

**THE REPORT OF THE
INDEPENDENT INVESTIGATION**

ALBANY, NEW YORK

JUNE 24, 2004

D E B E V O I S E & P L I M P T O N L L P

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Introduction

This Report follows an extensive, four-month investigation into allegations that Bishop Howard Hubbard of the Albany Diocese had homosexual relationships or encounters between the late 1970s to the present. The Report is being provided simultaneously to the public, the media, and the Diocesan Sexual Misconduct Review Board of the Roman Catholic Diocese of Albany (the “Review Board”), which retained us to do an independent investigation of this matter and to issue a public report on our findings.

We did not have access to Andrew Zalay, Jr. and Anthony Bonneau, the individuals who made the primary allegations. Nor did we have access to the original of the only document that purportedly linked Thomas Zalay and Bishop Hubbard. Accordingly, it was necessary to broaden the scope of the investigation to learn more about the allegations and the people making them from other sources. This added considerable cost and time to the investigation. It did not, however, ultimately affect our ability to reach conclusions.

The allegations made against Bishop Hubbard in February 2004 arose against a backdrop of criticism of the Bishop by victims of clergy sexual abuse who have expressed deep frustration and disappointment that, in their view, the Bishop and Diocese are not doing enough for victims, and were for many years protecting priests guilty of sexual abuse. The victims are also frustrated by what they perceive as inordinate delay by the Diocese in resolving cases and by state law that precludes legal actions that are not

brought within three years of the actual abuse or of the victim's eighteenth birthday (if later). Added to these deep-seated frustrations is the long-running criticism of Bishop Hubbard by certain conservative Catholics for his positions on a variety of theological, liturgical and social issues, including that gay men can be ordained as priests so long as they are celibate. These criticisms, which began at least as early as 1991, have intensified in the wake of the nationwide clergy sexual abuse scandal that broke in 2002.

The allegations against Bishop Hubbard that first surfaced in February 2004, however, were of a wholly different and more personal sort. Although the subject is outside the scope of our investigation, legitimate criticisms, as Bishop Hubbard has acknowledged, are appropriately leveled at the Church's handling of sexual abuse claims and evidence over the last few decades. Vigorous debate about the social and liturgical positions Bishop Hubbard has taken is also to be expected. But these serious issues are not the subject of this investigation or the allegations that prompted it. They must be judged on their own merits and we were unable to find any substantiation for the unsworn allegations that were made by Andrew Zalay, Anthony Bonneau, and others during the course of this investigation.

The distinguished jurist Learned Hand worried in another context about what he called "a spirit of general suspicion and distrust, which accepts rumor and gossip in place of undismayed and unintimidated inquiry." Judge Hand went on to warn:

That community is already in the process of dissolution where each man begins to eye his neighbor as a possible enemy, where nonconformity with the accepted creed, political as well as religious, is a mark of disaffection;

where denunciation, without specification or backing, takes the place of evidence¹

We have done our best to conduct a thorough and “unintimidated inquiry” and to replace allegation, rumor and gossip with reliable and verifiable evidence. We hope that our efforts will be helpful in lending some perspective to the very serious issues that have understandably engaged and divided the Albany community and parishioners of the Albany Diocese.

* * *

This Report will set forth the scope of the investigation and its findings. The Report does not include information learned that is outside the scope of the investigation, although we may refer certain information to other appropriate authorities for whatever action they deem appropriate. The Report includes all information that is necessary to convey a full and fair picture of the relevant evidence without unnecessarily publicizing private information or causing harm to anyone. In some cases, witnesses requested confidentiality in exchange for relevant information; in such cases, confidentiality was pledged and honored. We did, however, investigate all relevant allegations and information provided to us, and there is nothing of which we are aware that is inconsistent with our findings and not discussed in this Report.

¹ Speech to the Board of Regents, State University of New York (October 24, 1952).

I. Overview

A. Factual Background

On February 4, 2004, Andrew Zalay, Jr. (“Andrew Zalay”), accompanied by John Aretakis, Esq., held a press conference at which Mr. Zalay asserted: (i) that Bishop Howard J. Hubbard, the Bishop of the Albany Diocese, had engaged in a homosexual relationship in the 1977-1978 timeframe with Mr. Zalay’s younger brother, Thomas Zalay (“Tom Zalay”), who took his own life in a fire on April 19, 1978 at the age of 24; and (ii) that this alleged relationship contributed to Tom Zalay’s decision to commit suicide (the “Zalay Allegations”). Andrew Zalay also released two alleged notes that he claimed were written by his brother, Thomas, in support of the allegations:

The first, a typed, unsigned, and undated note referred to “relations with Howard” that were “decadent and sinful”; the note further stated that “Howard explains that his role as Bishop and his vows of celibacy are not involved because the Bible describes celibacy as being free of women” and that “[a]s Bishop, I think he has unfairly used his position in the church to get what he wants from me” (the “Typed Note”). (Exhibit 1)

The second, a handwritten note, also undated, but signed “good night, Tom” contained no mention of “Howard,” “the Bishop” or any clergy sexual abuse (the “Undated Handwritten Note”). (Exhibit 2)

In addition, Andrew Zalay said that his mother, Ethel Zalay, now deceased, had told him that on one night, she followed Thomas to the Bishop’s residence and saw the Bishop come to the window, at which point she banged on the door. He claimed that his mother said that she later found Tom’s “bloody underwear.” (Exhibit 3) Mrs. Zalay

passed away on December 9, 2003, two months prior to the publicizing of the allegations against Bishop Hubbard by Andrew Zalay

That same day, February 4, 2004, Bishop Hubbard and the Albany Diocese made a written request to Albany County District Attorney Paul A. Clyne that he investigate the allegations made by Andrew Zalay (Exhibit 4)

On February 5, 2004, Bishop Hubbard held a press conference and categorically denied the allegations made by Andrew Zalay. He issued a press release in which he stated that he did not know Tom Zalay, had never sexually abused anyone of any age, and had honored his vow of celibacy. (Exhibit 5)

On February 6, 2004, Anthony Bonneau, accompanied by his wife and John Aretakis, Esq., held a press conference at which Mr. Bonneau alleged that he was 99.9% certain that it was Bishop Hubbard who had on two occasions in the late 1970s paid Bonneau for performing sexual acts at a time when Bonneau was a male prostitute working in Washington Park in Albany (“I can’t say a hundred-hundred percent but I can tell you 99.9% it was Howard Hubbard”) (the “Bonneau Allegations”). (Exhibit 6)

On February 7, 2004, a spokesman for the Albany Diocese denied Bonneau’s allegations and said that Bishop Hubbard stood by his statement that he had never broken his vow of celibacy.

On February 8, 2004, priests throughout the Albany Diocese read a letter from Bishop Hubbard to their congregations in which Bishop Hubbard stated that he had never abused anyone of any age and had honored his vow of celibacy. (Exhibit 7)

On February 11, 2004, District Attorney Clyne, in a written statement, stated that his office would not conduct an investigation of the allegations against Bishop Hubbard because he did “not believe there is any offense which could be the subject of a criminal investigation by my office.” He noted that the “only alleged item of evidence disclosed to date linking [Tom Zalay and Bishop Hubbard] is a typewritten note, purportedly written by Thomas Zalay sometime before he committed suicide.” District Attorney Clyne stated that under the rules of evidence in New York State this document is “hearsay and not admissible in any court proceeding when offered to prove the truth of the matters asserted in the document.” He also stated that even if there had been an abusive relationship between Tom Zalay and Bishop Hubbard, “any prosecution for any offense is beyond the statute of limitations.” (Exhibit 8)

On February 11, 2004, the Albany Diocese issued a press release stating that given Mr. Clyne’s decision, it would retain an independent investigator to examine the allegations made against Bishop Hubbard. (Exhibit 9)

On the morning of February 12, 2004, at a meeting between local television stations and Bishop Hubbard held at the Pastoral Center of the Albany Diocese, Judy Sanders of Channel 6 asked Bishop Hubbard about a 1995 typed letter addressed to Cardinal O’Connor (the “Minkler Letter”). (Exhibit 10) Ms. Sanders asked Bishop Hubbard whether he was aware of a letter that Father John Minkler had written in 1995 to Cardinal O’Connor and for his reaction to an allegation in the Minkler Letter that Bishop Hubbard had engaged in homosexual relationships with two named young priests (the

“Minkler Letter Allegations”). Ms. Sanders did not provide Bishop Hubbard with a copy of the letter.

In response to Ms. Sanders’ questions on February 12, Bishop Hubbard stated that he was not aware of the Minkler Letter and denied the allegations.

Later the same day, February 12, 2004, Father Minkler, having been alerted by Father Kenneth Doyle, diocesan chancellor for communications, to Judy Sanders’ assertion that Father Minkler had authored the Minkler Letter, telephoned Ms. Sanders, and, as he told Father Doyle, Father Minkler denied that he had authored the letter or made allegations of sexual misconduct against Bishop Hubbard. Channel 6 did not broadcast the story about the Minkler Letter.

On the 5:00 and 10:00 p.m. news on February 12, 2004, however, WXXA, Channel 23 in Albany did broadcast that “today . . . John Aretakis [] distributed this 1995 letter from Father John Minkler of the VA Hospital in Albany, claiming that Bishop Howard Hubbard has had sexual relationships with several young priests.” (Exhibit 11) This was the first public airing of Father Minkler’s authorship of the Minkler Letter.

On February 13, 2004, Father John Minkler, at the suggestion of Father Doyle, signed a written statement that he had not authored the Minkler Letter and never made allegations against Bishop Hubbard. The Diocese attached the statement to a letter to WXXA demanding a retraction. (Exhibit 12) Father Minkler’s denial was reported on the 10:00 news by WXXA, Channel 23, but the February 12, 2004 broadcasts were not retracted (“Aretakis told Fox 23 News that 9 years ago Father John Minkler of the VA

Hospital in Albany wrote this letter saying Bishop Howard Hubbard had sexual relationships with several young priests”). (Exhibit 13)

Between the evening of February 13 and the evening of February 14, Father John Minkler spoke to several friends. To some, he acknowledged that he had authored the Minkler Letter and stated that he had been forced by Bishop Hubbard to sign the repudiation statement. To others, he denied that he had written the letter and either did not mention, or did not assert, that he had been forced to sign, the repudiation statement.

On February 15, 2004, Father Minkler was found dead at his home.

On February 16, 2004, a set of handwritten notes written in 2001 by Father John Minkler were released to some members of the press (the “Minkler Notes”). (Exhibit 14) Channel 13 reported that night that Stephen Brady of the Roman Catholic Faithful organization had released the Minkler Notes to it that day and that John Aretakis had also provided the Minkler Notes to certain members of the media. (Exhibit 15)

On February 16, 2004, and thereafter, Bishop Hubbard reiterated that he had never had a sexual relationship with anyone. (Exhibit 16)

On February 16, 2004, we were retained by the Review Board to do this independent investigation.

On February 17, 2004, the Albany Diocese received, for the first time, a copy of the Minkler Letter. With regard to Bishop Hubbard, the Minkler Letter referred to:

- Two named priests with whom Bishop Hubbard had allegedly had homosexual relations;

- Two unnamed homosexuals with AIDS who had allegedly told an unnamed doctor that Bishop Hubbard was part of a “homosexual ring” of priests; and
- An unnamed deacon who purportedly believed that Bishop Hubbard lived a “double life.”

We later received copies of the Minkler Notes, which alleged that:

- Bishop Hubbard had “slept with” a third named priest, in addition to the two named in the Minkler Letter; and
- Two other named priests had information about Bishop Hubbard (the “Minkler Notes Allegations”).

On February 19, 2004, we met with the press in Albany to explain the nature and scope of the investigation and to answer questions.

On February 20, 2004, The Daily Gazette reported that “[Anthony] Bonneau said he was not 100 percent sure it was Hubbard.” (Exhibit 17)

On February 25, 2004, Bishop Hubbard, at our request, sent a letter to all Diocesan employees personally urging them to cooperate with the independent investigation. (Exhibit 18) Stephen Brady of the Roman Catholic Faithful organization had suggested that we make this request, which we thought useful and appropriate.

On March 22, 2004, John Aretakis, Esq. released to the press a written statement given by Mrs. Judy Berben, purportedly sworn to in the presence of John Aretakis on March 15, 2004. In that statement, Mrs. Berben alleged that her deceased husband, a former sergeant in the Albany Police Department, “repeatedly told me that in the 1977-1978 time period that he had stopped Bishop Howard Hubbard on two occasions in Washington Park with a teenager dressed as a female with long hair, of Indian descent

very late at night in an area of the park known to be frequented in the transporting of male prostitutes and male children prostitutes.” Mrs. Berben further alleged in the statement that “my husband told me that because of his position, Bishop Hubbard was not arrested but was advised to leave the area and to have the young person leave his car.”

(Exhibit 19) Channel 9 reported in its 7 p.m. broadcast that Mr. Aretakis had accused Albany County officials of protecting Bishop Hubbard and pedophiles and had cited Mrs. Berben’s affidavit for support. (Exhibit 20)

On March 23, 2004, Mrs. Berben repudiated, in large part, the written statement released by John Aretakis and the inferences against Bishop Hubbard that Mr. Aretakis had publicly drawn from it. She signed a new statement in which she stated that, although her husband had told her that he had stopped Bishop Hubbard and a young Indian girl in Washington Park, her husband had never told her that Bishop Hubbard was doing anything wrong. She also said that “most of [the statement] is not true” and that she had never said that her husband had said that he “caught Bishop Hubbard having sex in the park.” She said that: “I strongly deny statements attributed to me by John Aretakis. Mr. Aretakis has twisted my words for his own agenda, and added on to the statement with things that are not true.” (Exhibit 21) The March 24th Troy Record reported that “[h]e [Mr. Aretakis] admitted Berben may not have said there was a boy in the car with Hubbard, but that he’s allowed to draw his own conclusions about what occurred.” Mr. Aretakis was quoted as saying: “I made conjecture that I believed Hubbard was in the car about to pay this person for sex.” (Exhibit 22)

On April 6, 2004, the Albany County Coroner’s Office announced that Father Minkler’s death was a suicide.

On April 15, 2004, David Leonard, in the presence of John Aretakis, Esq., held a press conference at a former gay bar in Albany. Mr. Leonard asserted that he had seen Bishop Hubbard at another gay bar in Albany, Waterworks, in 1978. (Exhibit 23)

On May 8, 2004, Mr. Aretakis said at a conference, organized by the Coalition of Concerned Catholics, that he had received additional correspondence from Father Minkler in 2003, which alleged that Bishop Hubbard had a homosexual relationship with a fourth diocesan priest. Mr. Aretakis, who described himself as the “Shepherd of Truth,” implied that this fourth diocesan priest was Edward Pratt, a former diocesan priest who was removed from ministry in June 2002 under the Diocese’s sexual misconduct policy, and said that he had an affidavit from a former nun that alleged that Bishop Hubbard had a homosexual relationship with Mr. Pratt in the late 1970s and early 1980s. (Exhibit 24, p. 4, 13) In addition, Mr. Aretakis stated that a New York State trooper had told him that he had caught Bishop Hubbard having sex with another priest in a parked car at a rest stop on the New York State Thruway located in the southern tip of the Albany Diocese. (Exhibit 24, p. 12)

B. Engagement and Scope of the Investigation

On February 16, 2004, the law firm of Debevoise & Plimpton LLP (“Debevoise”) was retained by the Review Board to investigate the Zalay Allegations and the Bonneau Allegations and to issue a public report at the conclusion of the investigation. It was agreed that Debevoise would conduct the investigation independently, and we have done

so. It also was agreed that Debevoise could, at its option, expand the investigation to include any other allegations of sexual misconduct against Bishop Hubbard that might arise during the investigation, and we have done so. It also was agreed that the Diocese would give its complete cooperation to the investigation, and it has done so. It also was agreed that a written report would be prepared and given simultaneously to the Review Board and to the public, and it has been. Bishop Hubbard, although not a party to the agreement, fully cooperated with the investigation, including consenting to several interviews, providing a statement under oath and submitting to a polygraph examination.

The engagement letter between Debevoise and the Review Board is attached. (Exhibit 25) This is the only agreement, written or oral, that governs this engagement and investigation.

At the outset, it is worth commenting on the issue of our independence and our ethical obligations. The Review Board expressly authorized that this investigation of the allegations against Bishop Hubbard be done independently, be made public in a report at the conclusion of the investigation (indeed, this public report was the sole work product for which the Review Board specifically contracted), and be issued simultaneously to the Review Board and the public. The relationship between Debevoise and the Review Board plainly does not impose an ethical duty on Debevoise to refrain from saying negative things or finding adversely to either the Review Board or Bishop Hubbard, but rather to do an independent investigation and report on whatever the facts are found to be. Any attorney-client relationship involves certain duties of loyalty and confidentiality, but the extent and nature of those duties is determined by the explicit terms of the

engagement. As Professor Laurie Shanks of Albany Law School was quoted as saying in a June 3, 2004 column in The Daily Gazette (Schenectady, N.Y.), “If you’re hired as an advocate, you cannot breach that duty. In contrast, if you’re hired to investigate something, you let the chips fall where they may.”

This type of investigation is not unusual. There have been numerous instances in which corporations, governmental agencies, and other bodies have enlisted private lawyers to conduct independent investigations of publicly made allegations, which have resulted in publicly available reports. Two well-known examples are the investigation of the siege on the Branch Davidian compound by federal law enforcement agencies in 1993 conducted by former senator John Danforth and the investigation in 1999 of alleged bribes by members of the United States Olympic Commission conducted by former senate majority leader George Mitchell. There also are numerous recent examples of independent investigations of alleged corporate wrongdoing conducted by outside counsel, including Debevoise, that have been commissioned by companies and Boards of Directors of companies and have resulted in public reports critical of those companies, their management and directors.²

² For example, Debevoise was retained by a special committee of the Board of Directors of Westar Energy, Inc. to conduct an independent investigation into the company’s management. The company issued its report to the public in May of 2003. The Kansas City Star described Debevoise’s report and its contents as “scathing” and has noted that the report “laid the groundwork” for two former executives’ subsequent indictment on criminal charges. Among other things, the report concluded that the company’s board of directors lacked diversity, relied too often on management, and “did not effectively exercise oversight responsibility.”

* * *

The scope of this investigation included all allegations of sexual misconduct made against Bishop Howard Hubbard of which we became aware. The investigation began with the allegations made by Andrew Zalay, Anthony Bonneau, and the Minkler Letter. Its scope subsequently expanded to cover the allegations of sexual misconduct made against Bishop Hubbard in the Minkler Notes written on January 9, 2001 by Father John Minkler, along with other allegations of sexual misconduct against Bishop Hubbard that arose during the course of the investigation. In addition, the investigation also expanded to cover the circumstances surrounding Father Minkler's death on February 15, 2004, as those circumstances might bear on the allegations against Bishop Hubbard. The Report also details in an Appendix a variety of other allegations that came to our attention during the investigation.

C. The Investigative Team

Mary Jo White, Chair of the Debevoise Litigation Department and former United States Attorney for the Southern District of New York, and Debevoise partner Mary Beth Hogan led the investigation. Debevoise associate Stephen Lee and others assisted in the investigation throughout.

Three outside professional investigators, retained by Debevoise, also assisted in the investigation: Anthony P. Valenti of the Manhattan-based firm of Stroz Friedberg Investigations, a former IRS Special Agent and Senior Criminal Investigator for the United States Department of Justice, Office of the United States Attorney for the Eastern District of New York; Kevin Barrows of Stroz Friedberg Investigations, a former Special

Agent of the FBI; and Frank Citera of Garden City-based Renaissance Associates, a retired United States Postal Inspector. (Brief biographies of members of the investigative team are attached as Exhibit 26.) In addition, we retained James K. Murphy, a nationally-renowned polygrapher and certified polygraph examiner, who for a decade was Chief of the FBI's Polygraph Unit, at the FBI Laboratory in Washington, D.C. (A brief biography of Mr. Murphy is attached as Exhibit 27.)

D. Investigative Steps

(1) Interviews

During the course of our investigation, we interviewed approximately 300 people. Although a very small number of people were unwilling to cooperate, the vast majority of people whom we contacted did agree to speak with us, either by phone or in person. We traveled extensively within New York State and to Massachusetts, Florida, New Jersey, and California to meet with people who had potentially relevant information relating to allegations of sexual misconduct against Bishop Hubbard and to the death of Father John Minkler. Their cooperation was instrumental in our investigation.

We contacted each identified person who had raised—or was said to have raised—allegations of sexual misconduct against Bishop Hubbard. We also contacted any person who was described to us as having any information regarding sexual misconduct on the part of Bishop Hubbard. In addition, we spoke to many relatives, friends, and acquaintances of such people, including Zalay family members and Bonneau social and business acquaintances.

We spoke with the attorneys for those people to whom the Albany Diocese has made payments in connection with clergy sexual abuse claims to determine whether any claimant had made a claim against Bishop Hubbard. We also spoke with Thomas Martin, retired New York State Trooper and the investigator for the Review Board; Theresa Rodriguez, the Diocese's victims assistance coordinator; and Sister Anne Bryan Smollin, the executive director of the Counseling for Laity program, concerning whether any had ever received claims involving allegations of sexual misconduct against Bishop Hubbard.

We also spoke to fifteen members of the Albany Police Department who had worked in Washington Park during the 1970s and early 1980s. In addition, we spoke to proprietors and/or employees of the various gay bars that Bishop Hubbard was alleged to have frequented. We also spoke to numerous members of the Albany gay community in an effort to determine whether there was any corroboration for the rumors that Bishop Hubbard has led a homosexual lifestyle.

We identified and spoke to all of the individuals we believe to have been the various unnamed individuals to whom the Minkler Letter referred as having relevant information about Bishop Hubbard. In addition, we spoke to several people employed by the Archdiocese of New York in our effort to learn whether the Minkler Letter actually was received by Cardinal John O'Connor.

We interviewed Bishop Hubbard on several occasions about his life and lifestyle, and we placed him under oath to answer all questions central to the allegations made against him. We also spoke to as many people as possible who had lived in the same residences as Bishop Hubbard since his ordination in December 1963, 25 in all. We also

spoke to each of Bishop Hubbard's secretaries and aides since his appointment as Bishop. We spoke to lay people who had worked closely with Hubbard for many years at Hope House and Providence House. We spoke to all of the priests who were members of a priests' support group that Bishop Hubbard has participated in since the early 1980s. We spoke to people who were identified as Bishop Hubbard's confidants and friends to obtain information about his lifestyle and to determine whether Bishop Hubbard had ever spoken to them about the accusers or any conduct consistent with the allegations. We spoke to several prominent critics of Bishop Hubbard, including Stephen Brady of the Roman Catholic Faithful organization and Paul Likoudis of The Wanderer newspaper.

We also spoke with people who we thought might have information as to whether any other priest could have been mistaken by some for Bishop Hubbard.

To learn more about the circumstances surrounding Father Minkler's death, in addition to exploring the circumstances of the creation of the Minkler Letter, as detailed above, we spoke to each person who was on retreat with Father Minkler from February 9-13, 2004 at St. Joseph's Abbey in Spencer, Massachusetts, where he was notified by Father Kenneth Doyle on February 12, 2004 that the media had attributed the letter to him. We also spoke to the monks and lay people who were employed at St. Joseph's Abbey during Father Minkler's stay in February 2004. In addition, we attempted to identify and speak with each person who spoke to Father Minkler between February 13, 2004, when Father Minkler signed the written statement repudiating his authorship of the Minkler Letter, and his death. We also spoke with numerous priests and lay people who were identified as friends, colleagues, acquaintances, or neighbors of Father Minkler.

We created an e-mail account and toll-free phone number through which any person could contact us with information or “tips.” In total, as of June 23, 2004, we had received e-mails from 43 people and voice mail messages from 40 people. We followed up with each person who identified themselves and who indicated that he or she had relevant information, spoke to the people to whom they referred us, and investigated all relevant leads from anonymous sources.

(2) Polygraph Examinations

We administered polygraph examinations to Bishop Hubbard and to eight other priests or former priests—Father Geoffrey Burke, Father Patrick Butler, Father Thomas Chevalier, Father Kenneth Doyle, Bishop Matthew Clark, Father Thomas Powers, Edward Pratt, and a former Albany Diocesan priest (referred to in this report as “Former Diocesan Priest 1,” or “FDP1”) whose information and credibility were particularly relevant to one or more of the allegations against Bishop Hubbard. These examinations were conducted and analyzed by James K. Murphy, the former head of the FBI’s Polygraph Unit at the FBI’s National Laboratory.

(3) Documentary and Other Evidence

We also reviewed over 20,000 pages of documents that we obtained from our numerous interviews and from the Diocese of Albany.

These documents included: additional writings by Tom Zalay; all of Bishop Hubbard’s calendars (which date back to 1977); all available phone records from the various work and personal phone numbers used by Bishop Hubbard (some of which date

back to 1995); all available cable bills for Bishop Hubbard's various residences;³ all of the office notes and memoranda written to Bishop Hubbard by his secretaries (a practice that started in 1983); Bishop Hubbard's checking account and credit card statements from 1994 to the present; Bishop Hubbard's travel vouchers; all correspondence received by Bishop Hubbard since February 2004; Bishop Hubbard's seminary and personnel files; the personnel files of the priests with whom Bishop Hubbard had allegedly had a sexual relationship; the personnel files of certain employees of the Diocese; Bishop Hubbard's medical and psychological records; records from St. Vincent DePaul parish (the Zalay family parish); Tom Zalay's school records; and publications by the Roman Catholic Faithful and The Wanderer. These documents also include telephone records from the Spencer Abbey where Father Minkler stayed on February 9 through 13, 2004.

We requested and obtained from the Watervliet Police Department a copy of the police report regarding Father Minkler's death.

We also had a computer forensic analysis done of the hard drive of Bishop Hubbard's computer in an effort to determine whether there was any evidence on the computer relevant to the allegations.

We also requested that the Roman Catholic Archdiocese of New York and the Papal Nuncio in Washington, D.C., check its records for the Minkler Letter, and that the

³ At the request of the investigation, Bishop Hubbard authorized the release of all video rental information from Blockbuster, where he rents videos while on vacation on Cape Cod. Blockbuster has failed to respond.

Papal Nuncio inform the investigation as to whether the Nuncio had ever received allegations that Bishop Hubbard was homosexual or living an active gay lifestyle.

(4) Witnesses Who Declined to Cooperate

As is true in any non-governmental investigation, we did not have subpoena power and therefore were dependent upon the voluntary cooperation of people with relevant information. Although we received excellent cooperation from the vast majority of people we contacted, we did not receive cooperation from some important witnesses and we were unable to locate or examine certain pieces of evidence potentially relevant to the allegations. Each of these items would have been helpful in our effort to obtain a complete understanding of all relevant facts. Nevertheless, in light of all the information and evidence we did obtain, we do not think it is likely that there are new and different facts that would alter our conclusions and we were able to make findings in which we have confidence with respect to all allegations.

Because the New York Times had reported in a February 6, 2004 article (Exhibit 28) that John Aretakis stated that “an expert had matched the [Zalay] letter to a typewriter Tom Zalay used to write poems,” we requested information as to the whereabouts of the typewriter and the name and report of the expert. Neither Andrew Zalay, nor Mr. Aretakis responded to our request to examine the typewriter, nor to our request for the name of the expert who purportedly examined the Typed Note and the typewriter. See

Exhibit 29 for a complete set of the correspondence between Mr. Aretakis and our investigation.⁴

We made several attempts to obtain from John Aretakis and Andrew Zalay the originals of Tom Zalay's writings, so that they could be forensically analyzed—a standard procedure in any case where allegations are based on documents.⁵ Neither Mr. Zalay nor Mr. Aretakis ever responded to these requests. (Exhibit 29) Andrew Zalay also wrote a letter to the investigation seeking to prevent the investigation's access to any of his family members, whom he claimed were all represented by Mr. Aretakis, the "family attorney." These family members were not, in fact, represented and subsequently retained their own counsel. Mr. Zalay's letter and Mary Jo White's response are attached as Exhibit 30.

We were unable to obtain a copy of the note that Father Minkler reportedly left for his sister at his home on or before February 15, 2004. We asked Father Minkler's family, the Albany County District Attorney's Office, and the Albany County Coroner's Office for copies of Father Minkler's note, but our requests, some made pursuant to the Freedom of Information Law (FOIL), were denied. (Exhibit 31)

⁴ When individual items of correspondence are referred to in the Report, they are also reproduced as a separate exhibit for the reader's convenience. We have redacted one person's name from the correspondence in light of that person's apparent desire to remain confidential.

⁵ Forensic tests of a typed document, for example, can be performed on the paper, the type, the ink, and the typewriter, among other things, to assist in determining, approximately when it was prepared and the particular instrument used to create it.

We were also unable to obtain a copy of the autopsy report relating to Father Minkler's death. We asked the Albany County District Attorney's Office and the Albany County Coroner's Offices for this document pursuant, but our FOIL requests were denied. (Exhibit 31)

We were unable to obtain telephone records from Father Minkler's phone showing who called and was called by Father Minkler in the days before his death on February 15, 2004. We asked Father John Minkler's family to request such records and to make them available to us. They have not responded to our inquiries as to whether they did request such records.

The following witnesses declined to cooperate with the investigation:

- Andrew Zalay, who accused Bishop Hubbard of having a sexual relationship with his brother, Tom Zalay (represented by John Aretakis, Esq.);
- Anthony Bonneau, who accused Bishop Hubbard of soliciting sexual activity from him twice in the late 1970s (represented by John Aretakis, Esq.);
- John Aretakis, Esq., who was reported to have identified Father Minkler to the press and who has made several public statements alleging knowledge about sexual activity involving Bishop Hubbard;
- David Leonard, who stated that he saw Bishop Hubbard in a gay bar in the 1970s (represented by John Aretakis, Esq.);
- Another Aretakis client ("AC1"), believed to have typed the Minkler Letter (represented by John Aretakis, Esq.);
- Philip Kiernan of the Coalition of Concerned Catholics, although he did acknowledge that he did not have any firsthand information;

- A priest in the Order of Conventual Franciscans who was a longtime friend of Father John Minkler who is stationed in Rome (“Minkler Religious Friend 1,” or “MRF1”), who declined to answer our questions about his previous involvement in gathering documents and “binders” on Albany priests because he did “not want to pollute the report with hearsay”;
- The Papal Nuncio, who declined to cooperate on grounds related to diplomatic immunity;
- Jack Malloy, a member of the Knights of Malta, an organization with which Father Minkler was involved;
- A member of the Franciscan Brothers of San Damiano who may have had relevant information about Father Minkler;
- A retired Albany Police Department officer who was assigned to Washington Park in the 1970s and who recently suffered a stroke; his wife stated that he has not been himself;
- Another retired Albany Police Department officer who had been injured in the line of duty in the late 1980s; his family stated that he remains bitter at his treatment by the Albany Police Department;
- Judy Sanders, Albany Newschannel 6, who stated that her reason for declining to respond to questions was not connected to any promises of confidentiality on her part, but rather that she was generally declining to answer questions because she was a reporter;
- An Albany resident who reported that he was contacted by John Aretakis; and
- A member of the media who Anthony Bonneau told business associates paid him for sex in Washington Park.

II. Discussion of the Sexual Misconduct Allegations

A. The Zalay Allegations

(1) Allegations

Andrew Zalay asserted on February 4, 2004, at a press conference that:

- Bishop Howard J. Hubbard, the Bishop of the Albany Diocese, had engaged in a homosexual relationship with Mr. Zalay's younger brother, Tom Zalay, six months to a year before Tom's death on April 19, 1978; and
- This alleged relationship contributed to Tom Zalay's decision to commit suicide on April 19, 1978 (the "Zalay Allegations").

In support of these allegations, Mr. Zalay released two alleged suicide notes that he claimed were written by his brother, Thomas. He claimed to have found these notes in what the press described as either "a charred binder" or a "charred notebook" in the Zalay family home in Albany. (Exhibit 3) One of the documents released by Mr. Zalay, the Typed Note, is neither signed nor dated. It reads, in pertinent part, as follows:

The relations with Howard are both spiritual, intellectual, and of assistance to my self confidence. But at the same time the relationship is decadent and sinful. Howard explains that his role as Bishop and his vows of celibacy are not involved because the Bible describes celibacy as being free of women. I do not and have (*sic*) not considered myself homo sexual but maintaining this relationship serves spiritual purposes. I need to find true spirituality to get closer to God before meeting him. He is trying to mold me into his image (*sic*), but he fails to see that he is trying to make me become something that I am not. As Bishop, I think he has unfairly used his position in church to get what he wants from me. Although I know all of this is wrong,

his kindness seems to over shadow the sexual acts I am compelled to endure. (Exhibit 1)

The second document made public by Andrew Zalay, the Undated Handwritten Note, is also undated, but *is* signed. This note does not refer to any relationship with Bishop Hubbard. It states that “my soul and spirit died in that dormitory room at Northeastern,” refers to “homicidal thoughts,” “suicide,” and “incestuous desires,” says that “I have lied and cheated ever since i (*sic*) was small,” and concludes that “there is only one answer→DEATH.” The Undated Handwritten Note is signed “good night, Tom.” (Exhibit 2) A family member who requested confidentiality (“Zalay Family Member 1,” or “ZFM1”) identified the handwriting of the Undated Handwritten Note as being that of Tom Zalay.

Press reports are inconsistent as to when Mr. Zalay found the notes and whether he found the Typed Note before or after Ethel Zalay’s death on December 9, 2003. Compare Exhibit 32 (The Times Union (Albany, N.Y.) reported on February 5, 2004 that Andrew Zalay allegedly found both notes in August 2003) and Exhibit 33 (The Daily Gazette reported on February 5, 2004 that the Typed Note was found in December).

The Daily Gazette reported on February 5, 2004 that the binder containing the Typed Note also contained a death certificate and photographs. (Exhibit 33) Newscasters on the Channel 23 5:00 p.m. news and the Channel 9 11:00 p.m. news on February 4, 2004 stated that Andrew Zalay had claimed that Tom Zalay maintained a diary that contains evidence of a sexual relationship with Bishop Hubbard. (Exhibit 3) It is unclear whether this comment was meant to refer to additional documents or was

meant only to indicate that two notes made public were from a diary. In any event, no additional writings were released by Andrew Zalay and he produced no other documents in response to our request for any additional writings.

Mr. Zalay also recounted on February 4th a story that his mother, Ethel Zalay, now deceased, had told him, as reported by Channel 6 on the 6:00 p.m. news on February 4, 2004. As reported by the newscaster, Mr. Zalay stated that his mother followed Tom Zalay to the Bishop's rectory one night. Mr. Zalay said that the Bishop then came to the window, at which point Mrs. Zalay became hysterical and began banging on the door; her husband, Andrew Zalay, Sr., then brought her home. Andrew Zalay said that later that same night, Ethel Zalay found blood in Tom Zalay's underwear. (Exhibit 3) The Daily Gazette reported on February 5, 2004 that Andrew Zalay had stated that his parents were aware that Tom Zalay had a relationship with Hubbard in the late 1970s, and that "[i]t was a secret my family lived with for 25 years." (Exhibit 33) The New York Times reported on February 6, 2004 that Andrew Zalay said in an interview that "the [typed] note confirmed a longstanding belief in the family that the bishop and his brother had had a sexual relationship" and that "the relationship between his brother and the bishop had been a family secret for decades." (Exhibit 27)

The Times Union reported on February 6, 2004 that both Andrew Zalay and Mr. Aretakis said that they did not know how or when Tom Zalay and Bishop Hubbard could have met. (Exhibit 34)

The Post Star (Glens Falls, N.Y.) reported on February 5, 2004, presumably based on statements by Andrew Zalay, that Andrew Zalay "won't file a lawsuit and said he

only came forward after his mother died to reveal the family's 'dirty little secret.'”

(Exhibit 35)

The Times Union reported on February 12, 2004 that Andrew Zalay “said his younger brother was molested when he was 10 or 11 [in 1963 or 1964] and serving as an altar boy at St. Vincent De Paul Church on Madison Avenue in Albany, where the Rev. John Bertolucci was assigned.” (Exhibit 36) The Daily Gazette reported on February 5, 2004 that Andrew Zalay came to this belief in August 2003 after learning of a sexual abuse lawsuit against Bertolucci. (Exhibit 33) According to The Times Union on February 12, 2004, John Aretakis stated that based on this information, Andrew Zalay “surmised” that Bertolucci abused the young Tom Zalay. (Exhibit 36)

(2) Tom Zalay and the Zalay Family

Thomas (“Tom”) Nicholas Zalay was born on August 17, 1953 in Budapest, Hungary. He was the youngest of three children born to Ethel and Andrew Zalay, Sr.; his sister, Agnes, had been born in 1949, and his brother, Andrew, Jr., had been born in 1947. The Zalay family subsequently immigrated to the United States, moving first to Princeton, New Jersey in 1957 and then settling in Albany, New York in 1958. The Zalay parents were both chemists, and worked for Sterling Winthrop in Rensselaer from at least 1961 through the late 1970s or early 1980s.

In 1958, Tom Zalay entered kindergarten at Vincentian Institute, the parochial school affiliated with the St. Vincent de Paul parish in Albany. By all reports, through his high school years, he was a good student, had a good sense of humor and was popular with his peers. He served as an altar boy at St. Vincent de Paul Parish from

approximately 1964 to 1966 (age 11-13). James Tuffey, a classmate of Tom Zalay, and a fellow altar boy, recalled that he and Tom Zalay took Latin classes together after school. Father Leo O'Brien, who said Mass every day at Vincentian Institute from 1964-1972, stated that Latin training for altar boys took place in the basement of St. Vincent's Church, which is across a small courtyard from the rectory.

Tom Zalay graduated from Vincentian Institute in 1971 and subsequently attended Northeastern University in Boston, Massachusetts. He attended Northeastern between September 1971 and April 1973. (Exhibit 37) ZFM1 described Tom Zalay as a "good kid" who had many friends in high school and who liked to make people laugh. Interviews with his high school classmates corroborated this description. John Amodeo described Tom Zalay as a "decent, regular person" who was also "very funny." Patrick Amodeo recalled that Tom Zalay was an "affable guy" who was "light-hearted" and "jovial." James Tuffey said that Tom Zalay was a "nice kid," and recalled that he was intelligent and talkative, such that people nicknamed him "The Professor." Kenneth Grogan, who attended both Vincentian Institute and Northeastern University, described Tom Zalay as a "great guy." A Zalay neighbor, Linda Haizlip, who knew Tom Zalay well, recalled him as being "friendly" and "a nice person." Tom Zalay never told any of his high school or college friends that he had been sexually abused by anyone. Nor did he ever mention Bishop Hubbard to any of these friends.

Tom Zalay did, however, tell ZFM1 that he had been sexually abused by "a man" at "a house," and that the man had also abused other boys at that house. Tom Zalay did not tell ZFM1 the name of the man and did not say whether the man was a member of the

clergy. Tom Zalay told ZFM1 about this abuse when he was around 12 or 13, but ZFM1 was under the impression at the time that the abuse had occurred a few years before.⁶ ZFM1 never mentioned this to any other family member, and ZFM1 and Tom Zalay never discussed it again.

Roman Rakozy, Tom Zalay's roommate during their freshman year at Northeastern from 1971 to 1972, described Tom as having problems. He said that Tom Zalay felt under enormous pressure to major in science and work in that field. Mr. Rakozy recalled that Tom Zalay envisioned himself as a great writer, was well read, and often helped engineering students with writing assignments. Over the course of their freshman year, Tom Zalay became more and more frustrated studying science, and, according to Mr. Rakozy, showed signs of depression.

ZFM1 learned from the Zalay parents that while Tom Zalay was a freshman at Northeastern, he was involved in an incident with several people, including one fellow Northeastern student. The Undated Handwritten Note refers to this incident, stating that "my soul and spirit died in that dormitory at Northeastern." (Exhibit 2) The Daily Gazette reported on February 5, 2004, presumably based on information provided by Andrew Zalay, that the incident at Northeastern involved "an earlier homosexual encounter." (Exhibit 33) The Legislative Gazette reported on February 9, 2004, again

⁶ This seems to conform, in time, with the belief of Andrew Zalay, Jr. that Tom Zalay was molested at age 10 or 11 (1963-1964) by Father John Bertolucci. (Exhibit 36) However, Father Bertolucci was not ordained until May 1965, and was never assigned to St. Vincent de Paul Church or Vincentian Institute.

presumably based on information provided by Andrew Zalay, that Tom Zalay was “molested as a freshman at Northeastern University.” (Exhibit 38)

When Tom Zalay returned from Northeastern in April 1973, ZFM1 noticed a personality change. Specifically, he could not hold a job, could not attend school, and was withdrawn. Tom Zalay held several menial jobs and may have taken a few courses at St. Rose College. According to ZFM1, “everyone” in the Zalay family “knew he was troubled.” Mary Zalay, Andrew Zalay Jr.’s first wife, confirmed that Tom Zalay had undergone a change of personality while at college. Linda Haizlip, a Zalay neighbor, also noticed a personality change. She stated that Tom Zalay “became distant” after high school. Tom Zalay’s high school friends, with whom he had been close, had little or no contact with him after his return from Northeastern. Tom Zalay asked for and received therapy starting at this time. For a short time before he became suicidal (prior to late 1974 or early 1975), Tom Zalay was able to live in an apartment near the Albany Medical Center.

Another Zalay Family Member (“ZFM2”), who requested confidentiality, recalled conversations with Tom Zalay after he returned from Northeastern in which Tom Zalay would acknowledge that he was mentally ill.

On September 15, 1974, Tom Zalay wrote a handwritten note to a friend describing how he was doing at that time and how worried his parents were about him.

Tom Zalay wrote:

Dear Meag,

Seems like I'm going to brave the winter up north here. It has been such a carefree, enjoyable summer up here in the Adirondacks that I hope to recapture my dusty devil-may-care attitude, while remaining unencumbered by my Parents' deep worries....

I've been reading a [unintelligible] amount of books, read 'The divided self' twice and an intresting [sic] book 'Why Am I Afraid to Tell You Who I AM.' The latter postulated the theory, that you mentioned awhile ago to me concerning the three levels of the mind called the Parent, the Child, and the Adult. Well, I was truly fascinated by this theory, as I could see these levels quite active in my own mind, though I could only see a child, and a Parent, with an almost tottally [sic] sublimated Adult level.

The summer has been good to me, i've only had two major anxiety attacks both during transitions of environs. What pre-panics I've experianced [sic], i've been able to fight back by reverting to a childish hedonistic state. My reasoning processes are still somewhat foggy, as i still tend to fall into my trap of thinking that mental illness excuses illogic. However, the future doesn't look dim, i've come pretty far in a year, perhaps i can grasp back, what peace of mind that i've lost....

Keep the Peace
and Don't let the [unintelligible]
screw you,

Tom
(the "Meag Letter")
(Exhibit 39)

Ethel Zalay kept this letter until she died in an envelope on which she wrote "MY INNOCENCE PROVE." ZFM1 explained that Ethel Zalay apparently viewed this letter by Tom Zalay as proof that she was not to blame for his suicide.

Rudy Kullnig, an employee at Sterling Winthrop, who supervised Andrew and Ethel Zalay, described how Andrew Zalay, Sr. confided in him about his son Tom many times. Mr. Kullnig recalled that Andrew Zalay, Sr. told him that while his oldest son (Andrew Zalay) was successful in the field of engineering, his younger son, Thomas, went to college and got into drugs. In one conversation with Mr. Kullnig, Andrew Zalay, Sr. identified the drug as LSD and said that his son Tom Zalay had “a bad trip.” Andrew Zalay, Sr. described to Mr. Kullnig how Tom Zalay had escaped from several psychiatric treatment centers, including one in New England, and stated that Tom Zalay had made “grotesque allegations” against two people who are not priests and are now deceased. Andrew Zalay, Sr. did not elaborate to Mr. Kullnig about those allegations but implied strongly that the allegations were not true. Mr. Kullnig said that he last spoke to Ethel and Andrew Zalay, Sr. in the early 1980s, but they exchanged Christmas cards until 2002. At no time during his relationship with the Zalays did they ever mention that their son had a relationship, sexual or otherwise, with Bishop Hubbard or any other priest.

Ethel Zalay had similar conversations with Guy Diana, a group leader at Sterling Winthrop. Mr. Diana worked with Ethel Zalay from 1961 through the early 1980s, and became good friends with both her and Andrew Zalay, Sr. Mr. Diana and his wife visited the Zalay residence on two or three occasions and spent three separate weeks vacationing with the Zalay family, including Tom Zalay, at the Zalay summer home on Lake George when Tom Zalay was a teenager. Prior to Tom Zalay’s death, Ethel told Mr. Diana that her son Tom had become involved in drugs in college and that the drugs “changed his

personality and blew his mind.” Mr. Diana described Tom prior to college as a very nice boy who often took Mr. Diana’s children waterskiing on Lake George.

By late 1974 or early 1975, Tom Zalay was suicidal. ZFM1 confirmed that Tom Zalay tried to take his own life at least five times between late 1974 and April 1978. ZFM1 described how Tom Zalay had to be hospitalized on each occasion for overdosing on both prescription and over the counter medicines. ZFM1 and ZFM2 recalled a suicide attempt that occurred while Tom Zalay was at the Capital District Psychiatric Center (“CDPC”). ZFM1 recalled how Tom Zalay had jumped from the fourth floor of the CDPC, breaking both of his legs. ZFM2 recalls this suicide attempt and his visit with Tom Zalay afterwards while Tom Zalay was in the hospital.

Father Nicholas Campagnone, the CDPC Chaplain at the time, recalled that Tom Zalay was a patient at the CDPC sometime from May 1977 or earlier through July or August 1977. He counseled Tom Zalay two or three times before, and two or three times after, a suicide attempt which he placed in the summer of 1977. During these counseling sessions, Tom Zalay never mentioned having a sexual relationship or being abused by Bishop Hubbard or any clergy. Rather, Tom Zalay, at each session, accused a specific person (not a priest), who is now deceased, of sexual abuse. Father Campagnone did not see or counsel Tom Zalay after he left the CDPC.

Within a short time after leaving CDPC, Tom Zalay was admitted to Spring Lake Ranch in Collingsville, Vermont on August 8, 1977 for continued psychiatric treatment for the next eight months; ZFM1 recalled that Tom Zalay did not even spend Christmas

1977 with the Zalay family in Albany. Tom Zalay left Spring Lake Ranch on April 13, 1978, returning to his parents' home in Albany on April 14, 1978.⁷

According to ZFM1, Tom Zalay lived at home and “did not do much of anything” during the times he was not hospitalized during the final year of his life. ZFM1 said that Tom Zalay did not go out, socialize or see friends. “That’s why I was so worried,” ZFM1 said.

On April 13, 1978, either just before, or just after, returning to Albany from Spring Lake Ranch, and six days before he took his own life, Tom Zalay wrote, signed and dated a letter (the “April 1978 Note”) (Exhibit 40) in handwriting markedly distinct from that of the handwritten Meag Letter of September 1974. This April 1978 Note stated:

The psychopath returns somewhat deluded yet aware of his potential to hurt. Continually seeking a psychiatrist chair to confide in only to find there is [nothing?] to confide, except that he has no memories of the terrible allegation people have made of him, that is the crimes which fascinate me. Are psychiatrists so corrupt that they think that way too?

The April 1978 Note, like the Undated Handwritten Note made public by Andrew Zalay as well as the Meag Letter, are all signed either “Tom” or with Tom Zalay’s full name.

The April 1978 Note is signed “Thomas N. Zalay.”⁸

⁷ Tom Zalay also spent some time living in a halfway house operated by New York State near his parents’ home. The investigation was unable to identify the specific dates that Tom Zalay spent at the halfway house.

⁸ Readers may find it instructive to compare the Meag Letter (Exhibit 39), the Undated Handwritten Note released by Andrew Zalay, Jr. (Exhibit 2), the Typed Note released
(cont’d)

According to ZFM1, on April 18, 1978, the day before Tom Zalay committed suicide, he was so disturbed that Andrew Zalay, Sr. took him to Albany Medical Center. The doctor saw Tom Zalay that same evening and released him.

On April 19, 1978, Tom Zalay took his own life by setting himself on fire in his room in his parents' home. The Albany Police Department report of the incident refers to an interview with the Zalay parents at the scene, who said their son "was a mental patient and had for quite some time suffering form (sic) a split personality, persecution complex, depression and had suicidal tendencies." (Exhibit 43) The police report further noted that Tom Zalay

had a past history of suicide attempts and at one time jumped out of the fourth floor window of the Capital District Psychiatric Center, breaking both of his legs in the fall, while being treated there as a mental patient. . . . This morning [Tom Zalay] was acting very hyper and had taken his medication at about 11:00 A.M. This was after a telephone discussion with Dr. Husey about coming (sic) back to [Spring Lake Ranch] today 4/19/78. The deceased was told to stay home acouple (sic) of more days and to continue his medicine procedure. He became very depressed over this as he wanted to go back this date.

Within two hours of the phone call to Spring Lake Ranch, Tom Zalay committed suicide.

Detective James Candlen, who responded to the incident, prepared the police report. At the time, he had been a detective for over 17 years. He recalled that most of the information in the report came from Ethel Zalay. Detective Candlen conducted a

by Andrew Zalay, Jr. (Exhibit 1), and the April 1978 Note that Tom Zalay wrote shortly before his death (Exhibit 40). A comparison of these documents is provided at Exhibit 42.

search for a suicide note at the scene without success, which is noted in his report. Coincidentally, Candlen was also the officer who responded to Tom Zalay's earlier suicide attempt at the CDPC.

At the time of the suicide, neither of the other Zalay siblings were living with their parents. Andrew Zalay, then 30, had married Mary Zalay, and had left the Albany area some years before. Agnes Zalay was married with a small child and living in Albany.

Just after Tom Zalay's death, Guy Diana and his wife went to visit the Zalay parents to express their condolences. According to Mr. Diana, the Zalays were extremely distraught. Ethel told him that the suicide was due to drugs and expressed anger toward the person who supplied Tom Zalay with drugs at college. The Zalays never mentioned a suicide note or any allegations that their son had been sexually abused by anyone at any time. Mr. Diana strongly believes that had Ethel Zalay known that her son had a sexual relationship with Bishop Hubbard, or any other priest, she would have told him.

Mary Ellen O'Connell (nee Barrett), a close high school friend of Tom Zalay, learned of his death and wrote a condolence letter to Ethel Zalay. On May 1, 1978, Ethel Zalay wrote to thank Mary Ellen. In her typewritten letter, Ethel Zalay, for whom English was a second language, wrote, referring to Tom Zalay:

On his college years in Boston [Northeastern] . . . [H]e got a bad company and got on drugs. . . when we realize the situation it was almost late. He received private psychiatrist (sic) treatment for year with small success trying to continue study at summer at SUNY and at fall in St. Rose. He had a volunteer job at Red Cross, he tried to hep (sic) to do, to create until his mind totally distorted from

medication. It was a heart breaking experience to see this beautiful human being destroyed slowly down and down and no matter how hard we parents tried we could no help him....His sudden death still a horrible shock for us and our only consolation that he is escaped from his intense sufferings he had through those painful years. (Exhibit 44)

ZFMI identified the signature on the letter as that of Ethel Zalay's. The paper and the type were analyzed.

ZFMI said that Ethel Zalay "typed everything" and that "she loved to use her old standard typewriter and carbon paper." The investigation obtained samples of typed letters written by Ethel Zalay from each decade from the 1970s through 2001. The paper and type of the Ethel Zalay correspondence was analyzed and compared to the 1978 letter to Mary Ellen O'Connell. The paper and type have distinctive qualities that will not be disclosed at this time.

About a month after Tom Zalay's death, Malcolm and Nancy Bell visited the Zalay parents at their home. Malcolm Bell was Andrew Zalay, Sr.'s supervisor at work for approximately 20 years, and the Bells had socialized on two occasions with the Zalay family during the 1970s. They described Tom as a "very engaging and outgoing teenager." Neither Andrew Zalay, Sr. nor Ethel Zalay ever mentioned that Tom Zalay was abused or had a sexual relationship with Bishop Hubbard. Nancy Bell distinctly recalled the visit because Ethel Zalay became extremely upset, telling the Bells of a highly personal medical condition from which Tom Zalay suffered. Ethel Zalay told the Bells that she had only discovered after her son's death that he suffered from this

condition. The investigation obtained a document in Tom Zalay's handwriting that would appear to refer to this condition.

Tom Zalay's death had a profound impact on the Zalay family. Malcolm Bell recalled that Andrew Zalay, Sr. was so distraught after Tom Zalay's death that Andrew Zalay, Sr. went from a "productive chemist" to a "hazard in the lab" and was transferred to a different group at Sterling Winthrop. By approximately 1981, Andrew Zalay, Sr. and Ethel Zalay were separated. Andrew Zalay, Sr. had several addresses between 1981 and 1985, and eventually settled in Trenton, New Jersey, although he periodically visited Albany for years after the separation to perform chores on the Zalay home. Ethel Zalay remained in the family home, renovated Tom Zalay's room, and made his room her bedroom.

Sometime within several years after Tom Zalay's death, ZFM1 found a folder in a filing cabinet located in Tom Zalay's old room, which was by then Ethel Zalay's current bedroom. ZFM1 recalls the folder as a "plain" manila folder, and does not recall that it was charred. According to ZFM1, this file containing Tom Zalay's writings was known to Ethel Zalay, and to the family more generally. ZFM1 perused the documents at this time, and recalls seeing the Undated Handwritten Note released by Andrew Zalay to the public on February 4, 2004. ZFM1 specifically recalled the Undated Handwritten Note not only because of its disturbing content, but also because ZFM1 recognized Ethel Zalay's dark handwritten exclamation points, question marks, and other markings in the margins. According to both ZFM1 and ZFM2, Ethel Zalay would often make such

markings when she reacted strongly to something she read, such as newspaper and magazine articles.

ZFM1 does not, however, recall ever seeing the Typed Note. Given the content of the Typed Note, *i.e.*, the references to a sexual relationship with the Bishop, ZFM1 was confident that had ZFM1 seen it, ZFM1 would have remembered it and would have taken some action, such as confronting Ethel Zalay or Bishop Hubbard. Given the Typed Note's content, ZFM1 expressed some surprise that Ethel Zalay had not made markings on it similar to those she made on the Handwritten Note.

ZFM2 also recalled seeing Tom Zalay's writings in a plain manila folder in Ethel Zalay's bedroom sometime prior to Andrew Zalay's press conference of February 4, 2004; like ZFM1, ZFM2 believed that the folder was uncharred. ZFM2 recalled that the folder contained between 10-20 pages of Tom Zalay's writings. ZFM2 acknowledged having "a poor memory" of the documents, but recalls seeing the Typed Note either shortly before or shortly after Andrew Zalay returned to Albany in August 2003. Specifically, ZFM2 recalls seeing a typewritten document that confirmed a family belief that "Tom Zalay had had homosexual relationships, perhaps with priests." However, ZFM2 did not suspect a sexual relationship between Tom Zalay and Bishop Hubbard after reading the typewritten page.

Andrew Zalay wrote a letter dated August 25, 2003 to Acting Supreme Court Justice Christian F. Hummel, who was at that time hearing a case brought by Attorney John Aretakis against Bishop Hubbard, the Albany Diocese, and others relating to an incident involving Father John Bertolucci, a diocesan priest who was accused of sexually

abusing a minor in 1976. In that letter, Zalay asserted that Tom Zalay “was a student acquainted with Bertolucci and was molested and committed suicide. I have reason to believe that Bertolucci was involved with this incident and would like access to the personal [sic] records in question.” Andrew Zalay included an August 20, 2003 article from The Times Union and gave his telephone number as being in California. He did not make any reference to Bishop Hubbard. (Exhibit 45) Judge Hummel sent Andrew Zalay a letter on September 22, 2003, explaining why he was denying the request. (Exhibit 46)

ZFM1 and ZFM2 next saw a collection of Tom Zalay’s writings during a meeting with Andrew Zalay and John Aretakis in November 2003. Mr. Aretakis provided ZFM1 and ZFM2 with copies of some of the writings. ZFM1 does not know why only a portion, and not all, of the Tom Zalay writings were provided.

Ethel Zalay, who had suffered a stroke in May 2003, passed away on December 9, 2003. A mass of burial was celebrated by Father Leo O’Brien at St. Vincent de Paul Church in Albany on December 27, 2003.

The Albany Times Union reported on February 12, 2004 that John Aretakis, Esq. had said that Andrew Zalay wrote a letter on January 1, 2004 to an undisclosed state agency that he believed his brother was molested by Bertolucci and other priests. (Exhibit 36)

(3) The Ethel Zalay Story as Told By Andrew Zalay

At his February 4, 2004 news conference, Andrew Zalay related a story he said that his mother, Ethel Zalay, had told which supported his allegation that Bishop Hubbard had a sexual relationship with Tom Zalay. The Daily Gazette reported on February 5 that

Andrew Zalay stated that Tom Zalay often stayed out late at night, that his parents occasionally followed him, and that his parents saw Thomas at Hubbard's private residence in 1977. (Exhibit 33) According to a February 8 column in The Daily Gazette, Andrew Zalay further stated that his mother, angry, rang the doorbell, which no one answered. Andrew Zalay said that his mother said that she could see the Bishop drawing the curtains, and that later that night, after Tom Zalay had returned, she found blood in his underwear. (Exhibit 47) Channel 6 News similarly quoted Andrew Zalay as saying that his mother knew about the relationship between Tom Zalay and Bishop Hubbard because she followed her son to the Bishop's rectory one night. Andrew Zalay stated "and I know that the Bishop came to the window and my mom went hysterical and started banging at the door and my dad had to bring her home. And my mom found the bloody underwear." (Exhibit 3)

(4) The Ethel Zalay Story as Told By ZFM1

ZFM1 also recalled a story that Ethel Zalay would periodically tell, in a combination of English and Hungarian, beginning in the years after Tom Zalay's death and continuing until her stroke in approximately May 2003. The Ethel Zalay story, as recalled by ZFM1, differed in significant respects from the version Andrew Zalay has reported. According to ZFM1, Ethel Zalay would say that on one occasion, when she and Andrew Zalay, Sr. returned home from work, Tom Zalay was not there. The Zalay parents became worried and went driving around looking for Tom Zalay. Ethel Zalay and Andrew Zalay, Sr. discovered Tom Zalay's red bicycle outside "the rectory." ZFM1 recalled that Ethel Zalay would use a Hungarian word that actually meant "priest's

house” to describe the building. Ethel Zalay said she became upset and rang the doorbell, but no one answered. She then saw a man in an upstairs window pull the curtain shut. Ethel Zalay would say that the man was wearing a “pushpok,” a Hungarian word for bishop’s hat. Ethel Zalay did not identify the man and was not specific about when this incident took place, but ZFM1’s belief was that Tom Zalay was in sixth or seventh grade at the time (1964-1965). ZFM1 said that Andrew Zalay, Sr. never told this story.

ZFM1 did recall that Ethel Zalay’s story had a sexual connotation, suggesting that Tom Zalay was somehow sexually involved with someone in the “priest’s house.” When Ethel Zalay would tell this story, ZFM1 would always ask Ethel Zalay if she had any evidence that homosexual activity had occurred between Tom Zalay and “someone at the rectory.” Ethel Zalay would always acknowledge that she did not have any evidence, other than what she said she observed on that one occasion. Ethel Zalay never showed or referred to the Typed Note which suggests a relationship between Bishop Hubbard and Tom Zalay. As noted, had Ethel Zalay known about the Typed Note, ZFM1 thinks that Ethel Zalay would have offered it as proof of her suspicions, and that Ethel Zalay also would have made markings on it in the same way that she marked up the Undated Handwritten Note. According to ZFM1 and ZFM2, neither Ethel Zalay nor Andrew Zalay, Sr., nor any other family member, ever suggested that Tom Zalay had had a sexual relationship with Bishop Hubbard. The first time ZFM1 and ZFM2 ever heard of such a relationship was in November 2003 when a copy of the Typed Note and several Tom Zalay writings were given to ZFM1 and ZFM2 at a meeting with John Aretakis and

Andrew Zalay This was also the first time that ZFM1, who had perused Tom Zalay's writings years before, ever saw the Typed Note.

(5) Other Family Members' Knowledge Of Alleged Hubbard Relationship

Andrew Zalay told the New York Times that his family had a longstanding belief that "the bishop" and his brother had had a sexual relationship. (Exhibit 28) As noted above, ZFM1 and ZFM2 first heard of the alleged relationship in late 2003, in a meeting with Andrew Zalay Jr. and John Aretakis. Mary Zalay, who was married to Andrew Zalay from 1968 to 1988, never heard him mention or suggest that Tom Zalay and Bishop Hubbard had a relationship, sexual or otherwise. She said that the "entire family" appeared to be "puzzled" as to why Tom Zalay took his own life. "No one in the family spoke of the suicide," she said. She never had any conversations with any member of the Zalay family, including her then husband, regarding any relationships Tom Zalay may have had with priests, homosexuals or anyone else. She said that although she was friendly with Ethel Zalay, and remained friends even after she and Andrew Zalay were divorced, Ethel Zalay never mentioned to her anything about a sexual relationship between Tom Zalay and Bishop Hubbard, or anyone else.

Regina Spata, Andrew Zalay's second wife, whom he met in 1985, and to whom he was married for two and a half years between 1988 and 1990, also said that she had never heard anyone in the Zalay family, including her husband, mention a homosexual relationship between Tom Zalay and Bishop Hubbard. She believes that her husband, Andrew Zalay, had a good relationship with Tom Zalay. She also recalls that Ethel Zalay

told her that Tom Zalay “killed himself,” but that it was “an accident,” and that she blamed his death on “drugs, possibly LSD.” She said that Andrew Zalay spoke rarely about Tom Zalay’s death. She recalled that he expressed anger that his brother had committed suicide, and that he believed that Tom Zalay killed himself to “hurt his parents.” According to Andrew’s second wife, Andrew did not believe that Tom Zalay committed suicide as a result of drugs, but rather due to depression from something that happened at college.⁹

(6) Background on Bishop Hubbard

Bishop Howard Hubbard was born on October 31, 1938 in Troy, New York. He has two younger sisters, both of whom are married with children; his parents are both deceased. He attended LaSalle Academy and attained the second-highest rank in the class, lieutenant colonel. After graduation, he entered the Mater Christi minor seminary, and then completed his seminary training at St. Joseph’s Seminary in Yonkers in 1960. During the summers of 1957 through 1960, Bishop Hubbard was a counselor at Camp Tekakwitha, an Albany Diocese camp. He was ordained in Rome as a priest on December 18, 1963. Monsignor John Jones, the first pastor to whom Bishop (then

⁹ As noted above, in his March 15, 2004 letter to Mary Jo White, Andrew Zalay referred to John Aretakis as the “family attorney,” and stated that our investigators should not “contact me or any member of my family in any way.” (Exhibit 30) None of the family members whom the investigation spoke to was, in fact, ever represented by Mr. Aretakis. Based on his March 15, 2004 letter, it may be that Andrew Zalay will continue to attempt to discredit all, or some, of the family members who cooperated with our investigation and have recollections inconsistent with his own. We note that ZFM1 and ZFM2 were represented by their own counsel when they were interviewed as part of the investigation.

Father) Howard Hubbard was assigned in 1964 and who lived with Bishop Hubbard from 1964 to 1965, said that he saw absolutely no evidence that Bishop Hubbard was involved in any homosexual activity.

Bishop Hubbard was assigned from 1964-65 to the Cathedral of the Immaculate Conception in Albany, where he was an associate pastor.

From 1965-1966, Hubbard attended Catholic University School of Social Work in Washington D.C. In the summer of 1966, he became involved with Providence House, a referral and crisis intervention center for the homeless located on the South Side of Albany, and began working with heroin addicts. In 1967, Hubbard founded Hope House, a treatment center for heroin addicts. Hope House was also located on the South Side of Albany. During 1969 and 1970, Hubbard ran a Hope House outreach meeting at Vincentian Institute on Monday nights. Between 1967 and 1977, Hubbard was also active in several other social services facilities, including St. Catherine's Center for pregnant teenagers, where he said Mass on Saturday nights. He became the Vicar General of the Albany Diocese in June of 1976, was appointed Bishop of Albany on February 1, 1977, and was ordained and installed as Bishop on March 27, 1977.

Bishop Hubbard's calendars from the 1977-78 period indicate that he had meetings and appointments set for most days of the week and had few days off. In April 1977, his first full month as bishop, there are only three days with no scheduled meetings or appointments, right before or after Holy Week. (Exhibit 48)

Because of his advocacy for homeless people and street level criminals, Hubbard was viewed with suspicion by many Albany police officers. George Schindler, a layman

who lived in St. John's Rectory with Bishop Hubbard and several other priests from 1972 to 1974, described the relationship between Bishop Hubbard and the Albany police as "almost adversarial" because Bishop Hubbard would go to court to seek the release of people who had recently been arrested. James Tuffey, who served in the Albany Police Department from 1975 to 1995 and ultimately became President of the Patrolman's Benefit Association, similarly said that Bishop Hubbard did not have a good relationship with the Albany Police Department during the 1960s and 1970s because of his social activism. John Burke, a retired Albany detective, who patrolled Washington Park from 1972-1978, said that he was "not a fan" of the Bishop. Specifically, he recalled that in the early 1970s, the Bishop criticized the Albany police after they arrested approximately 180 street-level drug dealers and users, stating that the police should be going after major, not minor, drug offenders.

The investigation attempted to identify and interview every person with whom Bishop Hubbard lived and many of the people with whom he worked. These people consistently described Bishop Hubbard as a driven, hard working, committed priest and Bishop. None of the individuals had any knowledge, or saw any evidence, that Hubbard was homosexual, was living an active homosexual lifestyle, or was involved in a sexual relationship with anyone:

- Victor Cirrincione, a lay person who has worked for the Diocese for 40 years, and has handled many of Bishop Hubbard's daily personal affairs since he became Bishop, stated that he has, in the past, reported instances of sexual misconduct by priests to Bishop Hubbard, which were addressed, and he feels duty bound, as a Catholic, to do so. He stated that he has never seen any indication of sexual activity or misconduct by Bishop Hubbard.

- John Keegan, a former priest and roommate of Bishop Hubbard at the seminary, who later lived with Bishop Hubbard for two years at St. John's in the 1960s, said he had no direct or indirect knowledge that Bishop Hubbard had ever engaged in sexual activity.
- From 1964 to 1965, Bishop Hubbard resided with four other priests at the Cathedral of the Immaculate Conception in Albany. Monsignor John Jones and Father Nellis Trembley both said that they had no direct or indirect knowledge that Bishop Hubbard had ever engaged in sexual activity. The other two priests with whom Bishop Hubbard lived during that period—Father John Nevins and Father John Phillips—are now deceased.
- From 1965 to 1966, while Bishop Hubbard was attending Catholic University's School of Social Work in Washington D.C., he resided in a dormitory with other priests. We spoke to three priests who had resided in the same dormitory—Father Charles Curran, Monsignor Philip Morris, and Monsignor Charles McGroarty—all of whom stated that they had never seen any evidence of sexual activity on Bishop Hubbard's part.
- From 1966 to 1976, Bishop Hubbard resided at the rectory of St. John's parish at 37 Ferry Street. During the course of this period, he lived with six other priests. Father Peter Young, who resided with Bishop Hubbard at St. John's during that entire period, said that the rectory was in a 12-block "contained crime" area and was considered a dangerous assignment. Each priest had his own room, and Bishop Hubbard lived on the top floor. The rectory closed down in 1976 and is now a residence for substance-abuse rehabilitation. Father Peter Young and Father Marc Touchette both said they had no direct or indirect knowledge that Bishop Hubbard had ever engaged in sexual activity. Three former priests who lived at St. John's—Carl Blezcwski, William Kennedy, and John Keegan—said they had no direct or indirect knowledge that Bishop Hubbard had ever engaged in sexual activity. The sixth priest with whom Bishop Hubbard lived during that period—Father George McKeon—is now deceased. George Schindler, a layman, also resided at St. John's from 1972 to 1974. He stated he saw Bishop Hubbard every day during this period and never saw or heard of him engaging in sexual activity.
- From 1976 to 1991, Bishop Hubbard resided at the Chancery Residence at 465 State Street in Albany. Over the course of that period, he resided with eleven other priests living on the same floor and on the floor above him. Throughout this time, Bishop Hubbard lived on the third floor of this building in a private room overlooking the intersection of Washington and

West on Spring Place. This room was on the side of the building furthest away from the stairs and elevator. Each of the other priests who resided with Bishop Hubbard during some or all of that period said that they had never seen any evidence of sexual activity on Bishop Hubbard's part. Father John Malecki, Father Richard Carlino, Father Thomas Powers, Father Martin Fisher, Father John Provost, Father Randall Patterson, Father Thomas Chiaramonte, Archbishop Harry Flynn of the Archdiocese of Minneapolis/St. Paul, Father Michael Farano, and former priest Edward Pratt all said they had no direct or indirect knowledge that Bishop Hubbard had a sexual relationship with anyone. The other two priests who resided at the Chancery Residence during this period—Father Robert Roos and Monsignor James Hart—are now deceased. One lay person who lived at the Chancery Residence in the early 1990s, John Kerry (then the director of the Catholic Conference), also said that he never saw any evidence that Bishop Hubbard had ever engaged in sexual activity.

- From 1991 to the present, Bishop Hubbard has lived at the Cathedral of the Immaculate Conception with five other priests. Father Martin Fisher, Msgr. John Jones, Father William Pape, Father Dennis Murphy, and Father Peter Sullivan all said they had had no direct or indirect knowledge that Bishop Hubbard had ever engaged in sexual activity.
- For the past forty years, Bishop Hubbard has gone on vacation each summer to Cape Cod with his friends Bishop Matthew Clark of the Diocese of Rochester and Father Thomas Powers. For approximately the past ten years, he has gone on a two-week vacation each winter to Florida with Bishop Clark. Both said they had no direct or indirect knowledge that Bishop Hubbard had ever engaged in sexual activity. According to Father Powers, Bishop Hubbard spends each morning running and reading the newspaper, has an early lunch, spends the afternoon at the beach, eats a pasta dinner, and then watches a video. Bishop Clark said that the vacation is geared towards “shutting down.”
- People who worked with Bishop Hubbard at Hope House – Louis Krupka, executive director of Hope House from 1973 to 1992, and Roger and Maria Markovics – all said that she had no direct or indirect knowledge that Bishop Hubbard had ever engaged in sexual activity.
- Bishop Hubbard's personal secretaries – Onna Pollock, who worked for Bishop Hubbard from 1977 until her retirement in the early 1990s, and Carol Dugan, who took over for Ms. Pollock – both said that they had no direct or indirect knowledge that Bishop Hubbard had ever engaged in sexual activity.

- Since the early 1980s, Bishop Hubbard has participated in a priest support group which meets monthly. Current and former members of the priest support group – Father Vince Ciotoli, Father Christopher DeGiovine, Father Robert DeMartinis, Father Anthony Diacetis, Father Jack Moly, Father J. Patrick Ryan, Father Peter Sullivan, William Bordeaux, and David Bentley – all said that they had no direct or indirect knowledge that Bishop Hubbard had ever engaged in sexual activity.

