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ADJUDICATION

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ANTHONEE PATTERSON

Plaintiff

v.

KENNETH SHELTON

Defendant

:
:
: ARBITRATION
:
: JULY TERM, 1995
:
: NO. 2945
:
:
:

The Arbitrator having been duly appointed on December 2, 2005 by the Honorable James Murray Lynn of the Court of Common Pleas following the dismissal of the above action, sets forth his adjudication of the matter.

Because Plaintiff seeks in his July 24, 1995, Complaint for an accounting of all funds removed from the corporate or church accounts by Kenneth Shelton and persons acting in combination with him and the appointment of a receiver to take control of the property, accounts and records of the corporation, the Arbitrator's jurisdiction is that of a Chancellor in Equity.

The powers of a chancellor are very broad and it is his duty to grant such relief if warranted, and any relief afforded by decree must conform to the case as made by the pleadings and consistent with the relief prayed for and proofs. *Christian v. Johnstown Police Pension Fund*, 421 Pa 240 218 A.2d 746 (1966).

The counterclaim filed by Defendant as part of his answer to the Complaint seeks \$500,000 in damages as well as an undisclosed sum of punitive damages for alleged criminal acts by Plaintiff in his converting lawful property of the Church Corporation for his own use.

A. LIABILITY FINDINGS:

1. The application for Charter of the Trustees of the General Assembly of the Church of the Lord Jesus Christ of the Apostolic Faith was set forth in the Articles of Incorporation in accordance with the Act of Assembly of May 5, 1933, P. L. 289, as amended, and known as the Non-Profit Corporation Law.
2. The incorporators and subscribers attended a hearing before the Court appointed Master on May 2, 1947. The two most significant points established were: (1) that the real and personal property was to be held in trust for the uses and purposes specified by the General Assembly of the Church by the will or deed of the donors with power to convey same free and discharged of all trusts, as well as the "purposes do not contemplate pecuniary gain or profit, incidental or otherwise to its members." (2) The application further stated that none of the officers were going to receive a salary and serve without pay – only tithes. When asked by Mr. Griffiths whether any pecuniary gain or profit incidental or otherwise would come to any of the members of the corporation, Bishop Johnson stated that no profit would come to any individual. (N.T. P. 6).
3. **Bridget Black, who handled the payroll for the entire church for three years since 1992, prepared checks for signature and indicated without any opposing evidence that Kenneth Shelton was the Bishop and President of the Trustees and was paid a salary as both President and Bishop. (N.T. 46) Whereas Bishop Shelton testified that he was paid \$250,000 per year for minister income only. The receiving of this salary did not comport with the Articles of Incorporation as set forth by Bishop Johnson. When Bishop Shelton became a Trustee he had no knowledge of any salary being voted upon in any trustee meeting. Being a trustee since 1976 he never recalled anyone voting on a salary and had no knowledge of how his father supported him.**
4. The Court of Common Pleas in an opinion by the Honorable John Milton Younge dated June 12, 2000, found that Kenneth

Shelton was elected General Overseer and President of the Trustees of the General Assembly. Prior to the September 1992 General Assembly, Kenneth Shelton and Erik Shelton elected themselves as Trustees at an invalid assembly and trustees meeting on December 28, 1991 and December 29, 1991 and again elected themselves as trustees at an invalid assembly and trustees meeting on May 23, 1992 and May 24, 1992 respectively.

5. Between October 13, 1991, and September 1992, Defendant Kenneth Shelton held de facto control over the corporation and its property.
6. Throughout the period of de facto control, Defendant violated the bylaws of the corporation as well as the Articles of Incorporation by accumulating pecuniary gain and profit by systematically reducing the corporation's accounts and trusts as well as the regular church collections, without making any regular reports regarding the misappropriation of the funds.
7. Defendant and his General Administrator, Elder Thomas, have depleted the Gresham Trust, a fund held for the benefit of church members in need of social services. On February 28, 1994, the trust account totaled \$111,537.38. Thereafter the Defendant, and his administration made unexplained and unauthorized withdrawals:

March 24, 1994	Cash Withdrawal	\$25,000.00
March 29, 1994	Withdrawal	\$ 8,900.00
April 12, 1994	Withdrawal	\$ 7,685.00
April 15, 1994	Withdrawal	\$ 3,952.78
April 20, 1994	Cash Withdrawal	\$45,000.00
May 1994	Cash Withdrawal	\$20,000.00

As a result of these unauthorized withdrawals the trust has been depleted without any accounting therefor.

