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APPENDIX A

**DISTRICT OF COLUMBIA
COURT OF APPEALS**

**No. 16-CV-444
CAB1406-15**

[Filed March 12, 2019]

DR. MARCUS TURNER, SR., <i>et al</i> ,)
Appellants,)
)
v.)
)
ALVA C. HINES, <i>et al</i> ,)
Appellees.)

BEFORE: Glickman,* Fisher, Thompson, Beckwith,
Easterly,* and McLeese, Associate
Judges, and Nebeker,** Senior Judge.

ORDER

On consideration of appellants' consent motion for extension of time to file a petition for rehearing or rehearing *en banc*, and appellants' lodged petition for rehearing or rehearing *en banc*, it is

** Judge Nebeker replaced Judge Farrell on this panel following Judge Farrell's retirement.

Chief Judge Blackburne-Rigsby did not participate in this case.

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ORDERED that appellants' motion for extension of time to file a petition for rehearing or rehearing *en banc* is granted, and the Clerk shall file appellants' petition for rehearing or rehearing *en banc*. It is

FURTHER ORDERED by the merits division* that the petition for rehearing is denied; and it appearing that no judge of this court has called for a vote on the petition for rehearing *en banc*. It is

FURTHER ORDERED that the petition for rehearing *en banc* is denied.

PER CURIAM

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APPENDIX B

**DISTRICT OF COLUMBIA
COURT OF APPEALS**

No. 16-CV-444

[Filed January 16, 2019]

DR. MARCUS TURNER, SR., ET AL.,)
APPELLANTS,)
)
V.)
)
ALVA C. HINES, ET AL.,)
APPELLEES.)

Appeal from the Superior Court
of the District of Columbia
(CAB-1406-15)

(Hon. Robert D. Okun, Trial Judge)

(Argued May 10, 2017 Decided January 16, 2019)

Before GLICKMAN and EASTERLY, *Associate Judges*,
and FARRELL, *Senior Judge*.

MEMORANDUM OPINION AND JUDGMENT

PER CURIAM: Appellees, professed members of Beulah Baptist Church of Deanwood Heights, sued appellants – Dr. Marcus Turner, Sr., the Church’s Pastor; Russell Moore, Jr., the former Chair of the

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Church's Trustee Board; and Beulah Community Improvement Corporation (BCIC), a non-profit secular entity affiliated with the Church – in Superior Court for breach of fiduciary duties, conversion, unjust enrichment, and civil conspiracy. This appeal is from the Superior Court's denial of appellants' motion to dismiss the complaint on standing and First Amendment grounds.¹ Appellants claim that (1) this court has jurisdiction to review that denial in this interlocutory appeal under the collateral order doctrine; (2) appellees lack standing to maintain their suit because they are not *bona fide* members of the Church; and (3) even taking all the factual allegations of the complaint as true, the suit must be dismissed at this juncture under the First Amendment ecclesiastical abstention doctrine as a matter of law. Appellees dispute each of those claims.

We conclude that we have jurisdiction at this time to review the Superior Court's rejection of appellants' First Amendment immunity claim, but not its rejection of their standing argument. We further conclude that, at this early stage of the proceedings, the ecclesiastical abstention doctrine does not require dismissal of the suit, because it appears that appellants' liability may be adjudicated under neutral principles of tort law without infringing on appellants' claimed First Amendment immunity.

¹ The court dismissed the claims against appellant Turner on other grounds, namely *res judicata*, but it did not enter a separate final judgment of dismissal for him and he remains a defendant in the case. The dismissal of the complaint against Turner is not the subject of the present appeal.

I. The Allegations of the Amended Complaint

The amended complaint is brought by eighteen individuals who allege that they are *bona fide* members in good standing of Beulah Baptist Church and beneficiaries of the property held by the Church in trust for its members.² Their complaint charges that appellant Turner, with the assistance of appellants Moore and BCIC,³ abused that trust by engaging for over a decade in a series of unauthorized, wasteful, and improper transactions involving Church funds and real property. The complaint alleges the following as the main elements of this charge.

(1) Between 2003 and 2008, Turner and Moore, purporting to act on behalf of the Church, purchased at least seven properties in the Deanwood Heights neighborhood and entered into at least five loan agreements encumbering the Church's real property. The last of these loans enabled BCIC to borrow \$3.23 million in July 2008 (apparently to extinguish the

² With their opposition to appellants' motion to dismiss on standing grounds, each appellee submitted a declaration under penalty of perjury that he or she is on the Church's membership roll, has a membership number provided by the Church, and serves (or has served) on Church ministries open only to Church members.

³ The complaint describes BCIC as a nonprofit corporation "created to help raise funds and assist the Church in its work to improve the Deanwood Heights community" in various ways. Unlike the Church itself, BCIC can receive government funding because it is a secular organization. The complaint further alleges that (as shown in the allegations we summarize above) BCIC is controlled by Turner and is "Turner's alter ego even more than it is the Church's."

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remaining accumulated debt on the previous loans) with the Church as guarantor. This transaction also involved an unauthorized and secret conveyance of a valuable $\frac{3}{4}$ -acre lot from the Church to BCIC for no consideration in return. In violation of the 1997 Church Constitution then in effect, Turner and Moore allegedly engineered these property and loan transactions without the knowledge and approval of the Church's Trustee Board (or its membership in general).⁴ In fact, throughout the period, Turner falsely represented that the Church was debt-free and that the property transactions did not encumber the Church's property. The truth was revealed in 2014 when a notice appeared in *The Washington Post* that Church property was to be auctioned off in a foreclosure sale. To prevent this, Turner was forced to sell off certain Church properties, including the lot the Church had conveyed to BCIC for free.

⁴ The Church's 1997 Constitution is incorporated in the complaint by reference. Under that Constitution, the duty "[t]o review and/or sign all contracts and legal documents on behalf of the Church" and "[t]o have responsibility for the acquisition . . . of all church property" was assigned to the Trustee Board. The Constitution did not assign similar duties or powers to the Pastor. The Constitution also assigned financial oversight and similar responsibilities to other boards, committees, and officers of the Church. The Board of Deacons, for example, had the duty to "[k]now at all times" the financial condition of the Church, and a separate Budget-Finance Committee bore responsibility for preparing the Church's annual budget for submission to the entire membership. The Constitution required the Church's Pastor (Turner), among other things, to "seek the advice of the official boards regarding recommendations for policy and program changes."

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(2) With the help of Moore and a few other confederates, Turner also secretly and repeatedly withdrew funds from the Church operating account for his own personal benefit. Turner allegedly

charged to the Church credit card meals, fuel for his personal car, dry cleaning, vacations, personal lawn care and exorbitant cell phone bills, which included home internet and cable television services. He had the Church pay for his own continuing education, his wife's education and his son's tuition, including, for example, \$14,000 in tuition payments in 2008. He had the Church cover personal tax liabilities, including \$3,000 in 2008. Moreover, he had the Church establish and pay premiums on life insurance policies for both him and his wife, and had the Church pay his wife \$500 on at least two occasions for delivering speeches at the Church.

All of these expenditures were unauthorized; the Church Constitution vested responsibility for the Church's property and finances, including Turner's salary, in the Trustee Board and other Church bodies, and they allegedly did not know of or approve Turner's use of Church funds to pay his personal expenses.⁵

(3) When Turner was having personal financial difficulties in 2008, he arranged with Moore for two

⁵ Under the Constitution, the Board of Deacons was charged with "[i]nsur[ing] that the Pastor is paid a salary which is fair to him and the Church," and the Trustee Board with "pay[ing] all salaries and debts incurred by the Church and such other disbursements as the Church deems necessary."

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secret payments from the Church to him in the total amount of \$75,000 out of its general reserve fund. These payments were supposedly for services Turner had performed as a real estate “consultant” to the Church and BCIC and in securing government grants to acquire property for BCIC. There had been no contract or agreement to pay Turner for such services and the amount of the payments was arbitrary. Again, in violation of the Church Constitution, these payments were made without the knowledge and approval of the Trustee Board (or the Church membership).

(4) In 2011, Turner, aided by Moore, arranged for the Church to borrow \$900,000, secured by Church property, ostensibly to pay for renovations of Church facilities (though the renovation contracts, had they been fully performed, would have totaled only \$380,000). Much of that money is unaccounted for; the complaint alleges on information and belief that Turner drew down the funds and used them for “purposes unrelated to the mission of the Church.” The Church paid only \$162,500 in total for the (partial) renovation work that was performed, and Turner claimed to the contractor that the Church could not pay the rest of what it owed him, which amounted at the time to only \$57,500. Instead, Turner borrowed \$105,000 from the contractor, telling him that the Church and BCIC needed it to help pay off the July 2008 loan. Turner thereafter refused to repay the contractor and claimed that his loan had been a donation. The contractor sued the Church, BCIC, and Turner for the money he was owed; the Church incurred legal fees and expended funds to settle the lawsuit.

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The complaint further alleges that as a result of Turner's financial mismanagement, self-dealing, continuing concealment of financial arrangements, and refusal to disclose information about the Church's financial condition to its membership, the Church is in financial distress and can no longer maintain its facilities, fully fund positions and scholarships, or carry on other basic activities as it had been doing.

Based primarily on the foregoing activities, the complaint charges Turner and Moore with breach of fiduciary duty, unlawful conversion of Church funds, and unjust enrichment from the diversion of those funds to pay Turner's personal expenses. The complaint also charges Turner, Moore, and BCIC with civil conspiracy to commit those torts. The relief sought includes an accounting to determine how much Turner owes the Church and an award of monetary damages.

II. Appellate Jurisdiction

The denial of a motion to dismiss a complaint usually is not immediately appealable because it does not finally dispose of the case.⁶ We have held, however, that where the motion to dismiss asserts a claim of absolute ecclesiastical immunity from suit under the First Amendment, the denial of that claim is appealable under the collateral order doctrine *if* the immunity turns on an issue of law rather than on a factual dispute.⁷ Therefore, we have jurisdiction to

⁶ *Heard v. Johnson*, 810 A.2d 871, 876 (D.C. 2002).

⁷ *Id.* at 877; *Bible Way Church of Our Lord Jesus Christ of the Apostolic Faith of Washington, D.C. v. Beards*, 680 A.2d 419, 426

review the ruling on appeal to the limited extent of determining whether appellants “are entitled to the First Amendment immunity based on the allegations in the complaint,”⁸ or whether the litigation can proceed under the assumption that those allegations are true.

We reach a different conclusion as to our jurisdiction to review the Superior Court’s threshold ruling that appellees have standing to maintain their suit based on their declarations stating they are enrolled members of the Church in good standing.⁹ To be amenable to immediate interlocutory review under the collateral order doctrine, a trial court ruling must satisfy three requirements: “(1) it must conclusively determine a disputed question of law, (2) it must resolve an important issue that is separate from the merits of the case, and (3) it must be effectively unreviewable on appeal from a final judgment.”¹⁰ The

(D.C. 1996); *United Methodist Church v. White*, 571 A.2d 790, 792-93 (D.C. 1990).

⁸ Brief of Appellants at 16.

⁹ “[A]s a general principle, *bona fide* members of a church have standing to bring suits as trust beneficiaries when there is a dispute over the use or disposition of church property.” *Mount Jezreel Christians Without a Home v. Board of Trustees of Mt. Jezreel Baptist Church*, 582 A.2d 237, 239 (D.C. 1990). *Bona fide* membership can be established based on the church’s membership roll and financial records. *Id.* at 240-41. *See also Williams v. Board of Trustees of Mt. Jezreel Baptist Church*, 589 A.2d 901, 908 (D.C. 1991).

¹⁰ *McNair Builders, Inc. v. Taylor*, 3 A.3d 1132, 1135 (D.C. 2010) (internal quotation marks omitted).

ruling on appellees' standing did not satisfy either the first or the third of these requirements. It was not a "conclusive" determination because there remains a genuine factual dispute over appellees' standing.¹¹ And unlike a ruling denying a claim of immunity as a matter of law, a ruling on standing is not "effectively unreviewable" on appeal from a final judgment.¹² Appellants argue that this particular ruling is effectively unreviewable after a final judgment has been rendered because litigating the issue will impermissibly involve the court in second-guessing the Church's religious decisions concerning its membership.¹³ We are not persuaded by this assertion. The court may need to determine *whether* and *when* the Church admitted or excluded appellees from

¹¹ While appellees filed declarations stating they were on the Church's membership roll, had membership numbers, and were in the Church's ministries, Turner countered with a declaration asserting the opposite. Ultimately, the Superior Court will need to resolve this factual dispute, presumably after discovery in which the membership roll and other pertinent documents are produced (if they are available). See *Grayson v. AT&T Corp.*, 15 A.3d 219, 245-46 (D.C. 2011) (en banc) (explaining that the standing inquiry may be different depending on the stage of the litigation).

¹² See, e.g., *Summit Med. Assocs., P.C. v. Pryor*, 180 F.3d 1326, 1334-35 (11th Cir. 1999) (citing cases). See also *Freyre v. Chronister*, 2018 U.S. App. LEXIS 35141 *1, *5-6 (11th Cir. Dec. 14, 2018).

¹³ Appellants note that the Church Constitution makes "faith in the Lord Jesus Christ" a qualification for membership.

membership, but not, so far as now appears, *why* the Church did so.¹⁴

III. Ecclesiastical Abstention

Appellants claim to be immune from suit because, generally speaking, the First Amendment requires civil courts to abstain from disputes over “matters of church government as well as those of faith and doctrine.”¹⁵ But this principle “does not mean . . . that churches [or their ecclesiastical personnel, e.g., ministers] are above the law or that there can never be a civil court review of a church action.”¹⁶ On the contrary,

civil courts may resolve disputes involving
religious organizations as long as the courts

¹⁴ See, e.g., *Jackson v. George*, 146 A.3d 405, 416-18 (D.C. 2016) (holding that dispute over purported termination of church memberships was justiciable where the issue turned on the authority of the decision makers without requiring resolution of any religious questions; “[c]ontrary to appellants’ assertions, Judge Nash was not required to determine whether appellees . . . or anyone else had ‘accepted Jesus Christ’”).

¹⁵ *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 186 (2012) (quoting *Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church in North America*, 344 U.S. 94, 116 (1952)). See also, e.g., *Meshel v. Ohev Shalom Talmud Torah*, 869 A.2d 343, 353-54 (D.C. 2005); *Heard*, 810 A.2d at 879. In *Hosanna-Tabor*, the Court clarified that this doctrine of abstention “operates as an affirmative defense to an otherwise cognizable claim, not [as] a jurisdictional bar.” 565 U.S. at 195 n.4.

¹⁶ *Heard*, 810 A.2d at 879 (brackets added). See also *Family Fed’n for World Peace v. Moon*, 129 A.3d 234, 249 (D.C. 2015) (“In sum, the mere fact that the issue before the court involves a church or religious entity does not thereby bar access to our courts.”).

employ neutral principles of law and their decisions are not premised upon their consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of faith. . . . Even where the civil courts must examine religious documents in reaching their decisions, the “neutral principles” approach avoids prohibited entanglement in questions of religious doctrine, polity, and practice by relying exclusively upon objective, well-established concepts of law that are familiar to lawyers and judges.^[17]

Disputes over church property are “especially” amenable to resolution by civil courts employing neutral principles of law applicable in all property disputes.¹⁸

“[I]n determining whether the adjudication of an action would require a civil court to stray impermissibly into ecclesiastical matters, we look not at the label placed on the action but at the actual issues the court has been asked to decide.”¹⁹ As set forth in the complaint, the main issues here appear to be entirely secular and to be governed entirely by neutral principles of law. They are not issues of religious doctrine, church governance, or the like; unlike in some past cases this court has seen, they do

¹⁷ *Meshel*, 869 A.2d at 354 (quoting *Jones v. Wolf*, 443 U.S. 595, 602, 603 (1979) (quotation marks omitted)).

¹⁸ *Family Fed’n*, 129 A.3d at 248. See also *Heard*, 810 A.2d at 880.

¹⁹ *Meshel*, 869 A.2d at 356.

not involve review of policy matters reserved to ecclesiastical judgment. They are simply issues of the permissible use or disposition of Church property; they primarily boil down to whether Turner, with Moore's and BCIC's assistance, misappropriated the Church's money for his own use and encumbered or disposed of the Church's real estate without the authorization required by the Church Constitution. The resultant causes of action – breach of fiduciary duty, conversion, unjust enrichment, and civil conspiracy to commit those torts – all “rely upon doctrines basic to our legal system” and are resolved by applying familiar, well-developed, neutral principles of law.²⁰

The causes of action in this case are justiciable notwithstanding that they rely on provisions of the Church's Constitution specifying the allocation of responsibility for and authority over Church property, contracts, and financial matters.²¹ As we explained in *Bible Way Church*, a civil court can enforce standards of behavior that a church has formally adopted.²² And

²⁰ *Family Fed'n*, 129 A.3d at 249. In contrast, in *Bible Way Church*, *supra*, footnote 7, and *Kelsey v. Ray*, 719 A.2d 1248 (D.C. 1998), we held that the plaintiffs had failed to allege the applicability of neutral accounting and reporting criteria that were clear and objective enough to allow a court to examine a church's financial practices without involving itself in policy determinations committed to ecclesiastical judgment. *See Kelsey*, 719 A.2d at 1249, 1252-53; *Bible Way Church*, 680 A.2d at 428-29.

²¹ See footnotes 4 and 5, *supra*.

²² 680 A.2d at 428 (“If the church has, in fact, adopted clear, objective accounting and reporting standards that eliminate all doctrinal decision-making in their enforcement, then arguably a

a church's constitution is a contractual agreement that a court may construe using neutral principles of law, such as "the 'objective law' of contracts, under which the written language embodying the terms of an agreement governs the rights and liabilities of the parties."²³ In this case, for instance, the court may have to construe and apply Article 5, Section 3 (c)(2) of the Constitution, which specified that it was the Trustee Board's duty "[t]o review and/or sign all contracts and legal documents on behalf of the Church" We see no reason why this task (or the construction and application of any other provision of the Constitution pertinent to this case) should entangle the court in any questions of religious doctrine, polity, or practice. That some provisions of the Constitution contain religious terminology should not give rise to such impermissible entanglement in the absence of a "material dispute between the parties" over the meaning of the religious

civil court can apply them – much as a court can resolve secular disputes over church property – because the church itself has obviated all First Amendment concerns.”).

²³ *Mesheh*, 869 A.2d at 361.

language.²⁴ The existence of such a material dispute in this case has not been shown and is not apparent.²⁵

Thus, at this early stage of the case, “it would appear that this dispute is susceptible to resolution by ‘neutral principles of law’ not requiring any forbidden inquiry into matters barred by the First Amendment.”²⁶

²⁴ *Id.* at 354. In *Mesheh*, the court construed the corporate bylaws of an Orthodox Jewish congregation to determine that the parties had an enforceable agreement to arbitrate their dispute by presenting it to a “Beth Din.” The court held that it could make this determination applying neutral principles of contract interpretation because there was no material dispute between the parties as to the meaning of that or other religious terms in the bylaws. *See also id.* at 357 (“It is undeniable that ‘Beth Din,’ ‘Din Torah,’ ‘Orthodox rabbi,’ and ‘Halacha’ are religious terms that lend the case a certain surface feel of ecclesiastical content. When we look beneath the surface, however, we see an action to compel arbitration that turns not on ecclesiastical matters but on questions of contract interpretation that can be answered exclusively through the objective application of well-established, neutral principles of law.”).

