

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

In Re: ENFORCEMENT OF A SEIZURE)
ORDER BY THE 7th FEDERAL CRIMINAL)
COURT OF PORTO ALEGRE, THE STATE OF)
RIO GRANDE DO SUL, THE FEDERATIVE)
REPUBLIC OF BRAZIL, TO SEIZE:)

THE VIRTUAL CURRENCIES ASSOCIATED)
WITH MARCOSROMA@GMAIL.COM AND)
MARCOSMARRA56@GMAIL.COM,)
CONTROLLED BY AND IN THE NAME OF)
MARCOS ANTONIO FAGUNDES, AT THE)
VIRTUAL CURRENCY EXCHANGE)
FORMERLY POLONIEX, LLC, OR POLO)
DIGITAL ASSETS)

1:20-MC-00011 (TNM)

MODIFIED ORDER PURSUANT TO
28 U.S.C. § 2467(d)(3)(A), (d)(3)(B)(ii) AND 18 U.S.C. §983(j)(1)

This matter having come before this Court on the *ex parte* application of the United States of America for a seizure order filed February 24, 2020, and a motion to modify this Court’s seizure Order entered March 4, 2020 pursuant to 28 U.S.C. § 2467(d)(3)(A), (d)(3)(B)(ii) and 18 U.S.C. § 983(j)(1), which provides U.S. district courts with jurisdiction to register and enforce foreign orders and take such other action in connection with any property or other interest subject to forfeiture in a foreign proceeding to ensure its availability for forfeiture; and, IT APPEARING TO THE COURT THAT:

WHEREAS, through the information provided to this Court in the Application and the motion to modify this Court’s March 4, 2020 order by the United States to the extent necessary, pursuant to 28 U.S.C. § 2467(d)(3)(A), (d)(3)(B)(ii) and 18 U.S.C. §983(j)(1), the United States seeks approval of this Court to enforce a Brazilian seizure order entered December 26, 2019 order against the virtual currency associated with marcosroma56@gmail.com and marcosmarra56@gmail.com, which are now transferred to the email account

poloniex.cripto1@gmail.com controlled by and in the name of Marcos Antonio Fagundes, at the virtual currency exchange previously known as Poloniex LLC, now being acquired by Polo Digital Assets (“Fagundes’ Virtual Currency Accounts”), and

WHEREAS, the United States seeks this Court’s approval to complete the execution of this Court’s seizure order by converting the non-Bitcoin virtual currency in US dollars through the use of an intermediary in an exercise of this Court’s authority under 18 U.S.C. § 983(j)(1) and 28 U.S.C. § 2467(d)(3)(A)(ii)(II)(aa),

The United States has established that:

- a. Pursuant to 28 U.S.C. § 2467, this Court has jurisdiction over the subject matter of this case;
- b. Pursuant to 28 U.S.C. §2467 (c)(2)(B), venue is appropriate in the United States District Court for the District of Columbia;
- c. The United States and Brazil, are parties to a Mutual Legal Assistance Treaty which entered into force on February 21, 2001, providing for mutual forfeiture assistance, U.S.-Braz., Oct. 14, 1997, S. TREATY DOC. NO. 105-42 (1998);
- d. The seizure order issued by the 7th Federal Court of Porto Alegre, State of Rio Grande Do Sul dated December 26, 2019, attached as Exhibit 1, establishes that criminal proceedings are pending in Brazil against Marcos Antonio Fagundes, the owner and account holder of Fagundes’ Virtual Currency Accounts the contents of which is subject to forfeiture due to Fagundes’ involvement in operating a financial institution without authorization, securities law violations, and organized crime, embezzlement, and money laundering in violation of Brazilian law;
- e. The conduct giving rise to forfeiture under the Brazilian law constitutes conduct that would give rise to forfeiture under 18 U.S.C. § 981(a)(1)(A) and 18 U.S.C. § 981(a)(2)(8) or 28 U.S.C. § 2461(c), if committed in the United States;
- f. The Chief of the United States Department of Justice, Criminal Division, Money Laundering and Asset Recovery Section, in the interest of justice, has certified the attached Brazilian seizure order for enforcement against the Property;
- g. The Brazilian seizure order appears to have been rendered under a system of law compatible with the requirements of due process;
- h. There is no apparent basis to believe that the 7th Federal Court of Porto Alegre, State of Rio Grande Do Sul that entered the seizure order lacks jurisdiction over

the subject matter;

- i. There is no indication that the 7th Federal Court of Porto Alegre, State of Rio Grande Do Sul order was obtained by fraud; and
- j. The United States having advised this Court that in order to execute the seizure of certain non-Bitcoin cryptocurrency as provided for in this Court's March 4, 2020 order, it is necessary to convert such currency into US dollars to secure, preserve and maintain the assets for forfeiture, and that such authority is expressly approved by the Brazilian Court in its December 26, 2019 Order.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, PURSUANT TO 28 U.S.C. § 2467(d)(3)(A), (d)(3)(B)(ii) and 18 U.S.C. §983(j)(1), THAT:

1. This Court's March 4, 2020 seizure order registering and enforcing this seizure order issued by the Brazilian the 7th Federal Court of Porto Alegre, State of Rio Grande Do Sul, which is attached as Exhibit 1 to this order is hereby modified to the extent necessary as follows;
2. **YOU ARE COMMANDED**, to execute this Court's Order and seize all remaining cryptocurrency belonging to or controlled by Fagundes' in Fagundes' Virtual Currency Accounts at Polo Digital Assets in the daytime (6:00 a.m. to 10:00 p.m.);
3. Upon a selection by the United States of a qualified cryptocurrency exchange, non-Bitcoin cryptocurrency belonging to Fagundes' Virtual Currency Accounts located in the United States, shall be converted into U.S. dollars, complying with all applicable rules, regulations and procedures;
4. **YOU ARE FURTHER COMMANDED**, to seize from the exchange employed the U.S. dollars generated by the conversion of any non-Bitcoin cryptocurrency seized from Fagundes' Virtual Currency Accounts;
5. **YOU ARE FURTHER COMMANDED**, to provide a copy of this Court's Order and the Brazilian seizure order to the entities affected by this Order for hosting Fagundes' Virtual Currency Accounts and any exchange used to facilitate the conversion of such seized assets;
6. **YOU ARE FURTHER COMMANDED**, promptly after execution of this Court's Order to attempt to provide a copy of this Court's Order and the underlying Brazilian order to anyone else known to the United States as holding a protected interest in Fagundes' Virtual Currency Accounts in a manner reasonably calculated to apprise them of their right to be heard;
7. The terms of this Court's Orders shall remain in full force and effect until the Brazilian criminal cases against the criminal defendants whose interest is affected by these orders are concluded and any forfeiture or confiscation judgments obtained therein have been presented for enforcement to this Court, or the assets subject to this Court's Orders are

sought by Brazilian authorities to be released;

8. The United States shall maintain all cryptocurrency belonging to Fagundes' Virtual Currency Accounts both seized in its current and converted form, in a manner and at its discretion that best maintains their value in accordance with their polices, practices and regulations until such time this Order is vacated; and
9. The United States may serve a copy of this Order on any affected entities by facsimile or electronic mail.

Dated this 12 day of ~~July~~ ^{August} 2020.



Trevor N. McFadden
United States District Judge