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1 STATE OF MINNESOTA IN DISTRICT COURT

2 COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT

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5 DOE 1,

6 Plaintiff,

7 vs.

8 ARCHDIOCESE OF ST. PAUL AND

9 MINNEAPOLIS, DIOCESE OF WINONA

10 and THOMAS ADAMSON,

11 Defendants.

12 -----

13 Deposition of ARCHBISHOP JOHN

14 NIENSTEDT, taken pursuant to Notice of Taking

15 Deposition, and taken before Gary W. Hermes, a

16 Notary Public in and for the County of Ramsey,

17 State of Minnesota, on the 2nd day of April,

18 2014, at 30 East 7th Street, St. Paul,

19 Minnesota, commencing at approximately 9:05

20 o'clock a.m.

21

22

23

24 AFFILIATED COURT REPORTERS

25 2935 OLD HIGHWAY 8

ST. PAUL, MN 55113 (612)338-4348

1 APPEARANCES:

2 JEFFREY R. ANDERSON, ESQ., MICHAEL G.

3 FINNEGAN, ESQ., SARAH ODEGAARD, ESQ., and ELIN

4 LINDSTROM, ESQ., Attorneys at Law, 366 Jackson

5 Street, Suite 100, St. Paul, Minnesota 55101,

6 appeared for Plaintiff.

7 DANIEL A. HAWS, ESQ., Attorney at

8 Law, 30 East 7th Street, Suite 3200, St. Paul,

9 Minnesota 55101, appeared for Archdiocese of

10 St. Paul and Minneapolis.

11 THOMAS B. WIESER, ESQ., Attorney at

12 Law, 2200 Bremer Tower, 445 Minnesota Street,

13 St. Paul, Minnesota 55101, appeared for

14 Archdiocese of St. Paul and Minneapolis.

15 THOMAS R. BRAUN, ESQ., Attorney at

16 Law, 117 East Center Street, Rochester,

17 Minnesota 55904, appeared for Diocese of

18 Winona.

19 JOSEPH F. KUEPPERS, ESQ., Chancellor

20 for Civil Affairs, 101 East 5th Street, Suite

21 800, St. Paul, Minnesota 55101, appeared for

22 Archdiocese of St. Paul and Minneapolis.

23 ALSO PRESENT:

24 Dean Hibben, videographer

25 * * *

P R O C E E D I N G S

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3 MR. ANDERSON: Okay. Let's start

4 the record for purposes of the deposition, and

5 before we begin the actual deposition of the

6 archbishop, there are a few matters that we

7 need to put on the record.

8 The first pertains to the disclosure

9 or, more accurately, the lack of disclosure as

10 we interpret the order of the court. It was

11 our understanding and belief that Judge Van de

12 North ordered the archdiocese to produce the

13 documents and the files that we requested, at

14 least for purposes of Archbishop Nienstedt's

15 deposition, and we did not receive anything

16 until 5:45 p.m. on Monday. When we did, it

17 was formatted, I think, in disk and --

18 MR. FINNEGAN: USB drive.

19 MR. ANDERSON: -- or a zip drive,

20 and contained in that were some materials, but

21 far from what had been requested, far from

22 what had been required, in our view. It was

23 not only thus incomplete, there were

24 redactions and deletions and omissions that we

25 believe are not in compliance with the order

1 of the court as we read it and understood it
2 to be. We, then, hustled to try to review
3 what was turned over in preparation for this,
4 and realizing that we had less than what was
5 expected.

6 Yesterday at five p.m., we received
7 a second disclosure with a letter and in it
8 there was a disk in this case with some
9 additional disclosures pertaining to some
10 additional files. We have not had time, nor
11 will we use or attempt to use any of the
12 materials provided at five o'clock last night.
13 There's no way that is feasible or realistic.
14 On quick review of that, however, it may
15 appear that that disclosure continues to be
16 less than complete and not in compliance with
17 the court order, so it is our position just
18 for this record that the archdiocese is in
19 noncompliance with the orders of the court as
20 it pertains to the disclosures required to be
21 made for purposes of this deposition. And I
22 think that's all I have to say about that for
23 the moment.

24 MR. HAWS: Well, just to respond,
25 first, we produced all the priest files that

1 existed and we put the redactions in in
2 accordance with what we had stated we would
3 when we were in front of the court the week
4 before, or last week, whenever that was.

5 We also advised you that this
6 process of producing these files was extremely
7 cumbersome and time-consuming and that in our
8 letters we provided additional dates for
9 depositions of the archbishop if you felt you
10 needed it, and no one contacted us to make any
11 such requests. So we believe that we have
12 complied as best as we possibly can. We've
13 explained the difficulties in getting all of
14 this information to you in the time frame that
15 you had requested, and so we're proceeding by
16 providing you with what we could as best we
17 could and in compliance with the court order.
18 We don't agree with your rendition and,
19 obviously, we'll supplement the record and
20 identify for the court whatever we need to
21 should we get to that point.

22 MR. ANDERSON: I don't expect you to
23 agree with our view today. I do believe,
24 however, that you made those same arguments to
25 the court, I think they were rejected as to

1 deletions and non-productions and I think the
2 order is clear, but it will speak for itself
3 and we'll take it up another day.

4 Just for purposes of mechanics of
5 today, the court has ordered a deposition to
6 be taken for four hours of the archbishop. I
7 will expect there not to be speaking
8 objections. If you have legal objections, I'm
9 sure you'll state them. If there are speaking
10 objections, I will count that time as not
11 against the four hours. So I will have
12 somebody calculating the time for speaking
13 objections. If you choose to make speaking
14 objections, I just want to alert you to that.

15 If it at any time you choose to take
16 a break, Archbishop, that's fine.

17 THE WITNESS: Okay. Thank you.

18 MR. ANDERSON: Anything else by way
19 of housekeeping before we proceed?

20 MR. HAWS: (Shakes head).

21 MR. ANDERSON: Okay. Let's begin
22 the deposition.

23 MR. HIBBEN: We are on the record.
24 This is the videotape deposition of Archbishop
25 John Nienstedt taken on April 2nd, 2014. The

1 time now is approximately 9:05 a.m.

2 The deposition is being taken in the
3 matter of Doe 1 versus the Archdiocese of
4 Minneapolis and St. Paul, et al., in the state
5 of Minnesota, District Court, County of
6 Ramsey, Second Judicial District. This is
7 case number 62-CV-13-4075. The deposition is
8 taking place in St. Paul, Minnesota.

9 My name is Dean Hibben. I'm the
10 videographer representing Affiliated Video.

11 Will counsel please identify
12 themselves for the record?

13 MR. ANDERSON: For the plaintiff,
14 Jeff Anderson.

15 MR. FINNEGAN: For the plaintiff,
16 Mike Finnegan.

17 MS. ODEGAARD: For the plaintiff,
18 Sarah Odegaard.

19 MS. LINDSTROM: For the plaintiff,
20 Elin Lindstrom.

21 MR. HAWS: Dan Haws for the
22 Archdiocese of St. Paul and Minneapolis.

23 MR. WIESER: Tom Wieser for the
24 Archdiocese of St. Paul and Minneapolis.

25 MR. BRAUN: Thomas Braun on behalf

1 of the Diocese of Winona.
2 MR. KUEPPERS: Joseph Kueppers on
3 behalf of the Archdiocese of St. Paul and
4 Minneapolis.

5 MR. HIBBEN: And would the court
6 reporter please swear in the witness?

7 ARCHBISHOP JOHN NIENSTEDT,
8 called as a witness, being first duly sworn,
9 was examined and testified as follows:

10 EXAMINATION

11 BY MR. ANDERSON:

12 Q. Archbishop, would you please state your full
13 name for the record and spell your last?

14 A. **John Clayton Nienstedt, Jr.,**
15 **N-i-e-n-s-t-e-d-t.**

16 Q. You've given depositions before, so you
17 understand the protocol here today, do you
18 not?

19 A. **I -- I think so.**

20 Q. Okay. And it's correct to state that you were
21 appointed and eventually installed as a
22 coadjutor in the Archdiocese of St. Paul and
23 Minneapolis in the year 2006?

24 A. **2007.**

25 Q. 2007. What would have been the date of the

1 installation?
2 A. **It would have been June 29th, 2007. It wasn't**
3 **an installation per se. It's just when you**
4 **become a coadjutor, you're just received.**

5 Q. And then you were appointed to be the
6 archbishop as of what date?

7 A. **May 2nd, 2008.**

8 Q. During your tenure as archbishop, it is
9 correct to state that you have made a number
10 of public statements concerning the fact that
11 -- the representation that there are no
12 offending priests in ministry, have you not?

13 A. **I have done that, yes.**

14 Q. When did you first begin doing that as
15 archbishop?

16 A. **I don't recall.**

17 Q. How many times would you estimate you had
18 represented to the public and to the people
19 that there are no offending priests in
20 ministry here in the Archdiocese of St. Paul
21 and Minneapolis?

22 A. **I can't recall exactly, but I don't think that**
23 **they have been many.**

24 Q. You have made such representations to the
25 media, have you not?

1 A. **I don't believe so.**

2 Q. You've made representations to the
3 parishioners, have you not, through bulletins
4 and otherwise?

5 A. **Yes, I have.**

6 Q. You have included such representations in
7 materials demonstrated -- or prepared by the
8 archdiocese and distributed to parishioners
9 and the public concerning priests in
10 ministries who are safe?

11 A. **The -- the priests are safe --**

12 Q. Yeah.

13 A. **-- or the environments are safe?**

14 Q. The environments are safe.

15 A. **Yeah.**

16 Q. Do you continue to claim that the environment
17 of the Archdiocese of St. Paul and Minneapolis
18 is safe for the children?

19 A. **I do. I do.**

20 Q. I'm going to show you what we've marked --

21 (Discussion out of the hearing of
22 the court reporter)

23 BY MR. ANDERSON:

24 Q. At any time since your installation, have you
25 received any information from any source that

1 causes you to want to change any of the
2 statements you have made about the safety of
3 children in this archdiocese?

4 A. **Just in the last month, I did discover that**
5 **there was a priest who had offended who**
6 **retired, but continued periodically to**
7 **celebrate mass on weekends, and I was not**
8 **aware of his presence and I was not aware that**
9 **he was publicly in ministry. And as soon as I**
10 **realized it, I had his faculties removed.**

11 Q. And who is that?

12 A. **I believe it's Father LaVan.**

13 Q. And any other time, other than in the last
14 month, that causes you to believe that the
15 statements that you had made earlier about the
16 safety of the children and the absence of
17 offenders in the archdiocese ministry to be
18 corrected?

19 A. **Could you restate the question, please?**

20 Q. Have you received any other information that
21 tells you that the statements you made about
22 the safety of the children in the archdiocese
23 were not true?

24 A. **No.**

25 Q. That's it, LaVan?

- 1 **A. LaVan, yes.**
 2 **Q.** And that was last month. How did you get that
 3 information?
 4 **A. It was in the process of doing our file**
 5 **review.**
 6 **Q.** Okay. Who was doing that review?
 7 **A. Kinsale.**
 8 **Q.** Spell that.
 9 **A. K-i-n-s-a-l-e.**
 10 **Q.** And once you received the information from
 11 Kinsale or Kinsale concerning LaVan, what
 12 correction, if any, did you make about the
 13 statements you had made to the public and the
 14 community of faith?
 15 **A. I don't believe that I did.**
 16 **Q.** Do you think one is needed?
 17 **A. He's out of ministry now, so I don't see the**
 18 **-- the point of -- of making that**
 19 **announcement, no.**
 20 **Q.** It had been known by the archdiocese that
 21 LaVan had been accused credibly of abusing at
 22 least two girls and that was reflected in the
 23 files back over a decade ago, correct?
 24 **A. I don't know that for -- for a -- for a fact,**
 25 **no.**

- 1 **Q.** When you came on as archbishop, did you ever
 2 make any effort, from the time of your
 3 installation and to the discovery of the LaVan
 4 material by Kinsale, to see actually that the
 5 statements you were making to the public about
 6 the safety of the children were true?
 7 **A. I met with my staff and they affirmed for me**
 8 **the fact that there was no one in ministry who**
 9 **had credibly abused any children.**
 10 **Q.** When did you first meet with your staff to
 11 make such a determination that the environment
 12 was safe?
 13 **A. Shortly after my reception into the**
 14 **archdiocese as coadjutor.**
 15 **Q.** What staff did you meet with to determine the
 16 safety of the environment and whether or not
 17 there were priests in ministry who had
 18 offended?
 19 **A. I met with my delegate for safe environments**
 20 **and I met with my civil and canonical**
 21 **chancellors.**
 22 **Q.** And so the delegate for safe environments was,
 23 then, Kevin McDonough?
 24 **A. He was.**
 25 **Q.** Appointed by you to be just that title, right?

- 1 **A. I did, yes. He had been previously appointed**
 2 **by Archbishop Flynn.**
 3 **Q.** And was it his job, at least as you understood
 4 it, his appointment to be -- to make sure that
 5 the environment was safe and he was the point
 6 guy for handling that?
 7 **A. That's correct.**
 8 **Q.** And that first meeting, then, was with
 9 McDonough and with the chancellors, both
 10 Jennifer Haselberber -- no. She wasn't there
 11 then?
 12 **A. She wasn't there at that time.**
 13 **Q.** Who were the chancellors?
 14 **A. Sister Dominica, I can't think of her last**
 15 **name, but Sister Dominica and Mr. Andy**
 16 **Eisenzimmer.**
 17 **Q.** And how long was that meeting, sir?
 18 **A. I -- to the best of my recollection, it was**
 19 **approximately two hours, I believe. It was a**
 20 **long meeting.**
 21 **Q.** And was that at the Chancery in your office?
 22 **A. It was at the Chancery in one of our meeting**
 23 **rooms, yes, sir.**
 24 **Q.** And in preparation for that meeting, did you
 25 order or request that they review any or all

- 1 materials held by the archdiocese concerning
 2 priests who may have been accused, credibly or
 3 otherwise?
 4 **A. I asked -- at the time of the meeting, I asked**
 5 **them to give me all that they knew concerning**
 6 **the safe environments of the archdiocese.**
 7 **Q.** And did anybody put or record by memo or
 8 recording the contents of that meeting?
 9 **A. I don't believe so.**
 10 **Q.** So it was all verbal?
 11 **A. It was verbal, yes.**
 12 **Q.** And at that meeting, were you presented with
 13 any written materials?
 14 **A. I was not, no.**
 15 **Q.** Did you know -- you knew there had been a list
 16 compiled, under the Charter for the Protection
 17 of Children, a list of credibly accused
 18 offenders, correct?
 19 **A. I was aware of that. I'm not sure I was aware**
 20 **of that at that time, but I was aware shortly**
 21 **after my arrival.**
 22 **Q.** Well, you were bishop of New Ulm when the
 23 Charter for Protection of Children was
 24 established in 2002?
 25 **A. Correct.**

- 1 Q. And you attended those meetings where promises
2 were made to the public --
- 3 A. **Correct.**
- 4 Q. -- across this nation that we're going to have
5 a zero tolerance policy, correct?
- 6 A. **Correct.**
- 7 Q. And you were a part of -- one of the bishops
8 that made such a representation to the people
9 in the U.S. about zero tolerance, correct?
- 10 A. **Correct.**
- 11 Q. So you knew at that time the bishops then
12 commissioned John Jay to do a study to
13 determine, based on information given them,
14 various lists of credibly accused offenders?
- 15 A. **I don't recall exactly when that list was
16 asked for. My recollection was it was in
17 2004, but I'm not -- I'm not sure about that.**
- 18 Q. That sounds correct?
- 19 A. **(Nods head).**
- 20 Q. In any case, you knew in 2004 or thereabouts
21 that the bishops had compiled lists of
22 offenders, credibly accused?
- 23 A. **I did, yes.**
- 24 Q. Did you ask that such a list for the
25 Archdiocese of St. Paul and Minneapolis be

- 1 presented to you at this first meeting
2 concerning safe environment in this
3 archdiocese?
- 4 A. **I did not.**
- 5 Q. Why not?
- 6 A. **It didn't occur to me.**
- 7 Q. So, tell me, then, who conducted the meeting?
- 8 A. **Father McDonough conducted the meeting.**
- 9 Q. And tell us what Father McDonough told you,
10 Archbishop, responsive to your request about
11 the safe or lack of safe environment in the
12 Archdiocese of St. Paul and Minneapolis and
13 what priests had been accused and what priests
14 were or were not in ministry.
- 15 A. **Well, he described for me the POMS program
16 that we have, which is our monitoring system
17 for priests who have abused, and explained to
18 me how that worked and explained the situation
19 of what those priests -- that those priests
20 were not engaged in ministry and --**
- 21 Q. Okay. I'm going to stop you there. I'm sorry
22 to interrupt you, but you said the POMS
23 program?
- 24 A. **Yes, POMS is --**
- 25 Q. Spell that for us.

- 1 A. **P-O-M-E-S, I believe.**
- 2 Q. Okay.
- 3 A. **P-O-M-S, I believe, yeah, P-O-M-S.**
- 4 Q. And you said that was a monitoring program,
5 correct?
- 6 A. **Correct.**
- 7 Q. And did you ask him the names of the priests
8 that were being monitored under the POMS
9 program as McDonough recited this to you?
- 10 A. **I -- I had asked for the meeting and he was
11 chairing the meeting and he began to tell me
12 the people -- the -- the individuals who were
13 under the -- the POMS program.**
- 14 Q. Who were those individuals?
- 15 A. **I can't recall all the names right now.**
- 16 Q. Why didn't you write it down?
- 17 A. **It didn't occur to me at the time to do so.**
- 18 Q. At the time, didn't it seem like one of the
19 most important things you needed to do as
20 archbishop, knowing the crisis in America of
21 Catholic clergy abusing kids, to know who in
22 this archdiocese had been accused and who are
23 currently being monitored?
- 24 A. **Well, I had asked for the meeting precisely so
25 that I would know what the situation was and**

- 1 **that I could assure myself and assure my
2 publics (sic) that the environments were safe.**
- 3 Q. But, Archbishop, you can't remember who that
4 was that you were told today?
- 5 A. **There were several names that were given to me
6 and I was assured that their situations were
7 being monitored and that they were not likely
8 to re-offend and that was the primary purpose
9 of the meeting.**
- 10 Q. And you say "several names." How many?
- 11 A. **I don't recall exactly. There were -- there
12 were several.**
- 13 Q. Well, what does "several" mean? Is that more
14 than ten or less than ten?
- 15 MR. HAWS: Well, objection. You
16 don't have to guess, Archbishop. If you know,
17 you can answer it, if you don't --
- 18 A. **I -- I -- I really don't know.**
- 19 **BY MR. ANDERSON:**
- 20 Q. How many -- how were you told these priests
21 were being monitored?
- 22 A. **I don't understand the question.**
- 23 Q. What were you told about how these priests who
24 had been accused were actually being monitored
25 so that they would not offend or re-offend?

- 1 **A. Well, I was told that we have a promoter of**
 2 **these safe environments who meets regularly**
 3 **with the individuals. I was told that they**
 4 **were undergoing regular therapy, that they**
 5 **were in spiritual direction and that they had**
 6 **to sign a contract to the effect of how they**
 7 **would be monitored.**
- 8 **Q.** Who was the promoter of safe environment?
- 9 **A. Right now it's John Selvig.**
- 10 **Q.** Who was it then?
- 11 **A. I can't recall the name.**
- 12 MR. HAWS: When you say "then,"
 13 you're referring to the time of the meeting?
- 14 MR. ANDERSON: Yes.
- 15 **A. I can't recall his name.**
- 16 **BY MR. ANDERSON:**
- 17 **Q.** And when you say that they were to sign an
 18 agreement, would that be an agreement not to
 19 re-offend?
- 20 **A. It was a -- it was a signed statement**
 21 **indicating what we expected of them. I don't**
 22 **believe that it said in those categories,**
 23 **although it was understood that they weren't**
 24 **to offend again.**
- 25 **Q.** And did you have any personal knowledge or

- 1 experience with offenders, clergy or non-
 2 clergy, who are accused and who have offended,
 3 that there's a high recidivism rate and when
 4 they do re-offend, they often lie and deny
 5 about it so that you can't rely upon them?
 6 Were you aware of that?
- 7 **A. I believe I was, yes.**
- 8 **Q.** Well, then, what made you think, then, if you
 9 did, that simply monitoring them and asking if
 10 they're re-offending would work?
- 11 **A. I asked Father McDonough at that meeting to**
 12 **tell me what we were doing in terms of making**
 13 **sure that these men were being monitored and**
 14 **that they had a program that we were holding**
 15 **them to.**
- 16 **Q.** Did you, as a result of that meeting, disclose
 17 to anybody in the public or any of the
 18 parishioners any of the names that you were
 19 given by your team about those priests who
 20 were being monitored and who had offended?
- 21 **A. I did not personally, no.**
- 22 **Q.** Did anybody under your direction, working with
 23 and under or for you in the archdiocese?
- 24 **A. I believe I was told that Father McDonough**
 25 **carried out those disclosures.**

- 1 **Q.** What disclosures did he make?
- 2 **A. He -- he did not -- as I recall, he did not**
 3 **tell me exactly who he made the disclosures**
 4 **to, but, generally speaking, they were people**
 5 **in the parish that he served.**
- 6 **Q.** Well, didn't you ask? Didn't you say, "Father
 7 McDonough, we have a number of priests who
 8 you" -- and that number you can't remember
 9 today, "who are are under monitoring, who we
 10 know have offended in the past," didn't you go
 11 back and say, "Tell me exactly what you're
 12 going to do and when you're going to do it to
 13 make the public know"?
- 14 **A. I asked for that meeting so that I would**
 15 **understand more clearly how the environments**
 16 **that we have in our parishes and our schools**
 17 **would be safe for children and that's our**
 18 **primary objective.**
- 19 **Q.** Archbishop, isn't it correct that you really
 20 didn't want the public and the people to know
 21 who was being monitored at that time?
- 22 MR. HAWS: Well, that's objection,
 23 that's argumentative, counsel.
- 24 **BY MR. ANDERSON:**
- 25 **Q.** You can answer the question.

- 1 **A. I don't believe that's true, no.**
- 2 **Q.** Well, then, can you tell me exactly what
 3 offenders that had been monitored or under
 4 monitoring were, then, actually disclosed to
 5 the public as a result of that meeting?
- 6 **A. I can't answer that, no.**
- 7 **Q.** Can you tell me when any of those offenders
 8 who were disclosed to you at that meeting were
 9 ever disclosed to the public?
- 10 **A. I -- I know that they have been. I can't tell**
 11 **you the exact dates or the times that they**
 12 **have been disclosed, but they have been**
 13 **disclosed.**
- 14 **Q.** Can you tell me the name of any offender or
 15 the time in which it was done when the
 16 archdiocese, under your direction, either
 17 Kevin McDonough or anybody else, made an
 18 actual disclosure and it wasn't made by
 19 somebody, some third party --
- 20 **A. Well, yes.**
- 21 **Q.** -- such as media or ourselves?
- 22 **A. This past October, I believe, we made our**
 23 **first disclosures.**
- 24 **Q.** So is it correct to say, then, that from your
 25 first meeting, staff meeting shortly after

1 your installation that you described, between
2 that and October 13th of this last year --
3 October of this last year, you can't identify
4 today any disclosures made of any of these
5 accused offenders who were being monitored to
6 the public?

7 **A. Well, in that --**

8 MR. HAWS: Objection, that misstates
9 testimony.

10 **A. In that meeting that I had, Father McDonough**
11 **told me how we approach the situation and what**
12 **kind of disclosures he made. He didn't tell**
13 **me exactly which disclosures and what day the**
14 **disclosures were made on a particular**
15 **individual.**

16 **BY MR. ANDERSON:**

17 **Q.** Well, I'm asking you what disclosures were
18 made to the public. I appreciate you have
19 this information in your inner circle of the
20 chancellors and the delegate, Father
21 McDonough -- who I think was then vicar
22 general, wasn't he also?

23 **A. Not -- at the time I was coadjutor, yes.**

24 **Q.** Yeah. And, in any case, we'll call them your
25 inner circle, but beyond your inner circle,

1 I'm asking you to tell me, if you can, if
2 there were any disclosures made of any of
3 these offenders identified to you who were
4 under monitoring to the public until October
5 of 2013?

6 **A. Father McDonough informed me that as part of**
7 **our procedures, we would disclose to certain**
8 **people in parishes where -- where priests had**
9 **served.**

10 **Q.** And how was it determined who would be told in
11 those parishes?

12 **A. My recollection is, as I recollect now, it was**
13 **the pastor and the trustees of the parish.**

14 **Q.** What about the parishioners and the public,
15 didn't they have a right to know who was being
16 monitored and who had been accused?

17 **A. I -- I find it difficult to answer that**
18 **question.**

19 **Q.** Don't you think they have a right to know who
20 has abused children and who's being monitored
21 in addition to the pastor and the trustees so
22 they can protect their kids and know who might
23 pose a risk of harm to their children?

24 MR. HAWS: Are you speaking of
25 priests that are still in the ministry or

1 serving?

2 MR. ANDERSON: I'm speaking the
3 priests that are being monitored.

4 **A. Well --**

5 MR. HAWS: Other than those who are
6 serving?

7 MR. ANDERSON: The question stands.
8 BY MR. ANDERSON:

9 **Q.** You identified a number of priests who are
10 being monitored, right?

11 **A. Correct. Correct.**

12 **Q.** They are all priests who are in ministry,
13 correct?

14 **A. No. They were out -- out of ministry.**

15 **Q.** They're out of ministry, they're still
16 priests?

17 **A. Correct.**

18 **Q.** They're still active as priests?

19 **A. No. They wouldn't be if they were out of**
20 **ministry, they wouldn't be active as priests.**

21 **Q.** And so they were in various capacities in the
22 community, right, but not in ministry, is that
23 what you're saying?

24 **A. I don't understand what you mean by**
25 **"capacities."**

1 **Q.** Well, they were --

2 (Discussion out of the hearing of
3 the court reporter)

4 BY MR. ANDERSON:

5 **Q.** Are you saying, then, Archbishop, that the
6 monitoring program only covered priests that
7 were not in parishes?

8 **A. No. I'm not saying that.**

9 **Q.** Okay. Let's break it down then. How many of
10 those priests that you were told were under
11 monitoring were actually in parishes then?

12 **A. Well, you have to understand that the**
13 **monitoring system, the POMS program, included**
14 **priests who had abused children and -- and**
15 **priests who had other behavioral difficulties.**

16 **For example, if they had been arrested for a**
17 **DW -- a drunk while -- driving while -- while**
18 **drunk or other kinds of abnormal, I would say,**
19 **behaviors, so that was all put together. It**
20 **wasn't just those who had abused children.**

21 **Q.** How many, then, that were accused of having
22 abused children were disclosed to you that
23 were under monitoring?

24 **A. I don't recall that number.**

25 **Q.** And how many of that number were still in

1 ministry?

2 **A. My recollection is that only the one that I**

3 **cited before was in ministry and he was**

4 **retired. The others were out of ministry.**

5 **Q.** And is that Ken LaVan?

6 **A. Yes.**

7 **Q.** And that was -- and when was the first public

8 disclosure of Ken LaVan having been accused as

9 an offender and that he had been under

10 monitoring?

11 **A. I don't recall that. Sorry.**

12 **Q.** Isn't it reasonable, Archbishop, that if you

13 as the archbishop and your team saw fit to put

14 them under monitoring as you've described in

15 this program, isn't it reasonable that the

16 public and the parishioners in the community

17 of faith be advised that there is a reason to

18 put a priest under monitoring and that you

19 have this program so that they can know there

20 is an issue?

21 MR. HAWS: Objection, calls for a

22 legal conclusion. Go ahead if you can answer.

23 **A. Could you rephrase the question for me,**

24 **please?**

25 **BY MR. ANDERSON:**

1 **Q.** Why didn't you tell the people that you had a

2 number of priests under monitoring?

3 **A. I believe that we felt that we could monitor**

4 **the situation without making a total**

5 **disclosure to the people.**

6 **Q.** You still feel that way?

7 **A. No. I do not.**

8 **Q.** What made you realize that that was a bad

9 decision?

10 MR. HAWS: Well, objection, that's

11 argumentative.

12 BY MR. ANDERSON:

13 **Q.** What made you realize it was a bad choice?

14 MR. HAWS: Same objection,

15 argumentative.

16 **A. I think over my tenure as being archbishop, I**

17 **have had new insights into how we should**

18 **proceed with these -- these situations.**

19 **BY MR. ANDERSON:**

20 **Q.** And so when did you realize that?

21 **A. I don't -- I can't give you an exact date, but**

22 **it's been probably over the last two years**

23 **I've come to appreciate that.**

24 **Q.** So in the last two years, once having realized

25 it, what did you do about it to correct it --

1 **A. Well, we --**

2 **Q.** -- in terms of public disclosure?

3 **A. We made sure that if there was an incident**

4 **that happened, that the trustees of the parish**

5 **would be -- be informed of that. And then, of**

6 **course, last October we made a full**

7 **disclosure.**

8 **Q.** Are you sure it wasn't December that you made

9 that disclosure?

10 **A. I don't recall an exact date.**

11 **Q.** When you say "a full disclosure," what do you

12 mean by that then?

13 **A. Of the 43 persons that we put on our website.**

14 **Q.** Archbishop, you have resisted very vigorously

15 through your counsel and publicly the

16 dissemination of the list of accused offenders

17 and credibly accused offenders, have you not?

18 MR. HAWS: Objection, it's again a

19 legal conclusion. You can answer to the

20 extent you know, Archbishop.

21 BY MR. ANDERSON:

22 **Q.** That is, to the public.

23 **A. Could you repeat the question? I'm sorry.**

24 **Q.** You have continuously, until ordered by the

25 court, resisted making a public disclosure of

1 the names of the credibly accused offenders on

2 the list compiled by the archdiocese, have you

3 not?

4 MR. HAWS: Objection, that misstates

5 the facts and the evidence.

6 **A. My understanding is that we voluntarily**

7 **disclosed those names, the first names on the**

8 **John Jay list, we voluntarily went to the**

9 **court, asking them to unseal those names**

10 **because there had been such a notoriety, I**

11 **would say, about that list of John Jay, and as**

12 **we discovered and as we've met -- made public**

13 **since then, that there were names on that John**

14 **Jay list that should not have been there, who**

15 **had not abused children.**

16 **BY MR. ANDERSON:**

17 **Q.** Archbishop, you're aware that it was our

18 office that has persisted in trying to get

19 those lists disclosed by you and your office

20 for years, including the John Doe 76C case,

21 correct, you're aware of that?

22 **A. I'm aware of that, yes.**

23 **Q.** And you're also aware, are you not, that you

24 released that list only after we brought

25 another motion before Judge Van de North and

1 it was very evident and imminent that it was
2 going to be required, correct?

3 MR. HAWS: Objection, misstates
4 facts in evidence. Go ahead.

5 **A. I don't -- I -- I don't recall that, no.**

6 **BY MR. ANDERSON:**

7 **Q.** So you're saying to us today under oath that
8 you made the conscious choice to voluntarily
9 release that list --

10 **A. We did, yes.**

11 **Q.** -- when you did?

12 **A. Yes.**

13 **Q.** And you made that choice for what reason?

14 **A. Well, in a -- in an attempt to be transparent**
15 **with our publics, with the Catholics in the**
16 **pew, because the media had made such a big**
17 **deal out of the John Jay list.**

18 **Q.** It was public pressure, wasn't it?

19 **A. I -- I wouldn't say so. I think it was**
20 **conversion on my part to see that this was**
21 **something we should do.**

22 **Q.** Was it legal pressure by us?

23 **A. No, sir.**

24 **Q.** No influence, huh?

25 **A. I wouldn't say that, no.**

1 **Q.** Yeah.

2 **A. There were multiple sources.**

3 **Q.** Okay. If it wasn't us and it wasn't the media
4 putting on pressure, you say you had
5 conversion. What gave you this conversion,
6 then, if it wasn't public pressure by us or
7 the media?

8 **A. Discussion with my team, who it would be my**
9 **communications director, my chancellor for**
10 **civil affairs, my chancellor for canonical**
11 **affairs, my auxiliary bishops, my moderator of**
12 **the curia.**

13 **Q.** And who urged you to keep it quiet on that
14 team up until that time?

15 MR. HAWS: Object to the form.

16 **A. I can't recall anyone specifically doing that.**
17 **BY MR. ANDERSON:**

18 **Q.** Before you actually had this conversion after
19 meeting with the team that you described, had
20 any urged you to make it public so that the
21 public could know who's on it?

22 **A. I don't recall.**

23 **Q.** From 2008 until 2013, you made the choice to
24 keep that list secret, did you not?

25 **A. It already had been kept secret and I didn't**

1 **see any reason to disclose.**

2 **Q.** After that first meeting you've described in
3 which you were informed that priests were
4 placed on monitoring and no memo was made of
5 that or notes taken by you and/or recording
6 made of that meeting, why not? Why not? Why
7 not record that? Why not put it in a memo?
8 Why not get that list at that time?

9 MR. HAWS: Objection. Can you break
10 it down and ask a question instead of six?
11 BY MR. ANDERSON:

12 **Q.** Why not make a recording of the whole thing?
13 Didn't it seem important enough to get down,
14 to get recorded, to get done?

15 **A. It was important to me. I asked for the**
16 **meeting with Father McDonough so that I could**
17 **have an idea of where we were in terms of our**
18 **safe environments.**

19 **Q.** Were you concerned, Archbishop, that we
20 shouldn't make some recording of this meeting
21 about these decisions to keep this secret or
22 not because, if you did, it might be subject
23 to some discovery by us or others who were in
24 litigation with you and the archdiocese?

25 **A. No. That didn't occur to me at the time.**

1 (Discussion out of the hearing of
2 the court reporter)

3 BY MR. ANDERSON:

4 **Q.** Did it ever occur to you at any time or were
5 you told that some of these things,
6 conversations shouldn't be put in writing
7 because they could be discovered by us in
8 litigation and known to the public?

9 **A. I believe that Father McDonough once said that**
10 **to me, but it was outside of that context, I**
11 **can't recall exactly the date.**

12 **Q.** How long ago?

13 **A. I can't -- I can't -- I don't have any**
14 **recollection of that.**

15 **Q.** What were you discussing?

16 **A. I don't recall.**

17 **Q.** Who were you discussing?

18 **A. That I don't recall, either.**

19 **Q.** Anybody else give you that guidance?

20 **A. No, sir.**

21 **Q.** Anybody else present at the McDonough meeting
22 when he said that to you?

23 **A. It wasn't at that meeting. I did not want to**
24 **imply that. I don't recall the circumstances**
25 **in which he had said that.**

- 1 **Q.** Yeah. I'm just talking about when McDonough
2 told you that, was anybody else present?
3 **A. I don't believe so, no.**
4 **Q.** Okay. You must have been discussing something
5 very sensitive at that time, but you just
6 don't recall today what it was and who may
7 have been involved?
8 **A. I don't, sir, I'm sorry.**
9 (Discussion out of the hearing of
10 the court reporter)
11 BY MR. ANDERSON:
12 **Q.** You followed his advice, didn't you?
13 **A. In terms of?**
14 **Q.** Not putting certain things into writing.
15 **A. Yes.**
16 **Q.** How many different times do you think you
17 chose not to put certain things into writing
18 concerning scandalous material such as sexual
19 abuse by (sic) minors?
20 **A. It wouldn't have been very many.**
21 **Q.** Well, "very many." Does that mean more than a
22 dozen or less?
23 **A. My understanding today is that would -- would**
24 **have been less.**
25 **Q.** Okay. Tell me the times that you remember

- 1 having conversations where you made the
2 conscious choice not to put it into writing
3 because you were concerned, as McDonough had
4 advised you, that it may be subject to
5 discovery in litigation and you didn't want it
6 to be recorded.
7 **A. I can't recall the number of times, I'm sorry.**
8 **Q.** Tell me the contents of any of those
9 conversations and with whom they were had.
10 **A. Again, I -- I would just be guessing, I would**
11 **be speculating.**
12 **Q.** And because it was not recorded on any
13 journal, any diary or the contents of any of
14 those discussions, there would be no way to
15 test or determine today how many times you
16 actually did have such a conversation,
17 correct?
18 **A. That is -- that is correct.**
19 **Q.** Do you keep a journal?
20 **A. I do not.**
21 **Q.** Do you have any memory today of having any of
22 those meetings or the contents of any of those
23 meetings where you made the conscious choice
24 not to record it because it could be
25 discovered or discoverable in litigation and

- 1 it pertained to sexual abuse of minors by
2 priests?
3 **A. I do not.**
4 **Q.** Do you have the names of any of the priests in
5 mind that you're thinking today, I do remember
6 discussing X priest and making the conscious
7 decision that we can't put that in writing
8 because if we do, Anderson and his team will
9 discover it, it could be public?
10 MR. HAWS: Well, first, that assumes
11 facts not in evidence. I don't think he's
12 ever testified to that. Archbishop, don't
13 guess or don't just assume that that's what
14 happened just because the question is asked
15 that way.
16 **A. I would be guessing.**
17 **BY MR. ANDERSON:**
18 **Q.** Okay. So my question to you is, do you have
19 any memory of the contents of any conversation
20 concerning any offender today that falls into
21 that category of no notes or records made?
22 **A. I do not, no.**
23 **Q.** Okay. Did you instruct anyone else to not
24 document conversations such as that --
25 **A. I don't --**

- 1 **Q.** -- for the same reasons at any time?
2 **A. I don't believe I did, no.**
3 **Q.** Okay. So that would be just you and McDonough
4 that that particular practice would apply to,
5 correct?
6 MR. HAWS: Objection, that's not
7 what he stated that it was a practice, as
8 you've implied, counsel. Don't misstate the
9 record.
10 MR. ANDERSON: Give me a legal
11 objection, not a speaking --
12 MR. HAWS: The objection is don't
13 put facts into the record that are not
14 accurate. You are doing that.
15 MR. ANDERSON: Take it off the time.
16 Give me a legal objection. What's the legal
17 objection?
18 MR. HAWS: You're misstating facts
19 and absolutely trying to change and taint your
20 record for your media and that's not what is
21 appropriate, counsel, and you know it.
22 MR. ANDERSON: That is not a legal
23 objection.
24 BY MR. ANDERSON:
25 **Q.** Archbishop, the question is, anybody else

- 1 besides yourself and Father McDonough made a
2 party to such a practice of not recording
3 sensitive meetings such as that?
4 **A. Not to my knowledge.**
5 MR. HAWS: Same objections.
6 (Discussion out of the hearing of
7 the court reporter)
8 BY MR. ANDERSON:
9 **Q.** Archbishop, did you review any materials in
10 preparation for your deposition today?
11 **A. I did.**
12 **Q.** What?
13 **A. I reviewed the Charter for the Protection of**
14 **Children and Young People. I reviewed a**
15 **summary of the Adamson case. And I reviewed**
16 **the case of Father Montero.**
17 **Q.** Anything else?
18 **A. No, sir.**
19 **Q.** Okay. When you're saying you reviewed a
20 summary of the Adamson case, what was that
21 that you looked at?
22 **A. It -- it was a summary of his particular file**
23 **that we had.**
24 **Q.** Prepared by whom?
25 **A. By Mr. Kueppers.**

- 1 **Q.** And when was it prepared and was it for your
2 review in this deposition?
3 **A. I beg your pardon?**
4 **Q.** When was it prepared?
5 **A. I believe it was in the last two to three**
6 **weeks.**
7 **Q.** And for this deposition to help you?
8 **A. Yes.**
9 **Q.** And was the same kind of thing prepared for
10 Montero, that you reviewed?
11 **A. No. It wasn't as extensive.**
12 **Q.** But was that also prepared by Mr. Kueppers for
13 you in preparation for this deposition?
14 **A. Correct.**
15 **Q.** Anything else that you reviewed?
16 **A. No, sir. I did review the names of the 43**
17 **priests that are on our website.**
18 **Q.** That's it in terms of review?
19 **A. Correct.**
20 **Q.** Did you learn anything in your review of the
21 Montero summary prepared for you in this
22 deposition -- in preparation for this
23 deposition that you had not known before about
24 Montero and his history?
25 **A. I did. I learned that the charges against him**

- 1 **had been dropped before he left the country.**
2 **Q.** Did you not know that until you reviewed the
3 summary?
4 **A. That -- that happened before I became**
5 **archbishop.**
6 **Q.** Had Montero ever been on your radar as a
7 priest who had been accused of offending and
8 had left the country and the archdiocese?
9 **A. Yes, I was aware of that.**
10 **Q.** How did you become aware of that?
11 **A. I believe at the time that -- at the time that**
12 **he had left and a letter was sent from Bishop**
13 **Pates to the bishop in Mexico, explaining to**
14 **him the situation that we had experienced**
15 **here.**
16 **Q.** Did you, yourself, ever request or demand that
17 any of your subordinates and those in the
18 inner circle, the chancellors or the vicar
19 generals or auxiliary bishops, ever retrieve
20 any files of those who had been accused so
21 that you could make an independent decision to
22 review those files yourself?
23 **A. Could you repeat the question?**
24 **Q.** Had you ever reviewed any of the files, except
25 for what you just described involving Adamson

- 1 and Montero prepared for you, have you,
2 yourself, ever reviewed any of the priest
3 files personally so that you could be
4 satisfied that you were making the right
5 decisions concerning that priest?
6 **A. Well --**
7 MR. HAWS: Object to the form, it's
8 compound and --
9 **A. We've had in -- since December a complete**
10 **review of the files by an outside company**
11 **called Kinsale.**
12 **BY MR. ANDERSON:**
13 **Q.** Okay. That's something you delegated, though,
14 isn't it, to somebody else?
15 **A. Something that we hired a group, outside**
16 **company for, yes.**
17 **Q.** Now, I'm asking you personally. Have you ever
18 said, "I want to review the file of Father X,"
19 and have that file produced to you in its
20 entirety so you could make a fully informed
21 decision about what to do or not to do? Have
22 you personally ever done that?
23 **A. I don't recall that I have.**
24 **Q.** And until recently, you had delegated that
25 responsibility, then, to whom?

- 1 **A. To the delegate for safe environments.**
- 2 **Q.** And that would have been McDonough?
- 3 **A. It was Father McDonough until about a year ago**
- 4 **when Father Dan Griffith, another priest of**
- 5 **the archdiocese, took that position over.**
- 6 **Q.** And did you make the decision to remove
- 7 McDonough because of disclosures about how he
- 8 had handled this publicly and there was both
- 9 criticism and scrutiny of that?
- 10 **A. No. I realized that he had multiple**
- 11 **responsibilities, he'd been in the job for 17**
- 12 **years and I felt it was time that we needed a**
- 13 **change. Excuse me.**
- 14 **Q.** Have you at any time warned, penalized or
- 15 reprimanded McDonough for the way he handled
- 16 his job as the delegate for safe environment
- 17 under your charge?
- 18 **A. I don't believe so, sir.**
- 19 **Q.** Do you fault him for any of the decisions he
- 20 made or recommendations to you now?
- 21 **A. I've always believed that Father McDonough had**
- 22 **the -- the best intentions. He certainly**
- 23 **shared with me the priority we had of**
- 24 **maintaining safe environments in our parishes,**
- 25 **our schools and our other programs.**

- 1 **Q.** My question goes to actions, not intentions.
- 2 Have you ever reprimanded or criticized or
- 3 faulted him for any of his actions taken
- 4 concerning any of these priests who have
- 5 offended and have been accused of offending?
- 6 **A. I don't recall having done so.**
- 7 **Q.** As you reflect today and look back at the
- 8 history now before you, do you fault him for
- 9 any of the decisions that he made as your
- 10 delegate and/or as vicar general in this
- 11 archdiocese concerning the safety of children?
- 12 **A. The only thing that comes to my mind is the**
- 13 **fact that I learned subsequent to --**
- 14 **subsequent to the -- the fact that when Father**
- 15 **Wehmeyer was arrested for drunk driving, that**
- 16 **that was not shared with the trustees and I --**
- 17 **there was some reason that he had for not**
- 18 **doing that. I disagreed with him in that**
- 19 **decision. That's the only one I can think of.**
- 20 (Discussion out of the hearing of
- 21 the court reporter)
- 22 BY MR. ANDERSON:
- 23 **Q.** Any other decisions concerning sexual abuse of
- 24 minors and Father McDonough's actions
- 25 pertaining to that that you either fault or

- 1 now look back upon as deficient in the
- 2 protection of children?
- 3 MR. HAWS: Object to the form.
- 4 **A. Could you rephrase that question, please?**
- 5 **BY MR. ANDERSON:**
- 6 **Q.** Any other actions taken by Kevin McDonough as
- 7 your delegate for safe environment or as vicar
- 8 general that you look back on now and say, "He
- 9 blew it when it comes to protection of the
- 10 children and the recommendation he made to
- 11 me"?
- 12 MR. HAWS: Object to the form, it's
- 13 argumentative. Go ahead.
- 14 **A. I don't believe so, no.**
- 15 BY MR. ANDERSON:
- 16 **Q.** So you think he did a good job about that,
- 17 huh?
- 18 **A. I believe he did.**
- 19 **Q.** Do you think you're doing a good job?
- 20 **A. I believe I am, yes.**
- 21 (Discussion out of the hearing of
- 22 the court reporter)
- 23 BY MR. ANDERSON:
- 24 **Q.** Have you, yourself, when you reflect on what
- 25 has happened to date and all that has been

- 1 revealed to you to this date and time, have
- 2 you, yourself, made any mistakes in failing to
- 3 protect children and provide the safe
- 4 environment to this community that you
- 5 promised when you took the job?
- 6 **A. The only mistakes that I know for sure I made**
- 7 **was not removing the faculties from Father**
- 8 **Lavan, but I didn't know that that was**
- 9 **happening at the time. Once I learned it, I**
- 10 **-- I acted.**
- 11 **Q.** Any others? Is that it?
- 12 **A. That's it.**
- 13 **Q.** Let's talk about Father Lavan, then, for a
- 14 moment. You continued to maintain publicly
- 15 and as a part of the Charter for the
- 16 Protection of Children adopted in 2002 to
- 17 believe that this archdiocese has a zero
- 18 tolerance policy when it comes to sexual
- 19 abuse, is that correct?
- 20 **A. We have tried to maintain that as our**
- 21 **standard, yes.**
- 22 **Q.** And you say you have tried to maintain that as
- 23 your standard. Have you maintained that as
- 24 your standard?
- 25 **A. I believe we have. I think the record shows**

- 1 **that in the last 20 years, we have had two**
 2 **incidents; now, those are two too many, but**
 3 **two incidents in which a child had been abused**
 4 **by priests who were in ministry at the time.**
 5 Q. And what two priests are you referring to,
 6 Archbishop?
 7 A. **Father Francis Montero and Father Wehmeyer.**
 8 Q. And how was, then, the zero tolerance policy
 9 as represented to the people violated as it
 10 pertains to Father Freddy Montero?
 11 MR. HAWS: Well, objection, that
 12 misstates facts. He didn't say that it was.
 13 BY MR. ANDERSON:
 14 Q. Didn't you say that it was?
 15 A. **Did I say what?**
 16 Q. Didn't you say that the zero tolerance policy
 17 was not adhered to when it came to Montero?
 18 A. **No. I didn't say that. We -- we immediately**
 19 **removed him from ministry and turned the case**
 20 **over to the police, so I believe that we**
 21 **maintained the zero policy that we had.**
 22 Q. Did you ever review the Montero file itself?
 23 A. **No.**
 24 Q. Were you aware that Montero was living with
 25 Father Kevin McDonough?

- 1 A. **I believe I did know that.**
 2 Q. Were you aware that Father McDonough had some
 3 responsibilities for supervision over him
 4 because Montero was an extern priest from
 5 Ecuador?
 6 A. **Well, my understanding was that he -- he lived**
 7 **in the rectory at St. Peter Claver.**
 8 Q. And that's where Father McDonough was assigned
 9 as pastor?
 10 A. **Correct.**
 11 Q. And he was assigned there so McDonough could
 12 keep an eye on him; were you aware of that?
 13 A. **I was not aware of that.**
 14 Q. Were you aware that Montero --
 15 A. **That was before my time.**
 16 Q. Were you aware that Montero was allowed to
 17 leave this archdiocese and return to Ecuador
 18 before the police could complete an adequate
 19 investigation?
 20 MR. HAWS: Objection, it misstates
 21 the facts and the evidence.
 22 A. **My understanding of the facts is that he --**
 23 **the -- the -- the charges against him were**
 24 **dropped before he left the country.**
 25 **BY MR. ANDERSON:**

- 1 Q. Do you have any information that the police
 2 investigation had not been completed?
 3 A. **No, I don't.**
 4 Q. Are you aware that as soon as Montero was
 5 allowed to leave the archdiocese and return to
 6 his home diocese in Ecuador, he was placed in
 7 active ministry?
 8 A. **We removed his faculties when the accusation**
 9 **arose. We never gave him back faculties and**
 10 **he returned home to his own home diocese.**
 11 Q. And did you tell the bishop of his home
 12 diocese that his faculties had been removed
 13 because an accusation of child sexual abuse
 14 had been made against him?
 15 A. **Yes, I believe Bishop Pates was the one that**
 16 **wrote to the bishop about that.**
 17 Q. And what bishop did Bishop Pates write to?
 18 A. **To the bishop of the diocese, I can't recall**
 19 **the -- the exact diocese in Ecuador.**
 20 Q. And were you aware that Father Montero was
 21 immediately returned to active ministry in
 22 Ecuador?
 23 A. **I would only be speculating to say that I did.**
 24 **I -- I don't know for sure.**
 25 Q. I called Father Montero shortly after we

- 1 learned and brought suit concerning that case
 2 that he was in Ecuador and talked with him and
 3 he was, then, in active ministry; and did you
 4 know that we had a conversation with him?
 5 A. **I did not.**
 6 Q. Did you see anything in the Montero file that
 7 you reviewed that we had had such a
 8 conversation?
 9 A. **I did not specifically review the Montero**
 10 **file. I had a summary from my civil**
 11 **chancellor.**
 12 Q. Father Montero did not indicate that any
 13 restrictions on his faculties had been placed
 14 and he was in active ministry. Does that
 15 concern you that he's now in Ecuador in active
 16 ministry?
 17 A. **Well, I believe that's why Bishop Pates wrote**
 18 **the letter to the bishop, we were concerned**
 19 **about that.**
 20 Q. But I'm talking about today, about the kids in
 21 Ecuador. Having reviewed what Mr. Kueppers
 22 gave you in preparation for this deposition
 23 and having reviewed that, are you now
 24 concerned that maybe something more should be
 25 done about Montero being in Ecuador, given the

1 benefit of what you now know that you didn't
2 before?
3 MR. HAWS: Objection, it's
4 argumentative. Go ahead.
5 **A. I would agree to that, yes.**
6 **BY MR. ANDERSON:**
7 **Q.** Maybe we should do something about that. I
8 was able to call him and talk to him. Maybe
9 this would be a great opportunity for you to
10 directly contact the bishop of Ecuador and
11 say, "Bishop, we do have concerns based on
12 what Mr. Kueppers has told me and the
13 information we have about the safety of the
14 children in Ecuador, about Freddie Montero."
15 Maybe you should give him a full disclosure of
16 what you know here and about what happened.
17 Do you think that's a good idea?
18 MR. HAWS: Objection, that has
19 nothing to do with this case, counsel. It's
20 argumentative, it's a speech, it's compound,
21 asks dozens of questions within it, it assumes
22 facts not in evidence, it's your facts. Ask a
23 question and he can answer.
24 MR. ANDERSON: Speaking objections.
25 MR. HAWS: Ask a good --

1 BY MR. ANDERSON:
2 **Q.** Are you willing --
3 MR. HAWS: -- question that's one
4 question.
5 BY MR. ANDERSON:
6 **Q.** Are you willing to do that, Archbishop?
7 MR. HAWS: Willing to do what?
8 BY MR. ANDERSON:
9 **Q.** Contact the bishop in Ecuador --
10 **A. As I indicated --**
11 **Q.** -- about Freddie Montero.
12 **A. As I indicated before, he's already been**
13 **contacted, yes. That happened before I became**
14 **archbishop. I would be willing to contact him**
15 **again and to share my concerns with him, yes.**
16 **Q.** I would appreciate that. I think it's very
17 important that you do that. Thank you.
18 **A. You're welcome.**
19 **Q.** Have you at any time reprimanded, punished,
20 demoted or taken any action against any priest
21 for -- or official for their mishandling of
22 childhood sexual abuse while archbishop?
23 **A. Could you repeat the question again? You had**
24 **several verbs there.**
25 **Q.** Have you at any time reprimanded, punished,

1 demoted or taken any disciplinary action
2 against any priest or official of the
3 archdiocese for their mishandling of child
4 sexual abuse allegations?
5 **A. I don't believe so, no.**
6 **Q.** Do you believe you should have?
7 **A. No.**
8 (Discussion out of the hearing of
9 the court reporter)
10 BY MR. ANDERSON:
11 **Q.** Do you believe there are any priests in the
12 archdiocese or officials in the archdiocese
13 that have mishandled childhood sexual abuse?
14 MR. HAWS: At what point in time?
15 BY MR. ANDERSON:
16 **Q.** Allegations since your installation.
17 **A. No. I don't believe so.**
18 **Q.** Father Michael Stevens, what do you know about
19 him?
20 **A. I don't.**
21 **Q.** Are you aware that in mid-1980s, he pled
22 guilty to criminal sexual conduct with a
23 minor?
24 **A. I'm not, no.**
25 **Q.** Are you aware that in 2002, he was publicly --

1 excuse me, he was removed from ministry?
2 **A. I'm not aware of that.**
3 **Q.** At any time, are you aware that the
4 parishioners or the public were ever informed
5 that Father Michael Stevens posed a risk of
6 harm to the children in the archdiocese?
7 **A. That was all before my time.**
8 **Q.** Are you aware that Father Michael Stevens is
9 in monitoring?
10 **A. Excuse me?**
11 **Q.** Are you aware that Father Michael Stevens is
12 on monitoring now?
13 **A. In the POMS program, yes.**
14 **Q.** And the only ones that know that are now us
15 and those in your inner circle, correct?
16 MR. HAWS: Object to the form. I
17 don't know if "inner circle" --
18 BY MR. ANDERSON:
19 **Q.** Well, the inner circle would be the
20 chancellors, the auxiliary bishops and vicar
21 generals and your officials and the monitors.
22 **A. I don't know that for -- as fact.**
23 **Q.** Are you aware that Father Michael Stevens,
24 while on monitoring, still performs IT work
25 for the archdiocese and for various parishes?

