

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SYNOD OF THE PACIFIC
PERMANENT JUDICIAL COMMISSION

Eric Parnell, Bruce McIntosh, Cordelia Shieh,
Margaret Gelini, Greg Roth, Marsha Roth,
Randy Young, and the Sessions of Walnut
Creek Presbyterian Church, First Presbyterian
Church of Concord, Contra Costa Korean
Presbyterian Church, Covenant Presbyterian
Church (Boise, ID), First Presbyterian Church
(Mansfield, Ohio), and the Presbyteries of
Santa Barbara and San Joaquin.

Complainants

v.

The Presbytery of San Francisco,

Respondent.

CASE NO: 09-04

COMPLAINANTS' TRIAL BRIEF

TABLE OF CONTENTS

I. Introduction 3

II. Statement of Facts 3

III. Specifications of Error. 7

IV. Basis for Argument in Biblical Theology, Polity, and Law 8

Biblical Theology (Faith) 8

Scripture and the biblical witness support the constitutional 8
 requirement.

Confessional tradition supports the constitutional requirement. 11

Repentance is a responsive act, a change of mind and action. 13

Presbyterian Polity 15

Principles of Church Order and Government support the 15
 constitutional requirement.

G-6.0106b, specifically, is consistent with Historic Principles. 21

There is a difference between a departure’s seriousness from 22
 a known standard and the essential nature of the standard
 itself

Presbyterian Law 24

A higher governing body’s review is necessary. 24

Bush et al v. Presbytery of Pittsburgh applies, despite the 25
 Authoritative Interpretation of G-6.0108 (2008).

The rule of Maxwell v. Presbytery of Pittsburgh applies: 26
 a declaration of intention not to comply is non-compliance.

V. Witnesses 28

VI. Request for Relief 29

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I.

INTRODUCTION

This remedial case raises the following issue: Is the fidelity/chastity requirement found in *Book of Order* section G-6.0106b a mandatory church-wide ordination standard San Francisco Presbytery cannot waive? If this Commission answers “yes,” then the relief sought must be granted, to nullify the action of the Presbytery to approve a candidate for ordination who declared an unwillingness to abide by this requirement.

The Presbytery of San Francisco decided on November 10, 2009, that a candidate’s serious departure from this ordination standard did not disqualify her from ordination. This action of presbytery was astonishingly “unPresbyterian” in light of what is commanded by Scripture, described in the Confessions, informed by our history, and set forth in the *Book of Order*. Indeed, the San Francisco Presbytery widely deviated from “the Holy Scriptures, the only rule of faith and manners” (G-1.0307) as interpreted by the standards of the church. It flagrantly violated a requirement of the *Book of Order*, an action that is unconstitutional (G-6.0106b). It broke covenant with the whole church, whose ordination standards the presbytery is charged with upholding, and disrupted the connectional nature of the PCUSA by disturbing its peace, unity, and purity (W-4.4003g).

II.

STATEMENT OF FACTS

Ms. Lisa Larges has been in the candidacy process for more than 23 years. Prior to coming to San Francisco Presbytery, she was a candidate for ordination in the Twin Cities Area Presbytery, but her ordination in Twin Cities was stopped by a ruling of the GAPJC. See *LeTourneau, et. al. v. Presbytery of Twin Cities Area*, Remedial Case 205-4, *Minutes*, 1993, ¶11.044.

She transferred her candidacy to San Francisco Presbytery in 1997. During her care process, the Committee on Preparation for Ministry was aware that she had entered into a same-sex

1 partnership (which ended in late 2007), which she described as a marriage “in all respects,”
2 including “sexual intimacy.” Further, upon this breakup, she was asked in CPM on December 5,
3 2007, if the parting reflected her repentance from sexual relations outside of marriage between a
4 man and a woman, and she said no, the parting was against her will, that is, she would still be in
5 that relationship if possible. She sought consideration by the CPM of her “Departure from G-
6 6.0106b” and approval for her ordination. On December 5, 2007, the CPM affirmed her readiness
7 for ordination in the context of this final assessment, taking the departure into account during its
8 deliberations (G-14.0450).

9 At the next stated meeting of the Presbytery of San Francisco, January 15, 2008, Ms. Larges’
10 departure was brought forward in accordance with the policy the Presbytery had adopted in May
11 2007. After a lengthy discussion of Ms. Larges’ departure, a vote was taken and sustained to
12 proceed to the rest of her examination for ordination, concluding that the departure did not
13 disqualify her. Believing this action was irregular, a Stay of Enforcement was secured and a
14 complaint filed with the Synod of the Pacific PJC.

15 A trial before the Synod PJC was held on March 20, 2009, *Naegeli et al v. Presbytery of San*
16 *Francisco*. The ruling held that a departure can be considered only within the context of the
17 examination for ordination (G-14.0482) which the January 15 discussion, it decided, was not.
18 The SPJC also “admonish[ed] the Presbytery to faithfully execute its constitutional obligations to
19 the entire church to enforce mandatory church wide ordination standards. If and when this
20 Candidate appears before the Presbytery for an examination for ordination, the Presbytery is
21 enjoined to be mindful of this admonition.”

22 An appeal was heard by the GAPJC on October 30, 2009. In its Decision and Order, the
23 GAPJC declined to give specific instruction to San Francisco Presbytery regarding its evaluation
24 of the Candidate’s departure during a future examination for ordination. However, the
25 commission affirmatively cited *Bush v Presbytery of Pittsburgh* (Remedial Case 218-10): “It
26 would be an obstruction of constitutional governance to permit examining bodies to ignore or
27 waive a specific standard that has been adopted by the whole church, such as the ‘fidelity and
28

1 chastity' portion of G-6.0106b, or any other similarly specific provision." (*Naegeli et al v.*
2 *Presbytery of San Francisco*, Remedial Case 219-11, p. 6).

3 A week later, on November 10, 2009, Presbytery of San Francisco conducted the
4 examination for ordination for Lisa Larges. Included in that examination for ordination was a
5 consideration of her Statement of Departure, which was the same departure she had declared in
6 January 2008 (and, indeed, in 1997).

7 The first motion before the Body was "to certify the call to Lisa Larges, as Minister
8 Coordinator of That All May Freely Serve (TAMFS), as a validated ministry, pending her
9 ordination as a minister of Word and Sacrament." Ms. Larges has held this position since 2007.
10 The Mission of TAMFS (from its website):¹

11 Called by the life and teachings of Jesus, compelled by our faith, and charged by
12 our conscience, we advocate for an inclusive church for all who are
13 disenfranchised a church that honors diversity and welcomes lesbian, gay,
14 bisexual, and transgender persons as full members full membership, which
15 includes eligibility for ordination to the offices of Elder, Deacon, and Minister of
16 Word and Sacrament.

17 TAMFS Commitment: That All May Freely Serve commits to actively resist and
18 transform structures and systems of injustice, joining in solidarity in making the
19 connections with those disenfranchised by racism, classism, sexism, heterosexism,
20 ageism, ablebodyism, gender identity oppression, eco-exploitation, militarism, and
21 all other structures of exploitation and oppression through the lens of our social
22 location, and to focus on the liberation of lesbian, gay, bisexual, and transgender
23 people from religious prejudice and exclusionary church policies.

