



Diocese of South Carolina

PO Box 20127, Charleston, South Carolina 29413-0127
126 Coming Street, Charleston, South Carolina 29403

Why, in 2015, did the churches of the Diocese of South Carolina reject what TEC claims was an offer to settle?

Recognizing the disingenuous nature of the settlement offer, the parishes of the Diocese of South Carolina unanimously rejected the proposal.

Background:

On June 3, 2015, Mr. Tom Tisdale, legal counsel for The Episcopal Church in South Carolina, sent an offer of settlement proposal to the attorneys representing all Diocese of South Carolina churches in the litigation. It essentially proposed that if the Diocese and Trustees relinquished their names, identities, and all assets (including the St. Christopher Camp and Conference Center), then The Episcopal Church (TEC) would relinquish its claim to all parish properties.

After careful consideration it was clear this was not a legitimate offer of good faith negotiation and was never intended to be.

Reasons

1. First, if it had been legitimate, it would have come from someone with authority to bind all the parties on the Episcopal Church side. The Presiding Bishop, though referenced in the letter, does not have that authority for TEC. It would - at minimum - require an action by TEC's Executive Council, if not General Convention.

Tisdale's letter doesn't even have the signature of legal counsel for TEC.

Counsel for TEC was contacted to request that they provide the necessary proof of authority, along with their signature on this offer. That was never provided.

2. Equally important, a valid proposal should have come to the Diocese's lead counsel for this litigation, not to parish representatives. That contact was never made. A good faith offer was never properly presented.

3. Along these same lines, it should have been done entirely in confidence, and not presented as a kind of mass public statement. On Friday, June 12 it was publicly announced by a TECinSC blogger that Bishop vonRosenberg had sent a written notice to all his parishes, informing them the offer had been made. Both communications represent a serious breach of confidentiality. Bishop vonRosenberg's announcement further emphasizes this dynamic. If any kind of good faith negotiation is what they were really interested in, this certainly was not the way to conduct it.

Particularly to the point, the letters from Mr. Tisdale should not have been presented in the midst of the appellate briefs being filed. It must be noted that the expiration date of this offer was the same day the Diocese's reply brief was due to be filed with the State Supreme Court. That was obviously no accident.

4. Finally, a serious offer would have given adequate time for discussion and consideration, given the nature of the proposal and the number of parties involved. This proposal failed to do so. The attorney receiving Mr. Tisdale's original offer asked that it be withdrawn and resubmitted after the June 15 deadline for our reply brief to be filed. The fact that our reasonable request was rejected points to the essential question.

Why was this really done? There are likely four motives at play here.

The first and primary intention was to disrupt the preparation of our reply brief for the South Carolina Supreme Court. The timing here was not coincidental. The time and energy devoted to dealing with this non-offer was significant. That cannot be overstated.

Secondly, and of similar importance, this was an attempt to create division between the Diocese, trustees and the parishes. By structuring their "offer" in this way it tried to set what was good for one against what was good for the other. Our unity in this case has been, and continues to be, essential to its success.

Additionally, there is always publicity. Mr. Tisdale alluded, frequently, to their willingness to negotiate, while never once making a proposal over the previous two years. This "offer" gave only the appearance of being reasonable and conciliatory.

Finally, TEC at the time hoped to mitigate a loss at the S.C. Supreme Court level. Having lost in Illinois and being on a similar track in Texas, they were desperate to avoid another precedential ruling.

It is worth remembering that this issue is not just about our individual parishes or even the Diocese of South Carolina. We are part of a larger conflict in which a positive outcome for the Diocese of South Carolina would significantly benefit other

parishes and Dioceses wishing freedom from TEC. This was not a request for reconciliation but rather for capitulation.

It should be noted that TEC has never, in the 90+ cases litigated nationwide, agreed to a settlement – even when it was requested. In the Virginia case, for instance, the local diocese was close to settlement with the local departing parishes when the Presiding Bishop’s office intervened to prevent any such action. There was, as the court testimony later revealed, "a new sheriff in town." Not once, in the two and a half years of our own litigation prior to this “offer,” had there ever been a proposal made for settlement. In fact, that's what we were trying to pursue when they attempted to remove Bishop Lawrence.

The Presiding Bishop's chancellor, at the time of the “offer” was on record as saying they would never settle.

In that, they have been utterly consistent. This was not an attempt to end the litigation but rather to disrupt it.

For these reasons the proposal was unanimously rejected by all parties to the litigation for the Diocese of South Carolina.

The Rev. Canon Jim Lewis
Canon to the Ordinary
Diocese of South Carolina