

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE: ALL FUNDS ON DEPOSIT IN)
ACCOUNT NUMBER 000669829075 IN)
THE NAME OF MMAC BANQUE DE)
COMMERCE, INC., AT NATIONSBANK,) NO. 3:98mc96-K
N.A., CONSISTING OF \$18,756,420.97,)
MORE OR LESS)
_____)
GEORGE AND DOLORES ROLLAR,)
)
Plaintiffs,)
v.) NO. 3:01CV205-K
)
UNITED STATES OF AMERICA, et al.,)
)
Defendants.)
)
v.) **(CASES CONSOLIDATED)**
)
RICHARD VASQUEZ,)
)
Intervenor.)

**GOVERNMENT’S RESPONSE TO
RECEIVER’S NOTICE OF RESTITUTION LIEN
REGARDING CLAIM OF OBASI JOHN VALENTINE**

NOW COMES the United States of America, by and through Gretchen C.F. Shappert, United States Attorney for the Western District of North Carolina, and hereby respectfully submits this response to the receiver’s notice of restitution lien filed on January 19, 2007. The receiver has recommended that the Court allow the claim submitted by claimant Obasi John Valentine (or Valentine Obasi; hereinafter “Valentine”) with the understanding that the funds will actually be applied to satisfy the restitution lien. Although the government has previously supported all positions taken by the receiver, it appears that this recommendation was based on a misunderstanding of the government’s position. The government continues to oppose Valentine’s

claim and supports the receiver's previous recommendation and final report as to this claim.

As stated in the government's previous response to Valentine (emphasis supplied):

Finally, even if this Court were to approve payment to Valentine of the full \$443,850 "contingently-approved" by the receiver in his letter of February 24, 2003, Valentine would not get any of the money. Based on his criminal conviction in Minnesota, there are forfeiture money judgments against him for a total of \$466,150.00, and he is also subject to a restitution order of \$368,578.80 for the benefit of the victims in that case. . . . ***If Valentine becomes entitled to any funds from the receivership in this case***, the government will immediately execute the Minnesota judgments against those funds before they are disbursed. However, for all the reasons stated previously, the government respectfully submits that Valentine is not entitled to any of the receivership funds in this case, and he should have to satisfy his Minnesota obligations out of other assets if and when he is able to do so.

This continues to be the government's position. Valentine's claim should be denied on the merits. ***Only if the Court disagrees and allows the claim*** should any funds be applied to the restitution lien filed by the U.S. Attorney's Office in Minnesota.

After the notice of restitution lien was filed, the undersigned called the receiver and was advised that the receiver made his most recent recommendation in the hope of expediting the final resolution of this case, but he did not intend to suggest that the Valentine claim should be allowed for any reason relating to the merits of the claim. The receiver had assumed that the undersigned was supporting payment of the Minnesota restitution lien without any need for a prior ruling on the Valentine claim, but he now understands that this is not the government's position. Accordingly, the government is authorized to state that the receiver has no objection to the government's position as stated herein.

This the 22nd day of January, 2007.

GRETCHEN C.F. SHAPPERT
UNITED STATES ATTORNEY

s/ William A. Brafford

William A. Brafford, Bar Number 7625

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I hereby certify that on the 22nd day of January, 2007, the foregoing document was served on those persons listed below either by submitting it to the Court for electronic notice or by mailing a copy thereof, postage prepaid and properly addressed as follows:

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This the 22nd day of January, 2007.

s/ William A. Brafford
Assistant United States Attorney