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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF ARIZONA

9 United States of America,
10 Plaintiff,
11 vs.
12 LFA Machines DFW, LLC, et al.,
13 Defendants.
14

CR-26-04376-TUC-AMM (MAA)
GOVERNMENT'S *EX PARTE*
APPLICATION FOR POST-INDICTMENT
RETRAINING ORDER
UNDER SEAL

15 The United States of America, by and through its undersigned attorneys, hereby
16 makes application to this Court, pursuant to 21 U.S.C. § 853(e)(1)(A), for a restraining
17 order to preserve the availability of certain property that is subject to forfeiture in the
18 above-styled criminal action. In support of its motion, the United States submits the
19 following memorandum of law.

20 **MEMORANDUM OF LAW**

21 **I. Procedural History**

22 On August 21, 2026, LFA Machines DFW, LLC, Alastair Mark Sanderson, William
23 Robert Norris, and Michael Christian Packard (collectively, the defendants) were indicted
24 by a federal grand jury for this district on the following charges: Conspiring to Unlawfully
25 Manufacture, Distribute, Export, and Import Tableting Machines, Equipment, Chemicals,
26 Products, and Materials, in violation of 21 U.S.C. § 846; and Unlawfully Distributing
27 Tableting Machines, Chemicals, Products, and Materials, in violation of 21 U.S.C.

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1 § 843(a)(7). *See United States v. LFA Machines DFW, LLC, et al.*, CR26-04376 TUC-
2 AMM (MAA).

3 The indictment gives the defendants notice that the United States intends to pursue
4 the forfeiture of assets, pursuant to the provisions of 21 U.S.C. § 853, in which they hold
5 an interest. It generally designates as subject to forfeiture (1) any property, real or personal
6 constituting, or derived from, any proceeds the defendants obtained, directly or indirectly,
7 as the result of the enumerated criminal violations, and (2) any property used, or intended
8 to be used, in any manner or part, to commit, or to facilitate, the commission of those
9 violations. *Id.* at 4.

10 The federal grand jury's indictment of the defendants establishes sufficient probable
11 cause for the issuance of this restraining order. The declaration of Drug Enforcement
12 Administration ("DEA") Special Agent Justin McElfresh is submitted herewith in further
13 support of the United States's application for a restraining order. His declaration identifies
14 with greater particularity the currently known assets subject to forfeiture.

15 The destruction or the transfer, movement, conveyance, or encumbrance of the
16 subject property by the defendants or any third party could render said property unavailable
17 for forfeiture. Any third-party claims to the subject property may be properly brought and
18 resolved in ancillary proceedings conducted by this Court following the execution of a
19 Preliminary Order of Forfeiture and service of notice to all interested parties in accordance
20 with the provisions of federal forfeiture law.

21 **II. Applicable Law**

22 Pursuant to 21 U.S.C. § 853, a person convicted of a violation of 21 U.S.C. §§
23 843(a)(7) and 846, in addition to any other penalty, shall forfeit to the United States:

24 [A]ny property constituting, or derived from, any proceeds the
25 person obtained, directly or indirectly, as the result of such
26 violation; [and] any of the person's property used, or intended
27 to be used, in any manner or part, to commit, or to facilitate the
28 commission of, such violation.

1 To assure the availability of property for forfeiture upon conviction, 21 U.S.C. § 853(e)(1)
2 provides that the court may enter a restraining order upon the filing of an indictment.
3 Section 853(e), in pertinent part, provides:

4
5 (1) Upon application of the United States, the court may enter
6 a restraining order or injunction, require the execution of a
7 satisfactory performance bond, or take any other action to
8 preserve the availability of property ... for forfeiture under this
9 section—

10 (A) upon the filing of an indictment or information
11 charging a violation ... for which criminal forfeiture may be
12 ordered under this section and alleging that the property
13 with respect to which the order is sought would, in the event
14 of conviction, be subject to forfeiture under this section; ...

15 21 U.S.C. § 853(e).

16 Pre-trial restraint of assets under 21 U.S.C. § 853(e) has been approved by the
17 United States Supreme Court. In *United States v. Monsanto*, 491 U.S. 600 (1989), the
18 district court restrained, under 21 U.S.C. § 853, a defendant from disposing of his house,
19 his apartment, and \$35,000 in cash prior to trial. The Supreme Court upheld the pre-trial
20 restraint, noting:

21 [I]t would be odd to conclude that the Government may not
22 restrain property, such as the home and apartment in
23 respondent's possession, based on a finding of probable cause,
24 when we have held that ... , the Government may restrain
25 *persons* where there is a finding of probable cause to believe
26 that the accused has committed a serious offense.

