

A P P E N D I X - A

**Order of the United States Court of Appeals for the Ninth
Circuit, Dated 11/05/2019, Affirming District Court Order**

NOT FOR PUBLICATION**FILED**

UNITED STATES COURT OF APPEALS

NOV 5 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

LAHKWINDER SINGH,

Defendant-Appellant.

No. 18-50332

D.C. No.

3:16-cr-00729-BAS-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Cynthia A. Bashant, District Judge, Presiding

Argued and Submitted October 15, 2019*
Pasadena, California

Before: NGUYEN and MILLER, Circuit Judges, and VITALIANO,** District Judge.

Appellant Lahkwinder Singh appeals from an order of forfeiture in the amount of \$1,955,521 imposed on him by the district court as part of his sentence following conviction upon his plea of guilty to one count of structuring currency

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The Honorable Eric N. Vitaliano, United States District Judge for the Eastern District of New York, sitting by designation.

transactions to evade reporting requirements, in violation of 31 U.S.C. §§ 5324 (a)(3) and (d)(2). The sole question presented on appeal is whether the forfeiture amount was so grossly disproportional to his offense that it contravenes the Eighth Amendment. Exercising jurisdiction under 28 U.S.C. §§ 1291 and 1294, we affirm.

Although courts are not bound by “any rigid set of factors” in determining the propriety of a challenge to an order of criminal forfeiture imposed at sentence, we look for guidance to those applied in *United States v. Bajakajian*, 524 U.S. 321 (1998): “(1) the nature and extent of the crime, (2) whether the violation was related to other illegal activities, (3) the other penalties that may be imposed for the violation, and (4) the extent of the harm caused.” *United States v. \$100,348.00 in U.S. Currency*, 354 F.3d 1110, 1121–22 (9th Cir. 2004) (citing *Bajakajian*, 524 U.S. at 337–40). In making this determination, we review a district court’s interpretation of federal criminal forfeiture law *de novo* and its findings of fact for clear error. *Bajakajian*, 524 U.S. at 337 n.10.

In assessing whether an order of forfeiture is grossly disproportional, we consider, in part, the nature of the crime, wary of *Bajakajian*’s admonition that isolated reporting offenses do not often constitute serious crimes. *See, e.g., United States v. \$132,245.00 in U.S. Currency*, 764 F.3d 1055, 1058 (9th Cir. 2014); *\$100,348.00 in U.S. Currency*, 354 F.3d at 1122. Significantly, although he did

not plead guilty to drug trafficking, Singh does not dispute that his structuring activity was related to illicit drug proceeds. His offense of structuring was, thus, a far cry from a single failure to report cash; the totality of his related conduct evidences serious criminality.

Determination of the severity of an offender's criminal culpability for forfeiture purposes requires consideration of other authorized penalties for the crime of conviction, as reflected in the applicable maximum guidelines penalties, because those guidelines reflect legislative judgment as to the appropriateness of punishment and because they "take into account the specific culpability of the offender." *\$100,348.00 in U.S. Currency*, 354 F.3d at 1122. Singh's crime carried maximum guidelines punishments of 71 months of imprisonment and a \$100,000 fine. Although the forfeiture exceeded the maximum guidelines fine by a factor of almost 20, our consideration cannot be so limited. *See United States v. Mackby*, 339 F.3d 1013, 1018 (9th Cir. 2003) (upholding a civil forfeiture amount approximately ten times greater than the maximum guideline financial penalty). A 71-month maximum term of imprisonment is strong evidence of the severity of Singh's culpability. *See id.* (urging consideration of "the full criminal penalty").

Furthermore, in determining the appropriateness of forfeiture, it will not go unnoticed that a reporting violation causes significant harm when the currency that would have otherwise gone undetected was, more likely than not, connected to

drug trafficking. *\$132,245.00 in U.S. Currency*, 764 F.3d at 1061; *see also United States v. Chaplin's, Inc.*, 646 F.3d 846, 853 (11th Cir. 2011) (“Attempting to hide drug money is harmful in and of itself.”). That every structured dollar, or even a majority of the structured funds, was not directly traceable to Singh’s drug shipments is of little consequence, for the scheme as a whole perpetuated drug trafficking.

As a final matter, Singh asks us to consider financial hardship in our analysis. We have not squarely addressed whether such consideration is required or even proper where a forfeiture order is challenged as excessive, and we decline to do so here. Because the four *Bajakajian* factors weigh so heavily in favor of the forfeiture amount, any finding that Singh may suffer some financial hardship, which is a reality in almost every case, would not tip the scales in his favor.

AFFIRMED.

A P P E N D I X - B

**Order of the United States Court of Appeals for the Ninth
Circuit, Dated 1/15/2020, Denying Rehearing Request**

UNITED STATES COURT OF APPEALS

FILED

FOR THE NINTH CIRCUIT

JAN 15 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

LAHK WINDER SINGH,

Defendant-Appellant.

No. 18-50332

D.C. No.

3:16-cr-00729-BAS-1

Southern District of California,
San Diego

ORDER

Before: NGUYEN and MILLER, Circuit Judges, and VITALIANO,* District Judge.

The panel voted to deny Appellant's petition for panel rehearing.

Appellant's petition for panel rehearing is denied.

* The Honorable Eric N. Vitaliano, United States District Judge for the Eastern District of New York, sitting by designation.

A P P E N D I X - C

Plea Agreement, Lahkwinder Singh, Pages 1 through 15

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8
9
10 **UNITED STATES DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,

Case No. 16-cr-0729-BAS

12 Plaintiff,

13 v.

PLEA AGREEMENT

14 LAHKWINDER SINGH (1),
15 aka "Victor",

16 Defendant.

17 IT IS HEREBY AGREED between the plaintiff, UNITED STATES OF AMERICA,
18 through its counsel, Alana W. Robinson, Acting United States Attorney, and Orlando B.
19 Gutierrez and Daniel C. Silva, Assistant United States Attorneys, and Defendant
20 LAHKWINDER SINGH, aka "Victor", with the advice and consent of Robert E. Boyce,
21 counsel for Defendant, as follows:

22 **I**

23 **THE PLEA**

24 **A. THE CHARGE**

25 Defendant agrees to plead guilty to Count 6 of the Second Superseding Indictment
26 charging Defendant with:

27 Beginning no later than December 27, 2011, and continuing up to and
28 including January 29, 2014, within the Southern District of California,
defendants LAHKWINDER SINGH, aka Victor, and LOVELY SINGH,

1 INC., for the purpose of evading the reporting requirements of Title 31, United
2 States Code, Section 5313, and the regulations prescribed under such section, 5313
3 did structure and attempt to structure approximately \$2,955,521 in currency
4 transactions with Bank of America, N.A., Wells Fargo Bank, N.A., JP Morgan
5 Chase, N.A., and Union Bank, N.A., all domestic financial institutions, on or
6 about the dates, approximately for the amounts, in the manner, and at the
7 domestic financial institutions listed in Schedule A [of the Second
8 Superseding Indictment], for the purpose of causing said domestic financial
9 institutions to fail to file a report required under Title 31, United States Code,
10 Section 5313(a), and the regulations promulgated thereunder, and did so as
11 part of a pattern of illegal activity involving more than \$100,000 in a 12-month
12 period; all in violation of Title 31, United States Code, Section 5324(a)(3) and
13 (d)(2). 5313(a) 5324(a)(3)
14

15 The United States agrees to (1) move to dismiss the remaining charges without
16 prejudice when Defendant is sentenced, and (2) not prosecute Defendant thereafter on such
17 dismissed charges unless Defendant breaches the plea agreement or the guilty plea entered
18 pursuant to this plea agreement is set aside for any reason. If Defendant breaches this
19 agreement or the guilty plea is set aside, section XII below shall apply.

20 This plea agreement is part of a "package" disposition as set forth in Section VI.E
21 below. In addition, the attached Forfeiture Addendum shall govern forfeiture in this case.

22 B. TIMELINESS / OFFER REVOCATION

23 The disposition contemplated by this agreement is conditioned on the following: (i)
24 the United States' receipt of a signed Plea Agreement and Forfeiture Addendum for
25 Defendant and co-defendant LOVELY SINGH, INC., by no later than 5:00 pm on
26 October 20, 2017; and (ii) Defendant entering a guilty plea in this case before a Magistrate
27 Judge on or before November 3, 2017.

28 II

NATURE OF THE OFFENSE

A. ELEMENTS EXPLAINED

29 Defendant understands that the offense to which Defendant is pleading guilty in
30 Count 6 of the Second Superseding Indictment has the following elements:

- 31 1. Beginning no later than December 27, 2011, and continuing up to and

1 including January 29, 2014 for the purpose of evading the reporting requirements of
2 Title 31, United States Code, Section 5313, and the regulations prescribed under
3 such section;

4 2. Defendant did structure and attempt to structure \$2,955,521 in currency
5 transactions with domestic financial institutions; and

6 3. Did so as part of a pattern of illegal activity involving more than \$100,000 in
7 a 12-month period.

8 B. ELEMENTS UNDERSTOOD AND ADMITTED – FACTUAL BASIS

9 Defendant has fully discussed the facts of this case with defense counsel. Defendant
10 has committed each element of the crime and admits that there is a factual basis for this
11 guilty plea. The following facts are true and undisputed:

12 1. Beginning no later than 2010 and continuing up to and including September
13 2016, Defendant Lahkwinder Singh, aka “Victor”, managed and operated multiple
14 Postal Annex stores, a commercial shipping service provider (the “Postal Annexes”),
15 each located within the Southern District of California.

