

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT
JUVENILE COURT DIVISION

In the Matter of the Welfare of:

MNCIS Group:
Court File No.:
CA File No.: 2138749

VICTIM-1, a child identified in police reports;

VICTIM-2, a child identified in police reports; and

VICTIM-3, a child identified in police reports.

**MOTION FOR
ORDER TO SHOW CAUSE**

Respondent:

The Archdiocese of Saint Paul and Minneapolis,
a Minnesota corporation,
226 Summit Avenue
St. Paul, MN 55102
651-291-4400

TO: The Honorable Court.

As provided by Minn. Stat. § 260C.335, Petitioner moves for an Order to Show Cause to be served upon Respondent with the supporting verified Petition, which is provided herewith.

**JOHN J. CHOI
RAMSEY COUNTY ATTORNEY**

Dated: June 3, 2015

By: /s/ Thomas E. Ring

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ORDER TO SHOW CAUSE

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a Minnesota corporation,
226 Summit Avenue
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651-291-4400

WHEREAS, on June 3, 2015, Petitioner moved for an Order to Show Cause as provided
by Minn. Stat. § 260C.335; and

WHEREAS, Petitioner at that time filed with this Court a verified Petition in support of
its motion; and

WHEREAS, the Court has reviewed said Petition; and

WHEREAS, the Court finds that probable cause exists to believe that Respondent has
contributed to the need for services for, or protection of children;

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent shall appear before the Court through counsel on Friday, June 12, 2015
at 1:30pm or as soon thereafter as the parties may be heard, to show cause why Respondent
should not be subject to the jurisdiction of the Court.

2. Petitioner shall serve this Order upon Respondent without unreasonable delay by serving one of its officers, its managing agent, or other agent expressly or impliedly authorized to receive service of process.

3. Petitioner shall file proof of service within a reasonable time after effecting service upon Respondent.

Dated: 6-4-15

BY THE COURT:



Hon. Teresa R. Warner
Chief Judge
Second Judicial District

STATE OF MINNESOTA

DISTRICT COURT

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SECOND JUDICIAL DISTRICT
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In the Matter of the Welfare of:

MNCIS Group:
Court File No.:
CA File No.: 2138749

VICTIM-1, a child identified in police reports;

VICTIM-2, a child identified in police reports; and

VICTIM-3, a child identified in police reports.

**PETITION IN SUPPORT OF
ORDER TO SHOW CAUSE**

Respondent:

The Archdiocese of Saint Paul and Minneapolis,
a Minnesota corporation,
226 Summit Avenue
St. Paul, MN 55102
651-291-4400

Petitioner, the Ramsey County Attorney, for his Petition that Respondent, The Archdiocese of Saint Paul and Minneapolis, be ordered to show cause why it should not be subject to the jurisdiction of the Court, states and alleges as follows:

INTRODUCTION

By what it did and what it failed to do – by act, word, and omission – Respondent encouraged, caused, or contributed to the need for services for or protection of children sexually abused by Respondent’s agent and priest, Curtis Wehmeyer.

Petitioner acts pursuant to Minn. Stat. § 260C.335, and requests that the Court exercise jurisdiction over Respondent to protect not only the well-being, safety and morals of the victims in this matter, but the general well-being, safety and morals of others from same or similar harm.

PARTIES

Petitioner acts pursuant to those responsibilities and duties imposed by statute to, among other things, enforce law and protect public safety, which specifically includes the protection of children by criminal prosecution and other related lawful process.

Respondent is, and at all times relevant been, a corporation organized and existing under Minn. Stat. § 315.16 with those powers, rights and privileges enumerated therein, as well as those

under §§ 315.15 and 315.10. It is an active corporation in good standing under Minnesota law and is a person capable of being sued under Minn. Stat. Ch. 260C. Its headquarters is, and at all times relevant been, located at 226 Summit Avenue, St. Paul, Ramsey County, Minnesota.

At any particular time, the president of Respondent corporation is the sitting Archbishop of Saint Paul and Minneapolis. As related to this proceeding, the following persons have held the position of Archbishop for the periods indicated:

John R. Roach	May 28, 1975 to September 8, 1995;
Harry J. Flynn	September 8, 1995 to May 2, 2008; and
John C. Nienstedt	May 2, 2008 to present.

According to Canon Law, the Archbishop holds and exercises full and exclusive legislative, executive, and judicial power of the Catholic Church within his diocese. He exercises legislative power himself; he exercises executive power personally or through vicars general or episcopal vicars; and he exercises judicial power personally or through a judicial vicar or judges. (1983 Code, c.39, §§ 1, 2.)

A “vicar general” is appointed by the archbishop to assist in the administration and control of the diocese. Whereas the archbishop may be characterized as a chief executive officer, the vicar general may be characterized as the archbishop’s chief of staff and chief operating officer. As related to this proceeding, the follow persons were the vicar general for the periods indicated:

Fr. Kevin McDonough	July 1, 1991 to May 2008;
Fr. Lee Piché	May 2008 to July 2009 (ordained Auxiliary Bishop of St. Paul and Minneapolis, June 29, 2009);
Fr. Paul Sirba	July 1, 2009 to approximately November 2009 (ordained Bishop of Duluth, MN, December 14, 2009);
Fr. Peter Laird	November 2009 to October 3, 2013.

Fr. Kevin McDonough, first as vicar general and then as the “Delegate for Safe Environments” was charged with coordinating Respondent’s response to sexual abuse committed by priests over the relevant timeframe.

As part of its response to the crimes and misconduct of priests, Respondent designed, set up, and operated an internal system of monitoring that it named the “Promoter of Ministerial Standards” program. Respondent held this program out, both publically and internally, as providing “state of the art” supervision of offending priests based on a probation model. Defendant retained and employed a person to do such monitoring and supervision, whom Respondent titled the “Promoter of Ministerial Standards.” As related to this proceeding, the following person was or is the Promoter for the time periods indicated:

Mr. Timothy Rourke	May 2005 to 2013; and
Mr. John Selvig	2012 to present.

Respondent also has employed or retained, or continues to employ and retain various chancellors, directors, attorneys and other agents who acted, or act on its behalf and in furtherance of its interests.

Respondent's control of clergy and operations extends to the level of each local parish within the geographical boundaries of the St. Paul/Minneapolis archdiocese. Each parish is separately incorporated; yet, the board of directors of each parish corporation has three members common to each parish board: the archbishop, vicar general, and assigned pastor. Each parish's five-member board then includes two appointed lay trustees. At his ordination to the priesthood, each pastor promised obedience to the archbishop.

JURISDICTION AND VENUE

This Court has jurisdiction, and venue is proper in this Court, pursuant to Minn. Stat. Ch. 260C *et seq.* because Respondent acts of contributing occurred within Ramsey County, and Wehmeyer's child victims can be found, or resided in Ramsey County.

FACTUAL BACKGROUND

I. Respondent's priest, Curtis Wehmeyer, sexually abused children causing the need of services for or protection of children.

During at least the summer of 2010, Wehmeyer sexually abused VICTIM-1 multiple times, including touching the boy's penis and buttocks and exposing himself to VICTIM-1. As part of grooming VICTIM-1 and otherwise as part of the abuse, Wehmeyer contributed to the delinquency of this victim by, among other things, giving the boy beer and marijuana, and showing him pornographic videos and still images. At least some of Wehmeyer's illegal conduct occurred on parish property in St. Paul, Ramsey County.

During at least the summer of 2010, Wehmeyer sexually abused VICTIM-2 multiple times. Among other things, VICTIM-2 reported that Wehmeyer slept in the same bed with him when he, or when he and VICTIM-1, went camping with Wehmeyer. When he knew Wehmeyer was going to get into bed with him, VICTIM-2 tried to place a barricade of pillows and blankets between him and Wehmeyer, but VICTIM-2 would awaken to find the barricade gone and Wehmeyer sometimes touching this victim's penis. As part of grooming VICTIM-2 and otherwise as part of the abuse, Wehmeyer contributed to the delinquency of this victim by, among other things, giving the boy beer and marijuana, and showing him pornographic videos and still images. At least some of Wehmeyer's illegal conduct occurred on parish property in St. Paul, Ramsey County.

During at least the summer of 2011, Wehmeyer sexually abused VICTIM-3 at a campsite in Wisconsin. VICTIM-3 reported that Wehmeyer provided him alcohol and marijuana to the point of intoxication and then incapacity. Wehmeyer helped VICTIM-3 into bed, but this victim awakened to find Wehmeyer touching his penis and "spooning" him. Beyond the camping trip to Wisconsin, Wehmeyer sexually abused this victim other times, and contributed to his delinquency by giving him beer and marijuana multiple other times. At least some of Wehmeyer's illegal conduct occurred on parish property in St. Paul, Ramsey County.

The evening of June 20, 2012, one of Respondent's deacons provided a report of information to St. Paul Police about Wehmeyer sexually assaulting a child of a named family. On June 21, 2012, the mother of the victims reported the sexual abuse of two of her children to St. Paul Police. This is the first date on which it would have been possible to anticipate that the first victims would need services or protection.

