

**Superior Court of the District of Columbia
PROBATE DIVISION**

THE GENERAL BOARD OF CHURCH :
AND SOCIETY OF THE UNITED :
METHODIST CHURCH, :

Petitioner :

v. :

THE DISTRICT OF COLUMBIA, :
c/o The Acting Attorney General :

Respondent :

2007 TRP 4
Judge Reid Winston

FILED
JAN 18 2008
Register of Wills
Clerk of the Probate Division

ORDER

This matter is before the Court on the Motion for Partial Summary Judgment filed by Respondent the District of Columbia, the Motion for Summary Judgment filed by Respondent Intervenor, Clyde Patrick Curtin, et. al. respectively, and the responsive pleadings thereto. The Complaint concerns the permissible uses of income from assets in the Methodist Church Endowment fund owned by the Petitioner,¹ the General Board of Church and Society of the United Methodist Church ("the General Board"). The funds are held in trust, pursuant to a Declaration of Trust ("Declaration") made on March 23, 1965. As written, the Declaration provides that the identified "properties are deemed to be equitably impressed with a trust for the purposes of work in the areas of temperance and alcohol problems..." Petitioner states in the Complaint that, over the years, members of the United Methodist Church have objected to its use of funds for matters not related to alcohol. Consequently, in Count I of the Complaint, Petitioner seeks to have the Court declare that the "continued use of income from [the trust assets] for

¹ The assets consist of property that was solicited by and donated to two corporations which were Petitioner's predecessors in interest - The Board of Temperance, Prohibition, and Public Morals of the Methodist Episcopal Church ("the Old Board") and the Board of Temperance of the Methodist Church ("The Division"). Based on recitations in the Declaration, both corporations retained their corporate identities until at least 1944. The assets of both corporations became the property of Petitioner through a series of subsequent mergers and name changes.

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purposes of alcohol, temperance, public morals and general welfare as determined by the trustees of the Petitioner... is and has been lawful uses [sic] of those funds and legally proper.²

Alternatively, in Count II, Plaintiff requests that the Court grant a reformation of the Declaration, striking the phrase "for the purpose of temperance and alcohol abuse"³ from the Declaration so as to reflect what Plaintiff contends was the settlors' intent to permit use of the income for purposes other than alcohol-related issues. Respondent Intervenor has filed a Counterclaim, Count II⁴ of which seeks a declaration by the Court that Petitioner's uses of the assets and income from the Methodist Building Endowment Trust violates the terms of the Declaration; that said assets and income are not controlled by the Petitioner's Trustees; and that said assets, being held in Trust, are to be used only for work in the areas of temperance and alcohol problems under control of the Trustees as defined by the Trust.

Respondent Intervenor contends that the Court must grant summary judgment on Count I of the Complaint and on Count II of its Counterclaim because, on its face, the "Declaration" unambiguously states that the use of the funds is restricted to the areas of temperance and alcohol problems; that the lack of ambiguity precludes the Court from turning to extrinsic evidence to determine the settlors' intent; and that they are entitled to judgment as a matter of law. They move the Court to dismiss Petitioner's Complaint and declare that the Trust corpus and income from it be applied and used exclusively by Petitioner's Trustees for "work in the areas of temperance and alcohol problems on a national and international basis." With regard to Count II of the Complaint, both Respondent and Respondent Intervenor contend that Plaintiffs cannot

² Complaint, Count I. Petitioner represents in Count I that, over the years, it has addressed "moral issues in ... society on which its trustees felt that some part of the United Methodist Church should take a position." These issues have not been limited to alcohol-related issues. See *infra* note 7.

³ Respondent Intervenor points out that the phrase "for the purpose of temperance and alcohol abuse" does not appear in the Declaration. That is correct. However, the phrase "temperance and alcohol problems" appears throughout the document, and the Court will treat Petitioner's request for relief on Count II as a request to strike the latter phrase.

⁴ Count I of the Counterclaim filed by Respondent Intervenor was disallowed by the Court in its Order dated July 13, 2007.

carry the burden of proof necessary for the Court to grant reformation. They contend that Plaintiff is unable to prove by clear and convincing evidence that the language in the Declaration mistakenly misrepresents the intention of the settlors.

Plaintiff opposes both motions and alleges that evidence regarding its predecessors' activities prior to the Declaration demonstrates that they did not intend to restrict the use of the trust income to temperance and alcohol problems. Petitioner refers the Court in its appendices to uses of funds that it claims were outside the field of temperance. Petitioner further claims that the word "temperance", as used in the Declaration, is ambiguous. It argues that the use of "temperance" and "alcohol problems" is duplicative, thereby suggesting that "temperance" must mean something other than abstinence from alcohol.

"Summary judgment may be granted if, "construing the evidence in the light most favorable to the nonmoving party, [the court] determines 1) there is no genuine issue of material fact, and 2) the moving party is entitled to judgment as a matter of law.'" *In re Durosko Marital Trust*, 862 A.2d 914, 919, (D.C. 2004)(internal citations omitted).

Applying this standard to Intervenor's Motion for Summary Judgment on Count I and Count II of the Counterclaim, the Court must decide whether there is any genuine factual issue regarding the purposes for which the Declaration permits use of funds from the Trust, or, stated differently, whether there is any genuine factual dispute about the settlors' intent regarding the use of Trust funds. The settlors' intent is the law of the Trust. *In re Durosko Marital Trust*, 862 A.2d at 921.

Despite Petitioner's urging that the Court look first to the historical uses of the Trust funds, the law in this jurisdiction requires the Court to look first to the Declaration itself for the settlors' intent. If that document is unambiguous, then the intent as stated therein is binding on the Court. Only if the language of the document is ambiguous may the Court turn to extrinsic

evidence to determine the settlors' intent. *See Id.* In construing a trust, the Court, must interpret the words according to their "plain meaning." *See Story v. Snyder, et. al.*, 184 F.2d 454, 465 (D.C. Cir. 1950) (Miller, J., dissenting); see also *Beck v. Continental Cas. Co.*, (In re May), 2007 D.C. App LEXIS 568 *7 (in interpreting a contract, court must "giv[c] the language used its plain meaning... unless, in context, it is evident that the terms used have a technical or specialized meaning); *Pfeuper v. Cyphers*, 919 A.2d 641 (Md. 2007) (when interpreting will, court to give words their "plain meaning and import") (internal citations omitted).

After closely examining the Declaration of Trust, the Court concludes that it is not ambiguous on its face. First, the recitation in the Declaration of the history of donations to The Old Board indicates that it solicited funds for work in the areas of temperance and alcohol and that, for a time, it was "continued in existence" so that it could receive and manage funds for its work in those areas. Second, the Declaration recites that The Division was incorporated specifically for work in temperance and alcohol. These recitations indicate that the use of the income from the property was restricted. In addition, the language of the actual declaration of a trust-in-fact indicates that the restrictions were to continue. Moreover, even after "The Division" and "The Old Board" (or an entity formed as a result of a merger of the two)⁵ became divisions of the Board of Christian Social Concerns of the Methodist Church, their funds retained their restricted character. From the language in the Declaration, the funds of each division were segregated and continued to be "conserved for the exclusive use of the appropriate division of th[e] board and for the specific purposes for which [they] ha[d] been given."

Having concluded that the language restricted the use of the funds, the Court must next resolve the question of what the restrictions were. The declaration of a trust-in-fact on page two

⁵ The second paragraph of the Declaration indicates that the certificate of incorporation of The Division was amended in 1950 to reflect that it was the "successor and successor in trust to [The Old Board], indicating a merger. Nevertheless, the Declaration was signed by representatives of The Division and of The Old Board were settlors of the Declaration in 1965.

