

1 JASON M. FRIERSON
United States Attorney
2 Nevada Bar No. 7709
DANIEL D. HOLLINGSWORTH
3 Assistant United States Attorney
Nevada Bar No. 1925
4 501 Las Vegas Boulevard South, Suite 1100
Las Vegas, Nevada 89101
5 (702) 388-6336
Daniel.Hollingsworth@usdoj.gov
6 Attorneys for the United States

7
8
9 **UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

10 SECURITIES AND EXCHANGE
COMMISSION,

11 Plaintiff,

12 vs.

13 MATTHEW WADE BEASLEY *et al.*

14 Defendants.

15 THE JUDD IRREVOCABLE TRUST *et al.*

16 Relief Defendants.
17

2:22-CV-612-CDS-EJY

**United States of America’s Response for
Motion for Turnover Order of Receivership
Property Held by the United State Marshals
Service or Other Federal Agency as a
Result of Warrants Issued Regarding
Defendants, ECF No. 319,**

[REDACTED]

[REDACTED]

18 The United States responds to the SEC Receiver’s Motion for Turnover of
19 Receivership Property Held by the United States Marshals Service or Other Federal Agency
20 as a Result of criminal search and seizure Warrants Issued Regarding Defendants (Motion),
21 ECF No. 319. This Court should order Jeffrey Judd to authorize the United States to turn
22 over the seized property to him through directly giving the seized property to the SEC
23 Receiver without any consequences against the United States, including, but not limited to,
24 attorneys’ fees, interest, cost, and expenses.

25 The reasons are the following. First, Mr. Judd consented to granting the turnover
26 order as to him by failing to respond to the SEC Receiver’s Motion. Second, the forfeiture
27 law, C.F.R., and cases require the United States to return the seized property to the person
28 from whom the property was seized. Third, this Court also has jurisdiction to order Mr.

1 Judd to authorize the United States to turn over the seized property to him through directly
2 giving the seized property to the SEC Receiver without any consequences against the
3 United States, including, but not limited to, attorneys' fees, interest, cost, and expenses.

4 MEMORANDUM OF POINTS AND AUTHORITIES

5 I. Statement of The Cases

6 A. Administrative and Civil Forfeiture

7 After the FBI executed criminal search and seizure warrants and seized property
8 from Mr. Judd, the FBI started the administrative forfeitures timely. John Sellers, one of the
9 attorneys representing Jeffrey Judd, filed administrative claims for the cash seizures. The
10 United States timely met the requirements concerning the civil forfeiture CAFRA deadlines.

11 B. SEC Receiver Case, 2:22-CV-612-CDS-EJY

12 Without discussing the details of negotiations, I contacted Mr. Sellers, one of the
13 attorneys representing Mr. Judd. Mr. Sellers contacted the other attorneys to determine their
14 positions and Mr. Judd's position. Mr. Sellers told me he had mixed reviews that the United
15 States would dismiss its interest in the forfeitable property and turn it over to the SEC
16 Receiver. We discussed options, and he told me he would contact me with a decision. I
17 have not heard from him since.

18 Mr. Judd has not responded to the Motion, ECF No. 319. *See* docket sheet.

19 II. Argument

20 A. Mr. Judd failed to oppose the Turnover Motion and consented to this Court granting 21 the Motion as to him.

22 Since Mr. Judd failed to respond to the Motion, ECF No. 319, he has consented to
23 this Court granting the turnover as to him. LR 7-2(d) (ellipsis added) ("The failure of an
24 opposing party to file points and authorities in response to any motion ... constitutes a
25 consent to the granting of the motion."); *McCoy v. Phila. Ins. Co.*, No.: 2:20-CV-00879, 2020
26 WL 5606900, 1 (D. Nev. Sept. 17, 2020).

27 The local rules, "no less than the federal rules or acts of Congress, have the force of
28 law. *United States v. Hvass*, 355 U.S. 570, 574-75 (1958); *Weil v. Neary*, 278 U.S. 160, 169

1 (1929); *Marshall v. Gates*, 44 F.3d 722, 724 (9th Cir. 1994).” *Hanulcikova v. Eisenman*, No.:
2 2:08-cv-1662-RLH-PAL, 2009 WL 464443, 1 (D. Nev. Feb. 24, 2009).

3 For this reason, this Court should grant the Turnover order as to Mr. Judd.

4 **B. Forfeiture Framework**

5 The United States must provide administrative notice within 60 days of seizing
6 forfeitable property. 18 U.S.C. § 983(a)(1)(A); *Omidi v. United States*, 851 F.3d 859, 860 (9th
7 Cir. 2017). The United States provided timely notice in Mr. Judd’s administrative
8 forfeitures.

9 Any person, claiming seized property, must file an administrative claim within 35
10 days of the administrative forfeiture notice is mailed or not later than 30 days after the date
11 of final publication of the administrative forfeiture notice. 18 U.S.C. § 983(a)(2)(A) and (B);
12 *Omidi*, 851 F.3d at 861. Mr. Judd timely filed an administrative claim. *Id.*

13 The United States must meet the requirements concerning the civil forfeiture
14 CAFRA deadlines. 18 U.S.C. § 983(a)(3)(A). [REDACTED]

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED] if the United
19 States decides not to forfeit the property, it must release and return the forfeitable property
20 to the person from whom it was seized. 18 U.S.C. § 983(a)(3)(A) and (B); 28 C.F.R. § 8.13;
21 *In re Return of Seized Prop., \$4,000 in U.S. Currency*, 130 F. Supp. 3d 1354, 1356-57 (S.D. Cal.
22 2015).

23 For these reasons, the United States Marshals Service must return the seized
24 property to the person from whom it was seized.

25 / / /

26 / / /

27 _____
28 [REDACTED]

1 **C. Resolution of Forfeiture and the Turnover Order**

2 When the forfeiture law and this Court’s motion for turnover order intersects, the
3 United States recommends the following.

4 Since this Court has jurisdiction of this case [REDACTED]
5 [REDACTED], this Court should issue an order, requiring Mr. Judd to authorize the
6 United States to turn over the seized property to him through directly giving the seized
7 property to the SEC Receiver without any consequences against the United States,
8 including, but not limited to, attorneys’ fees, interest, cost, and expenses. The reason for this
9 order is the United States does not know how else to meet both the forfeiture statute,
10 C.F.R., and cases and this Court’s order to turn over the seized property in this case.

11 If this Court issues the order, the United States will take the necessary steps in this
12 case [REDACTED] based on this Court’s order. Counsel for the United
13 States and counsel for the SEC Receiver will arrange for the SEC Receiver to contact the
14 United States Marshals Service for turning over the seized property.

15 **III. Conclusion**

16 For the foregoing reasons, this Court should order Mr. Judd to authorize the United
17 States to turn over the seized property to him through directly giving the seized property to
18 the SEC Receiver without any consequences against the United States, including, but not
19 limited to, attorneys’ fees, interest, cost, and expenses.

20 DATED: November 10, 2022.

21 JASON M. FRIERSON
22 United States Attorney

23 /s/ Daniel D. Hollingsworth
24 DANIEL D. HOLLINGSWORTH
25 Assistant United States Attorney
26
27
28