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Case No. 628488-1

COURT OF APPEALS
FOR THE STATE OF WASHINGTON
DIVISION I

THOMAS RENTZ, JR. ET AL.,
Appellants,

v.

REVEREND JANN WERNER,
Respondent.

RESPONDENT'S BRIEF

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I. INTRODUCTION

Aquarian Foundation is a spiritualist church founded by Reverend Keith Milton Rhinehart in 1955. Aquarians follow the teachings of the Real Ascended Masters who have surpassed the cycle of life, death, and reincarnation, and who now exist eternally. Aquarians believe the Real Ascended Masters had a special connection with Reverend Keith Milton Rhinehart, the church's first Ecclesiastical Head and the medium through whom Aquarians believe the Masters communicated with ordinary mortals.

Spiritual and temporal power are intertwined in Aquarian Foundation. Because Aquarians believed Reverend Rhinehart had unique spiritual gifts, they endowed him with broad temporal powers to govern the daily affairs of the church. The church's governing documents grant the Ecclesiastical Head the powers to choose the Board of Directors, to select and remove local spiritual leaders, and to require sworn loyalty and obedience as a precondition to any person's admission to membership in the church.

After Reverend Rhinehart's death in 1999, most church members transferred their loyalty and faith to the person prophesied to succeed him, his "spiritual heir," the current Ecclesiastical Head, Reverend Jann Werner. Most Aquarians believe that Reverend Werner inherited something special from Reverend Rhinehart at his death, that she has the same support from the Real Ascended Masters that Reverend Rhinehart did, and that she will grow and develop in that spiritual position and power. Reverend Werner's status as Reverend Rhinehart's spiritual heir means she is also the heir to his temporal powers. Like him, she has the power and the duty to choose the Board of

Directors, select and remove local spiritual leaders, and require each member's loyalty.

Although appellants agree these powers belonged to the first Ecclesiastical Head, they ask the Court to strip them from its second. Appellants' claims sprout from a religious schism. Appellants reject the notion Reverend Werner is the founder's "spiritual heir," and decline to defer to her as they did Reverend Rhinehart. Unlike other Aquarians, appellants believe that while Reverend Rhinehart was endowed with extraordinary spiritual gifts, those gifts died with him. Accordingly, appellants want this Court to impose a new governing structure on the church, one that is decentralized, transparent, and democratic, instead of the hierarchical and centralized governing structure it has always had. The new governing structure appellants want to see imposed would leave Reverend Werner with little or no power: after all, in appellants' eyes, Reverend Werner is nobody special. Appellants thus ask the Court to reform Aquarian Foundation and establish a new church consistent with their beliefs.

The trial court dismissed appellants' claims. That order was correct for three reasons. First, Aquarian Foundation is now, and always has been, a hierarchical church with a strongly centralized structure. Under Washington law, when the self-governance of a hierarchical church like this one is challenged, courts refuse to hear the dispute – even if it has to do with a secular issue, such as a claim to church property, that could otherwise be decided by a civil court.

Second, even if Aquarian Foundation were not a hierarchical church, appellants' claims are entangled with a doctrinal debate about whether Reverend Rhinehart had a "spiritual heir" who inherited his powers and who will grow and

develop with the same support from the Masters. Under the First Amendment, no civil court can allow itself to be drawn into that doctrinal debate.

Third, appellants' challenges are barred by Washington's ministerial exception doctrine, which prevents civil courts from adjudicating the scope of a minister's powers or her relationship to her church, hierarchical or not.

The trial court properly dismissed all claims for lack of subject matter jurisdiction. That decision should be upheld.

II. STATEMENT OF THE CASE

It is necessary at the outset to correct a few misrepresentations made by appellants. First, appellants' opening brief's caption indicates that they filed claims against Aquarian Foundation as well as Reverend Werner. To the contrary, appellants named only Reverend Werner as a defendant. Although they amended their complaint several times, they never named Aquarian Foundation as a defendant in the trial court. CP 797-801; 778-84; 2576-82. Second, appellants' brief repeatedly suggests Reverend Werner failed to comply with discovery. This contention is false. Reverend Werner complied with all discovery requests made to her.

Reverend Werner respectfully asks that appellants either identify those portions of the record that show they named the church as a party and that Reverend Werner was ordered to comply with discovery, or correct these misrepresentations in their Reply.

A. Aquarian Foundation Is Headquartered In Seattle.

Founded by Reverend Keith Milton Rhinehart in 1955, Aquarian Foundation is a spiritualist church headquartered in Seattle, Washington. CP 1.

The current Ecclesiastical Head, Reverend Jann Werner, succeeded Reverend Rhinehart in that position not long after Reverend Rhinehart's death in 1999. CP 2-3. Most Aquarians believe Reverend Werner's succession to this position is a result of the "direct, unique, irrevocable spiritual lineage" between them. CP 3.

Seattle is the base of the church's leaders, both the Ecclesiastical Head, who decides spiritual matters, and the Board of Directors, who decides secular matters. CP 12. The parent church in Seattle oversees more than twenty local branches and study groups worldwide. CP 11. All local branches and study groups in other locations are subordinate to the mother church in Seattle; decisions made by the secular and ecclesiastical leaders in Seattle are binding on all branches and study groups, no matter where they are located in the world. Id. Indeed, the Board of Directors and the Ecclesiastical Head have the power to close any branch or study group. Id.

B. Aquarian Foundation's Founder Had A Unique Connection To The Divine.

Aquarian Foundation's hierarchical structure flows from its origins as a church based on the unusual spiritual gifts of founder Reverend Rhinehart. Reverend Rhinehart's extraordinary spiritual gifts literally founded the church, because they inspired its first members to join. For example, appellant Martin McDermott testified that he was inspired to join because, according to Mr. McDermott, Reverend Rhinehart had "precognitive ability," which is the ability to predict the future; "physical mediumship," which is "when a medium can produce or through a medium is produced a physical change in some area around the medium," including "a white fluid substance called ectoplasm"; "apport

mediumship,” which is “when objects are materialized from the spirit world or from another location somewhere else on the earth and are transported through what is called space and time and rematerialized in the presence of the medium or in the case of many instances with Keith Rhinehart through his skin.” CP 270-71.

