

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

<b>John F. VELDHUIZEN</b>	)	
<b>Complainant/Appellant</b>	)	
	)	
<b>v.</b>	)	<b>REMEDIAL CASE 209-2</b>
	)	
<b>Presbytery of SAN FRANCISCO</b>	)	
<b>Respondent/Appellee</b>	)	
	)	
<b>Samuel S. YOSHIOKA</b>	)	
<b>Complainant/Appellant</b>	)	
	)	
<b>v.</b>	)	<b>REMEDIAL CASE 209-3</b>
	)	
<b>Presbytery of SAN FRANCISCO</b>	)	
<b>Respondent/Appellee</b>	)	

These are consolidated Cases which have come before the General Assembly Permanent Judicial Commission (Commission) on appeals by the Appellants, John Veldhuizen, a minister, and Sam Yoshioka, an enrolled elder commissioner of the Presbytery of San Francisco (Presbytery), appealing from decisions of the Permanent Judicial Commission of the Synod of the Pacific (SPJC).

In adopting amendments to the Form of Government and Rules of Discipline, the 208th General Assembly (1996) affirmed this Commission's request that all cases filed before the adoption of the amendments be adjudicated in accordance with the Rules of Discipline then in effect. Therefore, we consider this case in accordance with the 1995-1996 version of the Rules of Discipline. All references in this decision shall be to the

1995-1996 Rules of Discipline.

Pursuant to the *Book of Order*, D-13.1200a, this Commission finds that it has jurisdiction, that the Appellants have standing to appeal, that the appeals were properly and timely filed, and that the appeals are in order.

### **HISTORY**

These cases arise from complaints filed by the Appellants alleging irregularities on the part of the Presbytery in denying Mr. Veldhuizen the status of Honorably Retired and placing him on the inactive roll of Presbytery. The pertinent chronology follows:

- ! On May 11, 1993, a Special Disciplinary Committee (SDC) was appointed by the Presbytery to investigate an accusation filed against Mr. Veldhuizen.
- ! Prior to November 1993, Mr. Veldhuizen requested to be retired by the Presbytery.
- ! On November 2, 1993, the Presbytery, acting upon recommendation of its Committee on Ministry and Pensions (COMP), voted to retire him “. . . for pension purposes,” and withheld Honorably Retired status. In its presentation before this Commission, the Presbytery stated that the reason Honorably Retired status was withheld was because of the pending SDC investigation.
- ! On May 10, 1994, the SDC reported that it would not file charges against Mr. Veldhuizen.
- ! On October 3, 1994, and October 12, 1994, COMP wrote to Veldhuizen and others requesting information on their current employment and warning that they would be placed on the inactive roll if such information was not forthcoming.

- ! On October 5, 1994, and October 24, 1994, Mr. Veldhuizen requested that he be granted Honorably Retired status.
- ! On October 24, 1994, COMP voted to “. . . take no action” on his request for Honorably Retired status.
- ! On October 26, 1994, Mr. Veldhuizen submitted his annual report containing information about his employment.
- ! On November 4, 1994, the Presbytery’s Stated Clerk advised Mr. Veldhuizen that his name would be removed from the list of ministers to be placed on the inactive roll.
- ! On November 14, 1994, COMP asked Mr. Veldhuizen for proof of liability insurance naming the Presbytery as an additional named insured. It also requested him to submit to a psychiatric evaluation.
- ! On April 7, 1995, the Membership Subcommittee of COMP wrote to Mr. Veldhuizen stating that because he had not provided proof of insurance and had not submitted to a psychiatric evaluation, it would recommend that he be denied Honorably Retired status and be placed on the inactive roll.
- ! On May 9, 1995, Presbytery adopted a policy requiring all ministers who had a counseling practice to provide liability insurance naming the Presbytery as an additional named insured. On this same day the Presbytery voted to deny Mr. Veldhuizen Honorably Retired status and to place him on the inactive roll “. . . for failing to comply with two requests which the Committee on Ministry and Pensions consider critical to the spiritual and economic welfare of the

Presbytery.” (*Minutes*, Presbytery of San Francisco, 9 May 1995). These two requests were the requirement of insurance and the submission to psychiatric evaluation.

! These complaints followed.

### **SPECIFICATIONS OF ERROR**

Appellants have raised numerous specifications of error. We find two to be dispositive of this Case and address only those in this opinion.

#### Specification of Error No. 1

The SPJC erred in holding that the Presbytery acted correctly to deny Mr. Veldhuizen Honorably Retired status and to place him on the inactive roll.

