

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT**

7th Circuit - Probate Division - Dover
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September 22, 2017

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Case Name: **Trust of Mary Baker Eddy (Clause VI & VIII)**
Case Number: **317-1910-TU-00001**

Enclosed please find the Court's Order regarding the above trust.

Cheryll-Ann Andrews
Clerk of Court

C: James F. Raymond, ESQ; Thomas J. Donovan, ESQ; Stuart Brown,, ESQ; Robert B. Eyre, ESQ;
Judkins D. Richard, ESQ; Theodore E. Dinsmoor, ESQ; Russell F. Hilliard, ESQ; Patrick O'Brien
Collins, ESQ; Michael P. Courtney, ESQ

THE STATE OF NEW HAMPSHIRE

MERRIMACK COUNTY

TRUST DOCKET
6TH CIRCUIT COURT
PROBATE DIVISION

TRUST OF MARY BAKER EDDY (CLAUSE VI & VIII)

317-1910-TU-00001

SCHEDULING ORDER

The Court has before it pleadings filed by the Trustees of the Trust of Mary Baker Eddy (Clause VI), and the Trustees of the Trust of Mary Baker Eddy (Clause VIII)(collectively the "Trustees"), see *Assented-to Motion to Amend the 1993 Order, Covert Clause 6 & 8 to Unitrusts and Adopt RSA 292-B Uniform Prudent Management of Institutional Funds Act* (Index #281)(the "Assented-to Motion"), and the Director of Charitable Trusts, Thomas J. Donovan (the "DCT"), see *Memorandum in Support of Trustee's Motion to Amend 1993 Order and To Convert Trusts to Unitrusts* (Index #284), seeking amendment of a 1993 Probate Court Order, conversion of the Clause VI and Clause VIII Trusts to unitrusts, and approval of the application of the Uniform Prudent Management of Institutional Funds Act ("UPMIFA"), see RSA chapter 292-A, to the Clause VIII Trust, as it is proposed to be amended. The Second Church of Christ, Scientist, Melbourne (Australia) (the "Second Church") also seeks to submit a brief as *amicus curiae*, see Index #282, to which the Trustees have objected, and the Second Church has filed an additional responsive pleading. See Index #285-287.

The Court deems it appropriate to hold a hearing on issues raised in these pleadings¹ as soon as possible after receipt by the Court of the audited accounting(s) due on October 15, 2017. See Index ##278-279. As such, the court has scheduled a non-evidentiary hearing on **November 3, 2017 at 9:00 a.m. at 6th Circuit – District Division - Concord** located at **32 Clinton Street, Concord, New Hampshire**.

Representatives from the Second Church may participate in the hearing for the purpose of addressing its *Motion for Leave to File Brief Amicus Curiae* concerning the *Assented-to Motion*, and responses thereto, see Index ##282, 285-87, and its *Status Report and Request for Time for Discovery of the Second Church of Christ Scientist, Melbourne (Australia)*, see Index #288, and anticipated responses thereto.²

Finally, in light of continuing submissions by the Second Church, see supra, in particular its most recent request for court intervention, see Index #288, the Court questions, as part of its possible consideration of pleadings filed by the Second Church, whether it is time to revisit and decide the issue of the Second Church's standing to participate and/or seek affirmative relief. See generally Order on Assented-To Motion for Continuance of Hearing at 2-3 (March 24, 2016)(Index #245)(discussing standing). Specifically, the Court, in its Order on Hearing Held April 12, 2016 (dated April 25, 2016), see Index #253, observed that the Second Church had withdrawn its *Motion to Vacate, or in the Alternative to Reconsider, Orders of November 2, 2015*, see Index #234 and *Motion for Reconsideration*, see Index #237, "without prejudice to possible

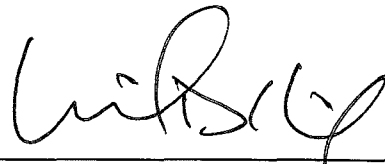
¹ The Court observes that the Second Church previously filed a "Status Report and Recommendation of Trustee," see Index #275, to which various objections and responses thereto were filed by both the Mother Church and Second Church. See Index ##275-277, 280. Even assuming the Second Church had standing to submit that pleading, the Court has not, and does not plan to, issue any ruling on this "report" as it does not seek affirmative relief.

² This "Status Report" was filed on September 12, 2017. See Index 288. The Court anticipates that the Trustees will submit a responsive pleading, and possibly the DCT as well.

future objection to trust accounts by the Second Church,” id. at 5, and therefore it “made no orders concerning the standing of the Second Church to challenge the trust accountings in this matter, [so that] withdrawal of pleadings by the Second Church has no preclusive effect whatsoever on determination of the standing issue.” Given that the Second Church now seeks an affirmative ruling³ delaying consideration of the *Assented-To Motion* pending further “discovery”, see *Status Report and Request for Time for Discovery of the Second Church of Christ Scientist, Melbourne (Australia)* at 3 (Index #288), the Court deems it necessary to address with the parties the standing issue and, if necessary, schedule a further hearing for argument on the issue.

SO ORDERED

Dated: 9/21/2017



David D. King, Judge

³ The Court also observes that although captioned as seeking to provide guidance as an *amicus curiae*, in its *Motion to File a Brief Amicus Curiae* with the *Amicus* brief attached, see Index #282, the Second Church advises the Court to vacate the 1993 Order, (arguably seeking a ruling to that effect), and asserts that the *Motion to Amend* is an admission that the Trustees “have failed to safeguard the Clause VIII Trust for more than two decades.” See *Motion to File a Brief Amicus Curiae*, Exh. A at 14 (Index #282). The Second Church also asserts that the proposed restrictions do not safeguard the trust and are insufficient to deal with the embedded conflicts. See id. at 14-18. The Second Church also advises the Court to order (again, effectively seeking a ruling) appointment of an independent trustee and authorizing investigation into prior accountings submitted to the Court. Id.