

## Report of the Commission on Judicial Business

The General Synod's Commission on Judicial Business (CJB) has eight members, one representing each of the regional synods. Regional synods are required to nominate laypersons and ministers in alternating six-year cycles in order to ensure that the commission's membership includes at least three laypersons and three ministers. A broad knowledge of and background in the structure, government, and function of the Reformed Church in America (RCA) is required of all members, and legal training and experience is required of lay members.

The responsibilities of the CJB are to carry out the responsibilities assigned to it in the RCA's *Disciplinary and Judicial Procedures* (*Book of Church Order* Chapter 2).

The Office of the General Synod received two judicial matters since the 2021 session of the General Synod. One was an appeal by Joanne W. Lansing from a decision by the Regional Synod of Albany (the "Lansing Appeal"). The second was an appeal by the Classis of Brooklyn from a decision by the Regional Synod of New York (the "Brooklyn Classis Appeal"). Each appeal was referred to the CJB for its consideration.

### Lansing Appeal

After receiving the Lansing Appeal, the CJB requested and received from the clerk of the lower judicatory "the original record of all the proceedings in the case, including the notice of intent, the evidence, the arguments, and any other documents bearing on the case" (*Book of Church Order* [BCO], Chapter 2, Part III, Article 2, Section 3 [2021 edition, p. 96]). Thereafter the CJB met by video conference on Monday, January 17, 2022. Commission member Erin Parker (representing the Regional Synod of Albany) did not participate in any discussions of the Lansing Appeal. Commission member Ed Thornton (representing the Regional Synod of the Mid-Atlantic) also did not participate in any discussions of the Lansing Appeal because he was appointed *ad interim* by the General Synod Council on January 26, 2022, which was after the commission's work on the Lansing Appeal had concluded.

During its January 17 meeting, the CJB reviewed and discussed the notice of intent to appeal, the appeal and reasons therefor, and the record of the case. At the conclusion of its discussion, the commission voted to deem the appeal in its entirety to be clearly without merit, and to dismiss the appeal without a hearing (in accordance with *BCO* Chapter 2, Part III, Article 2, Section 6 [2021 edition, p. 97]). In a letter dated January 31, 2022, the CJB gave all parties to the appeal (and, where applicable, their respective counsel) written notice of dismissal of the appeal without a hearing.

### Brooklyn Classis Appeal

#### *The Parties to the Appeal*

The appellant in the Brooklyn Classis Appeal is the Classis of Brooklyn ("Classis"). The respondent is the Regional Synod of New York ("Regional Synod"). The consistory of Canarsie Community Reformed Church ("Canarsie") was an original party to the case and was considered a party respondent in light of *BCO* Chapter 2, Part III, Article 2, Sections 4 and 5 (2021 edition, p. 97), which provide generally for all parties to be involved.

The opinion and recommendations of the CJB in this matter are stated below.

*Statement of Facts*

The facts here are largely undisputed. Canarsie is a member of the Classis within the Regional Synod. In the fall of 2020, Canarsie negotiated a contract with Rev. Maudelin Willock for her to serve as their contract minister for a one-year term. Rev. Willock is an ordained minister of Word and sacrament in the RCA and at all times was in good and regular standing in this denomination.

Canarsie and Rev. Willock signed the contract in September 2020. Canarsie's then-supervisor, Rev. Calvin Spann, indicated that Rev. Willock was preaching at the church in a pulpit supply capacity. The Classis held its regular meeting in October, but took no action to either allow or disallow the contract.

By the spring of 2021, the Classis appointed Rev. De Lafayette Awkward as Canarsie's new supervisor.

In Canarsie's March 6, 2021, consistory meeting, Rev. Awkward—presiding as supervisor— informed the Canarsie consistory that he had misgivings about Rev. Willock serving as a contract minister. As the consistory minutes stated, "Awkward stated that he was not in support of [Reverend Willock's] application as he had issues with her integrity." Rev. Awkward was also at that time a member of the Brooklyn Classis Human Support Committee ("BCHSC"). The BCHSC is responsible for reviewing all contracts and calls between churches and pastors. In a series of email exchanges in mid-March, the BCHSC asked Rev. Willock for a meeting. When Rev. Willock asked for the purpose of the meeting, the BCHSC said there was none; they just wanted to meet. Rev. Willock replied that she was not interested in such a meeting until the BCHSC stated its purpose or gave an agenda.

