

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

APPROXIMATELY \$834,157.50 IN  
FUNDS SEIZED FROM PROSPERITY  
BANK CHECKING ACCOUNT  
XXXXX9032

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**COMPLAINT FOR  
FORFEITURE *IN REM***

***CIVIL ACTION NO.*** \_\_\_\_\_

**VERIFIED COMPLAINT FOR FORFEITURE IN REM**

Comes now Petitioner United States of America, by and through the United States Attorney for the Southern District of Texas and the undersigned Assistant United States Attorney, pursuant to Rule G, Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Federal Rules of Civil Procedure, and respectfully states as follows:

***Nature of the Action***

1. This is a civil action *in rem* pursuant to 18 U.S.C. §§ 981(a)(1)(C). Procedures for this action are mandated by Rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions and, to the extent applicable, 18 U.S.C. §§ 981, 983, and 984, and the Federal Rules of Civil Procedure.

***Jurisdiction and Venue***

2. This Court has jurisdiction over this action commenced by the United States under 28 U.S.C. § 1345 and over this action for forfeiture under 28 U.S.C. § 1355(a). The Court has *in rem* jurisdiction over the defendant property under 28 U.S.C. § 1355(b).

3. This Court has venue pursuant to 28 U.S.C. §§ 1355 and 1395. Venue is proper

because the Funds were seized in the Southern District of Texas.

***Defendant Property***

4. This action seeks the forfeiture of all right, title, and interest in the above-captioned \$834,157.50 in funds seized from Prosperity Bank checking account number XXXXX9032 held in the name of H&H Engineering Construction Inc. (The funds are hereinafter referred to as “Defendant Property.” The checking account is hereinafter referred to as “Prosperity Bank Account”). The Defendant Property constitutes or is derived from proceeds of wire fraud in violation of 18 U.S.C. § 1343.

5. The United States Secret Service (“USSS”) Houston Field Office seized the Defendant Property in the Southern District of Texas. The USSS in Houston, Texas, is in possession of Defendant Property, which will remain within the jurisdiction of this court.

***Statutory Basis for Forfeiture***

6. 18 U.S.C. § 981(a)(1)(C) mandates the forfeiture of any real property, real or personal, which constitutes or is derived from proceeds traceable to any offense constituting specified unlawful activity as defined in 18 U.S.C. § 1956(c)(7). A violation of 18 U.S.C. § 1343, or a conspiracy to commit such offense, constitutes specified unlawful activity under 18 U.S.C. § 1956(c)(7)(A) as an offense listed in 18 U.S.C. § 1961(1)(B).

7. Title 18 U.S.C. § 1343 provides that whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both.

8. Regarding the civil forfeiture of fungible property, 18 U.S.C. § 984 provides that funds deposited in an account in a financial institution that are found in the same account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture so long as the action is commenced within one year from the date of the offense.

***Factual Basis***

9. Through false and deceptive representations made by email, one or more perpetrators of a business email compromise scheme (“Unidentified Conspirators”) caused a company (“Victim Company”) to wire funds intended for a legitimate business transaction to a bank account controlled by Unidentified Conspirators.

10. Business email compromise schemes are sophisticated scams in which fraudsters pose as business partners using falsified documentation, email compromise, and/or spoofed business email accounts to trick victims into wiring funds to an account controlled by the scammers.

11. Victim Company, a construction management company, contracted with an engineering company (hereinafter “Vendor”) to provide services for a large railway expansion project in California. Victim Company agreed to wire payment to Vendor in exchange for their services.

12. On or before July 13, 2022, Unidentified Conspirators gained access to Victim Company’s computer networks, including their email servers and accounts, through phishing attacks or the use of malware. The perpetrators identified employees of Victim Company responsible for financial obligations and their contacts with other entities.

13. Using this information, Unidentified Conspirators used a spoofed email address, posed as an employee of Vendor, and ordered Victim Company to wire payment to the

Prosperity Bank Account controlled by Unidentified Conspirators instead of Vendor's account on file. Believing it was Vendor's legitimate bank account, Victim Company wired \$876,121.00 to the Prosperity Bank Account.

14. Prosperity Bank notified Victim Company after the transaction that it likely fell victim to a scam. After an investigation, the United States Secret Service executed a seizure warrant for the funds in the Prosperity Bank Account and recovered \$834,157.50.

### **CONCLUSION**

15. Unidentified Conspirators, using a business email compromise scheme by wire, defrauded Victim Company, obtained money from Victim Company by false and fraudulent pretenses, and caused Victim Company to wire funds for purpose of executing the scheme and artifice to defraud in violation of Title 18 U.S.C. § 1343. Therefore, the Defendant Property is subject to forfeiture.

### **Prayer**

WHEREFORE, the United States of America respectfully prays the Court that due notice be given to all parties to appear and show cause why the forfeiture should not be decreed; judgment be entered declaring the Defendant Property to be condemned and forfeited to the United States of America for disposition according to law; and the United States be granted such other and further relief as this Court may deem just and proper.

Respectfully submitted, this the 24th day of January, 2023.

ALAMDAR S. HAMDANI  
United States Attorney  
Southern District of Texas

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**VERIFICATION**

I declare under penalty of perjury that the factual information contained in the foregoing Complaint is true and correct according to the best of my knowledge, information, and belief.

Executed on the 24 day of January, 2023.

A handwritten signature in black ink, appearing to read "Tyler Welch", is written over a horizontal line.

Special Agent Tyler Welch  
United States Secret Service