IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA, Plaintiff, v. $39,956.45 IN U.S. CURRENCY SEIZED FROM BANK OF NORTH CAROLINA ACCOUNT ENDING IN 3974, IN THE NAME OF RD JESSUP PROPERTIES, LLC, et al., Defendants.	)	1:15CV506

UNITED STATES OF AMERICA, Plaintiff, v. 6407 MONNETT ROAD, CLIMAX, GUILFORD COUNTY, NORTH CAROLINA, WITH ALL APPURTENANCES AND IMPROVEMENTS THEREON, et al., Defendants.	)	1:15CV152

In the Matter of the Seizure of All funds on deposit at Bank of North Carolina in the account ending in number xx3974, in the name of RD Jessup Properties, LLC	)	1:15MJ32
In the Matter of the Seizure of L4600 Kubota DT 4x4 Tractor	)	1:15MJ33

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

In the Matter of the Seizure of All funds on deposit at Bank of North Carolina in the account ending in number xx3044, in the name of Gate City Transportation	)	1:15MJ34
In the Matter of the Seizure of All funds on deposit at First Citizens Bank in the account ending in number xx8448, in the name of Gate City Transportation	)	1:15MJ35
In the Matter of the Seizure of All funds on deposit at Bank of North Carolina in the account ending in number xx9565, in the name of C.D. and Roderick D. Jessup	)	1:15MJ36
In the Matter of the Seizure of All funds on deposit at First Citizens Bank in the account ending in number xx7104, in the name of Gate City Transportation	)	1:15MJ37
In the Matter of the Seizure of 2012 Ford F-250, VIN 1FT7W2BT0CEC48613	)	1:15MJ38
In the Matter of the Seizure of All funds on deposit at Bank of North Carolina in the account ending in number xx4148, in the name of Roderick D. Jessup	)	1:15MJ40
In the Matter of the Seizure of All funds on deposit at First Citizens Bank in the account ending in number xx0396, in the name of Roderick Jessup	)	1:15MJ41

In the Matter of the Seizure of All funds on deposit at Bank of North Carolina in the account ending in number xx8627, in the name of Roderick D. Jessup	)	1:15MJ42
In the Matter of the Seizure of Funds up to $11,200.00 on deposit at Bank of North North Carolina in the account ending in xx5185, in the name of Gate City Transp., Sickle Cell Gala account	)	1:15MJ43
In the Matter of the Seizure of 2014 BMW X5, VIN 5UXKR6C51E0J73461	)	1:15MJ44
In the Matter of the Seizure of All funds on deposit at Bank of North Carolina in the account ending in number xx2413, in the name of Gate City Transportation	)	1:15MJ45
In the Matter of the Seizure of 2014 Ford Econoline, VIN 1FTNS2EW9EDA12267	)	1:15MJ49
In the Matter of the Seizure of 2013 Ford E350 Econoline, VIN 1FBSS3BL3DDA64659	)	1:15MJ50
In the Matter of the Seizure of 2012 Ford E350 Econoline, VIN 1FBSS3BL1CDA76632	)	1:15MJ51
In the Matter of the Seizure of 2012 Ford E250 Econoline, VIN 1FTNS2EW9CDA21161	)	1:15MJ52
In the Matter of the Seizure of 2012 Ford E250 Cargo Van, VIN 1FTNS2EW0CDB20984	)	1:15MJ53