²⁵ Appellants appear to rely on a provision of the 1997 Constitution, Article IV, Section 1, stating that the Pastor of the Church “shall serve as *overseer*, leader, advisor, and teacher” (emphasis added). Assuming *arguendo* that “overseer” is a religious term (as appellants contend it is), it is not clear that the parties disagree over its meaning or that, if they do, the dispute is either unresolvable by a court or material to the issues raised by the complaint. Appellants do not seem to claim, for example, that Turner’s status as “overseer” entitled him to misappropriate Church funds for his own use (in fact, they disavow any such claim in their appellate briefing) or override provisions of the Constitution committing contractual and other matters to the Trustee Board.

²⁶ *Family Fed’n*, 129 A.3d at 249.

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We therefore hold that the litigation may proceed, with the understanding that “going forward, if it becomes apparent to the trial court that this dispute does in fact turn on matters of doctrinal interpretation or church governance, the trial court may grant summary judgment to avoid ‘excessive entanglement with religion.’”²⁷

Accordingly, we hereby affirm the Superior Court’s denial of appellants’ motion to dismiss the amended complaint on First Amendment and standing grounds and remand the case for further proceedings.

ENTERED BY DIRECTION OF THE COURT:

/s/Julio A. Castillo
JULIO A. CASTILLO
Clerk of the Court

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²⁷ *Second Episcopal Dist. African Methodist Episcopal Church v. Prioleau*, 49 A.3d 812, 818 (D.C. 2012).

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APPENDIX C

**SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA
Civil Division**

**Civil Action No. 2015 CA 001406 B
Judge Robert R. Rigsby
Calendar 10**

**Next Event: Scheduling Conference,
April 8, 2016**

[Filed April 15, 2016]

ALVIN C. HINES et al.,)
)
Plaintiffs,)
)
v.)
)
Dr. MARCUS TURNER, SR., et al.,)
)
Defendants.)

ORDER

I. Introduction

This matter comes before this Court on Beulah Defendants' Motion for Reconsideration, or in Alternative, for Certification of Appeal under D.C. Code § 11-721(d) and the Defendant Columbia Bank's Motion

for Certification of Appeal under D.C. Code § 11-721(d). Upon consideration of Defendants' motions and Plaintiff's Oppositions, and the entire record herein, Beulah Defendant's Motion for Reconsideration or in Alternative, for Certification of Appeal under D.C. Code § 11-721(d) is **denied** and the Defendant Columbia Bank's Motion for Certification of Appeal under D.C. Code § 11-721(d) is **denied**.

II. Relevant Background

Plaintiffs, church members, brought suit against their pastor, board member and non-profit company, Defendant Marcus Turner, Defendant Moore and Beulah Community Improvement Corporation, allege breach of fiduciary duty, conversation and unjust enrichment.

On September, 4, 2015, the Court dismissed Defendants Turner, More and BCIC on First Amendment protection grounds. However, on December 31, 2015 the Court issued a *sua sponte* Order requesting parties brief on whether the recent decision, *Family Federation for World Peace and Unification International v. Moon* No. 14-CV-94, required reinstatement of the claims against Turner, Moore and BCIC. Upon receiving the parties' briefs and considering the prior precedent, an Order was entered on February 16, 2016, dismissing Defendant Turner but reinstating the claims against Defendants Moore and BCIC because those claims could be adjudicated under neutral legal principles of law without violating First Amendment protections.

In appealing the reinstatement of Defendants Moore and BCIC, Beulah Defendants contends that the Court erred because it only relied on *Family Federation*, without consideration for the prior Court of Appeals decision. Specifically, the Defendants claim that the Court misinterpreted its task of reconciling the *Family Federation* case with prior cases and that there is a continued conflict with the *Family Federation* ruling and the Court of Appeals' prior rulings, that warrants a dismissal of the claims against Beulah Defendants. Additionally, the Defendants argued that should the Court not reconsider the motion, a motion for an interlocutory appeal should be granted. The Plaintiffs, however, claim that there is no continued conflict with the prior case law and therefore, the motion for reconsideration and interlocutory appeal should be denied.

III. Analysis

A. Beulah Defendants' Motion for Reconsideration

Under Rule 59(e), in order to grant a motion for reconsideration the Court must find there was a "manifest error of law or fact." *In re Estate of Derricotte*, 885 A.2d 320, 324 (D.C. 2005); *Coleman v. Lee Washington Hauling Co.*, 388 A.2d 44, 46 (D.C. 1978)

Here, in interpreting the *Family Federation* ruling in conjunction with prior case law the Court sufficiently delineated how the current case facts and law applies to the protections provided by the First Amendment and the neutral principals of law.

Specifically using the *Family Federation* analysis of the neutral principles of law, the Court sufficiently outlined that the claims brought against Beulah Defendants “invoke[d] an ancient and well-developed legal are with deep roots in Anglo-American law” because the cause of action could be decided on familiar legal principals, similar to those brought in *Family Federation*. 129 A.3d at 240. Additionally, in reinstating BCIC the Court specifically emphasized that the ruling was not based on “nature of defendants’ non-profit or secular status,” but rather, on the neutral application of Plaintiffs’ allegations, also similar to the facts present in *Family Federation*. Therefore, the ruling reinstating the Defendants did not rely on any improper application of law or fact. *Coleman*, 388 A.2d at 46.

Considering that the Court of Appeals relied on prior cases to delineate and clarify applying the neutral principles of law doctrine, it is unsupported that there is a persistent conflict in the Court of Appeals that would merit granting a motion for reconsideration. *Family Federation*, 129 A.3d at 250 (citing *Bible Way Church of Our Lord Jesus Christ of Apostolic Faith of Wash., D.C. v. Beards*, 680 A.2d 419 (D.C. 1996), and *Meshel v. Ohev Sholom Talmud Torah*, 869 A.2d 343, 353 (D.C. 2005)). In deciding *Family Federation*, the Court of Appeals clarified the scope of the neutral principles law doctrine. *Family Federation*, 129 A.3d at 250. Applying the new scope of the doctrine does not amount to a “manifest” error of law or fact. *In re Estate of Derricotte*, 885 A.2d 320 at 324.

Conclusively, *Family Federation* clarified the boundaries for which to analyze First Amendment

claims and the neutral principles of law doctrine. Therefore, in the February 16, 2016 Order the Court determined that using the clarification that *Family Federation* provided; it erred in initially dismissing all Beulah Defendants. In reinstating Defendants Moore and BCIC the Court did not misinterpret its task nor create a continued conflict in prior precedent; rather, it sufficiently applied *Family Federation*'s clarification of the First Amendment boundaries to the prior precedents that the Court of Appeals has set forth.

Thus, under Rule 59(e), there has not been a “manifest” error of law or fact in reinstating the Beulah Defendants in the matter and Defendants’ motion for reconsideration is denied.

B. Beulah Defendants Alternative Motion for Certification of Appeal under D.C. Code § 11-721(d)

Under D.C. Code 11-721(d), in order to grant an interlocutory appeal the Court must determine whether the issue at question is (1) a controlling issue of law in the matter (2) for which there is a “substantial ground for a difference of opinion,” and (3) a ruling would “materially advance” the termination of the matter. *Ford v. ChartOne, Inc.*, 834 A.2d 875, 878 (D.C. 2003). Granting an interlocutory appeal required the issue “exceptional and not merely” an accelerated review of a “difficult issue.” *Medlantic Health Care Group, Inc. v. Cunningham*, 755 A.2d 1032, 1034 (D.C. 2000).

In order to have a “controlling issue of law,” the issue must not only be dispositive of the entire matter,

but also it must have a lack of documented precedent” *Medlantic Health Care Group, Inc.*, 755 A.2d at 1034. Despite the fact that the First Amendment claim is an asserted defense, it would entitle the parties to a qualified immunity that would be dispositive in barring the claim. However, even if the First Amendment as an asserted defense surpasses the first bar of an interlocutory appeal, there is not a “substantial ground for difference of opinion.” *Ford*, 834 A.2d at 878.

Moreover in order to surpass the requirement for a “substantial ground” for differing opinion, it must be more than a “mere disagreement . . . with the district court’s ruling,” but rather a clear “split in [the] district.” *Ford* 834 A.2d at 878 (D.C. 2003); *Arias v. DynCorp.*, 856 F. Supp. 2d 49, 55 (D.D.C 2012). The asserted defense of the First Amendment, as well as the neutral principles of law doctrine has a well-established history of interpretation in the Courts. This is demonstrated by the analysis provided in *Family Federation*, 129 A.3d at 250 (citing *Bible Way Church of Our Lord Jesus Christ of Apostolic Faith of Wash., D.C. v. Beards*, 680 A.2d 419 (D.C. 1996), and *Meshel v. Ohev Sholom Talmud Torah*, 869 A.2d 343, 353 (D.C. 2005)).

Additionally, a ruling on whether Beulah Defendants are immune under the First Amendment will not “materially advance” the termination of this case because there are other remaining claims at issue that will be unnecessarily delayed if the Court of Appeals has to make a determination based on clearly

established precedent. *Judicial Watch, Inc v. Nat'l Energy Policy Dev. Grp.*, 233 F. Supp 2d 16, 18 (D.D.C. 2002). Upon additional consideration that Defendant SMS Financial anticipates bringing claims against the Beulah Defendants and they will remain in the litigation, the appeal will not likely “materially advance” termination of this matter. *Ford*, 834 A.2d at 877.

The heavy burden for an interlocutory appeal is meant for issues that are so “exceptional” that an immediate appeal will promote judicial efficiency. *Medlantic Health Care Grp, Inc*, A.2d at 1033. The Beulah Defendants have not sufficiently met that heavy burden and granting the appeal would go against judicial efficiency. *Id.* Therefore, Beulah Defendants’ Motion for Certification of Appeal on the First Amendment issue under D.C. Code § 11-721(d) is denied.

C. Defendant Columbia Bank’s Motion for Certification of Appeal under D.C. Code § 11-721(d)

In responding to Beulah Defendants motion for appeal, Defendant Columbia Bank filed an additional motion for an interlocutory appeal supporting Beulah Defendants motion for an appeal “provided that” the Court also certifies an appeal for Judge Okun’s prior rulings on the issue of standing. Notwithstanding Plaintiffs’ contention that the motion is not ripe and is untimely filed, the issue of standing does not sufficiently meet the heavy burden necessary for an interlocutory appeal under D.C. Code § 11-721(d). Specifically, the issue of standing has been repeatedly

substantiated by prior case law and therefore does not have a substantial ground for disagreement, required for an interlocutory appeal. The Defendant's reliance on the specific use of "trustees" in the Court of Appeals ruling in *Kelsey v. Ray*, 719 A.2d 1248 (D.C. 1998), is not sufficient to meet the burden of a "substantial group for disagreement." *Ford*, 834 A.2d at 878.

Granting an interlocutory appeal requires an issue to be "exceptional and not merely" an accelerated review of a "difficult issue." *Medlantic Health Care Group, Inc.*, 755 A.2d at 1034. While the issue of standing can be difficult, the Defendants have not sufficiently proven that it is an issue in this matter that is "exceptional" for which there is a substantial ground for disagreement. *Id.* Therefore Defendant Columbia Bank's motion for an additional certification of interlocutory appeal under D.C. Code § 11-721(d) is denied.

Accordingly, it is this 15th day of April, 2016, hereby

ORDERED that Beulah Defendants' Motion for Reconsideration, or in Alternative, for Certification of Appeal under D.C. Code § 11-721(d) in regards to the First Amendment issue is **DENIED** it is further ordered;

Columbia Bank Defendant's Motion for Certification of Appeal under D.C. Code § 11-721(d) in regards to the issue of Plaintiffs' standing is **DENIED**.

App. 27

SO ORDERED.

/s/Robert R. Rigsby
ROBERT R. RIGSBY
Associate Judge

APPENDIX D

**SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA
Civil Division**

**Case No. 2015 CA 001406 B
Judge Robert Okun
Calendar 10**

[Filed February 16, 2016]

ALVIN HINES et al.,)
)
Plaintiffs,)
)
v.)
)
DR. MARCUS TURNER, SR., <i>et al.</i> ,)
)
Defendants.)

ORDER

This matter is before the Court on Plaintiffs' Brief in Support of Reinstatement of Claims Against Defendants BCIC, Turner and Moore Based on the Court of Appeals' December 24, 2015 Decision in *Family Federation for World Peace and Unification International v. Hyun Jin Moon* ("Plaintiffs' Brief") and the Beulah Defendants' Supplemental Brief on First Amendment ("Defendants' Brief"). Based upon the

Court's review of Plaintiffs' Brief, Defendants' Brief, and the entire record of the case, Plaintiff's request to reinstate their claims against Defendants BCIC, Turner and Moore will be **granted in part and denied in part**, for the reasons set forth below.

RELEVANT PROCEDURAL HISTORY

The case has a long, and somewhat tortured, procedural history, which will not be repeated here. To cut to the chase, on September 4, 2015, this Court granted the Beulah Defendants' Motion to Dismiss on the grounds that the allegations in the Complaint were insufficient to confer subject matter jurisdiction on this Court, because the First Amendment barred the Court's resolution of the Plaintiffs' claims. On November 19, 2015, this Court denied Plaintiffs' Motion for Reconsideration.

On December 24, 2015, the Court of Appeals issued an opinion in *Family Federation for World Peace and Unification International v. Hyun Jin Moon*, No. 14-CV-94, in which the Court of Appeals reversed the grant of a motion to dismiss, on First Amendment grounds, against a non-profit corporation established under the auspices of a church. Upon this Court's review of the Court of Appeals' opinion, this Court issued a *sua sponte* Order on December 31, 2015 requiring the parties to address the issue of whether the Court of Appeals' opinion should cause this Court to reconsider its November 19, 2015 denial of Plaintiffs' Motion for Reconsideration with respect to Defendant Beulah Community Improvement Corporation ("BCIC").

On January 15, 2016, Plaintiffs filed their Brief in support of reinstatement of their claims against the Beulah Defendants. Plaintiffs argued that the *Family Federation* decision demonstrated that Plaintiffs' common law tort claims for conversion, unjust enrichment, breach of fiduciary duty, and conspiracy could be resolved by applying well-developed "neutral principles" of law and therefore did not run afoul of the First Amendment. Plaintiffs also noted that Defendant BCIC is a secular, non-profit corporation, like the non-profit corporation that was not shielded by the First Amendment in *Family Federation*.

On January 16, 2016, the Beulah Defendants filed their Brief in opposition to Plaintiffs' request to reinstate their claims against the Beulah Defendants. The Beulah Defendants argued that *Family Federation* was distinguishable from this case because the church in that case was a plaintiff, not a defendant, and because the defendant in that case was a non-profit corporation that had broken all ties with the church. In addition, the Beulah Defendants argued that the defendants in this case are either leaders of the church or an entity that acts on the church's behalf, and therefore are protected by the First Amendment. Finally, the Beulah Defendants renewed the *res judicata* and standing arguments that they raised in their original Motion to Dismiss, which this Court did not address when granting their Motion to Dismiss because it relied on the First Amendment as the basis for dismissal.

ANALYSIS

A. First Amendment

In order to properly evaluate Plaintiffs' request, it is necessary to briefly review this Court's Order dismissing Plaintiffs' claims against the Beulah Defendants and the Court of Appeals' decision in *Family Federation*. In this Court's Order dismissing Plaintiffs' claims on First Amendment grounds, the Court noted that some of Plaintiffs' claims appeared to directly implicate the Church's choice of its religious representatives, a decision that, under the First Amendment, is properly left to the Church and not the courts. Thus, this Court determined that Plaintiffs' request that the Court declare the existing Church Constitution as null and void was a request that would entangle this Court in ecclesiastical matters that were beyond the authority of the Court.

The Court also found that Plaintiffs' allegations concerning the Beulah Defendants' alleged financial misdeeds were beyond the jurisdiction of the Court, including Plaintiffs' allegations that Turner used the Church credit card for meals, fuel for his personal car, dry cleaning, vacations, personal lawn care and cell phone bills, and had the Church pay for his wife's education and his son's tuition, as well as his own personal tax liabilities. This Court found that Plaintiffs had not sufficiently alleged that the Beulah Defendants violated financial principles that were universally and indisputably adopted by every church or that they violated financial principles that the Church, in fact, had adopted, and therefore found that the First Amendment precluded these claims.

In *Family Federation*, the Court of Appeals reversed the trial court's grant of a motion to dismiss a complaint that contained allegations that were very similar to the allegations in this case. The plaintiffs in *Family Federation* alleged that the defendants had improperly attempted to take control of Unification Church International ("UCI"), a non-profit corporation established under the auspices of Reverend Sung Myung Moon, the founder of the Unification Church. *Family Federation*, slip op. at 2. More specifically, the plaintiffs alleged that the defendants improperly seized control of UCI and its assets, and improperly diverted these assets to Preston Moon, one of the defendants, through such methods as causing UCI to lend \$2,000,000 to an entity owned by Mr. Moon and also by causing UCI to enter into a "consulting agreement" with Mr. Moon under which UCI agreed to pay Mr. Moon \$120,000 per month, even though this consulting agreement served no legitimate business purpose. *Id.* at 10-11. The plaintiffs filed a complaint alleging breach of trust, breach of fiduciary duty, breach of contract and unjust enrichment. *Id.* at 11.

The trial court dismissed the complaint on First Amendment grounds, but the Court of Appeals reversed, holding that the plaintiffs' allegations involving breach of trust invoked "an ancient and well-developed legal area with deep roots in Anglo-American law," that the breach of contract and unjust enrichment allegations were the type of allegations "encountered by first-year law students," and that the breach of fiduciary duty allegations relied "upon doctrines basic to our legal system." *Id.* at 29-30. Thus, the Court of Appeals found that the plaintiffs' allegations appeared

to be susceptible to resolution by “neutral principles of law” and not by any “forbidden inquiry into matters barred by the First Amendment.” *Id.* at 30. The Court of Appeals also noted that the suit was not “directly against a church, synagogue, or mosque or their immediate leadership,” *Id.* at 30-31, and instead was filed against a nonprofit corporation and that the individual defendants appeared to be operating in a secular capacity. *Id.* at 31. However, although the status of the defendants was identified as a factor in the Court’s analysis, it does not appear to have been the determinative factor; rather, the Court of Appeals focused on the nature of the claims asserted by the plaintiffs and noted that these issues could “well be resolvable without infringement into areas precluded . . . by the First Amendment.” *Id.*

Finally, the Court of Appeals rejected the argument that the corporate documents at issue must clearly establish that the case can be decided in a manner that is “distinct and separate from matters of church doctrine or polity,” *id.* at 32; rather, the Court of Appeals noted that application of neutral principles of law need not depend on documentary evidence alone, and instead could be based on familiar legal principles “from the common and statutory law of property, contracts, corporations or voluntary associations.” *Id.* at 33.

