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8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE TERRITORY OF GUAM

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 vs.

13 JOHN D. WALKER,
aka JON WALKER, and
14 HANSEN HELICOPTERS, INC.,

15 Defendants.

CRIMINAL CASE NO. 18-00010

**MOTION FOR AMENDED
PRELIMINARY ORDER OF
FORFEITURE FOR DIRECT ASSETS,
MONEY JUDGMENTS, AND FOR
SUBSTITUTE ASSETS**

16 The United States, by and through Shawn N. Anderson, United States Attorney for the
17 Districts of Guam and the Northern Mariana Islands, Stephen F. Leon Guerrero, Assistant U.S.
18 Attorney, and Marie L. Miller, Special Assistant U.S. Attorney, respectfully moves this Court,
19 pursuant to Rule 32.2(e) of the Federal Rules of Criminal Procedure for an Amended
20 Preliminary Order of Forfeiture. In this motion, the Government seeks to amend the Order of
21 Forfeiture entered on September 29, 2022, to include specific assets representing the proceeds of
22 the offenses for which the defendants John Walker (“Walker”) and Hansen Helicopters
23 (“Hansen”) (collectively “Defendants”) were convicted, as well as specific assets that were used
24 to commit or to facilitate the commission of those offenses.

1 The United States also requests the court to order forfeiture money judgments in the
2 amount of \$400,000,000.00, representing the proceeds the defendant obtained through 1) the
3 offenses involving Aircraft Parts Fraud set forth in Counts 8-12 of the Second Superseding
4 Indictment, and 2) the conspiracy to commit wire fraud and the substantive wire fraud offenses
5 set forth in Counts 99-104, and to order concurrent forfeiture money judgments in the amount of
6 \$11,770,000.00 representing the amount involved in the money laundering offenses in violation
7 of 18 U.S.C. § 1957 set forth in Counts 105-110. Finally, to the extent that the concurrent money
8 judgments remain unsatisfied after giving the defendants credit for the net proceeds realized
9 from the sale of the specific assets representing the proceeds of the offenses for which the
10 defendants were convicted, the United States requests the Court to enter a preliminary order of
11 forfeiture for the identified substitute assets.

12 **I. Specific Assets Subject to Forfeiture**

13 Attached hereto as Exhibit A is a schedule of specific assets subject to forfeiture. The
14 schedule identifies the specific properties subject to forfeiture by type, unique identifier, record
15 owner, date of acquisition, basis for forfeiture, and other relevant information. The schedule may
16 be summarized as follows:

17 A. Over 100 helicopters and 16 airplanes subject to forfeiture pursuant to Section
18 38(d)(1)(B) as property used to commit or to facilitate the commission of the violations of 18
19 U.S.C. § 38(a) and (b) alleged in Counts 8 – 12, and pursuant to Sections 38(d)(1)(A) and
20 981(a)(1)(C), respectively, as property traceable to the proceeds of those offenses and to the wire
21 fraud offenses alleged in Counts 99-104 (Exhibit A);

22 B. 53 trucks, cars, motorcycles, and other vehicles subject to forfeiture pursuant to
23 Sections 38(d)(1)(A) and 981(a)(1)(C), respectively, as property traceable to the proceeds of the
24

1 violations of 18 U.S.C. § 38(a) and (b) alleged in Counts 8 – 12 and of the wire fraud offenses
2 alleged in Counts 99-104 (Exhibit A);

3 C. Two vessels subject to forfeiture pursuant to Sections 38(d)(1)(A) and 981(a)(1)(C),
4 respectively, as property traceable to the proceeds of the violations of 18 U.S.C. § 38(a) and (b)
5 alleged in Counts 8 – 12 and of the wire fraud offenses alleged in Counts 99-104 (Exhibit A);

6 D. More than 25 parcels of real property subject to forfeiture either pursuant to Section
7 38(d)(1)(B) as property used to commit or to facilitate the violations of 18 U.S.C. § 38(a) and (b)
8 alleged in Counts 8 – 12, and subject to forfeiture pursuant to Sections 38(d)(1)(A) and
9 981(a)(1)(C), respectively, as property traceable to the proceeds of those offenses and of the wire
10 fraud offenses alleged in Counts 99-104 (Exhibit A).

11 In addition to Exhibit A, various counterfeit parts and tools, identified in trial exhibit G-
12 0384, attached hereto as Exhibit C, should also be forfeited as property used to commit or to
13 facilitate the commission of the violations of Sections 38(a) and (b). Included in Exhibit A is a
14 list of helicopters used by the defendants to facilitate the fraud, including the identification of
15 additional serial numbers and registration numbers used by the defendants based on their own
16 records and submissions at trial.

17 Finally, the 44 corporations the Court and jury found were used by defendants as alter
18 egos, plus Hansen Helicopters Marshall, Inc (HHM), Mid-America Turbine (MAT), Walkers
19 Helicopters, and Walker Agricola, which are further described below, are subject to forfeiture
20 pursuant to Section 38(d)(1)(B) as property used to commit or to facilitate the violations of 18
21 U.S.C. § 38(a) and (b) alleged in Counts 8 – 12. See ECFs 1704, 1738, 1812, and 1813.

22 **II. Procedural History**

23 Following a lengthy trial, a jury unanimously found Walker guilty of the following
24 charges that require forfeiture: Counts 8-11: Aircraft Parts Fraud, in violation of 18 U.S.C. §§

1 38(a)(1)(A) and 38(b)(1-5); Count 99: Conspiracy to Commit Wire Fraud, in violation of 18
2 U.S.C. § 1349; Counts 100-104: Wire Fraud, in violation of 18 U.S.C. §§ 1343, 1346 and 2; and
3 Counts 105-110: Money Laundering, in violation of 18 U.S.C. § 1957. ECF 1784. The jury also
4 unanimously found Hansen guilty of the following charges that require forfeiture: Counts 9-12,
5 Aircraft Parts Fraud, in violation of 18 U.S.C. § 38(a)(1)(A) and 38(b)(1-5). ECF No. 1785. By
6 finding Walker guilty of Count 99, conspiracy to commit wire fraud, the Court found that
7 Hansen and the corporations listed in Closing Jury Instruction No. 12 were alter egos of Walker.
8 *See* ECF No. 1738 at 14-15. Defendants waived their right to have the jury retained to determine
9 the forfeitability of any specific assets pursuant to Rule 32.2(b)(5). ECF 1812.

10 On September 29, 2022, the Court entered an Order forfeiting certain specific assets –
11 *viz.*, six helicopters and four sums of money seized from Defendant’s bank accounts – in
12 accordance with a stipulation entered by the defendants. In addition, the Court ordered the
13 forfeiture of additional property in general terms as follows:

14 ... Walker shall forfeit (a) any property constituting, or derived from, any proceeds
15 that he obtained, directly or indirectly, as the result of the aircraft parts fraud, 18
16 U.S.C. § 38(d)(1)(A); and (b) any property used, or intended to be used in any
17 manner, to commit or facilitate the aircraft parts fraud and that forfeiture is
appropriate taking into consideration the nature, scope and proportionality of the use
of the property in the violations of 18 U.S.C. § 38(a)(1)(A) and 38(b)(1–5), 18
U.S.C. § 38(d)(1)(B).

18 ... forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, any
19 property, real or personal, which constitutes or is derived from proceeds traceable to
wire fraud, in violation of 18 U.S.C. § 1343.

