

**IN THE MATTER OF  
THE RIGHT REV. ANDREW D. SMITH,  
BISHOP OF CONNECTICUT**

**VERIFIED CHARGES BY PRIESTS AND ADULT COMMUNICANTS  
OF THE EPISCOPAL DIOCESE OF CONNECTICUT AGAINST  
ANDREW D. SMITH, BISHOP, PURSUANT TO  
TITLE IV, CANON 3, SECS. 23(a)(2) & 24**

**TO THE PRESIDING BISHOP OF THE PROTESTANT EPISCOPAL  
CHURCH IN THE UNITED STATES OF AMERICA:**

**I. Preface:**

1. The undersigned Complainants, believing they have reasonable cause to do so, hereby, on their oaths, charge their Bishop, The Right Reverend Andrew D. Smith, Bishop of the Episcopal Diocese of Connecticut, Respondent, (variously, “Bishop Smith” or “Bishop”) with the commission of Offenses under *Title IV, Canon 1, Secs.1(e) & (f)* (hereinafter, “*IV.1.1(e) &(f)*”) of the *Constitution and Canons (“Canons”) of the Protestant Episcopal Church in the United States of America (the “Church”)*, all as more particularly set forth hereinafter (collectively, “the Charges”).

2. Each of the undersigned is either a Priest or adult communicant of the Church, in good standing, and each is canonically resident within the Episcopal Diocese of Connecticut (the “Diocese”).

3. Pursuant to *Canon IV.3.26*, it is respectfully requested that the Charges set forth herein be promptly communicated to Bishop Smith, and forwarded to the Review Committee, no later than ninety (90) days after receipt of these Charges by the Presiding Bishop.

## **II. Factual Predicates To Offenses Charged**

### **The Theological Dispute**

4. The Priests, Wardens, Vestry Members, and the several congregations of Bishop Seabury Parish, Groton; Christ Parish, Watertown; Christ & The Epiphany Parish, East Haven; St. John's Parish, Bristol; St. Paul's Parish, Darien; and Trinity Parish, Bristol, (the "Six Parishes"), within the Episcopal Diocese of Connecticut (the "Diocese") have long accepted the truth as revealed in Holy Scripture, as well as the traditional teaching of Anglicanism, as upheld by the Primates, the Archbishop of Canterbury, the Lambeth Conference, the Anglican Consultative Council and the estimated 76.6 million Anglicans worldwide. Each of the Six Parishes is a Connecticut Episcopal ecclesiastical society, organized and existing pursuant to the laws of the State of Connecticut, with corporate powers. Each Parish has long been accepted as such incorporated ecclesiastical society by the bishops of the Connecticut See.

5. Bishop Smith has long stood firmly in opposition to accepted Anglican theological belief and teaching regarding human sexuality as, for example, most

recently expounded by the Archbishop of Canterbury on June 20, 2005, **Attachment (“Att.”) #1**. He does not agree with these teachings, as we understand him; and he has long refused to consider the need to repent of his actions as hereinafter set forth.

6. At the General Convention of 2003, Bishop Smith voted favorably on three measures that departed from the unity of the historic Christian faith, thereby signifying his departure from the Anglican Communion, as follows:

(a) By denying of the doctrinal nature of the Episcopal Church; and

(b) By adopting a liturgical form for the celebration of same sex unions; and

(c) By supporting consecration as a bishop of a homosexual person openly living with a same-sex partner.

7. Bishop Smith has long advocated and countenanced the blessing of same-sex unions.

8. On June 21, 2003, Bishop Smith ordained to the diaconate two persons, who were both openly living with another person within a same-sex union.

9. On November 2, 2003, Bishop Smith participated in the consecration of an Episcopal Bishop, who was then openly living in a same-sex union, in direct disobedience to the express declarations of the Primate’s Statement of October 16, 2003.

