

**STATEMENT IN SUPPORT OF APPEAL
FOR AND ON BEHALF OF KATHLEEN MARIE KELLY**

TABLE OF CONTENTS

STATEMENT OF FACTS	2
1. Founding Of Ordain Women.....	3
2. Interactions With Local Leaders	4
3. The Faith-Based Action At Temple Square	6
4. The Six Discussions	7
5. Insubordination.....	10
ARGUMENT	10
PROCEDURAL UNFAIRNESS	10
1. The Initial Disciplinary Council Was Unfair And Its Decision Of Excommunication Should Be Reversed.....	10
2. The Appellate Process Is Inherently Flawed, Especially In This Case, Because The Appeal Is Required To Be Made To Sister Kelly’s Accuser.....	12
3. The Appeal Process Is Unfair To Sister Kelly Because She Does Not Have Fair Notice Of The Information Supplied To President Wheatley.....	13
4. The Absence Of A Record On Appeal, And The Secrecy Surrounding What Occurred At The Disciplinary Council Seriously Limits Sister Kelly’s Ability To Submit A Meaningful Appeal.....	13
SUBSTANTIVE UNFAIRNESS	16
1. Sister Kelly Did Not Teach Any “Doctrine,” Let Alone “False” Doctrine.....	17
2. Talking About The Possibility That Women Might One Day Be Ordained Is Not Apostasy, Because Many Aspects Of Mormon Belief And Practice Support The Idea That Women May Have Priesthood.....	18
3. Sister Kelly Did Not Repeatedly Act In Clear, Open, And Deliberate Public Opposition To The Church Or Its Leaders, Because She Did Not In Any Way Act In Opposition To The Church Or Its Leaders.....	20
CONCLUSION.....	22

STATEMENT IN SUPPORT OF APPEAL
FOR AND ON BEHALF OF KATHLEEN MARIE KELLY

TO: President Scott M. Wheatley
Oakton Stake
Church of Jesus Christ of Latter-day Saints

Kathleen Marie Kelly appeals the decision by Bishop Mark M. Harrison on June 23, 2014, that she be excommunicated from the Church of Jesus Christ of Latter-day Saints, and requests that this Statement in Support of Appeal be given full consideration by Stake President Scott M. Wheatley and by any others who participate in the Appeal. For both procedural and substantive reasons stated herein, Sister Kelly's excommunication should be reversed and she should be restored to full fellowship and good standing in the Church.

STATEMENT OF FACTS

On June 23, 2014, Bishop Harrison announced the results of the disciplinary council convened and conducted by him on June 22, 2014. In his letter notifying her of the decision, he stated that "Our determination is that you be excommunicated for conduct contrary to the laws and order of the Church." The letter signed by Bishop Harrison and delivered to her by email on June 8, 2014 indicated she was being charged with "apostasy. In addition, "conduct contrary to the laws and order of the Church" is nowhere listed in the Church Handbook of Instructions ("CHI") or in LDS Scriptures as a basis for excommunication, the CHI instructs that this vague language be used to notify individuals of the outcome of a Church Disciplinary Council. (See CHI 6.10.7) While the vagueness of the language makes an adequate response extremely difficult, Bishop Harrison's letter also contains a list of four statements that appear to have served as a basis for his decision. As shown below, those statements do not support a basis for excommunication.

Bishop Harrison's statements are as follows:

1. "On December 12, 2103, President Wheatley and I met with you. We talked with you about the doctrine of the priesthood. We urged you to dissociate yourself from Ordain Women and to cease your campaign to promote the ordination of women.

2. In March and April of this year, President Wheatley again reminded you of the counsel given in December. Nonetheless, you proceeded with your protest on Temple Square during General Conference despite the request of Church leaders that you not do so.

3. Subsequently, under your leadership and with your direct involvement, Ordain Women announced "Six Discussions" which were intended to proselyte others and to persuade them to support your particular interpretation of Church doctrine. You reached out to others to persuade them to join your movement.

4. On May 5th, after conferring with me and with my full agreement, President Wheatley again met with you and together with President Lee, offered the same counsel previously given and placed you on informal probation in the hope that you still might change your course. Yet, you have persisted undeterred.

With all due respect to Bishop Harrison, his statements significantly misrepresent what actually occurred. Moreover, even if they are correct, they do not support a decision to excommunicate Sister Kelly because they do not constitute "apostasy" or any other offense that would form a basis for a verdict of excommunication.

1. Founding Of Ordain Women.

On March 17, 2013, a group of women, including Sister Kelly, launched the website, www.ordainwomen.org, with the stories of approximately 20 profiles from individuals who introduced themselves and stated the reasons that they believe Mormon women should be ordained. Sister Kelly has been prominent among those involved with Ordain Women and is, in some ways, the founder of the group. The mission statement expressed support for the leadership of the Church and asked that Church leaders pray and ask the Lord if ordination could be conferred on women. The website made no demands, contradicted no existing Church doctrine and in fact did not teach anything as "doctrine." The leaders of Ordain Women did not tell anyone what to say, they simply provided a place for people to post their individual stories. Anyone who reads the profiles on the site can see that each person shares very personal stories and perspectives.

