

EPISCOPAL DIOCESE OF PENNSYLVANIA

Written Statement of Alleged Offenses

In Re: Rev. Jonathan N. Clodfelter
File Number: 2020.01

TO: The Rev. Lynn A. Hade, President of the Hearing Panel; The Rev. Timothy Steeves;
and Ms. Renae Rutherford

FROM: Daniel J. Dugan, Church Attorney

This is the Written Statement of Alleged Offenses (Complaint) submitted pursuant to Title IV.13.2 of the Canons of The Episcopal Church, by The Rev. Jonathan N. Clodfelter. I submit this Complaint and the accompanying materials following the referral to the Hearing Panel by the Conference Panel. The substance of the Complaint is the same as the Complaint submitted to the hearing panel.

Background

1. The Respondent is the Very Reverend Jonathan N. Clodfelter, [REDACTED]. He is canonically resident in the Diocese of Pennsylvania. Pursuant to General Convention Canon IV.19.5 (a), he is subject to disciplinary proceedings in this Diocese.
2. Respondent served as the Rector of St. Mark's Church, Frankford (Parish) from 2002 until 2019. He holds a second Master's Degree in Church Management from Villanova University's School of Business.
3. Complainant [REDACTED] initiated the complaint on April 21, 2020. She joined the Parish in 2016 as a newcomer to the faith and doctrines of the Episcopal Church. She served on the Vestry and became the Senior Warden in September of 2019, just a few weeks before the effective date of Rev. Clodfelter's resignation on October 10, 2019.
4. Intake Officer Deborah Stambaugh conducted a preliminary investigation and referred the matter to the Reference Panel, which consists of the Intake Officer, the President of the Disciplinary Board, and the Bishop Diocesan. The Reference Panel convened on June 19, 2020 to consider the matter and discuss the referral guidelines of Canon IV.6.8.
5. By letter of June 22, 2020, the Bishop placed the Respondent on Administrative Leave and relieved him of all his duties pursuant to Title IV.7 3(b) of the Canons of the Episcopal Church. A copy of that letter is attached as Exhibit A.

14. [REDACTED] requested an operating budget to justify depositing the bequests into checking, but Respondent did not provide one. See Exhibit E, Letter from [REDACTED]

15. By August 30, 2016, the Respondent had depleted all of the \$798,741.31 that had been deposited into checking along with the regular monthly \$7,500 draws from the endowment. The balance in the Operating Account was less than \$94.00. See Exhibit F, August 2016 Statement for the Operating account. On information and belief, in August Respondent requested PNC release \$50,000 from the endowment directly to him.

16. Respondent then proposed to double the Parish's monthly endowment draw from \$7,500 to \$15,000. [REDACTED] opposed this action because Respondent provided no proposed budget justifying the request and a doubling of the draw to \$180,000 per year would totally deplete the endowment too quickly. Respondent informed [REDACTED] he would replace him as trustee and/or appoint more compliant trustees to overrule him unless [REDACTED] complied with the Respondent's demands. Respondent informed [REDACTED] on November 2, 2016 that his services were no longer required as Trustee, and [REDACTED] formally resigned on December 11, 2016 and soon after withdrew from the Parish. Respondent took control of the endowment and doubled the monthly draw. There is no evidence the Vestry approved these actions.

17. Beginning in the Spring of 2107, Respondent increased the monthly draw from the endowment to \$15,000 and made two special draws totaling \$110,000 in May and December 2017. The special draws were deposited in the Operating Account and Respondent expended \$54,000 in May and \$72,000 in December, spending the entire amount of the special draws.

18. In or around 2017, Respondent represented to the Diocese that the Parish could not afford to pay his pension and insurance. In response, the Diocese provided financial support to the Parish and instructed that the funds be applied to Respondent's pension and insurance payments.

19. By the end of 2018, there was only about \$84,000 in the endowment (and only in the 001 Account). In August of 2019, Respondent transferred the then remaining \$11,000 from the 001 Account to the Operating Account, fully exhausting the endowment.

20. In September of 2019, the Complainant, as Senior Warden, inquired about the Parish's financial records and audits, and Respondent admitted that he had left the records in an "un-auditable" condition.

21. Respondent failed to ensure the Vestry was trained regarding its duty to oversee the Parish finances, and he refused to provide any substantial financial information to or even answer questions from the Vestry or Accounting Warden regarding the finances of the Parish. Respondent appropriated to himself unfettered control over the Parish finances and reported to no one in the Parish, including without limitation, the Vestry and Accounting Warden.