27 *Id.* at 615-16 (emphasis in original). Other courts, including the Ninth Circuit, have
28 recognized that the right of the United States to seek pre-trial restraint extends to forfeitable
assets held by third parties. See *United States v. Lazarenko*, 476 F.3d 642, 648 (9th Cir.
2007) ("Upon a finding that the property is subject to forfeiture, a court must promptly

1 enter a preliminary order of forfeiture without regard to a third party's interests in the
 2 property."); *United States v. Bissell*, 866 F.2d 1343, 1352 (11th Cir. 1989); *United States*
 3 *v. Real Property in Waterboro*, 64 F.3d 752, 755-56 (1st Cir. 1995); *United States v.*
 4 *Jenkins*, 974 F.2d 32, 36 (5th Cir. 1992); *United States v. Regan*, 858 F.2d 115, 120-21 (2d
 5 Cir. 1988). Those courts have also made clear that notice and a hearing need not occur
 6 before an ex-parte restraining order is entered pursuant to section 853(e)(1)(A). *Bissell*,
 7 866 F.2d at 1352 (11th Cir. 1989); *see also United States v. Holy Land Foundation for*
 8 *Relief and Development*, 493 F.3d 469, 475 (5th Cir. 2007) (en banc) ("a court may issue
 9 a restraining order without prior notice or a hearing").

10 In determining whether to issue a restraining order, the grand jury's return of the
 11 indictment against the defendants establishes probable cause that the charged offenses were
 12 committed. *See Kaley v. United States*, 571 U.S. 320 (2014); *United States v. Jamieson*,
 13 427 F.3d 394, 405 (6th Cir. 2005) (initial issuance of restraining order may be based on
 14 grand jury's finding of probable cause); *United States v. Jones*, 160 F.3d 641, 648 (10th
 15 Cir. 1998); *United States v. Moya-Gomez*, 860 F.2d 706, 728-30 (7th Cir. 1988) (court
 16 limits inquiry to forfeiture issues; court does not look behind grand jury's finding with
 17 respect to the underlying crime); *United States v. Lacey*, 378 F. Supp. 3d 814, 820 (D. Ariz.
 18 2019) (assets may be restrained based on finding of probable cause to believe assets are
 19 forfeitable). As noted in the legislative history of the Comprehensive Crime Control Act
 20 of 1984:

21
 22 For the purposes of issuing a restraining order, the probable
 23 cause established in the indictment or information is to be
 24 determinative of any issue regarding the merits of the
 government's case on which the forfeiture is to be based.

25 S. Rep. No. 225, 98th Cong., 1st Sess. 203 (1984), *reprinted in* 1984 U.S.C.C.A.N. 3182,
 26 3386.

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1 If any third party has claims on the funds subject to the requested restraint, section
2 853(n) sets out a specific procedure for the adjudication of such claims. This process
3 begins, however, “[f]ollowing the entry of an order of forfeiture under this section”
4 21 U.S.C. § 853(n)(1); *see also Libretti v. United States*, 516 U.S. 29, 44 (1995); *United*
5 *States v. Messino*, 122 F.3d 427, 428 (7th Cir. 1997) (under Sections 853(k) and (n), third
6 parties must wait until the court has entered a preliminary order of forfeiture to challenge
7 the forfeiture action).

8 In the present case, the federal grand jury’s indictment of the defendants and the
9 declaration of Special Agent McElfresh, attached as Exhibit A, establish sufficient
10 probable cause for the issuance of a restraining order. *See Monsanto*, 491 U.S. at 615-16
11 (holding a showing of probable cause is sufficient to restrain assets under section 853).
12 The United States seeks to preserve the status quo of the subject property to prevent its
13 alienation or dissipation. The purpose of pre-trial restraint of property is to preserve the
14 availability of property that can be forfeited after trial. *Regan*, 858 F.2d at 119.

15 Wherefore, for the foregoing reasons, the United States requests this Court to enter
16 a protective order immediately restraining, prohibiting, and enjoining the defendants and
17 their agents, servants, employees, attorneys, family members, and those persons in active
18 concert or participation with them, and those persons, financial institutions, or entities who
19 have any interest or control over the subject property from attempting or completing any
20 action that would affect the availability, marketability, or value of said property, including
21 but not limited to selling, assigning, pledging, distributing, encumbering, wasting,
22 secreting or otherwise disposing of, or removing from the jurisdiction of this Court, all or
23 any part of their interest, direct or indirect, in the subject property.

24 The United States further requests that the property owner(s) be required to maintain
25 the present condition of any real property subject to the restraining order, including timely
26 payment of all mortgage payments, and insurance, utilities, taxes, and assessments until
27 further order of this Court. The United States requests authorization to enter said real
28 properties to videotape conditions to verify that said properties are being maintained.

1 The United States further requests that any financial institutions holding mortgages
2 on real properties subject to this Order be required to respond promptly to requests by the
3 United States for information on said mortgages' status.

4 The United States further requests a copy of this Restraining Order be served upon
5 the defendants, and all other appropriate individuals and/or financial institutions, and a
6 return be made thereon reflecting the date and time of service.

7 The United States further requests that this Restraining Order remain in full force
8 and effect until further order of this Court.

9 Respectfully submitted this 4th day of September, 2026.

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11 TIMOTHY COURCHAINED
12 United States Attorney
13 District of Arizona

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15 Digitally signed by
16 MICHAEL PEREZ-LIZANO
17 Date: 2026.09.04
18 09:43:10 -07'00'

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