16 2. Beginning no later than 2004 and continuing up to and including September
17 2016, Singh was a shareholder in Lovely Singh, Inc., and its Chief Financial Officer
18 and Secretary.

19 3. Co-defendant Lovely Singh, Inc. was a party to a franchise agreement that
20 authorized it to operate the Postal Annexes.

21 4. Co-defendant Alejandro Nava was Singh’s employee at the Postal Annexes.
22 For a fee, the Postal Annexes would package and ship items via various commercial
23 carriers, including but not limited to Federal Express, United Parcel Service, and the
24 U.S. Postal Service.

25 5. Beginning on an unknown date and continuing up to and including March 10,
26 2016, within the Southern District of California, and elsewhere, Singh and Nava
27 distributed Schedule II controlled substances from the Postal Annexes to persons
28 located throughout the United States (the “Purchasers”); in that, prior to the shipment

1 of controlled substances, Singh and Nava would receive client shipping lists from
2 individuals operating from within Mexico. Both Singh and Nava would then use
3 these client shipping lists to pre-print and prepare commercial shipping labels for
4 packages that would be used to fulfill orders placed by the Purchasers.

5 6. Couriers imported pre-packaged quantities of controlled substances into the
6 United States from Mexico, and delivered them to the Postal Annexes. Using pre-
7 printed shipping labels, co-defendants Singh and Nava would ^{add labels} prepare packages for
8 shipment to the Purchasers from the Postal Annexes, which were shipped via various
9 commercial shipping services in an attempt to avoid drawing attention to the
10 packages.

11 7. Over the course of 2011 through 2016 Singh was aware of a high probability
12 that the hundreds of packages sent from the Postal Annexes contained a prohibited
13 controlled substance, and he deliberately avoided learning the truth of their contents.

14 8. In addition to receiving cash for the shipment of the controlled substances
15 packages to the Purchasers, the Postal Annexes also conducted large cash
16 transactions generated from its operations as a money services business, as
17 supervised, managed, and coordinated by Singh. These cash proceeds were regularly
18 deposited by Singh into bank accounts located throughout the Southern District of
19 California, in the name of Singh and co-defendant Lovely Singh, Inc.

20 9. By no later than October 7, 2006, Singh had registered co-defendant Lovely
21 Singh, Inc. with the Financial Crimes Enforcement Network ("FinCEN") as a
22 Money Services Business; thereby obtaining a license known as an "RMSB", with
23 the following stated money services business activities: money transmitter; redeemer
24 of money orders; issuer of money orders; and seller of money orders. Singh was
25 listed as the "Owner or Controlling Person" on the RMSB.

26 10. Singh registered himself with FinCEN on the RMSB as co-defendant Lovely
27 Singh, Inc.'s Anti-Money Laundering and Bank Secrecy Act ("AML/BSA") Officer,
28 which required him to ensure that the Postal Annexes maintained an adequate

1 AML/BSA program.

2 11. Singh received regular training on AML/BSA issues from an international
3 financial services and money transmitting corporation, for which co-defendant
4 Lovely Singh, Inc. was an agent. The training Singh received included the
5 obligations imposed on domestic financial institutions to report certain cash
6 transactions to the Department of Treasury, including under Title 31, United States
7 Code, Section 5313, and the regulations prescribed under such section.

8 12. One of Singh's duties as the RMSB AML/BSA Officer for co-defendant
9 Lovely Singh, Inc. was to provide AML/BSA training to all new employees at the
10 Postal Annexes.

11 13. Beginning no later than December 27, 2011, and continuing up to and
12 including January 29, 2014, within the Southern District of California, Singh knew
13 about the reporting requirements of Title 31, United States Code, Section 5313, and
14 the regulations prescribed under such section, which generally required a domestic
15 financial institution to file a report with the Department of Treasury for cash
16 transactions of \$10,000 or more in any given banking day.

17 14. With the knowledge of the reporting requirements of Title 31, United States
18 Code, Section 5313, and the regulations prescribed under such section, Singh did
19 structure and attempt to structure up to \$2,955,521 in currency transactions with
20 several domestic financial institutions, including Bank of America, N.A., Wells
21 Fargo Bank, N.A., JP Morgan Chase, N.A., and Union Bank, N.A. (the "Financial
22 Institutions"), into accounts controlled by Singh and co-defendant Lovely Singh,
23 Inc.

24 15. Singh structured cash deposits at the Financial Institutions – that is, he
25 conducted multiple deposits of less than \$10,000 in cash on the same day, and over
26 the course of several business days into accounts controlled by Singh and co-
27 defendant Lovely Singh, Inc. – for the purpose of causing the Financial Institutions
28 to fail to file a report required under Title 31, United States Code, Section 5313(a),

1 and the regulations promulgated thereunder. The structured deposits were part of a
2 pattern of illegal activity involving more than \$100,000 in a 12-month period. ^{5324 (L)(2) → ENHANCEMENT}

3 16. In light of Singh's role as the packager and shipper of hundreds of packages
4 to the Purchasers, the RMSB AML/BSA Officer for co-defendant Lovely Singh,
5 Inc., and the person who conducted all of the structured cash deposits at the Financial
6 Institutions, Singh knew or believed that the funds were proceeds of unlawful
7 activity, or were intended to promote unlawful activity.

8 17. As the RMSB AML/BSA Officer for co-defendant Lovely Singh, Inc., and as
9 the owner and controlling person on the RMSB, Singh abused a position of public
10 trust, and used a special skill, in a manner that significantly facilitated the
11 commission or concealment of the structuring alleged in Count 6 of the Second
12 Superseding Indictment.

13 III

14 PENALTIES

15 The crime to which Defendant is pleading guilty carries the following penalties:

- 16 A. a maximum 10 years in prison;
17 B. a maximum \$500,000 fine;
18 C. a mandatory special assessment of \$100 per count;
19 D. forfeiture of all property, real or personal, involved in the offense and any
20 property traceable thereto; and
21 E. a term of supervised release of up to 3 years. Failure to comply with any
22 condition of supervised release may result in revocation of supervised release,
23 requiring Defendant to serve in prison, upon revocation, all or part of the
24 statutory maximum term of supervised release.

25 IV

26 DEFENDANT'S WAIVER OF TRIAL RIGHTS AND 27 UNDERSTANDING OF CONSEQUENCES

28 This guilty plea waives Defendant's right at trial to:

- A. Continue to plead not guilty and require the United States to prove the

- 1 elements of the crime beyond a reasonable doubt;
- 2 B. A speedy and public trial by jury;
- 3 C. The assistance of counsel at all stages;
- 4 D. Confront and cross-examine adverse witnesses;
- 5 E. Testify and present evidence and to have witnesses testify on behalf of
- 6 Defendant; and
- 7 F. Not testify or have any adverse inferences drawn from the failure to testify.

8 V

9 **DEFENDANT ACKNOWLEDGES NO PRETRIAL RIGHT TO BE**
10 **PROVIDED WITH IMPEACHMENT AND AFFIRMATIVE DEFENSE**
11 **INFORMATION**

12 Any information establishing the factual innocence of Defendant known to the
13 undersigned prosecutor in this case has been turned over to Defendant. The United States
14 will continue to provide such information establishing the factual innocence of Defendant.

15 If this case proceeded to trial, the United States would be required to provide
16 impeachment information for its witnesses. In addition, if Defendant raised an affirmative
17 defense, the United States would be required to provide information in its possession that
18 supports such a defense. By pleading guilty Defendant will not be provided this
19 information, if any, and Defendant waives any right to this information. Defendant will not
20 attempt to withdraw the guilty plea or to file a collateral attack based on the existence of
21 this information.

22 VI

23 **DEFENDANT'S REPRESENTATION THAT GUILTY**
24 **PLEA IS KNOWING AND VOLUNTARY**

25 Defendant represents that:

- 26 A. Defendant has had a full opportunity to discuss all the facts and circumstances
27 of this case with defense counsel and has a clear understanding of the charges
28 and the consequences of this plea. By pleading guilty, Defendant may be
giving up, and rendered ineligible to receive, valuable government benefits
and civic rights, such as the right to vote, the right to possess a firearm, the
right to hold office, and the right to serve on a jury. The conviction in this case
may subject Defendant to various collateral consequences, including but not
limited to revocation of probation, parole, or supervised release in another
case; debarment from government contracting; and suspension or revocation

1 of a professional license, none of which can serve as grounds to withdraw
2 Defendant's guilty plea.

3 B. No one has made any promises or offered any rewards in return for this guilty
4 plea, other than those contained in this agreement or otherwise disclosed to
5 the Court.

6 C. No one has threatened Defendant or Defendant's family to induce this guilty
7 plea.

8 D. Defendant is pleading guilty because Defendant is guilty and for no other
9 reason.

10 E. The disposition contemplated by this agreement is part of a "package"
11 disposition with co-defendant LOVELY SINGH, INC. If any defendant in the
12 package fails to perform or breaches any part of their agreement, no defendant
13 can withdraw their guilty plea, but the United States is relieved from and not
14 bound by any terms in any agreements in the package. ✓

15 VII

16 **AGREEMENT LIMITED TO U.S. ATTORNEY'S OFFICE** 17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 This plea agreement is limited to the United States Attorney's Office for the
19 Southern District of California, and cannot bind any other authorities in any type of matter,
20 although the United States will bring this plea agreement to the attention of other
21 authorities if requested by Defendant.

