

- 14 of 41 -

SMITH's Kickback Scheme with an Insurance Brokerage Firm

40. During the relevant time period, SMITH arranged for the Diocese to retain the Cleveland office of an insurance brokerage firm ("Insurance Firm") to provide periodic insurance consulting services to the Diocese and to serve as a broker for obtaining certain insurance coverage for the Diocese.

41. Beginning in approximately May 1994 and continuing through approximately December 2000, SMITH, without Diocese authorization, received monthly kickback payments from the Insurance Firm, by checks payable to JHS Enterprises. The monthly payments were in the amount of \$833 until approximately May 1998, when they increased to \$1,250.

42. Until approximately May 1998, the monthly payments were recorded on the books of the Insurance Firm as being for supposed consulting services provided by SMITH to the Insurance Firm, even though SMITH provided no regular monthly services.

43. In approximately May 1998, SMITH and an Insurance Firm executive signed a purported lease agreement, seemingly providing for the Insurance Firm to lease a condominium SMITH owned at the Saddlebrook Resort in Tampa, Florida, at monthly lease charge of \$1,250. Despite the purported lease, Smith kept full control over the condominium.

44. SMITH concealed and disguised his receipt of the kickback payments from the Insurance Firm by not reporting the income on some of his federal income tax returns and by including the amounts in the gross receipts reported on the JHS Enterprises Schedule C on at least one of his returns.