

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 2:16-CR-06

vs.

Hon. Paul L. Maloney
United States District Judge

SPENCER TROY WARD,

Defendant.
_____ /

**MOTION FOR PRELIMINARY ORDER OF FORFEITURE
FOR SUBSTITUTE ASSETS**

The United States of America, by and through its attorneys, Andrew Byerly Birge, Acting United States Attorney for the Western District of Michigan, and Joel S. Fauson and Maarten Vermaat, Assistant United States Attorneys, hereby move for a Preliminary Order of Forfeiture for Substitute Assets to apply against Ward's forfeiture money judgment of \$475,254.30 (R.33: Order of Forfeiture for a Money Judgment, PageID.1412). In further support of this motion, the Government states:

1. On April 14, 2017, Defendant Ward pled guilty to Count 4 of the Third Superseding Indictment, which charged him with conspiracy to manufacture, distribute and possess with intent to distribute marijuana plants and marijuana, in violation of 21 U.S.C. §§ 846, 841(b)(1)(B)(vii).

2. The Third Superseding Indictment included a Forfeiture Allegation, which placed the Defendant on notice that upon conviction of this conspiracy, the United States would seek a forfeiture money judgment against Ward that represented the gross proceeds Ward obtained, directly or indirectly, from the charged marijuana conspiracy. The Forfeiture Allegation also put

the Defendant on notice that, pursuant to 21 U.S.C. § 853(p), the United States would seek the forfeiture of substitute property to collect against the money judgment.

3. The Court held Ward's forfeiture phase of trial on July 24, 2017. After considering the parties' briefs, evidence and argument received by the Court at the forfeiture phase of trial, and supplemental briefing from the parties, the Court determined that Ward indirectly obtained \$475,254.30 from the marijuana conspiracy to which he pled guilty and imposed an Order of Forfeiture for a Money Judgment in that amount. (R.330; PageID.1412-1416). The order also authorized the Government to pursue the forfeiture of substitute assets against Defendant Ward in an amount not to exceed \$475,254.30 because the government was unable, despite the exercise of due diligence, to locate Ward's criminal proceeds. (*Id.*, PageID.1415.)

4. Funds in the total amount of \$10,694.36 were seized by the Upper Peninsula Substance Enforcement Team (UPSET) during the execution of search warrants at multiple real properties owned or operated by Ward that were connected to the marijuana conspiracy. The amounts seized by location are provided in the Affidavit of Jesse J. Lake, Senior Inspector, U.S. Marshals Service. (Attachment A). That some of this money may have been the proceeds of Ward's marijuana conspiracy does not preclude these funds from being applied to satisfy Ward's forfeiture money judgment. *See United States v. Saccoccia*, 564 F.3d 502, 506-507 (1st Cir. 2009) (both tainted and untainted assets can be forfeited as substitute assets).

5. The United States hereby requests that the Court enter a Preliminary Order of Forfeiture for Substitute Assets that forfeits the currency to the United States of America for application against Ward's forfeiture money judgment. Upon the Court's entry of a preliminary

order of forfeiture, the United States will provide notice to third parties of the preliminary order of forfeiture pursuant to 21 U.S.C. § 853(n) and Federal Rule of Criminal Procedure 32.2(b)(6).

A proposed order is attached to this motion.

Respectfully submitted,

ANDREW BYERLY BIRGE
Acting United States Attorney

Dated: October 19, 2017

/s/ Joel S. Fauson
JOEL S. FAUSON
MAARTEN VERMAAT
Assistant United States Attorneys
United States Attorney's Office
P.O. Box 208
Grand Rapids, MI 49501-0208
(616) 456-2404