

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 99-8125-Cr-HURLEY/Johnson(s)(s)

UNITED STATES OF AMERICA,

Plaintiff,

v.

FREDERICK C. BRANDAU

GARLAND HOGAN,

MARY ANNE BILLINGHURST

FINANCIAL FEDERATED TITLE

& TRUST, INC.,

ASSET SECURITY CORPORATION,

GARY J. PIERCE,

CSI AG, LTD.,

RAPHAEL R. LEVY,

AMERICAN BENEFITS SERVICES,

JEFFREY A. PAINE,

WANDA TIRADO,

ALAN RICHARD LEWIS,

IVAN BURGOS,

ZANE BALSAM,
JUAN ARROYO,
HARVEY BRANDAU, and
CHERYL POINDEXTER,

Defendants

FINAL JUDGMENT AND ORDER PROVIDING FOR
RESTORATION OF VICTIMS

THIS MATTER came before the Court on motion of the United States for entry of a final judgment and order providing for the restoration of the forfeited funds to the victims in this case. The United States is requesting that the Court confirm that the required statutory notification of the preliminary order of forfeiture has been accomplished and all ancillary petitions have been disposed of pursuant to Title 21 United States Code, Section 853(n) and Fed.R.Crim.P. 32.2. The Court having reviewed the file and the pleadings in this matter and being otherwise fully advised in the premises, makes the following findings:

1. On May 31, 2000, this Court entered a preliminary order of forfeiture forfeiting the interests of defendants Financial Federated Title and Trust, Inc., and Asset Security Corp. in numerous properties to the United States pursuant to the provisions of 18 U.S.C. 982(a)(1) as governed by 21 U.S.C. §853, and Rule 32(d)(2).
2. On October 5, 2000, this Court entered a preliminary order of forfeiture forfeiting to the United States the interests Frederick Brandau in numerous properties pursuant to the provisions of 18 U.S.C. 982(a)(1) as governed by 21 U.S.C. §853 and Rule 32(d)(2).
3. On July 17, 2001, this Court entered a preliminary order of forfeiture forfeiting to the United States the interests

of CSI Ag, Ltd. in numerous properties pursuant to the provisions of 18 U.S.C. 982(a)(1) as governed by 21 U.S.C. §853 and Rule 32(d)(2).

4. On May 14, 2001, this Court entered a preliminary order of forfeiture forfeiting to the United States the interests of Harvey Brandau in numerous properties pursuant to the provisions of 18 U.S.C. 982(a)(1) as governed by 21 U.S.C. §853 and Rule 32(d)(2).

5. The preliminary orders of forfeiture forfeited the interests of defendants Financial Federated Title and Trust, Inc., Asset Security Corp., Frederick Brandau, CSI AG, Ltd., and Harvey Brandau in the assets listed in Attachment A, pages 1 thru 9, which Attachment A is incorporated as part of this order, and are the subject of the United States' motion⁽¹⁾.

5. Publication of the notice of forfeiture as to each forfeiture order has been duly made in this matter. Said notice advised all third parties of their right to petition the Court within thirty (30) days of publication for a hearing and of the intent of the United States to dispose of the forfeited property in accordance with law.

6. The time for filing any petitions has expired.

7. The third party claims of Margaret Brandau, Marine Bank, Ana Silva, Sandra Arroyo, Laurence Rossi/L.K. Rossi Corporation, Marvin Goldman, Paula Kane, and Shane Kane have been resolved pursuant to settlement agreements.

8. Default judgments were entered against Quad-B., Ltd., Welleby Management, and Cornerstone Construction on April 30, 2001, against Elite Air Services, Lance Lamb, and Laura Martinez on June 12, 2001, and against Harry Brandau on July 25, 2001.

9. No other petitioners have come forward within the time provided for in 21 U.S.C. §853(n).

10. Accordingly, forfeiture has been properly noticed, all filed petitions have been disposed of, and the interests of the defendants have been forfeited in this action pursuant to the preliminary orders of forfeiture.

11. Furthermore, the United States has advised this Court in the motion requesting entry of this order that the United States has determined that it will make the property, which is otherwise subject to final forfeiture to the United States, available to effect the restoration of the forfeited funds to the victims of the criminal activity underlying the acts giving rise to the forfeiture, pursuant to 21 U.S.C. §853(i) and 18 U.S.C. §§3663 and 3664 for the following reasons:

a. On August 22, 2000, January 4, 2001, and August 30, 2001, this Court entered orders of restitution with respect to the losses sustained by the victims of the criminal activity underlying the forfeitures in this case in the amount of \$117,000,000.00, \$122,527,160.00 and \$858,455.71.

b. No additional assets of significant value owned and/or controlled by the defendants Financial Federated Title and Trust, Inc., Asset Security Corp., Frederick Brandau, CSI AG, Ltd., and Harvey Brandau have been identified other than those assets which are being handled through the bankruptcy proceedings pertaining to these defendants.

c. Accordingly, the total known assets of the defendants Financial Federated Title and Trust, Inc., Asset Security Corp., Frederick Brandau, CSI AG, Ltd., and Harvey Brandau are insufficient to pay the amount of restitution ordered by this Court.

