STATE OF MINNESOTA
IN COURT OF APPEALS
A16-0945

Presbytery of the Twin Cities Area,
Appellant,

vs.

Eden Prairie Presbyterian Church, Inc.
d/b/a Prairie Community Church of the Twin Cities,
Respondent.

Filed April 24, 2017
Affirmed
Reilly, Judge

Hennepin County District Court
File No. 27-CV-14-16226

Eric E. Caugh, Rolf E. Gilbertson, Zelle LLP, Minneapolis, Minnesota (for appellant)

Russell S. Ponessa, Mark T. Berhow, Hinshaw & Culbertson LLP, Minneapolis, Minnesota (for respondent)

Considered and decided by Reilly, Presiding Judge; Hooten, Judge; and Smith, Tracy M., Judge.

U N P U B L I S H E D O P I N I O N

REILLY, Judge

Appellant Presbytery of the Twin Cities Area (PTCA) challenges the district court's summary judgment ruling on disputes over real and personal property rights between PTCA, an incorporated representative of the Presbyterian Church, U.S.A. (PCUSA), and

respondent Eden Prairie Church, Inc., d/b/a Prairie Community Church of the Twin Cities (EPPC), a congregation organized as a Minnesota nonprofit corporation. PTCA asserts that the district court erred by (1) applying neutral principles of law to determine ownership of the disputed property, instead of deferring to PCUSA's resolution of the dispute under the ecclesiastical-abstention doctrine; (2) concluding that language in the Book of Order did not create an irrevocable trust under Minnesota law; and (3) ruling that respondent validly revoked a trust created in its articles of incorporation. Because this dispute is based solely in property law and is not doctrinal in nature, we apply neutral principles of law and affirm.

FACTS

Over its more than 163-year existence, EPPC has voluntarily affiliated with at least five different Presbyterian denominations.[1] During this time, EPPC paid for all real and personal property using only member gifts, tithes, and offerings. In 1958, EPPC incorporated as a Minnesota nonprofit corporation, whose stated purpose was "to provide services of worship and to cultivate the religious life of its members according to the evangelical tenets of the Christian faith" and the standards of the Presbyterian Church. At that time, EPPC was affiliated with the United Presbyterian Church, U.S.A., not PCUSA. The following year, EPPC adopted the constitution of the United Presbyterian Church, U.S.A.; this constitution did not reference a trust clause. In 1983, the United Presbyterian

[1] "Denomination" refers to the national religious organization; "presbytery" refers to the religious organization at the district level, responsible for the congregations within designated boundaries or the district; "session" refers to the governing board of the congregation; and "congregation" refers to the local church.

Church merged with another national denomination, Presbyterian Church (U.S.A.), to form PCUSA, and, as a result of the merger, EPPC became affiliated with PCUSA and PTCA. At the time of the merger, the constitution of PCUSA, the Book of Order, provided that:

> All property held by or for a congregation, a presbytery, a synod, the General Assembly, or [PCUSA], whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, and whether the property is used in programs of a congregation or of a higher council or retained for the production of income, is held in trust nevertheless for the use and benefit of [PCUSA].

EPPC did not amend its constitution, articles of incorporation, or bylaws at that time to adopt the Book of Order. In 1994, EPPC first recognized the Book of Order in its governing documents when it amended its bylaws to include the following:

> 1. [EPPC], being a participating congregation of [PCUSA], recognizes that the Constitution of said Church is, in all its provisions, obligatory upon it and its members.
> . . .
> 18. These By-laws may be amended subject to the charter of the corporation, the laws of the State of Minnesota, and the Constitution of [PCUSA] at any annual meeting or at any special meeting, by a majority vote of the voters present, provided that a full reading of the same shall have been made in connection with the call of the meeting.
> . . .
> 20. These By-laws or the charter of this corporation may not be amended contrary to, or so as not to include, the provisions of the Constitution of [PCUSA].