24 After questioning the chair of Committee on Ministry, which brought the recommendation,
25 the Presbytery voted by written ballot. This motion passed by a vote of 157 to 147.

26 The Candidate then appeared before the presbyters to present her statement of faith and her
27 statement of departure. Members of the Presbytery were given the opportunity to question the
28 candidate regarding her faith, her views on theology, the Bible, the Sacraments, and the
government of the church (G-14.0482). In this context, her departure was questioned and
discussed, and she confirmed verbally that what she had written in her statement of departure

¹ <http://tamfs.org/about/> most recently accessed on June 15, 2010, but posted at the time of the Presbytery meeting November 2009, and recited to the body during that night's debate by an elder commissioner.

1 fully and accurately represented her views and intentions.

2 In her *Statement of Departure from G-6.0106b* (the “Statement of Departure”), a true and
3 correct copy of which is included in the record, the candidate stated her G-6.0108 “Freedom of
4 Conscience” departure as follows:

5 ... I am compelled by my conscience and charged by my faith to
6 firmly, clearly, and in every way declare that the provisions at
7 G-6.0106b are a mar upon the church and a stumbling block to its
8 mission. As a matter of faith, conscience and integrity **I can
9 neither actively concur nor passively submit** to this provision....

10 In my own life, while I affirm the moral values of fidelity and
11 chastity, **I will not and cannot claim chastity in singleness** unless
12 and until fidelity between two persons of the same gender within a
13 covenantal relationship is recognized.

14 By these statements, confirmed as accurate in her oral examination for ordination before the
15 Presbytery, the Candidate admitted that she does not live within the “chastity in singleness”
16 requirement unless it is redefined to include same-sex covenant relationships. She stated her
17 belief that the Scriptures on marriage fully allow covenantal relationships between same-gendered
18 persons.

19 Debate ensued, and speakers stood for and against the ordination of this Candidate. One
20 long-time member of presbytery said, “I don’t care what the Constitution says; we should ordain
21 this woman!” After her examination for ordination, the vote was taken by written ballot on the
22 motion “to sustain the examination for ordination, and, pending ordination, to enroll Ms. Larges
23 as a member of San Francisco Presbytery.” This motion passed, 156 to 138, with a total of 294
24 presbyters present and voting.

25 Immediately thereafter, before the meeting was adjourned, a protest was filed and 103
26 commissioners (more than the required one-third of those present when the action was taken
27 D-6.0103a(1)) signed a Stay of Enforcement request, which was granted by this Commission.

28 //

//

//

1 Believing that the Presbytery of San Francisco has addressed and corrected the procedural
2 error brought to light by *Naegeli et al v San Francisco Presbytery*, the Complainants bring the
3 matter before this Commission again for an answer to the substantive question, “Can this
4 presbytery be permitted to waive the fidelity and chastity requirement of G-6.0106b?”

5 **III.**

6 **SPECIFICATIONS OF ERROR**

7 **Specification of Error 1:** The Presbytery erred when it voted to approve the ordination of
8 candidate Lisa Larges, because her refusal to abide by the constitutional requirement of
9 G-6.0106b was equivalent to answering “No” to the fifth constitutional question for ordination,
10 “Will you be governed by our church’s polity, and will you abide by its discipline?” (W-4.4003e),
11 thus rendering her ineligible.

12 **Specification of Error 2:** The Presbytery erred when it found that the Candidate’s departure
13 from G-6.0106b, a church-wide requirement for ordination, was not a serious departure from
14 Reformed faith or polity.

15 **Specification of Error 3:** The Presbytery erred when it granted to the candidate a departure
16 from G-6.0106b, a mandatory church-wide ordination standard, because such an act obstructs the
17 constitutional governance of the church.

18 **Specification of Error 4:** The Presbytery erred when it granted to the candidate a departure
19 from G-6.0106b, a mandatory church-wide ordination standard, because departures can only be
20 granted with regard to the interpretation of Scripture, not conduct.

21 **Specification of Error 5:** The Presbytery erred when it granted to the candidate a departure
22 from G-6.0106b, a mandatory church-wide ordination standard, because it exceeds the bounds of
23 freedom of conscience for one who seeks to hold office in the PCUSA.

1 IV.

2 **BASIS FOR ARGUMENT**
3 **IN BIBLICAL THEOLOGY, POLITY, AND LAW**

4 The Presbytery of San Francisco ignored the admonition of this Commission (*Naegeli v. San*
5 *Francisco Presbytery*) and the caution of the GAPJC by acting unconstitutionally to approve the
6 ordination of a Candidate who will not abide by G-6.0106b.

7 The case is easily decided if this Commission takes at face-value that “shall” and “must”
8 both identify mandatory instructions within the *Book of Order* (see its Preface); that the
9 mandatory church-wide standard for ordination specified in G-6.0106b is based on a sound
10 biblical foundation and rests upon the teaching heritage of the church universal; that the
11 Candidate’s freedom of conscience has limits imposed by the Word of God, the essentials of faith
12 and polity, and the Church’s constitution; and that the Presbytery’s approval of this Candidate’s
13 ordination violates PJC instructions and precedent. But all of these concepts are disputed by the
14 Presbytery, which acted willfully and knowingly to defy the Constitution and instead declare
15 ready for ordination an ineligible individual.

16 To demonstrate just how unPresbyterian the Presbytery’s act was, we next turn to the
17 Scriptures and Confessions, the *Book of Order*, and Presbyterian law.

18 **Biblical Theology (Faith)**

19 ***Scripture and the biblical witness support the constitutional requirements.***

20
21 The Scriptures and their interpretation by the standards of the Church do not support the
22 assertions made by this Candidate and affirmed by the Presbytery that same-sex behavior, even
23 within a covenanted relationship, is reflective of the will of God.

24 The theological worldview regarding sexuality begins in Genesis 1, in which the creation of
25 Adam and Eve establishes the God-giveness, goodness, and necessity of sexual
26 complementarity:

27 //

1 ¹⁸Then the LORD God said, “It is not good that the man should be alone; I will make him
2 a helper as his partner” . . . ²¹So the LORD God caused a deep sleep to fall upon the man,
3 and he slept; then he took one of his ribs and closed up its place with flesh. ²²And the rib
4 that the LORD God had taken from the man he made into a woman and brought her to the
5 man. ²³Then the man said,
6 “This at last is bone of my bones
7 and flesh of my flesh;
8 this one shall be called Woman,
9 for out of Man this one was taken.”
10 ²⁴Therefore a man leaves his father and his mother and clings to his wife, and they
11 become one flesh” (Gen. 2:18,21-24).

12 By quoting this verse (Matt. 19:5), Jesus himself “declared God’s will expressed in God’s
13 purposeful creation of maleness and femaleness, as evidence of God’s intention that males and
14 females enter into complementary, creative sexual unions that bind them together in a divinely
15 intended and designed new form of life.”²

16 The Apostle Paul also cited this Scripture in his explanation of the mutual submission and
17 complementarity of a man and woman in marriage (Eph. 5:20-33). Paul’s theological argument
18 against idolatry in Romans 1 uses the example of homosexual relations to illustrate the futile
19 worship of creation over the creator. According to Paul, same-sex relations of any kind are clear
20 examples of a diversion from God’s design for humanity.

