

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS

JOLIET TOWNSHIP ROAD DISTRICT,)
)
 Plaintiff,)
)
 v.) Case No.
)
 JOLIET TOWNSHIP AND DANIEL L.)
 VERA,)
)
 Defendants,)

**COMPLAINT FOR BREACH OF FIDUCIARY DUTY, CONSTRUCTIVE FRAUD,
DECLARATORY RELIEF, AND EMBEZZELMENT**

NOW COME Plaintiff, JOLIET TOWNSHIP ROAD DISTRICT, by and through its attorney, LAW OFFICES OF ROBERT T. HANLON & ASSOCIATES, P.C., with its Complaint for Breach of Fiduciary Duty, Constructive Fraud, Declaratory Relief, and Embezzlement against Defendants, JOLIET TOWNSHIP AND DANIEL L. VERA, and in support of its complaint, states as follows:

PARTIES, VENUE AND JURISDICTION

1. Plaintiff, JOLIET TOWNSHIP ROAD DISTRICT (hereinafter "ROAD DISTRICT"), is a public body organized under the laws of the State of Illinois. The ROAD DISTRICT is governed by the Joliet Township Highway Commissioner.

2. Defendant, JOLIET TOWNSHIP (hereinafter "TOWNSHIP"), is a separate distinct unit of government from the ROAD DISTRICT and is organized under the laws of the State of Illinois.

3. Defendant, DANIEL L. VERA (hereinafter “VERA”), resides in Joliet Township, Will County, Illinois, and is the duly elected Supervisor of Joliet Township. As the elected Township Supervisor, VERA is the Treasurer of the ROAD DISTRICT.

4. This Court has jurisdiction over the disputes and controversies alleged herein on the basis that the claims arose here in Will County, Illinois and the ROAD DISTRICT is a unit of government in Will County and the TOWNSHIP is a separate unit of government situated within Will County.

5. Venue is proper in Will County because all of the parties to this action reside or are situated wholly within Will County, Illinois. Moreover, pursuant to 735 ILCS 5/2-101 venue is proper in Will County because the two units of government (ROAD DISTRICT and TOWNSHIP) are situated in Will County.

SHORT STATEMENT OF THE CASE / INTRODUCTION

6. This complaint contains four counts. Counts I, II and III are directed against the TOWNSHIP. Count IV is directed against VERA. Count I is for breach of fiduciary duty arising from the payment of ROAD DISTRICT funds for uses not benefiting the ROAD DISTRICT; Count II is a claim sounding in constructive fraud; and Count III sounds in the Declaratory Relief Act. Counts I and II are pled in the alternative to each other. Counts I and II seek return of ROAD DISTRICT monies that the TOWNSHIP has wrongfully acquired or spent. Count III of the complaint sounds in the Declaratory Relief Act and seeks not only a declaration of rights but also injunctive relief because TOWNSHIP has wrongfully exercised power over the ROAD DISTRICT entering agreements on behalf of the ROAD DISTRICT without any authority.

FACTS APPLICABLE TO ALL COUNTS

7. VERA was sworn in as Joliet Township Supervisor, which in turn, by law, made VERA the Treasurer of the ROAD DISTRICT.

8. Upon information and belief, at a time unknown, but believed to have commenced in 2016, VERA began paying expenses of the TOWNSHIP from the accounts of the ROAD DISTRICT.

9. Recorded in the records of the TOWNSHIP is a resolution purporting to have been enacted on December 12, 2017 and identified as resolution “2017-08” adopting a resolution which states in pertinent part:

NOW, THEREFOR BE IT RESOLVED by the Supervisor and Board of Trustees that Joliet Township assumes the functions of the district and accepts all the rights, powers, duties, assets, property, liabilities, indebtedness', obligations, bonding authority, and taxing authority.

10. Despite the statutory requirement to hold a referendum to absorb units of government, no referendum was voted upon by the People of Joliet Township to absorb the East Joliet Lighting District into the TOWNSHIP.

11. After the TOWNSHIP unlawfully acquired the East Joliet Lighting District it commenced paying ComEd invoices from ROAD DISTRICT accounts.

12. On or about March 20, 2019, the TOWNSHIP enacted resolution 2019-02 entitled: TRANSFER OF FUNDS AND AUTHORITY OF THE EAST JOLIET LIGHTING DISTRICT FROM GENERAL TOWN TO ROAD DISTRICT.

