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

Glenda Hope, Lynne Reade, Jerrold Jayne,	
David M. Lew, Cynthia Joe, David Soohoo,)
Mildred E. Kilgore, Katherine Reyes, Jeanne)
Choy Tate, Evangeline L. Hermanson, Robert)
F. Hermanson, and Paul Watermulder,)
Complainants/Appellants,)
) DECISION AND ORDER
V.)
	Remedial Case 217-1
Presbytery of San Francisco,)
Respondent/Appellee.	

Headnotes

- 1. Standards of Review: "The responsibility of making a judgment about the wisdom of a person remaining on the roll of candidates belongs to the candidate's presbytery." *Bedford-Central Presbyterian Church v. Presbytery of New York City, Minutes, 1987, p. 119.* "The presbytery, therefore, must be vested with sufficient authority to carry out these many constitutional obligations. This determination is a judgment for which higher judicatories should substitute their judgment only for the most extraordinary reasons." *Rankin v. National Capital Union Presbytery, UPC Minutes, 1981, p. 113.*
- 2. Use of Confidential Documents by a Committee on Preparation for Ministry: Where a Committee on Preparation for Ministry communicated to a candidate reports received concerning the candidate's difficulty in establishing and maintaining close relationships, of getting into conflict, of blaming others without taking responsibility, and of not being able to work through conflictual relationships towards reconciliation in various settings, it satisfied the requirement to disclose the substance of concerns contained in confidential documents set forth in *Hope, et al. v. Presbytery of San Francisco, Minutes, 2004, p.*___.
- 3. Scope of Review: A presbytery's failure to follow its own stated policy does not rise to the level of a constitutional error, because this Commission rules on violations of requirements of the Book of Order rather than those of internal presbytery policy.
- 4. Writing of Decision: A permanent judicial commission must meet in person for consideration and adoption of a final decision. (D-7.0402c, D-8.0404c, D-11.0403c, D-13.0404c)
- 5. Ex parte Communications: "Procedural safeguards" and "due process" prohibit ex parte communication by members of a permanent judicial commission with parties or their counsel concerning trial process or decisions. (D-1.0101)

Arrival Statement

This remedial case comes to the General Assembly Permanent Judicial Commission (GAPJC) on appeal from a decision by the Permanent Judicial Commission of the Synod of the Pacific (SPJC) dated February 26, 2004, removing a candidate for the ministry of the Word and Sacrament from the presbytery's roll of candidates. This Commission finds that it has jurisdiction, that the Appellants have standing to appeal, that the appeal was properly and timely filed, and that the appeal states one or more grounds for appeal under D-8.0105.

Appearances

Lynne Reade represented the Appellants. Stephen L. Taber appeared as counsel for the Appellee.

History

This case came before the GAPJC on an appeal filed by the Complainants/Appellants, Glenda Hope, Lynne Reade, Jerrold Jayne, David M. Lew, Cynthia Joe, David Soohoo, Mildred E. Kilgore, Katherine Reyes, Jeanne Choy Tate, Evangeline L. Hermanson, Robert F. Hermanson, and Paul Watermulder, from a decision of the SPJC dated February 26, 2004.

In this case the Appellants, various minister members and elder commissioners to a meeting of the Presbytery of San Francisco (Presbytery), challenged the regularity of the Presbytery's decision under G-14.0312 to remove a candidate for the ministry of the Word and Sacrament from its roll of candidates. The Presbytery's decision was based in part on reliance on confidential information received by the Presbytery and its Committee on Preparation for Ministry (CPM) but not disclosed to the candidate. The Presbytery's CPM had recommended to Presbytery that the candidate in question be removed from its rolls, and the Presbytery voted to do so at its meeting on November 12, 2002.

The SPJC granted a stay of enforcement of the Presbytery's decision to remove the candidate from its rolls. The Acting Moderator and Clerk of the SPJC issued a preliminary ruling on March 11, 2003, dismissing the complaint for failure to state a claim upon which relief could be granted. They concluded, among other things, that the "secrecy complained of is a reasonable part of the process of inquiry."

