

1 STATE OF MINNESOTA IN DISTRICT COURT
 2 COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT

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5 DOE 1,

6 Plaintiff,

7 vs.

8 ARCHDIOCESE OF ST. PAUL AND
 9 MINNEAPOLIS, DIOCESE OF WINONA
 and THOMAS ADAMSON,

10 Defendants.

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13 Videotape deposition of ARCHBISHOP
 14 HARRY FLYNN, taken pursuant to Notice of
 15 Taking Deposition, and taken before Gary W.
 16 Hermes, a Notary Public in and for the County
 17 of Ramsey, State of Minnesota, on the 14th day
 18 of May, 2014, at 30 East 7th Street, St. Paul,
 19 Minnesota, commencing at approximately 10:04
 20 o'clock a.m.

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24 **AFFILIATED COURT REPORTERS**
2935 OLD HIGHWAY 8
 25 **ST. PAUL, MN 55113 (612)338-4348**

1 APPEARANCES:

2 JEFFREY R. ANDERSON, ESQ., MICHAEL G.
3 FINNEGAN, ESQ., Attorneys at Law, 366 Jackson
4 Street, Suite 100, St. Paul, Minnesota 55101,
5 appeared for Plaintiff.

6 DANIEL A. HAWS, ESQ., Attorney at
7 Law, 30 East 7th Street, Suite 3200, St. Paul,
8 Minnesota 55101, appeared for Archdiocese of
9 St. Paul and Minneapolis.

10 THOMAS B. WIESER, ESQ., Attorney at
11 Law, 2200 Bremer Tower, 445 Minnesota Street,
12 St. Paul, Minnesota 55101, appeared for
13 Archdiocese of St. Paul and Minneapolis.

14 THOMAS R. BRAUN, ESQ., Attorney at
15 Law, 117 East Center Street, Rochester,
16 Minnesota 55904, appeared for Diocese of
17 Winona.

18 THOMAS M. KELLY, ESQ., Attorney at
19 Law, 220 South 6th Street, Suite 1225,
20 Minneapolis, Minnesota 55402, appeared for
21 Archbishop Harry Flynn.

22 ALSO PRESENT:

23 Paul Kinsella, videographer

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1 P R O C E E D I N G S

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3 MR. KINSELLA: Today's date is May
4 14, 2014, the time is 10:04 a.m. This is the
5 videotape deposition of Archbishop Harry
6 Flynn. Will counsel please identify
7 themselves for the video record?

8 MR. ANDERSON: For the plaintiff,
9 Jeff Anderson.

10 MR. FINNEGAN: For the plaintiff,
11 Mike Finnegan.

12 MR. HAWS: Dan Haws for the
13 archdiocese.

14 MR. WIESER: Tom Wieser for the
15 archdiocese.

16 MR. BRAUN: Tom Braun on behalf of
17 the Diocese of Winona.

18 MR. KELLY: Thomas Kelly on behalf
19 of the archbishop.

20 MR. KINSELLA: Will the reporter
21 please swear the witness?

22 ARCHBISHOP HARRY FLYNN,
23 called as a witness, being first duly sworn,
24 was examined and testified as follows:

25 EXAMINATION

1 BY MR. ANDERSON:

2 Q. Good morning, Archbishop. Would you please
3 state your full name for the record?

4 A. My full name is Harry Joseph Flynn.

5 Q. And how is your health today and how are you
6 feeling?

7 A. Well, I have limitations. I've been dealing
8 with some health problems, but feeling pretty
9 well. When the sun has come out at last in
10 Minnesota.

11 Q. Yeah. Archbishop, by my calculations, you
12 have been a priest since your ordination in
13 1960. Is that right?

14 A. That's correct.

15 Q. And you had been, including the time as
16 coadjutor, presiding archbishop of the
17 Archdiocese of St. Paul and Minneapolis for,
18 would that have been, 14 years?

19 A. I came up in '94 and I was coadjutor from '94
20 till '95, and '95 to 2008 as the archbishop.

21 Q. And Archbishop Nienstedt was appointed as
22 coadjutor with you in the year 2007?

23 A. That's correct.

24 Q. And your retirement was effective in 2008
25 then?

1 A. On May 2nd, 2008.

2 Q. In the time in which you were archbishop of
3 the Archdiocese of St. Paul and Minneapolis,
4 that entire time frame, I think the records
5 reflect that in 2002, clearly that the bishops
6 in the U.S. convened and created what was now
7 called the Charter for the Protection of
8 Children, correct?

9 A. That is correct. And I chaired the committee
10 which sculptured the charter.

11 Q. And that committee that you chaired, I think
12 were you president of?

13 A. I was chair of the committee.

14 Q. And the committee was called?

15 A. The Committee for the Protection of Children.

16 Q. And why was that charter created and that
17 committee in particular constituted?

18 A. The charter was created because of a -- an
19 apparent crisis in the Archdiocese of Boston,
20 which needed some attention.

21 Q. And you say "apparent crisis." Do you think
22 there was a crisis in Boston that needed
23 attention?

24 A. I do, yes.

25 Q. So it was an actual crisis, not an apparent

1 one?

2 A. It was an actual crisis.

3 Q. Do you believe that there was also a crisis of
4 a similar nature in every diocese in the U.S.?

5 A. I wouldn't know. I -- I didn't know at that
6 time and I wouldn't be able to answer that.

7 Q. Had there been a similar crisis in Lafayette?

8 A. The crisis was not as extensive as it was in
9 Boston. It was a matter of -- of a very small
10 number of priests, I think two who were --
11 perpetrated extensively.

12 Q. There were similar dimensions in the sense
13 that Father Gauthe and others had been known
14 to have committed offenses against children
15 and also had been documented and known to have
16 been transferred repeatedly prior to your
17 installation as archbishop there, correct?

18 A. I remember the name Gauthe. I don't know
19 about their transferring -- transferring
20 repeatedly.

21 Q. When the charter was created, the bishops
22 convened in Dallas to address the crisis, did
23 you come away from that meeting as the chair
24 of the committee and a participant in the
25 bishops' conference believing there was a

1 scandal or a crisis pertaining to the abuse of
2 children that was nationwide?

3 MR. KELLY: Well, I'm going to
4 object to the form of the question. The
5 difference between the scandal and the crisis,
6 perhaps counsel can break that down.

7 MR. ANDERSON: Sure. I'll reframe
8 the question.

9 Did you come away from that meeting
10 and having chaired the committee with the
11 belief that there was a crisis that was
12 nationwide?

13 A. No. I -- I would not use the word "crisis."

14 Q. What would you use to describe the problem
15 nationwide?

16 A. I would simply use the word some matters
17 needed some very close attention.

18 Q. At any point in time, did you come to believe
19 there was a crisis pertaining to childhood
20 sexual abuse by clerics in the Archdiocese of
21 St. Paul and Minneapolis?

22 A. No.

23 Q. Did you ever come to believe there was a
24 problem in the way it was being handled or had
25 been handled?

1 A. No.

2 Q. Do you believe that there has never been a
3 problem with the way child sexual abuse has
4 been handled by the Archdiocese of St. Paul
5 and Minneapolis, based on your history and
6 knowledge of it?

7 A. I can say that as one looks at history, there
8 are always ways in which problems or
9 challenges could have been handled better.

10 Q. Can you think of any instances in which you
11 were the archbishop where you would look at
12 any individual situation and say, "That should
13 have been handled better"?

14 A. I couldn't now. If I had records to go over
15 or something like that, I might be able to
16 give a better answer, but I would not be able
17 to just give an answer to that.

18 Q. At this point in time, and I'm happy to show
19 you some records, but at this point in time,
20 can you think of any situations under your
21 watch as archbishop where you could say, "That
22 should have been handled better"?

23 A. No. I can't think of any.

24 Q. Okay. Archbishop, can you think of any
25 instances or are there any post-2002, after

1 the charter was installed, created and made
2 public across this country of you as
3 archbishop making the finding that any priest
4 in the archdiocese against whom allegations of
5 abuse had been made were found to have been
6 true?

7 A. Would you repeat that question, please?

8 Q. After the charter was created and made public
9 in 2002 and as -- during your tenure as
10 archbishop, are there any priests that were
11 accused of sexual abuse of minors that you
12 found to have been credibly accused?

13 MR. KELLY: Is that question limited
14 to this archdiocese?

15 MR. ANDERSON: Yes.

16 A. I -- right now I can't -- I can't remember
17 any.

18 BY MR. ANDERSON:

19 Q. Can you remember that there were some that
20 were actually accused and found by you and/or
21 your advisors to not have been credible or
22 substantiated?

23 MR. HAWS: You're referring to 2002
24 to 2008, correct --

25 MR. ANDERSON: Yes.

1 MR. HAWS: -- when the archbishop
2 retired?

3 MR. ANDERSON: Yes.

4 A. I'm trying -- an example might be Michael
5 Keating.

6 BY MR. ANDERSON:

7 Q. What do you remember about the accusation
8 having been made concerning Keating and what
9 was done before the determination was made
10 that that was not credible or substantiated?

11 A. Well, his -- the young lady's parents met, if
12 I have the -- the time frame correct, the --
13 the police of -- of a certain area, and I
14 forget now where it was, investigated and came
15 to the conclusion that there was no sexual
16 abuse. I met with parents of -- the young
17 lady's parents and with the young lady and
18 never heard of anything that Father Keating
19 did which would have been defined as sexual
20 abuse according to what the definition of the
21 charter was, and I can't remember what that is
22 right now. And in fact, I was quite disturbed
23 because the mother and father kept putting
24 words into her mouth to speak and I wondered
25 what all that meant, and not being a therapist

1 or psychologist, I wasn't able to figure out,
2 but it raised questions in my mind. And
3 having listened to them and to the young lady
4 on many, many occasions, I could not conclude
5 that there was sexual abuse, but sent the
6 situation and the case to the review board of
7 the archdiocese, who came to the same
8 conclusion as the police; there was no sexual
9 abuse.

10 Q. Have you reviewed any documents pertaining to
11 the Keating matter or any part of the file?

12 A. No. No.

13 Q. Have you reviewed anything in preparation for
14 today?

15 A. You mean from the archdiocese?

16 Q. Well, have you reviewed any documents in
17 preparation for your deposition to --

18 A. No.

19 Q. -- day, for example the depositions taken of
20 others before you pertaining to this, these
21 matters?

22 A. I don't -- I don't think so. I haven't looked
23 at any papers or anything like that.

24 Q. Archbishop, when you refer to the Keating
25 matter, you said that the police investigated

1 it and concluded there was no sexual abuse.

2 What led you to that belief?

3 A. I can't remember now.

4 Q. Do you recall today if the police found if
5 there was -- that there was no sexual abuse
6 or, rather, declined to prosecute, which is --
7 can be two different things?

8 A. Yes.

9 Q. Do you recall?

10 A. I don't recall.

11 Q. Do you recall if the review board found there
12 was no sexual abuse?

13 A. That is -- that was the conclusion, I believe,
14 that they reached.

15 Q. And on what do you base that belief? Who
16 supplied that information to you?

17 A. I can't remember.

18 Q. Okay. Did you participate in the review board
19 proceedings?

20 A. No. I -- I did not participate in any review
21 board proceedings.

22 Q. You appointed the review board that did
23 convene that proceeding, correct?

24 A. It's my understanding that they perpetrated
25 themselves, but I can't remember exactly.

1 Q. Do you recall who, Archbishop, reported to you
2 the actual findings of the review board?

3 A. I don't remember whether it was Andy
4 Eisenzimmer or Kevin McDonough. I don't
5 remember.

6 Q. Do you remember that Andy Eisenzimmer did some
7 investigation pertaining to the Keating matter
8 that was reported to the review board?

9 A. I don't remember.

10 Q. Do you remember if Andy Eisenzimmer gave you
11 any details of his own investigation?

12 A. I don't remember.

13 Q. Do you remember anything -- do you remember
14 anything else about how the Keating matter got
15 handled by the archdiocese and the review
16 board beyond what you just recited?

17 A. I remember that after the review board
18 concluded -- gave a conclusion, Father Michael
19 Keating was returned to the University of St.
20 Thomas and with no -- and his immediate
21 superior was made aware of the challenges
22 which he had faced and which -- which he was
23 involved.

24 Q. Who was that immediate superior that you
25 believe was informed?

1 A. Dr. Briel.

2 Q. And who informed Dr. Briel of the information
3 concerning Keating?

4 A. Father McDonough, I believe.

5 Q. And what was Father McDonough's instructions
6 to get -- what was Father McDonough told to
7 instruct Father -- Dr. Briel on?

8 MR. KELLY: By this witness?

9 BY MR. ANDERSON:

10 Q. If you know, yeah.

11 A. I -- I don't. I don't remember.

12 Q. To your knowledge, was anybody else besides
13 Dr. Briel to be instructed about Keating and
14 what was known to the archdiocese about his
15 history?

16 A. I don't remember.

17 Q. Do you know if any restriction was placed by
18 you, then, as archbishop on Keating's faculty
19 to minister in the archdiocese?

20 A. I don't -- I don't remember.

21 Q. Do you recall why Dr. Briel was the one
22 selected to have been told something about
23 Keating?

24 A. He chaired that department.

25 Q. Were you on the board at St. Thomas?

1 A. I was.

2 Q. Archbishop, it has been reported in the
3 newspaper that yourself and, I think, Father
4 McDonough were resigned from the board of St.
5 Thomas this last year, within this last year.
6 What were the circumstances of that
7 resignation?

8 A. My circumstances were easily -- easy enough.
9 My term was coming to a conclusion, and when
10 all of this started with Michael Keating and
11 newspapers picked it up and seemed to have
12 gone wild with it, I offered my resignation to
13 the president and then I offered my
14 resignation to the board and it was mutually
15 agreed upon.

16 Q. And why did you offer your resignation?

17 A. Because I did not want my association with the
18 board to -- to hurt St. Thomas in any way.

19 Q. And why did you think that could or would?

20 A. Because of the manner in which the media was
21 taking the situation.

22 Q. Were you aware that that was first brought to
23 the attention of the media by reason of a
24 lawsuit we brought and had not been known to
25 the media or the public before that suit?

1 A. Was I aware of what?

2 Q. Were you aware that the attention to the
3 Keating matter was brought by reason of a
4 lawsuit we served on Father Keating?

5 A. Yes.

6 Q. And you're also aware that's the first time
7 the public was ever known -- made known of the
8 fact that Keating had been investigated and
9 reported to have abused a child?

10 MR. KELLY: Objection, rule 611,
11 that assumes facts not in evidence, counsel.
12 The witness would have no way of knowing that
13 background information. Perhaps you could ask
14 some foundational questions.

15 BY MR. ANDERSON:

16 Q. You can -- did you understand the question?

17 A. I don't. I didn't.

18 Q. Okay. To your knowledge, before Keating was
19 sued by us on behalf of the young woman
20 identified as Jane Doe 20 and that was made
21 known, public, to your knowledge, had anybody
22 in the public ever been informed of the fact
23 that Keating had been the subject of a
24 complaint of childhood sexual abuse by that
25 woman or any other person?

1 A. I don't -- I don't remember.

2 (Discussion out of the hearing of
3 the court reporter)

4 BY MR. ANDERSON:

5 Q. Did you, Archbishop, ever make any effort to
6 inform the public of what you learned about
7 Keating and/or his history through the review
8 board and the processes that went on that
9 you've already described?

10 A. Again, I -- I don't remember.

11 Q. Do you have any difficulties currently with
12 your memory --

13 A. I do.

14 Q. -- issues related to that?

15 A. The longer I get a -- farther I get away from
16 these situations, the weaker the memory
17 becomes.

18 Q. Has there been any kind of diagnosis of any
19 kind, Archbishop, that indicates that
20 impairment of memory?

21 A. No.

22 Q. I appreciate your age and that --

23 A. Well, I think --

24 Q. -- sometimes goes with --

25 A. I think that's the secret of -- that and many

1 other things, which will go unmentioned here
2 because we're on tape.

3 Q. Okay. Is there any medical condition that
4 you're aware of that you suffer that impedes
5 your ability to remember events or --

6 A. Yes.

7 Q. -- anything?

8 A. I'm on an enormous amount of medication. I --
9 I -- within the past couple of years I've
10 suffered from Legionnaires', pneumonia and was
11 unconscious for some time. And I also am
12 battling CLL and a -- and a cancer of the
13 blood.

14 Q. Okay. So you feel that the combination of
15 those conditions is making it more difficult
16 for you to remember certain things?

17 A. I think the age has more to do with it than
18 anything.

19 Q. Okay. There was a criminal matter recently
20 tried in Ramsey County District Court
21 involving Chris Wenthe and you were called by
22 the defendant's lawyer, Chris Wenthe, Paul
23 Engl, to testify in that criminal matter and I
24 reviewed a transcript of that testimony. Do
25 you recall having given testimony --

1 A. I do.

2 Q. -- for the defense in that case --

3 A. I do.

4 Q. -- Archbishop? At that time -- how long ago
5 was that?

6 A. I don't remember.

7 Q. At that time, you didn't, at least as I read
8 the records, indicate any impairment of memory
9 or difficulties having any memory of those
10 events. Was your memory better then than it
11 is today?

12 A. Well, I think it's better every day before
13 than it is the following day. But if my -- if
14 I recall correctly, I was quite disappointed
15 that I was not asked many more questions
16 concerning the situation. I was asked who I
17 was and when I was ordained and things like
18 that, but not anything concerning having met
19 the young woman. And I think it might have
20 been a different situation.

21 Q. Well, what do you mean it might have been a
22 different situation? What are you referring
23 to?

24 A. Well, I think Chris Wenthe was accused of
25 violating a trust, a -- a relationship, which

1 was a professional, trusting relationship and
2 that wasn't my memory of what the young lady
3 had told me.

4 Q. And so when you say it might have been a
5 different situation, do you believe that he
6 should not have been found guilty and it would
7 have been a different result if you'd been
8 asked more questions?

9 A. Had I been asked more questions, I -- I can
10 remember at the time I was disappointed.

11 Q. Because at that time you had a memory of some
12 events you felt would have been helpful to him
13 and his defense?

14 A. I -- I -- I don't know whether it would have
15 been helpful, but I think it would have
16 broadened the conversation.

17 Q. And you at least did have some memories that
18 would have broadened the conversation at that
19 time?

20 A. In my view.

21 Q. Archbishop, can you identify today the names
22 of any priests who have -- of the archdiocese
23 who have been accused of sexual abuse or child
24 pornography pertaining to minors who you
25 sought to involuntarily remove from the

1 priesthood?

2 MR. KELLY: May the witness break
3 that down into two answers, one dealing with
4 sexual activities and the other dealing with
5 child pornography?

6 BY MR. ANDERSON:

7 Q. We could, but for purposes of our questions,
8 would you agree, Archbishop, that the
9 possession or viewing of child pornography is
10 a form of sexual abuse?

11 A. Yes.

12 MR. ANDERSON: Okay. Does that
13 satisfy you?

14 MR. KELLY: Sure.

15 BY MR. ANDERSON:

16 Q. Okay. So the question, then, Archbishop,
17 would you like me to repeat it?

18 A. Would you, please?

19 Q. I shall. At any time while archbishop, do you
20 recall having made any effort to involuntarily
21 remove any priests from the clerical state who
22 had been accused of sexual abuse, including
23 possession of child pornography?

24 MR. HAWS: Sexual abuse of minors?

25 MR. ANDERSON: Yes.

1 BY MR. ANDERSON:

2 Q. From the priesthood.

3 A. Now, I don't know how to answer that question.

4 Made an attempt to remove or removed?

5 Q. I would start with made an attempt to remove,

6 such as petitioned for involuntary

7 laicization.

8 A. I can't recall that. I -- I can't re -- I

9 can't recall at this moment.

10 Q. Okay. Do you recall ever making any effort to

11 remove them from the clerical state, any of

12 those who had been accused or had committed

13 such offenses?

14 A. I would have to go back and look at the

15 records.

16 Q. Do you recall having reported any of those who

17 had been accused or committed offenses against

18 minors to the CDF?

19 A. I don't think so.

20 Q. Archbishop, at any time, did you become aware

21 of or have your advisors compile a list of

22 clerics in the Archdiocese of St. Paul and

23 Minneapolis that had been accused of sexual

24 abuse of minors or credibly accused of sexual

25 abuse of minors?

1 A. There might have been, but I can't remember.

2 Q. Beyond your answers to the questions
3 pertaining to Keating, I think you gave me
4 some information on Keating, so I'd like to go
5 back to what you did tell me about that, and
6 you gave that answer based on what you did
7 remember. You said the police had
8 investigated and concluded he had not
9 committed sexual abuse and that was your
10 memory, correct?

11 A. That's right.

12 Q. You also remember having met with the parents,
13 as I heard your account?

14 A. Uh huh.

15 Q. Is that correct?

16 A. That's true.

17 Q. On how many occasions did you meet with the
18 parents of that girl?

19 A. I would be unable to say. I couldn't
20 remember.

21 Q. And did you also --

22 A. And excuse me. And the young lady, too.

23 Q. Yeah, okay. That was my next question. Did
24 you meet with the then young lady who had
25 claimed that Father Keating had engaged her in

1 some sexual misconduct?

2 A. I met with her and her parents.

3 Q. They were together?

4 A. They were together.

5 Q. And it was on one occasion, but may have been
6 more?

7 A. It was more.

8 Q. How many would you estimate?

9 A. I wouldn't remember.

10 Q. And you did say that, according to the
11 definition of the charter, you determined that
12 it had -- she did not report a charter
13 violation, is that --

14 A. That was what I said.

15 Q. When you say "a charter violation," that means
16 the priest engaging in some sexual contact
17 with the youth, correct?

18 A. No. I meant the definition of sexual abuse
19 according to the charter, which I would be
20 unable to give now.

21 Q. Okay. And as you used the term "sexual
22 abuse," what does that mean? Any sexual
23 contact between the adult, the priest, and the
24 child?

25 A. I would have to look at the definition again,

1 I --

2 Q. Do you remember what conduct Keating engaged
3 in towards this young woman who had reported
4 misconduct by Keating as a child?

5 A. I don't remember the -- I wouldn't be able to
6 say now with any definite meaning to it what
7 the conduct was, but I remember realizing or
8 thinking at the time that it was not sexual
9 abuse, but, rather, boundary issues, which
10 took place in the presence of the parents.

11 Q. Did you make any memorandum pertaining to that
12 finding --

13 A. I don't remember.

14 Q. -- or conclusion?

15 A. I don't remember.

16 Q. When you had the interview that led you to
17 that finding or conclusion, do you know who
18 else was present, if anybody else?

19 A. Andy Eisenzimmer was present for one. I don't
20 know whether Father McDonough was present for
21 -- he was present for one at least and Michael
22 Keating was present for one, but it seems to
23 me now that there were others in which there
24 were the four of us.

25 Q. It's correct to say that Michael Keating

1 denied any kind of sexual abuse, correct?

2 A. He did.

3 Q. Did he admit to any boundary violation with
4 the then child?

5 A. That -- now, that I can't remember. But I can
6 remember chiding the father because they were
7 so encouraging of all this. And -- and I -- I
8 remember saying to the father, "If this were
9 my daughter, I would say that 'enough's enough
10 of this,'" whatever, watching television or
11 whatever it was, I can't even recall, but it
12 was not sexual abuse.

13 Q. Did you believe that the father was attempting
14 to get her -- his daughter to exaggerate what
15 had actually happened?

16 A. I was suspicious of the mother and father
17 because I did -- I don't know why, but I was.

18 Q. And today, you can't tell us why you have
19 articulated those suspicions?

20 A. Well, they kept interrupting the daughter and
21 filling in and suggesting what might have
22 happened, whether she was able to say so or
23 not and I wondered the part that they played
24 in all of this.

25 Q. Is it your memory, Father, as you recall the

1 meeting with the girl, that she in fact did
2 not report to you that Keating had engaged in
3 some sexual contact with her?

4 A. I don't understand that question.

5 Q. Let me rephrase the question. Do you recall
6 the girl telling you that Keating had rubbed
7 her breasts?

8 A. No. I don't remember that.

9 Q. Do you recall the girl telling you that
10 Keating had rubbed his genitals against her?

11 A. I don't recall that.

12 Q. Do you recall the girl reporting that Keating
13 would have her on his lap?

14 A. That I -- it seems familiar, but I -- I can't
15 say for sure now.

16 Q. What do you recall having been reported to you
17 that you believed happened in the presence of
18 the parents that led you to the conclusion it
19 wasn't sexual abuse?

20 A. Things like holding hands while watching
21 television and -- and sitting close to one
22 another, but none of these things which you've
23 just mentioned -- I -- I don't recall any of
24 them.

25 Q. You did say you listened to the young lady on

1 many occasions. Can you identify how many --

2 A. No.

3 Q. -- occasions that was?

4 A. No, I can't.

5 Q. There is some evidence that the young lady
6 prepared, with the help of a friend, a DVD of
7 her account of some things. Did you see the
8 DVD?

9 A. No.

10 Q. Do you remember seeing such a DVD?

11 A. No. I don't remember seeing it at all.

12 Q. Okay. Do you remember anything about Andy
13 Eisenzimmer's attempt to interview other girls
14 who may have been involved with Keating?

15 A. No.

16 Q. Beyond Keating and in your tenure as the
17 archbishop, are there any other priests that
18 you recall who were accused of sexual abuse of
19 a minor and you as archbishop ultimately
20 concluded it was not sexual abuse?

21 A. I don't remember. I simply don't remember.

22 (Discussion out of the hearing of
23 the court reporter)

24 BY MR. ANDERSON:

25 Q. What I'm going to do, Archbishop, it seems --

1 just to try to see if we can focus on what you
2 can remember, I'll try to take an exhibit here
3 and use that.

4 A. All right.

5 Q. I'm going to get a copy of an exhibit here and
6 Michael's getting it for me right now and
7 we'll wait a moment so we can supply this to
8 you all.

9 MR. KELLY: You got enough copies?

10 MR. FINNEGAN: I got at least five.

11 MR. HAWS: Go ahead.

12 BY MR. ANDERSON:

13 Q. Archbishop, we placed before you an exhibit
14 we've marked for identification Exhibit 174.
15 It is a memorandum, it's also noted that it
16 was a document obtained by MPR News. But
17 you'll see at the top it is dated August 12th,
18 2002. And are you looking to retrieve your
19 glasses?

20 A. I am.

21 Q. Sure. Take your time.

22 A. Now I have them. (Examining documents).

23 Q. Can you see at the top that it's dated August
24 12th, 2002?

25 A. I can, yeah.

1 Q. And do you see that it is a memo to Archbishop
2 Flynn and the archbishop's council?

3 A. I do.

4 Q. Who was then on the archbishop's council?

5 A. That was Andy Eisenzimmer, Father Kevin
6 McDonough, whoever was auxiliary bishop at the
7 time, Sister Dominica Brennan, John Bierbaum,
8 I believe.

9 Q. And you convened that council and/or created
10 it for what purpose, Archbishop?

11 A. Advisory. We would look at different issues.

12 Q. Not just sexual abuse, but whatever --

13 A. Oh, no.

14 Q. -- might be presented?

15 A. No. Financial -- financial, and that's why
16 the representation was so varied.

17 Q. Got it. In this case, the memo is from Father
18 Kevin McDonough, correct?

19 A. That's right.

20 Q. And at that time he is vicar general, correct?

21 A. Vicar general, that's true.

22 Q. Appointed by you to be?

23 A. Yes.

24 Q. At that time, did you consider him your
25 primary advisor on matters of sexual abuse?

1 A. Yes, on many things.

2 Q. Okay. But on sexual abuse, you had several
3 advisors, but fair to say that he was primary?

4 A. He was.

5 Q. Okay. And you'll see on regard -- on the
6 regarding line, it says, "Generating
7 communication with parishes having some
8 connection to a history of clergy sexual
9 abuse." My first question to you is, on a
10 quick glance, do you recognize them as having
11 received the memo today?

12 A. No.

13 Q. Okay.

14 MR. HAWS: Counsel, did you identify
15 the exhibit number? I don't remember the --

16 MR. ANDERSON: I did. It's 174.

17 MR. HAWS: I just don't remember if
18 you got it on the record.

19 BY MR. ANDERSON:

20 Q. Okay. Let's walk through it, then, and see if
21 it helps refresh your memory or recollection
22 of events at that time. It begins, and I'll
23 read it and then ask you a question, it
24 states, "We have a significant number of
25 parishes that were served at one time or

1 another - before, during, or after known
2 offenses - by priests with a history of sexual
3 abuse of minors." Do you have any memory of
4 how many priests this would be referring to,
5 Archbishop?

6 A. No.

7 Q. In the third sentence it reads, "On one or
8 more occasions this summer, our failure to do"
9 -- I better read the sentence before it. The
10 second sentence says, "For years we have
11 acknowledged that there are good reasons to
12 implement a healing process in such parishes:
13 For example, to help other possible victims to
14 come forward and to break the unhealthy
15 secrets that often remain in such parishes."
16 Do you agree with that statement?

17 A. Yes.

18 Q. The next sentence in the memo to you states,
19 "On one or more occasions this summer," this
20 refers to the summer of 2002 now, "our failure
21 to do so in specific instances has been viewed
22 as part of a 'cover-up.'" Do you believe
23 there had been a cover-up in some instances of
24 sexual abuse at that time?

25 A. I can't think of any.

1 Q. Then the next sentence he states to you, "Of
2 course, that failure was not a cover-up, but,
3 rather, lack of time and resources to follow
4 up." Do you agree with that statement,
5 Archbishop?

6 A. Yes.

7 Q. Why was there a lack of time given to the
8 problem of sexual abuse by clerics in this
9 archdiocese?

10 A. Well, I think there was some time given to
11 that very -- very terrible thing. I remember
12 one -- on one occasion going to a parish in
13 the south with Father McDonough for an evening
14 meeting. I remember going to Forest Lake and
15 inviting people, and I was the only one at
16 that meeting, to tell them about past problems
17 and to invite others to come and come forward.
18 And I think there would have been a couple of
19 others that I participated in, but I can't
20 remember now where they were, but it -- it was
21 unfortunate that we did not follow this more
22 closely.

23 Q. You had been in the Archdiocese of St. Paul
24 and Minneapolis, first as coadjutor and then
25 archbishop, since '94, so as of 2002, we're

1 talking about you having been here eight
2 years, correct?

3 A. Yes.

4 Q. When Kevin McDonough refers to this not being
5 a cover-up, but rather a failure -- or rather
6 a lack of time, whose responsibility was it to
7 give it the time necessary to protect the
8 kids?

9 A. It was my responsibility, and I'm coupling
10 with this memo with the time that I chaired
11 that charter and we were implementing the
12 charter throughout the country, and so,
13 consequently, I was out of the diocese a great
14 deal doing talks on the charter and trying to
15 get dioceses on board. And it's unfortunate
16 that we did not pay more attention to this as
17 a result.

18 Q. To whom did you delegate from 1994 to 2002 --

19 A. Well, the vicar general ex-officio would be
20 the delegate of the bishop when he's out.

21 Q. And was it then Kevin McDonough's --

22 A. It was, yes.

23 Q. -- job to give the time necessary to --

24 A. Necessary and it would have been Andy
25 Eisenzimmer's and our canonical -- our

1 canonical attorney, Sister Dominica.

2 MR. KELLY: Archbishop, make sure
3 you wait until Mr. Anderson has completed his
4 question before you start --

5 THE WITNESS: Oh, excuse me.

6 MR. KELLY: -- giving your answer.

7 THE WITNESS: All right. Thank you.

8 BY MR. ANDERSON:

9 Q. Did you ever in any way reprimand or
10 discipline Father McDonough, Andy Eisenzimmer
11 or Sister Dominica or any of those you
12 delegated with the responsibility for
13 protecting the kids from abuse by children
14 (sic) for having failed to give that issue a
15 lack of time between 1994 and 2002?

16 A. I don't know. The answer to that is no.

17 Q. At any time while archbishop, did you ever
18 reprimand, discipline or even scold any of
19 those to whom you delegated responsibility for
20 the protection of children and failed to give
21 it either the lack of time or resources
22 required?

23 A. I don't think so.

24 Q. If you're told they had given this a lack of
25 time in 2002, why didn't you discipline,

1 reprimand or scold those responsible?

2 A. I don't remember.

3 Q. The sentence goes on to say, "And resources to
4 follow up." So he's attributing that failure
5 not to a cover-up, but both a lack of time and
6 resources to follow up. So my question to
7 you, Archbishop, is, is what resources -- why
8 weren't the resources given to do what was
9 necessary to protect the kids from abuse by
10 the priests from 1994 to 2002 when this memo
11 was written?

12 A. Well, I think, if I'm reading this correctly,
13 that many programs were initiated in parishes
14 and -- and even established -- establishing an
15 officer -- office with my delegate in that
16 office, and I for -- it -- it was an office
17 for the protection of children. And she did
18 much of this work, going around and talking in
19 parishes and implementing the charter. So it
20 -- it is not completely negating resources or
21 time because we did a great deal of that. We
22 established -- that -- that office was
23 established by my predecessor, Archbishop
24 Roach, and -- and so this was a continuing
25 thing that she was doing, and maybe not in the

1 same fashion that is described here, but,
2 nevertheless, it wasn't a complete negation.

3 Q. Now, this memo is in August of 2002, I think
4 the charter was actually promulgated at the
5 bishops' meeting in Dallas in June of 2002 --

6 A. June, that's right.

7 Q. -- is that correct?

8 A. That's correct.

9 Q. So this is referring back in time that this
10 was not a cover-up, but rather a failure of
11 lack of time and lack of resources. Can you
12 remember what the lack of resources -- what
13 Father McDonough is referring to when he says
14 "lack of resources devoted to this"?

15 A. I don't know. I don't know because we had
16 someone in an office we were paying a salary
17 and -- for this very purpose.

18 Q. And do you remember today what resources had
19 been devoted to the protection of children and
20 prevention of sexual abuse by clerics from
21 1994 to the implementation of the charter in
22 2002?

23 MR. HAWS: Just for the record, to
24 the extent you're referring to this document
25 as dealing with that issue in particular, the

1 document speaks for itself and I think it's
2 out of context, but go ahead.

3 A. I don't remember.

4 BY MR. ANDERSON:

5 Q. He goes on to state, "I want to propose that
6 we ought to devote the resources now to
7 'lancing the boil' while there is residual
8 interest/fear/concern/anger about this issue."
9 Do you remember Father McDonough discussing
10 lancing the boil with you?

11 A. I don't, no.

12 Q. The next paragraph, Archbishop, states, "A
13 further motivator for particular work with
14 these parishes is this: The local media are
15 researching our history and are likely
16 eventually to publish a list of our known
17 offenders." My question to you is, do you
18 remember Father McDonough expressing this
19 sentiment to you?

20 A. I don't.

21 Q. There's reference here to concern over the
22 media getting a list and publishing it. This
23 is a list of offenders who had committed
24 sexual abuse, is it not?

25 A. Yes.

1 Q. How many were on that list?

2 A. I don't know.

3 Q. When you became archbishop here, first as
4 coadjutor and then ultimately installed by the
5 Holy Father as the archbishop, did you take
6 any time with your predecessor, Archbishop
7 Roach, to create a list of those offenders
8 known to him and his advisors so that when you
9 took over, you know, the helm, so to speak,
10 you would know who was at risk or who had
11 offended?

12 A. It seems to me that he did speak with me about
13 it and -- but I think most of those people who
14 had -- all of them who had offended and the
15 offenses were known were out of ministry.

16 Q. Are you sure of that?

17 A. No. I'm not sure because it was before 2002.

18 Q. Okay.

19 A. No. I'm not sure of that. That -- that would
20 not be true.

21 Q. Yeah.

22 A. That happened only after 2002.

23 Q. So the question, then, is, do you recall
24 having gotten a list from Archbishop Roach of
25 people he knew to have offended who either

1 were in ministry or --

2 A. I don't know whether it was a list. I
3 remember him speaking to me about some
4 problematic priests.

5 Q. Do you remember having made any memorandum or
6 recording of that?

7 A. I don't remember.

8 Q. Was it your practice to usually create memos
9 when he would give information such as that to
10 you that you thought important to keep --

11 A. Sometimes --

12 Q. -- and remember?

13 A. -- I did and sometimes I didn't and I might
14 have, but I can't remember.

15 Q. Did you, at the time Archbishop Roach shared
16 that information with you early in your tenure
17 or at any time, ask anyone to create a list of
18 priests accused of select -- of molesting
19 minors?

20 A. I don't -- I don't remember whether I did or
21 not.

22 Q. The paragraph goes on to, in the next
23 sentence, he states, "Even if we do not
24 preemptively release all of that information
25 ourselves (publish the list), we are going to

1 have to deal with its disclosure sooner or
2 later." So I read this to mean clearly that
3 there already is a list that has been created
4 and there's now discussion about, you know,
5 the list becoming known whether you want to or
6 not. Do you remember anything about that,
7 Archbishop?

8 A. I don't. I don't.

9 Q. He goes on to write, "I would prefer to see us
10 in the position of having already prepared
11 local parishes for this likelihood." Do you
12 remember anything, any discussion about
13 preparing the parishes for the likelihood of
14 disclosure of a number of priests on a list
15 who have been accused of molesting children?

16 A. I don't remember discussion.

17 Q. He goes on to say, "I propose that we take the
18 following steps:" And you'll see step number
19 1, he states, "We should identify a list of
20 parishes that potentially deserve this
21 attention." Do you know if such a list of
22 parishes where priests who had offended was
23 prepared at that time as is being suggested
24 here?

25 A. I don't remember.

1 Q. Number 2, he proposes, "We should call a
2 meeting that involves the pastors, trustees
3 and parish council presidents of all such
4 parishes." Do you recall that action having
5 been taken or implemented?

6 A. I don't remember.

7 Q. Item number 3 is, he proposes, "We would then
8 meet individually with the small leadership
9 group of each parish and go over the relevant
10 history with each of them." Do you recall
11 having implemented that recommendation?

12 A. Faintly in my memory I think that had been
13 done in some parishes, but it's faint in my
14 memory. I know that the two parishes that I
15 spoke of earlier, they're clear in my memory,
16 but I can't recall the others.

17 Q. And the two parishes that you do recall having
18 done that were?

19 A. The one at Forest Lake and a parish down in
20 the southern part of the diocese and I can't
21 remember what parish it was.

22 Q. Was the one in parish (sic) lake involving
23 Krautkremer?

24 A. I don't remember. I remember there were two
25 priests who were in that parish who had

1 offended.

2 Q. Was that Father Kern?

3 A. I don't remember.

4 Q. Do you remember Our Lady of Grace?

5 A. You mean in Edina?

6 Q. Yes, where Kern was.

7 A. No.

8 Q. Okay.

9 A. I'm not -- remember the parish, but I didn't
10 know he was there.

11 MR. KINSELLA: Excuse me, off the
12 video record to change tape.

13 MR. ANDERSON: He's going to change
14 the tape. If you want to take a break while
15 we do, you can, or if you want to continue.

16 (Discussion off the record)

17 MR. KINSELLA: Back on the video
18 record, 11:05 a.m.

19 BY MR. ANDERSON:

20 Q. Archbishop, I think you indicated you didn't
21 recall the name of the priest who may have
22 molested minors in Forest Lake that was --
23 where there was some meeting, but you also
24 mentioned Minneapolis, South Minneapolis. Do
25 you remember the name of the priest?

1 A. No. I -- not South Minneapolis. A southern
2 part of the diocese -- archdiocese.

3 Q. Okay.

4 A. I don't remember the name of the town.

5 Q. Okay. And do you remember the name of the
6 priest who had offended?

7 A. No, I don't.

8 Q. Do you remember what disclosure or discussion
9 was made in either of those parishes
10 concerning the offender?

11 A. No. I remember in Forest Lake, it was a -- it
12 was more of a -- my receiving expressions of
13 concern from the people who had -- some of
14 whom had been offended by the priest. And --
15 and I don't remember the other parish -- the
16 meeting in the other parish at all, except
17 that I was there with Father McDonough.

18 Q. Okay. And it sounds like there were
19 expressions of concern by several victims or
20 family members of several victims --

21 A. Yes.

22 Q. -- of that offender --

23 A. That's right.

24 Q. -- whose identity you don't remember today?

25 A. I don't remember.

1 Q. Okay. Did you have a similar experience in
2 the other parish in the southern part of the
3 diocese?

4 A. Yes. Yeah.

5 Q. Describe what you can remember about that
6 experience in that parish.

7 A. Just people expressing their distress, if they
8 had been offended or a family member had been
9 offended, and their happiness that I had come.
10 And the same in Forest Lake, the happiness
11 that I'd come and -- and expression of pain
12 that they had experienced from that -- from
13 the sexual abuse.

14 Q. Do you remember having made promises to those
15 victims or the members of those parishes --

16 A. You know, I don't --

17 Q. -- that had expressed their concern and their
18 pain?

19 A. I don't remember.

20 Q. Do you remember what action, if any, you took
21 responsive to those expressions you heard in
22 those parishes from those victims and those
23 concerned parishioners?

24 A. I don't remember because the -- the situation
25 had already been attended to. I think they

1 had received some compensation and the priests
2 were -- were already laicized.

3 Q. Okay.

4 A. I think.

5 Q. You're not sure of that?

6 A. I'm not sure of that.

7 Q. When you say "laicized," you're talking
8 about -- that's actually removal from the
9 clerical state --

10 A. That's right.

11 Q. -- by the Vatican?

12 A. That's right.

13 Q. But you're not sure of that?

14 A. Not sure.

15 Q. Okay. Item number 4, the next page, I'll
16 direct your attention to that, under the
17 proposals given by Father McDonough, it
18 states, "We would ask them to consider whether
19 and how to involve a broader leadership group
20 in the discussion." Do you remember that
21 item?

22 A. No.

23 Q. Okay. Item 5 is --

24 (Discussion out of the hearing of
25 the court reporter)

1 A. Oh, excuse me.

2 BY MR. ANDERSON:

3 Q. That's okay. Item 5 is, "We would then send a
4 staff member to each such parish to work out a
5 process of communication and follow up with
6 each parish." Do you remember, Archbishop,
7 having done or directed that that be done?

8 A. No. I don't remember.

9 Q. He goes on to state, "I do not believe we
10 currently have sufficient staff support to
11 carry out this effort with internal resources,
12 therefore, we should bring someone in on a
13 contract basis to organize the effort." Do
14 you remember having done that or followed
15 such" --

16 A. No.

17 Q. The next paragraph --

18 MR. KELLY: Excuse me. Was the
19 answer do you remember or was that your answer
20 no?

21 THE WITNESS: No. No. I don't
22 remember it.

23 MR. ANDERSON: Okay. Thank you,
24 Tom. Did I cut him off?

25 MR. KELLY: No. He just said two

1 things.

2 MR. ANDERSON: Okay.

3 BY MR. ANDERSON:

4 Q. The next paragraph he writes, "Here is a
5 partial list of the parishes that merit
6 special attention." And then in caps he says,
7 "Priests with known abuse histories." The
8 first is Gilbert Gustafson, St. Mary of the
9 Lake, White Bear Lake, WBL. What do you
10 remember about what the archdiocese knew about
11 Gil Gustafson and his history of abuse at that
12 time?

13 A. His history of the -- the experience of abuse,
14 I think, happened before my arrival here and
15 then he was in treatment and worked in an
16 isolated capacity in the Chancery for some
17 time until 2002 and said Mass at the Poor
18 Clare Convent in Minneapolis and he -- he
19 seemed to have been making very fine progress
20 at that time. And then after the charter, he
21 no longer was permitted to say a Mass publicly
22 anywhere. And then he also was removed from
23 the Chancery. So he's -- I think he does some
24 kind of work now, but I don't know what it is.

25 Q. Do you recall anything else about the history

1 known to either you or the archdiocese
2 pertaining to Gil Gustafson?

3 A. I think I made arrangements with him to seek
4 laicization and not re-seek -- not seek
5 re-entry into the priesthood, and it was a
6 financial arrangement, but I don't recall what
7 it was.

8 Q. You do recall that Gil Gustafson was --

9 (Discussion out of the hearing of
10 the court reporter)

11 BY MR. ANDERSON:

12 Q. Did you give Gil Gustafson money to do that?

13 A. I think I did.

14 Q. How much?

15 A. I don't remember.

16 Q. Do you recall meeting with [REDACTED]
17 [REDACTED], the child that he had been
18 convicted of having engaged in criminal sexual
19 conduct towards when [REDACTED] was ten years old?

20 A. I don't recall having met him, but I may have.

21 Q. Do you recall meeting with his parents, [REDACTED]
22 [REDACTED], and making promises
23 to them?

24 A. No.

25 Q. I'm gonna come back to Gil Gustafson, but for

1 the moment, direct your attention back to this
2 exhibit, and the next priest identified with
3 known abuse history is Michael Stevens, St.
4 Michael, Prior Lake; Epiphany, Coon Rapids.
5 What can you tell us, Archbishop, about what
6 the history was known to the archdiocese to
7 have been concerning Michael Stevens at this
8 time?

9 A. Well, when I arrived in the archdiocese, any
10 sexual abuse, I believe, happened prior to my
11 arrival and Michael Stevens was working in the
12 computer room in the archdiocese. And then
13 after the charter, he -- he was removed from
14 that position and I don't know where he was.
15 I -- I've -- I don't know where --

16 Q. Do you remember anything else about Stevens?

17 A. No. No.

18 Q. The next identified here is Robert Thurner,
19 St. Mark's, St. Paul and then a number of
20 assignments including St. John, Hopkins; St.
21 Joseph, West St. Paul; St. Therese, St. Paul;
22 Most Holy Trinity, St. Louis Park; St.
23 Michael, Prior Lake; St. Edward, Bloomington;
24 St. Luke, St. Paul. What do you remember
25 about the history known to the archdiocese of

1 abuse by him?

2 A. I have no memory of it at all, except that he
3 -- had abused and that's all I would know.

4 Q. Do you have any memory of how many kids?

5 A. No.

6 Q. The next is Lee Krautkremer, identified St.
7 Peter, Forest Lake; St. Joseph, Lino Lakes;
8 St. Michael, St. Michael; St. Michael, West
9 St. Paul; St. Margaret Mary, Golden Valley;
10 St. Peter, North St. Paul and Immaculate
11 Conception, Faribault. What can you tell us
12 about what was known to the archdiocese
13 concerning his abuses?

14 A. I don't know it -- any of that.

15 Q. Robert Kapoun is the next listed, St. Raphael,
16 Crystal; St. Scholastica, Heidelberg; St.
17 Patrick, St. Joseph; St. Catherine, rural New
18 Prague; St. Kevin, Minneapolis; Most Holy
19 Redeemer, Montgomery. What do you remember
20 about his abuse history and that known to the
21 archdiocese?

22 A. He might have been -- that one parish in
23 Montgomery might have been the parish which I
24 referred to earlier which I visited, that
25 could have been, but that's all -- but that's

1 only a guess and I don't know any more.

2 Q. Archbishop, do you remember there was a jury
3 trial held in Hennepin County where the
4 plaintiff was identified initially as John
5 Doe, but who ultimately became public using
6 the name Dale Scheffler and the civil case was
7 brought against both the Archdiocese of St.
8 Paul and Minneapolis and Father Robert Kapoun,
9 also known as the Polka Padre, and that case
10 went to a civil jury and a verdict was
11 rendered and at that time I believe you were
12 the archbishop. Do you remember that?

13 A. No. No, I don't.

14 Q. Do you remember during your tenure at all any
15 civil verdicts going to where damages were
16 awarded by juries during your tenure at the
17 archdiocese by reason of sexual abuse and the
18 negligent handling of it by the archdiocese?

19 A. I don't remember any specifically, but there
20 must have been because I've had two or three
21 depositions and I -- but I don't know -- I
22 can't remember what they were for, with you.
23 And -- and I would imagine that the jury would
24 have rendered a verdict and -- but I -- I
25 can't tell you now what they were.

1 Q. All right. After, I'll represent to you,
2 Archbishop, that that civil case of Scheffler
3 versus the archdiocese resulted in a verdict
4 of \$500,000 in compensatory damages and
5 \$500,000 in punitive damages, and right after
6 the verdict there was a public relations or
7 public release done by the archdiocese and
8 under your signature or name where it was
9 stated, and I paraphrase, "By reason of this
10 verdict today in Hennepin County District
11 Court, the archdiocese will have to reduce or
12 curtail its ministry to the poor." My
13 question to you, Archbishop, is, do you
14 remember having participated in or allowing
15 such a release like that to have been made?

16 A. No.

17 MR. HAWS: I object to the form and
18 it's out of context as well.

19 BY MR. ANDERSON:

20 Q. Just a minute. Okay. At that time or any
21 time.

22 A. I don't remember it.

23 Q. Okay. The next name identified here is Robert
24 Zasacki, Z-a-s-a-c-k-i, and then a number of
25 parishes listed. Can you identify for us what

1 you remember or know about what the
2 archdiocese knew about his abuse history?

3 A. I didn't know anything of his abuse history
4 and he was removed, I think, from Sacred Heart
5 in Robbinsdale, I think.

6 Q. That's one of the parishes listed here. He
7 was at St. Peter, Forest Lake; Sacred Heart in
8 Robbinsdale.

9 A. Well, yes, but I don't know anything of his
10 abusive history.

11 Q. The next listed is -- the next priest
12 listed --

13 A. Excuse me, except that it came to the fore
14 rather -- I think after this 2002 and then I
15 -- I think I was the one who removed him.
16 That's -- that's all. Excuse me.

17 Q. That's okay. That's okay. What else do you
18 remember about that, anything else?

19 A. No.

20 Q. Okay. The next listed is Father Paul
21 Palmitessa, Holy Redeemer in Maplewood and St.
22 Paul, Zumbrota. What do you remember about
23 the history known concerning him and minors?

24 A. That's the first time I've ever come across
25 that name, to my recollection.

1 Q. Okay. The next listed is Tim McCarthy and a
2 number of parishes listed where he had worked
3 as of this date. What can you tell us about
4 the history known to the archdiocese about his
5 abuse?

6 A. I can't tell you anything because, in my
7 judgment, this is the first time I've come
8 across that name, in my memory.

9 Q. The next listed is Tom Gillespie, OSB, that
10 means Order of St. Benedict, obviously you
11 know that to be St. John's, correct?

12 A. That's right.

13 Q. Okay. And what can you tell us, if anything,
14 about what was known to the archdiocese
15 concerning his abuse history?

16 A. I can't tell you anything because, once again,
17 to my memory, this is the first time I've come
18 across that name.

19 Q. Turning to the next page, Archbishop, the name
20 Eugene Salvatore Corica and a number of
21 parishes are listed. It looks like -- what
22 can you tell us, if anything, about what was
23 known to the archdiocese about his history of
24 abuse?

25 A. The -- again, this is the first time, to my

1 memory, I've come across this name.

2 MR. KELLY: Excuse me, Archbishop,
3 you mean today is the first time --

4 THE WITNESS: Today.

5 MR. KELLY: -- or in 2002?

6 THE WITNESS: No. Today is the
7 first time. The name is completely unfamiliar
8 to me.

9 BY MR. ANDERSON:

10 Q. Okay. The next listed is Thomas Adamson and
11 is that name familiar to you?

12 A. Very much so.

13 Q. Okay.

14 A. I think that's why we're here.

15 Q. That's one of the reasons.

16 A. Uh huh. Yes, that name is familiar to me.

17 Q. Okay. And that was familiar to you because,
18 as of 2002, you were aware that there had been
19 a lot of litigation --

20 A. Yes.

21 Q. -- initiated by a number of survivors with
22 whom we had worked for many years concerning
23 him, correct?

24 A. That's right.

25 Q. Had you ever met with Tom Adamson --

1 A. No.

2 Q. -- yourself --

3 A. No.

4 Q. -- to get to the bottom of who he had abused,
5 when he had abused and done something to
6 correct it, at least to those in the
7 archdiocese?

8 A. No. I would -- I would hear about him and I
9 would read about him, but I've never met him.

10 Q. Did you ever make any efforts or direct any of
11 your consultants or advisors to go to the
12 parishes where he had worked in the
13 Archdiocese of St. Paul and Minneapolis and
14 had been known to have abused to try to reach
15 out to other people who may have been abused
16 to help them heal or the parishes to heal?

17 A. I don't think -- I -- no. I did not. And I
18 -- the reason for that is I had the impression
19 that all of that was taken care of by my
20 predecessor. When I arrived, this seemed to
21 have been a closed case, it was over with.

22 Q. Do you remember what Archbishop Roach told you
23 about what he knew about --

24 A. I don't remember.

25 Q. -- Tom Adamson?

1 A. I don't remember.

2 Q. The next one listed is Joseph Heitzer, several

3 New Ulm parishes, St. Peter in Forest Lake.

4 What can you tell us about what was known by

5 the archdiocese as of 2002 concerning him?

6 A. I'm looking at that name, it seems to me, for

7 the first time ever.

8 Q. The next is Alfred Longley, several parishes

9 listed. What can you tell us about what was

10 known about his abuse history?

11 A. Once again, I'm looking at that name for the

12 first time.

13 Q. The next listed is Harold Whittet,

14 W-h-i-t-t-e-t. What can you tell us about him

15 and his history known -- his history of abuse

16 known to the archdiocese?

17 A. Once again, I'm looking at that name, I

18 believe, for the first time.

19 Q. The next is Rudolph Henrich. What can you

20 tell us about his history of abuse of minors

21 and known to the archdiocese?

22 A. Once again, I'm looking at that name, it seems

23 to me, for the first time.

24 Q. The next listed is Francis Reynolds, several

25 parishes listed. What can you tell us about

1 his history known to the archdiocese?

2 A. Looking at that name for the first time.

3 Q. The next listed is Ambrose Filbin. What can
4 you tell us -- and several parishes. What can
5 you tell us what was known about his abuse
6 history and known to the archdiocese as of
7 2002?

8 A. Looking at that name for the first time.

9 Q. The next category and in capital -- if you
10 want to take a break at any time, Archbishop;
11 is this a good time?

12 A. I'm -- I'm fine.

13 Q. Okay.

14 A. For now. Thank you.

15 Q. Okay. You just let me know if --

16 A. All right.

17 Q. -- anytime you feel like it.

18 A. Thank you.

19 Q. We'll try to do it --

20 MR. ANDERSON: We should take a
21 break.

22 MR. KELLY: What do you anticipate
23 the length of the deposition? Just a general
24 idea.

25 MR. ANDERSON: Let's take a break

1 and we can discuss it.

2 MR. KELLY: Sounds good.

3 MR. KINSELLA: Off the video record.

4 (Recess taken)

5 MR. KINSELLA: Back on the video
6 record, the time is 11:44 a.m.

7 BY MR. ANDERSON:

8 Q. Archbishop, I'm directing your attention back
9 to the Exhibit 174, I'm now on page 3 of it
10 and the topic is "Priests with disputed
11 claims, marginal behavior or undue attention."
12 The first listed is Gilbert DeSutter. Did you
13 take any action pertaining to DeSutter and
14 sexual abuse of minors?

15 A. It seems to me that after the charter of 2002
16 I did. He was not living in the archdiocese
17 at that time, but I think he was living in
18 Arizona, but it seems to me that I did.

19 Q. And what did you do?

20 A. Removed him from ministry, I think.

21 Q. The next listed is John McGrath. Did you take
22 any action re --

23 A. That name is unfamiliar to me.

24 Q. The next listed is John Brown. Did you take
25 any action in connection with him and sexual

1 abuse of minors?

2 A. No. I think he -- and I can't -- I can't say
3 for sure. I -- I probably met him once in
4 passing. He's very elderly, I think, isn't
5 he? I'm not sure. But I -- I -- I can't say
6 for sure.

7 Q. When this is listed as a disputed claim or
8 marginal behavior, undue attention, did you
9 read that then or do you read that now to mean
10 that this is where the priest denies having
11 committed it or what?

12 A. No. I would read that as not a sexual abuse,
13 but, rather, as behavior that would be
14 questionable.

15 Q. Okay. You did remove -- you did remove
16 DeSutter for sexual abuse, though?

17 A. I think I did.

18 Q. And do you have any knowledge of John Brown
19 having committed sexual abuse of minors at any
20 time?

21 A. I cannot recall the history of his -- you
22 know, I can't recall his history.

23 Q. The next listed is at page 4, there is one
24 removal on this document and I don't have that
25 name at the moment, the next listed is page 4

1 at the top is Jerome Kern. Did you take any
2 action --
3 A. I believe that I did.
4 Q. What?
5 A. Removed him from active ministry.
6 Q. When?
7 A. I can't recall. And I say I believe I did, so
8 I can't say that for certain.
9 Q. For sexual abuse of minors?
10 A. It must have been because that would have been
11 the only reason.
12 Q. Joseph Wajda is the next listed.
13 A. I did remove him.
14 Q. When?
15 A. I can't remember.
16 Q. For sexual abuse of minors?
17 A. Yes.
18 Q. Was he reported by you or your office to the
19 CDF?
20 A. It had happened some years ago before that law
21 was passed, I think.
22 Q. Do you have any memory of having taken any
23 other action, other than having removed him?
24 A. I can't remember.
25 Q. Next listed is Richard Jeub. Did you take any

1 action responsive to him and sexual abuse of
2 minors?

3 A. I can't remember.

4 Q. There is indications in the file that Jeub and
5 Kern, both of those names listed here, were
6 switched out in their assignment at Our Lady
7 of Grace. Did you do that or do you remember
8 having done that?

9 A. No. I didn't even know they were in Our Lady
10 of Grace.

11 Q. The next listed is Dennis Kampa. Did you take
12 any action responsive to him having --

13 A. I can't -- I can't remember.

14 Q. Next listed is Joseph Gallatin. Did you take
15 any action responsive to him?

16 A. No.

17 Q. Have you ever received information that he had
18 abused?

19 A. Not that he had abused, but that he had acted
20 in -- with an inappropriate touch.

21 Q. Where did you get that information?

22 A. From his pastor.

23 Q. Who was that?

24 A. I can't think of his name right now.

25 Q. When did you receive that?

1 A. That would have been -- I've been retired six
2 years. Maybe ten years ago.

3 Q. And that was inappropriate touch of a minor?

4 A. Of -- I don't know whether the person was a
5 minor or not, I can't remember. It was a
6 touch like up here (Indicating).

