

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 12-cv-01905 (RDM)
	)	
SUM OF \$70,990,605, ET AL.,	)	
	)	
Defendants <i>in rem</i> .	)	
_____	)	

**STIPULATED SETTLEMENT AND ORDER OF FORFEITURE**

Whereas, the United States filed a Verified Complaint for Forfeiture *in Rem* on November 20, 2012, and a Third Amended Verified Complaint for Forfeiture *in Rem* (the "Complaint"), in this case (the "Pending Action") on August 6, 2015. The Complaint seeks the forfeiture of approximately \$57.3 million in defendant assets (the "Defendant Assets"), pursuant to 18 U.S.C. §§ 981(a)(1)(C), 981(k) and 984. Dkt. 225. On August 27, 2013, Hikmatullah Shadman ("Shadman") and his brothers, Rohullah Faizy ("Faizy") and Najibullah Sadullah ("Sadullah"), filed verified claims to the Defendant Assets (collectively, the "Shadman Claimants"). Dkt. 24. Specifically, Shadman filed a claim individually and on behalf of Hikmat Shadman Logistics Services Company ("HSLSC"), Hekmat Shadman General Trading, LLC. ("Hekmat"), and Faizy Elham Brothers, Ltd.; Faizy filed a claim individually and on behalf of Everest Faizy Logistics Services ("Everest"); and Sadullah filed a claim individually and on behalf of Faizy Elham Brothers, Ltd. Afghanistan International Bank ("AIB") also filed a claim asserting its interest to approximately \$4,330,287 of the Defendant Assets. Dkt. 41. Notice of the Pending Action was provided to claimants as required under the applicable Federal Rules of Civil Procedure, was also

published on the government website [www.forfeiture.gov](http://www.forfeiture.gov) for 30 consecutive days, and the deadline for third party claims to be filed in this matter has expired.

Whereas, on February 13, 2017, the Court granted the United States' motion to strike the Shadman Claimants' claims with respect to the Defendant Assets claimed by AIB, as well as \$3,949,141 which had been previously deposited at Bank Alfalah. Dkt. 287. On April 9, 2018, \$3,949,141 of the Defendant Assets were released to Bank Alfalah pursuant to the United States' Motion for Voluntary Dismissal, filed February 14, 2018 (Dkt. 312), and the Court's Minute Order of March 16, 2018. The Shadman Claimants' remaining claims, and the subject of this Stipulated Settlement and Order of Forfeiture ("Forfeiture Order"), relate to forty-nine million dollars (\$49,000,000) of the Defendant Assets, which encompass all assets to which the Shadman Claimants have pending claims, that were restrained by Order of the United States District Court upon probable cause provided by the United States in May 2013 at Deutsche Bank Americas, which served as the U.S. interbank account for Emirates National Bank.

Whereas, on August 11, 2014, a Relator filed an action under the *qui tam* provisions of the False Claims Act, 31 U.S.C. §§ 3729-3733 (the "FCA") in the United States District Court for the District of Columbia, which remains under seal (the "FCA Action"). The FCA Action names as defendants, among others, certain companies owned and/or operated by certain of the Shadman Claimants, specifically HSLSC, Hekmat, Hikmat Supply and Construction Company, and Everest (the "Shadman Companies"). The United States and the Shadman Companies have entered a separate settlement agreement to resolve certain allegations concerning the Shadman Companies under the FCA (the "FCA Settlement Agreement"). In the FCA Settlement Agreement, the Shadman Companies have agreed to pay Relator \$55,000 to satisfy the Relator's expenses, attorney's fees and attorney costs ("Relator's Attorney's Fees").

Whereas, on January 3, 2019, HSLSC pleaded guilty in the Eastern District of North Carolina to a Criminal Information, No. 5:18-cr-492-1, charging the corporation with two counts of paying gratuities to two U.S. service members in Afghanistan, and one count of conspiracy to do the same, in order to ensure the award of military contracts to HSLSC. On this same date, HSLSC was sentenced to pay an \$810,000 fine and forfeit \$190,000 (“Criminal Fine and Forfeiture”).

