

**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 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
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GEORGE AND DOLORES ROLLAR,)	
Plaintiffs,)	
v.)	C.A. NO. 3:01CV205-McK
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UNITED STATES OF AMERICA, et al.,)	
Defendants.)	
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RICHARD VASQUEZ,)	(CASES CONSOLIDATED)
Intervener.)	
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**RECEIVER’S UNOPPOSED MOTION TO ESTABLISH DISTRIBUTION
PROCEDURES AND REQUEST FOR EVIDENTIARY HEARING**

TO THE HONORABLE H. BRENT MCKNIGHT, UNITED STATES MAGISTRATE JUDGE:

COMES NOW, Michael J. Quilling (“Receiver”) and files this his Unopposed Motion to Establish Distribution Procedures and Request for Evidentiary Hearing and in support of such would show unto the Court as follows:

Background

1. On October 11, 2001 the Court issued its Consent Order regarding the appointment of a receiver in these proceedings (“Consent Order”). Thereafter, on October 29, 2001 the Court issued its Order Appointing Receiver pursuant to which Michael J. Quilling was specifically appointed to serve as Receiver in this case.

2. Pursuant to the terms of the Consent Order, the Receiver was charged with accomplishing, among other things, the following:

- a. To provide all persons identified by the government as possible victims of the crimes described in the agents' affidavits in No. 3:98MC96-MU and other interested persons and potential claimants with notice and the opportunity to submit a claim to the Court, through the appointee, for restitution from the seized funds;
- b. To review all claims submitted, evaluate their legal validity and sufficiency for payment from the seized funds, make recommendations to the Court as to the order and priority of payment, and provide subsequent notice of any disbursements or other actions by the Court or the appointee.

3. Since his appointment the Receiver has been diligently undertaking efforts to identify potential claimants to the seized funds. To date, those efforts have consisted primarily of reconstructing the bank records for the accounts at issue to determine the source of deposits. The following four accounts are relevant to the process:

- a. Account # 000669829075 in the name of MM ACMC Banque de Commerce, Inc. at NationsBank (now Bank of America);
- b. Account # 200999 in the name of Sterling Asset Services, Ltd. at the Allied Dunbar Bank;
- c. Account # 200997 in the name of Sterling Asset Services, Ltd. at the Allied Dunbar Bank; and
- d. Account # 1336717 in the name of Sterling Management Services, Inc. at the Bank of Butterfield.

Attached hereto as Exhibit "1" is a chart which graphically sets forth the relationship between the accounts.

4. Based upon the records currently available to the Receiver, he has been able to identify basic information relating to each deposit into each account. Attached hereto as Exhibit "2" is a list by account of each deposit. Although basic information regarding each deposit is known,

the specifics of some of the deposits (address, phone number, etc.) is not yet known. For example, a deposit of \$1,500,000.00 was made into the NationsBank account from the Royal Bank of Scotland. Although the Receiver knows the identity of the account holder at the Royal Bank of Scotland from which the deposit was made, a large number of individuals aggregated funds into the Royal Bank of Scotland account before the funds were transferred to NationsBank. Determining this information could take a long period of time and might never be completely known. On the other hand, information regarding other depositors has been and will be determined fairly quickly.

5. On December 21, 2002 the Receiver filed his Unopposed Motion to Approve Claim Form and by Order dated February 25, 2002, the Court approved the Claim Form. Since that time the Receiver has mailed out hundreds of Claim Forms and has received many of them back. At this time the Receiver is diligently working to establish claims which he will recommend that the Court approve.

6. In an effort to make a substantial distribution to those claimants who are known and who will become known in short order, without waiting until every last depositor is determined, the Receiver proposes that certain procedures be established, including the following:

- As reflected on page 4 of Exhibit "2" the maximum gross amount of possible claims based on records currently available is \$29,414,900.00¹. As reflected on page 4 of Exhibit "2" the Receiver suggests that a total of \$18,639,987.50² be allocated now to be distributed to such claimants from the seized funds which would equal a

¹ There are two pages of records from the Bank of Butterfield account which the Receiver has not yet been able to obtain. Accordingly, the total amount of gross claims could increase.

² This amount includes the interim distributions already made to George Rollar and Richard Vasquez.

63.37% distribution if there are no adjustments to the gross claim amount. Exhibit "2" also reflects the dollar amount of each proposed distribution to each depositor assuming that there is no adjustment to the maximum gross claim amount of each claimant. The Receiver requests that the Court approve the proposed distributions, subject to possible downward adjustments to be made during the claim approval process.

- As Claim Forms are received, approved/adjusted by the Receiver and agreed to by the claimant, the Receiver suggests that he file on or before the tenth day of each month a statement of proposed allowed claims and distribution amounts relating to each particular claim and that if no objections are filed within ten days that the Court issue an Order which allows each claim and authorizes the distribution checks to be issued by the Receiver.
- If a Claim Form is submitted about which no agreement can be reached between the Receiver and the claimant, then the Receiver will file a motion and request a hearing by the Court to determine the amount of the claim.

If the foregoing procedures are adopted, it will allow the Receiver to get funds to valid claimants now without waiting for the entire identification and claim process to be completed. Funds earmarked for distribution to "unidentified" depositors will continue to be held by the Receiver bearing interest until they can be identified. If the depositors cannot be identified, then those funds can be distributed to the known depositors at a later date.

Request for Evidentiary Hearing

7. Given the circumstances of this case and this particular motion, and so that an appropriate record can be made to justify the procedures suggested by the Receiver, the Receiver requests that the Court conduct an evidentiary hearing with respect to this Motion.

8. The Receiver has conferred with counsel of record in the case, Bill Brafford, Rodney Alexander and Jennifer Leong, and is advised that none of them oppose this Motion and that they support the a request for evidentiary hearing.

WHEREFORE, PREMISES CONSIDERED, the Receiver prays that upon final hearing and consideration of this Motion that the Court enter an Order consistent with the foregoing 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,

QUILLING, SELANDER, CUMMISKEY
& LOWNDS, P.C.

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By: _____

Michael J. Quilling
State Bar No. 16432300

ATTORNEYS FOR RECEIVER

CERTIFICATE OF CONFERENCE

RECEIVER'S UNOPPOSED MOTION TO ESTABLISH DISTRIBUTION PROCEDURES AND REQUEST FOR EVIDENTIARY HEARING - PAGE 5

I certify that I have conferred with Bill Brafford, Rodney Alexander and Jennifer Leong, counsel of record in these proceedings, and none of them oppose the Motion.

Michael J. Quilling

CERTIFICATE OF SERVICE

I hereby certify that on the ___ day of September, 2002 a true and correct copy of the foregoing document was served via first class mail, postage pre-paid, on:

William A. Brafford
Assistant United States Attorney
United States Attorney's Office for
the Western District of North Carolina
227 West Trade Street, Suite 1700
Charlotte, NC 28202

Rodney Alexander
Mayer, Brown, Rowe & Maw
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Jennifer Leong
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3500 One First Union Center
301 South College Street
Charlotte, NC 28202-6001

This Motion will also be posted on the Receiver's website, www.secreceiver.com, immediately after filing.

Michael J. Quilling