

IN THE SUPERIOR COURT OF ATHENS-CLARKE COUNTY
STATE OF GEORGIA

FILED IN OFFICE
CLERK SUPERIOR COURT
ATHENS-CLARKE COUNTY, GEORGIA

2017 FEB -8 AM 8:36

CLERK LOCAL COURT
CLARKE COUNTY, GEORGIA

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DOCKET INITIALS

Alps Road Presbyterian Church, Inc. f/k/a)
Central Presbyterian Church,)
)
Petitioner,)
)
v.)
)
Northeast Georgia Presbytery, Inc. and)
Presbyterian Church (U.S.A.), A)
Corporation)
)
Respondents.)
_____)

CIVIL ACTION

FILE NO. SU17CV0027-N

**ORDER ON PETITIONER'S MOTION FOR
INTERLOCUTORY INJUNCTION AND ON RESPONDENT'S MOTION TO
DISSOLVE TEMPORARY RESTRAINING ORDER**

The Court is well aware of and in this order fully adheres to the doctrine of separation of church and state as set forth in the First Amendment to the U.S. Constitution and case law interpreting and applying same. This is a civil court, deciding a civil case, according to civil law. The fact that this decision might impact one or more denominations, or persons in said denominations, is purely incidental to the civil property dispute. Neither the original TRO, this Injunction, nor any findings of fact or conclusions of law made a part hereof, reflects the Court endorsing any religious belief, religious practice, doctrine, article of faith, or lack thereof, and does not seek to establish any religion or interfere with the free exercise thereof, of any person, entity, denomination, whether in affiliation with the ECO, PCUSA, Christianity, or any other religion or denomination, however named. This Court seeks to preserve the status quo,

maintain the peace, and balance the various interests of the parties in the interim while this civil matter is decided according to neutral principles of law.

Accordingly, this matter having come before the Court on January 26, 2017, for hearing on Petitioner's Motion for Interlocutory Injunction and Respondent's Motion to Dissolve the Temporary Restraining Order and having considered the pleadings, evidence¹, testimony of witnesses and arguments of counsel, the Court finds as follows:

PROCEDURAL HISTORY

On January 9, 2017, Petitioner filed a Petition for Declaratory Judgment and Equitable Relief, along with a Motion for Temporary Restraining Order. Based on the verified petition, the motion, and the accompanying affidavits and exhibits, this Court granted ex parte relief pursuant to O.C.G.A. § 9-11-65(b)(1), issuing a TRO that is in effect until February 8, 2017. At the same time, the Court set a hearing on the interlocutory injunction matter for January 26, 2017. NEGP objected to the TRO and filed a Motion to Dissolve the TRO, or require the posting of bond, along with other requests concerning same, and those matters were made a part of the same hearing. Respondent Presbyterian Church (U.S.A.), A Corporation (hereinafter "PCUSA") had actual notice of the hearing, but was not present and did not object to the hearing taking place in its absence.

¹ At the commencement of the January 26, 2017 hearing, Counsel for Petitioner and for NEGP stipulated that all documents attached to all affidavits filed by both parties in this case were tendered as evidence for the Court's consideration, which the Court admitted as evidence. Counsel for both parties also asserted continuing objections on First Amendment grounds to testimony or evidence that invades the first amendment right of free exercise of religion or establishment of religion to preserve their right to object to such evidence at any future hearing or in future arguments in this case.

STATEMENT OF FACTS

Central Presbyterian Church (“CPC”) began approximately 107 years ago. The church’s original corporate charter indicates that the church was formed to be a “Presbyterian church.” In 1966, CPC acquired title to the real property at issue, located at 380 Alps Road. Over the years, CPC has improved the real estate, obtained mortgages for the property, and raised funds for construction and operation. All such expenses have been provided for by the congregation itself and include a loan obligation exceeding \$650,000.00 to First American Bank & Trust Company with a maturity date of October 13, 2017.

