

**DEPARTMENT OF THE ATTORNEY GENERAL
STATE OF HAWAII
NOTICE OF INTENT TO ADMINISTRATIVELY FORFEIT PROPERTY**

NOTICE IS HEREBY GIVEN TO THE PERSONS IDENTIFIED HEREIN AND ALL OTHERS WHO MAY HAVE AN INTEREST that administrative forfeiture proceedings have been commenced against the property listed herein by the filing with the Attorney General of Petitions for Administrative Forfeiture pursuant to Chapter 712A, (Hawaii Omnibus Criminal Forfeiture Act), Hawaii Revised Statutes ("HRS"). The appearance of names of persons and business entities in this notice does not mean that they are criminal suspects; it only means that the state believes they may have an interest in the described property.

1. JOSEPH BIRTODASO

Property Seized: 2007 Mercedes C-Class, Lic# KPB443, VIN:
WDBRF52H27E023359 (est. value \$3,500.00)
Date of Seizure: 7/27/21; 10/25/21
Place of Seizure: Nawiliwili Jetty, Waapa Rd., Nawiliwili, HI
Violation: 712-1242 & 712-1243, HRS

2. DANIEL CHARTRAND

Property Seized: \$16,431.00 in U.S. Currency
Date of Seizure: 1/26/21; 12/3/21
Place of Seizure: 2670 Niumalu Rd., Niumalu, HI
Violation: 712-1241, 712-1243, 712-1244 & 712-1245, HRS

3. DAVID HARVILLE

Property Seized: \$8,277.00 in U.S. Currency; a 2010 Ford F250, Lic# 911KBS, VIN:
1FTSW2BR9AEA09654 (est. value \$20,000.00) & a 2010 BMW
Sedan, Lic# KDE862, VIN: WBAPK7C58AA462033 (est. value
\$5,500.00)
Date of Seizure: 11/9/21; 11/10/21; 12/3/21
Place of Seizure: 2521 Kolo Rd., Kilauea, HI & property next to 4161 Kilauea Rd.,
Kilauea, HI
Violation: 712-1241, 712-1243, 712-1244 & 712-1245, HRS

INSTRUCTIONS TO CLAIMANTS

Persons claiming an interest in the property listed herein may do one, and only one, of the following:

- 1) The Claimant may do nothing, in which case the property will be administratively forfeited; or
- 2) The Claimant may file a Petition for Remission or Mitigation. A Petition for Remission or Mitigation admits that the property is subject to forfeiture but asks the Attorney General to pardon the property, in whole or in part, due to extenuating circumstances. The Attorney General's decision is final, not subject to appeal, and may be made without a hearing. A Petition for Remission or Mitigation must be signed by the petitioner and sworn on oath before a notary public, and shall contain the following:

- a) A reasonably complete description of the property;
- b) A statement of the interest of the petitioner in the property, as owner or interest-holder, which may be supported by bills of sale, contracts, or mortgages, or other documentary evidence; and
- c) Facts and circumstances sufficient to show whether the petitioner:
 - i) owns or holds an interest as defined by Section 712A-1, HRS, in the seized property;
 - ii) had any knowledge that the property was or would be involved in any violation of the law;
 - iii) had any knowledge of the particular violation which subjected the property to seizure and forfeiture;
 - iv) had any knowledge that the user of the property had any record, including arrests, except where the person was acquitted or the charges dismissed due to lack of evidence, for the violation which subjected the property to seizure and forfeiture or for any crime which is similar in nature.

The Attorney General will inquire into the facts and circumstances alleged in the Petition for Remission or Mitigation ("Petition"), if one is filed, and provide a written decision on the Petition within sixty days. If the circumstances of the case require more time, the Petitioner will be notified in writing, within the sixty day period of the circumstances requiring more time, and be further notified of the expected decision date; or

3) The Claimant may seek judicial determination of the forfeiture by filing a claim and cost or in pauperis bond. A claim shall be signed by the claimant and sworn on oath before a notary public and shall comply with the requirements of Section 712A-12(5), HRS. Specifically, the claim shall be signed by the claimant and sworn on oath before a notary public and shall set forth all the following:

- a) The name of the claimant;
- b) The address at which the claimant will accept future mailings from the court or the prosecuting attorney;
- c) The nature and extent of the claimant's interest in the property;
- d) The time, transferor and circumstances of the claimant's acquisition of the interest in the property;
- e) The specific provisions of Chapter 712A, HRS, relied on in asserting that the property seized for forfeiture is not subject to forfeiture;
- f) Facts supporting each assertion that the property is not subject to forfeiture;
- g) Any additional facts supporting the claimant's claim; and
- h) The precise relief sought.

The claim must be accompanied by a cost bond in the amount of \$2,500.00 or ten percent of the estimated value of the property, whichever is greater, or an in pauperis bond consisting of a declaration in the form of and containing the elements specified in the Appendix to the Hawaii Rules of Penal Procedure.

Upon receipt of a claim and bond, which substantially comply with the foregoing requirements, the Attorney General will notify the Prosecuting Attorney who may either

petition the Circuit Court for forfeiture of the property within forty-five (45) days of receipt of notice that a proper claim and bond has been filed, or may elect to honor the claim and forego further forfeiture proceedings. If the Prosecuting Attorney forgoes further proceedings, the seizing agency will be authorized to release the property, or some specified interest in it. If the Prosecuting Attorney petitions the circuit court for forfeiture and the claimant fails to prove that his/her interest is exempt from forfeiture under Section 712A-5, HRS, the claimant shall pay the State's costs and expenses, including reasonable attorneys fees incurred in connection with a judicial proceeding.

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A Petition for Remission or Mitigation, or a claim and cost or in pauperis bond must be filed with the Attorney General at the address specified below within thirty days after the date of publication of this notice or actual receipt of the Petition for Administrative Forfeiture, whichever occurs first. No extension of the filing deadline may be granted for owners or interest-holders who wish to file a Petition for Remission or Mitigation. However, for a claim, one (1) extension of thirty (30) days for filing of the claim may be granted upon a written request demonstrating good cause provided that the request is received by the Attorney General within the thirty (30) day period for filing a claim.

Notice is also hereby given that the property will be forfeited to the State of Hawaii if a petition for remission or mitigation, or a claim and cost or in pauperis bond, is not filed with the Attorney General in substantial compliance with Sections 712A-10 and 712A-12(5), HRS.

Department of the Attorney General
Civil Recoveries Division
425 Queen Street
Honolulu, Hawaii 96813
DATED: March 7, 2022
CLARE E. CONNORS
Attorney General
State of Hawaii