Prior to a May 2, 2003, hearing before the full SPJC on the Appellants' challenge to this ruling, the parties entered into a Stipulation of Facts setting forth the facts in the complaint assumed to be true for purposes of determining whether it stated a claim. *Daniel J. McKittrick v. Session of West End Presbyterian Church of Albany, New York, Minutes, 2003, p. 273.* At the hearing the SPJC also permitted testimony from witnesses "on the limited question of how the provisions of the <u>Book of Order</u> should be applied generally in matters involving the process of preparation of candidates for ministry."

Following the hearing, the full SPJC dismissed the complaint. It ruled that the stipulated facts, "[t]aken separately or in total," failed to show "that the process afforded to [the candidate] was unfair in any material regard" and that the Presbytery had acted within its discretion and not committed any irregularity.

On October 12, 2003, the GAPJC heard an appeal by Appellants from this dismissal. The GAPJC concluded that the SPJC had improperly ruled on disputed issues of fact without a full trial. The GAPJC further held that the substance of the concerns about a candidate raised by confidential documents should be communicated in a timely manner to the candidate in a fashion that permits the candidate to respond. The GAPJC ordered "that the decision of the [SPJC] is reversed, except that the stay of enforcement remains in effect pending the final resolution of this matter, and this case is remanded to that [PJC] with directions to conduct a trial on the merits or to pursue any other pretrial mediation options that it deems appropriate."

On February 6-7, 2004, the SPJC conducted a trial on the merits of the case and upheld the Presbytery's decision to remove the candidate from covenant relationship with the Presbytery of San Francisco. This appeal arises from that Decision.

Specifications of Error

The Appellants grouped the Specifications of Error under four headings:

A. ERRORS IN CONSTITUTIONAL INTERPRETATION

Specification of Error Number 1: The Synod Permanent Judicial Commission erred in not deciding the specific issues raised in the complaint, but instead constructed its own interpretation and version of the issues presented in the complaint.

This specification of error is sustained.

D-7.0402a requires that "the permanent judicial commission shall vote on each irregularity or delinquency assigned in the complaint" A permanent judicial commission may certainly summarize or group specifications of error in its written decision. But in redrafting the four irregularities alleged by Appellants, the SPJC omitted one of them, which concerned an alleged bias on the part of the moderator of the CPM. Thus, the SPJC did not vote on this issue.

Specification of Error Number 2: The Synod Permanent Judicial Commission erred in finding that the Appellee and its Committee on Preparation for Ministry followed the instructions of the General Assembly Permanent Judicial Commission "to communicate in a timely fashion" to the candidate the substance of the concerns in confidential documents in a manner "sufficiently detailed to permit the candidate to respond to or rebut any concerns or to undertake any corrective action or further education or training."

This specification of error is not sustained.

The evidence in the trial transcript discloses that the candidate received from the CPM on several occasions (December 4, 2001, December 20, 2001, March 20, 2002) sufficiently detailed information regarding the concerns contained in the confidential documents in question which would allow the candidate to respond to or rebut those concerns. This Commission reviewed the confidential documents in question and concluded from the record that the substance of the

concerns contained in them was adequately communicated to the candidate. For example, in the meeting on March 20, 2002, a member of the CPM, stated, "you have exhibited patterns of difficulty in establishing and maintaining close relationships, of getting into conflict, of blaming others without taking personal responsibility, of not being able to work through conflictual relationships towards reconciliation." In addition, the CPM listed various settings in which these patterns had been exhibited, including congregations, Presbytery, seminary, and personal life.

Specification of Error Number 3: The Synod Permanent Judicial Commission erred in failing to find that Appellee and its Committee on Preparation for Ministry did not follow the mandates of G-14.0306a(2) with respect to the candidate under its care by its failure to find that Appellee and its Committee on Preparation for Ministry did not provide any guidance to the candidate about training or education in conflict resolution, as directed by the General Assembly Permanent Judicial Commission.

This specification of error is not sustained.

G-14.0306a(2) calls upon the presbytery "to give guidance in regard to courses of study, familiarity with the Bible and with the confessions, practical training and plans for education, including the choice of institutions, field education, and the inquirer's or candidate's financial need. The presbytery shall also seek to give guidance and instruction to the inquirer or candidate in the faith and polity of the church." The <u>Book of Order</u> does not specify that presbytery must provide guidance and training in conflict resolution, nor did this Commission in its prior decision require the Presbytery to offer such guidance. Moreover, the trial testimony and written communication between the candidate and CPM evidenced a history of guidance and care for this candidate.

Specification of Error Number 4: The Synod Permanent Judicial Commission erred in showing confusion about its own role in judicial review through its reluctance to substitute its judgment for that of the presbytery.

This specification of error is not sustained.

The Appellants allege that the SPJC erred by applying an incorrect standard of review which holds that "[t]he responsibility of making a judgment about the wisdom of a person remaining on the roll of candidates belongs to the candidate's presbytery." *Bedford-Central Presbyterian Church v. Presbytery of New York City, Minutes, 1987, p.119.* This Commission finds that this standard was applicable, as well as the standard found in *Rankin v. National Capital Union Presbytery, UPC Minutes, 1981, p. 113*: "The presbytery, therefore, must be vested with sufficient authority to carry out these many constitutional obligations. This determination is a judgment for which higher judicatories should substitute their judgment only for the most extraordinary reasons." Not finding those extraordinary reasons, the SPJC correctly did not overturn the Presbytery's judgment.

Specification of Error Number 5: The Synod Permanent Judicial Commission erred by not recognizing the importance of constitutionally-required procedures.

This specification of error is not sustained.

This specification of error is not sustained because, being so broad in nature, it encompasses virtually all other specifications relating to procedural errors. The specific procedural errors in this trial are considered elsewhere in this decision.

Specification of Error Number 6: The Synod Permanent Judicial Commission erred in deciding motions submitted to it prior to trial without giving the parties an opportunity for oral argument on these motions. (D-7.0401c)

This specification of error is not sustained.

The record does not indicate that the Appellants had an opportunity for oral argument on certain pretrial motions. D-7.0401c states that "the permanent judicial commission shall determine all preliminary objections, and any other objections affecting the order or regularity of the proceedings." While oral argument is to be preferred, a permanent judicial commission retains discretion to determine whether to allow it.

Specification of Error Number 7: The Synod Permanent Judicial Commission erred in failing to prepare a written decision while in session as required by D-7.0402c.

This specification of error is sustained.

D-7.0402c states that "A written decision shall be prepared while in session" The SPJC concluded the trial on February 7, 2004, but did not reconvene in a face-to-face meeting to complete the writing of its decision. A permanent judicial commission must meet in person for consideration and adoption of a final decision. A fundamental reason for this requirement rests upon the Reformed understanding of the activity of the Holy Spirit in the midst of the covenant community which is the Body of Christ. (I Cor. 12:12-13; <u>Book of Confessions</u>, 5.124-141)

Specification of Error Number 8: The Synod Permanent Judicial Commission erred in failing to include in its decision that the stay of enforcement was still in effect until the complaint or appeal is finally determined by the General Assembly Permanent Judicial Commission, or until the expiration of the time allowed for appeal, to clarify that the candidate remains under care of the Appellee.

This specification of error is not sustained.

It is not necessary for a decision of a permanent judicial commission to note the continuation of a stay of enforcement should one already be in place. D-6.0103c makes clear that a stay of enforcement "shall be effective until the time for filing a complaint or notice of appeal shall have expired or, if timely filed, until the decision of the permanent judicial commission having jurisdiction over the case" It would be helpful, however, to include such a statement in a decision for clarity.

Specification of Error Number 9: The Synod Permanent Judicial Commission erred in failing to ensure that proper notice of the Decision by personal service or certified delivery under D-7.0402c was given.

This specification of error is sustained.

Although Appellants have waived this error, this Commission notes that personal service or certified delivery is a requirement of the <u>Book of Order</u>.

B. REFUSING A PARTY REASONABLE OPPORTUNITY TO BE HEARD

Specification of Error Number 10: The Synod Permanent Judicial Commission erred in "refusing a party a reasonable opportunity to be heard or to obtain or present evidence" (D-8.0105b) and in "receiving improper, or declining to receive proper evidence or testimony" (D-8.0105c) by not allowing adequate cross-examination of a hostile witness, and by not permitting a witness to testify on relevant facts.

This specification of error is not sustained.

The examination of two witnesses was restricted as a result of a pretrial motion. This Commission finds that such restriction was proper in that the Appellants' counsel sought to examine the two witnesses concerning the background and details surrounding a confidential document. Such examination would have violated the decision of this Commission in *Hope, et al. v. Presbytery of San Francisco, Minutes, 2004, p.__,* that only the "substance of concerns" contained in confidential documents was to be revealed.

C. INJUSTICE IN THE PROCESS OR DECISION

Specification of Error Number 11: The Presbytery and its Committee on Preparation for Ministry erred by assuming that the reports received about the candidate were true and as a result the Committee on Preparation for Ministry process was unfair.

This specification of error is not sustained.

Appellants' specification of error focuses on the CPM process rather than the SPJC's process or decision. The *Bedford-Central* decision cited in Specification of Error Number 4 states that the responsibility of making a judgment about a candidate remaining on the roll of candidates belongs to the candidate's presbytery. Ordinarily, this Commission does not reach below the level of the SPJC to review matters regarding factual assumptions allegedly made by a presbytery.

Furthermore, the grounds of appeal under D-8.0105 apply only to the next lower governing body, the SPJC in this case. This Specification of Error regarding the CPM is not a proper ground for appeal.

Specification of Error Number 12: The Synod Permanent Judicial Commission erred by failing to direct presbytery to follow the direction of the prior Hope case about how confidential documents are to be used and guidance to be given.

This specification of error is not sustained.

This specification of error is not sustained for the reasons discussed in this Decision under Specifications of Error Numbers 2 and 3.

Specification of Error Number 13: The Synod Permanent Judicial Commission erred by focusing on whether the candidate could serve as a minister of the Word and Sacrament rather than on whether the candidate should have been removed from care.

This specification of error is not sustained.

The Appellee had decided to remove the candidate from its rolls based on its prior judgment that the candidate was not ordainable in the near future. The <u>Book of Order</u> does not require that a candidate be kept on the roll if deemed unordainable. Thus the Appellants' assertion contained in this specification of error is a distinction without a difference.

Specification of Error Number 14: The Synod Permanent Judicial Commission erred in not challenging the validity of the Presbytery's reliance upon an unlicensed research psychologist on CPM without verifying the truth or falsity of the reports which formed the basis of his diagnosis and prognosis, especially when that evaluation improperly influenced the Committee on Preparation for Ministry.

This specification of error is not sustained.

This Commission notes that the psychologist in question was a member of the CPM task force, who was asked to interpret the evaluative tests administered by an independent licensed psychologist, and he did so. Any concern or evidence regarding the qualifications of the CPM member goes to the weight of the evidence, and the weight to be given that evidence lies within the discretion of the trier of fact, in this case the SPJC.

Specification of Error Number 15: The Synod Permanent Judicial Commission erred in giving insufficient weight to positive, uncontested, relevant and material evidence.

This specification of error is not sustained.

Much in the record indicates that this candidate has many gifts and fine qualities. The weight to be given information related to a candidate lies within the purview of the presbytery. As this Commission has previously ruled, "The responsibility of making a judgment about the wisdom of a person remaining on the roll of candidates belongs to the candidate's presbytery" *Bedford-Central Presbyterian Church v. Presbytery of New York City, Minutes, 1987, p.119.* In addition, the SPJC should not substitute its judgment for that of the Presbytery. "Judgments of a lower commission on factual issues are favored with a presumption of correctness and are not to

Hope *et al.* v. Presbytery of San Francisco Decision and Order August 8, 2004 Page 8 be disturbed unless plainly or palpa

be disturbed unless plainly or palpably wrong, without supporting evidence, or manifestly unjust." *Hardwick v. Permanent Judicial Commission of the Synod of North Carolina, Minutes,* 1983, p. 45.

D. OTHER IRREGULARITIES IN THE PROCEEDINGS

Specification of Error Number 16: The Synod Permanent Judicial Commission erred in failing to take into account the failure of the Presbytery and its Committee on Preparation to follow its own policies and procedures, specifically by failing to keep the candidate's session timely and fully informed.

