

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Civil No.
Honorable
Magistrate Judge

CERTAIN REAL PROPERTY LOCATED
AT 2709 BUTLER BAY DRIVE N, WINDERMERE,
FLORIDA, TOGETHER WITH ALL OF ITS
FIXTURES, IMPROVEMENTS, AND APPURTENANCES,

Defendant.

COMPLAINT FOR FORFEITURE

NOW COMES Plaintiff, the United States of America, by and through BARBARA L. McQUADE, United States Attorney for the Eastern District of Michigan, and JULIE A. BECK, Assistant U.S. Attorney, and for its Complaint for Forfeiture states as follows:

1. This is an in rem civil forfeiture action pursuant to 18 U.S.C. § 981(a)(1)(A) and/or (C) against real property located at 2709 Butler Bay Drive N, Windermere, Florida together with all improvements, buildings, fixtures and appurtenances thereto (the "Defendant Property"), titled to Diane M. Hathaway and Michael J. Kingsley and without recorded liens or encumbrances.

2. The Court has original jurisdiction over this proceeding pursuant to 28 U.S.C. § 1345 as this action is being commenced by the United States of America as Plaintiff.

3. This Court has jurisdiction over this forfeiture action, pursuant to 28 U.S.C. § 1355(b)(1)(A), as the acts giving rise to the forfeiture occurred in the Eastern District of Michigan.

4. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b)(2), as a substantial part of the events or omissions giving rise to the Government's claims occurred in the Eastern District of Michigan.

5. The Defendant Property is more fully described as:

Lot 94, BUTLER BAY - UNIT THREE, according to the plat thereof recorded in Plat Book 18, pages 4 through 9, inclusive. Public Records of Orange County, Florida.

Parcel ID No.: 01-23-27-1108-00940

6. Evidence that the Defendant Property constitutes proceeds, or property traceable thereto, of Financial Institution Fraud in violation of Title 18, United States Code, Section 1344, and/or was proceeds of, or property traceable thereto, or property involved in Money Laundering in violation of Title 18, United States Code, Section 1956, includes, but is not necessarily limited to, the following:

a. On December 10, 2010 Hathaway and Kingsley submitted a hardship letter to ING Bank in support of their request to be forgiven a debt of \$600,000 in a "short sale" submitted transaction of their residence in Michigan.

b. Prior to the submission of the hardship letter and with intent to defraud, Hathaway and Kingsley systematically and fraudulently transferred property and hid assets in order to support their claim to ING that they did not have the financial resources to pay the

mortgage on the Michigan property.

c. The fraudulent transfer of assets included the real property located at 2709 Butler Bay Drive N, Windermere, Florida, the defendant *in rem*, which Kingsley and Hathaway quit claimed to Kingsley's daughter before the submission of the hardship letter.

d. Kingsley's daughter quit claimed 2709 Butler Bay Drive N, Windermere, Florida, the defendant *in rem*, back to Kingsley and Hathaway after the submission of the hardship letter and after the short sale transaction.

e. The short sale transaction forgave \$600,000 in debt owed by Kingsley and Hathaway.

e. The hardship letter neither disclosed the transfer of the defendant *in rem* nor disclosed it as an asset.

CLAIM

7. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 6 above, including subparagraphs.

8. The Defendant Property, 2709 Butler Bay Drive N, Windermere, Florida constitutes proceeds, or property traceable thereto, of bank fraud in violation of Title 18 of the United States Code, Section 1344, and/or proceeds of, or property traceable thereto, or property involved in money laundering in violation of Title 18, United States Code, Section 1956.

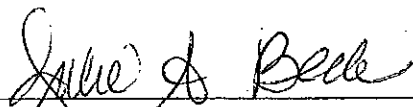
9. As a result, the Defendant Property is subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(A) and/or (C).

RELIEF

WHEREFORE, Plaintiff, the United States of America, respectfully requests that a Notice of this Complaint be posted on the Defendant Property commonly known as 2709 Butler Bay Drive N, Windermere, Florida; that due notice be given to the property owner and all interested parties to appear and show cause why the forfeiture should not be decreed; that judgement be entered declaring the Defendant Property to be condemned and forfeited to the United States of America for disposition according to law; and that the United States of America be granted such other and further relief as this Court may deem just and proper, together with the costs and disbursements of this action.

Respectfully submitted,

BARBARA L. McQUADE
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[P53291]

Date: 11/13/12

VERIFICATION

I, Philip D. Reed, am a Special Agent with the Federal Bureau of Investigation. I have read the foregoing Complaint for Forfeiture and assert that the facts contained therein are true to the best of my knowledge and belief, based upon knowledge possessed by me and/or on information received from other law enforcement agents.

Date: 11/13/2012


SPECIAL AGENT PHILIP D. REED
Federal Bureau of Investigation