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28 UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

29	UNITED STATES OF AMERICA,)	No. 2:17-CV-4132
30	Plaintiff,)	VERIFIED COMPLAINT FOR FORFITURE
31	v.)	
32	\$146,500,000.00 IN FUNDS,)	[18 U.S.C. § 981(a)(1)(C); 18 U.S.C. § 1343]
33	Defendant.)	[F.B.I.]

1 The United States of America brings this claim against the defendant
2 \$146,500,000.00 in Funds (the “defendant funds”), and alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This is a civil forfeiture action brought pursuant to
5 18 U.S.C. § 981(a)(1)(C) and Rule G of the Supplemental Rules for Certain
6 Admiralty or Maritime Claims and Asset Forfeiture Actions.

7 2. This court has subject matter and *in rem* jurisdiction over the matter
8 under 28 U.S.C. §§ 1345 (action commenced by the United States) and 1355(a)
9 and (b) (action for forfeiture which may be brought in the district where any of the
10 acts giving rise to forfeiture occurred), respectively.

11 3. Venue lies in this district pursuant to 28 U.S.C. §§ 1355 and 1395(b).

12 **PERSONS AND ENTITIES**

13 4. The plaintiff is the United States of America (“the government”).

14 5. The defendant is \$146,500,000.00 in Funds paid by the Western
15 Union Company (“Western Union”) pursuant to a deferred prosecution agreement
16 with the government. Under the terms of the agreement, Western Union has
17 agreed not to contest the forfeiture of the defendant funds. The government is
18 unaware of any other potential claimants to the defendant funds.

19 6. The defendant funds are in the custody of the United States Marshals
20 Service, where they shall remain subject to this court’s jurisdiction during the
21 pendency of this action.

22 **FACTS SUPPORTING FORFEITURE**

23 **Introduction**

24 7. This complaint arises from the government’s investigation of a
25 fraudulent scheme operated through and facilitated by Western Union Agents from
26 as early as 2004 through 2012, in this district and others.

27 8. At all times relevant to this Complaint, Western Union operated as a
28 financial institution as that term is defined in 31 U.S.C. § 5312(a)(2)(R) and 31

1 C.F.R. § 1010.100. More specifically, Western Union is and was a money services
2 business (“MSB”) and is one of the largest MSBs in the world.

3 9. Western Union’s “Money Transfer System” is an electronic network
4 operated and controlled by Western Union using servers in the United States.
5 Through the Money Transfer System, consumers are able to send money to other
6 individuals in the United States and around the world. Western Union offers its
7 money transfer services to consumers via approximately 550,000 Western Union
8 Agent locations operating in more than 200 countries and territories.
9 Approximately 90 percent of Western Union Agent locations are located outside
10 the United States. In 2014, more than 150 million individual consumers used
11 Western Union’s Money Transfer System to send more than \$85 billion through
12 Western Union’s Agent locations.

13 10. “Western Union Agents” or “Agents” are generally independent
14 individuals or entities, including banks, post offices, and small independent shops,
15 who have entered into a contractual relationship with Western Union. By virtue of
16 that contractual relationship, Agents are authorized to offer Western Union’s
17 money transfer services to consumers. Each Agent location has authorized access
18 to the Money Transfer System and is required to use it to send and receive all
19 Western Union transfers in which it is involved.

20 11. “Fraudsters” include, among other individuals involved in the fraud
21 scheme, certain owners, operators and employees of Western Union Agents.

22 12. A customer sending money through an Agent would visit an Agent
23 location and provide the Agent information that generally included the sender and
24 payee names, the transfer amount, and the state or province and country where the
25 money was to be sent. The sender’s identification was sometimes also required.
26 The Agent would enter the information into the Money Transfer System, which
27 would generate a Money Transfer Control Number (“MTCN”), a 10-digit reference
28 number used to identify and track that particular transaction.

1 13. To receive the transfer, the payee was typically required to visit an
2 Agent location in person and provide his or her name, address, telephone number,
3 the sender's name and location, and the transfer amount. Payees were sometimes
4 asked to produce a government-issued identification, and were typically asked to
5 provide the MTCN associated with the transfer. Money transferred through the
6 Money Transfer System can be received within minutes of the transfer, depending
7 on the location and payment method.

