

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

MONTGOMERY BANK, N.A.,

Plaintiff,

v.

Case No: 2:16-cv-173-FtM-38CM

THOMAS P. HOOLIHAN, JR. ,
KERREY R. HOOLIHAN,
RIVERBEND GOLF & COUNTRY
CLUB, INC., VISION ONE
MANAGEMENT GROUP, INC., PIKE
CREEK TURF FARMS, INC., LEE
COUNTY, SOUTHERN GULF
EQUIPMENT RENTAL & SALES,
INC., RIVERBEND HOMEOWNERS
ASSOCIATION OF LEE COUNTY,
INC. and FLORIDA DEPARTMENT
OF REVENUE,

Defendants.

OPINION AND ORDER¹

This matter comes before the Court on Montgomery Bank, N.A.'s Notice of Settlement and Joint Motion to Retain Jurisdiction ([Doc. 89](#)) filed on February 23, 2017. Specifically, the Notice states that Montgomery Bank has settled with Thomas P. Hoolihan, Jr., Kerrey R. Hoolihan, Riverbend Golf & Country Club, Inc. and Vision One

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Management Group, Inc. ([Doc. 89](#)). However, the Notice “jointly move[s]” the Court to close the case in full. ([Doc. 89](#)). This is problematic because the case involves more parties than just those contemplated by the Notice.

Importantly, the Notice did not indicate that any settlement was reached as to Pike Creek Turf Farms, Inc., Lee County, Southern Gulf Equipment Rental & Sales, Inc., Riverbend Homeowners Association of Lee County, Inc., or the Florida Department of Revenue. Each of those parties are still active in this case. Moreover, both Lee County and the Riverbend Homeowners Association of Lee County, Inc. are represented by counsel and have filed Answers to either the Complaint or Amended Complaint. ([Doc. 80, 16](#)).² Consequently, Montgomery Bank may not unilaterally close the entire case without submitting a stipulation of dismissal signed by all represented parties. See [Fed. R. Civ. P. 41\(a\)\(1\)\(A\)\(ii\)](#).

Nevertheless, [Federal Rule of Civil Procedure 41\(a\)\(2\)](#) states that an action may be dismissed “on terms that the court considers proper.” With this in mind, the Court will grant dismissal of Plaintiffs’ claims only as they apply to Thomas P. Hoolihan, Jr., Kerrey R. Hoolihan, Riverbend Golf & Country Club, Inc. and Vision One Management Group, Inc. The Court, however, declines to retain jurisdiction to enforce the parties’ settlement agreement.

Accordingly, it is now

ORDERED:

² Notably, Riverbend Homeowners Association of Lee County, Inc. withdrew its Answer and Affirmative Defenses on June 14, 2016. ([Doc. 50](#)).

1. Montgomery Bank's Notice of Settlement and Joint Motion to Retain Jurisdiction ([Doc. 89](#)) is **GRANTED in part**. All claims against Thomas P. Hoolihan, Jr., Kerrey R. Hoolihan, Riverbend Golf & Country Club, Inc. and Vision One Management Group, Inc. are DISMISSED without prejudice, and the Clerk of Court is directed to enter judgment.
2. The Clerk of Court is directed to terminate Defendants Thomas P. Hoolihan, Jr., Kerrey R. Hoolihan, Riverbend Golf & Country Club, Inc. and Vision One Management Group, Inc. from this action.
3. The Court declines to retain jurisdiction to enforce the parties' settlement agreement.
4. The claims asserted against all other Defendants remain active.

DONE and **ORDERED** in Fort Myers, Florida this 28th day of February, 2017.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record