13. Contained in the resolution 2019-02 is the statement:

“NOW THEREFORE BE IT RESOLVED by the supervisors and Board of Trustees that Joliet Township Road District assumes the functions of the Lighting District and accepts all the rights powers,

duties, assets, property liabilities, indebtedness, obligations, bonding authority and taxing authority.”

14. The TOWNSHIP lacks any authority to adopt any resolution on behalf of the ROAD DISTRICT.

15. Also contained in resolution 2019-02 is the following statement:

WHEREAS, the Will County State's Attorney has rendered an opinion that these funds should perhaps more appropriately go to the Joliet Township Road District since the lights are along the roadways of the District;

16. However, the Will County State’s Attorney has never delivered any written opinion concerning the East Joliet Lighting District or that its funds ought to go to the ROAD DISTRICT. The Will County State’s Attorney’s office maintains no record of issuing any legal opinion concerning the funds associated with the former lighting district.

17. The Joliet Township Highway Commissioner never signed any resolution or intergovernmental agreement transferring the East Joliet Lighting District previously purportedly absorbed into the TOWNSHIP to the ROAD DISTRICT.

18. The TOWNSHIP has no authority to command acceptance of a lighting district into the ROAD DISTRICT. Moreover, the Illinois Highway Code contains no provision for the absorption of a lighting district into a Road District.

19. Both before and after adopting resolution 2019-02, VERA caused to be disbursed from the ROAD DISTRICT account monies to pay obligations of the TOWNSHIP and the obligations of East Joliet Lighting District.

20. Upon information and belief, VERA comingled the funds of the ROAD DISTRICT and those of the TOWNSHIP.

21. VERA and the TOWNSHIP have the power to return the monies of the ROAD DISTRICT to the ROAD DISTRICT, but have failed to do so.

22. As a direct and proximate cause of the fact that VERA placed the funds of the ROAD DISTRICT into accounts of the TOWNSHIP, a separate unit of government, the ROAD DISTRICT was denied the use of its funds.

23. Upon information and belief, as part of VERA'S scheme and artifice to wrongfully exercise control over the ROAD DISTRICT and its employees, VERA received the benefit of the work of ROAD DISTRICT employees and free use of ROAD DISTRICT equipment with the ROAD DISTRICT employees performing labor on a property owned either directly or indirectly by VERA. More specifically, ROAD DISTRICT employees performed excavation work and supplied labor repairing a retaining wall and setting concrete at the expense of the ROAD DISTRICT on a property owned by VERA.

24. As recently as October 2019, VERA attempted to coerce Highway Commissioner, Michael Turnbull, into terminating employees that had completed work on VERA'S private property in an effort to silence those employees from disclosing the fact that they were employed by the ROAD DISTRICT and performed work on property owned by VERA, using ROAD DISTRICT equipment during regular working hours.

25. In addition to completing work on VERA'S building and retaining wall, equipment and employees from the ROAD DISTRICT were used to move concrete pots upon VERA'S demands.

26. Through a pattern of conduct VERA obtained other benefits not included in his lawfully authorized compensation including but not limited to reduced assessments on property that VERA has a pecuniary interest. The reduction in assessments arose during the period

VERA was supervisor. One of his properties located at the northeast corner of Hickory and Jefferson Streets in Joliet, Illinois was improperly assessed. The improper assessment included omitting residential areas from the assessment and omitting air conditioning in order to create a reduced assessment. The reduced assessment deprived the ROAD DISTRICT from receiving the full amount of taxes that would have been due to be paid according to the ROAD DISTRICT levy.

27. **Authorization and Instigation:** The aforementioned unlawful conduct consisting of the misappropriation of government funds and assets has occurred with and at the authorization, sanction, advice, encouragement, and or instigation of Defendants.

28. **Damages, Damages, Irreparable Injury and Need for Injunctive Relief:** If Defendants and their agents and employees are not restrained from asserting power and control over the ROAD DISTRICT, the ROAD DISTRICT will suffer additional irreparable harm in that the division of government as defined by the legislature will be undermined and the levy of the ROAD DISTRICT will continued to be unlawfully misappropriated and the ROAD DISTRICT will have lost the right to be governed in accordance with the laws of the State of Illinois.

