

05-123-CD
Re: CSB Bank

In Re. CSB Bank
2005-123-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

IN RE: CSB BANK -
Search Warrant

No. 05 - 123 - 5

Type of Case: Civil

Type of Pleading: PETITION FOR
PROTECTIVE ORDER

Filed on behalf of: CSB Bank

Counsel of Record for this Party:
Laurance B. Seaman, Esquire

Supreme Court No.: 19620

GATES & SEAMAN
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FILED

0 12:26 PM 24th May

JAN 27 2005

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
Civil Action – Law

IN RE: CSB BANK – Search Warrant : No.

PETITION FOR PROTECTIVE ORDER

TO THE HONORABLE PAUL E. CHERRY, JUDGE:

AND NOW, comes CSB BANK, by its attorneys, Gates & Seaman, and makes this Petition to your Honorable Court, a statement of which is as follows:

1. CSB Bank ("the Bank") has been served by Trooper Michael P. Greene of the Pennsylvania State Police, Clearfield Barracks, a Search Warrant ("the Warrant"), a photocopy of which is attached hereto as Exhibit "A".

2. The Bank responded to the Warrant by providing photocopies of the requested documents with information outside the requested time period stated in the Warrant being redacted.

3. Due to privacy and confidentiality concerns, certain information was redacted from the letter dated June 28, 2004 to Top of the Line Motors, Inc. et al from Michael A. Matten, Senior Vice President and Senior Lending Officer, CSB Bank ("the Letter").

4. The Office of the District Attorney for Clearfield County has requested that the Bank provide it with an unredacted copy of the Letter.

5. While the Bank wishes to comply with the request of the Office of the District Attorney, the Bank has concerns that it not violate the privacy and confidentiality of its customers regarding information which might not be covered by the Warrant.

WHEREFORE, the Bank respectfully requests that your Honorable Court schedule a date and time to conduct an in camera review of said redacted information to determine if the same is covered by the Warrant.



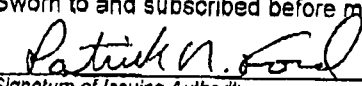
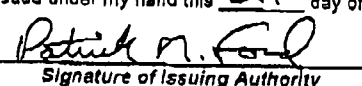
Respectfully submitted:

GATES & SEAMAN

By:

A handwritten signature in black ink, appearing to read 'L. Seaman', written over a horizontal line.

