

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
 COUNTY OF SPARTANBURG) SEVENTH JUDICIAL CIRCUIT
)
 Spartanburg Buddhist Center of)
 South Carolina, Inc.,)
)
 Plaintiff,)
)
) **CONTEMPT ORDER**
 v.)
)
 Ron Ork and Luke Dong,) Case Number: 2014-CP-42-1622
)
)
)
 Defendants.)

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 FEB 18 2015
 SC Court of Appeals

Hearing Date	November 17, 2014
Presiding Judge	R. Keith Kelly
Attorney for Plaintiffs	Scott F. Talley, Esq. Shannon M. Phillips, Esq.
Attorney for Defendants	Thomas Belenchia, Esq. T. Camden Shealy, Esq. Larry Gregg, II, Esq.
Court Reporter	Shirley G. Broom

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 COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT
 SPARTANBURG COUNTY
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BACKGROUND

This matter comes before the Court by way of a Rule to Show Cause issued by this Court on October 7, 2014 requiring Defendants Ron Ork and Luke Dong to show cause why, if any they can, they should not be held in civil contempt of this Court's prior orders regarding the dissipation of certain funds owned by Plaintiff.

The underlying case at bar concerns a power struggle between the parties as to control of the Plaintiff and its assets. That issue is not before this Court at this hearing.

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This Court issued a written order dated April 21, 2014 ordering, "All Officers and Board of Directors members (of Plaintiff) will be the same as before the April 20, 2014 election pending the resolution of this matter." Further, this Court ordered that any funds withdrawn by the Defendants to be redeposited into Plaintiff's bank account within twenty-four hours of the date of the order. The said order was filed with the Clerk of Court for Spartanburg County the same day.

A hearing was held on April 25, 2014 regarding the temporary injunction. In a lengthy meeting with attorneys Talley, Phillips, Shealy and Gregg, the Court attempted to nurture an agreement as to the safekeeping of approximately sixty thousand dollars that had been withdrawn from Plaintiff's bank account but redeposited in accordance with this Court's direction. Reaching no agreement, the Court presided over the hearing itself and took the matter under advisement.

On April 29, 2014, the Court held a conference call with the lawyers for the parties to clarify a few matters and by email communication from the Court, the law clerk advised all five lawyers of the Court's decision and instructed Plaintiff's legal counsel to draft a proposed formal written order for execution. As is customary and usual, the lawyers sought clarification and modification of certain verbiage between themselves and a written order was signed May 15, 2014 and filed with the Clerk of Court for Spartanburg County on May 16, 2014.

The May 15, 2014 order granted, inter alia, Plaintiff's motion for a temporary injunction, expressly stated the order was intended to maintain the status quo during the pending litigation, directed Defendants to deposit the funds in dispute into a newly opened account, directed a lawyer from each party to be listed as signatory on the said account to be designated by the respective parties and directed that the funds be used to pay obligations of the Plaintiff on which the parties agreed. Further, the order directed no corporate action be taken except action agreed to by the parties.

Legal counsel for the parties met on June 27, 2014 to establish the new bank account to

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SPARTANBURG COUNTY
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TALLEY

used to secure the approximately sixty thousand dollars belonging to Plaintiff. However, Defendants produced only sixteen hundred, thirty-four dollars and seventy cents.

This Rule To Show Cause ensued.

FACTS

Plaintiff is a corporation organized and existing under laws of the state of South Carolina. Prior to April 21, 2014, a power struggle erupted between two factions of attendees over control of the governing body and the assets to include financial matters. Both factions argue they are duly elected to various offices, including Directors on the Board, and, therefore, are authorized to lead the organization and make financial decisions in furtherance of Plaintiff and its mission. On April 18, 2014, Defendants and/or their supporters withdrew sixty-one thousand, four hundred dollars from Plaintiff's bank account. On April 20, 2014, Defendants and their supporters claim a properly called election of various officers and Board of Director members bestowed control and power in them. Conversely, Plaintiff contends through another faction of attendees that the election was not proper and persons who were serving in those roles continue to do so. Plaintiff asked the Court to grant a temporary injunction forcing the return of the funds so as to safeguard them and prevent financial loss. The April 21, 2014 order was issued for that purpose.

A hearing was scheduled and held on April 25, 2014 regarding the temporary injunction. A sidebar meeting was held and lawyers Scott F. Talley, Shannon M. Phillips, T. Camden Shealy and Larry E. Gregg, II were present and participated. The Court endeavored to reach an agreement by and between the parties on a temporary basis that would safeguard the approximately sixty thousand dollars but not prevent necessary bills for utilities and the like from being paid timely. The Court inquired of the lawyers as to whether or not one law firm or the other would be willing to hold the funds in its escrow account. Neither law firm desired to hold the funds and the Court later directed a new account be established with a lawyer from each party to act as signatory on behalf of their client. It is notable that this sidebar lasted at least fifteen or twenty minutes where the Court expressed great concern for the preservation of the funds but when questioned by the Court on November 17, 2014, neither lawyer T. Camden

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GREGG

Shealy nor Larry E. Gregg, II could recall this Court's concern. Lawyers Scott F. Talley and Shannon M. Phillips remembered it vividly as does this Court. At the conclusion of the hearing, the Court advised the lawyers the matter was under advisement. The April 21, 2014 order remained in full force and effect.

On April 29, 2014, the Court held a telephone conference with the lawyers for the parties to clarify a few matters. The Court advised the lawyers that instructions would be forthcoming. Unbeknownst to the Court and Plaintiff, Defendant Ron Ork issued check number 1163 dated April 29, 2014 on Plaintiff's bank account to a vendor in the amount of twenty thousand dollars. While lawyers T. Camden Shealy and Larry E. Gregg, II do not remember facts of their case two-hundred nine days after a hearing in April 2014, it is unfathomable to the Court that neither lawyer would not remember or share with their client the Court's concern for the preservation of the funds on April 25, 2014, where, as here, it was the main issue before the Court on a temporary basis. Nonetheless, Defendant Ron Ork conceded he issued the check less than ten days after this Court issued its order dated April 21, 2014.

By email to all lawyers dated May 2, 2014, the law clerk provided the ruling from the April 25 hearing to the lawyers and directions for its preparation and presentation for execution. All parties were represented by legal counsel and all five lawyers received the email communication from the Court. Nonetheless, Defendant Ron Ork conceded he issued check number 1164 dated May 7, 2014 on Plaintiff's bank account to a vendor in the amount of sixteen thousand, four hundred dollars and check number 1165 dated May 9, 2014 on Plaintiff's bank account in the amount of thirty-two thousand dollars. As previously stated, Defendant Ron Ork's three lawyers received written instructions electronically on the morning of May 2, 2014. It is inconceivable that at least one of the three lawyers did not relay such important information to their client prior to either of the two checks being issued. Assuming, arguendo, without conceding that neither lawyers Shealy nor Gregg remembered the Court's concern about preserving the funds at sidebar on April 25, 2014, both lawyers, together with Thomas A. Belenchia, Esq. were on actual notice of the Court's concern upon receipt of the May 2, 2014 email.

The Court executed a formal written order from the April 25, 2014 hearing on May 15, 2014.

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in accordance with instructions provided to the lawyers on May 2, 2014 by email. The order was filed with the Clerk of Court for Spartanburg County on May 16, 2014.

Lawyers from both parties met on June 27, 2014 for the purpose of opening the new account. Plaintiff's lawyers learned that only sixteen hundred, thirty-four dollars and seventy cents was available for deposit, not sixty-one thousand, four hundred dollars, less any amount agreed to be paid by each party in accordance with this Court's order.

ISSUE

- Did Defendant Ron Ork commit civil contempt of this Court's orders?
- Did Defendant Luke Dong commit civil contempt of this Court's orders?

DISCUSSION

The Court issued the first written order on April 21, 2014 expressly stating the order was intended to maintain the status quo during the pending litigation and any election held on April 20, 2014 was not valid or enforceable. The Court ordered that all officers and Board of Directors members be the same as before the April 20, 2014 election pending a resolution of the matter. And, the Court ordered the funds returned to Plaintiff's account within twenty-four hours. While the funds were redeposited into Plaintiff's account, Defendant Ron Ork issued check number 1163 dated April 29, 2014 on Plaintiff's account in the amount of twenty thousand dollars, less than ten days after the issuance of the order. Defendant Ron Ork's assertion that he was so authorized because that was the status quo is disingenuous where, as here, it was the election of April 20, 2014 that propelled Defendant Ron Ork and his supporting attendees into elected offices. The Court finds Defendant Ron Ork in civil contempt by issuing this check removing funds from Plaintiff's account.

The Court took all matters under advisement after a hearing on April 25, 2014. Implicit in the Court's decision to reflect on the matter was the fact the written order of April 21, 2014 remained

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in full force and effect until modified, superseded by a subsequent order or vacated. The Court's intention is found on page two of the May 15, 2014 written order which reads in part, "...to the extent this order conflicts with any previous order in this matter, this order supersedes such prior order." Defendant Ron Ork issued check number 1164 dated May 7, 2014 on Plaintiff's account in the amount of sixteen thousand, four hundred dollars and check number 1165 dated May 9, 2014 on Plaintiff's account in the amount of thirty-two thousand dollars. The Court finds Defendant Ron Ork in civil contempt by issuing both checks removing funds from Plaintiff's account.

