

his claim. All parties consented to the continuance and the motion was granted (doc. 164). Mr. Valentine's attorney, Mr. Steward, appeared at the hearing by telephone to argue a then-pending Motion for Emergency Distribution of Funds.

At the hearing, the Receiver strongly opposed any emergency distribution to Mr. Valentine on any of the Valentine Claims. The Receiver argued that, unlike other claimants who received emergency distributions, Mr. Valentine has not established his sole ownership of the funds claimed. Second, the Receiver indicated his doubt that the funds were legitimately obtained by Mr. Valentine. In the Receiver's experience, Mr. Valentine appeared to be an "aggregator." A aggregator is a person who aggregates funds from innocent people (or other aggregators) by defrauding them into thinking that he is investing their money legitimately when he is actually running a Ponzi scheme or some other financial scam.

As the relief sought in this proceeding is equitable, a claimant must have "clean hands" in order to recover the funds claimed. *S.E.C. v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986) (citing *SEC v. Wencke (Wencke II)*, 783 F.2d 829, 837 n. 9 (9th Cir. 1986) (noting that the primary purpose of equity receiverships is to promote orderly and efficient administration of the estate by the district court for the benefit of creditors); *First Empire Bank-New York v. FDIC*, 572 F.2d 1361, 1368 (9th Cir. 1978)(same).

Given the Receiver's grave doubts about the cleanliness of Mr. Valentine's hands, and the fact that the Receiver had insufficient time to adequately respond to the motion prior to the hearing¹, the Court declined to rule on the motion at that time. In fairness to Mr. Valentine, the Court indicated that it would take the matter under advisement and allow Mr. Valentine to supplement the record in further support of the motion. Mr. Valentine then filed a supplemental declaration which avers in conclusory terms that he is the sole owner of the funds and that they were obtained legitimately.

¹The motion was filed just days prior to the hearing.

The supplemental declaration fails to mention that, on January 5, 2005, Mr. Valentine was convicted of three counts of fraud in the United States District Court for the District of Minnesota.² The fraud counts arise from his operation of a financial scam under the guise of Oval Financial Services. Investors lost over \$440,000 to Mr. Valentine's scam. Mr. Valentine was sentenced to a term of 33 months and has an Order of Forfeiture pending against him in the amount of \$368,578.80. The scams leading to Mr. Valentine's convictions in Minnesota were perpetrated during the same time period that Mr. Valentine avers he legitimately obtained the funds claimed by him in this case.³

This is a proceeding in equity which bars distributions to claimants with unclean hands. Given Mr. Valentine's convictions, and his failure to reveal them to the Court, this Court found sufficient evidence of Mr. Valentine's unclean hands to deny the Motion for Emergency Distribution of Funds. Given the information before the Court, the Court further ordered that Mr. Valentine file a brief to show cause, if any, why the Receiver's Motion to Disallow the Valentine Claims should not be granted without further briefing.

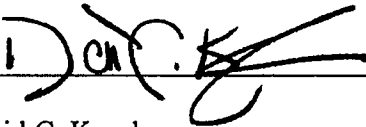
In his show cause brief, Mr. Valentine averred that the funds claimed are legitimately his own and asked that he be allowed to present evidence in support of his claim. Accordingly, this Court will not grant the Motion to Disallow at this time but will allow Mr. Valentine to present any evidence in support of his claim. As noted above, Mr. Valentine was given a continuance to May 26th, 2005, to produce any information or evidence to the Receiver. The Court has been informed by the parties that the Receiver's Motion to Disallow the Valentine claims can be resolved by this Court on

²After the hearing, the Receiver discovered this information and filed a Response to the Supplemental Declaration informing the Court of the conviction. The Receiver attached documentation of the conviction and sentence from the court file in Minnesota. Mr. Valentine did not file a Reply or otherwise respond to the Receiver's pleading.

³Mr. Valentine failed to reveal the conviction and sentence to the Court while simultaneously assuring the Court that the funds claimed here are solely owned by him and that he was not an aggregator who defrauds investors.

pleadings and that no hearing is necessary. Accordingly, if either Mr. Valentine or the Receiver wish this Court to consider any further briefing or submit further evidence on the Motion to Disallow the Valentine Claims, **IT IS HEREBY ORDERED THAT** such pleadings be filed by June 16, 2005.

Signed: May 25, 2005



David C. Keesler
United States Magistrate Judge



MIME-Version:1.0
From:ecfhelp@ncwd.uscourts.gov
To:ecfhelp@ncwd.uscourts.gov
Bcc:keesler_chamber@ncwd.uscourts.gov
David Keesler
168 Charles R. Jonas Federal Bldg.
401 West Trade Street
Charlotte NC 28202

Message-Id:<355670@ncwd.uscourts.gov>
Subject:Activity in Case 3:01-cv-00205 Rollar, et al v. United States, et al "Order" TD:5

Content-Type: text/html

NOTE TO PUBLIC ACCESS USERS There is no charge for viewing opinions.

U.S. District Court

Western District of North Carolina

Notice of Electronic Filing

The following transaction was received from Wallace, Betsy entered on 5/25/2005 at 4:17 PM EDT and filed on 5/25/2005

Case Name: Rollar, et al v. United States, et al
Case Number: 3:01-cv-205
Filer:
Document Number: 186

Docket Text:

ORDER directing suppl pldgs be filed by 6/16/05 re: motion to disallow claims of Obasi Valentinre. Signed by Judge David Keesler on 5/25/05. (Wallace, Betsy)

The following document(s) are associated with this transaction:

Document description:Main Document
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1095689202 [Date=5/25/2005] [FileNumber=355668-0]
[8647e9907ae5e153e94ee5744aa2329974fb46e642d6f4daa14b23a441027b8571b9
299d6fd30ca77dd6e8b4dad446433bb1f652fd7357ff962385dad3f731a5]]

3:01-cv-205 Notice will be electronically mailed to:

3:01-cv-205 Notice will be delivered by other means to:

Rodney E. Alexander
Mayer, Brown, Rowe & Maw, LLP
214 North Tryon St., Suite 3800
Bank of America Corporate Center
Charlotte, NC 28202

William A. Brafford
U.S. Attorney's Office
227 W. Trade St.
1700 Carillon
Charlotte, NC 28202

Eric H. Cottrell
Mayer, Brown, Rowe & Maw, LLP
214 North Tryon St., Suite 3800
Bank of America Corporate Center
Charlotte, NC 28202

W. Robinson Deaton , Jr
P. O. Box 458
Shelby, NC 28151

Gregory Franklin Fawcett , II
Banc of America Securities, LLC
121 W. Trade St., 12th Floor
Charlotte, NC 28255

Brian D. Gulden
Deaton & Biggers
P.O. Box 458
320-1 East Graham Street
Shelby, NC 28150

Jennifer L. Leong
Kilpatrick Stockton LLP
214 North Tryon St.
Suite 2500
Charlotte, NC 28202-6001

Kurt E. Lindquist , II
Kilpatrick Stockton LLP
214 North Tryon St.
Suite 2500
Charlotte, NC 28202-6001

Wilmer (Buddy) Parker
Kilpatrick Stockton LLP
1100 Peachtree St.
Suite 2800
Atlanta, GA 30309-4540

Michael J. Quilling
Quilling Selander Cummiskey & Lownds, PC
2001 Bryan Street
Suite 1800
Dallas, TX 75201-4240

Lee H. Rubin
1909 K Street, N.W.
Washington, DC 20006

Christopher W. Steward
3990 Old Town Ave.
Suite 205A
San Diego, CA 92110

Theresa Van Vliet
Kilpatrick Stockton LLP
First Union Financial Cntr, Ste 2000
200 S. Biscayne Blvd.
Miami, FL 33131-2319

Theresa Van Vliet
Kilpatrick Stockton LLP
First Union Financial Cntr, Ste 2000
200 S. Biscayne Blvd.
Miami, FL 33131-2319

Frank D. Whitney
Kilpatrick Stockton LLP
214 North Tryon St.
Suite 2500
Charlotte, NC 28202-6001