UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v. Case No. 8:23-cr-24-CEH-SPF

ALEXANDER ALLI

UNITED STATES' MOTION FOR ORDER OF FORFEITURE

The United States moves this Court, pursuant 18 U.S.C. § 981(a)(1)(C), 28 U.S.C. § 2461(c), and Fed. R. Crim. P. 32.2(b)(2), to enter an order of forfeiture against the defendant in the amount of $82,400. In support, the United States submits the following memorandum of law.

MEMORANDUM OF LAW

I. Statement of Facts

A. Allegations Against the Defendant

1. The defendant was charged in a Superseding Indictment with a wire conspiracy, in violation of 18 U.S.C. § 1349 (Count One), and a wire fraud scheme, in violation of 18 U.S.C. §§ 1343 and 2 (Counts Two and Three). Doc. 46.

2. The Superseding Indictment also contained forfeiture allegations putting the defendant on notice that, pursuant to, 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), the United States would seek to forfeit the $80,400 the defendant obtained as a result of the offense. *Id.* at 6.

B. Finding of Guilt

3. A jury trial commenced, and at the conclusion of the trial, the jury found the defendant guilty on Counts One through Three, and the Court adjudicated him guilty. Docs. 126, 132.

II. Applicable Law

The United States is entitled to an order of forfeiture against the defendant, pursuant to 18 U.S.C. § 981(a)(1)(C). The United States may civilly forfeit, pursuant to 18 U.S.C. § 981(a)(1)(C), any property, real or personal, which constitutes or is derived from proceeds of any "specified unlawful activity," as defined in 18 U.S.C. § 1956(c)(7), or a conspiracy to commit such offense. A "specified unlawful activity" includes any offense listed in section 1961(1), which, in turn, includes any violation of section 1343 (wire fraud) or a conspiracy (1349). Because the United States is entitled to civilly forfeit proceeds of such offenses, it may criminally forfeit the proceeds, pursuant to 28 U.S.C. § 2461(c), which authorizes the criminal forfeiture of any property that can be forfeited civilly, using the procedures set forth in 21 U.S.C. § 853.

For cases in which a defendant no longer has the actual dollars or property traceable to proceeds in his possession, or the government cannot locate those assets, the obligation to forfeit simply takes the form of an order of forfeiture in favor of the United States. *See United States v. Padron*, 527 F.3d 1156, 1161-62 (11th Cir. 2008). Rule 32.2(b)(1) provides that, where the government seeks an order of forfeiture, the

Court must determine the amount of money that the defendant will be ordered to pay.

As was established at trial, the defendant submitted a fraudulent Economic Injury Disaster Loan (EIDL) application to the Small Business Administration (SBA). In his application, the defendant falsely represented that he had a business suffering injury due to the effects of the Covid-19 pandemic and that the EIDL funds would be used only for business-related purposes, as specified in the loan agreement. However, as Special Agent James Pierre testified, and the government's exhibits showed (Gov. Exs. 10A and 10C) the defendant's business was no longer operational at the time his EIDL application was submitted and had ceased operations and closed its bank account prior to the start of the pandemic. Additionally, while the defendant certified on the loan agreement that the EIDL funds would be used for his business, the evidence showed he spent the funds fraudulently. As SBA Representative Michael Burchfiel and FBI Forensic Accountant Gianine Lorie testified, and as the defendant's bank records confirmed (Gov. Exs. 13B and 13D), the defendant received a total of $82,400 in EIDL funds (a $2,000 advance on May 1, 2020, and an $80,400 EIDL payment on July 20, 2020) as a result of the fraud. In a recorded interview, defendant admitted that he obtained the EIDL funds into his personal bank account and that he intended to use the funds to start a new "trucking" business. Based on these facts, and others, the jury convicted the defendant of a (1) wire fraud conspiracy, and (2) wire fraud scheme; therefore, the

United States is entitled to an order of forfeiture against the defendant in the amount of $82,400, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

III. Conclusion

For the reasons stated above, the United States requests that, pursuant to 18 U.S.C. § 981(a)(1)(C), 28 U.S.C. § 2461(c), and Rule 32.2(b)(2), the Court enter an order of forfeiture against the defendant in the amount of $82,400, for which he will be held liable.

The United States further requests that, because the $82,400 in proceeds was dissipated by the defendant, the United States may seek, as a substitute asset, pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c), forfeiture of any of the defendant's property up to the value of $82,400.

The United States further requests that order of forfeiture become final as to the defendant at sentencing.

As required by Federal Rule of Criminal Procedure 32.2(b)(4)(B), the United States requests that the Court include the forfeiture when orally pronouncing the sentence and in the judgment. *See* Fed. R. Crim. P. 32.2(b)(4)(B) and *United States v. Kennedy*, 201 F.3d 1324, 1326 (11th Cir. 2000).

The United States further requests that the Court retain jurisdiction to address any third-party claim that may be asserted in these proceedings, to enter any further order necessary for the forfeiture and disposition of such property, and to order any substitute assets forfeited to the United States up to the amount of the order of forfeiture.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2024, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to counsel of record.

s/ *Suzanne C. Nebesky*
SUZANNE C. NEBESKY
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