STATE OF MINNESOTA

COUNTY OF RAMSEY

IN DISTRICT COURT

SECOND JUDICIAL DISTRICT
Case Type: Personal Injury

File No. 62-CV-13-4075

Doe 1,

Plaintiff,

v.

Archdiocese of Saint Paul and Minneapolis, Diocese of Winona, and Thomas Adamson,

Defendants.

AFFIDAVIT OF JENNIFER M. HASELBERGER

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Jennifer M. Haselberger, JCL, PhD, being duly sworn, on oath, deposes and states as follows:

1. The statements made herein, unless stated otherwise, are only to be considered as reflective of the situation and circumstances of the Archdiocese of Saint Paul and Minneapolis. These statements should not be understood to be representative of the practices of other Catholic dioceses in the United States, of the universal Catholic Church, or of the Holy See.

2. I am a Canon Lawyer having received my licentiate (J.C.L.) from the Catholic University Leuven, Belgium, in 2004. I also have a Doctorate in Philosophy (Ph.D.) from the University of London, England. I have been a member of the Canon Law Society of

North America and served on the Resolutions Committee of that Society. I have practiced as a Canon Lawyer in Minnesota, North Dakota, Illinois, and internationally.

3. From 2008 until 2013 I served as the Chancellor for Canonical Affairs for the Archdiocese of Saint Paul and Minneapolis. I was appointed to that position by the Most Reverend John Nienstedt, Archbishop of Saint Paul and Minneapolis. My primary responsibilities at the time I was hired as Chancellor for Canonical Affairs, and appointed Chancellor, was to provide advice to the Archbishop and to serve as the chief archivist and record keeper for the Archdiocese[1]. I was also the Director of the Office of Conciliation and held various *ex officio* positions as a Director or Board member of affiliated entities. However, during my tenure as Chancellor, and especially after my reports to law enforcement regarding the Archdiocese's handling of accusations of sexual abuse of minors, my job duties were significantly curtailed. After enduring months of harassment, threats, and intimidation- examples of which I will provide later in this affidavit- I resigned as Chancellor for Canonical Affairs on April 30, 2013. The Minnesota Department of Employment and Economic Development concluded that I resigned for good reason caused by my employer, because I 'felt that I could no longer work for an organization that was not cooperating fully with investigations into illegal activities within the organization'.

4. From 2004 until 2006 I served as a Judge on the Metropolitan Tribunal of the Archdiocese of Saint Paul and Minneapolis. I was appointed to serve in this position by the Most Reverend Harry J. Flynn, who preceded Archbishop Nienstedt as Archbishop. My primary responsibility as a judge was to adjudicate, as part of a three judge panel, cases for

[1] (*Code of Canon Law*, c. 482, §1)

declarations of nullity of marriage. However, during this time I also served as a Victims' Advocate for the Office of Advocacy/Commission on Women. In both of these positions, as well as in my position as Chancellor, I came to have knowledge of the Archdiocese's handling of accusations of sexual abuse by clergy that I believe are relevant to the present inquiry and which may offer additional insight into the testimony that has been offered by others.

5. I first experienced what I believe to be the Defendant Archdiocese's ("Archdiocese") efforts to conceal from the general public the potential criminal acts of sexual misconduct by its clergy, and the injurious nature of such concealment, in approximately October of 2004. Earlier that summer I had been hired by Reverend Daniel Conlin to work as a Judge on the Metropolitan Tribunal, where he served as Judicial Vicar. Canon law mandates the appointment of a Judicial Vicar, or 'officialis', who is required to be a priest of 'unimpaired reputation'[2]. The Judicial Vicar reports directly to the Archbishop and has supervisory authority over Tribunal personnel.

6. At the time that I was hired, Reverend Daniel Conlin served both as Judicial Vicar and as Pastor of the Church of Saint Columba. He interviewed me for the Tribunal position at the parish rather than the Tribunal offices. However, upon beginning my employment several weeks later I learned that Reverend Conlin had been reassigned to the Tribunal full time, and that his parish assignment had come to an end. The explanation given for this change was that the Archbishop had determined that administering the Tribunal was a full time job.

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[2] (*Code of Canon Law*, c. 1420, §4).

7. In approximately October of 2004, a fellow Tribunal employee, Eugene Burke, asked for a private meeting in my office, during which he informed me that Reverend Conlin had been removed from his parish assignment and moved to the Tribunal after it was discovered that he had fathered a child by Mr. Burke informed me that was married, and that she and her spouse were attempting to reconcile and present the child as a product of the marriage. Mr. Burke, who himself was a therapist, also stated that it was believed by some that Reverend Conlin had been providing counseling to regarding her marital difficulties either at the time or before she became pregnant. Mr. Burke informed me that he had not been authorized by the Archdiocese to make this disclosure, but had felt that I 'needed to know'.

8. I was deeply concerned and distressed by this information, which I was able to verify without difficulty. My distress was caused by the dissonance between Reverend Conlin's actions and the Archbishop's decision to appoint him to a position that required an unimpaired reputation, involved the supervision of female staff, and, by the very nature of the work done by the Tribunal, would bring Reverend Conlin into contact with more vulnerable women experiencing marital distress. I felt betrayed by the Archbishop in that I had not been warned about Reverend Conlin's conduct and the potential risk he posed to other female employees.

9. I determined that I would quit my employment with the Archdiocese, and to facilitate finding another job I contacted a priest in another diocese who was also a canon lawyer. I informed him of the situation and my decision to seek other employment, expecting to ask him to serve as a reference. I was surprised when my revelations were not

met with shock until he informed me that the situation had been widely discussed at a meeting of canon lawyers earlier in October. I was further dismayed when he informed me that it would not be in my best interest to leave my position at the Metropolitan Tribunal. I was advised that due to the Archdiocese's secrecy regarding Reverend Conlin's conduct and transfer, there was confusion and misunderstanding about the details. As such, should I suddenly and without explanation leave my position, there would be conjecture that I had been the/a woman involved, and that could negatively impact my ability to seek employment in the Church.

10. At the time, I believed that the Archbishop and his advisors had simply failed to consider the impact that Reverend Conlin's actions would have on the reputations of other employees. However, when I had returned to the Archdiocese as Chancellor I reviewed documents that disclosed that the actual mother of the child believed herself aggrieved by the Archdiocese, which she felt had illegitimately disclosed her identity or allowed it to become known. That caused me to question whether the decision to transfer Reverend Conlin to a position where he would supervise many young women, several with infants or young children, was an oversight or a deliberate attempt to confuse the identity of the mother and child.

11. Unable to leave my employment, and unwilling to continue in a situation that I believed to be both risky and morally wrong, over the objections of my coworkers I informed Reverend Conlin that I had been apprised of his situation, as had the other employees on the Tribunal, and that it was causing difficulties for the staff. He thanked me for coming to him directly. Within a matter of weeks the staff were informed that he had

resigned, and would be leaving the office as soon as his replacement, Reverend Ronald Bowers, could begin. No explanation for his leaving was provided by the Archdiocese. Instead, Reverend Conlin spoke of his right to privacy.

12. As a result of my intervention with Reverend Conlin, other employees of the Archdiocese spoke with me about similar situations. I learned that Mr. Burke was a former priest who had sought readmission to ministry but whose request was denied by the Holy See, and who had been given a job on the Tribunal as a consolation. I was informed that Reverend had been transferred to after he was sued by an employee of his former parish for, I believe, sexual harassment and creating a hostile workplace. And, I was told that the previous Judicial Vicar, Reverend Joseph Wajda, had been removed after a long and agonizing process in 2002-2003 as a result of the adoption of the *Charter for the Protection of Children and Young People* and the *Essential Norms*. None of these communications were made or authorized by the Archdiocese, although I would learn in my position as Chancellor that what I had been told was true[3].

13. Feeling that myself and my fellow employees were aggrieved by the Archdiocese's handling of these situations, I brought my concerns to the attention of Phyllis Willerscheidt, who was the Director of Advocacy and the Commission on Women. Following several conversations, she invited me to serve as a Victims' Advocate, to which I readily agreed. I would continue to serve in that capacity, and as a judge on the Tribunal, until a sufficient period of time had passed that I could leave my employment without

[3] I consider it significant that no one mentioned the presence of Father Michael Stevens in the Computer Services department, since the Tribunal, like IT, was housed in the Hayden Center.

suspicion. My departure coincided with Phyllis's retirement and, in fact, I informed Father McDonough that I was leaving at Phyllis's retirement dinner. I had gotten to know him, and had become familiar with his handling of sexual misconduct by clergy, in the context of work that I was doing as a Victims' Advocate and also in the course of canonical work that I was doing for other dioceses.

14. At the time of my first departure from the Archdiocese I gave a lengthy exit interview in which I was very candid and critical about the Archdiocese's handling of sexual misconduct by clergy. My interview was with Mary Lynn Vasquez, who at that time worked in the Human Resources Department, which was housed in the basement of the Hayden Center. I remember her eyes tearing up as I described the situation with the various judicial vicars and Tribunal employees, the impact it had on the morale of other employees, and the way the general unhappiness of the staff trickled down to their interactions with those who sought the services of the Tribunal, as well as the staff and petitioners of suffragan Tribunals.

15. As a result of my experiences at the Tribunal, I would not have returned to the Archdiocese of Saint Paul and Minneapolis during the administration of Archbishop Flynn. Furthermore, I did not consider applying for the position of Chancellor until after it was announced that Archbishop Nienstedt had accepted Father McDonough's resignation as Vicar General. At no time during my interviews for the position of Chancellor was it disclosed that Father McDonough had been recently appointed the Delegate for Safe Environment and would remain the 'point person' for clergy misconduct. I did not learn this until several weeks after I began my employment, and it immediately caused me to

reconsider my decision to accept the job offer. At that time, I was also considering a conditional offer of employment from the Department of Justice/Federal Bureau of Investigation. I remained undecided for several months, and I did not decline the offer with the Bureau until February of 2009. My eventual decision to remain with the Archdiocese resulted more from a sense of obligation than a sense of contentment with my position. During the intervening months I had gained more information about the Archdiocese's handling of sexual abuse of minors by clergy, and based on what I had learned, I felt a strong sense of duty to remain and try to fix the very serious problems that I had identified. The Archdiocese of Saint Paul and Minneapolis is my home diocese, and I consider myself a member of this community. I grew up here, and my family and friends attended parishes, schools, and other organizations that were directly impacted by the poor decision making which I was witnessing. I reasoned that the FBI would never suffer from a lack of qualified applicants, whereas I believed I was uniquely qualified to bring about the needed improvements in the Archdiocese's approach to creating a safe environment.

16. It was in the context of my work as a Victims' Advocate, and with my providing voluntary canonical services to another diocese- specifically, the Diocese of Crookston- that I gained firsthand knowledge of two aspects of the Archdiocese's handling of accusations of sexual abuse that are germane to the present inquiry but which otherwise might be assumed to have predated my work in the Archdiocese. The first of these aspects is the practice of entrusting investigations of sexual misconduct to 'Setter and Associates'. The second aspect is Father McDonough's personal interactions with and treatment of accused clergy.

17. It was in 2005 that I first came across what I will refer to herein as a 'Setter Investigation'. By this I mean an investigation conducted by Richard Setter, a private investigator, often with the assistance of his wife, at the request of a diocese or archdiocese, the conclusions and resulting interviews and materials of which were provided to the contracting diocese in white three-ring binders. I should state that I have never met Richard Setter, and I have no opinion as to his qualifications as an investigator. However, based on a review of many such reports, I have very strong concerns about the quality of investigations done by Richard Setter for dioceses and archdioceses. I was never able to conclude if what I perceived as the obvious failures in the investigations were the result of deficiencies in the work of Mr. Setter himself, or a result of restrictions imposed or conditions ascribed by the contracting diocese or archdiocese. Nonetheless, because of patterns I was able to detect in the work that was done, I was always extremely skeptical of any decisions made based on the results of a 'Setter Investigation', a fact I made known to my coworkers in the Archdiocese on multiple occasions, including Andrew Eisenzimmer, Chancellor for Civil Affairs and my co-director of the Chancellors' Department.

18. To illustrate my concerns, it is perhaps best to refer to my first experience of a 'Setter Investigation'. This was the case of Richard Boyd, a priest of the Diocese of Crookston, who was investigated by Mr. Setter in 2003 after parishioners raised concerns regarding then-Father Boyd's conduct with youth in his parishes. Mr. Setter was recommended to the suffragan diocese by, I believe, Father McDonough, or perhaps the former Chancellor for Civil Affairs, William Fallon. Mr. Boyd was returned to ministry following the conclusion of Mr. Setter's investigation, and sent to study canon law at

Catholic University of America. In 2005, at my urging, the investigation was re-opened and I was appointed to investigate. Upon reviewing the prior investigative report, I noticed two things of immediate concern to me, and which I would come to identify as typical of a 'Setter Investigation'. The first was that among the complaints made in 2003 were reports that minor males who were confirmation candidates at the parish had been overheard discussing how then-Father Boyd had pornography on his computer. In the course of his investigation, Mr. Setter discussed that allegation with the parish secretary and other adult women, who opined that the confirmation students had likely seen the screensaver on Father Boyd's office computer, which was a photo of him (Father Boyd) standing sidewise and wearing a speedo swimsuit. Several of the adult women interviewed believed that it was likely that the boys had seen that photo and mistakenly believed it was pornography. *At no point during Mr. Setter's investigation did he speak with the confirmation students about what they had seen.* Instead, he accepted the opinion of the women of the parish that a photo of a man in a speedo was as pornographic an image as fifteen and sixteen year old boys were likely to have seen. In 2005, after my review, the matter was reported to the local branch of the FBI, who promptly requested and were provided with the names of all the confirmation students in Father Boyd's parishes during that time period. The second matter that caused me concern was that the investigation did not properly assess the impact of Father Boyd's 1984 guilty plea to possession of pictorial representations of minors, in violation of Minnesota Statute 617.247, subdivision 4. Instead, Father Boyd, who at the time of his arrest in 1984 was thought to have possessed the largest collection of child

pornography uncovered in the upper Midwest[4], was returned to ministry in 2003 despite the 'one strike' policy that had been in place since the 2002 adoption of the *Charter for the Protection of Children and Young People* and the *Essential Norms*[5]. Following the conclusion of the investigation in 2005, and with no additional information collected beyond what had been already provided via the 'Setter Investigation' the matter was referred to the Congregation for the Doctrine of the Faith and within three months Mr. Boyd had been dismissed from the clerical state by the Holy Father. I am not aware as to why Richard Boyd was not included in the list of offenders released by the Diocese of Crookston in January of 2014.

19. These attributes of a 'Setter Investigation'- the apparent failure to conduct a thorough investigation, the apparent failure to provide law enforcement with all useful information regarding possible violations of the law, and the apparent failure to adequately assess prior accusations, convictions, or settlements- were present in most if not all of the 'Setter Investigations' that I reviewed during my time as Chancellor of the Archdiocese of Saint Paul and Minneapolis. It is now a matter of public record that Harry Walsh was laicized in 2012 by the Congregation for the Doctrine of the Faith after I 'discovered' in 2011 several accusations of sexual abuse of minors in his file, including one that had resulted in a settlement. No explanation has ever been provided as to why these accusations

[4] In his plea allocution, which as I recall was part of a plea bargain or other pre arrangement, Boyd admitted he was in possession of about twenty magazines when the search warrant was executed at Sacred Heart Rectory in East Grand Forks. However, the Court requested clarification from the County Attorney, who stated, 'I believe the statement relating to magazines is quite correct, but there were magazines, photographs, albums. There were several hundred items of various types'.

[5] Although possession of child pornography was not explicitly named as a grave delict in *Sacramentorum Sanctitatis Tutela* until 2010, American canonists were informed as early as August of 2003 that the praxis of the Congregation for the Doctrine of the Faith was to consider indirect or non-contact abuse (including possession of child pornography or exposing minors to pornography), as acts of sexual abuse of minors. This was printed in the seminar materials distributed at the training in penal procedures offered in Washington D.C. on August 11 and August 12 of 2003.

were not reviewed as part of the 'Setter Investigation' conducted in 2004-2005, following which Father Walsh was 'retired' from active ministry but was allowed to remain the Music Director of his former parish, the Church of Saint Henry in Monticello[6]. During approximately the same time period, Richard Setter investigated Father Jonathan Shelley and concluded that he was in possession of 'borderline' pornography, but did not report it to law enforcement, nor did he investigate the previous accusations that had been made against Father Shelley[7]. I saw similar patterns in the 'Setter Investigation' of Father Gerald Grieman, who is currently being investigated by the Ramsey County Sheriff's Office. I brought my concerns about the Grieman investigation to the attention of both Andrew Eisenzimmer and Joseph Kueppers[8]. My primary concern, as I recall, was that in evaluating the allegations that had been made, Mr. Setter sought the witness testimony and opinions of the adult, mainly female parish employees, questioning them about Father Grieman's conduct towards youth and observing boundaries, *but did not contact any of the individuals who were identified by the victim as having served with him as altar boys at the same time that the abuse was alleged to have occurred*, reportedly because Mr. Setter felt he did not

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[6] In 2004, the adult children of contacted the Archdiocese to complain about the longstanding relationship between their mother and Father Walsh. which had begun when was married to and the family were parishioners at At the time of the complaint, and for many years prior to it, and Father Walsh had been cohabitating. When the complaints were established as valid, Father Walsh was asked to step away from active ministry, although he was permitted to remain the Music Director at St. Henry. Father Walsh was permitted to remain as Music Director even after my 'discovery' and the submission of the case to the Congregation for the Doctrine of the Faith, because the pastor of the parish, Father Vanderloop, had been advised by Bishop Piché to 'move slowly' on the matter.

[7] In fairness to Mr. Setter, I want to note that when I first located the Setter report on Father Shelley, there was a memo (I believe handwritten) from Father McDonough to Bill Fallon, I believe. It appeared to me from reviewing that memo that Mr. Setter and his computer technician were both advising the Archdiocese (through Bill Fallon) that the material might be illegal and require reporting. As I recall, Father McDonough's memo in response was to encourage them to report *if they were absolutely certain that what they had seen was child pornography*, but implied potential negative consequences for them if they reported Father Shelley and were found to be in error. Although I recall seeing this exchange in, I believe, 2011, my subsequent attempts to locate it in 2012 and 2013 were unsuccessful.

[8] Joseph Kueppers replaced Andrew Eisenzimmer as Chancellor for Civil Affairs in January of 2013.

have 'permission' to do so. No explanation was ever given as to whose permission was required to contact those individuals who were, by the time of the investigation, all adults.

20. The second aspect that I found troubling was Father Kevin McDonough's interactions with and treatment of accused clergy. As this is related to the deposition provided by Father McDonough, which I have reviewed, it is perhaps best for me to state at the beginning that while I disagree with much of the testimony he provided, especially the statements he makes regarding the cases of Father Wehmeyer and Father Shelley (which I will address further on), his reflections on my training[9], and his characterization of me as a mandated reporter[10], I believe that his testimony is completely consistent with his views of sexual misconduct by clergy. Therefore, I believe that it provides an important lens with which to understand how the Archdiocese got into the predicament in which it now finds itself. Permit me to explain.

21. Father McDonough testifies at length regarding the policies and practices instituted in the Archdiocese from the late 1980s on, statements which are also reflected in

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[9] (McDonough, p. 207). From 2004 until I resigned in 2013, I had the benefit of a considerable amount of training on topics related to sexual abuse and clergy sexual misconduct. Much of this training was provided by the USCCB or other related organizations, including professional associations for canon lawyers, safe environment coordinators; victims' assistance coordinators, and Chancery personnel involved in clergy discipline.

[10] (McDonough, p. 197) Minnesota Statute 626.556 reads: 'Subd. 3.**Persons mandated to report.** (a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person is:(1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, correctional supervision, probation and correctional services, or law enforcement; or(2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595.02, subdivision 1, paragraph (c).' Since I do not fit the definition of article 1 or article 2, I am not a mandated reporter. However, when I authored safe environment policies for other dioceses, I generally drafted them with the stated expectation that all employees and volunteers consider themselves mandated reporters, because I believe it more accurately reflects our moral obligation and the expectations of the Catholic Church. Furthermore, the fact that I was not a mandated reporter has never prevented me from making a report when I believed a child was in danger from abuse or neglect.

media statements that he made during the time in which he served as Vicar General. I have always perceived a certain amount of pride in Father McDonough regarding the work he did during this period which, as he testifies, may have informed how the bishops of the United States in general looked at the issue of sexual misconduct during the 1990s. However, my experience of working with Father McDonough during the time period of 2004 to 2013 is that he has struggled to accept the fact that the Catholic Church has, since 2001 with the promulgation of *Sacramentorum Sanctitatis Tutella (SST)*, and since 2002 with the adoption of the *Charter* and *Essential Norms*, largely repudiated the policies and procedures which he put into place, and has disavowed the principles which underlined them. In his testimony, Father McDonough simplifies this change by referring to the practice of placing offenders in administrative positions and non-parochial ministerial assignments, which was not permitted after the adoption of the *Charter/Norms*. While that is an accurate description, it is a very limited one, and one that does not truly encompass the almost cataclysmic change that occurred in the Church in 2001 and 2002, and which I will try to describe. The first aspect of this change, in terms of relevance to the present discussion, is that the responsibility for determining the response to accusations of sexual abuse of minors was taken out of the hands of diocesan bishops and transferred to the Congregation for the Doctrine of the Faith in an effort to create a uniform and appropriate response throughout the worldwide Catholic Church[11]. The second aspect is best characterized by (Saint) Pope John Paul II's statement to the Cardinals of the United States, 'there is no place in the priesthood or religious life for those who would harm the young'. While this statement is often repeated, it ought not be

[11] (*SST*, Procedural Norms, Article 16).

underestimated, nor its effect minimalized. Advocating for, if not downright requiring, the application of the penalty of dismissal is nothing short of radical for an organization, and individuals, whose business is, in a word, forgiveness. My experience of working with Father McDonough as well as my review of his work since 2001 led me to conclude that while he occasionally gave lip-service to these principles, he never accepted them and often failed to apply them.

