

§ 27.4

Enforcement Training Center," "Financial Crimes Enforcement Network," "United States Mint," or the name of any service, bureau, office, or other subdivision of the Department of the Treasury;

(ii) The titles "Secretary of the Treasury," "Treasurer of the United States," "Director of the Secret Service," "Commissioner of Customs," "Commissioner of Internal Revenue," "Director, Bureau of Alcohol, Tobacco and Firearms," "Commissioner of the Public Debt," "Director of the Bureau of Engraving and Printing," "Comptroller of the Currency," "Director of the Federal Law Enforcement Training Center," "Director of the Financial Crimes Enforcement Network," "Director of the United States Mint," or the title of any other officer or employee of the Department of the Treasury or subdivision thereof;

(iii) The abbreviations or initials of any entity or title referred to in paragraph (a)(1)(i) or (a)(1)(ii) of this section, including but not limited to "USSS," "USCS," "IRS," "ATF," or "BATF," "BPD," "FLETC," "FINCEN" or "FinCEN," and "SBMO";

(iv) The words "United States Savings Bond," including any variation thereof, or the name of any other security, obligation, or financial instrument issued by the Department of the Treasury or any subdivision thereof;

(v) Any symbol, emblem, seal, or badge of an entity referred to in paragraph (a)(1)(i) of this section (including the design of any envelope, stationery, or identification card used by such an entity); or

(vi) Any colorable imitation of any such words, titles, abbreviations, initials, symbol, emblem, seal, or badge; and

(2) Where such use is in a manner that could reasonably be interpreted or construed as conveying the false impression that such advertisement, solicitation, business activity, or product is in any manner approved, endorsed, sponsored, or authorized by, or associated with the Department of the Treasury or any entity referred to in paragraph (a)(1)(i) of this section, or any officer, or employee thereof.

(b) *Disclaimers.* Any determination of whether a person has violated the pro-

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visions of paragraph (a) of this section shall be made without regard to any use of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.

(c) *Civil Penalty.* An assessing official may impose a civil penalty on any person who violates the provisions of paragraph (a) of this section. The amount of a civil monetary penalty shall not exceed \$5,000 for each and every use of any material in violation of paragraph (a), except that such penalty shall not exceed \$25,000 for each and every use if such use is in a broadcast or telecast.

(d) *Time Limitations.* (1) Civil penalties imposed under this part must be assessed before the end of the three year period beginning on the date of offense charged.

(2) An assessing official may commence a civil action to recover or enforce any civil penalty imposed in a Final Notice of Assessment issued pursuant to § 27.7 at any time before the end of the two year period beginning on the date of the Final Notice of Assessment. If judicial review of the Final Notice of Assessment is sought, the two year period begins to run from the date that a final and unappealable court order is issued.

(e) *Criminal Proceeding.* No civil penalty may be imposed under this part with respect to any violation of paragraph (a) of this section after a criminal proceeding on the same violation has been commenced by indictment or information under 31 U.S.C. 333(d).

§ 27.4 Factors to be considered.

The assessing official will consider relevant factors when determining whether to assess or impose a civil penalty under this part, and the amount of a civil monetary penalty. Those factors may include, but are not limited to, the following:

- (a) The scope of the misuse;
- (b) The purpose and/or nature of the misuse;
- (c) The extent of the harm caused by the misuse;
- (d) The circumstances of the misuse; and
- (e) The benefit intended to be derived from the misuse.