

# **EXTINCIÓN DE DOMINIO Y COOPERACIÓN INTERNACIONAL**

# Proceso Juridico ...

- ¡ La autoridad para el decomiso a evolucionado a traves de los anos, pero siempre obtiene su base en los estatutos o codigos.
- ¡ En un principio todos los decomisos eran de caracter civil; el decomiso jurídico criminal es relativamente reciente

# Proceso Juridico Estadounidense Contra Bienes Malhabidos

- ¡ Jurídico Civil: *in rem*, solo los bienes son procesados.
- ¡ Jurídico Criminal: los bienes son enjuiciados en conjunto con el acusado; el decomiso ocurre una vez demostrada la culpabilidad del individuo.

# Penal v. Civil (Systema EEUU)

## ¡ Decomiso Penal

§ requiere de una convicción

§ el proceso decomiso comienza una vez demostrada la culpabilidad del individuo

§ puede decomisar bienes que no están involucrados en el delito (sustituto)



## Penal v. Civil (cont.)

### ¡ Decomiso Civil

§ Casi de naturaleza criminal

§ Sobre la base de leyes penales

§ *in rem*, solo los bienes son procesados

§ Puede resultar en una causa penal

§ Puede proceder aunque el dueño es un fugitivo

## Penal v. Civil (cont.)

### ¡ Decomiso civil

§ Solamente puede afectar bienes involucrados o envueltos (proveniente) en el delito

§ Pero no tiene que demostrar que el acusado cometió un delito

§ Tanto el decomiso procedimiento criminal y civiles uso reglas de procedimiento CIVILES

# ACTIVIDADES ILEGALES ESPECIFICADAS

Estas actividades incluyen, por ejemplo:

- ¡ Narcotráfico
- ¡ Terrorismo
- ¡ Corrupción pública
- ¡ Fraude
- ¡ Trafico de Personas ...



# DELINCUENCIA ORGANIZADA TRANSNACIONAL (Palermo)

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- ¡ Se aplica a los delitos graves (delito castigado con al menos cuatro años de prisión)
- ¡ Cometidas en más de un Estado
- ¡ Al grupo organizado de tres o más

# DELINCUENCIA ORGANIZADA TRANSNACIONAL (Palermo)

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- ¡ Asistencia disponible
  - § Evidencia
  - § Servicio de Proceso
  - § Los registros y decomisos
  - § La recuperación de activos



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. **09-21429**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ONE (1) HELICOPTER, TAIL NO. N17JT, THIRTY-FOUR (34) PARCELS OF REAL ESTATE IN THE DOMINICAN REPUBLIC, FIVE (5) PARCELS OF REAL ESTATE IN MIAMI-DADE COUNTY AND BROWARD COUNTY, FLORIDA, ONE (1) LEASE IN THE DOMINICAN REPUBLIC, TWENTY-SEVEN (27) VEHICLES, TWO (2) TRAILERS, AND THREE (3) VESSELS, AS MORE PARTICULARLY DESCRIBED IN ATTACHMENT A HEREIN.

Defendants.

**CIV - HUCK**

MAGISTRATE JUDGE  
O'SULLIVAN

FILED  
MAY 27 2009  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI, FLORIDA

**COMPLAINT FOR FORFEITURE *IN REM***

Plaintiff, the United States of America, files this civil Complaint for Forfeiture *in rem* of the defendants and alleges as follows:

1 This is a civil action for forfeiture *in rem* of one (1) helicopter Tail No. N17JT, thirty-four (34) parcels of real estate located in the Dominican Republic, five (5) parcels of real estate located in Miami-Dade County and Broward County, Florida, one (1) lease in the Dominican Republic, twenty-seven (27) vehicles, two (2) trailers, and three (3) vessels.



