

NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION FIVE

CHURCH UNIVERSAL & TRIUMPHANT, )  
INC. and ELIZABETH CLARE )  
PROPHET, )

Plaintiffs, Cross- )  
Defendants and Appellants, )

v. )

LINDA WITT, Executrix etc., )

Defendant, Cross- )  
Complainant and Respondent. )

B021187

(Super. Ct. No. C358191)

COURT OF APPEAL - SECOND DIST.

**FILED**

APR 10 1989

ROBERT N. WILSON Clerk

Deputy Clerk

APPEAL from a judgment of the Los Angeles County  
Superior Court, Alfred L. Margolis, Judge. Affirmed.

Riordan & McKinzie, Kenneth Klein and Sandra J. Levin  
for Plaintiffs, Cross-Defendants and Appellants.

Lawrence Levy and Lyle Francis Middleton for Defendant  
and Cross-Complainant Gregory Mull and for Respondent.

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Church Universal and Triumphant, Inc. (CUT) and Elizabeth Clare Prophet appeal from a jury rendered judgment which awarded Gregory Mull,<sup>1</sup> a former member of CUT, compensatory and punitive damages totaling \$1,563,300. Appellants contend that the trial court erred in allowing the introduction of irrelevant and prejudicial evidence and evidence protected by the First Amendment. They further contend that improper conduct of counsel prejudiced the jury and, finally, that there is no basis in law or fact to support the verdict. We affirm.

#### BACKGROUND

Viewing the evidence in the light most favorable to respondent (California Teachers Assn. v. Board of Education (1980) 109 Cal.App.3d 738, 748), we set forth certain facts as a brief introduction to the issues presented in this appeal.

Gregory Mull was a self-employed architect in San Francisco in the early 1970's. He was self-supporting, paid his bills, and owned a Victorian-style house in which he lived and worked.

Mr. Mull had a lifelong interest in religion and the quest for God. At the time relevant herein, he had no

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<sup>1</sup> Linda Witt, Executrix for the estate of Mr. Mull, is the respondent herein.

particular religious affiliation, but pursued his religious education through a meditation and Bible study group which he regularly held in his home. In 1973, a member of the study group introduced the teachings of CUT to the group. The majority of the members rejected the teachings and eventually left the study group. Mr. Mull thought the teachings somewhat strict, but the strictness also appealed to him. Members of CUT sought him out repeatedly. Their treatment made Mr. Mull feel important. He began to devote approximately 30 hours a week to CUT activities.

In 1974, Mr. Mull met Elizabeth Clare Prophet (Mrs. Prophet), spiritual head of CUT. She impressed him very much. Mrs. Prophet was interested in his work as an architect. Over time, he and Mrs. Prophet shared a number of activities, and Mull believed their relationship was one of friendship. In addition, as a result of the teachings he received from CUT in various settings, he believed her to speak for God. At the request of Mrs. Prophet, Mull personally solicited donations for use by CUT. He mortgaged his home in order to make contributions to her and to CUT.

In 1979, Mr. Mull was asked by Mrs. Prophet and other members of CUT to move to "Camelot" to do various architectural projects. Camelot was CUT-owned property on which Mull believed \$33,000,000 worth of buildings were to be constructed as the "New Jerusalem." He was requested to come immediately

and invited to do so on his "own terms." He agreed to come if CUT would pay his expenses, which included the upkeep of his residence in San Francisco. He stated that he would need approximately \$3,000 per month to cover various financial obligations. Mull did not ask for a salary or commission, although architects normally receive about 7 percent of the value of a project of this size, which in this case would have amounted to approximately \$2,500,000.

Mr. Mull believed that he and CUT had reached an agreement, began to close down his architectural business in San Francisco, and moved to Camelot where he rendered numerous architectural services. However, CUT failed to cover Mull's expenses in a timely fashion and after about ten months, ceased to pay him at all. Mull lost his credit and eventually sold his home. CUT insisted that any payments it had made to Mull were loans. Mull left Camelot and withdrew from CUT. CUT filed a complaint against him for nonpayment of the alleged loans based on two promissory notes bearing Mull's signature, and Mull cross-complained against CUT, Mrs. Prophet, and other officials. The matter went forward on an amended cross-complaint which alleged assault, intentional infliction of emotional distress, fraud, breach of fiduciary relationship, cancellation of instruments, and recovery in quantum meruit.

After a six-week trial, the jury found in favor of Mr. Mull and awarded him \$521,100 in compensatory damages against

CUT and Mrs. Prophet, \$521,100 in punitive damages against CUT, and \$521,100 in punitive damages against Mrs. Prophet.

