

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

ALLEN L. DAVIS,	:	APPEAL NO. C-100087
Plaintiff-Appellee,	:	TRIAL NOS. A-0501565
	:	A-0809101
vs.	:	<i>JUDGMENT ENTRY.</i>
CNG FINANCIAL CORPORATION,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

This case between plaintiff-appellee Allen Davis and defendant-appellant CNG Financial Corporation (“CNG”) centers on a preliminary injunction granted by the trial court on October 30, 2008, and a follow-up “order” issued by the trial court on January 29, 2010. The original injunction was issued because the trial court had found that CNG was interfering with Davis’s statutory rights as a shareholder.² It stated that CNG was causing irreparable injury to Davis by denying him access to basic financial information. It further provided that Davis was entitled to inspect 14 specific categories of CNG’s books and records of account to be fully informed of CNG’s current financial condition. The injunction was to last “from day to day during normal business hours until completed.” The 2010 follow-up order was entered after the court had held a status conference and oral hearing involving the

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² Davis owns approximately 28% of CNG’s outstanding shares.

two parties, and it was, essentially, intended to enforce the 2008 injunction. The 2010 order stated in part, “CNG shall make all of its books and records of account available to Allen Davis and his representatives for inspection[.] * * * The materials to be inspected shall include all of CNG’s ledgers, journals, financial statement and reports, and the backup material for each of the items identified in the [2008 injunction]. CNG shall not self select edit or abridge any of the documents and materials. Failure to comply with this order will result in sanctions.”

CNG declined to appeal the court’s issuance of the 2008 injunction, but it has now appealed the court’s follow-up order, asserting three assignments of error. In short, CNG views the 2010 order as nothing less than yet another injunction disguised as an enforcement of the original 2008 injunction. Initially, however, we must determine whether the trial court’s 2010 order is a final appealable order.

Pursuant to R.C. 2505.03(A), appellate courts have jurisdiction to review only final orders, judgments, or decrees. CNG argues that the 2010 order is a final appealable order because it satisfies both parts of R.C. 2505.02(B)(4). Under R.C. 2505.02(B)(4), a provisional remedy, such as a temporary restraining order (“TRO”) or an injunction, is final and appealable if both (1) “the order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy” and (2) “the appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action.” CNG asserts that, by nature, a TRO or a preliminary injunction satisfies the first part of the statute. As to the second part, CNG specifically argues it would not be afforded a meaningful or effective remedy following a full resolution of the lawsuit because the 2010 order requires CNG to divulge confidential financial information to Davis. CNG contends that because Davis currently has other litigation pending

against CNG, this information will ultimately be used against it in those lawsuits. In addition, CNG asserts, it will be irreparably harmed due to the time and allocation of company resources needed to comply with the 2010 order.

It is clear that the 2010 order is not a final appealable order. The 2010 order merely enforces the 2008 injunction and does not amend the injunction in any way. It simply reiterates that Davis is entitled to inspect the CNG documents previously named in the 2008 injunction and emphasizes that CNG may be sanctioned if it fails to comply. Obviously, a court is entitled to enforce its own orders.³

CNG's argument that Davis will have unfettered access to confidential information is also misplaced. The 2008 injunction clearly states that Davis may not share any of the information obtained unless he first obtains leave from the court. Therefore CNG's assertion that it will not have a meaningful or effective remedy in the absence of an immediate appeal from the 2010 enforcement order is incorrect.

We hold that the trial court's January 29, 2010, enforcement order is not a final appealable order. Therefore, CNG's appeal is dismissed.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., DINKELACKER and MALLORY, JJ.

To the Clerk:

Enter upon the Journal of the Court on November 19, 2010

per order of the Court _____.
Presiding Judge

³ *Wind v. State* (1921), 102 Ohio St. 62, 64, 130 N.E. 35.