

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

Case No. 8:19-cr-605-WFJ-CPT

MICHAEL J. DACORTA

**UNITED STATES' MOTION
FOR ORDER OF FORFEITURE**

Pursuant to 18 U.S.C. §§ 981(a)(1)(C), 982(a)(1), 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 \$2,817,876.16, representing the amount of proceeds the defendant obtained and dissipated as a result of his wire fraud and mail fraud conspiracy charged in Count One of the Superseding Indictment and money laundering offense charged in Count Two, for which he was convicted.

The United States further asks that the order of forfeiture become final as to the defendant at sentencing. 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 a Superseding Indictment, in pertinent part, with (1) a wire fraud and mail fraud conspiracy, in violation of 18 U.S.C. § 1349,

and (2) a money laundering offense, in violation of 18 U.S.C. § 1957. Doc. 39.

2. The Superseding Indictment 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 \$7,128,410.65, representing proceeds the defendant personally obtained from the offenses. *Id.* at 9-10.

B. Finding of Guilt

3. On April 18, 2022, a jury trial commenced and, at the conclusion of the trial, the jury found the defendant guilty on Counts One (wire fraud and mail fraud conspiracy), Two (money laundering), and Three (making a false and fraudulent statement on an income tax return).¹ Doc. 192. The defendant's sentencing is currently set for July 27, 2022. Doc. 197.

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 sections 1341 (mail fraud) and 1343 (wire fraud). Because the United States is

¹ There is no forfeiture provision for making a false and fraudulent statement on an income tax return.

entitled to civilly forfeit proceeds of such offense, 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.

In addition, the United States is entitled to an order of forfeiture against the defendant, pursuant to 18 U.S.C. § 982(a)(1), which provides for the forfeiture of any property, real or personal, involved in a violation of 18 U.S.C. § 1957 (money laundering offense - illegal monetary transaction), or any property traceable to such property.

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.

While the United States was able to seize and civilly forfeit some of the assets that the defendant purchased with fraudulent proceeds he obtained, the United States was unable to locate and recover all of the specific property constituting or derived from proceeds the defendant obtained from the wire fraud and mail fraud conspiracy and the amount involved in the money laundering offense. Therefore, the United States seeks an order of forfeiture against the defendant in the amount of \$2,817,876.16, pursuant to Federal Rule of Criminal Procedure 32.2(b)(2). As

detailed above, the jury found the defendant guilty of, among other things, a mail and wire fraud conspiracy and money laundering. Evidence at trial established that from November 2011 through April 18, 2019, the defendant ran an investment company named Oasis International Group, Ltd. (Oasis). The defendant and his coconspirators persuaded at least 700 victims to invest in Oasis through promissory notes and other means, causing the victims losses to exceed \$80 million. The defendant, who had effectively been banned from conducting foreign exchange trading (FOREX) by agreement with the National Futures Association, induced victims to invest in Oasis by falsely representing to victim-investors that Oasis was reaping enormous profits by being a “market maker” and collecting “spread” on voluminous FOREX trades. The defendant also pitched the opportunity as essentially risk free and Oasis as well-collateralized. In reality, Oasis was not making markets and had no true revenue. The “spread” earnings were being paid on each trade by Oasis back to Oasis in order to create the illusion of revenue, which was published to investors on fictitious account statements and an online portal. The Oasis investor portal showed the “spread” credits, but concealed catastrophic underlying trading losses.

The defendant and his conspirators used the balance of the victim-investors’ funds to make Ponzi-style payments to perpetuate the scheme and to fund lavish lifestyles. As Special Agent Shawn Batsch testified at trial, the defendant used victim-investors’ funds to purchase, among other things, a Maserati and Range Rovers

for his family members, a country club membership, multiple million-dollar homes in Florida, flights on private jets, and lavish trips to Europe and the Cayman Islands.

The defendant also invested victim-investor funds in business ventures for his children. *See* Gov't Tr. Ex. 500b. In total, during the timeframe of the conspiracy, the defendant personally diverted at least \$3,967,770.20 in victim-investor funds from the conspiracy towards personal investments and expenses. *See* Gov't Tr. Ex. 503.

Based on the facts proven at trial and the jury's finding of guilt on Counts One and Two, at least \$3,967,770.20 was obtained by the defendant from his wire fraud and mail fraud conspiracy, and involved in his money laundering offense. Of this amount, the United States was able to recover approximately \$1,145,894.04 in net proceeds through the civil forfeiture and sale of assets DaCorta obtained with these funds. After credit for the \$1,145,894.04 collected from these forfeited assets, there remains at least \$2,817,876.16 in fraudulent proceeds that the defendant obtained and otherwise dissipated. If the Court finds that the defendant obtained and otherwise dissipated at least \$2,817,876.16, 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).

III. Conclusion

For the reasons stated above, the United States requests that, pursuant to 18 U.S.C. §§ 981(a)(1)(C), 982(a)(1), 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 \$2,817,876.16, for which he will be held liable.

The United States further requests that, because the \$2,817,876.16 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 18 U.S.C. § 982(b)(1) and/or 28 U.S.C. § 2461(c), forfeiture of any of the defendant's property up to the value of \$2,817,876.16.

The United States further requests that the 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 June 27, 2022, 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