

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 12-06001-01-12-CR-SJ-GAF
DEBORAH J. FLORES,)	
)	
and)	
)	
RANFE ADAIAS HERNANDEZ-FLORES,)	
)	
Defendants.)	

**MOTION OF THE UNITED STATES FOR A PRELIMINARY
ORDER OF FORFEITURE, WITH SUPPORTING SUGGESTIONS**

The United States of America, by its undersigned counsel, respectfully submits its Motion for a Preliminary Order of Forfeiture in the above-entitled case for the reasons set forth in the following supporting suggestions. A proposed order is submitted with this motion.

SUPPORTING SUGGESTIONS

1. On September 25, 2012, a federal grand jury sitting in the Western District of Missouri, returned a forty-count Superseding Indictment. Count One charged that Deborah J. Flores, Ranfe Adaias Hernandez-Flores, and co-defendants knowingly and willfully conspired, combined, confederated and agreed with others known and unknown to the grand jury, to violate the laws of the United States specifically, transporting illegal aliens in violation of 8 U.S.C. § 1324(a)(1)(A)(ii); unlawful production of an identification document in violation of 18 U.S.C. § 1028(a)(1); unlawful transfer of the means of identification of another person in violation of 18 U.S.C. § 1028(a)(7); and social security fraud in violation of 42 U.S.C. § 408(a)(7).

2. Counts Four and Five of the Superseding Indictment charged that the defendants

Deborah J. Flores and Ranfe Adaias Hernandez-Flores, aiding and abetting each other and others, both known and unknown to the grand jury, knowing and in reckless disregard of the fact that certain illegal aliens, had come to, entered and remained in the United States in violation of law, did transport and move the aliens within the United States by means of transportation and otherwise in furtherance of such violation of law, for the purpose of commercial advantage and private financial gain, in violation of 8 U.S.C. §§ 1324(a)(1)(A)(ii), and (a)(1)(A)(v)(II).

3. Count Six of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, knowing and in reckless disregard of the fact that certain illegal aliens, had come to, entered and remained in the United States in violation of law, did transport and move the aliens within the United States by means of transportation and otherwise in furtherance of such violation of law, for the purpose of commercial advantage and private financial gain, in violation of 8 U.S.C. §§ 1324(a)(1)(A)(ii), and (a)(1)(A)(v)(II).

4. Count Nine of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly and without lawful authority, produce an identification document, to wit, a Missouri nondriver's license in the name of Adrian Garcia, the production of the identification document was in or affected interstate or foreign commerce, and the offense involved the production of an identification document that is or appears to be a driver's license or personal identification card, in violation of 18 U.S.C. §§ 1028(a)(1), (b)(1) and 2.

5. Count Ten of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly

and without lawful authority, produce an identification document, to wit, a Missouri nondriver's license in the name of Jesse Morales Jr., the production of the identification document was in or affected interstate or foreign commerce, and the offense involved the production of an identification document that is or appears to be a driver's license or personal identification card, in violation of 18 U.S. C. §§ 1028(a)(1), (b)(1) and 2.

6. Count Eleven of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly and without lawful authority, produce an identification documents, to wit, a Missouri nondriver's licenses in the names of Paul Anthony Jimenez, the production of the identification document was in or affected interstate or foreign commerce, and the offense involved the production of an identification document that is or appears to be a driver's license or personal identification card, in violation of 18 U.S.C. §§ 1028(a)(1), (b)(1) and 2.

7. Count Twelve of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly and without lawful authority, produce and identification documents, to wit, a Missouri nondriver's licenses in the names of Daniel Thomas Corona, Kevin Adrian Diaz, and Efrain Villarreal-Santos, the production of the identification documents was in or affected interstate or foreign commerce, and the offense involved the production of an identification documents that are or appear to be a driver's licenses or personal identification cards, in violation of 18 U.S.C. §§ 1028(a)(1), (b)(1) and 2.

8. Count Thirteen of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly

and without lawful authority, produce an identification document, to wit, a Missouri nondriver's license in the name of Jesse Baldera, the production of the identification document was in or affected interstate or foreign commerce, and the offense involved the production of an identification document that is or appears to be a driver's license or personal identification card, in violation of 18 U.S.C. §§ 1028(a)(1), (b)(1) and 2.

9. Count Fourteen of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly and without lawful authority, produce an identification document, to wit, a Missouri nondriver's license in the name of Rafael Joseph Mendez Alva III, the production of the identification document was in or affected interstate or foreign commerce, and the offense involved the production of an identification document that is or appears to be a driver's license or personal identification card, in violation of 18 U.S.C. §§ 1028(a)(1), (b)(1) and 2.

10. Count Eighteen of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly transfer without lawful authority, a means of identification of another person, to wit, a Texas birth certificate in the name of Steven Ray Saucedo, with the intent to commit, or to aid or abet, or in connection with, any unlawful activity that constitutes a violation of Federal law, to wit, false representation of United States citizenship in violation of 18 U.S.C. § 911, and the means of identification were transported in the mail in the course of the transfer, and the offense involved the transfer of identification documents that are or appear to be birth certificates, in violation of 18 U.S.C. §§ 1028(a)(7), (b)(1) and 2.

11. Count Twenty-One of the Superseding Indictment charged that the defendant

Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly transfer without lawful authority, a means of identification of another person, to wit, Texas birth certificates in the names of Jesse Morales Jr., John Rene Espinoza-Garcia, George Munoz Jr., and Daniel Thomas Corona, and an Illinois birth certificate in the name of Adrian Garcia, with the intent to commit, or to aid or abet, or in connection with, any unlawful activity that constitutes a violation of Federal law, to wit, false representation of the United States citizenship in violation of 18 U.S.C. § 911, and the means of identification were transported in the mail in the course of the transfer, and the offense involved the transfer of identification documents that are or appear to be birth certificates, in violation of 18 U.S.C. §§ 1028(a)(7), (b)(1) and 2.

12. Count Twenty-Two of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly transfer without lawful authority, a means of identification of another person, to wit, Texas birth certificates in the name of Jacob Ramos, Kevin Adrian Diaz, Gilbert Arrendondo, Rodolfo Guerra Jr., Efrain Villarreal-Santos, John Eric Sanchez, and Billy Trinidad Ochoa, with the intent to commit, or to aid or abet, or in connection with, any unlawful activity that constitutes a violation of Federal law, to wit, false representation of United States citizenship in violation of 18 U.S.C. § 911, and the means of identification were transported in the mail in the course of the transfer, and the offense involved the transfer of identification documents that are or appear to be birth certificates, in violation of 18 U.S.C. §§ 1028(a)(7), (b)(1) and 2.

13. Count Twenty-Three of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did

knowingly transfer without lawful authority, a means of identification of another person, to wit, Texas birth certificates in the name of Rafael Joseph Mendez Alva III and Jesse Baldera, with the intent to commit, or to aid or abet, or in connection with any unlawful activity that constitutes a violation of Federal law, to wit, false representation of United States citizenship in violation of 18 U.S.C. § 911, and the means of identification were transported in the mail in the course of the transfer, and the offense involved the transfer of identification documents that are or appear to be birth certificates, in violation of 18 U.S.C. §§ 1028(a)(7), (b)(1) and 2.

14. Count Twenty-Four of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly transfer without lawful authority, a means of identification of another person, to wit, a Texas birth certificate in the name of Paul Anthony Jimenez, with the intent to commit, or to aid or abet, or in connection with, any unlawful activity that constitutes a violation of Federal law, to wit, false representation of United States citizenship in violation of 18 U.S.C. § 911, and the means of identification were transported in the mail in the course of the transfer, and the offense involved the transfer of identification documents that are or appear to be birth certificates, in violation of 18 U.S.C. §§ 1028(a)(7), (b)(1) and 2.

15. Count Twenty-Seven of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly possess a Social Security card with the intent to sell or alter it, to wit, a Social Security card in the name of Steven Ray Saucedo, for the purpose of obtaining anything of value from any person or for any other purpose, in violation of 42 U.S.C. § 408(a)(7)(C) and 18 U.S.C. § 2.

16. Count Thirty of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly possess Social Security cards with the intent to sell or alter the cards, to wit, Social Security cards in the names of Jesse Morales Jr., John Rene Garcia, George Munoz Jr., Daniel Thomas Corona, and Adrian Garcia, for the purpose of obtaining anything of value from any person or for any other purpose, in violation of 42 U.S.C. § 408(a)(7)(C) and 18 U.S.C. § 2.

17. Count Thirty-One of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly possess Social Security cards with the intent to sell or alter the cards, to wit, Social Security cards in the names of Jacob Ramos, Kevin Adrian Diaz, Gilbert Arrendondo, Rodolfo Guerra Jr., Efrain Villarreal-Santos, John Eric Sanchez, and Billy Trinidad Ochoa, for the purpose obtaining anything of value from any person or for any other purpose, in violation of 42 U.S.C. § 408(a)(7)(C) and 18 U.S.C. § 2.

18. Count Thirty-Two of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly possess Social Security cards with the intent to sell or alter the cards, to wit, Social Security cards in the names of Rafael Joseph Mendez Alva III and Jesse Baldera, for the purpose of obtaining anything of value from any person or for any other purpose in violation of 42 U.S.C. § 408(a)(7)(C) and 18 U.S.C. 2.

19. Count Thirty-Seven of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly transfer, possess and use without lawful authority, a means of identification of

another person, to wit, a Social Security card in the name of Steven Ray Saucedo, during and in relation to a felony offense, that being social security fraud, in violation of 18 U.S.C. §§ 1028(A) and 2.

20. Count Forty of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly transfer, possess and use without lawful authority, a means of identification of another person, to wit, Social Security cards in the names of Jesse Morales Jr., John Rene Garcia, George Munoz Jr., Daniel Thomas Corona, and Adrian Garcia, during and in relation to a felony offense, that being social security fraud, in violation of 18 U.S.C. §§ 1028A and 2.

