

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**THE NATIONAL SPIRITUAL ASSEMBLY)
OF THE BAHÁ'ÍS OF THE UNITED STATES)
OF AMERICA UNDER THE HEREDITARY)
GUARDIANSHIP, INC.)**

Counter-Defendant,)

v.)

**THE NATIONAL SPIRITUAL ASSEMBLY)
OF THE BAHÁ'ÍS OF THE UNITED STATES)
OF AMERICA, INC.)**

Counterclaimant.)

Civil Action No. 64 C 1878

The Honorable Amy J. St Eve

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW
BY RESPONDENTS JOEL B. MARANGELLA, FRANKLIN D. SCHLATTER,
AND PROVISIONAL NATIONAL BAHAI COUNCIL**

Pursuant to the Court's Order of October 31, 2007, the Orthodox Baha'i Faith ("OBF") Respondents, Joel B. Marangella, Frank Schlatter, and the Provisional National Bahai Council ("PNBC"), hereby submit the following proposed findings of fact and conclusions of law, in advance of the evidentiary hearing on the question of whether the Respondents are in privity with the Counter-Defendant in the above-captioned matter and whether they are subject to the Judgment entered herein on June 28, 1966.

PROPOSED FINDINGS OF FACT

The OBF Respondents hereby submit the following Proposed Findings of Fact.

Facts set forth in bold-face type are agreed by all parties.

1. **The Movant, the National Spiritual Assembly of the Baha'is of the United States ("NSA") is an Illinois not for profit corporation incorporated on October 14, 1994.**

2. The Counter-Claimant in the above captioned matter was an unincorporated association known as the National Spiritual Assembly of the Baha'is of the United States, which was comprised of an administrative body of nine Trustees under a Declaration of Trust dated April 4, 1927 ("NSA-Trust").

3. The Counter-Defendant, the National Spiritual Assembly of the Baha'is of the United States of America Under the Hereditary Guardianship, Inc. ("NSAUHG") was first formed as a voluntary association in April, 1963, the members of which incorporated it as a nonprofit corporation organized under the laws of the State of New Mexico on March 18, 1964.

4. The Judgment entered on June 28, 1966 in the above-captioned matter was entered in favor of the Counter-Claimant NSA-Trust and against the Counter-Defendant NSAUHG, its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, including affiliated Local Spiritual Assemblies, groups, and individuals.

5. The NSAUHG was comprised of nine members and it was the administrative body governing over those persons resident in the United States who had accepted Charles Mason Remey as the second Guardian of the Baha'i Faith.

6. Charles Mason Remey, on or about November 30, 1962, instructed the believers in the United States to form the NSAUHG and to elect its members in accordance with the administrative teachings of the Baha'i Faith.

7. Charles Mason Remey, on or about May 13, 1963, formulated the name of the NSAUHG.

8. Article XVI of the Bylaws of the NSAUHG provided that the NSAUHG had exclusive and final jurisdiction and paramount executive authority in all matters pertaining to the activities and affairs of the Baha'is in the United States under its jurisdiction, but that any decision made or action taken was subject to ultimate review and approval by the "Guardian of the Cause".

9. Charles Mason Remey is identified as the "Guardian of the Cause" at Section 2 of the Articles of Incorporation of the NSAUHG and Article II and Article IV of the Bylaws of the NSAUHG.

10. The NSAUHG was solely the creation of Charles Mason Remey.

11. The first members of the NSAUHG, elected in April 1963 for a one-year term, and the incorporators of the NSAUHG, were: A.S. Petzoldt, Marion Rhodes, Franklin D. Schlatter, Dr. Marie Frain, Clarence McClymonds, Rex King, Magdalene Wilkin, Charles Gaines, and Dr. Leland Jensen.

12. Respondent, Franklin D. Schlatter, served as a member of the NSAUHG from its inception as a voluntary association in April, 1963, and until the date of its dissolution on December 22, 1966.

