

2013R00134
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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

Plaintiff,

- v. -

**\$4,100,000 IN UNITED
STATES CURRENCY**

Defendant *in rem*.

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Honorable

Civil Action No. 13-

**VERIFIED COMPLAINT FOR
FORFEITURE *IN REM***

Plaintiff, United States of America, by its attorney, Paul J. Fishman, United States Attorney for the District of New Jersey (by Evan S. Weitz and Aaron Mendelson, Assistant United States Attorneys) brings this Verified Complaint for Forfeiture *In Rem* (the "Complaint") and alleges as follows in accordance with Rule G(2) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Federal Rules of Civil Procedure.

NATURE OF THE ACTION

1. This is a civil action *in rem* to forfeit and condemn to the use and benefit of the United States the above-captioned property (the "defendant property"), pursuant to 18 U.S.C. §

981(a)(1)(A), as property involved in a transaction or attempted transaction, in violation of 18 U.S.C. §§ 1956 or 1957.

THE DEFENDANT *IN REM*

2. The defendant property consists of \$4,100,000 in United States currency that was surrendered to the United States by the Saddle River Valley Bank (“SRVB”). SRVB agrees that the defendant property constitutes *substitute res* in settlement of all allegations contained within the Complaint.

JURISDICTION AND VENUE

3. Plaintiff brings this action *in rem* in its own right to forfeit and condemn the defendant property. The Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345, and over an action for forfeiture under 28 U.S.C. § 1355(a).

4. The Court has *in rem* jurisdiction over the defendant property under 28 U.S.C. § 1355(b)(1). Upon the filing of the Complaint, the United States requests that the Court issue an arrest warrant *in rem* pursuant to Supplemental Rule G(3)(b)(i), which the United States will execute upon the property pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).

5. Venue is proper in this district pursuant to 28 U.S.C. § 1395.

BASIS FOR FORFEITURE

6. The defendant property is subject to forfeiture pursuant to the provisions of 18 U.S.C. § 981(a)(1)(A) as property involved in a transaction or attempted transaction in violation of 18 U.S.C. §§ 1956 or 1957.

FACTUAL BACKGROUND

7. From at least as early as 2006 through in or about 2012, SRVB was a two-branch bank located in Bergen County, New Jersey. In or about 2012, substantially all of the assets and deposit liabilities of SRVB were acquired by another financial institution. Currently, the total

assets of SRVB consist of approximately \$9,200,000, which are largely funds remaining from the 2012 sale of SRVB's assets.

8. At all times relevant to the Complaint, SRVB was a "domestic financial institution" as defined by 31 U.S.C. § 5312(a)(2).

STATUTORY BACKGROUND

9. Congress enacted the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.* (the "BSA"), and its implementing regulations to address an increase in money laundering activity through financial institutions. Among other things, the BSA requires domestic banks, insured banks, and other financial institutions to maintain programs designed to detect and report suspicious activity that might be indicative of money laundering and other financial crimes, and to maintain certain records and file reports related thereto that are especially useful in criminal, tax, or regulatory investigations or proceedings.

10. Pursuant to 31 U.S.C. § 5318(h)(1) and 12 C.F.R. § 21.21, SRVB was required to establish and maintain an anti-money laundering ("AML") compliance program that, at a minimum, provided for: (a) internal policies, procedures, and controls designed to guard against money laundering; (b) an individual or individuals to coordinate and monitor day-to-day compliance with the BSA and AML requirements; (c) an ongoing employee training program; and (d) an independent audit function to test compliance programs.

