

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

IN THE UNITED STATES DISTRICT COURT

JUL 14 2017

FOR THE DISTRICT OF NEW MEXICO

MATTHEW J. DYKMAN
CLERK

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

CRIMINAL NO. 17-cr-1836-MV

AYUDANDO ALPHA, INC. d/b/a)

AYUDANDO GUARDIANS, INC.,)

SUSAN K. HARRIS, and)

SHARON A. MOORE,)

Defendants.)

**POST-INDICTMENT PROTECTIVE AND
RESTRAINING ORDER ENJOINING PROPERTY
SUBJECT TO FORFEITURE**

This matter is before the Court on the application of the United States made pursuant to 21 U.S.C. § 853(e)(1)(A) for a Protective and Restraining Order to preserve the availability of the following property that is currently or potentially subject to forfeiture to the United States.

The property to be forfeited to the United States includes but is not limited to all interest in and assets of, and any and all funds in accounts owned, held, controlled, maintained or held in trust for third parties by, the following:

**AYUDANDO ADVOCACY, INC.
AYUDANDO ALPHA, INC.
AYUDANDO ENTERPRISES, LTD.
AYUDANDO GUARDIANS LLC
AYUDANDO GUARDIANS, INC.**

(collectively "AYUDANDO").

Upon consideration of the Ex Parte Application of the United States for a Post-Indictment Protective and Restraining Order, and the indictment and affidavit attached to the application, this Court makes the following findings:

1. On July 11, 2017, a federal grand jury in the District of New Mexico returned a 28-count indictment charging the defendants with conspiracy to defraud clients of AYUDANDO GUARDIANS, INC. The Indictment also contains criminal forfeiture allegations, alleging, among other things, that AYUDANDO and all associated assets are subject to forfeiture to the United States upon the defendants' conviction because AYUDANDO constitutes property "involved in" money laundering offenses under 18 U.S.C. §§ 1956 and 1957.

2. Pursuant to 21 U.S.C. § 853(e)(1)(A), this Court is authorized to enter a protective restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property subject to forfeiture once an indictment has been filed under which forfeiture may be ordered.

3. Based on the grand jury's probable cause determination, there is probable cause to believe AYUDANDO is involved in a violation of 18 U.S.C. §§ 1956 and/or 1957; therefore, AYUDANDO and its assets, in the event of conviction, would be subject to forfeiture to the United States pursuant to 18 U.S.C. § 982(a)(1).

4. Advance notice of the Government's request for this Protective and Restraining Order to the owners of the property or to those in custody of the subject property will jeopardize the availability of the subject property for forfeiture. Nevertheless, any third party claims to the subject property may be properly brought and resolved in ancillary proceedings conducted by this Court following the execution of a Preliminary Order of Forfeiture in accordance with the provisions of federal forfeiture law. See Fed. R. Crim. P. 32.2. The need to preserve the

availability of the subject property through the entry of this Protective and Restraining Order outweighs the hardship on any party against whom this Protective and Restraining Order is entered.

THEREFORE, IT IS ORDERED:

Restrained Parties

5. The following individuals, their families, agents, owners or designees are deemed “Restrained Parties” for the purposes of this order: **SUSAN HARRIS, SHARON MOORE,**

[REDACTED]

[REDACTED] Any interference with anyone acting under the authority of this Protective and Restraining Order shall be deemed in violation of this Protective and Restraining Order, punishable by contempt. Furthermore, the Restrained Parties shall not be present upon AYUDANDO premises without prior authorization of the United States Marshals Service or its designee/monitor.

