IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v. **Criminal No. 1:26-CR-00016**

KURT SIEU LY,

Defendant.

MOTION OF THE UNITED STATES FOR
ENTRY OF PRELIMINARY ORDER OF FORFEITURE MONEY JUDGMENT

The United States requests entry of a Preliminary Order of Forfeiture. In support of this motion, the United States asserts:

1. Rule 32.2(b)(1)(A) mandates the entry of a preliminary order of forfeiture after a plea of guilty is accepted on any Count in an Indictment regarding which criminal forfeiture is sought.

2. On March 3, 2026, the grand jury returned an Indictment alleging that the defendant violated Title 18, United States Code, Section 1343. The Forfeiture Allegation in the Indictment contains notice to the defendant that the government intends to forfeit property in this criminal case.

3. Title 18, United States Code, Sections 981(a)(1)(C), 1956(c)(7)(A), 1961(1), and Title 28, United States Code, Section 2461(c) mandate forfeiture of any property constituting, or derived from, proceeds obtained directly or indirectly, as a result of a violation of Title 18, United States Code, Section 1343.

4. On July 27, 2026, during the Rule 11 hearing, the defendant pled guilty to Count One of the Indictment, alleging the defendant violated Title 18, United States Code, Section 1343.

The plea agreement includes the defendant's stipulation that the amount of proceeds of the offense conduct underlying the conviction is $197,866.00.[1] The defendant further stipulated that substitute property is subject to forfeiture, because, as a result of the defendant's acts and omissions, all property subject to direct forfeiture is unavailable for the reasons described in Title 21, United States Code, Section 853(p)(1), subparagraphs (A)-(E).

5. The record made during the Rule 11 hearing established that the United States is entitled to the entry of a judgement ordering the defendant to pay $197,766.00.

6. Although the law enforcement agency responsible for the investigation of this case has exercised due diligence, it has not been able to locate all property subject to forfeiture. One reason why all such property cannot be located is that the defendant presumptively has used cash proceeds to purchase consumables. Another reason why the law enforcement has not been able to locate all property subject to forfeiture is that the defendant may have prevented the government from locating property that would otherwise be forfeited by transferring, selling, or depositing such property with a third party, or by commingling tainted and untainted property. In any event, the likelihood that any specific property subject to forfeiture will be located before the defendant is sentenced is remote. Accordingly, it appears that the Court will not be able to identify all the specific property subject to forfeiture before the defendant is sentenced.

7. When a defendant has not preserved for forfeiture all property, which the applicable forfeiture statutes mandate be forfeited, the Court is required by Title 21, United States Code, Section 853(p)[2] to forfeit other property in which the defendant has an interest.

[1] This amount was a typographical error. The correct amount is $197,766.00.

[2] With one exception not material to this case, Title 28, United States Code, Section 2461(c) makes the procedures included in Title 21 United States Code, Section 853 applicable to all stages of this criminal forfeiture proceeding.

8. Rule 32.2(b)(1)(C)(iii) authorizes the Court to include in the Preliminary Order of Forfeiture a provision stating that the order will be amended under Rule 32.2(e)(1) when additional property is identified. A proposed Order is submitted herewith.

9. Any forfeited property transferred to a victim by the Attorney General pursuant to Title 18, United States Code, Section 982(b)(1) (incorporating Title 21, United States Code, Section 853(i)(1)) may be set off against the restitution order included in the judgment and commitment order.[2]

Respectfully submitted,

MATTHEW L. HARVEY
United States Attorney

By: /s/ Morgan S. McKee
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Assistant United States Attorney

[2] The Attorney General has established internal guidelines and procedures – authorized by Title 18, United States Code, Section 982(b)(1) (incorporating Title 21, United States Code, Section 853(i)(1)) – to transfer forfeited property to the victims of crimes underlying forfeiture, and related offenses. The procedure through which the Department of Justice is able to expeditiously transfer forfeited property to victims has been named "restoration". The restoration procedure enables the government to release forfeited property in appropriate forfeiture-related criminal cases to victims identified in the criminal judgment. The amount transferred to the victims will either be the amounts described in the court's restitution order, or as a pro rata percentage based on such amounts. The funds are transferred through the Marshals Service, which issues a check payable to the Clerk to be applied against the restitution Order contained in the Judgment.

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of August 2026, I have electronically filed the attached documents with the Clerk of the Court using the CM/ECF system, to be served upon counsel of record.

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