More dramatically, however, appellant Patricia O’Boyle testified that angels could appear through Reverend Rhinehart. In 1973, she was “amazed” by “materializations” from “ectoplasm” as a result of Reverend Rhinehart’s gifts. CP 424. Patricia O’Boyle saw “angels materialize in the séance room,” including St. Teresa, “a full flesh and blood materialization,” whose “whole being was glowing . . . but the light from the hands was very intense.” CP 425. Ms. O’Boyle felt herself to be in “the presence of universal mind, Christ consciousness, divine love. It was like divine bliss.” *Id.* That miraculous experience caused her and some “50-80” others to join Reverend Rhinehart’s church that day. *Id.*

Patricia O’Boyle testified that Reverend Rhinehart’s mediumship was an extraordinary and unique event: “somebody like Reverend Rhinehart comes along . . . [p]erhaps every 2- to 3,000 years.” CP 424-25. Reverend Rhinehart was an “avatar,” according to Ms. O’Boyle; Reverend Werner, his successor, is gifted but not an avatar. CP 426. Appellant Judy Rae Topham testified the “Real Ascended Masters selected Reverend Rhinehart as their messenger or prophet.” CP 1679. These facts help explain why Aquarian Foundation is structured to concentrate so much power in the Ecclesiastical Head, as set forth in more detail below.

C. The Governing Documents Require Religious Interpretation.

At their very beginning, the church’s ByLaws include the following instruction: “THE GOLDEN RULE -- in the true spirit of Mathew 22:37-39 must

be our standard in thought, word, feeling and action.” CP 15. Reverend Werner explained that the Golden Rule is the “gap-filler” provision in the ByLaws, and governs their interpretation. CP 72. In other words, only one who is competent to read the ByLaws in the “true spirit of Mathew 22:37-39” can resolve a dispute, including the dispute between appellants and Reverend Werner, as to their interpretation.

Appellants invite the Court to construe Aquarian Foundation’s governing documents according to exactly the same rules of construction that apply to ordinary corporate by laws and articles, but that invitation would defy the stated spirit and purpose of those documents. The Articles of Incorporation state this corporation’s purpose to “study the phenomenon of spirit return, of psychic research and apparition.” CP 25. The Articles of Incorporation explain that this “corporation” exists to “conduct religious seances of all types” and to witness “all phases of mental and physical mediumship demonstrated by Rev. Keith Milton Rhinehart.” Id.

Reverend Rhinehart made it clear that this corporation “must always remember that we are serving GOD, doing the work of GOD in our ministry unto MAN.” CP 15. Appellants ignore that language in the ByLaws. They ask the Court to bulldoze the religious nature of these documents and enforce them the same way it would any secular corporate by laws or articles of incorporation.

D. The Governing Documents Concentrate Power In The Church’s Prophet.

The ByLaws concentrate tremendous power in the Ecclesiastical Head, who Aquarians believe was the Masters’ prophet.

1. The Ecclesiastical Head has the power to choose the Board of Directors.

The ByLaws read,

ARTICLE III
Board of Directors

Section 1. GOVERNING BOARD: The Church Board of Directors shall consist of five (5) members of the Church who shall be elected by the members upon recommendation of the ecclesiastical head, for a term of two (2) years. The Minister, Dr. Keith Milton Rhinehart, shall be the permanent President of the Board as long as he may live, unless he voluntarily resigns, and may exercise a vote only in case of a tie.

.
Section 3. VACANCIES: Should a vacancy occur on the Board, the remaining Board members, upon recommendation of the ecclesiastical head, shall fill said vacancy by appointment.

CP 18. The Articles of Incorporation echo this language and confirm the Ecclesiastical Head's power to choose the Board. CP 27. As will be discussed in more detail below, the phrase, "upon recommendation of the ecclesiastical head" is putting it mildly: only persons hand selected by the ecclesiastical head have ever served on the church's Board of Directors. "Upon recommendation of the ecclesiastical head" means, in practice, that no person who was not first chosen by the Ecclesiastical Head has ever served on the Board.

2. The Ecclesiastical Head has the power to choose local spiritual leaders.

The ByLaws also provide that the ecclesiastical head selects local spiritual leaders.

ARTICLE V
Minister

Section 1. POWERS AND DUTIES OF
MINISTER: The Minister shall have the power to
manage the ecclesiastical affairs and the control of
the character and method of services of the church
and appoint or approve all committees, and all
helpers in the ecclesiastical work of the Church.

CP 19. In fact, as will be discussed in more detail, this provision has always been interpreted to mean that the ecclesiastical head not only hires, but also closely monitors and disciplines local spiritual leaders.

3. The Ecclesiastical Head is entitled to loyalty from all members.

Appellants misleadingly contend that anyone can join Aquarian Foundation and that there has never been any requirements to do anything but be willing to learn. (Appellants' Brief at 15). This contention is false.

Before anyone can join Aquarian Foundation, he or she must sign a Membership Application that reads,

I further solemnly swear that I shall support the existing traditions, policies or traditions of the church as established and evolved by its founder, Keith Milton Rhinehart.

And I further state that no attempt will ever be made by me to alter or change the sacred teachings, policies, or traditions of the church except that which is endorsed by Keith Milton Rhinehart.