**United States Marshals Service Operation and Control
of Ayudando and Financial Accounts Associated with Ayudando**

6. The Complex Asset Unit of the United States Marshals Service (“the Complex Asset Unit”) is appointed the Receiver/Monitor of AYUDANDO and all financial accounts associated with AYUDANDO. The USMS is authorized to take possession of all, credit cards, debit cards, checks or online usernames and passwords that allow draws on AYUDANDO funds or credit accounts, or AYUDANDO client funds or accounts from AYUDANDO or any restrained parties. The USMS is authorized to take possession of all usernames and passwords that allow access to any AYUDANDO books, records, communications or data whether located on the premises or stored remotely. The USMS is authorized to take possession of all building

access cards or codes and office keys that allow access to the AYUDANDO premises; the USMS is authorized to change locks as necessary to secure the AYUDANDO premises.

7. The expenses incurred by the United States Marshals Service ("USMS") shall be accounted for and submitted to the Court for consideration of reimbursement from the revenues and assets from AYUDANDO after a hearing on the issue. The Complex Asset Unit may name a designee and/or monitor to conduct and perform the services identified herein and for the purpose of reporting to the Court during the course of this evaluation. Members of the Complex Asset Unit are hereby authorized to make entry onto the premises of AYUDANDO and shall inventory the assets of AYUDANDO, oversee its operation, make economic evaluations regarding AYUDANDO, and obtain appraisals of the ongoing business as well as determine the liquidation value of the assets.

8. The authorized entry of the Complex Asset Unit shall include 24-hour access to enter into office space belonging to AYUDANDO, on any occasion during the pendency of this Protective and Restraining Order, to conduct inspections, inventories, and appraisals of the condition and value of the property; the maintenance, upkeep and utilities; the tenants and circumstances of all leases, if any; and the terms of insurance with respect to each property. With respect to AYUDANDO and AYUDANDO offices at 1400 Central Ave SE, Albuquerque, NM 87106, the USMS shall have access to that facility and may control access to this location and exclude the named defendants, their agents, employees, and family members, from the premises. Each appraisal may include still and video photography. The USMS may be accompanied by one or more government and/or contract personnel selected by the USMS to assist them. The USMS may also be accompanied by any federal, state or local law enforcement officers selected by the USMS to ensure the safety of personnel acting under the authority of this Protective and

Restraining Order. Any interference with anyone acting under the authority of this Protective and Restraining Order shall be deemed in violation of this Protective and Restraining Order, punishable by contempt.

9. AYUDANDO, its agents, owners or designees, are directed to:

a. Operate Lawfully

AYUDANDO, its agents, owners or designees shall operate AYUDANDO in compliance with all applicable federal, state, and local laws and regulations;

b. Follow GAAP in Accounting and Preserve Records

AYUDANDO, its agents, owners or designees shall conduct and record financial transactions, bookkeeping and accounting in accordance with Generally Accepted Accounting Principles (“GAAP”) and shall not discard or destroy any business records during the pendency of this Protective and Restraining Order, unless and until approved by the USMS, its designee and/or monitor, or unless and until ordered by the Court;

c. Discretion to Review and Require Pre-Approval of Every Transaction

The USMS, its designees and/or monitor shall have authority to require that the conducting of any transaction, and the incurring of any obligation, occur only with the written approval of the USMS/monitor, which approval shall be given if the transaction is found to be necessary in the ordinary course of business. The USMS/monitor shall have the authority to preapprove, in writing, designated categories of transactions or obligations where the USMS/monitor determines that such categorical pre-approval is necessary for the effective operation of AYUDANDO. The USMS/monitor shall also have the authority to examine all records and information concerning such transactions/obligations, and to revoke such categorical authorization at any time. Authorizations shall not be unreasonably withheld. This authority is

intended to maintain as current all business debt obligations. The USMS shall not be obligated to pay these expenses from any source other than the accounts and assets of AYDUANDO.

d. No Other Transaction Except in Ordinary Course of Business

Except as necessary in the ordinary course of business AYDUANDO is prohibited from conducting any transaction or incurring any obligation.

e. "Conducting a Transaction" and "Incurring an Obligation" Defined

"Conducting a transaction" and "incurring an obligation" include, but are not limited to withdrawing, depositing, or transferring funds, whether in cash or by check, ATM, electronic, ACH, ETF, or wire transfer; utilizing any credit cards or credit accounts (including, but not limited to, American Express) owned by AYUDANDO; writing any check or causing any kind of check to be issued; purchasing or leasing any good, vehicle, equipment, inventory, service, or any other business in whole or in part paying any wage, bonus, benefit, or other form of payment, remuneration, or distribution to any owner, shareholder, officer, director, manager, employee, independent contractor, or creditor; hiring an employee or independent contractor; incurring debt of any kind, including but not limited to ordering any supplies, inventory, or other goods or services or things of value, or causing any mortgage, lien, pledge, hypothecation, encumbrance, or any other security interest to be placed upon AYDUANDO entities or any part thereof, or on any property, fixture, or any leased equipment, inventory, account receivable asset owned by, titled to, held by, or to AYDUANDO; or selling, transferring, conveying, or liquidating any part of equipment, inventory, account receivable, or any other asset owned by, titled to, held by, or leased to AYDUANDO.

f. "Ordinary Course of Business" Defined

"Ordinary course of business" means any of the following types of expenditures or transactions, made by a business in a lawful, bona fide arms-length transaction as part of

AYUDANDO's regular operations, or activity related to or ancillary to AYUDANDO and as conducted by the USMS/monitor: (i) purchase, leasing and/or necessary use of supplies, vehicles, parts, and equipment; (ii) payment of accounts payable, including but not limited to, those relating to rent, mortgages, loans, insurance premiums, license fees, utilities, and taxes; (iii) payment of reasonable and necessary salaries to officers, directors, managers, independent contractors, and employees employed only by the USMS/monitor; (iv) payment for and all normal and necessary upkeep and/or maintenance of any real property, equipment, furnishings, and fixtures for the regular business operations; (v) payment of all reasonable fees to attorneys, accountants, and any other professional specialist for necessary services relating to the business entities (not including fees incurred in connection with this litigation).

g. Marshals Entry and Access to Conduct Business Review, Operations and Appraisal

As indicated above, the USMS and/or its designees are hereby authorized to make entry onto the premises of AYUDANDO 24 hours a day to conduct a thorough review of the operations of AYUDANDO, conduct business operations of AYUDANDO, and to complete an inspection, inventory, and appraisal of the condition and value of AYUDANDO. Such authorization permits the USMS and/or its designees to take still and video photographs, and copy any and all documents pertinent to AYUDANDO. In addition, the USMS and/or its designees may be accompanied by one or more appraisers and/or federal agents and/or government and contract personnel selected by the USMS to assist them. In conducting the review, operations, and appraisal, the USMS shall have the following authority:

(i) Observe and undertake business operations:

To enter all premises and offices to observe and undertake the performance of all aspects of business operations of AYUDANDO, including but not limited to the daily

accounting, recording, depositing, and processing of cash and other receipts; payments of salaries, bills and other business obligations, including payment of all taxes; communications with and solicitations of customers and potential customers; communications with vendors and potential vendors; and communications by and between all officers, directors, managers, independent contractors, employees and agents of AYUDANDO related to the operation of AYUDANDO. Given the fiduciary relationship between AYUDANDO and AYUDANDO clients, the USMS, or its designee/manager, may transfer client beneficiary accounts to another fiduciary, guardian, conservator or representative payee, as necessary to protect the interests of AYUDANDO clients.

(ii) Review and copy documents and data:

To review, inspect, and copy all documents and data relating to the operation of AYUDANDO, including all books and records and data, whether in hard copy format, microfiches, or magnetic, floppy disc, ZIP drive, hard drive, local or remote server, or any other computer storage medium; the contents of all correspondence on file; the contents of all incoming mail and all mail-receipt locations, all offices, and all leased or owned Post Office and other mail depositories; all employee records including personnel files, payroll, benefit, pension, and retirement account records; all customer data, including lists, contracts and locations, billing accounts, and accounts receivable; all inventory, vehicle, and equipment records; all licenses and permits; all bank and financial records; and all records of loans, debts, mortgages, liens, or other security interests, whether issued by or held upon the AYUDANDO property located at; 1400 Central Ave SE, Albuquerque, NM 87106 or held upon any equipment, inventory, vehicle, account, account receivable or other thing of value belonging to AYUDANDO.