In the Matter of the Seizure of 2011 Ford E350 XLT – 15 passenger, VIN 1FBSS3BL8BDA98092	)	1:15MJ54
In the Matter of the Seizure of 2012 Ford E250 Econoline, VIN 1FTNS2EW4DDA39018	)	1:15MJ55
In the Matter of the Seizure of 2012 Ford E350 Econoline, VIN 1FBSS3BL7CDA76599	)	1:15MJ56
In the Matter of the Seizure of 2012 Ford E250 Econoline, VIN 1FTNS2EW5CDB14646	)	1:15MJ57
In the Matter of the Seizure of 2012 Ford E250 Econoline, VIN 1FTNS2EWXCDB18059	)	1:15MJ58
In the Matter of the Seizure of 2013 Bus, VIN 1FDEE3FS8DDB04800	)	1:15MJ59
In the Matter of the Seizure of 2001 Chance 22 Seat Trolley, VIN 1C9S2HFS51W535229	)	1:15MJ60
In the Matter of the Seizure of 2001 Chance 22 Seat Trolley, VIN 1C9S2HFS31W535228	)	1:15MJ61
In the Matter of the Seizure of 2011 Ford Crown Victoria, VIN 2FABP7EV6BX128657	)	1:15MJ62
In the Matter of the Seizure of 2011 Ford E350 Econoline, VIN 1FBSS3BL3BDB37395	)	1:15MJ63
In the Matter of the Seizure of 2013 Ford E250 Econoline, VIN 1FTNS2EW0DDA08297	)	1:15MJ64

In the Matter of the Seizure of 2013 Bus, VIN 1FDEE3FS3DDB37400	)	1:15MJ65
In the Matter of the Seizure of 2011 Ford E250 Econoline, VIN 1FTNS2EW3BDB23859	)	1:15MJ66
In the Matter of the Seizure of 2013 Ford E250 Econoline, VIN 1FTNS2EW2DDA08298	)	1:15MJ67
In the Matter of the Seizure of: 2013 Ford E350 Econoline, VIN 1FBSS3BL9DDA61510	)	1:15MJ68
In the Matter of the Seizure of 2013 Ford E350 Econoline, VIN 1FBSS3BL4DDA61379	)	1:15MJ69
In the Matter of the Seizure of 2013 Ford E350 Econoline, VIN 1FBSS3BL9DDA71342	)	1:15MJ70
In the Matter of the Seizure of 2012 Ford E350 Econoline, VIN 1FBSS3BL8CDA98935	)	1:15MJ71
In the Matter of the Seizure of 2013 Ford E250 Cargo Van, VIN 1FTNS2EW0DDA30199	)	1:15MJ72
In the Matter of the Seizure of 2011 Ford E350 XLT - 15 passenger, VIN 1FBSS3BL8BDB10418	)	1:15MJ73
In the Matter of the Seizure of 2011 Ford E250 Econoline, VIN 1FTNS2EW0BDB29571	)	1:15MJ74
In the Matter of the Seizure of 2011 Ford Crown Victoria, VIN 2FABP7EV5BX149676	)	1:15MJ75

In the Matter of the Seizure of 2013 Ford E350 Econoline, VIN 1FBSS3BLXDDA56042	)	1:15MJ76
In the Matter of the Seizure of 2014 Trailer, VIN 5VGFG2421EL002571	)	1:15MJ77
In the Matter of the Seizure of 2013 Ford E350 Econoline, VIN 1FBSS3BL6DDA73811	)	1:15MJ78
In the Matter of the Seizure of 2013 Ford E350 Econoline, VIN 1FBSS3BL6DDA73923	)	1:15MJ79
In the Matter of the Seizure of 2012 Ford E350 Econoline, VIN 1FBSS3BL0CDA76797	)	1:15MJ80
In the Matter of the Seizure of 2012 Ford E350 Econoline, VIN 1FBSS3BL9CDA97194	)	1:15MJ81
In the Matter of the Seizure of 2012 Ford E350 Econoline, VIN 1FBSS3BL9CDA58556	)	1:15MJ82
In the Matter of the Seizure of 2011 Ford E350 EXL – 15 passenger, VIN 1FBSS3BL4BDB11002	)	1:15MJ83
In the Matter of the Seizure of 2012 Ford E350 Econoline, VIN 1FBSS3BL5CDA76682	)	1:15MJ84
In the Matter of the Seizure of 2014 Ford E350 Econoline, VIN 1FTSS3EL8EDA59837	)	1:15MJ85

ORDER

This matter is before this court for review of the Recommendation filed on January 18, 2017, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 76.) In the Recommendation, the Magistrate Judge recommends that Claimants' Motions for the Return of Seized Property in 1:15MJ32 to 1:15MJ38, 1:15MJ40 to 1:15MJ45, and 1:15MJ49 through 1:15MJ85 be denied and that Claimants' Motions to Dismiss in 1:15CV152 (Doc. 10) and 1:15CV506 (Doc. 9) be denied. The Recommendation was served on the parties to these actions on January 19, 2017. Claimants filed objections within the time limit prescribed by Section 636. Plaintiff filed a response to Claimants' objections.