22. I should point out that Father McDonough has actually made public statements in this regard, most notably to a conference of canonists and other clergy disciplinarians in, I believe, 2003 or 2004. This was following notification of the window provided for American bishops to submit their historical cases, and during a time when dioceses were devoting a significant amount of time and resources to preparing the necessary materials. A session of the conference was given over to presentations on how to proceed in these matters, at the conclusion of which Father McDonough informed the assembly that this was not how he was going to handle things in the Archdiocese of Saint Paul and Minneapolis. I was not present at this conference, but I heard about Father McDonough's statement many times in the years that followed, as his statement and attitude greatly offended many of the people present, who were sacrificing a great deal both personally and professionally to comply with the new requirements. Furthermore, as Chancellor I reviewed memos written by Father McDonough during this time period that confirmed what I had been told. In at least one case, the memo was prompted by Archbishop Flynn's challenging Father McDonough on his handling of these cases. If I remember correctly, Archbishop Flynn had been traveling and had conversations with several bishops regarding the processes they were

involved with, specifically seeking the dismissal of clerics who had sexually abused minors. Archbishop Flynn was troubled that he had not had similar experiences, and questioned McDonough's handling of these cases (none of which resulted in dismissal of a cleric). McDonough's memo was in response to Archbishop Flynn's questions, was addressed to the members of the Archbishop's Council (I believe), and explained his rationale for proceeding, referring directly to the conference in question (or at least the presenter) and why he disagreed with the processes outlined[12]. Shortly after I became Chancellor I also reviewed a letter that had been sent by Archbishop Flynn to Cardinal Amato, who was the Secretary for the Congregation for the Doctrine of the Faith until 2008. That letter, certainly written by a member of Archbishop Flynn's staff, explained that the Archdiocese was not employing the prescribed processes against priests who had sexually abused minors, preferring instead to secure the priests' 'voluntary compliance' with the restrictions of the *Charter/Norms*, as that means of proceeding was 'less harsh' and 'less punitive' towards the offending priests[13].

23. I personally experienced Father McDonough's reluctance to apply these principles in either October or November of 2006, when I returned to the Archdiocese to

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[12] The presenter was, I believe, Amy Strickland, a canon lawyer who was working in the Archdiocese of Boston at that time.

[13] I believe the idea of seeking the 'voluntary' compliance of clergy offenders, like using a 'probationary' model of monitoring, was particularly irresponsible of the Archdiocese, especially given what is known about the extent to which clergy offenders deny their abusive acts (or the harm those acts caused), minimize their responsibility, or generally lack the self-awareness to effectively self-police. Allow me to give you an example of this from a situation that did not involve the sexual abuse of minors, but which occurred during my tenure as Chancellor. In 2009, prior to the establishment of an effective assignment process that involved review of the cleric's file, a priest was appointed to serve as pastor of a parish. At no time during his interviews with the Comprehensive Assignment Board or when accepting the appointment from the Archbishop did he think it necessary to disclose that his previous assignment to the same parish had ended when it was discovered that he had engaged in a sexual affair with a married parishioner. The affair caused a great deal of turmoil in the parish, but with the priest's removal the couple were able to reconcile and were still attending the parish at the time that the priest's return assignment was announced. The priest, who is now deceased, was unable to understand why his return to the parish would be problematic for the couple or the other parishioners. He thought that his prior knowledge of the congregation was an asset.

execute the decree of dismissal from the clerical state for (Father) , whose name appears in the list of 48 restricted files on which I have been asked to comment. was dismissed for sexual misconduct with multiple women, including one who was under the age of eighteen, as well as for the canonical crimes of absolving his victims of sins against the sixth commandment of the Decalogue in which he was a participant, and soliciting women to sin against the sixth commandment of the Decalogue in the act of, on the occasion of, or under the pretext of confession. Many of these crimes had originally been reported in the 1990s, following which Father was sent to the Sex Offender Treatment Program at the University of Minnesota. I returned to the Archdiocese to execute the rescript because, although his own bishop was unwilling to give him further ministerial assignments, Father had been permitted to minister in the Archdiocese of Saint Paul and Minneapolis after and even during the period in which he was enrolled in the sex offender treatment program, and, in fact, was quite active in the local movement despite having engaged his victims in sexual acts *during* *retreats*. I was, and remain, deeply impacted by the suffering caused by Father in part because it was the first case that I worked on that involved a victim who committed suicide, but also because of the link between his crimes and the sacraments of the Church. Therefore, as troubled as I was to have to communicate to him his dismissal, I also felt strongly that the penalty that had been applied was justified and appropriate. I intended to communicate the decision with compassion and a message of hope (he was absolved of all censures), but also communicate *that a penalty was being imposed because of the egregious nature of his actions*. In fact, I did not get to communicate

anything, because Father McDonough determined that he would handle it, although I was permitted to observe. And, I should point out that my unease with the situation began even before we met with Father because, as we were waiting for him to arrive, I explained that I had the decree, and that I wouldn't require to sign it, etc., at which point Father McDonough asked me if he could see it. I had no objection, but I also didn't see the need, so I told him that it was the standard decree from the Congregation for the Doctrine of the Faith. It was at that point that he told me that this would be the first such decree that he had seen. I remember being stunned, and unable to comprehend how the Vicar General of an Archdiocese like Saint Paul and Minneapolis (home to infamous offenders like James Porter and Robert Kapoun) could go until 2006- four years after the adoption of the *Charter/Norms*- without having seen a decree of dismissal. He explained to me his position- that dismissal wasn't the right solution for the Church- and also demonstrated it during the interview with . For, when questioned whether the dismissal meant he was no longer a priest, McDonough responded by tapping his chest and telling that in here (meaning his heart) *he was a priest forever*. McDonough's soft touch in the interview extended into his lackadaisical approach to enforcing the restrictions contained in the decree. When I became Chancellor in 2008 I found that was still listed as the contact person in the annual *Minnesota Catholic Directory*. I have no reason to believe that anyone testifying in this matter besides Father McDonough and myself are aware of the contents of the restricted file of His name has not appeared in any of the disclosures made by the Archdiocese to date, although his diocese of origin took steps to notify interested constituencies per the instructions of the decree.

24. I have reviewed the deposition of Archbishop Flynn. I did not work directly with him on issues of sexual abuse of minors and therefore have no personal experience to compare with his testimony, outside of the previously mentioned disagreement with Father McDonough over the handling of accusations and my review of memos and letters authored under his leadership. Betty (Elizabeth) Rayl was the Chancery receptionist until 2011[14]. I would also note that when Archbishop Flynn refers to inspectors coming to view our records, he is most likely referring to the audits required by the *Charter*[15]. In this context it is perhaps significant to point out that the auditors were not ever allowed access to our clergy records to determine if the data matched what we reported. Had they done so, they would have found out that it did not. On the day that I resigned in April of 2013, eleven years following the adoption of the *Charter*, the Archdiocese still had not secured the 'essential three' (background check, VIRTUS training, and signed Code of Conduct) for all of its diocesan priests. I would note that Andrew Eisenzimmer, representing the Archdiocese and the Diocesan Attorneys Association, was a vocal opponent of proposed changes to the audit that would have permitted the auditors to review actual records and clergy personnel files, and I believe he also refers to this in a memo he wrote to mark the ten year anniversary of the *Charter*, which was an assessment of the Archdiocese's response looking back over the previous ten years as well as looking forward[16].

25. I have reviewed the deposition of Andrew Eisenzimmer. My personal experience differs from his testimony in several areas, which I will describe at length. However, prior to

[14] Flynn, p. 198.
[15] Flynn, pp. 78-79.
[16] Andy distributed copies of this memo to the members of the 'Safe Environment Working Group'.

doing so I want to make what I consider to be important point regarding his discussion of Father Keating, as this was a conversation that Andy and I had on many occasions during my tenure as Chancellor for Canonical Affairs. Andy refers to the 'determination' made by the Review Board[17]. However, the Review Board is an advisory body, not empowered to investigate or reach a determination. The *Charter* and *Essential Norms* are clear on these points- making a determination is the sole responsibility of the diocesan bishop and/or the Congregation for the Doctrine of the Faith (depending on the stage of the process). The fact that the Archdiocese continued to utilize its Review Board in these ways is again indicative of the Archdiocese of Saint Paul and Minneapolis being out of step with the rest of the American Catholic Church, and counter to the expectations of the Holy See, after 2002[18]. I also made my feelings known on more than one occasion regarding the sending of emails to potential victims, including in the Keating and Grieman matters. This method was completely counter to my experiences in other dioceses where I was tasked with investigating allegations. I always met face-to-face with the person making the report, at whatever their present location. First, because we needed the most complete information we could get in the shortest period of time so that the bishop could determine what action needed to be taken. Second, because it sent an important message to the person making the report that this is something that the bishop takes very seriously, and that what the victim has to say is important. Especially when dealing with historical cases, where an earlier

[17] Eisenzimmer, p. 29.

[18] I had a number of concerns regarding determinations made by the Review Board, many of which resulted from my questioning whether the Review Board had been provided with complete and accurate information regarding the accusations brought to their attention. I do not believe they were ever able to review documents or files, but instead made their recommendations based on oral reports made, I believe, by Father McDonough. This may be an appropriate way of proceeding for an advisory body, but not for one that was making 'determinations'.

report may not have been handled in a satisfactory way from the victim's perspective, the latter was as, if not more, important than the former. I have met with victims everywhere from military bases to free needle clinics, wherever they felt comfortable. I don't recall ever approaching a complainant exclusively by email. The way in which the Archdiocese sought information from potential complainants was one factor that led me to the opinion, which I shared on several occasions with Chancery leadership, that when the Archdiocese of Saint Paul and Minneapolis 'investigated' something, it was always done in such a way as to ensure that we concluded the investigation with less clarity than we began with. This opinion is based not only on my review of the investigations that had been conducted, but also based on conversations I had with Andy. In my experience, not only did Andy avoid looking in priest personnel files, as he testified, he actively discouraged me from doing so[19]. He always told me to 'stop looking under rocks', knowing how upset it made me to see how things had been mishandled, not to mention because of the difficulties that often resulted from following through on a line of inquiry[20]. For instance, Andy testified that he thought that the Grieman matter had been reviewed by the Review Board[21]. That was a misconception that I also had for a period of time. I believe there was a note in the Grieman file indicating that it had been sent for review, and based on that information other dioceses were advised that the Review Board had been consulted and found no reason for concern. However, to its credit, the Diocese of Phoenix was not satisfied with this, but demanded a

[19] Eisenzimmer, p. 39.
[20] Andy had another expression that I heard often. Whenever a matter arose involving Father McDonough, he would say that there was no point in trying to make sense of it, because with McDonough everything was 'smoke and mirrors'.
[21] Eisenzimmer, p. 40.

copy of the Review Board's opinion[22]. They made this request over a period of time, to a number of Chancery employees, who, I believe, consistently failed to follow up ('don't go looking under rocks'), until the call came to my desk. I went looking for the Review Board's recommendation in Grieman's file, and when I did not find it there I asked Andy to check his computer records, as many of the Review Board reports were forwarded to the Archdiocese via email but never printed and placed in the personnel files. When that search did not turn up the report, I contacted Ed Fox, who had been the Chair of the Review Board during that time. He emailed me a list of all the matters that had gone before the Review Board during his tenure, noting that Grieman was not on the list and furthermore that the name was not familiar to him. At that point, I emailed or telephoned the Diocese of Phoenix and explained that, despite our previous assurances, the matter had not, in fact, ever been reviewed by the Review Board.

26. On pages 141 and 142 of his deposition Andy discusses the practice of issuing litigation holds, and claims that this was something that I would have done rather than him. In addition, line 8, 9, and 10 of page 142 reads, 'We didn't have to issue such an instruction because we don't destroy documents'. The Archdiocesan General Records Policy, promulgated on April 18, 2012, and available on the Archdiocesan website, contains the section 'Litigation Hold Orders'. Page three of that policy states that the Chancellor for Civil Affairs (Andy's position at the time) will coordinate with the Office of Records and Archives regarding litigation holds. The policy also states that this is necessary to ensure that there is a *suspension of the document retention/destruction policies*. I am not sure on

[22] Father Grieman was living in the Diocese of Phoenix and wanted permission to exercise ministry.

what basis Andy would claim that the Archdiocese didn't destroy documents because, in fact, the Archdiocese has had a regular document destruction schedule in place since the 1990s. Moreover, during my time as Chancellor we were dealing with several serious issues that were compromising our ability to retain necessary information. The first was the lack of a clear and easily accessed records policy, which led individual people or departments to create their own practices. For instance, at Archbishop Nienstedt's instruction, his secretary, Deb Thielen, was in the practice of retaining certain documents and correspondence in a box beneath her desk, which would then be shredded after a certain amount of time passed. After several incidents where documents were destroyed that were later found necessary (one being, if I remember correctly, related to the funding for the Marriage Amendment and the investigation by the Campaign Finance Board), that practice was ended and everything of the Archbishop's was retained. The second issue was the extremely high rate of turnover of staff, and especially senior staff, during Father Laird's time as Vicar General. At the time that I resigned in April of 2013, Father John Paul Erickson and I were the most senior members of the Archbishop's staff, and we had both been hired in 2008. Since many of these departures were not entirely voluntary, and often occurred without warning, we struggled to develop an adequate response to office transition. Finally, from 2010 to 2012 Father Laird 'repurposed' nearly half of the space previously allocated for archives and records storage, remodeling those areas into a staff lounge and office space for his new Communication's Department. No additional storage space was provided for Archives/Records. Instead, Father Laird's solution was to rent dumpsters (20-30 foot commercial dumpsters) and order the staff to get rid of records and archival materials in that

way. In fact, my staff went to what I would describe as heroic lengths to save the irreplaceable and invaluable Sacred Music Collection from Nazareth Hall (assembled, I believe, by Father Francis Missia) from what the staff took to calling 'Father Laird and his dumpsters', as Father Laird had somehow become convinced that the Collection, which is meticulously catalogued and of historical and scholarly value, was nothing more than old *Gather* hymnals and therefore ordered the staff to dispose of it. Unable to reason with Father Laird, the staff basically undertook a 'black op' and transferred the collection to another location without his knowledge, thereby guaranteeing that the Collection would remain available for the future use of researchers and the faithful of the Archdiocese.

27. My personal knowledge of priest files and the storage of such files does not match with the statements of Andy and the other deponents[23], and also does not match the report of the Task Force which, I would note, was very critical of records practices. What has yet to be mentioned is that the Archdiocese undertook a comprehensive audit and review of its record management practices from 2010 to 2011. The audit was conducted by Dr. Emilie Leumas, Archivist for the Archdiocese of New Orleans. The best and most accurate description of the types of records the Archdiocese possessed and how and where they were stored would be found in her audit report, as she personally interviewed all department heads and reviewed their retention practices and storage locations. One of the goals of the plan she developed for updating our records storage was the digitalization of all clergy records. One of the 'selling points' of that effort was that it would allow us to respond to discovery requests within twenty-four hours. Despite the development of this plan, and

[23] Eisenzimmer, p. 165-166.

general agreement that the records management program needed to be updated, my efforts to move forward with it were thwarted by Father Laird, who continually reneged on his promise to provide adequate staff and funding and, eventually, even refused to allow us to replace staff lost to retirement[24]. In addition to the file locations mentioned by Andy, it was my experience that Archbishop Nienstedt did keep personal files, that Bishop Piché kept files on clergy issues that he was involved with, there were clergy files in the Benefits Department, the Comprehensive Assignment Board *did not* have access to the priest personnel files, and some clergy files were permanently retained at the law firm of Meier, Kennedy, and Quinn. Victims' files were always kept in the Victims' Assistance Office, although records regarding payments for counseling or settlements would also be retained in the Finance Department. The list of clergy prepared by Judy Delaney, which I will discuss later, indicates the location where each file was kept. The presence of so many files in so many different locations meant that often important information *did not* make its way into the priest's personnel file, and in the case of the files at the law firm, sometimes those materials included what would otherwise have been characterized as the personnel file.

28. Andy asserted that his discussions regarding the release of the names of accused priests was privileged[25]. However, I participated in several discussions about releasing the names of accused priests where the argument against was made by Father McDonough, and not by Andy. In early 2013 I participated in such a discussion with a working group ('Safe Environment Working Group') composed of myself, Joe Kueppers, Father Laird, Father

[24] This was taking place during the same period of time in which Father Laird was renovating several areas of the Chancery, expanding the Communications department, and when the Archdiocese was donating considerable amounts of money to the effort to pass a constitutional amendment on marriage.
[25] Eisenzimmer, p. 186.

McDonough, Father Daniel Griffith, Father Timothy Cloutier, and John Selvig, the Promotor of Ministerial Standards (or POMS manager). That discussion was not connected to existing litigation, and the conversation was more philosophical, or theological, rather than legal[26]. Father McDonough was advising against keeping lists of accused priests because of the extreme likelihood that such lists would be sought in litigation resulting from the probable passage of the Child Victims Act, and I was asking what the reasons were for opposing making such a list public[27]. I was concerned, in particular, about how our resistance to creating lists that could be published was preventing us from making other, seemingly necessary, disclosures. For instance, at the conclusion of the penal trial of Father Joseph Wajda, there was a discussion between Sarah Mealey and me regarding the need to publish the conclusion of the judges. I will defer to Father Wajda to explain the circumstances of his case, but I think it is important to note, in light of my earlier comments about Father McDonough's refusal to adapt to the change in church policy, that at the time of Wajda's removal from the Metropolitan Tribunal in 2002-2003, Wajda, who himself is a canon lawyer, refused to accept the non-canonical resolution proposed by Father McDonough, which would have involved Father Wajda entering into a civil contract with

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[26] I say the conversation was theological because the only argument that I ever heard against publishing the list that did not involve the words 'litigation' or 'Jeff Anderson' was that doing so would be unfair to the 'dead guys' who may have been falsely accused. I considered this argument to be entirely specious, given that it was being made by men who preached every day that the dead are far beyond the cares of this world. It is the theology of our Church that the deceased priests, if falsely accused, 'have been, are and will be in heaven, in the heavenly Kingdom and celestial paradise with Christ, joined to the company of the holy angels', and therefore they are unlikely to be troubled by their appearance on any list. Whereas, if they did commit the acts to which they stand accused, they have far, far bigger problems. In other words, I did not buy the argument that a desire to protect the posthumous reputations of clergy was more important than ensuring the safety of children and other vulnerable individuals.

[27] I also questioned why the Archdiocese would oppose the Child Victims Act, especially as I had become all but convinced that the Archdiocese had been less than honest and forthcoming about its knowledge in prior litigation. Based on my review of earlier cases, I believed strongly that injustices had been done, and I suggested that supporting the Child Victims Act would be one way of rectifying that injustice. The answers that I received varied from 'the discovery period in those cases is over', to 'there is a limited pot of money'. However, the most plausible response I received was that we didn't know if we had insurance coverage for all the Stitts cases that could be out there.

the Archdiocese whereby he agreed to remain out of ministry in exchange for financial compensation and other considerations. Father Wajda, who has maintained his innocence throughout, insisted on his canonical right to a trial, even writing to the Apostolic Nuncio and the Holy See and insisting that he be provided with an opportunity to respond to the accusations against him. Consequently, the Congregation for the Doctrine of the Faith ordered Archbishop Flynn in, I believe, 2005, to undertake a penal trial. Father McDonough's response, on behalf of Archbishop Flynn, was to simply ignore the instructions (he considered them to be 'optional', although publicly I think it was stated that they were unable to begin a process because of litigation), and to ignore Father Wajda, who continued to receive a salary, but was otherwise completely isolated by the Archdiocese, and not even enrolled in the monitoring program[28]. This led to a situation where every six months or so, the Congregation or the Nuncio would receive a letter of complaint from Father Wajda, prompting a similar letter of complaint or inquiry to the Archdiocese. Hence it was shortly after I arrived in 2008 that Archbishop Nienstedt received letters from Rome and Washington advising him of the need to start a penal trial, as well as letters from Father Wajda himself[29]. The personnel for the trial were in place, I believe, by the end of 2009, meaning that by the time a decision was reached in 2012, notification of verdicts had become a standard practice of Catholic dioceses in the United States. Doing so was seen as

[28] Father Wajda, as a priest receiving payments from the Clergy Support account, was most likely one of the first people outside of the Chancery to point out the issues in the Accounting Office. In 2011, he wrote to me and asked that I look into why he was never issued a W-2 for the payments he received from 2003 to 2008. I believe it was due to Father Wajda's efforts that this was changed, and beginning in 2009 priests receiving support payments began to receive W-2s.
[29] In December of 2013, Archbishop Nienstedt made a public statement at Our Lady of Grace Church in Edina to the effect that he was told in 2007 that the issue of clergy sexual abuse had been taken care, and that he believed that. However, my recollection of documents regarding Father Joseph Wajda demonstrate that by 2008 Archbishop Nienstedt was aware that the Archdiocese had ignored the instructions of the Holy See regarding its handling of clergy sexual abuse, and that the Congregation for the Doctrine of the Faith was instructing the Archdiocese to begin a penal trial.

especially important in this case because former parishioners had testified on Father Wajda's behalf at the trial, so there was a perceived need to alert the faithful to Father Wajda's status vis-à-vis the accusations that had been made. Nonetheless, Andy intervened in the discussion and prevented such a disclosure from being made. His reason for doing so, which he stated in an email, was that making such a disclosure would raise the question of why we didn't do it 'for all of the others'. Minnesota Public Radio published a similar email between Andy, Sarah Mealey, Jim Accurso, Rita Beatty and myself where I argued, in regard to a July 2012 Supreme Court ruling in an Adamson case, against making public statements indicating that there were no priests who had sexually abused minors still in ministry when we knew that was not the case. In his response, Andy insists we go forward with the statement, which had been approved by Father Laird, over my objections, noting that we had made similar statements on many occasions in the past.

