

In the Matter of a Complaint under the Clergy Discipline Measure 2003

Before the Bishop's Disciplinary Panel for the Diocese of Southwark

Complainant: The Venerable Christopher Skilton, Archdeacon of Croydon

Respondent: The Reverend Nathan Ntege

Constitution of the Panel:

HH Judge Stephen Eyre QC
Revd Caroline Ralph
Revd Neil Patterson
Ms Josile Munro
Mr. Amir-Kamran Naghdi

DETERMINATION AND PENALTY

- 1) The Revd Nathan Ntege was licensed as priest in charge of the parish of St Jude with St. Aidan, Thornton Heath in January 2002 and in February 2007 he was installed as vicar of this parish.
- 2) In the period from 6th January 2007 to 30th April 2011 475 weddings were celebrated in St Jude's. The complaint against the Respondent related to his conduct in respect of those weddings. The Respondent had been the subject of criminal charges arising out of some at least of those weddings. The criminal proceedings had culminated in a trial in September and October 2014. On 21st October 2014 HH Judge Nic Madge had stayed the proceedings against the Respondent and the other defendants on the ground of abuse of process on the part of the prosecution and in particular on the part of officers of the UK Border Agency.
- 3) The Complaint set out below was determined at a hearing on 27th – 29th November 2019.
- 4) The panel's conclusions as set out herein and the determination as to the penalty imposed were reached unanimously by the members of the panel each of whom has approved the wording of this determination.

The Complaint.

5) On 20th November 2017 the then President, Sir Andrew Macfarlane, granted an extension of time for the making of a complaint under the Clergy Discipline Measure 2003.

6) On 22nd March 2019 Dame Sarah Asplin granted an extension of time for the submission of the Designated Officer's report and referred to the tribunal the following matters for determination:

(1) That the Respondent was neglectful or inefficient in the performance of the duties of his office as vicar of the benefice of St Jude with St Aidan in that in the period 6th January 2007 to 30th April 2011 he failed properly to maintain the marriage register and/or he failed properly to maintain the banns register.

(2A) That the conduct of the Respondent was unbecoming or inappropriate to the office and work of a clerk in holy orders in that having by a deed of assignment dated 7th January 2002 assigned to the Southwark Diocesan Board of Finance ("the DBF") all fees payable to him in accordance with the provision of orders made pursuant to the Ecclesiastical Fees Measure 1986 and having undertaken to remit all such fees to the DBF he during the period 6th January 2007 to 30th April 2011 did not remit to the DBF assigned fees estimated to be approximately £60,000.

(2B) Alternatively, that the Respondent was neglectful or inefficient in the performance of the duties of his office by reason of the conduct alleged in 2A.

7) For the reasons set out below the panel found Complaints 1 and 2A proved and accordingly did not need to reach a conclusion on Complaint 2B.

The Allegation of Failure properly to maintain Registers.

8) In this allegation the Complainant contended that the Marriage Register was not properly maintained in two respects. First, there were 14 entries where the Respondent had failed to sign the Marriage Register in respect of weddings which he had conducted. The Complainant said that the Respondent's

conduct of those weddings had been demonstrated by the fact that he had signed the Register of Services as the officiant at those weddings. Second, there were 15 entries in the Marriage Register where the Respondent had failed to include in the Register the nature of the preliminaries namely whether the marriage was after banns or by way of licence.

- 9) Further the Complainant contended that the Banns Register was not properly maintained in that there were deficiencies in 6 categories. There were said to have been instances where names were duplicated; instances where the Banns Register was unsigned; instances where the date recorded as being the date of the publication of the banns was not a Sunday; instances where the banns were recorded as having been published after the wedding had taken place; instances of errors with dates; and sundry other errors. The Complainant contended that the following were the most serious aspects of these deficiencies: 100 instances where the Banns Register was unsigned but the Register of Services showed the Respondent to have been the officiant at the service at which they were published; 7 instances where the banns were recorded as having been published on a day which was not a Sunday; and 9 instances where the banns were recorded as having been published on a date after the date of the relevant wedding.
- 10) Copies of the Marriages Register, Banns Register, and the Register of Services were produced to the panel and confirmed by the evidence of the Complainant. The Designated Officer and the Complainant identified the entries and/or omissions which were said to constitute those failings. The panel was satisfied that the deficiencies were apparent on the face of the registers.
- 11) The Respondent did not in the material referred to below seek to challenge the alleged deficiencies or to contend that the registers had been properly maintained. Indeed, in the view of the panel, such a contention would have been hopeless. Instead he relied on the matters set out at [43] below as explaining and/or excusing his actions.

12) In addition to the copies of the registers for the period covered by the Complaint the panel were provided with copies of the registers for the earlier period of the Respondent's ministry in this parish. It was evident from those that there were a markedly fewer number of weddings in the earlier period and also that the appropriate entries in the registers had been made properly and fully.

13) The Respondent's obligations in respect of the Marriages Register derived from sections 53(a) and 55 (1) and (2) of the Marriage Act 1949 and from Canon B39.1 and his obligations in relation to the Banns Register derived from sections 7(1) and (3) of the 1949 Act and from Canon B39.2.

The Nature of the Allegation of the wrongful Retention of Fees.

14) The Complainant contended that when he took office at St Jude's the Respondent had assigned to the DBF his fees including the fees due to him as an incumbent in respect of weddings. The Complainant said that 475 weddings had been celebrated at St Jude's in the period covered by the Complaint and that this contrasted markedly with the number celebrated in the previous period of the Respondent's time in office in the parish. Thus in the period from January 2002 to December 2006 29 weddings had been celebrated but in the period from January 2007 to April 2011 475 weddings were celebrated. Although 475 weddings had been celebrated in the period covered by the Complaint on the Complainant's case no fees had been remitted to the DBF in this period. In those circumstances the Complainant said that it was to be inferred that the Respondent had improperly retained the fees. The incumbent's fees due for the 475 weddings would have totalled £66,912.50. The Complainant accepted that it was possible that there had been a waiver of fees in a small number of cases and/or that some fees had been paid to clergy other than the Respondent officiating at weddings but he contended that even after a discount was applied to take account of this the Respondent was to be regarded as having retained fees of the order of £60,000.

15) The documentary evidence in support of this allegation took the form of the production by the Complainant of copies of the Marriages Register, the

Register of Services, the deed of assignment dated 7th January 2002, CRI returns made from St Jude's together with correspondence between the Respondent and the Southwark diocesan office, a letter to the Respondent from the Ven Anthony Davies, and of the accounts of the Parochial Church Council of the parish. In addition the Complainant produced an analysis of the incumbent's fees which would have been payable in respect of the weddings conducted in this period.

- 16) The material put forward by the Respondent is set out at [36] below. In that material the Respondent accepted that 475 weddings had been conducted in the period covered by the Complaint and appeared at points to be contending that he had himself celebrated all the weddings. He said that the incumbent's fees had been waived and also that the fees received had been remitted to the DBF by way of the Parochial Church Council. In his latest Response but not in the earlier Answer or witness statement the Respondent contended that the deed of assignment was a forgery and that there had been no assignment of the fees to the DBF.

The Procedural History.

- 17) The Complaint was made on 30th November 2017. In stating the misconduct alleged against the Respondent it referred to him having signed a deed of assignment in 2002. On 12th June 2018 the Respondent served an Answer to the Complaint together with a witness statement running to 31 paragraphs. The Respondent did not in either of those documents take issue with the contention that he had signed a deed of assignment in 2002.
- 18) On 13th September 2019 the Provincial Registrar gave directions providing for the hearing to take place on 27th – 29th November 2019; for the lodging of the Complainant's Statement of Case and supporting witness statements by 11th October 2019; and for the lodging of any Statement of Case and witness statements from the Respondent by 8th November 2019.
- 19) The Complainant's Statement of Case and witness statement were served on 11th October 2019.

