

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In Re:

Case No. 04-37154-elp11

ROMAN CATHOLIC ARCHBISHOP OF
PORTLAND OR, and
successors, a corporation
sole, aka ARCHDIOCESE OF
PORTLAND IN OREGON, aka
ARCHBISHOP OF PORTLAND IN
OREGON,

Final Report of
Document Arbitration

The settlement of the bankruptcy case resolved claims that priests working in ministries of the debtor Archdiocese of Portland engaged in sexual misconduct with minors. During an April 17, 2007 press conference, the Archdiocese agreed "as part of the healing process and in the interests of transparency, . . . [to] releas[e] relevant and appropriate documents, after a process that seeks a fair and just result for all concerned." The Archdiocese and tort claimants agreed to resolve disputes regarding whether the Archdiocese need disclose documents before the undersigned (the arbitrator).

The Archdiocese released some documents from priest personnel files on an Internet website. The Archdiocese objects to release of additional documents and submitted copies of the documents to the arbitrator for review. The documents generally appear as personnel files or portions of personnel files.

The Archdiocese contends that it is inappropriate to release medical records, financial documents, documents related to single, unsubstantiated and/or withdrawn allegations and documents from the files of order priests who did not work in an Archdiocesan ministry at the time of alleged sexual misconduct with a minor. Certain individual priests objected in this arbitration and in the bankruptcy court to the release of documents concerning them.

The arbitrator completed a page-by-page review of all documents provided by the Archdiocese. The documents concern priests identified by the Archdiocese and the tort claimants. The priests include, but are not limited to, priests identified by the Archdiocese in response to the arbitrator's request for documents related to previously unidentified priests with respect to whom the Archdiocese paid money to settle any claims that a priest engaged in sexual misconduct with a minor. The arbitrator estimates that he reviewed several thousand pages. The arbitrator reviewed the documents to discover all relevant documents appropriate for release. Relevant documents evince

allegations or claims of sexual misconduct of priests involving minors, and the Archdiocese's knowledge of, and response to, such allegations or claims. The arbitrator expresses no opinion regarding the merit of any allegation or claim against any priest. This report and exhibits are intended to identify previously unreleased documents that the Archdiocese must release. To the arbitrator's knowledge, the Archdiocese has not previously released the materials reviewed. If the arbitrator has identified a previously released document for release, the Archdiocese need not release such document a second time. The arbitrator has not reviewed the Archdiocese's Internet document repository, <www.archdiocesedocuments.org>.

At the arbitrator's direction, counsel for the Archdiocese and tort claimants agreed to redact the names of alleged victims and their families from documents the arbitrator preliminarily indicated he would require the Archdiocese to disclose. The arbitrator is advised that the redaction process is completed.

The priests mentioned in this report and exhibits are divided into five categories. The first category consists of Archdiocese priests whose files contain relevant documents, and who do not fall into the third category. The second category consists of order priests whose files contain documentation of relevant conduct alleged to have occurred during a period the priest worked in an Archdiocesan ministry, and who do not fall

into the third category. The third category consists of priests who would fall into the first or second categories and whose alleged relevant conduct is the subject of ongoing litigation. The fourth category consists of order priests not responsible to the Archdiocese at the time of alleged sexual misconduct with a minor. The fifth category consists of Archdiocese priests and order priests who worked in Archdiocesan ministries at the time of alleged sexual misconduct with a minor and for whom the arbitrator discovered no relevant documents, and who do not fall into the third category.

Copies of documents reviewed by the arbitrator may have been produced by the Archdiocese subject to a January 14, 2005 protective order filed in District of Oregon bankruptcy case number 04-37154-elpl1. Counsel for tort claimants may have filed copies of such documents under seal in the bankruptcy court and such copies may be subject to a pending motion to unseal documents. With respect to such documents, the presumption of the public right of access to court documents is rebutted by the fact that the documents were filed under seal unaccompanied by a dispositive motion. See Foltz v. State Farm, 331 F.3d 1122, 1135-36 (9th Cir. 2003).

Despite the rebutted presumption, good cause does not exist to maintain the seal on relevant documents in the personnel files of the first two categories of priests, and relevant documents in

the files of these priests are appropriate for release, with limited exceptions discussed below. The Archdiocese agreed to release relevant documents. Relevant medical records demonstrate the Archdiocese's knowledge and responses to allegations and are not exempt from the agreement.¹

Notwithstanding the foregoing, this report is stayed with respect to documents concerning certain individual priests who objected in this arbitration and the bankruptcy court to the release of documents concerning them. The stay is intended to permit the bankruptcy court to resolve the objections in the first instance. The stay shall expire upon final resolution of the objections filed by the individual priests in the bankruptcy court. The documents subject to the stay are identified in and attached to exhibit C, filed separately under seal. In this report, these objecting priests for whom the arbitrator discovered relevant documents are referred to as Fathers D, M and V.