22 VIII

23 **APPLICABILITY OF SENTENCING GUIDELINES**

24 The sentence imposed will be based on the factors set forth in 18 U.S.C. § 3553(a).
25 In imposing the sentence, the sentencing judge must consult the United States Sentencing
26 Guidelines (Guidelines) and take them into account. Defendant has discussed the
27 Guidelines with defense counsel and understands that the Guidelines are only advisory, not
28 mandatory. The Court may impose a sentence more severe or less severe than otherwise
applicable under the Guidelines, up to the maximum in the statute of conviction. The
sentence cannot be determined until a presentence report is prepared by the U.S. Probation
Office and defense counsel and the United States have an opportunity to review and
challenge the presentence report. Nothing in this plea agreement limits the United States'
duty to provide complete and accurate facts to the district court and the U.S. Probation

Office.

IX

SENTENCE IS WITHIN SOLE DISCRETION OF JUDGE

This plea agreement is made pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B). The sentence is within the sole discretion of the sentencing judge who may impose the maximum sentence provided by statute. It is uncertain at this time what Defendant's sentence will be. The United States has not made and will not make any representation about what sentence Defendant will receive. Any estimate of the probable sentence by defense counsel is not a promise and is not binding on the Court. Any recommendation by the United States at sentencing also is not binding on the Court. If the sentencing judge does not follow any of the parties' sentencing recommendations, Defendant will not withdraw the plea.

X

PARTIES' SENTENCING RECOMMENDATIONS

A. **SENTENCING GUIDELINE CALCULATIONS**

Although the Guidelines are only advisory and just one factor the Court will consider under 18 U.S.C. § 3553(a) in imposing a sentence, the parties will jointly recommend the following Base Offense Level, Specific Offense Characteristics, Adjustments, and Departures:

- | | | |
|---|------|-----|
| 1. Base Offense Level [§ 2S1.3(a)(2)] | 6 | 5/6 |
| 2. Increase [§2S1.3(a)(2)/§2B1.1(J)] | +18* | 16 |
| 3. Proceeds of Unlawful Activity [§ 2S1.3(b)(1)(A)] | + 2 | |
| 4. Pattern of Unlawful Activity > \$100,000 [§ 2S1.3(b)(2)] | + 2 | |
| 5. Abuse of Position of Trust [§ 3B1.3] | + 2 | |
| 6. Acceptance of Responsibility [§ 3E1.1] | - 3 | |

*Defendant may argue that the increase to the Base Offense Level under USSG §2S1.3(a)(2)/§2B1.1 should be for 16 levels, which the United States may oppose.

///

1 B. ACCEPTANCE OF RESPONSIBILITY

2 Despite paragraph A above, the United States need not recommend an adjustment
3 for Acceptance of Responsibility if Defendant engages in conduct inconsistent with
4 acceptance of responsibility including, but not limited to, the following:

- 5 1. Fails to truthfully admit a complete factual basis as stated in the plea at
6 the time the plea is entered, or falsely denies, or makes a statement
7 inconsistent with, the factual basis set forth in this agreement;
8 2. Falsely denies prior criminal conduct or convictions;
9 3. Is untruthful with the United States, the Court, or probation officer;
10 4. Breaches this plea agreement in any way; or
11 5. Contests or assists any third party in contesting the forfeiture of
12 property(ies) to which Defendant or any co-defendant has agreed to
13 forfeit.

14 C. FURTHER ADJUSTMENTS AND SENTENCE REDUCTIONS
15 INCLUDING THOSE UNDER 18 U.S.C. § 3553

16 Defendant may request or recommend additional downward adjustments,
17 departures, or variances from the Sentencing Guidelines under 18 U.S.C. § 3553. The
18 United States will oppose any downward adjustments, departures, or variances not set forth
19 in Section X, paragraph A above.

20 D. NO AGREEMENT AS TO CRIMINAL HISTORY CATEGORY

21 The parties have **no** agreement as to Defendant's Criminal History Category.

22 E. "FACTUAL BASIS" AND "RELEVANT CONDUCT" INFORMATION

23 The facts in the "factual basis" paragraph of this agreement are true and may be
24 considered as "relevant conduct" under USSG § 1B1.3 and as to the nature and
25 circumstances of the offense under 18 U.S.C. § 3553(a)(1). The parties further agree that
26 each may offer additional evidence at the sentencing hearing regarding the total amount of
27 currency structured in violation of Title 31, United States Code, Section 5324, and
28 Defendant's role therein, as "relevant conduct" under USSG § 1B1.3 and as to the nature
and circumstances of the offense under 18 U.S.C. § 3553(a)(1).

1 F. PARTIES' RECOMMENDATIONS REGARDING CUSTODY

2 The United States will recommend that Defendant be sentenced to the low end of
3 the advisory guideline range recommended by the United States at sentencing.

4 G. SPECIAL ASSESSMENT/FINE/RESTITUTION/FORFEITURE

5 1. Special Assessment

6 The parties will jointly recommend that Defendant pay a special assessment in the
7 amount of \$100 per felony count of conviction to be paid forthwith at time of sentencing.
8 Special assessments shall be paid through the office of the Clerk of the District Court by
9 bank or cashier's check or money order made payable to the "Clerk, United States District
10 Court."

11 2. Fine

12 The parties will jointly recommend that Defendant pay no fine in light of the
13 forfeiture to be paid by Defendant and co-defendant Lovely Singh, Inc., as detailed in the
14 attached Forfeiture Addendum.

15 3. Forfeiture

16 Defendant consents to the forfeiture allegations of the Second Superseding
17 Indictment and consents to the forfeiture of up to \$2,955,521 pursuant to Title 31, United
18 States Code, Section 5317(c)(1). Defendant agrees that the provisions of the attached
19 Forfeiture Addendum shall govern forfeiture in this case. Defendant further agrees not to
20 contest or assist anyone in contesting the forfeiture of any properties seized or forfeited in
21 connection with this case, except that Defendant reserves the right to challenge any
22 forfeiture in this case pursuant to the excessive fines clause of the Eighth Amendment of
23 the United States Constitution at the sentencing hearing. The United States may oppose
24 Defendant's lone available challenge to the forfeiture.

25 H. SUPERVISED RELEASE

26 If the Court imposes a term of supervised release, Defendant will not seek to reduce
27 or terminate early the term of supervised release until Defendant has served at least 2/3 of
28 the term of supervised release and has fully paid and satisfied any special assessments, fine,

1 criminal forfeiture judgment, and restitution judgment.

2 **XI**

3 **DEFENDANT WAIVES APPEAL AND COLLATERAL ATTACK**

4 Defendant waives (gives up) all rights to appeal and to collaterally attack every
5 aspect of the conviction and sentence, including any forfeiture order. The only exceptions
6 are: (i) Defendant may appeal on the sole ground that the final order of forfeiture violates
7 the excessive fines clause of the Eighth Amendment of the Constitution; and (ii) Defendant
8 may collaterally attack the conviction or sentence on the basis that Defendant received
9 ineffective assistance of counsel. If Defendant appeals, the United States may support on
10 appeal the sentence or forfeiture order actually imposed.

11 **XII**

12 **BREACH OF THE PLEA AGREEMENT**

13 Defendant and Defendant's attorney know the terms of this agreement and shall
14 raise, before the sentencing hearing is complete, any claim that the United States has not
15 complied with this agreement. Otherwise, such claims shall be deemed waived (that is,
16 deliberately not raised despite awareness that the claim could be raised), cannot later be
17 made to any court, and if later made to a court, shall constitute a breach of this agreement.

18 Defendant breaches this agreement if Defendant violates or fails to perform any
19 obligation under this agreement. The following are non-exhaustive examples of acts
20 constituting a breach:

- 21 1. Failing to plead guilty pursuant to this agreement;
- 22 2. Failing to fully accept responsibility as established in Section X,
23 paragraph B, above;
- 24 3. Failing to appear in court;
- 25 4. Attempting to withdraw the plea;
- 26 5. Failing to abide by any court order related to this case;
- 27 6. Appealing (which occurs if a notice of appeal is filed) or collaterally
28 attacking the conviction or sentence in violation of Section XI of this

1 plea agreement;

2 7. Failing to comply with the terms of the attached Forfeiture Addendum,
3 or contesting or assisting anyone in contesting the forfeiture in breach
4 of the provisions of this agreement or the attached Forfeiture
5 Addendum; or

6 8. Engaging in additional criminal conduct from the time of arrest until
7 the time of sentencing.

8 If Defendant breaches this plea agreement, Defendant will not be able to enforce any
9 provisions, and the United States will be relieved of all its obligations under this plea
10 agreement. For example, the United States may proceed to sentencing but recommend a
11 different sentence than what it agreed to recommend above. Or the United States may
12 pursue any charges including those that were dismissed, promised to be dismissed, or not
13 filed as a result of this agreement (Defendant agrees that any statute of limitations relating
14 to such charges is tolled indefinitely as of the date all parties have signed this agreement;
15 Defendant also waives any double jeopardy defense to such charges). In addition, the
16 United States may move to set aside Defendant's guilty plea. Defendant may not withdraw
17 the guilty plea based on the United States' pursuit of remedies for Defendant's breach.

18 Additionally, if Defendant breaches this plea agreement: (i) any statements made by
19 Defendant, under oath, at the guilty plea hearing (before either a Magistrate Judge or a
20 District Judge) and the sentencing hearing; (ii) the factual basis statement in Section II.B
21 in this agreement; and (iii) any evidence derived from such statements, are admissible
22 against Defendant in any prosecution of, or any action against, Defendant. This includes
23 the prosecution of the charge(s) that is the subject of this plea agreement or any charge(s)
24 that the prosecution agreed to dismiss or not file as part of this agreement, but later pursues
25 because of a breach by the Defendant. Additionally, Defendant knowingly, voluntarily, and
26 intelligently waives any argument that the statements and any evidence derived from the
27 statements should be suppressed, cannot be used by the United States, or are inadmissible
28 under the United States Constitution, any statute, Rule 410 of the Federal Rules of

1 Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure, and any other federal
2 rule.

3 **XIII**

4 **CONTENTS AND MODIFICATION OF AGREEMENT**

5 This plea agreement embodies the entire agreement between the parties and
6 supersedes any other agreement, written or oral. No modification of this plea agreement
7 shall be effective unless in writing signed by all parties.

8 **XIV**

9 **DEFENDANT AND COUNSEL FULLY UNDERSTAND AGREEMENT**

10 By signing this agreement, Defendant certifies that Defendant has read it (or that it
11 has been read to Defendant in Defendant's native language). Defendant has discussed the
12 terms of this agreement with defense counsel and fully understands its meaning and effect.

13 ///

14 ///

XV

DEFENDANT SATISFIED WITH COUNSEL


Defendant has consulted with counsel and is satisfied with counsel's representation. This is Defendant's independent opinion, and Defendant's counsel did not advise Defendant about what to say in this regard.

ALANA W. ROBINSON
Acting United States Attorney

DATED

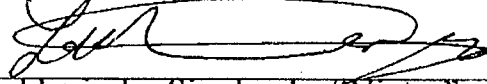
Orlando B. Gutierrez
Daniel C. Silva
Assistant U.S. Attorneys

10/18/17
DATED


Robert E. Boyce
Defense Counsel

IN ADDITION TO THE FOREGOING PROVISIONS TO WHICH I AGREE, I SWEAR UNDER PENALTY OF PERJURY THAT THE FACTS IN THE "FACTUAL BASIS" SECTION ABOVE ARE TRUE.

10/18/2017
DATED


Lakhwinder Singh, aka "Victor"
Defendant

Approved By:

BLAIR C. PEREZ
Assistant U.S. Attorney

A P P E N D I X - D

Forfeiture Addendum, Lahkwinder Singh, Pages 1 through 4

OCT 31 2017

CLERK'S DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY RAA DEPUTY

FORFEITURE ADDENDUM

Defendant's conviction will include forfeiture. This forfeiture addendum is incorporated into and part of Defendant's plea agreement, and the additional terms and warnings below apply.

A. Penalty. In addition to the penalties in the plea agreement, federal law states that a guilty plea as to Count 6 of the Second Superseding Indictment mandates that Defendant must forfeit all property, real or personal, involved in the offense and any property traceable thereto.

B. Property Subject to Forfeiture. As part of Defendant's guilty plea to Count 6 of the Second Superseding Indictment, as set forth in section I of the plea agreement, Defendant, and all shareholders of Defendant, agree to forfeit \$2,955,521, via entry of a money judgment against Defendant in a preliminary order of forfeiture. Defendant, however, reserves the right to contest the total amount of the money judgement, before entry of a final order of forfeiture, solely upon the ground that the forfeiture of \$2,955,521 constitutes an excessive fine under the Eighth Amendment of the United States Constitution at the sentencing hearing. Defendant, and all shareholders of Defendant, understand the United States may seek forfeiture in the entire amount and will oppose Defendant's position. Notwithstanding the Court's imposition of a forfeiture judgment in any amount, Defendant, and all shareholders of Defendant, understand it will not be able to withdraw its guilty plea.

C. Basis of Forfeiture. The money judgment against Defendant represents monies subject to forfeiture to the United States as property involved in the illegal conduct in violation of Title 31, United States Code, Section 5324(a)(3) and is subject to forfeiture to the United States pursuant to Title 31, United States Code, Section 5317(c)(1).

D. Immediate Entry of an Order of Forfeiture. Defendant, and all shareholders of Defendant, consent and agree to the immediate entry of an order of forfeiture upon entry of the guilty plea. Defendant, and all shareholders of Defendant, agree that upon entry of the order of forfeiture, such order shall be final as to Defendant, except as to Defendant's

1 right to challenge the forfeiture on Eighth Amendment grounds at the sentencing hearing as
2 described above. Defendant agrees to immediately withdraw any claims in pending admin-
3 istrative or civil forfeiture proceedings to properties seized in connection with this case that
4 are directly or indirectly related to the criminal conduct. Defendant agrees to execute all
5 documents requested by the United States to facilitate or complete the forfeiture process
6 upon entry of a final order of forfeiture. Defendant, its shareholders, officers, employees,
7 and agents further agree not to contest the forfeiture of property subject to forfeiture in this
8 case. Contesting the forfeiture shall constitute a material breach of the plea agreement,
9 relieving the United States of all its obligations under the agreement including but not lim-
10 ited to its agreement to recommend an adjustment for Acceptance of Responsibility. De-
11 fendant, and all shareholders of Defendant, agree that the criminal forfeiture money judg-
12 ment imposed by the Court will be (i) subject to immediate enforcement, and (ii) submitted
13 to the Treasury Offset Program so that any federal payment or transfer of returned property
14 the Defendant receives may be offset and applied to the outstanding balance on the forfei-
15 ture judgment.

16 E. Entry of Orders of Forfeiture and Waiver of Notice. Defendant, and all share-
17 holders of Defendant, consent and agree to the entry of orders of forfeiture for such prop-
18 erty and each waive the requirements of Federal Rules of Criminal Procedure 32.2 and
19 43(a) regarding notice of the forfeiture in the charging instrument, announcement of the
20 forfeiture at sentencing, and incorporation of the forfeiture in the judgment. Defendant un-
21 derstands that the forfeiture of assets is part of the sentence that may be imposed in this
22 case and waives any failure by the Court to advise Defendant of this, pursuant to Rule
23 11(b)(1)(J), at the time the Court accepts the guilty plea(s).

24 F. Waiver of Constitutional and Statutory Challenges. Defendant, and all of its
25 shareholders, further agree to waive all constitutional and statutory challenges (including
26 direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance
27 with this agreement, except that Defendant may challenge the forfeiture at the sentencing
28 hearing pursuant to the Eighth Amendment of the United States Constitution. Defendant,

1 its shareholders, officers, employees, and agents agree to take all steps as requested by the
2 United States to pass clear title to forfeitable assets to the United States and to testify truth-
3 fully in any judicial forfeiture proceeding.

4 G. Agreement Survives Defendant; No Forfeiture Abatement. Defendant, and all
5 shareholders of Defendant, agree that the forfeiture provisions of this plea agreement and
6 forfeiture addendum are intended to, and will, survive Defendant, notwithstanding the
7 abatement of any underlying criminal conviction after the execution of this agreement. The
8 forfeitability of any particular property pursuant to this agreement shall be determined as
9 if Defendant had survived, and that determination shall be binding upon Defendant's heirs,
10 successors, and assigns until the agreed forfeiture, including any agreed money judgment
11 amount, is collected in full.


12 ///

13 ///


1 H. Substitute Assets/Collection of Judgment. Defendant, and all shareholders of
2 Defendant, acknowledge and agree that the forfeiture in this case includes entry of a money
3 judgment against Defendant. Interest shall accrue on the judgment from the date of entry
4 of the Order of Forfeiture and shall accrue thereon in accordance with 18 U.S.C. § 3612(f)
5 and 28 U.S.C. § 1961. Defendant, and all shareholders of Defendant, agree that the United
6 States may take all actions available to it to collect the full amount of the judgment, includ-
7 ing enforcement of the judgment against substitute assets as provided in 21 U.S.C. § 853(p)
8 and actions available under the Federal Debt Collections Procedure Act.

9 ALANA W. ROBINSON
Acting United States Attorney

10
11 10-30-17
12 DATED


13 Orlando B. Gutierrez
Daniel C. Silva
Assistant U.S. Attorneys

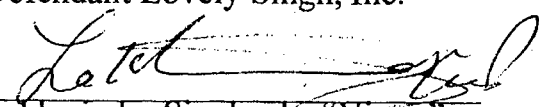
14 10-18-17
15 DATED


16 Richard M. Barnett
17 Defense Counsel

18 10-18-17
19 DATED

Himanshu Singh
20 Himanshu Singh, as
21 President, Chief Executive Officer,
22 and Shareholder of
23 Defendant Lovely Singh, Inc.

24 10/18/2017
25 DATED


26 Lankwinder Singh, aka "Victor", as
27 Secretary, Chief Financial Officer,
28 and Shareholder of
Defendant Lovely Singh, Inc.

A P P E N D I X - E

Sentencing Hearing Transcript, Lahkwinder Singh, Selected Pages

United States District Court
For the Southern District of California

UNITED STATES OF AMERICA,

Plaintiff,

v.

LAHKWINDER SINGH, et al.,

Defendants.

No. 16cr0729-BAS

September 7, 2018

San Diego, California

Transcript of Sentencing Hearing
BEFORE THE HONORABLE CYNTHIA BASHANT
United States District Judge

APPEARANCES:

For the Plaintiff: UNITED STATES ATTORNEY'S OFFICE
ORLANDO GUTIERREZ
DANIEL SILVA
Assistant United States Attorneys

For Defendant Singh: BOYCE & SCHAEFER
ROBERT EVANS BOYCE
Attorney at Law

RICHARD MARK BARNETT
Attorney at Law

For Defendant
Lovely Singh, Inc.: FRANK THOMAS VECCHIONE
Attorney at Law

Court Reporter: Dana Peabody, RDR, CRC
District Court Clerk's Office
333 West Broadway, Suite 420
San Diego, California, 92101
DanaPeabodyCSR@gmail.com

1 wife have put into raising their family.

