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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Judgment Creditor,

v.

DEVON ARCHER,

Judgment Debtor,

and

MIDLAND TRUST COMPANY, MIDLAND
IRA, INC., AND GUARDIAN LIFE
INSURANCE COMPANY OF AMERICA,

Garnishees.

16 CR 371-06 (RA)

**APPLICATION FOR
WRITS OF GARNISHMENT**

The United States of America (“the Government”), by and through its attorney, Damian Williams, United States Attorney for the Southern District of New York, applies, pursuant to 18 U.S.C. § 3613 and the Federal Debt Collection Procedure Act (“FDCPA”), 28 U.S.C. § 3205(b)(1),¹ for Writs of Garnishment upon the judgment entered against DEVON ARCHER,

¹ Applications for FDCPA writs are generally submitted *ex parte* without notice to judgment debtors and their insiders until after the process has been served to prevent the transfer or dissipation of nonexempt assets. 28 U.S.C. § 3004(c). In this instance, however, because the Government has previously served the Garnishees with restraining notices under N.Y. CPLR § 5222, this application for writs is publicly filed.

whose social security number is ***-**-7708, and last known address is in Brooklyn, New York.² A jury found Archer guilty of conspiracy to commit securities fraud in violation of 18 U.S.C. § 371 and securities fraud in violation of 15 U.S.C. §§ 78j(b) & 78ff. *See* Judgment (Dkt. 1007). The Court entered judgment against Archer on February 28, 2022, including a \$200 special assessment, \$43,427,436 in restitution to the victims of the offenses of conviction, and forfeiture in the amount of \$15,700,513, which represents the proceeds of his crimes. *Id.* Pursuant to 18 U.S.C. § 3612(f), interest accrues on the unpaid restitution balance at the rate of 1.15%.

As of April 5, 2023, Archer has paid nothing toward the judgment and the outstanding restitution balance is \$43,954,416.75. More than 30 days has elapsed since demand for payment of the debt was made, yet the balance has not been paid. Archer has neither sought nor obtained a stay of the restitution owed to the victims of his crimes.

Pursuant to 18 U.S.C. § 3613(c), upon entry of judgment, a lien arose on all of Archer's property and rights to property. The Crime Victim Rights Act requires the Court and the attorneys for the Government to ensure that victims are accorded certain rights, including the right to full and timely restitution as provided in law. *See* 18 U.S.C. §§ 3771(a)(6), (b)(1), and (c)(1). As mandated by Congress, the Government has a statutory duty to collect restitution owed to crime victims and many cumulative civil and criminal enforcement remedies available to do so. *See* 18 U.S.C. §§ 3612, 3613, 3613A, 3614, 3664, and 3771; and 28 U.S.C. §§ 1651, and 3001-3008.

To enforce the judgment, the Government requests that writs of garnishment be issued for service upon the garnishees. The name and address of each garnishee and its authorized agent is:

Midland IRA, Inc. &
Midland Trust Company
P.O. Box 07520
Fort Meyers, FL 33919

Guardian Life Insurance Company of America
Legal Department
10 Hudson Yards
New York, NY 10001

² Pursuant to Fed. R. Crim. P. 49.1, the defendant's social security number has been redacted to the last four digits and the home address has been redacted to the city and state to prevent public disclosure. Upon request of the court, the full social security number and address will be provided *in camera*.

The Government believes the garnishees to be in possession, custody, or control of substantial nonexempt property belonging to or due Archer, including but not limited to nonexempt retirement funds, brokerage accounts, and life insurance.

After each garnishee has been served, pursuant to 28 U.S.C. § 3202(c), the Government will serve Archer each person whom the Government has reasonable cause to believe has an interest in the property subject to the writ of garnishment. The attached Writs of Garnishment satisfy the requirements of 28 U.S.C. § 3205.

Dated: New York, New York
April 5, 2023

Respectfully submitted,

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