21 Meanwhile, there is no direct biblical justification *for* same-sex relations.

22 However, there is sufficient biblical data to identify homosexual relations as contrary to the
23 will of God. The plain meaning of Scripture reveals in all cases without exception that same-sex
24 relations—along with other diversions from God’s revealed will—bear heavy spiritual
25 consequences:

26 Lev. 18:22, “You shall not lie with a male as with a woman; it is an
27 abomination.”

28 Lev. 20:13, “If a man lies with a male as with a woman, both of them have
 committed an abomination; they shall be put to death; their blood is upon
 them.”

 Rom. 1:26-27, “For this reason God gave them up to degrading passions. Their
 women exchanged natural intercourse for unnatural, and in the same way also

² Marion Soards, *Scripture & Homosexuality: Biblical Authority and the Church Today* (Westminster Press, 1995), 28.

1 the men, giving up natural intercourse with women, were consumed with
2 passion for one another. Men committed shameless acts with men and received
in their own persons the due penalty for their error.”

3 1 Cor. 6:9, “Do you not know that wrongdoers will not inherit the kingdom of
4 God? Do not be deceived! Fornicators, idolaters, adulterers, male prostitutes,
5 sodomites, thieves, the greedy, drunkards, revilers, robbers—none of these will
inherit the kingdom of God.”

6 1 Tim. 1:10, “This means understanding that the law is laid down not for the
7 innocent but for the lawless and disobedient, for the godless and sinful, for the
8 unholy and profane, for those who kill their father or mother, for murderers,
9 fornicators, sodomites, slave traders, liars, perjurers, and whatever else is
contrary to the sound teaching that conforms to the glorious gospel of the
blessed God . . .”

10 From the first proscription of homosexual practice in the Levitical law to the last in Paul’s
11 letters, there is no variation, equivocation, or softening of the biblical trajectory—that is, no
12 indication of a possible “redemptive movement” unfolding in the Scripture’s timeframe—
13 regarding same-sex practice.³ For this reason, the church must hold to its long-standing view that
14 sexual relationships outside of heterosexual marriage are incompatible with the manner of life
15 required of church officers.

16 “Both Leviticus and Paul understand, however, that accepting, affirming, and
17 living out a particular theological worldview means that there are acceptable
18 and unacceptable behaviors for those concerned to live in a positive relation to
19 God. The Bible is not a rule book, but it presents a way of looking at life that
holds some patterns of life to be unacceptable and other patterns of life to be
sanctioned by God.”⁴

20 Biblical interpretation that purportedly supports same-sex relations is a deconstruction of
21 Scripture’s worldview and a denial that the Scriptures prohibit even the best-case scenario: the
22 monogamous, loving, covenanted same-sex union for those who would seek office in the church.

23 The Presbytery of San Francisco appropriately gave the Candidate freedom to express her
24 conscience, but failed to evaluate her statement of departure as contrary to the Word of God.

25 ³ William J. Webb, *Slaves, Women, and Homosexuals: Exploring the Hermeneutic of Cultural Analysis*
26 (IVP Academic, 2001), 252.

27 ⁴ Soards, 57.

1 Despite lacking biblical support for its own view, the Presbytery asserts that the Church’s official
2 interpretation of Scripture’s witness is only one among many views; that in a pluralistic church in
3 which faithful presbyters differ, mutual forbearance should reign. But Complainants aver that the
4 position held by the Presbytery and the interpretation espoused by the Church are mutually
5 exclusive and cannot be held together as both acceptable. “No opinion can be either more
6 pernicious or more absurd than that which brings truth and falsehood upon a level, and represents
7 it as of no consequence what a [person’s] opinions are” (G-1.0304). When given a choice among
8 views, it is the Presbyterian’s duty to submit to the authority of the plain meaning of Scripture
9 and the longstanding interpretation of the church through two thousand years of history. In no
10 case is the interpretation of Scripture a matter of individual opinion when the church has spoken
11 in specifics such as G-6.0106b. (*BOC*, Second Helvetic Confession, 5.010 (55)).⁵

12 The content of the Candidate’s belief is not only a private interpretation of the Scriptures, but
13 it also reflects a serious departure from the Church’s interpretation of the Scriptures in matters
14 regarding sexuality, found in the *Book of Order* at G-6.0106b (the fidelity and chastity
15 requirement) and W-4.9001 (definition of marriage).

16 It is the responsibility of governing bodies in the evaluation of candidates for office to hold
17 fast to biblical truth, the Church’s “only rule of faith and manners” (G-1.0307). The Presbytery’s
18 approval was a failure to correct error in light of the Church’s teaching on sexuality. “It is
19 incumbent upon these officers, and upon the whole Church, in whose name they act, to censure or
20 cast out the erroneous and scandalous, observing, in all cases, the rules contained in the Word of
21 God” (G-1.0303). San Francisco Presbytery failed in this duty on November 11, 2009.

22 ***Confessional tradition supports the constitutional requirement.***
23

24 The confessional tradition of the PCUSA confirms the biblical witness, beginning in the
25 positive with affirmation of marriage between a man and a woman stemming from creation and
26 reiterating the prohibition of any sexual relations outside those bounds.

27 ⁵ All BOC citations are from *The Book of Confessions* (Louisville: Office of the General Assembly, 2002).

1 The Confessions state unequivocally that marriage is a holy union, established by God as the
2 union between a man and a woman and the only proper context for sexual expression. For
3 instance:

4 *The Second Helvetic Confession, 5.246 (114)*

5 MARRIAGE. For marriage (which is the medicine of incontinency, and
6 continency itself) was instituted by the Lord God himself, who blessed it
7 most bountifully, and willed man and woman to cleave one to the other
8 inseparably, and to live together in complete love and concord (Matthew
9 19:4ff). Whereupon we know that the apostle said: "Let marriage be held
10 in honor among all, and let the marriage bed be undefiled" (Heb. 13:4). . .
11 [forbidding polygamy]

12 *Westminster Confession, 6.131 (148)*

13 1. Christian marriage is an institution ordained of God, blessed by our
14 Lord Jesus Christ, established and sanctified for the happiness and welfare
15 of mankind, into which spiritual and physical union one man and one
16 woman enter, cherishing a mutual esteem and love, bearing with each
17 other's infirmities and weaknesses, comforting each other . . . Etc.

18 *Westminster Confession, 6.133 (150)*

19 1. Marriage is a union between one man and one woman, designed of God
20 to last so long as they both shall live.

21 *The Larger Catechism, 7.249 (218)*

22 Q. 139. What are the sins forbidden in the Seventh Commandment?

23 A. The sins forbidden in the Seventh Commandment, besides the neglect
24 of the duties required, are: adultery, fornication, rape, incest, sodomy, and
25 all unnatural lusts; [footnote cites Rom. 1:26f, Lev. 20:15-16] all unclean
26 imaginations, thoughts, purposes, and affections; etc. . .

