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**THE SUPERIOR COURT FOR THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER**

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)	
FIRST PRESBYTERIAN CHURCH)	
OF ROSEVILLE, CALIFORNIA,)	
Plaintiff,)	
)	
v.)	CASE NO. SCV-20758
)	
PRESBYTERY OF SACRAMENTO,)	RULING ON SUBMITTED
et al.,)	MATTER
Defendants.)	
)	
)	

This matter came on for hearing on January 29, 2008, re Plaintiff First Presbyterian Church of Roseville's ("FPC") motion for summary adjudication, and Defendant Presbytery of Sacramento's ("Presbytery") motion for summary judgment or adjudication. Plaintiff was represented at the hearing by attorney David Tyra. Defendant was represented at the hearing by attorney Robert Johnson. The court heard the arguments of counsel and took the matter under submission.

At issue in this matter is who owns the real property on which the First Presbyterian Church of Roseville is situated. Although the parties go to

1 great lengths to dispute each other's "undisputed" facts, there are very few
2 material facts that are actually disputed. Rather, the real dispute lies with the
3 legal conclusions to be drawn from those facts and the various documents
4 governing this case.
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6 Procedural and Factual Background

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8 Plaintiff FPC was founded in 1873 and purchased its first parcel
9 of real property in 1895. FPC is currently named as the fee simple owner of
10 the property on which the church building is located, at 515 Sunrise Boulevard
11 in Roseville. FPC took title to this piece of property in 1961. FPC also holds
12 record title to another parcel, used for church parking, at 1260 Coloma Way in
13 Roseville. It has held title to this parcel since 2001.
14

15 Defendant Presbytery argues in these motions that FPC holds
16 these parcels in trust for the national church organization, the Presbyterian
17 Church (U.S.A.) ("PCUSA"). Defendant argues that the PCUSA constitution
18 governs all of the local churches. Part of that constitution is the Book of Order
19 ("BOO"), which sets forth procedural and structural rules for church
20 governance. In 1983, the predecessor organizations of PCUSA enacted the
21 "Trust Clause" in the BOO. That clause states as follows:
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24 All property held by or for a particular church, a presbytery, a
25 synod, the General Assembly, or the Presbyterian Church (USA),
26 whether legal title is lodged in a corporation, a trustee or trustees,
27 or an unincorporated association, and whether the property is
28 used in programs of a particular church or of a more inclusive
governing body or retained for the production of income, is held in

1 trust nevertheless for the use and benefit of the Presbyterian
2 Church (U.S.A.)
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4 In addition to the BOO language cited above, Presbytery cites to
5 other items which, it contends, show that the real property is held in trust for
6 the national church. Specifically, Presbytery cites the May 3, 1968,
7 Amendment to FPC's Articles of Incorporation which provides that
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10 The property of this corporation is hereby irrevocably dedicated to
11 religious purposes only and on dissolution none of its assets shall
12 inure to any individual but shall be distributed to the Presbytery of
Sacramento, a nonprofit corporation operated for religious
purposes, or to its successor.

13 Presbytery also cites several by-laws of FPC in which FPC
14 agrees to be bound by the Constitution and Book of Order of PCUSA.

15 In March 2006, the board of directors of plaintiff FPC adopted
16 Amended and Restated Articles of Incorporation, which were filed with the
17 Secretary of State in May 2006. Those articles provide that it is part of FPC's
18 corporate purpose to "acquire, own, hold, lease, encumber, convey, or
19 otherwise dispose of real and personal property within or without the State of
20 California for religious purposes, free of any express or implied trust interest,
21 and solely and exclusively for, and on behalf of, members of the corporation."
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23 The articles further provide that "FPC hereby expressly revokes and disclaims
24 any such express or implied trust interest claimed by any denominational or
25 national body to the corporation's real or personal property or other assets."
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1 Analysis

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3 It has long been held that civil courts may resolve disputes

4 involving title to real property held by religious organizations, as long as the