Applying the Court of Appeals’ analysis in *Family Federation* to the facts of this case, the Court agrees with Plaintiffs that their claims survive dismissal on First Amendment grounds. Indeed, Plaintiffs’ claims are strikingly similar to the claims raised by the

plaintiffs in *Family Federation*. For example, like the plaintiffs in *Family Federation*, Plaintiffs in this case have alleged that Turner and Moore breached their fiduciary duties to the Church and the Plaintiffs when they diverted Church funds and property for Turner's personal use. As the Court of Appeals noted in *Family Federation*, these types of actions are not shielded by the First Amendment because they can be resolved by applying neutral principles of law that are "basic to our legal system." *Id.* at 30.

Likewise, there is no First Amendment bar, at this stage in the proceedings, to Plaintiffs' allegations that Turner was unjustly enriched when he and Moore diverted Church assets for Turner's personal use; that Turner and Moore converted Church assets for Turner's personal use; and that the Beulah Defendants conspired to breach fiduciary duties, convert Church funds and unjustly enrich Turner through these actions. Rather, as the Court of Appeals noted in *Family Federation*, these types of actions can be evaluated through neutral principles of law that are "encountered by first-year law students." *Id.*

In addition, there does not appear to be a First Amendment bar, at this stage of the proceedings, to Plaintiffs' allegations that the Beulah Defendants have improperly taken administrative and decision-making authority away from Church leadership bodies and the congregation and arrogated that authority to Defendant Turner. Instead, as the Court of Appeals noted when discussing the plaintiffs' similar allegations in *Family Federation*, these breach of trust

allegations “invoke an ancient and well-developed legal area with deep roots in Anglo- American law.” *Id.* at 29.

Furthermore, although this Court previously found that the Beulah Defendants’ actions were shielded by the First Amendment because they did not violate principles that were universally and indisputably adopted by every church or that had been adopted by the Beulah Church itself, the Court of Appeals in *Family Federation* found this type of analysis to be inadequate. To the contrary, application of neutral principles of law need not depend on documentary evidence alone, and instead can be based on familiar legal principles “from the common and statutory law of property, contracts, corporations or voluntary associations.” *Id.* at 33.

Finally, the Court rejects the Beulah Defendants’ argument that *Family Federation* should not alter this Court’s analysis because Defendants Turner and Moore are Church leaders and Defendant BCIC is an extension of the Church, while the defendants in *Family Federation* had broken away from the Church to establish a secularized non-profit corporation. Although the Court acknowledges that this factor supports the Beulah Defendants’ position, the Court does not believe it alters the ultimate result. Rather, the focus of the Court of Appeals’ analysis in *Family Federation* was on the nature of the plaintiffs’ allegations, not the nature of the defendants’ non-profit or secular status. Indeed, the Court of Appeals devoted only four sentences to the nature of the defendants’ status, *id.* at 30-31, and devoted more than ten pages

to the nature of the plaintiffs' claims. *Id.* at 29-30, 31-40.

In sum, the Court believes that it erred when it dismissed, on First Amendment grounds, Plaintiffs' allegations against the Beulah Defendants. Therefore, the Court will vacate that portion of its September 4, 2015 and November 19, 2015 Orders that ordered dismissal of these claims on First Amendment grounds.

B. Standing

As noted above, the Beulah Defendants also have renewed their requests that the Complaint be dismissed on standing and *res judicata* grounds. This Court has already rejected the Bank Defendants' identical standing argument, and the Court rejects the Beulah Defendants' standing argument for the reasons that are set forth in its December 22, 2015 Omnibus Order denying the Bank Defendants' standing argument. *See* Order at 9.

C. *Res Judicata*

Res judicata "precludes relitigation in a subsequent proceeding of all issues arising out of the same cause of action between the same parties or their privies" *Harnett v. Washington Harbour Condominium Unit Owners' Ass'n*, 54 A.3d 1165, 1173 (D.C. 2012); *Patton v. Klein*, 746 A.2d 866, 869 (D.C. 1999) ("Under the doctrine of *res judicata*, a final judgment on the merits of a claim bars relitigation of the same claim . . ."). In determining whether two cases are based on the same "cause of action," the courts have considered "the nature of the two actions and the facts sought to be

proved in each one.” *Shin v. Portals Confederation Corp.*, 728 A.2d 615, 619 (D.C. 1999). Furthermore, the doctrine of *res judicata* is not limited to causes of action between the same parties, but also includes “privies” of those parties; a party is considered a “privy” if he or she is “so identified in interest with a party to the former litigation that he or she represents precisely the same legal right in respect to the subject matter of the case.” *Modiri v. 1342 Restaurant Group, Inc.*, 904 A.2d 391, 396 (D.C. 2006). However, the doctrine of *res judicata* only applies if there has been a final judgment on the merits in the first proceeding, and does not apply when the first case has not been resolved on the merits. See *Shin v. Portals Confederation Corp.*, 728 A.2d 615, 618 (D.C. 1999) (“the crucial element of *res judicata* is a final judgment **on the merits**”) (emphasis added); *Patton v. Klein*, 746 A.2d 866, 869 (D.C. 1999) (“Under the doctrine of *res judicata*, a final judgment **on the merits** of a claim bars relitigation of the same claim . . .”) (emphasis added).

In this case, *res judicata* does not bar Plaintiffs’ claims against Defendants BCIC and Moore because no court has issued a final judgment on the merits of the Plaintiffs’ claims against these defendants. Rather, in *Wigfall v. Turner*, 2014 CA 1577, Judge Cordero dismissed the Complaint against BCIC, without prejudice, based on the Plaintiffs’ failure to file timely proof of service, a dismissal that was not final and did not address the merits of the claims in any way. Such a dismissal does not have *res judicata* effect. See, e.g., *Stone v. McConkey*, 761 A.2d 276, 277 (D.C. 2000) (“If the dismissal was without prejudice, that is an indication that the judgment was not [final or] on the

merits, and thus does not have a *res judicata* effect.”); *Shin v. Portals Confederation Corp.*, 728 A.2d 615, 618 (D.C. 1999) (“it is beyond dispute that a dismissal without prejudice does not determine the merits”).

Likewise, in *Wigfall v. Turner*, 2014 CA 3637, the Complaint against Moore was dismissed pursuant to a settlement agreement between the parties, an agreement that did not require the Court to resolve the merits of Plaintiff’s claims against Moore. This voluntary dismissal did not have *res judicata* effect. *See, e.g., Shin*, 728 A.2d at 618 (plaintiff’s voluntary dismissal of counterclaim did not bar later claim because “it was not a final adjudication” of first claim). Thus, because no court has entered a final judgment on the merits of Plaintiffs’ claims against either BCIC or Moore, the doctrine of *res judicata* does not bar consideration of their claims in this case.

The same reasoning does not apply to Plaintiffs’ claims against Defendant Turner. To the contrary, in *Wigfall v. Turner*, 2014 CA 1577, Judge Cordero did address the merits of Plaintiffs’ claims against Turner when she granted Turner’s motion to dismiss the Complaint against him for failure to state a claim upon which relief could be granted. Furthermore, although only two of the plaintiffs in this case were plaintiffs in the case before Judge Cordero, all of the plaintiffs in this case are properly considered “privies” of the plaintiffs in the case before Judge Cordero. Indeed, all of the plaintiffs in both cases are members of the Church, who are seeking the same or similar relief against Turner. Moreover, many of the allegations in the Complaint in the case before Judge Cordero mirror

the allegations in the current case, including the allegations that Turner engaged in unauthorized financial transactions for which the Church was used as collateral, and also made multiple real estate purchases without the approval of the Church's Board of Directors. Thus, because Judge Cordero entered a final judgment on the merits of the first case against Turner, and because Plaintiffs in this case are properly considered "privies" of the plaintiffs in the case before Judge Cordero, the Plaintiffs' Complaint against Turner must be dismissed on *res judicata* grounds.

CONCLUSION

In sum, the Court agrees with Plaintiffs that their claims against the Beulah Defendants are not barred by the First Amendment, and therefore vacates the portion of its September 4, 2015 and November 19, 2015 Orders dismissing those claims on First Amendment grounds. The Court also rejects the Beulah Defendants' standing argument, and rejects their *res judicata* argument with respect to Defendants BCIC and Moore. However, the Court agrees that the Complaint against Defendant Turner must be dismissed on *res judicata* grounds.

Accordingly, it is this 16th day of February, 2016 hereby

ORDERED that Plaintiffs' Complaint against Defendants BCIC and Moore is **REINSTATED**; and it is further

ORDERED that Plaintiffs' Complaint against Defendant Moore **REMAINS DISMISSED**.

App. 40

/s/Robert Okun

Judge Robert Okun
(Signed in Chambers)

Copy via eService to:

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Calvin R. Nelson
Counsel for Plaintiffs

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XXVIII, L.L.C.*

APPENDIX E

**SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA
Civil Division**

**Case No. 2015 CA 001406 B
Judge Robert Okun
Calendar 10**

[Filed November 19, 2015]

ALVIN HINES et al.,)
)
Plaintiffs,)
)
v.)
)
DR. MARCUS TURNER, SR., <i>et al.</i> ,)
)
Defendants.)

ORDER

The following motion is before the Court: Plaintiffs' Motion for Reconsideration or, in the Alternative, Motion for Leave to Amend ("Motion for Reconsideration"), filed on September 21, 2015. The Beulah Defendants' filed their Opposition on October 13, 2015, and Plaintiffs' filed their Reply on October 20, 2015. Upon consideration of the Motion, the Opposition, and the Reply, and the entire record of this

case, Plaintiffs' Motion for Reconsideration is **denied**, for the reasons set forth below.¹

RELEVANT PROCEDURAL HISTORY

On September 4, 2015, this Court issued an Omnibus Order that granted the Beulah Defendants' Motion to Dismiss and denied their Motion to Stay as moot. The Court granted the Motion to Dismiss after finding that the allegations in the First Amended Complaint were insufficient to confer subject matter jurisdiction on the Court because the First Amendment precluded this Court's consideration of Plaintiffs' claims.

On September 21, 2015, Plaintiffs filed their Motion for Reconsideration pursuant to Super. Ct. Civ. R. 59(e), arguing that this Court erred in granting the Beulah Defendants' Motion to Dismiss, and, in the alternative, seeking leave to file their Second Amended Complaint, pursuant to Super. Ct. Civ. R. 15(a). In support of their alternative request for leave to file their Second Amended Complaint, the Plaintiffs added four new paragraphs to their proposed Second Amended Complaint, in which the Plaintiffs allege that the common law provided "neutral legal principles that are universally and indisputably applicable to churches and church leaders, including Defendant Turner and Defendant Moore." *See Second Amended Compl.* at

¹ Plaintiffs also have filed a Motion for Clarification and a Motion for Reconsideration of this Court's October 1, 2015 Omnibus Order granting the motions to dismiss filed by The Columbia Bank and SMS Financial XXVIII, L.L.C.. The Court will address those motions in a separate order.

¶¶ 99, 109, 113 and 120. The Plaintiffs also added the phrase “without authorization” and references to the common law to certain paragraphs in the Second Amended Complaint and removed a request to have the Court declare the Beulah Church’s by-laws to be null and void. Other than those proposed changes, the Second Amended Complaint lists the same causes of action against the same defendants, based on the same factual assertions and the same legal theories of liability.

On October 13, 2015, the Beulah Defendants filed their Opposition, arguing that the Plaintiffs had not established that they were entitled to reconsideration under Super. Ct. Civ. R. 59(e), and that they should not be allowed to file a Second Amended Complaint because the proposed amended complaint would have to be dismissed on the same grounds as the First Amended Complaint. On October 20, 2015, Plaintiffs filed their Reply.

ANALYSIS

A. Motion for Reconsideration

A trial court may grant a Rule 59(e) motion only to correct “manifest errors of law or fact.” *In re Estate of Derricotte*, 885 A.2d 320, 324 (D.C. 2005); *Dist. No. 1 – Pac. Coast Dist., Marine Engineers’ Ben. Ass’n v. Travelers Cas. & Sur. Co.*, 782 A.2d 269, 278-79 (D.C. 2001). In this case, the Plaintiffs have raised a number of non-frivolous challenges to the correctness of this Court’s September 4, 2015 Omnibus Order. Nonetheless, they have not identified any D.C. Court of Appeals’ precedent that directly forecloses or

undermines the validity of this Court's Order, and have otherwise failed to show that this Court's Order contained "manifest errors of law or fact" that may be corrected pursuant to Rule 59(e). Consequently, Plaintiff's Motion for Reconsideration will be denied.

B. Motion for Leave to Amend

Pursuant to Super. Ct. Civ. R. 15(a), a party may amend a pleading after a responsive pleading has been filed only if the party obtains the court's permission or the other party's written consent. Rule 15(a) also specifies that leave to amend "shall be freely given when justice so requires."

In interpreting this rule, the Court of Appeals has noted that the Rule should be applied with a "spirit of liberalism," *Sherman v. Adoption Center of Washington, Inc.*, 741 A.2d 1031, 1037 (D.C. 1999), and that the policy favoring resolution of disputes on the merits "creates a 'virtual presumption' that leave to amend should be granted unless there are sound reasons for denying it." *Pannell v. District of Columbia*, 829 A.2d 474, 477 (D.C. 2003). Nonetheless, the above-cited "spirit of liberalism" does not mean that amendments should be granted automatically; "a refusal to allow an amendment is to be upheld if predicated on some valid ground." *Sherman*, 741 A.2d at 1038 (quoting *Johnson v. Fairfax Village Condo. IV*, 641 A.2d 495, 501 (D.C. 1994)). In determining whether the interests of justice require the granting of a motion to amend, the trial court should consider the following factors: "(1) the number of requests to amend; (2) the length of time that the case has been pending; (3) the presence of bad faith or dilatory reasons for the

request; (4) the merit of the proffered amended pleading; and (5) any prejudice to the non-moving party.” *Pannell*, 829 A.2d at 477.

In this case, many of the factors favor Plaintiffs’ request for leave to amend. This is only their second request to amend the complaint, the case has been pending for less than a year, the Court does not find that the request has been made in bad faith or for dilatory reasons, and the Court likewise does not find that the Defendants would be prejudiced by the grant of Plaintiffs’ Motion at this stage in the proceedings. Nonetheless, Plaintiffs’ request is doomed by the lack of merit of their proffered amended pleading. Indeed, although the Plaintiffs have made minor revisions to the proposed Second Amended Complaint, the proposed amended pleading still is based on the same legal theories and the same factual circumstances, and alleges the same causes of action against the same defendants, as the First Amended Complaint. Therefore, the Court believes that the Second Amended Complaint would be dismissed on the same First Amendment grounds as the First Amended Complaint.

In sum, because the First Amendment would bar consideration of Plaintiff’s proposed Second Amended Complaint, the “interests of justice” do not require that this Court grant Plaintiff’s request to file their proposed amended pleading. *See Sherman*, 741 A.2d at 1038 (“The court appropriately included in its calculus the apparent lack of merit in the amended complaint” when denying plaintiff’s motion to amend). Accordingly, Plaintiffs’ Motion for Leave to Amend will be denied.

Accordingly, it is this 19th day of November, 2015,
hereby

ORDERED that Plaintiffs' Motion for
Reconsideration or, in the Alternative, Motion for
Leave to Amend, is **DENIED**.

/s/Robert Okun

Judge Robert Okun
(Signed in Chambers)

Copy via eService to:

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Calvin R. Nelson
Counsel for Plaintiffs

Joseph G. Cosby
*Counsel for Defendants Turner, Moore and Beulah
Community Improvement Corp.*

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XXVIII, L.L.C.*

APPENDIX F

**SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA
Civil Division**

**2015 CA 001406 B
Judge Robert Okun
Calendar 10**

[Filed September 4, 2015]

ALVIN HINES et al.,)
)
Plaintiffs,)
)
v.)
)
DR. MARCUS TURNER, SR., <i>et al.</i> ,)
)
Defendants.)

OMNIBUS ORDER

The following two motions are before the Court:
1) the Motion to Dismiss the Complaint (“Motion to Dismiss”) filed by Defendants Dr. Marcus Turner, Sr., Russell E. Moore, and the Beulah Community Improvement Corporation (collectively referred to as the “Beulah Defendants”), Plaintiffs’ Opposition and the Beulah Defendants’ Reply; and 2) the Beulah Defendants’ Renewed Motion for Stay (“Motion for

Stay”), and Plaintiff’s Opposition. Upon consideration of the Motions, the Oppositions, and the entire record of the case, the Court **grants** the Beulah Defendants’ Motion to Dismiss, and **denies** the Beulah Defendants’ Motion to Stay as moot, for the reasons set forth below.¹

Procedural and Factual Background

This case is just the latest chapter in a long-running dispute between certain members of the Beulah Baptist Church (“the Church”), on the one side, and Dr. Marcus Turner, Sr. (“Turner”), the pastor of the Church, and certain other entities and individuals, on the other side. The Court will set forth an abbreviated overview of the three cases filed in this dispute before the filing of the case at hand, and will then discuss the instant case.

1. Wigfall v. Turner, 2014 CA 001577 B (“Wigfall I”)

On March 14, 2014, six members of the Church, including two of the Plaintiffs in this case, filed a Complaint against Turner, the Beulah Community Improvement Corporation (“BCIC”), The Columbia Bank (“Columbia Bank”), Community Title Services, and Gene Gallagher for fraud, unjust enrichment, civil conspiracy, and gross negligence, seeking damages, declaratory relief and a preliminary injunction. Many of the allegations in the Complaint in Wigfall I mirror

¹ The Court will address the Motions to Dismiss filed by Defendants The Columbia Bank and SMS Financial XXVIII, L.L.C., in a separate Order.

the allegations in the current case, including allegations that Turner engaged in unauthorized financial transactions, such as a \$3.2 million loan in July 2008, for which the Church was used as collateral, as well as multiple real estate purchases made without the approval of the Church's Board of Directors. On June 6, 2014, Judge Cordero dismissed BCIC, Columbia Bank and Community Title Services from the case because the Plaintiffs had not timely filed proof of service with respect to these defendants.² On June 26, 2014, Judge Cordero dismissed the Complaint against Turner for failure to sufficiently state a claim against him.

2. Wigfall v. Turner, 2014 CA 003637 (“Wigfall II”)

On June 13, 2014, after Judge Cordero had dismissed the Complaint against BCIC, Columbia Bank and Community Title Services, but before she had dismissed the Complaint against Turner, four members of the Church, including two of the Plaintiffs in this case, filed a second Complaint against Turner, BCIC, Columbia Bank, Community Title Services, and Russell E. Moore (“Moore”), again alleging fraud, unjust enrichment, civil conspiracy and gross negligence, based largely on the same allegations raised in *Wigfall I*. On October 1, 2014, after Judge Holeman had dismissed the unjust enrichment and civil conspiracy claims against Columbia Bank, two new Church members filed an Amended Complaint, this time against Turner, BCIC, Columbia Bank,

² Plaintiffs had previously dismissed Gene Gallagher from the case.

