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December 10, 2022

Via Regular Mail and Email

Diane Murphy Quinlan, Esquire
Department of Justice
Office of the Attorney General
33 Capitol Street
Concord, NH 03301
diane.m.quinlan@doj.nh.gov

**RE: Trusts u/w of Mary Baker Eddy, Clause VI and VIII
Trustee Accounts for year ending March 31, 2022**

Dear Attorney Quinlan:

Thank you for your patience in receiving these comments, questions and requests regarding the recent Accounts filed by the Trustee/Directors of the Clause VI and Clause VIII Trusts under the Will of Mary Baker Eddy.

Our client, Second Church of Christ, Scientist, Melbourne (“Second Church”), is a congregation of followers of the religion of Christian Science as taught by Mary Baker Eddy, and a Branch Church of the First Church of Christ, Scientist, Boston, known as “The Mother Church.” The Mother Church is also a congregation of followers of the religion of Christian Science as taught by Mrs. Eddy. We refer to the Trustees of the Clause VI and Clause VIII Trusts under Mrs. Eddy’s Will as the “Trustee/Directors” because they are also the Directors of The Mother Church.

As discussed further below, Second Church has made important contributions to the work of the DCT and the Probate Court in restoring some degree of functionality and accountability to these Trusts – especially in the revelation of the embedded conflict of interest that went unnoticed for decades until Second Church brought it the attention of the DCT and Probate Court. While Second Church was denied formal standing based on the circumstances at the time, and its request for an independent trustee was denied, its contributions to the restoration of the Clause VIII Trust were recognized by both the Probate Court and the New Hampshire

Supreme Court, and the Supreme Court specifically encouraged Second Church continue its efforts to present its concerns to the DCT and, when appropriate, to the Probate Court.¹

We do that here and respectfully request the DCT give these comments and requests the serious consideration they deserve.

Some of the issues we raise below may go beyond the scope of issues properly raised by way of objections to the present Accounts, and need to be presented to the Court by way of motion or petition. To the extent, however, that we present issues that can be raised as objections to the Accounts, but more time is needed for the DCT to consider them, we submit that time should be sought and note that the Director/Trustees were allowed *two extensions*, for a combined time in excess of four months, to file these Accounts.

A. Clause VI Account for FY 2022.

The FY 2022 Account for Clause VI reflects one distribution in the amount of \$49,907.26, to a beneficiary identified as “Compass Group USA Inc. Babson College.” (Clause VI Account, Schedule 4). There is no further information or explanation of what “Compass Group USA Inc. Babson College” is, what the funds were used for or how their use relates to the mandated purpose of distributions,

... of providing free instruction for indigent, well educated, worthy Christian Scientists ... and to aid them thereafter until they can maintain themselves in some department of Christian Science.

(Will, Clause VI).²

Compass Group USA appears to be a foodservice company;³ that serves at Babson College,⁴ a private business college with a campus in Boston, Massachusetts.⁵

¹ “Because we conclude that Second Church lacks standing, we need not address its argument requesting the appointment of an independent trustee. We reiterate the trial court’s sentiment that Second Church is encouraged to share its perspective and concerns with the DCT, and, when appropriate, seek to file as *amicus curiae* with the trial court.” *In re Tr. of Eddy*, 172 N.H. 266, 284, 212 A.3d 414, 428 (2019)

² The broader context of this excerpt provides that the Trustee/Directors “...shall use the income and such portion of the principal, from time to time, as they may deem best, *for the purpose of providing free instruction for indigent, well-educated, worthy Christian Scientists* at the Massachusetts Metaphysical college and to aid them thereafter *until they can maintain themselves in some department of Christian Science.*” (Id.) The Metaphysical College, we understand, was closed long ago, and Clause 6 reflects Mrs. Eddy’s anticipation that the Trustee/Directors provide the referenced instruction “elsewhere” (“...my said trustees are hereby authorized to provide said instruction elsewhere, if, in the unanimous judgment of all said trustees for the time being, such course shall seem best...” (Id.)) But there is no such flexibility allowed in the purpose of the distribution.

³ See, e.g., <https://www.compass-usa.com/>

⁴ See, e.g., <https://careers.compassgroupcareers.com/food-service-worker-full-and-part-time/job/20883107>

⁵ <https://www.babson.edu/>

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On its face, this distribution does not have any connection to providing free instruction for indigent Christian Scientists. We ask that your office obtain from the Director/Trustees a verified, written explanation and supporting documentation demonstrating the specific purpose and use of these funds and their purpose to provide “free instruction for indigent, well-educated, worthy Christian Scientists.”

B. Clause VIII Account for FY 2022.

1. Background for Concerns about Clause VIII Account.

The Clause VIII Account reflects some very significant changes in the administration of the Clause VIII Trust. First, and most important, for the third year in a row, actual distributions to beneficiaries are reported – this year’s Account reporting \$965,446 to forty-four Christian Science churches, reading rooms and societies (Clause VIII Account, Schedule 4). Second, the assets are no longer reported as pooled with the investments of The Mother Church, as they had been in prior years, and extensive details concerning the approximately \$30 million in investments, transactions on and performance of those investments, are now reported. In these ways, the accounts on the Clause VIII Trust reflect (on their face, at least) the restoration of the Trust’s dominant purpose of “promoting and extending the religion of Christian Science as taught by [Mary Baker Eddy]...” (Will, Clause VIII); and a degree of transparency in the reporting on the administration of the Trust.