20 ... forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, any
21 property, real or personal, which constitutes or is derived from proceeds traceable to
conspiracy to commit wire fraud, in violation of 18 U.S.C. § 1349.

22 ... forfeiture pursuant to 18 U.S.C. § 982(a)(1), any property, real or personal,
23 involved in money laundering, in violation of 18 U.S.C. § 1957, or any property
traceable to such property.

1 ... Hansen Helicopters shall forfeit (a) any property constituting, or derived from,
2 any proceeds that Defendant Hansen Helicopters obtained, directly or indirectly, as
3 the result of the aircraft parts fraud, 18 U.S.C. § 38(d)(1)A); and (b) any property
4 used, or intended to be used in any manner, to commit or facilitate the aircraft parts
5 fraud, taking into consideration the nature, scope and proportionality of the use of the
6 property in the violations of 18 U.S.C. § 38(a)(1)(A) and 38(b)(1–5).

7 Order Granting Stipulation for Preliminary Order of Forfeiture. ECF 1813.

8 **III. Rules 32.2(b)(2)(C) and (e)**

9 On September 29, 2022, an Order was entered pursuant to Rule 32.2(b)(2)(C),
10 which authorized the entry of an order of forfeiture listing specific assets that had been
11 identified, and “describ[ing] other property in general terms.” Rule 32.2(b)(2)(C)(ii). The
12 applicable rule provides that the Order may be amended under Rule 32.2(e)(1) “when
13 additional specific property is identified or the amount of the money judgment has been
14 calculated.” Rule 32.2(b)(2)(C)(iii).

15 In turn, Rule 32.2(e)(1) provides that, on the Government’s motion, the court may
16 at any time enter an order of forfeiture, or amend an existing order of forfeiture, to include
17 additional property that is “subject to forfeiture under an existing order of forfeiture” or “is
18 substitute property that qualifies for forfeiture under an applicable statute.” Rule
19 32.2(b)(1)(A) and (B). *United States v. Duboc*, 694 F.3d 1223, 1227-29 (11th Cir. 2012)
20 (Rule 32.2(e) permits the Government to move at any time to amend an order of forfeiture
21 to include additional property).¹ Moreover, as Rule 32.2(b)(2)(C) indicates, Rule
22 32.2(e)(1) is also the proper vehicle for moving for the entry of a forfeiture order in the
23 form of a money judgment when “the amount of the money judgment has been calculated.”

24 ¹ See *United States v. Marshall*, 872 F.3d 213, 222 (4th Cir. 2017) (under Rule 32.2(e), Government may move to
forfeit substitute assets “at any time”).

1 Rule 32.2(b)(2)(C)(iii). *United States v. Arnold*, 878 F.3d 940, 944 (10th Cir. 2017) (amending
2 the forfeiture order to specify the amount of the money judgment as Rule 32.2(b)(2)(C) allows).²

3 In this motion, the Government moves pursuant to Rule 32.2(e) to amend the
4 September 29 Order to include: 1) specific assets that are “subject to forfeiture under an
5 existing order of forfeiture,” – viz., the September 29 Order; 2) money judgments for the
6 proceeds of the violations of Section 38(a) and the wire fraud statutes and for the property
7 involved in the money laundering offenses on which the defendants have been convicted;
8 and 3) substitute assets.

9 **IV. Procedure for Determining Property Subject to Forfeiture**

10 Forfeiture is a mandatory part of the sentence in criminal cases. *United States v.*
11 *Monsanto*, 491 U.S. 600, 607 (1989) (“Congress could not have chosen stronger words to
12 express its intent that forfeiture be mandatory in cases where the statute applied...”).³ The
13 burden is on the Government to establish the forfeitability of specific assets and the amount
14 of any money judgment by a preponderance of the evidence. *United States v. Christensen*,
15 828 F.3d 763, 822 (9th Cir. 2015) (applying the preponderance standard in a RICO case).⁴
16 To meet its burden, the Government may rely on evidence already in the record from the
17 defendant’s trial and/or any other “evidence or information . . . accepted by the court as
18 relevant and reliable.” Rule 32.2(b)(1)(B). *United States v. Elder*, 682 F.3d 1065, 1073 (8th
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20 ² See *United States v. Touizer*, 808 Fed. Appx. 954, 957 (11th Cir. 2020) (by entering a preliminary
21 order pursuant to Rule 32.2(b)(2)(C), district court retained jurisdiction to amend the order “when
the amount of the money judgment has been calculated”).

22 ³ See *United States v. Newman*, 659 F.3d 1235, 1240 (9th Cir. 2011) (following *Monsanto*; “When the
23 Government has met the requirements for criminal forfeiture, the district court must impose criminal
forfeiture, subject only to statutory and constitutional limits”); *United States v. Nava*, 404 F.3d 1119,
1124 (9th Cir. 2005) (“At sentencing, the district court must order forfeiture of the property in addition to
imposing any other sentence.”).

24 ⁴ See *United States v. Garcia-Guizar*, 160 F.3d 511, 518 (9th Cir. 1998) (drug case); *United States v.*
Rutgard, 108 F.3d 1041, 1063 (9th Cir. 1997) (money laundering case).

1 Cir. 2012) (computing the amount of a money judgment based on evidence already in the
2 record supplemented by an agent’s affidavit).⁵ Such “evidence or information” may include
3 hearsay that the court accepts as reliable. *United States v. Creighton*, 52 Fed. Appx. 31, 35-
4 36 (9th Cir. 2002) (hearsay is admissible at sentencing and therefore may be considered in
5 the forfeiture phase).⁶ Once the court determines what property is subject to forfeiture, it
6 must order the forfeiture of such property “without regard to any third party’s interest in the
7 property.” Rule 32.2(b)(2)(A).⁷

8 **V. Legal Bases for the Forfeiture**

9 **A. Proceeds**

10 Section 38(d)(1)(A) authorizes the forfeiture of “any property constituting, or
11 derived from, any proceeds that the person obtained, directly or indirectly, as a result of the
12 offense.” Similarly, 18 U.S.C. § 981(a)(1)(C) authorizes the forfeiture of “any property,
13 real or personal, which constitutes or is derived from proceeds traceable to a violation of
14 [18 U.S.C. § 1343] or a conspiracy to commit such offense.” *See United States v. Lo*, 839
15 F.3d 777, 791 & n.6 (9th Cir. 2016)(explaining how 28 U.S.C. § 2461(c) and §
16 981(a)(1)(C) make fraud proceeds subject to criminal forfeiture).

17 “Proceeds” means “property of any kind obtained directly or indirectly, as a result of the
18 commission of the offense giving rise to the forfeiture, and any property traceable thereto.” 18
19 U.S.C. § 981(a)(2).⁸ Property “derived from” or “traceable to” criminal proceeds includes

21 ⁵ *See United States v. Harris*, 842 Fed. Appx. 28, 33 (9th Cir. 2020) (relying on evidence in the record to
compute the amount of the forfeiture money judgment).

22 ⁶ *See United States v. Capoccia*, 503 F.3d 103, 109 (2d Cir. 2007) (Rule 32.2(b)(1) allows the court
to consider “evidence or information,” making it clear that the court may consider hearsay; this is
consistent with forfeiture being part of the sentencing process where hearsay is admissible).