27 *Heidelberg Catechism, 4.087 (43)*

28 Q. 87. Can those who do not turn to God from their ungrateful, impenitent
life be saved?

A. Certainly not! Scripture says, "Surely you know that the unjust will
never come into possession of the kingdom of God. Make no mistake: no
fornicator or idolater, none who are guilty either of adultery or of
homosexual perversion, no thieves or grabbers or drunkards or slanderers
or swindlers, will possess the kingdom of God." [Quoting 1 Cor. 6:9]

Heidelberg Catechism, 4.108 (47)

Q. 108. What does the seventh commandment teach us?

A. That all unchastity is condemned by God, and that we should therefore
detest it from the heart, and live chaste and disciplined lives, whether in
holy wedlock or in single life.

Q. 109. Does God forbid nothing more than adultery and such gross sins
in this commandment?

1 A. Since both our body and soul are a temple of the Holy Spirit, it is his
2 will that we keep both pure and holy. Therefore he forbids all unchaste
3 actions, gestures, words, thoughts, desires and whatever may excite
4 another person to them.

4 ***Repentance is a responsive act, a change of mind and action.***

5 The Presbytery is charged with evaluating a candidate's faith and manner of life during the
6 examination for ordination (G-6.0106a,b). A candidate need not be perfect, but if repentant of
7 personal actions and advocacy that contradict Scripture, a candidate is eligible for ordination, if
8 all other requirements are fulfilled.

9 However, this Candidate has not repented of past behavior contrary to the will of God (a
10 same-sex partnership lasting several years, during her Candidacy phase, and advocacy of same-
11 sex unions) nor has she resolved to "actively concur or passively submit"⁶ to the church decision
12 regarding the ordination eligibility of self-avowed, practicing homosexual persons. She, in fact,
13 has maintained her resistance over the 23 years she has been under care and confirmed it in
14 practice (see Minutes of the CPM, also known as Lisa Larges' "Book of Life" included in the
15 record), as evidenced by her service as an ordained Deacon in the PCUSA. Even during her final
16 examination for ordination, she declined to recant or to confess anything other than her
17 confidence that she was within the will of God. Seemingly unaware of the inconsistency she was
18 articulating, she said she loved the Scriptures and ignored no part of them in her decision-making.
19 The Presbytery failed to make note of her lack of repentance, required by G-6.0106b, and
20 approved her ordination anyway.

21 Repentance, for every officer of the church—indeed, every Christian—is an ongoing
22 spiritual response to the holiness of God and the realization of one's own sin. The gracious
23 kindness of God leads human beings to repentance (Rom 2:4), but human beings choose to repent
24 (or not) and do so summoning the help of the Holy Spirit. Repentance (*metanoia*) is
25 *a change of mind*, as it appears in one who repents of a purpose [s]he has formed
26 or of something [s]he has done (Heb. 12:17); especially the change of mind of
27 those who have begun to abhor their errors and misdeeds, and have determined to

27 ⁶ See footnote to G-6.0108.

1 enter upon a better course of life, so that it embraces both a recognition of sin and
2 sorrow for it and hearty amendment, the tokens and effects of which are good
deeds. [Thayer's Greek-English Lexicon of the New Testament]

3 The emphasis in μετανοέω and μετάνοια [Greek word translated "repent"]
4 seems to be more specifically the total change, both in thought and behavior, with
respect to how one should both think and act.
5 [Louw & Nida, Greek-English Lexicon of the New Testament]

6 John Calvin also observed two parts to the act of repentance: the "mortification of the flesh"
7 and the "vivication [or bringing-to-life] of the spirit" (*Institutes*, III.3.viii).⁷ The first step toward
8 obedience is to deny one's own nature, which is evil, and change one's mind about who will be at
9 the center of one's life; the second step is to live in "newness of life to correspond with the
10 righteousness of God" (*Institutes*, III.3.ix). This change of mind, and reorientation to God at the
11 center of one's life, is made possible by faith that is God's gift; and it results in a changed life, the
12 adoption of godly behavior that is made possible by the Spirit's power.

13 Repentance, therefore, is not a passively received gift, as if one must have to wait for the
14 Holy Spirit to work what is obviously God's will for any Christian; rather, repentance given by
15 God is a receptive act of the person, done under the conviction of the Holy Spirit in abhorrence of
16 sin, and with the Spirit's power to turn from disobedience to new, obedient life in Jesus Christ.

17 Repentance is indeed enabled by the Holy Spirit, but it does not follow that if a person feels
18 no need to repent it is because there is no need to do so. Spiritual blindness is a symptom of
19 human depravity well known to Presbyterians, and the capacity for self-deception goes back to
20 Eve herself. This is why the individual Christian and church officer needs the Church, which is
21 assigned the joyous duty to teach its members biblical truth and thereby shape their consciences
22 in a biblical direction. It is also why the penultimate step in the ordination process is the
23 examination for ordination (G-14.0482), which is the body's opportunity to ascertain not only the
24 Candidate's training, but also her Christian witness and the depth of her spiritual formation. In
25 the case of the PCUSA, the Church guides its candidates for office by (one specific instance)
26 interpreting the Bible's sexual ethic to proscribe any sexual relations outside of marriage between

27 ⁷ References to Calvin's *Institutes* are taken from *Institutes of the Christian Religion*, ed. John T. McNeill,
28 trans. Ford Lewis Battles, 2 vols. (Philadelphia: Westminster Press, 1960).

1 a man and a woman. San Francisco Presbytery failed in its duty to help this Candidate see her
2 error, change her mind, realign her life, or correct her teaching as a prerequisite to ordained
3 ministry.

4 **Presbyterian Polity**

5 ***Principles of Church Order and Government support the constitutional requirement.***

6 The Presbytery emphasizes one of the Historic Principles of Church Order, mutual
7 forbearance, as the overarching value to be applied in this case. The Historic Principles are indeed
8 helpful in sorting out the current dispute, and all eight are worthy of attention. They are found in
9 their entirety in G-1.0300 but summarized here:
10

11 **1. God alone is Lord of the conscience, and individual believers have the right to** 12 **their own judgment in matters of religion despite what the state might dictate. (G-1.0301)**

13 Freedom of conscience, a value dating back to the inception of the Westminster Confession,
14 was understood to give the individual citizen the courage of religious convictions even if
15 pressured by the state to believe or do otherwise. It was not in the minds of our forbears to allow
16 that same freedom within the ecclesiastical realm, where an individual is accountable for right
17 doctrine and godly behavior. From an historical perspective:⁸

18 “[As Jack Rogers has observed:] The Westminster Assembly was
19 called by Parliament to write a Reformed creed as the basis of unity for a
20 national church.⁹ Hence, the creed’s reference to “God alone” as “Lord of
21 the conscience” was not intended to grant license to individuals or groups
22 within the church to determine significant matters of faith or practice on
23 their own. The authors clarify this by stating that those who use the
24 pretense of liberty to oppose lawful ecclesiastical power may be called to

25 ⁸ Gary Watts, Vice President for Academic Affairs and Professor of Religion and Philosophy, Jamestown
26 College, “Conscience in Context,” first published in *reNEWS* (Presbyterians For Renewal, December 2001, 3-4).

27 ⁹ Jack Rogers, *Presbyterian Creeds: A Guide to the Book of Confessions* (Philadelphia: Westminster Press,
28 1985), 154.