22. There were no controls on Respondent over disbursements because Respondent was both signor on the Operating Account, in control of the endowment accounts, and responsible for recordkeeping regarding the expenditures from all the accounts.

23. October 3, 2019, just days before the effective date of his resignation, Respondent designated himself as the online SuperUser on the Parish Checking Account. He did not remove himself from that account after his resignation.

24. On his departure on October 10, 2019, Respondent removed his computer, which on information and belief contained financial records and related documents of the Parish, but left only limited and incomplete financial records on site. The Respondent maintained no organized record keeping so that the records he left in the Parish office included both personal invoices and Parish related information and records, including bank statements and official invoices, all of which were stacked and interspersed with junk mail.

25. The Respondent also instructed the Sexton to dispose of all files and documents in the administrative offices upon his departure, but the Sexton did not carry out this instruction.

26. After Respondent left, the Complainant, as Senior Warden, requested Respondent to provide the Parish's Quickbooks and other financial records but he failed to provide any records until the Bishop Diocesan at her request instructed Respondent to turn over the requested financial records. The files Respondent provided in response to the Bishop Diocesan's direction were substantially incomplete.

27. The Complainant, as Senior Warden, obtained financial records from Citizen's Bank, and provided them for a limited review to Karen Ragland, a financial consultant the Diocese of Pennsylvania retained in early 2020 to assist in recreating the accounting records. She prepared a preliminary report dated March 13, 2020 (Ragland Report). A copy of the Ragland Report is attached as Exhibit G.

28. The Parish later retained BBD LLP to conduct an independent forensic examination of the Parish's finances during Respondent's tenure "to determine the existence of unsubstantiated disbursement activity or other transaction which would indicate possible misappropriation of assets." It completed and issued its report on May 11, 2020 (BBD Report). A copy of the BBD Report is attached as Exhibit H.

Undocumented/Improper Payments to Respondent

29. Ms. Ragland conducted a preliminary forensic examination of the PNC Bank checking account from January 1, 2018 through December 31, 2019 to determine whether the Parish was the victim of theft, fraud, or embezzlement by the Respondent assist the Diocese in determining the fraud risk and dollar value of funds that are unaccounted for, the causes for unaccounted funds, the value of diverted funds, and the causes of fund diversion. The Period subject to review was January 1, 2018 through December 31, 2019.

30. The Ragland Report documented suspicious expenditures (including payments to Respondent and to "cash") totaling \$328,674.90.

31. The BBD Report determined the salary and housing allowance for Respondent was approximately \$73,000 per year. In the years 2012-2015, Respondent received between \$76,000 and \$82,000 per year for salary and housing for a total of \$27,000 in excess of his salary and housing allowance.

32. In addition, the BBD Report found that Respondent cuts checks in excess of his estimated payroll and housing allowance to himself or cash and make cash withdrawals as follows over the years:

- 2012 \$8,897
- 2013 \$9,854
- 2014 \$40,850
- 2015 \$60,107
- 2016 \$135,015
- 2017 \$79,411 (this excludes payments made during five months of the year for which check were not available.)
- 2018 \$190,939
- 2019 \$116,273 (through October 2019)

There is no evidence the Vestry approved these payments; there were no supporting invoices for these payments; and the primary Parish expenses (utilities, fuel, pension, insurance) were paid by separate checks.

33. During 2018 and 2019, Respondent (a) decreased the number of checks paid to vendors and issued the majority of checks directly to himself, and (b) began to withdraw significant amounts of cash from the bank.

34. After he departed Respondent cut a check to himself for \$4,000 and a third party for \$1,298, both of which lacked any support.

35. The total amounts Respondent paid himself (over and above his salary and housing allowance) from 2012 through 2017 was approximately \$334,000. For 2018 through October 10, 2019 Respondent paid himself or took directly from the bank an additional \$307,210. Exhibit H at page 10.

Undocumented/Improper Payments to Others

36. Respondent paid [REDACTED] salary, but he failed to pay the required payroll taxes for which the Parish was responsible, leaving the Parish exposed to substantial payments of back taxes, penalties and interest charges, which the Parish must now resolve with the taxing authorities.

37. There were also unsubstantiated petty cash payments to [REDACTED] totaling over \$18,000. See Exhibit H at Appendix H.