1 **A. My understanding is that he had in the past,**
2 **but no longer does perform that service.**

3 **Q.** And he is still a priest, correct?

4 **A. I believe that's correct.**

5 (Discussion out of the hearing of
6 the court reporter)

7 BY MR. ANDERSON:

8 **Q.** And when, then, did he stop doing the IT work
9 in parishes and for the archdiocese while a
10 priest?

11 **A. It was some time ago, but I can't tell you the**
12 **exact date.**

13 **Q.** What prompted the revocation or termination of
14 his IT work?

15 **A. I don't have that answer.**

16 **Q.** Who does?

17 **A. I would presume Father McDonough would know.**
18 **I think that that happened under his watch.**

19 **Q.** His watch as promoter, but your watch as
20 archbishop, correct?

21 **A. I don't have those dates.**

22 **Q.** Does it concern you to hear and learn that you
23 had and have a priest by the name of Michael
24 Stevens who was on the monitoring plan -- and
25 by the way, that monitoring plan, did you

1 inherit that from your predecessor or did you
2 start that?

3 **A. I inherited it from my predecessor.**

4 **Q.** Does it concern you that you have Michael
5 Stevens on such a monitoring plan and that he
6 is still a priest and allowed to go into
7 parishes and do IT work, knowing that he had
8 been accused and not under monitoring?

9 **A. It would be a cause for concern.**

10 **Q.** Isn't it a conscious choice being made by
11 Father McDonough to take the risk to let that
12 guy out there as a priest even work in the
13 parishes?

14 MR. HAWS: Objection, that's
15 argumentative and misstates facts and
16 evidence.

17 **A. I would have to talk to Father McDonough about**
18 **that.**

19 BY MR. ANDERSON:

20 **Q.** Do you think it deserves some attention?

21 **A. I -- I would be willing to talk to Father**
22 **McDonough about that.**

23 **Q.** Thank you. Now, there is some indication that
24 Deacon Rourke is the monitor of Stevens. Are
25 you aware of that?

1 **A. Deacon O'Rourke was the POMS person, that's**
2 **the name I couldn't remember before, but Mr.**
3 **John Selvig is now the monitor.**

4 **Q.** Is it O'Rourke or Rourke? I've seen it both
5 ways.

6 **A. Yeah, I can't tell you.**

7 **Q.** Okay. I've got it as Rourke.

8 MR. KUEPPERS: That's correct.

9 MR. ANDERSON: Okay. Thank you.

10 BY MR. ANDERSON:

11 **Q.** Are you aware, Archbishop, that Father
12 McDonough communicated to the monitor, Rourke,
13 concerning Stevens that Stevens was in four to
14 five parishes and the pastors in those --
15 doing IT work and a priest, the pastors had
16 not been informed of the fact that Stevens had
17 been accused of sexual molestation?

18 MR. HAWS: On what date are you
19 referring to?

20 BY MR. ANDERSON:

21 **Q.** I'm just asking if you're aware of that.

22 **A. I was not aware of that.**

23 **Q.** Are you aware that Jennifer Haselberger, your
24 former chancellor for canonical affairs,
25 raised concerns with Father Laird in 2011

1 about Stevens' status as a priest in the
2 parishes doing this IT work and that he had
3 had a criminal conviction?

4 **A. I was not aware of that.**

5 **Q.** Is it your testimony that Father Laird never
6 discussed that topic with you?

7 **A. To the best of my recollection, he did not.**

8 **Q.** Is it your testimony that Jennifer Haselberger
9 never brought to your attention concerns that
10 Stevens would not be working in the parishes,
11 being able to do IT work if he had been a
12 layperson because he wouldn't have gotten by a
13 record check?

14 **A. I am not aware that Jennifer ever brought that**
15 **to my attention.**

16 **Q.** Did you remove Father Laird as vicar general?

17 **A. I did not.**

18 **Q.** Did he resign?

19 **A. He did.**

20 **Q.** Why?

21 **A. To the best of my recollection, he had**
22 **disagreed with me at the time that I had made**
23 **Father Wehmeyer pastor of Blessed Sacrament**
24 **and St. Thomas the Apostle parishes and he**
25 **felt that when the MPR story came out on the**

1 **28th of September, that that reflected poorly**
 2 **on himself and he felt that he had to resign**
 3 **because of it.**

4 **Q.** Did you ask him to resign?

5 **A. I did not.**

6 **Q.** Do you hold him responsible for the failures
 7 that led to his resignation or do you hold
 8 yourself?

9 **A. I don't know what --**

10 MR. HAWS: Objection, it assumes
 11 facts not in evidence. What failures? No
 12 one's discussed failures.

13 **A. I don't know what failures you'd be talking**
 14 **about.**

15 **BY MR. ANDERSON:**

16 **Q.** Well, you referred to the MPR story. What was
 17 the MPR story that caused the ultimate
 18 resignation?

19 MR. HAWS: Well, objection. That's
 20 not what he stated, either, counsel. Try to
 21 ask questions that are questions --

22 MR. ANDERSON: Just a minute. Don't
 23 instruct me.

24 MR. HAWS: -- and not put -- I'm
 25 instructing you, counsel, because you continue

1 to misstate evidence and try to create your
 2 own evidence by putting facts into a question
 3 that don't exist. That's an inaccurate
 4 statement.

5 MR. ANDERSON: Just stop. I'll
 6 rephrase.

7 **BY MR. ANDERSON:**

8 **Q.** Did the MPR story trigger Laird's resignation?

9 **A. I believe it did.**

10 **Q.** Okay. What was it that caused -- in the MPR
 11 story that triggered it?

12 **A. Well, I -- we didn't talk about that**
 13 **specifically, so you'd have to talk to him**
 14 **about that. But my recollection is that he**
 15 **said -- he used the expression, "I'm being**
 16 **painted with the same brush you are." And he**
 17 **said, "I need to resign to maintain my**
 18 **integrity."**

19 **Q.** I'm sorry, I wasn't able -- there was
 20 pounding, I didn't hear what you said he said.
 21 Could you repeat that?

22 **A. He used the expression -- he said, "The media**
 23 **is painting us with the same brush, and for my**
 24 **own integrity, I need to resign." I believe**
 25 **that's what he said.**

1 **Q.** Did you feel bad for Laird and consider him to
 2 have been a victim?

3 **A. I don't know that I considered him a victim,**
 4 **but I felt badly that he felt he had to**
 5 **resign, yes.**

6 **Q.** There was an audio recording made of a meeting
 7 you had with priests and reported by MPR where
 8 I think, to paraphrase, you described Father
 9 Laird as having been a victim in this whole
 10 thing. Did you use those terms to your fellow
 11 priests in the meeting?

12 **A. I don't recall. I remember the event and I --**
 13 **I spoke positively about Father Laird and the**
 14 **contributions he had made to the archdiocese.**
 15 **I don't remember the exact words I used.**

16 **Q.** Did you listen to the MPR recording of your
 17 own words about Father Laird?

18 **A. I did not.**

19 **Q.** Did you hear about that?

20 **A. I heard that they -- I heard that that was --**
 21 **surreptitiously and secretly that that**
 22 **recording was made, but I didn't listen to it.**

23 (Discussion out of the hearing of
 24 the court reporter)

25 **BY MR. ANDERSON:**

1 **Q.** Did you discipline anybody or investigate
 2 anybody for having made such a recording?

3 **A. I did not.**

4 **Q.** Do you know who did?

5 **A. No, I don't.**

6 MR. HAWS: Who did what? Who did
 7 the --

8 **BY MR. ANDERSON:**

9 **Q.** The recording.

10 **A. There were only probably nine people, ten**
 11 **people in the room, but if I were to guess, it**
 12 **would just be a guess as to who it was.**

13 **Q.** Okay. Don't need you to guess.

14 Archbishop, I'd like to ask you
 15 about Father Gilbert Gustafson. His current
 16 status in the archdiocese is what?

17 **A. I believe that he is retired. He -- he's in**
 18 **our monitoring program and he's living on his**
 19 **own.**

20 **Q.** You're aware that he had been convicted of
 21 criminal sexual conduct?

22 **A. I was, yes.**

23 **Q.** When did you first become aware of that?

24 **A. I think during the -- the last six months.**

25 **Q.** Were you aware that he had been at some point

- 1 in time, either prior to or after your
2 installation, working at the archdiocese
3 offices in the tribunal?
- 4 **A. I was not aware of that, no.**
- 5 **Q.** Were you aware that a protest had been done,
6 prior to your installation, at the Chancery
7 about Gustafson's presence as a priest at the
8 archdiocese?
- 9 **A. I was not aware of that.**
- 10 **Q.** Are you aware that Father Gustafson has worked
11 as a consultant at Cristo Rey Jesuit High
12 School?
- 13 **A. I learned about that just recently. I wasn't
14 aware of it at the time.**
- 15 **Q.** And when did you learn that?
- 16 **A. I believe -- I believe I -- I learned that in
17 the -- as a result of the Kinsale file review.**
- 18 **Q.** Were you aware that Father Gustafson, after
19 some -- after a lawsuit was brought against
20 him by Anne Bonse, who became quite public
21 about it, was placed on disability and is now
22 receiving disability payments?
- 23 **A. I'm not aware of that.**
- 24 **Q.** Are you aware that there is an insurance
25 company in the archdiocese that insures the

- 1 archdiocese and priests in it --
- 2 **A. Yes, I am.**
- 3 **Q.** -- that qualifies somebody such as Gil
4 Gustafson for disability?
- 5 **A. I'm aware that there is a -- such a program.**
- 6 **Q.** What's the name of that company?
- 7 **A. I -- I can't recall right at the -- at the
8 moment.**
- 9 **Q.** Is that administered effectively by your
10 office --
- 11 **A. It would be --**
- 12 **Q.** -- at least under the control of?
- 13 **A. It would be done through our finance office.**
- 14 **Q.** And are you aware that Gil Gustafson, as we
15 speak here today, is receiving disability
16 payments every month for the diagnosis of
17 pedophilia?
- 18 **A. I was not aware of that, no.**
- 19 **Q.** Do you know what pedophilia is?
- 20 **A. I do.**
- 21 **Q.** Do you think that's appropriate, Archbishop,
22 for him to be getting disability payments for
23 having the diagnosis and having been
24 established as being a compulsive sexual
25 offender that qualifies him for that

- 1 diagnosis?
- 2 **A. I'm not aware of those facts.**
- 3 MR. HAWS: Objection, that's a legal
4 conclusion. There's no foundation here, but
5 also a legal conclusion. And I don't think
6 that the Archbishop is qualified to evaluate
7 who it qualifies under its insurance policies
8 for disability, counsel.
- 9 **A. I'm not aware of those facts.**
- 10 **BY MR. ANDERSON:**
- 11 **Q.** Okay. When you say you know what pedophilia
12 is, let's make sure we're talking about the
13 same thing.
- 14 **A. Okay.**
- 15 **Q.** Under the Diagnostic and Statistical Manual
16 used by mental health practitioners and for
17 purposes of establishing disability and the
18 like and other reasons, pedophilia is defined
19 as a compulsive sexual interest in
20 prepubescent adolescents. Now, keeping that
21 diagnosis in mind and now being informed that
22 he is getting, through this program,
23 disability payments for that diagnosis, does
24 that concern you?
- 25 MR. HAWS: Same objections and,

- 1 Archbishop, I don't know if you -- if you know
2 how to answer how he qualifies under an
3 insurance policy contract, you can answer. If
4 you don't, you can advise that you don't
5 understand or know.
- 6 **A. I don't understand and I -- I -- I have not
7 had those facts. I'd have to look into the
8 facts to see where the truth lies.**
- 9 **BY MR. ANDERSON:**
- 10 **Q.** Well, does it concern you, having heard what
11 you just did, that he was working at Cristo
12 Rey and allowed to?
- 13 **A. That would -- would have been a concern, yes.**
- 14 **Q.** Why haven't you gone back to the files
15 pertaining to Gil Gustafson and others like
16 him, Stevens and LaVan and those that we've
17 discussed at least so far, and made sure that
18 you're abiding by the promise of zero
19 tolerance and the safety of the children in
20 this archdiocese?
- 21 MR. HAWS: There's no evidence,
22 counsel. You've implied that that hasn't --
23 that there's been some violation of zero
24 tolerance and there's no evidence of that, so
25 your statements again, if they're --

1 MR. ANDERSON: If you have an
2 objection, state a legal objection.

3 MR. HAWS: I do, counsel. My
4 concern --

5 MR. ANDERSON: Don't give me a
6 speech.

7 MR. HAWS: No. Here's my concern,
8 counsel. You are trying to make sound bites
9 for yourself and for media by inserting facts
10 that do not exist. And so when you say that
11 and imply that there's some violation when
12 there is not, that is unfair and it's
13 inappropriate. So if you want to ask the
14 archbishop questions about which he knows and
15 can answer, he'll do his best. But don't
16 imply and don't create your facts for a media
17 sound bite.

18 (Discussion out of the hearing of
19 the court reporter)

20 BY MR. ANDERSON:

21 **Q.** Why do you think you don't know that one of
22 your priests, Gil Gustafson, is getting
23 payments for a diagnosis of pedophilia while
24 he works at Cristo Rey?

25 **A.** **Well, I would have to look into the facts.**

1 **You're -- you're telling me facts that may or**
2 **may not be true and I would have to look into**
3 **that. We just had this Kinsale group, as I**
4 **mentioned, go through 800 files and they're**
5 **still in the process of doing that. I suspect**
6 **that their findings are going to be**
7 **enlightening for us and we will follow up on**
8 **whatever they -- they have come up with.**

9 (Discussion out of the hearing of
10 the court reporter)

11 BY MR. ANDERSON:

12 **Q.** Do you consider it a violation of the promises
13 you made to the people and the zero tolerance
14 policy to have allowed LaVan to have worked in
15 a parish?

16 **A.** **I didn't know he was working in parishes. He**
17 **was retired, and so he shouldn't have been**
18 **working in the parish.**

19 **Q.** You learned he was, though, didn't you?

20 **A.** **Just recently I've learned.**

21 **Q.** So it was a violation, wasn't it?

22 **A.** **Well, we took him out of ministry as soon as**
23 **we learned.**

24 **Q.** You say "we learned."

25 **A.** **I learned. I learned. I'm sorry.**

1 **Q.** That means other people learning. He couldn't
2 have been in there without other people having
3 known, right, other people under your control?

4 **A.** **I don't know that as a fact.**

5 (Discussion out of the hearing of
6 the court reporter)

7 MR. FINNEGAN: You want to take a
8 break?

9 THE WITNESS: We can take a break.

10 MR. HAWS: Is it a good time to take
11 a break?

12 MR. ANDERSON: Sure, if you like.

13 MR. HAWS: Okay.

14 MR. ANDERSON: Thanks.

15 MR. HIBBEN: We're going off the
16 record at 10:31 a.m.

17 (Recess taken)

18 MR. HIBBEN: This is video number 2
19 in the deposition of Archbishop John
20 Nienstedt, taken on April 2nd, 2014. Time now
21 is 10:47 a.m.

22 BY MR. ANDERSON:

23 **Q.** Archbishop, going back to the monitoring
24 program for a moment, today, are there
25 currently any priests on the monitoring

1 program pertaining to accusations of sexual
2 abuse of minors?

3 **A.** **Are there -- those on the -- on the POMS**
4 **program?**

5 **Q.** Yes.

6 **A.** **Yes, there would be.**

7 **Q.** How many?

8 **A.** **Well, living members who are on our website.**

9 **Q.** You're talking about the 36 that are living --

10 **A.** **The --**

11 **Q.** -- that are still priests?

12 **A.** **Thirty-six, that would be -- yes.**

13 **Q.** Did you say six or 36?

14 **A.** **Thirty-six, I think. That's my recollection,**
15 **anyhow.**

16 **Q.** So is it your testimony that if they're still
17 a priest and still alive, but on the list of
18 credibly accused as reported on the website,
19 which is 36 in number, they are on the POMS
20 monitoring program?

21 **A.** **My understanding is yes, although they have**
22 **been taken out of ministry and they've had**
23 **their faculties removed, so they can't**
24 **function as priests any longer.**

25 **Q.** Are there any that are on monitoring that are

- 1 not on that list currently?
- 2 **A. Yes, there would be because the -- the**
- 3 **monitoring program includes those who have**
- 4 **abused children, but also includes others who**
- 5 **have not abused children, but who have maybe**
- 6 **had a drinking problem or a problem with a --**
- 7 **an adult, some -- some form of bad behavior.**
- 8 **Q.** Are there any that are on monitoring
- 9 pertaining to sexual misconduct?
- 10 **A. Yes, there would be.**
- 11 **Q.** Has that been made public and known to any of
- 12 the parishioners or the public?
- 13 **A. If there's an accusation of sexual misconduct,**
- 14 **we ask the individual priest to step aside**
- 15 **from ministry and that becomes known to the --**
- 16 **the public, yes.**
- 17 **Q.** Is there an instance where you can point to
- 18 where the priest has stepped aside, resigned
- 19 from ministry and the reason for that has been
- 20 disclosed as allegations of sexual misconduct?
- 21 **A. You -- you lost me there for a minute. Could**
- 22 **you repeat that?**
- 23 **Q.** Have there been any instances that you've
- 24 disclosed that the reason they're stepping
- 25 aside or stepping down is because of

- 1 allegations of sexual misconduct?
- 2 **A. Yes, there are cases of that.**
- 3 **Q.** And what case?
- 4 **A. I'm thinking of Father Huberty.**
- 5 **Q.** Anybody else?
- 6 **A. No one comes to mind. That's the case that**
- 7 **comes to mind as the most recent.**
- 8 **Q.** Any cases that you know of where sexual
- 9 misconduct was involved and it wasn't
- 10 disclosed to the public and the parishioners
- 11 as to why the priest was taking a leave or a
- 12 sabbatical or resigning?
- 13 **A. To the best of my ability, I can't think of a**
- 14 **case.**
- 15 **Q.** What about Shelley?
- 16 **A. Well --**
- 17 **Q.** I mean, the parishioners weren't told that he
- 18 had been in possession of child pornography?
- 19 **A. That's -- that's true.**
- 20 **Q.** And they weren't told and the public was never
- 21 even alerted until October of this last year
- 22 when you made that public, were they?
- 23 **A. Well --**
- 24 **MR. HAWS:** Well, counsel, again,
- 25 you've --

- 1 **MR. ANDERSON:** No.
- 2 **MR. HAWS:** You've made your record
- 3 that's wrong and there's no evidence of child
- 4 pornography, as you said. The claim has been
- 5 pornography. And so let's be clear, when you
- 6 try to assert your facts, they're different
- 7 maybe than the real facts. Ask the proper
- 8 questions.
- 9 **A. I -- I was going to make that intervention and**
- 10 **say that it was -- it was submitted to the St.**
- 11 **Paul Police Department twice and twice they**
- 12 **said they didn't find child pornography.**
- 13 **BY MR. ANDERSON:**
- 14 **Q.** Was everything in possession of the
- 15 archdiocese files turned over to the police
- 16 for their investigation at the time they were
- 17 doing that?
- 18 **A. Yes. Yes, sir.**
- 19 **Q.** Was the report done by Setter & Associates
- 20 turned over to the police?
- 21 **A. Yes, that was part of the file.**
- 22 **Q.** Was the report done by Johnson, the forensic
- 23 report?
- 24 **A. I believe that was part of the file. We**
- 25 **turned everything over in those three files,**

- 1 **everything that we had.**
- 2 **Q.** Have you reviewed the Shelley file personally?
- 3 **A. Personally, I -- I've -- I've read an awful**
- 4 **lot about that. The files themselves I have**
- 5 **not gone through.**
- 6 **Q.** Okay. We'll go through that a little later.
- 7 Have you told the parishioners and the public
- 8 the names of all the priests in the POMS
- 9 program?
- 10 **A. Well, there would be, as you stated before,**
- 11 **the -- the number that have been removed from**
- 12 **ministry and that would be known to the**
- 13 **public. I'm not sure that those -- and so my**
- 14 **answer would be that everyone who has an**
- 15 **allegation of child sexual abuse would be**
- 16 **known to the public.**
- 17 (Discussion out of the hearing of
- 18 the court reporter)
- 19 **BY MR. ANDERSON:**
- 20 **Q.** I'm asking broader than that. I'm talking
- 21 about everybody in the program. Have the
- 22 parishioners and the public been informed of
- 23 all the priests who are in the POMS program
- 24 for whatever reason?
- 25 **A. I'm pretty sure they -- they -- they have**

- 1 **been, but I can't say for sure. My impression**
 2 **is that they have been made known, they have**
 3 **been disclosed.**
- 4 **Q.** I get the impression that a lot of the
 5 responsibility for the safety of the
 6 parishioners and the public is delegated by
 7 you to folks. Is that a fair characterization
 8 or not?
- 9 **A. Well, I'm -- I -- typically I'm a hands-on**
 10 **person and -- but I have to delegate**
 11 **responsibilities, yes.**
- 12 **Q.** You have been described by various people at
 13 various times, priests included, both in New
 14 Ulm and in the archdiocese, as a micro manager
 15 in terms of your management style. Would you
 16 say that's a fair characterization?
- 17 **A. No. I don't think so.**
- 18 **Q.** You would say a hands-on manager is a fair
 19 characterization because I think those were
 20 your words, right?
- 21 **A. Correct.**
- 22 **Q.** Do you feel you have taken a hands-on approach
 23 to sexual abuse of priests -- excuse me,
 24 sexual abuse of minors by priests in this
 25 archdiocese?

- 1 **A. Yes, I believe so.**
- 2 **Q.** What action, besides the POMS program that
 3 you've talked about, demonstrates your
 4 hands-on approach to sexual abuse by priests
 5 in this archdiocese?
- 6 **A. Well, the whole VIRTUS program that we have**
 7 **that assures us that people are being -- that**
 8 **people are receiving background checks,**
 9 **they're given training in terms of what to**
 10 **look for, signs. We've had clergy study days**
 11 **in which we've discussed all these related**
 12 **issues.**
- 13 **Q.** Anything else?
- 14 **A. It doesn't come to mind.**
- 15 **Q.** I'd like to ask you about Joseph Gallatin. Is
 16 he on any list?
- 17 **A. He would be on the POMS program.**
- 18 **Q.** And besides those -- and that would be for
 19 sexual misconduct pertaining to minors,
 20 correct?
- 21 **A. It was an allegation. That allegation is**
 22 **being investigated now and so I can't say**
 23 **definitively that it was.**
- 24 **Q.** When you say "being investigated," is that by
 25 the police?

- 1 **A. Yes.**
- 2 **Q.** Do you have a practice that if an allegation
 3 is being investigated by the police, that you
 4 do not take action as to that priest because
 5 you believe that to do so would suggest the
 6 priest's guilt?
- 7 **A. No. That's not correct. We -- we --**
- 8 **Q.** Just a moment.
- 9 **A. Okay.**
- 10 MR. HAWS: Well, let him -- he can
 11 answer his question.
- 12 MR. ANDERSON: He said that's not
 13 correct.
- 14 MR. HAWS: He can answer and tell
 15 you why. So you can finish, Archbishop.
- 16 MR. FINNEGAN: He can ask him why.
- 17 MR. HAWS: He can finish his
 18 question -- an answer to the question.
- 19 BY MR. ANDERSON:
- 20 **Q.** Is your answer no?
- 21 **A. Could you repeat the question, please? I'm a**
 22 **little confused right now.**
- 23 **Q.** Do you have a practice that if a priest is
 24 being investigated by the police for child
 25 sexual abuse, that you do not take any public

- 1 action as to that priest because you believe
 2 to do so would suggest the guilt of the
 3 priest?
- 4 **A. No, sir.**
- 5 **Q.** Have you ever expressed that view to any of
 6 those who occupy positions as officials in the
 7 archdiocese, such as your current chancellors
 8 or your former chancellors or your auxiliary
 9 bishops or vicar generals?
- 10 **A. No. Because we let the police do their own**
 11 **work and then we would have our own**
 12 **investigation. We have two boards set up, one**
 13 **that deals with precisely the charter issues,**
 14 **and then we have a ministerial standards board**
 15 **that we set up for everything else. And those**
 16 **would be the areas that would ask for and do**
 17 **the investigation.**
- 18 **Q.** Did you ever express that view or practice or
 19 the desire to employ such a practice to
 20 Jennifer Haselberger?
- 21 MR. HAWS: I'm sorry, what view or
 22 practice?
- 23 BY MR. ANDERSON:
- 24 **Q.** The view that you would take no action
 25 concerning a priest while there's a police

- 1 investigation.
- 2 **A. Well, we do take the action of removing them**
- 3 **from ministry.**
- 4 **Q.** But do you say why?
- 5 **A. It depends on the case.**
- 6 **Q.** Okay. And do you also choose not to tell the
- 7 people in the pews in the parishes and the
- 8 public because you don't want the suggestion
- 9 of guilt of the priest to have been made by
- 10 that disclosure?
- 11 **A. Well, by the very fact that the priest is**
- 12 **removed from the public ministry is a signal**
- 13 **to the people that something's wrong, but we**
- 14 **don't -- we haven't done our investigation.**
- 15 **Q.** Well, Father Jon Shelley went on sabbatical
- 16 and he told everybody he went on sabbatical,
- 17 right?
- 18 **A. He did, I believe, yes.**
- 19 **Q.** That was under your -- with your permission
- 20 that he told everybody that, right?
- 21 **A. That's true, he was on sabbatical.**
- 22 **Q.** But the fact of the matter was that it had
- 23 been discovered that he had been in possession
- 24 of possible child pornography?
- 25 MR. HAWS: Well, objection. That

- 1 misstates the facts and evidence as well.
- 2 BY MR. ANDERSON:
- 3 **Q.** Is that correct?
- 4 **A. No. It's not correct. The -- he was in**
- 5 **possession of pornography, but he was never**
- 6 **accused of a crime.**
- 7 **Q.** Is it your belief that for him to be guilty of
- 8 the crime of sexual abuse or possession of
- 9 child pornography, he has to be charged with
- 10 it by the law enforcement authorities?
- 11 **A. Our standard practice is that when we receive**
- 12 **an allegation or we have reason to believe**
- 13 **that there has been a violation, we turn that**
- 14 **matter over to the police immediately, which**
- 15 **is what we did in his case.**
- 16 **Q.** And then if the police do not charge, is it,
- 17 then, your belief and practice that the priest
- 18 is effectively exonerated?
- 19 **A. We would do our own investigation after that.**
- 20 **Q.** And --
- 21 (Discussion out of the hearing of
- 22 the court reporter)
- 23 BY MR. ANDERSON:
- 24 **Q.** You said that Shelley was turned over to the
- 25 police. When was that?