CP 31; cf. CP 106. In other words, if you want to be an Aquarian, you must first understand, and then agree to be faithful to Reverend Rhinehart's teachings, policies, and traditions. Contrary to what appellants would have this Court believe, it is apparent that disloyalty to the church's teachings, policies, or

traditions is grounds for removal. These documents show that membership in Aquarian Foundation is a privilege, not a right. Eligibility to share in this privilege is clearly a matter of religious faith: loyalty to “the church’s teachings, policies, and traditions” is the prerequisite.

Appellants concede this loyalty requirement was not installed by Reverend Werner: it has been on the Membership Application since at least 1973. CP 456. One can join the church, and obtain a membership card, only if one completes this application. CP 455. That membership card is no mere empty formality: having that card is a prerequisite to participating in important Aquarian functions like seances, master classes, and biennial meetings. *Id.* Moreover, members are put on notice when they receive the membership card that it is good only for “the calendar year above and [is] subject to renewal thereafter.” CP 34. In other words, members do not automatically have access to master classes and seances for life once they are admitted. The Membership Application and membership card together suggest that if a member is determined not to be faithful to the church’s teachings, the membership card may not be renewed.

In fact, contrary to appellants’ contention that Reverend Rhinehart allowed anyone to join, and remain in, Aquarian Foundation, the record shows that membership has always been contingent on the Ecclesiastical Head’s will. The record includes a “letter of apology” from an unidentified “past member” seeking forgiveness for “undermining” Reverend Rhinehart, and asking to be readmitted. CP 698. The letter is undated, but it is clear that Reverend Rhinehart, like Reverend Werner, required members to be loyal.

Appellants themselves testified that Aquarian Foundation is, by religious necessity, a closed organization that admits only certain qualified individuals into its more advanced teachings. Appellant Sera Baxter testified, “only members of Aquarian Foundation are eligible to attend transformation services, master classes and séances.” CP 607. She testified, “a certain level of understanding is necessary. It's like prerequisites, to my mind. You don't take advanced composition when you haven't passed English 1B yet.” Id.

Appellants concede that admission to the church depends on “loyalty” to, and “a certain level of understanding” of religious teachings. Clearly, the dispute over who is eligible to belong to this church is a religious question. Since the Ecclesiastical Head is the ultimate authority on religious questions, that dispute lies within her jurisdiction.

E. Aquarian Foundation Is Hierarchical.

Appellants’ own testimony established Aquarian Foundation is a hierarchical church. For example, Sera Baxter testified that the original church in Seattle is the “mother church,” and the local branches and study groups are her “chicks.” CP 612. She explained Aquarian Foundation is a “hierarchical” church with “power or authority lines that extend to the various subgroups.” CP 624.

Appellant Mary Lou Rentz testified Aquarian Foundation is a “hierarchical” church with a “chain of command” running from the President and Board of Directors through the center leaders, down to the members. CP 642. Seven current and former members of Aquarian Foundation’s Board of Directors, and three local spiritual leaders can confirm that Aquarian Foundation is a hierarchical church, including Nancy Campbell, CP 1820-23; Pietro John

Caporusso, CP 1840-44; Nancy Turner, 1855-69; Julia Bodlack, CP 1796-1802; Ted Bickerstaff, CP 1803-06; Joan Margau, CP 1807-14; Neil Litman, CP 1815-19; Jeff Earnshaw, CP 911-13; Patricia Earnshaw, CP 959-61; Angela Kenney, CP 962-64.

1. Appellants deferred to Reverend Werner.

Appellants' behavior to Reverend Werner, at least prior to this litigation, was consistent with this hierarchy.

Appellant Rory O'Boyle wrote a job application letter to Reverend Werner postured "in a spirit of profound humility and with a deep gratitude." CP 565-66. He "place[d] [him]self under the hierarchical praesidium of the Masters and the Aquarian Foundation," and "[swore] loyalty, fealty and obedience to the traditions, by-laws and teachings of the church as revealed through Master Kumara¹ (Rev. Keith Milton Rhinehart)." Id.

Appellant Judy Rae Topham wrote in a 2000 letter to the leadership in Seattle, "I know that Reverend Jann Werner is the Divine and Appointed Head of the Aquarian Foundation and was Appointed by Master Kumara and The Ascended Masters." CP 1702 (emphasis original).

Appellant Patricia O'Boyle was a vocal advocate of Aquarian Foundation's hierarchical structure when she was a local spiritual leader in Anchorage, according to current Board member Nancy Turner, CP 1858, and, according to appellant Sera Baxter, Patricia O'Boyle "was doing the best she could do to be a good and effective spiritual leader, and . . . was saying nothing

¹ "Master Kumara" is another name for Reverend Rhinehart. CP 1686.

critical of Reverend Werner and . . . was loyal to her” because obedience to the Ecclesiastical Head was part of her job. CP 618-19.

In other words, the highly centralized and hierarchical governing structure established during Reverend Rhinehart’s tenure as Ecclesiastical Head continued to function during Reverend Werner’s tenure.

2. The Mother Church in Seattle holds local branches’ purse strings.

Appellants Patricia O’Boyle, Martin McDermott, and Thomas Rentz testified that Aquarian Foundation of Seattle purchases, and holds title to, the parsonages in which local spiritual leaders live, and has done so since Reverend Rhinehart’s tenure, as. CP 111; 294; 439. If the parsonage used by the local spiritual leader is rented, Seattle “is responsible for the rent,” as Treasurer Nancy Campbell testified. CP 1822.

In their turn, local branches and study groups send any cash they take in as donations in excess of their immediate needs to support the Mother Church in Seattle. CP 285. “[W]hen all the expenses [at the local level] were taken care of, the rest of the donations were sent to the mother church,” according to appellant Martin McDermott. CP 285. He explained that local branches or study groups send money to Seattle so that the church can expand. Id. Appellant Patricia O’Boyle testified that Seattle also pays the local spiritual leader’s salary and covers insurance. CP 432

What is extraordinary about the financial structure of this church is how highly centralized it is, even down to very small financial decisions at the local level. For example, during Reverend Rhinehart’s tenure, local leaders had discretion to spend only “\$200 for local branches or study groups out of petty

cash. Anything above that required board approval,” as appellant Martin McDermott testified. CP 283. Appellant Patricia O’Boyle, who served as local spiritual leader in Anchorage, confirmed this rule. If, for example, the parsonage needed repairs that would cost more than \$200, she had to call Seattle “to get permission and then submit to the treasurer the receipts for that particular expenditure.” CP 459.

