

PERMANENT JUDICIAL COMMISSION
SYNOD OF THE PACIFIC

Session of Davis Community Church,
Davis, California

- and -

Session of El Dorado Presbyterian Church,
Placerville, California

- and -

Session of Grace Presbyterian Church,
Sacramento, California

-and-

Session of Shepherd of the Sierra Presbyterian
Church,
Loomis, California

-and-

Session of Westminster Presbyterian Church,
Sacramento, California

v.

Sacramento Presbytery

Case No.

COMPLAINT

We, the Sessions of Davis Community Church, El Dorado Federated Church, Grace Presbyterian Church, Shepherd of the Sierra Presbyterian Church and Westminster Presbyterian Church, complain to the Synod of the Pacific against Sacramento Presbytery concerning various irregularities and delinquencies, as described more fully below.

STATEMENT OF FACTS

1. On June 20, 2006, the 217th General Assembly amended and adopted the recommendations placed before it by the Theological Task Force on Peace, Unity

and Purity of the Church (“PUP”). As part of that action, General Assembly adopted an Authoritative Interpretation of *Book of Order* § G-6.0108 making clear that sessions and presbyteries are to assess the fitness of candidates for ordained service solely on the basis of standards established by the whole church. Further, the 217th General Assembly’s Authoritative Interpretation made clear that sessions and presbyteries have the responsibility to assess the fitness of candidates, under churchwide standards, on a case-by-case basis. (See Complaint, Appendix A.)

2. Prior to the convening of the 217th General Assembly, Sacramento Presbytery opposed PUP’s recommended Authoritative Interpretation. It therefore sent an overture to General Assembly (Item 06-21 on General Assembly’s docket) requesting that that recommendation be struck. The 217th General Assembly rejected Sacramento Presbytery’s overture, answering it with amendment and adoption of PUP’s proposed Authoritative Interpretation as described in paragraph 1 above. (See Complaint, Appendix B.)
3. On or before August 31, 2006, three pastors and three elders in Sacramento Presbytery submitted a request that the presbytery call a special meeting to consider four resolutions drafted in response to General Assembly’s action. In summary, those resolutions would commit Sacramento Presbytery:
 - [i] To require that all candidates for ordination, installation and/or membership comply with all standards for ordination set forth in the Constitution;
 - [ii] Not to receive into membership, or recognize as a member, anyone who has been ordained or installed after declaring a scruple to any ordination standards set forth in the Constitution;
 - [iii] To “honor the protest” of every congregation that withholds per capita payments, without making up the resulting shortfall in its own per capita payments to the synod and General Assembly; and
 - [iv] Not to enforce the trust provisions of Chapter VIII of the *Book of Order*.Sacramento Presbytery thereafter called a special meeting to be held at Fremont Presbyterian Church on September 9, 2006. (See Complaint, Appendix C.)
4. On or before September 8, 2006, the Rev. Clifton Kirkpatrick, Stated Clerk of the General Assembly, sent a letter to all Presbytery Stated Clerks (including Rev. Richard Pearson, Stated Clerk of Sacramento Presbytery) expressing concern about various proposals in some of the presbyteries “that are not in accord with our Constitution and its authoritative interpretations.” Among the proposals that Rev. Kirkpatrick stated were of “particular concern” were:

- [i] “Actions by a presbytery that in essence set aside the assembly’s authoritative interpretation of G-6.0108 and require subscription to all or specific constitutional standards.”
- [ii] “Efforts to set ‘super standards’ on the one hand, or to declare that certain standards will not be in force on the other, in the examination of candidates.”
- [iii] “Establishing answers that are required of candidates for installation and ordination, or determining in advance answers that will be unacceptable. Ordaining bodies may determine questions they wish to ask of candidates, but their answers are to be judged on a case-by-case basis. . . .”
- [iv] “Proposals to grant congregations – based on a super majority vote or other criteria – [permission] to leave the denomination with their property in the event of a schism. . . . [P]resbyteries are the body of original decision-making in all matters relating to dismissing, dissolving, or transferring congregations and cannot delegate that authority to a session or congregation. This is to be done on a case-by-case basis. . . .”
- [v] “Actions to restrict presbyteries from fulfilling their G-9.0404d responsibilities to transmit their per capita assessments to synods and General Assembly.”

(See Complaint, Appendix D).

5. All of the proposals about which the Stated Clerk of the General Assembly expressed “particular concern” found expression in the resolutions to be placed before Sacramento Presbytery at its Special Meeting on September 9, 2006.
6. The Special Meeting noted above was convened at Fremont Presbyterian Church, at or about 1 p.m., on September 9. Near the beginning of that meeting, Rev. Patricia Hill, a minister-member, rose for a point of order and asked Rev. Pearson whether the presbytery had received any communication from the Stated Clerk of the General Assembly. Rev. Pearson acknowledged that Sacramento Presbytery had received the letter described in paragraph 4 above. However, the Moderator of the meeting ruled out of order a request by Rev. Hill that the letter be read aloud. Rev. Hill thereafter read or summarized various parts of the letter for the members of Sacramento Presbytery when she was able to obtain the floor, as they debated the resolutions before them.
7. At its Special Meeting at Fremont Presbyterian Church in Sacramento, California on September 9, 2006, Sacramento Presbytery adopted, by a vote of 87 to 59 (with one abstention) the following Resolution #1:

“To promote the peace, unity, and purity of our presbytery, we resolve that the Sacramento Presbytery holds that all candidates for ordination, installation, and/or membership in this Presbytery shall comply with all standards for ordination set forth in the Constitution of the (PCUSA) (G-1.0500), or shall be ineligible for ordination, installation, and/or membership.”

8. At the same Special Meeting on September 9, 2006, said presbytery adopted, by a vote of 83 to 63 (with two abstentions) the following Resolution #2:

“To promote the peace, unity, and purity of our presbytery, we resolve that the Sacramento Presbytery shall not receive into membership, nor recognize as a member, anyone who has been ordained or installed under a scruple that is taking exception to any of the ordination standards as set forth in the Constitution of the (PCUSA) (G-1.0500).”

9. At the same Special Meeting on September 9, 2006, said presbytery adopted, by a vote of 73 to 66 (with six abstentions) the following Resolution #3:

“To promote the peace, unity, and purity of our Presbytery, we resolve that the Sacramento Presbytery shall honor the protest of every congregation that chooses to exercise its right to withhold its per capita, therefore, only designated congregational per capita funds shall be used to fulfil presbytery per capita obligations, and presbytery per capita assessments shall not be increased to compensate for such protests.”

10. At the same Special Meeting on September 9, 2006, said presbytery adopted, by a vote of 73 to 65 (with two abstentions) the following Resolution #4:

“To promote the peace, unity, and purity of our presbytery, we resolve that the Sacramento Presbytery shall take no action to enforce any general trust interest claimed against any property, real or personal, held by an individual congregation within the Sacramento Presbytery.”

11. A copy of the Minutes of the September 9 meeting, reflecting adoption of these four resolutions, is provided as Appendix E to this Complaint. To the best of Complainants’ knowledge and belief, each of the foregoing Resolutions was adopted in a knowing and wilful effort to defy the 217th General Assembly and to render effectively null and void, within the bounds of Sacramento Presbytery, its Authoritative Interpretation of June 20, 2006.

12. On or about September 12, 2006, Elder Joey Mills, Stated Clerk of the Synod of the Pacific, sent a letter to Rev. Richard Pearson, expressing grave concern that “the Presbytery of Sacramento has taken actions at a recent Special Called Meeting which are contrary to the Constitution of the Presbyterian Church (U.S.A.)” Elder Mills detailed in her letter various ways in which Resolutions #1-4 violate the Constitution and presbytery’s responsibilities under it. She then implored Sacramento Presbytery to reconsider its adoption of those resolutions. (See Complaint, Appendix F.)
13. On or about September 15, 2006, two minister-members of Sacramento Presbytery sent a letter to Rev. Pearson requesting that he give notice to all members of the presbytery that a motion would be made at the presbytery’s next regular called meeting, on September 23, to rescind the actions of September 9. The letter also requested that that motion be added to the docket as an order of the day. Presbytery staff sent the letter to all members of the presbytery by e-mail on the same day. (See Complaint, Appendix G.)
14. At Sacramento Presbytery’s regular called meeting at Trinity Presbyterian Church in Oroville, California on September 23, 2006, a majority of those present voted (63-62) to place on the docket consideration of the motion to rescind the actions taken on September 9, 2006. However, the Stated Clerk ruled that a 2/3 vote was required to amend the docket in this respect. The presbytery therefore refused to consider the motion to rescind. (See Complaint, Appendix H)

COUNT ONE

15. Complainants incorporate by reference herein each of the allegations made in paragraphs 1-11 of this Complaint.
16. Complainants believe that the action described in paragraph 7 of this Complaint (that is, adoption of Resolution #1) was irregular in the following particulars:
 - (a) The action directs Sacramento Presbytery and its committees to defy and contravene an Authoritative Interpretation of the 217th General Assembly (2006) regarding the process by which ordaining bodies are to assess candidates’ fitness for ordained service. Accordingly, the action violates Sacramento Presbytery’s duty to honor the Constitution and to implement the decisions of higher governing bodies. (*Book of Order* §§ G-1.0400, G-4.0301 and G-11.0103t; *Londonderry Presbyterian Church v. Presbytery of Northern New England*, Rem. Case 213-2 (GAPJC 2000); *Union Presbyterian Church v. Presbytery of Western New York*, UPC Minutes, Pt. 1, p. 118 (1985)).
 - (b) The action denies the freedom of conscience that is to be afforded to all officers and candidates, and breaches the presbytery’s duty to show

“mutual forbearance” in non-essential matters, by curtailing individual candidates’ opportunity to present, and to have meaningfully considered, principled objections to standards that may not be deemed “essentials” of Reformed faith and polity. (*Book of Order* §§ G-1.0301, G-1.0305, G-6.0108). Indeed, the mere existence of the policy adopted by Sacramento Presbytery will have a dampening effect on individual candidates’ willingness and ability to express conscientious points of view.

- (c) The action constitutes a denial and abdication of Sacramento Presbytery’s responsibility meaningfully to assess both the fitness of individual candidates, and the validity of any principled objections such candidates might assert regarding church standards, during the processes of inquiry, candidacy, and examination of fitness for office. (*Book of Order* § G-6.0108).
- (d) The action constitutes a misuse of Sacramento Presbytery’s discretion in assessing the fitness of individual candidates, by converting what are supposed to be case-by-case assessments into a mandatory policy that applies without distinction to all cases. (*Cf. Johnston v. Heartland Presbytery*, Rem. Case 217-2 (GAPJC 2004); *Simmons v. Presbytery of Suwannee*, PCUSA Minutes, Pt. 1, p. 114 (GAPJC 1985)).
- (e) The action violates the obligation of all sessions and presbyteries “not to exclude anyone categorically in considering those called to ordained service in the church, but to consider the lives and behaviors of candidates *as individuals*.” (PCUSA Minutes, Pt. 1, p. 68 (1998) (emphasis added)).
- (f) The action promulgates an erroneous view that all of our constitutional standards lend themselves to a single, uncontroverted interpretation, disregarding the unavoidable complexities and interpretive work that proper application of Scriptural and confessional standards entails. (*Cf. Book of Order* § G-6.0108b; *Londonderry Presbyterian Church v. Presbytery of Northern New England*, Rem. Case 213-2 (GAPJC 2000)). It therefore invites members of Sacramento Presbytery and its committees, as well as individual candidates, to abdicate their responsibility carefully to consider the meaning of church standards, both when attempting to comply with them personally and when applying them to others.
- (g) The action constitutes an attempt to impose a “litmus test” for office, requiring compliance with certain conservative readings of Scripture and the confessions, rather than testing a candidate’s ability to answer truthfully in the affirmative the questions for ordination and installation set forth in *Book of Order* §§ G-14.0405b and G-14.0510. (*Book of Order* § G-4.0403; *First Presbyterian Church v. Blessing*, Rem. Case No. 02-01 (Synod-South Atlantic 2002)).

- (h) The action erroneously applies to inquirers and candidates for the ministry of Word and Sacrament standards that do not apply, as a matter of law, until a candidate's readiness to begin ministry is being finally assessed. (*Sheldon v. Presbytery of West Jersey*, PCUSA Minutes, Pt. 1, p. 589 (2000)). It thereby forecloses the process of discernment in which inquirers and candidates, as well as Sacramento Presbytery and its committees, are supposed to engage under Chapter XIV of the *Book of Order*.
- (i) The action denies and contravenes Sacramento Presbytery's obligation to give serious and meaningful consideration to the choices of ministerial leadership made by congregations under its oversight. (*Cf. Book of Order* §§ G-1.0306, G-6.0107, G-14.0501b, G-14.0502-0507).
- (j) The action forecloses, within the bounds of Sacramento Presbytery, processes of dialogue and discernment that are fundamental to the church's self-professed identity as "the Church reformed always reforming, by the Spirit of God." (*Book of Order* §§ G-2.0200, G-4.0301, G-18.0101).
- (k) The action ignores, and forecloses any positive response to, the strong urging of the 217th General Assembly that all governing bodies "renew and strengthen their covenanted partnership with one another and with the General Assembly" and "engage[] in processes of intensive discernment through worship, community building, study, and collaborative work" to address issues that currently divide the church. Such disregard of General Assembly's guidance denies and contravenes commitments to openness and connectionalism that are fundamental to our polity. (*Book of Order* §§ G-1.0400, G-3.0401, G-4.0302, G-11.0103t).

COUNT TWO

- 17. Complainants incorporate by reference herein each of the allegations made in paragraphs 1-11 of this Complaint.
- 18. Complainants believe that the action described in paragraph 8 of this Complaint (that is, adoption of Resolution #2) was irregular in the following particulars:
 - (a) The action violates Sacramento Presbytery's constitutional duties and obligations as described in paragraphs 16(a)-(k) of this Complaint, which particulars are incorporated herein as if set forth in their entirety.
 - (b) The action directs Sacramento Presbytery and its committees to distinguish among, and to withhold recognition from, certain members of presbytery in violation of the rights of all active minister members,

minister members-at-large, and elder representatives to participate fully in the affairs of the presbytery through equal voice, vote and eligibility for office (*Book of Order* §§ G-4.0301, G-6.0302, G-11.0101, G-11.0406a-b).

COUNT THREE

19. Complainants incorporate by reference herein each of the allegations made in paragraphs 1-11 of this Complaint.
20. Complainants believe that the action described in paragraph 9 of this Complaint (that is, adoption of Resolution #3) was irregular in the following particulars:
 - (a) In stating that it will “honor the protest of every congregation” that withholds per capita payments, Sacramento Presbytery seriously mischaracterizes the covenantal nature of the per capita system, and disregards authoritative rulings that withholding of payment as a means of protest or dissent “evidences a serious breach of the trust and love with which our Lord Jesus Christ intends the covenant community to function together.” (*Minihan v. Presbytery of Scioto Valley*, Rem. Case 216-1 (GAPJC 2003)).
 - (b) In stating as a matter of policy that it will honor all withholding of per capita, Sacramento Presbytery violates its obligation, under *Book of Order* § G-11.0103g, “to provide pastoral care” to sessions and congregations that withhold such payments. (*Johnston v. Heartland Presbytery*, Rem. Case 217-2 (GAPJC 2004)).
 - (c) In stating that it will use only designated congregational funds to fulfil its own per capita assessments, without compensating for funds withheld under protest, Sacramento Presbytery violates its direct responsibility for “raising and timely transmission” of the full amount of per capita assessments against it to the Synod of the Pacific and the General Assembly. (*Book of Order* § G-9.0404d).

COUNT FOUR

21. Complainants incorporate by reference herein each of the allegations made in paragraphs 1-11 of this Complaint.
22. Complainants believe that the action described in paragraph 10 of this Complaint (that is, adoption of Resolution #4) was irregular in the following particulars:
 - (a) Sacramento Presbytery’s statement that it will never enforce the trust provisions of Chapter VIII of the *Book of Order* is founded on, and promulgates, gravely erroneous teaching about the nature of the

Presbyterian Church (U.S.A.). Our ecclesiology provides, *inter alia*, that congregations come into existence and subsist as organic parts of the larger denomination (*Book of Order* §§ G-1.0400, G-4.0301a); agree to be governed in perpetuity by the denomination’s Constitution (*Book of Order* § G-4.0104); and seek to remain in community so as to provide a witness to the world of the reconciling power of Jesus Christ (*Book of Order* § G-4.0203). By adopting Resolution #4, Sacramento Presbytery strains the ligaments of our organic union and invites the kind of dissolution which discredits our fundamental witness to the Gospel.

- (b) Sacramento Presbytery’s statement that it will never enforce the trust provisions of Chapter VIII of the *Book of Order* constitutes a denial and abdication of its responsibility to provide effective pastoral care and administrative oversight for the congregations within its bounds. This includes, *inter alia*, the responsibility –
 - [i] To ensure that the proceedings of congregations have been “regular and in accordance with the Constitution,” “prudent and equitable,” and “faithful to the mission of the whole church” (*Book of Order* § G-9.0409);
 - [ii] To “coordinate the work of its member churches, guiding them and mobilizing their strength for the most effective witness to the broader community” (*Book of Order* § G-11.0103b); and
 - [iii] To “*consider* and act upon” particular requests from congregations for permission to take action with respect to properties they hold (*Book of Order* § G-11.0103y (emphasis added)).
- (c) Sacramento Presbytery’s statement that it will never enforce the trust provisions of Chapter VIII of the *Book of Order* constitutes a misuse of its discretion to determine how the property of a congregation that is being dissolved or dismissed shall be held, used or applied, by subjecting what are supposed to be case-by-case assessments to a mandatory policy that applies without distinction to all cases. (*Cf. Johnston v. Heartland Presbytery*, Rem. Case 217-2 (GAPJC 2004)).
- (d) Sacramento Presbytery’s statement that it will never enforce the trust provisions of Chapter VIII of the *Book of Order* constitutes a denial and abdication, to individual sessions and congregations, of presbytery’s non-delegable responsibility to act as the original decision-maker in all matters relating to the dismissal, dissolution, and transfer of congregations and their property. (*Book of Order* §§ G-8.0301, G-8.0401, G-8.0601; *Strong v. Synod of Mid-South*, PCUS Minutes, Pt. 1, p. 92 (1976)).

- (e) Sacramento Presbytery’s statement that it will never enforce the trust provisions of Chapter VIII of the *Book of Order* constitutes a denial and abdication of its responsibility –
- [i] To “provide pastoral care” to sessions and congregations that seek to withdraw from the denomination (*Book of Order* § G-11.0103g; cf. *Johnston v. Heartland Presbytery*, Rem. Case 217-2 (GAPJC 2004));
 - [ii] To consult with the members of particular churches before dividing, dismissing, or dissolving them (*Book of Order* § G-11.0103i);
 - [iii] To assist schismatic congregations by trying to “effect a reconciliation or a division into separate churches within the Presbyterian Church (U.S.A.)” (*Book of Order* § G-8.0601); and
 - [iv] To protect the interests of members within a schismatic congregation who might wish to remain within the Presbyterian Church (U.S.A.), and who constitute the “true church” within the meaning of *Book of Order* § G-8.0601. (*Strong v. Synod of Mid-South*, PCUS Minutes, Pt. 1, p. 92 (1976)).
- (f) Sacramento Presbytery’s statement that it will never enforce the trust provisions of Chapter VIII of the *Book of Order* violates the presbytery’s obligation to the wider church, as ultimate beneficiary of all property held by or for its congregations (*Book of Order* § G-8.0201), to ensure that such property is held, used, and applied in a manner that faithfully advances and serves the witness of the Presbyterian Church (U.S.A.). (PCUSA Minutes, Pt. 1, pp. 39, 252 (1990)).

