

**COPY**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

FILED  
CHARLOTTE, N. C.

5 2005

U. S. DISTRICT COURT  
W. DIST. OF N. C.

IN RE: ALL FUNDS ON DEPOSIT IN )  
ACCOUNT NUMBER 000669829075 in )  
THE BANK OF MM APMC BANQUE DE )  
COMMERCE, INC., AT NATIONSBANK, )  
N.A., CONSISTING OF \$18,756,420.97, )  
MORE OR LESS. )

C.A. NO. 3:98mc96-McK

GEORGE AND DOLORES ROLLAR, )  
Plaintiffs, )

v. )

C.A. NO. 3:01CV205-McK

UNITED STATES OF AMERICA, et al., )  
Defendants, )

(CASES CONSOLIDATED)

RICHARD VASQUEZ, )  
Intervener. )

**RECEIVER'S REPLY TO RESPONSE TO ORDER TO SHOW CAUSE  
BY CLAIMANT OBASI JOHN VALENTINE**

COMES NOW, Michael J. Quilling, the Receiver, and files this his Reply to Response to Order to Show Cause by Claimant Obasi John Valentine, and in support of such would respectfully show unto the Court as follows:

1. **Valentine Has Already Been Granted More Time Than Due Process Requires.**

Valentine has been given an opportunity to respond to the Receiver's objections since September 24, 2004. Since then, he has done nothing more than request additional time to ultimately provide incomplete and misleading answers to the Receiver's inquiries. The Court's disallowance of his claims after six months of delay and deception would be entirely consistent with due process.

In a federal equity receivership proceeding, a court's disallowance of a claim comports with due process as long as the claimant is given notice of the claim objection and an opportunity to respond. *McFarland v. Winnebago South, Inc.*, 863 F.Supp. 1025, 1034 (W.D. Mo. 1994) (citing *S.E.C. v. Hardy*, 803 F.2d 1034, 1040 (9th Cir. 1986); *United States v. Arizona Fuels Corp.*, 739 F.2d 455, 458 (9th Cir. 1984)). Valentine has been provided six months of such notice and opportunity, and thus far, he has responded with nothing of substance. Valentine's Response to the Order to Show Cause does nothing more than perpetuate the systematic theme of delay and deception he has exhibited to date. The Court's disallowance of his claims after the expiration of the Order to Show Cause is procedurally and substantively just under the circumstances. *See S.E.C. v. Hardy*, 803 F.2d at 1035-1038 (approving district court's use of a two-and-one-half-month deadline for responding to claim objections and approving district court's disallowance of late-filed claim); *McFarland*, 863 F.Supp. at 1037 (disallowing claim in receivership proceeding after claimant failed to show entitlement as required by Order to Show Cause). Alternatively, in the event that the Court proceeds to the final hearing on Valentine's claims on May 26, 2005, the Court should likewise disallow his claims after he fails, yet again, to show his entitlement to any claim after eight months of preparation. *See, e.g.*, L.B.R.W.D.N.C. 9013-1(e)(10) (providing for the disallowance of such claims in bankruptcy cases after only thirty days).

In addition, to the extent that Valentine objects to the use of summary proceedings to determine the validity, priority, and amount of his asserted claim, the court is afforded discretion to employ summary procedures for this process, as opposed to plenary proceedings under the Federal Rules, so long as claimants, at a minimum, have fair notice and a reasonable opportunity to respond. *See McFarland*, 863 F.Supp. at 1034; (citing *S.E.C.*, 803 F.2d at 1040; *United States v. Arizona Fuels Corp.*, 739 F.2d 455, 458 (9th Cir. 1984)). *See also, S.E.C. v. Basic Energy & Affiliated*

*Resources*, 273 F.3d 657, 668 (6th Cir. 2001) (discussing summary proceedings as proper for the resolution of issues regarding ownership of property by the receivership estate). It is incontrovertible that Valentine has had fair notice and a reasonable opportunity to respond.