- 1 **A. When the incident -- prior to my time, so I**
- 2 **can't give you a date, but it was on, my**
- 3 **understanding, two -- two occasions that that**
- 4 **was given -- the files were given to the**
- 5 **police.**
- 6 **Q.** In 2004, you're aware that your predecessor,
- 7 Archbishop Flynn, and his subordinates became
- 8 aware of his possession of materials that were
- 9 borderline child pornography at least,
- 10 correct?
- 11 MR. HAWS: Objection, you're again
- 12 misstating facts.
- 13 **A. I don't know when that happened. I don't have**
- 14 **a recollection of that. I -- I do know that**
- 15 **on two occasions, that computer was taken to**
- 16 **the police, but on two occasions it was also**
- 17 **said that it wasn't child pornography.**
- 18 **BY MR. ANDERSON:**
- 19 **Q.** Did you ever, while the archbishop here, tell
- 20 anyone to report Shelley to the police?
- 21 **A. Did I? The incident happened prior to my**
- 22 **being archbishop.**
- 23 **Q.** I know. But he continued as a priest while
- 24 you were archbishop.
- 25 **A. That's true.**

- 1 **Q.** And he continues as a priest to this day,
- 2 although he is on sabbatical, correct?
- 3 **A. He's on a leave of absence at this present**
- 4 **moment.**
- 5 **Q.** And when he took that leave, he told the
- 6 people that he was going on sabbatical, did he
- 7 not?
- 8 **A. Yes, he did.**
- 9 **Q.** And a party was held?
- 10 **A. I don't know that.**
- 11 **Q.** So my question to you is, did you personally
- 12 order anyone in your charge to report Shelley
- 13 to police?
- 14 **A. I don't know that I did, no.**
- 15 **Q.** You say you don't know that you did. What
- 16 does that mean?
- 17 **A. Well, I don't have the recollection of having**
- 18 **done that.**
- 19 **Q.** So you don't recall ever having told anybody
- 20 or instructed anybody to report to the police
- 21 or having done it yourself, correct?
- 22 **A. My understanding is that there was a question**
- 23 **on the part of my canonical chancellor as to**
- 24 **the matter to the -- of the computer, and my**
- 25 **moderator of curia, Father Laird at the time,**

- 1 **instructed her to take it to the police.**
- 2 **Q.** Are you referring to Jennifer Haselberger?
- 3 **A. I am.**
- 4 **Q.** She was urging you to report to the police,
- 5 wasn't she?
- 6 **A. I thought she was working in our priests' work**
- 7 **group and the topic came up and my**
- 8 **understanding was that Father Laird had**
- 9 **instructed her to take that to the police.**
- 10 **Q.** Archbishop, you wrote a letter to the C.D.F.,
- 11 the Congregation of the Doctrine of Faith and
- 12 Cardinal Levada, specifically stating that
- 13 your concern that your advisors had told you
- 14 that you may be in violation of the law by
- 15 reason of possible possession of child
- 16 pornography previously possessed by Shelley,
- 17 correct?
- 18 **A. No.**
- 19 **Q.** Never wrote such a letter?
- 20 **A. No. The letter was drafted by Jennifer**
- 21 **Haselberger, but when I read it, I did further**
- 22 **investigation, realized that this was not**
- 23 **correct and the letter was never sent.**
- 24 **Q.** And did you look at the images?
- 25 **A. I did, she showed me some images, yes.**

- 1 **Q.** She claims that those images that she brought
- 2 to you and showed to you were child
- 3 pornography or borderline child pornography
- 4 and should have been reported to the police,
- 5 correct?
- 6 **A. No. I looked at those images and I could not**
- 7 **tell whether they were adolescents or older.**
- 8 **Q.** It was a close call, wasn't it?
- 9 **A. It was, yes.**
- 10 **Q.** Yeah. And so she urged you to turn that over
- 11 to the law enforcement for them to make that
- 12 determination, didn't she?
- 13 **A. She may have, but it had already been turned**
- 14 **over to the police department and the verdict**
- 15 **had come back that it wasn't child**
- 16 **pornography.**
- 17 **Q.** You're talking about in 2004?
- 18 **A. Well, probably, yes.**
- 19 **Q.** Well, what are you talking about? It had
- 20 already been turned over?
- 21 **A. It had been given to the St. Paul Police**
- 22 **Department and the police department had said**
- 23 **it wasn't child pornography.**
- 24 **Q.** When Jennifer Haselberger placed the images
- 25 before you and you looked at them, correct?

- 1 **A. Correct.**
- 2 **Q.** She urged you, because they were borderline
- 3 and you couldn't make the determination and by
- 4 looking at them you couldn't make the
- 5 determination and didn't, that it should go to
- 6 the police, correct?
- 7 **A. She -- I don't recall her at the time saying**
- 8 **that.**
- 9 **Q.** What did she say?
- 10 **A. I don't recall.**
- 11 **Q.** When did you view those images, Archbishop?
- 12 **A. I -- I don't recall the exact date. I -- I'm**
- 13 **trying to think, but I -- I can't recall the**
- 14 **exact time.**
- 15 (Discussion out of the hearing of
- 16 the court reporter)
- 17 BY MR. ANDERSON:
- 18 **Q.** When you made the determination that you,
- 19 yourself couldn't tell on viewing those images
- 20 whether it was adolescents or adults, did you
- 21 report that to the police?
- 22 **A. I did not.**
- 23 **Q.** You're a mandatory reporter, aren't you?
- 24 **A. I am.**
- 25 **Q.** And you're aware as a mandatory reporter that

- 1 you are required to report immediately any
- 2 suspicions of child abuse, correct?
- 3 **A. Correct.**
- 4 **Q.** And you're also aware that pornographic images
- 5 of children is child abuse?
- 6 **A. Correct. I was not able to determine that**
- 7 **that was child pornography.**
- 8 **Q.** Why do you think we have reporting statutes?
- 9 It's for the police and professionals to make
- 10 that determination?
- 11 **A. Correct, and they already had.**
- 12 **Q.** When did you learn they had already determined
- 13 that these images were not illegal?
- 14 **A. Prior to the time of her showing them to me.**
- 15 **Q.** Who told you the police had made that
- 16 determination?
- 17 **A. I believe it was Father McDonough.**
- 18 **Q.** When did he tell you that? How soon before
- 19 you viewed those images?
- 20 **A. I don't recall. It was sometime before, I**
- 21 **believe.**
- 22 **Q.** What does "sometime" mean, a month, a week a
- 23 day?
- 24 **A. I'm trying to recollect and I don't -- I don't**
- 25 **have that answer.**

- 1 Q. Jennifer Haselberger was telling you that she
2 believed them to have been child abuse and, in
3 fact, pornographic images of children,
4 correct?
- 5 A. **I believe that she -- she believed that to be
6 true.**
- 7 Q. Yes. And Kevin McDonough also had viewed
8 those images, correct?
- 9 A. **To the best of my recollection, I think he
10 had.**
- 11 Q. And he took a different view, didn't he?
- 12 A. **He did.**
- 13 Q. And what was his view expressed to you?
- 14 A. **Well, I can't say for sure that he expressed
15 this to me, but I know that from others that
16 he believed that they were not child
17 pornography.**
- 18 Q. Did McDonough tell you he had reported it to
19 the police?
- 20 A. **He told me that the -- that in 2004 that the
21 computer and everything on it and the -- the
22 disks had been reported to the police, yes.**
- 23 Q. So you were relying on McDonough's
24 representation to you in 2000 -- I think it's
25 '12, that it had been reported back to the

- 1 police in 2004, is that what you're telling us
2 today?
- 3 A. **Yes.**
- 4 Q. Did you ever learn if it actually had been
5 reported to the police in 2004?
- 6 A. **Well, yes.**
- 7 Q. What informs you that in fact the police had
8 received a report concerning these images in
9 2004?
- 10 A. **See, there was a record.**
- 11 Q. A record in the file?
- 12 A. **Yes.**
- 13 Q. Prepared by whom?
- 14 A. **I can't tell -- answer that.**
- 15 (Discussion out of the hearing of
16 the court reporter)
17 BY MR. ANDERSON:
- 18 Q. When did you see that record that you're
19 relying upon for that assertion?
- 20 A. **When the whole matter was brought up about
21 whether or not the whole file had been turned
22 over, there was some discrepancy there,
23 Jennifer believed that the whole file hadn't
24 been turned over. Subsequently when we did an
25 investigation with the -- the person who**

- 1 **worked on the computer, and he indicated that
2 everything had been encrypted into those
3 files.**
- 4 Q. What person are you referring to?
- 5 A. **I think it was the -- whoever worked for the
6 Setter Corporation.**
- 7 Q. There is a record that that person's report
8 and the forensic report done by them has been
9 withheld by your lawyer Tom Wieser from the
10 police.
- 11 A. **That's not true.**
- 12 Q. When was it turned over, then, by the
13 archdiocese?
- 14 A. **Subsequent to that -- to -- to my seeing the
15 images, Jennifer took that to the St. Paul
16 Police Department and they had -- they were
17 given all the materials over again.**
- 18 Q. You did not instruct Jennifer to make that
19 report, did you?
- 20 A. **No. Father Laird did.**
- 21 Q. Did Father Laird tell you that he had told her
22 to report?
- 23 A. **Yes.**
- 24 Q. When was that that Laird told you that he had
25 instructed her to make such a report?

- 1 A. **I think it was in two -- 2012. I can't -- I
2 can't give you an exact date.**
- 3 Q. Did Father Laird view the images?
- 4 A. **I don't -- I can't say for sure.**
- 5 Q. Then why was Laird involved in this
6 conversation about whether it should be
7 reported and how is it you now claim that it
8 was Laird that told Haselberger to make the
9 report?
- 10 A. **Well, because we had a -- what we called a
11 priest working group that Father Laird started
12 when he came on board as the moderator of the
13 curia, they would meet twice a month and they
14 would review any misbehavior on the part of
15 any of the priests or deacons and they would
16 discuss this among themselves. There would be
17 the canonical chancellor there, the civil
18 chancellor, the moderator and the delegate for
19 safe environments, so that everyone had a
20 complete picture of what was going on. And it
21 was at one of those meetings that this
22 question of the Shelley files came up, and
23 it's my understanding that Father Laird
24 indicated to Jennifer that she should take
25 that to the police.**

- 1 Q. Did you disagree with Laird?
- 2 A. **No.**
- 3 Q. Did you disagree with Jennifer Haselberger on
- 4 whether this should be reported to law
- 5 enforcement?
- 6 A. **No. Not at the time, no.**
- 7 Q. Did you express disagreement to her at any
- 8 time that she should not report this because
- 9 it was not a violation of the law or for some
- 10 other reason?
- 11 A. **I suspect, thinking back on it, that I told**
- 12 **her that it had already been submitted to the**
- 13 **police and that, having received an answer**
- 14 **from them on their opinion of what was on the**
- 15 **-- on the file, that it was not necessary to**
- 16 **take it to the police a second time.**
- 17 Q. And when you told her that, she told you in
- 18 fact the file does not reflect that it had
- 19 been reported to the police earlier, correct?
- 20 A. **I don't believe so.**
- 21 Q. Do you recall her becoming quite animated and
- 22 adamant about that?
- 23 A. **I don't recall that, no.**
- 24 Q. Did you instruct her to leave it alone?
- 25 A. **She asked my opinion. I told her, "I cannot**

- 1 **make a judgment here. This has already been**
- 2 **looked at by the police. It doesn't seem to**
- 3 **be reasonable that we would take it back to**
- 4 **the police a second time."**
- 5 Q. And you have no recollection of having been
- 6 told by her that, in fact, the police had not
- 7 examined this earlier, only internal
- 8 archdiocese officials and their consultant had
- 9 reviewed it?
- 10 A. **It was not my understanding. My understanding**
- 11 **was it had been turned over to the police in**
- 12 **2004.**
- 13 Q. At that time when there was this differing
- 14 view, did you make an effort to actually
- 15 discern, by review of the file itself, whether
- 16 or not such a report had ever been actually
- 17 made to the police concerning Shelley?
- 18 A. **If you're asking me if I reviewed the file**
- 19 **with that purpose in mind, no. I did not.**
- 20 Q. What law enforcement agency do you believe it
- 21 was reported to?
- 22 A. **St. Paul Police Department.**
- 23 Q. And what date do you believe that was made?
- 24 A. **I think you indicated in 2004.**
- 25 Q. Who at the archdiocese made such a report, in

- 1 your belief, in 2004?
- 2 A. **It would have been either Mr. Eisenzimmer or**
- 3 **Father McDonough.**
- 4 Q. Are you speculating or do you have some reason
- 5 to believe they actually did?
- 6 A. **Well, they were the ones that had the**
- 7 **responsibility, so I -- I guess I am**
- 8 **speculating.**
- 9 Q. So you're assuming that, aren't you?
- 10 A. **I think with reasonable certitude.**
- 11 Q. And you base that reasonable certitude on
- 12 what?
- 13 A. **On the trust I have in the people who were**
- 14 **telling me that they had already done it.**
- 15 Q. So because you trust them and because you know
- 16 that this information was possessed in 2004,
- 17 you're assuming they made a report as required
- 18 by the law in 2004, is that correct?
- 19 MR. HAWS: Well, again, counsel
- 20 you're misstating the record.
- 21 MR. ANDERSON: Well, I'm asking if
- 22 that's correct. If it's wrong, he can say so.
- 23 MR. HAWS: No.
- 24 BY MR. ANDERSON:
- 25 Q. Is that correct, Archbishop?

- 1 MR. HAWS: No. Wait, Archbishop.
- 2 MR. ANDERSON: If you have an
- 3 objection, make it.
- 4 MR. HAWS: I am making it, and, no.
- 5 Don't. Wait, Archbishop. Counsel, again,
- 6 your facts are not the record. You can't
- 7 create facts, okay? You can't misstate --
- 8 MR. ANDERSON: Don't give me a
- 9 lecture.
- 10 MR. HAWS: I am giving you a lecture
- 11 because you continue to do it and it's
- 12 improper. That's not what the law allows.
- 13 Now, he's already told you that someone told
- 14 him that and you've asked him five times at
- 15 least the same question. So if you want to
- 16 ask another question in a proper way that has
- 17 information in it that asks him what the facts
- 18 are as opposed to your facts, that's fine.
- 19 BY MR. ANDERSON:
- 20 Q. Today you can't tell me who made the report,
- 21 can you?
- 22 A. **I can tell you with reasonable certitude, but**
- 23 **I cannot tell you for sure.**
- 24 Q. Okay. So who made the report with reasonable
- 25 certitude?

- 1 **A. I would suspect it would have been Father**
 2 **McDonough.**
 3 **Q.** When did that person make that report with
 4 reasonable certitude?
 5 **A. When the matter was brought up in --**
 6 **apparently in 2004.**
 7 **Q.** The question is when do you know with
 8 reasonable certitude the report was made.
 9 **A. No.**
 10 **Q.** With reasonable certitude, to whom was that
 11 made?
 12 **A. To the -- I don't understand the question. To**
 13 **the St. Paul Police Department you mean?**
 14 **Q.** Who at the St. Paul Police Department?
 15 **A. I have no idea. That was before my time.**
 16 **Q.** And on what do you base your answers using the
 17 term "reasonable certitude" that the report
 18 was made? On what do you base that?
 19 **A. On the trust and confidence that I have in the**
 20 **people who were working for me.**
 21 **Q.** Have you ever seen a record that demonstrates
 22 in the file that such a report was made?
 23 **A. I did not see a receipt, no. I was told that**
 24 **there was one and I had no reason not to**
 25 **believe it.**

- 1 **Q.** And, again, who told you that?
 2 **A. I believe that would have been Mr.**
 3 **Eisenzimmer.**
 4 **Q.** And when did he tell you that?
 5 **A. When the whole matter came up again in 2012.**
 6 **Q.** And have you reviewed anything since then that
 7 demonstrates that not to have been the case?
 8 **A. No. I have not.**
 9 (Discussion out of the hearing of
 10 the court reporter)
 11 BY MR. ANDERSON:
 12 **Q.** Is it fair to say, then, that there was a
 13 question -- or let me put it this way. Was
 14 there a question in 2002 on whether a report
 15 had been made -- excuse me. Was there a
 16 question in 2012, as Shelley was being
 17 discussed, whether Shelley had been reported
 18 in 2004?
 19 **A. There was not a question. It was taken as a**
 20 **fact that that had already been turned over to**
 21 **the police and the police had made a decision**
 22 **on it.**
 23 **Q.** And the only fact that was taken from was what
 24 Andy Eisenzimmer told you?
 25 **A. I believe that's correct.**

- 1 **Q.** And what did he say to you?
 2 **A. He explained that the three files -- I believe**
 3 **there were three files -- that had been done**
 4 **by the forensic persons had been taken to the**
 5 **St. Paul Police Department.**
 6 **Q.** Anything else?
 7 **A. No.**
 8 **Q.** Did you inquire further?
 9 **A. I don't believe I did, but I -- I don't have a**
 10 **recollection of having asked that.**
 11 **Q.** When you, yourself, reviewed those images and
 12 had the concerns as you've expressed it,
 13 Shelley was still in ministry, wasn't he?
 14 **A. Not at the time that I saw those images, no.**
 15 **He had been taken out of ministry.**
 16 **Q.** What date had he been taken out of ministry?
 17 **A. I can't recall that.**
 18 **Q.** How long after, then, according to your
 19 belief, was it -- well, what was the time
 20 differential between his resignation or
 21 sabbatical in ministry and you having viewed
 22 those images?
 23 **A. I think he was on sabbatical for six months**
 24 **and then he was put on a leave of absence, and**
 25 **so it probably would have been about eight**

- 1 **months, I think. That's my best guess.**
 2 **Q.** Okay. I want to go for a moment to --
 3 (Discussion off the record)
 4 BY MR. ANDERSON:
 5 **Q.** -- Jeff Gallatin. I had begun to ask you --
 6 MR. HAWS: I'm sorry, let me just
 7 interrupt real quickly. Anything with respect
 8 to Shelley, starting with the Shelley
 9 questioning till now when you switched gears
 10 is to be put under seal and noted as under
 11 seal pursuant to --
 12 MR. ANDERSON: No, it's not.
 13 Shelley's been a public matter. I've not used
 14 anything that has been turned over here.
 15 Shelley came up in the first hearing in
 16 October of this last year concerning this very
 17 matter. It's a very public matter. There's
 18 nothing that was made by way of my questions
 19 that we consider under seal. If you want to
 20 take that position, your position is noted.
 21 We're not going to discuss it further.
 22 MR. HAWS: It is noted. And
 23 anything that involves Gallatin is the same,
 24 but we'll -- that is for the record and we'll
 25 have to address that with the court. And I

1 raise these issues that we would make that
2 objection and note that to be addressed later.
3 I'm just telling you, counsel, that it
4 shouldn't be disclosed by you until it's
5 resolved.

6 MR. ANDERSON: So far any question
7 that I've asked, counsel, has not been in
8 reliance upon any information other than what
9 has already been made public and both known to
10 you and the public and reported. So there's
11 nothing that has been produced in this case
12 that has been relied upon in the questions
13 that I've asked. Later on, we'll get to that
14 discussion. And I'm now going to Joseph
15 Gallatin.

16 BY MR. ANDERSON:

17 **Q.** Isn't it correct that there was a public
18 disclosure made by the archdiocese on December
19 29th, 2013, concerning Joseph Gallatin?

20 **A.** I believe that's true.

21 **Q.** So let's talk about that.

22 MR. ANDERSON: And that's not under
23 seal, right, counsel? Right?

24 MR. HAWS: Gallatin?

25 MR. ANDERSON: Yeah.

1 MR. HAWS: No. I think it is, isn't
2 it?

3 MR. ANDERSON: They're the ones that
4 made the public disclosure that Gallatin -- on
5 December 29th, 2013. That's not under seal.

6 MR. HAWS: Well, counsel, we have
7 the ones that are under seal, you're aware
8 which is under seal. I'm not going to fight
9 with you here. It's under seal. And if you
10 violate the court order, you take your risk.

11 But we have said that the ones that are under
12 seal are not to be disclosed publicly until we
13 resolve that with the court. You have to
14 bring your motion for good cause.

15 BY MR. ANDERSON:

16 **Q.** Let's talk, Archbishop, about the public
17 disclosures and representations made to the
18 people about Gallatin on December 29th, 2013.
19 It's correct that the archdiocese admitted
20 that he'd been engaged in inappropriate
21 boundary violations with minors, is that
22 correct?

23 **A.** I believe so.

24 **Q.** Who made the determination that that was not
25 criminal sexual conduct?

1 **A.** I -- I can't say.

2 **Q.** If you can't say, why did you allow it to be
3 described as inappropriate boundary violations
4 when it could have been criminal sexual
5 conduct and described as such?

6 **A.** **There had been -- there had been an
7 investigation into this and there had been a
8 determination made that it was inappropriate
9 boundary violations, that it was not criminal
10 intent.**

11 **Q.** An investigation by whom?

12 **A.** **I'm trying to recall and I just can't recall
13 right at the moment.**

14 **Q.** It was an internal investigation done by
15 somebody in the archdiocese, is that what
16 you're saying?

17 **A.** **I can't recall in this particular instance
18 whether that was turned over to the police or
19 not.**

20 **Q.** Has the Gallatin file, to your knowledge, ever
21 been turned over to the police in its
22 entirety?

23 **A.** I can't say for sure.

24 **Q.** To your knowledge, has any file of any priest
25 accused of sexual misconduct ever been turned

1 over to the police in its entirety maintained
2 by the archdiocese?

3 **A.** **Again, I don't believe so, but I can't say for
4 sure.**

5 **Q.** And why do you guys withhold information from
6 police?

7 MR. HAWS: Well, again, counsel
8 you've misstated --

9 MR. ANDERSON: Just a moment.

10 MR. HAWS: No. Can you quit trying
11 to put words in for your sound bites? That is
12 inappropriate, counsel.

13 MR. ANDERSON: Give me an
14 appropriate legal objection to it.

15 MR. HAWS: What facts do you have to
16 state that they withheld a request that they
17 provide -- that the archdiocese provide a file
18 to the police?

19 BY MR. ANDERSON:

20 **Q.** Have you ever provided a file to the police?

21 MR. HAWS: Have they requested a
22 file? Counsel, your misstatements are
23 inappropriate and you know it.

24 BY MR. ANDERSON:

25 **Q.** Have you ever provided a file to the police?

- 1 **A. We have provided to the police anything**
 2 **they've ever asked for.**
 3 **Q.** No. Tell me this. First answer this yes or
 4 no. Has the archdiocese ever turned over any
 5 file to law enforcement concerning sexual
 6 allegations and a priest?
 7 MR. HAWS: And, Archbishop, your
 8 last answer to his question, which was the
 9 same one, was just fine.
 10 MR. ANDERSON: Don't instruct the
 11 witness how to answer.
 12 BY MR. ANDERSON:
 13 **Q.** Did you hear the question?
 14 **A. If you could repeat it again, please.**
 15 **Q.** Has the archdiocese ever turned over any file
 16 to law enforcement?
 17 **A. I don't know.**
 18 (Discussion out of the hearing of
 19 the court reporter)
 20 BY MR. ANDERSON:
 21 **Q.** Have you ever told any of your subordinates or
 22 officials to turn over the files in the
 23 possession of the archdiocese to law
 24 enforcement to assist them in their
 25 investigation?

- 1 **A. I have always made -- maintained that -- that**
 2 **whatever the police ask for, we are**
 3 **cooperative and we give them.**
 4 **Q.** So is it your position and practice that you
 5 don't turn it over unless they ask?
 6 **A. That is correct.**
 7 **Q.** What if you get a report from somebody other
 8 than the police that a priest has abused?
 9 **A. We turn that over to the police.**
 10 **Q.** Yeah, but if the police don't ask, you don't
 11 turn it over, right?
 12 **A. No. If we get -- if we had an allegation that**
 13 **was credible, we would turn it over to the**
 14 **police.**
 15 **Q.** Have you ever told the police that you keep
 16 files on each of the priests, both in separate
 17 locations, some secret locations, some not so
 18 secret?
 19 MR. HAWS: Objection, that misstates
 20 evidence. Again, your games, counsel. Ask a
 21 proper question and then he can answer your
 22 questions.
 23 **A. There are no secret archives. The files are**
 24 **kept in a -- in a room. We had invited the**
 25 **St. Paul Police Department to come in and view**

- 1 **that room just a few weeks ago. There's no --**
 2 **no intent whatsoever to withhold information**
 3 **from the police.**
 4 **BY MR. ANDERSON:**
 5 **Q.** Before a few weeks ago, had you ever told law
 6 enforcement about the archival file room where
 7 Jennifer Haselberger retrieved the Shelley
 8 materials and the Wehmeyer materials and
 9 brought them to you?
 10 **A. And -- and your question is --**
 11 MR. HAWS: Whether the Archbishop's
 12 done that?
 13 MR. ANDERSON: Yes.
 14 BY MR. ANDERSON:
 15 **Q.** Have you ever told police about that archival
 16 file before a few weeks ago?
 17 **A. I think they had been informed before that.**
 18 **Q.** By whom?
 19 **A. My understanding in terms of the Shelley case,**
 20 **it was -- would have been Mr. Eisenzimmer. He**
 21 **was the one that worked closely with the**
 22 **police.**
 23 **Q.** In connection with Mark Wehmann,
 24 W-e-h-m-a-n-n, there are some public
 25 statements made by the archdiocese and I quote

- 1 in a release done by the archdiocese, "There
 2 were several incidents of inappropriate
 3 conduct with minors involving boundary
 4 violations." Who made the determination to
 5 use a descriptor "boundary violations" and
 6 that it was not criminal sexual conduct?
 7 **A. I believe that would have been an internal**
 8 **decision that had been made on that.**
 9 **Q.** Who made that?
 10 **A. It would have been Father Dan Griffith, who is**
 11 **our new delegate for safe -- safe**
 12 **environments.**
 13 **Q.** And do you know what he based that on or if he
 14 interviewed or on what he based such a
 15 determination?
 16 **A. Well, I think it -- he -- he knew that it**
 17 **wasn't a question of sexual abuse and it was**
 18 **inappropriate behavior.**
 19 **Q.** Was that reported to law enforcement?
 20 **A. I don't believe it was, no.**
 21 **Q.** Was Gallatin ever reported to law enforcement?
 22 **A. I have no recollection of that.**
 23 **Q.** So what qualifications does Dan Griffith have
 24 to determine what's a crime and what's not a
 25 crime? He's a priest, right?

