

November 22, 2013

VIA FED EX & APOSTOLIC NUNCIO OF THE UNITED STATES

Archbishop Beniamino Stella
Prefect, Congregation for the Clergy
Piazza Pio XII, 3
00193 Rome, Italy

**Re.: Congregatio pro Clericis
Prot. N. 20071627**

Dear Archbishop Stella,

This document is a unique collaboration between victims/survivors of childhood Catholic clergy sexual abuse and supporters of the victims/survivors. We seek your assistance in correcting an injustice caused, in part, by a decision made by Cláudio Cardinal Hummes, O.F.M. on July 18, 2007, while he served as the Prefect of the Congregation for the Clergy. A decision he may not have made had all the details been made known to him.

Following is a timeline which delineates the circumstances of our appeal to you, as well as several supporting documents which are attached. In essence, a request for the transfer of \$57,000,000.00 was granted to the Archdiocese of Milwaukee, a move designed to shelter these funds from any claims and liabilities. We contend that the action does the meet the moral or legal requirements stated in the Code of Canon Law (see Appendix A).

Timeline of Events

- 2007** Approximately \$57,000,000.00, that previously was part of the Archdiocese of Milwaukee Corporation (identified as assets designated for the future care of cemeteries and mausoleums) was removed from that corporation and deposited in an account of a newly established Cemetery Trust. No documentation of the motivation for this movement of money or the existence of proper Vatican authorization to do so was made public.
- January 2011** The Archdiocese of Milwaukee, under the direction of Archbishop Jerome ListECKI, filed a petition for a Chapter 11 reorganization of its financial affairs under the U.S. Bankruptcy Code.

- Summer/Fall 2011** A group of Catholic clergy abuse victims/survivors and Catholic priests enter into an Alliance to promote a new kind of dialogue.
- December 2011** The Alliance produced a full-page news announcement encouraging victims with a claim against the Archdiocese of Milwaukee to come forward prior to the February 1, 2012, filing deadline.
- February 1, 2012** Deadline given by the Bankruptcy Court for any person, for whatever reason, to file a financial claim against the Archdiocese of Milwaukee. ***More than 550 claims were filed with the Bankruptcy Court.***
- 2012/2013** The Bankruptcy judge determined which assets of the Archdiocese of Milwaukee are to be considered for payment of any claims and liabilities.
- July 1, 2013** The Archdiocese of Milwaukee released approximately 6000 pages of documentation related to clergy sexual abuse by Archdiocesan priests.
- Among those documents are two very important items:
1. **A letter dated June 4, 2007**, (copy enclosed) from Archbishop Timothy Dolan, then Archbishop of Milwaukee, but now Cardinal Archbishop of New York, to Cláudio Cardinal Hummes, O.F.M., then Prefect of the Congregation for the Clergy, requesting permission for the alienation of nearly \$57,000,000.00 to be placed in the new Cemetery Trust.
In this letter then-Archbishop Dolan writes:

“By transferring these assets to the Trust, I foresee an improved protection of these funds from any legal claim and liability”.

He intends to shelter the money from paying the legal claims and liabilities of the Archdiocese of Milwaukee.
 2. **A rescript from Cardinal Hummes granting the requested *nihil obstat*** (copy enclosed).
- Present 2013** It was discovered that the newly created Cemetery Trust is intended for *only 8 cemeteries*, most of which also have a mausoleum, in or near the City of Milwaukee. All remaining Catholic cemeteries, throughout ten Counties of the Archdiocese of Milwaukee, do not benefit from this trust. **\$57,000,000.00 is to serve the needs of only 8 cemeteries.** (Archdiocesan documentation enclosed).

It is clear from the statement of then Archbishop Timothy Dolan, that the transfer of \$57,000,000.00 to a cemetery trust fund was to shelter these funds from anticipated legal claims and liabilities made by victims of sexual abuse by clergy members of the Archdiocese of Milwaukee. The amount of the trust money transferred is excessive to the needs of eight cemeteries.

