

IN THE CIRCUIT COURT OF ST. CHARLES COUNTY  
STATE OF MISSOURI

DARDENNE PRESBYTERIAN )  
CHURCH, INC., )  
 )  
Plaintiff / Counterclaim-Defendant )  
 )  
v. )  
 )  
PRESBYTERY OF GIDDINGS- )  
LOVEJOY, INC. )  
 )  
Defendant / Counterclaimant )  
 )  
and )  
 )  
PRESBYTERIAN CHURCH (U.S.A.), )  
A CORPORATION, )  
 )  
Defendant. )

Case No. 2311-CC01028

**AFFIDAVIT OF RYAN LANDINO**

I, Ryan Landino, declare and state under oath as follows:

1. I am Presbytery Leader of the Presbytery of Giddings-Lovejoy (the “Presbytery”).

I am authorized to make this affidavit on the Presbytery’s behalf.

2. In connection with my studies, experience, and employment with the Presbyterian Church (U.S.A.), or “PCUSA,” and the Presbytery in particular, I am familiar with the history of the Presbyterian Church existing in the United States, including the merger or reunion in 1983 of the United Presbyterian Church in the United States of America (“UPCUSA”) and the Presbyterian Church in the United States (“PCUS”), and the church denomination created by that merger, the Presbyterian Church (U.S.A.), or “PCUSA.” I also have knowledge, based on my review of historical documents, of the history of Dardenne Presbyterian Church (“Dardenne Church”) and its long relationship with the Presbytery and PCUSA. I have knowledge of the facts stated herein either through study or through personal experience and could testify

competently thereto if called to do so.

3. The Presbytery is organized civilly as the Presbytery of Giddings-Lovejoy, Inc., a Missouri not-for-profit corporation with its headquarters in St. Louis. It is the successor to the Presbytery of Southeast Missouri, a former PCUS-affiliated presbytery that was formed in or around 1969. In 1985, the Presbytery was renamed the “Presbytery of Giddings-Lovejoy” after the reunion of the PCUSA and the PCUS in 1983.

4. The Presbytery is a constituent member of the PCUSA, a mainline Protestant Christian denomination in the United States, the individual congregations of which, taken collectively, make up the entire PCUSA.

5. At the denomination level, the PCUSA is governed internally by the General Assembly.

6. A “presbytery” is the corporate expression of the PCUSA within a certain geographical district and is comprised of all the congregations and teaching elders within that district.

7. The “session” is the governing body at the congregation level. The congregation elects its members, subject to the right of the governing presbytery to replace the session of a congregation in schism.

8. The Presbytery of Giddings Lovejoy has jurisdiction over local churches located in eastern Missouri and western Illinois.

9. Before June 1983, there existed the United Presbyterian Church in the United States of America (“UPCUSA”) and the Presbyterian Church in the United States (“PCUS”). Although other Reformed Presbyterian denominations in the United States existed at this time, these were the dominant two.

10. Dardenne Church was a member of the PCUS before June 1983.

11. The UPCUSA and the PCUS merged on June 10, 1983 to form the PCUSA. All rights of the former denominations were sold, transferred, or conveyed to the PCUSA, and the PCUSA is now the successor denomination to the former denominations.

12. In the wake of that merger, local congregations in both former denominations had the option to stay within the PCUSA or to leave and join another Presbyterian denomination of their choosing.

13. If two-thirds of those present at a meeting of the local congregation for this purpose (with a quorum of at least one-third of all active members) voted to leave, it was agreed that such congregation could leave and retain all of its property, but it would surrender its membership as a congregation in the PCUSA.

14. Each congregation was given eight years from the reunion to elect to join another denomination or remain with the PCUSA and be bound by its Constitution.

15. Dardenne Church did not vote to leave the PCUSA within eight years of the merger.

16. Congregations that opted to join the PCUSA had another choice to make at reunion: whether to opt out of certain property provisions contained in the PCUSA's new *Book of Order* and be bound instead by the property provisions in the former PCUS Constitution, the *Book of Church Order*.

17. The PCUS Constitution had provisions related to property that were similar to those in the PCUSA Constitution, but the PCUS provisions gave flexibility to a church to transfer and encumber its real property without prior approval of the presbytery of which it was a part. Attached hereto as **Exhibit A** is a true and correct copy of Chapter 6, "Church Property,"

from the 1982/1983 edition of the PCUS *Book of Church Order*.

18. The 1982/1983 edition of the Book of Church Order contained the following provisions regarding church property:

Section 6–3. All property held by or for a particular church, whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, and whether the property is used in programs of the particular church or retained for the production of income, is held in trust nevertheless for the use and benefit of the Presbyterian Church in the United States.

Section 6–4. If a particular church is dissolved by the Presbytery, attempts by either majority or unanimous vote to withdraw from the Presbyterian Church in the United States or otherwise ceases to exist or function as a member of the Presbyterian Church in the United States, any property that it may have shall be within the control of the Presbytery and may be held for designated purposes or sold or disposed of in such manner as the Presbytery, in its discretion may direct.

19. Attached hereto as **Exhibit B** is a true and correct copy of the provisions of Chapter VIII from the Presbyterian Church (U.S.A.)’s *Book of Order* (1983-85 edition), which shows the original numbering and language of the individual sections as they existed in 1983 and as they were referenced in Dardenne Church’s 1984 Resolution and Letter.

20. In order to fully respond to Dardenne Church’s Motion for Summary Judgment on Count I of the Presbytery’s Counterclaim, the Presbytery needs an opportunity to serve and receive answers to written discovery and to take the depositions of, at a minimum, the several Dardenne Church representatives who signed affidavits offered to support Dardenne Church’s motion. That discovery will allow the Presbytery to offer additional facts essential for the Presbytery to oppose fully Dardenne Church’s motion.

21. In particular, church leaders have offered testimony about their personal intentions and, in some respects, the intentions of other leaders at the time they voted to hold Dardenne Church’s property in trust for the PCUSA per Chapter 6 of the PCUS *Book of Church Order*. These affiants assert that Dardenne Church never intended to place Dardenne Church’s

property into trust for the PCUSA, notwithstanding the affirmative vote to hold title to its property “according to the provisions of Chapter 6 of the *Book of Church Order* of the Presbyterian Church in the United States as that chapter existed on the date of June 10, 1983.” If the Court determines that extrinsic evidence of intent may and should be considered despite the clear intent expressed in the 1984 Resolution and Letter, then the Court should consider additional evidence adduced in discovery.

22. Depositions of the affiants that Dardenne Church has offered will allow the Presbytery to explore and test the stated intentions of the church leaders, as recounted in their affidavits. The several affidavits are remarkably similar in content, especially given that they address events and mindsets from more than 40 years ago. That could indicate that all of these affiants have extraordinary memories and things happened and people spoke as recounted in their affidavits. Or it could indicate that there was substantial coordination among the affiants, perhaps including with Dardenne Church’s attorneys (which would not be improper in itself, but could nevertheless undermine the credibility of the affiants), in preparing these affidavits. Cross-examination will allow the Presbytery the opportunity to determine which is the case.

23. Under Missouri Rule 74.04(f), the Presbytery asks that the Court, if it does not outright deny the Motion for Summary Judgment, nevertheless deny the motion without prejudice to Dardenne Church renewing the motion after sufficient discovery has been taken.

*[Remainder of page intentionally left blank; signature on following page.]*

I declare under penalty of perjury under the laws of the State of Missouri, that the foregoing is true and correct to the best of my knowledge.

  
\_\_\_\_\_  
Rev. Ryan Landino

STATE OF MISSOURI     )  
  )  
COUNTY OF ST. LOUIS    )     SS.

On this 22 day of May, 2024, before me, a Notary Public in and for said State, personally appeared Rev. Ryan Landino, known to me to be the person who executed this foregoing instrument and acknowledged to me that he executed the same as his free act and deed for the purposes therein stated.

In testimony whereof, I have hereunto set my hand and affixed my official seal at the County and State aforesaid, on the day and year last above written.

  
\_\_\_\_\_  
Notary Public

My commission expires: Sept 10 2024

**MONICA KRISANIC**  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for St. Louis County  
My Commission Expires: Sept. 10, 2024  
12350456

# **Exhibit A**



# THE BOOK OF CHURCH ORDER

Presbyterian Church  
in the United States

1982/1983



stated in the notice shall be transacted. The Session shall call a congregational meeting without delay when requested in writing by one-fourth of the congregation.

- § 5-3. If the church has not more than one hundred members on the confirmed roll, the quorum of a congregational meeting shall consist of one-fourth of such members. If the church has more than one hundred members on the confirmed roll, the quorum shall be one-tenth of such members, but not less than twenty-five.
- § 5-4. The Pastor shall be the Moderator of congregational meetings by virtue of office. If it should be impracticable or inexpedient for the Pastor to preside, or if there is no Pastor, the Session shall appoint one of its number to call the meeting to order and to preside until the congregation shall elect its presiding officer, who shall be a Minister of the Presbyterian Church in the United States, or a Minister of another Church serving the congregation in a relationship which has been approved by the Presbytery, or any adult member of that particular church. [See § 25-4 and § 25-6.]
- § 5-5. A clerk shall be elected by the congregation to serve at that meeting or for a definite period, or the Clerk of the Session may be chosen by common consent to be the Clerk of the congregational meeting. The Clerk shall keep correct minutes of the proceedings and of all business transacted and preserve these minutes in a permanent form, after they have been attested by the Moderator and the Clerk of the meeting. The Clerk shall also send a copy of these minutes to the Church Session, which shall enter them in its minutebook.
- § 5-6. A minister, not being a member of the congregation, cannot vote in a congregational meeting. When a Minister is moderating a congregational meeting and there is a tie vote, the Minister shall put the question a second time, and if there is not a majority for the motion, the Minister shall declare the motion lost.

## CHAPTER 6

### *Church Property*

- § 6-1. If a particular church is not incorporated, it may, at a regularly constituted congregational meeting, elect certain of its confirmed members as trustees, to hold title to property in trust for the benefit of the particular church and of the Presbyterian Church in the United States. The trustees have power and authority to buy, sell or mortgage property for the church, to accept and execute deeds and to manage any permanent special funds entrusted to them for church purposes. In buying, selling or mortgaging real property, the trustees shall act under the instructions of the congregation adopted in a regularly constituted meeting. Their powers and duties cannot infringe upon the powers or duties of the Session or the Board of Deacons. The trustees do not hold title to personal property or have responsibility for it except to the extent expressly given to them.

- § 6-2. If a particular church is incorporated, the provisions of its charter and bylaws must be in accord with the Constitution of the Presbyterian Church in the United States. All of its confirmed members on the active roll are members of the corporation. The officers of the corporation, by whatever name they are given, shall be elected from the confirmed members of the corporation in a regularly constituted congregational meeting. The officers of the corporation may be given any or all of the following responsibilities: holding title to church property for the benefit of the corporation and the Presbyterian Church in the United States; acquiring and conveying title to the property; buying, selling and mortgaging the property of the church; and managing any permanent special funds entrusted to them for church purposes. In buying, selling and mortgaging real property, the officers shall act under the authority of the corporation granted in a duly constituted meeting of the corporation. Powers and duties of the officers cannot infringe upon the powers and duties of the Session or the Board of Deacons, who maintain control and disbursement of all funds collected for the support and expense of the church and for the benevolent purposes of the church.
- § 6-3. All property held by or for a particular church, whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, and whether the property is used in programs of the particular church or retained for the production of income, is held in trust nevertheless for the use and benefit of the Presbyterian Church in the United States.
- § 6-4. If a particular church is dissolved by the Presbytery, attempts by either majority or unanimous vote to withdraw from the Presbyterian Church in the United States or otherwise ceases to exist or function as a member of the Presbyterian Church in the United States, any property that it may have shall be within the control of the Presbytery and may be held for designated purposes or sold or disposed of in such manner as the Presbytery, in its discretion, may direct.
- § 6-5. The relationship to the Presbyterian Church in the United States of a particular church can be severed only by constitutional action on the part of the Presbytery (4-2). If there is a schism within the membership of a particular church and the Presbytery is unable to effect a reconciliation or a division into separate churches within the Presbyterian Church in the United States (see 16-7), the Presbytery shall determine if one of the factions is entitled to the property because it is identified by the Presbytery as the true church within the Presbyterian Church in the United States. This determination does not depend upon which faction received the majority vote within the particular church at the time of the schism.
- § 6-6. Nothing in this chapter shall be construed to render a particular church, church court, or its property liable for the debt or obligations of any other church court.
- § 6-7. Nothing in this chapter shall be construed to limit the power of Presbytery to receive and dismiss churches with their property, provided such requests are made in proper order.

- § 6-8. Nothing in this chapter shall be construed to require a particular church to seek or obtain the consent or approval of any church court above the level of the particular church in order to buy, sell or mortgage the property of that particular church in the conduct of its affairs as a church of the PCUS.
- § 6-9. The provisions of 14-5 and 14-6, and of other sections in this Constitution setting forth the manner in which decisions are made, reviewed and corrected within the Presbyterian Church in the United States, are applicable to all matters relating to property.
- § 6-10. This Chapter is declaratory of principles to which the Presbyterian Church in the United States and its antecedent church bodies have adhered from the inception of the presbyterian form of church government.

# **Exhibit B**

*Office Copy*  
*II*

THE CONSTITUTION

*Bob Waggoner*

**PRESBYTERIAN CHURCH  
(U.S.A.)**

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BOOK OF ORDER

1983-85

PART II

**BOOK OF ORDER**

**1983-85**

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Each such meeting shall be attested by the secretary and shall be entered in the minutes.

## CHAPTER VIII. THE CHURCH AND ITS PROPERTY G-8.0000

### 1. Decisions Pertaining to Property G-8.0100

The provisions of G-1.0400 and other provisions of this Constitution prescribing the manner in which decisions are made, reviewed, and corrected within this church are applicable to all matters pertaining to property. G-8.0101  
Decisions  
Regarding  
Property

### 2. All Property Held in Trust G-8.0200

All property held by or for a particular church, a presbytery, a synod, the General Assembly, or the Presbyterian Church (U.S.A.), whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, and whether the property is used in programs of a particular church or of a more inclusive governing body or retained for the production of income, is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.). G-8.0201  
Property  
Is Held  
in Trust

### 3. Property Used Contrary to Constitution G-8.0300

Whenever property of, or held for, a particular church of the Presbyterian Church (U.S.A.) ceases to be used by that church as a particular church of the Presbyterian Church (U.S.A.) in accordance with this Constitution, such property shall be held, used, applied, transferred, or sold as provided by the presbytery. G-8.0301  
Property  
Used  
Contrary to  
Constitution

### 4. Property of Church Dissolved or Extinct G-8.0400

Whenever a particular church is formally dissolved by the presbytery, or has become extinct by reason of the dispersal of its members, the abandonment of its work, or other cause, such property as it may have shall be held, used, and applied for such uses, purposes, and trusts as the presbytery may direct, limit, and appoint, or such property may be sold or disposed of as the presbytery may direct, in conformity with the Constitution of the Presbyterian Church (U.S.A.). G-8.0401  
Property  
of Church  
Dissolved  
or Extinct

### 5. Selling, Encumbering, or Leasing Church Property G-8.0500

A particular church shall not sell, mortgage, or otherwise encumber any of its real property and it shall not acquire real property subject to an encumbrance or condition without the written permission of the presbytery transmitted through the session of the particular church. G-8.0501  
Selling or  
Encumbering  
Church  
Property

who

G-8.0502  
Leasing  
Church  
Property

A particular church shall not lease its real property used for purposes of worship, or lease for more than five years any of its other real property, without the written permission of the presbytery transmitted through the session of the particular church.

G-8.0600

6. Property of Church in Schism

G-8.0601  
Property  
of Church  
in Schism

The relationship to the Presbyterian Church (U.S.A.) of a particular church can be severed only by constitutional action on the part of the presbytery (G-11.0103i). If there is a schism within the membership of a particular church and the presbytery is unable to effect a reconciliation or a division into separate churches within the Presbyterian Church (U.S.A.), the presbytery shall determine if one of the factions is entitled to the property because it is identified by the presbytery as the true church within the Presbyterian Church (U.S.A.). This determination does not depend upon which faction received the majority vote within the particular church at the time of the schism.

G-8.0700

7. Exceptions

G-8.0701  
Exceptions

The provisions of this chapter shall apply to all particular churches of the Presbyterian Church (U.S.A.) except that any church which was not subject to a similar provision of the Constitution of the church of which it was a part, prior to the reunion of the Presbyterian Church in the United States and The United Presbyterian Church in the United States of America to form the Presbyterian Church (U.S.A.), shall be excused from that provision of this chapter if the congregation shall, within a period of eight years following the establishment of the Presbyterian Church (U.S.A.), vote to be exempt from such provision in a regularly called meeting and shall thereafter notify the presbytery of which it is a constituent church of such vote. The particular church voting to be so exempt shall hold title to its property and exercise its privileges of incorporation and property ownership under the provisions of the Constitution to which it was subject immediately prior to the establishment of the Presbyterian Church (U.S.A.). This paragraph may not be amended.

PCUS  
Jan

1. General

The Presbyterian Church (U.S.A.) s representative bodies composed of pre and ministers of the Word. These gover called:

- session
- presbytery
- synod
- General Assembly.

Governing bodies of the church ar government of the state and have no power to impose civil penalties. They ha jurisdiction for the purpose of servin declaring and obeying his will in rel service, order and discipline.

They may frame symbols of faith, be error in doctrine and immorality in life, doctrine and of discipline, give cou conscience, and decide issues properly b under the provisions of the Book of O thorize the serving of the Lord's Suppe the principles of the Directory for the S have power to establish plans and rul mission, government, and discipline of t those things necessary to the peace, pur ress of the church under the will of C sponsibility for the leadership, guidance, that portion of the church which is under

All governing bodies of the church nature of the church and share responsibilities, rights, and powers a Constitution. The governing bodies independent, but have such mutual rela one of them is the act of the whole chu through the appropriate governing body each governing body is limited by the e the Constitution, with the acts of each the next higher governing body.