10. The Six Parishes have made known their opposition to Bishop Smith's theological views and repeatedly requested him to agree to a form of adequate delegated Episcopal pastoral oversight as recommended by the House of Bishops or to join in resort to the assistance of the Panel of Reference as directed by the Primates in February, 2005, and now fully implemented by the Archbishop of Canterbury as of July 12-14, 2005. Bishop Smith has refused to even discuss any form of oversight, other than one of his own crafting, which requires significant financial contributions by each Parish to the Diocese of Connecticut (which other parishes are not compelled to make) and retains supervision and control over the Six Parishes by him, as heretofore.

11. Bishop Smith has responded to the six Parishes on or about November 15, 2004, by threatening to invoke canonical initiatives against the Six Parishes, their respective Priests, Wardens, Vestries and congregations on or about November 15, 2004, and by actually doing so on various days commencing February 15, 2005, continuing to the present time. The Priests are: The Reverends Allyn Benedict of Christ Church, Watertown; Ronald S. Gauss of Bishop Seabury Church, Groton; Dr. Mark H. Hansen of St. John's Church, Bristol; Donald L. Helmandollar of Trinity Church, Bristol; Christopher P. Leighton of St. Paul's Church, Darien and Gilbert Wilkes of Christ & The Epiphany Church, East Haven, all in the State of Connecticut (the "Six Priests").

12. Effective on or about March 29, 2005, all six Priests were formally placed under threat of immediate inhibition and deposition for having abandoned the Communion of the Episcopal Church (which no one of them did); each Parish and its Wardens, Vestry and congregation were similarly and simultaneously declared to have also abandoned the Communion; and on July 13, 2005, the Reverend Dr. Mark H, Hansen was inhibited for having abandoned “the communion of this Church”.

### **III. Violations of Canons Of The General Convention and The Diocese**

13. *Canons IV.1.1(e) & (f)* provide as follows:

Sec. 1. A Bishop . . . shall be liable to Presentment and Trial for the following offenses, viz:

. . . .

(e) Violation of the Constitution or Canons of the General Convention.

(f) Violation of the Constitution or Canons of the Diocese in which the person is canonically resident.

. . . .

#### **UNDERMINING THE STRUCTURE OF ECUSA**

14. *Canon I. 14.2* and *Canon I.9 of the Canons of the Diocese of Connecticut (Diocesan Canon)* provide as follows:

Sec. 2. Except as provided by the law of the State or of the Diocese, the 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. *Canon I.14.2.*

Section 9. The property and all business affairs of the Parish shall be subject to the direction, management, and control of the Vestry; except that the election of a Rector, the disposition of the real estate of

the Parish and the borrowing or lending of money shall not be within the control of the Vestry, unless by special vote of the Parish: provided, that in accordance with Title III, Canon 14, Section 1(c) of the Canons of the General Convention, “the Rector shall at all times, be entitled to the use and control of the Church and Parish buildings, with the appurtenances and furniture thereof, for the purposes of his office and for the full and free discharge of all functions and duties pertaining thereto.” *Diocesan Canon I.9* (Connecticut).

15. The laws of the State of Connecticut governing ecclesiastical societies in communion with the Protestant Episcopal Church in the United States of America provide as follows:

a. 33-265. Legal status and powers

All ecclesiastical societies in this state, in communion with the Protestant Episcopal Church in the United States of America, shall be known in the law as parishes as well as ecclesiastical societies, and shall have power to receive and hold by gift, grant or purchase all property, real or personal, that has been or may be conveyed to them for maintaining religious worship according to the doctrine, discipline and worship of said church, and for the support of the educational and charitable institutions of the same, and shall have and exercise all the ordinary powers of bodies corporate. CONN. GEN. STAT. § 33-265

b. § 33-266. Regulations

The manner of conducting the parish, the qualifications for membership of the parish and the manner of acquiring and terminating such membership, the number of the officers of the parish, their powers and duties and the manner of their appointment, the time of holding the annual meeting of the parish and the manner of notification thereof and the manner of calling special meetings of the parish shall be such as are provided and prescribed by the constitution, canons and regulations of said Protestant Episcopal Church in this state. CONN. GEN. STAT. § 33-266

16. Commencing on or about March 31, 2005, and continuing to the present time, to the best of the undersigned's knowledge, information and belief, Bishop Smith intentionally, materially and meaningfully, within the meaning of *Canon IV.14.5*, violated Canon 14 Sec.2 of Title I of the General Convention (*Canon I.14.2*), and Diocesan Canon 1.9 of the Diocese of Connecticut in one or more of the following respects, in that:

a. On various days commencing on or about November 15, 2004 and continuing to the present time, Bishop Smith acted and caused John W. Spaeth, III, Canon for Stewardship and Administration of the Episcopal Diocese of Connecticut ("Canon Spaeth"), Edward Siebert, an administrative assistant to Canon Spaeth and others to the Complainants unknown, but including servants, agents and employees of Bishop Smith and of certain banking and financial institutions, including Farmington Savings Bank, State Street Corporation and NRS (a/k/a Northeast Retirement Services), to act to freeze the bank accounts and custodial deposits of funds and securities of Bishop Seabury Parish, a/k/a Bishop Seabury Church, Christ Church Parish, a/k/a Christ Church, Christ & The Epiphany Parish, a/k/a Christ & The Epiphany Church, and St. John's Parish, a/k/a St. John's Church, with and in the hands of those banking and financial institutions thereby placing the funds and securities under the control and direction of Bishop Smith. Bishop Smith thereby arrogated to himself the management of

the properties and assets aforesaid in lieu of that by the respective Vestries of these four Parishes, each of which is an incorporated “ecclesiastical [society in the State of Connecticut], in communion with the Protestant Episcopal Church in the United States of America” (the “Parishes”). Bishop Smith prevented, and still prevents, the Vestries of these four Parishes them from carrying out their canonical and civil roles as the agents and legal representatives of their respective Parishes regarding the management, possession and control of their assets and property; and

b. Commencing on or about July 13, 2005, Bishop Smith, aided and abetted by others, including without limitation, Canon, Spaeth and his administrative assistant, Edward Seibert, Susan J. Mc Cone, a/k/a Mother Mc Cone, an Episcopal priest, several computer specialists, security guards and others to the Complainants unknown, unlawfully seized and took possession of the building and grounds of St. John’s Parish, 851 Stafford Street, Bristol, Connecticut by misrepresenting his authority as Bishop of the Diocese of Connecticut. On information and belief, Bishop Smith ordered the Parish computers down-loaded onto disks, took control of confidential and other files; changed the locks and locked out the St. John’s Parish Wardens and Vestry; and then installed, Edward Seibert, as the Parish administrator, *de facto* replacing St. John’s Wardens, Parish Clerk and its Vestry and preventing them to the present time from carrying out their canonical and civil roles as the agents and legal representatives of their respective Parishes in respect

to the management, possession and control of St. John's Parish's assets and property.

c. Commencing on or about August 1, 2005, Bishop Smith caused Edward Seibert, and others of his agents and employees to the Complainants unknown, to compel the Postmaster of the United States Post Office at Bristol, Connecticut to close St. John's Parish's (a/k/a St. John's Church) post office box No. 727 and direct all United States mail addressed to St. John's Parish or St. John's Church to be delivered to its Stafford Street address in Bristol, thereby preventing St. John's Wardens and Vestry from making use of the United States mails to discharge their responsibility under both canon and civil law for conducting the lawful business of the Parish.

d. Commencing on or about June 1, 2005, Bishop Smith conferred on Mother McCone the title of Priest-in-Charge of St. John's Parish, without prior consultation with its Vestry as the "legal representatives of the Parish in all matters concerning . . . . relations of the Parish to its Clergy" in violation of both *Canon I. 14.2 and Canon III. 9. 3 (b)* (consultation with the Vestry required prior to appointing a Priest-in-Charge) thereby arrogating to himself responsibility for relations between the Parish and its Clergy and *de facto* prohibiting the Vestry and the Senior Warden of St. John's Parish from discharging their respective responsibilities in all matters concerning relations of the Parish with its Clergy and

making provision for the altar, in the absence of the Rector, as required by *Canon III. 9.6(b)(1)*.