This specification of error is not sustained.

Appellee's policy makes clear the way in which the session is a partner in the covenant relationship. The record does not show that the candidate's session received timely written communication required by the Appellee's policy and procedures. There was face-to-face communication. The uncontested testimony at trial states that the candidate's elder advocate was present with the candidate at the December 20, 2001, meeting of the CPM task force. Two elder advocates and a pastor who was moderator of the candidate's session were present at the March 20, 2002, meeting of the CPM task force.

Nevertheless, the Appellee's failure in this case to follow its own stated policy does not rise to the level of a constitutional error, because this Commission rules on violations of the requirements of the <u>Book of Order</u> rather than those of internal Presbytery policy.

Specification of Error Number 17: The Synod Permanent Judicial Commission erred in engaging in private discussions with counsel for Appellee without effective notice to or inclusion of the counsel for Appellants in such a discussion, not disclosing the content and conclusions of the private discussions until too late to respond, and using a new numbering system for documents that was not disclosed until the day before trial.

This specification of error is sustained.

The Rules of Discipline refer only to pretrial conferences in which all parties are present. (D-6.0310) Fundamental "procedural safeguards" and "due process" prohibit *ex parte* communication by members of a permanent judicial commission with parties or their counsel related to trial process or decisions. (D-1.0101) In this case the SPJC inappropriately held a telephone call solely with Appellee's counsel and over his objection to discuss pagination of the record and pretrial briefs. While this was in error, the Commission concludes that it did not influence the outcome of the case.

Specification of Error Number 18: The Synod Permanent Judicial Commission erred in changing the allegations of the complaint rather than dealing with its issues, and failing to vote separately on each allegation of the complaint.

This specification of error is sustained.

This specification of error is answered in our response to Specification of Error Number 1.

Specification of Error Number 19: The Synod Permanent Judicial Commission erred with respect to the content of the complaint, which was about improper removal from covenant relationship.

This specification of error is not sustained.

This specification of error is answered in our response to Specification of Error Number 13.

Specification of Error Number 20: The Synod Permanent Judicial Commission erred in allowing the trial on one day to be of unreasonable duration and not allowing sufficient time for trial.

This specification of error is not sustained.

The permanent judicial commission has full authority and power to control the conduct of a trial. (D-7.0303) However, to hold a marathon session of more than thirteen hours with minimal breaks is improper in that it borders on being neither reasonable nor fair. Nevertheless, Appellant has not claimed that this caused any prejudice.

Specification of Error Number 21: The Synod Permanent Judicial Commission erred by failing to understand the basic elements of conducting a trial under the provisions of Chapters VII and XIV of the Rules of Discipline:

- a. Not knowing that witnesses must be sworn under oath (D-14.0302),
- b. Not knowing that the Rules of Discipline require opening statements (D-7.0401e),
- c. Not knowing that a moderator's rulings may be challenged (D-7.0303a) and
- d. Not knowing that opposing counsel is supposed to cross-examine a witness before commissioners ask their questions. (D-14.0302)

This specification of error is not sustained.

The SPJC exhibited substantial disregard for the plain words of the <u>Book of Order</u>. When challenged during the course of the trial, the SPJC corrected the first three items. The fourth item continued to be a problem throughout the trial. Nevertheless, this Commission does not find these deficiencies to be prejudicial to the outcome of the trial.

Decision

This case presents two major issues: 1) the Presbytery's discretionary power and authority in determining who shall be its candidates for the ministry of the Word and Sacrament, and 2) the conduct of this trial by the Synod of the Pacific Permanent Judicial Commission.

The numerous procedural errors of the SPJC reveal a pattern of serious inattention to the Rules of Discipline (D-7.0000), which are designed to ensure due process protection to parties. The accumulation of these errors, however, does not rise to the level of the very high standard needed to supersede the right of the presbytery to determine who its candidates shall be.

This Commission is concerned about the overall manner in which the trial was conducted. See *Baker v. Presbytery of Middle Tennessee, Minutes, 1995, p. 130.* In order to improve the quality of future proceedings conducted by the Synod of the Pacific Permanent Judicial Commission and to enhance its adherence to the requirements of the Rules of Discipline, this Commission has requested the Office of the General Assembly to provide a training session for the SPJC, with all members in attendance.

