

Churches Under Christ Newsletter

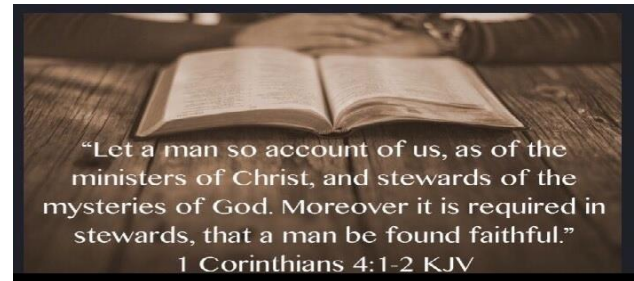
March 1, 2022

The Churches Under Christ Ministry helps churches who want to organize under Christ alone and is under the authority of Charity Baptist Tabernacle of Amarillo TX, Ben Hickham Pastor

Page 1: List of February ministry publications

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List of February 2022 Ministry publications

1. **Feb 3** Drafted and published [Intro to 2 John/Love and Truth.](#)
2. **Feb 3** Drafted and published [Lesson 8: Purchasing or leasing real estate for church use.](#)
3. **Feb 12** Published [The Love of God Perfected.](#)
4. **Feb 24** Supplemented [Lesson 7: Opening a Bible Trust Checking Account.](#)

To listen to the **501(c)(3) Song:**

<https://www.youtube.com/watch?v=2Ob135YjeUU&feature=youtu.be>

Highlighted February 2022 Ministry Activities

Note. Only the most important ministry activities, and activities which deal with important matters concerning Bible trust operation, are included below. [Click here for links to archived Churches under Christ ministry Newsletters.](#)

Feb 1 Published [February 1, 2022 Ministry Newsletter.](#)

Feb 1 Call from Brother _____ whose trust was organized by the Biblical Law Center. I did not help with that. He was organized under Barbara. The checking account was and is in his name/name of the church. The real estate is in name of the trust. We discussed those and other matters. Advised him on how to get a trust checking account.

Feb 1-4 Call from a church member who has been looking at church 501(c)(3) and dealing with the pastor of the church for a couple of years. I called the member and we talked for an hour or so. I emailed the following study links:

[God Betrayed/Separation of Church and State: The Biblical Principles and the American Application](#)
[\(Online version, downloadable PDF, softback\)](#)
[Church Internal Revenue Code § 508\(c\)\(1\)\(A\) Tax Exempt Status](#)

Feb 1-19 Advised a trustee who was in the process of opening a trust bank account. The bank's legal department reviewed the trust documents and OK'd the account, but wanted a "Certificate of Trust."

- Address of the currently acting Trustee
- Powers of the Trustee
- The revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust.
- The authority of cotrustees to sign or otherwise authenticate and whether all or less than all the cotrustees are required in order to exercise the powers of the trustee.
- The manner of taking title to trust property.
- A certification of trust must state that the trust has not been revoked, modified, or amended in

We prepared a certificate since it in no way compromised the status of the trust (or the church) as a non-legal entity.

After that matter was concluded, we discussed other questions which the trustee had.

Jan 31 - present Worked with a trustee on acquiring liability and fire insurance on trust real estate used for church meetinghouse. He was trying to get a company that insured a lot of property held by church corporations. They insisted on issuing a church policy in the name of the trust. This could not be done since it would set the church up as a legal entity. The trustee is going to approach other insurance companies.

Feb 3 Drafted and published [Intro to 2 John/Love and Truth](#).

Feb 3 Drafted and published [Lesson 8: Purchasing or leasing real estate for church use](#).

Feb 9 Call with a trustee. I reviewed the proposed deed transferring the property in his name to the trust. We also discussed talking to the assessor about the property tax exemption—he has done so. I sent him the research I have done on the state religious property tax exemption. He said he paid the attorney who is doing the deed to read the lessons on the common law trust. The attorney recommends attaching the DOT to the deed when filed.

Feb 12-present Call from a 70 year old pastor. He is planting a new church out of another church. He has been pastor of 2 churches. Wants to stay out of the corporate-501c3 traditional way of organizing a church. I sent him the link, [Study Lessons: Bible \(Common Law\) trust.](#)

Later, on Feb. 19, he sent me more information on the church. The church has been meeting as a non-organized house fellowship for one year. He is working with members. One owns a business, another is a retired VP at Bank of America who worked in the legal and trust department at the national headquarters.

He said that they agree that they do not want to organize as a state affiliated entity but want to pursue the path of a simple or common law trust as you describe.

He said that they plan to inform our congregation of 12 adults of our intention to take this path which we agree is the New Testament model for the assembly of Believers.

He said, via email: Please advise us by email as to next steps. This will allow us to all be clear in following your guidance." He also expressed his gratitude for the help of this ministry.

I sent him the initial mailing on February 24.

Feb 12 Published [The Love of God Perfected](#)

Feb 16-17 A lady who is wanting to home school contacted me. She had questions about home school law in New York and related organizational matters. I replied to her:

"You bring up many questions. I answer them below in bold after your questions. This ministry is not qualified to advise on Home School law; not called by God to deal with homeschooling. I do know that parents are responsible, under God, for bringing up their children (according to God's Word)."

Feb 24 Supplemented [Lesson 7: Opening a Bible Trust Checking Account.](#)

Feb 25 Call from an old and dear friend, a great Brother in the Lord who has, for many years, wanted to be a member of a church under Christ and Him alone—non-incorporated, non-501(c)(3). He attends a corporate, 501(c)(3) church in Lubbock Tx. since he cannot find a church in his area which is not entangled with civil government. Wants to come to Amarillo with pastor and another member of the church to meet with me. They came up on February 26 and we discussed church organization for two or three hours.

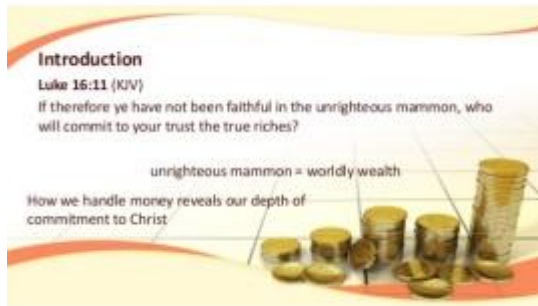
Featured Lesson:

Lesson 3: Trust is a Bible Concept, Not an Organization

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July 30, 2021

Lessons on the Bible (Common Law) Trust



"He that is faithful in that which is least is faithful also in much: and he that is unjust in the least is unjust also in much. If therefore ye have not been faithful in the unrighteous mammon, who will commit to your trust the true riches? And if ye have not been faithful in that which is another man's, who shall give you that which is your own? No servant can serve two masters: for either he will hate the one, and love the other; or else he will hold to the one, and despise the other. Ye cannot serve God and mammon." **Lk. 16:10-13**

"Let a man so account of us, as of the ministers of Christ, and stewards of the mysteries of God. Moreover it is required in stewards, that a man be found faithful." **1 Co. 4:1-2**

"But as we were allowed of God to be put in trust with the gospel, even so we speak; not as pleasing men, but God, which trieth our hearts." **1 Th. 2:4**

"According to the glorious gospel of the blessed God, which was committed to my trust." **1 Ti. 1:11**

"O Timothy, keep that which is committed to thy trust, avoiding profane and vain babblings, and oppositions of science falsely so called:" **1 Ti. 6:20**

EN[i] explains how one can do his own research the concept of the common law trust and the assertions in this lesson and links to and quotes from cases which explain the concept.

Introduction

This lesson will explain that:

1. Although man recognizes the concept of trust, secular scholars have not found its origin.
2. God originated the Bible (common law) Trust.

3. There is only one way which a church may organize in compliance with Bible principle. The churches in the New Testament all recognized and applied the doctrine of the Bible Trust.

1. Although man recognizes the concept of trust, secular scholars have not found its origin.

Efforts of scholars to trace the origin have been futile. “Whether these origins are Roman, Canonical or Germanic [or of some other origin] remains an unresolved question. ...” Trusts, trust-like concepts and ius commune, 8 Eur. Rev. Private L. 453 (2000), C. H. Van Rhee: ... See, En[iii], (This article can be viewed and/or downloaded at: https://www.academia.edu/5937188/Trusts_Trust_like_Concepts_and_Ius_Commune. It can also be downloaded and viewed at [https://www.academia.edu/3568421/On the Origin of the Uses and Trusts?email_work_card=view-paper](https://www.academia.edu/3568421/On_the_Origin_of_the_Uses_and_Trusts?email_work_card=view-paper).)

The Roman Catholic “Church,” with all its heresies understood this matter, although with some distortion, a long time ago:

“Trust-like devices were popular in the Church [speaking of the Roman Catholic ‘church’], since they allowed this institution to accumulate the necessary means to discharge its tasks. At the same time, these devices preempted the criticism that the Church was not practising [sic] its own teachings on the spiritual dangers of wealth. The wealth accumulated by the Church was not regarded as property owned by the Church itself. According to S. Herman, it was said to belong to God the Father as sovereign Lord, the Pope and his clerical lieutenants acting as His stewards. In trust terminology: God acted as ‘settlor’, while the Pope and his clerical lieutenants acted as trustees. Christ, the meek, the poor and the congregation were usually designated as ‘beneficiaries’. God, as the settlor, also figured as the ultimate beneficiary of creation. In this way, the wealth of the Church could be justified, since the Church simply acted as a depository of goods created for all. Church officials were charged with managing the goods entrusted to them as ‘trustees’ and with using them for the good of the community. ” See **Trusts, Trust-Like Concepts and Ius Commune...;Op Cit.**

Of course, this Catholic misunderstanding allowed the Institution of the Roman Catholic “Church” to prosper and store up tremendous wealth while the clergy live a luxurious life (the “beneficiaries” in practice although not in name) since the trust estate was not used for the benefit of God according to his will, the true owner of everything. Nonetheless, even though misapplying the concept, Catholicism recognized it.

2. God originated the Bible (common law) Trust.

Had scholars considered all the evidence, they would have discovered that the concept of trust was originated by God in the manner in which He ordered things. The concept started in the beginning, in the Garden of Eden, and is evident throughout the Word of God. “Trust” (also explicitly stated), “trust estate,” “trustor,” (or “grantor” or “settlor”), “trustee,” “beneficiary,” and “fiduciary” are all found in the Bible. The concept is just part of the way things work, the way God arranged things, as He explains in His Word.

The principle of trust originated with God. God embedded this precept in His word and it is seen from Genesis to Revelation and in all dispensations. God has administered his rule over the world in various dispensations or economies as He progressively works out His purpose of world history. Primarily, dispensations are stewardships. All in a particular dispensational economy are stewards (trustees), although one man usually stands out when the church is being examined. For example, Paul was used by God more than any other to reveal His grace and to record the doctrine of the church as dictated by God. Nonetheless, all the apostles and every other believer are also stewards of God’s grace. All have a responsibility to respond to that grace. God will judge those who fail to do so. (Charles C. Ryrie, *Dispensationalism* (Chicago: Moody Press, 1995), pp. 56-57; for an more detailed analysis of dispensations and dispensationalism, see the short article [The Essence of Dispensationalism](#)).

Some meanings of trust, as given in the 1828 Webster’s Dictionary, are:

1. Confidence; a reliance or resting of the mind on the integrity, veracity, justice, friendship or other sound principle of another person. He that putteth his *trust* in the Lord shall be safe. [Proverbs 29:25](#).
2. Something committed to a person’s care for use or management, and for which an account must be rendered. Every man’s talents and advantages are a *trust* committed to him by his Maker, and for the use or employment of which he is accountable.

This article will deal with definition 2 above. From that definition, one can see that the God ordained a trust arrangement with mankind.

God owns everything—not only the land, but also everyone and everything. That ownership is implicit in the fact that He created it all. (Ge. 1). He clearly stated His ownership of all in His Word:

- God said, “Now therefore, if ye will obey my voice indeed, and keep my covenant, then ye shall be a peculiar treasure unto me above all people: for all the earth is mine:” (Ex. 19.5).
- God said, “The land shall not be sold for ever: for the land is mine; for ye *are* strangers and sojourners with me.” (Le. 25.23).
- “Thine, O LORD, is the greatness, and the power, and the glory, and the victory, and the majesty: for all that is in the heaven and in the earth *is thine*; thine *is* the kingdom, O LORD, and thou art exalted as head above all. Both riches and honour come of thee,

and thou reignest over all; and in thine hand *is* power and might; and in thine hand *it is* to make great, and to give strength unto all” (1 Chronicles 29:11-12).

- “The earth *is* the LORD’S, and the fulness thereof; the world, and they that dwell therein.” (Ps. 24.1).
- God said, “For every beast of the forest is mine, and the cattle upon a thousand hills.” (Ps. 50.10).
- “The heavens are thine [God’s], the earth also is thine: as for the world and the fulness thereof, thou hast founded them.” (Ps. 89.11).
- “The silver is mine, and the gold is mine, saith the LORD of hosts.” (Hag. 2.8).

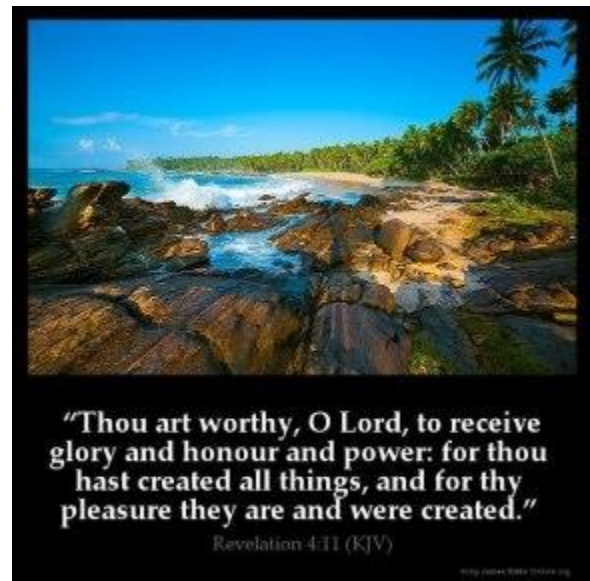
God, the true owner of all things, entrusted man, under God, with the earth and all that was in it. God entrusted man with His property. Man was put in trust to administer God’s earthly property according to God’s plan. Man did not own the earth, but, of course, man benefited from use of the property entrusted him. Man was to use the property God entrusted him with for the glory of God, for God’s pleasure (Revelation 4.11). God entrusted a New Testament church to the members of the church. Church members are trustees of the church they are members of.

Man is a fiduciary under God. Fiduciary, as a noun, means “One who holds a thing in trust; a trustee.”

Man, as trustee, had a fiduciary duty to hold and administer God’s property for the benefit of God. Church members have a fiduciary duty to organize and operate the church they belong to according to God’s guidelines as stated in the New Testament. Fiduciary as an adjective means, “Not to be doubted; as *fiduciary* obedience” or “Held in trust.” Man benefits from use of God’s property and church members benefit from belonging to a church under God only.