8. Pennsylvania law sanctions courts in equity to order an accounting of officers of church corporations as to church assets

where diversion of church assets from uses to which property was initially dedicated. Archbishop Most Reverend Metropolitan Ambrose Sensyshn v. Karlak, 462 Pa 348, 341 A.2d 114 (1975); St. John Chrysostom Greek Catholic Church of Pittsburgh v. Elko, 436 Pa. 243, 259 A.2d 419 (1969) cert. Denied 399 U.S. 920 (1970); Schnorr's appeal, 67 Pa. 138 (1870)

The Arbitrator finds that no evidence has been offered at any hearing that Anthony Patterson stole any of the Gresham Funds, nor that counsel took any funds. All the withdrawals were signed by Bishop Shelton and John Thomas. Moreover, Bishop Shelton could not recall whether or not the board of Trustees enacted a resolution for the withdrawals. No records are available as to what he and Thomas did with the funds. Bishop Shelton acknowledged that one of his duties is to "protect the interest of the church," that he only places people in position, but as President of the Board "he did nothing" pertaining to records, and used his judgment but relied on others as President of the Board.

The same explanations were given regarding the Beneficiary Fund with Bishop Shelton having no recollection of writing letters to all the churches to send all of their money except \$100 to Philadelphia. No accounting was recalled, but he trusted others to be accurate. He never received a quarterly or annual report of finances.

Regarding the National Account, Bishop Shelton was unaware that the purpose of the account was to "pay bills," and was not aware that it was the primary duty of the trustees.

9. Between the years 1991 to 1998 no accounting has ever been given to the General Assembly. At the meeting of the Board of Trustees on September 1, 1992, no mention of any accounting is noted as well as on September 1, 1994, no accounting was provided to the General Assembly. The last public accounting shown in the exhibit was to the General Assembly Convention in 1973.

10. Unexplained checks have been given to various persons connected to the Church:

1. Ernest Miller ~ June and July 1993 ~ \$1,800 signed by Defendant.
2. Robin Duckett \$4,500 ~ June 1993.
3. John C. Thomas (General Administrator) \$5,000 ~ June 7, 1993 for PAR (Private Apostolic Residence) who does not reside on church property.
4. Check to Mrs. Shelton ~ \$1,000.
5. Robin Duckett Carachi ~ \$4,000 trip (not church related).
6. Porsche automobile, Judah Jamison ~ \$8,800 ~ payable to Nathaniel Bailey.
7. Arthur Shelton ~ \$3,000 ~ rent (1995).
8. Ernest Miller ~ rent ~ \$1,832.
9. Patricia Russell ~ \$4,000 ~ (personal use).
10. Judah Jamison ~ 1994 Volvo ~ \$8,942.
11. October 20, 1995 payable to cash ~ endorsed by Judah Jamison \$1,500 and \$3,000 with no accounting to church members.
12. June 11, 1996 ~ Judah Jamison ~ \$2,000 for turkey.
13. Four checks to Judah Jamison between 1996 - 1998.
14. PAR checks (3) to Stephen Campbell for "myriad of things" (\$4,000).
15. PAR checks to Judah Jamison ~ \$4,500 ~ June 1994 and July 1994.
16. Judah Jamison ~ \$2,500 ~ Florida trip expense.
17. Rent for Bishop Shelton's Conshohocken Apartment ~ September 1, 1995 ~ check payable to cash out of church account in the sum of \$2,280 notwithstanding his salary of \$250,000.
18. John W. Young ~ \$1,500 and \$1,750 for PAR.
19. March 1, 1996 ~ Judah Jamison ~ \$2,000 PAR.
20. October 29, 1994 ~ cash \$3,300 to Judah Jamison.