Community Title Services, Moore, and three other BCIC Board members. In this latest Complaint, the Plaintiffs alleged conversion, unjust enrichment, civil conspiracy, breach of fiduciary duty, and gross negligence, based largely on the same factual allegations raised in *Wigfall I* and the initial Complaint in *Wigfall II*. Judge Holeman subsequently dismissed the unjust enrichment and civil conspiracy claims against Columbia Bank and Community Title Services. On June 25, 2015, the Plaintiffs and the Beulah Defendants filed a Joint Motion to Dismiss the case against the Beulah Defendants, pursuant to a settlement agreement in which the Beulah Defendants agreed to dismiss their claims against the Plaintiffs and others who were named as defendants in *Turner v. Wigfall*, 2014 CA 5656, as described below.³

3. Turner v. Wigfall, 2014 CA 5656 (“Turner”)

On September 9, 2014, Turner, BCIC and the Church (“the Turner Plaintiffs”) turned the tables and filed a Complaint against the Plaintiffs and their attorneys in *Wigfall I*. The Turner Plaintiffs alleged that the Defendants committed abuse of process, invasion of privacy, conversion and fraud in connection

³ At the June 12, 2015, Initial Scheduling Conference in this case, the Court requested that the parties provide the Court with their positions on the issue of whether this case should be consolidated with the case pending before Judge Holeman. All of the parties indicated that they were either unconditionally or conditionally opposed to consolidating the cases. Given the parties’ unified position on this case, and given the fact that Plaintiffs have dismissed the Beulah Defendants in the case before Judge Holeman, there now is no basis for consolidating the cases.

with their service of subpoenas to obtain financial records after *Wigfall I* had been dismissed and before *Wigfall II* had been filed. On April 23, 2015, this Court granted the church member Defendants' Motions to Dismiss with respect to all claims filed against them, and granted the attorney Defendants' Motion to Dismiss with respect to the conversion claim, but denied their Motion to Dismiss with respect to the other claims. On June 19, 2014, pursuant to the settlement agreement noted above, the Plaintiffs in *Turner* filed a Stipulation of Dismissal against all the Defendants in that case.

4. The Current Case

Finally, we get to the case pending before this Court. On March 3, 2015, eighteen members of the Church filed a Complaint against Turner, Moore, BCIC, and Columbia Bank for breach of fiduciary duty, conversion, unjust enrichment, civil conspiracy, and negligence.⁴ The Plaintiffs sought an Order that: 1) declared as null and void the July 2008 Deed of Trust, Security Agreement and Assignment of Leases and Rents between BCIC and Columbia Bank, and a July 2008 Guaranty Agreement between the Church and Columbia Bank, and discharges the Church from any obligations it has as a guarantor under those Agreements; 2) enjoined Turner and Moore from

⁴ On April 28, 2015, SMS Financial XXVIII, L.L.C., filed a Consent Motion to Intervene as Party Defendant, asserting that it had an interest in the case because it is a successor to Columbia Bank under a promissory note and a loan modification agreement between Columbia Bank and BCIC. The Court granted this Consent Motion on May 5, 2015.

making decisions, taking actions or otherwise exercising authority regarding Church finances and property; 3) required a full accounting of the financial records of the Church, Turner, and Moore; 4) declared as null and void the existing Church Constitution; and 5) awarded Plaintiffs damages, pre-judgment and post-judgment interest, costs and reasonable attorney fees. On June 17, 2015, Plaintiffs filed their First Amended Complaint, which added a count specifically requesting that this Court issue a declaratory judgment that the Agreements described above were null and void and do not bind the Church.

In their First Amended Complaint (hereafter “the Complaint”), Plaintiffs allege that Turner has been the pastor of the Church since 1999, and since that time has taken administrative and decision-making authority away from Church leadership bodies and the congregation and arrogated that authority to himself. (Compl. at ¶ 2.) In the process, Plaintiffs allege, Turner has taken actions that have compromised the Church’s financial health, sometimes for his own financial benefit. (*Id.* at ¶ 3.) More specifically, the Complaint alleges that Turner used the Church credit card for meals, fuel for his personal car, dry cleaning, vacations, personal lawn care and cell phone bills, and also had the Church pay for his wife’s education and his son’s tuition, as well as his own personal tax liabilities. (*Id.* at ¶ 38.)

The Complaint further alleges that Turner used Church property as collateral for a \$3,230,000 loan in July 2008, in which the Church was the guarantor of the loan, BCIC was the borrower, and The Columbia

Bank was the lender. (*Id.* at ¶ 51.) According to the Complaint, Turner consummated this transaction without the knowledge or approval of the Church's Trustee Board, Joint Board, or the Church membership.⁵ (*Id.* at ¶ 52.) The Complaint further alleges that, as part of this transaction, Jacquelyne Giles, at Turner's direction, executed two special warranty deeds conveying Church property to BCIC and to another entity that appears to be affiliated with the Church, without authorization from the Trustee Board, the Joint Board, or the Church membership. (*Id.* at ¶¶ 55-57.) BCIC subsequently defaulted on the July 2008 loan and then entered into a series of forbearance agreements with the lender – first with Columbia Bank and later with SMS Financial. (*Id.* at ¶ 89.) None of the plaintiffs knew of these July 2008 transactions until January 2014, when they saw a notice in *The Washington Post* stating that the Church property was going to be auctioned at a foreclosure sale. (*Id.* at ¶¶ 59, 89-90.) To prevent this foreclosure, BCIC and Turner sold off other BCIC properties, including the two properties covered by the special warranty deeds executed in July 2008. (*Id.* at ¶ 91.)

The Complaint also alleges that Turner, aided by Defendant Moore, who was serving as Chair of the Trustee Board, entered into a \$900,000 loan in 2011,

⁵ According to the Complaint, the Church has three official boards: the Trustee Board, the Deacon Board, and the Deaconess Board. These three boards were required by the Church's Constitution to meet once a month as a Joint Board to act on matters approved by the Church and to prepare recommendations to the Church membership for future action. (*Id.* at ¶¶ 32-33.)

again encumbering Church property, and that much of the money was used for purposes unrelated to the mission of the Church. (*Id.* at ¶ 73.) In 2014, after Turner refused to pay the contractor for the full amount of the work secured by the loan, the contractor sued Turner, the Church and BCIC, and the Church was forced to incur legal fees and expend funds to settle the lawsuit. (*Id.* at ¶ 96.)

Finally, the Complaint alleges that Turner, aided by Moore, amended the Church's Constitution in 2012 to eliminate the Trustee Board, the Deacon and Deaconess Boards, and the Joint Board, and replaced them with advisory committees whose members are appointed by Turner and who serve at his pleasure. (*Id.* at ¶ 83.) All decision-making authority under the 2012 Constitution resides in a Council of Elders, which is composed of Turner, Moore, and Frank Sutton. (*Id.* at ¶¶ 84-85.) According to the Complaint, the Council of Elders has acted with a "complete lack of transparency and accountability," refusing to share the Church's financial information with membership. (*Id.* at ¶¶ 86-87.) Furthermore, the Complaint alleges that the Church now struggles to cover routine operating expenses, and no longer provides services that it used to provide, as a result of Turner's "financial mismanagement and irresponsible conduct." (*Id.* at ¶ 97.)

The Complaint asserts four substantive causes of action against the Beulah Defendants. In the first count, Plaintiffs allege that Turner, aided and abetted by Moore, breached their fiduciary duties to the Church and the Plaintiffs through the actions set forth above.

In the second count, Plaintiffs allege that Turner, aided and abetted by Moore, converted funds belonging to the Church for Turner's personal benefit. In the third count, Plaintiffs allege that Turner, aided and abetted by Moore, was unjustly enriched by the above-described practices. In the fourth count, Plaintiffs allege that Turner, Moore and BCIC conspired to breach Turner and Moore's fiduciary duties to the Church and Plaintiffs, to convert Church funds to Turner's control, and to unjustly enrich Turner.⁶

On May 15, 2015, the Beulah Defendants filed their Motion to Dismiss, asserting that the Court lacked subject matter jurisdiction over the claims in the Complaint under the First Amendment, and also arguing that the claims were barred by the doctrine of *res judicata* and that the Plaintiffs lacked standing to assert their claims either on their own behalf or on behalf of the Church.

On June 4, 2015, Plaintiffs filed their Opposition, arguing that the First Amendment is not applicable to the allegations raised in the Complaint because these allegations can be resolved under neutral legal principles; that the doctrine of *res judicata* is not applicable because the Court in *Wigfall I* did not render a decision on the merits and none of the Plaintiffs in this case, except two, is the same or in privity with the *Wigfall I* plaintiffs; and Plaintiffs have standing to

⁶ Count Five alleges negligence solely against The Columbia Bank, and Counts Six and Seven seek an accounting and declaratory judgment with respect to the financial mismanagement alleged in the Complaint.

assert their claims because they are *bona fide* members of the Church.

On June 11, 2015, the Beulah Defendants filed a Motion to Stay the case, requesting that the case be stayed pending a ruling on their Motion to Dismiss. On June 17, 2015, Plaintiffs filed their Opposition, and on June 24, 2015, the Beulah Defendants filed their Reply.

On June 12, 2015, this Court conducted the Initial Scheduling Conference in this case and orally granted Plaintiffs' request to file an Amended Complaint by June 17, 2015. On June 17, 2015, Plaintiffs filed their First Amended Complaint.

On July 1, 2015, this Court issued an Omnibus Order denying the Beulah Defendants' Motion to Dismiss as moot because it was directed to the initial Complaint, which had been superseded by the First Amended Complaint. The Court also denied the Beulah Defendants' Motion to Stay as moot because the Court stayed discovery in the case at the Initial Scheduling Conference until July 31, 2015, which was the date for a further Scheduling Conference.⁷

On July 6, 2015, the Beulah Defendants filed their Motion to Dismiss Plaintiffs' Amended Complaint, largely reiterating the arguments made in their initial Motion to Dismiss. On July 21, 2015, Plaintiffs filed

⁷ The Scheduling Conference subsequently was continued until October 2, 2015. The Court also denied as moot the Motions to Dismiss filed by Defendant Columbia Bank and Defendant SMS Financial XXVIII, L.L.C., and denied Columbia Bank's Motion to Stay.

their Opposition and on July 28, 2015, the Beulah Defendants filed their Reply.

Finally, on July 10, 2015, the Beulah Defendants renewed their previously filed Motion to Stay and the Plaintiffs renewed their Opposition to the Motion to Stay on the same day.

Analysis

I. Motion to Dismiss

A. Applicable Legal Standards

1. Motion to Dismiss for Lack of Subject Matter Jurisdiction

A motion to dismiss for lack of subject matter jurisdiction under Super. Ct. Civ. R. 12(b)(1) may be made by “facial” attack or “factual” attack. *Second Episcopal Dist. African Methodist Episcopal Church v. Prioleau*, 49 A.3d 812, 815 (D.C. 2012). “In a ‘facial’ attack, the court determines jurisdiction by looking only at the face of the complaint and taking as true the allegations in the complaint.” *Id.* (citing *Heard v. Johnson*, 810 A.2d 871, 877 (D.C. 2002)). In a “factual” attack, however, “the court considers matters outside the face of the complaint and does not presume that the allegations in the complaint are true.” *Id.* (citing 810 A.2d at 878); *see also* *Pardue v. Ctr. City Consortium Schs. of the Archdiocese of Wash., Inc.*, 875 A.2d 669, 675 (D.C. 2005). Furthermore, in deciding a Rule 12(b)(1) factual attack, the court may review evidence outside the complaint without converting the motion into a motion for summary judgment. *Second Episcopal Dist.*, 49 A.3d at 815, n.3 (quoting *Lipscombe v.*

Crudup, 888 A.2d 1171, 1173 n.2 (D.C. 2005)). Finally, when a defendant files a motion to dismiss a complaint on First Amendment grounds, the motion is properly analyzed as a challenge to the subject matter jurisdiction of the Court under Rule 12(b)(1). *See, e.g., Pardue*, 875 A.2d at 674.

2. First Amendment

The Establishment Clause and Free Exercise Clause of the First Amendment of the U.S. Constitution “severely circumscribe the role that civil courts may play in the resolution of disputes involving religious organizations.” *Second Episcopal Dist.*, 49 A.3d at 815 (quoting *Meshel v. Ohev Sholom Talmud Torah*, 869 A.2d 343, 353 (D.C. 2005)). This does not mean, however, “that churches are above the law or that there can never be a civil court review of a church action.” *Heard*, 810 A.2d at 879. Rather, there are “several areas in which courts continue to have jurisdiction over church actions,” *id.* at 880, including disputes over church property where courts can apply “neutral principles of law.” *Samuel v. Lakew*, No. 13-CV-1472, slip op. at 8 (D.C. June 11, 2015) (quoting *Jones v. Wolf*, 443 U.S. 595, 604 (1979)).

However, civil courts “must be careful not to violate the First Amendment by agreeing to resolve a controversy which, at its heart, concerns religious doctrine and practice,” *id.* (quoting *Bible Way Church of Our Lord Jesus Christ of Apostolic Faith of Washington, D.C. v. Beards*, 680 A.2d 419, 427 (D.C. 1996)), and any attempt by the civil courts to limit a church’s choice of its religious representatives “would constitute an impermissible burden on the church’s

First Amendment rights.” *Id.* (quoting *Pardue*, 875 A.2d at 673)). Indeed, “civil courts are bound to accept the decisions of a religious organization . . . on matters of discipline, faith, internal organization or ecclesiastical rule, custom or law.” *Bible Way*, 680 A.2d at 427 (quoting *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 713 (1976)).

Furthermore, when a complaint challenges a church’s financial practices, it can withstand First Amendment scrutiny only if it sufficiently alleges that the church violated principles that “are so universally – and indisputably – applicable to every organized church that they can, indeed must, be taken for granted without need for church action to adopt them; or . . . even if they are not automatically applicable to every church, they are applicable in a particular case because the church has in fact adopted them.” *Id.* at 428. In such a circumstance, a court could resolve the dispute because it “merely would be asked to apply, without ecclesiastical judgment or intrusion, a previously prescribed, authoritative, nondiscretionary – and clear – policy.” *Id.* Ultimately, the “touchstone for determining whether civil courts have jurisdiction is whether the courts may employ ‘neutral principles of law’ and ensure that their decisions are not premised on the ‘consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of faith.’” *Second Episcopal Dist.*, 49 A.3d at 816 (quoting *Meshel*, 869 A.2d at 354)).

Finally, “because a complaint challenging church action is not easily cognizable in a civil court, there is a heightened pleading requirement to assure that the

defendants will not be unduly burdened.” *Bible Way*, 680 A.2d at 429. Thus, “when the First Amendment casts a shadow over the court’s subject matter jurisdiction, the plaintiff is obliged to plead unqualified jurisdictional facts that clearly take the case outside the jurisdictional bar.” *Id.* at 430.

B. Application of Legal Standards to this Case

In this case, Plaintiffs have failed to satisfy the heightened pleading standard to clearly show that the allegations in their Complaint are not jurisdictionally barred by the First Amendment. First, some of their allegations and requests for relief directly implicate the Church’s choice of its religious representatives and would require this Court to consider the Church’s doctrinal matters in resolving these allegations. For example, the breach of fiduciary count alleges that Moore and Turner breached their fiduciary duties to Plaintiffs by, among other things, forcing the adoption of a new Constitution to govern Church affairs. (Compl. at ¶ 106.) This is exactly the type of allegation that would require this Court to review the Church’s decision as to the proper structuring of its internal organization, a decision that, under the First Amendment, is properly left to the Church and not the courts. *See, e.g., Bible Way*, 680 A.2d at 427. Likewise, Plaintiffs’ request that this Court declare the existing Church Constitution as null and void is a request that would entangle this Court in ecclesiastical matters that are beyond the authority of this Court. *Id.*

Furthermore, the many allegations in the Complaint concerning the Beulah Defendants’ alleged

financial misdeeds also are beyond the jurisdiction of this Court. Although Plaintiffs argue that these allegations can be resolved by using neutral principles of tort law, Plaintiffs have not sufficiently alleged that the Beulah Defendants violated financial principles that are universally and indisputably adopted by every church or that they violated financial principles that the Church, in fact, has adopted. To the contrary, although Plaintiffs allege that Turner used the Church credit card for a variety of personal expenses and had the Church pay for a variety of other personal expenses, these alleged practices are not a violation of universally adopted church principles. *See, e.g., Kelsey v. Ray*, 719 A.2d 1248, *4, *7 (D.C. 1998) (provision of interest-free loan to pastor for purchase of personal residence and grant of money for new car did not violate universally adopted church principles); *Bible Way*, 680 A.2d at 424 (provision of funds to wife of founding pastor did not violate universally adopted church principles). Likewise, Plaintiffs' allegation that the Beulah Defendants consummated financial transactions without providing sufficient information to the Church's membership or leadership is not a violation of universally adopted church principles. *See, e.g., Kelsey*, 719 A.2d at **6-7 (failing to provide church membership with sufficient information prior to providing interest-free loan to pastor and money to purchase car did not violate universally adopted church principles). Furthermore, Plaintiffs have not identified a financial standard or principle officially adopted by the Church that was violated by the Beulah Defendants' actions. Thus, Plaintiffs have not sufficiently pled that the Beulah Defendants' financial practices clearly violated neutral principles of law that

can be evaluated by this Court without running afoul of the First Amendment.

Indeed, an examination of the relevant case law demonstrates that Plaintiffs' allegations concerning the Beulah Defendants' financial practices are insufficient to confer subject matter jurisdiction on this Court. For example, in *Kelsey, supra*, the plaintiffs alleged that the church's pastor and Official Board had breached their fiduciary duties to the church membership by engaging in financial transactions, such as the provision of an interest-free loan to the pastor for the purchase of a \$325,000 home and \$50,000 for the purchase of a new car, without providing sufficient information to the Church membership before these transactions were approved. 719 A.2d at **4-7. The complaint, like the Complaint in this case, alleged that the various Church Boards had become "mere alter egos of the Pastor," acting "in the sole interest of the Pastor and not the Church." *Id.* at *6. The plaintiffs, like the Plaintiffs in this case, sought a declaratory judgment that the defendants had breached their fiduciary duties and also sought an accounting of the Church's finances by an outside accounting firm. *Id.* at *7. Finally, and unlike the Plaintiffs in this case, the plaintiffs in *Kelsey* identified various articles in the Church Constitution and the Church By-Laws that allegedly proscribed the defendants' alleged practices. *Id.* at ** 11-16. The trial court in *Kelsey*, with one exception, denied the defendants' motion to dismiss the complaint, saying "that he was 'confident' he could adjudicate the dispute by applying statutory law and the Church's Constitution and By-Laws 'without becoming involved with any ecclesiastical matters or

doctrines.” *Id. at* *2. The Court of Appeals reversed the denial of the motion to dismiss, holding that the plaintiffs had failed to demonstrate that the church had “adopted clear, objective accounting and reporting standards” that were violated by the defendants’ practices. *Id. at* *15.