Formatted: Indent: First line: 0.38", Line spacing: exactly 24 pt

1 account by the church (*BOC*, 6.110-6.111). The confession further notes
2 that “synods and councils” should “determine controversies of faith, and
3 cases of conscience” (*BOC*, 6.174). The freedom the Westminster
4 Confession defends is not freedom from the considered opinion of the
5 wider church body, but freedom from human traditions that are not based
6 squarely on the Word of God (*BOC*, 6.108-6.109).

7 By 1788 when the Synod of New York and Philadelphia included
8 this sentence concerning freedom of the conscience in the “Historic
9 Principles of Church Order” (G-1.0300, n.3), the historical context had
10 clearly changed. The pressing issue was now religious freedom from the
11 state.¹⁰ This body was concerned primarily with the freedom of churches
12 and associations of churches to determine their own doctrine apart from
13 state control. Hence the “rights of private judgment” asserted were
14 immediately interpreted in these words: “We do not even wish to see any
15 religious constitution aided by the civil power” (G-1.0301b).

16 The authors of the Westminster Confession envisioned a national
17 creed based squarely upon the Word of God rather than spurious human
18 traditions. The Synod of New York and Philadelphia sought a church
19 order free from civil control. Neither argued for the right of individuals
20 or groups within the church to pick and choose among significant
21 “doctrines and commandments” laid down by the wider body of which
22 they were a part.”

23 The Candidate’s freedom to interpret the Scriptures as she sees fit is not unbridled. She
24 voluntarily assumes some limits upon taking office and is held captive to the Word of God as
25 interpreted by the standards of the church (G-6.0108b). When beliefs and interpretations collide
26 in practice, Presbyterians debate the issue and, as a body, come to a conclusion intended to apply

27 ¹⁰ In New York, the Anglican Church had only just been disestablished in 1777. See Thomas A. Askew and
28 Peter W. Spellman, *The Churches and the American Experience* (Grand Rapids: Baker Book House, 1984), 69.

1 to the whole church. In this case, the conclusion resides in G-6.0106b, the ‘fidelity and chastity’
2 requirement for ordination. Those who take ordination vows put aside private prerogatives of
3 belief that contradict church teaching, and they promise to accept the Scriptures as God’s personal
4 Word, to receive and be instructed by the Confessions which mediate doctrinal disputes, and to
5 work with colleagues subject to the ordering of God’s Word and Spirit (W-4.4003b,c,e). This
6 process is in keeping with the Historic Principles of Church Government (G-1.0400) which state
7 that matters of controversy should “be finally decided by the collected wisdom and united voice
8 of the whole Church.”

9 Reformed tradition specifically, and Christian tradition in general, have always allowed for
10 freedom of the individual conscience in matters not essential to faith and practice.¹¹ But they have
11 also affirmed that Scripture is not of private interpretation (*BOC*, 5.010) so that in controversies
12 concerning essential matters, the private conscience must yield to the determination of the wider
13 body (*BOC*, 6.174; *BOO*, 6-1.0400, G-6.0108, n. 1).¹² In approving the departure statement of
14 the Candidate, the Presbytery allowed one person’s belief—the Candidate’s—to override the
15 church’s clear teaching and behavioral standard, crossing the limits of freedom of conscience and
16 abdicating its own responsibility to the whole church.

17 **2. The church is entitled to set requirements for ministers. (G-1.0302)**

18 Coexisting with the individual’s freedom of conscience is the body’s right to set standards.
19 “Every Christian Church, or union or association of particular churches, is entitled to declare the
20 terms of admission into its communion, and the qualifications of its ministers and members.” This
21 authority does not infringe upon the rights of other church bodies, since they are also free to
22 choose their own “terms.” Nor does it infringe upon the right of the individual, since she is free to
23 withdraw or to join a different body (G-6.0108, n. 1).

24 _____
25 ¹¹ Augustine notes that we may hold as “things indifferent” what is “clearly not contrary to the faith nor to
26 sound morality” and what “does not admit of final decision by the authority of Holy Scripture.” See Augustine, *Letter*
27 *54 in The Essential Augustine*, ed. Vernon J. Bourke (Indianapolis: Hackett, 1974), 162-63.

28 ¹² In speaking of the significance of church councils, John Calvin states that “when the bishops are
assembled, they can more conveniently deliberate in common what they ought to teach and in what form, lest
diversity breed offence” (*Institutes*, 4.9.xiii).

1 Relevant to the case at hand, the PCUSA has adopted G-6.0106b as one mandate for its
2 ministers and officers, and it is the duty of every governing body to uphold this requirement in the
3 examination of each candidate. San Francisco broke covenant with the Church by presuming to
4 waive this requirement.

5 **3. Church officers are appointed by Christ not only to preach and administer the**
6 **Sacraments but also to exercise discipline for the preservation of both truth and duty.**
7 **(G-1.0303)**

Formatted: Font:Bold

8 The exercise of discipline presumes that rules and boundaries exist, and that the Body has
9 responsibility to preserve both truth and duty within those bounds. “It is incumbent upon...the
10 whole church . . . to censure or cast out the erroneous and scandalous, observing, in all cases, the
11 rules contained in the Word of God” (G-1.0303). The rules and boundaries of faith and polity
12 include, but are not limited to, all constitutional requirements stated in mandatory language, as
13 defined in the Preface of the *Book of Order*. These constitute essentials of polity, and departures
14 from them cannot be allowed by a governing body (*Bush*, cited affirmatively in *Naegeli*).

15 The guidance given in G-6.0108b regarding freedom of conscience, alongside the Historical
16 Principles of Church Order, makes clear that an officer of the church has every right to *express* a
17 conscientious objection related to Scriptural interpretation, but this right of expression does not
18 guarantee that a requirement for ordination will be waived as a result. A departure declared is not
19 necessarily a departure granted. The consequence of unorthodox faith or practice may still
20 include denial of church office, which the Presbytery was obligated to do upon the completion of
21 this examination.

22 **4. Truth is in order to goodness; and there is an inseparable connection between**
23 **faith and practice. (G-1.0304)**

24 The point of knowing what is God’s will is to do it. The Candidate clearly stated that she
25 does not intend to comply with the ‘fidelity and chastity’ requirement, which has been determined
26 by the Church to be God’s will for Presbyterian church officers. Her Statement of Departure
27 confirms that she does not claim chastity in singleness. While she stated during her examination
28 that she honors Scripture, she is unwilling to act according to its teaching on sexual ethics and

1 therefore resists the Scripture’s role of promoting holiness. The Presbytery failed to discern this
2 disconnection between truth and goodness, violating another of our Historic Principles of Church
3 Order.

4
5 **5. While attentive to sound doctrine, we also believe that there are truths and forms**
6 **that faithful Christians disagree about, and in that case we should exercise mutual**
7 **forbearance toward each other. (G-1.0305)**

8 It is obvious that Presbyterians disagree on the matter of sexual relations outside of marriage
9 between a man and a woman, but the question before this Commission is whether it is a matter of
10 no consequence (for which mutual forbearance is an appropriate response) or whether it
11 represents an essential of faith and polity subject to the discipline of the Church. But the rules
12 that govern sexual practice are clearly stated in Scripture and also mandated in the Constitution,
13 thereby (on both counts) rendering them essentials for anyone who holds—or desires to hold—
14 office in the church.