2. **Time Has Already Been Liberally Granted to Valentine and More Time Will Accomplish Nothing.**

The Receiver began his duties in 2000. For the past 4-plus years, he has been trying to reconstruct bits and pieces of financial transactions involving numerous offshore banks to determine who forwarded what to where. During this same time period, the Receiver and his Claims Administrator have repeatedly, via telephone and in writing, requested that Valentine provide complete copies of his bank records to substantiate his claims. He has completely failed to do so. Finally, in an effort to bring closure to the case and out of sheer frustration, the Receiver objected to Valentine's claims. Valentine's initial response was to finally obtain counsel who requested that consideration of the claims be deferred from the January 24, 2005 hearing until a later date now established by the Court as May 26, 2005, or 120 days later.

Undaunted and still having not produced a single page of bank records, Valentine asks yet another six months to produce his own bank records. Mr. Rollar and the other legitimate victims of this financial scam should not be forced to continue waiting for the Receiver to disburse their pro rata share of the funds the Receiver is still holding so that a convicted felon can be given more time to establish the legitimacy of his claims when he has failed to do so for over four years. However, the Receiver will defer to whatever the Court desires as his only goal is to make sure that every legitimate victim is given an allowed claim and be allowed to participate in Court-ordered distributions.

3. **Unclean/Absolutely Filthy Hands Applies in This Case.**

If anything has been established in this case against Valentine, it is that he is a convicted and incarcerated felon who was operating a financial scam under the very same name of at least one of his entities claiming funds in this case, Oval Pacific. That fact establishes that he has unclean, if not downright filthy, hands. The fact that he and his counsel, with full knowledge of the filth, chose not to disclose the very material nature of the filth to the Court is yet a further indication that this Court should not give him one more second to delay closure of these proceedings.

4. **Valentine's Memory is as Fanciful as His Financial Scams.**

Valentine's memory of alleged conversations that he had with the Receiver are as fanciful as his investment opportunities. No such conversations recounted by Valentine and the Receiver ever occurred. The Receiver could care less if a claimant is a one-eyed purple and green creature from a distant planet as long as the funds claimed are legitimate and established. The Receiver has put every claimant in this case to the very same test as that protested by Valentine. If the Court desires, the Receiver can produce claimant after claimant who will testify to just such a thing. Indeed, in the hearing held on January 24, 2005, participated in by counsel for Valentine, the Receiver held claimant International Trade Corporation to the very same standard. The only difference in the Receiver's eyes between one claimant and another is whether they produce valid evidence to support their claim. Valentine, despite being given over four years to do so, has not. His attempt to now make his refusal to produce his bank records a racial issue should be summarily disregarded.

Amazingly, Valentine also takes credit for being the catalyst for bringing Gilliland to his knees and being responsible for legitimate claimants getting a portion of their funds paid back. What an affront to the hard working, underpaid professionals in the Government, be they part of the

Department of Justice, FBI, Department of Homeland Security, Securities and Exchange Commission, IRS Criminal Division and the rest. Valentine instituted civil proceedings in a tiny off shore island where he obtained a default judgment and accomplished nothing. The resources of the United States Government, working in conjunction with the Norwegian authorities, is the reason we are here today, not Valentine.

5. **Valentine's Declarations are Woefully Deficient.**

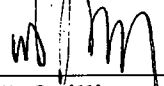
Valentine continues to maintain that the funds are his without any supporting documentation whatsoever. Just because he says it's so doesn't make it so. Conclusory statements in an affidavit are of no moment. He should be held to the very same standard as every other claimant - produce his own bank records to establish his claim. Despite being given over four years to do so, he has not.

WHEREFORE, PREMISES CONSIDERED, the Receiver prays that upon final hearing and consideration of this matter that the request for more time be denied and the claims disallowed, and for such other and further relief, general or special, at law or in equity, to which the Receiver may show himself justly entitled.

Respectfully submitted,

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By:

  
\_\_\_\_\_  
Michael J. Quilling  
State Bar No. 16432300

ATTORNEYS FOR RECEIVER

**CERTIFICATE OF SERVICE**

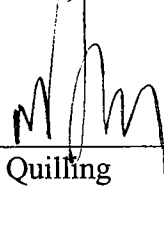
I hereby certify that on the 4<sup>th</sup> day of April, 2005 a true and correct copy of the foregoing document was sent via facsimile where indicated and first class mail where indicated, postage prepaid, on the following:

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