2. Interactions With Local Leaders

Before the launch of the website, Sister Kelly emailed President Wheatley, Bishop Harrison and his counselors, as well as the Relief Society President informing them about the website and inviting them to discuss it with her. The only response she got in return was that they would let her know if they had any questions. No one accepted her offer for discussion, nor did anyone even ask her any questions at that time.

On December 12, 2013, President Wheatley requested to meet with Sister Kelly. President Wheatley emailed her before the meeting and said, “I would like to discuss your efforts regarding Ordain Women and hope to have Bishop Harrison join us.” Bishop Harrison was present, but in Sister Kelly’s view, he did not take an active role in the meeting. At the time, Sister Kelly blogged about the meeting at the Exponent II blog, here:

<http://www.feministmormonhousewives.org/2013/12/excommunicating-sexism/>

Sister Kelly’s contemporaneous understanding of the meeting’s outcome was:

The most important, immediate takeaways from my encounter with leadership were:

- 1) They explicitly and emphatically assured me that I was not facing any type of disciplinary action for my founding of, and participation in, Ordain Women.
- 2) They told me there was no directive from any area authority or higher-level Church leader instructing them to meet with me, interview me or punish me in any way. Hence, they assured me when I asked, there is no concerted effort on the part of the Church to “crack down” on members of Ordain Women or target us specifically for our unequivocal calls for female ordination.

Whatever President Wheatley told Sister Kelly, she left the meeting with the firm impression that there would be no disciplinary consequences for her involvement with Ordain Women. That impression was confirmed when months passed without any further efforts by President Wheatley or Bishop Harrison to have further discussions about Ordain Women. In fact, Sister Kelly emailed President Wheatley and Bishop Harrison several times in 2013 and 2014 about her Ordain Women activities. At no time following the meeting in December, 2013 did Bishop Harrison request any meeting with her, and President Wheatley did not request any meeting until May 4, 2014, as Sister Kelly was busy preparing to move, when he insisted on meeting with her and said he would meet with her, “anytime, day or night.” Sister Kelly said,

due to her move, she was unable to meet with him and politely declined. Although President Wheatley had known for months that Sister Kelly was moving, only at the very last minute did he demand that she attend a meeting with him, enforcing the demand by informing her that he was instructing Bishop Harrison “to place a move restriction on your membership records” and would not allow them to be transferred. Under great duress due to the hold on her records, and because her move was imminent, she attended the meeting. President Wheatley agreed to an agenda of the following:

Besides your 4/5 actions, the information that has come to my attention recently relates to you talking about OW at the Barlow Center, your planned 5/15 action and the 6 OW discussions.

At this forced meeting, President Wheatley placed Sister Kelly on informal probation. Rather than simply release her records to be transferred to her new location, he continued the hold on her records, despite her compliance with his demand that she meet with him. Then, without any warning, he apparently instructed Sister Kelly’s bishop to hold a Disciplinary Council, after she had moved thousands of miles away, at a time when she was in the process of preparing to move abroad to Kenya, where her husband was planning to do field work for his PhD, as she had told President Wheatley would be the case in her December meeting with him. In addition, Sister Kelly was busy spending time with family before moving half way around the world, and also dealing with an ailing relative. The Disciplinary Council could not possibly have been planned in a way that was more hostile, inconsiderate, inconvenient and unreasonable.

In his June 8 letter announcing the Disciplinary Council, Bishop Harrison acknowledged that Sister Kelly had already moved to Utah and stated that if she could not return, she could participate in writing. After Sister Kelly had decided to participate in writing, as instructed, Bishop Harrison emailed Sister Kelly and said, “I could look into the possibility of setting up a secure video link through the Church’s system” for a long-distance appearance by Sister Kelly. However, in that same email he stated, “as I mentioned in the letter I sent to you, I am open to receiving a written submission from you.” A closed video system in which the Church would be able to record and therefore edit and/or share her testimony with anyone was not a reasonable option for Sister Kelly given that President Wheatley had said in an email to her on May 6, 2014: “because you have carried your campaign for ordination far beyond the boundaries of our Stake,

and have previously told the media and the public that you are a member in good standing, it may be necessary at some point in the future to **correct the public record** regarding your standing in the Church. For these reasons, **I cannot agree to the request in your email for absolute confidentiality.**” (Emphasis added.)

Because Sister Kelly would not also be able to record the proceedings in a Church-owned facility, in order to prevent editing or misreporting of her statements, she wisely did not agree to this one-sided offer of video participation. In addition, given that neither Bishop Harrison nor President Wheatley had made a serious attempt to listen her at any point in this process, that offer rang hollow as an attempt to make an unconscionable demand of trial in absentia look less hostile than it, in fact, was. Therefore, Sister Kelly chose, as instructed in both email communications from Bishop Harrison was a legitimate form of participation, to participate via written record.

3. The Faith-Based Action At Temple Square

Bishop Harrison’s second allegation is that “In March and April of this year, President Wheatley again reminded you of the counsel given in December. Nonetheless, you proceeded with your protest on Temple Square during General Conference despite the request of Church leaders that you not do so.” This statement mischaracterizes the faith-based action at April Conference, as well as the response of “Church leaders.”

On March 13, 2014 Sister Kelly, on her own accord, requested tickets to the Priesthood Session of Conference and any other session from President Wheatley, as Stake Presidents are given tickets to divvy up amongst the members of the Stake. President Wheatley denied this request. Yet again, Sister Kelly’s request demonstrates that she was operating in good faith and informing her leaders of her intentions. Other than the March 13 email exchange requesting tickets, that Sister Kelly initiated, there were no meetings, calls or other communication to discuss the issue of Ordain Women with Sister Kelly on the part of President Wheatley or Bishop Harrison.

As noted in the Statement of Support for Sister Kelly presented to her Bishop, the action was *not* a protest. Rather, it was a respectful request for admission to Priesthood Meeting. At

no time did any participant do anything that was disruptive, disrespectful or even reminiscent of a “protest.” At no time were participants asked to leave Temple Square. To the contrary, they were warmly greeted by a representative of the Church, Kim Farah, who welcomed and spoke to each participant. The video offered to Bishop Harrison shows Sister Kelly chatting with Church spokeswoman Jessica Moody. Given that Church representatives at Temple Square did not treat participants as “apostates,” it is a grievous overreach for Sister Kelly’s leaders to refuse to follow the example of those Church representatives. While each participant was denied access to the Tabernacle, at no time was Sister Kelly instructed to leave the premises, which are open to the public.

Also recall that at the first action, Sister Ruth Todd greeted participants warmly, shook hands with many of us, and welcomed us to Temple Square, stating we are “Sisters in the Gospel.” The action of Sister Kelly’s Bishop is wholly out of harmony with the Church representatives who actually greeted participants. Participants had no reason to believe, based on their October experience, that their actions would be interpreted as “apostasy.” It is wrong for those sitting in judgment of Sister Kelly to act in a way that is inconsistent with the actions of Church personnel who were on site, who observed the behavior of participants, and who engaged in warm and friendly conversation with those of us who were there.

4. The Six Discussions

Bishop Harrison’s third complaint states, “Subsequently, under your leadership and with your direct involvement, Ordain Women announced ‘Six Discussions’ which were intended to proselyte others and to persuade them to support your particular interpretation of Church doctrine. You reached out to others to persuade them to join your movement.”

The “Six Discussions” complaint was first mentioned by President Wheatley at a time when he could not have possibly had any knowledge about what they contained or whether anything in them related in any way to “false doctrine,” because at the time he first mentioned them in his May 4, 2014 email, most of the Discussions had not even been written, and the discussions were not released until May 22. As each one was released, it became clear that Ordain Women did not present anything about women’s ordination as “doctrine.” To the extent that they cited doctrine, they quoted scriptures. They also cited talks from Church leaders, historical practices and accomplishments of our Mormon foremothers, statements about women

by the prophet Joseph Smith, and the historical research of well-respected Mormon historians. The purpose of the Six Discussions was to serve as a basis for conversations about women's historical roles in the Church, both ancient and modern, and to examine scriptural support which might support women's ordination. Those kinds of discussions are going on in most faith traditions all over the world, and absolutely nothing in Mormon belief or historical practice forbids such discussions.

The Six Discussions are akin to other internet-based discussions about matters of Mormon interest. These include <http://www.mormonsundayschool.org/>, which discusses the Sunday School curriculum, <http://old-testament.blogspot.com/2013/12/ot-fwd-discovering-old-testament-podcast.html>, which focuses on Discovering the Old Testament, <http://feministmormonhousewivespodcast.org/>, which focuses on feminist issues, <http://mormonmatters.org/>, which discusses a wide variety of Mormon doctrinal, historical and social issues and a similar podcast site, <http://athoughtfulfaith.org/category/podcasts/>. In addition, the popular Mormon group "Mormon Women Stand" has a weekly discussion group called "Sunday Classics Discussion" where they gather online to discuss Church talks by leaders, in direct parallel to what Ordain Women does with the "6 Discussions."

I urge President Wheatley and others who may sit in judgment of Sister Kelly to surf these websites to get some inkling of the broad sweep of Mormon discussion that is occurring every single day in the "Bloggernacle," the expansive network of websites that are discussing Mormon issues. Do Sister Kelly's leaders think all non-correlated discussion of Mormon topics should be shut down, or just those from Ordain Women, which had not even been released at the time President Wheatley started issuing ultimatums designed to put a gag order on all public discussion of women's ordination?

Modeling the Ordain Women discussion packets after the retro missionary discussions was intended to be a play on something familiar to most Mormon people. They are not intended to be a recruitment tool, as there is nothing to recruit people to. Ordain Women does not have "members" or adherents. There are no dues to pay or way to officially align yourself with the group. Ordain Women is a group of individuals who share opinions about female ordination. It provides a platform for women and men to share their own stories. That is all.