- 1 **A. He's a priest, yes. Yes. Has a law degree.**
 2 **Q.** I mean, a civil law degree, right?
 3 **A. Civil law, yes.**
 4 **Q.** So what qualifications does he have in child
 5 detection and the criminal investigation of
 6 what constitutes a crime involving children
 7 and what doesn't?
 8 **A. I don't know that I can answer that.**
 9 **Q.** There have been some public disclosures
 10 concerning Father Keating and he was either
 11 removed from ministry or resigned his position
 12 on or about the same day that he was sued. Is
 13 that your understanding, Archbishop?
 14 **A. That is my understanding.**
 15 MR. HAWS: Before you get into
 16 another one, counsel, I'm sorry, just Wehmann
 17 is under seal as is Keating, if you get into
 18 that.
 19 MR. ANDERSON: This is public and it
 20 -- it's already out there, counsel. He's been
 21 sued.
 22 MR. HAWS: It's our request it's
 23 under seal and we'll take it up later.
 24 BY MR. ANDERSON:
 25 **Q.** What did you know about Keating and what he

- 1 had been accused of and how it had been
 2 handled before Keating got sued and that suit
 3 made public?
 4 **A. The situation surrounding Father Keating**
 5 **happened before my time as archbishop. I was**
 6 **aware that something was going on when I**
 7 **became coadjutor because I knew a relative of**
 8 **the person who was involved in the case, but I**
 9 **didn't know -- I didn't -- wasn't privy to --**
 10 **to the case itself, to all the details of the**
 11 **case.**
 12 **Q.** Can you think of any priests that have neither
 13 been discussed or identified that have --
 14 well, let me put it this way. Can you name
 15 for me the priests that actually have been
 16 reported by the archdiocese, either you or
 17 somebody at your direction, to law enforcement
 18 for suspicions of sexual abuse under the
 19 mandatory reporting act?
 20 MR. HAWS: You're talking about
 21 since he became archbishop?
 22 MR. ANDERSON: Yes.
 23 **A. The case of -- the one case under my tenure**
 24 **was the case of -- of Curtis Wehmeyer and we**
 25 **reported that immediately.**

- 1 BY MR. ANDERSON:
 2 **Q.** You say "we." Who is "we"?
 3 **A. Well, it would have -- the information came in**
 4 **to the civil chancellor and the civil**
 5 **chancellor notified another person on our**
 6 **staff, Father McDonough, who was at the time**
 7 **the delegate for safe environment. And he**
 8 **also informed me that Father McDonough and**
 9 **this Deacon Vomastek were being sent over to**
 10 **tell Father -- Father Wehmeyer at the time to**
 11 **leave the premises and to take a leave of**
 12 **absence.**
 13 **Q.** When did Jennifer Haselberger first bring to
 14 your attention that she believed that Wehmeyer
 15 posed a risk of harm to the children in the
 16 archdiocese if he was allowed to continue in
 17 ministry?
 18 MR. HAWS: Well, again, you're
 19 assuming facts not in evidence. If that's a
 20 statement, I don't know. If the archbishop
 21 can answer whether that came to his attention,
 22 listening to what he asked you, that's fine.
 23 **A. Jennifer prepared a memo for me prior to the**
 24 **time that I had made him pastor of Blessed**
 25 **Sacrament of St. Thomas the Apostle, pointing**

- 1 **out that five years previously he had --**
 2 **BY MR. ANDERSON:**
 3 **Q.** The question was when now. When did she bring
 4 this risk to your attention?
 5 MR. HAWS: You're answering and
 6 that's fine, Archbishop. Counsel, he can
 7 answer your question.
 8 MR. ANDERSON: Yeah, I asked a
 9 question of when now. I'm just trying to get
 10 the anchor for the date here.
 11 MR. HAWS: And he's providing that.
 12 **A. I can't tell you the -- the month or the date,**
 13 **but I -- I think it was in 2008 prior to my**
 14 **making him pastor. He was already parochial**
 15 **administrator of Blessed Sacrament and we**
 16 **were talking --**
 17 BY MR. ANDERSON:
 18 **Q.** So let's just get the when so we're talking
 19 about the right time frame here. You're
 20 talking about sometime in 2008, right?
 21 **A. Right.**
 22 **Q.** And you're saying that it was when Wehmeyer
 23 was at what parish?
 24 **A. He was parochial administrator of Blessed**
 25 **Sacrament in St. Paul.**

1 Q. And are you able to identify the month in
 2 2008?
 3 A. **It was shortly after I had become archbishop,**
 4 **I became archbishop on the 2nd of May, so I**
 5 **believe it would have been in the month of**
 6 **June.**
 7 Q. And at that time, what did you learn about
 8 Wehmeyer's fitness as a priest to continue in
 9 ministry and the risk that may be posed by it?
 10 A. **The information that Jennifer brought to my**
 11 **attention was that Father Wehmeyer had a same-**
 12 **sex attraction, that he had approached two**
 13 **young men in their mid-20s at a book store of**
 14 **some sort and made an advance on them. That**
 15 **was reported to the -- I think that was five**
 16 **years previously, that was reported to the**
 17 **Chancery and Father Wehmeyer was sent off to a**
 18 **rehabilitation program, a clinic, and came**
 19 **back and had a -- I mean, it confirmed the**
 20 **fact that he was same-sex attracted and he was**
 21 **put on the monitoring program. He was to do**
 22 **therapy once a month and spiritual direction**
 23 **once a month. And I obviously didn't see him**
 24 **being same-sex attracted as an indication that**
 25 **he had any interest sexually in young children**

1 **and that he was a pedophile. I had no reason**
 2 **to believe that he was. And I believe that he**
 3 **was fit at that time to take on these two**
 4 **parishes.**
 5 Q. There's some indication that in February of
 6 2009, Rourke was his monitor. Do you have a
 7 recollection of that?
 8 A. **I think that would be true.**
 9 Q. And that you signed on to a monitoring plan at
 10 that time. Do you recall that?
 11 A. **That I signed on? Could you explain that?**
 12 Q. Did you sign on to monitoring plans?
 13 A. **For whom, please?**
 14 Q. Each of the priests that were being monitored
 15 for sexual abuse.
 16 A. **That program was already in place when I**
 17 **became archbishop.**
 18 Q. But in 2009, in order for somebody to go on
 19 monitoring, didn't it require you or, as a
 20 matter of practice and protocol, to approve
 21 that?
 22 A. **Yes, that would have -- that would be true.**
 23 Q. And when did you place, then, Wehmeyer on the
 24 monitoring program?
 25 A. **I believe, and I could be wrong on this, I**

1 **believe that he was on the monitoring program**
 2 **based on that previous incident.**
 3 Q. Yeah. I'm looking at some records and I think
 4 that's correct. It looks like he had been on
 5 monitoring for four years as of 2009. Does
 6 that sound right?
 7 A. **That sounds right.**
 8 Q. Okay. Did you become aware, at least in 2009,
 9 then, that he'd been in monitoring for
 10 misconduct in 2004 and in 2006 for seeking out
 11 sexual encounters with 18-, 19-year-olds?
 12 A. **I didn't know about that second incident. I**
 13 **did know about the first incident, which**
 14 **happened, I think, in 2004 in a book store**
 15 **somewhere.**
 16 MR. HAWS: And I don't think,
 17 counsel, your words of 18, 19, I don't know
 18 that that's what the Archbishop testified to.
 19 You can ask him that. Again, you've inserted
 20 your own facts --
 21 MR. ANDERSON: I'm asking him if
 22 knew.
 23 MR. HAWS: Well, how is he -- he's
 24 answered he knew, but you have your little
 25 sound bite. It's completely inappropriate yet

1 again that you insert your facts or what you
 2 want to be the facts for whatever reasons.
 3 Let's get to what the truth is and ask the
 4 questions that the Archbishop can provide you.
 5 Try to get to the truth and not made-up facts.
 6 MR. ANDERSON: That little speech
 7 doesn't count on our time. And look at the
 8 documents.
 9 MR. HAWS: You ask him and then he
 10 can answer. He can answer. If that's what it
 11 is, then, fine, but don't just say things.
 12 Ask him to answer those.
 13 BY MR. ANDERSON:
 14 Q. In April of 2009, I think you just said that
 15 -- well, let me put it this way. In 2009, did
 16 you believe that Wehmeyer was fit to continue
 17 in ministry without informing any of the
 18 parishioners and the public that he was on the
 19 monitoring program?
 20 A. **At that time we didn't -- I -- I don't believe**
 21 **that we had informed the trustees that he was**
 22 **on the monitoring program.**
 23 Q. And you didn't inform anybody other than those
 24 in the official position of the archdiocese,
 25 so that would be your chancellors, the vicar

- 1 general, yourself and the monitors, correct?
- 2 **A. At the time I don't believe so. If that were**
- 3 **to happen today, we would disclose to the**
- 4 **trustees.**
- 5 **Q.** We're talking about in 2009 now, okay?
- 6 **A. Uh huh.**
- 7 **Q.** Is that correct?
- 8 **A. Correct.**
- 9 **Q.** In April of 2009, do you recall receiving
- 10 information from Haselberger about concerns
- 11 about a change in Wehmeyer's status from being
- 12 the business administrator to being the
- 13 pastor?
- 14 **A. Well, that would -- would have happened, I**
- 15 **think, in 2008, if I'm not mistaken.**
- 16 **Q.** Yeah, but she raised concern in 2009 to you is
- 17 my question. Do you remember, you know, you
- 18 made that decision in 2008?
- 19 **A. I thought I had. Could have been 2009.**
- 20 **Q.** Okay. Let's assume, then, that you made the
- 21 decision in 2008, do you recall Haselberger
- 22 bringing the concern to you about why that was
- 23 done?
- 24 **A. She brought the concern to me that he -- about**
- 25 **the incident that I told you about in the book**

- 1 **store and that he was same-sex attracted.**
- 2 (Discussion out of the hearing of
- 3 the court reporter)
- 4 BY MR. ANDERSON:
- 5 **Q.** And she also raised with you the concerns
- 6 about the St. Luke's findings that had been
- 7 made and in the file, correct?
- 8 **A. She may have. I don't recall that.**
- 9 **Q.** You recall that he had been diagnosed with
- 10 having sexual compulsion or sexual addiction
- 11 and unable to control his sexuality?
- 12 **A. No. I don't remember that at all.**
- 13 **Q.** Did you read the St. Luke's report?
- 14 **A. I believe I did, yes.**
- 15 **Q.** When?
- 16 **A. At that time before I made him pastor.**
- 17 **Q.** When you made him pastor and changed his
- 18 status from business administrator to pastor,
- 19 did you know that he was a risk of harm?
- 20 **A. I did not know. I would have not have made**
- 21 **him pastor if I'd known.**
- 22 **Q.** He proved to be, didn't he?
- 23 **A. Unfortunately (Nods head).**
- 24 (Discussion out of the hearing of
- 25 the court reporter)

- 1 BY MR. ANDERSON:
- 2 **Q.** Did Father Laird warn you against making him
- 3 pastor?
- 4 **A. He did.**
- 5 **Q.** And he told you that there were questions
- 6 about his fitness to be in ministry, much less
- 7 to be a pastor, didn't he?
- 8 **A. He thought he was somewhat unstable.**
- 9 **Q.** And in -- was that a yes?
- 10 **A. That's what he told me. I -- he said he had**
- 11 **an unstable personality, but Father Laird**
- 12 **clearly didn't like Father Wehmeyer and there**
- 13 **was a -- I think a bias there.**
- 14 **Q.** So you thought it was a personality conflict
- 15 between Laird and Wehmeyer?
- 16 **A. I thought to a certain extent, yes.**
- 17 **Q.** And so you didn't think about the fact that
- 18 Laird was speaking for the safety of the
- 19 potential children where he was serving as
- 20 pastor?
- 21 **A. Well, there was no indication that he had**
- 22 **interest in -- in sexually abusing children,**
- 23 **there was no indication at all.**
- 24 (Discussion out of the hearing of
- 25 the court reporter)

- 1 BY MR. ANDERSON:
- 2 **Q.** When you read the St. Luke's report and
- 3 received the other information you've
- 4 described at the time you made him pastor and
- 5 continued him in ministry, did you tell
- 6 anybody at the parish what you knew about his
- 7 history as reported in St. Luke's, as raised
- 8 by Father Laird or as raised by Jennifer
- 9 Haselberger?
- 10 **A. At the time I believed that that was the**
- 11 **responsibility of Father McDonough. I found**
- 12 **out subsequently that he did not inform the**
- 13 **trustees, but normally in those situations at**
- 14 **that time we would have informed the trustees**
- 15 **of the parish.**
- 16 **Q.** So when did you learn that McDonough had not
- 17 done what --
- 18 **A. I think it was in the last week of September.**
- 19 **Q.** Of what year?
- 20 **A. Of 2013.**
- 21 **Q.** Did anyone ever tell you or did you ever learn
- 22 from review of the file that Curtis Wehmeyer
- 23 had been restricted from working with youth in
- 24 2004?
- 25 **A. No.**

- 1 **Q.** Had you ever heard that before I made that
2 assertion today?
3 **A. I had not.**
4 (Discussion out of the hearing of
5 the court reporter)
6 BY MR. ANDERSON:
7 **Q.** Did you learn that Curtis Wehmeyer had gotten
8 a DUI in 2009?
9 **A. I did.**
10 **Q.** How?
11 **A. It was reported to us. It was after I had**
12 **made him pastor and it was reported to us, I**
13 **think, through Father McDonough.**
14 **Q.** And did you also learn that as a part of that
15 arrest relating to the DUI, he had been trying
16 to solicit some young people to a party with
17 him?
18 **A. I don't recall that as part of the DUI.**
19 **Q.** What do you recall as a part of the DUI,
20 either what you were told or learned?
21 **A. I learned that he was on a camping trip and**
22 **that he went into kind of a 7-11-type place**
23 **and they noticed that he was unstable in his**
24 **walk and someone called the police and they**
25 **came and -- and stopped him from driving and**

- 1 **gave him the citation.**
2 **Q.** Were you aware that when he was arrested for
3 the DUI, that he called Joe Kueppers as his
4 criminal lawyer?
5 **A. I was not aware of that. I knew that he was**
6 **friendly with the Kueppers, so it doesn't**
7 **surprise me.**
8 **Q.** Were you aware that at the time of that he was
9 still on monitoring?
10 **A. I was aware of that, yes.**
11 **Q.** Did you ever see the report or get informed by
12 any of your -- any of your officials that the
13 report says that he was trying to pick up
14 teenagers to go back to the campground to
15 party?
16 **A. No, sir.**
17 **Q.** Having heard that, is that the first time
18 you've heard that?
19 **A. I believe so, yes. I didn't know that.**
20 **Q.** Does that alarm you?
21 **A. It does.**
22 **Q.** And would it have alarmed you if you had been
23 told that back then?
24 **A. Certainly would have, yes.**
25 **Q.** You didn't know he was on monitoring, you

- 1 didn't know --
2 **A. No. I didn't know he was on monitoring.**
3 **Q.** I said you didn't know that, you didn't know
4 about the other things. At that time after
5 the DUI, did you call Curtis Wehmeyer and say,
6 "I need to get to the bottom of this," and ask
7 him if he had been engaging in inappropriate
8 sexual contact of any kind with anybody?
9 **A. During that time period, I called him in four**
10 **times from reports that I had gotten in the**
11 **parish about his anger management or**
12 **mismanagement, I would say, but I didn't have**
13 **the knowledge at that time to question him on**
14 **his -- on any sexual activity.**
15 **Q.** Well, you knew about the St. Luke's report, he
16 was a sexual addict, you knew that?
17 **A. But that -- I hadn't had any -- but that had**
18 **been five years before and he had been in**
19 **therapy and he had been in spiritual direction**
20 **and St. Luke's report indicated that he was**
21 **fit to go back into ministry.**
22 **Q.** Well, if you had reason to call him in on four
23 different times and ask him about certain
24 things not pertaining to his sexuality, why
25 didn't you ask him about his sexual conduct or

- 1 possible misconduct? Didn't you want to know?
2 **A. Well, those were not things that had been**
3 **reported to me. There's nothing of a sexual**
4 **nature that had been reported to me except the**
5 **St. Luke's remarks and the report of the 2004**
6 **incident.**
7 **Q.** But sometimes the way you get information,
8 Archbishop, is to ask; and why didn't you ask
9 him?
10 **A. Because there was no reason to.**
11 **Q.** The St. Luke's report gave you reason, didn't
12 it?
13 **A. It did, but that had already been a matter of**
14 **at least a year and -- that I had received**
15 **that report -- no. That would -- that would**
16 **have been in 2004. I'm getting confused here.**
17 **And I had to deal with the situation of what**
18 **was current in his administration and that**
19 **happened to be the question of his getting**
20 **along with staff, his anger mismanagement,**
21 **those were the -- the topics that were on the**
22 **table.**
23 **Q.** Scerbo was urging you to not continue him in
24 ministry because of his sexual issues, wasn't
25 he?

- 1 **A. I don't believe that.**
- 2 **Q.** Well, then, what was Scerbo concerned about as
- 3 expressed to you? It was sexual issues,
- 4 wasn't it?
- 5 **A. No. Scerbo never expressed any sexual**
- 6 **concerns to me.**
- 7 **Q.** What was the basis for him being concerned
- 8 about his unfitness to be and continue in
- 9 ministry, if not sexual?
- 10 **A. Are you talking about Scerbo --**
- 11 **Q.** Laird, I mean, excuse me.
- 12 **A. Okay. He never mentioned anything to me about**
- 13 **his whole sexual nature. His concern**
- 14 **primarily, as I recall it, was that he said he**
- 15 **didn't think he had a stable personality.**
- 16 **Q.** Did you ever tell anybody to get the 2009
- 17 police report that reflects what I just told
- 18 you about him and the teenagers?
- 19 **A. I did not -- I -- I wasn't -- I was aware of**
- 20 **the -- the arrest, but I wasn't aware -- aware**
- 21 **of the other incident that you just alluded**
- 22 **to.**
- 23 **Q.** Did you tell anyone to get the 2009 report?
- 24 **A. No. I don't believe so.**
- 25 **Q.** You knew there was a police report?

- 1 **A. Sure, I would have known there was a police**
- 2 **report.**
- 3 (Discussion out of the hearing of
- 4 the court reporter)
- 5 BY MR. ANDERSON:
- 6 **Q.** When is the first time you asked that a list
- 7 of abusers be compiled, both accused or
- 8 credibly accused?
- 9 **A. When was the first time I asked that that -- I**
- 10 **believe it would have been in October when we**
- 11 **were making our plans to do disclosure.**
- 12 **Q.** You're talking about October of --
- 13 **A. 2013.**
- 14 **Q.** And who did you ask to do that?
- 15 **A. It would have been the members of the staff,**
- 16 **the canonical chancellor, the civil chancellor**
- 17 **and the delegate for safe environment.**
- 18 **Q.** And, specifically, who are you talking about
- 19 here?
- 20 **A. I'm talking about Father Dan Griffith, talking**
- 21 **about Joe Kueppers, I'm talking about Susan**
- 22 **Wilhern.**
- 23 **Q.** Susan who?
- 24 **A. Wilhern.**
- 25 **Q.** She's a secretary to the vicar general?

- 1 **A. No.**
- 2 **Q.** What is she?
- 3 **A. She is the -- she's the chancellor for**
- 4 **canonical affairs.**
- 5 **Q.** Okay. And when was such a list first compiled
- 6 for your eyes?
- 7 **A. In October of 2013.**
- 8 **Q.** And how many priests or deacons were on it?
- 9 **A. My recollection is that there were 36 on the**
- 10 **original list.**
- 11 **Q.** And then how many -- that was the original
- 12 list of the credibly accused as has been
- 13 described you're talking about?
- 14 **A. Correct.**
- 15 **Q.** And then were there any added to that?
- 16 Because that list had been compiled originally
- 17 in 2004. We're now in 2009. Any new names?
- 18 **A. 2013.**
- 19 **Q.** 2013.
- 20 **A. There were subsequently another nine that were**
- 21 **added to the list.**
- 22 **Q.** Any of those now on the credibly accused
- 23 publicly disclosed?
- 24 **A. They're all publicly disclosed and they're all**
- 25 **out of ministry.**

- 1 **Q.** All nine?
- 2 **A. Yes, out of ministry without faculties to**
- 3 **function as a priest.**
- 4 **Q.** Did you ever see any lists of priests accused
- 5 of sexual abuse of minors before October of
- 6 2013?
- 7 **A. No.**
- 8 (Discussion out of the hearing of
- 9 the court reporter)
- 10 BY MR. ANDERSON:
- 11 **Q.** Did you ever ask anybody to compile one or
- 12 prepare one or give you one?
- 13 **A. I did not.**
- 14 **Q.** As the archbishop, isn't your first goal and
- 15 primary to make sure first the children's
- 16 souls are safe in the archdiocese?
- 17 **A. Certainly is. It's my primary goal, to make**
- 18 **sure that children are safe.**
- 19 **Q.** Well, then, why wouldn't you make making sure
- 20 you get all the information possible from all
- 21 those under your charge about --
- 22 **A. Well, I had --**
- 23 **Q.** Just a minute. Let me finish -- who could
- 24 pose a risk of harm to those children?
- 25 **A. As I indicated before, I had that conversation**

- 1 **with Father McDonough and others when I first**
 2 **became coadjutor archbishop. I knew that they**
 3 **were under the monitoring system and I felt**
 4 **that they were not putting children at risk.**
 5 **Q.** But that was back in 2008. We're now in 2013.
 6 Why hadn't you done more before?
 7 **A. Well, I think we have done more. I mean,**
 8 **we've done the VIRTUS program, as I indicated,**
 9 **we've done background checks on everyone,**
 10 **we've had seminars and programs for our clergy**
 11 **and for our staff. So we -- it isn't -- isn't**
 12 **as if we weren't working on this. And, as**
 13 **I've said before, that our number one priority**
 14 **is to make sure the children are safe.**
 15 **Q.** When you got the compilation in 2013 in
 16 October, was that made publicly known?
 17 **A. Yes.**
 18 **Q.** To all the people?
 19 **A. That was publicly disclosed, yes.**
 20 **Q.** And did you turn any of the files pertaining
 21 to any of those and/or all of those accused
 22 offenders over to law enforcement agencies?
 23 **A. To my knowledge, we did not. They were all**
 24 **out of ministry.**
 25 **Q.** Yeah, but they may have been guilty of crimes,

- 1 right?
 2 **A. That could be. And so I believe some of them**
 3 **would have been -- already been turned over to**
 4 **the police.**
 5 **Q.** But you don't know which ones, do you?
 6 **A. I don't.**
 7 **Q.** Because you made a conscious choice to not
 8 turn them all over, correct?
 9 MR. HAWS: Well, objection, counsel.
 10 Again, you've made a misstatement of facts for
 11 the purposes of your own needs here. If
 12 anyone has ever asked, you can ask did anyone
 13 ever ask you that you've not turned over a
 14 file, you can respond, Archbishop.
 15 BY MR. ANDERSON:
 16 **Q.** Archbishop, the question was, you made the
 17 conscious choice to not turn all the files
 18 over to law enforcement, correct?
 19 **A. I don't believe it was a conscious decision.**
 20 **I think we were trying to disclose to the**
 21 **public for the safety of children those who**
 22 **had abused.**
 23 **Q.** But there's a difference between identifying
 24 names and turning over files to law
 25 enforcement, correct?

