

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 14-20040-CR-LENARD

UNITED STATES OF AMERICA,

vs.

OSMANY TAPIA,

Defendant.

SECOND FINAL ORDER OF FORFEITURE OF SUBSTITUTE PROPERTY

Upon motion of the United States for entry of a final order of forfeiture of substitute property pursuant to Rule 32.2(c)(2) of the Federal Rules of Criminal Procedure, a review of the docket in this matter, and for good cause shown thereby, the Court hereby finds that:

1. On May 20, 2014, the Court entered its Order of Forfeiture (D.E. 41), wherein it imposed a forfeiture money judgment against the defendant in the amount of [REDACTED] (US)(hereinafter, the "Forfeiture Money Judgment").

2. On March 24, 2015, the Court entered its Second Amended Order of Forfeiture (D.E. 66)(hereinafter, the "Second Amended Order") wherein it forfeited to the United States the following property as a substitute asset in partial satisfaction of the Forfeiture Money Judgment:

(a) The real property known and numbered as **Lot 1, Laurelwood Circle, Murphy, North Carolina 28906**, which is more particularly described as follows:

All that certain tract or parcel of land lying and being in Hothouse Township, Cherokee County, North Carolina and being Lots 1 through 19 (excepting out Lot #5) entitled "John Parks Property" as shown on plat of survey by Adams Surveying, Lloyd B. Adams North Carolina Registered land Surveyor L-2708 dated September 25, 1996 which is recorded in Plat Cabinet C, Slide 165 in the

Office of the Register of Deeds, Cherokee County, North Carolina which is incorporated herein by reference, and from said recorded survey is more particularly described as follows:

BEGINNING at an iron pin located in the center of NCSR 1108 the centerline of which is also the centerline of a 60-foot ingress/egress and utility right of way easement corridor 30-feet on each side of the centerline thereof, said point being the Western-most corner of the property herein conveyed, corner common to Henry (Deed Book 523 Page 208). From said point of beginning, along with the aforementioned centerline the following six (6) calls and distances: North 53-13 East 226.65 feet; thence North 47- 51 East 52.42 feet; thence North 34-07 East 36.65 feet; thence North 18-42 East 34.29 feet; thence North 00-31 East 37.07 feet; thence North 09-45 West 109.98 feet to an iron pin located at the Northwest corner of the property herein conveyed, corner common to Chastain (Deed Book 608 Page 7). Thence leaving the aforementioned centerline and along with a line common to Chastain North 61-39 East 16.63 feet, thence North 61-39 East 243.34 feet to an iron pin marking a corner common to Lots #11 and #12 of John Parks Property; thence continuing North 61-39 East 193.37 feet to an iron pipe found; thence continuing North 61-39 East 34.00 feet to a point in the center of a branch. Thence along with the meanderings of the centerline of the aforementioned branch the following ten (10) chord calls and distances: South 69-27 East 30.14 feet; thence South 31-19 East 29.97 feet; thence South 58-35 East 35.78 feet; thence North 83-32 East 16.35 feet thence South 74-00 East 33.77 feet; thence South 83-23 East 89.59 feet; thence South 12-05 East 38.74 feet; thence South 69-55 East 155.48 feet; thence North 74-48 East 58.25 feet; thence South 87-46 East 77.39 feet to an iron pipe found at an old fence line. Thence leaving the aforementioned branch and along with the old fence line the following thirteen (13) calls and distances: South 28-21 East 5.00 feet to an iron pipe found; thence continuing South 28-21 East 34.72 feet to an iron pipe found; thence South 37-52 East 36.76 feet; thence South 18-50 East 21.47 feet; thence South 36-13 East 127.45 feet; thence South 35-21 East 46.66 feet; thence South 35-21 East 13.36 feet; thence South 32-35 East 46.29 feet; thence South 13-04 East 40.42 feet; thence South 16-23 West 39.52 feet; thence South 06-21 West 81.09 feet; thence South 00-24 East 65.41 feet; thence South 10-35 East 54.97 feet; thence South 34-20 East 53.51 feet to an 18" marked poplar at a corner common to Chastain and Cross (Deed Book 434 Page 6), said poplar being located on the Eastern-most point of the property herein conveyed on the West bank of a branch; thence continuing South 34-20 East 5.00 feet to the center of a branch. Thence along with the meanderings of the centerline of the aforementioned branch the following twenty-three (23) chord calls and distances: South 19-20 West 102.87 feet; thence South 86-20 West 29.81 feet; thence South 51-38 West 32.80 feet; thence South 75-57 West 27.36 feet; thence South 37-31 West 18.15 feet; thence South 07-57 West 77.61 feet;