CPC was a member church in the PCUS denomination (the “Southern church”). In 1983, PCUS and UPCUSA (the “Northern Church”) re-united and formed a national denomination known as PCUSA. The PCUSA Book of Order, which is part of the PCUSA Constitution, outlines rules regarding the government of a local church, its relationship to the Presbytery and the PCUSA, and its property. Specifically, it provides that “all property held by or for a particular church..., whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, ... is held in trust nevertheless for the use and benefit of the [PCUSA].” (Pl. Ex. 1, Section G-4.0203)

The Book of Order permitted a local church, within eight years of the formation of PCUSA, to opt out of the property provision. This opt-out option only applied if the local church was not “subject to a similar provision of the Constitution of the church in which it was a part” before the formation of PCUSA. (Pl. Ex. 1, Section G-4.0208)

Testimony showed that CPC believed that its property rights were not going to be affected by the reunion (or by any amendments to the PCUS constitution pre-dating the 1983 merger containing similar trust language). This belief was informed by a 1981 letter written by

Rev. James Andrews, the Stated Clerk of the PCUS at that time, regarding a similar trust clause proposed by PCUS. The letter stated that the new trust clause in the PCUS constitution would not change the Presbyterian Church's historical position on property. He writes, "These amendments do not in any way change the fact that the congregation, in the Presbyterian Church in the U.S., owns its own property." (Aff. Parker Williamson, Ex. I). In 1982, Rev. Andrews affirmed the denomination's position in a report to all of the PCUS commissioners. The report reads, "The language dealing with trust does not in any way establish any kind of an encumbrance on church property as that term is understood in connection with real estate." (Aff. Parker Williamson, Ex. K)

These communications, while not speaking directly to the PCUSA trust clause but rather to the PCUS trust clause, are very important because in the Articles of Agreement between PCUS and UPCUSA, PCUSA stated its intention to be bound by the representations of its predecessor denominations. (Aff. Parker Williamson, Ex. G)

Furthermore, testimony from Petitioner's expert and several exhibits establish that the Presbyterian Church has historically promulgated the notion that the denomination does not want the local churches' land and that the trust clause is basically a theological statement. He testified that until the early 1980s, the Presbyterian historical position was that the local congregation owned both the legal and the beneficial interest in its property, unencumbered by any claim of right, title, or interest in the national denomination. In 1990, the Director of the PCUSA's Department of Constitutional Services, Fred Jenkins, issued a statement affirming this position. (Aff. Parker Williamson, Ex. M) The chief constitutional officer of the denomination, Clifton Kirkpatrick, issued an Advisory Opinion to the constitutional officers of all PCUSA presbyteries in 2014 regarding the trust clause. He wrote, "the Trust Clause

reflects our understanding of the church as a communion of saints across time, with responsibilities both to those who came before and those who will follow.” (Aff. Parker Williamson, Ex. H)

CPC did not opt-out of the property provision within the eight-year window after the reunion because it was the session members’ understanding that churches joining PCUSA through the merger of PCUS were subject to a “similar provision” of the PCUSA trust clause, and that the provision did not in any way impact their property rights, which had never contained a trust provision before.

In recent years, CPC has divided into two factions: a faction wishing to depart from the denomination and a faction wishing to remain. In response, Respondent Northeast Georgia Presbytery (“NEGP”) appointed an Administrative Commission to investigate the divide within CPC. On December 13, 2016, the Commission presented a report with three recommendations: 1) that schism be declared at CPC and that the faction wishing to remain in the PCUSA was entitled to all CPC property; 2) that the NEGP deny the departing faction’s request to leave the denomination with CPC’s property; and 3) that NEGP appoint a new Administrative Commission that would take necessary action to appoint a new session for CPC. On January 10, 2017, the NEGP voted to accept the Administrative Commission’s first and second recommendations. The NEGP refrained from voting on the third recommendation in fear of violating the court’s TRO entered on January 9, 2017.

Meanwhile, on January 4, 2017, the CPC Board of Directors voted unanimously (13-0) to disaffiliate the church corporation from PCUSA and affiliate the corporation with the Covenant Order of Evangelical Presbyterians (“ECO”). Since then, the pastors and session have been accepted into ECO and the Board of Directors has taken steps to be formally

affiliated with ECO. As a result, the congregation, its governing session, and its pastors are all now affiliated with ECO. A corporate name change was filed on January 5, 2017 with the Secretary of State changing the name of the church corporation to Alps Road Presbyterian Church, Inc (ARPC). Finally, the legal title to the land at 380 Alps Road, Athens, Georgia 30606 is now held in the name of Alps Road Presbyterian Church, Inc. formerly known as Central Presbyterian Church.