On November 8, 2012, Wehmeyer pleaded guilty to three felony counts of criminal sexual conduct with a minor and seventeen felony counts of possession of child pornography. (Ramsey County District Court Files 62-CR-12-7664 and 62-CR-12-8120.) At sentencing, the district court committed Wehmeyer to the Minnesota Commissioner of Corrections for sixty months.

Because of Wehmeyer's sexual abuse, each victim has required and received counseling, treatment and other services. These services continue, and are expected to be necessary to some as yet undetermined date into the future.

II. By act, word and omission, Respondent contributed to the victims' needs for services or protection.

From his application to study for the priesthood in 1996 to his arrest in June 2012, Respondent had ample warning that, and learned repeatedly that, Wehmeyer presented a risk of harm. Yet, its responses, where even attempted, were inadequate and irresponsible under the circumstances.

The following facts establish probable cause to believe that Respondent contributed to the victims' needs for services or protection:

A. Respondent's formation of Wehmeyer for priesthood repeatedly raises questions about his suitability for the vocation.

In January 1996, Archbishop Flynn wrote one of Respondent's co-vocation directors that he had been visiting with Wehmeyer approximately once every six weeks for a year. Flynn instructed Respondent's Vocation Office proceed with processing Wehmeyer's application for admission to Respondent's seminary.

In August 1996, the other of Respondent's co-vocation directors processed Wehmeyer's application and, as part of that processing, interviewed Wehmeyer for about four hours. This co-director opined that he did not believe Wehmeyer was ready to begin seminary studies. He reported that Wehmeyer had unresolved issues better addressed first outside the seminary. He wrote, "It may be that he is setting himself up for failure by pursuing a vocation for which he will never be very effective and whose burdens he will not be able to carry."

Respondent admitted Wehmeyer to its seminary.

During Wehmeyer's formation, seminary administrators and faculty showed a continuing hesitancy about Wehmeyer's ability to be effective as a priest:

Seminary officials were aware Wehmeyer struggled with alcohol addiction, used

marijuana and had experimented with other drug use in the past. The seminary knew he had at least one prior conviction for DWI.

Seminary officials were aware that Wehmeyer had in the past been sexually promiscuous with both men and women.

Seminary officials were aware Wehmeyer was then seeking professional help, and taking medication, for anxiety and depression.

Seminary officials observed that Wehmeyer needed to work on managing interpersonal conflict in more even-handed ways, needed to find ways to develop organizational and time management skills, and needed to develop “a more realistic picture of himself.”

Of special concern was whether Wehmeyer was “going to be able to overcome the adversity he has experienced in his own life with family of origin, drug addiction, and their lasting consequences in order to achieve the selfless generosity he is going to need to minister as priest effectively and happily.”

As with all seminarians, part of Wehmeyer’s formation involved being placed in a “teaching parish.” Wehmeyer’s supervising priest reported that Wehmeyer was only infrequently at the parish.

Before Respondent ordained Wehmeyer to the transitional diaconate, the seminary rector, in his annual report on Wehmeyer to Archbishop Flynn, asked “whether priesthood really is a ‘good fit’ for his personality as Curtis maintains. It may be that he is setting himself for failure by pursuing a vocation for which he will never be very effective and whose burdens he simply will not be able to carry.”

Before ordination to the transitional diaconate, only a few seminary faculty members recommended that Wehmeyer be continued without condition; ten voted to recommend continuance with conditions; and two voted to discontinue him altogether. Several others expressed privately that they had serious concerns about Wehmeyer’s ordination.

Wehmeyer was described as:

struggling academically;

“haunted at times, confused”;

having “difficulty making decisions”;

having “a tendency to become ‘miffed’ by circumstances and then vent[ing] his frustration in ineffective and misguided ways”;

imputing motives to people’s actions;

being “needy” and “distant”; and

being “dark” and “morose.”

Respondent chose to ordain Wehmeyer a priest, which it did on or about May 26, 2001.

With respect to Wehmeyer’s first assignment as a new priest, the seminary recommended to the Priest Personnel Board that he would need more help in an initial assignment than most new priests and, for this reason, should have a first supervising pastor who had an interest in, and the time for mentoring.

Wehmeyer’s first assignment was as associate pastor to the Church of St. Joseph, West St. Paul. Then-Father Lee Piché was pastor. This was Piché’s first experience mentoring a new priest. Their relationship did not develop into that of mentor/mentee. Instead, Piché found it increasingly difficult to deal with Wehmeyer, who sometimes came home late at night, without apparent reason. Piché developed concern about Wehmeyer’s work ethic and that Wehmeyer appeared to consider some work to be “below him.” The two also disagreed over Wehmeyer having a dog in the rectory. The two sometimes argued loudly. When these difficulties were brought to Archbishop Flynn’s attention, he essentially told the two to work it out and get along.

B. The bishops of the United States adopt the *Charter for the Protection of Children and Young People*.

In June 2002, the National Conference of Catholic Bishops approved the work of its Ad Hoc Committee on Sexual Abuse and adopted the *Charter for the Protection of Children and Young People*. This document was portrayed to have nationwide impact going forward in dealing with the crisis of priests sexually abusing children. Archbishop Flynn had a national reputation as having earlier dealt with the problem in Louisiana, and he chaired the ad hoc committee.

In the Charter, the Catholic bishops of this country committed to do the following: 1) promote healing and reconciliation with victims of the sexual abuse of minors; 2) guarantee an effective response to allegations of sexual abuse of minors; 3) ensure the accountability of diocesan procedures; and 4) protect the faithful in the future.

In presenting their Charter, the bishops made four public pledges:

We pledge most solemnly to one another and to you, God’s people, that we will work to our utmost for the protection of children and youth.

We pledge that we will devote to this goal the resources and personnel necessary to accomplish this.

We pledge that we will do our best to ordain to the priesthood and put into positions of trust only those who share this commitment to protecting children and youth.

We pledge that we will work toward healing and reconciliation for those sexually abused by clerics.

See United States Conference of Catholic Bishops, *Charter for the Protection of Children and Young People* 15 (2002; rev. 2005; rev. 2011) (bolded in the original).

C. Police issue Wehmeyer a citation for loitering in Crosby Park.

Wehmeyer received a citation for loitering in Crosby Park in St. Paul on Friday, January 9, 2004 at about 8:30 p.m. Police had received numerous complaints of lewd conduct and criminal sexual conduct occurring in the park. Wehmeyer's pickup truck was one of four vehicles that the officer found parked next to each other in the farthest-back parking lot. When asked by the officer what he was doing there, Wehmeyer said he was "just looking for fox."

Police cited Wehmeyer and the other three men found parked in the same area.

Shortly after this, Wehmeyer told a parish employee he had been cited. He described it as being "in the wrong place at the wrong time."

By no later than February 2005, Respondent knew Wehmeyer had received a police citation in a park.

D. Wehmeyer is seen hanging around the boy's bathrooms at St. Joseph's School; he is instructed to stop doing this, but he does not.

Named witness A.D. saw Wehmeyer leaving the third-and-fourth-grade boy's bathroom at St. Joseph's School during the 2004 school year. It was very unusual for parish staff to use a student bathroom because separate staff bathrooms were available within the school. A.D.'s son, who attended the school, told his mother Wehmeyer hung around the bathrooms a lot, and the boys considered him "creepy." A.D. reported to Fr. Piché.

Without singling Wehmeyer out, Piché instructed staff members at a meeting that there was no reason for parish staff to be in school bathrooms, that they had their own bathrooms, and were to use them. This instruction was repeated by the school principal, J.N.

Approximately two weeks later, A.D. again saw Wehmeyer leaving the boy's bathroom in the school. After this second time, Wehmeyer tried to become friendlier with A.D., whereas he had not before shown any such inclination. A.D. again reported to Fr. Piché.

1. Respondent learns of Wehmeyer's misconduct.

A.D. spoke with named witness A.O., who is the staff member Wehmeyer had told of the citation in Crosby Park. The two then told Piché what they knew. Piché asked if they would be willing to speak with Archbishop Flynn.

The two met with Flynn in Spring 2004 in the archbishop's office and related their concerns about Wehmeyer. Piché had accompanied them to the Chancery, but he waited outside the office

during their meeting. Flynn gave the two his “assurance” that he would take care of the matter.

When the two left the archbishop’s office, Piché then went in to meet with Flynn.

E. Wehmeyer approaches two younger-looking males about sex in a Barnes and Noble bookstore.

On Thursday, May 13, 2004 at about 10:30 p.m., Wehmeyer approached two younger-looking males inside the Barnes and Noble Bookstore at Har Mar Mall in Roseville, MN. Wehmeyer initiated a conversation with named witness C.K. C.K. was at the store to look for books as well as to make business contacts for an internet business he had started with several friends, one of whom, A.C., was elsewhere in the store.

C.K. noticed a man, who turned out to be Wehmeyer, not looking at books but trying to make eye contact with him. C.K. asked whether Wehmeyer was there just looking for books or to make [business] contacts, too. Wehmeyer said he was looking for contacts. C.K. asked Wehmeyer how long he had been involved (assuming Wehmeyer was in a business) and said he too was looking for business contacts. After a short time, Wehmeyer leaned in toward C.K., and said he was “a veteran” and had “been doing this for a while now.” Wehmeyer then asked, “Are you fucking horny right now?” C.K. immediately ended the encounter.

