

THE STATE OF NEW HAMPSHIRE  
6<sup>TH</sup> CIRCUIT - PROBATE DIVISION - CONCORD

MERRIMACK, SS

CASE NO. 317-1910-TU-00001

TRUST OF MARY BAKER EDDY (CLAUSE VI & VIII)

**REPLY TO THE OBJECTION BY THE TRUSTEES OF THE TRUSTS  
UNDER THE WILL OF MARY BAKER EDDY CLAUSES VI AND VIII  
TO THE MOTION BY SECOND CHURCH OF CHRIST, SCIENTIST, MELBOURNE  
FOR LEAVE TO FILE AN *AMICUS CURIAE* RESPONSE  
TO THE REPORT FILED BY THE DIRECTOR OF CHARITABLE TRUSTS**

NOW COMES the Second Church of Christ, Scientist, Melbourne ("Second Church") by and through its attorneys, Fernald, Taft, Falby & Little, P.A., and says as follows:


1. The Trustees of the Trusts under the Will of Mary Baker Eddy, Clauses VI and VIII, have filed an Objection to the Motion by Second Church for Leave to File an *Amicus Curiae* Response to the Report filed by the Director of Charitable Trusts.
2. In their Objection, the Trustees claim, in Paragraph 3, that Second Church "has frequently asserted that it disagrees with the interpretations by the Board of Directors and the Trustees of the religious teachings of Mrs. Eddy." This is a falsehood. The issues in this case are not religious teachings, but the intent of Mrs. Eddy in creating the Trust under Clause VIII of her Will.
3. There is no doubt that Mrs. Eddy intended to create a Trust in Clause VIII of her Will. The primary Trust purpose is "more effectually promoting and extending the religion of Christian Science as taught by me." There is also no doubt that the Trustees of Mrs. Eddy's 1907 Trust, as amended in 1908, transferred the property at 400 Beacon Street in Chestnut Hill, Massachusetts to the Mother Church "to be held and administered by its Board of Directors subject to the Trusts created by [Mrs. Eddy's] Will." The Mother Church acknowledges that it holds the proceeds from the sale of the 400 Beacon Street Property in Trust.
4. The Mother Church finds itself making the odd argument that it holds the proceeds from the sale of the 400 Beacon Street Property in Trust under Clause VIII of Mrs. Eddy's Will, but those proceeds are not part of the Clause VIII Trust as administered by this Court.
5. The Mother Church also finds itself making the odd statement that the Mother Church, which is governed by five self-perpetuating Directors, should not be

“compelled to turn the funds [from the sale of the 400 Beacon Street Property] over to the New Hampshire Trustees” - who are the same five Directors.

6. The reason for the Mother Church’s circumlocutions can be found in footnote 1 of its Objection, where the Mother Church reveals that in its opinion it is not required to file any accounting for the proceeds of the 400 Beacon Street Property with any authority in Massachusetts. The Mother Church continues to assert that the proceeds from the sale of the 400 Beacon Street Property are held by it in Trust under Clause VIII, but not in the Clause VIII Trust, so that the Mother Church can do what it wants with the money without reporting to anybody what it has done. And we learn from the “Report by the Trustees Under the Will of Mary Baker Eddy on 400 Beacon Street” (which was filed with the Objection) that during fiscal years 2008 - 2013, \$3,625,015.71 of the proceeds from the sale of the 400 Beacon Street Property have been used to repair the Mother Church, while not one penny has been used to promote Christian Science. This is the “embedded conflicting fiduciary obligations,” identified by this Court and the Director of Charitable Trusts, running rampant.
7. Perhaps, going forward, absent an order of this Court, the Mother Church will use the proceeds from the sale of the 400 Beacon Street Property consistent with Clause VIII of Mrs. Eddy’s will. But how will anyone know if the Mother Church has no obligation to file accounts with anyone concerning those proceeds?
8. The Mother Church is taking the position that there are two trusts under Clause VIII of Mrs. Eddy’s will—one that resides in the pooled funds of the Mother Church and is accountable to this Court, and one that resides in the pooled funds of the Mother Church, but is accountable to no one. This is incorrect. Mrs. Eddy created one trust under Clause VIII of her will. The Final Decree (attached hereto) of the Massachusetts Supreme Judicial Court in the case of Chase v. Dickey, 99 N.E. 410 (1912) does not bifurcate the Clause VIII Trust. The SJC ordered the Trustees of Mrs. Eddy’s 1907 Trust to convey the 400 Beacon Street Property to the Mother Church “to be held as a part of the Trust Fund under the provisions of the will of the said Mary Baker G. Eddy upon the trusts set forth in the residuary clause of said will.” The SJC order parallels the language in Clause VIII of Mrs. Eddy’s will, which left the residue of her estate “to the Mother Church - The First Church of Christ, Scientist, in Boston, Massachusetts, in Trust for the following general purposes . . .” This Court, in 1913, chose to appoint the Directors of the Mother Church, rather than the Mother Church itself, as Trustees of Clause VIII Trust, but the effect is the same: it is the Directors of the Mother Church who control all of the money in question. The money that is currently accounted for to this court, and the proceeds from the sale of the 400 Beacon Street Property, are all in the same pooled fund at the Mother Church. The only difference is that some is accounted for to this Court, and some is not. It is the position of Second Church that there is just one Clause VIII Trust, and that all of the money in question should be accounted for together, to this Court.

