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June 20, 2011

Rebecca M. Randles
Randles Mata & Brown LLC
406 West 34th Street, Suite 623
Kansas City, MO 64111

Re: Demand for Equitable Accounting of 2008 Non-Monetary Commitments

Dear Ms. Randles:

On behalf of Bishop Robert W. Finn and the Catholic Diocese of Kansas City-St. Joseph, I am responding to your June 8, 2011 letter, which you sent to my care, in connection with the above-referenced matter.

The Diocese welcomes the opportunity to confirm and document its compliance with the August 18, 2008 group Settlement Agreement.

You assert that the Diocese may have breached the following six (6) of the 19 Non-Monetary Commitments described in Exhibit A to the Settlement Agreement. As described below, however, the Diocese has complied with and continues to comply with each of these terms.

Commitment 3: The Diocese will not provide a reference or recommendation for purposes of prospective employment with respect to any priest, nun, deacon, lay employee or volunteer of the Diocese who has been credibly accused of sexual abuse. If the Diocese receives a request for such a reference or recommendation, the Diocese will respond that it will not provide such a reference or recommendation, except in the case where a lawsuit alleging sexual abuse has been filed, in which case the Diocese will inform the prospective employer of that fact.

In your letter, you have requested the following specific information:

(a) information concerning each priest who has received a letter of good standing, recommendation or indult of excommunication from the Diocese since August 18, 2008;

(b) whether, with respect to any of the individuals identified in response to (a), any member of the Chancery or staff has received from any individual any allegation, complaint, grievance, report, letter of concern or any other form of communication raising concerns of misconduct; and

(c) whether any such reports described in (b) were referred to the Independent Review Board, to Bishop Finn, or to any member of the Chancery for investigation, and whether any such investigation occurred.

Since August 18, 2008, the Diocese has not provided a reference, recommendation, letter of good standing or indult of excommunication to or concerning any priest.

Commitment 10: The Diocese will continue to offer and implement a Victim Advocacy Program consistent with Virtus™ guidelines, in order to maintain safe, strong communities for children and vulnerable adults.

In your letter, you have requested the following specific information:

- (a) how the Diocese's Victim Advocacy Program operates procedurally;
- (b) how many individuals the Victim Advocacy Program has served;
- (c) who is responsible for making decisions regarding services provided;
- (d) how do individuals contact the Victim's Advocate; and
- (e) what kinds of services are being provided to victims.

You have stated that you are not seeking private information (presumably including identifying information) about individuals receiving care through the Victim Advocacy Program.

See the Diocese's June 20, 2011 Community Update Concerning Non-Monetary Commitments Made in Connection with the 2008 Group Settlement. ("Community Update") (attached).

Commitment 14: The Diocese will continue to follow mandatory state reporting requirements and Virtus™ guidelines in reporting the suspected sexual abuse of minors to law enforcement and child protection authorities. At the request of the victim or other party reporting childhood sexual abuse to the Diocese, the

Diocese will report such abuse to law enforcement and child protection authorities regardless of the age of the victim at the time the report is made.

The Diocese first notes that, contrary to the suggestion in your June 8 letter, Commitment 14 requires the Diocese to report the suspected sexual abuse of minors to law enforcement and child protection authorities regardless of the age of the victim at the time the report is made only at the request of the victim or other party reporting the abuse to the Diocese. Since August 18, 2008, no victim or other party reporting to the Diocese an incident of childhood sexual abuse involving a victim who was no longer a minor has requested that the Diocese report such abuse to law enforcement and child protection authorities.

In your letter, you have inquired whether any priest, other than Fr. Shawn Rattigan, has been the subject of letters, tips, review board screenings, complaints, emails or any other communication of any kind whatsoever that would raise "reasonable suspicion" that, since August 18, 2008, a child may have been subjected to conditions or circumstances that would reasonably result in abuse or neglect. The answer is no.

You also have inquired whether an allegation of abuse reported to the Diocese in 2010 by your client John Doe B.P. was in turn reported by the Diocese to law enforcement or other authorities. John Doe B.P., who was approximately 52 years old in 2010, did not request that the Diocese make such a report, which concerned an incident occurring in approximately 1971.

Finally, you have inquired whether the Diocese received any reports regarding Fr. Michael Tierney (other than the report by John Doe B.P.) that were not reported to child protection or law enforcement authorities. Because you currently represent John Doe B.P. in a civil action asserting claims in connection with Fr. Tierney, your request for this information is governed by and subject to the Missouri Rules of Civil Procedure, and the Diocese therefore cannot respond to your request by or through this letter.

Commitment 15: The Diocese will continue to require its priests, administrators, teachers, staff, coaches, volunteers and students to complete the Virtus™ "Protecting God's Children" training, or similar training performed and/or developed by outside consultants, for the prevention of sexual abuse or harassment.

See Community Update.

Commitment 16: On or before December 31, 2008, the Diocese will adopt a whistle-blower policy providing that the Diocese shall take no retaliatory action

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against any person who reports in good faith the suspected sexual abuse of a minor by a priest, employee or other representative of the Diocese.

In 2008, the Diocese did supplement its Sexual Misconduct Policy to include an anti-retaliation (whistle-blower) provision, which is described in the Community Update.

In your letter, you have requested information establishing that no retaliatory actions have been taken or threatened against any individual who made any report of impropriety concerning Fr. Ratigan. You further have requested information establishing that no retaliatory actions have been taken or threatened against any individual who has made a report of suspected abuse of a minor since August 18, 2008. The Diocese is unable to respond to the "anecdotal information," referenced in your letter, which has raised your concern about retaliatory conduct by the Diocese. In any event, the Diocese can and does confirm that no retaliatory actions have been taken or threatened against any individual who has made a report of suspected abuse of a minor since August 18, 2008.

Commitment 18: The Diocese has enacted policies concerning sexual assault, misconduct and harassment, including procedural steps that will be followed, once reports are made and to whom reports are to be made. The Diocese agrees to provide copies of those policies to counsel for claimants.

In your letter, you specifically have requested that the Diocese describe:

- (a) steps that were taken in both the Fr. Ratigan and Fr. Tierney matters that establish whether the procedural steps were followed;
- (b) how each and every report of misconduct since August 18, 2008 has been handled, including all procedural steps taken;
- (c) what constitutes a "report."

The procedural steps followed by the Diocese upon receipt of any report of childhood sexual abuse or misconduct are spelled out in its Policy Regarding Sexual Misconduct. Because of the pending litigation involving Fr. Ratigan and Fr. Tierney, in which you represent all of the plaintiffs, disclosure of the specific information described in subparagraph (a) and (b) is governed by and subject to the Missouri Rules of Civil Procedure, and the Diocese therefore cannot respond to your request by or through this letter. With respect to subparagraph (c), anonymous reports and reports by third parties are taken seriously by the Diocese. However, reports concerning victims who choose not to come forward themselves, and reports by victims who choose not to identify themselves, may present difficulties in terms of investigation and determination of credibility.

In addition to information in connection with the above six (6) Commitments, you have requested confirmation that the Diocese is complying with certain requirements of Commitments 9, 11, 12, and 13. The Diocese's response to this request is set forth in the Community Update.

You have further requested specific information about *any* report of clergy sexual misconduct received by the Diocese since August 18, 2008. This information is beyond the scope of the express language, intent or contemplation of the 2008 Settlement Agreement, and therefore beyond the scope of your clients' demand for an equitable accounting thereof.

Finally, you have requested information establishing the "fidelity" of the Diocese to the Commitments described in the 2008 Settlement Agreement. Bishop Finn has acknowledged on several occasions that certain matters were not handled in recent months as well as they should have been, and has apologized to everyone whose faith has been shaken thereby. In addition, on June 10 Bishop Finn announced a five-point plan to address with recent allegations of sexual misconduct. That plan includes:

1. The immediate engagement of Todd Graves, a former U.S. Attorney and U.S. Department of Justice National Co-Chair of the Child Exploitation Working Group, to conduct an independent investigation of events, policies and procedures;
2. The appointment of an independent public liaison and ombudsman to field and investigate any reports of suspicious or inappropriate behavior;
3. The reaffirmation of current diocesan policy and immediate commencement of an independent review of the policies for the *Ethical Codes of Conduct* and *Sexual Misconduct*;
4. An in-depth review of diocesan personnel training regarding the *Ethical Codes of Conduct* and the policy on *Sexual Misconduct*; and
5. Continued cooperation with local law enforcement.

As evidence of the Diocese's "fidelity" to the welfare and safety of children, it is also worth noting that the Diocese includes 98 parishes, serving more than 133,000 Catholics. The Diocese operates seven (7) early childhood centers, 27 elementary schools, and four (4) high schools, serving more than 10,000 children and young people. Hundreds of diocesan priests and other religious men and women, principals, teachers, program administrators, staff, coaches and volunteers have devoted all or part of their lives to the spiritual growth and education of these children.

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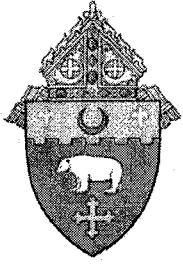
Bishop Finn and the Diocese trust that this response and Community Update will assist in allaying the concerns of your clients expressed in your June 8, 2011 letter.

Regards,

LATHROP & GAGE LLP

By: 
Jonathan R. Haden

cc: Bishop Robert W. Finn



Community Update Concerning Non-Monetary Agreements Made in Connection with the 2008 Global Settlement

Catholic Diocese of Kansas City ~ St. Joseph
June 20, 2011

The diocese offers to the community the following update concerning the Non-Monetary Commitments described in its August 18, 2008 group Settlement Agreement with 47 clergy sexual abuse claimants.

1. Through a press statement to the secular media and through publication in *The Catholic Key*, the Diocese will continue to publicly acknowledge the wrongfulness of sexual abuse by the perpetrators and will acknowledge that its own response to reports of sexual abuse has, in the past, been wrong.

At a news meeting on August 20, 2008, Bishop Robert Finn addressed the community and announced the resolution of 47 civil lawsuits/claims in a group settlement. The diocese continues to carry Bishop Finn's remarks to media representatives on its website. Companion news reports published by *The Catholic Key*, on August 29, 2008 remain available in the online archives for the diocesan newspaper.

Neither Bishop Finn nor any diocesan official has ever made statements to the contrary. Recently, Bishop Finn made a series of public acknowledgments responding to concerns raised with Father Shawn Ratigan. Those statements also are available on the website.

2. The Diocese will continue its long-standing offer to provide counseling to all victims of sexual abuse and their immediate family members, at the expense of the Diocese. The plaintiffs collectively shall appoint an individual of their choice to act as an intermediary between plaintiffs and the Diocese in order to facilitate the provision of independent therapy for any plaintiff for a maximum of twenty-four (24) sessions.

The diocese has had a long-standing policy of offering psychological counseling to any person making a report of sexual abuse. Counseling services also are available to family members of victims. Individuals wishing to initiate counseling should contact the Victims' Advocate, Leslie Guillot. The diocese must have the name and credentials of the counselor, and will initially authorize up to 24 individual therapy sessions. The diocese can provide the individual with a list of approved counselors, or the individual may provide the diocese with the name of a counselor of his / her choosing.

Counseling Services Provided – July 1, 2008 – June 15, 2011			
		Amount	Number of Sessions
Individuals	34	\$82,562	547

3. The Diocese will not provide a reference or recommendation for purposes of prospective employment with respect to any priest, nun, deacon, lay employee or volunteer of the Diocese

who has been credibly accused of sexual abuse. If the Diocese receives a request for such a reference or recommendation, the Diocese will respond that it will not provide such a reference or recommendation, except in the case where a lawsuit alleging sexual abuse has been filed, in which case the Diocese will inform the prospective employer of that fact.

Personnel files of credibly accused clergy or lay employees include the following instruction: "Do not furnish reference or recommendation." This instruction was placed in personnel files of the priests who were named in claims described in the 2008 group Settlement Agreement.

Since August 2008, this statement has been placed into priest personnel files for Shawn Ratigan and Michael Tierney. Should the diocese receive a reference request, this information will guide diocesan response.

