Report of the Commission on Judicial Business

The Office of the General Synod received two judicial matters since the 2017 session of the General Synod. Each was referred to the Commission on Judicial Business (“CJB”) for review, recommendation, and report to the 2018 General Synod. The matters considered by the CJB, and the CJB’s reports and recommendations regarding them, are as follows:

Appeal by Phil and Diane Forner against the action of the Commission on Judicial Business of the Regional Synod of the Great Lakes

Phillip and Diane Forner (“Forners”) filed with the Office of the General Synod an appeal (“Forners/GLJBC appeal”) from an action taken by the Commission on Judicial Business of the Regional Synod of the Great Lakes (“RSGLJBC”). The Forners/GLJBC appeal was received by the clerk of the General Synod on September 25, 2017, and subsequently referred to the CJB. The CJB received the appeal on September 29, 2017, and the record of the case on October 4, 2017. The CJB met via conference call on October 25, 2017, to consider the case.

The factual background of the case is available to the reader in MGS 2015, pp. 214ff. At the General Synod (“GS”) meeting in 2015, the CJB recommended, and the GS adopted, the following:

To remand the case to the Zeeland Classis for hearing on the merits of the Complaint of Phillip and Diane Forner regarding their membership in Spring Valley Reformed Church (MGS 2015, p. 216).

Per the action of the General Synod, Zeeland Classis (“ZC”) held a hearing on the complaint on September 19, 2016, and determined that “the record of the case makes it clear that a complaint against the [Spring Valley Church] Board of Elders, which is the focus of the January 26, 2013, complaint, is without merit.”

Unsatisfied with the action of Zeeland Classis, the Forners filed an appeal with the RSGLJBC. RSGLJBC found the appeal to be procedurally in order. RSGLJBC agreed with the finding of ZC that the complaint of the Forners was without merit. Pursuant to its authority granted in Book of Church Order (BCO) Chapter 2, Part III, Article 2, Section 6 (2017 edition, p. 93) (“If the appeal is deemed to be frivolous, dilatory, or clearly without merit, the committee may dismiss the appeal without a hearing”), the report of RSGLJBC indicates the following:

The motion was made, seconded, and carried to dismiss these two pending appeals without a hearing. This action will be reported to the Assembly of the Synod of the Great Lakes on May 6, 2018, but this decision is considered the final action of the regional synod in response to these appeals.

This action is the subject of the Forner appeal.

The Forners allege that both ZC and RSGLJBC handled their original case (dating back to 2013) improperly. Specifically, the Forners argue that the appropriate bodies failed to consider what the Forners deem to be relevant items of record. Further, they contend that the findings of ZC and RSGLJBC dismissed their case unfairly on the grounds that it was “without merit,” where the BCO states that a case may be dismissed at the committee level if it is “clearly without merit.” They argue that these alleged irregularities amount to a pattern of bias and prejudice, originally on behalf of ZC but (by implication) on behalf of RSGLJBC as well.
The CJB met by conference call on October 25, 2017.

The purpose of the meeting was to deal with the appeal of Phil and Diane Forner against the Regional Synod of the Great Lakes.

Upon consideration of the 284-page record, the commission determined that the case was in proper order.

The commission measured the grounds for appeal (BCO Chapter 2, Part III, Article 1, Section 3 [2017 edition, p. 91]) against the record of the case and found the following:

1. CJB could detect no irregularities in the proceedings of the board of elders, the classis, or the regional synod relative to this case;
2. CJB was not able to locate any occasion at which a lower judicatory refused reasonable indulgence to any party in the case;
3. CJB found no incidents of the receipt of improper evidence in the case. The Forners’ allegation that the regional synod failed to receive minutes from the Classis of Zeeland was not found to be dispositive;
4. CJB, having examined the minutes of lower judicatories, found that lower judicatories acted in good faith, and exhibited neither bias nor prejudice;
5. CJB therefore found no manifest injustice in the determination of the Judicial Business Committee of the Regional Synod of the Great Lakes to dismiss the two pending appeals without hearing.

Further, the CJB notes the patience and pastoral concern that the Interim Leadership Council of ZC manifested in attempting to deal with a thorny situation. While it is certainly the case, as the Forners argue, that a board of elders “shall receive as confessing members of the church only those persons who have made a profession of their faith in the Lord Jesus Christ” (BCO Chapter 1, Part I, Article 5, Section 2b [2017 edition, p. 21]), a board of elders is not thereby required to receive everyone who makes such a profession. Boards of elders are entrusted to discern the sincerity of those who come before them promising “to accept the spiritual guidance of the church; to walk in a spirit of Christian love with this congregation; and to seek those things which make for unity, purity, and peace” (Worship the Lord, p. 35). At the same time, the Belhar Confession guards against arbitrary decisions by boards of elders by rejecting any doctrine “which explicitly or implicitly maintains that descent or any other human or social factor should be a consideration in determining membership of the church” (Belhar Confession, Section II).

Finally, CJB notes that “the judicatory hearing the appeal shall give deference to the decision of the lower judicatory ... and shall uphold the decision of the lower judicatory 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 [2017 edition, p. 93]). Given that significant restriction and the ample record of a case (dating back four years) that demonstrates considerable forbearance on the part of ZC and RSGLJBC, the CJB determines it right and proper to give such deference to the lower judicatories in question.

In sum, the CJB:

- finds no grounds for appeal, per BCO Chapter 2, Part III, Article 1, Section 3 (2017 edition, p. 91);
- affirms the authority of a board of elders to receive confessing members per BCO Chapter 1, Part I, Article 5, Section 2b (2017 edition, p. 21); and
- defers to the decisions of the lower judicatory per BCO Chapter 2, Part III, Article 2, Section 11 (2017 edition, p. 93).
Therefore, the motion was made, seconded, and carried to find the appeal of the Forners to be frivolous and clearly without merit, and the CJB then dismissed the appeal without a hearing, per *BCO* Chapter 2, Part III, Article 2, Section 6 (2017 edition, p. 93).

**Appeal by Rev. Brian Randazzo against action by the Judicial Business Committee of the Regional Synod of New York**

Rev. Brian Randazzo (“Rev. Randazzo”) filed with the Office of the General Synod an appeal (the “Randazzo appeal”) from an action taken by the Judicial Business Committee of the Regional Synod of New York (“RSNYJBC”). The Randazzo appeal was received by the clerk of the General Synod on November 10, 2017, and subsequently referred to the Commission on Judicial Business (“CJB”). The CJB received the record of the case from the clerk of the Regional Synod of New York on December 15, 2017.

The general facts of this case appear to involve a disciplinary matter initiated against Rev. Randazzo as a result of alleged conduct by him while attending and serving as a delegate to the 2016 session of the General Synod. Action in the nature of discipline was taken by the Classis of Orange, but it does not appear that any formal charges against Rev. Randazzo were ever filed or acted upon by the classis. Nevertheless, apparently in response to action by the classis or one of its committees, Rev. Randazzo filed an appeal with the Regional Synod of New York (“RSNY”). The appeal was considered by the RSNYJBC. In a September 12, 2017, letter the stated clerk of the RSNY reported the following to Rev. Randazzo and the stated clerk of the Classis of Orange:

> On August 29, 2017, the Synod of New York Judicial Business Committee met to discuss the appeal filed by the Rev. Randazzo against actions taken by the Classis of Orange.

> The decision of the committee regarding the appeal is as follows:

> The Judicial Business Committee herewith dismisses the Appeal as without merit, as the Appellant offers no evidence that ‘a judgment has been rendered in a lower judicatory’ (*BCO* 2.III.1.1), nor is there any evidence of the same in the records of the classis.

> With the dismissal of the appeal, no further action will be taken in regard to the appeal.

Put simply, the RSNYJBC did not conduct a hearing on Rev. Randazzo’s appeal because there was no formal decision by the classis from which to appeal, and therefore Rev. Randazzo’s “appeal” was improper.

It is from this “action” that Rev. Randazzo has filed his appeal with the General Synod. (The word *action* is put in quotes intentionally because it is actually *inaction* by the RSNY that has precipitated the appeal.)

This commission took the same “inaction” as that of the RSNY and for the same reason. There has been no formal judgment with respect to the behavior or misbehavior of Rev. Randazzo by any judicatory of the Reformed Church in America. There being no formal judgment, necessarily there can be no other decision than to dismiss the appeal of Rev. Randazzo, and such was the action of this commission.