In December 1996, EPPC entered into a purchase agreement with Wheaton College, as trustee of the Hone Unitrust, and Ernest and Carol Hone to purchase the disputed property. The first warranty deed conveyed only two-thirds of the disputed property to EPPC; Carol Hone later conveyed and warranted the remaining one-third of the property

to EPPC. PTCA and PCUSA were not parties to either purchase agreement and were not recited as guarantees on the warranty deeds.

In 1999, EPPC expressly recognized the Book of Order trust clause in its articles of incorporation, but retained the right to amend its articles by adopting the following language:

> This corporation shall be a constituent church of and affiliated with [PCUSA], and shall be subject to its polity and discipline as contained in the Constitution of [PCUSA]. The legal title to all property held by this corporation, whether the property is used in the programs of this corporation or held for the production of income, is held in trust, nevertheless, for the use and benefit of [PCUSA].
> . . .
> These Articles of Incorporation may be amended by a majority of the active members of the congregation at any annual meeting or at any special meeting of the congregation called for that purpose, provided that notice of the meeting at which such amendments are to be considered shall include the full text of the proposed amendments.

In a letter dated September 14, 2010, the EPPC session called a special meeting to vote on removal of the trust language contained in its articles of incorporation and bylaws. A quorum of EPPC's duly enrolled members attended the special session and voted to amend the documents to remove all references to the trust clause. The proposed amendments passed by a vote of 160 to 1 and were officially adopted on December 7, 2010. Shortly thereafter, EPPC filed these documents with the state.

Two years after EPPC amended its documents to remove all references to the trust clause, PCUSA adopted the "Gracious Separation" policy, which established a mandatory two-step separation process for congregations wishing to depart based on perceived

differences in theological belief, perspective, and polity. Under this policy, departing congregations were required to participate in the disaffiliation process, where a PCUSA appointed response team would assess the congregation to determine whether disaffiliation was the appropriate remedy. If the team concluded that the majority of the congregation supported disaffiliation, PCUSA would appoint a negotiation team to evaluate the congregation's request for removal and to propose a settlement recommendation. The policy noted that congregations may not be dismissed until they "make an appropriate contribution to the Presbytery."

Sometime in 2012, EPPC initiated the disaffiliation process under the gracious separation policy, and PCUSA appointed an initial-response team to determine whether disaffiliation was appropriate. Because the team concluded that the majority of the congregation supported disaffiliation, EPPC moved into the second stage of disaffiliation and PCUSA appointed a negotiation team. After settlement negotiations failed, EPPC called a special meeting, where the session unanimously voted to disaffiliate from PCUSA. EPPC later notified PCUSA of the unilateral termination of its voluntary affiliation. PTCA, however, refused to acknowledge EPPC's disaffiliation, informing EPPC that completion of the gracious separation policy is the only means by which a congregation may disaffiliate. In September 2014, PTCA proposed a motion to assume original jurisdiction of EPPC and voted on the motion at a meeting, which EPPC declined to attend. After the motion passed, PTCA assumed jurisdiction over the session and informed EPPC that, if it wished to contest PTCA's assertion of original jurisdiction, EPPC must appeal the decision. EPPC did not file a timely appeal.

On September 26, 2014, PTCA filed a summons and complaint seeking a declaratory judgment enforcing its decision regarding the property and assets of EPPC, alleging conversion and breach of fiduciary duties, and seeking an order ejecting EPPC from the disputed property. EPPC filed an answer denying the allegations in the complaint and asserting various defenses. The parties filed cross-motions for summary judgment, disputing the validity of EPPC's unilateral disaffiliation and the ownership of EPPC's real and personal property located in Eden Prairie, Minnesota. The district court concluded that it could resolve the church property dispute without violating the First Amendment's prohibition on excessive entanglement with religion by applying neutral principles of law. The district court refrained from deciding issues involving gracious separation and original jurisdiction. Based on the arguments and record presented, the district court issued an order denying PTCA's motions, granting EPPC's motions, and concluding that EPPC owns the disputed property and that the property is not held in trust for PCUSA. The district court directed the parties to address any remaining issues through informal briefing. Both parties submitted briefing, and, after reviewing the parties' submissions, the court entered judgment pursuant to the summary-judgment order.

This appeal followed.

D E C I S I O N

I. Standard of Review.

On appeal from summary judgment, we must determine "whether there are any genuine issues of material fact and whether a party is entitled to judgment as a matter of law." *Citizens State Bank v. Raven Trading Partners, Inc.*, 786 N.W.2d 274, 277 (Minn.

2010). Summary judgment is properly rendered when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that either party is entitled to a judgment as a matter of law." Minn. R. Civ. P. 56.03. Where the material facts are undisputed, we review de novo the district court's application of the law. *Citizens State Bank*, 786 N.W.2d at 277. We also review constitutional-interpretation questions de novo. *Pfeil v. St. Matthews Evangelical Lutheran Church*, 877 N.W.2d 528, 536 (Minn. 2016).

II. The district court did not err by applying neutral principles of law to the property dispute, instead of deferring to the governing ecclesiastical body's decision under the ecclesiastical-abstention doctrine.

PTCA first urges this court to apply the ecclesiastical-abstention doctrine or church autonomy doctrine, arguing that the neutral principles approach is available only in "limited circumstances." The Minnesota Supreme Court recently clarified that the ecclesiastical-abstention doctrine, which is rooted "in a line of U.S. Supreme Court decisions regarding church property and church schisms," is not a jurisdictional bar and does not implicate subject-matter jurisdiction. *Pfeil*, 877 N.W.2d at 532-34. After examining the jurisprudential history of the doctrine, the supreme court determined the following principles may be distilled from governing United States Supreme Court cases: (1) civil courts may not overturn decisions of governing ecclesiastical bodies concerning purely ecclesiastical matters; (2) courts may not hear cases that require the judiciary to resolve issues of polity or interpret church doctrine; and (3) courts may only resolve disputes involving religious organizations relying exclusively on neutral principles of law, court rulings will not disturb a ruling of a governing ecclesiastical body on a matter of

doctrine, and the adjudication will not interfere with an internal church decision affecting the polity and mission of the religious organization. *Id.* at 534.

Traditionally, we analyzed the ecclesiastical-abstention doctrine "as an Establishment Clause question and applied the three-pronged test announced in *Lemon v. Kurtzman*" when evaluating such claims. *Id.* at 537 (citing *Lemon*, 403 U.S. 602, 612-13, 91 S. Ct. 2105, 2111 (1971)). Under the *Lemon* test, state action is valid if it: (1) has a secular purpose, (2) does not inhibit or advance religion in its primary effect, and (3) does not foster excessive governmental entanglement with religion. *Pfeil*, 877 N.W.2d at 537. But the court in *Pfeil* recognized that the ecclesiastical-abstention doctrine is grounded in not only the Establishment Clause, but also the Free Exercise Clause, when evaluating whether a claim would interfere with an internal decision of a religious institution and impact an organization's faith and mission. *Id.* at 537. The court, however, concluded that analyses under both clauses "appear to be substantially similar inquiries." *Id.* We must therefore determine whether adjudication in this case will foster excessive governmental entanglement with religion or interfere with an internal decision of the PCUSA that affects the faith and mission of the denomination. *Id.*

"Under the entanglement doctrine, a state may not inquire into or review the internal decisionmaking or governance of a religious institution." *Odenthal v. Minn. Conference of Seventh-Day Adventists*, 649 N.W.2d 426, 435 (Minn. 2002). But an entanglement problem does not exist "when civil courts use neutral principles of law—rules or standards that have been developed and are applied without particular regard to religious institutions

or doctrines—to resolve disputes even though those disputes involve religious institutions or actors." *State v. Wenthe*, 839 N.W.2d 83, 90 (Minn. 2013).