Appellants’ own testimony established this church has such a highly centralized, hierarchical structure that a local branch can hardly burp without permission from Seattle.

3. The Mother Church decides whether, where, and how to establish a local branch.

Appellant Patricia O’Boyle explained that local branches grow from “study groups,” which can start in a member’s home. CP 430. “[W]hen the person's living room starts to get too full, people might start thinking about forming a branch,” she testified. *Id.* She explained that the study group leader would not have discretion to establish a branch, but “would have to discuss that with the authority in the church,” which was Reverend Rhinehart when Patricia O’Boyle was the study group leader in Austin, and is Reverend Werner today. *Id.* Appellant Martin McDermott confirmed the fact that the leaders in Seattle control the process of expanding the church, CP 285, as did appellant Thomas Rentz.. CP 389.

Appellant Thomas Rentz explained that the central authorities in Seattle maintain tight control over this process. He recalled that when two members named Michael and Misty Herr, in or about 1980, tried to use Aquarian teaching

to establish their own “stand alone” entity called the “Aquarian True Center of Light,” Reverend Rhinehart punished them by suspending their membership for several years. CP 356; 389.

4. Seattle monitors and disciplines local spiritual leaders.

Reverend Werner testified that any “Local Spiritual Leader has limited discretion in handling issues that arise with members on a local level. If any significant issues arise the Local Spiritual Leader must apprise the Ecclesiastical Head of the nature of the problem and seek counsel from the Ecclesiastical Head.” CP 73-74.

Appellants’ testimony confirms Reverend Werner’s on this point. For example, appellant Martin McDermott testified that Reverend Rhinehart corrected the way a local leader in Vancouver handled a redecorating dispute over, inter alia, a hot-glued sculpture that was falling apart, CP 276-78; Reverend Rhinehart also reprimanded a local leader in Miami Beach who selected a suite in a hotel as the location for a healing conference and who acted wholly independently in the selection process, without the supervision and input from leaders in Seattle. CP 286. Seattle leadership was closely monitoring and correcting the conduct of local spiritual leaders in Miami Beach and Vancouver, even though the leaders in Seattle knew nothing about hotels in Florida and may never have seen the hot-glued sculpture.

That level of minute control over local groups is consistent with the way Seattle handles local branches to this day. For example, as appellant Patricia O’Boyle testified, when the local group in Anchorage needed to find a bigger chapel, they had to get approval “from the head of the church[, Reverend

Werner,] and from the board of directors” in Seattle, even though it was O’Boyle, the local leader in Anchorage, who did all the footwork and knew the local real estate market. CP 435-36.

Local membership has never had any say in any decisions affecting local groups, or any power to veto Seattle’s decisions. For example, Reverend Rhinehart fired a local spiritual leader in Houston over the protests of that leader’s devoted followers in that city. CP 118-19.

5. Reverend Werner continues Reverend Rhinehart’s hierarchical governance.

Reverend Werner continued Reverend Rhinehart’s hands-on management style. When a couple of members of the local branch in Anchorage became obstreperous, Reverend Werner gave then-local spiritual leader, appellant Patricia O’Boyle, highly detailed instructions on how to handle the issue in a “conference call [that lasted] for about 20 minutes.” CP 434. Reverend Werner essentially scripted what O’Boyle was to say. Reverend O’Boyle testified that she never questioned Reverend Werner’s authority to script her handling of the issue in this way, but rather sought to execute Reverend Werner’s instructions. CP 437.

Thomas Rentz confirmed the Ecclesiastical Head closely monitors and controls local spiritual leaders with respect to handling disruptive or unruly members. He testified that, apart from situations involving an immediate threat to safety, the local spiritual leader has to get guidance from Seattle “as part of the process of what to do with the disruptive member.” CP 411.

6. Members have never had voting rights.

Appellants want a more democratic style of governance within Aquarian Foundation. They want the right to nominate, and vote on, candidates for the Board of Directors, as well as the right to vote on other issues. Appellants' own testimony, however, shows democratic governance would be contrary to the church's historical practice. For example, Martin McDermott testified he never observed "members in the local Vancouver study group voting on what the appropriate action would be to resolve a dispute." CP 295. He also testified that when Reverend Rhinehart announced a member's discipline at an international teleconference that a member in California, "It wasn't put up for a vote." Id.

7. Reverend Rhinehart always chose the Board of Directors.

Even the so-called "elections" of the Board of Directors have always been uncontested. Reverend Rhinehart would present his slate of candidates at the biennial meeting in Seattle, and the members would always shoo it in with a unanimous voice vote, "aye." Appellants Sera Baxter, Patricia O'Boyle, and Jean McDermott all testified that Reverend Rhinehart's whole slate of candidates for the Board of Directors was always voted on at once; it was always a voice vote; the vote was always a unanimous "aye"; no one ever heard a "nay"; and no one was ever elected to the Board without first being nominated by Reverend Rhinehart. CP 469; 616; 337. Patricia O'Boyle testified that on two occasions, once in 1997 and one in 1987, Reverend Rhinehart made a show of soliciting nominations for candidates for the Board of Directors from the floor at the biennial meeting, but then proceeded to reject the members' nominee and install

his choice on the Board. CP 468. There could hardly be a more emphatic confirmation of the fact that the ByLaws' phrase, "upon recommendation of the ecclesiastical head" means, in practice, that members have no voting rights. Cf. Declaration of Julia Bodlack, CP 1797-98 (confirming that Reverend Rhinehart installed his choice over the members' nominee); Declaration of Joan Margau, CP 1808-09 (confirming Reverend Rhinehart always installed his choice on the Board of Directors).