29. **Injunction is in the Public Interest:** An injunction is in the public interest because Defendants' unlawful conduct creates a threat to right of the sovereign (the People) to control the unit of government. Additionally, the policy objectives associated with protecting the form of government and the power of the ROAD DISTRICT to be administered by the Highway Commissioner in accord with Illinois law. In the absence of injunctive relief the assertion of power by the TOWNSHIP over the ROAD DISTRICT will undermine the separation of the units of government which is the statutory construct designed by the People. It is in the public

interest to protect the established unit of government in accord with the laws of the State of Illinois.

30. **No Adequate Remedy at Law:** Plaintiff has no adequate remedy at law. No amount of money can make the ROAD DISTRICT whole. This is because the ROAD DISTRICT has suffered, continues to suffer, and will continue to suffer an injury by way of interference with the independent unit of government. Further, because the unlawful conduct complained of herein is of an ongoing and continuing nature, it is impossible to ascertain when the TOWNSHIP'S unlawful conduct will end.

31. **Balancing of the Rights Interests and Injuries:** The balancing of the interests of the parties is entirely in favor of the ROAD DISTRICT. This is because the activities which the ROAD DISTRICT seeks to restrain are unlawful acts to begin with, and that the denial of injunctive relief would serve to require the ROAD DISTRICT to suffer additional injury. In fact, the TOWNSHIP will suffer no injury if restrained from converting or spending ROAD DISTRICT funds for uses not authorized by the ROAD DISTRICT.

32. **Prior Application:** The ROAD DISTRICT has not made prior application for injunctive relief to this Court or any other court based upon the same set of facts as alleged herein.

33. **Need for Temporary Relief:** The ROAD DISTRICT has suffered and will continue to suffer irreparable harm and irreparable injury, as described herein, unless a restraining order is issued restraining Defendants from diverting ROAD DISTRICT power to the TOWNSHIP.

COUNT I
BREACH OF FIDUCIARY DUTY

34. Plaintiff incorporates the allegations of paragraphs 1-33 above in this Count I as if fully restated herein.

35. When a principal-agent relationship is present, a fiduciary relationship arises as a matter of law. *State Security Insurance Co. v. Frank B. Hall and Co.*, 258 Ill.App.3d 588, 595, 196 Ill.Dec. 775, 630 N.E.2d 940 (1994).

36. VERA was an agent of the ROAD DISTRICT at all times relevant to this complaint.

37. The agency of VERA to the ROAD DISTRICT arose by virtue of his position as the ex-officio Treasurer of the ROAD DISTRICT but pursuant to statute must be sued in the name of the TOWNSHIP and not in his official capacity.

38. A claim for breach of fiduciary duty must allege two elements: (1) a fiduciary relationship, and (2) a breach of the duties imposed as a matter of law as a result of that relationship. *Miller v. Harris*, 2nd Dist. (2013) 985 N.E.2d 671, 368 Ill.Dec. 864. Here, Plaintiffs have alleged the existence of a fiduciary relationship by virtue of VERA serving as the Treasurer to the ROAD DISTRICT. The breach of each of his fiduciary duties arose by paying out ROAD DISTRICT funds for services the ROAD DISTRICT was not obligated to pay. Moreover, the duty of VERA to hold the funds of the ROAD DISTRICT for public uses of the ROAD DISTRICT was breached by virtue of his delivery of payment to ComEd for expenses of the TOWNSHIP.

39. As a direct and proximate cause of the breach of the fiduciary duties detailed above, the ROAD DISTRICT suffered an injury in that its funds were used to pay the obligations of another unit of government.

WHEREFORE, Plaintiff, JOLIET TOWNSHIP ROAD DISTRICT, prays that this

Honorable Court grant the following relief:

- A) Enter judgment for compensatory damages against Defendant, JOLIET TOWNSHIP, in an amount to be determined at the trial of this case;
- B) Order Defendant, JOLIET TOWNSHIP, to cause all funds belonging to JOLIET TOWNSHIP ROAD DISTRICT to be returned to an account of the JOLIET TOWNSHIP ROAD DISTRICT;
- C) Order Defendants, JOLIET TOWNSHIP AND DANIEL L. VERA, to terminate payments for the East Joliet Lighting District's obligations or the TOWNSHIP'S obligations from the ROAD DISTRICT accounts;
- D) Enjoin Defendants from using ROAD DISTRICT funds to pay any obligation of JOLIET TOWNSHIP or the East Joliet Lighting District;
- E) Issue preliminary injunctive relief prohibiting the use of ROAD DISTRICT funds to pay any obligation of JOLIET TOWNSHIP or the East Joliet Lighting District; and
- F) For such other and further relief as this Court deems just and equitable.