23 ⁷ *See United States v. Overstreet*, 2012 WL 5969643, *20 (D. Idaho Nov. 29, 2012) (because ownership
issues must be deferred to the ancillary proceeding, defendant cannot oppose a forfeiture order on the
ground that the property belongs to a third party).

24 ⁸ *See Lo*, 839 F.3d at 792 (adopting the definition in § 981(a)(2)).

1 property purchased directly with such proceeds, or property traceable to such proceeds through a
2 chain of events in which the proceeds changed from one form to another, no matter how many
3 such changes took place, or how much time passed. *United States v. 3814 Thurman Street*, 164
4 F.3d 1191, 1196 (9th Cir. 1999) (money obtained as a consequence of false loan application is
5 proceeds; equity acquired with such borrowed funds is also proceeds).⁹ When a defendant is
6 convicted of an offense involving a “scheme to defraud” – such as the offenses set forth in
7 Counts 100-104 – the defendant must forfeit the proceeds of the entire scheme, not just the
8 proceeds of the particular executions of the scheme on which he was convicted. *United States v.*
9 *Lo*, 839 F.3d at 793 (forfeiture in a mail or wire fraud case is not limited to the executions of the
10 scheme on which defendant was convicted, but includes the proceeds of the entire scheme,
11 “including additional executions of the scheme that were not specifically charged or on which
12 the defendant was acquitted”).¹⁰ Likewise, when a defendant is convicted of a conspiracy, he
13 must forfeit the proceeds of the entire conspiracy. *United States v. Newman*, 659 F.3d 1235, 1244
14 (9th Cir. 2011) (if the crime is part of a conspiracy, the proceeds equal the total amount of the
15 proceeds obtained by the conspiracy as a whole).¹¹

16 When the defendant’s offense involved an inherently unlawful scheme, or a
17 business so pervaded by fraud that it would not have existed but for the fraudulent activity,
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19 ⁹ See *United States v. Swanson*, 394 F.3d 520, 529 n.4 (7th Cir. 2005) (a change in the form of the
20 proceeds does not prevent forfeiture; property traceable to the forfeitable property is forfeitable as
well).

21 ¹⁰ See *United States v. Harris*, 842 Fed. Appx. at 33 (same; following *Lo*).

22 ¹¹ See *United States v. Capoccia*, 402 Fed. Appx. 639, 640 (2d Cir. 2010) (it is not necessary for the
23 Government to allege every aspect of a conspiracy as a substantive offense to be able to forfeit the
24 proceeds of the entire conspiracy); *United States v. Peters*, 257 F.R.D. 377, 387 (W.D.N.Y. 2009)
(defendant convicted of a fraud conspiracy is liable to forfeit the proceeds of the entire conspiracy,
including property derived from specific acts that were alleged in the indictment as substantive counts on
which the defendant was acquitted), aff’d 732 F.3d 93 (2d Cir. 2013); *United States v. Vico*, 2016 WL
233407, *5 (S.D. Fla. Jan. 20, 2016) (following *Capoccia*; when defendant is convicted of a conspiracy,
“it is not necessary to charge as a substantive offense every aspect of a conspiracy in order to forfeit the
proceeds of an entire conspiracy”).

1 the defendant must forfeit the gross proceeds of the scheme without any deduction for his
2 expenses, and without any credit for any legitimately derived income. *See United States v.*
3 *Christensen*, 828 F.3d 763, 822 (9th Cir. 2015) (in light of the legislative history, the
4 commentary to Rule 32.2, and other factors, such as the benefit of applying the punishment
5 of forfeiture to all criminals and not just those who turn a profit, the defendant must forfeit
6 the gross receipts of his offense).¹²

7 As the Ninth Circuit held in *United States v. Prasad*, 18 F.4th 313 (9th Cir. 2021),
8 holding a defendant liable only for his net profits instead of the gross proceeds of his
9 offense would be inconsistent with the purpose of forfeiture, which is punishment and
10 deterrence. A forfeiture that simply divests a defendant of his profits, the court said, would
11 have “little deterrent value,” would “hinder [the statute’s] punitive purpose”), and would
12 allow defendants to defeat forfeiture by reinvesting proceeds in the criminal enterprise
13 before conviction rather than pocketing the profits. 18 F.4th at 322.

14 Finally, proof that property constitutes the proceeds of a criminal offense may
15 include circumstantial evidence. Most commonly, such evidence includes a showing that
16 defendant acquired the property during the time that he was committing the offense giving
17 rise to the forfeiture, and when he had no other source of funds with which he would have
18 been able to acquire the property. *See United States v. Real Property Located in Potomac,*
19 *MD*, 2022 WL 1642272, *5 (D. Md. May 24, 2022) (to establish the nexus between the
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21 ¹² See also *United States v. Bikundi*, 926 F.3d 761, 793 (D. C. Cir. 2019) (because defendant’s home
22 health care operation was so pervaded by fraud that it would not have existed but for the fraud, all
23 revenue of the business is forfeitable as fraud proceeds, even if some of it was payment for legitimate
24 services); *United States v. Warshak*, 631 F.3d 266, 329-330 (6th Cir. 2010) (all proceeds of defendant’s
business are forfeitable because the business was “permeated with fraud”); *United States v. Smith*, 749
F.3d 465, 488-89 (6th Cir. 2014) (following *Warshak*; if business is so pervaded by fraud that its revenue
stream would not have existed but for the fraud, any asset derived from that revenue stream is forfeitable
as proceeds).

1 property and the crime giving rise to the forfeiture, the Government may rely on the
2 purchaser's lack of legitimate sources of income and the timing of the purchase in relation
3 to the crime).¹³

4 **B. Property Used to Commit or to Facilitate the Offense**

5 A person convicted of an offense under Section 38(a) must also forfeit "any
6 property used, or intended to be used in any manner, to commit or facilitate the
7 commission of the offense . . . taking into consideration the nature, scope, and
8 proportionality of the use of the property [to] the offense." 18 U.S.C. § 38(d)(1)(B).
9 Property "used to commit" an offense includes the subject or "corpus" of the offense
10 and/or an "instrumentality" essential to the commission of it. If the offense is the payment
11 of a bribe, for example, the bribe money is property used to commit the offense. *See*
12 *United States v. Lindberg*, 2020 WL 4518881, *4 (W.D.N.C. Aug. 4, 2020) (bribe money
13 might be characterized as property "used to commit" a bribery offense, or as the proceeds
14 of the bribe; the terms are not mutually exclusive).¹⁴

15 "Facilitating property" is the overlapping but significantly broader term that
16 includes any property that made the offense easier to commit or harder to detect. *United*
17 *States v. Hull*, 606 F.3d 524, 528 (8th Cir. 2010) (facilitating property includes more than
18 the instrument actually used to commit the crime; when defendant distributed child
19 pornography on the internet, his computer was the instrument, but his house was
20 forfeitable because it provided him with a secure location where he could operate in

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22 ¹³ *Cf. United States v. Taylor*, 239 F.3d 994, 999 (9th Cir. 2001) (Government proved proceeds
23 element of money laundering offense by showing defendant had no source of legitimate income).
24 ¹⁴ See also *United States v. Weichman*, 2016 WL 5929254, *1 (N.D. Ind. Oct. 12, 2016) (property
concealed in bankruptcy proceeds is forfeitable as property "used or intended to be used to
commit" a violation of § 152).

