

KEM: jw

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-20062-CR-MARTINEZ

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JEAN FOURCAND,

Defendant.

AMENDED MOTION FOR A PRELIMINARY ORDER OF FORFEITURE

The United States of America moves for entry of a Preliminary Order of Forfeiture pursuant to Rule 32.2(b)(2) of the Federal Rules of Criminal Procedure and in support thereof submits the following points and authorities.

1. On February 1, 2010, the United States filed an Information (DE 1) charging JEAN FOURCAND, (hereinafter referred to as “defendant”), with engaging in monetary transactions in property derived from specified unlawful activity, in violation of Title 18, United States Code, Section 1957.

2. The Information further sought the forfeiture, pursuant to Title 18, United States Code, Section 982(a)(1), of any property, constituting or derived from proceeds obtained from the commission of the violation including the sum of \$18,500 in U.S. currency.

3. On February 19, 2010, pursuant to a written plea agreement (DE 14), the defendant entered a plea of guilty to the information and agreed to forfeit to the United States all of his right,

title and interest in the above property as property constituting or derived from proceeds obtained from the commission of the offense to which the defendant had pled guilty.

4. Title 18, United States Code, Section 982(a)(1), provides for forfeiture of any property which constitutes or is derived from proceeds traceable to, *inter alia*, a violation of Title 18, United States Code, Section 1957.

5. In cases where the government is seeking a personal money judgment, Fed. R. Crim. P. 32.2(b)(1)(A) provides that after the acceptance of a guilty plea the court must determine the amount of money that the defendant will be ordered to pay. The court's determination may be based on evidence in the record including any written plea agreement or information submitted by the parties and accepted by the court as relevant and reliable. Fed. R. Crim. P. 32.2(b)(1)(B). Based on the defendant's guilty plea, and consent to forfeiture of his interest in the

6. Accordingly, given the defendant's agreement regarding forfeiture as part of his plea agreement, this Court is authorized to find that the defendant's interest in the above property is forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(1) and Title 21, United States Code, Section 853(a).

7. Fed. R. Crim. P. 32.2(b)(3) provides that if the court finds that property is subject to forfeiture:

It must promptly enter a preliminary order of forfeiture setting forth the amount of any money judgment, directing the forfeiture of specific property, and directing the forfeiture of any substitute property if the government has met the statutory criteria without regard to any third party's interest in all or part of it.

The order submitted in this matter provides for the forfeiture of all of the defendants' right, title and interest in the property listed therein, and for inclusion of the order of forfeiture as part of

the defendant's sentence and the judgment in this case; pursuant to Title 21, United States Code, Section 853 and Rule 32.2 of the Federal Rules of Criminal Procedure.

CONCLUSION

Accordingly, based upon the foregoing, and the other matters of record in these proceedings, and for good cause shown, the United States requests the entry of the attached proposed preliminary order of forfeiture. The United States also request that, at sentencing, the money judgment be included in the defendant's sentence and judgment.

Respectfully submitted,

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UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 3, 2010 I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

 s/Karen E. Moore
KAREN E. MOORE
ASSISTANT U.S. ATTORNEY

KEM:ed

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-20062-CR-MARTINEZ

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JEAN FOURCAND,

Defendant.

_____ /

PRELIMINARY ORDER OF FORFEITURE

THIS CAUSE is before the Court upon motion of the United States for entry of a preliminary order of forfeiture. Being fully advised in the premises and based on the motion of the United States and the record in this matter and for good cause shown thereby, the Court finds as follows with respect to forfeiture in this action as to defendant JEAN FOURCAND (hereinafter referred to as “defendant”):

1. The Information sought the forfeiture, pursuant to Title 18, United States Code, Section 982(a)(1), of any property, constituting or derived from proceeds obtained from the commission of the violation in the sum of \$18,500 in United States currency.

2. On February 19, 2010, pursuant to a written plea agreement (DE 14), the defendant entered a plea of guilty to the information and agreed to forfeit to the United States all of his right, title and interest in the above property as property constituting or derived from proceeds obtained from the commission of the offense to which the defendant had pled guilty.

Therefore, in consideration of the Plea Agreement between the defendant and the United

States, and upon motion of the United States and for good cause shown thereby, it is hereby:

ORDERED that:

1. All right, title and interest of defendant JEAN FOURCAND in the sum of \$18,500 in United States currency is hereby forfeited to the United States of America pursuant to Title 18, United States Code, Section 982(a)(1).

It is further ORDERED pursuant to Fed. R. Crim. P. 32.2(b)(4), that at sentencing this shall be incorporated into the defendant's sentence and included in the judgment entered with respect to the defendant.

DONE AND ORDERED at Miami, Florida this _____ day of _____, 2010.

JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

cc: AUSA Karen E. Moore (2 Certified copies)