

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

GEORGE AND DOLORES ROLLAR, §
§
Plaintiffs, §
v. §
§
UNITED STATES OF AMERICA, et al., §
§
Defendants, §
v. §
§
RICHARD VASQUEZ, §
§
Intervener, §

Civil Action No. 3:01 CV 205-McK

**RECEIVER’S NOTICE OF CLARIFICATION OF
RECEIVER’S POSITION REGARDING VALENTINE CLAIMS**

TO THE HONORABLE DAVID KEESLER, UNITED STATES MAGISTRATE JUDGE:

In an attempt to aid the Court and clarify his position with respect to the Valentine claims, the Receiver files this Notice and in support of such would show unto the Court as follows:

1. On November 2, 2006, the Receiver filed his Final Report and Proposed Distribution Plan [Dkt. No. 206]. On December 5, 2006, Valentine filed a Supplemental Declaration, without supporting documentation but with much rhetoric, reiterating his prior positions regarding allowance of his claims [Dkt. No. 209]. On January 9, 2007, the United States Government filed a Response, which supported the Receiver’s recommendations and conclusion [Dkt. No. 212].

2. On January 19, 2007, the Receiver filed a Notice of Restitution Lien [Dkt. No. 213], which recommended allowance of the Valentine claims and payment of any distribution to the United States Government. Since that time, the Receiver has been contacted by the Government and several claimants regarding that Notice and his position with respect to the Valentine claims.

3. It is time for several basic truths in this case to be repeated and recognized by

Valentine:

- Valentine is a convicted felon, having been proven guilty of running a financial scam by the District of Minnesota.
- Every claimant in these proceedings, regardless of the amount of their claim, has been required to **prove** to the Receiver the legitimacy of their claim in these proceedings.
- Valentine has been given several **YEARS** to prove the legitimacy of his claim and he has failed to do so. These proceedings have been pending for nearly seven years, during which time many of the legitimate claimants have expended large sums of money to prove the legitimacy of their claims to the Receiver and to obtain a return of a substantial portion of their funds.¹
- The Receiver represents no one in these proceedings other than the general interests of the claimants and the rightful administration of justice. In November of this year, the Receiver will have been functioning as a Receiver for the better part of the last twenty-five years and almost exclusively for the past ten years. During that time frame, the Receiver has been lied to and misled by some of the best convicted felons now incarcerated in federal penitentiaries around this country. The Receiver was

¹ For instance, George Rollar is the largest single claimant in these proceedings, having filed net approved claims of \$12,380,000.00. He has expended at least \$148,276.57 [Dkt. No. 104] of his own personal funds with respect to counsel in these proceedings. Mr. Rollar obtained his wealth honestly and legitimately and his entitlement to returns out of this case should not be discounted simply because he is wealthy. Richard Vazquez, formerly represented by the Honorable Frank Whitney, now United States Federal District Judge, is a veteran who also obtained his funds honestly and legitimately. He is entitled to whatever amount the Receiver can return to legitimate claimants. Numerous similarly situated claimants exist, but the Receiver will not bore the Court with those details. Valentine is not entitled to any sympathy just because funds were contributed, especially when he cannot prove they were his.

appointed in these proceedings based, in part, upon his experience and does not superficially believe what is told to him. As the Court's appointed agent, cloaked with quasi-judicial immunity, the Receiver has taken his responsibilities seriously, has performed them conscientiously, and in his opinion in a manner that has already resulted in one of the highest distributions ever known in a case involving the appointment of a receiver. From day one, the Receiver has viewed Valentine and his alleged wealth with suspicion.

4. At this juncture, there is nothing further that the Receiver can do with respect to these proceedings, other than continue to incur administrative expenses relating to legal and accounting fees, to perform the duties with which he was entrusted by this Court.

5. Based upon Valentine's inability to comply with the Receiver's legitimate demands of the Receiver to **prove** his claim, the Receiver has unwaveringly recommended disallowance of his claims until and unless he can prove their legitimacy. This is the same standard imposed upon every claimant in these proceedings. Having failed to do so, despite ample opportunity to do so, the Receiver submits that it is time for this Court to tell him that he is out of time and out of luck.

6. The Notice of Restitution Lien and the recommendation contained therein were not a "cave-in", but rather a notice to the Court that **IF** an alternative was needed, which was unlikely, and **IF** Valentine's claims were allowed, any distribution would be given to the Government to satisfy, in part, victims of one of Valentine's financial frauds not related to these proceedings.

7. It is the Receiver's position, and remains the Receiver's position, that the Valentine claims should be disallowed in whole. If that is the result that the Court intends to impose, the distribution schedule for each legitimate claimant in these proceedings is attached to the Receiver's Final Report. The Receiver is, as is understandably the Court, concerned that each person/entity

that contributed funds to what is unquestionably the financial fraud in these proceedings, be given due process and their day in Court. Valentine has been given **YEARS** in Court. He is no longer entitled to due process and the legitimate claimants in these proceedings are entitled to the remainder of the funds that the Receiver is holding under the governance of this Court.

8. Despite his efforts to determine the identity of such individuals, it is the Receiver's belief that we will never know the identity of the actual people who submitted their funds to Valentine in this case and for which he now makes personal claim. Valentine claims that no such people exist but, based upon twenty-five years of experience, the Receiver is certain that such people exist and it is unfortunate that their identity will remain unknown. It would constitute a travesty of justice for the Court to allow a distribution to Valentine that will, undoubtedly, not be further distributed to the true victims. **If and only if** the Court believes that these claims should somehow be allowed, it is the Receiver's recommendation that at least those funds be distributed to the victims of one of Valentine's known frauds and not to him personally.

WHEREFORE, PREMISES CONSIDERED, the Receiver reasserts his position that the Valentine claims should be disallowed in whole and that the funds be distributed to the legitimate claimants, as originally requested, and for such other and further relief, general or special, at law or in equity, to which the Receiver may show himself justly entitled.