Several priests who Hubbard disciplined or removed from the priesthood for sexual misconduct, including at least five former priests who admitted to, or were caught, engaging in homosexual activity, stated that they had no knowledge or evidence to suggest that Hubbard was homosexual or lived an active homosexual life. Such priests included David Bentley, John Bertolucci, John Fitzpatrick, Edward Pratt, and two priests who requested confidentiality.

(7) Other Evidence Relevant to the Zalay Allegations

Hubbard's personnel file indicates that he was never assigned to Vincentian Institute, where Tom Zalay attended school, or to the Zalay parish, St. Vincent de Paul.

There is no evidence that Tom Zalay attended the Hope House outreach center at Vincentian Institute for drug or alcohol abuse during 1969-1970 (when Bishop Hubbard was running the outreach meetings) or that Tom Zalay was treated at Hope House at any time. Both the current and former Director of Hope House stated that they were not familiar with the Zalay name and they also stated that in all the years that Bishop Hubbard worked at Hope House, they had never seen any evidence of or heard of any kind of sexual misconduct or activity by Bishop Hubbard.

There is no evidence that Tom Zalay was ever treated at Providence House. Maria Marcovics and Roger Marcovics, both of whom began working at Providence

House in the early 1970s, said that they did not recognize the name Tom Zalay and that they had no direct or indirect knowledge about Bishop Hubbard engaging in sexual activity or misconduct. Father Michael Hogan, who worked at another Albany social service center, Hospitality House for drug and alcohol rehabilitation, said that none of the residents of Hospitality House, which included male prostitutes, ever claimed to have been in a relationship or had any sexual contact with Bishop Hubbard.

Andrew Zalay declined to cooperate with the investigation. He declined to be interviewed, and also did not respond to our offer to answer the following written questions:

- When did you first find the two notes (the typed, unsigned note and the handwritten, signed note) that you released to the media on February 4, 2004? We would like to examine and analyze the originals of these documents, and will safeguard the documents to preserve their condition. We will then return them to you. If you wish to have a witness observe the examination and analysis of these documents, we will agree to that. Please let us know whether you will agree to provide the originals of the documents.
- Did you ever find any other writings by your brother? If so, where did you find them? We would like to examine the original versions of any such writings. Please let us know whether this would be possible.
- Do you know where the typewriter that may have been used to type the note that refers to “the Bishop” and “Howard” is located? If so, we would like to examine it. Please let us know whether you will agree to identify to us the whereabouts of the typewriter, and to let us examine it. If you wish to

have a witness observe the examination and analysis of the typewriter, we will agree to that.

- Where were you living during the period from 1974-78?
- You have stated that your mother found “evidence” of sexual encounters between Tom and Bishop Howard Hubbard. Please describe all such evidence.
- You have stated that among your brother’s writings is additional evidence of a sexual relationship with Bishop Hubbard. In the event you decide not to provide us with either the originals or copies of these documents, please let us know what additional evidence exists.
- In August of 2003, you sought information about Father John Bertolucci, based on your belief that Father Bertolucci had abused your brother when he was serving as an altar boy at St. Vincent de Paul Church in Albany. What was the basis of your belief that Father Bertolucci had abused your brother?
- You have been quoted as saying that your brother contacted the FBI on April 13, 1978, but that he was given insufficient advice. Do you know why your brother contacted the FBI? Did it have anything to do with Bishop Hubbard? Do you know the identity of the agent or office he may have contacted it? If so, please provide that information.
- Did your brother ever mention anything to you about a sexual relationship with Bishop Hubbard or any other priest? What did he say? When?
- You have described a story your mother used to tell about seeing your brother’s bicycle at the Bishop’s residence, and then seeing a man draw a curtain in an upstairs window. Can you please recount that story as your mother told it? (Exhibit 49)

Andrew Zalay did not provide the Typed Note or permit it to be tested for authenticity, despite our proposal that he select the laboratory, the testing results be made available to him and the investigation simultaneously, and the testing be paid for by the investigation.

On February 5, 2004, The Daily Gazette reported that “formal forensic tests were not done on the suicide notes that Zalay provided Wednesday [February 4, 2004], according to John Aretakis. But informal tests showed that Tom Zalay used the same typewriter to type the suicide notes as other writings, said Aretakis.” (emphasis added) (Exhibit 33) The next day, on February 6, 2004, The New York Times reported that “[a] lawyer for Andrew Zalay, Jr., John Aretakis, said an expert had matched the letter to a typewriter Tom Zalay used to write poems.” (Exhibit 28)

We investigated the whereabouts of the typewriter that Tom Zalay may have used to write poems and that was allegedly used in the creation of the Typed Note. ZFM1 and ZFM2 provided details of the typewriters used and owned by Ethel Zalay. Ethel Zalay died on December 9, 2003. The typewriters used by Ethel Zalay and referred to above could not be located and were not part of her effects.

John Aretakis declined our requests for an interview. He also declined our request, among other requests, that he answer the following written question:

- Do you know the location of the typewriter that Tom Zalay allegedly used in creating the unsigned note that refers to the “Bishop” and “Howard?” If not, have you ever seen that typewriter? (Exhibit 49)

ZFM1 did not know whether Tom Zalay could type, but did recall that Tom Zalay had someone else type a high school report for him.

Stephen Brady of the Roman Catholic Faithful (“RCF”), an organization that has been highly critical of Bishop Hubbard for many years, believes the Typed Note is authentic. Brady said that this belief was based on a reference in the Typed Note to a conversation with “Howard” explaining that homosexual sex does not violate the celibacy vow because the Bible describes celibacy as being free of women. Brady claims to have heard this defense from priests who are or were active homosexuals. No priest with whom we spoke—not even those who admitted to having engaged in homosexual activity during their priesthood—expressed this interpretation of celibacy to the investigation or said that they had ever heard Bishop Hubbard interpret celibacy in that way.

A reporter for Channel 13 in Albany reported on February 4, 2004 that Andrew Zalay found a “charred binder filled with letters detailing his brother’s relationship with Bishop Howard Hubbard.” (Exhibit 3) The Daily Gazette reported on February 5, 2004 that the binder containing the Typed Note also contained a death certificate and photographs, thereby indicating that some of the items in the binder were inserted into the binder after Tom Zalay’s death. (Exhibit 33) A reporter for channel 23 in Albany reported on February 4, 2004 that Tom Zalay “wrote about his relationship with the Bishop in his diary and also wrote a suicide note saying he could no longer live with himself because of the abuse.” (Exhibit 3)

As noted above, Bishop Hubbard resided at the rectory at St. John's Church, from 1966 through 1976, which is approximately 3.1 miles from the Zalay home. Bishop Hubbard resided at the Chancery Residence at 465 State Street, from 1976 until 1991, which is approximately 1.6 miles from the Zalay home and on the north side of Washington Park. The Zalay home was located south of Washington Park. The Chancery Residence is a four-story mansion with a wall surrounding the parking lot. The rectory closest to the Zalay home was that at St. Vincent de Paul Church (the Zalay's parish), which is a two-story rectangular brick building approximately six blocks from the Zalay home. Bishop Hubbard never resided at the St. Vincent's rectory.

Father Leo O'Brien, the pastor of St. Vincent de Paul Church from 1972 to the present, recalled that from approximately 1956 through 1985, Bishop Edward Maginn lived on the second floor of the St. Vincent's rectory. An Albany Diocesan priest who requested confidentiality as to his identity ("DP1") acknowledged that he dressed in Bishop Maginn's clothing on several occasions. He said that he did so for "fun" on occasion from 1974 to 1978 and at other times. He said that he may have dressed up in Bishop Maginn's clothing while residing at St. Vincent's rectory from 1973 to 1974, when he was a deacon, but had no specific recollection of doing so. This priest said that he did not know Tom Zalay or the Zalay family, and the investigation found no evidence that he did.

Bishop Hubbard's personnel file does not reflect any assignments at either the Albany Medical Center, the CDPC, or Spring Lake Ranch in Vermont.

Father O'Brien recalled that Ethel Zalay attended mass weekly at St. Vincent de Paul Church, including after Tom Zalay's death. The Albany Diocese has records of Ethel Zalay's donations for the period 1983 through June 3, 2003. (Exhibit 48) Those records indicate that Ethel Zalay regularly donated to the parish weekly collections, the parish capital campaign, and various other parish fundraisers. The Diocese's records reflect that on November 17, 1983, "M/M Andrew Zalay" pledged \$1000 to a St. Vincent's Capital Campaign for the renovation of the Church building. Years later, in a letter dated November 7, 1998, Ethel Zalay wrote to Father O'Brien the following:

Referring to your letter, advocate your Capital Fund Campaign, I need to inform you, that I am a retired, self supporting women. [sic] In this condition, I am able to offer monthly \$30 pledge added to my monthly contribution.

Your faithful follower,

Ethel S. Zalay (Exhibit 50)

In addition, records of donations to the Bishop Hubbard's Annual Appeal, which are only available from 1990 to the present, reflect that Ethel Zalay contributed every year until she suffered a stroke in mid-2003.

On April 16, 2004, Bishop Hubbard, who was not represented by counsel, submitted to a lengthy interview and denied all of the allegations relating to Tom Zalay. Hubbard also provided a sworn statement on the facts relevant to the Zalay Allegations. Specifically, Bishop Hubbard provided the following testimony under oath (Exhibit 51):

Q: On February 4th, 2004, Andrew Zalay alleged that you had a sexual relationship with his brother Thomas or Tom Zalay. Did you ever have a sexual relationship with Thomas Zalay?

A: No.

Q: A Tom Zalay?

A: No.

Q: Did you ever have any kind of sexual contact with Thomas Zalay?

A: No.

Q: Tom Zalay?

A: No.

Q: Did you ever know anyone named Thomas Zalay?

A: Not to the best of my recollection.

Q: And Tom Zalay?

A: Not to the best of my recollection.

Q: Did you ever meet anyone named Thomas Zalay?

A: Not to the best of my recollection.

Q: Tom Zalay?

A: Not to the best of my recollection.

Q: Have you ever had any sexual relationship with any male?

A: No.

Q: Have you ever had any kind of sexual contact with any male?

A: No.

On April 22, 2004, Bishop Hubbard submitted to a polygraph examination performed by James K. Murphy. Mr. Murphy concluded (Exhibit 52) that Bishop Hubbard was being truthful when he was examined as follows:

Q. Did you ever engage in a sexual act with Tom Zalay?

A. No.

Q. Have you ever had any kind of sexual relationship or sexual contact with Tom Zalay?

A. No.

Q. Do you specifically remember ever meeting Tom Zalay?

A. No.

We spoke with eight attorneys of clients who had obtained settlements from the Albany Diocese between August 1991 and 2003 in connection with clergy sexual abuse; these attorneys were never advised by their clients of an allegation against Bishop Hubbard.¹⁰

Thomas Martin, retired New York State Trooper and the investigator for the Review Board, said that he had never received any claims involving allegations of sexual misconduct against Bishop Hubbard.

Theresa Rodriguez, the Diocese's victims assistance coordinator, said that she has never received a written complaint from a victim of abuse involving Bishop Hubbard. She said that she did receive telephone calls in late January 2003 from a Chicago man who alleged abuse by Bishop Hubbard without giving details. Rodriguez said that she subsequently learned that the man had alleged abuse against various bishops around the country and that his prior charges had not been substantiated. New York Newsday

¹⁰ As noted above, John Aretakis declined to cooperate with the investigation.

reported in early January 2003 that this man's charges against New York Cardinal Edward Egan and the late Cardinal Joseph Bernardin of the Archdiocese of Chicago were unfounded and that Stephen Brady of the Roman Catholic Faithful did not believe Cartee's charges. (Exhibit 53)

Sister Anne Bryan Smollin, the executive director of the Counseling for Laity program, which is located in the Pastoral Center of the Albany Diocese, stated that she has treated approximately 16,000-17,000 clients since 1977. She stated that approximately two percent of the clients in the program are victims of clergy sexual abuse. Sister Smollin stated that she has never had a client make a sexual allegation against Bishop Hubbard.

(8) Discussion – Zalay Allegations

Andrew Zalay's allegation that Tom Zalay had a sexual relationship with Bishop Hubbard rests on two pillars: the Typed Note and the Ethel Zalay story regarding the Bishop's residence. We have not found credible information to substantiate the Zalay Allegation, and have found significant credible information refuting the allegation.

The "Suicide" Notes

Andrew Zalay produced two documents to the media that he said were written by Tom Zalay just prior to his suicide: the Undated Handwritten Note and the Typed Note. He described these documents as supporting the allegation that Tom Zalay and Hubbard had a homosexual relationship. The Undated Handwritten Note refers neither to Bishop Hubbard nor to a homosexual relationship with anyone, and we doubt that it was written around the time of Tom Zalay's death, for the reasons set forth below. Further, we have

serious doubts about the authenticity of the Typed Note and question whether it was actually written by Tom Zalay. Even if, however, the Typed Note was written by Tom Zalay near the time of his death, we do not believe that Tom Zalay had a sexual relationship with Bishop Hubbard and have found no corroborating evidence to suggest that he did.

The Undated Handwritten Note

We compared two of Tom Zalay's writings from 1974 and April 1978, a period in which Tom Zalay's mental illness worsened, to the Undated Handwritten Note produced to the media by Andrew Zalay on February 4, 2004. A lucid and articulate Tom Zalay wrote in neat handwritten print in the Meag Letter (Exhibit 39) that he was worried about mental illness and knew that his parents were worried about him. Tom Zalay's April 1978 Note (Exhibit 40), which is dated just six days before his suicide, stands in stark contrast to the Meag Letter. The handwriting in the April 1978 Note is scribbled, barely legible, and reflects Tom Zalay's profound mental illness. See Exhibit 41 for a comparison of these four documents.

The Undated Handwritten Note is inconsistent in appearance with the handwritten April 1978 Note that we know Tom Zalay wrote just before his death. In fact, the Undated Handwritten Note, while reflecting serious mental issues, is far more coherent than the April 1978 Note. The Undated Handwritten Note is similar in physical appearance to the Meag Letter, which we know was written in 1974. Whether the Undated Handwritten Note offered by Andrew Zalay as one of Tom Zalay's April 19,

1978 suicide notes was in fact written by Tom Zalay shortly before his death is thus doubtful.

More importantly, the Undated Handwritten Note refers to Tom Zalay's innermost thoughts, including incest, child molestation and suicide, but it does not mention or even suggest that Tom Zalay was having a sexual relationship with Bishop Hubbard or anyone else. Indeed, Tom Zalay, in the Undated Handwritten Note, attributes the death of his "soul and spirit" to an incident "in that dormitory at Northeastern." While we were unable to learn the exact nature of this incident, ZFM1 stated that it involved several people, including another student at Northeastern. The Daily Gazette reported on February 5, 2004, presumably based on information provided by Andrew Zalay, that the incident at Northeastern "involved an earlier homosexual encounter." (Exhibit 33) The Legislative Gazette reported on February 9, 2004, again presumably based on information provided by Andrew Zalay, that Tom Zalay was "molested as a freshman at Northeastern University." (Exhibit 38) There is no evidence or allegation that Bishop Hubbard was involved in any way in this incident. Thus, nothing contained in the Undated Handwritten Note, although written by Tom Zalay, suggests that Tom Zalay committed suicide as a result of a sexual relationship with Bishop Hubbard.

Finally, although the 1978 Handwritten Note is both dated and signed, was written just six days before Tom Zalay's death, and makes no mention of a sexual relationship with Bishop Hubbard, Andrew Zalay chose not to release this highly relevant document, although it was among the documents that Andrew Zalay and John Aretakis had in November 2003.

The Typed Note

We have serious doubts about the authenticity of the Typed Note—doubts that likely could be resolved one way or the other by forensic testing. A simple forensic examination could provide relevant information about when the note was prepared, yet Andrew Zalay refused to submit the original Typed Note for forensic testing, despite our repeated requests and proposal that: (1) he select the laboratory; (2) the investigation would pay for the tests; and (3) the test results would be issued simultaneously to the investigation and him. John Aretakis' response to our repeated requests to have the Typed Note tested has been to suggest that we have asked him to "open his files." This is not so. The Typed Note was made public by John Aretakis' client, Andrew Zalay on February 4, 2004 and is thus no longer a confidential document. We have yet to hear a single cogent argument as to how forensic testing of the note at a laboratory of John Aretakis's or Andrew Zalay's choice would adversely affect Andrew Zalay¹¹ In fact, we would have thought that Andrew Zalay would welcome the opportunity to gain more information about what he believes to be his brother's suicide note.

We also have doubts about the Typed Note's authenticity because its content is inconsistent with Tom Zalay's writings at the time of his suicide. A comparison of the Typed Note, which is rational and lucid, and the April 1978 Note, which is scribbled and

¹¹ We also note that Andrew Zalay brought the Typed Note to the public in a way that would not require forensic testing of the document. When he publicized the Typed Note's contents, he explicitly stated that he would *not* file a lawsuit against Bishop Hubbard. Had Andrew Zalay filed such a lawsuit, the Typed Note would have been discoverable and therefore could have been tested.

almost incoherent, leads us to doubt that they were written by the same person at or around the same time. See Exhibit 42 for a comparison of these two documents.

There is also evidence suggesting that the Typed Note was not present among the other Tom Zalay writings at the time of his death. The police report states that “there was no note found” but that “the parents stated that the deceased was very capable of suicide as he had tried two or three times in the past to do away with himself and never left a note on doing same.” (Exhibit 43) Detective Candlen, the veteran police officer who responded to the scene, confirmed that the police looked for a suicide note, but did not find one. Ethel Zalay, who, according to Andrew Zalay, knew about the relationship between Tom Zalay and Bishop Hubbard, did not mention that relationship to the Detective Candlen as a reason for her son’s suicide. Detective Candlen told the investigation that had he been provided that information by the Zalay parents, he “would have recorded and recalled” it.

The fact that ZFM1 reviewed Tom Zalay’s writings within several years of his death and specifically recalls seeing the Undated Handwritten Note—but not the Typed Note—also suggests that the Typed Note was not among Tom Zalay’s writings. ZFM1 was of the definitive view that the contents of the Typed Note are so striking that they could not be forgotten. As noted above, however, the first time that ZFM1 ever recalls seeing the Typed Note was when it was presented by Andrew Zalay and John Aretakis in November 2003.

ZFM2 is less definitive about the Typed Note. ZFM2 has some recollection of seeing the Typed Note sometime prior to the meeting with John Aretakis and Andrew

Zalay in November 2003, but acknowledged that his memory of the document is poor. ZFM2 recalls seeing a typed note among Tom Zalay's writings in the Zalay home shortly before, or possibly shortly after, Andrew Zalay returned to Albany in August 2003. ZFM2 stated that the typed note seemed to confirm a family belief that Tom Zalay "had had homosexual relationships, perhaps with priests." ZFM2 did not examine the folder or the typed note in detail at that time, however, and said that the typed note may not have been the Typed Note that was made public by Andrew Zalay. The typed note ZFM2 saw among Tom Zalay's writings sometime prior to November 2003 did *not* lead ZFM2 to link Tom Zalay and Bishop Hubbard in a sexual relationship. Neither ZFM1 nor ZFM2 recalls seeing the Tom Zalay writings in a blue charred binder in the Zalay home.

Nor is there any indication that Ethel Zalay ever knew about the Typed Note. Andrew Zalay claims that the Typed Note was among the Tom Zalay writings kept by his mother. Those writings, according to ZFM1 and ZFM2, were known to the family and located in Ethel Zalay's bedroom. It is clear that Ethel Zalay reviewed the Tom Zalay writings as evidenced by her handwritten markings on the Undated Handwritten Note. The fact that Tom Zalay's death certificate had been placed in the file is further evidence that Ethel Zalay likely knew of the file. Ethel Zalay also confided to the Bells, friends and co-workers, that she had learned after his death that Tom Zalay suffered from a highly personal medical condition. One of the documents obtained during the investigation that was among the writings in Ethel Zalay's folder of Tom Zalay writings contains a description of this same condition. Yet Ethel Zalay never mentioned or

produced the Typed Note when she told the story about looking for Tom Zalay at the rectory. This is particularly significant because ZFM1 would specifically ask Ethel Zalay, each time Ethel Zalay told the story, if she had any proof of a sexual relationship between Tom Zalay and a priest. Ethel Zalay would always acknowledge that she had no proof. While it is possible that Ethel Zalay would not share her thoughts on such a sensitive topic with people outside the family, she did share her fears about Tom Zalay's sexual relationship with ZFM1, yet made no mention of Bishop Hubbard or the Typed Note. It seems quite unlikely that Ethel Zalay would tell the story of looking for her son at a rectory, be pressed for further evidence, and yet not mention the contents of the Typed Note. It is also unlikely that, had Ethel Zalay ever seen the Typed Note among Tom Zalay's other writings, she would have contributed each year directly to the Bishop's Appeal.

Questions are also raised about the Typed Note's authenticity by the reported inconsistencies concerning the timing of when the Typed Note was allegedly discovered. Press accounts place the discovery in either August or December 2003. If Andrew Zalay found the Typed Note before August 25, 2003, it is curious that his letter of that date to Judge Hummel did not mention Bishop Hubbard, but named another priest. Andrew Zalay wrote that his brother "was molested and committed suicide" and that he had "reason to believe that Bertolucci was involved with this incident."¹² A December 2003

¹² It is also not clear how Andrew Zalay came to his stated belief that Father Bertolucci was "involved" in what had happened to his brother. Father Bertolucci was not a
(cont'd)

“discovery” of the Typed Note is also problematic. Both ZFM1 and ZFM2 stated that Andrew Zalay and John Aretakis showed them the Typed Note in November 2003.

We do not share Stephen Brady’s belief that a reference in the Typed Note—that homosexual sex does not violate the celibacy vow because the Bible describes celibacy as being free of women—tends to prove its authenticity. Such language proves only that the author of the Typed Note, whoever it may be, was familiar with this discredited reading of the celibacy vow. It does not prove who the author was.

Finally, we note that Andrew Zalay and John Aretakis did not provide ZFM1 and ZFM2 with all the Tom Zalay writings, but only a selected sample of the writings chosen by one or both of them. Andrew Zalay and John Aretakis retained the balance of the Tom Zalay writings, which they have failed to make public or make available to the investigation.

Our conclusion that the Zalay allegation is not substantiated by credible evidence does not, however, rest on questions about the Typed Note’s authenticity. Assuming that the Typed Note *was* written by Tom Zalay at or about the time of his suicide, there is nevertheless no evidence to substantiate that Tom Zalay actually had a sexual relationship with Bishop Hubbard. Based on interviews with family members and friends, his own writings, the fact of his suicide, and the personal history provided by the Zalay parents at the time of that suicide, it is clear that Tom Zalay, over the course of several years, went

priest when the abuse allegedly took place and was never assigned to St. Vincent de Paul Church or Vincentian Institute.

from being a bright and relatively well adjusted teenager to a young man institutionalized during most of his last year of life as a result of debilitating mental illness, which included a history of making accusations against others, drug use, and prior suicide attempts.

ZFM1 reported that Tom Zalay became increasingly troubled and suicidal in late 1974 or early 1975. On his return from Northeastern in April 1973, Tom Zalay could not go to school, could not hold a job, and requested and received therapy. Between 1975 and 1978, Tom Zalay attempted suicide on at least five occasions, including a jump from the fourth floor window of the CDPC, before his suicide on April 19, 1978. During 1977 and 1978, the period in which Andrew Zalay claims that Tom Zalay was involved in a sexual relationship with Bishop Hubbard, Tom Zalay was hospitalized from approximately May 1977 until April 13, 1978, and did not leave Vermont from August 8, 1977 through April 13, 1978. His parents reported to the police at the time of his death that he suffered from “split personality, persecution complex, depression and had suicidal tendencies.” (Exhibit 43) The Undated Handwritten Note which, unlike the Typed Note, *is* signed by Tom Zalay, states that he had a “confused intellect” and had “lied and cheated ever since I was small.” In the 1978 Handwritten Note, Tom Zalay refers to himself as “the psychopath” who has returned to Albany “deluded.” We learned from a friend and former co-worker of the Zalay parents that Tom Zalay made what the co-worker described as “grotesque” allegations against two people who were not priests and are now deceased. The co-worker indicated that Andrew Zalay, Sr., who had told him of the allegations before Tom Zalay’s death, had indicated that his son was delusional and

the allegations were untrue. Father Campagnone, who counseled Tom Zalay at the CDPC, recalled that Tom Zalay made allegations of sexual abuse, although not about Bishop Hubbard or any priest.

There is no evidence that Tom Zalay ever met Bishop Howard Hubbard. Andrew Zalay claimed that Tom Zalay's relationship with Bishop Hubbard occurred six months to a year before his death. Hubbard was ordained Bishop of the Albany Diocese on March 27, 1977, just one year before Tom Zalay's suicide. During the last year of his life, Tom Zalay was 23 years old, troubled and suicidal. He was institutionalized for large portions of his final year, including stays at the CDPC from approximately May 1977 through July 1977, at the Albany Medical Center for treatment of his broken legs, and at the Spring Lake Ranch from August 8, 1977 through April 13, 1978, as noted above. There is no evidence that Bishop Hubbard counseled or ministered to Tom Zalay or other psychiatric patients at these facilities. Nor is there any evidence that Tom Zalay sought or obtained counseling from Bishop Hubbard at any time, let alone after he was ordained Bishop of Albany. According to ZFM1, when he was not hospitalized or institutionalized during the last years of his life, Tom Zalay stayed at home and "did not do much of anything." He did not have friends and he did not socialize.

Moreover, there appears to have been relatively little time for the two to have interacted. Given Andrew Zalay's stated belief that the relationship began six months to a year before his brother's death and given Tom Zalay's hospitalizations largely from May 1977 through mere days before his death, the only month which appears to allow for the kind of sustained relationship implied in the Typed Note is April 1977. This was Bishop

Hubbard's first month as bishop as well as a month which began with Holy Week, and his calendar for that month, while certainly not dispositive, appears to leave little time for a relationship.

There is also no evidence that Tom Zalay and Bishop Hubbard met at any time prior to 1977. Bishop Hubbard worked as a "street priest" on Albany's South Side and lived at the St. John's Rectory from 1966 to 1976, and did not have any connection to St. Vincent de Paul Church, the Zalay family parish or Vincentian Institute High School, where Tom Zalay attended school. Nor does it appear that Tom Zalay ever went to Hope House or Providence House, two social services facilities with which Bishop Hubbard was actively involved prior to his appointment as bishop. Instead, Tom Zalay spent time at a halfway house operated by New York State. There is no evidence that Tom Zalay attended Bishop Hubbard's Monday night Hope House outreach meetings for abusers of drug and alcohol in 1969 and 1970, when Tom Zalay was 16 or 17 and in high school.

The Ethel Zalay Story

The other alleged link between Bishop Hubbard and Tom Zalay—the Ethel Zalay story—is, if told as Andrew Zalay recalls, suggestive of a relationship with Bishop Hubbard, but not conclusive. Andrew Zalay's version of the story does not establish that Tom Zalay was actually at the place where Ethel Zalay thought she saw his bicycle, or that, if he was there, he was having a sexual relationship with a person at that house, let alone Bishop Hubbard. There is also substantial reason to doubt the story as Andrew Zalay recalls it because ZFM1, who often heard this story, believed Tom Zalay to be in sixth or seventh grade at the time of the incident and never heard Ethel Zalay say that the

man who drew the curtain upstairs was Bishop Hubbard, that the “rectory” or “priest’s house” in question was the Bishop’s residence, or that Ethel Zalay later found blood in Tom Zalay’s underwear. The absence of such assertions is particularly significant in light of ZFM1’s questioning of Ethel Zalay for any evidence she had in support of her fear that sexual activity had occurred between Tom Zalay and a priest. All that Ethel Zalay offered under those circumstances is that she saw a man in the house wearing a “pushpok,” the Hungarian word for Bishop’s hat – a suggestive but ultimately inconclusive detail that does not prove anything else about that man.¹³

Ethel Zalay’s actions and words after her son’s death also undermine the assertion of Andrew Zalay that she was aware of a sexual relationship between Tom Zalay and Bishop Hubbard. Not only did Ethel Zalay continue to donate regularly to her local parish, but she also contributed each year, for which records are available, to the Bishop’s Appeal (1990-2002), contributions sought specifically by Bishop Hubbard. It is hard to imagine that Ethel Zalay, believing that Bishop Hubbard was in part responsible for her son’s death, would contribute to his Appeal each year.

Although Andrew Zalay asserts that the Zalay family knew of the sexual relationship between Tom Zalay and Bishop Hubbard for over 25 years, the Zalay family members we interviewed all deny ever hearing any mention of such a relationship. Ethel

¹³ The fact that both Bishop Maginn and at least one other priest (DP1) lived at St. Vincent’s rectory in the 1970s, and that the latter dressed and dressed up in Bishop Maginn’s clothing “for fun,” further clouds the inferences that can be drawn from Ethel Zalay’s recollection. There is also no evidence, however, of a sexual relationship between Tom Zalay and either Bishop Maginn or DP1.

Zalay also spoke and wrote to several people, including family members and close friends, about Tom Zalay's suicide, yet never mentioned anything about a sexual relationship with Bishop Hubbard or any other priest. Rather, she consistently stated that her son's death was due to a drug-related experience he had at Northeastern University. Tom Zalay, in his Undated Handwritten Note, also refers to this profoundly disturbing experience at Northeastern. And Andrew Zalay himself never mentioned the relationship, and actually offered other reasons for his brother's suicide to his ex-wives, Mary Zalay and Regina Spata, and even an alternative suspect to a state court.

Finally, Bishop Howard Hubbard categorically denied the Zalay Allegations under oath, and passed a polygraph test on these examinations.¹⁴

(9) Conclusion

There is no evidence to substantiate the allegations of Andrew Zalay that Bishop Hubbard had a relationship with Tom Zalay, sexual or otherwise.

B. The Bonneau Allegations

(1) Allegations

On February 6, 2004, Anthony Bonneau, accompanied by John Aretakis, Esq., asserted at a press conference that he had had two paid sexual encounters in the 1970s in Albany's Washington Park with a man he believed to have been Bishop Hubbard.

¹⁴ James K. Murphy, the certified polygraph examiner, concluded: "Based upon the results of the scoring algorithm and my own review and analysis of the polygraph recordings from the examination, I have concluded that Bishop Hubbard is **truthful** when he denies ever meeting Tom Zalay and ever having sexual relations or sexual contact with Tom Zalay." (Exhibit 52)

Press accounts of the press conference stated that:

- Mr. Bonneau said that a man he believed to be Bishop Hubbard approached him many times in the 1970s and at least twice paid him cash for sexual acts in his car.
- Mr. Bonneau stated that this man identified himself as a priest from out of town, that the priest's name was "Howard,"¹⁵ and that he did not know the man's identity at the time.
- Mr. Bonneau stated that he did not realize the man was Bishop Hubbard until a decade ago when he saw Bishop Hubbard on television and recognized him as the priest from Washington Park. Mr. Bonneau stated that prior to February 6, he had never mentioned his belief that the man was Bishop Hubbard to anyone but his wife.
- Mr. Bonneau said that he was not clear when these encounters happened. He stated "I don't remember the exact days or times – I tried to block a lot of this out in my life because it was a very horrible part of my life."
- Mr. Bonneau described two paid sexual encounters; in the first, Mr. Bonneau claimed that he was paid \$15 or \$20 to expose himself; in the second, Mr. Bonneau claimed that he was paid \$20 for an oral sex act.
- Mr. Bonneau stated that "I can't say 100, 100%, but I can tell you 99.9% it was Howard Hubbard," and that "I know in my heart that Howard Hubbard picked me up and offered me money to have sex with him." (Exhibits 6, 54)

(2) Background Press Reports

According to press reports, Anthony Bonneau ran away from home in approximately 1971 at the age of 8 years old and allegedly worked as a male prostitute in

¹⁵ The investigation became aware of a former homosexual priest named Howard who resided at the Chancery from 1961 to 1976. He left the priesthood in 1976. He denied frequenting Washington Park for any reason other than to walk his mother's dog.

Washington Park in the late 1970s. The Daily Gazette reported on February 8, 2004 that Mr. Bonneau said that he worked as a hustler to survive and stayed in an abandoned building at night. (Exhibit 54) The Times Union reported on February 7, 2004 that Mr. Bonneau was caught by police and placed into a juvenile facility before he turned sixteen, that he then ran away from the juvenile facility, that he later moved to Oklahoma in order to put his past behind him, and that he ultimately returned to the Albany area in the early 1990s. (Exhibit 55)

(3) Findings Regarding the Bonneau Allegations

Anthony Bonneau stated at his February 6, 2004 press conference that he was not going to file a lawsuit, but that he would be willing to testify in court and give a deposition in support of his allegations. As noted, however, Anthony Bonneau declined to be interviewed.¹⁶ It was therefore necessary to learn about him through other people and other sources.

Anthony Leo Bonneau was born on October 5, 1963. He has lived in upstate New York, Florida, California and Oklahoma over the last twenty years. It appears that he left the Albany area from at least 1984 to the mid-1990s. His departure from the Albany area appears to coincide with a 1984 divorce from his first wife, Amy Beth Bonneau. He then lived in Fort Myers, Florida from 1984 through approximately 1990. He then

¹⁶ See Introduction concerning Anthony Bonneau's lack of cooperation. See also Exhibit 29, which includes several letters regarding the investigation's attempts to set up a meeting with Anthony Bonneau in John Aretakis' presence.

moved to Elk City, Oklahoma, where he married his current wife, Eldonna Bonneau on May 29, 1991. He then returned to the Albany area in approximately late 1994.

Since the mid-1980s, Mr. Bonneau has been employed in a variety of jobs including construction, bulk hauling, auctioneer and seller of used furniture and collectibles.

As he has acknowledged, and the investigation confirmed, Mr. Bonneau has been arrested several times for minor offenses in New York, California, and Oklahoma, including on charges in New York for a burglary (1984), issuing a bad check (1985), and criminal impersonation (1984); records show that Mr. Bonneau pled guilty to lesser charges in each instance.

Court records in New York also reflect three civil lawsuits brought against Mr. Bonneau in the 1980s. The most serious complaint was filed by Linda LaRocco, Mr. Bonneau's former partner in an auction business, who sued Mr. Bonneau for \$250,000 and an accounting of partnership assets, alleging that Mr. Bonneau had unilaterally dissolved the partnership, removed assets from the partnership without consent, and made misrepresentations in order to induce Ms. LaRocco to enter into their partnership. The court granted Ms. LaRocco's motion for the appointment of a receiver to take charge of the partnership and its assets and the receiver subsequently resolved the matter in 2002.

In her interview, Ms. LaRocco stated that Mr. Bonneau was buying stolen property for resale in their auction business and that she invested over \$30,000 for inventory, which Bonneau sold without sharing the profits. Ms. LaRocco also stated that during their partnership, Mr. Bonneau took cash from the business to buy drugs for

himself and a friend. Finally, Ms. LaRocco said she learned from sources friendly with the Bonneaus that Eldonna Bonneau expressed concern when she learned that an independent investigator had been hired to investigate the allegations her husband made against Bishop Hubbard. The day after a press conference was held in Albany discussing the independent investigation, The Daily Gazette reported that Mr. Bonneau stated that “he was not 100 percent sure it was Hubbard.” (Exhibit 17)

Lynn Deas and Richard Kasprowicz took Anthony and Eldonna Bonneau into their split level home in January 1999, because the Bonneau residence had burned down. Shortly thereafter, Lynn Deas, who is elderly and handicapped, became ill, and the Bonneaus agreed to help around the house and be companions for Ms. Deas and Mr. Kasprowicz in exchange for staying. According to Mr. Kasprowicz, Eldonna Bonneau lived up to her end of the bargain by helping around the house. According to Mr. Kasprowicz, Anthony Bonneau smoked marijuana all day because he said he had a bad back, and did not help around the house. Mr. Bonneau told Mr. Kasprowicz that he had been on drugs “for a very long time,” but never mentioned to Mr. Kasprowicz that he was a male prostitute.

In March 1999, Mr. Kasprowicz and Ms. Deas loaned the Bonneaus \$10,000, which Anthony Bonneau said would be used to buy a farm. The Bonneaus later asked Mr. Kasprowicz and Ms. Deas for more money related to the farm purchase. Ultimately, they loaned the Bonneaus a total of \$30,000. Subsequently, Anthony Bonneau told Mr. Kasprowicz that he had purchased land that turned out to be worthless because it was a state wetland. Public records reflect that on March 12, 1999, the Bonneaus purchased

two adjacent unimproved lots in Montgomery County for approximately \$50,000 and that, in January 2003, the Bonneaus sold both lots for approximately \$70,000. (Exhibit 56) As of February 2004, when Ms. Deas and Mr. Kasprowicz were interviewed, the Bonneaus had not repaid the loan.

Ms. Deas and Mr. Kasprowicz asked the Bonneaus to leave their home in May 2001, following a separate incident in which Anthony Bonneau allegedly physically assaulted his wife, causing Ms. Deas to contact the police. Detective Mark Forell, Niskayuna police, confirmed that Anthony Bonneau was arrested on May 22, 2001, for assaulting his wife (Penal Law 120, assault in the third degree). Subsequently, Eldonna Bonneau obtained an order of protection from Anthony Bonneau. (Exhibit 57)

Anthony Bonneau is related to the Bonneau family members who have raised questions about the death of Gilbert Bonneau at St. Colman's home in 1953. Anthony Bonneau's father, Ernest, was the brother of Gilbert Bonneau, which makes Anthony Bonneau Gilbert's nephew. Members of the Bonneau family believed that Gilbert Bonneau was murdered by a nun at St. Colman's Home. According to a June 18, 1997 article in The Times Union, on June 17, 1997, members of the Bonneau family had Gilbert Bonneau's body exhumed from St. Patrick's ceremony at their own cost. They also hired Monroe County Chief Medical Examiner Nicholas Forbes to conduct an autopsy of the exhumed body. There was no further press coverage of the autopsy results.

(4) Bonneau's Prior Accounts of his Washington Park Experience

Anthony Bonneau told three former business associates about his past as a prostitute.

Val Mickels said that Anthony Bonneau became very upset one day in 1997 or 1998, and confided to her and another woman that as a young teenager, he was a prostitute in the streets of Albany. Mr. Bonneau described to Ms. Mickels how he ran away when he was 10 or 12 (1973-1975) and prostituted himself to survive. According to Ms. Mickels, Mr. Bonneau said that the prostitution occurred “a lot,” but not always, in Washington Park. Ms. Mickels stated that Mr. Bonneau told her that he had been involved in sexual relationships with a priest and a member of the media. Mr. Bonneau never mentioned that the priest was Bishop Hubbard. Mr. Bonneau did provide the name of the other person to Ms. Mickels.

Mr. Bonneau’s former partner in an auction business, Ms. LaRocco, along with her friend, Percy Brand, stated that Mr. Bonneau told them that he was abused as a child, had run away as a teenager, and that he had prostituted himself. Mr. Bonneau told Ms. LaRocco that he would “do anything for money.” Bonneau never mentioned to Ms. LaRocco that he was involved with priests or Bishop Hubbard.

Lynn Deas, who allowed Mr. and Mrs. Bonneau to stay in her home from 1999 to 2001, stated that Mr. Bonneau would tell different people different stories about his life. Ms. Deas said that Mr. Bonneau told her that he “did bad things” in Washington Park but had never told her that he had been a prostitute, instead implying that he had sold drugs. Ms. Deas said that Mr. Bonneau never mentioned Bishop Hubbard. Ms. Deas knows that Mr. Bonneau told others that he was a prostitute, but never heard that Mr. Bonneau, in

telling the story, mentioned Bishop Hubbard. Ms. Deas said that, in her view, nothing Mr. Bonneau says “can be relied upon,” and that “he would do anything for money.” She said that Mr. Bonneau owed her some \$30,000.

(5) Other Relevant Facts Regarding Anthony Bonneau

A man who worked since 1999 at several bars that catered to the gay community (“GBE1”) provided information about Anthony Bonneau. GBE1 described a current patron who confirmed that Anthony Bonneau was a “hustler” in Washington Park in the early 1970s.

(6) Other Relevant Facts Regarding Washington Park

The investigation received information from numerous people familiar with homosexual activities in Washington Park, and within Albany more generally. These include police officers, priests and lay people. As detailed below, several of these witnesses stated that a former diocesan priest (“FDP1”), who bore some resemblance to Bishop Hubbard, frequented Washington Park, and gay bars in Albany, in the late 1970s and early 1980s. The investigation has not found any evidence that links FDP1 to Anthony Bonneau (or to Tom Zalay). It is likely, however, that certain of FDP1’s activities, as well as the activities of other priests detailed below and in the Appendix, may have led to at least some of the rumors about Bishop Hubbard and homosexuality, in Washington Park and elsewhere in Albany.

The investigation learned of other priests who also frequented Washington Park. One diocesan priest (“DP2”) admitted going to Washington Park for sexual encounters and said that he had been stopped by police there on at least one occasion. A former

diocesan priest (“FDP2”) stated that he visited Washington Park possibly once a month; he did not state why he visited Washington Park but did say that he was stopped once by an undercover police officer and was told to leave the park. Another former diocesan priest (“FDP3”) stated that he visited Washington Park occasionally but did not say why he went there. The investigation also received information that at least one other FDP was involved in homosexual activity that at least began in Washington Park.

1. Police officers

The investigation talked to 16 current and former Albany Police Department officers whose work in the 1960s through the early 1980s regularly involved Washington Park. Each of these officers stated that he had never seen or apprehended Bishop Hubbard in Washington Park, and had never heard that any other police officer had seen or apprehended Bishop Hubbard in Washington Park. The investigation also examined several second, third and fourth-hand allegations that police officers had stopped Bishop Hubbard in Washington Park.¹⁷

Retired Detective John Burke, who is currently an Inspector with the Albany County Sheriff’s Department, was assigned to the Detective Division of the Albany Police Department between 1972 to 1978. Throughout this period, Det. Burke was assigned to the Washington Park sector. He worked mainly in the evenings, conducting undercover operations and investigating robberies and larcenies. Det. Burke described

¹⁷ Each of these allegations are described in detail in the Appendix to this report. In each case, the allegation was unsubstantiated.

Washington Park as a common place for homosexual activity during this period. He recalled that a former priest of the Albany Diocese, FDP1, was a frequent visitor to Washington Park, and that he told FDP1 to leave the park on several occasions.¹⁸ He also recalled that on one occasion, he looked for FDP1 at an Albany bar, located at the intersection of State and Lark, that was known to be frequented by homosexuals. Det. Burke asked the bouncer if FDP1 was inside. The bouncer then yelled into the bar, “Hey, Bishop, are you back there?” Det. Burke said that FDP1 was called “the Bishop” back in the 1970s. Det. Burke stated that he is not a “fan of Bishop Hubbard,” but that he had never seen Bishop Hubbard in Washington Park or in any of the known gay bars. Det. Burke further stated that he has looked at Anthony Bonneau’s picture and he does not believe that he ever saw Anthony Bonneau in Washington Park.

Retired Detective John Fischer, who is currently employed by New York State, was a member of the Albany Police Department from 1972 to 1994. He was assigned to Washington Park between 1973 and 1990, first (from 1973 to 1974) as a member of the Squad 3 Patrol and then as a Detective (from 1975 to 1990) dealing with Vice crimes, including male prostitution. He stated that throughout his career with the Albany Police Department, he never saw Bishop Hubbard in Washington Park. He further stated that during the course of his career, he had managed at least 60 confidential informants, including male prostitutes who frequented Washington Park, none of whom ever

¹⁸ The investigation found no evidence that FDP1 ever met Anthony Bonneau or Tom Zalay.

mentioned Bishop Hubbard to him. He added that his sources in Washington Park had told him that there was an individual who spent time in Washington Park who was known by the nickname "Bishop." Det. Fischer specifically recalls asking his sources if they were referring to Bishop Hubbard. They said no. Det. Fischer has looked at a photograph of Anthony Bonneau and does not recall ever seeing Anthony Bonneau in Washington Park. He believes that if there had been a 12 or 13 year old male prostitute in Washington Park, he would have been immediately informed by one of his sources.

Retired Sergeant Edward Conroy served in the Albany Police Department from 1973 to 2004. He patrolled Washington Park from 1973 to 1989. He stated that he had never seen Bishop Hubbard in Washington Park, and had never heard from any other police officers that they observed Bishop Hubbard in Washington Park.

Officer Timothy Murphy, who is now in charge of security and threat assessment for the Port of Albany, worked for the Albany Police Department from 1972 to 2003. From 1972 to 1980, he was assigned to the Juvenile Office and investigated vice crimes involving juveniles and patrolled Washington Park. He stated that he never saw Bishop Hubbard in Washington Park at any time, and never heard from any other police officers that they had seen Bishop Hubbard in Washington Park. He also stated that he had several reliable informants, as well as numerous hustlers in Washington Park, providing him with information. None of them ever told him that they had seen Bishop Hubbard in Washington Park or that they had engaged in a sexual act with Bishop Hubbard. One source did tell him, however, that FDP1 was suggesting to the hustlers that he had the

power of the Bishop. Officer Murphy described FDP1 as having fair skin and bleached hair.

Retired Officer William McCoy worked for the Albany Police Department from 1971 to 1992. He was assigned to the Juvenile Division for 17 years beginning around 1975. He said that he never saw or heard that Bishop Hubbard was in Washington Park for any reason, including for sexual encounters. He said that he had heard years ago that someone was impersonating Bishop Hubbard, but did not recall further details about what he had heard.

Sergeant Thomas Sidoti has been a member of the Albany Police Department since 1972, and is currently assigned to the Department's Central Booking Unit. From August 1972 until August 1979, he was a member of the Squad 3 Patrol and patrolled Washington Park. He said that he never observed Bishop Hubbard in Washington Park throughout this period, and never heard from anyone else that Bishop Hubbard had been in Washington Park.

Retired Detective Charles Romand served in the Albany Police Department from 1972 to 1992. From 1976 to 1978, he was responsible for patrol in Washington Park, and worked the 5:00 p.m. to 1:00 am shift. He also worked in Washington Park on other details throughout his career. He stated that he had never observed Bishop Hubbard in Washington Park and had never heard from any fellow officers that they had observed Bishop Hubbard in Washington Park.

Retired Lieutenant Tom Shields served in the Albany Police Department from 1973 to 1995. He worked in the Juvenile Unit in the mid-1970s, and covered

Washington Park, which he described as a “hotbed of activity” for sex crimes and muggings. He again covered Washington Park in the early 1980s as a Patrol Sergeant. In 1990, he became a Patrol Lieutenant with citywide responsibility. Lieutenant Shields said that he had never seen Bishop Hubbard in Washington Park and had never heard from other officers that he was there. He did recall seeing FDP1 in the late 1970s or early 1980s on Lark Street, an area known for cruising. He said that FDP1 had dyed blonde hair and was wearing a yellow sweater around his neck. He stated that FDP1 “seemed to be cruising.”

Retired Detective William Dolan, who currently works in the Security Department of Siena College, was a member of the Albany Police Department from 1960 to 1980. He stated that certain clergy members—including FDP1—were known to frequent Washington Park seeking homosexual relations. However, Det. Dolan never saw Bishop Hubbard in Washington Park and never heard that Bishop Hubbard had been seen in Washington Park. Det. Dolan added that during the late 1960s, he was aware that Bishop Hubbard and Father Young ran a storefront operation, Hope House, on South Pearl Street that assisted the homeless and people with drug and alcohol problems. At that time, Det. Dolan was a detective assigned to the area in which Hope House was located. He became suspicious of Hope House, because he believed that such operations could be scams to take advantage of victims. He thus conducted his own investigation of Hope House, in which he spoke with confidential informants, met with people who had gone to Hope House, and made numerous unannounced visits to Hope House. He did not discover any negative information regarding Bishop Hubbard or Father Young.

Retired Officer Arthur Phinney worked for the Albany Police Department for 26 years. He was assigned as a juvenile officer from around 1985 through 1992 and his unit had city-wide jurisdiction, including Washington Park, over juvenile offenses. During this period, he worked the 4:00 p.m. to midnight shift. In 1993, he went to the Detective Division as a sergeant and investigated crimes in Washington Park. In 1998, he was promoted to Lieutenant and took on a supervisory role; he was ultimately promoted to the rank of Detective Lieutenant. He said that he never saw Bishop Hubbard in Washington Park, that he never heard from any other officer that Bishop Hubbard was frequenting Washington Park, and that he was unaware of any allegation of sexual misconduct by Bishop Hubbard. He said that he did stop a priest in Washington Park who was not Bishop Hubbard and who said that he was ministering to the children.

Retired Officer Timothy Robinson worked for the Albany Police Department from 1975 through 1997. He stated that he patrolled Washington Park on numerous occasions. He said that he did not recall ever stopping or confronting Bishop Hubbard in Washington Park and that he did not recall ever hearing from any his fellow officers that they had ever stopped Bishop Hubbard in Washington Park.

We also spoke to the Commissioner of the Albany Police Department, John C. Nielsen, who joined the Albany Police Department in 1972, and investigated robberies and burglaries in the Washington Park area during the late 1970s and early 1980s. Commissioner Nielsen said that he had never seen Bishop Hubbard in Washington Park, and has never heard from any officer or anyone else that Bishop Hubbard was ever seen in Washington Park. Commissioner Nielsen stated that on numerous occasions, he

developed confidential informants who “cruised” or “hustled” in Washington Park, but never learned or heard from them or from anyone that Bishop Hubbard was frequenting the park.

Albany Chief of Police Robert Wolfgang, who joined the Albany Police Department in 1971, stated that he had worked on cases involving crime in Washington Park during the 1970s, and that he never saw Bishop Hubbard frequenting Washington Park or learned that he had been there.

Retired Detective James Tuffey, who is currently the Assistant Commissioner of the New York State Department of Environmental Conservation, served in the Albany Police Department from 1975 to 1995. As noted above, he recalled that Bishop Hubbard did not have a good relationship with the Albany Police Department in the 1960s and 1970s due to his social activism. He stated, however, that he had never heard from any officers that Bishop Hubbard had ever frequented Washington Park or gay bars. He did recall rumors that FDP1 had solicited gay sex in Washington Park. Det. Tuffey did not recall the name Anthony Bonneau.

Michael Nardolillo, Jr., the juvenile investigator for the Albany Police Department from 1981 to 1984, stated that he maintained a book with the names, license plate numbers, and other information about individuals he stopped and questioned in the park on suspicions that they were soliciting sex or drugs. Mr. Nardolillo stated that he released people with a warning that they would be cited or arrested if they were seen in the park again. He stated that he had questioned and warned a number of Albany clergy, lawyers and judges, but not a Roman Catholic Priest and not Bishop Hubbard. Mr.

Nardolillo stated that his partner maintained the book until 1995, at which time it was destroyed.

Retired Detective Thomas Ingley, who served in the Albany Police Department from 1972 to 1992, served as a detective assigned to the juvenile unit from approximately 1978 to 1991, and his jurisdiction included Washington Park throughout that time. From 1978 to 1988 and from 1989 to 1991, he worked the 4:00 p.m. to midnight shift; during the remaining parts of 1988 and 1989, he worked the midnight to 8:00 am shift. He stated that he had never observed, stopped, or arrested Bishop Hubbard in Washington Park, had never heard from other officers that Bishop Hubbard was in Washington Park, and had never heard from any adult homosexuals that Bishop Hubbard frequented Washington Park.

2. Lay People With Knowledge of Washington Park

An Albany resident (“AR1”) who requested confidentiality and who was familiar with the Albany gay scene in the late 1970s and early 1980s, emailed the investigation on February 20, 2004. In this email, he stated that “in the late 70’s and in the 80’s there was a priest of the Albany Diocese who frequented the gay bars, gay cruising areas ‘Washington Park’ shopping mall parking lots where he exposed himself to young men and used to say he was the bishop.” AR1 specifically named FDP1 as this priest in the email. (Exhibit 58) In a subsequent interview, he stated that he frequently saw FDP1 in bars that catered to homosexuals and “cruising” Washington Park. Specifically, he observed FDP1 at the State Street Pub and The Playhouse. AR1 said that on one

occasion, while driving in Washington Park, he stopped next to FDP1. They began to talk and FDP1 referred to himself as “the Bishop.” AR1 told FDP1 that he knew that FDP1 was not the Bishop, but was a priest. FDP1 responded that he had just left the priesthood, and drove off. AR1 believed that FDP1 was in Washington Park to make a sexual connection, but did not believe that FDP1 was there looking for “kids or hustlers.” AR1 noted that FDP1 dyed his hair blond and wore makeup. AR1 stated that he never saw Bishop Hubbard in Washington Park, or in any other place that was known for homosexual activity.

Another person, who called the investigation's tip line on February 23 and did not identify herself, said that the investigation should look at FDP1, whom she described as an "active homosexual" whose status was "widely known." She said that she knew of at least two complaints against FDP1 and that FDP1 had been removed from the Diocese.

3. Priests With Knowledge of Washington Park

Father James Lefebvre, the current pastor of Saint Mary’s Church in Albany who has been assigned there since 1973, has also been the Police Chaplain for the past 41 years. Father Lefebvre stated that in the mid- to late 1970s, Bishop Hubbard contacted him about someone who was impersonating him at the State Street Bar. Father Lefebvre asked the Albany police to determine the identity of the imposter. Ultimately, according to Father Lefebvre, the police identified FDP1 as the person frequenting gay bars and impersonating Bishop Hubbard. Lefebvre also heard from Albany police officers that FDP1 had been stopped in Washington Park by Albany police officers.

One retired pastor in the Albany Diocese had frequent contact with FDP1 during the late 1970s. This pastor recalled that at that time, FDP1 resembled Bishop Hubbard in that they both had a light complexion and “sandy reddish hair.” He noted that FDP1 later dyed his hair blond. This pastor corroborated that the police had stopped FDP1 in Washington Park on several occasions.

Father Michael Farano, the former Chancellor of the Albany Diocese under Bishop Hubbard, and the current pastor of St. Pius X in Loudonville, had several encounters with FDP1, who he described as having “red” or “reddish” hair in the late 1970s and later “unnaturally blonde” hair. One day in the late 1970s or early 1980s, FDP1 came into the State Street Chancery wearing white pants, a white shirt unbuttoned half way down his chest, and a prominent gold chain. On another occasion in the early 1990s, Father Farano was asked by Bishop Hubbard to investigate FDP1’s activities. At that time, Father Farano told FDP1 that he needed to choose between being a priest and having an active homosexual lifestyle. FDP1 responded, “when I preach from the pulpit, I preach what the Church teaches, but my private life is my private life.”

Father Joseph Romano, who was chaplain of the Albany City Fire Department from 1967 to 1992, stated that during the 1970s, FDP1 was once brought into Engine One, a firehouse in Albany, by an Albany Vice Squad detective. The detective told Father Romano that he had “picked up” FDP1 and another man, who was not Bishop Hubbard, who were “trolling” in Washington Park. At Father Romano’s suggestion, the detective took FDP1 to the Chancery.

Father Michael Hogan founded Hospitality House, a drug and alcohol rehabilitation center, in 1970 and worked there until 1980. Father Hogan stated that at Hospitality House, he was told by three residents who were Washington Park male prostitutes, that there was a thin priest with strawberry blond hair soliciting sex in Washington Park. Father Hogan stated that based on the description provided by the prostitutes, he had concluded that the priest was FDP1.

During the investigation, FDP1 initially denied any homosexual activity. Later, when confronted with numerous incidents identified by the investigation, FDP1 acknowledged that he had been an active homosexual while he was a priest in Albany in the late 1970s and early 1980s. FDP1 denied that he ever “cruised” in Washington Park, but admitted being stopped there by police for traffic violations. A undated, handwritten document written after 1991 by FDP1, however, stated that “the cruising had stopped” and that “I have had to change friends which has been most painful...I don’t go to bars here in Alb.” FDP1 declined to be polygraphed on the question of whether he ever paid for sex in Washington Park or in Albany, although, as noted below, he took a polygraph examination on two other subjects.

FDP1 acknowledged that he frequented two gay bars, the State Street Pub and a bar on Central Avenue, which the investigation identified as The Playhouse. FDP1 acknowledged that sometime between 1976 and 1981, he was at The Playhouse one night. After approximately 30 minutes, the DJ announced FDP1’s name and that “the police are here.” FDP1 went outside, but the police were not there. A parishioner later told FDP1 that she had heard that the police had seen him at the bar.

FDP1 denied that he ever referred to himself as “the Bishop” or ever hearing that anyone else referred to him in that way. On June 14, FDP1 voluntarily submitted to a polygraph examination concerning two issues: whether he was ever known as the “Bishop”; and whether he had ever been sexually involved with Bishop Hubbard.¹⁹ The polygrapher concluded that FDP1 was untruthful when he denied referring to himself as the Bishop.²⁰ However, the polygrapher concluded that FDP1 was truthful when he denied ever having a sexual relationship with Bishop Hubbard.²¹

Bishop Hubbard and other Diocesan priests confronted FDP1 on several occasions about his homosexual activity during the 1970s, 1980s, and 1990s. FDP1 assured Bishop Hubbard, both orally and in writing, that he had stopped and was now celibate. In 1990, Bishop Hubbard ordered FDP1 to undergo treatment. Ultimately, FDP1 was suspended after Bishop Hubbard learned of another incident in Washington Park involving FDP1. FDP1 is no longer serving or residing in the Albany area.

¹⁹ This second question was asked because Paul Likoudis informed the investigation that Father Minkler had alleged that FDP1 and Bishop Hubbard were homosexual lovers. This allegation is discussed in the Appendix.

²⁰ “Based upon the algorithm scoring results and my own evaluation of the polygraph recordings from this examination I have concluded that [FDP1] was **untruthful** when he denied referring to himself as Bishop and when he denied being aware of others referring to him as Bishop.” (Exhibit 59)

²¹ “Based upon the algorithm scoring results and my own review and analysis of the polygraph recordings from this examination I have concluded that [FDP1] was **truthful** when he denied engaging in any kind of sexual activity, at any time, with Bishop Hubbard.” (Exhibit 59)

(7) Other Relevant Facts

New York State criminal history records do not reflect that Bishop Hubbard was ever arrested for any offense.

Bishop Hubbard lived from 1976 to 1991 at 465 State Street at the Chancery Residence, which is adjacent to Washington Park. Bishop Hubbard stated that he sometimes drove through Washington Park to return home. And he would occasionally walk in the park during daylight hours, and before getting a treadmill, used to jog there in the mornings. He denied ever frequenting Washington Park at night or being stopped there by police at any time.

Victor Cirrincione stated that Bishop Hubbard used to often jog in Washington Park between 8:30 and 9:00 am, but not every day.

The investigation did not receive a single piece of information from any source that led to a first-hand account or incident relating to Bishop Hubbard being stopped, arrested, or engaged in any inappropriate activity in Washington Park. The investigation did receive a number of second-, third- and fourth-hand allegations about Bishop Hubbard being in Washington Park that could not be substantiated. See the Appendix. The investigation did receive a firsthand allegation from a confidential source that is about Bishop Hubbard; this allegation is not connected with Washington Park. This allegation is discussed in the Appendix.

(8) Hubbard's Statements Under Oath and Polygraph Test

Bishop Hubbard was asked the following questions, under oath, on April 22, 2004, and provided the following answers:

- Q: On February 6, 2004, Anthony Bonneau alleged that you had in the late 1970s, when he was between 13 and 15 years old, paid him for sexual acts on two occasions in Washington Park. Did you ever pay Anthony Bonneau for any sexual act?
- A: No.
- Q: Have you ever paid anyone for any sexual act?
- A: No.
- Q: Have you ever met Anthony Bonneau?
- A: Not to the best of my recollection.
- Q: Did you ever have any sexual contact with Anthony Bonneau?
- A: No.
- Q: Did you ever spend time at night in Washington Park?
- A: No.
- Q: Did you ever have any contact, sexual or otherwise, with prostitutes in Washington Park?
- A: No.
- Q: Were you ever confronted or stopped by a police officer in Washington Park?
- A: No.
- Q: Did you ever speak to a police officer while you were in Washington Park?
- A: No.
- Q: If so—and the answer to that is no, so no one was with you either—you didn't—let me clarify that. Did you ever speak to a police officer while you were in Washington Park?

A: Not to the best of my recollection. (Exhibit 52)

Bishop Hubbard underwent a polygraph examination on April 22, 2004 and the polygrapher concluded that Bishop Hubbard was truthful when he denied any association with Anthony Bonneau, paying for sex with anyone, paying to have someone expose his genitals, having sex with anyone from Washington Park, or ever having sex of any kind with anyone.²²

(9) Discussion – Bonneau Allegations

While we tend to credit that Mr. Bonneau was a teenage prostitute in Albany – because several people told the investigation that Mr. Bonneau had confided this to them in the past and it is not a self-serving admission—we find that his identification of Bishop Hubbard is inherently unreliable and mistaken. Mr. Bonneau himself has acknowledged that he is not 100 percent certain that it was Bishop Hubbard whom he encountered. Moreover, it is well established that eyewitness identifications, even in close proximity to the event in question, are very often unreliable, no matter how well-intentioned the eyewitness.²³ Here, Mr. Bonneau’s identification of Bishop Hubbard is particularly unreliable due to the following:

²² “Based upon the results of the scoring algorithm and my own review and analysis of the polygraph recordings from the examination, I have concluded that Bishop Hubbard is **truthful** when he denies any association with Anthony Bonneau, paying for sex, paying to have someone expose his genitals or having sex with anyone from Washington Park.” (Exhibit 52)

²³ Supreme Court Justice William Brennan wrote the following:

(cont’d)

- The incidents in question allegedly took place 25 to 28 years ago, between 1976 and 1979, when he was between 13 and 15 years old.
- Mr. Bonneau acknowledges that he did not know the identity of the man at the time of the alleged incidents.
- Mr. Bonneau says that he based his identification of Bishop Hubbard as he appeared on television in 1994, 15-18 years after the encounters.
- Mr. Bonneau’s account of the two incidents lacks the detail necessary to test its reliability.
- Questions raised about Mr. Bonneau’s credibility by acquaintances and former business associates cast doubt on the reliability of his identification.
- Mr. Bonneau’s failure to cooperate also raises further doubt about the credibility and validity of his allegations.

We also find it relevant that even after Mr. Bonneau claims to have first realized that the man in Washington Park was Bishop Hubbard, he did not mention that belief to his friends in whom he confided about his past. While this in itself is not dispositive, we find it odd that Mr. Bonneau would have specifically identified a member of the media and yet not identified Bishop Hubbard by name.

The vagaries of eyewitness identification are well-known; the annals of criminal law are rife with instances of mistaken identification. Mr. Justice Frankfurter once said: ‘What is the worth of identification testimony even when uncontradicted? The identification of strangers is proverbially untrustworthy. The hazards of such testimony are established by a formidable number of instances in the records of English and American trials. These instances are recent – not due to the brutalities of ancient criminal procedure.’”

United States v. Wade, 388 U.S. 218, 228 (1967).

We find compelling the complete lack of any firsthand accounts that Bishop Hubbard frequented Washington Park for the purpose of engaging in homosexual relations. Specifically, 16 Albany police officers, whose assignments span the period from the 1960s to the early 1990s, stated that Bishop Hubbard was never stopped, arrested or observed in connection with homosexual activity in Washington Park. These same officers stated that they never learned from either fellow officers, or from more than 60 informants, that Bishop Hubbard frequented Washington Park for the purpose of engaging in homosexual activity. Father Hogan, the longtime Director of Hospitality House, an organization that assisted people who frequented Washington Park, including male prostitutes, never heard that Bishop Hubbard was involved in homosexual activity there. Finally, not a single person contacted the investigation with direct, firsthand knowledge that Bishop Hubbard had homosexual relations in Washington Park despite the opportunity to report allegations anonymously.²⁴

²⁴ There have been a number of suggestions by critics of the Bishop and the Diocese that additional allegations of sexual misconduct will be disclosed at some future date. The investigation has also recently received two documents that indicate that additional allegations may be forthcoming. One, purportedly from a group called Victims of Clergy Abuse, was addressed to all Albany Diocese Priests and requests information about Bishop Hubbard, as well as “information and tactics, methods and leaks now coming out of Mary Jo White, and what you have heard about her and her team.” The letter asks that information be sent to a P.O. Box in Latham that is registered to John Aretakis. (Exhibit 60) The second was received by the investigation on June 22, 2004 (postmarked in Albany on June 18) and is signed “s., l. & m.” (Exhibit 61) The author(s) indicate that they have additional information about homosexual activity among priests in the Albany Diocese that may be turned over “to aretakis [sic] . . . the wonderer [sic] and the catholic faithful [sic],” depending upon the conclusions of this Report.

Finally, Bishop Hubbard categorically denied the Bonneau Allegations under oath, and submitted to a polygraph test that determined that he was being truthful when he denied these allegations.²⁵

(10) Conclusion

There is no evidence to substantiate the allegations of Anthony Bonneau that Bishop Hubbard paid Anthony Bonneau for sexual acts, while Mr. Bonneau was a male prostitute working in Washington Park, or at any other time.

There is evidence suggesting that Bishop Hubbard may have been misidentified as a result of the activities of one or more former Albany priests who frequented Washington Park for the purpose of engaging in homosexual relations.

C. The Minkler Allegations

(1) Overview

Two documents surfaced in the media after the Zalay and Bonneau press conferences, asserting that Bishop Hubbard had sexual relationships with three other named priests in the Albany Diocese. The first of these documents is the Minkler Letter, a typed letter, dated June 10, 1995, which is addressed to Cardinal John O'Connor of the Archdiocese of New York. Father Minkler was publicly identified as the author of this letter for the first time on February 12, 2004; we have concluded, as discussed below, that

²⁵ “Based upon the results of the scoring algorithm and my own review and analysis of the polygraph recordings from the examination, I have concluded that Bishop Hubbard is **truthful** when he denies any association with Anthony Bonneau, paying for sex, paying to have someone expose his genitals or having sex with anyone from Washington Park.” (Exhibit 52)

he did author this letter. The other document is the Minkler Notes, a set of handwritten notes signed by Father John Minkler; it is dated January 9, 2001 and is addressed to Stephen Brady of the RCF. It appears clear, and we have concluded, that Father Minkler also wrote the Minkler Notes.

Attorney John Aretakis has stated that he has additional letters by Father Minkler and that these letters include an allegation that Bishop Hubbard had sexual relationships with the three priests named in the Minkler Letter and in the Minkler Notes, as well as a fourth named priest who had not previously been named.

(2) Allegations

a. The Minkler Letter

The Minkler Letter includes three allegations suggesting that Bishop Hubbard was involved in homosexual relationships. The Letter:

1. Accuses Bishop Hubbard of homosexual experiences in the past and states that he is currently (1995) involved with two young priests, namely, Fathers Thomas Chevalier and Patrick Butler (the “First Minkler Allegation”).
2. Accuses Bishop Hubbard of being involved in “a ring” of homosexual priests in the Albany Diocese (the “Second Minkler Allegation”).
3. Accuses Bishop Hubbard of living a “double life” (the “Third Minkler Allegation”).

In support of the First Minkler Allegation, Father Minkler references a conversation between an unnamed “young priest” and an unnamed pastor in which the

pastor said that Bishop Hubbard “favors the young homosexual priests,” and that Fathers Chevalier and Butler “were made pastors of very good parishes at an early age.”

In support of the Second Minkler allegation, Father Minkler wrote that his source was “an Albany physician who works with aids (sic) patients...” According to Father Minkler, this physician “encountered two recently [1995 or earlier] diagnosed aids (sic) patients, who were unknown to each other,” who told the female physician “almost identical stories about their involvement with a ring of homosexual Albany priests which also included Bishop Hubbard.”

In support of the Third Minkler Allegation, Father Minkler wrote that an unnamed “permanent deacon at the Cathedral in Albany wehere (sic) Bishop Hubbard has been residing for the last few years [1995] has seen the Bishop leaving and returning very late at night, dressed in cut-off shorts and tank tops.” Father Minkler stated that this “permanent deacon” went on to say that “the Bishop keeps very much to himself, is very secretive, and that he feels that the Bishop is living a double life.”

b. The Minkler Notes

The Minkler Notes contain one additional sexual allegation against Bishop Hubbard. They:

1. Accuse Bishop Hubbard of having homosexual relations with Father Geoffrey Burke, as well as Fathers Butler and Chevalier (the “Fourth Minkler Allegation”).

Concerning the Fourth Minkler Allegation, Father Minkler states that “the story is” that Bishop Hubbard has slept with three priests: Father Patrick Butler, Father Thomas

Chevalier, and Father Geoffrey Burke. The Minkler Notes do not identify a source for the allegation against Father Burke nor provide any factual support for this assertion.

The Minkler Notes also refer to another priest, Father Dominic Isopo, who the notes say “has made reference to Hubbard’s ‘dalliances’ in conversation.” In addition, they state that Father John Varno has “boasted that he had the goods on Hubbard.”

c. Fifth Minkler Allegation

Attorney John Aretakis implied at a meeting held in Albany on May 8, 2004 that additional correspondence he had received from Father Minkler indicated that Bishop Hubbard had a homosexual relationship with Father Edward Pratt (the “Fifth Minkler Allegation”). John Aretakis further stated that a former nun had alleged that Bishop Hubbard was involved with Father Pratt in the late 1970s. Mr. Aretakis stated as follows:

Well, in 2003, Father Minkler wrote me a third and a fourth letter. And, again, it corroborated those same three priests and it added a fourth priest. And I also know, in an affidavit from a former nun, that Bishop Hubbard, in the late 70s and early 80s, was involved with Father Pratt, who was his chancellor back then. And Father Pratt, as you may know, was one of the six removed on June 28th, 2002. The Bishop involved with Father Pratt, Father Pratt involved with teenage boys, it makes perfect sense to me. (Exhibit 24, p. 13)

(3) Background on Father John Minkler

Father John Minkler was born on December 8, 1946 in Troy. He was the oldest of three children born to John A. and Cecilia Kapela Minkler. He graduated from Catholic Central High School in Troy in 1964. He attended Mater Christi Seminary in

Albany from 1964 to 1966 and the University Seminary (St. Paul's in Ottawa) from 1966 to 1972.

Father Minkler was ordained on May 13, 1972 in Albany by Bishop Edwin B. Broderick. Shortly after his ordination, Father Minkler was appointed as an associate pastor at St. Joseph's Church in Rensselaer and served there from June 3, 1972 to September 22, 1979. He was also appointed Diocesan Director of Apostleship of Prayer in September 1975. After St. Joseph's Church, he served as an associate pastor at St. Francis de Sales Church in Troy from September 1979 to June 1980. He then served as an associate pastor at St. Teresa's of Avila in Albany from June to December 1980.

In December 1980, Father Minkler requested, and was granted permission by Bishop Hubbard, to serve in the Military Ordinariate, which was at the time headquartered in New York City; the Military Ordinariate is now known as the Archdiocese for Military Services and is now headquartered in Washington, D.C. Father Minkler served as the Secretary and Master of Ceremonies to Archbishop Joseph Ryan and the Vice-Chancellor of the Ordinariate from December 1980 to June 1984.

