

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

SUNSOUTH CAPITAL, INC.,)
)
Plaintiff,)
)
v.) CASE NO. 1:15-CV-823-WKW
) [WO]
HARDING ENTERPRISES, LLC,)
and GREGGORY A. HARDING,)
)
Defendants.)

**AGREED ORDER OF SEIZURE OF PROPERTY BY SUNSOUTH
CAPITAL, INC. AND FOR PRELIMINARY INJUNCTION PRESERVING
STATUS QUO**

By separate Order, the court granted the Joint Motion of the parties for the entry of an Agreed Order in connection with SunSouth Capital, Inc.’s (“SunSouth”) Motion for a Preliminary Injunction against Harding Enterprises, LLC, and Greggory Harding (collectively “Harding”) with respect to the equipment described in the Verified Complaint (the “Equipment”). The court, having reviewed the pleadings and filings and being fully advised in the premises, specifically noting that the parties, through counsel, agree to the relief set forth below, finds as follows:

1.

On November 5, 2015, the court entered a Temporary Restraining Order, which has been extended by the agreement of the parties.

2.

The parties have been engaged in settlement discussions since SunSouth filed its Verified Complaint, and continue to work toward a resolution of this matter that will avoid the seizure and sale of the Equipment. As part of these negotiations, the parties have agreed to the entry of the preliminary injunction and seizure order set forth below. The parties have further agreed that Harding shall remain in physical possession of the Equipment, but that the Equipment shall remain in its current locations and shall not be used without SunSouth's written consent.

3.

The parties agree that should Harding desire to use the Equipment, Harding shall contact SunSouth's representative, Jeff Ratcliffe, to advise of its request to use the Equipment, and where the Equipment will be used, and Harding agrees to obtain SunSouth's written consent before moving or using any of the Equipment. It is the intent of the parties that SunSouth shall, at all times, have knowledge of where the Equipment is located and if and when it is being used.

4.

In the event SunSouth desires to terminate negotiations and take physical possession of the Equipment, a representative of SunSouth shall contact Mr. Harding and provide him with twenty-four (24) hours' notice that it desires to take

possession of the Equipment. Harding shall then allow SunSouth and/or its agents and representatives to take physical possession of the Equipment at that time.

5.

The parties agree that Harding shall continue to insure the Equipment and shall provide SunSouth with documentation that the insurance coverage on the Equipment is in place. The parties agree that all defenses Harding may have to the underlying debt at issue as set out in SunSouth's Complaint shall be preserved.

Based upon the foregoing, it is ORDERED that Plaintiff's motion for a preliminary injunction (Doc. # 1) is GRANTED in accordance with the parties' agreed-upon terms and that SunSouth is permitted to repossess the Equipment upon 24 hours notice to Harding.

Accordingly, it is ORDERED that Harding Enterprises, LLC, Greggory A. Harding and their officers, agents, servants, employees, and attorneys—as well as all persons who are in active concert or participation with them—are preliminarily enjoined and ORDERED to cease using the Equipment and to store the Equipment at the Equipment's present location(s). Such persons are further RESTRAINED and ENJOINED from intentionally damaging the Equipment, and from switching or removing tires and other accessories or attachments, except for ordinary, necessary repairs, or to make the Equipment moveable or transportable.

It is further ORDERED that Harding is entitled to maintain physical possession of the Equipment and shall not use the same without the written consent of SunSouth.

It is further ORDERED that should SunSouth desire to take physical possession of the Equipment, it will provide Harding with 24 hours notice and Harding shall allow SunSouth and/or its agents and representatives to take physical possession of the Equipment at that time and at its present location(s).

It is further ORDERED that this preliminary injunction shall remain in effect until further order of the court and shall be secured by the existing bond. The parties are instructed to file a joint status report on or before **January 8, 2016**, advising the court of the status of the settlement discussions.

DONE this 8th day of December, 2015.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE