

II. ARGUMENT AND AUTHORITIES

A. FPC has failed to provide the three-day notice required by Tex. R. Civ. P. 21(b)

The Texas Rules of Civil Procedure are not optional. “The proper objective of rules of civil procedure is to obtain a just, fair, equitable and impartial adjudication of the rights of litigants under established principles of law.” Tex. R. Civ. P. 1. Texas Rule of Civil Procedure 21(b) states:

An application to the court for an order and notice of any hearing thereon, not presented during a hearing or trial, *must* be served upon all other parties **not less than three days** before the time specified for the hearing, unless otherwise provided by these rules or shortened by the court.

Tex. R. Civ. P. 21(b) (emphasis added).

FPC has asked this Court to rule on FPC’s Motion by 1:00 p.m. on Friday October 30, 2015. FPC served and filed the Motion in the afternoon of Wednesday October 28, 2015. FPC’s Motion was therefore served and filed less than 48 hours ahead of FPC’s requested relief, which FPC is presumably seeking without a hearing.² FPC cites to no legal authority allowing it to ignore Rule 21, and FPC has not filed for a Motion for Leave of this Court to shorten the requirements of Rule 21. The Texas Rules of Civil Procedure apply to all parties equally, and FPC is not exempt from their requirements.

As FPC’s Motion has not been properly noticed for this Court’s consideration, this Court should therefore deny FPC’s Motion.

B. The First Amendment of the U.S. Constitution applies to all parties to this lawsuit

Like the Texas Rules of Civil Procedure, the United States Constitution and the Bill of Rights are not optional and apply to all people equally. FPC’s Motion asks this Court to apply

² FPC’s Motion also fails to actually request that this Court rule by submission only, and instead simply imposes a deadline without asking the Court to rule without a hearing. Mission and Intervenors will presume that FPC seeks relief without a hearing, given its less than 48-hour notice of this Motion.

the First Amendment only when it benefits FPC, but then ignore the First Amendment when it prevents FPC's requested relief. That's not how the United States Constitution works, and this Court should deny FPC's Motion accordingly.

1. *Legal Authority: FPC's Brief From Last Week*³

Mission and Intervenors did not have to look far to prepare this Response, as FPC's own cited authority submitted to this Court last week is controlling on the relief FPC seeks in its Motion. First, FPC cited the following to begin its briefing on potential infringement by this Court into ecclesiastical matters:

It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the "liberty" assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech. Of course, it is immaterial whether the beliefs sought to be advanced by association pertain to political, economic, religious or cultural matters, and state action which may have the effect of curtailing the freedom to associate is subject to the closest scrutiny.

Nat'l Ass'n for Advancement of Colored People v. State of Ala. ex rel. Patterson, 357 U.S. 449, 460-61 (1958) (internal citations omitted).⁴ In *Masterson*, the Texas Supreme Court stated:

The Free Exercise clause of the First Amendment to the United States Constitution provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The clause "severely circumscribes the role that civil courts may play in resolving church property disputes," by **prohibiting civil courts from inquiring into matters concerning "theological controversy, church discipline, ecclesiastical government, or the conformity of the members of a church to the standard of morals required of them."**

³ "FPC's Brief" shall be used herein to reference Plaintiff's Brief in Opposition to Intervenors' Emergency Motion for Reconsideration of Intervenors' Application for Temporary Injunction, filed with this Court on October 21, 2015.

⁴ Mission and Intervenors would have cited directly to FPC's Brief for this quote, but FPC did not follow the proper citation form, so Mission and Intervenors simply cite directly to this authority.

Masterson v. Diocese of Northwest Texas, 422 S.W.3d 594, 601 (Tex. 2013), reh'g denied (Mar. 21, 2014), cert. denied sub nom. *Episcopal Church v. Episcopal Diocese of Fort Worth*, 135 S. Ct. 435, 190 L. Ed. 2d 327 (2014) (internal citations omitted) (emphasis added).

Thus, as FPC agrees, this Court does *not* have subject-matter jurisdiction to inquire into matters concerning (1) church discipline or (2) ecclesiastical government. FPC certainly argued that in its Brief last week seeking to prevent Intervenors' requested temporary injunction against FPC's planned congregational vote. This week, FPC argues that because the Administrative Commission appointed by Mission was instituted "for the purpose of combatting FPC's denominational affiliation vote set for November 1, 2015" (FPC's Motion ¶ 9), this Court must enjoin Mission and the Administrative Commission from the "imminent harm" of acting to prevent the November 1, 2015 vote. *Id.* ¶ 10.

FPC argued just last week that the denominational vote set for November 1, 2015 involves "purely ecclesiastical issues." FPC's Brief ¶ 2. If it is true that the Administrative Commission is merely seeking to stop the November 1, 2015 vote, it cannot also be true that Mission's action is anything but "purely ecclesiastical;" FPC has admitted that the vote involves *only* an ecclesiastical matter. It simply does not follow that Mission's action to potentially prevent an ecclesiastical action is somehow outside the realm of ecclesiastical government. This flawed logic demonstrates that FPC is merely trying to avoid this Court's application of well-established Texas law to *FPC's* requested relief while insisting that the Court apply the First Amendment's limitations only to Mission and Intervenors.

This Court does not have subject-matter jurisdiction over Mission's right to exercise its ecclesiastical role in a "purely ecclesiastical" matter. For the same reasons that FPC is entitled to

free association, Mission is entitled to operate its ecclesiastical government without this Court's interference.

To the extent that FPC is concerned about which specific individuals may eventually govern the congregation, that matter is not within the scope of any property dispute that might be within this Court's jurisdiction (FPC has never cited any authority for the proposition that if a corporation has certain property rights, then it cannot be subjected to any otherwise permissible mechanism that may change its governing leadership). Moreover, it is *exactly* the kind of question that the Supreme Court warned courts away from: "Even when rival church factions seek resolution of a church property dispute in the civil courts, there is substantial danger that the state will become entangled in essentially religious controversies or intervene on behalf of groups espousing particular doctrinal beliefs." *Serbian Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 711 (1976). The courts *must* stay out of such matters, and *must not* "transfer to the civil courts where property rights were concerned the decision of all ecclesiastical questions" *Id.* at 714. This principle is so important that it was specifically emphasized in the Supreme Court's original text.

As explained in prior testimony to this Court, in the Presbyterian Church (USA), the governing body above congregations is the Presbytery. Thus, Mission Presbytery acts in the same capacity as a Serbian Orthodox bishop in *Milivojevich*. The Supreme Court there firmly held that the courts should not insert themselves in disputes between higher church authority and local church authority regarding matters of governance. The Supreme Court expressly held that it is a "constitutional mandate that civil courts are bound to accept the decisions of the highest judicatories of a religious organization of hierarchical polity on matters of discipline, faith, internal organization, or ecclesiastical rule, custom, or law." *Id.* at 713.

This Court should follow that clear and simple rule, and not insert itself in a matter that involves such ecclesiastical issues.

2. *The Book of Order and the Administrative Commission's power*

FPC drastically overstates the power that Mission has conferred upon the Administrative Commission established on October 23, 2015. The Administrative Commission's power is purposefully and specifically limited by the following clause:

The Administrative Commission shall *not* take any action to change the current right, title, or legal interest in any real or personal property that is presently held and/or used by the congregation. The Administrative Commission shall maintain the status quo with respect to such property.

FPC's Motion at Exh. B (emphasis added). FPC takes the position that this carve-out of power is "a blatant example of pretextualism." *Id.* ¶ 7. This is, yet again, another example of FPC using an argument when it suits FPC, and dismissing it when it works to FPC's detriment. Mission and Intervenors urge this Court to review the similar "carve-out" that FPC proposes in its temporary injunction. The difference between the two is that FPC's carve-out actually *is* pretextual, whereas the Administrative Commission's carve-out specifically limits its power so as to not change the legal right, title, or interest of any of FPC's property. Comparison of the two different carve-outs shows that there's an abundance of grey-area in one, and a specific and enforceable limitation in the other. FPC's carve-out states:

[N]othing in this Temporary Injunction shall preclude [Mission] from taking ecclesiastical action for non-pretextual ecclesiastical cause that is unrelated to this litigation or any property issue raised in, prompted by, related to, or affecting the ownership, control, use, or disposition of the Personal or Real Property held by, for in the name of [FPC].

FPC's Motion at Exh. C, p. 4. As presented to this Court at the hearing in August, this type of "carve-out" is an incomprehensible use of a temporary injunction. The confusing and unclear nature of this vague and subjective language is proven by the fact that FPC threatened to take

Mission to court when Mission attempted to implement a routine and ecclesiastical investigation into one of FPC's pastors who was the subject of a complaint.

In contrast, the Administrative Commission expressly does *not* have the power to change the legal right, title, or interest of any church property. This is an express limitation, and to the extent that FPC infers contradiction in other areas of granted power, such inferences are negated by the principle of legal construction of writings that states that specific limitations trump general grants of power. *NuStar Energy, L.P. v. Diamond Offshore Co.*, 402 S.W.3d 461, 466 (Tex.App.—Houston [14th Dist.] 2013, no pet.) (citing rule of construction that “to the extent of any conflict, specific provisions control over more general ones.”). The Administrative Commission is merely using its strictly ecclesiastical grant of power to perform its ecclesiastical function and – much to the consternation of the FPC leadership faction – fully reveal all that has been happening at FPC. Mission's ecclesiastical actions are undertaken pursuant to the PC(USA) Book of Order in order to protect the ecclesiastical interests of all members of FPC, and consequently, protect the entity as a whole.

From the controlling faction's perspective, FPC's stated concern to this Court is somewhat understandable. Although the Administrative Commission is expressly *not* authorized to interfere with “the current right, title, or legal interest in any real or personal property,” the Administrative Commission will eventually, in fact, almost certainly expose fraud that FPC's ruling faction has imposed on the entire congregation. With that in mind, the current controlling faction must be concerned about losing its ecclesiastical power. However, even if the Administrative Commission eventually ended up removing from power every bad actor currently in control of FPC, the current right, title, or legal interest to any real or personal property of FPC's would be the same then as it is now: in the hands of FPC as a non-profit corporation. The

only difference would be that those individuals who have chosen to ignore the ecclesiastical rules and processes, the Book of Order, and basic tenets of Texas law (procuring an amendment by fraud is illegal) would no longer be able to use FPC's ecclesiastical power or property for their personal agenda. But that, again, would be an ecclesiastical matter between Mission Presbytery and certain officers of FPC, just like the dispute in *Milivojevich*.

To the extent that the legal title to any property belongs to FPC, the Administrative Commission has no power to change that, and thus this court has no jurisdiction to take action enjoining the Administrative Commission. *See Serbian Orthodox Diocese*, 426 U.S. at 723 (in holding that the courts should not become involved in that ecclesiastical dispute, the Supreme Court expressly noted that even after much more significant ecclesiastical action by church authorities, a jurisdictional property dispute was not implicated because "formal title to the property remains in respondent property-holding corporations . . ."). FPC cannot ignore the Constitution and basic rules of statutory interpretation to turn a specific limitation into some form of "pretextualism."

The Supreme Court summed up the rule:

In short, the First and Fourteenth Amendments permit hierarchical religious organizations to establish their own rules and regulations for internal discipline and government, and to create tribunals for adjudicating disputes over these matters. When this choice is exercised and ecclesiastical tribunals are created to decide disputes over the government and direction of subordinate bodies, the Constitution requires that civil courts accept their decisions as binding upon them.

Id. at 724-725. This matter, as it involves an Administrative Commission duly appointed by Mission Presbytery and a ruling Session of FPC that has consistently violated the church's ecclesiastical constitution and rules, is church business – it is not a matter for this Court. Indeed, the Constitution requires that this Court abstain from inserting itself in the matter.

3. *FPC is asking this Court to help FPC commit an ultra vires act.*

Further, the Administrative Commission will not need to take *any* action at all if FPC's Session does just one, simple thing: agree to start conducting its business pursuant to the Constitution of the PC(USA), the Book of Order, as it is obligated to do. (See Exhibits A and B (attached hereto), October 23, 2015 and October 28, 2015 letters from William Poe, Interim Stated Clerk of Mission Presbytery to N.A. Stuart, M.D., Clerk of the Session of FPC, notifying the Session that the proposed actions violate the Book of Order, and specifically informing the Session of the way by which they may comply with the Book of Order). So, when FPC asks this court to protect it from the ecclesiastical actions of Mission's Administrative Commission (an act of protection that already would violate the U.S. Constitution), its request should be read as follows: "Please protect us while we do something that we're not permitted to do." Courts don't provide cover for wrongful conduct. And they certainly don't provide cover for wrongful conduct of an ecclesiastical nature.