1 privacy). There are myriad examples, ranging from vehicles and firearms to residences,
2 bank accounts, and entire businesses that were used to make “the prohibited conduct less
3 difficult or more or less free from hindrance.” *United States v. Huber*, 404 F.3d 1047, 1060
4 (8th Cir. 2005).¹⁵

5 As noted, Section 38(d)(1)(B) requires the court to find that the forfeiture of the
6 property used to commit or to facilitate the commission of the offense would be
7 proportional to the offense, taking into account its “nature” and “scope.” There is no case
8 law applying these terms in the context of Section 38, but in other contexts courts have
9 observed the proportionality requirement by looking both to the nature and scope of the
10 offense – *i.e.*, how serious was the crime, what harm was caused, how long did the illegal
11 conduct go on, how many people were affected – and to the relationship of the property to
12 the offense. The latter consideration is known as the “substantial connection test:” that is,
13 the forfeiture of property will be considered proportional to the offense if its role in the
14 commission of the offense, though not necessarily “integral, essential, or indispensable,”
15 *Seher, supra*, was merely “incidental or fortuitous.” *See United States v. Trouba*, 2022 WL
16 17325833, *5-6 (D. Neb. Nov. 29, 2022) (applying the substantial connection test, court
17 finds that a residence where the defendant stored and processed drugs, and made use of
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20 ¹⁵ See *United States v. Puche*, 350 F.3d 1137, 1153 (11th Cir. 2003) (same); *United States v. Seher*, 574
21 F. Supp.2d 1368, 1370 (N.D. Ga. 2008) (“To facilitate the offense, the property need only make the
22 prohibited conduct less difficult or more or less free from obstruction or hindrance. Thus, there is no
23 requirement that the property’s role in the crime be integral, essential, or indispensable.”). *See United*
24 *States v. Schifferli*, 895 F.2d 987, 990-91 (4th Cir. 1990) (dentist’s office where illegal prescriptions were
written was forfeitable because “it provided an air of legitimacy and protection from outside scrutiny”);
United States v. \$7708.78 in U.S. Currency, 2011 WL 3489835, *3 (S.D. Miss. Aug. 9, 2011) (facilitating
property is anything that makes the crime “less difficult or more or less free from obstruction or
hindrance;” a pharmacy used as a cover for the illegal distribution of drugs is forfeitable as facilitating
property).

1 surveillance cameras and hidden compartments, was forfeitable as facilitating property)
2 (collecting cases).¹⁶

3 **C. Property Involved in Money Laundering**

4 A defendant convicted of a money laundering offense in violation of 18 U.S.C. §
5 1957 must forfeit all “property involved” in the offense. 18 U.S.C. § 982(a)(1). Among
6 other things, the property involved in a money laundering offense includes the criminal
7 proceeds that are the subject of the money laundering transaction. *United States v. Waked*
8 *Hatum*, 969 F.3d 1156, 1163-64 (11th Cir. 2020) (defendant convicted of money
9 laundering is liable to pay a money judgment equal to the value of the criminal proceeds
10 that he laundered because that was the corpus of the money laundering offense). As the
11 court held in *Waked Hatum*, if the defendant no longer has the criminal proceeds that he
12 laundered, he remains liable for a money judgment equal to the value of those proceeds.
13 969 F.3d at 1165.

14 **D. Money Judgments**

15 In all criminal cases involving a crime for which the forfeiture of the proceeds of
16 the offense is authorized, the defendant is liable to forfeit those proceeds in the form of a
17 personal money judgment. *United States v. Newman*, 659 F.3d 1235, 1242-43 (9th Cir.
18 2011) (forcing defendants to disgorge their ill-gotten gains, “even those already spent,”
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20 ¹⁶ See also *United States v. Real Property Located at 3846 Nisenan Lane*, 2009 WL 2777178, *3
21 (E.D. Cal. Aug. 28, 2009) (use of property for marijuana grow operation for at least three months,
22 and involving 465 marijuana plants, established a substantial connection; collecting cases). See
23 also *United States v. Schifferli*, 895 F.2d at 990-91 (use of dentist office on multiple occasions to
24 write illegal prescriptions showed connection was more than incidental or fortuitous); *United States*
v. One Parcel...2526 Faxon Ave., 145 F. Supp. 2d 942, 946 (W.D. Tenn. 2001) (following
Schifferli; connection need not be integral, essential, or indispensable, but must have been more
than incidental or fortuitous). But see *United States v. Del Guidice*, 594 F. Supp.3d 998, 1009
(N.D. Ill. 2022) (evidence that vehicle was used twice in furtherance of an ongoing sports betting
operation too “transitory and tangential” to satisfy the substantial connection test).

1 ensures that defendants do not benefit from their crimes; when the Government seeks a
2 money judgment, the district court's only role, under Rule 32.2(b), is to determine the
3 amount of money that the defendant will be ordered to pay).¹⁷

4 If the same sum of money is subject to forfeiture under two separate theories – e.g.,
5 as the proceeds of fraud and as property involved in the laundering of those proceeds – the
6 court must enter a forfeiture judgment under both theories, but should impose them
7 concurrently to avoid double counting. *See United States v. Brown*, 2006 WL 898043, *4
8 (E.D.N.Y. 2006) (if the defendant is found liable to pay a money judgment under two
9 different theories in the same case, but the judgments relate to the same funds—i.e., the
10 proceeds of a fraud and the property involved in laundering the fraud proceeds—the
11 judgments are concurrent).¹⁸

12 If the Government is able to recover, through forfeiture, specific assets derived
13 from the proceeds of the offense, or from the property involved in a money laundering
14 offense, the defendant is entitled to credit against the money judgments for the value of the
15 property recovered. *See United States v. Ventura-Oliver*, 2014 WL 2712294, *6 (D. Haw.
16 June 13, 2014) (to avoid double counting, a defendant ordered to forfeit fraud proceeds is
17 entitled to credit against the money judgments for the value of any specific assets derived
18 from the scheme that are also forfeited).¹⁹

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20 ¹⁷ See also *United States v. Phillips*, 704 F.3d 754, 771 (9th Cir. 2012) (same). “[T]he district court has
no discretion to reduce or eliminate mandatory criminal forfeiture . . . [and] may not reduce forfeiture
because of an order of restitution.” *Newman*, 659 F.3d at 1240-41.

21 ¹⁸ See *United States v. Joseph*, 185 F. Supp.3d 1290, 1292 (D. Utah 2016) (noting that the Government
22 requested concurrent money judgments to reflect defendant's convictions for both bank fraud and money
laundrying); *United States v. Saccoccia*, 823 F. Supp. 994, 1006-07 (D.R.I. 1993) (where defendant is
subject to forfeiture of same property under § 982 and RICO, forfeitures are concurrent and not
23 cumulative), *aff'd*, 58 F.3d 754 (1st Cir. 1995)).

