

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

Case No. 8:19-cr-334-T-35CPT

JOSEPH S. ANILE, II

**UNITED STATES' MOTION FOR ORDER OF FORFEITURE AND
PRELIMINARY ORDER OF FORFEITURE FOR DIRECT ASSET**

Pursuant to 18 U.S.C. § 981(a)(1)(C), 28 U.S.C. § 2461(c), and Rule 32.2(b)(2) of the Federal Rules of Criminal Procedure, the United States of America hereby files this motion for an order of forfeiture against the defendant in the amount of \$3,283,467, representing the amount of proceeds he obtained as a result of his participation in the wire and mail fraud conspiracy charged in Count One of the Information.

In addition, pursuant to 18 U.S.C. § 981(a)(1)(C), 28 U.S.C. § 2461(c), and Rule 32.2(b)(2), the United States moves for a preliminary order of forfeiture for the following asset, which constitutes proceeds of the wire and mail fraud conspiracy:

All funds in any foreign exchange market accounts established by the defendant and/or Oasis International Group, Ltd., Oasis Management, LLC, Oasis Global FX, Ltd., and/or Oasis Global, S.A., to receive proceeds of the offenses,

(the FOREX Accounts).

The United States further asks that, in accordance with his Amended Plea Agreement (Doc. 19, p. 17), the order of forfeiture and preliminary order of forfeiture for direct asset become final as to the defendant at the time it is entered. In support of its motion, 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 an Information, in relevant part, with (1) conspiracy to commit wire and mail fraud, in violation of 18 U.S.C. § 1349, and (2) an illegal monetary transaction, in violation of 18 U.S.C. § 1957.

Doc. 1.

2. The Information also contained forfeiture allegations putting the defendant on notice that, pursuant to 18 U.S.C. §§ 981(a)(1)(C), 982(a)(1), and 28 U.S.C. § 2461(c), the United States would seek an order of forfeiture in the amount of approximately \$3,283,467, and forfeiture of, among others, the directly traceable asset identified on page one, *supra*.¹ *Id.*, pp. 10-15.

¹ The remaining assets identified in the Information and Amended Plea Agreement have either been administratively forfeited by the Federal Bureau of Investigation or have been forfeited in a related civil forfeiture proceeding, *U.S. v. 13318 Lost Key Place, Lakewood Ranch, Florida, et al.*, Case Number 8:19-cv-908-T-02AEP.

B. Finding of Guilt and Admissions of Fact

3. On September 26, 2019, the defendant pled guilty to Counts One (wire and mail fraud conspiracy), Two (illegal monetary transaction), and Three (filing a false income tax return)² before United States Magistrate Judge Christopher P. Tuite, who recommended that the defendant's guilty plea be accepted. Docs. 12 and 16.

4. On pages 26 through 33 of his Amended Plea Agreement (Doc. 19), the defendant admitted, among other things, that from at least as early as November 2011, through and including at least April 18, 2019, he conspired with others to commit wire fraud and mail fraud. The defendant and his co-conspirators made false and fraudulent representations to victim-investors and potential investors to persuade them to transmit their funds, via wire and mail, to entities and accounts controlled by conspirators to be traded in the foreign exchange market (FOREX). In fact, the defendant and his co-conspirators used only a portion of the victim-investors' funds for FOREX trading, and the trading resulted in losses which conspirators concealed. They used the balance of the victim-investors' funds to make Ponzi-style payments, to perpetuate the scheme, and for their own personal enrichment.

² The United States is not seeking forfeiture under the tax violation.

Specifically, the defendant, a licensed attorney, created offshore entities, secured broker-dealer licenses, drafted promissory notes and disclosures, monitored incoming wire transactions, directed outgoing wire transactions and, among other conduct, interacted with victim-investors in order to carry out the scheme. He was a co-founder, director, and president of Oasis International Group, Ltd. (OIG) and also created and/or controlled 444 Gulf of Mexico Drive, LLC, Bowling Green Capital Corporation, 4064 Founders Club Drive, LLC, and 4Oaks, LLC, and other entities.

The defendant and his co-conspirators held OIG out to victim-investors as the entity used to conduct FOREX trading, the buying and selling of different currencies. They did not disclose the fact that neither OIG nor any of the conspirators was registered with the Commodity Futures Trading Commission (CFTC), as required to engage in FOREX trading in the United States.