8 **The Fraudulent Scheme**

9 14. During all relevant times, Western Union recorded complaints from
10 U.S. victims reporting the fraud scheme in what are known as Consumer Fraud
11 Reports ("CFRs"). The CFRs contained detailed information about the victims, the
12 transactions, and the Western Union Agent locations that paid the transfers.
13 Western Union used the CFRs to track and investigate Agent locations that paid
14 transfers reported as fraud-induced.

15 15. Starting in 2004 and ending in December 2012, Western Union
16 violated U.S. laws by aiding and abetting Fraudsters in their unlawful schemes by
17 remaining in business with Agent locations that facilitated the unlawful fraud
18 scheme. Further, Western Union employees (1) repeatedly identified Agent
19 locations involved in or facilitating fraud-related transactions but knowingly failed
20 to take effective corrective action; (2) repeatedly identified Western Union Agents
21 involved in or facilitating unlawful structuring but knowingly failed to take
22 effective corrective action; (3) failed to adequately implement and maintain
23 effective policies and procedures to discipline, suspend, terminate or take effective
24 corrective action against Agent locations that repeatedly violated the Bank Secrecy
25 Act or other statutes; (4) modified compliance reviews or results to that Agents
26 with severe compliance failures would not face disciplinary action such as
27 suspension or termination as required by Western Union policies or practices; (5)
28 filed to take effective action to control transactions with characteristics indicative

1 of illegal gaming; or (6) failed to file Suspicious Activity Reports identifying
2 Agents as suspicious actors. The fraud scheme involved the making of a variety of
3 false promises and representations made for the purpose and with the intent of
4 inducing victims in this district and others to send money through Western Union,
5 in violation of 18 U.S.C. § 1343 (wire fraud).

6 16. The scheme operated generally as follows: a Fraudster would make
7 contact with a victim by phone, U.S. mail, interstate courier, or the Internet, and
8 induce the victim to send money to the Fraudster through false promises and
9 representations, including the following:

10 a. Promises that the victim was eligible to receive a large cash
11 prize, lottery winnings, a loan, or other payment;

12 b. False offers that the victim was eligible to purchase various
13 high-ticket items for sale over the Internet at deeply discounted prices;

14 c. False promises of employment opportunities to become “secret
15 shoppers,” who would be paid to evaluate retail stores; or

16 d. A false claim that the Fraudster was a relative of the victim, or
17 was acting on behalf of or for the benefit of such a relative, and was in some kind
18 of trouble and in urgent need of money.

19 17. The Fraudster would then instruct the victim that it was necessary for
20 the victim to send money to obtain the promised benefit or provide the needed
21 relief. The Fraudster would then direct the victim to send the advance payment
22 using Western Union’s Money Transfer System. After the victim sent the money
23 through the Money Transfer System according to the Fraudster’s instructions, he or
24 she would provide the MTCN to the Fraudster, who would visit an Agent location,
25 including locations that were controlled or staffed by individuals who were
26 complicit in the fraud, and obtain the money.

27 18. The complicit Western Union Agent locations facilitated the scheme
28 by, among other things, knowingly entering into the Money Transfer System false

1 addresses, telephone numbers, and personal identification document information
2 for the payee Fraudsters or their associates. This allowed the Fraudsters to receive
3 the money or retransfer the funds to other complicit Western Union Agent
4 locations without creating a reliable record of who actually received the funds
5 transferred from the victim. In return for their assistance in concealing the true
6 identities of the Fraudsters and their involvement in the scheme, the complicit
7 Agents received kickbacks from the Fraudsters, generally drawn from the victim
8 funds transferred.

9 19. At no time did the Fraudsters intend to provide the promised benefits
10 to the victims, or the promised relief to family members purportedly in need of
11 assistance. Indeed, with respect to the latter, the claimed distress and need for
12 assistance was entirely illusory. Nevertheless, the victims, in reliance upon the
13 false promises and representations, made the money transfers, but in fact did not
14 receive either the return of their transferred funds or the benefits promised to them.

