

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Cause No. 1:19-cv-01478
)
 \$108,000.00 UNITED STATES CURRENCY,)
)
 Defendant.)

COMPLAINT OF FORFEITURE IN REM

The United States of America, by counsel, Josh J. Minkler, United States Attorney for the Southern District of Indiana, and Eric P. Babbs, Special Assistant United States Attorney, alleges as follows:

NATURE OF THE ACTION

1. This is a civil action seeking forfeiture of certain property pursuant to 21 U.S.C. § 881(a)(6) because the defendant property constitutes proceeds of, or is property used to facilitate, a violation of the Controlled Substances Act.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1345 (district courts have original jurisdiction of all civil actions commenced by the United States) and § 1355 (district courts have original jurisdiction of any action for forfeiture).

3. This Court has *in rem* jurisdiction over the defendant property pursuant to 28 U.S.C. § 1355(b) (forfeiture action can be brought in the district in which any of the acts giving rise to the forfeiture occurred), and Rule G(3)(b)(i) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions (clerk must issue a warrant to arrest

property in the government's possession).

4. This Court is the appropriate venue in this matter pursuant to 28 U.S.C. § 1395(a) and (b), in that the forfeiture accrued in the Southern District of Indiana.

DEFENDANT

5. The defendant is One Hundred Eight Thousand Dollars in United States Currency (“\$108,000.00” or the “Defendant Currency”). The Defendant Currency was taken into custody of the United States Department of Homeland Security, Customs and Border Protection (“DHS-CBP”). The Defendant Currency has been assigned Asset Identification Number 16-CBP-000396.

FACTS

6. On March 30, 2016, officers from a parcel / bulk cash smuggling interdiction task force, comprised of the U.S. Department of Homeland Security, Homeland Security Investigations (“DHS-HSI”), the Indiana State Police (“ISP”), and the Indianapolis Metropolitan Police Department (“IMPD”), conducted an interdiction operation at a Federal Express shipping facility in Indianapolis.

7. Parcel / bulk cash smuggling interdiction operations are conducted because it has become common practice for smugglers to use shipping companies, such as Federal Express, to transport illegal controlled substances and their proceeds. Shipping companies provide illegal controlled substances smugglers with many benefits such as faster delivery with predictable dates, package tracking, and delivery confirmation. Based on information and experience, task force officers can easily identify suspicious packages with indicators, such as newly-bought boxes bought from the shipping company, overnight shipping, and excessive taping at the seams of the box. To preserve anonymity, smugglers often use falsified phone numbers or addresses.

Packages involved in this type of smuggling are typically shipped to or from known source states for illegal controlled substances (*e.g.* California, Arizona, Texas) and are often sent from an individual to an individual, a non-business sender to a non-business receiver, and a residence to a residence.

8. During the parcel / bulk cash smuggling interdiction, task force officers identified two suspicious packages. The shipping labels attached to the packages reflected tracking numbers of 7827 0054 6920 (“Parcel 6920”) and 7827 0056 7068 (“Parcel 7068”). The packages were addressed to and from the same sender, Richard Reyes, 11011 West College Drive, Phoenix, AZ, 85037, TX# 623-337-1625.



9. In addition to each package being unusual for having the same individual and address as both sender and recipient, Parcels 6920 and 7068 drew attention for other reasons: they were heavily taped and being shipped to Arizona, known by law enforcement as a source for illegal controlled substances; no signature was required upon delivery; they were shipped from Middleburg Heights, Ohio even though the sender label said Phoenix, Arizona; they were marked for “first overnight delivery;” and they were sent to a residence with no business affiliation.

10. Based on those suspicions, Parcel 6920 and Parcel 7068 were placed with at least three other similar parcels at a location where an IMPD officer and his canine partner inspected Parcel 6920 and Parcel 7068, along with other packages. The canine has been trained and certified in the detection, by odor, of marijuana, cocaine, crack cocaine, heroin, and methamphetamine. Upon such examination, the canine gave a positive indication to both Parcel 6920 and Parcel 7068, which positive indication was consistent with the canine's detection of the odor of a controlled substance.

11. A background investigation was later conducted on the information for the sender/recipient using law enforcement databases and open-source internet searches. The result showed a Richard Reyes was associated with the residential address listed on the shipping label. A search of the telephone number provided did not match to Richard Reyes. Richard Reyes has a criminal history for theft, assault causing bodily injury, and criminal mischief. In 2003, Richard Reyes was found guilty of one count of theft in case number M-0111051 (Tarrant Criminal County Court, Texas). In 2003, Richard Reyes was also found guilty of one count of assault causing bodily injury and one count of criminal mischief in case numbers 0610831 and 0610832 (Travis County Court, Texas).

12. Law enforcement applied for a search warrant to inspect the interior of Parcels 6920 and 7068 based on their suspicious appearance and the canine's positive alert. On March 30, 2016, a Marion County Superior Court Judge granted the search warrant upon a finding of probable cause.

13. The officers executed the warrant to open Parcels 6920 and 7068. Inside of Parcel 6920 was a heavily taped smaller inner box with the lids glued down. The smaller inner box contained a package wrapped with several layers of black duct tape and loose-fill packing

peanuts. Stuffed inside the package were stacks of rubber-banded currency wrapped in fabric softener sheets, which were bundled by heat-sealed plastic bubble wrap. The multiple stacks of United States Currency totaled \$70,000.00.



