

The Declaration of Trust: Understand What it Does to Your Church

A Public Challenge to the Unregistered Baptist Churches

By Ben Townsend

It does not matter if they are distortions, misunderstandings, or just plain lies: the Declaration of Trust document used by the Biblical Law Center of Indianapolis will get churches into trouble! Men of God must realize the background of this document in law, and refuse to allow someone to have them place the church and church property under such a document. More than that, a pastor must not allow himself to sign a document referring to himself as the “Trustee” which represents the church.

Please understand that there is only respect for the memory of Al Cunningham from all of us. But the reality is that Bro. Cunningham was still only an attorney. In all his years attempting to help churches, he only could think of a legal remedy for church problems, and never a Biblical remedy. The belief of this paper is that Bro. Cunningham used an existing legal document and applied that to unincorporated churches so that they could hold property without coming under the jurisdiction of the state. Since his passing, the Declaration of Trust has evolved into a magic talisman of mystic proportions, designed to fill all the needs of a local church.

Distortions that border on lies

In the January-March 2005 Trumpet newsletter, put out by the Indianapolis Baptist Temple, there is an article on the history of the Declaration of Trust. The opening line of this article states: “All churches should organize or re-organize by executing a Declaration of Trust.” To tell a church that they must turn the business of the church over to a Trustee because Attorney Al Cunningham came up with this document without asking questions about it is almost deifying a man. We must, as pastors, ask the proper questions when it comes to our churches.

The article continues with, “the Declaration is rooted in English Common Law, which is the Biblical Law foundation for the American Federal and State Constitutions.” “The Declaration came about in 1986.” And “Al came up with the idea of the Declaration of Trust (not to be confused with a Trust), and the Indianapolis Baptist Temple became the first church to implement the document.” If it is “rooted in English Common Law,” then how was it somehow invented in 1986? Has it always been around? Has it ever been used by churches? What entities have used this magic “Declaration of Trust?”

Any law book can explain what a “Declaration of Trust” is and means. The lengthy definition in the article of what a Declaration of Trust is contains only the fact that it was used as a foundation for the “Declaration of Independence.” That is a good start, but it is not enough. Pastors want more than just a reliance on what a man says in a short article with no footnotes or background explanations.

As of the article in 2005, it was stated that the “Declaration is being used by approximately forty churches across the land.” We can only pray that there has been no more and that there will be no more.

Why such a strong stand against the Declaration?

This is simple. It is a “Trust.” No matter how many times someone says the “Declaration of Trust” is NOT a Trust, it does not change the fact that it is a Trust document. LegalCentral.com answers the question as to “What is a Declaration of Trust?” “A Declaration of Trust (sometimes called a Bare Trust) is one of many types of Trusts available... A Declaration of Trust is a legal structure that allows the division of the beneficial and legal ownership. The person holding the asset for your benefit is the trustee. The Trustee has legal ownership only. You are the beneficiary. You have beneficial ownership. Provided you are over 18 years of age and of sound mind you boss the Trustee around. You tell the Trustee what to do with your asset.” The Thompson-Gale Legal Encyclopedia gives the definition of a Declaration of Trust as: “An assertion by a property owner that he or she holds the property or estate for the benefit of another person, or for particular designated objectives.” Barron’s Real Estate Terms states that a Declaration of Trust is: “A written statement by a Trustee to acknowledge that the property is held for the

benefit of another.” Then Barron’s gives an example sentence which says: “A Declaration of Trust was signed by a Trustee to state that certain valuable land was being held in Trust for certain orphaned children.” Wikipedia, the online encyclopedia states: “In Trust Law, a settler who declares that he holds certain property on trust is said to make a ‘Declaration of Trust.’”

So, please come to grips with the truth that the Declaration of Trust is a Trust document. And placing church property in a Trust is only slightly better than placing it into a Corporation. So a Declaration of Trust is merely Corporate-lite; tastes great; less filling.

