

IN THE SUPERIOR COURT
OF THE DISTRICT OF COLUMBIA
(PROBATE DIVISION)

FEB 07 2007

THE GENERAL BOARD OF CHURCH)
AND SOCIETY OF THE UNITED)
METHODIST CHURCH, a District of)
Columbia, non-stock, non-profit)
corporation,)
100 Maryland Avenue, NE)
Washington, DC 20002)
Petitioner,)
v.)
THE DISTRICT OF COLUMBIA,)
c/o The Acting Attorney General)
441 Fourth Street, N.W.)
Suite 450 North)
Washington, D.C. 20001-2714,)
Respondent.)

DOCKETED

Case No. 00004 07

COMPLAINT
(Count One, Declaratory Judgment or, in the Alternative,
Count Two, Reformation and Count Three, Application of the Uniform
Management of Institutional Funds Act, D.C. Code § 44-1601 to 44-1609 (2000 Ed.))

Count One

1. This Court has jurisdiction over this case pursuant to the Declaratory Judgment statute, D.C. Code § 11-941 and § 11-846 (2002 ed.) and Superior Court Civil Rule 57, in that the petitioner is a District of Columbia Corporation and the assets in issue are physically located within the District of Columbia. Alternatively, if for any reason the requested declaratory judgment is not ordered, the Court has jurisdiction over the second count of this Complaint pursuant to its general equity powers, and over the third count pursuant to the District of Columbia Institutional Funds Act, D.C. Code § 44-1607(b) (2002 ed.).

Corporate History of Petitioner

2. The petitioner, the General Board of Church and Society of the United Methodist Church, is a District of Columbia, non-profit, non-stock corporation, and the successor by merger of two earlier District of Columbia non-stock, non-profit corporations. Those entities are, by date of their incorporation, the "Board of Temperance, Prohibition and Public Morals of the Methodist Episcopal Church," sometimes referred to in Church documents as the "Old Board of Temperance." The Old Board of Temperance was incorporated on May 23, 1917 as a District of Columbia, non-stock, non-profit corporation. According to its charter its term was perpetual and its business was:

To promote the cause of temperance by every legitimate means; to prevent the improper use of drugs and narcotics; to render aid to such causes as in the judgment of the board of trustees, tend to advance the general welfare. (Emphasis added.)

3. A second corporation, later merged into the petitioner, was incorporated on April 15, 1944 in the District of Columbia as a non-stock, non-profit District of Columbia corporation under the name "Board of Temperance of the Methodist Church." It is sometimes referred to in Church documents as "the Division." This new corporation was formed as the result of the formation of the Methodist Church by means of the 1939 merger of the Methodist Episcopal Church, the Methodist Episcopal Church South and the Methodist Protestant Church.

4. The Old Board of Temperance transferred title to a portion of its assets including the Methodist Building on Maryland Avenue, N.E., to the Division on October 24, 1944, shortly after the incorporation of the Division in April of that year. Thus, as of the end

of 1944 both the Old Board of Temperance and the Division continued their corporate existences.

5. A third corporation was formed as a D.C. non-stock, non-profit entity on November 15, 1960 and was given the name "The Board of Christian Social Concerns of the Methodist Church." This corporation was formed as the result of the 1960 General Conference decision to merge three church bodies into one.

6. Between 1960 and 1991 this third corporation, the petitioner herein, went through a number of name changes ending up in April 1991 with the name "The General Board of Church and Society of The United Methodist Church." That corporation is the only one of the three remaining with a separate corporate existence as the Old Board of Temperance was merged into the Division in 1974. In 1980, the Division was merged into the petitioner herein, which subsequently has been renamed with its current name, "The General Board of Church and Society of The United Methodist Church." That Board is the owner of the assets of "The Methodist Church Endowment Fund" (the "Endowment Fund").

Historical Work of the Petitioner

7. By mergers and name changes the petitioner herein is the sole surviving corporation and is the owner of the assets of the merged entities, including the Endowment Fund as well as the corporate powers of the merged entities.