Similarly, in *Bible Way, supra*, the plaintiffs alleged, among other things, that the church, its pastor and its board of trustees were negligent and violated a duty of care to the church members by failing to monitor funds received from all sources, failing “under the complete domination” of the pastor, failing to comply with Social Security provisions and tax laws, failing to account for funds turned over to the wife of the founding pastor, failing to account for receipts from the church’s annual banquet, failing to provide financial reports to the members, failing to account for tithes paid by church members, failing to maintain accurate records, and failing to comply with the financial and accounting standards set forth in the “Standards of Responsible Stewardship” and the “Guidelines and Standards for Audits and Certified Public Accountants.” 680 A.2d at 424. The trial judge denied the defendants’ motion to dismiss the negligence count, concluding that he could resolve that count “exclusively by reference to objective, well-established standards of accounting and reporting that would not entangle the court in matters of religion in contravention of the First Amendment.” *Id. at* 425. The Court of Appeals reversed the denial of the motion to dismiss the negligence count, holding that the plaintiffs failed to sufficiently allege that the financial and accounting standards they cited “universally and

indisputably apply to *every* church organization,” *id.* at 428 (emphasis in original), or that these standards had, in fact, been adopted by the Church. *Id.* at 429. The Court further stated that “[a] mere reference to the existence of published accounting standards, without alleging that they inherently, and thus inevitably, apply --- or without saying, alternatively, that the church has formally adopted them – would leave the complaint too fuzzy for the court to be sure it constitutionally can rule.” *Id.*

In this case, the Plaintiffs have failed to sufficiently allege that the Beulah Defendants’ financial practices violate standards that universally and indisputably apply to every church organization. To the contrary, the Court of Appeals noted that these same practices or similar practices did not violate universally accepted church practices in both *Kelsey* and *Bible Way*. Furthermore, Plaintiffs have not identified any applicable statutes or Church principles or standards that specifically proscribe the Beulah Defendants’ alleged financial practices. To the contrary, the Church’s Constitution does not contain any limitations on the type of financial practices alleged in the Complaint.⁸ Thus, the allegations in the Complaint are

⁸ Article V of the Church Constitution sets forth the responsibilities of the Trustee Board, which may review and sign all contracts and legal documents on behalf of the Church and has the responsibility for the acquisition, maintenance, repair and replacement of all church property. (See Beulah Defs.’ Mot. to Dismiss, Ex. A., Church Constitution, Article V, Section 3.) The Constitution places no limitations on the type of expenditures the Church may incur and likewise imposes no requirement that the Church membership approve any such expenditures before they

even less sufficient than the allegations made by the plaintiffs in both *Kelsey* and *Bible Way*, each of whom identified provisions in the Church's Constitution and By-Laws, or in general accounting standards, that allegedly proscribed the defendants' financial practices, even though the Court of Appeals deemed these provisions and standards to be insufficient to confer subject matter jurisdiction as a matter of law.

In sum, Plaintiffs have failed to clearly show that the allegations in the Complaint are sufficient to confer subject matter jurisdiction on this Court. Accordingly, the Beulah Defendants' Motion to Dismiss will be granted.⁹

are incurred. (*Id.*) The Court may consider the Church Constitution in ruling on the Motion to Dismiss, without converting the Motion to Dismiss to a summary judgment motion, because the Constitution is referred to in the Complaint and is central to Plaintiffs' claims. *See, e.g., Chamberlain v. Am. Honda Fin. Corp.*, 931 A.2d 1018, 1025 (D.C. 2007) ("Documents that a defendant attached to a motion to dismiss are considered part of the pleadings if they are referred to in plaintiff's complaint and are central to her claim"). The Court may also consider the Church Constitution because a court may review evidence outside the complaint when reviewing a factual attack under Rule 12(b)(1) without converting the motion into a motion for summary judgment. *Second Episcopal Dist.*, 49 A.3d at 815, n.3.

⁹ Because the Court has determined that it does not have subject matter jurisdiction over the Complaint against the Beulah Defendants, it need not, and will not, address the Beulah Defendants' *res judicata* and standing arguments.

II. Motion to Stay

Because this Court has granted the Beulah Defendants' Motion to Dismiss, their Motion to Stay is now moot. Therefore, the Court will deny the Motion to Stay as moot.

Accordingly, it is this 4th day of September 2015, hereby

ORDERED that the Beulah Defendants' Motion to Dismiss is **GRANTED**; it is further

ORDERED that the Beulah Defendants' Motion to Stay is **DENIED AS MOOT**; and it is further

ORDERED that Defendants Dr. Marcus Turner, Sr., Russell E. Moore, and the Beulah Community Improvement Corporation are **DISMISSED** as Defendants in this case.

/s/Robert Okun
Judge Robert Okun
(Signed in Chambers)

Copy via eService to:

Seth A. Rosenthal
Calvin R. Nelson
Counsel for Plaintiffs

Joseph G. Cosby
*Counsel for Defendants Turner, Moore and Beulah
Community Improvement Corp.*

D. Margeaux Thomas
Counsel for Defendant The Columbia Bank

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David S. Musgrave

*Counsel for Intervenor-Defendant SMS Financial
XXVIII, L.L.C.*

APPENDIX G

**IN THE SUPERIOR COURT OF
THE DISTRICT OF COLUMBIA**

**Civil Action No. 2015 CA 001406 B
Judge Robert D. Okun**

Next Event: Scheduling Conference, 7/31/15

[Filed June 17, 2015]

ALVA C. HINES)
1100 Burketon Road)
Hyattsville, MD 20780)
)
TRACY D. JONES)
7946 Suiter Way)
Landover, MD 20785)
)
MARCIA V. JONES)
3807 Keehar Court)
Springdale, MD 20774)
)
NORMA HUNTER)
12507 Woodsong Lane)
Bowie, MD 20721)
)
BETTY GIVENS)
6624 Sisalbed Drive)
Capitol Heights, MD 20743)
)
DAISY JOHNSON)

App. 69

710 Birchleaf Avenue)
Capitol Heights, MD 20743)
)
WILLIE M. CROSBY)
6808 Seat Pleasant Drive)
Capitol Heights, MD 20743)
)
WILLIAM MINOR)
6116 Seat Pleasant Drive)
Capitol Heights, MD 20743)
)
JAMES R. BROWN)
7906 Dellwood Avenue)
Glenarden, MD 20706)
)
DELORES C. BROWN)
7906 Dellwood Avenue)
Glenarden, MD 20706)
)
SAMUEL J. FORREST)
4416 Lee Street, N.E.)
Washington, D.C. 20019)
)
JOYCE FORREST)
4416 Lee Street, N.E.)
Washington, D.C. 20019)
)
LYDELL MANN, SR.)
316 61 st Street, N.E.)
Washington, D.C. 20019)
)
JEAN M. GASKINS)
1716 Cinnamon Teal Way)
Upper Marlboro, MD 20774)

BEATRICE H. SCOTT)
6913 Canyon Drive)
Capitol Heights, MD 20743)
)
HAZEL E. GREEN)
153 Uhland Terrace, N.E.)
Washington, D.C. 20002)
)
EDITH D. MINOR)
1420 7th Street)
Glenarden, MD 20706)
)
WALTER M. WILLIAMS)
1109 Farmingdale Avenue)
Capitol Heights, MD 20743)
)
Plaintiffs,)
)
v.)
)
DR. MARCUS TURNER, SR.)
12424 Alamance Way)
Upper Marlboro, MD 20772)
in his individual capacity and)
in his official capacity as Pastor)
and Chief Elder of Beulah)
Baptist Church)
)
RUSSELL EUGENE MOORE, JR.)
11013 Mission Hills)
Mitchellville, MD 20721)
in his individual capacity and in)
his capacity as an Elder of Beulah)
Baptist Church)

BEULAH COMMUNITY)
IMPROVEMENT CORPORATION)
Marcus Turner, Chairman)
5820 Dix Street, N.E.)
Washington, D.C. 20019)
a District of Columbia non-stock,)
non-profit corporation; and)
)
THE COLUMBIA BANK)
7168 Columbia Gateway Drive)
Columbia, MD 21046)
a subsidiary of Fulton Financial)
Corporation,)
)
Defendants; and)
)
SMS Financial XXVII, L.L.C.)
6829 North 12th Street)
Phoenix, AZ 85014)
an Arizona limited liability)
corporation,)
)
Intervenor-Defendant.)
_____)

FIRST AMENDED COMPLAINT

Plaintiffs Alva C. Hines, Tracy D. Jones, Marcia V. Jones, Norma Hunter, Betty Givens, Daisy Johnson, Willie M. Crosby, Willie Minor, James R. Brown, Delores C. Brown, Samuel J. Forrest, Joyce Forrest, Lydell Mann, Sr., Jean M. Gaskins, Beatrice H. Scott, Hazel E. Green, Edith D. Minor and Walter M. Williams, who are *bona fide* members in good standing

of Beulah Baptist Church of Deanwood Heights, bring this Complaint against Defendants Dr. Marcus Turner, Sr., Russell E. Moore, Jr., the Beulah Community Improvement Corporation and The Columbia Bank for breach of fiduciary duty, conversion, unjust enrichment, civil conspiracy, gross negligence and accounting, and state, claim and allege as follows:

INTRODUCTION

1. Beulah Baptist Church (“Church”) is a missionary Baptist Church that has been a pillar of the Deanwood Heights community since its founding in 1909. The Church is located at 5820 Dix Street, Northeast in Washington, D.C.

2. In the years after becoming Pastor of the Church in 1999, Defendant Marcus Turner (“Turner”) seized control over Church affairs by altering the carefully designed and diffused allocation of authority that the Church Constitution prescribed. With the aid of a few select allies, most notably former Trustee Board Chair and Defendant Russell Moore (“Moore”), Turner took administrative and decision-making authority away from Church leadership bodies and from the congregation. Arrogating power to himself, Turner created a culture of secrecy that permitted him to make decisions and take actions unencumbered by the approval process set forth in the Constitution.

3. In clear violation of the fiduciary duties of loyalty, candor, good faith and care that Turner owed to the Church and its congregants, Turner’s decisions and actions compromised the Church’s financial health, sometimes for Turner’s own financial benefit. For

instance, while repeatedly representing to the congregation that the property of the Church building at 5820 Dix Street, Northeast (“the Church Property”) was free of debt, Turner surreptitiously used it as collateral for a loan to another organization he controlled, Beulah Community Improvement Corporation (“BCIC”). BCIC later defaulted on the loan, causing the Church Property to be foreclosed upon and requiring the sale of other Church property to forestall an auction, public notice of which was the first time Plaintiffs ever learned that the Church Property was not, in fact, debt free. In addition, Turner used the Church credit card for his own personal expenses, including school tuition, trips and meals, and when Turner ran into personal financial difficulties, he had the Church pay him \$75,000 as a “consulting fee” for purported real estate-related work he previously had done for BCIC.

4. Increasingly dissatisfied with how Turner was running the Church, certain members of the Church leadership rose up in 2009 to reclaim their authority under the Church Constitution. They replaced Moore as Trustee Board Chair and put austerity measures in place, including curbing Turner’s spending, in an effort to improve the Church’s financial condition. Turner, however, resisted these measures so fiercely that, after several months, members of the leadership group threw up their hands in frustration and, one by one, left the Church.

5. With the departure of these leaders and with Moore reinstated as Trustee Board chair, Turner was free to effectuate his long-term plan of revamping the

Constitution to prevent the possibility of any similar challenge to his authority. Amended in 2012, the Constitution furnishes Turner unilateral authority over Church affairs, including its financial affairs. With unchecked power, Turner continues to violate his fiduciary duties to the Church and the congregation by operating in secret, by using Church funds for his own personal benefit, by putting Church property and assets at risk, by selling off Church property because of his irresponsible decisions, and by causing the Church to spend money it does not have on legal fees that the Church has had to incur because of his misconduct.

PARTIES

6. Plaintiff Alva C. Hines is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust for its members. She is a resident of the State of Maryland.

7. Plaintiff Tracy D. Jones is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust for its members. She is a resident of the State of Maryland.

8. Plaintiff Marcia V. Jones is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust for its members. She is a resident of the State of Maryland.

9. Plaintiff Norma Hunter is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust

for its members. She is a resident of the State of Maryland.

10. Plaintiff Betty Givens is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust for its members. She is a resident of the State of Maryland.

11. Plaintiff Daisy Johnson is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust for its members. She is a resident of the State of Maryland.

12. Plaintiff Willie M. Crosby is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust for its members. He is a resident of the State of Maryland.

13. Plaintiff Willie Minor is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust for its members. He is a resident of the State of Maryland.

14. Plaintiff James R. Brown is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust for its members. He is a resident of the State of Maryland.

15. Plaintiff Delores C. Brown is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in

trust for its members. She is a resident of the State of Maryland.

16. Plaintiff Samuel J. Forrest is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust for its members. He is a resident of the District of Columbia.

17. Plaintiff Joyce Forrest is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust for its members. She is a resident of the District of Columbia.

18. Plaintiff Lydell Mann, Sr. is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust for its members. He is a resident of the District of Columbia.

19. Plaintiff Jean M. Gaskins is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust for its members. She is a resident of the State of Maryland.

20. Plaintiff Beatrice H. Scott is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust for its members. She is a resident of the State of Maryland.

21. Plaintiff Hazel E. Green is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in

trust for its members. She is a resident of the District of Columbia.

22. Plaintiff Edith D. Minor is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust for its members. She is a resident of the State of Maryland.

23. Plaintiff Walter M. Williams is a *bona fide* member in good standing of Beulah Baptist Church and a beneficiary of the property the Church holds in trust for its members. He is a resident of the State of Maryland.

24. Defendant Marcus Turner, Sr. is President and Chair of the Board of BCIC and Pastor and Chief Elder of Beulah Baptist Church. He has been Pastor of the Church since 1999. He is a resident of the State of Maryland.

25. Defendant Russell Eugene Moore, Jr. is a current member of the Council of Elders of Beulah Baptist Church, past Chair of the now-defunct Trustee Board of Beulah Baptist Church and a member of the board of BCIC. He is a resident of the State of Maryland.

26. Defendant Beulah Community Improvement Corporation is a nonprofit corporation organized and existing under the laws of the District of Columbia. Its principal place of business is located at 5820 Dix Street, N.E., Washington, D.C. 20019, the same address as the Church Property. BCIC was created to help raise funds and assist the Church in its work to improve the Deanwood Heights community by

providing, among other things, job and career training, affordable housing, adult education opportunities, clothing and food giveaways, space for community meetings, computer training, emergency funding and outreach services to the poor and homeless. As a secular organization, BCIC can receive funding from government agencies that the Church cannot receive because of its status as a religious institution.

27. Defendant Columbia Bank is a full-service commercial bank organized and existing under the laws of the State of Maryland, with its principal place of business located at 7168 Columbia Gateway Drive, Columbia, MD 21046.

28. Intervenor-Defendant SMS Financial XXVII, L.L.C. is a privately held financial services and investment firm organized and existing under the laws of the State of Arizona, with its principal place of business located at 6829 North 12th Street, Phoenix, AZ 85014.

JURISDICTION AND VENUE

29. This Court has jurisdiction over this matter under District of Columbia Code § 11-921.

30. Venue is proper in the District of Columbia because the Church and BCIC were organized under the laws of the District of Columbia, a substantial part of the acts or omissions giving rise to the claims in this Complaint occurred in the District of Columbia, and all Defendants transacted business in the District of Columbia at all relevant times.

FACTS COMMON TO ALL COUNTS

The 1997 Constitution

31. When Turner assumed his position as Pastor in 1999, the Church was governed by a Constitution adopted in November 1997 (“1997 Constitution”).

32. The 1997 Constitution vested power over Church affairs in the Church’s official boards: the Trustee Board, the Deacon Board and the Deaconess Board. Members of these boards were elected by the Church membership. All three boards were required to meet once a month as the Joint Board to share information on the condition of the Church, act on matters approved by the Church and prepare recommendations to the Church for action. The Pastor was required to meet with the Joint Board concerning recommendations for policy and program changes.

33. Under the 1997 Constitution, Deacons and Deaconesses assisted the Church in its ministry, while the Trustee Board exercised control over the Church’s finances and property. Among other duties, the Trustee Board had responsibility for reviewing and executing contracts and legal documents on behalf of the Church; determining and paying staff salaries, including Turner’s; paying the Church’s debts; hiring all non-cleric staff; providing an annual audit of the Church’s financial records; and acquiring, maintaining, repairing and replacing all the Church’s property.

34. Under the 1997 Constitution, Church members had the right to vote on all matters affecting the status of the Church. The Joint Board was responsible for preparing recommendations to the

Church membership for action and for acting on matters approved by the Church membership. The Trustee Board was responsible for carrying out lawful instructions received from the Church membership.

**Turner's Consolidation of Control over Church
Affairs and Concomitant Abuse of the
Church's Finances**

35. From the beginning of his tenure, Turner sought to obtain more control and decision-making authority over the Church's affairs than the 1997 Constitution provided him. To that end, Turner gradually consolidated power by co-opting a small handful of influential members of the Trustee and Deacon Boards, including Moore.

36. Moore used his position as Chair of the Trustee Board to assist Turner in his efforts to gain more power over Church affairs. Turner guaranteed Moore's loyalty by, *inter alia*, financially compensating Moore for his service on the BCIC board. For instance, in 2006, 2007 and 2008, Moore received \$9,404, \$29,166 and \$8,333, respectively, for his BCIC board service.

37. Although the 1997 Constitution provided the Trustee Board control over Church finances and property, guaranteed the Church membership the right to vote on all matters affecting the status of the Church and gave the Joint Board the authority to act on matters approved by the membership, Turner effectively came to exercise all of those powers himself over time. Aided by Moore and the others he had co-opted, Turner made decisions regarding the acquisition and sale of Church property, the indebtedness of the

Church and the expenditure of Church resources without the constitutionally-required approvals of the Trustee Board, the Joint Board or the Church membership. Church members, even members of the Trustee and Joint Boards, learned about Turner's actions only after-the-fact, if at all. Key decisions affecting the welfare of the Church, particularly its financial welfare, were shrouded in secrecy.

38. Having wrested power from the decision-making organs of the Church, Turner was able to use, and did use, Church funds for his own personal benefit. He charged to the Church credit card meals, fuel for his personal car, dry cleaning, vacations, personal lawn care and exorbitant cell phone bills, which included home internet and cable television services. He had the Church pay for his own continuing education, his wife's education and his son's tuition, including, for example, \$14,000 in tuition payments in 2008. He had the Church cover personal tax liabilities, including \$3,000 in 2008. Moreover, he had the Church establish and pay premiums on life insurance policies for both him and his wife, and had the Church pay his wife \$500 on at least two occasions for delivering speeches at the Church.

