

MARY C. ZINSNER
703.734.4363 telephone
703.448.6514 facsimile
mary.zinsner@troutmansanders.com

TROUTMAN SANDERS

TROUTMAN SANDERS LLP
Attorneys at Law
1660 International Drive, Suite 600
McLean, Virginia 22102
703.734.4334 telephone
troutmansanders.com

April 6, 2012

BY HAND

Honorable John T Frey
Fairfax County Circuit Court
4110 Chain Bridge Road
Fairfax, Virginia 22030

Re: *In Re: Multi-Circuit Episcopal Church Property Litigation* (CL-2007-0248724)
(omnibus case number); and
*The Protestant Episcopal Church in the Diocese of Virginia, an unincorporated
association v. Truro Church, a Virginia non-stock corporation*; (CL 2007-1236)

Dear Mr. Frey:

Enclosed please find the following:

1. Original and one copy of a Motion to Enforce Final Order, filed on behalf of The Protestant Episcopal Church in the Diocese of Virginia regarding Truro Church; and
2. Original and two copies of a cover sheet to the Motion to Enforce Final Order, filed on behalf of The Protestant Episcopal Church in the Diocese of Virginia regarding Truro Church;
3. Original and one copy of a Friday Motions Day – Praecepte/Notice setting the Motion to Enforce Final Order on the docket before Judge Bellows on Friday, April 20, 2012 at 2:00 p.m.

Please file-stamp the copies of the Motion, cover sheet and Praecepte and return them to our courier. If you have any questions, please do not hesitate to call me. Thank you for your attention to this matter.

Sincerely,



Mary C. Zinsner

cc: Gregory Sagstetter, Esq. (via electronic mail, w/enclosures)
All Counsel of Record (via electronic mail, w/enclosures)

VIRGINIA: IN THE CIRCUIT COURT OF FAIRFAX COUNTY

In re Multi-Circuit Episcopal Church Litigation;
The PROTESTANT EPISCOPAL CHURCH IN THE DIOCESE OF VIRGINIA,
an unincorporated association

Plaintiff
vs.

Civil Action No. CL 2007-248724;
CL2007-1236

Previous Chancery No. CH

TRURO CHURCH, a Virginia non-stock corporation

Defendant

SERVE:

FRIDAY MOTIONS DAY – PRAECIPE/NOTICE

Moving Party: Plaintiff Defendant Other

Title of Motion: Motion to Enforce Final Order Attached Previously Filed

DATE TO BE HEARD: 04/20/12 at 2:00 p.m. **Time Estimate** (combined no more than 30 minutes): 30

Time to be Heard: 9:00 a.m. **with** a Judge 9:00 a.m. **without** a Judge

10:00 a.m. (Civil Action Cases) Does this motion require 2 weeks notice? Yes No

11:30 a.m. (DOMESTIC/Family Law Cases) Does this motion require 2 weeks notice? Yes No

Case continued from: _____ **continued to:** _____
(Date) (Date)

Moving party will use **Court Call telephonic appearance:** Yes No

Judge Hon. Randy I. Bellows **must** hear this motion because (check one reason below):

- The matter is on the docket for presentation of an order reflecting a specific ruling previously made by that Judge.
- This Judge has been assigned to this entire case by the Chief Judge; or,
- The Judge has advised counsel that all future motions, or this specific motion, should be placed on this Judge's Docket; or,
- This matter concerns a demurrer filed in a case where that Judge previously granted a demurrer in favor of demurrant.

PRAECIPE by: Mary C. Zinsner Troutman Sanders LLP
Printed Attorney Name/ Moving Party Name Firm Name

1660 International Drive, Suite 600, McLean, VA 22102
Address

703-734-4363 703-734-4340 31397 mary.zinsner@troutmansanders.com
Tel. No. Fax No. VSB No. E-Mail Address (optional)

CERTIFICATIONS

I certify that I have in good faith conferred or attempted to confer with other affected parties in an effort to resolve the subject of the motion without Court action, pursuant to Rule 4:15(b) of the Rules of the Supreme Court of Virginia; and, I have read, and complied with, each of the Instructions for Moving Party on the reverse side of this form.

[Signature]
Moving Party/Counsel of Record

CERTIFICATE OF SERVICE

I certify on the 6th day of April, 2012, a true copy of the foregoing Praecipec was

~~E~~mailed faxed delivered to all counsel of record pursuant to the provisions of Rule 4:15(e) of the Rules of the Supreme Court of Virginia.

