

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. The preliminary orders of forfeiture forfeited the interests of defendants Financial Federated Title and Trust, Inc., Asset Security Corp., and Frederick Brandau in the following assets which are the subject of this motion⁽¹⁾:

B
Financial Instruments

2. All United States (US) Currency in account number 47697 in the name of Financial Federated Title and Trust Inc., at Union Bank.

3. All US Currency in account number 51003546 in the name of Financial Federated Title and Trust Inc., at Union Bank.

4. All US Currency in account number 2090001846860 in the name of Asset Security Corporation at First Union National Bank.

5. All US Currency in account number 2090001846857 in the name of Asset Security Corporation at First Union National Bank.

6. All US Currency in account number 200002305730 in the name of Asset Security Corporation at First Union National Bank.

7. All US Currency in account number 2000002823128 in the name of Asset Security Corporation at First Union National Bank.

8. All US Currency in account number 2090001846239 in the name of Asset Security Corporation at First Union National Bank.

9. All US Currency in account number 2000002305727 in the name of Asset Security Corporation at First Union National Bank.

10. All US Currency in account number 2090002792748 in the name of Asset Security Corporation at First Union National Bank.

11. All US Currency in account number 2090002896453 in the name of Viatical Asset Recovery Corporation at First Union National Bank.

12. All US Currency in account number 8025604458 in the name of Financial Federated Title and Trust Inc., at Colonial Bank.
13. All US Currency in account number 274525452 in the name of Asset Security Corporation at Chittenden Bank.
14. All US Currency in account number 274526920 in the name of Asset Security Corporation at Chittenden Bank.
15. All US Currency in account number 274526939 in the name of Asset Security Corporation at Chittenden Bank.

D
Personal Property

2. A 1995 Bell Long Ranger IV helicopter, model 206L4, identification number 52115.
3. A 1937 Ford 3 window, vehicle identification number W308557.
4. A 1997 Chevrolet Corvette, vehicle identification number 1G1YY22GXV5102930.
5. A 1997 Chevrolet Tahoe, vehicle identification number 1GNEC13R7VJ370755.
17. A 1998 Dodge Viper, vehicle identification number 1B3ER65E0WV401242.
18. A 1998 Lotus Espirit V8, vehicle identification number SCCDC0826WHA15550.
22. A 1999 BMW 328i, vehicle identification number WBAAM5332XKG05387.
23. A 1999 Cadillac Escalade, vehicle identification number 1GYEK13R1XR400598.
25. A 1999 Chevrolet Tahoe, vehicle identification number 1GNEK13R7XJ411486.
30. A 1999 Lamborghini, vehicle identification number ZA9RU31B4XLA12182.

41. A 1998 10'5" Bombardier Sea-Doo, hull identification number ZZN86359A898 and Florida registration number FL9248KN.

42. A 1998 10'5" Bombardier Sea-Doo, hull identification number ZZN86351A898 and Florida registration number FL9249KN.

48. A 1939 Red Studebaker.

49. A 1940 Ford Coupe, vehicle identification number 54544029.

50. A 1941 Beige Chevrolet, vehicle identification number AG6761.

51. A 1955 Black Chevrolet, vehicle identification number B55L008873.

54. A 1999 Plymouth Prowler, vehicle identification number 1P3EW65GXXV500788.

55. A Kit Car, vehicle identification number 1Z37K2S516228.

4. 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.

5. The time for filing any petitions has expired.

6. Heather Brandau signed a consent to forfeiture to a 1998 10'5" Bombardier Sea-Doo, hull identification number ZZN86359A898 and Florida registration number FL9248KN (D.41) and a 1998 10'5" Bombardier Sea-Doo, hull identification number ZZN86351A898 and Florida registration number FL9249KN (D.42).

7. Denise Brandau, as power of attorney for Helen Rassulo, signed a consent to forfeiture for a 1997 Chevrolet Corvette, vehicle identification number 1G1YY22GXV5102930 (D.4) and a 1997 Chevrolet Tahoe, vehicle identification number 1GNEC13R7VJ370755 (D.5).

8. Default judgments were entered against John Rassulo and Donna Rassulo on March 8, 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 23, 2000, and January 4, 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 \$115,000,000.00 and \$117,000,000.00 respectively.

b. No additional assets of significant value owned and/or controlled by the defendants Financial Federated Title and Trust, Inc., Asset Security Corp., and Frederick 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., and Frederick 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 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:

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2. All United States (US) Currency in account number 47697 in the name of Financial Federated Title and Trust Inc., at Union Bank.

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22. A 1999 BMW 328i, vehicle identification number WBAAM5332XKG05387.
23. A 1999 Cadillac Escalade, vehicle identification number 1GYEK13R1XR400598.
25. A 1999 Chevrolet Tahoe, vehicle identification number 1GNEK13R7XJ411486.
30. A 1999 Lamborghini, vehicle identification number ZA9RU31B4XLA12182.
41. A 1998 10'5" Bombardier Sea-Doo, hull identification number ZZN86359A898 and Florida registration number FL9248KN.
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49. A 1940 Ford Coupe, vehicle identification number 54544029.

50. A 1941 Beige Chevrolet, vehicle identification number AG6761.

51. A 1955 Black Chevrolet, vehicle identification number B55L008873.

54. A 1999 Plymouth Prowler, vehicle identification number 1P3EW65GXXV500788.

55. A Kit Car, vehicle identification number 1Z37K2S516228.

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 paragraph 1 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, 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 paragraph 1, as follows:

4. The expenses incurred for the proceedings for forfeiture and sale of the assets listed in paragraph 1, including the expenses of seizure, maintenance, advertising, and court costs shall be reimbursed from the sale proceeds of the assets listed in paragraph 1 in the following amounts to:

a. The U.S. Marshals Service: \$113,733.19

b. The Federal Bureau of Investigation: \$3,046.63

c. The U.S. Attorneys Office: \$11,389.14

5. The U.S. Marshals Service is directed to turn over the following sums to be disbursed under the restitution orders to the Financial Section of the clerk's office for the Southern District of Florida: (1) \$1,428,039.74 which represents the net proceeds remaining after the reimbursements in paragraph 4, and (2) any and all accrued interest ("The Funds"). 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 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 paragraph 24 of the March 6, 2001 restitution order entered in this case. Upon receiving authorization from the United States, the Receiver shall immediately distribute the funds. The Receiver is authorized to spend no more than \$1,700.00 from the funds delivered pursuant to paragraph 6 of this order, 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 negotiation of distributed checks, and the re-deposit of any funds not successfully distributed.

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

10. 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 June, 2001.

DANIEL T.K. HURLEY UNITED STATES DISTRICT JUDGE

cc: Antonia J. Barnes, AUSA (5 cert.)

Ellen Cohen, AUSA

Stephen Carlton, AUSA

Andres Rivero, Esq.

Randee Golder, Esq.

John Kozyak, Esq.

Receiver

U.S. Marshals Service

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