

## Manual for Fiduciary Administrative Commission for Dismissals

1. If the Leader Team votes to concur with the recommendation of the Discernment Team to initiate the Dismissal Process, it shall refer the matter to the Presbytery's standing Fiduciary Administrative Commission for Dismissals (which has been given the power to deal with all financial aspects of a possible dismissal of a congregation from the PC(USA)).
2. The Fiduciary Administrative Commission for Dismissals shall require the church in question to obtain, at its own cost, an official appraisal (using an agency from an approved list of appraisers provided by the Fiduciary Administrative Commission for Dismissals) of the church's "real" property value. If the Fiduciary Administrative Commission for Dismissals challenges the valuation, it may obtain a second appraisal at Presbytery expense.
3. The session shall provide an inventory of all assets that shall include land, building, furnishings, cash, savings and investments, endowments, receivables (example cell phone tower income, income from other leases or rentals), scholarship funds, art collections, equipment (ex. copier, computer, and musical instruments.)
4. The Session shall provide the following documentation:
  - a. Copies of any original legal docs for endowments and trusts as well as current financial statements for those funds or endowments
  - b. 6 years of annual report
  - c. Current budget
  - d. Current financial and/or treasurer report
  - e. Statement of liabilities (if not included in the above)
  - f. Appraisal of physical property (as in 2 above)
  - g. Copy of insurance policy
5. The Fiduciary Administrative Commission for Dismissals shall exercise the responsibility to consider the Trust Clause: *Note: In light of guidance received from the decision of the General Assembly Permanent Judicial Commission (Tom verses Presbytery of San Francisco – October 28, 2012), Presbytery must fulfill its fiduciary duty under the Trust Clause (G-4.0203) to **consider** the interest of the PC(USA) as a beneficiary of the property. The decision stated: "This fiduciary duty requires that the presbytery exercise due diligence regarding the value of the property of the congregation seeking dismissal. Due diligence, of necessity, includes not only an evaluation of the spiritual needs of the congregation and its circumstances but also financial analysis of the value of the property at stake. Payments for per capita or mission*

*obligations are not satisfactory substitutes for the separate evaluation of the value of the property held in trust.”*

6. The Fiduciary Administrative Commission for Dismissals shall review the proposed financial settlement, with consideration of whether the Discernment Team has recommended the possibility for collaboration with the Session in making this determination. The amount of the settlement shall normally be in the range of ten percent of congregational assets. This shall be determined by the Fiduciary Administrative Commission for Dismissals on a case by case basis, taking into account the individual situation of the congregation.
7. The Terms of the Financial Settlement shall include a reversionary clause and require the Church to include a reversionary clause in the deeds to all the real property, which shall stipulate that the departing congregation retain title to all real property and assets unless, within ten years, any of the following occur:
  - a. The congregation ceases to exist as an active congregation
  - b. The placing of the real property of the congregation for sale
  - c. The discontinuation of worship by the congregation at the current property on a permanent basis
  - d. The congregation leaves or is dismissed as an active, separate congregation of the receiving denomination to operate independently or is merged into or otherwise becomes a non-Reformed denomination congregationIn any of these situations, the property and assets would revert to the Presbytery of Donegal.
8. The Fiduciary Administrative Commission for Dismissals shall retain a trained Mediator who shall mediate a meeting with the Fiduciary Administrative Commission for Dismissals and the Session to consider the financial settlement proposal. The stipend of the Mediator shall be paid by the congregation requesting dismissal. The Fiduciary Administrative Commission for Dismissals shall determine the payment schedule of the settlement in consultation with the session.
9. The Dismissal Policy shall be followed for the meeting of the Presbytery to vote upon the financial settlement, and the meeting of the congregation to accept the financial settlement.
10. The Fiduciary Administrative Commission for Dismissals shall also require the church to agree to take the following actions if the church votes to request that Presbytery dismiss it to another Reformed body and if the Presbytery then votes to approve that request:
  - a. Release any legal or judicial claim that has been made or could be made by the church against the Presbytery.

- b. Amend articles of incorporation, bylaws, deeds, property and liability insurance policies to reflect the updated name of the Church and new denomination.
- c. Pay off any loans with any PC(USA) entities and release Presbytery from any obligation for church's current loans with banking institutions or PC(USA) entities
- d. Identify those congregants who wish to remain in the PC(USA).
- e. Deliver all Roll Books, Registers and Session & Congregation Minute Books to the designated representative of the Presbytery of Donegal (usually the Stated Clerk and/or the Executive Presbyter). The congregation may be dismissed with a surrogate of its records, but the original materials are the property and continuing responsibility of presbytery. (See Book of Order G-3.0107 and General Assembly PJC Case 221-08, known as Presbytery of New York City vs. McGee.)
- f. Update the church's formal legal name to delete any reference to the Presbyterian Church (USA)
- g. Notify the Board of Pensions of date of official dismissal as specified in the Dismissal Policy
- h. Pay any amounts owed to Board of Pensions dues or owed for payroll
- i. Execute a quitclaim deed with a reversionary interest to the Presbytery of Donegal.

#### Taxes

- j. Reapply for the EIN number or transfer to a new name. If Presbytery approves the recommendation, the Fiduciary Administrative Commission for Dismissals must certify that all monies or assets agreed upon have been received by the Presbytery Treasurer or that a payment plan has been legally adopted by both sides. The Fiduciary Administrative Commission for Dismissals shall certify that all requirements of (4) a-i have been fulfilled before the Stated Clerk of the Presbytery is instructed to send the official dismission.

The Fiduciary Administrative Commission for Dismissals shall report its progress regularly to the Leader Team.