

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CIVIL NO. 3:10-cv-00747
)	
EBONY WOOD IN VARIOUS FORMS)	JUDGE HAYNES
)	
Defendant.)	

AFFIDAVIT OF KEVIN L. SEILER

I, Kevin L. Seiler, being first duly sworn, depose and state that the information provided in this affidavit is based on my personal knowledge, information and belief, except as to those matters stated to be upon information and belief and if called as a witness I could competently testify hereto.

1. I am a Special Agent with the United States Fish and Wildlife Service (FWS), Office of Law Enforcement, within the meaning of 16 U.S.C. § 3375.

2. I am familiar, based on my training and experience, with the laws and regulations primarily enforced by the FWS, such as the Lacey Act, U.S.C. § 3371, *et seq.*, and the Endangered Species Act (ESA), 16 U.S.C. § 1531, *et seq.* I am also familiar with additional laws and regulations that may be applied in cases involving illegal trade in wildlife or plants, including the prohibitions against the import of merchandise contrary to law, 18 U.S.C. § 545.

3. By way of background, I presented a previous affidavit in support of the United States' Verified Complaint *In Rem*. I am the case agent in *United States of America v. Ebony Wood in Various Forms*, Middle District of Tennessee Civil No. 3:10cv 00747 (hereinafter "Civil Forfeiture Action"). I am also the case agent in an ongoing criminal investigation which involves

alleged illegal activity concerning the Defendant Property sought for seizure in the Civil Forfeiture Action. The Civil Forfeiture Action and the ongoing criminal investigation are assigned to two different sections of the Department of Justice. The Civil Forfeiture Action is assigned to the civil asset forfeiture attorney Debra Teufel Phillips for the Middle District of Tennessee, Office of the United States Attorney. The ongoing criminal action is assigned to Elinor Colbourn as lead attorney, with assistance from the criminal division of the Middle District of Tennessee United States Attorney's office. Senior Trial Attorney Elinor Colbourn is a Senior Trial Attorney in the Environmental Crimes Section, Environment and Natural Resources Division of the United States Department of Justice Criminal Division in Washington D.C. I am aware that Gibson has stated in an October 29, 2010 letter that it has produced more than 40,000 pages of documents pursuant to a subpoena. Gibson has further stated (in its Claim) that it has provided documents to Elinor Colbourn. Any information obtained from subpoenas in the criminal investigation has not been approved to be provided in the Civil Forfeiture Action. Further to my knowledge, no requests or waivers have been received from Gibson to allow Elinor Colbourn to release said information to the attorney for use in the Civil Forfeiture Action, and there have been no subpoenas issued in the Civil Forfeiture Action.

4. I participated in the execution of a federal search and seizure warrant on November 17, 2009, Middle District of Tennessee Case No. 09-2133MJ (warrant). This warrant was requested by the Criminal Division of the United States Attorney's Office in the Middle District of Tennessee pursuant to an ongoing criminal investigation and served on Gibson Guitar at 641 Massman Drive, Nashville, Tennessee 37210. Two other related federal search and seizure warrants were also served on the same day under my direction.

5. The Defendant Property, which is the subject of the Civil Forfeiture Action in *United States of America v. Ebony Wood in Various Forms*, Civil No. 3:10cv 00747 was seized during execution of the warrant at Massman Drive as evidence in the ongoing criminal investigation. Administrative forfeiture was also pursued in regard to the Defendant Property.

6. Regarding the ongoing criminal investigation, Indictments are anticipated and the Defendant Property is expected to be used as evidence in the prosecution of that matter.

7. Regarding the administrative forfeiture proceeding, Gibson was notified of the intent of the United States to forfeit the Defendant Property, and I have read Gibson's claim which states it is the owner of the seized property and it "has provided the Government through Department of Justice attorney Elinor Colbourn with documents supporting its claim regarding ownership."

8. Subsequent to the filing of a claim in the administrative forfeiture, the United States Attorneys' Office Middle District of Tennessee Civil Division initiated this civil forfeiture action.

9. Any information provided to Senior Trial Attorney Elinor Colbourn, Environmental Crimes Division, Environment and Natural Resources Division of the United States Department of Justice Criminal Division, Washington D.C. by Gibson Guitar in response to subpoenas served as part of the criminal investigation, has not been and is not expected to be provided in the near future in the civil collateral investigation.

10. I was out of the office from November 1, 2010 through Friday, November 12, 2010, for a trip out of the country. I flew into Nashville, November 15, 2010 and met with Assistant United States Attorney Debra Phillips on November 16, 2010 to assist as needed in the finalization of the Special Interrogatories and the Motion to Dismiss.

FURTHER, your affiant sayeth not.



KEVIN L. SEILER, Special Agent
United States Fish and Wildlife Service
Office of Law Enforcement

Subscribed and sworn to before me
this 22nd day of December, 2010 in Nashville,
Davidson County, Tennessee



Deborah T, Krause, Notary Public
My commission expires July 3, 2012