Laurance B. Seaman, Esquire
Attorneys for CSB Bank

Commonwealth of Pennsylvania		APPLICATION FOR SEARCH WARRANT AND AUTHORIZATION	
COUNTY OF CLEARFIELD			
Docket Number (Issuing Authority):	Police Incident Number: C03-0807258	Warrant Control Number:	
Tpr. Michael P. GREENE		PA State Police	814-857-3800
AFFIANT NAME		AGENCY	PHONE NUMBER
IDENTIFY ITEMS TO BE SEARCHED FOR AND SEIZED (Be as specific as possible):		DATE OF APPLICATION	
Any and all documents and information, including internal memos and correspondence, and conversations relative to any and all bank accounts, including but not limited to certificates of deposit, Line of credit accounts, checking accounts, and savings accounts for Jerry A. MILES Sr., Jerry A. MILES Jr., and Top of the Line Motors Inc. from 01/01/04 until 11/30/04.		12/08/04	
SPECIFIC DESCRIPTION OF PREMISES AND/OR PERSON TO BE SEARCHED (Street and No., Apt. No., Vehicle, Safe Deposit Box, etc.):			
CSB Bank, located at 5066 Shaffer Road, DuBois, PA 15801			
NAME OF OWNER, OCCUPANT OR POSSESSOR OF SAID PREMISES TO BE SEARCHED (If proper name is unknown, give alias and/or description):			
Erin L. MORGAN (Manager) and/or keeper of the records			
VIOLATION OF (Describe conduct or specify statute):		DATE(S) OF VIOLATION	
Deceptive or Fraudulent Business Practices		03/01/04 - 11/30/04	
<input checked="" type="checkbox"/> Warrant Application Approved by District Attorney - DA File No. <u>SW-033-04</u> (If DA approval required per Pa.R.Crim.P. 2002A with assigned File No. per Pa.R.Crim.P. 107)			
<input type="checkbox"/> Additional Pages Attached (Other than Affidavit of Probable Cause)			
<input type="checkbox"/> Probable Cause Affidavit(s) MUST be attached (unless sealed below) Total number of pages: _____			
TOTAL NUMBER OF PAGES IS SUM OF ALL APPLICATION, PROBABLE CAUSE AND CONTINUATION PAGES EVEN IF ANY OF THE PAGES ARE SEALED			
The below named Affiant, being duly sworn (or affirmed) before the Issuing Authority according to law, deposes and says that there is probable cause to believe that certain property is evidence of or the fruit of a crime or is contraband or is unlawfully possessed or is otherwise subject to seizure, and is located at the particular premises or in the possession of the particular person as described above.			
		PA State Police	5873
Signature of Affiant		Agency or Address if private Affiant	Badge Number
Sworn to and subscribed before me this <u>21st</u> day of <u>December</u> , <u>2004</u>		Mag. Dist. No. <u>46-3-01</u>	
		P.O. Box 452, DuBois, PA 15801	(SEAL)
Signature of Issuing Authority		Office Address	
SEARCH WARRANT TO LAW ENFORCEMENT OFFICER:		WHEREAS, facts have been sworn to or affirmed before me by written affidavit(s) attached hereto from which I have found probable cause, I do authorize you to search the premises or person described, and to seize, secure, inventory and make return according to the Pennsylvania Rules of Criminal Procedure.	
<input checked="" type="checkbox"/> This Warrant shall be served as soon as practicable and shall be served only between the hours of 6AM to 10PM but in no event later than:			
<input type="checkbox"/> This Warrant shall be served as soon as practicable and may be served any time during the day or night but in no event later than:			
10:00 P. M. o'clock <u>December 21</u> <u>2004</u>			
* The issuing authority should specify a date not later than two (2) days after issuance. Pa.R.Crim.P. 2005(d). * If the issuing authority finds reasonable cause for issuing a nighttime warrant on the basis of additional reasonable cause set forth in the accompanying affidavit(s) and wishes to issue a nighttime warrant, then this block shall be checked. Pa.R.Crim.P. 2006(g)			
Issued under my hand this <u>21</u> day of <u>December</u> , <u>2004</u> at <u>2:10</u> P. M. o'clock.			
		<u>46-3-01</u>	<u>01-06</u> (SEAL)
Signature of Issuing Authority		Mag. Dist. or Judicial Dist. No.	Date Commission Expires:
Title of Issuing Authority: <input checked="" type="checkbox"/> District Justice <input type="checkbox"/> Common Pleas Judge <input type="checkbox"/> _____			
<input type="checkbox"/> For good cause stated in the affidavit(s) the Search Warrant Affidavit(s) are sealed for _____ days by my certification and signature. (Pa.R.Crim.P. 2011)			
Signature of Issuing Authority (Judge of the Court of Common Pleas or Appellate Court Justice or Judge)		(Date) (SEAL)	

TO BE COMPLETED BY THE ISSUING AUTHORITY

Commonwealth of Pennsylvania

COUNTY OF CLEARFIELD

AFFIDAVIT OF
PROBABLE CAUSE

Docket Number

Police Incident

Warrant Control

(Issuing Authority):

Number: C03-0807258

Number:

