

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

IN THE MATTER OF) **GENERAL ORDER 2007-2**
)
COLLATERAL FORFEITURE SCHEDULES)

**ORDER AMENDING THE COURT'S PROCEDURE FOR THE
SUBMISSION, APPROVAL AND UPDATING OF COLLATERAL
FORFEITURE SCHEDULES PURSUANT TO FED. R. CRIM. P. 58(d)(1)
AND D.C.COLO.LCrR 58.1(A)**

THIS MATTER comes before the Court on application of the United States of America to amend this Court's procedure for the submission, approval and updating of collateral forfeiture schedules, pursuant to Fed. R. Crim. P. 58(d)(1) and D.C.COLO.LCrR 58.1(A).

HAVING considered the application and with the approval of the active judges of the Court, the Court makes the following FINDINGS:

A. The Proposed Collateral Forfeiture Framework will assist government agencies, the United States Attorney, and the Court in the enforcement of the rules and regulations applicable to misdemeanors and infractions in this District. It will continue to allow agencies to have flexibility in setting collateral forfeiture amounts while providing a narrower presumptive range of appropriate collateral forfeiture amounts that will make the resulting collateral forfeiture schedules more consistent.

B. Mandatory appearances will continue to be governed by D.C.COLO.LCrR 58.1(F), which lists the types of offenses for which a defendant is required to appear before a judicial officer in person or by counsel. In addition, the Collateral Forfeiture Framework will not be applicable to assimilated state-law offenses. These offenses will continue to be governed by D.C.COLO.LCrR 58.1.A, which requires that the “collateral schedule for assimilated state-law offenses shall be the same as set forth by the statutes or regulations of the state unless modified by order of a judicial officer.”

C. The Court finds that its review of an agency’s proposed collateral forfeiture schedule submitted by the United States Attorney for the Court’s review and approval will be substantially streamlined by the representation that both the agency and the United States Attorney have reviewed the agency’s proposed collateral forfeiture schedule and that it meets the Collateral Forfeiture Framework hereby approved by the Court.

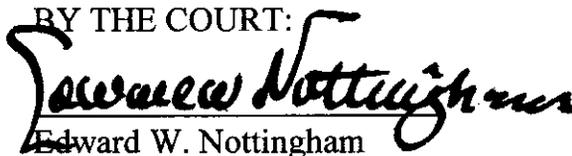
Thus, the Court ORDERS as follows:

A. The Court adopts the Proposed Collateral Forfeiture Framework, which is attached as Exhibit A to this Order, and orders that the collateral forfeiture amounts contained in schedules that are submitted on behalf of federal agencies by the United States Attorney to the Court for approval must fall within the presumptive ranges set out in the Collateral Forfeiture Framework.

B. The United States Attorney will review and then submit proposed collateral forfeiture schedules to the Court on behalf of each agency that is issuing Violation Notices containing a collateral forfeiture amount.

C. Prior to issuing Violation Notices containing collateral forfeiture amounts, agencies must have a collateral forfeiture schedule that has been approved by the Court on file with the Clerk's office.

Dated at Denver, Colorado this 12 day of Oct., 2007.

BY THE COURT:

Edward W. Nottingham
Chief Judge United States District Court

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

I hereby certify that a copy of General Order 2007-2 **ORDER AMENDING THIS COURT'S PROCEDURE FOR THE SUBMISSION AND APPROVAL OF COLLATERAL FORFEITURE SCHEDULES PURSUANT TO FED. R. CRIM. P. 58(d)(1) AND D.C.COLO.LCrR 58.1**, entered by Chief Judge Edward W. Nottingham, this 12th day of October, 2007, was duly mailed/delivered to the following:

All District Judges of the United States District Court for the District of Colorado
All Magistrate Judges for the United States District Court for the District of Colorado
Betsy Shumaker, Clerk, Tenth Circuit Court of Appeals
David Tighe, Circuit Executive, Tenth Circuit

Fred Bach, Chief, U.S. Probation Office
Troy A. Eid, U.S. Attorney, District of Colorado
Raymond Moore, Federal Public Defender

GREGORY C. LANGHAM
Clerk, United States District Court

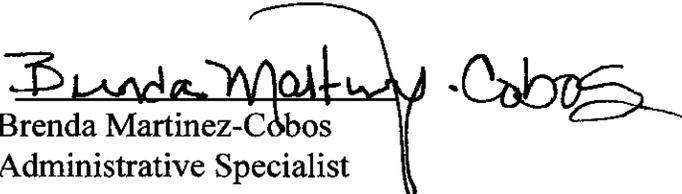
By:  Brenda Martinez-Cobos
Brenda Martinez-Cobos
Administrative Specialist

EXHIBIT A

**PROPOSED COLLATERAL FORFEITURE FRAMEWORK
DISTRICT OF COLORADO**

Offenses	Maximum Term of Imprisonment	Maximum Fine-Individual	Presumptive Collateral Forfeiture Range	Presumptive Collateral Forfeiture Range for Aggravated Offenses
Class A Misdemeanor	12 months	\$100,000	\$50 to \$1,000	\$500 to \$2,500
Class B Misdemeanor	6 months	\$5,000	\$50 - \$500	\$500 to \$1,000
Class C Misdemeanor	30 days	\$5,000	\$50 - \$500	\$500 to \$1,000
Infraction	5 days	\$5,000	\$50 - \$500	\$500 to \$1,000

- I. The descriptions of the offenses and the maximum term of imprisonment and maximum fines are set out at 18 U.S.C. §§ 3559, 3571, and 3581.
- II. If a violation involves the deprecation of a resource, the estimated value of the resource may be added to the scheduled collateral forfeiture (e.g. value of game, artifact, property).
- III. **Aggravated offenses** are offenses involving circumstances in which there is a heightened governmental interest in deterrence, which would not be adequately served by the presumptive collateral forfeiture range. The following represent categories of offenses or circumstances that are considered aggravated.
 - A. Improper use of fire or flammable materials during an increased fire risk period or otherwise creating a substantial risk of fire to a natural resource area.
 - B. Unauthorized or improper possession, taking, transporting, disturbing, or serious deprecation of a resource (including wildlife or game, wild horses and burros, fossils, archaeological or historical structures, artifacts, or property, timber, plants, and protected or prohibited species).
 - C. Unauthorized commercial activity, including prospecting.
 - D. Unauthorized use of a federal agency’s insignia, seal, sign, uniform, symbol, or authority.
- IV. The Collateral Forfeiture Framework is not applicable to assimilated state-law offenses. The Local Rule of Practice for the United States District Court for the District of Colorado, D.C.COLO.LCrR 58.1.A requires that the “collateral schedule for assimilated state-law offenses shall be the same as set forth by the statutes or regulations of the state unless modified by order of a judicial officer.”

- V. The Collateral Forfeiture Framework is not applicable to the offenses outlined in Local Rule of Practice for the United States District Court for the District of Colorado, D.C.COLO.LCrR 58.1.F which lists certain offenses or categories of offenses for which forfeiture is not permitted and appearance of the defendant before a judicial officer is required.