

1 **APPENDIX B.**

2 **Presbytery of Sacramento**
3 **Gracious Policy for Reconciliation or Dismissal of Congregations**

4 **PREAMBLE**

5 **1. We are One in Christ**

6 As people of the Word, we seek to be obedient to God’s call to follow
7 Jesus, to love God, and to be faithful disciples. We recognize that we are
8 called, without equivocation, to be one in Christ. As we, the members and
9 congregations of the Presbytery of Sacramento, consider our lives
10 together, we acknowledge that sometimes people of faith find themselves
11 with disparate understandings of what it means to follow Jesus Christ. In
12 addressing such situations, all members of Sacramento Presbytery are
13 committed through their ordination vows to support the polity and
14 practices of the PC (U.S.A.). To fulfill its fiduciary and pastoral
15 responsibilities given by the Book of Order when substantial concerns
16 arise within a congregation regarding its continuing relationship with the
17 PC (U.S.A.), the Presbytery of Sacramento has adopted this Policy.
18 Arriving at an awareness of our differences on important matters of faith,
19 we seek for a way to continue to serve together in ministry and mission, in
20 fulfillment of the great ends of the Church.

21 **2. People in Relationship**

22 Despite our differences, we are called to be one in Jesus Christ, and
23 remain sisters and brothers in the one family of God (John 17: 20-26,
24 Ephesians 4:4-6). Therefore, we strive for relationships marked by:

25 Humility and Gentleness - “I therefore, a prisoner in the Lord, beg you to
26 lead a life worthy of the calling to which you have been called, with all
27 humility and gentleness, with patience, bearing with one another in love,
28 making every effort to maintain the unity of the Spirit in the bond of peace”
29 (*Ephesians 4:1-3*). The congregations and members of the Presbytery
30 seek to uphold one another, respect each other’s integrity, and affirm

1 freedom of conscience, even as we acknowledge differences in our views
2 of what the Bible teaches about a number of issues. We seek to act with
3 humility and gentleness toward our brothers and sisters in Jesus Christ
4 (*Colossians 3:12-13, 1 Corinthians 12:27; Book of Order, F-1.0401,*
5 *F1.0403, and F-1.0404*).

6 Love – Throughout Scripture, God calls us to the way of love Jesus
7 modeled in his life and ministry (*John 15:12, 1 John 4:7-12*). Where a
8 diversity of perspectives is held with strong conviction and passionate
9 commitment, we encourage all members of the Presbytery to fulfill the
10 requirements of this policy with love for one another.

11 While the Presbytery and the Presbyterian Church (U.S.A.) may on
12 occasion take actions or adopt policies to which a congregation or
13 members may object in good faith, all of us as members are called to
14 respect dissenting opinions or beliefs to allow our diverse body to work in
15 a cooperative fashion, yet permitting faithfulness in matters of principle
16 and conscience. At its February 2010 meeting, the Sacramento
17 Presbytery identified five attitudes/behaviors that it wanted to make
18 normative in our life together as the body of Christ. The five
19 attitudes/behaviors are: civility, congenial, listening, openness, and
20 respect. These "Terms of Agreement" shall guide our implementation of
21 this Policy.¹ Only Presbytery has the authority to dissolve the relationship
22 between a congregation and the PC(U.S.A.).

23 **SECTION I: THE CONSULTATION PROCESS**

24 **A. Dialogue and Reconciliation**

25 The primary goal of the consultation process is to determine whether or
26 not reconciliation is possible between the PC(U.S.A.) and the
27 Congregation.

28 Congregations within the Presbytery share a covenant relationship that is
29 not to be lightly regarded. The loss of any congregation diminishes the

¹ Previously approved by Presbytery and included here as Addendum A.

1 fellowship, grieves the Holy Spirit, and undermines the mutual support of
2 all. We therefore establish a procedure by which we might do all within our
3 power to fulfill our Biblical obligation and be reconciled to one another,
4 understanding and respecting our areas of disagreement, and continue in
5 unity within the PC(U.S.A.) to serve together as brothers and sisters in
6 Christ.

7 **1. Identification and Training of Presbytery Engagement and** 8 **Negotiation Team Members**

9 The Committee on Ministry (COM), in consultation with the Presbytery
10 Council, will identify a group of teaching and ruling elders who possess
11 pastoral and listening skills, who are willing to be trained in matters of
12 mediation and negotiation.² This group will constitute a standing pool of
13 members who are available to serve on engagement and negotiation
14 teams so that Presbytery shall always be ready to respond immediately to
15 a congregation that has expressed concerns that might lead to a request
16 for dismissal. The composition of this standing pool, and its tenure, are to
17 be determined by COM.

18 **2. Early Notice and Response to Concerns**

19 All teaching and ruling elders within our Presbytery shall notify the
20 General Presbyter, Stated Clerk, or the Moderator of Presbytery whenever
21 they become aware of substantial concerns within a congregation
22 regarding the congregation's continuing relationship with the PC(U.S.A.).

23 When Presbytery leadership receives notification of such concerns, the
24 General Presbyter or Stated Clerk, in consultation with the chair of COM,
25 shall immediately assign two members of the standing pool to meet with
26 the reporting elder(s) and the Session of the concerned congregation. The

² Following the appointment of the team's members, the General Presbyter or Stated Clerk shall provide for such training as is necessary on applicable provisions of Scripture, the Book of Order, Advisory Opinions pertaining thereto, and the most recent decisions of the Permanent Judicial Commissions of General Assembly and Synod of the Pacific, interpreting those provisions together with information on lessons learned from earlier discernment and dismissal processes within this Presbytery.

1 purpose of this meeting, in the spirit of Jeremiah 8:22 (“Is there no balm in
2 Gilead?”) is to find resolution without the need to initiate the formal
3 engagement process described below. No formal meeting of the COM
4 shall be required to make the assignment referred to here.

5 The two standing pool members shall report in writing to the General
6 Presbyter, COM, and the Session of the congregation involved regarding
7 the extent of the concerns and their recommendations as to whether or
8 not further engagement is appropriate.

9 **3. Formal Response to Concerns**

10 In the event the standing pool members recommend further engagement,
11 or a Session contacts COM with the request for a formal engagement
12 process, the chair of COM, in consultation with the Stated Clerk or
13 General Presbyter, shall designate three or more persons from the
14 standing pool, at least one ruling and one teaching elder, to constitute a
15 Presbytery Engagement Team (PET) to engage with the Congregation on
16 behalf of Presbytery.

17 The appointment of the PET does not require action at a formal meeting of
18 COM. At the next regularly scheduled meeting of Presbytery, COM shall
19 affirm the appointment of the PET.

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21 Concurrently with the appointment of the PET, the chair of COM shall
22 advise the pastors and Session as well as the Moderator that the General
23 Presbyter or Stated Clerk will serve as the sole spokesperson with all
24 media agents throughout the process. Any exceptions to this policy shall
25 be approved by the Stated Clerk or General Presbyter in consultation with
26 members of the COM and Presbytery Council.

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28 **B. PET Consultation with Congregation’s Leadership and Members**

29 **1. Parties to the Consultation**

30 A vote to discern whether the Congregation's membership wishes to seek
31 dismissal shall only be taken, if at all, at the end of these consultation

1 proceedings, and with the permission of COM.

2 The first contact between the PET and the Congregation shall be with the
3 Congregation's Session to discuss procedure and a consultation plan. At
4 this time Session shall deliver to the PET the names and contact
5 information for all Session members and members of the Congregation
6 (including the date of membership), identifying members who are known
7 elders and deacons, even if not currently serving.

8 **2. Content of the Consultations**

9 The PET, together with the Session, shall plan at least three
10 conversations to discuss the matters of disharmony with the PC(U.S.A.).
11 The current Session, all other ordained officers of the church (elders and
12 deacons), including teaching elders participating in the congregation, will
13 be invited.

14 These conversations shall include:

- 15 a. Discussion of the history and significance of the covenant
16 relationship between the PC(U.S.A.) and its Congregations. This
17 discussion shall include Book of Order G-4.0203, G-4.0207 and
18 Advisory Opinions 19 and 17 (attached as Addendum B & C), plus
19 applicable opinions of the Permanent Judicial Commissions of the
20 Synod of the Pacific and General Assembly.
- 21 b. Discussion of the history of the relationship between the specific
22 Congregation, the Presbytery, and the PC(U.S.A.).³
- 23 c. Clarification of the services and benefits provided to the
24 Congregation and its leadership by its affiliation with the Presbytery
25 and the PC(U.S.A.) and how these might be enhanced.
- 26 d. Discussion of special ministries that have been undertaken by the

³ This policy applies to federated, merged, union and/or joint congregational witness congregations except when there is other language in the original federation document in conflict. If such a church is considering leaving the PC(U.S.A.) then the written plan of union/federation must be reviewed by the teams appointed by the Presbytery to deal with the church, particularly anything it provides about dissolution or dismissal, and specifically anything about the division of the property.

1 Congregation, the Presbytery’s appreciation of these ministries, and
2 possible collaboration in these ministries by the Presbytery and/or
3 other Congregations.

4 e. Discussion of the practical consequences dismissal would have for
5 the Congregation, its pastors and staff.

6 f. Candid and considerate discussion of actions by the Presbytery and
7 the PC(U.S.A.) that have been disturbing to the Congregation, the
8 rationale for these actions, and any possible ways to mitigate the
9 concern.

10 g. Discussion of how members can hold true to their deeply and
11 honestly held convictions and still work with members with other
12 views. This discussion shall also include how conflicts over other
13 deeply held convictions have been resolved in the past and how
14 future generations of Christians might view present
15 controversies (see section 6).

16 This discussion shall use such texts⁴ as:

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18 *A Theology of Forbearance*©, an address by James Calvin Davis,
19 professor of religion, Middlebury College, to the Donegal Presbytery on
20 March 16, 2013, which is attached hereto as Addendum E.⁵

21 The PET shall document their conversations throughout the consultation
22 process and make written reports to the COM. Any evidence of less than
23 “good faith” participation in the process shall be reported to COM.

24 **3. Determining Next Steps to Reconciliation or Discussion of** 25 **Dismissal**

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27 After the above discussions the PET shall survey the ordained officers
28 regarding next steps in the process of reconciliation or dismissal. This
29 information is to be reported to Session and COM. (Book of Order G-

⁴ Additional guidance for resources to use is found in Addendum D.

⁵ Used with permission.

1 2.0404). This information will be used to determine the current mindset
2 and feelings of the Congregation.

3 Following these meetings the Session will take a vote to determine
4 whether or not to take the matter to the entire membership of the
5 Congregation.

6 If the decision is not to take the issue to the Congregation, the PET,
7 Session, and pastors will hear from those who are dissatisfied, with an
8 eye to preserving relationships, providing pastoral care, and furthering the
9 ministry of the Congregation.

10 If the vote of the Session is to continue the process, then the PET and the
11 Session shall jointly decide on a procedure for taking the matter to the
12 entire Congregation.

13 The congregational meetings, moderated by PET, shall review the earlier
14 PET meetings, explain the options, and discuss the process to date. The
15 PET shall determine how many meetings will be necessary.

16 Following the discussion meetings, the PET, together with the Session,
17 may decide to take a vote of the congregation with the approval of COM.
18 The PET shall write a letter to the membership explaining the voting
19 procedure. A majority yes vote (50% plus one) of the total membership of
20 the Congregation, as reported earlier to the PET, will indicate the
21 Congregation's desire to move toward dismissal. PET may approve
22 alternate arrangements that allow for flexibility in timing and location,
23 making sure that all participants have access to the entire discussion and
24 the opportunity to cast a ballot.

25 If this vote indicates the congregation desires to move toward dismissal,
26 the PET will report these results to COM. Barring evidence of schism (see
27 schism section below), a negotiating team shall be appointed by COM to
28 discuss the specific terms of dismissal to be proposed to Presbytery. The
29 Presbytery Negotiating Team (PNT) shall have three or more members, at
30 least one ruling and one teaching elder, and at least one member of the
31 PET. The PNT is authorized to retain such professionals as attorneys,

1 accountants or appraisers for advice.

2 Concurrently, the Session shall appoint a Special Committee of the
3 Congregation (SCC) to negotiate with the PNT the terms of a possible
4 dismissal and formal validation of the Congregation's desire to be
5 dismissed. The SCC shall include a mix of teaching elders and ruling
6 elders.

7 If this vote results in the church remaining in the PC(U.S.A.), the PET,
8 Session, and pastors will hear from those who are dissatisfied, with an
9 eye to preserving relationships, providing pastoral care, and furthering the
10 ministry of the Congregation.

11 **C. Schism**

12 Throughout the discussions, all parties shall be alert to the possibility of
13 "schism", which in this context simply means a split within the
14 Congregation or its session between a group that wishes to be dismissed
15 from the PC(U.S.A.) and a loyalist minority of whatever size. In such a
16 case, *Book of Order*, G-4.0207 provides that Presbytery "shall determine if
17 one of the factions is entitled to the property because it is identified by the
18 presbytery as the true church within the Presbyterian Church (U.S.A.)."⁶
19 This determination does not depend upon which faction received the
20 majority vote within the congregation at the time of the schism.⁷

21 If there is a question of schism, the matter shall be investigated by either
22 the PET or PNT:

- 23 1. If the PET or the PNT finds evidence of schism, it shall make
24 appropriate recommendations to the Presbytery pursuant to *Book of*
25 *Order*, G-4.0207, and the discussions with the Congregation shall
26 be suspended.

⁶ Note that this use of "true church" is meant to distinguish between "true churches" generally and a "true church *within* the PC(U.S.A.) and is not meant to cast aspersions of any kind; thus a determination that a loyalist minority is the "true church" merely involves an assessment of numbers and dedication sufficient to continue as a PC(U.S.A.) congregation. The "true church" is then free to use, rent, or sell all or part of the property, with Presbytery approval, as best supports the continued ministry of the congregation.

⁷ Advisory Opinion 17, Citation omitted.

1 2. If the PET or PNT determines that there is no evidence of schism,
2 the constitution of this denomination guarantees a formal meeting of
3 Presbytery as the forum in which loyalist minorities of whatever size
4 might press their claims that they are sufficient in numbers and
5 dedication to continue a church in its connectional relationship
6 within this denomination.⁸

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SECTION 2: NEGOTIATION PROCEDURES FOLLOWING CONSULTATION PROCESS

10 **A. Dismissal to Another Reformed Body**

11 A Congregation can be dismissed with property only to another Reformed
12 body as identified by the PC(U.S.A.). It cannot be dismissed to
13 “independency.”

14 **B. Care for People**

15 **1. Status of Teaching Elder Members of Presbytery**

16 If a Congregation is to be dismissed by Presbytery, the rights and status
17 of teaching elder members must be handled properly.

18 Teaching elders who decide to stay in the PC(U.S.A.) will not continue in a
19 pastoral role with the dismissed congregation. They shall be provided, at
20 the Congregation’s expense, a severance package that includes the
21 following: Twelve (12) months total effective salary immediately paid in full
22 to the pastor at the time of the church’s dismissal and pension and
23 medical benefits immediately paid in full to Presbytery at the time of
24 dismissal. Such teaching elders shall be designated Members at Large.

25 Teaching elders who request dismissal from the PC(U.S.A.) shall be
26 dismissed by Presbytery when the transfer of the Congregation is
27 complete. Transfers to another Reformed body will normally be approved
28 unless the teaching elder is the subject of a pending judicial or

⁸ Advisory Opinion 19, Citation omitted.

1 investigative action (Book of Order, D-10.0105). The reasons for not
2 granting transfer may be communicated by Presbytery's Stated Clerk to
3 appropriate persons.

4 **2. Status of Members Under Care of Presbytery**

5 Members, who are under care of Committee on Preparation for Ministry
6 (CPM), together with his/her liaison, shall be advised immediately, by the
7 Stated Clerk, of the Congregation's desire to seek dismissal. The member
8 will be given the option of being dismissed with the Congregation or
9 transferring membership to another Congregation within the PC(U.S.A.). If
10 a transfer is requested, the PNT and the CPM liaison will assist the
11 member in seeking a waiver of the usual six-month requirement for church
12 membership.

13 **3. Status of Certified Church Service Employees**

14 If certified staff⁹ decide to stay in the PC(U.S.A.), they shall be provided a
15 severance package, at the Congregation's expense, that includes six (6)
16 months total effective salary immediately paid in full to the certified staff
17 member at the time of the church's dismissal and pension and medical
18 benefits immediately paid in full to Presbytery at the time of dismissal.

19 **4. Status of Members of PC(U.S.A.) Representative Bodies**

20 After the formal dismissal voting has been completed, all members will be
21 contacted regarding their membership status (see Section 5). Members
22 who chose to stay with the dismissed Congregation and who serve on any
23 PC(U.S.A.) representative body, will have their terms end officially on the
24 effective date of dismissal.

