

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 15-CR-20820-BLOOM

UNITED STATES OF AMERICA

v.

KHALED ELBEBLAWY,

Defendant.

AMENDED FORFEITURE MONEY JUDGMENT

THIS CAUSE is before the Court upon the United States of America's ("United States") Motion for Entry of an Amended Forfeiture Money Judgment against Defendant Khaled Elbeblawy (the "Defendant"), ECF No. [189]. Being fully advised based upon the briefings, argument of counsel and the record in this case, the Court finds as follows:

On December 22, 2015, a federal grand jury returned a Superseding Indictment charging the Defendant in Count 1 with conspiracy to commit health care fraud and wire fraud in violation of 18 U.S.C. § 1349 and, in Count 2, with conspiracy to defraud the United States and pay health care kickbacks in violation of 18 U.S.C. § 371. Superseding Indictment, ECF No. [59]. The Superseding Indictment also contained forfeiture allegations, which alleged that upon conviction of a violation of 18 U.S.C. § 371 or 1349, the Defendant shall forfeit any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the offense, pursuant to 18 U.S.C. § 982(a)(7). *See id.* at Pg. 12.

On January 21, 2016, after a trial, a jury returned a verdict convicting the Defendant of Counts 1 and 2 of the Superseding Indictment. *See* Trial Minute Entries, ECF No. [76-79], [81-82]; Jury Verdict, ECF No. [90].

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On April 7, 2016, the United States moved for entry of a forfeiture money judgment in the amount of \$40,436911.70. United States' Motion for Order of Forfeiture and Memorandum of Law in Support Thereof, ECF No. [130]. On that same day, the Court entered an order granting the United States' Motion. ECF No. [131]. However, the order was vacated on April 15, 2016, based on Defendant's request for a forfeiture hearing. *See Notice Regarding Potential Length of Sentencing Hearing and Notice Concerning Forfeiture*, ECF No. [132]; April 15, 2016 Minute Entry, ECF No. [146]; Paperless Order to Vacate, ECF No. [147].

On September 1, 2016, the Court issued an Order of Forfeiture, ECF No. [171], which entered a forfeiture money judgment against the Defendant in the amount of \$36,400,957.00.

On September 12, 2016, the Defendant filed a notice of appeal, ECF No. [172]. On September 5, 2018, the United States Court of Appeals for the Eleventh Circuit ("Eleventh Circuit") affirmed the Defendant's convictions but vacated the forfeiture order and remanded to this Court in order to address the impact of the Supreme Court's ruling in *Honeycutt v. United States* on the forfeiture. *See United States v. Elbeblawy*, 899 F.3d 925, 942 (11th Cir. 2018), ECF No. [183]; *Honeycutt v. United States*, 137 S. Ct. 1626 (2017). The Eleventh Circuit held that the Defendant's remaining arguments regarding the insufficiency of the forfeiture failed. *See id.*

On March 18, 2019, the Defendant's writ of certiorari to the Supreme Court was denied, ECF No. [184], and on September 30, 2019, this Court set this matter for resentencing regarding forfeiture on December 6, 2019. Paperless Notice of Hearing as to Khaled Elbeblawy Resentencing re: forfeiture set for 12/6/2019, ECF No. [186].

At trial, the United States presented evidence that Medicare paid a total of \$40,445,507.65 in U.S. currency as a result of fraudulent claims submitted by three home health agencies owned

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and/or managed by the Defendant as part of the charged conspiracy in violation of 18 U.S.C. § 1349. *See* United States' Motion for Order of Forfeiture and Memorandum of Law in Support Thereof, ECF No. [130-1], Exhibit A (Composite); Gov't Exhibit List, Jan. 22, 2016, ECF No. 88 (GX 1 admitted on January 12, 2016, and GXs 1000-1002 admitted on January 19, 2016).

Specifically, Medicare paid \$29,114,494.65 in U.S. currency as a result of fraudulent claims submitted between January 2006 and February 2009 by Willsand Home Health Agency, Inc. ("Willsand"). *See id.* (GX 1000). In addition, Medicare paid \$8,756,341 in U.S. currency as a result of fraudulent claims submitted between September 2007 and November 2009 by JEM Home Health Care, LLC ("JEM"). *See id.* (GX 1001). Finally, Medicare paid \$2,574,672 in U.S. currency as a result of fraudulent claims submitted between October 2009 and May 2013 by Healthy Choice Home Health Services ("Healthy Choice"). *See id.* (GX 1002).

This Court initially found \$36,400,957.00 to be the amount of gross proceeds traceable to the offense based on codefendant Eulises Escalona's ("Escalona") testimony that 90% of JEM and Willsand's patients were obtained through kickbacks. *See* Order of Forfeiture, ECF No. [171] at ¶5, Page 1. Accordingly, \$36,400,957.00 of the \$40,445,507.65 that Medicare paid out was traceable to the commission of the Defendant's offenses. *Id.*

Escalona further testified that the Defendant was not an owner of Willsand and did not have signature authority for the Willsand banks accounts. *See* Trial Tr., ECF No. [124] at Pg. 54. Ln. 12-19. However, the Defendant was paid a salary and other compensation of approximately \$80,000.00 per year for the services he provided to Willsand. *See id.* at Pg. 82, Ln. 3-5. As shown in GX 1007, the Defendant earned approximately \$239,000.00 from Willsand.

Defendant was an owner of JEM and Healthy Choice, and he received a four-level

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sentencing enhancement for being an organizer and leader of the scheme of which he was convicted. *See* Revised Presentence Investigation Report (“Revised PSR”) ¶¶ 10, 17, 24, 51, Apr. 12, 2016, ECF No. [134].

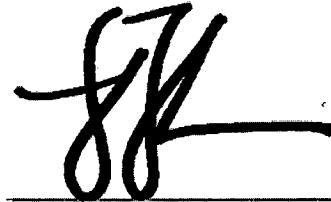
Based on the record in this case, the total value of the gross proceeds traceable to the offense of conviction is \$10,436,911.70 in U.S. currency, based on 90% of the total paid claims for JEM and Healthy Choice and an additional \$239,000.00, representing the total salary and other compensation Defendant received from Willsand.

THEREFORE, it is ORDERED AND ADJUDGED that:

1. The United States’ Motion for Amended Forfeiture Money Judgment, **ECF No. [189]**, is **GRANTED**. is hereby **ORDERED** that:
2. Pursuant to 18 U.S.C. § 982(a)(7) and Rule 32.2 of the Federal Rules of Criminal Procedure, a forfeiture money judgment in the amount of **\$10,436,911.70** in U.S. currency is entered against the Defendant. Any amount previously paid toward that amount prior to the entry of this judgment shall be deducted from the \$10,436,911.70 amount.
3. The United States is authorized, pursuant to Rule 32.2(b)(3), (c)(1) of the Federal Rules of Criminal Procedure and 21 U.S.C. § 853(m), to conduct any discovery necessary, including depositions, to identify, locate or dispose of the forfeited property or in order to expedite ancillary proceedings related to any third-party petition.
4. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Order is final as to the Defendant.
5. The Court shall retain jurisdiction in this matter for the purpose of enforcing this Order.

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DONE AND ORDERED in Chambers at Miami, Florida on February 24, 2020.



BETH BLOOM
UNITED STATES DISTRICT JUDGE