thence South 78-51 West 43.87 feet; thence South 22-38' West 34.69 feet; thence South 52-15' West 32.40 feet; thence North 78-02 West 41.70 feet to an iron pipe found; thence South 65-46 West 24.05 feet; thence South 65-46 West 11.95 feet; thence South 37-13 West 47.32 feet; thence South 57-58 West 104.59 feet; thence South 30-43 West 33.53 feet; thence South 48-04 West 62.00 feet; thence North 66-18 West 20.80 feet; thence South 66-43 West 33.15 feet; thence South 40-13 West 44.72 feet; thence South 66-47 West 51.00 feet; thence South 43-05 West 44.78 feet; thence South 74-08 West 31.26 feet; thence North 87-27 West 32.20 feet to an iron pipe found in the branch marking a corner common to Cross and Henry. Thence leaving the line common to Cross and the aforementioned branch centerline and along a line common to Henry North 41-50 West 60.09 feet to an iron rod found; thence North 45-08 West 237.22 feet to an iron rod set at a corner common to Lots #18 and #9; thence continuing North 45-08 West 236.32 feet to an iron rod set at a corner common to Lots #9 and #19; thence continuing North 45-08 West 422.46 feet to an iron pin found at or near the East right of way margin of the aforementioned NCSR 1108; thence continuing North 45-08 West 15.43 feet to the point and place of BEGINNING, containing 23.53 acres more or less.

(b) The real property known and numbered as **Lot 11, Laurelwood Circle,**

Murphy, North Carolina 28906, which is more particularly described as follows:

That certain tract or parcel of land containing 1.29 acres, more or less, designated as Lot 11 of Laurel Wood Estates, in Hothouse Township, Cherokee County, North Carolina, and being more particularly described to a plat of survey by Charles V. Bryson, P. L. S., dated November 3, 2005, bearings based on magnetic north (August 1996) and from said plat of survey being more particularly described as follows:

Beginning at a point in the centerline of N.C.S.R. 1108, Hothouse Road, having a 60 foot wide right of way where it intersects with the centerline of a subdivision access road, having a 30 foot wide right of way, a corner common to Lot 1 of Laurel Wood Estates; thence with the centerline of N.C.S.R. 1108, Hothouse Road, North 18° 42' 00" East 34.29 feet, North 00° 31' 00" East 37.07 feet and North ago 45'00" West 109.98 feet to a point in said road centerline; thence leaving said road centerline North 61 o 39' 00" East 16.63 feet to an iron rod found and North 61o 39' 00" East 243.34 feet to an iron rod found at a corner common to Lot 12 of Laurel Wood Estates; thence with a line common to Lot 12, South 28° 36' 00" East 201.17 feet to a point in the centerline of a subdivision access road, a corner common to Lot 12, Lot 3 of Laurel Wood Estates and Lot 2 of Laurel Wood Estates; thence with the centerline of the subdivision access road and a line common to Lot 2, South 73° 09' 00" West 95.00 feet and South 55° 24' 00" West 69.01 feet to a point in said road centerline, a corner common to Lot 2 and Lot 1; thence with a line common to Lot 1 and continuing with said road

centerline South 51° 32' 00" West 68.36 feet, South 68 o 16' 00" West 33.80 feet and South 87° 59' 00" West 20.47 feet to a point in said road centerline and a corner common to Well Lot "A"; thence leaving said road centerline with a line common to Well Lot "A", North 19° 35' 20" West 12.06 feet, North 19° 35' 40" West 11.10 feet, North 81o 36' 46" West 9.70 feet, South 03 o 05' 07" East 23.83 feet to a point in the centerline of the aforementioned subdivision access road; thence with the centerline of said road centerline and a line common to Lot 1, South 87° 59' 00" West 48.63 feet to the point and place of beginning, containing 1.29 acres more or less.

(c) The real property known and numbered as Lot 74, New River Landing,

Chestnut Hill Township, North Carolina 28617, which is more particularly described as follows:

Being Lot No. 74, containing 0.522 acre of NEW RIVER LANDING, as shown on the plat thereof recorded in Plat Book 6, at Page 349, in the Office of the Register of Deeds of Ashe County, to which said plat and record thereof reference is hereby made for a more complete and detailed description.

(d) The real property known and numbered as 37 E. 63rd Street, Hialeah,

Florida 33013, which is more particularly described as follows:

The East 30 feet of the West 255 feet of the South one-half of Tract 2, Resubdivision of Gratigny Lawns, according to the plat thereof as recorded in Plat Book 30, Page 56, of the Public Records of Miami-Dade County, Florida; And Lot 32 Less the West 20 Feet Thereof, Block 2, of Gratigny Lawns, According to the plat thereof as recorded in Plat Book 22, Page 74, of The Public Records of Miami-Dade County, Florida. F/K/A The West 30 Feet of Lot 31 and Lot 32, less the West 20 Feet thereof, Bock 2, of Gratigny Lawns, according to the plat thereof as recorded in Plat Book 22, Page 74, of the Public Records of Miami-Dade County, Florida.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3. On April 18, 2015, the United States published notice of the Second Amended Order, and its intent to dispose of the Substitute Property, in accordance with Title 21, United

States Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure and Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions.

4. On May 26, 2015, the United States filed its Declaration of Publication with the Clerk of the Court asserting that the Second Amended Order was published on an official government internet site (www.forfeiture.gov), consistent with Title 21, United States Code, Section 853(n)(1) and Rule 32.2(b)(6)(D) of the Federal Rules of Criminal Procedure, for at least thirty (30) consecutive days, beginning on April 18, 2015, and ending on May 17, 2015 (D.E. 72).

5. Additionally, the United States sent direct notice of the Second Amended Order to all persons or entities known to have a potential legal interest in the Substitute Property as follows:

(a) Henry P. Bell, P.A. c/o, Osmany Tapia as guardian of Kelsie G. Tapia, 6301 Sunset Drive, Suite 203, South Miami, Florida 33143

Direct notice was sent to Mr. Bell on July 28, 2015, which was delivered on July 30, 2015 (*see Attachment 1* to U.S. Motion for Second Final Order of Forfeiture).

(b) Phoenix Foundation Group Inc. c/o, Registered Agent, Kelsie Management, LLC, 4915 E 1 CRT, Hialeah, Florida 33013

Direct notice was sent to Phoenix Foundation Group Inc. on January 12, 2016, which was returned to sender unclaimed and unable to deliver on January 20, 2016, as indicated by return receipt (*see Attachment 2* to U.S. Motion for Second Final Order of Forfeiture).

6. On August 31, 2015, the time for filing a petition for the Substitute Property with the Court expired in this cause pursuant to Title 21, United States Code, Section 853(n)(2).

7. The United States now seeks a second final order of forfeiture for the Substitute Property.

Accordingly, pursuant to Title 21, United States Code, Section 853 and the procedures set forth at Rule 32.2 of the Federal Rules of Criminal Procedure, it is hereby,

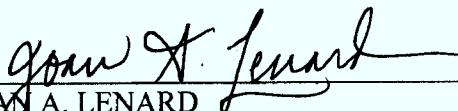
ORDERED, ADJUDGED and DECREED, that:

1. The United States' Motion for Entry of Second Final Order of Forfeiture of Substitute Property is **GRANTED**;

2. All right, title and interest in the Substitute Property is forfeited to, and vested in, the United States pursuant to Title 21, United States Code, Section 853(p); and

3. The Federal Bureau of Investigation, or any duly authorized law enforcement agency, shall dispose of the Substitute Property in accordance with applicable law.

DONE AND ORDERED at Miami, Florida this 4 day of ^{Feb.} January, 2016.



JOAN A. LENARD
UNITED STATES DISTRICT JUDGE

cc: Daren Grove (2 certified copies)