God, the trustor, ordered man, the trustee, in the Garden of Eden, “Of every tree of the garden thou mayest freely eat: But of the tree of the knowledge of good and evil, thou shalt not eat of it: for in the day that thou eatest thereof thou shalt surely die.” (Ge. 2:16-17). Eating of the tree of knowledge of good and evil was a violation of man’s fiduciary duty to administer God’s property according to the will of the true, beneficial, and equitable owner of the property.

When God entrusted Adam and Eve with the earth and all that is in it, he gave them responsibilities:



**And God said, Let us make man in our image, after our likeness: and let them have dominion over the fish of the sea, and over the fowl of the air, and over the cattle, and over all the earth, and over every creeping thing that creepeth upon the earth. So God created man in his own image, in the image of God created he him; male and female created he them. And God blessed them, and God said unto them, Be fruitful, and multiply, and replenish the earth, and subdue it: and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth.
Genesis 1:26-28**

“And God blessed them, and God said unto them, Be fruitful, and multiply, and replenish the earth, and subdue it: and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth. And God said, Behold, I have given you every herb bearing seed, which *is* upon the face of all the earth, and every tree, in the which is the fruit of a tree yielding seed; to you it shall be for meat. And to every beast of the earth, and to every fowl of the air, and to every thing that creepeth upon the earth, wherein *there is* life, *I have given* every green herb for meat: and it was so. And God saw every thing that he had made, and, behold, it was very good. And the evening and the morning were the sixth

day.” (Ge. 1:28-31).

Man violated his duty and God held him accountable. Satan lied to the woman and tempted her to eat of the fruit of the tree of the knowledge of good and evil.

“And when the woman saw that the tree was good for food, and that it was pleasant to the eyes, and a tree to be desired to make one wise, she took of the fruit thereof, and did eat, and gave also unto her husband with her; and he did eat. And the eyes of them both were opened, and they knew that they were naked; and they sewed fig leaves together, and made themselves aprons.” (Ge. 3:6-7).

God then judged man, woman, and Satan. Things changed. No longer was all that God had made good.

“And the LORD God said, Behold, the man is become as one of us, to know good and evil: and now, lest he put forth his hand, and take also of the tree of life, and eat, and live for ever: Therefore the LORD God sent him forth from the garden of Eden, to till the ground from whence he was taken. So he drove out the man; and he placed at the east of the garden of Eden Cherubims, and a flaming sword which turned every way, to keep the way of the tree of life.” (Ge. 3:22-24)

Man remained in trust of all that God gave him. Mankind continued as trustee of God’s earthly property. Man had legal title to God’s earthly property. The perpetual principle that nations—Gentile nations and Israel—and individuals were left in trust of land and all things for the benefit of God runs throughout the Bible and continues.

As recorded in the NT, God ordained his church, an institution made up of local autonomous spiritual bodies.

3. There is only one way which a church may organize in compliance with Bible principle.

“He that is faithful in that which is least is faithful also in much: and he that is unjust in the least is unjust also in much. If therefore ye have not been faithful in the unrighteous mammon, who will commit to your trust the true riches? And if ye have not been faithful in that which is another man’s, who shall give you that which is your own? No servant can serve two masters: for either he will hate the one, and love the other; or else he will hold to the one, and despise the other. Ye cannot serve God and mammon.” Luke 16:10-13

“Let a man so account of us, as of the ministers of Christ, and stewards of the mysteries of God. Moreover it is required in stewards, that a man be found faithful.” 1 Corinthians 4.1-2

“But as we were allowed of God to be put in trust with the gospel, even so we speak; not as pleasing men, but God, which trieth our hearts.” 1 Thessalonians 2:4

“According to the glorious gospel of the blessed God, which was committed to my trust.” 1 Timothy 1:11

“O Timothy, keep that which is committed to thy trust, avoiding profane and vain babblings, and oppositions of science falsely so called.” 1 Timothy 6:20

The churches in the New Testament followed the doctrine given them by God through the apostle Paul. They were “built upon the foundation of the apostles and prophets, Jesus Christ himself being the chief conner stone” and were built “together for an habitation of God through the spirit” (Ephesians 20, 22). They were spiritual, not earthly, entities. God made them to “sit together in heavenly [not earthly] places in Christ Jesus” (Ephesians 2:6). They held no property, owed no debt, entered into no earthly contracts, acted legally in no way. When they gave collectively, someone was entrusted with managing their gifts for the glory of God (See Acts 4:34-37).

They were under the authority of the Lord Jesus Christ, and him alone, entirely separate from all civil governments. Civil government had no authority whatsoever over them. Of course, civil government unlawfully took authority over individual believers, as they had done with our Lord.

God’s doctrine for his churches has not changed. Man’s doctrine has changed. Thus, most churches in America choose to submit to the authority of civil government for many purposes. They choose to become legal entities such as non-profit corporations, unincorporated associations, and Internal Revenue Code Section 501(c)(3) or Section 508(c)(1)(A) tax exempt worldly organizations.