The notion that the ByLaws should now be construed so as to prevent Reverend Werner from exercising the unilateral power to select the church's Board of Directors is completely contrary to everything we know about how the ByLaws have always been interpreted. Aquarian Foundation is, and always has been, a profoundly hierarchical church, and the Ecclesiastical Head has always had exactly the powers appellants challenge, including the power to select the Board. Appellants' petition to install a democratic, decentralized governing style on this church is an effort to disestablish the church as Aquarians know it and reform it according to appellants' vision, which has no faith in Reverend Werner.

8. Aquarian Foundation has decision makers.

Appellants contend that Aquarian Foundation lacks decision-makers to resolve disputes. Appellants argue that since there is no one within the church to decide this dispute, a civil court must step in to fill that vacuum and decide this matter.

This claim is contradicted by the record. First, the record (a record that consists largely of appellants' own testimony cited above) shows the

Ecclesiastical Head is, and always has been, the arbiter of all questions having to do with the discipline of local members and local spiritual leaders.

Additionally, the Board of Directors serves as an appellate tribunal. For example, Joan Margau appealed Reverend Rhinehart's termination of her employment as local spiritual leader to the Board of Directors. She explained, "Rev. Rhinehart made the decision to fire me, but gave me the option to appeal his decision within thirty days to the Board of Directors." CP 1811-12. Margau did, in fact, appeal her termination to the Board of Directors, and they reversed her termination. *Id.* Similarly, appellant Patricia O'Boyle was also given the option of appealing her termination to the Board of Directors, but did not do so. CP 445.

9. The leaders' decisions are binding.

Appellants claim that no decision making bodies exist within Aquarian Foundation, but that contention is belied by the record. Appellants and current and former Board members Martin McDermott, Patricia O'Boyle, Judy Rae Topham, Sera Baxter, Joan Margau, Ted Bickerstaff, Thomas Rentz, Mary Lou Rentz, Jean McDermott, Julia Bodlack, Patricia Earnshaw, Jeff Earnshaw, Angela Kenney, Neil Litman, Reverend Werner, and John Caporusso all testified that they are bound by the decisions made by the Ecclesiastical Head and Board of Directors. CP 271; 583; 624; 1686-87; 2548-49; 911-13; 959-61; 962-65; 966-67; 1804-05; 1816-17. There is no dispute on this point, nor has there ever been.

F. The Church Recognizes A Spiritual Hierarchy.

Appellants Patricia O'Boyle, Martin McDermott, Jean McDermott, and Sera Baxter, testified that the church recognizes a "spiritual hierarchy" comprised

of beings they variously describe as “the Real Ascended Masters,” or as “angels,” or “the Great Masters of Light.” CP 131-33; 308; 339; 460; 607.

That spiritual hierarchy necessitates a temporal hierarchy in order to ensure fidelity to the Masters’ teachings and spiritual growth. Joan Margau, a current member of the church, testified “[t]he Hierarchy of the Church imposes nothing upon me other than a corrective procedure to follow in order for me to function properly within the church, as a member, or as an employee.” CP 134-35. Neil Litman describes the hierarchy as “the Eastern tradition of the Guru/student relationship as it applies to Spiritual growth and unfoldment of the individual.” CP 135. “Implicit in this relationship is the authority of the Spiritual teacher in a continuum upward from the individual toward Higher Intelligence.” Id.

A letter that appellant Judy Rae Topham wrote Reverend Werner prior to the filing of this litigation is consistent with this description of a spiritually educational hierarchy. Topham wrote, “From the day I joined the foundation I HAVE HELD THE UTMOST DESIRE TO CONTINUE TO LEARN FROM THIS MYSTERY SCHOOL..MASTER JESUS, is my Master teacher., and the Council of Nine are in this hierarchy.” She continued, “I acknowledge you, Reverend Jan[n] Werner as the leader of this organization and I fully support you as the head of this church, and will continue to do so as you continue to teach us the masters work and I continue to attempt to learn and absorb it and internalize these teachings.” CP 600.

G. The Spiritual Hierarchy Necessitates The Temporal Hierarchy.

Joan Margau, a former local spiritual leader in Dallas, who was disciplined by Reverend Rhinehart, explained why the Ecclesiastical Head has such broad power to discipline members and local leaders. She remembers her disciplinary hearing vividly. “During my employment as the local Spiritual Leader in Dallas, Texas a member of the Church began speaking against me,” and went to Reverend Rhinehart with the complaints. CP 1811. When the hearing commenced, “Rev. Rhinehart then consulted the Hierarchy he answers to, the Real Ascended Master, Count Saint Germain, who spoke giving his Teaching. Rev. Rhinehart [made] the decision to fire me, but gave me the option to appeal his decision within thirty days to the Board of Directors.” CP 1812.

Aquarian Foundation’s centralized government is necessitated by its theology: only one person in Seattle could conduct the disciplinary hearing of a local leader in Dallas, because only that one person in Seattle could channel the higher spiritual hierarchy on whose teachings the church is based.

H. Reverend Werner Is Reverend Rhinehart’s Spiritual Heir.

Reverend Werner testified that her “succeeding Rev. Rhinehart is analogous to what happens in certain Eastern religious traditions, in which a guru chooses a student to take his place before he dies. There is a direct, unique, irrevocable spiritual lineage between Rev. Rhinehart and me.” CP 3. She explained, “I am the only person who received the final spiritual initiation during which Rev. Rhinehart transferred his spiritual power, knowledge, and authority before he died.” Id.