29. Andy also testified that I made the report to the Congregation for the Doctrine of the Faith ('CDF') regarding Father 'Fredy' Francisco Montero[30]. That is not entirely accurate. First, the requirement to report was operative in 2007, which was before I was Chancellor, but, again, was ignored by Father McDonough. I only learned about the situation with Father Montero in September or October of 2008, after I became Chancellor and when the Archdiocese was sued by the victim's mother. At that time, I reviewed the file and noticed that the matter had not been reported to the CDF, and informed Archbishop Nienstedt of that fact as well as of the details regarding the complaints against Father Montero. By that point (fall of 2008), we were aware that Hennepin County Child

[30] Eisenzimmer, p. 197.

Protection had determined that abuse had occurred, that Father Montero had appealed that decision, and that the conclusion was upheld, yet media reports indicated that Father Montero was serving as a pastor of a parish in his home diocese. It was my belief at the time that had the Archdiocese informed the Congregation for the Doctrine of the Faith of the allegations against Father Montero when required to do so he would not have been assigned in his home diocese[31]. I drafted a letter for the Archbishop to send to the Prefect of the Congregation. However, Andy was unhappy with the contents of the letter, and wrote his own version, which I believe is the one that the Archbishop signed and which was eventually sent. Both versions existed in my network folder at the time that I left employment with the Archdiocese in 2013.

30. Andy did not make the decision to tax costs in John Doe 76[32]. That decision was taken by the Archbishop, and I was present when he made it. It occurred at a meeting of the Archbishop's Council, before the make-up of that body was changed by Father Laird. In addition to the Archbishop, I believe John Bierbaum was in attendance, along with Dennis McGrath and Bishop Piché. At times, Marty Frauenheim, Kathy Laird, Russ Shupe, Jim Fennell, and Jim Lundholm Eades would also attend those meetings. I believe Dennis McGrath was tasked with preparing a statement should the media inquire about the decision. I should also add that while the Archdiocese in general has a practice of retaining agendas and minutes of its board meetings (in entity-specific files in the vault), you will not find any such items for the Archbishop's Council during this time period, nor for the 'Priests

[31] Again, I was surprised when Archbishop Nienstedt claimed in December of 2013 that he was unaware of any problems in the Archdiocese's handling of accusations of sexual abuse until recently, since in 2008 I certainly alerted him to the Montero situation, including the question of Father McDonough's involvement and the questionable decision to not require Father Montero to remain in the United States pending the outcome of the investigation.
[32] Eisenzimmer, p. 207.

Working Group', as the files in the vault will also confirm. I should also note that despite the failure to keep any official record of the meetings, Bishop Piché always took copious handwritten notes of the discussions, although I am not sure what became of them.

31. Perhaps the most surprising aspects of Andy's testimony, from my perspective, are his statements that he was not aware of the payments to Father Kapoun until after the Minnesota Public Radio story[33], and that he doesn't remember having discussions with me about Father Gallatin[34]. At the time that I was preparing the memo on payments to Charter Priests for the Archbishop, I believe it was in February of 2012, Andy and I discussed the Kapoun situation at length. There was no question that Father Kapoun had actually received the payments, as part of the research I had undertaken was to secure copies of the checks and verify that the payments had, in fact, been made. That is how I learned about the payments to begin with- the forensic auditors from Ernst and Young approached me to verify that the check for payment on Lee Krautkremer's mortgage had actually been issued for that purpose. I called Krautkremer and spoke with him about it. All of the documentation was attached to the memo that I sent to Archbishop Nienstedt, including one of the checks that was issued to Father Michael Stevens, which indicated that he was being compensated for work that he had done for the Protection of Children and Youth Initiative (PCYI)[35].

32. Circumstances demanded that Andy and I discuss Father Gallatin on an almost annual basis, and we also discussed his situation in 2011 when we were having

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[33] Eisenzimmer, p. 258.
[34] Ibid, p. 259.
[35] At the time that I wrote the memo on payments, I again raised the issue of whether these payments had been properly accounted for from a tax perspective. I was told by Andy that we had to trust that our Accounting department had known what it was doing, and therefore we would not be looking further into the question. This was mere months before Domeier was charged with eleven tax crimes. The decision was never reviewed.

conversations about the disclosures that had not been made which came to light after Father Wenthe's arrest[36]. At that time, it was discovered that the Archdiocese had not done disclosure on Father Gallatin. I put Gallatin's personnel file, or documents from his personnel file, before Archdiocesan officials, especially Father Laird. I can recall multiple occasions where I would raise the issue of Father Gallatin with Father Laird (they were classmates in seminary). I believe he testified that he was informed that it was not a Charter violation, but my experience was the opposite[37]. In fact, I believe that if plaintiff's counsel has received all the information from the Gallatin file, they will note certain documents where the statements regarding the sexual nature of his contact with the boy in West Virginia and his admitted sexual attraction to boys as young as twelve are highlighted. I highlighted those statements because Father Laird refused to read the whole reports, saying something to the effect that he did not have time to review past decisions, and that he had been assured by others that there were no grounds for concern. I literally followed Father Laird out of the building one evening with those highlighted documents in my hands, saying that if he didn't have time to read the whole documents, he could at least read the highlighted remarks. He refused.

33. I went to such great lengths to try and draw attention to this issue because I considered it to epitomize the Archdiocese's cavalier attitude towards the safety of other people's children. Father Gallatin was appointed as pastor of a parish, and also as canonical

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[36] When Father Christopher Wenthe was arrested in February of 2011, complaints emerged from the Delano parishes where he was assigned because the Archdiocese had failed to disclose Father Wenthe's history to the parishioners, and also had failed to alert the parishes that he was under investigation. This led to a review of all cases requiring disclosures, to determine in which other cases we had been negligent. Wehmeyer and Gallatin are two obvious examples that were identified as part of that review.

[37] Laird, p. 75.

administrator of a K-8 school, despite the fact that the Archdiocese was aware that in his previous assignment he had been found to have his hand underneath the shirt of a sleeping teenage parishioner (rubbing the boy's stomach and chest area, not his shoulder, as some testified), an act which distressed the boy, and which Father Gallatin admitted he found sexually pleasurable. Moreover, Gallatin had later admitted to becoming 'preoccupied' with male students at his parish school.

34. The decision to appoint Father Gallatin pastor of Saint Peter, which entailed administrative responsibilities for Faithful Shepherd School, was made by Archbishop Nienstedt and Bishop Piché in 2008 prior to my being hired as Chancellor. However, that situation constantly put Andy and me in a catch-22. Since Gallatin was pastor, he had to be able to complete certain duties required of pastors, even though the completion of those duties required actions that were not only contrary to the restrictions placed upon him, but also contrary to common sense[38]. For instance, despite knowledge of what the Archdiocese is currently describing as Gallatin's 'boundary violation' with a minor male on a mission trip, Father Gallatin's parish assignment required him to be present at the annual overnight confirmation retreat held at Camp Wapogasset. To his credit, each year Father Gallatin contacted Andy and I about this trip, and agreed to abide by our restriction that he not remain overnight, but instead drive separately and only be present for the retreat Mass.

[38] Father Gallatin's was not the only situation where the Archdiocese's decision to return a priest to ministry following misconduct put us in such a difficult position. There were several priests who frequently needed Letters of Suitability for ministry when, in fact, they should not have been considered suitable. The compromise was that we did not issue the standard letter of testimonial for those priests, but a short letter giving their current assignment and the fact that they were not under canonical penalty. In some cases, I refused outright, which meant the letter was issued by Bishop Piché or the Archbishop. By the end of my time in the Archdiocese, I frequently refused to issue such letters, including for Father Keating.

Nonetheless, it was my job to send an annual Testimonial of Suitability for Father Gallatin to the Diocese of Superior. This was a situation that made Andy and me extremely uneasy.

35. I was frustrated with the lack of attention given to the issue of child protection, especially given how much time and attention was being directed towards other matters. For instance, I attended a meeting in March or April of 2013 that included the Regional Vicars, Father Laird, the Archbishop and Bishop Piché, Joe Kueppers, and myself. At this meeting, there was a prolonged discussion of what was presented by one of the Regional Vicars as the 'unsuitability' of one of our lay Catholic principals to administer a Catholic school. The reason given for his unsuitability was that the principal had not attended a Catholic high school or college, and therefore had no demonstrable interest in Catholic education. Now, during my nearly five years at the Archdiocese, I was never able to engage *any* senior official in a discussion about the unsuitability of having a priest with an admitted sexual attraction to twelve year old boys administering a middle school, but at that meeting, attended by Father Lachowitzer (Harding High School/University of Wisconsin), Father McDonough (Stillwater High School/Carleton College), and Bishop Piché (Irondale High School/Columbia University), there was sustained discussion about the unsuitability of a lay employee whose one fault seemed to be that his parents had only been able to afford Catholic elementary school for their five children. In addition to the double-standard that was obvious in the discussion, the conversation was problematic because, first, the principal was already an employee, and the Archdiocesan employment policy, *Justice in Employment*, does not permit termination except for cause. The post-hiring creation of a litmus test is, in this context, problematic. Moreover, the Archbishop concluded the discussion by stating

that he intended to take a more active and direct role in the hiring of school employees. Now, this was even more problematic, because the principal was employed by a school that was separately incorporated as a 501.(c) (3), and the Archbishop's authority over the school and its hiring processes was extremely limited. He did not have the legal authority to determine who is hired or fired- per the Articles of Incorporation that was the prerogative of the Board of Directors. The purpose for separately incorporating parishes and schools is to limit liability by limiting authority, while conversations such as that which I have detailed suggests that such separation was little more than legal fiction. In incorporating such entities, I believe that Andy and I were acting in good faith, and we made every effort to assist parishes and non-profit corporations to act within the terms of their establishment. However, I think this conversation makes it evident that our efforts were at odds with the actions of the Archbishop and his other advisors. It was a constant struggle to keep the Archbishop and especially Father Laird within the bounds of their legal authority[39], and there were times when I was instructed by Father Laird to move ahead with an incorporation or, more frequently, to submit an entity for inclusion under the IRS Group Tax Exemption, when I believed that doing so was wrong[40].

36. Both Andy and Father Laird testify that a residence policy was drafted in response to Father Shelley having a teenager reside in the rectory[41]. I did draft such a policy (the draft document was labeled 'residence rules' and should be in the 'Clergy Bulletin' folder on the Archdiocesan network), which would have prohibited overnight stays by

[39] Father Laird's involvement in the controversial decision to close/reopen the parish school at Our Lady of the Lake in Mound is an example of this.
[40] The Aim Higher Foundation was a particularly contentious example.
[41] Laird, p. 186, and Eisenzimmer, p. 219.

minors and, in fact, anyone not an immediate family member including housekeepers and other domestic employees (in response to the situation with Harry Walsh- I don't remember Father Shelley ever having been part of the discussion). However, that policy was never adopted and, I believe, in fact, Father Laird stopped it from being brought to the Presbyteral Council for the usual consultation. Instead, a residence policy was promulgated that only dealt with the financial aspects of non-parish housing. The policy that was promulgated in April of 2011 can be found on the Archdiocesan website.

37. I have reviewed the deposition of Father Laird, and my personal experience differs from his in almost every matter. During his time as Vicar General Father Laird remodeled the Chancery, redesigned the corporation stationary, and expanded the Communications Office from a department of one to a department of, I believe, more than twenty, all the while ignoring the severe problems in our safe environment program, and failing to take basic steps to eliminate the theft taking place in our accounting department (the vast majority of which occurred during his tenure). And, it was Father Laird's decision to use Father Michael Keating as a speaker for the 'Rediscover Catholicism' initiative, despite the fact that Father Laird himself had reported Father Keating for inappropriate behavior towards a woman while they were both in Rome. I had learned of Father Laird's involvement in the Keating matter back in 2010, I believe, when Father Keating was first being considered to serve as Dean of the Academic Deanery. I learned of the plan to use Keating as a Rediscover speaker late one afternoon in December of 2012, before anything had been announced, when Sarah Mealey, Communications Director, called me to her office to discuss additional lay speakers for the initiative. Prior to making any recommendations, I

asked her who the other speakers would be, and she included Father Keating. My jaw literally dropped, and I asked her if she had informed the Archbishop, who was certainly no fan of Father Keating, and who had recently quarreled with him over Keating's acceptance of the position on the Board of the University of Mary, which Keating had agreed to without seeking the Archbishop's permission. Sarah said that she hadn't informed the Archbishop, because the speakers had been approved by Father Laird, and asked me the reason for my concern, at which time I told her about the allegations, the unresolved nature of them, and the fact that making Keating the 'face of Rediscover' would likely antagonize the victim. Since I hadn't been Chancellor at the time of the Keating matter, I called Andy and asked him to come to Sarah's office to provide her with more details, which he did, characterizing the allegations as a 'he said, she said' matter that no one would ever be able to get to the truth of[42]. At the same time, Andy was as adamant as I was that Keating could not be allowed to be a Rediscover speaker, and seconded my recommendation that Sarah bring this to the attention of the Archbishop. Sarah declined, saying that Keating had already been approved by Father Laird, and that to approach the Archbishop would ruin her relationship with Father Laird[43]. Not having the same concerns, I said that I would inform the Archbishop, only to have Andy interject and say that no, he would do it. He sent a memo to the Archbishop that evening, and had a response when he next returned to work. As I recall, it was a very terse note indicating that under no circumstances should Keating be allowed to

[42] I was not seeking his legal advice, but merely asking him to recount for Sarah what he knew of the accusations.
[43] Father Laird informed all senior staff hired under his tenure that they were not to bring a matter to the attention of the Archbishop without bringing it to him first. The Archbishop, not surprisingly, disagreed with this. This was a very difficult time for Chancery employees, as it was obvious to all that the Archbishop and Father Laird needed to come to an agreement about who was the boss. There were several very terse memos exchanged with the Archbishop complaining that Father Laird was making decisions without the Archbishop's consent and as a result he was 'being blindsided'. One such memo was sent regarding the situation with

be a speaker. Andy shared the memo and response with Sarah, and we thought the matter was resolved. However, we soon learned that Keating was back on the schedule, as a result of Father Laird's intervention. Andy folded the memo in half and added it to the files in the wire file holder in his office. Joe Kueppers showed me that it was still there after Andy retired and Joe became Chancellor for Civil Affairs. The three of us all thought it important to keep track of that memo because I think we all believed that the Keating/Rediscover situation would blow up in our faces. To Father Laird, however, Keating's history of inappropriate behavior with women, including minor women, was less important than his dynamism as a speaker, as Rediscover was going to be Father Laird's 'signature initiative', designed to bring him to the attention of the hierarchy and thereby assist with his ecclesiastical advancement.

38. If Father Laird's resignation was meant to demonstrate accountability, it would have been far more appropriate in June of 2012, when we learned of Wehmeyer's abuse and Father Laird's role in the decision not to disclose to the parish, or even before then, when we discovered Scott Domeier's theft (instead, the CFO was pressured to offer his resignation). It is my belief that Father Laird's decision to resign when his role in those matters became public was an attempt to avoid further negative publicity for him personally, rather than to demonstrate accountability. I would also add that Father Laird's account of his resignation does not match what the Archbishop has said publicly about it, including in the taped conversation broadcast by Minnesota Public Radio.

39. I would also note that even before I resigned, Father Laird was very aggressive in trying to push the blame for what had taken place on Father McDonough, and to try and

distance himself from the decision making in the Wehmeyer and Shelley matters. This is most evident in a memo that Father Laird wrote to the Archbishop in February of 2013, where he specifically stated that he did not have oversight of Father McDonough. That memo found its way across my desk, and I responded with a very detailed memo of my own that included, in the version I submitted to the Archbishop, something like eight or nine attachments. The purpose of my memo was to demonstrate that Father Laird had been very involved in the decision making, despite his protestations to the contrary, as well as to show how tenuous was his relationship to the truth.

40. I am not aware to what Father Laird is referring when he says that he, Andy, and I did 'an awful lot of good work', nor do I agree that we were engaged in a constant movement towards innovation and best practice[44]. We were far, far from best practice. For instance, when I first began as Chancellor, we used a Testimonial form for clergy that identified the year in which their background checks had been done. For the vast majority of the priests of the Archdiocese of Saint Paul and Minneapolis, that was in 1993 or 1994. The 'industry standard' for Catholic dioceses since 2002 has been to renew background checks every three to five years, unless the diocese required fingerprinting, in which case there was an automatic notification process. Despite bringing this concern to Father Laird's attention for more than three years, we made absolutely no progress in updating background checks. Instead, I was instructed to change the Testimonial form that I was using to one that did not require the date of the background check to be given. I believe this change was made in 2011.

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[44] Laird, pp. 17 and 18.

41. The standard for removing a pastor under canon law is that his ministry has become harmful or at least ineffective due to any cause[45]. That is a very low bar, especially when you are dealing with cases of suspected child sexual abuse, or a lack of fitness for ministry. I am not aware of any tension with canon law, such as Father Laird testifies, that prevented us from taking action[46]. Father Shelley, for instance, was not even a pastor- he was a parochial administrator that could be removed *ad nutum episcopi*. The reluctance to remove him was entirely predicated on not wanting to interrupt the Strategic Plan (another of Father Laird's 'signature initiatives'), and, later, because of misplaced feelings of sympathy towards Father Shelley.

42. On page 25 of his deposition, Father Laird claims that he found a review of files to be a good idea. However, I postulated the idea of a review of files shortly after Father Wehmeyer's arrest, and continued to do so up to and including in my letter of resignation, which I am submitting with this affidavit[47]. At no time did Father Laird support that idea. Even before Father Wehmeyer's arrest, beginning, in fact, shortly after Father Laird became Vicar General in 2009, I encouraged him to read and consider the 2006 Defenbaugh and Associates Independent Due Diligence Review of the Archdiocese of Chicago (http://www.archchicago.org/c_s_abuse/pdf/DefenbaughandAdHoc-AOC.pdf), because I had identified many of the same issues requiring remediation as being present in the

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[45] *Code of Canon Law*, c. 1740

[46] Laird, p. 21.

[47] In advocating for a file review, I was not concerned that there was information in the Archdiocese's files of which the Archbishop, Auxiliary Bishop, Vicar General, or other senior staff were unaware. Rather, I began calling for a file review because we knew exactly what was in the files, but I was unable to convince anyone of the need for action in response. My hope was that an outside organization would speak with an authority that I was perceived to lack. However, based on my knowledge of the files and the action that has been taken publicly by the Archdiocese in response to the recommendations of the Kinsale Group, I now question whether all of the information of which I was aware has been shared with those undertaking the file review.

Archdiocese of Saint Paul and Minneapolis. It was my desire for us to learn, if you will, from their mistakes. To my knowledge Father Laird never read the report, nor was there ever any discussion of how we could benefit from it. This persisted even after we learned of the allegations involving Father Wehmeyer in 2012, when I encouraged, again without success, that a similar Due Diligence Review take place.

43. I am not aware of any working group in existence for a year-and-a-half[48]. At the time that I resigned in April 2013, the 'Safe Environment Working Group' that I mentioned above as consisting of myself, Father Laird, Father McDonough, Father Cloutier, Father Griffith, Andy (who participated by phone), Joe Kueppers, and John Selvig had met only a handful of times. Moreover, it was created, not willingly, but in response to growing pressure not only from myself, but from a group of priests including Father Griffith and Father Ralph Talbot. Father Talbot, who was on the Review Board, and some other priests were actively encouraging the Archbishop to review our policies in light of the Wehmeyer abuse and the Archdiocese's failure to respond appropriately to earlier concerns about his behavior. I came to consider those priests to be allies after I saw a memo from Archbishop Nienstedt, I believe it was written in November of 2012, in which the Archbishop stated that he thought the priests were 'overreacting' to Wehmeyer's acts of abuse. I found it significant that Father Talbot was not invited to be a part of the 'Safe Environment Working Group', as not only had he brought these concerns to the Archbishop's attention, but he also had served as a prosecutor in Florida before his ordination, and therefore had valuable experience and insight to bring to the discussion. I should also add that although I continued

[48] Laird, p. 29.

to attend the meetings of this working group until my resignation, I had absolutely no confidence that its work would result in any improvement in the Archdiocese's handling of sexual misconduct by clergy. The Church is not a democracy, and had there been any serious desire to implement change, it could have been done quickly and easily with the stroke of a single pen. Canon law requires consultation in only a few, well defined circumstances, otherwise the Archbishop's administrative authority in his diocese is basically unlimited. Assembling a task force or a working group in such a situation is akin to Nicholas II convening the *duma*. It is a way of appearing to be open to change, without the risk of having to implement any changes that may be unpalatable. The very terms under which the Safe Environment Working Group operated (set by Father Laird, and including provisions such as that no names would be mentioned, and no specific cases discussed) almost guaranteed that any outcomes would be superficial at best[49]. I also found the topics of discussion to be entirely unhelpful. For instance, at one of the earliest meetings, the discussion was about 'graduating' priests out of the monitoring program. There were two aspects to this discussion. One aspect was the desire to allow *Charter* priests to 'age' out of the POMS monitoring program as they transitioned to nursing homes and other care facilities. This conversation had begun shortly after I began as Chancellor, and was something that I aggressively opposed. My concern was not only research that suggested that with aging, executive functioning in the brain diminished leading to increased, rather than decreased, incidences of inappropriate behavior, but also the fact that Minnesota is a

[49] After one particularly frustrating meeting, Joe Kueppers suggested to me that the problem was not with the rules imposed on the working group, but with my voice. He suggested that if I could speak in a more masculine octave, it might be easier for the other (male) group members to accept my arguments.

state that has enacted legislation requiring long term care homes to receive notification when sex offenders are admitted to their facilities. While most of our *Charter* priests do not fit the *legal* definition of a sex offender, I thought the legislation made the expectations for our conduct clear, and I frequently advocated that such notification be made on a voluntary basis. Failing to persuade with that argument, I tried to ensure that we continued monitoring these men, hence my dismay when, in 2013, we were still discussing removing them from monitoring. The second aspect of this discussion is probably most illustrative of Father Laird's approach to this issue. It had been recognized since at least 2009 that we had a number of priests who were out of compliance with the restrictions recommended by the Review Board. Father Keating was obviously one of them, but Father , who was not to have supervisory authority over staff as a result of the situation I referred to earlier, but was working fulltime at and had been appointed and another priest, who was restricted from providing counseling to women, but was frequently leading Rachel's Vineyard Retreats (post-abortion retreats) are other examples. Father Laird's consistent response to learning of these situations was to point out that it is not helpful to have priests out of compliance with the recommendations, which Andy and I both agreed with, but then to begin a discussion about how we could abrogate the restrictions. That is why the topic was one of the earliest to be discussed at the working group. The discussion that ensued was incredibly frustrating to me, as the working group was being provided with false information, and the restriction on mentioning actual cases or names prohibited me from pointing this out. Specifically, when the question arose of what standards would be applied for determining that such a graduation was appropriate, I asked

whether we could apply the same standards that had been used when we had previously removed priests from the POMS monitoring program. Father McDonough was very quick to assert that no one had ever been removed from monitoring, and he called on Andy to support him in this statement, which Andy did. Unbeknownst to them, I had brought to the meeting a copy of a list that Tim Rourke (former POMS monitor) had put together for me in, I believe, 2008 or 2009. It was a list of priests and their relationship to the POMS program, and had four categories: presently being monitored, monitored at one time, identified as requiring monitoring but never monitored, and discussed but never monitored. I believe there were nearly fifty names on the list, but I do not recall all of them. However, I remember quite clearly that Father was one listed as having been monitored but no longer in the POMS program, and there were other names in that category as well, including Father . I also remember that Father John Bussmann, Father Richard Jueb, and Father had been identified as requiring monitoring but had never been monitored, and that Harry Walsh, as well as another priest, were in the last category. Father Shelley was never in the POMS program, nor had he been identified as requiring monitoring, although Father Laird testified that he was on page 191 of his deposition. I should also add that the other priest who was discussed but not monitored was a particular concern for me in light of the notification requirement for nursing homes as, I believe, our files indicated that he had forcibly raped a woman (if I remember correctly, while he was serving in the Diocese of New Ulm), and was then living in a long term care facility. I had this list in front of me even as Andy and Father McDonough continued to assert that no one had ever been removed from the monitoring program, but Father Laird's procedural rules

for the working group prevented me from sharing this. However, after the meeting I went to the Vicar General files and located the blue POMS file of Father [50]. Knowing that Father McDonough would have to pass by my office on his way out of the building, I waited for him with the file and when he appeared I showed it to him and pointed out that we had, in fact, removed priests from monitoring. He reviewed the first page in the file, which was, I believe, Archbishop Nienstedt's statement that monitoring could be ended, and said that it must have occurred 'after his time', meaning, I suppose, after he had been replaced as Vicar General, and he continued to state that the decision was taken without his involvement. As he walked out to the lobby, I flipped to the second page of the folder and showed it to another member of the working group who had overheard our conversation. The second page was a memo from Tim Rourke that indicated that, per the instruction of Father McDonough, he was terminating the monitoring program of the priest in question.

44. There were other discussions that took place at the meetings of the Safe Environment Working Group. One of these discussions evolved in such a way that the Father Laird's rules were set aside, and a debate took place between Father McDonough and myself about Father . Concerns had been raised surrounding Father interactions with young people in his parishes since, I believe, 1989, if not before. These concerns followed Father throughout his priestly career and led to his ministerial assignments being terminated and him being 'reassigned'. I never investigated any of these accusations myself, and Andy's feelings were that Father stood with

[50] Each priest in the POMS program had a small light blue file that was kept separate from the personnel file of the priest. This file would contain all the information regarding the priest's interaction with the Promotor of Ministerial Standards, as well as the Archbishop's yearly report on monitoring and approval of the monitoring plan. I found the 2011 memo on not disclosing regarding Father Wehmeyer in his POMS file, where it had most likely been placed by Tim Rourke. There was no record of this in his personnel file.

his toes on the line, in terms of boundary violation versus an act that would constitute sexual abuse, but Andy claimed that they had never been able to prove that he had ever crossed that line. Nonetheless, in the years following the adoption of the *Charter*, the increased attention given to maintaining boundaries led to an increase in complaints about Father . In fact, my review of documents led me to believe that the parishioners at his final parish had been so concerned about Father interactions with minors that they were willing to pay for him to be removed (either through sabbatical payments or medical leave). The complaints that were made at that time ranged from Father insistence on hearing the confessions of the confirmation students in his office rather than in the church or reconciliation room (a violation of policy) to reports that he had pinned an unwilling minor male up against a wall in a full body hug. What particularly struck me about the reports I saw was the fact that Sr. Fran Donnelly, who had been an Archdiocesan employee at the time, wrote in an email to Sister Dominica Brennan, Andy, and Father McDonough that she was having a hard time following 'the party line' in this situation. Clearly, the situation was such that Father canonical removal as pastor could have been easily accomplished. However, instead of using the canonical process, Father McDonough entered into an agreement with Father whereby he resigned from the parish in exchange for receiving his full salary and benefits plus 'living expenses' in the amount of, I think, $2000 per month. I first brought the issue of these payments to Father Laird's attention in 2011, and when Father contested the termination of the payments I included him in the list of payments to Charter priests that I sent to the

Archbishop in February of 2012. Initially, I was able to stop the payments to Father but later they were restarted at the direction of Bishop Piché.

45. At the Safe Environment Working Group meeting, Father McDonough referred to Father as an example of the success that could be achieved by using non-canonical methods in these situations. I strongly objected to the categorization of the resolution of this matter as a 'success', given that we had given Father a significant amount of money to which he was not entitled to effect a result that could have been achieved a no cost and, furthermore, in doing so we had not imposed any restrictions on Father ministry, had not made any warnings about our concerns, had not required him to be monitored in the POMS program, and had given him the free time and financial wherewithal to pursue his inappropriate activities elsewhere. In short, I considered the resolution of the situation involving Father to be a failure, while Father McDonough considered it a success. I should also note that my concerns had only been sharpened after the conversation I had with Father after the payments were originally stopped. He called me and complained, explaining that he needed the money for, I believe, travel he was doing to an orphanage or school in Africa or Latin America.

46. Another discussion of the Safe Environment Working Group was regarding the monitoring program itself, which was often characterized by Father McDonough as 'state of the art'. Having designed monitoring programs for other dioceses utilizing services such as IPPC, as well as having participated in seminars offered by the USCCB and other professional groups on these topics, I feel qualified to state unequivocally that the Archdiocese's program was not 'state of the art', nor was it even adequate. Unlike other

monitoring programs with which I was familiar, Father McDonough's program was based on a 'probationary' model', and involved infrequent, often quarterly or less, meetings with the priests[51]. Instead of making an effort to limit or track the movements of the POMS priests, Father McDonough's program relied heavily on the self-reports of the priests enrolled in POMS, with very little effort made to verify if those reports were accurate. If the priest was enrolled in a SA program (Sex Addicts Anonymous), the monitor might verify that he was attending meetings, and the monitor generally verified that the priest was meeting with a spiritual director, although no effort was made to establish the credentials of the director or to frame the nature of the direction. Outside from that, nothing much was done to keep tabs on the priests in POMS. Hence Father Kapoun is technically enrolled in the monitoring program, but no active monitoring takes place during the winter months when he resides in Florida. Beginning in 2008 I had discussions with Tim Rourke regarding the lack of any appropriate means of monitoring internet usage within the POMS program, to which Tim agreed. In fact, he told me that he had also raised this issue, only to discover that the Archdiocese was unwilling to provide additional funding to allow for more sophisticated monitoring technology to be employed. Tim's work was further complicated by the 'relationships' that existed between Father McDonough and the priests being monitored. A review of the documents from the beginning of the program should show a number of memos from Tim Rourke in which he attempted to take some action against a monitored priest, only to have the priest complain to Father McDonough, following which

[51] I believe that other deponents discussed alcoholism in relation to the POMS program. However, no one was ever assigned to the POMS program because he was an alcoholic. Priests identified for POMS had all engaged in sexual misconduct. They might also suffer from alcoholism or a form of mental illness, but that would not be the precipitating reason for them to be incorporated into the program. I should also note that the POMS program was not employed for priests who had engaged in financial misconduct or exploitation.

McDonough overrode Tim Rourke's decision. The failures of the POMS program were clearly exposed with the case of Father Wehmeyer, and the Archdiocese was well aware of those failures at the time that the Safe Environment Working Group began meeting in the winter of 2013. And, I recall some equally concerning conversations I had with John Selvig regarding another priest, Father Stan Maslowski, in the spring of 2013 that demonstrate how pitifully inadequate the Archdiocese's monitoring program was. John Selvig had identified a number of concerns regarding Father Maslowski, and had included those in his monitoring report, but those concerns had been ignored. I had also had reason to review Father Maslowksi's file, because of an unfortunate letter of congratulations that the Archbishop had sent to Father Maslowski for his anniversary of priestly ordination. During one of our conversations, John Selvig mentioned to me his concerns that Father Maslowski was traveling a lot, and his fears that being out of town might provide Father Maslowski with opportunities for seeking anonymous sexual encounters[52]. I agreed, and mentioned that this seemed especially likely since at least two of his recent trips had been to places where prostitution is legal. John responded that prostitution is not legal in Branson, Missouri,

[52] I tried to speak regularly with John Selvig during the time period in which I was supervising Father Wenthe, which was basically from October of 2012 until my resignation in April of 2013. At the time that Father Wenthe was sentenced, he was ordered to pay a considerable amount of restitution to the victim, which the Judge had indicated he would need to work to pay off. However, as a priest of the Archdiocese, Father Wenthe was entitled to receive his salary even if he was not working, as has been previously noted. As I opposed these financial arrangements, which seemed to reward the offending priest, my solution was to employ Father Wenthe to do computer work for my department upon his release from the workhouse. However, because of his history and his status as a sex offender, the arrangement was that I would supervise his work after hours or on weekends (for approximately fifteen hours per week), when he would not be able to interact with other staff. Furthermore, because of the restrictions placed on a sex offender upon release, his probation officer and I had to agree to other conditions and put other safety measures in place, such as limiting his access to the internet and email, setting up a profile that did not identify him to others and which I had total access to, that I would adequately supervise him to ensure that his contact with others was limited and appropriate, and, most importantly, ensuring that he had no contact with minors (although Father Wenthe was never accused of any abuse of a minor). The juxtaposition of the terms of my supervision of Father Wenthe versus the POMS monitoring of Father Kapoun or Father Stevens highlights the inadequateness of the Archdiocese's monitoring program. The purposes of my conversations with John Selvig was to help me to maintain the appropriate level of vigilance as the months passed.

which is where Father Maslowski had told John he was travelling. I said that I was referring to Father Maslowski's trips to Nevada. John asked me what I was talking about, which is when I showed him a copy of Father Maslowski's most recent 'Christmas letter' in which he described several of his recent trips. A copy of the letter had been sent by Father Maslowski to Archbishop Nienstedt and so was eventually retained in Maslowski's personnel file. John Selvig did not have access to the personnel file, and so had not seen the letter, and because of the 'probationary model', he had been unable to require any proof of where Father Maslowski was traveling. In early April of 2013, I sent a memo to Archbishop Nienstedt outlining many of the problems with our monitoring program that the case of Father Maslowski demonstrated, including, but not limited to the fact that Maslowski was never brought to the Review Board before being returned to ministry, that the required parish disclosures had not taken place and, what I found most concerning, when John Selvig tried to elevate these issues his report was simply filed rather than being flagged as requiring follow up action. My specific concern was that, even with an offender as notorious as Maslowski[53], who had done jail time, we were unable to maintain the necessary safety and accountability measures over time. I considered his case to be the proverbial 'canary in the coal mine', which should have caused us to question whether we could expect to maintain any type of reasonable supervision over clergy offenders over the long term. Nonetheless, at

[53] Two anecdotes might help to explain why I describe Maslowski as notorious. First, one of the conditions for his return to ministry following his release from jail was that he give up his friendship with Second, when I was researching the Maslowski situation, I contacted the pastor and former pastors of parishes where he was living or exercising ministry, to determine if disclosure had taken place. One former pastor, when I told him why I was calling, basically stated that not only had he not been informed, but I had helped to solve a mystery that had been bothering him for some time. Apparently, when he was pastor and Maslowski an associate, a woman who worked at the pastor's dry cleaners had regularly told him, when he was picking up his laundry, that Father Maslowski was a 'bad boy'. He had never understood to what she was referring, until I explained to him about Father Maslowski's history.

the Safe Environment Working Group meeting, the POMS program was determined to be 'state of the art' and not in need of revision. And, none of these matters had been rectified, nor had I received a response to my memo, at the time I resigned at the end of April.

47. There was another discussion of the Safe Environment Work Group that involved a suspicion I had regarding priests who had engaged in misconduct with adult women who had been under their pastoral care. At that time, 2013, we had two priests who had been tried for violations of Minnesota statute 609.344, although in 2010 Judy Delaney had identified more than ten who had been determined to have engaged in sexual acts with parishioners or people under their pastoral care, not including those cases involving minors or which were determined to be 'unsubstantiated', and my POMS list had even more. In the fall of 2012, I had become suspicious that the Archdiocese had not always encouraged such women (or men) to report to the police, and may have even incentivized some of them. I developed this suspicion after reviewing materials in Father Conlin's file that dated back to 2004-2005. My review was prompted by the Archdiocese learning that the *Pioneer Press* had the story of Father Conlin's paternity and his reappointment to the Tribunal, which caused the Archbishop to insist that the situation be 'resolved' before the story ran. In the process of my review of the file, I came across a letter written by Father McDonough to the woman involved and her husband, who at that time (2005, I believe) were divorcing. The Archdiocese had somehow become involved in their divorce mediation process, I believe because the issue of paternity and child support was still in the process of being resolved. The woman, who had been employed was afraid that she and her children would be destitute if she was unable to find employment because the

Archdiocese had allowed her identity to become known. In response, Father McDonough wrote a joint letter to the husband and wife (and I believe to the stating that he would provide the woman with a personal letter of recommendation to assist her in finding employment at because (and I am paraphrasing) 'she acknowledged her responsibility for the relationship' with Father Conlin. I found this letter to be incredibly disturbing for many reasons. First, since the priest was both her pastor and I questioned the extent of the woman's responsibility. Second, I was concerned that the implication seemed to be that the woman was being compensated in some way for claiming the relationship was consensual. Finally, there was the obvious fact that, if she did indeed freely and willingly engage in a sexual relationship with a Catholic priest, she would not be a good candidate for *for that very reason.* I had the opportunity to voice these concerns at a meeting of the Safe Environment Working Group (although again I was prohibited from identifying the priest or situation), when it was suggested that priests who had engaged in sexual misconduct could be categorized into three disciplinary categories. Category one would be those who had engaged in sexual abuse of minors. Category two would be those who had engaged in other criminal acts involving sexual misconduct, such as the kind prohibited by Minnesota statute 609.344, or crimes like that of Father . Category three would be all the other types of sexual misconduct that were immoral but not criminal[54]. It was in the context of the

[54] Perhaps not surprisingly, in these meetings I always had to remind certain members of the working group that *prostitution is a crime*, and therefore priests who solicited prostitutes would fall into the second category, rather than the third, as the group was generally disposed to consider 'consensual' relationships not involving parishioners to fall into category three. I also disliked the way in which we defined 'pastoral relationship'. One of the most heartbreaking things I discovered in my review of Father Maslowski's file was a letter (I believe it was anonymous) from a woman who had worked at one of the saunas that Father Maslowski had frequented and had learned of his arrest, and the fact that he was

discussion of these categories that I raised the question of priests who had engaged in possibly criminal acts but had never been charged, either because we didn't report it or because we had not encouraged or informed the victims of their right to report. Father McDonough got very upset at this, and accused me of attacking his integrity. I was not able to complete a review of all of the files involving sexual activity arising from a pastoral relationship before I left in April of 2013, so the question as to whether all the cases that should have been reported were reported is still an open one[55]. What I was able to determine was that in both cases where criminal charges were filed, the woman were assisted in making their reports to the Archdiocese by others who could be presumed to have had knowledge of the criminal statute. In other words, in both cases where an 'informed' witness was present, the victim was advised that the sexual activity may have been criminal.

48. Father Laird testified in his deposition that he gave me 'fact finding responsibilities' around priest misconduct in March or April of 2013[56]. I am not sure to what he is referring. I, along with Joe Kueppers, was appointed *by Archbishop Nienstedt* in March of 2013 to investigate allegations that Father had been engaging the services of prostitutes and had otherwise been involved in acts of misconduct with adult women. However, my very strong recollection is that Father Laird was not only *not* responsible for giving me fact finding responsibility, he did everything he could to impede our

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a priest, from the news. She wrote to the Archdiocese, not to report Father Maslowski, but to assuage her guilt. She wrote that she had gone to school as a child, and she was horrified to learn that she had engaged in sexual conduct with a priest, and wanted it known that she had been unaware that he was a priest at the time.

[55] I should note that there seemed to be a presumption at work in all cases of sexual misconduct involving women, articulated most often by Father McDonough, although I heard Andy repeat it, implying that women were, as a rule, sexually attracted to priests ('can't resist the collar' is how it was generally stated), and therefore the women were more than likely the aggressors in any sexual relationship. During my time in the Archdiocese I became positively tired of hearing about how attractive women find priests, especially because these statements were always made by men (and usually priests). I certainly have never had any discussions with other women about finding priests attractive.

[56] Laird, p. 65.

investigation. For instance, even after it was discovered that Father was being extorted for, if I remember correctly, more than $30,000, Father Laird refused to allow us to review the parish financial reports, or speak with the bookkeeper about any possible irregularities, and constantly harassed us to conclude the investigation with the limited information we had assembled. I should note that Father Laird was able to impede the investigation in this manner because he was, in fact, the administrator of the parish where Father resided and where the acts of prostitution were taking place. I would also add that we learned of this situation when a man, who said his name was Robert, began calling the Chancery complaining that one of his associates, who he identified as 'Nicole', had provided certain illegal services to Father and then was not paid for those services. I was told that the matter had been reported to police (Father had retained an attorney and made a report regarding the extortion), but after I resigned I also reported the matter to law enforcement.

49. I would also point out that I was specifically excluded, by Father Laird, from any 'fact finding responsibilities' or canonical duties in the case of In fact, I was asked to leave Father Laird's office on occasion when he and Andy were discussing this case. This obvious choice to exclude me from a situation involving an investigation of a claim of sexual abuse of a minor was not accidental, but rather reflects how tenuous my position in the Archdiocese had become after my vocal opposition to the handling of the situation involving Father Wehmeyer. It also contradicts Father Laird's sworn testimony that 'at no time would he limit what I would do'[57]. It is a matter of public record now that wrote to Father Laird in September of 2012,

[57] Laird, p. 187.

reporting that his , who was now a had abused him as a child. The *Essential Norms* and *SST* require that when such an accusation is received, a preliminary investigation in accord with canon law be initiated, unless it is determined that the accusation is manifestly false. Since nothing indicated that it was clearly false, and since, as I recall, there was some information in the personnel file that supported certain of the claims, decrees should have been drafted similar to those issued in the Wehmeyer matter. Despite a recent statement by the Archdiocese, it should be obvious from the documents provided in discovery that no such decrees were issued, nor was I asked to draft them. Instead, Father Laird and Andy were going to 'handle it' which, in my opinion and as future events would demonstrate, meant that nothing was done. Since assigned to a parish, one thing that should have been immediately done was an evaluation of whether any precautionary measures were necessary to protect the public (this would have involved review of the personnel file). However, not only was no evaluation done, I later learned that neither Father Laird nor Andy even knew was assigned to a parish. Andy didn't learn that the had ministerial responsibilities until October of 2012, when I sent him an email asking if Father , the pastor of the parish where was assigned, had been notified of the accusations. Andy's response, also sent via email, was to ask why would need to be notified. And, even after that, they did not notify the parish so that on the weekend of November 23, 2012, I got a panicked call from Father notice was the first Father had heard of the matter. Even then I was not

included in any of the discussions about how the matter should be handled, nor was there any attempt to begin the appropriate processes required by the *Essential Norms* and *SST*. This continued until the time of my resignation, and, apparently, until quite recently.

50. In his testimony Andy claims that I was mad that the Archbishop would not hand carry a *votum* on Father Shelley to Rome[58]. Andy is mistaken about the details in this matter. I never asked the Archbishop to carry anything to Rome regarding Father Shelley. The Archbishop was discounting my advice as to how to proceed, specifically the need to report the matter to the Holy See and wait for its instruction, so I suggested that he consult the Congregation for the Doctrine of the Faith when he was in Rome in March of 2012 on his *ad limina* visit. He did this, and he reported back to me via memo that the official from the Congregation with whom he met suggested that he proceed as I had recommended. The case that I had wanted the Archbishop to hand carry to Rome was the case of Father Curtis Wehmeyer, who entered his guilty plea on November 8, 2012. The Archbishop was traveling to Rome for the November 24, 2012, consistory, and so I worked very hard to secure the transcript of his plea allocution and prepare the other requisite documentation, which would form the basis for the Archbishop's request that Father Wehmeyer be dismissed from the clerical state, prior to the Archbishop's departure. My hope was that by hand delivering the case to the Congregation and conveying a sincere request that the decree of dismissal be issued without delay, we would be able to inform the victims, and the public, that Wehmeyer was no longer a priest at the time of his sentencing in February of 2013. I thought demonstrating that the Church had recognized the gravity of what had occurred

[58] Eisenzimmer, p. 231.

would be of some comfort to the victims. However, after working until very late the night before the Archbishop's departure to ensure that everything was completed, I was told by Father Laird when I returned to work the next day that the Archbishop 'didn't want to be bothered' with bringing the materials with him. Instead, I was told to send it to the Nuncio for transmission via diplomatic pouch. I wouldn't describe myself as mad about this, but rather just extremely disappointed. I discovered just a day or two later that shortly after Father Laird told me to FedEx the case to the nuncio, *he also secretly left to attend the consistory in Rome*. This concerned me because, first, the Vicar General is supposed to be in the diocese when the Archbishop is away, in case anything comes up that needs resolution. In this case, what came up was the regarding that I referred to above. Those of us who were trying to assist that weekend were attempting to do so by getting in touch with Father Laird, not aware that he was out of the country. It also concerned me because it appeared, once again, that I was the only one who felt that the situation with Father Wehmeyer was serious and warranted an appropriately serious response.

51. One of the reasons that Father Laird began excluding me from discussions involving sexual misconduct was that he believed that I had undermined him by informing the administration of the University of Saint Thomas that he planned to house Father Wenthe at the Byrne Residence upon Father Wenthe's release from jail in, I believe, August of 2012[59]. The Byrne Residence is on the edge of the St Thomas campus, and across the

[59] I did assist the university administration in this matter, but I was not the first person that informed them of the proposal to house Father Wenthe at the Byrne Residence. It was one of the retired priests from the Byrne Residence,

parking lot from some of the undergraduate dorms. Because of this, the University was adamantly opposed to having Father Wenthe, who was released with the supplemental conditions of a sex offender, in such close proximity to their students. I believe the University provided Father Laird with a deadline- which I think coincided with Freshman Orientation- to relocate Wenthe or they would provide cautionary notification to their students, parents, and other interested parties. This was an effective strategy because the Archdiocese was 'publicity adverse' in this matter. As a result, the University was successful in its efforts, and Father Wenthe was relocated. However, in light of Father Laird's attempt to portray himself in his deposition as diligent regarding safe environment, it is probably important to note that this wasn't the first controversy that arose over Wenthe's proposed residence at the Archdiocesan home for retired priests. The first issue that came to light was that there were minors, employed by the Archdiocese, working in the dining hall at the Byrne Residence. I only learned of that at the time of Wenthe's release, which is significant because the Byrne Residence is where the Archdiocese relocated many of its *Charter* priests in 2002[60]. In other words, we housed our *Charter* priests, who we knew or believed had sexually abused minors, in a location where we had minors on staff. We were supposedly monitoring those priests with our 'state of the art' monitoring program, but yet had never identified this as being an issue, and we certainly didn't disclose to the minors, or their parents, that there were reasons for concern. This issue was only identified when Wenthe was released and his probation officer was involved in vetting the suitability of his

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who was angry about the firing of the kids. Nonetheless, Father Laird was convinced that it was me, and he retaliated against me because of this and other matters, eventually making my position so intolerable that I resigned.

[60] Throughout much of my tenure as Chancellor, Father Robert Thurner was a resident of the Byrne Residence.

living arrangements, which included the supplemental conditions for sex offenders. When this issue was brought up, and it appeared that Father Wenthe would have to be housed elsewhere, Father Laird gave the order to 'fire the kids'. I don't remember the exact date on which this occurred, but I remember that it was immediately before the first Archdiocesan Youth Day. I remember that because I was very vocal about what I perceived to be the hypocrisy of celebrating an Archdiocesan Youth Day when our actions made it very clear that our priority was making the Church welcoming for clergy offenders, and not for young people.

52. In October of 2009, after his appointment but before he began to serve as Vicar General, I drafted a memo for Father Laird outlining certain problems that would need to be addressed during his time in office. If I remember correctly, included in that memo were references to the penal trial of Father Joseph Wajda, the problems with the Review Board that have already been identified, and my concerns that priests with restrictions imposed by the Review Board were getting assignments that they should not receive. In addition, between November of 2009 and April of 2013, I can think of at least three occasions (not including the previously mentioned email) on which, in response to what Father Laird considered to be my irritating attempts to bring these matters to his attention, he asked me point blank if we had priests who had abused minors in ministry. On each of these three occasions I answered 'yes'. I never received any response, and, on one occasion which remains a particularly vivid memory, I recall Father Laird simply spinning around in his office chair and going back to the work that he was doing on his computer, leaving me to show myself out of his office.

53. I recall writing a very detailed memo to Father Laird in 2011 outlining my concerns about Father Michael Stevens, who was convicted of Criminal Sexual Conduct in the 4th Degree involving *a mentally handicapped boy*. At that time, Father Stevens had an office in the Chancery, directly across from the Director of Clergy Services and the office that had belonged to Father McDonough and would become Sarah Mealey's. I worked in the Hayden Center from 2004 to 2006, and in the Chancery from 2008 until 2013, and never received any disclosure on Father Stevens, nor was any disclosure undertaken during the period of time in which I served as Chancellor, except when I informed Sarah Mealey of his history, which I did because she had an employee on her staff who had two disabled children. I discussed this with Andy on more than one occasion (in addition to my memo to Father Laird) and was always told that since Stevens's conviction was a matter of public record, no disclosure was necessary. I did not agree with that position. Father Michael Stevens was a concern to me because, first, given his relatively young age in 2002[61], he certainly was not a candidate for the 'prayer and penance' program (whereby priests guilty of sexual abuse of minors who were of extreme old age or infirmity could avoid dismissal by agreeing to live supervised, austere and penitential lives), and, second, because his assessment by Project Pathfinder concluded that Stevens posed a significant risk of reoffending. In my 2011 memo to Father Laird I pointed out that Father Stevens was doing work at parishes, including parishes with schools, without proper notification and despite the fact that such employment would be prohibited for a lay employee with a similar conviction. In 2012, I included Father Stevens in my memo on payments to Charter priests,

[61] Father Stevens is a classmate of Father McDonough, and they were ordained together in 1980.

noting that he was receiving a full salary and benefits, *and also charging the Archdiocese for the computer work that he was doing*. No action was taken by Father Laird or anyone else as a result of the memos that I submitted. In fact, although Father Laird testifies to the opposite, he refused to deal with the matter of Stevens's employment and the fact of his 'double-dipping' even after I brought it to the Archbishop's attention in 2012[62]. By the winter of 2013, I was meeting monthly with finance staff and HR about the payments being made to priests, and we continually asked for Stevens's additional payments to be discontinued, but Father Laird would never authorize us to take any action in that regard. The situation continued until I resigned and beyond[63].

54. On page 135 of his deposition, Father Laird states that the only email account he conducted business on was That is untrue. As a way of managing email traffic, we also set up generic accounts that were advertised on the website and in other materials. For instance, vicargeneral@archspm.org. We had a similar account for Bishop Piché that was separate from his account. Since these email addresses could be easily located, initial complaints or concerns were most often received through those accounts rather than the 'private' accounts.

55. I dispute Father Laird's assertion that his deposition was the first time that he had heard of Father LaVan in the context of a Charter violation and/or ministry in parishes[64]. In fact, he was aware that Father LaVan had been accused of sexual abuse of a minor female as early as 2010, as LaVan was identified as such in the list of clergy that Judy Delaney

[62] Laird, p. 209.
[63] The Archdiocese has since stated that it ended Father Stevens's employment, in, I believe. November of 2013.
[64] Laird, pp. 73 and 74.

prepared. Father Laird hired Judy Delaney sometime in late 2009 (after he became Vicar General) or in early 2010 to complete a survey of all clergy files and prepare a list that included names, dates of birth and ordination, current assignments, and any 'issues' that had been discovered. She completed her work in late 2010, and the complete list was given to Father Laird (the title of the document was actually 'Priest Assignment List for Father Laird'). Her list, which was in spreadsheet format, also indicated where each priest's file was kept (Vicar General's Restricted files, Meier, Kennedy, and Quinn, vault), and/or indicated if the file was 'missing'. Judy Delaney was selected by Father Laird for this project because she had worked for Father McDonough, and therefore had a working knowledge of the files. Judy's work overlapped with the Archdiocese's efforts to create a list to correspond to the numbers submitted for the John Jay Report. There was no record of how Father McDonough had arrived at the numbers that he submitted, and Andy always said that even he (McDonough) probably couldn't recreate it. Attorney Tom Wieser reviewed the files to try and produce a list that could be submitted in response to litigation. As I recall, Tom reviewed some files at the Chancery, and others were transported to the law offices of Meier, Kennedy, and Quinn for review. Susan Stepka of the Records/Archives staff kept an updated list of the files that Tom was reviewing, and this was retained after the file review was completed. In addition, in the final stages of her project Judy created Word documents with titles that were something like 'Notes to File Managers', which described which files couldn't be located, which were being reviewed at Meier, Kennedy, and Quinn, and any other issues that she had found. These were also retained by Records/Archives staff, and saved on the network. Although Judy's work was done in an Excel Spreadsheet, Father

Laird persisted in referring to her list as a 'database', which it was most definitely not. The information contained in it was static, and perishable. The list was outdated almost immediately upon its completion, as priests died, switched assignments, or as religious order priests were assigned to other dioceses. Over my objections, in 2012 Father Laird insisted that I give Laurie Wohlers 'access to the database' (I emailed her the Excel list) to use in the clergy assignment process. I strongly objected to this not only because the list was outdated, and therefore of questionable relevance for the assignment process, but also because it was a review of files retained as 'active', meaning many priests and former priests were listed such as Michael Kolar, Timothy McCarthy, and Gilbert Gustafson. Obviously, I didn't think they should be considered for additional assignments.

56. LaVan's status as a Charter priest was brought to Father Laird's attention again in 2013, after I reasserted my claims that we had priests who had committed acts of sexual abuse of minors in active ministry. Doubting my claims, Joe Kueppers and Bishop Piché asked John Selvig (who had replaced Tim Rourke as the Promotor of Ministerial Standards) to produce a list of everyone that he was monitoring. John did so, producing his own spreadsheet of his 'clients' and their crimes, which I think he emailed to Joe, and which Joe shared (I believe also by email) with Bishop Piché and myself. The list clearly identified Father LaVan as having raped teenage girls (I think they were identified as being 15 or 16 on the list). In order to explain how this list came to the attention of Father Laird, it is necessary for me to go back to what had transpired in the months leading up to June of 2012, when we learned of the acts of abuse committed by Father Wehmeyer, and 2013,

when Father Laird assembled the 'Safe Environment Working Group', allegedly to review our sexual misconduct policies.

57. In addition to the Montero and Wajda matters, within months of my starting as Chancellor I sent a short but detailed memo to Archbishop Nienstedt and Bishop Piché outlining many of my concerns regarding the Archdiocese's 'Charter' priests, including the issues with monitoring and their presence at our parishes. This memo was prompted by a review I undertook of the cases that had been sent to the Holy See. The reason for my review was that Cardinal George, who I believe was then President of the USCCB, had sent a circular memo to all bishops asking them to impose precepts on any priests classified as 'prayer and penance' (meaning those who had sexually abused minors but who for reasons of age or infirmity were exempted from the penalty of dismissal). I believe the memo was prompted by concerns expressed by (Bishop) Charles Scicluna, who was then Promotor of Justice for the Congregation for the Doctrine of the Faith, who doubted the ability of such men to live within the restrictions that had been imposed upon them, and who wanted to ensure that the Church could act quickly and responsibly to any violations. My intention had been to draft such precepts as recommended. However, the fact that the Archdiocese had not employed any canonical processes made this impossible and, moreover, my review of the files suggested that more than one priest had been incorrectly identified as a 'Charter' priest because of the age of the victim and the law in place at the time the abuse took place. I explained that to the Archbishop in a memo, and at the same time I provided him with a list I had created of the priests who had been identified as 'prayer and penance' and their

offences[65]. I think I referred to this list as 'the good, the bad, and the ugly', not in reference to the priests, but to the way that canon law had been applied or misapplied in relation to them.

58. From that time forward, I regularly alerted the Archbishop and the Vicar Generals to my concerns regarding the safety of children and vulnerable adults, as well as other misconduct issues including financial misconduct and exploitation of the elderly. I cannot recall a single time in which the concerns I raised resulted in action, except when the Archbishop supported my request to allow me to continue to supervise Father Wenthe after regular business hours so that he would not be working in proximity to my employees, nor be in violation of his probation agreement[66]. I became accustomed to having my advice disregarded.

59. In June of 2012, I learned that at least two boys had been abused by Father Wehmeyer during a time in which I had made recommendations but they had been ignored. I was devastated and horrified, first by the fact of the abuse, and then by the response of my coworkers and, most especially, Father Laird. For, in the initial days following our learning of the abuse, I sincerely believed that there could be a positive outcome if we could review all the other warnings that I had given, and finally take the appropriate action. However, it quickly became apparent that this would not be the case, but instead that the Archdiocese

[65] This was not a complete list of priests who had been accused of sexual abuse of minors, but rather a list of the cases that Father McDonough had decided to send to the Holy See. I believe only eleven or twelve priests were on my list.
[66] When Father Wenthe's case was taken up by the Appeals Court, and his conviction was in question, Father Laird wanted him to begin working for me during normal business hours. I strongly objected to this, as the original complaint in the matter had been posted online, and therefore my staff had more than enough information about Father Wenthe and his sexual practices to make working side-by-side uncomfortable. In addition, the situation was reminiscent of my experience with Father Conlin, and I did not want my employees to feel the same sense of betrayal that I had experienced, and that I experienced again in being asked to bring Father Wenthe onboard during regular hours. Father Laird's response to my concerns was that 'people needed to get over it'. Interestingly, Father Wenthe was far more understanding of what he referred to as the 'ick' factor.

would conceal its knowledge of Wehmeyer's sexual issues and his relationship with the boys who had been abused, and furthermore that we would act instead as though we had done everything right. That was what I was told repeatedly by Father Laird. We weren't going to look back. We had done everything right. Father Laird testified that his practice was to 'debrief after any incident'[67]. I would agree with that if by 'debrief' he meant that he explicitly attempted to prohibit employees from revealing the extent of the Archdiocese's knowledge of Father Wehmeyer's conduct. But, there was no attempt made to assess or even review the causes of our myriad failures, nor even an honest admission of the fact that the Archdiocese was at fault. No one was willing to take responsibility for the situation (internal discussions almost immediately cast the blame for the abuse on the mother of the boys), or to engage in a discussion about what our moral responsibility was to the victims. This was particularly frustrating to me because the environment at the Chancery was generally so hostile that finger-pointing and reprimands were a daily occurrence on the most trivial of matters. As I believe everyone is aware at this point, the Archbishop had a habit of sending angry memos on the most mundane of topics- I saw 'nasty-grams', as Andy coined them, about everything from leaving the lights on in the garage to Andy not wearing a tie- but no one received a nasty-gram about this, nor was anyone chastised, demoted, or otherwise reprimanded.

60. I couldn't accept that this situation was just 'business as usual'. It would be months before we would learn for certain that Father Wehmeyer intended to plead guilty, and in the meantime I could only imagine what it would be like for those boys if they had to

[67] Laird, p. 123.

stand alone in making their accusations, without the benefit of our knowledge or support. I viewed the situation as all the more grave because when Andy told me that it was Wehmeyer who was accused I was surprised, not because I didn't believe the accusations, but because at that moment I wouldn't have even identified him as one of the top five priests who kept me awake at night due to concerns about their interactions with minors[68].

61. Faced with at least two boys who had been abused, and acknowledging the potential for harm to countless others, I no longer believed that it was enough for me to merely recommend, especially when it had become so obvious that my recommendations would continue to be ignored. Rather, I felt that I had a moral obligation to take whatever steps necessary to ensure that no one else was hurt, and to see that the victims received justice. Initially, I tried to get support for this position from my coworkers and supervisors, and when that failed I sought it outside the Chancery, including from other priests and canonists, again to no avail. At last, recognizing that I was out of options within the Church, on June 28, 2012 (ten days after the Archdiocese learned of the Wehmeyer accusations), I met with a friend who worked in the Ramsey County Attorney's Office. We met for coffee, and I shared with him the memos from Wehmeyer's file about the decision not to disclose to the parish, the incident at Barnes and Noble, the reports on Wehmeyer's cruising, and perhaps other documents which I can no longer recall. I also shared with him my concerns that the Archdiocese had and continued to endanger children and vulnerable adults. He

[68] My top five list at that time included Fathers Shelley, Gallatin, and , along with another priest who remains in ministry and has yet to be identified publicly (although he appears on the list of 48), and Father who I will discuss at a later point in this affidavit in response to the Archbishop's testimony.

responded that he would discuss what I had told him with colleagues, to see if there had been any violation of the law.

62. I had come to recognize that while I could not control what anyone else did in these situations, I could control what I did, and I was determined that I would not support any decision or course of action if doing so meant that other children and vulnerable people could be harmed. I also decided that I would not participate in what I considered to be the underhanded efforts to secure a minor settlement with the parents of the victims. I made this very clear to the Archdiocese, beginning with my annual self-assessment, a draft of which I sent to Andy by email on July 4, 2012[69]. In that draft, I called out the Archdiocesan leadership for having priests in ministry who had sexually abused minors, for consistently failing to investigate allegations of reported sexual abuse of minors, and for not taking the necessary precautions warranted by the behavioral and psychological histories that were well-documented in our files. I pointed out that every time I had raised these issues (including my multiple warnings about Father Wehmeyer) my concerns were ignored, dismissed, or the emphasis was shifted to what was best for the priest involved[70]. I also stated my belief that there were several matters in the Archdiocesan files that should have been reported to the police but weren't, and I mentioned the case of Father Jon Shelley specifically. Andy responded by editing my draft to exclude many of the details, but there can be no question that Archdiocesan leadership was aware of my resolve. As a result, Father Laird would characterize me as insubordinate and embark on a campaign of

[69] I sent versions of this draft to other trusted advisors as well

[70] Andy testified on page 63 of his deposition that he only learned of my concerns regarding Father Wehmeyer after he resigned. However, in an email I sent to him in early July, I specifically list the times in which I warned Archdiocesan officials regarding Father Wehmeyer. This email and Andy's response will demonstrate that he was well aware of my concerns long before my resignation in April of 2013.

harassment and intimidation[71]. Andy would try to talk me off the ledge, so to speak, by telling me stories about how bad things used to be[72]. Bishop Piché would write that I was belligerent.

63. I became concerned that documents regarding clergy misconduct would be 'lost' in the event my employment ended. This was a not insignificant possibility given the 'archiving' of clergy misconduct files that took place at approximately the same time as the change in administration from Archbishop Flynn to Archbishop Nienstedt[73]. I am referring to the 48 restricted files that were moved to the basement archives in approximately March of 2008[74]. While some of these files qualified for archiving, because the priests were deceased or no longer in the Archdiocese, nearly twenty were disciplinary files involving priests in active ministry[75]. In many cases, the 'active' personnel files of these priests did not contain any reference to the existence of the files that had been 'archived', meaning that someone reviewing one of these priests' personnel file would not necessarily discover that there were concerns regarding misconduct. Furthermore, since the basement archives were arranged in the categories 'deceased', 'laicized', and 'religious no longer in diocese', the process of archiving the materials on these active

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[73] In his deposition, I believe that Father McDonough tries to suggest that I was responsible for the files being 'archived'. However, the list of files indicates that they were moved in March of 2008 at Sr Dominica Brennan's instructions, and I did not start until August of 2008.