It is undisputed that the Book of Order establishes a method for resolving disputes and the ecclesiastical governing body issued a ruling in accordance with the procedures established in the Book of Order. The United States Supreme Court recently clarified that whether the ecclesiastical-abstention doctrine applies, or whether neutral principles may be used in a particular case, depends on whether adjudication would result in "government interference with an internal church decision that affects the faith and mission of the church itself." *Hosanna-Tabor Evangelical Lutheran Church & School v. EEOC*, 565 U.S. 171, 190, 132 S. Ct. 694, 702 (2012). PTCA contends that the dispute at issue here affects the faith and mission of the church and is therefore purely ecclesiastical because the Book of Order denotes that property "is a tool for the accomplishment of the mission of Jesus Christ in the world" and establishes the trust in which property is held. However, counsel conceded at oral argument that we may take judicial notice of PCUSA's Book of Order as it appears on the organization's website. On appeal, PTCA included in its addendum the most recent version of the Book of Order, which includes, for the first time, the clause: "property . . . is a tool for the accomplishment of the mission of Jesus Christ in the world." Prior versions of the Book of Order, which governed the dispute at issue here, did not include this language and there is no evidence that otherwise suggests that the property dispute poses a question of church doctrine or polity. Thus, application of the

ecclesiastical-abstention doctrine is inappropriate here,[2] and we conclude that the district court did not err by applying neutral principles of law.

Jones v. Wolf articulates the history of church property disputes and civil courts' authority to resolve these disputes using neutral principles of law. 443 U.S. 595, 99 S. Ct. 3020 (1979). In *Jones*, the Court noted that the "[s]tate has an obvious and legitimate interest in the peaceful resolution of property disputes, and in providing a civil forum where the ownership of church property can be determined conclusively." *Id.* at 602, 99 S. Ct. at 3025. The First Amendment, however, requires that civil courts defer to religious institutions' resolutions of issues concerning religious doctrine or polity. *Id.* But this

[2] Even if this clause were properly before the court, federal and state courts caution against such blind and compulsory deference to religious organizations' resolutions of church property disputes. We particularly concur with the discussion set forth in *Colonial Presbyterian Church v. Heartland Presbytery*, in which the Missouri Court of Appeals warned:

> An undivided local church is not materially different from an individual religious person, and no one would suggest that a national church could convey to itself in trust property that is titled exclusively and unequivocally in one of its individual followers, even if that person had pledged allegiance to the national church or its constitution. . . .
>
> Indeed, in such cases, it would arguably violate the First Amendment and the Fourteenth Amendment for a state to impose a rule of deference so iron-clad as to force a local church to either (1) continue its association with a national church whose religious beliefs the local church no longer shared; or (2) disassociate and, in so doing, put itself at the financial mercy of the national church which could . . . appropriate to itself all of the local church's property, despite having no legal right to do so under neutral principles of law.

375 S.W.3d 190, 197 n.10 (Miss. 2012).

limitation does not bar state civil courts from resolving church property disputes entirely; instead, a state may "adopt any one of various approaches for settling church property disputes so long as it involves no consideration of doctrinal matters, whether the ritual or liturgy of worship or the tenets of faith." *Id.* (quotation omitted). Following *Jones*, the Minnesota Supreme Court adopted the neutral-principles approach in *Piletich v. Deretich*, reiterating the Supreme Court's observation that a state has an "obvious and legitimate interest in the peaceful resolution of property disputes, and in providing a civil forum where the ownership of church property can be determined conclusively." 328 N.W.2d 696, 700 (Minn. 1982) (quoting *Jones*, 443 U.S. at 602, 99 S. Ct. at 3025). Minnesota courts may therefore apply the neutral-principles approach to resolve church property disputes where the court may "resolve the matter by relying exclusively on neutral principles of law, the court does not disturb the ruling of a governing ecclesiastical body with respect to issues of doctrine, and the adjudication does not interfere with an internal church decision that affects the faith and mission of the church itself." *Pfeil*, 877 N.W.2d at 534.

