

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

IN THE UNITED STATES DISTRICT COURT

AUG 08 2016

FOR THE DISTRICT OF NEW MEXICO

MATTHEW J. DYKMAN
CLERK

IN RE: COLLATERAL FORFEITURE)
SCHEDULE FOR THE UNITED STATES)
POSTAL SERVICE.)

Misc. No.: 16-MR-571

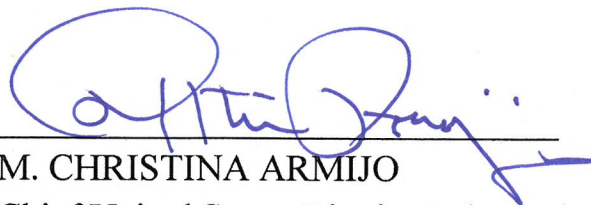
ORDER

THIS MATTER comes before the Court on written motion of the United States to establish and authorize a collateral forfeiture schedule for the United States Postal Service. *See* Fed. R. Crim. P. 58(d)(1); D.N.M.LR-Cr 58.1(a)(2). The Court having reviewed the motion and being fully advised in the premises, finds the motion is well taken and shall be granted.

IT FINDS that the Collateral Forfeiture Schedule provided as Exhibit 1 in the United States' motion is granted and established.

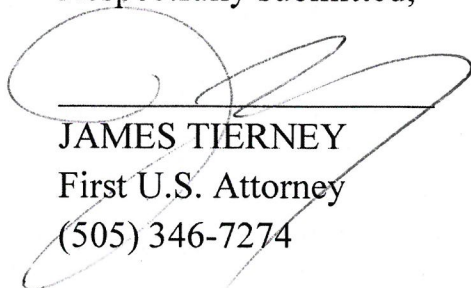
IT ORDERS that the United States Postal Service will apply the amount authorized to a District Court Violation Notice when a law enforcement officer elects to apply a collateral forfeiture amount.

IT FURTHER ORDERS that the collateral forfeitures authorized will remain in effect until this Court may subsequently modify them upon motion of the United States.



M. CHRISTINA ARMIÑO
Chief United States District Judge

Respectfully submitted,



JAMES TIERNEY
First U.S. Attorney
(505) 346-7274

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UNITED STATES MOTION

The United States respectfully moves this Court to authorize the United States Postal Service to assess collateral forfeiture amounts for specified offenses. As grounds for this motion, the United States provides the following justification:

1. Background:

a. The Administrative Office of the United States Courts maintains the Central Violations Bureau (CVB), which acts as a national clearinghouse for all District Court Violation Notices (citations). These citations are charging documents issued by federal law enforcement officers for Class A misdemeanor statutory and regulatory violations and below. In the interests of economy, courts may establish and “accept a fixed-sum payment in lieu of the defendant’s appearance and end the case.” Fed. R. Crim. P. 58(d)(1).

b. The fixed sum payment is known as a “collateral forfeiture,” which is the amount of money paid to CVB in lieu of further criminal proceedings. The payment of a collateral forfeiture is not a fine and payment is not an admission

of guilt. *See* D.N.M.LR-Cr. 58.1(a)(4). A defendant who has the option to pay a collateral forfeiture may forego that right and proceed to trial. Some offenses do not have a collateral forfeiture approved and, for those offenses, a defendant is required to appear for Petty Arraignment before a magistrate judge as a “mandatory appearance.” These mandatory appearances are appropriate for misdemeanor offenses in which there is a continuing concern for the safety or welfare of the community or victim, recidivism, or there is a mandatory minimum period of imprisonment for the offense.

c. A collateral forfeiture is requested by the agency through motion of the United States. The Chief United States District Court Judge has the authority to grant the collateral forfeiture. *See* D.N.M.LR-Cr 58.1(a)(2). The amount requested as the collateral forfeiture may not be greater than the amount permitted by law. *See* 18 U.S.C. § 3571. The United States assess the requested amount to ensure amounts for similar offenses are consistent across agencies that enforce similar crimes. If this motion were approved, federal law enforcement officers may not increase or decrease the amount of money for an applicable offense from what has been authorized.

2. **Authority.** The United States Postal Service is authorized to investigate and enforce federal postal laws, including misdemeanor offenses. CVB

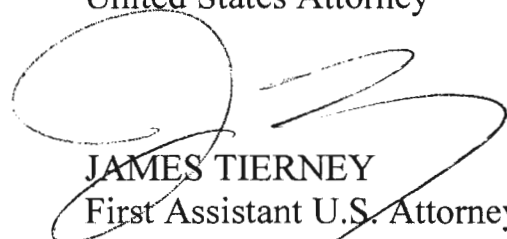
has assigned CVB Locator Codes to the agency in order to enable it to issue misdemeanor citations.

3. **Request.** The United States respectfully moves this Court to approve the collateral forfeiture schedule in Exhibit 1 (Collateral Forfeiture Schedule), which will permit defendants who receive USPS citations for alleged violations of misdemeanor law the option to pay a Court-approved collateral forfeiture in lieu of further criminal proceedings.

4. **Point of Contact.** My point of contact for this motion and subsequent implementation, if approved, is Supervisory AUSA Kimberly Brawley, General Crimes Section, who may be reached at 346-7274.

Respectfully submitted,

DAMON C. MARTINEZ
United States Attorney

A handwritten signature in black ink, appearing to read 'James Tierney', is written over the typed name and title of the signatory.

JAMES TIERNEY
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(505) 346-7274

UNITED STATES POSTAL SERVICE

Citation for Offense in Title 18 USC.	Description of Offense Chapter 83 Section 1691 to 1737 USC plus 1920	Proposed Collateral in the District of New Mexico	Proposed Custody Release Bail
18.U.S.C.1693	Carriage of mail generally	\$ 200	\$ 200
18.U.S.C.1694	Carriage of matter out of mail over postal routes	\$ 100	\$ 100
18.U.S.C.1695	Carriage of matter out of mail on vessels	\$ 200	\$ 200
18.U.S.C.1696 (a) and (b)	Private Express for letters and packets	\$ 200	\$ 200
18.U.S.C.1697	Transportation of persons acting as private express	\$ 100	\$ 100
18.U.S.C.1698	Prompt delivery of mail from vessel	\$ 100	\$ 100
18.U.S.C.1699	Certification of delivery from vessel	\$ 100	\$ 100
18.U.S.C.1700	Desertion of mail	M.A.	\$ 300
18.U.S.C.1701	Obstruction of mails generally	\$ 100	\$ 100
18.U.S.C.1703 (b)	Delay or destruction of mail or newspapers	M.A.	\$ 300
18.U.S.C.1707	Theft of property used by the Postal Service	M.A.	\$ 300
18.U.S.C.1710	Theft of newspapers	M.A.	\$ 300
18.U.S.C.1711 (not more than \$1,000 in loss)	Misappropriation of postal funds	M.A.	\$ 300
18.U.S.C.1713	Issuance of money orders without payment	\$ 100	\$ 100
18.U.S.C.1716 (j) (1)	Injurious articles as nonmailable	M.A.	\$300
18.U.S.C.1716 A (a) and (b)	Nonmailable locksmithing devices and motor vehicle master keys	M.A.	\$ 300
18.U.S.C.1716 B	Nonmailable plants	M.A.	\$ 300
18.U.S.C.1716 C	Forged agricultural certifications	M.A.	\$ 300
18.U.S.C.1716 D	Nonmailable injurious animals, plant pests, plants, and illegally taken fish, wildlife, and plants	M.A.	\$ 300
18.U.S.C.1719	Franking privilege	\$ 100	\$ 100
18.U.S.C.1720 (non employee only)	Canceled stamps and envelopes	M.A.	\$ 300
18.U.S.C.1721	Sale or pledge of stamps	M.A.	\$ 300

18.U.S.C.1722	False evidence to secure second-class rate	\$ 100	\$ 100
18.U.S.C.1723	Avoidance of postage by using lower class matter	\$ 100	\$ 100
18.U.S.C.1725	Postage unpaid on deposited mail matter	\$ 100	\$ 100
18.U.S.C.1726	Postage collected unlawfully	\$ 200	\$ 200
18.U.S.C.1729	Post office conducted without authority	\$ 100	\$ 100
18.U.S.C.1730	Uniforms of carriers	\$ 200	\$ 200
18.U.S.C.1731	Vehicles falsely labeled as carriers	\$ 200	\$ 200
18.U.S.C.1732	Approval of bond or securities by postmaster	M.A.	\$ 300
18.U.S.C.1733	Mailing periodical publications without payment of postage	M.A.	\$ 300
18.U.S.C.1734	Editorials and other matter as "advertisements"	\$ 100	\$ 100
18 USC 1920 (not more than \$1,000 in loss)	False Statement or fraud to Obtain Federal Employees compensation	M.A.	\$500

* M.A. means Mandatory Appearance.