15 Further, even in the 2006 Authoritative Interpretation of G-6.0108 (PUP-AI) provides that
16 “All parties should endeavor to outdo one another” not only “in honoring one another’s decisions,
17 according the presumption of wisdom to ordaining/installing bodies in examining candidates” but
18 also according the presumption of wisdom to “the General Assembly, with presbyteries’
19 approval, in setting standards.” One of those standards is G-6.0106b, and San Francisco
20 Presbytery, by waiving it in this case, failed to honor its covenant with the whole church. Mutual
21 forbearance is a two-way street: San Francisco Presbytery was supposed to trust that General
22 Assembly was wise to include ‘fidelity and chastity’ in our constitution as a church-wide
23 mandatory standard for ordination, and the wider Church must be assured that its trust is well-
24 placed that each ordaining body will examine each candidate mindful of its constitutional
25 obligations.

26 //

27 //

28 //

1 **6. Qualifications for Church officers are set forth in Scripture, but the election of a**
2 **minister in the PCUSA is conducted on behalf of the whole church by the governing body of**
3 **which the minister will be a member. (G-1.0306)**

4 This means that it is up to the Presbytery to properly interpret the Scriptural qualifications,
5 apply them in the examination of each Candidate, and discern whether the Candidate fulfills
6 them. It is not the role of the ordaining body to determine whether those standards are legitimate,
7 but whether the Candidate conforms to them. By her own statement, this Candidate departed from
8 scriptural and constitutional standards for fitness for office, and because this was a serious
9 departure (unequivocally stated, long-standing, complete rejection) from a church-wide
10 mandatory ordination standard (also unequivocally stated and long-standing), in this particular
11 case G-6.0106b, it revealed a failure to adhere to the essentials of Reformed faith and polity, thus
12 barring the Candidate from ordination. San Francisco Presbytery failed in its discernment of the
13 qualifications of the Candidate in light of this church-wide mandatory ordination standard.

14 **7. All Church power is derived from Scripture, which is the only rule of faith and**
15 **manners; governing bodies ought not to bind the conscience in virtue of their own**
16 **authority, and decisions should be founded upon the revealed will of God. (G-1.0307)**

17 The Church's power is derivative of the Scripture's authority, and its decisions should be
18 founded upon the revealed will of God as discerned by the body. The Church is responsible for
19 making decisions that are consistent with the Word of God; if it "pretends to make laws"
20 (G-1.0307) on its own outside of scriptural bounds, it is violating a basic principle of church order
21 and discrediting its practical authority in the lives of Presbyterians who are trying to do what the
22 Bible teaches. In the present case, what Scripture teaches us to believe and do (and not do) is
23 consistent, and as demonstrated above, the Church's corporate decision in the form of G-6.0106b
24 is in line with that biblical teaching. Therefore, a governing body such as San Francisco
25 Presbytery has no authority to discard or waive it, and by doing so becomes a law unto itself.

26 **8. Consistent discipline will bring peace, unity, and purity to the church. (G-1.0308)**

27 The fidelity/chastity requirement has been under nearly constant scrutiny since it was added
28 to the Constitution in 1996. Four attempts have failed to amend or remove the provision. This is

1 the third time this Candidate’s ordination has been judicially reviewed, each time essentially
2 focused on fidelity/chastity. This Commission has an opportunity to bring peace, unity, and
3 purity to the church on this issue by deciding this case according to our Presbyterian heritage,
4 grounded in the Scriptures as interpreted in the Confessions, and consistent with our Historical
5 Principles of Church Order. The case arrives this time without any procedural taint; it presents a
6 pure question of Constitutional governance. The historical foundation of church government
7 reminds us that clarity brings peace. Clarity founded in Scripture as explained by the Confessions
8 brings unity. And clarity based in the will of God is pure. This commission has the opportunity
9 to bring true peace, unity, and purity to the PCUSA by declaring the act of the San Francisco
10 Presbytery unconstitutional and void.

11
12 ***G-6.0106b, specifically, is consistent with Historic Principles.***

13 The fidelity and chastity requirement (G-6.0106b) is identified by its language usage, its
14 wording, and its interpretation by the General Assembly Permanent Judicial Commission
15 (GAPJC) to be a mandatory, church-wide standard for ordination. The GAPJC confirmed that no
16 governing body can allow an ordaining body to ignore or waive a specific standard that has been
17 adopted by the whole church, such as G-6.0106b (*Bush, 7*).

18 While it is possible for San Francisco Presbytery to examine this candidate and come to the
19 (erroneous) conclusion that her departure did not represent a serious impediment to her
20 ordination, in such case it is up to the Synod of the Pacific PJC to correct the error and prohibit
21 the presbytery to ignore or waive the ordination requirement of G-6.0106b. In light of this, the
22 SPJC cannot now approve the outcome of San Francisco’s examination. It is this Commission’s
23 corporate obligation to uphold the church’s standard regardless of what anyone may individually
24 feel about the propriety of the standard.

25 G-6.0106b sets forth a requirement for those who would seek office in the church, to live
26 either in fidelity in marriage between a man and a woman or to live in chastity in singleness. The
27 point of having such a requirement is to define what the church will affirm and what it will not. If

1 an individual seeking office is unwilling to act consistently with the requirement, that individual
2 cannot be ordained in the PCUSA. If the requirement does not express the aspiration of the
3 individual seeking office, that person cannot be ordained in the PCUSA. In either case, a person
4 who cannot affirm the standard (by aspiring to conform to it) or abide by it (by living within its
5 definitions) is making a choice that consequently disqualifies her from service as an ordained
6 officer of the PCUSA. The Presbytery understood the Statement of Departure of this candidate to
7 mean that she would not and could not claim chastity in singleness and could not actively concur
8 or passively submit to G-6.0106b's provisions. With that understanding, the Presbytery had no
9 choice but to disapprove her ordination. Indeed, the Candidate's obligation is equally clear:
10 withdraw her candidacy and seek service, even ordination, in another body.¹³

11 The meaning of the words found in G-6.0106b are plain enough to be operative and guiding
12 in the lives of Presbyterian church officers and ordaining bodies. The best evidence of this is the
13 vigor with which its opponents promote its deletion from the *Book of Order*. If the wording were
14 vague, according to those who desire the ordination of self-affirming, practicing homosexual
15 persons, there would be no standard to chafe against. But the wording is not vague, nor is
16 adherence to it responding to "a single, questionable interpretation." The wording is completely
17 understandable in its present form, even as Presbyterians differ in their willingness to conform to
18 it. The presbytery failed in its duty to apply that plain meaning to this specific candidate, instead
19 (by its unconstitutional action) declaring its dissatisfaction with the standard itself.

20 ***There is a difference between a departure's seriousness from a known standard***
21 ***and the essential nature of the standard itself***

22 The question before the Presbytery in November 2009 was not whether this constitutional
23 provision is an essential, but whether the Candidate's departure from it was "serious."
24 Constitutional guidance for sorting out a candidate's departure is set forth in G-6.0108a,b. "It is
25 necessary to the integrity and health of the church that the persons who serve in it as officers shall
26 adhere to the essentials of the Reformed faith and polity as expressed in the Book of Confessions

27 ¹³ See footnote to G-6.0108.

