

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 21-10073-EFM
	)	
MICHAEL R. CAPPS,	)	
	)	
Defendant.	)	
_____	)	

UNITED STATES' MOTION FOR A FINAL ORDER OF FORFEITURE

COMES NOW the United States of America, by and through its counsel, Ryan A. Kriegshauser, United States Attorney for the District of Kansas, and Annette Gurney, Assistant United States Attorney, and respectfully moves this Court for a Final Order of Forfeiture and in support thereof advises the Court:

1. The United States hereby incorporates by reference, as though fully set forth herein, all of its averments contained in its Motion for Preliminary Order of Forfeiture filed on January 25, 2023. (Doc. 81).

2. On February 16, 2023, the Court entered a Preliminary Order of Forfeiture (Doc. 83) that forfeited to the United States the following property, subject to third party claims:

A. Contents of account number xxxxx4457, located in Pershing LLC account, styled as Michael R. Capps, TOD DTD 04/11/19, located at Pershing LLC, One Pershing Plaza, Jersey City, New Jersey.

3. Pursuant to Federal R.Crim.Pro. 32.2, third parties asserting a legal interest in the above-described forfeited property are entitled to a judicial determination of the validity of the legal claims or interests they assert.

4. The United States published notification of the Court's Preliminary Order of Forfeiture on an official government internet website, www.forfeiture.gov, for at least 30 consecutive days, beginning on March 17, 2023, as required by Rule G(4)(a)(iv)(c) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. (Doc. 93).

5. The Notice of Forfeiture advised that any person asserting a legal interest in the property identified in paragraph 2 may, within thirty days of the final publication of notice or receipt of actual notice, petition the Court for a hearing to adjudicate the validity of his/her alleged interest in the property.

6. On April 19, 2023, the United States Marshals Service sent a copy of the Preliminary Order of Forfeiture and the Notice of Forfeiture by both certified mail, return receipt requested, and first-class mail addressed to Pershing, LLC. According to the certified return receipt, it was delivered on April 24, 2023. (Doc. 145).

7. On April 19, 2023, the United States Marshals Service sent a copy of the Preliminary Order of Forfeiture and the Notice of Forfeiture by both certified mail, return receipt requested, and first-class mail to Cybertron International, Inc. According to the certified return receipt, it was delivered on April 21, 2023. (Doc. 146).

8. Fed. R. Crim. Pro. 32.2(b)(6)(A) requires the United States to publish notice of the Preliminary Order of Forfeiture and send notice to those who reasonably appear to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding. No notice was sent to Defendant regarding the post-conviction, ancillary proceeding because the Court had already extinguished Defendant's interest in the Pershing account upon the entry of the Preliminary Order of Forfeiture (Doc. 83). The Preliminary Order became final upon

Defendant's sentencing in this case. In its order entered on June 25, 2026, the Court confirmed that Defendant lacked standing regarding the property because his interest had been extinguished upon the entry of the Preliminary Order of Forfeiture (Doc. 83). (Doc. 354).

9. On April 19, 2023, the United States Marshals Service sent a copy of the Preliminary Order of Forfeiture and the Notice of Forfeiture by both certified mail, return receipt requested, and first-class mail to U.S. Small Business Administration, Office of Disaster Assistance (SBA). According to the certified return receipt, it was delivered on April 25, 2023. (Doc. 147). SBA has not filed a petition in this case regarding the forfeited property but has instead submitted a Petition for Remission with the Money Laundering, Narcotics, and Forfeiture Section of the Department of Justice.

10. No claims or petitions have been filed or any interest asserted in the subject property in this case. Therefore, any third-party interests are barred by such failure. Accordingly, the United States seeks a final order of forfeiture for the following property:

- A. Contents of account number xxxxx4457, located in Pershing LLC account, styled as Michael R. Capps, TOD DTD 04/11/19, located at Pershing LLC, One Pershing Plaza, Jersey City, New Jersey.

WHEREFORE, the United States respectfully moves this Court for a Final Order of Forfeiture declaring the property forfeited as to all persons and vesting full right, title and interest to the property in the United States and directing the United States Marshals Service to dispose of the property according to law.

Respectfully Submitted,

RYAN A. KRIEGSHAUSER
United States Attorney
District of Kansas

/s/ Annette Gurney
ANNETTE GURNEY
Assistant United States Attorney
1200 Epic Center, 301 N. Main
Wichita, Kansas 67202
(316) 269-6689
Fax (316)269-6484
KS. S. Ct. #11602
annette.gurney@usdoj.gov

CERTIFICATE OF SERVICE

I certify that on June 29, 2026, the foregoing was electronically filed with the clerk of the court by using the CM/ECF system, which will send a notice to all parties receiving notices electronically, including Defendant Michael R. Capps.

/s/Annette Gurney
ANNETTE GURNEY, #11602
Assistant United States Attorney