

THE CHURCH OF GOD IN CHRIST, INC.

OFFICE OF THE GENERAL ASSEMBLY Bishop L.F. Thuston, Chairman



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Office of the General Counsel of
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**VIA ELECTRONIC
& OVERNIGHT MAIL**

Re: Pacific Mount Olive Church of God in Christ

Dear General Counsel Henderson:

In my capacity as Senior Legal Advisor to the Office of the Chairman of the General Assembly, Bishop Lemuel F. Thuston directed me to review all potentially applicable governance documents and to provide an assessment regarding the procedural mechanisms required in the context of a local church changing jurisdictions, including any restrictions or limitations on such changes. Specifically, based on that analysis, I was asked to address the circumstances surrounding Pacific Mount Olive Church of God in Christ ("PMO") and the extent to which its change in jurisdictions conformed in procedure and substance with The Constitution of the Church Of God In Christ, Inc. For the reasons set forth below, I conclude that PMO's change in jurisdictional affiliation from Southern California First Jurisdiction to California Southwest Jurisdiction was proper and that any change in jurisdictional affiliation occurring thereafter must be initiated and affirmatively passed by a vote of two-thirds of the bona fide members of PMO with the corresponding consent of the Prelate for the new jurisdiction. For the sake of clarity, in the absence of a constitutional amendment directing otherwise, I further conclude that PMO could not be compelled to affiliate with or otherwise be subjected to the supervision or control of any other jurisdiction without an affirmative vote of two-thirds of its members, including but not limited to a purported directive of the Presiding Bishop or General Board.

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** Admitted to practice before The United States Supreme Court, The Courts of Appeal for the 6th, 7th and 9th Circuits, The Trial and General Bars of the United States District Court for the Northern District of Illinois, The United States District Court for the Northern District of Indiana and the Illinois Supreme Court*

The Church Of God In Christ, Incorporated is a religious denomination headquartered in Memphis, Shelby County, Tennessee and chartered in the State of Tennessee as a not-for-profit religious organization (hereinafter "The Church"). The Church's internal governance is hierarchical and is governed by its Constitution ("The Church Constitution" or "Constitution"). The Church adopted the first version of The Church Constitution in December, 1922. Subsequent thereto The Church has formally amended The Church Constitution through the approval of two-thirds of the General Assembly in 1926, 1952, 1968 and 1972. Under The Church Constitution, The General Assembly operates as the legislative branch and the General Board (akin to the board of directors in a conventional corporation) operates as the executive branch. The General Board of The Church operates as the board of directors of The Church pursuant to election procedures and term provisions set forth in The Church Constitution. In 1991, among other amendments, the General Assembly ratified Article VIII of The Church Constitution formally establishing the Judiciary Board to serve as the third and co-equal judicial branch of The Church's constitutional structure. See Church Constitution at Article VIII, Preamble. The Constitution may be revised only through a constitutional amendment approved by a 2/3 vote of the full General Assembly after three (3) separate readings. See The Church Constitution at Article III (Structure of Church, Civil and Ecclesiastical), Part II (Ecclesiastical Structure), at Section B., The General Assembly, Part IV (Meetings of the General Assembly) at Paragraph 3 ("The General Assembly shall not enact and rules or conduct contrary to the Constitution of The Church of God In Christ, Inc. without first offering an amendment to the constitution, in a regular session with 2/3rd of the registered delegates present and voting . . .").

Prior to July 17, 2012, PMO was affiliated with the First Ecclesiastical Jurisdiction of Southern California Church of God in Christ ("SoCal First") under the authority of Bishop Joe L. Ealy, Prelate ("Bishop Ealy"). By letter addressed to PMO dated July 17, 2012, Bishop Ealy unilaterally severed PMO's affiliation with SoCal First, stating in part:

Your affiliation has been terminated effective immediately. Please feel free to seek affiliation with another jurisdiction of the Church Of God In Christ where you are willing to respect that jurisdiction and its leadership. Within the next thirty (30) days, I will await notification from you of any other jurisdiction of the Church Of God In Christ to which you wish to move your affiliation. I will communicate with the Prelate of such other jurisdiction regarding this matter, and we wish Mount Olive well in its new relationship.

