

performed by the agency seizing the property. Within the Federal Bureau of Investigation (FBI), authority to grant remission and mitigation is delegated to the Forfeiture Counsel, who is the Unit Chief, Legal Forfeiture Unit, Office of the General Counsel; within the Drug Enforcement Administration (DEA), authority to grant remission and mitigation is delegated to the Forfeiture Counsel, Office of Chief Counsel; and within the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), authority to grant remission and mitigation is delegated to the Associate Chief Counsel, Office of Chief Counsel.

(2) Remission and mitigation functions in judicial cases are performed by the Criminal Division of the Department of Justice. Within the Criminal Division, authority to grant remission and mitigation is delegated to the Chief, Asset Forfeiture and Money Laundering Section.

(3) The powers and responsibilities delegated by this part may be redelegated to attorneys or managers working under the supervision of the designated officials.

(c) *Scope.* This part governs any petition for remission filed with the Attorney General and supersedes any Department of Justice regulation governing petitions for remission, to the extent such regulation is inconsistent with this part.

(d) The time periods and internal requirements established in this part are designed to guide the orderly administration of the remission and mitigation process and are not intended to create rights or entitlements in favor of individuals seeking remission or mitigation. This part applies to all forfeiture actions commenced on or after October 12, 2012.

### §9.2 Definitions.

As used in this part:

*Administrative forfeiture* means the process by which property may be forfeited by a seizing agency rather than through judicial proceedings. *Administrative forfeiture* has the same meaning as nonjudicial forfeiture, as that term is used in 18 U.S.C. 983.

*Appraised value* means the estimated market value of property at the time

and place of seizure if such or similar property were freely offered for sale between a willing seller and a willing buyer.

*Assets Forfeiture Fund* means the Department of Justice Assets Forfeiture Fund or Department of the Treasury Forfeiture Fund, depending upon the identity of the seizing agency.

*Attorney General* means the Attorney General of the United States or his or her designee.

*Beneficial owner* means a person with actual use of, as well as an interest in, the property subject to forfeiture.

*Chief, Asset Forfeiture and Money Laundering Section,* and *Chief,* refer to the Chief of the Asset Forfeiture and Money Laundering Section, Criminal Division, United States Department of Justice.

*General creditor* means one whose claim or debt is not secured by a specific right to obtain satisfaction against the particular property subject to forfeiture.

*Judgment creditor* means one who has obtained a judgment against the debtor but has not yet received full satisfaction of the judgment.

*Judicial forfeiture* means either a civil or a criminal proceeding in a United States District Court that may result in a final judgment and order of forfeiture.

*Lienholder* means a creditor whose claim or debt is secured by a specific right to obtain satisfaction against the particular property subject to forfeiture. A lien creditor qualifies as a lienholder if the lien:

(1) Was established by operation of law or contract;

(2) Was created as a result of an exchange of money, goods, or services; and

(3) Is perfected against the specific property forfeited for which remission or mitigation is sought (*e.g.*, a real estate mortgage; a mechanic's lien).

*Net equity* means the amount of a lienholder's monetary interest in property subject to forfeiture. Net equity shall be computed by determining the amount of unpaid principal and unpaid interest at the time of seizure and by adding to that sum unpaid interest calculated from the date of seizure through the last full month prior to

the date of the decision on the petition. Where a rate of interest is set forth in a security agreement, the rate of interest to be used in this computation will be the annual percentage rate so specified in the security agreement that is the basis of the lienholder's interest. In this computation, however, there shall be no allowances for attorney fees, accelerated or enhanced interest charges, amounts set by contract as damages, unearned extended warranty fees, insurance, service contract charges incurred after the date of seizure, allowances for dealer's reserve, or any other similar charges.

*Nonjudicial forfeiture* has the same meaning as administrative forfeiture as defined in this section.

*Owner* means the person in whom primary title is vested or whose interest is manifested by the actual and beneficial use of the property, even though the title is vested in another. A victim of an offense, as defined in this section, may also be an owner if he or she has a present legally cognizable ownership interest in the property forfeited. A nominal owner of property will not be treated as its true owner if he or she is not its beneficial owner.

*Person* means an individual, partnership, corporation, joint business enterprise, estate, or other legal entity capable of owning property.

*Petition* means a petition for remission or mitigation of forfeiture under the regulations in this part. This definition includes a petition for restoration of the proceeds of sale of forfeited property and a petition for the value of forfeited property placed into official use.

*Petitioner* means the person applying for remission, mitigation, or restoration of the proceeds of sale, or for the appraised value of forfeited property, under this part. A petitioner may be an owner as defined in this section, a lienholder as defined in this section, or a victim as defined in this section, subject to the limitations of §9.8.

*Property* means real or personal property of any kind capable of being owned or possessed.

*Record* means two or more arrests for related crimes, unless the arrestee was acquitted or the charges were dismissed for lack of evidence, a conviction

for a related crime or completion of sentence within ten years of the acquisition of the property subject to forfeiture, or two convictions for a related crime at any time in the past.

*Related crime* as used in this section and §9.6(e) means any crime similar in nature to that which gives rise to the seizure of property for forfeiture. For example, where property is seized for a violation of the federal laws relating to drugs, a related crime would be any offense involving a violation of the federal laws relating to drugs or the laws of any state or political subdivision thereof relating to drugs.

*Related offense* as used in §9.8 means:

(1) Any predicate offense charged in a federal Racketeer Influenced and Corrupt Organizations Act (RICO) count for which forfeiture was ordered; or

(2) An offense committed as part of the same scheme or design, or pursuant to the same conspiracy, as was involved in the offense for which forfeiture was ordered.

*Ruling official* means any official to whom decision-making authority has been delegated pursuant to §9.1(b).

*Seizing agency* means the federal agency that seized the property or adopted the seizure of another agency for federal forfeiture.

*Victim* means a person who has incurred a pecuniary loss as a direct result of the commission of the offense underlying a forfeiture. A drug user is not considered a victim of a drug trafficking offense under this definition. A victim does not include one who acquires a right to sue the perpetrator of the criminal offense for any loss by assignment, subrogation, inheritance, or otherwise from the actual victim, unless that person has acquired an actual ownership interest in the forfeited property; provided however, that if a victim has received compensation from insurance or any other source with respect to a pecuniary loss, remission may be granted to the third party who provided the compensation, up to the amount of the victim's pecuniary loss as defined in §9.8(c).

*Violator* means the person whose use or acquisition of the property in violation of the law subjected such property to seizure for forfeiture.