

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 ACME BANQUE DE)
 COMMERCE, INC., AT NATIONSBANK,)
 N.A., CONSISTING OF \$18,756,420.97,)
 MORE OR LESS.)

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

 GEORGE AND DOLORES ROLLAR,)

Plaintiffs,)

v.)

C.A. NO. 3:01CV205-McK

UNITED STATES OF AMERICA, et al.,)

Defendants.)

(CASES CONSOLIDATED)

RICHARD VASQUEZ,)

Intervener.)

 STATE OF NORTH CAROLINA)

MECKLENBURG COUNTY)

**RESPONSE IN OPPOSITION TO THE PETITION OF OBASI JOHN VALENTINE FOR
 A FIRST EMERGENCY DISTRIBUTION OF FUNDS FROM THE RECEIVER**

George and Dolores Rollar file this Response in Opposition to the Petition of Obasi John Valentine for a First Emergency Distribution of Funds from the receiver as follows:

In the Petition of Obasi John Valentine for a First Emergency Distribution of Funds from the receiver (“Valentine Petition”), Obasi John Valentine (“Valentine”) requests the Court to enter an order requiring the receiver to make an emergency distribution to Valentine in the

amount of \$100,000 from the Seized Funds.¹ The Rollars oppose an emergency distribution to Valentine because, among other reasons, it does not appear from the record that (i) he has established personal, direct ownership of any funds deposited to the accounts subject to the receivership or (ii) the receiver is satisfied that Valentine is entitled to any distribution, let alone an emergency distribution.

While, with Court approval, the receiver has made interim distributions of funds in the past, those distributions have been made only to individuals or entities who clearly established that they were the owners of funds that were traceable to the accounts subject to the receivership, and only in situations where the receiver had unconditionally approved a claim for ultimate payment. In those previous cases the Rollars have not opposed interim distributions, or even emergency distributions in appropriate cases, because the evidence appeared clearly to establish a direct link between the party requesting distribution and the accounts at issue, and because the receiver did not oppose (or, in most cases, even recommended) the requested distributions. In the present case, the receiver opposes the Valentine Petition for reasons the Rollars will let the receiver articulate.

While the receiver's opposition to the Valentine Petition is one factor in the calculus of the Rollars' opposition, it is not the only factor. First, as the Rollars understand the claims procedure and approval process, funds are to be disbursed only to those who can prove ownership of the funds to which they claim entitlement. To establish a claim, individuals typically must prove the source of the funds to the receiver's satisfaction. These procedural safeguards (showing ownership and source of funds) are for the purpose of ensuring that funds

¹ The Rollars use the term "Seized Funds" as defined in the previous memoranda they have filed with the Court.

are not disbursed to other than their true owners and to ensure that no funds are disbursed to so-called aggregators (persons who collected money from others to invest).

The Valentine Petition is, on its face, insufficient to establish that (i) Valentine was the personal and only owner of the funds to which he now claims entitlement and (ii) not an aggregator or other culpable participant in the Ponzi scheme perpetrated by August Christian Mohr and Frederick Gilliland. Indeed, based on the Declaration of Obasi John Valentine in Support of First Emergency Distribution of Funds from Receiver (“Valentine Declaration”), the Court should presume for the present time that Mr. Valentine was an aggregator or otherwise involved in the Ponzi scheme that was used to dupe the many innocent victims. Specifically, Valentine testified that he was the “sole owner” of the entity claimants that caused over \$11,000,000 to be “invested” in various of Mr. Gilliland’s fraudulent schemes. And while Valentine claims in paragraph 12 of his declaration that *he* was the sole owner of the \$1,699,850 transferred from his own account, his conclusory allegation is insufficient as a matter of law to establish that he was, in fact, the owner of those funds. Moreover, Valentine fails to offer any documentary proof of his “sole ownership” of the invested funds or even a narrative explanation of how a “pastor and entrepreneur” with an income of \$50,000 per year (see Exhibit A to the letter dated February 24, 2003, from Michael Quilling to John Valentine, all of which are attached as Exhibit 1 to the Valentine Declaration) accumulated that much of his own money to invest.

While, perhaps, not too much should be read into a name, the names of the entities Valentine controls coupled with the lack of any documented legitimate reason for them to have those names, should cause the Court serious concern about Valentine’s real occupation (pastor or con-man). Valentine identifies numerous entities he claims to control with names like “Oval

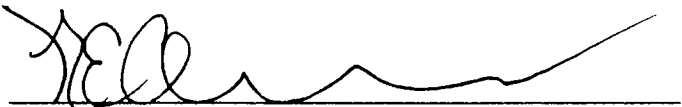
Investment & Financial Group, Ltd.," "Oval Insurance Services" and "Global Riches, Economics and Treasures." Valentine does not claim to be licensed by the SEC to trade in securities and does not claim to be an insurance broker (indeed, as noted above, he claims to be a "pastor and entrepreneur"), so the Rollars wonder what legitimate, non-fraudulent purpose Valentine had for naming the entities he controlled as he did. The names certainly seem to suggest that Valentine was holding himself out through his companies as being able to help investors find riches and treasures—just the type of claims one would expect from an aggregator.

In conclusion, the Rollars oppose any distribution to Valentine or to any entity he owns or controls until such time as Valentine is, at a minimum, able to demonstrate to the satisfaction of the receiver and the Court (i) the source of the funds that were invested through the entities he directed and (ii) that he is the sole and exclusive owner of the invested funds. While Mr. Valentine may have a legitimate claim for reimbursement from the Seized Funds, the legitimacy of that claim is not yet established; therefore, the Court should not run the risk of disbursing funds to Mr. Valentine which, if in payment of a claim that ultimately proves invalid, would likely never be brought back into the receivership estate.

Wherefore, the Rollars request that the Court deny the Petition of Obasi John Valentine for a First Emergency Distribution of Funds from the Receiver.

Signed and dated this 15th day of January, 2005.

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