2 When he was working at UCSD and Kaiser, he bought them a
3 Postal Annex in Lemon Grove in 2000, and he bought a second one
4 in 2007, which required him to run the Postal Annexes
09:05 5 full-time, and then his wife would work in the evenings too.

6 In 2009 the lease on the Encinitas Postal Annex was not
7 renewed, and he moved it to College Grove. That's where he met
8 Mr. Nava, and Mr. Nava was a carpenter I think at the -- in
9 rebuilding the -- or preparing the College Grove Postal Annex
09:06 10 for them to move into. And Mr. Nava primarily ran the College
11 Grove Postal Annex, and in 2014 that College Grove Postal Annex
12 was closed.

13 I think one of the questions in this case is whether the
14 bank structuring had anything to do with the passing of pills
09:06 15 through the Postal Annex. And I think if you look at this
16 closely, I don't think that the bank structuring, the money
17 going through the bank, had anything to do with the pills that
18 were going through the Postal Annex. The bank structuring
19 would have occurred regardless if any of those pills had ever
09:06 20 gone through a Postal Annex, and but for Mr. Nava, there would
21 have been no pills that ever went through the Postal Annex.
22 All the connections to the pills were directly related to
23 Mr. Nava's connection to Mexico.

24 Now, obviously Mr. Singh did turn a blind eye to what was
09:07 25 happening at the Postal Annex after he received information

1 that is the only thing that makes any sense as to why he was
2 structuring was just to avoid contact with the government.

3 But I also think that if you -- I thought something
4 significant was noted in Mr. Gutierrez's sentencing memorandum
09:09 5 which highlights the fact that the structuring did not have
6 anything to do with the pills going through the Postal Annex,
7 and that is that on page 4 of the sentencing memorandum,
8 Mr. Guiterrez notes that -- he says, "Mr. Singh embarked on a
9 scheme in and avoiding detection of law enforcement in the
09:09 10 institutions at which he banked. Defendant Singh began
11 operating the Postal Annexes as licensed money transmitting
12 businesses in 2006 as an agent of Western Union." And that's
13 how he became educated on the fact that you had these reporting
14 requirements for amounts over \$10,000.

09:10 15 Now, the Western Union business resulted in people bringing
16 in large amounts of cash to the Postal Annexes because they
17 would buy money orders to pay their rent and pay other
18 utilities. This amounted to thousands of dollars from these
19 people that Mr. Singh had to put into the bank, and that was
09:10 20 what resulted in the structuring.

21 He made probably 1 percent on those transactions. If he
22 wanted to avoid attention from the government on the pills
23 going through the business, the last thing he's going to do is
24 sign up with Western Union and say okay, I'm going to get all
09:10 25 this business from Western Union which is going to result in

1 MR. VECCHIONE: Not only for the corporation, which is
2 really the only issue, but also for Mr. Singh, and they overlap
3 tremendously because all the conduct was that of Mr. Singh.

4 I share in all of the comments made by Mr. Boyce. This
09:14 5 case -- and this is going to apply also to the forfeiture
6 analysis because I know Your Honor can't ignore the elephant in
7 the room, which is the shipment of the pills, but this is a
8 structuring case. He pled guilty to structuring. He did not
9 plead guilty to a drug count. And when you look at structuring
09:14 10 from a forfeiture standpoint, i.e., is the forfeiture grossly
11 disproportional to the conduct of the defendant in that
12 particular case, we have to look at Mr. Singh's conduct.

13 And I'm going to address that in a minute, but --

14 THE COURT: Before you do, I mean, on the one hand
09:14 15 there's an agreement that it was more than 1.5 million that was
16 structured, and this was proceeds from unlawful activity.

17 MR. VECCHIONE: My understanding that the unlawful
18 activity is the structuring. Some of it is proceeds from the
19 shipment of the pills, but in talking with co-counsel -- I
09:15 20 joined the party a little late -- they indicated to me don't
21 let that language confuse you. We were talking about the
22 actual structuring. If you look at the -- I think it's our
23 Exhibit -- well, it's the chart in our opposition. I think
24 it's on page 7 where we've analyzed all of the deposits that
09:15 25 were made into the corporate account. And over the course of

1 the two years that we're talking about, there was approximately
2 \$4 million roughly that went into the two accounts, most of
3 which was money transmissions or money orders. It was money
4 that fleetingly passed through the account literally in less
09:15 5 than 24 hours.

6 And I'm somewhat taken aback by the fact that this money
7 that never belonged to Mr. Singh, never garnered him a profit
8 other than maybe 1 percent, is going to result in him getting
9 hit with a \$2.9 million forfeiture order when in fact if you go
09:16 10 back to 2012 and 2013, in 2012 the corporation had a profit of
11 \$23,000, and in 2013 it was about \$50,000. So we're talking
12 about \$75,000 profit over the two years walking him into a
13 \$2.9 million forfeiture. That is grossly disproportional, and
14 I thought we at least would be there and then talking about how
09:16 15 much would be reasonable, so I'm a little taken aback because
16 not only is the 2.9 million grossly disproportional to any
17 profit that Mr. Singh or the corporation made, but when you
18 look at the offense, and this is one of the main factors
19 utilized by the Ninth Circuit in *United States versus \$100,348*,

09:17 20 they look at the four *Bajakajian* factors, and I won't go into
21 the history of *Bajakajian*. I'm sure Your Honor is familiar. I
22 believe this case tracks *Bajakajian*. It has similarities, and
23 it also tracks the *\$100,348*. They were both cases where
24 individuals were stopped at airports, asked if they had any
09:17 25 money to declare, one case 5,000, one case 7,000.

1 is if people were walking in and instead of shipping pills, and
2 we don't know -- we know for a fact that Mr. Singh didn't know
3 exactly what was in these packages, and most of them were sent
4 from the San Diego Postal Annex while he was working in Lemon
09:19 5 Grove. He picked up the money and deposited it, but he didn't
6 understand what was in the packages, how often they were being
7 shipped, but he was aware a high probability of pills, and I
8 think he came to learn that over time and knew more about it
9 later on. Early on it might have been less obvious, and I
09:19 10 think it actually was being hidden from him, but he's pled
11 guilty, and there are the pills shipments that we have to
12 address. If people were coming in with vitamin C pills,
13 aspirin, stuffed Teddy bears, Mr. Singh would have still been
14 structuring that money. The reason it's not related to the
09:20 15 pill shipments is because it's not related to the structuring.
16 His business was related to pill shipments, but the structuring
17 was not. There never was one pill shipment payment that there
18 is any evidence caused a structured deposit. We know that they
19 were at most 2,000 to \$2500 in one day. We see 179
09:20 20 transactions that were taken out of the first superseding
21 indictment that the government concedes are not structuring.
22 There's deposits of 4,000, 5,000, \$3500, all single
23 transactions well under 10,000.
24 Now, obviously we don't know how many of the pill shipment
09:20 25 deposits went into those nonstructured transactions. Obviously

1 some went into the structure. But it was happenstance. He's
2 being treated as an individual who is running this business in
3 order to ship pills and therefore was structuring in order to
4 hide the fact that he's shipping pills. If we count every
09:21 5 single shipment from the San Diego office as a pill shipment,
6 that's 9 percent of all of the deposits over those two years.
7 And I submit there were packages that didn't contain pills.
8 We're probably talking 5 to 7 percent of all of the deposits
9 pertained to pill shipments. That wouldn't be the motivation
09:21 10 for structuring. The structuring exists before the pills
11 arrived.

12 So I can't emphasize strongly enough, Your Honor, that this
13 is a structuring case, not a drug distribution case and that
14 the pill shipments were not the reason for or the motivation
09:21 15 behind the structuring. why is that important? Because if
16 Your Honor looks at this as solely a structuring case, we start
17 out with a maximum statutory fine of 250,000. And Your Honor
18 says but there were many transactions, so we have to look at
19 this differently.

09:22 20 well, Congress enacted a statute that if this is a pattern
21 of conduct over a year, over \$100,000, you double the maximum
22 fine. So the Ninth Circuit says look at the Sentencing
23 Guidelines. Number one, Congress has written a statutory
24 penalty for pattern of conduct similar to Mr. Singh. It's a
09:22 25 \$500,000 maximum statutory. The Ninth Circuit looks at the

1 maximum Sentencing Guideline fine. It doesn't look at the
2 maximum statutory. And in *\$100,348* it reversed a seizure of
3 \$100,000 because it was three times more than the maximum
4 Sentencing Guideline fine. It was a \$250,000 maximum statutory
09:22 5 fine. The Sentencing Guideline fine had a maximum of 30,000,
6 and the Ninth Circuit found a \$100,000 forfeiture to be grossly
7 disproportional when you have a maximum Sentencing Guideline
8 fine of 30,000.

9 In this case depending on whether we use the 2014 guideline
09:23 10 or the 2016 for the fine, and I think the guidelines make it
11 clear that you use the 2014 if the offense ended before
12 November of 2014, which this count did, but either way the
13 government might differ with that.

14 The 2014 guidelines at the time this offense occurred,
09:23 15 structuring with this guideline level of 25 resulted in a
16 maximum guideline fine of \$100,000. If we use the 2016
17 guideline range, it's a maximum of \$200,000.

