

IN THE EPISCOPAL DIOCESE OF PENNSYLVANIA

In re: The Very Reverend Jonathan
Norwood Clodfelter

No. 2020-01
ANSWER AND AFFIRMATIVE
DEFENSES

Pursuant to General Convention Canon IV.13.2(c), Respondent, the Very Reverend Jonathan Clodfelter, by and through counsel, submits the following Answer and Affirmative Defenses in response to the Written Statement of Alleged Offenses submitted by the Church Attorney on September 25, 2020.

I. Answer to Statement of Alleged Offenses.

(a) Response to Factual Allegations

- (b)** Admitted. Respondent further avers that he has not broken with the doctrine and discipline of The Episcopal Church.
- (c)** Admitted. Respondent further avers that his relevant education includes a Bachelor of Science degree with dual majors in Management and Geography in 1993 and a Master of Divinity degree from Virginia Theological Seminary in 1999.
- (d)** Denied as stated. [*Redacted*: Complainant] did not join The Episcopal Church until September 28, 2019. She began attending worship on a sporadic basis in 2018. Reverend Clodfelter's last day as rector of St. Mark's was October 14, 2019.
- (e)** Respondent is without knowledge of the facts alleged in this paragraph.

5. Denied as stated. Exhibit A is a document that speaks for itself, and the characterization of it is denied.
6. Respondent is without knowledge of the facts alleged in this paragraph.
7. It is admitted that the Conference Panel met on August 27, 2020, and that the persons listed in this paragraph attended. It is denied that this is a complete list of the attendees.
8. Exhibit U is a document that speaks for itself, and any further characterization of it is denied. No further response is required.
9. It is admitted that Respondent was a signor on the Citizens' Bank account referred to in this paragraph. It is denied that he "personally controlled the Parish's finances" or that he was "solely responsible for approving all expenditures and the record keeping that was supposed to have supported all expenditures." Respondent was not a signatory on the church's two accounts at PNC Bank, which were under the control of the Endowment Committee. Other members of the parish were signatories on the Citizens' Bank account and had access to all bank statements and documentation supporting expenditures. The Accounting Warden of the Vestry was responsible for preparing financial reports, and expenditures were discussed regularly with the Vestry. Respondent did not unilaterally manage the church's stock holdings. All selling of stocks was to meet church needs and done only after consultation with the Vestry.

By way of further response to these allegations, Respondent avers that both he and the Vestry of St. Mark's Church, Frankford (hereinafter "the church" or "the parish") understood, by the beginning of the time period covered by the Statement of Alleged Offenses, that it was impossible for the church, a large building in a Philadelphia neighborhood ravaged by poverty and addiction, to become self-supporting. Plate offerings represented only a

fraction of the cost of maintaining the parish and serving its community. The Vestry therefore made the decision, which was fully supported by Pennsylvania law, to spend down our endowment fund and use the funds to support the church's ministry in the community rather than simply close the church and turn the endowment over to the diocese. The church at all times acted pursuant to its bylaws, and its transfers of funds were approved by the legal department of PNC Bank, which managed its funds.

10. It is admitted that Respondent signed checks and made cash withdrawals.

Each of the checks and withdrawals was for expenditures needed to fulfill the ministry of the church. Respondent did not benefit personally from any of the withdrawals apart from his own salary. Respondent further avers that cash withdrawals were used for its many off-the-books expenses. The church paid cash to workers, some of which were in and out of addiction and living in cash-only recovery houses. The church saved money on many of its expenses by paying cash. This was accomplished by Respondent's writing checks to himself, cashing the check and paying the expenses directly in cash.

11. It is admitted that Respondent and parish administrator and Vestry member *Redacted* were signatories on the Citizens Bank checking account; it is denied that they were signatories on the PNC bank accounts in which endowment funds were held. *Redacted* was a signatory until she left the employ of St. Mark's in the fall of 2019. She was a life-long resident of the Frankford community and her knowledge of the church and its physical plant was unparalleled. It is admitted that *Redacted* were signatories on the checking account. All three were current or former Vestry members who were trusted members of the church and familiar with its ministry and financial and physical condition. *Redacted* was Chair of the Property Committee, a trusted member of the parish who had done important work for it.

