

## II. The Attorney General's Investigation

53. In September 2018, the Attorney General began to investigate the Diocesan Corporation's institutional response to allegations of sexual abuse by clergy.<sup>9</sup> In accordance with the Attorney General's well-established mandate to oversee the lawful operation of charitable entities across New York, the Investigation focused on the adequacy of the Diocesan Corporation's response to a crisis already identified by Church leaders across the United States. Further, the Investigation sought to ensure compliance with civil standards of care and fiduciary loyalty applicable to the Diocesan Corporation and its leadership under New York law.

54. The Attorney General served a comprehensive subpoena on the Diocesan Corporation for all documents concerning improper sexual conduct by the Diocesan Corporation's personnel, including complete personnel files for any priest alleged to have engaged in such conduct; all "[d]ocuments relating to the Church's implementation of the . . . *Charter*"; and all relevant documents maintained in "any location ever referred to as the 'secret archives.'" The term "secret archives" is the literal, English translation of the Latin term used to refer to diocesan files maintained to record a priest's misconduct or alleged misconduct.

55. The Attorney General expressly requested that the Diocesan Corporation confirm that its production of documents in response to the subpoena "include[d] all records and/or reports generated through [the processes outlined by the *Charter* and the *Essential Norms*] (e.g., investigative reports, minutes or recommendations from the [DRB], [and] records of referral to

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<sup>9</sup> This pleading will discuss certain priests who have been publicly identified by the Diocesan Corporation as having "substantiated allegations of abuse of a minor." The allegations in this pleading should in no way should be interpreted as *finding* that these priests sexually abused minors. Under the U.S. Constitution, those accused of crimes are entitled to due process and a presumption of innocence.

the [CDF]).”

56. Over the course of approximately one year, the Diocesan Corporation produced documents to the Attorney General in response to the subpoena. The Diocesan Corporation’s production contained files for sixty-nine priests accused of sexual abuse or misconduct. These files were typically extensive and contained contemporaneous memoranda and correspondence. As detailed below, a sampling of the Diocesan Corporation’s document production, however, contained few, if any, reports of investigation, formal records of DRB business, and referrals to the CDF.

57. As of November 2019, approximately one year after the Attorney General commenced the Investigation, the Diocesan Corporation had published a list of seventy-eight priests that it identified as the subjects of substantiated allegations of sexual abuse of a minor. The Diocesan Corporation has not produced files for approximately one-half of the priests on its published list.

58. The documentary evidence that the Diocesan Corporation did produce—together with the sworn testimony of Bishop Malone and Auxiliary Bishop Grosz—establishes unauthorized corporate activity by the Diocesan Corporation itself, an improper administration of the Diocesan Corporation’s response to sexual abuse allegations, and repeated breaches of fiduciary duty.