Wehmeyer moved on. He struck up a conversation with named witness A.C. Wehmeyer began by commenting that it was “a gorgeous night.” Wehmeyer then referred to C.K., telling A.C. that C.K. had asked whether he was there just looking for books or people, too. Wehmeyer asked A.C. what he thought C.K. had been talking about.

Although A.C. was becoming uncomfortable by Wehmeyer’s look, he answered that he, C.K., and C.K.’s girlfriend were in an internet business based on Christian principles and integrity. Wehmeyer then asked a series of questions that A.C. considered to be exploring A.C.’s views on homosexuality. Wehmeyer at one point said that the church to which he belonged would not allow him to marry. Wehmeyer eventually shared that he was a priest, from St. Joseph’s in West St. Paul, but that he was at the store “incognito.” At one point, Wehmeyer led A.C. around a corner to another section of bookshelves, looked at books on the shelves, and said to A.C. that it probably didn’t look good “for a priest and a young good-looking man to be standing in front of the gay book section.”

A.C. told Wehmeyer that his girlfriend attended St. Joseph’s parish in West St. Paul. Wehmeyer stopped, and immediately said that he needed to talk with C.K. to apologize because he had earlier told C.K. that he was an architect.

C.K. and A.C. later positively identified Wehmeyer from photographs as being the man who had approached them.

1. Respondent learns of Wehmeyer’s misconduct.

C.K. and A.C. played baseball with the brother-in-law of named witness P.M. His brother-in-law told P.M. about two friends being approached inappropriately by a priest at the bookstore.

P.M. worked for a Catholic organization and his sons attended youth programming at St. Joseph's Church. When he learned of this incident, P.M.'s sons were fifteen and seventeen years of age. In appearance, P.M. considered C.K. and A.C. to look as if each could be under eighteen years old, even though neither was.

P.M. had C.K. and A.C. write out statements, which P.M. then forwarded to Fr. McDonough. P.M. knew McDonough was vicar general and the person charged with being responsible for Respondent's response to clergy sexual misconduct.

P.M. also facilitated a meeting between McDonough and A.C. so McDonough could also see how young A.C. appeared. At or just after this meeting, McDonough advised that Wehmeyer would be sent to St. Luke's Institute for evaluation; that youth restrictions would be placed upon him; and that full disclosure would be made to the St. Joseph's parish community.

F. Wehmeyer is evaluated by St. Luke's Institute.

St. Luke's Institute is a treatment center for, among other things, clergy with sexual and psychological disorders in Silver Springs, Maryland. McDonough referred Wehmeyer there on or about June 1, 2004.

McDonough provided the institute his own summary of the bookstore incident, which he characterized as "imprudent risk taking" and "not a pattern of cruising" or "picking up sexual partners." He also forwarded the two written statements given him by P.M.

McDonough asked St. Luke's to answer only three specific questions he posed rather than having the institute provide a comprehensive evaluation report. McDonough instructed the institute to respond to only his questions.

The resulting report from St. Luke's specifically comments on McDonough's request to limit the report. The report lists the eight-element protocol areas of assessment, and observes that, "[t]ypically, our written evaluation report summarizes the evaluatee's work in each of those areas." But it then notes that, "given your request that our feedback to the diocese focus only on the questions asked in your communique of June 1, 2004, much of the data collected during the evaluation interviews will be omitted from this report."

But even a limited report raised serious concerns:

Wehmeyer acknowledged the particular Barnes and Noble was a place where people met for sex. He admitted engaging the two young men in conversation with "sexual undertones to it."

St. Luke's made the following formal diagnoses:

302.9 Sexual Disorder, Not Otherwise Specified: Unintegrated Sexuality;

309.28 Adjustment Disorder with Mixed Anxiety and Depressed Mood;

v62.2 Occupational problem; and

305.00 Alcohol Abuse by History.

Among observations made in the report:

“Father Wehmeyer received two DUI’s: one during his college years and another in 1990.”

“Father Wehmeyer displayed considerable anxiety when talking about his sexual history. [] He hinted at a considerable struggle maintaining his celibacy. [] There appears to be a tension between his sexuality and celibacy. He will need to come to grips with his sexuality before he can adequately discern whether or not he can embrace celibacy.”

“These tests portrayed Father Wehmeyer as an [sic] depressed, anxious, and irritable individual who has difficulty managing routine affairs, lacks an outlet for intense emotions, and may experience difficulties with memory, concentration, or decision making.”

“Interpersonally, he tends to overvalue his own needs and appears at risk for underappreciating the impact that his actions have upon others.”

St. Luke’s recommended significant work for Wehmeyer on an out-patient basis. It recommended Wehmeyer should have:

individual psychotherapy;

group psychotherapy;

spiritual direction;

a pastoral mentor;

a pastoral support group of other priests; and

accountability to/by the diocese.

To the extent these recommendations proved insufficient, the institute indicated it would next likely recommend in-patient treatment.

- 1. Respondent does not fully disclose about Wehmeyer to St. Joseph’s staff who have a need to know.**

Wehmeyer’s evaluation was complete by June 18, 2004. Despite the report raising serious concerns, the resulting disclosure to the parish was incomplete, and Wehmeyer’s problems

minimized.

McDonough told Piché that there was nothing to be worried about with Wehmeyer because Wehmeyer was just experimenting to figure out his sexuality. According to Piché, McDonough also said there was no reason to put Wehmeyer on restrictions. (Yet, a September 7, 2004 memorandum from McDonough to Flynn indicates that McDonough restricted Wehmeyer from participating in youth programming earlier that summer. Consistent with the memorandum, other evidence shows Wehmeyer did not go on the parish youth trip in the summer of 2004.)

The same memorandum indicates McDonough met with Piché and the school principal on September 3, 2004 at the Chancery (Respondent's central office). McDonough wrote: "Father Wehmeyer and I described the incident to the other two participants and some of the follow-up with them. They had a chance to raise some questions." It further indicates that the youth restriction on Wehmeyer would be lifted, provided, however, that Wehmeyer and Piché had to sit down and have a similar discussion at St. Joseph's with the religious education director, D.B., and the youth minister, G.B.

The school principal later reported to police that while she and Piché did meet with McDonough and Wehmeyer at the Chancery, the participants discussed Wehmeyer's sexuality only – nothing else. Further, named witness G.B. (the youth minister) said that she was never made aware of Wehmeyer's behavior by anyone at any time, nor was she or D.B. ever made aware that youth restrictions had been placed on Wehmeyer.

In further follow-up with P.M., McDonough said in mid-September 2004 that full disclosure had taken place. This, as noted, was not true. In mid-October 2004, McDonough also advised P.M. that the St. Luke "assessors also did not specifically recommend group therapy or group work (such as a twelve-step program), but urged re-engagement with individual therapy and on a more intensive basis." Here, too, with respect to whether St. Luke's had recommended group therapy, P.M. appears to have been misled.

G. Respondent learns of another "bookstore incident."

On February 22, 2005, McDonough learned that Wehmeyer had been involved in some sort of bookstore incident when he had studied abroad as a seminarian in Jerusalem. McDonough learned this from C.R., by then a priest, who had also studied in Jerusalem as a seminarian at the same time as Wehmeyer.

In a February 24, 2005 memorandum to Archbishop Flynn, McDonough described the incident as involving Wehmeyer and the reporting priest being approached by two Israelis who had teased and taunted Wehmeyer about his sexuality. As reported, Wehmeyer had been in a bookstore and the two Israelis offered him a female prostitute. When Wehmeyer showed no interest, they offered a male prostitute. Later, as the two Israelis walked past C.R., they told him that his friend – indicating Wehmeyer – was a "faggot."

McDonough thought this information important, describing it to Flynn as having "remarkable similarities to the situation at the bookstore last year." McDonough recommended that if this information was true, Wehmeyer should be confronted immediately. He suggested

Wehmeyer be removed from ministry and undergo intensive psychotherapy; or, alternatively, he suggested Wehmeyer simply be taken out of ministry, put on reduced pay, and given time to get his life in order. McDonough asked Flynn how he wanted to proceed.

But even with an initial view that Wehmeyer needed to be dealt with more firmly, within a month McDonough wrote Flynn that, after a meeting with Wehmeyer and his therapist, he was now confident Wehmeyer “would constitute absolutely no danger to anyone in the ministerial setting.”

H. Respondent determines that Wehmeyer is a priest in need of monitoring and supervision.

In 2005, Respondent implemented what it chose to call its “Promoter of Ministerial Standards” (“POMS”) program. POMS was and is Respondent’s self-designed, self-implemented and self-managed system for supervising priests who have sexually abused youth, the vulnerable, or others, or who have committed other significant misconduct for which Respondent wanted supervision. Respondent consistently and repeatedly described POMS as based on a “probation model.”

Its genesis was a review of files Respondent had kept on “Dallas Charter priests” that was performed under an August 2003 contract by named witness S.O., a deacon and respected law enforcement professional. After his review, Respondent asked S.O. to recommend a “monitoring program” that would “responsibly, accurately, fairly, justly, and accountably” protect victims, the Church, Respondent, and offenders.

As described by McDonough, Respondent’s stated motivations for POMS were: (1) to protect people from their priests or other leaders abusing their office to harm them; (2) to help motivate priests to take steps to prevent re-offending; and (3) to reassure the Catholic faithful, and perhaps others, that the Catholic Church was taking steps to protect the common good.

