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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-60234-CR-ZLOCH

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KARIN A. MARSHALL,

Defendant.

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

The United States of America moves for entry of a Preliminary Order of Forfeiture pursuant to 28 U.S.C. § 2461, 18 U.S.C. § 981(a)(1)(C) and 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461, and Fed. R. Crim. P. Rule 32.2(b)(2), and in support thereof submits the following points and authorities.

1. On August 28, 2008, the Grand Jury in the Southern District of Florida returned an Indictment in count 1, charging Karin A. Marshall, (hereinafter referred to as "defendant") with knowingly devising a scheme and artifice to defraud and for obtaining money and property by means of material false and fraudulent pretenses, representations, and promises, well knowing that the pretenses, representations, and promises would be and were false and fraudulent when made. It was the object of the scheme and artifice for defendant Marshall to unjustly enrich herself by fraudulently initiating and authorizing outgoing funds transfers from Global Technologies Group's corporate bank account with Bank of America by utilizing the Bank of America computer program thus directing the transfer of funds into either her own personal bank accounts with Bank of America

and Washington Mutual Bank or into her husband's personal bank accounts, all in violation of Title 18, United States Code, Sections 1343 and 2.

2. The Indictment further sought the forfeiture to the United States of all property, real or personal, constituting or derived from proceeds obtained from the above stated offenses and all property traceable to such property, including but not limited to \$868,156 in United States currency pursuant to 21 U.S.C. § 853(p), 28 U.S.C. § 2461, and 18 U.S.C. §981(a)(1)(C).

3. On January 14, 2009, defendant Karin A. Marshall entered a plea of guilty to Count 1 of the Indictment, which charges the defendant with Wire Fraud, in violation of 18 U.S.C. §§ 1343 and 2. The defendant agreed, in paragraph 10, page 2 of her plea agreement, to forfeit all of her right, title, and interest in the following as property constituting or derived from proceeds the defendant obtained directly or indirectly as the result of such violation and/or as property used or intended to be used in any manner or part to commit or facilitate the commission of said violation to the United States:

- (a) \$18,977.98 from Bank of America account #004430450488
- (b) \$615.44 from Bank of America account #004685904213
- (c) \$980.27 from Bank of America account #91000061088821

4.. 21 U.S.C. § 853(a), provides in part as follows:

Any person convicted of a violation of this subchapter or subchapter II of this chapter ... shall forfeit to the United States ... any property constituting, or derived from, any proceeds the person obtained directly or indirectly, as the result of such violation; [and] any ... property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation ...

The court, in imposing sentence on such person [convicted of a violation of this chapter or subchapter II] shall order ... that the person forfeit to the United States [any property constituting proceeds the defendant obtained as a result of such violation and

property used or intended to be used to commit or facilitate the offense].

5. Accordingly, given the defendant agreement regarding forfeiture as part of her guilty plea, this Court is authorized to find that the defendant's interest in the above-referenced property is forfeit to the United States pursuant to 21 U.S.C. § 853(a).

6. Fed. R. Crim. P. 32.2(b)(2) provides that once 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 or directing the forfeiture of specific property without regard to any third party's interest in all or part of it. Determining whether a third party has such an interest shall be deferred until any third party files a claim in an ancillary proceeding under Rule 32.2(c).

7. Fed. R. Crim. P. 32.2(b)(3) provides:

The entry of a preliminary order of forfeiture authorizes the Attorney General (or a designee) to seize the specific property subject to forfeiture; to conduct any discovery the court considers proper in identifying, locating or disposing of the property; and to commence proceedings that comply with any statutes governing third-party rights. At sentencing — or at any time before sentencing if the defendant consents — the order of forfeiture becomes final as to the defendant and must be made a part of the sentence and included in the judgment. The court may include in the order of forfeiture conditions reasonably necessary to preserve the property's value pending any appeal.

The Proposed Order submitted in this matter provides for the forfeiture of all of the defendant's right, title and interest in the property listed therein; for publication of notice of the forfeiture of the same in these proceedings; permits the institution of ancillary proceedings and the adjudication of third party petition claims if any; and provides for the final forfeiture of the

property noted therein if no petitions are filed; all pursuant to 21 U.S.C. § 853 and Fed. R. Crim. P. 32.2.

CONCLUSION

Accordingly, based upon the forgoing, and the other matters of record in these proceedings, the United States requests the entry of the attached proposed preliminary order of forfeiture pursuant to 21 U.S.C. § 853 and Fed. R. Crim. P. 32.2, forfeiting all of the defendant's right, title and interest in the property named therein and providing for further proceedings as may be necessary to effect entry of a final order of forfeiture.

Respectfully submitted,

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

BY: s/Roger W. Powell
ROGER W. POWELL
ASSISTANT U.S. ATTORNEY
FLA. BAR NO. 341411
500 E. BROWARD BLVD., STE. 700
FT. LAUDERDALE, FL 33394
TEL: (954) 660-5792
FAX: (954) 356-7610
E-MAIL ADDRESS:
Email: ROGER.POWELL@USDOJ.GOV

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 27, 2009, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

s/ ROGER W. POWELL
ROGER W. POWELL
ASSISTANT UNITED STATES ATTORNEY