8. Throughout the years of its existence, the General Board of Church and Society and its predecessors have addressed moral issues in our society on which its trustees felt that some part of the United Methodist Church should take a position. The General Board does not speak authoritatively for the United Methodist Church on matters of faith or morals, but it does

and has in the past expressed its views on social, legal, ethical and moral issues which our society faces.

9. Matters such as the environment, drug and alcohol addiction, abortion, the criminal justice system, the death penalty, and the war in Iraq are some of the matters on which the General Board has formulated and published its views. The expression of views on social, legal, ethical and moral issues facing society is consistent with the corporate charters of the petitioner and its predecessor corporations. The corporate charters and expression of views by the General Board derive from authority granted by the General Conference of the United Methodist Church, the quadrennial conference of the ultimate ruling body of the Church.

10. The 1960 Book of Discipline promulgated by the quadrennial General Conference of The United Methodist Church provides as follows:

The purpose of the [General Board of Church and Society] shall be to relate the gospel of Jesus Christ to the members of the Church and to the persons and structures of the communities and world in which they live. It shall seek to bring the whole of human life, activities, possessions, use of resources and community and world relationships into conformity with the will of God. It shall show the members of the Church and the society that the reconciliation that God effected through Christ involves personal, social, and civic righteousness.

11. As alleged in paragraph 2 of this Petition the Corporate Charter of the Old Board of Temperance (1917) provides that the business of the Board was likewise very general:

To promote the cause of temperance by every legitimate means; to prevent the improper use of drugs and narcotics; to render aid to such causes as in the judgment of the board of trustees, tend to advance the public welfare. (Emphasis added.)

12. There were at least two amendments to the Certificate of Incorporation of the second corporation, The Division, before it merged with the Old Temperance Board in 1974.

After the first, a 1949 amendment, the mission of the Division was:

- A. To promote and carry out the programs and activities of the Methodist Church in the fields of Temperance, Prohibition, and public Morals, particularly as such programs and activities relate to the manufacture, sale, transportation of and traffic in alcoholic beverages, narcotics and other habit forming drugs.
- B. To make more effectual the efforts of the Methodist Church in creating a Christian public sentiment and in crystallizing opposition to all public violations of moral law.
- C. To promote by an intensive educational program, including the publication and distribution of literature advocating voluntary total abstinence from the use of intoxicants and narcotics.
- D. To promote the enactment, observance, and enforcement of constitutional provisions and statutory enactments by each of the several States and Territories of the United States designed to suppress the consumption of and traffic in alcoholic liquors and narcotic drugs.
- E. To promote the speedy enactment by the nations of the world of legislation and statutes designed to suppress the consumption of and traffic in alcoholic liquors and narcotic drugs.
- F. To seek actively the suppression of salacious and corrupting literature, degrading amusements, lotteries and other forms of gambling.
- G. To promote in every way a high standard of public morals. (Emphasis added.)

13. Later that same year in October 1949, the Certificate of Incorporation of the Division was amended again. After the October amendment the certificate of incorporation of the Division provided that:

The corporation . . . shall hold in trust all property and assets real and personal, that it has or may have, receive, or acquire by gift, bequest, or otherwise and receive and use the income and profits therefrom in trust for the use and benefit of The Methodist Church and its successor, to be by it used exclusively to promote

the cause of Temperance and the other objects and purposes herein described as may be authorized and prescribed from time to time by the General Conference of said Church and its successor. (Emphasis added.)

The particular business and objects for which the corporation or society is organized shall be as follows:

1) To make more effectual the efforts of The Methodist Church in the interest of the Christian way of life; in creating a Christian public sentiment in crystallizing opposition to all public violations of moral law; to promote an intensive educational program relating to the evils growing out of the use and traffic in alcoholic beverages; to publish and distribute literature dealing therewith; to promote observances and enforcement of all constitutional provisions and statutory enactments, national and state, which have for their purpose the suppression, regulation, or restriction to traffic in alcoholic liquors and narcotic drugs; to promote in all lawful ways the speedy enactment of such legislation throughout the world; to actively seek the suppression of salacious and corrupting literature, degrading amusements, lotteries, and other forms of gambling and to in every wise and lawful way promote the public morals. (Emphasis added.)

