

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

03-070M-X

MARSHALL LARSON,

Defendant.

On July 30, 2003, defendant Marshall Larson pleaded guilty to a criminal information charging him with wilfully misusing money belonging in the 401(a) plan of his employees. On October 9, 2003, this court sentenced defendant to five years' probation and ordered him to pay \$27,856.82 in restitution to his 48 victims in amounts ranging from \$50.40 to \$2,995.20. Larson also owes \$72,000.00 to the IRS, \$12,500.00 to the Wisconsin Department of Revenue, \$12,000.00 in other civil judgments, and \$3,000.00 to the Wisconsin Department of Workforce Development. He has no assets with any value and he earns about \$10,000.00 a year as a mover. Over the past three years, Larson has made 33 payments towards his restitution in this case, totaling \$40.00. The probation office has allocated this money proportionately among the 48 victims.

On September 24, 2007, this court received a letter from victim Dean Talbot, asking that the court and the probation office authorize repayment to Talbot of the remaining

restitution he is owed, about \$700.00. Talbot explains the reasons for his request, including his ill health and the egregious nature of how Larson treated him.

The court invited responses to this request from the prosecutor and the remaining victims. Some of the victims responded; a few were sympathetic, most outlined circumstances similar to Talbot's. The government responded that although it also was sympathetic to Talbot's position, it could not advocate for the interests of one victim over another. The government also argued that the applicable statute did not allow the court to modify the restitution order after entering it.

The probation office also has responded, also noting sympathy for Mr. Talbot, but not taking a position on whether Talbot should be jumped to the head of the line.

With full appreciation for Talbot's circumstances, I cannot honor his request. First, I agree with the government that the statute would not allow me to do this even if I were so inclined. Second, there are many other financial victims of Larson's fraud whose circumstances also are dire. The court will not pick and choose which victims it deems most worthy of restitution, particularly in a circumstance where it is unlikely that anyone will obtain full restitution in the near future. Cases like this are tragic because they wreak harm upon many innocent people. The anger and agitation Larson's victims feel is understandable and justifiable. Unfortunately, there is not enough money available to pay everyone, so the court must allocate whatever meager amounts Larson can produce proportionately among the four dozen victims.

Accordingly, it is ORDERED that victim Dean Talbot's request for full payment in advance of the other victims is DENIED.

Entered this 26th day of November, 2007.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge