

ENDORSED

OCT 5 2005

BY: SORA O'DOHERTY

SUPERIOR COURT FOR THE STATE OF CALIFORNIA,
COUNTY OF NAPA

CHARISSA W., et al.,
Plaintiffs,

v.
WATCHTOWER BIBLE AND TRACT
SOCIETY OF NEW YORK, et al.

Defendants.

Case No.: 26-22191
JCCP No. 4374

RULING ON SUBMITTED MOTION TO
QUASH SERVICE OF SUMMONS

Defendant Watch Tower Bible And Tract Society Of Pennsylvania's Motion To Quash Service of Summons came on for hearing on August 31, 2005. The court, having read and considered the papers and heard oral argument, took the matter under submission and now rules as follows:

Watch Tower Bible And Tract Society Of Pennsylvania (Watch Tower PA) moves to quash service of the summons and complaint upon it, asserting that California does not have personal jurisdiction over it. Personal jurisdiction over a defendant may be either general or specific. (*Vons Companies, Inc. v. Seabest Foods, Inc.* (1996) 14 Cal.4th 434, 445) A nonresident defendant will be subject to general jurisdiction where the defendant's contacts with the forum are substantial, continuous and systematic, so as to approximate a "physical presence" within the state. (*Id.* At 445-46.) Where general jurisdiction has been established, a plaintiff's

cause of action need not be directly related to the defendant's contacts in the state, but may encompass any allegedly unlawful conduct within the state. (*Ibid.*) "Such a defendant's contacts with the forum are so wide-ranging that they take the place of physical presence in the forum as a basis for jurisdiction." (*Id.* at p. 446.) If, on the other hand, the nonresident defendant does not have substantial and systematic contacts with the forum state, the defendant may nevertheless be subject to specific jurisdiction if: (1) the defendant has purposefully availed itself of the forum's benefits with respect to the matter in controversy; (2) the controversy is related to or arises out of defendant's contacts with the forum; and (3) the exercise of jurisdiction would not violate notions of fair play and substantial justice. (*Pavlovich v. Superior Court* (2002) 29 Cal.4th 262, 269; *Vons, supra*, 14 Cal.4th at pp. 446, 447.)

Plaintiffs do not put forth a vigorous argument for finding that Watch Tower PA should be subject to specific jurisdiction. Indeed, this court finds no basis for imposing jurisdiction in this manner. There is simply no evidence to support a finding that moving defendant purposefully availed itself of California's benefits with respect to the matters in controversy, nor that the subject matter of this action is related to or arises out of Watch Tower PA's contacts with California. Accordingly, if Watch Tower PA is to be held to answer in this action, it will be pursuant to this court's exercise of general jurisdiction over the defendant.

Watch Tower PA asserts that it does not have the substantial, continuous and systematic contacts with California that are required to assert general jurisdiction over it. In support of its motion, it has presented evidence showing that it has been incorporated in Pennsylvania since 1884, with its principal offices in New York. It has no office, mailing address, or telephone number in California, none of its employees, officers or directors reside in California, it has no office here, has not held meetings here, does not pay taxes here, and has never maintained a bank account here. Watch Tower PA further asserts that its activities relating to donations, its loans to California congregations, its fund for the procurement of insurance coverage for California congregations, and its ownership of real property in California do not approximate a physical presence in California, and do not, therefore, form a basis for exercising general personal jurisdiction over it. Plaintiffs assert that these activities are sufficiently substantial, continuous and systematic to justify the exercise of general jurisdiction. As explained more fully below, this

court's review of the evidence and the applicable legal authority satisfies it that defendant's contacts with the state are sufficient to justify the assertion of general personal jurisdiction over it.

The materially undisputed evidence establishes that Watch Tower PA engages in the following activities within the State of California:¹

Kingdom Hall Fund – This fund provides loans to congregations of Jehovah's Witnesses in California for the construction and remodeling of Kingdom Halls. Since the mid-1980's the Fund has made a substantial number of loans, many of which remain outstanding. The Fund loans are secured through promissory notes or mortgages secured by California property. The Fund charges interest on each loan.²

Kingdom Hall Assistance Arrangement (KHAA) – KHAA is an insurance and risk management program administered by Watch Tower PA. KHAA collects funds from California congregations and purchases insurance policies to protect its congregations. Congregations are billed for their "contributions" to KHAA, and are instructed to submit claims to Watch Tower PA for loss coverage. Although Watch Tower PA characterizes "donations" to the program as voluntary, and asserts that coverage is not guaranteed in return, the documentation provided shows that all California congregations are covered by the program, and all are issued invoices and directed to make payments on those invoices.

