

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA

Case Number: 5:18-CR-00879-FB(1)  
USM Number: 21287-480

v.

BRIAN ALFARO

Defendant.

**JUDGMENT IN A CRIMINAL CASE  
(For Offenses Committed On or After November 1, 1987)**

The defendant, BRIAN ALFARO, was represented by Michael W. McCrum, Esq.

Upon motion by the United States, the Court dismissed the remaining count as to this defendant.

The defendant was found guilty by jury trial to **Count(s) One (1s), Two (2s), Three (3s), Four (4s), Five (5s), Six (6s), and Eight (8s) of the Superseding Indictment** on February 13, 2020. Accordingly, the defendant is adjudged guilty of such Count(s), involving the following offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1341	Mail Fraud	12/04/2013	One (1s)
18 U.S.C. § 1341	Mail Fraud	12/04/2013	Two (2s)
18 U.S.C. § 1341	Mail Fraud	12/13/2013	Three (3s)
18 U.S.C. § 1341	Mail Fraud	12/16/2013	Four (4s)
18 U.S.C. § 1341	Mail Fraud	06/24/2014	Five (5s)
18 U.S.C. § 1341	Mail Fraud	09/05/2014	Six (6s)
18 U.S.C. § 1341	Mail Fraud	12/31/2014	Eight (8s)

As pronounced on November 10, 2020, the defendant is sentenced as provided in pages 2 through 9 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the Court and United States Attorney of material changes in economic circumstances.

SIGNED this 21st day of December, 2020.

  
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 FRED BIERY  
 UNITED STATES DISTRICT JUDGE

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### IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a **total term of one hundred twenty-one (121) months as to count one (1s); one hundred twenty-one (121) months as to count two (2s); one hundred twenty-one (121) months as to count three (3s); one hundred twenty-one (121) months as to count four (4s); one hundred twenty-one (121) months as to count five (5s); one hundred twenty-one (121) months as to count six (6s); and twenty-two (22) months as to count eight (8s). Terms to run concurrently** with credit for time served while in custody for this federal offense pursuant to 18 U.S.C. § 3585(b).

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons at or before 2:00 PM when notified to report by the United States Pretrial Services. However, the defendant shall not be required to report prior to March 08, 2021.

The Court makes the following recommendations to the Bureau of Prisons:

- 1. The defendant shall serve this sentence at a federal facility with the highest level of medical care possible.

The Defendant has a long history of multiple sclerosis which has been managed with Copaxone. When Defendant was taken into custody after the jury verdict, the United States Marshal Service was unable to get the medication to be administered at the jail facility. Consequently, Defendant suffered a severe relapse of multiple sclerosis symptoms. Upon his release on bond and the reestablishment of medication, Defendant has returned to almost normal health. Accordingly, the Court strongly urges Bureau of Prisons to obtain the necessary medication before defendant reports. Indeed, the Court has informed the Government that Defendant’s prison time will not begin until the appropriate medication is available.

### RETURN

I have executed this judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By  
DEPUTY UNITED STATES MARSHAL

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### **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of five (5) years as to each count one (1s), two (2s), three (3s), four (4s), five (5s), six (6s), and eight (8s). Supervised release terms to run concurrently.

While on probation the defendant shall comply with the mandatory and special conditions that have been adopted by this Court, and shall comply with the following additional conditions:

1. If the judgment imposes a financial penalty, the defendant shall pay the financial penalty in accordance with the Schedule of Payments sheet of this judgment. The defendant shall notify the court of any changes in economic circumstances that might affect the ability to pay this financial penalty.
2. The defendant shall pay any fine, special assessment, costs of prosecution, or restitution that remains unpaid at the commencement of the term of supervised release on a schedule to be approved by the Court.
3. If the defendant is employed in a fiduciary position, the defendant shall inform the employer of his conviction.
4. The defendant shall not be employed in any position that requires him to handle money or authorize funds to be disbursed unless his employer is first notified of his conviction and the circumstances thereof. The U.S. Probation Officer will monitor compliance with this condition.
5. The defendant will comply with all the rules and regulations and sanctions of the Security and Exchange Commission.
6. The defendant shall comply with all IRS reporting and financial obligations and provide proof of meeting all IRS obligations to his U.S. Probation Officer as requested.
7. The defendant shall not, directly or indirectly, offer for sale, sell, or otherwise deal in any securities, as those terms are defined by applicable federal and state securities laws.
8. The defendant shall not associate, directly or indirectly, with any offering of securities or issuer of securities, as those terms are defined by applicable federal and state securities laws.
9. The defendant shall not act as a fiduciary or handle money in connection with any offering of securities, as those terms are defined by applicable federal and state securities laws.

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## CONDITIONS OF SUPERVISION

### Mandatory Conditions:

- 1) The defendant shall not commit another federal, state, or local crime during the term of supervision.
- 2) The defendant shall not unlawfully possess a controlled substance.
- 3) The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release on probation or supervised release and at least two periodic drug tests thereafter (as determined by the court), but the condition stated in this paragraph may be ameliorated or suspended by the court if the defendant's presentence report or other reliable sentencing information indicates low risk of future substance abuse by the defendant.
- 4) The defendant shall cooperate in the collection of DNA as instructed by the probation officer, if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. § 14135a).
- 5) If applicable, the defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et. seq.*) as instructed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which the defendant resides, works, is a student, or was convicted of a qualifying offense.
- 6) If convicted of a domestic violence crime as defined in 18 U.S.C. § 3561(b), the defendant shall participate in an approved program for domestic violence.
- 7) If the judgment imposes restitution, the defendant shall pay the ordered restitution in accordance with 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663, 3663A, and 3664. (*if applicable*)
- 8) The defendant shall pay the assessment imposed in accordance with 18 U.S.C. § 3013.
- 9) If the judgment imposes a fine, it is a condition of supervision that the defendant, pay in accordance with the Schedule of Payments sheet of the judgment.
- 10) The defendant shall notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines or special assessments.

### Standard Conditions:

- 1) The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within seventy-two (72) hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
- 2) After initially report to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed.
- 3) The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer.
- 4) The defendant shall answer truthfully the questions asked by the probation officer.
- 5) The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall notify the probation officer at least ten (10) days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within seventy-two (72) hours of becoming aware of a change or expected change.
- 6) The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that are observed in plain view..

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- 7) The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment, he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her work (such as the position or job responsibilities), the defendant shall notify the probation officer at least ten (10) days before the change. If notifying the probation officer at least ten (10) days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within seventy-two (72) hours of becoming aware of a change or expected change.
- 8) The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- 9) If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within seventy-two (72) hours.
- 10) The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified, for the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- 11) The defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- 12) If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.
- 13) The defendant shall follow the instructions of the probation officer related to the conditions of supervision.
- 14) If the judgment imposes other criminal monetary penalties, it is a condition of supervision that the defendant pays such penalties in accordance with the Schedule of Payments sheet of the judgment.
- 15) If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall provide the probation officer access to any requested financial information.
- 16) If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall not incur any new credit charges or open additional lines of credit without the approval of the probation officer, unless the defendant is in compliance with the payment schedule.
- 17) If the defendant is excluded, deported, or removed upon release on probation or supervised release, the term of supervision shall be a non-reporting term of probation or supervised release. The defendant shall not illegally re-enter the United States. If the defendant is released from confinement or not deported, or lawfully re-enters the United States during the term of probation or supervised release, the defendant shall immediately report to the nearest U.S. Probation Officer.

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## **CRIMINAL MONETARY PENALTIES/SCHEDULE**

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth. Unless the Court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. Criminal Monetary Penalties, except those payments made through Federal Bureau of Prisons' Inmate Financial Responsibility Program shall be paid through the Clerk, United States District Court, 655 E. Cesar E. Chavez Blvd, Room G65, San Antonio, TX 78206. The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

<b>TOTALS</b>	<u>Assessment</u> \$700.00	<u>Fine</u> \$.00	<u>Restitution</u> \$9,922,428.63
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### **SPECIAL ASSESSMENT**

It is ordered that the defendant shall pay to the United States a special assessment of \$700.00. Payment of this sum shall begin immediately

### **FINE**

The fine is waived because of the defendant's inability to pay.

### **RESTITUTION**

The defendant shall pay restitution in the amount of \$9,922,428.63 through the Clerk, U.S. District Court, for distribution to the payee(s). Payment of this sum shall begin immediately.

The Court directs the United States Probation Office to provide personal identifier information of victims by submitting a "reference list" under seal Pursuant to E-Government Act of 2002" to the District Clerk within ten (10) days after the criminal Judgment has been entered.

<b><u>Name of Payee</u></b>	<b><u>Amount of Restitution</u></b>
1. Alan C. Smith	\$17,979.84
2. NuEnergen LLC/ALEXCO ENERGY	\$156,908.16
3. D.J. Allen/Sandy Allen	\$151,495.20
4. Mick Anzaldua	\$17,976.96
5. Ronald H. Apel/Cheri Apel	\$661,276.80
6. Jerald W. Bailey/Dee Bailey	\$18,260.28
7. Marval G. Bailiff	\$35,959.68
8. William T. Bain/Karen M. Bain/Frank L. Bain Jr.	\$156,908.16
9. Bartz Family Living Trust/Robert A. & Betty R. Bartz	\$27,240.12
10. Susan J. Bastian/William J. Bastian	\$18,260.28
11. Wendall C. Bauman Jr./Carsar Holding LP/Happy E. Baumann	\$18,260.28
12. David G. Beadles/Jodee J. Beadles	\$54,780.84
13. Richard N. Berger	\$19,613.52
14. Fred D. Bills	\$56,134.08
15. Black Gold HCJ LLC	\$13,920.12
16. Trophy Club Holdings	\$8,989.92
17. Alpine Appliance Center (Eric Boylan)	\$17,979.84
18. Hugh Wm. Bridgford/Carmen S. Bridgford	\$51,324.12
19. Garrett J. Burkitt III/Barbara J. Burkitt	\$3,600.00
20. Bruce C. Campbell/Linda M. Campbell	\$18,260.28
21. B.J. Hydraulics Inc.	\$35,959.68
22. Carsar Holdings LP/Wendall C. Bauman Jr.	\$17,979.84

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23. L & W Chapman LLC (Walker Chapman)	\$150,373.44
24. Douglas R. Clark/Laurie A. Vargo	\$9,135.75
25. Richard D. Collins/Connie R. Collins/DC Oil Company Inc. DBA Quick Shop	\$302,990.40
26. B.E. Conway Energy Inc.	\$73,041.12
27. Liz Cook	\$22,159.80
28. Custom Tool Supply (Helbig)	\$47,867.40
29. Dale C. Anderson/Karene Anderson	\$18,260.28
30. WPD LLC/Pat Daniel	\$73,041.12
31. David Davalos	\$37,873.80
32. John L. Dieterle/Jeune D. Dieterle	\$61,922.16
33. Dr. JS Oil Production Inc.	\$73,049.04
34. Edward Gillette	\$36,679.68
35. Erebor Investments LLC	\$36,520.56
36. Lisa H. Evans/Peter Evans	\$18,280.44
37. Fawcett Descendant Trust (Powell)	\$17,979.84
38. Kent Fear	\$17,979.84
39. Robert Fields/Alice Fields	\$33,063.84
40. Robert L. Fleckenstein / Rea T. Fleckenstein	\$73,041.12
41. Charles P. Forster P.E., P.G./Jennifer J. Dacus	\$73,041.12
42. Arnold C. Fuchs/Shirley K. Fuchs/ W.F. Inc.	\$12,588.48
43. Wayne Gardner/Teresa Gardner	\$55,573.20
44. Al & Patricia Gavegan	\$35,959.68
45. Joshua Geary/Tiffany Geary	\$17,979.84
46. Vincent J. Gillette Jr. /Michele D. Gillette/D & V Investments	\$96,199.20
47. G. Marshall Smith	\$222,292.80
48. Michael Gray	\$18,260.28
49. Arthur Darrell Gregory/Pamela Grove Gregory	\$110,978.28
50. Promar International LC/Sherrie Griffey/Rick Griffey	\$125,009.28
51. Coy A. Griffin	\$35,959.68
52. Robert Leslie Grove Jr.	\$80,643.60
53. Robert E. Gurwitz	\$17,979.84
54. Joseph W. Hart/Nellie M. Hart	\$36,520.56
55. Debbie A. Heintzelman/Mike Heintzelman	\$18,260.28
56. Adele Herdman/Russell Herdman	\$18,469.80
57. Hugh D. Herndon/Joyce G. Herndon/DJ Resources	\$18,260.28
58. Larry A. Hobbs	\$75,747.60
59. G. E. Holladay/S.B. Holladay	\$73,041.12
60. Brian F. Huber/Marilyn M. Huber	\$18,260.28
61. H & H Construction/William Humphreys	\$73,041.12
62. John R. Hunter/Kathryn E. Hunter	\$36,520.56
63. Frank J. Ingersoll/Rebecca A. Ingersoll	\$17,979.84
64. Susan C. Ivins	\$18,260.28
65. Fred W. Jaeckle/Martha Ann Jaeckle	\$18,260.28
66. Peter K. Jenkins	\$36,520.56
67. Craig L. Jennings/Diana R. Jennings	\$35,959.68
68. JG Sales	\$17,979.84
69. F. Schipman Johnston	\$18,260.28
70. The Wendell & Carolyn Jones Trust, Wendell & Carolyn Jones Trustees	\$28,067.04
71. Kaeg Relty LLC	\$63,452.88
72. Roy E. Karnes/Leigh M. Karnes/Karnes Family LP, Charles R. Karnes, Roy Karnes Jr.	\$84,387.96
73. M & L Apartments	\$36,520.56
74. Thomas W. Killion/Carla Matlock Killion	\$36,532.20
75. Kevin L. Kirst/Jill S. Kirst	\$17,979.84
76. Richard A. Kirsten/Elizabeth Marye Fowler	\$18,260.28
77. Milan Knezovich/Teresa Knezovich	\$18,260.28
78. Sandra Knigge	\$71,919.36

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79. K Bar Cattle/Paul E. Kropf	\$19,239.84
80. Chris Kuhn/Candace Kuhn	\$3,600.00
81. Harry L. Leatherwood/Rio Neches Properties LLC	\$146,082.24
82. Tennis & Sun LC/Donal Lewon	\$18,260.28
83. Rong Liang	\$35,959.68
84. Robert H. Loving Jr. D.M.D	\$18,260.28
85. M & V Investments/Marjorie Gillette	\$48,761.28
86. Edgar Madsen/Joelle L. Madsen/TXSE4H LLC	\$30,128.76
87. DIDD Inc./Dean Mantel/Ingrid Mantel	\$156,908.16
88. Nathan W. Masar/Janet E. Masar	\$73,025.28
89. Sean Matus/Lisa Matus/Tim A. Matus	\$117,257.76
90. Lisa Dieterle McBurnett/David S. McBurnett/John L. Dieterle Tr No 1 FBO Lisa Dieterle McBurnett, Lisa Dieterle McBurnett trustee	\$266,762.88
91. Loys Marie McElhone	\$105,769.44
92. David L. McLuckie/Norbert McLuckie	\$36,520.56
93. P & W Sales Inc.	\$71,919.36
94. J.M. McNellis/S.K. McNellis	\$18,260.28
95. Ed McPherson/Jo McPherson	\$73,041.12
96. Rick & Deborah Meritt / Rick Meritt Investments Ltd. DBA Outback Wildlife Feeders	\$80,764.92
97. Frederick L. Mills / Valerie A. Mills	\$17,979.84
98. Sitakanta Mohanty / Sibani Mohanty	\$38,454.84
99. David Moquist/Joann Moquist	\$125,511.12
100. Craig A. Morrow	\$35,959.68
101. Ocean Spring Energy Holdings Inc.	\$52,879.68
102. Robert P. Perkaus Jr. / Barbara R. Perkaus	\$33,063.84
103. James M. Peters	\$73,041.12
104. Enviro Solutions	\$71,919.36
105. Petron Corporation	\$71,919.36
106. Dean A. Pigman/ Janiece K. Pigman	\$9,806.76
107. Ali Aslam Porbankarwala/Mahreen Al Porbandarwala	\$18,260.28
108. William Knox Poyner/Susan Jo Poyner	\$36,520.56
109. Robert L. Poynter	\$18,260.28
110. Promar International LC	\$26,484.92
111. Roman V. Puentes/Anani Puentes	\$53,939.52
112. Quacken Petroleum LLC	\$224,536.32
113. Nancy W. Rathbun Revocable Trust, Nancy W. Rathbun TTEE/ Lee F. Rathbun/Nancy Rathbun	\$35,959.68
114. RDMB Holdings Inc.	\$35,959.68
115. Richard Reade	\$37,873.80
116. Anthony V. Reck	\$17,979.84
117. Jerald J. Redetzke/Sharon A. Redetzke	\$18,260.28
118. Rolling 7s Investments LLC	\$36,520.56
119. RIX-RAX LP	\$13,242.96
120. Philip Leland Rustin	\$18,260.28
121. Walter L. Rye	\$18,260.28
122. Buford Salmon/Jean Salmon	\$1,505,113.92
123. William E. Sasse/Barbara B. Sasse	\$18,260.28
124. M.R. Senneff	\$73,041.12
125. Wayne W. Sharp/Michele M. Sharp	\$155,989.44
126. Greg Shilts/J.B. Shilts	\$29,474.28
127. Scott E. Silver	\$71,919.36
128. Dr. Scott K. Sitterle/G.F. Sitterle	\$37,593.36
129. Southwest Livestock and Trucking Co.	\$17,979.84
130. SRI Diversified Capital LLC/Frank Ingersoll	\$17,979.84
131. Bruce A. Stanfill/Marga C. Stanfill	\$17,979.84
132. John Stanley /Sandra S. Stanley	\$18,260.28



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133.Stan Steffen/Shelly Steffen	\$18,260.28
134.Matthew P. Streeter/Mimi A. Moras	\$144,960.48
135.Keith C. Strimple	\$17,979.84
136.Thomas J. Gillette / Connie Gillette	\$36,520.56
137.James D. Tauch	\$54,500.40
138.William H. Taylor Sr. / Katherine F. Taylor	\$18,260.28
139.The Entrust Group (Wendell Fink)	\$35,959.68
140.Thesken Family Ltd Ptnrshp 5 (Robert L. Thesken) Robert L. Thesken	\$31,252.32
141.Carl E. Thompson Jr. / Karen Thompson	\$18,260.28
142.TKRS Properties LLC	\$22,726.11
143.R. Thomas Toy/Christine M. Toy	\$71,919.36
144.Veronica Victoria /Felipe Victoria	\$18,134.19
145.Joseph Vogels/ V. Vogels	\$25,079.76
146.Jon A. Vogler/Sherri Vogler/Don E. Vogler	\$34,280.82
147.Sharon Ann Walls/Buddy J. Walls	\$73,041.12
148.George B. Wall Jr. / Martha Bain Wall	\$78,454.08
149.Michael W. Watry / Charlene A. Watry	\$17,979.84
150.Gregg Weston	\$73,041.12
151.Dixie Clamp & Scaffold Inc. (Stee Wietsma)	\$101,413.44
152.Allan Earle Williams	\$5,760.00
153.Martin D. Womack	\$18,260.28
154.Jun X. Li / Yong X. Li	\$71,919.36
155.Cedar Oak Farm/James A. York/Arlene L. York	<u>\$17,979.84</u>
 TOTAL	 \$9,922,428.63

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column above. However, pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid before the United States is paid.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. §3614.

The defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. §3612(f). All payment options may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.