

2013R01059/SUE/JA/gr

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon. Freda L. Wolfson, U.S.D.J.
v.	:	Crim. No. 15-196 (FLW)
BOBBY BOYE,	:	<u>STIPULATION AND CONSENT</u>
a/k/a "Bobby Ajiboye,"	:	<u>AMENDMENT TO FIRST FINAL</u>
a/k/a "Bobby Aji-Boye,"	:	<u>ORDER OF FORFEITURE (AS TO</u>
Defendant.	:	<u>CERTAIN SPECIFIC</u>
	:	<u>PROPERTIES)</u>
	:	(As to the real property known as
	:	36 Rosewood Court, North
	:	Haledon, New Jersey)
US BANK, CUSTODIAN FOR BV	:	
TRUST 2015-1,	:	
Interested Party.	:	

WHEREAS, on or about April 28, 2015, defendant Bobby Boye, a/k/a "Bobby Ajiboye," a/k/a "Bobby Aji-Boye," ("Bobby Boye" or the "defendant") pleaded guilty pursuant to a plea agreement with the United States to a one-count Information, which charged him with conspiracy to commit wire fraud, contrary to 18 U.S.C. § 1343, in violation of 18 U.S.C. § 1349 (the "Information");

WHEREAS, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), a person convicted of a violation of 18 U.S.C. § 1343, which constitutes a specified unlawful activity within the meaning of 18 U.S.C. § 1956(c)(7), or a conspiracy to commit such offense, as alleged in the Information, shall forfeit to

the United States all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of such offense;

WHEREAS, as part of his plea agreement, the defendant agreed, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), to the entry of a forfeiture money judgment in the amount of \$4,233,015.42 (the "Forfeiture Money Judgment") against the defendant, and to forfeit to the United States all of the defendant's right, title and interest in the following property, which was seized or restrained on or about June 19, 2014, and which the defendant admitted constitutes or is derived from proceeds traceable to the offense charged in Count One of the Information, in partial satisfaction of the Forfeiture Money Judgment:

(a) Any and all funds contained in the below described bank accounts held at J.P. Morgan Chase Bank (the "forfeitable bank accounts"):

- (i) Account Number 0399, held in the name of Opus and Best, LLC
- (ii) Account Number 6170, held in the name of Bobby Boye and/or Ediltruda Kalikawe
- (iii) Account Number 5820 held in the name of Bobby Boye
- (iv) Account Number 7116 held in the name of Bobby Boye and/or Ediltruda Kalikawe
- (v) Account Number 2735 held in the name of Bobby Boye and/or Ediltruda Kalikawe; and

(b) The below vehicles (the "forfeitable vehicles"):

- (i) One 2012 Silver Bentley Continental, VIN: SCBFR7ZA4CC073091, New Jersey License No. BB73GE, Registered Owner Bobby W. Boye;

- (ii) One 2012 Black Range Rover, VIN: SALMF1E41CA387702, New Jersey License No. A11CHT, Registered Owner Bobby W. Boye;
- (iii) One 2011 Rolls Royce, VIN: SCA664S56BUX49882, New Jersey License No. BB81GE, Registered Owner Bobby W. Boye;

(c) the below watches (the "forfeitable watches"):

- (i) One IWC "DaVinci" Perpetual Calendar/Moonphase/Chronograph Kurt Klaus Limited Edition watch, IW3762-04, Serial No. 3437866, with black alligator strap;
- (ii) Frank Muller "Conquistador Grand Prix" watch, model 8900 SC GP, Serial No. 53, with black alligator strap; and

(d) The below real property or any proceeds traceable to such real property (the (forfeitable real properties")):

- (i) 25 Crescent Hollow Court, Ramsey, New Jersey (the "Ramsey property");
- (ii) 36 Rosewood Court, North Haledon, New Jersey (the "North Haledon property");
- (iii) 9 Cobblestone Court, Oakland New Jersey (the "Oakland property")¹; and
- (iv) 140 Grove Street, Elizabeth, New Jersey (the "Elizabeth property"),

(collectively the "forfeitable property")

WHEREAS, the following J.P. Morgan Chase Bank accounts had no balance at the time law enforcement executed the seizure warrants:

- (i) Account Number 6170, held in the name of Bobby Boye and/or Ediltruda Kalikawe

¹ In lieu of the real property located at 9 Cobblestone Court, Oakland, New Jersey, the Government seized and administratively forfeited the net proceeds of the sale of this real property in the amount of \$316,759.63, that was held in trust by Park, Weinstein & Caporrino.