In soliciting investments, the defendant and his co-conspirators made multiple false and fraudulent representations and material omissions in their communications to victim-investors and potential investors. In particular, they promoted one of the conspirators as an experienced FOREX trader with a record of success, but concealed the fact that he had been permanently banned from registering with the CFTC and was prohibited from soliciting

U.S. residents to trade in FOREX and from trading FOREX for U.S. residents in any capacity. They also fraudulently represented that: (a) conspirators did not charge any fees or commissions; (b) investors were guaranteed a minimum 12 percent per year return on their investments; (c) conspirators had never had a month when they had lost money on FOREX trades; (d) interest and principal payments made to investors were funded by profitable FOREX trading; (e) conspirators owned other assets sufficient to repay investors' principal investments; and (f) an investment with conspirators was safe and without risk. In so doing, the defendant and his co-conspirators caused victim-investors to transmit funds, via interstate wire transmissions and the United States mail and private and commercial interstate carriers, to Oasis Management, LLC to be traded in the FOREX market.

The defendant and his co-conspirators used some of the funds transmitted by later victim-investors to make purported interest payments to earlier victim-investors to create the illusion that the investment program was legitimate and profitable, as in a typical Ponzi scheme. They used some of the funds transmitted by victim-investors for expenses associated with perpetuating the scheme and for their own personal enrichment.

The conspiracy to commit wire fraud and mail fraud perpetrated by the defendant and his co-conspirators yielded more than \$72,719,929 in deposits

from at least 700 victim-investors. The defendant and his co-conspirators used at least \$19,625,000 to engage in FOREX trading, and almost all of the money was lost. They used at least \$21,974,000 to make Ponzi-style payments and principal payments to victim-investors. They used the balance of more than \$24,801,000 to pay expenses to perpetuate the scheme and primarily for their personal enrichment. The defendant personally received a minimum of \$3,283,467 of this amount.

C. Admissions Relating to Forfeiture

5. In paragraph 14 of his Amended Plea Agreement, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), the defendant agreed to an order of forfeiture in the amount of \$3,283,467, which he agreed represents the proceeds he obtained from the offenses. Doc. 19, p. 11. The defendant further agreed that as a result of the acts and omissions of the defendant, the proceeds not recovered by the United States through the forfeiture of the directly traceable assets listed herein have been transferred to third parties and cannot be located by the United States upon the exercise of due diligence. *Id.*, p. 16. The defendant also agreed to forfeit the certain assets, including funds in the FOREX Accounts referenced on page one, which he agreed were funded with proceeds of the defendant's offenses. Doc. 19, pp. 11-16. The net proceeds from the forfeiture and sale of any specific assets 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 28 U.S.C. § 2461(c).

II. Applicable Law

The United States is entitled to an order of forfeiture against the defendant and to forfeit the direct assets, 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 (18 U.S.C. § 1349). A "specified unlawful activity" also includes any offense listed in section 1961(1), which, in turn, includes any violation of sections 1343 (wire fraud) and 1341 (mail fraud). 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.

A. Order of Forfeiture

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.

The defendant admitted that he has dissipated the criminal proceeds that he obtained from his offense. Doc. 19, p. 16. Because the United States could not locate the specific property constituting or derived from the proceeds the defendant obtained from his participation in the wire and mail fraud conspiracy, the United States seeks an order of forfeiture against the defendant in the amount of \$3,283,467, pursuant to Federal Rule of Criminal Procedure 32.2(b)(2). As the defendant has agreed, he obtained \$3,283,467 in proceeds as a result of his participation in the wire and mail fraud conspiracy. If the Court finds that at least \$3,283,467 was obtained by the defendant, and that he has dissipated those proceeds, then it is appropriate for the Court to enter an order of forfeiture against the defendant in that amount pursuant to Rule 32.2(b)(2).

B. Direct Assets

Rule 32.2(b)(1) provides that, when the government seeks to forfeit specific property, the Court must determine whether the government has established the requisite nexus between the property and the defendant's crime. Fed. R. Crim. P. 32.2(b)(1). As the defendant has agreed, the FOREX

Accounts identified on page one, were funded with proceeds from the wire and mail fraud conspiracy, to which he pled guilty; therefore, the assets are subject to forfeiture, 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 \$3,283,467, for which he will be held liable.

The United States further requests that, because the \$3,283,467 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 \$3,283,467. The net proceeds from the forfeiture and sale of any specific assets purchased with the defendant's share of the proceeds will be credited to and reduce the amount the United States shall be entitled to forfeit as substitute assets.

The United States further 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 a preliminary order of forfeiture for the asset identified on page one, *supra*.

The United States further requests that, in accordance with his Amended Plea Agreement (Doc. 19, p. 17), the order of forfeiture and preliminary order of forfeiture for direct asset become final as to the defendant at the time it is entered.

Upon issuance of the Preliminary Order of Forfeiture, the United States will provide written notice to all third parties known to have an alleged legal interest in the property and will publish notice on the Internet at www.forfeiture.gov of its intent to forfeit the property. Determining whether a third party has any interest in the property must be deferred until a third party files a claim in an ancillary proceeding under Rule 32.2(c).

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 September 27, 2019, 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
Assistant United States Attorney