COUNT II
CONSTRUCTIVE FRAUD

40. Plaintiff incorporates the allegations of paragraphs 1-39 above in this Count II as if fully restated herein.

41. Where there is a breach of a legal or equitable duty arising out of a fiduciary relationship, a presumption of constructive fraud arises. *Vermeil*, 176 Ill.App.3d at 564, 126 Ill.Dec. 603, 532 N.E.2d 288.

42. Defendants had a legal duty to maintain the accounts of the ROAD DISTRICT in the name of the ROAD DISTRICT, but failed to do so and placed money belonging to the ROAD DISTRICT in the name of the TOWNSHIP.

43. Defendants' legal duty is to maintain the accounts of the ROAD DISTRICT in the name of the ROAD DISTRICT, which arose from a fiduciary relationship with the ROAD DISTRICT as VERA serves as its Treasurer.

44. VERA'S duty as Treasurer mandates that the funds of the ROAD DISTRICT only be used to make payment for the obligations of the ROAD DISTRICT.

45. Defendants comingled the funds of the TOWNSHIP with the funds of the ROAD DISTRICT.

46. By comingling ROAD DISTRICT monies with TOWNSHIP monies, the division of the respective units of Government (TOWNSHIP and ROAD DISTRICT), the ROAD DISTRICT is impaired in its operation as a unit of government.

47. Because upon information and belief VERA placed the ROAD DISTRICT'S money into an account in the name of the TOWNSHIP, as opposed to the ROAD DISTRICT, and paid obligations of either the East Joliet Lighting District or the TOWNSHIP the Plaintiff suffered a pecuniary injury.

WHEREFORE, Plaintiff, JOLIET TOWNSHIP ROAD DISTRICT, prays that this Honorable Court grant the following relief:

- A) Enter judgment for compensatory damages against Defendant, JOLIET TOWNSHIP, in an amount to be determined at the trial of this case;
- B) Order Defendant, JOLIET TOWNSHIP, to cause all funds belonging to JOLIET TOWNSHIP ROAD DISTRICT to be returned to an account of the JOLIET TOWNSHIP ROAD DISTRICT;
- C) Order Defendants, JOLIET TOWNSHIP AND DANIEL L. VERA, to terminate payments for the East Joliet Lighting District's obligations or the TOWNSHIP'S obligations from the ROAD DISTRICT accounts;
- D) Enjoin Defendants from using ROAD DISTRICT funds to pay any obligation of JOLIET TOWNSHIP or the East Joliet Lighting District;

- E) Issue preliminary injunctive relief prohibiting the use of ROAD DISTRICT funds to pay any obligation of JOLIET TOWNSHIP or the East Joliet Lighting District; and
- F) For such other and further relief as this Court deems just and equitable.

COUNT III
DECLARATORY AND INJUNCTIVE RELIEF

48. Plaintiff incorporates the allegations of paragraphs 1-39 above in this Count III as if fully restated herein.

49. The TOWNSHIP is opposing ROAD DISTRICT'S legal interest by adopting ordinances and resolutions mandating absorption of the East Joliet Lighting District into the ROAD DISTRICT.

50. The TOWNSHIP is opposing ROAD DISTRICT's legal interest by disbursing funds from the ROAD DISTRICT to pay for electricity associated with the East Joliet Lighting District.

51. The TOWNSHIP and ROAD DISTRICT have opposing interests related to the TOWNSHIP facilitating a scheme and artifice to reduce the taxation on property owned by VERA.

52. An actual controversy exists between the ROAD DISTRICT and the TOWNSHIP. Despite the TOWNSHIP lacking any authority to absorb the East Joliet Lighting District into the TOWNSHIP and then directing the ROAD DISTRICT to absorb said Lighting District, TOWNSHIP adopted resolutions purporting to exercise such power.

