

VIRGINIA:

IN THE CIRCUIT COURT FOR CAMPBELL COUNTY

CAMPBELL COUNTY REPUBLICAN COMMITTEE,)
)
Plaintiff,)
)
v.)
)
JOHN C. FERGUSON)
)
)
TRAVIS L. GRIFFIN,)
)
)
Defendants)

AMENDED COMPLAINT AND MOTION FOR INJUNCTIVE RELIEF

COMES NOW, your Plaintiff, Campbell County Republican Committee, by counsel, and makes the following Complaint for conversion and Motion for Injunctive Relief. In support of this filing, Plaintiff states as follows.

INTRODUCTION

1. This cause stems from the actions of Defendants after their removal as Chairman and Treasurer respectively, and as Members, of the Campbell County Republican Committee (“CCRC”), by the State Central Committee (“SCC”), the governing body of the Republican Party of Virginia (“RPV”), on August 16, 2014. Defendants continued to wrongfully write checks, and to direct and authorize the writing of such checks, on the CCRC bank account, thus unlawfully and knowingly converting CCRC property to their own uses.

STATEMENT OF FACTS

2. Following his removal, Griffin continued to write checks on the CCRC's bank account, although as a former and not a current member he was not authorized to do so.
3. Following his removal, Defendant Ferguson continued to purport to authorize Griffin to write the unauthorized checks, and eventually turned over all CCRC property in his possession to one Mr. Carl Weiser, after and despite being ordered by officials of RPV to return it to the Chairman of the CCRC, Les Williams.
4. Prior to August 16, 2014, the CCRC on March 20, 2014 held its biennial "mass meeting," for the purposes of electing new members to and a Chairman of, the CCRC, as well as to elect delegates to the Fifth Congressional District and Virginia State Republican Conventions.
5. At the March 20 mass meeting, Ferguson was apparently elected Chairman of the CCRC over incumbent Les Williams.
6. At the next CCRC meeting following the March, 2014 mass meeting, the new CCRC apparently elected at the mass meeting selected Defendant Griffin as Treasurer.
7. Within approximately two months of the mass meeting, former Chairman Les Williams and former Treasurer Dennis Johnson had turned over all CCRC property, including but not limited to membership records, donor records, meeting minutes, and the CCRC checkbook and financial records, to Defendants.
8. Within 30 days of the mass meeting, Williams filed a proper protest of the results of the mass meeting according to the rules specified in the Plan of Organization of the

Republican Party of Virginia (“Party Plan”), the governing document of RPV. (A copy of the Party Plan is attached as Plaintiff’s Exhibit 1.

9. On August 16, the appeal was considered by SCC, the highest governing body and appeal body of RPV, which is tasked by Article X.C of the Party Plan with the responsibility for final resolution of all party controversies which are duly appealed.
10. After hearing evidence from both sides and fully debating the evidence, SCC determined that Defendant Ferguson and his supporters had violated the mass meeting rules and Article I.A of the Party Plan, and overturned the results of the mass meeting.
11. Under RPV procedures, when a mass meeting to elect a new local GOP committee and Chairman is overturned, the previous committee and Chairman in place when the overturned mass meeting is convened are reinstated on a temporary basis, and ordered to conduct a proper mass meeting to determine a permanent Chairman and committee.
12. Therefore, at the adjournment of the August 16, 2014 SCC meeting, Defendant Ferguson and Defendant Griffin no longer served in any capacity as Chairman or Treasurer, or as members, of the CCRC. Williams and Johnson were automatically reinstated to those positions under RPV rules. Defendants Ferguson and Griffin were both present at the August 16, 2014 SCC meeting and were aware of the decision.
13. Thus, Defendants Ferguson and Griffin could rightfully take actions on behalf of the CCRC between March 20, 2014 and the conclusion of the SCC appeal hearing on August 16, 2014, but not thereafter.