- 20) On 29th October 2019 the Respondent's solicitors asked the Designated Officer for disclosure of the original deed of assignment. On 1st November 2019 the Designated Officer replied saying that the original deed was no longer available.
- 21) The Respondent failed to serve any Statement of Case or witness statement by 8th November 2019. Instead on 13th November 2019 the Respondent's solicitors wrote saying that their client had discovered that the deed of assignment was "fictitious" and seeking an adjournment of the hearing until after the conclusion of a police investigation (which the Respondent was going to seek to initiate) into the forgery of that document. The Chair of the panel declined to agree to the adjournment at that stage having concluded that the question of the deed's authenticity appeared to be a matter of fact which the panel would be capable of determining. The Chair ruled that the Designated Officer was to be invited to respond to the application and that the Respondent could renew the application at the hearing if he wished to do so in the light of such response and that the directions would be reviewed in the light of such response. The Designated Officer responded expressing opposition to the proposed adjournment and on 20th November 2019 the Chair renewed the previous directions.
- 22) On 25th November 2019 a further application for an adjournment was made. The adjournment application was made by way of an email to which was attached a GP's note. The note was dated 22nd November 2019 and said that the Respondent was "unfit for work" for the period 22nd November to 6th December 2019 because of "low back pain/sciatica". In the accompanying email the Respondent's solicitors said that his condition was "critical".
- 23) On the same day the Chair declined to adjourn the matter. He gave directions as follows:
1. The note from the GP says that the Respondent is not fit for work. It does not say that he is not fit to attend the hearing of the tribunal.
 2. In particular the note does not give any basis for believing that the Respondent will not be able to attend the hearing and to take a proper part in proceedings potentially with arrangements being made by way of breaks or otherwise to address any discomfort to which he is subject.

3. The assertion in the email from the Respondent's solicitors that his condition is "critical" does not appear to be borne out by the doctor's note.

4. In those circumstances the hearing will remain listed. The Tribunal will consider any proposals which the Respondent or his solicitors wish to put forward for measures to modify the hearing procedure to enable him to participate with the minimum of discomfort."

24) Those directions elicited an intemperate response from the Respondent's solicitors which was referred to the Chair. The solicitors were then informed on the Chair's direction that the letter had not caused any change in the directions.

25) On 26th November 2019 the Respondent served a response to the Designated Officer's Statement of Case. The response was dated 22nd November 2019. It referred to a number of exhibits none of which was provided to the panel at that stage.

26) The hearing was listed to commence at 2.00pm on 27th November 2019. The Respondent did not attend at the hearing but was represented by Justin Gau of counsel. Mr. Gau placed before the panel an email timed at 10.38am that day from the Respondent's wife to the Respondent's solicitors. This said that the Respondent was in pain; that his wife was going to seek stronger medication for him; that he had developed a fever; and that if his condition did not improve by the evening Mrs. Ntege was going to seek an ambulance.

27) In the light of that email Mr. Gau renewed the application for an adjournment.

The Decision on Adjournment.

28) The panel approached the question of adjournment by reference to the Overriding Objective set out in Rule 1 and to the duty to cooperate placed on the parties by Rule 2. It also had regard to its power to adjourn pursuant to Rule 41 and the power given to the Registrar or the Chair to proceed with a hearing in the absence of a party. It noted the summary of the approach to be taken in relation to applications for adjournment on medical grounds in the civil courts as set out by Warby J in *Decker v Hopcraft* [2015] EWHC 1170 (QB) and the explanation by the Court of Appeal in *GMC v Adeogba* [2016] EWCA Civ 162 of the approach to be taken by regulatory tribunals to proceeding in the absence of a respondent. In addressing the question of

adjournment the panel sought to apply the approaches set out in those decisions.

- 29) Mr. Gau accepted that the Respondent had notice of the hearing but he emphasised that the Respondent's absence was not voluntary; that some medical evidence had been provided to the panel; and that the hearing was a final determination on the merits in respect of which he said the panel should be more cautious to proceed in the absence of a party than it would be in respect of an interim or procedural hearing. Mr. Gau also contended that complaint 2A raised issues of the Respondent's honesty and credibility and that such issues should not be determined in his absence and without his evidence being tested by cross-examination. In short Mr. Gau said that fairness required the hearing to be adjourned.
- 30) The Designated Officer, Adrian Iles of counsel, took a neutral stance. He acknowledged that the hearing was to be the final hearing of serious allegations and that the Respondent had at least to some degree engaged with the process. Mr. Iles did point to the inadequacies of the medical evidence put forward by the Respondent but he also accepted that there was no material to contradict that evidence.
- 31) The panel accepted that there were a number of factors which operated to support the granting of an adjournment. It regarded those factors as being:
- a) The absence of any medical evidence to contradict the material put forward by the Respondent.
 - b) The fact that the hearing was the final hearing of a complaint which raised matters of considerable seriousness and where the result of a finding adverse to the Respondent was likely to be prohibition.
 - c) The fact that if the Respondent was unwell his absence was not to be seen as a voluntary one.
 - d) The fact that there had been long delays in the proceedings and that those delays (save for the comparatively short delay between the date when his

Statement of Case should have been served and the date when it was served) were not the fault of the Respondent.

e) **The fact that Mr. Gau's conduct of the case on behalf of the Respondent would be handicapped by his client's absence.**

32) There were, in the view of the panel, a number of factors which operated against the grant of an adjournment. Those were:

a) **The fact that although the Respondent had engaged in the process of the Complaint he had not been fully cooperative and in particular had been late in the service of his response to the Designated Officer's Statement of Case. Moreover, the assertion that the deed of assignment was forged was not made until 13th November 2019 even though the Respondent had been aware that the Complainant was relying on the deed as long ago as November 2017.**

b) **The material put forward in support of the Respondent's alleged unfitness to attend the hearing was inadequate. In the view of the panel it wholly failed to establish that the Respondent was unfit to attend the hearing.**

c) **The inadequacy of the medical evidence was, in the view of the panel, of note when seen in the context of the timing of the application. The allegation that the Respondent was unwell had first been made shortly after he had been told that the hearing would not be adjourned on the ground that he was challenging the authenticity of the deed of assignment. The contention that the Respondent's condition had worsened was provided on the day of the hearing and after the Respondent had been told that the earlier GP's note would not result in an adjournment.**

d) **The Respondent had failed to keep in touch with his solicitors to the extent that neither those solicitors nor Mr. Gau had been able to obtain further information from him since the email sent by his wife at 10.38am.**

e) **To the extent that the Respondent's lawyers did not have adequate instructions to conduct the case on his behalf that was a difficulty for which**

the Respondent was responsible by reason of his failure to give full instructions at an earlier stage.

33) In the light of those matters the panel found that it was unable to accept that the Respondent was subject to a medical condition such as to prevent him from attending or participating in the hearing. In the light of that and taking account of the other factors set out above it concluded that the Respondent had not put forward any proper basis on which the hearing could be adjourned and that, conversely, the interests of justice favoured proceeding with the hearing notwithstanding the absence of the Respondent.

34) In the light of that decision the panel continued with the hearing. Mr. Gau remained present and put forward the case for the Respondent. The panel sought to facilitate this by giving time at various points for Mr. Gau to seek instructions and to assimilate the same in circumstances where Mr. Gau did receive some, albeit limited, further information from his client. The panel was grateful to Mr. Gau for the high quality of his advocacy in difficult circumstances.

The Evidence before the Tribunal.

35) The evidence in support of the Complaint consisted of the witness statement of the Complainant to which were exhibited the sundry documents identified above. In addition Mr. Skilton gave oral evidence confirming his statement and answering questions in cross-examination.

36) As already indicated the Respondent did not attend to give oral evidence. The panel took account of the material from the Respondent contained in his Answer and witness statement of 12th June 2018 together with the exhibits thereto. In addition the panel received and took account of the Respondent's Response to the Complainant's Statement of Case even though it had been served out of time. The exhibits to that Response were not provided until Mr. Gau was in the course of his closing submissions and the panel did not take account of them in relation to the determination of the Complaint but did take account of them in respect of the issue of the penalty to be imposed.

The Tribunal's Approach to the Burden and Standard of Proof and to the Consequences of the Respondent's Absence from the Hearing.