### DISCUSSION

Appellants assert many errors.

#### I. Asserted Evidentiary Errors.

A. Appellants first contend that the trial court erred because it allowed the introduction of irrelevant and highly prejudicial evidence.

Only relevant evidence is admissible. (Evid. Code, § 350.) "'Relevant evidence' means evidence, including evidence relevant to the credibility of a witness . . . , having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." (Evid. Code, § 210; Marocco v. Ford Motor Co. (1970) 7 Cal.App.3d 84, 91.) However, even relevant evidence may be excluded if its probative value is outweighed by the probability that its admission will create substantial danger of undue prejudice. (Ibid.; Evid. Code, § 352.)

#### 1. Clayton Brokerage and the Internal Revenue Service.

Randall King, a former Church official and former husband of Mrs. Prophet, testified over objection that from about 1970 to 1973, CUT was called the Summit Lighthouse. He stated that he and Mrs. Prophet borrowed money from CUT and used it to speculate in the commodities market for their own

investment portfolio. This activity led to litigation with Clayton Brokerage and an investigation by the Internal Revenue Services (I.R.S.). The I.R.S. issued a letter indicating that it intended to revoke the tax-exempt status of CUT. Fearing that the revocation would be the end of the organization, a parallel organization was begun as another corporation "hoping that the I.R.S. would not find out . . . ." The congregation was not told that there were two organizations; they were told that it had been revealed to Mrs. Prophet that a new name for their organization was to be Church Universal and Triumphant. Members made checks payable to the new organization, and the funds were diverted without their knowledge.<sup>2</sup> King also testified that after the parties settled the brokerage case and the case with the I.R.S., Summit Lighthouse and CUT were merged.

As appellants point out, there is no evidence connecting Mr. Mull to this activity. The only use of this evidence appears to be to show that because Mrs. Prophet may have been dishonest in the described incident, she was dishonest with respect to Mr. Mull under very different factual circumstances. These uncharged acts are not available to attack Mrs. Prophet's credibility as a witness or to prove her

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<sup>2</sup> Additional references to this subject were made during the examination of later witnesses and CUT objections were sustained.

conduct with Mr. Mull on a specified occasion. (Evid. Code, §§ 787, 1101, subd. (a).)<sup>3</sup>

Having concluded that the evidence was inadmissible, the next issue is whether its admission requires reversal of the judgment. The test is that if it is reasonably probable that the jury's verdict would have been more favorable had the evidence not been received, then reversal is required. (People v. Watson (1956) 46 Cal.2d 818, 836.) While Mrs. Prophet was a key witness in her own defense and that of CUT and this testimony would be expected to damage her credibility, the record prior to the introduction of the contested evidence is replete with admissible evidence which overwhelmingly supports the verdict of the jury. Evidence which supports the verdict is discussed post.

## 2. Clare De Bois.

Appellants complain that over objection, evidence was admitted which showed that an official of CUT posing as a

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<sup>3</sup> Evidence Code section 787 provides, "Subject to Section 788 [impeachment by evidence of a prior felony conviction], evidence of specific instances of his conduct relevant only as tending to prove a trait of his character is inadmissible to attack or support the credibility of a witness." Evidence Code section 1101, subdivision (a) provided in pertinent part at the time of trial, "[E]vidence of a person's character or a trait of his character (whether in the form of an opinion, evidence of reputation, or evidence of specific instances of his conduct) is inadmissible when offered to prove his conduct on a specified occasion."

clairvoyant bilked an elderly woman (Clare De Bois) out of her life savings. Appellants misstate the record. The trial court terminated the questioning and effectively steered the examination away from this subject before any evidence came in regarding whether the CUT official, "a clairvoyant," had any contact with the woman, whether she parted with her money, and if so, under what circumstances. Three other questions on this subject occurring at other times in the trial were objected to by appellants, and the objections were sustained. We conclude there was no error.

### 3. The Investment Club.

Over objection, Mr. King, who had been in charge of an investment club within CUT, described the conditions under which CUT members were sometimes required to sign documents. He testified that certain CUT members were brought into a room and told by Mrs. Prophet that "Saint Germain," an Ascended Master,<sup>4</sup> had an "alchemical project" in which he invited them to participate, but that CUT could not explain the project to them. The members were asked to trust CUT because the Ascended Masters wanted them to do this and the project would be

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<sup>4</sup> Mrs. Prophet considered "Ascended Masters" to be her spiritual teachers. Among the religious figures included under this appellation were Jesus, Pope John XXIII and various luminaries from Eastern cultures.



beneficial to everyone. The members were then asked one-by-one to go into another room and sign three documents. The contents of the documents were covered so that only the signature line was exposed. The members were told that the documents were legal documents, but that the contents could not then be disclosed. One-by-one, each member went into the room and signed the documents. Mr. King was then asked, "In your opinion, did those people have such a faith in [Mrs. Prophet] and [CUT] that they would do whatever was suggested for them to do without question?" Mr. King answered, "Absolutely."