The letter from then-Archbishop Dolan does not mention the scope of the trust or that all but eight cemeteries within the diocese are excluded. This very limited scope of the Cemetery Trust should have been openly revealed to Cardinal Hummes, to the victim/survivors, and to the parishioners of the Archdiocese of Milwaukee. If Cardinal Hummes had known this very limited scope of the Cemetery trust, it is quite likely that he would not have granted a *nihil obstat* for the alienation of \$57,000,000.00.

Consequences to those who have been harmed

Several significant consequences result from this injustice:

- It furthers the scandal present in the Catholic Church, and particularly in the Archdiocese of Milwaukee, because of the clergy sexual abuse crisis.
- It erodes people's confidence in bishops and other Church leaders.
- There is a significant economic loss to people who have rightful legal claims and liabilities against the Archdiocese of Milwaukee.

Remedies

The remedies necessary to restore justice are fivefold:

1. Rescind the *nihil obstat* granted by Cardinal Hummes in 2007;
2. Require the Archdiocese of Milwaukee to remove all assets currently in the Cemetery Trust and place them in accounts of the Archdiocesan Corporation;
3. Require the Archdiocese of Milwaukee to withdraw any and all civil law litigation or any other efforts that might prevent the assets of the Cemetery Trust from being considered to be among the general assets of the Archdiocese, and thus, available in the bankruptcy process for paying legal claims and liabilities;

4. Require the Archbishop of Milwaukee to inform the U.S. Bankruptcy Court Judge who is handling the Archdiocese of Milwaukee's Chapter 11 reorganization petition that the assets in the Cemetery Trust have been returned to the accounts of the Archdiocese;
5. Require the Archbishop of Milwaukee to request the U.S. Bankruptcy Court Judge who is handling the Archdiocese of Milwaukee's Chapter 11 reorganization petition to order a study of the financial funding requirements for the Archdiocese to maintain the 8 cemeteries covered by the Cemetery Trust.

A Perspective from Victims/Survivors

The kiss of Judas may well be Christ's most painful wound, as all of His anguish, torment, and suffering flowed from that one act of betrayal. The suffering of sexual abuse victims is like this – a startling act of betrayal, sometimes violent, and always scarring – which renders a child or adolescent without words or a context with which to speak. With maturity and experience, the child or adolescent, now an adult, grows in understanding and horror, and learns the vocabulary necessary to describe their experience. Some choose to remain silent, some choose to speak. With either decision, the victim/survivor suffers.

Survivors of clergy sexual abuse perpetrated by clergy members of the Archdiocese of Milwaukee were betrayed. Over the past two to three decades, those who chose to come forward were re-victimized, patronized and dismissed; many were deceived with false promises and financial tokens. Those who would not be dismissed remain caught in the crushing legal machinery of the Archdiocese of Milwaukee. The latest example being the bankruptcy proceedings which are meant to exhaust, silence, and slander victims/survivors, as well as to serve as a warning to others. If the Archdiocese of Milwaukee wanted to demonstrate genuine concern for victims/survivors, its leadership would have and could still choose to put a stop to these painful and traumatic legal proceedings immediately and pursue other options.

The recent discovery of the **written intent** of the transfer of \$57,000,000.00 prior to the impending bankruptcy proceedings is further indication to all victims/survivors that the leadership of the Archdiocese of Milwaukee did not and does not act with transparency, humility, and vulnerability. The action insults and offends rather than heals those who are already deeply wounded.

We bring this matter to your attention recognizing our responsibility to make known our concerns for the good of the Church to Church leaders and to the rest of the Christian faithful (canon 212, §3). If we have failed to fulfill any canonical requirement in bringing this matter to

your attention now, we ask that you dispense us from that requirement. We do choose to walk a path of integrity and transparency; therefore, a copy of this document is also being sent to Cardinal Timothy Dolan and Archbishop Jerome Listecky.

Thank you, Archbishop Stella, for considering our request of you to correct this injustice.

