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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Case No. 06 CR 964</b>
	)	
<b>vs.</b>	)	
	)	<b>Hon. Ronald A. Guzman</b>
<b>MICHAEL E. KELLY</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER APPROVING  
USE OF SMALL ESTATE AFFIDAVITS TO RE-ISSUE DISTRIBUTION CHECKS**

Douglas A. Doetsch, not individually but solely as the court-appointed Special Master in the above-captioned case, by and through his counsel, having brought forth the issue pertaining to the use of small estate affidavits in re-issuing First Distribution Checks and this Court having held a hearing thereon, and the Court being otherwise fully advised in the premises,

**IT IS ORDERED AND ADJUDGED** as follows:

1. On November 20, 2012, this Court entered an Order Approving Distribution of Restitution Fund (Dkt. No. 1500) (the “**Distribution Order**”). Pursuant to the Distribution Order, the Claims Processing Agent<sup>1</sup> was authorized and directed to distribute the First Distribution Amount to the First Distribution Eligible Victims. Some of the checks sent pursuant to the Distribution Order (the “**First Distribution Checks**”) were made out to the estates of deceased victims, and the representatives and/or family members of such victims have informed the Special Master, the Claims Processing Agent, the U.S. Attorney’s Office and/or others that they are unable to cash or negotiate the checks.

<sup>1</sup> Capitalized but undefined terms used herein shall have the meanings ascribed to such terms in the Distribution Order.

2. The Claims Processing Agent is hereby authorized to receive, review and analyze small estate affidavits, or other such similar small estate probate documents as authorized by state law (“**Small Estate Affidavits**”), as provided to the Claims Processing Agent by representatives of deceased victims’ estates. The Claims Processing Agent shall use its best efforts upon review of the Small Estate Affidavits to determine if such documentation satisfies the identified victim’s state requirements for reissuing the victim’s First Distribution Check to the designated surviving spouse, child or other heir (“**Affiant**”) as identified in the Small Estate Affidavit, without further probate or other court involvement.

3. The Claims Processing Agent shall present to the United States Attorney’s Office (“**USAO**”) a list of all Small Estate Affidavits received which the Claims Processing Agent, in its professional opinion, has identified as satisfying the appropriate state requirements for reissuance of the First Distribution Check to the identified Affiant. The Claims Processing Agent will also indicate whether or not, in its professional opinion, such documentation is sufficient for the Claims Processing Agent to send any additional, future court-approved distribution amounts from the restitution fund to the identified Affiant.

4. The USAO is authorized to approve the reissuance of the First Distribution Checks to the identified Affiants as presented by the Claims Processing Agent, and to determine if such documentation is sufficient to include any additional future court-approved distributions from the restitution fund. No further Court approval is required.

5. Upon approval of the USAO, the Claims Processing Agent is authorized to reissue a victim’s First Distribution Check in the name of the Affiant, to mail the reissued First Distribution Check to the Affiant, via United States Postal Service First Class Regular Mail at the address provided by the Affiant, and further that: (i) the burden is on the Affiant to notify

the Claims Processing Agent of any updated contact information, and of insuring that the Affiant's name and/or proper contact information are contained in the Claims Processing Agent's records; (ii) the Claims Processing Agent is under no duty or obligation to attempt to determine the current address and/or other contact information for any Affiant; and (iii) the Claims Processing Agent shall implement the security procedures of positive pay.

6. The Claims Processing Agent will only reissue a First Distribution Check if, in addition to the requirements described above: (i) the First Distribution Check was made payable to a deceased victim or a deceased victim's estate, and (ii) the First Distribution Check has not been cashed or negotiated.

7. The First Distribution Checks made payable to the Affiants which are returned or which have not been cashed by **May 20, 2013**, will be void, the right to receive such payments will terminate, subject only to the sole discretion of the Special Master, and the amounts otherwise distributable to such Affiant shall be returned to the Restitution Fund and disposed of according to the Court's further instructions. The Claims Processing Agent will, in the mailing of the reissued First Distribution Checks to the Affiants, warn the Affiants of this potential loss of rights and the need to promptly cash or negotiate their checks, and further that if an Affiant fails to cash the reissued First Distribution Check by May 20, 2013, such Affiant shall have no right to participate in future distributions and be removed from the Claims Processing Agent's list of Victims, and that the Claims Processing Agent shall have no further duty to notify such Affiant of future hearings, motions, orders or developments in this case.

8. The Court hereby releases and discharges the Special Master and the Claims Processing Agent (both in their personal and representative capacities) and their attorneys, accountants, employees, officers, directors and agents and all other persons involved in the

review, verification, calculation, tabulation, or any other aspect of the processing and reissuance of estate checks to any Affiant based on their reliance on the Small Estate Affidavit, or otherwise involved in the administration of the estate, from any act or omission arising out of such involvement.

9. The Kelly Restitution Fund shall indemnify, defend and hold harmless the Special Master and the Claims Processing Agent (both in their personal and representative capacities) and their attorneys, accountants, employees, officers, directors and agents and all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing and reissuance of estate checks to any Affiant based on their reliance on the Small Estate Affidavit, or otherwise involved in the administration of the estate (the “**Indemnified Parties**”), from and against all actions pending or threatened, whether at law or in equity, in any forum, from liabilities, damages, losses, costs and expenses, including, but not limited to, reasonable attorneys' and other professionals' fees and costs, arising from conduct or omission of the Indemnified Parties in connection with this case.

Dated: April 8, 2013

**SO ORDERED.**

**ENTER:**

  
Honorable Ronald A. Guzman