Based upon the above findings and the Court being otherwise fully advised in the matter, it is hereby

ORDERED AND ADJUDGED:

1. All right title and interest of all persons in the property listed in Attachment A which is attached hereto and incorporated herein as part of this order have been extinguished pursuant to 21 U.S.C. §853(n) and the same is hereby ripe for entry of a final order of forfeiture.

2. Furthermore, all right title and interest of all persons in the following property has been extinguished pursuant to 21 U.S.C. §853(n) and the same is hereby ripe for entry of a final order of forfeiture:

a. The sum of \$115,000,000.00 in U.S. currency through a money judgment of forfeiture in that amount.

b. The sum of \$117,000,000.00 in U.S. currency through a money judgment of forfeiture in that amount.

3. The U.S. Marshals Service is directed to sell the property identified in Attachment A that is in their custody and control in accordance with law, if the property has not been sold at this time. The U.S. Marshals Service shall deposit the proceeds from the sales, as well as any interest earned thereon and accrued income such as rental proceeds, into the seized assets fund, and disburse the proceeds from the sales, along with all other funds and interest collected from the assets listed in Attachment A of this order, as provided for in paragraphs 4 and 5.

4. The expenses incurred by the U.S. Marshals Service, the Federal Bureau of Investigations, and the U.S. Attorneys Office for the proceedings for forfeiture

and sale of the assets listed in Attachment A, including the expenses of seizure, maintenance, advertising, and court costs, shall be reimbursed by the Receiver and the U.S. Marshals Service from the sale proceeds of the assets listed in Attachment A. Reimbursement shall be in the following amounts:

a. The U.S. Marshals Service: \$119,188.62

b. The Federal Bureau of Investigation: \$2008.50

c. The U.S. Attorneys Office: \$17,916.60

5. The U.S. Marshals Service is directed to turn over any sums and accrued interest remaining after the reimbursements in paragraph 4 to the financial Section of the United States District Court, Southern District of Florida. The sums to be turned over to the Financial Section shall be in the form of a cashiers check made payable to U.S. Courts.

6. Upon receipt of the funds from the U.S. Marshals Service, the Financial Section of the clerk's office for the United States District Court, Southern District of Florida, is directed to turn the funds over to John Kozyak, the Receiver appointed in this case, for disbursement.

7. The Receiver shall continue to hold the funds in the Receiver's interest bearing account pending authorization by the U.S. Attorneys Office to distribute the funds in accordance with the restitution order entered in this case. Upon receiving authorization from the United States, the Receiver shall immediately distribute the funds, including accrued interest, credits received, rents and mortgages payments collected, and insurance proceeds pertaining to the assets listed in Attachment A. The Receiver is authorized to spend no more than \$1,700.00 from the funds, to pay for postage to mail the distribution checks attributable to the funds to the victims.

8. As part of the monthly reports submitted by the Receiver, the Receiver shall report in the monthly reports the status of the delivery of the funds, the amount of funds delivered, the negotiation of distributed checks, and the re-deposit of any funds not successfully distributed.

9. Pursuant to the settlement agreement with third party petitioner Laurence Rossi/L.K. Rossi Corporation, the Receiver shall pay Laurence Rossi/L.K. Rossi Corporation \$55,309.29, from the sale proceeds obtained from the sale of the 3419 Weeks Hill Road, Stowe, Vermont property.

10. Pursuant to the settlement agreement with third party petitioner Margaret Brandau, the \$55,050.55 is substituted for the real property located at 8150 Brent Street, #732, Port Richey, Florida (C.7) and the real property is released.

11. Pursuant to the settlement agreement with third party petitioner Marine Bank, the \$65,000.00 is substituted for the real property located at 98 Marina Avenue, Key Largo, Florida (C.11) and the real property is released.

12. Pursuant to the settlement agreement with third party petitioners Marvin Goldman, Paula Kane, and Shane Kane, the \$45,322.32 is substituted for the real property located at 5241 NE 1 Avenue, Fort Lauderdale, Florida (C.6) and the real property is released.

13. The Court shall retain jurisdiction over this matter in order to effect the sale, disposition, and distribution of the assets.

14. Finally, any restoration of funds to the victims in lieu of final forfeiture to the United States, does not preclude the identification and forfeiture of additional assets in satisfaction of the defendants' remaining forfeiture liability under the orders of forfeiture, as such additional assets become known to the United States. Further, the Court retains jurisdiction to effectuate the enforcement of the aforementioned orders of forfeiture.

DONE AND ORDERED in Chambers at West Palm Beach, Florida, this
_____ day of October, 2001.

DANIEL T.K. HURLEY UNITED STATES DISTRICT JUDGE

cc: Antonia J. Barnes, AUSA

Ellen Cohen, AUSA

Stephen Carlton, AUSA

Andres Rivero, Esq.

Randee Golder, Esq.

Thomas F. Ulman, Esq.

Albert Levin, Esq.

John Kozyak, Esq.

Receiver

U.S. Marshals Service

Margaret Brandau

Robert Targ, Esq.

Alan Crane, Esq.

Bart Houston, Esq.

1. The letters and numbers preceding the assets listed in Attachment A correlate to the letters and numbers in the preliminary orders of forfeiture.