A church can remain a spiritual entity only by utilizing the Bible concept of trust, by establishing an irrevocable common law or Bible Trust, whether declared in writing or not. Churches in any nation can do things God’s way. In many countries they will be persecuted for so doing. Churches

in America can, without persecution, choose to operate as did the original churches and a remnant of churches since. They can do so without any documentation other than the Holy King James Bible. However, should they wish their gifts and offerings to God to be held in a bank account, they will need to execute documents which establish a Bible (common law) Trust; then they can open a trust account whose owner is the Lord Jesus Christ. Should they wish some of their offerings to God to be used lease a meeting facility or to buy such a facility, they will need documentation so that the lessee will be in the trust, signed by the trustee, or the owner named on the title will be the trust, not the church.

The church which establishes and honors a Bible Trust leases or owns no property, entangles herself with no civil government, and remains a spiritual entity. Regarding money and property, the church is trustor (establishes the trust relationship). The trustee is the appointed temporal and legal owner of the trust estate, and the Lord Jesus Christ is the true, beneficial, and equitable owner of the property held in the trust estate. Gifts, tithes, and offerings are to God (to the trust estate which is owned by God), not to the church. The church is the giver, God is the recipient and owner.

The trust is not an entity or organization, but merely a relationship with property. The church remains totally under the authority of the Lord Jesus Christ and His word as long as she does not act legally (See, [Lesson 1](#)). The trustee does not hold the property for the church. The trustee holds and manages the property for the benefit of, and according to the will of, the true owner of the property, the Lord Jesus Christ. The trustee is the legal owner of the property and the Lord Jesus Christ is the true, equitable, and beneficial owner. The trustee has a fiduciary duty under God to use the property, not for his own or the trustor church's benefit, but for the benefit of the Lord Jesus Christ.

When a church assembles together, God owns the land upon which they meet. Although the trustee has the temporal and legal title to the land, God is the true, beneficial, and equitable owner. An equitable owner is "[o]ne who is recognized in equity as owner of the property, because real and beneficial use and title belong to him, even though bare legal title is invested in another." (BLACK'S LAW DICTIONARY (6th Ed. 1990), 539). "In a trust relationship, as distinguished from a 'contract,' there is always a divided ownership of property, to which the trustee usually has legal title and cestui [que trust] an equitable title." (90 C.J.S. Trusts § 1, fn. 13 (2007). C.J.S., like AM. JUR 2D, is a highly respected, used, and cited legal encyclopedia).

Someone must hold legal title to real property. A New Testament Church is to be a spiritual entity only (See, e.g., Ephesians 2:19-22). Therefore, a church under Christ alone cannot hold title (an earthly legal declaration of temporal ownership) to property. Nor can a church under Christ alone hold "church property through a trustee or trustees. If title to property is in the name of church, or if the church holds property through a trustee of a trust, the church has acted legally and is a temporal earthly entity and not a spiritual entity only because she has entwined herself with man's earthly legal system. Some trusts state that church property will be held by a trustee for the benefit of the Lord Jesus Christ. That is a type of common law trust arrangement, but it

compromises the spiritual only status of the church and combines the holy with the unholy, the church and the state.

Corporations (aggregate of sole, profit or non-profit), charitable trusts, business trusts, and Internal Revenue Code § 501(c)(3) and § 508 organizations are legal entities. A church who owns property through one of these legal devices is asserting ownership, as she is if she owns property in the name of the church.

A church who does not hold property but puts property into a trust estate of a properly structured irrevocable common law or Bible Trust is not acting legally. By definition, that trust is not a legal entity. The trustee of such a trust holds legal or earthly title to the property in the trust estate. He, like every citizen in his right mind, is a legal entity. Of course, if he is born again, he is also a spiritual entity (1 Corinthians 2:14-16). Thus, any property a church meets on is temporarily held by a legal entity, whether a person, a corporation, a charitable trust, or some other kind of legal entity. However, only with a properly structured Bible Trust is the property declared to be owned by the Lord Jesus Christ. Keep in mind that God owns everything, even if the property is in the name of an earthly entity who does not acknowledge God's ownership.

The Bible instructs the saved man to obey man as to certain temporal earthly matters and God as to eternal spiritual matters (See Romans 13 and [Render Unto God the Things That Are His/A Systematic Study of Romans 13 and Related Verses](#)). A church under Christ alone is eternal and spiritual and subject to the jurisdiction of God only. God's desires total separation of civil government and the church: separation of church and state, separation of the temporal and earthly from the eternal and spiritual (See, [God Betrayed/Separation of Church and State: The Biblical Principals and the American Application](#)).

Physical property is temporal and earthly and must have a legal owner. The legal owner is entrusted with God's property, and God, the trustor, desires that the legal owner use the property solely for the benefit of the trustor. This is true regardless of whether the legal owner knows this or not. He is to administer the property, if any, for the benefit of the true owner of the property, the Lord Jesus Christ. Every person has a fiduciary duty to use that with which God has entrusted to him according to the will of God.