We are disturbed, however, by what we perceive to be unfair treatment of Rev. Randazzo by the Classis of Orange. On the one hand, it can be argued that the suspension of Rev.
Randazzo was defective *ab initio* since the *BCO* gives authority to a consistory to close the pulpit to a minister for “‘any notorious or scandalous offense’ (*BCO* Chapter 2, Part I, Article 3, Section 4b [2017 edition, p. 78]); the consistory of Brick Church took no such action. Alternatively, classis (no mention of a *committee* of a classis) “shall have exclusive jurisdiction in the case of a charge against a minister … if the charge is proven” to suspend or depose from office (*BCO* Chapter 2, Part I, Article 3, Section 4c [2017 edition, p. 78]).

In the instant case, the Administrative Committee of Orange Classis made a decision on its own that Rev. Randazzo committed “notorious and scandalous” acts at General Synod and should be suspended from ministry for some indefinite period. The committee, without hearing or trial, decided that the case was proven and took action to suspend Rev. Randazzo. Even if it is assumed, notwithstanding the language of the *BCO*, that a classis committee could suspend a minister of Word and sacrament (the committee’s own decision being the only proof required), we come to an action of Orange Classis at its regular session on February 23, 2017, which by its resolution RS17-18 lifted the suspension of Rev. Randazzo and by the quoted words of the stated clerk of classis “… the Rev. B. Randazzo’s suspension ha[s] been lifted he once again became a voting member of the classis … .” This could, and possibly should, have been the end of this matter.

Classis, or some part of classis, was not satisfied with this result. The Administrative Committee had already put in place a Charge Committee which intended to charge Rev. Randazzo with the civil crimes of assault, battery, and defamation (which are beyond the scope of church discipline), as well as the *BCO* offenses of violation of his ordination oath, unseemly behavior, and lack of knowledge of RCA polity. It was these charges that were to be considered in executive session at the February 23, 2017, meeting. Prior to the meeting in an “email dump,” several letters and statements from purported witnesses to Rev. Randazzo’s bad behavior at General Synod were sent to all members of classis and possibly others, in violation of the *BCO* prohibition against circulation by anyone of “any written or printed arguments or briefs upon any charges before the final disposition of same …” (*BCO* Chapter 2, Part I, Article 5, Section 11b [2017 edition, p. 83]). These now-public letters and statements were to be used in determining whether or not to bring formal charges. The *BCO* assures parties that they may cross-examine witnesses and specifically prohibits the use of affidavits at trial. Rev. Randazzo had no opportunity to challenge these statements, nor to cross-examine the authors thereof, nor to bring in statements for his defense. Yet, even with no rebuttal whatsoever of the statements against him, the delegates’ votes on the charges were in favor for bringing some of the charges by the barest of margins. It seems these charges now exist but are not acted upon, casting a dark shadow across the mission of the Classis of Orange and especially the life of the Brick Church, to say nothing of the devastation caused to the life of Rev. Randazzo and his family.

From the record before us, it appears that the entire matter of Rev. Randazzo’s actions at General Synod 2016, and his subsequent suspension, is unresolved. We would urge that some resolution be made promptly. The *Book of Church Order* sets forth the Nature of Discipline in Chapter 2, Part I, Article 1, both as to its purpose (Section 1) and its exercise and the levels thereof (Section 2), be they pastoral or judicial. We suggest that the Classis of Orange give careful consideration to pastoral discipline in this case, but it may be that a trial with the full protections to the parties provided by Articles 4 and 5 of *BCO* Chapter 2, Part I (2017 edition, pp. 80–85) is the best alternative to reach a final decision. Classis must rely upon prayer and Christian love to discern the best way to end this continuing discord, but end it must.

Respectfully submitted,
Russell Paarlberg, moderator
The CJB met by conference call on Wednesday, October 25, 2017; Wednesday, December 13, 2017; Wednesday, January 3, 2018; and Thursday, February 15, 2018. For reasons stated in this report, no hearings were conducted. Commission member Jack Van Slambrouck (representing the Regional Synod of the Great Lakes) did not participate in any discussions of the matter filed by Phillip and Diane Forner, and commission member Kendra Van Houten (representing the Regional Synod of New York) did not participate in any discussions of the matter filed by Rev. Brian Randazzo.