This evidence was relevant. Prior to its admission, Mr. Mull testified that he had signed two promissory notes in favor of CUT. He stated that when he had been requested to sign these documents, which he had recognized as promissory notes, CUT's attorney had told him merely that the notes were needed to protect CUT and that Mull did not need an explanation. He also testified that at the time of the signing, he felt his mind was controlled by CUT. King's testimony evidenced a similar situation: CUT members were told to sign unexplained legal documents which were purported to benefit the organization, and, inexplicably, they signed. King's testimony was highly probative with respect to Mr. Mull's defense that he felt compelled to sign the two notes. Therefore, the admission of this evidence was not unduly prejudicial to appellants.

4. Buying Property in Other Names.

Mrs. Prophet testified that CUT owns a 30,000 acre facility in Montana. Part of that property had been the 12,000 acre Malcolm Forbes Ranch. Mrs. Prophet was asked if CUT had initially purchased the ranch in CUT's own name, and the following exchange occurred over objection by appellants:

"A: I don't remember at the moment how the legal documents were transferred at the outset.

"Q: Isn't it a fact that somebody went up there, and they would not sell to [CUT], and the property was purchased in someone else's name and then later transferred to [CUT]?"

". . . . .

"A: I don't believe that that was the fact, but I do not remember at this time in what corporation name the property was bought or what trustee's name.

". . . . .

"There is the Summit Lighthouse, and there is Church Universal and Triumphant and there is Royal Teton Ranch Limited who have trustees and board members. I just do not remember at this time how those documents were written."

Even if the court erred in allowing the question, appellants were not unduly prejudiced since Mrs. Prophet never stated affirmatively that the subject property was purchased by an entity other than CUT.

5. Lanello Reserves.

Mr. King testified on cross-examination that he had at one time served on the board of Lanello Reserves, a

"subsidiary" of CUT. On redirect examination, King testified over objection that Lanello Reserves was a profit making corporation which had been set up by CUT, and that CUT expensed some of its costs and salaries through Lanello Reserves. According to King, the result of these acts was reduced profits for Lanello Reserves, and taxes on the for-profit entity were thereby lessened. King further testified that Lanello Reserves also was set up to divert the I.R.S. "from investigating and auditing [CUT's] books." Appellants assert the court erred in allowing this testimony because they had not asked any questions on cross-examination about the purpose or function of Lanello Reserves.

Redirect examination ordinarily is confined to the scope of cross-examination (Moore v. Re (1933) 131 Cal.App. 557, 560; People v. Barnes (1947) 30 Cal.2d 524, 528), but the trial court in its discretion may relax this limitation (Majors v. Connor (1912) 162 Cal. 131, 136; 3 Witkin, Cal. Evid. (3d ed. 1986) § 2008, pp. 1967-1968). While the elicited testimony is irrelevant, there is no evidence that CUT engaged in anything more than tax avoidance as distinguished from tax evasion. The prejudice, if any, was minimal.

#### 6. Evidence of Adultery.

Mr. King testified over objection that at a time when he was a CUT member, he had an affair with Mrs. Prophet while she

was married to another. This evidence was irrelevant; however, as it detracted from the credibility of Mr. King, a primary witness for Mr. Mull, as well as from the credibility of Mrs. Prophet, we conclude that under the facts of this case the error was not so prejudicial as to merit reversal. (People v. Watson, supra, 46 Cal.2d at p. 836.)

7. Evidence of Personal Wealth.

Evidence was admitted over objection that Mrs. Prophet had been presented with a seven and one-half carat diamond "through one of our students"; donations were solicited from non-members to purchase a house in Malibu for her use; a house in Malibu was leased for approximately \$30,000 a year, paid by members and non-members of CUT; and, finally, that in the late 1970's, while her salary from CUT ranged from about \$500 to \$650 a month, Mrs. Prophet, her four children, and King as her husband, actually received between \$200,000 and \$300,000 a year in money and benefits through CUT.