Sincerely,

Peter J. Isely
Victim/Survivor

Rev. James Connell
Supporter of Victims/Survivors

Monica L. Barrett
Victim/Survivor

John J. Pilmaier
Victim/Survivor

Kevin Wester
Victim/Survivor

Michael Sneesby
Victim/Survivor

Vicky Schneider
Supporter of Victims/Survivors

Lynn Pilmaier
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Fr. Charlie Wester
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cc: Cardinal Dolan
Archbishop Listecky

Appendix A

Canon Law Position

In addition to the admitted intent of the transfer of the \$57,000,000.00, which was to shelter the funds from any claims and liabilities, we contend that the action does not meet the moral or legal requirements stated in the Code of Canon Law.

I. Concerning the alienation being immoral

The motivation for the transfer of funds as explained in the letter from then-Archbishop Dolan is contrary to the Catholic Church's teaching about justice because it calls for the transfer and sheltering of assets that otherwise should have been available for the bankruptcy judge to determine if those funds, in whole or in part, should be available to pay "any legal claim and liability".

The *Catechism of the Catholic Church* states that the moral virtue of justice disposes people to respect the rights of each person and to establish in human relationships the harmony that promotes equity with regard to persons and to the common good (CCC 1807). This would include paying all legal claims and liabilities, including the claims of the victims/survivors of clergy sexual abuse and all other persons to whom the Archdiocese of Milwaukee is indebted.

All of this is immoral and creates an injustice.

II. Concerning the alienation being in violation of Canon Law

Given that the expressed reason for this alienation violates the Church's teaching on justice, we also contend that Canons 1254, 1256, and 1259 of the Code of Canon Law were violated, in that no "alienation" actually took place; therefore, this money should be available to the bankruptcy process as possible funding to pay legal claims and liabilities. Both before and after the transfer of the funds to the Trust, the funds are identified as assets of the Archdiocese on its audited financial statements, just labeled differently.

- A. Canon 1254, §1, "alienate" stands opposite of "acquire". "Acquire" means to come to possess a title, ownership, or interest in real estate or other property not previously possessed; "alienate" means to convey or to transfer a title, ownership, or interest in real estate or other property so as to no longer possess it.

However, the Archdiocese of Milwaukee, in the person of the Archbishop of Milwaukee, never lost control of the funds, not for even one minute. Rather, as the diocesan bishop he alone represents the Archdiocese in its juridic affairs (Canon 393)

and he is the sole Trustee of the Trust; hence, the Archdiocese always had/ has control of the funds (actually, this control reality would be the same even if the Trustee of the Trust were a person other than the archbishop because the Archdiocese is the sole and exclusive beneficiary of the Trust).

- B. Canon 1256 requires that goods be acquired “legitimately.”
- C. Canon 1259 stipulates that “just means” are to be used when acquiring temporal goods.

All factors of justice, including paying all legal claims and liabilities along with revealing all important information when seeking a permission, should have been taken into account, yet weren't.

Summary

According to the Code of Canon Law, the Church's teaching on justice was violated. The funds were and are always under the control of the Archdiocese of Milwaukee and are stated as assets of the Archdiocese of Milwaukee on its audited financial statements. There is no legitimate alienation of these funds. The transaction is not morally justified. There is no loss of title, ownership, or interest in the funds. In fact, “beneficial interest” is used in the identification of the funds on the Archdiocese's audited financial statements. While alienation might be claimed in some correspondence between then-Archbishop Dolan and the Congregation for the Clergy, because some legal requirements were met, alienation did not actually happen, morally or legally.

In the event that performing justice by using money currently in the Cemetery Trust to pay legal claims and liabilities reduces the ability of the Archdiocese of Milwaukee to maintain the 8 cemeteries, we note that canon 1310, §2, establishes: “If through no fault of the administrators the fulfillment of the imposed obligations has become impossible because of diminished revenues or some other cause, the ordinary can equitably lessen these obligations, after having heard those concerned and his own finance council and with the intention of the founder preserved as much as possible; this does not hold for the reduction of Masses, which is governed by the prescripts of canon 1308.” So, Canon Law provides a common-sense remedy if a reality of insufficient funds should arise.