



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

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*One Pierrepont Plaza, 14th Floor*

*147 Pierrepont Street  
Brooklyn, New York 11201-2776*

December 10, 2004

**BY HAND**

Honorable Jack B. Weinstein  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: *U.S.A. v. \$293,316, et al.; CV-03-0278 (Weinstein, J.) (Pollak, M. J.)*

Dear Judge Weinstein:

As directed by Your Honor at the oral argument on the government's motion for summary judgment, the undersigned Assistant U.S. Attorney respectfully submits the enclosed chart of judicial forfeitures under the currency reporting and bulk cash smuggling statutes and the accompanying explanation of the chart prepared by U.S. Customs and Border Protection.

Respectfully submitted,

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Eastern District of New York

By: /s/  
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Encl.

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David Smith, Esq. (by regular mail, w/encl.)

### Explanation of Forfeiture Chart

The following chart was prepared by U.S. Customs and Border Protection ("CBP") in response to the Court's request for information concerning judicial forfeitures of currency seized pursuant to 31 U.S.C. Sections 5316, 5317 ("CMIR" cases), and 5332<sup>1</sup> (Bulk cash smuggling into or out of the United States, or "BCS" cases). The information in the chart was obtained from a database (the "Database") maintained by the Fines, Penalties and Forfeitures ("FP&F") office of CBP that contains records of seizures at ports throughout the country.<sup>2</sup> As more fully described below, the chart provides the requested information with respect to all judicial forfeitures that resulted from CMIR and BCS seizures that occurred during the period beginning September 1999 through 2004.

To prepare the chart, the FP&F office generated spreadsheets of Database records for all forfeitures resulting from CMIR and BCS seizures during the relevant period, including judicial forfeitures (coded as either criminal, "JR", or civil, "JC"), settlements, and thousands of administrative forfeitures.<sup>3</sup> The Database records set forth in the spreadsheets were grouped according to case numbers and included the following information: the date of the seizure, the statutory authority for the seizure, legal and physical status of the seized funds, types of monetary instruments, amounts seized, amount refunded (from which the amount forfeited was determined), and the port where the seizure occurred. Some cases concerned more than one seizure of funds, such as where more than one type of monetary instrument was seized or where the funds were found in more than one location (e.g., luggage, person, carry-on baggage, within vehicle, etc.). To determine the amount forfeited in those cases it was necessary to manually add the entire amount seized under a case number and then subtract from that amount the total amount refunded.

The information arrived at through the process described above appears to indicate a rate of 100% forfeiture in the majority of judicial forfeitures. As indicated in the chart, there is a high rate of forfeiture in criminal CMIR cases. The high rate of 100% forfeitures in civil cases may be attributed to default judgments or the inability of the claimant(s) in those cases to establish ownership or the legitimacy of the seized funds. Additionally, in cases where nominal amounts or only 1%-2% of the seized funds were returned, it is likely that the government was able to establish liability to forfeit all of the seized funds but returned a nominal amount for humanitarian reasons at the time of the seizure. However, because it cannot be determined from the Database records the exact basis for the release or remission, CBP deducted those amounts from the total forfeiture reflected.

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<sup>1</sup> The BCS law was enacted on October 28, 2001. Any seizures pursuant to BCS would be reflected after that date.

<sup>2</sup> We note that because the information in the chart is derived from Database records it is subject to errors such as mistakes in coding information. The chart assumes uniformity in the manner in which cases are coded when entered into the Database.

<sup>3</sup> As the chart sets forth information only with respect to judicial forfeitures, it does not include information about forfeitures that are resolved administratively or pursuant to a settlement agreement. We note that because the vast majority of CBP seizures are resolved through the administrative forfeiture process and most judicial criminal and civil CMIR cases are resolved through plea or settlement agreements, the cases set forth in the chart are not representative of the universe of CMIR and BCS forfeitures. Only a relatively small percentage of CMIR and BCS forfeitures are resolved by order of a court.

The Database does not contain records of how the court determined what percentage of the funds to forfeit or whether an Eighth Amendment challenge was raised by the criminal defendant(s) or claimant(s). As such, CBP cannot provide more information about cases in which less than 100% of the seized funds was forfeited. Forfeiture of less than 100% of the funds may be attributable to situations where the government could not establish liability under the statute, mitigation under the Eighth Amendment, multiple claimants to the same funds or other factors. Further information may only be obtained by conducting a manual review of the individual case files, which are maintained at numerous CBP offices throughout the country. As such a review would be prohibitive in terms of the amount of manpower and resources it would require, we cannot provide further or more specific details regarding the forfeitures.