See Exhibit A attached hereto and incorporated by reference. Pursuant to Article IV, Section A, Paragraph 3 of the Constitution, Bishop Ealy's unequivocal termination of PMO's affiliation with SoCal First appears to be a valid exercise of his authority as its Prelate:

Each Jurisdictional Bishop shall be the representative of the Church Of God In Christ in respect to all church matters in his Ecclesiastical Jurisdiction and shall have general supervision over all departments and Churches in his jurisdiction.

I found no Constitutional provision that expressly prohibited Bishop Ealy from severing PMO's affiliation with SoCal First. I therefore consider his conduct to be binding on SoCal First and on The Church (to the extent of matters pertaining to his exercise of authority pertaining to that Jurisdiction and not otherwise in conflict with the Constitution). Similarly, Bishop Ealy's direction to PMO to "seek affiliation with another [COGIC] jurisdiction" and his corresponding commitment to accept PMO's affiliation with a different

ecclesiastical jurisdiction operates to bind SoCal First and The Church to PMO's unilateral selection of the jurisdiction with which it would affiliate going forward.

I find further support for the latter proposition in conduct occurring thereafter with respect to Greater Holiness Church of God in Christ ("Greater Holiness") and its interactions with the Metropolitan Ecclesiastical Jurisdiction of Southern California ("Metropolitan") under the authority of Bishop J. Bernard Hackworth, Prelate ("Bishop Hackworth"). Prior to January 1, 2014, Greater Holiness, pastored by Superintendent Milton L. Joyner ("Pastor Joyner") was affiliated with Metropolitan. By letter to Bishop Hackworth dated November 23, 2013, Pastor Joyner purported to withdraw Greater Holiness from its affiliation with Metropolitan. See Exhibit B attached hereto and incorporated by reference. I say "purported" because I saw no evidence that Pastor Joyner/Greater Holiness complied with the procedures to initiate transfer of a local church to a different jurisdiction. Article III, Part II, Section D. Local Churches Par. 18 of the Constitution (as amended in April of 1982) states in pertinent part as follows:

18. No local church shall be authorized to change or transfer its Jurisdictional affiliation unless at least two-thirds of the church's membership agree for such transfer. Two-Thirds of the membership must be present and voting after due notice, before authorization can be given to move the church from one Jurisdiction to another.

a. The Pastor of the church shall notify in writing the General Secretary of the Church of God in Christ, the Jurisdictional Bishops where the church is affiliated, and the Jurisdictional Bishop where the church intends to transfer, of intent to transfer, which notice shall be given at least thirty (30) days before the local church's membership can act on said transfer. The notice shall include the following information:

...

d. The respective Jurisdictional Bishops and the Pastors of the local church shall within seventy-two (72) hours notify the General Secretary of the Church of God in Christ of the results.

Pastor Joyner's November 23, 2013 letter to Bishop Hackworth did not disclose the jurisdiction to which Greater Holiness sought to transfer and purported to make the withdrawal immediate (i.e., without 30-days' notice). Nor did I find in the record evidence that Greater Holiness complied with the requisite voting procedure. As a result, I conclude that Greater Holiness' attempted withdrawal from Metropolitan -- standing alone -- was ineffective and a nullity.

Thereafter, however, by letter to Pastor Joyner and Greater Holiness dated January 1, 2014, Bishop Hackworth mooted the issue of Greater Holiness' consensual transfer by unilaterally severing Greater Holiness' affiliation with Metropolitan, stating:

You are hereby notified that effective immediately, you are no longer a member of the Metropolitan Ecclesiastical Jurisdiction.

See Exhibit C attached hereto and incorporated by reference. For the same reasons discussed above with respect to Bishop Ealy's termination of PMO's affiliation with SoCal First, it appears that Bishop Hackworth's termination of Greater Holiness' affiliation with Metropolitan was within the scope of his Constitutional authority as Metropolitan's Prelate and thus binding on Metropolitan and The Church. Accordingly, effective January 1, 2014, Greater Holiness was not affiliated with or under the authority of any specific jurisdiction.