PROBABLE CAUSE BELIEF IS BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

On 11/22/04, Clair RUFFNER, Edward MEARS, and Robert NEESE, arrived at PSP Clearfield at approx. 1300 hrs. Upon arrival they were interviewed relative to a complaint against the two listed suspects. Clair RUFFNER was interviewed and related the following. On 03/18/04 Jerry MILES Sr. and Jerry MILES Jr., received a loan from himself, MEARS, and NEESE. The loan was in the amount of \$ 50,000 and was based on the agreement of a promissory note signed by Jerry MILES Sr. and Jerry MILES Jr.. In the promissory note the MILES's voluntarily posted a certificate of Deposit (#50033772) allegedly on deposit at CSB bank in DuBois, PA. The Jerry MILES Sr. advised the victims the amount of the deposit was in excess of \$ 200,000.00, and this would be used as collateral against the loan. A short time later on 03/31/04, the suspects approached the victims and again enter into another promissory note for \$ 50,000, along with the same conditions as the original note. Both notes were due in ninety days. When the first note came due on 06/18/04, they met with both suspects at which time they were given three checks in the amount of \$ 16,666.66, but where told to hold the checks for a short period of time until some of their inventory could be liquidated to cover the checks. They later contacted the suspects to ascertain if they could cash the checks at which time they were advised that the account had been frozen by the Internal Revenue Service. They were then advised that other checks would be written on another account to cover those not honored. These checks were never issued. Approx. in September of 2004, they approached the suspects and advised that this business venture was not feasible and they insisted in liquidation of the Certificate of Deposit posted for collateral. They were then advised by the suspects that the Certificate no longer existed. MEARS, and NEESE were both interviewed and corroborated the statement of RUFFNER.

On 11/23/04, Earl James RAMSEY, arrived at PSP Clearfield relative to a complaint against the suspects. He was interviewed and related the following. He was approached by the suspects relative to an investment into their business for the purpose of purchasing inventory. Once again relative to the conditions of a promissory note. The note was due for payment in early June of 2004. Initially they gave several excuses for why the money could not be returned when promised. Eventually on 06/18/04, he proceeded to the used car lot and met with the suspects in person and demanded payment. At this time he was given a check for \$ 10,000 for payment in full. Upon depositing same check he was later advised by his bank that the checks had been returned due to insufficient funds. He then contacted his attorney Robbie M. TAYLOR who sent a certified letter to both Suspects demanding payment within 10 days on July 12. As of this date he has received no payment.

On 11/18/04, I was contacted via phone by G. Jackson MILLER. He related that he too was an investor with Top of the Line Motors. He related he had been approached by Jerry MILES Sr. relative to a business proposition. He loaned both suspects \$ 30,000 on 07/31/04 secured via a promissory note and again loaned an additional \$ 20,000 on 09/01/04 also secured via a promissory note. On both notes the suspects voluntarily listed the aforementioned certificate of deposit as collateral. As of this date he has received no payments relative to the loans.

On 12/06/04, Dr. Lynn MYERS was interviewed at PSP Clearfield at approx. 1330 hrs. He related that he and his wife had purchased a vehicle at Top of the Line Motors in March of 2004. A short time later Dr. MYERS was contacted at his office by Jerry MILES Sr. He was advised of a business proposition and subsequently met with the suspects at Top of the Line Motors. Upon meeting with the suspects he was advised by Jerry MILES Sr. that they wished to borrow money from him for the purchase of low end value inventory. He advised MYERS that they had substantial lines of credit but these could only be used to buy newer vehicles, and he was advised of the certificate of deposit in the bank to assure he would receive his money. When he recontacted Jerry MILES and advised him on 03/23/04 that he and his wife had discussed it and agreed, they requested that he bring the money or check to them immediately. Again this loan was secured with a promissory note that was due payable on 06/24/04, and as of this date they have received nothing. He also related that he saw no additional inventory at the lot.

It should be noted that Jerry MILES Jr. was already facing financial problems with his financing company, due to the fact that they were concerned about his dealership selling vehicles out of trust.

On 12/08/04, a search warrant was obtained and served on CSB Bank. On 12/20/04, This affiant received the requested information from the aforementioned warrant served 12/08/04. Upon review of this information it was determined that CSB Bank had an agreement with Jerry MILES Sr., Jerry Miles Jr., and Top of the Line Motors Inc. The agreement related that CSB Bank had a total collateral interest in the certificate of deposit on file with the Bank in the names of the MILES and Top of the Line Motors Inc., This was in return for a line of credit account in which the company could make purchases. It was determined through correspondence of the Bank that the certificates of deposit were seized when the company defaulted on it's payment: responsibilities for the line of credit.