13. Respondent, Franklin D. Schlatter was the Recording Secretary of the NSAUHG from April, 1963 to March 4, 1965, and he was the Secretary (including functions of Recording Secretary and Corresponding Secretary) of the NSAUHG from March 4, 1965 to April, 1966, and then he was Corresponding Secretary from April, 1966 through December 22, 1966.

14. At the second election, in May 1964, the following persons were elected to the NSAUHG for a one-year term: A.S. Petzoldt, Marion Rhodes, Franklin Schlatter, Dr. Marie Frain, Clarence McClymonds, James Meyer, Rex King, Magdalene Wilkin, and James Barrett.

15. The following members of the NSAUHG were not re-elected in April, 1964, and no longer were members of the NSAUHG as of that date: Charles Gaines and Dr. Leland Jensen.

16. The NSAUHG instituted a lawsuit in the above-captioned matter on November 6, 1964, against the NSA-Trust.

17. The legal action was taken with the approval of Charles Mason Remey for the expressed purpose of initiating contact and dialogue between the NSAUHG and the NSA-Trust.

18. At the third election, in April 1965, the following persons were elected to the NSAUHG for a one-year term: A.S. Petzoldt, Marion Rhodes, Franklin Schlatter, Dr. Marie Frain, Clarence McClymonds, James Meyer, Marilyn Meyer, Louise Vorndam, and John Byers.

19. The following members of the NSAUHG were not re-elected in April, 1965, and no longer were members of the NSAUHG as of that date: Rex King, Magdalene Wilkin, and James Barrett.

20. At the fourth election, in April 1966, the following persons were elected to the NSAUHG for a one-year term: A.S. Petzoldt, Marion Rhodes, Franklin Schlatter, James Meyer, Marilyn Meyer, Louise Vorndam, Les Vorndam, Madeline Byers, and Marita McClymonds.

21. The following members of the NSAUHG were not re-elected in April, 1966, and no longer were members of the NSAUHG as of that date: Dr. Marie Frain, Clarence McClymonds, and John Byers.

22. At the time when the Court in the above-captioned matter, entered its injunction and judgment, June 28, 1966, the members of the NSAUHG were not aware of

it and did not learn of it until a few days later. The NSAUHG then instructed its attorney to seek reconsideration and/or to appeal the decision.

23. On or about August 2, 1966, Charles Mason Remey instructed the NSAUHG to withdraw from any action for reconsideration or appeal or other action in the above-captioned matter "regardless of the consequences."

24. The NSAUHG subsequently ordered its attorney to abandon the appeal of the Judgment.

25. On or about September 30, 1966, Charles Mason Remey instructed the NSAUHG to disband and "cease to exist" and ordered the members of the NSAUHG and his followers under the jurisdiction of the NSAUHG to cease all activity and operations.

26. Pursuant to Charles Mason Remey's instructions, the NSAUHG immediately ceased operations, and, on December 22, 1966, it voluntarily dissolved the NSAUHG.

27. After dissolution, the former officers and members of the NSAUHG held no position of leadership or authority within the group of persons who were loyal to Charles Mason Remey; and they had no authority to act nor did they in fact take action thereafter on behalf of the NSAUHG or any of the persons formerly under its jurisdiction.

28. The Respondent, Joel B. Marangella, was not a member of the NSAUHG nor was he living in the United States at any time relevant hereto.

29. Joel B. Marangella, had accepted Charles Mason Remey but he was not subject to the jurisdiction of the NSAUHG because he was residing in France at all times during the existence of the NSAUHG.

30. Joel B. Marangella had been named by Charles Mason Remey as the President of the International Baha'i Council, a body having international jurisdiction over persons throughout the world who were loyal to Charles Mason Remey.

31. Although Charles Mason Remey gave specific tasks to Joel B. Marangella, including tasks in connection with the NSAUHG, Joel B. Marangella made no decisions at all with respect to the NSAUHG and had no authority over the NSAUHG, with Charles Mason Remey being the sole legal authority and decision-maker over the NSAUHG.

