

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

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

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

GEORGE AND DOLORES ROLLAR, )

Plaintiffs, )

C.A. NO. 3:01CV205-McK ✓

v. )

(CASES CONSOLIDATED)

UNITED STATES OF AMERICA, et al., )

Defendants, )

RICHARD VASQUEZ, )

Intervener. )

FILED  
CHARLOTTE, N. C.  
APR 14 2005  
U. S. DISTRICT COURT  
W. DIST. OF N. C.

**SUR-REPLY IN RESPONSE TO ORDER TO SHOW CAUSE BY  
CLAIMANT OBASI JOHN VALENTINE**

COMES NOW Claimant OBASI JOHN VALENTINE, on behalf of himself and his wholly-owned entity claimants, namely, OVAL; OVAL FINANCIAL & INVESTMENT GROUP, LTD.; OVAL INSURANCE SERVICES; GLOBAL RICHES, ECONOMICS & TREASURES; and OVAL PACIFIC TELESYS CORPORATION (Collectively, "Valentine Claimants"), in Sur-Reply in Support of the Response to the Order to Show Cause issued by the Court on February 24, 2005.

DL

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I.

**The Receiver's Reply Does Not Support the Dismissal of Valentine's Claims Based Upon Unclean Hands Pursuant to the Order to Show Cause**

The burden of establishing the propriety of applying the unclean hands doctrine is upon the party asserting; in this case, the Receiver. *Pierce v. Apple Valley, Inc.* (supra) at p. 1485, citing FRCP 8c); Moore's *Federal Practice* ¶8.27(3). In Reply, the Receiver has presented not one iota of evidence to support the required nexus for the imposition of the unclean hands doctrine. Valentine's dealings with those persons involved in the Minnesota action had no relation whatsoever to Valentine's investment losses sustained in the scheme in this matter. [see, Valentine Declaration, filed herewith]. Nor were any monies at issue in the Minnesota action related whatsoever to those of Valentine's lost herein. [see, Valentine Dec.]. Accordingly, the Receiver has failed to meet his burden.

II.

**The Receiver's Reply Does Not Support the Dismissal of Valentine's Claims Based on Argument That Due Process Has Already Been Met**

Having failed to provide the Court with anything more than invectives (e.g., "filthy hands"), the Receiver instead resorts to a new argument that Valentine has already received all the process that he is due in this attempt to deprive him of his substantial property. It is astounding that the Receiver so conveniently ignores the fact that on January 7, 2005 he willingly executed a Stipulation to Continue the hearing on his Motion to Disallow Valentine's Claims, which Stipulation was accepted by the Court and supplied the basis upon which the Court on January 24, 2005 Ordered the hearing continued to May 26, 2005. It is troubling that the Receiver categorically disregards all evidence and all issues of proof which have been presented

to the Receiver and acknowledged thereby. On February 24, 2003, the Receiver acknowledged in writing the following investments sent from Valentine or one of his companies:

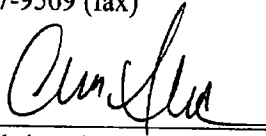
|                 |           |
|-----------------|-----------|
| July 31, 1998   | \$100,000 |
| July 16, 1998   | \$900,000 |
| July 24, 1998   | \$ 99,925 |
| August 24, 1998 | \$599,925 |
| August 3, 1998  | \$ 80,000 |
| August 3, 1998  | \$200,000 |

Of course, Valentine is aware that the Receiver has previously questioned the ownership of the subject companies and the identities, if any, of any third persons or entities that contributed funds to Valentine for the investment. To that end, Valentine has endeavored to provide additional information and will continue to do the same. Notwithstanding the Receiver's current protestations about the alleged bounty of due process already granted, the real threat to Valentine's due process arose only recently when the Receiver first took the position that Valentine's claims should be denied based upon his Minnesota judgment. [see, Receiver's Response dated February 3, 2005]. Valentine must be afforded a meaningful opportunity to be heard on these matters to the extent they are deemed relevant by this Court.

Respectfully submitted this 11th day of April, 2005

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By, \_\_\_\_\_

  
Christopher W. Steward  
California State Bar No. 171188  
ATTORNEYS FOR VALENTINE CLAIMANTS

**CERTIFICATE OF SERVICE**

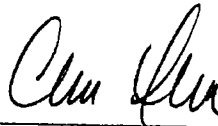
I hereby certify that on the 11<sup>th</sup> day of April, 2005 a true and correct copy of the foregoing document was served via U.S. mail postage pre-paid, on:

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