In a congregational meeting on January 24, 2016, the congregation voted 159 to 36 (82% to 18%) to depart from PCUSA with its property and be affiliated with ECO. At present, the new ECO congregation consists of approximately 200 or more persons congregating together to worship and attend regular evening programs and weekly religious studies.

The church members who did not want to disaffiliate from PCUSA are now holding worship services at the University of Georgia Presbyterian Student Center, located at 1250 S. Lumpkin St., Athens, GA 30605, with a pastor supplied by the PCUSA or NEGP (the “UGA Congregation”).

The ARPC Congregation wishes, desires, and intends to be, and is worshipping as, an ECO congregation; likewise, the UGA Congregation wishes, desires, and intends to be, and is worshipping as, a PCUSA congregation. Both desire the use of the Alps Road Property and the conclusion of this case will, for all intents and purposes, have the effect of deciding which congregation will have the use of the Alps Road Property.

CONCLUSIONS OF LAW

Interlocutory Injunction O.C.G.A. § 9-11-65, § 9-4-3, § 9-5-1 et seq.

A trial court may grant an interlocutory injunction to maintain the status quo pending a final hearing if, by balancing the relative equities of the parties, it would appear that the equities favor the applicant. Green v. Waddleton, 288 Ga. App. 369, 370 (2007). In determining if an interlocutory injunction should issue, a trial court is to consider: (1) whether there exists a substantial threat that a moving party will suffer irreparable injury if the injunction is not granted, (2) whether the threatened injury to the moving party outweighs the threat and harm that the injunction may do to the party being enjoined, (3) whether there is a substantial likelihood that the moving party will prevail on the merits at trial, and (4) whether granting the interlocutory injunction will not disserve the public interest. Veterans Parkway Developers, LLC v. RMW Development Fund, II, LLC, 2016, 2016 WL 6574191.

I. Irreparable injury to the moving party if injunction is not granted

If the TRO were lifted, Respondent NEGP would likely take such actions that would directly affect the actual use of the property as evidenced in the NEGP Administrative Commission Report recommendations that were voted upon on January 10, 2017. At present, there are no other ECO churches in the area. Without use of the property at issue, Petitioner has no place in which to congregate for the purpose of worshiping as an ECO church.

In addition, Petitioner has a loan obligation to First American Bank & Trust Company for the purpose of renovating and expanding the church facilities at Alps Road. The promissory note to this loan contains certain default provisions. (Plaintiff's Exhibit 6). Respondent's recommendations, if carried out, present a viable risk of default.

Based on the foregoing, the court finds that immediate and irreparable injury, loss, or damage would result to the Petitioner in the absence of the continuation of a TRO and interlocutory injunction.

II. Harm to the moving party vs. harm to the nonmoving party

The sole purpose of a temporary or interlocutory injunction is to maintain the status quo pending a final adjudication on the merits of the case. Bailey v. Buck, 266 Ga. 405 (1996). In determining whether to preserve the status quo with an interlocutory injunction, the court must balance the conveniences of the parties pending the final adjudication, with consideration being given to whether greater harm might come from granting the injunction or denying it.

University Health Services, Inc. v. Long, 274 Ga. 829 (2002). The status quo is not defined by the parties' existing legal rights; it is defined by the reality of the existing status and relationships between the parties, regardless of whether the existing status and relationships may ultimately be found to be in accord or not in accord with the parties' legal rights. SCFC ILC v. Visa USA, 936 F.2d 1096, 1100 (10th Cir.1991).

For many years leading up to January 4, 2017, Petitioner was organized as a PCUSA church. At some point, a sizeable majority of the church members became unsatisfied with PCUSA and decided to disaffiliate. This is not a situation where an entirely different group of individuals suddenly appeared and took over a church building. Rather, the same people (minus the minority wishing to remain loyal to PCUSA) made a decision to worship and organize in a different way. The choice to remain and worship as an ECO church or to leave was voluntary. The minority wishing to stay with PCUSA currently worships at the UGA Presbyterian Congregation. Because of the TRO, the NEGP has not been able to appoint a new

session for the minority members. Presently, they have no building of their own in which to worship and no access to any of the records, accounts or documents of the CPC church.

