

§ 8.7

28 CFR Ch. I (7-1-08 Edition)

possession of the property or when the release would be in the best interest of justice and the Government.

§ 8.7 Judicial forfeiture.

If the appraised value exceeds the monetary amount set forth in title 19, United States Code, section 1607, or a claim and satisfactory bond have been received either for property appraised at that amount or less, or for seized merchandise which is any monetary instrument within the meaning of section 5312(a)(3) of title 31 of the United States Code, the Special Agent in Charge of the FBI field office that seized the property shall transmit the claim and bond to the U.S. Attorney for the judicial district in which the seizure was made for the purpose of instituting judicial forfeiture proceedings. Also transmitted with the claim and bond will be a description of the property and a complete statement of the facts and circumstances leading to the seizure of the property.

[Order No. 1476-91, 56 FR 8685, Mar. 1, 1991]

§ 8.8 Advertisement and declaration of forfeiture.

(a) The notice required by customs laws, section 607, Tariff Act of 1930, as amended (19 U.S.C. 1607), of seizure and intention to forfeit and sell or otherwise dispose of property seized pursuant to the statutes identified in § 8.1, shall describe the property seized, state the date seized, cause, and place of seizure; and state that any person desiring to claim the property must file with the Special Agent in Charge, Federal Bureau of Investigation (FBI) within 20 days from the date of the first publication of the notice a claim to such property and a bond.

(b) The bond amount shall be \$5,000 or ten percent of the value of the claimed property whichever is lower, but not less than \$250. The bond posted to cover costs may be in cash, certified check, or satisfactory sureties. When the claim and bond are received by the Special Agent in Charge, he shall, after finding the documents in proper form and the sureties satisfactory, transmit the documents, together with a description of the property and a complete statement of the facts and circumstances surrounding the seizure, to

the U.S. Attorney for the judicial district in which the seizure was made for purpose of proceeding to forfeiture of the property in a manner prescribed by law. If the documents are not in satisfactory condition when first received, a reasonable time for correction may be allowed. If correction is not made within a reasonable time, the documents may be treated as nugatory, and the administrative forfeiture shall proceed as though they had not been tendered. The filing of the claim and the posting of the bond does not entitle the claimant to possession of the property, however, it does stop the administrative forfeiture proceeding.

(c) The notice for administrative forfeiture proceedings shall be published once each week for at least three successive weeks in a newspaper of general circulation in the judicial district in which the property was seized. If a claim is not made within the time period, the FBI Property Management Officer shall declare the property forfeited.

[Order No. 1128-86, 51 FR 8818, Mar. 14, 1986, as amended by Order No. 1197-87, 52 FR 24448, July 1, 1987; Order No. 1476-91, 56 FR 8687, Mar. 1, 1991]

§ 8.9 Disposition of forfeited property.

(a) If the laws of a state in which an article of forfeited property is located prohibit the sale of such property or if the U.S. Marshals Service is of the opinion that it would be more advantageous to sell the forfeited property in another district, the property may be moved to and sold in such other district as the U.S. Marshals Service may direct.

(b) If, after the administrative forfeiture of property is completed, it appears that the proceeds of sale will not be sufficient to pay the costs of sale or the proceeds will be insignificant in relation to the expenses involved in the forfeiture, the U.S. Marshals Service may order the destruction of the property. Similarly, property forfeited under a decree of a court may be destroyed in accordance with section 611, Tariff Act of 1930 (19 U.S.C. 1611). Also, if the sale or use of any article is prohibited under any law of the United States or the state where it is stored, the U.S. Marshals Service may order it