

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

UNITED STATES OF AMERICA

Plaintiff,

vs.

CASE NO. 3:09cr46/LAC

**CHARLES W. MORRIS,
a/k/a Charlie Morris**

Defendant

NOTICE OF INTENT TO SEEK AN ORDER OF FORFEITURE

The United States of America, by and through the United States Attorney for the Northern District of Florida, files this notice advising the defendant of its intent to seek the issuance of a final order of forfeiture in the form of a personal money judgment against the defendant pursuant to Rule 32.2(b)(1) and (c)(1) of the Federal Rules of Criminal Procedure, and as grounds would show:

1. On or about April 22, 2009, a federal grand jury sitting in the Northern District of Florida returned an indictment charging the defendant, Charles W. Morris, with the following offenses: Count One, conspiracy to defraud the United States in violation of Title 18, United States Code, Sections 366 and 371; Counts Two and Three, theft concerning programs receiving federal funding in violation of Title 18, United States Code, Sections 666 and 2; Count Four, conspiracy to commit money laundering in

violation of Title 18, United States Code, Section 1956(h); Count Five, engaging in monetary transactions affecting interstate commerce greater than \$10,000.00 in violation of Title 18, United States Code, Section 1957; and Count Six, conspiracy to commit wire fraud in violation of Title 18, United States Code, Sections 1343 and 1349. In the indictment, the United States gave notice to the defendant that, in the event of his conviction, he will be required to forfeit to the United States all proceeds derived from and all property involved in the offenses charged in the indictment.

2. On May 19, 2009, the defendant plead guilty as charged to all counts in the indictment pursuant to a written plea and cooperation agreement with the United States. Under the terms of the written plea agreement, the defendant agreed to “forfeit all forfeitable assets to the United States or to agencies designated by the United States.” Therefore, by entering said guilty plea and cooperation agreement, the defendant voluntarily consented in open court to the forfeiture to the United States of all his rights, title and interest in and to the above property. As reflected in the defendant’s Pre-Sentence Investigation Report, a total of \$194,002.00 in United States Currency constitutes property involved in the offenses traceable to such offenses and constituting and derived from the proceeds traceable to the offenses to which he has entered pleas of guilty and as such, is property subject to forfeiture pursuant to the provisions of Title 18, United States Code, Sections 982(a)(1-4) and Title 28, United States Code, Section 2461(c). The government will seek a determination from this court at sentencing pursuant to Rule 32.2(b)(4) that \$194,002.00 was involved in the offenses for which the

defendant will be sentenced including the money laundering offenses as charged in Counts Four and Five.

3. The United States has not, as of this date, identified specific assets that were derived from or involved in the offenses for which the Defendant has been convicted with the exception of the United States Currency seized from the defendant at the time of his arrest. The United States has not yet identified any property of the defendant that could be forfeited as a substitute asset in accordance with 21 U.S.C. § 853(p).

4. Accordingly, the United States places the defendant on notice of its intent to seek the entry of a Final Order of Forfeiture at his sentencing consisting of a personal money judgment against the defendant in the amount of \$194,002.00.

5. The entry of a Final Order of Forfeiture at sentencing in the form of a personal money judgment is specifically authorized by Rule 32.2(b)(1) and (c)(1) of the Federal Rules of Criminal Procedure. Such orders of forfeiture are commonplace. See United States v. Baker, 227 F.3d 955 (7th Cir. 2000) (a forfeiture order may include a money judgment for the amount of money involved in the money laundering offense; the money judgment acts as a lien against the defendant personally for the duration of his prison term and beyond); United States v. Candelaria-Silva, 166 F.3d 19 (1st Cir. 1999) (criminal forfeiture order may take several forms: money judgment, directly forfeitable property, and substitute assets); United States v. Davis, 177 F. Supp.2d 470 (E.D. Va. 2001) (same, following Candelaria-Silva); United States v. Conner, 752 F.2d 566, 576