### **FAILURE TO INVESTIGATE IMPUTATIONS**

17. *Canon IV. 3. 6* provides:

Sec. 6. Any Priest or Deacon canonically resident in the Diocese who deems himself or herself to be under imputation, by rumor or otherwise, of any Offense or misconduct for which he or she could be tried in an Ecclesiastical Court, may on his or her own behalf complain to and request of the Bishop that an inquiry with regard to such imputation be instituted. Upon receipt of such request by a Priest or Deacon, it shall be the duty of the Bishop to cause the matter to be investigated and to report the result to the Priest or Deacon.

18. Commencing on or about April 15, 2005, and continuing to the present time, to the best of the undersigned's knowledge, information and belief, Bishop Smith violated, and continues to violate, a Canon of the General Convention, to wit: *Canon IV.3.6* , in that he intentionally, materially and meaningfully, within the meaning of *Canon IV.14.5*, failed to cause an investigation to be made, after being requested to do so into the imputations that each Priest abandoned "the communion of this Church" ; each violated his ordination vows and each disobeyed his Bishop.

## **FAILURE TO PREFER CHARGES AS REQUIRED**

19. *Canon IV.3.7* provides:

Except as expressly provided in this Canon [Canon 3 of Title IV], no Bishop of the Diocese shall prefer a Charge against a Priest or Deacon canonically resident in this Diocese.

20. Commencing on or about February 15, 2005 and continuing through March 9, 2005, to the best of the undersigned's knowledge, information and belief, Bishop Smith violated a Canon of the General Convention, to wit: *Canon IV.3.7* in that he intentionally, materially and meaningfully, within the meaning of *Canon IV.14.5*, preferred to the Standing Committee a Charge of "abandonment of the communion of this Church," under *Canon IV.10.1* against each of the said Six Priests, on facts, which if true (and they are false in all material respects), could only have been preferred under *Canon IV. 1.1* thereby depriving each of the Six Priests of their rights to canonical due process, including the right to an ecclesiastical trial, all of which rights are specifically granted them by *Canon IV.3*; in particular *IV.3.2*; *3.8*; *3.9*; and *3.11-3.16, inclusive*.

## **DENIAL OF CANONICAL DUE PROCESS**

21. *Canon IV.14.8 & 14.10-11* provide as follows:

Sec. 8. (a) Each Diocese shall appoint one or more Consultants and shall make a Consultant available to any Member of the Clergy canonically resident or residing in that Diocese charged with or suspected of an Offense. The Consultant shall be available to consult with and advise the Member of the Clergy and his or

her legal advisors at reasonable times prior to the issuance of a Presentment. The Consultant shall explain the rights of the Member of the Clergy and the alternatives available under this Title.

(b) A Member of the Clergy shall be notified of the availability and identity of the Consultant at the earliest of (i) the communication to the Member of the Clergy of a Charge, (ii) any interrogation or request for a statement described in Canon IV.14.11(a), (iii) the service of a Temporary Inhibition, (iv) submission to the Ecclesiastical Authority or the Presiding Bishop of a Renunciation under Canon IV.8, or (v) prior to the Execution of a Waiver and Voluntary Submission to Discipline.

(c) Any communications between the Consultant and the Member of the Clergy, or his or her legal advisors shall be Privileged Communications.

(d) No Consultant shall be required to respond to any questions regarding the Member of the Clergy for whom the Consultant has acted as Consultant.

(e) All of the costs and expenses of providing a Consultant shall be the obligation of the Diocese exercising disciplinary jurisdiction over the Member of the Clergy. (*Canon IV.14.8*)

Sec. 10. In all proceedings under this Title, whenever a Respondent or Member of the Clergy suspected of an Offense is required or permitted to appear, the Respondent or Member of the Clergy shall have the right to be represented by counsel of her or his choice. (*Canon IV.14.10*)

Sec. 11. Involuntary Statements.

(a) No person proceeding under the authority of this Title may interrogate, or request a statement from, a Respondent or a person suspected of an Offense without first informing that person of the nature of the accusation and advising that person that no statement need be made regarding the Offense of which the Respondent is accused or suspected and that any statement so made may be used in evidence against that person in any Ecclesiastical Trial.

