

OUR ST. PETE UU ENDOWMENT FUND

Alex Bolton-Schultes
January, 2009

I think probably I need to start the discussion with the history of the concept of a "trust."

Back in the middle ages, when landowners got the urge to ride away for extended periods of time on Crusades, there was the question of how their assets could be taken care of in their absence. The solution was to legally transfer those assets to some very trustworthy person (say, the seneschal of the estate). As the legal owner, that "Trustee" could legally do whatever was necessary to preserve and manage the assets. Of course the knight in armor was hoping to get the assets back when he triumphantly returned, so in transferring the ownership, he would have the trustee make a legally binding promise to hold and manage the assets for the benefit of the knight (and his family) rather than for the trustee's own benefit. That was called the Trustee's "fiduciary responsibility," and it was, and still is, a very serious one.

Moving to the present century, our Church's "Endowment Trust" is an arrangement whereby a group of individuals (the Endowment Trustee, aka Board of Endowment) has legal title to certain assets, but is subject to a legally binding fiduciary responsibility to hold and manage them strictly for the benefit of the Church. Here a definition of an "endowment" which I cut and pasted from About.com.

Definition: A fund that is made up of gifts and bequests that are subject to a requirement that the principal be maintained intact and invested to create a source of income for an organization. Donors may set up an endowment to fund a specific interest; and a nonprofit's governing body may set up an endowment. In any case, an endowment requires that the principal remain intact in perpetuity, or for a defined period of time or until sufficient assets have been accumulated to achieve a designated purpose.

Many, if not most, churches aren't so fortunate as to have an endowment fund. Ideally, we, like churches without an endowment, would pay our normal operating expenses with funds raised from pledges and other contributions, special projects, property usage and so forth. Then the endowment fund could be used for major expenditures—perhaps to build a new building to house religious education, for example. (Along those lines, funds from our endowment were used in the 1990s to purchase the property we now use as a parking lot.) Pay as we go may have been the case in the 1960s and 70s, but, unfortunately, for many years now, our church has, for whatever reason, been unable to fund current operations without help from the Endowment Fund. So funds have been transferred each year from Endowment to the Church General Fund for that purpose.

Strictly speaking, what our Church has is not technically an "endowment" (under the about.com definition), since there is no *requirement* under its governing documents that the principal "remain intact in perpetuity, or for a defined period of time...." Our "Endowment Trust" was created by the execution of a Trust Agreement in 1962 and has been funded over time by gifts and bequests from members and friends of the Church. (Those gifts and bequests form the initial "principal" of the Trust, which is then invested, hopefully to grow and produce income.) The Trust Agreement, which is our legal governing document, states that the Endowment Trustees "shall hold all property of the Trust Fund for the sole and exclusive benefit of the Church for its religious purposes" and "shall distribute the net earnings and the principal of the Trust Fund...as directed by the Board of Trustees of the Church." Thus, not just income, but also principal, is permitted to be paid to the Church if "requested by the BOT" for a "religious purpose."

This makes it sound like the Endowment funds can be transferred to the Church under almost any circumstance, but the Church, in its bylaws, has made rules restricting the ability of the BOT to "request" funds from the Endowment. Under the Church's bylaws, the BOT "requests" an annual pledge from Endowment in an amount equal to 5% of a five-year rolling average of the Endowment's net worth. Since this rule went into effect (for fiscal year ended 6/30/02) this has amounted to between \$40,000 and \$44,000 per year. In order to "request" any additional funds, the BOT must be authorized to do so by a congregational vote. In recognition of the seriousness

of such a decision, the vote requires a supermajority (75%) of those voting at a meeting with a quorum of 60% of all members in attendance. (Absentee ballots are allowed, though, and also count toward the quorum.) That's a pretty high barrier, and reflects the feeling that, even though legally permitted, withdrawal of "principal," should be possible only with broad-based consent of the congregation.

The distinction between the principal portion (also called "corpus") and the income portion is traditional in the world of Trusts, where often there will be one person or group entitled to the income earned and another person or group entitled to the "remainder" of the principal, perhaps after the death of the income beneficiaries. (In our case, there's only one beneficiary for both income and principal, so that distinction is much less important, but it still tends to influence people's thinking.) Traditionally, earnings like interest and dividends were allocated to the income beneficiaries, and increases or decreases in value of the underlying assets (including capital gains or losses recognized when trust assets are sold) were allocated to principal. Thus income beneficiaries would tend to favor investment decisions which would result in a lot of current income (e.g., high-yield bonds) and remainder beneficiaries would tend to favor growth assets (e.g., stocks.) The Trustees' "fiduciary responsibility" then would include being as fair as possible to both groups.

In the last decade or two, it became recognized in the world of finance that the goal of investing generally should be to maximize "total return" without regard to whether that came in the form of current income or principal appreciation. Trustees were frustrated that the requirement to satisfy the needs of the income beneficiary were preventing them from pursuing a policy of investing for total return, which had become the acknowledged standard of what a prudent investor should do. Out of this frustration came changes in state laws (including Florida's) to permit trust "income" to be defined as a "unitrust" amount—simply a fixed percentage of the value of the trust assets (often measured as of the last day of the prior year.) So, when the decision was made to establish an annual distribution from the Endowment Fund to the Church (rather than having the BOT and BOE argue each year about how much was needed), we set that up as a unitrust amount, but using a rolling five-year average of the value (rather than just the most recent year-end value) to smooth out the calculation and protect against the impact on current church funding of sudden market changes such as we've seen in recent months.