[74] Not all of the 48 archived files related to accusations of sexual abuse of minors. While most involved sexual misconduct of some type, a few of the files involved financial misconduct. Several files related to 'Setter Investigations'.

[75] One of the files that was archived contained Archbishop Roach's personal files on James Porter. I believe it was in this file that I came across a letter from Father McDonough to, I believe, the Bishop of Fall River describing why the Archdiocese paid or assisted with legal fees for accused priests. Father McDonough wrote that in his experience if an accused priest had good legal counsel, his attorney would convince the priest to stay quiet, while if the priest did not have good counsel, he was more likely to try to spread the blame for his actions to include others. I don't remember if it was implied or directly stated that those who could be implicated were the diocese and/or the bishop, but the purpose of the letter was to encourage the bishop to commit to financial assistance for Porter's legal fees.

diocesan priests was haphazard at best and made it nearly impossible to locate them once the problem was identified. I 'discovered' this list during the summer of 2011, and had my staff begin an arduous process of locating the archived files. They were able to do this in most cases, and those files were transferred to three white bankers' boxes which were kept in my office until we could reintegrate the materials into the regular personnel file for the priest. The reason that they were kept in my office was so that I could refer to the files when decisions were being taken regarding those priests, including Father Shelley. It is unclear why the decision was taken in 2008 to relocate those files to the archives, especially given the loss of institutional memory that could be expected to occur with the transition in power. I was acutely aware that a similar loss of memory was likely to occur as a result of the turnover brought about by Father Laird, and I was determined that the information that I considered to be critical would not be lost again. The majority of the archived files were in the boxes in my office on the day that I resigned.

64. To ensure that the information would perdure, I began having conversations, and sharing documentation with trusted members of the Review Board, faculty and administrators at the University of St Thomas, and other priests and members of Archdiocesan staff. Father Laird responded by excluding me from discussions about clergy misconduct, altering my job duties, and increasing the number of menial work assignments given to me. He also began to set arbitrary and oppressive deadlines for work that was due from my department, and made me responsible for improving the poor work performance of other employees. When I complained to Archbishop Nienstedt about Father Laird's treatment of me, Father Laird suspended me. When Father Talbot learned

of my suspension, he advised me to sue Father Laird for retaliation, and he and Father Griffith assisted me in finding an attorney.

65. In his deposition, Father Laird testified that my suspension was not related to my criticisms of the Archdiocese's handling of sexual abuse. However, nothing could be further from the truth. My suspension had everything to do with my criticism of the Archdiocese's handling of sexual abuse and my refusal to go along with policies and practices that were putting people at risk. It was no coincidence that the employee who 'complained' to Father Laird about me was one whose hiring I opposed because of his involvement in the 2004 situation involving Father Shelley. The employee, Mark Dittman, was the Business Administrator at Shelley's parish, and participated in the cover-up that resulted in the police not being informed of the questionable material on Shelley's computer, and in Shelley being returned to ministry and reassigned to a new parish. I will explain further.

66. In the summer of 2011, at approximately the same time that I located the list of 'archived' files, the Archdiocese, and Father Laird in particular, was looking to hire a new director of the Parish Services Team. As applications were received and interviews conducted, it became apparent that we had one qualified applicant, and one applicant that was being put forward for others reasons. That other applicant was Mark Dittman. The qualifications of the other applicant were objectively evident, and not merely subjective. One of the responsibilities of the Director of the Parish Services Team is to have oversight over the Hispanic ministry program and its personnel. The qualified applicant was fluent in Spanish. Mark Dittman does not speak Spanish. Moreover, the qualified applicant had

the requisite knowledge of theology and experience in ecclesiastical administration, while Mark Dittman did not have the education or background required to serve as a Director of an Archdiocesan department. However, what I believe doomed the qualified applicant in Father Laird's and Andy's eyes was that he had been in formation for the Legion of Christ, but had left the congregation in the wake of the sex scandal involving its founder and the consequent exposure of manifest failures in its leadership. Perhaps not surprisingly, to me this was also his greatest selling point. By 2011 I was only too aware that integrity was in short supply at 226 Summit Avenue, and I saw this candidate as a welcome addition and potential ally. But, although Andy was not supportive of the hiring of Mark Dittman, he was less than enthusiastic about hiring someone with that sort of track record, and Father Laird was absolutely opposed to it[76]. Father Laird preferred to hire Mark Dittman, even though he knew that he would not be able to do the job, and even though he was aware of Mark Dittman's involvement in the Shelley affair (which was becoming an issue for the administration at that time) and of the likelihood of it appearing that we had hired a less qualified candidate to reward him for his silence and acquiescence. I sent a memo to Father Laird about this in 2011, but it was the discussion that took place following the interviews that I remember most vividly. Andy and Father Laird grew tired of hearing me make these points, and so Andy put an end to the

[76] Andy was concerned enough that he had a conversation with Mark Dittman about Father Shelley, the substance of which he related to me. John Vomastek was either present at that conversation, or I repeated it to him at a later time, because the substance was that Mark Dittman was a supporter of Father Shelley's, because Mark had a son who had been seriously ill, and Mark was surprised and moved by all the attention that Father Shelley had paid to his sick child. The reason I remember that John Vomastek was a part of the conversation is that this information (as anyone familiar with the methods of sexual predators would understand) caused me to throw up my hands and say 'Attentive to a sick kid? What a surprise!' which caused John Vomastek to laugh and tell me that I talked like a cop, and he felt like he was back in the department or precinct (I can't remember the exact word he used).

discussion by telling me that if I thought the qualified candidate was so wonderful, I should 'date' him[77]. Father Laird just laughed. Mark Dittman was hired, and within a few short months it became apparent that, as I had warned, Mark Dittman was not able to do the job, and so Father Laird tasked Andy and I with 'training' him[78]. More than a year later, I was still responsible for 'training' him, but with a greater frequency and intensity as Father Laird sought to occupy my time with issues other than addressing the problems of clergy misconduct[79]. I was also given other tasks in regard to Mark Dittman. For instance, Father Laird had instructed Archbishop Nienstedt's secretary, Deb Thielen, to ensure that nothing went to the Archbishop from Mark Dittman until either Father Laird or myself had reviewed and approved it. Since Father Laird was rarely around, that meant that I had to review and correct all his work. Mark Dittman, whose employment situation was tenuous at best, was only too happy to be a tool in Father Laird's attempts to punish and intimidate me. Hence his 'complaint', which led to my suspension, my response to which I am including with this affidavit. If there is any doubt that my suspension was retaliatory and an attempt at intimidation, it should be noted that condition for the lifting of my suspension was that I complete work (during the time at which I was suspended) that Father Laird had assigned, the period of my 'suspension' coincided with time when I

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[77] I am using the word 'date' for the purpose of this affidavit, but the reader could substitute another word that would more accurately convey what Andy was suggesting.

[78] One of the first tasks that Father Laird assigned to Mark Dittman was to update the personnel manual for lay employees. One of the updates that Dittman proposed, and what led to the requirement of more 'training' and the 'review of all work' policy, was a change to the Archdiocese's Equal Opportunity Statement, which Andy had drafted and which included the standard statements of non-discrimination with the caveat that public conduct is to be in accord with the teachings of the Church. Dittman's 'update' was to remove the statement indicating that the Archdiocese does not discriminate on the basis of sexual orientation. Implementing such a change would have been theologically incorrect, amongst other things.

[79] An attentive reader will note that Mark Dittman's complaint involved a meeting between him and I that occurred at the same time that I was dealing with the and preparing the submission of the Wehmeyer case to the CDF,

was already scheduled to be out of the office for a follow up medical procedure to knee surgery I had earlier in the year, and during my suspension I was ordered by Father Laird to tell anyone inquiring that I was 'on vacation'[80].

67. In January of 2013, after I was reinstated[81], I extended the circle of people with whom I was sharing my concerns to include Robert Schnell, an attorney at Faegre, Baker, Daniels, who was also the Chair of the Review Board and a deacon of the Archdiocese. I began sharing information with Bob Schnell in the same way I had been doing with Father Ralph Talbot, including, I believe, the list created by John Selvig. Not wanting to disclose that he was in possession of this information, Schnell arranged a meeting with Father Laird where he brought his own concerns regarding the Archdiocese's safe environment program to Father Laird's attention[82]. I am certain that the list was at least discussed, and I believe Schnell asked Father Laird to provide the Review Board with a copy of the list. It was because of that request that the next meeting of the Safe Environment Working Group

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[80] This caused a great deal of trouble for both Father Laird and the Archbishop, because when Father Laird handed me my letter of suspension (for not completing my response to Mark Dittman's complaint by the end of the day), it was the end of *his* day, but not mine, because, as has already been mentioned, I was supervising Father Wenthe after hours per his probation agreement. Father Laird failed to take into account the fact that Father Wenthe was in the building at that time, and that his probation officer would have to be notified if he was no longer able to work. Father Laird hadn't told Father Wenthe that he was to tell people I was 'on vacation', so by 8pm that evening a substantial portion of the presbyterate was aware of exactly what had taken place. Many of them wrote to the Archbishop in support of me, only to receive a response from him stating that I was not suspended but 'on vacation'. In one case, I was a board member of an organization that needed to vote on a hiring during the time of my suspension. Since I was unable to participate, the priest was uncertain how to proceed, and so he contacted attorney Tom Weiser, who had to confirm for him that the Archbishop had lied and then review the organization documents to determine if the vote could go forward in my absence.

[81] I should note that I did not want to return to the Archdiocese following my suspension. Working there had become an ordeal, my efforts to make the Archdiocese a safer place were seemingly failing, and I felt as though I had done all that could reasonably be expected of me. However, those who were aware of my efforts, including Father Talbot, encouraged me to go back and keep fighting.

[82] Another example of how I was excluded from discussions involving safe environment is illustrated by Deacon Schnell 'drafting' a new misconduct policy that he was proposing to the Review Board. Although I was never involved in the work of the Review Board, Andy sent me a version of Schnell's draft and asked me to comment. After reading a paragraph or two, I recognized the document as one that I had drafted for another diocese. Schnell had just altered some of the terms to fit the Archdiocese.

discussed the lists, or lack thereof, the conclusion of which was that Father McDonough was going to 'edit' John Selvig's list prior to distributing it to the Review Board or anyone else. By that point, my working conditions had deteriorated to the extent that I resigned shortly thereafter, but I can state definitively that LaVan was on the original list, and if he was removed, it was due to Father McDonough's edits, and not because the Archdiocese was unaware of his abuse or presence in ministry until December of 2013, as the other deponents have suggested.

68. Although Father Laird testified that he did not know anything about Father Pierre Bongilla, in Andy's last year with the Archdiocese there were renewed concerns about him[83]. A report was made, or new information received, that Andy was reviewing (again, I was deliberately kept out of any discussions about it). The information was coming from California, I believe. Father Laird was certainly informed of this. And, although Father Laird testified that he was not involved in any decisions regarding sending a priest to be evaluated for posing a risk to minors, Andy and I warned Father Laird repeatedly about Father and the need to have him evaluated, including in a memo I wrote to Father Laird in early 2012[84]. I was concerned because Father file demonstrated that he had a long history of compulsive sexual behavior, dating back to his time at Nazareth Hall (minor seminary) in the 1960s. As I recall, Father received inpatient treatment for sexual addiction while a student at the Saint Paul Seminary, and has struggled to maintain sexual sobriety ever since, receiving additional inpatient therapy and continuing care throughout the 1990s, with little to no success. However, what most concerned me was

[83] Laird, p. 213.
[84] Laird, p. 211.

that in the late 1990s the Archdiocese received a report that Father had inappropriately touched male high school students when, prior to entering the Saint Paul Seminary, he was teaching in Father McDonough's opinion was that the report was a hoax, but since we had an abundance of information in our files demonstrating that Father was unable to control his sexual urges, I didn't think that report or other concerns should be dismissed so easily. Andy's concerns, which I included in my memo to Father Laird, centered around reports of inappropriate conduct taking place in 2008, which had led to a recommendation being made that Father undergo a comprehensive assessment. This was never done, and Andy was uncomfortable with the files reflecting that such a recommendation had been made without any action being taken[85]. Again, Father Laird was fully informed of these concerns via my memo. I recall his exact response: Father Laird didn't think an assessment or therapy was useful in the case of Father , because he didn't think there was anything for treatment to 'stick to' (meaning that he didn't feel that Father had the intelligence to benefit from psychological treatment). Father apparently took a voluntary leave of absence in November of 2013. I was surprised that the Archdiocese stated in its public announcement, 'His decision is as a result of prior misconduct which occurred many years ago and did not involve members of any parish in which Fr. has served. This misconduct did not involve a violation of the Charter for the Protection of Children and Young People'. It should be noted that Father was identified by Father McDonough as requiring monitoring in the

[85] It is a principle of the Catholic Church that no one can be forced to undergo a psychological evaluation. Hence Article 7 of the *Essential Norms* states, 'The alleged offender may be *requested* to seek, and may be urged *voluntarily* to comply with, an appropriate medical and psychological evaluation at a facility mutually acceptable to diocese/eparchy and to the accused'. Since this principle is based on the fundamental dignity of all persons, the right to refuse such an evaluation is not limited to clergy.

POMs program in 2005, but Father refused to participate and so Father McDonough and Archbishop Flynn exempted him from the program.

69. During the last few months of my employment in the Archdiocese, I sent a very high volume of emails to Father McDonough and memos to Father Laird and others rehashing the details of decisions that had been taken regarding clergy misconduct, often with a significant amount of detail and often with documents attached. The memos about Father Laird's involvement in the Shelley and Wehmeyer decisions are one example of this, Father McDonough's statements about Father and the monitoring program are another, as are the emails between Father McDonough, Father Laird, and myself regarding the . Since the latter demonstrates where the Archdiocese was at in terms of 'best practices' and 'constant innovation' in March of 2013, I will describe what occurred at some length.

70. The situation involving was something that I had been involved in almost from the beginning of my tenure as Chancellor, since generally attended the annual and his presence at this event always resulted in complaints to the Chancery. The complaints stemmed from the fact that had engaged in acts of sexual misconduct with young men and this fact was fairly widely known. Therefore, there was justified resistance in some circles to the hagiology of work with . In some cases, critics were successful- I believe the new , but his critics were successful in derailing that plan. In general, however, I found Chancery officials

to be far too willing to overlook the failings. When he died, around , I was in Denver to watch the Wild play the Avalanche. Still, per our practice, I was notified of the death and asked to conduct the required review[86]. I was in Breckenridge when the calls came through and had extremely limited cellphone coverage, but I did send emails in response noting that there were substantiated allegations against and therefore his funeral should be dignified, but also should avoid the full pomp and circumstances that might otherwise follow the death of a person of his public stature. Specifically, I advised my colleagues that they should review the file of , where they would find a full account of the accusations against him. This was in keeping with the practice of the Archdiocese, as well as a 2011 policy that was promulgated, but never made public, regarding funerals for Charter priests. This policy set guidelines for how such funerals were to be conducted, including that such funerals were not to be held at the parishes where the offending priest had been assigned, nor was the priest to be buried in the parish cemetery. Most importantly, the funeral itself was to reflect (as all funerals should) the need to trust in God's mercy and forgiveness. In short, all effort was to be taken to avoid scandal and further pain to the parishes and individuals that had been harmed by the priest's misconduct. Given my emails and the Archdiocese's practice, I was more than dismayed to find, upon returning to Minnesota, that my cautions had been ignored, and that rather than a dignified but appropriately contrite ritual, there were ridiculously glowing obituaries and eulogies, and the funeral took place at the parish where had

[86] Per the 'Procedure When a Priest Dies', which is a written policy circulated among various Archdiocesan departments, when a priest of the Archdiocese dies the Chancellors' Department is notified and is to conduct a review of the priest's file for any relevant information, including the Will or its location, the 'Confidential Information' form (which lists next-of-kin, etc.), and any additional information of relevance, including misconduct or other issues that might have a bearing on the funeral arrangements or death notice.

served, with the Archbishop presiding. Obviously, I began to look into what had happened, and I found out that rather than reviewing the file, Father Laird had called Father McDonough and asked him about the allegations against and that Father McDonough had left Father Laird a voicemail message in response saying that the accusations had been found to be untrue. Nothing could be further from the truth- the file reflected that himself admitted to sexual conduct with the attributing it to a time when he was drinking heavily. My next step was to speak with Father Laird, and ask him why he would have relied on Father McDonough's word rather than simply checking the file (by March of 2013, there was sufficient evidence of problems with Father McDonough's 'memory', if not decision-making, in these matters to prompt a rational person to seek information elsewhere). During this conversation, which occurred in Joe Kueppers's office, I had the file with me, and was showing Father Laird how it would have taken him less than five minutes to locate and review that information. Father Laird's response was to tell me that he 'did not have access to the file'. This was a blatant lie, as even Joe acknowledged, because Father Laird had a code to the vault, and so could have easily walked in and grabbed the file if he had wanted to. Furthermore, not trusting him to do that, I had also instructed my staff (by email from Colorado) to bring him the file to review, which they did, only to be told by him that he didn't need to see it. My second step was to contact Father McDonough to ask why he would say that the accusations against were untrue. His response (sent via email) was that he was referring only to the allegations involving minors. While I agreed that there were no substantiated allegations involving minors, I questioned Father McDonough as to

why he would not have been more specific with Father Laird, and I also questioned whether he wasn't drawing the line a little thin, given that had engaged in sexual contact with in their late teens and early twenties during a time when he and therefore occupied a position of power in relation to his victims, *with whom he had an existing relationship because they had served as altar boys when he was pastor of their parish*[87]. I don't recall ever getting an answer to my questions, only a statement to the effect that no harm had been done. In fact, the Chancery received complaints about the funeral and obituaries, as I had predicted. That resulted in an incredibly frustrating conversation between myself and Sarah Mealey where she tried to defend the obituaries by contrasting the positive publicity with the 'small' number of complaints. That prompted me to ask my coworkers to identify for me the critical mass of complaints that needed to be reached in order for our actions to be reviewed, or, in other words, how many people had to be hurt by our conduct in order for it to matter? I never received an answer.

71. Part of the reason that I was so concerned about Father Laird's decision to turn to Father McDonough for information on rather than reviewing the file was that I had become accustomed to Father McDonough's habit of minimizing or selectively recalling the truth in these matters. This was something that had been greatly bothering me since SNAP published its statewide list of known offenders, which I believe occurred in 2012. One of the priests identified on the original list was Father

[87] Since I was out of town I was not able to attend the funeral. However, I was told by others that not only did the funeral take place at the parish, but that there pictures of the cabin where the abuse had taken place on display, and even pictures of the boys serving on the altar with

who was working as a chaplain at

despite a history of exploitative relationships with adult women that led the Review Board to recommend his restriction from parish ministry and from providing counseling and spiritual direction to women. I wrote several memos to the Archbishop about Father especially because he was non-compliant with the POMS program. However, was still chaplain at the hospitals at the time that the SNAP list was published, which prompted a call to my office from Brian Brooks, who I believed worked in the chaplaincy department at the hospitals. Mr. Brooks and I had worked together a year or two before, when the Archdiocese was struggling with its record keeping regarding emergency baptisms. Mr. Brooks, who is not Catholic, went above and beyond to assist Catholic parents in his hospitals, even though doing so meant navigating HIPAA requirements and other bureaucratic obstacles. As a result of that experience, I had a great deal of respect for Mr. Brooks, not to mention a working relationship that I wanted to preserve. Mr. Brooks was quite upset at the time he called, because another member of the chaplaincy department was involved with SNAP or a similar organization and had noticed Father name on the list. Mr. Brooks was calling to inquire into background, in what I believed to be a sincere effort to do his best for the people under his care. When I received the call I spoke with Andy, who told me to get Father McDonough on the phone and to arrange a conference call with him, Mr. Brooks, and the two of us. I believe during the actual call Mr. Brooks was accompanied by another member of the chaplaincy staff, but I can't remember who. Andy participated from my office, the others from their various locations. In response to Mr. Brook's questioning, Father McDonough assured Mr. Brook's

(and through him the hospital) that there were no allegations of sexual abuse of minors against Father , which I believe to be true. However, to my dismay and Andy's surprise, Father McDonough went on to assure Mr. Brooks that Father conduct could not even be categorized as exploitative. I was so surprised when Father McDonough said this, since it contradicted all the information we had in our files, that I put my phone on mute and asked Andy what was going on. He responded that he 'wouldn't have gone that far', and then told me to unmute the call as it was finishing up. When everyone had hung up, I asked Andy what we were going to do now, since Father McDonough had clearly mislead Mr. Brooks and the hospital. Andy's response was that 'McDonough was going to do what McDonough was going to do', and that we had to let him handle it. I responded that clearly he hadn't handled it, to which Andy reminded me that the Archbishop had appointed McDonough, and not me, as his Delegate for Safe Environment, and that I needed 'to stay out of it'. I am fairly certain that Andy was aware at that point of my practice of following up McDonough's disclosures or the issuing of questionable testimonials with off-the-record calls aimed at providing accurate and sometimes critical information, because I interpreted his statement that I 'stay out of it' as a warning not to try that in this case[88].

