

07-1821-CB

Comm of PA vs \$17,000.00 US Curr

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

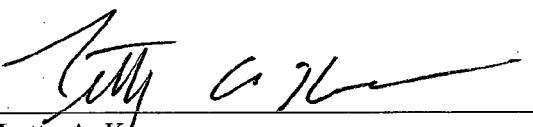
COMMONWEALTH OF PENNSYLVANIA, :
Plaintiff :
: :
V. : No. 07-1821-C
: :
\$17,000.00 U.S. CURRENCY, :
Defendant :
FORFEITURE ACTION

To: Jose Luis Rivera
5561 Chevrolet Boulevard
Parma, OH 44130

Fermin Delgado
1604 E. 45th Street
Cleveland, OH 44103

NOTICE TO ANSWER PETITION FOR FORFEITURE AND CONDEMNATION

TO THE CLAIMANT OF WITHIN DESCRIBED PROPERTY: YOU ARE REQUIRED
TO FILE AN ANSWER TO THIS PETITION, SETTING FORTH YOUR TITLE IN, AND
RIGHT TO POSSESSION OF, SAID PROPERTY WITHIN THIRTY (30) DAYS FROM THE
SERVICE HEREOF, AND YOU ARE ALSO NOTIFIED THAT, IF YOU FAIL TO FILE SAID
ANSWER, A DECREE OF FORFEITURE AND CONDEMNATION WILL BE ENTERED
AGAINST SAID PROPERTY.


Letty A. Kress
Chief Deputy Attorney General

Original
upstairs

FILED Atty pd. \$85.00
M/1/3361
NOV 08 2004 ICC Atty
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :
Plaintiff :
V. :
: No. 07-1821-CD
: **FORFEITURE ACTION**
\$17,000.00 U.S. CURRENCY, :
Defendant :

RULE TO SHOW CAUSE

AND NOW, this 14th day of November, 2007, a rule is issued upon Jose Luis Rivera and Fermin Delgado, owners and/or possessors, of the within defendant/property, to show cause why the prayer and order of the attached Petition of Forfeiture and Condemnation should not be granted.

Rule returnable, for the purpose of filing an Answer only, within thirty (30) days from the date of service of the attached Petition upon Jose Luis Rivera and Fermin Delgado, owners and/or possessors.

Failure to Answer this Petition within 30 days of service hereof will result in an Order of Forfeiture being entered against said property, any law or rule of Court to the contrary notwithstanding.

Notice shall be given in accordance with law.

BY THE COURT:



J.

FILED ^{CC}
01/10/40/SA
NOV 15 2007
Atty Kress
(GK)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

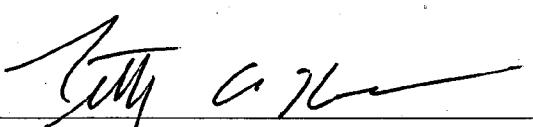
COMMONWEALTH OF PENNSYLVANIA, :
Plaintiff :
V. : No. 07-1821CD
\$17,000.00 U.S. CURRENCY, :
Defendant :
FORFEITURE ACTION

To: Jose Luis Rivera
5561 Chevrolet Boulevard
Parma, OH 44130

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ANSWER, A DECREE OF FORFEITURE AND CONDEMNATION WILL BE ENTERED
AGAINST SAID PROPERTY.



Letty A. Kress
Chief Deputy Attorney General

FILED *Att'y pd \$85.00*
11/3/07
NOV 08 2007 *ICC Atty*
WAS
William A. Shaw
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA**

**COMMONWEALTH OF PENNSYLVANIA, :
Plaintiff :
V. :
: No. _____
\$17,000.00 U.S. CURRENCY, :
Defendant : **FORFEITURE ACTION****