In March 2004, after having spent portions of about seven months in study, development and design, S.O. recommended a program premised on six bedrock points, each of which S.O. insisted had to be part of the program. To the extent Respondent wanted a program that did not incorporate all six points, S.O. had told Respondent he did not want any involvement with such a program. As the POMS program was implemented by Respondent, S.O. phased out his involvement.

S.O.’s six design points were:

1. POMS personnel had to be contracted outsiders, not clergy and not chancery staff;
2. the investigation of alleged violations had to be separate from the monitoring function;
3. the POMS supervisor, with the vicar general, were to conduct the interviews of victim and alleged offender;

4. the investigation of credible sex offense claims was to be conducted by law enforcement or a competent private investigator – in no event were Chancery staff to investigate;
5. POMS was to use outside professionals who would employ established best practices, especially modern probation supervision techniques; and
6. all underlying case and related monitoring files were to be stored in the same location in a confidential, consistent, accountable and accessible manner. (S.O. had at the start of his engagement found Respondent’s files incomplete and inaccurate in significant respects.)

With respect to Point #5 (use of best practices by outside professionals), S.O. specifically contemplated that Respondent would use polygraphs, plethysmographs, or psychological profiling to be able to accurately and timely assess the level of deception of POMS priests being monitored. He noted the use of such testing was best practice and standard procedure in the probation field. He also observed that a program based on professionally-best probation practices would have wider acceptance to the public, courts, and even the offenders themselves.

S.O. also recommended Respondent get a clause in any written agreement with the offender that the offender would cooperate with monitoring (this where an offender had not already been convicted criminally such that he was on court-ordered supervision.)

S.O. understood from Respondent that POMS would be funded adequately to maintain professional practices and accountability; and, beyond that, the Promoter would have access to a supplementary budget for services on an ad hoc basis where something extra or non-routine was needed in a particular case.

The POMS program was run by McDonough and, until sometime in 2012, its “Promoter,” Timothy Rourke, a retired probation officer. In general, the program had McDonough specify monitoring conditions for each assigned priest, and Rourke then monitored each priest’s compliance with McDonough’s conditions. As the program unfolded, Rourke provided McDonough annual written updates on each “POMS priest.” McDonough and the archbishop would then sign off on a next year’s monitoring plan.

1. Wehmeyer is assigned to POMS supervision in late-2005.

On December 27, 2005, McDonough sent Wehmeyer a letter advising him that he was designated for POMS supervision. Wehmeyer was advised that Rourke would meet with him and bring a written contract for Wehmeyer to review and sign. The contract would then be forwarded to Archbishop Flynn.

Wehmeyer’s signed initial contract, which changed little over subsequent years, specified that:

- a. Wehmeyer will provide information on his personal therapist and sign releases for POMS to receive information regarding the progress and attendance.
- b. Wehmeyer will provide information on any priest support group he may involve himself with and sign releases for POMS to receive information regarding his participation and attendance.
- c. Wehmeyer will maintain regular contact with his spiritual advisor. He will sign any necessary releases for POMS to receive information regarding his attendance.
- d. Wehmeyer will provide information on any 12-step program he is attending and have verification cards filled out and returned to POMS on a quarterly basis.
- e. Computer hard drives used by Wehmeyer may be randomly checked for sites in conflict with his recovery program.
- f. Visits by the Promoter of Ministerial Standards for the Archdiocese will be made at the living location, work sites or any other area deemed appropriate.
- g. Risk monitoring evaluation/assessment will be done on an annual basis with an appropriate diocesan official.
- h. Any material deviation from or violation of any of the monitoring criteria will result in an immediate report to the Vicar General and/or the Archbishop for determination and investigation and, if warranted, suspension of ministry, and referral to the Clergy Review Board for further recommendation to the Archbishop concerning continuation of ministry.
- i. Any disputes about the monitoring plan may be submitted to normal canonical review.
- j. Wehmeyer is to let POMS know of any change in address, phone numbers, or other significant changes in his life.

Wehmeyer remained on POMS from February 2006 until his arrest for sexual abuse in late June 2012. Over that time, as was required, Rourke provided periodic written reports to McDonough. Despite evidence that Wehmeyer was not in compliance with monitoring conditions, McDonough consistently expressed that he was generally pleased with Wehmeyer's "progress." At no time was Wehmeyer referred for discipline, or Clergy Review Board review, or to the archbishop.

Instead, based on the annual updates, the archbishop, whether Flynn or Nienstedt, signed off on the proposed plan, little changed, year to year until 2011 when the criterion calling for random checking of computer hard drives was dropped.

2. Respondent knew or should have known that its POMS program was inadequate, ineffective, and essentially mere “window dressing.”

Multiple times before, and as recently as late 2013, Respondent described POMS as based on a “probation model” that was “state-of-the-art.” But contrary to these pronouncements, its Promoter described POMS as “window dressing” because it became little more than a voluntary program with few, if any, consequences for any priest found out of compliance with monitoring conditions. But because a “probation-modelled” program must have an ability to impose sanctions on a violator as determined by the violator’s own choices and conduct, a program with no real consequences is no real program.

A current member of Respondent’s Clergy Review Board, named witness R.T., a priest, observed that that board relied on information from POMS to make its decisions and recommendations to the archbishop. But he said the board learned only later, much to its disappointment, that some priests said they did not want to be on POMS, and Respondent did nothing; others simply declined to observe monitoring restrictions, and Respondent again did nothing. In one case, for example, the priest simply refused to be on POMS. He was then “exempted.” In other cases, priests with credible accusations of harming children left the diocese for long, extended periods of time, and POMS “monitoring” became mere telephone calls to the priest and self-reporting by the priest.

Others associated with Respondent have criticized McDonough’s nearly exclusive control and administration of POMS. Criticism includes that he alone could “decree” or be able to determine which violators would be considered “safe.”

As of 2010, Rourke was responsible for supervising approximately thirty-one offending priests while working part time. At the start, he worked fifteen hours per week (or approximately sixty hours per month) until he was injured in 2011. From 2011 until he left in 2013, he was only able to work about twenty hours per month.

Each offending priest had a “POMS” file, which was kept in McDonough’s office at the Chancery. These files were accessible to staff working in the Chancery. Mr. Rourke, however, did not have access to other files Respondent kept on POMS priests.

Review of Wehmeyer’s annual POMS reports shows that conditions he was to follow were frequently not enforced. He simply stopped individual psychotherapy in 2010, in direct contravention of this POMS requirement and in disregard of the St. Luke’s recommendations. He was allowed to self-report his involvement with support groups, including whether he had attended sex-addicts group therapy. His documentation relating to having a priest support group and spiritual direction was spotty.

More troubling is Respondent’s failure to enforce the POMS condition that computer hard drives used by Wehmeyer could be randomly checked. Initially, the number of computers

Wehmeyer owned, used or had access to was never determined or apparently even attempted. Further, no attempt was ever made to monitor Wehmeyer's internet use. Mr. Rourke also lacked the training to be able to check a computer in anything beyond a cursory manner. His checking consisted of looking at the internet browsing history. Respondent did not utilize outside forensic expertise. Rourke recalled checking a Wehmeyer computer "a few times." Wehmeyer recalled that Rourke checked a computer once. Rourke did not find anything of concern.

Whether one or a few (over the entirety of Wehmeyer's five-plus years on POMS), the check(s) of Wehmeyer's computer occurred during the 2006-07 monitoring period.

A check of Wehmeyer's hard drive by a forensic expert with the St. Paul Police Department shows that Wehmeyer downloaded and stored at least some of his child pornography files on the following dates: May 16, 2007; September 5, 2007; and October 22, 2007. The respective files are labelled: "2 12 yo boys in bed"; "12 yo boys playing sex"; and "13yo Football boy and coach_by car_sex." According to the police report, numerous other pornographic images were recovered from "carved" space on the computer, meaning these pornographic images were recovered from unallocated space on the hard drive that the computer had not yet overwritten.

Beyond what forensic examination of his computer showed, Wehmeyer admitted under oath when pleading guilty to seventeen felony counts of possessing child pornography that he was certain he used his computer to view child pornography "sometime after 2006."

Without explanation, the computer-monitoring condition was simply dropped as of 2011.

I. Respondent promotes Wehmeyer to be a Parochial Administrator and assigns him to another parish.

On June 15, 2006, Archbishop Flynn appointed Wehmeyer Parochial Administrator of the Church of the Blessed Sacrament in St. Paul. Whereas an associate pastor serves at a parish with that parish's pastor, a "parochial administrator" essentially functions as a pastor, in charge of a parish and assigned by himself; however, a parochial administrator does not have the canonical status and resulting protections afforded a pastor.

J. Law enforcement stops Wehmeyer for "cruising" a park over two consecutive days.

On July 28, 2006, a little over a month after his promotion to parochial administrator, a Ramsey County deputy sheriff reported to McDonough that he had stopped Wehmeyer in a park where police knew men frequently sought same-sex encounters. The deputy said Wehmeyer had offered "odd and inconsistent explanations" for why he was there. Later that evening, the same deputy saw Wehmeyer leaving a different part of the park and, later still, saw him leave a third area of the same park. The following day, the deputy again saw Wehmeyer's truck leaving an area of the same park.