5. Insubordination

Bishop Harrison's final complaint is that "On May 5th, after conferring with me and with my full agreement, President Wheatley again met with you and together with President Lee, offered the same counsel previously given and placed you on informal probation in the hope that you still might change your course. Yet, you have persisted undeterred." In other words, President Wheatley is attempting to compel behavior from Sister Kelly by disciplining her, and because she did not yield to this attempt to control her, Bishop Harrison excommunicated her. However, according to Doctrine & Covenants 121: 37 when any priesthood holder attempts to "exercise control or dominion or compulsion" the following will result: "the Spirit of the Lord is grieved; and when it is withdrawn, Amen to the priesthood or the authority of that man."

Insubordination to a Church leader is not grounds for excommunication, and in fact, according to scripture punishment resulting from this charge may negate that leader's authority entirely.

ARGUMENT

PROCEDURAL UNFAIRNESS

1. The Initial Disciplinary Council Was Unfair And Its Decision Of Excommunication Should Be Reversed.

Chapter 6 of the Church Handbook of Instructions governs the procedures and substance of Disciplinary Councils. Section 6.10.10 provides that "A person who has been excommunicated, disfellowshipped, or placed on formal probation by a disciplinary council may appeal the decision. An appeal of the action of a ward disciplinary council is to the stake presidency (and high council)." As shown below, the Disciplinary Council held by Bishop Harrison was fraught with unfairness, and the appellate process is no different. Because of this unfairness, Sister Kelly's excommunication should be reversed.

In the Statement of Support that was filed with Bishop Harrison, the explanation of the inherent unfairness of the Disciplinary Council was detailed. That Statement is attached hereto as Attachment A and incorporated herein by reference. While the arguments will not be repeated here in their totality, they are summarized as follows, and should be reviewed fully by the Stake President and High Council.

1. This Disciplinary Council is inherently unfair because the prescribed procedures lack any due process safeguards or fundamental fairness.
2. The Disciplinary Process is unfair to women in particular.
3. This Disciplinary Council is proceeding in violation of the rules set forth in the Church Handbook of Instructions.
4. This Disciplinary Council has demonstrated bias by inappropriately retaining membership records that should have been transferred when Sister Kelly moved.
5. The appellate process is unfair, because any appeal will be made to an accuser and is also unfair because it is impossible to adequately identify “alleged errors or unfairness in the procedure” when the Disciplinary Council was held in absentia and the leader convening the proceedings refuses to answer questions regarding the process, as Bishop Harrison has now done.

Section 6.10 provides that “Procedures in a disciplinary council must be fair and considerate of the feelings of all who participate.” That is a baseline rule that has not been observed thus far and is not observed in the appeal process. As noted in the prior Statement of Support, the willingness of Bishop Harrison to violate the already-unfair procedures stated in the CHI is troublesome, as is the willingness of President Wheatley to also violate, or allow violation of, the rules. What good are rules, even flawed ones, if they can be disregarded at the whim of those who call the shots, with no further consequence? The failure to follow notice procedures, the retention of Sister Kelly’s records at the last minute before she moved away, and now the requirement of appealing Bishop Harrison’s decision to Sister Kelly’s initial accuser all demonstrate complete disregard of any semblance of fairness. For that reason, President Wheatley should reverse the excommunication outright. If he is unwilling to do that, he should take his action promptly and allow for a speedy appeal to the First Presidency, in accordance with Section 6.10.10.

Because of the unfairness of the initial Disciplinary Council, and the failure of those convening it to follow their rules in the CHI, the decision of the council should be reversed.

2. The Appellate Process Is Inherently Flawed, Especially In This Case, Because The Appeal Is Required To Be Made To Sister Kelly's Accuser.

Pursuant to the rules stated in the CHI,

If a person who has been disciplined wants to appeal the decision, he specifies in writing the alleged errors or unfairness in the procedure or decision. The person presents the appeal within 30 days to the presiding officer of the disciplinary council that made the decision. If a bishop or branch president presided over the council, he forwards the appeal with the Report of Church Disciplinary Action form and other relevant documents to the stake or mission president. If a stake or mission president presided over the council, he forwards the materials to the First Presidency.

Under this rule, Sister Kelly is required to submit her appeal to the man who just excommunicated her, who then forwards it, along with a "Report" and other documents that she is never allowed to see or respond to, to the Stake President. In this case, the Stake President is Sister Kelly's initial accuser. Had he not already made up his mind about Sister Kelly's "guilt," he would not have retained her records and directed her bishop to hold a Disciplinary Council after she had already moved thousands of miles away.¹

That the initial accusations against Sister Kelly came from President Wheatley could not be more obvious. On May 5, 2014, President Wheatley wrote, "the decision to invite you to meet with me is mine and mine alone." This statement was made in connection with a meeting that President Wheatley demanded that Sister Kelly attend, after he had put a hold on her membership records. At that meeting he imposed informal probation on her, making it clear that the driving force behind Sister Kelly's excommunication came from President Wheatley. That she is now required to appeal the excommunication to President Wheatley adds insult to injury in a process that is inherently stacked against an accused individual.

