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11 UNITED STATES DISTRICT COURT

12 DISTRICT OF ARIZONA

13 United States of America,  
 Plaintiff,  
 14 v.  
 15 Thomas Mario Costanzo,  
 Defendant.  
 16  
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CR17-00585-PHX-GMS  
**MOTION FOR PRELIMINARY  
 ORDER OF FORFEITURE**

18 Plaintiff United States of America, pursuant to Federal Rule of Criminal  
 19 Procedure 32.2(b), moves for a preliminary order of forfeiture so that it can provide third  
 20 parties with the opportunity to file petitions and make claims, if any, to the forfeited  
 21 property, 80.94512167 of seized bitcoins. A proposed order is submitted with this  
 22 motion.

23 On March 28, 2018, the jury found defendant guilty of five counts of money  
 24 laundering, 18 U.S.C. § 1956(a)(3). (Doc. 188). The government sought to forfeit the  
 25 following property: (a) \$627.36 in United States Currency; (b) assorted precious metals  
 26 found in Mr. Costanzo’s residence; (c) assorted precious metals found on Mr.  
 27 Costanzo’s person; and (d) 80.94512167 bitcoins. *See* supplemental jury instructions re:  
 28

1 forfeiture (doc. 182), p. 2. The government previously had seized the 80.94512167  
2 bitcoins seized from acct. #13QM5xL4rqwUgQPRtMv3tZtVvpc6caPepv.

3 The jury returned a forfeiture special verdict finding that (1) the \$627.36 and the  
4 precious metals were not subject to forfeiture, and (2) the 80.94512167 of bitcoins were  
5 property involved in defendant's money laundering offenses or was property traceable to  
6 such property. (Doc. 189). As the jury found the bitcoins were involved in defendant's  
7 money laundering offenses, the government necessarily has established the requisite  
8 nexus between the bitcoin and defendant's offenses to make them forfeitable. *See* Fed.  
9 R. Crim. Proc. 32.2(b)(1)(A) (preliminary order of forfeiture should be entered if the  
10 "requisite nexus between the property and the offense" has been established).

11 The government therefore requests a preliminary order of forfeiture of the  
12 80.94512167 bitcoins seized from acct. #13QM5xL4rqwUgQPRtMv3tZtVvpc6caPepv.  
13 Once the preliminary order is entered, the government will publish notice of the order  
14 and send notice to known third parties as required by Rule 32.2(b)(6) so that any  
15 possible petitions or claims by third parties to this bitcoin can be resolved. The  
16 government will publish notice of the order on the government's official Internet  
17 website, [www.forfeiture.gov](http://www.forfeiture.gov), and will send direct notice to any person, other than the  
18 defendant, having or claiming a legal interest in the seized property, advising such  
19 person of his or her right to file a petition contesting the forfeiture in accordance with 21  
20 U.S.C. § 853(n) and Rule 32.2(c).

21 If a timely petition(s) is filed, the Court may conduct a hearing without a jury to  
22 adjudicate the validity of the alleged interest in the property at issue. If no third party  
23 files a timely petition, the proposed order shall become the final order of forfeiture, as  
24 provided by Fed. R. Crim. P. 32.2(c)(2), and the property can be disposed of according  
25 to law.

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The United States respectfully requests this Court to enter a preliminary order of forfeiture so that third parties can be noticed and file petitions to the bitcoin.

Respectfully submitted this 14<sup>th</sup> day of May, 2018.

ELIZABETH A. STRANGE  
First Assistant United States Attorney  
District of Arizona

S/ Mark J. Wenker  
MARK J. WENKER  
Assistant United States Attorney

**CERTIFICATION**

I certify that on May 14, 2018, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all counsel of record.

By: S/Tina Keoni

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UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

United States of America,  
  
  Plaintiff,  
  
  v.  
  
Thomas Mario Costanzo,  
  
  Defendant.

CR17-00585-PHX-GMS  
**PRELIMINARY ORDER OF  
FORFEITURE**

Plaintiff United States of America seeks an order of forfeiture, pursuant to Federal Rule of Criminal Procedure 32.2(b), so that it can provide third parties with the opportunity to file petitions and make claims, if any, to the forfeited property. Accordingly,

**IT IS ORDERED** that the Motion for Preliminary Order of Forfeiture is GRANTED as follows:

As the result of the jury finding defendant Thomas Mario Costanzo guilty of five counts of money laundering in violation of 18 U.S.C. § 1956(a)(3) and having returned a special verdict finding that 80.94512167 Bitcoins seized from Acct. #13QM5xL4rqwUgQPRtMv3tZtVvpc6caPepv (“Subject Property”) was property involved in defendant’s money laundering offenses or was traceable to such property, the government has established the requisite nexus between the Subject Property and the defendant’s offenses.

Upon entry of this Order, the United States is authorized to seize the property listed above and to conduct any discovery proper in identifying, locating or disposing of the property subject to forfeiture, in accordance with Fed. R. Crim. P. 32.2(b)(3).

1           Upon entry of this Order, the United States/Attorney General (or a designee) is  
2 authorized to commence any applicable proceeding to comply with statutes governing  
3 third party rights, including giving notice of this Order.

4           The United States shall publish notice of the Order and its intent to dispose of the  
5 property in such a manner as the United States/Attorney General (or a designee) may  
6 direct. The United States may also, to the extent practicable, provide written notice to  
7 any person known to have an alleged interest in the Subject Property.

8           Any person asserting a legal interest in the Subject Property may, within thirty  
9 days of the final publication of notice or receipt of notice, whichever is earlier, petition  
10 the court for a hearing without a jury to adjudicate the validity of his or her alleged  
11 interest in the Subject Property, and for an amendment of the order of forfeiture,  
12 pursuant to 21 U.S.C. § 853(n) or 28 U.S.C. § 2461(c).

13           If no third party files a timely claim, this Order shall become the Final Order of  
14 Forfeiture, as provided by Fed. R. Crim. P. 32.2(c)(2). Any petition filed by a third party  
15 asserting an interest in the Subject Property shall be signed by the petitioner under  
16 penalty of perjury and shall set forth the nature and extent of the petitioner's right, title,  
17 or interest in the property, the time and circumstances of the petitioner's acquisition of  
18 the right, title or interest in the property, any additional facts supporting the petitioner's  
19 claim, and the relief sought.

20           The United States shall have clear title to the Subject Property following the  
21 Court's disposition of all third-party interests, or, if none, following the expiration of the  
22 period provided in 21 U.S.C. § 853(n)(2), for the filing of third party petitions.

23           The Court shall retain jurisdiction to enforce this Order, and to amend it as  
24 necessary, pursuant to Fed. R. Crim. P. 32.2(e).

25           DATED this \_\_\_\_\_ day of May, 2018.

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