Where punitive damages are in issue, as they were in the case at bar, evidence of a defendant's wealth is properly admitted. (Neal v. Farmers Ins. Exchange (1978) 21 Cal.3d 910 928.) This evidence was relevant.

King also testified that the existence of the beach house was kept from the general membership to avoid knowledge of Prophet's expensive lifestyle. Appellants complain that this and similar evidence was used to portray Mrs. Prophet as

"a religious leader who tricks her followers into giving up their money while she herself lives in the lap of luxury."

The contested evidence described various ways in which Mrs. Prophet solicited gifts. There was no evidence offered here that she tricked someone into donating funds which were used for the beach house without the knowledge of the donor.<sup>5</sup>

8. Evidence Regarding the Misuse of Highly Confidential Information.

Testimony was received over objection that Dr. Yaney, a psychiatrist, disclosed to Mrs. Prophet confidential information about "rebellious" members of CUT whom she had sent to Yaney or his wife for counseling. Appellants also objected to testimony by their own expert witness elicited on cross-examination regarding hypothetical questions which described a situation analogous to the Yaney-Prophet relationship. Appellant's expert gave the opinion that a disclosure of confidential information under the described

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<sup>5</sup> Appellants also cite as error the ruling of the court which allowed the following question: "Isn't it a fact that the beach property was leased in Dr. Yaney's name because people didn't want to lease it to [CUT]? In violation of the assignment clause, [CUT] was then -- the property was assigned to you [Mrs. Prophet] and Randall [King]?" Mrs. Prophet responded, "No, it is not true." Since questions and statements of counsel are not evidence, as the court later instructed the jury, and Mrs. Prophet answered in the negative, any error would be harmless.

circumstances would be a violation of the psychoanalyst's oath, his oath as a medical doctor and as a psychiatrist, and the breaking of a professional moral code. The expert also testified that his personal opinion was that if information contained in a priest-penitent communication was disseminated back and forth between a spiritual leader and a psychiatrist, the spiritual leader would be breaking a deep trust. Appellants assert that the contested evidence was irrelevant, because it was unavailable to impeach Mrs. Prophet, was unduly prejudicial and there was no evidence that Mr. Mull ever consulted Dr. Yaney.

A review of Mrs. Prophet's testimony up to the point when the contested evidence was admitted shows only that she recommended people seek help from Dr. Yaney when they arrived with problems at CUT facilities. Therefore, the evidence was inadmissible for impeachment purposes.

The record reflects two references by Mr. Mull to psychiatrists. The first occurred during direct examination. Mull testified that when Mrs. Prophet learned that her secretary, Kathleen, who had recently married Mull, had criticized CUT, Prophet "kicked her out the next morning," and before Kathleen could come back to Camelot, she would have to get therapy, "but not to go to a regular therapist or they would talk her out of the organization." The second reference occurs in a tape recording made and transcribed by CUT. The

subject of the recording is a two and one-half hour meeting between Mr. Mull and three CUT officials, including Mrs. Prophet, regarding the money CUT insisted Mull owed the organization.<sup>6</sup> Many topics arose during this meeting. In describing how CUT officials failed to cooperate in having various building projects executed according to Mr. Mull's plans, Mull stated, "I called Monroe one day about the walk, as I talked to Ralph Yaney. It should be a slight curve. [Monroe] yells at me, 'Don't bother me with that.'"

Although evidence indicates that Mr. Mull was acquainted with Dr. Yaney, we have not found, nor has respondent pointed out, any evidence that there was a confidential relationship between them which was later violated. We also note that the cause of action for breach of fiduciary relationship alleged by Mr. Mull in his amended cross-complaint makes no reference to Yaney or to a counseling relationship, but rather refers to Mrs. Prophet in terms of a priest-penitent relationship. The contested evidence was irrelevant.

We conclude that the court erred in allowing this evidence. As discussed below, however, reversal is not warranted under the facts of this case. (People v. Watson, supra, 46 Cal.2d 818, 836.)

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This meeting is further discussed below.

9. Evidence That CUT "Inspired Fear and Hatred."

(a) Appellants assert it was error to allow irrelevant, prejudicial evidence regarding conditions and routines at Summit University, a CUT-run, three-month residential program of intensive indoctrination regarding its beliefs and the standard of conduct expected of its members.