¹ The retention of Sister Kelly's records is described more fully in the Statement of Support, Attachment A. Suffice it to say that despite statements from President Wheatley that there was no involvement with Church leaders above him in this matter, the fact is that the records could not have been retained without direct and specific contact with Church headquarters, as approval for a "hold" on records by the First Presidency or "Church headquarters" is required for records to be held in a place where the member is not living. See CHI Rules 13.6 and Rule 6.13.7.

3. The Appeal Process Is Unfair To Sister Kelly Because She Does Not Have Fair Notice Of The Information Supplied To President Wheatley.

As noted above, Sister Kelly is not allowed to submit her Appeal directly to President Wheatley. Rather, she has to submit it to Bishop Harrison, who then has the opportunity to read it, respond to it, and send his response to President Wheatley, all without giving Sister Kelly the opportunity to even know what is being said about her by the Bishop who excommunicated her. Under those circumstances, how can she possibly formulate an adequate response? There is no transcript or recording of the hearing. She has no way of knowing what was said about her. She has no way to know precisely what acts she did that the bishop found so grievous that they were worthy of excommunication.

For example, regarding statements made in Bishop Harrison's excommunication letter, what is the "doctrine of the priesthood" that is somehow violated by asking Church leaders to pray about women's ordination? What was the specific "counsel given in December" that Sister Kelly has supposedly run afoul of? What is it about the Six Discussions that Sister Kelly supposedly said to "support [her] particular interpretation of Church doctrine," when in fact Sister Kelly did not write the discussion guides for the Discussions, nor did the Discussions teach anything as "doctrine"? It is impossible to defend against a charge that is never explicitly stated. The blatant unfairness of discipline that takes place under these circumstances is grounds for reversal of Sister Kelly's excommunication.

4. The Absence Of A Record On Appeal, And The Secrecy Surrounding What Occurred At The Disciplinary Council Seriously Limits Sister Kelly's Ability To Submit A Meaningful Appeal.

The absence of a record on appeal further highlights the problem that began when Sister Kelly was first summoned to a Disciplinary Council, which was that Sister Kelly was never given adequate notice of the reasons for the Disciplinary Council. That problem is discussed more fully in the initial Statement of Support, which is attached, and will not be repeated here, but it is an important aspect of the unfairness of Church discipline, because it is impossible to defend against charges that are intentionally hidden from the accused person. The same problems continue on appeal and are heightened by Bishop Harrison's refusal to answer any questions about the Disciplinary Council.

Bishop Harrison has specifically told Sister Kelly that “Unfortunately, I am not in a position to answer questions about the disciplinary council, my preparations for it, or the discussions that occurred as a part of it.” Bishop Harrison also stated that “I truly wish that you had taken me up on my offer to move the council to a date that was convenient for you so that you could attend in person or to arrange to have you appear by secure video link,” and that he believed that “the entire process would have been better for you and better for me and the others on the council with your active participation.”²

What Bishop Harrison fails to recognize is that after she moved thousands of miles away, there was no way to have a fair Disciplinary Council take place. No date change would have made it easier to return, at her own expense; in addition, she had other pressing personal matters to attend to during the time she has been awaiting her visa, including spending time with an ill family member, and then she is moving to Kenya. Despite the fact that President Wheatley and Bishop Harrison knew for five months that she was going to move half way around the world, they waited until she was gone before they demanded that a Disciplinary Council be held in her old home. That unconscionable decision led to her trial in absentia.

As for the “secure video link,” that offer was not even suggested in Bishop Harrison’s initial summons letter. In that letter he stated, “I understand that you are now living in Utah and I am willing to work with you to make a reasonable adjustment in the scheduled date and time of the council. If you are unable to attend in person, you are invited to provide a written statement and any other materials you desire to be considered by the council.” That is the only statement about Sister Kelly’s “attendance” at the meeting. Nothing in the letter offered Sister Kelly the opportunity to appear “by secure video link.” Only after she had already begun putting together her written defense, did he offer the video link.

In addition to the betrayal already demonstrated by the refusal to transfer her records to her new home, and the convening of a Disciplinary Council after she had moved away, Sister Kelly was unwilling to submit to “attending” by video link for another reason. A closed link would provided the opportunity for her accusers to record, edit at their choosing and share the recording if they so chose, but she would have had no access to it and no way to confirm whether

² Email from Bishop Harrison to Sister Kelly, dated July 10, 2014.

it was accurate or whether it had been altered or truncated. President Wheatley had already informed her that he would not maintain confidentiality with regard to the Disciplinary council, saying,

[B]ecause you have carried your campaign for ordination far beyond the boundaries of our Stake, and have previously told the media and the public that you are a member in good standing, it may be necessary at some point in the future to correct the public record regarding your standing in the Church. For these reasons, I cannot agree to the request in your email for absolute confidentiality.³

Given President Wheatley's refusal to honor confidentiality, Sister Kelly simply did not trust that a recording would have been kept confidential, and given that her leaders had already shown callous disregard for any semblance of fairness in the disciplinary process, her lack of trust is hardly unwarranted.

