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UNITED STATES OF AMERICA,

Plaintiff,

- v. -

\$15,000,000 IN UNITED STATES
CURRENCY FORMERLY HELD
BY SHAKE-N-GO FASHION, INC.
AND MODEL MODEL HAIR
FASHION, INC.

Defendant *in rem*.

: UNITED STATES DISTRICT COURT
: DISTRICT OF NEW JERSEY
:
: Honorable
:
: Civil Action No. 14- 309 (SDW)
:
: VERIFIED COMPLAINT FOR
: FORFEITURE *IN REM*
:
:
:
:

Plaintiff, United States of America, by its attorney, Paul J. Fishman, United States Attorney for the District of New Jersey (by Evan S. Weitz and Aaron Mendelsohn, Assistant United States Attorneys) brings this Verified Complaint for Forfeiture *In Rem* (the "Complaint") and alleges as follows in accordance with Rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Federal Rules of Civil Procedure.

NATURE OF THE ACTION

1. This is a civil action *In Rem* to forfeit to the use and benefit of the United States the above-captioned property (the "defendant property"), pursuant to 31 U.S.C. § 5317(c), as property involved in a transaction or attempted transaction in violation of 31 U.S.C. § 5324.

THE DEFENDANT *IN REM*

2. The defendant property consists of a total of \$15,000,000 in United States currency formerly held by Shake-N-Go Fashion, Inc. and Model Model Hair Fashion, Inc. (collectively hereinafter “SNG”). On June 25, 2013, the Honorable Joseph A. Dickson, United States Magistrate Judge for the District of New Jersey, issued seizure warrants for funds held by SNG. The execution of those warrants resulted in the seizure of \$2,502,218.30. Pursuant to a settlement agreement (the “Agreement”), SNG surrendered an additional \$9,497,781.82 as representing the balance of the defendant property sought for forfeiture by the United States. As to the \$9,497,781.82, \$6,000,000 will be contributed by the individual shareholders of SNG as claw-backs of profit distributions. As discussed in the Agreement, SNG agrees to surrender an additional \$3,000,000 if SNG knowingly breaches the Agreement. SNG agrees that the defendant property constitutes *Substitute Res* in settlement of all allegations contained within this Complaint.

JURISDICTION AND VENUE

3. Plaintiff United States brings this action *In Rem* in its own right to forfeit and condemn the defendant property. The Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345, and over an action for forfeiture under 28 U.S.C. § 1355(a).

4. The Court has *In Rem* jurisdiction over the defendant property under 28 U.S.C. § 1355(b)(1). Upon the filing of the Complaint, the United States requests that the Court issue an arrest warrant *In Rem* pursuant to Supplemental Rule G(3)(b)(i), which the United States will execute upon the defendant property pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).

5. Venue is proper in this District pursuant to 28 U.S.C. § 1395.

BASIS FOR FORFEITURE

6. Pursuant to 31 U.S.C. § 5317(c), any property involved in a violation of 31 U.S.C. § 5324, or a conspiracy to commit any such violation, and any property traceable to such property, is subject to forfeiture to the United States.

FACTUAL BACKGROUND

7. At all times relevant to this Complaint, Shake-N-Go Fashion, Inc., (Shake-N-Go), was located in Port Washington, New York and was a distributor of hair extensions, wigs, and other hair accessories. At all times relevant to this complaint, Model Model Hair Fashion, Inc. ("MM") was located in Port Washington, New York and was a distributor of hair extensions, wigs, and other hair accessories. (Shake-N-Go and MM, collectively "SNG")

8. At all times relevant to the Complaint, SNG was a "nonfinancial trade or business," as defined by 31 U.S.C. § 5312(a)(4).

BANK SECRECY ACT

9. The Currency and Foreign Transactions Reporting Act, 31 U.S.C. § 5313 *et seq.*, also known as the Bank Secrecy Act (the "BSA"), was designed to combat money laundering, tax evasion, and other crimes by, in part, imposing reporting requirements on virtually all commercial transactions involving more than \$10,000 in United States currency.