18 So Congress considered pattern of conduct as did the
19 Sentencing Commission because you get to this guideline range
09:24 20 by adding on two levels for the pattern of conduct. He gets
21 hit with it twice, the maximum statutory fine and the maximum
22 Sentencing Guideline fine.

23 So it is all taken into consideration, and looking at it in
24 light most favorable to the government, we have a maximum
09:24 25 Sentencing Guideline fine of 200,000. We have a maximum

1 statutory fine of 500,000. They're asking for \$3 million.
2 That's 15 times the maximum Sentencing Guideline fine. The
3 Ninth Circuit reversed a forfeiture that was three times more
4 than the maximum Sentencing Guideline fine.

09:24 5 So, Your Honor, I think it's important that we look at this
6 as a structuring case. We look at the maximum Sentencing
7 Guideline fine. We look at the maximum statutory fine. We had
8 recommended a forfeiture of 200,000 for Mr. Singh. I would say
9 any forfeiture between 200 and 500,000 would be reasonable and
09:25 10 would pass muster with the Ninth Circuit. If Your Honor gets
11 into the government's \$3 million range, it is at such a
12 multiple of the Sentencing Guideline fine maximum that it
13 clearly would be grossly disproportionate to the conduct of
14 Mr. Singh.

09:25 15 With regard to the corporation, the corporation essentially
16 owned the two Postal Annexes, Lemon Grove and San Diego.
17 San Diego was sold in 2014. Lemon Grove was sold in 2017.
18 Presently the corporation is operating no business. It is a
19 closely held corporation owned by Mr. Singh and his wife. It's
09:25 20 not a Fortune 500 company, and it is only active today in order
21 to defend this litigation. In fact, California law requires it
22 to stay active to defend against litigation. So just so the
23 Court is aware in fashioning any order or modification of
24 forfeiture, the corporation has no assets. All of the conduct
09:26 25 of the corporation was the conduct of Mr. Singh. If you look

1 2.9 was involved in structuring or was structured. We would be
2 put to our paces to argue that beyond a reasonable doubt. But
3 in terms of the gravity of the offense, over this, I don't
4 know, I think it was 25, 26-month period, nearly \$5 million in
09:45 5 cash went into these accounts. And I think it's worth noting,
6 Your Honor, that maybe three -- maybe four were over \$10,000 in
7 cash deposits.

8 On the flip side, as Special Agent Gogley detailed
9 throughout the expert report, there were repeated aggravating
09:45 10 factors in this case, and I've touched on them, but I want to
11 make sure I end with this.

12 THE COURT: Before you end with that, so you talk
13 about the 4 to \$5 million, and then you go down -- I guess I'm
14 not completely clear how you come up. I do understand that
09:46 15 there was an agreement as part of the plea agreement that the
16 2.9 million was the amount involved in the structuring. I'm
17 not clear where that comes from. Just an agreement for the
18 plea agreement?

19 MR. SILVA: No, that was alleged in the indictment.

09:46 20 THE COURT: But how did you get down to that from the
21 4 to 5 million?

22 MR. SILVA: Well, you get down to it because you look
23 at it, and the challenge, Your Honor, in these cases and why
24 maybe the Court and the U.S. Attorney's office may not bring
09:46 25 these often is you have 12 strangers trying to figure out this

1 MR. SILVA: The last thing I'll say on the forfeiture,
2 just to be clear, the statutory maximum fine for Mr. Singh is
3 \$500,000 in this case. The statutory maximum fine for the
4 corporation, for Lovely Singh, Inc., is \$1 million, so that's
09:48 5 \$1.5 million. The government is effectively asking for a
6 forfeiture of double that. Does that make sense? The
7 Sentencing Guidelines, however, are different. The Sentencing
8 Guidelines, I had it under a 27 the fine range for Lovely
9 Singh, Inc. is between 5.1 and \$10.2 million under the
09:48 10 guidelines.

11 THE COURT: How did you get that? Is that based
12 on -- because there's a provision that says twice the gross
13 gain, and part of the problem I have is I'm not sure it's clear
14 from the record that this was a gain to Mr. Singh.

09:48 15 MR. SILVA: That's a good clarification, Your Honor.
16 So just to be clear, probation recommended that the fine should
17 be, I believe, \$5.8 million. The government is not requesting
18 that. I think the government would agree with the Court that
19 we're not saying this is a gross gain. The analysis that the
09:49 20 United States did in its sentencing memo for the corporation at
21 least was based on chapter 8 of the Sentencing Guidelines. And
22 that's where you come up with the culpability score on the
23 underlying crime, and then there's a multiplier, and so based
24 on that, the government got to 5.1 to \$10.2 million. Now, the
09:49 25 corporation didn't -- I'm not positive, so excuse me. I don't

1 think they filed any sort of analysis of how they reached a
2 fine. I think as Mr. Vecchione made clear, look, there's no
3 assets of the corporation, so the Court's forfeiture would be
4 sort of moot, but the government, even if it reduced its
09:49 5 culpability score, if it reduced the guideline range, that
6 would still be well above the \$2.9 million forfeiture against
7 the corporation that the government is requesting.

8 THE COURT: I'm not sure there's a direct correlation
9 between the fine and the forfeiture.

09:50 10 MR. SILVA: That's a good point.

11 THE COURT: I understand that's the defense's argument
12 that shows that it's grossly disproportionate. I'm not sure
13 it's limited by the sentencing guideline range.

14 MR. SILVA: It's a factor for the Court to consider.

09:50 15 THE COURT: It's a factor.

16 MR. SILVA: One other thing, and we started off our
17 analysis of one of these -- one of the papers that were put in
18 front of the Court, one of the courts said look, how do you
19 determine the gravity of the offense? How do you determine the
09:50 20 gross proportionality? And what there was there was an
21 initial understanding by many of these courts as they did this
22 analysis throughout all the authority that this is a difficult
23 analysis, and Congress has decided that there is at least three
24 types of sentencing issues that the Court can hand down. Jail.
09:50 25 A fine. And forfeiture. Right. So all three of those, none

1 of them are mutually exclusive. Just because the Court
2 attaches a fine does not limit the amount of forfeiture that
3 the Court can hand down. Just because the Court has a large
4 forfeiture doesn't mean it then reduces that incarceration.
09:51 5 And so I would only say that that the \$2.9 million here is
6 exactly what Congress expected to happen; namely, someone
7 structures with the corporation. They are subject to a very
8 large fine, and they also are subject to a very large
9 forfeiture of all property involved in the offense of
09:51 10 conviction. And so I think Congress would envision exactly the
11 type of sentence that the United States is requesting today in
12 that the corporation and the individual, these two working in
13 tandem, that one was a corporation and the other was a person,
14 that there's a total \$2.9 million forfeiture. So that's to be
09:51 15 clear, Your Honor, is we're not asking for two forfeiture
16 orders, each in the amount of \$2.9 million. You know, we want
17 it to add up to that.

18 Secondly, that the individual responsible for this conduct
19 would be risking jail time as a felony. Now, the government
09:52 20 has not requested a fine. Right. We have totally dispensed
21 with that because what we said was both the defendant
22 individually and the defendant in a corporate manner understand
23 that there is a forfeiture and that it will be large. And
24 because of that, the government doesn't see any need to ask for
09:52 25 a fine on top of that.

1 THE COURT: I have one other question. So if you're
2 requesting that it add up to 2.9 million, can I order a
3 \$2.9 million or whatever forfeiture I decide and make it
4 jointly and severally liable or do I have to impose a
09:52 5 forfeiture on the corporation and then a separate forfeiture on
6 Mr. Singh and make them add up to 2.9 or whatever my total
7 amount is?

8 MR. SILVA: That's somewhat of an academic question at
9 this point because there's a lot of flux in the law right now.
09:52 10 There are recent Supreme Court cases that have kind of thrown
11 it up in the air. There's also new circuit law, so I'm not
12 totally positive where it stands in the Ninth Circuit.

13 THE COURT: What are you requesting today?

14 MR. SILVA: What we're requesting is that the Court
09:53 15 add them up.

16 THE COURT: \$1 million fine to the corporation and 1.9
17 to Mr. Singh?

18 MR. SILVA: Yes, that exact request would be exactly
19 what we would look for. Exactly. There's a little bit more
09:53 20 that we would like to discuss, but I think we've taken much of
21 the Court's time.

22 I just want to again offer that there are witnesses here
23 prepared to testify if the Court needs any clarification or if
24 it wants the United States to come up with any more -- I think
09:53 25 we're prepared to do it today. That's why we requested this

1 significantly, a year or two for a couple million is generally
2 what ends up happening, even after the cooperation. There was
3 a recent case out of the Central District of California
4 similarly where there was a doctor misprescribing opioids. And
10:00 5 he was getting paid for it. And he was structuring at his
6 bank, and I believe that was 500 to 600,000, and I think he got
7 somewhere between 30 and 40 months, right, so you now have
8 multiples of that and about the same recommendation. And so
9 the United States basically thought look, 40 months is an
10:00 10 adequate deterrent both specifically to Mr. Singh but also to
11 the public at large because I do think there is a
12 misperception, Your Honor, that structuring is not bad. You
13 know, it's not money laundering. It's not tax evasion. But
14 this is just as insidious as any of those crimes as Congress
10:00 15 has laid out with the high sentencing factors as borne out as
16 shown to the Court that Mr. Nava is actually facing a little
17 bit less than Mr. Singh is for different crimes that they pled
18 to.

19 THE COURT: Okay. Thank you.

10:01 20 MR. GUTIERREZ: Do you mind, Your Honor?