1. Reverend Rhinehart identified Reverend Werner as the next Kumara.

Reverend Werner was identified as Reverend Rhinehart's spiritual heir before he died. She testified Reverend Rhinehart "asked me did I know what it was to be the next Kumara, and... And foolishly I said yes." CP 1775.

Q. And at that meeting in Tucson in 1993, did he tell you that you would be his successor as ecclesiastical head?

A. What he said was, he asked me, Are you the next Kumara, and that was such a shock anyway, that -- and so I really didn't respond. I mean I was in shock. And then he turned to Marylou McIntyre and said something to the effect of, I think I found the next Kumara.

CP 1776.

Q. What is a Kumara?

A. A Kumara is the person who has taken on the mantle or given the mantle of spiritual authority from the real ascended masters and their hierarchy.

CP 1793. As the Kumara, Reverend Werner wears the mantle of authority from the masters and their hierarchy that Reverend Rhinehart previously wore.

2. Reverend Werner's position was preordained.

Members of Aquarian Foundation also believe Reverend Werner is believed to be Reverend Rhinehart's unique and irreplaceable spiritual heir. Local spiritual leader Patricia Earnshaw testified, "Rev. Werner has a special connection to Rev. Rhinehart, and that spiritual power passed from him to her when he died." CP 960. In fact, according to Patricia Earnshaw, Reverend Werner's current position is nothing less than the fulfillment of a prophecy. She testified, "[w]e

were always told through the years by the Real Ascended Masters communicating through Rev. Rhinehart that whoever came after him would have the same spiritual responsibilities and powers that he did to take care of the church.” CP 960. She explained that Reverend Werner’s succeeding to Reverend Rhinehart’s powers “was preordained. We understood that whoever was in that position would have the same support from the Real Ascended Masters to grow and to develop in that spiritual position and power.” Id.

3. Events after Reverend Rhinehart’s death proved Reverend Werner to be his spiritual heir.

Local spiritual leader Angela Kenney testified that she actually witnessed the transfer of Reverend Rhinehart’s spiritual authority to Reverend Werner in the form of a mist. Her testimony is so extraordinary that it deserves to be quoted at length:

Approximately three or four days after Rev. Rhinehart’s passing, I was at the funeral home in the early morning hours. I was sitting outside the funeral home with Rev. Werner and Rev. Julia Bodlack. As I sat speaking to them I saw a haze or mist move from the area of the funeral home where Rev. Rhinehart’s body lay. This haze then moved to Rev. Werner’s body, covering her. I have not witnessed anything like this before or since, but felt at the time it was the passing of his Spiritual energy to his Spiritual heir.

CP 963-64. Patricia Earnshaw’s husband, Jeff Earnshaw, also experienced something shortly after Reverend Rhinehart passed that confirmed his belief that Reverend Werner was his spiritual heir. CP 912.

I. Appellants Reject The Idea Reverend Werner Is The Kumara.

Appellants, however, do not accept Reverend Werner as the next Kumara. According to appellants, there is nothing special about Reverend Werner: she has

a job, like any other job, and any number of people might be eligible to do her work. Appellants Patricia O'Boyle, Sera Baxter, Thomas Rentz, Mary Lou Rentz, and Judy Rae Topham all testified they rejected the notion that Reverend Werner is the next Kumara or the spiritual heir of Reverend Rhinehart. CP 151; 624; 371; 642; 1680. That doctrinal dispute drives the effort to disempower Reverend Werner.

J. Appellants Admit They Have No Claim For “Misappropriation of Assets.”

Appellants pled that Reverend Werner “misappropriated church assets.” Each one of appellants testified, however, that they had no information or belief to plead anything bearing any resemblance to “misappropriation of church assets.”

Appellants’ testimony shows (1) they think Reverend Werner made a bad decision in pursuing litigation against a former local spiritual leader named Steve Young, and (2) they generally do not trust her, but (3) they have no reason to think she stole from the church:

Q. Ms. McDermott, in addition to soliciting donations for a litigation [against Steve Young] that turned out to be ill-founded, did Reverend Werner do anything else in your opinion that was a misappropriation of church assets?

MR. LACHMAN: Objection. Calls for a legal conclusion.

A. Well, all I can say is we have suspicions. I really can't say any more than that.

CP 335. Appellant Thomas Rentz confirmed that, while he disagreed with the church's decision to sue Steve Young, he had no reason to think that Reverend Werner stole from the church.

Q. In addition to the Steve Young [litigation] expenditure, are there any other facts known to you today that support your belief that Reverend Werner misappropriated church assets?

MR. LACHMAN: Object to the form. Calls for a legal conclusion. Go ahead.

A. None that I can recall right at the moment, ma'am.

CP 418.

Q. Ms. Baxter, do you believe that Reverend Werner has stolen money from the church?

A. I have nothing on which to base any belief whatsoever.

CP 618. Martin McDermott confirmed there was no basis for the claim that Reverend Werner "misappropriated" church assets.

Q. So sitting here right now today, you don't know of anything that makes you think Reverend Werner stole money from the church and put it into her pocket; is that correct?

A. That's correct.

CP 306.

Appellant Judy Rae Topham tried to rescue the misappropriation of assets claim by testifying that her misappropriation of assets claim was based on the fact that "too much time and money was spent on" Reverend Werner's trip to Anchorage to discipline Patricia O'Boyle. CP 595. But Topham admitted that

she had absolutely no reason to think that Reverend Werner was lavish on that trip, CP 596, and conceded that her gripe with Reverend Werner has nothing to do with money:

Q. [Y]our complaint about the trip isn't really misappropriation of assets, is it? What it really is, your complaint about the trip is Reverend Werner's judgment and leadership as -- in her capacity as president and ecclesiastical head of the church, isn't it?

MR. LACHMAN: Object to the form. Calls for a legal conclusion.

