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October 27, 2015

Dear Rev. Poe and Mr. Barnes,

I received your respective emails of Saturday, October 24 (6:52 p.m.) and Sunday, October 25 (5:16 p.m.). Let me respond to each in turn.

Your email, Rev. Poe, was to notify First Presbyterian Church of San Antonio that on October 23<sup>rd</sup> Mission Presbytery had appointed an administrative commission with authority to assume original jurisdiction over FPC. You mentioned Judge Gabriel's October 13, 2015, ruling that had denied the petition by FPC for a permanent injunction. During the August hearing on FPCSA's petition you and the associate presbyter for Mission Presbytery, Mr. Ruben Armendariz, testified under oath that the Presbytery had no intention of appointing an administrative commission or otherwise disturbing FPC's ownership, use, or control of any of its property, real or personal. It was on those representations that Judge Gabriel based his October 13<sup>th</sup> ruling. The Presbytery's October 23<sup>rd</sup> action is therefore surprising, and disappointing.

Your email omitted mention of Judge Gabriel's October 22, 2015, Order denying the Presbytery's recent request for a Temporary Restraining Order which, if granted, would have blocked FPC from meeting on November 1<sup>st</sup> and holding a constitutionally-protected vote to "disaffiliate" and legally end its voluntary affiliation with the PCUSA irrespective of whether or not the Presbytery chose to "dismiss" it. Dissatisfied with Judge Gabriel's October 22, 2015, Order, you informed me that the Presbytery met the following day, on October 23<sup>rd</sup>, and initiated steps for the Presbytery to do indirectly what Judge Gabriel declined to do directly. The Presbytery appointed an "administrative commission" with authority to "assume original jurisdiction" and take charge of the local church's day-to-day operations "if it becomes necessary."<sup>1</sup>

The text of the Resolution adopted on October 23 by Mission Presbytery that accompanied your email is internally inconsistent. On the one hand, following item 7, the Presbytery stated that

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<sup>1</sup> Your email states that it was FPCSA's plans to hold a meeting and vote on disaffiliation on November 1<sup>st</sup> that was the reason the Presbytery appointed an administrative commission. Therefore, the conditional phrase "if it becomes necessary" is evidently an allusion to whether or not FPCSA proceeds to hold its Nov. 1<sup>st</sup> meeting and disaffiliation vote as scheduled.



"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." However, that restriction on the Administrative Commission's authority is expressly contradicted by items 1, 2, 3, and 5 that precede it:

Item 1 gives the Administrative Commission authority to declare the "true church" and specifically cites G-4.0207 of the PCUSA Book of Order. When one then reads G-4.0207 it states that the faction identified by the Presbytery as the "true church" *is entitled to the property*;

Item 2 demands that the Presbytery be given access to all church records, and specifically cites G-3.0107, yet the text of G-3.0107 plainly declares that, "minutes and all other official records of councils *are the property* in perpetuity of said councils or their legal successors." In other words, records maintained by the session are the property of the session, records maintained by the presbytery are the property of the presbytery, records maintained by the synod are the property of the synod, etc.;

Item 3 demands that Presbytery have access to various corporation records, specifically citing G-3.0108. Yet G-3.0108 says nothing at all about records of a civil corporation. It is restricted only to ecclesiastical records of a "council" (defined at G-3.0101 not as civil entities but as the ecclesiastical bodies of session, presbytery, synod, and the General Assembly. In any event, "*personal property*" *encompasses "records"*, whether corporate or ecclesiastical;

Item 5 also disturbs the status quo of FPCSA's real property. It empowers the administrative commission to assume original jurisdiction over the session, which is the governing body of FPC. According to G-3.0303e, which item 5 specifically cites, an administrative commission that assumes original jurisdiction over a session assumes "the full power of session." The responsibilities of the session are set forth at G-3.0201c, and include "*managing the physical property of the congregation...*" In other words, while a local church may be incorporated and title may be held in the name of the corporation, and while the board of directors of the civil corporation may have authority to hold and defend title, responsibility for the actual day-to-day management of the property is delegated to the session. Therefore, when an administrative commission assumes original jurisdiction to seize control of a church's local governing body it necessarily seizes the day-to-day management of that property as it is ordinarily used and controlled by the local church. That is a clear change in the status quo and is contrary to Judge Gabriel's ruling denying Presbytery's request for injunctive relief.



Your October 24, 2015, email, Rev. Poe, expressed hope for open and productive conversations, a theme carried forward in Mr. Barnes' email of October 25. It will be difficult to call a session meeting between now and Sunday, November 1, 2015. However, rather than the full session meeting, the session may be able to designate a task force with authority to act on its behalf in negotiations (subject to congregational ratification). I will get back to you about scheduling such a meeting prior to November 1<sup>st</sup>.

In any event, I want you to know that both the board of trustees and the session have at all times been willing, and remain willing, to sit down with representatives of the Presbytery and hold good faith negotiations that may lead to a resolution of all issues. The fact that a congregational meeting and disaffiliation vote is planned for this coming Sunday, November 1, 2015, does not alter that willingness. Regardless of what happens on November 1, settlement discussions can proceed. It is recommended that this be done through mediation in order to increase the likelihood of successful resolution. I assume you will discuss any settlement options or procedures with your counsel.

FPC would welcome the opportunity to sit down with Presbytery representatives to determine a mutually agreeable path forward. Let me know what dates the Administrative Commission is available.

Earnestly in Christ,

Tripp  
Norton A. Stuart, III, MD  
Clerk of Session  
First Presbyterian Church of San Antonio