On April 17, 2021, the BCHSC met with Canarsie's consistory. When asked whether Rev. Willock could preach at Canarsie, Rev. Awkward stated, according to Canarsie's minutes, "to keep her there would create more problems because they [the BCHSC and/or the Classis] are not supporting the contract." The consistory minutes further reflect that Rev. Awkward "firmly stated that the reason is solely [Rev. Willock's] refusal to meet with the committee." The minutes also stated that Rev. Awkward "told the consistory that they [Canarsie] would not have the power to call pulpit supply."

Twelve days later, on April 29, 2021, Canarsie sent a "complaint" to the Regional Synod on the grounds that the BCHSC told them "that the committee would not support the contract and that all association with [Rev. Willock] should be severed." A copy of the letter was sent to the Classis clerk.

At the May 18, 2021, regular classis meeting, the Classis voted to affirm the recommendation of the BCHSC to not allow a contract or a call between Rev. Willock and Canarsie, in essence precluding any relationship between Canarsie and Rev. Willock, either currently or in the future.

Upon receipt of Canarsie's complaint to the Regional Synod, the Classis objected. They stated that the complaint was not proper as it was not preceded by a "notice of intent to complain" as required by the *BCO* and that the complaint was premature because it was submitted before the Classis voted to affirm the BCHSC recommendation.

The Regional Synod conducted a video hearing. The Classis was invited to attend but did not do so. It also declined to provide its bylaws or the minutes of the BCHSC, despite having been asked to do so by the Regional Synod.

After the hearing, the Regional Synod issued its opinion, finding that the Classis had acted with manifest injustice toward Canarsie, which resulted in prejudice to the church. It then reversed the Classis' disallowance of the contract and further instructed that the original contract would be extended for one year going forward. Finally, it instructed the Classis to appoint a new supervisor who was not a party to this action.

### *Statement of Appellate Procedure*

On December 11, 2021, the Regional Synod rendered its decision on Canarsie's complaint. On December 15, 2021, the Classis filed with the Regional Synod a written notice of intent to appeal. The Classis's undated appeal was filed with the office of the Clerk of the General Synod as an email attachment on December 20, 2021. The CJB deems the filing of the notice of intent and the filing of the appeal to be in compliance with *BCO* Chapter 2, Part III, Article 2, Sections 1 and 2, respectively.

The CJB received and reviewed the record of the case as well as briefs submitted by the Classis, Canarsie, and the Regional Synod. On April 29, 2022, CJB conducted a video hearing in which all parties appeared and made their arguments.

### *Discussion of the Issues on Appeal*

The Classis raises a series of issues on appeal. The first three issues are procedural. The last two focus on the remedy prescribed by the Regional Synod. They will be addressed in the order presented by the Classis.

#### A. Lack of a Notice of Intent to Complain

The Classis first argues that the Regional Synod erred in hearing the complaint at all because Canarsie's consistory filed it without first filing a notice of intent to complain.

*BCO* Chapter 2, Part II, Article 2, Section 1 (2021 edition, p. 92) states that: "Written notice of intent to complain shall be filed with an officer or with the clerk of the assembly which took the action in question. This filing shall be completed not later than twenty days after having received official notification of the action taken. In default of this requirement, the case shall not be heard."

*BCO* Chapter 2, Part II, Article 2, Section 2 (2021 edition, p. 92) further states: "The complaint and the reasons therefor shall be filed with the clerk of the higher judicatory within twenty days after the filing of notice of intent."

The Classis argues that the notice of intent requirement is designed to allow the parties to try to work out their disagreement before a full complaint is filed. Twenty days is thus a kind of brake mechanism before filing the complaint.

The Regional Synod noted in its ruling that the *BCO* only requires that a complaint be filed no later than 20 days after the notice of intent. Indeed, under a fair reading of the *BCO*, both the notice of intent and the complaint itself can be filed simultaneously.