1 and the Form of Government.” It is necessary that officers adhere to essentials of both faith and
2 polity. Those essentials are expressed in the *Confessions* and the Form of Government. This
3 means that there are identifiable essentials, requirements of belief and practice that are known to
4 the church because they have been established by a constitutional process, codified, and ratified
5 by the presbyteries. G-6.0106b is one such essential of Reformed faith and polity, by virtue of its
6 specificity and its “shall” and “shall not” language.

7 “Freedom of conscience is to be maintained,” under certain conditions (below), “with
8 respect to the interpretation of Scripture.” G-6.0108a does not cover situations in which a person
9 is declaring a conscientious objection to a behavioral standard, but only in respect to an
10 interpretation of Scripture. The Candidate’s departure statement refers to an interpretation of
11 Scripture that allows her to believe that same-sex unions are permissible. Though we
12 demonstrate above that this view is untenable, according to the standard of G-6.0108, biblical
13 interpretation is the *only* realm in which freedom of conscience is to be maintained. However, a
14 departure from clearly articulated standards of behavior, such as this Candidate has declared in
15 response to G-6.0106b, cannot be granted within this framework. She refuses to abide by the
16 requirement personally and neither does she, nor will she, apply it (teach it, organize within its
17 parameters) in the ministry setting, as evidenced by her advocacy role with TAMFS and her
18 statements to the Presbytery. The Presbytery failed in its duty to focus on the seriousness of the
19 departure and the limitations of freedom of conscience, as required: “...[I]n becoming a candidate
20 or officer of the PCUSA, one chooses to exercise freedom of conscience within certain bounds.
21 His or her conscience is captive to the Word of God *as interpreted in the standards of the church*
22 *...*” (G-6.0108b).

23 “So far as may be possible without serious departure from these standards” refers to the
24 degree to which a person might deviate from a known standard of the church. In the present
25 situation, “a serious departure” can be measured in different ways: the earnestness of the
26 candidate in expressing her departure, which is unquestioned; the absoluteness of her
27 disagreement with the standard, which could not be more forcefully stated in her Departure

1 Statement; the witness of her life choices in expressing her seriousness, which is documented
2 through her history with the Committee on Preparation for Ministry and in her advocacy role with
3 TAMFS. Any way one determines seriousness, the Statement of Departure of this Candidate
4 represents a serious departure from the ordination standard of G-6.0106b.

5 “...[W]ithout infringing on the rights and views of others, and without obstructing the
6 constitutional governance of the church” are the conditions for maintaining freedom of
7 conscience. In the present case, the infringement of rights and views of others occurred as the
8 Presbytery broke faith with the whole church in not faithfully executing the constitutional
9 standards for ordination; by approving the ordination of an ineligible person to the whole church;
10 and by creating a crisis of conscience for 47% of the presbyters who, responsive to their own
11 ordination vows, cannot participate in the affirmation or ordination of a constitutionally
12 disqualified candidate. Further, the Presbytery “obstructed the constitutional governance of the
13 church” in its action to disregard G-6.0106b. In the debate that followed the examination for
14 ordination, a minister member of presbytery declared, “I don’t care what the Constitution says;
15 we should ordain this woman!” The Presbytery, without the authority to do so and against a
16 specific instruction of the higher judicatories in 2009, is willing to allow the Candidate to answer
17 “no” to the fifth constitutional question, “Will you be governed by our church’s polity, and will
18 you abide by its discipline?” (W-4:4003e). Thus, the Presbytery’s action defied constitutional
19 governance, and its decision must be overturned by the Synod PJC consistent with its calling “to
20 warn or bear witness against error in doctrine or immorality in practice in the area of its
21 jurisdiction” (G-12:0102m).

22 **Presbyterian Law**

23 *A higher governing body’s review is necessary.*

24 This case highlights the delicate balance between exercising discretion without interference
25 and the proper accountability to which every decision-making body is subject (G-7.0103,
26 G-9.0103). When there is evidence that trust has been violated in a discretionary process, then
27 accountability—review and correction—must be activated for the covenants between candidate,
28

1 presbytery and the wider church to have any meaning. The action of San Francisco Presbytery in
2 November 2009 violated the trust of the whole church and requires correction which only this
3 Commission can give by nullifying it.

4 All actions of a governing body within the PCUSA are subject to review by a higher
5 governing body. “The governing bodies (i.e., session, presbytery, synod) are separate and
6 independent but have such mutual relations that the act of one of them is the act of the whole
7 church” (G-9.0103). The acts of each governing body are “subject to the review by the next
8 higher governing body” (G-9.0103, 9.0407d). This includes of course that actions of a presbytery
9 are subject to review by its synod (G-12.0102n). While the presumption of wisdom is the default
10 position under normal circumstances, the present case must be reviewed by the Synod of the
11 Pacific in order to preserve order and the peace, unity, and purity of the church. The
12 Authoritative Interpretation of G-6.0108 in 2006 (the PUP-AI) confirms specifically that the
13 constitutionality of a presbytery’s ordination decision is reviewable by higher governing bodies:

14 d. Whether the examination and ordination and installation decision comply with
15 the Constitution of the PC(USA), and whether the ordaining/installing body has
16 conducted its examination reasonably, responsibly, prayerfully, and deliberately
17 in deciding to ordain a candidate for church office is subject to review by higher
18 governing bodies.”

18 In other words, not only is an examination and ordination *process* reviewable, the
19 constitutionality of the presbytery’s *decision* is also reviewable. There are no procedural infirm-
20 ities; neither Complainants nor the Presbytery alleges that the process is either deficient or was
21 followed incorrectly. This is a straight up constitutional question for review by the Synod PJC.
22 The Complainants ask the SPJC to rule on the constitutionality of the action itself, a judgment
23 that is well within the bounds of the SPJC’s jurisdiction and the provisions of the PUP-AI.

24 ***Bush et al v. Presbytery of Pittsburgh applies,***
25 ***despite the Authoritative Interpretation of G-6.0108 (2008).***

26 The decision of the General Assembly PJC in *Bush et al v. Presbytery of Pittsburgh*
27 (Remedial Case 218-10, 2008) stated that no departures from the ‘fidelity and chastity’

1 requirement are permitted. This decision was cited with approval in *Naegeli et al v. Presbytery of*
2 *San Francisco* in 2009, after the Authoritative Interpretation of G-6.0108 of 2008 (the Knox AI)
3 was enacted by the 218th General Assembly. In that citation, the GAPJC reaffirmed its prior
4 authoritative interpretation that “[i]t would be an obstruction of constitutional governance [for a
5 higher governing body] to permit examining bodies to ignore or waive a specific standard that has
6 been adopted by the whole church, such as the ‘fidelity and chastity’ portion of G-6.0106b . . .”
7 Under G-13.0103r, the most recent Authoritative Interpretation governs. Therefore, *Bush* is still
8 in force, because the GAPJC pulled it forward and applied it again after the Knox AI was
9 adopted.

