

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

CRIMINAL NO. 2:11CR00159-ILRL-SS

Plaintiff

v.

Section "B"(1)

MARK J. TITUS

Defendant

ORDER OF FORFEITURE

This matter is before the Court on the United States' Superseding Motion and Brief for a Preliminary Order of Forfeiture Pursuant to F.R.Cr.P. 32.2(b)(2), the United States' Motion to Amend Judgment Pursuant to Fed.R.Crim.P. 36, and United States' Motion for Final Order of Forfeiture and Amendment to Criminal Judgment.

The Court had conditionally granted the United States' Superseding Motion and Brief for a Preliminary Order of Forfeiture during Titus' sentencing hearing held on October 10, 2012, subject to any objection filed by defendant Mark J. Titus within thirty (30) days of his sentencing. The deadline for Titus to oppose the Government's request to forfeit his interest in certain assets has now elapsed. Having failed to object to the Government's request, the Court hereby grants the Government's motions and concludes that the United States has established through a preponderance of the evidence that the defendant Mark J. Titus received \$925,320 in proceeds from the offense of conviction, a conspiracy under 18 U.S.C. §371 to commit mail fraud in violation of 18 U.S.C. §1341.

The Court also concludes that the United States established, through the Declaration of FBI Contract Forfeiture Investigator Paul J. DuPlessis, a nexus between the proceeds from the mail fraud conspiracy and the real property located at 4637-4639 Tchoupitoulas Street, New Orleans, LA.

The Court also concludes that, through the Declaration of FBI Contract Forfeiture Investigator Paul J. DuPlessis and the reliable evidence already on the record, the United States has further met its burden, under 21 U.S.C. §853(p)(1)(A), to establish that despite the exercise of due diligence, the Government has been unable to locate all of the illicit proceeds that defendant Mark J. Titus received or property directly traceable to said proceeds. Furthermore, the United States has met its burden is demonstrating, under 21 U.S.C. §853(p)(1)(B) and (E), that Titus commingled proceeds of the offense of conviction with the real property located at 841-43 Washington Avenue, New Orleans, LA and thereafter, through his acts or omissions, allowed the transfer of the property to his mother-in-law for a nominal amount.

Accordingly, IT IS ORDERED, ADJUDGED AND DECREED that any right, title and interest of the defendant Mark J. Titus in the following property is hereby condemned, forfeited and vested in the United States, and a final forfeiture judgment is hereby entered against the following property:

a. a personal judgment in the amount of \$925,320 shall be entered against the defendant Mark J. Titus, pursuant to 18 U.S.C. §981(a)(1)(C), in conjunction with 28 U.S.C. §2641(c), reflecting the amount of proceeds he obtained as a result of the mail fraud conspiracy charged in Count One of the June 29, 2011, Bill of Information of which the defendant has been convicted and sentenced;

b. the real property located at 4637-4639 Tchoupitoulas Street, New Orleans, LA, is property directly traceable, under 18 U.S.C. §981(a)(1)(C), to the proceeds the defendant Mark J. Titus obtained as a result of the offense of conviction;

c. the following properties are also forfeited to the United States as substitute assets pursuant to 21 U.S.C. §853(p) and Fed.R.Crim.P. 32.2(e), in partial satisfaction of the money judgment forfeiture:

1) real property located at 841-43 Washington Avenue, New Orleans, LA, pursuant to 21 U.S.C. §853(p)(1)(B) and (E);

2) real property located at 901 Washington Avenue, New Orleans, LA, pursuant to 21 U.S.C. §853(p)(1)(A); and

3) real property located at 348 South Diamond Street, New Orleans, LA, pursuant to 21 U.S.C. §853(p)(1)(A).

1. This Order of Forfeiture is final as to the defendant Mark J. Titus, and at the request of the Government, shall be made part of the sentence and included in the Judgment. In this regard, the Government's Motion to Amend Judgment Pursuant to Fed.R.Crim.P. 36 is hereby granted. The October 11, 2012, Judgment shall be amended to state that "the Court hereby orders forfeiture of the defendant's right, title and interest in the property identified in the United States of America's Superseding Motion and Brief for a Preliminary Order of Forfeiture Under F.R.Cr.P. 32.2(b)(2), which was conditionally granted by the Court at sentencing."

2. The Attorney General or his designee may seize the foregoing real properties and maintain custody and control of the property pending the entry of the Final Order of Forfeiture following ancillary proceedings as to any third party claimants.

3. This Court shall retain jurisdiction in the case for the purpose of enforcing this Order. If no party files a timely claim, the Order shall become the Final Order of Forfeiture, as provided by Federal Rule of Criminal Procedure 32.2(c)(2).

4. Upon entry of this Order, the United States is authorized to commence any applicable proceeding to comply with statutes governing third party rights, including giving notice of this Order. The United States shall publish notice of the applicable part of this Order in such manner as the Attorney General may direct. The United States may also, to the extent practicable, provide written notice to any person known to have an alleged interest in the property.

5. Any person, other than defendant Mark J. Titus, asserting a legal interest in the property may, within thirty (30) days of the final publication of notice, or receipt of notice, whichever is earlier, petition the Court for a hearing without a jury to adjudicate the validity of his or her interest alleged interest in the property, and for an amendment of the order of forfeiture pursuant to 21 U.S.C. § 853(n).

6. Any petition filed by a third party asserting an interest in the property shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of petitioner's right, title, or interest in the real property, and any additional facts supporting the petitioner's claim and the relief sought.

7. After disposition of any motion filed under Federal Rule of Criminal Procedure 32.2(c)(1)(A) and before a hearing on the petition, discovery may be conducted in accordance with the Federal Rules of Civil Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

8. If, by any act or omission of Mark J. Titus, the real property described herein cannot be located upon exercise of due diligence, has been transferred, sold to, or deposited with a third party, has been placed beyond the jurisdiction of the court, or has been substantially diminished in value, then defendant Mark J. Titus shall forfeit substitute property, up to the value of forfeited real property.

9. The United States shall have clear title to the real property following the Court's disposition of all third party interests or, if none, following expiration of the period provided in 21 U.S.C. § 853(n)(2) for the filing of third party claims.

10. The Clerk shall send a copy of this Final Order of Forfeiture to counsel for all parties and the United States Probation Office, and shall send two Certified copies of this Order of Forfeiture to the U.S. Department of Justice, Criminal Division, Asset Forfeiture and Money Laundering Section.

11. The Court shall retain jurisdiction to enforce this Order and to amend it as necessary, pursuant to Federal Rule of Criminal Procedure 32.2(e).

SO ORDERED.

New Orleans, Louisiana this 20th day of November, 2012.


UNITED STATES DISTRICT JUDGE