

6/2/2014 This Tentative Ruling is made by Judge Ioana Petrou The Motion by Defendant and Cross-Complainant Pacifica Foundation Radio ("PFR") for a Preliminary Injunction against Cross-Defendant Summer Reese is GRANTED. The Court finds that PFR has demonstrated a reasonable probability of prevailing on the claims against Reese in its Cross-Complaint, and that it will suffer greater harm if the injunction is denied than Reese will suffer if it is granted, for the reasons already set forth in the Court's May 12, 2014 Order granting PFR's temporary restraining order. None of the arguments or evidence submitted by Reese in her May 21, 2014 opposition papers changes the Court's conclusion. First, for the reasons stated in the Court's May 12, 2014 Order, the Court rejects Reese's argument that Tony Norman was ineligible to serve on the PFR board and that his presence on the board made any decision to discharge Reese a "nullity". Reese has made no showing that the Washington DC Advisory Commission has been delegated any portion of the sovereign functions of government. (Contrast *Dibb v. County of San Diego* (1994) 8 Cal.4th 1200, 1212-1213, cited by Reese.) Second, the Court rejects Reese's argument that her purported January 30, 2014 employment agreement (the terms of which were not authorized or approved by a majority of the PFR board) is legally binding on PFR. Reese's assertion that the phrase "subject to the completion of a background check as approved by the PNB" meant only that the board approved the requirement of having a background check completed - and not that the board would actually have to approve the results of that check - remains unpersuasive. As a party to both the November 11, 2013 offer letter and the materially different January 30, 2014 purported employment contract, the Court is not persuaded that Reese could have reasonably believed Richard Uzzell and Heather Gray had actual or ostensible authority to enter the January 30, 2014 contract on behalf of the PFR board. Third, the March 13, 2014 meeting notice posted on the PFR website - indicating that the agenda would be "discussion of matters pertaining to individual employees" - adequately notified the board of the topics to be considered and decided at that meeting. Finally, for the reasons stated in the Court's May 12, 2014 Order, the Court finds that PFR would suffer greater harm if the preliminary injunction is denied than Reese will suffer if it is granted. If the preliminary injunction is granted, Reese can still file a civil action for monetary damages for breach of employment contract, damage to her reputation, or any other viable claim she believes she has. By contrast, if the injunction is denied, PFR will be faced with someone whose employment it terminated on March 13, 2014 continuing to occupy PFR offices and purporting to act as Executive Director for the organization until trial of this matter. Pending trial of this matter or further Court order, Summer Reese is enjoined from entering, remaining, blocking ingress into or egress from, or the passage of persons into or out of PFR's National Office located at 1925 Martin Luther King Jr. Way, Berkeley. PLEASE NOTE: This tentative ruling will become the Court's order, and no hearing will be held, unless either party contacts the opposing counsel or unrepresented party, along with the Clerk of Department 15, by 4:00 p.m. on the court day before the scheduled hearing, to state an intent to appear at the hearing to contest the tentative ruling. The Clerk of Department 15 may be contacted by email to Dept.15@alameda.courts.ca.gov.

PLEASE ALSO NOTE that the court no longer provides court reporters for civil law and motion hearings. See amended Local Rule 3.95.