21 THE COURT: Mr. Guiterrez, go ahead.

22 MR. GUTIERREZ: If I could just put in perspective,
23 you asked Mr. Nava's sentencing exposure. It is based on 325
24 converted kilograms of marijuana, and I want to be careful and
10:01 25 explain to the Court why it is the guidelines are as they are

1 as they were charged against Mr. Singh and Mr. Nava pled to.

2 This business for a period of many years, for 20 to 50
3 packages a day, were sending opioids across the country. And
4 they were getting money from that. But the important thing is
10:01 5 that when we made the charging decision to charge the drug
6 offenses against both defendants, it was based only on what we
7 were able to seize. On one point in time one courier was
8 coming across, and she was caught, and she told them I'm going
9 to this Postal Annex, so that's where we got the guidelines for
10:02 10 Mr. Nava for Mr. Singh. And it's a little bit misleading
11 because you might think well, only 40 months, that must not
12 have been a lot of drugs. That was just one courier on one
13 day, and that's what the guidelines come to because 2D1.1
14 requires us to correlate drugs to time. And those were the
10:02 15 only drugs that we actually seized. But when we investigated
16 more and we talked to Nava and we saw Mr. Singh's conduct, we
17 knew that there was an operation. The organization would send
18 a list because there were so many, 20 to 50 overnight packages
19 that they wanted them beforehand, and on the day Mr. Singh was
10:02 20 arrested, Nava was detained at the port, and he was already
21 processing the order by the time the authorities came. There
22 were times when he would do it by himself. There were times
23 when Mr. Nava would do it himself.

24 THE COURT: You say "he." You mean Mr. Singh?

10:02 25 MR. GUTIERREZ: Mr. Singh would get the email, would

1 package the drugs, and ship them out, and he would sometimes --
2 and we even followed him -- would go to different shipping
3 places. A post office at a shopping mall that he owns was also
4 used. So I don't want the Court to think that this is only a
10:03 5 40-month drug case because if we were to tabulate 30 to 50
6 packages a day over a period of conservatively of 26 months,
7 the guidelines would be much more severe, and it goes to show
8 that his motive to hide what he was doing was more commensurate
9 with what we weren't able to charge and determine, so I just
10:03 10 want to put in perspective what it was he was actually doing
11 with regard to the drugs.

12 THE COURT: Anything from probation?

13 PROBATION: Your Honor, Carlos De La Toba on behalf of
14 U.S. Probation. No information.

10:03 15 THE COURT: Okay. Anything further?

16 MR. BOYCE: Yes, I'd like to respond.

17 THE COURT: Sure.

18 MR. BOYCE: Just to circle back to what they've
19 brought up regarding the drug case in this case, and I think
10:03 20 that this began in 2008 when Mr. Nava was hired by Mr. Singh,
21 and what Mr. Nava would say and what he told the agents was
22 that shortly after he was hired, he was approached by these two
23 individuals, Garcia and Dicianno, and these people were
24 connected to people that Mr. Nava knew in Mexico, and also
10:04 25 other people were arrested that Mr. Nava had known, and what

1 and the government did nothing either. They were aware of it
2 back in 2013 and 2014. And these shipments continue to go
3 through. Mr. Singh, maybe like the government -- maybe like
4 UPS should have done something back then to stop the shipments,
10:06 5 but that didn't happen. 98 percent of these packages went
6 through UPS. Only a small percentage went through FedEx or
7 through the postal service.

8 And this interview that Mr. Silva was talking about where
9 there was a -- they sent an informant in, and the
10:06 10 informant -- there was supposed to be a transcript, wear a
11 transcript, but the recording apparently malfunctioned, but the
12 informant came in asking for Mr. Nava. Mr. Nava wasn't there,
13 so the informant talked to Mr. Singh about wanting to ship
14 packages through UPS, and Mr. Singh gave him a list of prices
10:06 15 about how much the packages would cost, the normal shipping
16 costs of packages using UPS through the Postal Annex. During
17 this conversation Mr. Nava came into the store, and at that
18 point the confidential informant and Mr. Nava had a
19 conversation in which apparently they were whispering and
10:07 20 Mr. Nava was talking to the informant about coming back into
21 the business of shipping these apparently pills through
22 the -- if this informant was going to continue shipping pills
23 through the postal service. But that was a little background
24 as to how the pill business was working, and it certainly was
10:07 25 Mr. Singh who turned a blind eye to this, and probably

1 shouldn't have, but Mr. Singh did not need to use the
2 structuring to conceal the pills shipped through the Postal
3 Annex.

4 And the irony is that by bringing in this Western Union
10:08 5 business, it only drew attention to Mr. Singh and the
6 structuring, only concealed the legitimate money that was
7 coming through the Postal Annex because there was no day in
8 which the amount of these packages that were shipped through
9 the Postal Annex would ever have exceeded at most \$2500. It
10:08 10 never got up to \$10,000. So the only thing by bringing this
11 Western Union business through the Postal Annex was it was
12 drawing attention to Mr. Singh's business.

13 And I comment about the disparity of the sentence, and
14 that's why they're requesting a 40-month sentence which they
10:08 15 say is one of the higher amounts -- the higher sentences that's
16 imposed on somebody that has been convicted or pled guilty to
17 structuring. And that is including drug organizations where
18 you've got actual money laundering going on. There was no
19 money laundering here because there was no necessity to -- only
10:09 20 1 to 10 percent of the money that was going through the banks
21 was due to these pill shipments, to the UPS costs of shipping
22 these pills. 90 percent of that money that was being
23 structured was legitimate money that did not even -- most of it
24 did not even belong to Mr. Singh, but rather went to pay rent
10:09 25 and utility bills. So the disparity is really that Mr. Singh

1 packages sent from the Postal Annexes contained a prohibited
 2 controlled substance, and he deliberately avoided learning the
 3 truth of their contents, closed quote.

4 And Paragraph 16, "He was a packager and shipper of
 10:11 5 hundreds of packages, both defendants were. Mr. Singh knew or
 6 believed the funds were proceeds of unlawful activity and
 7 intended to promote unlawful activity."

8 So I'm relying quite a bit on the factual basis in ruling
 9 on my objections. *LINE 4 = WRONG - NOT PACKAGER*

10:12 10 Objection number 2 to page 5, paragraph 4, 14, Mr. Singh
 11 denies shipping packages to various commercial shipping
 12 services to avoid detection. I will overrule that objection.

13 Objection number 3, page 5, paragraph 15, he was aware of a
 14 high probability that hundreds of packages from his Postal
 10:12 15 Annexes had illegal substances and deliberately avoided
 16 learning the truth. I think that directly is belied by the
 17 factual basis, so I will overrule that objection.

18 Objection number 4 to page 6, paragraph 22, he knew or
 19 believed that these were the proceeds of unlawful activity.

10:12 20 Again, I will overrule that objection.

21 Number 5, page 13, paragraph 80 and also page 15, paragraph
 22 94, that he agreed to the 2.9 forfeiture. I'll sustain that
 23 objection. I will note that he didn't agree to the 2.9
 24 forfeiture. He just agreed that that was the amount of money
 10:13 25 that was involved and that there should be a preliminary

1 forfeiture, but reserved the right to contest it on Eighth
2 Amendment grounds. So I'll sustain that objection.

3 Objection number 6 to page 14, Paragraph 88 and page 17,
4 paragraph 115, that the fine range is not 20,000 to \$500,000.

10:13 5 I think the probation officer agreed that should be sustained,
6 and it's actually 20,000 to \$200,000. So I'll sustain in part
7 and overrule in part. I think Mr. Singh argued that it should
8 be 10,000 to 100,000. I find it should be 20,000 to 200,000.

9 Number 7, page 15, paragraph 97, a large portion of the
10:13 10 money structured was from illegal activity. I'll sustain that
11 objection. At this point I don't know that it's absolutely
12 clear how much of the money structured was from illegal
13 activity and how much was not, so I think saying it was a large
14 portion is perhaps overstating the situation.

10:14 15 The eighth objection, page 16, paragraph 101, two Postal
16 Annexes were not involved in a multi-year scheme to mail
17 controlled substances throughout the U.S. and did not structure
18 the 3 million in bank proceeds believing they were funds from
19 drug trafficking. I will overrule that objection as well.

10:14 20 with respect to the objections of Lovely Singh, several of
21 them are repetitive.

22 I think page 9, paragraph 45 with respect to the minus
23 three for acceptance of responsibility, I don't think that's
24 really applicable to a corporation. I will overrule for the
10:15 25 reasons stated in the probation officer's addendum.

1 Page 10, paragraph 40 where it talks about the fine, and I
2 think ultimately that's going to be moot because I'm not going
3 to impose a fine in this case.

4 Page 10, paragraph 64, agree to forfeit 3.9 million or
10:15 5 agree to forfeit up to 2.9 million, for the same reasons I
6 sustained the objection with respect to Mr. Singh I will
7 sustain that objection.

8 Page 12, paragraph 77, the instant offense involves a
9 scheme to mail packages containing controlled substance. I
10:15 10 will sustain. I agree that the instant offense involves
11 structuring, not a scheme to mail packages containing
12 controlled substances, so I'll sustain that objection.

13 Page 12, paragraph 79 again has to do with agreeing to
14 forfeit the 2.9 million, and I'll sustain that objection.

10:16 15 I think that covers all the objections.

16 Mr. Boyce, would you agree?

17 MR. BOYCE: Yes, Your Honor.

18 THE COURT: Okay. Would you agree, Mr. Vecchione?

19 MR. VECCHIONE: Yes, Your Honor.

10:16 20 THE COURT: okay. Now, let's talk about the
21 underlying case, and I think it's important also' I make two
22 factual findings that I think also implicate the decisions that
23 I make with respect to sentencing.