[Signature]

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

**In re Multi-Circuit Episcopal Church
Litigation**

Case No.: CL 2007-248724

**THE PROTESTANT EPISCOPAL
CHURCH IN THE DIOCESE OF
VIRGINIA, an unincorporated association,**

Case No.: CL 2007-1236

Plaintiff,

v.

**TRURO CHURCH, a Virginia non-stock
corporation,**

Defendant.

MOTION TO ENFORCE FINAL ORDER

The Protestant Episcopal Church in the Diocese of Virginia (the “Diocese”), by counsel, moves the Court for enforcement of Sections E and F of the Final Order entered in this consolidated action on March 1, 2012, with respect to defendant Truro Church (“Truro”). This Motion arises out of (a) a continuing dispute between the Diocese and Truro concerning the amount of liquid personal property owed by Truro to the Diocese pursuant to Section E of the Final Order, and (b) Truro’s failure to provide complete information and documentation concerning its accounts as of the Ownership Determination Date. In support of this Motion, the Diocese states as follows:

1. On March 1, 2012, the Court entered its Final Order in this consolidated matter, which provides that The Episcopal Church (“TEC”) and the Diocese “have contractual and

proprietary interests in the real and personal property at issue in this litigation,” and that the defendants, including Truro, have no such interests. (Final Order at 1.)

2. The Final Order sets April 30, 2012, as the date by which all real and personal property at issue must be conveyed by the Defendants to the Bishop of the Diocese. (*See id.* at 2-8). The Final Order further provides that “until the real and personal property at issue in this litigation is conveyed to the Bishop of the Diocese,” the Defendants “will continue to hold [such property] subject to the contractual and proprietary rights of TEC and the Diocese.” (*Id.* at 2.)

3. The liquid personal property that must be conveyed to the Diocese is addressed in Section E of the Final Order, which provides in pertinent part:

On or before April 30, 2012, the defendant trustees and the CANA Congregations shall either (1) convey to the Bishop of the Diocese all of their respective rights, titles and interests in all liquid personal property valued as of the applicable Ownership Determination Date (e.g., cash, cash equivalents, securities and entitlements, instruments, investments, bank and other deposit accounts, certificates of deposit, endowment funds, and contribution and donations of money received as of the applicable Ownership Determination Date, and including restricted funds, as defined below, except to the extent that payments were made from such funds prior to the date of conveyance pursuant to this Order); or (2) pay to the Bishop of the Diocese the value of same, as of the applicable Ownership Date, via cashier’s check or equivalent form; or (3) at the CANA Congregations’ election, pay the value of the same into the Court registry pending any appeal together with sufficient sums to pay interest at the rate of 6 percent per annum on the principal amounts for nine months from May 4, 2012.

...

(Final Order, § E at 7, as amended by the Court’s March 16, 2012, Consent Order Correcting Final Order.)

4. Section E also specifies the deductions that each CANA Congregation is allowed to take in calculating the amount of liquid personal property to be conveyed to the Diocese. Specifically, Section E provides, in pertinent part:

The values of such liquid personal property as of the applicable Ownership Determination Date are to be determined by the parties net of reconciliations including uncleared checks and uncleared deposits and including such legal

liabilities incurred as of the applicable Ownership Determination Date but paid thereafter including, but not limited to, payroll, payroll deductions, taxes, withholding, pension contributions, accrued vacation, pre-paid tuition and fees, and funds belonging to third parties, and net of the pro-rated prepaid expenses that provide benefits after the applicable Ownership Determination Date (including but not limited to any prior payments of legal fees but no including any prior payments of insurance premiums). Further deductions are allowed for payments made after the applicable Ownership Determination Date and in accordance with the terms and conditions of restricted funds which are defined as follows: restricted funds are funds held by the CANA Congregations as of the applicable Ownership Determination Date which were subject to restrictions which limited the use of such funds to particular purposes which were not for the benefit of the Congregation, the Diocese, or TEC, leaving no discretion to or for the Congregation or its Vestry, clergy, or other persons associated therewith to use or disburse such funds for the benefit of the Congregations, the Diocese, or TEC.

(*Id.* at 8.)

5. Section E also sets forth a procedure by which Truro and the other Congregations were required to notify the Diocese of their positions concerning the amount of liquid property to be conveyed, provide source documentation supporting their calculations, and provide other documentation requested by the Diocese to enable the Diocese to conduct its own calculation and evaluation. In addition, Section F of the Final Order required the parties to “cooperate with each other as may reasonably be required from time to time ... to effectuate the provisions of [sections] B through E” of the Final Order.

6. Pursuant to the procedure set forth in Section E, on March 7, 2012, the Diocese notified Truro and the other Congregations by letter of the categories of documentation it needed to conduct its own calculation and evaluation of liquid personal property. A copy of that letter is attached hereto as Exhibit A.

7. On or about March 15, 2012, Truro provided the Diocese with its position concerning the amounts of liquid property owed to the Diocese, along with supporting documentation. Truro’s position is that as of the applicable Ownership Determination Date (January 31, 2007), it had a negative balance due to outstanding liabilities.

8. On March 28, 2012, the Diocese responded to Truro's position with its own calculation of liquid personal property owed to the Diocese, which was significantly higher than Truro's calculation. In its March 28, 2012, response, the Diocese also specifically asked Truro to provide documentation concerning Truro's handling of accounts in January 2007 related to the Lamb Center.

9. Since March 28, 2012, Truro's counsel has provided some additional information and documentation related to Truro's calculation, but a significant dispute remains. In addition, Truro has not responded to the Diocese's March 28, 2012, request for information related to the Lamb Center.

10. Truro's failure to provide information concerning the Lamb Center constitutes a violation of the Court's requirements set forth in Section E of the Final Order as well as the cooperation provisions of Section F. Without this documentation, the Diocese has no way of calculating the full amount of liquid property it is owed.

11. With respect to the other liquid accounts, the documentation provided by Truro does not support its liquid personal property calculation.

12. As recognized by the Court during the hearing on the Final Order, Truro has the burden of proving that its claimed deductions are proper:

THE JUDGE: I don't think there's any questions that the most – the likelihood is the more controversial issue is not going to be things like state payroll taxes. They are going to be restricted funds.

And if the CANA Congregations are taking the position that there's a restricted fund that should be – that fits Mr. Somerville's language, then they are going to have to prove it to [the Diocese]. And ... if [the Diocese] ultimately conclude[s] that they haven't proven it to [the Diocese], [the Diocese's] remedy is to bring a rule to show cause for their failure to comply with this court's order.

That to me is how we enter a final order now yet permit you to enforce that order on this issue.

(March 1, 2012, Hearing Transcript at 381:20 – 382:13.)

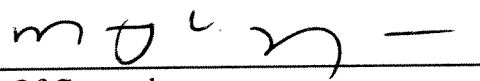
13. Truro has failed to meet its burden of proving that its liquid personal property total is proper. The proper amount of liquid property owed to the Diocese by Truro under Section E of the Final Order is at least \$72,421, and may be greater depending on the January 2007 Lamb Center information that has not yet been provided.

14. WHEREFORE the Diocese respectfully requests that the Court enforce its March 1, 2012, Final Order by (1) finding that the final amount of liquid property owed to the Diocese by Truro under Section E is at least \$72,421, (2) awarding the Diocese its costs and attorneys' fees associated with this enforcement of the Court's Final Order, and (3) awarding such further and additional relief as the Court deems necessary and appropriate.

Respectfully submitted,

Dated: April 6, 2012

THE PROTESTANT EPISCOPAL CHURCH
IN THE DIOCESE OF VIRGINIA

By: 
Of Counsel

Bradfute W. Davenport, Jr. (VSB # 12848)
George A. Somerville (VSB # 22419)
Brian D. Fowler (VSB # 44070)
Troutman Sanders LLP
Post Office Box 1122
Richmond, Virginia 23218-1122
Telephone: (804) 697-1200
Facsimile: (804) 697-1339

Mary C. Zinsner (VSB # 31397)
Troutman Sanders LLP
1660 International Drive
Suite 600
McLean, Virginia 22102
Telephone: (703) 734-4334
Facsimile: (703) 734-4340

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were sent by electronic mail to all counsel, named below, on this 6th day of April, 2012:

Gordon A. Coffee (gcoffee@winston.com)
Gene C. Schaerr (gschaerr@winston.com)
Steffen N. Johnson (sjohnson@winston.com)
Andrew C. Nichols (anichols@winston.com)
Winston & Strawn LLP
1700 K Street, N.W.
Washington, D.C. 20006

*Counsel for Truro Church, Church of the Epiphany, Church of the Apostles,
The Church at The Falls – The Falls Church, and associated individuals*

George O. Peterson (gpeter@petersonsaylor.com)
Tania M. L. Saylor (tsaylor@petersonsaylor.com)
Michael Marr (mmarr@petersonsaylor.com)
Peterson Saylor, PLC
4163 Chain Bridge Road
Fairfax, Virginia 22030

Counsel for Truro Church and certain associated individuals

Mary A. McReynolds (marymcreynolds@mac.com)
Mary A. McReynolds, P.C.
1250 Connecticut Avenue, N.W., Second Floor
Washington, D.C. 20036-1830

