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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
FEB 25 2015

APPEAL FROM SPARTANBURG COUNTY

SC Court of Appeals

Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

RECEIVED
FEB 25 2015

Case No. 2014-CP-42-01622

SC Court of Appeals

Spartanburg Buddhist Center of South Carolina, Inc.,

Respondent,

v.

Ron Ork and Luke Dong,

Appellants.

PETITION FOR WRIT OF SUPERSEDEAS
WITH REQUEST FOR EXPEDITED DECISION

Ron Ork (the "Appellant") submits this Petition for a Writ of Supersedeas, pursuant to Rule 240 and Rule 241 of the South Carolina Appellate Court Rules, requesting an immediate writ of supersedeas to suspend enforcement of the Spartanburg County Court of Common Pleas' Order dated January 7, 2015 (the "Contempt Order").

The grounds for this Petition are as follows:

1. The Appellants filed a Notice of Appeal on February 25, 2014, appealing (1) the Contempt Order dated January 7, 2015 holding Appellant Ron Ork in civil contempt; (2) the Order dated February 20, 2015 denying the Appellants' SCRCR Rules 59 and 60 Motion, and SCRCR Rule 62 Motion for Stay of Execution of the Contempt Order pending appeal; (3) the Order Granting Temporary Injunction dated May 16, 2014; (4) the Order dated July 25, 2014 denying the Appellants' SCRCR Rules 59 and 60

Motion; and (5) the Order Granting Temporary Injunction dated April 21, 2014. (Exhibit “A”)

2. The Appellant Ron Ork (the “Head Monk”) is a Buddhist monk who serves as the Head Monk for the Respondent Spartanburg Buddhist Center of South Carolina, Inc. The Respondent was organized as a nonprofit corporation in South Carolina on February 16, 2010 and obtained a business economy checking account at Bank of America on or about May 20, 2010. The Head Monk was listed as a signatory on the account in addition to others.

3. The Respondent’s bylaws conflict with its articles of organization because the articles state that “[t]his corporation will not have members,” but the bylaws often refer to “members” and vest the right to vote for a President and Board of Directors in those “members.” Provisions in the bylaws often contradict themselves and other provisions. However, the bylaws state that the Head Monk “will serve the highest honored [sic] as **Chairman of the Board [sic]**. He will oversee Temple [sic] overall operations and [sic] Leader of Buddhist Religion in Spartanburg Buddhist Center of South Carolina.” The Head Monk serves as the Respondent’s religious leader and leads the Respondent’s services. He signed checks from the Respondent’s bank account to pay the Respondent’s bills prior to litigation.

4. The underlying lawsuit was brought in the name of the Respondent on April 21, 2014 by a group of people who claim to have been officers and/or directors of the Respondent prior to April 20, 2014 (the “Possible Past Officers or Directors” or “PPODs”). The PPODs include two third party defendants in the underlying action, Sambo Khieav and Robert Pek.

5. The articles of incorporation did not name any directors for the Center. There is no written documentation that shows the incorporator ever held an organizational meeting to elect initial directors per S.C. Code Ann. 33-31-205(a)(2). There is no written documentation that shows an election for initial officers or directors ever took place.

6. The Head Monk understands that the issue of whether unelected officers and/or directors had any authority to initiate the underlying litigation against him in the name of the Respondent is not relevant to this Court's disposition of this Petition.

7. The conflict between the PPODs and the Appellants began on or about March of 2014 and early April 2014 when the Head Monk notified members that the Respondent would hold a meeting on April 20, 2014 to elect new board members and a new president. The other Appellant, Luke Dong, assisted the Head Monk in planning for the election and was referred to as the "Chief Election Officer." To the Appellants' knowledge, this is the only fact tying Appellant Luke Dong to the present litigation.

8. The Head Monk issued the notice pursuant to Article 9, Section 3 of the Respondent's bylaws, which states, "The President of the Corporation will be elected by all Lay Buddhist members of the Temple during Annual meeting in the month of April. The term of President in three (3) years," and pursuant to Article 8, Section 6, which states, "Each Director shall hold office for a period of three (3) years or until his or her successor is elected or qualified. A member may be elected to be the Director by the Board of Directors or by the majority vote during the annual members' meeting in the **month of April [sic].**"

9. Although it is not clear whether directors and officers were elected or even could be elected pursuant to the Respondent's bylaws, the Head Monk was operating under the assumption that the Respondent's bylaws governed the Respondent's activities. The Head Monk further assumed that because the Respondent was organized on February 16, 2010 and no election had taken place during 2013 (three years after a term beginning on the day of organization), that the current directors, if any, were merely holding their offices "until his or her successor is elected or qualified" per Article 8, Section 6 of the bylaws, and a meeting could be had to elect new directors.

10. Upon information and belief, the PPODs were strongly opposed to an election because the Respondent's members were not likely to elect the PPODs into their assumed positions as officers and/or directors. The PPODs went so far as to produce a document styled "Important Board Meeting Minutes" dated April 6, 2014, which minutes stated, "Please sign next to name and select either yes or no To **CANCEL** [sic] the illegal election on April 20, 2014." The "Important Board Meeting" minutes listed seventeen people who checked "Yes" next to their signatures, but only three had the title of "Board Member" next to their names. The difficulty in determining whether any of those listed were actually board members or, for that matter, whether the Respondent had any board members, has been previously stated in this Petition. What is clear, however, is that the bylaws, though defunct in other ways, do not vest any authority in the Respondent's directors to cancel elections for new directors.

