

# **EXHIBIT E:**

**Exemption 6 and  
7(c) High-level  
Agency Personnel**

# **EXHIBIT**

**E.1.**

(b)(5)

Whatever you've got on the above, please send my way to see about editing Handbook accordingly.

Thanks !!!

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

US Immigration and Customs Enforcement  
Enforcement and Removal Operations

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

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

**Sent:** Monday, April 2, 2018 3:04 PM

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

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

McLane, Jo Ann <(b)(6); (b)(7)(C)>

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

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

; Padilla, Kenneth <(b)(6); (b)(7)(C)>

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

**Subject:** RE: ERO Civil Fines - Week of 4/2/2018

Good afternoon all.

Just to be sure, since they don't always come through so well when "updating" the invitation, a couple of comments for today in email format.

- I attached a listing of the issues generally raised by the comments in the Handbook, onto a single page.
  - They are listed without opinion, simply identifying what we are talking about.
  - This should help guide the agenda when we get there later in the meeting tomorrow.
  - Lack of resources is the first thing listed.
- Attached is the Handbook updated through today. FYI: I was finished last Friday but MS Word crashed and took all my work that afternoon.
  - Apparently using the "reply" feature in the margin comment bubbles overloads the system. I had no issues when responding as part of the original comment.
  - Each of you commenting did a great job having your work inside the bubbles.

- If we can keep it that way.....or use email....or hopefully reduce the comments once we resolve them.
- Also here in Handbook I made a universal comment about (b)(5) (b)(5) towards the beginning.

(b)(5)

So, you will get an updated invite shortly with the same two attachments. Thank you for all your input, and have a great day.

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

US Immigration and Customs Enforcement  
Enforcement and Removal Operations

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

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

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

**Sent:** Friday, March 30, 2018 3:17 PM

(b)(6); (b)(7)(C) (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) ; McLane, Jo Ann; (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)  
**Cc:** (b)(6); (b)(7)(C) Padilla, Kenneth; (b)(6); (b)(7)(C)

**Subject:** ERO Civil Fines - Week of 4/2/2018

**When:** Tuesday, April 3, 2018 3:00 PM-4:30 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** PCN Room 4175 ~ 4th floor | 866-910-0520 / Passcode: 458-8850

Good afternoon. I rolled (b)(6); (b)(7)(C) and Ms. (b)(6); (b)(7)(C) comments into the document.

The margins say more almost than the written narrative. ☺

Not really but there are quite a few things to discuss.

I will update the invite Monday with a “reader” summarizing the main issues and the one-offs brought up in Handbook review.

I think that’ll aid us in resolving questions rather than walking through the comment bubbles one by one.

Below is the agenda.

\*\*\*\*\*

ERO Civil Fines – Departure Violations Working Group – Agenda for Week of April 02, 2018

# **EXHIBIT**

**E.2.**

**From:** (b)(6); (b)(7)(C)  
**Sent:** 17 Apr 2018 16:59:42 +0000  
**To:** (b)(6); (b)(7)(C); McLane, Jo Ann; Padilla, Kenneth; (b)(6); (b)(7)(C)  
(b)(6); (b)(7)(C)  
**Cc:** (b)(6); (b)(7)(C)  
**Subject:** RE: ERO Civil Fines - Week of 4/2/2018

Good afternoon everyone. I wanted to let you know that the updated regulation for Civil Monetary Penalty Adjustments for Inflation was published 04/02/2018 (see link below). I've updated the guidebook as well as the memoranda with the new fees and the effective date.

To reduce the number of documents being sent out - I will not be sending you the updates at this time. I just wanted you to be aware they are done.

Thanks!

<https://www.regulations.gov/document?D=DHS-2016-0034-0005>

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**From:** (b)(6); (b)(7)(C)  
**Sent:** Thursday, April 12, 2018 10:37 AM  
**To:** (b)(6); (b)(7)(C); McLane, Jo Ann; (b)(6); (b)(7)(C); Padilla, Kenneth; (b)(6); (b)(7)(C)  
(b)(6); (b)(7)(C)  
**Cc:** (b)(6); (b)(7)(C)  
**Subject:** RE: ERO Civil Fines - Week of 4/2/2018

Here is the rest. Thank you all.

ERO Civil Fines – Departure Violations Working Group – Agenda for Week of April 09, 2018

1. Regular business

a. Old / status reports from working group members working a task

i. I-79s – Policy is taking the attached (updated) I-79s and finding out for sure that they are cleared ICE forms.

ii. Deciding Official Order – we did not work on these again after last week. Clean copies attached.

(b)(5)

(b)(5)

b. New / items for attention from working group members. **Handbook items.**

2. New business

a. The President signed a Memo 4/6/2018 - White House Report due 5/21/2018.

3. Implementation

(b)(5)

b. ICE Directive. (b)(6);  
(b)(7)(C) updated that the directive covering field enforcement and legal components is getting turned in 4/12/2018 to Policy, for review.

4. Go over working group members' suggestions for Handbook

a. From last week:

(b)(5)

# **EXHIBIT**

**E.3.**



**From:** (b)(6); (b)(7)(C)  
**Sent:** 26 Jul 2018 15:19:59 +0000  
**To:** (b)(6); (b)(7)(C)  
**Subject:** FW: ERO Civil Fines Working Group - For review  
**Attachments:** APPENDIX G - Administrative Process to Assess Fines (DRAFT 07242018).docx

Hi (b)(6); (b)(7)(C) - I just wanted you to be aware that I made a modification to your flow chart in the event you disagree with my edit.

(b)(5)

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**From:** (b)(6); (b)(7)(C)  
**Sent:** Thursday, July 26, 2018 11:15 AM

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

**Subject:** ERO Civil Fines Working Group - For review

Greetings Civil Fines Working Group Members – here is the moment you have all been waiting for with great anticipation..... 😊

Before going into an explanation on what is attached and how some things came to be – I would first like to thank (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) for their significant support and patience in helping me sort out some of these procedures as I put pen to paper. And especially to (b)(6); (b)(7)(C) who crunched on some of forms created at the last minute despite her already heavy workload. I really appreciate everyone’s efforts!

Attached to this email is the revised ***ERO Departure Violations Civil Monetary Penalties Handbook***. I am sorry it has taken so long for me to float it out there to all of you – but it has taken me a long time to sort things out in my own mind as to the processes and the necessary forms and worksheets needed to assess penalties. I’ve also been diverted off course for several days with writing an internal operations plan (b)(5) (b)(5) with the assistance of the ERO Bond Management Unit. The operations plan took several days to draft and implement which further delayed my finishing the 23 draft documents.

The attachments to this email include 24 documents – to include the draft handbook and 22 attachments/appendices, the directive and delegation orders,

# **EXHIBIT**

**E.4.**

**From:** (b)(6); (b)(7)(C)  
**Sent:** 26 Jul 2018 15:15:10 +0000  
**To:** McLane, Jo Ann; (b)(6); (b)(7)(C) Padilla, Kenneth (b)(6); (b)(7)(C)  
(b)(6); (b)(7)(C)

**Subject:** ERO Civil Fines Working Group - For review  
**Attachments:** Fines Handbook - MASTER - (CLEAN DRAFT 07262018).docx, Civil Fines\_Delegation Order\_signed.06.19.18 DO-01-2018.pdf, Civil Fines\_ICE Directive\_signed.pdf, APPENDIX A - Acronyms and Forms (DRAFT - 07242018).docx, APPENDIX B - Penalty Tracking Folder Assembly for Handbook (DRAFT - 07242018).docx, APPENDIX C - Determining Penalty Amounts - (DRAFT 07242018).docx, Appendix D - Collection of Penalties SOP (DRAFT 07242018).docx, APPENDIX E - 240B questionnaire (DRAFT- 07242018).docx, APPENDIX F - 274D questionnaire (DRAFT 07242018).docx, APPENDIX G - Administrative Process to Assess Fines (DRAFT 07242018).docx, ICE Form I-79A (b)(6) mitigate).pdf, ICE Form I-79B (b)(6) mitigate).pdf, Recommendation Memo Template - Sec 240B - (DRAFT - 07242018).docx, Recommendation Memo Template - 274D - (DRAFT - 07242018).docx, Order Template - Section 240B uncontested fine (DRAFT - 07242018).docx, Order Template - Section 274D uncontested fine (DRAFT - 07242018).docx, Section 240B Decision to Assess Penalty (DRAFT - 07242018).docx, Section 274D Decision to Assess Penalty (DRAFT - 07242018).docm, Certification of Administratively Final Penalty Order Worksheet.docx, Accounts Receivable Notification Form for FTDV Penalties (DRAFT 07242018).docx, Accounts Receivable Notification Form for FTCF Penalties. (DRAFT - 07242018).docx, EOIR Notice to Respondents Granted Voluntary Departure (VD warning).pdf, Order of the Immigration Judge (VD).pdf, Assessing and Mitigating Civil Fines under INA 274D (AVL).docx

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The attachments to this email include 24 documents – to include the draft handbook and 22 attachments/appendices, the directive and delegation orders, EOIR forms, various templates, and worksheets. I’ve placed the documents more or less in the same order as the appendix and somewhat similar to the order as discussed in the handbook. As you review the handbook – you will see that all prior tracked changes and comments are gone as the handbook was entirely rewritten and the edits were too numerous to keep the old tracks and comments. The majority of your old comments were addressed as the new version was drafted so hopefully your questions will have been sufficiently answered in the latest version. I have several comments throughout the handbook that I feel I need guidance from the attorneys participating in the working group as I lack the expertise to figure out the issue on my own. I’ve tried to keep my email and phone traffic to all of you at a minimum until things were ready for review by the group because I know you are all swamped with your own day to day activities.

(b)(5); (b)(6); (b)(7)(C)

# **EXHIBIT**

**E.5.**

**From:** (b)(6); (b)(7)(C)  
**Sent:** 12 Sep 2018 13:07:44 +0000  
**To:** (b)(6); (b)(7)(C)  
**Cc:**  
**Subject:** RE: ERO Civil Fines Working Group - For review  
**Attachments:** APPENDIX C.RRU Comments.docx

Actually – the only one there 😊

(b)(5)

If so – (b)(5)

(b)(5)

If that is not what you are saying – (b)(5)

(b)(5)

Note.... (b)(5)

(b)(5)

BTW – (b)(6); (b)(7)(C) is hoping to get the 274D analysis to me this afternoon. I may seek your guidance on how to deal with appendix C depending on what he gives me.

---

**From:** (b)(6); (b)(7)(C)  
**Sent:** Wednesday, September 12, 2018 8:40 AM  
**To:** (b)(6); (b)(7)(C)  
**Cc:**  
**Subject:** RE: ERO CIVIL FINES WORKING GROUP - FOR REVIEW

What comment don't you understand?

(b)(6); (b)(7)(C)  
*Associate Legal Advisor  
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, Suite (b)(6)*

Williston, VT 05495

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

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

**Sent:** Wednesday, September 12, 2018 8:37 AM

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

**Cc:**

**Subject:** RE: ERO Civil Fines Working Group - For review

Good morning (b)(6); do you have a few minutes to speak with me today about Appendix C? I don't fully understand one of your comments.

Thanks!

---

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

**Sent:** Thursday, August 2, 2018 3:42 PM

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

**Cc:**

**Subject:** RE: ERO Civil Fines Working Group - For review

Hi (b)(6);

Attached are the RRU's comments on the handbook and appendices.