When a church establishes the Bible Trust:

1. She obeys God's will;
2. She lessens the chances that the property, and especially the buildings, will become idols. "Their idols *are* ... the work of men's hands. ... They that make them are like unto them; *so is* every one that trusteth in them." (Psalm 115.4-8);
3. She has not prostituted herself by combining the holy with the unholy;
4. She has chosen not to be structured like a business or a government created organization;
5. She can operate according to the principles in the New Testament;

6. Members of His churches give to Him, not to their church. If church members (a church is made of her members) give to a church, that church gives to herself. The money given by members of an incorporated church go into the church, inc. bank account. The corporation is owned by the members. When members of a church who give to the church, they are technically giving to themselves since they are the church. Of course, many believers in churches not organized according to the principles of the New Testament, while giving to the churches they are members of, not to God, believe in their heart they are giving to God. I believe God will honor their giving, even though not according to knowledge, understanding and wisdom. However, when one grows to understand the truth about giving to God, he has a responsibility to begin to do things God's way.
7. The minds of the members have not been corrupted from the simplicity that is in Christ (See, 2 Corinthians 11:1-3).

Conclusion

The American legal system did not legislate or originate the concept of trust, but merely recognizes the concept.

God instituted the concept of trust in the beginning, in the Garden of Eden. It is a biblical concept which, when properly implemented, keeps a church under God (the Scriptures) only. If a church is a New Testament Church under Christ alone, that church has established a trust agreement with the Lord; her gifts are to the Lord and are to be held and managed by a trustee solely for the benefit of the Lord.

A church in America can, without persecution, honor God by establishing a Bible Trust relationship with property. Doing so assures that the church remains a spiritual, not legal, entity. Such a trust is not a legal entity; it is not an organization of any kind. It is merely a relationship with property.

The church, the trustor or settlor, establishes the trust relationship. The trustee holds property (if any), which includes money, in a trust estate for the benefit of the Lord Jesus Christ, the true, equitable, and beneficial owner of all things. As trustee, he is the temporal and legal owner of the Lord's properties and monies held in the trust estate. If he violates his fiduciary duties as God's trustee, the church should judge the matter, and God will certainly hold him accountable. "For we know him that hath said, Vengeance *belongeth* unto me, I will recompense, saith the Lord. And again, The Lord shall judge his people. *It is* a fearful thing to fall into the hands of the living God." (Hebrews 10:30-31).

Endnotes

EN[i] One can start his legal research to verify this matter in many places. He can do a word search on a legal website such as Westlaw or Lexis. Since access to these websites is expensive, for the most part only lawyers and paralegals who regularly practice or research law will find it practical to use them. One can also go to the law library and go to case digests, treatises, case reporters, legal encyclopedias and other sources.

I learned the basics of the common law trust in a wills and estate course at the University of Texas School of Law. After beginning my more detailed studies after law school, I started with a legal encyclopedia, American Jurisprudence 2nd, Volume 76, *Trusts*. In explaining the concept of trust, this author used that resource, with some information from Corpus Juris Secundum, another legal encyclopedia, to give an overall explanation of the concept in its use by churches to remain spiritual entities only, as opposed to incorporated 502(c)(3) legal organizations. See, Chapter 7 of PDF of **2nd Edition of Separation of Church and State: God's Churches – Spiritual or Legal Entities?**

Excerpts from some cases which define and apply the trust relationship:

You may go directly to the cases by clicking the case name.

[KOPSOMBUT-MYINT BUDDHIST CENTER, v. STATE BOARD OF EQUALIZATION, 728 S.W. 2d 327 \(1986\) Court of Appeals of Tennessee, Middle Section, at Nashville. Permission to Appeal Denied, April 6, 1987. IMPORTANT POINT:](#) The court itself declared that the property at issue was held in trust even though there was no writing directly proclaiming a trust. The court did this in order to uphold a property tax exemption. Property held in trust for a Buddhist Temple qualifies for a property tax exemption, if the property is used for religious purposes and the owner, any stockholder, officer, member or employee of such institution is not lawfully entitled to receive and pecuniary profit from the operations of that property in competition with like property owned by others which is not exempt. Property held in trust and which otherwise qualifies for the exemption is to be exempted from property tax. Of note, for emphasis, it was obvious that corporate, 501(c)(3) status was not a prerequisite for religious property tax exemption. Also, this case deals with a “trust,” not a “business trust” “charitable trust” or some other type of trust that is a legal entity.” The opinion states:

- “A valid trust need not be in writing. It can be created orally unless the language of the written conveyance excludes the existence of a trust. *Sanderson v. Milligan*, 585 S.W.2d 573, 574 (Tenn. 1979); *Linder v. Little*, 490 S.W.2d 717, 723 (Tenn. Ct. App. 1972); and *Adrian v. Brown*, 29 Tenn. App. 236, 243, 196 S.W.2d 118, 121 (1946). However, when a party seeks to establish an oral trust, it must do so by greater than a preponderance of the evidence. *Sanderson v. Milligan*, 585 S.W.2d 573, 574 (Tenn. 1979); *Hunt v. Hunt*, 169 Tenn. 1, 9, 80 S.W.2d 666, 669 (1935); and *Browder v. Hite*, 602 S.W.2d 489, 493 (Tenn. Ct. App. 1980).
- “The existence of a trust requires proof of three elements: (1) a trustee who holds trust property and who is subject to the equitable duties to deal with it for the benefit of another, (2) a beneficiary to whom the trustee owes the equitable duties to deal

with the trust property for his benefit, and (3) identifiable trust property. See G.G. Bogert & G.T. Bogert, *The Law of Trusts and Trustees* § 1, at 6 (rev. 2d ed. 1984) and Restatement (Second) of Trusts § 2 comment h (1957). We find that the Kopsombut-Myint Buddhist Center has proved the existence of each of these elements by clear and convincing evidence.” [p. 333].