7 Q. For the record, you're pointing to your left
8 shoulder?

9 A. Yes.

10 Q. Okay. Did you receive any information that he
11 had touched the genitals of a youth that he
12 had under his control?

13 A. Never. Never.

14 (Discussion out of the hearing of
15 the court reporter)

16 BY MR. ANDERSON:

17 Q. What were the circumstances of the touch as
18 reported to you?

19 A. I think it was a re -- a camping weekend or
20 something like that.

21 Q. And you say it was the pastor that made the
22 report or was it a family member?

23 A. A pastor, I think.

24 Q. And he had received the information from whom,
25 do you know?

1 A. I don't remember.

2 Q. Did you conduct any investigation to -- or
3 direct that any investigation be done by that
4 pastor or your then vicar general or others to
5 find out --

6 A. I -- I don't --

7 Q. -- what was there?

8 A. I don't remember.

9 Q. The next listed --

10 (Discussion out of the hearing of
11 the court reporter)

12 BY MR. ANDERSON:

13 Q. Did you restrict him at that time in any way?

14 A. No. I don't -- I don't think so.

15 Q. The next listed is Harry Walsh. What action
16 did you take?

17 A. That name is unfamiliar to me.

18 Q. Do you ever -- have you ever known him to have
19 abused youth?

20 A. I don't know anything -- I don't know anything
21 about him.

22 Q. Underneath that there is listed Bishop Dudley.
23 What do you know about Dudley having been
24 accused of having abused youth?

25 MR. HAWS: I'll object, some of this

1 information I understand is protected and
2 subject to other protections of prior
3 discussions, but at least for the record.

4 BY MR. ANDERSON:

5 Q. This is a public document I'm referring to, so
6 what can you tell me about it?

7 A. I can tell you I would -- in my judgment, it
8 was the most ludicrous accusation that could
9 have been made about anyone. He was accused
10 of dancing on a floor in his cassock, and if
11 -- you'd have to know Bishop Dudley and his
12 family, A, he would not have been dancing and
13 coming close to a young lady and some years
14 ago. And he was exonerated, incidentally.

15 Q. Who exonerated him?

16 A. I don't remember.

17 Q. When was the accusation that you described as
18 ludicrous made?

19 A. I don't remember.

20 Q. How many accusations of abuse or misconduct
21 were made against Bishop Dudley?

22 A. I don't remember.

23 Q. What makes you believe that that accusation or
24 any others, if there were, pertaining to
25 Dudley would be described as ludicrous?

1 MR. KELLY: I'll object, the witness
2 testified --

3 MR. ANDERSON: I'll rephrase it if
4 you don't like it.

5 BY MR. ANDERSON:

6 Q. Why do you use the term "ludicrous"?

7 A. Because I knew Bishop Dudley so well and it
8 was just incompatible, that kind of behavior,
9 dancing on a floor -- the floor with a high
10 school girl was incompatible with his
11 character.

12 Q. In your experience, Archbishop, you were the
13 head of the committee for the protection of
14 children and as a part of the charter and, you
15 know, you've been a priest for many, many
16 years and many capacities as pastor, as
17 rector, as archbishop and the like; isn't
18 (sic) your experience inform you that some of
19 the most trusted and revered priests among you
20 and us can often also be offenders?

21 MR. KELLY: Objected to as calling
22 for speculation --

23 MR. HAWS: Of the highest ranks.

24 MR. KELLY: -- of the highest order.

25 A. I don't want to speculate, but I have -- I've

1 always found where -- where there was smoke,
2 there was fire. In other words, if a person
3 acts strangely and then was accused, then one
4 could validate it. But my judgment and my
5 experience is, is that many great, great men
6 like Bishop Dudley could have been accused, or
7 Bishop Howard Hubbard in Albany, which was
8 terrible, and found to be exonerated, free of
9 all those accusations by people who were just
10 not right in the head.

11 BY MR. ANDERSON:

12 Q. To your knowledge, is there one accuser or
13 more than one accuser pertaining to Dudley?

14 A. I don't remember.

15 (Discussion out of the hearing of
16 the court reporter)

17 BY MR. ANDERSON:

18 Q. Did you ever ask Dudley if he had abused?

19 A. Yes.

20 Q. When?

21 A. When we were on retreat, talking about this.

22 Q. When do you estimate that to have been?

23 A. I can't remember.

24 Q. And did he deny to you that he had been abused
25 -- he had abused?

1 A. He -- absolutely.

2 Q. And you believed him?

3 A. Absolutely.

4 Q. Do you have any knowledge that settlement --
5 any settlements had been made with any of his
6 accusers?

7 A. I don't remember.

8 Q. When you look at the exhibit, then, of the
9 names of all these people we've identified in
10 this exhibit and this memo provided to you in
11 2002, my next series of questions pertains to
12 all of these. Did you ever make any public
13 disclosures of the history known to the
14 archdiocese concerning any of those priests
15 accused or found to have committed sexual
16 abuse?

17 A. I can't remember that. There could have been.
18 I don't think there was any systemic approach
19 to it, but there could have been a disclosure
20 of one name or two names or more than that to
21 a parish or group.

22 Q. Did you, Archbishop, or anybody at your
23 direction ever report to law enforcement any
24 of the names on this list, Exhibit 174, or any
25 other priest reported to have abused children?

1 MR. HAWS: Object to the form.

2 Report to whom?

3 BY MR. ANDERSON:

4 Q. Report to the archdiocese.

5 A. Report to the archdiocese?

6 Q. Yes. The question is, did you or anybody at
7 your direction ever report suspicions of
8 sexual abuse by priests or information you or
9 the archdiocese had received about that to law
10 enforcement?

11 A. To law enforcement --

12 Q. Yes.

13 A. -- I have not, and I -- I don't know whether
14 anyone under -- in -- on my staff did.

15 Q. Did you ever direct your vicar general or
16 anybody on your staff to make such a report to
17 law enforcement?

18 A. I can't recall that I did.

19 Q. Did you while archbishop consider yourself to
20 be a mandated reporter?

21 A. I think I did when that -- when -- when that
22 law came in, I -- I think I did.

23 Q. Do you know what constitutes under the law the
24 kind of information that required you to be or
25 to make a report?

1 A. No.

2 (Discussion out of the hearing of
3 the court reporter)

4 BY MR. ANDERSON:

5 Q. Did you or anybody at your -- under your
6 direction ever turn over any of the files
7 pertaining to any of the priests on this
8 Exhibit 174 or any other priests who had been
9 accused of or recorded to have abused minors?

10 A. I don't know. I don't remember and I don't
11 know.

12 (Discussion out of the hearing of
13 the court reporter)

14 BY MR. ANDERSON:

15 Q. Do you know if anybody, any official of the
16 archdiocese has ever turned over any files to
17 law enforcement --

18 A. I don't know.

19 Q. -- concerning a priest who's abused?

20 A. I don't know.

21 Q. Can you say that you did not do that or have
22 that done?

23 A. I can't say.

24 Q. Archbishop, would you agree that you as
25 archbishop have a responsibility to keep the

1 children safe?

2 A. Yes.

3 Q. Would you agree that you as archbishop made a
4 promise to the people to do everything that
5 you could to keep the children safe?

6 A. Yes.

7 Q. Did you ever make that pledge as archbishop in
8 the Archdiocese of St. Paul and Minneapolis
9 before 2002 and the Charter for Protection of
10 Children was instituted?

11 A. I don't remember. I might have when I first
12 came here in my opening talk, but I can't
13 remember.

14 Q. Would you agree that the archdiocese and the
15 archbishop should never, ever gamble with the
16 safety of children --

17 A. Yes.

18 Q. -- when it comes to the priests?

19 A. Yes.

20 Q. Would you agree that the archdiocese should
21 make every effort possible to protect the
22 children from abuse by priests?

23 A. Yes.

24 Q. Did you as archbishop promise the people and
25 the parishioners as well as the public that

1 there were no offenders in ministry?

2 A. After 2002?

3 Q. Before 2002.

4 A. I -- I can't remember whether I made that
5 promise before 2002 because we were at a
6 different place at that time, too, and in
7 under -- in understanding what "pedophile"
8 meant.

9 Q. Would you agree that it is and was the
10 responsibility of the archbishop before 2002
11 to make sure that each priest assigned in the
12 archdiocese is safe and not a risk of harm to
13 children?

14 A. Yes.

15 Q. Did you make a promise to the people, the
16 parishioners, the public that there would be
17 no priest in ministry who had offended after
18 the charter in 2002?

19 A. I think I did, yes.

20 (Discussion out of the hearing of
21 the court reporter)

22 BY MR. ANDERSON:

23 Q. I'm going to show you an exhibit, we've marked
24 it Exhibit 102, and while Mike is retrieving
25 it, Archbishop, it reflects the year 1998 and

1 it's an article, I believe, about the church
2 and sexual abuse. And I'm putting Exhibit 102
3 before you and there is a statement attributed
4 in this article to Father McDonough, the then
5 vicar general, and -- and in it it says,
6 "Church updates sex abuse policy." Did you
7 update the sex abuse policy in 1998?

8 A. It would have been a committee, I believe.

9 Q. And then it states, "Official: 15
10 archdiocesan priests in the last 50 years have
11 been credibly accused of molesting minors."
12 Where did that information come from,
13 Archbishop?

14 A. I don't know. I -- I would not know. I don't
15 remember.

16 Q. The article begins by stating in 1984,
17 Reverend McDonough sat in a meeting, you
18 weren't here then, so I'm not going to ask you
19 about that, but the last -- on the first page
20 of this, directing your attention to the last
21 column, I'm going to read what it says in the
22 second-to-the-last paragraph and ask you a
23 question. It states, "For the first time,
24 McDonough revealed the extent of the problem
25 in an interview this week. Fifteen priests in

1 the archdiocese have been 'credibly' accused
2 of molesting minors during the past 50 years,
3 McDonough said." This is while you're
4 archbishop. Do you remember a list of 15
5 priests having been prepared at that time who
6 had been credibly accused?

7 A. No.

8 Q. Did you see a list at that time?

9 A. I can't remember.

10 Q. It goes on to state, or he is quoted as going
11 on -- is quoted as having said, "The number is
12 higher than the national average, McDonough
13 said, but corresponds to experts' predictions
14 that about 2 percent of priests abuse
15 children." So at that time, was there some
16 kind of expert consultation or review done
17 that led Kevin McDonough to make this public
18 statement?"

19 A. I don't recall.

20 Q. In the middle of the article you'll see in
21 capital letters an emphasis, he's quoted as
22 stating, "Priests who molested children are
23 not allowed to work in a parish setting or
24 have any contact with children, McDonough
25 said." This is 1998. Is that true,

1 Archbishop, and was it then?

2 A. I -- I would -- I would need to go back and
3 look at records, which I don't have, but if he
4 said that, we -- that's what we certainly came
5 out with in the charter and that was in 2002,
6 so I'm presuming it -- it was true.

7 Q. Well, this is four years before the charter.

8 A. Yes.

9 Q. Okay. Was any national study done by bishops
10 at any time before 2004 or 2002 to determine
11 the numbers of priests who had offended?

12 A. I don't remember.

13 Q. As a result of the charter and the promises
14 made to the people and the public, there was
15 data assembled and commissioned by the John
16 Jay study, and I think it was through your
17 committee, to get some numbers about priests
18 who were credibly accused or had been the
19 subject of substantiated allegations, correct?

20 A. Yes.

21 Q. Were the names of those priests actually given
22 to the John Jay College or just the numbers?

23 A. I don't remember. I don't remember, but I do
24 remember we had the -- I called them
25 inspectors -- come every other year or

1 something like that to look at our records and
2 to make sure we were corresponding information
3 that was reflected in our records.

4 Q. In any case, the data assembled and reported
5 publicly about offenders was to determine what
6 priests had offended children, correct?

7 A. Yes.

8 Q. And was the goal to show that the numbers were
9 less than other institutions'?

10 A. No. I think the goal was simply to show that
11 we were doing our homework and making a noble
12 attempt at reducing the numbers.

13 Q. Was the belief at that time by yourself and
14 the committee that most of the abuse had
15 happened in the 1970s?

16 A. No. Because the abuse had been happening
17 right up to 2002, as we all know, and with the
18 lawsuit situation, but the -- the attempt of
19 the committee was to get the bishops on board,
20 the bishops of this country, and which they
21 all pledged themselves to, except two, and --
22 and reduce the numbers of any priest in
23 ministry or any priest who had this
24 inclination for pedophile (sic) to get him out
25 of ministry and not give him that opportunity

1 because we had not really come -- I had never
2 heard of the word pedophile when I was a young
3 priest or when I was rector of the seminary.
4 We didn't -- we had no idea, no idea what this
5 was even. And -- and then even on the -- in
6 psychological institutions, they weren't
7 handling it correctly. They -- as you know,
8 they would send a letter back to the bishop,
9 "This man is fine with his ministry" and send
10 him back in and it wasn't fine. It was like
11 many other diseases, they -- they had not
12 really verified this as a very serious disease
13 and that the person could revert to at any
14 moment. It's not just simply a matter of
15 going to a house of affirmation or a house of
16 psychological study in order to have this
17 taken care of because that -- that simply was
18 not true, although everyone thought it was
19 true, attorneys, psychologists, psychiatrists,
20 medical doctors and bishops. And then -- then
21 when it became evident that the inclination to
22 be a pedophile was a very, very serious thing
23 and -- and many times untreatable, then we
24 looked at it more carefully.

25 Q. Archbishop, you're referring to pedophilia as

1 a disease and that you didn't understand the
2 disease, would you say --

3 A. That's right.

4 Q. -- that's correct?

5 A. That's right.

6 Q. It's also correct, is it not, that you knew
7 when you were ordained and have always known
8 that it was a crime for an adult to engage in
9 any sexual contact with a kid --

10 A. That's right.

11 Q. -- correct?

12 A. Correct.

13 Q. So there was never any mystery about that
14 being a crime --

15 A. No.

16 Q. -- correct?

17 A. That's right.

18 Q. When all this data was assembled by the
19 Catholic bishops, yourself included, and John
20 Jay College was commissioned to help assemble
21 it, why weren't the names of those priests who
22 were the subject of that review who were
23 determined to have been credibly accused made
24 known to the public in 2004 when it was
25 assembled?

1 A. I don't know. I don't remember why.

2 Q. If the goal was to protect kids in the future
3 from abuse and to help those that had been
4 abused, wouldn't the best course have been to
5 make such a disclosure to achieve those goals?

6 A. As we look back on it now, the answer to that
7 would be yes. But we cannot forget that we
8 were in uncharted water at that time after the
9 charter. And I think that since that time,
10 many improvements have been made in
11 recognizing names of those who had been
12 credibly -- credibly accused.

13 Q. Archbishop, there has been, while you were
14 here, a resistance to release the names of the
15 credibly accused offenders assembled who were
16 identified to have been, according to the John
17 Jay study, 33 in number here. Why did you
18 resist the public disclosure of those names on
19 that list, those priests determined to have
20 been credibly accused?

21 A. I don't know. I just don't know.

22 Q. Did you ever tell or advise Archbishop
23 Nienstedt, your successor, to release that
24 list?

25 A. No. I -- we never discussed it, I don't

1 think.

2 Q. Did he, when appointed coadjutor or in
3 succession to you as archbishop, ever ask you
4 who you knew to be offenders and -- I guess
5 that's the question.

6 A. He probably did. At this moment I can't
7 remember. So I -- I -- I can't -- I can't
8 answer that yes or no because I can't
9 remember.

10 Q. So you can't say whether he did or whether he
11 didn't today --

12 A. No. I can't say.

13 Q. -- is what you're really saying?

14 (Discussion out of the hearing of
15 the court reporter)

16 BY MR. ANDERSON:

17 Q. At any time, Archbishop, did you have
18 discussions with any of your advisors that the
19 practice of not recording certain things
20 pertaining to sexual abuse by priests should
21 be adhered to because there was a possibility
22 we, that is, the attorneys for the survivors,
23 would force its disclosure in litigation?

24 A. I never --

25 MR. KELLY: Excuse me a second. I

1 object to the question to the extent that
2 advisors may include counsel for the
3 archdiocese or the archbishop and in that
4 respect it's privileged.

5 BY MR. ANDERSON:

6 Q. So excepting advice from lawyers, did you ever
7 deploy or employ the practice with your
8 advisors of not putting certain things in
9 writing concerning sexual abuse --

10 A. I can't --

11 Q. -- because -- just a moment -- because it
12 could be forced to have been disclosed in
13 litigation?

14 A. I never recall such a conversation.

15 (Discussion out of the hearing of
16 the court reporter)

17 BY MR. ANDERSON:

18 Q. Other than Bishop Dudley, who you asked if he
19 had offended, do you recall ever -- did you
20 ever ask any accused offender if he had
21 actually committed such an offense or any
22 offenses against children?

23 A. I probably did, but I -- I cannot pinpoint any
24 specific instance.

25 Q. But Dudley is the only one you remember today?

1 A. Yes, because I remember the -- the scene with
2 him, he was going through a great deal.

3 Q. And you remember that because you were so
4 close to him?

5 A. Yes.

6 MR. HAWS: Again, just so the record
7 is clear as to Bishop Dudley, I believe that
8 there are issues that that matter should be
9 sealed or anything related to that discussion
10 should be sealed pending resolution.

11 BY MR. ANDERSON:

12 Q. Pertaining to documents, Archbishop, records
13 pertaining to a priest who is accused of abuse
14 and a report that would be made, where would
15 such a report be filed in the documents of the
16 archdiocese?

17 A. In the filing cabinet in the walk-in file.

18 Q. Where was that housed, what cabinet?

19 A. It's on the first floor at the end of the
20 corridor.

21 Q. Of -- in whose office?

22 A. It's -- it's not an office. It's a walk-in
23 file. It's outside of many offices.

24 Q. Sometimes there's been reference to a vault.
25 Is this in the nature of a vault?

- 1 A. That -- that is the vault.
- 2 Q. Okay.
- 3 A. Excuse me, that's the vault.
- 4 Q. Okay. And this is on the main level?
- 5 A. That's right.
- 6 Q. Of the Chancery?
- 7 A. Yes.
- 8 Q. And in that vault on the main level of the
- 9 Chancery, what files were housed and
- 10 information pertaining to the topic of sexual
- 11 abuse by priests of the archdiocese and how it
- 12 was being handled?
- 13 A. Well, it would be under the -- in the file of
- 14 the individual priest.
- 15 Q. And in that vault, how many priests would you
- 16 estimate were there files that contained
- 17 evidence of at least accusations of abuse?
- 18 A. I could not tell you because I've only -- I
- 19 think I've been in the file -- in the -- the
- 20 vault twice in all the years that I was there.
- 21 Q. What prompted you to go into the vault?
- 22 A. I can't even remember. Maybe I was looking
- 23 for my own file, but I get claustrophobia when
- 24 I'm in there, so I -- I never went in.
- 25 Q. Did you ever direct that any of the files be

1 removed from there so that you could review a
2 history of any priest accused --

3 A. I have --

4 Q. -- of having offended and see what was
5 reflected by those files?

6 A. I have asked for files.

7 Q. Who did you request?

8 A. I can't remember.

9 Q. Do you ever -- did you ever take any action
10 responsive to a review of a file concerning
11 sexual molestation by priests accused?