- (ii) Account Number 5820 held in the name of Bobby Boye
- (iii) Account Number 7116 held in the name of Bobby Boye and/or Ediltruda Kalikawe
- (iv) Account Number 2735 held in the name of Bobby Boye and/or Ediltruda Kalikawe; and

WHEREAS, one IWC "DaVinci" Perpetual Calendar/Moonphase/Chronograph Kurt Klaus Limited Edition watch, IW3762-04, Serial No. 3437866, with black alligator strap, could not be located at the time law enforcement executed the seizure warrants;

WHEREAS, the following specific properties were forfeited by the FBI in administrative forfeiture proceedings:

(a) The following forfeitable vehicles:

- (i) One 2012 Silver Bentley Continental, VIN: SCBFR7ZA4CC073091, New Jersey License No. BB73GE, Registered Owner Bobby W. Boye;
- (ii) One 2012 Black Range Rover, VIN: SALMF1E41CA387702, New Jersey License No. A11CHT, Registered Owner Bobby W. Boye;
- (iii) One 2011 Rolls Royce, VIN: SCA664S56BUX49882, New Jersey License No. BB81GE, Registered Owner Bobby W. Boye;

(b) One Frank Muller "Conquistador Grand Prix" watch, model 8900 SC GP, Serial No. 53, with black alligator strap;

(c) Stock Certificate No. B-1 for 301,350 Shares of Herbal Water, Inc. held by Opus & Best LLC; ² and

² This asset, while not identified in the plea agreement, was seized pursuant to a seizure warrant issued in the District of New Jersey on or about June 20, 2014.

WHEREAS, on or about July 16, 2015, the Court entered a Consent Judgment of Forfeiture (Money Judgment) and Preliminary Order of Forfeiture as to Specific Property (Final as to the Defendant) (the "Preliminary Order"), pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), imposing upon the defendant a money judgment in the amount of \$4,233,015.42 representing the amount of proceeds obtained as a result of the offense of conviction (the "Money Judgment"), at which time the money judgment portion of the forfeiture became final, pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure;

WHEREAS, pursuant to Rule 32.2(b)(2), the Preliminary Order also forfeited to the United States all of the defendant's right, title, and interest in the certain specific properties, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), for disposition according to law, subject to the provisions of 21 U.S.C. § 853(n)(1), as incorporated by 28 U.S.C. § 2461(c);

- (a) All of the defendant's right, title and interest in the following property, which was seized or restrained on or about June 19, 2014, which the defendant admitted constitutes or is derived from proceeds traceable to the offense charged in Count One of the Information:
 - i. The contents of JPMorgan Chase Bank account number 456370399, held in the name of Opus and Best, LLC (approximately \$103.84);
 - ii. Approximately \$8,408 in U.S. currency seized from the defendant; and
- (b) All of the defendant's right, title, and interest, including all appurtenances and improvements thereon, in the following real property, which the defendant admitted constitutes or is derived from proceeds traceable to the offense charged in Count One of the Information:

- i. 25 Crescent Hollow Court, Ramsey, New Jersey (the “Ramsey property”);
- ii. 36 Rosewood Court, North Haledon, New Jersey (the “North Haledon property”); and
- iii. Real property commonly known as 140 Grove Street, Elizabeth, New Jersey, now known as 142-144 Grove Street, Elizabeth, New Jersey (the “Elizabeth property”),³

(hereinafter referred to collectively as the “Specific Property”) with any forfeited money and the net proceeds derived from the sale of the Forfeited Specific Property to be applied to the Money Judgment, in partial satisfaction thereof;

WHEREAS, subsequent to the entry of the Preliminary Order, the approximately \$8,408 in United States currency seized from the defendant on or about June 19, 2014 was forfeited in an administrative forfeiture proceeding;

WHEREAS, the provisions of 21 U.S.C. § 853(n) and Rule 32.2(b) of the Federal Rules of Criminal Procedure require publication and notice to third parties known to have alleged an interest in forfeited property and the disposition of any petitions filed under Section 853(n) before the United States may have clear title to such property;

