

United States District Court
Probation and Pretrial Services
Northern District of Texas
4/30/2015

MITSI WESTENDORFF
CHIEF

SHARON STEWART
GLENN MELLINGER
DEPUTY CHIEFS

1100 Commerce Street
Room 1329
Dallas, TX 75242-1310

D.H. Delaney and Company
P.O. Box 806
Wheaton, IL 60189-0806

Re. United States vs. **David Lyman Spalding (1)**
Case No. **3:13-CR-00422**
Honorable **Barbara M.G. Lynn**

Dear **D.H. Delaney and Company**:

The Mandatory Victims Restitution Act of 1996 requires the U.S. Probation Office to provide notice of the following information to all identified victims harmed as a result of the commission of a federal offense. My records indicate you may be a victim of the above-cited case. Federal law entitles you to receive notice of the defendant's conviction and sentencing date. Also, as a result of the defendant's crime, you may be entitled to a judgment against the defendant for restitution, and you have the right to prepare the enclosed *Declaration of Victim's Loss* which will be submitted to the court by our office on your behalf.

On **4/9/2015**, **David Lyman Spalding (1)** were convicted of **18 U.S.C. § 1343 - FRAUD BY WIRE - RADIO - OR TELEVISION; 18 U.S.C. § 1341 - FRAUDS AND SWINDLES; 18 U.S.C. § 152 - CONCEAL ASSETS - FALSE OATH AND CLAIMS BRIBERY; AND 18 U.S.C. § 152 - CONCEAL ASSETS - FALSE OATH AND CLAIMS BRIBERY**. The sentencing hearings will be held on **7/29/2015 at 9:00 AM** at the U.S. District Court located at **1100 Commerce Street, Room 1452, Dallas, TX, 75242-1310** before the Honorable **Barbara M.G. Lynn**. Your attendance at this proceeding is not required, but you are welcome to attend if you choose.

Whether or not you elect to attend the sentencing proceeding, you have the right to file an affidavit relating the harm and costs you have incurred as a result of the above offense. According to my records, you may be entitled to a judgment for restitution in the amount of **\$203,000.00**. This amount has been furnished to me by the Assistant U.S. Attorney prosecuting the case. If you disagree with this amount and your amount is different from the figure provided by the prosecutor, you must provide a brief description of the loss and furnish proof of any additional loss amount or difference in loss amount to the undersigned U.S. Probation Officer. If you are unable to furnish proof, you must provide a reasonable explanation of how you estimated or determined your loss. This information is necessary in the event the defendant contests the loss amount; the government has the burden of proving your loss. A *Declaration of Victim Losses* form, which has the same legal effect as an affidavit and which need not be notarized, is enclosed for your use. It may be helpful to review the attached Explanation of Losses Subject to Restitution before completing the declaration. If you wish to exercise your right to submit an affidavit, please return the signed declaration to the U.S. Probation Office. I will submit it to the court on your behalf, but in order to ensure timely submission to the court, I need to receive the declaration, or any letter you wish to submit on or before **as soon as possible**. In addition to mailing your declaration, you may also fax it to me at 214-753-2570.

In the event you are awarded restitution by the court in this case, it is your responsibility to notify the U.S. Attorney's Office in this district and the U.S. District Clerk of any change in your mailing address while restitution is still owed. This information will be maintained confidentially. If restitution is ordered by the court, receipt of restitution payments is solely dependent upon the defendant's ability to pay. You cannot expect to receive a restitution payment at sentencing.

Explanation of Losses Subject to Restitution

The Mandatory Victims Restitution Act of 1996 provides that you may be entitled to an order of restitution for certain losses suffered as a direct or proximate result of the commission of the offense for which the defendant was convicted. The types of losses for which the statute provides restitution are explained below. You have the right to explain these losses in detail in the enclosed affidavit form.

In the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense, the court may order: the return of the property to the owner of the property or someone designated by the owner; or if return of the property is impossible, impractical, or inadequate, the court may order payment of an amount equal to the greater of the value of the property on the date of the damage, loss, or destruction, or the value of the property on the date of sentencing, less the value (as of the date the property is returned) of any part of the property that is returned.

In the case of an offense resulting in bodily injury to a victim, the court may order: payment of an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment; payment of an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and reimbursement to the victim for income lost by such victim as a result of such offense.

In the case of an offense resulting in bodily injury that also results in the death of a victim, the court may order payment of an amount equal to the cost of necessary funeral and related services.

In any case, the court may order reimbursement to the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

In any case, if the victim (or if the victim is deceased, the victim's estate) consents, the court may order the defendant to make restitution in services in lieu of money, or to make restitution to a person or organization designated by the victim or the estate. (18 USC § 3663)

In addition, the victim may at any time assign the victim's interest in restitution payments to the Crime Victims fund in the Treasury without in any way impairing the obligation of the defendant to make such payments. (18 USC § 3664)

If a victim has received compensation from insurance of any other source with respect to a loss, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation. (18 USC § 3664)

Restitution Collection

The collection of restitution is based solely on the defendant's financial status and ability to pay. The probation officer will put forth its best effort to enforce restitution ordered by the court through careful and regular review of the defendant's financial status while on probation or supervised release. If the court orders the defendant to serve a term of imprisonment, restitution collection may start while the defendant is in custody. Wages earned while in custody are very minimal, therefore, restitution collected during incarceration, if any, will be minimal. If you are one of several victims in the case, all restitution collected from the defendant or defendants will be split proportionally with all victims. The U.S. Probation Office does not collect restitution payments. All payments are received and processed (paid to you) by the U.S. District Clerk.

Finally, if you are awarded restitution by the court, you may request that the clerk of the court issue an Abstract of Judgment to you, certifying that a judgment has been entered in your favor in the amount specified by the court. When the abstract is registered, recorded, docketed, or indexed in accordance with state law, it acts as a lien upon the property of the defendant within the state, and is enforceable in the same manner and to the same extent as a judgment of a court of general jurisdiction.

For your convenience, the addresses of the various offices referred to in this letter are included below:

Probation & Pretrial Services
1100 Commerce Street
Room 1329
Dallas, TX 75242-1310
Phone: 214-753-2500
Fax: 214-753-2570
www.txnp.uscourts.gov

District Clerk of the Court
1100 Commerce Street
Room 1452
Dallas, TX 75242-1310

U.S. Attorney
Earl Cabell Federal Building
1100 Commerce Street
Suite 300,
Dallas, TX 75242
Phone: 214-659-8641

In the event you have additional questions and/or would like to confirm the sentencing date, please feel free to contact me at 214-753-2500.

Respectfully submitted,

/s/ **Juliana Moore**
U.S. Probation Officer

cc: **Carole Henderson**
AUSA Victim-Witness Coordinator

United States District Court
Probation and Pretrial Services
Northern District of Texas

Declaration of Victim Losses

United States vs. David Lyman Spalding (1)
Case No. 3:13-CR-00422
Honorable Barbara M.G. Lynn

sent
\$73.15
us mail

My name is Don Delaney, and I am a victim on the above-referenced case. My mailing address is P. O. Box 806 in the City of Wheaton, IL 60187, in the county of DuPage, in the state of, ILLINOIS (zip code). My daytime telephone number is 630-890-4631. I believe that I am entitled to restitution in the amount of \$ 203,000.00.

If the amount is different from the amount furnished by the Assistant U.S. Attorney, I understand I must provide a description of the loss and furnish proof of loss. If unable to furnish proof, I understand I must provide a reasonable explanation of how I estimated the loss. Furthermore, I understand the court may not award the additional amount of restitution to me if I do not provide documentation of the loss or a reasonable explanation of how I estimated the different loss amount.

My specific losses as a result of this offense are summarized as follows: (Additional Pages May Be Attached)

- ()
- ()
- ()
- ()

Restitution, if ordered, will be mailed to the address listed above unless otherwise noted. If you are a representative of a business, please provide an account number or claim number, of your choosing, so that payments can be properly credited.

(If applicable)

I have been compensated by insurance or another source with respect to all or a portion of my losses in the amount of \$ 00 ; the loss(es) marked above with a check mark identify the loss(es) for which I have received compensation.

The name, address, and telephone number of the insurance company that compensated me is:

The insurance company's claim number, account number, or reference number for this loss is:

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

Don Delaney
(Signature of Victim or Company Representative)

Executed on:
_____ day of _____, _____.

Juliana Moore