11. Upon information and belief, Third Party Defendant Robert Pek, on behalf of the PPODs, withdrew \$3,010.00 from the Respondent's bank account on or about

April 17, 2014 and retained the Talley Law Firm, P.A. of Spartanburg to thwart the planned April 20, 2014 election.

12. The Head Monk discovered that the withdrawal was used to retain a law firm and not to pay any of the Respondent's outstanding bills or construction costs. The Head Monk withdrew \$61,400.00 from the Respondent's bank account in the form of a cashier's check on April 18, 2014 to prevent any further misuse of the funds.

13. The meeting to elect a president and board of directors took place on Sunday, April 20, 2014 as planned. Over one hundred members attended the meeting and elected a president and board of directors that did not include any of the PPODs.

14. On Monday, April 21, 2014, the day after the election, the Respondent filed a Summons and Complaint with attached exhibits, and the first Temporary Injunction signed by Judge R. Keith Kelly. Confusingly, the Respondent also filed a Notice of Motion and Motion for Temporary Injunction, and a Notice of Hearing signed by Judge R. Keith Kelly that told the Appellants they would "appear before me on 25 day of April, 2014 at 2:00 o'clock p.m. in the Court of Common Pleas, Spartanburg County Courthouse [...] to show cause, if any you can, why a Temporary Injunction should not be granted..."

15. The Complaint requested, "that [the Respondent] recover a temporary injunction against Defendants acting on the results of any meeting not held in accordance with Plaintiff's Bylaws, as well as a temporary injunction ordering Defendants to return to Plaintiff any amounts improperly withdrawn from Plaintiff's bank account, together with costs and attorneys [sic] fees, and interest; and for such other and further relief as the Court deems just and proper."

16. The Respondent's Motion for Temporary Injunction requested the same relief requested in the Complaint.

17. The first Temporary Injunction granted the Respondent's relief requested in the Complaint, Motion for Temporary Injunction, and more. The Order stated in part "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."

18. The first Temporary Injunction also "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."

19. The same day on which Judge Kelly issued the first Temporary Injunction, April 21, 2014, the Head Monk went to Bank of America and deposited the \$61,400.00 cashier's check he had withdrawn to prevent further misuse of the funds back into the Respondent's bank account.

20. The Respondent attempted to serve the Appellants the Summons and Complaint, the first Order Granting Temporary Injunction, Notice of Motion and Motion for Temporary Injunction, and a Notice of Hearing through the Appellants' counsel on or about April 21, 2014, although the Appellants' counsel had not been retained by the Appellants, but had only helped the Appellants during the election process.

21. The Appellant's counsel received permission from the Appellants to accept service of process on their behalf, and subsequently accepted service of the

pleadings and the first Temporary Injunction on April 24, 2014, the day before the Rule to Show Cause hearing was scheduled to occur.

22. “The purpose of a preliminary injunction is to preserve the status quo and prevent irreparable harm to the party requesting it.” *Compton v. South Carolina Dept. of Corrections*, 392 S.S. 361, 366, 709 S.E.2d 639, 642 (2011). Judge Kelly’s first Temporary Injunction invalidated the April 20, 2014 election and attempted to return the PPODs to office, although the election had already occurred and was a part of the status quo the day the first Temporary Injunction was entered. The Order did not identify any irreparable harm.

23. South Carolina Rules of Civil Procedure (“SCRCP”), Rule 65(a) states that, “No temporary injunction shall be issued without notice to the adverse party.” The Appellants received no notice of the Temporary Injunction prior to its issuance.

24. SCRCP Rule 65(c) states that no “temporary injunction shall issue except upon the giving of security by the applicant.” To the Appellants’ knowledge, no security was given by the applicant for the Temporary Injunction.

25. The Appellants filed a Notice of Motion and Motion to Dissolve and Vacate the Order Granting Temporary Injunction on the day of the hearing, April 25, 2014. At the Rule to Show Cause hearing, Judge Kelly agreed to hear the Appellants’ Motion. Judge Kelly heard arguments for the Motion to Dissolve and Vacate the Temporary Injunction and the Motion for Temporary Injunction, and took them under advisement.

26. While the parties’ Motions were under Judge Kelly’s advisement, the Head Monk endorsed three checks from the Respondent’s bank account to Harvest

Group, LLC, the first check on April 29, 2014, the second on May 7, 2014, and the third on May 9, 2014, which corresponded to invoices issued by Harvest Group, LLC to the Respondent on April 29, 2014, May 7, 2014, and May 9, 2014, respectively.

27. Harvest Group, LLC is the construction company that was hired to build a new temple/education building for the Respondent on September 26, 2013.

28. The Head Monk and two of the PPODs held a fundraiser for the new temple/education building on or about the end of 2013. The money raised from that event was designated to pay for construction costs.

29. On or about October 20, 2013, two of the PPODs and the Head Monk participated in a ground-breaking ceremony for the new building. From February 3, 2014 to April 18, 2014, the Head Monk endorsed eight (8) checks from the Respondent's bank account to pay for various construction costs, including six (6) checks to Harvest Group, LLC.

30. On April 21, 2014, the day the first Temporary Injunction was entered, the status quo was that the Head Monk issued checks to pay for construction costs out of the Respondent's bank account, which is where funds that had been raised for that specific purpose were deposited.

31. Had the Head Monk not issued the three checks to pay the construction company, the construction company may have been able to file a mechanic's lien against the Respondent's property.

32. The first Temporary Injunction only ordered the Head Monk to deposit any funds withdrawn on or after April 18, 2014 back into the Respondent's bank account,

and did not prohibit the Head Monk from paying the constructions bills as he had done prior to the issuance of the first Temporary Injunction.

33. On May 16, 2014, after the Head Monk issued the three checks, Judge Kelly issued another Order Granting Temporary Injunction (the “second Temporary Injunction”), which denied the Appellants’ Motion to Dissolve and Vacate the first Order Granting Temporary Injunction, ordered the Appellants to “deposit the funds in dispute into a newly opened account” on which “only a lawyer from each party will be listed as signatory,” and “ORDERED that no bond [for the second Temporary Injunction] shall be required” (the “second Temporary Injunction” or “second “Order Granting Temporary Injunction”).

34. SCRCF Rule 65(c) states that no “temporary injunction shall issue except upon the giving of security by the applicant.” The second Temporary Injunction’s demand that “no bond shall be required” is an explicit violation of SCRCF Rule 65.

35. “The circuit court's order requiring only a nominal security bond does not satisfy Rule 65(c) because it erroneously assumes the injunction is proper instead of providing an amount sufficient to protect appellants in the event the injunction is ultimately deemed improper.” *Atwood Agency v. Black*, 646 S.E.2d 882, 884 374 SC 68 (S.C., 2007)

36. On June 27, 2014, when the parties’ counsel met to open the new bank account per the second Temporary Injunction’s instructions, the Respondent’s counsel discovered that \$1,634.70 dollars remained in the Respondent’s bank account. The Respondent was unaware that the Head Monk had issued the three checks for construction costs. In addition to the three checks issued to the construction company,

the Head Monk endorsed a check to Newton Insurance Solutions, LLC to pay the Respondent's insurance premium and a check to pay Duke Energy for the Respondent's power bill.

37. The Respondent filed a Notice of Motion and Motion for Rule 11 Sanctions on July 17, 2014, asking the court to impose "sanctions upon the Defendants, or their counsel, based on their noncompliance with the Court's April 21, 2014 and May 16, 2014 Orders." Judge Kelly held the hearing for that Motion on September 11, 2014. Appellants' counsel moved to strike the Respondent's Motion because the Respondent's Motion did not contain the affirmation required by SCRCP Rule 11. Judge Kelly took the matters under advisement.

38. Judge Kelly issued an Order and Rule to Show Cause sua sponte on October 8, 2014 that referred to the five (5) checks previously mentioned (three checks for construction costs, one check for insurance premium, and one check for the power bill) and the prior two Orders Granting Temporary Injunctions. The Rule to Show Cause ordered the Appellants to appear before the court on November 17, 2014 to "show cause why, if any you can, you should not be found in willful and wanton contempt of this Court's prior order and punished according to law."

39. The hearing took place as scheduled. The Appellants presented evidence proving that the Head Monk deposited "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 th[e first Temporary Injunction]" as the April 21, 2014 Order Granting Temporary Injunction ordered him to do. The Appellants presented evidence that Appellant Luke Dong did not write or authorize the issuance of any checks, nor did he

have the power to do so. The Appellants presented evidence that the Head Monk wrote the three (3) checks to pay the construction company prior to the issuance of the May 16, 2014 Order Granting Temporary Injunction, to prove that the construction checks could not have violated the second Order Granting Temporary Injunction.

40. Judge Kelly issued an Order on December 31, 2014 that stated the Respondent's "Motion for Rule 11 Sanctions is denied. The Court issued a Rule to Show Cause against Defendants Ork and Dong. The Court addressed all matters in that order."

41. Judge Kelly issued an Order on January 7, 2014 (the "Contempt Order") that sentenced the Head Monk "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 [\$59,765.30] into the newly established bank account belonging to Plaintiff within ninety days of the date of this order."

42. The Contempt Order further ordered the Head Monk to "pay the sum certain of three thousand, five hundred dollars [\$3,500.00] 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."

43. On January 13, 2015, the Appellants moved before the lower court for a Motion to Reconsider, Alter, or Amend the Contempt Order and for a Motion for Stay of Execution of the Contempt Order pending appeal per SCRCF Rule 62, which the lower court denied on February 20, 2015.

44. The Head Monk has no income, survives on the donations of others, owns no property, and lives on property owned by the Respondent. The checks he issued out

of the Respondent's bank account paid for the Respondent's bills. The Head Monk did not retain any funds.

45. The Head Monk does not have the ability to purge himself of contempt by paying \$59,765.30 within ninety days of the Contempt Order dated January 7, 2015.

46. "The courts have unambiguously held that 'coercive imprisonment as applied to civil contempt depends upon the ability of the contemnor to comply with the court's order.'" *Phillips v. Phillips*, 341 S.E.2d 132, 288 S.C. 185 (S.C., 1986).

47. The Contempt Order found the Head Monk in civil contempt for issuing the check to the construction company on April 29, 2014, eight (8) days after the first Order Granting Temporary Injunction.

48. The Contempt Order states that "the funds were redeposited [sic] into [Respondent's] account" in accordance with the first Temporary Injunction. To Appellant's knowledge, the first Temporary Injunction's only ordered the Head Monk to "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," which the lower court conceded the Head Monk did.

49. Although, during the course of the Rule to Show Cause hearing, the Appellants' counsel repeatedly asked the lower court to show the Appellants the specific language in the first Temporary Injunction that the Head Monk had violated and to explain how the Head Monk's issuance of any check violated the first Temporary Injunction, the lower court never specified.

50. In the Contempt Order, the lower court does not identify the specific language in the first Temporary Injunction that the Head Monk violated.

51. The lower court may possibly imply in the Contempt Order that the violation has something to do with “the [first Order Granting Temporary Injunction] was intended to maintain the status quo during the pending litigation and any election held on April 20, 2014 was not valid.” (See Contempt Order page 5). That would make the status quo whatever it was prior to the election. The court goes on to say that the Head Monk was not authorized to write the April 29, 2014 check to the construction company because the Head Monk was only “propelled” into elected office by the April 20, 2014 election. In other words, the first Temporary Injunction impliedly prohibited the Head Monk from writing checks because he could only do so within his authority as an elected official, and the court ruled the election invalid. That logic may be a stretch, but it is the best the Appellants can do with the Contempt Order’s language.

52. If that was the court’s explanation for holding the Head Monk in contempt, it would be based on a glaring factual inaccuracy.¹ However, even if the court’s reasoning was plausible, the Head Monk’s implied violation of an order does not make him liable for contempt.

53. “This Court has explicitly stated, ‘One may not be convicted of contempt for violating a court order which fails to tell him in definite terms what he must do. The language of the commands must be clear and certain rather than implied.’” *Phillips* at 134. The Head Monk could not be held in contempt of the first Temporary Injunction for writing a check on April 29, 2014 from the Respondent’s bank account to pay bills on

¹ The Appellants’ counsel presented evidence to the lower court both during the Rule to Show Cause Hearing and in the Defendants’ Memorandum Opposing Contempt that the Head Monk had written checks on behalf of the Respondent prior to the first Temporary Injunction and had been issuing checks to pay for construction since early February 2014. So the Head Monk’s authority to write checks for construction costs preceded the April 20, 2014 election.

behalf of the Respondent without explicit language in the Order that forbade him from doing so. There was no such language.

54. The court also found that the check the Head Monk issued to the construction company on May 7, 2014 and the check he issued on May 9, 2014 violated the first Temporary Injunction. In support of its finding, the court again did not identify the language in the first Temporary Injunction that would have prohibited the Head Monk from issuing the checks.

55. The court went on to argue that, “[a]ssuming arguendo” the first Temporary Injunction expired after ten days, the issuance of checks violated the court’s “directive by electronic communication dated May 2, 2014 and formal written order issued May 15, 2014.”

56. The Appellants do not here argue that a temporary injunction lasts ten (10) days nor that the court’s first Temporary Injunction is actually a Temporary Restraining Order. By its title and terms, the first “Order Granting Temporary Injunction” was in effect “during the pending litigation of this matter.”

57. The “directive by electronic communication dated May 2, 2014” was not an order such that the Appellants could have been in contempt of it. The email asks the Respondent’s counsel, “Scott, if you would, please draft an Order reflecting the Court’s ruling, citing any facts needed to support said ruling. After opportunity to review by opposing counsel, please submit it via email.”

58. “An order is not final until it is written and entered by the clerk of court.” *Bowman v. Richland Memorial Hosp.*, 515 S.E.2d 259, 335 S.C. 88 (S.C. App., 1999).

The Appellants are not aware that this Court's decision in *Bowman* has been modified or overruled.

59. However, the court explained that “reliance on Bowman is misplaced” because “Bowman was decided fifteen years ago before widespread use of email and other tools of technology commonly used today for instant communication” and “all five lawyers had actual knowledge of the Court's decision by email.”

60. The Appellants have difficulty articulating the many reasons that explicit legal precedent, such as *Bowman*, should not be ignored without any act of the appropriate legislative branch of government or a court with appropriate jurisdiction simply because a certain use of technology has become more common.

61. However, the Appellants note that *Bowman* was cited as recently as 2011. “‘Until written and entered, the trial judge retains discretion to change his mind and amend his oral ruling accordingly.’ *Ford v. State Ethics Comm'n*, 344 S.C. 642, 646, 545 S.E.2d 821, 823 (2001); *see also Bowman v. Richland Mem'l Hosp.*, 335 S.C. 88, 91–92, 515 S.E.2d 259, 260–61 (Ct.App.1999).” *Va. Mccomb v. Conard*, 394 S.C. 416, 715 S.E.2d 662 (S.C. App., 2011).

62. *Va. Mccomb*, a case which is less than “fifteen” years old, explains that the trial court could change its mind prior to entering the judgment. The Contempt Order even states that, “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 [after the May 2, 2014 email] and filed with the Clerk of Court.” (Contempt Order page 2).

63. Additionally, SCRCF Rule 58(a)(2) states that, “A judgment is effective only when so set forth and entered in the record.” “[T]he effective date of an order is not when it is signed by the judge, but when it is entered by the clerk of court.” *Upchurch v. Upchurch*, 367 S.C. 16, 23, 624 S.E.2d 643, 646 (2006). “The final written order contains the binding instructions which are to be followed by the parties.” *Corbin v. Kohler Co.*, 351 S.C. 613, 621, 571 S.E.2d 92, 97 (Ct.App. 2002).

64. The “directive by electronic communication dated May 2, 2014” was not a final order such that the Head Monk could have been held in contempt of it.

65. The Head Monk should not have been held in contempt of the second Temporary Injunction dated May 16, 2014 because it was entered by the Clerk of Court after the Head Monk issued the checks.

66. The Contempt Order’s award of \$3,500.00 to the Respondent for attorney’s fees is improper.

67. The Respondent did not request attorney’s fees in the lower court’s Rule to Show Cause. The court issued the Rule to Show Cause sua sponte.

68. The Respondent did file an “Affidavit of Attorney Work Performed” as part of its Motion for Rule 11 Sanctions, but that affidavit requested \$3,555.00 for “time drafting the Motion for Sanctions and Temporary Orders in this matter, correspondence with counsel for the Defendants and the Court, meetings with Plaintiff and opposing counsel regarding the bank account at issue and Motions for Sanctions, and attendance at today’s [the Motion for Rule 11 Sanctions] hearing.” The Affidavit had nothing to do with preparation for the lower court’s sua sponte Rule to Show Cause hearing and was

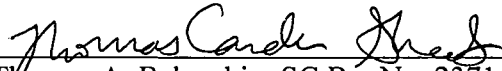
not even limited to work the attorneys performed pursuant to its Motion for Rule 11 Sanctions.

69. “In a civil contempt proceeding, a contemnor may be required to reimburse a complainant for the costs he incurred in enforcing the court's prior order, including reasonable attorney's fees.” *Poston v. Poston*, 502 S.E.2d 86, 331 S.C. 106, 114 (S.C., 1998). The Respondent did not present any evidence of “the costs [the Respondent] incurred in enforcing the court’s prior order.” The Respondent’s Affidavit only addressed time spent on miscellaneous parts of the case prior to the court issued the Rule to Show Cause sua sponte. Therefore, the lower court could not properly award or evaluate an award of the Respondent’s attorney’s fees as were incurred for the Rule to Show Cause.

60. Some of the Head Monk’s supporters donated cashier’s checks for the entire amount the Contempt Order requires the Head Monk to pay.

61. The Appellants’ verification of this Petition is attached.

Respectfully Submitted,


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T. Camden Shealy, SC Bar No: 101447
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February 25, 2015

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Case No. 2014-CP-42-01622

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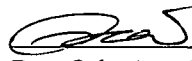
Appellants.

VERIFICATION OF PETITION FOR WRIT OF SUPERSEDEAS AND
REQUEST FOR EXPEDITED DECISION


1. We, the undersigned Appellants, are over 18 years of age, have personal knowledge of the facts set forth in the Petition for Writ of Supersedeas with Request for Expedited Decision, are duly authorized to make the Petition and this verification, and are competent to testify to the matters therein contained.

2. We, the undersigned Appellants, have read or have had read and translated to us the contents of the Petition for Writ of Supersedeas with Request for Expedited Decision, know the same to be true and correct of our own knowledge, except those matters alleged on information and belief, and as to them, we believe them to be true.

Affiants sayeth nothing further.



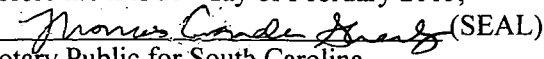
Ron Ork, Appellant



Luke Dong, Appellant

SWORN TO AND SUBSCRIBED

Before me this 25th day of February 2015,

 (SEAL)
Notary Public for South Carolina

My Commission expires 11-18-2023

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

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

v.

Ron Ork and Luke Dong, Appellants.

NOTICE OF APPEAL

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February 25, 2015.



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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	Ron Ork Chivin Sun Sakhan Sok Sophay Pres	Luke Dong Robert Pek Sambo Khiev 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

January 2015
 Date
Michelle Bladley

CLERK OF COURT
SPARTANBURG COUNTY
 BY: *M. Ashby*
 DATED: *2/25/15*

For Clerk of Court Office Use Only

This judgment was entered on 14 of January 2015, and a copy mailed first class or placed in the appropriate attorney's box on 7 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)

Court Reporter

M Hope Blackley / M Belenchia
M Hope Blackley - Clerk of Court *α*

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
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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
 COUNTY OF SPARTANBURG)
) SEVENTH JUDICIAL CIRCUIT
)

Spartanburg Buddhist Center of
 South Carolina, Inc.,)

Plaintiff,)

v.)

Ron Ork and Luke Dong,)

Defendants.)

CONTEMPT ORDER

Case Number: 2014-CP-42-1622

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

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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1 of 8
 (RKK)

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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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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SPECIAL AGENT
COURT REPORTER

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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 as stated 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

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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:

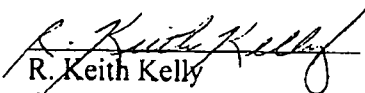
- A. That Defendant Luke Dong is not in wanton and willful contempt of this Court's orders.
- B. That Defendant Ron Ork is in wanton and willful contempt of this Court's orders.
- C. That Defendant Ron Ork is sentenced to the South Carolina Department of Corrections for a period of five months provided, 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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(RKK)

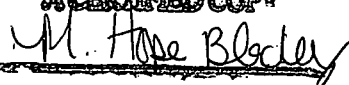
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SOUTH CAROLINA
HOPKINS COUNTY
2015 JAN - 7 PM 4:00
M. HOPE BLACKLEY

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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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

ACERTIFIED COPY

CLERK OF COURT
SPARTANBURG COUNTY
BY: Mosh. Terry DC
DATED 2/25/15

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STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)
)
Spartanburg Buddhist Center of)
South Carolina)
)
Plaintiff,)
)
vs.)
)
Ron Ork and Luke Dong)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
C.A. NO.: 2014-CP-42-1622

ORDER

RECEIVED
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SC Court of Appeals

NOW COMES BEFORE THE COURT Defendant's Motion for Reconsideration, dated January 13, 2015. The present action arises out of the Court issuing a Contempt Order to the Defendant Ron Ork. Mr. Ork is required to pay \$3,500 of attorney's fees to Plaintiff within 45 days of the date of the Contempt Order. Mr. Ork is also ordered to pay \$59,765.30 within 90 days of the date of the Contempt Order. Failure to do so would result in 5 months imprisonment.