WHEREAS, pursuant to 21 U.S.C. § 853(n)(1), a Notice of Forfeiture with respect to the Specific Property was posted on an official government internet site, namely www.forfeiture.gov, beginning on August 8, 2015, and running for

³ As detailed below, on or about October 15, 2015, the Court entered a Corrected Consent Judgment of Forfeiture (Money Judgment) and Preliminary Order of Forfeiture as to Specific Property (Final as to the Defendant) correcting the street address of 140 Grove Street, Elizabeth, New Jersey now known as 142-144 Grove Street.

thirty consecutive days through September 6, 2015, as permitted by Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions (the "Supplemental Rules"). Proof of publication was filed with the Court on or about February 2, 2016;

WHEREAS, the published notice explained that any person asserting a legal interest in the Specific Property was required to file a petition with the Court within 60 days from the first day of publication of the notice on the government internet site, and that if no such petitions were filed, following the expiration of the period for the filing of such petitions, the United States would have clear title to the Specific Property, in accordance with Rule G(5)(a)(ii)(B) of the Supplemental Rules;

WHEREAS, on or about October 15, 2015, the Court entered a Corrected Consent Judgment of Forfeiture (Money Judgment) and Preliminary Order of Forfeiture as to Specific Property (Final as to the Defendant) (the "Corrected Preliminary Order") correcting the 140 Grove Street, Elizabeth, New Jersey address by adding now known as 142-144 Grove Street to the property's description. The Corrected Preliminary Order also provides that the Preliminary Order remains in full force and effect in all other respects and is incorporated into the Corrected Preliminary Order;

WHEREAS, on or about December 7, 2015, Crescent Hollow Condominium Association, Inc., via counsel, Zahid N. Quraishi, Esq., of Riker Danzig Scherer Hyland & Perretti LLP, filed a petition, pursuant to 21 U.S.C. § 853(n), asserting an interest in the Ramsey property;

WHEREAS, in or about April, 2016, subsequent to the entry of the Corrected Preliminary Order wherein all of the defendant's right, title, and interest in North Haledon property was forfeited to the United States, the tenant for the North Haledon property ceased sending monthly rental payments to the defendant and instead commenced sending these rental payments to the United States Marshals Service. These rental payments included deductions for obligations and essential fees such as Home Owner Association fees and home repairs paid for by the tenant (the "net rental proceeds");

WHEREAS, all net rental proceeds received by the United States for the North Haledon property are forfeitable to the United States;

WHEREAS, on or about June 16, 2016, the United States and Crescent Hollow Condominium Association, Inc., through their counsel, entered into a Stipulation and Order of Settlement pursuant to 21 U.S.C. §§ 853(i)(2) and (n) regarding the Ramsey property;

WHEREAS, on or about April 26, 2017, copies of the Corrected Preliminary Order and the Notice of Forfeiture were sent by certified mail to Public Tax Investments, P.O. Box 1030, Brick, New Jersey 08723, and TWR A/C/F Ebury Fund 1, NJ, LLC, P.O. Box 37695, Baltimore, Maryland 21297;

WHEREAS, on or about April 26, 2017, the Court entered a First Final Order of Forfeiture (as to Certain Specific Properties) forfeiting all right, title and interest in the following properties to the United States of America for disposition according to law:

- (a) The contents of JPMorgan Chase Bank account number 456370399, held in the name of Opus and Best, LLC (approximately \$103.84); and
- (b) The real property known as 36 Rosewood Court, North Haledon, New Jersey 07508, and more particularly described as Block 58.03, Lot 1.02, Assessor's Parcel No. 06-00058-03-00001-02 including all appurtenances and improvements thereon and all current and future net rental proceeds received by the United States Marshals Service,

(collectively, the "Forfeited Specific Property").