5 resolution of those disputes does not depend on determination of religious

6 doctrine and practice. *Jones v. Wolf* (1979) 443 U.S. 595. In examining

7 these issues, courts have historically used two different methods of analysis:

8 the "principle of government" analysis, and the "neutral principles of

9 government" analysis. In the former, the court considers and defers to the

10 authoritative governing body of the church. In the latter, the court considers

11 neutral principles of law governing all property disputes to determine if the

12 particular controversy at hand. It is clear to this court that the "neutral

13 principles of government" analysis is the prevailing accepted method used by

14 California courts in resolving these disputes.¹

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17 Under the "neutral principles" approach, the court must look at

18 four factors: 1. the deeds to the property; 2. the articles of incorporation of the

19 local church; 3. the constitution, canons, and rules of the general church; and

20 4. relevant statutes, if any. *Protestant Episcopal Church in the Diocese of Los*

21 *Angeles v. Barker*, 115 Cal. App. 3d 599 (1981).

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27 ¹ Defendant Presbytery argues that California is a "principle of government" state. However,

28 the modern cases involving church property disputes all rely on the "neutral principles"

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A. *Deeds to the property*

In this matter the deeds to the property are clearly in the name of plaintiff FPC.

B. *Articles of incorporation of the local church*

FPC's Amended and Restated Articles of Incorporation provide that the real property is held free and clear of any express or implied trust, and that any trust claimed by the national body is revoked. Contrary to Presbytery's contention, these amendments do not contradict FPC's May 1968 Amendment to Articles of Incorporation. That amendment provides that on dissolution of the corporation (FPC), the assets shall be distributed to the Presbytery. FPC has not dissolved.

C. *Constitution, Canons, and Rules of the General Church*

Presbytery cites various documents to support its position that a trust exists. First, it cites 1983 and 2000 bylaws enacted by FPC in which FPC acknowledges the authority of the national church and agrees to be bound by the governing documents of the PCUSA. Those documents include the Trust Clause of the Book of Order. That clause was enacted in 1983 and provides that all property held by a local church is held in trust for PCUSA.

The case of *California-Nevada Annual Conference of the United Methodist Church v. St. Luke's United Methodist Church* (2004) 121 Cal. App.

approach. While Presbytery devotes substantial argument to why these modern cases are

1 4th 754 is instructive with respect to this prong of the "neutral principles"
2 analysis. In that case, the local church held title to 9 parcels of real property.
3 Five of the deeds contained express language granting a trust interest to the
4 general church body. The other four deeds did not, but the evidence showed
5 that that was merely an oversight on the part of the drafters of those deeds.
6 New deeds were prepared with respect to these four parcels, containing
7 express trust language. However, before those 4 deeds were recorded, a
8 doctrinal dispute arose between the local church and the general church, and
9 litigation ensued. Moreover, the governing document of the general church
10 had an express requirement that all deeds conveying real property shall
11 contain a trust clause in favor of the general church. The court of appeal
12 agreed with the trial court on this issue, and held that there was substantial
13 evidence to support a finding that a trust had been created. I.e., there was
14 evidence to support the finding that the local church intended to create a trust
15 in favor of the general church.
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19 In the present case, the governing documents of the general
20 church do not require that every deed contain express trust language. They do
21 provide that all property held by local churches shall be held in trust in favor of
22 the general church. However, the Trust Clause in the BOO was first enacted
23 after FPC took title to the main church property. In short, the evidence is less
24 clear in the present matter than in *St. Luke's* of any intent by the local church to
25 create a trust in favor of the general church. The court is presented only with a
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incorrect or limited, it is not for this court to ignore prevailing precedent.

1 statement of the general church that any property shall be held in trust, and
2 some non-particularized corporate documents of the local church agreeing to
3 be bound by the governing documents of the general church. In any case,
4 because of the application of the fourth "neutral principle", the court need not
5 decide whether a trust was created in order to decide this motion.
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7 *D. Relevant State Statutes*

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9 Section 9142(c) of the Corporations Code provides:

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11 (c) No assets of a religious corporation are or shall be deemed to
12 be impressed with any trust, express or implied, statutory or at
common law unless one of the following applies: . . .