Assuming, arguendo, without conceding that under any theory of law the April 21, 2014 written order expired after ten days, the Court finds Defendant Ron Ork in civil contempt by issuing both checks in violation of the Court's directive by electronic communication dated May 2, 2014 and formal written order issued May 15, 2014 and filed with the Clerk of Court for Spartanburg County on May 16, 2014. Defendant Ron Ork is represented by three lawyers, two of whom appeared with him at the April 25, 2014 hearing. All three lawyers participated in the April 29, 2014 conference call and all three lawyers received the email dated May 2, 2014 with the decision of the Court and instructions for preparation of the formal written order. Again, it is inconceivable that at least one of the three lawyers representing Defendant Ron Ork did not share such important information with their client.

Our Supreme Court is leading the way in the utilization of technology in the judicial branch of government. Paperless and electronic filing systems have been developed and are being tested in pilot counties. Members of the bar are required to have an email address and maintain it. Judges communicate by email and instant messages on equipment provided by the State. Advance sheets of new cases decided by the appellate courts are provided instantly on electronic medium.

The assertion by Defendant Ron Ork that both checks were issued before the order was reduced to writing and filed with the Clerk of Court is tenuous at best and reliance on Bowman is misplaced. Bowman v. Richland Memorial Hospital, 335SC88. 515SE2d259 (1999). Bowman was decided fifteen years ago before widespread use of email and other tools of technology

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SPARTANBURG COUNTY

commonly used today for instant communication. In Bowman, an order was issued by the Court and filed with the Clerk of Court with neither party knowing the content of the order. However, in this case all five lawyers had actual knowledge of the Court's decision by email dated May 2, 2014 and all parties had constructive knowledge of the Court's decision on the same day.

Additionally, there are allegations of approximately thirty thousand dollars being received in Plaintiff's name or on its behalf that are unaccounted for by Plaintiff. That issue is not before the Court on this Rule to Show Cause but may be so on another day.

In a civil contempt proceeding, a contemnor may be required to reimburse costs and attorney fees where an action is necessary to enforce a court order. An attorney fee award is not punishment but indemnification to the party instituting the action. 17 Am. Jur. 2d contempt, sec. 241. (It is within the trial court's discretion to award reasonable attorney's fees to the prevailing party in a civil contempt proceeding.) After consideration, the Court finds an award of attorney's fees is warranted and the Court considered the factors in Glasscock in determining an amount. Glasscock v. Glasscock, 304 SC158, 403 SE2d 313 (1991).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:


- A. That Defendant Luke Dong is not in wanton and willful contempt of this Court's orders.
- B. That Defendant Ron Ork is in wanton and willful contempt of this Court's orders.
- C. That Defendant Ron Ork is sentenced to the South Carolina Department of Corrections for a period of five months provided, however, that he may purge his civil contempt by depositing the sum certain of fifty-nine thousand, seven hundred, sixty-five dollars and thirty cents into the newly established bank account belonging to Plaintiff within ninety days of the date of this order.
- D. That Defendant Ron Ork shall pay the sum certain of three thousand, five hundred dollars to the Talley Law Firm, P.A. within forty-five days of the date of this order as reasonable attorney's fees on behalf of Plaintiff.

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IT IS SO ORDERED.

Given under my hand and the seal of this Court this 7th day of January 2015 at
Gaffney, South Carolina.


R. Keith Kelly
Circuit Court Judge
Seventh Judicial Circuit
Presiding.

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SC Court of Appeals

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SPARTANBURG COUNTY
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FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF SPARTANBURG
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2014CP4201622

Spartanburg Buddhist Center Of South Carolina Luke Dong	Ron Ork Chivin Sun Sakhan Sok Sophay Pres	Luke Dong Robert Pek Sambo Khieav Tommy Ong
PLAINTIFF(S)		DEFENDANT(S)

Submitted by: _____ Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (**CHECK REASON**): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (**CHECK REASON**): Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:
ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

A. Keith Kelly
 Circuit Court Judge

2165
 Judge Code

7 January 2015
 Date

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SC Court of Appeals

For Clerk of Court Office Use Only

This judgment was entered on _____ of January 2015, and a copy mailed first class or placed in the appropriate attorney's box on _____ of January 2015, to attorneys of record or to parties (when appearing pro se) as follows:

Scott Franklin Talley 2500 Winchester Place Suite 100
Spartanburg, SC 29301

Thomas Alexander Belenchia PO Box 3421 Spartanburg,
SC 29304
Shannon Metz Phillips 2500 Winchester Pl, Suite 100
Spartanburg, SC 29301

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

M. Hope Blackley / M. Hope Blackley

Court Reporter

M Hope Blackley - Clerk of Court

DC

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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SPARTANBURG COUNTY
2015 JAN -7 PM 4:00
M. HOPE BLACKLEY