4. The Diocese will provide a letter advising state licensed professional counseling boards that Thomas Reardon has been the subject of lawsuits charging him with sexual abuse and other misconduct involving minors, and that the Diocese is therefore unable to provide a favorable reference or recommendation in connection with any application by Reardon for a license to perform counseling services.

The diocese mailed letters to all 50 states and the District of Columbia advising professional licensure boards that Thomas Reardon has been the subject of civil lawsuits charging him with sexual misconduct with minors. The diocese provided counsel for the plaintiffs in the 2008 settlement with a copy of this letter on September 12, 2008.

5. The Diocese acknowledges that Father Thomas O'Brien is performing no public ministry, including the public administration of sacraments.

In 2002, Bishop Raymond J. Boland advised Msgr. O'Brien that he could neither perform public ministry nor represent himself as a member of the clergy. In September 2008, the diocese revisited these restrictions with Msgr. O'Brien. Additionally, the diocese requested a letter from Msgr. O'Brien acknowledging that he understood his restricted status. Msgr. O'Brien furnished said letter on September 30, 2008.

6. The Diocese will publish a pastoral statement that rites or sacraments performed or administered by priests or deacons are not diminished, flawed or tainted because the priest or deacon has been accused of misconduct.

In a column published in *The Catholic Key* on September 5, 2008, Bishop Finn wrote:

"In the context of these recent weeks, I was asked to emphasize how the Sacramental actions of priests whose moral failures have become more clearly seen, are nonetheless preserved and guaranteed in the Church. . . .What we believe and teach in this regard is set out powerfully in our teaching. The validity of the sacraments is unquestioned, even despite the unworthiness of human and sinful ministers."

See *Jesus' Priestly Power is not Nullified, Even by Unworthy Minister*, carried in *The Catholic Key*.

7. *The Bishop of the Diocese will send a letter to any plaintiff or member of plaintiff's family who requests such a letter, apologizing for the harm caused by the abuse and acknowledging that the plaintiff was not a fault for the abuse.*

Legal counsel for the plaintiffs in the 2008 settlement made direct contact with each victim to ascertain his or her desire for a letter of apology from Bishop Finn. At this time, Bishop Finn has written 118 letters of apology.

8. *The Diocese and its representatives shall not refer to plaintiffs or other tort claimants and their claims as "alleged" victims, "alleged" survivors, or "alleged" claims.*

The diocese has complied and will continue to comply with this commitment. See, for example, the statement announcing the resolution of the civil lawsuits issued by Bishop Robert Finn on August 20, 2008.

9. *The Diocese intends to initiate laicization procedures for former priests Thomas Reardon, Hugh Monahan and Stephen Wise and will consult with canon lawyers regarding these procedures.*

In accordance with regulations codified in *Normae de Gravioribus Delictis*, the *Charter for the Protection of Children and Young People (2002)*, and the *Revised Dallas Norms (2005)*, canon lawyers have initiated the petitions for laicization of Hugh Monaghan, Thomas Reardon and Stephen Wise. Each case will be adjudicated through the Vatican Congregation for the Doctrine of the Faith.

10. *The Diocese will continue to offer and implement a Victims' Advocacy Program consistent with Virtus™ guidelines, in order to maintain safe, strong communities for children and vulnerable adults.*

The diocese provides a Victims' Advocate to offer confidential support to any person who makes a report of sexual abuse. Appointed in 2004, Leslie Guillot, M.A., currently serves in this capacity. Upon request, she arranges a personal meeting with the Bishop or his representative and provides support and resources for healing. Guillot maintains an office separate from the diocese, and she can be reached at (816) 361-2666.

The Victims' Advocate is responsible to the Independent Review Board. The Advocate assists the Diocesan Response Team and Independent Review Board in ways that help to bring about healing for the person making the report, the accused, and the community affected by the claim. The Advocate is available to meet with persons making reports to the diocese and assists by:

- listening and offering one-on-one compassionate support
- discussing options and suggesting professional resources

- meeting with and accompanying the individual to his or her meeting with members of the Diocesan Response Team
- serving as an *ex officio* member of the Independent Review Board

In addition to offering counseling services, the Victims' Advocate always advises the person that the Response Team is available to meet, and that the person is free to contact law enforcement, the media or an advocacy group of his or her choice.