12. Respondent is without knowledge of the facts supporting this allegation.

13. It is admitted that the Parish received the identified bequests in 2012 and that these funds were placed in the operating account. It is denied that *Redacted* recommended that the funds be placed in the Endowment Fund. It is further denied that placing the funds from such a bequest violates any provision of the General Convention canons or the Diocesan canons. Because St. Mark's was far from being a self-sustaining parish, and because offerings from the congregations amounted to less than \$45,000 a year and often much less, the parish was forced to use funds from the Endowment and from bequests for basic operating expenses.

14. It is denied that *Redacted* asked Respondent to prepare an operating budget for the parish. By way of further denial, it was the responsibility of the Vestry and the Accounting Warden to prepare a budget and oversee the use of operating funds. Respondent has seen no evidence that *Redacted* communicated a request for a budget to the Vestry, the Rector's Warden or the Accounting Warden. Before the current proceeding began, Respondent had not seen a copy of the letter from *Redacted* that is referenced in this allegation.

15. It is denied that Respondent "depleted" the funds from the bequests. The bequests were used to pay the legitimate operating expenses of the church, including salaries, fees for contractors, repairs, maintenance of essential systems in the church building and services provided to the community.

16. Denied. *Redacted* was replaced as trustee of the Endowment Fund at the Annual Meeting in 2015 by *Redacted*, *Redacted* and *Redacted* in accordance with the parish bylaws and the Endowment Fund bylaws. *Mr. Bryant* was replaced because he was not a member in good standing of the church, attended services only twice a year, because he was not regarded as honest and trustworthy, and because it did not make sense to

have a single individual responsible for managing the Endowment Fund. This action was approved by the Vestry prior to the Annual Meeting, and a certification of the change and five separate signatures was provided to PNC Bank in March, 2016.

17. It is denied that Respondent took these actions. They were taken by the Endowment Fund Committee and the Vestry.

18. It is admitted that Respondent informed the Bishop that the parish could not afford to pay his pension and insurance. It is denied that these funds came from the diocese. On information and belief, the funds came from the Bishop's Discretionary Fund.

19. Admitted.

20. Denied.

21. Denied. Respondent shared all financial information with the Accounting Warden and instructed him how to access the Dropbox with Parish financial records, including the Quickbooks program and the Citizens Bank account, from his home in New Jersey. The Accounting Warden was responsible for providing financial reports, for supervising insurance matters; he voted on stock matters and served as a delegate to the Diocesan Convention. Respondent encouraged Vestry members to attend Diocesan Vestry training, and on information and belief, Accounting Warden *Redacted* did so.

22. Denied.

23. It is admitted that Respondent made himself a super-user on the Citizens Bank account, but that he did so only because that was necessary in order to add the Rector's Warden, Complainant *Redacted*, to the account. The previous super-user, *Redacted*, had moved to the Poconos without turning over digital leadership of the Citizens Bank account to the

Accounting Warden. Respondent did not remove himself from the account after the effective date of his resignation because he no longer worked for the parish.

24. It is admitted that Respondent removed his own personal computer from the church after his resignation became effective. Respondent brought his own computer to the church office for the parish's use because the church no longer had an office computer. The church records were all stored in a Dropbox, to which the Accounting Warden had access. The Dropbox records were given to Canon to the Ordinary Shawn Wamsley, in connection with the investigation in the matter. It is denied that Respondent maintained church records on his personal computer that were not stored in the Dropbox and accessible to authorized users in the parish.

25. Denied. Respondent gave no such instruction and did nothing to hinder Complaint or others associated with St. Mark's from continuing the work of the parish.

