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# IN THE COURT OF COMMON PLEAS CUYAHOGA COUNTY, OHIO

INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
Plaintiff

EMANUEL SHEPPARD, ET. AL, ET AL  
Defendant

Case No: CV-17-879543

Judge: MICHAEL J RUSSO

## JOURNAL ENTRY

05/12/2017: CASE CALLED FOR HEARING ON PRELIMINARY INJUNCTION. COUNSEL FOR PLAINTIFF PRESENT, NEITHER DEFENDANTS NOR COUNSEL FOR DEFENDANTS APPEARED BY 10:55 A.M. AND THE HEARING COMMENCED. COURT REPORTER LORRAINE KLODNICK PRESENT. TESTIMONY AND EVIDENCE TAKEN. PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION GRANTED. OSJ.  
BENCH TRIAL SET FOR 08/16/2017 AT 10:00 AM.  
TRIAL BRIEFS; WITNESS LISTS; EXHIBIT LISTS; AND MOTIONS IN LIMINE ARE TO BE FILED AND COPIES DELIVERED TO THE COURTROOM OR STAFF ATTORNEY BY 08/02/2017.  
PURSUANT TO CIV.R. 58(B), THE CLERK OF COURTS IS DIRECTED TO SERVE THIS JUDGMENT IN A MANNER PRESCRIBED BY CIV.R. 5(B). THE CLERK MUST INDICATE ON THE DOCKET THE NAMES AND ADDRESSES OF ALL PARTIES, THE METHOD OF SERVICE, AND THE COSTS ASSOCIATED WITH THIS SERVICE.

**NO SIGNATURE REQUIRED**

Judge Signature

Date

**FILED**

2017 MAY 12 P 4: 08

CLERK OF COURTS  
CUYAHOGA COUNTY

IN THE COURT OF COMMON PLEAS  
FOR CUYAHOGA COUNTY, OHIO

**INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS,**

*Plaintiff,*

v.

**EMANUEL SHEPPARD *et. al,***

*Defendants.*

CASE NO. 17-CV-879543

Judge Michael J. Russo

**ORDER GRANTING PRELIMINARY  
INJUNCTION**

Plaintiff International Brotherhood of Teamsters ("IBT") appeared before the court on IBT's request that this court issue a preliminary injunction prohibiting the defendants from interfering, slowing, or stopping the IBT's representative from taking possession of certain property of former Teamsters Local Union No. 244 ("Local 244"), including but not limited to, books, documents, property, funds, credit cards, and all bank accounts. IBT is also seeking an order enjoining the defendants from accessing or controlling any other property of the former Local 244, including its books, documents, property, funds, credit cards, and bank accounts. Defendant Emmanuel Shephard did not appear.

The court finds that IBT successfully served defendant Emanuel Sheppard with notice of this preliminary injunction hearing and with a copy of the temporary restraining order that this court previously issued on April 28, 2017. IBT filed proof that service was perfect on May 11, 2017 through the declaration of Timothy Shaver, which IBT filed with the court on May 12, 2017. The court finds that Mr. Sheppard has had actual notice of the injunction since early May. The court heard live testimony from Patrick J. Darrow, Teamsters Joint Council 41 President. The court further incorporates the testimony and evidence from the hearing on the

temporary restraining order. For the following reasons, the court grants IBT the requested preliminary injunction.

### I. BACKGROUND

The IBT is a "labor organization" within the meaning of the Labor Management Relations Act of 1947, as amended, 29 U.S.C. §§ 141, *et seq.* and is headquartered in Washington, D.C. The IBT is the parent organization of several subordinate local and intermediate unions throughout the United States and Canada maintained in accordance with the provisions of the IBT Constitution.

