

# **EXHIBIT A:**

## **Architects of Civil Fines**

# **EXHIBIT**

**A.1.**

**From:** (b)(6); (b)(7)(C)  
**Sent:** 17 Dec 2017 22:47:25 +0000  
**To:** (b)(6); (b)(7)(C)  
**Subject:** FW: §274D, Failure to depart fines

Hi (b)(6);

I hope you had a great weekend! Please read the message below. I will be in around 8:30 (no tennis). (b)(5)

(b)(5)

Thanks,  
Beth

(b)(6); (b)(7)(C)

Deputy Chief  
Commercial & Administrative Law Division (CALD)  
Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
166 Sycamore Street, (b)(6);  
Williston, VT 05495

T: (b)(6); (b)(7)(C)

F:

(b)(6); (b)(7)(C)

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**From:** Davidson, Michael J (b)(6); (b)(7)(C)

**Date:** Saturday, Dec 16, 2017, 8:09 AM

**To:** (b)(6); (b)(7)(C)

**Cc:**

**Subject:** RE: §274D, Failure to depart fines

Adding (b)(6);

Sent with BlackBerry Work  
(www.blackberry.com)

**From:** Davidson, Michael J (b)(6); (b)(7)(C)  
**Date:** Saturday, Dec 16, 2017, 8:08 AM  
**To:** (b)(6); (b)(7)(C)  
**Cc:** [Redacted]  
**Subject:** FW: §274D, Failure to depart fines

(b)(6);

Is this in your swim lane?  
Mike

Sent with BlackBerry Work  
(www.blackberry.com)

**From:** Feere, Jon (b)(6); (b)(7)(C)  
**Date:** Friday, Dec 15, 2017, 8:01 PM  
**To:** Davidson, Michael J (b)(6); (b)(7)(C), Loiacono, Adam V  
(b)(6); (b)(7)(C) Davis, Mike P (b)(6); (b)(7)(C)  
**Subject:** §274D, Failure to depart fines

Mr. Davidson –

Thank you for taking a few minutes to talk with me on this earlier. I'm hoping you can help me fast track the directive in the DHS [enforcement memo](#) to collect all fines and penalties from illegal aliens and those who facilitate their unlawful presence. HSI is doing a fine job of this in the worksite context, but it needs to happen in the removal context as well. This is the language:

**F. Establishment of Programs to Collect Authorized Civil Fines and Penalties**

As soon as practicable, the Director of ICE, the Commissioner of CBP, and the Director of users shall issue guidance and promulgate regulations, where required by law, to ensure the assessment and collection of all fines and penalties which the Department is authorized under the law to assess and collect from aliens and from those who facilitate their unlawful presence in the United States.

(b)(5)

(b)(5)

It's a bit of a lift, and it is complicated, but it's also a very focused ask.

(b)(5)

Please let me know what I can do to make this happen.

Thank you much.

Jon

**Jon Feere**  
**Senior Advisor**  
**U.S. Immigration and Customs Enforcement**  
**Department of Homeland Security**

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# **EXHIBIT**

**A.2.**

**From:** Seguin, Debbie  
**Sent:** 29 Dec 2017 14:59:07 +0000  
**To:** Feere, Jon  
**Cc:** Loiacono, Adam V; Davidson, Michael J; Davis, Mike P  
**Subject:** RE: §274D, Failure to depart fines

Hi Jon,

Just spoke with Adam. We think it would be best for us all to meet with ERO leadership and discuss this issue along with the ideas below. I'll put something on our calendars.

Debbie

---

**From:** Feere, Jon  
**Sent:** Wednesday, December 27, 2017 3:59 PM  
**To:** Seguin, Debbie  
**Cc:** Loiacono, Adam V; Davidson, Michael J; Davis, Mike P  
**Subject:** RE: §274D, Failure to depart fines

All -

Can we get something briefed up to leadership by the end of this week? (b)(5)  
(b)(5)

I have a couple thoughts I'd like your expert opinions on. First, (b)(5)  
(b)(5)

Second, (b)(5)  
(b)(5)

Any thoughts would be appreciated.