26. Denied. As stated above in ¶ 24, all records were available to the Accounting Warden and the Rector's Warden in the Dropbox. It is denied that Respondent failed to provide Complainant with the records she requested. It is further denied that Respondent withheld any records from the Complainant or the Diocese.

27. It is denied that Respondent did anything to hinder Complainant or any other persons associated with St. Mark's from obtaining financial records of the parish. See above, ¶¶ 24, 26.

28. Respondent is without knowledge of the purpose or timing of the BBD LLP Report. The Report speaks for itself, and further characterization of the report is therefore denied.

29. Respondent is without knowledge of the purpose for which the Ragland Report was commissioned. The Report speaks for itself and is devoid of any finding that theft, fraud or embezzlement had been committed.
30. The BBD Report speaks for itself and any further characterization of it is therefore denied.
31. The BBD Report speaks for itself and any further characterization of it is therefore denied.
32. Denied, as the BBD Report speaks for itself. It is further denied that the checks and withdrawals were for Respondent's personal use. Respondent avers that any amounts withdrawn from the parish's operating account in excess of his salary and benefits were used to meet the needs of the parish and the persons in the surrounding community whom it served. Respondent further avers that he did not pay himself his salary after April, 2018, taking only his housing allowance. He did so because of the dire financial condition of the parish and has never been reimbursed for the salary he voluntarily declined to collect. It is denied that the Vestry failed to approve these payments. It is further denied that no supporting invoices existed for these payments. Parish administrator *Redacted* kept receipts in a box on her desk, where they were available to the parish and the Diocese after *Redacted* left her job and moved to the Poconos.
33. Denied as stated. Respondent avers that all cash payments and withdrawals in excess of his salary and housing allowance were used to meet the legitimate needs of the parish and the surrounding community that it served. Respondent further avers that payment of such expenses in cash instead of by check was not improper. See above, ¶. 32.

34. Denied that this check lacked any support. The purpose of the check was to pay Respondent's housing expense, reimburse him for expenses and pay the church musician.
35. Denied. Respondent avers that all cash payments and withdrawals in excess of his salary and housing allowance were used to meet the legitimate needs of the parish and the surrounding community that it served.
36. Denied as stated.
37. Denied as stated. Respondent is without knowledge of the manner in which these payments were "unsubstantiated," as *Redacted* kept receipts for expenditures in a box on her desk.
38. Denied. *Redacted* (Respondent's son in law when he worked at St. Mark's Church) was a licensed and insured contractor who repaired roofing from storm damage, repaired cement walls that were collapsing and did plumbing work for the parish. He taught skills to others who worked for the parish. He apprenticed with the Church's boiler repair company, Heath Mechanical, where he learned skills that he could apply to the Church's boilers. He volunteered to do repair work for elderly parishoners in their homes.
39. Denied. *Redacted* was paid for work that he performed.
40. Denied. Without further specificity, it is impossible to know what payments were made and to whom they were made.
41. The BBD report speaks for itself and any further characterization of it is therefore denied.
42. Denied. Respondent properly accounted for all grants and bequests and communicated appropriately with grantors about the use of grant funds.

43. Denied.

44. This is a legal conclusion to which no response is required.

45. It is denied that the Diocese was unaware of the financial condition of St. Mark's Church. The Bishop and the Diocesan staff had access to the financial records of the parish on their visits to St. Mark's Church and had ample opportunity to discuss any inconsistencies in the report.

46. See response to ¶ 45.

47. It is denied that Respondent's appointment as a Representative Payee for these two individuals pursuant to the Social Security Act, 42 U.S.C. § 1007 (a) and (b), in any way violates a canon of the General Convention or the Diocese of Pennsylvania.

48. It is denied that Respondent failed to record baptisms, marriages and funerals of members of St. Mark's Church. Respondent avers that he administered the sacrament of Baptism to Christians who were not members of the parish nor of The Episcopal Church and thus did not need to be recorded in the parochial records. Respondent further avers that he discussed this practice with the Diocesan Bishops and that they agreed with it and did not object to it.