10. Specifically, under 31 U.S.C. § 5313(a) and its related regulations, when a domestic financial institution is involved in a transaction for the payment, receipt, or transfer of United States coins or currency ("cash") in an amount greater than \$10,000, the institution is required to file a Currency Transaction Report ("CTR") for each cash transaction, such as, by way of example, a deposit, withdrawal, exchange of currency, or other payment or transfer by, through, or to a financial institution. CTR's are filed with the Financial Crimes Enforcement Network ("FinCEN") on forms that require, among other things, the identity of the individual

who conducted the transaction and the individual or organization for whom the transaction was completed.

11. Similarly, pursuant to 31 U.S.C. § 5331 and related regulations, any trade or business that receives more than \$10,000 in cash in one or more related transactions is required to collect personal identifying information of the customer and must file that information on an Internal Revenue Service form filed with FinCEN. This form is commonly referred to as "Form 8300." Failure to file a Form 8300 violates 18 U.S.C. § 5331.

12. Many individuals involved in illegal activities, such as tax evasion and money laundering, are aware of these reporting requirements and take active steps to cause financial institutions to fail to file CTRs and/or Forms 8300. For example, such individuals may "structure" transactions with a financial institution to avoid the filing of a CTR by making multiple cash deposits or withdrawals, in amounts less than or equal to \$10,000, but which in the aggregate exceed \$10,000, with multiple banks and/or branches of the same bank on the same day or on consecutive days. Individuals may try to avoid the filing of a Form 8300 by making multiple purchases under \$10,000 over a short period of time, or simply inducing a business to fail to file the Form 8300. This conduct is prohibited by 31 U.S.C. § 5324.

FACTS

13. According to bank records, Shake-N-Go had approximately \$228,440,000 in gross sales receipts in calendar year 2012. Of that amount, approximately \$57,000,000 was made in the form of cash deposits. MM had approximately \$84,000,000 in gross sales receipts in calendar year 2012, of which approximately \$23,000,000 was made in the form of cash deposits.

14. Beginning in approximately 2007, SNG instituted a policy that permitted its customers to pay for goods by depositing cash directly into SNG-held bank accounts at bank branches located throughout the United States and wherever the customers were located. In many instances, SNG provided pre-printed deposit slips to its customers in order to facilitate these deposits. The customer would write a sales number on the deposit slip, and SNG would be able to view the deposit slip on an on-line bank website and credit the customer's account.

15. This policy served many purposes, including prompt payment for goods. However, this policy also permitted SNG's customers to regularly structure cash deposits into SNG's bank accounts, thereby avoiding the filing of CTRs and Forms 8300 for their purchases.

16. A review of bank records for accounts controlled by SNG revealed cash deposits indicative of structuring on an almost daily basis. For example, from on or about October 1, 2012 to on or about December 19, 2012 alone, over 2,200 cash deposits totaling approximately \$8,400,000 in U.S. currency were made into accounts controlled by SNG, largely in what appears to be a structured fashion.

17. Specifically, many of these deposits, by SNG customers, were in amounts less than \$10,000, *i.e.*, the amount that would have triggered the filing of a CTR. However, these deposits, again from SNG customers, often aggregated to amounts in excess of \$10,000 per day per SNG customer.

18. The structuring activity occurred at bank branches located in at least eighteen states, including New Jersey, California, Illinois, Missouri, and Florida. However, neither Shake-N-Go nor MM maintained places of business or agents outside of the New York City area.

19. Many of the deposits were made in close physical proximity to each other. For example, on or about December 17, 2012, the following five deposits in the Atlanta, Georgia area were made into bank accounts controlled by SNG:

<u>Amounts</u>	<u>Location</u>
\$9,800	Alpharetta, GA
\$9,000	Duluth, GA
\$5,000	Chamblee, GA
\$5,000	Duluth, GA
<u>\$4,500</u>	<u>Decatur, GA</u>
Total: \$33,300	

While each of the five deposits was individually structured to be less than \$10,000, all five deposits taken together total more than \$30,000, an amount that would have triggered the filing of a CTR.