24 First of all, I find that the reason for the structuring
10:16 25 was to avoid the attention of the government. And I find that

1 the reason Mr. Singh wanted to avoid the attention of the
2 government was to avoid detection that he was shipping illegal
3 drugs, maybe initially shipping jewelry illegally and then
4 eventually shipping illegal drugs. So to the extent Mr. Singh
10:16 5 argued that the reason for the structuring was because he
6 didn't like the government or for some other reason, I don't
7 find that to be the case. And I think it's particularly
8 significant that he had training as a Western Union agent. I
9 think that belies the argument that he's just an ignorant
10:17 10 immigrant who was just sort of avoiding the government because
11 they made him nervous, and I think it's a much more intentional
12 act than that. He is a bright man who knew exactly what he was
13 doing. So I think that all affects where I come down on the
14 sentencing.

10:17 15 First of all, with respect to the guideline calculations, I
16 don't think there's a great disagreement. I find the base
17 offense level is a six. I will add 18 points because there was
18 more than 1.5 million and less than 3.5 million structured.
19 I'll add two points under 2S1.3(b)(2) because there was a
10:17 20 pattern of unlawful activity involving more than 100,000 in a
21 12-month period. I will add two points under 2S1.3(b)(1)(A)
22 because it was the proceeds from unlawful activity. And I will
23 add two points because there was abuse of a position of trust.
24 I find Mr. Singh has accepted responsibility for what he did,
10:18 25 so I will deduct three points. I find he has no criminal

1 record, so his guideline range is 57 to 71 months.

2 with respect to the underlying sentence, I have considered,
3 first of all, the nature and circumstances of the offense, and
4 I do agree with the government that this is a serious
10:18 5 structuring case. This is not someone caught at the border
6 with their life savings in their fanny pack that they didn't
7 declare at the border. This was over a long period of time.
8 And this was a sophisticated structuring. And so I am taking
9 that into consideration, and, as I said before, I do find that
10:18 10 the reason for that structuring was to avoid the attention of
11 the government because there were illegal things going on at
12 the Postal Annex.

13 I have also taken into consideration Mr. Singh's history
14 and characteristics, the fact that he has no criminal record,
10:19 15 the fact that he has done a wonderful job in raising his
16 children, that he has always been gainfully employed, that he
17 has been a productive member of the community. So I've taken
18 that into consideration as well.

19 I think I've already discussed the seriousness of the
10:19 20 offense, but I do think it's very important, the deterrence,
21 not just for Mr. Singh, because I believe at this point
22 Mr. Singh, especially having this case drag on for so long, may
23 very much regret what he did and would not repeat that, but I
24 think, as the government points out, it is very important.
10:19 25 Drug traffickers cannot complete what they do without the

1 support of the money people, and Mr. Singh was one of those
2 money people. And I think it's very important also, just the
3 structuring in general to avoid the detention of the
4 government. Structuring is an important part of the financial
10:20 5 system, and Mr. Singh knew exactly what he was doing, and so I
6 do take into consideration the need to deter other people from
7 doing similar offenses.

8 And then I have taken into consideration the fact that
9 there may be disparity not only of sentences with Mr. Nava, who
10:20 10 was basically a co-defendant, but also other structuring cases
11 across the country, as the government points out, so I've taken
12 into consideration all of those factors.

13 And I do find that a three-year sentence or 36 months in
14 custody is sufficient but not greater than necessary to satisfy
10:20 15 the policies of 3553(a). I also find that that should be
16 followed by three years of supervised release. During that
17 three years you are not to engage in any employment or
18 profession involving fiduciary responsibilities. You're to
19 report any vehicles you own or operate. The probation office
10:20 20 can search you or your property to see if you're having illegal
21 things on you, any money on you. You're to completely disclose
22 all personal and business financial records. You're not to
23 open any new checking accounts or credit charges or lines of
24 credit without the permission of the probation department.

10:21 25 I will not impose a fine. I find Mr. Singh does not have

1 the ability to pay a fine, particularly in light of the
2 forfeiture that I am going to impose, and I will impose a \$100
3 special assessment.

4 with respect to the forfeiture.

10:21 5 MR. BOYCE: Sorry to interrupt.

6 THE COURT: No, that's okay.

7 MR. BOYCE: I did note that when you were going
8 through the guidelines, you said I believe he started at base
9 offense level six and added 18. I think you meant 16.

10:21 10 THE COURT: I think it's 22 overall -- oh, 16, yes,
11 you're right, I'm sorry. I wrote the wrong number down. 16.
12 Correct. I think I ended up at the right place.

13 MR. BOYCE: You did.

14 THE COURT: I just said the wrong number. Okay. Yes,
10:22 15 six plus 16, plus two, plus two, plus two for a 28 minus three
16 for a 25.

17 MR. SILVA: That's right, Your Honor.

18 THE COURT: 57 to 71 months.

19 Let's talk about the forfeiture. I understand there's an
10:22 20 argument that this is grossly disproportionate to the gravity
21 of Mr. Singh's offense, and I have considered, first of all,
22 the nature and extent of the crime. I think I've pretty much
23 outlined how serious I think this crime is. I think I've
24 considered whether this violation is related to other illegal
10:22 25 activities. It is. And I have considered other penalties that

1 can be imposed and the extent of harm caused. I think
2 ultimately I am concerned that Mr. Singh hid by playing this
3 shell game of moving the money around. It makes it
4 particularly hard to find out how much he made, how much was
10:23 5 laundered, and it was a very serious offense. It occurred over
6 three years. It involved at least 450 transactions. There
7 were a number of bank accounts and financial institutions
8 involved. He played a very important role in the financial
9 system because he was qualified as a Western Union agent. And
10:23 10 also was a compliance officer, BSA/AML compliance officer. He
11 wasn't some, as I mentioned before, poor, suspecting immigrant
12 who didn't understand the importance of not structuring and
13 filing these forms. And at least some of the money being
14 structured was the proceeds of drug trafficking.

10:23 15 So I do find that the recommended forfeiture by the
16 government is appropriate in this case. I find that it has a
17 relationship to the gravity of the offense, and at this point I
18 will order forfeiture in the amount of \$1,955,521 for
19 Mr. Singh.

10:24 20 With respect to Lovely Singh, Inc., I find that the base
21 offense level is six plus 16 plus two because the proceeds were
22 the proceeds of unlawful activity, plus two because it involved
23 over 100,000 in a 12-month period for a total of 26. The
24 pecuniary gain is 2.9 million. The base fine is 6.5 million,
10:24 25 but that's limited by the \$1 million maximum. The culpability

A P P E N D I X - F

Appellant's Opening Brief in the United States Court of Appeals
for the Ninth Circuit, Selected pages

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

LAHKWINDER SINGH,

Defendant-Appellant.

U.S.C.A. Case 18-50332

U.S.D.C. Case 16cr729-BAS

COPY

Appeal from the United States District Court
for the Southern District of California
Honorable Cynthia Bashant, Judge Presiding

APPELLANT'S OPENING BRIEF

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“this information has some value to the government because it may facilitate investigation of other crimes, the harm is ‘minimal.’” *Id.* at 1123.

Here, Singh deposited cash in amounts less than \$10,000 preventing the transactions from being reported to the government, and depriving the government of information. Although as a BSA Officer Singh knew the structuring was illegal, his officer status did not cause additional harm. Thus, the harm flowing from Singh’s structuring cannot support the amount of the forfeiture imposed in this case.

5. Other relevant factors.

Other factors may be relevant to determine the harshness of a fine, including the financial hardship caused by the forfeiture. This Court has suggested that it will consider “deprivation of livelihood” in the proportionality analysis. *United States v. Hantzis*, 403 F. App’x 170, 172 (9th Cir. 2010); *United States v. Real Prop. Located in El Dorado City*, 59 F.3d 974, 985-86 (9th Cir. 1995), abrogated in part on other grounds by *Bajakajian*, 524 U.S. 321; *United States v. Levesque*, 546 F.3d 78, 83 (1st Cir. 2008) (Excessive Fines Clause analysis should “consider whether forfeiture would deprive the defendant of his or her livelihood.”)

Singh’s net worth at the time of sentencing was approximately \$1.5 million, consisting mainly of his family home and a commercial property, both burdened

with fairly high mortgages, and two family cars. CR 130, PSR pp. 12–13. Even if he sold these assets, he would still be half a million dollars in debt. Singh was sentenced to three years in prison which has, and will continue to have, a significant negative impact on his finances. Singh will be 62 when he is released from custody; he suffers from several health conditions, including diabetes. CR 130, PSR, p. 11. Although Singh's average annual income in the three years preceding his arrest was just under \$200,000, he cannot return to his former occupation and is forbidden from any employment that requires fiduciary responsibilities. CR 165, p. 4, ER 62. He will be unable to sustain an income anywhere near amounts he formerly earned upon his release. CR 130, PSR, p. 13. It is doubtful that Singh, at this point in his life, will ever be able to satisfy this debt to the government; this sanction amounts to a financial tsunami for Singh and his family. This factor, as well, justifies reduction of the forfeiture imposed in this case.

CONCLUSION

The forfeiture order of \$1,955,521 is nearly twenty times the high-end fine recommended by the Guidelines. The connection of the structuring to the drug shipment activity, if any, is nominal; the bulk of funds structured came from the legitimate money services and shipping business, lessening the severity of the