In this case, the district court relied on *Piletich* as grounds for denial of PTCA's summary-judgment motion and as grounds for granting EPPC's cross-motion for summary judgment. *Piletich* involved "a dispute over the identity of persons entitled to [a congregation's] real and personal property." 328 N.W.2d at 698. In that case, the majority of the congregation voted against recognizing the church diocese's reorganization, and acquired control and possession of the property. *Id.* On review, the supreme court classified the action as an inter-congregational dispute, which ought "to be determined by documents and proceedings of the local church government." *Id.* at 700. In these instances,

states may avoid excessive entanglement issues by "applying principles of law in a purely secular manner, taking care not to decide disputes on the basis of doctrinal manners, and deferring to decisions of church hierarchy only when church rules or constitutions or state statutes specifically require." *Id.* at 701. Because the church in *Piletich* was not hierarchical and the dispute was not doctrinal, the supreme court applied the neutral rule of majority representation, and affirmed the district court's order granting summary judgment in favor of the majority. *Id.* at 699-700, 702-03.

As in *Piletich*, the district court determined the dispute at issue here was based solely in property law and was not doctrinal, and, as we discussed earlier, we agree. But PTCA argues that the district court erred by concluding that resolution of the property dispute was not hierarchical in nature. "Through appropriate reversionary clauses and trust provisions, religious societies can specify what is to happen to church property in the event of a particular contingency, or what religious body will determine the ownership in the event of a schism or doctrinal controversy." *Jones*, 443 U.S. at 603, 99 S. Ct. at 3025. "[T]he First Amendment requires that civil courts defer to adjudications by the highest tribunals in a 'hierarchical' church organization on issues of religious doctrine or polity." *Piletich*, 328 N.W.2d at 699. If, in these instances, "interpretation of the instruments of ownership would require the civil court to resolve a religious controversy, then the court must defer to the resolution of the doctrinal issue by the authoritative ecclesiastical body." *Jones*, 443 U.S. at 604, 99 S. Ct. at 3026.

PTCA argues its governing body is hierarchical because: (1) EPPC is governed by the Book of Order and, by joining PCUSA, bound itself to PTCA's rules and governance

structure and (2) the Book of Order commits the resolution of this dispute to the Presbytery. This argument, without more, is unavailing. To satisfy the hierarchical standard adopted in *Piletich*, the hierarchical ruling must concern an issue of polity or doctrine. *Piletich*, 328 N.W.2d at 699. PTCA argues the property dispute is a matter of polity or faith: "property is the temporal tool for the accomplishment of the mission of Jesus Christ in the temporal world." ("G-4.0201 Property as a Tool for Mission: The property of the [PCUSA], of its councils and entities, and of its congregation, is a tool for the accomplishment of the mission of Jesus Christ in the world."). Because, as we indicated earlier, we reject this notion and caution against "compulsory deference to religious authority in resolving church property disputes," Jones, 443 U.S. at 605, 99 S. Ct. at 3026, we conclude that the district court did not err by deciding this dispute using neutral principles of law.

III. The trust clause in EPPC's articles of incorporation created a valid, enforceable revocable trust.

Finally, applying neutral principles of law, we address whether the trust clause mandates that EPPC transfer the disputed property to PCUSA. This issue comes before us from the district court's grant of EPPC's motion for summary judgment. We review a grant of summary judgment de novo. *Allen v. Burnet Realty, LLC*, 801 N.W.2d 153, 156 (Minn. 2011). And we review a district court's interpretation of a written document de novo, which in this case includes the Book of Order, Articles of Incorporation, and the Bylaws. *See In re Pamela Andreas Stisser Grantor Trust*, 818 N.W.2d 495, 502 (Minn. 2012).