Jon

Jon Feere  
Senior Advisor  
Immigration and Customs Enforcement  
Department of Homeland Security

**From:** Seguin, Debbie (b)(6); (b)(7)(C)  
**Date:** Wednesday, Dec 20, 2017, 2:21 PM  
**To:** Feere, Jon (b)(6); (b)(7)(C)  
**Cc:** Loiacono, Adam V (b)(6); (b)(7)(C), Davidson, Michael J (b)(6); (b)(7)(C), Davis, Mike P (b)(6); (b)(7)(C)

**Subject:** RE: §274D, Failure to depart fines

Jon,

As discussed, (b)(5)

(b)(5)

(b)(5)

Happy to help coordinate that effort. Just let

me know.

Thanks,  
Debbie

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**From:** Feere, Jon  
**Sent:** Wednesday, December 20, 2017 4:52 PM  
**To:** (b)(6); (b)(7)(C) Davidson, Michael J; Davis, Mike P  
**Cc:** Seguin, Debbie  
**Subject:** RE: §274D, Failure to depart fines

Thank you all for your work on this very helpful explanation of where we stand.

Jon

---

**From:** Loiacono, Adam V  
**Sent:** Wednesday, December 20, 2017 10:44 AM  
**To:** Feere, Jon; Davidson, Michael J; Davis, Mike P  
**Cc:** Seguin, Debbie; (b)(6); (b)(7)(C)  
**Subject:** RE: §274D, Failure to depart fines

Jon-

I was finally able to discuss this issue with Debbie. As I mentioned previously, (b)(5)

(b)(5)

(b)(5)



(b)(5)

In short, I would recommend that perhaps we all get together, including ICE Policy and ERO after the holidays to consider the path forward.

Thanks,

Adam V. Loiacono  
Deputy Principal Legal Advisor for Enforcement and Litigation  
Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement

Desk: (b)(6); (b)(7)(C)

Iphon

(b)(6); (b)(7)(C)

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**From:** Feere, Jon  
**Sent:** Friday, December 15, 2017 8:01 PM  
**To:** Davidson, Michael J; Loiacono, Adam V; Davis, Mike P  
**Subject:** §274D, Failure to depart fines

Mr. Davidson –

Thank you for taking a few minutes to talk with me on this earlier. I'm hoping you can help me fast track the directive in the DHS enforcement memo to collect all fines and penalties from illegal aliens and those who facilitate their unlawful presence. HSI is doing a fine job of this in the worksite context, but it needs to happen in the removal context as well. This is the language:

**F. Establishment of Programs to Collect Authorized Civil Fines and Penalties**

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(b)(5)

Please let me know what I can do to make this happen.

Thank you much.

Jon

**Jon Feere**  
**Senior Advisor**  
**U.S. Immigration and Customs Enforcement**  
**Department of Homeland Security**

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# **EXHIBIT**

**A.3.**

**From:** (b)(6); (b)(7)(C)  
**Sent:** 23 Feb 2018 10:38:38 -0500  
**To:** (b)(6); (b)(7)(C)  
**Cc:**  
**Subject:** FW  
**Attachments:** FINES -274D.docx, FINES - 274C.docx, FINES - 240B.docx

Good morning all,

Here are some white papers from Jon Feere, Senior Advisor to Director Homan, that were forwarded to Brian and me, we can discuss further on the call. Thanks!

# **EXHIBIT**

**A.4.**

**From:** Seguin, Debbie  
**Sent:** 14 Jun 2018 13:12:00 +0000  
**To:** Blank, Thomas; Simon, Joseph D; Loiacono, Adam V; Albence, Matthew; Benner, Derek N; Feere, Jon; (b)(6); (b)(7)(C); Asher, Nathalie R; Davidson, Michael J  
**Cc:** Davis, Mike P; (b)(6); (b)(7)(C)  
(b)(6); (b)(7)(C)  
**Subject:** RE: Fines and Penalties-One Pager Get Back  
**Attachments:** RE: Fines and Penalties-One Pager Get Back.eml

# **EXHIBIT**

**A.5.**

**From:** Davidson, Michael J  
**Sent:** 18 Jan 2018 10:37:51 -0500  
**To:** Davis, Mike P  
**Subject:** FW: INA §274D, Failure to depart fines  
**Attachments:** Draft (b)(5) Whitepaper (CALD).doc

FYSA

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**From:** (b)(6); (b)(7)(C)  
**Sent:** Thursday, January 18, 2018 10:04 AM  
**To:** Seguin, Debbie; Davidson, Michael J; (b)(6); (b)(7)(C) Albence, Matthew; Miller, Philip T; Feere, Jon (b)(6); (b)(7)(C)  
**Cc:** Asher, Nathalie R; (b)(6); (b)(7)(C) Davis, Mike P; Loiacono, Adam V; (b)(6); (b)(7)(C)  
**Subject:** FW: INA §274D, Failure to depart fines

Attached is CALD's 1-pager regarding (b)(5) Please let us know if you have any questions.