14. Parcel 7068 was sealed in the same manner as Parcel 6920. The stacks of rubber-banded currency inside Parcel 7068 were wrapped in the same way as Parcel 6920. Parcel 7068 contained United States Currency totaling \$38,000.00.



15. Controlled substance and bulk cash smugglers regularly use extensive layers of packing and sealing materials, like heat- and vacuum-sealed bags, to disguise bulk cash shipments and mask the odor of illegal controlled substances. There was no document or correspondence in either Parcel 6920 or Parcel 7068 to indicate the purpose of the large shipment of currency.

16. The IMPD officer and his drug detection canine conducted a second blind search of the packages. The certified drug detection canine inspected the contents of the packages and again alerted to the presence of the odor of a controlled substance.

17. On March 30, 2016, the Defendant Currency was seized by the ISP and converted to cashier's checks in the respective amounts of \$70,000.00 and \$38,000.00. On July 25, 2016, turnover orders were issued by Marion County Superior Court, Criminal Division, ordering the transfer of the Defendant Currency to the appropriate federal authority. *See* Marion County Superior Court, Docket 49G03-1606-MI-021872 (\$70,000.00) and Docket 49G03-1606-MI-021868 (\$38,000.00). On August 1, 2016, the Defendant Currency was transferred to DHS-HSI, which subsequently transferred the Defendant Currency to DHS-CBP.

18. On July 25, 2016, when the turnover orders were issued, the Marion County Superior Court sent both orders to Richard Reyes at the Phoenix, Arizona address listed on Parcel 6920 and Parcel 7068.

19. It is against Federal Express policy, as stated on its website, to ship cash via Federal Express. *See* FedEx Freight FXF 100 Series Rules Tariff, *available at* <https://www.fedex.com/en-us/service-guide/terms/other-services.html>.

PERTINENT STATUTES

20. Under 21 U.S.C. § 841(a)(1)-(2), it is unlawful for any person to manufacture, distribute, or dispense – or possess with intent to manufacture, distribute or dispense – a controlled substance.

21. Under 21 U.S.C. § 881(a)(6), all moneys furnished or intended to be furnished by any person in exchange for a controlled substance, all proceeds traceable to such an exchange, and all moneys used or intended to be used to facilitate any violation of the Controlled

Substances Act, including 21 U.S.C. § 841(a)(1), shall be subject to forfeiture to the United States, and no property right shall exist in them.

CLAIM FOR RELIEF

22. Based on the factual allegations set forth above, the Defendant Property is “moneys . . . furnished or intended to be furnished by any person in exchange for a controlled substance,” and/or “proceeds traceable to such an exchange,” and/or “moneys . . . used or intended to be used to facilitate any violation of [the Controlled Substances Act, 21 U.S.C. § 801 *et seq.*],” and are therefore subject to forfeiture to the United States of America pursuant to Title 21, United States Code, Section 881(a)(6).

WHEREFORE, the United States prays that the Clerk of the Court issue a warrant for the arrest of the Defendant Property pursuant to Rule G(3)(b)(i) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions; that due notice be given to all parties to appear and show cause why forfeiture should not be decreed; that judgment be entered declaring the Defendant Property forfeited to the United States for disposition according to law; and the United States be granted all other just and proper relief.

Respectfully submitted,

JOSH J. MINKLER
United States Attorney

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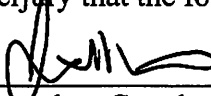
VERIFICATION

I, Jonathan Cotteleer, hereby verify and declare under penalty of perjury that I am a Special Agent for Homeland Security Investigations (“HSI”), that I have read the foregoing Verified Complaint in Rem and know the contents thereof, and that the matters contained in the 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 to be true.

The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, information supplied to me by other law enforcement offices, as well as my investigation of this case, together with others, as a Special Agent with HSI.

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

Dated: 4/5/19



Jonathan Cotteleer
Special Agent

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Cause No. 1:19-cv-01478
)
\$108,000.00 UNITED STATES CURRENCY,)
)
Defendant.)

WARRANT FOR ARREST OF PROPERTY

TO: ANY OFFICER OR EMPLOYEE OF THE UNITED STATES

WHEREAS a Complaint for Forfeiture In Rem has been filed in this Court on the 12th day of April, 2019, by Josh J. Minkler, United States Attorney for the Southern District of Indiana, against one hundred eight thousand dollars in United States Currency (“\$108,000.00”), defendant herein, for reasons and causes set forth in the Complaint;

YOU ARE HEREBY COMMANDED to take custody of and to deliver the defendant currency into the possession of the United States of America, to be detained in the possession of the United States or its designee until further order of this Court, and you will make return thereon not later than ten (10) days after execution of process.

Dated: _____

Laura A. Briggs, Clerk
United States District Court
Southern District of Indiana

Arrest Warrant to be issued by the Clerk pursuant to
Rule G(3)(b)(i) of the Supplemental Rules for
Admiralty or Maritime Claims and Asset Forfeiture Actions,
for property in custody of the United States.