PETITION FOR FORFEITURE AND CONDEMNATION

COMES NOW, the Attorney General of the Commonwealth of Pennsylvania, Thomas W. Corbett, Jr. through Letty A. Kress, Chief Deputy Attorney General, pursuant to and under authority of the provisions of the Judicial Code, Chapter 68, Controlled Substances Forfeitures Act, Sections 6801-6802, 42 Pa. C.S.A. 6801 et seq. (Act), and petitions this Honorable Court setting forth a right of possession in and requesting an Order of Forfeiture for \$17,000.00 U.S. currency, and in support thereof avers as follows:

1. Your Affiant is Trooper Dennis M. Regal of the Pennsylvania State Police.
2. The Commonwealth seized the defendant/property, \$400.00 U.S. currency, \$640.00 U.S. currency and \$15,960.00 U.S. currency (collectively, Property), pursuant to the Act.
3. The Commonwealth seized the Property at or about 10:18 a.m., on or about Friday, March 9, 2007.
4. The Commonwealth seized the Property at Interstate 80 eastbound, at milepost #131, Graham Township, Clearfield County, Pennsylvania and at Troop C, Pennsylvania State Police, Woodland, Clearfield County, Pennsylvania.
5. The owner of the Property, based upon all information currently available, is Fermin Delgado (Delgado), 1604 E. 4th Street, Cleveland, Ohio.

6. At the time of seizure, on the date and at the place of seizure, hereinbefore mentioned, the Property was in the possession of or under the control of, Rivera, 5561 Chevrolet Boulevard, Parma, Ohio.

7. The Property is subject to forfeiture and condemnation and no legal right, title or interest exists in it by any owners or possessors of it pursuant to Section 6801(a) of the Act, 42 Pa. C.S.A. Section 6801, (Relating to loss of property rights to the Commonwealth), based upon the following averment of material facts:

- a. On March 9, 2007, Trooper Brett Hanlon initiated a traffic stop on a Dodge caravan that was registered to Delgado.
- b. Rivera was the driver and the only passenger was Emmanuel Joseph Ferrari Tredway (Tredway).
- c. Trooper Hanlon detected an odor of air fresheners coming from inside the vehicle as he was speaking to the occupants of the vehicle.
- d. Rivera gave verbal consent for Trooper Hanlon to search the vehicle.
- e. A K-9, trained in drug detection, alerted on the vent on the right side of the radio.
- f. Trooper Hanlon then conducted a hand search of the glove box; he observed a clear plastic bag behind the glove box.
- g. Trooper Hanlon removed the faceplate and radio to remove the clear plastic bag.
- h. Trooper Hanlon removed two (2) vacuum-sealed packages of U.S. currency, which totaled \$17,000.00 U.S. currency.
- i. Each currency package was vacuum-sealed two (2) times. The currency was wrapped in black rubber bands and in thousand dollar increments.
- j. Rivera signed a Disclaimer of Ownership of Currency.
- k. Tredway denied knowledge of the currency.

1. On March 27, 2007, an Ionscan was conducted on the \$17,000.00 U.S. currency and the currency tested positive for a high level of cocaine and procaine, which is a cutting agent used with cocaine.

8. The Property was furnished or intended to be furnished by any person in exchange for a controlled substance, in violation of the Act, or, is proceeds traceable to such an exchange, or is proceeds used or intended to be used to facilitate any violation of said Act, or was in close proximity to controlled substances in violation of the Act, or is otherwise subject to forfeiture under the Act.

WHEREFORE, the Commonwealth through the Attorney General prays this Honorable Court to issue an Order that the \$17,000.00 U.S. currency, defendant/property, be condemned and adjudged forfeited to the Commonwealth and that all right, title or interest in the defendant/property, except that vested in the Office of Attorney General, Commonwealth of Pennsylvania, be declared null and void and that the property be used or disposed of in accordance with law.