NOW, THEREFORE, IT IS ORDERED that the Defendant's motion, dated January 13, 2015 is denied.

AND IT IS SO ORDERED.

R. Keith Kelly
The Hon. R. Keith Kelly
Seventh Judicial Circuit

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H. HERRICK COLLEGE

February 20, 2015
Spartanburg, South Carolina

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M Hope Blakely
CLERK OF COURT
SPARTANBURG COUNTY
BY: *Nelson King* D.C.
DATED: 2/23/15

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

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

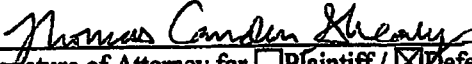
v.)

Ron Ork And Luke Dong)
 Defendant.)

IN THE COURT OF COMMON PLEAS

CASE NO.
2014-CP-42-1622

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney: Scott F. Talley, Bar No. Address: 2500 Winchester Place, Suite 110, Spartanburg, SC 29301 phone: 864-595-2966 fax: 864-595-2969 e-mail: other:	Defendant's Attorney: Thomas A. Belenchia, Bar No. 2371 Address: 1989 South Pine Street, Spartanburg, SC 29302 phone: 864-699-9801 fax: 864-699-9803 e-mail: other:										
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)											
SECTION I: Hearing Information Nature of Motion: Motion to Reconsider, Motion for Stay of Executino of Contempt Order Estimated Time Needed: 15 mins Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO											
SECTION II: Motion/Order Type <input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order. <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">  Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant </div> <div style="text-align: right;"> January 13, 2015 Date submitted </div> </div>											
SECTION III: Motion Fee <input checked="" type="checkbox"/> PAID - AMOUNT: \$25.00 <input type="checkbox"/> EXEMPT: (check reason) <table style="width: 100%; border: none;"> <tr> <td><input type="checkbox"/> Rule to Show Cause in Child or Spousal Support</td> <td><input type="checkbox"/> State Agency v. Indigent Party</td> </tr> <tr> <td><input type="checkbox"/> Domestic Abuse or Abuse and Neglect</td> <td><input type="checkbox"/> Post-Conviction Relief</td> </tr> <tr> <td><input type="checkbox"/> Indigent Status</td> <td><input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)</td> </tr> <tr> <td><input type="checkbox"/> Sexually Violent Predator Act</td> <td><input type="checkbox"/> Motion for Stay in Bankruptcy</td> </tr> <tr> <td><input type="checkbox"/> Motion for Publication</td> <td><input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions</td> </tr> </table> Name of Court Reporter: <input type="checkbox"/> Other:		<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support	<input type="checkbox"/> State Agency v. Indigent Party	<input type="checkbox"/> Domestic Abuse or Abuse and Neglect	<input type="checkbox"/> Post-Conviction Relief	<input type="checkbox"/> Indigent Status	<input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)	<input type="checkbox"/> Sexually Violent Predator Act	<input type="checkbox"/> Motion for Stay in Bankruptcy	<input type="checkbox"/> Motion for Publication	<input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support	<input type="checkbox"/> State Agency v. Indigent Party										
<input type="checkbox"/> Domestic Abuse or Abuse and Neglect	<input type="checkbox"/> Post-Conviction Relief										
<input type="checkbox"/> Indigent Status	<input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)										
<input type="checkbox"/> Sexually Violent Predator Act	<input type="checkbox"/> Motion for Stay in Bankruptcy										
<input type="checkbox"/> Motion for Publication	<input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions										
JUDGE'S SECTION <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	JUDGE: _____ CODE: _____ Date: _____										
CLERK'S VERIFICATION Collected by: <u>Connie Seay</u> Date Filed: <u>1-13-15</u> <input checked="" type="checkbox"/> MOTION FEE COLLECTED: <u>25.00</u> <input type="checkbox"/> CONTESTED - AMOUNT DUE: _____											

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 M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

Spartanburg Buddhist Center of South
Carolina, Inc.,

Plaintiff,

Vs.

Ron Ork and Luke Dong,

Defendants.

**NOTICES OF MOTIONS AND MOTION TO
RECONSIDER, ALTER, OR AMEND THE
CONTEMPT ORDER AND MOTION FOR STAY
OF EXECUTION OF THE CONTEMPT ORDER**

Case No.: 2014-CP-42-1622

Ron Ork and Luke Dong

Third Party Plaintiffs,

Vs.

Chivin Sun, Robert Pek, Sakhan Sok,
Sambo Khieav, Sophay Pres, and
Tommy Ong,

Third Party Defendants.