FPC is requesting to use this Court's injunctive power to allow FPC to commit an *ultra vires* act. The directors of a Texas corporation may take only those actions that are within the entity's corporate purpose, as stated in its articles of incorporation. *Gearhart Industries, Inc. v. Smith Intern., Inc.* 741 F.2d 707, 719 (5th Cir., 1984) (under Texas law, the duty of obedience requires directors to avoid committing *ultra vires* acts, which are those acts "beyond the scope of the powers of a corporation as defined by its charter . . ."); *see also Governing Bd. v. Pannill*, 561 S.W.2d 517, 524 (Tex. Civ. App—Texarkana 1977, writ ref'd n.r.e.) (the principle of *ultra vires* actions also applies to non-profit corporations). Any act outside of those permitted by the entity's governing documents is *ultra vires*, and not permitted under Texas law. *See Texas Bus. Org. Code § 20.002(c)* (West, 2012) (noting that such an act "inconsistent with the expressed

limitation on the authority of an officer or director” can be the basis for a suit to “enjoin the corporation from performing an unauthorized act.”)

Additionally, “[t]he proceedings of [a church] are subject to judicial review where there is *fraud, oppression, or bad faith*, or property or civil rights are invaded, or the proceedings in question are violative of the laws of the [church], or the law of the land, or are illegal. *Libhart v. Copeland*, 949 S.W.2d 783, 793 (Tex. App.—Waco 1997, no writ) (emphasis added). **If a congregational vote is procured by fraudulent misrepresentations and/or omissions, then the courts can declare that the vote and “action” is void as a matter of law. See, e.g., *Id.* at 794.**

Prior to 2015, FPC’s Articles of Incorporation expressly stated that the entity was subject to and would conduct all business pursuant to the PC(USA) Book of Order. (Defendant’s Temporary Injunction Hearing Ex. 20). As discussed in depth at the August temporary injunction hearing, FPC’s ruling faction defrauded the congregation members by failing to disclose material changes to FPC’s articles of incorporation (e.g. removal of the “subject to the Book of Order” and “subject to the Constitution of the PC(USA)” language) when the amendments were brought to the congregation for a vote. (Defendant’s Temporary Injunction Hearing Ex. 41, listing the five things that the amendment would do, making *no* mention of deletion of FPC’s obligation to follow PC(USA) rules and constitution). FPC is now attempting to bring a congregational vote on a matter that is *not* permitted for congregational vote under the PC(USA) Book of Order. (See letters from Mission Presbytery Interim Stated Clerk, Exhibits A and B attached hereto). At the same time, FPC is asking this Court to enjoin Mission from taking any ecclesiastical action in response to that violation of church law, apparently under the presumption that FPC is somehow no longer subject to the PC(USA) Book of Order.

FPC is still subject to the Book of Order in one of two ways. First, because FPC's 2015 Amendment was procured by fraud, it is invalid under Texas law. FPC's effective corporate purpose is thus unchanged from the 1988 Articles of Incorporation which expressly state that FPC's purpose is subject to the PC(USA) Book of Order. Second, even if FPC's 2015 Amendment was valid (it's not), several FPC session members testified to this Court that FPC is still operating under and subject to the PC(USA) Book of Order. These are party admissions made in open Court, and this Court should not issue an injunction against Mission to give FPC cover to act inconsistently with such admissions.

Because FPC is still subject to the Book of Order, Mission is thus ecclesiastically obligated to ensure that FPC follows the rules related to congregational votes. According to Book of Order Rule G-1.0503, the November 1, 2015 vote seeks to take an action that is not permitted via congregational vote.