49. Denied.

50. Denied as stated.

51. It is denied that Respondent instructed the Sexton to dispose of the contents of his office. Respondent paid the Sexton to clean the office space.

52. Denied as stated. Respondent and the Property Committee and its chair took appropriate measures to protect the church building from fire, including removal of coal dust from the walls of the building, using only non-flammable products and conducting regular walk-throughs by the Philadelphia Fire Department.
53. It is denied that any of the boilers that heated the church building were not functioning or safe. Respondent worked with Heath Mechanical to maintain the boilers and address any repair or safety issues.
54. Denied. Respondent paid for a program that sent an email transcript of all phone calls and voice mails received by the church office to Respondent's mobile phone, so that he could return the calls as needed. Respondent further avers that he used this system because after *Redacted's* resignation, the Church no longer had a secretary at a desk answering calls.
55. It is denied that Respondent refused to surrender his keys or that he refused to provide login credentials for the Night Owl program. Respondent avers that he informed the Canon to the Ordinary of the diocese how to obtain the login information from the Property Chair. Respondent further avers that since after he left St. Mark's Church, he was forbidden to contact anyone from the parish directly, he communicated directly with the Diocese about such matters. Respondent further avers that he received no request from Rector's Warden *Redacted* nor any other member of the parish for the keys or the login information.

(b) Response to Alleged Violations of the Canons

56. Denied. This paragraph contains conclusions of law that are incorrect or to which no response is required.

57. Denied. This paragraph contains conclusions of law that are incorrect or to which no response is required.

58. Denied. This paragraph contains conclusions of law that are incorrect or to which no response is required.

59. Denied. This paragraph and all its subparts contain conclusions of law that are incorrect or to which no response is required.

60. Denied. This paragraph contains conclusions of law that are incorrect or to which no response is required.

II. Affirmative Defenses

Respondent, by and through counsel, presents the following Affirmative Defenses:

FIRST AFFIRMATIVE DEFENSE

This action is barred by the equitable doctrine of estoppel.

SECOND AFFIRMATIVE DEFENSE

This action is barred in whole or in part based on the doctrine of unclean hands, bad faith, or improper conduct.

THIRD AFFIRMATIVE DEFENSE

This action is barred in whole or in part based on waiver and laches.

FOURTH AFFIRMATIVE DEFENSE

This action is barred for failure to state a claim upon which relief may be granted.

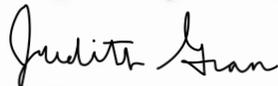
FIFTH AFFIRMATIVE DEFENSE

The Alleged Offenses are barred in whole or part by the statute of limitations.

Respondent asserts and reserves the right to more specifically delineate all additional defenses.

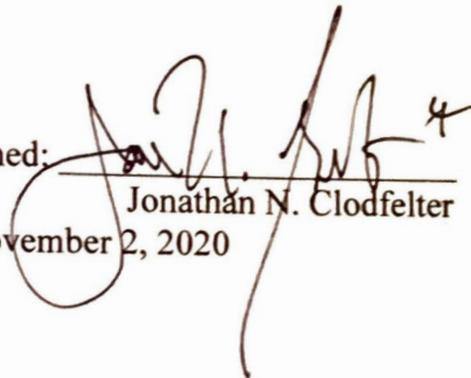
WHEREFORE, Respondent respectfully requests that the Hearing Panel, after discovery and evidentiary hearing, dismiss the claims for violation of the Canons.

Respectfully submitted,



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Signed:



Jonathan N. Clodfelter

November 2, 2020

CERTIFICATE OF SERVICE

I, Judith A. Gran, do hereby certify that on this 2d day of November, 2020, I served the foregoing Answer and Affirmative Defenses upon the following counsel of record by electronic mail:

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/s/ Judith A. Gran