39. With the exception of Moore and several other Turner confederates, including financial secretary Jacquelyne Giles, no one in the Church, including the Trustee Board, knew at the time that Turner was using Church funds for his own personal expenses.

40. Turner's personal expenses were paid out of the Church's operating account, which was often

insufficient to cover the Church's expenses, let alone Turner's. To make up any difference, the operating account was replenished using funds from the Church's other accounts, including its building, scholarship and investment accounts. Often at Moore's direction, the funds were transferred into the Church's operating account and approved for disbursement to Turner without the knowledge or approval of the Trustee Board.

41. As of the summer of 2008, Turner was having personal financial difficulties. He approached Moore and Deacon Board chair Thomas Harrison and asked the Church to pay him a \$100,000 "consulting fee" for purportedly having served as a real estate "consultant" for the Church and BCIC and for purportedly having secured government grants to acquire property for BCIC. The amount requested was wholly arbitrary. There had been no contract or agreement to pay Turner for real estate "consulting," especially from Church funds. Nevertheless, in August 2008, Moore submitted a request for, approved and had paid an initial installment of \$50,000. He accomplished the payment by having funds transferred from the Church's operating account into the Church's general reserve fund and then having the money paid out of the general reserve fund. Two months later, Moore did the same thing for a second installment of \$25,000. In contravention of the 1997 Constitution, neither the Trustee Board, the Joint Board nor the Church membership approved paying Turner \$75,000 as "consulting fee" for real estate-related work he supposedly did for BCIC.

42. At another point, Turner received \$35,000 from the operating account, purportedly for helping the Church save money. Upon information and belief, Moore also facilitated this payment. In contravention of the 1997 Constitution, neither the Trustee Board, the Joint Board nor the Church membership approved the payment.

Turner's Property Acquisitions and Loan Transactions

43. In or about 1976, the Church membership held a mortgage burning ceremony to celebrate the discharge of all prior indebtedness on the Church Property. And when Turner assumed his position as Pastor, the Church owned the Church Property free and clear with no debt.

44. Soon after becoming Pastor, Turner developed a plan to expand the Church's property holdings. A real estate investor himself, Turner represented that expansion would benefit the Church and surrounding community and would not put the Church Property at risk.

45. Between 2003 and 2008, the Church—through Turner and Moore—purchased at least seven properties in the Deanwood Heights neighborhood. In violation of the 1997 Constitution, neither the Trustee Board nor the Joint Board nor the congregation was consulted about or approved these transactions before they were consummated.

46. Between 2003 and 2008, the Church—through Turner and Moore—entered into no fewer than five loan agreements encumbering the

Church Property. Again, in violation of the 1997 Constitution, neither the Trustee Board nor the Joint Board nor the congregation approved these transactions. Throughout the period during which these loans were obtained, Turner continued to represent that the Church Property remained debt free and that he would never place the property at risk.

47. In March 2003, the Church Property was encumbered to secure a \$610,000 loan.

48. In June 2003, the Church Property was encumbered to secure a \$447,000 loan.

49. In November 2004, the Church Property was encumbered to secure a \$2,000,000 loan.

50. In April 2007, the Church Property was encumbered to secure a \$3,250,000 loan. Upon information and belief, this loan consolidated and replaced the remaining indebtedness from the 2003 and 2004 loans.

51. In July 2008, the Church Property was encumbered by yet another loan for \$3,230,000. This time, however, the Church was the guarantor of the loan. BCIC was the borrower. And The Columbia Bank was the lender. Upon information and belief, the loan served to extinguish the April 2007 loan to the Church, but kept the Church Property encumbered and left it subject to BCIC's ability to repay.

52. The July 2008 transaction was consummated without the knowledge, much less the constitutionally-required approval, of the Trustee Board, the Joint Board or the Church membership.

53. Turner executed the Deed of Trust, Security Agreement and Assignment of Leases and Rents for the July 2008 transaction on behalf of BCIC. At Turner's direction and unbeknownst to Plaintiffs and the rest of the Church membership, Jacquelyne Giles purported to execute the agreement on behalf of the Church. Giles signed in place of Charles Dorsey, who was Assistant Chairman of the Trustee Board. Dorsey's name was crossed out on the document and Giles' name was substituted, with the word "Trustee" written beside it. Giles, however, was not a Trustee, had no authority to sign on behalf of the Church and no authority to put up the property of the Church as collateral for the loan.

54. At the same time, upon information and belief, Giles, at Turner's direction, also purported to execute on behalf of the Church a Guaranty Agreement that guaranteed the July 2008 loan to BCIC. Again, Giles had no authority to sign on behalf of the Church and no authority to guarantee the loan to BCIC on behalf of the Church.

55. Even though she had no authority to act on behalf of the Church, Giles, at Turner's direction, also executed a Special Warranty Deed as part of the July 2008 transaction. The Special Warranty Deed purported to convey a valuable $\frac{3}{4}$ acre lot located on 58th Street, NE, at Lot 44/Square 5228 from the Church to BCIC. Although the purchase price on the deed was identified as ten dollars, the Recorder of Deeds' records show that the purchase price was zero dollars. Giles, who signed the deed as a Church "Trustee" and as the Church's "attorney-in-fact," was not a Trustee or an

attorney-in fact and had no authority to undertake this transaction on behalf of the Church.

56. On or about July 31, 2008, Giles, also at Turner's direction, executed a Special Warranty Deed purporting to convey Church property located at 6029-6033 Dix Street to an entity called "Dix Street Corridor Senior Housing LP." The address for this entity is the same as the Church's address, 5820 Dix Street, Northeast. Giles, who signed as a Church "Trustee" and as the Church's "attorney-in-fact," was not a Trustee or an attorney-in fact and had no authority to undertake this transaction on behalf of the Church.

57. Contrary to the requirements of the 1997 Constitution, neither the Trustee Board nor the Church membership authorized the July 2008 transactions, and neither otherwise authorized the transfer, disposition or encumbrance of any Church property. Indeed, as with previous property acquisitions and loan transactions, the July 2008 transactions were never submitted to the Trustee Board, the Joint Board or the congregation for their consideration and approval, despite the requirements of the 1997 Constitution.

58. The Columbia Bank did not investigate or otherwise take proper measures to learn whether Giles had the authority to sign on behalf of the Church, as guarantor, the July 2008 loan and guaranty documents encumbering the Church Property.

59. As set forth below, none of the plaintiffs knew about the July 2008 transactions until January 2014, when they saw a notice in *The Washington Post* that the Church Property was going to be auctioned.

60. With the exception of Moore, Giles and possibly a few other confederates, Turner kept the Church membership, including Church leadership, in the dark about the July 2008 transactions. Turner repeatedly assured both the leadership and the congregation that the property transactions in which he engaged did not encumber or otherwise put at risk the Church Property. In fact, in early 2010, when Church leadership began demanding that Turner account for the Church's financial condition, Turner assembled a report in which he continued to represent that the Church Property was "debt free," even though he knew that the property was being used as collateral for the July 2008 loan to BCIC.

Turner's Resistance to Reform

61. In late 2009, the Church leadership determined that it needed to make changes in the management of the Church's finances. The Church was in financial distress in part because of Turner's profligate spending. Correspondingly, members of the Church leadership determined that the Church needed to place limits on Turner's authority and return to the balanced management structure set forth in the 1997 Constitution, with the Trustee Board exercising control over the Church's finances and the full Church membership having the opportunity to engage in important decisions affecting the Church.

62. In late 2009, the Trustee Board elected Fran Horne, a member of the Church for over 25 years and a long-standing Trustee Board member, to replace Moore as Chair. Many saw Moore as Turner's proxy, particularly once it became known that Moore had

acquiesced in and authorized payment of, *inter alia*, Turner's "consulting fee" from the Church's operating account.

63. To ensure the Church's continued financial stability, the Trustee Board, led by Horne, immediately sought to implement tight controls over Church spending and more rigorous bookkeeping and financial reporting procedures.

64. Once the Trustee Board leadership began to scrutinize the Church's spending patterns, they learned that Turner had been using Church funds to pay for a number of personal expenses. As a result, among the reforms they promptly implemented, the Trustee Board refused to have the Church continue paying for many of Turner's personal expenses, took away Turner's Church credit card and sought to tightly define Turner's compensation package.

65. The Trustee Board also required Turner to deliver financial reports for both the Church and BCIC for 2009. These reports contained a number of material misrepresentations concerning, among other things, indebtedness on Church properties.

66. In only a few months after the Trustee Board began implementing changes in the way the Church managed its finances, the Church's income increased and its indebtedness diminished.

67. Turner chafed at the Trustee Board's actions. He saw them as a challenge to his authority. Unable to co-opt Horne and others as he had Moore, Turner began a campaign to bully and intimidate Horne. The effort culminated in a phone call to Horne's workplace

in which Turner berated Horne for challenging his authority. The tirade prompted Horne to resign as Chair of the Trustee Board after only four months. She left the Church at the same time.

68. Horne's resignation was the first in a chain of resignations by active church leaders who had spearheaded reform efforts but ultimately gave up on trying to persuade Turner to respect and adhere to the 1997 Constitution.

69. Upon Horne's resignation, Moore was reinstated as Chair of the Trustee Board. With Moore again in charge, reform efforts essentially ceased.

70. Turner resumed *de facto* control over the Church's finances and, upon information and belief, resumed use of Church funds for his personal expenses.

71. Upon information and belief, Turner continues to use Church money to pay for personal expenses, including legal fees.

72. After successfully defeating the effort to curb his authority, Turner also reasserted control over the Church's decision-making bodies. He actively blocked Trustee Board appointments of individuals who he thought would oppose him.

73. In 2011, no longer facing any challenge to his authority from Church leadership, Turner, aided by Moore, entered into another loan agreement encumbering Church property. The loan, for \$900,000, was ostensibly obtained to renovate the Church's kitchen and other Church facilities. But upon information and belief, much of the money was used for

other purposes unrelated to the mission of the Church. The kitchen renovation contract was for \$240,000, but the Church paid the contractor only a third of it, \$80,000, before the contractor had to stop work to have mold issues resolved. The contract for other repairs, including HVAC installation, was for \$140,000, but the Church paid only \$82,500 of it. Thus, even though the Church had obtained a \$900,000 for renovation and repair work, Turner only paid \$162,500 for such work. Nonetheless, Turner claimed to the contractor that the Church could not pay the rest of what it owed on the contract for other repairs, \$57,500.

74. Moreover, Turner obtained from the contractor a \$105,000 loan by telling the contractor that the Church and BCIC were in trouble and needed help satisfying the debt from the July 2008 loan encumbering the Church Property. When the contractor insisted on repayment, Turner refused.

75. Upon information and belief, Turner had access to the bank account in which the money from the \$900,000 was deposited. Turner drew down funds, but did not use them to fully satisfy the amounts the contractor was owed.

76. As described below, the contractor sued the Church, BCIC and Turner to recover the amounts Turner refused to pay.

Turner's New Constitution

77. Turner had long seen the 1997 Constitution as an impediment to his ability to exercise complete control over Church affairs. The reforms Church leadership unsuccessfully sought to implement in early

2010 confirmed his view. Determined that his authority should not be challenged again, Turner embarked on a plan to replace the 1997 Constitution with a new Constitution that provided him practically unfettered power over Church affairs.

78. Turner promoted his new Constitution by arguing that the Bible does not contemplate Church authority residing in a Trustee Board or in the congregation, as the 1997 Constitution provided; rather, Turner maintained, the Bible contemplates Church authority residing in one person and one person only—the Pastor.

79. After a period of study, a Constitution committee comprised of Turner, Turner's wife, Moore, Moore's wife and three other confederates drafted a new Constitution that reflected Turner's desire to exercise unilateral control over Church affairs.

80. Turner advocated vigorously for adoption of the new Constitution.

81. The 1997 Constitution contained a very precise procedure for how amendments were to be enacted. Article XX provided:

All amendments to this Constitution must be presented to the Church in a regular Church Conference and referred to the Joint Board for study. At the conclusion of its study, the Joint Board will make recommendations at the next Church Conference to accept, reject or change the proposed amendment(s). Announcements regarding the pending action must be made at each worship service, beginning at least two

weeks prior to the Church Conference. In addition, a copy of the proposed amendment(s) will be mailed the entire membership. Three-fourths of the members present at the Church Conference must vote in favor of the amendment for it to become part of the Constitution.

82. In April 2012, as a result of Turner's efforts, the 1997 Constitution was replaced with Turner's new Constitution. However, the procedure Turner followed for adopting the new Constitution did not comply with the 1997 Constitution's requirements for amendment. There was no presentation of the new Constitution to the Church membership at a regular Church Conference for referral to the Joint Board for study. Announcements about the proposed changes were not made at each worship service beginning at least two weeks prior to the regular Church Conference at which a vote would be taken. Copies of the proposed changes were not mailed to the entire membership before the vote. The vote was not taken at a regular Church Conference. And when the vote was taken, there was no means of assuring that the individuals who voted were Church members.

83. The new Constitution expressly vests plenary authority over all Church affairs in Turner, "being the delegated authority from G-d." There is no Trustee Board. There is no Deacon or Deaconess Board. There is no Joint Board. There are only advisory committees whose members are appointed by Turner, serve at Turner's pleasure and, unlike the Trustee Board, the Joint Board and the Church membership-at-large

under the 1997 Constitution, possess no management or decision-making authority at all.

84. All decision-making authority under the new Constitution resides in a Council of Elders. But the Council of Elders consists of only three people: Turner and two others. And Turner, as Chief Elder, enjoys the power to appoint and remove the others, as well as the power to override any decision the other two might wish to make.

85. Since the adoption of the new Constitution, Moore and another Turner confederate, Frank Sutton, have served as the two additional Elders.

86. Since the adoption of the new Constitution, Turner has kept the Church members in the dark about the Church's finances. There is a complete lack of transparency and accountability. At one time, under the 1997 Constitution, the Church's financial statements were shared routinely with the Church membership. Under the new Constitution, Turner has simply stopped sharing substantive financial information with Church members. Similarly, whereas under the 1997 Constitution the financial secretary and the ministries created an annual budget that would be presented for approval at the Church's annual meeting, Turner has wrested control of the budget process under the new Constitution and does not discuss it with Church members, much less seek approval for it.

87. Under the new Constitution, once-informational congregational meetings have become both rare and perfunctory. For instance, in late 2014, at the most recent business meeting of the Church,

Turner refused to share any information about the finances of the Church. Despite congregational requests, he provided no information about balances in Church accounts, the amount of income for the year, the budget for the following year or the amount of debt. Church members thus provide tithes and offerings but have no idea how their contributions are being used or what the financial condition of the Church is.

88. Upon information and belief, Turner has consolidated all formerly separate Church accounts—*e.g.*, the operating account, general reserve fund, expansion fund, scholarship fund and ministry fund—into one account. This makes it even harder to track how the Church’s income is being allocated and spent.

Turner’s Continued Financial Mismanagement and Self-Dealing

89. BCIC defaulted on the July 2008 loan secured by the Church Property. To avoid foreclosure, BCIC entered into a series of forbearance agreements with the lender—ultimately, SMS Financial XXVIII, LLC, which assumed the loan from Columbia Bank. In January 2014, after expiration of the last of these agreements, SMS Financial published notice of a foreclosure sale, set for February 2014, in *The Washington Post*.

90. Plaintiffs read about the foreclosure sale in *The Washington Post*. Because Turner had concealed the July 2008 transaction from the Church membership, this was the first time any of the Plaintiffs learned that the July 2008 loan had been

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made to BCIC, that the Church was guarantor on the loan or that the Church Property served as security for the loan.

91. To prevent foreclosure and pay down its debt, BCIC and Turner were forced to sell off other BCIC properties. One of these properties was the vacant lot that the Church conveyed to BCIC in July 2008 for free. Others included the properties at 6029-6033 Dix Street, which the Church apparently sold to “Dix Street Corridor Senior Housing LP” in July 2008.

92. Turner also has engaged in reckless conduct that has further compromised the financial condition of the Church.

93. Turner was sued for sexual harassment by former confederate Jacquelyne Giles. Upon information and belief, the Church incurred legal fees paying for Turner’s defense and expended funds to settle the case.

94. As described above, Turner took out a \$900,000 loan for the Church, ostensibly to pay for renovation and repairs. Despite the fact that the cost of the renovation and repairs totaled less than 25% of the amount loaned, Turner claimed the Church could not fully satisfy its obligations to the contractor. As a result, the contractor filed a mechanic’s lien against the Church in December 2012 in the amount of \$57,500.

95. Telling the contractor that the Church was having trouble repaying the July 2008 loan to BCIC and was at risk of default, Turner also persuaded the contractor to loan BCIC \$105,000 in exchange for the Church maintaining the kitchen renovation contract and furnishing the contractor other business

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opportunities. Turner, however, refused to repay the loan, contending that it was a “donation.”

96. In 2014, because Turner refused to pay the contractor the full amount for the repair work and refused to repay the \$105,000 loan, the contractor sued the Church, as well as Turner and BCIC. The Church was forced to incur legal fees and to expend funds to settle the lawsuit—a lawsuit prompted by Turner’s mismanagement of Church funds and by Turner’s dishonesty.

97. Upon information and belief, because of Turner’s financial mismanagement and irresponsible conduct, the Church’s operating account periodically carries a negative balance and the Church struggles to cover routine operating expenses. In addition, the Church is no longer providing things it once provided, *e.g.*, basic repair and maintenance of various Church facilities, full funding for positions like sexton, scholarships for graduating seniors, a sufficient number of Bibles and hymnals in the pews, Sunday school books and snacks for students, and tuition for vacation Bible school.

**COUNT ONE:
BREACH OF FIDUCIARY DUTY
(AGAINST TURNER AND MOORE)**

98. Paragraphs 1 – 97 are incorporated by reference as if they were restated here in their entirety.

99. As Pastor and Chief Elder, Defendant Turner owed and continues to owe fiduciary duties to Plaintiffs as *bona fide* members of the Church and as beneficiaries of the trust property of the Church.

100. As a member of the Council of Elders and past Chair of the now-defunct Trustee Board, Defendant Moore owed and continues to owe fiduciary duties to Plaintiffs as *bona fide* members of the Church and as beneficiaries of the trust property of the Church.

101. Defendants Turner and Moore owed and continue to owe Plaintiffs enhanced fiduciary duties because, aided and abetted by Defendant Moore, Defendant Turner arrogated to himself near-complete control over Church affairs, including the Church's finances.

102. Defendants Turner and Moore had and continue to have a fiduciary duty of loyalty to the Church and to Plaintiffs. As part of their fiduciary duty of loyalty, Defendants Turner and Moore were and continue to be required to act at all times in the best interests of the Church and its membership and to refrain from self-dealing as to the management and use of Church property and funds.

103. The duty of loyalty encompasses a duty of candor to the Church and to Plaintiffs. As part of their duty of candor, Defendants Turner and Moore were and continue to be required to provide Plaintiffs, and not to withhold, accurate information about Church affairs, including information about the income, expenses, debts, acquisitions, sales and financial condition of the Church.