The use of the code PAR on checks has not been fully explained by any of the witnesses for the defendant and the inference

taken is that it was used as a "catchall for all unauthorized expenses."

11. John Thomas, Chief Administrator, oversees the church organization business operation including all financial transactions. The supervisor of employees handling checks and cash in 1994, Dale Courtney Brown, embezzled \$250,000. Elder Thomas made no investigation until informed by the bank. Elder Thomas stated that no trustee was designated to watch finances and bank accounts but he did at times, and was solely responsible for all accounts. He acknowledged that it was his duty to make certain that church finances were protected.

Elder Thomas whose signature and identification appeared on the withdrawal forms for the Gresham Fund had no idea of the purpose of the fund and could not state with any degree of certainty what was done with the money taken.

Two vehicles were purchased, and he did not know in whose name they were titled even though the bylaws require that any purchase be named in the name of the Trustees of the Church of the Lord Jesus Christ of the Apostolic Faith. The \$8,800 for the Porsche auto payable to Nathaniel Bailey may or may not have been used for church business.

On June 20, 1994, Elder Thomas withdrew \$7,000 from the Church Account #2E845373760 which was not his personal account presenting church identification and employee identification. On August 23, 1994, a withdrawal of \$30,000 was made as well as a \$4,000 withdrawal on September 7, 1998, and on April 19, 1994, \$5,000 with the identification of Church of the Lord and Thomas' operator's license.

May 10, 1995 withdrawal \$1,240.

May 25, 1997 \$3,800 with Elder Thomas' name printed on the form.

May 20, 1998 ~ \$550 withdrawal.

July 19, 1995 ~ \$1,000 withdrawal.

12. The Arbitrator, sitting as Chancellor in Equity, finds that there have been violations of the Articles of Incorporation. The General Overseer, President and Bishop Sharod C. Johnson testified that he does not receive any salary but was maintained by Tythes, and none of the officers were to receive any salary, were to serve without pay with no fixed amount, "only tythes" and that no members were to acquire any pecuniary gain or profit incidental or otherwise to any members of the corporation. Because Bishop Shelton and Elder John Thomas have been receiving salaries not in accord with the Articles of Incorporation, they are in violation of the Charter unless and until the Articles of Incorporation are formally amended. Bishop Patterson is to be granted all rights and privileges in determining whether salaries should be included in the amended articles because as the Court stated in *Schnoor's Appeal* 67 Pa. 138, 148 (1870):

"a majority of a church congregation may direct and control in church matters consistently with the particular and general laws of the organization or denomination to which it belongs, but not in violation of them, and that in church organizations those who adhere and submit to the regular order of the church, local and general, though a minority are the true congregation and corporation, if incorporated".
(Emphasis added)

Any efforts by the Defendant or the majority to impede or raise any obstacles, legal or otherwise to Plaintiff and his counsel fully participating in this amendment process could result in the suspension of salaries being received. See, *Delta Star, Inc. v. Aschew W. Patten*, Civil Action 96-2183 (W. D. Pa. 1999).

THE DECLINE IN BANK BALANCES AND THE AMERICAN EXPRESS CHARGES

The report of CPA James Stavros on February 11, 1999, as a financial expert is treated as any other expert as defined by Pennsylvania Law. In determining the weight to be given to any opinion we consider the qualifications and reliability of the witness and the reasons given for the opinion. The Chancellor is not bound by the witness' opinion. It can be accepted or rejected as in the case of other witnesses. We give it the weight, if any, to which we deem it entitled.

Mr. Stavros did not have the typical and customary financial and business documents from the church, (i.e., tax returns, financial statements, accounting records, bank statements, etc. Any documents he examined were from subpoena and his opinion was based only on examination of 31 accounts and summary of American Express expenditures and payroll listing of 1990 employees and Gresham Fund disbursement analysis.

The Chancellor notes that the defense did not retain an accountant to counter Mr. Stavros on any area, so that his analysis stands uncontradicted. From September 1, 1991 through 1998, the balance in all 31 accounts declined from a high of \$1,047,662 in September 1992 when Bishop Shelton was declared the General Overseer, President and Lawful Bishop by the Court, to a low of \$78,585 in December 1998. There does not appear any persuasive evidence that this decline was related totally to Church activities and business commitments.

The total American Express charges from February 1992 when Plaintiff and his followers were forcibly removed from the headquarters at 20th & Bainbridge, amount to \$3,478,107. The expert attributed 77% to personal charges or \$2,663,542 and 23% to business or \$812,884 unclassified charges amounted to \$1,682. The Chancellor, when reviewing all the charges made by numerous members, employees and officers finds these

allocations appropriate when the charges are specifically reviewed. Examples inspected:

August 26, 1997	Hotel Martinez Cannes France (one night)	\$52,203.27
May 16, 1995	Noga Hilton Intern Geneva, Switzerland (one night)	\$40,255.74
Dec. 26, 1992	Boca Raton Resort & Club Florida (one week)	\$31,784.02
Dec. 26, 1993	Ocean Grand Palm Beach, FL (for N. S. Bailey as well as \$45,000 in cash charges for 12/26 and 12/27)	\$ 9,536.39

Nine separate purchases at Victoria's Secret appear as well as a trip to Walt Disney World on January 26, 1994 for \$4,966.

In the related Court Action in Common Pleas, July Term 1994, No. 0914, Defendants sought a Temporary Restraining Order to restrain Plaintiff from interfering with assets, credit cards of the trustees for the church. Judge Gafni entered a Consent Order where the Plaintiff agreed to return control of the assets to Defendant, Bishop Shelton which was done

Paragraph 6 of the Order however, reads that all --credit cards-- shall only be used in the ordinary course of business of the Church. The records cited above demonstrate that Defendant was not in compliance with the Consent Order when charges were thereafter made for non-business ventures.

It is contended that all of these listed charges cannot be considered by the Chancellor because they were determined by Judge Dembe on March 12, 1998 when a Motion for Civil

Contempt and increase in bond was denied as there has been no significant change in the practices and customs and financial patterns of the corporation and church officials since the entry of the August 1994 Orders.

Res Judicata cannot be employed here. In this 1995 action, the parties are different from the 1994 and 1992 actions. The issues are totally distinct, because the evidence produced in this case is widely different from Judge Dembe's hearing. And the parties stipulated that all Pre-Trial Motions and procedural issues would be waived before the arbitration. (N.T. P.10, 15) Judge Lynn – December 2, 2005.

However, pursuant to the doctrine of res judicata, a final judgment on the merits will bar any future suit between the parties or their privies in connection with the same cause of action. This has not occurred prior to the hearings before this Chancellor. Collateral estoppel applies when the issue decided in the prior adjudication was identical with the one presented in the later action, there was a final judgment on the merits and the party against whom it is asserted has had a full and fair opportunity to litigate the issue in question in the prior adjudication. That did not occur until the seven- (7) day hearing before this Chancellor. In re Iulo, 564, Pa. 205, 210, 766 A.2d 335 (2001); Safeguard Mut. Ins. Co. v. Williams, 463 Pa. 567, 574, 345 A.2d 664, 668 (1975). In the instant matter the requirement of final judgment on the merits is not met. The argument from the defense that an unfavorable inference should be drawn because the expert did not appear at the hearing to testify is not accepted. The rules of ADR Options expressly allow reports of experts to be submitted in lieu of their appearing to testify. In addition, the expert did testify before Judge Dembe and was fully examined by defense counsel. Finally, if Defendant felt it necessary to recall Mr. Stavros, subpoenas should have been prepared for the Arbitrator's signature and would have been allowed without any question.

