

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 12-06001-CR-SJ-GAF
)	
SHERRI E. GUTIERREZ,)	
)	
BRENDA DE LA CRUZ,)	
)	
ELDER ENRIQUE ORDONEZ-CHANAS,)	
)	
RAFAEL HERNANDEZ-ORTIZ,)	
)	
SHAYNA R. VANVACTER,)	
)	
MELISSA L. SCALLIONS,)	
)	
Defendants.)	

PRELIMINARY ORDER OF FORFEITURE

This matter is before the Court on the Motion of the United States for a Preliminary Order of Forfeiture. In the Forfeiture Allegation of the Superseding Indictment in this case, the United States sought forfeiture of the following:

\$28,981.67 in United States currency from Arvest Bank account number 61192957, Arvest Bank account number 42841395, and Arvest Bank account number 42825052,¹

pursuant to 18 U.S.C. §§ 982(a)(2)(B) and (a)(6)(A) on the basis that the property constituted, or was derived from, proceeds obtained, directly or indirectly, and any property which was used, or

¹ The \$28,981.67 in United States seized from Arvest Bank account number 61192957, Arvest Bank account number 42841395, and Arvest Bank account number 42825052 were administratively forfeited by U.S. Customs and Border Protection on August 3, 2012.

intended to be used, in any manner or part, to commit or to facilitate the commission of the alleged offenses.

The Forfeiture Allegation of the Superseding Indictment also sought a personal money judgment against the defendants for \$5,250,000.00 in United States currency, in that such sum in the aggregate, constitutes or is derived from proceeds traceable to offenses alleged in Counts One through Twenty-Five, pursuant to 8 U.S.C. § 1324(b), and 18 U.S.C. §§ 982(a)(6)(A), and 1028(b)(5). The defendants and their co-conspirators will be jointly and severally liable for the money judgment.

On April 8, 2013, the defendant Elder Enrique Ordonez-Chanas entered into a plea agreement with the United States in which he 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 to forfeit to the United States his interest in the property identified in the Forfeiture Allegation. The defendant also agreed to forfeit to the United States \$1,701 in United States currency recovered from him at the time of his arrest. The defendant Elder Enrique Ordonez-Chanas consented to the entry of a money judgment in the sum of \$5,250,000.00.

On April 10, 2013, the defendant Sherri E. Gutierrez entered into a plea agreement with the United States in which she agreed to plead guilty to Counts One and Thirty-Five 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 sum of \$5,250,000.00.

On April 29, 2013, the defendant Rafael Hernandez-Ortiz entered into a plea agreement with the United States in which he plead guilty to Count One of the Superseding Indictment, charging violations of 18 U.S.C. § 371, and consented to a money judgment in an amount to be

determined by the Court at sentencing, but not to exceed \$5,250,000.00.

On April 29, 2013, the defendant Shayna R. Vanvacter entered into a plea agreement with the United States in which she 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.

On May 14, 2013, the defendant Melissa L. Scallions entered into a plea agreement with the United States in which she 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.

On May 14, 2013, the defendant Brenda De La Cruz entered into a plea agreement with the United States in which she plead guilty to Counts One and Forty of the Superseding Indictment, charging violations of 18 U.S.C. §§ 371 and 1028A, and consented to a money judgment in an amount to be determined by the Court at sentencing, but not to exceed \$5,250,000.00.

The Court has determined, based upon the evidence set forth in the plea agreements, that the United States has established the requisite nexus between the property described herein and in the Forfeiture Allegation of the Superseding Indictment and the offenses to which the defendants have plead guilty.

By virtue of the plea agreements, the United States is now entitled to a Preliminary Order of Forfeiture and to possession of the property pursuant to 21 U.S.C. § 853.

Accordingly, it is hereby ORDERED:

1. Based upon the plea agreements and the Forfeiture Allegation of the Superseding Indictment, the \$1,701 in United States currency is hereby forfeited to the United States for

disposition in accordance with the law, subject to the provisions of 21 U.S.C. § 853.

2. Furthermore, the defendants Sherri E. Gutierrez, Elder Enrique Ordonez-Chanas, Shayna R. Vanvacter and Melissa L. Scallions shall pay to the United States \$5,250,000.00 as a personal money judgment for which the defendants will be jointly and severally liable. A money judgment against Rafael Hernandez-Ortiz and Brenda De La Cruz will be determined at sentencing.

3. Upon entry of this Order, the Secretary of the Treasury or his designee is authorized to seize the above-described property in accordance with Fed. R. Crim. P. 32.2(b)(3).

4. Pursuant to 21 U.S.C. § 853, the United States shall publish for at least 30 consecutive days on the government's official website, www.forfeiture.gov, notice of the Preliminary Order of Forfeiture, notice of the United States' intent to dispose of the property in such manner as the Department of Treasury may direct, and notice that any person, other than the defendants Sherri E. Gutierrez, Brenda De La Cruz, Elder Enrique Ordonez-Chanas, Rafael Hernandez-Ortiz, Shayna R. Vanvacter and Melissa L. Scallions, having or claiming a legal interest in the above-described property must file a petition with the Court (and serve a copy on Jess Michaelson, Assistant United States Attorney), within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier.

This notice shall state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property, shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title or interest in the forfeited property and any additional facts supporting the petitioner's claim and the relief sought.

The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of this Preliminary

Order of Forfeiture, as a substitute for published notice as to those persons so notified.

5. Pursuant to Fed. R. Crim. P. 32.2(b)(3), this Preliminary Order of Forfeiture shall become final as to the defendant at the time of sentencing (or before if the defendant consents) and shall be made part of the sentence and included in the judgment.

6. The United States may conduct any discovery it considers necessary to identify, locate, or dispose of the property subject to forfeiture or substitute assets for such property.

7. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture in which all interests will be addressed.

s/ Gary A. Fenner
GARY A. FENNER, JUDGE
UNITED STATES DISTRICT COURT

DATED: June 14, 2013