

In addition, we are aware of other conduct by Father Wright which is relevant to his credibility, which we would prefer not to disclose in a public filing, but about which we will inform the Court *in camera*, if the Court requires. We expect that evidence regarding this conduct also will be reflected in Father Wright's Secret and Confidential files, which we request be ordered produced.

8. The indictment alleges that "[N]o formal entries were made on the Diocesan records" regarding the \$270,000 in additional compensation paid to Mr. Smith. (ECF 1, ¶ 33). That is not true. Entries were made at the instruction of Father Wright, which concealed the nature of the transactions. We have the entry for the 1997 payment of \$85,000. We request the entry for the 1996 payment of \$185,000. We intend to show the jury the methods by which Father Wright used general ledger entries to conceal the payment of additional compensation to numerous employees and to conceal other transactions, which will further negate his claim that he was somehow "duped" by the defendants.

C. **Mr. Smith is Entitled to Documents that Establish that the CDC Utilized Off-Book Accounts as a Means of Providing Additional Compensation to Employees.**

Mr. Smith reasonably believed that Father Wright was authorized to grant him additional compensation that did not appear on the CDC's financial statements, in part because it was a common practice while Father Wright was Chief Financial and Legal Officer of the CDC and Chief Executive of CCA. During Father Wright's tenure, CDC employees received additional compensation that did not appear on the CDC's financial statements, and maintained accounts that used the CDC's tax I.D. number, yet did not appear on the CDC's financial statements. We have requested specific documents regarding these transactions and extensive use of off-book accounts, which include the transactions described above and the following:

1. The CDC had hundreds, if not thousands, of bank accounts which were not included on the financial records of the CDC or its affiliates. These accounts were used for a variety of purposes, including additional compensation. The CDC, its Bishop and Father Wright were aware of these accounts, which were reported to them regularly by the CDC's outside auditors, and permitted their continued use. We request the audit reports, including the audit reports of each of the parishes, for the period 1996 to the present which establish the extent of the CDC's use of off-book accounts including to provide additional compensation to employees.

2. One such off-book account was maintained by CDC's Office of Catholic Education, which is specifically referenced in the Indictment and whose Secretary during the relevant period will be a witness at trial. (ECF 1, ¶¶ 17, 20). The account, which is held at Merrill Lynch,¹⁰ is account number 64604461. The account statements were sent to Zrino Jukic, another witness in this case. We request all documentation regarding the creation of this account, authorization for its establishment, the source of funds in the account, records reflecting its use, monthly statements, and evidence regarding how it was characterized, if at all, on the books of the CDC.

3. When we requested documents regarding the off-book transactions from the government, the government shared our requests with the CDC. The CDC then sought to eliminate these off-book accounts. Those efforts are reflected in email communications and documents, including memos issued to employees. We request that documents relating to the CDC's recent efforts to eliminate its off-book accounts, which were an established method used by the CDC to provide off-book compensation to its employees, be produced.

¹⁰ In our correspondence with the government, we mistakenly identified this account as being held at Smith Barney. Nonetheless, having described to the government and CDC the existence of the Catholic Education Office's off-book account, no records of this account were produced.

D. Mr. Smith is Entitled to Documents that Establish that he did not Cause CDC to Hire the Zgoznik Entities, whose Performance and Fees were Repeatedly Reviewed and Approved by Others.

The indictment alleges that Mr. Smith caused the CDC to retain the Zgoznik Entities to provide services at inflated prices, including functions previously performed in-house (ECF 1, ¶¶ 17-21). That is not accurate. Mr. Smith has requested specific documents which disprove this allegation, which have not been produced. These include:

1. **Finance Council Minutes**

The Diocesan Financial Advisory Council ("Finance Council") advises the Bishop and the Financial and Legal Secretary on financial matters and expenditures. (*Id.* ¶ 2). It is composed of lay persons, including businessmen, accountants, lawyers and insurance agents, some of whom will be witnesses in this case. It has regular meetings at which minutes are kept. Exculpatory minutes have been withheld.

On February 14, 2001, the Finance Council endorsed outsourcing its accounting services to the Zgoznik Entities. This is reflected in minutes that have not been produced.

On November 7, 2001, the Finance Council discussed the outsourcing of its accounting services to the Zgoznik Entities. It received a report from a council member concerning his review of the Zgoznik Entities, in which he praised their performance and recited the benefits to the CDC. This is reflected in minutes that have not been produced.

In addition, that Council member was paid by the CDC for his analysis and report. We request the invoices, check vouchers, and any other documentation regarding the following CDC payments to Tony Lang Consultants: