

**HEARING PANEL**  
**OF**  
**DISCIPLINARY BOARD OF THE DIOCESE OF VIRGINIA**  
**IN THE TITLE IV MATTER OF**  
**THE REVEREND LURA KAVAL, RESPONDENT**

**ORDER**

Counsel for the Respondent filed with this Hearing Panel a “Motion for Inclusion in Record” dated Monday, September 13, 2021, requesting that an email dated September 7, 2021, from the Respondent to Bishop Susan B. Haynes, acting as Bishop Diocesan under the Canons, the Rt. Rev. Susan Goff, Ecclesiastical Authority of the Diocese of Virginia having recused herself, be included in the official record of these proceedings. Respondent offers two arguments in favor of the inclusion of this email in the official record: (1) the Respondent notes that the email proposes the development of an Accord in this matter, and that it therefore “relates to the matter before the Panel” and (2) “its inclusion in the record and further publication on the Diocesan website will help calm the unrest that exists among a number of individuals familiar with this matter.” The Church Attorney has opposed the Motion for Inclusion in Record, noting that the email in question is a “settlement proposal” and that the negotiation of settlements are outside the scope of the Hearing Panel’s proceedings unless and until they result in a negotiated Accord.

The Hearing Panel does not find any support in the Canons to grant the Respondent’s Motion based on either of the two arguments offered. The role of the Hearing Panel is to consider the Offense charged: that the Respondent violated a Pastoral Direction. The subject email and its contents do not

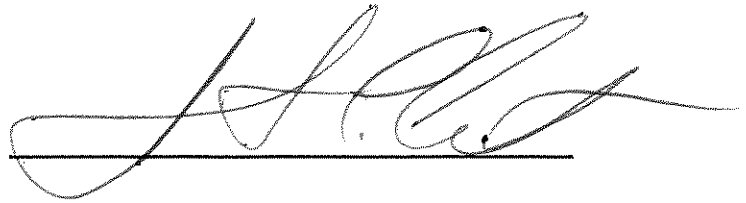
further that goal, as it was written after the Offense was charged. Further, it is the considered opinion of the Hearing Panel that including private settlement communications in the public record could, and in fact would be likely to, undermine the opportunity for this Respondent and future Respondents to achieve a privately negotiated Accord. Unlike the regulated and limited evidentiary process that Title IV of the Canons proscribes, inclusion in the Hearing Panel record of personal emails written after commencement of the proceedings before the Hearing Panel creates a problematic incentive towards the creation of more emails for the purpose of advocacy by one party or the other. The Church Attorney states that the Respondent's email in question contains "unverified, unsubstantiated, unsworn and self-serving claims, untested in the crucible of a trial." While the assessment of the claims as "self-serving" is subjective, the nature of the claims as being factually untested and unsworn is certainly true. Would any response to the Respondent by the Bishop then necessarily require inclusion in the record as well, regardless of the factual nature of statements and claims made therein? The Hearing Panel finds no support for the Respondent's Motion for Inclusion in the Canons and further finds that the inclusion of this personal email and the potential inclusion of responses to it in the record could ultimately cause harm to the Respondent and to the process itself.

For the reasons set forth above, the Hearing Panel denies the Respondent's Motion for Inclusion and asserts its discretion under Canon IV.13.3(b) to redact the content of the email from Respondent's Motion.

The Hearing Panel also takes notice of the Church Attorney's request for it to consider sanctions against the Respondent and her counsel under Title IV.13.11, alleging that their conduct in disseminating the email at issue to the Hearing Panel and to the Court of Review, which is considering the Respondent's appeal of this Hearing Panel's denial of an earlier Motion, constituted conduct that is disruptive, dilatory, or otherwise contrary to the integrity of the proceedings. While the Hearing Panel declines to impose sanctions at this time, the Hearing Panel cautions the Respondent's Counsel that he should not again attempt to influence this Hearing Panel or the Court of Review by including members of either tribunal on informal email correspondence. While the Hearing Panel does not find Respondent's Counsel's conduct to rise to the level of a sanctionable offense, the Hearing Panel does find it to be, at a minimum, poor form.

ORDERED that the Motion for Inclusion in Record is DENIED.

Dated: September 28, 2021

A handwritten signature in black ink, appearing to read 'J. Peyton', is written over a solid horizontal line.

Janet P. Peyton

President, Hearing Panel of the Diocese of  
Virginia