FPC is asking this Court to block Mission from performing its core ecclesiastical function – its very reason for existence – and in so doing, effectively asking this Court to help FPC's officers commit an *ultra vires* act. If FPC's corporate purpose is limited to actions permitted by the PC(USA) Book of Order (as such limitation is expressly stated in Article 6 of its Articles of Incorporation at Defendant's Temporary Injunction Hearing Ex. 20), then any action outside of that purpose is *ultra vires* (e.g. an improper congregational vote). By requesting that this Court enjoin Mission from properly intervening in such an improper vote, FPC would use this Court to help FPC break the law. This Court should not assist FPC in committing an action that is contrary to its stated corporate purpose.

C. FPC's unclean hands bars any equitable relief.

On one hand, the ruling faction of FPC utterly disregards the law and the rules that it is bound to follow, and on the other, it comes before this court and paint itself as some sort of "victim." Mission and Intervenors, on the other hand, simply request that this Court force FPC to do the one thing that it obviously does *not* want to do – follow the rules. Almost every one of FPC's material actions over the past 11 months has been a manipulative and calculated effort to sidestep one rule or another, whether it be the law limiting *ultra vires* acts, the law against fraud by omission, or the Book of Order itself. Due to FPC's blatant disregard for any rule of law, the doctrine of unclean hands bars FPC's claim for equitable relief. *See Lazy M Ranch, Ltd. v. TXI Operations, LP*, 978 S.W.2d 678, 683 (Tex. App.—Austin 1998, pet. denied) ("Under the doctrine of unclean hands, a court may refuse to grant equitable relief to a plaintiff who has been guilty of unlawful or inequitable conduct regarding the issue in dispute.").

In late August, this Court heard testimony on how FPC's leadership defrauded its voting (and governing) body into amending its articles of incorporation to remove all references to PC(USA). Failing to disclose the material amendments to the articles of incorporation was fraud by non-disclosure. *See Bradford v. Vento*, 48 S.W.3d 749, 755 (Tex. 2001) (*See Defendant's Temporary Injunction Hearing Ex. 41*). FPC masked such a crucial amendment under the guise

of “routine” changes not by accident, but because it was following the playbook for doing so written by one of its attorneys.⁵

Now, FPC is disregarding the rules provided for in the PC(USA) Book of Order, and presumably justifying its actions based on the fraudulent amendment to the its articles of incorporation. Because the 2015 Amendments were procured by fraud, they are invalid as a matter of Texas law. Even in the alternative, several FPC witnesses testified to this Court in late August that FPC is *still* operating subject to the PC(USA) Book of Order (except, apparently, when it chooses not to, by calling for votes on matters not allowed by the Book of Order). No matter how much FPC wants to act otherwise, FPC is still subject to the Book of Order; that is a matter of both Texas law *and* the ecclesiastical law of the PC(USA). Under the Book of Order, congregational votes may not be used for disaffiliation. (See Exhibits A and B, attached hereto). FPC’s controlling faction knows this, and is attempting to use this Court to get around yet another rule.

It’s time for this to stop. It’s time for FPC to own up to the rules that it is subject to, whether those are basic laws against fraud, First Amendment law that allows Mission to conduct its ecclesiastical function, or even the simple one, stated so many years ago, that thou shalt not bear false witness. How would the congregation have voted in January if they were actually told the truth? Would the faction currently controlling FPC still be in power if the entire

⁵ “Although tensions within a congregation may be heightened because of theological divisions and a consequent concern about valuable property, it is still possible to bring the recommended articles of incorporation to the congregation for consideration and a vote *in a low-key, normal course of business manner*. This can be done at an annual or special congregational/corporate meeting by coupling any possible recommendation to change the name of the local church corporation, which may be though needed to clarify property ownership, *with other more routine changes*. Such other changes might include the adoption or amendment of articles to provide for indemnification, remove anachronisms or otherwise take advantage of developments in state law since the date of the church’s founding or the adoption of the original articles.” Lloyd J. Luncford: *A Guide to Church Property Law* p. 208 (2d ed. 2001) (emphasis added).

congregation knew the whole truth? We'll never know the answers to these questions because of how FPC's leadership fundamentally misled those it purports to lead.

