

STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

IN THE COURT OF COMMON PLEAS

EIGHTH JUDICIAL CIRCUIT

C.A. No.: 2010-CP-01- 080

Dr. Richard Taylor, Dr. Parker Young, J. David Chesnut, and the Erskine Alumni Association,

Plaintiffs,

vs.

General Synod of the Associate Reformed Presbyterian Church, Inc.

Defendant.

TEMPORARY RESTRAINING ORDER

Emily Y. McMahon
CLERK OF COURT

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
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EMILY Y. MCMAHAN
CLERK OF COURT

Plaintiffs filed a motion for temporary restraining order pursuant to Rule 65(b) of the South Carolina Rules of Civil Procedure seeking to restrain the Defendant General Synod of the Associate Reformed Presbyterian Church, Inc. from assuming and exercising unauthorized authority, from assembling the Board of Trustees or the "Interim Board," and from attempting to remove from office fourteen members of the existing Board of Trustees of Erskine College.

Plaintiffs allege in their verified Complaint that Defendant has acted in contravention of authority granted by the Charter and Bylaws of Erskine College, as well as the authority prescribed in the Defendant's own Form of Government provisions. Plaintiffs further allege that Defendant has planned a trustees' meeting for March 17, 2010 to elect new officers and make substantial changes to Erskine's existing Bylaws, particularly as related to the composition of the Board of Trustees. In addition, Plaintiffs allege that the disruption in the

governance of the caused by Defendant's actions will interfere with and create unnecessary obstacles to its ongoing presidential search. Finally, Plaintiffs argue that the current members of the Board are facing substantial harm because their right to due process has been violated by the Defendant's attempt to summarily dismiss them without notice and without a hearing.

In *County Council of Charleston v. Felkel*, 348 S.C. 480, 483-84, 137 S.E.,2d 577, 578 (1964), the Supreme Court held that a temporary restraining order preserves the subject of a controversy in the condition that it is at the time of the order until an opportunity is offered for a full investigation, and preserves the status quo. Like any other injunction, a temporary restraining order requires a showing by the moving party of irreparable harm, a likelihood of success on the merits, and an inadequate remedy at law. *See County of Richland v. Simpkins*, 348 S.C. 664, 669, 560 S.E.2d 902, 904 (Ct. App 2002). Based on the facts presented to this Court, the Plaintiffs have satisfied the requirements for a temporary restraining order. Plaintiffs are likely to suffer irreparable harm if the actions of the Defendants are not immediately enjoined and the status quo is not preserved until a hearing on the merits can be conducted. Further, according to the Bylaws of the College, and the South Carolina Non-Profit Corporation Act, the Plaintiffs are likely to succeed on the merits of their claim. Finally, the Court finds no adequate remedy at law exists to prevent any further activity by the Defendant of the type sought to be enjoined or to compensate for any damages.

For these reasons, this Court hereby ORDERS the Defendant, its officers, agents, servants and employees, specifically and expressly including its moderator, to cease and desist from conducting any business or engaging in any transactions related to Erskine College for the ten days, or until a hearing can be conducted on the merits of Plaintiffs'

Motion for a Preliminary Injunction. The Court recognizes that the moderator of the Defendant has called for a meeting of the Interim Board to be convened by him on March 17, 2010. That meeting is **not** to occur until further order of this Court. This Order is intended to bind all those trustees, newly appointed or otherwise, who would participate in such meeting and who receive actual notice of this Order.

The Court further orders that for ten days from the date of this order, Defendant is prohibited from assembling the Board of Trustees, or its "Interim Board." The Defendant is further enjoined from exercising any authority or control, whether lawful or unlawful, which would affect the assets or property of Erskine or the composition or scope of authority of its existing Board of Trustees.

Defendant is further ordered to provide notice of this Temporary Restraining Order to those persons who are members of the purported Interim Board.

This Order is granted pursuant to the Rules and without notice to Defendant because the allegations of the verified Complaint show that Defendant plans to take immediate action and there is a possibility of irreparable harm to the interests of the Plaintiffs in the period before a Motion for Preliminary Injunction can be heard.

A hearing on Plaintiffs' Motion for Preliminary Injunction is scheduled for

MARCH 25, (date) at 11:00 AM (time) to be held at NEWBERRY COUNTY COURTHOUSE
2010

AND IT IS SO ORDERED.



Eugene C. Griffith, Jr.
Resident Judge, Eighth Judicial Circuit

Newberry, South Carolina
March 15, 2010
Time 12:50 pm