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SC Court of Appeals

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TO: THE HONORABLE R. KEITH KELLY, PRESIDING JUDGE, and TALLEY LAW FIRM
ATTORNEYS FOR PLAINTIFF,

I. NOTICE AND MOTION TO STAY EXECUTION OF THE CONTEMPT ORDER

YOU WILL PLEASE TAKE NOTICE that pursuant to Rule 62 of the South Carolina Rules of Civil Procedure ("SCRCPP"), the Defendant, Ron Ork, through his attorneys, will move before the Presiding Judge of the Common Pleas Court in Spartanburg County, Spartanburg, SC, at a date and time to be specified by the court, for an order staying the execution of the Contempt Order dated January 7, 2015 for the time it takes the court to make a ruling on Ron Ork's motion to reconsider, alter, or amend, and the time it takes an appellate court with jurisdiction to rule on any appeal that arises out of an adverse ruling in the disposition of the motion to reconsider, alter, or amend.

SCRCPP Rule 62(b) states in part that, "In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any

proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60...”

Ron Ork makes this motion because the Contempt Order requires him to pay \$3,500.00 of attorney’s fees to the Plaintiff within 45 days of the date of the Contempt Order and Mr. Ork is facing a five month prison sentence if he does not pay \$59,765.30 within ninety days of the date of the Contempt Order. However, Mr. Ork is a Buddhist monk with no income. Mr. Ork survives on the donations of others, owns no property, and lives in property owned by the Plaintiff. Mr. Ork does not have the ability to purge himself of contempt. Mr. Ork used the three checks at issue to pay the Plaintiff’s construction bills and did not personally retain any of the money he withdrew. Mr. Ork will have to serve five months in prison unless others step forward and donate to him the amounts set forth in the Contempt Order, which they are not obligated to do.

II. NOTICE AND MOTION TO RECONSIDER, ALTER, OR AMEND THE CONTEMPT ORDER

YOU WILL PLEASE TAKE NOTICE that pursuant to Rules 59 and 60 of the South Carolina Rules of Civil Procedure (“SCRCP”), the Defendant, Ron Ork, through his attorneys, will move before the Presiding Judge of the Common Pleas Court in Spartanburg County, Spartanburg, SC, at a date and time to be specified by the court, for an order that reconsiders, alters, or amends the Contempt Order dated January 7, 2015, the Order Granting Temporary Injunction dated April 21, 2014, and the Order Granting Temporary Injunction dated May 2014 to correct all errors of law and fact in those orders, which are more specifically set forth below:

1) The court erred by issuing a temporary injunction on April 21, 2014 (a) in violation of SCRCP Rule 65, (b) without providing notice to the Defendants prior to its issuance, (c) denying the Defendants an opportunity to be heard, (d) issuing the injunction without a bond, (e) ordering the parties to maintain a status quo that did not exist when the court signed the temporary injunction, and (f) failing to be “specific in terms.” (See *International Longshoremen Assn Local 1291 v. Philadelphia Marine Trade Association International Longshoremen Assn*

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Local 1291 v. Philadelphia Marine Trade Association, 389 U.S. 64, 88 S.Ct. 201, 19 L.Ed.2d 236 (1967); *AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 50, 674 S.E.2d 505, 508 (Ct. App. 2008))

2) The court erred by issuing a second temporary injunction filed on May 16, 2014 (a) in violation of SCRCF Rule 65, (b) without a bond, (c) that ordered injunctive relief not requested by the parties to the lawsuit, and (d) that failed to be “specific in terms.” (See *International Longshoremen Assn Local 1291 v. Philadelphia Marine Trade Association International Longshoremen Assn Local 1291 v. Philadelphia Marine Trade Association*, 389 U.S. 64, 88 S.Ct. 201, 19 L.Ed.2d 236 (1967); *AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 50, 674 S.E.2d 505, 508 (Ct. App. 2008))

3) The court erred by holding Ron Ork in contempt of the first temporary injunction because Ron Ork complied with the first temporary injunction when he “deposit[ed] any funds withdrawn on or after April 18, 2014 back into Plaintiff’s bank account within twenty-four (24) hours of [the] Order,” which is all the temporary injunction required him to do. (*International Longshoremen Assn Local 1291 v. Philadelphia Marine Trade Association International Longshoremen Assn Local 1291 v. Philadelphia Marine Trade Association*, 389 U.S. 64, 88 S.Ct. 201, 19 L.Ed.2d 236 (1967); *Welch v. Boyter*, 260 S.C. 418, 196 S.E.2d 496 (S.C., 1973); *County of Greenville v. Mann*, 556 S.E.2d 383, 347 S.C. 427 (S.C., 2001); *Phillips v. Phillips*, 341 S.E.2d 132, 288 S.C. 185 (S.C., 1986); *Western Carolina Regional Sewer Authority v. Bell*, 320 S.E.2d 487, 282 S.C. 646 (S.C. App., 1984))

4) The court erred by holding Ron Ork in contempt of the second temporary injunction because Ron Ork issued the last check in question on May 9, 2014, but the court did not file the second temporary injunction requiring the parties to agree on payment obligations until May 16, 2014, days after Ron Ork issued the last check. (See SCRCF Rule 58, *Serowski v. Serowski*, 381 S.C. 306, 315, 672 S.E.2d 589, 594 (Ct. App. 2009); *Ashenfelder v. City of Georgetown*, 389 S.C. 568, 698 S.E.2d 856 (S.C. App., 2010))

5) The court erred by awarding the Plaintiff \$3,500.00 in attorney’s fees because (a) the Plaintiff did not request attorney’s fees, (b) the court issued the Rule to Show Cause and not the Plaintiff, (c) the Rule to Show Cause did not mention that the court or Plaintiff were requesting attorney’s fees, (d) the Plaintiff did not file an affidavit for attorney’s fees, (e) there is no evidence on the record by which the court could evaluate the factors the court should consider when deciding whether to award attorney’s fees or the amount of such fees, and (f) Ron Ork is

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unable to pay \$3,500.00 of attorney's fees to the Plaintiff. (See *Williamson v. Middleton*, 649 S.E.2d 57, 374 S.C. 419 (S.C. App., 2007); *Buist v. Buist* (S.C., 2014))

The movant's counsel affirms that prior to filing the motions the movant's counsel has communicated, orally or in writing, with opposing counsel and has attempted in good faith to resolve the matters contained in the motions, consultation would serve no useful purpose, or could not be timely held.

The motions are based upon the applicable Rules of Court, applicable and South Carolina case law, the evidence on record, and any affidavits and/or memorandum which may be filed prior to the hearing. The movant further alleges that the movant is prompt in filing for relief, the existence of meritorious defenses, and the opposing party will not be adversely prejudiced.

Respectfully Submitted by:

A BUSINESS LAW FIRM, LLC


Thomas A. Belenchia, SCBar 2371
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T. Camden Shealy, SCBar 101447
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Larry E. Gregg II, SCBar 101215
leg@abizlaw.com
Attorneys for Defendants
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Spartanburg, SC 29304
Phone: (864) 699-9801
Fax: (864) 699-9803

January 13, 2015

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2015 JAN 13 PM 1:22
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 Spartanburg Buddhist Center of)
 South Carolina, Inc.,)
)
 Plaintiff,)
)
 Vs.)
)
 Ron Ork and Luke Dong,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS

CERTIFICATE OF SERVICE

RECEIVED
 FEB 25 2015
 SC Court of Appeals

Case No.: 2014-CP-42-1622

I, the undersigned for Ron Ork, do hereby certify that I have served all counsel and the lower court judge in this action with a copy of Ron Ork's NOTICES OF MOTIONS AND MOTION TO RECONSIDER, ALTER, OR AMEND THE CONTEMPT ORDER and MOTION FOR STAY OF EXECUTION OF THE CONTEMPT ORDER by mailing a copy of the same by United States Mail, postage prepaid, to the following addresses:

- a. The Honorable R. Keith Kelly
 125 E. Floyd Baker Blvd.
 Gaffney, SC 29340
- b. Scott F. Talley
 Talley Law Firm
 2500 Winchester Place, Suite 100
 Spartanburg, SC 29301

Thomas Camden Shealy
 T. Camden Shealy
 P. O. Box 3421
 Spartanburg, SC 29304
 Phone: (864) 699-9801
 Fax: (864) 699-9803

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2015 JAN 13 PM 1:22
 M. HOPE BLACKLEY

January 13, 2015

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.)

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.

CLERK OF COURT
SPARTANBURG COUNTY
2014 MAY 16 PM 4:24
M. HOPE BRADLEY

1 of 2
RKK

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

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 MAY 16 PM 4:24
M. HOPL. CLERKERY

2 of 2
RKX

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 Khiav 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: _____

FILED
 IN THE COURT OF
 COMMON PLEAS
 SPARTANBURG COUNTY
 2014 JUL 5 PM 2:47
 M. HOPE BRACKLEY

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

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)

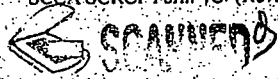
If applicable, describe the property, including tax map information and address, referenced in the order:

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)

M Hope Blackley
Not Notarized
M Hope Blackley - Clerk of Court

Court Reporter

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.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 JUL 25 PM 2:47
M. HOPE BLACKLEY

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

2014-CP-42-1622

Plaintiff,)

v.)

**ORDER GRANTING TEMPORARY
INJUNCTION**

Ron Ork and Luke Dong,)

Defendants.)

RECEIVED

FEB 25 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.

2014 APR 1 PM 4:25
M. H. P. BLACKLEY

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.

2014 APR 21 PM 3:25
M. H. P. BLACKLEY
BLOCKED IN ERROR

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

FILED
CLERK OF COURT
SPRINGFIELD, ILLINOIS
2014 APR 21 PM 4:25
M. HOPE BLACKLEY

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Case No. 2014-CP-42-01622

Spartanburg Buddhist Center of South Carolina, Inc.,

Respondent,

v.

Ron Ork and Luke Dong,

Appellants.

PROOF OF SERVICE

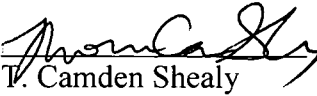
I, the undersigned attorney for the Appellants do hereby certify that I have served the Clerk of Court for the South Carolina Court of Appeals and all counsel in this action with a copy of the Notice of Appeal, Petition for Writ of Supersedeas and Expedited Ruling, Motion to Expedite Appeal, and a Proof of Service by mailing a copy of the same by United States Mail, postage prepaid, to the following addresses:

- a. Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211
- b. Scott F. Talley
Talley Law Firm
2500 Winchester Place, Suite 100
Spartanburg, SC 29301
(864) 595-2966
Attorney for Respondent
- c. Shannon M. Phillips
Talley Law Firm
2500 Winchester Place, Suite 100
Spartanburg, SC 29301

RECEIVED
FEB 25 2015
SC Court of Appeals

(864) 595-2966
Attorney for Respondent

A Business Law Firm, LLC,



T. Camden Shealy
P. O. Box 3421
Spartanburg, SC 29304
(864) 699 - 9801

February 25, 2015