

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

RICHARD CELATA,

Plaintiff,

v.

UNITED STATES OF AMERICA,

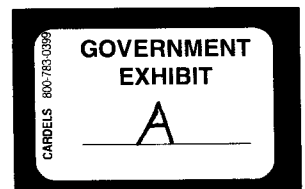
Defendant

Cause No. CV-07-24-BU-SEH-RKS

DECLARATION OF
JOHN KOMORA

I, John Komora, do hereby declare:

1. That I am a special agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and have been so since July 1990. I am current assigned to the Helena Montana Field Office.
2. That Title 26, U.S.C. Chapter 53, also called the National Firearms Act (NFA), provides the laws governing machineguns.
3. That 26 U.S.C. Chapter 53, Section 5841(a) requires that machineguns shall be registered in the National Firearms Registration and Transfer Record. This registration requires the identification of the firearm, the date of registration, and the identification and address of the person entitled to possession of the firearm.
4. That 26 U.S.C. Chapter 53, Section 5845(b) defines a machinegun as any weapon shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.
5. That 26 U.S.C. Chapter 53, Section 5842(a) requires that machineguns be identified by a serial number along with the name of the manufacturer.
6. That 26 U.S.C. Section 5861(d) states that it shall be unlawful for any person to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record.



7. That 26 U.S.C. Section 5861(i) states that it shall be unlawful for any person to possess a firearm which is not identified by a serial number as required by Chapter 53.

8. On June 7, 2006, a federal search warrant was executed at the residence of 382 Adams Lane, Dillon, Montana, for the seizure of firearms, documents and physical objects pertaining to the purchase/manufacture/receipt of firearms and firearms components, financial proceeds from the sale of firearms, bank documents, telephones records, tax records, computers, any items of contraband concerning violations of 18 U.S.C. Section 922(a)(1)(A), 371, and 2.

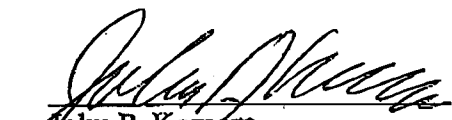
9. One of the items seized which appeared to be a select-fire machinegun. The only visible markings on this machinegun were the words "Safe", "Fire", and "Auto". Concealed underneath the plastic grip of this machinegun was what appeared to be a logo with the letters "KTO" contained with a fish symbol, along with "August 2003 A.D." below that logo. No serial number was found on the machinegun.

10. This machinegun was subsequently analyzed and test-fired by Michael Curtis, a Firearms Enforcement Officer in the Firearms Technology Branch for ATF. He loaded the firearm with five rounds of .223-caliber ammunition and fired all five rounds with a single pull of the trigger. He determined that this firearm is a machinegun as defined by 26 U.S.C. 5845(b).

11. Subsequent to the seizure of the machinegun, ATF Special Agent Karen Carney-Hatch of the Manchester, New Hampshire Field Office caused the search of the National Firearms Registration and Transfer Records and was informed that there was no record of any machineguns being registered to Richard Celata.

Pursuant to 28 U.S.C. Section 1746, I declare under penalty of perjury that the above information is true and correct to the best of my knowledge and recollection.

Executed this 29th day of May 2007.


John P. Komora
Special Agent
ATF

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

**Richard Celata,
Plaintiff,**

v.

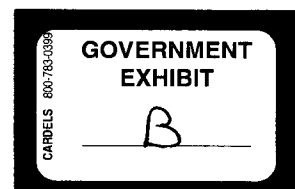
**United States of America,
Defendant.**

CV-07-24-BU-SEH-RKS

**DECLARATION OF
PAULETTE L. STEWART**

I, Paulette L. Stewart, do declare:

1. I am employed as an Assistant United States Attorney for the District of Montana and am assigned to the Helena office. I have been so employed since March 2003.
2. As part of my duties as an Assistant United States Attorney, I was assigned a civil forfeiture case concerning a June 7, 2006, seizure of firearms property from Richard Celata of Dillon, Montana, as part of a criminal investigation conducted by the Bureau of Alcohol, Tobacco, Firearms and Explosives and the District of New Hampshire. The civil forfeiture case number was CV-06-85-BU-SEH.
3. During the pendency of the civil forfeiture proceedings, the district court held a hearing on February 2, 2007, in Butte, Montana. Following the hearing, myself and Mr. Quentin M. Rhoades, had a brief conversation. During the conversation, Mr. Rhoades indicated that his client wanted return of the items seized by the Bureau of Alcohol, Tobacco, Firearms and Explosives. Mr. Rhoades knew the District of New Hampshire was investigating Mr. Celata for firearms violations. The items subject to forfeiture were being retained as part of the District of New Hampshire's ongoing criminal investigation. I indicated that items not considered evidence by the District of New Hampshire could be returned to Mr. Celata if he filed an appropriate motion. I did not in any way guarantee that the items would or could be returned.
4. Mr. Rhoades and I had a similar conversation on the phone but I do not recall the date. As a result, I did not respond to his letter requesting return of the seized items.



5. To this date, the criminal investigation in the District of New Hampshire continues.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct.

Dated this 29th day of May, 2007.

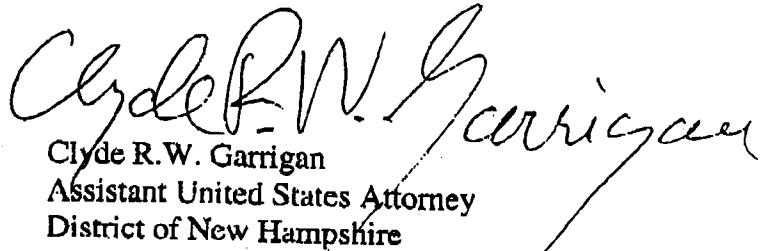
A handwritten signature in cursive script, appearing to read "Paulette L. Stewart".

PAULETTE L. STEWART
Assistant U.S. Attorney

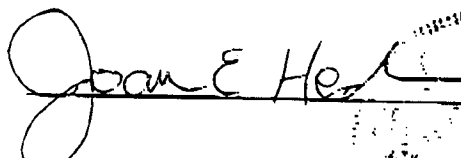
DECLARATION OF CLYDE R.W. GARRIGAN

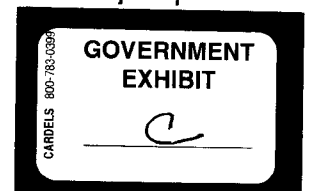
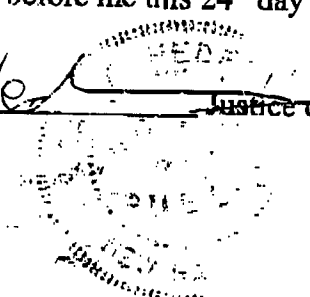
1. I am an Assistant United States Attorney for the District of New Hampshire.
2. Richard Celata is the target of an on going investigation in the District of New Hampshire and elsewhere for violations of 18 USC s922(a)(1) (Unlawful Manufacturing of Firearms) and 18 USC s922(o) (Unlawful Possession of a Machinegun).
3. The items seized on June 6, 2006 pursuant to a federal search warrant from Richard Celata's residence/business at 382 Adams Lanc, Dillon, Montana are either contraband or potential evidence related to the offenses described above or other federal crimes.

Signed under the pains and penalties of perjury:


Clyde R.W. Garrigan
Assistant United States Attorney
District of New Hampshire

Sworn and subscribed before me this 24th day of May 2007 at Concord, New Hampshire:


Justice of the Peace/Notary. My commission expires: 7/13/10





U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

August 4, 2006

Washington, DC 20226

www.atf.gov

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Richard CELATA
382 Adams LN
DILLON, MT 59725

RE: Notice of Forfeiture proceedings

Agency Case Number : 778055-06-0009
Seizure Number : 778055-06-0009-01
Asset Identification : See Attached List

Dear Richard CELATA

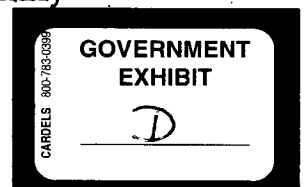
On 06/07/2006 at 382 Adams LN, DILLON, MT 59725, Montana, the property (ies) described above was/were seized for forfeiture by the Bureau of Alcohol, Tobacco and Firearms. The Property was used or acquired in violation of federal law and is subject to forfeiture under 18 USC 924(d), 26 USC 53, 26 USC Section 5872. Administrative forfeiture proceedings have commenced in accordance with the provisions of 18 U.S.C. 3051(c) and 19 U.S.C. §§1602-1618 and 18 U.S.C. §§ 983.

You may contest the seizure and forfeiture of the property in United States District Court by filing a Claim or you may agree to the forfeiture of the property through the administrative process and seek equitable relief from the forfeiture by filing a Petition for Remission or Mitigation of Forfeiture. Both alternatives are described more fully below.

Alternatively, you may choose to take no action regarding the seizure and forfeiture of the above listed assets. If so, no further contact with our office is necessary.

To Contest the Forfeiture in United States District Court

To Contest the Forfeiture in United States District Court, you must file a Claim of Ownership with ATF within thirty (30) days of the date appearing at the top of this letter. A form that you may use to file a Claim of Ownership is enclosed for your convenience, along with a Power of Attorney form to be filed if you retain the services of an attorney in this matter. A Claim of Ownership must be submitted to the following address:



Bureau of Alcohol, Tobacco and Firearms
Asset Forfeiture and Seized Property Branch
650 Massachusetts Avenue, NW
Washington, DC 20226
Attn: Seizure and Forfeiture Specialist

A Claim of Ownership must be accompanied by a Cost Bond in the amount of ten percent (10%) of the value of the subject property, provided that amount is not less than two hundred and fifty dollars (\$250) nor more than five thousand dollars (\$5,000). See 19 U.S.C. § 1608. The Cost Bond may be in the form of a certified check, cashier's check or acceptable surety payable to the Bureau of Alcohol, Tobacco and Firearms. See 27 C.F.R. § 72.23. We have enclosed for your convenience a copy of a form to be used to submit a Cost Bond.

If you do not have the financial means to provide a Cost Bond, you may request that ATF waive the requirement of the Cost Bond and permit you to proceed In Forma Pauperis. You may make such a request by filing a sworn affidavit setting forth the factual basis for the request.

Petition for Remission or Mitigation of Forfeiture

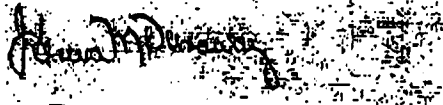
As an alternative, you may submit to ATF a Petition for Remission or Mitigation of Forfeiture. The regulations governing the form and content of a Petition for Remission or Mitigation of Forfeiture are set forth at 27 C.F.R. Part 72.

A Petition should state in clear and concise terms the nature and extent of your alleged interest in the property and should be accompanied by proof of that interest, such as bills of sale, sale contracts, mortgages, title records, or other documentary evidence. A Petition must also state the facts and circumstances that you believe justify remission or mitigation of the forfeiture. If you are a lienholder in the subject property, you must also complete a Net Equity Worksheet, which is available from ATF upon request.

A Petition must be signed and sworn to by the petitioner or an attorney representing the petitioner. If the Petition is signed by an attorney, it should be accompanied by documentation establishing the Power of Attorney. Petitions should be filed within twenty (20) days of the date appearing at the top of this letter and should be mailed to the address listed above.

Please ensure that all correspondence regarding this matter references the Case Number, Seizure Number, and the Asset Identification Number(s) listed above. If you have any questions regarding this matter, you may contact the Asset Forfeiture and Seized Property Branch at (202) 927-7960 before 09/08/2006. Please reference the above agency case number.

Sincerely,



Geneva Dunaway
SAC, Asset Forfeiture & Seized Property Branch

Enclosures

ASSET LIST FOR Seizure Notice

August 4, 2006

Agency Case Number : 778055-06-0009
 Seizure Number : 778055-06-0009-01

ASSET ID	ASSET DESCRIPTION	ASSET VALUE
778055-06-0009-01-000004-01	FIREARM: HANDGUN, MNF: UNKNOWN MANUFACTURER, MODEL: 228, CAL: 9, BAR: 0, CAP: 0, LEN: 0, SN: NONE, TYPE: PISTOL	\$300
778055-06-0009-02-000019-01	FIREARM: OTHER FIREARM, MNF: UNKNOWN MANUFACTURER, MODEL: 1911, CAL: 45, BAR: 0, CAP: 0, LEN: 0, SN: KTO 03041002, TYPE: PISTOL	\$350
778055-06-0009-02-000020-01	FIREARM: OTHER FIREARM, MNF: UNKNOWN MANUFACTURER, MODEL: AR15 TYPE, CAL: 223, BAR: 0, CAP: 0, LEN: 0, SN: NONE, TYPE: ANY OTHER WEAPON	\$8400
778055-06-0009-02-000031-01	FIREARM: MACHINE- GUN, MNF: UNKNOWN MANUFACTURER, MODEL: UNK, CAL: 223, BAR: 0, CAP: 0, LEN: 0, SN: NONE, TYPE: MACHINE GUN	\$1500
778055-06-0009-02-000037-01	FIREARM: HANDGUN, MNF: UNKNOWN MANUFACTURER, MODEL: 1911, CAL: 45, BAR: 0, CAP: 0, LEN: 0, SN: 03041001, TYPE: PISTOL	\$600
778055-06-0009-02-000040-01	FIREARM: OTHER FIREARM, MNF:	\$200

UNKNOWN
MANUFACTURER,
MODEL: UNK, CAL: **,
BAR: 0, CAP: 0, LEN: 0,
SN: NONE, TYPE: RIFLE