Since January 2008, the Victims' Advocate Program has received no requests for support or services in connection with a claim of sexual misconduct involving a minor. During this time period, the program has provided the following supports and services to adults within the diocese:

2008

- spoke with six (6) parishioners about various concerns
- reviewed written material submitted of one (1) victim
- met with the parents of a victim (1) and continued support by telephone
- met with one (1) victim and spouse
- consulted with one (1) victim concerning appropriate therapists
- provided two (2) parishes with topical resources

2009

- took calls from parishioners about various concerns
- met with one (1) person
- spoke three or four times with parent of one (1) victim
- consulted with one (1) school community member and the Safe Environment Coordinator
- spoke two times with one (1) victim
- assisted the Vicar General with certification forms for therapies for victims

2010

- provided an updated professional resource list to the diocese
- spoke with three (3) victims
- referred one (1) victim to qualified counselors in another city
- developed a list of therapists for a pastoral minister

2011

- responded to a request for information concerning adult-on-adult abuse, including several telephone calls and one (1) meeting with the person making the request
- consulted with pastoral minister about parishioner with gender identity issues, provided resources and referral
- met with (1) elderly adult parishioner to discuss issues related to childhood sibling abuse
- responded to a request for counseling from the brother of a sexual abuse victim, counseling approved
- discussed Shawn Ratigan with a parent, offered informational resources and verified that she had contacted law enforcement
- responded to a person who claimed abuse in another diocese, the individual requested a face-to-face meeting, the Advocate agreed, but the individual did not follow-through
- responded to a parent from St. Patrick School, who questioned diocesan compliance with reporting obligations

11. The name and contact information of the Diocesan Victims' Advocate will be published on the Diocese's Website and will be included in parish bulletins along with the names of parish staff.

The diocese has posted contact information for the Victim's Advocate on its website at:

> www.diocese-kcsj.org/content/protecting_children/assistance_for_victims/victim_advocate/

In a communication dated September 22, 2008, the Diocese instructed all parishes to publish the name and telephone number for the Victims' Advocate in parish bulletins.

The diocese requested that all parishes recertify compliance with this Commitment by June 18, 2011. As of the date of this Update, 98 of 98 parishes and missions have recertified.

12. The Missouri Abuse Hotline phone number shall be prominently posted in every parish school, office and workplace.

The diocese created placards with the telephone numbers of the Missouri Child Abuse Hotline and the Diocesan Victims' Advocate and distributed these placards to each parish and school on November 6, 2008.

The diocese requested that all parishes and schools recertify compliance with this Commitment by June 18, 2011. As of the date of this Update, 98 of 98 parishes and missions and 38 of 38 diocesan schools and early education centers have recertified.

13. The Diocese shall prominently display in each diocesan school a placard stating: "The Abuse of the Spiritual, Emotional and Moral Development of the Young Men and Women of [name of school] shall not be tolerated." The placard will include the telephone numbers of the Missouri Abuse Hotline, the local police department, and the Diocesan Victims' Advocate.

The diocese created placards bearing this message and the telephone numbers of the Missouri Child Abuse Hotline, local law enforcement, and the Diocesan Victims' Advocate. Principals and directors received site-specific placards on October 9, 2008.

The diocese requested that all diocesan schools recertify compliance with this Commitment by June 18, 2011. As of the date of this Update, 38 of 38 diocesan schools and early education centers have recertified.

14. The Diocese will continue to follow mandatory state reporting requirements and Virtus™ guidelines in reporting the suspected sexual abuse of minors to law enforcement and child protection authorities. At the request of the victim or other party reporting childhood sexual abuse to the Diocese, the Diocese will report such abuse to law enforcement and child protection authorities regardless of the age of the victim at the time the report is made.

Effective December 31, 2008, the diocese revised its *Policy Regarding Sexual Misconduct* to reflect the commitment by the diocese, at the request of the victim or other party who reports to the diocese a claim of childhood sexual abuse or misconduct, to report the abuse to law enforcement and to child protection authorities -- regardless of the age of the victim at the time the report is made to the diocese.

15. The Diocese will continue to require its priests, administrators, teachers, staff, coaches, volunteers and students to complete the Virtus™ “Protecting God’s Children” training, or similar training performed and / or similar training performed and / or developed by outside consultants, for the prevention of sexual abuse and harassment.

Since 2002, all priests, deacons, seminarians, principals, directors of early childhood education, teachers, school staff, coaches, youth ministers, parish school of religion catechists, and volunteers who interact with children have been required to participate in a three-hour Virtus™ training program called *Protecting God’s Children*. This program teaches the warning signs of sexual abuse and offers strategies for taking action when abuse is suspected. Employees of the diocese also take part in ongoing safe environment continuing education. As of June 15, 2011 more than 20,500 persons had participated in the Virtus™ training.

In September 2006, the diocese mandated sequential personal-safety curricula for all Catholic schools, religious education and youth programs. These programs replaced curricula screened and selected by local parishes and schools. In the 2009-10 school year, 16,009 children and youth participated in developmentally appropriate safe environment training in parish and school programs. The 2010-11 audit of participation is in progress.

16. On or before December 31, 2008, the Diocese will adopt a whistle-blower policy providing that the Diocese shall take no retaliatory action against any person who reports in good faith the suspected sexual abuse of a minor by a priest, employee or other representative of the Diocese.

Effective December 31, 2008, the diocese revised its *Policy Regarding Sexual Misconduct* to include Article 6, Assurance of Non-Retaliation, which prohibits retaliation in any form against any person who in good faith reports sexual abuse or misconduct by a priest, employee or other representative of the diocese, or who participates in an investigation of such a report.

Policy Regarding Sexual Misconduct - Article 6.

> http://www.diocese-kcsj.org/_docs/210.3-Sexual-Misconduct-FINAL-12-08.pdf

17. The Diocese will not enforce the confidentiality provisions of any prior agreement with a sexual abuse claimant who now or in the future desires to make his / her claim public.

In March 2002, the diocese distributed a public statement through the media that released any person who had been bound by a provision of confidentiality in a prior settlement agreement. Since then, the diocese has made no attempt to enforce any such confidentiality provision.

18. The Diocese has enacted policies concerning sexual assault, misconduct and harassment including procedural steps that will be followed once reports are made and to whom reports are to be made. The Diocese agrees to provide copies of those policies to counsel for the claimants.

The diocese has provided copies of these policies, including the revised *Policy Regarding Sexual Misconduct*, to counsel for the plaintiffs who entered into the 2008 Settlement Agreement.

Policy Regarding Sexual Misconduct

> http://www.diocese-kcsj.org/_docs/210.3-Sexual-Misconduct-FINAL-12-08.pdf

Policy Regarding Sexual Harassment

> http://www.diocese-kcsj.org/_docs/SexualHarassment-final.pdf

19. The victims have requested that the Bishop of the Diocese personally visit any parish where sexual abuse of minors occurred. The victims have further requested that at these meetings the Bishop publicly identify the perpetrators, encourage other victims to report the abuse, provide an opportunity for discussion with the audience, and invite victims or their families to speak. The Bishop has stated that he will consider this or some other process that will achieve the same goal.

Consistent with goals of demonstrating accountability, creating atmospheres for healing and reconciliation with affected communities, the Bishop has and continues to engage the community. In May and June, 2011, Bishop Finn visited: St. Patrick Parish, in Kansas City; St. Thomas More Parish, in Kansas City; Christ the King Parish, in Kansas City; Holy Spirit Parish, in Lee's Summit; and Co-Cathedral Parish, in St. Joseph. At Co-Cathedral Parish, parishioners and school parents from throughout the St. Joseph area and Easton, Missouri were invited to attend.

In 2008, in the presence of the plaintiffs' counsel, the Bishop and/or members of his leadership team made themselves available to hear the accounts of abuse from those plaintiffs and to offer a personal apology. This provided an opportunity for the victims to be heard and, at the same time, respected the anonymity most of the victims desired.

Opportunities for counseling (*see Commitment 2 above*) provide a professional and therapeutic setting for healing and promote closure, healing and reconciliation.