20. Similarly, on or about October 25 and 26, 2012, the following four deposits in the Newark, New Jersey area were made into bank accounts controlled by SNG:

<u>Amounts</u>	<u>Location</u>
\$4,000	Irvington, NJ
\$4,079	Irvington, NJ
\$5,039	Newark, NJ
<u>\$4,975</u>	<u>Orange, NJ</u>
Total: \$18,092	

Again, while each of the four deposits was individually structured to be less than \$10,000, all four deposits taken together total more than \$18,000, an amount that would have triggered the filing of a CTR.

21. Further, on or about November 26 to 28, 2012, the following seven deposits in the St. Louis, Missouri area were made into bank accounts controlled by SNG:

<u>Amounts</u>	<u>Location</u>
\$1,000	St. Louis, MO
\$1,000	St. Louis, MO
\$9,000	St. Louis, MO
\$9,000	St. Louis, MO
\$9,000	St. Louis, MO
\$3,000	St. Louis, MO
<u>\$8,000</u>	<u>St. Louis, MO</u>
Total: \$40,000	

Again, while each of the seven deposits was individually structured to be less than \$10,000, all seven deposits taken together total approximately \$40,000, an amount that would have triggered the filing of a CTR.

22. Finally, on or about November 27 to 30, 2012, the following nine deposits in the Chicago, Illinois area were made into bank accounts controlled by SNG:

<u>Amounts</u>	<u>Location</u>
\$3,404	Chicago, IL
\$5,000	Mt. Prospect, IL
\$5,000	Mt. Prospect, IL
\$2,276	Chicago, IL
\$3,758	Chicago Ridge, IL
\$2,560	Chicago, IL
\$5,000	Chicago, IL
\$9,807	Glenview, IL
<u>\$7,251</u>	<u>Skokie, IL</u>
Total: \$51,616	

Again, while each of the nine deposits was individually structured to be less than \$10,000, all nine deposits taken together total more than \$51,000, an amount that would have triggered the filing of a CTR.

23. As discussed above, pursuant to 31 U.S.C. § 5331 and related regulations, any trade or business that receives more than \$10,000 in cash in one or more related transactions is required to file a Form 8300 with FinCEN. However, despite the extensive cash deposits described above, neither Shake-N-Go nor MM has ever filed a Form 8300 with FinCEN prior to the United States' investigation.

24. In addition, a review of bank deposit slips for accounts controlled by SNG reveals numerous examples of different handwriting, indicating that more than one individual made deposits into SNG's bank accounts.

25. Moreover, on numerous occasions, individuals who have deposited United States currency into accounts controlled by SNG have refused to produce identification when required by a financial institution, a practice referred to as "teller pull-backs." Below is a sampling of these occasions:

a. On or about March 30, 2012, in Skokie, Illinois, an individual tried to make two deposits into an account controlled by SNG, one for \$2,200 and another for \$8,800, several hours apart. When the teller asked for identification, the individual refused and walked out without making the second deposit.

b. On or about July 18, 2012, in Jessup, Georgia, an individual presented \$10,270.21 in cash to deposit into an account controlled by SNG. The individual then asked the teller the amount of cash he could deposit before he had to supply identification. The teller informed the individual that she could not answer that question. The individual then left the bank without supplying identification.

c. On or about August 6, 2012, in Saint Louis, Missouri, an individual attempted to deposit \$7,365 and then attempted to make an additional \$8,000 cash deposit into accounts controlled by SNG. When asked for identification, the individual stated that the second deposit was a separate transaction. When informed that he still had to supply identification, the individual asked for the second \$8,000 cash deposit back.

d. On or about August 7, 2012, in Naples, Florida, an individual tried to make a cash deposit in excess of \$10,000 into an account controlled by SNG. When informed that he needed to supply identification, the individual changed the cash deposit to \$9,000. Minutes later, another individual tried to make a cash

deposit in excess of \$10,000 into an account controlled by SNG with a different teller at the same bank branch and was also informed that identification needed to be supplied. This individual also changed her cash deposit to \$9,000.