11. Pursuant to 31 U.S.C. § 5318(i)(1), banks that manage accounts in the United States for non-United States persons or entities must establish due diligence, and, in some cases, enhanced due diligence, policies, procedures, and controls that are designed to detect and report suspicious activity related to certain specified accounts. Included in these specified accounts are foreign correspondent accounts, which are accounts maintained in the United States on behalf of foreign financial institutions. For foreign correspondent accounts, the implementing regulations

require that the due diligence requirements set forth in § 5318(i)(1) include an assessment of the money laundering risk presented by the account based on all relevant factors, including, as appropriate: (a) the nature of the foreign financial institutions' business and the market it serves; (b) the type, purpose, and anticipated activity of the account; (c) the nature and duration of the bank's relationship with the account holder; (d) the AML and supervisory regime of the jurisdiction issuing the license for the account holder; and (e) information reasonably available about the account holder's AML record.

AGREEMENT

12. The United States alleges that SRVB, as described herein, willfully failed to meet the requirements of the BSA. Specifically, the United States alleges that SRVB failed to (1) establish and maintain an effective AML program, in violation of 31 U.S.C. § 5318(h)(1), and (2) establish adequate due diligence for foreign correspondent accounts, in violation of 31 U.S.C. § 5318(i)(1).

13. The United States alleges that as a result of SRVB's failure to comply with the BSA, financial transactions in an amount containing at least \$4,100,000 were conducted by or through SRVB, in violation of 18 U.S.C. §§ 1956 and/or 1957.

14. The United States and SRVB have agreed to resolve this matter with a forfeiture of \$4,100,000 to the United States.

THE FACTS

15. Beginning at least as early as 2000, numerous federal agencies, including the Department of State, the Department of the Treasury, the Federal Reserve Bank, and the Internal Revenue Service, began issuing public warnings to United States financial institutions about the increased money laundering threat present in Mexico. These warnings were also available through industry-wide advisories. It was believed that the proceeds of narcotics sales in the

United States were being disproportionately laundered and transferred through banking institutions in Mexico. Some of these warnings included:

- The Department of State's designation of Mexico as a jurisdiction of primary concern for money laundering as early as 2000.
- The Department of State's International Narcotics Control Strategy Reports from as early as 2002 highlighting the increased threat of narcotics money laundering in Mexico. The report specifically cited the increased practice of smuggling narcotics proceeds into Mexico and then depositing and electronically transferring those funds back into the United States through Mexican financial institutions.
- Advisories issued by the Department of the Treasury through the Financial Crimes Enforcement Network (FinCEN) in both 2006 and 2010 advising of the increased practice of laundering narcotics proceeds through Mexican financial institutions.
- The federal money laundering investigation that became public in 2007-2008 and subsequent deferred prosecution agreement (DPA) involving Sique, a United States-based money service business, for failing to maintain an effective AML program related to wire transfer activity in Mexico.
- The federal money laundering investigation that became public in 2009 and subsequent DPA involving Wachovia, a United States based bank, for failing to maintain an effective AML program related to wire transfer activity in Mexico.

16. Many of these warnings also discussed the specific money laundering risks associated with casas de cambio (CDCs), which are non-bank exchange businesses located in Mexico and elsewhere. For example, the DPA entered into by Wachovia with the United States in 2010 specifically cited Wachovia's failure to sufficiently monitor accounts held by CDCs. That DPA resulted in, among other penalties, a forfeiture of \$160,000,000 to the United States.

17. Beginning in or about June 2009, SRVB began servicing what would ultimately become four CDCs, including three CDCs in Mexico and one in the Dominican Republic. SRVB voluntarily severed its relationship with the CDCs by in or about May 2011, but only after processing at least \$1.5 billion in transactions on behalf of the CDCs.

18. SRVB's AML program related to the CDCs was deficient in several key areas, including but not limited to the following:

- SRVB failed to appropriately monitor at least \$1.5 billion in transactions conducted on behalf of the CDCs.
- SRVB failed to properly detect and report suspicious activity occurring within the CDC accounts and failed to file Suspicious Activity Reports on a timely basis.
- SRVB failed to conduct sufficient enhanced due diligence on the CDCs.
- SRVB failed to have a BSA officer or other personnel with sufficient experience to operate an AML program.
- SRVB failed to provide adequate training to its employees concerning AML.
- SRVB failed to retain qualified periodic independent testers for its AML program, as required by the BSA.

