

**HEARING PANEL OF
DISCIPLINARY BOARD OF THE DIOCESE OF VIRGINIA**

IN THE TITLE IV MATTER OF:)
)
THE REVEREND LURA KAVAL, RESPONDENT)
_____)

**CHURCH ATTORNEY’S OPPOSITION TO RESPONDENT’S
MOTION FOR INCLUSION IN RECORD**

On August 25, 2021 the Respondent filed her Motion to Stay further proceedings in this matter pending the outcome of her appeal to the Court of Review. The Church Attorney did not oppose the Motion. On September 2 the Hearing Panel granted the Motion.

Having accomplished her objective of putting this case on ice (and thereby saving herself the expense and efforts that she would otherwise have had to devote to discovery, pre-hearing, hearing and post-hearing activities), five days later, on September 7, Respondent reversed herself and emailed her letter to Bishop Haynes. Her letter is a polemic filled with unverified, unsubstantiated, unsworn and self-serving claims, untested in the crucible of a trial. On the same day, Respondent’s counsel emailed the Church Attorney urging that a copy of the letter to Bishop Haynes be posted on the diocesan website. Counsel copied the members of the Hearing Panel and the President of the Court of Review, the tribunals that, with Bishop Haynes, will decide Respondent’s fate, thereby laying the letter to Bishop Haynes before them.

Two days later, on September 9, the President of the Hearing Panel told Respondent’s counsel to file a motion if he wanted to pursue the diocesan website matter. Counsel replied that he would file a motion “before this coming Monday”. Missing his own deadline, counsel filed the pending Motion for Inclusion in Record the following Monday, September 13.

The Church Attorney opposes the Respondent's Motion for Inclusion in Record because its predicate is Respondent's proposed Accord to Bishop Haynes. As stated in the definition of "Accord" in Title IV.2, an Accord is "negotiated". If agreed to, it is a settlement. Respondent's letter to Bishop Haynes is a settlement proposal. A settlement proposal is not appropriate for dissemination on the diocesan website or otherwise within the ambit of Title IV.13.3.

This is neither the time nor the place to address the contents of Respondent's proposed Accord, which Respondent is free to make to Bishop Haynes. But she is not free to use the diocesan website as a megaphone to broadcast her complaints to "members of the Church and the Church media" (Title IV.13.3).

It was likewise inappropriate for Respondent's counsel to have informed the members of the Hearing Panel and the President of the Court of Review of Respondent's settlement proposal, as counsel did with his email of September 7, 2021. Settlement proposals are private unless and until they result in an Accord.

Title IV of the Canons carefully and intentionally separates Hearing Panel proceedings and agreements between Bishops Diocesan and Respondents for discipline. The former are covered by Canon IV.13 and the latter by Canons IV.9 and IV.14. The Hearing Panel has no role in negotiating an Accord and the Bishop has no role in Hearing Panel proceedings until the Hearing Panel has heard the matter and is ready to issue an Order. This separation of roles is designed to (a) facilitate the negotiation of an Accord to resolve the matter by a negotiated agreement without a contested hearing and (b) to preserve the integrity of the Hearing Panel to impartially hear the evidence and arguments of counsel and issue a fair Order. The attempt by Respondent's counsel to make the Hearing Panel (and the Court of Review) aware of

Respondent's proposed settlement and present claims from the Respondent to the Hearing Panel (and the President of the Court of Review) is patently contrary to the provisions of Title IV.

The conduct of the Respondent and her counsel are "disruptive, dilatory, or otherwise contrary to the "integrity of the proceedings". The Church Attorney suggests that the Hearing Panel consider imposing sanctions under Title IV.13.11.

Dated: September 17, 2021

Respectfully submitted,

/s/ Bradfute W. Davenport, Jr.

Church Attorney