13 (2) Unless, and only to the extent that, the articles of bylaws of
14 the corporation, or the governing instruments of a superior
15 religious body or general church of which the corporation is a
member, so expressly provide.

16 Presbytery contends that the plain language of this section requires that the
17 court recognize that the real property here is held in trust for the national
18 church, in that the BOO specifically provides for it. However, that conclusion
19 does not take into account the interpretation of this section made by the court
20 in *St. Luke's, supra*.
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22 In *St. Luke's*, the court of appeal upheld the trial court's finding
23 that a trust in favor of the general church had been created. However, it
24 reversed the trial court's finding that Corporations Code 9142 barred the local
25 church from revoking the trust. The court reviewed section 9142(c)(2) in light
26 of basic trust law, specifically Probate Code 15400, which holds that unless a
27 trust is specifically made irrevocable, it is revocable by the settlor. The court
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1 held that section 9142 did not supplant Probate Code 15400, and held that the
2 local church in that case had the power to and did expressly revoke the trust.

3 The court went on to state:

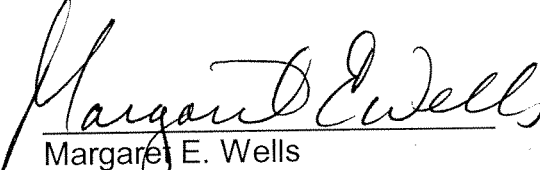
4 We know of no principle of trust law stating that a trust can be
5 created by the declaration of a nonowner that the owner holds the
6 property as trustee for the nonowner. . . Nothing in *Barker*
7 supports the view that a general church can create a trust in favor
8 of itself simply by enacting a rule stating that a local church holds
property in trust in favor of the general church.
St. Luke's, supra., at 769.

9 In the present case, FPC clearly and expressly revoked any trust
10 in favor of PCUSA by its March 2006 Amended and Restated Articles of
11 Incorporation. Therefore, even if the court were to find that a trust had been
12 created, that trust was effectively revoked by FPC.

13 Therefore, for the reasons stated above, plaintiff's motion for
14 summary adjudication of the first cause of action for declaratory relief and of
15 the second cause of action for quiet title is granted. Defendant's motion for
16 summary judgment and/or adjudication is denied.

17 Plaintiff's and defendant's requests for judicial notice are granted.
18 All objections to evidence are overruled.

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20 Dated: April 8, 2008

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26 Margaret E. Wells
27 Commissioner
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF PLACER**

Case No: S-CV-0020758
CASE NAME: FIRST PRESBYTERIAN CHURCH OF ROSEVILLE, CA vs.
PRESBYTERY OF SACRAMENTO, et al.,

I am employed by Placer County, State of California. I am over the age of 18 years and not a party to the above-entitled action. My business address is 11546 B. Ave., Auburn, California, 95603. On April 8, 2008, I served the following document described as:

RULING ON SUBMITTED MATTER

by placing a true copy thereof for collection and mailing so as to cause it to be mailed on the above date, following standard court practices, in sealed envelopes addressed as follows:

DAVID TYRA, ESQ.
400 CAPITOL MALL, 27TH FLOOR
SACRAMENTO, CA 95814

ROBERT JOHNSON, ESQ.
2180 HARVARD STREET, STE 560
SACRAMENTO, CA 95815

I am 'readily familiar' with the County's practice of collection and processing correspondence for mailing. Under the practice it would be deposited with the U.S. postal service and/or interoffice mail on that same day with postage thereon fully prepaid at Auburn, California, in the ordinary course of business.

I declare under penalty of perjury the laws of the State of California that the above is true and correct.

Dated and executed at Auburn, California on April 8, 2008.

JOHN MENDES, Executive Officer and Clerk

By: 
S. FastCrow, Deputy Clerk