12 A. I can't remember.

13 Q. Did you, yourself, maintain any files of your
14 own, special files, apart from those in the
15 vault?

16 A. No.

17 Q. Do you know if anybody else did on the topic
18 of sexual abuse?

19 A. No.

20 Q. Are there any other files besides those in the
21 vault that you were aware of maintained, at
22 least pertinent to the topics of sexual abuse,
23 accusations made against priests --

24 A. No --

25 Q. -- beyond those in the vault?

1 A. Not that I knew of.

2 MR. KINSELLA: Off the video record
3 to change tape.

4 (Discussion off the record)

5 (Recess taken)

6 MR. KINSELLA: Back on the video
7 record, 1:19 p.m.

8 BY MR. ANDERSON:

9 Q. Archbishop, I'd like to turn to the topic of
10 payments made to priests who have been -- who
11 have molested kids and payments made to them.
12 Is there a practice in the archdiocese under
13 your tenure where certain priests who had been
14 found to have molested children receive extra
15 payments for housing, monthly and otherwise,
16 under an account identified as 1-515?

17 MR. HAWS: Object to the form.

18 A. Oh, you --

19 MR. HAWS: You can answer.

20 THE WITNESS: Oh, I can answer?

21 BY MR. ANDERSON:

22 Q. Yeah.

23 A. First of all, I think it was you, Mr.
24 Finnegan, who referred to an account in the
25 newspaper that I had and I directed and

1 controlled. I called Kevin McDonough up that
2 night, I said, "Where was that account?"
3 Because I had no account like that. There
4 might have been a Hill account or an
5 O'Shaunessey account from years ago, but that
6 was all in -- in -- in the fiscal office.

7 But I believed, and I believe
8 strongly so, that when we were sending these
9 priests out after dismissing them from the
10 priesthood, laicizing them, in justice we
11 needed to give them some provision of whether
12 their retirement or -- and then some other
13 housing provision. And I think the document
14 that was taken from the Chancery and given to
15 the Minnesota Public Radio, a document that
16 was signed by me and signed by Gil Gustafson,
17 which he brought to my attention, agreeing to
18 so much money and I don't know how much money
19 it was at -- at this time, but I did that and
20 I did it for others because I didn't -- I felt
21 very strongly that they would not be able to
22 get jobs very easily and so I wanted to give
23 them some help.

24 Q. Some of those who received these payments who
25 had offended had not actually been laicized or

1 removed from the clerical state, rather their
2 facilities had just been removed, correct?

3 A. Yes, until 2002.

4 Q. And then did the payments stop going to them
5 after 2002 or did they continue?

6 A. No. I think they -- whatever were -- we -- we
7 agreed upon, they continued.

8 Q. How many would you estimate were accused or
9 determined to have abused kids who received
10 these payments under your watch?

11 A. I can't -- I couldn't make a guess.

12 Q. What individual within the archdiocese on your
13 watch would be the one that would make the
14 accounting and issue the checks and do the
15 accounting of these payments made and --

16 A. It would have been the fiscal office and that
17 was John Bierbaum. Austin Ward before he
18 passed.

19 Q. And what about Scott Domeier, was he involved
20 in that fiscal office?

21 A. Scott Domeier was involved in that office.
22 And he might have done it, too, I'm not sure.
23 He -- he was not the CFO, he was the one next
24 to him.

25 Q. Is it your belief that every priest who was

1 considered to be an offender under the charter
2 definition received extra payments?

3 MR. HAWS: Well, object to the form.
4 I don't think the Archbishop said "extra
5 payments."

6 A. I did not say "extra payments," I just said
7 "payments."

8 BY MR. ANDERSON:

9 Q. Okay. And the payments were monthly amounts
10 for living?

11 A. That I don't know how it was worked out in the
12 fiscal office.

13 Q. Was Kevin McDonough authorized to be one of
14 the handlers of that particular protocol?

15 A. He worked with the fiscal office, yes.

16 Q. You made reference to the priests that were
17 laicized. Can you identify by name what
18 priests actually were laicized --

19 A. They --

20 Q. Just a moment, let me finish the question --
21 for having sexually abused youth?

22 A. Gil Gustafson was. Some of the ones on this
23 list were. Robert Kapoun, Robert Thurner,
24 Michael Stevens. The ones that were on this
25 list, I think they were all removed from

1 ministry. Whether all of them were laicized,
2 I don't know.

3 Q. Okay. Well, let's, yeah, let's clear up our
4 terms here, because removed from ministry, for
5 purposes of definition, you as the archbishop
6 had the power to remove the faculties to
7 minister?

8 A. That's right.

9 Q. And you are empowered to do that under the
10 canon law, correct?

11 A. Correct.

12 Q. And so when you say "removed from ministry,"
13 that means that they are taken out of an
14 assignment and given instructions by you as
15 the archbishop and their superior that they
16 are not to publicly minister --

17 A. That's true.

18 Q. -- that's called removal from ministry,
19 correct?

20 A. Correct.

21 Q. Okay. So when we refer to removal from
22 ministry, let's talk about that category of
23 priest. And some of those priests received
24 extra assistance, correct?

25 MR. HAWS: Objection, that's not the

1 testimony of the Archbishop, it was payments
2 as he's described. His testimony speaks for
3 itself.

4 BY MR. ANDERSON:

5 Q. Is it correct to say that some of those
6 priests receive monthly allowances?

7 A. It would be.

8 Q. And -- okay. And they received them, those
9 allowances, both before and after the charter?

10 A. I don't know.

11 Q. Okay. And then there's other categories of
12 priests that are laicized, is the term that's
13 commonly used for our purposes, laicized would
14 it be correct to say is actual removal from
15 the clerical state by the Vatican on a
16 petition either by the priest or his superior?

17 A. Yes.

18 Q. Okay. And a laicized priest is somebody who
19 only the Vatican can achieve, correct, for
20 removal from the clerical state?

21 A. I'm -- I'm not sure. I'm not sure. It could
22 be from a -- a canonical trial within the
23 archdiocese also, but I'm not sure. I -- my
24 canon law is not clear on that.

25 Q. In any case, you as the archbishop at no time

1 had the power to remove a priest from the
2 clerical state?

3 A. No.

4 Q. That's correct?

5 A. That's correct.

6 Q. What priests who had offended children, if
7 any, did you discuss with John Paul II at an
8 ad limina visit or at any other time, if you
9 did?

10 A. I did not because those were not things you
11 would discuss with John Paul II. The canon
12 lawyer for the diocese would send in a
13 petition and prepare the case. And then it
14 would be sent to the congregation for clergy
15 and then the prefect of that congregation
16 would bring that to the attention of the Pope,
17 or he would have the -- the authority to do so
18 himself.

19 Q. And the prefect for the congregation was then
20 Cardinal Ratzinger?

21 A. No. He was prefect of the congregation for
22 the faith. There's a -- there are several
23 congregations in Rome.

24 Q. But for purposes of removal for sexual abuse,
25 didn't the complaints go to the CDF?

1 A. The -- yes, excuse me, they did, and that was
2 Bishop Scicluna.

3 Q. Did you ever discuss any issue of childhood
4 sexual abuse or it being a problem with John
5 Paul II?

6 A. Yes.

7 Q. What was that discussion?

8 A. It was a discussion when I was sent as bishop
9 to Lafayette, I had a private meeting with
10 John Paul II, and on that occasion told him
11 that it was my opinion that something needed
12 to be done in a systematic way in order to
13 take care of these issues when they arose.

14 Q. And did he take any action in response to that
15 conversation?

16 A. Yes, he -- he engaged in it, he was interested
17 in it and it was a positive experience to --
18 to talk about it. And then Benedict became
19 more active in taking the removal of the
20 priests from the congregation for the clergy
21 to the congregation -- the congregation for
22 the faith and Monsignor Scicluna at the time
23 as the active person.

24 Q. And that's 2001 when Benedict took a more
25 active involvement and required that all

1 priests be reported to the CDF under his
2 jurisdiction?

3 A. No. It was after 2002, I think, but I'm not
4 sure.

5 Q. All right. In any case, the conversation that
6 you had with John Paul II, can you point to
7 any changes made or actions specifically taken
8 by John Paul II responsive to the conversation
9 you had with him or the identification of the
10 problem you described?

11 A. I can't point to any changes that occurred in
12 him from a conversation with me. But I think
13 as time went on and the bishops of the -- our
14 country had the -- met in Dallas, I think I
15 had met with him after that, too, and the
16 conversation was positive and he was much more
17 knowledgeable about the problem.

18 Q. Did you have any other conversations with him
19 on this topic, John Paul II?

20 A. Not that I remember.

21 Q. Any conversations with his successor,
22 Benedict?

23 A. I can't remember. We've had conversations,
24 but I can't remember whether this topic was in
25 the fore because he had -- because the charter

1 was just being implemented.

2 Q. You did mention that you made some
3 recommendations to John Paul II about this
4 issue and it being a problem. What
5 recommendations specifically did you recommend
6 to him?

7 A. I -- I think my recommendations were very
8 general, like this needs to be looked at and
9 we need to act on it or something like that.

10 Q. Anything more specific than that?

11 A. I don't think I can recall that now.

12 Q. Was this at the time that the charter had
13 been --

14 (Discussion out of the hearing of
15 the court reporter)

16 BY MR. ANDERSON:

17 Q. It sounds like there may have been two
18 conversations with John Paul II. Is that
19 correct?

20 A. There were many conversations with him.

21 Q. I'm talking about the topic that pertains to
22 sexual abuse and dealing with the problem.

23 A. I can only remember the one.

24 Q. Okay. Was that before the charter or after
25 the charter?

1 A. It was in 1987 when I first went to Lafayette
2 and it was more concerning the challenge in
3 Lafayette, which were sexual abuse
4 perpetrated, really, by -- the majority of
5 those numbers by two priests.

6 (Discussion out of the hearing of
7 the court reporter)

8 BY MR. ANDERSON:

9 Q. Did John Paul II ask you anything about
10 scandal and express any concerns about that
11 widening?

12 A. John -- according to my memory, now, that
13 would have been almost 30 years ago, according
14 to my memory, he expressed great concern for
15 families and children and I was sitting across
16 from him at a very small table.

17 Q. Did he express to you or was it expressed in
18 that meeting that this was not a problem
19 specific to Lafayette, but perhaps global in
20 dimension and much deeper than thought?

21 A. He didn't express that to me.

22 Q. Did he give the impression that he had any
23 appreciation for --

24 A. He did.

25 Q. -- the magnitude of it?

1 A. He did.

2 Q. How did he express that to you?

3 A. Well, I'm just reflecting now on the meeting
4 and I -- I remember a man sitting there
5 concerned.

6 Q. Any conversations with any of the prefects
7 that were charged with dealing with sexual
8 abuse by clerics?

9 A. None of them were specifically charged, but it
10 would have come under their -- their office,
11 if it happened, the clergy -- the congregation
12 for clergy, the congregation for bishops.

13 Q. And whom did you discuss it with and when?

14 A. I can't remember their names. They -- they
15 had changed several times during my time as
16 the archbishop or as bishop, but they -- they
17 were -- one was a Spaniard, I think, and
18 another was an Italian, but I can't remember
19 specifically who they were, except, I mean,
20 their names.

21 Q. Any conversations with Cardinal Ratzinger when
22 he was prefect on this topic?

23 A. When he was prefect for the congregation of
24 the -- for the faith, yes.

25 Q. And what was the nature of those

1 conversations?

2 A. That was at an ad limina visit. This -- that
3 -- we expressed gratitude to him that he was
4 moving on this in a more aggressive way since
5 he brought these cases over to the
6 congregation for the faith rather than the
7 congregation for clergy.

8 Q. Beyond him taking control of, effectively, the
9 files and the complaints, what action, if any,
10 did you see taken by him and that department
11 responding to the information given them --

12 A. An appointment --

13 Q. -- and what changes?

14 A. An appointment of Monsignor Scicluna at the
15 time, who was a Maltese, a brilliant canon
16 lawyer, with the opportunity to -- I -- I
17 don't have this right canonically, I'm sure,
18 but to bypass a long canonical procedure and
19 get them out of ministry.

20 Q. Any other action taken responsive to that
21 information?

22 A. I can't remember of any other.

23 Q. I'd like to turn your attention to Curtis
24 Wehmeyer. And when in time, Archbishop, did
25 he first come onto your radar as a potential

1 risk of harm while he was in ministry?

2 A. He never came on my radar as a potential risk
3 of harm to children. He had a same-sex
4 attraction and that was evident from the
5 encounter that he had in a book store. And
6 after that we sent him to a psychiatric
7 institute, I think it might have been in
8 Philadelphia.

9 Q. St. Luke's?

10 A. No. St. Luke's is in Washington. And he
11 might have gone to St. Luke's, I can't recall.
12 But a same-sex attraction does not a predator
13 make, so I -- I was satisfied with the results
14 of that study that they did and nothing came
15 back which would have indicated that he was a
16 -- a danger to children.

17 Q. When in time did he come onto your radar for
18 the problem that you've described as a same-
19 sex attraction that prompted him to be sent
20 for assessment --

21 A. I would not --

22 Q. -- and treatment?

23 A. -- remember the year.

24 Q. What was the source of the information you
25 got? Where did you get the information that

1 he gave --

2 A. From Father McDonough.

3 Q. What did Father McDonough tell you?

4 A. He told me that a gentleman called him and

5 told him that Curtis Wehmeyer had made

6 overtures to him at a book store.

7 Q. And did Father McDonough make any records of

8 that or did you --

9 A. I can't remember.

10 Q. -- any notes?

11 A. I can't remember.

12 Q. Was it your practice to take notes yourself or

13 record memoranda of such conversations or to

14 expect him to or what?

15 A. No. I -- I think it was both. He -- he would

16 and I would at times, too.

17 Q. In any case, was it on that information

18 brought to you by Father McDonough exclusively

19 that caused the decision to be made to send

20 him to a facility out East?

21 A. I think it was.

22 Q. And when he was sent, was it your expectation

23 and that of Curtis Wehmeyer that the report or

24 findings that they made would be made

25 available to you as the archbishop and his

1 superior to determine whether or not he could
2 or should continue?

3 A. I don't remember.

4 Q. When he was sent there, it was paid for by the
5 archdiocese and he was required to go,
6 correct?

7 A. Yes.

8 Q. And did you read the findings that were made?

9 A. I probably did, but I can't remember.

10 Q. As a matter of practice, you did have access
11 to that information --

12 A. I did, yes.

13 Q. -- is that correct? Correct?

14 A. Yes.

15 Q. What else do you recall about Father Wehmeyer
16 and him coming onto your radar for issues
17 relating to his sexuality, be it same-sex
18 attraction or anything else pertaining to his
19 sexuality?

20 A. That was the only thing that came on my radar,
21 that he had a same-sex attraction.

22 Q. And after he returned from the facility, was
23 he continued in ministry?

24 A. He was.

25 Q. And did you receive any information from any

1 other source about -- about him and/or his
2 sexuality or his fitness to be in ministry
3 that concerned you?

4 A. There wasn't anything that gravely concerned
5 me. There was nothing about his sexuality.
6 There was -- I received a -- not complaints,
7 but in a conversation with people at West St.
8 Paul were not pleased with his personality,
9 they thought he was a -- too quiet, too
10 introverted.

11 Q. Do you know when that conversation was?

12 A. I don't.

13 Q. But he was assigned in West St. Paul?

14 A. Yes.

15 Q. And was he on monitoring at that time?

16 A. He would come in to see me on a regular basis.

17 Q. Was the concern raised by those folks that
18 Wehmeyer was too secretive?

19 A. Not secretive. Quiet, unfriendly, apparently
20 unfriendly. And it wasn't in the form of a
21 complaint. They just wanted him to loosen up
22 a bit.

23 Q. Any other concerns ever raised about Curtis
24 Wehmeyer that you haven't identified?

25 A. Not to my knowledge.

1 Q. At some point, Curtis Wehmeyer came to see you
2 personally and you met with him, correct?

3 A. I did.

4 Q. And was that after the West St. Paul meeting
5 or what prompted that?

6 A. It was before the St. Paul --

7 Q. And what prompted his meeting with you?

8 A. He -- his same-sex attraction and he wanted to
9 be sure and -- to walk the straight and narrow
10 path. And I would meet with him and ask him
11 about his life of prayer and -- and anything
12 else that would be of ministerial interest.

13 Q. And did you have more than one meeting with
14 him?

15 A. I did.

16 MR. KELLY: Excuse me. I feel
17 compelled to raise a privilege issue. This
18 does take on the nature of a conversation
19 between a member of the clergy and --

20 MR. ANDERSON: I think I can ask
21 questions foundationally that eviscerates any
22 claim of privilege.

23 MR. KELLY: Well --

24 MR. ANDERSON: And these are
25 conversations that have been already the

1 subjects of both disclosure and discovery, so
2 it's the first time we've heard that privilege
3 asserted.

4 MR. KELLY: Well, I don't have the
5 benefit of that history and, of course, I
6 don't know about Mr. Wehmeyer and whether he's
7 waived the privilege. And, as I said, I do
8 not have the benefit of the history of this
9 litigation, but it is a concern for me, and
10 out of an abundance of caution, I raise the
11 objection.

12 MR. ANDERSON: I'll respect that,
13 but let me ask a question foundationally so
14 that I can alleviate your concern and
15 objection, if it's proper.

16 MR. KELLY: I'd love to have my
17 concerns alleviated.

18 BY MR. ANDERSON:

19 Q. Okay. Is it correct to say that the meetings
20 you had with Wehmeyer would help you determine
21 whether or not he was fit to continue in
22 ministry?

23 A. No.

24 Q. How many different times did you meet with
25 him?

- 1 A. I can't remember.
- 2 Q. Were there regular appointments?
- 3 A. They were -- I mean, they weren't -- not
- 4 monthly or anything like that. He would call
- 5 for an appointment as anyone would.
- 6 Q. And with whom would he call -- who would he
- 7 call to set up an appointment with you as the
- 8 archbishop?
- 9 A. He would call my secretary.
- 10 Q. Who was your secretary?
- 11 A. Sister Ann Ganley, I believe, at the time.
- 12 Q. And was she your secretary the entire tenure
- 13 of your --
- 14 A. No. She -- she died. She was a wonderful
- 15 lady. She died with cancer and then she was
- 16 taken over -- that position was taken over by
- 17 her assistant, Bobbie Dawson.
- 18 Q. And did you have any other secretaries
- 19 besides --
- 20 A. No.
- 21 Q. -- those two? Did you ever report any of the
- 22 conversations you had with Wehmeyer to any of
- 23 your colleagues about what he had been
- 24 discussing with you?
- 25 A. I don't think I did.

1 Q. Okay. Any other times or instances where you
2 received information, reports, rumors or
3 complaints concerning Curtis Wehmeyer and his
4 sexuality and the expression of it that you
5 haven't identified?

6 A. No. Not -- not according to my memory or it
7 -- it -- I think if there were, it would come
8 right up to me.

9 Q. Did you ever look at the file maintained by
10 the archdiocese concerning Wehmeyer?

11 A. No.

12 Q. Have you to this day?

13 A. No.

14 (Discussion out of the hearing of
15 the court reporter)

16 BY MR. ANDERSON:

17 Q. Do you claim, Archbishop, the conversations
18 that Wehmeyer had with you were in the nature
19 of confessional or privileged?

20 A. I -- they -- they might have been. It would
21 be hard now for me to remember that.

22 Q. I guess that doesn't dispatch with that issue,
23 does it? Okay.

24 (Discussion out of the hearing of
25 the court reporter)

1 BY MR. ANDERSON:

2 Q. Was it your practice to hear confessions of
3 priests in the archdiocese?

4 A. It wasn't my practice.

5 Q. Did any other priests come to you for the kind
6 of -- with the kind of information that
7 Wehmeyer came to you with or was he the only
8 one with whom you had such a relationship?

