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December 14, 1995

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CONFIDENTIAL: SUBJECT TO ATTORNEY-CLIENT PRIVILEGE
Wilson Rogers Jr., Esq.
Dunn & Rogers
One Union Street, 3rd Floor
Boston, MA 02108-2408

Re: [REDACTED]

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Dear Wil:

This office represents [REDACTED]. The purpose of this letter is to advise you of the claims which Mr. [REDACTED] has against the Archdiocese of Boston (the "Archdiocese") as well as various individuals associated with the Archdiocese. These claims arise from Mr. [REDACTED] contention that he was sexually molested by Father Joseph E. Birmingham.

Father Birmingham's abuse of Mr. [REDACTED] began shortly after Father Birmingham's arrival at St. James Church in Salem, in November 1964 when Mr. [REDACTED] was 15 years old. Prior to and during the time of the abuse, Mr. [REDACTED] was extremely close to the Church. He attended kindergarten through 8th grade at St. James School and then began attendance at St. John's Preparatory School in Danvers in 1963. Mr. [REDACTED] was also actively involved as an altar boy for St. James Parish and began in that role in the 4th or 5th grade.

Mr. [REDACTED] had been brought up in an intensely Catholic family where he had been trained to see priests as very special people. Mr. [REDACTED] was proud to be an altar boy so that he could serve priests at Masses, funerals and weddings. To be around priests was an opportunity to be with somebody seen as special and important, as priests were considered by Mr. [REDACTED] family to be as close to God as you could get. Priests were considered by Mr. [REDACTED] family to be among the most powerful and important people in his community, having answered to a special calling and vocation.

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One of the most damaging aspects of Mr. ██████████'s abuse is due to the fact that Father Birmingham took advantage of Mr. ██████████ through a violation of the Sacrament of Confession. In approximately March of 1965, Mr. ██████████ confessed to Father Birmingham in the confessional that he had masturbated. Father Birmingham, as penance, required Mr. ██████████ to go to the rectory, where Father Birmingham would help him overcome this sinful practice. Mr. ██████████ in compliance with his penance, went to the rectory after school where his sexual abuse by Father Birmingham began.

The abuse began when Father Birmingham took Mr. ██████████ to his bedroom and initiated his so-called "counseling" by giving backrubs to Mr. ██████████ and requiring Mr. ██████████ to do the same to Father Birmingham. All of this occurred behind closed doors in Father Birmingham's bedroom. Father Birmingham explained that the backrubs would help to relax him, and that masturbation was somehow related to being physically tense. On the first visit to Father Birmingham's bedroom, all that took place was a backrub. However, Father Birmingham required Mr. ██████████ to come to confession again on Saturday at which time he again required Mr. ██████████ to visit his bedroom at the rectory. Mr. ██████████ frequently saw Father John B. McCormack, Father John Donellin, Monsignor Timothy O'Leary and the housekeeper on his way to and from Father Birmingham's room during the middle of the day.

On approximately Mr. ██████████ third visit to Father Birmingham's room, he was instructed to take off his pants, whereupon Father Birmingham stroked Mr. ██████████'s penis. Father Birmingham removed his own clothing and masturbated Mr. ██████████, and forced Mr. ██████████ to masturbate him. With some variation, this constituted the routine of his abuse, where Mr. ██████████ would confess to masturbation, was instructed by Father Birmingham to come to the rectory for penance and then required Mr. ██████████ to engage in mutual masturbation. On at least one occasion, Father Birmingham attempted to force Mr. ██████████ to perform oral sex on him.

Most of the abuse took place in Father Birmingham's bedroom at the rectory, which was located on the second floor. On at least one occasion, Mr. ██████████ was molested in the basement of the parish hall on Boston Street in Salem. Other abuse took place in Father Birmingham's black Ford Galaxy, and also in a motel not far from the Cape Cod Canal. The abuse on Cape Cod took place in the summer of 1965. The last instance of abuse occurred when Father Birmingham had taken Mr. ██████████ and three other boys to the New York World's Fair. Father Birmingham slept in the same bed with Mr. ██████████ and attempted to have sexual contact with him at that time. Because of Mr. ██████████'s fear of discovery by his friends, he was able to force Father Birmingham to stop.

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To be a victim of Father Birmingham's sexual abuse, and abuse of the special relationship between a priest and his parishioner, in itself is devastating. However, what has been more devastating is for Mr. [REDACTED] to have discovered that his abuse could have been prevented due to what he has learned to be the widespread knowledge of Father Birmingham's abuse of other boys and what Mr. [REDACTED] considers to be the continued cover-up of Father Birmingham's abuse of boys as recent as Mr. [REDACTED] contact with the Archdiocese in August 1994.

Upon information and belief, as a result of our own investigation, we have discovered at least six victims of Father Birmingham during his first assignment at Our Lady of Fatima in Sudbury, between 1960-1964, including the following individuals: [REDACTED]; [REDACTED]; [REDACTED] and [REDACTED]. These men have indicated that apparently forty of their friends were also abused by Father Birmingham while he was at Our Lady of Fatima. It is my understanding that Father Robert H. Hurley actually interrupted Father Birmingham's abuse of [REDACTED]. Further, it is my understanding that Father Birmingham allegedly abused [REDACTED] in Father Hurley's bedroom. Moreover, it is my understanding that [REDACTED] abuse was made known to the pastor of Our Lady of Fatima at the time of his abuse.

Following Father Birmingham's assignment in Sudbury, he became a parish priest at St. James in Salem. This of course is where Mr. [REDACTED] was abused. Upon information and belief, as a result of our investigation, we have learned that the following individuals were abused at St. James: [REDACTED]; [REDACTED] and [REDACTED]. We have discovered that Sister Rita Daniel, who was a seventh grade teacher at the time, had been informed by a student that Father Birmingham had abused him. Further, it is my understanding that Sister Rita Daniel informed Sister Grace Kenny, who in 1970, was Principal of St. James School. My information is that both Sister Rita and Sister Grace informed Monsignor Timothy O'Leary, who was pastor of St. James.

Apparently unsatisfied with Monsignor O'Leary's lack of response, Sister Rita and Sister Grace notified Monsignor John Jennings at the Chancery. According to Mrs. [REDACTED], in the spring of 1970, she learned of her son [REDACTED] abuse from the mother of another victim. Further, according to Mrs. [REDACTED], as Sister Rita and Sister Grace were unable to convince either Monsignor O'Leary or Monsignor Jennings to become involved in the matter, Mrs. [REDACTED] herself visited Monsignor Jennings and asked that St. Michael's Parish in Lowell be warned, as Father Birmingham had been transferred suddenly from St. James to St. Michael's. Mrs. [REDACTED] did not meet with Monsignor Jennings alone. She was accompanied by [REDACTED], [REDACTED], and Mrs. [REDACTED].

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Following the meeting with Monsignor Jennings, no action was taken to Mrs. [REDACTED]'s knowledge. As a result of not having heard from Monsignor Jennings, Mrs. [REDACTED] met with Father John B. McCormack, who was then in charge of Catholic Charities on Essex Street in Salem, where she told him of the abuse of her son and others. Father McCormack assured Mrs. [REDACTED] that he would call Monsignor Jennings. Father McCormack made Mrs. [REDACTED] feel that he was already aware of the problem, which made Mrs. [REDACTED] believe that the matter would just be covered up.

About four or five years following the meetings with Monsignor Jennings and Father McCormack, Mrs. [REDACTED] read in her local newspaper that a man had been molesting young boys in the Tewksbury/Lowell area. A description of the man was provided and it was Mrs. [REDACTED]'s conclusion that it was a description of Father Birmingham. Knowing that Father Birmingham had been transferred to St. Michael's in Lowell, and that her reports to Monsignor Jennings and Father McCormack appeared to go unheeded, Mrs. [REDACTED] made a report to the state police at the barracks located on Route One in Lynnfield.

Upon information and belief, as a result of our own investigation, we have also learned that Father Birmingham's abuse of boys continued after his assignment in Lowell. We have learned of at least one victim from Gloucester, [REDACTED], at the time Father Birmingham was assigned to St. Ann's. Mr. [REDACTED] has stated that he is aware of at least one other victim in Gloucester. This information supports our conclusion that despite a substantial number of victims identified in Sudbury and reports made to Our Lady of Fatima, and the specific reports made of the abuse which occurred at St. James in Salem, abuse continued even through Father Birmingham's assignment in 1985-1987.

Also as a result of our investigation, we have learned that [REDACTED], approximately 4-5 years ago, reported his abuse to Father Foley at Our Lady of Fatima. Further, we have learned that [REDACTED] had actually visited Father Birmingham at the Symmes Hospital in Arlington the day before he died. Father Lawrence Kelley was with Father Birmingham at the time of Mr. [REDACTED]'s visit. Mr. [REDACTED] actually went to Father Birmingham's funeral and spoke with His Eminence Cardinal Law. Mr. [REDACTED] told the Cardinal of the sexual abuse that he and a number of his friends had experienced by Father Birmingham. It is my understanding that Cardinal Law stated to Mr. [REDACTED] that as soon as the Church had learned about Father Birmingham's behavior, he was taken out of direct ministry. This apparently occurred when Father Birmingham was assigned to St. Ann's in Gloucester, in 1988, at which time he was sent for treatment in Washington, D.C. Thereafter, he was assigned to St. Bridgid's in Lexington, where he

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was to be restricted from access to boys. The Cardinal suggested that Mr. [REDACTED] speak with Bishop Banks. Mr. [REDACTED] suggested to Bishop Banks that the Archdiocese should make an outreach effort to all parishes where Father Birmingham was assigned so that victims could be located and help provided. It is my understanding that Bishop Banks indicated that such an outreach effort was not within the Archdiocese's budget.

Although at the time of Father Birmingham's death in 1989 an outreach effort was not commenced, it is our understanding that following Mr. [REDACTED]'s notification to the Archdiocese in 1984 of his abuse, information concerning Father Birmingham's abuse of boys was requested from all of the parishes to which he was assigned. Further, it is our understanding that all of these letters were recalled and accounted for in December 1994 and January 1995 after Mr. [REDACTED] had taken visible steps himself to acquire additional information regarding the victims of Father Birmingham.

What is particularly troubling is that when Mr. [REDACTED] reported his abuse to Sister Rita McCarthy, she stated that there had been no complaints about Father Birmingham. Also at that time, Mr. [REDACTED] met with the then Secretary for Ministerial Personnel, Father John B. McCormack, and reported Father Birmingham's abuse of him. This is the same priest that Mr. [REDACTED] knew as a curate at St. James in 1965 and with whom Mrs. [REDACTED] met at Catholic Charities in 1970. Father McCormack told Mr. [REDACTED] that he was unaware of any claim except for that made in 1970 by a boy at St. James. Father McCormack then stated that he reported that particular matter of abuse to the pastor of St. James, but had never known what had happened to Father Birmingham since that time, other than he was aware that Father Birmingham had died approximately five or six years ago of lung cancer. Later, when Mr. [REDACTED] requested from Father McCormack a copy of Father Birmingham's death certificate to assure himself that Father Birmingham was actually dead and not perpetuating further abuse on boys, Father McCormack contradicted his earlier statement by assuring Mr. [REDACTED] that Father Birmingham was dead, as he had visited him in the hospital while he was there with cancer.

The truth, of course, is that Father McCormack was very close to Father Birmingham. Both priests were in the 1960 graduating class at St. John's Seminary and both priests served together at St. James Parish, where abuse occurred and became known. At St. James, Father McCormack worked closely with Father Birmingham, often taking groups of boys on ski trips and other recreational events.

Despite Father McCormack's long term friendship with Father Birmingham, he claimed to have little knowledge of what had happened to Father Birmingham. However, Father McCormack's

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knowledge of Father Birmingham and issues of abuse were more extensive. Father McCormack had met with Mrs. [REDACTED] in 1970 and learned of the abuse perpetrated by Father Birmingham. In 1984, Father McCormack became Secretary for Ministerial Personnel and was appointed Vicar for Religious. Despite Father McCormack's first-hand knowledge of the complaints made at St. James, Father McCormack oversaw the assignment of Father Birmingham to St. Ann's and where he was later made pastor. St. Ann's is the site of [REDACTED]'s abuse, which could have been prevented by Father McCormack. In Father McCormack's capacity as Vicar, he would also have known of Father Birmingham's removal from active ministry and placement in treatment in 1988, as was stated by Cardinal Law to [REDACTED]

As one of the two delegates assigned by the Archdiocese to investigate abuse allegations, Father McCormack could have and should have been more forthcoming with Mr. [REDACTED]. Upon information and belief, by piecing together information from various sources, despite Father Birmingham's official death certificate dated April 21, 1989, there is a possibility that Father Birmingham could have died from complications related to AIDS. For Mr. [REDACTED] to form this opinion was nonetheless devastating. No doubt Father McCormack could also have reached the same conclusion, and provided Mr. [REDACTED] with immediate pastoral assistance. Mr. [REDACTED] suffered major anxiety upon reaching this conclusion, and continues to have concerns for himself and for the victims that followed him.

Mr. [REDACTED] is rightfully angered by the fact that he was abused by Father Birmingham. He is further angered, however, by what he considers to be the deliberate cover-up by Archdiocese officials from 1960 until the present, and the continued negligent infliction of emotional harm. Sister Rita Daniel and Sister Grace Kenny deserve credit for trying to have other Church officials take steps to protect boys from Father Birmingham. However, Monsignor John Jennings, Monsignor Timothy O'Leary, Father Robert Hurley, Father Foley, and Father McCormack did not take adequate steps to prevent further abuse by Father Birmingham, or further emotional harm to those who were victimized by Father Birmingham.

As one might expect, the damage with which Mr. [REDACTED] suffered and continues to suffer as a result of Father Birmingham's conduct and the actions of the Archdiocese is substantial. Both Mr. [REDACTED]'s damage and his sexual abuse have been verified by an independent forensic psychological evaluation which was conducted by William E. Foote, Ph.D., of [REDACTED]. Dr. Foote has had substantial experience with victims of clergy sexual abuse, and his findings are most credible.

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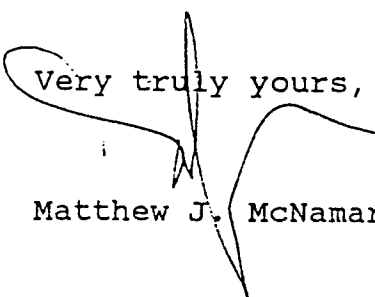
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Clearly, Mr. [REDACTED] is entitled to be compensated by those responsible for his injuries, including the above-named individuals and the Archdiocese. As Father Birmingham is now dead, there is no further potential for his abuse of boys. However, continued victimization of former victims occurs when the Archdiocese is less than forthcoming regarding its investigation of complaints. This very topic was the subject of a Boston Globe article on April 2, 1993, written by James L. Franklin. Therefore, Mr. [REDACTED] demands that the Archdiocese make a full disclosure regarding Father Birmingham's abuse of boys from 1960 through the time of his death in 1989. Further, Mr. [REDACTED] demands that the Archdiocese put in place a policy whereby full disclosure is made to any victim of sexual abuse, and that, once a complaint of abuse has been received, the Archdiocese undertake adequate outreach to locate and assist other victims. Finally, Mr. [REDACTED] makes a demand of the Archdiocese and those named above, both jointly and severally, for payment in the amount of \$500,000.00 as compensation for his damages.

I would ask that you respond to this letter as soon as possible.

Very truly yours,


Matthew J. McNamara

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