The Regional Synod concluded that the purpose of the notice of intent is to give the appellant up to 20 more days, if needed, to prepare and file its complaint.

The commission finds the Regional Synod's interpretation more persuasive. If the Classis's interpretation were correct, the *BCO* would mandate a *minimum* waiting period between the filing of the intent and the filing of the complaint. Instead, the *BCO* allows a *maximum* time between the two actions.

Moreover, it should go without saying that parties are ALWAYS encouraged to resolve their differences between themselves; this is, or should be, the very fabric of relationships between Christians.

## B. Timing and Scope of the Complaint

### 1. The timing of the complaint

The Classis argues that the Regional Synod erred in hearing the complaint because it was filed prematurely.

*BCO* Chapter 2, Part III, Article 2, Section 1 (2021 edition, p. 96) states that: "This filing [of the notice of intent] shall be completed not later than twenty days after having received official notification of the action taken. In default of this requirement, the appeal shall not be heard."

The Classis asserts that the BCHSC's April recommendation was not an "action" because it had no force or effect until approved by the full Classis, which didn't happen until May 18, 2021. The complaint was filed April 29, 2021.

The difficulty with the Classis's argument is that it ignores the reason the complaint was filed so early. Namely, the Classis's own representative, Rev. Awkward, told Canarsie that the BCHSC had already decided the matter and, as a result, Rev. Willock could no longer serve their congregation. Rev. Awkward's representations to Canarsie would have appeared all the more authoritative because he was not only their Classis-appointed supervisor but also a member of the BCHSC itself.

It is a generally accepted equitable principle that a person should not be allowed to take advantage of a misrepresentation it made, where it could reasonably expect the other person to rely on it to their disadvantage.

From Canarsie's vantage point, their own Classis-appointed supervisor was telling them that the action had already been decided—that Rev. Willock could not serve at their church. What Rev. Awkward should have told them is that the BCHSC's decision was merely a recommendation, and that it would not become final until, at earliest, it was voted on by the Classis at its next formal meeting. At a minimum, Canarsie might have elected to raise the issue for further debate at the May Classis meeting.

Instead, it appears that this misinformation from Rev. Awkward set in motion Canarsie's filing of the complaint. For these reasons, the commission finds that the Regional Synod was correct in deciding it had authority to entertain Canarsie's complaint.

## 2. The Regional Synod's reversal of the Classis' vote to disallow the contract

Relatedly, the Classis argues that if the complaint were deemed timely, the issue must be limited to the BCHSC's recommendation, not the decision of the full Classis (which did not happen until about three weeks after the complaint).

Consistent with the reasoning stated in section B.1., the commission concludes that the Regional Synod was correct in focusing on the Classis action of disallowing the proposed contract. As noted, the Classis's misrepresentation, even if unintentional, together with Canarsie's reasonable reliance upon it, precludes the Classis from arguing otherwise. Canarsie believed it was appealing the disallowance of the contract itself. The Regional Synod did not err in deciding the merits of the Classis's action, not just the BCHSC's recommendation.

## C. Manifest Bias or Prejudice against the Classis

The Classis next raises on appeal the argument that it suffered manifest injustice and prejudice because of a claimed conflict of interest within the Regional Synod. Specifically, it asserts that Rev. Willock was president of the Regional Synod at the time Canarsie's complaint was heard and that Rev. Daniel Meeter, the chair of the Regional Synod's Judicial Business Committee, was a friend of Rev. Willock. The Classis asserts that Rev. Meeter therefore had an obligation to recuse himself from the dispute.

An allegation of a conflict of interest is one which can be easily and quickly addressed if raised in a timely fashion. Here, the Classis did not object to Rev. Meeter's involvement at the Regional Synod level. The Classis offers no reason for why it did not, or could not have, known about that relationship at that time. It is patently unfair to raise such a potential issue now, when the Classis sat on their hands and said nothing at the lower proceedings.

Moreover, as a general rule, a conflict of interests requires more than an acquaintance between two people. There must be a showing that the nature of that relationship would likely lead to an unfair or prejudicial outcome.

