

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

3:01CV205-MCK

3:98MC96-MCK ✓

IN RE: ALL FUNDS ON DEPOSIT IN)
ACCOUNT NUMBER 000669829075 in)
THE BANK OF MM ACMC BANQUE DE)
COMMERCE, INC., AT NATIONSBANK,)
N.A., CONSISTING OF)
\$18,756,420.97, more or less.)
_____)

GEORGE AND DOLORES ROLLAR,)
Plaintiffs,)
V.)
U.S.A.,)
Defendants)
_____)

ORDER

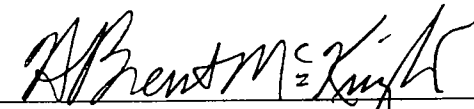
THIS MATTER IS BEFORE THE COURT with consent of the parties on M.M. A.C.M.C. Banque de Commerce's ("BDC") Motion for Return of Property Seized (doc. 14 in 3:98MC96). In response, the Court-appointed receiver, Plaintiffs George and Delores Rollar, and Intervenor Richard Vasquez jointly filed a motion for summary judgment to deny the Motion for Return of Property (doc. 52 in 3:01CV205 and doc. 25 in 3:98MC96), in which the Government concurs. After the deadline for response had passed, BDC filed a motion to extend the deadline, which this Court granted. BDC then filed its response. Original movants have filed their reply and motion to strike the affidavit filed with BDC's response (doc. 61 in 3:01cv205).

This Court finds that BDC's response is non-responsive to the arguments presented in the motion for summary judgment. Further, while the original motion for return of property was as to all funds in the seized account, BDC now concedes that it has no claim

to the bulk of the funds. BDC argues that it does have a claim for funds constituting various fees and interest. However, if BDC wishes to assert such a claim, the proper procedure is to fill out a claim form and file it with the Receiver.

Accordingly, after carefully reviewing the pleadings and evidence submitted, for the reasons stated in the motion and memorandum, **IT IS HEREBY ORDERED THAT** the motion for return of property is **DENIED**; the motion for summary judgment is **GRANTED**; and the motion to strike affidavit is **DENIED AS MOOT**.

IT IS SO ORDERED, this 30² day of July, 2002.



H. BRENT MCKNIGHT
UNITED STATES MAGISTRATE JUDGE