The primary purpose is to ensure that AYUDANDO's assets are not sold, dissipated, or wasted during the pendency of this action. As such, the USMS and/or its designees shall oversee the daily accounting of cash and other receipts, including the making of bank deposits and the recording of daily gross receipts on AYUDANDO records; interview employees with respect to making reasonable inquiries necessary to preserve the assets of AYUDANDO consistent with this Protective and Restraining Order; and request through the USMS that the United States Attorney's office ("USAO") petition the Court if access to any of the personnel, property, or assets of AYUDANDO is denied or this Protective and Restraining Order is violated.

(iii) Report to the Court:

Within forty-five (45) days of the imposition of this Protective and Restraining Order, and as deemed necessary thereafter by this Court, the USMS shall report to this Court, under seal, regarding its findings.

Preserving Availability and Value of All Assets

10. Except as otherwise provided in this Protective and Restraining Order, all persons, financial institutions, and other entities who have or assert any access to, interest in, control over, or legal claim to each of the subject properties and all such persons' or entities' agents, servants, employees, attorneys, family members, and those persons in active concert or participation with them, including but not limited to all owners, directors, managers of, and entities related to the subject property ("the Restrained Parties") are hereby restrained prohibited and enjoined from attempting or taking any action that could affect the availability, marketability, or value of the subject property, including but not limited to, selling, conveying, transferring, distributing, bailing, assigning, mortgaging, pledging, collateralizing, hypothecating, encumbering, wasting, secreting, damaging, diminishing the value of, disposing

of, or removing from the jurisdiction of this Court, all of any part of their interest, direct or indirect, in any of the subject property. The Restrained Parties shall surrender to the USMS all online usernames and passwords, credit cards, debit cards, or checks that allow draws on AYUDANDO funds or credit accounts, or AYUDANDO client funds or accounts. The Restrained Parties shall surrender to the USMS all building access cards or codes and office keys that allow access to the AYUDANDO premises. The Restrained Parties also shall surrender the USMS all usernames and passwords that allow access to any AYUDANDO books, records, or data whether located on the premises or stored remotely. The requirements of this paragraph shall likewise apply to all structures, fixtures, and any other part of the AYUDANDO office space at 1400 Central Ave SE, Albuquerque, NM 87106.

Maintaining and Insuring AYUDANDO

11. The present condition of AYUDANDO and AYUDANDO office space at 1400 Central Ave SE, shall be maintained including maintaining (and acquiring as necessary) casualty, fire, and liability insurance policies for AYUDANDO and AYUDANDO office space at 1400 Central Ave SE. With respect to AYUDANDO, this requirement applies to all real property, land, buildings, structures, fixtures, vehicles, containers of all types, financial accounts, and all other assets owned, leased, possessed, or otherwise constituting any part of the property. The Complex Asset Unit shall maintain the insurance policies relating to AYUDANDO from the funds generated or controlled pursuant to this Protective and Restraining Order.

**Financial Institutions' Maintenance and Disclosures of Information
Pertaining to Related Accounts**

12. All financial institutions holding any of the subject accounts, including financial accounts for credit/debit card processing, which relate to AYUDANDO or AYUDANDO clients, shall:

a. not receive directions, conducting transactions with, or provide any financial information to any of the Restrained Parties mentioned above, specifically: **SUSAN HARRIS, SHARON MOORE,** [REDACTED]

[REDACTED]

