

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES SECURITIES)
AND EXCHANGE COMMISSION,)
)
Plaintiff,) Cause No. 1-15-cv-00659-JMS-MJD
)
v.)
)
VEROS PARTNERS, INC.)
MATTHEW D. HAAB,)
JEFFERY B. RISINGER,)
VEROS FARM LOAN HOLDING LLC,)
TOBIN J. SENEFELD,)
FARM GROWCAP LLC, and)
PINCAP LLC,)

**VEROS PARTNERS, INC.’S VERIFIED EMERGENCY MOTION
FOR ORDER COMPELLING MAINSOURCE BANK TO SHOW CAUSE
WHY IT SHOULD NOT BE HELD IN CONTEMPT OF COURT**

Defendant Veros Partners, Inc. moves on an emergency basis for an Order requiring non-party MainSource Bank (“MainSource”) to show cause as to why it should not be held in contempt of court for failure to the Court’s Order dated May 1, 2015 [Ckt. 36]. Veros Partners asks that the Court expedite the hearing on this matter and schedule it for the earliest available time on the Court’s calendar. In support, Veros Partners states:

1. On May 1, 2015, this Court entered an Order (the “Order”) compelling MainSource to “release upon presentation of this Order, \$70,000 from account XXXX0616 to Veros Partners, Inc.” [Dkt. 36]

2. The funds that are the subject of the Court’s May 1 order, plus the additional funds on deposit in the account (approximately \$50,000) previously had

been frozen by MainSource in compliance with the Court's temporary restraining order dated April 23, 2015. [Dkt. 12]

3. On May 1, 2015 counsel for plaintiff presented the Order to counsel for MainSource, as acknowledged by email correspondence that day from Rubin & Levin, counsel for MainSource.

4. Late in the afternoon of Friday, May 1 2015, MainSource announced that it would not comply with the Court's order. Rather—and *after* receiving the Court's order that it release the funds on deposit in Veros Partners' account, MainSource declared a technical default of Veros Partners' loans with MainSource although Veros Partners is current in its payment obligations.

5. In its default notice, issued at 4:55 p.m. on Friday, May 1, 2015, MainSource claimed that, although Veros Partners is indisputably current on its loan payment obligations, Veros Partners nevertheless was in default on its loans because it was in violation of certain loan covenants. MainSource therefore claimed a right of setoff that would allow it to keep the funds on deposit despite this Court's order, which was issued and presented to MainSource *before* MainSource declared a default on Veros Partners' loan accounts. (Notably, MainSource did not declare a default on Veros Partners' loans more than a week earlier when it first learned of this lawsuit and received the Court's temporary restraining order and freeze order.)

6. There is no basis under Indiana law, or under the applicable loan documents, for MainSource to declare a default. Its choice to do so is merely an improper excuse to unilaterally ignore this Court's order.

7. Undersigned counsel for Veros Partners attempted to amicably resolve this dispute through email and phone communications with MainSource's counsel on May 4, and through further email correspondence to MainSource's counsel on the morning of May 5, to which MainSource's counsel have not responded.

8. Veros Partners asks the Court to treat this motion as an emergency matter and to expedite the hearing on the Court's calendar because the bank account at issue is Veros Partners' operating account. If MainSource Bank is allowed to retain possession of \$70,000.00 of Veros Partners' funds on deposit despite this Court's order, then Veros Partners and its employees will begin to quickly begin to suffer substantial harm because Veros Partners will be unable to meet its payroll obligation later this week, as well as other short-term financial obligations.

9. Counsel for the Securities and Exchange Commission have asked undersigned counsel to notify the Court that they wish to participate in the hearing on this motion, and that they wish for permission to do so by telephone if logistics and short notice do not permit them to travel from Chicago to attend in person. Counsel for the SEC also asks that the hearing on this matter not be scheduled at 2:30 p.m. Eastern time on May 6 because counsel has an unavoidable schedule conflict.

10. Undersigned counsel for Veros Partners asks that the Court not schedule the hearing on this matter during the following time periods because of unavoidable schedule conflicts:

- a. On May 7, between 9:30 a.m. and noon;
- b. On May 8, between 3:30 p.m. and 5:00 p.m.

WHEREFORE, Defendant Veros Partners, Inc. moves for an Order compelling MainSource Bank to show cause why it should not be held in contempt of court for its deliberate failure to follow an Order of this Court, and sanctioned appropriately for its contempt.

Respectfully submitted,

/s/ F. Anthony Paganelli

F. Anthony Paganelli (IN 18425-53)
Counsel for Veros Partners, Inc.

VERIFICATION

I affirm under penalties for perjury that the foregoing statements are true.

A handwritten signature in black ink, appearing to read 'M Haab', is written above a horizontal line.

Matthew Haab, President
Veros Partners, Inc.

CERTIFICATE OF SERVICE

I certify that on May 5, 2015, the foregoing document was filed using the Court's CM/ECF system, which will serve notice upon the following counsel of record:

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In addition, on May 5, 2015 a copy of the foregoing document was served by email and by First Class U.S. Mail upon the following counsel for MainSource Bank:

Joshua W. Casselman: jcasselman@rubin-levin.net
James E. Rossow, Jr.: jim@rubin-levin.net
R. Brock Jordan: brock@rubin-levin.net

/s/ F. Anthony Paganelli

F. Anthony Paganelli

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SOUTHERN DISTRICT OF INDIANA
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ORDER TO SHOW CAUSE

Defendant Veros Partners, Inc. having filed its motion for an order compelling MainSource Bank to appear before this Court and show cause why it should not be held in contempt of court, and the Court being duly apprised in the premises, now finds that this Motion should be GRANTED.

It is therefore ORDERED:

That a representative of MainSource Bank must appear personally in this Court:

United States District Court for the Southern District of Indiana
Courtroom 304
Birch Bayh Federal Building & U.S. Courthouse
46 East Ohio Street
Indianapolis, IN 46204210

on the _____ day of _____, 2015 at _____
a.m./p.m. (EDT) to show cause as to why it should not be held in contempt for
failure to comply with the Court's May 1, 2015 order regarding a release of funds to
Veros Partners. [Dkt. 36]

ALL OF WHICH IS ORDERED THIS _____ day of _____, 2015.

Jane Magnus-Stinson
United States District Court Judge
Southern District of Indiana

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