	<u>DATE OF SEIZURE</u>	<u>AMOUNT SEIZED</u>	<u>AMOUNT FORFEITED</u>	<u>APPROXIMATE PERCENTAGE</u>	<u>LEGAL STATUS</u>	<u>PORT LOCATION</u>
(1)	9/10/99	32,152.00	31,200.00	97	JC	JFK Int'l Airport, NY
(2)	9/28/99	11,472.75	10,325.75	90	JC	Buffalo-Niagara Falls, NY
(3)	9/29/99	61,453.97	60,953.97	99	JC	Buffalo-Niagara Falls, NY
(4)	10/6/99	1,180,959.32	1,180,959.32	100	JC	Detroit, MI
(5)	10/27/99	121,847.00	121,847.00	100	JC	Newark, NJ
(6)	12/6/99	148,155.00	148,155.00	100	JC	Newark, NJ
(7)	12/16/99	116,033.00	116,033.00	100	JR	Newark, NJ
(8)	1/2/00	151,302.00	123,606.70	81	JC	Atlanta, GA
(9)	1/8/00	250,580.00	250,580.00	100	JR	Newark, NJ
(10)	1/10/00	106,020.00	106,020.00	100	JR	Blaine, WA
(11)	1/23/00	50,016.00	50,016.00	100	JR	Miami Int'l Airport, FL
(12)	1/23/00	33,891.00	33,891.00	100	JR	Miami Int'l Airport, FL
(13)	1/25/00	377,482.66	364,918.53	96	JC	Detroit, MI
(14)	1/31/00	12,012.00	12,012.00	100	JR	Miami Int'l Airport, FL
(15)	1/31/00	15,695.00	15,695.00	100	JR	Miami Int'l Airport, FL
(16)	1/31/00	19,011.00	19,011.00	100	JR	Miami Int'l Airport, FL
(17)	2/1/00	76,723.00	76,723.00	100	JC	Miami Int'l Airport, FL
(18)	2/1/00	93,393.00	93,393.00	100	JC	Miami Int'l Airport, FL
(19)	2/1/00	71,397.00	71,397.00	100	JC	Miami Int'l Airport, FL
(20)	2/9/00	55,089.00	55,089.00	100	JR	San Ysidro, CA
(21)	2/10/00	93,880.00	93,880.00	100	JR	Miami Int'l Airport, FL
(22)	3/2/00	50,640.00	50,640.00	100	JR	Miami Int'l Airport, FL
(23)	3/28/00	113,760.00	108,760.00	95	JC	Lynden, WA
(24)	3/29/00	11,663.00	10,477.00	89	JC	Roma, TX
(25)	3/29/00	82,320.00	82,320.00	100	JC	Roma, TX
(26)	4/9/00	19,694.00	19,694.00	100	JR	Miami Int'l Airport, FL
(27)	4/15/00	40,956.00	40,956.00	100	JR	Miami Int'l Airport, FL