The deputy told McDonough he believed Wehmeyer was showing behavior consistent with a sexual addiction. The deputy said he wanted to put Respondent on notice so Wehmeyer could get help.

Not only did the deputy identify Wehmeyer at the time of his encounter with him, he identified him from a directory of priest photographs that McDonough asked him to review.

McDonough and Rourke met with Wehmeyer shortly after the deputy's report. Wehmeyer lied, and initially denied the report. McDonough told Wehmeyer he was concerned about the cruising and lies. But in a memorandum to Wehmeyer's file, McDonough concluded, "I do not believe that Father Wehmeyer actually goes to these parks to pick up other men. Rather, he likes to be around the environment where such things are happening, since it gives him some sort of thrill." Although McDonough wanted to keep "some pressure" on Wehmeyer to "work his program" by more frequent meetings with Rourke, he did not otherwise see that other steps were called for.

McDonough informed Archbishop Flynn of this latest incident in another, shorter memorandum the same day, describing this as "similar to what caused us to intervene with him two years ago." McDonough described the conduct to the archbishop as Wehmeyer "playing on the edge." He informed that a more detailed memorandum was in Wehmeyer's file, but said he did not "think it sufficiently pressing to demand further attention for [Flynn]."

K. Coadjutor Archbishop Nienstedt becomes archbishop.

Archbishop Nienstedt was received in the diocese as Coadjutor Archbishop in June 2007. Upon Flynn's retirement on May 2, 2008, Archbishop Nienstedt automatically succeeded Flynn.

L. Eight years after it ordained him, Respondent conducts its first background check on Wehmeyer.

Despite a 1993 policy that all employees undergo a background check, Respondent did not background Wehmeyer until February 6, 2009, nearly eight years after ordaining him to the priesthood.

The background check did not include checking beyond Minnesota, despite Wehmeyer growing up in, and spending significant time in Michigan. A wider check would have shown a Michigan conviction for DUI. (Respondent, though, already knew this information, both from its seminary and the St. Luke Institute report.)

M. Respondent promotes Wehmeyer to be a pastor.

In 2008, Blessed Sacrament Church re-dedicated an altar. Part of the re-dedication process involved Respondent issuing a related formal decree, which identified Wehmeyer as the "parochial administrator."

In early 2009, Wehmeyer asserted that his actual status was that of pastor. He raised the issue with Nienstedt during a meal at a restaurant, and followed up in a letter on April 23, 2009. Nienstedt, in turn, wrote Wehmeyer on May 1, 2009 informing him that Jennifer Haselberger, Respondent's then Chancellor for Canonical Affairs, informed Nienstedt that she checked the files, and Wehmeyer had been appointed parochial administrator by Flynn. Nienstedt wrote that he had

not checked Wehmeyer's file himself "so [he] was not sure what the issues are behind the hesitancy about making you pastor." He offered to pursue the matter if Wehmeyer wanted.

In late April 2009, when the issue was being discussed within the Chancery, Haselberger counseled and warned against making Wehmeyer a pastor. In an April 28, 2009 memorandum to Nienstedt, she suggested that the archbishop review Wehmeyer's file before making a decision. She attached two documents to her memorandum, one of which was the St. Luke's evaluation.

On June 1, 2009, Nienstedt promoted Wehmeyer to be pastor of not one but two parishes: Blessed Sacrament and St. Thomas the Apostle, which were located near one another in St. Paul.

In March 2015, Wehmeyer said that Nienstedt knew a lot about him then but the archbishop chose not to be as concerned about making him a pastor as Wehmeyer thinks Nienstedt should have been. Wehmeyer said that he asked Nienstedt at that time, "Are you aware of my past? Are you aware of my record?" Nienstedt answered, "I don't have to look at that stuff."

N. Wehmeyer goes camping with a priest and, after that priest leaves the campsite, Wehmeyer is arrested for DWI after approaching "high-school-aged" persons.

On or about September 27, 2009, named witness M.M., a priest, went camping with Wehmeyer at Forestville State Park in Fillmore County, Minnesota. That evening, when sitting near him at the campsite, Wehmeyer put his hand on M.M.'s thigh.

The following day, Wehmeyer shared with M.M. that he had visited a nudist camp in Wisconsin. He also said that he had gone camping with sons of a woman who was an employee at one of his parishes. M.M. told Wehmeyer in no uncertain terms that he should not be camping with the boys, this according to both a Code of Pastoral Conduct and required child-safety training.

At dinner later, Wehmeyer apologized to M.M. for putting his hand on M.M.'s thigh. He said he had been "a little horny last night." M.M. became very uncomfortable at this because he is not same-sex attracted. He started to become concerned for his personal safety and looked for an opportunity to leave. He went to his bed fully clothed.

M.M. left the campsite shortly after Wehmeyer left to drive to the Kwik Trip gas station in Spring Valley, MN. A Fillmore County deputy sheriff arrested Wehmeyer for DWI in the course of responding to a complaint at Kwik Trip of an intoxicated man approaching eighteen-year olds, asking them where they lived, where they went to school, and whether they wanted to party with him. In his report, the deputy also described the persons Wehmeyer approached as being "high school aged kids" and "young people." (Archbishop Nienstedt testified under oath on April 2, 2014 that while he was aware Wehmeyer had been arrested for DWI, he did not ask anyone to get a copy of the police report.)

Wehmeyer called M.M. when in custody and asked M.M. to bail him out. M.M. declined.

Wehmeyer's blood alcohol content was determined by intoxilyzer to be .12. On October 27, 2009, he pleaded guilty to Driving While Intoxicated in the Fourth Degree before the Fillmore County District Court.

1. Respondent learns of Wehmeyer's misconduct.

After arriving back in the Twin Cities, M.M. called the Vicar General's Office right away and, when no one answered, left a voice message asking to be called back right away. Bishop Lee Piché returned M.M.'s call.

M.M. reported to Piché that Wehmeyer had gone camping alone with boys, had been to a nudist camp earlier in the year, and had just been arrested for DWI. M.M. told Piché, "I'm concerned you have a predator on your hands. You have to be careful." Piché responded that he thought Wehmeyer could still be a good priest. Piché told M.M. he would look into it.

On September 30, 2009, Fr. Sirba, the vicar general, wrote a memorandum to Nienstedt about Wehmeyer's DWI. Wehmeyer had told Sirba that this was his first DWI. This was a lie, and knowledge of the falsity of what Wehmeyer told Sirba was within Respondent's knowledge.

M.M. followed up with Sirba, specifically to ask whether Sirba had spoken with the mother of the boys Wehmeyer had taken camping. M.M. told Sirba that if Sirba was not going to speak with her, he would.

2. Wehmeyer admits to taking a boy camping alone.

On October 27, 2009, Sirba spoke to Wehmeyer about the camping trip that had prompted M.M.'s call. Wehmeyer admitted he took VICTIM-1 camping alone. But Wehmeyer attempted to excuse his violation of policy by saying another brother was supposed to have gone. Wehmeyer denied that "anything happened."

Beyond admitting to camping with the boy, Wehmeyer also admitted he had not been "faithful to his [POMS] program" and had "been feeling sorry for himself" because of stress.

On November 3, 2009, Sirba spoke with the mother of the boy. Among other things, he spoke about "helping father set boundaries," "prudence," and "not giving anyone reason to be concerned."

Respondent took no formal disciplinary action with respect to this admitted violation of policy. Nienstedt did write Piché, Sirba and Fr. Tiffany (then Respondent's Director of the Office for the Life and Ministry of Priests) on October 13, 2009, documenting that he had received a telephone call from Wehmeyer on Saturday afternoon, October 10, 2009. Wehmeyer apologized for embarrassing the church. Nienstedt wrote that he believed Wehmeyer was "repentant" and indicated he had promised Wehmeyer "we would work through this together." Nienstedt concluded that the experience had been "a good lesson" for Wehmeyer.

O. Wehmeyer goes camping with another priest, who sees Wehmeyer in bed with a boy.

In August 2010, named witness D.B., a priest, went camping with Wehmeyer at Savannah Portage State Park in McGregor, MN. D.B. arrived at the campsite on a Sunday evening expecting to find only Wehmeyer there. Instead, he found Wehmeyer there with two boys. D.B. was

surprised, and questioned Wehmeyer. Wehmeyer said something to the effect that the boys' family was going through a difficult time. The sleeping arrangements while he was there had D.B. in a bed in the back of Wehmeyer's camper, the two boys in the middle of the camper (on a bed that converted from a table) and Wehmeyer in the bed at the front.

The morning after the second night, D.B. woke up first and saw Wehmeyer in bed with one of the boys. D.B. confronted Wehmeyer. Wehmeyer said the boys had been arguing during the night so he separated them and took the younger boy into bed with him. D.B. had not heard any arguing during the night. D.B. left mid-morning because of his unease.

D.B. did not know either boy. He estimated the younger was about seven to eight years old, and the other about ten to eleven years old.

1. Respondent is informed Wehmeyer shared a bed with a boy while camping.

D.B. told a priest friend, named witness M.R., about what had happened on the camping trip. The two agreed D.B. had to report to Respondent.