Respectfully submitted,

Thomas W. Corbett, Jr.
Attorney General of the
Commonwealth of Pennsylvania

BY:

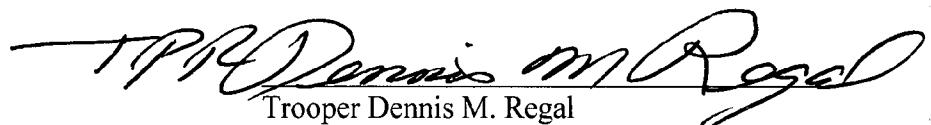


Letty A. Kress
Chief Deputy Attorney General
Attorney I.D. #44854
Office of Attorney General
2515 Green Tech Drive
State College, PA 16803
(814) 863-1061

COMMONWEALTH OF PENNSYLVANIA : : SS:
COUNTY OF ~~BUTLER~~ ERIE :

AFFIDAVIT

Personally appeared before me a Notary Public in and for the said Commonwealth and County, Dennis M. Regal, who being duly sworn according to law, deposes and says that he is a Trooper with the Pennsylvania State Police and states that the facts averred in the foregoing petition are true and correct to the best of his personal knowledge or information and belief.


Trooper Dennis M. Regal

SWORN TO AND SUBSCRIBED

BEFORE ME THIS 24th

DAY OF August, 2007

Lori A. DiFucci

NOTARY PUBLIC

NOTARIAL SEAL
LORI A. DIFUCCI, NOTARY PUBLIC
CITY OF ERIE, ERIE COUNTY
MY COMMISSION EXPIRES JUNE 21, 2010

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :
Plaintiff :
V. : No. 07-1821-CD
: **FORFEITURE ACTION**
\$17,000.00 U.S. CURRENCY, :
Defendant :

PROPOSED ORDER

AND NOW, this _____ day of _____, 2007, upon
consideration of the foregoing petition and after hearing, it is ORDERED and DECREED as
follows:

The prayer of the Petition is granted.

All claims of right, title or interest of Jose Luis Rivera, Fermin Delgado, and any other
claimants in the defendant/property, \$17,000.00 U.S. currency, are hereby declared to be
terminated, revoked and rendered null and void. The defendant/property, \$17,000.00 U.S.
currency, is hereby condemned and forfeited to the Commonwealth of Pennsylvania, Office of
Attorney General, pursuant to the Judicial Code, Chapter 68, Controlled Substances Forfeiture,
Sections 6801-6802, 42 Pa. C.S.A. Section 6801 et seq., for use or disposition in accordance with
law.

Funds received from the sale of forfeited property and/or from forfeited cash shall be
deposited into an interest-bearing account held by the Office of Attorney General and the interest
generated therefrom shall be used in accordance with the Controlled Substances Forfeitures Act,
42 Pa. C.S.A. 6801 et seq.

BY THE COURT:

J.

1A

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :
Plaintiff :

V. : 07-1821-CD

\$17,000.00 U.S. CURRENCY :
Defendant :

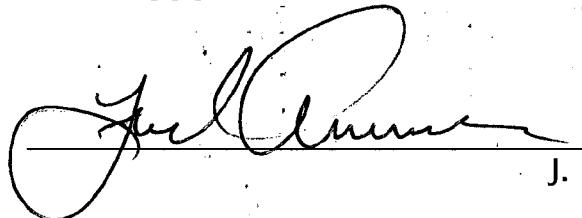
ORDER

AND NOW, this 24 day of June, 2008, upon consideration of the foregoing plaintiff's Motion for Order of Forfeiture, it is hereby ORDERED and DECREED as follows:

All claims of right, title and interest of Jose Luis Rivera, Fermin Delgado, and any other claimant(s) in the above-captioned defendant/property are hereby declared to be terminated, revoked and rendered null and void. The \$17,000.00 U.S. Currency is hereby declared to be forfeited to the Office of Attorney General, Commonwealth of Pennsylvania, pursuant to the Controlled Substances Forfeitures Act, an Act of June 30, 1988, Act No. 1988-79, 42 Pa. C.S.A. Section 6801 et seq., for use in accordance with law.

Funds received from the sale of forfeited property and/or from forfeited cash shall be deposited into an interest-bearing account held by the Office of Attorney General and the interest generated therefrom shall be used in accordance with the Controlled Substances Forfeitures Act, 42 Pa. C.S.A. 6801 et seq.