The testimony to which appellants object was given by various witnesses who attended Summit University during three-month periods ("quarters") occurring both before and after those attended by Mr. Mull. There was evidence regarding the highly structured atmosphere, strict vegetarian diet, frequent fasting, use of enemas and "colonics," long hours of chanting ("decreeing") followed by lectures on doctrine, sleep deprivation, isolation from family and friends, fear of CUT, and the need for counseling after withdrawing from membership. There was testimony that the strict regimen induced members to uncritically accept demands made upon them by CUT officials. Similar evidence given by Mr. Mull regarding his experiences at Summit University was relevant to his causes of action for breach of fiduciary relationship (further discussed below), intentional infliction of emotional distress, fraud, cancellation of instruments, and quantum meruit. The subject evidence corroborated important aspects of Mull's testimony. There was no error.



(b) Appellants also objected to descriptions of an apparent Nazi-like salute encountered during one quarter at Summit University and testimony regarding how witnesses felt while living in the tightly structured environment maintained there. Given Mr. Mull's testimony regarding the numerous incidents of control and daily deprivation, the subject testimony does not rise to the level of undue prejudice.<sup>7</sup>

(c) Over objection, Mr. King gave evidence that CUT members "decreed" for and against individuals and organizations. Appellants assert that the court erred in allowing this testimony.

Prior to this evidence Mrs. Prophet had described "decrees" as "affirmations in the name of God that invoke His light and love and peace" and had stated that students at Summit University might engage in decreeing activities for as much as three hours a day. She further testified that the purpose of the activity was to place the person decreeing in a receptive state to God, and that it was dangerous only if at the time people decreed, their "vibrations" were not good.

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<sup>7</sup> We agree with appellants that the trial court did err in disallowing their questions which sought to elicit testimony from Kathleen Mull Mueller that she did not fear CUT after she was forced to leave Camelot.

Prior to Mrs. Prophet's testimony, Mr. Mull had stated that as many as ten hours a day might be devoted to decreeing at Summit University. As an example of decreeing, Mr. Mull described a bus trip with other students and with Mrs. Prophet in attendance, during which they circled hospitals and other areas and decreed for or against the subject "whichever was appropriate." Mull also testified that he firmly believed CUT teachings and that after he began to speak out against the organization he feared for his and his daughter's safety.

The objected to testimony by Mr. King impeached Mrs. Prophet and corroborated Mr. Mull by describing decrees as lengthy chants which were used for a number of purposes, including the discipline and control of CUT members. These latter goals were effected by requiring members to decree for many hours. King testified that he thought decreeing could be dangerous because the activity could lead to "kind of a hypnotic state where you are supersuggestible." He also stated that some decrees involved shouts, hand signals, and vitriolic language directed at organizations or persons (which could include former members) thought to oppose CUT. The goal of these decrees was to get the objects of the decrees to "act the way we wanted them to act." We conclude that the testimony was relevant and not unduly prejudicial.

B. Appellants contend that Mr. Mull impermissibly introduced evidence which called into question the validity and

legitimacy of their religious beliefs and thus the judgment must be reversed.

1. Text of a Decree.

Appellants contend that the trial court erred in allowing into evidence the text of a decree entitled "Insert on Personal and Impersonal Hatred."

"[W]hile religious belief is absolutely protected, religiously motivated conduct is not. [Citations.]" (Molko v. Holy Spirit Assn. (1988) 46 Cal.3d 1092, 1112-1113.) Prior to admission of the subject evidence, Mr. Mull had previously testified regarding his fear for his and his daughter's safety. There also was ample evidence that he had been a fervent adherent of CUT doctrine and practices for many years, including the belief in the effectiveness of decreeing. Evidence that CUT members decreed against those who opposed the organization had also been received. The subject document included a blank space which one could reasonably infer was provided so that names could be inscribed therein and become the objects of the decree. Counsel for Mull inquired of various witnesses whether Mull's name had been so inscribed. The beliefs expressed in the decree were not called into question. We conclude that the admission of the document was proper.

2. Reincarnation.

Counsel for Mull inquired of Edward Francis, a CUT official and cross-defendant, if he considered himself to be

the reincarnation of Captain Cook. Over objection, Mr. Francis was obliged to answer that he did. Counsel then continued, "Let me ask you this one as Mr. Francis instead of Captain Cook." No other questions were asked on this subject. Appellants contend that this inquiry was impermissible and damaged the credibility of a key witness.