Elder Brown has testified that records of reimbursement for the personal expenditures incurred on the American Express Credit Cards were kept, and some were made available to the Plaintiff or produced for the Arbitrator at the hearings. These records will be part of the accounting to be ordered in the Final Decree.

13. Pursuant to the Articles of Incorporation and Charter, all property purchased by the trustees was to be held in trust for the uses and purposes specified by the General Assembly, and placed in the name of the corporation. However, Bishop Shelton, while President of the Corporation, and with income of \$250,000 paid to him as President and Bishop purchased a home on September 6, 1996, for and in consideration of the sum of \$395,000 titled in his name and that of his wife. Thus the Articles of Incorporation and Charter may have been violated as it prohibits the President of the Corporation from receiving any pecuniary gain from the sale or purchase of property.
14. The Defendant has sold at least two pieces of real estate. The funds for these two and any additional properties have not been accounted for, or if they have, were not produced at the hearings conducted before the Arbitrator. The total cash holdings of 24 million dollars since 1991, according to Bishop Shelton may or may not have diminished. He relies on Elder Thomas who had no idea of whether there was a decline from this sum alleged.
15. On August 11, 1994, the First Fidelity Bank issued an official check #61-027189804-6 for balance to close the account of the Trustees of the General Assembly of the Church of the Lord Jesus Christ. The account number is 3015755048 and the check amount was \$50,389.21. Minister John C. Shelton Thomas signed the authorization. No evidence has been offered as to how the funds were spent or whether they were properly deposited into the Trustees of Church accounts.

THE DEFENSE OF LACHES

It is settled law that a party asserting laches as a defensive bar must establish: (1) inexcusable delay in bringing the action and (2) prejudice. *In re Mushroom Trans. co.*, 382 F.3d-325 (3d Cir.)Pa. 2004). To establish prejudice of the kind required to support a laches claim, the party must demonstrate that delay caused it a disadvantage in asserting and establishing a claimed right or defense; mere loss of what one would have otherwise kept does not establish prejudice.

The action was commenced on July 24, 1995, and an answer and counterclaim filed on May 24, 1996. Mr. Morris, Plaintiff's prior counsel, advised the Court that the matter was essentially the same as the consolidated actions and was removed from the non-jury trial list. But on March 13, 1996 he advised the Court, "I believe the case should be relisted, but to await disposition of the related cases by the Commonwealth Court." This is not a waiver of the right to proceed with the case. It was merely a request to await the Commonwealth determination of the related actions.

The docket entries show the case being stricken by Judge Moss on February 22, 1996, but reinstated by the Court on February 11, 2005, as a result of the Court correcting removal of the notation of February 22, 1996, to wit: Stricken by Calendar Judge." (Hon. Sandra Mazer Moss) There was no delay by Plaintiff or his counsel in pursuing this action. The delay was caused by misinterpreting Mr. Morris' statements and the Court's haste in striking the case in February 1996. Moreover, no prejudice has been suffered by Defendant since he has been given notice of the claims herein with the prior actions that are similar to the instant action, all of which have been continuously ongoing between 1995 and 2005.

B. THE COUNTERCLAIM AGAINST ANTHONEE' PATTERSON:

To properly assess the merits of this claim, it becomes necessary to view the history of how Bishop Shelton ascended to General Overseer, and the subsequent actions by Plaintiff.