<<Draft (b)(5) Whitepaper (CALD).doc>>

(b)(6); (b)(7)(C)

Chief, Commercial and Administrative Law Division

Office (b)(6); (b)(7)(C)

Cell: (b)(6); (b)(7)(C)

*Proud to serve. – Quenton Brown*

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**From:** Seguin, Debbie  
**Sent:** Tuesday, January 16, 2018 2:23 PM  
**To:** Davidson, Michael J; (b)(6); (b)(7)(C); Feere, Jon; Albence, Matthew; (b)(6); (b)(7)(C)  
**Cc:** Asher, Nathalie R; (b)(6); (b)(7)(C) Davis, Mike P; Loiacono, Adam V; (b)(6); (b)(7)(C)



(b)(6); (b)(7)(C)

**Subject:** RE: INA §274D, Failure to depart fines

Hi all,

Thank you for your participation and discussion during last week's meeting. Just a quick recap. (b)(5)

(b)(5)

Debbie

-----Original Appointment-----

**From:** ICE Office of Policy

**Sent:** Monday, January 8, 2018 12:04 PM

**To:** ICE Office of Policy; Davis, Mike P; Loiacono, Adam V; Feere, Jon; Albence, Matthew; Miller, Philip T; (b)(6); (b)(7)(C) Davidson, Michael J; Seguin, Debbie

**Cc:** Asher, Nathalie R; (b)(6); (b)(7)(C)

**Subject:** INA §274D, Failure to depart fines

**When:** Tuesday, January 9, 2018 12:00 PM-12:30 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** PCN - CR 3175 or 1-877-960-3447, PIN: 6453186

Meeting Rescheduled:

To discuss ICE's progress in implementing Section 6 of EO 13768 and assessing fines pursuant to INA § 274D and Jon's inquires (See attached email).

<< Message: RE: §274D, Failure to depart fines >> << File: Process for assessing fines based on current regulations.doc >> << Message: FW: Regulatory Analysis-Civil Fines and Penalties - FO Clearance >>

# **EXHIBIT**

**A.6.**

**From:** (b)(6); (b)(7)(C)  
**Sent:** 19 Jun 2018 22:13:49 +0000  
**To:** Blank, Thomas; Benner, Derek N; (b)(6); (b)(7)(C); Albence, Matthew; Asher, Nathalie R; (b)(6); (b)(7)(C) Davis, Mike P; Davidson, Michael J; Kovacic, Raymond; Johnson, Liz  
**Cc:** Seguin, Debbie; (b)(6); (b)(7)(C) Feere, Jon  
**Subject:** Signed: Fines and Penalties for Civil Violations of Immigration Law  
**Attachments:** Signed: Fines and Penalties for Civil Violations of Immigration Law.eml

**From:** (b)(6); (b)(7)(C)  
**Sent:** Tue, 19 Jun 2018 22:13:49 +0000  
**To:** Blank, Thomas; Benner, Derek N (b)(6); (b)(7)(C); Albence, Matthew; Asher, Nathalie  
F (b)(6); (b)(7)(C) L; Davis, Mike P; Davidson, Michael J; Kovacic, Raymond; Johnson, Liz  
**Cc:** Seguin, Debbie; (b)(6); (b)(7)(C) Feere, Jon  
**Subject:** Signed: Fines and Penalties for Civil Violations of Immigration Law  
**Importance:** Normal

Good evening,

This is to inform ICE leadership that AD1 Homan signed ICE Directive, *Fines and Penalties for Civil Violations of Immigration Law*, and ICE Delegation Order, *Authority to Administer and Enforce Provisions Relating to Civil Penalties for Failure to Depart*.

