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CAROL C. FITZGERALD
CLERK

BY _____
DEPUTY

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

IN THE MATTER OF THE FEE FOR)
THE HANDLING AND SERVICING OF) FIRST AMENDED
INTEREST-BEARING ACCOUNTS OR) SPECIAL ORDER NO. 71
INSTRUMENTS HELD IN THE REGISTRY)
OF THE UNITED STATES DISTRICT COURT.)

At its September 1988 meeting, the Judicial Conference of the United States authorized an amendment to the miscellaneous fee schedules for the appellate, district and bankruptcy courts which authorizes the clerk of court to assess a fee of up to three percent, not exceeding the interest earned, for the handling of registry funds, in accordance with a detailed schedule issued by the Director of the Administrative Office of the United States Court. The Director was given the discretion to exempt certain items from fees and to impose a fee at any lower level should he deem it appropriate.

The Director of the Administrative Office commissioned a study of financial institutions and state court systems to determine how similar funds held in custodial or trust accounts by those organizations were handled and the amount and manner in which fees (if any) were assessed. The Director determined that effective June 12, 1989, and pursuant to 28 U.S.C. §2041 and Fed.R.Civ.P. 67, except in those cases where the service was determined to be made on behalf of the United States, in all non-

1 criminal cases or proceedings the clerk of court would be required
2 to assess a fee for the handling and servicing of interest-bearing
3 accounts or instruments held in the court's registry.

4 As a result of a continuing review of the practices and
5 procedures employed by the courts in the administration of funds
6 deposited into the court and invested in interest-bearing accounts
7 for the benefit of the litigants, the Director of the
8 Administrative Office has determined that effective with the
9 investment of funds deposited on or after December 1, 1990, the fee
10 will be revised from a one-time charge equal to the first 45 days
11 interest earned, to a percentage charge on all income earned while
12 funds are held in the court's registry regardless of the nature of
13 the underlying action.

14 The changeover to this new method of fee computation will
15 not affect cases for which a fee based on the prior method has been
16 collected nor will it apply to cases where funds were invested
17 outside the scope of Fed.R.Civ.P. 67.

18
19 **INVESTMENTS ON DEPOSITS MADE BEFORE DECEMBER 1, 1990.**

20 The investment fee on investments made for funds deposited
21 prior to December 1, 1990, shall be collected in accordance with
22 the provisions adopted by the Director of the Administrative Office
23 which became effective June 12, 1989. For such investments the
24 amount of the fee is equal to the first 45 days income earned on
25 invested funds regardless of the length of time funds are actually
26 held. In cases where funds are invested for a period of less than

1 45 days, the fee will be limited to that amount of interest or
2 other income actually received. For principal sums held beyond one
3 year, the fee will be limited only to the first 45 days income
4 earned.

5 The fee will be applied to all invested funds held in non-
6 criminal cases or proceedings in the name and to the credit of the
7 court or its officers, whether initially deposited with the court
8 and invested by the clerk, or invested by the litigant with custody
9 conveyed to the court subsequently. The fee will be applied to
10 cases in which funds are placed with the court and held in
11 interest-bearing accounts or instruments as follows:

12 a) For investments on deposits into the court made on or
13 after June 12, 1989, but prior to December 1, 1990, the fee will
14 be equal to the first 45 days income earned on the investment.

15 b) For case balances held in interest-bearing accounts or
16 instruments prior to June 12, 1989, the fee will equal the first
17 45 days income earned on those balances on and after June 12, 1989.

18 Subsequent deposits of new principal in the same account
19 will be subject to the fee. Subsequent reinvestment of existing
20 deposits will not be subject to the fee.

21 The fee will be deducted by the clerk of court whenever
22 income earned is credited to the account or otherwise becomes
23 available and prior to any distribution in the case or proceeding.
24 The Court may order the fee be deducted on a pro-rata basis over
25 a period of time not to exceed one year when the interests of
26 justice so require.

1 INVESTMENTS ON DEPOSITS MADE ON OR AFTER DECEMBER 1, 1990

2 Beginning with deposits of funds with the court on or after
3 December 1, 1990, all funds invested, including criminal bond money
4 deposited at interest, will be assessed a fee of ten percent of the
5 income received during the income period.

6 Regardless of the nature of the case, the fee will be
7 applied to invested funds held in the name and to the credit of
8 the court or its officers, whether initially deposited with the
9 court and invested by the clerk, or invested by the litigant with
10 custody conveyed to the court subsequently.

11 The fee will be deducted periodically, either at the time
12 income is credited to the account, a timed instrument matures or
13 prior to any other distribution.

14 Based upon the foregoing and good cause appearing therefor,
15 now

16 IT IS HEREBY ORDERED that pending formal amendment of Local
17 Rule 180-2(a) of the Local Rules of Practice of this Court, any
18 party moving the court by stipulation or motion for an order
19 directing the clerk to invest funds on deposit in the Registry
20 Account of the court in any case or proceeding pursuant to 28
21 U.S.C. §2041 in an interest-bearing account or instrument shall
22 include in said order, in addition to the information currently
23 required by Local Rule 180-2(a), language which directs the clerk
24 to deduct from income earned on the investment a fee, not exceeding
25 that authorized by the Judicial Conference of the United States and
26 set by the Director of the Administrative Office. For investments

1 made on or after June 12, 1989, but prior to December 1, 1990, said
2 fee shall apply only in non-criminal cases and shall be equal to
3 the first 45 days income earned on the investment, whenever such
4 income becomes available for deduction in the investment so held
5 (or upon such pro-rata basis over a period of time not to exceed
6 one year as may be deemed appropriate, if the interests of justice
7 so require.) For investments made on or after December 1, 1990,
8 said fee shall apply to all cases and shall be equal to ten percent
9 of the income earned.

10 IT IS FURTHER ORDERED that fees charged pursuant to this
11 Amended Special Order may be taxed as costs by the court pursuant
12 to 28 U.S.C. §1920.

13 IT IS FURTHER ORDERED that in cases where the United States
14 Government is a party to the action underlying the registry
15 investment, the funds initially withheld in payment of the
16 investment fee may be restored to the United States upon

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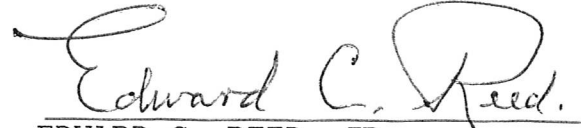
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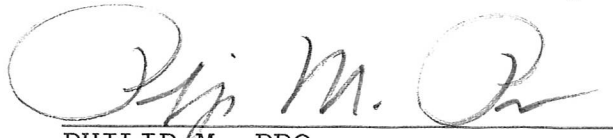
1 application filed with the court by the United States Attorney or
2 other government counsel.

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4 DATED: December 7, 1990


EDWARD C. REED, JR.
Chief United States District
Judge


LLOYD D. GEORGE
United States District Judge


HOWARD D. MCKIBBEN
United States District Judge


PHILIP M. PRO
United States District Judge