Recent Biblical Law Center Bulletin Distortions

The Declaration of Trust must be validated by those who propagate it. This places all their statements under the scrutiny of our microscope. The reason for this paper is because good men of God, who love their churches, have actually asked why is this document being pushed so hard by these people. A recent “Bulletin” stated, “In recent weeks we have seen churches continuing to use the Declaration of Trust to great advantage. **Several** have reported opening bank accounts without an EIN#. (BLC Bulletin, April 12, 2007)” Unless they provide the “several” who have done this, I believe it to be a careful distortion to attempt to soothe men who have questioned this document. An insider who grows tired of the distortions wrote that this pastor never showed the Trust document to the Bank, but the bank accepted the existence of the Trust by a verbal statement of the pastor. Also, the pastor in question provided his Social Security number to open the church account.

It seems like one must read BLC Bulletins not so much for what they say as what they do not say. The “several” reports of bank accounts became “many” in just one day. The April 13, 2007 BLC Bulletin stated: “As mentioned in yesterday’s Bulletin **many** churches have no problem getting a bank account using the Declaration of Trust.” Also, a letter was provided by the pastor referred to in the previous paragraph who opened a bank account. It reads: “Dear Dr. Dixon, I am pleased to receive the first newsletter from BLC. We too were able to open a bank account at the local bank with our trust document, and **it was not even necessary for us to show them the document or give them a copy.** (Emphasis mine)” This is ludicrous to think that the document did any good whatsoever. They took his Social Security Number and he opened a church account with it. This is dangerous for a pastor to do something like this. The IRS can now attribute those funds as his own. And how exactly is he to try to refute that premise?

The back-peddling in the second and third BLC Bulletin as to an overriding emphasis upon NOT having a bank account further belies the reason for the previous statements about “several” and “many” churches getting bank accounts using their Declaration of Trust. The reality is that pastors who have always had a corporate mentality WANT a bank account. Somehow, having church funds in a bank validates their existence, and makes them a real church.

More Exclusivity Statements

The third BLC Bulletin, dated April 17, 2007 makes this very astounding statement: “Why Pedo-baptists are begging for the Declaration of Trust but we can’t let them have it?” We stipulate that a few unincorporated Reformed Presbyterian churches have called the BLC and desired to have a Declaration of Trust. But the entire portion of two Bulletins make the belabored point that “We have it, but we can’t give it to them!” It is almost as if those forty churches “across the nation” have something no one else can have because they are Baptists. The entire legal community just shakes their heads in unbelief as to the misrepresentation of this. If the BLC did any homework at all since the passing of Bro. Cunningham, they would have found that the Declaration of Trust is used far and wide by nearly every type of organization on the face of the earth. Here are some Declaration of Trusts you can find online:

1. Urantia Foundation Declaration of Trust - <http://www.urantia.org/declaration.html>
2. Law Central Build a Document - <http://www.lawcentral.com.au/CreateDoc/createlink.asp?docId=121>
(You can build your own Declaration of Trust for only \$99.)

3. Andrew Carnegie Free Library D. of T. - <http://andrewcarnegie.tripod.com/trustcover.htm>
4. Friends of Manjushree Vidyapith School D. of T - <http://www.fmvso.org/declarationoftrust.html>
5. Belize Offshore Companies Declaration of Trust - <http://www.incorporatebelize.com/offshore.belize.faq/ownership.control/declaration-trust.php>

Here's a Declaration of Trust for the History Books

6. Anglo-American Declaration of Trust – June 13, 1944, between Franklin Delano Roosevelt on behalf of the Government of the United States of America and Winston Leonard Spencer Churchill on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland.

“We Can't Give it to Other Churches!”

It is just a little too late for that. The Declaration of Trust, being a Trust document, has been used for many years by other denominations, including the Presbyterians. It is NOT solely a Baptist document for unincorporated Baptist Churches to use. The Ecclesiastical Law Center advises churches to not use a Declaration of Trust, a corporation, an unincorporated association, or any legal entity to have their church under. Simply be a church! Here are a few churches and church organizations who had a Declaration of Trust long before 1986.