72. I have reviewed the deposition of Archbishop Nienstedt. I will mention two areas in which I know the Archbishop was in error, and which have not been addressed by the other deponents. The first relates to the Priests Pension Plan. At page 67 of the

[88] I should note that the issue of disclosure with hospitals where priests were employed or used as 'on-call' was always a troubling issue for me, because the Archdiocese responded to requests for 148A reporting forms for priests by noting that it does not consider priests to be employees, and, perhaps more significantly, that priests are not psychotherapists or performing psychotherapy unless engaged in professional treatment, which most priests are not. It is likewise worth reviewing Father request for expungement in his indecent exposure case, which was predicated on his desire to serve as a hospital chaplain.

Archbishop's deposition, attorney Daniel Haws objects to a question by plaintiff's counsel, stating that the Archbishop is unqualified to evaluate who qualifies for disability. On the following page, in response to Haws's direction, the Archbishop stated that he did not understand a question relating to disability payments being authorized for a priest with a psychic disorder like pedophilia[89]. However, both the Archbishop and Mr. Haws would be aware (as would others) that the determination of who is considered disabled under the terms of the Priests Pension Plan is the exclusive prerogative of the Archbishop. It is a matter for his prudential judgment. Furthermore, there are no restrictions on the Archbishop's designation- no medical diagnosis is necessary, and it need not correspond to, for instance, a similar designation by the Social Security Administration. In other words, not only is the Archbishop qualified to evaluate who can be classified as disabled, *he is the only person who can make that evaluation.* I can personally attest that the Archbishop was aware of this fact, because I wrote at least two memos to him on this subject between 2010 and 2011, at the prompting of Father Laird, who wanted the Archbishop to declare Father Michael Tegeder disabled as a means of silencing his opposition to the Archbishop's efforts to promote a constitutional amendment prohibiting same-sex marriage. Archbishop Nienstedt also determined that at least one priest could be classified as disabled during my tenure as Chancellor.

73. The priest that Archbishop Nienstedt determined should be classified as disabled is Father John Bussmann. The Archbishop wrote to Father Bussmann indicating that he could begin to receive pension payments on the basis of the Archbishop's disability

[89] Nienstedt, p. 68.

determination in 2011, and I believe that offer was reiterated on several occasions between then and my resignation in April of 2013. I should also note that despite Archbishop Nienstedt's statement that he does not recall ever instructing his staff to retrieve a priest's file for his review, he did indeed instruct me do so, in March of 2013, in regard to the file of Father Bussmann.[90] In 2005, Father Bussmann was convicted in Hennepin County District Court of, I believe, theft by swindle (relating to donations made to his parishes but which he misappropriated for his own use), theft, and 5th degree sexual misconduct. In a second trial, he was convicted of two counts of 3rd degree criminal sexual conduct, arising from sexual contact he had with women with whom he was in a pastoral relationship. In addition, as part of the investigation into these charges, Father Bussmann was discovered by the Hennepin County Sheriff's Office to have extensive amounts of adult pornography on the hard drives of his computers. Following his convictions, Father Bussmann was sentenced to more than five years in prison and it was required that he register in public databases as a sex offender. He appealed the two convictions for 3rd degree criminal sexual conduct, and was successful in getting one conviction overturned. Nonetheless, according to a tally done by Andy in 2009, Bussmann had cost the Archdiocese more than $850,000 in legal fees and settlement costs (I believe relating to five victims), not including therapy costs for the victims or expenses related to his sexual misconduct prior to his reinstatement to ministry in 2001[91].

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[90] Nienstedt, p. 44.

[91] Archdiocesan statements from the time of his ordination indicate that Father Bussmann was the first seminarian ever to be admitted to a fraternity while also in seminary. Between his ordination to the diaconate and the presbyterate (1980), Father Bussmann had a homosexual encounter with After his priestly ordination, and supposedly in retaliation for this encounter, Father Bussmann stole precious silver tablets from the Archives. He was apprehended after attempting to pawn the items, admitted to the crime, and was sent for a month of inpatient treatment before being returned to his parish assignment. In the mid-1980s, Father Bussmann was accused of and admitted to engaging in a sexual affair with a married parishioner, the wife of This matter was brought to

He was released from prison in 2008, and despite statements made at his trials that he was a 'former' priest and would never receive another ministerial assignment, he began almost immediately to agitate for a new assignment. In 2003, at the time it learned of Father Bussmann's post-2001 sexual misconduct, Bussmann and the Archdiocese (meaning Father McDonough) entered into an agreement whereby, in exchange for his resignation as pastor, Bussmann was given his salary and car allowance until March of 2005, along with continuing medical benefits, twenty-three years of credit in the Priests' Pension Plan, and the promise of a letter of reference for Father Bussmann that reflected 'favorably on his leadership at the parish' (or used a similar expression) and the promise that the Archdiocese would not disclose Bussmann's sexual misconduct except as required by Minnesota Statute 148A (which I have already discussed). However, Bussmann would subsequently argue that McDonough forced him to enter into the agreement, and therefore it was invalid. Bussmann was probably not wrong to assume that the agreement would not be a bar to his returning to ministry post-release, as the Archdiocese (again, meaning Father McDonough) had entered into almost the exact same agreement with Father Maslowski prior to his conviction, and nonetheless allowed him to return to parish ministry. What Bussmann had been unable to predict is that, almost simultaneous to his release from prison, there would be a new Archbishop and Father McDonough would no longer be Vicar General.

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the attention of the Archdiocese by the woman's husband, who discovered the affair. At the same time it was discovered that Father Bussmann had a sexual affair with extending back to his time as a deacon. Following these revelations, Father Bussmann was removed from his parish, informally suspended from ministry, and sent to treatment with the Servants of the Paraclete. It wasn't until 1999 that a process was begun to return Father Bussmann to ministry, reputedly because of Archbishop Roach's strong resistance to the idea.

74. It was always a mystery to me that Father Bussmann had been allowed to return to ministry in 2001 given his history, which was well-known to the Archdiocese[92]. It was also a source of frustration to me that Father McDonough's non-canonical agreement was allowed to stand for the period in which Father Bussmann was on trial and then incarcerated, meaning that by the time that the matter landed on my desk for the first time in the fall of 2008, the canonical statute of limitations had expired. Therefore, I spent four years engaged in a constant battle to keep Father Bussmann out of ministry, despite his efforts to secure an assignment in the Archdiocese, with the Military Archdiocese, and as a prison chaplain. The Archbishop's request to review Bussmann's file in March of 2013 was the result of yet another letter about Father Bussmann's request for a ministerial assignment. Given the contents of Father Bussmann's file, which are excessive even relative to other priests guilty of misconduct, it is extremely unlikely that the Archbishop has forgotten that he reviewed it.

75. I am aware that the Archbishop reviewed another priest file that should also stand out in his memory, as he requested it from Bishop of the Diocese in the spring of 2011. That file belonged to a priest named Father , who at that time was still a priest of although the previous bishop, had all but thrown him out of the diocese after several scandals resulting from inability to maintain clerical celibacy, anger issues, his stated refusal to accept the Church's position on homosexuality, and after was reported to have propositioned students from at a time when

[92] Father Bussmann was ordained in 1980, in the same class with Father McDonough and Father Michael Stevens.

was the pastor of

sent to the Twin Cities for counseling and spiritual direction, and was hesitant to approve the Archdiocese's request to permit him ministry here. However, that permission was granted, and Father had been serving in this Archdiocese since the late 1990s, although not without incident. Archbishop Nienstedt requested his file from the Diocese because, in 2011, the Archbishop was considering incardinating into the Archdiocese of Saint Paul and Minneapolis, despite the fact that Archbishop Flynn had previously refused to do so[93]. Both Andy and I were dismayed that Archbishop Nienstedt was even considering this, because taking on responsibility for was obviously a very risky proposition, especially because of the previous incident involving young males. Moreover, the decision to incardinate would make the Archdiocese responsible for his pension and other retirement related expenses, which would create a large unfunded liability to a pension plan that was already significantly underfunded. However, Bishop Piché was advocating for incardination, and so the Archbishop requested his personnel file from the Diocese , as is required by the Archdiocesan policy on the incardination of priests. To its credit, in responding to Archbishop Nienstedt's request the Diocese sent the *complete* personnel file of Father which included, as I recall, more than one page of photos of Father engaging in what I will describe as 'romantic activities' with other men. When this file arrived, I personally delivered it to the Archbishop, an action that brought more criticism from Bishop Piché, who didn't think that the material should have

[93]I believe may be the only person Archbishop Flynn refused to incardinate.

been presented to the Archbishop since 'those issues had been resolved'. Those issues had not been resolved, nor have they been. Since was incardinated in 2012 I have learned of additional incidents of Father making inappropriate advances towards young (adult) males who attended his parish. I question how the Archbishop could claim not to remember reviewing Father file, and especially those pictures, given that this occurred in 2011, during the Archbishop's campaign to pass the constitutional amendment banning same-sex marriage.

76. As I have stated previously, I first notified the Archbishop about Father Wehmeyer's history of acting out sexually, and provided him with the documentation regarding the incident at Barnes and Noble and, I believe, a copy of the Saint Luke's evaluation, at the time that Archbishop Nienstedt was considering appointing Father Wehmeyer as pastor in 2009. Since canon law requires a pastor 'to be outstanding in sound doctrine and integrity of morals and endowed with zeal for souls and other virtues…[and] his suitability must be clearly evident by some means determined by the diocesan bishop, even by means of an examination', I believed that the information that I provided to the Archbishop, which demonstrated that Father Wehmeyer did not possess the necessary qualities, would effectively end any further discussion of his appointment to that position[94]. I was unaware at that time that rather than perceiving this information as a warning, Archbishop Nienstedt viewed it as an opportunity to seek a closer acquaintance with Father Wehmeyer.

[94] *Code of Canon Law*, c. 521, §2 and §3.

77. I spoke with both Father McDonough and Father Laird about additional concerns regarding Father Wehmeyer (and another priest) in 2010, shortly after the announcement of the Strategic Plan and after I had spoken with Father Wehmeyer at a meeting for pastors whose parishes were designated to merge. It was obvious to me from that conversation that Father Wehmeyer was not coping well, and was unlikely to be able to handle the stressful situations that result from merging parishes. I mentioned this concern to Father Laird first, and then Father McDonough, because Wehmeyer's file made it clear that he lacked adequate coping skills, and his default response to stress was to act out sexually[95]. I approached Father Laird and suggested that we needed to get Father Wehmeyer (and the other priest) out of those situations before any misconduct took place. However, talking to Father Laird was like talking to a brick wall. He had absolutely no compassion for the priests, and no tolerance for hearing that people would not be able to perform actions that were entrusted to them[96]. Realizing that no action would be forthcoming with Father Laird, I tried again with Father McDonough, who, while I disagreed with him about many things, I trusted to at least understand my concerns. And, I believe he did, because I think there was an increase in therapy provided to the other priest I had identified in the months and years

[95] During my time in the Chancery, I can't recall ever having seen the report of inappropriate conduct on the part of Father Wehmeyer while in Jerusalem. I do not believe that report was in his personnel file. I believe I would have recalled had it been because the author of the report, Father Corey Rohlfing, was tasked with providing support to other priests with sexual addiction (I believe he also leads one of the three support groups for Archdiocesan priests with sexual addictions), and so I would have been inclined to take any report he made very seriously.

[96] Father Laird testifies that he was not involved in the assignment process, which is not true (p. 159). Per the process developed by me and approved by him (and described in documents that would be in my network files) there was a working group, apart from the Comprehensive Assignment Board, that 'vetted' potential assignments prior to the CAB discussing them. Father Laird was a part of this group. In this context I also felt he was less than sympathetic to the legitimate weaknesses in people, and I was concerned that this would result in further situations like Father Wehmeyer's. At one of the last meetings of this group that I attended, in the spring of 2013, Father Laird was advocating removing a priest from disability and forcing him to accept a regular assignment. This was despite the fact that the priest had some mental health issues that meant that he did not respond well to stress, and which resulted in his last parish assignment coming to an end when he was discovered to be stalking a woman he met on vacation. Needless to say, I opposed a new assignment for this priest.

that followed. It is possible that Father McDonough attempted some sort of outreach to Father Wehmeyer as a result of our conversation, but I am not aware of any concrete action being taken and, months later, he would disregard my third warning and decline to disclose to Wehmeyer's parish his history of misconduct[97].

78. In regard to what transpired the week of June 18, 2012, my recollections differ significantly from the other deponents. In addition, as a result of the investigation conducted by the Saint Paul Police and the reporting of Minnesota Public Radio, I have had the opportunity to review documents and emails from that time period that have reinforced my knowledge of events. It has been stated that I drafted the decree opening the preliminary investigation which indicates that the Archdiocese learned of the abuse committed by Father Wehmeyer on June 18, 2012. I did draft that decree, and I stand by the information contained therein. The Archbishop, Father Laird, Andy, Father McDonough, and, eventually Father Erickson, all had cause to read the decree on at least one occasion and in many cases more, and never once was I asked to change the date or otherwise edit the document beyond what I will describe at a further point. The Archdiocese was aware that Wehmeyer was accused of sexual abuse of at least one minor male on or before June 18, 2012. The original report was made to Father John Paul Erickson, who was misidentified in early police reports as a priest assigned to the Church of Saint Agnes. In fact, Father Erickson was not assigned to Saint Agnes. He lived there, but his assignment was as the Archdiocesan Director of Worship. His office was at the Chancery, between my office and Andy's. However, during

[97] While I hold Father McDonough responsible for that decision, I do not believe he was aware prior to June of 2012 of the concerns regarding Father Wehmeyer- outside of my conversation with him- that were brought to the attention of the Chancery between 2009 and 2012. Contrary to the testimony of other deponents, he did not attend the meetings of the 'Priests Working Group', and I am not sure that any other means of keeping him informed was implemented by Father Laird.

that summer (and two additional summers, I believe) Father Erickson was attending the Liturgical Institute at Mundelein Seminary outside of Chicago. These facts are significant when trying to understand what was taking place during that week.

79. Andy testified that the allegation was communicated to him on the early evening of June 19, when he was in Minneapolis waiting for a meeting to start. However, he had informed me- in person- that Wehmeyer had been accused prior to leaving for that meeting. And, Deacon Vomastek was aware of the allegation before Andy spoke with him on June 20, because Father Erickson had originally contacted Deacon Vomastek for assistance when he (Father Erickson) learned of the abuse perpetrated by the victim on That information became known in advance of the victim's report of abuse by Wehmeyer. That is where the problem began, in terms of the Archdiocese's questionable compliance with the reporting requirement. By the time that Father Erickson called Andy and informed him of the allegation against Wehmeyer, the situation was already highly problematic. We had a deacon and a priest who had knowledge of sexual abuse of at least three children, and yet no evidence of a report having been made. In my opinion, that is why so much effort has gone into presenting the situation as one of 'privilege'. I should also note that at least three times during 2012-2013 Andy and I had a conversation about whether we had satisfied the reporting requirement. The first was on June 19 (and is memorialized in an email exchange), the second was at the time that I was preparing the documentation to send to the Congregation for the Doctrine of the Faith, and the third was during a meeting of the Safe Environment Working Group. Andy was perfectly aware that the documents read June 18, and at no time did he dispute that the Archdiocese or its agents were aware of the abuse on

that day. What he and I argued about, heatedly at times, was whether we had reported within twenty-four hours. Andy maintained we had, because his position was that the clock began ticking, so to speak, when the mother made a report to Greta Sawyer. I disagreed, because I didn't think that the privilege argument used in regard to the conversation between Father Erickson and the mother held any weight, especially because at least three people (Andy, myself, and John Vomastek) were informed of the allegations prior to the 'privilege being waived', to use the description provided by Father Laird and Andy[98]. The police have emails between Andy and I from June 19 that establish this. Father Erickson had an office next to mine in the Chancery, and as a result of his role as Master of Ceremonies, he often kept the same extended hours that I did. I considered him a friend, and I was concerned about his position in this situation, which I believed to result not from malice or bad intent, but more from naiveté and from having sought advice in the wrong place[99]. So, on the evening of June 19, when no report had been made to the police by the end of the working day, I called Father Erickson in Chicago. I recommended that he review the mandated reporting statute for himself (which I told him that he would be able to find via a google search). He thanked

[98] Andy and I worked hard to ensure that our priests understood the limits of confidentiality and also their reporting obligations. For instance, in August of 2011 we gave a joint presentation to the faculty of both seminaries- which Father Laird also attended- explaining mandated reporting and the competency of witnesses, and impressing upon the priests and formators the need to reinforce the distinction between internal and external fora, especially by limiting internal forum communication (confession, counseling, or spiritual direction) to appropriate and designated times and locations. Copies of the slides for this presentation were distributed to all seminary faculty who attended this presentation, and also to other priests over the next two years. The power point presentation was in my network folder on the day that I resigned. We also worked hard, and unsuccessfully, to impress upon permanent deacons the need to delineate between when they were exercising ministry as a result of an assignment by the Archbishop, and when they were employed in administrative duties that were not 'ministerial'. In terms of an employee like John Vomastek, we argued that he should not identify himself as a deacon or wear clerics when engaged in non-ministerial work at the Chancery, specifically because we were concerned that the deacons often failed to understand that by doing so they incurred additional obligations, such as under the mandated reporting statute, or could receive information that the person divulging might interpret to be privileged when the deacon was acting in non-ministerial capacity. Andy's, and my, position on this can be understood best by reviewing the drafts of the policy on the ministry of permanent deacons which were in my network folder on the day that I resigned.

[99] I think by this point everyone is aware that a person can have served for many years as a St Paul Police Officer without ever coming across a priest making a mandated report about sexual abuse by a member of the clergy.

me, but also told me that he felt that it was unnecessary. I have no reason to believe that he followed my advice and reviewed the statute. When Andy emailed me later that evening with a generic 'announcement' that an allegation had been received, I responded by pointing out that it had been known for more than 24 hours, and asking if we didn't need to report it. I don't believe I received any response. I believe he was correct in saying that he didn't include the name of the accused priest in that email, but he wouldn't have needed to. I already knew. Andy had told me in our first conversation, and I had also discussed it with Father Erickson and, possibly, with John Vomastek.

80. I had disagreements with Andy about the Archdiocese's reporting obligations in this matter as well as others based on the way that I had been taught about reporting by another attorney, Charles Goldberg, who appeared on behalf of Archbishop Carlson. Mr. Goldberg had taught me to be a stickler about reporting, insisting that all allegations that could possibly involve criminal activity be reported without delay, and by means of an established process designed to be followed so closely that it became almost second nature: the report was immediately phoned in to the appropriate law enforcement or social services agency, and by the end of the day a written report containing all the available information was delivered by hand to law enforcement. Finally, Mr. Goldberg taught me not to consider the reporting obligation satisfied until we had received a written confirmation from law enforcement or the designated social service agency that the report had been received. In cases of extremely old acts of abuse, this often meant calling the agencies repeatedly to ask for this confirmation. I would also note that while I received this instruction, and handled a lot of administrative tasks in these matters, it was never left to me to make these reports to

law enforcement. The actual reporting was always done by the Vicar General, who also hand-delivered the written report, in what I considered to be an acknowledgement of the fact that some things were simply too important to be delegated, and especially too important to be delegated three or four rungs down the chain of command.

81. Clearly, the way that the Wehmeyer case (and others) was being handled did not conform to what I had been taught, which is in part what was making me so uncomfortable with the situation. I was also uncomfortable because my experience of the matters involving Father Shelley and Scott Domeier had led me to question whether the matter would be reported at all[100]. Finally, the way that we were handling the Wehmeyer allegation was contrary to the way that we dealt with these situations when the alleged perpetrator was not a priest[101]. I had every intention to report the matter to police myself if the Archdiocese had not done so the next day, and for that reason I observed John Vomastek make the call to the St Paul Police. I seem to remember that he didn't know the phone number for the sex crimes unit, and so had to call in to the main switchboard and ask to be transferred to the duty

[100] Scott Domeier did not return to the Archdiocese following the Christmas break in 2011-2012. However, the first report to law enforcement was not made until February 10, 2012. In the intervening period, there was a real question of whether the matter would be reported to law enforcement at all, which I became aware of when other employees complained to me both because the police had not been called, but also because the decision had already been taken not to look into the activities of other employees in the accounting department who had participated in and/or benefitted from Domeier's embezzlement scheme. At the same time that I was researching and preparing my memo on payments to Charter priests, I was making known my objections to the failure to notify law enforcement. I was particularly frustrated with this situation because I had alerted the CFO to Domeier's scheme involving Archdiocesan vehicles in 2009, only to be told (via email) that I should do my job and that he would do his, and, when I pressed him further, that he would handle it, and that I was not allowed to bring the issue up at the next meeting of the Archbishop's Council.

[101] It is the nature of ministry that priests find themselves providing assistance at the darkest moments of people's lives. Therefore, it is not outside the realm of the ordinary that a priest is informed of or becomes aware of possible child abuse or neglect. During my time as Chancellor, both Andy and I received calls from priests in this situation (I provided examples to the police), and we instructed them how to go about making the required report. At no time was our instruction that the priest should bring the victim and/or his/her mother to Greta Sawyer. It was my opinion that this was only being done because the perpetrator was a priest.

sergeant. I am also not sure that he reached anyone in person at that time (it was late in the day) and he might have had to leave a message.