14. Thus, at least since October 1949, the Division had declared that its assets were held in trust to carry out its various ministries as set out in its articles of incorporation. The income from those assets was in fact used before, at the time and afterwards to carry out the various missions of the Division as reflected both in its certificate of incorporation and in the directions of the General Conference of the United Methodist Church, the quadrennial conference of the ultimate ruling body of the Church.

15. Thus, the current Board and its corporate predecessors each had a very broad charter to fulfill their respective missions.

The Current Dispute

16. From time to time over the last four decades, the legality of the use of income from assets of the General Board to make possible the publication of its views has been

challenged by individuals or groups of individuals within the United Methodist Church. The challenges have invariably focused on a Declaration of Trust entered into in 1965, specifically the phrase “work in the area of temperance and alcohol problems.” Each challenge has questioned the propriety of using Board assets in areas other than the problems created by the use of alcohol.

17. On March 23, 1965, the Division entered into a Declaration of Trust under its then name, the Division of Alcohol Problems and General Welfare of the Board of Christian Social Concerns of the Methodist Church, a corporation. The second signatory to the 1965 Declaration of Trust was at the time known as the Old Board of Temperance or, more fully, the Board of Temperance, Prohibition and Public Morals of the Methodist Episcopal Church, a corporation.

18. After the execution of the Declaration of Trust the Division went through further changes to its charter and by laws which effected the following: a name change to become the Division of General Welfare of the Board of Christian Social Concerns of the United Methodist Church. This name change followed and was the result of the merger in 1968 of the Methodist Church, and the Evangelical United Brethren Church. On January 21, 1980, it was merged into the petitioner herein and, as of that date, the petitioner herein succeeded to all of the powers and the assets of both the Old Board of Temperance and the Division.

19. The petitioner herein was chartered as a District of Columbia, non-stock, non-profit corporation on November 15, 1960 with the name the Board of Christian Social Concerns of the Methodist Church and remains as a valid District of Columbia corporation.

20. Although the assets available to the Petitioner had historically been considered to be “in trust,” they were, in fact, used for the general purposes of the Petitioner, as set forth by the General Conference of the Church that “the board shall develop, promote, and distribute resources and conduct programs to inform, motivate, train, organize, and build networks for action toward social justice throughout society, particularly on the specific issues prioritized by the board” (§ 1004, The Discipline). Nonetheless, from time to time individuals within the Church have argued that under the provisions of the 1965 trust document the income from certain assets of the General Board of Church and Society may not be used for the purposes as assigned by the General Conference and decided by the trustees of those assets, but rather the income is restricted only to supporting the efforts of the Board in the area of alcohol abuse. The trust document is attached to this Complaint as Exhibit 1.

21. As early as the 1970’s, the Trustees of the petitioner sought legal advice from their lawyer, who likely drafted the trust itself. His legal opinion on the permitted use of the funds in trust contained in his letter to the trustees dated November 8, 1972 states:

It should be borne in mind that these trust funds may, have been, and should be used not just for temperance and alcohol problems but also for problems involving public morals, gambling, drug abuse and general welfare.

22. In another legal opinion dated December 19, 1974, the same counsel opines that:

To the extent that other activities of the Division are concerned in these areas, (public morals, gambling, drug abuse and general welfare) use of income for such purposes would appear to be permissible. For instance, work of the Department of Law, Justice and Community Relations would be permitted to the extent that they are concerned with the areas of temperance, alcohol problems, public morals, gambling and the like.

23. Again, on May 12, 1975 in response to another inquiry from the Trustees of the Endowment Fund, Mr. Raysor opined that:

. . . it is my opinion that it would be proper to interpret the work of the Department of Law, Justice and Community Relations . . . as included under the category of "public morals" and the work of the Department of Social Welfare and Social Health within the category of "general welfare" for Trust Fund purposes. This would mean that the income from the Trust Fund could be used on an annual basis for these purposes.

