

**RESTATED ARTICLES OF INCORPORATION  
NEW ORLEANS BAPTIST THEOLOGICAL SEMINARY**

**ARTICLE I  
NAME AND STATEMENT OF NONPROFIT STATUS**

The name of this corporation shall be the “New Orleans Baptist Theological Seminary.” It shall be a nonprofit corporation.

**ARTICLE II  
STATEMENT OF PURPOSES**

The purposes for which this corporation is formed shall be to engage in any lawful activity, to establish, maintain and operate schools and institutions of learning for the educational and missionary training of Christian workers, for all kinds and character of Christian service, and to confer degrees; having full authority to do all things necessary to put into execution the purposes for which this corporation is created.

**ARTICLE III  
DURATION**

The duration of this corporation shall be perpetual.

**ARTICLE IV  
REGISTERED OFFICE/AGENT**

The registered office of this corporation shall be Office of the President, New Orleans Baptist Theological Seminary, 3939 Gentilly Boulevard, New Orleans, Louisiana 70126-4858. The registered agent at that office shall be **Dr. Charles S. Kelley**,<sup>1</sup> President, or his successor.

**ARTICLE V  
NON-STOCK STATUS AND MEMBERSHIP**

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<sup>1</sup> Presently names Dr. Leavell.

This corporation is chartered on a non-stock basis. **The corporation shall have one Member, the Southern Baptist Convention, a religious nonprofit corporation chartered by act of the senate and house of representatives of the State of Georgia.<sup>2</sup> The membership of the Southern Baptist Convention shall not be cancelled except by the amendment of the articles of incorporation with the consent of the Southern Baptist Convention.**

**The religious polity, discipline, rules and customs<sup>3</sup> require the Member:**

- (a) to exercise the right to:**
- (1) establish the qualifications of directors, who may also be referred to as trustees;<sup>4</sup>**
  - (2) determine the term of office of trustees;**
  - (3) determine the number of persons constituting the board of trustees;**
  - (4) elect and remove trustees, by vote of the messengers to the Southern Baptist Convention in its annual meeting.<sup>5</sup> Vacancies occurring in the board of trustees may be declared only by the Southern Baptist Convention, or by its Executive Committee, in case of the death, resignation, or disqualification of a trustee.**

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<sup>2</sup> Causes the Convention to be the Member of the corporation. At the present time, the trustees serve both as trustees and as the Members of the corporation. "Member" is defined in the law as one who has a right to participate in the control of the corporation. Section 201. (Citations of section numbers are to the Louisiana Nonprofit Corporation Law, Title 12 of the Louisiana Revised Statutes.) As the Member, the Southern Baptist Convention will not be liable for obligations of the corporation. Section 219A. The remainder of this proposed Article is designed to delineate the balance of authority between the Convention as the Member and the board of trustees. This Article and the following Article, VI, should be read together. VI says that the corporation is managed exclusively and totally by the Seminary's board of trustees, except to the extent the articles specify that the Convention, as the Member, has a right in regard to the Seminary's governance. (VI reads: "The corporation shall be managed and controlled by its board of trustees except to the extent of the Member's rights.") The extent of the Convention's governance rights is enumerated in V. This is all consistent with the Louisiana law which says: "Subject to any limitations, restrictions or reservations in the articles, bylaws, or this chapter, the affairs of the corporation shall be managed by a board of directors . . ." Section 224 B. While it is not necessary to enumerate the rights of the board, since the board has all the rights of governance except those enumerated to be held by the Convention as the Member, it should be noted that both the law and the Convention's instruments acknowledge that the board has the right to elect and remove the Seminary's officers. Section 225 and SBC Constitution Article VI (5). Further, the SBC Constitution (Article VII) recognizes that the Seminary's officers, including its president, are controlled by the board of trustees.

<sup>3</sup> These are words the courts use to describe those areas of church governance protected under the first amendment to the United States Constitution and under Article I Section 8 of the Louisiana Constitution.

<sup>4</sup> Section 224 A allows directors to be called trustees.

<sup>5</sup> This is the first of many places the articles spell out removal of a trustee prior to the expiration of the trustee's term in office. Note the language says it is only the messengers who have the right to remove, and, further, only the messengers in an annual meeting, not in a special meeting. This provision, and others which follow, individually and collectively preclude the Executive Committee of the Southern Baptist Convention from acting on the Convention's behalf to remove trustees of the Seminary.