10 Moreover, the Knox AI is limited in its force to interpreting the constitution as it stands. An
11 interpretation can only amplify but not change the constitution, and must be consistent with it
12 (*Londonderry Presbyterian Church v. Presbytery of Northern New England* (2000) 213-2; *Bush*
13 *v. Presbytery of Pittsburgh* (2008) 218-10). Section G-6.0106b contains mandatory language:
14 “Among these standards is the *requirement* . . .” The Presbytery claims that the Knox AI
15 “clarified that no part of G-6.0106 can be applied without regard to G-6.0108,” suggesting that
16 ‘fidelity and chastity’ in G-6.0106b is not an essential of polity and therefore can be waived if a
17 departure from it is declared. However, for the Knox AI to have this effect, one must literally
18 excise the word “requirement” from the *Book of Order*, something that can only be done by
19 constitutional process and not by an authoritative interpretation.

20 G-6.0106b is the prevailing “rule” in this matter. The *Bush* decision makes clear that the
21 Presbytery is not permitted to disregard or waive it.

22 ***The rule of Maxwell v. Presbytery of Pittsburgh (UPC, 1975) applies:***
23 ***a declaration of intention not to comply is non-compliance.***

24 Before this Commission is the Presbytery’s approval of a clearly stated refusal to abide by
25 the ‘fidelity and chastity’ requirement of G-6.0106b. One question is whether this refusal is
26 merely a denial of belief, or a refusal to comply, or a declared intention not to comply in the
27 future.

1 This issue was raised in what is often referred to as the Kenyon Case (*Maxwell v. Presbytery*
2 *of Pittsburgh, Minutes of UPC, 1975, p. 254*), which considered a ministerial candidate who
3 refused to participate in the ordination of women. Mr. Kenyon had not yet had an opportunity to
4 do so, but was stating his intention not to ordain women in the future. In coming to its conclusion,
5 the GAPJC observed, “It is not seemly to challenge the right of Mr. Kenyon to his beliefs, but it is
6 the responsibility of our Church to deny ordination to one who has refused to ordain women.” In
7 its reasoning, the GAPJC made two seminal points: a) A candidate’s clearly stated refusal to
8 comply with the requirements of the Constitution constitutes a negative answer to the fifth
9 ordination question, “Do you endorse our Church’s government, and will you honor its
10 discipline?” and b) Neither a synod nor the General Assembly has any power to allow a
11 presbytery to grant an exception to an explicit constitutional provision.

12 This Candidate’s refusal to comply with the ‘fidelity and chastity’ requirement of G-6.0106b
13 is clear. Converse to Mr. Kenyon’s issue, this Candidate does not *refuse* to ordain [women], but
14 *intends* to ordain [officers who are not in compliance with the ordination standard]. According to
15 *Maxwell*, this intention not to comply with a constitutional provision is equivalent to answering
16 “no” to the fifth ordination question, “Will you be governed by our church’s polity, and will you
17 abide by its discipline?” Despite the fact that the Candidate stated at the conclusion of her
18 departure that “I can and I will affirm with joy all the questions for ordination found at W-
19 4.4003,” her Statement of Departure clearly states—and her examination for ordination
20 confirmed— that her answer to question e. is “yes, with a departure.” But the constitutional
21 questions must be answered unequivocally in the affirmative. There can be no crossing of the
22 fingers, no waivers, no departure. Any such diversion obstructs the constitutional governance just
23 as surely as refusing to ordain women. No Presbytery has the power to grant such an exception.
24 Under the rule of *Maxwell*, the Candidate who refuses to accept the bounds of ‘fidelity and
25 chastity’ compromises her affirmative answer to W-4.4003e and cannot be ordained in the
26 PCUSA.

27 By presuming to grant a “departure” to the G-6.0106b, the San Francisco Presbytery is not
28

1 comports with Presbyterian decorum. Rather, as we have seen, this act is decidedly
2 unPresbyterian, being neither confessional, constitutional, nor connectional. It does not comport
3 with our historical principles of church order. It does not comport with the very plain guidance of
4 the Scripture, which declares God's desire that his children restrict their sexual relations to
5 male/female marriage. It does not comport with the Confessions, which faithfully track with the
6 Scriptures. And finally, the Presbytery's act does not comport with our Constitution, indeed the
7 vote was cast despite the clear constitutional impediment.

8 The declaration of the minister member of the Presbytery just prior to the vote serves as an
9 admission: *"I don't care what the constitution says. We must ordain this woman!"*

10 But the obligation of the Presbytery is to care, and to care deeply, about church standards,
11 and to take care to comply with those standards. The obligation of the Synod PJC is to restore
12 Presbyterian order by nullifying the Presbytery's very unPresbyterian, unconstitutional waiver of
13 G-6.0106b.

14 **V.**

15 **WITNESSES**

16 Complainants request the Commission's moderator or clerk to issue citations to appear for
17 the trial to the following witnesses. Forms are attached.

18
19 The Rev. Michael Boyland
20 Irvington Presbyterian Church
21 40280 Fremont Boulevard
22 Fremont, CA 94538

23 Elder Pam Lung
24 Centerpointe Presbyterian Church (Pleasanton)
25 4024 Cid Way
26 Pleasanton, CA 94566

27 Rev. Bob Davis
28 Chula Vista Presbyterian Church
940 Hilltop Drive
Chula Vista, CA 91911

Complainants reserve the right to add or modify this list as they deem necessary.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VI.

REQUEST FOR RELIEF

Is G-6.0106b a church-wide mandatory standard that cannot be waived? According to the Scriptures, *Confessions*, *Book of Order*, and Presbyterian law, the answer to this question is “Yes.” The Complainants therefore ask this commission to nullify the vote of November 10, 2009, that approved the ordination of Ms. Lisa Larges.

Dated: June 15, 2010

MARY HOLDER NAEGELI
Counsel for Complainants

1 **CERTIFICATION OF SERVICE**

2 I, Mary Holder Naegeli, hereby certify as follows:

3 On _____, I served the following document(s) in the Matter of
4 *Parnell et.al. v. Presbytery of San Francisco* by certified mail, return receipt requested, to the
5 persons set forth below:

6 **Complainants' Trial Brief (Case No. 09-04)**

7
8
9 The Reverend Katherine Runyeon
The Presbytery of San Francisco
10 2024 Durant Avenue
Berkeley, CVA 94704
11 **Stated Clerk**

The Reverend Robin Crawford
1750 Francisco Boulevard
Pacifica, California 94044
**Committee of Counsel for Presbytery of
San Francisco**

12 Mr. Douglas Nave, Esq.
13 c/o Weil, Gotshal & Manges
767 Fifth Avenue,
14 New York, New York 10153
**Committee of Counsel for Presbytery of
San Francisco**

Elder Pamela Byers
2515 Fillmore St
San Francisco, CA 94115
**Committee of Counsel for Presbytery of
San Francisco**

15
16 Rev. Wendy Warner
17 Synod of the Pacific
200 Kentucky Street, Suite B
18 Petaluma, CA 94952
Stated Clerk

19
20
21 _____
22 MARY HOLDER NAEGELI
23
24
25
26
27