Under Minnesota law, the requirements for a valid express trust include: "(1) a designated trustee with enforceable duties; (2) a designated beneficiary vested with enforceable rights; and (3) a definite trust res in which the trustee has legal title and the beneficiary has the beneficial interest." *Thomas B. Olson & Assoc., P.A. v. Leffert, Jay & Polglaze, P.A.*, 756 N.W.2d 907, 914-15 (Minn. App. 2008) (quoting *Bond v. Comm'r of Revenue*, 691 N.W.2d 831, 837 (Minn. 2005)). An express trust "is created only if the settlor demonstrates, by external expression, the intent to create a trust." *Id.* at 915 (quotation and citation omitted). Minnesota law examines the intent of the settlor at the time the trust was purportedly created. *In re Bush's Trust*, 249 Minn. 31, 42-43, 81 N.W.2d 615, 619-20 (1957). The law does not require that the settlor use any particular form or words to create a valid trust; rather, it requires the settlor establish "a definite, unequivocal, explicit declaration of trust." *Id.* This may be shown through circumstantial evidence, if the circumstances "show with reasonable certainty or beyond a reasonable doubt that a trust was intended to be created." *Id.* (quotation omitted).

A. EPPC's amendment to its articles of incorporation, adopting the trust language contained in the Book of Order, is a valid expression of its intent as settlor to create a trust.

In this case, the Book of Order contains language, deemed the "trust clause," which provides that all real and personal property "held by or for a congregation," regardless of legal title, is held in trust "for the use and benefit" of PCUSA, and is a statement of the intent of the entire denomination. Relying on this language, PTCA argues that EPPC's intent, as settlor, to create an express trust may be inferred by virtue of the democratic process through which the trust clause was added to the Book of Order, EPPC's own

adoption of the Book of Order, and EPPC's conduct after doing so. The trust language in the Book of Order, however, did not create an express trust as it is devoid of any language demonstrating the specific intent of EPPC to create a trust under Minnesota law. At most, the language contained in the Book of Order is indicative of the intent of the beneficiary, PCUSA, not the settlor, EPPC. Because Minnesota law requires an external expression of the settlor's intent, the trust language in the Book of Order did not create an express trust—mere existence of trust language in a governing document, even one adopted through a democratic process, is not sufficient to establish the requisite intent of the settlor. *See In re Bush's Trust*, 249 Minn. at 42-43, 81 N.W.2d at 619-20 ("[N]o trust is created unless the settlor manifests, by external expression, an intent to create that relationship which embraces the essential elements of a trust. . . ."); *see also* Restatement (Second) of Trusts § 4, cmt a. (1959) (commenting that a valid trust requires a manifestation, by external expression, of the settlor's intention to create a trust). We also note that other jurisdictions have similarly declined to find that a valid trust was created solely by language contained in the Book of Order. *See, e.g.*, *Presbytery of Ohio Valley, Inc. v. OPC, Inc.*, 973 N.E.2d 1099, 1112 (Oh. 2012) (declining to find an express trust where there was no writing signed contemporaneously with the insertion of the trust provision in the PCUSA constitution); *Heartland Presbytery v. Gashland Presbyterian Church*, 364 S.W.2d 575, 591 (Mo. Ct. App. 2012) (holding that the provisions of PCUSA's Book of Order is not necessarily

binding on the congregation, without some effective expression of the congregation's agreement to be bound by those provisions).[3]