Wherefore, Plaintiff, JOLIET TOWNSHIP ROAD, prays that this Honorable Court grant the following relief:

- A) Enter judgment for compensatory damages against Defendant, JOLIET TOWNSHIP, in an amount to be determined at the trial of this case;

- B) Order Defendant, JOLIET TOWNSHIP, to cause all funds belonging to JOLIET TOWNSHIP ROAD DISTRICT to be returned to an account of the JOLIET TOWNSHIP ROAD DISTRICT;
- C) Order Defendants, JOLIET TOWNSHIP AND DANIEL L. VERA, to terminate payments for the East Joliet Lighting District's obligations or the TOWNSHIP'S obligations from the ROAD DISTRICT accounts;
- D) Enjoin Defendants from using ROAD DISTRICT funds to pay any obligation of JOLIET TOWNSHIP or the East Joliet Lighting District;
- E) Issue preliminary injunctive relief prohibiting the use of ROAD DISTRICT funds to pay any obligation of JOLIET TOWNSHIP or the East Joliet Lighting District; and
- F) For such other and further relief as this Court deems just and equitable.

COUNT IV
EMBEZZLEMENT

53. Plaintiffs incorporate the allegations of paragraphs 1-39 above in this Count III as if fully restated herein.

54. As part of VERA'S scheme to acquire the free services of the ROAD DISTRICT'S employees and the use of ROAD DISTRICT equipment, he held himself out to be the CEO of the TOWNSHIP and ROAD DISTRICT, and even commanded the termination of ROAD DISTRICT employees.

55. Upon information and belief, VERA in furtherance of his scheme and artifice to secure the benefits of the work previously performed at his property, he sought to silence the employees of the ROAD DISTRICT by communicating to the Highway Commissioner of the Road District that he desired to have at least three employees terminated, each of which had completed work on the property located at Hickory and Jefferson Streets in Joliet, Illinois.

56. As part of VERA'S overall scheme and artifice he encouraged the false belief that he was the CEO of anything under the umbrella of either the TOWNSHIP or the ROAD DISTRICT.

57. Upon information and belief, VERA selected persons to be appointed to positions to please his personal whims and even appointed the Joliet Township Assessor to reduce the level of taxation on at least one property in which VERA had a pecuniary interest. That the reduction of real estate taxes on property owned by VERA is evident in that the assessment records reflect the property at the northeast corner of Hickory and Jefferson Streets, Joliet, Illinois, is listed as not having any residential space even though there are apartments in the structure. The assessment lists no air conditioning at that same property when in fact there is air conditioning on that property. The scheme and artifice to obtain personal benefits from the Joliet Township Assessor and the ROAD DISTRICT are part of an overall pattern of conduct of VERA to enrich himself by holding the position as Joliet Township Supervisor.

58. The ROAD DISTRICT suffered an injury in that it lost the right to collect all taxes that were due and payable from VERA or an entity he uses to hold title to the property located at the northeast corner of Hickory and Jefferson Streets in Joliet, Illinois.

59. VERA also attempted to assert influence over the management of employees at the ROAD DISTRICT. In doing so he obtained without lawful authorization and without payment of any compensation, the work of ROAD DISTRICT employees and the use of ROAD DISTRICT equipment. Said work performed for the benefit of VERA included excavating and using ROAD DISTRICT equipment on a property VERA owns or has a pecuniary interest. Said property is located at the Northeast corner of Hickory and Jefferson Streets in Joliet, Illinois.

Wherefore, Plaintiff, JOLIET TOWNSHIP ROAD DISTRICT, prays that this Honorable Court grant the following relief:

- A) Award JOLIET TOWNSHIP ROAD DISTRICT a judgment against DANIEL L. VERA for the value of the services he received but did not tender any payment to the ROAD DISTRICT to excavate, repair or otherwise perform work on the property located at the northeast corner of Jefferson and Hickory Street in Joliet, Illinois;
- B) Enter judgment against Daniel L. Vera and in favor of Joliet Township Road District in an amount determined at trial for the lost taxes that ought to have been properly assessed but were not as a result of his scheme and artifice in reducing the assessment; and
- C) For such other and further relief this Court deems just and equitable.

Respectfully submitted,

By: /s/Robert T. Hanlon
Robert T. Hanlon, One of Plaintiff's Attorneys

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