While the size of the congregations and the current worship venues for both congregations have no bearing on the civil matter of whether there is a legally enforceable trust imposed on the Alps Road Property, these considerations do bear on the relative harm to the parties. Allowing Petitioner to continue using the property at issue is consistent with the status quo because a majority of the same people will be worshipping in the same location as they have been for the last several years. The court acknowledges that some people are presently without a church home and does not take this fact lightly. On the balance, however, the court finds the harm to petitioner if relief is not granted outweighs the harm to respondent if the petition is granted.

III. Likelihood of success on the merits

According to U.S. Supreme Court precedent, “a State is constitutionally entitled to adopt neutral principles of law as a means of adjudicating a church property dispute.” Jones v. Wolf, 443 U.S. 595 at 604 (1979) (see also Presbytery of Greater Atlanta, Inc. v. Timberridge Presbyterian Church, Inc., 290 Ga. 272 (2011)). Therefore, the existence of any trust in the ARPC property will be evaluated according to neutral principles of law and this Court shall not delve into matters of church doctrine or practice. Neutral principles of law require the court to examine the deeds and related documents of the property at issue, applicable statutes, the corporate and related documents of the local church, and the constitution and related documents of the national denomination. The objective of such considerations is to determine

the mutual intent of the parties and whether the parties' intentions are embodied in some "legally cognizable form." Jones, at 603. The United States Supreme Court has opined:

The primary advantages of the neutral-principles approach are that it is completely secular in operation and yet flexible enough to accommodate all forms of religious organization and polity. The method relies exclusively on objective, well-established concepts of trust and property law familiar to lawyers and judges. It thereby promises to free civil courts completely from entanglement in questions of religious doctrine, polity, and practice.

Jones v. Wolf, 443 U.S. 595, 603(1979).

a. Deeds and Bank documents

CPC took title to the real property at issue in 1966, before any trust clause was adopted either by the predecessor denomination, PCUS, or by PCUSA. There is no indication in the deed of any trust for the benefit of PCUSA. There is no evidence of any deeds, conveyances, or other instruments before or after 1966 indicating the existence of any trust. Presently, the legal title to the land at 380 Alps Road, Athens, Georgia 30606 is held in the name of Alps Road Presbyterian Church, Inc. formerly known as Central Presbyterian Church.

The mortgage and bank documents admitted into evidence do not indicate the existence of any trust. All expenses related to the Alps Road property have been assumed by the local congregation, without any help from NEGP or PCUSA.

b. Statutes

First, the express trust statutes do not apply. The modification of the PCUSA constitution creating a trust clause did not result in an express trust because there was no modification of the CPC charter to evidence an intent to create a trust in favor of the national church. O.C.G.A. § 53-12-20. As to implied trusts, strict compliance with the general implied trust statutes (O.C.G.A. § 53-12-130 et seq) has not been required by Georgia courts before

determining the existence of implied trusts in church property disputes. (see Crumbley v. Solomon, 243 Ga. 343 (1979); Carnes v. Smith, 236 Ga. 30 (1976)). Nonetheless, since this case necessarily involves the question of whether or not there exists an implied trust under neutral principles of law, the import of our state's policy with respect to trusts remains. Accordingly, the court will consider the implied trust statutes and the purposes contemplated therein.

In Georgia, there are two types of implied trusts, constructive and resulting, both of which are inferred by law from the nature of the transaction or the conduct of the parties. Since CPC did not acquire its property through wrongful means, the constructive trust provisions are inapplicable. A resulting trust is based on the presumed intention of the parties and it is the burden of the party claiming to be the beneficiary of a resulting trust to prove its existence by clear and convincing evidence. Lee v. Lee, 260 Ga. 356 (1990). Hence, the court considers to what extent Respondents have proven the intention of Petitioner to hold the Alps Road property in trust. Respondents argue that since Petitioner remained a member of the PCUSA after the 1983 merger (and the expiration of the eight year opt-out provision), intention to create a trust on its property may be inferred. Without more, however, the court finds it unlikely that Respondents will prevail on this argument. Simply remaining in the denomination does not amount to an expression of intent with respect to the formation of a trust.²

The last statute to consider, and perhaps the most relevant, is O.C.G.A. § 14-5-46. As noted above, Georgia courts have not relied on the general implied trust statutes in finding the

² For a similar analysis, see The Presbytery of Hudson River of the Presbyterian Church (U.S.A.) et. al. v. The Trustees of the First Presbyterian Church and Congregation of Ridgeberry et. al., 821 N.Y.S.2d 834 (2006). "The court finds, however, that mere silence and continuing its membership in the denominational church, absent more, is an insufficient expression of an intent to create a trust." Id. at 839.

existence of an implied trust under neutral principles of law. Rather, the courts have looked to O.C.G.A. § 14-5-46, governing conveyances to churches or religious societies. According to the Timberidge court, this statute expresses our state's policy of looking to "the mode of church government or rules of discipline" in resolving church property disputes, even when the statutory test does not squarely apply (as in the case at bar). Id. at 279.

In this case, there is a sharp conflict in the evidence as to the PCUSA mode of government (unlike in Timberidge where the parties agreed that the PCUSA was hierarchical). Petitioners presented evidence suggesting that the PCUSA structure of government is a hybrid congregational-hierarchical structure. Respondent's witness testified that the PCUSA is hierarchical with a representational form of government. The resolution of this question necessarily determines the evidentiary weight and effect of denominational documents, which in turn speaks to the ultimate issue of whether a trust exists. If a church is congregational, and not hierarchical (at least with respect to civil matters, including property rights), then the majority of its members control its decisions and local church property. Rector, Warden and Vestrymen of Christ Church in Savannah v. Bishop of the Episcopal Diocese of Georgia, Inc. et. al., 305 Ga. App. 87 (2010). Conversely, if the church is hierarchical, and neutral principles of law are applied, then O.C.G.A. § 14-5-46 requires deference to the denominational "mode of government" in order to resolve disputes.

For the court to make a determination of the PCUSA mode of government would clearly offend First Amendment principles and the policy outlined in Jones v. Wolf. In view of this evidentiary dispute, the court considers the national church documents without affording them more weight than the other relevant factors under neutral principles of law. Again, the ultimate goal is to determine "the intentions of the parties" regarding the beneficial ownership

of the property as expressed before the conflict in a “legally cognizable form.” Id. at 603. In order to scrutinize the pertinent documents in this case in purely secular terms, it is not necessary to resolve a polity controversy. Id. at 604. As pointed out by the Jones court, “The neutral-principles approach [...] obviates entirely the need for an analysis or examination of ecclesiastical polity or doctrine in settling church property disputes.” Id. at 605.

c. Church Governing Documents

The PCUSA Book of Order provides that “all property held by or for a particular church..., whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, ... is held in trust nevertheless for the use and benefit of the [PCUSA].”

The local church’s original corporate charter indicated that the church was formed to be a “Presbyterian Church.” Over the years, the charter has been renewed several times. Even though it references compliance with the PCUSA (formerly PCUS) constitution, there is no evidence that CPC ever adopted the PCUSA model “articles of incorporation” (provided after the reunion) under which local congregations could acknowledge the existence of a trust for the benefit of PCUSA. In fact, no indication of any trust exists in either the original corporate charter or any subsequent documents.

The evidence revealed that before and after the reunion, CPC relied upon statements concerning the trust clause issued by PCUS. These statements informed CPC’s belief that their property rights would not be affected by the trust clause in the PCUSA constitution. In light of this, Petitioners have asserted a defense of equitable estoppel to any trust claims made by NEGP or PCUSA. Without making an express finding as to the likelihood of success of

Petitioner's equitable estoppel defense, the Court finds that this evidence relates directly to the overarching issue of intent.

d. Timberridge

Respondents argue that the Timberridge case is directly on point. Many factual similarities exist between the case at bar and Timberridge: a departing faction wished to leave the PCUSA denomination with the church property, the church corporate documents reference compliance with the PCUSA (formerly PCUS) constitution, testimony reflects that the church did not opt to leave the denomination with its property within the eight year window that was available to PCUS churches to leave after reunion, and the relevant provisions of the national denominational constitution relating to the trust clause are the same now as they were then. After applying the neutral principles of law doctrine, the Georgia Supreme Court held that Timberridge assented to the relinquishment of its property rights, and that the church property was held in trust for the PCUSA.