(28)	4/15/00	40,400.00	40,400.00	100	JR	Miami Int'l Airport, FL
(29)	4/18/00	539,600.00	536,600.00	99	JR	Champlain-Rouses Point, NY
(30)	4/19/00	73,201.00	73,201.00	100	JR	Miami Int'l Airport, FL
(31)	4/20/00	41,950.00	41,950.00	100	JR	Otay Mesa, CA
(32)	4/20/00	22,010.00	22,010.00	100	JR	Otay Mesa, CA
(33)	4/20/00	21,159.00	21,159.00	100	JR	Otay Mesa, CA
(34)	4/20/00	20,855.00	20,855.00	100	JR	Otay Mesa, CA
(35)	5/3/00	52,764.00	52,704.00	99	JC	JFK Int'l Airport, NY
(36)	5/8/00	92,986.00	92,986.00	100	JC	Newark, NJ
(37)	5/17/00	225,194.00	225,194.00	100	JR	Miami Int'l Airport, FL
(38)	5/19/00	62,454.00	62,454.00	100	JR	Miami Int'l Airport, FL
(39)	5/26/00	40,552.00	40,300.00	99	JC	Newark, NJ
(40)	6/8/00	417,656.00	417,656.00	100	JR	Miami Int'l Airport, FL
(41)	6/21/00	431,958.00	431,958.00	100	JR	Miami Int'l Airport, FL
(42)	6/23/00	2,155,290.00	2,155,290.00	100	JR	Miami Int'l Airport, FL
(43)	6/25/00	1,154,560.00	1,034,560.00	89	JC	West Palm Beach, FL
(44)	6/27/00	152,409.00	149,810.00	98	JC	Newark, NJ
(45)	6/28/00	69,291.00	69,191.00	99	JC	Roma, TX
(46)	6/28/00	221,950.00	221,950.00	100	JC	Newark, NJ
(47)	6/30/00	252,921.00	252,921.00	100	JR	Miami Int'l Airport, FL
(48)	6/30/00	96,556.00	96,556.00	100	JR	Miami Int'l Airport, FL
(49)	7/5/00	51,082.00	51,082.00	100	JR	Miami Int'l Airport, FL
(50)	7/7/00	126,042.15	126,040.00	99	JC	Newark, NJ
(51)	7/8/00	75,959.00	75,959.00	100	JR	Miami Int'l Airport, FL
(52)	7/9/00	50,940.00	50,940.00	100	JR	Champlain-Rouses Point, NY
(53)	7/11/00	37,479.00	37,479.00	100	JR	San Ysidro, CA
(54)	7/19/00	76,165.00	5,000.00	06	JC	Chicago, IL
(55)	7/19/00	249,756.00	249,756.00	100	JR	Port Everglades, FL
(56)	7/31/00	504,710.67	504,710.67	100	JC	Hildago, TX
(57)	7/31/00	345,210.00	345,210.00	100	JR	San Ysidro, CA
(58)	8/1/00	231,340.00	231,340.00	100	JR	Miami Int'l Airport, FL

(59)	8/12/00	63,413.00	63,413.00	100	JR	Miami Int'l Airport, FL
(60)	9/15/00	42,500.00	14,700.00	34	JC	JFK Int'l Airport, NY
(61)	9/18/00	86,682.00	42,475.00	49	JC	Miami Int'l Airport, FL
(62)	9/20/00	165,074.00	165,074.00	100	JR	Newark, NJ
(63)	9/28/00	21,578.00	21,500.00	99	JC	JFK Int'l Airport, NY
(64)	9/28/00	72,435.00	72,400.00	99	JC	JFK Int'l Airport, NY
(65)	10/1/00	45,021.00	45,021.00	100	JR	Miami Int'l Airport, FL
(66)	10/31/00	161,725.78	161,725.78	100	JR	Detroit, MI
(67)	11/22/00	32,302.00	32,302.00	100	JC	Newark, NJ
(68)	11/22/00	35,877.00	35,877.00	100	JC	Newark, NJ
(69)	11/22/00	27,334.00	27,334.00	100	JC	Newark, NJ
(70)	11/24/00	14,760.00	14,600.00	98	JC	Los Angeles Int'l Apt, CA
(71)	12/7/00	41,251.25	41,251.25	100	JC	Blaine, WA
(72)	12/21/00	69,510.00	69,510.00	100	JR	Philadelphia Int'l Airport, PA
(73)	1/12/01	209,423.00	209,423.00	100	JR	Newark, NJ
(74)	1/15/01	85,880.00	85,880.00	100	JC	Blaine, WA
(75)	1/16/01	49,260.00	49,260.00	100	JC	Newark, NJ
(76)	1/18/01	20,300.00	20,300.00	100	JC	Buffalo-Niagara Falls, NY
(77)	1/19/01	32,559.00	32,559.00	100	JR	Miami Int'l Airport, FL
(78)	1/19/01	26,044.00	26,044.00	100	JR	Miami Int'l Airport, FL
(79)	2/22/01	23,218.00	23,100.00	99	JC	San Juan Int'l Airport, PR
(80)	2/22/01	352,146.00	352,146.00	100	JR	Miami Int'l Airport, FL
(81)	3/12/01	91,933.00	68,250.00	74	JC	Detroit, MI
(82)	3/26/01	80,090.00	80,090.00	100	JR	Miami Int'l Airport, FL
(83)	3/26/01	66,933.00	66,933.00	100	JR	Miami Int'l Airport, FL
(84)	3/28/01	35,022.00	34,022.00	97	JR	Honolulu Int'l Airport, HI
(85)	4/7/01	72,099.00	72,099.00	100	JR	Newark, NJ
(86)	4/18/01	328,495.00	328,495.00	100	JR	Fort Lauderdale Int'l Apt, FL
(87)	4/26/01	17,060.00	16,960.00	99	JR	San Juan Int'l Airport, PR
(88)	5/1/01	30,358.00	30,358.00	100	JC	San Juan Int'l Airport, PR