"While a court can inquire into the sincerity of a person's beliefs, it may not judge the truth or falsity of those beliefs. (United States v. Ballard (1944) 322 U.S. 78, 86-88 [88 L.Ed. 1148, 1153-1155, 64 S.Ct. 882].)" (Molko v. Holy Spirit Assn., supra, 46 Cal.3d 1092, 1112.) In the instant case, none of the allegations of the cross-complaint calls into question the religious beliefs of appellants, and it is not obvious that counsel intended to do so here. On the contrary, counsel cautioned witnesses that beliefs were not on trial. In addition, Don St. Michael, a witness who testified for Mr. Mull prior to the above exchange, made reference to his own belief in reincarnation.<sup>8</sup> Therefore, both sides suffered

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<sup>8</sup> "THE WITNESS: Well, while doing the decree, at a particular point where you were to say, 'Hail, Saint Germain,' and it was done in a multiple of three, they would raise their hand and bellow out much louder.

"Q BY MR. LEVY: Why don't you do it just as loud as you could and in the manner. I don't remember the decree, but that phrase, just the beginning of it.

"A Hail, Saint Germain.

"And it was terrorizing to me. And when I explained it to the teaching aids, I said I believe in reincarnation. Maybe I was in Auschwitz. I am born in 1947. This is the way we saluted the German flag in 1939.

"But it was one of the things I couldn't do in the decrees."

whatever negative connotations the jury might attach to this belief. We conclude there was no error.

### 3. References to CUT.

Appellants contend that a number of references by counsel for Mull to CUT teachings and practices amounted to impermissible ridicule of religious beliefs. We conclude from our review that the argument is without merit.

### II. Conduct of Counsel.

Appellants allege numerous incidents of attorney misconduct which they believe compel reversal of the judgment. We have carefully reviewed the record with regard to each allegation and have concluded that the argument has no merit.

### III. The Judgment Is Supported by Law and by Substantial Evidence.

#### A. "Breach of Fiduciary Relationship."

Appellants contend there is no basis in law for a cause of action for "breach of fiduciary relationship."

We have not discovered nor has respondent brought to our attention any case in which a plaintiff recovered under the subject designation. However, "[a]n action cannot be defeated merely because it is not properly named. [Citation.]" (Porten v. University of San Francisco (1976) 64 Cal.App.3d 825, 833.) "Mistaken labels and confusion of legal theory are not fatal,"

and if Mr. Mull's cross-complaint stated a cause of action on any theory, he was entitled to introduce evidence thereon.

(Ibid.)

Public disclosure of a private fact is a recognized tort which occurs when such disclosure is offensive and objectionable to a reasonable person of ordinary sensibilities. (Forsher v. Bugliosi (1980) 26 Cal.3d 792, 809.) Under his cause of action entitled "Breach of Fiduciary Relationship," Mr. Mull alleged that he disclosed details of his personal life under assurances of privacy and guarantees of nondisclosure to Mrs. Prophet within a priest-penitent relationship and that Mrs. Prophet disclosed the information "to others including other church members and the local 'press.'" The elements of the tort are satisfied by this pleading.

At trial, substantial evidence, that is, evidence which is reasonable in nature, credible, and of solid value (Estate of Teed (1952) 112 Cal.App.2d 638, 644), was admitted which would support a finding that appellants were liable for public disclosure of private facts. Mr. Mull testified that early in his relationship with CUT, a member assured him that if he attended Summit University, his religious questions would be answered. Mr. Mull began the 12-week residential program in January 1975. Students were required to write a "clearance

letter" in which they were to record all the wrongs which they had committed, with whom, when, and where. The clearance letter served as a written confession. The students were told they would be forgiven only for those sins which were fully recorded in the clearance letters. They were also told that the clearance letters would be read solely by Mrs. Prophet in a special ceremony and burned immediately thereafter. Students were given several weeks to write their clearance letters. Mr. Mull, a man then in his mid-50's, wrote an extensive, ten-page letter. He disclosed information on his sex life, including homosexual encounters he had experienced as a young man. Other than this letter, he did not discuss his sexual past with anyone at CUT. He believed that everything he put into the clearance letter would be "gone forever" once it was burned. He trusted Mrs. Prophet to burn his letter, but he never saw it burned. Some years later, after Mr. Mull became disillusioned with CUT, he began to speak out against the organization. A ministerial group invited him to give several lectures and make a television appearance in Montana. During the course of one of his lectures, a member of CUT who was in the audience stood up and shouted that Mr. Mull was an impotent homosexual who hated Mrs. Prophet and whose business partner had run off with and married Mull's ex-wife.

We conclude that the necessary elements for public

disclosure of private facts were adequately pleaded and proven.

B. Fraud.

Appellants argue that the cause of action for fraud is barred because the cross-complaint alleges that religious representations induced Mr. Mull to bestow services and gifts of money on CUT, and such representations are protected by the First Amendment. Appellants further argue that Mr. Mull failed to produce any evidence that any reliance on his part was justifiable.