38. Respondent also cut checks in 2012 to [REDACTED] who on information and belief is related to Respondent, for which there is no supporting evidence.

39. From time to time, particularly July 2014 and October 2015, Respondent paid his son [REDACTED] monthly payments that exceeded the normal monthly amounts he earned for performing odd jobs at the Parish.

40. Between November 2014 and October 2014, Respondent added payments to individuals for reasons that are not clear or supported by any evidence. These payment doubled payments the amounts typically paid monthly to individuals at the Parish.

41. Respondent issued checks totaling \$23,876 and took in deposits totaling \$13,800 in transactions BBD found to be unusual. See Exhibit H at Appendix D.

Other Problems/Deficiencies

42. There is no evidence Respondent properly accounted for grant awards and bequests to the Parish.

43. Respondent failed to open, much less pay bills necessary to the continued operation of the Parish, including without limitation past and present shutoff notices from utilities and invoices showing the Parish had not paid PGW since June 2018.

False and Misleading Parochial Report

44. DIOPA Canon 16.1 required the Respondent to prepare and submit a Parochial Report once per year ending December 31st. One purpose of the Parochial Report is to allow the Diocese to identify potential financial mismanagement.

45. Respondent's Parochial Reports for the years 2012 through 2016 contain erroneous information in the field "total cash in all checking & passbook savings accounts," which obscured the fact that Respondent deposited two large bequests into checking, and dispersed the money without the oversight. A comparison of the parochial reports versus the checking account balances is as follows:

Year	December 31 Balance of "total Cash in all checking & passbook savings accounts" as represented in Parochial Reports	December 31 Current Balance as shown on checking account statements
2012	\$55,000 (Exhibit I)	\$712,485 (Exhibit J)
2013	\$10,000 (Exhibit K)	\$573,732 (Exhibit L)
2014	\$32,000 (Exhibit M)	\$391,905 (Exhibit N)
2015	\$15,000 (Exhibit O)	\$166,600 (Exhibit P)
2016	\$335,000 (Exhibit Q)	\$24.44 (Exhibit R)

46. Respondent's Parochial Reports for 2017 and 2018 were incomplete and failed to disclose the dire financial problems of the Parish.

Respondent's Receipt of Government Benefits on Behalf of Others

47. On information and belief, Respondent was receiving benefits for other persons from both the federal and state governments. In particular,

a. Respondent maintained a checking account at Citizens Bank in his name as "Rep Payee for [REDACTED]" in which deposits were made and monies were then transferred to Respondent's account at Citizens. Checks from the US Treasury and the Commonwealth of Pennsylvania in April 2016 were made also made payable to Respondent [REDACTED] and sent to Respondent's address in Bryn Mawr. See Exhibit S, which includes a Statement of March 24 to April 25, 2016 from Citizens Bank; and copies of two checks.

b. The Social Security Administration wrote to Respondent in January 2018 at his home address in Bryn Mawr "for [REDACTED]" regarding overpayments of SSI benefits to [REDACTED]. A copy of the first page of that letter (all that is available) is attached as Exhibit T.

Failure to Maintain Parish Records

48. Respondent failed to maintain complete and orderly Parish records. Baptismal, marriage, and other parochial records are missing or incomplete. The parish Register has few entries beyond the year 2012, and earlier entries also appear to be incomplete. Numerous baptisms, weddings, and funerals were not properly documented. Baptism and other certificates were prepared ad hoc upon request using information supplied by the congregants. According to [REDACTED] she tucked certificates and other documentation relating to the sacraments into various drawers throughout the office spaces, some of which have been located by the Wardens in the areas she specified.

49. Respondent failed to document attendance at worship services or receipt of communion or other sacraments.

50. Respondent failed to document plate offerings. [REDACTED] admitted that she tucked away empty offering envelopes in various drawers throughout the office areas, some of which have been located by the Wardens in the areas she specified.

51. Upon his departure from the Parish, Respondent left all 3 office areas in a state of disarray, with documents, unopened mail, and trash strewn about and stacked on all surfaces throughout all of them. After he departed the Parish, Respondent attempted unsuccessfully to have the Sexton to dispose of the entirety of the office contents.

Miscellaneous

52. The Parish lacked a central fire monitoring contract. Fire extinguisher certifications were expired, and electrical repairs and upgrades were incomplete.