9 A. I would have -- no. I would have many priests
10 coming in and I would ask them how their
11 prayer life was, but they would have their own
12 confessors.

13 Q. Okay. So as the presiding archbishop, it
14 would not be expected that you would be the
15 confessor --

16 A. No.

17 Q. -- or entering into a priest/penitent
18 relationship with them, correct?

19 A. That's right. That's right. Unless there
20 were an emergency.

21 Q. And he didn't come to you for an emergency?

22 A. No.

23 Q. So what did you talk to him about?

24 MR. KELLY: Objection. I apologize
25 for delaying the proceedings here, but I am

1 concerned about the confidentiality of the
2 communications, and out of respect for Mr.
3 Wehmeyer, I think it would be inappropriate
4 for the archbishop to disclose the contents of
5 communications made between the two of them
6 when the possibility exists in Mr. Wehmeyer's
7 mind that those communications were privileged
8 and confidential. And unless there is a
9 waiver from Mr. Wehmeyer, I believe that
10 Minnesota statutes 595 would prohibit inquiry
11 into this as privileged information, and as
12 such, I would instruct the archbishop not to
13 answer the question. And while we're trying
14 to be as forthcoming as we can, we also must
15 weigh the confidential nature of this and the
16 rights of Mr. Wehmeyer, so I would instruct
17 him not to answer.

18 (Discussion out of the hearing of
19 the court reporter)

20 MR. ANDERSON: And while we may
21 disagree, I'll respect the instruction and
22 move on.

23 BY MR. ANDERSON:

24 Q. And thus in respect of that instruction, I'm
25 not going to ask you any further questions on

1 that topic. Okay?

2 MR. KELLY: Thank you, Mr. Anderson.

3 BY MR. ANDERSON:

4 Q. I'm going to direct your attention,
5 Archbishop, to some documents that came out of
6 the Wehmeyer file --

7 A. Uh huh.

8 Q. -- and that have been supplied here. And we
9 placed before you Exhibit 3. I'm going to try
10 to move through these as quickly as it's
11 possible, appreciating the time and your
12 circumstance. So I'm going to direct your
13 attention to this one, it's dated August 15th,
14 1996, it's addressed to you and it's from
15 Reverend Stan Mader, the co-vocation director,
16 concerning Wehmeyer. And in the middle of the
17 second paragraph, I'm going to read a portion
18 of it, Archbishop, and then ask you a
19 question, if I may.

20 Directing your attention to the
21 middle paragraph, the second sentence -- I
22 think I better read the whole thing and then
23 ask the question. It states, "My reservations
24 regarding Curt are in two areas. One, given
25 the level of his skills, will he be able to

1 juggle all he needs to in order to
2 academically prepare for priesthood while he
3 continues to work on the other issues:
4 Understanding and controlling his sexuality,
5 dealing with family issues, and developing
6 intimacy skills." My question to you,
7 Archbishop, is, what did you learn about his
8 difficulty controlling his sexuality while he
9 was in seminary?

10 A. I don't think I learned anything. No --
11 nothing ever was brought to my attention
12 concerning his controlling sexuality or lack
13 of control thereof.

14 Q. Well, this tells you that he's having
15 difficulty controlling sexuality, does it not?

16 MR. HAWS: Well, I'll object, the
17 document speaks for itself. Doesn't
18 specifically state that.

19 BY MR. ANDERSON:

20 Q. Well, it says "and controlling his sexuality."
21 Do you have any --

22 A. I have no -- (Examining documents) I -- I
23 really can't go back in time and give a full
24 response to that.

25 Q. Okay. My question is -- I'll move on.

1 At the bottom of that same
2 paragraph, the last sentence, it states, "For
3 that reason, a strong support system and good
4 intimacy skills are very important. I am
5 concerned Curt does not have them at the
6 desired level yet. I believe he can attain
7 them." Do you recall taking any action
8 responsive to this letter concerning the
9 concerns raised in it?

10 A. I don't recall taking any action.

11 Q. The last paragraph, I'll read a portion of it
12 and ask you a question. It states, "In
13 summary, I do not believe he is ready for
14 Theology I. I think he is a bit of a risk at
15 any level at this time, but certainly
16 redeemable." Do you remember him being a bit
17 of a risk in seminary and, if so, why?

18 A. I don't remember his being a risk at all in
19 the seminary.

20 Q. Did you take any action responsive to this
21 letter?

22 A. I can't remember.

23 Q. I'm going to put before you Exhibit 4. And,
24 Archbishop, this one is again and all these
25 will be coming from the files, and this one is

1 dated June 1st, 2004, it's to the assessment
2 staff at St. Luke Institute, it's from Father
3 Kevin McDonough --

4 A. Uh huh.

5 Q. -- regarding Father Curtis Wehmeyer. And
6 you'll see that it is two full pages, at least
7 the ones that I have, the first two pages I'm
8 going to take some portions out of in the
9 interest of brevity and direct your attention
10 to the first paragraph. First, it begins by
11 saying, "I'm grateful to you for your
12 assistance in the assessment of Father Curtis
13 Wehmeyer." So does this confirm for you that
14 Wehmeyer was sent to St. Luke's for
15 assessment?

16 A. It does now, yes, thank you.

17 Q. Okay. And then it goes on to state at the
18 fourth sentence, "I want to ask that any
19 disclosures to the Archdiocese of St. Paul and
20 Minneapolis, either written or verbal, will
21 only be in response to the following
22 questions." This is Kevin McDonough
23 addressing this to St. Luke's. And there's
24 really two questions he asks them to answer.
25 Were you aware that he was restricting the

1 scope of the assessment to the answering of
2 these two questions?

3 MR. KELLY: Object to as a
4 misstatement. He has not restricted the
5 assessment in any way. He's asked for
6 specific answers to specific questions. Rule
7 611 --

8 MR. ANDERSON: Okay. Well, I'll
9 rephrase it, that's okay.

10 BY MR. ANDERSON:

11 Q. Were you aware that he's restricting the
12 response in the assessment given to answering
13 specific questions?

14 A. No.

15 Q. If this document reflects that, do you have
16 any -- do you know why the response would be
17 restricted as opposed to a full-blown
18 assessment?

19 MR. KELLY: I object to as calling
20 for speculation, Rule 611.

21 MR. HAWS: And lack of foundation.

22 BY MR. ANDERSON:

23 Q. You can answer.

24 MR. HAWS: Obviously, the Archbishop
25 isn't copied on this or doesn't appear to be

1 one and you never asked him if he's read it or
2 seen it.

3 BY MR. ANDERSON:

4 Q. You can answer. Do you know why?

5 A. No.

6 Q. At the second page, Archbishop, I'd direct
7 your attention to it. At the second paragraph
8 of this, I'll read it and then ask you a
9 question. It states, "As our conversations
10 continued, however, I proposed to him a
11 possibility lying somewhere between innocent
12 misunderstanding and deliberate cruising. I
13 suggest that he may have had some interest in
14 engaging the conversation to see where it
15 might go and it might have triggered curiosity
16 and even a sense of danger on his part. Are
17 you familiar -- did Kevin McDonough report to
18 you this -- the contents of this inquiry made
19 of him?

20 A. I can't remember.

21 Q. Okay. What did you understand at this point
22 in time that Wehmeyer was sent to St. Luke's
23 and Kevin McDonough was involved in this what
24 Father McDonough's relationship was to
25 Wehmeyer? Was it closer than that of other

1 priests?

2 A. Oh, no. I don't think so at all.

3 Q. You had mentioned that he had tried to pick up
4 some people at a book store. Do you know how
5 old those people were?

6 A. No.

7 Q. I'm going to direct your attention to Exhibit
8 5, and this would be a report from St. Luke's,
9 Archbishop, and it's addressed to Kevin
10 McDonough, your then vicar general, and under
11 the circumstances, I expect that Father
12 McDonough and Curtis Wehmeyer both understood
13 that you would have access to the information
14 contained in this?

15 A. I don't know.

16 Q. Okay. In any case, looking at Exhibit 5, it's
17 from St. Luke Institute dated June 18, 2004,
18 it's addressed to Father Kevin McDonough, your
19 then vicar general, correct?

20 A. That's true.

21 Q. In the middle -- at the second page, if you
22 look at it in the middle of that paragraph
23 there's a sentence, I'm going to ask you a
24 question, reading from it, and then ask you if
25 it's anything you had heard before as reported

1 to you.

2 MR. KELLY: Counsel, may I interrupt
3 you for a minute? Is this a public document
4 already?

5 MR. ANDERSON: Yes.

6 MR. KELLY: So has there been any
7 waiver of privilege on this by Mr. Wehmeyer?

8 MR. ANDERSON: Yes.

9 MR. KELLY: There has been?

10 MR. ANDERSON: Yes.

11 MR. KELLY: Does it extend to these
12 proceedings?

13 MR. ANDERSON: Yes.

14 A. Is that signed? Did he sign something to --

15 MR. ANDERSON: All these documents
16 have been the subject of a great deal of
17 inquiry by Kevin McDonough and others and have
18 been inserted into the -- into the public
19 record, and when the assessment was done, the
20 privilege was waived and it was shared.

21 MR. KELLY: May I have --

22 MR. ANDERSON: And there's never
23 been an assertion of the privilege on it.

24 MR. KELLY: Well, I don't know if
25 Mr. Wehmeyer has been ever asked to waive

1 privilege, and to the extent that --

2 MR. ANDERSON: Wait a minute. Are
3 you representing Wehmeyer?

4 MR. KELLY: No. But I'm
5 representing this client and it's -- if this
6 is privileged information, he should not be
7 talking about it.

8 MR. ANDERSON: I'm representing to
9 you that it has not been information that has
10 been asserted as privileged, it's already been
11 placed in the public record and the subject of
12 multiple inquiries without objection.

13 MR. KELLY: I want the record to
14 reflect that the archbishop and I and perhaps
15 others have an ongoing concern about the
16 confidentiality and privacy of Mr. Wehmeyer,
17 as we should.

18 MR. ANDERSON: So noted.

19 MR. HAWS: Just so the record's
20 clear, there were many objections regarding
21 production of some of this information and
22 we've been ordered to produce much of the
23 information.

24 MR. KELLY: And, as I said, I don't
25 have the benefit of the background on some of

1 this litigation.

2 BY MR. ANDERSON:

3 Q. Directing your attention, then, Archbishop, to
4 the middle of that paragraph, I'm just gonna
5 read a sentence from it at page 2 and ask you
6 a question about that information and if it
7 was in any way news to you. First, it says,
8 "Father Wehmeyer was not dressed in clerics
9 and during his visit to this establishment
10 became engaged with two young men separately
11 in a conversation that had 'some sexual
12 undertones to it.' While the intentions of
13 each party remain unclear, the first
14 conversation ended abruptly when Father
15 Wehmeyer asked the young man, 'Are you
16 horny?'" Is that information you had received
17 or remember -- received before --

18 A. Yes.

19 Q. -- Archbishop? Okay. The next paragraph
20 says, "In a memo dated June 1st, 2004, you,
21 Father McDonough, requested that our feedback
22 focus strictly on three referral questions."
23 I may have asked you this, but are you aware
24 that -- as to the motives why the feedback was
25 restricted to the three referral questions

1 only?

2 A. No.

3 (Discussion out of the hearing of
4 the court reporter)

5 BY MR. ANDERSON:

6 Q. Did you ever ask Curtis Wehmeyer about this
7 information, about his approaching the young
8 man and, "Are you horny?"

9 A. I'm not sure whether or not I did.

10 Q. At page 4 of the substance abuse history in
11 the middle, it makes reference to the fact
12 that during -- at the fifth sentence, I'll
13 just read it, it says, "During this period,
14 Father Wehmeyer received two DUIs, one during
15 his college years and another in 1990." Did
16 you have information about his history of
17 DUIs?

18 A. No.

19 Q. In the psychosexual history, it states,
20 "Father Wehmeyer displayed considerable
21 anxiety when talking about his sexual
22 history." And the last sentence of that
23 paragraph it states, "He hinted at a
24 considerable struggle maintaining his
25 celibacy. Father Wehmeyer acknowledged a

1 consistent challenge to 'keep custody of my
2 thoughts and eyes.'" Is that information you
3 had received?

4 A. I can't remember it.

5 Q. If you direct -- I direct your attention to
6 page 6 of this, it would be under the
7 diagnosis, Archbishop.

8 A. Uh huh.

9 Q. And under the diagnosis there are five, but
10 diagnosis number 1, it states it to be,
11 "Sexual disorder, not otherwise specified:
12 Unintegrated sexuality." Were you aware that
13 that diagnosis had been made of him?

14 A. If this report had been given to me, I would
15 have read it at the time.

16 Q. And do you recall discussing it with him or
17 Father McDonough?

18 A. I don't recall.

19 Q. The next page at 7, I'll direct your attention
20 in the summary portion and recommendations, it
21 begins with, "We make the diagnosis of sexual
22 disorder not otherwise specified." And then I
23 go to the last sentence and I'll read it, then
24 ask you a question. It states, "Unintegrated
25 sexuality refers to Father Wehmeyer's

1 discomfort with his sexuality, his difficulty
2 acknowledging sexual motivations and
3 attractions, and the preoccupying presence of
4 sexual urges that detract from his ability to
5 be at peace with himself." Were you aware of
6 that information?

7 A. If I read this at the time, I must have been
8 aware of it.

9 Q. I'll direct your attention, then, to page 8
10 and under the middle paragraph, numerically
11 designated number 1, "Individual
12 Psychotherapy," the fifth sentence down, I
13 will read a portion of it, then ask you a
14 question about it. It states, "Several issues
15 were noted during this evaluation that would
16 be important for Father Wehmeyer to discuss
17 with his therapist, including his past sexual
18 behavior and current sexual feelings, his
19 current and long-term feelings of anxiety and
20 depression." Is that information made known
21 to you?

22 A. If this report had been given to me, and I'm
23 sure that it was, then I would have been aware
24 of it. And, in fact, it seems to me I might
25 have talked with Father Wehmeyer about talking

1 about this with his therapist.

2 Q. Okay. And you had permission to talk to his
3 therapist --

4 A. No.

5 Q. -- did you not? Okay. You asked him to talk
6 to his therapist?

7 A. Yes.

8 Q. Did you ever talk to his therapist?

9 A. No.

10 Q. Go to page 9, then, and under item number 7,
11 there's a middle of that paragraph that I'll
12 read to you and ask a question. It says,
13 "Should Father Wehmeyer be unable or unwilling
14 to follow the recommendations outlined in this
15 report, or should additional information
16 become available to the diocese about other
17 concerning or otherwise risky behavior, we
18 would be forced to reconsider our current
19 evaluation of Father Wehmeyer." That implies
20 that this information is being made to the
21 diocese, and if other information comes forth,
22 they might change their findings, correct?

23 A. Uh huh.

24 Q. Yes?

25 A. That's -- yes.

1 Q. Let's turn, then, to the next exhibit, which
2 would be -- first --

3 (Discussion out of the hearing of
4 the court reporter)

5 BY MR. ANDERSON:

6 Q. Let's go to the next exhibit then and that's
7 Exhibit 6, Archbishop. And this is dated
8 September 7, 2004. This would be after the
9 St. Luke's report that we were reading from
10 was rendered, and as chair of the diocese,
11 archdiocese, and this is to you and Bill
12 Fallon, who was then your chancellor, correct?

13 A. Yes, he was the chancellor.

14 Q. And it's from Kevin McDonough, your then vicar
15 general?

16 A. Yes.

17 Q. And it's dated September 7th, 2004, correct?

18 A. Correct, that's right.

19 Q. Concerning Curtis Wehmeyer. And at the second
20 paragraph, I'll read it -- I'll read a portion
21 of it in the interest of brevity and then ask
22 a question. In the middle of it it says, "In
23 fact, we agreed to lift the restriction that I
24 had placed earlier this summer on his
25 participation in youth programming. We had

1 put that restriction on because he constituted
2 a danger" --

3 MR. HAWS: Counsel, you misstated
4 that. Can you read that again?

5 MR. ANDERSON: Oh, sure.

6 MR. HAWS: It says "not."

7 BY MR. ANDERSON:

8 Q. Okay. I'm sorry, let me read it again. I'll
9 start with, "In fact, we agreed to lift the
10 restriction that I had placed earlier this
11 summer on his participating in youth
12 programming. We had put that restriction on,
13 not because he constituted a danger, but so
14 that there would not be occasion for
15 misunderstanding and rumors." So why was a
16 restriction put on him to not have contact
17 with youth if there wasn't concern about the
18 expression of his sexuality towards them?

19 MR. HAWS: Again, that misrepresents
20 the testimony and the evidence, misstated
21 facts, and it also left out a portion of the
22 document as to why that you didn't read into
23 the record.

24 MR. KELLY: And I join in that
25 objection and point out that the reason set

1 forth --

2 MR. ANDERSON: Well, look, I can ask
3 another question if you don't like the
4 question, so let's just get through it. If
5 you don't like that question, I'll withdraw
6 it.

7 MR. KELLY: I -- okay.

8 BY MR. ANDERSON:

9 Q. Okay. Archbishop, do you remember, did you
10 put restrictions on Wehmeyer?

11 A. No. I'm -- I -- I was surprised to have read
12 that. I -- that's a surprise to me. I don't
13 know -- I might have missed -- or I might have
14 missed it or whatever, but I can't remember a
15 restriction on him.

16 Q. Okay. This reflects that there was
17 restriction put on him and this reflects that
18 there was restriction lifted, does it not?

19 MR. HAWS: But it also, counsel, you
20 didn't include the conditions under which he's
21 restricted as part of --

22 MR. ANDERSON: Well, I'm just asking
23 about the restrictions.

24 MR. HAWS: But it's part of the
25 document that you haven't stated and put into

1 context.

2 MR. ANDERSON: If you want to ask
3 questions, you can when you have a chance, but
4 I'm going to ask the questions we need to ask
5 to get through this.

6 BY MR. ANDERSON:

7 Q. Archbishop, first --

8 MR. HAWS: As long as it's fairly
9 done so.

10 BY MR. ANDERSON:

11 Q. First question is, is you're aware this
12 document reflects that some restrictions were
13 put on him, right, correct?

14 A. It says that. We have put the restriction on,
15 not because he constituted a danger, but that
16 there would be no occasion for
17 misunderstanding and rumors, yes. I'm aware
18 now, I was not aware -- I -- it did not come
19 to my memory.

20 Q. And so if he was to not have contact with
21 youth, restricted on having contact from
22 youth, how can he be in ministry and not have
23 contact with youth? Can you answer that for
24 me?

25 A. No.

1 Q. I'm going to show you Exhibit Number 7. And
2 this is to you as Archbishop Flynn, and it's
3 from Kevin McDonough again, it's dated
4 February 24th, 2005, and in the third
5 paragraph of this memo to you it states,
6 "Father Rohlfing told me that he knew of yet
7 another similar incident. It happened while
8 he and Father Wehmeyer were students at the
9 seminary and while they were studying in
10 Jerusalem." The next paragraph states, "When
11 Father Rohlfing spoke with his friend shortly
12 thereafter, the story that Curtis told him was
13 this." And then the last sentence says, "When
14 he showed no interest, they asked if he wanted
15 a male prostitute. Trying to extricate from
16 the situation, he spoke with them, and they
17 misunderstood what he was saying." The next
18 sentence, and I'll read it and then ask the
19 question, the next sentence says, "As you can
20 see, this bears remarkable similarities to the
21 situation at the book store last year." Is it
22 fair to say that when this was written and
23 received by you, that this was new
24 information, not known before about Wehmeyer
25 and his history?