D.B. reported Wehmeyer in bed with the boy to Bishop Piché on September 12, 2010. Piché was at D.B.'s church to re-dedicate an altar. (Contemporaneous church bulletins document Piché being at the church that day for this purpose.)

After Mass and at the end of a reception, D.B. walked Piché to the bishop's car. In the parking lot, standing by the car in a one-to-one conversation, D.B. reported what he had seen at the campground. Piché listened and replied only that, "Father Curt Wehmeyer had many skeletons in his closet." Piché thanked D.B. for letting him know.

Bishop Piché does not recall this report from D.B.

P. Respondent ignores warning that Wehmeyer is not well suited to managing the merger of parishes.

On October 17, 2010, Respondent publically rolled out its Strategic Plan, which was the culmination of a lengthy diocesan planning process that had begun in February 2009. Fr. Peter Laird co-chaired Respondent's Strategic Planning Committee. (Laird was then appointed vicar general by Nienstedt in November 2009.)

The committee's work involved analyzing the local church, demographics, parishes, schools, and available priest and other human and financial resources. Of most public interest at its unveiling, the Strategic Plan identified which parishes were slated to merge. Wehmeyer's two parishes were among these.

In discussions relating to parish assignments under the Strategic Plan, the Chancellor for Canonical Affairs warned, based on the St. Luke's evaluation and on what was known of his history to that point, that Wehmeyer lacked the professional and personal skills to manage the high stress accompanying parish mergers. The chancellor also pointed out that another priest facing a merger

in Minneapolis, G.J., also lacked appropriate coping skills. Respondent provided G.J. training related to parish mergers (in addition to counseling this priest's own sexually-related misconduct). It did not provide Wehmeyer training, or any support beyond what was available any other pastor or any other parish experiencing merger or clustering.

Fr. Laird also advised Nienstedt that Wehmeyer should not be pastor; in fact, Laird did not consider Wehmeyer fit for ministry as either a pastor or a priest. Nienstedt recalled at deposition that Laird had disagreed with his decision to make Wehmeyer pastor of Blessed Sacrament/St. Thomas the Apostle. Beyond his deposition testimony, Nienstedt has also described Laird as "rolling his eyes" when Wehmeyer's name would come up and, from this, Nienstedt concluded there must be "some history" between the two and bias on Laird's part.

Q. VIRTUS safety training raises multiple concerns about Wehmeyer.

On January 9, 2011, named witness J.B. provided "VIRTUS" training to over fifty people at a joint training session of Wehmeyer's parishes. "VIRTUS" is a training program designed to protect children and vulnerable others from sexual abuse. A significant piece of the training is the presentation of "warning signs" of grooming behaviors, pedophilia, and indicators of abuse.

A staff member had noticed that Wehmeyer's parishes were not in compliance with training requirements, background checks, audits and recordkeeping. The staff member then arranged for the training.

During the session, attendees raised multiple serious concerns and questions. J.B. was asked, for example, whether it was okay for a priest to take children camping, or into the rectory alone. J.B. became concerned because in the years she has conducted VIRTUS training, no other session had raised the number of, or seriousness of concerns she heard at this training.

Beyond his parishes not being in compliance with training requirements, Wehmeyer himself was not in compliance with personal VIRTUS training. The training involved VIRTUS bulletins sent periodically by e-mail from Respondent to priests. By February 2011, Wehmeyer had received sixty-four VIRTUS training bulletins. According to Respondent's records, he had read none of them.

1. Respondent learns of concerns about Wehmeyer prompted by the VIRTUS training.

Sometime during the week of January 10, 2011, J.B. (the VIRTUS trainer) reported her concerns to Fr. Laird. She conveyed the reports to her of Wehmeyer camping alone with children, and taking children alone into the rectory.

Named witness J.T. also reported to Respondent at this time. J.T. spoke with Andrew Eisenzimmer, Respondent's internal attorney. J.T. told Eisenzimmer: (1) Wehmeyer took children camping without other adults being present; (2) during the 2009-10 school year, Wehmeyer had approached a fourth-grade boy who had been dropped off early for a church function and asked the boy whether he would like to tour the rectory; and (3) in July 2010, Wehmeyer made a comment to

J.T. about a child at church on Sunday, saying, “What a cute kid. It’s like he belongs on the back of a milk carton. If I were going to snatch a kid, it would be somebody like that.”

Eisenzimmer told J.T. that he already knew about the camping.

J.T. separately reported to Piché that Wehmeyer was verbally abusive to female staff, and that he had a drinking problem.

R. Respondent fails to disclose Wehmeyer’s history to anyone in his parishes.

The Chancellor for Canonical Affairs also raised the issue that Respondent had not made necessary disclosures to parishes that had been assigned priests having a history of misconduct. The issue arose in February 2011 when authorities arrested a priest. His parishioners complained that not only had Respondent failed to disclose the priest’s history, it had also not disclosed that it knew before the arrest that the priest was under investigation by law enforcement. Making such notifications was also seen as necessary for parishes merging or clustering.

Even though Wehmeyer had an extensive history of misconduct by this point, and even though his parishes were merging, Respondent chose not to disclose any information about him. In a May 9, 2011 memorandum, McDonough advised POMS supervisor Rourke that he had concluded against making any disclosure relating to Wehmeyer to his parishes (although McDonough did say he would like to know that Wehmeyer had self-disclosed to “responsible priest friends.”).

McDonough again characterized Wehmeyer’s behavior as just “playing with fire” rather than having an actual interest in sex. McDonough again opined that Wehmeyer’s problematic “playing with fire” would not show up in the workplace, and (after he had first spoken with Wehmeyer about whether disclosure should be made) agreed with Wehmeyer that disclosure would only serve to “out his sexual identity.”

By this time, Wehmeyer had sexually abused at least two victims. The mother of those victims worked for Wehmeyer in one of his parishes.

S. Wehmeyer’s sexual abuse continues into Summer 2011.

A pending criminal complaint of the Chippewa County (Wisconsin) County Attorney’s Office charges Wehmeyer with sexually assaulting VICTIM-3 during a camping trip in Summer 2011. As noted, Wehmeyer is alleged to have plied VICTIM 3 with alcohol and marijuana to the point of intoxication and helplessness, at which the point he assaulted VICTIM-3. The case is ongoing.

T. Respondent learns Wehmeyer is struggling in his ministerial responsibilities and personal life.

Beginning in January 2011, at least twelve persons complained about Wehmeyer to Respondent. Some made multiple complaints because Wehmeyer’s conduct was recurring or seen as escalating. Complaints about Wehmeyer centered on uncontrolled anger, fits of temper, demeaning outbursts, mistreatment, and verbal and emotional abuse of staff and parishioners. One

report had Wehmeyer embarrassing a second-grade girl when she got flustered and forgot how to make her first confession.

On March 22, 2011, McDonough wrote Laird that Wehmeyer was in “fragile recovery.” McDonough again opined that Wehmeyer was not a danger to the people to whom he ministered, but he observed that because Respondent had intervened with Wehmeyer earlier, its credibility may now be at stake. McDonough said Wehmeyer lacked a sense of why his behavior was wrong, and that he was angry and annoyed at being on POMS.

Further adding stress to Wehmeyer’s personal situation, his father died in Michigan on August 22, 2011. Wehmeyer called Archbishop Nienstedt and left a voice message telling Nienstedt of the death. On August 23, Nienstedt wrote a letter of condolence, which indicates the archbishop is writing shortly after having returned from World Youth Day in Spain.

On March 30, 2012, Bishop Piché met with named witness, E.G., who had been a parish trustee of the merged Blessed Sacrament/St. Thomas parish until he resigned because of Wehmeyer on March 1. E.G. told Piché detailed accounts of long phone conversations he had when Wehmeyer would call him. During the calls, Wehmeyer often told E. G. he was drinking or smoking marijuana, and sometimes asked E.G., “You’re not going to report me to the Archdiocese, are you?” Wehmeyer told E.G. he had taken himself off a prescription for stomach problems and was instead using medical marijuana that he got from a friend in Michigan. E.G. told Piché that he had seen Wehmeyer intoxicated on a number of occasions, usually at the rectory. E.G. also informed Piché that Wehmeyer had recently gotten a handgun, and said Wehmeyer had shown the handgun to him and another parishioner.

Bishop Piché reported E.G.’s information in writing to Archbishop Nienstedt, who wrote back: “Att: Bp Piché, This sounds serious. What do we do next? I go there for Mass on April 14. JCN.”

On May 15, 2012, a full six weeks later, Piché again wrote Nienstedt, this time to provide Nienstedt the “concrete examples” the archbishop wanted of the behavior about which parishioners were complaining. Respondent thought parishioners may be “orchestrating a smear campaign” against Wehmeyer. Piché wrote that he wondered about this based on the complaints, and he noted Nienstedt had commented on the same possibility.

This memorandum provides summaries of complaints about Wehmeyer’s erratic behavior, and it calls attention to E.G.’s earlier report. It notes that E.G. expressed not only his deep concern that Wehmeyer had gotten a handgun, but also informed that he was exhibiting signs of paranoia, and had said, “I don’t know how much more of this [stress] I can take.”

On Wednesday, May 30, 2012, a full two weeks later, Archbishop Nienstedt contacted the intake director at Guest House, a treatment center in Rochester, MN, to ask whether it handled issues of anger management in addition to alcohol addiction. He learned that it could, and a rough estimate of inpatient care was two to three weeks.