The Classis offers no evidence in that regard, either in its brief or at oral argument. Accordingly, the commission believes the issue is without merit.

## D. The Remedies Imposed

Finally, the Classis objects to the remedies imposed by the Regional Synod. The Classis's objection is in two parts. First, it objects to the Regional Synod's decision to reinstate a contract that had already lapsed. Second, it objects to the Regional Synod's instruction to appoint a new supervisor to serve at Canarsie.

## 1. Reversal of Classis's vote to disallow the contract

The Classis argues that, even if the Regional Synod believed Canarsie was unfairly treated, its action should have been limited to reversing the Classis's disallowance of the contract. It had no authority to go beyond reversal and actually require that the contract be allowed.

The Classis argues that the Regional Synod should have merely reversed the disallowance and remanded the case back to the Classis with instructions for how to proceed forward. In support, the Classis notes that a fundamental function of a classis is the supervision and oversight of its member churches, and this must include the contracts guiding the relationships between its churches and the pastors who serve them.

For its part, the Regional Synod states that the history of distrust between the Classis and Rev. Willock, together with the prejudice that has resulted to Canarsie, required it to go further than a simple reversal and to actually reinstate the contract.

The commission agrees that the *BCO* allows a classis very broad discretion in deciding whether to approve or disapprove a contract between a member church and a minister serving under contract. Indeed, the *BCO* places no limits on whether a classis need to give any reason in making such a decision.

This must not mean, however, that a classis has carte blanche to rule upon church-minister contracts. Of course, there may be times when a decision is so egregious or in obvious bad faith that a higher body must intervene. The facts as laid out by the Regional Synod justified its decision to intervene in this case.

In filing an appeal, the appellant shall have the responsibility to establish that the lower judiciary erred in its decision (*BCO*, Chapter 2, Part III, Article 2, Section 10 [2021 edition, p. 97]).

In reviewing this case, the commission must give deference to the Regional Synod's decision and affirm its decision if it is supported by substantial evidence in the record when the record is viewed as a whole (*BCO*, Chapter 2, Part III, Article 2, Section 11 [2021 edition, p. 97]).

The Regional Synod concluded that the Classis had harmed Canarsie in the way in which it handled this contract. Although the Classis has not challenged these findings, they are restated briefly here.

Specifically, the Regional Synod noted the lack of cooperation it received by the Classis during the initial stages of the appeal. The Classis refused to hand over the notes and minutes of its BCHSC meetings. The Classis refused to provide a complete record of the case. And it refused to participate in the hearing on the matter.

Moreover, the Regional Synod found that over the course of several years, the Classis acted to delay, redirect, sideline, and finally disapprove the process of finding a pastor for its member church. Indeed, the Regional Synod noted that the Classis went so far as to pre-emptively disallow Canarsie from potentially offering any contract or call to Rev. Willock—an item that was never before either the BCHSC or the Classis at that time.

For these reasons, CJB believes the record, when viewed as a whole and with deference to the Regional Synod, supports their decision to reverse the Classis's disallowance of the contract.

## 2. Imposing the existing contract upon the Classis

Even so, the question remains whether the Regional Synod acted properly in reinstating the original contract. The Classis states that reversing the disallowance is one thing; imposing the previous contract is quite another.

The Classis argues that the *BCO* limits classes to allowing at most one-year terms for ministers under contract. Even then, these must then be reviewed annually thereafter (*BCO*, Chapter 1, Part II, Article 7, Section 4 [2021 edition, p. 36]). This, the Classis argues, shows that the Regional Synod usurped its authority by not simply remanding the case, but by imposing what amounted to a new contract.

As noted above, classes have unique and broad authority to oversee the contractual relationships between their member churches and their pastors. Moreover, that authority, in the case of ministers serving under contract, is limited to approving or disapproving contracts at one-year increments.

For its part, the Regional Synod was concerned that the lack of good faith on the part of the Classis in dealing with Rev. Willock would mean that a mere reversal of the disallowance could lead right back to the starting impasse. Namely, that the Classis might again disallow the contract without reasons and Canarsie might again appeal. The Regional Synod seems to have, understandably, seen its remedy as a way of avoiding the inevitable.