U.S. Department of Justice

Criminal Division  
*Office of International Affairs*

112-31326

Washington, D.C. 20535

August 5, 2009

**TO:** The Central Authority of the Dominican Republic

**SUBJECT:** Request for Assistance in the Prosecution of Carlos Benitez, Luis Benitez, and Jose Benitez and Forfeiture of Assets Connected with the Benitez Brothers

The Central Authority of the United States requests the assistance of the appropriate authorities in the Dominican Republic, pursuant to the United Nations Convention Against Transnational Organized Crime, to which both the United States and the Dominican Republic are signatories. The United States Department of Justice, Criminal Division, and the U.S. Attorney for the Southern District of Florida are prosecuting Carlos Benitez, Luis Benitez, and Jose Benitez ("the Benitez Brothers") for conspiracy to defraud the United States, submitting false claims for federal health care benefits under Medicare, paying kickbacks in connection with the fraud scheme, and laundering the proceeds generated from the fraud scheme. Proceeds derived from the health care fraud scheme were used to purchase items of real and personal property located in the Dominican Republic.

The United States requests that authorities of the Government of the Dominican Republic, pursuant to Dominican Republic law, register certain court documents for enforcement in the Dominican Republic, serve necessary documents on the properties and on persons with a potential interest in the properties, and file notices of the U.S. section with the land records offices in the Dominican Republic in order to serve notice on the public of the forfeiture actions.

The Facts



*Procuraduría General de la República*  
*Unidad Antilavado de Activos*

**INMUEBLE  
INCAUTADO**

Tel.: 809-533-3522 Ext. 179







### Advertisement Certification Report

The Notice of Publication was available on the [www.forfeiture.gov](http://www.forfeiture.gov) web site for at least 18 hours per day between August 8, 2009 and September 6, 2009. Below is a summary report that identifies the uptime for each day within the 30-day period and reports the results of the web monitoring system's daily check that verifies that the advertisement was available each day.

U.S. v. U.S. v. ONE HELICOPTER, TAIL NO. N17JT, et al.

**Court Case No:** 09-CIV-21429-PCH  
**For Asset ID(s):** See Attached Advertisement Copy

Consecutive Calendar Day Count	Date Advertisement Appeared on the Web Site	Total Hours Web Site was Available during Calendar Day	Verification that Advertisement existed on Web Site
1	08/08/2009	23.5	Verified
2	08/09/2009	23.5	Verified
3	08/10/2009	23.5	Verified
4	08/11/2009	23.5	Verified
5	08/12/2009	23.5	Verified
6	08/13/2009	23.5	Verified
7	08/14/2009	23.5	Verified
8	08/15/2009	23.5	Verified
9	08/16/2009	23.5	Verified
10	08/17/2009	23.5	Verified
11	08/18/2009	23.5	Verified
12	08/19/2009	23.6	Verified
13	08/20/2009	23.6	Verified
14	08/21/2009	23.5	Verified
15	08/22/2009	23.5	Verified
16	08/23/2009	23.6	Verified
17	08/24/2009	23.5	Verified
18	08/25/2009	23.6	Verified
19	08/26/2009	23.5	Verified
20	08/27/2009	23.5	Verified
21	08/28/2009	23.5	Verified
22	08/29/2009	22.4	Verified
23	08/30/2009	23.5	Verified
24	08/31/2009	23.5	Verified
25	09/01/2009	23.5	Verified
26	09/02/2009	23.5	Verified
27	09/03/2009	23.5	Verified
28	09/04/2009	23.5	Verified
29	09/05/2009	23.1	Verified
30	09/06/2009	23.5	Verified

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 09-21429-CIV-HUCK

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 )  
 ONE (1) HELICOPTER, TAIL NO. N17JT, )  
 THIRTY-FOUR (34) PARCELS OF REAL )  
 ESTATE IN THE DOMINICAN REPUBLIC, )  
 FIVE (5) PARCELS OF REAL ESTATE )  
 IN MIAMI DADE COUNTY AND BROWARD )  
 COUNTY, FLORIDA, ONE (1) LEASE IN )  
 THE DOMINICAN REPUBLIC, TWENTY )  
 SEVEN (27) VEHICLES, TWO (2) )  
 TRAILERS, AND THREE (3) VESSELS, )  
 AS MORE PARTICULARLY DESCRIBED )  
 IN ATTACHMENT A HEREBIN, )  
 )  
 Defendants. )  
-----/

FINAL JUDGMENT OF FORFEITURE AS TO DEFENDANT PROPERTIES  
1, 16, 19, 21, 24, 27, 29, 30, 34, 35, 42, 43, 45, 46, 47, 48, 49, 51, 53, 54, 56, and 57

THIS CAUSE coming before the Court on Plaintiff's Motion for Default Judgment of Forfeiture and it appearing that no owner of record nor any other person has filed herein any claim or answer, and it further appearing that a copy of the Complaint herein was served upon all known potential claimants and that publication has been duly made in this matter, and that due notice was given. Accordingly, the Court finds:

## Ratifica decomiso de bienes Hnos. Benítez

**El tribunal acogió una petición de homologación hecha por el Procurador**

**FEDERICO MÉNDEZ  
REDACTOR SENIOR**

SANTO DOMINGO. El juez de la Segunda Sala de la Cámara Civil y Comercial del Juzgado de Primera Instancia del Distrito Nacional homologó una sentencia de decomiso de 20 bienes propiedad de los fugitivos hermanos Benítez, quienes están acusados de sustraer US\$110 millones del sistema de seguridad social de los Estados Unidos.

El magistrado Pedro Reynaldo Vásquez Lora acogió una petición del procurador general de la República, Radhamés Jiménez Peña, quien solicitó validar la sentencia rendida por el Tribunal Federal del Distrito Sur de Florida, que ordena el decomiso de los bienes propiedad de Carlos

Manuel, José Manuel y Luis Enrique Benítez González.

Asimismo, decretó la ejecución de la sentencia estadounidense en contra de los hermanos cubanos y ordenó el decomiso de un helicóptero marca Ribonson con matrícula No. N17JT.

También los inmuebles ubicados en Higüey, conocidos como los lotes 4 y 5 de la manzana 177, donde se encuentra un lugar llamado "La casa de la virgen María", donde se halla ubicado un solar con una extensión de 645 metros cuadrados y otro de 903 metros cuadrados.

Además, una porción de terreno con una extensión superficial de 6,400 metros cuadrados, dentro del ámbito de la parcela No. 67-B-370-C, distrito catastral No. 11/3era, del municipio de Higüey.

Igualmente, una porción de terreno con una extensión superficial de 2,000 metros cuadrados, dentro de la misma parcela.

# Centro de la Abogacía Nacional





y una Arma Secreta



## CASE-SPECIFIC AGREEMENT

Between the Department of Justice of the United States of America and the Office of the Prosecutor General of the Dominican Republic Concerning the Sharing of Confiscated Proceeds and Instrumentalities of Crime Related to United States v. One Helicopter, et al. and United States v. One Parcel, et al. (a.k.a. the Benitez Brothers case)

The Department of Justice of the United States of America and the Office of the Prosecutor General of the Dominican Republic, hereinafter “Department of Justice” and “the Office of the Prosecutor General,” respectively,

CONSIDERING that the Office of the Prosecutor General has rendered to the Department of Justice broad-ranging investigative, legal, technical and other assistance in connection with the non-conviction based forfeitures obtained in United States v. One Helicopter, et al., 09-CV-21429 (S.D. Fla.) and United States v. One Parcel, et al., 11-CV-20802 (S.D. Fla.), hereinafter, “One Helicopter and One Parcel,” (a.k.a. the Benitez Brothers case).

CONSIDERING FURTHER that the assistance was rendered pursuant to the United Nations

# Compartiendo Activos



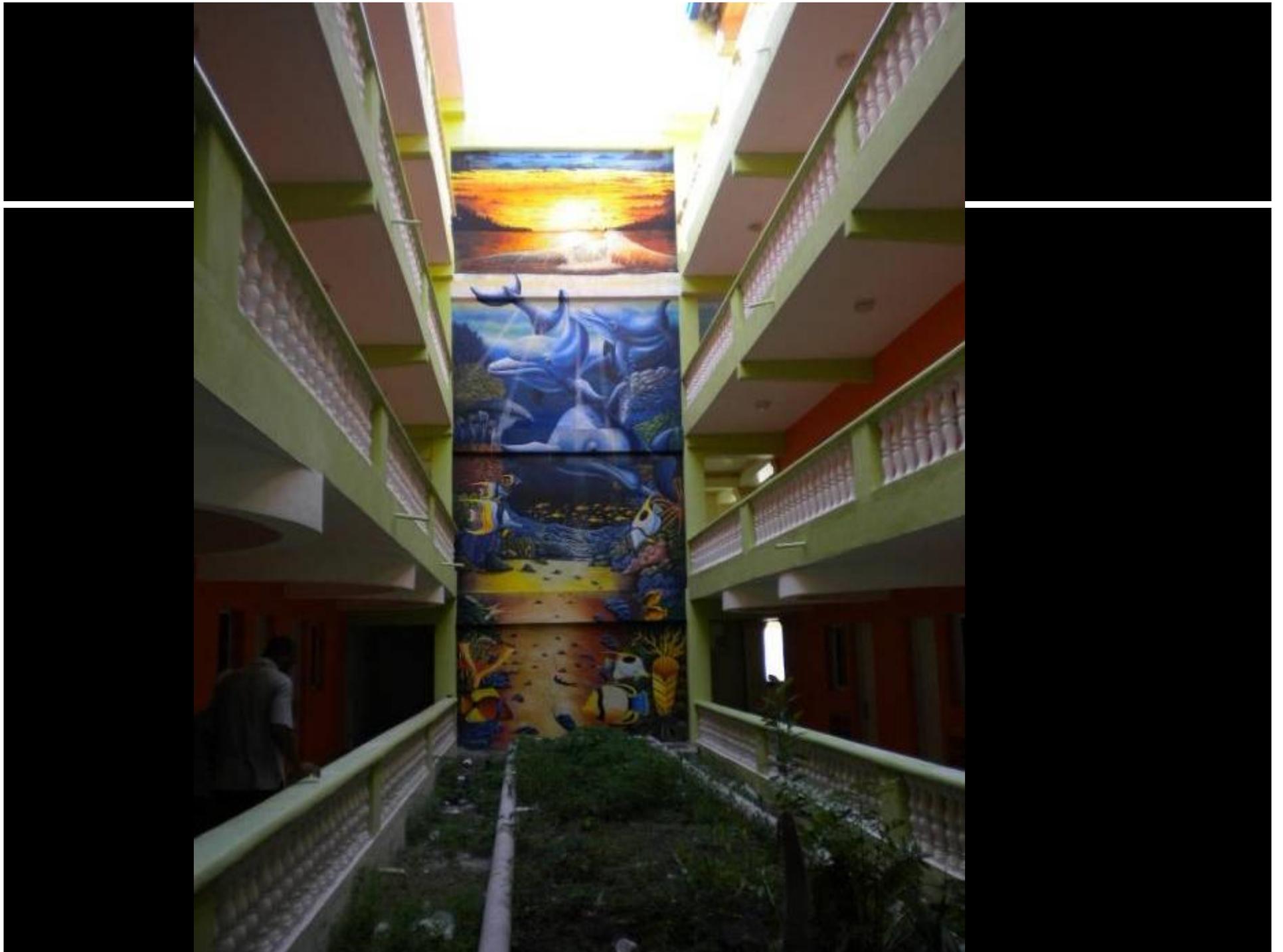














09-21-20

CIV HUCK

MADEIRA

TER, TAIL NO.  
OUR (24) PARCELS  
IN THE  
UBLIC, FIVE (5)  
LEST AND  
NTY, FLORIDA, ONE  
TY, FLORIDA  
DOMINIC (7)  
TY-SEALERS, AND  
2) TRAILERS  
S, AS MORE  
DESCRIBED IN  
HEREIN.

Defendants:

**COMPLAINT FOR FORFEITURE IN REM**

COMPLAINT FOR FORFEITURE IN REM  
The U.S. Marshal for the Southern District of Florida  
is hereby notified that the following  
property is being held for the use of the  
U.S. Marshal for the Southern District of Florida  
in the above captioned case.

FILED  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI, FLORIDA  
SEP 21 2009







# Lecciones Aprendidas

- ¡ Relaciones y Comunicaciones
- ¡ Correo Electronico

# Gracias por su Atención

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561-820-8711  
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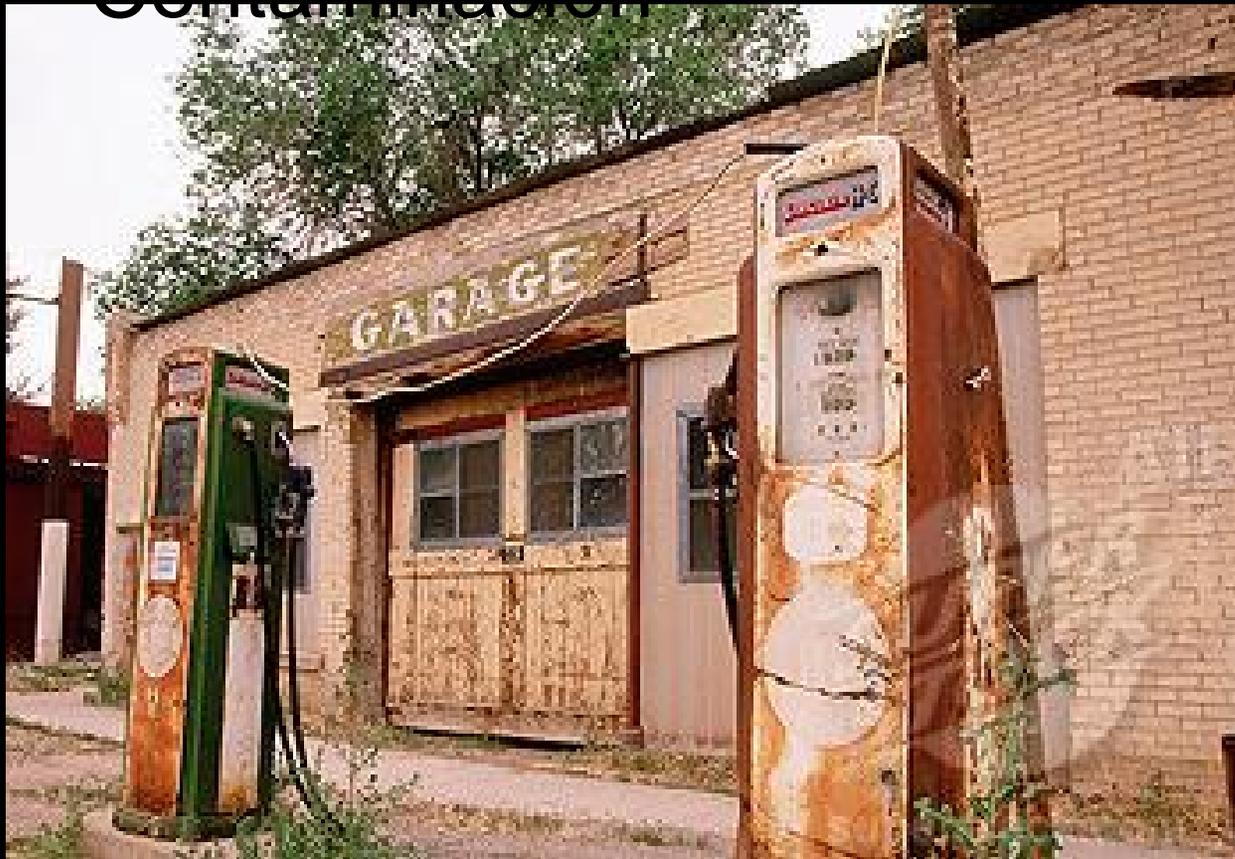


# U.S. v. Ramos



<u>Asset/Item ID</u>	<u>Description</u>	<u>Seizure Date</u>	<u>Seizure/Aband No</u>
02-FBI-002923	\$5,016,093.57 PROCEEDS TRACEABLE		3460020099
02-FBI-002924	BANK ACCT#0920003788 AT WAUCUIJLA STATE BANK		3460020100
02-FBI-002925	BANK ACCT#0920005098 AT WAUCUIJLA STATE BANK		3460020101
02-FBI-002926	Real Property located at 301 Del. Hall Blvd Lake Placid, FL		3460020113
02-FBI-002928	Real Property located at 181 Sarasota St, Highlands County		3460020114
02-FBI-002930	REAL PROPERTY LOCATED AT 128 SARASOTA ST, HIGHLANDS COUNT		3460020115
02-FBI-002931	Real Property Located at 180 Sarasota St, Highlands County		3160020116
02-FBI-002933	Furniture; All stock assets/inventory of business.		3160020117
02-FBI-002935	Fixtures; All stock assets/inventory of business.		3460020118
02-FBI-002936	BANK ACCT#0908747119 AT WAUCUIJLA STATE BANK		3460020102
02-FBI-002937	Computer Hardware/Software Assets/Inventory of Business.		3460020119
02-FBI-002938	Cash/Currency in lieu of 1987 FORD BUS	09/25/2002	3460020103
02-FBI-002939	Cash/Currency in lieu of 1988 FORD BUS	09/25/2002	3460020104
02-FBI-002940	Office Equipment/Assets/Inventory of Business		3460070120
02-FBI-002941	1988 FORD BUS/VIN:1F10N175P01V835431		3460070105
02-FBI-002942	Citrus Harvesting Equip/Assets/Inventory of Business		3460070121
02-FBI-002943	Cash/Currency in lieu of 1985 FORD BUS	09/25/2002	3460070106
02-FBI-002944	Cash/Currency in lieu of 1988 FORD BUS	09/25/2002	3460020107
02-FBI-002945	1988 FORD BUS		3460020108
02-FBI-002946	Cash/Currency in lieu of 1988 FORD BUS	09/25/2002	3460020109
02-FBI-002947	1987 FORD TRUCK		3460020110
02-FBI-002948	Cash/Currency in lieu of 1989 FORD VAN	09/25/2002	3460020111
02-FBI-002949	Cash/Currency in lieu of 1990 FORD VAN	09/25/2002	3460020112
02-FBI-005341	Real Property located at 305 Highlands Blvd, Lake Placid, FL		3160030095
02-FBI-005342	Real Property located at 112 N. Main St, Lake Placid, FL		3160030096
02-FBI-005343	Real Property located at 203 Sawannee St., Lake Placid, FL		3160030097
02-FBI-005344	Real Property located at 218 Grape Rd., NW, Lake Placid, FL		3160030098
02-FBI-005345	Real Property located at 216 Grape Rd., NW, Lake Placid, FL		3160030099
02-FBI-005346	Real Property located at 141 Sarasota St., Lake Placid, FL		3160030100
02-FBI-005347	Real Property located at 221 Sarasota St., Lake Placid, FL		3460030101
02-FBI-005348	Real Property located at 206-208 Rachard Blvd, Lake Placid		3460030102
02-FBI-005350	Real Property located at 184 Park Land, Del., Lake Placid, FL		3460030105
02-FBI-005351	Real Property located at 135 Commerce St., Lake Placid, FL		3460030106
02-FBI-005352	Real Property located at 134 Commerce St., Lake Placid, FL		3460030107
02-FBI-005353	Real Property located at 136 Commerce St., Lake Placid, FL		3460030108
02-FBI-005354	Real Property located at 141 Grove St., Lake Placid, FL		3460030109
02-FBI-005355	Real Property located at 131 Grove St., Lake Placid, FL		3460030110
02-FBI-005356	Real Property located at 115 Commerce St., Lake Placid, FL		3460030111
02-FBI-005357	Real Property located at 114 Commerce St., Lake Placid, FL		3460030112
02-FBI-005358	Real Property located at 116 Commerce St., Lake Placid, FL		3460030113

# Lecciones Aprendidas



# Lecciones Aprendidas

¡ Planificación antes del incautación!

# Solicitud Formal Extranjeros

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- ¡ (AUSA nombrado como Comisario)
  - § Investigar (entrevistas, declaraciones juradas, declaraciones, citaciones, alquiler de expertos)
  - § Presentar pruebas
  - § Los Registros y decomisos
  - § La Recuperación de Activos
    - EE.UU. decomiso continuación, la repatriación

# SOLICITUD EXTRANJERA INFORMALES

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- ¡ (discusión informal y presentación de pruebas)
- ¡ (Abrir una investigación federal )
- ¡ (Presentar una demanda penal o civil
- ¡ EE.UU. decomiso continuación, la repatriación

# Gracias por su Atención

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