On December 28, 1991, the Board of Trustees meeting elected themselves as Trustees, an invalid action, under the by-laws as well as the election of Elder Omega Shelton and Elder A. Woodward Regan as co-Presidents, also an invalid action under the by-laws. Shortly thereafter, on February 23, 1992, Elder Nehemiah and his supporters were physically removed from the premises of the church at 20th and Bainbridge Streets. Prior to this removal, and before the December 28 meeting, Elder Nehemiah filed suit in Common Pleas on November 20, 1991, seeking relief to become General Overseer following the death of Bishop McDowell Shelton on October 13, 1991. This was a meritorious suit because Article 16 of the by-laws as amended in 1962, the General Secretary becomes a General Overseer temporarily to hold office until the next General Assembly elects him or a successor. Elder Nehemiah was the undisputed General Secretary on October 13, 1991, when the action came before Judge Gafni with Elder Nehemiah's counsel seeking Injunctive Relief. The Court never ruled on the merits of his claim that he was the Overseer until September 1992, but rather denied relief believing that the Court was without jurisdiction to involve itself in a "doctrinal matter." This ruling was in error as the decided case authorities allow the Courts to decide these exact issues. Archbishop Most Reverend Metropolitan Ambrose Senyshyn v. Karlak 462 Pa 348, 341 A2d 114 (1975); Gabster v. Mesaros, 422 Pa 116, 220 A2d 639 (1966); Schnorr's Appeal 67 Pa 138 (1870).

The withdrawal of the action by counsel on November 25, 1991, was done without prejudice, which clearly indicated that Elder Nehemiah did not relinquish his claim as General Overseer. When he was physically removed with his followers on February 23, 1992, he had an equal claim to the title of General Overseer, as the election of Bishop Shelton upon a special meeting of the General Assembly on May 24, 1992, was invalid. Elder Nehemiah, rather than contest his removal from the church in a court proceeding assembled his supporters in Darby, Pennsylvania and in August or September 1992, with the General Assembly meeting was confirmed by those present as General Overseer. Bishop Shelton's

election in September 1992 as Bishop and President of the Board of Trustees created two General Overseers with no Court at that time ruling that Elder Nehemiah was not validly elected pursuant to Article 16 of the By-Laws.

It was only on June 12, 2000, after all of the acts by Plaintiff in attempting to take control of assets on behalf of the Trustees in July 1994 after he was elected General Overseer in May 1994, that Judge Younge entered the order that Elder Nehemiah "never was validly confirmed General Overseer by the General Assembly, that Anthonee Patterson was never validly elected Bishop and that Kenneth Shelton was in control of the corporation by way of election in September 1992."

The Chancellor cannot condone the actions of Fincourt Shelton, and Plaintiff in withdrawing funds from the account for the Church of the Lord Jesus Christ of the Apostolic Faith on July 28, 1994, the document to the post office to halt deliveries to the post office box of Bishop Shelton, the cancellation of the credit cards of Bishop Shelton and others while in Chicago and other accounts where monies were withdrawn. However, with no court order in effect at that time declaring that only Bishop Shelton was duly elected General Overseer and no injunction informing Plaintiff's counsel to cease all activities of this nature, they had very legitimate reasons to feel that Anthonee Patterson was duly appointed and elected General Overseer for the Church with full power to act on behalf of the church. Bishop Patterson was accurate in stating to the First Union Bank that his election was occasioned by the death of the former General Overseer Bishop Nehemiah, who succeeded Bishop S. McDowell Shelton after October 13, 1991. The claim by Bishop Shelton that Elder Nehemiah had been absent from the church for 12 years and therefore not entitled to be elevated to General Secretary in 1991, was shown to be not accurate, as Plaintiff produced a Resolution signed by Elder Nehemiah on February 18, 1988, and signed a Resolution at the National Convention of the General Assembly in August 1991, as well as his being recognized as Secretary General at the October 14th meeting of the Trustees following Bishop McDowell Shelton's death on October 13, 1991.

The Chancellor finds Bishop Patterson to be credible when he testified that the charges in the counterclaim that he "stole money from the

Church" are all false; that he came into possession of the money from the banks as "Trustee and deposited all money as Trustees because he didn't recognize Bishop Shelton's authority prior to 1999, and that he accounted for funds taken, gave and released all money to Bishop Shelton's control."

The Chancellor does not find any unlawful criminal conduct by Plaintiff, his trustees, members or his counsel. His acts, while disturbing and causing inconvenience, embarrassment and undocumented expenses does not warrant an award of \$500,000 in damages. Under all the circumstances an award of \$15,000 is decreed payable to the Trustees of the General Assembly within 30 days of the date of the Final Decree. The damage to the real estate in Jacksonville, Florida as demonstrated by the photographs introduced by defense counsel discloses minor interior disorder of files, chairs and windows. But because no estimate or appraisal has been offered the Chancellor would be speculating on the damage done. Property damage must be proven with particularity which, of course, differs from personal injury matters.