In June 1984, when the Military Ordinariate moved to Washington, D.C., Father Minkler chose to return to the Albany area and began serving as a chaplain at the Stratton Veteran's Administration ("VA") Medical Center in Albany, which required the endorsement of Bishop Hubbard. Father Minkler remained part of the Military Ordinariate, serving at the VA Hospital, until his death.

(4) Father Minkler’s Relationship with Bishop Hubbard

At the time of his ordination in 1972, Father Minkler indicated his preference of assignments. He wrote that he most desired to serve in a parish, and that he considered an assignment to a hospital or as a military chaplain “very undesirable.”

In early 1979, Father Minkler was in his seventh year at St. Joseph’s Church, and also taught at the parish school. At that time, two staff members at the school wrote separately to Bishop Hubbard requesting that Father Minkler be removed from teaching at the school because he maintained what one writer described as an “atmosphere of fear and repression.” One staff member wrote that “the result of the children’s fear of Father Minkler is a negative attitude towards religion, especially toward liturgy and prayer” and that “the true religious atmosphere of the school would improve greatly if Father Minkler were not here.”²⁶ (Exhibit 62)

As a result of these complaints, Bishop Hubbard transferred Father Minkler from St. Joseph Parish to St. Francis de Sales Parish in September 1979. Bishop Hubbard did not, however, inform Father Minkler about the complaints, but simply said that the change would give Father Minkler a “fresh start” before becoming a pastor. According to Bishop Hubbard, Father Minkler protested the transfer, believing that – at the age of 33 and seven years as a priest – he should be made pastor, not an associate pastor, of another church.

²⁶ This staff member said that Father Minkler had been nice to her and supportive of the school, but that he had been mean to certain students.

Father Minkler's new pastor told him that he would not be teaching due to the prior complaints. Bishop Hubbard learned that Father Minkler was displeased both with the new assignment, and with the fact that Bishop Hubbard had not been forthright in addressing the prior complaints with him. Father Minkler's unhappiness with his new assignment and the tension between Father Minkler and Bishop Hubbard led Father Minkler to request to serve in the Military Ordinariate, a request Bishop Hubbard endorsed in 1980.

In 1983, Father Minkler wrote a letter to Bishop Hubbard in which he described his duties and expressed gratitude to Bishop Hubbard for arranging the opportunity in the Military Ordinariate. "As I reflect on these three years I am most grateful to both Archbishop Ryan and yourself for making this opportunity possible. Also, as I am now involved in this apostolate I do look forward to returning home to the Albany Diocese to involve myself once again in parish work," Father Minkler wrote in the November 2, 1983 letter. (Exhibit 63)

Father Minkler returned to Albany in 1984 and served at the VA Medical Center until his death. In August 1994, Father Minkler wrote to Bishop Hubbard, expressing interest in returning to the Albany Diocese and becoming the pastor of a Queensbury parish. In his letter, he stated: "I am writing to you rather than to the personnel board due to the fact that I have been on leave to the Military Ordinariate for so many years. I do not know how realistic this possibility is at the present time and so I would be pleased to hear from you if there is anything to discuss." (Exhibit 64) Father Minkler did not receive the requested appointment. Bishop Hubbard stated that he forwarded the letter to

the Priest Personnel Board, the body elected by Diocesan priests to recommend personnel decisions, believing that the request would not receive serious consideration because Father Minkler was too conservative for the requested parish, which had a relatively young group of parishioners. Later that year, Father Minkler wrote to Father Randall P. Patterson, the diocesan chancellor at the time, and indicated that he expected to someday leave the Military Ordinariate and to get an assignment in the Diocese again. (Exhibit 65) Father Minkler never applied for a new assignment and remained in the Military Ordinariate for the rest of his life.

For the entire period Father Minkler served in the Military Ordinariate, he appeared to function in isolation not only from Bishop Hubbard, but also from most Diocesan events and the majority of Albany priests and personnel.

The investigation interviewed several long-time clergy friends of Father Minkler who described Father Minkler's displeasure and fixation with what Father Minkler perceived as Bishop Hubbard's liberal leadership of the Albany Diocese.²⁷ One of the friends ("MRF2") stated that Father Minkler was always looking for a "smoking gun" on Hubbard — "something sexual" in nature. Another friend ("MRF3") stated that it was "no secret that [Minkler] had a negative attitude towards the Diocese and Bishop Hubbard," that he and another priest "would often talk about that, that we didn't share the extreme feelings against the Diocese and didn't feel comfortable with that kind of talk,"

²⁷ While some of the MRFs did not specifically request confidentiality, we provide it here to protect the identities of those who did request confidentiality.

and that Father Minkler’s bias was “such an extreme that I’m not sure it didn’t change the way he saw things. [To Father Minkler,] the Diocese could do no good.”

MRF2 and MRF3 stated that Father Minkler believed he should have been made a Monsignor, but that Bishop Hubbard had not allowed the change because he did not want anyone to be a Monsignor.²⁸ MRF3 stated that “[t]hat sticks in my mind as a reason for bitterness. That might have been what fueled his anger.” MRF2 stated that he thought that, with the exception of Bishop Hubbard not allowing the promotion, Bishop Hubbard had been good to Father Minkler.

Two former Albany Diocese priests (“FDP4” and FDP2) both stated that Father Minkler had traced his problems with Bishop Hubbard to an incident where Bishop Hubbard did not act on a complaint by Father Minkler that another diocesan priest was an active homosexual and sexually active. The priest accused by Father Minkler was the same one who allegedly told Father Minkler that he could not work with children.²⁹

Some of the people who described themselves as Father Minkler’s friends stated that they knew that Father Minkler was providing information to The Wanderer, a conservative Catholic publication that has been highly critical of Bishop Hubbard since at

²⁸ Bishop Hubbard has never elevated a priest to Monsignor.

²⁹ This priest is not listed in the Minkler Letter or the Minkler Notes as being homosexual or sexually active. A lawsuit filed by a client of John Aretakis in 2003 did accuse this priest of making sexual advances towards a man in 1976 which led to this priest’s taking a voluntary leave of absence pending an investigation. The Review Board said in March 2004 that the charge was not substantiated and the priest was reinstated.

least 1991. Other close friends, however, were unaware of Father Minkler's role with The Wanderer.

DP1 said that he and Father Minkler were friends from the mid-1970s through the mid-1980s and that the friendship ended because Father Minkler left the Albany area for the Military Ordinariate and because of growing theological differences between the two. DP1 said that during the course of their friendship, predominantly from 1980 through 1983, Father Minkler often complained about Bishop Hubbard. DP1 said that he, Father Minkler and MRF1, a priest who was a member of a religious order, discussed on several occasions liturgical abuses in the Albany Diocese and priests who they believed were gay. DP1 said that between 1980 and 1983, he was aware that Father Minkler and MRF1 were gathering documents and making "binders" on Bishop Hubbard and other priests. DP1 said that both Father Minkler and MRF1 said that they believed that Bishop Hubbard was gay but had no proof to substantiate that belief. DP1 said that he "may" have expressed his own opinion to Father Minkler and MRF1 that Bishop Hubbard was gay and celibate; he said that this opinion was based on his "gaydar" and may also have been influenced by the opinions of Father Minkler and MRF1. DP1 said that, as a way to justify his own homosexuality, he told some people in 1992 that he and other people believed that Bishop Hubbard was gay.

MRF1 declined to answer questions about the gathering of documents on Bishop Hubbard and other priests, but said that he had no firsthand knowledge to substantiate the allegations about Bishop Hubbard in the Minkler letter.

(5) Findings Regarding the Minkler Allegations

a. First Minkler Allegation

The First Minkler Allegation is that Bishop Hubbard was, in 1995, engaged in homosexual relationships with Fathers Butler and Chevalier. The Minkler Letter does not directly identify the source of the information for the First Minkler Allegation, but Father Minkler describes the source in the following manner:

Recently, a young priest was told by his pastor, a young priest his same age and homosexual, that he should not become so upset over the conduct of the Albany clergy. The pastor stated that the reason he was pastor of a good parish and his first pastorate was due to the fact that Bishop Hubbard favors the young homosexual priests. He [the pastor] went on to state that Bishop Hubbard himself has had homosexual experiences in the past and is currently involved with two young priests, namely Fathers Thomas Chevalier and Patrick Butler, both of whom were made pastors of good parishes at a very early age. (Exhibit 10)

The investigation identified the “young priest” referred to above as a friend of Father Minkler (“MRF4”), who acknowledged that: (1) he believed he is the “young priest” in question; and (2) he may have told Father Minkler that Bishop Hubbard was “close” to Fathers Butler and Chevalier. MRF4 denied, however, telling Father Minkler that he was told by his pastor of homosexual activity between or among Bishop Hubbard and Fathers Thomas Chevalier or Patrick Butler. MRF4 also denied any knowledge from any other source of any sexual misconduct by Bishop Hubbard. The pastor in question (“DP3”) denied that he had any conversation with MRF4 regarding Bishop Hubbard and Fathers Butler and Chevalier, and also denied any knowledge of sexual misconduct by Bishop Hubbard.

1. Father Thomas Chevalier

Father Thomas Chevalier was ordained in 1980. He was the associate pastor at St. Clare's in Colonie for two years and then at St. Peter's in Saratoga. He became pastor at St. James in Fort Plain around 1988 and then became pastor of St. Margaret Mary in Albany in 1993 at the age of 39.

Father Chevalier stated that he had applied to St. Margaret Mary because his sister was a parishioner there and was dying of cancer, and he needed to help take care of her. Father Burke, who was priest personnel director in the 1990s, said that Father Chevalier had been "out in the hinterlands" before coming to St. Margaret Mary and also noted Father Chevalier's sister's situation as among the reasons for his assignment to be the pastor of St. Margaret Mary.

Father Chevalier provided a sworn statement denying a homosexual relationship with Bishop Hubbard. (Exhibit 66) He stated that he does not see Bishop Hubbard socially, except for an occasional post-ordination dinner, which is a group event. Father Chevalier stated that he was not aware of Bishop Hubbard having a sexual relationship with anyone.

On April 21, 2004, Father Chevalier voluntarily submitted to a polygraph examination and was questioned as to whether he had ever engaged in sexual activity with Bishop Hubbard, which he again denied. The polygrapher concluded that Father

Chevalier was being truthful when he denied engaging in any kind of sexual activity with Bishop Hubbard.³⁰

2. Father Patrick Butler

Father Patrick Butler was ordained in 1981. He was the associate pastor at Corpus Christi in Ushers, New York for four years, at Annunciation Church in Ilion, New York, for three years, and then at St. Edward's in Clifton Park for three years. Father Butler stated that he had been unhappy with the St. Edward's assignment because he did not view it as a promotion. He became pastor at Christ the King Church, Westmere, in Albany in 1992 at the age of 39.

Father Butler provided a sworn statement denying a homosexual relationship with Bishop Hubbard. (Exhibit 68) He stated that he had known Bishop Hubbard since 1977, when Bishop Hubbard was preparing Father Butler's sister for marriage to a former priest and roommate of Bishop Hubbard. Father Butler said that he had been alone with Bishop Hubbard four times in his life, all of which were work-related.

Father Butler also denied ever being invited to vacation with Bishop Hubbard, Bishop Clark, and Father Powers, as had been alleged in the Minkler Letter ("As a seminarian Patrick Butler was invited to vacation at Cape Cod with Bishops Hubbard and Clark along with Father Thomas Powers."). (Exhibit 10) Father Butler stated that he did

³⁰ "Based upon the results of the scoring algorithm and my review and analysis of the polygraph recordings from this examination, I have concluded that Reverend Chevalier was **truthful** when he denied engaging in any kind of sexual activity, at any time, with Bishop Hubbard." (Exhibit 67)

vacation with fellow priests and teachers on Cape Cod for about four or five years around the early 1980s, and that he was in a group of people who stopped one time at the house where Bishop Hubbard, Bishop Clark and Father Powers were staying. Father William Turnbull, who said that Father Butler vacationed with his group during those years, stated that he believes that Father Minkler heard that Father Butler had vacationed on Cape Cod and mistakenly assumed that Father Butler had been vacationing with Bishop Hubbard.

On April 23, 2004, Father Butler voluntarily submitted to a polygraph examination and was questioned as to whether he had ever engaged in sexual activity with Bishop Hubbard, which he denied. The polygrapher concluded that Father Butler was being truthful when he denied engaging in any kind of sexual activity with Bishop Hubbard.³¹

3. Bishop Hubbard

Bishop Hubbard provided a sworn statement on April 16, 2004 that he had never had sexual contact with Father Thomas Chevalier or Father Patrick Butler. (Exhibit 51)

On April 22, 2004, Bishop Hubbard voluntarily submitted to a polygraph examination and was questioned as to whether he had ever had sex of any kind with

³¹ “Based upon the results of the scoring algorithm and my review and analysis of the polygraph recordings from this examination, I have concluded that Reverend Butler was **truthful** when he denied engaging in any kind of sexual activity, at any time, with Bishop Hubbard.” (Exhibit 69)

another person. The polygrapher concluded that Bishop Hubbard was truthful when he denied ever having sex of any kind with another person.³²

b. Second Minkler Allegation

The Second Minkler Allegation is that Bishop Hubbard was, in 1995, involved in “a ring” of homosexual priests in the Albany Diocese. Father Minkler also did not directly identify the source of the allegation, but described the source as follows:

...an Albany physician who works with aids [sic] patients stated that within a four month period, she encountered two recently diagnosed aids [sic] patients, who were unknown to each other. They informed her, with almost identical stories, about their involvement with a ring of homosexual Albany priests which also included Bishop Hubbard.
(Exhibit 10)

The investigation identified four female Albany physicians and one male Albany physician who had worked with AIDS patients in 1995. (We focused principally on female Albany physicians given the Minkler Letter’s references to “she” and “her.”)

Doctor Lynda Lou Smith, who worked at the VA Medical Center from 1990-1996, and from 1996-2001 worked with AIDS patients at the Albany Medical Center, stated that she had never heard that Bishop Hubbard was involved in a homosexual ring, and never told anyone that Bishop Hubbard was involved in a homosexual ring. She was

³² “Based upon the results of this scoring algorithm and my review and analysis of the polygraph recordings from the examination, I have concluded that Bishop Hubbard is **truthful** when he denied ever visiting a gay bar or ever having sex with anyone.”
(Exhibit 52)

aware that the VA's staff included a Catholic priest, but Father Minkler's name was not familiar to her.

Doctor Cyndi Miller, who has been a doctor in the AIDS program at Albany Medical Center since the early 1990's, denied that she was the physician referred to by Father Minkler. Doctor Miller stated that she had never heard that Bishop Hubbard was involved in a homosexual ring, and never told anyone that Bishop Hubbard was involved in a homosexual ring. She also did not know Father Minkler.

Doctor Mary Jo Fink, who currently directs the Residency Program in Women's Health and Family Medicine at Columbia Presbyterian Hospital in New York City, worked in the HIV Division of Albany Medical Center from 1993 and 2002. She stated that she had never heard that Bishop Hubbard was involved in a homosexual ring, and never told anyone that Bishop Hubbard was involved in a homosexual ring. She also did not know Father Minkler.

Dr. Barbara Weiser has worked in the HIV Division of Albany Medical Center since 1991, and is also a professor of medicine at the Albany School of Medicine. She stated that she had never heard that Bishop Hubbard was involved in a homosexual ring, and never told anyone that Bishop Hubbard was involved in a homosexual ring. She did not know Father Minkler.

Doctor Douglas Fish, the Medical Director of the AIDS Treatment Center and the in-patient HIV unit at Albany Medical Center, was assigned to the Infectious Disease Department of Albany Medical Center, which included AIDS patients, in 1994 through 1995. He stated that he never heard that Bishop Hubbard was involved in a "ring" of

homosexual priests and never told anyone that Bishop Hubbard was involved in such a ring.

Dr. Cynthia Carlyn, a staff physician at the VA Medical Center who works with AIDS patients, said that she did not come to Albany until 1997. She said that she never heard about any allegations about Bishop Hubbard being involved in sexual activity or misconduct. She said that she did not know Father Minkler.

1. “Ring of homosexual Albany priests”

The Minkler Letter does not identify any members of the alleged “ring of homosexual Albany priests,” except for Bishop Hubbard. The investigation did not examine which priests in the Albany Diocese are homosexual, but did look into every priest that anyone alleged was involved in a homosexual relationship with Bishop Hubbard. In addition to the allegations made or allegedly made by Father Minkler in writing about four specific priests, various people have stated that they believed that Bishop Hubbard had been involved in sexual relationships with other priests. In every instance, the person who provided us with the information acknowledged their lack of direct knowledge concerning the truth or falsity of the rumor. Often, the person who identified someone else from whom they had obtained the information. In those instances, we were generally able to locate that person and interview them.

Each of the priests so identified as having or possibly having sexual contact with Bishop Hubbard provided the investigation with a sworn, notarized statement that he

never had a sexual relationship with Bishop Hubbard.³³ And, as noted, Bishop Hubbard denies any such relationship and was found truthful by the polygrapher in making this denial.

The investigation also interviewed Bishop Matthew Clark of Rochester and Father Thomas Powers, close friends of Bishop Hubbard, with whom he has vacationed for almost 40 years. Both Bishop Clark and Father Powers provided sworn statements that they never had a sexual relationship with Bishop Hubbard. (Exhibits 70 and 71, respectively) Both said that they were not aware of Bishop Hubbard having a sexual relationship with anyone.

On June 14, 2004, Bishop Clark voluntarily submitted to a polygraph examination and was questioned as to whether he had ever engaged in sexual activity with Bishop Hubbard, which he denied. The polygrapher concluded that Bishop Clark was being truthful when he denied engaging in any kind of sexual activity with Bishop Hubbard.³⁴

On June 15, 2004, Father Powers voluntarily submitted to a polygraph examination and was questioned as to whether he had ever engaged in sexual activity

³³ To avoid contributing to the spread of unfounded rumors, the investigation declines to name the priests who were the subjects of these rumors because of the lack of any evidence that they had sexual contact with Bishop Hubbard. Each priest's sworn statement is in the investigation's possession. For further discussion of allegations regarding other priests, see the Appendix.

³⁴ "Based upon the results of the scoring algorithm and my review and analysis of the polygraph recordings from this examination I have concluded that Bishop Clark was **truthful** when he denied engaging in any kind of sexual activity, at any time, with Bishop Hubbard and when he denied having knowledge that Bishop Hubbard has violated his vow of celibacy." (Exhibit 72)

with Bishop Hubbard, which he denied. The polygrapher concluded that Father Powers was being truthful when he denied engaging in any kind of sexual activity with Bishop Hubbard.³⁵

c. The Third Minkler Allegation

The Third Minkler Allegation refers to a secret “double life” that Bishop Hubbard is purportedly leading. Father Minkler also did not directly identify the source of the Third Minkler Allegation. Father Minkler described the source as follows:

A permanent deacon at the Cathedral in Albany wehere [sic] Bishop Hubbard has been residing for the last few years has seen the bishop leaving and returning very late at night, dressed in cut-off shorts and tank tops. He states that the Bishop keeps very much to himself, is very secretive, and that he feels that the Bishop is living a double life. (Exhibit 10)

The investigation identified the “permanent deacon” as Arthur Egan, who was the permanent deacon at the Cathedral of the Immaculate Conception from 1976 until his death in 1998. Claudia Egan, the deacon’s sister, said that her brother never mentioned Bishop Hubbard going out at night or wearing “shorts and tank tops,” and never mentioned any suspicions that Bishop Hubbard was living a double life. In fact, Claudia Egan does not recall Arthur Egan mentioning Bishop Hubbard “much at all.”

³⁵ “Based upon the results of the scoring algorithm and my review and analysis of the polygraph recordings from this examination I have concluded that Reverend Powers was **truthful** when he denied engaging in any kind of sexual activity, at any time, with Bishop Hubbard.” (Exhibit 73)

Vincent Ozimek, whom Claudia Egan described as Arthur Egan’s best friend, stated that in their 37-year friendship, from 1961 through 1998, Arthur Egan never implied that Bishop Hubbard was doing anything improper or leading an improper lifestyle. Mr. Ozimek stated that he believed that had Arthur Egan believed that Bishop Hubbard was leading an improper lifestyle, Arthur Egan would have mentioned that to him.

d. The Fourth Minkler Allegation

The Fourth Minkler Allegation, written in 2001, adds Father Geoffrey Burke to the list of young priests with whom Bishop Hubbard has purportedly had a homosexual relationship. Father Minkler did not identify any source, directly or indirectly, when he handwrote the Fourth Minkler Allegation. Referring to Fathers Burke, Chevalier and Butler, Father Minkler simply wrote: “the story is that these 3 young priests have all slept with Hubbard.” (Exhibit 14)

1. Father Geoffrey Burke

Father Geoffrey Burke was ordained in 1979. He was an associate pastor in Oneonta from 1979 to 1984, and in Delmar from 1984 to 1990. He then worked at the Pastoral Center from 1990 to 2000, and he lived for nearly all of this period at the St. Joseph’s Provincial Home in Latham and was assigned as chaplain of the religious community there. He was appointed pastor of Our Lady of Assumption in Latham in 2000, at the age of 39. Father Burke stated that one factor in his appointment was Our Lady of Assumption’s location about a mile or less away from the Provincial Home, so

that he could continue serving that community. Another factor was Father Burke's long service as the Diocesan Personnel Director.

Father Burke provided a sworn statement denying a homosexual relationship with Bishop Hubbard. (Exhibit 74) Father Burke also stated that he was not aware of Bishop Hubbard having a sexual relationship with anyone.

On April 21, 2004, Father Burke voluntarily submitted to a polygraph examination and was questioned as to whether he had ever engaged in sexual activity with Bishop Hubbard, which he denied. The polygrapher concluded that Father Burke was being truthful when he denied engaging in any kind of sexual activity with Bishop Hubbard.³⁶

e. The Fifth Minkler Allegation

At a meeting on May 8, 2004 sponsored by the Coalition of Concerned Catholics, John Aretakis stated Father Minkler had sent him additional correspondence stating that Bishop Hubbard had a homosexual relationship with a fourth priest and implied that this fourth priest was Father Edward Pratt. Mr. Aretakis did not identify the underlying source for the Fifth Minkler Allegation, and the investigation has not been provided with a copy of these alleged writings.

³⁶ “Based upon the results of the scoring algorithm and my review and analysis of the polygraph recordings from this examination, I have concluded that Reverend Burke was **truthful** when he denied engaging in any kind of sexual activity, at any time, with Bishop Hubbard.” (Exhibit 75)

1. Edward Pratt

Edward Pratt was ordained in 1972. Mr. Pratt served as chaplain at Adirondack Community College, assistant principal of Vincentian High School, and principal of St. Mary's of the North Country High School. Father Pratt also served as a vice-chancellor of the Diocese from 1979 to 1990, when he served as Bishop Hubbard's personal secretary. He also served as an associate pastor at St. Mary's in Glens Falls and Immaculate Conception in Glenville and as pastor at Immaculate Heart of Mary in Hudson Falls from 1990-96 and at Corpus Christi in Ushers from 1996 until 2002. In June 2002, The Times Union reported that Mr. Pratt had been removed from the ministry as one of six priests "who church leaders said had sexually abused minors at least once." (Exhibit 76)

Mr. Pratt provided a sworn statement denying a homosexual relationship with Bishop Hubbard. (Exhibit 77) Mr. Pratt also stated that he was not aware of Bishop Hubbard having a sexual relationship with anyone.

On June 15, 2004, Mr. Pratt voluntarily submitted to a polygraph examination and was questioned as to whether he had ever engaged in sexual activity with Bishop Hubbard, which he denied. The polygrapher concluded that Mr. Pratt was being truthful when he denied engaging in any kind of sexual activity with Bishop Hubbard.³⁷

³⁷ "Based upon the results of the scoring algorithm and my own review and analysis of the polygraph recordings from the examination I have concluded that Mr. Pratt was **truthful** when he denied engaging in any kind of sexual activity, at any time, with Bishop Hubbard." (Exhibit 78)

(6) Other Relevant Facts Regarding the Minkler Letter and Notes

a. The Minkler Letter -- Involvement of Cardinal O'Connor

Although the Minkler Letter is on its face addressed to Cardinal O'Connor, there is conflicting evidence about whether the Minkler Letter was actually prepared for, or received by, Cardinal O'Connor.

Prior to being elevated to Cardinal of the Archdiocese of New York, Cardinal O'Connor was the Archbishop of the Military Ordinariate, in which Father Minkler served. Cardinal O'Connor was widely known as a conservative who demanded strict adherence to traditional Church doctrines on issues such as abortion, contraception, and homosexuality.

Several of Father Minkler's longtime friends stated that Father Minkler often stated that he and Cardinal O'Connor were close friends and that O'Connor had assigned him the task of investigating liturgical and moral abuses in the Albany Diocese. For example, Walter Crawford, Father Minkler's friend for over 20 years, stated that Father Minkler told him that Cardinal O'Connor had asked him to put information about the Albany Diocese in a letter and send it to him. According to Mr. Crawford, Father Minkler had stated that Cardinal O'Connor had taken the Minkler Letter to the Pope. Mr. Crawford also stated that a friend of Father Minkler at the VA Medical Center had typed the Minkler Letter for Father Minkler; this person, who is represented by John Aretakis, declined to be interviewed ("Aretakis Client 1," or "AC1"). Mr. Aretakis informed us by

letter that this client would state, if asked, “that Fr. Minkler wrote the letter to Cardinal O’Connor.” (Exhibit 79)

Stephen Brady, a longtime critic of Bishop Hubbard and head of the Roman Catholic Faithful, a non-profit Catholic organization whose goal is “activism to restore the Catholic faith” and “fighting abuses within the Catholic Church,” stated that Father Minkler told him that Cardinal O’Connor had asked for a report on the Albany Diocese and Bishop Hubbard. Mr. Brady stated that Father Minkler had said that Cardinal O’Connor presented the Minkler Letter to Rome, but that no action was taken.

Paul Likoudis, editor of The Wanderer, stated that Father Minkler told him that Cardinal O’Connor took the Minkler Letter to Rome, and that Cardinal O’Connor had said there was nothing more he could do.

People who worked with Cardinal O’Connor, however, said that they had seen no indication that Cardinal O’Connor had requested or received information from Father Minkler about Bishop Hubbard and the Albany Diocese. Mr. James McCarthy, the private secretary to Cardinal O’Connor from 1984 to 1996, was charged with handling all of Cardinal O’Connor’s correspondence except that marked “personal and confidential” from clergy.³⁸ Mr. McCarthy confirmed that Father Minkler corresponded with Cardinal O’Connor, but stated that Father Minkler’s letters were always in longhand. In his view, it would have been out of character for Cardinal O’Connor to recruit Father Minkler or

³⁸ In June 2002, Mr. McCarthy resigned as a pastor and as an auxiliary bishop after being accused of two heterosexual encounters with a woman that occurred in 1980.

anyone else as a “mole” to report on alleged abuses in the Albany Diocese. Mr. McCarthy stated that when Cardinal O’Connor looked into diocesan abuses, pursuant to a request from the Vatican or otherwise, he had always done so in a straightforward manner. For example, when allegations were made against the Bishop of Seattle regarding improper Church practices, Cardinal O’Connor became involved in a Vatican Commission that investigated the allegations.

Mr. McCarthy stated that he never saw the Minkler Letter, nor did he ever discuss it with Cardinal O’Connor. In fact, Mr. McCarthy, who for 12 years traveled the world with Cardinal O’Connor, including to Rome, stated that Cardinal O’Connor never commented on Bishop Hubbard’s handling of the Albany Diocese, the allegations raised in the Minkler Letter, or any allegations that were eventually disclosed in the Minkler Notes.

Ellen Stafford, Cardinal O’Connor’s personal secretary from 1984 until his death in 2000, recalled that Father Minkler was a personal friend of Archbishop Ryan, but that Father Minkler was not socially close with Cardinal O’Connor. Ms. Stafford stated that Father Minkler and Archbishop Ryan would voice their displeasure with the Albany Diocese in her presence, and that of Cardinal O’Connor, but that the complaints were about theological differences and not sexual misconduct by priests.

Ms. Stafford stated that she never saw the Minkler Letter. Had it been sent to Cardinal O’Connor, she said, Cardinal O’Connor would have sent it to the Papal Nuncio, and she most likely would have prepared the cover letter to the Papal Nuncio. Such letters to the Papal Nuncio, including attachments, would have been maintained in the

Cardinal's correspondence files, which are maintained in the archives of St. Joseph's Seminary in Dunwoodie. Ms. Stafford never heard any rumors of sexual misconduct involving Bishop Hubbard.

John Kerry, who was director of the New York State Catholic Conference, which operates as the public-policy organization for the Catholic Church in New York State, said that he worked closely with Cardinal O'Connor from 1990 until Cardinal O'Connor's death in 2000. Mr. Kerry said that he and Cardinal O'Connor had many confidential conversations, that Cardinal O'Connor discussed many of the ecclesiastical differences he had with Bishop Hubbard and other bishops, but that Cardinal O'Connor never discussed any allegations of sexual impropriety or misconduct by Bishop Hubbard. Mr. Kerry said that Cardinal O'Connor said that his differences with Bishop Hubbard greatly diminished as they worked together on a number of issues, and that Cardinal O'Connor said that he and Bishop Hubbard came to understand each other better as a result of working together. Mr. Kerry recalled that Cardinal O'Connor on a number of occasions towards the end of his life expressed his affection and respect for Bishop Hubbard. Mr. Kerry did not think that Cardinal O'Connor would have had Father Minkler or anyone else gather information about Bishop Hubbard.

Bishop Hubbard stated that he has received letters from the Papal Nuncio regarding complaints about theological and administrative matters, but never about sexual allegations against him. The Papal Nuncio did not respond to requests from the investigation for information.

Bishop Hubbard stated under oath that he had never been informed by Cardinal O'Connor, the Papal Nuncio, or the Vatican that any of them had received allegations that he was engaged in homosexual relationships with other priests or that such allegations were made. (Exhibit 51)

There is no indication in Bishop Hubbard's personnel file that the Papal Nuncio, the Vatican or Cardinal O'Connor ever contacted him about sexual allegations. The investigation did learn of other instances where the Papal Nuncio confronted Albany Diocese priests with allegations of misconduct, including sexual misconduct. For example, the Nuncio sent Bishop Hubbard one letter in 1998 asking about reports that a priest had made allegedly improper comments about the ordination of women and did once write to Bishop Hubbard asking if a particular priest was in fact homosexual.

Father Desmond O'Connor, Secretary to Cardinal John Egan, the current Archbishop of the Archdiocese of New York, personally performed a search of Cardinal O'Connor's archived correspondence at Dunwoodie, as well as his correspondence maintained among the files of Cardinal Egan, for the Minkler Letter. The Minkler Letter was not found in either of these places.

The text of the Minkler Letter does not reflect a social relationship between Father Minkler and Cardinal O'Connor, although Father Minkler told several friends about his close relationship with Cardinal O'Connor.

Father Minkler also writes of Cardinal O'Connor in the third person, rather than referring to him as "you":

A retired Catholic Judge acquired factual evidence of abortions being performed at St. Clare's Hospital in Scenectady (sic), New York. He was prepared to come to New York City to discuss this with Cardinal O'Connor when a priest acquaintance, Father Joseph Girzone (a noted author) persuaded him not to do so.³⁹ (Exhibit 10)

b. Background on Minkler Letter and Notes

Stephen Brady stated that Father Minkler made contact with him in January 2001 and provided him with the Minkler Letter and with the Minkler Notes at that time. Mr. Brady did not, however, publish any of the sexual allegations about Bishop Hubbard contained in either the Minkler Letter and Notes because they were unsupported.

Likewise, Mr. Likoudis, a longtime friend of Father Minkler and critic of Bishop Hubbard, who had the Minkler Letter for years, and the Minkler Notes since 2001, never published in The Wanderer any of the Minkler sexual allegations against Bishop Hubbard.⁴⁰

The text of the Minkler Notes indicates that Father Minkler wrote them to supplement the Minkler Letter. At the end of the Minkler Notes, Father Minkler wrote, "there is much more which could be said. If you have any questions please call." He then provided his telephone number at the bottom of a cover letter attaching the Minkler Notes. (Exhibit 14)

³⁹ Father Girzone stated that the judge referred to was on the board of directors at St. Clare's Hospital, but that he never had such a conversation with that judge.

⁴⁰ Mr. Likoudis has written that Father Minkler was "one of The Wanderer's most reliable sources in the Diocese of Albany." (Exhibit 80, p. 4)

c. Other Relevant Information in Minkler Notes

The Minkler Notes identified two priests who allegedly had damaging information about Bishop Hubbard -- Father Dominic Isopo and Father John Varno. Father Isopo provided a sworn statement that he had never spoken to anyone about any “dalliances” on the part of Bishop Hubbard, and that he is not aware of any information or evidence that Bishop Hubbard was having a sexual relationship with anyone. (Exhibit 81) Similarly, Father Varno provided a sworn statement that he never told anyone that he “had the goods on Hubbard,” and that he did not know what that claim referred to. Father Varno also stated that he was not aware of any information or evidence that Bishop Hubbard had a sexual relationship with anyone. (Exhibit 82)

(7) Discussion – The Minkler Allegations

The Minkler Letter and Notes

We have found no evidence to support the sexually-related allegations against Bishop Hubbard contained in the Minkler Letter and Notes. Father Minkler offers little more than his conclusions that Bishop Hubbard, and Fathers Chevalier, Butler, and Burke were involved together in homosexual activity. As noted above, the investigation learned from DP1 that Father Minkler had, since the early 1980s, been gathering information to use against Bishop Hubbard and other priests. Nonetheless, Father Minkler fails to describe a single direct conversation with anyone, even for the minor allegation involving “shorts and tank tops.”

The sworn statements and the consistent results of the polygraph tests of the parties named in these allegations provide ample evidence that these uncorroborated allegations are false. The investigation also identified “the young priest” and “young pastor,” who both denied they had said that Bishop Hubbard was engaged in homosexual relationships. They also both denied any knowledge about sexual activity involving Bishop Hubbard. Father Minkler, in his zeal to obtain damaging information of a sexual nature against Bishop Hubbard, appears to have transformed an innocuous comment by MRF4 about Bishop Hubbard being “close” to two other priests into false and potentially career-ending allegations.

That Paul Likoudis of The Wanderer, and Stephen Brady of RCF, long-time recipients of Father Minkler’s “inside” information about the Albany Diocese, did not publish the Minkler sexual allegations against Bishop Hubbard also reflects on the unsupported nature of the Minkler documents’ accusations. Stephen Brady has stated that he will not publish allegations against someone without a sworn statement to support such allegations. We believe that it is likely Mr. Likoudis and Mr. Brady recognized that the information contained in these writings regarding Bishop Hubbard’s alleged homosexuality lacked corroboration from any sources, and thus was not sufficiently reliable for publication. Had there been corroboration of the allegations at any point in time, we would have expected Mr. Brady and Mr. Likoudis to have included them in their publications, given their outspoken criticism of Bishop Hubbard’s leadership.