32. All correspondence between Joel B. Marangella and the NSAUHG was expressly on behalf of Charles Mason Remey and subject to his direction and approval.

33. In late 1966, Charles Mason Remey ordered the dissolution of the International Baha'i Council, and Joel B. Marangella ceased to hold any position or relationship with Charles Mason Remey from that time forward.

34. Following the dissolution of the NSAUHG, the former members of the NSAUHG and the faithful believers under its jurisdiction (hereinafter collectively referred to as "the Remnants of the NSAUHG") took no action that violated the Judgment.

35. Following the dissolution of the NSAUHG, the Remnants of the NSAUHG had no organized activity or meetings except that the Remnants of the NSAUHG engaged in a failed effort by some of them to organize the community, between the years 1967 through 1969, as set forth below.

36. On or about March 26, 1967, a group from among the Remnants of the NSAUHG, wrote a letter they referred to as the "Easter Letter" to address the question of having organized activity within the community, and they caused this letter to be mailed out to all of the Remnants of the NSAUHG.

37. The Easter Letter was signed by former NSAUHG members Les Vorndam, Louise Vorndam, Marita McClymonds, and Franklin Schlatter. The other signers were Edward Schlatter, its author, Pat Schlatter, Carole Schlatter, Count Harvey, and Pearl Harvey.

38. The letter writers proposed the formation of some organization for the purpose of functioning as a community and to explore the legal options for the community to operate within the confines of the Judgment or to overturn it legally, but there was no mention in the letter of any effort to undermine or violate the Judgment.

39. The Easter Letter requested that the Remnants of the NSAUHG respond to the letter and stated that the responses would be published in a future letter.

40. Among the responses to the Easter letter was a letter proposal dated April 23, 1967 from the Respondent, Frank Schlatter, in which he proposed a constitution for an organization that would be limited and structured so as not to violate the Judgment.

41. On or about April 29, 1967, a group from among the Remnants of the NSAUHG, came together in Espanola, New Mexico, to compile the various responses to the Easter Letter and produce what they called the "Ridvan Letter."

42. The Ridvan Letter was signed by former NSAUHG members Marita McClymonds, Clarence McClymonds, Franklin Schlatter, Jim Meyer, Marilyn Meyer, and Marion Rhodes. The other signers were Herb Keller, Carole Schlatter, Burns Patzer, Mrs. Patzer, Myra Keller, George Hanawalt, Al Meyer, Irene Meyer, Edward Schlatter, and Patricia Schlatter.

43. The Ridvan Letter writers summarized the responses to the Easter Letter as being split between those believers who wanted an organization and those who did not because Charles Mason Remey opposed such an organization, and the Ridvan Letter mentioned the Judgment but did not advocate that the community violate it.

44. The Ridvan Letter was mailed to the Remnants of the NSAUHG, including a questionnaire that was to be returned to form the basis of a third letter.

45. A Third Letter dated July 9, 1967 was mailed to all of the Remnants of the NSAUHG and summarized the questionnaire responses as being evenly split between those who favored organization and those that did not.

46. A Fourth Letter dated August 27, 1967 and a Fifth Letter dated February, 1968, also were sent to all of the Remnants of the NSAUHG to advocate the formation of an organization.

47. The Third, Fourth, and Fifth Letters were edited and distributed by Edward and Pat Schlatter.

48. None of the letters circulated amongst and between the Remnants of the NSAUHG advocated the violation of the Judgment.

49. The Remnants of the NSAUHG never did organize themselves or engage in any activity other than the circulation of the aforementioned correspondence.

50. In loyal obedience to the instructions of Charles Mason Remey, who forbid any action in violation of the Judgment, the Remnants of the NSAUHG never took action in violation of the Judgment.

51. On or about November 12, 1969, Joel B. Marangella proclaimed himself to be the third Guardian of the Baha'i Faith.

52. Prior to the distribution of his proclamation, Joel B. Marangella did not discuss with any of the Remnants of the NSAUHG his claim to be Guardian, nor did any of the Remnants have foreknowledge of his proclamation.

