

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN RE:)
)
ORDER REGARDING DEPOSIT AND) GENERAL ORDER 16-03
INVESTMENT OF REGISTRY FUNDS)
)

This General Order, effective December 1, 2016, amends Nebraska Rules of Bankruptcy Procedure adopted on September 1, 2014 as a replacement to Rule 7067-1 - Registry Funds; Deposit in the Court . Local Rule 7067-1 will be updated during the next local rule revision process.

IT IS HEREBY ORDERED. Effective December 1, 2016, Neb. R. Bankr. P. 7067-1 is amended as follows.

A. Receipt of Funds

1. 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.

2. Unless provided for elsewhere in this Order, 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.

B. Investment of Registry Funds

1. 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.

2. The Director of 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.

3. 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.

4. 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 accounts 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 in each case will be prepared and distributed to each court participating in the CRIS and made available to litigants and/or their counsel.

5. 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.

6. 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 in 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.

7. Deposits to the CRIS DOF will not be transferred from any existing CRIS Funds. Only new deposits pursuant to 28 U.S.C. § 1335 from the effective date of this order will be placed in the CRIS DOF.

C. Fees and Taxes

1. 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.

2. 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.

D. Disbursements of Registry Fund; Content of Order.

To withdraw money deposited in the Court pursuant to Rule 67 of the Federal Rules Civil Procedure, a party must file a motion for withdrawal of the funds and simultaneously submit a proposed order with a completed AO213 (Vendor Information/TIN Certification) form. The proposed order shall include the name(s) of the recipient(s) and any specific information on the distribution.

IT IS SO ORDERED.

DATED: October 26, 2016

BY THE COURT:

A handwritten signature in black ink, appearing to read 'T L Saladino', written over a horizontal line.

Thomas L. Saladino, Chief Bankruptcy Judge