forfeiture become final as to the defendant at the time it is entered.

As required by Federal Rule of Criminal Procedure 32.2(b)(4)(B), the United States requests that the Court include the forfeiture when orally pronouncing the sentence and in the judgment. *See* Fed. R. Crim. P. 32.2(b)(4)(B) and *United States v. Kennedy*, 201 F.3d 1324, 1326 (11th Cir. 2000).

The United States further requests that the Court retain jurisdiction to address any third party claim that may be asserted in these proceedings, to enter any further order necessary for the forfeiture and disposition of such property, and to order any substitute assets forfeited to the United States up to the amount of the order of forfeiture.

Respectfully submitted,

ROGER B. HANDBERG
United States Attorney

By: *s/Suzanne C. Nebesky*
SUZANNE C. NEBESKY
Assistant United States Attorney
Fla. Bar No. 59377
400 N. Tampa Street, Suite 3200
Tampa, Florida 33602
Tel: (813) 274 6000
E-mail: suzanne.nebesky@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2022, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to counsel of record.

s/Suzanne C. Nebesky
SUZANNE C. NEBESKY
Assistant United States Attorney