. . .

Thus, the yearly cost of administration for the programs mentioned above within the Division of General Welfare appears to be properly supported from the annual income received from the Trust Fund. (Letter of May 12, 1975 from Thomas Raysor, Esq. to Dr. Grover C. Bagley of the Board of Church and Society.)

24. Recently, a member of the United Methodist Church has again raised the question of whether income from the Endowment Fund of the Petitioner may legally be used to carry out the work of the Petitioner in areas other than alcohol abuse. The trustees of the Petitioner have authorized the filing of this Petition in an attempt to obtain a judicial declaration that the trustees of the Petitioner are authorized to expend income from these assets of the Petitioner for purposes other than the problems associated with alcohol abuse.

25. The dispute over the effect of the language of the 1965 trust document is definite and concrete. It is not hypothetical, abstract or academic. It has an effect on the petitioner's use of funds to carry out its functions as assigned by the General Conference of the United Methodist Church with sufficient immediacy to justify relief, and it is ripe for adjudication at this time. The trustees need to know whether their continued use of these funds are proper

expenditures under District of Columbia trust law, and the Attorney General of the District of Columbia will act to insure that the public interest in the use of these funds is proper.

Wherefore, for relief in Count One of the Petition, the General Board of Church and Society, a corporation, seeks a judicial declaration that the continued use of income from these assets for purposes of alcohol, temperance, public morals and general welfare as determined by the trustees of the Petitioner as they have in the past, is and has been lawful uses of those funds and legally proper.

Count Two
(Reformation of *Inter Vivos* Trust)

26. Alternatively this Count seeks a reformation of the trust document (the "Trust") created pursuant to a decision by the quadrennial General Conference of the United Methodist Church.

27. Petitioner, The General Board of Church and Society, a District of Columbia non-stock, non-profit corporation (the "Board"), is the successor by merger of two prior similar District of Columbia corporations and is the owner, in trust, of certain assets known as The Methodist Endowment Fund (the "Endowment Fund").

28. The Endowment Fund is held by the Board and managed by a board of trustees pursuant to a Declaration of Trust dated March 23, 1965, entered into by the corporate predecessors of the current petitioner.

29. This Court has jurisdiction over this Count of the Petition pursuant to D.C. Code § 11-901(a)(6) (1981 Ed.) in that this is a civil action involving a District of Columbia Trust in which the settlors were District of Columbia non-profit, non-stock corporations with their principal places of business in the District of Columbia, the trust property is physically

located in the District of Columbia, and the current owner, in trust, is a District of Columbia non-stock, non-profit corporation with its principal place of business within the District of Columbia. The Attorney General of the District of Columbia has been notified of the filing of this Petition and has been furnished with a copy of the Petition as filed. The Attorney General, as *parens patriae*, or *amicus curiae*, agreed to make his position on the Petition known to the Court.

30. From the time that each predecessor of the petitioner was formed and they began operations, they and the petitioner herein used income from the Endowment Fund for the purposes assigned to each of them by the quadrennial General Conference of the church and for the purposes of supporting the many programs, including alcohol abuse, set out in their corporate charters. Such uses of the income from the Endowment Fund was continually used both before and after the creation of the Trust document of 1965.

31. The drafter of the Trust document and the trustees who adopted the Trust document had no intention to change the way in which trust assets were deployed to support the activities of the Board in all of its programs, including those relating to alcohol abuse.

32. Nonetheless, the drafter of the Trust document, Thomas Raysor, Esq. of the District of Columbia Bar, used an expression in the Trust document a number of times which, taken at face value, would seem to constrain the trustees of the Endowment Fund to use the income from the Endowment Fund only for programs dealing with alcohol abuse and the problems that alcohol causes to the human condition, the family and to society at large.