The way that Father Minkler organized the Minkler Letter also casts some doubt on his own belief in the allegations he was including. Given his apparent dislike of

Bishop Hubbard, had he believed that he had credible evidence that Bishop Hubbard was having sex with other priests, that information would likely have been highlighted in the Minkler Letter. Instead, Father Minkler buried such claims within a seven-page letter that is devoted primarily to liturgical issues that are debated by many Catholics. The sexual allegations about Bishop Hubbard do not appear until the fifth page. Before accusing Bishop Hubbard of having sex with other priests, Father Minkler devotes four pages to accusing Bishop Hubbard of tolerating liturgical abuse, of not being sincere enough in opposing abortion rights, and of taking “liberties with the Mass, such as offering the bread and wine together at the Offertory, omitting the Lavabo, almost never using the mitre and the crozier, using invalid matter if that is the practice in a given situation, rushing through the Consecration, etc.” (Exhibit 10)

The Minkler Letter -- Involvement by Cardinal O’Connor

While we believe that Father Minkler wrote the Minkler Letter, as well as the Minkler Notes, we have found no evidence, other than Father Minkler’s own claim, that Cardinal O’Connor recruited Father Minkler as a “mole” in the Albany Diocese.

The private and personal secretaries of Cardinal O’Connor never saw the Minkler Letter and Cardinal O’Connor never discussed it or its contents with either. They both said that it would have been uncharacteristic of Cardinal O’Connor to ask for the Minkler Letter, to concern himself with the problems of another diocese to the degree a request for the Minkler Letter would indicate, or to handle the Minkler Letter in the way that Father Minkler described. In fact, Mr. McCarthy stated that he had no recollection of Cardinal O’Connor referring to any problems concerning Bishop Hubbard. Moreover,

Mr. McCarthy said that Cardinal O'Connor was straightforward whenever he looked into diocesan abuses and it would have been uncharacteristic for Cardinal O'Connor to use Father Minkler as a spy. Furthermore, John Kerry—the current CEO of Catholic Charities of Maine, who served as the Director of the New York State Catholic Conference between 1990 and 2001, and worked very closely with Cardinal O'Connor in that capacity—stated that Cardinal O'Connor had great regard for Bishop Hubbard. The absence of the Minkler Letter from the files of the Archdiocese of New York, and the lack of any follow-up by either Cardinal O'Connor, the Papal Nuncio or the Vatican also suggest that the Minkler Letter was never sent to Cardinal O'Connor.

It is apparent that Father Minkler had a longstanding animus toward Bishop Hubbard likely due to Father Minkler's perception that Bishop Hubbard had denied him a more prestigious or influential position in the Church due to their differences on liturgical issues and protocol. It is hard to escape the conclusion that this animus translated into motivation to find, exaggerate, and generate damaging information on Bishop Hubbard.

(8) Conclusion

There is no evidence to substantiate the allegations contained in the Minkler Letter authored by Father Minkler that Bishop Hubbard was involved in a homosexual relationship with the two priests named in the letter, part of a "homosexual ring," or leading a secret double life with homosexual overtones.

There is no evidence to substantiate the allegations contained in the Minkler Notes authored by Father Minkler that Bishop Hubbard was involved in a homosexual relationship with a third named priest in the Minkler Notes.

There is no evidence to substantiate the allegation reportedly contained in additional letters by Father Minkler that Bishop Hubbard was involved in a homosexual relationship with a fourth priest.

There is also no evidence to substantiate the allegations that Bishop Hubbard ever led a homosexual lifestyle or engaged in homosexual relations at any time.

III. The Minkler Repudiation and Suicide

Although the investigation's direct focus was on allegations of sexual misconduct involving Bishop Hubbard, it expanded at our discretion to include whether Bishop Hubbard, or anyone else at the Diocese, pressured Father Minkler into signing the February 13, 2004 repudiation statement, suggesting an effort to suppress the truth.

In addition, we have gathered a significant amount of information about the days between the first publication of Father Minkler's name in connection with the 1995 Letter and his death three days later. Given the public interest surrounding Father Minkler's death, we include that information here.

A. Allegation

Father John Minkler's body was discovered on February 15, 2004, three days after he was publicly identified as the author of the Minkler Letter and two days after he signed a statement denying that he was the author (the "Repudiation Statement").⁴¹ The Albany County Coroner's Office concluded that the death was a suicide, as was first reported in the Albany media on April 6, 2004.

Several people have accused Bishop Hubbard and Father Kenneth Doyle, either explicitly or implicitly, of contributing to Father Minkler's suicide by exerting undue pressure on him to sign the Repudiation Statement.

⁴¹ Only the Minkler Letter, not the Minkler Notes, were public at the time of Father Minkler's suicide.

According to Paul Likoudis, Father Minkler told him on the night Father Minkler signed the Repudiation Statement (February 13), that “I can’t believe they made me lie,” meaning Bishop Hubbard and Father Doyle. Mr. Likoudis also stated that he urged Father Minkler to call a press conference, but that Father Minkler rejected that idea, stating “I’d be dead.” MRF2 stated that “the rumor” is that Hubbard “forced” Father Minkler to sign the statement, noting that Bishop Hubbard could have removed his endorsement permitting Father Minkler to serve in the Military Ordinariate, and thus jeopardize Father Minkler’s retirement benefits. John Aretakis stated on April 7, 2004, on WGY radio, that “I think it is clear that Father Minkler was driven to suicide because of Bishop Hubbard’s pressure on Father Minkler and Ken Doyle’s coercing Father Minkler to sign a false repudiation letter.” (Exhibit 83) Stephen Brady of the Roman Catholic Faithful organization stated that Father Minkler left him a voicemail message on February 14, 2004, which Mr. Brady did not save, stating “I need your help with Bishop Hubbard.”

B. Findings Regarding the Minkler Repudiation Statement

(1) Thursday, February 12, 2004

Prior to February 12, 2004, Father Minkler had not been identified publicly as the author of the Minkler Letter or the Minkler Notes. There is evidence, however, suggesting that someone told at least one member of the media prior to February 11, 2004 that Father Minkler was the author of the Minkler Letter. Ken Goldfarb, communications director for the Diocese, stated that Judy of Channel 6 told him on February 12, 2004 that

she had talked with Father Minkler about the letter a week earlier and that he had been non-committal about being the author. Father Minkler also told Father Doyle on February 12 that he had spoken to Ms. Sanders about a week earlier, although he did not mention the letter. Father Minkler told Father Doyle that he had denied to Ms. Sanders having any knowledge about sexual allegations involving Bishop Hubbard. In addition, Stephen Brady stated that Father Minkler called him a week before his death and asked if Mr. Brady had given Father Minkler's name to the press. Mr. Brady stated that he told Father Minkler that he had not. Mr. Brady said that Father Minkler did not explain what had inspired the call, but assumed that Father Minkler had been identified in the media.

On February 12, 2004, Judy Sanders asked Bishop Hubbard about the Minkler Letter and identified Father John Minkler as its author during a meeting with the press. Bishop Hubbard denied the allegations. Bishop Hubbard also denied knowledge of either the letter or the allegations. After the press conference, Ms. Sanders refused to provide the Diocese with a copy of the Minkler Letter.

Bishop Hubbard and Father Doyle discussed Ms. Sanders' questions immediately after the press meeting. They agreed that Father Doyle should contact Father Minkler to ask whether or not he had written the letter, as well as to give him a "heads up" that the press would likely be contacting him. Bishop Hubbard and Father Doyle also decided that Father Doyle should check with the Archdiocese of New York to see if it had the Minkler Letter or a record of its existence.

Telephone records from both the Diocese and Spencer Abbey (Exhibits 84 and 85, respectively), where Father Minkler was on retreat, confirm that Father Doyle and

Father Minkler had three conversations on February 12th between 1:40 p.m. and 2:13 p.m. Father Doyle had these conversations with Father Minkler in the presence of Bishop Hubbard and several others at the Patoral Center.

In the first conversation, which was 12 minutes and 30 seconds long, Father Doyle told Father Minkler about the press meeting and that he had been identified by Judy Sanders as the author of a letter to Cardinal O'Connor that contained sexual allegations against the Bishop. According to Father Doyle, Father Minkler's response was "immediate, definitive and strong." In a written statement Father Doyle wrote on February 16, 2004, he discussed Father Minkler's reaction:

He said that he was stunned by this news and that he had never written such a letter, had never made such an allegation against Bishop Hubbard even in conversation, had never heard anyone else make such an allegation and had never even met the two priests named in the letter.
(Exhibit 86)

According to Father Doyle, Father Minkler noted the contact with Judy Sanders of a week earlier and his denial to her of any knowledge of sexual misconduct. Father Doyle stated that Father Minkler asked him during this call whether the matter was likely to become public and whether that could be stopped. Father Doyle stated that the call with Father Minkler was friendly and that he even referred to Father Minkler as "Mink," an old nickname from their seminary days together.⁴²

⁴² The Bishop and the others present confirmed that they observed Father Doyle while he was speaking to Father Minkler, and that Father Doyle was low key and cordial at all times.

Several of Minkler's friends stated that they were present at Spencer Abbey when Father Minkler was told that he had a call from Father Doyle. These friends waited for Father Minkler while he took the call. MRF2 and another friend ("MRF5") stated that when Father Minkler emerged from the office, he did not say what had happened. "It's a secret," Father Minkler said and went to his room.

Father Doyle had a second conversation with Father Minkler in which Father Doyle provided Ms. Sanders' phone number.⁴³ Diocese phone records show that a call was made on February 12 to the Spencer Abbey at 1:56 p.m. and that the call was 5 minutes and 6 seconds in duration. (Exhibit 84, p. 1) One diocesan advisor recalled that this second call happened because Father Doyle could not find Ms. Sanders' number during the first call and had to call Father Minkler back. Another diocesan advisor recalled that this second call followed a conversation about whether the Diocese should issue a statement regarding the Minkler Letter or whether Father Minkler should and that the group agreed that the denial would be stronger if it was from Father Minkler, and that Father Doyle should ask Father Minkler to call Ms. Sanders.

Father Minkler then asked a lay person working at the Abbey, Bob Powell, to show him how to make long-distance calls. The Abbey phone records and the statement of Abbey personnel indicate that Father Minkler then called Father Doyle's cell phone at

⁴³ Father Doyle's initial recollection was that he had only made one call to Father Minkler, during which Father Minkler denied his authorship and then Father Doyle suggested he call Ms. Sanders. The phone records, however, make clear that there were in fact two closely spaced calls. When asked about these records, Father Doyle could not recall why he had placed two calls.

2:11 p.m. and had a 1.8 minute-long conversation. (Exhibit 85) Others present at this time said that Father Minkler called to tell Father Doyle that he was about to call Judy Sanders.

The Abbey phone records and the statement of Abbey personnel indicate that at 2:15 p.m., Father Minkler called Judy Sanders on her cell phone on February 12 and had a 13 minute conversation. (Exhibit 85) MRF4 stated that he overheard Father Minkler repeat the phrase “I have to protect my sources” and that he believes that Father Minkler was talking to Judy Sanders and was trying to determine how the media had connected his name to a letter accusing Bishop Hubbard of sexual misconduct. MRF2 stated he walked by the office and saw that Father Minkler was again on the phone and heard that Father Minkler was raising his voice and was emphatic about something, though he was not sure with whom Father Minkler was speaking.

Abbey phone records show that Father Minkler then called Father Doyle at 2:28 p.m. and that they had a 6.5 minute-long conversation. (Exhibit 85) Father Doyle stated that Father Minkler said that he had spoken with Judy Sanders and that the conversation was cordial. Father Doyle stated that Father Minkler asked if he could speak with Bishop Hubbard. Doyle asked Father Minkler to call Bishop Hubbard back on his office line.

Diocese phone records show that Father Doyle called Sanders at 2:32 p.m. and had a 3.3 minute conversation.⁴⁴ (Exhibit 84) Father Doyle stated that Judy Sanders said

⁴⁴ We note that there is a slight inconsistency between the time on the Diocese phone records and the time on the Abbey phone records. The Abbey phone records show that Father Minkler placed a call to Father Doyle at 2:28 p.m. and that the call lasted
(cont'd)

that she had already spoken to Father Minkler and that he had denied writing the letter. Sanders said, however, that she had it on good authority that Father Minkler had written the Minkler Letter.

Abbey phone records indicate, and the statement of Abbey personnel confirm, that Father Minkler immediately called Bishop Hubbard after speaking with Father Doyle. (Exhibit 85) Bishop Hubbard stated that Father Minkler told him, “I wanted you to hear it directly from me, I didn’t write the letter.” Bishop Hubbard stated that despite his initial belief to the contrary, Father Minkler convinced him that he had not written the letter, and Bishop Hubbard stated that he told Father Minkler that he believed him. The call lasted six minutes.

MRF4 and MRF3, who were on retreat with Father Minkler, both stated that Father Minkler did not appear to be upset by the conversations with Father Doyle and Judy Sanders. MRF4 stated that Father Minkler took a nap and had to be awakened for dinner.

Mark Sennott, a former journalist who was at the Spencer Abbey during Father Minkler’s stay, stated that Father Minkler was “very upbeat” during the entire retreat, and did not appear to be in any distress at any time, including Thursday evening, February 12th.

until 2:34 p.m., while the Diocese records show that Father Doyle placed his call to Judy Sanders at 2:32 p.m. Father Doyle believes that he may actually have placed the call to Ms. Sanders before receiving the call from Father Minkler. Ms. Sanders, who might be able to shed further light on the sequence of events, declined to be interviewed.

Other retreat attendees also observed that Father Minkler did not appear concerned or in distress after the telephone conversations with Father Doyle and Judy Sanders. MRF5, a priest of another diocese, stated that Father Minkler did not look distraught after the his “secret” telephone conversations.

Judy Sanders did not report on the Minkler Letter that evening. But Channel 23 reporter Jill Ringer reported the following during the 5 p.m. broadcast: “And today their attorney John Aretakis distributed this Minkler Letter from Father John Minkler of the VA Hospital in Albany, claiming Hubbard has had sexual relationships with several young priests.” (Exhibit 11) No other TV station mentioned the Minkler Letter in broadcasts that evening, and no newspaper ran a story mentioning the Minkler Letter on February 13, 2004.

(2) Friday, February 13, 2004

Father Minkler left the Spencer Abbey around 8:00 a.m. on February 13, 2004. Father Matthew Flynn, a Trappist monk who is a retreat master at Spencer Abbey, said that Father Minkler did not appear upset before he left. Bob Powers, an Abbey employee who handles retreat reservations, stated that Father Minkler seemed fine and was joking. On the morning he left, Father Minkler signed up in the Abbey’s reservation book for retreats in November 2004 and in February 2005; however, his name was erased from the reservation book after his death on February 15, 2004.

Bishop Hubbard was on his way to a funeral on the morning of February 13, 2004 when he learned that Channel 23 had reported the night before on the Minkler Letter and

identified Father Minkler as its author. Bishop Hubbard asked that Father Doyle be informed so that he could call Father Minkler. Bishop Hubbard thought that given how upset Father Minkler had been at being associated with the letter, he would want to know about Channel 23's report.

Diocese phone records indicate that Father Doyle tried to reach Father Minkler to tell him of the Channel 23 report at Spencer Abbey, the VA Medical Center, and at his home. (Exhibit 84) Ken Goldfarb, the Diocesan Spokesperson, stated that Father Minkler returned Father Doyle's call at around 1 p.m., but that Father Doyle was at a dental appointment. On his return to the Diocesan offices, Father Doyle called Father Minkler and told him about the Channel 23 story.

According to Father Doyle, Father Minkler was "very upset" when he heard that Channel 23 had identified him as the author of the letter, and again professed his lack of involvement. Father Minkler asked Father Doyle what could be done to manage the publicity. Father Doyle suggested that he could fax a note to Channel 23 asking for a retraction, but that he would need a signed statement from Father Minkler to accompany the letter. Father Doyle told Father Minkler that if he wished, Father Minkler could come by the Diocesan offices to sign such a statement. Father Minkler told Father Doyle that he would come in, and the two arranged to meet at 3 p.m. for Father Minkler to review and sign a statement.

According to Father Doyle, Father Minkler did not express any resistance to the idea of signing a repudiation statement. And Father Doyle thought he was helping Father

Minkler because Father Minkler said he did not write the letter and wanted to stop any further coverage.

Father Doyle then drafted the Repudiation Statement. The draft identified Father Minkler as a Roman Catholic priest of the Albany Diocese and as Chaplain at the VA Medical Center, and stated that Father Minkler had learned about Channel 23's broadcast, and wanted to affirm certain facts as follows:

- 1) I did not, nor have I ever, written such a letter.
- 2) To my knowledge, I have never met, nor have I ever spoken, to a Mr. John Aretakis.
- 3) I have never made such allegations regarding Bishop Hubbard. I have never made, nor even heard such allegations regarding Bishop Hubbard.
- 4) I have never, in writing or otherwise, communicated with the Archdiocese of New York regarding such allegations.

I make this statement of my own free will and I know that making a false statement is a crime. (Exhibit 87 is a version of the statement that includes footnotes reflecting this language as first drafted by Father Doyle)

Father Doyle, who is a non-practicing attorney, stated that he took the language about false statements – that making a false statement is a crime – from affidavits that an investigator who regularly works for the Diocesan Sexual Misconduct Review Board had prepared in the past. We have seen some statements that this investigator has prepared, and some do contain language identical to that which Father Doyle used.

Bishop Hubbard stated that he called into the office from his cell phone after the funeral, and was told that Father Minkler was coming to the Pastoral Center to sign a statement denying authorship of the Minkler Letter.

Father James LeFebvre, the Albany police chaplain, stated that Father Minkler called him Friday after lunch and asked Father LeFebvre to accompany him to the Pastoral Center. Father LeFebvre recalled that Father Minkler denied **sending** the Minkler Letter, but did not say whether he had written it. Father LeFebvre told Father Minkler that because of prior commitments relating to the death of an Albany police officer, he could not join him.

Father Minkler arrived at the Pastoral Center and waited to meet with Father Doyle. Carol Dugan, Bishop Hubbard's secretary, stated that she talked briefly with Father Minkler, whom she knew from her husband's treatment at the VA Medical Center, while he waited. Ms. Dugan stated that Father Minkler seemed very distraught and was wondering aloud how the media could have gotten the letter. She added that Father Minkler "was upset. He was very tense, shaking his head in disbelief, rambling a little bit."

Father Doyle met with Father Minkler and showed him the draft statement. Father Doyle stated that Father Minkler requested two changes to the statement. First, Father Minkler asked that the reference to the VA Medical Center be deleted in order to avoid media attention. Second, Father Minkler asked that the sentence "I have never made, nor even heard such allegations regarding Bishop Hubbard" be deleted, explaining that because he had been told about the allegations earlier that day, he could no longer

state that he had never heard the allegations before. Exhibit 87 reflects the changes requested by Father Minkler.

Father Doyle stated that Father Minkler then signed the revised Repudiation Statement in his presence and did so willingly. (Exhibit 12) Father Doyle stated that Father Minkler did not express any reservation about signing the statement.

Ginny Daley, secretary to Father Doyle and Sister Kathleen Turley, stated that her office is across the hall from where Father Doyle and Father Minkler went over the first draft of the Repudiation Statement. She could hear their conversation, which she described as “kind of light, nothing heavy.” She confirmed that Father Doyle asked her to revise the first draft to incorporate Father Minkler’s corrections.

According to Father Doyle, Father Minkler then asked to meet with Bishop Hubbard. Bishop Hubbard stated that when he stopped by his residence at the Cathedral of Immaculate Conception to change clothes around 3 p.m., he called into the office and learned from Ms. Dugan that Father Minkler wanted to meet with him. Bishop Hubbard then went to the Pastoral Center and met Father Minkler.

Bishop Hubbard stated that his meeting with Father Minkler was private, and brief. Father Minkler strongly denied writing the letter and said to Bishop Hubbard that he wanted “to look” Bishop Hubbard “in the eye” and tell him that he never wrote anything about him. Bishop Hubbard stated that Father Minkler speculated that another diocesan priest might have written the letter, and provided Bishop Hubbard with the name of that other priest—a former friend of his, previously referred to as DP1. Bishop Hubbard stated that there was no hostility in the meeting, that Father Minkler seemed

calm, and that he does not recall Father Minkler's even mentioning the Repudiation Statement. Bishop Hubbard stated that the meeting lasted about 10 minutes, and that Father Minkler did almost all the talking. Bishop Hubbard recalled that he told Father Minkler, "If you're telling me that you didn't write the letter, I believe you."

We spoke to DP1, whose name Father Minkler had mentioned as a possible author. DP1 denied writing the Minkler Letter.⁴⁵

Bishop Hubbard stated that based on the call with Father Minkler the day before, by the time of this meeting, he believed Father Minkler's denial of authorship. Bishop Hubbard said that he had no further communication or contact with Father Minkler after this meeting. Bishop Hubbard testified under oath:

Q: Since the tragic death of Father Minkler, several people have asserted in the press that you and those that work for you are responsible for Father Minkler's death because you forced Father Minkler to repudiate the 1995 letter addressed to Cardinal O'Connor that we were just talking about. What is your reaction to that allegation, sir?

A: There is no truth to the allegation that he was forced to sign any statement.

Q: Did you or anyone who works for you pressure in any way Father Minkler to sign a statement which

⁴⁵ As discussed above (see p. 104), DP1 did, however, acknowledge that Father Minkler and MRF1 were compiling documents and "binders" on priests and Bishop Hubbard, that he had spoken with Father Minkler and MRF1 in the early 1980s about whether Bishop Hubbard was gay, and that he told people in 1992 that he believed Bishop Hubbard was gay. DP1 said that he did not have any firsthand or secondhand knowledge that Bishop Hubbard was, in fact, gay. DP1 did not have any contact with Father Minkler after 1983.

he did sign in the offices of the Diocese on February 13, 2004?

A: I didn't, and to the best of my knowledge no one else did.

Q: Did you meet with Father Minkler that day?

A: I met with Father Minkler the day he signed the statement, yes.

Q: Which is February 13, 2004?

A: Yes.

Q: Who requested that meeting?

A: Father Minkler.

Q: And how long did it last?

A: Approximately 10 minutes.

Q: What did Father Minkler say to you?

A: Father Minkler indicated to me that he wanted to look me straight in the eye and tell me that he did not sign the 1995 letter to Cardinal O'Connor. He also wanted to tell me that he had never written anything negative about me to other persons, and he also wanted to share with me who he thought may have been the author of the 1995 letter.

Q: Is it your understanding that Father Minkler actually waited to see you?

A: That is my understanding.

Q: And what's the basis of that understanding?

A: My secretary told me that Father Minkler wanted to see me and I told her I would be up to the office very shortly and would see him when I got there.

Q: And the meeting lasted approximately how long?

- A: About 10 minutes.
- Q: Did Father Minkler have another meeting at the diocesan offices scheduled for Monday February 16, the day after he died?
- A: Not to my knowledge. Certainly not with me.
- Q: What was Father Minkler's mental state when you last saw him, which was on February 13, 2004?
- A: He seemed to be emotionally stable. He was upset that his name had been associated with the letter addressed to Cardinal O'Connor, but other than that he seemed to be in control of his emotions.
- Q: Did he voice any complaint about signing the statement which said that he had not authored the 1995 letter?
- A: No.
- Q: When you met with Father John Minkler on February 13th, did you say anything to him to the effect that if he were the author of the 1995 letter he would face some type of punishment?
- A: Absolutely not.
- Q: On February 13th, when you met with Father Minkler, did he mention the statement that he had signed at all?
- A: Not to the best of my recollection. (Exhibit 51)

Bishop Hubbard underwent a polygraph examination on April 22, 2004 and the polygraph concluded that Bishop Hubbard was truthful when he denied pressuring Father Minkler in any way to sign the repudiation statement, directing anyone else to pressure

Father Minkler to sign the statement, or using any kind of force or threats to have Father Minkler deny authoring the Minkler Letter. (Exhibit 52)⁴⁶

After Father Minkler signed the Repudiation Statement, Father Doyle attached it to a cover letter asking Channel 23 to retract the prior evening's broadcast about the Minkler Letter. (Exhibit 12) Diocese records also show that a call was made at 3:51 p.m. to Channel 6. (Exhibit 84, page 2) Father Doyle stated that he had no further contact with Father Minkler.

Father Doyle voluntarily submitted to a polygraph examination on the question of whether he had used any kind of force or threats to pressure Father Minkler to sign the Repudiation Statement. The polygrapher concluded that Father Doyle was truthful when he denied pressuring or threatening Father Doyle into signing the February 13, 2004 statement.⁴⁷ Father Doyle also signed a statement to that effect. (Exhibit 89)

Several people stated that they talked with Father Minkler on Friday after he had been to the Pastoral Center and before the 10 p.m. news broadcasts. In some cases, Father Minkler denied writing the Minkler Letter. In others, he acknowledged he was the author.

⁴⁶ “Based upon the results of the scoring algorithm and my review and analysis of the polygraph recordings from this examination, I have concluded that Bishop Hubbard is **truthful** when he denies using pressure in any way or directing anyone to pressure John Minkler to sign his February 13 statement.” (Exhibit 52)

⁴⁷ “Based upon the results of the scoring algorithm and my own review and analysis of the polygraph recordings from this examination I have concluded that Reverend Doyle was **truthful** when he denied using any kind of force, threats or pressure to obtain the February 13 statement from Reverend John Minkler.” (Exhibit 88)

MRF4 recalled that he called Father Minkler between 12:30 and 1:30 p.m, and that they discussed Father Minkler's visit to the Pastoral Center.⁴⁸ Father Minkler told him that he had not written the Minkler letter, and that he had been to the Pastoral Center to see Bishop Hubbard. MRF4 stated that Father Minkler reported to him that the meeting with the Bishop had been brief and civil. According to MRF4, Father Minkler neither mentioned the Repudiation Statement, or that he had been threatened in any way.

Walter Crawford, who said he was a friend of Father Minkler, said that he spoke briefly with Father Minkler around 4 p.m. Mr. Crawford stated that he had known for some time that Father Minkler had written the Minkler Letter. According to Mr. Crawford, Father Minkler told him that he was in "a lot of trouble" because Bishop Hubbard had the Minkler Letter. According to Crawford, Father Minkler said the letter had been released by the New York Times.⁴⁹

One friend of Father Minkler ("MRF7"), who knew Father Minkler from their days working together in New York City for the Military Ordinariate, said that he spoke to Father Minkler at around 3:00 or 4:00 p.m. on Friday afternoon, February 13, 2004. MRF7, who had been told by Father Minkler years earlier that he had written a letter to Cardinal O'Connor concerning sexual abuses in the Albany Diocese, stated that Father Minkler did not seem upset or under duress during the call. According to MRF7, Father

⁴⁸ MRF4 is apparently mistaken about the time of this call, since Father Minkler did not go to the Pastoral Center until 3:00 p.m.

⁴⁹ The New York Times, however, did not mention the Minkler Letter until February 20, 2004, after Father Minkler's death. (Exhibit 90)

Minkler did not mention that he had been at the Pastoral Center, or that he had signed a repudiation. MRF7 also recalled that during the conversation Father Minkler mentioned that he was thinking about buying a new house.

Paul Likoudis of The Wanderer stated that he spoke with Father Minkler around 7 p.m. and that Father Minkler seemed “rattled.” According to Mr. Likoudis, Father Minkler said that he had returned from a retreat to find a message on his answering machine that he was to call the Chancery right away for a meeting. According to Mr. Likoudis, Father Minkler said that he was called into Bishop Hubbard’s office and was given a statement by Father Doyle and told to sign it. According to Mr. Likoudis, Father Minkler said that “I can’t believe Bishop Hubbard made me lie.” Mr. Likoudis said that he told Father Minkler to have a press conference and tell all he knew, but Father Minkler rejected that idea, saying “I can’t do that, Paul. I’d be dead,” Mr. Likoudis said that he advised Father Minkler to contact Father Joseph Wilson, a priest in the Archdiocese of New York, for advice. According to Mr. Likoudis, he then emailed Father John Wilson in Whitestone, N.Y. around 7:30 p.m., requesting that he talk with Minkler.

George Pfaff, a former Albany resident who has held many positions within the Albany Diocese and knew Father Minkler through the Knights of Malta organization, stated that he received a telephone call from Father Minkler around 7:30 p.m. Mr. Pfaff stated that Father Minkler was responding to a message that he had previously left for Father Minkler regarding housing issues for the Carmelite Sisters, a cloistered order of nuns for whom Father Minkler was chaplain. Mr. Pfaff stated that Father Minkler said that he had been on retreat and that they discussed the housing issues. Mr. Pfaff stated

that the conversation was “extremely normal,” that they did not talk about the Minkler Letter, that Father Minkler did not sound troubled or distressed in any way, and that there were no indications that Father Minkler was under any stress.

Father Joseph Wilson stated that he spoke with Father Minkler around 8 or 9 p.m. According to Father Wilson, he received an email from Paul Likoudis stating that he should call or expect a call from Father Minkler, who needed some help. Father Minkler stated that he called Father Minkler, who asked if he could call Father Wilson back, which he did. Father Wilson stated that Father Minkler admitted that he had written the Minkler Letter but did not say that he had been to the Pastoral Center or had signed a repudiation. Father Wilson stated that Father Minkler seemed relieved and more relaxed by the end of the conversation.

Father Edward Sipperly, a retired parish priest who serves as a part-time chaplain at the VA Medical Center, stated that Father Minkler called him around 9 p.m. to remind him to serve Mass on Sunday, February 15. According to Father Sipperly, Father Minkler had been scheduled for the Mass but was taking Sunday off. Father Sipperly said that Father Minkler sounded normal and nothing appeared wrong.

Channel 23 reported in its 10 p.m. broadcast that:

The Albany Roman Catholic archdiocese is fighting back tonight against a charge made by John Aretakis yesterday. Aretakis told Fox 23 News that 9 years ago Father John Minkler of the VA Hospital in Albany wrote this letter saying Bishop Howard Hubbard had sexual relationships with several young priests. The Diocese and Father Minkler both say today that this is absolutely untrue. Father Minkler has issued a statement that reads, ‘I did not, nor have ever, written such a letter. To my knowledge, I have

never met, nor have I ever spoken to a Mr. John Aretakis. I have never made such allegations regarding Bishop Hubbard. I have never, in writing or otherwise, communicated with the Archdiocese of New York regarding such allegations.’ Bishop Hubbard has emphatically denied wrong-doing of any kind. (Exhibit 13)

No other TV station mentioned the Minkler Letter in broadcasts that evening.

MRF2 spoke to Father Minkler after watching the 10 p.m. news. According to MRF2, Father Minkler denied writing the Minkler Letter as well as its existence, saying: “I did not write that letter. It doesn’t exist.” MRF2 recalled that Father Minkler said that he had met with Bishop Hubbard and that Bishop Hubbard had given every indication that he believed Father Minkler’s denial. MRF2 said that they discussed John Aretakis in this conversation. Father Minkler told MRF2 that that no one from the media had contacted him (or left a message) to verify his authorship of the letter and that Mr. Aretakis had not contacted him before identifying him as the author. MRF2 recalled that he told Father Minkler that he should sue Mr. Aretakis. According to MRF2, he and Father Minkler shared the opinion that Mr. Aretakis deserved to be disbarred. MRF2 said that Father Minkler did not seem distressed during the phone call and was very calm.

(3) Saturday, February 14, 2004

There were no newspaper reports mentioning the Minkler Letter on Saturday, February 14, 2004.

Father Minkler spent part of Saturday at the VA Medical Center, where he said the 3:00 p.m. Mass.

Rev. Ronald Stockhoff, Protestant Chaplain at the VA Medical Center and Father Minkler's supervisor, said that Father Minkler left two notes on February 14. One note indicated that Father Minkler was taking Sunday off as a holiday, using a day he had earned by working on a prior federal holiday. The other note requested that a hospital secretary prepare the program for a memorial service which was to be held on Feb. 26. Instructions to the secretary indicated that Father Minkler's name should be listed in the program, reflecting him as the celebrant. (Exhibit 91)

Several people stated that they talked with Father Minkler on Saturday. Father James LeFebvre stated that he called Father Minkler Saturday morning. Father LeFebvre said that he apologized to Father Minkler for not being able to accompany him to the Pastoral Center the day before. According to Father LeFebvre, Father Minkler said that everything was fine and that the meeting at the Pastoral Center had gone well. Father LeFebvre said that Father Minkler did not say or imply that the Repudiation Statement had been coerced in any way.

One friend of Father Minkler ("MRF8") stated that he spoke with Father Minkler on Saturday morning, and that Father Minkler was upset. MRF8 recalled that Father Minkler said "I'm sick over it. Someone's trying to get me in trouble." MRF8's impression at the time was that Father Minkler was saying that he had not written the Minkler letter.

MRF4 spoke to Father Minkler around 5:30 or 6 p.m. He said that he told Father Minkler that he had seen the repudiation on the TV news the night before. According to MRF4, Father Minkler responded that "the damage was already done." As with their

conversation the day earlier, MRF4 said that Father Minkler did not say that he was coerced or threatened into signing the statement. As mentioned above, MRF4 stated that Father Minkler had denied writing the letter in their February 12 conversation. MRF4 also stated that he later spoke with Patricia Minkler, Father Minkler's sister, who said that Father Minkler spoke on February 14 with her son to wish him a happy Valentine's Day and to talk about having dinner in the future. According to MRF4, Patricia Minkler said that she did not believe that this conversation was consistent with someone about to commit suicide.

Another former Albany Diocesan priest who requested confidentiality (referred to previously as "FDP4") said that he talked with Father Minkler sometime between 6 p.m. and 10:30 p.m. FDP4 stated that he had known for some time that Father Minkler had authored the Minkler Letter. FDP4 said that Father Minkler had left a message on his answering machine sometime on Saturday, and that he returned the call and spoke with Father Minkler. FDP4 said that Father Minkler told him that he had been called by Father Doyle or Bishop Hubbard while on retreat. According to FDP4, Father Minkler said that he had seen Bishop Hubbard and Father Doyle on February 13 and that they had made him sign a statement that he had not written the Minkler Letter. FDP4 stated he "believes that Father Minkler's suicide, if it was a suicide, was an irrational act brought about because he was coerced into signing the repudiation." FDP4 went on to say, however, that Father Minkler would have been depressed about the exposure the letter had brought. FDP4 said that Father Minkler said he was "forced" to sign the statement,

but did not say he was threatened. FDP4 believed that Father Minkler was told he would be withdrawn from the VA Medical Center and possibly lose his military benefits.

Stephen Brady, head of Roman Catholic Faithful, said that Father Minkler left him a voicemail message around 4:15 p.m. saying “I need your help with Hubbard.” Brady told reporters that he erased the voicemail message and that he was unable to reach Father Minkler.

One friend of Father Minkler (“MRF6”), who said they spoke weekly, stated that he spoke with Father Minkler at around 8 p.m. According to MRF6, Father Minkler denied writing the Minkler Letter and expressed surprise that he had been identified as its author. Father Minkler told MRF6 that he had wanted to tell Bishop Hubbard face to face that he had not written the letter, and had done so. MRF6 said that Father Minkler did not say or intimate that he was coerced in any way to sign the repudiation statement. MRF6 said that Father Minkler then raised a new topic, specifically, Father Minkler’s desire to move out of his house and into a condominium because of his heart condition. MRF6 said that he recommended to Father Minkler a development in Wynantskill where his mother lived. MRF6 said that Father Minkler took down the address and said that he might go visit MRF6’s mother on February 15 or 16. MRF6 said that Father Minkler was upset about the letter but did not seem overly stressed, despondent, or suicidal.

MRF2 stated that he spoke with Father Minkler around 9 p.m. Father Minkler again denied any knowledge of the letter and said that he had never seen it. Father Minkler also told MRF2 that he was surprised that no one at the VA Medical Center had mentioned the letter that day. MRF2 said that he speculated that maybe the TV stations

had not really picked up the story. According to MRF2, he and Father Minkler then discussed who *would* draft the Minkler Letter and then attribute it to him. MRF2 said that he suggested that Father Minkler talk to an attorney and gave him the name and address of one. Father Minkler told MRF2 that he would call the lawyer “tomorrow” [February 15th] and leave a message, and then asked MRF2 for directions to the lawyer’s office. According to MRF2, Father Minkler seemed “remarkably calm.” Finally, Father Minkler said he needed to go, that he “had other calls to make.” MRF2 and Father Minkler ended the call, agreeing to talk again Sunday night.

There were no television broadcasts mentioning the Minkler Letter that evening.

(4) Sunday, February 15, 2004

There were no newspaper reports mentioning the Minkler Letter on Sunday, February 15, 2004.

Father Edward Sipperly received a message on his answering machine from Father Minkler around 6 am Sunday morning. According to press accounts and MRF2, Father Minkler’s message asked Father Sipperly to call his sister and have her come to his house.

The Watervliet police report includes a narrative by Officer Joseph Torre that states that:⁵⁰

Members of the Watervliet police dept did responded to above address on said date and time for a report of a person

⁵⁰ The original police report is reproduced verbatim here.

attempting suicide. Upon patrols arrival the victim was discovered face down a blanket in the middle of the kitchen floor in an unconciuous state. Members of the Watervliet fire dept did evaluate victim and he was determined to be dead. Investigator Boivert and the Albany County Coroner's Office was notified. Coroner H. Thomas responded. Inv. Boisvert responded. Victim showed no sign of trauma and there was no forced entry to residence. Relative(vic. sister) stated she last seen vic. on 2-14-04 at approx 4;30 P.M.. She stated she recieved a phone call from a Father Cipperly (373-2188) stating he had a message from the vic. asking him to contact her and ask her to respond to his address with her keys to the residence because he is ill. Father Cipperly does not know the date and time of message from vic., massage was left on his answering machine. Vic did leave a note, note was tot Coroner Thomas. Vic. was removed and transported to Alb. Medical Center by Parker brothers at the direction Coroner Thomas. (Exhibit 92)

The report states that the "occurred to" time, which is when the call was made, was 1:48 p.m. on Sunday, February 15, and that the "date reported," which is when the police responded, was 3:29 p.m. that day. The report states that the "occurred on/from" time was 4:30 p.m. on Saturday, February 14. (Exhibit 92)

(5) Monday, February 16, 2004

There were no newspaper reports mentioning the Minkler Letter or Father Minkler's death on February 16, 2004.

According to a WNYT Channel 13 broadcast on February 16, Stephen Brady had, that day, sent WNYT a copy of the Minkler Notes along with the handwritten cover letter dated January 9, 2001. (Exhibit 15) The WNYT broadcast appears to have been the first public mention of the Minkler Notes.

According to an article in The Times Union article on February 17, John Aretakis said on February 16 that he never spoke with Father Minkler but called him an “excellent priest and a brave man.” (Exhibit 93) Craig Smith of Channel 13 said during the February 16, 2004 broadcast at 6 p.m. that he had spoken with Aretakis that day but only “off the record.” He elaborated as follows: “Before we spoke, he made sure that we were off the record, so I spoke to him off the record about a few items today. So I can’t talk to you specifically about what he had to say, which is odd because more often than not when you see John Aretakis in the news he has quite a lot to say, but not today,” the reporter said. (Exhibit 15)

C. The Minkler Suicide Note

The Minkler family declined to provide the investigation with a copy of Father Minkler’s suicide note. The investigation sought a copy of the note from the Albany District Attorney’s Office, the Watervliet Police, and the Albany Coroner’s Office. All three offices declined the request.

We have spoken to one person who saw and read the note, and who has requested confidentiality. He said a large portion of the note relayed information to Father Minkler’s family regarding how to handle his personal affairs. The note did, however, mention Bishop Hubbard in the context of expressing general displeasure with him and with the Albany Diocese. This person stated that he did not recall that the note contained any specific allegation of sexual misconduct against Bishop Hubbard.

MRF4 stated that Robert Warren, Father Minkler's brother-in-law, told him on February 15 that Father Minkler had left a note. MRF4 stated that Mr. Warren told him that the note expressed Father Minkler's love for his family, discussed the state of his soul, and said that Bishop Hubbard was a "wicked man."

Judy Sanders of Channel 6 reported on February 16, 2004 that she had not seen the note but that a "source close to the case" told her that the note "made reference to his discontent with Bishop Howard Hubbard's tolerance of homosexuality among the clergy."

Mr. Aretakis has made three public statements about the note. He said in a March 9, 2004 interview with Paul Vandenburg of WROW that "I am privy to the note that was left by Father Minkler, and I will say that from news organizations – I know at least Channel 6 and Channel 10 have identified the generic contents of that letter, or note that he left. Their news reports are accurate and consistent with the information that I know ... I do know that that letter is — would be devastating to Bishop Hubbard. Devastating to Bishop Hubbard and his public perception, and his public denials of the allegations that are surfacing." (Exhibit 94) Mr. Aretakis also said in this interview that he had not talked to Father Minkler's sisters.

Mr. Aretakis was also quoted in a Channel 9 broadcast on April 15, 2004 as saying that "I have been told by people who are aware of what the letter said that it does address Bishop Hubbard's homosexuality and the rampant homosexuality and sexual misconduct of many Albany Diocesan priests including Bishop Hubbard." (Exhibit 95)

Mr. Aretakis wrote a letter dated June 7, 2004 to Albany County District Attorney Paul Clyne in which he requested a copy of the suicide note. In this letter, Mr. Aretakis wrote that “[i]t is my understanding the letter blamed Bishop Hubbard’s homosexuality, immorality and other sexual indiscretions, and for cultivating and protecting sexually active and abusive clergy in the Albany Diocese. Since you have read the letter, and are privy to such a letter as I am, I trust you have spoken with Mary Jo White and her investigators concerning same.” (Exhibit 96) As noted above, the Albany District Attorney’s Office declined to provide the investigation with a copy of Father Minkler’s suicide note.

D. Other Relevant Facts

Paul Likoudis of The Wanderer, who had the Minkler Letter for years before it was released to the press in February 2004, said that he had not released or identified the author of the Minkler Letter to the press.

Stephen Brady of RCF acknowledged that he had a copy of the Minkler Letter and the Minkler Notes for over two years, and that he had provided a copy of the Minkler Letter and the Minkler Notes to John Aretakis in 2003, but had not identified Father Minkler as the author and did not give Mr. Aretakis the two pages of the Minkler Notes that contained information identifying Father Minkler as its author. Mr. Brady denied that he released or identified the author of the Minkler Letter to the press prior to Father Minkler’s death.

Daniel Wakin of The New York Times may have been given a copy of the Minkler Letter before February 4, 2004. MRF4 told us that he was aware that Father Minkler had a connection to a reporter for The New York Times, presumably Mr. Wakin, and may have provided him with information about the Albany Diocese. MRF4 also told us that Father Minkler had acknowledged giving the Minkler Letter to the media, but did not mention Mr. Wakin specifically. Father Joseph Wilson told us that he had learned from MRF7 that Father Minkler had given a copy of the Minkler Letter to a reporter at The New York Times. Mr. Aretakis said in a May 8, 2004 conference that a “newspaper reporter for a very large newspaper ... told me that a year ago, Father Minkler told him that he had wrote that letter. But he asked that reporter to keep it secret.” (Exhibit 24) Mr. Wakin declined to answer questions about whether he had publicly identified Father Minkler as the author of the Minkler Letter. We note that Mr. Wakin did not write about the Minkler Letter until after Father Minkler’s death, and it is unlikely that he would have otherwise publicly identified him or given the Minkler Letter to other members of the media.

John Aretakis declined our requests for an interview. He also declined our request that he answer the following written questions:

- When did you first receive a copy of the 1995 typewritten letter addressed to Cardinal O’Connor?
- Who told you that Father Minkler wrote the 1995 typewritten letter?

- Did the person who told you that Father Minkler had written the 1995 typewritten letter, or anyone else, also tell you that Father Minkler had requested that his name not be linked to the letter?
- When did you first reveal Father Minkler's name to the media as the author of the 1995 typewritten letter? To whom?
- When did you first receive a copy of the 2001 handwritten notes signed by Father Minkler?
- When did you first provide the press with the 1995 typewritten letter?
- Did you ever have any direct contact with Father Minkler prior to February 12, 2004 (the day that the letter was made public and Father Minkler was identified as its author)? If so, please detail those contacts.
- Did you have any contact with Father Minkler between February 12, 2004 and his death on February 15, 2004? (Exhibit 49)

As noted, on February 12, 2004, in the first public broadcast mentioning the Minkler Letter and its author, Jill Ringer of Channel 23 stated that Mr. Aretakis had given out a letter by Father Minkler that day. The Times Union reported on February 25, 2004 that Mr. Aretakis had identified Father Minkler as the author of the Minkler Letter. It reported: "Earlier this month, Aretakis circulated the 1995 letter to local news media and identified Minkler as its author. Minkler, the longtime chaplain at the Stratton Veterans Affairs Medical Center, sent the letter to the late Cardinal John O'Connor, Aretakis said." (Exhibit 97)

Attorney John Aretakis said in an interview with Kumi Tucker of Channel 13 that was broadcast on March 4, 2004 that he handed out copies of the Minkler Letter at the Zalay press conference on February 4, 2004. (Exhibit 98)

On May 8, 2004, at a Coalition of Concerned Catholics meeting in Albany, John Aretakis was asked how the Minkler Letter became public. Mr. Aretakis responded:

Remember, I had known that day [February 4] that for the first time allegations against Bishop Hubbard were coming public. On that day, I distributed the letter to Cardinal O'Connor to people in the media. Remember this. February 4th I distribute a letter to people in the media to Cardinal O'Connor accusing Bishop Hubbard of homosexuality with other priests. Why? Because I knew Bishop Hubbard would deny being a gay man who was involved in a gay lifestyle with a 26-year-old man who lit himself on fire or with anyone else, for that matter. And I told everyone in the media, and Brian and I — who was sitting here for The Times Union — had a little argument about that point. I told everyone in the media I didn't know who wrote that letter. I've had it for two years, but I didn't know. (Exhibit 24, p. 15)

A person who requested confidentiality informed the investigation that Mr. Aretakis had told this person in early 2003 that Father Minkler was the author of the letter in question (that is, the letter now referred to as the Minkler Letter).

The Diocese did not receive a copy of the Minkler Letter until February 17, two days after Father Minkler's death.

The Repudiation Statement was signed "John A. Minkler." In a letter dated March 8, 2004, John Aretakis stated that a client of his who knew Father Minkler at the VA Medical Center, would tell us that "Fr. Minkler generally signed documents as 'Fr.' or 'Rev.' and the February 13, 2004 false repudiation letter used neither." (Exhibit 29).

Several pieces of official correspondence written by Father Minkler, however, including the 1994 letter in which he expresses a desire to become pastor of a parish (Exhibit 64), reflect that Father Minkler would sometimes sign his name “John A. Minkler,” without using any title such as “Fr.” or “Rev.”

In an article entitled, *Mystery Surrounds Death Of Priest*, which appeared in the Wanderer web site on February 26, 2004, Paul Likoudis described the circumstances surrounding the Repudiation Statement. Likoudis wrote that Father Minkler told him that “Fr. Doyle had this disclaimer all made out, and he said, ‘Sign it.’” (Exhibit 80)

The investigation requested Father Minkler’s phone records from his family. In addition, the investigation asked Father Minkler’s family to request from his telephone carrier a “dump” of telephone calls to Father Minkler on the night before his death. This is a standard investigative technique in cases involving a potentially suspicious death. The family declined our request and we are unaware of whether they requested the telephone “dump.”

There are no records of any calls from Bishop Hubbard, either at his residence or office, or from the Pastoral Center to Father Minkler after Father Minkler left the Diocesan offices on February 13, 2004.

The Albany County Coroner’s Office reported on April 6, 2004 that Father Minkler’s death was a suicide.

Bishop Francis X. Roque, Vicar of Veteran’s Affairs for the Archdiocese for Military Services (as the Military Ordinariate is now known), stated that Father Minkler remained assigned to the Military Ordinate throughout his tenure at the VA Medical

Center. Father Minkler received his salary and benefits from the Department of Veteran Affairs. Father Minkler's pension was vested and he would have received his pension from the Department of Veteran Affairs in four years, at age 62.

Bishop Roque stated that Bishop Hubbard had no ability to alter any of those benefits. Bishop Roque stated that the only thing Bishop Hubbard could have done to affect Father Minkler's status at the VA Medical Center would have been to withdraw his permission for Father Minkler to serve outside the Diocese. This, in turn, would require the Archdiocese for Military Services to withdraw its endorsement of Father Minkler. Bishop Roque stated that Bishop Hubbard never withdrew his permission for Father Minkler to serve outside the Diocese and never threatened to do so.

If Bishop Hubbard had removed his endorsement permitting Father Minkler to work at the VA Hospital, Father Minkler would have become the financial responsibility of the Albany Diocese until his retirement.

E. Discussion

The Repudiation Statement

There is no credible evidence that Bishop Hubbard or Father Doyle pressured, forced or threatened Father Minkler to sign a statement repudiating authorship of the Minkler Letter.

First, Father Doyle, who dealt almost exclusively with Father Minkler on February 12 and February 13, stated under oath that Father Minkler asked for help in repudiating the Minkler Letter and signed the Repudiation Statement willingly after requesting two revisions. The results of Father Doyle's polygraph examination indicate that he was being truthful when he said that he did not pressure, force, or threaten Father Minkler to sign the Repudiation Statement.⁵¹

Second, Bishop Hubbard stated that he believed Father Minkler when he said that he had not authored the Minkler Letter. Bishop Hubbard stated under oath that he did not pressure, force or threaten Father Minkler to sign the Repudiation Statement and that to the best of his knowledge no one else did either. The results of Bishop Hubbard's polygraph examination indicate that he was being truthful when he said that he did not

⁵¹ Father Doyle's inclusion in the Repudiation Statement of language that "making a false statement is a crime" was incorrect. An unsworn statement made to a private person is not a crime. In order for a false written statement to be a crime, the statement must, at the least, be witnessed by a notary or other officer authorized to swear witnesses. See N.Y. Penal Law § 210.05 (perjury in the third degree).

pressure, force, or threaten Father Minkler to sign the Repudiation Statement, and did not instruct anyone to pressure Father Minkler into signing the Repudiation Statement.⁵²

Third, Father Minkler continued, after signing the Repudiation Statement, to tell his closest friends, as he had told Father Doyle and Bishop Hubbard, that he had not authored the letter. The Repudiation Statement was entirely consistent with Father Minkler's oral statements to his friends and the Diocese that he was not the author of the letter. So long as Father Minkler was denying authorship, no threats or coercion would have been necessary.

It is not surprising that Father Minkler denied authorship of the letter to some of his close friends. For years, Father Minkler had been communicating with two distinct groups of people about his views concerning Bishop Hubbard and the Albany Diocese. The larger group, which included his closest friends, many of whom were on retreat with him when the Minkler Letter became public, were unaware that Father Minkler authored the Minkler Letter. The smaller group, which included Stephen Brady, Paul Likoudis, FDP4, and MRF4 knew that Father Minkler had authored the Minkler Letter. Father Minkler's conversations with members of these two groups on February 12th and 13th were markedly different.

⁵² “Based upon the results of the scoring algorithm and my review and analysis of the polygraph recordings from this examination, I have concluded that Bishop Hubbard is **truthful** when he denies using pressure in any way or directing anyone to pressure John Minkler to sign his February 13 statement.” (Exhibit 52)

In conversations with those in the larger group, Father Minkler denied authorship of the Minkler Letter, as he had done with Bishop Hubbard and Father Doyle. Presumably because he denied authorship of the Letter in these conversations, Father Minkler did not allege that the Repudiation Statement had been coerced. In conversations with those in the smaller group who knew that Father Minkler had authored the Minkler Letter, however, Father Minkler indicated that he had been pressured to sign the Repudiation Statement. It appears that Father Minkler justified his signing of the Repudiation Statement to those who knew it to be false by saying that he had been forced, coerced or threatened into signing it.

Finally, the telephone records from the Spencer Abbey, revealing that Father Minkler placed several calls to the Diocese after he learned that he had been identified as author of the Minkler Letter, are also consistent with Father Doyle and Bishop Hubbard's account that Father Minkler was actively involved in a joint effort to control the public dissemination not only of Father Minkler's connection to the Minkler Letter but also the letter itself.

Father Minkler's Suicide

The investigation did not discover the actual reason or reasons for Father Minkler's decision to take his own life.

We note that certain of Father Minkler's statements and actions on February 13 and 14 are inconsistent with someone who was planning on taking his own life:

- On the morning of February 13, 2004, Father Minkler scheduled two future retreats at Spencer Abbey.

- On Friday, February 13th, after signing the Repudiation Statement, Father Minkler told MRF7 that he was thinking about buying a new home.
- On Saturday, February 14, 2004, while at the VA to say the 3:00 p.m. Mass, Father Minkler left instructions with the secretary for the preparation of a program for a memorial service which was to be held on February 26, 2004 and which listed him as the celebrant.
- On Saturday, February 14, 2004, Father Minkler spoke with his nephew about getting dinner in the future.
- Between 8:00 and 8:30 on Saturday, February 14th, Father Minkler and MRF6 discussed Father Minkler's plan, on February 15th or 16th, to visit MRF6's mother in order to see her townhouse because Father Minkler was considering purchasing a similar unit.
- At 9:00 p.m. on Saturday, February 14th, Father Minkler and MRF2 discussed potential legal action against John Aretakis. MRF2 provided Father Minkler with an attorney referral. Father Minkler told MRF2 that he would call the lawyer "tomorrow" [February 15th] and leave a message. Finally, Father Minkler said he needed to go, that he "had other calls to make."

The investigation is unable to conclude why Father Minkler decided to take his life. Clearly, Father Minkler's suicide note, as well as the phone records we requested and the phone records of other parties not available during our investigation, are critical to making this determination.

F. Conclusion

Although Father Minkler undoubtedly felt additional pressure and anxiety from having signed what he (and some others) knew to be a false repudiation statement, there is no credible evidence that Bishop Hubbard or Father Doyle intentionally pressured, forced or threatened Father Minkler to sign the statement repudiating authorship of the Minkler Letter. Although the idea for the statement may have been ill-advised, because a more considered analysis and investigation might have revealed that Father Minkler had written the letter, it appears clear that Father Doyle was actually trying to help Father Minkler (as well as Bishop Hubbard and the other priests named in the 1995 Letter) when he suggested that Father Minkler sign the repudiation statement.

IV. Overall Conclusions of the Report

We have conducted a very thorough, objective and independent investigation into the various allegations of sexual misconduct that have been made against Bishop Hubbard. Based upon all of the evidence available to us, we have found the following:

Findings on the Primary Allegations

- 1. There is no credible evidence to substantiate the allegations of Andrew Zalay that Bishop Hubbard had a relationship with Tom Zalay, sexual or otherwise.**
- 2. There is no credible evidence to substantiate the allegations of Anthony Bonneau that Bishop Hubbard paid Anthony Bonneau for sexual acts, while Bonneau was a male prostitute working in Washington Park, or at any other time.**
- 3. There is no credible evidence to substantiate the allegations contained in the Minkler Letter that**

Bishop Hubbard was involved in a homosexual relationship with the two priests named in the letter.

- 4. There is no credible evidence to substantiate the allegations contained in the Minkler Notes that Bishop Hubbard was involved in a homosexual relationship with a third named priest in the Minkler Notes.**
- 5. There is no credible evidence to substantiate the allegation reportedly contained in additional letters by Father Minkler that Bishop Hubbard was involved in a homosexual relationship with a fourth named priest.**

Additional Findings

Based upon all of the evidence available to us, we further found that:

- 1. There is no credible evidence to substantiate the allegations that Bishop Hubbard ever led a homosexual lifestyle or engaged in homosexual relations at any time.**
- 2. There is credible evidence indicating that Bishop Hubbard may have been misidentified as a result of the activities of a former Albany priest who bore some physical resemblance to Bishop Hubbard and frequented Washington Park and gay bars for the purpose of engaging in homosexual relations and that this priest and/or others may have referred to this priest as “the bishop.” See also the Appendix.**
- 3. There is credible evidence that Bishop Hubbard has been the subject of false and unfounded rumors. See also the Appendix.**

In sum, we found no credible evidence to substantiate the investigated allegations.

Future allegations of a similar nature, which can be expected to emerge, should be met

with considerable skepticism and should be very carefully scrutinized for their factual basis.

The atmosphere in parts of the Albany Diocese has become so charged that there appears to be little or no room for reasoned discussion. Any claim of clergy abuse tends to be all too often treated as a cause for an adversarial, rather than thoughtful, response. Any objective examination or questioning of the facts by a third party, independent or otherwise, is cast as assisting in the protection of pedophiles. Regardless of the perceived shortcomings of Bishop Hubbard or the Diocese in handling the claims of clergy abuse victims, or their views on liturgical and social issues, there is no justification for the promulgation of the unsupported and provocative allegations discussed here. The allegations and conduct we have seen serve only to retard the discovery and remediation of legitimate allegations of sexual abuse by the clergy.

We sincerely hope that this Report will lead in some way to the opening of new avenues of civil discussion, and a reexamination of the parties' respective conduct, in an effort to find common ground where the emphasis is on assisting actual victims of clergy sexual abuse.

Dated: Albany, New York
June 24, 2004

Respectfully submitted,

DEBEVOISE & PLIMPTON LLP

Mary Jo White
Mary Beth Hogan

Appendix

Other Allegations

A. Introduction

Over the course of the investigation, numerous additional allegations of sexual misconduct were made against Bishop Hubbard either via the investigation's tip line, e-mail address, media reports or as a result of interviewing witnesses. We examined each such additional allegation in an effort to determine its source and basis. None was substantiated. These "Other Allegations" are described fully below.

B. The Gay Bar Allegations

(1) Allegations

During the course of the investigation, several allegations surfaced that Bishop Hubbard frequents or has frequented gay bars (collectively the "Gay Bar Allegations). They are as follows:

1. On April 15, 2004, David Leonard, accompanied by his attorney John Aretakis, alleged at a press conference that he once saw Bishop Howard Hubbard at a gay bar, the Waterworks, in 1978 ("Leonard Allegation").
2. Bishop Hubbard told the Troy Record in May 2002, and the investigation, that in the mid-1980's, Father Michael Hogan reported to him that Judge Thomas Keegan, a former state court judge in Albany, had "heard on good authority" that Bishop

Hubbard was regularly seen at a gay bar at the intersection of Lark and State Streets (the “Judge Keegan Allegation”).

3. Robert Vonzurlinde, a Florida resident who was a former resident of St. Coleman’s home, alleged that Bishop Hubbard was frequently seen in East Durham, New York, that “Stack's Pub on Route 145 in East Durham is rumored to be a hot spot for acting clergy and those who have been removed from ministry,” and that this information was “strictly rumor.” In a subsequent interview, Mr Vonzurlinde attributed the rumor to Kathy Shaw, who he identified as a reporter for the RCF (the “Vonzurlinde Allegation”).

4. The investigation heard numerous other, second, or third-hand allegations that Bishop Hubbard frequented gay bars. John Aretakis stated at a May 8, 2004 conference that Bishop Hubbard was “seen frequently by credible people in gay bars.” (the “Aretakis Gay Bar Allegation”) (Exhibit 24, p. 8)

(2) Findings Specific to the Leonard Allegation

Media accounts of the April 15, 2004 press conference reported that Mr. Leonard said “I would go to gay bars and they would be frequented by many Albany Diocesan priests, and I knew them. On one occasion, I saw late at night, at an after-hours bar, Bishop Hubbard. And I can remember him, clear as today, even to what he was wearing — a blue print shirt — and how he traveled amongst other gay men.” (Exhibit 23)

The Daily Gazette reported on April 16, 2004 that attorney John Aretakis said that he would file a lawsuit on behalf of Mr. Leonard in Albany and in Boston in connection with sexual abuse claims against various priests. (Exhibit 99) Channel 13 reported in an

April 15, 2004 broadcast (5:30 p.m.) that Mr. Aretakis said that Mr. Leonard's "history of abuse and mental illness has no bearing on his credibility." (Exhibit 100)

Press reports indicate that David Leonard is in his sixties, has been married for 35 years, and has a history of mental illness. The Boston Globe reported on August 10, 2002 that Mr. Leonard said that he had had "mental problems for decades" and that he "doused himself with gasoline and tried to set himself on fire" outside a Stigmatine building in 1978. (Exhibit 101). The Daily Gazette reported on April 16, 2004 that Mr. Leonard had said that he had "spent years in and out of mental institutions and had made many suicide attempts and is on disability because of mental illness." (Exhibit 99) The Times Union reported on May 20, 2003 that Mr. Leonard said that priests tried to perform an "exorcism" on him in 1978, that he fell into a "psychotic state" during the ceremony, and that he regained consciousness several weeks later at a residential psychiatric facility where he had undergone electro-convulsive therapy. (Exhibit 102)

On February 28, 2003, Mr. Leonard submitted a written and signed statement to Bishop Hubbard which stated:

"I, David Leonard . . . request that Bishop Hubbard would investigate these allegations by me, to resolve the matters that I charge them with the following names regarding faith and morals concerning their lifestyles as R.C. priests of the Albany Diocese." (Exhibit 103)

Mr. Leonard went on to name five current or former priests of the Albany Diocese. Theresa Rodriguez, the victims' assistance coordinator for the Albany Diocese,

witnessed Mr. Leonard's statement. Ms. Rodriguez stated that at the time Mr. Leonard wrote the statement, he was not represented by John Aretakis.

During the April 15, 2004 press conference, Mr. Leonard said that he had been involved in a homosexual relationship with a diocesan priest in the early 1990s, when he was 50 years old.

The Herkimer Evening Telegram reported on April 15, 2004 that Mr. Leonard was abused by priests in Boston between the ages of 11 and 16. Mr. Leonard reportedly told the paper that he has information about a total of eight priests in the region which he had attempted to share with the Albany Diocese. Mr. Leonard named two priests.

(Exhibit 104)

On April 15, 2004, Mr. Leonard signed a letter addressed to Archbishop Sean O'Malley of the Boston Archdiocese. It stated:

Most Reverend Archbishop:

Thank you for your kind words and meeting with me on February 27, 2004.

I know you and your staff encouraged me to cooperate with Mary Jo White because of the information and I have and I know regarding Bishop Hubbard.

I do not trust Bishop Hubbard or Mary Jo White who was hired by Bishop Hubbard and is being paid by him. It is my feeling as well as many other victims that Mary Jo White will try to whitewash Bishop Hubbard's immorality, problems and lies.

It also appears that Bishop Hubbard and his staff, bear responsibility for the tragic death of Fr. Minkler.

If Bishop Hubbard took the polygraph he promised to take, the entire investigation would be over very quickly because

we all know Bishop Hubbard is a liar and has brought shame on to the church.

I do thank you for your words of encouragement. (Exhibit 105)

As noted above, David Leonard declined to be interviewed.⁵³

On April 20, 2004, the investigation sent Mr. Leonard the following written questions, which he did not answer:

- You have stated in the press that you believe you saw Bishop Howard Hubbard on one occasion in 1978 at a gay bar called The Water Works. Is this accurate?
- Please describe the behavior of the man whom you believe was Bishop Hubbard.
- Did you observe the man whom you believe was Bishop Hubbard engaging in physical contact with any of the other patrons at the bar?
- Did you have any physical contact with the man whom you believe was Bishop Hubbard?
- Did you interact in any way with the man whom you believe was Bishop Hubbard?
- When did you first conclude that the man you saw was Bishop Hubbard?
- What was the basis for your conclusion that the man you saw was Bishop Hubbard?
- Before April of 2004, did you ever discuss with anyone your belief that you had seen Bishop

⁵³ See also Exhibit 29.

Hubbard at a gay bar? If so, when and with whom did this discussion occur?

- Did you ever see Bishop Hubbard in any other bar? If so, please describe when and where this occurred. (Exhibit 49)

The investigation interviewed each of the priests or former priests Mr. Leonard has alleged publicly or in his February 28, 2003 statement as engaging in homosexual activity in his presence. Some admitted being present at gay bars. Each said that he never saw Bishop Hubbard at a gay bar and that he had no knowledge of Bishop Hubbard engaging in sexual activity. We also interviewed people who accompanied these priests to gay bars; they said that they never saw Bishop Hubbard at a gay bar.

(3) Findings Specific to the Keegan Allegation

Father Michael Hogan, who told Bishop Hubbard of the Keegan Allegation, stated that in the late 1970s, Judge Thomas Keegan called and said that his wife worked with a gay man who alleged that Bishop Hubbard, after his daily jog, frequented the Lark Street Pub (i.e., the State Street Pub) where he would drink with the patrons. Bishop Hubbard, according to the story, was there so often that the bar named a drink after him. Father Hogan stated that he told Bishop Hubbard about this allegation, that Bishop Hubbard said the allegation was completely untrue, and that he and Bishop Hubbard ended up laughing over the absurdity of the story. Father Hogan stated that he then called Judge Keegan and told him that the story was completely untrue.

The investigation spoke to Joann Justice, to whom Judge Keegan was married from 1965 to 1998. She stated that in late 1970s, she worked with a gay man who told

her approximately three times that his boyfriend had told him that Bishop Hubbard went “all the time” to the State Street Pub. She believed that he was simply telling her this “to get a rise” out of her because she is Catholic, and did not ask him for any proof. She stated that she had never heard that Bishop Hubbard frequented the State Street Pub after jogging or that a drink there was named after him.

The investigation located the source of the allegation, the manager of the State Street Pub from 1979 to 1983. The manager stated that he had heard rumors that Bishop Hubbard was leading an active gay lifestyle, and that he frequented the Playhouse bar. The manager acknowledged, however, that he had never seen Bishop Hubbard in a gay bar, had no personal knowledge that Bishop Hubbard was gay, and knew of no one who engaged in sexual relations with Bishop Hubbard.

The investigation also spoke to the other manager of the State Street Pub, who worked there as a manager from approximately 1978 to 1992. He stated that he knew who Bishop Hubbard was, and that Bishop Hubbard had never been in the State Street Pub.

Bishop Hubbard discussed the Keegan Allegation publicly in 2002. The Troy Record reported on May 29, 2002 that Bishop Hubbard, in responding to questions about homosexuality in the priesthood, said:

Somebody starts a rumor, and everybody chases it ... One time a priest came to me in behalf of a judge in the area who told him I'm homosexual and have been seen frequenting gay bars. A couple of things bothered me about it. One, I'm not gay. Two, I don't drink. ... At the time, I liked to go to an Italian restaurant. So, I told him, 'If you

tell me this restaurant is a known hangout for gays, I'd better stop going there. I can control that.' (Exhibit 106)⁵⁴

(4) Findings Specific to the Vonzurlinde Allegation

Robert Vonzurlinde told the investigation in an e-mail that Bishop Hubbard was frequently seen in East Durham, New York, that "Stack's Pub on Route 145 in East Durham is rumored to be a hot spot for acting clergy and those who have been removed from ministry," and that this information was "strictly rumor." In a subsequent interview, Mr Vonzurlinde attributed the rumor to Kathy Shaw (the "Shaw Allegation").⁵⁵ Mr. Vonzurlinde stated that he had lived at St. Colman's Home as a child and that he was an eyewitness to the murder of Gilbert Bonneau, who was the brother of Anthony Bonneau's father, Ernest Bonneau.

The investigation identified Kathy Shaw as a journalist with the Worcester Telegraph and Gazette. Ms. Shaw regularly posts articles about the Albany Diocese on a

⁵⁴ Attorney John Aretakis sent this article to Albany County District Attorney Paul Clyne in a June 7, 2004 letter and wrote that "I also take note that your father was the judge referred to in the attached Troy Record article." (Exhibit 96) This is incorrect. Mr. Clyne's father is the late Judge John Clyne, not Judge Keegan.

⁵⁵ Mr. Vonzurlinde identified Ms. Shaw as a reporter for Roman Catholic Faithful. Stephen Brady of RCF stated that no one named Kathy Shaw had ever written for the RCF. In fact, Mr. Brady stated that the RCF mailing list did not contain anyone by the name of Shaw.

Mr. Vonzurlinde also directed the investigation to Louise Sharpe, another former resident of St. Coleman's Home. Ms. Sharpe provided a third hand allegation relating to Bishop Hubbard frequenting gay bars and being a "cross dresser." Ms. Sharpe declined to provide any further information about the allegations, saying that she challenged Bishop Hubbard to take a lie detector test because "he doesn't have a prayer."

website called “AbuseTracker.” Ms. Shaw denied ever hearing the rumor about Bishop Hubbard in Stack’s Pub, and denied that she had ever told anyone else of this rumor.

Michael Stack, who completed the construction of Stack’s Pub and the Limelight Motel in East Durham, New York, in 1980, stated that he did not know Bishop Hubbard. He said that there are two priests from New York City who visit his Pub each summer with a group of New York City police officers, in connection with a golf tournament, but that there are no other priests who frequent the Pub or motel. According to Mr. Stack, his business is not frequented by gay men. Mr. Stack does not know Mr. Vonzurlinde.

(5) Findings Specifically Related to the Aretakis Gay Bars Allegation

As noted above, John Aretakis stated at a May 8, 2004 conference that Bishop Hubbard was “seen frequently by credible people in gay bars.” (Exhibit 24, p. 8) Mr. Aretakis has not publicly identified any eyewitnesses except for Mr. Leonard and has not provided any details of the alleged sightings of Bishop Hubbard in gay bars.

(6) Findings Relevant to Gay Bar Allegations Generally

a. Employees, Owners and Patrons of Gay Bars

A man who worked at several gay bars in Albany since 1999 (previously referred to as “GBE1”) said that he has heard rumors about particular clergy frequenting gay bars in the 1970s and 1980s, but that no one has ever said that they saw Bishop Hubbard or had any kind of sexual encounter with Bishop Hubbard. GBE1 stated that there are five or six regular customers of Waterworks who were sexually active in the gay community in the 1970s. GBE1 has spoken to these men, who did not themselves want to come

forward, about the allegations against Bishop Hubbard. GBE1's customers told him that they had never seen Bishop Hubbard in a gay bar or heard about Bishop Hubbard engaging in sexual activity. GBE1 remarked that he strongly believes that if there was any such conduct on the part of Bishop Hubbard, he would have heard about it years ago because such information spreads like "wildfire" in the gay community.

Dom Torre stated that he had worked at several gay bars in Albany. He stated that he worked for 20 years as a bartender at the Central Arms Tavern and also frequented the State Street Pub. Mr. Torre stated that he never saw or heard of Bishop Hubbard being in one of them.

Luther Guice stated that he was the only bouncer at the Playhouse from 1978 until it closed in 1991. He told us that the Playhouse was a gay bar and that the Eight Ball, the Waterworks, and the State Street Pub were also gay bars. He told us that he was "plugged into" the Albany gay scene from the late 1970s through the early 1990s and never heard that Bishop Hubbard was gay, frequented gay bars, or was having sex with anyone.

Anthony Scalzo, who worked as a bartender at the Playhouse Bar from 1979 to 1991, stated that he never observed any priests in the Playhouse. He stated that he never observed Bishop Hubbard in the bar.

b. Other Relevant Facts

Bishop Hubbard stated that he has not had a drink of alcohol since becoming Bishop in 1977, except as a celebrant at Mass. He stated he recalls having a drink on only a few occasions before 1977. One priest, Father Jerome Gingras, specifically

recalled being at a party with Bishop Hubbard at which Bishop Hubbard drank only club soda with a lime.

As previously noted, FDP1, who several people said resembled the Bishop, admitted that he frequented Albany gay bars in the late 1970s and early 1980s. See p. 88.