- 37) The panel approached the assessment of the evidence mindful that the burden of proof was on the Complainant and that the Complaint had to be proved on the balance of probabilities.
- 38) The panel took into account the fact that the allegation in complaint 2A was tantamount to one of dishonesty in that it was contended that the Respondent retained funds to which he knew he was not entitled and which he knew should have been remitted to the DBF. As a consequence the panel was to find that the Respondent had acted in that way only if the Complainant had shown on the balance of probabilities that the more likely explanation was that the Respondent retained the funds with that knowledge. In approaching that exercise the panel had regard to the approach laid down in *Re H* [1996] AC 563 per Lord Nicholls at 586 C – 587 G as explained by Lady Hale in *Re B* [2008] UKHL 35, [2009] 1 AC 11 at [62] – [73]. So in assessing the probabilities the panel kept in mind the consideration that the more serious the allegation and the more unusual the conduct alleged then in normal circumstances the less likely it was to have occurred. Accordingly, it was to take account of the inherent probability or improbability of the actions said to have taken place. However, that consideration had to be undertaken with close attention to the particular circumstances of this case considering what was or was not inherently probable or improbable in the circumstances here and remembering at all times that the standard to be applied was that of the balance of probabilities neither more nor less.
- 39) The panel proceeded on the basis that the Respondent's absence was not to be seen as an indication of his guilt or of the correctness of the allegations against him. Moreover, the panel did not ignore the documents put forward by the Respondent. It took account of the fact that at least to some extent the absence of documents was the result of conduct, including improper conduct, on the part of the UK Borders Agency for which the Respondent was not responsible. Accordingly, the panel took care not to draw inferences adverse to the Respondent from the absence of documents which might have been retained or lost by that agency. It reached its conclusions on the documents

before it. However, the Respondent was not present and that meant that the assertions he made had not been confirmed on oath and the explanations he put forward had not been subjected to cross-examination. In addition the panel came to the conclusion that it could not regard the documents put forward by the Respondent as necessarily reliable or as having been accurately described by the Respondent. Thus, and by way of example, the Respondent produced a copy of a Banns Register which he said was for 1997 and which he said demonstrated that his predecessors had failed to sign the Banns Register and that this approach had been approved on inspection by the Rural Dean. However, the panel established that the register in fact related to 1990 and that the unsigned entries had followed rather than preceded the Rural Dean's inspection of the register.

40) Mr. Gau urged the panel to take account of what he contended were feelings of victimisation on the part of the Respondent. The panel accepted that the Respondent had been subjected to improper conduct by the staff of UK Borders Agency. It also accepted that internal emails between officers of the diocese indicated that they regarded the Respondent's continuing presence at St Jude as a problem although in that regard the panel noted that pastoral support was also given to the Respondent. Nonetheless, the panel concluded that any such feelings of victimisation were of minimal if any relevance to its consideration of the Complaint. It noted that the Respondent had taken part to an extent in the process of the determination of the Complaint. In particular the Respondent's failure to attend the hearing was not said to be due to a feeling of victimisation or of disenchantment with the process. Instead it had been said to have been due to considerations of ill-health which the panel had concluded were not such as to render the Respondent unfit to attend.

41) The panel rejected the contention that the deed of assignment had been fabricated. In that regard it noted that the Respondent's allegation of forgery had not been made until nearly two years after the Respondent learnt the Complainant was relying on the deed. It noted that the Respondent had not attended to confirm his allegation on oath or to answer questions under cross-examination. It also took account of the gravity and complexity of the conduct

which would have to have been undertaken if the deed was a forgery. In short for the deed to have been forged some unidentified person would have had to have forged the Respondent's signature and then to have deceived the then archdeacon and the diocesan finance officer who had also signed it or those persons would have had to have been complicit in the forgery or their signatures would also have to have been forged. The motivation which would have caused anyone to engage in such conduct was not clear. In that regard and more generally the panel rejected as unsubstantiated any suggestion that there had been a deliberate conspiracy on the part of the Complainant and/or other officers of the diocese of Southwark to fabricate evidence against the Respondent or to withhold from the panel or the Respondent documents which might be helpful to the Respondent's case.