(89)	5/11/01	24,246.00	24,246.00	100	JC	San Juan Int'l Airport, PR
(90)	5/16/01	63,991.00	63,991.00	100	JC	San Juan Int'l Airport, PR
(91)	6/7/01	99,884.00	99,884.00	100	JC	Newark, NJ
(92)	6/13/01	32,040.00	32,040.00	100	JC	Buffalo-Niagara Falls, NY
(93)	6/19/01	112,984.00	112,984.00	100	JR	Newark, NJ
(94)	6/20/01	38,120.00	38,000.00	99	JC	Buffalo-Niagara Falls, NY
(95)	7/6/01	124,501.00	122,501.00	98	JR	Chicago, IL
(96)	8/6/01	89,503.00	89,503.00	100	JR	Miami Int'l Airport, FL
(97)	8/7/01	32,378.00	32,378.00	100	JC	Detroit, MI
(98)	9/4/01	36,281.69	12,281.69	33	JR	Dallas/Ft Worth Airport, TX
(99)	9/21/01	65,200.00	64,800.00	99	JC	Nogales, AZ
(100)	9/23/01	20,676.00	20,676.00	100	JC	San Juan Int'l Airport, PR
(101)	7/10/01	430,533.66	430,533.66	100	JR	Blaine, WA
(102)	10/11/01	27,370.00	27,370.00	100	JC	Newark, NJ
(103)	10/30/01	449,270.00	449,270.00	100	JR	Champlain-Rouses Point, NY
(104)	11/9/01	119,420.00	113,420.00	94	JR	Chicago, IL
(105)	11/13/01	17,155.56	16,155.56	94	JC	Detroit, MI
(106)	11/28/01	84,453.00	84,453.00	100	JR	Mayaguez, PR
(107)	11/30/01	13,236.00	13,236.00	100	JC	Newark, NJ
(108)	12/11/01	35,850.00	30,850.00	86	JC	Buffalo-Niagara Falls, NY
(109)	12/13/01	61,483.00	61,483.00	100	JR	El Paso, TX *
(110)	12/17/01	17,713.00	17,500.00	98	JR	Miami Int'l Airport, FL *
(111)	12/18/01	120,966.00	120,966.00	100	JR	Miami Int'l Airport, FL *
(112)	1/13/02	84,870.00	83,867.00	98	JR	Newark, NJ
(113)	1/28/02	66,000.00	66,000.00	100	JR	Highgate Springs, VT
(114)	1/30/02	119,584.45	119,584.45	100	JC	Buffalo-Niagara Falls, NY
(115)	2/1/02	34,284.67	28,506.24	83	JC	Buffalo-Niagara Falls, NY
(116)	2/1/02	20,702.78	20,533.76	99	JC	Buffalo-Niagara Falls, NY
(117)	2/2/02	230,585.00	220,385.00	95	JC	Roma, TX
(118)	2/10/02	323,313.00	323,313.00	100	JC	Buffalo-Niagara Falls, NY
(119)	2/13/02	19,041.00	19,041.00	100	JC	Buffalo-Niagara Falls, NY *