These changes, we must emphasize, are the direct result of the efforts of our client, Second Church, who, in 2018, after reviewing over 100 years of records of the Probate Court and the Director of Charitable Trusts, discovered profound dysfunctions in the administration of this Trust. The details of this discovery, and its presentation to the DCT and Court, are set forth in numerous filings before the Probate Court and New Hampshire Supreme Court, and correspondence with the DCT, and summarized only briefly here:⁶

- In 1949, the only independent (non-Director) Trustee, Josiah Fernald, died and was not replaced, leaving the Director/Trustees – all conflicted by their dual roles as fiduciaries of The Mother Church – in exclusive control of the administration of this Trust.
- Under the exclusive administration of these conflicted Director/Trustees, distributions to The Mother Church were first introduced in the 1970s and increased dramatically, while distributions to other Christian Science churches, reading rooms and societies dramatically declined.
- By 1985, the benefits of this Trust had been turned upside down: The Mother Church was the sole recipient of Clause VIII funds and no funds were distributed to other beneficiaries.⁷

⁶ Much of what follows in this summary can be found in the Probate Court’s Order of March 3, 2019 addressing numerous motions and replies of Second Church, the Director Trustees and the DCT.

⁷ This dramatic inversion of the Trust priorities – from a Trust for the benefit of the larger Christian Science community to a fund supporting The Mother Church – is illustrated in two graphs (attached hereto as Exhibit “1”),

- In the midst of this conflicted and upside-down administration of the Trust, the Trustee/Directors made an improper loan of \$5 million from the Clause VIII Trust to the Mother Church. This impropriety was resolved by the Trustee/Directors' agreement to a 1993 Probate Court Order (the "1993 Order") directing that The Mother Church repay the loan and prohibiting further loans.
- Incredibly, however, the 1993 Order also authorized the continued distribution of Clause VIII funds to The Mother Church for the purpose of repairs to its Boston church building, while making no provision for resumption of distributions to other Christian Science churches, reading rooms and societies. This effectively vitiated Mrs. Eddy's dominant purpose of "promoting and extending the religion of Christian Science" while allowing The Mother Church to repay the Trust with the Trust's own money.
- The improper loan by the Director/Trustees was "repaid" in this way within three years, but nothing was done to address the conflict of interest of the Director/Trustees, their continued distribution of funds to The Mother Church or the lack of any distribution to other beneficiaries, *for 25 years*; until Second Church brought all this to the attention of the DCT and Probate Court, culminating in the Court's Order of March 3, 2019, amending the 1993 Order to restore the priority of the Trust's dominant purpose of "promoting and extending the religion," and restricting distributions to The Mother Church or others "affiliated" with The Mother Church. See March 3, 2019 Order at pp.23-29.

Second Church had advocated for what it believed the law required to address the embedded conflict of interest of the Director/Trustees: restoration of an independent trustee. This is the solution that worked perfectly for the first half century of the Trust. The DCT, however, agreed with a different path preferred by the Director/Trustees, and eventually approved by the Court, to allow the Director/Trustees to continue as the only Trustees, but eliminate their conflict of interest by restricting distributions to The Mother Church or others "affiliated" with The Mother Church. We quote the Court's discussion of this issue of how to fix the problem of an embedded conflict, below:

The Court notes that the Second Church argues that under this arrangement the embedded conflict will still be present as the Trustees, who are also Directors of the Mother Church, will decide which institutions receive the income from the trust(s) and thus can exclude branch churches it does not favor. The Court, however, cautions the Trustees that should they endeavor to unfairly distribute funds to those entities in their favor or withhold distributions from those they would "punish," they risk violating the specific intent of Mrs. Baker Eddy that distributions be made to "more effectually" promote and extend the Christian Science religion and their fiduciary duty of impartiality. See generally,

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RSA 564-8:8-803. In order to assist the OCT with monitoring the distributions to third parties in accordance with the agreement between the OCT and the Trustees, and this Order, the Trustees are further DIRECTED that they must furnish the OCT, along with the annual audited accounts, a schedule of recipients of Clause VIII distributions and provide affidavit(s), under oath, that these distributees are in fact "third party recipients" and not affiliated with the Mother Church.)

(March 3, 2019 Order at p.29)

Second Church continues to object to the approach chosen by the DCT and Director/Trustees – imposing new restrictions on the distributions to be made by the Director/Trustees, instead of appointing an independent Trustee. These objections are relevant to our concerns about whether the Director/Trustees are acting fairly and faithfully in making distribution decisions and our request (in section 2 of this part B, below) that the DCT obtain and disclose additional details relevant to the application of these restrictions by the Director/Trustees:

- First, the provisions limiting distributions to the Mother Church and affiliates impose restrictions on trustee discretion that Mrs. Eddy herself did not express in Clause VIII. This, it is submitted violates that fundamental principle of trust law that the testator/settlor's intention is paramount.
- Second, the only reason for these extra-textual restrictions is to allow the Director/Trustees to serve without any independent (non-Director) trustees to serve with them. These restrictions are imposed only for the benefit of these Director/Trustees, and not for the benefit of the Trust. In this way, the Trustee/Directors' agreement to these restrictions is a form of self-dealing.
- Third, this and other trusts declared by Mrs. Eddy for the purpose of "promoting and extending the religion of Christian Science as taught by [her]..." are expressions of her religious belief. Her paramount right to have her intentions as a settlor/grantor enforced in the courts is, therefore, entitled to special protection under the First and Fourteenth Amendments to the United States Constitution corresponding state constitutional guarantees of religious freedom and equal protection of the law. The restrictions imposed by the March 3, 2019 Order unnecessarily impair Mrs. Eddy's freedom to express her religion through the full and fair enforcement of the Trust. Similarly, the restrictions on distributions to The Mother Church and affiliates unnecessarily burden their rights to participate in her religious mission of promoting and extending Christian Science as taught by her.
- Finally, the restriction on distributions to "affiliates" of The Mother Church, fairly interpreted, could exclude the largest and most important class of beneficiaries of the Clause VIII Trust – branch churches, reading rooms and societies – all of whom are "affiliated" with The Mother Church in many ways.⁸

⁸ See discussion in section 2 of this part B, below.