1 A. Yes, I can't recall today receiving this.

2 Q. Okay.

3 A. I'm reading it with great interest, but I
4 can't recall receiving it.

5 Q. In any case, do you have any information that
6 this information was brought back to St.
7 Luke's and they were told, as they had asked
8 to be, if did it surface, that there's some
9 new information, you got to take another look
10 at this guy?

11 A. I don't -- I don't know.

12 Q. Exhibit 8, Archbishop, is again from the file
13 of Curtis Wehmeyer, this is dated August 3rd,
14 2006, it's a memo to the file of Curtis
15 Wehmeyer from Kevin McDonough and it regards a
16 concern about Father Wehmeyer and a response.
17 This pertains to on Friday afternoon, July
18 28th, visit by Ramsey County Sheriff Deputy
19 Leyden, and it recounts what is described, I
20 think, as cruising. And then at the last
21 paragraph, there is a sentence I will read and
22 then ask you a question. The memo states,
23 "Deputy Leyden told me he believed that Father
24 was exhibiting behavior consistent with sexual
25 addiction." My question to you, Archbishop,

1 is, did you ever receive information that
2 indicated Wehmeyer had engaged in behavior
3 consistent with sexual addiction or was a sex
4 addict?

5 A. No. I -- I don't think so.

6 Q. Do you recall receiving this memo?

7 A. I don't recall it.

8 Q. Turn to the second page and let's look at it
9 and see if it --

10 A. (Examining documents).

11 Q. Do you recall concerns being expressed to you
12 or by any of your officials about a publicity
13 concerning Wehmeyer's conduct and people
14 knowing what he was doing?

15 A. No, I don't -- I -- I don't.

16 Q. Let me refer you to the last paragraph of this
17 memo. It's cc'd to Tim Rourke. Did you know
18 him to be Wehmeyer's monitor?

19 A. Tim Rourke worked for the archdiocese, didn't
20 he?

21 Q. Yes.

22 A. Yes. I didn't -- I didn't realize that he was
23 his monitor.

24 Q. Okay. Did you know that Wehmeyer was on
25 monitoring?

1 A. I -- right at this moment, no. I might have
2 then.

3 Q. Okay. Let's look at the last paragraph and
4 I'll read it, then ask a question. It states,
5 "I do not believe that Father Wehmeyer
6 actually goes to these parks to pick up other
7 men. Rather, he likes to be around the
8 environment where such things are happening,
9 since it gives him some sort of thrill. He is
10 creating a significant risk for himself of
11 highly unfavorable publicity." Do you recall
12 having conversations with him or others about
13 him creating scandal or publicity?

14 A. I -- I don't recall that. Was this sent to
15 Tim Rourke or no?

16 Q. It was to the file of Wehmeyer.

17 A. File. But I think Tim -- Tim Rourke would
18 have pursued that with him.

19 Q. Do you know that he did?

20 A. I don't.

21 MR. KINSELLA: Off the video record
22 to change tape.

23 THE WITNESS: All right. No, I
24 don't.

25 (Recess taken)

1 MR. KINSELLA: Back on the video
2 record, 2:20 p.m.

3 BY MR. ANDERSON:

4 Q. I'm looking at a document from the file of
5 Wehmeyer where it's reflected in 2012, they're
6 looking back and I'll read it and see if you
7 -- if -- if this is something you learned
8 while you were archbishop. It states, "Father
9 Wehmeyer developed a pattern of sexually
10 inappropriate behavior that led to
11 intervention and assessment at St. Luke's
12 Institute in 2004." I guess you knew that,
13 correct?

14 A. Yes.

15 Q. It then states, "In 2006, the archdiocese
16 received additional reports of sexually
17 inappropriate behavior best described as
18 cruising." Did you know that?

19 A. Yes.

20 Q. It then goes on to state, "In response, Father
21 Wehmeyer was asked to join Sexual Addicts
22 Anonymous." Did you know that?

23 A. No.

24 Q. And it goes on to state, "and was enrolled in
25 the archdiocesan monitoring program." Did you

1 know that?

2 A. I did today, it came back to me today when I
3 saw that copied to Tim Rourke.

4 Q. Did you receive any information from any other
5 source about Wehmeyer and/or his expression of
6 sexuality as a priest?

7 A. No.

8 (Discussion out of the hearing of
9 the court reporter)

10 BY MR. ANDERSON:

11 Q. Did you learn about a DUI that he got in 2009?

12 A. Today I -- I might have known about it then,
13 but today it came to me in this report here.
14 Oh, wait. 2009?

15 Q. Yeah, in September of 2009, the records show
16 that he got a DUI --

17 A. No. I didn't know that, I don't think.

18 Q. The police report reflects that he was trying
19 to pick up teenagers to go back to his
20 campground to park -- to party. Is that
21 information known to you at any time?

22 A. No. No.

23 Q. So when I made that statement to you, is that
24 the first time you had heard that said?

25 A. I think that was the first time today because

1 I had been retired then and things would not
2 have been copied to me.

3 Q. What was your retirement, May? I can't
4 remember.

5 A. My retirement was in 2008.

6 Q. Eight, okay. Did you have concerns,
7 Archbishop, that a priest who would pick up
8 19-year-olds or 20-year-olds would also pick
9 up kids 18 or under?

10 A. A psychologist could answer that better, I
11 think, than I could. I -- I -- I don't know.

12 (Discussion out of the hearing of
13 the court reporter)

14 BY MR. ANDERSON:

15 Q. Did you ever ask a psychologist that question
16 as you viewed the --

17 A. I don't --

18 Q. -- conduct of Wehmeyer or others?

19 A. No. But I think in our committee work,
20 there's psychiatrists on our committee from
21 Johns Hopkins that -- a wonderful Jewish man,
22 Dr. Berlin, and a priest psychiatrist, and
23 they always differentiated the ages and there
24 were people who were attracted to older people
25 or younger people, they always differentiated

1 that.

2 Q. Tell me, Archbishop, when Father Shelley first
3 came onto your radar as a source of concern
4 about him either viewing -- viewing or being
5 in possession of child pornography.

6 A. I don't -- it was before I retired. I don't
7 remember the circumstances. They're not clear
8 to me now at all.

9 Q. What do you remember about Shelley?

10 A. That there was an incident concerning
11 computers, and then they looked at it, someone
12 looked at it more closely, I don't know who
13 that was, and determined it was pornography.
14 That's what I recall.

15 Q. And do you remember receiving and being told
16 that it was borderline child pornography that
17 he was viewing?

18 A. I don't --

19 Q. -- and had possession of?

20 A. No. No, I don't. Unless that occurred
21 afterwards. But the initial -- I -- I -- I
22 don't even recall what it was now.

23 Q. There are records, Archbishop, in 2004 that
24 show that an investigation was done and
25 Richard Setter & Associates were retained to

- 1 evaluate the computer --
- 2 A. Yes.
- 3 Q. -- and items on it. Do you --
- 4 A. Yes, I recall that now.
- 5 Q. And there was a report prepared by Setter and
- 6 in consultation with a forensics expert by the
- 7 name of Johnson given to the archdiocese. Did
- 8 you read that report?
- 9 A. I don't think so.
- 10 Q. Did you get a report from Father McDonough or
- 11 others about what the report found?
- 12 A. I -- if my memory serves me correctly, the
- 13 report did not find any child pornography.
- 14 Q. And is it on that basis of what -- who told
- 15 you that?
- 16 A. I think Father McDonough.
- 17 Q. And is it on the basis of that you continued
- 18 Shelley in ministry?
- 19 A. No. I think we removed him from ministry at
- 20 that time.
- 21 Q. If the record reflects otherwise, would you --
- 22 how long was he removed from ministry?
- 23 A. Well, he's still removed from ministry, I
- 24 think.
- 25 Q. Well, let's just let me suggest, I think the

1 record reflects that in 2004, after some
2 investigation was done, there was a
3 continuation in ministry until he announced a
4 retirement in 2013. Is that news to you?

5 A. I can't remember any of it, I -- I just don't
6 remember, I'm sorry.

7 Q. In the report, they're describing the computer
8 and the images on it and some of the search
9 terms. It states that he had used the search
10 terms that could be determined to be
11 borderline illegal, such as "free naked boy
12 pictures." Did you receive that information?

13 A. No.

14 Q. There were terms, search terms used by him,
15 "hardcore teen boys," "European teen boys,"
16 "helpless teen boys." Did you learn that?

17 A. No.

18 (Discussion out of the hearing of
19 the court reporter)

20 BY MR. ANDERSON:

21 Q. Does that or receiving that information in
22 2004, if available to you, alarm you?

23 A. Oh, yes. But I -- I must tell you, I don't
24 know anything about computers and I've heard
25 from people you can push things and things

1 will come up or push them accidentally, but I
2 would not know, but it would alarm me if
3 anyone did that deliberately.

4 Q. Did Father McDonough tell you that these
5 weren't actual search terms, they were pop-up
6 images and there was an innocent explanation
7 for what seemed to be child porn searches?

8 A. I don't recall what he told me, really.

9 (Discussion out of the hearing of
10 the court reporter)

11 BY MR. ANDERSON:

12 Q. At any time, did you make a report or order
13 any of your subordinates to make a report to
14 law enforcement of suspicions concerning
15 Shelley and possession of child pornography?

16 A. No. Because I thought this Mr. -- is it
17 Sutter?

18 Q. Setter.

19 A. Setter. I thought he -- if he thought it
20 necessary to make a report, but there wasn't
21 evidence enough to make a report, that was my
22 conclusion, I think.

23 Q. Well, Setter & Associates were private
24 investigators hired by the archdiocese,
25 correct?

- 1 A. Uh huh. Yes.
- 2 Q. And it's also correct that you and Father
3 McDonough at that time and other clergy were
4 mandated reporters, correct?
- 5 A. I -- if that's -- if that's true. I -- yes.
- 6 Q. And Setter was required to make findings to
7 Father McDonough and hired to make findings
8 simply, correct?
- 9 A. I don't remember.
- 10 Q. Did you order that the computer images and/or
11 the disks evaluated at that time be retained
12 in the vault?
- 13 A. No. I don't -- I don't recall ordering that.
- 14 Q. Do you remember anything else about Shelley
15 and/or suspicions of his computer use --
- 16 A. No.
- 17 Q. -- and images pertaining to youth?
- 18 A. No.
- 19 Q. Anything else that you haven't -- we haven't
20 covered that is in your knowledge about
21 Shelley and sexual issues?
- 22 A. No. I have nothing -- I know nothing more.
- 23 Q. Did you ever learn anything about him having a
24 young person, 18-year-old, living in his
25 rectory?

1 A. No.

2 Q. I'm going to direct your attention back to
3 Father Keating for a moment. And the
4 individual who is the young woman that you
5 referred to we'll refer to in this proceeding
6 as Jane Doe 20 because she's the one that
7 brought suit against Father Keating. Okay?

8 A. Uh huh.

9 Q. Is that okay with you, Father? Archbishop?

10 A. Oh, yes, of course.

11 Q. And so did you learn in Kevin -- in the
12 investigation of Keating that he had admitted
13 to a passionate physical encounter with [REDACTED]
14 [REDACTED]?

15 A. No. I read that in the paper, I think, this
16 past fall, but I never knew of that during
17 that time I was meeting with the young Ms. Doe
18 and her parents.

19 Q. How many girls did you think he had, as
20 reported to you, engaged in some kind of
21 boundary violations with?

22 A. Miss -- the one who came in with her parents,
23 that was the only one I ever knew of.

24 (Discussion out of the hearing of
25 the court reporter)

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED] [REDACTED]
21 [REDACTED]

22 Q. I'm gonna turn to Joseph Gallatin. And when
23 did he come onto your radar as a source of
24 concern, possible --

25 A. I don't -- I don't remember the year.

1 Q. And --

2 A. Might have been ten years ago.

3 Q. And what information came to your attention,
4 Archbishop?

5 A. His pastor indicated that when they were
6 having a camp experience, he touched the chest
7 of one of the -- with his finger only, with
8 one of the -- one of the students. And my
9 recall is that is -- that's just about all I
10 can recall about it. There -- there -- it
11 wasn't any more than that, I don't -- from
12 what I can recall.

13 Q. He was recently reported to have been removed
14 from ministry for what was called boundary
15 violations.

16 A. Yes.

17 Q. And that was reported by the archdiocese on
18 December 29th, 2013. My question to you,
19 Archbishop, is, at any time, was any
20 restriction placed on his ministry to prevent
21 him from engaging in misconduct with youth or
22 boundary violations with youth?

23 A. I don't remember and I -- I presume that he
24 went to St. Luke's or Philadelphia and I -- I
25 don't remember what their recommendations

1 would have been.

2 (Discussion out of the hearing of
3 the court reporter)

4 BY MR. ANDERSON:

5 Q. I'm going to go to Father Wehmann. And he was
6 another priest who was recently publicly
7 revealed to have been removed from ministry,
8 obviously not on your watch. My question to
9 you is, when did Father Wehmann and how, if he
10 did, come onto your radar as having engaged in
11 some conduct suspicious of boundary violations
12 or abuse?

13 A. Never abuse, never boundary violations. I
14 think acting silly or immature. That's my
15 only memory of this.

16 Q. And what was your source of all the
17 information you knew about that?

18 A. I can't remember.

19 Q. Was Father McDonough the one that was the
20 transmitter or the source or others?

21 A. He probably would have been. But there was
22 never any issue of sexual abuse or any
23 boundary violation, I don't think.

24 Q. What was it that you learned that he did that
25 you describe as being silly?

- 1 A. Silly, I don't know, laughing. My memory is
2 interfering here, too. Laughing with
3 youngsters as though he were a youngster.
4 That's the only way I can describe it.
- 5 Q. Anything else about Wehmann that would be
6 cause for concern that came to your attention
7 as archbishop?
- 8 A. Not to my memory, no.
- 9 Q. Freddy Montero, he came onto your radar as
10 having some of these cause -- was a cause of
11 concern, correct?
- 12 A. Who is that?
- 13 Q. Freddy Montero.
- 14 A. Oh, the --
- 15 Q. Ecuadorean priest.
- 16 A. Yes. That was nearing the end of his time
17 here, and I'm glad you brought him up. His --
18 he -- he was loaned to us for a period of
19 time. His time was up, he was ready to go
20 back to Bolivia, I think, is that right,
21 Bolivia?
- 22 Q. Well, actually, he was in Ecuador.
- 23 A. Ecuador, he was ready to go back to Ecuador.
24 He -- he -- he was living with a lady.
- 25 Q. He was actually living with Father McDonough,

1 wasn't he?

2 A. Well, he supposedly.

3 Q. And then it was learned that he was living
4 with a lady --

5 A. With a lady, yes.

6 Q. -- correct?

7 A. Yes.

8 Q. And then it was also learned that he was also
9 suspected of having sexually abused the lady's
10 four-year-old child, correct?

11 A. Yes, absolutely.

12 Q. And that went to the police, did it not?

13 A. That's right. And they found nothing --
14 nothing to -- to hold that in -- they -- they
15 did not believe that and so he was cleared to
16 go back to Ecuador.

17 Q. Did you learn that, Archbishop, from Kevin
18 McDonough?

19 A. I don't know where I learned it, but I would
20 tell you this, that a group of women from --

21 Q. Well, let me just -- just wait for a question.
22 I want to know if you learned that from
23 McDonough when you said he was cleared. Were
24 you aware that --

25 (Discussion out of the hearing of

1 the court reporter)

2 BY MR. ANDERSON:

3 Q. -- that at the time -- first, that Father
4 McDonough drove him to the airport to go back
5 to Ecuador?

6 A. No.

7 Q. Were you aware that child protection
8 investigations of Hennepin County Human
9 Services and Public Health Department in their
10 assessment of that child and Montero's conduct
11 found, "We determined that sexual abuse
12 occurred based on reported information in the
13 interviews obtained during the assessment"?

14 A. No.

15 Q. Were you aware that Montero was allowed to go
16 back to Ecuador before the police completed
17 their investigation?

18 MR. HAWS: Objection, misstates
19 evidence and testimony.

20 BY MR. ANDERSON:

21 Q. Were you aware of that?

22 MR. HAWS: You can answer as best
23 you know.

24 A. No.

25 (Discussion out of the hearing of

1 the court reporter)

2 BY MR. ANDERSON:

3 Q. I'm going to direct your attention to Exhibit
4 108 and --

5 MR. KELLY: Do we have that?

6 MR. ANDERSON: I'm just gonna give
7 that to you here.

8 BY MR. ANDERSON:

9 Q. And while he is, this is the time frame of
10 2007, Archbishop, contextually, it's dated
11 July 12th, 2007. This would be a letter from
12 then Bishop Pates, it's cc'd to you at the
13 second page, you'll see. And first, directing
14 your attention to the third paragraph, the
15 last sentence, it states, "While Father
16 Montero denies this relationship, there's
17 credible evidence that points to its veracity,
18 which alone should be reason for concluding
19 his ministry in this archdiocese." That's
20 referring to the relationship with the woman,
21 correct?

22 A. Correct.

23 Q. Okay. Then it goes on to state,
24 "Unfortunately, however, there's been an
25 allegation of child sexual abuse involving a

1 four-year-old. While no charges have been
2 filed and the child has not made any
3 incriminating overture to the police, the case
4 is still under investigation." Did you know
5 that when he had -- did you know that?

6 A. No. I thought he was -- I thought it was
7 cleared by the police.

8 Q. The last paragraph it states, "Seeing that
9 Father Montero has completed a five-year stay
10 here in the archdiocese and that he has yet to
11 be cleared of the accusation of possible child
12 sexual abuse, His Excellency, Archbishop Harry
13 Flynn, has decided to withdraw Father
14 Montero's faculties here in the Archdiocese of
15 St. Paul and Minneapolis and, thus, Father
16 Montero's future is at your Excellency's
17 disposition." Did you know you were returning
18 him to Ecuador and permitting him to leave in
19 the middle of the investigation?

20 A. I thought the investigation had been
21 completed.

22 Q. I'm going to direct your attention to Father
23 Vavra. When did he come onto your radar as a
24 source of some concern pertaining to youth, if
25 he did?

1 A. He didn't. I didn't -- I didn't know the man.
2 I think it was before my time.

3 Q. In 1996, let's look at Exhibit 197. There
4 might be something here I need to ask you
5 about, Archbishop, that would be on your
6 watch, so if you'll give me a moment.

7 MR. FINNEGAN: (Handing documents).

8 BY MR. ANDERSON:

9 Q. And so what I want to do, Archbishop, is
10 direct your attention to Exhibit 197. This is
11 something that is dated November 26, 1996,
12 it's to you and Bishop Welsh from Father
13 McDonough regarding Father Vavra. And at the
14 second page there's a reference I'm going to
15 read and then ask you if you know anything
16 about it. It states, "The staff at the
17 treatment center saw to it that an important
18 diagnostic tool was used with Father Vavra.
19 You may recall that Father Vavra acknowledged
20 having had sexual contact with one blank,"
21 that is, some identifying information has been
22 taken out. "This happened about blank ago."
23 And then when I read down that paragraph,
24 there's a sentence that says -- I'll read and
25 then I'll ask you a question. It says, "The

1 second area of sexual attraction for him was
2 with adolescent post-pubescent males. Father
3 Foley indicated that this is consistent with
4 and secondary to Vavra's adult male
5 attraction." My question to you is, did you
6 know he had a sexual attraction to adolescent
7 post-pubescent males?

