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UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

UNITED STATES OF AMERICA, Plaintiff, vs. MUBARAK SULAIMAN UKASHAT, Defendant.	**MOTION FOR ORDER OF FORFEITURE (MONEY JUDGMENT ONLY)** Case No. 2:23-cr-00111-HCN Judge Howard C. Nielson, Jr.

Pursuant to Fed. R. Crim. P. 32.2(b) and 31 U.S.C. § 5317(c), the United States of America moves the Court to enter an Order of Forfeiture, and in support states:

1. On February 4, 2025, the United States charged Mubarak Sulaiman Ukashat, in Count One with Failure to File Currency and Other Monetary Instruments Reports in violation of 31 U.S.C. § 5324(c)(1). Felony Information, ECF 203. The felony information notified the defendant that upon conviction, the United States would seek forfeiture of any property, real or personal, involved in such offense, or any property traceable to such property under 31 U.S.C. § 5317(c). *Id*.

2. On February 6, 2025, the defendant pleaded guilty. *See* Plea Hr'g Min. Entry, ECF 207.

3. As part of the Defendant's Statement in Advance of Guilty Plea filed on February 7, 2025, the defendant agreed to a forfeiture money judgment of $101,000. ECF 209 at 7. In his plea, the defendant described the connection between the money judgment amount and the offense, including that from May 1, 2020, through December 2020, defendant knowingly transported at least $101,000 in United States currency in increments exceeding $10,000 from the United States to a place outside the United States, including Nigeria and Dubai, in so doing to evade reporting requirements. *Id*. at 4.

4. If the United States later seeks to forfeit substitute assets in satisfaction of the forfeiture money judgment, the Court must also find the government has satisfied one or more of the factors in 21 U.S.C. § 853(p). *See* 21 U.S.C. § 853(p)(1) and (2) (allowing the United States to forfeit substitute assets if one or more of five factors is satisfied). The United States requests that the Court make this finding now based on the defendant's admission in his plea statement that the proceeds of the defendant's crimes amount to $101,000 and that such proceeds are not available for forfeiture for one or more of the reasons listed in 21 U.S.C. § 853(p), and to an order that imposes a forfeiture money judgment against the defendant of $101,000. ECF 209 at 4.

5. Unlike the law applicable to restitution orders, which authorizes courts to impose a greater amount of restitution than is authorized for the offenses of conviction,[1] no such authority exists in the forfeiture context.

6. Under Fed. R. Crim. P. 32.2(c)(2), a preliminary order of forfeiture becomes the final order of forfeiture if no third parties file petitions claiming an interest in the forfeited

[1] *See, e.g.,* 18 U.S.C.A. § 3663(a)(3)("The court may also order restitution in any criminal case to the extent agreed to by the parties in a plea agreement.").

property. For a preliminary order to become a final order, the Court must find that the defendant, or any combination of defendants, "had an interest in the property that is forfeitable under the applicable statute." Fed. R. Crim. P. 32.2(c)(2). Since the contemplated order does not forfeit specific assets and only imposes a money judgment, these provisions are inapplicable. Instead, the proposed order provides that it will become final at the defendant's sentencing consistent with Rule 32.2(b)(4)(A).

7. Based on the defendant's statement in advance of plea and guilty plea and under 31 U.S.C. § 5317(c), the Court should find that the defendant obtained at least $101,000 from the offense and that such amount is not available for forfeiture for one or more of the reasons listed in 21 U.S.C. § 853(p). Consequently, the Court should order the defendant to pay a forfeiture money judgment of $101,000.

8. Pursuant to Rule 32.2(b)(3), the government requests that it be permitted to undertake whatever discovery may be necessary to identify, locate, or dispose of substitute assets that may satisfy the forfeiture money judgment.

9. After discovery of any specific substitute asset, the United States will move the Court, pursuant to Fed. R. Crim. P. 32.2(e), for an amended order of forfeiture for the specific substitute asset. Upon entry of such an order, the United States will provide notice of the order allowing third parties who claim an interest in any such asset to petition the court for a hearing to adjudicate the validity of their interest in the asset, pursuant to 21 U.S.C. § 853(n).

10. Since the forfeiture order will only consist of a forfeiture money judgment against the defendant, no ancillary proceeding will be commenced by the government at this time.

11. Therefore, the United States asks the Court to enter the enclosed order of forfeiture and, as required by Fed. R. Crim. P. 32.2(b)(4)(B), to orally announce the forfeiture at the defendant's sentencing and include a reference to the forfeiture order in the judgment.

Respectfully submitted,

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<u>/s/ Travis K. Elder</u>
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