Whereas, Plaintiff United States and the Shadman Claimants have reached an agreement (the “Settlement Agreement”) that is dispositive of the Shadman Claimants’ claims in the Pending Action, the United States and the Shadman Claimants hereby request that the Court enter this Forfeiture Order.<sup>1</sup> The Settlement Agreement is filed as Exhibit A to this Forfeiture Order.

**WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:**

1. Notice of this Pending Action has been given in accordance with law. All potential claimants other than the Shadman Claimants and AIB, and any and all companies, officers, agents, representatives, heirs, assigns, and employees of same, are deemed to have admitted the allegations of the Complaint.

2. The Shadman Claimants represent that they own the forty-nine million dollars (\$49,000,000) of the Defendant Assets described above that were restrained in May 2013 at Deutsche Bank Americas and that are the subject of this Forfeiture Order.

3. In accordance with the Settlement Agreement, the Criminal Fine and Forfeiture, and the Relator’s Attorney’s Fees, as provided in the FCA Settlement Agreement, shall be paid prior to any release of funds to the Shadman Claimants.

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<sup>1</sup> This Forfeiture Order does not address AIB’s pending claim, which is a claim to \$4,330,287.03 of the Defendant Assets. The United States is currently in negotiations with AIB regarding its claim.

4. In accordance with the Settlement Agreement, the Shadman Claimants shall receive, via their counsel, twenty-three million four hundred and forty-five thousand dollars (\$23,445,000), which represents twenty-four and one half million dollars (\$24,500,000) of the Defendant Assets restrained at Deutsche Bank Americas, less the payment of the Relator's Attorney's Fees and the Criminal Fine and Forfeiture, as set forth below. Such release of funds shall be in full satisfaction of the Shadman Claimants' claims in the Pending Action. Of the \$23,445,000 to be released to the Shadman Claimants, \$2,432,299.58 (the "Fund") shall be restrained by the Court in order to preserve such funds pending the outcome of the Petition to Establish Attorney's Charging Lien, Dkt. 323. The Fund shall be restrained until there is either a settlement authorizing release of a specified sum, which will be released as allocated in any such settlement, or a final judgment on the Petition to Establish Attorney's Charging Lien has been entered allocating the Fund between the parties to the Petition and directing release as specified.

5. In accordance with the Settlement Agreement and the FCA Settlement Agreement, one and one-half million dollars (\$1,500,000) of the Defendant Assets restrained at Deutsche Bank Americas will be allocated and distributed to the United States as payment to resolve the United States' claims in the FCA Action related to the Shadman Companies, and will be released to the Department of Justice Civil Division, as set forth below.

6. In accordance with the Settlement Agreement, the remaining balance of the Defendant Assets restrained at Deutsche Bank Americas, and all interest earned on the entirety of the Defendant Assets since seizure, less any expenses or fees incurred and owed to Deutsche Bank Americas as of the date the Forfeiture Order is served on Deutsche Bank Americas, are hereby forfeited by the United States, and all right, title, and interest in the remaining funds shall be vested in the United States and no one else.

7. In order to comply with paragraphs 3 through 6 above, Deutsche Bank Americas shall take the following actions:

- a. Upon receipt of this executed Forfeiture Order, release one million dollars (\$1,000,000) to the Shadman Claimants' counsel so that the Criminal Fine and Forfeiture can be satisfied.
- b. Upon receipt of this executed Forfeiture Order, release fifty-five thousand dollars (\$55,000) to Relator's counsel, R. Scott Oswald of The Employment Law Group, or his designee, in order to satisfy the Relator's Attorney's Fees.
- c. Upon receipt of this executed Forfeiture Order, continue to restrain \$2,432,299.58 until instructed by the Department of Justice Money Laundering and Asset Recovery Section ("MLARS") to make disbursements in accordance with paragraph 4 above.
- d. Upon certification from MLARS that the Criminal Fine and Forfeiture was satisfied, and the Relator's Attorney's Fees were paid, release \$21,012,700.42 to the Shadman Claimants pursuant to written instructions to be provided by the Shadman Claimants' counsel.
- e. Upon certification from MLARS that the Criminal Fine and Forfeiture was satisfied, and the Relator's Attorney's Fees were paid, release one and one-half million dollars (\$1,500,000) to the Department of Justice Civil Division by electronic funds transfer pursuant to written instructions to be provided by the Civil Division.
- f. Upon completion of paragraphs a through e above, release the remaining balance of the Defendant Assets restrained at Deutsche Bank Americas, and all interest