19. In or about April 2011, the Office of Thrift Supervision, predecessor to the Office of the Comptroller of the Currency (the "OCC"), began a regularly scheduled examination of, among other things, SRVB's AML program. That examination revealed several deficiencies in SRVB's AML program. Ultimately, in or about October 2011, the OCC issued a Cease and Desist Order faulting SRVB for failing to maintain an effective AML program.

20. In or about 2012, substantially all of the assets and deposit liabilities of SRVB were acquired by another financial institution. As part of an agreement reached with the OCC, the proceeds of the acquisition, plus all other assets of the bank, which are currently valued at approximately \$9,200,000, were to be held pending the outcome of investigations by the United States Attorney's Office for the District of New Jersey, the Financial Crimes Enforcement Network ("FinCEN"), and the OCC of SRVB's AML deficiencies.

21. After investigations conducted by the United States Attorney's Office for the District of New Jersey and the OCC, SRVB agreed to an assessed civil monetary penalty by the

OCC of \$4,100,000 for the deficiencies in its AML program. SRVB also agreed to surrender and forfeit an additional \$4,100,000 to the United States to resolve the investigation conducted by the United States Attorney's Office for the District of New Jersey.

22. In or about January 2012, FinCEN began an investigation into the deficiencies involving SRVB's AML program as cited by the OCC and as investigated by the United States Attorney's Office for the District of New Jersey. That investigation identified several AML violations, including failure to conduct adequate due diligence for foreign correspondent accounts, to include the CDC accounts, and failure to detect and adequately report suspicious activities in the CDC accounts in a timely manner. SRVB has agreed to a concurrent civil money penalty by FinCEN of \$4.1 million, to be satisfied by one payment to the U.S. Treasury Department on behalf of both actions by the OCC and FinCEN.

23. In total, SRVB has agreed to a combined monetary payment of \$8,200,000.

CLAIM FOR FORFEITURE

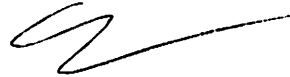
24. The allegations contained in paragraphs 1 through 23 of the Complaint are incorporated herein and made part hereof.

25. The defendant property, and all proceeds traceable thereto, represent property involved in a transaction or attempted transaction in violation of 18 U.S.C. §§ 1956 and/or 1957.

26. As a result of the foregoing, the defendant property and all proceeds traceable thereto, are subject to condemnation and forfeiture to the United States for its use, in accordance with 18 U.S.C. § 981(a)(1)(A).

WHEREFORE, the United States requests that the Court issue a warrant for the arrest *in rem* and seizure of the defendant property; that the defendant property be forfeited and condemned to the United States; and that the Court award such other and further relief as it deems proper and just.

PAUL J. FISHMAN
United States Attorney



By: EVAN S. WEITZ
AARON MENDELSON
Assistant United States Attorney

Dated: September 23rd, 2013
Newark, New Jersey

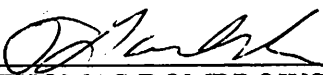
VERIFICATION

STATE OF NEW JERSEY :
COUNTY OF ESSEX : Ss

I, Thomas Dombrowski, hereby verify and declare under penalty of perjury that I am a Special Agent with the Department of Homeland Security, Homeland Security Investigations, that I have read the foregoing Verified Complaint for Forfeiture *in rem* and know the contents thereof, and that the matters contained in the Verified Complaint are true to my own knowledge, except that those matters herein stated to be alleged on information and belief and as to those matters I believe them to be true.


The sources of my information and the grounds of my belief include the official files and records of the United States, information supplied to me by other law enforcement officers, and my own investigation of this case.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct.



THOMAS DOMBROWSKI
Special Agent
Department of Homeland Security
Homeland Security Investigations

Sworn to and subscribed before me this
23rd day of September, 2013, at Newark, New Jersey.



EVAN S. WEITZ
Attorney-at-Law of the State of New Jersey