

BUSINESS

Judge approves new trustee for Otto Bremer Trust, ousted leader still appealing

The remaining two trustees selected Frank Miley to fill the open seat.

By Kavita Kumar (<https://www.startribune.com/kavita-kumar/6370490/>) Star Tribune |

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While the ousted leader of Otto Bremer Trust is appealing his removal to the Minnesota Supreme Court, a Ramsey County judge has approved the appointment of his replacement.

Frank Miley, the president of Cretin-Derham Hall High School, appears to have the experience needed in key areas to guide the charity and be its third trustee, Judge Robert Awsumb said at a court hearing last week. He also applauded the search process, noting that it seemed to include broad outreach.

"I find no reason to question their selection," he said of the two other trustees who picked Miley (<https://www.startribune.com/otto-bremer-trust-appoints-third-trustee-to-replace-ousted-leader/600252245/>) out of a field of a couple dozen candidates.

Last year, Awsumb ejected the previous trustee (<https://www.startribune.com/judge-removes-trustee-at-otto-bremer-trust-who-pushed-hardest-for-sale-of-bremer-bank/600169234/>), Brian Lipschultz, citing various improprieties such as self-dealing and exhibiting crude and vulgar behavior.

Andrew Parker, a lawyer for Lipschultz, spoke up at the hearing and argued it would not be prudent to appoint a third trustee while his client's appeal to the Supreme Court is still pending.

A decision from the Supreme Court is expected in a couple of months. Lipschultz had initially appealed to the Minnesota Court of Appeals, which upheld his removal in January (<https://www.startribune.com/minnesota-appeals-court-upholds-removal-of-trustee-of-otto-bremer-trust/600244140/>).

If the higher court were to reinstate Lipschultz, the trust would then have four trustees — a number not considered in the trust's guiding documents — which could lead to disarray, Parker argued.



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Brian Lipschultz, seen testifying in a hearing October 2021, is appealing his removal as a trustee of Otto Bremer Trust to the Minnesota

"It's not necessary now for this court to put in place a replacement," he said.

Awsumb disagreed, saying the trust is at an important juncture where it needs to make a lot of decisions in a short period of time as it heads into mediation regarding several lawsuits. So it would be useful to have three trustees in place, he said.

The pending lawsuits pertain to the trustees' attempted 2019 sale of their shares in Bremer Financial, the state's fourth-largest bank. In an unusual arrangement founder Otto Bremer set up in the 1940s, the trust owns the bank, with its profits then funneling to the charity and back into the community.

Those lawsuits had been on hold while the Minnesota Attorney General's Office sought to remove all three trustees, alleging various breaches of duty following a nine-month investigation. After a lengthy hearing that lasted for weeks in the fall of 2021, Awsumb decided to unseat Lipschultz but to let the other two trustees — Charlotte Johnson and Daniel Reardon — keep their positions.

The Attorney General's Office did not take a position on the appointment of Miley as the third trustee. But it made a point to confirm with the trust that Miley has no family ties to the current trustees.

Family members had appointed the other current trustees, as well as Lipschultz, to their positions, a process the Attorney General's Office criticized during the trial.

In a letter to the Attorney General's Office included in one of the court filings, the two trustees noted they had no previous "business, financial or close personal relationship" with Miley. They also said Lipschultz played no role in the search process.

Matthew Kilby, the attorney representing trustees Johnson and Reardon, said he didn't think the judge needed to decide now whether there could be four trustees if Lipschultz wins his appeal.

"This falls under, 'We can cross that bridge when it comes to it,'" he said.

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