25 **C. Care for Property**

26 Within the important constraints set out below, and as long as it
27 recognizes its fiduciary obligation to the entire denomination codified in G-
28 4.0203 "The Trust Clause" and G-4.0207, Presbytery may permit options

⁹ G-2.1101

1 in dealing with PC(U.S.A.) property being used by a Congregation. These
2 options include: (1) retaining the property for those members of the
3 Congregation who wish to remain in the PC(U.S.A.); (2) leasing the
4 property to the departing Congregation; (3) selling the property to the
5 departing congregation; (4) leasing the property to the departing
6 Congregation with an option to buy; (5) selling the property to a third party.
7 The choice of which option to offer shall be made according to which
8 option is in the best interest of the PC(U.S.A.) in consultation with
9 Presbytery's Congregational Support Ministry Team or its successor.

10 **1. Understanding the Trust Clause**

11 A Congregation can be dismissed only by action of Presbytery.
12 Presbytery's decision concerning property used or held by a particular
13 Congregation is part of this responsibility. Book of Order, G-4.0203
14 provides:

15 All property held by or for a particular church, a presbytery, a synod,
16 the General Assembly, or the Presbyterian Church (U.S.A.),
17 whether legal title is lodged in a corporation, a trustee or trustees, or
18 an unincorporated association, and whether the property is used in
19 programs of a particular church or of a more inclusive governing
20 body or retained for the production of income, is held in trust
21 nevertheless for the use and benefit of the Presbyterian Church
22 (U.S.A.).

23 The Trust Clause reflects our understanding of the church as a
24 communion of saints across time, with responsibilities both to those who
25 came before and those who will follow. Property is held in trust because it
26 is a tool for the accomplishment of the mission of the PC(U.S.A.). Thus
27 what is to be done with the property shall be evaluated on a "case by
28 case" basis in terms of that mission. No prior agreement to dismiss shall
29 be considered a precedent for any other Congregation seeking dismissal.
30 See *Tom v Presbytery of San Francisco*, GAPJC (General Assembly
31 Permanent Judicial Commission) Remedial Case 221-03 (2012).

32 Presbytery has fiduciary obligations to the PC(U.S.A.) in regards to all real

1 and personal property, and therefore, has an inherent interest in the
2 location, facilities, names and historic identities of its member
3 congregations. The name of a particular church is an asset included within
4 the Trust Clause just as would be the case with the name of a particular
5 business or educational entity. As a result, the congregation may no
6 longer expect to use their current church name once dismissed.

7 **2. Preliminary Considerations Prior to Negotiations**

8 Before negotiating the terms of dismissal the PNT *shall* review, perform
9 and/or obtain the following:

- 10 a. The history of the Congregation and their relationship with the
11 Presbyterian Church;
- 12 b. The Presbytery's mission strategy in the geographic area, and the
13 proximity of other PC(U.S.A.) congregations;
- 14 c. An analysis of the documents that indicate the financial position of
15 the Congregation including the endowment and restricted funds,
16 investments, personal property, other assets¹⁰; and any additional
17 documents or agreements;
- 18 d. An appraised value of the Congregation's real property by an
19 accredited MAI appraiser as a tool for ministry and mission, chosen
20 by the PNT, in consultation with the SCC of the Congregation;¹¹
- 21 e. All liabilities of the Congregation, particularly loans or grants which
22 contain provisions for repayment if the property is sold or no longer
23 used for PC(U.S.A.) purposes; and
- 24 f. The Congregation's receipts and disbursements over at least the
25 past five years;

¹⁰ The PNT may require that the financial records of a Congregation requesting dismissal be audited by a forensic CPA and selected by the PNT.

¹¹ See <http://www.appraisalinstitute.org/about/our-designations/>. Unless otherwise decided by the PNT because of the size of the congregation, the cost of such an appraisal shall be borne by the Congregation seeking dismissal.

1 The Congregation’s personal property and funds, as well as the appraised
2 value of its real property, shall determine the “benchmark” value for
3 on-going negotiations.

4 **3. Recommended Guidelines for Dismissal with Property**

5 The identified benchmark value is the value of that property to the mission
6 of the Church within the Presbytery, and any sale of the property shall
7 adequately reflect that value, unless there are exigent circumstances,
8 justified in detail as consistent with the Presbytery's fiduciary
9 responsibilities to the denomination and its mission. The benchmark value
10 remains the value for the duration of any lease or lease/purchase option.
11 The ability of the Congregation to pay shall not determine the price for a
12 lease, purchase, or lease/purchase option. For any lease option, the
13 property continues to be bound by the trust clause until a purchase is
14 complete. The trustees of the Presbytery shall participate in the details of
15 all leases or purchases with departing congregations. All costs associated
16 with the purchase, lease or transfer of the property, shall be paid by the
17 Congregation.

18
19 **a. Lease Option**

20
21 The Congregation seeking dismissal agrees to pay, in addition to lease
22 payments all taxes, insurance, utilities, and maintenance (i.e. a “triple net
23 lease”). At the end of the lease term the Congregation may (i) immediately
24 vacate and surrender the real property and all personal property to the
25 Presbytery; or (ii) renegotiate the lease or, (iii) purchase the property in
26 question at the current market value.

27
28 The amount of any lease payments under this or the lease/purchase
29 option below shall be determined by the PNT and the Presbytery Budget
30 Officer using input from the SCC. The Presbytery staff accountant shall be
31 the billing agent. Any lease agreement will be nullified if the dismissed
32 Congregation fails to remain a part of an acceptable Reformed body.

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b. The Purchase Option

(1) At the time the purchase of the real property has been completed, the Presbytery shall release all claims to the personal property of the Congregation.

(2) In the event the Presbytery elects to sell the property to the departing Congregation it shall be required that the property continue as a place of worship with a Reformed body for at least ten years from the date of purchase. If the Congregation seeks to sell or sells without the written consent of Presbytery then the title to the property shall revert to the Presbytery.

c. Lease/purchase option

The Congregation shall enter into a lease/purchase agreement, including a down payment and a lease payment as above. A purchase price, consistent with the benchmark price, shall be agreed upon at the beginning of the lease/purchase term. The full down payment and potentially a portion of the lease payments shall go toward the purchase of the property at the end of the term.

d. Special Circumstances

If the PNT believes that Presbytery and the PC(U.S.A.) would benefit by a property settlement different than one of the options above, the PNT and SCC may negotiate other settlement terms, provided that such terms are consistent with the letter and spirit of the trust clause, applicable decisions of the General Assembly Permanent Judicial Commission (GAPJC) and this policy.

e. General Administration for Property Settlement

(1) In order for the dismissal process to proceed, steps shall be taken to repay in full any indebtedness owed to or guaranteed by Presbytery, the

1 Synod, or the PC(U.S.A.) or to refinance such indebtedness. If the PNT
2 does not believe a viable plan for repayment exists, the PNT shall
3 recommend to the SCC that the dismissal process be put on hold until a
4 viable repayment plan is established.

5 (2) Presbytery will retain legal counsel, at the Congregation's expense, to
6 review the settlement agreement, prepare a quitclaim by Presbytery to the
7 Congregation for any real property being released, and prepare an
8 indemnification by the Congregation to Presbytery against any and all
9 future claims that may arise related to the property. Appropriate action
10 shall be taken to amend any organizational documents, as necessary, and
11 to ensure that adequate insurance coverage of all property is maintained
12 until dismissal is completed.

13 (3) Retention of Official Records. The PNT and the SCC shall agree upon
14 a method for assuring that the Presbytery receives originals of the
15 Session's and the Congregation's official records (Book of Order, G-
16 3.0107).

17 (4) The departing Congregation shall no longer use the PC(U.S.A.)'s
18 trademarks, and/or name (Book of Order, Appendix F-4).

19 **SECTION 3: VALIDATION OF CONGREGATION'S REQUEST FOR** 20 **DISMISSAL**

21 After the PNT and SCC have negotiated the terms of dismissal, they shall
22 request Session to call a meeting of the Congregation with 30 days
23 advance notice, to validate these terms.

24 **A. Meeting of the Congregation**

25 A written settlement agreement and an explanation of any deviation from
26 this policy will be made available to the Congregation. It is expected that
27 representatives of the PNT and the SCC will address the Congregation in
28 a meeting led by the PNT to discuss any specific issues that will enable
29 the Congregation to make an informed decision based on facts and
30 prayerful discernment.

1 **B. Requirement for Validation**

2 Only members of the Congregation are permitted to vote, and voting will
3 be by written ballot. A majority “yes” vote (50% plus one) of the total
4 membership of the Congregation, as reported earlier to the PET, will
5 validate the agreement. The congregational vote is advisory only; the final
6 decision to dismiss rests with the Presbytery.

7 If the agreement is not validated, the process stops and the results are
8 reported to COM, Presbytery, Session and the Congregation by the PNT.
9 The PNT also makes recommendations to COM regarding reconciliation
10 and pastoral care needs so that trained representatives of Presbytery,
11 Session and pastors will engage with those who have concerns, with an
12 eye to preserving relationships, providing pastoral care, and furthering the
13 ministry of the Congregation.

14 **SECTION 4: PRESBYTERY’S DECISION REGARDING**
15 **THE DISMISSAL REQUEST**

16 Once the Congregation has voted to request dismissal from the
17 Presbytery/the PC(U.S.A.), and to accept the terms of dismissal,
18 Presbytery will schedule a vote at its next regular meeting for which the
19 request can be submitted. A report will be distributed by the COM
20 covering the reasons the congregation is seeking dismissal, the
21 negotiated terms for the dismissal, and the rationale for those terms. The
22 COM will rely on the earlier reports provided by the PNT and the PET
23 (See Addendum G Required Reporting and Written Documentation).

24 The vote to accept the terms of the settlement can be preceded by a two-
25 thirds vote to preclude amendments and limit debate. The effective date of
26 dismissal will occur no earlier than 91 days after the Presbytery vote, or
27 appellate time period whichever is longer, and as promptly thereafter as
28 practicable.

29
30 If the PET or the PNT, or any ruling or teaching elder, have concerns that
31 a Congregation or leadership is not fully participating or appears to have
32 abandoned the process, they are to notify the COM, General Presbyter or

1 Stated Clerk. If the COM concurs that these procedures are not utilized in
2 good faith for the dismissal of any Congregation, then the COM shall
3 recommend Presbytery to appoint an Administrative Commission with
4 original jurisdiction as outlined in Addendum H.

5
6 **SECTION 5: PASTORAL CARE OF MEMBERS WHO DESIRE**
7 **TRANSFER OR WHO NEED CARE IN TRANSITION**

8 Following the Presbytery vote to dismiss the Congregation, the Stated
9 Clerk, on behalf of Presbytery, will notify the members of the
10 Congregation informing them of their membership options. Members may
11 choose to transfer their membership to the new reformed denomination, or
12 they may affiliate with another PC(U.S.A.) Congregation and receive a
13 transfer of membership from the Stated Clerk. Members may also choose
14 to have their membership remain with the Presbytery for a period of one
15 year. Any member who does not reply, will have their membership held by
16 the Presbytery for one year or until otherwise instructed.

17 Presbytery, acting through the PNT, will reach out to those members who
18 need support and allocate resources to such support. The COM shall
19 designate at least two of its teaching elders (retired or active) and/or ruling
20 elders with experience in grief counseling, to act as a team of chaplains to
21 minister to members choosing to remain in the PC(U.S.A.) for an
22 extended period of time following a Congregation's dismissal.

23 **SECTION 6: HOPE FOR THE FUTURE**

24 Implementing this policy will never be an easy task. It involves respectfully
25 recognizing that our deeply held convictions and perspectives differ
26 greatly, and that acknowledging that these differences may lead us in
27 separate directions.

28 At the same time, we remain sisters and brothers in Jesus Christ desiring
29 to bring glory to God as we act in grace and love toward each other. The
30 primary goal of the consultation process was to determine whether or not
31 reconciliation is possible between the PC(U.S.A.) and the Congregation.

1 Even if this was not possible at this time, we hope as Jesus prayed in
2 John 17:20-23 that our oneness in Jesus Christ will be our final witness to
3 this world. A brief worship service can be held to affirm this truth if such a
4 conclusion will be helpful to bring closure and encouragement for all
5 parties involved.

6 “I ask not only on behalf of these, but also on behalf of those who will
7 believe in me through their word, that they may all be one. As you, Father,
8 are in me and I am in you, may they also be in us, so that the world may
9 believe that you have sent me. The glory that you have given me I have
10 given them, so that they may be one, as we are one, I in them and you in
11 me, that they may become completely one, so that the world may know
12 that you have sent me and have loved them even as you have loved me.”

13 Our Confession of 1967 begins with this statement:

14

15 *In Jesus Christ God was reconciling the world to himself. Jesus Christ is*
16 *God with man. He is the eternal Son of the Father, who became man and*
17 *lived among us to fulfill the work of reconciliation. He is present in the*
18 *church by the power of the Holy Spirit to continue and complete his*
19 *mission. This work of God, the Father, Son, and Holy Spirit, is the*
20 *foundation of all confessional statements about God, man, and the world.*
21 *Therefore the church calls men [sic] to be reconciled to God and to one*
22 *another.*

23

24 The 300-plus years of Presbyterian ministry in this country since the
25 founding of the first presbytery in 1706 have been marked by many
26 divisions and reconciliations¹². Many of us would have great difficulty
27 understanding why they occurred. Older Presbyterians may recall
28 disputes over the role of women in church leadership, and whether or not
29 divorced Presbyterians could be ordained, and will certainly recall that
30 attitudes toward slavery and later toward segregation resulted in an 1861
31 division that lasted 120 years.

¹² See *Division and Reunion: a Reflection on American Presbyterianism*, a documentary narrated by lifelong Presbyterian and former Secretary of State, Dr. Condoleezza Rice, prepared by Union Presbyterian Seminary and viewable at <http://www.upsem.edu/dr>.

1 We are not now, and have never been a community of the like-minded.
2 Even though we are part of, but distinct from society, we often reflect or
3 are complicit in the failures of the larger society.
4

5 Thus, even if this process does not now result in reconciliation, we
6 remember that our history gives us hope that a time will come when the
7 church will be united in Christ.
8

9 Whatever the outcome of our process in this policy as it is implemented
10 with or within specific congregations, the Presbytery of Sacramento will
11 continue to be committed to the message of reconciliation in 2 Corinthians
12 5:17-19.
13

14 *Therefore, if anyone is in Christ, the new creation has come: The*
15 *old has gone, the new is here! All this is from God, who reconciled*
16 *us to himself through Christ and gave us the ministry of*
17 *reconciliation: that God was reconciling the world to himself in*
18 *Christ, not counting people's sins against them. And he has*
19 *committed to us the message of reconciliation.*
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ADDENDUM A

SACRAMENTO PRESBYTERY TERMS OF AGREEMENT

At its February 2010 meeting, the Sacramento Presbytery identified five attitudes/behaviors that it wanted to make *normative* in our life together as the body of Christ. The five attitudes/behaviors are: civility, congenial, listening, openness, and respect. While there was some variety in how individuals understood or interpreted these five terms, there was broad agreement on the behaviors and attitudes associated with each. Thus we can affirmatively state that these are our 'terms of agreement' for the Sacramento Presbytery:

CIVILITY

Being non-argumentative, hospitable, speaking in pleasant tones. Agreeing to disagree, but not be disagreeable! Not interrupting, showing respect to others, thinking carefully before speaking and listening carefully. "If I disagree with you, it does not mean that I am stupid or immoral; it simply means that we do not see things exactly the same way." Honoring the process. Assuming others are well intentioned. Being calm and self-controlled, exhibiting restraint, behaving in ways that are not offensive to others.

CONGENIAL

Smiling. Having a sense of humor (especially not taking oneself too seriously). Body language that signals acceptance of others. Setting aside one's personal agenda. Expressing interest in and appreciation for others. Making eye contact. Not speaking ill of others.

LISTENING

Not interrupting. Being fully present. Asking questions in a respectful way, out of a spirit of inquiry, not inquisition. Not talking over others. Attentive body language, being quiet when someone else is speaking, paying attention and not multi-tasking. Asking questions that draw the other person out, rather than asking questions that close off the conversation. Concentrating. Leaning into the conversation.

OPENNESS

Attentive. Risking the consideration of another's ideas. Trying new ways of doing things. Not having pre-determined results. Speaking the truth in love. Being vulnerable.

RESPECT

Making eye contact. Being attentive and active listening. Being non-judgmental. Focusing on issues, not people. Not interrupting or being disruptive. Valuing others. Having an open mind. Non-confrontational when asking questions. Acknowledgement of individuals by name. Demonstrating gentleness. Speaking calmly.

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ADDENDUM B

ADVISORY OPINION 19
THE TRUST CLAUSE AND GRACIOUS SEPARATION:
IMPLEMENTING THE TRUST CLAUSE FOR THE UNITY OF THE CHURCH
WHAT IS THE TRUST CLAUSE?

G-4.0203 of the *Book of Order* states:

All property held by or for a particular church, a presbytery, a synod, the General Assembly, or the Presbyterian Church (U.S.A.), whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, and whether the property is used in programs of a particular church or of a more inclusive governing body or retained for the production of income, is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.)¹

Presbyterian congregations emerge from the collective gifts of God's people and often include direct gifts from individuals, other congregations, presbyteries, synods, and the General Assembly. These gifts are not regarded as given for a single generation, but are held in trust for this generation and for future generations to come. Indeed, "the Trust Clause reflects our understanding of the church as a communion of saints across time, with responsibilities both to those who came before and those who will follow. When a congregation seeks to leave the Presbyterian Church (U.S.A.), it is breaking what is often a significant historic relationship; it is also departing from a fellowship in which its officers have participated, by whose polity they have pledged to be governed, and with which many members may feel bonds of affection."² Accordingly, the idea of holding property in trust has long been a part of the Presbyterian theology as well as a practice recognized by the U.S. Supreme Court (*Watson v. Jones*, 80 U.S. (13 Wall.) 679 (1872)).³

HOW DOES CHURCH UNITY RELATE TO THE TRUST CLAUSE?

"There is one Church, for there is one Spirit, one hope, 'one Lord, one faith, one baptism, one God and Father of all, who is above all and through all and in all' (Eph. 4:5-6) (F-1.0302(a))

Our polity reflects this theology of unity and oneness and the *Book of Order* reminds us that "unity is God's gift to the Church in Jesus Christ" and "in Christ the Church is one, it strives to be one."⁴ Along these lines, the 217th General Assembly (2006) called upon "every member of the Presbyterian Church (U.S.A.) to witness to the church's visible oneness, to avoid division into separate denominations that obscure our community in Christ, and to live in harmony with other members of this denomination, so that we may with one voice together glorify God in Jesus Christ, by the power of the Holy Spirit; and all sessions, congregations, presbyteries, and synods to renew and strengthen their covenanted partnership with one another and with the General Assembly."⁵

Further, G-3.0101 reminds us, "the mutual interconnection of the church through its councils is a sign of the unity of the church. Congregations of the Presbyterian Church (U.S.A.), while possessing all the gifts necessary to be the church, are nonetheless not sufficient in themselves to be the church. Rather, they are called to share with others both within and beyond the congregation the task of bearing witness to the Lordship of Jesus Christ in the world. This call to bear witness is the work of all believers. The particular responsibility of the councils of the church is to nurture, guide, and govern those who witness as part of the Presbyterian Church (U.S.A.) to the end that such witness strengthens the whole church and gives glory to God."⁶

Furthermore, "the congregation is the basic form of the church, but it is not of itself a sufficient form of the church. Thus congregations are bound together in communion with one another, united in relationships of accountability and responsibility, contributing their strengths to the benefit of the whole, and are called, collectively, the church."⁷ Accordingly, the church is not a voluntary association of those who share the

1 same opinions and experiences, but is an organic body reflecting unity in diversity and called into existence
2 by God that celebrates and transmits through the ages the name and knowledge of Jesus Christ.⁸ The
3 constitutional provisions under which congregations hold property for the benefit of the Presbyterian Church
4 (U.S.A.) arise out of and reflect our theological conviction that this denomination constitutes one indivisible
5 body, which itself is part of the body of Christ, and which encompasses not only the visible Church today but
6 also the one, holy, catholic, and apostolic Church of our heirs and forbearers (F-1.0302).

7 8 **HOW DOES MISSION RELATE TO THE TRUST CLAUSE AND CHURCH PROPERTY?**

9 The *Book of Order* in G-4.0201 affirms, "The property of the Presbyterian Church (U.S.A), of its councils and
10 entities, and of its congregations, is a tool for the accomplishment of the mission of Jesus Christ in the
11 world."⁹ Each local congregation "is the church engaged in the mission of God in its particular context" with
12 a particular history.¹⁰ For its members, the congregation is the site of baptisms, confirmations, marriages,
13 and celebrations of the resurrection to join the communion of saints. Such significant personal experiences
14 make the local congregation an indelible part of the lives of their members. These shared experiences are
15 what most of us picture when we think of our home congregation.

16
17 Yet, we also affirm that the "congregation is the basic form of the church, but it is not of itself a sufficient
18 form of the church" and our polity recognizes that purpose of the trust clause is not only to support the
19 witness and mission of a particular congregations, but also to support the mission and witness of the whole
20 Presbyterian Church (U.S.A.). Indeed, it is "the particular responsibility of the councils of the church is to
21 nurture, guide, and govern those who witness as part of the Presbyterian Church (U.S.A.) to the end that
22 such witness strengthens the whole church and gives glory to God."¹¹ Along these lines, as a council of the
23 church, the presbytery is responsible for developing "the strategy for the mission of the church in its
24 district"¹² and has the responsibility and power to organize, receive merge, dismiss and dissolve
25 congregations in consultation with their members.¹³ Further, the presbytery has the responsibility to assist
26 congregations in developing mission and participating in the mission of the whole church.¹⁴ Accordingly, it
27 is important for the presbytery to prayerfully discern and consider the mission of the church in its district and
28 of the whole church as it decides whether to dismiss or dissolve a congregation.

29 30 **WHO HAS THE AUTHORITY TO DISMISS A CONGREGATION?**

31 Presbyteries are responsible for upholding the trust clause and congregations may only be dismissed upon
32 the approval of their presbytery. In accordance with G-4.0207, "the relationship to the Presbyterian Church
33 (U.S.A.) of a particular church can be severed only by constitutional action on the part of the presbytery."¹⁵
34 As noted above, the presbytery is responsible for the mission and government of the church throughout its
35 geographical district and has the power to organize, receive merge, dismiss and dissolve congregations in
36 consultation with their members.¹⁶

37 38 **CAN A CONGREGATION VOTE TO SEEK DISMISSAL? DOES A CONGREGATION HAVE A 39 UNILATERAL RIGHT TO DEPART FROM THE PC(U.S.A.)?**

40 No. There is not a unilateral right of a Presbyterian Church (U.S.A.) congregation to depart from the
41 denomination or its presbytery of membership. Withdrawal from the Presbyterian Church (U.S.A.) is not a
42 matter that can be considered at a congregational meeting.¹⁷ No authority is given to a congregation or to
43 session to vote to leave the denomination.¹⁸ While a presbytery may consult with a congregation about
44 dismissal in the form of listening sessions, hearings, or other consultations, these consultations are merely
45 for the benefit of informing the presbytery as it considers a request for dismissal.¹⁹ Along these lines, our
46 church has long recognized that "by giving to presbytery rather than to session or congregation the power to
47 dismiss a church, the constitution of this denomination guarantees a formal meeting of presbytery as the
48 forum in which loyalist minorities of whatever size might press their claims that they were sufficient in
49 numbers and dedication to continue a church in its connectional relationship within this denomination."²⁰
50 Further, in seeking to negotiate with a congregation seeking dismissal, presbyteries have an obligation to
51 see that secular litigation is used as a last resort.²¹

1
2 Here, it is also important to note that freedom of conscience is limited for teaching elders, ruling elders and
3 deacons under G-2.0105 and does not encompass the calling of congregational meetings to seek dismissal,
4 moving churches to seek dismissal from the denomination or obstructing constitutional governance of the
5 church.²² There may not be any secret acts by the pastors and sessions diminishing a church's connection
6 to the Presbyterian Church (U.S.A.). Further, congregations that fail to abide by the principles of Gracious
7 Separation "have breached important responsibilities and duties."²³

8
9 **DOES A CONGREGATION HAVE TO BE DISMISSED TO ANOTHER REFORMED BODY?**

10 Yes. Dismissal to another reformed body is a requirement through authoritative interpretations of PC(U.S.A.)
11 constitutional provisions.²⁴ Through authoritative interpretation the General Assembly held:

12
13 Presbyteries may dismiss congregations to other ecclesiastical bodies of this denomination, and to
14 denominations whose organization is conformed to the doctrines and order of the Presbyterian
15 Church (U.S.A.). No congregation may be dismissed to independent status, or to the status of a
16 nondenominational congregation.²⁵

17
18 The requirement of dismissal to another reformed body goes back to historical reformed understandings of
19 the importance and need to continue the reformed family as well as our reformed theology. Further,
20 dismissal to "another Reformed body" was also the language used during reunion and is found in the *Book*
21 *of Order* under the "Articles of Agreement."²⁶ Accordingly, if the presbytery discerns it should dismiss the
22 congregation to another reformed body, then the Presbytery should dismiss "pending reception into another
23 reformed denomination" so that the congregation does not end up in independent status if another
24 reformed denomination refused to admit the congregation into the denomination.

25
26 **WHO DETERMINES WHETHER THE RECEIVING BODY IS ANOTHER REFORMED BODY?**

27 "It is the responsibility of the dismissing presbytery to determine whether the receiving body meets these
28 standards, and this responsibility cannot be delegated to any other entity within the presbytery (such as an
29 administrative commission). Thus the General Assembly may not determine in advance whether a particular
30 denomination or its constituent bodies qualify under these standards."²⁷ In exploring this matter,
31 presbyteries shall consider such questions as whether the receiving body is:

32
33 "1) doctrinally consistent with the essentials of Reformed theology as understood by the presbytery;
34 2) governed by a polity that is consistent in form and structure with that of the Presbyterian Church (U.S.A.);
35 and
36 3) of sufficient permanence to offer reasonable assurance that the congregation is not being dismissed to de
37 facto independence."²⁸

38
39 Further, "failure on the part of the presbytery thoroughly to explore and adequately to document its
40 satisfaction in these matters may thus violate, however unintentionally, the spirit of the polity of the
41 Presbyterian Church (U.S.A.)"²⁹

42
43 **MAY A PRESBYTERY DELEGATE ITS FINAL DECISION TO DISMISS A CONGREGATION TO AN**
44 **ADMINISTRATIVE COMMISSION?**

45 While a presbytery could delegate dismissal of a congregation to an Administrative Commission, such a
46 decision is of such missional importance to a presbytery that the entire presbytery would likely wish to
47 discern such a matter together.³⁰

1 **CAN A PRESBYTERY DISMISS ITSELF OR ALL OF ITS CONGREGATIONS?**

2 No. A presbytery cannot release itself, or all of its congregations, for only the General Assembly and the
3 synod working together itself can organize, divide, unite, or combine presbyteries or portions of a
4 presbytery.³¹

5
6 **WHAT ARE GRACIOUS DISMISSAL POLICIES?**

7 At the direction of the 219th General Assembly (2008), the Stated Clerk of the Presbyterian Church (U.S.A.)
8 sent a resolution to the presbyteries, synods and sessions, “indicating the will of the assembly that
9 presbyteries and synods develop and make available to lower governing bodies and local congregations a
10 process that exercises the responsibility and power ‘to divide, dismiss, or dissolve churches in consultation
11 with their members’ with consistency, pastoral responsibility, accountability, gracious witness, openness,
12 and transparency.”³² Accordingly, Gracious Dismissal Policies may be used by councils to offer clarity and
13 guide their process when discerning whether and how a particular congregation could be dismissed from the
14 PC(U.S.A.).

15
16 **HOW DO GRACIOUS DISMISSAL POLICIES RELATE TO THE TRUST CLAUSE (G-4.0203)?**

17 In the recent General Assembly Permanent Judicial Commission (GAPJC) case, [Tom v. Pby of San](#)
18 [Francisco](#), the GAPJC authoritatively interpreted how the Trust Clause found in the *Book of Order* at G-
19 4.0203 interacts with Gracious Dismissal Policies.³³ The GAPJC held that while a presbytery has broad
20 discretionary authority under the *Book of Order* to determine property rights [within the context of
21 determining the mission of Jesus Christ in the world (G-4.0201) and in its district (G-3.0303a) to dismiss a
22 particular congregation within its geographic region (G5-3.0301a)], the presbytery must fulfill its fiduciary
23 duty under the Trust Clause (G-4.0203) to consider the interest of the Presbyterian Church (U.S.A.) as a
24 beneficiary of the property.

25
26 **WHAT MUST BE IN A GRACIOUS DISMISSAL POLICY?**

27 A presbytery has broad discretionary authority to determine the mission of Jesus Christ in its district and
28 may take into account many issues such as the spiritual needs of the congregation and community as well
29 as the Marks, Notes and Great Ends of the Church.³⁴ The presbytery must also consider a congregation’s
30 financial position and valuation of property and take into consideration the Presbyterian Church (U.S.A.)’s
31 use and benefit of the property in every decision concerning disposition of property. Accordingly, the
32 gracious Dismissal Policy shall include this duty among the procedures listed within the Policy.

33
34 **MUST A GRACIOUS DISMISSAL POLICY OR IMPLEMENTATION OF A GRACIOUS DISMISSAL**
35 **POLICY INCLUDE CONSULTATION WITH ANY OF THE GENERAL ASSEMBLY ENTITIES?**

36 No, a presbytery has discretionary authority to determine the mission of Jesus Christ in its district when
37 deciding whether to organize, merge, dismiss or dissolve a congregation.³⁵ This discretionary authority
38 includes the presbytery’s consideration of a congregation’s financial position and valuation of the property.

39
40 **MAY A GRACIOUS DISMISSAL POLICY (OR ANY BYLAW OR POLICY OF THE PRESBYTERY)**
41 **DELINEATE THE CIRCUMSTANCES IN WHICH A PRESBYTERY WILL DISSOLVE, DISMISS OR**
42 **MERGE A CONGREGATION?**

43 No. Since the presbytery must determine its mission when discerning whether to dissolve, dismiss or merge
44 a congregation, dismissal of a congregation requires that the presbytery make the decision about dismissal
45 in each separate case after careful consideration of all the circumstances.³⁶ A presbytery may not discern
46 ahead of time the circumstances in which a presbytery will dismiss a congregation.

47 “Dismissal of a congregation now requires, as it always has with the single exception of Article 13, that the
48 presbytery make the decision about dismissal in each separate case after careful consideration of all the
49 circumstances.” ³⁷

1 **MAY A GRACIOUS DISMISSAL POLICY DESCRIBE HOW AND WHEN PROPERTY WILL BE USED**
2 **AND/OR DISTRIBUTED AMONG CONGREGATIONAL ENTITIES?**

3 No. A presbytery is required to determine its mission, including the use and distribution of real and personal
4 property, after careful consideration of all the circumstances on a case by case basis. 38

5
6 **HOW MUST A GRACIOUS DISMISSAL POLICY BE IMPLEMENTED?**

7 Even if the presbytery's Gracious Dismissal Policy does not include the fiduciary duty under the Trust
8 Clause, the presbytery shall ultimately exercise this fiduciary duty before making its decision about
9 dismissal. In [Tom v. Pby of San Francisco](#), the GAPJC stated that this would include exercising due
10 diligence regarding the value of the property of the congregation seeking dismissal which would include
11 doing a financial analysis of the value of the property.³⁹ The presbytery must be informed of this financial
12 analysis before it votes on a dismissal. Providing this information gives the presbytery and congregation the
13 information needed to make an informed decision regarding dismissal of the congregation.

14 6
15 **WHAT TYPES OF GRACIOUS DISMISSAL POLICIES WOULD NOT BE CONSTITUTIONAL?**

16 Any Gracious Dismissal Policy that precludes a presbytery from taking into account the Trust Clause
17 fiduciary duty before deciding whether to dismiss a congregation on a case-by-case basis would be
18 unconstitutional. Possible examples of policies that would preclude this analysis on a case-by-case basis
19 are:

- 20 1. Policies that only require a percentage vote from the congregation for the presbytery's approval of terms
21 of dismissal including only taking into account the spiritual needs or desires of current membership and not
22 the breaking of the historic relationship of the members who came before.
- 23
24 2. Policies that only require the consideration of per capita and/or mission financial obligations are not
25 sufficient to meet the fiduciary duty under the Trust Clause to consider the interest of the Presbyterian
26 Church (U.S.A.) as a beneficiary of property.
- 27
28 3. Policies that require the payment by the congregation of a set percentage of assets prior to approval for
29 dismissal. This would serve to preclude a case-by-case analysis.

30
31 **WHAT IS THE PRESBYTERY'S ROLE REGARDING RECORDS OF A CONGREGATION SEEKING**
32 **DISMISSAL?**

33 Presbyteries have a constitutional responsibility to safeguard the historic records of congregations that
34 choose to leave the denomination. According to the *Book of Order*, G-3.0107, ownership of the records of
35 dismissed or dissolved congregations passes to the presbytery, and clerks are charged with the
36 safekeeping of records that must be maintained in perpetuity.⁴⁰ Depositing records with the Presbyterian
37 Historical Society, the official archives of the Presbyterian Church (U.S.A.), is a recommended means of
38 preservation. The Presbyterian Historical Society (PHS) offers stated clerks and administrative commissions
39 several options that may help ease the conflict over records while ensuring that vital materials are preserved
40 by the denomination. The desire of departing congregations to have continued access to records may be a
41 point of contention. By choosing to microfilm the original records and digitize the microfilm, presbyteries,
42 congregations and PHS will all have access to the materials.⁴¹ In sum, PHS provides presbyteries with the
43 capacity to: 1) Place original materials on deposit; 2) Place materials on deposit and microfilm them; 3)
44 Deposit, microfilm and digitize records; or 4) microfilm, digitize and return the original records to the
45 congregation.⁴²

46
47 **IS A PRESBYTERY'S DECISION TO DISMISS A CONGREGATION SUBJECT TO REVIEW?**

48 Yes, a presbytery's decision to dismiss a congregation is subject to review and if a presbytery fails to carry
49 out its constitutional responsibilities, the synod may be required to intervene by undertaking review of the
50 presbytery's processes and decisions.⁴³ If the synod finds that the presbytery has not been faithful to its
51 mission, the synod may direct the presbytery to appropriate action.⁴⁴ If a presbytery is unable or unwilling to

1 carry out these constitutional responsibilities, the synod may assume jurisdiction over the presbytery's
2 powers to divide, dismiss or dissolve congregations, identify true church, and hold property in trust for the
3 use and benefit of the Presbyterian Church (U.S.A.).⁴⁵

5 **WHAT ROLE DOES THE TRUST CLAUSE PLAY WITH REGARD TO CONGREGATIONAL LOANS?**

6 The Trust Clause provides important support and safeguards for the low-cost loan programs for
7 Presbyterian Church (U.S.A.) congregations provided by the Presbyterian Investment and Loan Program,
8 Inc. (PILP) and the General Assembly Mission Council (GAMC). The PILP makes low-cost loans to
9 Presbyterian Church (U.S.A.) congregations for new buildings and renovations and without the trust clause,
10 presbyteries would be unlikely to guarantee loans and without guarantees PILP's ability to assist
11 congregations would be significantly impaired.⁴⁶ Most church building projects cannot be financed by
12 congregations from their current receipts and many congregations depend on loans from PILP, the GAMC's
13 Church Loan Program, or commercial lenders to complete these projects. Generally, these loans are
14 secured by first lien mortgages on the property of the borrowing congregation. The property of the
15 congregation provides the collateral for these loans and is a potential source of repayment should the
16 borrowing congregation not be able to repay the loan. In addition to being secured, these loans are
17 guaranteed by the presbytery of jurisdiction of the borrowing congregation. This means the presbytery is
18 responsible to pay back the loan should the borrowing congregation fail to pay. The presbyteries have
19 confidence in guaranteeing these secured loans due in part to the fact that church property is held in trust
20 under G-4.0203. Further, G-4.0204 states:

21
22 Whenever property of, or held for, a congregation of the Presbyterian Church (U.S.A) ceases to be
23 used by that congregation as a congregation of the Presbyterian Church (U.S.A.) in accordance
24 with this Constitution, such property shall be held, used, applied, transferred, or sold as provided
25 by the presbytery.

26
27 Under G-4.0204, when a congregation ceases to exist or leaves the denomination, the congregation's
28 property (which includes, but is not limited to, its real property, building, and other assets such as
29 investments) is subject to the control of the presbytery of jurisdiction. The presbytery continues to be
30 responsible for mission of the Presbyterian Church (U.S.A.) in the area of the departing congregation, and
31 the presbytery can use the property to implement that mission. If the departing congregation has a secured
32 loan with PILP, guaranteed by the presbytery, the presbytery would have the ability to retain the property or
33 the presbytery could use the property to raise funds to satisfy the presbytery's responsibility under the
34 guaranty. As noted above, a presbytery may discern and give some or all of this property to a departing
35 congregation, but this choice will not result in a release of the obligation to repay the secured loan and/or in
36 the release of the guaranty.

37
38 If a congregation has a secured loan with PILP and/or the GAMC and chooses to leave the denomination or
39 is dissolved by a presbytery, the terms of the loan provide that the loan is accelerated and becomes
40 immediately due and payable. The guarantee of the presbytery is not satisfied until the loan is paid in full.
41 Our connectional system and the fact that property owned and used by congregations is held in trust for the
42 Presbyterian Church (U.S.A.) allows the denomination to assist local congregations by providing low interest
43 mortgages through national entities such as PILP and the Church Loan Program. The assurances and
44 protections given under the trust clause help enable these programs to make loans secured by mortgages
45 of the underlying property which are more financially beneficial for the congregations than traditional
46 loan sources.

47
48 In the current economy and in the aftermath of the banking crisis, it has become increasingly difficult for
49 small and mid-size congregations to obtain financing for capital projects from banks. It is often new, young,
50 or struggling congregations that need the resources of the denomination the most and the PILP is able to
51 meet these needs of these and other Presbyterian Church (U.S.A.) congregations. Without the current trust

1 clause of the *Book of Order*, it is important to recognize that presbyteries would be unlikely to guarantee
2 loans and without guarantees PILP's ability to assist congregations would be significantly impaired.
3 Updated February 2014

4
5 1 G-4.0203

6 2 PJC (2012, 221-03 Tom et. al. vs. Pby of San Francisco)

7 3 This necessity for adoption of G-4.0203 arose from court decisions that changed the permissible role of courts in
8 determining disputes as to church property. Until a few years before the adoption of G-4.0203, courts determining
9 property disputes sought to determine from the doctrinal documents of a denomination whether the property of local
10 congregations was held in trust for the larger church (this was referred to as the "implied trust" analysis). However, in
11 1979, the United States Supreme Court found that this type of inquiry into the doctrine of a denomination was an
12 improper intrusion into the First Amendment right to freedom of religion. Accordingly, the courts were required to
13 determine property disputes without seeking to interpret a denomination's doctrine (the so-called neutral principles of
14 law analysis). For Presbyterians, this change in the legal framework the civil courts applied suggested specific
15 reference in property matters in a denomination's constitutional documents was prudent. Section G-4.0203 provides
16 that explicit understanding of the long held Presbyterian understanding. As such, it was not a change in our
17 presbyterian polity, but rather an attempt to protect the denomination's polity against changes in the permissible
18 framework of legal analysis applied by the civil courts.

19 4 In John 17:20-21, Jesus prayerfully desires unity in the Church saying: 20 "My prayer is not for them alone. I pray
20 also for those who will believe in me through their message, 21 that all of them may be one, Father, just as you are in
21 me and I am in you. May they also be in us so that the world may believe that you have sent me. Paul picks up on this
22 theme in Galatians and Ephesians: Galatians 3:28 says "There is neither Jew nor Gentile, neither slave nor free, nor is
23 there male and female, for you are all one in Christ Jesus." Ephesians 4:3, "Make every effort to keep the unity of the
24 Spirit through the bond of peace." Along these same lines, F-1.0301 reminds us that our "church is called to be a
25 community of love, where sin is forgiven, reconciliation is accomplished, and the dividing walls of hostility are torn
26 down."

27 5 GA (2006), Report of the Task Force on Peace, Unity, and Purity, 06-01, Rec. 1, a-b.

28 6 G-3.0101

29 7 G-1.0101

30 8 See F-1.02 "Jesus Christ is the Head of the Church;" see also F-1.0403

31 9 G-4.0201

32 10 G-1.0101

33 11 G-3.0101

34 12 G-3.0301; G-3.0303(a)

35 13 G-3.0301(a)

36 14 G-3.0301(c)

37 15 G-4.0207

38 16 See G-3.0301; G-3.0303(a)

39 17 GA (218th, Item 4-20); see also PJC (*Sundquist v. Heartland*, Remedial Case 219-03, 2008)

40 18 See G-1.0503 and G-3.02

41 19 *Sundquist v. Heartland*, Remedial Case 219-03

42 20 See PCUS 1976, 92, *Strong v. Synod of Mid-South*.

43 21 *Sundquist v. Heartland*, Remedial Case 219-03

44 22 *Sundquist v. Heartland*, Remedial Case 219-03

45 23 *Sundquist v. Heartland*, Remedial Case 219-03

46 24 GA (2008, 14, 15 Item 07-13). For more information on authoritative interpretations see G-3.0501c and G-6.02

47 25 GA (2008, 14, 15 Item 07-13). Along these lines, The General Assembly Permanent Judicial Commission has
48 found that "[a]n 'independent' or 'congregational' Presbyterian church is an anomaly which runs counter to the notion
49 that we are a 'family' of churches and dismissal must therefore be made to another church within the family group ...
50 ... The ... presbytery had no constitutional right to dismiss ... the churches to independent status. ... The policy of
51 not allowing members and ministers to be cut loose with no ties indicates the historic Presbyterian policy of
52 ecclesiastical connectionalism. This policy likewise forbids ... dismissal to independency" (PCUS 1973, pp. 119-
53 121, *Anderson v. Synod of Florida*).

54 26 See the *Book of Order* Appendix B, Article 13 (page B. 13). The "Articles of Agreement" are cited here for
55 historical purposes and do not carry constitutional authority.

56 27 GA (2008, 14, 15 Item 07-13).

1 28 GA (2008, 14, 15 Item 07-13).
2 29 GA (2008, 14, 15 Item 07-13).
3 30 *Sundquist v. Heartland*, Remedial Case 219-03; see also (PCUS 1976, 92, *Strong v. Synod of Mid-South*)
4 31 G-3.0502(e)
5 32 GA (2008, 49, 51, 284, Item 04-28) The 218th General Assembly (2008) of the Presbyterian Church (U.S.A.)
6 1. Directs the Stated Clerk to send this resolution to the presbyteries, synods, and sessions, indicating the will
7 of the assembly that presbyteries and synods develop and make available to lower governing bodies and local
8 congregations a process that exercises the responsibility and power "to divide, dismiss, or dissolve churches in
9 consultation with their members" (Book of Order, G-11.0103i) with consistency, pastoral responsibility, accountability,
10 gracious witness, openness, and transparency.
11 2. Believing that trying to exercise this responsibility and power through litigation is deadly to the cause of Christ,
12 impacting the local church, other parts of the Body of Christ and ecumenical relationships, and our witness to Christ in
13 the world around us, [the General Assembly] urges [congregations considering leaving the denomination,]
14 presbyteries[,] and synods to implement a process using the following principles:
15 • Consistency: The local authority delegated to presbyteries is guided and shaped by our shared faith, service, and
16 witness to Jesus Christ.
17 • Pastoral Responsibility: The requirement in G-11.0103i to consult with the members of a church seeking dismissal
18 highlights the presbytery's pastoral responsibility, which must not be submerged beneath other responsibilities.
19 • Accountability: For a governing body, accountability rightly dictates fiduciary and connectional concerns, raising
20 general issues of property (G-8.0000) and specific issues of schism within a congregation (G-8.0600). But, full
21 accountability also requires preeminent concern with "caring for the flock."
22 • Gracious Witness: It is our belief that Scripture and the Holy Spirit require a gracious witness from us rather than a
23 harsh legalism.
24 • Openness and Transparency: Early, open communication and transparency about principles and process of dismissal
25 necessarily serve truth, order, and goodness, and work against seeking civil litigation as a solution.
26 33 PJC (2014, 221-03, *Tom et al v. Pby of San Francisco*)
27 34 See F-1.0302; F-1.0303; F-1.0304.
28 35 However, in considering each congregation on a case-by-case basis, it is important to recognize that one of the
29 entities of the General Assembly or a synod may have created with the congregation and the presbytery a direct
30 financial interest in the property or assets and thus must be consulted by the presbytery. For example, The
31 Presbyterian Church (U.S.A.) Investment and Loan Program (PILP) regularly extends loans to congregations which
32 are secured by the property and/or guarantee of payment from a presbytery. A presbytery that is considering the
33 dismissal or dissolution of a congregation with a secured or unsecured loan from PILP must, as a part of the
34 presbytery's fiduciary interest under the Trust clause, consult with the Presbyterian Investment and Loan Program.
35 36 GA (Minutes, 1991, Req. 91-24, Part I, p 396).
36 37 GA (Minutes, 1991, Req. 91-24, Part I, p 396).
37 38 GA (Minutes, 1991, Req. 91-24, Part I, p 396).
38 39 PJC (2014, 221-03, *Tom et al v. Pby of San Francisco*)
39 40 G-3.0107 states, "each council shall keep a full and accurate record of its proceedings. Minutes and all other official
40 records of councils are the property in perpetuity of said councils or their legal successors. When a council ceases to
41 exist, its records shall become the property of the next higher council within whose bounds the lower council was prior
42 to its cessation. The clerk of each council shall make recommendation to that body for the permanent safekeeping of
43 the body's records with the Presbyterian Historical Society or in a temperature and humidity controlled environment of
44 a seminary of the Presbyterian Church (U.S.A.)."
45 41 The PHS microfilming program creates archival-quality film at a reduced cost for PC(U.S.A.) entities, and if
46 requested, PHS will arrange for the production of a digital edition of the microfilm in PDF or JPEG format at cost.
47 Presbyteries may opt to pay for microfilming (and digitization) or ask the departing congregations to cover the costs.
48 After the records are microfilmed, stated clerks may decide to place the original records on deposit at PHS or return
49 them to the departing congregation as part of a gracious dismissal agreement.
50 42 For more information about these processes, please contact: Presbyterian Historical Society, 425 Lombard Street,
51 Philadelphia, PA 19147. Phone (215)-627-1852.
52 43 G-3.0108(a)&(b); see also F-3.0206
53 44 G-3.0108(a)(b)&(c)
54 45 See G-3.0401(c); G-3.0301(a); G-3.0303(b); G-4.0203 & G-4.0207.
55 46 The funds for PILP loans are generated through the sale of Term Notes, which are debt securities to PC(U.S.A.)
56 members and congregations and the sale of Denominational Account receipts (DARs) accounts to mid councils and

1 PC(U.S.A.) agencies. The interest paid on these Term Notes and DARs and any redemptions are funded by the
2 interest
3 and principal repayment of the loans to congregations. The PILP relies on the congregation's repayment of principal
4 and interest to be able to pay interest to investors and to repay principal to investors at maturity. The PILP administers
5 the Church Loan Program for the GAMC. The Church Loan Program is a mission program under the responsibility of
6 the GAMC and the principal corporation of the General Assembly, Presbyterian Church (U.S.A.), A Corporation, where
7 endowment funds are also used to make low-cost loans to congregations.

8
9 Updated February 2014

10

ADDENDUM C

Advisory Opinions: Note 17¹³

Schism

Throughout Presbyterian history, one action or another of a governing body of the church has resulted in small pockets of great dissatisfaction among some Presbyterians. Dissatisfaction is present in our current period of history to the extent that some members, apparently feeling helpless and estranged, are seriously considering leaving our communion.

In this context, the Office of the General Assembly reminds the church that the Presbyterian Church (U.S.A.) strives to be a community of faith modeled on the body of Christ that is so well articulated in 1 Corinthians 12. Our *Book of Order* describes it as a church made up of many different parts, all of which are "...necessary for its mission to the world, for its building up, and for its service to God" (G-1.0100b). When one part suffers, we are less effective in "...proclamation of the gospel for the salvation of humankind" (G-1.0200).

The Office of the General Assembly recognizes the deep and profound differences of conviction on a variety of topics in the church. When it comes to voicing those differences, we have previously drawn a clear distinction between dissent, which is always constitutionally protected, and defiance, which is never, ever protected.¹

The PC(U.S.A.) *Constitution* provides ways to register disagreement and to propose change. Any governing body member may surely dissent (G-9.0303) and/or protest (G-9.0304) a particular action of that body. Sessions (G-10.0102p(6)) and presbyteries (G-11.0103t(3)) may overture higher governing bodies for changes in policies or even changes in the *Constitution* itself.

The church is committed to being open to voices that share minority opinions. At some points in our history, minority views have eventually become those of the majority. Thus, the *Constitution* recognizes "'The church reformed, always reforming,' according to the Word of God and the call of the Spirit" (G-2.0200). We understand through our theology that "[p]resbyters are not simply to reflect the will of the people, but rather to seek together to find and represent the will of Christ" (G-4.0301d). "Decisions shall be reached in governing bodies by vote, following opportunity for discussion, and a majority shall govern" (G-4.0301e).

There have also been times when an individual has found it impossible to go along with the majority. "...[W]hen any matter is determined by a majority vote, every member shall either actively concur with or passively submit to such determination." If an individual officer finds that his [her] "...conscience permit him [her] to do neither, he [she] shall, after sufficient liberty modestly to reason and remonstrate, peaceably withdraw from our communion *without* attempting to make any *schism*" (italics added) (Endnote 1, Chapter VI). Dissent cannot constitutionally become advocacy for defiance, or for schism.

While it is certainly a right of our members to withdraw from our fellowship, such a request is one that is always received with deep regret and concern by our governing bodies. Our covenant demands that we strive to work together in peace and unity, even in the midst of our diversity. This foundational Presbyterian principle is found in many places within our *Constitution*: (G-10.0302a(3)(a), G-11.0413, D-1.0101, D-1.0103). The duty is always to attempt to bring the estranged member back into the covenant community, and to be open to hearing minority voices because we know in our tradition that those minority voices are sometimes the voice of God to us. We promise to carry out that duty in our ordination vows.²

¹³ Note that the citations to the Book of Order in this Advisory Opinion appear to be to a prior version of the BOO. For example, the number of the section on schism (G-8.0601) is now G-4.0207.

1 As we noted in our opening paragraph, the Office of the General Assembly is aware of
2 Presbyterians who feel compelled not only to abandon their vows³ and promises, but who are
3 willing, also, to rend the fabric of the church and sinfully threaten the peace and unity of
4 Christ's church. We are concerned that some seem willing to take for themselves the
5 **authority** to ascribe within which "certain bounds ... of the Reformed faith" (G-6.0108b) we
6 **all** must live. This too often has led to schism in our history, a right of no Presbyterian.⁴ The
7 term *schism* is "always interpreted in connection with and in the context of specific factual
8 situations."⁵
9

10 Under our *Constitution*, it is the General Assembly (with the concurrence of our presbyteries
11 for constitutional matters) that determines what is "indispensable" (G-13.0103q, r).⁶
12

13 It falls within the purview of the presbytery to determine whether schism exists within a
14 congregation (G-8.0601, G-11.0103).⁷ In such a case, the presbytery determines which
15 members represent the true church (G-8.0601). The presbytery is responsible for confronting
16 advocates of schism. The presbytery has a number of "tools" that the
17 *Constitution* provides:

18 With individuals the presbytery determines whether a person is attempting to "...peaceably
19 withdraw from our communion without attempting to make any schism" (which is an
20 *individual's* right).⁸ If an individual officer advocates schism, a session or presbytery may
21 undertake judicial process and declare such action to be an offense (D-2.0203b). The
22 officer may be censured, after trial.
23

24 If the presbytery determines that the pastor is inciting schism within a congregation, it
25 may remove (G-11.0103n, o) or authorize its commission to remove (G-9.0503a(4)) such
26 a schismatic minister of the Word and Sacrament from service to that congregation.
27

28 When a session has advocated or taken action to effectuate schism, the presbytery may
29 declare such action to be irregular (G-9.0410, D-2.0202a).
30

31 A presbytery may appoint an administrative commission (G-9.0503a(4)) to visit churches
32 "... reported to be affected with disorder, and to inquire into and settle the difficulties...." If
33 the presbytery determines that a session "is unable or unwilling to manage wisely the
34 affairs of its church" (G-11.0103s), the presbytery may grant the commission original
35 jurisdiction over any or all of the session's powers in G-10.0102.
36

37 Any of these actions shall be taken as a "last resort," only after all efforts at restoration
38 and reconciliation have been undertaken. Presbyteries are encouraged to visit each officer
39 or session so affected.
40

41 Finally, the Office of the General Assembly reminds the church that not once in our history has
42 schism **ever** advanced the gospel, but rather, **always** has diminished it. The reunion
43 assembly of 1869 noted: Reunion "buries the suspicions and rivalries of the past, with the sad
44 necessity of magnifying our differences in order to justify our separation. It banishes the spirit
45 of division, the natural foe of true progress. In this union are seen the outflashing of a divine
46 purpose to lead us on to greater self-sacrifice and a more entire consecration to the
47 evangelization of the world. God has elevated us to this commanding position, that we may
48 see his glory, and in the strengthened faith it inspires devote our united resources more
49 directly and efficiently to the salvation of men [and women]."⁹
50

50 **Endnotes:**

51 1. See *Advisory Opinion # 2*

52 2. G-14.0207g and G-14.0405b(7): Do you promise to further the peace, unity, and purity of
53 the church?

54 3. G-14.0207e and G-14.0405b(5): Will you be governed by our church's polity, and will you
55 abide by its discipline?

56 4. Second Helvetic Confession 5.162: "all schismatic seeds should be removed," and 5.141:
57 "Furthermore, we diligently teach that care is to be taken wherein the truth and unity of the
58 Church chiefly lies, lest we rashly provoke and foster schisms in the Church."
59

59 5. PCUS *Minutes*, 1968, p. 108.

- 1 6. Last sentence of Endnote #1, Chapter VI: "Provided always that this shall be understood to
- 2 extend only to such determination as the body shall judge indispensable in doctrine or
- 3 Presbyterian government."
- 4 8. Endnote #1 to Chapter 6 of Form of Government
- 5 9. Digest, Part II, p. 1333.

1 **ADDENDUM D**

2
3 **Guidelines for Reconciliation Process**

- 4
5
6 1. Reflecting upon John 17:20-24 and Ephesians 4:1-6.
7 2. Reflecting upon the Unity and Holiness of the Church¹⁴.
8 3. Reflecting upon the Great Ends of the Church¹⁵.
9 4. Reflecting upon the Openness to the Guidance of the Holy Spirit.
10 5. Discussion of the history and significance of the covenant relationship between the PC (U.S.A.)
11 and its congregations.
12 6. Discussion of the history of the relationship between the specific congregation, the PC (U.S.A.),
13 and the Presbytery.
14 7. Clarification of the services and benefits provided to the congregation and its leadership by its
15 affiliation with the Presbytery and the PC (U.S.A.) and how these might be enhanced.
16 8. Discussion of special ministries that have been undertaken by the congregation, the Presbytery's
17 appreciation of these ministries, and possible collaboration in these ministries by the Presbytery
18 and/or other congregations.
19 9. Discussion of the practical consequences dismissal would have for the congregation, its pastors
20 and perhaps other staff.
21 10. Candid and considerate discussion of actions by the Presbytery and the PC (U.S.A.) that have
22 been disturbing to the congregation, the rationale for these actions, and any possible ways to
23 mitigate the dissatisfaction.
24 11. Discussion of how members can hold true to their deeply and honestly held convictions and still
25 work with members with other views in furtherance of the great ends of the church. This
26 discussion shall also include how conflicts over other deeply held convictions have been
27 ameliorated in the past and how future generations of Christians might view present controversies.
28 12. Identifying specific ways and extent in which the congregation's mission and ministry will be
29 enhanced if it were to be dismissed from the PC (U.S.A.).
30 13. Determine the manner and extent to which the Reasons for considering dismissal have impeded or
31 will impede the ministry and mission of the congregation.
32 14. Identifying possible ways and extent in which the congregation's mission and ministry might be
33 impeded or negatively affected by dismissal if it were to be dismissed to reformed denomination(s)
34 considered. This will include outlining the "due diligence" (research done with respect to potential
35 benefits and problems with membership in another denomination.
36 15. Consider any covenantal ties of the congregation to the Presbytery, its congregations, the
37 PC(U.S.A.), and the saints who have preceded and will follow the congregation. *Tom v San*
38 *Francisco, Rationale below Specification of Error #7*. "The Trust Clause reflects our understanding
39 of the church as a communion of saints across time, with responsibilities both to those who came
40 before and those who will follow."
41 16. Gauge the extent and manner in which the congregation would be impacted by the fulfillment of the
42 congregation's responsibilities if there is an agreement for dismissal consistent with *Tom v*
43 *Presbytery of San Francisco*. (See Addendum F.)
44 17. Such other factors as the session determine to be appropriate to discernment
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¹⁴ Reference: F-1.0302 a, b –*Book of Order*.

¹⁵ Reference: F-1.0304, –*Book of Order*.

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ADDENDUM E

A Theology of Forbearance©

James Calvin Davis, Middlebury College

Donegal Presbytery, 16 March 2013

Thank you so much for inviting me here today. A couple of years ago, I wrote a book as a therapeutic response to my growing frustration with the tenor of national politics in the U.S. *In Defense of Civility* was an attempt to sketch out an alternative to the vitriol and verbal violence that increasingly characterized our public debates. It was a lament for the demise of public discourse in America, and a call to action for Americans similarly frustrated, to commit to the virtues of civility, and to demand them from our leaders. And in particular it was an argument—based in history and public philosophy—that religious communities could and should lead the way in this renewal of civility in the United States.

Since I wrote the book, we've had our moments when we've collectively given civility lip service –the aftermath of the shootings of Congresswoman Giffords and others in Arizona comes to mind. But overall I think we've seen uneven progress. Prominent political leaders have become occasional spokespersons for civility, the University of Arizona established a National Institute for Civil Discourse, several religious denominations have commended civility as expressions of civil and religious faithfulness, and many, many ordinary Americans have voiced their frustration with the unhealthy status quo. But the negative campaigning remains. The guerilla rhetorical warfare, much funded by super-PACs, remains. The character assassinations, scare tactics, and political bullying remain standard strategies of "politics as usual." The past presidential campaign saw plenty of it.

While my optimism has been tested, I remain cautiously hopeful that we might turn the corner toward a healthier civic life together. And I remain convinced that religious communities can play a pivotal role in that turnaround. Political scientists Robert Putnam and David Campbell, in their best-selling book *American Grace*, argue that religious communities remain a locus for healthy negotiation of the political difference that continues to polarize America, in part because as communities they create social networks in which people can (must) learn to live together with people who hold different convictions than they do. I think they're right about that. And I think those of us in the Church can play a particularly helpful role.

Despite its many subdivisions, the Christian Church is still arguably the largest social network in the United States. Committed together on an issue such as civility in public life, we have the potential to exercise enormous political presence. But before we can mobilize our fellow Christians and cooperate on achieving this social good, we need to right our own house. Those of us who are Protestant Christians know acutely well that we have trouble living with difference within our own churches. We position ourselves as leadership communities for civility in public life only when we begin to model it in our own lives together. And to do that, we need to see living with difference as a theological imperative, on par with those other deep convictions we hold that cause us to be estranged from one another.

When I wrote *In Defense of Civility*, I wrote it for a public audience, and so I made my pitch for religion's inclusion in public life and potential for leadership in historical and philosophical terms. But today I want to sketch out a theology, rooted in Reformed sources and principles, for living together with our difference. I want to claim that there is a mandate in Christian tradition for staying together, even with our difference, and there are theological resources in the Reformed tradition for guiding what living together in difference might look like, that don't come at the expense of a commitment to pure witness to the Gospel. This theology for living together in difference is constructed around the same civic virtues I lifted up in *In Defense of Civility*—humility, patience, integrity, and mutual respect. What I want to argue is that these four virtues not only are consistent with civic responsibility, they also are expressions of Christian faithfulness, rooted in quintessential Reformed convictions about God, the human condition, the implications of sin and grace, and the nature of the Church.

1
2 **Virtues for Living Together**

3 Among the Reformed virtues that compel us to stay together in our difference, the chief virtue among them
4 is **humility**. That great American theologian Dirty Harry once said, "A man has got to know his limitations."
5 Reformed Christian men and women know those limitations well, and those limitations make them humble.
6 Humility is a Reformed virtue because it falls out of a Calvinist anthropology, a theological understanding of
7 what it means to be human. What it means to be human is to be created as a masterpiece of God's wisdom
8 and benevolence, but created nonetheless, with all of the limitations that come from being creatures and not
9 God. What it means to be human is to be created as a reflection of God's goodness, only to have marred
10 that reflection through pride and disobedience, relegating ourselves to a perpetual condition in which we
11 turn from the good in favor of inordinate self-interest. As Christians, we call that read on the human
12 condition "original sin."

13
14 Sin aggravates the restrictions that naturally come from our finitude and limits the confidence we can have
15 in our knowledge of what is good and right. Sin makes us myopic, distorting our pursuit of truth with the
16 astigmatism of self-interest and limited perspective. Calvin certainly acknowledged the way that sin distorts
17 our understanding of God, ourselves, and the ideal human life. He wrote that Scripture provides a set of
18 "spectacles" that help correct our vision on those fronts. But even for the Christian who enjoys the
19 advantage of grace and the guidance of Scripture, the effects of sin remain, so that it is easy to
20 overestimate the confidence with which we understand God's intentions for us and the world.

21
22 So even among Christians who profess a shared love of Jesus Christ and an affirmation of his Lordship,
23 even among Christians who share a commitment to Scripture as the authoritative source for Christian belief
24 and living, there can be honest disagreement about how to apply those commitments in this world. Peter
25 and Paul can disagree about the importance of circumcision into the Jewish community as a prerequisite for
26 entry into Christian fellowship. Protestant Christians can disagree on whether the Lord's Supper is properly
27 understood as a memorial to a past event with eternal significance or the occasion of a spiritual realization
28 of that significance. Calvinists can disagree on whether loans with interest are a violation of biblical
29 prescription or allowable with appropriate safeguards. Presbyterians can disagree on whether the War in
30 Afghanistan was legitimate by the standards of just war, unjustified by those standards, or unjustified
31 because the standards themselves are a perversion of the priority on peace that Jesus himself stood for.
32 Presbyterians can disagree on whether the Christian standards of peace, love, and justice and the biblical
33 importance of Israel dictate that our church comes down on the side of Israel or the Palestinians in that
34 entrenched conflict. Presbyterians can disagree on what Christian notions of justice require in our current
35 economic crisis. Do they require government simply to ensure structural reforms in the financial sector to
36 provide equal opportunity for all citizens to reap the benefits of capitalism, or do they require government to
37 guarantee a basic minimum income for everybody, underwritten by public aid?

38
39 Christians can disagree on all kinds of fronts regarding the implication of their shared allegiance to Jesus
40 Christ and deference to Scripture. Those disagreements can be at the level of detail or in our broader
41 positions on divisive issues like economics, war, and sexuality. But none of this disagreement surprises the
42 community of Reformed Christians, because we subscribe to a theological anthropology that reminds us
43 that there are limits to what we can know about what is right and true, because we are all sinful, finite
44 human beings. So Calvinist anthropology dictates that humility be a part of our character. And a theological
45 commitment to humility requires that we make a habit of regularly admitting the limits to our own
46 understanding. Humility urges each of us to admit that we could be wrong in matters small and significant.
47 You could be wrong, or I could be wrong, but in the meantime we live together and struggle together in our
48 shared commitment to Christ, muddling through our understanding of what that obligates us to be and do in
49 this world.

50

1 This acknowledgement of our limitations encourages humility, but it also encourages our second virtue,
2 **patience**. A Reformed commitment to the virtue of patience is rooted both in our humble admission that our
3 opponent may be more in the right than we are, but also in a Calvinist affirmation of the sovereignty of God.
4 If a Reformed Christian anthropology convinces us that we cannot be overly assured that we understand
5 God's wishes more properly than someone else, Reformed theology also assures us that God is the final
6 arbiter of truth and that God will make the right and the good known at the end of human history. Until that
7 time, we pursue the truth, but our tradition also commends a certain amount of patience with the slow pace
8 of human understanding, with the mysteries of God, and with the dissenting views of others. "But we appeal
9 to you, brothers and sisters... Be at peace among yourselves. And we urge you, beloved, to admonish the
10 idlers, encourage the faint hearted, help the weak, be patient with all of them" (1 Thessalonians 5:13-14,
11 NSRV).

12
13 As Karl Barth and others have put it, Christians are uncomfortably aware that we live in the "now, but not
14 yet." We live in the interim between the accomplishment of God's reign and its realization. And in this
15 interim, we have no choice but to be patient with a certain amount of moral and theological uncertainty and
16 disagreement, even in the church. In this interim, we have no choice but to be patient with the plodding pace
17 of truth's unfolding, even in the church.

18
19 When we humbly and patiently engage others in conversation, despite sometimes intense disagreements, it
20 gives us the opportunity to display another Christian virtue, **integrity**. A person of integrity is someone who
21 is true to herself and her convictions, when it is convenient but also when it is not. Integrity is the kind of
22 consistency of character the apostle commends in 2 Timothy, when he urges Christian evangelists faced
23 with changing cultural tides and "itching ears" to "proclaim the message; be persistent whether the time is
24 favorable or unfavorable; convince, rebuke, and encourage, with the utmost patience in teaching" (2
25 Timothy 4:2, NSRV). We expect the person of integrity to be allergic to hypocrisy and unafraid of prevailing
26 winds. We expect someone of integrity to represent himself and his opponents with honesty. We expect the
27 Christian with integrity to defend her perception of the truth with the kindness and charity we know to be
28 Jesus imperatives. The Christian with integrity is true to faith and morals, in season and out of season.

29
30 The exercise of patience, humility, and integrity toward our fellow Christians as we wallow through our
31 shared finitude and truncated knowledge is itself a reflection of the fourth virtue essential for living together
32 in disagreement, **mutual respect**. I hesitate to use the term "mutual respect," because it doesn't sound
33 very, well, theological. It sounds instead like a value rooted in a kind of Jeffersonian Enlightenment
34 philosophy. But I can't come up with a better term for the idea I'm trying to capture here, and the idea itself
35 is deeply rooted in Christian theology. Respect for other human beings is an important corollary to the
36 doctrines of creation and grace. Genesis tells us that God made us in God's image. For more than twenty
37 centuries, Christian theologians have been trying to identify what it is about human beings that reflect the
38 image of God. Is it our physical resemblance, our rationality, our morality, or the fact that we are
39 fundamentally social beings? Regardless of your favorite interpretation, the idea that we are made in the
40 image of God represents the fundamental value every human being ought to be afforded. Calvin tells us that
41 sin seriously distorts that image of the divine, yet we remain reflections of something valuable, something
42 worthy of respect, even more so because God chooses to grace us despite the hideousness of our sin. In
43 the face of extreme differences, in the presence of deep disagreements, we nonetheless show respect for
44 one another out of respect for the *imago dei* and in imitation of the grace God extends to each of us.

45
46 And if God's creative benevolence and gratuitous grace demand that we respect one another as human
47 beings, how much more should we convey respect, kinship even, for one another within the church?
48 Perhaps that's the term we should use for this virtue, kinship, for the regard it implies is more than a generic
49 deference. It is an investment in the well-being of the other, even the other who stands for substantially the
50 opposite of what you think is right for the church. "This is my commandment, that you love one another as I
51 have loved you" (John 15:12, NSRV). The commandment isn't to love those members of Christ's community

1 who substantially agree with you on important issues, with an escape clause for one's theological
2 opponents. The commandment doesn't ask us to love those who are most like us, and abandon those who
3 aren't. We are commanded to love one another, as Christ has loved each one of us. Period. In that love
4 commandment, as much as in the reflection of *imago dei*, lies the imperative for us to bind ourselves to one
5 another in Christian kinship, even in the face of important disagreements.

6
7 One way that Christians can display this commitment to kinship, along with the corresponding virtues of
8 humility and patience, is with a promise to *listen* to each other, especially to sisters and brothers who
9 disagree with them. Sometimes we in the Church are pretty good at listening to one another, sometimes not.
10 But listening is an expression of all three of these virtues, and it's an essential practice in a community
11 committed to living together with difference. Much of the world around us claims that shouting matches and
12 personal attacks count as "debate." Christian humility and patience and kinship, by contrast, insist that we
13 listen to our theological opponents, taking the time to really hear what they believe, why they believe it, and
14 what they find mistaken or hurtful in our own convictions. We listen this way in the hopes that we might learn
15 from them, because we are humble enough to recognize that we have no corner market on Christian truth.
16 We listen this way as an exercise in patience, confident that the God of history will reveal everything to us in
17 God's time, which gives us the room to fumble through together with our partial understandings. Most of all,
18 we listen this way as a expression of kinship and respect for our conversation partner, that no matter how
19 much we disagree with them we honor them as a fellow Christian and child of God.

20
21 That honor we show them does not necessarily require endorsement of their beliefs. That's why I've
22 approached this question as one regarding living together in disagreement. Not resolving, ignoring,
23 obliterating, or triumphing over our disagreement, but living with it. This is the hard part of living in a
24 pluralistic democracy. This is the hard part about living in a church with different conceptions of the Gospel
25 truth. But precisely because it is our hard reality, it is the challenge placed before us. And I believe the four
26 virtues of civility I've outlined this morning—among other moral habits—give us a chance to navigate that
27 difference faithfully.

28 29 **Christian Forbearance**

30 Ultimately, I believe living with disagreement in Christian faithfulness is a biblical project. Scripture gives a
31 name (or at least some translations of it do) to the project, a term I've become increasingly fond of:
32 **forbearance**. "Forbearance" literally means to delay a negative reaction to another's action, inaction, or
33 presence, to tolerate or indulge another. In the Bible, forbearance sometimes depicts God's relationship with
34 us; divine grace is God's abdication of a negative reaction to our sinful actions. Correspondingly, then, the
35 New Testament virtues often include forbearance as a component of Christian character. As God exercises
36 forbearance toward us, so we ought to exercise forbearance toward others. And that forbearance is often
37 more specifically characterized as patience, gentleness, humility, and self-control toward others whom we
38 perceive to be in the wrong.

39 In light of what we have said about the claims of Calvinist anthropology, theology, and a doctrine of
40 grace, it seems appropriate to suggest that Reformed virtue requires a certain willingness to
41 tolerate those who claim to share our allegiance with Jesus Christ but understand the implications
42 of that allegiance in very different ways. Given that we must admit the limits to our own confidence
43 in what we believe right and true, given that God has assured us that God will make clear that truth
44 in God's own time but that we must be patient with that time, given that we acknowledge something
45 of value in every person, certainly every Christian, regardless of the errors we believe them guilty
46 of, it seems appropriate to extend our fellow Christians the benefit of our doubt, our tolerance, even
47 in matters of stark disagreement.

48
49 "Do not judge, and you will not be judged; do not condemn, and you will not be condemned. Forgive, and
50 you will be forgiven; give, and it will be given to you" (Luke 6:37-38a).

1 Christian forbearance acknowledges that in our quest to protect the unity of the church, we may find
2 ourselves sharing fellowship with sisters and brothers whom we believe hold incorrect convictions on
3 important matters of faith and morals. But the discovery of that disagreement should not automatically lead
4 to a break in our fellowship. Instead, there is a place for Christian forbearance, for tolerating the
5 disagreement, for tolerating what we personally consider error in the church. This commendation of
6 forbearance is not just a reflection of our realistic theological anthropology. It is also a reflection of our
7 ecclesiology. For the Reformed tradition has always acknowledged a distinction between the perfection of
8 the invisible church and the muddiness of the visible church. The Reformed tradition has always
9 acknowledged that the visible church will always be a mixture of wheat and tares, right thinking and
10 misguided theology, and that we are specifically commanded by Jesus himself not to be overly zealous in
11 ripping out the weeds (or separating ourselves from them), so as not to endanger the garden itself.
12

13 When I'm not talking about civility and respectful disagreement, I'm a student of Roger Williams, that 17th
14 century Puritan who managed to get himself kicked out of the Massachusetts Bay Colony and consequently
15 formed the colony of Rhode Island and became America's first prominent voice for religious freedom.
16 Interestingly, what got Roger Williams booted from the Bay Colony was not just (or even primarily) his
17 insistence that the powers of church and state should be separate. What got him into trouble with his fellow
18 Puritans was his ecclesiology. The Puritans had transplanted themselves to the New World in order to
19 construct a holy society as a beacon of righteousness to the Christian world. But most of them had no
20 intention of renouncing their parent church, the Church of England. Instead, their colony was meant to
21 continue their efforts to reform their church from within. But Williams disagreed with this tactic, and the
22 theology behind it. Williams believed that the fundamental characteristic of the church was its purity, and
23 that in order to maintain their purity Puritan congregations had to sharply and explicitly denounce the Church
24 of England and remove themselves to their own fellowship. For Williams, the Puritan Christians could not be
25 real Christians as long as they shared fellowship with the sin-laden Church of England.
26

27 John Cotton, one of the religious leaders of the Bay Colony, strongly disagreed. And among his reasons for
28 disagreeing was his insistence that Williams subscribed to a bad ecclesiology. Cotton pointed to the Bible,
29 pointed to Jesus' parable of the wheat and tares, pointed to Paul's plea for unity within the churches he
30 wrote to, and he charged Williams with threatening the unity and health of God's church in his misguided
31 zeal for purity. He wrote this to Williams:

32 We confess the errors of men are to be contended against, not with reproaches, but the sword of the Spirit;
33 but on the other side, the failings of the Churches (if any be found) are not forthwith to be healed by
34 separation. It is not surgery, but butchery, to heal every sore in a member with no other medicine but
35 abscission from the body.ⁱ
36

37 Cotton insisted that theologically it was a more faithful balance of concern for purity and concern for unity to
38 work for the reform of the church from within, rather than breaking the church apart. "The way of separation
39 is not a way that God hath prospered," he wrote. As a scholar, I am a big fan of Roger Williams's writings on
40 freedom of conscience and the separation of church and state. But on the question of ecclesiology, John
41 Cotton was the more faithfully Calvinist of the two. While separation into pure enclaves may be a strategy
42 consistent with Anabaptist principles, John Cotton echoes more accurately the Reformed tradition's
43 acknowledgement that the visible church will always be a weedy garden, and our challenge is to carefully
44 tend to that garden from within.
45

46 Toward that effort, Christian forbearance is essential. Faced with the reality of a church that hosts
47 substantial disagreement, an ability to tolerate that disagreement is key to protecting the wholeness and
48 health of the church. Faced with a church in which we cannot be completely certain of the truth but can be
49 certain that some of us will hold different interpretations of the truth of Christ, the Reformed virtues of

1 humility, patience, kinship, and forbearance are essential to our faithfulness. As the Apostle pleaded with
2 the Ephesians,
3 I therefore, a prisoner in the Lord, beg you to lead a life worthy of the calling to which you have been called,
4 with all humility and gentleness, with patience, bearing with one another in love, making every effort to
5 maintain the unity of the Spirit in the bond of peace. There is one body and one Spirit, just as you were
6 called to the one hope of your calling, one Lord, one faith, one baptism, one God and Father of all, who is
7 above all and through all and in all.ⁱⁱ
8

9 **Life Together in the Midst of Disagreement**

10 What I'm trying to sketch here today is a view of the virtuous life from a Reformed perspective, one that
11 recognizes living together in disagreement as a challenge worth taking up, and a challenge that doesn't
12 necessarily require us to ignore our responsibility to live as holy community for Christ. Nothing in what I've
13 described so far requires that we abandon the pursuit of truth in our commitment to live together. In other
14 words, to use language I have used elsewhere, civility does not require passivity. It does not require that we
15 substitute for our deeply held convictions a kind of noncommittal nicety. Civility requires respectful dialogue,
16 but respectful dialogue can include respectful disagreement. Rather than insisting on an "I'm OK, you're OK"
17 suspension of conviction, living together in disagreement allows room for us to say to one another, "I think
18 I'm right, and I think you're wrong," as long as that sentiment is followed up by another. "I think I'm right and
19 that you're wrong, but I love you as a Christian sister or brother, and I do not question your place next to
20 mine at the Table of Christ."
21

22 Living together in disagreement does not require us to ignore or whitewash that disagreement, and
23 it does not require us to abandon the pursuit of righteous truth. How can we abandon that pursuit?
24 It is part of our mission as the Body of Christ in the world! It is one of the Great Ends of the Church,
25 the preservation of the truth! How can we abandon such an awesome responsibility! Living
26 together in disagreement according to the virtues I have explored today still leaves us with the
27 room, and the responsibility, to pursue, defend, and debate what is right and true for the Christian
28 life, and for the common good. We can pursue, defend, and debate truth. We should discuss,
29 study, and pray together. We should challenge one another to defend our convictions in the light of
30 Scripture and the wonderfully complex tradition of Christian witness. We should confront one
31 another when we perceive distance between our convictions and the words and pattern of our Lord
32 Jesus. We can defend, preserve, and pursue truth.
33

34 But in order to discharge that responsibility without abandoning our obligation to the unity of Christ's Church,
35 we must find ways to pursue the truth in debate and disagreement that is respectful, patient, humble, and
36 peaceful. We must find ways to live together in disagreement, dogged in our pursuit of what is right while
37 bound together in grace and love. We must find ways to live together in respectful disagreement.
38

39 Now we descendants of Calvin must admit that this gift of respectful dialogue is not necessarily what we're
40 known for. Calvinism doesn't exactly enjoy a reputation for patience and tolerance in the popular
41 imagination. And that reputation isn't entirely based on misunderstanding. Our tradition is littered with
42 Servetuses, Anne Hutchinsons, and Roger Williamses—people who were cast out into proverbial or actual
43 wildernesses (or worse) because they fostered disagreement about what others considered essential truths.
44 Calvinism is widely regarded as an intolerant, impatient tradition of intellectual and theological hubris whose
45 adamancy and confidence in its conception of truth leaves bodies of dissent in its wake.
46

47 But we know better, don't we? We know that ours is a complex and complicated tradition, one in which
48 diversity of theological understanding has been a consistent characteristic. We know that despite the
49 simplistic depiction of our tradition in American public culture, there is more to our tradition than public
50 burnings, witch hangings, and five-point litmus tests. We know that the great minds of Reformed Christianity
51 have commended humility, patience, respect, and forbearance as theological virtues of deep importance.

1 And we know that when we take those theological values together, they give shape to a Reformed
2 imperative for living together in unity and peace, despite and even because of our disagreement. We know
3 better—we know that deep commitment to the virtues of civility are as Calvinist as the intolerance for which
4 we are sadly better known.

5 Because we know this, we are well positioned to own those virtues in our own congregations, and in our
6 denomination, and then to offer them as a gift of grace to the world. If we Presbyterians figure out some way
7 to live virtuously in disagreement among ourselves, we position ourselves to exhibit the Kingdom of God
8 faithfully to the world. Committing to unity in disagreement in the Church, we then can lead the world to
9 similar commitments to civility. All of us know that our greater culture needs some leadership in this area.
10 Our politics, media, and social culture are plagued with incivility, with an utter incapacity to have constructive
11 conversation about the matters that divide us, without dissolving into hostility, name-calling, and scare
12 tactics.

13
14 But I firmly believe that once Christian communities like ours clean up their own penchant for incivility, we
15 will be well positioned to bring a message of peace to the world. Learning to live together in disagreement in
16 the church, we offer that template to the world around us. To do so, in the end, is part of our ministry of
17 reconciliation to the world. The PC(U.S.A.) Confession of 1967 instructs us that

18
19 To be reconciled to God is to be sent into the world as [God's] reconciling community. This
20 community, the church universal, is entrusted with God's message of reconciliation and share
21 [God's] labor of healing the enmities which separate [persons] from God and from each other.
22 Christ has called the church to this mission and given it the gift of the Holy Spirit. The church
23 maintains continuity with the apostles and with Israel by faithful obedience to [God's] call.ⁱⁱⁱ
24

25 Reinhold Niebuhr once wrote, "Whenever the followers of one political party persuade themselves that the
26 future of the nation is not safe with the opposition in power, it becomes fairly certain that the nation's future
27 is not safe, no matter which party rules. For such public acrimony endangers the nation's health more than
28 any specific policies."^{iv} Clearly in our national life we are at the moment Niebuhr once feared. But we in the
29 Christian Church hold an antidote to this disease. It is our conviction, it is our calling. Reconciled to God, we
30 are called to help God reconcile the world to God and itself. Beneficiaries of God's graceful forbearance, we
31 are called to share that Gospel with the world. This is our task as citizens and as people of faith.

32 ⁱ Cotton, correspondence, 220.

33 ⁱⁱ Ephesians 4:1-6.

34 ⁱⁱⁱ Confession of 1967, 9.31. Later the Confession states directly that "congregations, individuals, or groups of
35 Christians who exclude, dominate, or patronize their fellowmen, however subtly, resist the Spirit of God and
36 bring contempt on the faith which they profess" (9.44).

37 ^{iv} Reinhold Niebuhr, "Democracy and the Party Spirit" (1954), in *Love and Justice: Selections from the*
38 *Shorter Writings of Reinhold Niebuhr*. Louisville: Westminster John Knox Press, 1957, 66.

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ADDENDUM F

**PERMANENT JUDICIAL COMMISSION
OF THE GENERAL ASSEMBLY
PRESBYTERIAN CHURCH (U.S.A.)**

Wilber Tom, David Hawbecker, and)
Thomas Conrad,) **Decision and Order**
Appellants (Complainants),) Remedial Case 221-03) v.))
Presbytery of San Francisco,)
Appellee (Respondent).)

Arrival Statement

This filing before the Permanent Judicial Commission of the General Assembly (GAPJC or this Commission) is an appeal of a Decision of the Permanent Judicial Commission of the Synod of the Pacific (SPJC) rendered on March 23, 2012. The Notice of Appeal was received by the Stated Clerk of the General Assembly on May 10, 2012.

Jurisdictional Statement

This Commission finds that it has jurisdiction, that Appellants have standing to file the Appeal, that the Appeal was properly and timely filed, and that the Appeal states one or more of the grounds for appeal under D-8.0105.

Appearances

Wilbert Tom, David Hawbecker, and Thomas Conrad (Appellants), were represented by JoAn Blackstone. Presbytery of San Francisco (Presbytery or Appellee) waived its appearance at the hearing and chose to rely on its written submissions.

History

Presbytery formed a workgroup on December 11, 2008, to develop a policy regarding any church located in the Presbytery that wished to be dismissed from the Presbyterian Church (U.S.A.) (PC(U.S.A.)). Scott Farmer (Farmer), Senior Pastor, Community Presbyterian Church of Danville (Danville) served on that workgroup. While the exact date is unknown, it is not disputed that Danville had begun discussions regarding the dissolution of their relationship with the PC(U.S.A.) at the time of Farmer's selection to the policy workgroup.

Presbytery, at its September 15, 2009, stated meeting, adopted what was known as the "Gracious Dismissal Policy" (GDP) as a result of the recommendation of the policy workgroup. While the GDP acknowledged *Book of Order* G-8.0201 (now G-4.0203) (the Trust Clause) that provides all property held by or for a congregation "is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.)," the GDP interpreted the Trust Clause "to reflect the church's organic unity as it fulfills 'The Great Ends of the Church,' strengthening its ability to guide its member churches into their witness to the broader community." The GDP found that it was "the right of a congregation to seek and request dismissal with its property to another reformed denomination." The GDP also set forth that the Trust Clause was not to be used as a weapon to threaten civil action against a congregation over issues of conscience.

To mitigate financial impact on mission and ministry of Presbytery, the GDP requested the congregation seeking dismissal to pay Presbytery annually for five years: (1) funds to offset declining per capita and (2) funds to offset a declining contribution to the mission budget. The GDP did not mention payment of any other funds to Presbytery, such as payment for the value of the congregation's real property and other assets.

1
2 Five months after the adoption of the GDP by Presbytery, the session of Danville, of which Farmer was
3 moderator, notified Presbytery in February 2010 of its intention to seek dismissal to the Evangelical
4 Presbyterian Church (EPC). Pursuant to the GDP, a Presbytery Engagement Team (PET) was appointed by
5 Presbytery during its stated meeting on April 13, 2010, to work with the session and congregation of
6 Danville to effect reconciliation, if possible, or to negotiate the terms of the dismissal. Also pursuant to the
7 terms of the GDP, Danville formed a Special Committee of the Congregation (SCC), on which Farmer
8 participated, to negotiate with PET. During a called congregational meeting on September 12, 2010,
9 Danville voted to seek dismissal from the PC(U.S.A.) pursuant to the terms negotiated by PET and SCC.
10 The terms of the negotiation were subject to approval by Presbytery.

11
12 According to the testimony of members of PET, the GDP did not include a requirement to consider the value
13 of the congregational property for the use and benefit of the PC(U.S.A.). Under the terms of the final
14 agreement reached with PET, Danville agreed to make a lump sum payment of \$108,640 to Presbytery to
15 compensate for declining per capita. Additionally, Danville agreed to pay \$42,000 per year for five years to
16 support targeted PC(U.S.A.) ministries, missions and ministers. No other monies were contemplated or
17 discussed by PET with SCC.

18
19 At its November 9, 2010, stated meeting, Presbytery conditionally approved the terms of the dismissal as
20 set forth by PET and SCC. The resolution provides:

21
22 The effective date of [Danville's] dismissal will be November 10, 2010. If there is no stay or filing of a
23 complaint during a 90-day waiting period, consistent with the interval
24 identified in the Presbyterian Church (U.S.A.) *Book of Order* for the filing of stays and
25 complaints, full implementation will occur on February 9, 2011.

26 At that same meeting, Presbytery voted to suspend the GDP. Subsequently, Presbytery adopted a new
27 GDP which is not relevant to this appeal.

28
29 On February 2, 2011, within the 90-day time frame approved by Presbytery, Appellants filed a remedial
30 complaint against Presbytery with the SPJC. On June 4, 2011, SPJC answered all the preliminary questions
31 affirmatively under D-8.0105. An amended complaint was filed on October 14, 2011.

32
33 Trial was held on March 22, 2012. At the beginning of the trial, Appellants moved to disqualify a
34 commissioner pursuant to D-7.0401b(2), alleging that the commissioner was predisposed to rule against
35 Appellants as evidenced by the "tenor of his comments" set forth in an October 6, 2011, email. The motion
36 was denied by SPJC.

37
38 During the trial a number of documents were offered for inclusion in the record. These documents included
39 the PC(U.S.A.)'s *Amicus Curiae* Brief before the California Supreme Court and the Annual Statistical Report
40 of Danville which had been sent to the Stated Clerk of Presbytery. The moderator sustained Presbytery's
41 objections to the admission of these documents. The Appellants objected to the admission of other
42 documentary evidence, including an email from a PET member summarizing her conversation with a
43 representative of the Department of Constitutional Services within the Office of the Stated Clerk. Appellants'
44 objections were overruled.

45 Additionally, while questioning a witness, a commissioner stated, "The agreement that you struck between
46 the Presbytery and CPC Danville, my home church, also referred to as CPC, so Central, however, has
47 several points in it with subpoints." Neither party made an objection regarding disqualification of this
48 commissioner at that time for any possible conflict of interest, if the commissioner meant by his comment
49 that Danville was his "home church."

50 On March 23, 2012, SPJC ordered that the action of Presbytery on November 9, 2010, dismissing Danville
51 pursuant to the terms of the agreement, be affirmed.

1
2 On May 7, 2012, Appellants mailed their Notice of Appeal to the GAPJC and all other appropriate recipients.
3 During the Presbytery stated meeting on May 8, 2012, the PET reported that the new implementation date
4 of the agreement would fall between May 21 and May 26, 2012. Appellants believe that PET, at this stated
5 meeting, was aware of the Notice of Appeal to the GAPJC.
6

7 On May 18, 2012, the GAPJC issued its preliminary order finding that it had jurisdiction, that the Appellants
8 had standing to file the Appeal, that the Appeal was properly and timely filed, and that the Appeal stated one
9 or more of the grounds for appeal under D-8.0105. Notice of such GAPJC decision accepting the Appeal
10 was timely mailed to the parties. On May 21, 2012, Presbytery executed quitclaim deeds to Danville and
11 Danville paid the per capita and mission funds pursuant to the agreement.
12

13 **Specifications of Error**

14
15 *Specification of Error No. 1: (Appellants' Specification of Error No. 1) The proceedings of the Synod*
16 *Permanent Judicial Commission (SPJC) were irregular, in that the decision is inconsistent with substantial*
17 *evidence from the testimony of witnesses at the trial, that in determining the terms of its dismissal of a large*
18 *suburban church the Presbytery of San Francisco (Presbytery) failed to consider or to understand the*
19 *meaning of the property trust clause (G-4.0202, formerly G-8.0201) or that the church property in question*
20 *was in fact unequivocally owned by the Presbyterian Church (U.S.A.).*
21

22 This Specification of Error is sustained.

23
24 *See the rationale below Specification of Error 7.*
25

26 *Specification of Error No. 2: (Appellants' Specification of Error No. 10) The SPJC erred in constitutional*
27 *interpretation, in that it failed to apprehend or give effect to the plain meaning of the language of the express*
28 *trust now at G-4.0203 (formerly G-8.0201) in the context of a church seeking dismissal, that all property held*
29 *by a congregation "is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.)."*
30

31 This Specification of Error is sustained.

32
33 *See the rationale below Specification of Error 7.*
34

35 *Specification of Error No. 3: (Appellants' Specification of Error No. 11) The SPJC erred in constitutional*
36 *interpretation, in that it failed to consider or give effect to a relevant Authoritative Interpretation (AI) of the*
37 *Book of Order (Request 9-88), an answer provided by the General Assembly of 1988 on the*
38 *recommendation of the Advisory Committee on the Constitution (ACC) which, in the context of a*
39 *presbytery's response to a church seeking dismissal, interprets the property trust clause to require proper*
40 *consideration to be given to the interests of the Presbyterian Church (U.S.A.) as provided in Chapter VIII.*
41 *This AI goes on to say, "in particular, G-8.0201 recognizes the principle that all property for or by a particular*
42 *church is held in trust for the use and benefit of the Presbyterian Church (U.S.A.) Thus the Presbyterian*
43 *Church (U.S.A.) is a party in interest when a presbytery takes action with respect to a request to dismiss a*
44 *church with its property."*
45

46 This Specification of Error is sustained.

47
48 *See the rationale below Specification of Error No. 7.*
49

50 *Specification of Error No. 4: (Appellants' Specification of Error No. 12) The SPJC erred in constitutional*
51 *interpretation, in that it failed to consider or give effect to a subsequent AI of the property trust clause, in an*

1 answer provided by the General Assembly in 1989 on the recommendation of the ACC: "When dealing with
2 a request by a church for dismissal with its property pursuant to G-11.0103i and G-11.0103y, the presbytery
3 is responsible for exercising the express trust provisions of G-8.0201 recognizing and protecting the
4 interests of the Presbyterian Church (U.S.A.). Separate consideration should be given to the questions of
5 dismissing the congregation, the disposal of property, and the relationships of ministers of Word and
6 Sacrament." "Each request for dismissal should be considered in the light of the particular situation and
7 circumstances involved."
8

9 This Specification of Error is sustained.

10
11 See the rationale below Specification of Error No. 7.

12
13 Specification of Error No. 5: (Appellants' Specification of Error No. 13) The SPJC erred in constitutional
14 interpretation, in that it disregarded testimony of members of the Presbytery's PET who had negotiated the
15 terms of dismissal of the CPCD and whose recommendation the Presbytery had adopted. This testimony
16 demonstrated, among other things, a consistent failure to understand the meaning of the property trust
17 clause as expressed in the Book of Order, a failure to have read or considered relevant Authoritative
18 Interpretations of the Constitution, an apparent failure to understand that the PC (U.S.A.) owned the church
19 property, a failure to grasp the fact that a transfer of the real property without consideration amounted to a
20 gift, an exclusive reliance on the Presbytery's previously approved dismissal policy as understood by
21 members of the PET, a failure to understand how to apply the trust clause other than in the context of
22 specific process steps in the policy, and a belief that the policy precluded even having a discussion about
23 having the church property remain in the hands of the denomination or asking for any payment for the
24 property upon its transfer.

25
26 This Specification of Error is sustained.

27
28 See the rationale below Specification of Error No. 7.

29
30 Specification of Error No. 6: (Appellants' Specification of Error No. 14) The SPJC erred in constitutional
31 interpretation, in that it upheld the Presbytery's action as being within its discretion as trustee of the church
32 property, based on Presbytery's contention that the transfer of the property without consideration would
33 serve "the Great Ends of the Church" and further the "total ministry and witness for Christ," thus making any
34 further recognition of the property trust unnecessary or inappropriate.

35
36 This Specification of Error is sustained.

37
38 See the rationale below Specification of Error No. 7.

39 Specification of Error No. 7: (Appellants' Specification of Error No. 15) The SPJC erred in constitutional
40 interpretation, in that its decision would indicate that a presbytery has unfettered discretion with respect to
41 church property being used by a congregation seeking dismissal to another Reformed denomination, while
42 the Book of Order places the fiduciary and related responsibilities of a trustee of the property on the
43 presbytery.

44
45 This Specification of Error is sustained.

46
47 Presbytery voted to approve the transfer of the valuable Danville property unless a complaint or stay was
48 filed within 90 days. A complaint was so filed. Following the ruling by SPJC, a new implementation date for
49 the agreement was set. In the interim, an appeal was filed to this Commission and accepted with a
50 preliminary order being entered May 18, 2012. Nevertheless, on May 21, 2012, Presbytery executed a
51 quitclaim deed to Danville before this Commission was able to conduct the hearing on this appeal.

1
2 Presbytery, having transferred title while this case was pending, argued that the transfer of title renders the
3 case moot because the quitclaim deed had been signed and could not be revoked.
4

5 Notwithstanding the transfer of title, in cases where circumstances prevent a remedy, this Commission may
6 exercise its declaratory authority to provide guidance to lower councils and prevent future violations. *Daniel*
7 *J. McKittrick v. The Session of the West End Presbyterian Church* (Remedial Case 215-5, 2003).
8

9 The *Book of Order* provides in G-8.0201 (now G-4.0203) that:

10 All property held by or for a congregation, a presbytery, a synod, the General Assembly, or the Presbyterian
11 Church (U.S.A.), whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated
12 association, and whether the property is used in programs of a congregation or of a higher council or
13 retained for the production of income, is held in trust nevertheless for the use and benefit of the Presbyterian
14 Church (U.S.A.).
15

16 Under the Trust Clause, a presbytery's discretionary authority to determine property rights, while broad,
17 must be guided by the presbytery acting as a fiduciary for the benefit of the PC(U.S.A.), the beneficiary of
18 the Trust Clause. A congregation's financial and all other assets are also understood to be covered by the
19 Trust Clause. *Chesterbrook Taiwanese PC v. National Capital Presbytery*, Remedial Case 217-12, 2006.
20

21 Under the fiduciary obligations inherent in the Trust Clause, a presbytery must take into consideration the
22 PC(U.S.A.)'s use and benefit of the property in every decision concerning its disposition. To comply with the
23 Trust Clause, the presbytery must consider the interest of PC(U.S.A.) as a beneficiary of the property.
24 Payments for per capita or mission obligations are not satisfactory substitutes for valuations of the property
25 held in trust. (G-4.0203)

26 The Trust Clause reflects our understanding of the church as a communion of saints across time, with
27 responsibilities both to those who came before and those who will follow. When a congregation seeks to
28 leave the PC(U.S.A.), it is breaking what is often a significant historic relationship; it is also departing from a
29 fellowship in which its officers have participated, by whose polity they have pledged to be governed, and
30 with which many members may feel bonds of affection.
31

32 Based on an examination of the record, this Commission finds that the GDP developed by Presbytery, its
33 implementation, and SPJC in its trial decision, failed to duly consider the economic interests of the
34 PC(U.S.A.). Such consideration is essential. SPJC's exclusion of documents which were the most
35 convincing evidence of the position of PC(U.S.A.) in regard to the Trust Clause and of the financial position
36 of Danville, strongly supports the allegation of erroneous interpretation. Failure to consider the property
37 value and the PC(U.S.A.)'s beneficial interest in the property was a fatal omission of the trustee's duty to the
38 PC(U.S.A.).

39 The justification given by Presbytery for dismissal of the Danville church with property, which included only
40 "Great Ends of the Church" and avoidance of litigation, was erroneously upheld by SPJC. While certainly
41 valid, such considerations alone are not sufficient to satisfy the due diligence requirement imposed by the
42 Trust Clause. SPJC erred in finding that due consideration had been given to the interest of the PC(U.S.A.)
43 as the trust beneficiary under the *Constitution*. Due diligence, of necessity, will include not only the spiritual
44 needs of the congregation and its circumstances, but an examination of the congregation's financial position
45 and the value of the property at stake. It is undisputed that Presbytery failed to make such an examination.
46 SPJC erred in failing to require that financial due diligence be undertaken by Presbytery.
47

48 *Specification of Error No. 8: (Appellants' Specification of Error No. 2) The proceedings of the SPJC were*
49 *irregular, in that one of its commissioners made a comment, before a witness could answer a question, to*
50 *the effect that the attorney-client privilege would preclude answering the question, and cast doubt on the*
51 *witnesses' ability to waive the privilege.*

1
2 This Specification of Error is not sustained.

3
4 There was no error in having the question of attorney-client privilege raised by a commissioner. If the
5 moderator was incorrect in finding that the witness could not waive the privilege, such ruling was harmless
6 because ultimately the witness was allowed to testify concerning the information objected to.

7
8 *Specification of Error No. 9: (Appellants' Specification of Error No. 3) The proceedings of the SPJC were*
9 *irregular, in that in questioning a witness one of its commissioners made reference to, and quoted, a*
10 *provision of the Book of Order that was not in effect at the time of the disputed action (G-4.0201), thus*
11 *providing misleading support for the Presbytery's position.*

12
13 This Specification of Error is not sustained.

14
15 References to provisions of the *Book of Order* are not evidence. They may be incorrect or untimely but they
16 have no impact without a determination or decision being based on the provisions that are considered.

17
18 *Specification of Error No. 10: (Appellants' Specification of Error No. 4) The proceedings of the SPJC were*
19 *irregular, in that one of its commissioners belatedly revealed, near the conclusion of the trial in which he had*
20 *materially participated as described at 2. and 3., above and at other times during the proceedings, that the*
21 *"Danville church" (the church that was to have been dismissed by the Presbytery under the disputed terms),*
22 *was his home church. In addition, there is nothing from the record that would indicate other than the same*
23 *commissioner's full participation in the SPJC deliberations that followed the trial, despite the appearance of*
24 *a significant conflict of interest.*

25
26 This Specification of Error is not sustained.

27
28 Having reviewed the record, it is clear the commissioner was not referring to Danville as his home church.
29 Support for this conclusion can be found in that there was no objection or question of conflict of interest
30 raised by anyone after his statement.

31
32 *Specification of Error No. 11: (Appellants' Specification of Error No. 5) The SPJC erred in declining to*
33 *receive as proper evidence the Amicus Curiae Brief of Clifton Kirkpatrick et al. in support of the position of*
34 *the Episcopal Church before the Supreme Court of California in the Episcopal Church Cases. This brief sets*
35 *forth the official legal position of the Presbyterian Church (U.S.A.) with respect to church property as*
36 *provided in the property trust clause in the Book of Order.*

37
38 This Specification of Error is sustained.

39
40 Failure to receive the *Amicus Curiae* Brief into the record was an abuse of discretion in that it was a clear
41 statement of the legal position of the PC(U.S.A.) as it related to the Trust Clause. Recognition of the legal
42 position of the PC(U.S.A.) as the beneficiary under the Trust Clause is integral to any presbytery analysis
43 concerning disposition of church property.