1. United Reformed Church - <http://www.urc.org.uk>
2. Church of God in Christ - <http://www.kscourts.org/kscases/ctapp/1999/19991105/80679.htm>
3. General Board of Church and Society Trustees, Methodist Church - <http://www.umbcs.org/site/pp.asp?c=fsJNK0PKJrH&b=1172633>
4. Episcopal Diocese Investment Trust created under a Declaration of Trust - <http://www.episcopalri.org>
5. Church of Scientology - www.xenufrance.net/declaration-us-parishioners-trust-dec-1988.pdf
6. Unitarian Christian Association Declaration of Trust - www.unitarianchristian.org.uk/7.html
7. The Free Church of Scotland - [links.jstor.org/sici?sici=0010-1958\(190603\)6%3A3%3C137%3ATFCOSC%3E2.0.CO%3B2-Z](http://links.jstor.org/sici?sici=0010-1958(190603)6%3A3%3C137%3ATFCOSC%3E2.0.CO%3B2-Z)
8. Protestant Episcopal Church, Diocese of Easton - mlis.state.md.us/1999rs/90-day-report/Volume%20II/PART-I.htm

So, we no longer need to feel like this Document of Trust is some “new, magic bullet” for unincorporated churches to use. As a matter of fact, this makes an unincorporated church exactly like those churches listed above. It places the church into a Trust, like it or not.

Has it ever been tested in court?

It has been repeatedly reported by the Biblical Law Center that the Declaration of Trust has never been tested in court. We are not going to call this a misstatement, a misrepresentation, or even misinformation. This is an out-in-out bald-face LIE. The Declaration of Trust was filed and tested in the Indianapolis Baptist Temple case. And it did not succeed! (That is a nice way to say “It failed!”) To further reveal the ignorance of those who propagate this document, it has been tested time and time again in every court jurisdiction over the last two hundred years. It is a document that courts recognize as a Trust agreement which it can decide on. If anything, this document in the IBT case could have been used by the court to prove they had jurisdiction over IBT.

The Questions will keep coming

The Director of the Biblical Law Center answered a question at the last Unregistered Baptist Fellowship that the Indianapolis Baptist Temple did NOT lease the property the church now occupies, but that the lease contract was made with the Pastor/Trustee and not the church. This is also an incorrect statement (a lie?). The lease was made by the church and signed by the Pastor/Trustee. It seems like they would love to have the best of both worlds: entangle as much as possible, all the while convincing everyone that they are not entangled. That is deceiving oneself.

If (and that's a big IF) the Declaration of Trust is what all they try to convince others that it is, then why is the Biblical Law Center not helping their own satellite church, The Church of the Westside, in their court case? That would be a perfect case to try their position, if it has "never been tested in court." Now is their opportunity to "test" it. The pastor of that church, a Pastor/Trustee of Church of the Westside, according to their Declaration of Trust, should have brought BLC's lead counsel and lead associate out to "lead" the charge to show everyone this Trust document is everything it is cracked up to be. Now he is in court fighting on the merits of his case, instead of challenging the jurisdiction of the court and the city that is trying to force them to comply with regulations concerning zoning.

My disclaimers

First, I am not saying these people are "evil." I am saying they are "WRONG!" I'm saying they do not know the law. And their "wrongness" has caused them to continue to distort the facts, and not even study what their position is. It is a wrong position to take for any church. Because I have studied it for more than two years, I can honestly say that it will do more damage to unincorporated churches in the long-run than the "help" and "accommodation" it may give in the short-run.

Second, it will not do my reputation (or lack thereof) any good to take a strong position against these people who already have nothing nice to say about me. If I were smart, I would have kept my mouth shut concerning their Declaration of Trust. I would have avoided it like the plague it already is. Well, when the cause of Christ concerning His local church is on the line, then let them come and crucify me if that is what they want to do. I will willingly put my ministries on the line if it will stop this horrible precedent of placing His church under a Trust document.

Third, while most men in the UBF are too kind to the BLC leadership to confront this horrid document, while most of them merely whisper under their breath in opposition, someone needs to speak out against this or it will never be stopped. I will be that someone, no matter what it may cost me. A good UBF brother was overheard by several men (at a UBF meeting when the Document of Trust was being explained by the Lead Associate) to say: "Why do I need a document to tell me what the Bible already tells me?" AMEN, Brother! Now, why don't you give them a call on the phone and tell them to their face? They will discount what I say, because of personality problems. But if enough men will echo what they know to be the truth, then perhaps they will stop this ridiculous fiasco of trying to set up a "corporate church" by using a Trust to do it.