Thanks,

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

Associate Legal Advisor  
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, Suite (b)(6);  
Williston, VT 05495

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

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

**Sent:** Thursday, July 26, 2018 11:15 AM

**To:** McLane, Jo Ann (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) Padilla, Kenneth (b)(6); (b)(7)(C)

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

**Subject:** ERO Civil Fines Working Group - For review

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(b)(5) with the assistance of the ERO Bond Management Unit. The operations



# **EXHIBIT**

**E.6.**

**From:** (b)(6); (b)(7)(C)  
**Sent:** 6 Nov 2018 18:18:47 +0000  
**To:** (b)(6); (b)(7)(C)  
**Cc:**  
**Subject:** for review  
**Attachments:** Phase II - Instructions to the field (11052018).docx  
**Importance:** High

Hi (b)(6); (b)(7)(C) – I wanted to give you a heads up that based on our teleconference last week regarding concerns over (b)(5) (b)(5) – that a decision has been made by the ERO EAD for me to handle the work previously performed in Vermont from headquarters .... with (b)(6); to sign as the reviewing officer and (b)(6); as the deciding official. Since the BMU will eventually oversee the project once it is fully functional and transferred out to the field, I have left the BOND email address in the plan as a part of the process.

I have adjusted the draft 'tasking' that will be sent to the field – with the start date of 12/1.

Would you mind taking a look to see if you have any issues or concerns that we need to go over before I send it out?

Thanks!

# **EXHIBIT**

**E.7.**

**From:** Loiacono, Adam V  
**Sent:** 30 Jan 2019 19:59:22 +0000  
**To:** Davis, Mike P  
**Subject:** FW: Civil Fines and Penalties

See below on the same issue from Gene's email.

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

--- ATTORNEY/CLIENT PRIVILEGE --- ATTORNEY WORK PRODUCT ---

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**From:** Wetmore, David H. (ODAG) <David.H.Wetmore@usdoj.gov>  
**Date:** Wednesday, Jan 30, 2019, 2:56 PM  
**To:** Loiacono, Adam V <(b)(6); (b)(7)(C)>  
**Cc:** (b)(6); (b)(7)(C), Hamilton, Gene (OAG) <Gene.Hamilton@usdoj.gov>  
**Subject:** RE: Civil Fines and Penalties

Hi Adam,

Hope this message finds you well and getting caught up post-shutdown.

It has been some time – apparently last July – since we last discussed ICE's fine collection under INA §§ 240B(d)(1), 274C(d)(3), and 274D(a). Could you provide an update on ICE's implementation and any legal hurdles you have encountered?

Dave

**DAVID H. WETMORE**  
Senior Counsel

# **EXHIBIT**

**E.8.**

**From:** Davis, Mike P  
**Sent:** 30 Oct 2019 20:54:35 +0000  
**To:** Short, Tracy;Loiacono, Adam V  
**Subject:** RE: Civil Fines  
**Attachments:** RE: Privileged/Case Excerpts

We elevated the template to OGC HQ, but haven't heard back yet. Please see attached. Want me to ping George and Nader?

Michael P. Davis  
Executive Deputy Principal Legal Advisor  
U.S. Immigration and Customs Enforcement

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

*Please note that this message may contain sensitive and/or legally privileged information (attorney work product, attorney-client communication, deliberative process, personally identifiable information, law enforcement sensitive, etc.) and should be handled accordingly.*

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**From:** Short, Tracy (b)(6); (b)(7)(C)  
**Sent:** Wednesday, October 30, 2019 4:53 PM  
**To:** Loiacono, Adam V (b)(6); (b)(7)(C) Davis, Mike P (b)(6); (b)(7)(C)  
**Subject:** FW: Civil Fines

(b)(5) Thanks.

**From:** (b)(6); (b)(7)(C) (b)(6); (b)(7)(C)  
**Date:** Wednesday, Oct 30, 2019, 4:41 PM  
**To:** Short, Tracy (b)(6); (b)(7)(C)  
**Subject:** RE: Civil Fines

(b)(5) Haven't been asked, but presume I will be.

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

**From:** Short, Tracy (b)(6); (b)(7)(C)  
**Date:** Wednesday, Oct 30, 2019, 4:39 PM  
**To:** Albence, Matthew (b)(6); (b)(7)(C) Robbins, Timothy S  
(b)(6); (b)(7)(C) Benner, Derek N <(b)(6); (b)(7)(C)>