We believe these objections require that the March 3, 2019 Order be revisited, and another solution to the embedded conflict found. Appointment of one or more independent (non-Director) Trustees continues to be our first choice. We know there were concerns about the DCT or the Court becoming entangled in religious debates and controversies. We believe they were more imagined than real. Again, the first Trustees included Josiah Fernald – a banker who, to our knowledge, was not even a Christian Scientist. He served for almost 50 years without any apparent religious controversy, let alone any that required official or court intervention. The violation of the religious freedoms of Mary Baker Eddy and her followers by the imposition of restrictions on the full and free implementation of her Trust is more serious; and present, not speculative.

Second Church would like to discuss these concerns in support of objections to the Accounts and explore options that could be raised by the DCT. Whether that happens in relation to the DCT's review of the present Account, or as a separate conversation, we think it is imperative that the conversation be had and that Mrs. Eddy's Trust be freed from restrictions that inhibit the full and proper administration of this religious Trust as intended by Mrs. Eddy.

2. Need for additional information about distribution applications and decisions.

The forty-four distributees listed on Schedule 4 of the Clause VIII Account appear on their face to be appropriate beneficiaries – Christian Science churches and societies. Appended to the end of the Clause VIII Account is an Affidavit of Richard H. Evans, one of the Director/Trustees, reciting the affidavit requirement on page 29 of the March 9, 2013 Order, and then offering this statement:

For distributions during the Fiscal Year [ending March 31, 2022],
all of the recipients of distributions of funds from the Clause 8
Trust were third party recipients and not affiliated with The Mother
Church.

(Richard H. Evans Affidavit at ¶4) This highly conclusory statement, and Probate Court Receipt forms signed by recipients of distributions, are all that is disclosed about the distribution process.

We have reason to be concerned that the “not affiliated” statement is meaningless, because branch churches (like Christian Science reading rooms and societies) are affiliated with The Mother Church in so many ways. They are all formed, organized and recognized by The Mother Church in accordance with the permanent bylaws and tenets of The Mother Church, set forth in the *Church Manual* authored by Mary Baker Eddy.⁹

⁹ A copy of the Church Manual can be accessed on line at https://en.wikisource.org/wiki/Manual_of_The_Mother_Church

The *Church Manual*, for example, contains an entire article (Article XXIII) on The Mother Church and Branch Churches. It refers to branch churches as “Branch churches of The Mother Church” (Article XXIII, §1), and while branch churches are to have their “own form of government” (id., §1), the *Manual* requires four members of The Mother Church be involved in their organization (id., §7), regulates their recognition as a branch church of The Mother Church (id., §12), requires their “Readers” (an extremely important office in a church) to be members of The Mother Church (Article III, §1), and prescribes numerous other benefits and regulations for branch churches. The Mother Church’s website reflects the close association of The Mother Church and its branch churches, as well as reading rooms and societies.¹⁰

To be clear, our client desires that all appropriate persons -- including branch churches, reading rooms, societies, nursing homes and others – be eligible to receive distributions if trustees exercising proper *and independent* (that is, non-conflicted) discretion determine the distribution promotes and extends Christian Science as taught by Mrs. Eddy. It is the Director/Trustees who, over Second Church’s objections, want to restrict their own discretion in order to protect their exclusive office. The 2019 Order effectively implements their self-serving objectives in this regard.

Our client’s concerns about the application of this “affiliates” restriction and whether the Director/Trustees are acting fairly and in good faith in deciding who receives distributions, are reinforced by a different distribution pattern reported two years ago, in the Clause VIII Account for FY 2020. Schedule 4 of that Account identified some 20-odd recipients who are believed to be Christian science nursing homes, all of whom received \$25,000 distributions within the last month of the fiscal year – seventeen (17) of them on the last two days of the year.¹¹ Christian Science nursing homes are also “affiliates” of The Mother Church, as indicated by the “Christian Science Nursing Facilities Accreditation Standards” published on the website of the Commission for Accreditation of Christian Science Nursing Facilities,¹² and by The Mother Church’s own website page describing Christian Science Nursing Activities.¹³

If these Christian Science branch churches, reading rooms, societies and nursing facilities are not “affiliates” of The Mother Church, it can only because of how the term is interpreted; and we have no idea how Richard Evans and the other Director/Trustees interpret that term. Without further definition, then, the restriction on “affiliates” is at least ambiguous. That ambiguity itself renders the term ineffective to restrain the abuse that Judge King was concerned about when he added that restriction in his March 3, 2019 Order (quoted above in section 1 of this part B).

A related concern is the lack of any information about the process used by the Director/Trustees to assess and decide who does and does not receive distributions, and what

¹⁰ <https://www.christianscience.com/additional-resources/churches-societies-and-groups>

¹¹ A copy of Schedule 4 from the Clause VIII Account for FY 2020 is attached hereto as Exhibit “2” for your convenience.

¹² See, https://csncommission.org/wp-content/uploads/Standards-FAC-3_2021-1.pdf. Most of the facilities receiving these \$25,000 distributions in 2020 are accredited by this Commission.

