

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES SECURITIES)	
AND EXCHANGE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:15-cv-659-JMS-MJD
)	
VEROS PARTNERS, INC,)	
MATTHEW D. HAAB,)	
JEFFERY B. RISINGER,)	
VEROS FARM LOAN HOLDING LLC,)	
TOBIN J. SENEFELD,)	
FARMGROWCAP LLC,)	
PINCAP LLC, and)	
)	
Defendants,)	
)	
PIN FINANCIAL LLC,)	
)	
Relief Defendant.)	

**PLAINTIFF’S UNOPPOSED MOTION REGARDING ITS REPRESENTATION
AT THE OCTOBER 28, 2016 SETTLEMENT CONFERENCE**

Plaintiff United States Securities and Exchange Commission (“the SEC” or “the Commission”) respectfully requests that the Court enter an order allowing Timothy Warren, Associate Regional Director for the SEC’s Chicago Regional Office, to represent the SEC at the upcoming settlement conference in this matter.

1. On July 29, 2016, Magistrate Judge Mark J. Dinsmore entered a Minute Entry scheduling a settlement conference in this matter for September 27, 2016 at 9:00 a.m. [Filing No. 243] By Order entered September 14, 2016, the settlement conference was rescheduled to October 28, 2016 at 9:00 a.m. [Filing No. 271] Magistrate Judge Dinsmore’s order requires that

all parties, including “governmental” entities, provide a representative with “final settlement authority” to participate in the conference, which is defined as the “authority to exercise discretion to settle the case during the settlement conference without consulting someone else who is not present.” [Filing No. 243 at ECF p. 3 and n.1]

2. At stated in the SEC’s motion regarding representation at a prior settlement conference, these provisions of the Magistrate’s order impose an unwarranted hardship upon the SEC during its participation in the Settlement Conference. [See Filing No. 157 at ¶¶ 3-5]

3. With respect to a previous settlement conference, Magistrate Judge Dinsmore entered Order on Plaintiff’s Unopposed Motion Regarding Its Representation at the Parties’ Settlement Conference allowing David Glockner, the Regional Director of the SEC’s Chicago Office, to represent the SEC without “final settlement authority.” [Filing No. 159]

4. The SEC consists of five Commissioners, appointed by the President with the advice and consent of the Senate. *See* 15 U.S.C. § 78d(a). Only the Commissioners themselves may authorize the commencement of a securities enforcement action. *See* 15 U.S.C. § 78u(d)(1). Similarly, only the Commissioners have authority to settle such an action.¹ *See* 17 C.F.R. § 202.5(f).

5. Accordingly, the SEC normally requires its staff to negotiate a proposed settlement, prepare a detailed written memorandum for review and comment by the various Offices and Divisions of the SEC, and then present the proposal for consideration by the Commissioners at one of the SEC’s regular closed meetings – a process that normally requires at least six weeks.

¹ Although the SEC is permitted to delegate its functions to its staff, the entire Commission always retains the right to review (and reject) any such action. *See* 15 U.S.C. § 78d-1(b).

6. Because of their daily involvement in other SEC business, it simply is not feasible for the Commissioners to attend dozens of settlement conferences each year in cases pending throughout the United States. Under existing law, the SEC is not permitted to delegate “on-the-spot” settlement authority to a member of its staff. Any such settlement proposal still could be reviewed (and rejected) by the entire Commission. Therefore, requiring any SEC official to participate in the upcoming settlement conference with “final” settlement authority would impose a substantial legal hardship.

7. Mr. Warren is familiar with the facts and issues in this case, and the SEC’s litigation and settlement positions. Although Mr. Warren does not, and will not, have “final settlement authority” over this case, his consent would be required before any settlement proposal negotiated by the parties could be submitted to the Commission for approval. If the parties agree on the terms of a proposed settlement at that conference, then Mr. Warren and the SEC’s attorneys will promptly submit a formal recommendation to the SEC’s Commissioners for their consideration and approval.

8. Counsel for the SEC recently contacted counsel for Defendant Senefeld regarding the reasons for filing this motion and proposed that Mr. Warren serve as the SEC’s representative. Counsel for Mr. Senefeld does not oppose this motion.

WHEREFORE, Plaintiff Securities and Exchange Commission respectfully requests that this Court enter an order allowing Timothy Warren to represent the SEC at the upcoming settlement conference, without “final settlement authority.”

Dated: October 5, 2016

Respectfully submitted,

By: /s/Doressia L. Hutton

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CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2016, I served ***PLAINTIFF'S UNOPPOSED MOTION REGARDING ITS REPRESENTATION AT THE OCTOBER 28, 2016 SETTLEMENT CONFERENCE*** on all counsel of record through the Court's ECF filing system.

/s/Doressia L. Hutton
Doressia L. Hutton