(b) No Respondent or person suspected of an Offense may be compelled to make any statement or admission or to testify against himself or herself in any proceedings under this Title.

(c) No statement obtained from any person in violation of this Canon, or through the use of coercion, undue influence or improper inducement may be received in evidence against that person in a Trial under this Title.

(d) No Advocate shall be required to respond to any question regarding any Complainant or alleged Victim.

(e) No Consultant shall be required to respond to any question regarding any Respondent or any Member of the Clergy for whom the Consultant has acted as a Consultant. *Canon IV.14.11.*

22. Commencing on or about February 15, 2005, and continuing to the present time, to the best of the undersigned's knowledge, information and belief, Bishop Smith materially and meaningfully, within the meaning of *Canon IV.14.5*, violated a Canon of the General Convention, to wit: *Canon IV.14, secs. 8, 10-11*, in that:

(a.) Bishop Smith, intentionally, utilized charges of "abandonment of communion of this Church," under *Canon IV. 10.1*, (which charges are false in all material respects) in order to deny to each of the Six Priests their several rights to a Consultant and to counsel in their meetings with any of the three Bishops within the Diocese of Connecticut, including Bishop Smith and/or the Diocesan Chancellor, which meetings occurred with the Six Priests, individually, prior to, during the course of, and after Bishop Smith's and the Standing Committee's invocation of the canonical initiatives of inhibition and deposition on February 17, 2005 and his affirmance of a determination of the Standing Committee's inhibition and deposition of the Rev. Dr. Mark H. Hansen on July 13, 2005.

b. Bishop Smith failed to offer to provide, or to provide, any one of the Priests with the name of a Consultant, in violation of *Canon IV.14.8(b)(i)* ; or give to any Priest information concerning the nature of the accusation against him; or give to any Priest the advice that no statement need be made to him and that any statement he did make could be used against him in subsequent proceedings, involving a claimed violation of canon law in violation of *Canon IV. 14. 11*. Instead, on or about March 29, 2005, Bishop Smith insisted that the Six Priests meet with him, individually, as their Bishop, before April 15, 2005.

c. On various occasions, on and after November 15, 2004 through and including July 13, 2005, Bishop Smith, himself, or, at his direction, one of the Suffragan Bishops, or the Diocesan Chancellor, met, or held telephone conferences, with individual Priests. Each such Priest was interviewed, questioned about canonical offenses of which he was suspected or charged, within the meaning of *Canon IV. 14. 11(a)*, and his responses recorded, without being provided with the name of a Consultant, as required by *Canon IV.14.8(b)*; or given any information concerning the nature of the accusation against him; or advised that no statement need be made by him and that any statement such Priest did make could be used against him in subsequent proceedings, involving a claimed violation of canon law. On information and belief, such information as was obtained in the manner hereinbefore alleged was presented to the Standing

Committee in connection with the proceedings initiated against the Reverend Ronald S. Gauss in February, March and April, 2005, among others; and considered by Bishop Smith in his July 13, 2005 affirmance of the inhibition of the Rev. Dr. Mark H. Hansen.

d. While the Six Priests were under specific threat of inhibition and deposition, Bishop Smith ordered the Six Priests to meet with him at the Diocesan Chancery, Hartford, Connecticut on April 18, 2005. Bishop Smith, with his Chancellor and counsel for the Six Priests in attendance, charged them with “conspiring against [him]”. He claimed the Priests caused their Six Parishes to seek a form of delegated Episcopal pastoral oversight that the Priests knew he was powerless to grant. Bishop Smith, then and there, demanded that each Priest make a statement explaining his position, respecting his disagreements with his Bishop. Bishop Smith finally demanded that the undersigned Priests submit to him as their Bishop, then and there; and, for the first time, he charged that any Priest, who left the meeting, without doing so and without accepting his version of delegated Episcopal pastoral oversight, would thereby violate his ordination vows. After the meeting concluded, Bishop Smith publicly stated: “[B]y leaving the meeting tonight without accepting my authority as their bishop they have placed themselves under threat of inhibition by refusing to live within their vows.”