



U.S. Department of Justice

*United States Attorney
Southern District of New York*

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

May 28, 2015

By ECF

Hon. Katherine B. Forrest
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

Re: *United States v. Ross William Ulbricht, 14 Cr. 68 (KBF)*

Dear Judge Forrest:

In connection with sentencing in this matter, scheduled for tomorrow, the Government respectfully submits the attached proposed Preliminary Order of Forfeiture / Money Judgment. At sentencing, the Government will ask the Court to enter the proposed order, which will impose a money judgment against the defendant in the amount of \$183,961,921. This figure reflects the total Silk Road sales specifically categorized in transactional records recovered from the Silk Road server as either illegal drug sales (\$182,960,285) or sales of false identification documents (\$1,001,636). (GX-940A; GX-940B; Tr. dated Feb. 2, 2015, at 1929:1-1934:13). These sales represent a conservative estimate of (a) the amount of proceeds the defendant "obtained, directly or indirectly," as a result of the offenses in Counts One through Six, *see* 21 U.S.C. § 853 & 18 U.S.C. § 982(a)(2)(B), and (b) the value of the property "involved in" the money laundering offense in Count Seven, *see* 18 U.S.C. § 982(a)(1).¹

With respect to (a), the term "obtained" applies to property obtained by third parties acting in concert with the defendant. "A court may order a defendant to forfeit proceeds received by others who participated jointly in the crime, provided the actions generating those proceeds were reasonably foreseeable to the defendant." *United States v. Contorinis*, 692 F.3d 136, 147 (2d Cir. 2012). Accordingly, because sales of illegal drugs and false identification documents conducted by Silk Road vendors were foreseeable to Ulbricht, he is subject to

¹ Because some Silk Road sales are uncategorized in the transactional records recovered from the Silk Road server, the actual volume of sales of drugs and false identification documents is believed to be higher. Furthermore, because computer hacking tools and services were sold along with other types of computer-related listings under various categories (*e.g.*, "Digital Goods" and "Computer Equipment"), figures are not readily available as to proceeds specifically tied to the computer-hacking count (Count Five), and thus they are not included in this estimate.

forfeiture with respect to the proceeds of those sales in their entirety – not just the portion that he personally retained as commissions.

With respect to (b), “even where a defendant does not retain laundered property he will be subject to substitution of assets [*i.e.*, a money judgment] so long as he conducted at least three separate transactions in any twelve-month period involving a total of \$100,000 or more.” *United States v. Bermudez*, 413 F.3d 304, 306 (2d Cir. 2005) (citing 18 U.S.C. § 982(b)(2)). Ulbricht was involved in laundering many more than three transactions in a twelve-month period, involving funds worth well beyond \$100,000. Silk Road automatically laundered all proceeds passing through its Bitcoin-based payment system, including by passing them through a “tumbler” whose sole purpose was to obfuscate the source and nature of the funds. (*See* GX-119; Tr. dated Jan. 14, 2015, at 213:14-215:22). Hence, Ulbricht is liable for a money judgment in the amount of all the criminal proceeds laundered through Silk Road, regardless of the extent he personally retained those funds.

Accordingly, the Government respectfully requests that the Court enter the attached proposed order at the conclusion of sentencing. The Government notes that there is a pending civil forfeiture action against Ulbricht, seeking, among other things, forfeiture of the bitcoins that the Government seized from Ulbricht’s computer hardware. *See United States v. Ross William Ulbricht*, No. 13 Civ. 6919 (JPO) (S.D.N.Y.). The civil forfeiture action has been stayed pending the resolution of Ulbricht’s criminal case. Upon the forfeiture of the bitcoins from Ulbricht’s computer in the civil forfeiture action, the value of those forfeited bitcoins will be applied toward the money judgment sought herein.

