

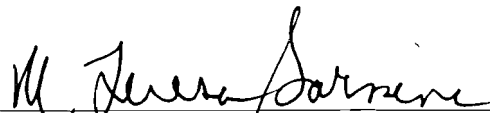
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION

IN RE : MISC. NO. 05-011487
COUNTY INVESTIGATING :
GRAND JURY XXI : C-9

FINDINGS AND ORDER

AND NOW, this 30th day of November, 2007, after having examined the Presentment of the County Investigating Grand Jury XXI: C-9, this Court finds that the Presentment is within the authority of the Investigating Grand Jury and is otherwise in accordance with the provisions of the Investigating Grand Jury Act, 42 Pa.C.S.A. §4541, et. seq. In view of these findings, the Court hereby accepts the Presentment and orders it sealed until further order of the Court. At that time, the Presentment shall be unsealed and the Court will refer them to the Clerk of Court for filing as a public record.

BY THE COURT:


M. TERESA SARMINA
Supervising Judge
Court of Common Pleas

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IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

TRIAL DIVISION

IN RE : MISC. NO. 05-011487
COUNTY INVESTIGATING :
GRAND JURY XXI : C-9

FINDINGS AND ORDER

And now, to wit, this 30th day of November, 2007, after having examined the Presentment of the County Investigating Grand Jury XXI, which recommended the arrest of the following individual, charging him with the specific crimes and violations of state law as set forth below.

Charles Newman, O.F.M.: 143 E PULASKI ST., PULASKI, WI 54162-9287,

Theft by Unlawful Taking 18 Pa.C.S.A. §3921: Two (2) Counts – Felony 3

Theft by Deception 18 Pa.C.S.A. §3922: Two (2) Counts – Felony 3


Theft by Failure to Make Required Disposition of Funds Received

18 Pa.C.S.A. §3927: Two (2) Counts – Felony 3

Forgery 18 Pa.C.S.A. §4101: One (1) Count- Felony 2

This Court finds that the Presentment is within the authority of the Grand Jury and is otherwise in accordance with the provisions of the Grand Jury Act. In view of these findings, the Court hereby accepts the Presentment and refers this matter to the District Attorney's Office of Philadelphia for further action.

11/30/07
Date


M. TERESA SARMINA
Supervising Judge
Court of Common Pleas

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION**

IN RE : **MISC. NO. 05-011487**
COUNTY INVESTIGATING :
GRAND JURY XXI : **C-9**

PRESENTMENT

**TO THE HONORABLE M. TERESA SARMINA, SUPERVISING JUDGE
OF THE COUNTY INVESTIGATING GRAND JURY:**

We, County Investigating Grand Jury XXI, have been charged by the Court to investigate an alleged theft and misappropriation of several hundred thousand dollars from funds belonging to Archbishop Ryan High School in Philadelphia and the Archdiocese of Philadelphia during the period from July 2002 through November 2003 and to determine whether or not criminal charges should be brought against Reverend Charles Newman O.F.M. of the Franciscan Friars who was President of Archbishop Ryan High School from July 2002 through November 2003. Having obtained knowledge of such matters from witnesses sworn by the Court and testifying before us and from subpoenaed and properly seized documents, and having found thereon reasonable grounds to believe, and so believing, that various violations of the criminal laws have occurred, upon our respective oaths not fewer than twelve concurring, do hereby make this Presentment to the Court.

11/30/07

DATE

FOREPERSON

COUNTY INVESTIGATING GRAND JURY

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

TRIAL DIVISION

IN RE : **MISC. NO. 05-011487**

COUNTY INVESTIGATING :

GRAND JURY XXI : **C-9**

PRESENTMENT

**TO THE HONORABLE M. TERESA SARMINA, SUPERVISING JUDGE
OF THE COUNTY INVESTIGATING GRAND JURY:**

We, County Investigating Grand Jury XXI, were impaneled pursuant to the Investigating Grand Jury Act, 42 Pa. C.S.A. § 4541 et seq., and were charged to investigate the theft and misappropriation of several hundred thousand dollars from funds belonging to Archbishop Ryan High School in Philadelphia, and thereby the Archdiocese of Philadelphia during the period from July 2002 through November 2003.

I Introduction

On November 25, 2003 the spokesperson for the Archdiocese of Philadelphia informed the media that the President of Archbishop Ryan High School, Reverend Charles Newman, O.F.M., and the Director of Institutional Advancement, Brother Patrick McCormick, had “relinquished their positions” and that an Archdiocesan audit had uncovered “financial irregularities”. Soon thereafter an interim President was assigned to run the school, PricewaterhouseCoopers, LLP, (PwC), a forensic accounting firm, was contracted by the Archdiocese to commence a thorough investigation of the “financial

irregularities” and eventually this matter was referred to the Office of the District Attorney and this Grand Jury in order to determine whether criminal offenses were committed.

Archbishop Ryan High School (“Ryan”), located in Northeast Philadelphia, is the largest of the 22 parochial high schools operated by the Office of Catholic Education in the Archdiocese of Philadelphia (“Archdiocese”). It was founded in 1966 and, by the 2002 school year, enrolled approximately 2,590 co-educational students. Since its founding, Ryan has been operated and administered by the Franciscan Friars of the Assumption BVM Providence (“Franciscans”) via a contract with and approval of the Archdiocese. The Franciscans live on the Ryan campus in the St. Pius X Franciscan Friary.

The Franciscans are one of the many ‘religious orders’ of Catholic priests and brothers that work in various ministries, including education, in the Archdiocese along with ‘diocesan’ Catholic priests who also work in various ministries, all accountable to the Archdiocese of Philadelphia. Diocesan Catholic priests make promises of chastity and obedience to the ordinary or the Bishop/ Archbishop in charge of their Diocese/Archdiocese during their preparation and prior to their ordinations. Religious order priests such as the Franciscans make vows of chastity, obedience and **poverty** to the Provincial Minister or superior of their religious order during their preparation and prior to their ordinations. Hence, diocesan priests are permitted to receive income, own property, and possess their own monetary resources. Whereas religious order priests must surrender any pecuniary wealth and consequently, they are totally dependent upon their religious community to support their monetary needs. Both diocesan priests and religious order priests must be totally obedient to the Bishop/Archbishop of the diocese to which they are assigned.

The Franciscans working in the Archdiocese are assigned here and supervised by the Provincial Minister of the Franciscan Friars of the Assumption BVM Providence. The Provincial Minister oversees 150 Franciscan Friars assigned to work in seven (7) states from the offices located in Franklin, Wisconsin. All Franciscan Friar, or any other ‘religious order’, assignments to any priestly function in the Archdiocese of Philadelphia must be reviewed and approved by the Archbishop of Philadelphia before the priest can

commence his work. Hence, all religious order priests in the Archdiocese of Philadelphia answer to and must be obedient to two distinct authorities: their own Provincial Minister as well as the Archbishop of Philadelphia.

In July 2002, the Franciscan Provincial Minister and the Archbishop of Philadelphia approved the appointment of Franciscan Friar Rev. Charles Newman, O.F.M. to the position of President of Archbishop Ryan High School. Newman had previously served at Ryan as a religion teacher for thirteen (13) years and as Principal for nine (9) years. Newman was born in November 1950 and he was ordained a priest on May 18, 1985. As President of Ryan, he was responsible for public relations, school spirit, fundraising and the financial management of the school. Previously as Principal, he was in charge of the day to day operations, academics and faculty supervision. Newman was also the Treasurer and sole manager of the finances of the St. Pius X Franciscan Friary or Community House where he resided with the other Franciscans who worked at Ryan and in other ministries throughout the Archdiocese.

II The Discovery of the Thefts from the Ryan Accounts

The Grand Jury heard the testimony of Denise McGuckin who was the bookkeeper at Ryan since the summer of 2002 and actually commenced working in this position about the time that Newman became President. Previously, she had worked on the finances at Ryan in the President's Office in a part-time capacity since 2000. As such, she was quite familiar with the Archdiocesan procedures and policies for handling money and finances at the school. McGuckin provided the PwC investigators with a detailed account of her duties and responsibilities. McGuckin was responsible for the management of the Ryan operating account. McGuckin also maintained possession of the Bingo account checks. The majority of all other Ryan bank accounts were controlled exclusively by Newman with no oversight by McGuckin.

McGuckin had suspicions about Newman's actions from her very first day in her new position when Newman directed her to prepare two **\$4000.00** checks payable to the "Franciscans" because Newman believed that the Franciscans deserved more money than what they were being paid by the Archdiocese. McGuckin further advised the Grand Jury

that any check from the operating account in excess of \$5000 required approval from the Archdiocese. The Grand Jury learned that an Archdiocesan compensation committee set the salaries of all teachers at Ryan and that the President had no authority to increase or supplement these salaries on his own. Regardless, over the next several months, there were many more checks issued to the Franciscans, or to individual Franciscans, at Newman's direction. Newman occasionally categorized his requests as "salary advances", a specific example of which involved the issuance of six (6) checks, each for \$2850 (totaling \$17,100), in September 2003.