24 ¹⁹ See *United States v. Del Guidice*, 594 F. Supp.3d at 1022 (finding defendant liable for \$3.5 million
money judgment with credit for \$1 million in cash forfeited as proceeds); *United States v. Ponzo*, 2014
WL 3893790, *5 (D. Mass. Aug. 6, 2014) (court orders defendant to pay money judgment with credit for

1 Moreover, the defendant is entitled to credit against money judgments only for the
2 value of specific assets that are forfeited under the same theory. That is, a defendant who is
3 ordered to pay a money judgment equal to the proceeds of his offense is entitled to credit
4 against the money judgments for the value of any specific assets that are forfeited as
5 property derived from or traceable to those proceeds, but he is *not* entitled to credit for the
6 value of property forfeited as facilitating property. In the former case, the credit is
7 necessary to avoid double counting, but in the latter case it is not. *See Williams*, 2023 WL
8 4764597, *6 (where the forfeiture judgment was based on the value of defendant’s drug
9 proceeds, he was entitled to credit for the value of forfeited assets traceable to proceeds,
10 but not the value of forfeited facilitating property).²⁰

11 Accordingly, in a fraud and money laundering case like this one, the proper
12 procedure is for the court to determine the amount of money the defendant must be ordered
13 to forfeit in terms of the gross proceeds of the fraud, to impose a forfeiture judgment in
14 that amount to run concurrently with any money judgments for the amount involved in the
15 money laundering offenses for which the defendant was convicted and which involve the
16 same funds, and to provide that when any specific assets forfeited as proceeds or as
17 property involved in money laundering are sold, the defendant will be given credit against
18 the money judgments for the net proceeds of the sale of those assets. To the extent that the
19

20
21 the value of the specific assets found to be forfeitable by the jury), *aff’d*, 853 F.3d 558 (1st Cir. 2017).
22 The credit, however, is based on the net proceeds of the sale of the forfeited assets, not on their estimated
23 value when they were forfeited. *See United States v. Williams*, 2023 WL 4764597, *5 (D. Md. July 25,
2023) (defendant is entitled to credit against money judgment for net proceeds of sale of administratively
24 forfeited assets (after deducting costs), not estimated value when it was seized).

²⁰ See also *United States v. Moses*, 2010 WL 3521725, *9 (D. Vt. Sept. 7, 2010) (ordering
defendant to pay money judgment equal to gross receipts from drug sales, less the value of assets
forfeited as proceeds, but with no credit for asset forfeited as facilitating property).

1 money judgments remain – or is likely to remain -- unsatisfied after such credits are taken
2 into account, the court may order the defendant to forfeit substitute assets.

3 **E. Calculating the Amount of the Money Judgments**

4 Rule 32.2(b)(1)(A) provides that “if the Government is seeks a personal money
5 judgment, the court must determine the amount of money that the defendant will be
6 ordered to pay.” Rule 32.2(b)(1)(A). The determination need not be limited to the amount
7 of money that the Government alleged would be subject to forfeiture in the indictment. To
8 the contrary, if the forfeiture notice in an indictment uses terms like “at least” and
9 “including but not limited to” to describe the proceeds subject to forfeiture, the indictment
10 does not limit the forfeiture to any specific amount. *See United States v. Segal*, 495 F.3d
11 826, 839-40 (7th Cir. 2007) (because the forfeiture notice used terms like “at least” and
12 “including but not limited to” in describing the proceeds subject to forfeiture, the
13 indictment did not limit the forfeiture to any specific figure or assets).²¹ In this case, the
14 Second Superseding Indictment stated that that the defendants would be required to forfeit
15 proceeds of “at least \$300,000,000.” ECF 862 at 44.

16 The calculation of the amount of the money judgment need not be precise. As the
17 Second Circuit said in the leading case on this issue, because forfeiture is punitive, not
18 restitutive, the calculation of the forfeiture money judgment need not be exact and is not
19 improper if it exceeds what the defendant obtained to some extent. *United States v.*
20 *Roberts*, 660 F.3d 149, 166 (2d Cir. 2011). Thus, the district court is allowed “broad
21 discretion” in choosing a method for calculating the proceeds the defendant realized from a
22

23 ²¹ See also *United States v. Dillon*, 2017 WL 4870910, *2 (D. Idaho Oct. 27, 2017) (because the
24 indictment indicated that the Government would seek the forfeiture of “at least \$143,000,” Defendant
could not claim surprise when the amount forfeited turned out to be \$847,000).

1 criminal offense; while courts generally choose a conservative method of making the
2 calculation, the court is not required to choose the most conservative method that results in
3 the smallest forfeiture. *United States v. Walters*, 910 F.3d 11, 32 (2nd Cir. 2018).²²

4 The forfeiture hearing on the money judgment in this case is currently scheduled
5 for December 14, 2023, concurrent with the sentencing hearing. The United States requests
6 that the forfeiture hearing be held as soon as practicable to prevent the dissipation of assets.
7 A forfeiture hearing as soon as practicable comports with the requirements of Rule 32.2
8 (b)(1)(B).

9 **F. Substitute Assets**

10 The Court’s authority to order the forfeiture of substitute assets is found in 21
11 U.S.C. § 853(p), which is incorporated by 28 U.S.C. § 2461(c) and 18 U.S.C. § 982(b)(1).
12 *See also* 18 U.S.C. § 38(d)(2) (incorporating the procedures in § 853 for purposes of
13 forfeiture under § 38). As relevant here, Section 853(p) provides that if — as a result of
14 any act or omission of the defendant — property subject to forfeiture has been transferred
15 or sold to, or deposited with, a third party, or has been commingled with other property
16 which cannot be divided without difficulty, the court shall order the forfeiture of any other
17 property of the defendant, up to the value of any property subject to forfeiture. *See* 21
18 U.S.C. § 853(p)(1)-(2).²³

19
20 ²² *See United States v. Prather*, 456 Fed. Appx. 622, 626 (8th Cir. 2012) (following *Roberts*; the law
21 does not require “mathematical exactitude” in calculating the amount subject to forfeiture; rather, the
22 court may make “reasonable extrapolations” from the facts); *United States v. Ford*, 296 F. Supp.3d 1251,
23 1260 (D. Or. 2017) (“the calculation of forfeiture does not require mathematical exactitude,” and “courts
24 may “make reasonable extrapolations from the evidence”); *United States v. Harris*, 2018 WL 6184878,
*10 (D. Haw. Nov. 27, 2018) (approving calculation of the forfeiture judgment based on a reasonable
estimate drawn from evidence in the record; the calculation does not require “mathematical exactitude”;
following *Ford*).

²³ *See also United States v. Soreide*, 461 F.3d 1351, 1352 n.1 (11th Cir. 2006) (per curiam) (§
853(p) “provide[s] for forfeiture of substitute assets of the defendant if the property involved in or
traceable to the crime is not available for forfeiture”).