44
45 *Specification of Error No. 12: (Appellants' Specification of Error No. 6) The SPJC erred in declining to*
46 *receive as proper evidence the Annual Statistical Report for the Community Presbyterian Church of Danville*
47 *(CPCD), which was sent by its Clerk of Session to the Stated Clerk of the Presbytery of San Francisco.*
48 *Appellants believe this report provides useful information concerning the number of members and financial*
49 *strength of CPCD, matters which the Presbytery failed to consider but should have considered in negotiating*
50 *the terms of its dismissal.*

1 This Specification of Error is sustained.

2
3 The failure to receive the report on Danville was an abuse of discretion because it provided relevant
4 information which should have been considered as part of the dismissal.
5 *Specification of Error No. 13: (Appellants' Specification of Error No. 7) The SPJC erred in receiving as proper*
6 *evidence a copy of an E-mail communication from a member of the Presbytery Engagement Team (PET),*
7 *the ad hoc committee that was charged with negotiating the terms of dismissal with representatives of*
8 *CPCD, to the other members of the PET, describing her telephone conversation with a third party, despite*
9 *her testimony that there was no follow-up discussion of its contents on the part of the PET and hence no*
10 *indication that the PET based its actions on that conversation or E-mail message.*

11
12 This Specification of Error is not sustained.

13
14 There was no abuse of discretion by SPJC in receiving such evidence.
15 *Specification of Error No. 14: (Appellants' Specification of Error No. 8) The SPJC erred in receiving as*
16 *proper evidence a copy of an E-mail communication from a member of the PET to the other members of the*
17 *PET in which she related her understanding of the reasons for the CPCD Sessions' desire to leave the*
18 *PC(U.S.A.). At no time was any evidence testimony produced to suggest that the Presbytery's terms of*
19 *dismissal were influenced in any way by the matters discussed in that communication.*

20
21 This Specification of Error is not sustained.

22
23 There was no abuse of discretion by SPJC receiving such evidence.

24
25 *Specification of Error No. 15: (Appellants' Specification of Error No. 9) For the reasons stated at 10*
26 *(Appellants' 4) and 14 (Appellants' 8), above, there was a manifestation of prejudice in the conduct of the*
27 *case.*

28
29 This Specification of Error is not sustained.

30
31 This Commission did not sustain either Specifications of Error No. 10 or No. 14 (Appellants' No. 4 and No.
32 8). Therefore, there was no manifestation of prejudice as a result of the conduct alleged in those
33 Specifications of Error.

34 35 **Decision**

36 When the lower council's actions cannot be undone, this Commission may exercise its declaratory authority
37 to provide guidance to lower councils and to prevent future violations.

38 When a congregation seeks dismissal under G-11.0103i (now G-3.0301a), it is the responsibility of the
39 presbytery to fulfill its fiduciary duty under the Trust Clause. This fiduciary duty requires that the presbytery
40 exercise due diligence regarding the value of the property of the congregation seeking dismissal. Due
41 diligence, of necessity, includes not only an evaluation of the spiritual needs of the congregation and its
42 circumstances but also financial analysis of the value of the property at stake. Payments for per capita or
43 mission obligations are not satisfactory substitutes for the separate evaluation of the value of the property
44 held in trust.

45 46 **Order**

47 IT IS THEREFORE ORDERED that the Decision of the Synod of the Pacific Permanent Judicial
48 Commission is affirmed in part and reversed in part as set forth above.

49 IT IS FURTHER ORDERED that the Stated Clerk of the Synod of the Pacific report this Decision to the
50 Synod of the Pacific at its first meeting after receipt, that the Synod of the Pacific enter the full Decision

1 upon its minutes, and that an excerpt from those minutes showing entry of the Decision be sent to the
2 Stated Clerk of the General Assembly.

3 IT IS FURTHER ORDERED that the Stated Clerk of the Presbytery of San Francisco report this Decision to
4 the Presbytery of San Francisco at its first meeting after receipt, that the Presbytery of San Francisco enter
5 the full Decision upon its minutes, and that an excerpt from those minutes showing entry of the Decision be
6 sent to the Stated Clerk of the General Assembly.

7
8 **Absences and Non-Appearances**

9 Commissioner Mary Charlotte McCall was not present and did not participate in this decision. Commissioner
10 Patrick Notley did not participate in this decision.

11
12 **Concurring Opinion of H. Clifford Looney and Terry Epling**

13 We concur in the majority decision.

14
15 Transfers of property remain within the discretion of Presbytery but the Presbytery must be mindful of the
16 interest of the PC(U.S.A.) in maintaining the presence of the denomination to meet the needs of that
17 affected Community including that portion of the church membership that wishes to remain within the
18 PC(U.S.A.).

19
20 We also join in the majority's conclusion that the language of the Gracious Dismissal Policy adopted by the
21 Presbytery of San Francisco did not require adequate consideration of property retention issues. The needs
22 of future congregations, the involved debt, the probability that a substantial number of dissenting members
23 may be enabled to continue a PC(U.S.A.) congregation would compel retention of a property or equity
24 facilitating those or similar interests are all matters to be considered to be involved in the Presbytery
25 trustee's decision. The Gracious Dismissal Policy did not require the PET to deal with those aspects of the
26 dismissal decision.

27
28 However erroneous the omissions of the GDP, and the construction given by its PET, it may well have been
29 within the discretion of the Presbytery to dismiss the Danville church with its property.

30
31 Many factors other than the attempt to be "gracious" with the Danville congregation may have been
32 considered. Those include:

33
34 This Danville congregation acquired these assets and had been paying on them and had been successful in
35 meeting the need of a Presbyterian witness for the Christian faith in this community for many years;

36
37 The church had tried development of other PC (U.S.A.) churches in the area without success;

38 Only 4% of the congregation voted against the dismissal decision;

39 The PET felt, apparently with substantial basis, that the needs of the community for Presbyterian witness to
40 the faith would be met by this church as it was constituted, and that no plan for an additional church was
41 presently feasible, so that there was no need to use any of the equities of the property interests of the
42 church for that purpose; and

43 that no resources of the denomination had been used in the form of loans, nor was there any remaining
44 indebtedness which was not being assumed by the Danville church.

45 In short, there may have been no apparent reason to require retention by the PC (U.S.A.) of any property
46 interest. With the evidence in that stature, the burden of proof that the Complainant would had to have met
47 to show an abuse of discretion by the Presbytery would have been heavy.

48

1 The testimony of Lois Quick (record p. 262 & 286) indicates that the properties were encumbered by about
2 three million dollars in debt that the Danville congregation agreed to pay in accepting the property. Rev.
3 Kathy Runyeon indicates at page 174 of the record that the Presbytery had no competing plans for the
4 property.

5
6 The facts here presented to the PET are not ones that suggest that there would be substantial benefit from
7 retaining the property. What the Presbytery did in securing additional mission and per capita payments may
8 or may not have been sufficient to "balance the books" in this particular scenario, but it was within their
9 discretion once they exercised due diligence and considered all the factors inherently required by the
10 fiduciary duty of a trustee.

11
12 **Certificate**

13 We certify that the foregoing is a true and correct copy of the decision of the Permanent Judicial
14 Commission of the General Assembly of the Presbyterian Church (U.S.A.) in Remedial Case 221-04,
15 Wilbert Tom, David Hawbecker, and Thomas Conrad, Appellants (Complainants), v. Presbytery of San
16 Francisco, Appellee (Respondent), made and announced at Louisville, KY this 28th day of October 2012.
17 Dated this 28th day of October, 2012.

18
19 _____
20 Bradley C. Copeland Moderator
21 Permanent Judicial Commission of the General Assembly

22 _____
23 Jay Lewis, Clerk
24 Permanent Judicial Commission of the General Assembly

25 I certify that I did transmit a certified copy of the foregoing to the following persons by Federal Express Next
26 Day Air, directing C. Laurie Griffith to deposit it in the mail at Louisville, KY, this 28th day of October, 2012.
27 JoAn Blackstone, Counsel for Appellant (Complainant)
28 Linda Lee, Committee of Counsel for Appellee (Respondent)
29 Stated Clerk, Synod of the Pacific
30 Stated Clerk, Presbytery of San Francisco
31 General Assembly Permanent Judicial Commission

32 I further certify that I did transmit a certified copy of the foregoing to the Stated Clerk of the General
33 Assembly of the Presbyterian Church (U.S.A.) by delivering it in person to Joyce Lieberman, on October 28,
34 2012.

35 _____ Jay Lewis, Clerk
36 Permanent Judicial Commission of the General Assembly

37 I certify that I received a certified copy of the foregoing, that it is a full and correct copy of the decision of the
38 Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.), sitting during
39 an interval between meetings of the General Assembly, in Louisville, KY on October 28, 2012 , Remedial
40 Case 221-04 Wilbert Tom, David Hawbecker, and Thomas Conrad, Appellants (Complainants), v.
41 Presbytery of San Francisco, Appellee (Respondent),, and that it is the final judgment of the General
42 Assembly of the Presbyterian Church (U.S.A.) in the case.
43 Dated at Louisville, KY on October 28, 2012.

44 _____
45 Joyce Lieberman, Assistant Stated Clerk
46

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ADDENDUM G

Required Reporting and Written Documentation by the PNT

Background:

The GA PJC ruling in the *Tom v. Presbytery of SF* case, even though it referred to a dismissal policy that the Presbytery of SF had already rewritten and replaced, still made some authoritative determinations as to what must be considered in creating a dismissal policy. In particular, the PJC ruled that

- Payment of per capita going forward was not sufficient in considering the financial aspects of the dismissal.
- That in a motion for dismissal, the PNT must consider and must demonstrate that it has considered the Presbytery's fiduciary or trustee responsibilities in granting dismissal. Those trustee responsibilities include a consideration of the property value, a consideration of the PC(U.S.A.)'s beneficial interest in the property, the size of the Congregation and its financial strength, the pastoral care and transition of the members, the clergy and the interns, and also the exploration of the possibility of a schism whereby a portion of the Congregation might want to remain within the PC(U.S.A.).
- That the property value considerations cannot be based upon a mandatory formula- i.e. the PNT must be able to consider other options for property valuation as well.

Required Written Reporting:

Our present dismissal policy requires that the PNT must keep written notes of all of its conversations with the Congregation and with any SCC (should it be formed), and to make timely and written reports to Leadership Council, and to Presbytery. Within those reporting requirements, the PNT must specifically provide a written report at least at the following two junctures in the process, including these informational requirements.

Report #1: A written report to Leadership Council must be made at the time that the PET determines that a Congregation will go forward with forming an SCC, or at the time that the PET determines that the Congregation will not pursue dismissal.

This report must include notes or a narrative that demonstrates the course of the discussions with the Congregation and the key points discussed that caused the PET to arrive at its conclusion to implement the next step required by the policy process, whether that step is to go forward in forming an SCC, or that step is not to go forward with dismissal process at that time.

Report #2: A written report must accompany any recommended Terms of Dismissal.

This report must include, at a minimum, the demonstration that the PNT has considered the Presbytery's fiduciary responsibilities by addressing a) the consideration of the property value, describing how and why the value of the property was determined, b) the size of the Congregation and its financial strength, c) the consideration of the PC(U.S.A.)'s beneficial interest in the property, d) the concern for pastoral care and transition of the members, e) the concern for pastoral care and transition of the clergy, f) the concern for pastoral care and transition of any interns, g) the exploration of the possibility of a schism whereby a portion of the Congregation might want to remain within the PC(U.S.A.), h) a justification for how the body to which the church would be dismissed is considered to be a Reformed body.

1 **ADDENDUM H**

2 **Authority and Procedures for Administrative Commissions responsible for Alternate Dismissal**
3 **Procedures for Churches Not Engaging in Consultation Process**

4 **A. Administrative Commission**

5
6 1. Pursuant to G-3.0109b(5), the Moderator of Presbytery shall nominate and the Presbytery shall elect, an
7 Administrative Commission (“AC”). The primary task of the AC is to “attempt to inquire into and settle the
8 difficulties” of the church in question. The authority of the AC will be specifically defined for the situation.
9 Powers of the AC may include authorization for the AC to assume jurisdiction in whole or in part over the
10 affairs of the church with the power to act in place of the Session.
11

12 2. The Stated Clerk of Presbytery will conduct a training session for members of the AC to apprise them of
13 the powers that are delegated to the AC, and the facts and circumstances that prompted the formation of
14 the AC.
15

16 3. Powers granted to the AC by the Presbytery may include the authority for the AC:

17
18 a. to determine whether a schism exists within the Congregation (see the Book of Order, G-4.0207);
19

20 b. If schism exists, to determine if one of the factions of the church represents the true church within the
21 PC(U.S.A.) (see the Book of Order, G-4.0207);
22

23 c. to make recommendations to the Presbytery to dissolve pastoral relationships or to place pastors on
24 administrative leave. When requisite authority is given by the Presbytery, the AC may dissolve pastoral
25 relationships (see the Book of Order, G-3.0109b);
26

27 d. to request and require production of records of the Session (see the Book of Order, G-3.0108b), “If a
28 higher council learns at any time of any irregularity or delinquency by a lower council, it may require the
29 lower body to produce any records and take appropriate action”;

30 e. to examine and copy whatever records of the church that may be relevant (e.g., how money is held, title
31 to property, title policies, surveys, insurance documents, financial statements and records, budgets, tax
32 returns, bank and account statements, mortgages or other loan documents, corporate articles, bylaws, and
33 charters – especially changes in any of these);
34

35 f. to assume original jurisdiction (in whole or in part) in any case in which it determines that the Session is
36 unable or unwilling to manage wisely the affairs of its church (see Book of Order, G-3.02 and G-3.0201);
37

38 g. to freeze the assets of the church and approved expenditures;
39

40 h. to secure the building, grounds and other property of the church for the use and benefit of the PC(U.S.A.);
41

42 i. to determine if and when a meeting of the Congregation is appropriate for the purpose of voting to seek
43 dismissal from the PC(U.S.A.);
44

45 j. to call that congregational meeting, and provide the moderator and clerk for that meeting and to report
46 results of the congregational vote to the Presbytery;
47

1 k. to authorize oversight of the church, its ministry and its property by a group within the Congregation that
2 has been identified as “the true church within the PC(U.S.A.)” (G-4.0207);
3

4 l. to propose to the Presbytery any recommendation for the disposition of the property held by or for the
5 church, and the assumption of the liabilities of the church, if there is no group within the Congregation that
6 has been identified as the true church within the PC(U.S.A.), or if such group cannot or does not assume
7 responsibility for the church, or its property or liabilities;
8

9 m. to consider the conformity with the PC(U.S.A.) (in matters of doctrines and order) of the proposed
10 receiving body or denomination to which a Congregation has, or may, request dismissal, and to propose to
11 the Presbytery any recommendation regarding same for the Presbytery’s consideration and action; and
12

13 n. to fulfill any other responsibilities as assigned by the Presbytery, or as may be necessary or appropriate
14 in connection therewith or in connection with those set forth above.
15

16 **B. Congregational Meeting**

17
18 1. The AC shall keep the Presbytery informed of significant actions taken and shall make recommendations
19 directly to the Presbytery for all actions that require the Presbytery’s approval.
20

21 2. One of the powers of the AC is to determine when or if a meeting of the Congregation is appropriate for
22 the purpose of voting to seek dismissal from the PC(U.S.A.) to another Reformed denomination. Prior to any
23 such vote, the leadership of the church shall furnish to the AC written verification that the other Reformed
24 denomination will receive the church upon dismissal from the PC(U.S.A.). The Presbytery or AC may
25 request any other written information about that denomination, such as doctrine, governance and
26 permanence. The call for the congregational meeting shall be in accordance with the notice and quorum
27 requirements of that Congregation.
28

29 3. A request for dismissal shall be by written ballot with at least 75% of the active membership of the
30 Congregation voting, as recorded in the Annual Statistical Report for the immediately preceding year, with at
31 least 75% of members voting validating desire to be dismissed. By such vote the Congregation must adopt
32 a resolution requesting that the Presbytery dismiss the church to a specified Reformed denomination that
33 PC(U.S.A.) identifies as a Reformed body. The resolution shall specify whether dismissal is sought with all
34 or part of the church’s property or without the church’s property. If dismissal is sought with part of the
35 property, then the resolution shall specify the property to be retained.
36

37 **C. Disposition of Church Property**

38
39 1. Disposition of the property of the church shall be resolved in accordance with the provisions of G-4.0207
40 (Property of Congregation in Schism) and G-4.0208 (Exceptions) of the Book of Order.
41

42 2. A minority of the Congregation may choose to elect new church leadership and assume responsibility of
43 the property subject to the jurisdiction of the AC or sell the property to the majority with the approval of the
44 Presbytery
45

46 If the minority does not or cannot assume responsibility for the property within a reasonable period of time
47 (as determined by the AC), then the AC may recommend that the Presbytery dismiss or dissolve the
48 Congregation, or dispose of the property, or take other appropriate action.
49

50 3. The AC may consider the following options for the disposition of the church property if there is no faction
51 of the Congregation that can or does assume responsibility for the church property as a continuing

- 1 Congregation of the PC(U.S.A.):
2
3 a. Sell, transfer, lease or otherwise dispose of the property to a third party;
4
5 b. Retain the property for a new church development, or hold, use and apply the property for another
6 mission of the Presbytery;
7
8 c. Sell, lease or transfer the property to the membership of the dismissed Congregation upon terms
9 acceptable to the Presbytery on condition that the church is dismissed to another Reformed denomination.

10