A. Yes.

Id. Appellant Mary Lou Rentz admitted that she had no personal knowledge of any fact that would support the conclusion that Reverend Werner stole from the church. CP 639-43.

Appellants try to cast this dispute in a secular light by contending that money is at issue. But appellants know of no financial misconduct by Reverend Werner because none exists. The church is audited every year, as its ByLaws require, and the independent auditors' reports have always shown the books are in order, as Treasurer Nancy Campbell's testimony confirms. CP 1820-23. Treasurer Campbell submitted independent auditor's reports for every year from 2001-2008; the report for each year confirmed that no financial irregularity had been found. CP 1824-32.

Apparently appellants pled "misappropriation of church assets" (which is not even a legally cognizable claim) because in some instances, Washington courts will make an exception and exercise jurisdiction over an otherwise nonjusticiable challenge to a religious leader's authority where the religious

leader is accused of stealing from a church. But, as the trial court correctly noted, “there has been no evidence of any misappropriation of funds” in this case. RP 84.

III. ARGUMENT

Subject matter jurisdiction is absent in this case for three reasons. First, Aquarian Foundation is a hierarchical church, and this Court must defer to its decision-makers. Second, the ministerial exception doctrine bars Washington courts from interfering in the relationship between a minister and her church. Third, the proper scope of the Ecclesiastical Head’s power depends on religious questions, such as whether the current Ecclesiastical Head inherited the founder’s spiritual powers. The trial court’s order should be upheld.

A. **Watson v. Jones Defines Washington’s Jurisdictional Approach.**

With respect to property disputes arising with churches, Washington has adopted the polity approach set forth in Watson v. Jones, 80 U.S. (13 Wall) 679, 20 L.Ed. 666, 13 Wall. 679 (1871). Presbytery of Seattle, Inc. v. Rohrbaugh 79 Wn.2d 367, 373, 485 P.2d 615, 619 (1971); Southside Tabernacle v. Pentecostal Church of God, 32 Wn. App. 814, 821, 650 P.2d 231, 235 (1982).

Although this approach was developed to resolve property disputes within churches, other Washington courts have approved the Watson v. Jones approach for other apparently secular disputes, such as contract cases, arising within churches. See, e.g. Organization for Preserving Constitution of Zion Lutheran Church of Auburn v. Mason, 49 Wn. App. 441, 447, 743 P.2d 848, 851 (1987) (“We see no logical reason why a different approach should be used to determine

when the civil courts have jurisdiction over religious disputes not involving property.”)

Thus, even if appellants were correct in their contention that their claims are wholly secular, the Court would have to apply the Watson approach to this controversy. The Watson approach is one of “total deference by civil courts to the decision-making body of the religious organizations.” Id. The “doctrine of total deference” protects religious freedom. “It is of the essence of these religious unions, and of their right to establish tribunals for the decision of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organism itself provides for.” Watson v. Jones, 80 U.S. 679, 728-729 (1871).

Under the Watson approach of deference to a church’s decision-makers, it is critical for a civil court to determine who those decision-makers are. “[T]he threshold question in this jurisdiction is whether the [church] is hierarchical or congregational.” Southside Tabernacle at 821. A hierarchical church is characterized by a central decision-making body that has authority “over the whole membership of that general organization.” Id. at 817 (citing Watson at 722-23). A congregational church lacks any central decision-making body, and “is strictly independent of other ecclesiastical associations, and so far as church government is concerned, owes no fealty or obligation to any higher authority.” Id. at 814 (citing Watson at 722). A congregational church “is [not] subject to some higher central authority, [rather,] its participation in the General Church [is]

a voluntary step which does not trigger secular or ecclesiastical authority over the local church.” Id. at 826.

In a hierarchical church, each “local congregation is itself but a member of a much larger and more important religious organization, and is under its government and control, and is bound by its orders and judgments.” Watson v. Jones 80 U.S. 679, 726-27, 20 L.Ed. 666, 13 Wall. 679 (1871). “In a hierarchical setting, courts defer to the decision rendered by the highest church judicatory to which it was presented.” Southside Tabernacle at 819.

B. Aquarian Foundation Is A Hierarchical Church.

Aquarian Foundation has all the features of a hierarchical church, and none of the features of a congregational church. The ByLaws and Articles of Incorporation concentrate all the power in a handful of people who serve as ecclesiastical head and members of the Board of Directors. Plaintiffs themselves concede that the church’s governing structure is hierarchical. The Mother Church in Seattle owns all the local parsonages and chapels, or is responsible for their rent. The ecclesiastical head and Board of Directors hires and fires local spiritual leaders; pays their salaries; monitors and corrects their performance in even the most minute details. The Mother Church in Seattle decides whether a study group can become a branch; where it can be located or relocated; and even how it is to be decorated. Local members have no say in selecting or retaining their local spiritual leader. The members of Aquarian Foundation have never had any say in decisions made by their leaders in Seattle; they have never even had so much as a genuine vote on positions for the Board of Directors.

Aquarian Foundation belongs to the category of hierarchical churches. Even if this were a wholly secular dispute, a Washington court cannot consider challenges to the decisions made by its leadership regarding matters of governance. Since the Ecclesiastical Head of this church has considered and decided this dispute, CP 10, this Court should defer to that decision.

C. Subordination Of Local Branches Alone Establishes The Hierarchical Structure Of The Church.

Appellants' Reply Brief will no doubt ask this Court to ignore the subordination of local branches to the central leadership in Seattle, and instead will invite the Court to focus on language in the governing documents to support their position that the church should have a decentralized, democratic structure. Washington law requires that invitation to be rejected.