¹³ <https://www.christianscience.com/additional-resources/christian-science-nursing-activities?icid=Homepage:main-menu:Christian%20Science%20Nursing%20Activities>

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standards they apply to those determinations. This concern is bolstered by the example of the last-minute distribution of \$25,000 to 17 Christian Science Nursing Homes. Those facts suggest a last-minute rush to comply with the Unitrust distribution requirement for that fiscal year and begs the question of whether those distributions were the result of a process that received and assessed applications based on some established standards for “promoting and extending the religion...”; or a program initiative of The Mother Church. The former – a bona fide application process – is what we believe Judge King anticipated. The latter would be a clear example of the continued influence of the embedded conflict on these Director/Trustees.

The point is that more information is needed from the Director/Trustees. The excerpt of Judge King’s Order, quoted above, clearly reflects his concern that the Directors could not be trusted to police themselves, and so must be monitored. The affidavit, moreover, was not intended to be the end of the inquiry, but the beginning. We think that, at a minimum, the following information should be requested:

- How the Director/Trustees define the term “affiliate” as used in the Order.
- Whether there is a defined process for receiving and reviewing applications and what that process is.
- Whether there are standards applied in that process and, if so, what they are.
- Whether that process and standards were applied to all applicants (indeed, were applications received from each distribute?) and if not, to which ones were they applied and not applied, and why/why not.
- Some documentation verifying the foregoing, including copies of applications or at least some explanation of what the applicants sought funding for and the reasons for accepting some and rejecting others.

Critically important, we submit, and entirely absent, is any information about rejected applications. We say this because we believe Judge King’s Order was concerned most about protecting potential beneficiaries from being treated unfairly or in bad faith, and the treatment of applicants who were denied funds is most relevant to that concern.

3. Lack of accounting for Clause VIII Trust Funds in Massachusetts.

Our final concern is the continuing lack of any accounting for the Beacon Street proceeds – referring to what is now believed to be well in excess of \$16 million derived from the sale of one of Mrs. Eddy’s Massachusetts properties, known as 400 Beacon Street.

Second Church brought this asset – which had at one time been included in, but then disappeared from the Accounts filed in New Hampshire – to the attention of the DCT and Probate Court in 2019, and the Court asked the DCT to investigate. (Probate Court Order of June 11, 2019, n.8)¹⁴ The Director/Trustees acknowledged that the Beacon Street property, and the

¹⁴ What follows here is a brief summary of the more extensive facts found in the following submissions to the Probate Court: (i) the “Report of Trustees under the Will of Mary Baker Eddy On 400 Beacon Street,” filed October 9, 2019 (“Trustee/Director Report on Beacon Street”); (ii) the “Report of the Director of Charitable Trusts

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proceeds of its sale in 2004, were held by The Mother Church subject to Clause VIII of Mrs. Eddy's Will, but contended the assets were administered separately, in Massachusetts, and not part of the New Hampshire Clause VIII Trust. Second Church argued to the contrary that the facts supported the conclusion that there was one Clause VIII Trust under Mrs. Eddy's Will, and asked now that there was no longer any real estate situated in Massachusetts, that the Beacon Street proceeds be turned over to the Clause VIII Trust under the New Hampshire Probate Court's jurisdiction. The DCT concluded that,

The Mother Church received those funds and administers them in Massachusetts according to the terms of the Clause VIII Trust.

* * *

Any complaints about the distribution of the sale proceeds to the Mother Church or about subsequent administration of those proceeds should be addressed to the Massachusetts Attorney General.

(DCT Beacon Street Report at p.1) The Probate Court agreed with the DCT and denied Second Church's request that the assets be administered in New Hampshire.

Second Church has since pressed the Massachusetts Attorney General to address the need for an accounting and take appropriate action to address what appears to be clear violations of the trust provisions of Clause VIII. Attached hereto as Exhibit "3" (without exhibits) is a copy of a February 25, 2011 letter from Second Church Attorney Mark Fernald, Esquire, to Courtney Alardo of the Massachusetts Office of the Attorney General, confirming their discussion of two questions and the responses he received from Ms. Alardo. According to the letter, Attorney Fernald was told:

1. That "the funds [sic] held by The Mother Church as Trustee under the Clause VIII Trust is held for a 'religious purpose' and therefore is not subject to the reporting requirement in MGL c.12 Section 8F"; and
2. That only the Massachusetts Attorney General has standing to enforce the terms of a Charitable Trust.

To be fair, no one from the Massachusetts Attorney General's Office has confirmed this position in writing. Attorney Fernald tried, and never got that written response. But the lack of a clear response and the fact that, as of this date, there is no evidence of any accounting,

Concerning Beacon Street," filed March 5, 2020 ("DCT Beacon Street Report"); and (iii) the "Response to the Report of the Director of Charitable Trusts Concerning 400 Beacon Street," filed by Second Church on April 8, 2020 (the "Second Church Response on Beacon Street").

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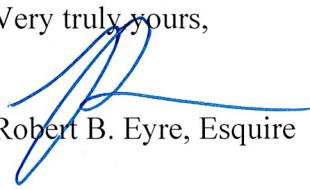
enforcement or other “administration” of these Clause VIII Trust assets in Massachusetts or anywhere, is enough to make the point that is time for the DCT to do something.

Here too, the Director/Trustees fail to discharge their fiduciary responsibilities to the Clause VIII Trust, choosing to perpetuate the improper segregation of these funds away from a jurisdiction that requires audited annual accounts in favor of holding those funds, if they even still are held in trust, in a jurisdiction that requires no accounts and does not enforce the intentions of Mrs. Eddy.

Over \$16 million of assets that are acknowledged by all to be Clause VIII Trust funds, are unaccounted for. That is one third (or more) of the known assets of the Clause VIII Trust(s). Approximately \$560,000 of annual income (at a modest 3.5% Unitrust distribution rate) is not being distributed as mandated by Clause VIII and the orders of the New Hampshire Probate Court. Evidence of past trust violations – like the failure to distribute income for the declared purpose of promoting and extending the religion of Christian Science, mandated by Clause VIII, and the expenditure of at least \$3,625,015.71 on operating expenses and capital expenses of The Mother Church – is being ignored.