There are significant factual distinctions, however, between the two cases. Most notably, the Timerridge opinion does not refer to any pre-vote or pre-reunion communications between the general church and the local church concerning the property clause in the PCUSA (or PCUS) constitution.³ The existence of this type of evidence would have been relevant to the Supreme Court's conclusion regarding the intention of the parties. Given this distinction, the court finds that the Timberridge precedent does not require finding the existence of an implied trust in the instant case. Moreover, the same legal principles articulated in the

³ See Supplemental Brief of Appellee, Timberridge Presbyterian Church, Inc. "At the conclusion of oral argument, Chief Justice Hunstein, at the request of Justice Hines, instructed the parties to submit supplemental briefs on a question raised by Justice Hines, to wit: is there any evidence in this record of pre-vote or pre-reunion communications between the general church and Appellee concerning the import of the church property clauses of the PCUS constitution or of the PCUSA constitution. As indicated by Appellee during oral argument, the answer is no. As appellant now admits in its supplemental brief, there is no evidence of any such communications." 2011 AL 3581998 (Ga.) (Appellate Brief).

Timberridge decision could result in a finding that the parties to this action did not intend a trust to be imposed on the local church's property.

e. Conclusion

Based upon the findings above pertaining to the deeds and other property records, the corporate documents, and the denominational history embodied in its documents, all interpreted in light of applicable statutes, including O.C.G.A. § 14-5-46, the Court finds that Petitioner has shown a likelihood of prevailing on its claim that no civilly enforceable trust exists in the ARPC property.

IV. Public Interest

If the TRO is lifted, and an injunction is not granted, the competing attempts at uses of the property by two different congregations could create, rather than resolve, conflict, which would not be conducive to public peace. The interest of the public justifies granting an injunction to maintain the peace in the interim, without two congregations vying to control the operations of a church either for worship on Sunday or the other items of mission carried out during the week. There is also a public interest in maintaining the status quo to avoid persons physically jockeying for positions on the property while the present suit is pending.

Having considered the appropriate factors relating to injunctive relief, and having determined that (1) there is exists a substantial threat that Petitioner will suffer irreparable injury if the injunction is not granted, (2) the threatened harm to Petitioner outweighs the threat of harm that the injunction may create for the Respondent, (3) there is a substantial likelihood that Petitioner will prevail on the merits at trial, and (4) the interlocutory injunction will not

disserve the public interest, the Court hereby GRANTS petitioner's Motion for Interlocutory Injunction and DENIES Respondent's Motion to Dissolve the Temporary Restraining Order.

RELIEF GRANTED

Accordingly, it is HEREBY ORDERED, pursuant to O.C.G.A. § 9-11-65, O.C.G.A. § 9-4-3, and O.C.G.A. § 9-5-1, and the inherent equitable powers of the Court:

I. Respondents NEGP and Presbyterian Church (U.S.A.)

Respondents NEGP and Presbyterian Church (U.S.A.), and their officers, agents, servants, employees, members, and attorneys, and those persons in active concert or participation with them, are hereby restrained and enjoined until further order of the court from the following:

1. Filing any documents in the mortgage and conveyance records of Athens-Clarke County, the effect of which would be to place a cloud on the title of any property titled in the name of Alps Road Presbyterian Church and/or Central Presbyterian Church, or otherwise taking any action to claim ownership of said property, whether corporeal or incorporeal, movable or immovable, or real or personal;
2. Taking any action to assume physical control over the ARPC/Central property, including but not limited to seeking to change the locks at the church building, barring entry to the property, or interfering with Petitioner's use of the property;
3. Taking any action or initiating any proceedings to replace or remove Petitioner's Board of Directors or asserting any jurisdiction or right to control the actions of

Petitioner, or otherwise interfering with the rights, use and quiet enjoyment of Petitioner related to the property at issue in this Petition; or

4. Proceeding in any way contrary to Petitioner's rights, title, and interests in its property which is at issue in this Petition, to include, without limitation, the building, personal property, and accounts of Petitioner.