At or about this same time, PMO and Greater Holiness merged, continuing in PMO's name. At some point prior to January 1, 2014, a majority of PMO's members voted to retain Pastor Joyner as its interim pastor. Consistent with the Constitution, Pastor Joyner could be considered an interim pastor only at that time because, with no jurisdictional affiliation, PMO had no Prelate to approve Pastor Joyner as the authorized pastor of the church. See Article III, Section D. Local Churches, Paragraph 1 ("The Pastor of a local church shall be appointed by the Jurisdictional Bishop of the Ecclesiastical Jurisdiction of the Church"). PMO and Pastor Joyner therefore sought affiliation with the California Southwest Jurisdiction ("CA SW") under the authority of Bishop Hillrie Murphy, Prelate ("Bishop Murphy"). In June of 2014, one of PMO's trustee board members apprised Bishop Murphy that PMO's membership had voted in a manner consistent with its bylaws to affiliate with and report through CA SW. Bishop Murphy in turn responded in a June 22, 2014 letter "officially acknowledged" PMO's affiliation with and membership in CA SW and Pastor Joyner's position as PMO's pastor. From all indications, PMO has paid its national reports through CA SW for some time without objection or return of the funds. See, e.g., Group Exhibit D attached hereto and incorporated by reference as if fully set forth herein.

I also considered in my analysis a letter dated January 28, 2014 from Presiding Bishop Blake to Pastor Joyner and PMO regarding PMO's status as an "orphan" local church (the "January 28 Letter"), a true and correct copy of which is attached hereto as Exhibit E. In the January 28 Letter, among other things, Bishop Blake asserts that the Constitution authorizes the Presiding Bishop to direct a member church to affiliate with a specific jurisdiction and cites to Paragraph 5 of Article III, Section D. However, when referring to a prohibition against a member church "leaving" The Church, the January 28 Letter does not recite the complete text of Paragraph 5 of Article III, Section D. In its entirety, Paragraph 5 states as follows:

5. A local church, which has been accepted by the Church Of God In Christ and issued a Certificate of Membership, shall not have the legal right or privilege to withdraw or sever its relations with the General Church, except by and with the permission of the General Assembly.

It is undisputed that PMO was registered by its Jurisdictional Bishop in the Office of the General Secretary and issued a Certificate of Membership from The Church decades before the instant dispute arose. Consistent with the plain text of Paragraph 5, PMO therefore could not "withdraw or sever its relations" with The Church without obtaining permission from the General Assembly. Critically, however, PMO did not seek to exercise a "legal right or privilege" to "withdraw or sever its relations with the General Church." As to both PMO and Greater Holiness, the Prelates in their respective jurisdictions effected the "severing" by unilaterally terminating the local churches' affiliations with the jurisdictions. Although Bishop Ealy's July 17, 2012 letter may have been effective to "excommunicate" PMO from SoCal First, Bishop Ealy had no Constitutional authority to disrupt PMO's relationship with The Church, as PMO already enjoyed "full status" in The Church as defined in Paragraph 3 of Section D. Under the Constitution, no local church may be "disorganized" without the benefit of a trial. Article VIII, Section A. Church Discipline, Trial of Local Churches. I found no evidence in the record of any trial being conducted against PMO as a local church that complied with the applicable provisions of the Constitution.