The laws provided for in the United States Constitution are not optional. Texas law is not optional. From the perspective of FPC's valid 1988 Articles of Incorporation, the rules provided for under the PC(USA) Book of Order are not optional. FPC's hands are unclean because its leadership has acted fraudulently with complete disregard for any rule of law that purports to stand in the way of a manipulative leadership faction's agenda. This Court should deny FPC's Motion accordingly.

III. PRAYER

Mission and Intervenors hereby request that this Court deny FPC's Motion for Reconsideration of Plaintiff's Application for Temporary Injunction. In light of the arguments above, Intervenors also hereby request that this Court reconsider and grant Intervenors' Application for Temporary Injunction; if what FPC now contends is true – that the congregational meeting vote and related actions *are* somehow dispositive of any church property – then Intervenors' previously-stated concern of imminent harm that the vote would cause them is valid, and they must be protected. Mission and Intervenors further pray for any and all other relief to which they may be justly entitled.

Respectfully submitted,

LLOYD GOSSELINK
ROCHELLE & TOWNSEND, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
Telephone: (512) 322-5800
Facsimile: (512) 472-0532

By: 

JOSE E. de la FUENTE
State Bar No. 00793605
jdelafuente@lglawfirm.com
TYLER T. O'HALLORAN
State Bar No. 24083590
tohalloran@lglawfirm.com

DAVIDSON TROILO REAM & GARZA
A Professional Corporation
7550 IH-10 West, Suite 800
San Antonio, Texas 78229-5815
Telephone: (210) 349-6484
Facsimile: (210) 349-0041

Keith Kendall
State Bar No. 11263250
kkendall@dtgrglaw.com

**ATTORNEYS FOR MISSION
AND INTERVENORS**

CERTIFICATE OF SERVICE

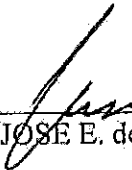
I hereby certify that a true and correct copy of the foregoing document has been forwarded to the following attorneys via e-service and electronic mail on this 30th day of October, 2015:

David B. West
dwest@dykema.com
Larissa Sanchez Fields
lfields@dykema.com
DYKEMA COX SMITH
112 East Pecan Street, Suite 1800
San Antonio, Texas 78205

Kent C. Krause
kkrause@cdklawfirm.com
CRADDOCK DAVIS & KRAUSE, LLP
3100 Monticello Avenue, Suite 550
Dallas, Texas 75205

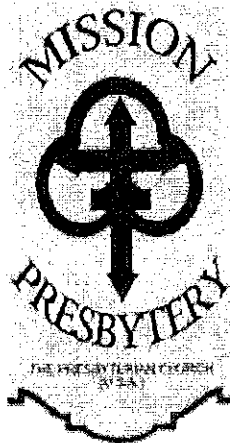
James L. Anthony
james.anthony@texasattorneygeneral.gov
Assistant Attorney General
Financial Litigation, Tax and
Charitable Trusts Division
P.O. Box 12548, Mail Code 017-11
Austin, Texas 78711-2548

Lloyd J. Lunceford
Lloyd.lunceford@taylorporter.com
Taylor, Porter, Brooks & Phillips, LLP
451 Florida Street, 8th Floor
Baton Rouge, LA 70821



JOSE E. de la FUENTE

EXHIBIT A



• We are Mission Presbytery, serving Christ In the World. In the Reformed Tradition, together we

▫ Establish and equip congregations and sessions to carry out their missions;

▫ Recruit, receive, ordain, develop, and care for those called to service in the church;

▫ Enable mission and witness to the Gospel that congregations cannot accomplish alone; and

▫ Steward our resources faithfully and generously.

• We are better together.

October 23, 2015

N. A. Stuart, M.D.
Clerk of the Session
First Presbyterian Church
404 North Alamo Street
San Antonio, Texas 78205-1918

Dear Dr. Stuart,

I understand that the Session of First Presbyterian Church, San Antonio, has called a congregational meeting on Sunday, November 1, 2015, so that the congregation might vote on the following recommendations of the Session:

1. "That First Presbyterian Church, San Antonio, terminate our voluntary affiliation with the Presbyterian Church (U.S.A.).
2. That First Presbyterian Church, San Antonio, petition A Covenant Order of Evangelical Presbyterians (ECO) for affiliation, and so affiliate, if approved.
3. That First Presbyterian Church, San Antonio, reaffirm and ratify its previous elders and deacons, both active and on rotation; the officer nominating committee; and the terms of call of all ordained staff wishing to remain employees of First Presbyterian Church, San Antonio."