(2) of the Declaration ⁶ describes the purposes: “for work in the areas of temperance and alcohol problems.” After reviewing the entire document and placing the word “temperance” in context, the Court finds no ambiguity. The language restricts the funds’ usage to matters relating to the abstinence from alcohol – a commonly understood meaning of “temperance” -- and to other alcohol problems.

To be sure, the word “temperance” as defined in modern dictionaries has another meaning. When not used in connection with the abstinence from alcohol, it is defined as moderation. *See Black’s Law Dictionary* 1504 (8th ed. 2004); *Merriam-Webster Dictionary* 1214 (9th ed. 1985). Petitioner does not appear to disagree that, aside from its definition as “moderation,” the only other common understanding of the word “temperance” is one having to do with alcohol and the abstinence from it.⁷ Nevertheless it argues that the term has a broader connotation – one sufficiently broad to include a wide range of areas beyond alcohol-related matters. It does not.⁸ Moreover, if interpreted as “moderation,” the word “temperance” in this document would render the restrictions in the Declaration virtually meaningless. Simply put, given the entire document, the word “temperance” in this document can have no other meaning than one connected with abstinence from alcohol.

Petitioner argues that, in this Declaration, “temperance” must have a meaning beyond alcohol use. Otherwise, Petitioner contends, the term “alcohol problems” would be duplicative. To the contrary, as the document is drafted, rather than being duplicative, the consistent use of “temperance” together with the phrase “alcohol problems” further demonstrates that it relates to

⁶ Respondent-Intervenor’s Exhibit I.

⁷ The Court is mindful of Petitioner’s position that the Catholic Church and some other Christian churches use the word “temperance” to describe areas broader than abstinence from alcohol. However, the Court, owing to its obligation to look first to the Declaration, finds no indication that the word is used to convey any meaning other than its common meaning as abstinence.

⁸ Petitioner indicates that the funds heretofore have been used for addressing issues of the environment, drug and alcohol use, abortion, and criminal justice issues. *See Complaint.*

abstinence from alcohol. The two connote different, though related, concepts – temperance having to do with the non-use of alcohol and “alcohol problems” having to do with consequences of and other matters related to alcohol use.

Finally, the drafters were aware of all the responsibilities of The Old Board and The Division even as they underwent various name changes, and recited them in the Declaration. (Starting with the name of The Old Board -- The Board of Temperance, Prohibition and Public Morals of The Methodist Episcopal Church -- and continuing with each subsequent name change of The Division -- the names of the divisions responsible for alcohol and related issues have distinguished between “temperance” and/or “alcohol problems” and general moral issues, broader social concerns, and general welfare.)⁹ Yet, when describing the use of funds, the drafters omitted other uses that were clearly within the area of responsibility of the divisions, e.g. “general welfare.” From this, the Court infers that the language limited the funds’ use to “temperance” and “alcohol problems”.

In sum, given the Court’s conclusion based on a reading of the document, that the language of the Trust is unambiguous, the Court is compelled to grant the summary judgment motion of Respondent Intervenors as it relates to Count I of the Complaint and on Count II of the Respondent Intervenors’ Counterclaim to the extent that it requests that the Court declare that uses of the funds in areas other than temperance and alcohol is improper under the Declaration as written. However, the Court finds no basis to grant summary judgment of Count II of the Counterclaim, insofar as it requests a declaration that Petitioner’s Trustees do not control the Trust, but are held in Trust to be used by them according to the Trust. Regardless of whether the Trustees hold the funds pursuant to a Trust, they control them nevertheless.

⁹ The Declaration recites that that the Board of Temperance of the Methodist Church was later changed to “The Division of Temperance and General Welfare of the Board of Christian Social Concerns of the Methodist Church,” and still later to the “Division of Alcohol Problems and General Welfare of the Board of Christian Social Concerns of the Methodist Church.”

