

**THE PERMANENT JUDICIAL COMMISSION  
OF THE SYNOD OF THE PACIFIC  
OF THE PRESBYTERIAN CHURCH (U.S.A.)**

MARY HOLDER NAEGELI, J. MARK )	
STRYKER AND MARGARET H. GELINI )	
Complainants, )	Final Decision and Order
v. )	
PRESBYTERY OF SAN FRANCISCO )	Remedial Case 08-01
Respondent. )	

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ARRIVAL STATEMENT

This remedial case came before the Synod of the Pacific Permanent Judicial Commission (this Commission or SPJC) filed by the Complainants, Mary Holder Naegeli, J. Mark Stryker and Margaret H. Gelini (Holder *et al.*), against the Presbytery of San Francisco (Presbytery).

JURISDICTIONAL STATEMENT

The preliminary questions posed in D-6.0305 were all answered in the affirmative.

HISTORY

This case concerns the action of the Presbytery of San Francisco concerning a candidate for the office of Minister of Word and Sacrament. The candidate was first in the Twin Cities Area Presbytery and since April 1997 has been under care of the Presbytery of San Francisco. In April 2004 during a Final Assessment with the Committee on Preparation for Ministry (CPM), the candidate affirmed a relationship not in compliance with G-6.0106b. The CPM did not advance the candidate at that time.

On Dec. 5, 2007, the CPM conducted a Final Assessment. At that time, the candidate presented a Statement of Departure with regards to G-6.0106b, stating

“By my conscience, faith and theology, I cannot and will not accept the terms of this standard.” The CPM voted 12-9 to recommend to the Presbytery that the candidate was ready for examination with a departure.

Prior to the January stated meeting, presbytery distributed a packet containing the candidate’s statement of departure and a letter from CPM. The letter dated December 15, 2007, identified and explained the intent of two motions.

1. The motion from CPM recommended that the presbytery certify the candidate ready for examination effective January 15, 2008, with a departure.

2. The motion from CPM's minority recommended that the candidate be removed from the rolls of candidate effective January 15, 2008.

Both a majority and minority CPM report were presented at the Presbytery Meeting on January 15, 2008. Following presentation and discussion of both reports, presbytery voted whether the substitute motion of the minority report should replace the main motion. The motion failed 151-168. By a vote of 167-151, presbytery then approved the original motion from the majority report to certify the candidate as ready for examination with a departure.

On February 29, 2008, the Stated Clerk of Synod of the Pacific declared in effect a Stay of Enforcement, based on the signatures of at least one-third of the members of the Presbytery recorded as present at the January 15, 2008 meeting.

The Vice Moderator and Clerk of the SPJC issued a Decision and Order on February 1, 2009 that held (1) that the SPJC has no jurisdiction to review action taken by a CPM, and (2) that three disputed documents known collectively as "Envelope B" were not relevant to the SPJC's review of the Complaint.

Complainant filed Objections to Decision and Order (Denying Respondent's Motion to Dismiss) and Respondent challenged the timeliness of the objections. A pre-trial hearing was held on March 19 and the full Commission ruled the Complainant's objections were timely.

Complainant's request to proceed with the amended complaint was granted without objection by Respondent.

The Commission voted to exclude all forms of media from the hearing, including all electronic devices, cameras and recording devices.

Attorneys for Complainant and Respondent argued to bifurcate the hearing into argument first on the issue of jurisdiction and second on the admissibility of the three documents identified as "Envelope B." The Commission ruled that the issues would be heard together. After argument and further deliberation, the Commission overruled both objections.

The Commission voted to exclude all media from the trial, including all electronic devices, cameras and recording devices.

Respondent moved to offer testimony by the candidate and Complainant objected as irrelevant. After hearing arguments and deliberation, the Commission voted that the testimony was irrelevant and would not be heard.

Complainant moved to have one page of CPM minutes admitted into the record. After hearing arguments and deliberation, the Commission voted to deny the request.

In the course of the trial, Complainant provided members of the Commission and Respondent's Committee of Counsel with a binder of trial exhibits. At the close of trial, Respondent raised concern regarding the confidential nature of some of the materials within the binder. The Commission heard arguments regarding disposition of the binders. After deliberation, the Commission voted to hold one copy intact as part of the Synod record with due care taken to maintain confidentiality. All other copies of the binder were to be given to the Presbytery Stated Clerk for safe disposal of all contents.

#### SPECIFICATIONS OF ERROR

*Specification of Error No. 1. The Presbytery erred when its CPM recommended the Candidate was "ready for examination" because it ignored the Candidates clear statement of defiance to the mandatory qualifications for ordination found in the Book of Order and specifically, section G-6.0106b.*

This specification of Error is not sustained. The SPJC has no jurisdiction to review the actions of a committee of presbytery. (G-4.0301(f), D-6.0202a(1))

*Specification of Error No. 2. The Presbytery erred when its CPM recommended the Candidate was "ready for examination" because it ignored the Candidate's failure to repent from self-acknowledged practices the Confessions call sin, and thus violated G-6-0106b.*

This specification of error is not sustained. The SPJC has no jurisdiction to review the actions of a committee of presbytery. (G-4.0301(f), D-6.0202a(1))

*Specification of Error No. 3. The Presbytery erred when its CPM recommended the Candidate was "ready for examination" because it breached the covenant relationship that should exist between the CPM and the candidates for ordination under its care when it failed to inform the Candidate that to be qualified for ordination she had to recant her defiance to abide by G-6.0106 and repent from ;her practice which the confessions call sin.*

This specification of error is not sustained. The SPJC has no jurisdiction to review the actions of a committee of presbytery. (G-4.0301(f), D-6.0202a(1))

*Specification of Error No. 4. The Presbytery erred when its CPM recommended the Candidate was "ready for examination" because it breached the covenant relationship that should exist between the Presbytery and the wider church when it failed to uphold the mandatory provisions of the Book of Order.*

This specification of error is not sustained. The SPJC has no jurisdiction to review the actions of a committee of presbytery. (G-4.0301(f), D-6.0202a(1))

*Specification of Error No. 5. The Presbytery erred when its CPM recommended the Candidate was "ready for examination" because it misled the commissioners as to the church-wide requirements for ordination.*

This specification of error is not sustained. The SPJC has no jurisdiction to review the actions of a committee of presbytery. (G-4.0301(f), D-6.0202a(1))

*Specification of Error No. 6. The Presbytery erred when its CPM recommended the Candidate was “ready for examination” because it misled the commissioners by stating that “essentials” rather than “departures” from the essentials must be determined on a case-by-case basis.*

This specification of error is not sustained. The SPJC has no jurisdiction to review the actions of a committee of presbytery. (G-4.0301(f), D-6.0202a(1))

*Specification of Error No. 7. The Presbytery erred when its CPM presented false, misleading, incomplete, and errant to the presbyters voting on the Candidate’s departure.*

This specification of error is not sustained. The SPJC has no jurisdiction to review the actions of a committee of presbytery. (G-4.0301(f), D-6.0202a(1))

*Specification of Error No. 8. The Presbytery erred when its CPM failed to remove the Candidate from the roll of candidates when it first determined the Candidate was not qualified for ordained service.*

This specification of error is not sustained. The SPJC has no jurisdiction to review the actions of a committee of presbytery. (G-4.0301(f), D-6.0202a(1))

*Specification of Error No. 9. The Presbytery erred when its CPM recommended the Candidate was “ready for examination” because it invited the Presbytery to reach an unconditional decision.*

This specification of error is not sustained. The SPJC has no jurisdiction to review the actions of a committee of presbytery. (G-4.0301(f), D-6.0202a(1))

*Specifications of Error No. 10. The Presbytery erred when its commissioners voted to advance toward ordination a candidate who, by her own admission, does not meet the requirements for ordination as set forth in the Book of Order.*

This specification of error is not sustained. The procedural errors described under Specification of Error No. 12 were of such a nature that the vote was out of order, which precludes the possibility of ruling on the substance of this specification of error.

*Specifications of Error 11. In voting to advance the Candidate as “ready for examination” the Presbytery erred because it violated its connectional obligation to the church at large by failing to uphold church-wide standards.*

This specification of error is not sustained. The procedural errors described under Specification of Error No. 12 were of such a nature that the vote was out of order, which precludes the possibility of ruling on the substance of this specification of error.

*Specification of error 12. In voting to advance the Candidate as “ready for examination” the Presbytery erred because it improperly granted the Candidate an exception to the mandatory behavioral ordination standard of G-6.0106b.*

This specification is sustained. The Presbytery erred when it voted to certify the Candidate as “ready for examination ... with a departure” because the examination for ordination is the proper time for Presbytery to determine whether or not a candidate's departure constitutes a failure to adhere to the essentials of Reformed faith and polity (*Theological Task Force on Peace, Unity and Purity of the Church*, Recommendation 5, c. 1-2, (*Minutes* 2006, p. 514). The debate and vote on January 15, 2008 was not an examination for ordination. The language of the motion on the floor was to certify the candidate as “ready for examination ... with departure”, thus an examination could not yet properly take place in advance of such certification. Moreover, discussion of the motion could not properly constitute an examination for ordination because it did not conform to G-14.0482, including the requirement that "the candidate shall appear before the presbytery and shall make a brief statement of personal faith and of commitment to the ministry of the Word and Sacrament." Neither the candidate nor the candidate's Statement of Faith was presented or made available to the Presbyters at their meeting of January 15, 2008.

## DECISION

In response to the requests for relief in the complaint:

- 1) The Synod Permanent Judicial Commission grants the request to rescind the Presbytery’s certification that the candidate is “ready for examination”.
- 2) The Synod Permanent Judicial Commission declines the request to instruct the Presbytery to find that the Candidate’s departure constitutes failure to adhere to the essentials of Reformed faith and polity under G-6.0108 of the Book of Order, thus barring the Candidate from ordination. This Commission holds that the Presbytery has not yet properly ruled on the Candidate’s departure for the reasons explained in response to Specification No. 12 above.
- 3) The Synod Permanent Judicial Commission grants the request to admonish the Presbytery to faithfully execute its constitutional obligations to the entire church to enforce mandatory church wide ordination standards. If and when this Candidate appears before the Presbytery for an examination for ordination, the Presbytery is enjoined to be mindful of this admonition.
- 4) The Synod Permanent Judicial Commission grants the request to admonish the Presbytery to insure that its CPM faithfully meets its covenantal obligations to the candidates under its care who insist on departing from mandatory standards. *Londonderry et al. v. Presbytery of Northern New England*, (*Minutes*, 2001, p. 580) stated “when an individual or governing body threatens to move from verbal dissent to active disobedience, it is the obligation of the covenant community to seek to prevent the dissenting party from falling into contumacy.

This begins as an act of pastoral care, but may become an act of church discipline” (D-1.0103).

As also referred to in the request for relief in number three above, the larger church relies upon each presbytery to protect the interests of the whole. The mandatory ordination standards are in important part of this covenant.

- 5) The Synod Permanent Judicial Commission declines the request to admonish the Presbytery’s CPM to take care to provide only accurate, truthful material that focuses properly on the issues to be presented to Presbyters. This Commission has ruled earlier in this decision that it lacks jurisdiction over the Presbytery’s CPM.
  
- 6) The Synod Permanent Judicial Commission declines the request to instruct the Presbytery of San Francisco to remove the name of Lisa Larges from the Roll of Candidates. This Commission lacks the authority to require removal of a candidate from the Roll of Candidates, since it is the Presbytery of care that has a covenantal relationship with the candidates as well as authority over the Roll of Candidates (G-14.0463).

#### ORDER

IT IS THEREFORE ORDERED THAT the vote of the Presbytery of San Francisco on January 15, 2008 to certify that the Candidate “is ready for examination, effective January 15, 2008, with a departure” is nullified and without force or effect.

IT IS FURTHER ORDERED THAT with this decision the Stay of Enforcement is no longer in effect (D-6.0103c).

IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of San Francisco report this Decision to the Presbytery at its first meeting, that the Presbytery enter the full Decision upon its minutes, and that an excerpt from those minutes showing entry of the Decision be sent to the Stated Clerk of the Synod. (D-7.0701)

#### NON-PARTICIPANTS

Linda Lee, a member of the Commission, was recused and took no part in the proceedings in this case. Stephen Martin was absent and thus did not participate in this decision.

#### DATE

Dated this 20<sup>th</sup> day of March, 2009

Signed \_\_\_\_\_

Ruth Goldthwaite, Moderator  
Permanent Judicial Commission of the Synod of the Pacific

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James Bennett, Assistant Clerk  
Permanent Judicial Commission of the Synod of the Pacific

#### CERTIFICATES

We certify that the foregoing is a full and correct copy of the decision of the Permanent Judicial Commission of the Synod of the Pacific, Presbyterian Church (U.S.A.), in Remedial Case No. 08-01, Mary Holder Naegeli, J. Mark Stryker and Margaret H. Gelini, Complainants, v. Presbytery of San Francisco, Respondent, made and announced at Oakland, CA., on March 20, 2009.

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Ruth Goldthwaite, Moderator  
Permanent Judicial Commission of the Synod of the Pacific

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James Bennett, Assistant Clerk  
Permanent Judicial Commission of the Synod of the Pacific

I certify that I did transmit a certified copy of the foregoing to the following persons by certified mail, return receipt requested, directing Wendy G. Warner to deposit it in the United States mail at Modesto, CA, on March 22, 2009.

Bruce A. McIntosh, Counsel for the Complainant  
Douglas Nave, Counsel for the Respondent  
Katherine Runyeon, Stated Clerk, Presbytery of San Francisco  
Synod of the Pacific, Permanent Judicial Commission

I further certify that I did transmit a certified copy of the foregoing to the Stated Clerk of the Synod of the Pacific by delivering it in person to Wendy G. Warner on March 20, 2009.

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James Bennett, Assistant Clerk  
Permanent Judicial Commission of the Synod of the Pacific

I certify that I received a certified copy of the foregoing, that it is a full and correct copy of the decision of the Permanent Judicial Commission of the Synod of the Pacific, made on March 20, 2009, in Remedial Case 08-01, Mary Holder Naegeli, J. Mark Stryker and Margaret H. Gelini, v. Presbytery of San Francisco.

Dated at Oakland, CA on March 20, 2009.

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Wendy G. Warner, Stated Clerk  
Synod of the Pacific