The difficulty with the Regional Synod's remedy of simply imposing the earlier contract is several-fold. First, it attempts to resurrect an expired contract upon three entities, one of whom (Rev. Willock) is not a party to the complaint. There's nothing in the record to reflect that Rev. Willock still wants to become a contract minister nor that Canarsie is still in need of her services.

Second, simply imposing the earlier contract with new dates would deprive the Classis from its responsibility to review such contracts annually, notwithstanding the identity of the persons involved. For example, the Classis might have an entirely legitimate reason for disallowing the contract that has nothing to do with the identity of the parties. The Regional Synod's remedy would deprive the Classis of its obligation to ensure that all aspects of the contract protected itself and its member church.

A third difficulty, however, is the most troubling. The Regional Synod's skepticism about the parties' ability to resolve their own differences, while possibly accurate, does nothing to encourage healing.

As the Regional Synod itself noted in its appeal brief, the RCA expects its various governing bodies, at all levels, to work in a spirit of mutual good will and encouragement:

Reformed governance understands that the greater assemblies care for the ministry that extends beyond the purview of the lesser assemblies without infringing upon the responsibilities of the lesser. Consistories, classes, and synods work together in mission and ministry within their shared boundaries (*BCO* Preamble, 2021 edition, p. 3 [emphasis added]).

CJB believes that the dysfunction and distrust within the Classis here is not remedied by simply imposing a result. Canarsie, the Classis, and Rev. Maudelin Willock will have little chance of finding healing if they can perpetually triangulate their grievances with a third party (the Regional Synod) instead of maturely attempting to resolve them face-to-face, as Christ would desire.

Instead, the commission feels the proper remedy is to remand the action to the Classis with instructions designed to offer them an opportunity, and an incentive, to repair this breach of trust.

Accordingly, the commission recommends that the Classis be instructed to invite and allow Canarsie and Rev. Willock to negotiate terms for a new one-year contract, if they both still choose to do so.

Further, the commission recommends that the Classis be instructed to conduct a good faith review of that contract, if it is presented to them.

Finally, if the Classis or one of its committees recommends any action short of a full allowance of the contract, the commission recommends that the Classis's executive committee be instructed to draft a written statement stating:

- a) the reasons for recommending disallowance;
- b) the actions taken by the Classis in seeking to address and overcome those reasons;
- c) that the Classis representatives met with Canarsie's consistory to explain those reasons and actions; and
- d) the Canarsie consistory's response to those reasons and actions.

Only after such a document is created and presented to the Classis may the Classis then vote to allow or disallow that particular contract.

It is hoped such a remedy at least brings the parties to the table to talk with each other—something that was sorely lacking thus far. At a minimum, such a document should provide the Regional Synod with clearer evidence should this case again reach them on an adjudicatory level.

Under ordinary circumstances a classis need not give reasons for allowing or disallowing a contract. But as the record of this case makes abundantly clear, this is not an ordinary circumstance.

### 3) *Imposing a new supervisor for Canarsie*

The Regional Synod originally instructed the Classis to appoint a new supervisor to Canarsie—one who is not part of this dispute. The Classis objected. During oral arguments it appears that a new supervisor has been appointed to the church and that he seems to be functioning well.

For this reason, the CJB recommends that the General Synod vacate that portion of the Regional Synod's decision as moot.

For the above reasons, this commission makes the following recommendation:

**JB 22-1**

**To affirm the Regional Synod's finding that it had jurisdiction to hear the complaint and that there was prejudice and manifest injustice toward Canarsie; and further,**

**To affirm the Regional Synod's decision to reverse the Classis's disallowance of the contract; and further,**

**To reverse the Regional Synod's remedy of imposing the existing contract upon the parties; and further,**

**To instruct the Classis and Canarsie to abide by the framework outlined in Section D.2., above, in exploring the creation and allowance of a new contract for a minister; and further,**

**To vacate the Regional Synod's remedy of imposing a new supervisor as moot.**