Respectfully,

PREET BHARARA
United States Attorney

By: 
SERRIN TURNER
TIMOTHY T. HOWARD
Assistant United States Attorneys
Southern District of New York

cc: Joshua Dratel, Esq.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:
	:
- v. -	:
	:
	: <u>PRELIMINARY ORDER OF</u>
	: <u>FORFEITURE/MONEY JUDGMENT</u>
ROSS WILLIAM ULBRICHT,	:
a/k/a "Dread Pirate Roberts,"	: S1 14 Cr. 68 (KBF)
a/k/a "DPR,"	:
a/k/a "Silk Road,"	:
	:
Defendant.	:
	:
- - - - -	x

WHEREAS, on or about August 21, 2014, ROSS WILLIAM ULBRICHT, a/k/a "Dread Pirate Roberts," a/k/a "DPR," a/k/a "Silk Road" (the "defendant"), was charged in a seven-count Superseding Indictment, S1 14 Cr. 68 (KBF) (the "Indictment"), with distributing controlled substances in violation of Title 21, United States Code, Sections 812, 841(a)(1), and 841(b)(1)(A) (Count One); distributing controlled substances by means of the Internet in violation of Title 21, United States Code, Sections 812, 841(h), and 841(b)(1)(A) (Count Two); conspiracy to distribute controlled substances in violation of Title 21, United States Code, Section 846 (Count Three); engaging in a continuing criminal enterprise in violation of Title 21, United States Code, Section 848(a) (Count Four);

conspiring to commit and aid and abet computer hacking in violation of Title 18, United States Code, Section 1030(b) (Count Five); conspiring to traffic in fraudulent identification documents in violation of Title 18, United States Code, Section 1028(f) (Count Six); and conspiring to commit money laundering in violation of Title 18, United States Code, Section 1956(h) (Count Seven);

WHEREAS, the Indictment included a forfeiture allegation, seeking forfeiture to the United States, pursuant to Title 21, United States Code, Section 853, of any and all property constituting or derived from any proceeds obtained directly or indirectly as a result of, and any and all property used or intended to be used in any manner or part to commit or to facilitate the commission of, one or more of the offenses alleged in Counts One through Four of the Indictment;

WHEREAS, the Indictment included a forfeiture allegation, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 982(a)(2)(B), of any property constituting, or derived from, proceeds obtained directly or indirectly as a result of one or more of the offenses alleged in Counts Five and Six of the Indictment;

WHEREAS, the Indictment included a forfeiture allegation, seeking forfeiture to the United States pursuant to Title 18, United States Code, Section 982(a)(1), any property,

real or personal, involved in the offense alleged in Count Seven of the Indictment, or any property traceable to such property;

WHEREAS, on or about February 4, 2015 the defendant was found guilty following a jury trial before the Honorable Katherine B. Forrest on each and every count of the Indictment;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. As a result of the offenses charged in Counts One through Seven of the Indictment, to which the defendant was found guilty, a money judgment in the amount of \$183,961,921 in United States currency (the "Money Judgment") shall be entered against the defendant, representing (a) proceeds obtained as a result of, and property used or intended to be used in any manner or part to commit or to facilitate the commission of, one or more of the offenses alleged in Counts One through Four of the Indictment; (b) proceeds obtained directly or indirectly as a result of the offenses alleged in Counts Five and Six of the Indictment; and (c) property involved in the offense alleged in Count Seven of the Indictment, or property traceable to such property.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, upon entry of this Preliminary Order of Forfeiture/Money Judgment, this Preliminary Order of Forfeiture/Money Judgment is final as to the defendant, ROSS

WILLIAM ULBRICHT, a/k/a "Dread Pirate Roberts," a/k/a "DPR," a/k/a "Silk Road," and shall be deemed part of the sentence of the defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding Money Judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Asset Forfeiture Unit, One St. Andrew's Plaza, New York, New York 10007, and shall indicate the defendant's name and case number.

4. Upon execution of this Preliminary Order of Forfeiture/Money Judgment, and pursuant to Title 21, United States Code, Section 853, the United States Marshals Service (or its designee) shall be authorized to deposit all payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. The Court shall retain jurisdiction to enforce this Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, upon entry of this Preliminary Order of

Forfeiture/Money Judgment, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas, pursuant to Rule 45 of the Federal Rules of Civil Procedure.

7. The Clerk of the Court shall forward three certified copies of this Preliminary Order of Forfeiture/Money Judgment to Assistant United States Attorney Jason H. Cowley, Chief of the Money Laundering and Asset Forfeiture Unit, One St. Andrew's Plaza, New York, New York, 10007.

Dated: New York, New York
May 29, 2015

SO ORDERED:

HONORABLE KATHERINE B. FORREST
UNITED STATES DISTRICT JUDGE