8 A. No.

9 Q. If you had known that, would you have
10 restricted his ministry?

11 A. I think it was restricted, wasn't it, in -- at
12 the charter -- at the time of the charter.

13 Q. Let me ask you this. Tell me if you remember
14 taking any action. Did you take any action
15 responsive to Vavra and a history known?

16 A. I can't remember.

17 Q. When you took action, if the records reflect
18 that he was removed from ministry in 2002, did
19 you or any of your officials alert the public
20 as to the reasons for his restriction, if it
21 was done under the charter or shortly after?

22 A. I don't remember again.

23 (Discussion out of the hearing of
24 the court reporter)

25 BY MR. ANDERSON:

1 Q. I'm going to ask you about Father Krautkremer,
2 Archbishop, and if you get weary here, I'm
3 trying to get through this as quickly as
4 possible.

5 A. Thank you.

6 Q. If you need to take a break, let me know. Are
7 you okay?

8 A. I'm okay.

9 Q. I'd like to ask you about Father Krautkremer
10 and did he come onto your radar and within
11 your knowledge that he had offended?

12 A. I can't remember anything about Father
13 Krautkremer -- Krautkremer.

14 Q. Did you learn that in 1987, he had admitted
15 abusing youth?

16 A. I didn't.

17 Q. Did you learn that it was recorded and/or
18 reported the odds are that he was likely to
19 abuse again? Had you heard that from any
20 source?

21 A. No.

22 Q. Did you know and permit him in 1998 to do
23 help-out work or supply work in three
24 different parishes?

25 A. I don't -- I don't remember.

1 Q. Do you recall any restrictions having been put
2 on his ministry or any disclosures made to the
3 public about him or his history until he was
4 sued by Ted Kramer in 2002?

5 A. I don't remember.

6 Q. I'm going to ask you about Father Thurner.
7 When, if at all, did he come onto your radar
8 as somebody who had abused youth?

9 A. I don't remember.

10 Q. Do you remember that he did?

11 A. I remember that it came to my attention
12 somewhere along the line and that's when he
13 was removed from ministry.

14 Q. Is it your belief that he was removed from
15 ministry immediately upon the archdiocesan
16 official receiving information he had abused?

17 A. I don't remember. I don't know.

18 Q. As it pertains to Father Gil Gustafson, you
19 did learn, because I think we had touched upon
20 this before, that he had been convicted at one
21 time in the '80s?

22 A. Yes.

23 Q. And do you recall meeting with the parents of
24 that victim who he had been convicted of and
25 making a promise to them that they -- or that

1 he would not be allowed to continue in
2 ministry and/or around kids?

3 A. I don't recall. I don't recall ever having
4 met them.

5 (Discussion out of the hearing of
6 the court reporter)

7 BY MR. ANDERSON:

8 Q. What work was Gustafson allowed to do at the
9 archdiocese and in the Chancery?

10 A. He worked in -- I don't know where he worked.
11 I can't remember now.

12 Q. When complaint was made about him being
13 allowed to continue in some aspects of
14 ministry, but at the Chancery, did you make
15 the assertion to the family member that
16 complained about that that those restrictions
17 imposed on him by you were far greater
18 punishment than being sent to jail?

19 A. I don't -- I don't remember anyone complaining
20 to me -- to me.

21 Q. And so is it fair to say, then, that you don't
22 remember making such a statement to anybody?

23 A. I don't remember, no.

24 Q. He was placed on a disability for pedophilia,
25 wasn't he?

- 1 A. I don't know. I don't remember.
- 2 Q. If the records show that he is receiving
3 payments for pedophilia and receiving
4 disability payments for that, do you have any
5 knowledge of how that happened and why?
- 6 A. No. He would not be receiving payments for
7 pedophilia. He'd be receiving payments
8 because he victimized and is not able to work
9 at an adequate position anymore, that's why he
10 would receive payments.
- 11 Q. If that's the case, Archbishop, what message
12 do you think that sends to the victims that he
13 abused that he's receiving payments for having
14 victimized them?
- 15 A. I don't know, but what message would it send
16 to the world if we threw these people out in
17 the street without any difficulty -- without
18 any assistance?
- 19 Q. If they were thrown into jail --
- 20 A. That would be --
- 21 Q. -- and reported to the police?
- 22 A. That -- that would be something else.
- 23 Q. That would send a powerful message, wouldn't
24 it?
- 25 A. Yes.

1 Q. And if the files that were maintained on
2 Gustafson or other priests who had offended
3 were made available to law enforcement, that
4 would also send a powerful message, wouldn't
5 it?

6 A. Powerful message, yes.

7 Q. Why hasn't it been sent?

8 A. Why hasn't what been sent?

9 Q. Why hasn't it been done? Why haven't the
10 files been turned over to the police?

11 A. Oh, I -- I don't know. I don't know.

12 Q. If the people and the public and the
13 parishioners were told the truth about the
14 history known to the archdiocese of those
15 priests who had offended and had been warned
16 and there had been a full disclosure of that
17 history known to the archdiocese, that would
18 send a powerful message, too, wouldn't it?

19 A. It would.

20 Q. Do you think it's time for the archdiocese to
21 do that?

22 A. That will be up to the present archbishop.

23 Q. Do you have a view of what the best practice
24 is?

25 A. I don't -- I don't get my views since I

1 retired.

2 Q. Well, I'm interested in what they are.

3 A. Well, I would not state them here.

4 Q. Father Wajda, Joseph Wajda, did he come onto
5 your radar as having abused a number of folks,
6 kids?

7 A. Yes.

8 Q. And what action did you take?

9 A. I can't remember the sequence of events. He
10 -- I don't know whether he -- this happened
11 some years ago, before my time, I believe,
12 and --

13 Q. Okay.

14 A. -- he was working in the tribunal and then
15 when this came to my attention, I -- I think,
16 I'm not sure, I removed him.

17 Q. Archbishop, I think if we take a break, a
18 short break, my hope is that on return I'll be
19 able to finish in about 15 minutes, but I have
20 to -- I have to meet with the brains of the
21 operation here.

22 A. All right.

23 Q. And if you'll give me that lead, I'll --

24 A. And I'll --

25 Q. -- a break.

1 A. I'll hold you to your word, 15 minutes.

2 Q. I'm not -- I'm not giving you my word because
3 I don't want to make a promise I can't deliver
4 on, but I'm gonna try. Okay?

5 A. All right. Wonderful.

6 Q. Is that good enough?

7 A. That's good enough.

8 MR. ANDERSON: Okay. Thanks. Let's
9 take a break.

10 MR. KINSELLA: Off the video record.

11 (Recess taken)

12 MR. KINSELLA: Back on the video
13 record, 3:18 p.m.

14 BY MR. ANDERSON:

15 Q. Archbishop, I'm going to try to walk you
16 through a few more things here as soon as
17 possible and I've put before you Exhibit 152.
18 And it's dated March 25th, 2008, it's a memo
19 to you, Archbishop Flynn, it's from Father
20 Kevin McDonough and it regards two charter
21 priests. When the term in quotation marks
22 here is "charter priests," that means to you
23 and to Father McDonough what?

24 A. Someone had been removed from the priesthood
25 because of the charter and that is because of

1 abuse of children.

2 Q. And it goes on to say, "and their relationship
3 to the archdiocese." And because this is
4 addressed to you, I assume you received it;
5 fair assumption?

6 A. Fair assumption.

7 Q. Okay. The two priests here are Gilbert
8 Gustafson and Michael Stevens and they are
9 being allowed to continue in some capacities
10 doing priestly work, are they not?

11 A. (Examining documents) It wasn't priestly work,
12 I don't think. It was -- Michael Stevens was
13 office work and I don't recall the work that
14 Gus -- Gustafson did.

15 Q. First, both of these are men who are priests
16 who had been convicted of childhood sexual
17 abuse, correct?

18 A. Correct.

19 Q. And under the charter, there was a promise
20 made to the people that those that had
21 violated children would not be allowed to
22 continue in ministry in any form, correct?

23 A. Correct.

24 Q. If you look at the paragraph, second paragraph
25 here, it says in regard to Gilbert Gustafson,

1 "He's been employed for several years by a
2 consulting firm called Henderson & Associates.
3 That firm, which includes several
4 professionals, makes its own management with
5 parishes." And --

6 MR. HAWS: Arrangements, not
7 management.

8 BY MR. ANDERSON:

9 Q. Excuse me, "own arrangements with parishes."
10 It states, "We have neither banned nor
11 recommended the firm, rather, we will allow
12 them to tell potential parish clients that the
13 head of the firm, Greg Henderson, has
14 undergone a day-long 'Getting to Know the
15 Catholic Archdiocese Program' that we provide
16 on occasion to consultants. My own belief is
17 that, even when Greg Henderson assigns Gilbert
18 Gustafson to work with one of the
19 client-parishes, there is no violation of the
20 charter involved." Don't you think,
21 Archbishop, that allowing Gil Gustafson to
22 work as a consultant, knowing his history with
23 these parishes and -- that that is a violation
24 of the charter and the spirit of it?

25 A. I don't think it's a violation of the charter

1 because his work was not ministry, it was
2 consulting with parish councils or whoever
3 they were, but they -- it wasn't ministry in a
4 parish. I don't think it was a violation of
5 the charter.

6 Q. Do you believe that allowing Gustafson to work
7 at the parishes as a consultant is consistent
8 with the promise made to the people of zero
9 tolerance?

10 A. I -- I don't -- I don't see that as ministry.
11 It was a matter of going in and speaking with
12 adults or what -- I don't even know what he
13 did, to be honest with you. I would need to
14 review the charter again and -- and see what
15 the restrictions were.

16 Q. Would you view the continuation of him in this
17 capacity, as you see it here, as a very
18 dangerous loophole in the charter?

19 MR. HAWS: Well, object to the form.

20 MR. KELLY: "This here" being what?

21 BY MR. ANDERSON:

22 Q. The continuation of Gilbert Gustafson in this
23 capacity as reflected in this memorandum.

24 A. I don't know. I could not answer that now
25 because I would have to find out what work he

1 would have been doing.

2 Q. Did you ever ask him --

3 A. I can't remember --

4 Q. -- in 2008 what work he was doing and what
5 efforts could be made in that work to keep him
6 away from kids, knowing he's a diagnosed and
7 convicted pedophile?

8 A. I don't know whether I ever asked him. I
9 might have asked Father McDonough, but I can't
10 remember.

11 Q. The next paragraph addresses Michael Stevens
12 and it states, "He has a private consulting
13 business in which he sets up computer systems
14 and trouble-shoots them." It states, "A
15 number of our parishes contract with him." Do
16 you see that to be a problem with the promise
17 made under the charter and him --

18 A. That would be more of a -- a problem because
19 he would be working in the parish.

20 Q. But he was allowed to continue, was he not?

21 A. He worked at the Chancery in -- with computers
22 and probably -- but he would have had no
23 relationship with children.

24 Q. Let me ask you this. Did you personally take
25 any action responsive to the information

1 contained in Exhibit 152?

2 MR. KELLY: Could you give the
3 archbishop a minute to read the full
4 paragraph?

5 MR. ANDERSON: Sure.

6 A. I -- I think I can. I can't recall. I can't
7 recall at all.

8 BY MR. ANDERSON:

9 Q. Do you have any documents or files that you
10 have --

11 (Discussion out of the hearing of
12 the court reporter)

13 BY MR. ANDERSON:

14 Q. -- that you maintain on your own reflecting
15 your own experience around the sexual abuse
16 and handling of it?

17 A. No.

18 Q. I'm going to show you an Exhibit 166,
19 Archbishop, it's a handwritten note and I
20 think I'm --

21 (Discussion out of the hearing of
22 the court reporter)

23 BY MR. ANDERSON:

24 Q. Archbishop, this is handwritten, it would come
25 from the file, I believe, of Eugene Corica.

- 1 A. Uh huh.
- 2 Q. And do you recognize the handwriting?
- 3 A. No.
- 4 Q. Okay. Let me read it and see if you have
- 5 information. It's -- I read it to state, "The
- 6 rest of Corica's file is in Archbishop Flynn's
- 7 fireproof closet," I believe.
- 8 A. Uh huh.
- 9 Q. Did you have a fireproof closet?
- 10 A. I -- I don't remember at all. It's like the
- 11 secret fund I had to which you referred. No.
- 12 This -- that -- that person, whoever wrote
- 13 this, must have been referring to the
- 14 fireproof vault, but my closet would not --
- 15 not have passed -- this is comical. My closet
- 16 would not have passed the fire -- firemen's
- 17 inspection.
- 18 Q. So this must then, in your view and
- 19 experience, be referring to the vault you've
- 20 already shared --
- 21 A. Yes.
- 22 Q. -- with us and no other file kept by you or
- 23 under your control pertaining to sexual abuse,
- 24 to your knowledge, correct?
- 25 A. Not to my knowledge.

1 Q. Okay.

2 A. That's absolutely correct.

3 Q. I'm going to show you an exhibit now to be
4 read together, they're marked exhibits --

5 (Discussion out of the hearing of
6 the court reporter)

7 BY MR. ANDERSON:

8 Q. Okay. I'm going to go now to a part of the
9 deposition that we'll mark as sealed, okay?
10 And that is just under the court order here
11 because I'm going to be asking some questions
12 that pertain to matters that the court has for
13 the moment deemed to be sealed. Okay?

14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

1 [REDACTED] [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED] [REDACTED]
7 [REDACTED]
8 [REDACTED] [REDACTED]
9 [REDACTED] [REDACTED]
10 [REDACTED] [REDACTED] [REDACTED]
11 [REDACTED]
12 [REDACTED] [REDACTED]
13 [REDACTED] [REDACTED]
14 [REDACTED]
15 [REDACTED] [REDACTED]
16 [REDACTED] [REDACTED]
17 [REDACTED]
18 [REDACTED] [REDACTED] [REDACTED]

19 Q. How many priests under your watch as
20 archbishop do you estimate were accused of
21 sexual abuse of minors in some form that were
22 sent to treatment or assessment at St. Luke's?

23 A. I wouldn't want to guess. I would need to
24 count them.

25 Q. They were used quite regularly, were they not,

1 for assessing and treating of potential
2 offenders?

3 A. Not when we -- one considers the number of
4 priests we have in the archdiocese, but,
5 again, I would not render a guess because I'd
6 have to go over the files and count them.

7 Q. Is it fair to say that the number is in excess
8 of a dozen, but you can't be more precise than
9 that?

10 A. I would not render that guess.

11 Q. What contacts did you have with the folks at
12 St. Louis -- St. Luke's when a referral would
13 be made for treatment or assessment of a
14 potential offender?

15 A. Usually Father McDonough had the contact. I
16 was on the first board of St. Luke's -- Luke's
17 and it's grown tremendously since that time
18 and -- but he would make the contact or Bishop
19 Pates would.

20 Q. And St. Luke's was actually -- you were a
21 member of the first board of St. Luke's?

22 A. I was.

23 Q. And that was -- when were they constituted and
24 for what purpose?

25 A. I'm wondering, I -- in the early '80s,

1 perhaps, I'm not sure, or late '70s. And
2 constituted to render treatment for priests,
3 and now it has expanded for religious women,
4 for ministers, anyone in a ministerial
5 position, I believe.

6 Q. And it's all Catholic clergy from various --

7 A. Not only Catholic, no. Protestant ministers
8 now and -- they've -- they've expanded.

9 Q. But originally it was Catholic only?

10 A. Originally it was Catholic priests.

11 Q. And you were on the board and a number of
12 other clergy served on that board?

13 A. Clergy, psychiatrists, criminal behavior
14 people, attorney -- a couple of attorneys.

15 Q. And they were created and funded and founded
16 to basically help the Catholic bishops and the
17 superiors to evaluate and treat priests who
18 had problems --

19 A. That's correct.

20 Q. -- including addiction, sexual abuse and other
21 maladies, correct?

22 A. That is correct, yes.

23 Q. And then to give them advice about whether or
24 not they were fit to minister or be allowed to
25 continue in ministry?

1 A. Correct.

2 MR. KINSELLA: Excuse me, off the
3 record to change tape.

4 (Recess taken)

5 MR. KINSELLA: Back on the video
6 record 4:21 p.m.

7 BY MR. ANDERSON:

8 Q. And it's fair to say that when they were
9 originally constituted and utilized, that they
10 were funded exclusively originally by the
11 Catholic Conference of Bishops and the
12 religious superiors?

13 A. No. No. That has always been a sore point
14 because it was -- they were funded by the
15 patients who came in and private donations.

16 Q. Oh.

17 A. It was never funded by the National Conference
18 of Catholic Bishops.

19 Q. And so the archdiocese, when you'd utilize
20 them for assessment, treatment and the like
21 for troubled or offending priests, you'd send
22 them the fees and the costs of that
23 evaluation, treatment and the like?

24 A. Yes, that's correct. And now I think, but I
25 couldn't swear to it, that insurance policies

1 bleed in also.

2 Q. And your consultants, Kevin McDonough included
3 and others over the years had authority given
4 by you to them to send troubled priests to St.
5 Luke's for these assessments, correct?

6 A. Well, not exactly. I'd send them.

7 Q. You would send them?

8 A. At the recommendation of my senior staff,
9 Kevin McDonough, Bill Fallon, Andy
10 Eisenzimmer.

11 Q. And to your knowledge, is that a practice that
12 has been continued by your successor?

13 A. It has been, I believe. And with -- there's
14 also a wonderful hospital in Downingtown,
15 Pennsylvania, right outside of Philadelphia,
16 and that is priests, religious, and I don't
17 know whether Protestant ministers and/or wives
18 use that facility now, but they do at St.
19 Luke's.

20 Q. Okay. I think this is my final question to
21 you. When Archbishop Nienstedt became
22 installed, I believe was it originally as
23 coadjutor with you?

24 A. He was welcomed as coadjutor in 2007. And
25 then on the morning of May 2nd, when I turned

1 75, he became immediately the archbishop and I
2 rejoiced.

3 Q. Okay. And at any time, Archbishop, did he
4 ever ask you to inform him of what priests
5 were in the archdiocese that were a hazard and
6 posed a risk of harm to the children so that
7 he could have the benefit of your knowledge
8 and experience?

9 A. I don't think he ever asked me, but I -- I
10 believe that he was in communication about
11 this subject with Andy Eisenzimmer and Kevin
12 McDonough.

13 Q. What leads you to that belief?

14 A. Perhaps from a -- memories of conversations,
15 perhaps, that they were going to have with him
16 about this.

17 Q. Has Archbishop Nienstedt ever asked you to
18 this day to tell you anything that you know
19 about the problem of sexual abuse and who
20 poses such a problem in the archdiocese?

21 A. I don't believe so.

22 MR. ANDERSON: Thank you,
23 Archbishop, that's all I have.

24 THE WITNESS: And thank you, you've
25 kept your word --

1 MR. ANDERSON: I tried.

2 THE WITNESS: -- one more question.

3 And thank you, Mr. Finnegan, for not bringing
4 up one of those newspapers again. I -- I was
5 going to send you over and say, "Send me a
6 note once in a while, too."

7 MR. KINSELLA: Off the video record.

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1 I, ARCHBISHOP HARRY FLYNN, do hereby certify
2 that I have read the foregoing transcript of
3 my deposition and believe the same to be true
4 and correct, except as follows: (Noting the
5 page number and line number of the change or
6 addition and the reason for it)

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Subscribed to and sworn
before me this ___ day
of ___, 2014.