Thus, while I agree in principle with the statement in the January 28 Letter that Bishop Ealy's July 17, 2012 letter did not sever PMO's connection to The Church, it does not follow that the Presiding Bishop could assume authority over PMO's affiliation with a specific jurisdiction. No provision in the Constitution authorizes such an exercise of power over a local church and, for the reasons discussed in the immediately preceding paragraph, the January 28 Letter's citation to Paragraph 5 of Article III, Section D does not address a circumstance in which a local church is not responsible for the disruption in its affiliation with a jurisdiction. Nothing in the Constitution mandates that a local church must be formally affiliated with a jurisdiction in order to maintain its membership in The Church, a point the January 28 Letter concedes. The balance of the provisions of Article III, Section D prescribe the means by which a local church not then affiliated with a jurisdiction (what I will call an "orphan" church) may become so affiliated. *Id.* at ¶¶ 1-6. Although an orphan church may not exercise all of the rights and privileges of a member church until it has been "adopted" and given a "home" by a Jurisdictional Bishop, no provision of the Constitution states or even suggests that such an orphan church unilaterally can be compelled to affiliate with any specific jurisdiction. *Id.* Rather, read together, the provisions of Section D envision a process that is controlled solely by the orphan church and the Prelate with authority over the "adopting" jurisdiction. This interpretation finds substantial corroborating support in Bishop Ealy's July 17, 2012 letter divesting PMO of its affiliation with SoCal First in which he emphasized that PMO should "feel free to seek affiliation with another jurisdiction of the Church Of God In Christ" of its choice and that SoCal First would await PMO's identification of its new home jurisdiction. If in fact the Constitution authorized the Presiding Bishop (or any authority other than PMO and the "adopting" Prelate) to determine PMO's jurisdictional affiliation, as The Church's designated representative for all things affecting SoCal First, it would have been fundamentally inconsistent and a breach of his Constitutional obligations to the Church for Bishop Ealy to expressly direct PMO to choose a new jurisdiction and report its selection back to him.

Taking all of the above into account, I thus conclude that, once SoCal First unilaterally severed PMO's affiliation with that jurisdiction, PMO became an "orphan" local church as I have used that term herein and PMO's subsequent and mutually agreed affiliation with CA SW was proper. Because PMO was an "orphan" local church prior to its affiliation with CA SW, its realignment with that jurisdiction was not a "transfer" in the manner contemplated under Paragraph 18 because PMO had already been given up for adoption by SoCal First. As a result, PMO's Once affiliated with CA SW, PMO could transfer its affiliation to another jurisdiction only through a vote of two-thirds of the bona fide members of PMO that fully complies with Paragraph 18. In the absence of a Constitutional amendment directing otherwise, I further conclude that, consistent with the express terms of the Constitution, PMO could not be compelled to affiliate any other jurisdiction, whether by purported directive of the Presiding Bishop, the General Board or any other authority.

Moreover, the Constitution already expressly delineates the procedure for a local church to transfer jurisdictions and the restrictions or limitations applicable to such a process. See Paragraph 18. Accordingly, any resolution, directive or other purported exercise of authority may impose new or different restrictions on jurisdictional transfers without amending the Constitution to authorize same. For that reason, I cannot reconcile with the Constitution in its current form the pronouncement in a December 20, 2015 Memorandum that a local church may only transfer to a jurisdiction within a state that is contiguous to its home state, a true and correct copy of which is attached at Exhibit F. For the same reason, in the absence of a Constitutional amendment, the General Board likewise lacks authority to direct the transfer of a local church in a manner that does not comply to the letter with the express language of Paragraph 18.

For the sake of completeness, I will touch on certain topics that relate to but do not directly bear on my analysis of the Constitutional framework described above. I am of course aware of the ongoing contentious litigation pending in California state court involving multiple individuals and entities including The Church, Metropolitan and PMO, among others. I do not represent the interests of any party to that litigation. I have not reviewed the complete record in any of those proceedings and I do not purport to opine on any disputed factual or legal issues therein.