In his excommunication letter, Bishop Harrison essentially blames the outcome on Sister Kelly's failure to appear via closed video link. In fact, however, she followed the only option reasonably available to her at the time when she got the summons letter, one specified by Bishop Harrison, and submitted her written response. That he later changed and offered an option of a video link, after it became apparent how bad it would look to try a woman in absentia for her advocacy of gender issues, did not make a video link a viable option under the circumstances, where Sister Kelly's leaders had already demonstrated bad faith by withholding her records from transfer and waiting until she moved to hold a "trial." However, in that same email offering closed video participation, alone, at a Church owned property, Bishop Harrison reiterated that written participation was a viable option to participate.

Moreover, Sister Kelly's attendance would have made no difference whatsoever in terms of knowing the basis of the decision made to excommunicate her, because the deliberations of the Council are specifically ordered to take place outside the presence of the accused.⁴ Bishop Harrison's subsequent refusal to discuss important questions about the Disciplinary Council proceedings further highlights the unfairness of the hearing from start to finish and beyond in terms of "hiding the ball" from her.

³ Email from Scott Wheatley dated May 6, 2014.

⁴ Rule 6.10.4 regarding High Council disciplinary councils, and Rule 6.12.6 require that the accused be excused during deliberations.

Secular courts are held in the open and are recorded for a reason, the reason being fairness, the accountability of the court, prevention of abuse of the process and preserving a record for an appeal. No such safeguards exist in Church Disciplinary Councils. For that reason, Sister Kelly's Disciplinary Council violated the basic rule of fairness, specified in the CHI, and her excommunication should be reversed.

SUBSTANTIVE UNFAIRNESS

Sister Kelly's excommunication should be reversed because nothing she has done constitutes apostasy. The bases for excommunication for apostasy are clearly stated in the Section 6.7.3 of the CHI. Although "apostasy" was discussed in the Statement of Support for Sister Kelly's Disciplinary Council, the topic is revisited here for two reasons. First, unlike at the time of the first Statement, a few statements have been made in her excommunication letter that give some hint of what Bishop Harrison mistakenly considered "apostasy." Second, since Sister Kelly's excommunication, the First Presidency and Quorum of the Twelve have released a joint statement that appears to be in response to press coverage about Sister Kelly's excommunication. Sister Kelly's actions need to be reviewed in light of that statement.⁵

⁵ The statement reads as follows, in its entirety:
47 East South Temple Street, Salt Lake City, Utah 84150

June 28, 2014

In God's plan for the happiness and eternal progression of His children, the blessings of His priesthood are equally available to men and women. Only men are ordained to serve in priesthood offices. All service in the Church has equal merit in the eyes of God. We express profound gratitude for the millions of Latter-day Saint women and men who willingly and effectively serve God and His children. Because of their faith and service, they have discovered that the Church is a place of spiritual nourishment and growth.

We understand that from time to time Church members will have questions about Church doctrine, history, or practice. Members are always free to ask such questions and earnestly seek greater understanding. We feel special concern, however, for members who distance themselves from Church doctrine or practice and, by advocacy, encourage others to follow them.

The only two relevant parts of the CHI definition of “apostasy” are these, from Section 6.7.3:

1. Repeatedly act in clear, open, and deliberate public opposition to the Church or its leaders.
2. Persist in teaching as Church doctrine information that is not Church doctrine after they have been corrected by their bishop or a higher authority.

1. Sister Kelly Did Not Teach Any “Doctrine,” Let Alone “False” Doctrine.

The only reference in Bishop Harrison’s excommunication letter to “doctrine” is the statement that at the December meeting, “We talked with you about the doctrine of the priesthood.” It is impossible to tell, from the letter, what this “doctrine of the priesthood” is. Unless “doctrine” is clearly stated in canonized scripture, it cannot be deemed “doctrine” that is binding on the membership of the Church. In fact, according to scripture, what constitutes actual “doctrine” is extremely limited.

Doctrine and Covenants 10:67-68 states:

67 Behold, this is my doctrine—whosoever repenteth and cometh unto me, the same is my church.

68 *Whosoever declareth more or less than this, the same is not of me, but is against me; therefore he is not of my church.* (Emphasis added.)

Similarly, in Third Nephi 11, the risen Jesus Christ explains his doctrine to the people:

32 And this is my doctrine, and it is the doctrine which the Father hath given unto me; and I bear record of the Father, and the Father beareth record of me, and the Holy Ghost beareth record of the Father and me; and I bear record that the Father commandeth all men, everywhere, to repent and believe in me.

...

Simply asking questions has never constituted apostasy. Apostasy is repeatedly acting in clear, open, and deliberate public opposition to the Church or its faithful leaders, or persisting, after receiving counsel, in teaching false doctrine.

<https://www.lds.org/prophets-and-apostles/june-first-presidency-statement?lang=eng>

35 Verily, verily, I say unto you, that this is my doctrine, and I bear record of it from the Father; and whoso believeth in me believeth in the Father also; and unto him will the Father bear record of me, for he will visit him with fire and with the Holy Ghost.

...

39 Verily, verily, I say unto you, that this is my doctrine, and whoso buildeth upon this buildeth upon my rock, and the gates of hell shall not prevail against them.

40 *And whoso shall declare more or less than this, and establish it for my doctrine, the same cometh of evil, and is not built upon my rock; but he buildeth upon a sandy foundation, and the gates of hell stand open to receive such when the floods come and the winds beat upon them. (Emphasis added.)*

These are important passages in which the Lord himself defines “doctrine,” and he minces no words: “Doctrine” consists of believing in Jesus Christ and in the Father, coming unto him and repenting. Anything more or less is “not of my church,” and “cometh of evil.” By the Lord’s own words, “doctrine” is very limited to these basic principles of belief and repentance.

We cannot know what President Wheatley and Bishop Harrison think is the “doctrine of the priesthood” it is, but nowhere to be found is any statement from Sister Kelly teaching anything whatsoever as “doctrine” about priesthood. Her message, and the message of Ordain Women, is *not* that women hold the priesthood, but simply that we sincerely ask the leaders of the Church to pray about whether women might be ordained. Because she never taught “as doctrine,” about priesthood, she cannot have committed the act of apostasy through anything she taught, and to the extent that her excommunication was based on an erroneous finding or belief that she taught “false doctrine,” the excommunication must be reversed.

2. Talking About The Possibility That Women Might One Day Be Ordained Is Not Apostasy, Because Many Aspects Of Mormon Belief And Practice Support The Idea That Women May Have Priesthood.

- a. Women have priesthood authority.

At April 2014 General Conference, Elder Dallin H. Oaks stated:

We are not accustomed to speaking of women having the authority of the priesthood in their Church callings, but what other authority can it be?
When a woman—young or old—is set apart to preach the gospel as a full-

time missionary, she is given priesthood authority to perform a priesthood function. The same is true when a woman is set apart to function as an officer or teacher in a Church organization under the direction of one who holds the keys of the priesthood. Whoever functions in an office or calling received from one who holds priesthood keys exercises priesthood authority in performing her or his assigned duties. (Emphasis added.)

b. Women are endowed with priesthood power in the temple.

Elder Oaks also stated:

“When men and women go to the temple, they are both endowed with the same power, which is priesthood power. . . . Access to the power and the blessings of the priesthood is available to all of God’s children. (Emphasis added.)

c. Women perform priesthood ordinances in the temple.

Elder Oaks also noted:

With the exception of the sacred work that sisters do in the temple under the keys held by the temple president, which I will describe hereafter, only one who holds a priesthood office can officiate in a priesthood ordinance. And all authorized priesthood ordinances are recorded on the records of the Church.

Elder Oaks further explains:

A person may have authority given to him, or a sister to her, to do certain things in the Church that are binding and absolutely necessary for our salvation, such as the work that our sisters do in the House of the Lord. They have authority given unto them to do some great and wonderful things, sacred unto the Lord, and binding just as thoroughly as are the blessings that are given by the men who hold the Priesthood.

Taken together, these statements from Elder Oaks establish that all authority is priesthood authority, and that women can perform binding priesthood ordinances using that priesthood authority, under the direction of men who hold the priesthood keys to authorize the performance of those ordinances. Elder Oaks clearly pointed out that all who exercise priesthood authority—both men and women--do so under the direction of those who hold the priesthood keys to authorize the work they do, and that only men hold those keys. (Elder Oaks’s talk is transcribed here: <https://www.lds.org/general-conference/2014/04/the-keys-and-authority-of-the-priesthood?lang=eng>)

Kate Kelly and Ordain women agree with Elder Oaks that only men hold those keys, and for that reason they have never sought to claim that women have priesthood keys. Sister Kelly fully recognizes, and has stated repeatedly, that any authorization for women to be ordained to the priesthood should and must come through revelation. That is why Ordain Women was founded: to collectively make the statement that many women are willing to accept the responsibilities of priesthood and wish to be full participants in Church governance. For that reason they request that Church leaders to ask the Lord to reveal whether the female priesthood ban might be lifted now or in the future, just as the Black priesthood ban was lifted in 1978.⁶

Given that women exercise priesthood authority, and have a long history of faithful Church services, it would be a small step to fully enfranchise women and incorporate women's services into all aspects of Church governance. Sister Kelly does not seek to usurp any power from Church leaders. She simply asks them to pray about women and priesthood. That is not an act of apostasy. It is an act of faith. That women seek further inclusion in the structure of the Church they love, that Sister Kelly loves, should be celebrated, not punished.

3. Sister Kelly Did Not Repeatedly Act In Clear, Open, And Deliberate Public Opposition To The Church Or Its Leaders, Because She Did Not In Any Way Act In Opposition To The Church Or Its Leaders.