Doing something does not necessitate taking jurisdiction over Massachusetts real estate (its already liquidated) or even having the Massachusetts assets turned over for administration in New Hampshire. It could be something as modest as a conversation with the Massachusetts’ Attorney General about the need for an accounting or pressing the Director/Trustees to account and distribute, but it is inconceivable that the DCT and Probate Court are powerless to require it of these Director/Trustees. We do not think the DCT or the Court are actually saying that. Rather, we think they are exercising restraint and deferring to the jurisdiction of Massachusetts as a matter of comity. If, however, Massachusetts is not exercising its own jurisdiction, and there is no actual administration of the Trust occurring there, then New Hampshire can and should require the accounting – at least an informational accounting.

Very truly yours,


Robert B. Eyre, Esquire

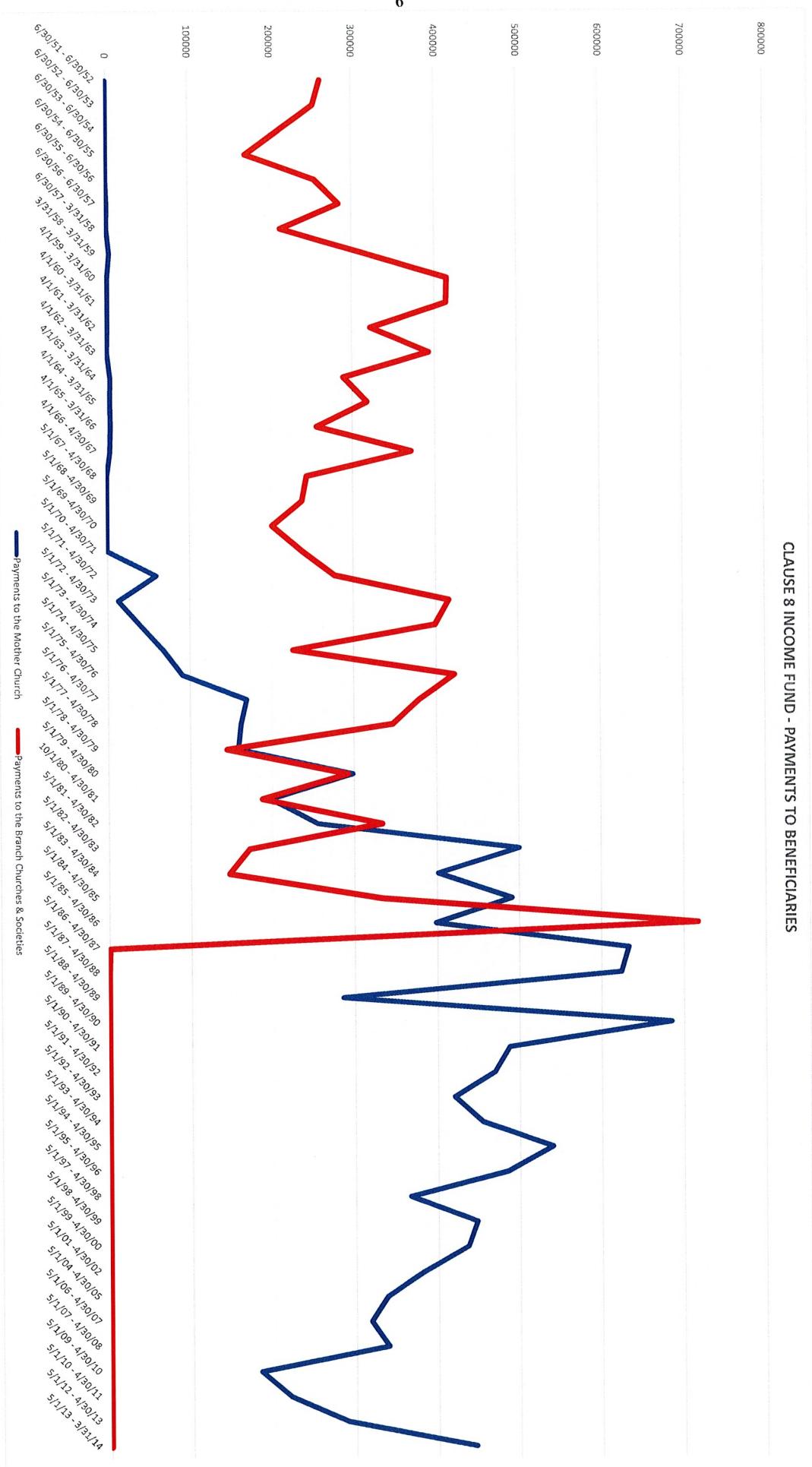
Enclosures

cc: Stuart M. Brown, Esquire (via email)
 Mark D. Fernald, Esquire (via email)
 Board of Trustees, Second Church of Christ, Scientist, Melbourne