So that you might do the congregation's business in consistency with the Constitution of the Presbyterian Church (U.S.A.), I need to inform you that the congregational meeting, as it is presently called, does not meet these standards. The *Book of Order* [G-1.0503] lists appropriate business to be transacted at meetings of the congregation, and Purpose 1, in particular, and Purpose 2, in part, are not consistent with the types of business listed there. In addition, in G-3.0303b, the presbytery is given express authority to "control the location of new congregations and of congregations desiring to move as well as to divide, dismiss, or dissolve congregations in consultation with their members." So, the call for your meeting should be worded in the following way:

"That First Presbyterian Church, San Antonio, request Mission Presbytery to dismiss the congregation from the Presbyterian Church (U.S.A.) to the Covenant Order of Evangelical Presbyterians (ECO)."

If the congregation approves this recommendation, then together we will need to determine the appropriate terms of the dismissal, including the effective date; to counsel with members off the congregation who do not wish to leave the Presbyterian Church (U.S.A.), so that their membership might be preserved; and to counsel with Teaching Elders currently serving the church to make decisions concerning their membership in Mission Presbytery and the Presbyterian Church (U.S.A.).

Yours in Christ,

The Rev. Dr. William C. Poe
Interim Stated Clerk

RE Ruben Armendariz
Associate General Presbyter

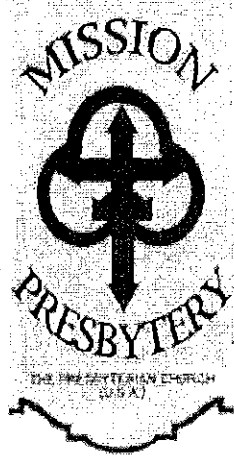
Rev. Dr. William Poe
Interim Stated Clerk

Rev. Kathy Anderson
Director, John Knox Ranch

RE Lita Simpson
Youth & Young Adult Min.

7201 Broadway, Ste. 303, San Antonio TX 78209 • 210-286-3296 • Fax 210-826-0917 • www.mission-presbytery.org

EXHIBIT B



October 28, 2015

TO: Ruling Elder N. A. Stuart

Dear Dr. Stuart,

I am writing today to you and the other Ruling Elders in service on your Session, and to the Teaching Elders associated with your church, to make certain once again that all of you are aware that the call for the congregational meeting that is planned for this coming Sunday, November 1, 2015, is not consistent with the requirements and provisions of the Constitution of the Presbyterian Church (U.S.A.). I have already communicated this concern to the Clerk of the Session, Dr. N. A. Stuart.

- We are Mission Presbytery, serving Christ in the World. In the Reformed Tradition, together we

- Establish and equip congregations and sessions to carry out their missions;
- Recruit, receive, ordain, develop, and care for those called to service in the church;
- Enable mission and witness to the Gospel that congregations cannot accomplish alone; and
- Steward our resources faithfully and generously.

- We are better together.

My concern is for you and for others who have participated in calling this meeting or endorsing the Session's recommendations to know that acting in defiance of the Constitution of the Church is a serious matter, entailing the possibility of ecclesiastical charges and of being found to have renounced the jurisdiction of the Church.

In order to be in compliance with the Constitution, the call for the meeting would need to be for the congregation to vote on a question like the following example:

"Shall the congregation of First Presbyterian Church request to be dismissed by Mission Presbytery from the Presbyterian Church (U.S.A.) to the Covenant Order of Evangelical Presbyterians (ECO)?"

It is important that you and the others to whom I am writing know both the significance and the full implications of what you are about to do, and of what you are asking others to do.

If you have questions about this matter, please do not hesitate to call [713-870-3240] or write [statedclerk@missionpby.org].

Yours in Christ,

William C. Poe

William C. Poe
Interim Stated Clerk

RE Ruben Armendariz
Associate General Presbyter

Rev. Dr. William Poe
Interim Stated Clerk

Rev. Kathy Anderson
Director, John Knox Ranch

RE Lita Simpson
Youth & Young Adult Min.