

KEITH NICOLETTA
8:21-cr-6-MSS-AAS

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

Case Number: 8:21-cr-6-MSS-AAS

v.

USM Number: 13364-509

KEITH NICOLETTA

Bjorn Erik Brunvand (Retained)

JUDGMENT IN A CRIMINAL CASE

The defendant pleaded guilty to Count One of the Information. The defendant is adjudicated guilty of this offense:

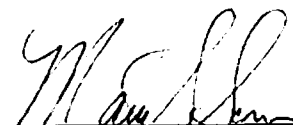
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number</u>
18 U.S.C. § 1956(h)	Conspiracy to Commit Money Laundering	October 1, 2020	One

The defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS ORDERED that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the Court and United States Attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Judgment:

January 5, 2023



MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

January 5, 2023

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IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **TWENTY-FOUR (24) MONTHS**.

The Court makes the following recommendations to the Bureau of Prisons:

- Designation at Pensacola Federal Correctional Institution.

The defendant may voluntarily surrender at the institution designated by the Bureau of Prisons no sooner than 90 days from today.

The defendant is ordered to immediately proceed to the Office of the United States Marshal for processing and further instructions.

RETURN

I have executed this judgment as follows:

The defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
Deputy U.S. Marshal

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SUPERVISED RELEASE

Upon release from imprisonment, the defendant will be on supervised release for a term of **THREE (3) YEARS**.

MANDATORY CONDITIONS

1. The defendant shall not commit another federal, state or local crime.
2. The defendant shall not unlawfully possess a controlled substance.
3. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
4. The defendant shall cooperate in the collection of DNA as directed by the Probation Officer.
5. The defendant shall make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

The defendant shall also comply with the additional conditions on the attached page.

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STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, the defendant shall comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by Probation Officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. The defendant shall report to the Probation Office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the Probation Officer instructs you to report to a different Probation Office or within a different time frame. After initially reporting to the Probation Office, the defendant will receive instructions from the court or the Probation Officer about how and when the defendant must report to the Probation Officer, and the defendant must report to the Probation Officer as instructed.
2. After initially reporting to the Probation Office, you will receive instructions from the court or the Probation Officer about how and when the defendant shall report to the Probation Officer, and the defendant shall report to the Probation Officer as instructed.
3. The defendant shall not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the Probation Officer.
4. The defendant shall answer truthfully the questions asked by your Probation Officer.
5. The defendant shall live at a place approved by the Probation Officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), the defendant shall notify the Probation Officer at least 10 days before the change. If notifying the Probation Officer in advance is not possible due to unanticipated circumstances, the defendant shall notify the Probation Officer within 72 hours of becoming aware of a change or expected change.
6. The defendant shall allow the Probation Officer to visit you at any time at your home or elsewhere, and the defendant shall permit the Probation Officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the Probation Officer excuses you from doing so. If you do not have full-time employment the defendant shall try to find full-time employment, unless the Probation Officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), the defendant shall notify the Probation Officer at least 10 days before the change. If notifying the Probation Officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant shall notify the Probation Officer within 72 hours of becoming aware of a change or expected change.
8. The defendant shall not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the Probation Officer.
9. If you are arrested or questioned by a law enforcement officer, the defendant shall notify the Probation Officer within 72 hours.
10. The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. The defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the Probation Officer determines that you pose a risk to another person (including an organization), the Probation Officer may require you to notify the person about the risk and the defendant shall comply with that instruction. The Probation Officer may contact the person and confirm that you have notified the person about the risk.
13. The defendant shall follow the instructions of the Probation Officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. Probation Officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