I am also aware of now-concluded proceedings initiated in Metropolitan against Pastor Joyner on which a trial was conducted in or about September, 2014 without Pastor Joyner's appearance or participation. Pastor Joyner subsequently appealed the adverse outcome in that trial to the General Council of Pastors and Elders ("GCPE"). See Group Exhibit G. Following a hearing conducted on April 13, 2015 in Memphis, Tennessee, the Judicial Review Committee of the GCPE rendered a disposition of the charges against Pastor Joyner, which disposition is reflected in a document dated May 8, 2015. The document to which I refer is marked "CORRECTION" in red ink and is comprised of two pages ("GCPE Order"). See Exhibit H, a true and correct copy of which is attached hereto and incorporated by reference. I construe the central holding of the GCPE Order to be that Metropolitan lacked standing or authority to initiate or proceed with proceedings against Pastor Joyner because Pastor Joyner's affiliation with Metropolitan was severed by Bishop Hackworth on or about January 1, 2014 and Pastor Joyner thereafter properly became affiliated with CA SW. The GCPE Order indicates that the Judicial Review Committee determined that Pastor Joyner was no longer under Metropolitan's authority as of the date of Metropolitan's expulsion of Pastor Joyner and Greater Holiness as of January 1, 2014. The GCPE Order also apparently determined that Metropolitan's trial of Pastor Joyner *in absentia* deprived Pastor Joyner of his due process rights under the Constitution and, therefore, the resulting verdict against Pastor Joyner was a nullity. *Id.* As a result, the Judicial Review Committee "dissolved" or reversed Metropolitan's mandate that Pastor Joyner be stripped of his credentials and removed from the PMO property and that the "original members" of PMO's board be "placed back in power" with all of PMO's finances be disgorged to Metropolitan. *Id.*

The GCPE Order also appears originally to have contained language to the effect that Pastor Joyner was authorized to join "any Church of God in Christ Jurisdiction." The GCPE Order I reviewed reflects an "amendment" to strike the foregoing phrase from the Order. I did not find it necessary to make a determination as to which version of the GCPE Order was controlling. For the reasons set forth above, had said phrase remained part of the GCPE Order, I would consider any such pronouncement to be a nullity. Paragraph 18 sets forth the Constitutional parameters for changes affiliation with a jurisdiction, and, as a result, the GCPE would be acting outside the bounds of its Constitutional authority by purporting to establish a new or different standard or procedure for jurisdictional affiliation.

In any event, I found no evidence that any interest party appealed the GCPE Order within the time required to challenge its disposition of the matter. As a result, the GCPE Order must be considered the final authority within The Church on the issues addressed therein. I found no procedural path specified within the Constitution that would authorize the General Assembly to revisit the merits of the decision of the GCPE's Judicial Review Committee on those issues. Accordingly, I consider the General Assembly to be bound by the determinations rendered in the GCPE Order and no further proceedings on those issues would be consistent with the adjudicatory structure established under the Constitution. As noted above, no action was initiated within The Church against PMO, nor do I consider any action that might be initiated at this time to have merit, as The Church has accepted PMO's National Reports submitted through CA SW for several years without objection or under protest. See Exhibit I attaching hereto true and correct copies

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General Counsel
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of National Report submissions and receipts for same. Thus, I conclude that all means recognized by the Constitution to challenge or seek to reverse PMO's affiliation with CA SW have been fully exhausted.

I am also generally aware of certain charges purportedly brought against Presiding Bishop Blake in the General Assembly. I have not reviewed any complaint or any other documentation regarding any such charges or any response thereto. I have not been asked nor have I otherwise undertaken to consider the procedural or substantive propriety of any such charges or responses or to assess the merits of any claims or defenses asserted by any person or entity therein. Accordingly, to the extent any person or entity reads the analyses set forth above as having some pertinence to any such matters, no such effect is intended. The sole exception to the foregoing statement is that I conclude that all issues regarding the propriety of PMO's affiliation with CA SW have been fully and finally resolved as no appeal was taken from the GCPE Order. As a result, in my opinion, disputes regarding the subject matter of the GCPE Order cannot properly be the subject of new or different proceedings within the Church's hierarchical structure.

Please contact me if you wish to discuss the contents of this letter. Please also direct all future correspondence implicating legal issues involving or affecting the General Assembly generally or the Chairman specifically to my attention. Thank you for your consideration.

Respectfully submitted,



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Senior Legal Advisor to the
Chairman of the General Assembly

MRW:djk

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