THE UNITED STATES' INVESTIGATION

26. The United States Attorney's Office for the District of New Jersey and the United States Department of Homeland Security, Homeland Security Investigations, El Dorado Task Force, has been conducting an investigation of SNG for violating the BSA. The investigation has revealed that, although SNG never knowingly received illicit funds, SNG willfully engaged in business practices that permitted SNG's customers to conduct cash transactions with SNG in amounts that exceeded \$10,000, while avoiding the filing of CTRs and Forms 8300. These practices fall into several categories as described herein.

A. SNG's Customers and Certain Employees Structured Cash Deposits into Its Accounts

27. Beginning in at least early 2012, SNG recognized that it was not in compliance with its legal requirements. Additionally, certain SNG employees were aware of the structuring that resulted from its policy of allowing customers to make direct cash deposits into SNG-held bank accounts. However, rather than taking action to end this policy, SNG sent a letter to its customers asking them not to pay in cash and acknowledging that cash payments could cause issues with the Internal Revenue Service ("IRS"). Bank records and witness interviews indicate that this letter had no appreciable impact on the amount of the cash deposits made by customers into SNG's bank accounts. Further, SNG continued to conduct its business in this manner up to the day when it became aware of the United States' investigation.

28. Additionally, SNG's sales representatives made regular sales visits to SNG's customers throughout the United States. During these sales visits, SNG's representatives often received cash for goods that had been shipped to the customers. The sales representatives

frequently deposited the cash at bank branches located near the customers rather than transporting the cash back to SNG in New York. Further, although SNG made sure the banks filed all appropriate CTRs when it deposited cash that had been brought back to SNG headquarters by the sales representatives, while making deposits during their sales trips, certain sales representatives occasionally structured these deposits in amounts less than \$10,000. Notably, SNG failed to file Forms 8300 when its sale representatives received more than \$10,000 in cash.

B. SNG Broke Up Invoices Totaling in Excess of \$10,000

29. SNG accepted customer orders via telephone, fax, and the internet. Regardless of how the order was received, SNG employees were instructed not to issue an invoice or receipt that exceeded \$10,000. This practice was followed even when a customer ordered more than \$10,000 in goods at one time, which would have required the filing of a Form 8300 if the customer paid in cash. Although this practice may have served to expedite SNG's shipping of orders to its customers, it also served to conceal the fact that SNG was engaging in transactions that required the filing of Forms 8300.

C. SNG Willfully Failed to File Forms 8300

30. On several occasions, SNG executives and managers were informed of their obligations to file Forms 8300 when they received more than \$10,000 in cash in connection with any single transaction or set of related transactions. Specifically, on at least two occasions, accounting firms working on SNG's behalf informed SNG's executives and managers of this requirement. Additionally, on at least two other occasions, SNG's employees informed management of the legal requirement to file Forms 8300. Moreover, certain SNG's managers were aware of this requirement, independent of the warnings from SNG's accounting firms and

employees. Nevertheless, despite these repeated warnings, SNG willfully failed to file Form 8300 on tens of millions of dollars of cash deposited into SNG's bank accounts.

FINDINGS

31. During its investigation, the United States interviewed numerous witnesses and SNG employees. Further, the United States reviewed email correspondence, bank account records, business records, and other relevant documents. Although, as described above, SNG did not take any affirmative steps to comply with its BSA requirements prior to becoming aware of the United States' investigation, SNG cooperated fully with this investigation.

32. Further, as discussed above, there is no evidence that SNG either knowingly received illicit funds or engaged in any conspiracy with its customers to violate the BSA. However, the investigation has revealed that SNG conducted business in a manner that permitted and enabled its customers to avoid IRS and government scrutiny of transactions involving tens of millions of dollars in cash deposits.

33. Numerous SNG employees stated that the business practices described above were done, in part, to "protect the customers." When questioned further, virtually all of these employees stated that they understood "protecting the customer" meant avoiding scrutiny from the IRS and may have resulted in the customers underreporting their tax liability to the IRS. SNG managers and employees also stated that they believed that if they followed the law and filed Forms 8300, SNG would lose customers and sales.