1 As noted earlier, substitute assets are commonly forfeited to satisfy, at least in part,
2 any portion of a forfeiture money judgment that remains unsatisfied – or is likely to remain
3 unsatisfied – after the defendant is given credit for the value of any specific assets that
4 have been forfeited and sold. *See United States v. Bermudez*, 413 F.3d 304, 306-07 (2d Cir.
5 2005) (affirming forfeiture of substitute assets in partial satisfaction of \$14.2 million
6 money judgment in a money laundering case).²⁴

7 Rule 32.2(e)(1)(B) provides that, on the United States’ motion, the Court may “at
8 any time” enter an order of forfeiture to include substitute property that qualifies for
9 forfeiture under an applicable statute. Indeed, if the government establishes that the
10 property is subject to forfeiture under Rule 32.2(e)(1), the court “must” enter an order
11 forfeiting the substitute property. *See United States v. Alamoudi*, 452 F.3d 310, 314 (4th
12 Cir. 2006) (“Section 853(p) is not discretionary... [W]hen the Government cannot reach the
13 property initially subject to forfeiture, federal law requires a court to substitute assets for
14 the unavailable tainted property”).²⁵

15 Unlike other types of forfeiture under 21 U.S.C. § 853 and Rule 32.2(e)(1)(B),
16 there is no nexus or tracing requirement for the forfeiture of substitute property under 21
17 U.S.C. § 853(p) and Rule 32.2(e)(1)(B). By definition, substitute property can be "any"
18
19
20

21 ²⁴ See also *United States v. Carroll*, 346 F.3d 744, 749 (7th Cir. 2003) (defendant may be ordered to
22 forfeit “every last penny” he owns as substitute assets to satisfy a money judgment); *United States v.*
23 *Manlapaz*, 825 Fed. Appx. 109 (4th Cir. 2020) (“it is well-established that the Government may seek
24 forfeiture of substitute assets when a defendant does not have the money to satisfy a money judgment);
United States v. Kingston, 2023 WL 2634692 (D. Utah Mar. 24, 2023) (noting that the Government may
satisfy a money judgment by forfeiting substitute assets and citing *Asset Forfeiture Law in the United*
States (2d ed.) at § 24-7).

²⁵ See also *United States v. Garza*, 407 Fed. Appx. 322, 324 (10th Cir. 2011) (same; following *Alamoudi*).

1 property of the defendant. In fact, substitute assets are only forfeitable because the
2 traceable and directly forfeitable property is unavailable. *See* 21 U.S.C. § 853(p).²⁶

3 Any of the defendant’s property having less than or equal value to forfeited
4 property can be forfeited as a substitute asset. As the Eleventh Circuit said in *United States*
5 *v. Fleet*, 498 F.3d 1225 (11th Cir. 2007), because Congress chose broad language
6 providing that any property of the defendant may be forfeited as a substitute asset, it is not
7 for the courts “to strike a balance between the competing interests” or to carve out
8 exceptions to the statute. 498 F.3d at 1231 (holding that defendant’s residence can be
9 forfeited as a substitute asset notwithstanding state homestead and tenancy by the entireties
10 laws).

11 Finally, if the Government has identified a potential substitute asset but the court is
12 not prepared to order its forfeiture – because the deficiency in the payment of the money
13 judgments has not yet been determined, or for any other reason – the court may enter a
14 post-conviction restraining order pursuant to 21 U.S.C. § 853(g) restraining the defendant
15 or any third party from disposing of or encumbering the asset to preserve it for forfeiture.
16 *See United States v. Way*, 2018 WL 6338724, *3 (E.D. Cal. Dec. 5, 2018) (granting motion
17 to stay forfeiture money judgment pending appeal but restraining defendant from “directly
18 or indirectly disposing of any property . . . in a manner that would hinder the United
19 States’ ability to enforce the [forfeiture] judgment . . . after disposition of the appeal”).²⁷

21 ²⁶ *United States v. Cohen*, 2015 WL 5522144, *3 (N.D. Cal. Sept. 18, 2015) (overruling
22 defendant’s objection that the substitute assets were not traceable to his offense; the only issue is
whether the value of the substitute assets exceeds that of the money judgment).

23 ²⁷ *See also United States v. Brown*, 2011 WL 1344177, *1 (D. Md. Feb. 28, 2011) (the court may use §
24 853(g) to restrain substitute assets until the court rules on the Government’s Rule 32.2(e) motion to add
the assets to the order of forfeiture); *United States v. Kilbride*, 2007 WL 2990116, *2 (D. Ariz. 2007)
(court freezes defendant’s commingled bank account so that Government may file a motion under §
853(p) to forfeit the untainted funds as substitute assets).

1 **VI. Applying the Law to the Subject Property**

2 **A. Money Judgment for \$400,000,000 in Proceeds.**

3 On August 30, 2022, the United States filed its supplemental forfeiture trial
4 memorandum, which gave notice that the United States sought a money judgment of at least
5 \$400,000,000.00. *See* ECF Nos. 1741 and 1741-1. Defendants made multiple admissions that
6 for the last 20 years at any given time between 40 and 50 helicopters were being leased to tuna
7 boat companies. (ECF 1321, G-0761, G-0366). The evidence at trial was provided by the
8 testimony of the forensic accountant Teshara Jones and Internal Revenue Service (IRS) Special
9 Agent Viranousith Khamvongsa, bank records, internal financial documents, QuickBooks
10 records, tax records, leases, and analyses of defendants' fraudulent activities. More details are
11 contained in the Declaration of Special Agent Khamvongsa, and will not be reiterated here. The
12 testimony of Ms. Jones and Special Agent Khamvongsa was unrefuted. *See* Exhibit B.

13 **B. Money Judgment for \$11,770,000 Involved in Money Laundering**

14 The defendant Walker was convicted of six counts of money laundering in violation of 18
15 U.S.C. § 1957 (Counts 105-110). The total amount of money involved in those offenses was
16 \$11,770,000. Accordingly, the defendant must pay a forfeiture money judgment in the amount
17 of \$11,770,000 pursuant to Section 982(a)(1). For the reasons set forth above, this money
18 judgment should be concurrent with the judgment for the proceeds of the violations of Sections
19 38 and 1343/1349 to avoid double counting. In addition, the defendant is entitled to credit again
20 the money judgment for the four sums of money forfeited in the September 29, 2022 Order
21 (totaling \$4,642,897.90).

22 **C. Forfeiture of the Alter Ego Companies**

23 The following evidence establishes that all companies previously found by the Court and
24 jury as alter egos of Walker and Hansen, plus Hansen Helicopters Marshall, MidAmerica

1 Turbine, Walker Agricola, and Walkers Helicopters, are subject to forfeiture as property used to
2 commit the violations of Section 38(a) and (b) on which the defendants were convicted. Walker
3 started working for Hansen in or around 1990, and purchased the company in 1998. (ECF 1321).
4 Walker then formed eight (8) U.S. corporations (in 1999) to own individual helicopters which
5 were leased to individual tuna boats, and multiple Vanuatu corporations to register aircraft on the
6 US Registry. *Id.* He also created Caledonia Insurance Co. Ltd., to establish “self-insurance,” on
7 October 19, 2000. *Id.* Following the formation of the corporations, Walker registered the aircraft
8 with the Federal Aviation Administration (FAA) Registry, certifying 1) a U.S. corporation or
9 citizen was registering them, and 2) compliance with the U.S. aviation regulations. G-1245 and
10 G-1252 (Summary charts – bill of sale and registration, respectively). Walker then leased the
11 helicopters, pilots, and mechanics to tuna boat companies for approximately \$40,000 per month.
12 See G-2900, G-0725, and G-0726.

13 Regardless of which company leased which helicopters, pilot, and mechanic, Hansen
14 controlled all administration of the leases, hiring all pilots and mechanics, conducting
15 maintenance of the helicopters, and purchasing parts for the helicopters. ECFs 1321, 53-1, 161,
16 259-1. The Hansen administrative team were required to keep Walker apprised of all activities,
17 G-761, as Walker owned 99.99% of all of the companies used in the fraud, and the scintilla of
18 “ownership” by others was a fiction. G-0302 and, testimony of Reed.