(Continued)

I, Tpr. Michael P. GREENE, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Affiant Signature

Date

Issuing Authority Signature

Date

(SEAL)

Commonwealth of Pennsylvania

APPLICATION FOR
SEARCH WARRANT
CONTINUATION PAGES

COUNTY OF CLEARFIELD

Docket Number

Police Incident

Warrant Control

(Issuing Authority):

Number: C03-0807258

Number:

Continuation of:☐ Items to be searched
and seized☐ Description of premises/person(s)
to be searched☐ Owner/ Occupant☐ Violations

The aforementioned agreement also related that Jerry MILES Jr., Jerry MILES Sr., or Top of the Line Motors Inc., could not offer the certificates of deposit as collateral for any additional loans without the consent of CSB Bank. No correspondence was located consenting to allow the Certificate of Deposit to be offered in the promissory notes as collateral.

As per checking account records, this is requested so as to ascertain balances and time line for the several violations of Bad Checks, and possibly located the proceeds from any illegal activity.

It is this affiant's opinion, that the requested information is located at the above location, due to the fact that these records are retained by financial institution as a matter of business.

Due to the above listed facts this officer respectfully requests that a search warrant be issued for the requested documents so they made be reviewed for possible criminal activity.

MRS 12/21/04

12-21-04 RNFol

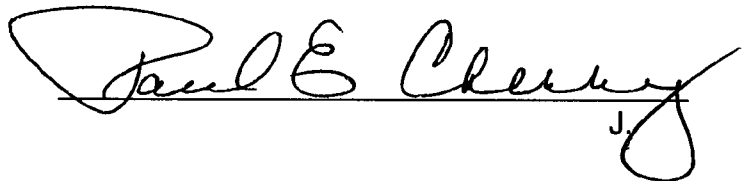
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
Civil Action – Law

IN RE: CSB BANK – Search Warrant : No. 05-173-00

ORDER

AND NOW, this 27th day of January, 2005, upon Petition of CSB Bank, it is hereby ORDERED that an in camera review of the redacted information be scheduled for the 27th day of January, 2005, at 12:00 o'clock p.m. to be held in the Chambers of Judge Paul E. Cherry, Clearfield County Courthouse, Clearfield, Pennsylvania. Counsel for Petitioner shall forthwith serve a copy of the Petition and this Order upon the Office of the District Attorney, Clearfield County, Pennsylvania.

BY THE COURT:


J.

FILED

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JAN 27 2005

William A. Shaw
Prothonotary

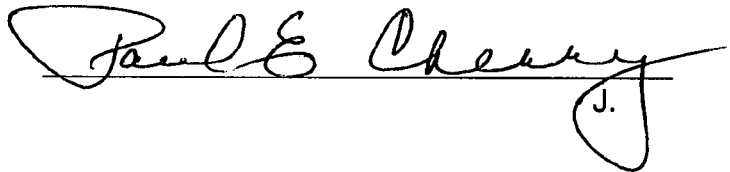
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
Civil Action – Law

IN RE: CSB BANK – Search Warrant : No.

ORDER

AND NOW, this 27th day of January, 2005, upon Petition of CSB Bank and after an in camera review of the redacted information, it is hereby ORDERED that the redacted information is not covered by said Search Warrant and CSB Bank is excused from further response to said Search Warrant.

BY THE COURT:


J.

FILED

12:26 PM 2005
JAN 27 2005

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: CSB BANK - SEARCH WARRANT

: No. 05-123-A

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA

:
:
:

SS:

COUNTY OF CLEARFIELD

Laurance B. Seaman, Esquire, being duly sworn according to law, deposes and says that on the 27 day of January, 2005, he personally served a true and correct copy of the Petition for Protective Order and Order upon the Office of the District Attorney, Clearfield County, Pennsylvania.

GATES & SEAMAN

By:



Laurance B. Seaman, Esquire

Sworn to and subscribed before

Me this 27 day of January, 2005



Deputy Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

FILED
012:26 54 2005
JAN 27 2005

William A. Shaw
Prothonotary