82. The issue of reporting is not the only one about which I disagreed during that week. I strongly disagreed with the decision to appoint Father Laird as the canonical investigator, and I would note that the decision to do so was made by the Archbishop. He also had to determine who would be the ecclesiastical notary, since Father Erickson was unavailable. Father Laird went back and forth between the Archbishop and me with drafts of the decrees trying to get answers to these questions (I never spoke with the Archbishop or received a memo from him about this), which is why the decree opening the investigation, as I believe the metadata would show, was generated at a later time than the decree of restrictions (standard, with nothing in question but the notary), which I believe I had completed by the early morning of the 20th.[102] I also disagreed with the need to involve Father McDonough, not in the least because his involvement caused a delay in removing Wehmeyer from the parish. I believed we (Andy, Father Laird, and I) had hoped to meet with Father McDonough on the afternoon of June 20th, but he had a funeral or other parish commitment that meant that he could not come to the Chancery until the next day. I was extremely uncomfortable with the delay because, as I think is often forgotten in the discussions of the timeline of events, the mother of the kids who had been abused was employed at Wehmeyer's parish (where he also lived), *and therefore every day that we failed to act was another day when she was potentially forced to interact with a man she*

[102] Both documents were generated from a template (I believe I used a similar document), so to get an accurate time/date stamp you will need to access the template, as well as the saved documents. I began drafting both on the 19th, I believe, and the decree of restrictions, with all of the details of the accused and fairly specific information about the allegations, was completed by the morning of the 20th.

knew to have abused her children. I considered that to be an untenable situation. I also disagreed with Father McDonough's proposed means of handling the situation by visiting Wehmeyer at the parish (again, where the mother was also present)[103]. In my experience, such things were always better handled by having the priest come to the Chancery, during which time the parish offices and residence could be secured to prevent any tampering. In situations where I had been responsible for communicating similar decrees, this was always the arrangement that I had made with law enforcement, and it worked well. Prior to coming to the Archdiocese, I had never had an antagonistic relationship with the police, and, in fact, when I was involved in penal trials I often called them as witnesses. I always had believed that we were on the same side, trying to do our best to protect children. I was dismayed that this was not the case in the Archdiocese.

83. I disagree with Father Laird's statements regarding canon law and the fact that the Archdiocesan investigation was put on hold because of a pending civil investigation[104]. It was true that, despite his appointment, Father Laird didn't do any investigating. In fact, as I think I have already made clear, I am not aware of Father Laird investigating anything, ever. However, from the moment I learned of the allegation I started reviewing the information that we had on Father Wehmeyer. At first, this was because I needed to have accurate information about him in order to draft the decrees. However, as additional information became available, I looked deeper into our records because it was obvious that we would

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[103] I don't believe that I told Father McDonough to take Father Wehmeyer's computer, although I am sure that I mentioned that Father Wehmeyer should not be allowed to remove it from the parish offices since we knew that he stood accused of showing the victims digital pornography. I do know that I mentioned the gun, and that I encouraged Father McDonough to secure it prior to the interview with Wehmeyer, for reasons that should be obvious. Father McDonough produced a memo or an email memorializing his meeting with Father Wehmeyer (and the mother of the victim), which I believe he sent to me via email.

[104] Laird, p. 118.

have information that would have a bearing on the Archdiocese's evaluation of the accusations. For instance, I believe Greta Sawyer produced either a Word document or sent an email describing what was alleged. That formed the basis of the description of the abuse used in the decrees. We knew that Wehmeyer was accused of showing the victim pornography on his computer. I knew that Wehmeyer was enrolled in the POMS program, and that part of our 'state of the art monitoring program' was checking the computers of those being monitored. So, I reviewed the POMS file to check if there was any record of the monitor having discovered porn on his computer. What I discovered instead is that the requirement for monitoring his computer had been somehow lifted during the previous two years. In addition, it was this review of the POMS folder that uncovered Father McDonough's memo about not disclosing to the parish. I also reviewed Wehmeyer's regular personnel file, which I believe is where I found Bishop Sirba's handwritten notes about his conversation with the mother of the victims, and his notes on his conversation with Father Moriarty (who was also reporting troubling behavior on the part of Father Wehmeyer). At some point I also discovered documents outlining the work that Bishop Piché had been doing recently with Father Wehmeyer. I believe Bishop Piché had been receiving reports from former parishioners at Saint Joseph that Father Wehmeyer was making phone calls to people when he was stoned or drunk, and talking about his gun and possibly suicidal thoughts. I think the camper was mentioned in these reports. That is how I learned about the gun and, if I remember correctly, about the camper. It was the combination of all these circumstances that led me to share my concerns with my friend in the county attorney's office. The Archdiocese had known for a considerable amount of time that Wehmeyer had

guns and drugs on parish property (and was possibly suicidal), *and that property also housed a school.* Still, nothing was done. That alone appeared to me to be incredibly reckless and irresponsible, not even taking into account what else we knew about Father Wehmeyer. As I located this information, I shared everything with Andy and with Father Laird. On page 71 of his deposition, Andy testified to having a conversation with Bishop Sirba regarding Father Wehmeyer's having gone camping with minors without any additional chaperones. I believe that to be true. However, Andy stated that this took place during the brief period when Bishop Sirba was Vicar General, which was in 2009. Bishop Sirba did learn of the camping trip at that time, and spoke with the mother of the minor, as our records indicated. But, he did not relate that to Andy until after we learned of the allegations in June of 2012. As I have already mentioned, it was after learning of the allegations and my review of Wehmeyer's file that I found Bishop Sirba's handwritten notes about the camping trip and shared that with Andy. Coincidentally, Bishop Sirba happened to be at the Chancery around that time, I believe for a meeting of the Minnesota Catholic Conference, and so Andy used the opportunity to find out what Bishop Sirba recalled. With only slight prompting from Andy, Bishop Sirba readily recalled the conversation with the mother, who I will not identify in this affidavit but whose name I could provide, and the caution that he had given her about maintaining proper boundaries. I was present during this conversation, which took place on the steps of the Chancery on what I remember to be a beautiful summer day. The meetings of the Minnesota Catholic Conference are generally listed on the Archbishop's public calendar, so it shouldn't be difficult to determine the date on which this conversation took place. At that time I do not believe that we were certain that

the child involved in the camping trip was the same child that was reporting abuse (I believe there are several children in the family), but we knew the mother was the mother of both.

84. As reckless as I believed the Archdiocese had behaved in assigning Father Wehmeyer to a parish, I felt it was even more reckless in assigning Father Jon Shelley. The situation regarding Father Shelley is another example of Father Laird deliberately limiting my responsibilities, because the handling of the Shelley matter was taken out of my hands and transferred to Father McDonough following the request of the Congregation for the Doctrine of the Faith for the materials to be assembled and sent for their review (which had not been done at the time of my resignation). My memos on Father Shelley, which I provided to the police, have been widely reviewed and reported on. However, it may be useful for me to explain what was motivating my actions in this matter.

85. Father Shelley had been identified by Archbishop Nienstedt as a problem priest as early as 2008, when he assigned him to a parish with the caveat that he had to follow a 'structured support' plan. At that time Archbishop Nienstedt was not aware of the 'Setter Investigation' that had been conducted in 2004, but I do believe he was aware of the assessment of Father Shelley's ministry that had been done by, I believe, Sister Mary Madonna Ashton during Father Shelley's short and unsuccessful assignment as pastor of St John the Baptist in Jordan where, if I remember correctly, one of the issues that was identified was his refusal to implement the VIRTUS training program. The Archbishop was also aware of an assessment that had been done by a local psychologist or social worker. One of the people assigned to provide accountability to Father Shelley during that time was Mary Bosscher, and I believe it was she that learned of the teenager that was living in the

rectory during this time period. The Chancery was certainly alerted of that fact, although I remember having to ask Andy to go back to Mary Bosscher in 2012 to get a record of what she had learned, because nothing appeared to exist in our files.

86. During the spring or summer of 2011, I discovered the 'archived files' including the 'Setter Investigation' involving Father Shelley, and I was immediately concerned. I did not view the images at that time, because I didn't think it was necessary. The search terms, which included 'free naked boy pictures', as well as the fact that Shelley had destroyed or refused to allow the Archdiocese to examine his other computers, not to mention the earlier concerns dating back to his diaconate (which Andy described as 'grab-assing' teen boys), reports of problems with his interactions with students at, I believe, Hill-Murray, combined with the conclusions of Saint Luke's, the subsequent assessment, and Sr. Mary Madonna's evaluation of his ministry, suggested to me that the Archdiocese had acted precipitously in returning him to ministry following the conclusion of the 'Setter Investigation'. As I have already mentioned, a bishop is not to assign a priest unless he is certain that the man has the requisite skills and virtues. Clearly, in 2004 and 2005, no such certainty could be reached with Father Shelley (especially given the concerns about what might be on the two additional computers, and his refusal to share those computers with his bishop), and therefore I believe the Archdiocese had no business in returning him to ministry, and especially not to parishes with schools[105]. I believe it was Archbishop Flynn who testified

[105] This decision honestly baffled me, because in my experience bishops do not like disobedience from their priests, and most bishops, when confronted with a priest who was refusing to allow a review of his personal computer, would simply refuse to assign the priest until the priest had an epiphany, most likely docking or reducing his pay to help with his 'prayerful discernment'.

that 'where there is smoke, there is fire'. Well, in the case of Father Shelley, there was smoke, and the fire alarm should have been sounding.

87. I brought these concerns to the attention of Father Laird, and alerted him to the Setter Investigation, during the summer of 2011. However, nothing happened. And, in February of 2012, I learned that the Comprehensive Assignment Board was considering a new assignment for Father Shelley[106]. Again, I felt that the Archdiocese was behaving irresponsibly in having Father Shelley in parish ministry, and so once again I tried to put my concerns before those in leadership, this time by sending a memo to the Archbishop. At this point I was concerned about the issue of 'borderline illegal' pornography identified in 2004, but I was mainly concerned about what Father Shelley might be doing *at that moment*. My goal was to ensure that we were doing what was necessary to protect minors and other vulnerable individuals.

88. Once again, my warnings were ignored, and plans to reassign Father Shelley continued. Honestly, I was all but ready to give up. It was not pleasant for me to have to continually bring up previous decisions, especially because the response that I received was never very positive. I was told that I was being 'unfair' to the priest, or 'too strict' about canon law, or that Father McDonough knew more than I did and he didn't consider it to be a problem, and this continued even after the CDF asked for the case to be submitted and told the Archbishop that Shelley's ministry should be restricted. I probably would have given up,

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[106] It is worth noting that at the same time that the Archdiocese was willing to overlook a priest's possession of 2300 pornographic images, including some that were determined to be 'borderline illegal', a lay employee was terminated for viewing adult images on his office computer. I have no quarrel with that decision- the employee had received a warning for a previous incident and he couldn't be allowed to remain if his conduct had become harmful and offensive to other employees. However, I consider it significant that the treatment of lay employees was always different than priests, even when the crimes were identical.

if it hadn't been for the fact that at the same time that I was going back and forth with the administration about Shelley, I was also taking my niece to her weekly riding lessons, where I always found myself parking behind a minivan with a 'St Jude of the Lake School' bumper sticker (Shelley's parish when the pornography was found), and where I would watch the brother of one of the riders (usually wearing his St Jude School uniform) toss a tennis ball with one of the dogs. For me, that was enough of a reminder of what was at stake for me to drop my niece off at home, take a deep breath, and head back to the office to try for another bite of the apple.

89. When I still didn't get any traction, I took the extraordinary step of viewing the images on the discs. I thought perhaps if the Archbishop and others could see the images, it might impact their thinking more than words on the page. This was not an easy decision to make, and if I hadn't thought the stakes were so high I would not have done it. However, in viewing the images my concerns only deepened. A significant percentage of the images that were contained on the discs (or disc) were 'staged' to appear as though the sex acts were taking place between teacher and student at a school. The sex acts were occurring in classrooms, on desks, and up against chalk boards and lockers. While I believed those images to be legal, I found them very problematic given that Shelley was under an obligation of clerical celibacy, and at that time was assigned to a parish with a school.

90. In addition to these images, I located the images that the 'Setter Investigation' had categorized as 'borderline illegal'. However, contrary to statements by other deponents, we

did not consider the potential ages to be 17-18 years old, but 13-14[107]. Joe Kueppers, who viewed the images in February of 2013, was of the opinion that at least one of the images involved a boy as young as twelve[108]. Following the advice received from the Congregation for the Doctrine of the Faith, an attempt was made in the early summer of 2012 to analyze Father Shelley's current computer usage, but that attempt was unsuccessful because Bishop Piché and Andy only secured his parish computer (as Father Shelley indicated that was the only one he had). We quickly realized that this was inadequate because the computer technician was able to determine that the Neil Diamond letter, which was a great cause for concern in that Shelley was writing to complain (to the singer Neil Diamond) that a band member was issuing warnings about Shelley's contact with youth, had been produced on a different computer[109]. However, because Shelley had been alerted of the investigation at the time of the visit by Bishop Piché and Andy, there was no point in attempting to locate other computers.

91. Although I repeatedly requested that the Archdiocese turn over the materials from the Shelley investigation to the police, my request was never granted and, contrary to the testimony of other deponents, I was never told to do so[110]. Instead, in what I considered to be yet another attempt to intimidate me, Joe Kueppers suggested to me that if the material was turned over to the police, I would likely be charged with possession, as the materials

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[107] In the recording made in December of 2013, the Archbishop states 'some of the images on Jon Shelley's computer, I couldn't tell if that was a 17-year old or a 19-year old'.

[108] On page 178 of his deposition, Father Laird states that he never viewed any of the images in question. Please see my memo of May 15, 2012, which I submitted to the St. Paul Police, and which is stamped 'Rec'd Vicar Generals Office' May 16, 2012.

[109] Father McDonough's response to reading this letter was to state, 'well, he didn't incriminate himself'. The full text of the letter has been made available through the police file.

[110] See, for instance, my memo to Father Laird of January 18, 2013. And, in the recording made in December of 2013, Bishop Piché states, 'When Jennifer took it upon herself to send the same materials to the St. Paul Police, it was her unilateral decision'.

were in my office. Joe cited the case of all of which I explained in my February 8, 2013, memo to Father Laird. Father Laird's response, contrary to his testimony, was to write 'With respect to the materials in your office relating to Father Shelley, I request that you promptly place any and all materials relating to Fr. Shelley in a box, properly labelled, and place that box in the vault so they are no longer in your possession'[111]. I did as instructed, but again fearing that the materials would disappear, I also placed my second call to the Ramsey County Attorney's Office and reported my concerns. I then sent a message to Father Laird, stating in writing that I had made the report. I also informed several of my coworkers that I had done this, as I didn't want anyone to be concerned that *they* would be suspected of making the report. I believe that Andy asked the police for the name of the priest, not because he didn't know that I had reported Shelley, but because he was concerned that I had also reported another priest (who appears on the list of '48') who we had investigated for pornography in, I believe, 2009)[112].

92. It is important to note that the decisions being made by the Archdiocese regarding both Father Shelley and Father Wehmeyer were heavily influenced by the legal process involving Monsignor William Lynn, of the Archdiocese of Philadelphia, who was convicted on June 22, 2012 (the same week we learned of the Wehmeyer allegations) of child endangerment. As the *New York Times* noted in its story on the verdict, 'the trial sent a sobering message to church officials and others overseeing children around the country'[113].

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[111] Laird, Memorandum: February 8th Memo, February 15, 2013.

[112]This was an interesting case, as we had been investigating a priest after parish staff found pornography on an office computer. However, the forensic investigation determined that the pornography had been accessed by the previous pastor. No follow up was done by the response priest in 2009, because Father McDonough had staged an intervention of sorts with the priest over another matter years before.

[113]Hurdle, John, 'Cardinal's Aide is Found Guilty in Abuse Case', *New York Times*, June 22, 2012, online edition.

Nicholas P. Cafardi, a professor of law at Duquesne University, was quoted in the same article as stating, "I think that bishops and chancery officials understand that they will no longer get a pass on these types of crimes. Priests who sexually abuse youngsters and the chancery officials who enabled it can expect criminal prosecution." Monsignor Lynn's three month trial overlapped with my strongest efforts to bring the issue of Father Shelley's conduct with minors to the forefront. It is not a coincidence that I got such little support for reporting to law enforcement or for bringing up other child protection matters during this time. The Lynn trial was a frequent topic of discussion at the Chancery, and it is perhaps significant that Andy was reviewing Minnesota's child endangerment statute during this period. In fact, when I showed Andy the 'borderline' images that had been found on Shelley's computer, I did so in the office of Natalie McKliget, a coworker who was also a close friend of his. I had found Andy there, and I had brought my laptop with me. Andy definitely tried to avoid looking at the images, but in order to do so he had to close his eyes. He was angry with me for 'looking under the rock', and wouldn't respond to my questions as to how we hadn't reported those images except to say it would take a federal attorney to give an opinion on what our reporting obligation was. I suggested that we hire one, but instead of responding he simply stormed out of Natalie's office. I remember turning to Natalie and asking her what was wrong with Andy that he wouldn't act on this matter. Her response was that he was scared.

93. I can understand that. I was scared both times that I picked up the phone and called the Ramsey County Attorney's Office. But, I am also willing to bet that the boys that found themselves in Wehmeyer's camper when he started to undress were scared. My

coworkers and I, Andy included, were adults who had chosen to accept jobs that involved making difficult decisions. No matter how scared we were, we had an obligation to do our jobs and protect those kids, as the bishops had promised we would, even if doing so meant that we had to take a deep breath, and, to borrow a line from Shakespeare, screw our courage to the sticking-place. In 2012, I didn't see how there could be any question what our moral obligation was, and the arrest and trial of Monsignor Lynn made it clear what the rest of society expected from us.

94. From September of 2013 until early November of 2013 I was asked repeatedly whether I believed that Archbishop Nienstedt should resign. I always responded in the negative, for three reasons. First, because such a resignation is not in keeping with the theology of the Catholic Church. Second, because it was and is my opinion that the worst possible situation from a child protection standpoint would be one where Bishop Piché would assume even temporary governance of the Archdiocese. I say this because, in my experience, Bishop Piché was a bigger obstacle than Father McDonough to any sort of movement towards truly implementing the requirements of the *Charter*. Finally, I believed that the Archdiocese would be better served by an Archbishop who had made mistakes, but who had come to see the error of his ways, than by an untested replacement whose lack of experience could cause him to underestimate, until it was too late, the challenges to be faced. However, my opinion regarding the Archbishop's resignation has changed as a result of my interview with attorneys at Greene and Espel, PLLP, who were hired by the Archdiocese in January or February of 2014 to investigate allegations of inappropriate sexual conduct on the part of Archbishop Nienstedt with seminarians, priests, and other

adult men during Archbishop Nienstedt's time as a priest in the Archdiocese of Detroit, as Bishop of New Ulm, and while Archbishop of Saint Paul and Minneapolis. When I was interviewed by the attorneys at Greene and Espel on April 16, 2014, I was shown the document from the Archbishop authorizing the investigation (dated January 31, 2014) and also an email entrusting to Father Daniel Griffith the responsibility for liaising with the attorneys. I was told that one of the issues under investigation by Greene and Espel is whether the Archbishop had a personal and distinctly unprofessional relationship with Father Wehmeyer that may have influenced the Archbishop's decision to discard my warnings about Father Wehmeyer's prior conduct and the risk he posed.

95. My opinion has also changed as a result of statements that either he or his agents have made since late October of 2013. I believe I first came to doubt that the Archbishop and his staff were being honest regarding their knowledge and handling of sexual abuse around October (as a result of comments made at a public event for clergy) and that conclusion was only strengthened by the email announcement from the Archdiocese regarding the Thurner lawsuit filed on October 29, 2013 (the Archdiocese's announcement implied that it was aware of only one previous victim), and December statements made in Court by attorneys for the Archdiocese who stated that there had only been one case of sexual abuse of a minor by a priest since 2004[114]. The final straw for me was when the Archbishop himself stated in December of 2013 that he believed that the issue of clergy sexual abuse had been taken care of when he became Archbishop in 2008, and that he was

[114] I would note that after seeing this statement, as well as the Archdiocese's statements about their inability to produce information within the timelines established by the Court, and in response to pressure I was receiving from priests who felt I needed to do more than just to identify the problem, but needed to help solve it as well, I offered to return to my former position for the purpose of assisting them in compiling the necessary information. My offer was declined, although the Archdiocese did express an interest in learning with which priests I was still in contact.

'surprised as anyone else' when the story broke[115]. To see an Archbishop, who had recently celebrated Mass and was still vested and holding his crosier, lie to the faithful in such a boldfaced manner, was heartbreaking to me. That was really when I abandoned hope that this situation could be resolved by the present administration, by which I mean not only the Archbishop, but everyone else who has been involved in this ongoing debacle. Following my resignation, I often explained to people how difficult it was to be in a place where you were constantly disappointed by the people around you. That disappointment was only intensified when I witnessed the decisions taken by those 'in the know' in the weeks and months that followed, who apparently were willing to sacrifice their integrity, and their judgment, in order to be seen as 'close' to those in power[116].

Further your Affiant sayeth not.

Jennifer M. Haselberger

Subscribed and sworn to before me
this 7th day of July, 2014.

Notary Public

FRANCES M ABANONU
NOTARY PUBLIC - MINNESOTA
MY COMMISSION EXPIRES 01/31/19

[116] In one particular case, I sent a courtesy message to a priest informing him that, due to the discovery order in this case, it was likely that my emails to him from July of 2012, in which I explained to him my concerns regarding the Archdiocese's handling of accusations of sexual abuse, could become public. He responded that he would simply 'play the "old coot" who doesn't remember things after a while'.