*Counsel for St. Margaret's Church, St. Paul's Church, Church of the Epiphany,
Church of the Apostles, St. Stephen's Church, and associated individuals*

E. Andrew Burcher (eaburcher@pw.thelandlawyers.com)
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
4310 Prince William Parkway, Suite 300
Prince William, Virginia 22192

Counsel for St. Margaret's Church and St. Paul's Church

R. Hunter Manson (manson@kaballero.com)
PO Box 539
876 Main Street
Reedville, Virginia 22539

Counsel for St. Stephen's Church and associated individuals

Lauren B. Homer (homer@homer-international-law.com)
Homer International Law Group, PLLC
1302 Parson Lane
Fairfax, VA 22033
Counsel for Church of the Apostles and associated trustees

David L. Honadle (dhonadle@vfnlaw.com)
Vanderpool, Frostick & Nishanian, P.C.
9200 Church St., Suite 400
Manassas, VA 20110
Counsel for William Latham, nominal defendant

Scott J. Ward (sjw@gg-law.com)
Timothy R. Obitts (tro@gg-law.com)
Gammon & Grange, P.C.
8280 Greensboro Drive, Seventh Floor
McLean, Virginia 22102

James A. Johnson (jjohnson@semmes.com)
Paul N. Farquharson (pfarquharson@semmes.com)
Scott H. Phillips (sPhillips@semmes.com)
Tyler O. Prout (tprout@semmes.com)
Semmes Bowen & Semmes, P.C.
25 South Charles Street, Suite 1400
Baltimore, Maryland 21201
Counsel for The Church at The Falls – The Falls Church and certain associated individuals

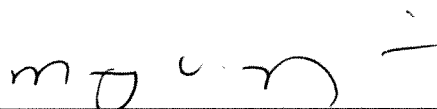
Thomas C. Palmer, Jr. (tpalmer@thebraultfirm.com)
Brault Palmer Grove White & Steinhilber LLP
3554 Chain Bridge Road, Suite 400
Fairfax, Virginia 22030
Counsel for certain trustees of The Church at The Falls – The Falls Church (Episcopal)

E. Duncan Getchell (DGetchell@oag.state.va.us)
Office of the Attorney General
900 East Main Street
Richmond, Virginia 23219
Counsel for the Commonwealth of Virginia ex rel. Kenneth T. Cuccinelli, in his official capacity as Attorney General

David B. Beers (dbeers@goodwinprocter.com)
Adam Chud (achud@goodwinprocter.com)
Goodwin Procter
901 New York Avenue, N.W.
Washington, D.C. 20001

Mary E. Kostel (mkostel@goodwinprocter.com; mkostel@episcopalchurch.org)
Special Counsel
The Episcopal Church
c/o Goodwin Procter LLP
901 New York Ave., N.W.
Washington, D.C. 20001

Heather H. Anderson (handersonlaw@gmail.com)
Heather H. Anderson, P.C.
P.O. Box 50158
Arlington, Virginia 22205
Counsel for The Episcopal Church



2146408v1

EXHIBIT A

BRIAN D. FOWLER
804.697.1207 telephone
804.698.6055 facsimile
brian.fowler@troutmansanders.com

TROUTMAN SANDERS

TROUTMAN SANDERS LLP
Attorneys at Law
Troutman Sanders Building
1001 Haxall Point
P.O. Box 1122 (23218-1122)
Richmond, Virginia 23219
804.697.1200 telephone
troutmansanders.com

March 7, 2012

BY ELECTRONIC MAIL

All CANA Congregation Counsel of Record

Re: *In re Multi-Circuit Episcopal Church Litigation – Notification of Source Documentation Needed by the Episcopal Diocese of Virginia for Calculation and Evaluation of Liquid Property as Required by Paragraph (E) of the Final Order*

Dear Counsel:

Pursuant to Paragraph (E) of the Court's Final Order in this matter, I am writing on behalf of the Episcopal Diocese of Virginia ("Diocese") to provide notice that, in order to be able to perform the calculations and evaluations necessary under Paragraph (E), the Diocese requires copies of the following categories of source documentation for each Congregation:

