

Bailey Glasser Obtains Relief Against Victory Solutions for Its Noncompliance with Court Orders

05.21.2020

On May 20, 2020, the United States District Court for the Northern District of Ohio issued an order recognizing Victory Solutions LLC, the Cleveland-based campaign firm operated by Shannon Burns, has failed to comply with the Court's previous property turnover order:

Minutes of proceedings before Judge Donald C. Nugent. Telephonic Status Hearing held on 5/20/2020 with all counsel participating. Counsel presented arguments on Plaintiff's Motion to Show Cause. Defendant has not turned over items pursuant to Court's 12/18/2019 Order and Defendant says it is now prepared to turn such items over to Plaintiff. All property to be turned over on or before 6/1/2020. (Court Reporter: None.) Time: 15 minutes. Related document(s) ECF 225. (M,S) (Entered: 05/20/2020)

The Order makes clear that Victory Solutions is required to turnover its property that had been shipped outside of Cuyahoga County, Ohio at the time the Court issued its Order. And it clears the path for our client to seek to attach any future equipment that it has shipped out of Cuyahoga County on a moving forward basis, including its telephones and servers used for campaign phone banks.

Background of Dispute & Relevant Documents

- Real Good Technologies obtained a default judgment against Victory Solutions on April 19, 2017.
- Defendant's second improper attempt at Chapter 11 bankruptcy was dismissed on July 2, 2019. (ECF 145.)
- At that time, Real Good Technologies moved to retest the property at issue on July 8, 2019. This was property that plaintiff previously seized by the U.S. Marshalls in November 2017 and was given back subject to an adequate protection agreement that Victory Solutions also breached. (ECF 146.)
- Plaintiff's motion was fully briefed 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.)

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- On September 3, 2019, after Defendant failed to respond to Magistrate Parker's Order, Plaintiff filed a motion to show cause. (ECF 153.)
- On September 30, 2019, on the eve of the first 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.)
- 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)
- On November 18, 2019, Victory Solutions filed an objection to Magistrate Parker's Report & Recommendation. The matter was fully briefed. (ECF 219, 221.)
- 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.
- On February 10, 2020, Plaintiff was again required to file a show cause motion seeking compliance with the Court's Order. (ECF 225.)
- 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.
- 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.) Real Good filed a reply the same day. (ECF 228.)
- The Court issued its order on May 20, 2020. (ECF 229.)

Continuing Efforts to Collect

- July 27, 2020, Letter to RCAC.

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Attorneys

Michael L. Murphy