14. Notwithstanding the SCC's final determination, Defendant Ferguson continued to act as though he remained Chairman of the CCRC after August 16, 2014.
15. Despite numerous email requests by RPV General Counsel Patrick McSweeney and RPV Executive Director Shaun Kenney (emails attached as Plaintiff's Exhibit B), Defendant Ferguson refused to turn the CCRC property, and in particular the CCRC checkbook, back over to Williams and Johnson after August 16, 2014.
16. Defendant Ferguson continued to authorize Defendant Griffin to make expenditures from the CCRC checkbook after August 16, 2014. A copy of a Sample Ballot for the 2014 elections, marked "Paid for and Authorized by Campbell County Republican Committee" is attached as Plaintiff's Exhibit C. This sample ballot and other copies handed out on Election Day, 2014, was paid for by Defendant Griffin on the CCRC account.
17. On September 2, 2014, Williams spoke to Defendant Griffin, requesting immediate return of the CCRC's checkbook and financial records, and Defendant Griffin responded that he refused to return anything until "directed to do so" by Defendant Ferguson.
18. On November 24, 2014, Defendant Griffin wrote Check #1036 on the CCRC account to one Mr. Gene Smith for \$298.45.
19. Defendant Griffin continued to write checks on the CCRC account, with the last cleared check being written on April 1, 2015, some eight months after being removed from being Treasurer or even a member of the CCRC.

20. The total amount of checks written and point of sale purchase transactions conducted by Defendant Griffin after being removed as Treasurer on August 16, 2014, which has cleared to date, is \$875.32.
21. Defendant Griffin also wrote numerous other checks against the account which remain outstanding to date.
22. In October, 2014, Defendant Ferguson filed suit against RPV and Williams, demanding reinstatement as Chairman.
23. On November 10, 2014, Judge J. Michael Gamble, in Campbell County Circuit Court, sustained with prejudice RPV's and Williams' demurrers, finding that RPV has a protected First Amendment freedom of association right to determine its own membership and disciplinary rules and declining to substitute the court's judgment of the March 2014 CCRC mass meeting for that of RPV.
24. At this point, neither Defendant could have continued to have a "good faith belief" that he was entitled to possess, disburse or transfer CCRC property.
25. On December 7, 2014, the Fifth District Republican Committee, in violation of RPV rules, purported to remove Williams and the CCRC reinstated by SCC, and purported to appoint Weiser and a new "committee" of 18 members for the CCRC.
26. The Fifth District had already been instructed in a binding ruling by RPV General Counsel Patrick McSweeney that it had no authority under the circumstances to remove or replace Williams or the CCRC. According to Article X.A.4 of the Party Plan, General Counsel rulings are binding unless overturned by SCC on appeal. The ruling was never appealed. A copy of the General Counsel ruling is attached as Plaintiff's Exhibit D.

27. After the Fifth District Committee's purported action, RPV Chairman Pat Mullins sent a letter to Fifth District GOP Chairman Jon Berkley, instructing him that Williams was still Chairman, and his CCRC members were still the members, of the CCRC, and that the purported installation of Weiser was null and void. A copy of the Mullins letter is attached as Plaintiff's Exhibit E.
28. On information and belief, before the end of 2014, Defendant Ferguson turned over all CCRC property, with the exception of the checkbook and financial records, to Weiser. Defendant Ferguson had no claim to the CCRC property, no right to transfer it to Weiser, who was also not properly a member of the CCRC, and no claim to any "good faith belief" that he had a right to dispose of the property to anyone other than Williams or Johnson, the Chairman and Treasurer of the CCRC. Defendant Ferguson never instructed Defendant Griffin to return the CCRC checkbook or financial records to the CCRC, without which instruction Griffin had informed Williams on September 2 he would refuse to return the property.
29. On January 10, 2015, as instructed by SCC on August 16, Williams called, and his CCRC held, the new mass meeting to select a permanent Chairman and members for the CCRC.
30. At the mass meeting, Eric Zehr was elected Chairman and over 100 new members were elected to the CCRC.
31. On January 21, 2015, SCC held its scheduled meeting, and declared the Fifth District GOP committee meeting defunct, due in part to Berkley's illegal attempt to remove Williams and install Weiser as Chairman.

32. New RPV Chairman John Whitbeck then appointed Senator William Stanley as the interim Fifth District GOP Chairman.
33. On February 15, 2014, Stanley issued a letter ruling that he recognized that Berkley's December 7, 2014 action had been illegal and in defiance of SCC's August 16, 2014 ruling. Stanley ruled that the Fifth District Committee, along with RPV, recognized Zehr as Chairman and his newly elected members as the CCRC, until the next scheduled mass meeting in 2016. A copy of the Stanley email ruling is attached as Plaintiff's Exhibit F.
34. On February 16, 2015, the CCRC met and elected a slate of officers, including Will Kirk as Treasurer to replace Defendant Griffin.
35. On or about March 19, 2015 Kirk reached out to Defendant Griffin by phone, to advise him that Kirk had been elected Treasurer of the CCRC, that Defendant was under a legal obligation to immediately return all CCRC monies, financial records and the CCRC checkbook, and that the CCRC would pursue all legal remedies to seek return of its property.
36. Defendant Griffin told Kirk to "take the matter up with Carl Weiser," and that he would return nothing until told to do so by Weiser.
37. As alleged in Paragraph 19, Griffin then continued to write checks on the CCRC account, until at least April 1, 2015.
38. On March 5, 2015, Weiser sent an email to Zehr indicating that he finally recognized that he was not Chairman of the CCRC. This email is attached as Plaintiff's Exhibit G.

