

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

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

PRELIMINARY ORDER OF FORFEITURE

Before the Court is the United States' Motion for a Preliminary Order of Forfeiture (Doc. 81).

For good cause shown, the Court **grants** the United States' Motion for a Preliminary Order of Forfeiture (Doc. 81).

1. Based upon the jury's factual determinations in its Special Verdict (Doc. 75), the Court finds that the requisite nexus between the property for which forfeiture was sought and the defendant's crimes of conviction, specifically Counts 7, 8 13, and 15, has been established. The Court orders preliminary forfeiture of the following property to the United States:

A. Contents of account number xxxxx4457, located in Pershing LLC account, styled as Michael R. Capps, TOD DTD 04/1 1/2019, located at Pershing LLC, One Pershing Plaza, Jersey City, New Jersey.

2. The Court finds that the contents of Pershing account number xxxxx4457, up to \$150,000 plus any appreciation on the \$150,000, is forfeited to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. 2461 as this property constitutes proceeds obtained by the defendant from the commission of Counts 7 and 8, for which the defendant was convicted.

3. The Court further finds that the entire contents of Pershing account number xxxxx4457 are forfeited to the United States pursuant to 18 U.S.C. § 981(a)(1) as this property was involved in the commission of Counts 13 and 15, for which the defendant was convicted.

4. The Court further finds that the contents of Pershing account number xxxxx4457 have been seized in place pursuant to District of Kansas seizure warrant Case No. 21-6089-GEB and the United States requests that the account be liquidated, and the funds paid over to the United States Marshals Service. The Court grants this requests and orders Pershing LLC to liquidate the contents of the seized account and pay the funds to the United States Marshals Service. The United States is directed to serve this order upon Pershing LLC.

5. Upon the entry of this Order, the United States shall post to www.forfeiture.gov, for a period of thirty consecutive days, notice of this Order, notice of the United States' intent to dispose of the property according to law, and notice that any person, other than the defendant, having or claiming a legal interest in any of the above-listed forfeited property must file a petition with this Court within thirty days of the final publication of notice or receipt of actual notice, whichever is earlier.

6. Further, the notice shall state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property, shall be signed by the petitioner under penalty of perjury, and shall set forth the nature and extent of the petitioner's right, title, or interest in the forfeited property, and any additional facts supporting the petitioner's claim and the relief sought.

7. The United States may also, to the extent practicable, provide written notice to any person known to have alleged an interest in the forfeited property.

8. Pursuant to Fed. R. Crim. P. 32.2(b)(4), this Preliminary Order of Forfeiture shall become final as to the defendant at the time of sentencing and shall be made part of the sentence and included in the judgment.

9. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture.

10. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary pursuant to Fed. R. Crim. P 32.2(e).

IT IS SO ORDERED.

Dated this 16th day of February, 2023, at Wichita, Kansas.

A handwritten signature in black ink, reading "Eric F. Melgren", written in a cursive style.

ERIC F. MELGREN
CHIEF UNITED STATES DISTRICT JUDGE