Respectfully submitted  
Second Church of Christ, Scientist, Melbourne  
by and through its attorneys,  
Fernald, Taft, Falby & Little, P.A.

May 1, 2020

By:   
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### CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was mailed this day, postage prepaid, to the following parties who have filed an appearance for this case or who are otherwise interested parties.

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May 1, 2020

  
Mark D. Fernald, Esquire

## COMMONWEALTH OF MASSACHUSETTS.

SUFFOLK, SS.

Supreme Judicial Court.  
In Equity No. 16026.

STEPHEN A. CHASE ET AL. v. ADAM H. DICKEY ET AL.

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*Final Decree.*

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This cause came on to be heard after rescript from the Supreme Judicial Court for the Commonwealth and after the enactment of chapter 115 of the Acts of the year 1913. and the First Church of Christ, Scientist, of Boston, having been duly admitted as a party plaintiff, and upon consideration of the foregoing, and after hearing counsel it is

ORDERED ADJUDGED AND DECREED that the respondents Adam H. Dickey, Archibald McLellan and Josiah E. Fernald, as they are Trustees under two indentures of trust annexed to the Bill of Complaint, be, and hereby are, ordered and directed to make conveyance forthwith to the First Church of Christ, Scientist, of Boston, Massachusetts, of the parcels of land set out in the Bill of Complaint, the first of such parcels, with the buildings thereon being located in Boston, in this Commonwealth and numbered on Commonwealth Avenue, and being lot number Nine (9) on the plan of land by Fuller & Whitney, dated February 10, 1886, and recorded with Suffolk Deeds Lib. 1713, Vol. 2, and bounded and described as follows:

Southerly by Commonwealth Avenue, there measuring Twenty-three and 99/100 (23.99) feet; Westerly by lot number Eight (8) on said plan, by a line through the middle of the brick partition wall Ninety-two (92) feet; Northerly by the center line of a passageway Five (5) feet wide, Twenty-four and 10/100 (24.10) feet; and easterly by lot number Ten (10) on said plan by a line running through the middle of the brick partition wall Ninety-three and 75/100 (93.75) feet, containing Twenty-two hundred and thirty and 1/10 (2230.1) square feet, more or less, the same having been vested in these respondents, Trustees, by deed of Mary Baker G. Eddy, dated March 6, 1907.

The second of said parcels, with the buildings thereon, is situated in Newton in

said Commonwealth, and was lately occupied by said Mary Baker G. Eddy and was vested in said respondents, Trustees, by her deed dated May 6, 1908, and is more fully described in two deeds to said Mary Baker G. Eddy from Robert F. Walker, one dated October 28, 1907, and recorded with Middlesex South District Deeds, Book 3365, page 7, and the other dated December 27, 1907, and recorded with said Deeds, Book 3365, page 10, to which deeds reference is hereby made.

Both said parcels are to be held by the said The First Church of Christ, Scientist, under said chapter 115 of the Acts of 1913, and as a part of the Trust Fund under the provisions of the will of the said Mary Baker G. Eddy upon the trusts set forth in the residuary clause of said will.

By the Court.

JOHN H. FLYNN,

*Assistant Clerk.*

March 4, 1913.

(Seal)

A true copy. Attest:

JOHN F. CRONIN, *Clerk.*

The defendants named in the bill waived notice, appeared and agreed that the bill correctly sets forth the material facts. For the purpose of expediting the settlement of the estate and by agreement of parties, the question presented by the bill, viz., whether The First Church of Christ, Scientist, in Boston, is entitled to receive the residue of the testatrix's estate without judicial appointment as trustee thereof, or whether it is necessary that a trustee or trustees to administer the trust created by the residuary clause of the will should be found duly qualified and appointed by the Probate Court or by the Superior Court, is reserved for the determination of the Supreme Court, without a ruling.

Such Massachusetts statutes and reported cases as either party deems material may