53. The persons who accepted Joel B. Marangella later came to be known as members of the Orthodox Baha'i Faith ("OBF").

54. Some, but not all, of the Remnants of the NSAUHG, and all of the 1966 members of the NSAUHG, accepted Joel B. Marangella as third Guardian, effectively joining the OBF.

55. Some, but not all, of the authors of the Easter Letter and Ridvan Letter joined the OBF, but the authors of the Third, Fourth and Fifth letters did not.

56. Since Charles Mason Remey was still living and still considered himself to be Guardian, Joel B. Marangella's claim to be Guardian was contrary to and in conflict with Charles Mason Remey's leadership.

57. On May 23, 1967, Charles Mason Remey appointed Donald Harvey to be the third Guardian upon his death, and this appointment was made contrary to and in conflict with Joel B. Marangella's claim to the Guardianship.

58. The creation of the OBF was an organization separate and apart from the body of the Remnants of the NSAUHG who remained loyal to Charles Mason Remey until his death in 1974.

59. The OBF and its institutions were solely the creation of Joel B. Marangella.

60. Of the former members of the NSAUHG, the following persons joined the OBF: A.S. Petzoldt, Marion Rhodes, Franklin Schlatter, Dr. Marie Frain, James Meyer, Rex King, Marilyn Meyer, Magdalene Wilkin, Louise Vorndam, John Byers, Les Vorndam, Madeline Byers, and Marita McClymonds, although some of them later left the OBF.

61. **In April, 1970, Joel B. Marangella established an unincorporated body called the National Bureau of the Orthodox Baha'i Faith in New York**, having no administrative jurisdiction over the persons who accepted Joel B. Marangella, but only serving as a communication link with him and as a distributor of his letters and publications in the United States.

62. **The members of the National Bureau in New York were appointed by Joel B. Marangella: John Byers, Madeline Byers, Grace Behrens, and Joel J. Marangella (the son of Joel B. Marangella). Of these, John Byers and Madeline Byers were formally members of the NSAUHG, and Grace Behrens had been a believer under the jurisdiction of the NSAUHG.**

63. **In July, 1972, Joel B. Marangella moved the National Bureau to New Mexico and, within the course of the following year, he appointed the following persons to serve on it: Kit and LaVonne DeHainut, Anita Romero, George and Eunice Hanawalt, James Meyer, and Marilyn Meyer.**

64. **On January 15, 1974, Steve Rhodes, Myra Keller, and Frank Schlatter were appointed to the National Bureau by Joel B. Marangella, and on February 17, 1974 Carole Schlatter was appointed to the National Bureau by Joel B. Marangella.**

65. **Of the persons serving on the National Bureau in New Mexico, James Meyer, Marilyn Meyer and Frank Schlatter were formerly members of the**

NSAUHG, and George and Eunice Hanawalt, Steve Rhodes, Carole Schlatter, and Myra Keller had been believers under the jurisdiction of the NSAUHG.

66. The Respondent, PNBC, is a nonprofit corporation organized under the laws of the State of New Mexico on June 19, 1978 originally under the name of the Mother Baha'i Council of the United States; and its name was changed to its current name, Provisional National Baha'i Council, on August 24, 2000.

67. The corporate documents of the PNBC state that it was the legal successor to the National Bureau of the Orthodox Baha'i Faith of the United States and Canada, which was a corporation organized under the laws of the State of New Mexico on April 17, 1974 and which was voluntarily dissolved on January 31, 1979.

68. The incorporators of the Respondent, PNBC, were Steve Rhodes, Benny Shacklette, Franklin Schlatter, and Cindy Schacklette, who also were members of the PNBC together with Beth Rhodes, Carole Schlatter, Karen Herman, Marion Rhodes, and Janet Dumars.

69. Of the members of the PNBC at the time of its inception, Frank Schlatter and Marion Rhodes were former members of the NSAUHG, and Steve Rhodes and Carole Schlatter were believers formerly under the jurisdiction of the NSAUHG.

70. The Respondent, PNBC, is presently the governing administrative body over those persons residing in the United States who recognize Joel B. Marangella as the third Guardian of the Baha'i Faith.

71. Of the current members of the PNBC, only James Meyer and Marilyn Meyer were former members of the NSAUHG and David Maxwell and Steve Rhodes were believers formerly under the jurisdiction of the NSAUHG, with the remaining members of the PNBC having never been members or under the jurisdiction of the NSAUHG.

72. A majority of the present believers under the jurisdiction of the PNBC were not affiliated with the NSAUHG.

73. The National Bureau and the PNBC have been appointed by Joel B. Marangella and Joel B. Marangella has had ultimate legal control and authority over those bodies.

PROPOSED CONCLUSIONS OF LAW

The OBF Respondents hereby submit the following Proposed Conclusion of Law:

1. The injunction of the Judgment entered on June 28, 1966 (hereinafter the "Injunction") is binding only against the NSAUHG, its officers, agents, servants,

employees and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the Injunction, and against those identified with them in interest or in privity with them.

2. The Injunction also may bind those in active concert or participation with the named party, the NSAUHG, either nonparties who are successors in interest with the NSAUHG or nonparties who aid or abet the NSAUHG in a concerted attempt to subvert the proscriptions of the Injunction.

3. The NSAUHG was the creation of, and at all times was under the sole legal control and authority of Charles Mason Remey who had ordered the dissolution of the NSAUHG and who ordered the Remnants of the NSAUHG never to take any action after entry of the Judgment, and the Remnants of the NSAUHG obeyed him.

4. Joel B. Marangella had no legal authority over the NSAUHG.

5. The authority of the members and officers of the NSAUHG to act on behalf of the NSAUHG was revoked by Charles Mason Remey and they ceased to act on behalf of the NSAUHG on December 22, 1966.

6. Although many of the members of the OBF were Remnants of the NSAUHG, the fact that the OBF and the NSAUHG had some common members and followers itself does not establish privity.

7. The Remnants of the NSAUHG have remained in obedience to the Injunction, and there was never concerted action by anyone actively affiliated with the NSAUHG to subvert the proscriptions of the Injunction.

8. The actions of any of the former members of the NSAUHG after they joined the OBF were not actions on behalf of the NSAUHG.

9. Since the NSAUHG or its Remnants never violated the Injunction, no person could have aided or abetted it in violating the Injunction.

10. Joel B. Marangella established the OBF as a separate organization, with competing claims and interests from the one established by Charles Mason Remey, and therefore there was no relationship or identity of interest so that the OBF, including Joel B. Marangella, Franklin Schlatter and the PNBC, were not in privity with the NSAUHG.

11. Joel B. Marangella created and had sole legal authority over the OBF and its institutions.

12. Charles Mason Remey had no legal relationship to the OBF.

13. Religious belief, including the parties' respective beliefs about the Guardianship of the Baha'i Faith, have no legal relevance to the question of privity, which is a matter of the parties' behavior and legal relationships.

14. Joel B. Marangella, Franklin Schlatter and the PNBC were not successors in interest to the NSAUHG.

15. Joel B. Marangella, Franklin Schlatter and the PNBC were not in active concert or participation with the NSAUHG.

16. The Injunction is not binding upon Joel B. Marangella, Franklin Schlatter and the PNBC.

17. The Court has no jurisdiction over Joel B. Marangella, Franklin Schlatter and the PNBC.

18. The NSA's motion for contempt should be denied and dismissed as against Joel B. Marangella, Franklin Schlatter and the PNBC.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 30, 2007, I filed with the Clerk of United States District Court, Northern District of Illinois, the foregoing Proposed Findings of Fact and Conclusions of Law and that a copy was sent electronically to all parties by operation of the CM/ECF electronic noticing system.

Respectfully submitted,

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