IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

UNITED STATES OF AMERICA,

Plaintiff,

v. **Civil Action No. 5:23-cv-00393**

$168,849.42 SEIZED FROM FIRST COMMUNITY BANK, ACCOUNT NUMBER XX2781;
$299,604.40 SEIZED FROM FIRST COMMUNITY BANK, ACCOUNT NUMBER XX2660;
$2,333,832.28 FROZEN FROM ALLY INVESTMENT, ACCOUNT NUMBER XX-X6295-11;
$45,000 FROZEN FROM ALLY INVESTMENT, ACCOUNT NUMBER XX-X6295-11,

Defendants.

CLAIMANTS' MOTION FOR STAY

Comes now, Claimants Ross Bailey and R & R Delivery Service, Inc. (collectively, "Claimants"), by John D. (Jody) Wooton, Jr., R. Brandon Johnson, and WOOTON, DAVIS, HUSSELL & JOHNSON, PLLC, and hereby file this Motion for Stay. In support of this Motion, Claimants concurrently-file their Memorandum in Support.

The civil action in this matter was filed on May 17, 2023, and the Complaint is before the Court. Claimants retained John Carr as Counsel in this matter. Mr. Carr filed a general denial of the complaint on December 22, 2023. Since that time, Claimants have retained new Counsel, and the Court has issued a Show Cause Order with a response date of December 16, 2024.

This is a civil action for forfeiture in rem, pursuant to 18 U.S.C. § 981(a)(l)(A), (1)(C), the procedures set forth in Rule G of the Supplemental Rules for Admiralty or Maritime Case Claims and Asset Forfeiture Actions, the Federal Rules of Civil Procedure, and 18 U.S.C. § 985, to forfeit

assets from alleged theft of government funds, theft of stolen funds across state lines, wire fraud, and money laundering in violation of 18 U.S.C. §§ 287, 641, 1343, 1956, and/or property traceable to such property. But, at the same time, Claimant, Ross Bailey ("Mr. Bailey") is embroiled in a criminal matter concerning the very same allegations that appear in this civil case.

Given that a concurrent criminal matter is ongoing concerning the very same allegations in this civil suit, during the pendency of that criminal matter, this Court should issue a stay in this civil action to prevent the criminal and civil court from addressing legal and factual issues that are identical. This, of course, is to prevent conflicting outcomes and to preserve judicial economy. Otherwise, the parties could be exposed to multiple trials, overlapping issues, and the possibility of inconsistent rulings. Thus, for these important reasons, as set forth in greater detail in Claimant's contemporaneously filed Memorandum in Support, this Court should grant this Motion.

ROSS BAILEY and R&R DELIVERY SERVICE, INC.,

By Counsel

/s/ John D. (Jody) Wooton, Jr.
John D. (Jody) Wooton, Jr. (WVSB #10571)
R. Brandon Johnson (WVSB #5581)
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Defendants.

CERTIFICATE OF SERVICE

John D. (Jody) Wooton, Jr., R. Brandon Johnson, and WOOTON, DAVIS, HUSSELL & JOHNSON, PLLC, do hereby certify that the foregoing CLAIMANTS' MOTION FOR STAY was served upon all parties via the CM/ECF Court System, on this 10th day of December, 2024:

Fred B. Westfall, Jr.
Assistant United States Attorney
300 Virginia Street East, Room 4000
Charleston, West Virginia 25301

/s/ John D. (Jody) Wooton, Jr.
John D. (Jody) Wooton, Jr. (WVSB #10571)
R. Brandon Johnson (WVSB #5581)
WOOTON, DAVIS, HUSSELL & JOHNSON, PLLC