

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA**

**ORDER REGARDING DEPOSIT, INVESTMENT AND DISBURSEMENT
OF REGISTRY FUNDS**

The Court, having determined that it is necessary to adopt local procedures to ensure uniformity in the deposit, investment, disbursement, and tax administration of funds in the Court's Registry,

IT IS ORDERED that the following shall govern the receipt, deposit, investment, and disbursement of registry funds:

I. Receipt of Funds

- A. No money shall be sent to the Court or its officers for deposit in the Court's registry without a court order signed by the presiding judge in the case or proceeding.
- B. The party making the deposit or transferring funds to the Court's registry shall serve the order permitting the deposit or transfer on the Clerk of Court.
- C. All monies ordered to be paid to the Court or received by its officers in any case pending or adjudicated shall be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 U.S.C. § 2041 through depositories designated by the Treasury to accept such deposit on its behalf.

II. Investment of Registry Funds

- A. Where, by order of the Court, funds on deposit with the Court are to be placed in some form of interest-bearing account or invested in a court-approved, interest-bearing instrument in accordance with Rule 67 of the Federal Rules of Civil Procedure, the Court Registry Investment System ("CRIS"), administered by the Administrative Office of the United States Courts under 28 U.S.C. § 2045, shall be the only investment mechanism authorized.
- B. Interpleader funds deposited under 28 U.S.C. § 1335 meet the IRS definition of a "Disputed Ownership Fund" (DOF), a taxable entity that requires tax administration. Unless otherwise ordered by the court, interpleader funds shall be deposited in the DOF established within the CRIS and administered by the Administrative Office of the United States Courts, which shall be responsible for meeting all DOF tax administration requirements.

- C. The Director of the Administrative Office of the United States Courts is designated as custodian for all CRIS funds. The Director or the Director's designee shall perform the duties of custodian. Funds held in the CRIS remain subject to the control and jurisdiction of the Court.
- D. Money from each case deposited in the CRIS shall be "pooled" together with those on deposit with Treasury to the credit of other courts in the CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt, which will be held at Treasury, in an account in the name and to the credit of the Director of Administrative Office of the United States Courts. The pooled funds will be invested in accordance with the principles of the CRIS 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 applied. Reports showing the interest earned and the principal amounts contributed to each case will be prepared and distributed to each court participating in the CRIS and made available to litigants and/or their counsel upon request.
- F. For each interpleader case, an account shall be established in the CRIS Disputed Ownership 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 after the DOF fee has been applied and tax withholdings have been deducted from the fund. Reports showing the interest earned and the principal amounts contributed to each case will be available through the FedInvest/CMS application for each court participating in the CRIS and made available to litigants and/or their counsel upon request. On appointment of an administrator authorized to incur expenses on behalf of the DOF in a case, the case DOF funds should be transferred to another investment account as directed by court order.

III. Fees and Taxes

- A. The custodian is authorized and directed by this Order to deduct the CRIS fee of an annualized 10 basis points on assets on deposit for all CRIS funds, excluding the case funds held in the DOF, for the management of investments in the CRIS. According to the Court's Miscellaneous Fee Schedule, the CRIS fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to court cases.
- B. The custodian is authorized and directed by this Order to deduct the DOF fee of an annualized 20 basis points on assets on deposit in the DOF for management of investments and tax administration. According to the Court's Miscellaneous Fee Schedule, the DOF fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to court cases. The custodian is further authorized

and directed by this Order to withhold and pay federal taxes due on behalf of the DOF.

IV. Transition From Former Investment Procedure

A. This Order supersedes and abrogates all prior orders of this Court regarding the deposit and investment of registry funds.

V. Disbursing

A. Disbursement from the Court's registry funds may be done with a US Treasury check or Electronic Funds Transfer (EFT). The preferred method of distribution funds is EFT, but issuance of a US Treasury check is permitted for payments under \$500,000.

B. A court order is required to disburse registry funds. The following information shall be stated in the order:

1. Identity of the payee(s),
2. Amount of the principal to paid.
3. Interest payable on the principal, if applicable; and
4. The source of the money for each payment (e.g., "the Registry of the Court" or similar wording).

C. If the payment is to be made via EFT, the motion and proposed order must be accompanied by a completed W-9 and AO 213 Vendor Information/Certification form found on the US District Court website.

Dated this 18th day of November 2022.

BY THE COURT:



Roberto A. Lange
Chief Judge