33. It was not the intent of the drafter of the Trust document to limit the trustees of the petitioner or their forebears in office to use the assets of the Trust only for problems of

alcohol abuse. As a matter of fact, aside from the actual use of the funds for the various programs of petitioner and its predecessors, Mr. Raysor twice wrote opinion letters for the trustees of the Endowment Fund as to the proper use of Fund assets and advised the trustees that

. . . these Trust funds may, have been and should be used not just for temperance and alcohol problems, but also for problems involving public morals, gambling, drug abuse and general welfare in these areas. To the extent that other activities of the Division are concerned in these areas, use of income for such purposes would appear to be permissible.

Letter of Thomas Raysor, Esq., dated December 19, 1974, referencing his earlier letter of November 8, 1972.

34. The trustees of the Endowment Fund themselves were of the opinion that the Trust document was not intended to restrict their use of the income from the Endowment Fund. At the Trustees' meetings of October 23, 24 and 26, 1974, the following resolution was adopted seven to one with one abstention:

Be it resolved that the Board [of Trustees] interprets the Declaration of Trust establishing the Methodist Building Endowment Fund, dated March 25, 1965 and the actions of its predecessor agencies, as authorizing the utilization of earned income from the Trust for any and all programs of the Division of General Welfare of the Board of Church and Society.

35. The historical record shows that assets of the Endowment Fund were, in fact, used (and in the view of legal counsel, properly used) by the petitioner and its predecessors both before and after the adoption of the Declaration of Trust in 1965 to support programs of the Board of Church and Society in areas of public morals and general welfare totally apart from alcohol abuse.

36. If the Court does not grant relief under Count One of this Complaint, then petitioner seeks as an alternative to Count One a reformation of the 1965 Trust Document which would make it clear that the trustees of the Board will not in the future be limited in the use of income of the Endowment Fund to problems of alcohol abuse only.

Wherefore, if relief is not afforded under Count One of the Petition, as an alternative, petitioner seeks an order of this Court retroactive to March 23, 1965, *nunc pro tunc*, removing the words from the Declaration of Trust “for the purpose of temperance and alcohol abuse.”

Count Three
(Uniform Management of Institutional Funds Act)

37. Petitioner adopts by reference and re-alleges as fully as if set forth *verbatim* in this paragraph of Count Three paragraphs 1 through 37 of Count One and Count Two of the Complaint.

38. A statute entitled the Uniform Management of Institutional Funds Act is and has been in full force and effect in the District of Columbia since 1976. See D.C. Code §§ 44-1601 through 1609 (2000 Ed.).

39. Petitioner is an institution as defined in D.C. Code § 44-1601(1) (2000 Ed.) of that statute.

40. Petitioner’s assets including those assets held in trust pursuant to the trust document dated March 23, 1965 constitute an institutional fund as that phrase is used in D.C. Code § 44-1601(2) (2000 Ed.).

41. This particular institutional fund is also an endowment fund as defined in D.C. Code § 44-1601 (2000 Ed.).

42. The Petitioner herein as the remaining corporation possesses all the powers and rights of the merged corporations, i.e. the Division and the Old Board of Temperance. It is the donor of the assets to the 1965 trust under D.C. Code § 44-1607(a) (2000 Ed.). As such, the trustees, its governing board, pursuant to the provisions of D.C. Code § 44-1607 (2000 Ed.) possess the legal power to release, in whole or in part, any restriction on the fund such as a restriction on the use of income from its assets for purposes other than alcohol related problems.

43. The trustees have adopted resolutions from time to time removing certain restrictions that may have previously existed with respect to the use of income from certain of its assets for purposes other than problems of alcohol abuse. One example is the Resolution of the Division of General Welfare, dated October 4, 1979, that “. . . the trust funds of the Division may be used to work in the areas involving problems of public morals, gambling, drug abuse, and similar areas of concern and general welfare in these areas . . . in addition to traditional work in problems of temperance and alcohol.”

Wherefore, as an alternative in the event that relief is not available under Count One of the Complaint or Count Two of the Complaint, Petitioner seeks a declaratory judgment by the Court that where the Trustees as the governing board of the Petitioner have released a restriction imposed by the gift instrument, meaning the 1965 trust document, pursuant to D.C. Code § 44-1607(a) (2000 Ed.) it is an effective release.



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