1. Audits for 2006 through 2010: if no audit for 2011, then full balance sheet (statement of financial position) and income statement (statement of activities) for each year – 2006 should include comparative figures for 2005
2. Trial Balance for all accounts (2006 and 2007)
3. General Ledger Detail (2006 and 2007)
4. Bank reconciliations – unrestricted accounts – (10/1/06 through 3/31/07)
5. Bank/brokerage statements – unrestricted accounts – (10/1/06 through 3/31/07)
6. Bank reconciliations – restricted accounts – (10/1/06 through present)
7. Bank/brokerage statements – restricted accounts – (10/1/06 through present)
8. Cash receipts journal with details – (10/1/06 through 3/31/07)
9. Cash disbursements journal with details: vendor, amount paid, reason for disbursement – (10/1/06 through 3/31/07)
10. All planned giving files (2000 through present)

ATLANTA
RALEIGH
2137688v1

CHICAGO
RICHMOND

HONG KONG
SAN DIEGO

LONDON
SHANGHAI

NEW YORK
TYSONS CORNER

NEWARK
VIRGINIA BEACH

NORFOLK

ORANGE COUNTY
WASHINGTON, DC

**TROUTMAN
SANDERS**

All CANA Congregation Counsel of Record

March 7, 2012

Page 2

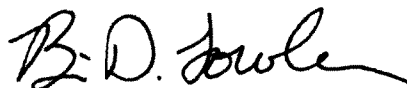
11. All trust documents (2000 through present)
12. Accounts receivable sub-ledger ("detail schedule for AR") – (10/1/06 through 3/31/07)
13. Pledges receivable sub-ledger – (10/1/06 through 3/31/07)
14. Accounts payable sub-ledger – (10/1/06 through 3/31/07)
15. Accrued expenses analysis – (10/1/06 through 3/31/07)
16. Accrued income analysis – (10/1/06 through 3/31/07)
17. Prepaid expenses analysis, excepting insurance premiums – (10/1/06 through 3/31/07)
18. Listing of funds held for "other groups"; e.g., Men's Fellowship, Flower Fund, Youth Groups (10/1/06 through 3/31/07)
19. Analysis of any deposits held (for other groups – e.g., room use deposits) or any deposits prepaid (such as for a camp or conference) – (10/1/06 through 3/31/07)
20. Copies of Form 990 for any Unrelated Business Income Tax, as well as for any related organization of the CANA congregations, for the years 2006 - 2011

In addition, please provide a list of all funds that you claim are "restricted" as defined in the Final Order, as well as documentation establishing those funds and restrictions, and reflecting disbursements/payments from those funds from January 2007 to present. We also request that you identify any payments that are scheduled to be made pursuant to restrictions on those funds between now and 30 days following the date of conveyance to the Diocese.

Finally, please note that it is the Diocese's position that all church school accounts are subject to the Court's Final Order and should also be conveyed. Accordingly, this request for documentation encompasses those accounts as well.

Thank you for your continued cooperation.

Sincerely,



Brian D. Fowler

cc: Mary E. Kostel, Esq.
David Booth Beers, Esq.
Bradfute W. Davenport, Jr., Esq.
George A. Somerville, Esq.
Mary C. Zinsner, Esq.

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

**In re Multi-Circuit Episcopal Church
Litigation**

Case No.: CL 2007-248724

**THE PROTESTANT EPISCOPAL
CHURCH IN THE DIOCESE OF
VIRGINIA, an unincorporated
association,**

Case No.: CL 2007-1236

Plaintiff,

v.

**TRURO CHURCH, a Virginia non-stock
corporation,**

Defendant.

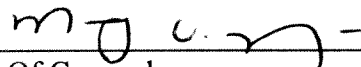
COVER SHEET FOR MOTION TO ENFORCE FINAL ORDER

This acts as a cover sheet/reference pleading to the complete filing, titled as indicated above, which was sent to be filed in CL-2007-248724 (the omnibus case file), with a courtesy copy sent by e-mail to Mr. Gregory J. Sagstetter, Law Clerk to The Honorable Randy I. Bellows. That filing and this reference pleading apply to the above-listed cases. For the complete filing, please see the omnibus case file, CL 2007-248724.

Respectfully submitted,

Dated: April 6, 2012

THE PROTESTANT EPISCOPAL CHURCH
IN THE DIOCESE OF VIRGINIA

By: 
Of Counsel

Bradfute W. Davenport, Jr. (VSB # 12848)
George A. Somerville (VSB # 22419)
Brian D. Fowler (VSB # 44070)
Troutman Sanders LLP
Post Office Box 1122
Richmond, Virginia 23218-1122
Telephone: (804) 697-1200
Facsimile: (804) 697-1339

Mary C. Zinsner (VSB # 31397)
Troutman Sanders LLP
1660 International Drive
Suite 600
McLean, Virginia 22102
Telephone: (703) 734-4334
Facsimile: (703) 734-4340

469739v1