(11th Cir. 1985) (because criminal forfeiture is in personam, it follows defendant; it is a money judgment against the defendant for the amount of money that came into his hands illegally; the Government is not required to trace the money to any specific asset); United States v. Ginsburg, 773 F.2d 798, 801-02 (7th Cir. 1985) (en banc) (criminal forfeiture is a personal judgment that requires the defendant to pay the total amount derived from the criminal activity, "regardless of whether the specific dollars received from that activity are still in his possession"); United States v. Amend, 791 F.2d 1120, 1127 (4th Cir. 1986) (same); United States v. Robilotto, 828 F.2d 940, 949 (2d Cir. 1987) (following Conner and Ginsburg; the court may enter a money judgment for the amount of the illegal proceeds regardless of whether defendant retained the proceeds); United States v. Navarro-Ordas, 770 F.2d 959, 969 (11th Cir. 1985) (court may enter "personal money judgment" against the defendant for the amount of the illegally obtained proceeds); United States v. Voigt, 89 F.3d 1050, 1084, 1088 (3d Cir. 1996) (the Government is entitled to a personal money judgment equal to the amount of money involved in the money laundering offense); United States v. Holland, 160 F.3d 377, 380 (7th Cir. 1998) (defendant ordered to pay judgment equal to value of property concealed from bankruptcy court and subsequently laundered); United States v. Corrado, 227 F.3d 543 (6th Cir. 2000) (Corrado I) (remanding case to the district court to enter money judgment for the amount derived from a RICO offense); United States v. Saccoccia, 823 F. Supp. 994, 1006 (D.R.I. 1993) (money judgment for the amount laundered, \$136 million, entered against each defendant), aff'd, 58 F.3d 754 (1st Cir. 1995); United States v.

Sokolow, 1995 WL 113079 at *1 (E.D. Pa. 1995) (because money is fungible, the Government need not receive the identical money involved in the money laundering offense so long as the amount involved is known), aff'd, 81 F.3d 397 (3d Cir. 1996); United States v. Cleveland, 1997 WL 537707 at *11 (E.D. La. 1997) (the Government is entitled to a money judgment equal to the amount of money that defendant laundered in money laundering case); United States v. Stewart, 1998 WL 720063 (E.D. Pa. 1998) (court enters money judgment for "aggregate sum of all money laundering counts for which defendant was convicted"), aff'd as modified, 185 F.3d 112 (3d Cir. 1999); United States v. Henry, 850 F. Supp. 681, 683 (M.D. Tenn. 1994) (court enters money judgment for \$191,206, which was the amount of Medicare fraud proceeds defendant was convicted of laundering), aff'd, 64 F.3d 664, 1995 WL 478635 (6th Cir. 1995) (Table); United States v. Delco Wire and Cable Co., Inc., 772 F. Supp. 1511 (E.D. Pa. 1991) (criminal forfeiture is "like a money judgment that runs against the defendant until satisfied in full"; judgment entered for \$10 million, which was the amount of the racketeering proceeds).

6. Once the Final Order of Forfeiture is entered, the Government may move at any time, pursuant to Rule 32.2(e)(1)(B), to amend the Order to forfeit specific property of the defendant, having a value up to the amount of the money judgment, as substitute assets. See United States v. Candelaria-Silva, 166 F.3d 19 (1st Cir. 1999) (once the Government has obtained a money judgment, it may forfeit defendant's real property in partial satisfaction of that judgment); United States v. Baker, 227 F.3d 955 (7th Cir.

2000) (same); United States v. Numisgroup Intl. Corp, 169 F. Supp. 2d 133 (E.D.N.Y. 2001) (Rule 32.2(e) authorizes forfeiture of substitute assets to satisfy a money judgment, including a judgment based on the value of the missing proceeds and the value of the missing facilitating property); United States v. Harrison, 2001 WL 803695 (N.D. Ill. 2001) (entry of money judgment as part of preliminary order of forfeiture gives Government opportunity later to satisfy the judgment by seeking forfeiture of substitute assets; Rule 32.2(e)); United States v. Davis, 177 F. Supp.2d 470 (E.D. Va. 2001) (if property cannot be forfeited as directly traceable to the offense, it can be forfeited as a substitute asset and used to satisfy the money judgment).

WHEREFORE, by virtue of the defendant's guilty plea and entry into the plea agreement with the government, and this court's determination of the amount of money derived from, involved in, or constituting proceeds as a result of the offenses for which the defendant has been convicted, a final forfeiture order in the form of a money judgment will be sought against the defendant at sentencing.

Respectfully submitted,

THOMAS F. KIRWIN
United States Attorney

//s//**Randall J. Hensel**
RANDALL J. HENSEL
Assistant United States Attorney
Florida Bar No. 301604
21 East Garden Street, Suite 400
Pensacola, Florida 32502-5675
Phone: (850) 444-4000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing notice was mailed this 27th day of July, 2009, to Joseph L. Hammons, Esquire, Attorney for the defendant.

//s//Randall J. Hensel

RANDALL J. HENSEL
Assistant United States Attorney