

SANTA FE COUNTY

Resolution No. 2005- 66

A Resolution Authorizing the Surplus and Auction of Certain Criminal Proceeds Pursuant to Court Order

WHEREAS, Santa Fe County ("County") and First State Bank N.M. ("FSB") are parties to that certain Professional Service Agreement to Provide Fiscal Agent Services, dated February 25, 2003, as amended on April 4, 2003, and February 24, 2004, whereby, among other things, FSB agreed to provide courier services for County's daily deposits; and

WHEREAS, FSB engaged Distribution Management Corporation, Inc. ("DMC") to provide such courier services during August and September 2003; and

WHEREAS, County's daily deposits, consisting of money, checks, and money orders, were stolen on August 7, 8, 12, 19, and September 3, 2003 (collectively, "2003 Thefts"); and

WHEREAS, the August deposits were stolen by Leann Archuleta, who was then an employee of DMC and responsible for providing courier services for County's daily deposits; and

WHEREAS, the September 3 deposit was stolen by Kelly Hillman, a non-DMC employee impersonating a DMC courier; and

WHEREAS, Ms. Archuleta and Ms. Hillman discarded the checks and money orders and used some of the cash to purchase consumer goods (the "Criminal Proceeds"); and

WHEREAS, in the criminal matter styled State of New Mexico v. Leann Archuleta, State of New Mexico, County of Santa Fe, First Judicial District, No. D-101-CR-200300444 (the "Criminal Matter"), Ms. Archuleta plead guilty to certain felonies stemming from the 2003 Thefts; and

WHEREAS, as a condition of her sentence in the Criminal Matter, Ms. Archuleta was ordered to pay restitution to County; and

WHEREAS, for the purpose of off-setting such restitution, the court in the Criminal Matter, by order dated January 12, 2005 (annexed hereto as Exhibit A and referred to herein as the "Court Order"), ordered (i) the release of the Criminal Proceeds to County; (ii) County to auction the Criminal Proceeds; and (iii) County to use the net auction proceeds -- i.e., total amount raised at the auction minus storage costs incurred prior to the goods being in the custody of County minus the costs of the auction -- to

SFC CLERK RECORDED 05/25/2005

reduce the amount of its loss and, thus, the amount of restitution Ms. Archuleta must pay;
and

WHEREAS, the Criminal Proceeds are currently in the possession of the Santa Fe County Sheriff's Department; and

WHEREAS, County entered into settlement agreements concerning the 2003 Thefts with DMC and FSB as well as its insurance carrier, the New Mexico County Insurance Authority Multi-Line Pool ("NM CIA"), (collectively, "Settlement Agreements"); and

WHEREAS, pursuant to the Settlement Agreements, (i) DMC, FSB, and NM CIA agreed to cover County's entire loss stemming from the 2003 Thefts, and (ii) County assigned its right to restitution from Ms. Archuleta to DMC, FSB, and NM CIA; and

WHEREAS, pursuant to the Court Order, County is requesting approval to surplus the Criminal Proceeds, which the County is obliged to auction and which, in any event, are obsolete in that the County has no use for the Criminal Proceeds; and

WHEREAS, the list annexed hereto as Exhibit B sets forth the following information concerning each item of the Criminal Proceeds: (i) a description of the item; (ii) the serial number (if any) of the item; (iii) the condition of the item, and (iv) the item's estimated fair market value, and

WHEREAS, each item of the Criminal Proceeds has an estimated current resale value of five thousand dollars (\$5,000); and

WHEREAS, County will distribute the proceeds from the auction of the Criminal Proceeds to DMC, FSB, and NM CIA, in accordance with the Settlement Agreements.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Santa Fe that, pursuant to the Court Order, this Resolution to surplus the Criminal Proceeds denoted on Exhibit B is hereby adopted.

PASSED, APPROVED, AND ADOPTED this 24th day of May 2005.

BOARD OF COUNTY COMMISSIONERS

[Signature]
Michael D. Anaya, Chairman
By: *Harry Montoya*, Vice Chairman
ATTEST:

Valerie Espinoza
Valerie Espinoza, Santa Fe County County Clerk
APPROVED AS TO FORM:

[Signature]
Stephen C. Ross, Santa Fe County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
I hereby certify that this instrument was filed for record on the 25th day of May, A.D. 2005 at 14:54 and was duly recorded as instrument # 1381415 of the records of Santa Fe County.
Deputy *Marcella [Signature]* Witness My Hand And Seal of Office
Valerie Espinoza
County Clerk, Santa Fe, N.M.

By: *Shirley Hooper-Garcia*
Deputy



SFC CLERK RECORDED 05/25/2005

JAN 12 2005

FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
STATE OF NEW MEXICO



Santa Fe, Rio Arriba &
Los Alamos Counties
PO Box 2268
Santa Fe, NM 87504-2268

No. D-0101-CR-2003-00444

STATE OF NEW MEXICO,

Plaintiff,

vs.