Local 244 was a local union affiliated with and chartered through IBT, and was operating its principal office at 2800 Euclid Avenue, Cleveland, Ohio Suite 201, Cleveland, Ohio 44115. The IBT Constitution vests the IBT's General President with the authority to revoke a local union's charter. IBT Constitution, at Article IX, Section 2(a). By virtue of the IBT Constitution and its affiliation with the IBT, Local 244 recognized and acknowledged, among other things that:

...all books, documents, contracts, name, money, funds, and property of any nature and description which may be obtained, accumulated, and maintained [by Local 244]...will result, be obtained, accumulated or maintained by the granting of this charter and the rights and privileges thereunder; and that therefore, in the event that this charter is revoked, or this Local Union becomes defunct, all books, documents, contracts, name moneys, funds, and property shall belong to and shall be delivered to the International Union by it to be retained, as provided for in Article X, Sections 13 and 14 of the Constitution, until the charter is reinstated or a successor Local Union...or Local Unions...are chartered.

IBT Constitution, at Article VII, Section 3. The IBT Constitution provides as follows with respect to the disposition of a local union's property upon revocation of its charter by the IBT:

When the charter of a subordinate body is revoked, the subordinate body or its officers shall be required to turn over all books, documents, property, and funds

to the General President or his representative...should a subordinate body secede, disaffiliate, or dissolve or be dissolved, or be suspended, or forfeit its charter, then all books documents, property, and funds shall likewise be turned over to the General President or his representative...to be held until such time as the subordinate body may be reinstated or reorganized.

IBT Constitution, at Article X, Section 13.

IBT revoked Local 244's charter on April 25, 2017. Exhibit E. The letter from General President Hoffa revoking Local 244's charter also appoints Teamsters Joint Council 41 President Patrick J. Darrow as his personal representative for the purpose of supervising the recovery of Local 244's charter, as well as recovering Local 244's books, documents, property, funds, credit cards, and access to Local 244's bank accounts, as permitted under the IBT Constitution. *Id*

On April 27, 2017, Mr. Darrow, along with other representatives of Joint Council 41, visited Local 244 for the purpose of facilitating the revocation of the charter. Local 244's representatives refused to permit Mr. Darrow to retrieve the books, property, funds, credit cards, and other such property on behalf of the IBT. Ultimately, representatives of the former Local 244 called the City of Cleveland Police Department to disperse Mr. Darrow and his colleagues from the premises at 2800 Euclid Avenue, Cleveland, Ohio. The police officers indicated that because Local 244 is listed as the tenant, they had no choice but to order Mr. Darrow and the other IBT representatives to leave the premises. Before leaving, Mr. Darrow was able to retrieve the Local 244 charter but all other books, property, funds, credit cards, and other like property remained at 2800 Euclid Avenue, Ste. 201, Cleveland, Ohio.

As Mr. Darrow was denied the right to recover the property and materials in accordance with the IBT Constitution, the IBT filed a verified complaint with this court. The verified

complaint alleges three (3) separate counts against defendants: (i) civil trespass; (ii) conversion; and (iii) a claim for injunctive relief.

On April 28, 2017, this court issued a temporary restraining order, which became effective upon IBT posting a \$50,000 surety bond. IBT obtained and posted the required bond with the clerk of this court that day. Subsequently, through the temporary restraining order, IBT gained access to the office space of the former Local 244, secured the premises, and obtained various books, records, and other property that were maintained at the premises. IBT took further action to gain control of the former Local 244's various accounts. Patrick J. Darrow testified on May 12, 2017 that, although the temporary restraining order was sufficient to prevent officers and employees of the former Local 244 from accessing certain accounts, Huntington National Bank requires a further order to give IBT control of the accounts of the former Local 244. Mr. Darrow also testified that he believes that Mr. Sheppard and others likely possess additional funds, property, documents, records, items, and information of value that belong to the former Local 244.

## II. DISCUSSION

In order to obtain a preliminary injunction, the movant must demonstrate: 1) a likelihood of success on the merits; 2) a threat of irreparable harm with no adequate remedy at law; 3) the harm to the defendant in granting the order is less severe than the harm that would be experienced by the plaintiff; 4) the injunction benefits the public good. *Gould v. Chesapeake & O. Ry.*, 10 Ohio N.P.(n.s.) 129, 21 Ohio Dec. 733 (C.P.1910).