Determination of the Allegation of Failure properly to maintain Registers.

- 42) It was not contended by Mr. Gau or by the Respondent that the registers were properly maintained. Indeed it would, in the view of the panel, have been impossible to sustain such a contention. It was clear that there were deficiencies in the registers and the deficiencies relied on by the Complainant were apparent on the face of the registers.
- 43) The Respondent put forward a number of lines of defence. He said that he had not received training or support in the approach to completing the registers and that he should have received this in the circumstances where his previous ministry had been outside the Church of England. He said that he was following the approach which had been taken in the parish of St Jude previously and that Archdeacon Davies had approved his approach. Finally, he said that he had left the completion of the registers to the parish administrator; that this was a reasonable course to take; and that he was accordingly not to blame for the deficiencies in the registers.
- 44) The panel rejected these lines of defence as untenable in the light of the nature of the deficiencies in the registers. Those deficiencies were clear on even the briefest perusal of the registers. They appeared in relation to entries which the Respondent had signed and even without training or knowledge of the practices of the Church of England it would have been apparent that

banns were being recorded as having been called after marriages had taken place and that details which should have been filled in on the marriage registers had not been filled in. It was of note that the Respondent had completed the registers properly during the first part of his ministry at St Jude. In those circumstances the deficiencies which were present could not be attributed to any lack of training or understanding on the part of the Respondent. The errors could only be explained by a failure to note what appeared in the pages which must have been before the Respondent given that his signature appeared repeatedly in the Registers.

- 45) It was the view of the panel that even if the Respondent's contention that he caused the administrator to complete the entries were to be accepted that would not be an answer to the Complaint. That was because it remained the Respondent's responsibility to ensure the registers were correctly kept and if the making of entries was delegated to others the Respondent had the obligation of ensuring the task was properly done.
- 46) Mr. Gau placed weight on the comments which Maudlyn Riviere, the parish administrator, had made to police officers on her arrest in June 2011. Those comments had been quoted in part by HH Judge Madge in his ruling staying the criminal proceedings on the ground of abuse of process. Mr. Gau said that those comments were consistent with the Respondent's account and should be regarded as having been true given the absence of any opportunity for the Respondent and Miss. Riviere to coordinate their stories in advance of the arrests. The panel concluded that these comments could not bear the weight which Mr. Gau sought to place on them. They amounted to an acceptance by Miss. Riviere that she completed the forms in relation to marriages at St Jude's but did not amount to an acceptance of responsibility for that. As explained in the preceding paragraphs it was the view of the panel that even if many of the actual entries had been made by Miss. Riviere (a matter on which it did not need to reach a conclusion) the Respondent remained responsible for ensuring that the registers were properly maintained and that the deficiencies in the registers would have been readily apparent to the

Respondent when he repeatedly signed them and made other entries therein as the panel found that he had.

- 47) The panel had regard to the importance of the registers. They recorded matters of importance to the parties to the marriages in question and to others interested in the lawfulness of the weddings recorded. It is a matter of public importance that the registers can be relied upon to confirm that there has been compliance with the requisite legal formalities in relation to weddings.
- 48) The Respondent's obligation to ensure that the registers were properly and accurately kept derived from the Canons but also from statute. That reflected the importance of the proper completion of the registers. It also meant that a failure properly to maintain the registers could cause harm to the parties to the weddings and to others and but could also harm the reputation and good name of the Church.
- 49) In the light of those matters the panel was satisfied that the Respondent had failed to maintain the Marriage and Banns Registers. It was also satisfied that his failure in that regard was sufficiently serious to mean that he had been neglectful and inefficient in the performance of the duties of his office.

Determination of the Allegation of the wrongful Retention of Fees.

- 50) In the view of the panel determination of complaint 2A required the panel to reach conclusions on the balance of probabilities as to whether the Respondent had retained funds which represented fees paid for marriages; whether those funds should have been remitted to the DBF; and whether the Respondent knew that the funds should have been so remitted.
- 51) The panel concluded that although it could not make a determination on the precise amount which had been retained it was satisfied that the Respondent had retained fees paid for marriages; that those funds should have been remitted to the DBF; and that the Respondent knew this. Although the panel could not identify the precise sum retained by the Respondent it was satisfied that it was a substantial amount of the order of the sum of £60,000 proposed by the Complainant. The panel reached that conclusion for the following reasons.

52) As explained above the panel rejected the Respondent's contention that the deed of assignment was a forgery. It followed that in 2002 the Respondent had signed a deed assigning his fees to the DBF. The Respondent accordingly knew that he was not entitled to retain the fees. That knowledge was also demonstrated in his actions in the period 2002 to 2005. In February 2003, March 2004, and March 2005 CRI forms were returned to the Southwark diocesan office in respect of St Jude's. The 2003 return bore the Respondent's name; the 2004 return was unsigned; and the 2005 return was signed by the Respondent. These returns set out the fees received in respect of weddings and did so in a column headed "assigned to Diocese". The returns were used to calculate the Respondent's stipend. In 2003 and 2004 the Respondent engaged in correspondence and telephone conversations with Heather Cassidy, the diocesan salary and stipend administrator, in which he acknowledged that he had not remitted fees in respect of marriages and that he accordingly was due to make payment to the DBF. In those exchanges (and in particular in his letter of 18th February 2004) the Respondent accepted that payment was due and asked that the outstanding sum be deducted from his stipend by monthly instalments. In the view of the panel the only possible explanation of those actions was that the Respondent knew that he was obliged to remit the fees for marriages to the DBF.

53) The panel had regard to the fact that the defences which had been raised by the Respondent were mutually inconsistent. He appeared to be contending that the fees had been waived; that there had been no assignment of the fees to the DBF; and that the fees received had been remitted to the DBF by way of the Parochial Church Council. Those lines of defence were inconsistent with each other. In the view of the panel if the Respondent had a tenable and truthful explanation of his conduct he could have been expected to put that forward consistently. The assertion of inconsistent lines of defence detracted further from the Respondent's credibility.

54) As explained above the panel rejected the Respondent's contention that he had not assigned the fees to the DBF. It found that he had assigned them and that he knew he had done so. It also rejected his contention that there had

been a waiver of a significant number of the fees. It did so because such waiver was not evidenced by any documentation nor by any other support save for the assertion that some witnesses in the criminal proceedings had said that fees had been waived. The asserted waiver of the incumbent's fees was, in the view of the panel, not credible in circumstances where it was apparent that the fee due to the Parochial Church Council had been charged and substantial sums had been realised by collections at weddings. The effect of the assignment was that the Respondent did not in any event have authority to waive the incumbent's fees which were due to the DBF but the panel was satisfied that there had in fact been no waiver of any significant number of fees.

55) The Respondent said that his conduct in waiving fees had been approved by the Ven Anthony Davies the former Archdeacon of Croydon. The panel noted but attached little weight to the fact that the Complainant reported that Mr. Davies had told him that he had never given the Respondent approval to waive fees. However, it did attach more weight to the absence of evidence from Mr. Davies in support of the Respondent. If the Respondent's account that Mr. Davies had authorised him to waive fees had been correct then the Respondent could have been expected to have produced evidence from Mr. Davies either by way of a witness statement or at least in the form of a letter confirming the Respondent's account. This was not done.

56) The panel rejected the Respondent's contention that the incumbent's fees had been remitted to the DBF through the Parochial Church Council. The Respondent had contended that the fees had been paid over to the Parochial Church Council and had then been paid to the DBF by way of the parish's quota payment. In the view of the panel that would not have been an appropriate way of accounting for the fees but the panel was satisfied that in any event this was not done. It was so satisfied in the light of its examination of the accounts of the Parochial Church Council. These showed an income from weddings which corresponded to the amount of wedding fees due to the Parochial Church Council together with the sums shown as paid by way of collections but which did not correspond to the level of income which would

have been appropriate if the incumbent's fees were also being paid to the Parochial Church Council. Moreover, the quota payments from the Parochial Church Council to the DBF were made by monthly standing order or direct debit payments in the same sum each month. Accordingly, those payments did not vary in accord with variations in the income received through wedding fees as they would have done if the Respondent's account had been correct.