Among the allegations of the cross-complaint are that appellants represented to Mull that in exchange for his "'contributions'" of money and labor, appellants would provide him with "the necessities of life," including "expenses," and that these, as well as other representations, were made with the knowledge that appellants did not intend to provide the things represented. Thus, the element of misrepresentation was pleaded without reference to religious belief.

Furthermore, substantial evidence was introduced to prove that his reliance on the representations was justifiable. For example, both Mr. Mull and Mrs. Prophet testified that their relationship was one of friendship. Mull had known Prophet for more than five years before he was invited to move to Camelot. During this period, he had spent time with her in social as well as religious settings. They



had shopped together for antiques on a number of occasions, and Mull had paid for their dinners out together. Prophet had visited his home alone and with her husband, and Mull had seen her home. Mull had advised Prophet on decorating and had given her passes to a merchandise mart to enable her and CUT to save money. The record is replete with evidence that Mull considered Prophet to be his spiritual leader. Before his move to Camelot, Mull believed Prophet spoke for God and would have done anything she told him to do. His invitation to move to Camelot came from Monroe Shearer, a board member of CUT whom Mull had known for some time. Shearer represented to Mull that he had consulted with Mrs. Prophet and the board prior to extending the offer. We conclude that substantial evidence supports a finding that Mr. Mull's reliance on the invitation to move to Camelot in exchange for room, board, and his expenses was reasonable.

C. Intentional Infliction of Emotional Distress.

Appellants contend that Mr. Mull failed to plead and prove outrageous conduct, and that there was insufficient evidence to support a finding that appellants intended to cause emotional distress or acted with reckless disregard of the probability of causing emotional distress.

A reading of the complaint reveals that this cause of action was adequately pleaded, and substantial evidence in the form of a transcript of a tape recording made and transcribed

by CUT supports a finding that the intent or reckless disregard element of the tort was proven. The tape documents a meeting called by Prophet and other CUT officials to which Mr. Mull was summoned after he had been forced to leave Camelot. As one example of the many despicable acts perpetrated against Mr. Mull by Prophet and others of her organization, Prophet, fully aware that Mr. Mull was 58 years old, out of a job, with a college-age daughter to support, and approximately \$5,500 in the bank, used her influence to extract from him a check for \$5,489. The funds supposedly were earmarked for scholarships to enable children to attend CUT's "Montessori" school<sup>2</sup> and \$489 was to pay tuition to Summit University for Kathleen's daughter. In spite of the constant and shameful pressures exerted on Mr. Mull to part with his money during this two and one-half hour meeting, these were the only causes to which he finally, and very reluctantly, agreed to give. As a result of this last "donation," Mull had so little money that he and his daughter were forced to get food from garbage bins from behind grocery stores. Substantial evidence supports a finding of liability under this cause of action.

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<sup>2</sup> Evidence was admitted that CUT's "Montessori" school had no recognized accreditation and was supported through CUT's general fund rather than through a separate fund specifically set aside for its support.

D. Assault.

Appellants contend that Mr. Mull presented no evidence which demonstrated a threat of immediate physical contact as required by the jury instruction or that CUT's actions exceeded the scope of its privilege given that the events occurred on CUT property.

The subject jury instruction reads, "ASSAULT ¶ An act by one or more persons that reasonably places the victim in fear of imminent personal harm; proof of the ability to do the harm is not required if his victim believes the other(s) have the ability." The court gave this instruction virtually verbatim.<sup>10</sup>

After Mr. Mull had withdrawn from CUT membership and had begun to publicly criticize the organization, he tried to attend a publicly advertised, CUT-sponsored square dance, to which he had also received a private invitation. After Mr. Mull and his party, which included his daughter, another couple, and a reporter, entered a public area of CUT property, a CUT official called Mull deranged, and guards, whom Mull knew

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<sup>10</sup> "Assault is an act by one or more persons that reasonably places the victim in fear of imminent personal harm. Proof of the ability to do the harm is not required if the victim believes that the other or others have the ability."

to be trained in martial arts, came towards him with their hands raised. Mr. Mull testified that at that point he had an extreme fear that he and those accompanying him would be attacked. This evidence would support a finding that Mull reasonably feared imminent personal harm.

Mr. Mull further testified that when it became clear that he would not be allowed to attend the event, he and his party left. Since the square dance was a publicly advertised event, and there was no evidence that Mr. Mull or any of his party intended, or had the capability, to damage CUT property, the jury could reasonably find that CUT had exceeded its privilege to defend its property under the circumstances.