39. Weiser thus conceded any authority to authorize writing checks on the CCRC account.
40. If there was no “good faith belief” that Weiser was Chairman, there could likewise be no “good faith belief” that Defendant Griffin was still Treasurer of the CCRC or had any authority to write checks on its account.
41. Yet on March 20, 2015, Weiser sent another email to Zehr stating, “We are in the process of issuing refunds of dues paid by those who joined CCRC after March 2014. Those must clear before we can take the next step.” This email is Attached as Plaintiff’s Exhibit H.
42. As alleged in Paragraph 19, Griffin then continued to write checks on the CCRC account, until at least April 1, 2015.
43. On April 20, Weiser finally emailed Zehr disclaiming any claim to the Chairmanship of the CCRC, its checkbook or the remaining amount in the bank account turned over by Weiser to Zehr. A copy of this email is attached as Plaintiff’s Exhibit I.
44. In that email, however, Weiser continued to state that the minutes of CCRC meetings between March 20, 2014, when Defendant Ferguson was apparently elected as Chairman of the CCRC, and August 16, 2014, when Defendant Ferguson was removed by SCC for violations of RPV rules, which minutes were and remain the rightful property of the CCRC and were wrongfully and knowingly transferred to Weiser by Defendant Ferguson, will not be returned.
45. The total amount of checks written and cleared to date, and point of sale transactions, by Defendant Griffin between his removal as Treasurer by SCC on August 16, 2014 and April 1, 2015, many of which were written at the instruction of Defendant

Ferguson, was \$875.32 thus far, excluding a number of checks for unknown amounts still outstanding. A list of these transactions is attached as Plaintiff's Exhibit J.

46. In that amount of \$875.32, therefore, plus interest, Defendants have thus far converted the property of the CCRC to their own benefit, in demonstrated knowing and willful defiance of their known obligation and in spite of their admitted lack of rightful claim to the funds.
47. Likewise, Defendants or their successors in interest remain in possession of five months of CCRC minutes, of meetings between March 20, 2014 and August 16, 2014, which were and remain the rightful property of the CCRC, and to which Defendants and their successors in interest, who are neither officers nor members of the CCRC have any "good faith claim."
48. Defendants also continue to operate a Facebook social media page purporting to be "the official page of the Campbell County Republican Committee," in contravention and disregard of the trademark rights of the CCRC and RPV, of which the CCRC is a constituent committee.

RELIEF REQUESTED

THEREFORE, Plaintiff prays this Court for the following relief:

1. An order commanding Defendants to pay restitution to the CCRC for the full amount of \$875.32 spent from CCRC funds after Defendants' removal as officers authorized to act for the CCRC on August 16, 2014, plus interest at the judgment rate of six percent (6%) per annum, until paid in full.
2. An order that Defendants immediately obtain and surrender to Plaintiff all CCRC meeting minutes of meetings between March 20, 2014 and August 16, 2014.

3. An order that Defendants immediately provide a complete, itemized accounting for all funds expended from the CCRC account after Defendants' removal as officers authorized to act for the CCRC on August 16, 2014.
4. An order that Defendants immediately return all CCRC property of any sort whatsoever, that may be in possession of Defendants, their successors in interest or in any place where Defendants may obtain possession of such property.
5. An injunction forbidding Defendants from any further use of the words "Campbell County Republican Committee" or any derivative thereof, or from otherwise representing themselves as being members of or speaking for the Campbell County Republican Committee in any manner whatsoever, including but not limited to social media, campaign advertisements or in any other manner.
6. An injunction ordering Defendants to provide proof that they have dismantled any social media presence by or upon which they claim to be, speak for or represent the Campbell County Republican Committee.
7. An order that Defendants pay Plaintiff's costs expended in enforcing Plaintiff's rights in this action, pursuant to § 8.01-190 of the Code of Virginia.
8. Such other and further relief as may seem to this honorable Court to be just and prudent.

Respectfully Submitted,

Campbell County Republican Committee

By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of July, 2015, I served the foregoing on counsel at the following via personal hand delivery.

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