The Directive establishes ICE's overarching policy for initiating, assessing, collecting and addressing appeals of fines and penalties for civil violations of immigration law under sections 240B(d)(1), 274C(d)(3), and 274D(a) of the INA. These provisions provide for the assessment and collection of civil fines for failure to voluntarily depart the United States within the specified voluntary departure period, prohibited activities involving document fraud, and willful failure to depart pursuant to a final order of removal.

The Delegation Order delegates authority from the ICE Director to the Executive Associate Director (EAD), Deputy EAD, and Field Office Directors (FODs) of the Enforcement and Removal operations (ERO) to administer and enforce provisions relating to civil penalties for failure to depart under INA sections 240B and 274D, Title 8 United States Code (U.S.C.) §§ 1229c and 1324d, and 8 Code of Federal Regulations (C.F.R.) Part 280.

OP is working to post the signed Directive and Delegation Order to the ICE Policy Manual and coordinate with OPA to issue the pre-approved Broadcast Message to the workforce. Please let me know if you have any questions.

Thank you,

(b)(6); (b)(7)(C)  
Deputy Assistant Director  
Office of Policy  
U.S. Immigration and Customs Enforcement  
Desk (b)(6); (b)(7)(C)  
Cell: [REDACTED]

# **EXHIBIT**

**A.7.**

**Office of the Deputy Attorney General**  
**U.S. Department of Justice**  
**Office: (202) 514-9340**  
**Mobile: (b)(6)**

**From:** "Loiacono, Adam V" (b)(6); (b)(7)(C)  
**Date:** July 2, 2018 at 1:15:59 PM EDT  
**To:** "Peachey, William (CIV)" <William.Peachey@usdoj.gov>  
**Cc:** (b)(6); (b)(7)(C) "Wetmore,  
David H. (ODAG)" <David.H.Wetmore@usdoj.gov>, "Loiacono, Adam  
(b)(6); (b)(7)(C) "Feere, Jon"  
(b)(6); (b)(7)(C)  
**Subject: Civil Fines and Penalties**

Bill-

As I am sure you are aware, Executive Order No. 13,768, *Enhancing Public Safety in the Interior of the United States*, requires that the Secretary "issue guidance and promulgate regulations, where required by law, to ensure the assessment and collection of all fines and penalties that the Secretary is authorized under the law to assess and collect from aliens unlawfully present in the United States and from those who facilitate their presence in the United States." 82 Fed. Reg. 8799, 8800 (Jan. 25, 2017). To that end, on June 19, the Acting ICE Director issued a policy directive to implement sections 240B(d)(1) (failure to voluntarily depart the United States within the specified voluntary departure period), 274C(d)(3) (prohibited activities involving document fraud), and 274D(a) (willful failure to depart pursuant to a final order of removal) of the Immigration and Nationality Act (INA) and applicable regulations.

Because ICE, and the former INS, has never levied or collected fines under INA §§240B(d)(1) or 274D(a), and has not collected fines under INA § 274C(d)(3) since the decision of the U.S. Court of Appeals for the Ninth Circuit in *Walters v. Reno*, 145 F.3d 1032, (9th Cir. 1998), we wanted to make you aware that ICE has begun levying such fines. At this point, only three Notices of Intent to Fine (NIFs) have been issued, all pursuant to INA § 240B(d)(1). (b)(5)

(b)(5)

(b)(5)

(b)(5)

(b)(5)

If you have any questions, please let me know.

# **EXHIBIT**

**A.8.**

**Sent:** 17 Apr 2019 16:25:31 +0000  
**To:** ICE.Scheduler;Asher, Nathalie R;Marin, David A; (b)(6); (b)(7)(C) Benner, Derek  
N (b)(6); (b)(7)(C) Blank, Thomas;Albence, Matthew; (b)(6); (b)(7)(C)  
(b)(6); (b)(7)(C) Short, Tracy;Davis, Mike P;Feere, Jon  
**Subject:** Materials Attached - 274D Fine Briefing  
**Attachments:** Civil Penalties Update 04172019 - (b)(6) - for EAD) (003).docx, NIF analysis by  
office - 04172019.xlsx, Directors Civil Fines Brief - (b)(6)(02).doc, Sanctuary Cases\_04162019.xlsx

**Please do not forward, copy or add additional participants. Should additional participants need to be requested, please email (b)(6); (b)(7)(C)**

ERO to brief AD1 & A-DD on the current status of the 274D fine.