



Although the McFarland Group may try to “spin” court orders, the Court’s recent order enjoining the sale, encumbrance (i.e., mortgaging), or alienation (i.e., disposing of the property in any way) is very clear. Below is the exact language of the Court order with a bit of "bolding" to point out what the facts are. This injunction encompasses **BOTH Real & Personal Property**. **As always, please read the documents rather than simply relying on the “spin.”** If you have any questions please don't hesitate to contact me **\*\*@ 760-310-6500** or [ekomski@CAStateGrange.org](mailto:ekomski@CAStateGrange.org)

Order is and SUPERIOR COURT OF CALIFORNIA,  
MINUTE ORDER  
TIME: 10:38:00 AM  
JUDICIAL OFFICER PRESIDING: Steven H Rodda  
COUNTY OF SACRAMENTO  
GORDON D SCHABER COURTHOUSE  
DATE: 10/20/2015 DEPT: 53  
CLERK: P. Banks

CASE NO: 34-2012-00130439-CU-MC-GDSCASE INIT.DATE: 10/01/2012  
CASE TITLE: The National Grange of the Order of Patrons of Husbandry vs. The California State Grange

CASE CATEGORY: Civil - Unlimited  
APPEARANCES Nature of Proceeding: Motion for Preliminary Injunction

## TENTATIVE RULING

Plaintiff National Grange's Motion for Preliminary Injunction is **GRANTED**.

On September 8, 2015, this Court entered an Order granting Plaintiff National Grange's Motion for Summary Judgment against the Now Unchartered State Grange on the complaint.

In the Order, the Court found that "based on the National Grange's Digest of Laws, the Now Unchartered State Grange's Charter, Constitution, Articles of Incorporation, Bylaws, and participation in the Order, the Court finds that the Now Unchartered State Grange has the obligation to transfer to the Newly Chartered State Grange all Grange property in its possession or control as of the date its charter was revoked.

"Moving party National Grange seeks a narrow preliminary injunction to preclude the defendant Unchartered State Grange from wasting Grange assets until the case is finally adjudicated. Specifically, **the request is to enjoin the transfer or encumbrance or alienation of assets to third parties, except for normal expenses and bills**. In the absence of full information as to the identity of all the relevant assets, **the National Grange seeks an injunction encompassing (a) the 3831 U Street, Sacramento Grange headquarters, (b) the accounts at Wells Fargo Bank and Morgan Stanley/Smith Barney and (c) real property titled in the name of inactive or defunct Subordinate Granges but held by the Unchartered State Grange**.

### Jurisdiction

On October 2, 2015, defendant Unchartered State Grange dismissed its cross-complaint and filed a Notice of Appeal from this Court's Order granting summary judgment for the National Grange. No final Judgment of dismissal has been filed in this action.

This Court does not agree with the opposing party's contention that the Court lacks jurisdiction to determine this motion based upon the filing of the Notice of Appeal. As numerous published appellate opinions have pointed out, including from the

Third Appellate District, an order granting summary judgment is not an appealable order. (Modica v. Merin (1991) 234 Cal.App.3d 1072, 1073; Levy v. Skywalker Sound (2003) 108 Cal.App.4th 753, 761, fn. 7.)

## Factors

In deciding whether to issue a preliminary injunction, a court must weigh two "interrelated" factors: **(1) the likelihood that the moving party will ultimately prevail on the merits and (2) the relative interim harm to the parties from issuance of the injunction. The greater the plaintiff's showing on one, the less must be shown on the other to support an injunction.** Butt v. State of California (1992) 4 Cal.4th 668,677-678. A preliminary injunction may not be granted, regardless of the balance of interim harm, unless it is reasonably probable that the moving party will prevail on the merits. San Francisco Newspaper Printing Co. v. Superior Court (1985) 170 Cal. App. 3d 438, 442.

### 1) Likelihood of Prevailing On the Merits

The National Grange has prevailed on its Motion for Summary Judgment against the Unchartered State Grange, by Court order dated August 18, 2015. In that order, the Court held that based upon the Now Uncharted State Grange's Charter, Constitution, Articles of Incorporation, Bylaws, and participation in the Order, the Now Uncharted State Grange has the obligation to transfer to the Newly Chartered State Grange all Grange property in its possession or control as of the date its Charter was revoked. (April 5, 2013)

The instant motion seeks to prevent dissipation of Grange assets which the Court has determined on summary judgment that the Unchartered State Grange must turn over to the Chartered State Grange.

As the Cross-complaint of the Unchartered State Grange against the National Grange for conversion of or tortious interference with the payment of annual dues to the Unchartered State Grange has been voluntarily dismissed, the Court need not consider the merits of those cross-claims.

The Court is unpersuaded that the National Grange's failure to allege a cause of action for injunctive relief, as opposed to declaratory relief, precludes this motion. No authority for that proposition has been cited by opposing party.

## 2) Relative Interim Harm to the Parties

The instant motion seeks to prevent dissipation of Grange assets which the Court has determined on summary judgment that the Unchartered State Grange must turn over to the Chartered State Grange.

Moving party has submitted admissible evidence that on August 23, 2015, the Unchartered State Grange, through McFarland, to its membership, threatened that: "The sad truth is this legal battle is far from over, even though the National Master wants you to believe it is. **With appeals, this conflict could go on for several more years, or until one side or the other runs out of money.**" (Jensen Dec., Exh.B.)

In an August 28, 2015 communication by the Unchartered State Grange, to its membership, it stated that "It is worth noting that our legal defense is mostly paid for by our insurance." (Jensen Dec., Exh. C.)

This Court has already determined as a matter of law that the Now Unchartered State Grange has the obligation to transfer to the Newly Chartered State Grange all Grange property in its possession or control as of the date its Charter was revoked.

The requested preliminary injunction is to prohibit defendants from transferring, depleting, exhausting, depreciating, hypothecating or encumbering the Grange's property, with the exception of the payment of routine bills, regularly scheduled payments, and maintenance costs related to real property.

**The sole "injury" identified by defendants is their potential inability to fund their continuing litigation.**

**The Court finds that the moving party has shown a much greater likelihood of relative interim harm than defendants.**

The Court grants the preliminary injunction and will sign the formal order provided.

#### COURT RULING

The matter was argued and submitted. The matter was taken under submission.

#### **COURT RULING ON SUBMITTED MATTER**

**Having taken the matter under submission on 10/19/15, the Court now rules as follows: The Court affirmed the tentative ruling.**