WHEREAS, on or about May 4, 2017, Public Tax Investments, LLC, through counsel, Anthony L. Velasquez, Esq., filed a Notice of Petition regarding a Tax Sale Certificate purchased against the Elizabeth property;

WHEREAS, the United States subsequently determined not to pursue the Elizabeth property due to lack of equity and has submitted a Release of Lis Pendens to be recorded with the Union County New Jersey Clerk's Office;⁴

WHEREAS, on or about June 1, 2017, copies of the Corrected Preliminary Order and the Notice of Forfeiture were sent by Federal Express to US Bank, Custodian for BV Trust 2015-1, c/o BlueVirgo Capital Management, LLC at the following addresses: (1) 50 South 16th Street, Suite 206, Philadelphia, Pennsylvania 19102; and (2) 164 Mason Street, Floor 2, South, Greenwich, Connecticut 06830. The cover letter stated that a petition asserting an interest in the Forfeited Specific Property had to be filed no later

⁴ On or about August 14, 2017, the Court entered a Partial Vacatur of Corrected Consent Judgment of Forfeiture (Money Judgment) and Preliminary Order of Forfeiture as to Specific Property (Final as to Defendant).

than 35 days of the date of the cover letter. The letter and enclosures were delivered at both locations on or about June 2, 2017;

WHEREAS, on or about June 23, 2017, US Bank, Custodian for BV Trust 2015-1, through counsel Robert A. Del Vecchio, Esq., filed a Petition for Hearing regarding a Tax Sale Certificate against the North Haledon property;

WHEREAS, on or about July 18, 2017, copies of the Corrected Preliminary Order and the Notice of Forfeiture were sent by Federal Express and/or Certified Mail, Return Receipt Requested to:

- (a) Opus & Best, LLC, 3515 84th Street, Apt. 2H, Jackson Heights, NY 11372-5339
- (b) Opus & Best, LLC, 720 Apple Ridge Road, Franklin Lakes, New Jersey 07417
- (c) Opus & Best, LLC, c/o Bobby Boye, 1224 Richmond Rd., Mahwah, New Jersey 07430
- (d) Opus & Best, LLC, 100 Park Avenue, New York, NY 10017-5516,
- (e) Opus & Best, LLC, c/o Bobby Boye, Register No. 66733-050, Fort Dix FCI, Housing Unit Camp, P.O Box 2000, Fort Dix, New Jersey 08640;

WHEREAS, all of the notices identified in the preceding paragraph as items (a) through (d) were returned as undeliverable, however item (e) was delivered on or about July 21, 2017;

WHEREAS, except as previously stated regarding other properties, no other petitions were filed or made in this action as to the North Haledon property, no other parties have appeared to contest the action as to the North Haledon property to date, and the statutory time periods in which to do so have expired;

WHEREAS, US Bank, Custodian for BV Trust 2015-1 ("US Bank"), purchased for value a 2014 Tax Lien Certificate on the North Haledon property, and thereafter recorded the Tax Lien Certificate, Document No. 14-00001, against the North Haledon Property for the value of the 2014 tax lien;

WHEREAS, in addition to the 2014 Tax Certificate, US Bank, Custodian for BV Trust 2015-1, has paid subsequent delinquent taxes and penalties on the North Haledon Property;

WHEREAS, the United States acknowledges and recognizes the above referenced interest of US Bank, Custodian for BV Trust 2015-1, in the North Haledon property;

WHEREAS, the United States and US Bank, Custodian for BV Trust 2015-1, agree to resolve this matter without further litigation as follows:

WHEREAS, the United States and US Bank agree that upon entry of this Stipulation and Consent Amendment to First Final Order of Forfeiture (As to Certain Specific Properties), the United States Marshals Service shall take custody of, market, and sell the North Haledon property, more specifically described as:

36 Rosewood Court, North Haledon, New Jersey 07508, and is more particularly described as Block 58.03, Lot 1.02, Assessor's Parcel No. 06-00058-03-00001-02, being the same property that was described in a mortgage deed recorded as Document No. 10529 in Book 2282, Page 94. Said deed being recorded with the Passaic County Clerk's Office, Passaic County New Jersey. The current record titleholder of this property is Opus & Best LLC.

WHEREAS, the United States and US Bank agree that the United States shall satisfy, from the proceeds of the sale of the North Haledon property, outstanding delinquent taxes, valid liens, real estate commissions, insurance costs, escrow fees, document recording fees not paid by the buyer, title fees, county transfer fees, and expenses incurred by the United States Marshals Service ("USMS") in connection with its custody and sale of the North Haledon property.

WHEREAS, good and sufficient cause having been shown, it is hereby ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. The United States agrees that upon entry of this Stipulation and Consent Amendment to First Final Order of Forfeiture (As to Certain Specific Properties) ("Amendment to First Final Order") forfeiting the North Haledon property to the United States and sale of the North Haledon property pursuant to the Amendment to First Final Order, the United States will remit payment to the North Haledon Tax Collector's Office, in full satisfaction of all outstanding property taxes due and owing to the North Haledon Tax Collector's Office, and, in turn, reimbursement for taxes, interest, and fees paid by US Bank, Custodian for BV Trust 2015-1, as determined by the North Haledon Tax Collector's Office. These funds shall be derived from the proceeds of the sale of the North Haledon property and shall be after payment of any outstanding taxes or valid liens not previously paid by US Bank, Custodian for BV Trust 2015-1, and include reasonable costs associated with the preparation, repair, maintenance, sale, and delivery of the North Haledon property including real

estate commissions, insurance costs, escrow fees, document recording fees not paid by the buyer, title fees, county transfer fees, and expenses incurred by the USMS in connection with its custody and sale of the North Haledon property.

2. Upon receipt of the property taxes, interest, and fees due to the North Haledon Tax Collector's Office, the North Haledon Tax Collector's Office shall reimburse US Bank, Custodian for BV Trust 2015-1, for its share, as determined by the North Haledon Tax Collector's Office, in final compromise and satisfaction of their claim to the North Haledon property.

3. The payment to US Bank, Custodian for BV Trust 2015-1, shall be in full settlement and satisfaction of their claim arising from and relating to the seizure, detention, and forfeiture of the North Haledon property in connection with the Preliminary Order and First Final Order of Forfeiture and subsequently this Amendment to First Final Order, forfeiting to the United States all right, title and interest of defendant Bobby Boye and Opus & Best, LLC in the North Haledon property. US Bank, Custodian for BV Trust 2015-1, understands and agrees that this Amendment to First Final Order constitutes a full and final settlement of their petition and that they waive their rights to further litigate their interest in the North Haledon property and further pursue remission or mitigation of the forfeiture, except in the event that the United States either voids this Amendment to First Final Order upon the entry of an appropriate Court Order or terminates the forfeiture and releases the North Haledon property.

4. Upon payment, US Bank, Custodian for BV Trust 2015-1, agrees

to assign, convey, or release its security interest to the United States via recordable documents and to release and hold harmless the United States, and any agents, servants, and employees of the United States (and any involved state or local law enforcement agencies and their agents, servants, or employees), in their individual or official capacities, from any and all claims by US Bank, Custodian for BV Trust 2015-1, and their agents that currently exist or that may arise as a result of the Government's actions against and relating to the North Haledon property.

5. The United States Marshals Service shall thereafter apply the remaining net proceeds from the sale of the North Haledon property in partial satisfaction of the Money Judgment and deposit the net proceeds into the Department of Justice Assets Forfeiture Fund.

6. This Amendment to First Final Order may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed the complete Amendment to First Final Order.

7. The individuals signing this Amendment to First Final Order on behalf of US Bank, Custodian for BV Trust 2015-1, represent and warrant that they are authorized to execute this Amendment to First Final Order. The undersigned Assistant United States signatory represents that he is signing this Amendment to First Final Order in his official capacity and that he is authorized to execute this Amendment to First Final Order. Facsimile or scanned signatures are as acceptable as original signatures.

8. Each Party shall bear its own costs and attorney's fees.

9. The Court shall have exclusive jurisdiction over the interpretation and enforcement of this Amendment to First Final Order.

10. This Amendment to First Final Order constitutes the complete agreement between the parties hereto and may not be amended except by written consent thereof.

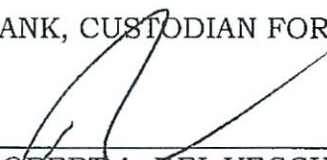
WILLIAM E. FITZPATRICK
Acting United States Attorney

Dated: 6 October 2017


By: JAFER AFTAB
Assistant United States Attorney

US BANK, CUSTODIAN FOR BV TRUST 2015-1

Dated: 10-6-2017


By: ROBERT A. DEL VECCHIO, ESQ.
Counsel for US Bank, Custodian for BV Trust
2015-1

ORDER

Having reviewed the foregoing Stipulation and Consent Amendment to First Final Order of Forfeiture (As to Certain Specific Properties) and good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Stipulation and Consent Amendment to First Final Order of Forfeiture is So Ordered.

ORDERED this day of , 2017.

HON. FREDA L. WOLFSON, U.S.D.J.
UNITED STATES DISTRICT COURT