C. CONCLUSIONS OF LAW:

clear precise and convincing

1. The (preponderance) of the credible evidence both direct, and circumstantial, demonstrates various acts of fraud, mismanagement, conspiracy, breach of fiduciary responsibilities, violations of Bylaws and the Articles of incorporation in seizing Corporate funds and assets, depletion of corporate bank accounts, by Defendant.
2. Unlawful diversions of bank funds by Bishop Shelton to himself and to others named herein for his or their benefit were and are continuing breaches of Defendant's fiduciary responsibility to the Corporation.
3. Defendants have reduced the value of the corporation's equity interest to the collective detriment of all the members of the General Assembly of the Church of the Lord Jesus Christ of the Apostolic Faith.

A Court of Equity cannot decide ecclesiastical questions unless property rights are involved and then only insofar as is necessary to adjudicate the property rights. But, where there is a division in a congregation and the battle to its property comes into question, it is

the duty of a Court of Equity to determine in which faction title to its property rests. Under the law of Pennsylvania it is clear that property rests in that faction whether majority or minority, which continues to act in harmony with the laws, usages and customs accepted by the body before the dispute and dissension arose. And THAT faction is the true congregation and THAT corporation, if incorporated: First Church of Brethren of Lewistown, et al. v. Snider 367 Pa 78, 79 A2d 422 (1950).

The preponderance of evidence is in favor of Plaintiff who has been shown to have acted in harmony with the laws, usages and customs accepted by General Assembly before the dispute and dissension arose. Nevertheless, before any property can vest in Plaintiff's minority, an accounting of all funds removed from Corporate Church accounts or trusts by Bishop Shelton and any persons acting in combination with him, shall be undertaken with full discovery to determine the amounts of misappropriations, within 30 days.

It is further ordered that counsel for both parties shall undertake action to find a person or persons mutually satisfactory to act as receiver to take control of the property, accounts and records.

Any elections for the offices of General Overseer and President of the Board of the Trustees shall await the final results of the receiver's report and accounting.

Any award requiring payment of funds to be paid by Kenneth Shelton and the members of the Board of Trustees under his administration shall await the results of the accounting of all funds described.

A suit for an accounting is in practical effect not one, but two actions providing for two distinct judgments, where the factfinder in the first action is required to determine whether a defendant is liable to account, and if such liability is established, then a second factfinder may settle the accounts. The subsequent proceeding on the accounting is to determine the amount due the injured party. Standard Pennsylvania Practice 2d sec 81:20, Damirgian v. Damirgian, 262 Pa Super 463, 396 A2d 1263 (1978); Hudak v. Walter G. O'Connor Co., 1Pa D&C 3d 317, 1975 WL 98.

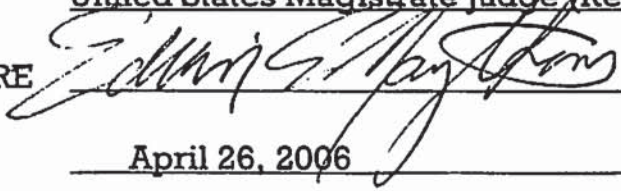
The equitable remedies fashioned by the Chancellor suit the circumstances of this 15-year old litigation in numerous courthouses and before 10 -12 different jurists. The Chancellor has devised remedies to fit the circumstances and relations of the parties.~
See Pennsylvania Human Relations Commission v. School District of Pennsylvania 667 A2d 1173, appeal quashed 671 A2d 1223, Vacated 732 a2d 578 (1995) (Comwlth Pa)

ARBITRATOR

NAME

Honorable Edwin E. Naythons
United States Magistrate Judge (Ret.)

SIGNATURE



DATE

April 26, 2006