(7) Statement Under Oath and Polygraph Test

Bishop Hubbard testified under oath, during an April 16, 2004 interview, that he had never been to the Playhouse, Waterworks, or any other bar that he knew to be a gay bar. Bishop Hubbard submitted to a polygraph test on whether he had ever frequented gay bars. The polygrapher concluded that Bishop Hubbard was truthful when he denied ever visiting a gay bar.⁵⁶

(8) Discussion

The investigation did not find any substantiation for the various “gay bar” allegations made against Bishop Hubbard, who has denied being gay, and who does not drink. Interviews of people who did frequent, or work at, Albany’s gay bars in the 1970s, together with Bishop Hubbard’s sworn statement and polygraph test results also contradict the allegations.

⁵⁶ Based upon the results of the scoring algorithm and my review and analysis of the polygraph recordings from the examination, I have concluded that Bishop Hubbard is **truthful** when he denies ever visiting a gay bar . . .” (Exhibit 52)

The only person to come forward and say that he actually saw Bishop Hubbard in a gay bar is David Leonard. We do not credit Mr. Leonard's identification of Bishop Hubbard. In particular, it is inconsistent with the signed statement he submitted to Bishop Hubbard in February 2003. It is questionable whether Mr. Leonard, knowing that Bishop Hubbard frequented gay bars, would request that Bishop Hubbard undertake an investigation of homosexual misconduct by Albany priests. We note that Mr. Leonard was not represented by John Aretakis when he prepared his handwritten and signed request for the investigation.

We also find Mr. Leonard's identification of Bishop Hubbard inherently unreliable, and appears to be based solely on a "blue print" shirt. Not only does the identification lack the specificity necessary to test it, but the fact that the incident in question allegedly took place 26 years ago would, under normal circumstances, cast doubt on the reliability. That the year in which this sighting allegedly took place, 1978, was also the year that Mr. Leonard appears to have been particularly troubled makes his identification of Bishop Hubbard even less reliable.

The Keegan Allegation is also unsubstantiated. Ms. Justice, Judge Keegan's ex-wife, stated that the source of this allegation had never provided any details and that she believed that her colleague simply told her that Bishop Hubbard frequented the pub to get "a rise" out of her. The reported source of the allegation, the manager of the State Street Pub, stated that he had never seen Bishop Hubbard in the bar. This was confirmed by the owner of the bar. Bishop Hubbard himself told the media about the Keegan Allegation

two years ago, and the investigation’s finding on this allegation is consistent with Bishop Hubbard’s earlier denial.

The investigation was also unable to substantiate the Vonzurlinde Allegation—that Bishop Hubbard frequents Stack’s Pub, a “hotbed for acting (sic) clergy and those who have been removed from the ministry.” Mr. Vonzurlinde himself acknowledged that this allegation was “strictly rumor” and was not based on any firsthand knowledge. Moreover, the owner and operator of Stack’s Pub categorically denied that his establishment was patronized by gay men, and stated that Bishop Hubbard never frequented Stack’s Pub. The Vonzurlinde Allegation appears to be untrue.

The final “gay bar” allegation was made by John Aretakis without a trace of evidence or an investigative lead. On the basis of our investigation of other “gay bar” allegations, as well as the sworn statement and polygraph results of Bishop Hubbard, we find no substantiation for this allegation.

As discussed in the section on Anthony Bonneau’s allegations, the numerous rumors concerning Bishop Hubbard and gay bars may well have derived, if from anywhere other than prior rumors, from incidents involving priests other than Bishop Hubbard.

C. The Washington Park Allegations

The investigation learned of seven allegations that revolve around the assertion that Bishop Hubbard engaged in inappropriate sexual conduct in Washington Park.

(1) Berben Allegation

On March 22, 2004, attorney John Aretakis released a typed statement to the Albany press signed by Mrs. Judy Berben, the widow of a former Albany police officer.

The statement said:

My husband of twenty four years, Albany Police Department Sgt. Joseph W. Berben, repeatedly told me that in the 1977-1978 time period that he had stopped Bishop Hubbard on two occasions in Washington Park with a teenager dressed as a female with long hair, of Indian descent very late at night in an area of the park known to be frequented in the transporting of male prostitutes and male children prostitutes. Bishop Hubbard showed identification to my husband. My husband told me that because of his position, Bishop Hubbard was not arrested but was advised to leave the area and to have the young person leave his car. My husband told me this in 1977-1978 when it happened and repeated the story many times over the course of our marriage. (Exhibit 19)

Mrs. Berben's typed statement contains a handwritten statement at the bottom, apparently written by John Aretakis. The handwritten portion says that the statement was "Sworn before me on March 15, 2004" and has John Aretakis' signature underneath, along with his Notary Registration number. The Troy Record reported on March 24, 2004, however, that Ms. Berben never met John Aretakis personally, and that it was Mr. Aretakis's father, Art Aretakis, who presented the statement to Ms. Berben for signature. (Exhibit 22)

That same day, on WROW's 2:00 p.m. discussion of the allegation, the anchor, John Murphy, said that Mr. Aretakis was "expanding on past evidence that Bishop Howard Hubbard was involved in homosexual activities. A now-deceased Albany police officer had told his wife that Bishop Howard Hubbard was stopped a couple of times in

Washington Park while in the company of teenage boys thought to be male prostitutes.”

(Exhibit 107)

The next day, in a March 23, 2004 statement, Ms. Berben said:

I would like to say at this time that I never said my husband said he caught Bishop Hubbard having sex in the park. I strongly deny statements attributed to me by John Aretakis. Mr. Aretakis has twisted my words for his own agenda, and added on to the statements with things that are not true.”
(Exhibit 21)⁵⁷

Mrs. Berben also described how her original statement came about. She stated that after mentioning to Art Aretakis, the father of John Aretakis, that her husband had once “stopped Bishop Hubbard and a young Indian girl in Washington Park,” Art Aretakis and his wife showed up at her workplace three or four days later with “a statement he wanted me to sign.” (Exhibit 21) Mrs. Berben said that:

I read the statement and it said my husband told me that he caught Bishop Hubbard having sex with a young male. I told Art Aretakis and his wife that this wasn’t true and I won’t sign it. They thanked me and left.

A few days later Art Aretakis came to OTB and asked me to step outside. I did and he showed me a new statement and asked me to sign it. I was busy and needed to get back to work. So I signed it. I did point out to Art some things I didn’t like, but he said don’t worry about it, just sign it. (Exhibit 21)

⁵⁷ Ms. Berben was interviewed, and her statement was obtained, by Thomas Martin, retired New York State Trooper and the investigator for the Sexual Misconduct Review Board, at the direction of the investigation.

Mr. Aretakis was quoted in the Troy Record on March 24, 2004 as saying that Ms. Berben had “reached out” to him and that she had been “all set to go public on Thursday (March 18) until she called a retired police officer and it got up (to the Albany Police Department) and then she had a change of heart.” The Troy Record reported that Mr. Aretakis “admitted Berben may not have said there was a boy in the car with Hubbard, but that he’s allowed to draw his own conclusions about what occurred.” Mr. Aretakis is quoted as saying:

I made a conjecture that I believed Hubbard was in the car about to pay this person for sex. (Exhibit 22)

The investigation spoke to one of Mr. Aretakis’s former clients, who approached the investigation and requested confidentiality. This former client described a similar incident in which Mr. Aretakis urged the client to sign an affidavit that included a factual assertion that the former client did not personally know to be true and actually believed to be incorrect.⁵⁸ This former client nonetheless signed the affidavit after Mr. Aretakis stated that the factual assertion was necessary so that the media would pick up on it. Mr. Aretakis subsequently submitted this affidavit to a court and released it to the media.

The investigation also learned of two other instances in which John Aretakis and Andrew Zalay had contacted people and urged them to bring allegations against Bishop

⁵⁸ The investigation is also in possession of a letter sent to Bishop Hubbard by a current client of Mr. Aretakis, who described the way Mr. Aretakis persuaded the client to retain him as counsel. This client stated that Mr. Aretakis “sought me out and pursued me for weeks until I agreed to let him represent me and I have regretted it ever since.”

Hubbard. First, in a call on February 18 or 19, 2004, Andrew Zalay told a man, who requested confidentiality, that Attorney John Aretakis had “an anonymous letter” stating that the man had a relationship with the Bishop when the man was an altar boy. The man told Andrew Zalay that there was no basis for the claim, that he had never been an altar boy, and that he and Bishop Hubbard were actually close in age. The man then called Mr. Aretakis to speak with him about the anonymous letter. Mr. Aretakis told the man that he had inadvertently told Andrew Zalay about the letter. The man reiterated that the information in the purported letter was untrue.

Mr. Aretakis himself made the other call. In that call, he told another man, who also requested confidentiality, that he had information that the man had been an altar boy at a Troy church and had been in a sexual relationship with Bishop Hubbard. Mr. Aretakis then requested that the man provide a statement attesting to these facts. The man described being outraged at the call, and told Mr. Aretakis that he had never been an altar boy and had never even met Bishop Hubbard until recent years when they met at a charity event.⁵⁹

In order to assess the relative credibility of Mrs. Berben’s two statements, we contacted five officers who had worked closely with Sgt. Berben in patrolling Washington Park during the 1970s.

⁵⁹ The investigation learned of a possible third call by Mr. Aretakis. A diocesan employee reported that an Albany resident had received a telephone call from someone who represented Anthony Bonneau and who wanted the person to “tell the truth about Bishop Hubbard.” This Albany person was unwilling to be interviewed so no further details are available.

Retired Albany Detective Charles Romand, who patrolled Washington Park from 1976 to 1978 and was supervised by Sgt. Berben, said that he never saw Bishop Hubbard in Washington Park and never heard from Sgt. Berben or anyone else that they had observed Bishop Hubbard in Washington Park.

Retired Albany Detective Edward Conroy, who worked with Sgt. Berben on the 4:00 p.m. to 12:00 am shift in Washington Park during 1978 to 1979, and worked in the patrol area encompassing Washington Park continuously from 1973 to 1989, said that he never saw Bishop Hubbard in Washington Park and never heard from Sgt. Berben or anyone else that they had observed Bishop Hubbard in Washington Park.

Sergeant Thomas Sidoti of the Albany Police Department, who patrolled Washington Park from 1972 and 1979 and was supervised by Sgt. Berben, said that he never observed Bishop Hubbard in Washington Park throughout this period and never heard from Sgt. Berben or anyone else that they had observed Bishop Hubbard in Washington Park.

Retired Albany Detective John Fischer, who had patrolled Washington Park between 1973 and 1990 and was supervised by Sgt. Berben between 1973 and 1974, said that he never saw Bishop Hubbard in Washington Park and never heard from Sgt. Berben or anyone else that they had observed Bishop Hubbard in Washington Park. He further stated that none of his 60 or more confidential informants, including male prostitutes who frequented Washington Park, ever mentioned Bishop Hubbard to him.

Retired Officer William McCoy, who worked for the Albany Police Department from 1971 to 1992 and was assigned to the Juvenile Division for 17 years beginning

around 1975, said that he knew Sgt. Berben and that he never heard Sgt. Berben say that he had stopped Bishop Hubbard in Washington Park for any reason.

As indicated in the Bonneau section, Bishop Hubbard testified under oath, during an April 16, 2004 interview, that he never spent any time at night in Washington Park, never had contact with prostitutes in Washington Park, and was never confronted or stopped by a police officer in Washington Park. Bishop Hubbard submitted to a polygraph test on whether he ever had a sexual relationship or sexual contact with anyone from Washington Park. The polygrapher concluded that Bishop Hubbard was truthful when he denied ever having such a relationship or contact.⁶⁰

Discussion

It is difficult to reconcile Mrs. Berben's first and second statements. Mrs. Berben's account, however, of how Mr. Aretakis, or those working with him, first tried to obtain an untrue statement, and ultimately obtained one with which she expressed disagreement, is consistent with the accounts of the former client of Mr. Aretakis, and the the two "cold call" recipients discussed above.

In addition, we rely upon those who worked with Sgt. Berben and those other police officers who were responsible for Washington Park during the relevant years. Each of these officers stated that they never observed, stopped or arrested Bishop

⁶⁰ "Based upon the results of the scoring algorithm and my evaluation and analysis of the polygraph recordings from this examination, I have concluded that Bishop Hubbard is **truthful** when he denies ... having sex with anyone from Washington Park." (Exhibit 52)

Hubbard in Washington Park for any reason, including sexual activity. We also credit that Bishop Hubbard provided testimony under oath that he had never solicited sex in Washington Park, never spent time at night in Washington Park, was never stopped by the police in Washington Park, and never spoke to a police officer while he was in Washington Park. (Exhibit 51) Finally, we credit the polygraph test results, which indicated that Bishop Hubbard was being truthful when he denied having a sexual relationship or sexual contact with anyone in Washington Park and never paid anyone for sexual acts. (Exhibit 52)

In fact, when confronted with the inconsistency between his version of the Berben statement and what it actually said, Mr. Aretakis made the telling admission that he had added to her account, stating “I made a conjecture that I believed Hubbard was in the car about to pay this person for sex.” (Exhibit 22)

(2) NR2 Allegation

A Northville resident (“NR1”), stated that a friend, NR2, said that a deceased police official in the Capital District had stated that Bishop Hubbard had been caught in Washington Park having sex with a man. NR1 believed that the story came from NR2’s ex-husband, whose sister was married to the deceased police official’s brother. NR1 believed that the story had originated with the deceased police official based on information from a Schenectady police officer familiar with the alleged incident.

NR2 denied ever telling NR1 this story, and said that NR1 was “known to lie and embellish upon conversations.” NR2 admitted, however, to telling NR1 that a former

nun had once told her that Bishop Hubbard sent people into Washington Park to find young boys to have sex with him.

The investigation identified the former nun as Mary Ann Millett. She denied ever telling NR2 or anyone else a story about Bishop Hubbard or having information suggesting any sexual misconduct by Bishop Hubbard. She indicated that NR1 and NR2 were “well known within their circle of friends to embellish upon stories as well as create stories concerning their friends and others.” Ms. Millett, who knew the deceased police official and his family and said that she had nothing but the highest regard for them, never heard the deceased police official discuss the NR2 Allegation about Bishop Hubbard.

NR2’s ex-husband stated that his sister was the widow of the deceased police official. He stated that he had never heard the story recounted by NR1 from the deceased police official or anyone. He stated that it was “absolutely” not true that either he or the deceased police official ever told such a story. He stated that the deceased police official would not have been involved in a cover-up and that he would not have been in a “cop” bar where he would have heard such a story and then repeated it.

An attorney who worked with the deceased police official and has represented a number of the deceased police official’s family members for over 30 years, stated that the deceased police official would not have been involved in any kind of cover-up and would not have tolerated misconduct by any official. This attorney confirmed to us in a subsequent letter that he had inquired about the allegation with the deceased police official’s family members and friends, and that all had said the deceased police chief

never discussed a story involving Bishop Hubbard and were outraged at the suggestion of NR2.

Discussion

There is no substantiation for this allegation, and it is inconsistent with Bishop Hubbard's statements under oath and polygraph test results.

(3) Anonymous Allegation (1)

An anonymous caller told the investigation that she had a relative who was friends with "the Tuffey brothers" in the Albany police department and that the Tuffey brothers had said that Bishop Hubbard used to frequent Washington Park so often that police called him "Mother Hubbard" and that police picked up Bishop Hubbard but never arrested him.

There are two Tuffey brothers in law enforcement in the Albany area. One, James Tuffey, retired from the Albany Police Department in 1995 after 20 years, and was President of the Albany Police Union for over 14 years. The other, Kevin Tuffey, retired from the New York State Police as a Senior Investigator in 1995. He later became the Chief of the Albany Police Department from 1995 through 1999. Both Tuffey brothers said that the allegation was false, and that they had no knowledge that Bishop Hubbard frequented Washington Park or gay bars. Kevin Tuffey stated that "there were always rumors" about Bishop Hubbard soliciting sex in Washington Park, but that he had no knowledge of any facts to substantiate the rumors.

Discussion

We were unable to substantiate this allegation, and the cited sources strongly denied the allegation. This allegation could have derived from incidents involving priests other than Bishop Hubbard.

(4) Anonymous Allegation (2)

Another anonymous caller told the investigation about another police officer who allegedly picked up Bishop Hubbard in Washington Park. The caller gave the name of this officer.

We were unable to locate the named officer or anyone who knew of the officer.

Discussion

We were unable to investigate this allegation further.

(5) Anonymous Allegation (3)

An anonymous caller told the investigation that retired New York State Police trooper Richard Wagar brought Bishop Hubbard in from Washington Park.

Wagar said that the allegation that he stopped Bishop Hubbard in Washington Park is completely false. Wagar was a New York State Trooper from approximately the early 1970s until 1993. Wagar was a uniform trooper in the early 1970s in Renesselaer County and did not patrol Washington Park or any location in Albany, which has its own police force. Subsequently, Wagar retired after many years in Bureau of Criminal Identification (BCI) of the New York State Police.

We were unable to locate the named officer or anyone who knew of the officer.

Discussion

We were unable to substantiate this allegation, and the supposed source denied the allegation. This allegation may well have derived from incidents involving priests other than Bishop Hubbard.

We were unable to investigate this allegation further.

(6) Anonymous Allegation (4)

A woman sent an e-mail on February 19, 2004 to the investigation, in which she referred to her mother's statement that her mother's gay friends had seen Bishop Hubbard in Washington Park "'cruising' for dates" and that Bishop Hubbard went by the "nick name 'mother Hubbard.'" In a subsequent interview, the woman said that she had heard from her mother that her mother's friend, a gay male, saw Hubbard in the park and knew him as "Mother Hubbard."

The woman who contacted the investigation could provide no further details on the identity of the gay man in question, and the woman's mother declined to cooperate with the investigation or to provide her daughter with the name of her friend.

We did learn that at least one former Albany priest, FDP1, sometimes referred to Bishop Hubbard as "Mother Hubbard." According to one Albany priest who is currently on administrative leave from the Albany Diocese ("DP4"), FDP1 would, in the mid-1980s, refer to Bishop Hubbard as "Mother Hubbard" and imply that Bishop Hubbard was gay. DP4 stated that other priests also referred to Bishop Hubbard in that way, although he could not recall any other priest by name. DP4 stated that he never heard any

specific stories about Bishop Hubbard being gay, and that he has no knowledge of whether or not he is gay.

Discussion

We were unable to investigate the source of this allegation, given that the source's identify was withheld. There is some factual corroboration that FDP1, and perhaps other gay priests, did refer to Bishop Hubbard as "Mother Hubbard." The nickname, however, is not connected to any credible evidence that Bishop Hubbard is gay or was sexually active in the gay community.

(7) Hartley Allegation (1)

Dean Hartley, Ph.D., stated that he had been told by a recently retired police captain from "somewhere in the Capital District" that the former captain had stopped someone in Washington Park because of sexual encounters three times in the 1970s and had recently realized that this person was Bishop Hubbard. Mr. Hartley stated that the captain was clear that he had never arrested Bishop Hubbard and had only stopped him. Mr. Hartley would not identify the captain, stating only that he lived in Troy.

We were unable to identify the "captain" based on the description provided by Mr. Hartley. For reasons described in detail below, see Appendix p. 32, Mr. Hartley subsequently declined to further describe the source of the information and stated that the source had declined to cooperate as well.

Discussion

We were unable to substantiate this allegation, which could have derived from incidents involving priests other than Bishop Hubbard.

(8) Chestara Allegation

A woman who called the investigation's tip line and requested confidentiality alleged that in 1995 or 1996, her former attorney John D. Chestara had shown her notes relating to a lawsuit involving sexual encounters of Bishop Hubbard in Washington Park.

Mr. Chestara did bring a claim against the Albany Diocese in 1995 on behalf of two brothers from Schenectady. This claim related only to a diocesan priest and did not name Bishop Hubbard as a party. The suit made no allegations about Bishop Hubbard or Washington Park whatsoever. Mr. Chestara also brought lawsuits against members of the Episcopal Diocese of Albany in 1993. The Times Union reported on August 10, 1994 that Bishop David Ball of the Episcopal Diocese of Albany was a defendant, but then corrected itself the next day, stating that Bishop Ball was not a defendant and had not been accused of sexual misconduct.

Mr. Chestara, who resigned from the bar in October 1997, confirmed that the claims of his clients did not involve Bishop Hubbard. He is unfamiliar with the above-described notes allegedly relating to a lawsuit against Bishop Hubbard.

Discussion

The investigation found no evidence to substantiate this allegation. Indeed, Mr. Chestara stated that he never represented anyone who alleged sexual misconduct against

Bishop Hubbard. It is possible that the woman who made this allegation is confused by the facts from a different case.

(9) Discussion of Washington Park Allegations

Rumors about Bishop Hubbard and Washington Park have circulated in Albany for years. None of these allegations could be substantiated through the investigation which included interviews of the officers and supervisors who were actually responsible for the locations where the conduct was alleged to have occurred. Their recollection that they had not observed or stopped Bishop Hubbard in Washington Park in connection with homosexual activity is consistent with Bishop Hubbard's sworn testimony and the results of his polygraph examination. (Exhibits 51 and 52)

D. Other Allegations Of Sexual Misconduct

(1) Sex with Priests Allegations

Allegations and Discussion: As noted in our discussion of the Minkler Letter (see pp. 111-12), the investigation received a number of allegations that Bishop Hubbard had been involved in sexual relationships with several different priests. In every instance, the person who provided us with the information acknowledged their lack of direct knowledge concerning the truth or falsity of the rumor. Often, the person who informed the investigation of the rumored relationship identified someone else from whom they had obtained the information. In those instances, we were generally able to locate that

person and interview them. In every instance, we were unable to find any substantiation for the allegation.

It is instructive to examine just one of these allegations. Patricia Hughes alleged that while she was employed at the Diocese from 1984 through 1987, it was a “pretty common fact” that “several priests were paramours of Bishop Hubbard.” When asked the basis for this allegation, Ms. Hughes stated that she observed them sharing “loving looks” and “lovers’ giggles.” She also cited Bishop Hubbard’s position that gay men can be ordained as priests as an admission that he himself was gay. She admitted having no specific knowledge about whether Bishop Hubbard was gay or was having sexual relations with anyone.

She also said that her landlord, Mary Ellen Barrett, who she described as being “well-connected politically” in Rensselaer, had told her that Bishop Hubbard and Edward Pratt had been lovers. Ms. Hughes said that Ms. Barrett named the source of this information as the priest’s nephew, who [Ms. Hughes said] was a politician in Rensselaer. Ms. Barrett denied ever speaking to the politician or having any information that Bishop Hubbard was involved in any sexual relationship with other priests or any sexual misconduct; she also said that she never told anyone that Bishop Hubbard and Mr. Pratt had been lovers. The investigation contacted the named politician, who stated that he is not related to Father Pratt, and had no knowledge of any sexual misconduct on the part of Bishop Hubbard. Both Ms. Barrett and Ms. Hughes acknowledged meeting John Aretakis in the Fall of 2003.

(2) Confidential Allegation

Allegation and Discussion: The investigation learned of an allegation against Bishop Hubbard from a person who requested confidentiality, including the recitation of the circumstances surrounding the incident he reported. We have investigated the allegation and find that it is not substantiated for reasons we decline to mention here as any discussion of those reasons could reveal the identity of the person making the allegation. Bishop Hubbard's sworn statement and polygraph test results, among other things, are consistent with our finding.

(3) Additional Minkler Allegation

Allegation and Discussion: The investigation has learned that Father Minkler was apparently the source of an additional allegation that was not included in any Minkler writing seen by the investigation. FDP4 stated that he had heard a rumor, about which he had no personal knowledge, that Bishop Hubbard required medical treatment as a result of homosexual relations with boys from Puerto Rico. FDP4 said that he thought that Bishop Hubbard either brought the boys to Albany himself or had them brought to Albany on his behalf. FDP4 stated that he would not reveal the rumor's source but acknowledged several times during the interview that the only source of any of his information about Bishop Hubbard's sexual activity was Father John Minkler.

Bishop Hubbard categorically denied the allegation and stated that many priests in the Diocese were aware that he underwent a procedure to repair an anal fissure on February 28, 2002. He stated that immediately after undergoing the procedure, he attended a Diocesan-wide priests' conference and told those in attendance about the

nature of the procedure because he was in considerable discomfort. Father Michael Farano confirmed that Bishop Hubbard discussed the procedure with the 40-50 priests at this conference.

At the investigation's request, Bishop Hubbard consented to release his medical records and waive the physician-patient privilege. Dr. Robert Lieberman, the surgeon who performed the procedure, said that it was necessary to repair a chronic anal fissure that was located in a standard location. Dr. Lieberman said that such fissures can be caused by undue straining or constipation, but that the most common cause was "just bad luck." Dr. Lieberman said that he could state with a reasonable degree of medical certainty that Bishop Hubbard's condition was not caused by gay sex. "In my experience, this kind of fissure has nothing to do with anal sex." Dr. Lieberman said. Dr. Lieberman has not seen Bishop Hubbard since the February 2002 procedure.

The investigation contacted Dr. Jeffrey Aronoff, a leading colo-rectal surgeon affiliated with Lenox Hill Hospital in New York City. Dr. Aronoff, who has published on the topic of anal fissures, stated that "in almost every instance, anal fissures are related to constipation," and that the particular position of Bishop Hubbard's fissure "is entirely consistent with that cause." Dr. Aronoff, who has treated over 1,000 gay patients, said that while anal sex can cause other rectal problems, he has never had a patient develop an anal fissure as a result of anal sex. He noted that the procedure that Bishop Hubbard underwent would not have been attempted in a patient with a sphincter damaged by anal sex.

A review of Bishop Hubbard's credit card statements, checks, calendars, travel vouchers and telephone records, both business and personal, did not reveal a single connection to Puerto Rico. Nor did any witnesses, other than FDP4, make any reference to boys from Puerto Rico.

There is no substantiation for this allegation, which appears to be nothing more than a false rumor based on a medical procedure that Bishop Hubbard made no attempt to hide.

(4) Allegation Regarding Albany Resident 2

Allegation and Discussion: An anonymous caller stated that an Albany resident ("AR2") had bragged for 10 years about having a friend who went to bed with Bishop Hubbard ("AR2 Allegation"). AR2, a construction worker, denied any knowledge of any homosexual relationship involving Bishop Hubbard. AR2 recalled that about 18 years ago, a co-worker who was also working for the Diocese said that he thought the Bishop was gay. AR2 recently (after the Zalay and Bonneau allegations were made public) mentioned this conversation to a friend, who AR2 suspects was the person who called the tip line.

There is no evidence to support this allegation, the alleged source of the information denied the allegation, and there is credible evidence, in the form of Bishop Hubbard's sworn statement and polygraph test results, that the allegation is false.

(5) Hartley Allegation (2)

Allegation and Discussion: Dean Hartley stated that he had been told by a retired city employee that this person had engaged in sexual relations with “Bishop” Hubbard in the bathroom of the Madison Theatre in Albany one time between 1973 and 1975. Mr. Hartley stated that this person told him that Bishop Hubbard did not identify himself as Bishop Hubbard or wear a collar during this incident and that the person said he had recognized Bishop Hubbard because of his speaking engagements and activism. Dr. Hartley declined to identify this person by name.

The investigation identified the retired city employee based on details that Dr. Hartley unintentionally provided, but which are not provided here; Dr. Hartley’s name was not mentioned in our interview with the retired city employee. The retired city employee, who is married with children, denied the allegation and denied ever meeting Bishop Hubbard except when his children were confirmed, and on one occasion when he made a donation to Hope House. After the interview of the retired city employee, Mr. Hartley complained that we had violated his confidence and declined to further cooperate with the investigation. Finally, we note that Howard Hubbard was not installed as bishop until March 27, 1977, at least two years after the alleged incident.

There is no evidence to support this allegation, the alleged source of the information denied the allegation, and there is credible evidence, in the form of Bishop Hubbard’s sworn statement and polygraph test results, that the allegation is false.

(6) “Paul” Allegation

Allegation and Discussion: An anonymous person sent the investigation mail dated April 9 and May 18. This person wrote that he/she had been told about an openly gay man in New York named “Paul” who claimed to be involved in a “new personal relationship” with the “top” priest in the Albany area, as well as a partnership renovating an old house near Albany with eight gay men, most of whom are priests.

The investigation did not learn of any group of Catholic priests who are partners in renovating an old house. Father Randall Patterson was aware of a Glens Falls community of gay men who are renovating a house together; he believed that the community had at one time included a former priest who died of AIDS in 1992 or 1993. This group is not affiliated with the Albany Diocese or the Catholic Church.

We were unable to substantiate this allegation, which may well have derived from incidents involving people or groups that are not part of the Catholic Church.

(7) Allegation Regarding Albany Resident 3

Allegation and Discussion: A woman who requested confidentiality of her identity e-mailed the investigation on February 23, 2004 telling us to talk with an Albany resident (“AR3”), who had “entered the seminary in ’78 or ’79” and was with a church in the Albany Diocese. The woman wrote that AR3 had told her ex-husband that Bishop Hubbard was gay, that AR3 was “very aware that Bishop Hubbard is gay,” and that “he know’s (sic) first hand” (“AR3 Allegation”). AR3, who is not a priest, is the director of spiritual development at a church in the Albany Diocese. AR3 denied the allegation,

stated that he had no firsthand or secondhand knowledge that Bishop Hubbard is gay and that he has never socialized with Bishop Hubbard.

There is no evidence to support this allegation. The alleged source of the information denied the allegation, and there is evidence, in the form of Bishop Hubbard's sworn statement and consistent polygraph test results, that the allegation is false.

(8) Seminary Allegation

Allegation and Discussion: A person e-mailed the Albany Diocese in February 2004 with an allegation that this person had a friend who attended seminary in the 1970s and knew that Bishop Hubbard was a homosexual. The e-mailer did not provide the name of the seminarian, or the seminary, and did not reply to our e-mails [more than one?] seeking facts that could result in an investigative lead.

We were unable to substantiate this allegation.

(9) "New York City" Allegation Received by Stephen Brady

Allegation and Discussion: Stephen Brady said that he had spoken with a gay man in New York City who said he had information that Bishop Hubbard was a homosexual. Mr. Brady said that this man also said that he had been intimate with either someone close to Bishop Hubbard or with someone who is currently intimate with Bishop Hubbard. Mr. Brady said that this man would not meet with him.

We were unable to investigate this allegation due to the lack of the detail necessary to test its reliability, or identification of its source.

(10) State Trooper Allegation

Allegation and Discussion: At a May 8, 2004 conference organized by the Coalition of Concerned Catholics, Attorney John Aretakis said:

I also have New York State troopers who have come to me and have told me that Bishop Hubbard was caught in the Albany Diocese in a rest stop on the New York State Thruway in the southern tip of the Albany Diocese area having sex with another priest in a parked car in the rest area. And that State Trooper has very bravely come to me and said, "I retire in six months. I'm not about to risk everything for this now." And the reason I know this story that has traveled in the world — and a priest in a different diocese even told me this story when he was working at ground zero — is that this state trooper was the one who caught him." (Exhibit 24, p. 12)

Mr. Aretakis' statement is inconsistent on whether there is one or more than one State Trooper who allegedly told him this story.

Albany County Sheriff Jim Campbell was formerly a Zone Commander for the New York State Police from 1974 through 1987, and in that capacity was responsible for supervising the New York State Thruway from New Paltz to Fort Plain, a 122 mile stretch of highway. His command included the field supervision of troopers who patrolled the highway. Troopers were responsible for informing him about all incidents and arrests that occurred during their shifts. Sheriff Campbell stated that he never heard that Bishop Hubbard was caught in a rest area engaging in a sex act with a priest or with anyone else. He was confident that had such an incident occurred, he would have heard about it, and that it would not have been kept from him. Sheriff Campbell did note that

there were several incidents involving an Albany priest in the 1970s and 1980s in which the priest, who was not Bishop Hubbard, was caught engaging in sexual acts with truck drivers at rest stops in the northern portion of his jurisdiction. Sheriff Campbell further stated that he could not identify any trooper who was within six months of retirement and who might have claimed that Bishop Hubbard was caught at a rest stop.

Since approximately 1999, Major George Beach of the New York State Police has supervised five Zone Captains who are responsible for all of the New York State Troopers who patrol the entire New York State Thruway. Major Beach stated that he had no recollection of ever receiving any information relative to Bishop Hubbard being involved in any matter on the New York State Thruway. Major Beach was confident that he would have been advised of any incident, including an incident of a sexual nature, involving Bishop Hubbard.

We were unable to substantiate this allegation, which could have derived from incidents involving priests other than Bishop Hubbard.

(11) “Other Clients” Allegation

Allegation and Discussion: Attorney John Aretakis has stated publicly on two occasions that he has unnamed clients who have said that they had sexual relations with Bishop Hubbard:

- In the February 4, 2004 broadcast of the Channel 9 news (11 p.m.), Mr. Aretakis stated that “I had various other matters pending, under investigation, or with clients of mine who have made similar allegations directly against Bishop Hubbard.” (Exhibit 108)

- In the February 12, 2004 broadcast of the Channel 9 news (7 p.m.), a reporter quoted Mr. Aretakis as stating that he “had more people who are going to be coming forward soon, who claim they’ve had sexual relations with Hubbard in the late 70s.” (Exhibit 109)

Mr. Aretakis had not, as of today, brought forward or identified any clients or individuals who would fit the description of the people he was quoted as being in contact with. Mr. Bonneau did make an allegation after Mr. Aretakis’ February 4th statement, but according to Mr. Bonneau’s account, *i.e.*, that he decided to come forward only after seeing Bishop Hubbard’s February 5th press conference in which he denied ever having any sexual relationships with anyone, Mr. Bonneau could not have been one of the clients to whom Mr. Aretakis was referring on February 4th.

John Aretakis declined our requests for an interview. He also declined our request that he answer the following written question:

- Do you have any other relevant information regarding Bishop Hubbard and allegations of sexual misconduct? If so, please provide it to us. (Exhibit 49)

We were unable to substantiate these non specific allegations.

E. Overall Conclusions – “Other Allegations”

We have investigated, to the extent possible, all of the “Other Allegations” of sexual misconduct against Bishop Hubbard that arose during the course of the investigation. Based upon all of the evidence available to us, we have found the following:

1. **There is no credible evidence to substantiate the allegation that Bishop Hubbard frequented gay bars.**
2. **There is no credible evidence to substantiate the allegations that Bishop Hubbard ever led a homosexual lifestyle or engaged in homosexual relations at any time.**
3. **There is credible evidence indicating that Bishop Hubbard may have been misidentified as a result of the activities of a former Albany priest who bore some physical resemblance to Bishop Hubbard and frequented Washington Park and gay bars for the purpose of engaging in homosexual relations and that this priest and/or others may have referred to this priest as “the bishop.”⁶¹**
4. **There is credible evidence that Bishop Hubbard has been the subject of false and unfounded rumors.**

The number of “Other Allegations” raises the question of whether there must be some truth to the belief by some in Albany that Bishop Hubbard is gay and has led an active gay lifestyle. We have not found any evidence to support these allegations, despite exhaustive examinations of Bishop Hubbard’s life, records, friends and adversaries. The polygraph test results, not only for Bishop Hubbard, but for all those accused of having had a sexual relationship with Bishop Hubbard, consistently indicated that no such activity took place. Some of the rumors we heard may well have derived from incidents involving priests other than Bishop Hubbard. For some of the Other Allegations,

⁶¹ As noted on p. 77, we have not, however, found any evidence that links this priest with either Tom Zalay or Anthony Bonneau.

however, it is apparent that rumor, innuendo, and “conjecture” have prevailed over reasoned examination. As noted in our conclusion to the report, subsequent allegations of this sort should be met with considerable skepticism and scrutiny.

Dated: Albany, New York
June 24, 2004

DEBEVOISE & PLIMPTON LLP

Mary Jo White
Mary Beth Hogan