- 1 MR. HAWS: Well, objection, that
 2 misstates evidence. I'm not sure that the
 3 Archbishop has a --
 4 BY MR. ANDERSON:
 5 **Q.** You can answer the question. There's a
 6 difference between disclosing names to the
 7 public and turning over files concerning those
 8 names to law enforcement, correct?
 9 **A. There would be a difference, yes.**
 10 **Q.** Okay. Let's talk about those two things.
 11 You're saying you turned over the names to the
 12 public, right?
 13 **A. Yes.**
 14 **Q.** Yes?
 15 **A. Yes.**
 16 **Q.** Okay. How many of those files of those names
 17 of offenders that were made public were turned
 18 over by the archdiocese to law enforcement?
 19 **A. I can't answer that. I'm sorry.**
 20 **Q.** Can you answer that any were?
 21 **A. No.**
 22 **Q.** Is it correct to say that no file had ever
 23 been turned over after termination had been
 24 made and a priest was credibly accused to law
 25 enforcement until and unless law enforcement

- 1 asked?
 2 MR. HAWS: Object to foundation.
 3 Are you talking about while he's been the
 4 archbishop?
 5 MR. ANDERSON: Yes.
 6 **A. I don't recall.**
 7 BY MR. ANDERSON:
 8 **Q.** So is it fair to say that your answer, then,
 9 you have no recollection of ever having
 10 voluntarily said, "Look it, we just looked at
 11 this file and made a determination internally
 12 that this is a credible allegation. Let's
 13 just turn it over to law enforcement, whether
 14 it's Chisago County, Washington County, Ramsey
 15 County, Hennepin County, let's just do that
 16 voluntarily without a request"? As far as you
 17 can tell or remember, you've never made that
 18 decision?
 19 **A. No. I think that there were cases that were**
 20 **turned over to the police in -- in December, I**
 21 **believe with Father Gallatin --**
 22 **Q.** Okay. Now we're talking about December of --
 23 **A. 2013.**
 24 **Q.** -- 2013? Okay. Anybody else?
 25 **A. There were three, but I can't think of the**

1 **other two.**
 2 (Discussion out of the hearing of
 3 the court reporter)
 4 BY MR. ANDERSON:
 5 **Q.** Did you turn those files over to law
 6 enforcement, to the police?
 7 **A. I believe we did.**
 8 **Q.** To whom?
 9 **A. I think it was the St. Paul Police -- Police**
 10 **Department.**
 11 **Q.** Had they requested or did you do that on your
 12 own initiative?
 13 **A. I don't recall.**
 14 **Q.** So, do you recall ever on your own initiative
 15 ever ordering any files to be turned over
 16 without request by law enforcement?
 17 **A. I don't have that recollection. I'm sorry.**
 18 (Discussion out of the hearing of
 19 the court reporter)
 20 BY MR. ANDERSON:
 21 **Q.** Have you reported any of the offenders to the
 22 C.D.F.?
 23 **A. I -- I believe we have, yes.**
 24 **Q.** Who?
 25 **A. Wehmeyer, certainly. And I believe Montero.**

1 **And I believe there was another priest by the**
 2 **name of -- of Bussman, so there have been**
 3 **files turned over to the congregation.**
 4 **Q.** Wehmeyer, Bussman and whom else?
 5 **A. Montero, I think, although that may not be it**
 6 **because he wasn't our priest, so I -- I -- I'm**
 7 **not sure about that one.**
 8 **Q.** When was Wehmeyer?
 9 **A. Shortly after he was charged with the crime.**
 10 **Q.** When was Bussman?
 11 **A. Before I -- my arrival as archbishop.**
 12 **Q.** And Montero you're not sure about --
 13 **A. No.**
 14 **Q.** -- it would not have been done by you?
 15 **A. It probably wasn't because he wasn't our**
 16 **priest. He belonged to another diocese.**
 17 **Q.** Under the SST issued in 2001, you're required
 18 to report to the C.D.F., are you not?
 19 **A. Yes.**
 20 **Q.** And required in your quinquennial report to
 21 also disclose any allegations of sexual abuse?
 22 **A. Yes.**
 23 **Q.** Have you done that in the quinquennial report?
 24 **A. Yes.**
 25 **Q.** And so who did you disclose in the

1 quinquennial report?
 2 **A. I don't recall right off the top of my head.**
 3 **The quinquennial report would have been, I**
 4 **wanna say, 2010, but I'm not sure about that**
 5 **and so I just don't have that recollection**
 6 **right now.**
 7 **Q.** Did you report Shelley to the C.D.F.?
 8 **A. I don't recall.**
 9 **Q.** Isn't that something you would recall if you
 10 had?
 11 **A. It should be, I agree. I would be**
 12 **speculating, though, to say that I did.**
 13 **Q.** Do you have any recollection of any others
 14 having been reported by you or your offices to
 15 the C.D.F. under the SST requirement?
 16 **A. All that we were required to would have been**
 17 **handled by the canonical chancellor.**
 18 **Q.** And you're the reporter and the one that signs
 19 off on that report, however, are you not?
 20 **A. I am.**
 21 **Q.** Father Wajda, Joseph Wajde --
 22 MR. HAWS: Counsel, isn't it a
 23 decent time for a break?
 24 MR. ANDERSON: Sure.
 25 MR. HAWS: I mean, if you want to

1 finish this, that's fine, but it's --
 2 MR. ANDERSON: That's fine.
 3 MR. HAWS: We've been going an
 4 hour-and-a-half.
 5 MR. HIBBEN: We're going off the
 6 record at 12:15.
 7 (Recess taken)
 8 MR. HIBBEN: This is video number 3
 9 in the deposition of Archbishop John Nienstedt
 10 taken on April 2nd, 2014. Time now is 1:04
 11 p.m.
 12 BY MR. ANDERSON:
 13 **Q.** Archbishop, before the break I had begun to
 14 ask about Joseph Wajda, and did you become
 15 aware that Rome had conducted a canonical
 16 trial, a penal trial of him and findings had
 17 been made?
 18 **A. I -- I do recollect that, yes.**
 19 **Q.** Did you become aware that it was -- the
 20 instruction was to remove him from the
 21 clerical state?
 22 **A. I don't recall that particular part of it.**
 23 **Q.** Did you become aware that at some point in
 24 time, the instruction from Rome was re-
 25 investigated by your office or at your

1 instruction by Kevin McDonough? Did you ever
 2 instruct that to be done?
 3 **A. I did not.**
 4 **Q.** So that if it was done, it was your
 5 predecessor?
 6 **A. It must have been, yes.**
 7 **Q.** Are you aware that McDonough did re-
 8 investigate Wajda after the Rome instruction
 9 and made the recommendation that Wajda be
 10 suspended for ten years from ministry? Are
 11 you familiar with that?
 12 **A. I'm not familiar with that at all.**
 13 **Q.** At this point in time, what are your plans
 14 pertaining to Joseph Wajda? Is he going to be
 15 allowed to continue in ministry or is he going
 16 to be reinstated?
 17 **A. He's -- my understanding is he's not to be**
 18 **functioning in -- in ministry at all.**
 19 **Q.** Did you become aware that there was some
 20 controversy around McDonough's findings that
 21 contradicted those of Rome?
 22 **A. That must have been before my time.**
 23 **Q.** Okay.
 24 **A. Could -- could I make a correction? I was**
 25 **told by my counsel that I was confused about**

1 **the 2004 investigation of the Shelley**
 2 **computer. Apparently, we turned that over to**
 3 **this Mr. Setter, who was a retired police**
 4 **officer. That's why I thought he had been**
 5 **turned over to the police. And then that was**
 6 **turned over to the forensics, so I got that**
 7 **mixed up. I thought it went to forensic first**
 8 **and then to the police.**
 9 **Q.** Well, Setter, yeah, Setter, S-u-t-t-e-r (ph)
 10 -- S-e-t-t-e-r, is an investigator hired by
 11 the archdiocese. You're aware of that?
 12 **A. Yes.**
 13 **Q.** All right.
 14 **A. Apparently a retired officer, so I got that**
 15 **confused. I apologize for that.**
 16 **Q.** So as we speak, then, you have no information
 17 that any official law enforcement agency
 18 acting as a law enforcement agency ever
 19 received a report in 2004?
 20 **A. No.**
 21 **Q.** Is that correct?
 22 **A. That's correct.**
 23 **Q.** Okay.
 24 **A. I apologize for that.**
 25 **Q.** Were you relying on that same mistaken belief

1 when you were making decisions about Shelley
 2 in 2012 or was that just a correction for
 3 today?
 4 **A. That's just a correction for today.**
 5 **Q.** Okay. Thank you. Archbishop, you have made a
 6 number of statements to the public and the
 7 parishioners that the primary goal is to care
 8 for those abused by priests and made promises
 9 to the people that that is one of your goals,
 10 is it not?
 11 **A. It -- it is, yes.**
 12 **Q.** You did make the decision, did you not, to
 13 permit the taxation of costs against Jim
 14 Keenan, who had litigated against the
 15 archdiocese and have a judgment entered
 16 against him for \$64,000 for having brought
 17 that case. Do you consider that to be
 18 consistent with a promise to care for the
 19 victims?
 20 **A. I'm not familiar with that case.**
 21 **Q.** It is John Doe 76C and it was the one that
 22 went to the Supreme Court under your watch.
 23 **A. And what -- what year was that?**
 24 **Q.** 2010, I think.
 25 **A. I -- I -- it's not registering with me. I'm**

1 **sorry.**
 2 **Q.** Are you aware that the statute of limitations
 3 had -- the Supreme Court had determined the
 4 statute of limitations had expired and,
 5 therefore, his claim and others like it could
 6 not be brought? Did you learn that at some
 7 point?
 8 **A. No. I don't believe I did.**
 9 **Q.** So you have no knowledge of the taxation of
 10 the costs against him?
 11 **A. No.**
 12 **Q.** [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 **Q.** [REDACTED]
 25 **A.** [REDACTED]

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- 21 **Q.** In the case of Curtis Wehmeyer, when did you
22 first learn definitively that he had been
23 accused of or suspicions arose that minors
24 were involved?
25 **A.** **The day that he was arrested.**

- 1 **Q.** What day? Do you have that date?
2 MR. HAWS: If you don't remember,
3 Archbishop, don't guess if you don't know.
4 **A.** **I -- I don't remember.**
5 **BY MR. ANDERSON:**
6 **Q.** Okay.
7 **A.** **I believe it was a Friday, though, I do**
8 **remember that.**
9 **Q.** Some records show that his arrest was June
10 22nd. Is it correct --
11 (Discussion out of the hearing of
12 the court reporter)
13 BY MR. ANDERSON:
14 **Q.** So what did you learn on that date and from
15 whom?
16 **A.** **I learned from, I believe it was Mr.**
17 **Eisenzimmer, that Father McDonough had been**
18 **informed of the allegation and that he and**
19 **Deacon Vomastek were going over to Blessed**
20 **Sacrament to tell Father Wehmeyer at the time**
21 **that he was being removed from his assignment.**
22 **Q.** And you had received no information before
23 that time and that date that Wehmeyer had been
24 suspected of involvement with minors?
25 **A.** **No. I had not.**

- 1 **Q.** Had you received information that Wehmeyer had
2 been known to have been taking minors on
3 camping trips?
4 **A.** **No. I only became aware of that the first**
5 **week in October of 2013.**
6 **Q.** Did you ever -- did you become aware that one
7 of the officials had called the mother of one
8 of the children who had been taken on camping
9 trips to discuss that relationship?
10 **A.** **I learned about that in October of 2013.**
11 **Q.** What did you learn about that? Who had made
12 that call?
13 **A.** **It was a Father -- at the time Father Scerbo,**
14 **Father Paul Scerbo, who was at -- had just**
15 **been pointed the vicar general and moderator**
16 **of the Curia.**
17 **Q.** So he was empowered to handle this on your
18 behalf, correct?
19 **A.** **He was.**
20 **Q.** And so when you learned on October 13th, then,
21 that minors were involved definitively,
22 October 13th --
23 **A.** **No. October 2013.**
24 **Q.** Oh, excuse me. October of 2013. What did you
25 do about that?

- 1 **A.** **I don't understand the question.**
2 (Discussion out of the hearing of
3 the court reporter)
4 BY MR. ANDERSON:
5 **Q.** Okay. So I want to get my dates correct. I
6 think you had told me earlier that the date
7 you first learned that minors were involved
8 was the date that he was arrested and some
9 records show that he was arrested on the 22nd.
10 Does that sound right?
11 **A.** **That's when I first learned about the**
12 **allegation, yes.**
13 **Q.** And what action, if any, did you take
14 responsive to having learned that?
15 **A.** **That day, I agreed with the decision, and when**
16 **Mr. Eisenzimmer told me that they were --**
17 **Father McDonough and Deacon Vomastek wanted to**
18 **go over there, I said yes due to -- right**
19 **away.**
20 **Q.** And that was before it was reported to the
21 police, though, wasn't it?
22 **A.** **I think it was reported at the same time. I**
23 **think they were simultaneous.**
24 **Q.** Why would you want Father McDonough and Deacon
25 Vomastek to go to Curtis Wehmeyer before it

- 1 had been reported to the police?
- 2 **A. Well, in hindsight, I -- that was a mistake,**
- 3 **but I think we wanted to act immediately on**
- 4 **the information that we had.**
- 5 **Q.** And you're aware that Father McDonough and
- 6 Deacon Vomastek met with Wehmeyer that morning
- 7 at the parish?
- 8 **A. I think it was morning or afternoon, it was --**
- 9 **Q.** And you're aware that they retrieved the gun
- 10 and got a computer from Wehmeyer, correct?
- 11 **MR. HAWS:** Objection. I'm not sure
- 12 that that's facts in evidence, counsel.
- 13 Again, if you've got something to show him
- 14 that, ask him.
- 15 **BY MR. ANDERSON:**
- 16 **Q.** Are you aware?
- 17 **A. I -- I heard about the gun. I didn't know**
- 18 **about the computer.**
- 19 **Q.** Is that the first you heard of Wehmeyer having
- 20 turned a computer over to McDonough?
- 21 **A. To my recollection right now, yes.**
- 22 **Q.** So you never looked at the computer of
- 23 Wehmeyer?
- 24 **A. No.**
- 25 **Q.** And that if McDonough took possession of it,

- 1 where is that computer?
- 2 **A. I don't know, sir. This is the first I've**
- 3 **heard of that, so --**
- 4 **Q.** I'm going to show you Exhibit --
- 5 (Discussion out of the hearing of
- 6 the court reporter)
- 7 **BY MR. ANDERSON:**
- 8 **Q.** Who else did you talk to besides Eisenzimmer
- 9 about this, then, that day?
- 10 **A. That day, I don't believe I spoke to anyone**
- 11 **else about this.**
- 12 **Q.** And once you learned it, why didn't you report
- 13 it?
- 14 **A. My presumption was that the one that would**
- 15 **normally do the reporting is the civil**
- 16 **chancellor. And so my understanding was that**
- 17 **he was going to report it and -- and had**
- 18 **already reported it, had called the police.**
- 19 **Q.** Do you believe that the mandatory reporting
- 20 statute that applies to you permits the
- 21 delegation of your responsibility to somebody
- 22 else? Don't you --
- 23 **A. I -- I have the -- the authority, but I**
- 24 **believe that as long as it's -- that things**
- 25 **are done correctly, that that's what's**

- 1 **important.**
- 2 **Q.** The statute provides an obligation, not an
- 3 authority, correct?
- 4 **A. I believe so.**
- 5 **MR. HAWS:** Objection, it's a legal
- 6 conclusion. Statute speaks for itself.
- 7 (Discussion out of the hearing of
- 8 the court reporter)
- 9 **BY MR. ANDERSON:**
- 10 **Q.** What did Eisenzimmer tell you about when the
- 11 archdiocese had first gotten a report when he
- 12 talked to you?
- 13 **A. He told me that morning.**
- 14 **Q.** That morning of the 22nd?
- 15 **A. Yes.**
- 16 **Q.** All right. Let me show you Exhibit 18.
- 17 (Discussion out of the hearing of
- 18 the court reporter)
- 19 **BY MR. ANDERSON:**
- 20 **Q.** And before I do, let me just ask you,
- 21 Archbishop, what did you find out specifically
- 22 about who had made the report, then, about
- 23 Wehmeyer to law enforcement and when?
- 24 **A. Could you repeat the question?**
- 25 **Q.** What did you find out about who had reported

- 1 and when they made that report?
- 2 **MR. HAWS:** I'm sorry, to the police
- 3 or to the archdiocese?
- 4 **MR. ANDERSON:** To the archdiocese.
- 5 **A. I think I learned later that day, is my**
- 6 **recollection, that the police had been called**
- 7 **and that Father McDonough and Deacon Vomastek**
- 8 **had gone over to Blessed Sacrament.**
- 9 **BY MR. ANDERSON:**
- 10 **Q.** Who is the first in the archdiocese, then, to
- 11 have received the information that minors were
- 12 involved?
- 13 **A. That would have been Father John Paul**
- 14 **Erickson.**
- 15 **Q.** And what were you told about that?
- 16 **A. I was told that he was informed of that, that**
- 17 **the person in question had told him that there**
- 18 **had been an incident of incest in the family.**
- 19 **Q.** Well, let's go back a moment. I'm talking
- 20 about the abuse of the child and by Wehmeyer,
- 21 okay? So is it your testimony that that was
- 22 imparted by Father Erickson?
- 23 **A. Father Erickson was the first one, I believe,**
- 24 **to have been told of -- of the abuse because**
- 25 **the -- the mother in question had discovered**

- 1 **some incest in the family and she had**
 2 **subsequently, in talking to her children about**
 3 **that, discovered an involvement of Father**
 4 **Wehmeyer. And she went back and told Father**
 5 **John Paul Erickson again and -- but it was in**
 6 **the context of spiritual direction, so it was**
 7 **a privileged context, so he had to call her**
 8 **and get her to report this to us outside of**
 9 **that context and to the police.**
- 10 **Q.** Who told you that?
 11 **A. Father John Paul Erickson.**
 12 **Q.** When did he tell you that?
 13 **A. I believe that was -- excuse me, I misspoke**
 14 **myself. I think Andy Eisenzimmer told me the**
 15 **same day of that.**
 16 **Q.** On June 22nd?
 17 **A. Yes.**
 18 **Q.** Were you told that the report had been made in
 19 the context of the confession?
 20 **A. I hadn't been told that it was in the context**
 21 **of confession. What I had been told is that**
 22 **it was in the context of spiritual direction.**
 23 **Q.** And you also knew that Erickson was a
 24 mandatory reporter?
 25 **A. Yes.**

- 1 **Q.** And that what he'd been told would require a
 2 report?
 3 **A. Correct.**
 4 **Q.** Have you talked to Father Erickson to get some
 5 more clarity about what he was actually told
 6 and the circumstances of it since?
 7 **A. I have not, no.**
 8 **Q.** Why not?
 9 **A. I thought he did what he should have done and**
 10 **the end result was what needed to be done to**
 11 **get Father -- Father Wehmeyer out of the --**
 12 **the -- to get him reported to the police and**
 13 **take him out of ministry.**
 14 **Q.** What should he have done?
 15 **A. Well, in -- in hindsight, I suppose he should**
 16 **have taken this to the police himself once he**
 17 **had clarified the context of which the**
 18 **communication had taken place.**
 19 **Q.** And do you have any knowledge that he did?
 20 **A. I do not have.**
 21 **Q.** And your knowledge to this date as to who
 22 actually made a report to the police, then, is
 23 limited to -- who is that to?
 24 **A. To Mr. Eisenzimmer.**
 25 **Q.** The same day that you learned?

- 1 **A. I believe so, yes.**
 2 **Q.** Same day that McDonough and Vomastek had gone
 3 to visit Wehmeyer at the parish?
 4 **A. That is correct.**
 5 **Q.** I'm going to refer you to Exhibit 18. And you
 6 have it before you, Archbishop, and this is
 7 entitled a decree, and it's typewritten with
 8 your name at the bottom, correct?
 9 **A. Correct.**
 10 **Q.** And it states, "On June 18th, 2012, the
 11 Archdiocese of St. Paul and Minneapolis
 12 received a complaint that Reverend Curtis
 13 Wehmeyer, a priest of this archdiocese,
 14 supplied alcohol and sexually explicit images
 15 to a minor, and fondled or attempted to fondle
 16 the minor's genitals." Correct?
 17 **A. Yes, correct.**
 18 **Q.** It then goes on to state, "I have concluded
 19 that this constitutes information which 'at
 20 least seems to be true unquote.'" Correct?
 21 **A. Correct.**
 22 **Q.** So this reflects that on June 18th, the
 23 information was received, does it not?
 24 **A. It does, but it's incorrect.**
 25 **Q.** And who prepared this?

- 1 **A. Jennifer Haselberger.**
 2 **Q.** And what makes you say that or believe or
 3 assert that it's incorrect?
 4 **A. Because I have since learned that the**
 5 **information didn't come to us officially until**
 6 **the morning of the 22nd.**
 7 **Q.** Well, mandatory reporting doesn't make a
 8 distinction between official and unofficial.
 9 So what do you mean by "official"?
 10 MR. HAWS: Again, objection to the
 11 legal conclusion in the start of your
 12 question.
 13 BY MR. ANDERSON:
 14 **Q.** What do you mean by "official"?
 15 **A. What I mean by "official" is the -- the**
 16 **context in which it was first revealed was a**
 17 **context that was privileged, and so what I**
 18 **refer to as privileged is the part that's not**
 19 **privileged.**
 20 **Q.** Okay. It goes on to say at the third
 21 paragraph, "Since my other duties prevent me
 22 from conducting this investigation personally,
 23 I hereby appoint Reverend Peter Laird, Vicar
 24 General, to act as investigator in this
 25 matter." Correct, you did that?

- 1 **A. Correct.**
- 2 **Q.** And then you also, at the fourth paragraph,
3 instructed that in conducting his
4 investigation, Father Laird is to take care
5 that such investigation does nothing to harm
6 Father Wehmeyer's name or to violate his
7 rights to protect his privacy, correct?
- 8 **A. Correct.**
- 9 **Q.** Is there anything in this decree that talks
10 about protecting the victim or their family?
- 11 **A. The decree, to my understanding, is a**
12 **canonical document that pertains particularly**
13 **to a priest who has acted out badly.**
- 14 MR. HAWS: The bottom paragraph
15 (Indicating).
- 16 BY MR. ANDERSON:
- 17 **Q.** Did you sign the decree before Vomastek and
18 McDonough went to the parish?
- 19 **A. No. I did not.**
- 20 **Q.** When did you sign it?
- 21 **A. Well, I couldn't have signed it on the 20th,**
22 **so the -- the dates here are wrong.**
- 23 **Q.** Well, that's where we're going to go right
24 now. It says, "Given on June 20th, 2012," and
25 then it's signed by you.

- 1 **A. Correct.**
- 2 **Q.** So you're now asserting that that date is also
3 incorrect?
- 4 **A. Correct.**
- 5 **Q.** And you're asserting that's incorrect on what
6 basis?
- 7 **A. On the basis that, subsequently, I found out**
8 **that I did -- I learned this on the 22nd, so I**
9 **couldn't have signed it on the 20th.**
- 10 **Q.** This is a pretty serious matter when it's your
11 decree for an internal investigation, isn't
12 it?
- 13 **A. Yes, it is.**
- 14 **Q.** Okay. And that is your signature, so you did
15 sign it?
- 16 **A. I did sign it.**
- 17 **Q.** You're just confused on the dates, is that
18 right?
- 19 **A. Right.**
- 20 **Q.** So you did order an internal investigation.
21 Did you order this internal investigation
22 before or after the report to the police was
23 made?
- 24 **A. It -- my best recollection, it was after.**
- 25 **Q.** You're not sure about that, are you?

- 1 **A. Well, this whole period I -- is -- is a rather**
2 **confusing one.**
- 3 **Q.** You're not sure about any of these dates, are
4 you, really?
- 5 MR. HAWS: Objection, that's
6 argumentative, counsel. He's testified to
7 what he can testify to.
- 8 BY MR. ANDERSON:
- 9 **Q.** All right. You're not sure about the dates,
10 are you?
- 11 **A. I'm sure that these dates are wrong.**
- 12 **Q.** And what document is there that establishes,
13 other than this document, this decree, exactly
14 when you learned, then, of the abuse of the
15 minor?
- 16 MR. HAWS: I'll object. First of
17 all, the decree, Exhibit 18, does not
18 establish that, as the archbishop said. But
19 go ahead as to whatever.
- 20 BY MR. ANDERSON:
- 21 **Q.** The question is, is when did you first -- what
22 document is there, if there is one, that can
23 establish the date you learned it?
- 24 **A. There would not be a document. I'm giving my**
25 **testimony of what I recall.**

- 1 **Q.** The conversation with Eisenzimmer, was that in
2 person or by telephone?
- 3 **A. It was in person.**
- 4 **Q.** At the Chancery?
- 5 **A. At the Chancery, yes.**
- 6 **Q.** And in his office or yours?
- 7 **A. My office, he came down to my office.**
- 8 **Q.** Anybody else present?
- 9 **A. No.**
- 10 **Q.** Did you make any notes of that conversation?
- 11 **A. I did not.**
- 12 **Q.** Has there been any record made by him of that
13 conversation?
- 14 **A. I don't know that.**
- 15 **Q.** Has there been made any record by anybody that
16 you know of, in or out of the archdiocese,
17 that establishes that the report was actually
18 received by you on the 22nd versus Exhibit 18,
19 which seems to demonstrate the 18th?
- 20 **A. I don't know of any other document, no.**
- 21 **Q.** There is evidence that on the 19th, there was
22 -- or 20th, there was a meeting called by
23 Greta Sawyer and she was employed to interview
24 this mom and child. Were you aware of that?
- 25 **A. I was, yes.**

- 1 **Q.** You ordered that as a part of the
2 investigation, did you not, and empowered
3 Laird to do it?
4 **A. I don't believe that was the right order.**
5 **Q.** Well, you decreed an investigation and Laird
6 was given the authority to do it?
7 **A. That's correct.**
8 **Q.** And he was given the authority to give to her
9 to interview these people, right?
10 **A. That I don't remember. I -- my -- my**
11 **understanding is that she -- that the mother**
12 **had been advised to go to see Greta to reveal**
13 **this allegation.**
14 **Q.** Right. Been advised by either Erickson or
15 Laird, correct?
16 **A. I think it was Father Erickson.**
17 **Q.** Right.
18 **A. Yes.**
19 **Q.** And so she did and she brought the child at
20 the request of Father Erickson, correct?
21 **A. That I don't know.**
22 **Q.** And you're aware that an interview was
23 conducted of the child at that time?
24 **A. I wasn't aware of that, no.**
25 **Q.** Is that news to you?

- 1 **A. That is news to me. My understanding was that**
2 **the mother went and I did -- until now I had**
3 **not heard that she brought the child with her.**
4 **Q.** The child was interviewed, according to the
5 records that we have, at one of the Chancery
6 offices on the 20th by Greta Sawyer and tape
7 recorded. Is that news to you?
8 **A. That is.**
9 **Q.** And that it could have been the 19th or the
10 20th. In any case, that would be before you
11 claim a report was even made to the police,
12 correct?
13 **A. Well, my understanding of the sequence of**
14 **things all revolves around this privileged**
15 **context, and I -- my understanding was that**
16 **Father Erickson had suggested, because he**
17 **didn't feel he could break the confidentiality**
18 **of the conversation, that she should go to see**
19 **Greta Sawyer.**
20 **Q.** Well, the interview done by Greta Sawyer was
21 done at your offices at the Hayden Center?
22 **A. At the Hayden Center, yes.**
23 **Q.** And that was not a confessional secret kind of
24 thing, that was done at the request of Greta
25 Sawyer and Father Laird, correct?

- 1 **A. That I don't know.**
2 **Q.** Well, weren't you overseeing this?
3 **A. I was overseeing it. My understanding is that**
4 **it was Father Erickson that had advised the**
5 **woman to go to see Greta Sawyer and to -- and**
6 **to reveal this event and the allegation**
7 **therein.**
8 **Q.** Did Greta Sawyer tell you about the meeting
9 before it happened?
10 **A. No. She did not.**
11 **Q.** Did Laird tell you that they were going to
12 meet before it happened?
13 **A. No. He did not.**
14 **Q.** Did Erickson?
15 **A. No. He did not.**
16 **Q.** So you didn't know there was going to be?
17 **A. I did not know.**
18 **Q.** On the 21st of June, there's an indication of
19 a meeting in the morning between Haselberger,
20 Laird and Eisenzimmer. Are you aware of that?
21 **A. No.**
22 **Q.** That's news to you?
23 **A. It is.**
24 **Q.** Have you looked at any of the documentation
25 pertaining to this matter at all?