An express trust may still be created, however, when a congregation amends its articles of incorporation and bylaws to include trust language. *See Presbytery of Greater Atlanta, Inc. v. Timberridge Presbyterian Church, Inc.*, 719 S.E.2d 446, 458 (Ga. 2011) (applying neutral principles of law and holding an implied trust existed in favor of PCUSA based on specific language in governing documents adopted by the local and general churches and not contradicted by the deeds). In *Hope Presbyterian Church of Rogue River v. Presbyterian Church*, a congregation amended its bylaws shortly after the United Presbyterian Church merged with the Presbyterian Church, U.S.A. 291 P.3d 711, 713-14, 352 Or. 668, 672 (2012). The amended documents stated the congregation is "governed in all its provisions by the Constitution of the [PCUSA]," which included the Book of Order. *Id.* at 714, 352 Or. at 672. Over 20 years later, the congregation initiated the disaffiliation process. *Id.* at 714-15, 352 Or. at 672. Under the neutral-principles approach, the Oregon Supreme Court applied trust law to the undisputed facts and concluded that the inclusion of trust language in governing documents created an express trust. *Id.* at 722-24, 357 Or. at 686-90. As support for this determination, the court cited the congregation's long-standing affiliation, familiarity with the Book of Order, and presence at the meeting approving the merger and amended Book of Order. *Id.* at 724-25, 352 Or. at 690-91.

[3] EPPC also argued that the trust language contained in the Book of Order failed to create an enforceable trust because it violated Minnesota's statute of frauds. *See* Minn. Stat. § 513.04 (2016). Because we determine that the trust language in the Book of Order did not create a valid enforceable trust, we decline to address this argument.

Like *Hope Presbyterian*, EPPC created an express trust when it modified its articles of incorporation in 1999, establishing that "legal title to all property is held by this corporation . . . in trust, nevertheless, for the use and benefit" of PCUSA. The language contained in the articles satisfied the trust formation requirements: it designated a trustee, EPPC; a beneficiary, PCUSA; and definite res, "legal title to all property held by this corporation," which included the property at issue here. The article was also an unequivocal declaration of the intent of the settlor, EPPC, to create the trust. EPPC had been affiliated with PCUSA for over 20 years at the time of disaffiliation, EPPC attended the meeting approving the merger and adopting the amended Book of Order, and EPPC amended its articles of incorporation to include the trust language. By adopting the trust language into its articles of incorporation, EPPC unambiguously expressed its intent to place all property held into a trust for the use and benefit of PCUSA, and EPPC's intent was further bolstered by the circumstances under which EPPC amended its governing documents to include the trust language.

B. Because EPPC was authorized to remove the trust language from its articles of incorporation, its revocation of the trust was valid.

Before EPPC removed the trust language from its articles of incorporation in 2010, the PCUSA general assembly ruled that each congregation "lacks the power to adopt changes to its articles of incorporation, regulations, by-laws, or standing rules that are contrary to the Constitution" of PCUSA. PTCA therefore contends that EPPC continues to hold the property in trust for the use and benefit of PCUSA.

A settlor may revoke an express trust in two ways: (1) the settlor may expressly retain the power to revoke the trust in the instrument in which the trust was created or (2) the settlor may obtain the consent of all trust beneficiaries, if the settlor fails to reserve the right to revoke. *Matter of Schroll*, 297 N.W.2d 282, 284 (Minn. 1980); *see also* Minn. Stat. § 501C.0602(a) (2016) ("Unless the terms of a trust expressly provide that the trust is revocable, the settlor may not revoke or amend the trust."). If the settlor fails to retain the power to revoke the trust, the power is lost and unilateral revocation is impermissible. *Schroll*, 297 N.W.2d at 284; Minn. Stat. § 501C.0602(a). Where the terms of a trust unambiguously set forth the settlor's authority to amend or revoke, we must enforce those terms. *See, e.g., Conn. Gen. Life Ins. Co. v. First Nat'l Bank of Minneapolis*, 262 N.W.2d 403, 405 (Minn. 1977) (holding attempted revocation ineffective where revocation action failed to comply with the terms of the trust).