19 Walker purchased helicopters that were previously destroyed or substantially damaged.
20 G-1247 and G-362. Walker hired pilots and mechanics who were not certificated, G -1248, made
21 numerous fraudulent representations to the FAA regarding the leased helicopters (G-0275), and
22 to the tuna boat companies regarding the pilots, mechanics, and helicopters (G-2900). Walker
23 bribed the FAA Safety Inspector responsible for certifying the airworthiness of the helicopters so
24 that he issued false airworthiness certificates (G-0304), and purchased counterfeit parts for the

1 helicopters because such were cheaper (G-1947, Reed testimony). Walker used each and every
2 one of the companies to disguise his ownership (G-1245), his operation (G-1252), his
3 employment (G-0372), and the recipient of the proceeds of the fraud (G-2939) - Walker. In
4 addition to the Court's prior findings (ECFs 1704 and 1738), defendants' stipulation (ECF 1812),
5 and the Court's Order (ECF 1813), the following four companies were also used as alter egos in
6 the fraud based on the following evidence:

7 **Hansen Helicopters Marshall, Inc. (HHM)** - G-0516 (Crowe part of company;
8 company part of fraud); G-3052 (FBI report cargo from Pacific Spotters Corp. (PSC) to
9 HHM); G-3053 (FBI report cargo from HHM to HHG via Sarimos using same letterhead
10 as Hansen Helicopters Guam (HHG)); G-3055 (Checks HHG to HHM, regularly paid,
11 2015-2017); G-3059 (HHG produced HHM record showing checks from Limey 4/1/20-
12 7/8/20); G-3060 (HHM fleet shown as HHG Majuro); FBI CGQA Cargo Inspection
13 2019-07-02: p. 2 connection between PSC and HHM as consignee in Majuro; p. 4 of
14 overhauled engine worth \$20k; p. 5 same worth \$95.25; pp. 7-8 same; references Espion
15 and Sarimos (G-0006 and G-0008); FBI CGQA Cargo Inspection 2019-08-26: From
16 HHM to HH Guam (Sarimos) aircraft parts; letterhead for HHM the same as for HHG;
17 FBI CGQA Cargo Inspection 2019-09-17: From HHM to HHG (Sarimos) aircraft parts;
18 letterhead for HHM the same as for HHG; 1 Hansen Helicopters Copy 4-13-18:
19 Establishes close relationship between HHG; Community First GU: IG Subpoena to
20 HHG providing HHM records; p. 619 showing check from Limey to HHM; p.616, 646,
21 779, etc.; HHM ULIGA Summary Inventory: Shows HHM was HHG operation in
22 Majuro; lists helicopters; D-115 showing helicopters used in fraud; on organizational
23 chart G-0829 with Walker as 99.9% owner.

24 **Mid-America Turbine (MAT)** – G-1245 (Registration file showing
owned/registered subject helicopter); G-3062 (MAT transfer to/from Wilma's 500K); G-
3065 (email re MAT via Kapp purchasing helicopter for use in scheme); G-3067-3068
(Walker ownership and control of MAT); G-3070 (on tuna boat leasing roster); G-3071
(connects to HHG and fraud); Wilma's Feb 2015 Cash Flows: Shows MAT contributing
\$500k to Wilma's cash transferred to Bank of Hawaii Caledonian; Walker Disc 2
N1512L Case with IOPs: Summary of N1512L showing MAT involved with
Walker/Cislo in defrauding the FAA; Tuna Boat Helicopters: MAT shown as associated
with a HHG helicopter that was leased as part of the fraud; Sr4942: Wilma's
Reconciliation Detail with >\$350K going to MAT; the Community Bank & Trust records
for Mid America Turbine LLC account ending in 4759 show that Walker was one of two
signers on the bank account, and from December 18, 2013, to July 18, 2017, 97% of the
total deposits into account ending in 4759 were from Caledonian Agency, Inc., and
Wilma's Flight Service Inc., which are Walker's alter egos (account ending in 4759 is the
same account that received the fraud proceeds).

1 **Walkers Helicopters** – G-0366 p.2 (identified as company part of group
2 available for sale as a Hansen Helicopter’s wholly owned subsidiary); used
3 interchangeably with Walker Helicopters, found alter ego; on organizational chart tracing
4 Walkers Helicopters them back to Walker and further identifying Walker’s shares of
5 ownership as 99.9%. G-0829.

6 **Walker Agricola** - Walker transfers \$5m from Hansen Northern to Walker
7 Agricola, showing association to fraud and use of Walker Agricola as alter ego; John D.
8 Walker Report: p. 6 – Walker owner and manager of LLC; jury finding of money
9 laundering of proceeds from fraudulent activities from Hansen Northern Helicopters,
10 Inc.’s bank account ending in 3534 into Walker Agricola, LLC’s bank account ending in
11 4056 involving at least two monetary transactions over \$10,000 of proceeds totaling
12 \$5,000,000.00 from 12/19/2016 to 12/20/2016.

13 All of the companies referenced above were used to commit or to facilitate the fraud
14 upon the government and tuna boat companies for which Defendants were found guilty when
15 Walker used the shell companies to: 1) falsely claim they owned the helicopters (G-1245); 2)
16 falsely claim they were registering the helicopters (G-1252); 3) obtain false airworthiness
17 certificates from a bribed safety inspector (G-304); 4) illegally hire uncertificated pilots and
18 mechanics (G-372); 5) open bank accounts in their names (G-2939); 6) transfer illegal proceeds
19 through the accounts to conceal the true beneficiary of the illegally funds (G-2939); and 7) lease
20 the helicopters, pilots and mechanics to tuna boat companies under false pretenses (G-2900).
21 Further details of this facilitation are discussed below.

22 Evidence at trial as well as the Khamvongsa Declaration (Exhibit B) demonstrate that all
23 of the companies received proceeds of the wire fraud and were used by the Walker to move the
24 proceeds around in an effort to conceal their nature and source. The alter ego companies were
used to 1) open bank accounts; 2) register aircraft with false bills of sale; 3) lease helicopters
under false terms; and 4) transfer funds from the fraudulent leases so such would be received by
Walker undetected. Furthermore, the complicated layering of accounts and movement of illegal
proceeds in this case helped Walker distance himself from the fraud which, in turn, allowed the
fraud to continue and allowed him to reap the benefits of the fraud proceeds.

1 Finally, the companies were used to commit the Section 38 violations in that the fraud
2 was carried out in their names. Accordingly, all companies, and all of their assets, are subject to
3 forfeiture pursuant to Section 38(d)(1)(B). *See United States v. Segal*, 432 F.3d 767, 779 (7th
4 Cir. 2005) (if a business is forfeited, then so are all of its assets).²⁸

5 **D. Aircraft, Vehicles, Trailers, Vessels, and Real Estate - Proceeds of the Fraud.**

6 The Government seized defendants' records, including QuickBooks records from 1998
7 through the date of the seizure, October of 2016; we also seized or subpoenaed bank records,
8 schedule of billings and collections, financial statements, and tax records. All show that the sole
9 source of income to Walker from 1998 to present is income from the fraudulent leases. *See*
10 Declaration of Internal Revenue Service Special Agent Viranousith Khamvongsa attached as
11 Exhibit B, testimony of forensic accountant Teshara Jones, and testimony of Viranousith
12 Khamvongsa.