- 1 **A. No. I didn't know it existed.**
2 **Q.** At 9:42 there's an indication that a
3 litigation hold was placed and there was an
4 instruction given by Andy Eisenzimmer on that
5 day to not destroy any files or evidence. Are
6 you aware of that?
7 **A. I'm not, no.**
8 **Q.** Had there been some destruction of files and
9 evidence before this time --
10 **A. No.**
11 **Q.** -- on any cases that you're aware of?
12 **A. No.**
13 **Q.** That you know of?
14 **A. No. I do not.**
15 **Q.** Why would he give such an instruction if that
16 hadn't been a practice in play before --
17 **A. I have no --**
18 **Q.** -- do you know?
19 **A. I have no idea. It was not our practice.**
20 **Q.** After you, then, first met with Eisenzimmer
21 and learned what you claim to have learned,
22 what was the next thing you did or what did
23 you do responsive to the information you
24 received?
25 **A. I instructed him to do what he had told me we**

- 1 **should do as the next steps, which was to**
 2 **inform the law -- legal -- I mean, the -- the**
 3 **police and then to inform Father Wehmeyer of**
 4 **the accusation.**
 5 Q. And it's your belief you prepared the decree,
 6 then, after that time?
 7 A. **That's my recollection, yes. I didn't prepare**
 8 **it. Jennifer Haselberger prepared it.**
 9 Q. But you signed it?
 10 A. **I did sign it, yes.**
 11 Q. And she was authorized to prepare it as --
 12 A. **Correct.**
 13 Q. -- your canon lawyer?
 14 A. **Correct.**
 15 Q. Did you read it?
 16 A. **I read it, but I wasn't paying attention to**
 17 **the -- the dates per se. I was looking at the**
 18 **content of the -- the statement.**
 19 Q. In the first paragraph you are reciting when
 20 you received the information and you used both
 21 a quote and an "I," don't you?
 22 A. **Yes.**
 23 Q. You read that, didn't you?
 24 A. **I did.**
 25 Q. Okay. When's the next time you received any

- 1 information from any source pertaining to
 2 either the internal investigation or
 3 Wehmeyer's status?
 4 A. **Well, I had asked, as the document indicates,**
 5 **I asked for a regular report from Father**
 6 **Laird, and so that would have been given to**
 7 **me, generally speaking, at our weekly**
 8 **meetings, which is on Tuesday mornings.**
 9 (Discussion out of the hearing of
 10 the court reporter)
 11 BY MR. ANDERSON:
 12 Q. Was that after the arrest?
 13 A. **Yes, it would have been after the arrest.**
 14 (Discussion out of the hearing of
 15 the court reporter)
 16 BY MR. ANDERSON:
 17 Q. So is it correct to say, then, the only
 18 information you had and the only source of
 19 that information before the arrest of Wehmeyer
 20 was that told you by Andy Eisenzimmer and
 21 nothing else --
 22 A. **Correct.**
 23 Q. -- is that what you're saying?
 24 A. **Correct.**
 25 Q. And you've told us everything that Andy

- 1 Eisenzimmer told you?
 2 A. **Correct.**
 3 Q. And --
 4 A. **That I can recall, yes.**
 5 MR. HAWS: Talking about that day,
 6 right?
 7 MR. ANDERSON: Pertaining to that
 8 subject, yes.
 9 (Discussion out of the hearing of
 10 the court reporter)
 11 BY MR. ANDERSON:
 12 Q. Did you have any discussions of having
 13 meetings with your top officials at that time,
 14 Haselberger, Laird, Eisenzimmer, about whether
 15 it either should be reported or should have
 16 been reported sooner?
 17 A. **I don't recall any discussions on that at that**
 18 **time. I know that there were discussions of**
 19 **that subsequently when it was reported in the**
 20 **newspaper, but at that time I don't recall any**
 21 **discussion of that.**
 22 Q. What discussions are you talking about
 23 subsequently? What was said and by whom?
 24 A. **When -- there -- there was a sequence of**
 25 **discussions that took place, I believe, in**

- 1 **early October of 2013 about what the -- the**
 2 **dates were and how the sequence fell out. And**
 3 **there was a great deal of confusion about**
 4 **that. Of course, Jennifer had already left**
 5 **our employ at that point, so we weren't able**
 6 **to ask her about the confusion of the dates.**
 7 Q. Who have you asked about it to try to clear
 8 it?
 9 A. **We talked about it in terms of my staff at the**
 10 **time, it would have been Mr. Kueppers and**
 11 **Susan Mulheron and I believe our**
 12 **communications director. We were trying to**
 13 **figure out the sequence of how that all**
 14 **happened.**
 15 Q. And you're talking about Jim Accurso?
 16 A. **He was not involved in the --**
 17 Q. Who was the communications director then?
 18 A. **Sarah Mealey.**
 19 Q. So, really, discussions were more about
 20 communications management and crisis
 21 management than trying to get to the bottom of
 22 really what happened?
 23 A. **No. No.**
 24 MR. HAWS: Objection, that's
 25 argumentative and misstates facts.

1 **A. I would not agree to that.**
 2 **BY MR. ANDERSON:**
 3 **Q.** Then why have a communications person
 4 involved?
 5 **A. Because she was involved in all of our**
 6 **discussions.**
 7 **Q.** But that's for purposes of public relations.
 8 I'm interested in what you did about
 9 protecting the children and making sure you
 10 adhere to the law. Why did you bring the
 11 communications person into that conversation?
 12 **A. Well, because this was subsequent, this was in**
 13 **October 2013 is what I'm saying, but when I**
 14 **first discussed it after the event had taken**
 15 **place, we acted immediately to inform the**
 16 **police and to make sure that he was taken off**
 17 **of the premises so that he couldn't be a**
 18 **threat to the -- to the -- the children.**
 19 **Q.** You have made and your office has made a
 20 number of statements that you have acted
 21 immediately to inform the police concerning
 22 Wehmeyer. And do you make those statements to
 23 try to assure the people that they can trust
 24 what you say about child safety and your
 25 reporting of it?

1 **A. We say that because that's our policy, and as**
 2 **we would say in any other situation, we would**
 3 **quote our policy and this is the way we -- we**
 4 **act and we let people know that.**
 5 **Q.** Jennifer Haselberger has been very critical of
 6 you and the way you handled Wehmeyer, has she
 7 not?
 8 **A. I don't know. I haven't talked to her about**
 9 **it.**
 10 **Q.** Well, you've seen the MPR reports where she
 11 has?
 12 **A. I've heard her quoted, but I haven't talked to**
 13 **her directly about this.**
 14 **Q.** And she has reported very publicly that you
 15 did not report when you learned that Wehmeyer
 16 had abused?
 17 **A. Well, she's -- she's inaccurate on that.**
 18 **She's not correct.**
 19 **Q.** And as a canon lawyer, she's your record
 20 keeper, isn't she?
 21 **A. She should be.**
 22 **Q.** And you have no records today, nor are you
 23 aware of any, that contradict the assertions
 24 she has about what you told her and when it
 25 was reported, correct?

1 **A. I have my memory and my memory doesn't**
 2 **correspond to what you're telling me she has**
 3 **said.**
 4 (Discussion out of the hearing of
 5 the court reporter)
 6 MR. ANDERSON: I think we need to
 7 take a break here, so let's take a short
 8 break.
 9 MR. HIBBEN: We're going off the
 10 record at 1:44 p.m.
 11 (Recess taken)
 12 MR. ANDERSON: This will be on the
 13 the transcription record and not used for
 14 purposes of time. We just took a break
 15 because we were posed with the dilemma of the
 16 time limitation and the fact that the
 17 archbishop began the last segment with a
 18 correction to his earlier testimony concerning
 19 Shelley, and he began it with a correction by
 20 stating that a report, he believed, had been
 21 made to law enforcement in 2004, he corrected
 22 that by saying that the report had been made
 23 to a person working for the archdiocese who
 24 had been in law enforcement earlier. That
 25 correction changes the questions that we now

1 need to ask or would have asked, had he not
 2 made it, regarding Shelley. So I just had a
 3 discussion with counsel about taking more time
 4 to make sure, using that correction, we ask
 5 the questions that need to be asked. And your
 6 position on that, counsel, was and is?
 7 MR. HAWS: The archbishop testified
 8 when you asked him the questions, and you did
 9 do follow-up questions, and he testified that
 10 when you asked specifically, "Does that change
 11 any of your testimony that I've asked you
 12 about and how you took actions," his answer
 13 was no, only as to today when he said it was
 14 his belief it was a report to St. Paul Police,
 15 but it was a report to what was a retired
 16 police officer. That's all that it changed.
 17 It changed nothing else and he told you that.
 18 MR. ANDERSON: Well, it may not
 19 change how he answers some of the questions,
 20 but those are questions that haven't been
 21 asked and the questions that now need to be
 22 asked are very different than those that were
 23 asked pre-correction. So if you're not going
 24 to give the time, just state it on the record.
 25 MR. HAWS: You have 20 minutes. You

1 can ask whatever questions you want.
 2 MR. ANDERSON: Wait a minute. Well,
 3 I just want to see if you're going to agree to
 4 the additional time by reason of the
 5 correction or not. And I think it's 15
 6 minutes -- there was actually 32 minutes taken
 7 on Shelley -- no. There was actually 32
 8 minutes remaining, according to our
 9 calculation, and, you know, if I can get
 10 through it, I just want to know if we're going
 11 to have more time or not.

12 MR. HAWS: You have what time is
 13 left. I don't think it's 32 minutes, either.

14 MR. ANDERSON: Well, we've been
 15 keeping time on that and excluding your
 16 speaking objections, counsel, and so we're
 17 going to start the deposition of the
 18 archbishop. I'm going to assume that you are
 19 not affording more time and I'm going to, for
 20 purposes of Shelley, given the correction
 21 made, I'm going to use the 32 minutes
 22 remaining to do the best I can to get through
 23 what I can today, knowing that that isn't
 24 feasible.

25 MR. HAWS: You have the opportunity

1 to ask whatever additional questions on
 2 Shelley to clear up what you need to do now.
 3 And, again, the time left is whatever it is.

4 MR. ANDERSON: Okay. We're going to
 5 go back to the video record now.

6 MR. HIBBEN: All right. I just need
 7 one moment, please.

8 MR. HAWS: What is the actual time,
 9 videographer, of what we've got on the
 10 videotape deposition?

11 MR. HIBBEN: I have three hours, 35
 12 minutes and 52 seconds.

13 MR. HAWS: Thank you.

14 MR. HIBBEN: Yes, sir. We're back
 15 on the record at 2:03 p.m.

16 BY MR. ANDERSON:

17 **Q.** Archbishop, because you made a correction at
 18 the start of the last section concerning
 19 Shelley, I'm going to go back and try to get
 20 your testimony concerning some of the things
 21 that need to be asked, given that correction,
 22 that weren't asked because of your testimony
 23 given before it.

24 I'm going to show you an Exhibit 38
 25 and it is a memo from you -- excuse me, from

1 Jennifer Haselberger to you, correct?

2 **A. Correct.**

3 **Q.** And pertaining to Shelley in February of 2012?

4 **A. Correct.**

5 **Q.** At that time, at the bottom of the second
 6 paragraph, it reflects Shelley was without
 7 supervision. Is that your understanding?

8 MR. HAWS: Archbishop, just read the
 9 document, the entire document --

10 MR. ANDERSON: No.

11 MR. HAWS: -- so you have it in
 12 context.

13 MR. ANDERSON: No. No, he's not.

14 MR. HAWS: Well, counsel, you can't
 15 ask out of context.

16 MR. ANDERSON: Go off the record.
 17 Let me --

18 MR. HAWS: Well, no. He's not going
 19 off the record. He has a right to read the
 20 deposition --

21 MR. ANDERSON: No. We're not going
 22 to have him reading documents, taking the time
 23 on the record. That's intended to delay the
 24 process.

25 MR. HAWS: You want to ask a

1 question about a document that's in front of
 2 the archbishop and you want to be unfair and
 3 not let him read to see what the context is,
 4 is that your position?

5 MR. FINNEGAN: No. We'll take a
 6 break and let him read it.

7 MR. HAWS: Well, why would you take
 8 a break? When do you ever do that in a
 9 deposition? This is a deposition. Ask your
 10 questions.

11 MR. FINNEGAN: We don't have people
 12 that are trying to delay the depositions like
 13 you.

14 MR. HAWS: I hardly am trying to
 15 delay the deposition. If questions were
 16 asked properly, it would have been much
 17 quicker.

18 MR. ANDERSON: Mr. Haws, you're an
 19 officer of the court. You know better than
 20 this.

21 MR. HAWS: I am.

22 MR. ANDERSON: We'll take it up with
 23 the judge, but I'll tell you right now, I'm
 24 going to read a portion from this and ask you
 25 a question, Archbishop.

1 BY MR. ANDERSON:

2 **Q.** In this memorandum to you, she states, "The
3 reason this was not given more attention in
4 2008 only became clear recently. For, while
5 there is reference to the misconduct in Father
6 Shelly's green personnel file, the detailed
7 information relating to the misconduct,
8 including the investigator's report, was of 48
9 restricted files that were archived (meaning
10 moved to the basement, without reference to it
11 being placed in the personnel files) in the
12 early months of 2008." Do you remember
13 discussing that with her at that time?

14 **A. (Examining documents) I don't at this moment,
15 I don't recall discussing that with her.**

16 **Q.** She goes on to state, and I'll ask you, "I
17 have attached a list of files that were moved
18 to the archives, although we have not been
19 able to locate all the files on the list."
20 Were there files moved to the archives,
21 Archbishop?

22 **A. We have -- we have two archive rooms and the
23 files of active priests are in one, files of
24 priests who have left and priests who are dead
25 would be in another room.**

1 **Q.** And in the same memo at the second page,
2 there's a recitation of various things known
3 about Shelley that -- my question to you as is
4 stated in the memo to you, she says, "In 2004
5 while Shelley was assigned to St. Jude, Father
6 Shelley's" --

7 MR. HAWS: Where are you reading?
8 Counsel, can you just tell him where you're
9 reading from?

10 BY MR. ANDERSON:

11 **Q.** At the top. "Shelley's personal computer (one
12 of three) was mistakenly donated to a
13 parishioner during the parish garage sale."
14 Do you know what happened to the three
15 computers?

16 **A. (Examining documents) I only see here one
17 computer -- one of three.**

18 **Q.** Yeah, but I'm talking about there were three
19 computers. Do you know what happened to those
20 three computers?

21 **A. I know that the one computer that they
22 referred to was ultimately turned in by the
23 person who received the donation. He came to
24 the archdiocese about it. I don't know what
25 happened to the other two computers.**

1 **Q.** There's also reference to the archdiocese
2 ordering an investigation and a computer
3 analysis to be done of the machine. Did you
4 see that yourself?

5 **A. I did not.**

6 **Q.** You were told there were images on there by
7 the experts that did the analysis that there
8 was questionable or borderline child
9 pornography, were you not?

10 **A. I did read the context and I think they would
11 -- it said they were borderline, but they
12 didn't think it was child pornography.**

13 **Q.** But there were questions about that, were
14 there not?

15 **A. I think there were questions for Jennifer.**

16 **Q.** And you had questions about that?

17 **A. I did.**

18 **Q.** And aren't questions the same as suspicions
19 enough to justify a report to the police at
20 that time?

21 **A. I sincerely thought that what we were doing
22 with this outside investigation, that the
23 person -- the forensic person and the retired
24 policeman had the wherewithal to make that
25 investigation.**

1 **Q.** You say "outside investigation." The fact of
2 the matter is, this is a --

3 **A. Well, internal.**

4 **Q.** -- internal investigation?

5 **A. Internal investigation with an outside
6 company.**

7 **Q.** An outside company hired by the archdiocese --

8 **A. Correct.**

9 **Q.** -- to find out for them what's on it, right?

10 **A. Right.**

11 **Q.** And all of this investigation was done and
12 handled by those retained and those in your
13 office, correct? Nobody outside the
14 archdiocese?

15 MR. HAWS: You're now referring to
16 the 2004 time frame here?

17 MR. ANDERSON: I'm referring to the
18 -- yes.

19 **A. Well, what I meant by "outside" was that they
20 weren't people that worked directly for us on
21 our staff.**

22 **BY MR. ANDERSON:**

23 **Q.** Father Shelley's still in ministry, isn't he?

24 **A. Father is not in ministry. He's on a leave of
25 absence.**

- 1 **Q.** Okay. Excuse me, he took a sabbatical?
- 2 **A.** **Took a sabbatical and then he was placed on**
- 3 **leave of absence.**
- 4 **Q.** The point that this memo was sent to you and
- 5 you read it, Shelley was in ministry, was he
- 6 not?
- 7 **A.** **He was.**
- 8 **Q.** And he was continued in ministry, was he not,
- 9 by you?
- 10 **A.** **I don't have those dates. This is 2012. He**
- 11 **was -- 2012 he would have been out of**
- 12 **ministry.**
- 13 **Q.** It was June 2012 that he took a sabbatical?
- 14 **A.** **(Examining documents) I don't -- I don't know**
- 15 **where you're getting that date.**
- 16 **Q.** Archbishop, Haselberger refers also at the
- 17 bottom paragraph that she's attaching a copy
- 18 of a September 23rd, 2004, letter -- 2004
- 19 letter of referral to the SLI. That would be
- 20 St. Luke's Institute, correct?
- 21 **A.** **Correct.**
- 22 **Q.** And you had seen that report, had you not?
- 23 **A.** **(Examining documents) I can't recall at this**
- 24 **moment whether -- whether I did. I'm confused**
- 25 **by this.**

- 1 MR. HAWS: You're referring to the
- 2 letter or the report?
- 3 MR. ANDERSON: The report, the St.
- 4 Luke's Institute report.
- 5 BY MR. ANDERSON:
- 6 **Q.** Had you ever seen that?
- 7 **A.** **I don't believe I did. If it came in**
- 8 **September of 2004, I wouldn't have been**
- 9 **present on the site at the time.**
- 10 **Q.** The records seem to reflect that they actually
- 11 got the report and sent him there before they
- 12 got the computer evaluated or completed.
- 13 MR. HAWS: Archbishop, if you know.
- 14 I don't know if those are facts or not, but if
- 15 you know.
- 16 **A.** **Well, I would have to look more carefully at**
- 17 **this.**
- 18 **BY MR. ANDERSON:**
- 19 **Q.** Okay. Well, let's just look at the sentence.
- 20 It says, at the last paragraph she says,
- 21 "Archbishop, I'm attaching the copy of our
- 22 September 23rd, 2004, letter of referral to
- 23 SLI as well as their report to this memo."
- 24 Correct?
- 25 **A.** **Correct.**

- 1 **Q.** That means you received it, correct?
- 2 **A.** **That somebody would have received it, yes.**
- 3 **Yes.**
- 4 **Q.** Well, this is to you?
- 5 **A.** **Yes.**
- 6 **Q.** So you're not disputing you received it --
- 7 **A.** **No.**
- 8 **Q.** -- correct?
- 9 **A.** **No.**
- 10 **Q.** That is correct?
- 11 **A.** **That's correct.**
- 12 **Q.** Okay. The last paragraph, and she writes to
- 13 you, "Father Shelley has not been assessed by
- 14 SLI since the computer was determined to have
- 15 images that were borderline illegal." Did you
- 16 do anything responsive to that information,
- 17 Archbishop?
- 18 **A.** **I don't recall.**
- 19 **Q.** At the next page, the last sentence, she
- 20 writes to you, "You will recall that this has
- 21 not been without problems, including" --
- 22 **A.** **Where -- where are you reading, please?**
- 23 **Q.** The next page.
- 24 **A.** **Yes.**
- 25 **Q.** Last sentence of the first paragraph.

- 1 **A.** **Okay.**
- 2 **Q.** She writes, "You will recall that this has not
- 3 been without problems, including the fact that
- 4 Father Shelley had an 18-year-old male living
- 5 in the rectory of St. John the Baptist in
- 6 2009." Did you know that, Archbishop, before
- 7 having received this?
- 8 **A.** **I don't believe I knew it before receiving**
- 9 **this.**
- 10 **Q.** So when you got this information, did you do
- 11 anything about it?
- 12 **A.** **I -- I -- I do believe that it was looked into**
- 13 **by -- by somebody on the staff and I think it**
- 14 **was my delegate for clergy, who would have**
- 15 **been Father Tiffany.**
- 16 **Q.** Okay. And did he give you a report or take
- 17 any action?
- 18 **A.** **I think it was past the time that the young**
- 19 **man was living there.**
- 20 **Q.** Was Shelley interviewed by you or any of your
- 21 delegates --
- 22 **A.** **I believe by my --**
- 23 **Q.** -- to find out?
- 24 **A.** **I believe by my delegate.**
- 25 **Q.** And was that recorded or reported to police?

- 1 **A. I believe it should have been. I don't know**
 2 **-- I can't say definitely it was, but it**
 3 **should have been reported.**
 4 **Q.** Do you have any knowledge that it was?
 5 **A. No, I don't.**
 6 **Q.** The next paragraph goes on to state, at the
 7 second sentence, beginning -- the paragraph
 8 starts with "However."
 9 **A. Yes.**
 10 **Q.** And the second -- I'll read it, it says,
 11 "However, now that you have access to the
 12 information that was recently recovered
 13 (including DVDs of the material that was found
 14 on the computer) I think there is a great risk
 15 of associated" -- "a great risk associated
 16 with reassigning Father Shelley." I read that
 17 correctly?
 18 **A. You did.**
 19 **Q.** You did reassign him, didn't you?
 20 **A. I believe -- no. I don't believe I did re --**
 21 **reassign him at that point. He was already in**
 22 **Hugo.**
 23 **Q.** Actually, you left him there for six months,
 24 didn't you, in the parish he was?
 25 **A. I believe I did, yes.**

- 1 **Q.** Without notifying anybody of this information
 2 that you had received from her, correct?
 3 **A. That would be correct, but I don't know that**
 4 **her information was -- was correct here. I'm**
 5 **just looking at this again for -- it's been a**
 6 **long time since I've seen it.**
 7 **Q.** Well, let me ask you another question. Under
 8 that same paragraph enumerated number 1, she
 9 states, I'll read and then ask you questions.
 10 "Collecting all the personal computers/
 11 laptops that Father Shelley is using at this
 12 time and sending them for similar analysis."
 13 This is a recommendation action?
 14 **A. Uh huh.**
 15 **Q.** It states, "If the SLI report is correct and
 16 Father Shelley has an ongoing problem with
 17 compulsive sexual behavior in his Internet
 18 pornography use, it is very likely that this
 19 use will have continued, and since Father
 20 Shelley's never received treatment to address
 21 this." Did that alarm you or do you remember
 22 that alarming you at the time?
 23 **A. I believe that would have alarmed me at the**
 24 **time, yes.**
 25 **Q.** What did you do about it?

- 1 **A. I can't -- I can't remember what I did about**
 2 **it.**
 3 **Q.** Did you alert any of the parishioners or the
 4 public or the police of what you were alarmed
 5 about and the information you're receiving in
 6 this memo that concerns you?
 7 **A. I honestly can't say right now what I -- what**
 8 **I did or didn't do.**
 9 **Q.** At the last paragraph you do state -- it is
 10 stated by her, "I shared this information with
 11 Father Laird last July." Do you have any
 12 memory of having taken any action to report
 13 Shelley to law enforcement, to alert the
 14 parishioners or the public about the risks now
 15 discerned concerning Shelly's danger to
 16 children or use, possible possession of child
 17 pornography?
 18 MR. HAWS: Objection, that misstates
 19 the facts, the evidence, the document you just
 20 read, counsel. There's not a word in there
 21 that says that there's a danger to children,
 22 so you've misstated the record again,
 23 inserting your own facts. If you ask it
 24 another way, it would be a proper question.
 25 BY MR. ANDERSON:

- 1 **Q.** Did you take any action responsive to the
 2 information contained in this memo?
 3 **A. I believe that there was a question of the**
 4 **ongoing nature of the -- the images that were**
 5 **on that computer and I believe I was waiting**
 6 **for a final analysis of that in order to make**
 7 **some kind of reaction.**
 8 **Q.** And so it is correct that four months later,
 9 Shelley was allowed to resign from his parish,
 10 claim to the parishioners he was taking a
 11 sabbatical, correct, with your permission?
 12 **A. I -- I'd have to look at the record.**
 13 **Q.** Do you have a memory of that?
 14 **A. I don't have a memory of that. I know that he**
 15 **did ask for a sabbatical and he was granted a**
 16 **sabbatical, and then I put him on leave after**
 17 **other information came to the fore.**
 18 **Q.** And did you or anybody under your direction
 19 ever alert the police or the public of what
 20 you knew as contained in this memo about
 21 Shelley?
 22 **A. Not to -- not to my knowledge.**
 23 **Q.** And I'm going to refer you to Exhibit 45.
 24 Before I do, do you remember a dispute between
 25 Jennifer Haselberger and Kevin McDonough about