earned on the entirety of the Defendant Assets since seizure, less any expenses or fees incurred and owed to Deutsche Bank Americas as of the date this Forfeiture Order is served on Deutsche Bank Americas, to MLARS or to the entity designated by MLARS to effectuate the forfeiture described in paragraph 6 above.

8. The Shadman Claimants shall forever discharge and hold harmless the United States and any and all of its agencies, agents, officers, employees and contractors (including, but not limited to, the Department of Justice, the Special Inspector General for Afghanistan Reconstruction, and their agents officers, employees and contractors) from any and all claims, forfeitures, liabilities, obligations, appeals, or demands arising out of or related to the Pending Action, or the seizure of any Defendant *In Rem*, including, but not limited to, any claim for attorneys' fees, costs or interests which may be asserted on behalf of the Shadman Claimants, whether pursuant to 28 U.S.C. § 2465 or otherwise.

9. The Shadman Claimants shall not file any future claim with respect to the Defendant Assets or any facts related to the Complaint.

10. Except as to any claims arising under the FCA, the United States, on its own behalf and on behalf of its representatives, agents, assignees, and attorneys, shall forever discharge and hold harmless the Shadman Claimants and any and all companies, officers, agents, representatives, heirs, assigns, and employees of same, from any and all claims, forfeitures, liabilities, obligations, appeals, or demands arising out of or related to the Pending Action, or the seizure of any Defendant *In Rem*, including, but not limited to, any claim for attorneys' fees, costs or interests which may be asserted on behalf of the United States.

11. Each party shall bear its own costs, attorney's fees, and expenses.

12. As it pertains to this Forfeiture Order, all rights of appeal are hereby waived by the Shadman Claimants. Notwithstanding the foregoing, neither the United States nor the Shadman Claimants waive their rights to enforce the terms of this Forfeiture Order, which rights are expressly retained.

13. The exclusive jurisdiction and venue for any dispute arising under the Settlement Agreement is the United States District Court for the District of Columbia, and this Court shall retain jurisdiction to enforce the Settlement Agreement.

14. In the event that any disputes arise about the interpretation of or compliance with the terms of this Forfeiture Order, the Parties will endeavor in good faith to resolve any such disputes between themselves before bringing it to the Court for resolution. However, in the event of either a failure by one of the parties to this Forfeiture Order to comply with its terms or an act by one of the Parties in violation of any provision hereof, the Parties may move this Court to impose any remedy authorized by law or equity, including awarding attorney's fees, issuing contempt citations and ordering monetary sanctions and penalties.

15. The Parties stipulate that the allegations set forth in the Complaint are sufficient to establish a statutory and factual basis for forfeiture.

DEBORAH L. CONNOR, Chief  
MONEY LAUNDERING AND ASSET  
RECOVERY SECTION

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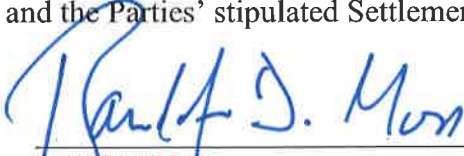
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The Court having considered the foregoing Stipulated Settlement Agreement of the Parties, the Complaint and the record in this case, and good cause appearing therefrom,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that the Settlement Agreement is hereby ADOPTED and APPROVED, and the Court hereby enters a Final Order of Forfeiture on the terms set forth in this Forfeiture Order and the Parties' stipulated Settlement Agreement.

IT IS SO ORDERED.

  
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RANDOLPH D. MOSS  
United States District Judge

Signed this 5 day of March, 2019.