104. Defendants Turner and Moore had and continue to have a fiduciary duty of good faith to the Church and to Plaintiffs. To satisfy their duty of good faith, Defendants Turner and Moore were and continue

to be required to deal with Plaintiffs in good faith and with conscientious fairness, morality and honesty.

105. Defendants Turner and Moore had and continue to have a fiduciary duty of due care to the Church and to Plaintiffs. The duty of due care required and continues to require Defendants Turner and Moore to remain informed about the Church's financial condition, ensure maintenance of accurate Church books and records, make decisions and take actions that protect and preserve Church assets, manage Church income, expend Church funds responsibly and refrain from wasting or wrongfully diminishing Church assets or appropriating such assets for their own use.

106. Defendant Turner, aided and abetted by Defendant Moore, breached and continues to breach the fiduciary duties of loyalty, candor, good faith and due care owed to the Church and to Plaintiffs through the actions and omissions described above, including by, *inter alia*: (i) surreptitiously and without authorization encumbering the Church Property to secure a loan and then causing the Church Property to go into foreclosure and be put up for auction by defaulting on the loan; (ii) falsely representing to Plaintiffs and the Church membership that the Church Property was debt free and never at risk and concealing the fact that the Church Property was encumbered; (iii) surreptitiously conveying a valuable piece of Church property—Lot 44/Square 5228 in the District of Columbia—to BCIC for free; (iv) concealing and refusing to share information about the Church's financial condition, including its income, expenses, debts and property transactions; (v) using Church

funds for Defendant Turner's own personal benefit by charging his personal expenses to the Church credit card and otherwise paying for his personal expenses out of the Church's operating account; (vi) violating the 1997 Constitution to force adoption of a new Constitution that provides Defendant Turner unfettered authority over Church affairs; (vii) engaging in irresponsible conduct—including sexual harassment and refusal to comply with contractual payment requirements—that has led to lawsuits requiring the Church to incur legal fees and pay damages; (viii) wasting the proceeds of a \$900,000 loan to the point where the Church could not fully pay a contractor owed a total of less than a quarter of the loan amount; and (ix) engaging in other conduct, including acts of self-dealing, that wasted or compromised Church assets.

107. As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs, as *bona fide* members of the Church, have been and will continue to be damaged.

**COUNT TWO:
CONVERSION
(AGAINST TURNER AND MOORE)**

108. Paragraphs 1 – 107 are incorporated by reference as if they were restated here in their entirety.

109. Defendant Turner, aided and abetted by Defendant Moore, exercised and continues to exercise unauthorized ownership, dominion and control over funds rightfully belonging to the Church by using the

Church credit card and otherwise taking and utilizing Church funds for personal expenses.

110. As a direct and proximate result of Defendants' conversion and repudiation of the Church's rightful ownership of Church property for Defendant Turner's personal benefit, Plaintiffs, as *bona fide* members of the Church, have been and will continue to be damaged.

**COUNT THREE:
UNJUST ENRICHMENT
(TURNER AND MOORE)**

111. Paragraphs 1 – 110 are incorporated by reference as if they were restated here in their entirety.

112. Defendant Turner, aided and abetted by Defendant Moore, received and continues to receive benefits from Plaintiffs, as *bona fide* members of the Church, in the form of money obtained directly or indirectly from the Church and used for Defendant Turner's personal expenses.

113. Defendants Turner and Moore knew that Defendant Turner received the benefit of Church funds to pay for personal expenses.

114. Defendants Turner and Moore know that Defendant Turner continues to receive the benefit of Church funds to pay for personal expenses.

115. Defendant Turner's retention of Church funds used for personal expenses would be unjust.

116. As a direct and proximate result of Defendants' conduct, Plaintiffs, as *bona fide* members

of the Church, have been and will continue to be damaged.

**COUNT FOUR:
CIVIL CONSPIRACY
(AGAINST TURNER, MOORE AND BCIC)**

117. Paragraphs 1 – 116 are incorporated by reference as if they were restated here in their entirety.

118. Defendants Turner, Moore and BCIC, together with others, combined, conspired and agreed, and continue to combine, conspire and agree, to (i) breach the fiduciary duties of loyalty, candor, good faith and due care Defendants Turner and Moore owe to the Church and to Plaintiffs as *bona fide* members of the Church, (ii) exercise, and permit Defendant Turner to exercise, unauthorized ownership, dominion and control over funds rightfully belonging to the Church, and (iii) unjustly enrich Defendant Turner.

119. Overt acts committed in furtherance of the common, unlawful scheme of Defendants Turner, Moore, BCIC and their co-conspirators have included: (i) surreptitiously and without proper authorization encumbering the Church Property in July 2008 to secure a loan for BCIC; (ii) surreptitiously and without proper authorization conveying a valuable piece of Church property—Lot 44/Square 5228 in the District of Columbia—from the Church to BCIC for free in July 2008; (iii) failing to make adequate payments to satisfy the July 2008 loan, which caused the Church Property to go into foreclosure and be put up for auction; (iv) using Church funds to pay for Defendant Turner's personal expenses; (v) obtaining a \$105,000 loan from

a construction contractor for the ostensible purpose of helping to pay off BCIC's indebtedness on the July 2008 loan; (vi) refusing to repay the \$105,000 loan, which triggered a lawsuit requiring the Church to incur attorneys' fees and liability; (vii) concealing and refusing to share information about the Church's financial condition, including its income, expenses, debts and property transactions; and (viii) obtaining in April 2011 a \$900,000 loan encumbering additional Church property.

120. As a direct and proximate result of the unlawful agreement among Defendant Turner, Defendant Moore, Defendant BCIC and their co-conspirators, Plaintiffs, as *bona fide* members of the Church, have been and will continue to be damaged.

**COUNT FIVE:
NEGLIGENCE
(AGAINST THE COLUMBIA BANK)**

121. Paragraphs 1 – 120 are incorporated by reference as if they were restated here in their entirety.

122. Neither Defendant Turner nor Jacquelyne Giles had any authority, under the 1997 Constitution or otherwise, to encumber the Church Property.

123. Defendant Columbia Bank had a duty to exercise reasonable care in loaning over three million dollars to BCIC in July 2008 and in requiring the Church to guarantee the loan with the Church Property.

124. As part of its duty to exercise reasonable care, Defendant Columbia Bank was obligated to

ensure that Jacquelyne Giles in fact had proper authority to execute the loan documents on behalf of the Church and, correspondingly, to guarantee the loan with and encumber the Church Property.

125. Defendant Columbia Bank failed to exercise reasonable care in loaning over three million dollars to BCIC in July 2008 and in requiring the Church to guarantee the loan with the Church Property because it failed to investigate and confirm whether Jacquelyne Giles had any authority to execute the loan documents on behalf of the Church and, correspondingly, to guarantee the loan with and encumber the Church Property.

126. Had Defendant Columbia Bank exercised reasonable care in loaning over three million dollars to BCIC in July 2008 and in requiring the Church to guarantee the loan with the Church Property, it would have determined that Jacquelyne Giles did not have proper authority to execute the loan documents on behalf of the Church or to guarantee the loan with and encumber the Church Property.

127. As a direct and proximate result of Defendant Columbia Bank's negligence, Plaintiffs, as *bona fide* members of the Church, have been and will continue to be damaged.

**COUNT SIX:
ACCOUNTING
(AGAINST TURNER, MOORE and BCIC)**

128. Paragraphs 1 – 127 are incorporated by reference as if they were restated here in their entirety.

129. Defendants Turner and Moore, as Elders of the Church, have a duty to account and provide information to the Church membership, including Plaintiffs, regarding the finances of the Church.

130. Defendants Turner and Moore have not abided by their duty to account and provide information to the Church members, including Plaintiffs, regarding the finances of the Church.

131. As set forth above, Defendant Turner and Defendant Moore also have violated their fiduciary duties to the Church membership and to Plaintiffs, have unlawfully converted Church property for Defendant Turner's use, and have unjustly enriched Defendant Turner at the Church's expense. Moreover, as set forth above, Defendants Turner, Moore and BCIC have combined, conspired and agreed to commit these acts.

132. The financial relationship among Defendant Turner, the Church and BCIC (which is Defendant Turner's alter ego even more than it is the Church's) is extremely close. At Defendant Turner's direction, the Church has loaned money to BCIC, sold or given property to BCIC, and served as guarantor on Community Bank's \$3.23 million loan to BCIC.

133. As a result of the unlawful actions of Defendant Turner, Defendant Moore and Defendant BCIC, Defendants Turner and BCIC have received money and property, a portion of which is due the Church.

134. As a result of the unlawful actions of Defendant Turner, Defendant Moore and Defendant

BCIC, the Church has been deprived of money and property other than money and property received by Defendant Turner and BCIC.

135. The amount of money due the Church from Defendant Turner and Defendant BCIC because of the unlawful actions of Defendant Turner, Defendant Moore and Defendant BCIC is unknown to Plaintiffs and cannot be ascertained without an accounting of the finances of the Church, Defendant BCIC and Defendant Turner, including their income, expenses, assets and debt.

136. Because Defendant Turner and Defendant Moore have a duty to account to Plaintiffs regarding the Church's finances, and because the amount of money due from Defendant Turner and Defendant BCIC to the Church is indiscernible without access to the financial records of the Church, Defendant BCIC and Defendant Turner, Plaintiffs, as *bona fide* members of the Church, are entitled to an accounting of the Church's books and records, Defendant BCIC's books and records and Defendant Turner's books and records.

**COUNT SEVEN:
DECLARATORY JUDGMENT**

137. Paragraphs 1 – 136 are incorporated by reference as if they were restated here in their entirety.

138. There is an actual, justiciable controversy as to whether the July 2008 Deed of Trust, Security Agreement and Assignment of Leases and Rents and the July 2008 Guaranty Agreement are enforceable contracts as against the Church.

139. In July 2008, at the direction of Turner and without the knowledge or approval of Plaintiffs or the rest of the Church membership, Jacquelyne Giles purported to execute a Deed of Trust, Security Agreement and Assignment of Leases and Rents on behalf of the Church, pledging Church property as collateral for a loan to BCIC. Acting unilaterally, Giles had no authority to sign this agreement on behalf of the Church or otherwise to encumber Church property as collateral for a loan. Before Giles would have had authority to enter into such an agreement, the Joint Board would have had to present a resolution to the Church membership, the Church membership would have had to vote its approval, and the Trustee Board would have had to designate her to sign the agreement. None of these things happened.

140. At the same time, and again at the direction of Turner and without the knowledge or approval of Plaintiffs or the rest of the Church membership, Giles purported to execute, on behalf of the Church, a Guaranty Agreement that guaranteed the Bank's loan to BCIC. Acting unilaterally, Giles had no authority to sign this agreement on behalf of the Church or to encumber Church property as collateral for a loan. Before Giles would have had authority to enter into such an agreement, the Joint Board would have had to present a resolution to the Church membership, the Church membership would have had to vote its approval, and the Trustee Board would have had to designate her to sign the agreement. None of these things happened.

141. Because Giles had no authority to sign either the Deed of Trust, Security Agreement and Assignment of Leases and Rents or the Guaranty Agreement, both agreements are null and void, without effect and unenforceable.

142. Accordingly, Plaintiffs seek a declaration that (i) the July 2008 Deed of Trust, Security Agreement and Assignment of Leases and Rents and the July 2008 Guaranty Agreement are null and void, without effect and unenforceable, and (ii) the Church is discharged from any and all obligations it has as guarantor under those Agreements.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in their favor and against Defendants, and issue an Order:

- (1) Declaring null and void both the July 2008 Deed of Trust, Security Agreement and Assignment of Leases and Rents and the July 2008 Guaranty Agreement, and discharging the Church from any and all obligations it has as guarantor under those Agreements;
- (2) Permanently enjoining Turner and Moore from making decisions, taking actions or otherwise exercising authority regarding Church finances and Church property;
- (3) Requiring a full accounting of the financial records of the Church, Turner and BCIC;

- (4) Declaring null and void the existing Church Constitution as having been adopted in violation of the contract embodied in the 1997 Constitution;
- (5) Awarding Plaintiffs, as *bona fide* members of the Church, damages for the benefit of the Church in an amount to be proven at trial;
- (6) Awarding Plaintiffs, as *bona fide* members of the Church, pre- and post-judgment interest for the benefit of the Church;
- (7) Awarding Plaintiffs their costs and reasonable attorneys' fees;
- (8) Granting such other relief as the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiffs request a jury trial on all issues triable by jury.

Dated: June 17, 2015

Respectfully submitted,

/s/ Seth Rosenthal

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* * *

*[Certificate of Service Omitted in the
Printing of this Appendix]*

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APPENDIX H

**The Beulah Baptist Church of Deanwood Heights
“The Church With the Family Spirit”
5820 Dix Street, N.E.
Washington, DC 20019
Telephone: 202-396-5368**

Church Constitution

THE CONSTITUTION

of the

BEULAH BAPTIST CHURCH OF DEANWOOD HEIGHTS

ARTICLE I. NAME.

The name of this Church shall be Beulah Baptist Church of Deanwood Heights (hereinafter called “Beulah” or “the Church”).

ARTICLE II. PURPOSE.

Beulah is a Missionary Baptist Church modeled after the New Testament Church, whose members are baptized believers in Jesus Christ. Beulah’s purpose is to carry out the mission of the New Testament Church in five areas: ministry; evangelism; discipleship; fellowship; and worship.

ARTICLE III. CHURCH MEMBERSHIP.

Section 1. Qualification for Membership.

Any regenerated person, who professes faith in the Lord Jesus Christ and agrees to follow the ordinances, regulations, and policies of this church, including baptism by immersion, may be accepted for membership.

Section 2. Preparation for Membership.

Prospective members must attend any new member orientation classes in effect at the time be seeks membership. This orientation shall include the policies of this church and the provisions of our Church Covenant.

Section 3. Manner of Admission.

A person may be admitted into membership in one of three ways: By baptism; by letter of commendation from the church where he previously held membership; or, by Christian experience.

Section 4. Reception into Membership.

After the new member has met all requirements for admission, and promises to adhere to the provisions of our Church Covenant, he will be given the right hand of fellowship. He is then entitled to all rights and privileges of membership until the relationship is dissolved.

Section 5. Rights and Privileges of Members.

Every member in good standing shall have the right to vote on matters affecting the status of the church and to hold any office for which he is qualified. Children, as well as adults, have and should enjoy the right to vote and hold any office for which they qualify, as long as they can do so independently and responsibly.

Section 6. Dismissal of Members.

- a. Any member of this Church who could have, and has not, attended its services or contributed financially to its support for one year, and who has not responded after being contacted by the Deacons and/or Trustees, shall without any further action by the Church, be placed on the list of inactive members. He may be restored to membership, without any action by the Church, when he shows renewed interest in the Church. If, after two years, he is still inactive, the

Church may decide the fate of such members, and the records of the Church Clerk shall be so noted.

- b. A member may request a letter of commendation and dismissal from this Church in order to unite with another Christian church.
- c. Beulah may withdraw fellowship from a member whose conduct (anything against God's will) makes it necessary for him to be excluded or denied the privileges of membership.

ARTICLE IV. THE PASTOR.

Section 1. General Duties.

The Church shall elect a Pastor to carry out the purpose of the Church as expressed in this Constitution. He shall serve as overseer, leader, advisor, and teacher. He shall seek to perform the duties of this office with all fidelity and shall deal impartially with all members and ministries of the Church. He shall seek the advice of the official boards regarding recommendations for policy and program changes.

Section 2. Specific Duties.

- 1. To teach, counsel, and guide the members.
- 2. To preach the Gospel.
- 3. To administer the two ordinances of the Church, as commanded in the New Testament.
- 4. To conduct the weekday prayer and praise services.
- 5. To insure that the annual program of the Church is developed and implemented in

accordance with the provisions of this Constitution. The proposed annual program shall be ready for discussion with the Deacon Board in October and with the Joint Board in November. The annual program shall be presented to the Church for discussion and adoption at the December Church Conference.

6. To make an annual membership report to the Church in December. This report will indicate the total number of active members including those added in each category and number lost by any means during the calendar year.
7. To serve as moderator of the Church business meetings.
8. To serve as ex-officio member of all committees, as set forth in Robert's Rules of Order.
9. To perform such other duties common to Pastors in Missionary Baptist Churches.

Section 3. Length of Service.

- a. The Pastor shall serve until service is discontinued by resignation, death, or dismissal.
- b. Termination of service by dismissal requires that two-thirds of the Church members present at a meeting called for that purpose, vote to dismiss the Pastor, provided that due notice has been given to the Church at least two Sundays in succession prior to the date of such meeting.

Section 4. Filling a Pastoral Vacancy.

When a vacancy occurs in the pulpit, the Church will appoint a committee comprised of seven members. The Chairman of the Deacon Board will be an ex-officio member of the committee. The committee shall compile a list of qualified candidates and investigate each candidate thoroughly. This list of qualified candidates should be compared to a profile of the ideal Pastor for Beulah, using I Timothy 3 as a guideline. After determining the top candidates, the committee shall visit the Church where the candidate is serving to observe and listen to him in his normal setting. Interviews shall be conducted with each top candidate and the Church shall name the amount it is willing to pay. After meditation and prayer, the committee shall select the best qualified candidate and will make its recommendation to the Church. The candidate(s) will be invited to preach during at least one worship service. The Church shall hold a meeting for the express purpose of giving a call, after an announcement of such meeting has been made to the Church at least two Sundays in succession prior to the meeting.

- a. At least three-quarters vote of all persons present and qualified to vote shall be required for calling of a Pastor.
- b. The vote may be taken by standing or by ballot.
- c. The election must be by free choice of the members. They may ask and may accept advice, but no person nor the pulpit committee members may dictate to the Church how to vote.

- d. The candidate shall be informed of the outcome of the vote.

ARTICLE V. OFFICIAL BOARD.

Section 1. Deacons.

a. The church shall elect a Board of Deacons to assist the Pastor as the Disciples assisted Christ. Deacons shall be men who meet the qualifications indicated in Acts 6:3 and I Timothy 3, "...men of honest report, full of the Holy Ghost and wisdom." Deacons shall be chosen in the following manner:

1. The necessity of adding deacons to the board and the number needed shall be brought to the attention of the Church.
2. Any member of the Church, at a regular Church meeting, can recommend a candidate for deacon.
3. This recommendation will be referred to the Deacon Board, who will investigate the candidates and report their findings to the Church by way of the Joint Board.
4. The elected deacon will serve until the Church sees fit to relieve him for cause.
5. The Board of Deacons shall elect its own officers annually and shall recommend to the Church Nominating Committee its candidate for Chairman, First Assistant Chairman, and Second Assistant Chairman, to be voted on by the Church.