The interpretation of a trust agreement is a question of law we review de novo. *In re Trust created by Hill*, 499 N.W.2d 475, 482 (Minn. App. 1993), *review denied* (Minn. July 15, 1993). Whether language reserving the power to modify a trust also reserves the power to revoke a trust is a question of interpretation. *See* Restatement (Third) of Trusts, § 331, cmt. h (2003) ("If the settlor reserves a power to modify the trust, it is a question of interpretation to be determined in view of the language used and all circumstances whether and to what extent the power is subject to restrictions. If the power to modify is subject to no restrictions, it includes a power to revoke the trust."). Where the instrument creating the trust includes unambiguous language retaining the power to modify, the power to revoke is coextensive under Minnesota law, unless the document expressly states

otherwise. *Matter of Schroll*, 297 N.W.2d at 284 n.1 (citing Restatement (Second) of Trusts, § 330, 331, 338 & comments a, h (1959)). Thus, where the unambiguous terms of a trust establish the settlor's authority to amend or revoke the trust, Minnesota courts must enforce those terms. *See, e.g.*, *In re Matter of Florance*, 343 N.W.2d 297, 301 (Minn. App. 1984) (holding amendment effective where trust settlor unambiguously reserved the right to amend and observed terms of trust), *aff'd in relevant part, rev'd on other grounds*, 360 N.W.2d 626, 629 (Minn. 1985).

Article 10 of EPPC's 1999 articles of incorporation provides that the articles "may be amended by a majority of the active members of the congregation at any annual meeting or at any special meeting called for that purpose, provided that notice of the meeting at which such amendments are to be considered shall include the full text of the proposed amendments." This language expressly retained the power to amend the trust. Relying on *Black's Dictionary*, the district court properly concluded that the right to revoke is a type of amendment. The definition of "amend" is "to change the wording of; specif., to formally alter . . . by striking out, inserting, or substituting words." *Black's Law Dictionary* 98 (10th ed. 2014). "Revoke" is more narrowly defined as "to annul or make void by taking back or recalling; to cancel, rescind, repeal, or reverse." *Id.* 1515. The unambiguous language preserving EPPC's power to amend expressly reserved its power to revoke the trust. Because EPPC followed Minnesota law when exercising its power to revoke the trust, and because EPPC unambiguously retained the authority to revoke the trust, it was within its rights when it amended its articles in 2010 to remove all references to the trust. Accordingly, the trust was properly revoked.

PTCA's only other argument regarding revocation—that the plain language of the Book of Order and EPPC's bylaws prevents congregations from revoking the trust—is unavailing. After careful review of the record, the district court concluded that the Book of Order does not prohibit a congregation from retaining the right to amend articles of incorporation, and the undisputed facts support this conclusion. The Book of Order allows EPPC "to receive, hold, encumber, manage, and transfer property, real or personal, for the congregation, provided that in buying, selling, and mortgaging real property, the trustees shall act only after the approval of the congregation, granted in a duly constituted meeting." Moreover, G-4.203 of the Book of Order includes no reference restricting or prohibiting congregations' authority to amend or revoke the trust. And while it is true that EPPC's bylaws limit amendment "subject to the Constitution of PCUSA," amendment is further "subject to the Articles of Incorporation" of EPPC and the "laws of the State of Minnesota." Minnesota law permits amendment of bylaws as permitted in the governing documents. *See* Minn. Stat. § 317A.181, subd. 1a ("Bylaws may be amended in the manner provided in the articles or bylaws."). Thus, EPPC retained the power to revoke the trust and properly revoked the trust by removing all trust language in 2010.[4]

Affirmed.

[4] Finally, we reject appellant's contention that the district court was obligated to (1) defer to the presbytery's ruling, after the presbytery assumed original jurisdiction, and (2) decide the issues of original jurisdiction and disaffiliation. Compulsory deference to ecclesiastical governing bodies' rulings is not required when courts may decide the dispute relying solely on neutral principles of law. We also note that appellant filed the summons and complaint in this case, seeking a ruling from our courts. Moreover, resolution of this matter does not require review of the lawfulness of PTCA's assertion of original jurisdiction and EPPC's disaffiliation.