II. Petitioner Alps Road Presbyterian Church, Inc.

Incidental to the affirmative relief granted to Petitioner, and in lieu of dissolving the TRO or requiring the posting of a bond by Petitioner, and in the interest of balancing the equities in the interim while this matter is pending, until further order of the Court, Petitioner and its officers, agents, servants, employees, members, and attorneys, and upon those persons in active concert or participation with them, until further order of the Court are hereby restrained and enjoined and ordered as follows:

1. Petitioner shall maintain accurate and complete records for all funds received and disbursements made for the funds at issue in this matter, specifically all such receipts and disbursements up to and including January 4, 2017. Petitioner shall use best efforts to keep separate any funds received on or after January 5, 2017, from funds received by Petitioner up to and including, January 4, 2017, and Petitioner shall use funds received after January 5, 2017, for items associated with the immediate occupancy and use of the premises, such as utility bills and salaries of pastors and staff.
2. Petitioner shall use funds received by Central Presbyterian Church on or before January 4, 2017, only for paying the mortgage and maintaining property and

casualty insurance, and maintaining or repairing or preventing waste of the property and buildings. If there is an expense other than those listed above that Petitioner believes should be allowed to be paid from funds received on or before January 4, 2017, Petitioner shall notify opposing counsel, and the parties shall attempt to resolve the matter by mutual agreement. In the event the parties are not able to agree on the use of such funds, the parties may bring that matter to the Court for a decision.

3. Petitioner shall not sell, alienate, transfer, convey, or encumber the Alps Road Property, or the improvements thereon, with any new and additional note, financial obligation, debt, mortgage, security, secured interest, or loan other than the promissory note that already existed as of January 4, 2017, provided, however, that Petitioner may renew or renegotiate the current note under commercially reasonable terms, if necessary to permit continued church operations.
4. Petitioner shall pay the existing mortgage to First American Bank & Trust, as and when due, and not allow said loan or note to enter into a default, and said note may be paid from funds received before January 4, 2017.
5. Petitioner shall keep the property and premises insured in the same or substantially same policies of insurance as existed before January 4, 2017, and these premiums may be paid from funds received before January 4, 2017.
6. Petitioner shall keep the facilities in good upkeep and repair, and same may be paid from funds received before January 4, 2017.

7. Petitioner shall not expend any funds that came into the accounts of Petitioner, through whatever means, before January 4, 2017, except in the ordinary course of business.
8. Attorney fees and costs of this litigation shall come from funds received after January 4, 2017.
9. Petitioner shall pay all utilities on said property, from funds received after January 4, 2017
10. Petitioner shall not substantially modify or alter the structure of the facility, or engage any architect, engineer, contractor, subcontractor, or materialmen to make any changes or alterations to the buildings, except items of normal upkeep and repair. Petitioner shall pay for any such work done on the building in the interim, and document same.
11. Petitioner shall identify all bank accounts and balances of same as said accounts existed on January 4, 2017, and make said records available to Respondent, subject to an agreed confidentiality agreement between the parties or subject to either party's right to request confidentiality if the other party will not agree to confidentiality absent a court order.
12. Petitioner shall identify the account number and balance information of the "John 21 Fund" and said account is and shall remain frozen and not used by Petitioner until further order of the Court or upon consent of the parties. If good cause justifies the use of said "John 21 Fund," upon motion and good cause, the Court will consider same, after motion and a hearing on the evidence and argument.

13. Petitioner shall be allowed to erect a temporary sign in addition to the existing sign on Alps Road so as to indicate "Alps Road Presbyterian Church," doing so from funds received after January 4, 2017, and in no event shall the existing sign be modified, demolished, substantially altered in its size or basic structure, or torn down under this Order. The existing sign shall be protected and maintained as is commercially practicable, so that in the event of a ruling contrary to Petitioner's interest, it may be used again with little to no expense to Respondent.
14. Petitioner shall maintain the church records and make same available to Respondent upon a reasonable time and location, and shall preserve same during the pendency of this case.

SO ORDERED this 8 day of February, 2017.



ERIC W. NORRIS, JUDGE
SUPERIOR COURT OF CLARKE COUNTY
WESTERN JUDICIAL CIRCUIT

Served all parties 2/8/17 - W&M