The Statement from the First Presidency and the Quorum of the Twelve that was issued on June 28 makes it clear that only men are ordained to priesthood office. That is a simple statement of fact that no one can reasonably disagree with. Ordain Women does not disagree. Kate Kelly does not disagree. The statement, however, is notable for what it does *not* say. Coming as it did just a few days following Sister Kelly's excommunication, and with the press seeking a definitive statement on the status of Ordain Women and its activities, Church leaders had the perfect opportunity to condemn Ordain Women and to slam the door shut on the idea that women would ever be ordained to priesthood office. That they did not do so plainly demonstrates that they did not seek to close that door. They did not say that women would never

⁶ Note also that LDS history is replete with examples of women who performed healing blessings by the laying on of hands. See, e.g., <http://www.sltrib.com/sltrib/blogsfaithblog/51785971-180/healing-mormon-women-church.html.csp> Also note that when the Relief Society was established, Joseph Smith "ordained" its leaders and also told those assembled that he would make them a "kingdom of priests," "as in Enoch's day—as in Paul's day." <http://josephsmithpapers.org/paperSummary/nauvoo-relief-society-minute-book?p=19#!/paperSummary/nauvoo-relief-society-minute-book&p=19>

be ordained to priesthood office. They did not say that the idea of women serving in priesthood offices is false doctrine. They did not say that the discussion of lifting the female priesthood ban is apostasy.

Instead, they praised the “women and men who willingly and effectively serve God and His children,” just as Sister Kelly did in her calling as Relief Society Chorister and Nursery Worker before that, faithfully until May 5, when President Wheatley suddenly and unexpectedly placed her on informal probation just days before her move across the country.

The Statement further states unequivocally that “simply asking questions has never constituted apostasy.” Despite President Wheatley’s and Bishop Harrison’s attempt to turn Sister Kelly’s request to Church leaders to ask the Lord a question about women’s possible ordination into a “campaign” against Church leaders, and therefore into “apostasy,” all she was really doing was to ask a reasonable question of Church leaders—the question of whether they would pray about women’s ordination. That she did it in a very public way, and that she provided a forum for other women and men to ask the same question in a very public way, does not convert the act of questioning into the act of apostasy.

It would be alarming if Sister Kelly had “distanced [herself] from Church doctrine or practice, and by advocacy, encourage[d] others to follow [her]. But that isn’t what she did. As established above, even this very statement steers clear of calling advocacy of women’s ordination “false doctrine,” and thus Sister Kelly has not distanced herself from Church doctrine. How might one distance himself or herself from Church “practice”? Certainly not be publicly raising questions about women’s ordination. Distancing oneself from Church practice would be things like disavowing baptism and confirmation, rejecting temple ordinances, possibly taking matters into one’s own hands and performing an unauthorized ordination or other ordinance, or renouncing the authority of the leaders of the Church.

Sister Kelly has done none of that. And while it is rather insulting to insinuate that this writer,⁷ for example, is “following” Sister Kelly, one could do worse than by following her

⁷ As noted in the previous Statement of Support for Sister Kelly, the author of this “brief” in support of her appeal is the author of “Women and Priesthood,” published in *Dialogue: A Journal of Mormon Thought*, and has been a supporter of women’s ordination at least since the article was published in 1981. https://www.dialoguejournal.com/wp-content/uploads/sbi/articles/Dialogue_V14N04_50.pdf

example of affirming the right and responsibility of the leaders of the Church to seek revelation on the question of women's ordination.

Thousands, maybe millions, of Mormon women have questions and concerns about the place and status of women in the Church. Church leaders are aware of that fact. For instance, in 2013, Deseret Book conducted a "Study of Active LDS Women." While the study has not been made public, Sister Sherry Dew recently wrote that "A recent major study of the attitudes of LDS women indicated that a fair number of them feel marginalized by the Church as second-class citizens. It also highlighted the fact that many women feel there is no 'safe place' to share their concerns or even ask pointed questions."⁸ Needless to say, Sister Kelly's excommunication goes a long way toward proving that there in fact is no "safe place" to "share concerns" or "ask pointed questions."

President Wheatley and Bishop Harrison may not like the forum which Sister Kelly chose to raise her questions about women's ordination. They may be offended by her manner. They may have their hackles up and feel personally offended by her refusal to abide by their gag orders, but that does not make Sister Kelly an apostate or a preacher of false doctrine. They now need to step back and acknowledge that Sister Kelly's insubordination to their unreasonable demands that Sister Kelly sit down and shut up does not constitute apostasy.

CONCLUSION

Section 6.10.10 of the Church Handbook of Instructions states:

The decision on the appeal may be to (1) let the initial decision stand, (2) modify the initial decision, or (3) direct the disciplinary council to rehear the matter. In addition, the First Presidency may refer an appeal to another priesthood officer or body for review (with or without receiving additional evidence) and resubmittal to the First Presidency with a recommendation.

⁸ Sheri Dew, *Women and the Priesthood: What One Mormon Woman Believes* (Salt Lake City: Deseret Book, 2013).

On behalf of Sister Kelly, I respectfully request that President Wheatley and the High Council modify the initial decision by vacating it and reinstating Sister Kelly to full membership in good standing status.

July 23, 2013

Respectfully submitted,

Nadine R. Hansen