SC Court of Appeals

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP4201622

Spartanburg Buddhist Center Of South Carolina Luke Dong	Ron Ork	Ron Ork	Luke Dong
		Chivin Sun Sakhan Sok Sophay Pres	Robert Pek Sambo Khieav Tommy Ong

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____ Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON): Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
 Affirmed; Reversed; Remanded; Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: Motion to reconsider order denied

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 SPARTANBURG COUNTY
 2014 JUL 25 AM 2:14
 W. HOPE BRADLEY

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

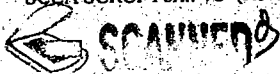
If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

[Signature]
Circuit Court Judge

2165
Judge Code

25 July 2014
Date



For Clerk of Court Office Use Only

This judgment was entered on 25 of July 2014, and a copy mailed first class or placed in the appropriate attorney's box on 25 of July 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Scott Franklin Talley 2500 Winchester Place Suite 100
Spartanburg, SC 29301

Thomas Alexander Belenchia PO Box 3421 Spartanburg,
SC 29304

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

M Hope Blackley
M Hope Blackley - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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M. HOPE BLACKLEY

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STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG)

Spartanburg Buddhist Center of
South Carolina, Inc.,)

Civil Action No. 14-CP-42-1622

Plaintiff,)

v.)

ORDER GRANTING TEMPORARY
INJUNCTION

Ron Ork and Luke Dong,)

Defendants.)

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SC Court of Appeals

The Court, having considered the Plaintiff's Motion for Temporary Injunction and supporting affidavits, Defendants' Response and affidavits, oral arguments and a subsequent conference call with the parties, hereby GRANTS Plaintiff's Motion for Temporary Injunction. The Court finds Plaintiff will suffer irreparable harm if the injunction is not granted, there is no adequate remedy at law to protect Plaintiff from further actions by Defendants, and this Order is intended to maintain the status quo during the pending litigation of this matter.

It is hereby ORDERED that Defendants shall deposit the funds in dispute into a newly opened account, and only a lawyer from each party will be listed as signatory to that account, which attorney shall be designated by the respective party(ies). It is hereby ORDERED the bank account funds may only be used to pay obligations of Plaintiff on which the parties agree and for which the parties authorize their representative attorneys to sign.

It is hereby ORDERED that no bond shall be required.

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SPARTANBURG COUNTY
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It is hereby ORDERED that all parties shall be enjoined from encumbering assets of the corporation or entering into a contract on the corporation's behalf without leave from the Court during the pendency of this litigation.

It is hereby ORDERED that no corporate action may be taken on behalf of Plaintiff during the pendency of this litigation, except that to which the parties agree.

It is hereby ORDERED that to the extent this order conflicts with any previous order in this matter, this order supersedes such prior order.

Further, it is hereby ORDERED that Defendants' Motion to Dissolve the first injunction entered in this matter is DENIED.

It is so ORDERED.

May 15, 2014

Spartanburg, SC


THE HONORABLE R. KEITH KELLY

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SPARTANBURG COUNTY
2014 MAY 16 PM 4:24
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SC Court of Appeals

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STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG)

Spartanburg Buddhist Center of)
South Carolina, Inc.,)

Civil Action No. 14-CV-14

2014-CP-42-1622

Plaintiff,)

v.)

**ORDER GRANTING TEMPORARY
INJUNCTION**

Ron Ork and Luke Dong,)

Defendants.)

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FEB 18 2015

SC Court of Appeals

The Court has considered Plaintiff's Motion for Temporary Injunction and supporting affidavit, and it is the opinion of this Court that Plaintiff's Motion for Temporary Injunction should be GRANTED. The Court finds Plaintiff will suffer irreparable harm if the injunction is not granted, there is no adequate remedy at law to protect Plaintiff from further actions by Defendants, and this Order is intended to maintain the status quo during the pending litigation of this matter.

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M. HOPE BLANCHARD
CLERK

It is hereby ORDERED that Plaintiff is governed by its valid and enforceable Bylaws. It is hereby ORDERED that any election held which was improper under the Bylaws, including any election held on April 20, 2014, is not valid or enforceable. All officers and Board of Directors members will be the same as before the April 20, 2014 election pending the resolution of this matter.

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M. HOPE BLANCHARD
CLERK

It is hereby ORDERED that Defendants deposit any funds withdrawn from Plaintiff's bank account on or after April 18, 2014 back into Plaintiff's bank account within twenty-four (24) hours of this Order.



It is so ORDERED.

April 21, 2014

R. Keith Kelly

JUDGE PRESIDING
R. Keith Kelly
Circuit Court judge
7th Judicial Circuit

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SC Court of Appeals