The first category of priests includes Father D, John Goodrich, Massimo Ghilardi, Maurice Grammond, Gary Jacobson, Father M, Aldo Orso-Manzonetta, Louis Radakowski, Martin Senko and Martin Thielen. Relevant documents from the files of priests

¹The arbitrator understands that the Archdiocese released complete or nearly complete personnel files for some accused priests. The arbitrator does not require the release of irrelevant documents.

in the first category are identified in exhibit A to this report, except for documents related to Father D and Father M, which are identified in and attached to exhibit B, filed separately under seal, and documents concerning Goodrich. Counsel for the Archdiocese and tort claimants reached agreement as to what documents the Archdiocese will release concerning Goodrich. The arbitrator did not review Goodrich's file.

The second category of priests includes Mel Bucher and Father V. Relevant documents concerning Bucher are identified in exhibit A to this report. Relevant documents concerning Father V are identified in and attached to exhibit B, filed separately under seal.

The arbitrator agrees with the Archdiocese that it is not appropriate to release relevant documents from the files of the third category of priests - priests whose alleged conduct is the subject of pending litigation. Joseph Baccellieri, Clement Frank and Thomas Laughlin are the priests in this category. Disclosure of relevant documents may compromise the ability of presiding judges to control the ongoing litigation. Good cause exists to maintain any seal on these documents. Furthermore, the arbitrator found no relevant documents concerning Frank. Counsel shall notify the arbitrator at the completion of the litigation involving Baccellieri and Laughlin.

There are eight priests in the fourth category of order

priests accused of having engaged in sexual misconduct with a minor at a time when the priest did not work in a ministry of the Archdiocese. With respect to seven priests in this category, the arbitrator discovered no relevant information, and only two pages of documents. The arbitrator considered tort claimants' position that this report should disclose the names of these seven priests. The priests and the Archdiocese were not responsible to each other at the time of the priests' alleged misconduct. The Archdiocese did not impliedly consent to the disclosure of the names of these priests by responding to discovery requests, and the individual priests have not consented to such disclosure. Finally, the arbitrator's function is to resolve disputes over the disclosure of documents, rather than names. These seven priests are identified in exhibit B to this report, filed separately under seal.

Good cause does not exist to maintain the seal on relevant documents in the file of the eighth priest in this category, Andrew Ronan. In response to a lawsuit, the Archdiocese disclosed allegations against Ronan, and its response to the allegations, in a press release issued April 3, 2002. Relevant documents concerning Ronan's file are identified in exhibit A.

Priests in the fifth category are identified in exhibit B, filed separately under seal. As noted, the arbitrator is not concerned with resolving disputes over the disclosure of names of

priests for which it found no relevant documents.

If it has not previously done so, the Archdiocese shall forthwith release redacted copies of documents identified in the attached exhibit A through the Internet website <www.archdiocesedocuments.org>. Counsel for the Archdiocese shall forthwith transmit to the arbitrator redacted copies of exhibits previously transmitted by the arbitrator to counsel for redaction. Following receipt of such redacted copies, the arbitrator will file under seal in the bankruptcy case exhibit B to this report and attachments consisting of relevant documents concerning Father D, Father M and Father V.

DATED this 24th day of November, 2008.

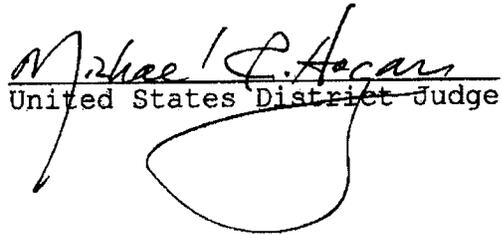

United States District Judge

EXHIBIT A TO REPORT OF DOCUMENT ARBITRATION

Mel Bucher	30-32, 256
Massimo Ghilardi	3164-67
Maurice Grammond	33-50, 57-60, 115, 122, 124, 18061-65, 18078A-78B
Gary Jacobson	4288, 4434, 4453, 4537-39, 4556-58, 4567-69, 4584-85, 4588-89, 4660-62, 4665-67, 4774-81
Aldo Orzo-Manzonetta	19141-42, 19238
Louis Rodakowski	[records not paginated]
Andrew Ronan	380, 2386-92, 2395-2411, 2414-25, 2430-33, 2443
Martin Senko	9004-05, 9012, 9015, 9041, 9077, 9082, 9089-90, 9095, 9100, 9102-03, 9302-12
Martin Thielan	216-34