BY THE COURT:



J. L. Rivera

FILED
014-00671
JUN 24 2008
Amy Stewart

William A. Shaw
Prothonotary/Clerk of Courts

(R)

DATE: 10/29/08

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)

Plaintiff(s) Attorney

Other

Defendant(s)

Defendant(s) Attorney

Other

Special Instructions:

FILED

JUN 24 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :
Plaintiff :
V. :
: 07-1821-CD
\$17,000.00 U.S. CURRENCY :
Defendant :

FILED
M 12:51 P.M. GK
JUN 20 2008 1cc Atty
William A. Shaw
Prothonotary/Clerk of Courts
GK

MOTION FOR ORDER OF FORFEITURE

AND NOW, this 18 day of June, 2008, comes the Petitioner to the instant action, the Commonwealth of Pennsylvania, Office of Attorney General, by and through Robert B. Stewart, III, Senior Deputy Attorney General, and moves the Court for an Order of Forfeiture and Condemnation of \$17,000.00 U.S. Currency (hereinafter "defendant/property"), and in support thereof avers the following:

1. On or about Friday, March 9, 2007, the Commonwealth through the Pennsylvania State Police, seized the defendant/property as property subject to forfeiture under 42 Pa. C.S.A. Section 6801.
2. On or about November 15, 2007, the Commonwealth filed a Petition to Forfeit and Condemn the defendant/property.
3. All parties with an interest in the defendant/property were served pursuant to 42 Pa. C.S.A. Section 6802 as set forth in the appended Affidavit of Robert B. Stewart, III, Senior Deputy Attorney General, which Affidavit is appended hereto as Exhibit A and incorporated herein by reference.

4. The time for answering the Notice and Rule to Show Cause has expired with no answer to the Petition having been made by any claimant.

WHEREFORE, the Commonwealth asserts the truth of the averments in the petition filed in this matter and moves for an Order of Forfeiture to be entered condemning the defendant/property and forfeiting it to the Commonwealth of Pennsylvania, Office of Attorney General, for use as prescribed by law, 42 Pa. C.S.A. Section 6801.

Respectfully submitted,



Robert B. Stewart, III
Senior Deputy Attorney General
Attorney ID# 19319
Office of Attorney General
2515 Green Tech Drive
State College, Pennsylvania 16803
(814) 863-6503

EXHIBIT A

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :
Plaintiff :
V. :
: 07-1821-CD
\$17,000.00 U.S. CURRENCY :
Defendant :

AFFIDAVIT

Robert B. Stewart, III, Senior Deputy Attorney General, being duly sworn according to law, deposes and says that because notification by certified mail (Attached Exhibit 1) and personal service (Attached Exhibit 2), for Jose Luis Rivera, was unsuccessful, notification of the Petition for Forfeiture of the defendant/property and Notice to file a claim for the said defendant/property was made by publication in the Courier Express, a newspaper of general circulation in the County of Clearfield on April 9, 2008 and April 16, 2008, as shown on the copy of said publication (Attached Exhibit 3), and that Fermin Delgado, was served by certified mail, article number 7006 0810 0006 3839 8533, restricted delivery, at 1604 E. 45th Street, Cleveland, Ohio on December 5, 2007, (Attached Exhibit 4), and that said notification properly conforms to 42 Pa. C.S.A. Section 6802.

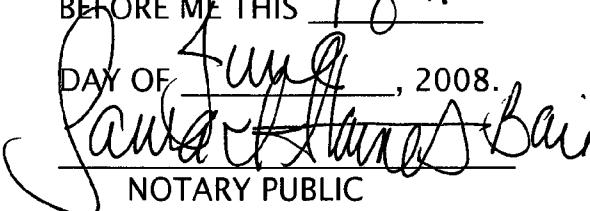


Robert B. Stewart, III
Senior Deputy Attorney General

SWORN TO AND SUBSCRIBED

BEFORE ME THIS 18th

DAY OF July, 2008.


NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
LAURA I. STAINES-BAIR, Notary Public
Patton Twp., Centre County
My Commission Expires May 9, 2010

EXHIBIT 1

ICE OF ATTORNEY GENERAL
ET FORFEITURE AND MONEY
NDERING SECTION
5 GREEN TECH DR., SUITE D
TE COLLEGE, PA 16803

RECEIVED

DEC 10 2007

ice of Attorney General
AF&MLS

RECEIVED BY CERTIFIED MAIL

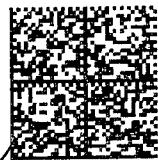
RETURN RECEIPT REQUESTED

CERTIFIED MAIL™

ANX



7006 0810 0006 3839 8526



UNITED STATES POSTAGE
PITNEY BOWE
02 1P \$ 009.48
0002586262 DEC 03 2007
MAILED FROM ZIP CODE 16803

Jose Luis Rivera
5561 Chevrolet Boulevard
Parma, OH 44130

ANX
3051

ANX
3051

NIXIE 441 SE 1 79 12/07/07

RETURN TO SENDER
ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD

BC: 16803230115 *0932-07913-07-2

16803230115

168032301

EXHIBIT 2

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :
Plaintiff :
v. : NO. 07-1821-CD
\$17,000.00 U.S. CURRENCY :
Defendant :

PERSONAL SERVICE CERTIFICATION

The undersigned certifies that he/she personally served Jose Luis Rivera with a true and correct copy of the above-captioned Petition for Forfeiture and Condemnation and Rule to Show Cause at _____ on _____, 2008 at ____ a.m./p.m.

The undersigned certifies that he/she DID NOT personally serve Jose Luis Rivera with a true and correct copy of the above-captioned Rule to Show Cause and Petition for Forfeiture and Condemnation, that claimant was not at this address at the time of attempted personal service, and that a copy of the Petition for Forfeiture and Condemnation was left at claimant's last known address at _____ on 3-11-08, 2008, at 5:00 a.m./p.m.

Signature of Person Served

Refused to sign

*IF NOT Res
No APT # 5:00 PM
3-11-08*

NAME

ADDRESS

DATE

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 13th DAY
OF MARCH, 2008.

James G. Bitterman
Notary Public

JAMES G. BITTERMAN
Notary Public State of Ohio, Cuy. Cty.
My commission expires Nov. 15, 2010

Cynthia Shieff

CYNTHIA SHIEFF

EXHIBIT 3

PUBLICATIONS AUTHORIZATION AND INVOICE

PUBLICATIONS AUTHORIZATION (To Be Completed by Agency):

TO: (Name and Address of Newspaper)
COURIER EXPRESS
P.O. Box 407
DuBois, PA 15801FEDERAL ID NO/SOC SEC NO
25-0970823FROM: (Name and Address of Agency)
SDAG Robert B. Stewart, IIIAGENCY TELEPHONE NO.
(814) 863-6503*Asset # 0700373*

HEREWITH IS ENCLOSED COPY FOR PUBLICATION OF ADVERTISEMENT FOR PROPOSALS TO

 Employ Purchase Contract SellTYPE OF AD
 Classified Legal Notice

PUBLISH ADVERTISEMENT (NO. OF TIME)

**ONE (1) TIME A WEEK FOR TWO (2)
CONSECUTIVE WEEKS**

MAXIMUM NO. OF LINES

DATE

4-07-08

ORDER NO.

DATE OF INSERTION

4/9 + 4/16/08

SIGNATURE FOR AGENCY:

Robert B. Stewart

You, as vendor, are authorized to publish this advertisement in your newspaper, subject to the terms of this order, as follows: Advertisement to be published in regular advertising columns, no position specified; caption of two lines and signature to be in capitals and subject matter and title of officer to be set solid in type regularly used by your newspaper for public (legal) notice advertising; charge to be made at the rate charged to and paid by commercial advertisers for matter similarly set and occupying similar space; advertisement to be run in the editions specified above. Vendor agrees that, in the performance of any contract awarded to it hereunder, said vendor will not discriminate against any employee or other persons on account of race, color, sex, religious, creed, ancestry, age, or national origin and that the Commonwealth, upon receipt of satisfactory evidence of such discrimination, shall have the right to cancel said contract. Return this copy at once if you will not accept this advertisement under the terms set forth.

Proof of advertising in the form of a tear sheet must be included on Parts 1, 2 & 3. Return original and two copies (signed by the editor or publisher) to Agency listed above. Part 1 must be notarized. Part 4 is yours.

Commonwealth to be billed only for actual number of printed lines published.

ACCOUNT CODE	FUND	DEPT	APP	YEAR	LDG	ORG	COST FUNCTION	OBJ	AMOUNT

INVOICE (To Be Completed By Publisher)

	DATE OF INSERTION	ACTUAL NO. OF PRINTED LINES	COST PER LINE	AMOUNT
1 st Ad	4/9/08		2.05	129 15
2 nd Ad	4/16/08		2.05	129 15
3 rd Ad				App Fee 7 50
			TOTAL →	265 80

Commonwealth of Pennsylvania
County of Clearfield

Before me, the subscriber, a No. who being duly sworn, doth depose at the Courier Express advertisement, of which tearsheet is a editions of said newspaper, in all respects higher than is charged any ordinary manner, in said newspaper.

Sworn and subscribed before me
day of April

Robin M. Duttry
Notary Public

My commission expires April 16, 2010

*This affidavit must be made by the Owner, Publisher, or the designated agent of the owner or publisher.

ORIGINAL INVOICE RETAINED
FOR COURT CASE FILE

NOTARIAL SEAL
ROBIN M. DUTTRY, NOTARY PUBLIC
CITY OF DUBOIS, CLEARFIELD COUNTY
MY COMMISSION EXPIRES APRIL 16, 2010

Robert B. Stewart
Signature of Affiant

EXHIBIT 4

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Fermin Delgado
1604 E. 45th Street
Cleveland, OH 44103

ONLY Fermin Delgado
can sign.

2. Article Number*(Transfer from service label)*

7006 0810 0006 3839 8533

COMPLETE THIS SECTION ON DELIVERY**A. Signature**

Fermin Delgado Agent Addressee

B. Received by (Printed Name)

F. Delgado C. Date of Delivery
12-05-07

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA**

**COMMONWEALTH OF PENNSYLVANIA, :
Plaintiff :
V. : 07-1821-CD
\$17,000.00 U.S. CURRENCY :
Defendant :**

CERTIFICATE OF SERVICE

I hereby certify that this day I have served a copy of the foregoing *Motion for Order of Forfeiture* upon the following individuals by first-class mail, postage prepaid, at the following addresses:

Jose Luis Rivera
5561 Chevrolet Boulevard
Parma, OH 44130

Fermin Delgado
1604 E. 45th Street
Cleveland, OH 44103

Date: 6-18-08



Robert B. Stewart, III
Senior Deputy Attorney General
Attorney ID #19319
Office of Attorney General
2515 Green Tech Drive
State College, Pennsylvania 16803
(814) 863-6503

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

**COMMONWEALTH OF PENNSYLVANIA, :
Plaintiff :
: :
V. : : 07-1821-CD
: :
\$17,000.00 U.S. CURRENCY :
Defendant :**

CERTIFICATE OF SERVICE

I hereby certify that this day I have served a copy of the foregoing *Order* upon the following individuals by first-class mail, postage prepaid, at the following addresses:

Jose Luis Rivera
5561 Chevrolet Boulevard
Parma, OH 44130

Fermin Delgado
1604 East 45th Street
Cleveland, OH 44103

8/4/08
DATE

Letty A. Kress
Letty A. Kress
Chief Deputy Attorney General
Attorney ID # 44854
Office of Attorney General
2515 Green Tech Drive
State College, PA 16803
(814) 863-6503

FILED *12:59 PM* *NO CC*
AUG 11 2008
William A. Shaw
Prothonotary/Clerk of Courts