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UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF TENNESSEE

NASHVILLE DIVISION

ATTEST AND CERTIFY
A TRUE COPY
Clerk
U.S. District Court
Middle District of Tennessee
By: Lakay M. Flowers
Deputy Clerk

UNITED STATES OF AMERICA	)	3:97-00107-14
	)	JUDGE HIGGINS
v.	)	
	)	
JAMES HARDY	)	**PICK-UP**

SECOND AMENDED PRELIMINARY ORDER OF FORFEITURE

THIS CAUSE comes before the Court upon the filing of the Motion[1] of the United States for entry of a Second Amended Preliminary Order of Forfeiture, which shall be a final order of forfeiture as to defendant James Hardy's right, title, and interest in one half of the proceeds from the sale of 310 May Drive, Madison, Tennessee (hereinafter referred to as "Subject Property").

For good cause shown, the motion of the United States is GRANTED. IT IS HEREBY ORDERED THAT:

1. The First Amended Preliminary Order of Forfeiture is amended to include one half of the proceeds from the sale of 310 May Drive, Madison, Tennessee, as a substitute asset for $3,500,000 in United States currency.

2. Pursuant to 21 U.S.C. § 853(p), all right, title and interest of defendant James Hardy in one half of the proceeds from the sale of 310 May Drive, Madison, Tennessee, is hereby condemned and forfeited to the United States to help satisfy the $3,500,000 money judgment.

This document was entered on the docket in compliance with Rule 55, FRCrimP, on 5-21-04 By: [illegible]

1475

[1] See motion (Docket Entry No. 1473) filed 5-5-03

3. Upon entry of this Order, the Internal Revenue Service Criminal Investigation, or its designee, is authorized to seize the Subject Property for disposition in accordance to law pursuant to Fed. R. Crim. P. 32.2(b)(3).

4. Upon entry of this Order, the Secretary of Treasury (or his designee) is authorized to commence any applicable proceeding to comply with statutes governing third party rights, including giving notice of this Order, in accordance with Fed. R. Crim. P. 32.2(b)(3).

5. The United States will publish notice of the order and its intent to dispose of the property in such a manner as the Secretary of Treasury (or his designee) may direct. The United States will also, to the extent practicable, provide written notice to any person known to have alleged an interest in the Subject Property.

6. Any person, other than the above named defendant, asserting a legal interest in the Subject Property may, within thirty 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 alleged interest in the Subject Property, and for an amendment of the order of forfeiture.

7. Any petition filed by a third party asserting an interest in the Subject Property shall be signed by the petitioner

under the penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the Subject Property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the Subject Property, any additional facts supporting the petitioner's claim and the relief sought.

8. Upon entry of this Order and application of the Government, the Court may order the deposition of any witness or the production of any materials relating to said property in order to facilitate its identification and location, pursuant to 21 U.S.C. § 853(m).

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

10. Pursuant to 21 U.S.C. § 853(p), to the extent the assets charged with forfeiture cannot be located, the Court will

order the forfeiture of any other property of the defendant up to the amount of the assets charged with forfeiture[2].

11. The Court shall retain jurisdiction to enforce this Order and to amend it as necessary.

IT IS SO ORDERED on this 20th day of May, 2004.

Thomas A. Higgins

SENIOR JUDGE THOMAS A. HIGGINS
United States District Court

5-20-04

[2] Pursuant to the plea agreement, the Government agrees not to seek the forfeiture of the Captain D's in Milledgeville, GA, Dublin, GA, and Enterprise, AL, provided that the defendant and Debra Hardy Lindley comply with the terms of the plea agreement.