CRAIG H. MISSAKIAN (CABN 125202)
United States Attorney

MARTHA BOERSCH (CABN 126569)
Chief, Criminal Division

GALEN A. PHILLIPS (CABN 307644)
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495
Telephone: (415) 436-7110
Email: Galen.Phillips@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. CASSIE WILL-DARNALL, Defendant. SANDRA WILL, Third Party Petitioner.	CASE NO. CR-24-00292-PCP GOVERNMENT'S SUPPLEMENTAL BRIEF RE AUTHORITY IN SUPPORT OF FORFEITURE Date: December 3, 2025 Time: 10:00 a.m. Courtroom: Courtroom 8, 4th Floor Judge: Honorable P. Casey Pitts

INTRODUCTION

At sentencing, the defendant Cassie Will-Darnall argued restitution should be reduced in proportion to the amount the government seeks to forfeit from a Vanguard account ending in -6846. There is no legal authority for this request.

The government will prioritize collecting restitution for the victim over forfeiture. But the Court may not order the government to offset restitution with amounts forfeited. For at least these reasons, the Court must enter a final order of forfeiture as to the defendant including the following property:

- Real Property located at 111 Belwood Gateway, Los Gatos CA 95032, Santa Clara County, APN 527-31-019;
- All funds up to $625,952.60 on deposit in a Vanguard account ending in -6846, held in the name of Alternative Health Services Inc, and all interest accrued since seizure of those funds; and
- A money judgment in the amount of $1,406,594.56.

I. Argument

A. Forfeiture is Mandatory and May Not Be Reduced Because of an Order of Restitution

1. Forfeiture is Mandatory

Forfeiture of the proceeds obtained by a defendant is mandatory. "When the government has met the requirements for criminal forfeiture, the district court must impose criminal forfeiture, subject only to statutory and constitutional limits." *United States v. Newman*, 659 F.3d 1235, 1240 (9th Cir. 2011) (citations omitted); *see United States v. Omidi*, 125 F.4th 1283, 1287 (9th Cir 2025) ("When applicable, such forfeiture is mandatory."); *see also United States v. Monsanto*, 491 U.S. 600, 607 (1989) (by using the phrase "shall order" in a different forfeiture statute,[1] "Congress could not have chosen stronger words to express its intent that forfeiture be mandatory in cases where the statute applied"). "[A]ny property which 'constitutes or is derived from proceeds traceable to' a mail or wire fraud scheme is

[1] 28 U.S.C. § 2461, the forfeiture statute in the instant case and *Omidi* contains "shall order" forfeiture language: "If the defendant is convicted of the offense giving rise to the forfeiture, the court shall order the forfeiture of the property as part of the sentence in the criminal case pursuant to [to] the Federal Rules of Criminal Procedure and section 3554 of title 18, United States Code."

subject to forfeiture." *Omidi*, 125 F.4th at 1287. "Said more simply, any proceeds that directly or indirectly derive from the fraudulent scheme must be forfeited." *Id*.

2. Forfeiture and Restitution Are Separate and Do Not Offset Each Other

"[C]riminal forfeiture and restitution are separate remedies with different purposes." *United States v. Davis*, 706 F.3d 1081, 1084 (9th Cir. 2013) (citations omitted). "Although Defendants must pay both restitution and criminal forfeiture, that result is not an impermissible 'double recovery.'" *Newman*, 659 F.3d at 1240; *Davis*, 706 F.3d at 1084 ("Even if the same government entity will receive both forfeiture and restitution, there simply is no double recovery. The two payments represent different types of funds: punitive and compensatory. They are different in nature, kind, and purpose.").

"In the absence of a statute authorizing a reduction in forfeiture, the district court may not reduce forfeiture because of an order of restitution to a victim or because the victim already has been made whole." *Newman*, 659 F.3d at 1241; *see also Davis*, 706 F.3d at 1083–84; *United States v Arnold*, 878 F.3d 940, 946 (10th Cir. 2017) ("[T]he statutes mandating restitution and forfeiture do not allow a defendant's payments toward one to offset the amount owed to the other"); *United States v. Alalade*, 204 F.3d 536, 540 (4th Cir. 2000) ("[T]he plain language of the MVRA did not grant the district court discretion to reduce the amount of restitution" by the amount ordered to be forfeited); *United States v. Taylor*, 582 F.3d 558, 566 (5th Cir. 2009) (a district court that had imposed both forfeiture and restitution "properly adhered" to the mandatory language found within the statutory schemes); *United States v. Emerson*, 128 F.3d 557, 566–67 (7th Cir. 1997) (rejecting defendant's request to credit his forfeiture payment towards the restitution amount he owed).

3. Forfeiture Is Based on the Criminal Proceeds, Not the Defendant's Current Finances

The Ninth Circuit has repeatedly held that that money judgments are independent of a defendant's finances, even in cases with insolvent defendants. "We have explained that '[r]equiring imposition of a money judgment on a defendant who currently possesses no assets furthers the remedial purposes of the forfeiture statute by ensuring that all eligible criminal defendants receive the mandatory forfeiture sanction Congress intended and disgorge their ill-gotten gains, even those already spent.'" *United States v. Prasad*, 18 F.4th 313, 319 (9th Cir. 2021) (quoting *Newman*, 659 F.3d at 1243); *see also United States v. Casey*, 444 F.3d 1071, 1074–76 (9th Cir. 2006) ("[A] racketeer who dissipates the

profits or proceeds of his racketeering activity on wine, women, and song has profited from . . . crime to the same extent as if he had put the money in his bank account. Every dollar that the racketeer derives from illicit activities and then spends on such items as food, entertainment, college tuition, and charity, is a dollar that should not have been available for him to spend for those purposes."); *see also United States v. Darji*, 609 F. App'x. 320, 332 (6th Cir. 2015) (defendant's ability to pay is not relevant in forfeiture analysis; "The amount of forfeiture is measured by the amount of proceeds received by a defendant—not the amount of assets a defendant retains at the time of sentencing").

CONCLUSION

The Court should enter a final order of forfeiture against the defendant including the following:

- Real Property located at 111 Belwood Gateway, Los Gatos CA 95032, Santa Clara County, APN 527-31-019;
- All funds up to $625,952.60 on deposit in a Vanguard account ending in -6846, held in the name of Alternative Health Services Inc, and all interest accrued since seizure of those funds; and
- A money judgment in the amount of $1,406,594.56.

DATED: November 24, 2025

Respectfully submitted,

CRAIG H. MISSAKIAN
United States Attorney

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GALEN A. PHILLIPS
Assistant United States Attorney