- (5) approve an amendment of the articles of incorporation adopted by the board of trustees, but to refrain from exercising any right to unilaterally amend the articles of incorporation;<sup>6</sup>
  - (6) approve any merger, consolidation<sup>7</sup> or dissolution,<sup>8</sup> or a change in the corporation's state of incorporation;<sup>9</sup>
  - (7) approve the sale, lease or other disposition of all, or substantially all, of the corporation's assets;<sup>10</sup>
  - (8) approve, by action of the Southern Baptist Convention or its Executive Committee, the establishment of a subsidiary corporation or any other legal entity or form for conducting its affairs, or the acquisition by the corporation of a controlling interest, or greater than a 25% interest, in any other corporation or business enterprise;<sup>11</sup>
  - (9) be free from any assessment or the levy of dues.<sup>12</sup>
- (b) to refrain from exercising any right to vote on the corporation's bylaws, the power and right to adopt and amend bylaws not inconsistent with the articles of incorporation and not affecting adversely the Member's rights, being exclusively vested in the board of trustees.<sup>13</sup>

**Only the Southern Baptist Convention may remove a trustee prior to the expiration of the trustee's term and may do so for any reason deemed sufficient to the Convention, the**

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<sup>6</sup> To make clear that the Convention may not unilaterally amend the Seminary's charter. Section 237 of the Louisiana Nonprofit Corporation Law provides that the articles may be amended by any method stipulated in the Articles of Incorporation. However, without this sentence, the Convention as the Member would have the right to unilaterally amend the articles under Section 237 H.

<sup>7</sup> Section 243.

<sup>8</sup> Section 250.

<sup>9</sup> Section 247.

<sup>10</sup> Section 247.

<sup>11</sup> To conform the articles to SBC Bylaw 33.

<sup>12</sup> Section 218.

<sup>13</sup> Reflects that the Convention disavows any right to control the bylaws of the Seminary. The Convention's Constitution declares that the trustees, not the Convention, control the institution's bylaws. (SBC Constitution Article VI, Section 7.) This sentence in the proposed articles is important in light of Section 222 A of the Louisiana Nonprofit Corporation Law which permits the corporation to have its bylaws amended by either the Members or the board.

**election and removal of trustees by the Convention being religious acts within the scope of the free exercise of the Convention's religion under the Constitution of the United States.**

**The removal of a trustee must be approved by the messengers to an annual meeting of the Convention in accordance with the following process:<sup>14</sup>**

- (a) (1) The Convention cannot consider a motion to remove a trustee unless written notice of intent to remove the trustee was received by the president of the Executive Committee of the Southern Baptist Convention on or before the preceding January 15. The notice may be given by or on behalf of the board of trustees or by any member of a church cooperating with the Southern Baptist Convention. The president of the Executive Committee shall be responsible for informing the trustee in question, the corporation, and the editor of *Baptist Press* that the trustee's removal has been proposed.**
  - (2) If the president of the Executive Committee did not receive timely notice of intent to remove, then any motion at the annual Convention to remove a trustee shall be referred to the Executive Committee for consideration and report to the next annual session of the Convention, which may consider and vote upon removal of the trustee.**
  - (3) No single motion may undertake to remove more than one trustee. A motion to remove a trustee shall be adopted if it receives the affirmative vote of two-thirds of the messengers present and voting.**
- (b) If the motion to remove a trustee is adopted, the removal shall be effective immediately upon delivery to the entity's secretary of a written notice of removal signed by the president or recording secretary of the Convention. Any vote in favor of the removal of a trustee shall be deemed as having conclusively established the sufficiency of any reason for removal. There shall be no right of judicial review concerning the removal of a trustee at any point in the removal process.**

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<sup>14</sup> Some entities of the Convention have not recited in their articles of incorporation the process by which the Convention would act to remove a trustee, simply providing that the Convention has the right to remove and leaving the process to the Convention. On the other hand, several entities have chosen to recite the process in their articles of incorporation. The removal process spelled out in these proposed articles for NOBTS is the same removal process which has been recited in the articles of those Convention entities which wished to recite a process. This process is expressed in the language the Executive Committee of the Southern Baptist Convention will consider recommending to the Convention for incorporation into the Convention's bylaws.

The process should please the Seminary's accrediting body, the Southern Association of Colleges and Schools. SACS' criteria call for the institution to describe in its articles or bylaws the process which will be followed in the event of the removal of a trustee. SACS also calls for the process to be fundamentally fair. (SACS Criteria at 6.1.2 provides: the Seminary's articles or bylaws are expected to "include provisions governing the removal of a board member from office. A board member may be dismissed only for cause and by a procedure involving due process.") This will be the first time the Seminary can show SACS that the Seminary's governing instruments contain a process, and a fair process.

**The annual meeting of the Southern Baptist Convention shall constitute the annual meeting of the Member, and at this meeting the Southern Baptist Convention will elect trustees. A special meeting of the Member may occur only as provided in its governing instruments. The location of meetings shall be determined by the Southern Baptist Convention.<sup>15</sup> No legal notice of Member meetings shall be required.<sup>16</sup>**

## **ARTICLE VI THE BOARD OF TRUSTEES**

**The corporation shall be managed and controlled by its board of trustees except to the extent of the Member's rights.<sup>17</sup>** The trustees shall be elected each for a term of five years, and otherwise in accordance with the provisions of the Constitution and Bylaws of the Southern Baptist Convention.