Acquisition and sale of real property – Watch Tower PA solicits donations of all types, and receives significant donations from Jehovah's Witnesses in California. The average annual amount donated for the years 1972 to 1988 was significant. Among those donations are gifts of

¹ On June 13, 2005 the parties entered into a Stipulated Protective Order and Nondisclosure Agreement, which provides that information designated as "Confidential" shall be protected from disclosure, and shall be filed with the court under seal. So as to preserve the confidentiality of this information, the court's discussion of this evidence is intentionally vague. The parties are advised that the court's decision does rest, in part, upon the specific information submitted as "confidential." Subsequent footnotes will indicate the nature of the information relied on but not specifically addressed.

² The court has omitted reference to the specific number of loans made and the number that remain outstanding, as well as the specific interest rate charged. These factors have contributed to the court's decision.

real property. Title to some of these properties has remained in Watch Tower PA's name, other properties have been sold, with the proceeds deposited in Watch Tower PA's general fund.³

Taken individually, each of these activities are sufficient to assert personal jurisdiction over Watch Tower PA. For example, its 30 year history of acquisition and sale of real property in California is a significant factor to support a finding of continuous, substantial and systematic contacts with California. As contrasted with *Thompson v. Anderson* (2003) 113 Cal.App.3d 258 upon which defendant relies, the facts here are not limited to ownership of a single interest in a vacation time share, which the court in *Thompson* found to be an inadequate basis for establishing general jurisdiction ("Ownership of property in California 'alone would not support the State's jurisdiction.'" *Id.* at p. 271.) Rather, the evidence shows that defendant has acquired, sold and retained interest in numerous properties over the past 3 decades.

Similarly, the loans Watch Tower PA makes to its congregations through the Kingdom Hall Fund, from which it derives significant benefit, and the risk management program it administers to its congregations in California support a finding that defendant's activities are sufficiently wide ranging to take the place of a physical presence in the state. Again, the cases relied upon by defendant are readily distinguishable from the facts present here. In *Thos. P. Gonzalez Corp. v. Consejo Nacional De Produccion De Costa Rica* (9th Cir. 1980) 614 F.2d 1247, the court declined to exercise personal jurisdiction over a foreign corporation for claims arising out of contracts for the sale and purchase of grain, where California was neither the source nor the destination of the grain. There, the primary contacts with California involved the execution of the sale and purchase agreements with a California resident for grain transactions occurring entirely outside of California, and use of mail and telephone for arranging the agreements. By contrast, here, Watch Tower PA has made numerous loans to California congregations for the purchase and repair of Kingdom Halls in California, which loans have been secured by mortgages and deeds of trust on the property in California. Watch Tower PA has also collected substantial amounts in California for what can only be characterized as insurance premiums, regardless of how they are labeled by defendant.

³ The court has omitted reference to the specific types of donations solicited and to the specific amount of donations collected annually. These factors have contributed to the court's decision.

The cases of *Bancroft & Masters, Inc. v. Augusta Nat'l, Inc.* (9th Cir. 2000) 223 F.3d 1082 and *Gates Learjet Corp. v. Jensen* (9th Cir. 1984) 743 F.2d 1325 relied on by defendant are also distinguishable from the present case because, as the court noted in both cases, the contacts at issue could only be characterized as doing business “with” the forum state, rather than “in” it. Thus, in *Gates*, a foreign company’s negotiation for an international distributorship that took place in part in Arizona and the purchase of spare parts from plaintiff in Arizona did not constitute doing business in Arizona and did not, therefore, equate with a physical presence in that state. And in *Bancroft*, the fact that the non-resident defendant held licensing agreements with two California television networks was not sufficient to establish general jurisdiction. In contrast, the defendant’s activities in California directly involve California property and California residents, and can only be characterized as engaging in substantial business within California.

Whether considered individually or in the aggregate, Watch Tower PA’s contacts with California are substantial, continuous and systematic, and are “so wide-ranging that they take the place of physical presence in the forum state as a basis for jurisdiction.” (*Tons, supra* 14 Cal.4th at pp. 445-446.) For this reason, Watch Tower PA’s motion to quash service of summons for lack of personal jurisdiction must be DENIED. Watch Tower PA shall file an answer within 30 days.

Dated: 10/5/05

RAYMOND A. GUADAGNI

Raymond A. Guadagni, Judge