THE SETTLEMENT AGREEMENT

34. In an effort to resolve the allegations contained in the Complaint, SNG has entered into an Agreement with the United States to be filed with the United States District Court for the District of New Jersey. Pursuant to this Agreement, SNG has agreed to forfeit the defendant property and to implement numerous remedial measures more specifically described in the Agreement, but including the following:

- a. SNG has appointed and will continue to engage a General Counsel to oversee and consult on all legal and compliance issues;
- b. SNG will retain a qualified independent consulting firm, as approved by the United States, to oversee the implementation of a Bank Secrecy Act (“BSA”) compliance program and SNG’s continued compliance with that program and the terms of this Agreement;
- c. During the two-year term of this Agreement, SNG will provide quarterly reports to the United States due on the last date of each quarter (e.g. March 31, June 30, September 30 and December 31), to be authored by the independent consulting firm, describing the state of SNG’s compliance program;
- d. SNG will appoint a qualified individual, approved by the United States, to serve as a senior level executive to oversee all day-to-day compliance issues and SNG will remove that responsibility from the Chief Financial Officer;
- e. SNG will establish and enforce written policies on how to receive and process cash payments and how to otherwise comply with the BSA, including the timely filing of any and all Internal Revenue Service Forms 8300;
- f. SNG will implement mandatory employee training on BSA compliance;
- g. SNG will not permit its customers to deposit cash directly into accounts controlled by SNG;
- h. SNG will agree to cooperate with any and all future investigations by the United States and/or other state and local authorities; and

- i. SNG will produce any documents requested by the United States within seven business days and will allow the United States to inspect SNG's premises on demand without the need for the United States to seek a warrant or issue a subpoena.

35. Further, recognizing the extensive costs associated with the remedial measures described above and in the Agreement, the United States has agreed to provide a \$3,000,000 credit to SNG toward the defendant property. However, in the event that SNG knowingly does not comply with the Agreement, SNG agrees to surrender \$3,000,000 to the United States, and the United States further reserves its rights to seek any and all additional criminal and civil penalties authorized by law.

CLAIM FOR FORFEITURE


36. The allegations contained in paragraphs 1 through 35 of the Complaint are incorporated herein and made a part hereof.

37. The defendant property, and all proceeds traceable thereto, represent property involved in a transaction or attempted transaction in violation of 31 U.S.C. § 5324.

38. As a result of the foregoing, the defendant property and all proceeds traceable thereto are subject to condemnation and forfeiture to the United States for its use, in accordance with 31 U.S.C. § 5317.

WHEREFORE, the United States requests that the Court issue a warrant for the arrest *in Rem* and seizure of the defendant property; that the defendant property be forfeited and condemned to the United States; and that the Court award such other and further relief as it deems proper and just.

PAUL J. FISHMAN
United States Attorney



By: EVAN S. WEITZ
AARON MENDELSON
Assistant United States Attorney

Dated: January ^{5th}, 2014
Newark, New Jersey

VERIFICATION

STATE OF NEW JERSEY :


Ss

COUNTY OF ESSEX : :


I, John Lavin, hereby verify and declare under penalty of perjury that I am a Detective with the Queens County District Attorney's Office currently assigned to the United States Department of Homeland Security, El Dorado Task Force, that I have read the foregoing Verified Complaint for Forfeiture *In Rem* and know the contents thereof, and that the matters contained in the Verified Complaint are true to my own knowledge, except that those matters herein stated to be alleged on information and belief, and as to those matters I believe them to be true.

The sources of my information and the grounds of my belief include the official files and records of the United States, information supplied to me by other law enforcement officers, and my own investigation of this case.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct.


DETECTIVE JOHN LAVIN
Queens County District Attorney's Office
United States Department of Homeland Security

Sworn to and subscribed before me this 15th day of January, 2014, at Newark, New Jersey.


EVAN S. WEITZ
Attorney-at-Law of the State of New Jersey