E. Compensatory Damages and Quantum Meruit.

Appellants argue that Mr. Mull did not present any evidence that would prove that he and appellants reasonably believed that he would be compensated for his architectural services beyond the compensation he received in the form of food, lodging, and the contested "expenses," and therefore the evidence does not support an award of \$521,100 in compensatory damages. As discussed below, there was much for which Mr. Mull was entitled to be compensated.

We first consider the facts regarding Mr. Mull's move to Camelot. He testified that he was excited and elated about being invited to draw plans for the "New Jerusalem" at Camelot. He estimated that it was a \$33,000,000 project and

looked forward to designing a number of significant buildings. However, what Mull did not know at the time he was invited to move to Camelot was that CUT had already decided to abandon the New Jerusalem project. Thus, any hoped-for professional prestige through association with this project, as well as increased importance within CUT, was lost to Mull before he even put pen to paper. (Nonetheless, Mr. Mull's plans were used by CUT to help raise funds even though the project had been secretly abandoned. With the help of Mull's drawings, one to two million dollars was raised within a few months and eight to ten million dollars more in pledges followed.)

His working conditions at Camelot also were not what Mull had expected. By giving Mull nearly impossible deadlines for the completion of drawings of various New Jerusalem buildings, Mull worked as many as 12 to 16 hours a day, 7 days a week, from January through October 1979, at which point CUT stopped paying him. In addition, his living quarters were spartan at best. These were not terms which Mull had proposed.

Mr. Mull lost income when he closed down his architectural business in San Francisco in order to effect his move to Camelot, and he was virtually without resources to restart his business after CUT stopped paying his expenses in November and told him to leave Camelot in May. As a result of CUT's holding back on payments for his expenses, Mr. Mull lost his credit. In addition, Prophet and CUT put pressure on Mull

to sell his home for any price. CUT expected him to contribute \$10,000 of the proceeds to the organization.<sup>11</sup> He reduced the price twice in order to realize a quick sale.

With regard to other subjects, since there was no special verdict or special findings of fact by the jury,<sup>12</sup> and since there are several valid causes of action under which compensatory damages could be awarded -- e.g., public disclosure of private facts, intentional infliction of emotional distress, and assault -- we cannot speculate how the jury apportioned damages among these causes of action. We conclude, however, that the evidence supports the award.

#### F. Damages.

Finally, appellants argue that the award of damages, both compensatory and punitive, was excessive. We conclude that this argument has no merit.

As discussed above, there was substantial evidence under several causes of action to support the award of compensatory

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<sup>11</sup> Because Mull realized less than he had expected from the sale, he did not give CUT the money. Prophet testified that Mull's failure to pay CUT the \$10,000 was one of the reasons she decided on legal action against him.

<sup>12</sup> Appellants requested a special verdict form be given the jury. Their request was refused. Such decision is within the sound discretion of the trial court. (Code Civ. Proc., § 625; Klemme v. Hoag Memorial Hospital Presbyterian (1980) 103 Cal.App.3d 640, 645.) Appellants do not contend that the trial court abused its discretion.

damages. The punitive damages awarded here were not excessive in view of the ratio of punitives to compensatory damages (one to one for each of the two appellants). (See, e.g., Downey Savings & Loan Assn. v. Ohio Casualty Ins. Co. (1987) 189 Cal.App.3d 1072, 1097-1098.) The reprehensibility of the acts of appellants, as set forth above, in light of the whole record also supports the award. (Neal v. Farmers Ins. Exchange (1978) 21 Cal.3d 910, 928.) Finally, the wealth of appellants is to be considered since the purpose of punitive damages is to punish wrongdoers and thereby deter the commission of wrongful acts. (Id., at p. 928, fn. 13.) Evidence was received regarding CUT's vast holdings of land and Mrs. Prophet's receipt of valuable gifts and other assets. We conclude that the award does not appear to be excessive as a matter of law or "so grossly disproportionate as to raise a presumption that it is the result of passion or prejudice." (Cunningham v. Simpson (1969) 1 Cal.3d 301, 308.)

We also note that the award was scrutinized by the trial court when it considered and denied appellants' motion for a new trial. The determination of the trial court is to be accorded great weight. (Bertero v. National General Corp. (1974) 13 Cal.3d 43, 64; Chodos v. Insurance Co. of North

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America (1981) 126 Cal.App.3d 86, 103.) We cannot conclude that the trial court erred.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED

LUCAS, P.J.

We concur:

BOREN, J.

KENNARD, J.\*

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\* Assigned by the Chairperson of the Judicial Council.