WAUSHARA COUNTY v. Sherri L. GRAF, 166 Wis.2d 442 (1992), 480 N.W.2d 16, Supreme Court of Wisconsin. Submitted on briefs October 4, 1991. Decided February 17, 1992. The Supreme Court of Wisconsin reviewed the evidence and concluded that “The evidence indicates that Basic Bible was established to evade taxation. Basic Bible failed to meet its burden of proving that it is a “church” or “religious association” under [Wisconsin law]. The court held that Basic Bible was not property tax exempt.” The fact that the church held “in trust” the property for which a property tax exemption was sought was not a factor in the decision. The Court concluded that incorporation and 501(c)(3) status is not a prerequisite for church property tax exemption; and, again, made clear that the fact that the church held the property “in trust” did not disqualify the church from property tax exemption.

Note. Many, many cases are on the record involving denials of “church,” or “religious organization” property tax exemption for incorporated 501(c)(3) tax scams. See, for some examples, III. Organizations which created religious scams in order to obtain Property Tax Exemption on the webpage, Law on Church Organization (Trusts, Property tax, etc.). WAUSHARA COUNTY v. Sherri L. GRAF is the only case I have found in which a “church” or “religious organization or society” which held property and/or money in trust was held to be such a scam. Also, by reading this entire case with knowledge, one versed in these matters readily sees that Basic Bible did not understand the law nor the Bible. One could write a lengthy analysis proving that. Also very interesting is the analysis of the *pro se* representation in this case.]. This case reminds one of the unjust steward, an outright crook, in Luke 16. “No servant can serve two masters: for either he will hate the one, and love the other; or else he will hold to the one, and despise the other. Ye cannot serve God and mammon” Luke 16.13.

The Wisconsin Supreme Court stated, in WAUSHARA COUNTY v. Sherri L. GRAF:

“We need not reiterate the excellent discussion and analysis underpinning that conclusion that appears in the court of appeals opinion. 157 Wis. 2d at 539-49” [the citation for this case].

The opinion from the court of appeals referred to by the Wisconsin Supreme Court was WAUSHARA COUNTY v. Sherri L. GRAF, 157 Wis.2d 539 (1990), 461 N.W.2d 143, Court of Appeals of Wisconsin. Submitted on briefs December 8, 1989. Decided August 2, 1990. Here are some very important points made on pp. 539-49 of that decision:

The court examined the legislative history of the pertinent statutes to determine if a church or religious organization must be incorporated for its property to be tax exempt [under state law].

- The court started with examination of the first exemption from taxation of the property of churches and religious organizations—in sec. 24, ch. 47, Revised Statutes of 1849. “Chapter 47 prescribed the procedure by which persons belonging to a church congregation or religious society, “not already incorporated,” could incorporate. ... The exemption was not limited to religious societies incorporated under ch. 47.
- “Chapter 130, Laws of 1868, provided for the assessment of property for taxation and for exemptions therefrom. Section 2, 3d exempted “[p]ersonal property owned by any religious, scientific, literary or benevolent association, used exclusively for the purposes of such association, and the real property necessary for the location and convenience of the buildings of such association . . . not exceeding ten acres. . . .” Chapter 130 did not define “association.”
- “Section 2 of ch. 130, Laws of 1868, was incorporated, without substantial change, in Section 1038, Wisconsin Statutes of 1898. Section 1038, subd. 3 was renumbered sec. 70.11(4), Stats., by sec. 16, ch. 69, Laws of 1921. Throughout its history, the exemption from taxation of property of churches and religious associations has been accorded in substantially the same language. No “linkage” has existed between the exemption statutes and those affecting the organization of churches and religious associations or societies.
- “Chapter 411, Laws of 1876, provided for the incorporation of religious societies. Apparently this act replaced ch. 47 of the revised statutes of 1849. Chapter 411 is silent as to the taxation or exemption of the property of religious societies incorporated thereunder.
- “The procedures for the incorporation of religious societies were included in ch. 91, Revised Statutes of 1878. Nash’s Wisconsin Annotations (1914), sec. 1990, ch. 91 at 753, states: ‘The revisers of 1878 in their note said: ‘Chapter 411, 1876, is taken to have been intended as a revision of the law for the incorporation of religious societies.’ The privilege of organizing a corporation is extended to all classes and denominations, it not being supposed the law means to be intolerant of any religious belief or to be partial in its offer of privileges.’
- “The same annotation at page 755 states: ‘*Church*’ and ‘*Congregation*.’ A church consists of those who are communicants, have made a public profession of religion and are united by a religious bond of common spiritual welfare. It is the spiritual body, not the legal one. But a religious society or congregation, under the statute, is a voluntary association of persons, generally but not necessarily in connection with a church proper, united for the purpose of having a common place of worship and to provide a proper teacher to instruct them in doctrines and duties, etc. [Citations omitted.]
- “Decisions interpreting ch. 91, Revised Statutes of 1878, make plain that failure of a church or religious organization to incorporate thereunder did not affect the power of the church or religious organization to hold title to property. “Under the repeated decisions of this court, we must hold that the *mere fact* that [a] church or religious society had not yet been incorporated at the time of the delivery of [a] deed in no way

frustrated the trust thereby created, if such trust was otherwise valid.” *Fadness v. Braunborg*, 73 Wis. 257, 278-79, 41 N.W. 84, 90 (1889) (emphasis in original).

- “In *Holm v. Holm*, 81 Wis. 374, 382, 51 N.W. 579, 581 (1892), the facts included that the Norwegian Evangelical Lutheran Church of Roche-a-Cree was a voluntary association until February 7, 1889. The court noted that “[p]rior to that date the title to the churches in which the members of the association worshiped was vested in trustees named in . . . deeds, and their successors in office. . . . The trusts imposed by such deeds appear to have been valid upon the principles stated by this court in *Fadness v. Braunborg*. . . .” *Id.*
- “In *Franke v. Mann*, 106 Wis. 118, 131, 81 N.W. 1014, 1018-19 (1900), the court further said that “[w]hat has been said is in harmony with the law regarding trusts for religious uses, *whether the trustees be officers of a religious corporation or of an unincorporated ecclesiastical body*. . . .” *Id.* at 131-32, 81 N.W. at 1019 (emphasis added).
- “It is plain from these decisions that the court did not consider that the legislature, by offering to ecclesiastical bodies the advantages of incorporation, intended to impose corporate structure upon such bodies. The property of unincorporated ecclesiastical bodies was commonly held in trust for the benefit of the members.
- “The Basic Bible Church established that title to the real estate subject to foreclosure was held in the name of the trustees for the benefit of the church. We conclude that the trust constituted an “entity” which could claim tax exemption under sec. 70.11(4), Stats., for the benefit of the Basic Bible Church.”

En[ii] Trusts, Trust-Like Concepts and *Ius Commune*, 8 Eur. Rev. Private L. 453 (2000), C. H. van Rhee: This article concludes:

“On the basis of the above, several conclusions may be drawn. Firstly, it may be concluded that it is very likely that the origins of the trust cannot completely be traced. Whether these origins are Roman, Canonical or Germanic remains an unresolved question. A link between Romanocanonical *usus* -Roman *usus* in a Canonical guise- and the trust seems the most promising of all possible links. However, much research needs to be conducted of ecclesiastical records both on the continent and in England. Examining these records should be the primary aim of legal historians interested in the origins of the trust.

“Secondly, the nineteenth-century shift from Roman law to indigenous law as the alleged origins of the trust did not change the position of the trust as a concept which may be placed in the *ius commune* tradition. Both the Germanic and Romano-canonical origins of the trust are of interest to scholars studying the question of whether trusts are part of a shared European tradition. As we know, *ius commune* comprised elements from both the Germanic and the Romano-canonical legal traditions.

“And thirdly, it may be concluded that it is very unlikely that there has been an exact continental equivalent to the English ‘use’ or trust. The conclusion may be drawn that trust law cannot be viewed as an amalgam of concepts from the *Corpus Iuris*. This conclusion has also been

drawn by Kenneth Reid (see his paper), who alleges that the modern trust is a relatively new concept, which cannot be explained solely by a contract/real right model. Nevertheless, we must continue to ask the question whether the uncovered similarities amount to more than parallels reflecting similar social conditions. My answer to this question is that it is very likely that English trust law was influenced by ideas on the Continent. This is not too bold a statement paying regard to the influence of the ecclesiastical courts in England as well as to the fact that English civilians frequently used Roman and Canon law texts when describing trusts.”

An interesting excerpt from the article:

“Trust-like devices were popular in the Church [speaking of the Roman Catholic ‘church’], since they allowed this institution to accumulate the necessary means to discharge its tasks. At the same time, these devices preempted the criticism that the Church was not practising [sic] its own teachings on the spiritual dangers of wealth. The wealth accumulated by the Church was not regarded as property owned by the Church itself. According to S. Herman, it was said to belong to God the Father as sovereign Lord, the Pope and his clerical lieutenants acting as His stewards. In trust terminology: God acted as ‘settlor’, while the Pope and his clerical lieutenants acted as trustees. Christ, the meek, the poor and the congregation were usually designated as ‘beneficiaries’. God, as the settlor, also figured as the ultimate beneficiary of creation. In this way, the wealth of the Church could be justified, since the Church simply acted as a depositary of goods created for all. Church officials were charged with managing the goods entrusted to them as ‘trustees’ and with using them for the good of the community. “