This specification is sustained.

We hold that when the Presbytery retired Mr. Veldhuizen on November 2, 1993, it implicitly conferred upon him the status of Honorably Retired because the Constitution recognizes no category of retirement other than Honorable Retirement. (G-11.0412)

We also hold that it is inappropriate for a presbytery to withhold the status of Honorably Retired from ministers or to place them on the inactive roll as a means of discipline. The Presbytery here inappropriately withheld the status of Honorably Retired because Mr. Veldhuizen refused to comply with the requests of the COMP to provide evidence of liability insurance and to submit to a psychiatric examination. At the time of this request, the Presbytery had no such requirement for other ministers in similar situations. This requirement was not approved by the Presbytery until May 9, 1995. Further, this Commission has previously held that a presbytery may not require its

ministers to undergo medical treatment including psychiatric examinations as a condition of maintaining ordained status. (Bosworth v. Synod of Florida, UPCUSA *Minutes*, 1970, 581-584) It is inappropriate, in any event, to place an Honorably Retired minister on the inactive roll of presbytery.

In 1962, the 174th General Assembly adopted the following statement:

. . . The designation ‘honorably retired’ shall be conferred upon each minister in good standing whose ministry is terminated by the presbytery for the purpose of retirement. (*Minutes*, 1973, UPCUSA, p. 332)

In 1973, the above statement was interpreted as follows:

The Stated Clerk interprets this deliverance as making it mandatory that a minister whose ministry is terminated for the purpose of retirement shall be given the title “Honorably Retired,” and that it is the duty of the Stated Clerk of the General Assembly to so designate retired ministers in the statistical report volume of the Minutes of the General Assembly even when reports from presbyteries fail to do so. (*Minutes*, 1973, UPCUSA, p. 332)

The Articles of Agreement governing the reunion of the UPCUSA and the PCUS provide that “each and every policy statement” of the antecedent denominations “shall have the same force and effect in the Presbyterian Church (U.S.A.) as in the church which adopted or issued it until rescinded, altered, or supplanted by action of the General Assembly of the Presbyterian Church (U.S.A.).” The policy referenced above has not been supplanted by the current Form of Government G-11.0412a. Even the use of the word “may” in this context does not change the effect of the General Assembly’s statement. It merely gives multiple reasons why a presbytery may grant a minister the status of Honorably Retired. As we have noted Honorably Retired is the only category of retirement recognized by the Constitution, and so when a presbytery acts to retire a

minister, it necessarily confers the status of Honorably Retired.

We remind both the Presbytery of San Francisco and Mr. Veldhuizen that they have mutual obligations. The Presbytery is under obligation to provide Mr. Veldhuizen with oversight, nurture and support. Mr. Veldhuizen, as an Honorably Retired member of Presbytery, is obligated to be accountable to the Presbytery.

Specification of Error No. 2:

The SPJC erred in refusing to award compensatory damages.

This specification is not sustained.

As this Commission has consistently held, the *Book of Order* makes no provision for the awarding of monetary damages because all church power “. . . is only ministerial and declarative.” (G-1.0307) (Veldhuizen v Pby of San Francisco, *Minutes*, 1993, 170)

ORDER

IT IS THEREFORE ORDERED that the decision of the SPJC is reversed, except that portion of the decision which refused to grant compensatory damages. That portion is affirmed.

IT IS FURTHER ORDERED that the Presbytery transfer of John Veldhuizen from the inactive to the active roll and recognize his Honorably Retired status, effective November 2, 1993.

IT IS FURTHERED ORDERED that the Presbytery provide Mr. Veldhuizen with the oversight, nurture, and support that is due to all minister members of the Presbytery, and that Mr. Veldhuizen, as an Honorably Retired minister of the Presbytery, submit himself to the oversight of the Presbytery.

IT IS FURTHER ORDERED that the Stated Clerk of the General Assembly designate Mr. Veldhuizen as Honorably Retired in the Minutes of the General Assembly.

IT IS FURTHER ORDERED that the Stated Clerk of the Synod of the Pacific report this decision to the Synod at its first meeting after receipt, that the Synod enter the full decision upon its minutes, and that an excerpt from those minutes showing entry of the decision be sent to the Stated Clerk of the General Assembly.

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

Stephen Taber, member of the Commission from the Presbytery of San Francisco, took no part in the deliberations or decision of the case. D-4.0400b.

Dated this 9th day of February, 1997.