In a case like this one, where key provisions in the church's governing documents are disputed, the interpretation of governing documents, like Aquarian Foundation's ByLaws and Articles of Incorporation, could entangle the Court in a doctrinal dispute:

In some cases, ... the locus of control would be ambiguous, and "(a) careful examination of the constitutions of the general and local church, as well as other relevant documents, (would) be necessary to ascertain the form of governance adopted by the members of the religious association." In such cases, the suggested rule would appear to require "a searching and therefore impermissible inquiry into church polity."

Southside Tabernacle at 825 (emphasis added, citations omitted).

Where, as here, the governing documents can be read in more than one way, the Court must determine whether local branches are subject to a higher central authority:

To avoid an impermissible inquiry, the trial court must avoid a specific examination of what body within the structure of the church has the power to control church property. It should limit its inquiry to whether the local church is subject to some higher central authority, or is its participation in the General Church a voluntary step which does not trigger secular or ecclesiastical authority over the local church.

Id. at 825-26 (emphasis added). In other words, the Court does not resolve ambiguities in the ByLaws or Articles of Incorporation (an inquiry which risks involving the Court in a religious debate over what the “true Spirit of Matthew 22:37-39” requires in the application of the Golden Rule as a gap-filler), but instead determines whether local branches are subordinate to central authorities. If they are, then the Court defers to the church’s decision maker.

The trial court in this case erred (harmlessly) when it engaged in a “searching and therefore impermissible inquiry into church polity” and construed Aquarian Foundation’s ByLaws at length on November 8, 2008. RP 85-92. This Court should avoid that impermissible inquiry and instead limit itself to determining whether local branches are subordinate to Seattle. If they are, the church is hierarchical, and this Court defers to the decisions made by Ecclesiastical Head.

D. The Ministerial Exception Bars Appellants' Claims.

Even if Aquarian Foundation were a congregational church, however, appellants' claims would nonetheless be barred because they fall within the ministerial exception.

[C]ivil courts may not adjudicate matters involving a church's selection of its spiritual leaders. This 'ministerial exception' is a constitutionally-derived exception to civil rights legislation that 'insulates a religious organization's employment decisions regarding its ministers from judicial scrutiny. It applies 'when the disputed employment practices involve a church's freedom to choose its ministers or to practice its beliefs.'

Elvig v. Ackles, 123 Wn. App. 491, 495, 98 P.3d 524 (2004) (declining to adjudicate sexual harassment claim by associate minister against senior minister) (citing Bollard v. Cal. Province of the Soc'y of Jesus, 196 F.3d 940, 944 (9th Cir. 1999).)

The ministerial exception applies not only in civil rights cases, and not only to ecclesiastical authorities, but to all persons – even those in secular positions – whose job is to further the religious organization's mission:

Controversies touching the relationship between a church and its minister are normally avoided by secular courts because the introduction of government standards to the selection of spiritual leaders would significantly, and perniciously, rearrange the relationship between church and state. Significantly to the present case, this principle applies not just to ordained clergy, but to all employees of a religious institution whose primary functions serve the church's spiritual and pastoral mission.

Gates v. Seattle Archdiocese and Society of Jesus, 103 Wn. App. 160, 166, 10 P.3d 435 (2000) (declining to adjudicate secular pastoral assistant's claims that priest had expanded church employee's duties and workload beyond the scope of the employment contract) (citations omitted, emphasis added).

Those courts declined to consider secular claims like civil rights claims (Elvig) and contract disputes (Gates) because the claim involved the selection, duties, or authority of a religious or secular employee of a church. Adjudicating those questions would have entangled the civil court in religious questions. "Because the minister is the chief instrument by which the church seeks to fulfill its purpose, matters touching upon the minister's salary, place of assignment, and duties to be performed are not reviewable by a secular court." Gates at 438.

Appellants challenge Reverend Werner's powers. Reverend Werner is the chief instrument through which Aquarian Foundation seeks to express its beliefs and fulfill its purpose. The relationship between her and her church is immune from judicial scrutiny.

E. Appellants' Claims Would Entangle The Court In Doctrinal Questions.

Civil courts decline to be entangled in claims that could require them to construe religious doctrine. S.H.C. v. Lu, 113 Wn. App. 511, 4 P.3d 174 (2002). In Lu, a worshipper at a Buddhist Temple alleged that the Temple had negligently supervised Grandmaster Lu, who used his position to persuade a worshipper to partake of the "Twinned Body Blessing," e.g., have sex with him. In that case, the "Temple and its followers regard Grandmaster Lu as a Living Buddha-one to whom they have an obligation of obedience." Id. at 522. Members of this sect

“also believe that they are bound by the 50 stanzas of guru devotion to Grandmaster Lu,” which state that “the follower should ‘see only good qualities in [Grandmaster Lu], and never any faults.’” Id.

The Lu court held that it lacked subject matter jurisdiction over the negligent supervision claim, since such an inquiry would require the court to “examine the religious doctrine of the True Buddhist faith” that required deference to Lu. Id. To “determine whether the Temple was negligent in its ‘supervision and retention’ of Grandmaster Lu” would require the court to investigate whether the Temple was appropriately practicing its doctrine of deference to a Living Buddha, an inquiry that “necessarily would involve the ‘excessive entanglement that First Amendment jurisprudence forbids.’” Id. at 522.

Lu is on point. Where followers of Lu “should see only good qualities” in him, Aquarians “solemnly swear [to] support the existing traditions, policies or traditions of the church as established and evolved by its founder, Keith Milton Rhinehart” as a condition of membership in the church. In both cases, the religious leader is owed deference because of his or her spiritual power. While appellants dispute whether Reverend Werner succeeded to the same spiritual powers that Reverend Rhinehart had, her followers have no doubt that she did. This Court cannot allow itself to be entangled in that religious debate.

The trial court correctly dismissed the claims against Reverend Werner. That order should be upheld.

DATED this 30th day of July, 2009.

BETTS, PATTERSON & MINES, P.S.

A handwritten signature in black ink, consisting of several fluid, connected loops and curves.

By _____

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