

11/28/16

SEAN F. MCAVOY, CLERK

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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON

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11 In Re

12
13 ADEQUATE
14 COLLATERALIZATION OF
15 REGISTRY FUNDS

16 GENERAL ORDER NO. 16-112-1

17 RE: ESTABLISHMENT OF BASE
18 DOLLAR AMOUNT FOR INTEREST
19 BEARING REGISTRY DEPOSITS AND
20 PROCEDURES GOVERNING MONIES
21 PAID INTO THE COURT

22 On January 14, 2013, this Court entered General Order No. 13-112-1,
23 establishing the base dollar amount for interest bearing registry deposits and
24 procedures governing monies paid into the Court. Pursuant to the Internal
25 Revenue Service (IRS) determination that interpleader funds deposited under 28
26 U.S.C. § 1335 meet the IRS definition of a “disputed ownership fund” (DOF),
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1 revision to the procedures established by and through General Order No. 13-112-1
2 is required.

3 **THEREFORE IT IS HEREBY ORDERED** that General Order No. 13-
4 112-1 is vacated and of no further force and effect.

5 **IT IS FURTHER ORDERED** that the following shall govern the receipt,
6 deposit, and investment of registry funds:
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9 **I. Receipt of Funds**

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11 A. No money shall be sent to the Court or its officers for deposit in the
12 Court's registry without a court order signed by the presiding judge in the case
13 or proceeding.

14 B. The party making a deposit or transferring funds to the Court's registry
15 shall serve the order permitting the deposit or transfer on the Clerk of Court.

16 C. Unless provided for elsewhere in this Order, all monies ordered to be
17 paid to the Court or received by its officers in any case pending or adjudicated
18 shall be deposited with the Treasurer of the United States in the name and to
19 the credit of this Court pursuant to 28 U.S.C. § 2041 through depositories
20 designated by the Treasury to accept such deposit on its behalf.

21 D. Court ordered deposits of registry funds less than \$5,000 will be
22 deposited by the Clerk of Court directly into the United States Treasury, and
23 shall earn no interest while on deposit with the Court.

24 E. Court ordered deposits of registry funds of \$5,000 or greater will be
25 deposited by the Clerk of Court into an interest bearing account with the
26 United States Treasury utilizing the Court Registry Investment System
27 (CRIS).
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1 **II. Investment of Registry Funds**

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- 3 A. Where, by order of the Court, funds on deposit with the Court are to be
- 4 placed in some form of interest-bearing account or invested in a court-
- 5 approved, interest-bearing instrument in accordance with Rule 67 of the
- 6 Federal Rules of Civil Procedure, the Court Registry Investment
- 7 System, administered by the Administrative Office of the United States
- 8 Courts under 28 U.S.C. § 2045 shall be the only investment mechanism
- 9 authorized.
- 10 B. Interpleader funds deposited under 28 U.S.C. § 1335 meet the IRS
- 11 definition of a “Disputed Ownership Fund” (DOF), a taxable entity that
- 12 requires tax administration. Unless otherwise ordered by the court,
- 13 interpleader funds shall be deposited in the DOF established within the
- 14 CRIS and administered by the Administrative Office of the United
- 15 States Courts, which shall be responsible for meeting all DOF tax
- 16 administration requirements.
- 17 C. The Director of Administrative Office of the United States Courts is
- 18 designated as custodian for all CRIS funds. The Director or the
- 19 Director’s designee shall perform the duties of custodian. Funds held
- 20 in the CRIS remain subject to the control and jurisdiction of the Court.
- 21 D. Money from each case deposited in the CRIS shall be “pooled” together
- 22 with those on deposit with Treasury to the credit of other courts in the
- 23 CRIS and used to purchase Government Account Series securities
- 24 through the Bureau of Public Debt, which will be held at Treasury, in
- 25 an account in the name and to the credit of the Director of
- 26 Administrative Office of the United States Courts. The pooled funds
- 27 will be invested in accordance with the principles of the CRIS
- 28 Investment Policy as approved by the Registry Monitoring Group.
- E. An account will be established in the CRIS Liquidity Fund titled in the
- name of the case giving rise to the deposit invested in the fund. Income
- generated from fund investments will be distributed to each case based
- on the ratio each account’s principal and earnings has to the aggregate
- principal and income total in the fund after the CRIS fee has been

1 applied. Reports showing the interest earned and the principal amounts
2 contributed in each case will be prepared and distributed to each court
3 participating in the CRIS and made available to litigants and/or their
4 counsel.

- 5 F. For each interpleader case, an account shall be established in the CRIS
6 Disputed Ownership Fund, titled in the name of the case giving rise to
7 the deposit invested in the fund. Income generated from fund
8 investments will be distributed to each case after the DOF fee has been
9 applied and tax withholdings have been deducted from the fund.
10 Reports showing the interest earned and the principal amounts
11 contributed in each case will be available through the FedInvest/CMS
12 application for each court participating in the CRIS and made available
13 to litigants and/or their counsel. On appointment of an administrator
14 authorized to incur expenses on behalf of the DOF in a case, the case
15 DOF funds should be transferred to another investment account as
16 directed by court order.

14 **III. Fees and Taxes**

- 15 A. The custodian is authorized and directed by this Order to deduct the
16 CRIS fee of an annualized 10 basis points on assets on deposit for all
17 CRIS funds, excluding the case funds held in the DOF, for the
18 management of investments in the CRIS. According to the Court's
19 Miscellaneous Fee Schedule, the CRIS fee is assessed from interest
20 earnings to the pool before a pro rata distribution of earnings is made to
21 court cases.
- 22 B. The custodian is authorized and directed by this Order to deduct the
23 DOF fee of an annualized 20 basis points on assets on deposit in the
24 DOF for management of investments and tax administration.
25 According to the Court's Miscellaneous Fee Schedule, the DOF fee is
26 assessed from interest earnings to the pool before a pro rata distribution
27 of earnings is made to court cases. The custodian is further authorized
28 and directed by this Order to withhold and pay federal taxes due on
behalf of the DOF.

1 The Clerk is also directed to post a copy of this General Order to the Court's
2 public web site so that it is available to all parties and the attorneys who are
3 admitted to practice before this Court.
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5 This General Order was approved by the District Judges, effective December
6 1, 2016.
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8 **DATED** this 28th day of November, 2016.
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A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE
Chief United States District Judge
Eastern District of Washington