Both parties acknowledged the fine character, accomplishments, and extensive gifts shared generously by this candidate with the church. Nothing in this decision shall preclude the candidate from applying for preparation for ministry at some time in the future.

Order

IT IS THEREFORE ORDERED that the decision of the Permanent Judicial Commission of the Synod of the Pacific to approve the removal of the candidate from the roll of candidates of the Presbytery of San Francisco is affirmed.

IT IS FURTHER ORDERED that in light of the many serious errors in the conduct of this trial, the Synod of the Pacific Permanent Judicial Commission shall receive training and guidance no later than February 28, 2005, in the proper conduct of trials and hearings from the Office of the General Assembly along with available members of the General Assembly Permanent Judicial Commission; a report of this training shall be made to this Commission as well as to the Synod.

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.

Gwen Cook was not present and took no part in the deliberations or decision of the Commission on this case. Jesse Butler was not present for the decision in this case.

Dissent by June Lorenzo and Mildred Morales

We respectfully dissent from the portion of the majority opinion which affirms the SPJC decision. At the heart of the instant case is whether the judgment of the SPJC was "plainly or

palpably wrong, without supporting evidence or manifestly unjust," (*Anderson v. Presbytery of Scioto Valley, Minutes, 1998, p. 134*) so as to warrant a substitution of the SPJC's judgment. The trial record is replete with errors, many of which on their own could be considered harmless. However, *in toto*, the conduct of the trial was sufficiently egregious that the findings of the SPJC should not be sustained.

While a permanent judicial commission has the authority to control the conduct of a trial (D-7.0303), errors such as failure to vote in each irregularity, failure to prepare a written decision while in session, engaging in *ex parte* communications with counsel, and failure to observe constitutionally required procedures in the conduct of a trial are sufficiently prejudicial to warrant reversal. Taken together with the one-day marathon session of more than 13 hours, the conduct of the trial clearly rises to the level of "manifestly unjust."

Given the level of disregard or ignorance by the SPJC of trial procedures clearly outlined in the Book of Order, the instant case should not be remanded to the SPJC for a new trial until the SPJC is properly trained or duly replaced. In the meantime, the only just action is to order the Presbytery to reinstate the candidate to the Presbytery roll in order that the candidacy might be fairly considered, allow the candidate to transfer candidacy to another presbytery, or continue to seek the guidance of the Holy Spirit for a creative and just resolution.

Dated this 8th day of August, 2004.

Certificate

We certify that the foregoing is a full and correct copy of the decision of the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.) in Remedial Case 217-1, Glenda Hope *et al.* v. Presbytery of San Francisco, made and announced at Louisville, KY, on August 8, 2004.

Jane E. Fahey, Moderator
Permanent Judicial Commission of the General Assembly

Ernest E. Cutting, Clerk

Permanent Judicial Commission of the General Assembly

I certify that I did transmit a certified copy of the foregoing to the following persons by UPS Next Day Air, directing C. Laurie Griffith to deposit it in the mail at Louisville, KY, on August 9, 2004.

Lynne Reade, Counsel for the Appellant Stephen L. Taber, Counsel for the Appellee Kathy Runyeon, Stated Clerk, Presbytery of San Francisco

> Joey Mills, Stated Clerk, Synod of the Pacific General Assembly Permanent Judicial Commission

I further certify that I did transmit a certified copy of the foregoing to the Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.) by delivering it in person to C. Laurie Griffith, on August 8, 2004.

Ernest E. Cutting, Clerk
Permanent Judicial Commission of the General Assembly

I certify that I received a certified copy of the foregoing, that it is a full and correct copy of the decision of the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.), sitting during an interval between meetings of the General Assembly Permanent Judicial Commission at Louisville, KY, on August 8, 2004, in Remedial Case 217-1, Glenda Hope *et al.* v. Presbytery of San Francisco and that it is the final judgment of the General Assembly of the Presbyterian Church (U.S.A.) in the case.

Dated at Louisville, KY on August 8, 2004.

C. Laurie Griffith
Manager of Judicial Process and Social Witness