57) Mr. Gau sought to contend that Miss. Riviere's comments to the police on her arrest were also relevant to the question of whether the Respondent had retained fees. However, Judge Madge's abuse of process judgment had not set out the explanation which Miss. Riviere had given about the banking of church monies and so the panel did not know what Miss. Riviere had said about that. In the view of the panel the comments made by Miss. Riviere when she was seeking to assert her innocence to the police officers were of no assistance in assessing the Respondent's conduct.

58) The panel was not able to reach a definitive conclusion as to the precise amount of money which the Respondent had received by way of incumbent's fees which should have been remitted to the DBF. This was because it could not exclude the possibilities that a small number of fees had been waived and that some weddings had not been conducted by the Respondent with the fees not being paid to the Respondent though it noted that such fees should be paid to the incumbent even if he or she does not conduct the wedding. It also noted that the Register of Services and Marriages Register showed only 10 weddings out of the total of 475 which had clearly been conducted by a person other than the Respondent though there were a further 10 where the officiant was not shown. It noted that at points in his response the Respondent appeared to accept that he had conducted all the weddings. However, it concluded that the amounts so waived or not received by the Respondent were likely to have been modest given the absence of evidence of such conduct. Accordingly, the panel accepted that the Respondent had received substantial sums which ought to have been remitted to the DBF. It accepted that the discounting applied by the Complainant was appropriate and that the sums retained by the Respondent were of the order of £60,000. In that regard

the panel took account of the fact that there had been a very marked increase in the number of weddings celebrated at St Jude's in the period in question with the consequence that a high level of fees would have been generated.

59) Having concluded that the Respondent had retained substantial sums which he knew he ought to have remitted to the DBF and that he had done so over a period of a number of years the panel had no doubt that the Respondent had thereby engaged in conduct which was unbecoming and inappropriate to his office. It followed that complaint 2A was established.

60) In the light of that conclusion the panel did not need to reach a determination in respect of complaint 2B.

Penalty.

61) Having concluded that the Complaint was made out the panel considered whether to invite the Bishop of Southwark to express views about the penalty. It decided not to do so. Neither Mr. Gau nor Mr. Iles invited it to do so. The panel concluded that it was in possession of sufficient material to enable it properly to assess the appropriate penalty. It concluded that the consultation of the Bishop was unlikely to produce any benefit proportionate to the undesirability of the delay which would result from such consultation.

62) The panel had regard to the Clergy Discipline Commission's Guidance on Penalties and to the submissions of Mr. Iles and Mr. Gau.

63) The panel took account of the considerable amount of good work which the Respondent had done as a priest and pastor. It noted in particular his work with the Lugandan-speaking congregation which worshipped at St. Jude's. The panel accepted that the Respondent had shown real abilities as a priest and that he remained capable of good work in that regard. It also noted the effect which any penalty would have on the Respondent's family.

64) Nonetheless the panel concluded that the only appropriate penalty was that of deprivation from office combined with prohibition for life. The Respondent's negligence and inefficiency in relation to the registers were serious in that these failings breached his statutory obligations as well as his duties under

Ecclesiastical Law and in that they impacted on third parties and the records of marriages. However, the panel was particularly driven to conclude that prohibition for life was necessary by its finding that complaint 2A was proved. That finding meant that the Respondent had knowingly engaged in systematic wrongdoing over a period of several years. He had wrongfully retained substantial sums of money which he knew should have been remitted to the DBF and had done so over a sustained period of time. Moreover, the Respondent had, in the view of the panel, not demonstrated any remorse in relation to his conduct. His response to the Complaint demonstrated a refusal to accept his wrongdoing and a willingness to make false allegations against others.

65) Accordingly the panel ordered that the Respondent be removed from office with immediate effect; that he be prohibited for life from the exercise of any of the functions of his orders; and that his name be entered on the Archbishops' List.

STEPHEN EYRE

HIS HONOUR JUDGE EYRE QC

11th December 2019