21. Count Forty-One of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly transfer, possess and use without lawful authority, a means of identification of another person, to wit, Social Security cards in the names of Jacob Ramos, Kevin Adrian Diaz, Gilbert Arrendondo, Rodolfo Guerra Jr., Efrain Villarreal-Santos, John Eric Sanchez, and Billy Trinidad Ochoa, during and in relation to a felony offense, that being social security fraud, in violation of 18 U.S.C. §§ 1028A and 2.

22. Count Forty-Two of the Superseding Indictment charged that the defendant Deborah J. Flores, aiding and abetting others, both known and unknown to the grand jury, did knowingly transfer, possess and use without lawful authority, a means of identification of another person, to wit, Social Security cards in the names of Rafael Joseph Mendez Alva III and Jesse Baldera, during and in relation to a felony offense, that being social security fraud, in violation of 18 U.S.C. §§ 1028A and 2.

23. The Forfeiture Allegation of the Superseding Indictment sought forfeiture pursuant to 8 U.S.C. § 1324(b) of any conveyance, the gross proceeds, or any property traceable to such conveyance or proceeds involved in the transportation of illegal aliens in violation of 8 U.S.C. § 1324(a); pursuant to 18 U.S.C. § 982(a)(6)(A) of any conveyance and any real or personal property that constitutes, is derived from, or is traceable to the proceeds obtained directly or indirectly, or was used or intended to be used to facilitate a violation of 8 U.S.C. § 1324(a), that is, transporting illegal aliens; pursuant to 18 U.S.C. §§ 1028(b)(5) and (g) of any personal property used or intended to be used in a violation of 18 U.S.C. § 1028, that is fraud related to false identification; and pursuant to 18 U.S.C. § 982(a)(2)(B) any property constituting, or derived from, proceeds obtained directly or indirectly as a violation of 18 U.S.C. § 1028, including, but not limited to \$5,250,000.00 in United States currency.

24. On October 15, 2012, the defendant Ranfe Adaias Hernandez-Flores entered into a plea agreement with the United States in which he agreed to plead guilty to Count One of the Superseding Indictment charging violations of 18 U.S.C. § 371; and consented to the entry of a money judgment in the amount of \$5,250,000.00 in United States currency for which he will be jointly and severally liable with other co-defendants.

25. On October 18, 2012, the defendant Deborah J. Flores entered into a plea agreement with the United States in which she agreed to plead guilty to Counts One and Thirty-Seven of the Superseding Indictment charging violations of 18 U.S.C. §§ 371 and 1028A; and consented to the entry of a money judgment in the amount of \$5,250,000.00 in United States currency for which she will be jointly and severally liable with other co-defendants.

26. The Court's jurisdiction in this matter is founded upon 8 U.S.C. § 1324(b), 18 U.S.C.

§ 982(6)(A), and 18 U.S.C. § 1028(b)(5), 8 U.S.C. § 1324(b) provides that:

Any conveyance, including any vessel, vehicle, or aircraft, that has been or is being used in the commission of a violation of subsection (a) of this section, the gross proceeds of such violation, and any property traceable to such conveyance or proceeds, shall be seized and subject to forfeiture.

18 U.S.C. § 982(6)(A) provides that:

The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, of section...1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States, regardless of any provision of State law-

- (1) any conveyance, including any vessel, vehicle, or aircraft used in the Commission of the offense of which the person is convicted; and
- (2) any property real or personal, that constitutes, or is derived from or is traceable to the proceeds obtained directly or indirectly from the commissions of the offense of which the person is convicted; or
- (3) that is used to facilitate, or is tended to be used to facilitate, the commission of the offense of which the person is convicted.

18 U.S.C. § 1028(b)(5) provides that:

In the case of any offense under subsection (a), forfeiture to the United States of any personal property used or intended to be used to commit the offense.

27. The United States has not, as of this date, identified specific assets that were derived from the offenses for which the defendant has been convicted. Nor has the United States yet identified any property of the Defendant that could be forfeited as a substitute asset in accordance with 21 U.S.C. § 853(p).

28. Accordingly, the United States seeks the entry of an Order of Forfeiture consisting of a personal money judgment against the defendants Deborah J. Flores and Ranfe Adaias Hernandez-Flores in the amount of \$5,250,000.00.

29. The entry of an Order of Forfeiture 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).

30. Once the 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).

31. In accordance with the provisions of 21 U.S.C. § 853(p) and Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States requests that it be permitted to undertake whatever discovery is necessary to identify, locate, or dispose of property subject to forfeiture, or substitute assets for such property.

WHEREFORE, by virtue of the plea agreements and the determination of the amount of money derived from the offenses for which the defendants Deborah J. Flores and Ranfe Adaias Hernandez-Flores have been convicted, a money judgment should be entered against the defendants.

WHEREFORE, the United States respectfully requests that this Court enter an order directing a money judgment in the amount of \$5,250,000.00 in United States currency against the defendants.

Respectfully submitted,

David M. Ketchmark
Acting United States Attorney

By

/s/ Jess E. Michaelsen
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CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2012, the foregoing motion was electronically filed with the Clerk of the Court using the CM/ECF system for electronic delivery to all counsel of record.

/s/ Jess E. Michaelsen
Jess E. Michaelsen
Assistant United States Attorney