- b. The duties of the Deacons shall be as follows:
 - 1. Assist the Pastor in carrying out the program of the Church.
 - 2. Prepare and serve the Lord's Supper in a reverent manner.
 - 3. Prepare baptismal pool and assist candidates during baptism.
 - 4. Submit to the Budget and Finance Committee the projected amount of money needed to carry out the Deacon's mission functions for the incoming year; distribute these funds impartially; maintain records of same; and, make an annual report to the Church.
 - 5. Visit the sick, elderly and those in need, providing assistance when needed.
 - 6. Know at all times the condition of the Church, spiritually, financially, and temporally.
 - 7. Serve as Counselor for organizations, providing guidance and informing the Pastor of problem areas.
 - 8. Serve as Ward Leader, communicating on a regular basis with assigned members and informing the Pastor of circumstances requiring his attention.
 - 9. Superintend the operation of the Church in the absence of the Pastor.

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10. Insure that the Pastor is paid a salary which is fair to him and the Church.
11. Attend all meetings of the Board and serve as a member of the Joint Board and Church Officers' Council.

Section 2. Deaconesses.

a. The Church shall elect a Board of Deaconesses to assist the Pastor with the spiritual leadership of the Church. Except under special circumstances and on the recommendation of the Pastor, these women shall be the wife of a deacon and shall meet the same spiritual qualifications as the deacons. When the need arises, the Deaconess Board shall notify the Church of the need to add to their number, and will conduct its own investigation of the prospective members to be recommended to the Church. The Deaconess Board shall elect its own officers annually and shall recommend to the Church Nominating Committee its candidate for Chairman and Assistant Chairman, to be voted on by the Church. A deaconess shall serve until the Church sees fit to relieve her for cause.

b. The duties of the deaconess shall be as follows:

1. To assist the Pastor and Deacons in ministering to individuals and families in need.
2. To strive to lead others to salvation in Jesus Christ.
3. To care for baptismal garments and linens, Communion linens, and Communion serviceware.
4. To assist female candidates at baptism.

5. To visit, console, and counsel victims of error and bereavement.
6. To assist in the religious training of the members.
7. To attend all meetings of this board, the Joint Board, and the Church Officers' Council.

Section 3. Trustee Board.

a. The Trustee Board shall consist of ten registered trustees and as many associate trustees as the Church deems necessary. Trustees shall be elected annually by the Church. Trustees shall elect their officers annually and shall recommend to the Church Nominating Committee its candidate for Chairman and Assistant Chairman for election by the Church.

b. Trustees shall be members of the Church in good standing, spiritually and financially. They shall be persons of sound business sense and unquestionable integrity.

c. The duties of the trustees shall be as follows:

1. To carry out lawful instructions received from the Church in a regular or called meeting.
2. To review and/or sign all contracts and legal documents on behalf of the Church and/or required by the Government of the District of Columbia.
3. To have responsibility for the acquisition, maintenance, repair and replacement of all church property.

4. To pay all salaries and debts incurred by the Church and such other disbursements as the Church deems necessary.
5. To provide for an annual audit of the Church's financial records including the Treasurer's and Financial Secretary's books and report the findings to the Church.
6. To interview, negotiate, hire and terminate all non-cleric, paid personnel for positions approved by the Church.
7. To be present at all regular and called meetings of this board and to serve as members of the Joint Board and Church Officers' Council.

Section 4. Joint Board. The official boards of the Church are the Deacon Board, the Deaconess Board, and the Trustee Board. These boards shall meet once each month as the Joint Board. The purpose of these meetings is to share information on the spiritual and temporal condition of the Church, to act on matters approved by the Church, and to prepare recommendations to the Church for action.

ARTICLE VI. YOUTH MINISTRY.

Section 1. The Youth Minister, Assistant to the Youth Minister, President, Vice-President, and Secretary shall be the governing body of the Youth Ministry. If there is no Youth Minister, the leader shall be called the Youth Director.

A member of each of the following organizations shall be represented in the Youth Ministry: Sunday School, choirs, Young People's Usher Board, Basketball Team, Scouting Family, and any other ministries

founded on the development of Christian values, evangelism, discipleship, fellowship, and worship.

Section 2. The Youth Ministry will consist of all youth between the ages of four through twenty-one.

Section 3. The mission of the Youth Ministry is:

1. To coordinate activities involving all youth auxiliaries of Beulah Baptist Church.
2. To actively seek fellowship with other Christian Youth groups in the DC area and vicinity.
3. To provide input into the selection of youth delegates to the local, regional, and national conventions.
4. To support the National Officers of the Progressive National Baptist Convention Youth Department and other local and state conventions.
5. To educate youth about the principles of Christianity and discipleship and to provide training for their spiritual growth.
6. To support evangelistic and outreach programs.
7. To teach leadership skills to all youth and provide leadership training for youth leaders.
8. To develop a mentoring relationship with Senior Officers of the Church.

Section 4. The Pastor will appoint a Youth Minister and an Assistant to the Youth Minister. Officers shall be voted on by the Youth body annually. The Youth Officers are to possess qualities of spiritual leadership outlined in I Timothy 3:1-7.

Section 5. The Youth Minister shall submit an annual program to the Pastor by

Section 3. Financial Secretary.

The Financial Secretary and Assistant Financial Secretary shall be a member of the Trustee Board, and shall be elected annually by the Church. The duties shall be as follows:

1. Maintain a record of all church income and disbursements.
2. Review vouchers for accuracy before making disbursements.
3. Monitor the Church's income and disbursements to assure that the Church operates within its budget.
4. Serve as a member of and advisor to the Budget-Finance Committee.
5. Provide the Budget-Finance Committee with the necessary information to do its work.
6. Provide monthly, quarterly and annual financial reports to the Pastor, Church, Joint Board and Budget-Finance Committee.

Section 4. Group Counselors.

The Pastor shall appoint a counselor to any group he deems appropriate. All counselors shall be selected from the Deacon Board, Deaconess Board or the Trustee Board. The counselor shall attend each business meeting held by the group. The counselor shall provide advice and guidance to the group President and its members regarding church policy and procedures, and shall make every effort to encourage the ministry of the group. The counselor shall attempt to resolve any problems arising within the group. If the counselor is unable to resolve the matter within the group, he shall immediately bring the matter to the attention of the Pastor, who will decide the best course

of action. In addition, the counselor shall confer each month with the Pastor on matters within the group which may affect the entire Church body.

ARTICLE VIII. THE CHURCH OFFICERS' COUNCIL.

Section 1. There shall be a Church Officers' Council composed of the presidents of all church organizations, members of the official boards, and all officers elected by the Church.

October 1 for the incoming year.

ARTICLE VII. OTHER CHURCH OFFICERS.

Section 1. Church Clerk.

The Church shall elect a Clerk annually. The Clerk must be committed and accessible to the Pastor and the members of the Church. The Church shall also elect an Assistant Clerk annually to assist the Clerk in carrying out the following duties:

1. Keep an accurate and current record of each individual member.
2. Provide information to the Pastor necessary to prepare his annual report of Church membership.
3. Maintain and control the Church membership record books and documents.
4. Insure that all notices are brought to the attention of the members.
5. Send flowers or other appropriate expressions of sympathy to the family of a deceased member or to the member in the loss of a spouse, parent, child, or sibling.

6. Assist bereaved families in preparing documents for funerals, if requested.

Section 2. Treasurer.

The Church shall elect a Treasurer annually to receive all monies and to give receipt for same. The Treasurer must keep an accurate record of all financial transactions and deposit all money in the bank on the next banking day following the receipt of money. He shall make a semi-annual report to the Church and monthly reports to the Joint Board. The Church may request additional reports or review the financial records at any time. Bank statements, canceled checks and vouchers should be available at the time reports are made. The Treasurer will also implement acceptable recommendations made by the Audit Committee. The Church shall elect an Assistant Treasurer to serve in the absence of the Treasurer. Both the Treasurer and the Assistant Treasurer shall be bonded.

Section 2. The Church Officers' Council shall:

- a. Assist in developing the annual program of the church.
- b. Evaluate the total Church Program as well as specific church activities throughout the year; and,
- c. Evaluate all proposals referred to them during a regular church conference and make recommendations to the Church membership either the inclusion of the proposal in the Church Program or the rejection of the proposal.

Section 3. Each Council member shall communicate to the Pastor and to the Joint Board the needs, questions, and suggestions of individuals of their respective groups. They shall also communicate to their groups new ideas, proposals, and suggestions from the Council and the Joint Board.

Section 4. The Church Officers' Council shall meet prior to each regular Church Conference and at any other time that the need arises. The Pastor shall set the date and time for each meeting.

Section 5. The Pastor shall preside over all meetings of the Church Officers' Council. The body shall elect a secretary from its membership.

ARTICLE IX. BUDGET-FINANCE COMMITTEE.

Section 1. The Budget-Finance Committee will consist of the chairman of the Deacon Board, chairman of the Trustee Board, Church Treasurer, Church Financial Secretary, Financial Secretary of the Sunday School, Deacon's Mission Fund Treasurer, Chairman of the Board of Christian Education, and one or more members of the Church elected for a two-year term, one of whom shall serve as the chairman of this committee.

Section 2. The Budget-Finance Committee shall prepare the proposed budget for the incoming year based upon information received in reports prepared by the Church Financial Secretary during the current year and requests for funds from individuals and groups within the Church. The Committee shall prayerfully consider each request and the needs of the Church. Budget requests from groups and individuals shall be made by September 1.

Section 3. The committee shall meet as often as necessary to carry out its responsibilities.

Section 4. The committee will prepare a proposed budget for the incoming year not later than September 30 of the current year, and will schedule at least one budget hearing prior to the December Church conference. The budget hearing(s) shall be open to any member in good standing.

ARTICLE X. BOARD OF CHRISTIAN EDUCATION.

Section 1. The Pastor, deacons, and deaconesses shall insure that the church has a strong educational program.

Section 2. The Board of Christian Education shall consist of a Director, Assistant Director, Secretary, Dean of B.I.B.L.E. Institute, Director of Vacation Bible School, Assistant Director of Vacation Bible School, and representatives from each educational organization of the church. Officers will be elected annually by the church.

Section 3. The mission of the Board of Christian Education shall be:

1. To make the educational program a part of the entire program of the church.
2. To make the congregation aware of the Church's educational programs.
3. To enlist, train, and utilize as many persons as can effectively be used in the program of education.

4. To provide a clear line of accountability through records and reports. All reports are to be turned in at the end of an activity to the Joint Board.
5. To make provisions for curriculum material, audio-visual equipment, and supplies.
6. To establish and maintain a library to be used by members of the Church.
7. To establish guidelines for selection of delegates and chaperones to the local, regional, and national conventions.
8. To establish guidelines for awarding scholarships and financial aid.

Section 4. Each year the church will elect a Superintendent of the Sunday School, Assistant Superintendent (or Departmental Superintendents), Director, and Assistant Director of the Vacation Bible School, and Dean of the B.I.B.L.E. Institute.

Section 5. The Sunday School shall provide religious instruction for the youth and adults. The basic textbook of the Sunday School shall be the Holy Bible, but this body may select other materials, equipment, and visual aids to carry on an effective, organized effort. The Sunday School is supervised by the Board of Christian Education. The Sunday School shall exercise independence in the election of officers, other than Superintendent and Assistant Superintendent (or Departmental Superintendents), adoption of teaching methods, and governance, subject to Board approval.

Section 6. The B.I.B.L.E. Institute or some other appropriate organization shall provide classes for members to study and acquire knowledge necessary to be a better and more effective Christian. This body may

elect a staff, select its materials, and carry on its program under the auspices of the Board of Christian Education and subject to approval by the Church.

Section 7. Every summer, the Vacation Bible School shall provide religious instruction through literature and crafts. The Director and Assistant Director shall recruit and train staff, select materials, and carry on the program subject to Board approval.

ARTICLE XI. MUSIC MINISTRY.

Section 1. The Pastor, deacons, and deaconesses shall be responsible for the music used at all worship services. They shall communicate to the Minister of Music and/or the Music Council the types of music to be used for the various singing groups and types of worship services. They shall insure that all paid musicians are born again Christians and are committed to their service at Beulah.

Section 2. The Music Ministry membership shall consist of all members of the singing groups and instrumental groups in the Church and the members of the Music Council.

Section 3. The Music Council shall consist of the Minister of Music, all musicians, all presidents of the singing groups and instrumental groups, a deacon, a deaconess, all singing group counselors, and a trustee. The Minister of Music shall serve as chairman of the council.

Section 4. The purpose of the Music Council shall be to provide the best possible program of worship music for the Church. The Council shall insure that no

talents or needs are overlooked in the ministry. They shall notify the Trustee Board regarding the service or replacement of instruments, purchase of hymnals or need to fill a musician vacancy.

Section 5. If a problem should arise in a choir or instrumental group, the president shall inform the group's counselor. A meeting shall be called and shall include the Minister of Music and the group counselor. If no agreement is reached, the group counselor shall confer with the deacon and deaconess representative of the Music Council and the Pastor for final resolution.

ARTICLE XII. NOMINATING COMMITTEE.

The Church shall elect a Nominating Committee at the March Church Conference. The committee will bring in recommendations for church officers to be elected at the December Church Conference. This committee shall consist of seven members. Four members, not necessarily deacons, will be recommended by the Deacon Board by way of Joint Board, and three members shall be nominated from the floor at the March Church Conference.

ARTICLE XIII. GUIDELINES FOR CHURCH GROUPS.

Each group or ministry, except the Music Ministry (which is governed by the "Guidelines of the Music Ministry") must write a set of by-laws by which it will be governed. These by-laws shall include: name of organization, purpose, members, officers, meetings, dues and how they are spent, committees, parliamentary authority, and method of amending by-laws. These by-laws must not be in conflict with this

Constitution and shall be reviewed by the Joint Board and accepted by the Church.

ARTICLE XIV. CHURCH ORDINANCES - BAPTISM AND COMMUNION.

Section 1. The Church observes two ordinances instituted by our Lord, baptism and communion.

Section 2. All persons who have been regenerated by the Holy Spirit, and on a profession of faith in Jesus Christ, shall be baptized. Baptism shall be by immersion.

Section 3. This Church shall observe Communion or the Lord's Supper in order that all who are baptized believers in Jesus Christ obey His command, "... this do ye... in remembrance of me..." The Communion Service shall be "open", which permits anyone who believes himself qualified to come to the Lord's table to do so, without any questions being asked or conditions imposed by the Church.

ARTICLE XV. CHURCH COVENANT.

The Church shall use the following responsory form when reciting the Church Covenant:

Minister: By what common and gracious experiences do we enter into spiritual fellowship and covenant relations with God and with one another?

Congregation: Having been led, as we believe, by the spirit of God, to receive the Lord Jesus Christ as our Saviour, and on the profession of our faith, having been

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baptized in the name of the Father, and of the Son, and of the Holy Ghost, we do now in the presence of God, Angels, and this Assembly, most solemnly and joyfully enter into covenant with one another, as one body in Christ.

Minister: What is the great bond of our union with our God and each other?

Congregation: We engage, therefore, by the aid of the Holy Spirit, to walk together in Christian love.

Minister: What are the great privileges and duties in this our own Church?

Congregation: To strive for the advancement of this church in knowledge, holiness, and comfort; to promote its prosperity and spirituality, to sustain its worship, ordinances, discipline and doctrines.

Minister: What vows do we gladly make as stewards of that which God has entrusted to us?

Congregation: To contribute cheerfully and regularly to the support of the ministry, the expenses of the Church, the relief of the poor, and spread of the Gospel throughout all nations.

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Minister: For the sake of our homes and our loved ones, what gracious tasks do we humbly assume?

Congregation: We also engage to maintain family and secret devotion; to educate religiously our children; to seek the salvation of our kindred and acquaintances.

Minister: For the sake of the unsaved for whom the Saviour died, to what manner of life and conversation are we solemnly and sincerely pledged?

Congregation: To walk circumspectly in the world; to be just in our dealings, faithful in our engagements, and exemplary in our deportment; to avoid all tattling, backbiting and excessive anger; to abstain from the sale and use of intoxicating drink as a beverage, and, to be zealous in our efforts to advance the kingdom of our Saviour.

Minister: Since one is our Master, even Christ, and all we are brethren, by what fraternal ministries are we to strengthen each other and adorn the teachings of our Lord and Saviour?

Congregation: We further engage to watch over one another in brotherly love, to remember each other in prayer, to aid each other in sickness and distress, to cultivate christian sympathy in feeling

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and courtesy in speech, to be slow to take offense, but always ready for reconciliation, and mindful of the rules of our Saviour to seek it without delay.

Minister: If for any reason we shall remove our membership from this church, what would be our future obligation?

Congregation: We moreover engage that when we remove from this place, we will as soon as possible unite with another church of the same faith where we can carry out the spirit of the covenant and principles of God's Word.

Minister and Congregation:

Humbly confessing our past sins, we pray for grace and strength to keep our holy vows for the sake of Jesus Christ our Lord. Amen.

ARTICLE XVI. CHURCH DISCIPLINE.

We shall follow these steps when discipline is necessary:

1. When a complaint or report of unchristianlike conduct comes to the attention of the Church, it will be referred to the Deacon Board or Deaconess Board.
2. The Board to which the matter has been referred will take appropriate action to try to correct the situation in the most Christian manner.

3. If the Deacon Board or Deaconess Board cannot resolve the complaint alone, the Pastor and other boards will be called in for counsel.
4. In the event all efforts fail, the Pastor, Deacons, and Deaconesses will recommend the case to the Church for disciplinary action.
5. If the complaint is against any person or persons on this joint spiritual board, that person or persons will be excluded from taking part in the recommendation.

ARTICLE XVII. ELECTIONS.

Each December, an election of Church officers will be held. The term will begin in January following the election and end in December. In the event of a vacancy, such vacancy shall be filled by appointment within one month by the Pastor, with approval of the Joint Board.

ARTICLE XVIII. MEETINGS.

Section 1. Worship Service. Public services shall be on each Sunday, the Lord's Day. Communion Service shall be celebrated on every second Sunday after each morning service. The Church shall hold at least one weekly prayer and/or praise service.

Section 2. Quarterly Church Conferences shall be held on the Friday before the second Sunday in March, June, September, and December.

ARTICLE XIX. CHURCH YEAR.

The fiscal year of the Church shall be the Calendar year.

ARTICLE XX. AMENDMENTS.

All amendments to this Constitution must be presented to the Church in a regular Church Conference and referred to the Joint Board for study. At the conclusion of its study, the Joint Board will make recommendations at the next Church Conference to accept, reject or change the proposed amendment(s). Announcements regarding the pending action must be made at each worship service, beginning at least two weeks prior to the Church Conference. In addition, a copy of the proposed amendment(s) will be mailed to the entire membership. Three-fourths of the members present at the Church Constitution must vote in favor of the amendment for it to become part of the Constitution.

Constitution Committee Members

Alice S. Jennings, Chairman

Louise Cephus

Jennifer L. Jones

Russell Moore, Jr.

Henry G. Rose, Jr.

Southall E. Seay, Sr.

Reesie Thomas

Nikki Williams

Rev. Moses L. Jackson, Jr., Pastor

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