EXHIBIT

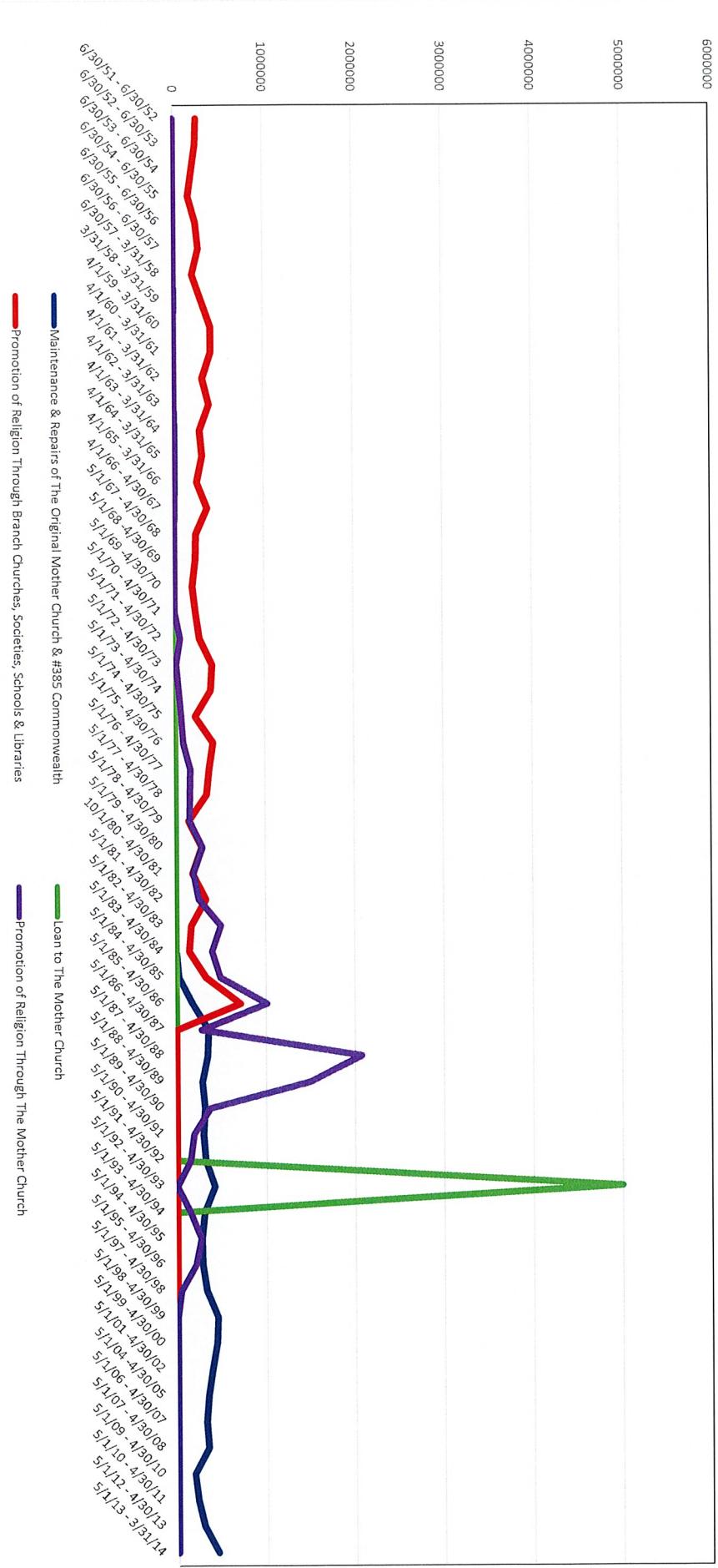
“1”

CLAUSE 8 INCOME FUND - PAYMENTS TO BENEFICIARIES



CLAUSE 8 PRINCIPAL & INCOME FUND - PAYMENTS TO BENEFICIARIES

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EXHIBIT

“2”

Trust Under the Will of Mary Baker Eddy - Clause 8

Schedule 4 - Distributions to Beneficiaries

For the period of 04/01/2019 through 03/31/2020

Beneficiary	Disbursement Date	Amount
First Church of Christ, Scientist, Santa Fe, NM	4/9/2019	\$ 562.50
Christian Science Society, Helsinki, Finland	4/11/2019	4,953.46
Christian Science Society, Truckee, CA	5/16/2019	125,000.00
First Church of Christ, Scientist, Lynchburg, VA	5/16/2019	13,489.00
First Church of Christ, Scientist, Seminole, FL	6/6/2019	1,486.00
First Church of Christ, Scientist, Albany, OR	6/20/2019	9,918.00
Christian Science Society, Houghton, MI	7/18/2019	16,468.00
First Church of Christ, Scientist, Lakewood, WA	8/1/2019	15,060.00
Christian Science Society, Mexico City, Mexico	8/21/2019	1,510.08
First Church of Christ, Scientist, Clarkson Valley, MO	1/9/2020	25,000.00
Christian Science Society, Leamington Spa, England, UK	2/27/2020	7,475.51
Hawthorne Trust dba Charton Manor, Kent, England, UK	2/27/2020	25,152.69
High Ridge House, Riverdale, NY	2/27/2020	25,000.00
Olive Glen Foundation, Inc., Sacramento, CA	2/27/2020	25,000.00
Wayside House, Victoria, BC, Canada	2/27/2020	25,000.00
Whitehaven Trust Ltd., England, UK	2/27/2020	25,137.26
Arden Wood, San Francisco, CA	3/5/2020	25,000.00
Association Le Verger, Rolle, Switzerland	3/5/2020	25,843.52
Broadview, Inc., Los Angeles, CA	3/5/2020	25,000.00
Mountlands Trust dba Lime Tree House, Sale, UK	3/5/2020	25,606.09
Morning Light Foundation, Atlanta, GA	3/9/2020	25,000.00
Chestnut Hill Benevolent Association, Chestnut Hill, MA	3/10/2020	25,000.00
Clearview Home Corporation, Delafield, WI	3/10/2020	25,000.00
Clifton House dba Beacon Haven, New Brighton, MN	3/10/2020	25,000.00
Daystar, Inc., Davie, FL	3/10/2020	25,000.00
Desert View Christian Science Care, Scottsdale, AZ	3/10/2020	25,000.00
Fern Lodge, Inc., Castro Valley, CA	3/10/2020	25,000.00
First Church of Christ, Scientist, Katonah, NY	3/10/2020	39,978.00
First Church of Christ, Scientist, Tempe, AZ	3/10/2020	50,000.00
Glenmont Nursing Facility, Hilliard, OH	3/10/2020	25,000.00
LA County Visiting CS Nurse Service, Glendale, CA	3/10/2020	25,000.00
Lynn House of Potomac Valley, Alexandria, VA	3/10/2020	25,000.00
Noontide Visiting CS Nurse Service, Plymouth, MI	3/10/2020	25,000.00
Overlook House dba Upward Wing, Rocky River, OH	3/10/2020	25,000.00
Peace Haven Associates, St. Louis, MO	3/10/2020	25,000.00
Sunland Home Foundation, Encinitas, CA	3/10/2020	25,000.00
Sunrise Haven, Kent, WA	3/10/2020	25,000.00
The Leaves, Inc., Richardson, TX	3/10/2020	25,000.00
Visiting CS Nursing Care of Greater Chicago, IL	3/10/2020	25,000.00
Wide Horizon, Wheat Ridge, CO	3/10/2020	25,000.00
Total Distributions to Beneficiaries		\$ 987,640.11