In addition, Newman frequently needed access to cash. Newman would often take the cash from the school safe or cash drawers of various accounts without explanation and reimburse McGuckin with a check for that amount written from one of the accounts he controlled, or from the Friary account. McGuckin testified about the presence of Arthur Baselice, a former student, on the campus. McGuckin explained that Baselice would call asking for Newman and then Newman would need cash from McGuckin, instructing her to "take money from the Bingo account, go to the bank, cash it, and bring it back and Arthur would always be there when Father Charles was giving the money." McGuckin also stated that sometimes she would simply withdraw cash rather than cash a check.

McGuckin explained the Tuition Assistance account as an account used to pay for students who were not able to meet their tuition payments. Any checks issued for this purpose would be made payable to "Archbishop Ryan High School", not to the individual student or family. McGuckin provided testimony that a \$10,800 check paid to Arthur Baselice on 12/3/02 from the Tuition Assistance account was an unauthorized disbursement.

McGuckin discussed these suspicious disbursements with Joyce Wilusz, Newman's Administrative Assistant. Wilusz also suspected that Newman was not following proper Archdiocesan procedures in the disbursement of funds from several of the bank accounts that he supervised in operating the school. In addition, both McGuckin and Wilucz suspected that Newman was transferring funds in and out of many of the bank accounts over which he exercised exclusive control.

Frank Morris, a 29 year employee of Ryan, had been the Assistant Principal of Student Affairs since 1992 and worked directly for Newman in that position. Morris was involved in organizing fundraisers for the student body which included selling “RYNO” Bingo cards, SEPTA tokens and SCRIP gift cards. Running these programs meant that Morris handled various sums of cash. On several occasions, Newman required Morris to give him this cash and Newman submitted checks drawn on the various other Ryan accounts or the Friary account to cover these cash withdrawals.

After the fifth or sixth month of Newman’s tenure as President, McGuckin, Wilusz and Morris brought their concerns about Newman’s behavior to the attention of Stephen Pawlowski, the Assistant Superintendent for Secondary Staff relations in the Office of Catholic Education (OCE) in the Archdiocese. Pawlowski had previously served as Ryan President for six (6) years just prior to Newman. At first, Pawlowski thought the concerns were circumstantial in nature and not sufficient in proof or hard facts to share these concerns with the officers of the Archdiocesan Office of Educational Financial Services (EFS). Pawlowski was also reluctant to take it any further at that time since he feared being perceived as a meddling or know-it-all ex-President.

After the close of the 2002-2003 school year in June 2003, Pawlowski continued to hear disturbing reports about Newman’s financial activities, including the opening of bank accounts without the proper OCE authorization, so he alerted Louis Giuliano, the Assistant Director of EFS. Giuliano met with Newman and soon thereafter closed the SCRIP account, a Money Market Account and the Tuition Assistance account. Although Pawlowski’s concerns were somewhat eased when the results of the 2003 year end PwC annual review came back ‘clean’, the allegations from McGuckin, Wilusz and Morris resumed after the commencement of the school year in September of 2003. McGuckin was certain of the transfer of \$2800 in cash from Newman to Baselice. She recounted that she had just withdrawn \$2800 at Newman’s order from the Ryan bingo account and given it to Newman to then watch Newman hand the same envelope to Baselice. McGuckin identified several cash withdrawals completed by her at Newman’s direction in October and November 2003.

Accordingly, Pawlowski reported this information to David Magee, the EFS Director and to his assistant Giuliano. Specifically, Pawlowski contacted Magee on

November 13, 2003 and relayed the allegations that Newman was using Ryan funds for non-school purposes, that he was transferring Ryan funds to the Franciscan Friary's bank accounts and that he was giving envelopes of cash to former Ryan students. On November 18, 2003 Magee requested that an internal audit be initiated in December. Newman was informed of the scheduled audit. On November 20, 2003, when Morris alerted Pawlowski that Newman had recently requested **\$12,000.00** in cash from the SCRIP account to help with purported burial expenses, the audit review was moved up to November 21, 2003.

On November 20, 2003 when word of these further unauthorized transactions by Newman was brought to the attention of the Archdiocesan Secretary for Catholic Education, Dr. Richard McCarron, Newman was directed to appear at a meeting in McCarron's office at 4 PM that afternoon. Pawlowski, Magee and McCarron were present at this meeting and Newman was confronted with several of the unauthorized disbursements including the payout of cash to a former student. Newman admitted the unauthorized disbursements; he stated he did it intentionally and that he was aware that such action was not in compliance with authorized procedures. In response to the inquiry as to the amount of these unsanctioned expenditures, Newman admitted it was in the thousands of dollars but did not offer a more precise total. McCarron then informed Newman that he was dismissed from his position as President of Ryan and he was directed to return to the Franciscan Friary.¹

Immediately after this meeting, McCarron called Newman's local Franciscan superior, Rev. Francis Berna, O.F.M., the Guardian or rector of the St. Pius X Franciscan Friary. McCarron requested that Father Berna seize all of the financial records and cancelled checks of the Franciscan bank accounts, (which included a local Franciscan Beneficial Savings Bank ("BSB") checking account and the Franciscan Central Account with Associated Bank of Green Bay, Wisconsin) located in the Friary and hold them for the Archdiocesan auditors. Archdiocesan personnel were also directed to secure the President's offices at Ryan and seize all of the Ryan financial records at the high school.

¹ Brother Patrick McCormack was also dismissed that afternoon after he admitted that he helped to facilitate one of the recent unauthorized disbursements executed by Father Newman. Other than this one occasion as best as it can be determined from the available evidence, McCormack was not involved in the theft and misappropriation of any Ryan or Franciscan funds.

Pawlowski was immediately appointed Ryan's interim President. On November 24, 2003, Glen Masakowski, the Chief Financial Officer for the Archdiocese, met with representatives of **PricewaterhouseCoopers LLP** (PwC) and it was recommended that the Archdiocese engage PwC's forensic accounting personnel through Stradley, Ronan, Stevens & Young, LLP, the Archdiocesan legal counsel, to investigate the full extent of Newman's misappropriation of Ryan's funds.

When Newman returned from his termination meeting with McCarron, he met with Father Berna, his Franciscan Guardian, in his room at the Friary. McCarron had already informed Father Berna that Newman had been dismissed because "there had been a significant misappropriation of funds; they really had no idea how much". When Father Berna met with Newman in his Friary room, Father Berna therefore was already aware that Newman was no longer the President of Ryan. Father Berna testified that before he even said anything to Newman about the misappropriation of Ryan funds, Newman simply said, "I've done something awful and I've lied". In subsequent discussions with Father Berna, Newman never specified what he had done wrong with the funds.

Concerned with his well being, Father Berna arranged for Newman's admission to St. John Vianney Center in Downingtown, Pennsylvania; this is a medical facility owned and operated by the Archdiocese of Philadelphia for the treatment of religious and priests. At one of the meetings with Vianney personnel, Father Berna learned that Newman was being treated for his problem with sexual abuse of minors; Father Berna also never discussed this sexual abuse problem directly with Newman.

From further testimony, the Grand Jury learned that Newman was a resident at Vianney for three to six months until he was reassigned by the Franciscans. Initially he lived at the Franciscan's San Damiano Friary in Cedar Lake, Indiana. Newman presently resides in the Assumption Friary in Pulaski, Wisconsin which is essentially a retirement home. Newman is still a member of the Franciscan religious order but he is a restricted member. Father Berna explained that the restrictions mean that Newman cannot appear as a Franciscan in public; he cannot identify himself as a Franciscan and he cannot perform any priestly ministry in public. In addition, when he leaves the Friary house, he needs to secure the permission of his current guardian, Brother Michael May, and Newman must state exactly where he's going and what time he'll be back and he must check in when he

returns. Father Berna stated that as far as he has knowledge, Newman does not have any opportunity or availability to have any contact with teenage boys and he has no responsibility for supervising any funds.

III The Forensic Investigation Report of Ryan by PwC

The Dispute Analysis and Investigations group of PwC carried out a forensic investigation of operations and activities of Newman and issued a report of their work and findings on April 15, 2004. In conducting this investigation, the PwC report indicated that they performed the following:

- Interviewed eleven (11) individuals from Ryan and the Archdiocese;
- Reviewed Ryan bank statements, cancelled checks, payees and endorsements or locations of deposit for all Ryan “on-book” cash accounts and select Ryan “off-book” cash accounts having check writing privileges for the time period July 2002 through November 2003 which involved 20 separate accounts;
- Performed additional analysis of Ryan checks greater than \$500.00 which were payable to certain individuals, to the Franciscans and other clergy, to Ryan, to “Cash”, to teachers or others outside the normal payroll, and to one individual or entity but endorsed and deposited by another individual or entity in order to determine the validity of the disbursement;
- Reviewed all transfers/withdrawals greater than \$500.00 to determine whether they were appropriate;
- Analyzed the computer hard drives and emails of Newman and others;
- Reviewed Ryan policies and procedures of the disbursement process, the receipt, processing and recording of donations;
- Reviewed the work performed by OCE Internal Audit concerning the grant of scholarship monies and the application to student accounts;
- Reviewed tuition write-offs from July 2002 until November 2003;
- Determined and quantified the financial impact of identified suspicious or improper items;

- Reviewed and tested the December 2003 bank account reconciliations;
- Assisted OCE Internal Audit in confirming outstanding student loan balances; and
- Assisted OCE Internal Audit in contacting local banks in order to identify Ryan bank accounts of which OCE was uninformed.

The PwC Report then explained that Newman employed several methods to divert Ryan funds for non-school, unauthorized purposes as follows:

- Writing checks on five (5) accounts in which Newman exercised exclusive control in that he received the bank statements and cancelled checks, controlled or had access to the check stock, maintained the check register, was the authorized signatory and for which no one else has review responsibilities;
- Asking McGuckin to prepare check requisitions for stipends/salaries for unusual amounts;
- Asking McGuckin for salary advances or loans for himself and never repaying the amounts;
- Asking McGuckin to prepare check requisitions without the necessary supporting documentations;
- Asking McGuckin to prepare check requisitions and to write checks to repay personal loans he received from others;
- Asking others to transfer money from accounts he did not control (e.g. the Development-General account) to accounts he exclusively controlled both at Ryan and as Treasurer of the Franciscan Friary so that he could disburse funds at his sole discretion; and
- Writing checks on Ryan accounts payable to Ryan and:
 - 1.) Exchanging those checks with McGuckin or Morris for cash;
 - 2.) Exchanging those checks with cash stored in school's safe; and
 - 3.) Exchanging those checks with cash located in school cash registers.

The PwC report then detailed how Newman made use of the above methods to disburse the below indicated amount of funds to the following recipients:

| | <u>Payee</u> | <u>Amount</u> |
|---|-----------------------------|------------------------|
| A | Franciscan Friars | \$187,671 ² |
| B | Individual Franciscans | \$49,611 ³ |
| C | Ryan Checks Payable to Ryan | \$48,416 |
| D | Arthur Baselice | \$19,800 |
| E | Eugene Ciccimaro | \$11,119 |
| F | Certificates of Deposit | \$7,699 |
| G | Damien Sheahan Loan | \$6,600 |
| H | Endorsed by another payee | \$1,000 |
| | <u>Total</u> | \$331,916 |

A-B) The Franciscans' salaries were paid monthly, in a lump sum, by the Archdiocese directly to the Friary. Their salary was combined together in accordance with their vow of poverty. In addition, certain Franciscans were entitled to receive stipends for extracurricular activity. These amounts were also determined at the time Ryan submitted its annual budget. Despite this, Newman issued 52 checks on Ryan's accounts to the Franciscans. At least \$277,062 in Ryan funds was transferred into the Franciscan local BSB account where Newman exercised complete control. These checks, often payable to "Franciscans," ranged from \$750 to \$24,000. Newman issued 24 checks totaling \$64,011 on various Ryan accounts to nine individual Franciscans, including himself. David Magee testified that any amount paid by Newman in excess of \$89,391 for salary and \$14,400 for stipends was unauthorized by the Archdiocese.

C) Five checks totaling \$29,916 were issued from various Ryan accounts payable to Ryan but deposited into the Franciscan local BSB account. Nine checks totaling \$18,500

² This amount is based on \$277,062 in checks issued by Newman minus \$89,391 authorized per Magee for salaries from July 2002 until November 2003, which equals = \$187,671 unauthorized payments to the Franciscans. See A-B) above.

³ This amount is based on \$64,011 in checks issued by Newman minus \$14,400 authorized per Magee for stipends from July 2002 until November 2003, which equals = \$49,611 unauthorized payments to the Individual Franciscans. See A-B) above.

were identified by PwC, in consultation with McGuckin, as issued by Newman for non-school purposes. These checks were issued in exchange for cash.

