

Based upon the foregoing Findings of Fact and all of the records and proceedings herein, the Special Master makes the following:

RECOMMENDED CONCLUSIONS OF LAW

1. Regarding the "Restricted Endowment Gifts," the restriction that the gifts be used to support WCAL is obsolete, inappropriate, and impracticable under Minn. Stat. § 309.68, subd. 2 (2006), making partial release of the restriction appropriate. And, alternatively, under Minn. Stat. § 501B.31, subd. 2 (2006), circumstances have changed since the execution of the "Restricted Endowment Gifts," rendering it impracticable, inexpedient, and impossible to literally comply with the terms of the gift instruments and making modification of the trust appropriate. Further, the general purposes of the gift instrument and the intent of the donor, without regard to any specific restrictions in the gift instrument, is best carried out by using the income on the endowment to conduct Core WCAL Activities. The \$9,458 in Eckberg gifts is added to the "Restricted Endowment Gifts" total. Including the Eckberg gifts, the market value of the "Restricted Endowment Gifts" as of the fourth quarter of 2007 is \$463,538.

2. Regarding the "Restricted Nonendowment Gifts," it is confirmed that the quasi-endowment funds that St. Olaf holds attributable to those gifts are no longer subject to any restrictions because the amount of money that St. Olaf contributed for the support of WCAL exceeded the WCAL "Restricted Nonendowment Gifts" available for those expenditures.

3. Regarding the "Undocumented Gifts," it is likely that the gifts were restricted either because they were given in response to St. Olaf's solicitation of the funds for

WCAL or because of a now-missing directive from the donor. Further, similar to the "Restricted Endowment Gifts," partial release of the restriction on these gifts under Minn. Stat. § 309.68, subd. 2 is appropriate or, in the alternative, modification under Minn. Stat. § 501B.31, subd. 2 is appropriate. St. Olaf is directed to use the income on the endowment to conduct Core WCAL Activities. The \$21,266.90 omitted from the Petition, which was undocumented, but has been held in an endowment for WCAL shall be added to the "Undocumented Gifts." The revised "Undocumented Gifts" total is \$327,037.90. The Market Value of the "Undocumented Gifts" as of the fourth quarter of 2007 is \$370,570.

4. Regarding the Milford C. Jensen "Special Endowment Gift," Petitioner's request for a complete release of the restriction on this endowment is, in effect, a partial release because Petitioner's request to use the gift for scholarships for students studying the organ is a Core WCAL Activity. The restriction that the gift be used to support WCAL is obsolete, inappropriate, and impracticable under Minn. Stat. § 309.68, subd. 2 making release of that restriction appropriate. And, alternatively, under Minn. Stat. § 501B.31, subd. 2, circumstances have changed since the execution of the Milford C. Jensen "Special Endowment Gift," rendering it impracticable, inexpedient, and impossible to literally comply with the terms of the gift instrument and making modification appropriate. The general purpose of the Milford C. Jensen "Special Endowment Gift" and the intent of the donor, without regard to any specific restrictions in the gift instrument, is best carried out by using the income on that gift for Core WCAL

Activities, specifically for scholarship funds for students studying the organ. The Market Value of the Jensen gift as of the fourth quarter of 2007 is \$90,263.

5. Regarding the Herbert and Helen Schroeder "Special Endowment Gift," the requirement that St. Olaf use these funds for WCAL for the Christmas Festival has become obsolete, inappropriate, and impractical. But complete release of these funds is inappropriate. Instead, under Minn. Stat. § 501B.31, subd. 2, the circumstances have changed since execution of the Herbert and Helen Schroeder "Special Endowment Gift," rendering it impracticable, inexpedient, and impossible to literally comply with the term of the gift instrument and making modification of the gift instrument appropriate. The general purpose of the Herbert and Helen Schroeder "Special Endowment Gift" and the intent of the donor, without regard to any specific restrictions in the gift instrument, is best carried out by using the income on that gift for Core WCAL Activities for use for the Christmas Festival. The Market Value of the Schroeder gift as of the fourth quarter of 2007 is \$37,523.

6. The Eunice Munck "Special Endowment Gift" is separated in the petition into two gifts: one valued at \$208,315 and one valued as \$247,681 as of April 30, 2006. Petitioner's request for a complete release of the restriction on this endowment is, in effect, a partial release because Petitioner's request to use the gift for "acquiring new recording equipment to produce programs of special interest for seniors" is a Core WCAL Activity. The restriction that the gift be used to support WCAL is obsolete, inappropriate, and impracticable under Minn. Stat. § 309.68, subd. 2, making release of

the restriction appropriate. And, alternatively, under Minn. Stat. § 501B.31, subd. 2, circumstances have changed since the execution of the Eunice Munck “Special Endowment Gift,” rendering it impracticable, inexpedient, and impossible to literally comply with the terms of the gift instrument and making modification appropriate. Further, the general purpose of the Eunice Munck “Special Endowment Gift” and the intent of the donor, without regard to any specific restrictions in the gift instrument, is best carried out by using the income on that gift for Core WCAL Activities, for specific purpose of acquiring new recording equipment to produce programs of special interest for seniors. The Market Value of the Munck gift as of the fourth quarter of 2007 is, respectively, \$236,044 and \$280,650.

7. Regarding the Norberg Distributions, the restriction that the funds be used to support WCAL is obsolete, inappropriate, and impracticable under Minn. Stat. § 309.68, subd. 2, making partial release of the restriction appropriate. And, alternatively, under Minn. Stat. § 501B.31, subd. 2, circumstances have changed since the execution of the Norberg Trust rendering it impracticable, inexpedient, and impossible to literally comply with the terms of the gift instrument and making modification of the gift instrument appropriate. The general purposes of the Norberg Trust and the intent of the donor, without regard to any specific restrictions in the gift instrument, would best be carried out by using the funds to conduct Core WCAL Activities.

8. The restriction on the Turbis Request that the funds be used to support WCAL is obsolete, inappropriate, and impracticable under Minn. Stat. § 309.68, subd. 2, making partial release of the restriction appropriate. And, alternatively, under Minn. Stat. §

501B.31, subd. 2, circumstances have changed since the execution of the Turbis Request rendering it impracticable, inexpedient, and impossible to literally comply with the terms of the gift instrument and making modification of the gift instrument appropriate. The general purposes of the Turbis Request and the intent of the donor, without regard to any specific restrictions in the gift instrument, is best carried out by using the funds to conduct Core WCAL Activities. The Market Value of the Turbis bequest as of the fourth quarter of 2007 is \$114,684.

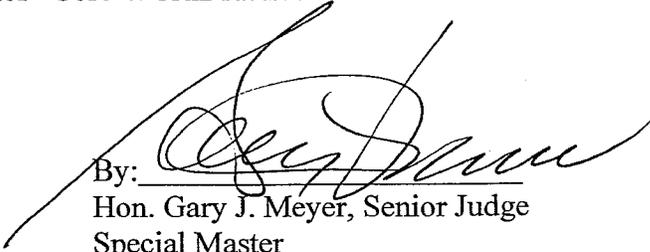
9. Virtually all of the costs of the construction of the Rosemount radio tower were financed by gifts and endowments from donors to WCAL. The donors of those funds would have expected their contributions to be used for construction of a tower that would likely have provided service to WCAL listeners for 40 years. Although the intent of the donors was to have their contributions used for a WCAL tower, their interest can be best served now by holding the present market value of those funds, \$2,546,263, in a restricted endowment, the income of which will be used for "Core WCAL Activities." Beginning in 2010, the principal may be invaded for the sole purpose of conducting "Core WCAL Activities."

10. The Rosemount radio tower is the only asset associated with the WCAL-MPR sale that shall be part of the WCAL charitable trust. In addition to listener donations, WCAL received grants from the Corporation for Public Broadcasting and cash contributions from St. Olaf throughout the years. It is likely that all three groups of funds were used to purchase assets for WCAL, and it is virtually impossible to discern from the

record which, if any, assets were solely purchased with listener donations. The only exception is the Rosemount radio tower, which was clearly constructed with funds from listener donations.

11. Leonard Hoeft's \$1,000,000 gift in which he requested, and St. Olaf agreed that the gift would be used to generate approximately \$50,000 in income per year for the future of WCAL, shall be kept by St. Olaf in a quasi endowment in which \$50,000 of annual income shall be used for "Core WCAL Activities." Although St. Olaf has listed the other \$1,000,000 as "unrestricted" funds, St. Olaf has acknowledged that "until such time as the board would spend the principal (and we do not anticipate that day will ever come) the income is restricted to support WCAL." Hoeft has not released the restriction from this endowment, and St. Olaf has not spent the principal \$1,000,000 amount. Hoeft's intentions are best served by keeping the \$1,000,000 in a quasi endowment in which the \$50,000 of annual income is used for "Core WCAL Activities."

Date: March 7, 2008

By: 
Hon. Gary J. Meyer, Senior Judge
Special Master

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March 7, 2008

Hon. Gerald J. Wolf, Senior Judge
Rice County District Court
Rice County Courthouse
218 Third Street Northwest
Faribault, MN 55021

*St. Olaf
Re: 66CV 06 2518*

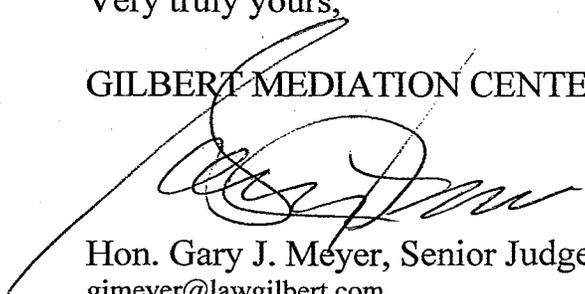
Dear: Judge Wolf:

Enclosed I am forwarding to you my Findings of Fact and Recommended Conclusions of Law and Order for Judgment as Special Master in connection with the Matter of Certain Gifts to St. Olaf College, District Court File Number: 66 CV 06 2518.

Thank you for appointing me as Special Master in connection with this file. It has been my pleasure to assist the court.

Very truly yours,

GILBERT MEDIATION CENTER, LTD.


Hon. Gary J. Meyer, Senior Judge
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