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1).[1] This court "may accept, reject, or modify, in whole or in part, the findings or recommendations

[1] This court reads the objections to extend to the order entered by the Magistrate Judge granting the motion to stay and denying the motion to lift stay (Doc. 76 at 30). These are non-dispositive matters and, as a result, this court's review is under a "clearly erroneous" standard. See 28 U.S.C. § 636(b)(1)(A).

made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

The court has appropriately reviewed Claimants' objections to the United States Magistrate Judge's Recommendation. This court has made a de novo determination which is in accord with the Magistrate Judge's Recommendation and finds the objections do not change the substance of the United States Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

The court notes that Claimants subsequently filed Motions to Supplement the Objections in each of these cases. Their request will be allowed to the extent that the additional objections will be considered. However, the court concludes that even if the additional objections are considered, the analysis and conclusion remain the same.

Nevertheless, this court has had the opportunity to review the status report and the ex parte attachment (Docs. 79, 80), both of which were filed following entry of the Magistrate Judge's recommendation. While the Magistrate Judge's order is eminently reasonable and appropriate under the circumstances, this court finds in light of the recent filings that the order should be modified to impose a stay for a definite period of time rather than the process in place, requiring an updated

status report and basis for continuing the stay as previously ordered.

The civil forfeiture action stayed by the Magistrate Judge's order is extensive, involving what appear to be substantial personal and business assets. This criminal investigation has apparently been pending since at least sometime during 2014 when the Medicaid Investigations Division began its investigation. (See Recommendation (Doc. 76) at 8.) The forfeitures began in February 2015 when seizure warrants were issued. (See id. at 10.) As described by another district court in United States v. $307,970.00 in U.S. Currency, "the status of the criminal investigation is fluid, and no charging decision ha[s] been made. Under such circumstances, an indefinite stay might adversely affect claimants' due process rights." 156 F. Supp. 3d 708, 727 (E.D.N.C. 2016). As a result, "the stay, as requested, is too indefinite. See, e.g., Landis v. N. Am. Co., 299 U.S. 248, 257 (1936) ('The stay is immoderate and hence unlawful unless so framed in its inception that its force will be spent within reasonable limits, so far at least as they are susceptible to prevision and description.')." United States v. $307,970.00, 156 F. Supp. 3d at 726-27. This court therefore modifies the terms of the stay to limit the period of the stay for approximately 120 days, until August 1, 2017. At

the conclusion of that time, the parties will meet, confer, and provide the court with a joint status report for moving forward with the case, on or before July 15, 2017. Should the government seek a continued stay of this case, any motion to that effect shall be filed no later than July 1, 2017. Claimants may file a response on or before July 15, 2017. No reply will be permitted.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation (Doc. 76) is **ADOPTED** except as modified herein. **IT IS FURTHER ORDERED** that Claimants' Motions and Supplemental Motions for the Return of Seized Property in 1:15MJ32 to 1:15MJ38, 1:15MJ40 to 1:15MJ45, and 1:15MJ49 through 1:15MJ85 are **DENIED** and that Claimants' Motions to Dismiss in 1:15CV152 (Doc. 10) and 1:15CV506 (Doc. 9) are **DENIED**.

IT IS FURTHER ORDERED that the Magistrate Judge's order granting the stay is **AFFIRMED AS MODIFIED HEREIN.**

IT IS FURTHER ORDERED that Claimants' Motions to Supplement their Objections to the Order and Recommendation are **GRANTED** to the extent that the additional objections have been considered.

This the 31st day of March, 2017.

William L. Osteen, Jr.
United States District Judge