53. Four out of five boilers and vessels are out of code and not certified. It was not uncommon for the Parish heat to be shut off in the winter months, and Respondent informed the parishioners there were insufficient funds available for heating related expenses

54. The Parish voicemail was not monitored from March 13, 2019 until after Respondent's departure.

55. Respondent failed and/or refused to surrender his keys to the Parish buildings. The Parish security camera feeds to an app called Night Owl to which Respondent alone has the credentials to login and view the security camera, but he failed and/or refused to provide the credentials needed for access.

Violations of the Canons

56. General Convention Canon IV.3.3 provides, "In order for any conduct or condition to be the subject of the provisions of this Title, the Offense complained of must violate applicable provisions of Canon IV.3 or IV.4 and must be material and substantial or of clear and weighty importance to the ministry of the Church."

57. General Convention Canon IV.4.1(g) required Respondent to "Exercise his ... ministry in accordance with applicable provisions of the Constitution and Canons of the Church and of the Diocese, ecclesiastical licensure or commission and Community rule or bylaws."

58. The actions and inactions of the Respondent as alleged above evidence a knowing and intentional effort to thwart fiscal review and accountability by both the Vestry and the Diocese and to violate numerous Canons.

59. Specifically, Respondent violated the following Canons:

a. General Convention Canon IV.4.1(e), which requires the Respondent to "safeguard the property and funds of the Church and Community;"

b. General Convention Canon I.7.1.(b), which requires "Funds held in trust . . . [to] be deposited with a National or State Bank . . . under a . . . depository agreement providing for at least two signatures on any order of withdrawal of such funds or securities." *See also* DIOPA Canon 17.1.1

c. General Convention Canon I.7.1.(e), which requires "Books of account shall be so kept as to provide the basis for satisfactory accounting."

d. General Convention Canon I.14.2, which provides "[T]he Vestry shall be agents and legal representatives of the Parish in all matters concerning its corporate property and the relations of the Parish to its Clergy."

e. DIOPA Canon 15.1.1, which provides, "In the Parish Register of Baptisms, Confirmations, Communicants, Marriages and Burials required by the Canons of the General Convention to be kept by every minister of this church, the record shall specify the name and date of birth of each child baptized, with the names of the parents and sponsors; the name of each adult baptized; the name of each person confirmed; the names of the parties married, with the names of the witnesses required by the civil law; the name of each person buried; and also the date when each rite was performed. The register shall be kept by the minister in a book to be provided for that purpose, belonging to the vestry, or to the board of trustees, of each church, which book shall be the parish register, and shall be preserved by the vestry, or the board of trustees, as part of the records of the church."

f. DIOPA Canon 16.1, which provides, "It shall be the duty of every minister in this Diocese in charge of a parish or congregation . . . to prepare upon the form of Parochial Report adopted by the General Convention a report for the year ending December 31st preceding, and to transmit the same by mail, or deliver same, on or before the first day of February ... to the Bishop of the Diocese. . ." *See also* General Convention Canon 6.1.

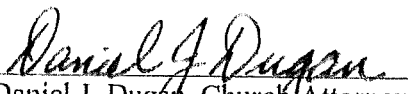
g. DIOPA Canon 17.1.2, which provides, "Records shall be kept of all trust and permanent funds showing at least the following: (a) Source, amount and date of establishment, (b) terms governing the use of principal and income, (c) To whom and how often reports of condition are to be made. (d) How the funds are invested."

h. DIOPA Canon 17.1.7, which provides, "Every organization named above shall maintain adequate insurance on its buildings, their contents, and its premises against fire..."

60. This Complaint is brought timely under (a) Canon IV.19.4.(e), which provides, "No proceedings under this Title shall be initiated for acts which are alleged to violate Canon IV.3.1(a) or to constitute a breach of Canon IV.4.1(b), (c), (e) or (h)(2) unless the acts were committed within or continued up to two years immediately preceding the time the proceedings are initiated;" and (b) under Canon IV.19.4.(a), which provides that complaints regarding failure to exercise ministry in accordance with applicable provisions of the Constitution and Canons of the Church and of the Diocese, rule or bylaws, must be initiated within 10 years of the alleged action giving rise to the complaint.

WHEREFORE, the Church Attorney requests the Hearing Panel adjudicate the allegations set forth above and impose all appropriate disciplinary actions on the Respondent.

Respectfully submitted,


Daniel J. Dugan, Church Attorney

September 25, 2020