D) Former student Baselice was given at least \$19,800 of Ryan's funds by Newman. This figure is comprised of check #705 in the amount of \$10,800 written from the Ryan Tuition Assistance account, and \$6200 and \$2800 in cash withdrawals from the bingo account.

E) Ryan Band Director Ciccimaro was given \$11,119 by Newman. This figure is comprised of eight checks written from three of the Ryan accounts, including the Tuition Assistance account. McGuckin's PwC interview reveals that Newman told her that he had lent money to Ciccimaro due to personal financial problems.

F) On January 14, 2003 Newman redeemed a Certificate of Deposit in the amount of \$57,698.96. He deposited \$7,698.96 of this amount into the Franciscan local BSB account.

G) Damien Sheahan's PwC interview revealed that he had been working at Ryan since 1984 but became full time in the maintenance department in the summer of 2003. Sheahan further stated that in the summer of 2003 he received a check for \$10,800 for painting the Ryan gyms. Newman asked him if he could borrow the money. Sheahan gave him the check but not before asking if it was for Newman to give to Baselice. Sheahan confirmed that Newman did in fact pay back the money prior to his dismissal. Evidence showed partial repayment by Newman to Sheahan through a \$3600 check drawn on the Ryan bingo account, an \$1800 check drawn on the Ryan Beneficial Money market account and a \$1200 check drawn on the Ryan Beneficial account.

H) Among checks already included in other categories, a Ryan operating account check payable to Sister Marlene Smittle in the amount of \$1000 was deposited into the Franciscan local BSB account with no further explanation.

In addition to identifying the above detailed unauthorized disbursements, the report described how Newman was able to manipulate his staff and the procedures so as to expend these funds. Finally, the report offered the Archdiocese over thirty (30) recommendations on how to implement procedures that could identify any potential financial irregularities at its other parochial high schools.

IV Unauthorized Taking of Two Grand Pianos

Besides his testimony concerning Newman's dismissal on November 20, 2003, Pawlowski also informed the Grand Jury about the February 2004 discovery of an additional theft by Newman. This discovery was detailed in a February 25, 2004 memo submitted by Pawlowski to Dr. McCarron. Pawlowski testified that one of the maintenance personnel originally alerted him in February 2004 to the fact that two Grand pianos utilized by the Ryan Music Department disappeared as a result of the actions of Newman. Pawlowski immediately asked Frank Morris what he knew about this disappearance. Morris confirmed that Neman had replaced two Grand pianos of 'exceptional quality' with one upright piano of inferior value and cash in a trade. Morris also commented that there was no logical reason to trade the pianos as the school constantly used both of them. Neither Pawlowski nor Morris could determine how much cash was received by Newman in this trade; nor could they discover any record of this transaction or the cash being deposited in any of the Ryan accounts. This theft of the two Grand pianos was not addressed in the PwC investigation.

V The Settlement Between the Archdiocese and Ryan

Auxiliary Bishop Joseph R. Cistone, the Vicar for Administration, appeared before the Grand Jury. As the second in command of the Philadelphia Archdiocese, he answers directly to Cardinal Justin Rigali, the Archbishop of Philadelphia. Bishop Cistone presented testimony and identified documents that provided information about the settlement of a law suit initiated by the Archdiocese, **Archdiocese of Philadelphia v. Franciscan Friars Assumption BVM Province, Inc and Reverend Charles Newman, O.F.M.** (No. 003206), to recover the funds taken by Newman as well as the legal and forensic investigation expenses.

Bishop Cistone indicated that after reviewing and verifying the conclusions of the PwC Report with his staff at the OCE and EFS, the results of the forensic investigation were shared with Rev. Leslie J. Hoppe, O.F.M., the Provincial Minister of the Franciscan

Friars Assumption BVM Province. After several discussions, Rev. Hoppe met with Bishop Cistone in August 2005 and informed him that he wanted to settle the allegations of theft and misconduct by Newman without the necessity of a court proceeding. As a result of these discussions and the exchange of several letters, Cistone and Hoppe entered into a **“Confidential Settlement Agreement and General Release”** which was finalized on February 7, 2006.

The specifics of this settlement indicated that the Franciscans would pay the Archdiocese the sum of **\$488,631.00**, in three equal annual installments. Bishop Cistone authenticated an October 28, 2005 letter outlining this settlement and verifying that the total losses suffered by Ryan and the Archdiocese attributable to Father Newman’s misconduct were in excess of **\$530,000.00** when the costs associated with the PwC forensic investigation and the Archdiocesan attorneys’ fees were included. The letter further explained that the **\$488,631.00** reimbursement covered the **\$331,916.00** misappropriation of funds by Newman and the costs of the PwC investigation and report, as the Archdiocese agreed to cover its own legal fees.

VI The Discovery of the Theft from the Franciscan Friary

After the records of the Franciscan Friary’s bank accounts were handed over to the Archdiocesan Internal Audit Office in November 2003, Father Berna did not hear anything further about these accounts. Father Berna testified that he was well aware of the results of the PwC report and the Settlement entered into by Provincial Minister Hoppe and Bishop Cistone. A review of the PwC report clearly indicates that it dealt solely with the Ryan accounts as that was what PwC was engaged to do for the Archdiocese. Since there is no mention of the assessment of the Franciscan accounts in their report, it is obvious that PwC never analyzed the records or the cancelled checks of the Franciscan Friary’s bank accounts. Even though PwC enlisted the assistance of the Internal Audit Office of the Archdiocese, there is no indication in the PwC Report that any detailed analysis was done of the Franciscan Friary bank accounts by Internal Audit Office. Father Berna also informed the Grand Jury that these records were returned to him by the Archdiocese with no report or comment about their review.

Accordingly, the records of the local Franciscan BSB bank account were subpoenaed by the Grand Jury and copies of the July 2002-November 2003 monthly statements and deposited items were introduced into evidence. In November 2005 the actual cancelled checks (#s1370-1592) written from this account were delivered by Father Berna to Det. Andrew Snyder of the District Attorney's Office. Detective Snyder examined all 220 checks provided by Father Berna that were issued between July 3, 2002 and November 20, 2003 from the local Franciscan account maintained at BSB. Missing from the time period relevant to this investigation were only four originals, #1440, #1453, #1511 and #1591. Father Berna provided a copy of #1511. The Grand Jury obtained copies of #1440 and #1453 through an alternate source. No copy of #1591 has ever been obtained. As Treasurer of the Friary, Newman exercised exclusive control over all the checks as well as the monthly statements. Father Berna had signatory authority over this local Franciscan BSB bank account but relinquished all control to Newman. He did not recall issuing any checks during this time period. Newman issued every one of the 223 checks, (i.e. the original 220 and the 3 copies) primarily by his own signature or sometimes by use of a Francis Berna, OFM signature stamp over which Newman had exclusive control.

Father Berna explained that the Franciscan local BSB bank account was used for the normal operating expenses of the Friary including food and other expenditures needed to provide for the Friars living at the Friary. Newman also supervised a central Franciscan bank account ("the Central Account") maintained through the Associated Bank of Green Bay Wisconsin by the Franciscan BVM Provincial headquarters. All salary checks issued to the Franciscans were sent by the Archdiocese to Newman for deposit into the Central Account. Since the Associated Bank had no Pennsylvania branch, the Central Account was only used to drawdown funds for the operation of the Friary into the local BSB bank account. Father Berna estimated that such drawdowns from the Central Account to the local Franciscan BSB operating account should have amounted to approximately \$4,000.00 per month.

The review and analysis of the 223 Franciscan local BSB bank account cancelled checks resulted in two disturbing discoveries. First, two checks were issued to and cashed by former student Arthur Baselice in 2003: check #1440 dated January 16, 2003

for **\$32,000.00** and check #1453 dated March 3, 2003 for **\$2,200.00**. Furthermore, the **\$32,000.00** check was issued via the Francis Berna OFM signature stamp that was controlled exclusively by Newman. Father Berna testified that although he had given Newman exclusive permission to use his signatory stamp in performing his duty as Friary Treasurer, this **\$32,000.00** check for this amount and to this payee, Arthur Baselice, was issued without his knowledge and permission. Likewise, Father Berna testified that Newman would never have been permitted to issue such a check even if he had asked Father Berna for authorization. The second check for \$2,200.00 signed by Newman was also unauthorized. As noted above, both of these checks were missing from the stack of originals provided by Father Berna.

The other disturbing finding about these cancelled checks was that 111 of the 223 checks were issued for "**Cash**" and signed by Newman; moreover, all 111 checks were endorsed on the back of the check and cashed by Newman. The checks were issued for various amounts, all but a few in the multi-thousand dollar range. The total amount issued and cashed by Newman for these 111 checks amounted to **\$552,280.00**. It was also determined that all 111 checks were cashed by Newman at the branch of the Beneficial Savings Bank (BSB) located approximately a half mile from the Franciscan Friary between July 3, 2002 and November 20, 2003, the date of his dismissal as President. There were absolutely no accounting or records seized from his Treasurer office as to why, how, where and for what Newman used this cash.

Father Berna testified that he was unaware of this activity by Newman and that it certainly was not authorized by him as the Guardian of the Friary. Likewise, the former Provincial Minister of the Franciscans, Thomas Luczak, OFM also informed the Grand Jury that he never gave Newman permission to cash these checks, take this money or, for that matter, to pay \$34,200 to a student who graduated years prior. Father Berna also testified that he could think of no reason that Newman would need to request salary advances for any or all Franciscans as their salaries were pooled together in accordance with their vow of poverty.

The Arthur Baselice that received the two checks for **\$32,000.00** and **\$2,200.00** from Newman is the same Arthur Baselice III who received the **\$19, 800.00** in checks and cash taken from the Ryan accounts as detailed in the PwC Report (see pg. 11 and 12,

supra). The Grand Jury heard testimony from Arthur Baselice Jr., the father of Arthur Baselice III. Arthur Baselice Jr. testified that his son graduated from Ryan in 1996. In 2004 Baselice Jr. was informed by his son in a letter, and subsequently in person, that during his junior and senior years while he was under the age of 18, Father Newman repeatedly sexually abused him. Newman also introduced Arthur Baselice III to illegal, addictive narcotics which he shared with him on the occasions in which he was sexually abused. Newman also gave Arthur Baselice III cash to purchase narcotics, up until his graduation, for both Newman's use and Arthur III's use during the sexual abuse. After graduation, Arthur Baselice III stopped Newman from sexually abusing him anymore but he continued to receive cash from Newman, for the purchase of narcotics. This unauthorized taking and disbursement of funds to Arthur Baselice III continued by Newman via cash and sometimes by check whenever he requested it up until 2003. Several of the Ryan employees confirmed that Arthur Baselice III was a frequent visitor to Newman both inside Ryan and at the Friary; some even witnessed Newman providing cash to Arthur Baselice III in plain white envelopes.

In addition, the Grand Jury has received information from the PwC interviews of the various Ryan staff personnel that they observed other former students visiting with Newman from time to time when he was President from July 2002 through November 2003; but none of these visitors was there as often as Arthur Baselice III. On several of the occasions of these visits by former students, Newman requested or reached out to obtain cash.

Arthur Baselice Jr. informed the Grand Jury that his son Arthur Baselice III died of an adverse reaction to an illegal drug problem on November 30, 2006 at the age of twenty-eight (28).

VII CONCLUSION & RECOMMENDATION

We, the Grand Jury, believe that the following criminal acts arise out of the conduct of the Reverend Charles Newman, O.F.M., former President of Archbishop Ryan High School:

Theft by Unlawful Taking

18 Pa.C.S.A. §3921: Two (2) Counts – Felony 3 - as follows:

1.) From Archbishop Ryan High School/Archdiocese of Philadelphia:

\$331, 916.00 and Two Grand Pianos

2.) From the Franciscan Friars – in excess of \$2000;

Theft by Deception

18 Pa.C.S.A. §3922: Two (2) Counts – Felony 3 - as follows:

1.) From Archbishop Ryan High School/Archdiocese of Philadelphia:

\$331, 916.00 and Two Grand Pianos

2.) From the Franciscan Friars – in excess of \$2000; and

Theft by Failure to Make Required Disposition of Funds Received

18 Pa.C.S.A. §3927: Two (2) Counts – Felony 3 - as follows:

1.) From Archbishop Ryan High School/Archdiocese of Philadelphia:

\$331, 916.00

2.) From the Franciscan Friars – in excess of \$2000

Forgery

18 Pa.C.S.A. §4101: One (1) Count- Felony 2- as follows:

1.) The January 16, 2003 Franciscans BSB check #1440 for **\$32,000.00** purporting to be authorized by Francis Berna, OFM.

We, Philadelphia County Investigating Grand Jury XXI, therefore recommend that based upon all of the evidence presented to us, the criminal complaint specified above in this presentment be filed by the Philadelphia District Attorney's Office.

Dated: 11/30/07

FOREPERSON