

K. WADE EATON
Direct 585 295 4008
weaton@cdog.com

July 27, 2012

Honorable John T. Curtin
United States District Judge
U.S. Courthouse
68 Court Street
Buffalo, NY 14202

Re: Hoyle v. Dimond, et al.
08-CV-00347-JTC

Dear Judge Curtin:

Please accept this letter as plaintiff's response to Mr. Ritter's submission opposing plaintiff's motion for reconsideration.

Plaintiff's Equitable Claims are not Barred by the First Amendment

The issue which must be decided to resolve plaintiff's equitable claims (unjust enrichment and money had and received) can and should be addressed without regard to any disagreements between the parties as to religious doctrine or the legitimacy of the defendant's claim to be a Benedictine community.

Was there or was there not an agreement concerning how much of the plaintiff's money would be returned to him on his departure from MHFM? As the Court noted at pages 22-23 of its Decision and Order, there is a factual dispute concerning this question. The fact that the plaintiff was not able to produce a "document" supporting his claim does not permit the Court to grant summary judgment on this issue, which remains relevant when considering whether equitable relief is available. It certainly does not require the Court to delve into any issue barred by the First Amendment.

Did the defendants take undue advantage of the plaintiff's naïveté and his earnest search for religious truth? To be sure, the plaintiff's decision to transfer over \$1.6 million in assets betrayed a lack of maturity which the defendants had manipulated to their own advantage. Should the defendants reap the windfall at the expense of an unsettled and questioning youth? Again, the psychological domination of the plaintiff by the defendants is relevant to the plaintiff's equitable claims and is wholly separate from any discussion of religious doctrine or legitimacy.

Honorable John T. Curtin
United States District Judge
Page 2
July 27, 2012

Finally, the plaintiff wishes to clarify his intention regarding the references in his Memorandum of Law in Support of the Motion to Reconsider to the “video” of Joseph Natale. Plaintiff does not seek a reconsideration of any issues related to fraudulent or negligent misrepresentation concerning the historical origin of MHFM and its association with Joseph Natale. Plaintiff does, however, retain the right to seek appellate review of those issues.

As the Court has noted, “summary judgment is improper if there is any evidence in the record from any source from which a reasonable inference could be drawn in favor of the moving party” (Decision and Order, p. 145). Plaintiff urges the Court to reconsider its dismissal of his equitable claims under this standard.

Respectfully submitted,

K Wade Eaton

KWE:ptl

cc: Charles C. Ritter, Jr., Esq. (by email)