LEANN ARCHULETA,
DOB: 03-26-1980
SSN: 553-67-2972

Defendant.

**ORDER FOR THE RELEASE OF PROPERTY TO
SANTA FE COUNTY FOR PURPOSES OF OFFSETTING RESTITUTION**

THIS MATTER was brought before the Court by the First Judicial District Attorney's Office.

WHEREAS, Defendant Leann Archuleta ("Defendant") embezzled from Santa Fe County ("County") certain deposits consisting of cash, checks, and money orders; and

WHEREAS, Defendant used the stolen cash to purchase certain personal property ("Criminal Proceeds"); and

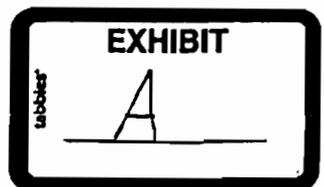
WHEREAS, the Criminal Proceeds are currently in the custody of the Santa Fe City Police Department; and

WHEREAS, on November 24, 2004, the Court ordered the return to Defendant of her personal property that was also in police custody, which personal property consisted solely of "[t]hree (3) bicycles, one (1) stereo, two (2) tall speakers, one (1) DVD player, one (1) washer, and two (2) Jerseys" ("Personal Property"); and

WHEREAS, there is no longer any need for the retention of the Criminal Proceeds; and

WHEREAS, the Judgment and Partially Suspended Sentence in this matter, entered on August 27, 2004, requires Defendant, as a condition of her supervised probation, to "pay restitution, at a reasonable rate, to the County of Santa Fe in the amount determined by Adult Probation and Parole or by a subsequent Court Hearing"; and

CLERK RECORDED 05/25/2005



WHEREAS, County desires to auction the Criminal Proceeds so as to reduce the loss it suffered as a result of Defendant's crimes and, thus, the amount of restitution Defendant must pay; and

WHEREAS, the Court has previously approved of the Criminal Proceeds being auctioned and the auction proceeds being used for the purpose of reducing the County's loss.

NOW, THEREFORE, IT IS HEREBY ORDERED that (i) the Criminal Proceeds, which are held under SFPD Case #03-022248 (03-022157), shall forthwith be released to County; (ii) County shall auction the Criminal Proceeds; and (iii) County shall use the net auction proceeds -- i.e., total amount raised at the auction minus storage costs incurred prior to the goods being in the custody of County minus the costs of the auction -- to reduce the amount of its loss and, thus, the amount of restitution Defendant must pay.

IT IS FURTHER ORDERED that the Personal Property that the Court previously ordered be returned to Defendant is not affected by this Order and shall not be subject to auction by County.

Dated this 12th day of January 2005.

Stephen Pfeffer

THE HONORABLE STEPHEN PFEFFER

APPROVED BY:

approved via email on 1/7/05
JOSEPH E. CAMPBELL
Assistant District Attorney
Attorney for the State of New Mexico

approved + telephonically on 1/7/05
HANK FARRAH
Attorney for Defendant



GREGORY S. SHAFFER
Assistant County Attorney
Attorney for Santa Fe County

STC CLERK RECORDED -05/25/2005-

SANTA FE COUNTY

SURPLUS OF CRIMINAL PROCEEDS FOR PURPOSES OF OFFSETTING RESTITUTION PURSUANT TO COURT ORDER

Caption of Criminal Matter: State of New Mexico v. Leann Archuleta, State of New Mexico, County of Santa Fe, First Judicial District, No. D-101-CR-200300444

<u>Item</u>	<u>Description</u>	<u>Serial No.</u>	<u>Reason for Surplus</u>	<u>Condition of Item</u>	<u>Location of Item</u>	<u>Estimated Value</u>
1	Yamaha 125 TTR Dirt Bike, Blue & White	Illegible	Court Ordered Restitution	Good	Sheriff's Dept.	450.00
2	Honda XR 100R Dirt Bike, Red/White/Blk	Illegible	Court Ordered Restitution	Good	Sheriff's Dept.	450.00
3	Helmet, KBC Multicolor w/Blk nylon case	N/A	Court Ordered Restitution	Good	Sheriff's Dept.	10.00
4	Pants, O'Neal gear, Blue & Black (2/ea)	N/A	Court Ordered Restitution	Good	Sheriff's Dept.	20.00
5	Gloves, Eore Thor MX, Red	N/A	Court Ordered Restitution	Good	Sheriff's Dept.	5.00
6	Boots, Thor MX YT-20 Youth Motorcross, White	N/A	Court Ordered Restitution	Good	Sheriff's Dept.	10.00
7	Boots, Tracker Black	N/A	Court Ordered Restitution	Good	Sheriff's Dept.	10.00
8	Socks, Alpine Stars, Gray (2/pr)	N/A	Court Ordered Restitution	Good	Sheriff's Dept.	2.00



SFC CLERK RECORDED <05/25/2005>