

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

The Session of the Palos Park Presbyterian Community Church,	)	
	)	
Complainant,	)	<b>CONSENT ORDER</b>
	)	
v.	)	<b>Remedial Case 218-03</b>
	)	
The Advisory Committee on the Constitution of the General Assembly of the Presbyterian Church (U.S.A.),	)	
	)	
Respondent.	)	

**Arrival Statement**

This remedial case comes before the General Assembly Permanent Judicial Commission (GAPJC or this Commission) as a matter of original jurisdiction to adjudicate a Complaint filed with the Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.) on July 7, 2006.

**Jurisdictional Statement**

This Commission is the appropriate body before which a complaint against an entity of the General Assembly of the Presbyterian Church (U.S.A.) is heard. The Complainant is a session of the Presbyterian Church (U.S.A.) and has standing to file the Complaint. The Respondent, the Advisory Committee on the Constitution (ACC), appeared by an Answer and a Motion to Dismiss dated July 28, 2006.

**Appearances**

Gordon Fish, Amy McCracken, and James R. Tony, minister, (Tony) were Committee of Counsel for the Complainant. Stephen S. Grace and Justin M. Johnson were Committee of Counsel for the Respondent.

**Background**

This case involves the responsibilities of the ACC when questions of constitutional interpretation arising from governing bodies or individuals are delivered to the ACC by the Stated Clerk pursuant to G-13.0112. On February 14, 2006, Winfield R. Jones, minister (Jones) and M. Douglas Harper, Jr., minister (Harper), submitted certain questions (Jones/Harper Questions) to the Stated Clerk of the General Assembly (Stated Clerk). On February 14, 2006, Tony also submitted certain questions (Tony Questions) to the Stated Clerk. The Jones/Harper Questions and the Tony Questions posed issues of constitutional interpretation for the 217<sup>th</sup>

General Assembly (2006). The Jones/Harper Questions and the Tony Questions were timely filed with the Stated Clerk, and they were referred to the ACC, pursuant to G-13.0112d.

On or about March 13, 2006, the ACC formulated its advice concerning the Tony Questions. On March 29, 2006, Mark Tammen, the Associate Stated Clerk assigned to staff the ACC, advised Tony, and possibly Jones and/or Harper, of the ACC action. It is not clear from the record what advice was formulated by the ACC with respect to the Jones/Harper Questions. On April 3, 2006, Jones and Tony requested the ACC to reconsider its advice (Jones/Tony Letter). On April 5, 2006, Harper wrote the ACC (Harper Letter), noting that the ACC had not given advice on the Jones/Harper Questions and urged that the ACC was required to do so.

On April 10, 2006, the ACC went into executive session during a conference call meeting<sup>1</sup> and had before it the Jones/Tony Letter and the Harper Letter. On April 11, 2006, the Office of the Stated Clerk advised Tony, and perhaps Jones and Harper, that in the executive session portion of the April 10, 2006, meeting, the ACC had reviewed its original advice, as requested by the Jones/Tony Letter and the Harper Letter, and had declined to change or reconsider its original actions. The ACC subsequently reported to the General Assembly, but the date(s) of such report(s) is/are unclear from the record.

On July 7, 2006, the Session of Palos Park Presbyterian Community Church (Session) filed a remedial complaint with this Commission against the ACC. On July 28, 2006, the ACC filed its Answer and a Motion to Dismiss the Complaint. A hearing on the Motion to Dismiss was held on October 13, 2006, after which the GAPJC entered a Decision denying the Motion to Dismiss and setting the case for trial.

During the pre-trial conference, the case was submitted to mediation by consent of the parties. The matter was subsequently settled as a result of the mediation. The settlement agreement included a provision that the agreement be entered as “a final decision and order in this matter.” In accordance with this provision, the General Assembly Permanent Judicial Commission has adopted the order set forth below. The Commission thanks the mediator, Jane Fahey, minister, former moderator of the GAPJC, and the parties, for their diligent and tireless work in the mediation.

### **Consent Order**

**IT IS THEREFORE ORDERED** that the following agreement of the parties is made the Consent Order of the GAPJC concerning the parties’ dispute:

The parties have agreed to conclude this case by agreement on the following issues and to the entry of their agreement as a final decision and order in this matter.

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<sup>1</sup> During oral argument, Complainant indicated that Jones and Tony attended the conference call meeting as observers until the ACC went into executive session.

The Role of the Advisory Committee on the Constitution in  
Advising the General Assembly

With respect to all questions requiring an interpretation by the General Assembly of the Book of Order that have been referred to the Advisory Committee on the Constitution (ACC) by the Stated Clerk (G-13.0112c), the parties agree that the ACC may include in its advice (*i.e.*, findings and recommendations under G-13.0112d) to the General Assembly, given no later than sixty days prior to the convening of the next session of the General Assembly (G-13.0112b), a single response that collectively addresses plural questions, along with other responses directed to individual questions. The parties further agree that where the ACC chooses to issue a collective response, such a collective response must provide a reasonable person with sufficient basis to understand how the findings and recommendations in its collective response address every question posed. The ACC acknowledges that the Constitution obligates it to provide advice to the General Assembly that a reasonable person would recognize is responsive to every question requiring a constitutional interpretation (G-13.0112d), and the ACC will comply with this responsibility. See *Manual of the General Assembly Standing Rule A.5.a.*

The General Assembly's Open Meeting Policy

The ACC acknowledges that it is an entity subject to the provisions of the General Assembly Open Meeting Policy. The ACC agrees that it will secure advice from the Office of the Stated Clerk about whether the Open Meeting Policy permits it to close its meeting to discuss a particular subject and, that prior to closing its meeting to discuss that subject, it will announce the advice it has received and record in its official record the advice it received and the reason it is going into executive session. Whenever the ACC considers or acts upon subjects not enumerated in section 3(a) of the Open Meeting Policy, such as a request for reconsideration of prior advice, the Policy obliges the consideration or action to be done in open session.

IT IS FURTHER ORDERED that the Stated Clerk of the General Assembly report this Consent Order to the General Assembly at its first meeting after receipt, that the General Assembly enter the full Consent Order upon its minutes.

IT IS FURTHER ORDERED that the Clerk of Session of Palos Park Community Presbyterian Church report this Consent Order to the Session at its next meeting, that the Session enter the full Consent Order upon its minutes, and that an excerpt from those minutes showing entry of the Consent Order be sent to the Stated Clerk of the General Assembly.

**Certificate**

We certify that the foregoing is a true and correct copy of this Consent Order of the Permanent Judicial Commission of the General Assembly of the Presbyterian Church (U.S.A.) in Remedial Case 218-03, *The Session of the Palos Park Presbyterian Community Church v. The Advisory Commission on the Constitution of the General Assembly of the Presbyterian Church (U.S.A.)*, made and announced at Kansas City, Missouri, on May 7, 2007.

Dated the 7<sup>th</sup> day of May 2007.