13 As explained in Exhibit B, the defendants acquired the Subject Assets – over 100
14 helicopters and 16 airplanes (Exhibit A); 53 trucks, cars, motorcycles, and other vehicles
15 (Exhibit A); two vessels (Exhibit A); and over 20 parcels of real property (Exhibit A)
16 (collectively, the Subject Assets) -- at a time when his sole source of income was the scheme
17 alleged in Counts 9-12 (Aircraft Parts Fraud) and Counts 99-104 (wire fraud and conspiracy to
18 commit wire fraud). For the reasons explained earlier, the timing of the acquisition of these
19 assets, combined with the defendant's lack of income from any source sufficient to explain his
20 acquisition of these assets during that time, is sufficient to establish by a preponderance of the

21
22 ²⁸ *United States v. Park*, 825 F. Supp. 2d 644, 648 (D. Md. 2011) (“If a business is subject to
23 forfeiture or restraint, then so are all of the assets of the business, including any funds in any account at a
24 financial institution”); *United States v. Bangiyev*, 141 F. Supp.3d 589 (E.D. Va. 2015) (when business is
forfeited as property used to facilitate an offense, so are all of its assets, whether or not they have a nexus
to the offense).

1 evidence that these assets were derived from or are traceable to the proceeds of one or both of the
2 fraud schemes. Accordingly, each and every one of the Subject Assets is subject to forfeiture
3 pursuant to Section 38(d)(1)(A) (proceeds of the violations of § 38(a) and (b)) and Section
4 981(a)(1)(C) (proceeds of wire fraud and conspiracy to commit wire fraud).

5 **E. Aircraft, Real Estate, and Parts – Section 38(d)(1)(B)**

6 In addition, some of the Subject Assets – as well as certain aircraft parts – are subject to
7 forfeiture as property used to commit or to facilitate the commission of the violations of Section
8 38(a) and (b) on which the defendants were convicted. Those are identified as such in Exhibit A.

9 **1. Aircraft that were used to commit or to facilitate the fraud**

10 Walker used over 100 helicopters listed in Exhibit A to commit or to facilitate the
11 commission of the fraud by using them to conceal 1) the true condition of the helicopters; 2) the
12 true identity of the helicopters; 3) the true ownership of the helicopters; 4) the true controller of
13 the helicopters; 5) the true registrant of the helicopters; 6) recipient of funds in the form of lease
14 payments; 7) information from the FAA and other civil aviation authorities; 8) information from
15 the NTSB; 9) information from the pilots and mechanics who believed they were airmen for
16 legitimate aircraft; and 10) the installation of counterfeit parts on those helicopters. (See G-1245,
17 G-1252, G-1242, G-1247, G-2900, G-2990, ECF 1947, testimony of Marinho, Bustos, Braga,
18 Khamvongsa, Cislo and White).

19 Accordingly, these helicopters are subject to forfeiture not only as the proceeds of the
20 defendants' offenses, but also under Section 38(d)(1)(B) as property used to commit or to
21 facilitate the commission of the violations of Section 38(a) and (b).

22 **2. Real Estate**

23 Walker also used real property to facilitate the fraud. Specifically, he used the Hansen
24 Helicopters facility on Guam, and co-conspirator Rogers' facility in Georgia after he bought it

1 from Rogers in which the subject helicopters were illegally rebuilt, to do so. (G-761, G-551).
2 Both facilities were used to install counterfeit parts on the aircraft, and to allow the aircraft to be
3 otherwise concealed from proper inspection.

4 The evidence at trial established beyond a reasonable doubt that 1) the Hansen facility is
5 where the helicopters were brought for maintenance (G-761, Reed testimony, Prozik testimony);
6 2) the Hansen facility is where the counterfeit parts were ordered from and shipped to (White
7 testimony, Reed testimony, G-1947, G-163, G-164, G-2959); and 3) Rogers' facility is where the
8 subject helicopters were sent for rebuilding and from where many were seized (G551; G-148;
9 G315-319, G-2484, G-2485, G-2488, and G-2963-2965, Prozik testimony, Sprayberry testimony,
10 Guzzetti testimony, and White testimony).

11 For these reasons, the real property listed as real property that facilitated the fraud in
12 Exhibit A are subject to forfeiture under Section 38(d)(1)(B) as property used to commit or to
13 facilitate the commission of the violations of Section 38(a) and (b).

14 **3. Parts**

15 During trial, co-conspirator Reed testified that the defendants used counterfeit parts. His
16 testimony was supported by the testimony of Special Agent Peter Prozik, Special Agent Glenda
17 White, forensic accountant Teshara Jones, Aerospace Engineer expert Robert Sprayberry,
18 Aeronautical Engineer expert Jeff Guzzetti, MDHI (manufacturer of the helicopters at issue)
19 representative Randy Brietzman, and, most importantly, the counterfeit parts themselves G-2959.
20 Trial Exhibit G-3038 is a list of all of the counterfeit parts purchased by Defendants from co-
21 defendant Spares, Inc. Spares pled guilty to selling almost \$1,000,000.00 worth of counterfeit
22 parts to Defendants. (G-1947). The testimony of Brietzman established that the Defendants
23 never bought the subject parts from any other legal vendor, nor from the manufacturer of the
24 helicopters. Physical evidence was introduced showing the counterfeit parts on a tail rotor. G-

1 2958. Substantial evidence was admitted showing the parts were shipped to the boats, when they
2 could not be installed at the Hansen facility, for the mechanics or pilots to install. (Testimony of
3 Bustos, Marinho, and others). Those parts and the others were then used on the subject
4 helicopters, thereby facilitating the fraud (G-1376 and Jury View).

5 Accordingly, the parts described in Exhibit C are subject to forfeiture pursuant to Section
6 38(d)(1)(B) as property used to commit or to facilitate the commission of the violations of
7 Section 38(a) and (b).

8 **F. Substitute Assets**

9 A number of assets were identified that do not evidence a nexus between the Defendants'
10 crimes and the respective bases for forfeiture. The United States therefore seeks to forfeit those
11 assets as substitute assets, in partial satisfaction of the preliminary order of forfeiture for
12 proceeds, facilitation, and commingled property. To the extent any of the property described
13 above is not forfeited as proceeds or facilitating property, the court may allow forfeiture of those
14 assets as substitute assets to the extent the \$400 million money judgment remains unsatisfied
15 after crediting the defendants with the value of the specific assets once forfeited and sold.

16 **Restraining Order**

17 The Government respectfully requests a restraining order pursuant to 21 U.S.C. § 853(g)
18 restraining the defendant or any third party from disposing of or encumbering the assets listed in
19 Exhibit A to preserve it for forfeiture. *See United States v. Way*, 2018 WL 6338724, *3 (E.D.
20 Cal. Dec. 5, 2018) (granting motion to stay forfeiture money judgment pending appeal but
21 restraining defendant from “directly or indirectly disposing of any property . . . in a manner that
22 would hinder the United States’ ability to enforce the [forfeiture] judgment . . . after disposition
23 of the appeal”).

1 **Conclusion**

2 For the above reasons, the United States respectfully requests the Court enter an Amended
3 Preliminary Order of Forfeiture ordering the defendants to pay the concurrent money judgments
4 and forfeiting the specific assets described herein to the United States on the bases set forth in
5 detail above, and supported by the criminal record, references to additional evidence, and the
6 attached exhibits hereto.

7 RESPECTFULLY SUBMITTED this 8th day of September, 2023.

8 SHAWN N. ANDERSON
9 United States Attorney
Districts of Guam and the NMI

10 By: /s/ Marie L. Miller
11 MARIE L. MILLER
Special Assistant U.S. Attorney