EXHIBIT

“3”

FERNALD, TAFT, FALBY & LITTLE
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SILAS LITTLE
MARK D. FERNALD

RICHARD FERNALD (1929-2020)

RETIRED:

ROBERT TAFT (2015)

J. RODERICK FALBY (2015)

February 4, 2021

Via Email
courtney.aladro@state.mass.us

Ms. Courtney Aladro
Office of the Attorney General
Non-Profit Organizations/Public Charities Division
1 Ashburton Place
Boston, MA 02018

Dear Ms. Aladro:

Thank you for speaking with me last fall concerning the Trust under the residuary clause (Clause VIII) of the Will of Mary Baker Eddy, the founder of Christian Science. During that conversation, we discussed two issues:

1. Is the First Church of Christ, Scientist, Boston (also known as The Mother Church) obligated to make annual reports to the Massachusetts Attorney General concerning the funds it holds in Trust under Clause VIII of the Will of Mary Baker Eddy? As of March 31, 2019, those funds exceeded \$16,000,000.
2. What options exist to require The Mother Church to comply with the terms of the Clause VIII Trust?

In discussing the first issue, you concluded that the funds held by The Mother Church as Trustee under the Clause VIII Trust is held for a "religious purpose" and therefore is not subject to the reporting requirement in MGL c.12 Section 8F.

With respect to the second issue, you have pointed out that the Attorney General has exclusive standing to enforce the terms of a Charitable Trust.

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This letter addresses The Mother Church's failure to comply with the terms of the Clause VIII Trust.

Clause VIII of the Will of Mary Baker Eddy reads, in pertinent part, as follows:

I give, bequeath and devise all the rest, residue and remainder of my estate, of every kind and description, to The Mother Church - The First Church of Christ, Scientist, in Boston, Massachusetts, in Trust for the following general purposes;

I desire that such portion of the income of my residuary estate as may be necessary shall be used for the purpose of keeping in repair the church building and my former house at #385 Commonwealth Avenue in said Boston, which has been transferred to said Mother Church, and any building or buildings which may be, by necessity or convenience, substituted therefor; . . . and I desire that the balance of said income and such portion of the principal as may be deemed wise, shall be devoted and used by said residuary legatee for the purpose of more effectually promoting and extending the religion of Christian Science as taught by me.

Attached hereto as Exhibit A is a transcription of Mrs. Eddy's Will and Codicil.

In 1913, The Mother Church, as Trustee of the Clause VIII Trust, became the owner of Mrs. Eddy's former home located at 400 Beacon Street in Chestnut Hill, Massachusetts. In 2006, a trust created by The Mother Church sold the 400 Beacon Street property for a little over \$13,000,000. The Mother Church has always maintained that it held the 400 Beacon Street property in trust, and that it now holds the sales proceeds in trust under Clause VIII of Mrs. Eddy's Will. Unfortunately, The Mother Church has also consistently maintained that it is accountable to no one in its handling of the 400 Beacon Street proceeds.

Mrs. Eddy's Will was probated in New Hampshire over 100 years ago. Six trustees of the Clause VIII Trust were appointed by the Merrimack County Probate Court in Concord, New Hampshire in 1913. Annual accountings of the Clause VIII Trust have been filed with the Merrimack County Probate Court ever since. The 400 Beacon Street property has never been part of those accountings, however.

When my client learned last year that the 400 Beacon Street property had been sold, it asked the Merrimack County Probate Court to require The Mother Church to account for the 400 Beacon Street proceeds as part of the annual accountings of the Clause VIII Trust. The Mother Church objected on the grounds that jurisdiction over the 400 Beacon Street proceeds rests in Massachusetts.

The New Hampshire Director of Charitable Trusts agrees that The Mother Church must hold the 400 Beacon Street proceeds in trust for the purposes stated in the Clause VIII Trust, "but oversight of that Trust (or institutional fund) is the responsibility of the Massachusetts Attorney General, not the New Hampshire Attorney General."

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Attached as Exhibit B is a Report dated October 8, 2019 which the attorneys for The Mother Church filed with the New Hampshire court in connection with my client's request that the proceeds from the sale of the 400 Beacon Street property be part of the accounts of the Clause VIII Trust filed with the New Hampshire court. The Report gives a brief history of the 400 Beacon Street property. I direct your attention to page 7 where it states as follows:

During fiscal years 2008-2013, they applied \$3,625,015.71 from the fund to the operating and capital expenditures for Church edifices and 385 Commonwealth Avenue, as authorized by Clause 8 and consistent with the Merrimack County Probate Court 1993 Order. The balance of the fund as of March 31, 2019, was \$16,160,569.67.

This language from the Report gives rise to three issues. First, Clause VIII of Mrs. Eddy's Will does not allow any use of the Clause VIII Trust for the operating expenses of The Mother Church. The Report's statement that Clause VIII money has been used for the operating expenses of The Mother Church is a clear violation of the terms of the Trust.

Second, Mrs. Eddy's Will does not allow any principal of the Clause VIII Trust to be used for repair of The Mother Church and 385 Commonwealth Avenue. Only income may be used for "keeping in repair the church building." We do not have an accounting of The Mother Church's management of the proceeds of the sale of 400 Beacon Street, because The Mother Church refuses to provide one, but it is very unlikely that the Trust generated \$3,625,015.71 of interest and dividend income during the six fiscal years from 2008-2013. We know this because the portion of the Clause VIII Trust that files annual accounts filed in New Hampshire showed \$1,901,675.52 of income for those same six years. Both parts of the Clause VIII Trust--the part that files New Hampshire accountings, and the part holding the 400 Beacon Street proceeds--were managed by The Mother Church in the same pooled investment account, so the income of each part of the Clause VIII will be proportional to the value of the assets in that part. The Massachusetts part of the Clause VIII Trust is about 60% the size of the New Hampshire part of the Clause VIII Trust (\$16,160,569.67 vs. \$26,586,507.17 as of March 31, 2019), so we can infer that the income of the Massachusetts part of the Trust for fiscal years 2008-2013 was about 60% of the income of the New Hampshire part of the Clause VIII Trust, which works out to \$1,155,930.70. The inescapable conclusion is that a substantial amount of principal was used during fiscal years 2008-2013 to make repairs to The Mother Church and 385 Commonwealth Avenue, in violation of the Clause VIII Trust.

Third, it appears that during those six fiscal years, no funds were used for "the purpose of more effectually promoting and extending the religion of Christian Science as taught by me." Since 2013, there has been no indication in any Christian Science publication that the 400 Beacon Street proceeds are being used to promote Christian Science, or are available to Christian Science branch churches to promote the faith.

By now I'm sure you can understand why my client seeks your help. Mary Baker Eddy created one Trust in Clause VIII of her Will. That Trust has been divided into two parts since

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Mrs. Eddy's death, but those two parts are on very divergent paths. The New Hampshire part is overseen by a five-member Board of Trustees. Those Trustees are also the Directors of The Mother Church. The Trustee of the Massachusetts part is The Mother Church itself.

The Mother Church has filed annual accounts for the New Hampshire part with the Probate Court in Concord, New Hampshire for over 100 years. The Mother Church does not file accounts for the Massachusetts part with anyone. (In 1981, The Mother Church, acting as "Trustee under the Will of Mary Baker G. Eddy," transferred the 400 Beacon Street property to the Church Historical Trust. From approximately that time until 2007, the Church Historical Trust filed annual accounts with your office).

The New Hampshire part of the Clause VIII Trust is subject to a March 19, 2018 probate court order which states that the primary purpose of the Clause VIII Trust is to more effectively promote and extend the religion of Christian Science as taught by Mrs. Eddy. The Trust may also be used to pay for repairs to The Mother Church, but given the "embedded conflict" between the Trustees of the Clause VIII Trust and The Mother Church, "any distributions for repairs need to be disclosed to, and approved by, the DCT (the New Hampshire Director of Charitable Trusts)." Finally, "The Mother Church may not receive distributions intended to 'promote and extend' directly or for its programs, rather, they will be distributed to third-parties: and . . . availability of those funds/potential distributions will be published prominently in the *Christian Science Monitor*." The Massachusetts portion of the Clause VIII Trust, based on the information The Mother Church has been willing to reveal, has been used since 2006 exclusively to pay for operating expenses of The Mother Church and to pay for repairs to The Mother Church, and 385 Commonwealth Avenue. Not one penny has been used to promote Christian Science.

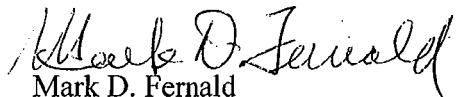
Through the efforts of the Second Church of Christ, Scientist, Melbourne, over several years, the Trustees of the Clause VIII Trust as administered in New Hampshire have been obliged to modify their management of the Trust so that it more closely follows the original intent of Mary Baker Eddy. My client seeks your assistance in bringing about the same change of management over the Massachusetts part of the Clause VIII Trust. Might I suggest that you talk to Thomas Donovan, the New Hampshire Director of Charitable Trusts, so that there can be harmonious oversight by both of your offices to ensure that management of both parts of the Clause VIII Trust is consistent? Perhaps, as a result of a conversation with Mr. Donovan, the two of you will conclude that it would be more efficient and logical to have the entirety of the Clause VIII Trust administered in just one state.

As the probate court in New Hampshire noted in its Order dated March 19, 2018: "It is well-settled that the intent of the Testator/Settlor is the veritable North Star guiding a Court when it is interpreting a will and testamentary trusts." My client is hopeful that with your assistance, the management of the Massachusetts part of the Clause VIII Trust will in the future reflect the intent of its creator, Mary Baker Eddy.

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Thank you for your consideration of this letter. I am available to further discuss it with you at your convenience.

Very truly yours,



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MDF:jfk

Enc.

cc: Mr. Timothy James Marabeas, Clerk,
Second Church of Christ, Scientist, Melbourne

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