COUNT FIVE

23. Complainants incorporate by reference herein each of the allegations made in paragraphs 1-11 of this Complaint.
24. The Special Meeting at which Sacramento Presbytery adopted Resolutions #1-4, on September 9, took place nearly three months after the 217th General Assembly adjourned. There were no matters then pending before Sacramento Presbytery that would be materially affected by adoption of the proposed resolutions before the presbytery’s next regularly called meeting two weeks later, on September 23.
25. To the best of Complainants’ knowledge and belief, proponents of Resolutions #1-4 engineered the calling of a Special Meeting on September 9 – a mere 14 days before Sacramento Presbytery’s regularly called meeting – in order to

optimize the chances that partisans of those resolutions would constitute a majority of the members in attendance.

26. Complainants believe that the actions described above were irregular in the following respects:
- (a) The calling and holding of the Special Meeting violated *Robert's Rules of Order*, which provide that special meetings should be convened only when there is a need "to deal with important matters that may arise between regular meetings and that urgently require action before the next regular meeting" (RONR, 10th ed., p. 89, lines 18-20). Sacramento Presbytery's action in this regard therefore violated *Book of Order* § G-9.0302.
 - (b) The calling and holding of the Special Meeting violated the fundamental Presbyterian principle that all things are to be done "decently and in order," rather than in a rush for tactical advantage that precludes fair and reasoned deliberation by all members of the governing body.

COUNT SIX

27. Complainants incorporate by reference herein each of the allegations made in paragraphs 1-14 of this Complaint.
28. Complainants believe that Sacramento Presbytery failed to act as constitutionally required in refusing to reconsider and rescind the aforementioned resolutions, so as to terminate the infringements of law alleged above in Counts 1-4 above.

STANDING

29. Complainants have the right to complain under Section D-6.0202a(3) of the Rules of Discipline because each of them is a session of a particular church within the bounds of Sacramento Presbytery.

TIMELINESS

30. The irregularities alleged herein occurred on September 9, 2006, and the delinquencies alleged herein occurred on September 23, 2006. This Complaint therefore is timely filed under Section D-6.0202a(1) of the Rules of Discipline.

REQUEST FOR RELIEF

Complainants request that this Commission:

- Order Sacramento Presbytery to rescind its Resolutions #1 and 2 of September 9, 2006, and to make its assessments of fitness for ordained service in compliance with *Book of Order* § G-6.0108, as authoritatively interpreted by the 217th General Assembly;
- Order Sacramento Presbytery to rescind its Resolution #3 of September 9, 2006, to provide regular pastoral and administrative oversight of congregations withholding per capita payments, and to comply with its own responsibilities to remit the full amount of per capita assessments against it to higher governing bodies;
- Order Sacramento Presbytery to rescind its Resolution #4 of September 9, 2006, and to provide regular pastoral oversight of congregations and stewardship of denominational properties under Chapter VIII of the *Book of Order*;
- Admonish Sacramento Presbytery to conduct its future proceedings in a fair and deliberate manner, without undue haste, as befits a Christian community that seeks genuine and shared discernment of the will of Christ (*Book of Order* § G-4.0301);
- Instruct Sacramento Presbytery, as urged by the 217th General Assembly, to undertake structured processes of community building and collective discernment regarding its privileges and obligations as part of the Christian community known as the Presbyterian Church (U.S.A.);
- Order the Stated Clerk of Sacramento Presbytery to report this Commission's Decision and Order to the Presbytery at its first meeting after receipt, to enter the full Decision and Order upon its minutes, and to send an excerpt of those minutes showing entry of the Decision and Order to the Stated Clerk of the Synod of the Pacific; and
- Order such further action to ensure full and effective compliance with the Constitution, in the matters at issue in this Complaint, as this Commission deems appropriate.

Date _____

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