[REDACTED]

b. take all reasonable and necessary steps to ensure that all financial activity and information flow regarding AYUDANDO or AYUDANDO client funds be conducted only by the Complex Asset Unit, or the USMS/monitor designated by the USMS. No financial activity of any sort may be conducted by or at the direction of any other party other than the Complex Asset Unit or the monitor designated by the USMS;

c. not take any offsets against any of the accounts related to AYUDANDO or AYUDANDO clients; continue to credit any deposits, interest, dividends, or other credits to such accounts in the ordinary course of business;

d. respond promptly to requests by the Complex Asset Unit or the USMS/monitor for information or an accounting on the current status of AYUDANDO's or AYUDANDO clients' financial accounts by account number, including updated information about the status of such accounts, balances, and activity; and remain operating in the ordinary course of business;

e. replace all signatory authority related to AYUDANDO's or AYUDANDO clients' financial accounts by removing all Restrained Parties and providing new authorized persons with authority to act and execute financial transactions as directed by Complex Asset

Unit or USMS/monitor; allow the personnel of the Complex Asset Unit to have online access to AYUDANDO's or AYUDANDO clients' financial accounts.

Lenders' Disclosures of Mortgages, Liens, and Security Interests

13. All financial institutions holding mortgages, liens, or other security interests on AYUDANDO, or any part or property thereof, or any fixture, equipment, inventory, account receivable, or any other asset owned by, titled to, held by, or leased to AYUDANDO, shall promptly respond to requests by the Complex Asset Unit or USMS/monitor and its authorized agents and representatives for information on the status of said mortgages, liens, or other security interests.

Further Orders Necessary to Effectuate Protective and Restraining Order

14. This Court may issue any further orders necessary to effectuate the terms and/or purposes of this Protective and Restraining Order, which purposes include preserving the availability and value of the subject property and facilitating the Complex Asset Unit's review, operation, and appraisal of AYUDANDO.

Service of Protective and Restraining Order by USMS or its designee

15. The USMS, or its designee, shall as soon as practicable, serve a copy of this Protective and Restraining Order upon all of the subject property, and upon all other appropriate individuals and/or financial institutions, and make a return thereon reflecting the date and time of service.

Memorandum of Understanding

16. After assessment by the USMS, a receiver/monitor/manager may be appointed to AYUDANDO. The manager shall enter into Memorandum of Understanding ("MOU") with the USMS regarding the operation of AYUDANDO subject to this Protective and Restraining Order.

Nothing in this Protective and Restraining Order provides the manager with any legal, right, title or interest in any property subject to forfeiture and described in this Protective and Restraining Order. The United States has the right to remove and replace manager from his managerial roles for any reason, including but not limited to, violation of this Protective and Restraining Order.

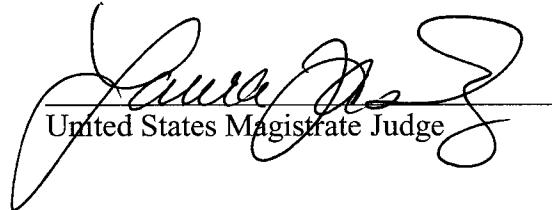
17. With respect to AYUDANDO, this Protective and Restraining Order is not intended to prevent the company from conducting any legitimate business it has while this case is pending, or to prevent the company from making ordinary, necessary, and reasonable expenditures in the course of conducting such business, in accordance with the terms of this Protective and Restraining Order.

IT IS FURTHER ORDERED that a copy of this Post Indictment Protective and Restraining Order Enjoining Property Subject to Forfeiture shall be affixed in a conspicuous place at AYUDANDO office space at 1400 Central Ave SE, and a copy left with the person having possession or the person's agent. *United States v. James Daniel Goode Real Property*, 510 U.S. 43 (1993) (approving of the "post and walk" procedure for the seizure of real property).

IT IS FURTHER ORDERED that this Court may issue any further orders necessary to effectuate the terms and purposes of this Protective and Restraining Order, which purposes include preserving the availability and value of the subject property and facilitating the USMS/monitor's review and appraisal of AYUDANDO and the other subject property.

IT IS FURTHER ORDERED that this Protective and Restraining Order shall remain in full force and effect pending further orders of the Court.

THIS 14th DAY OF July, 2017.


United States Magistrate Judge

APPROVED: