

Common Emotional and Physical Aspects Resulting from Financial Victimization

More often than not, a victim of financial fraud, investment scam, or embezzlement will experience many emotions. A crime victim often experiences anger due to the betrayal of someone or some thing they put their trust and judgement in, along with their lost finances. Victims often feel frustration as a common response to their financial loss. Additional experiences a victim may have include :

- ◆ Guilt for not being more skeptical of the concept or promises of the investment
- ◆ Disbelief that they were drawn into and fooled by such a sham
- ◆ Difficulty accepting the fact that their financial loss has radically changed their life plan, especially when they are retired and their life plans have been dramatically altered
- ◆ Health problems related to stress, such as insomnia, inability to eat or concentrate, develop low self-esteem or depression

Over time, many crime victims work through these difficulties on their own, or seek outside resources or counseling for assistance.

OTHER OPTIONS:

A victim may also choose to request the U. S. Clerk of the Court to issue an Abstract of Judgment certifying that a judgment has been entered in a victim's favor in the amount specified in the Judgment. A victim may then file this with the Recorder's Office for any county in which it is believed the defendant had assets, in the state in which a defendant was convicted in federal court. Upon its recording, the Abstract of Judgment becomes a lien upon the property of the defendant in that county/state in the same manner as a state court judgment. Victims should consult with a private attorney for specific information on this option.

NEED HELP?

As a federal crime victim, if you have any question or need assistance, please do not hesitate to contact the U.S. Attorney's Office, at (800) 539-8002 regarding your case.

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The Realities of Restitution for Victims of Federal Crimes

UNITED STATES
ATTORNEY'S OFFICE

District of Nevada



A federal crime victim is “a person directly or proximately harmed as a result of the commission of a federal offense, or an offense within the District of Columbia 18 U.S.C. § 3771(e).

DEPARTMENT OF JUSTICE

Most crime victims are very concerned about how they can recover from their financial loss suffered as a result of a crime. This information is provided to you by the U.S. Attorney's Office for the District of Nevada. The following is meant to provide a brief overview for federal crime victims and restitution ordered by the court, the legal process involved, and the realities of actually receiving full restitution.

The Justice for All Act of 2004 provides that "identified" federal crime victims are entitled to full and timely restitution as provided by law for certain losses suffered as a result of the commission of an offense as part of the criminal sentence imposed on the defendant, or as part of a plea agreement. Federal crime victims may be either individuals, businesses, or corporations.

Ordering vs. Receiving Restitution

Under federal law, it is mandatory for a defendant to pay restitution when there is a loss to the victim. Unfortunately, as a practical matter, a defendant who has no money or potential to make money in the future, may be unlikely to ever make meaningful restitution to the victims of a crime.

Court-ordered restitution is limited to specific losses and may not allow any monetary compensation for a victim's pain and suffering.

Physical Injury as a Result of the Crime

For an offense resulting in physical injury to a victim, the court may order payment equal to the cost of necessary medical and related professional services which include physical, psychiatric, and psychological care. Payment equal to the cost of necessary occupational therapy, rehabilitation, or loss of income as a direct result of the crime may be considered within the court ordered restitution to a victim.

Restitution for Financial Loss

In most fraud cases, restitution may be ordered where victims of the convicted federal offense have suffered the loss of money, in such crimes as investor fraud, mortgage fraud, telemarketing scams, or offenses involving the misuse of bank accounts or credit cards. The court may order a defendant to pay an amount equal to each victim's actual loss, which is commonly the value of the principle or property which was fraudulently obtained.

How Does a Victim Receive Restitution?

The U. S. Attorney's Office, Financial Litigation Unit (FLU) is charged with enforcing orders of restitution, and monitors efforts in enforcing a Judgment if defendant's assets or income are identified.

The FLU will pursue various means to enforce restitution, as its resources permit, on behalf of identified victims, for a time period of up to 20 years from the filing date of the defendant's Judgment, which includes the time period of the defendant's actual incarceration, or until the death of the defendant. In addition, once a defendant/inmate is released from prison, and is then under the supervision of the U.S. Probation Office, restitution will be monitored to insure appropriate restitution is paid, where possible.

Additional Restitution Provisions

An order of restitution is not dischargeable in bankruptcy. It also is not a guarantee that a crime victim will actually receive the money ordered by the court. Under the Act, if an identified victim

discovers further losses after a judgment has been filed, that victim has 60 days after discovery of the losses, to petition the Court for an amended restitution order. This order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitution.

Other Available Remedies

Victims of a federal crime may be eligible for state victim compensation, which can often pay for medical and psychological costs, loss of income or support, or funeral expenses related to the crime. Each State has a centralized division within a state agency where crime victims can apply for compensation. In Nevada, for further information about the Crime Victims' Compensation Program, call (702) 486-2740 (for southern Nevada), or (775) 688-2900 (for northern Nevada).

A federal crime victim may wish to file a civil action or file in small claims court against a defendant to recoup losses caused by the crime. The U.S. Attorney's Office cannot provide legal advice or services in that matter, however, the crime victim may choose to consult with a private attorney, or the Small Claims Court in the county in which the crime occurred. There is usually a statute of limitations which limits the time in which a civil suit can be filed.