

IN THE DISTRICT COURT OF THE UNITED STATES,
FOR THE MIDDLE DISTRICT OF GEORGIA,
MACON DIVISION.

Federal Reserve Bank of Atlanta,)
)
 Complainant,)
)
)
 vs)
)
 Claude Gilbert, as Receiver of)
 the Fourth National Bank of)
 Macon, Georgia, et al.)
)
 Defendants.)

No. _____.

IN EQUITY.

BILL OF INTERPLEADER.

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Federal Reserve Bank of Atlanta, averring itself to be a body corporate, organized and existing under and by virtue of the laws of the United States, having its principal office and place of business in the City of Atlanta, Fulton County, Georgia, brings this its bill of complaint, same being a bill of interpleader, against Claude Gilbert, the duly appointed and acting Receiver of the Fourth National Bank of Macon, Georgia, a national banking association, having its principal office and place of business in the City of Macon, Bibb County, Georgia, and in the Middle District of Georgia; Farmers National Bank of Monticello, Georgia, a national banking association under the laws of the United States, having its principal office and place of business in the City of Monticello,

Jasper County, and in the Middle District of Georgia; Monroe County Bank, a corporation under the laws of the State of Georgia, having its principal office and place of business in the City of Forsyth, Monroe County and in the Middle District of Georgia; First National Bank of Shellman, Georgia, a national banking association under the laws of the United States, having its principal office and place of business in the City of Shellman, Randolph County and in the Middle District of Georgia; First National Bank of Pelham, a national banking Association under the laws of the United States, having its principal office and place of business in the City of Pelham, Mitchell County and in the Middle District of Georgia; First National Bank of Bainbridge, Georgia, a national Banking Association under the laws of the United States, having its principal office and place of business in the City of Bainbridge, Decatur County and in the Middle District of Georgia; First National Bank of Ocilla, Georgia, a national banking association under the laws of the United States, having its principal office and place of business in the City of Ocilla, Irwin County and in the Middle District of Georgia; Brunswick Bank & Trust Company, a corporation under the laws of the State of Georgia, having its principal office and place of business in the City of Brunswick, Glynn County and in the Southern District of Georgia; First National Bank of Reynolds, Georgia, a national banking association under the laws of the United States, having its principal office and place of business in the City of Reynolds, Taylor County and in the Middle District of Georgia; First National Bank of Waycross, Georgia, a national banking association under the laws of the United States, having its principal office and place of business in the City of

Waycross, Ware County and in the Southern District of Georgia; First National Bank of Vidalia, Georgia, a national banking association under the laws of the United States, having its principal office and place of business in the City of Vidalia, Toombs County, and in the Southern District of Georgia; First National Bank of Milledgeville, a national banking association under the laws of the United States, having its principal office and place of business in the City of Milledgeville, Baldwin County and in the Middle District of Georgia; City National Bank of Knoxville, Tennessee, a national banking association under the laws of the United States, having its principal office and place of business in the City of Knoxville, Knox County, Tennessee and in the Eastern District of Tennessee; and the Fourth & First National Bank of Nashville, Tennessee, a national banking association under the laws of the United States, having its principal office and place of business in the City of Nashville, Davidson County, Tennessee and in the Middle District of Tennessee.

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Said parties, that is to say, the said Claude Gilbert, as Receiver, as aforesaid, and the various banking associations hereinabove listed, are made parties defendant to this action. Complainant avers that all of said defendants can be reached by the processes of this Court except the City National Bank of Knoxville, Tennessee and said Fourth & First National Bank of Nashville, Tennessee, which said two named defendants this complainant is advised and believes will acknowledge or waive service of subpoena and enter an appearance herein.

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This cause arises under the Constitution and laws of the

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United States for that one of the parties defendant, to-wit, Claude Gilbert, is Receiver of the Fourth National Bank of Macon, a national banking association, as heretofore stated, he having been heretofore appointed as such by the Honorable, the Comptroller of the Currency of the United States, acting under and pursuant to the Statutes of the United States for such cases made and provided, and, as such Receiver, being an officer of the United States. The amount involved, exclusive of interest and costs, exceeds the sum or value of three thousand dollars.

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This is a suit in equity, to-wit, a bill of interpleader, seeking such equitable relief as is hereinafter prayed.

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Complainant is one of the twelve Federal Reserve Banks organized and now functioning pursuant to that certain Act of Congress known as the Federal Reserve Act, as from time to time amended.

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All of the banking corporations hereinabove named are member banks of complainant except that said Fourth National Bank of Macon, now being liquidated as aforesaid, is not now a member bank, the capital stock holdings of said Fourth National Bank in complainant having been heretofore withdrawn by the Receiver pursuant to law.

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Among the functions of complainant as a Federal Reserve Bank is to take on deposit the reserve accounts or balances of its member banks, and each of the above mentioned defendant banks maintained at all the dates and times herein named, and now maintains, its reserve account with complainant. Said Fourth National Bank of Macon also maintained its reserve

balance with complainant and a portion of the same, to-wit, the fund herein mentioned, still remains on deposit.

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The reserve account of a member bank is that balance required by law to be maintained with the Federal Reserve Bank of the District in which the member is located. Said reserve balance is an account subject to withdrawal by check of the depositor and is otherwise governed (in so far as is material for the purposes of this action) by the ordinary rules, usages and practices obtaining between a bank of deposit and its depositors.

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Among the other functions of this complainant as a Federal Reserve Bank is the collection, for the account of its member banks, other Federal Reserve Banks, the United States, and others entitled to use the collection facilities of the Federal Reserve System, of checks and drafts drawn upon banks in the Sixth Federal Reserve District and payable at par.

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In pursuance of its functions as a Federal Reserve Bank, Complainant received from time to time from the above mentioned defendant banks, as well as from said Fourth National Bank of Macon, deposits of funds and checks and drafts for credit to their respective reserve accounts. Complainant also sent to each of said banks, for collection or payment and remittance, checks and drafts drawn upon or collectible by them. Said banks would, customarily, remit for such items, so sent for payment or collection, by drafts drawn upon their said reserve accounts or in acceptable exchange, or by written authorization to complainant to charge such reserve accounts with the amounts to be remitted.

Checks or drafts, when forwarded by complainant to other banks for collection or payment and remittance, are enclosed with what is known as "cash letters" and remittances therefor are made for the aggregate amount of the same as reduced by particular items, checks or drafts which are not paid or collected by the addressee bank.

Prior to November 26, 1928, and up until about noon on said date, said Fourth National Bank of Macon was an active, going institution, operating as a national banking association. As such, it maintained, as heretofore stated, its reserve account with complainant. At the instance of said Fourth National Bank, complainant had agreed to receive, when tendered by any of the above named defendant banks, checks drawn by them or any of them on said Fourth National Bank of Macon and sent to complainant either in remittance for cash letters or for credit to the reserve accounts maintained with complainant by said defendant banks, under an arrangement calling for what was termed "immediate debit" to the reserve account of said Fourth National Bank of Macon: that is to say, when and as any of said defendant banks sent to complainant a check drawn upon said Fourth National Bank of Macon, whether the same was sent in remittance for collections or for credit to the reserve account of the bank sending the check to complainant, the amount thereof would be immediately charged against the reserve account of the Fourth National Bank; it having been understood, however, that payment of any such check should not be considered as final until said Fourth National Bank of Macon had had time to receive the same and report thereon.

The agreements under which said checks were to be received for

"immediate debit" were in writing, each signed by said Fourth National Bank of Macon, Georgia, addressed to complainant and drawn in the following form:

To the FEDERAL RESERVE BANK OF ATLANTA, _____
Date

The _____
Name of Bank

Location

may have occasion from time to time to remit you, by its check or checks on the undersigned, for collections sent it by you, or for credit to its reserve account with you, or the bank mentioned may desire to remit us for your credit and advice. This will be your authority to debit our account immediately upon receipt, with checks drawn on us by the above mentioned bank, given you in payment of collections, or sent you for credit to its reserve account, or you may charge our account immediately with amount of such advices as you may receive from it, that remittances have been made to us, for your credit and advice. PROVIDED, however, that payment shall not be considered as final on such checks as you charge to us, until we have had time to receive the checks and report on same, we agreeing to wire at your expense non-payment of all checks \$250.00 or over, not good on our books when received, nor shall payment be considered as final where you charge our account with amount of advices, received from the above mentioned bank, that remittances have been made to us for your credit, until sufficient time has elapsed for you to receive notice from us as to whether or not such remittances have reached us and have been credited. We agree to maintain on deposit with the Federal Reserve Bank of Atlanta sufficient collected, available funds, over and above the amount of our required reserve with you, to cover such checks or advices of remittances as described above.

(Sgd) FOURTH NATIONAL BANK OF

MACON, GEORGIA. "

Each of said original writings shows the name of one of the defendant banks as being an institution to be accorded the benefits of

the arrangement for "immediate debit." If required so to do by the Court, complainant will produce at any hearing of this cause the signed originals of the said contracts.

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On the morning of November 26, 1928, at the opening of complainant's business for that day and before said Fourth National Bank of Macon had been taken over by the Comptroller of the Currency, complainant received from the defendants next hereinafter listed certain checks, all drawn upon said Fourth National Bank of Macon in the following respective amounts, that is to say:

<u>NAME</u>		<u>AMOUNT</u>
Farmers National Bank,	Monticello,	\$1,725.76
Monroe County Bank,	Forsyth,	1,878.84
First National Bank,	Shellman,	836.60
First National Bank,	Pelham,	1,030.67
First National Bank,	Bainbridge,	6,673.29
First National Bank,	Ocilla,	3,985.59
Brunswick Bk & Tr Co.	Brunswick,	10,000.00
First National Bank,	Reynolds,	1,256.30

As stated, said checks were drawn on accounts maintained by the drawers thereof with said Fourth National Bank of Macon. Each of the same, however, was sent to complainant pursuant to the arrangement for "immediate debit" as outlined above, and it was desired that each thereof should be charged by complainant against the reserve account of said Fourth National Bank of Macon under the terms and conditions of that arrangement. Said checks were sent, respectively, by the drawers thereof to complainant in payment for cash letters theretofore sent to them by complainant; that is to say, complainant had, prior to November 26, 1928, sent to each of the banks next above named, items (checks or drafts) drawn upon or collectible by said banks, and said banks had undertaken to remit by said checks for

such of said items as had been paid or collected by them respectively.

On the same day, that is, November 26, 1928, at the opening of complainant's business and before said Fourth National Bank of Macon had been taken in charge as aforesaid, complainant received from certain banks, next hereinafter listed, checks drawn on said Fourth National Bank of Macon with instructions to credit the amounts thereof to the respective reserve accounts of said banks. Said checks, like the checks described in the next preceding paragraph, were sent to complainant for immediate debit to the reserve account of said Fourth National Bank under the terms of the arrangement hereinbefore described. The banks so sending checks for credit to their respective reserve accounts and the amounts of such checks were as follows:

<u>NAME</u>		<u>AMOUNT</u>
City National Bank,	Knoxville,	\$25,000.00
Fourth & First Nat'l Bk,	Nashville,	20,000.00
First National Bank,	Waycross,	10,000.00
First National Bank,	Vidalia,	5,000.00
First National Bank,	Milledgeville,	2,000.00
First National Bank,	Pelham,	1,700.00

In the regular routine of complainant's business, all of said checks would have been, at some time during the business day of November 26, 1928, charged to the reserve account of said Fourth National Bank of Macon and thereafter sent to it by mail for examination and report under the terms and conditions of the said arrangement for immediate debit. This routine was not followed with respect to any of the checks herein mentioned as having been received by complainant on November 26, 1928, for

the reason that, at about noon on said day, complainant was advised that said Fourth National Bank of Macon had been closed and its affairs taken in charge by the Comptroller of the Currency. In the regular routine of complainant's daily business no entries touching said checks had been made upon complainant's books at the time when it received such advice of the closing of said Fourth National Bank; nor were said checks, or any of them, sent to said Fourth National Bank of Macon for examination and report, it having been closed before such checks, or any of them, were ready for mailing. Upon being so advised of the suspension of said Fourth National Bank complainant notified the defendant banks listed in paragraph 14 that it could not accept the checks which they had sent in remittance for the cash letters in said paragraph referred to, and that it would not charge the reserve account of said Fourth National Bank therewith; and complainant, thereupon, charged the reserve account of each of said defendant banks with the amount of the check which it had sent to complainant as aforesaid. Because of the suspension of said Fourth National Bank, Complainant refused to charge against the reserve account of said bank the checks described in paragraph 15 hereof, and, thereupon, returned the same to the respective banks which had sent said checks to complainant for credit to their reserve accounts, as more fully set out in said paragraph 15.

At the opening for business on November 26, 1928, said Fourth National Bank of Macon had to its credit, in collected funds in its reserve account, only a nominal balance of approximately one thousand dollars. Thereafter, however, and prior to closing, said balance was built up by the discount of notes made at the instance of said Fourth

National Bank by complainant, by deposits made by said Fourth National Bank to its reserve account and by transfers of funds thereto, to a large aggregate amount, complainant hereby averring that, prior to the time when said Fourth National Bank of Macon suspended, it had funds to its credit in its reserve account of more than enough to have paid said checks and each thereof. Complainant is informed, and upon such information and belief avers the fact to be, that each of said named defendant banks, forwarding such checks to complainant as stated and for the purposes aforesaid, had to its credit with said Fourth National Bank of Macon funds in amounts sufficient to have paid the check or checks which it had so sent to complainant.

Shortly after said defendant, Claude Gilbert, Receiver, assumed the duties of his office, he made demand upon complainant for the transfer to him, as Receiver, of all of the reserve balance of said Fourth National Bank of Macon remaining after the satisfaction of the indebtedness due by said Fourth National Bank to complainant. At the same time, each of said defendant banks was demanding that this complainant charge against the reserve account of said Fourth National Bank the amount of the check which it had sent to complainant either in remittance for a cash letter or for credit to its reserve account, as aforesaid. Said Receiver contended, and now contends, that said checks, and each of them, while immediately chargeable to the reserve account of said Fourth National Bank of Macon, could not, under the terms of the arrangement aforesaid, be considered as finally paid until the same had been placed in the hands of said Fourth National Bank of Macon and by it examined to the end that it might be

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determined whether or not such checks were properly payable. Said Receiver further contended, and now contends, that immediately upon the suspension of business by said Fourth National Bank any and all authority to charge its reserve account with said checks, or any of them, was automatically revoked and suspended, and that, inasmuch as none of said checks were finally paid, according to his contention, prior to suspension of business, the same cannot now be paid out of said reserve account. The defendant banks, on the other hand, contend that said Fourth National Bank of Macon had authorized complainant to charge its reserve account with the amount of any check drawn upon it which said defendant banks, or any of them, might send to complainant as aforesaid; that said checks being in the hands of complainant prior to the closing of business, the same should have been regarded, and should now be regarded, as payable out of said reserve account unless and except said checks, or any of them, were drawn upon insufficient funds on deposit with said Fourth National Bank of Macon or, for any other reason, would not have been properly payable in regular course had said Macon bank not closed as aforesaid.

With these conflicting contentions this complainant has no concern. Complainant has retained in its hands a sufficient amount of said reserve balance, to-wit, the sum of Ninety-One Thousand, Eighty-Seven and 05/100 (91,087.05) Dollars, to pay said checks, and all of them, should it be determined that the same were, and are, properly chargeable against said reserve account of said Fourth National Bank of Macon. Said fund complainant holds in trust and as a mere stakeholder. Complainant is entirely indifferent between the parties and is in collusion

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with none of them; it has no interest in the premises except to disburse the fund in its hands as may be legally proper and as this Honorable Court, being advised, may direct.

Complainant is advised and believes that all of the above mentioned defendant banks, being creditors of said Fourth National Bank of Macon, have filed proofs of claim with the Receiver of said bank, in which proofs of claim have been included the full amounts of the deposit accounts maintained by said banks with said Fourth National Bank of Macon; but complainant is further advised and believes that the filing of such proofs of claim in such amounts was upon the understanding with the Receiver of said Fourth National Bank and/or with the Honorable, the Comptroller of the Currency of the United States that the same would be without prejudice to the assertion of any rights to have said checks satisfied out of the said reserve account of said Macon bank as contended by said defendant banks. Complainant is further advised that the Receiver of said Fourth National Bank of Macon has paid, or is prepared to pay, an initial dividend to all creditors of said bank to the extent of Fifty (50) Per Cent. of all claims allowed. Complainant avers, therefore, that, by reason of the above and foregoing facts, the actual amount in dispute is one-half of the aggregate of said checks, or the sum of Forty-Five Thousand, Five Hundred Forty-three and 53/100 (45,543.53) Dollars.

This defendant hereby offers to pay into the registry of this Honorable Court the sum of \$45,543.53, being the amount of the fund now in its hands actually involved in the controversy between the parties named herein as defendants, that is, to say, between the Receiver of said Fourth

National Bank of Macon on the one hand, claiming all of said fund, and the defendant banks on the other hand, each defendant bank claiming the right to receive out of said fund and amount equal to one-half of the check, or checks, sent in by it to complainant for immediate debit, as aforesaid.

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Complainant says that it is without remedy at law; that if it pays to said Receiver said fund, it will be subjected to the claims, demands and suits of said defendant banks, or some one or more of them; that if it pays to said defendant banks the amounts demanded, respectively, by them, it will have to answer the suit of the Receiver. Complainant is advised by its counsel that the conflicting claims and contentions of the said parties raise questions of law that are doubtful and difficult of solution and complainant is therefore uncertain as to how said fund should be disbursed. While said defendant banks each claim a portion of said fund and the Receiver is claiming the whole thereof, the legal rights of the defendant banks, and each of them, are determinable upon exactly the same principles and there is no issue which could arise in the determination of the claim of any one of said defendant banks which would not be involved in the determination of the claims of all. The bringing of this bill of interpleader will obviate a multiplicity of suits and will afford the opportunity of settling in one action the claims of all parties asserting an interest in and to said fund, or any part thereof.

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Complainant avers that in the bringing of this bill it has incurred the expense of counsels' fees, and asks that such sum as may appear proper to the Court be decreed in its favor to cover the cost of the services of counsel, and that any sum so allowed, as well as the costs of this action,

be charged against the fund which is in its hands as a stakeholder, as heretofore more particularly set out.

WHEREFORE, being remediless except in a court of equity, where matters of this sort are properly cognizable and relievable, and to the end that complainant may have the relief herein prayed, it brings this its bill of interpleader and respectfully prays of the Court:

1. That this Honorable Court may enter an order permitting it to pay into the registry of the Court the sum of Forty-five Thousand, Five Hundred Forty-three and 53/100 (45,543.53) Dollars, being the amount of the fund in controversy and now in the hands of complainant as a stakeholder as aforesaid; that the Clerk of this Court be authorized to receive and receipt for said fund; and that, upon the payment of the same into Court, said complainant be discharged from any and all further liability to said defendants or any of them.

2. That the defendants may be decreed to interplead and settle between themselves their rights or claims to the said fund in the hands of complainant.

3. That the defendants, and each of them, be restrained by a preliminary order of injunction from commencing or prosecuting any action or proceeding against complainant concerning the matters above stated, and that, in due course, this injunction may be perpetuated.

4. That the Court issue a rule or order nisi, requiring said defendants, and each of them, to show cause at some time to be limited by the Court why the relief herein prayed should not be granted.

5. That complainant have such other and further relief as may be meet and agreeable to equity and as the nature of its case may require.

May it please your Honor to grant unto complainant not only a

writ of injunction conforming to the prayers of this bill, but also to grant a writ or writs of subpoena, to be issued by and out of this Court, to be directed to the defendant Claude Gilbert, as Reciever of the Fourth National Bank of Macon, and to the defendant banks, Farmers National Bank of Monticello, Monroe County Bank of Forsyth, First National Bank of Shelman, First National Bank of Pelham, First National Bank of Bainbridge, First National Bank of Ocilla, Brunswick Bank & Trust Company, First National Bank of Reynolds, First National Bank of Waycross, First National Bank of Vidalia, First National Bank of Milledgeville, City National Bank of Knoxville, and Fourth & First National Bank of Nashville, commanding them at a certain time and under a certain penalty to be therein specified, to be and appear before this Court then and there to answer the allegations hereof, but not under oath (answer under oath being hereby expressly waived), and to abide by the orders and decrees of the Court herein, and that the defendants may appear herein according to law.

RANDOLPH, PARKER & FORTSON
Solicitors for Complainant

ROBT. S. PARKER
Of Counsel

GEORGIA, FULTON COUNTY.

Before me, a notary public in and for said County, personally appeared Creed Taylor, who, being duly sworn, deposes and says that he is Deputy Governor of the Federal Reserve Bank of Atlanta, complainant in the within and foregoing bill, and that, as such officer, he is authorized to make this affidavit.

Deponent further says that the averments set forth in said bill, where charged positively are true and that such averments as are therein made upon information and belief are true to the best of deponent's information, knowledge and belief.

Deponent further says that said bill is not filed by the complainant in collusion with any or either of the defendants in said bill named, but that it is filed by complainant of its own accord for relief in this Honorable Court.

CREED TAYLOR

Sworn to and subscribed before me,
this the 18 day of February, 1929.

L. M. CLARKE
Notary Public

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IN THE DISTRICT COURT OF THE UNITED STATES,
FOR THE MIDDLE DISTRICT OF GEORGIA,
MACON DIVISION.

Federal Reserve Bank of Atlanta,)

Complainant)

No. _____

vs.)

IN EQUITY.

Claude Gilbert, as Receiver of
the Fourth National Bank of
Macon, Georgia, et al,)

Defendants. (

BILL OF INTERPLEADER.

The within Bill of Interpleader read and considered:
Let the same be filed and subpoenas issued as is in accordance
with such cases and as is required by the equity rules of this
Court.

It is further ordered that the defendants, and each
of them, show cause before me on the 15 day of March, 1929,
at 10 o'clock A. M. why they should not be required by order
of this Court to interplead as prayed in complainant's bill,
and why the complainant should not have the relief in and by
said bill sought. Let this order and a copy of said bill be
served upon each of said defendants unless they acknowledge
service of the same.

This the 18 day of February, 1929.

BASCOM S. DEEVER
Judge United States Court..