

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

03 NOV -3 AM 10: 27

U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES OF AMERICA,)
)
 v.)
)
 RICHARD M. SCRUSHY,)
)
 Defendant.)

UNDER SEAL

Case No. CR-03-BE-0530-S

283
ENTERED

NOV - 3 2003

WRIT OF ENTRY

The United States of America has made an *ex parte* application to this Court in the above-styled criminal action for writs of entry for the purpose of preserving numerous items of real and personal property it alleges to be subject to criminal forfeiture. In consideration of the Government's motion and supporting verified material, the Court finds the following:

1. That on October 29, 2003, Richard M. Scrushy was indicted in the above-styled criminal action by a federal grand jury for this district on charges which include conspiracy to commit wire fraud, mail fraud, and securities fraud, in violation of 18 U.S.C. §§ 371, 1341, 1343, and 15 U.S.C. § 78.

2. That as part of said Indictment, the United States is seeking the criminal forfeiture under 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), and under 18 U.S.C. § 982(a)(1), of real and personal properties in which defendant Richard M. Scrushy holds an interest; this list includes, but is not limited to, aircraft, vehicles, boats and other water craft, numerous items of jewelry, paintings and other artwork, antique rugs, and other personal property. A list of these properties is attached to this Writ as *Attachment 1*.

3. That the return of the Indictment by the federal grand jury represents a determination of probable cause sufficient to issue a restraining order or other process under 21 U.S.C. § 853(e)(1)(A). See United States v. Sellers, 848 F.Supp. 73, 75 (E.D.La. 1994); accord, In re Billman, 915 F.2d 916, 919 (4th Cir. 1990), cert. denied, 500 U.S. 952 (1991). The Court has also considered the affidavit of Special Agent Charles A. Traywick, Internal Revenue Service (IRS-CI), which sets forth sufficient probable cause to believe these real and personal properties are subject to forfeiture in this action.

4. As shown in Special Agent Traywick's affidavit, an examination of insurance policy summaries, deeds, title registration documents for vehicles, aircraft, and vessels, and numerous invoices also establish probable cause to believe that the personal properties identified in *Attachment 1* are located either in real properties, hangars, other storage facilities, or conveyances in which defendant Richard M. Scrushy has an interest and which are identified herein.

5. That it appears defendant Richard M. Scrushy, or other individuals acting at his direction, have advertised and sold certain properties that the Government alleges are subject to forfeiture, and are presently attempting to sell or otherwise dispose of other real and personal properties that the Government alleges are also subject to forfeiture.

6. That many of the items of personal property identified for forfeiture by the Government can be readily concealed, destroyed, damaged, transferred, or otherwise disposed of, thereby preventing or impairing the Court's authority to restrain or otherwise preserve such property pending final disposition of this criminal action.

7. That, in order to assure the availability of property for forfeiture upon conviction, this Court is authorized under the provisions of 21 U.S.C. § 853(e)(1) to take any action to preserve the availability of property subject to property upon the filing of an indictment.

Accordingly, upon consideration of the Government's motion and for good cause shown,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

That the United States Marshal for the Northern District of Alabama, or his designee, is hereby authorized to enter the following locations (as more particularly described in *Attachment 1*):

- a. Residence and compound located at 2406 Longleaf Street, Birmingham, Alabama 35243, including adjoining real properties located at 2410 Longleaf Street, 2320 Longleaf Way, and 2300 Marin Drive, Birmingham, Alabama, together with all outbuildings, improvements, fixtures, and appurtenances thereon;
- b. Residence and real property located at 1470 Willows End, Alexander City, Alabama 35010, more particularly described as Lots 19, 20, and 21, Willow Point Phase XII, Tallapoosa County, Alabama;
- c. Residence and real property located at 30524 River Road, Orange Beach, Alabama 36561, more particularly described as Lot 101, Unit 1, Ono Island Subdivision, Baldwin County, Alabama, together with all improvements, fixtures, and appurtenances thereon;
- d. Residence and real property located at 1000 North Lake Way, Palm Beach, Palm Beach County, Florida 33480, together with all improvements, fixtures, and appurtenances thereon;
- e. Certain real property and commercial building located at 415 Fifth Street, West Palm Beach, Florida 33401, together with all improvements, fixtures, and appurtenances thereon;
- f. 360 acres of real property located at 19175 Highway 21, Minter, Wilcox County, Alabama (known as "Marin Plantation"), together with all fixtures, improvements, and appurtenances thereon;
- g. 393 acres of real property located near Highway 21, Minter, Wilcox County, Alabama, together with all improvements, fixtures, and appurtenances thereon;

- h. Walker Marina, located at 4699 Walker Avenue, Orange Beach, Alabama, together with all improvements, fixtures, and appurtenances thereon;
- i. Corporate Hangar #2, Jack Edwards Airport, 3190 Airport Drive, Gulf Shores, Alabama;
- j. Hangar and real property located at Willow Point Airstrip, Alexander City, Tallapoosa County, Alabama 35010, consisting of approximately 1.7 acres;
- k. Each of the vehicles, vessels, and aircraft, as more particularly described in *Attachment 1*,

for the following purposes:

(a) to locate, identify, inventory, and assess the current condition of all real and personal properties that are subject to forfeiture;

(b) to document same by videotape for future reference during the pendency of this criminal action and related forfeiture proceeding; and

(c) to conduct an on-site appraisal of said properties by a qualified expert(s), if necessary.

IT IS FURTHER ORDERED that prior to execution of any writ of entry in this matter, the United States Marshals Service shall contact defense counsel for the purpose of requesting the cooperation of the defendant, his family, agents, employees, and counsel to expedite the inventory process. In the event that the defendant, his family, agents, employees or counsel refuse to cooperate or in any manner obstruct or impede the government's execution of said writs, the United States is hereby authorized to take all necessary steps to properly effect execution of the requested writs of entry, including but not limited to using locksmiths or otherwise forcing entry into any of the locations or conveyances, safes, vaults, or other secure facilities found during execution of the requested writs of entry, and prohibiting all persons from removing any property subject to forfeiture in this action from the premises of each subject location or from any subject conveyance.

In issuing these writs, the Court is satisfied that execution of writs of entry is necessary to adequately document and preserve the real properties and numerous personal properties that are subject to forfeiture; that said writs are the least restrictive means of preserving the subject properties until final disposition; and will not adversely affect the interests of any potential party herein.

SO ORDERED this 3rd day of November, 2003.


KARON O. BOWDRE
United States District Judge