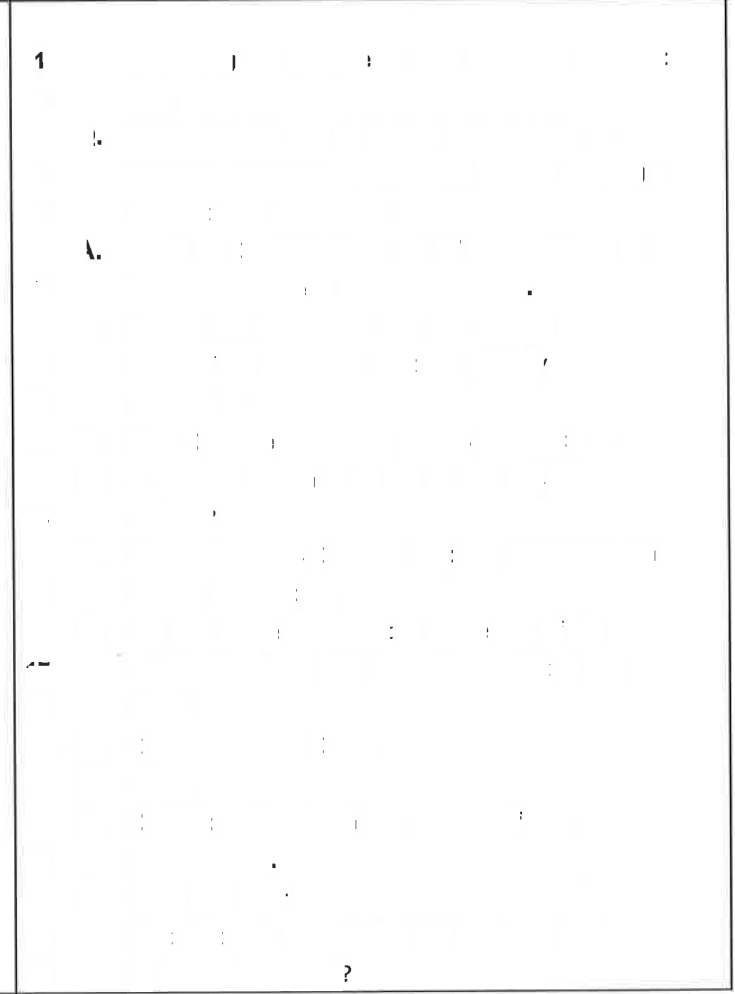
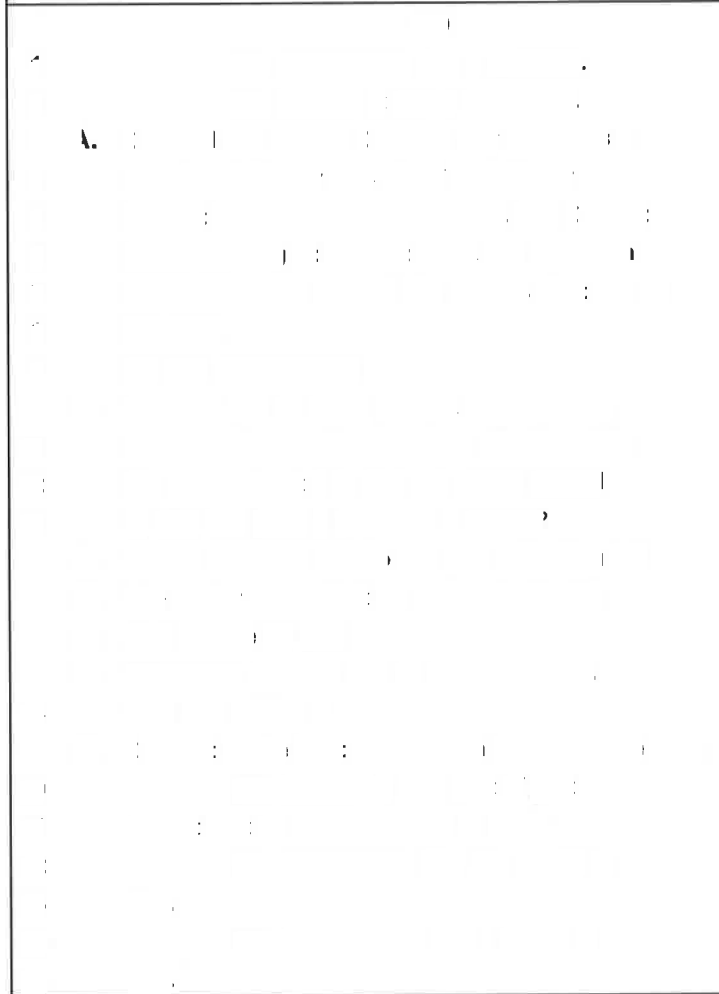
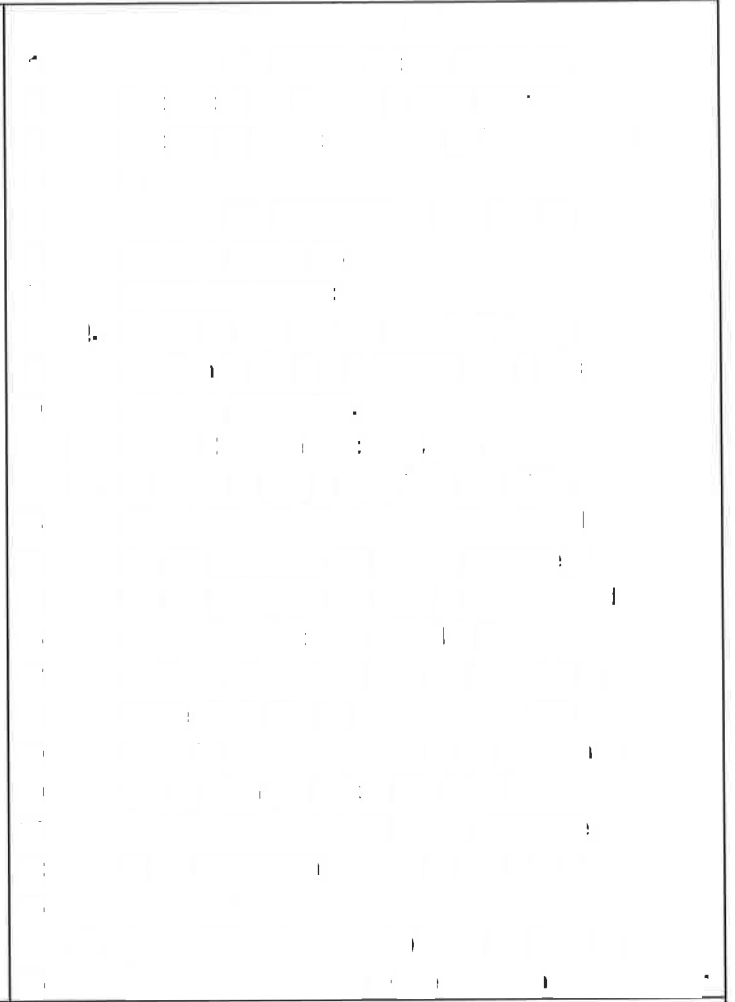
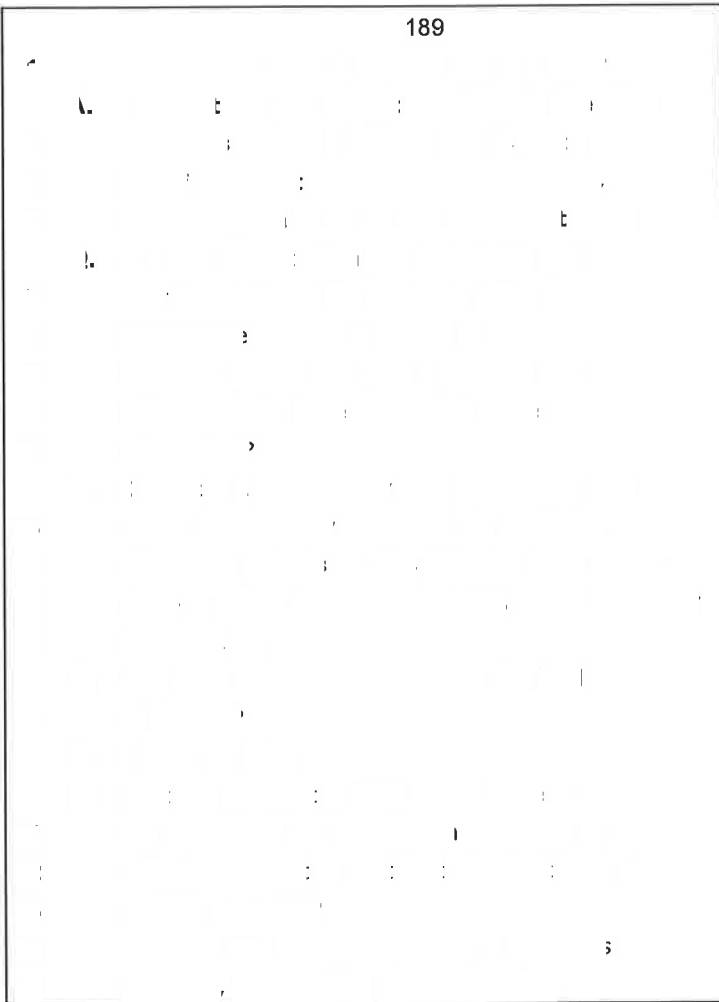
1 whether these images on this computer were
 2 illegal and child porn and, thus, a form of
 3 sexual abuse?
 4 **A. I do remember there was an argument, yes.**
 5 **Q.** Tell us about that argument, what you heard
 6 and what you did responsive to it.
 7 **A. Well, Jennifer maintained that the images were**
 8 **those of child pornography and Father**
 9 **McDonough said they were not. And we had the**
 10 **-- at the time the investigation that was done**
 11 **with the retired policeman indicating that**
 12 **these were borderline. And so there was a**
 13 **dispute, obviously, about the nature of these**
 14 **images.**
 15 **Q.** And Kevin McDonough took the position that 60
 16 percent of the images are created by law
 17 enforcement and because he had not been
 18 caught, he had not been guilty and he made
 19 that case to you, didn't he?
 20 **A. I don't recall that at all, no.**
 21 **Q.** He also claimed that they may have been pop-up
 22 images and innocently, then, on that computer.
 23 Do you remember that?
 24 **A. Subsequent to this, yes, I remember that.**
 25 **Q.** Jennifer Haselberger disputed that vigorously,

1 did she not?
 2 **A. I believe she did.**
 3 **Q.** And she went to the length to even copy some
 4 of those images and put them on your desk,
 5 didn't she?
 6 **A. Those were the same images I believe that you**
 7 **referred to before.**
 8 **Q.** How many images?
 9 **A. I think there were only three, that I recall.**
 10 **Q.** And she told you that she had showed those to
 11 McDonough and he ordered her to put them back
 12 in the archive, didn't she?
 13 **A. I believe she did, yes.**
 14 **Q.** And she was upset about that?
 15 **A. I believe she was, yes.**
 16 **Q.** And she wanted you to take action, didn't she?
 17 **A. I believe she did, yes.**
 18 **Q.** And you chose not to, didn't you?
 19 **A. Well, I didn't think they were child**
 20 **pornography.**
 21 **Q.** She also urged you to report to law
 22 enforcement what those images were and what
 23 the archdiocese knew and included in Shelly's
 24 file, including the earlier stuff, correct?
 25 **A. I don't recall that.**

1 **Q.** Okay. I'll show you Exhibit 45.
 2 **A. Yes.**
 3 **Q.** And I'll direct your attention to 45, which is
 4 dated February 8th, 2013, it's to you from
 5 her. Fifth paragraph down she writes, "I
 6 would also like to reiterate that I think all
 7 of this information should be turned over to
 8 law enforcement for their determination, in
 9 hopes of avoiding prosecution for you and your
 10 staff by offering an affirmative defense."
 11 She wrote that to you, didn't she?
 12 **A. She did.**
 13 **Q.** And then she states, "Finally, I am attaching
 14 a memo written by Father McDonough when he
 15 made a similar assessment of Father Wehmeyer.
 16 His conclusion, which Father Laird supported."
 17 In other words, she's saying, "Don't make the
 18 same mistake here that you made with
 19 Wehmeyer." Is that the way you read this?
 20 MR. HAWS: Objection, it's assuming
 21 facts not in evidence. That's not what the
 22 memo says.
 23 BY MR. ANDERSON:
 24 **Q.** As you recall, is that the way you read it?
 25 **A. No.**

1 **Q.** You didn't turn this over because you were
 2 worried that you were in possession and you
 3 could be prosecuted?
 4 **A. That's not true. I didn't turn it over**
 5 **because I didn't think it was child**
 6 **pornography.**
 7 (Discussion off the record)
 8 BY MR. ANDERSON:
 9 **Q.** So what training do you have in the area of
 10 what is and isn't child pornography?
 11 **A. Not very much.**
 12 **Q.** Well, what training at all?
 13 **A. None.**

15



1 .
2 Q. Let me ask you this, Archbishop. You've now
3 testified and publicly declared that you have
4 identified those that you believed credibly
5 accused and that you have files pertaining to
6 them, don't you think it's past time to turn
7 it over to law enforcement and, if so, will
8 you do that now?

9 MR. HAWS: Objection, that calls for
10 a legal conclusion and something that the
11 archbishop doesn't have -- isn't going to do
12 at this point in time.

13 BY MR. ANDERSON:

14 Q. Well, I'm going to ask you. Will you turn the
15 files over to the law enforcement agencies?

16 A. **Well, as I mentioned before in this testimony,**
17 **we've had a thorough review of the files by**
18 **the Kinsale -- Kinsale and with the -- and**
19 **they're still in the process of doing that and**
20 **I'm waiting for that -- results of that to be**
21 **able to -- to do exactly what you're**
22 **suggesting.**

23 Q. But Kinsale was hired by you, aren't they?

24 A. **Correct.**

25 Q. Okay. Just like the clergy review board is

1 appointed by you, correct?

2 A. **Correct.**

3 Q. Just like Setter was hired by your former --
4 the former archbishop, correct?

5 A. **Correct.**

6 Q. And just like the forensic investigator was
7 hired. So the question I put to you, and
8 maybe it's a request, why not just privately
9 turn the files over of those priests to law
10 enforcement to let the professionals review it
11 instead of trying to do this yourself?

12 MR. HAWS: Same objections.

13 BY MR. ANDERSON:

14 Q. Why not?

15 A. **My answer would be, we are prepared to do what**
16 **we have to do when the Kinsale file review has**
17 **been done.**

18 Q. Don't you realize how risky it is and the
19 danger this poses by keeping all these things
20 within your control and those you hire and
21 keeping it under the internal processes that
22 you have instead of turning it over to the
23 professionals who are trained in law
24 enforcement investigation?

25 MR. HAWS: And I'll object again,

1 counsel. You're trying to make sound bites.
2 There's no evidence that the archdiocese has
3 not cooperated with any law enforcement
4 officials, with any person that's been --

5 MR. ANDERSON: That's not a legal
6 objection.

7 MR. HAWS: That is a legal
8 objection, counsel, because you continue to
9 try to create your own clips and that's not --

10 MR. ANDERSON: No. We're trying to
11 protect kids here, we're trying to protect
12 kids, counsel. Give me a legal objection
13 about it.

14 MR. HAWS: Ask him questions about
15 it.

16 BY MR. ANDERSON:

17 Q. And I ask you, Archbishop, and giving you a
18 chance to give the law enforcement people to
19 know what your office knows by turning those
20 files over to them privately and letting them
21 investigate it.

22 MR. WIESER: Time's up.

23 BY MR. ANDERSON:

24 Q. Why don't you do that?

25 A. **As I indicated to you, once we have the**

1 **file --**

2 Q. Why wait? Kids are at risk.

3 MR. HAWS: Counsel, we're done.

4 MR. ANDERSON: What do you mean
5 we're done? We're not done with this
6 deposition.

7 MR. WIESER: What time does --

8 MR. ANDERSON: You're declaring the
9 time is up?

10 MR. HAWS: Let's take a break and
11 find out what the time is, okay? Let's take a
12 break right now from the video and we'll find
13 out how much time you've been on the video.

14 MR. HIBBEN: We're going off the
15 record at 2:34.

16 MR. HAWS: We can stay on the
17 record.

18 MR. HIBBEN: I have four hours and
19 seven minutes and five seconds.

20 MR. HAWS: We're over the time.

21 MR. ANDERSON: Well, I told you at
22 the start, you've got speaking objections.

23 You're not going to get away with creating
24 delays by your crazy speaking objections,

25 counsel. There's not one legal objection you

1 have posed that was legitimate. It was either
2 privileged or, you know, if you want to do
3 form or something like that. All it has been
4 is speaking objections and a waste of time. I
5 warned you in advance and I said I'm not going
6 to count that on the time. So given that I've
7 had a timekeeper here and according to my
8 timekeeper -- and your speaking objections
9 took up how much time?

10 MS. ODEGAARD: Two-and-a-half
11 minutes.

12 MR. ANDERSON: Two-and-a-half
13 minutes.

14 MR. WIESER: For the record, I've
15 been also keeping track and I have less than a
16 half a minute of total time spent on what
17 you're referring to as speaking objections.
18 So at this point you're saying there are an
19 additional two minutes left?

20 MS. ODEGAARD: Two-and-a-half
21 minutes left.

22 MR. WIESER: Will you keep track of
23 that, Mr. Videographer?

24 MR. HAWS: Well, my speaking
25 objections, for the record before you go on

1 the video, are because of improper questions
2 you posed, improper hypotheticals, improper
3 factual scenarios that require that, counsel.
4 And as an officer of the court, you should
5 know that you cannot do that, that is not
6 appropriate nor is it fair to insert your own
7 facts in order to create whatever it may be
8 you're trying to do here. The archbishop has
9 been here to answer whatever questions he can
10 as best he can in a proper form, so --

11 MR. WIESER: We're over already. I
12 think we can wrap it up at this point, if you
13 want to.

14 MR. HAWS: Yeah, let's just do that.

15 MR. BRAUN: I'm good with that.

16 MR. WIESER: That's fine.

17 MR. ANDERSON: So are we done?

18 MR. HAWS: We're done. You're past
19 your time.

20 MR. ANDERSON: Well, I consider this
21 deposition to be open for reasons that were
22 legitimate at the start of this deposition by
23 reason of the failure to disclose, which
24 should have been, and the untimely disclosures
25 as well as the incomplete ones. And now it's

1 even more acutely problematic by reason of two
2 things: One, the archbishop's change in
3 testimony that altered the necessity to ask
4 questions that otherwise would not have been,
5 in which after a break was taken, the decision
6 was made; two, there have been speaking
7 objections, none of which have been legally
8 based or identified in law as anything other
9 than recitations of belief; and, three --

10 MR. HAWS: You can take the
11 archbishop out.

12 MR. ANDERSON: So I guess counsel is
13 leaving now, we're considering the deposition
14 open. They're gone -- and are you prepared to
15 continue, Archbishop?

16 MR. WIESER: Archbishop, why don't
17 you come?

18 MR. HAWS: No. Archbishop, you
19 don't have to. We can go.

20 For the record, you had Shelley
21 files and the Wehmeyer files beforehand. In
22 terms of testimony, I believe you've actually
23 gone beyond what the court had authorized you
24 to do in the deposition in any event. And the
25 objections were necessitated by your own

1 conduct. And we'll deal with what we have to
2 with the court. You've preserved your record
3 and we've made ours, so there's no other
4 reason to argue about it.

5 MR. ANDERSON: No. We're done.
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25

1 I, ARCHBISHOP JOHN NIENSTEDT, do hereby
2 certify that I have read the foregoing
3 transcript of my deposition and believe the
4 same to be true and correct, except as
5 follows: (Noting the page number and line
6 number of the change or addition and the
7 reason for it)

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23 Subscribed to and sworn
24 before me this ___ day
25 of ___, 2014.

1 STATE OF MINNESOTA
2 COUNTY OF RAMSEY **

3
4 I hereby certify that I reported the
deposition of ARCHBISHOP JOHN NIENSTEDT, on
the 2nd day of April, 2014, in St. Paul,
Minnesota, and that the witness was by me
first duly sworn to tell the whole truth;

6
7 That the testimony was transcribed under my
direction and is a true record of the
testimony of the witness;

8
9 That the cost of the original has been charged
to the party who noticed the deposition, and
that all parties who ordered copies have been
charged at the same rate for such copies;

11
12 That I am not a relative or employee or
attorney or counsel of any of the parties, or
a relative or employee of such attorney or
counsel;

13
14 That I am not financially interested in the
action and have no contract with the parties,
attorneys, or persons with an interest in the
action that affects or has a substantial
tendency to affect my impartiality;

16
17 That the right to read and sign the deposition
by the witness was not waived, and a copy was
provided to him for his review;

18
19 WITNESS MY HAND AND SEAL THIS 4th day
of April, 2014.

21
22 _____
Gary W. Hermes

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DECREE

In nomine Domini. Amen

On June 18, 2012, the Archdiocese of Saint Paul and Minneapolis received a complaint that Reverend Curtis Wehmeyer, a priest of this Archdiocese, supplied alcohol and sexually explicit images to a minor, and fondled or attempted to fondle the minor's genitals. I have concluded that this constitutes information which "at least seems to be true" (c. 1717).

Therefore, in accordance with the aforementioned canon, I decree that an inquiry be done into the facts and circumstances of this accusation, as well as its imputability to Father Wehmeyer.

Since my other duties prevent me from conducting this investigation personally, I hereby appoint Very Reverend Peter A. Laird, Vicar General and Moderator of the Curia, to act as the investigator in this matter. In carrying out these duties, Father Laird will have all of the authority of an auditor, in accordance with cc. 1428 and 1717. He is to collect any additional proofs he deems necessary in accordance with the norm of law as they relate to the present allegation. He is delegated to take testimony from the accused and from any witnesses (cc. 1530 - 1538 and 1547 - 1573), to obtain any necessary documents (cc. 1540 - 1546), to enlist the services of any experts deemed necessary (cc. 1574 - 1581), and to have access to places or things which he deems necessary for his investigation.

In conducting his investigation, Father Laird is to take care that such an investigation does nothing to harm Father Wehmeyer's name or to violate his right to protect his privacy. Father Laird should also avoid taking any action which may interfere with or hinder any criminal investigation.

Within thirty days of the issuance of this decree, Father Laird is to make a preliminary written and oral report to me. To the extent possible, this report is to address the facts, circumstances, and imputability concerning the alleged offense. Thereafter, I will expect weekly updates on the progress of the investigation, which will conclude no later than one hundred eighty days from the date of this appointment.

Given on June 20, 2012, at Saint Paul, Minnesota.

The Most Reverend John C. Nienstedt
Archbishop of Saint Paul and Minneapolis

Reverend Daniel Bodin
Ecclesiastical Notary

Ex 18

ARCH-000236

MEMORANDUM

Date: February 4, 2012
To: The Most Reverend John C. Nienstedt
From: Jennifer Haselberger
Re: Reverend Jonathan Shelley

Archbishop,

I know that the CAB has been asked to look into the question of a future assignment for Father Shelley. However, prior to the CAB making any recommendations, both Andy and I feel strongly that the Clergy Review Board should be consulted.

You will recall that Father Shelley's current assignment as administrator (2008) was made on the condition that he adhere to a support and accountability plan administered through the Office of Priestly Life and Ministry. With Father Tiffany's illness and departure from the office, Father Shelley has been without supervision.

Your decision to appoint Father Shelley in this matter was based on a psychological report conducted by Jay McNamara. This report focused on leadership issues in Father Shelley's previous assignments. Therefore, the support and accountability plan was focused on developing leadership skills in Father Shelley.

What was only briefly alluded to in the report is Father Shelley's misconduct, which was discovered in 2004. The reason that this was not given more attention in 2008 only became clear recently. For, while there is reference to the misconduct in Father Shelley's green personnel file, the detailed information relating to the misconduct, including the investigator's report, was one of 48 'restricted files' that were archived (meaning moved to the basement without reference to it being placed in the personnel files) in the early months of 2008. Therefore, when you were making the decision to appoint Father Shelley in 2008, neither you nor the staff advising you was aware that additional information existed. We have only recently 'discovered' these archived files. I have attached the list of files that were moved to the archives, although we have not been able to locate all of the files on the list.

The reason that I recommend that this matter go before the Clergy Review Board is as follows.

ARCHDIOCESE
OF
SAINT PAUL &
MINNEAPOLIS

In 2004, while Father Shelley was assigned to St Jude of the Lake, Father Shelley's personal laptop computer (one of three) was mistakenly donated to a parishioner during a parish 'garage sale'. The parishioner attempted to install games for his children to use, and found pornographic images on the computer. The parishioner reported the matter to the Archdiocese, and provided Chancery staff with the computer. The Archdiocese then ordered an investigation and computer analysis be done on the machine. The Archdiocese also requested that Father Shelley allow them to conduct a similar analysis on his other two personal computers. When he received that request, Father Shelley immediately destroyed one of the computers, and while he initially indicated he would permit an analysis of the third computer, he changed his mind and never provided the Archdiocese with access to it.

After completing the computer analysis and investigation, the investigator reported:

'Many of the homosexual pornographic images viewed by this investigator and the computer analyst could be considered borderline illegal, because of the youthful looking male image.'

The report of the computer analyst indicates that searches for pornography on the internet included use of search terms such as 'free naked boy pictures'. The investigator and the analyst also concluded that 'there is no credible evidence to support the claim that person(s) other than Father Shelley accessed, downloaded, or viewed the approximate 2300 adult sites/images', and 'there is sufficient reason to believe that the computer hard drive which Mr. Terus [parishioner] turned over to the investigator had been used exclusively by Father Shelley'.

These latter points are significant in that Father Shelley's claim throughout the investigation, and when he was sent for evaluation to Saint Luke's Institute, was that the computer had been used by another man who was living with Father Shelley, and who had admitted to Father Shelley that he used internet pornography.

Archbishop, I am attaching the copy of our September 23, 2004, letter of referral to SLI, as well as their report, to this memo. However, please note that the SLI report is dated October 14, 2004, while the report of the computer analyst is October 15, 2004, and the investigator's report is dated October 21, 2004. In other words, our referral to SLI and their report back was completed before the computer itself had been examined and the report received. The statement in the letter of referral that 'this assessment is not occasioned by any known illegal activity' was, in retrospect, premature. Father Shelley has not been assessed by SLI since the computer was determined to have images that were borderline illegal.

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The Church, and civil law, considers accessing pornographic images of minors to be equivalent to the sexual abuse of a minor. Therefore, credible accusations that a cleric has accessed child pornography are to be reported to the Congregation for the Doctrine of the Faith. Obviously, this was not done in 2004, and, in fact, Father Shelley was almost immediately reassigned to parochial ministry. You will recall that this has not been without problems, including the fact that Father Shelley had a 18yr old male living in the rectory of St John the Baptist in 2009.

However, now that you have access to the information that was recently recovered (including DVDs of the material that was found on the computer) I think there is a great risk associated with reassigning Father Shelley. In fact, prior to doing so, I would recommend the following actions:

1. Collecting all of the personal computers/laptops that Father Shelley is using at this time and sending them for similar analysis. If the SLI report is correct and Father Shelley has 'an ongoing problem with compulsive sexual behavior in his internet pornography use', it is very likely that this use will have continued, since Father Shelley never received treatment to address this.
2. Based on the results of the above, send Father Shelley for a second evaluation at SLI, providing them with the information discovered during both analyses and without setting limitations on their assessment or report.
3. Send all of the information on Father Shelley to the Clergy Review Board for its review and recommendation.
4. Depending on the results of the computer analysis and the second SLI evaluation, you may want to consider referring this matter to the Congregation for the Doctrine of the Faith.

I shared this information with Father Laird last July when the question arose as to whether Father Shelley would be made pastor of the merged parishes in Centerville. However, with your recent request to the CAB that they consider a new assignment for him, I thought it was important to bring this to your attention as soon as possible.

Thank you.

MEMORANDUM

Date: February 8, 2013
To: The Most Reverend John C. Nienstedt
From: Jennifer Haselberger
Re: Father Jon Shelley

Archbishop,

I completely disagree with Father McDonough's assessment of the situation. I disagree with his characterization of the images as 'not pornographic' and, since these images were downloaded (saved) to a hard drive by Father Shelley, I disagree that these were pop-up ads meant to entice him to view pornography rather than images that he perceived to be and used as pornography. I would also point out that in May of 2012 I shared the same images with you and with Father Laird, and neither of you disputed that the images were pornographic.

The request from the CDF of August 2012, and which has not yet been answered, is that you inform them of all aspects of the case. I interpret that request as instruction that the case be assembled and submitted in the same format that was used for Fathers Wehmeyer and Walsh, including using the templates created by the CDF for these purposes and including all of the other concerns that have been raised regarding Father Shelley and his interactions with minors. My understanding was that I was to wait for Father McDonough's report to assemble the necessary documentation for submission. Further, my understanding is that, until the CDF has advised you how to proceed in this matter, Father Shelley ought not to receive an assignment.

I would also point out that this matter has never been brought before the Clergy Review Board. Prior to considering an assignment for Father Shelley I think the Board should be informed of the case and their advice should be sought.

I would also like to reiterate that I think all of this information should be turned over to law enforcement for their determination, in the hopes of avoiding prosecution for you and your staff by offering an affirmative defense.

Finally, I am attaching a memo written by Father McDonough when he made a similar assessment of Father Wehmeyer. His conclusion, which Father Laird supported, was that there was no need or use (his words) to disclose Father Wehmeyer's history to the employees of the parish, as, in Father McDonough's assessment, Father Wehmeyer was 'not all that interested in

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an actual sexual encounter' and 'there has never been a question' of Father Wehmeyer 'misusing his position as a priest to obtain [sexual] favors...from those to whom he ministers'. In addition to being a factually inaccurate recounting of Father Wehmeyer's history of seeking sexual encounters, Father McDonough's assessment of Father Wehmeyer's interest in and likelihood of engaging in sexual behavior has been proven to be tragically wrong. The fact that Father McDonough set aside the recommendations of the Review Board and others and did not complete the recommended disclosure at Father Wehmeyer's request will prove to be extremely costly and embarrassing for Father McDonough, the Archdiocese, and, I am afraid, you, should [REDACTED] pursue a civil case. I strongly encourage you to consider whether you have an obligation to notify the University of St Thomas of this likelihood, and whether you can trust Father McDonough's recommendations on these matters any longer.

Thank you.