The defendant's signature: _____

Date: _____

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ADDITIONAL CONDITIONS OF SUPERVISED RELEASE

1. The defendant shall be prohibited from incurring any new credit charges, opening any additional lines of credit, or obligating himself for any major purchases that exceed \$1000 without prior approval of the Probation Officer.
2. The defendant shall provide the Probation Officer access to any requested financial information.
3. The defendant shall cooperate in the collection of DNA, as directed by the Probation Officer.
4. The mandatory drug testing requirements of the Violent Crime Control Act are suspended. However, the defendant must submit to random drug testing not to exceed 104 tests per year.
5. The defendant shall pay restitution in the amount of \$1,903,157 to Celtic Bank. This restitution obligation shall be payable to the Clerk, U.S. District Court, for distribution to the victim. Restitution shall be paid jointly and severally with Richard Simpkins (Case Number 8:21-cr-292-VMC-TGW). While in Bureau of Prisons custody, the defendant shall either (1) pay at least \$25 quarterly if he has a non-Unicor job or (2) pay at least 50% of his monthly earnings if he has a Unicor job. Upon release from custody, the defendant shall pay restitution at the rate of \$200 per month. At any time during the course of post-release supervision, the victim, the government, or the defendant, may notify the Court of a material change in the defendant's ability to pay, and the Court may adjust the payment schedule accordingly. The Court finds that the defendant does not have the ability to pay interest and the Court waives the interest requirement for the restitution.

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CRIMINAL MONETARY PENALTIES

The defendant must pay the following total criminal monetary penalties under the schedule of payments set forth in the Schedule of Payments.

<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
\$100.00 Due Immediately	\$1,903,157	WAIVED	N/A	N/A

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(I), all nonfederal victims must be paid in full prior to the United States receiving payment.

<u>Name of Payee</u>	<u>Total Loss****</u>	<u>Restitution Ordered</u>	<u>Priority of percentage</u>
Celtic Bank	\$1,903,157.00	\$1,903,157.00	

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

Special Assessment shall be paid in full and is due immediately.

Unless the Court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court, unless otherwise directed by the Court, the Probation Officer, or the United States attorney.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, and (9) penalties, and (10) costs, including cost of prosecution and court costs.

*Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pu. L. No. 115-299.

**Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

***Findings for the total amount of losses, are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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Joint and Several

Restitution shall be paid jointly and severally with Defendant Richard Simpkins (Case Number 8:21-cr-292-VMC-TGW).

Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
\$1,903,157.00	\$1,903,157.00	Celtic Bank

FORFEITURE

The defendant shall forfeit to the United States those assets previously identified in the Order of Forfeiture (see Doc. 50), attached hereto, that are subject to forfeiture.

**UNITED STATES DISTRICT COURT
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v.

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FINAL ORDER OF FORFEITURE FOR DIRECT ASSETS

The United States moves under 21 U.S.C. § 853(n)(7) and Rule 32.2(c)(2), Federal Rules of Criminal Procedure, for a final order of forfeiture for the following assets, which were subject to a July 30, 2021 preliminary order of forfeiture (Dkt 44):

- a. \$85,000 in U.S. currency in lieu of a 2020 Mercedes-Benz S560, Vehicle Identification Number W1KUG8DB8LA529322;
- b. A 2020 Ford Super Duty F-250 Platinum Edition, Vehicle Identification Number 1FT7W2BT9LED45745;
- c. \$7,500 in U.S. currency in lieu of the Rolex watch purchased by the defendant in or about July 2020 from Mayors Jewelers;
- d. Approximately \$40,335.00 in U.S. Currency seized from 11248 Mansker Road, Dade City, Florida on or about October 20, 2020; and
- e. Approximately \$96,139.32 seized from San Antonio Federal Credit Union account number 59274-000, held in the name of Keith W. Nicoletta.

In accord with 21 U.S.C. § 853(n) and Rule 32.2(b)(6)(C), Federal Rules of Criminal Procedure, from August 3, 2021, and ending on September 1, 2021, the United States published notice of the forfeiture and of its intent to dispose of the assets on the official government website, www.forfeiture.gov. (Dkt 48) The publication

gave notice to all third parties with a legal interest in the assets to file with the Office of the Clerk, United States District Court, Sam Gibbons Federal Courthouse, 2nd Floor, 801 North Florida Avenue, Tampa, Florida 33602, a petition to adjudicate their interests within 60 days of the first date of publication. No persons or entities filed a petition or claimed an interest in the assets, and the time for filing such petition has expired.

The United States' motion is **GRANTED**. Under 21 U.S.C. § 853(n)(7) and Rule 32.2(c)(2), Federal Rules of Criminal Procedure, all right, title, and interest in the assets are **CONDEMNED** and **FORFEITED** to the United States for disposition according to law. The net proceeds from the forfeiture and sale of the specific assets forfeited will be credited to and reduce the amount the United States shall be entitled to forfeit as substitute assets pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1).

Clear title to the assets is now vested in the United States of America.

DONE and ORDERED in Tampa, Florida, this 8th day of October, 2021.



MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Suzanne C. Nebesky, AUSA
Counsel of Record