15 20. Western Union maintained a 1-800 number through which many of
16 the victims of the scheme reported their losses. These reports were memorialized
17 by Western Union in CFRs, which contained detailed information about the
18 victims, the fraudulent transactions, and the Agent locations where the payees
19 received the transferred funds. The CFRs were maintained by Western Union in a
20 database and Western Union purported to use that information to identify, track
21 and investigate Agent locations where transfers had been reported as having been
22 induced by fraud. However, in reality, Western Union failed to suspend and/or
23 terminate Agents complicit in the fraud scheme and allowed those Agents to
24 continue to process fraudulent transactions.

25 21. Between 2004 and 2012, the CFRs created by Western Union showed
26 more than \$500,000,000.00 in reported fraud transactions involving the Money
27 Transfer System, and Western Union knew that not all victims of the scheme
28 reported their losses. Western Union employees knew, as a result of the

1 company's own internal reports and analyses regarding particular Agent locations
2 throughout the world that the total amount of loss attributable to the scheme was
3 higher than the amount reflected in the CFRs.

4 22. Western Union was aware that some of its Agents had been criminally
5 charged for their involvement in the scheme. Dozens of Western Union Agents
6 and their criminal associates, including some in this district, were criminally
7 charged for their participation in the scheme described herein, using the Western
8 Union Money Transfer System.

9 23. Western Union itself identified numerous Agent locations —
10 particularly overseas Agent locations — that processed high numbers of fraud-
11 induced transfers from victims across the United States, including Agent locations
12 that Western Union suspected were complicit in the fraud scheme. Western Union
13 aided and abetted the scheme by failing to take sufficient action to stop these
14 Agents from continuing to participate or facilitate the scheme. Moreover, Western
15 Union's failure to take corrective action despite this knowledge was in violation of
16 provisions of the Bank Secrecy Act that required Western Union to monitor
17 international Agents and intervene where such Agents were believed to be
18 involved in violations of applicable laws or regulations.

19 24. While some Western Union employees recommended corrective
20 actions in the form of policies and procedures that might have addressed the
21 scheme, and recommended specific discipline against certain Western Union
22 Agent locations, Western Union failed to act on those recommendations.

23 a. For example, as early as 2004, an employee in Western Union's
24 Corporate Security Department drafted proposed Global Guidelines that provided
25 for the investigation of any Agent location that was the subject of ten CFRs within
26 a 60-day period, and suspending any such Agent that was subject to five additional
27 CFRs within the next 60 days. Western Union failed to adopt this proposed policy.

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1 Had it done so, Western Union would have suspended or terminated more than
2 2,000 Agents worldwide, preventing significant losses to victims.

3 b. As early as 2005, Western Union's Corporate Security
4 Department used CFRs to generate a regular 60-day Fraud Report, identifying
5 Agent locations that were the subject of five or more CFRs within a 60-day period.
6 Despite warnings that repeated inclusion in the Fraud Report would result in
7 suspension of certain Agent locations, and that such locations were required to
8 "drastically reduce" their handling of such transactions, no such disciplinary action
9 was taken against such locations.

10 25. While the fraud scheme described herein was global in scope,
11 reaching foreign countries including the United Kingdom, Spain, Mexico and Peru,
12 most of the fraud occurred, and most of the victims of the scheme were located, in
13 the United States, including in this district. The following are typical examples of
14 how victims were defrauded as part of this scheme. Each of the examples below
15 represents victims who were defrauded through Agents that would have been
16 disciplined, suspended, or terminated had Western Union implemented the
17 proposed Global Guidelines.

18 a. A Fraudster falsely promised a victim in the U.S. that he had
19 won a prize and needed to pay money in advance to claim the prize. The victim
20 followed the Fraudster's instructions to transfer \$2,350.00 through Western Union
21 to London, England. The money was picked up the next day. The victim never
22 received his prize.

23 b. A Fraudster contacted a victim in the U.S. and falsely promised
24 that the victim would receive a job if he paid money in advance. The victim
25 followed the Fraudster's instructions and transferred \$2,155.00 through Western
26 Union. The money was picked up the next day at a Western Union Agent in
27 London, England. The victim never received the promised job.

28

1 c. A Fraudster contacted a victim in the U.S. and falsely
2 represented that a member of the victim's family was in trouble abroad and needed
3 money. The victim followed the Fraudster's instructions, and sent \$3,866.00
4 through Western Union to help the relative. The money was picked up at an Agent
5 location in Spain, but the victim's family member was not, in fact, in trouble. The
6 money was never recovered.

7 d. Fraudsters induced two U.S. victims to make transfers of
8 \$7,490.00 and \$7,050.00 respectively based on a false representation that the
9 victim's relatives were in trouble in a foreign country and needed money.
10 Following the Fraudster's instructions, the victims sent the money to Mexico. The
11 money was never recovered and relatives were never in trouble.

12 **The Deferred Prosecution Agreement**

13 26. On or about January 19, 2017, the government and Western Union
14 entered into a Deferred Prosecution Agreement ("DPA") based on the
15 government's investigation of the pattern of activity described above. In the DPA,
16 Western Union admitted, accepted and acknowledged, among other things, that it
17 was responsible under United States law for the acts of its officers, directors, and
18 employees, as well as for certain conduct of its Agents.

19 27. Western Union further acknowledged and agreed that at least
20 \$586,000,000.00 in consumer fraud proceeds were (a) traceable to transactions
21 involved in the scheme described herein; (b) generated as the result of the scheme
22 to violate 18 U.S.C. § 1343 between 2004 and 2012; and (c) subject to forfeiture to
23 the United States pursuant to 18 U.S.C. § 981(a)(1)(C).

24 28. Western Union further agreed to pay to the United States the sum of
25 \$586,000,000.00, which funds were to be forfeited to the United States as proceeds
26 of the scheme described herein. To the extent that the monies to be paid to the
27 government were not the actual proceeds of the underlying offense(s), Western
28

1 Union agreed that the monies paid would be treated as a substitute *res*, to be
2 treated as though they were the actual proceeds of the scheme described herein.

3 29. Western Union has made the payment called for in the DPA, and the
4 above-captioned defendant funds are a portion of the total amount so paid.

5 **CLAIM FOR FORFEITURE**

6 30. Pursuant to 18 U.S.C. § 981(a)(1)(C), “[a]ny property, real or
7 personal, which constitutes or is derived from proceeds traceable to a violation of .
8 . . . any offense constituting ‘specified unlawful activity’” is subject to forfeiture by
9 the United States. “Specified unlawful activity” is defined in 18 U.S.C.
10 §§ 1956(c)(7)(A) and 1961(1)(B) to include, among other things, offenses in
11 violation of 18 U.S.C. § 1343. The term “proceeds” includes “property of any kind
12 obtained directly or indirectly, as a result of the commission of the offense giving
13 rise to forfeiture, and any property traceable thereto, and is not limited to the net
14 gain or profit realized from this offense.” 18 U.S.C. § 981(a)(2)(A).

15 31. The defendant funds constitute and are derived from proceeds
16 traceable to specified unlawful activity, specifically a scheme to commit wire
17 fraud, or are a substitute *res* for such proceeds. As a result, the defendant funds are
18 subject to forfeiture to the United States of America pursuant to 18 U.S.C.
19 § 981(a)(1)(C).

20 WHEREFORE, plaintiff United States of America prays that:

- 21 (a) due process issue to enforce the forfeiture of the defendant funds;
22 (b) due notice be given to all interested parties to appear and show cause
23 why forfeiture should not be decreed;
24 (c) this Court decree forfeiture of the defendant funds to the United
25 States of America for disposition according to law; and

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1 (d) for such other and further relief as this Court may deem just and
2 proper, together with the costs and disbursements of this action.

3
4 DATED: June 2, 2017

SANDRA R. BROWN
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Chief, Criminal Division

8 /s/ Steven R. Welk
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17 Attorneys for Plaintiff
18 United States of America
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VERIFICATION

I, Jennifer Rudy, hereby declare that:

1. I am a Special Agent with the Federal Bureau of Investigation and am the case agent for the forfeiture matter entitled *United States of America v. \$146,500,000.00 in Funds*.

2. I have read the above Verified Complaint for Forfeiture and know its contents. It is based upon my own personal knowledge and reports provided to me by other law enforcement agents.

3. Everything contained in the Complaint is true and correct, to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed May 31, 2017 in Orange, California.


JENNIFER RUDY

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