

**Written Statement of**

**RUSS CASWELL**

*before the*

**United States Senate  
Committee on the Judiciary**

*concerning*

**The Need to Reform Asset Forfeiture**

**April 15, 2015**

**10:00 AM**

**Dirksen Senate Office Building  
Room 226**

Good morning. My name is Russ Caswell, and I was the owner of Motel Caswell in Tewksbury, Massachusetts.

I want to thank Chairman Grassley, Ranking Member Leahy, and fellow members of the Senate Judiciary Committee for the opportunity to speak today about this important issue and to share my story.

My father built the Motel Caswell in 1955. It has been in the family since then, and for decades has served the needs of locals and travelers alike who need an affordable home away from home.

Since taking over for my father in 1984, I have strived to make Motel Caswell an affordable, safe place. I installed cameras, kept a “do-not-rent” list at the front desk, regularly checked IDs and license plates and kept the property well-lit. It is hard to know what people do behind closed doors, but despite this, my Motel was quite safe, and safer than the budget motels and other establishments nearby. We always cooperated with the police. I have even given free rooms to the police so they can hold stakeouts and arrest any bad guys that may find their way onto my property unbeknownst to me.

Our Motel has even served as a shelter for families in the care of Catholic charities, and for those displaced by the distress of eviction or foreclosure.

Unfortunately, none of this would come to matter when the federal agents came knocking. In September 2009, just as my wife and I had begun looking forward to a hard-earned retirement, our world was turned upside down. We received notice that the Motel was being subject to civil forfeiture. At the time I had no idea what that was, or how exactly my Motel was being sued, yet I was not.

So began my journey into the strange world of civil forfeiture, where I was now being asked to prove the innocence of my property in crimes that had nothing to do with me.

The Tewksbury Police Department, working with the U.S. Attorney’s Office in Massachusetts, claimed that our Motel “facilitated” drug activity and there was a “substantial connection” between the Motel and the drug activity. This came after years of working with law-enforcement officials to prevent and report crime on our property.

I have never been charged with or convicted of a crime my entire life. No one in my family, or any of our employees, has ever been involved in a crime at the Motel concerning drugs. To us, the forfeiture case seemed ludicrous.

Over the course of twenty years, we rented out more than 125,000 rooms to guests. The government’s lawsuit identified 15 arrests over that period as the basis for their forfeiture—15 arrests out of 125,000 rooms.

The next three years could only be described as a living nightmare—brought to us courtesy of the United States Government. Immediately, the lawsuit began to drive customers away from our Motel, and our long-term tenants were worried about their future.

I believe the Tewksbury Police and U.S. Attorney's Office thought we would be an easy target because we are a "mom and pop" business and not some big corporation with lots of resources. I also believe our commercially zoned property with no mortgage put a bull's-eye on our backs in the eyes of the government.

After borrowing \$60,000 during those years to fight the forfeiture action, I was at my financial and wit's end. My wife was not in good health, and watching as our retirement dreams slipped away, began to take its toll.

It was at this time that the Institute for Justice approached us and offered to take on the case *pro bono*. It is because of the Institute for Justice that I am able to say this story has a happy ending. In January 2013, we finally received the joyous news: We had won. In her decision, the judge agreed with all we had said from the beginning: That we were innocent owners and that the Government's case had no legs to stand on.

Unfortunately, not everyone can have their case rescued by a group willing to represent them free of charge. Too many Americans are being swept up by civil forfeiture, with no means to defend themselves.

I am here today not only to share the story of how my life's work was nearly ruined, but to urge you to make changes to the law to make sure this can never happen to anyone again.

Our civil forfeiture laws are in dire need of reform. As my case shows, when there is a profit incentive for the agencies doing the forfeiture, justice is hard to find. This profit incentive must end.

In addition, civil forfeiture turns the American presumption of innocence on its head. Criminals are presumed innocent until proven guilty, and the government must prove beyond a reasonable doubt that they are guilty. But under *civil* forfeiture, I had to prove I was innocent. Property owners must be given the equal protection and fairness of the law, as every citizen is entitled to.

As they stand, our civil forfeiture laws are unjust and un-American. Congress has the power to prevent these abuses from continuing. I urge the members of this Committee to take seriously the issue of civil forfeiture and work to reform its abuses.

Fortunately, I was able to save my property and ultimately sell it to retire as my wife and I had planned for years. But even though I won my case, I will continue to fight for civil-forfeiture reform. I will do everything in my power to make sure that no other American has to endure what I did. Thank you again for the opportunity to testify today.