

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Real Good Technologies, LLC,

**Plaintiff & Judgment
Creditor,**

v.

Victory Solutions, LLC,

**Defendant & Judgment
Debtor.**

Action No. 1:17-cv-00149-DCN

**REAL GOOD TECHNOLOGIES, LLC'S SUBMISSION IN ADVANCE OF
THE COURT'S MAY 20 SHOW CAUSE HEARING**

Plaintiff Real Good Technologies, LLC respectfully submits the following in advance of the May 20 show cause hearing and in response to Defendant's Response to Exhibits, Response to Motion, and Explanation of Failure to Turnover Property (ECF 227) and states as follows:

1. Default judgment was obtained in this matter on April 19, 2017. (ECF 16.)
2. Defendant's second improper bankruptcy was dismissed on July 2, 2019. (ECF 145.)
3. Plaintiff moved to revest the property at issue on July 8, 2019. (ECF 146). This was property that plaintiff previously seized in November 2017 and was

given back subject to an adequate protection agreement that Victory Solutions also breached. (Id.)

4. Plaintiff's motion was fully briefed (ECF 149, 150) and Magistrate Judge Parker ordered that Victory Solutions provide "***an accounting showing the location of the subject property at the time the bankruptcy was dismissed.***" (ECF 152) (emphasis added.)

5. On September 3, 2019, after Defendant failed to respond to Magistrate Parker's Order, Plaintiff filed a motion to show cause. (ECF 153.)

6. On September 30, 2019, on the eve of the show cause hearing scheduled for October 1, Defendant filed its "Notice of Filing of Location of Equipment." (ECF 155.) Plaintiff agreed to discontinue the show cause hearing in light of the filing. (ECF 156.)

7. On November 7, 2019, Magistrate Parker issued a Report & Recommendation stating, among other things: "I recommend that the Court GRANT RGT's motion seeking an order compelling VS to return certain property that has been revested under 11 U.S.C. § 349(b)(3). I further recommend that the Court require RGT to submit a proposed order identifying the specific property VS must return following RGT's review of the notice of the equipment's location (ECF Doc. 155) and RGT's confirmatory discovery. (See ECF Doc. 180 at 2.)" (ECF 214 at 3) (emphasis added.)

8. On November 18, 2019, Victory Solutions filed an objection to Magistrate Parker's Report & Recommendation. (ECF 218.) The matter was fully briefed. (ECF 219, 221.)

9. On December 18, 2019, this Court issued an Order adopting the Report & Recommendation. (ECF 223.) In that Order, the Court noted it "has carefully reviewed the Report and Recommendation and agrees with the findings set forth. The Report and Recommendation of Magistrate Judge Thomas M. Parker (ECF #214) is ADOPTED. The Court GRANTS RGT's Motion for Revestment (ECF #146) and orders that the property listed in Victory Solutions' Notice of Filing of Location of Equipment (ECF #155) that is not located in Cuyahoga County, Ohio be turned over to Real Good Technologies." (ECF 223.) The Court's Order set a 30-day deadline in which the respond to the Order. (ECF 224.) That 30-day period ran on January 17, 2020 – more than four months ago.

10. On February 10, 2020, Plaintiff was again required to file a show cause motion seeking compliance with the Court's Order. (ECF 225.)

11. The Court initially scheduled a show cause hearing for April 15 and postponed it in light of COVID-19 public health emergency declaration on March 13, 2020, and this Court's modified procedures in light of the pandemic.

12. The hearing was rescheduled for May 20, 2020.

13. Again, on the eve of a show cause hearing to discuss its non-compliance with the Court's Order, Defendant has now finally appeared to reportedly offer a "narrative by way of explanation and not by way of excuse." (ECF 227.)

14. The time for arguing there is some ambiguity in the Court's Order has long since passed. The Report & Recommendation clearly stated that Victory Solutions provide "***an accounting showing the location of the subject property at the time the bankruptcy was dismissed.***" (ECF 152) (emphasis added.) Albeit 40 days late, Victory Solutions filed "Notice of Filing of Location of Equipment" and didn't argue at that time there was any confusion about what was required. (ECF 155.) Nor did Defendant timely argue that it couldn't understand what was required of it when this Court adopted the Report & Recommendation more than six months ago. (ECF 223, 224.)

15. Victory Solutions was represented by counsel at all times described herein.

16. And despite its reputation,¹ Victory Solutions apparently continues to actively market its services during this 2020 election cycle.²

17. Because its resellers pay in advance, Real Good Technologies has had no success in seeking to garnish non-parties. Plaintiff requests that the Court order Defendant to identify all bank accounts that Victory Solutions is currently using to handle its business accounts (whether in the name of Victory Solutions, Shannon Burns, his spouse, or other third parties) or otherwise submit to a remote deposition under Rule 34 in the next ten (10) days. This will permit Plaintiff to seek

¹ See The Daily Beast, Republican Telemarketer Stuffed the Feds Out of \$411K. The Trump White House Gave Him a Job (Dec. 30, 2019), attached hereto as **Ex. A.**

² See Victory Solutions Marketing Brochure (Jan. 10, 2020), attached hereto as **Ex. B.**

attachment of the funds necessary to satisfy the default judgment without further intruding upon the resellers and with minimal need for additional effort by the Court. Plaintiff also requests that the Court grant any other relief it deems just and proper in light of Defendant's admitted non-compliance, including the fees and costs associated with pursuing this motion.

Date: May 19, 2020

Respectfully submitted,

/s/ Michael L. Murphy

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following through the Court's ECF system and further via email to the following:

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May 19, 2020

/s/ Michael L. Murphy

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