The same day, in the early afternoon, Nienstedt called Blessed Sacrament and learned Wehmeyer was not in. He then found Wehmeyer’s cell phone number on his own phone. Nienstedt

called Wehmeyer and asked to meet. Nienstedt met Wehmeyer in the Archbishop's Residence "so as to avoid the eyes of those at the Chancery." (The residence is attached to the Chancery.)

Wehmeyer "flatly rejected" any suggestion from Nienstedt that he abused alcohol. He said he was having difficulty with a nun at St. Thomas, and that her lack of cooperation made him "greatly distressed." Nienstedt indicated he should have had Wehmeyer evaluated for alcohol abuse when Wehmeyer was arrested for DWI. Wehmeyer said he had had a court-ordered chemical dependency evaluation. Nienstedt asked to see a copy.

Wehmeyer admitted he was not surprised that letters of complaint had been received, and described himself as being "overwhelmed." Nienstedt told Wehmeyer that he had not seen the effects on Wehmeyer, and said that if Wehmeyer was distraught, "we need to fix the situation." Nienstedt asked if Wehmeyer would be willing to have the archbishop attend a session with his therapist so Nienstedt could describe his concerns.

Wehmeyer said he was leaving for a week's vacation. Nienstedt said he would follow up with Wehmeyer when he got back.

On June 6, 2012, Nienstedt wrote Piché and Laird to report that he had just gotten a message from Wehmeyer about joining him and his therapist for a session later in June. Wehmeyer provided several possible June dates. Nienstedt proposed dates in early August.

Wehmeyer had also confirmed that Nienstedt received a copy of the alcohol assessment from 2009. Wehmeyer said his therapist had suggested a program at the University of Minnesota on anger management. He asked whether this was something the archbishop wanted him to do, and Nienstedt said Wehmeyer should "begin to investigate that possibility."

Nienstedt ended the June 6 memorandum: "All in all, I think we are making some progress here."

U. Sexual abuse by Wehmeyer is reported to police on June 20, 2012.

The evening of June 20, 2012, one of Respondent's deacons provided a report of information to St. Paul Police about Wehmeyer sexually assaulting a child of a named family. On June 21, 2012, the mother of the victims reported the sexual abuse of two of her children to St. Paul Police. This is the first date on which it would have been possible to anticipate that the first victims would need services or protection.

A third victim did not report to police until July 17, 2013.

III. Wehmeyer's victims have required, received, and continue to need extensive services.

The sexual abuse to which Respondent contributed has caused and is continuing to cause severe and protracted pain and harm to the victims. A summary description of some of the services to date is provided below, as was reported by the mother of the victims.

VICTIM-1 and VICTIM-2 have required extensive therapy and other services that have included not only local providers but needed inpatient care by a provider in Utah that has equine therapy. Such care in Utah costs approximately \$6,500 per month for each, and has totaled well over \$100,000. Care for substance abuse has also been a component of care. These victims have indicated that Wehmeyer's sexual abuse was more extensive, in degree and frequency, than that to which Wehmeyer admitted when he pleaded guilty.

VICTIM-3 requires counseling and therapy. He has attended therapy, but has also been resistant to receiving services even though these have been strongly recommended for him. This victim was repeatedly hospitalized in 2008 – 2009 with duodenal ulcers and stomach pain for which doctors could determine no cause or reason. Only after Wehmeyer's sexual abuse came to light did it occur to the mother that VICTIM-3's ulcers and pain are likely attributable to Wehmeyer's abuse. This victim also later described the sexual abuse as being more severe than originally reported.

An older sibling, not abused, has required therapy for post-traumatic stress. Another has had therapy to deal with trust issues that arose because of the sexual abuse of siblings. Younger siblings have also required extensive therapy. The mother has also needed therapy.

The mother reports that Respondent initially made a very low settlement offer. At another time, its victim advocate said the family should fire the victims' lawyer, suggesting she could get the family a settlement in the range of several million dollars. The family, though, has no idea of the services and related costs that are necessary into the future.

The full cost, and full description of services provided Wehmeyer's victims to date is presently unknown, although such information is believed to be within Respondent's possession, custody and control. The mother reports that, after she had to threaten to go to the media, Respondent began to pay for care and has paid for most to date, but it has explicitly indicated its intent to recoup those amounts.

The mother indicated that she very much wanted to meet with Archbishop Nienstedt shortly after the abuse had been reported. But she said the archbishop then left for a month or so. In the meantime, the family learned of additional abuse and the mother was too angry to meet when the additional abuse came to light.

With respect to meeting the family, Piché wrote Nienstedt on February 4, 2013 to suggest that the archbishop "at least offer to meet with the parents and/or the boys of the family, sooner rather than later, now that [Wehmeyer's] sentencing has taken place." If the archbishop was unable to make the offer to meet, or there was not time in his schedule, Piché offered to meet them. He provided at least one reason for making the gesture: "I do not believe that such a meeting should be publicized, but simply having made the attempt would enable us to say truthfully that we reached out to the family with compassion. And it would diminish the risk that, if they are ever asked by media whether we did anything to help them, they would say that we had not."

IV. Respondent's acts, words and omissions in the case of Wehmeyer are not isolated or unique from its acts, words or omissions in other like-kind matters.

Respondent has a long history of not effectively addressing sexual abuse committed by some of its clergy. Wehmeyer's case is a most recent and a most glaring failure among others.

The Wehmeyer case precipitated a great deal of publicity at the time police arrested him and at significant points during the criminal prosecution. Publicity again increased during and in the aftermath of a series of news reports during the fall of 2013.

Bishop Piché observed to priests in late-2013 that in such an environment the church was now facing "a new reality":

I think there is a new reality, too, a new norm, in terms of what is expected for suitability for ministry for our priests. The bar has been raised. And, uh, in the past it may have been the case that, certainly the bishop, but maybe also the Clergy Review Board, gave every possible benefit of the doubt to that priest so as not to shipwreck a vocation, keep him in ministry."

Well that's all different now; it's all different. Now the atmosphere is very, very strong: "When are you going to stop protecting priests and protect the children?"

Three illustrative examples from Respondent's history of giving priests "every possible benefit of the doubt," too often to the peril of the vulnerable, are provided below.

A. Kenneth LaVan

Kenneth LaVan remained in ministry with Respondent for nearly forty years; yet, during his tenure as a priest, Respondent received repeated credible complaints that LaVan sexually abused two girls and three women, one a vulnerable adult, over a twenty-year period.

In 1985, an adult victim reported sexual abuse to Respondent. Respondent sent LaVan for evaluation to New Mexico. Some initial youth restrictions were placed on him. He then resigned as pastor at one church and Respondent re-assigned him as co-pastor to a church some distance from the pastorate resigned.

In 1988, two minor victims reported abuse to Respondent. Respondent sent LaVan to St. Luke's Institute. St. Luke's determined LaVan had had as many as four relationships that involved sexual interaction. St. Luke's diagnosed a "sexual disorder not otherwise specified" and a "personality disorder not otherwise specified with dependent and paranoid traits." Based on these findings, LaVan was admitted for inpatient treatment because he was considered likely to reoffend.

Post-treatment, LaVan was reassigned to the parish where he had been co-pastor. He was to participate in extended aftercare and avoid unsupervised contact with all females at all times. Respondent at this point questioned whether LaVan could maintain celibacy. He was instructed to find a Sexaholics Anonymous group, and pursue individual therapy and spiritual direction. Respondent chose not to make any disclosures to LaVan's parish.

In 1992, a fourth victim, a vulnerable adult, reported abuse to Respondent. In 1993, the then vicar general, McDonough, also wrote St. Luke's Institute about LaVan's behavior with a female staff member to whom LaVan had made inappropriate comments and phone calls to her at home to discuss personal matters, which made the staff member increasingly concerned and uncomfortable. McDonough said he saw LaVan's behavior as dangerous and asked that it be dealt with in therapy.

In 1995, LaVan's case was referred to the newly created Clergy Review Board. The Board recommended that LaVan be continued in ministry but not appointed pastor again, and that he be subject to consistent monitoring, continued therapy, and be restricted from one-on-one ministry with females. In terms of disclosures, McDonough disclosed LaVan's improper relationships with adult women to parish staff in 1995, but at the same time told staff LaVan was not a danger in the parish.

In 1998, LaVan retired but continued to work as a priest by saying Mass in parishes on weekends and visiting the sick.

In 2005, McDonough raised the issue with Archbishop Flynn about whether LaVan should be considered a "Charter priest" after the U.S. Conference of Catholic Bishops had adopted the Charter in 2002. McDonough told Flynn that he had forgotten there had been earlier allegations that LaVan had abused teenage girls. Flynn responded that he did not want to take action on LaVan's case because, although the allegations seemed trustworthy at the time, doubts had since arisen about them. Respondent nonetheless assigned LaVan to POMS monitoring.

In 2011, McDonough wrote a memorandum to then Vicar General Laird that concerned whether LaVan was among a number of priests who, based on their histories, could serve in ministry with any credibility whatsoever. McDonough wrote that LaVan had seen intense spiritual and psychological growth, was more effective than he was in the past, and opined that LaVan was not a danger to anyone to whom he ministered. McDonough advised Laird that LaVan had had at least two exploitive sexual relationships with adult women. He (again) failed to mention the sexual abuse of minors.

Respondent did not remove LaVan from ministry until 2013.

B. Joseph Gallatin

Respondent ordained Gallatin a priest in 1997. In Summer 1998, Gallatin stroked the chest or stomach area of a sleeping seventeen-year-old male when on a mission trip in West Virginia. This incident was very similar to an earlier incident known to Respondent in which Gallatin rubbed the chest of a sleeping college roommate. Gallatin admitted that both incidents gave him sexual gratification.

In September 1998, Gallatin's case was referred to the Clergy Review Board, which ordered ongoing therapy and monitoring. Gallatin saw a psychologist who recommended that Gallatin be placed in a situation where he would be supervised around adolescents and youth until his therapy was complete.

Gallatin was re-assessed in January 2000. During this assessment he admitted an attraction to teenage and adult males.

Gallatin was assessed again in December 2001. He admitted having sexual attraction to males as young as twelve, but said his primary interest was in older teenage males. He also admitted he had been preoccupied in the past about seeing and having conversations with teenage males who attended the school in the parish, even when he knew he was not to have private contact with the teenagers.

This assessment showed that Gallatin (who by this point had served as an associate pastor for about four years) had an interest in being named a pastor, the usual career progression for a priest at about this point in Gallatin's career. The assessment, though, documents that Respondent wanted to wait and keep Gallatin an associate because the seven-year statute of limitations had not yet run.

Gallatin was next assessed in February 2003. By this point, he self-reported that his interest in young males at the church school had disappeared, and that if he were to be made a pastor, he would be careful about his interactions. After this assessment, Respondent determined Gallatin could be assigned as pastor.

C. Michael Keating

Respondent received reports in 2006 that Keating had sexually abused a minor female in the 1990s. Respondent had ordained Keating a priest in 2002, and he had been its seminarian at the time of the alleged abuse.

As a seminarian, Keating regularly ate Sunday dinner at a friend's home. His friend was married and the family included the victim who was then a thirteen-year-old girl. Keating would also sometimes sleep over on Sunday nights. The abuse continued on and off for several years.

Among other things, Keating allegedly rubbed the victim's breasts; he put his fingers in her mouth, rubbing along her teeth, gums and lips; and he also pulled her on top of him, positioning her between his legs, stomach-to-stomach, while on his back. Although each was clothed when he did this to her, the victim believed Keating had an erection.

Respondent was also alerted to other concerns about Keating relating to Keating having an improper relationship with a girl when he studied in Rome, and another improper relationship with a young woman who lived in Michigan.

In 2006, McDonough suggested to Archbishop Flynn that Keating not be restricted in ministry until local police concluded their investigation. Before meeting with the investigating officer, however, Keating retained legal counsel who advised the investigator that he did not want Keating meeting with police. He said Keating had passed a polygraph and the results of that test would be forwarded by mail.

In April 2006, the assigned investigator spoke with an assistant Chisago County attorney who, based on the conversation, opined that there did not appear to be enough evidence to charge Keating. The entire investigative file, however, was not submitted for review.

Upon formal review in 2013, the Chisago County Attorney declined prosecution on the sole basis that the applicable statute of limitations had run by that time. The county attorney specifically noted that declining criminal charges “should not be construed as an opinion about the sufficiency of the evidence. This office is simply prohibited from filing criminal charges due to the expiration of the statute of limitations.”

Respondent sent Keating for psychological assessment in May 2006. At this point, as he had done with Wehmeyer, McDonough outlined the questions he wanted answered by the assessment. In June 2006, the victim’s psychologist wrote Archbishop Flynn to express concern that Keating was minimizing the seriousness of his behavior, and that there likely were or would be other victims if Keating did not receive treatment.

Respondent’s Clergy Review Board reviewed the Keating matter between Fall 2006 and Fall 2007. The Board recommended that Keating not be suspended from ministry but did recommend he be restricted in his activities with adolescents or young adults. Keating was also to engage in psychological counseling and be supervised in his activities. The Clergy Review Board specifically referred Keating for POMS monitoring and indicated it wanted a follow-up report in a year on Keating’s compliance with monitoring conditions.

Keating, though, never began POMS monitoring at that point. That took nearly another three years.

In October 2008, Archbishop Nienstedt wrote the victim’s father that his senior staff had dropped the ball with Keating. Bishop Piché said monitoring had been “forgotten” because Keating had spent a semester in Rome. In November 2008, Nienstedt wrote McDonough that, “We have been very lax in addressing [POMS] concerns with Father Keating. I hope we could set a specific program for him within the next few weeks. I appreciate your cooperation in this regard.” That same month, Keating met with the POMS supervisor but had questions about some conditions of monitoring. He did not begin POMS; and this was not discovered until sometime in 2010.

Keating finally began POMS monitoring in June 2010.

In 2013, Respondent formally certified to the Archdiocese of Santa Fe that it was not aware of anything in Keating’s background that would render him unsuitable to work with minors.

COUNT I

The Archdiocese of St. Paul and Minneapolis, a Minnesota corporation, in Ramsey County, Minnesota, by act, word or omission encouraged, caused or contributed to the need for services for, or protection of VICTIM-1, a child who can be found in or who resided in Ramsey County.

COUNT II

The Archdiocese of St. Paul and Minneapolis, a Minnesota corporation, in Ramsey County, Minnesota, by act, word or omission encouraged, caused or contributed to the need for services for, or protection of VICTIM-2, a child who can be found in or who resided in Ramsey County.

COUNT III

The Archdiocese of St. Paul and Minneapolis, a Minnesota corporation, in Ramsey County, Minnesota, by act, word or omission encouraged, caused or contributed to the need for services for, or protection of VICTIM-3, then a child who can be found in or who resided in Ramsey County.

WHEREFORE, Petitioner prays for an Order, to include:

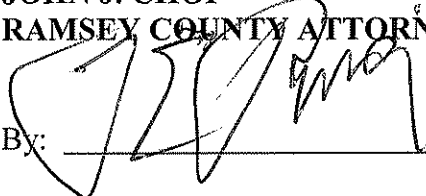
1. finding that probable cause exists to believe that Respondent has contributed to the need of services for or protection of a child;
2. ordering Respondent to show cause, if any there may be, why it should not be subject to the jurisdiction of the Court, with service of an Order to Show Cause required of Petitioner upon Respondent without delay;
3. setting a date for hearing within a reasonable time after service of the Order to Show Cause to allow Respondent opportunity to show why it should not be subject to the jurisdiction of the Court;
4. in the event the Court continues to exercise jurisdiction, the setting of a case management/scheduling conference given the nature and scope of this case, and the procedural posture presented by this case proceeding with a companion criminal case; and
5. such other direction as the Court determines appropriate.

WHEREUPON, Petitioner prays for a further Order, to include:

1. restraining Respondent from any further acts or omissions in violation of Minn. Stat. § 260C.425;
2. requiring Respondent to participate in evaluation as determined necessary by the Court to correct and eliminate the conditions that contributed to a child's and children's need for services or protection;

3. requiring Respondent to demonstrate to the Court's satisfaction over a reasonable period of time compliance with the Court's orders; and
4. such other and further relief as the Court deems just and equitable.

JOHN J. CHOI
RAMSEY COUNTY ATTORNEY

By:  _____


Dated: June 3, 2015

John T. Kelly (#214098)
First Assistant County Attorney
Thomas E. Ring (#25082X)
Assistant County Attorney
Stephanie L. Wiersma (#0395741)
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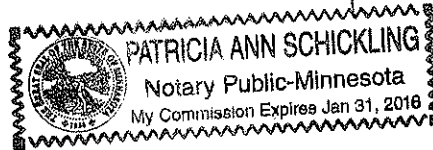
VERIFICATION

(CA File No.: 2138749)

Eric J. Skog, being first duly sworn, states that he is a licensed peace officer and a Sergeant with the St. Paul Police Department who, in the course of his employment, was assigned to investigate this matter; that he has read the foregoing Petition in Support of Order to Show Cause; that he has knowledge of the facts stated therein; and that the same are true of his own knowledge, except as to those matters stated on information and belief, and as to those matters he believes them to be true.

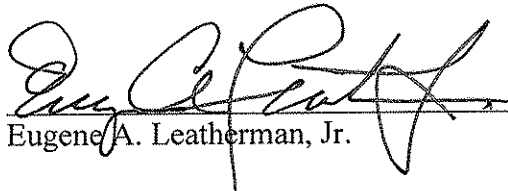

Eric J. Skog
Sergeant

Subscribed and sworn to before me
this 3rd day of June, 2015.




Notary Public

Eugene A. Leatherman, Jr., being first duly sworn, states that he is an investigator with the Ramsey County Attorney's Office who, in the course of his employment, was assigned to investigate this matter; that he has read the foregoing Petition in Support of Order to Show Cause; that he has knowledge of the facts stated therein; and that the same are true of his own knowledge, except as to those matters stated on information and belief, and as to those matters he believes them to be true.


Eugene A. Leatherman, Jr.

Subscribed and sworn to before me
this 3rd day of June, 2015.


Notary Public