The court finds that the plaintiff has a likelihood of success on the trespassing and conversion claims. The IBT has demonstrated that it has the right to possess and retrieve the books, documents, property, funds, credit cards, and all bank accounts of the former Local 244.

See, Exhibits A-E. The IBT Constitution makes this clear. See, *International Brotherhood of Teamsters v. United States*, 275 F.2d 610, 613 (4th Cir. 1960); *Michigan Teamsters Joint Council v. Bufalino*, 626 F.Supp. 51 (E.D. Mich. 1985); *Local No. 1 (ACA) v. International Brotherhood of Teamsters*, 461 F.Supp. 961 (E.D. Pa. 1978) *affirmed in part and reversed in part on other grounds*, 614 F.2d 846 (3rd Cir. 1980). Local 244's charter was revoked by the IBT in accordance with the internal union processes. Consequently, the right of ownership of such property has passed to the IBT. IBT General President Hoffa appointed Mr. Darrow as his personal representative for the purpose of retrieving such property. Hence, Mr. Darrow has the right to immediately access and obtain the books, documents, property, funds, credit cards, and all bank accounts of former Local 244, including those that are located at 2800 Euclid Avenue, Cleveland, Ohio. The defendants have no right to restrain, interfere, or delay his actions in this respect.

The court finds that leaving the books, documents, property, funds, credit cards, and bank accounts in the possession of the defendants continues to expose the IBT, on behalf of the former members of Local 244, to immediate and irreparable harm. As well, to the extent that Mr. Sheppard possesses or has access to such property, IBT is also exposed to immediate and irreparable harm. The defendants have no right or claim to such property or assets, and there can be no dispute that the items here at issue are extremely sensitive. The court finds that allowing such sensitive assets to remain in the possession of the defendants would, in fact, expose the IBT to the risk of immediate and irreparable injury. And although IBT has recovered a significant number of documents and records from the former Local 244, they have not yet been able to close and transfer funds from certain accounts, including the account of the former Local 244 at Huntington National Bank. Furthermore, to the extent that Mr. Sheppard

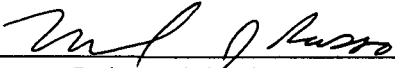
possesses or has access to any of such documents, records, and/or property of the former Local 244, IBT will continue to be exposed to immediate and irreparable harm. Any harm suffered by Mr. Sheppard will not be greater than the harm suffered by the local members and the IBT should the court fail to grant the injunctive relief. The public interest will be served by maintaining the status quo as the charter has been returned to the IBT and the membership can be distributed to other unions so that members can be granted all the protections that they bargained for under the law.

This court hereby issues a preliminary injunction enjoining the defendants and all persons acting by and for them from:

- (1) Interfering with, slowing, preventing, or stopping IBT's representative from taking possession of former Teamsters Local Union No. 244's books, documents, property, funds, credit cards, and all bank accounts, wherever that property may be located;
- (2) Accessing or controlling any other property of the former Local 244, including but not limited to its books, documents, property, funds, credit cards, and bank accounts;
- (3) Huntington National Bank is ordered to give control, including the authority to withdraw or transfer funds and to close the account(s) opened in the name of Teamsters Local Union No. 244, to Patrick J. Darrow on behalf of the International Brotherhood of Teamsters; and
- (4) Emanuel Sheppard is directed to return any and all documents, records, property, and/or any other item or information of value, including account, computer, and program passwords belonging to the former Teamsters Local Union No. 244 to Patrick J. Darrow, representative of the International Brotherhood of Teamsters. If Mr. Sheppard has no such items, or knows of no person with such items, he is directed to submit a sworn statement confirming same to this court.

It is further ordered that this preliminary injunction order shall remain in full force and effect until the trial on the merits, set for August 16, 2017 at 10:00 a.m. in courtroom 17-C.

IT IS SO ORDERED.

  
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Judge Michael J. Russo