(120)	2/27/02	110,995.00	110,995.00	100	JR	Burlington, VT *
(121)	3/21/02	249,996.00	229,996.00	91	JC	Hildago, TX
(122)	4/13/02	51,900.00	51,900.00	100	JC	Nogales, AZ
(123)	5/1/02	207,428.69	207,428.69	100	JC	Buffalo-Niagara Falls, NY
(124)	6/14/02	110,702.00	110,702.00	100	JR	San Diego, CA
(125)	6/27/02	624,691.00	624,691.00	100	JR	San Diego, CA *
(126)	7/6/02	15,041.00	15,041.00	100	JC	Nogales, AZ
(127)	7/25/02	18,802.00	7,050.75	37	JC	Buffalo-Niagara Falls, NY
(128)	7/31/02	61,828.00	61,828.00	100	JR	Miami Int'l Airport, FL *
(129)	8/22/02	294,280.00	294,280.00	100	JR	Chicago, IL *
(130)	8/24/02	21,833.00	21,833.00	100	JC	Presidio, TX
(131)	8/26/02	38,263.00	38,263.00	100	JC	Newark, NJ
(132)	9/28/02	14,900.00	14,900.00	100	JC	Champlain-Rouses Point, NY
(133)	9/30/02	15,990.00	15,990.00	100	JR	Presidio, TX *
(134)	10/5/02	59,640.33	59,640.33	100	JR	Lynden, WA
(135)	10/28/02	76,200.00	76,200.00	100	JR	Miami Int'l Airport, FL *
(136)	11/7/02	15,187.00	15,187.00	100	JC	Nogales, AZ *
(137)	11/15/02	76,723.00	24,000.00	31	JC	Seattle-Takoma Airport, WA
(138)	12/14/02	30,510.00	19,373.00	63	JC	Douglas, AZ
(139)	12/15/02	43,311.00	43,311.00	100	JC	Miami Int'l Airport, FL *
(140)	12/31/02	27,722.00	27,722.00	100	JR	San Juan Int'l Airport, PR
(141)	1/27/03	115,000.00	115,000.00	100	JR	Salt Lake City, UT *
(142)	3/12/03	105,101.00	105,101.00	100	JC	Roma, TX
(143)	3/26/03	190,498.00	190,498.00	100	JC	Hildago, TX *
(144)	4/7/03	139,337.00	139,337.00	100	JR	Fort Lauderdale Airprt, FL *
(145)	4/8/03	20,368.00	20,368.00	100	JC	Mobile, AL *
(146)	4/15/03	596,430.00	596,430.00	100	JR	Nogales, AZ *
(147)	4/17/03	500,000.00	500,000.00	100	JC	Nogales, AZ *
(148)	5/4/03	14,333.00	14,230.00	99	JC	Sumas, WA *
(149)	5/14/03	29,284.00	29,284.00	100	JC	San Juan Int'l Airport, PR

(150)	5/27/03	18,020.00	9,020.00	50	JC	Denver, CO
(151)	6/30/03	39,745.12	39,745.12	100	JC	Denver, CO *
(152)	7/1/03	159,000.00	159,000.00	100	JR	San Diego, CA *
(153)	7/16/03	40,160.00	40,160.00	100	JR	Miami Int'l Airport, FL *
(154)	7/17/03	103,480.00	103,480.00	100	JR	Miami Int'l Airport, FL *
(155)	7/25/03	1,176,453.80	300,000.00	25	JR	Miami Int'l Airport, FL *
(156)	7/28/03	49,519.67	49,519.67	100	JC	Laredo, TX *
(157)	9/14/03	13,151.00	1,972.65	15	JR	Champlain-Rouses Point, NY
(158)	10/1/03	950,000.00	950,000.00	100	JR	Baltimore, MD *
(159)	10/6/03	25,000.00	25,000.00	100	JC	Champlain-Rouses Point, NY
(160)	10/10/03	1,084,183.00	1,084,183.00	100	JC	Lake Charles, LA *
(161)	1/28/04	206,017.00	206,017.00	100	JR	Washington/Dulles Apt, VA
(162)	2/17/04	81,261.00	81,261.00	100	JC	Nogales, AZ *
(163)	2/19/04	47,000.00	47,000.00	100	JC	Nogales, AZ *
(164)	2/22/04	464,436.00	464,436.00	100	JC	Nogales, AZ *
(165)	2/27/04	19,667.00	19,667.00	100	JC	San Juan Int'l Airport, PR
(166)	3/3/04	10,000.00	10,000.00	100	JC	Nogales, AZ * <sup>1</sup>
(167)	3/8/04	76,898.00	76,898.00	100	JR	Miami Int'l Airport, FL *
(168)	3/25/04	287,310.00	287,310.00	100	JC	Nogales, AZ *

\* Cases marked with an asterisk indicate violations of 31 U.S.C. Section 5332 were cited at the time of seizure. We cannot determine from the database records available whether a violation of 31 U.S.C. Section 5332 was established in the final decrees of forfeiture.

<sup>1</sup> It is unclear from the database information available why a seizure of \$10,000 was made as the reporting requirements apply to more than \$10,000 in currency and monetary instruments.