The board of trustees shall be composed of not more than sixty and not less than twenty-five persons as determined by the Southern Baptist Convention, at least ten of whom shall be local members from the vicinity of the main offices of the corporation. Not more than five local members shall be from the same church.<sup>18</sup>

Any vacancy occurring on the board of trustees in the interim between the annual sessions of the Southern Baptist Convention may be filled by the remaining trustees who, for this purpose but no other, may nominate and elect trustees of this corporation. Trustees thus elected shall serve until the next annual meeting of the Southern Baptist Convention. If for any reason the Southern Baptist Convention shall fail to elect trustees to fill all vacancies existing at the annual meeting, the trustees then in office shall continue until their successors are duly elected, qualified and installed.<sup>19</sup> **Any trusteeship to be filled by reason of an increase in the number of trustees, shall be filled by the Southern Baptist Convention.**

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<sup>15</sup> Section 229.

<sup>16</sup> Section 230.

<sup>17</sup> All powers will be in the board of trustees except to the extent a specific power is reserved for the Convention as the corporation's Member.

<sup>18</sup> A present paragraph is deleted at this point. It deals with the removal of a trustee by the board upon the Convention's instruction. It is no longer necessary.

<sup>19</sup> This language modifies the present wording to indicate that the Convention elects the trustees, rather than the "members."

**ARTICLE VII  
RELATIONSHIP TO SOUTHERN BAPTIST CONVENTION**

New Orleans Baptist Theological Seminary is a seminary of the Southern Baptist Convention.

**ARTICLE VIII  
TAX EXEMPT STATUS, DISSOLUTION AND DISTRIBUTION ON DISSOLUTION**

The corporation is **organized**<sup>20</sup> exclusively for religious educational purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code. No part of the net earnings of the corporation shall inure to the benefit of or be distributable to its Members, trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments or distributions in furtherance of its religious and educational purposes.

**No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.**<sup>21</sup>

Upon the dissolution of the corporation, the assets shall be distributed to the Southern Baptist Convention, if the Convention is then a tax exempt organization within the meaning of Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code. If the Southern Baptist Convention is not then so exempt, the assets shall be distributed only to an organization or organizations exempt from taxation, pursuant to Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

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<sup>20</sup> Changes the word from "formed," to conform with the IRS recommended language.

<sup>21</sup> Conforms language to match that recommended by the Internal Revenue Service.

**ARTICLE IX  
AMENDMENT**

These articles may be amended, altered or repealed by a vote of not less than two-thirds of the members of the board of trustees present and voting. These articles may not be amended, altered or repealed without the express prior consent of the Southern Baptist Convention.

**NEW ORLEANS BAPTIST THEOLOGICAL SEMINARY**

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PRESIDENT

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SECRETARY  
BOARD OF TRUSTEES



STATE OF LOUISIANA )

PARISH OF ORLEANS )

Be it known and remembered, that on this the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, before me, the undersigned authority, Notary Public, duly commissioned and qualified in and for the aforesaid State and Parish, personally came and appeared:

Charles S. Kelley, Jr., and \_\_\_\_\_, President and Secretary, respectively of New Orleans Baptist Theological Seminary, a nonprofit corporation, domiciled in New Orleans, Orleans Parish, Louisiana, and who were duly authorized to act herein by virtue of a resolution adopted at a regular meeting of the board of trustees of New Orleans Baptist Theological Seminary, held at its domicile in New Orleans, Orleans Parish, Louisiana, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, who declare unto me, Notary, and in the presence of the below signed competent witness, that availing themselves of the provisions of the law for the State of Louisiana, they do in behalf of New Orleans Baptist Theological Seminary now appear for the purposes of effecting Amendments to and a restatement of the Articles of Incorporation, so as to make the articles read as set forth above.

That on authorization of the board of trustees, the board consisting of the entire membership of the corporation, New Orleans Baptist Theological Seminary executes restated articles which contain the entire text of the original articles as amended by all amendments thereto, except that names and address of incorporators and directors are omitted; that the restatement accurately copies the articles and all amendments thereto in effect at the date of the restatement, without substantive change except as made by any new amendment or amendments contained in the restatement, the present articles of incorporation as amended being hereby deleted in their entirety and the articles of incorporation as contained in the restated articles being adopted in their stead; that each amendment has been effected in the conformity with law; the date of original incorporation being \_\_\_\_\_ and the date of the adoption of the amended and restated articles being \_\_\_\_\_, \_\_\_\_; that the amended and restated articles were adopted by a vote of \_\_\_\_ for and \_\_\_\_ against by members of the corporation in regular meeting; that of the total of \_\_\_\_ members of the board of trustees of this corporation, the trustees being the membership, a quorum was present at said meeting.

Appearers further declare that the Southern Baptist Convention consented to adoption of the amended and restated articles of incorporation the 200\_\_ annual session of the Southern Baptist Convention on the \_\_\_\_\_ day of June, 200\_\_, held at \_\_\_\_\_, \_\_\_\_\_.

This done and signed, in my office in the State and Parish aforesaid on the day and date hereabove set forth in the presence of the undersigned competent witness and me, Notary, after due

reading of the whole.

Upon being filed and recorded by the Secretary of State and upon the effectiveness of the restated articles, the original articles and all amendments thereto shall be superseded, and the restated articles shall be deemed to be the articles of incorporation of the corporation.

NEW ORLEANS BAPTIST THEOLOGICAL SEMINARY

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CHARLES S. KELLEY, JR.  
PRESIDENT

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SECRETARY  
BOARD OF TRUSTEES

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_