

IV. The Diocesan Corporation Misled the Public About Its Adherence to its Policies and Practices in an Improper Administration of the Diocesan Corporation.

106. In 2018 and 2019 the Diocesan Corporation faced intense scrutiny from the public and the media for its alleged handling of sexual abuse complaints. The Diocesan Corporation, through Bishop Malone, Auxiliary Bishop Grosz, and authorized spokespersons responded by making repeated misleading statements to the public about the Diocesan Corporation's adherence to its own policies and procedures, particularly as set forth in the *Charter* and the *Essential Norms*. Those false or misleading statements were inconsistent with the *Charter's* policy of transparency and were an improper administration and operation of the Diocesan Corporation. These statements also aided the Diocesan Corporation's concealment of the true scope of the sexual abuse scandal and the Diocesan Corporation's failure to properly investigate and address sexual abuse allegations.

107. For example, in February 2018, a Buffalo-area newspaper reported that *Fr. R* purportedly admitted that he had sexually abused dozens of minors in the late 1970s and early 1980s. In response, the Diocesan Corporation released a statement that read, in part: ““Since 1990, the Diocese of Buffalo has had policies to address sexual abuse,’ ‘Every complaint that we receive is addressed pursuant to a protocol that is designed both to protect children and to respond to victims. . . .’” The “protocol” is a term used by the Diocesan Corporation to refer to the *Charter* and the *Essential Norms*. As demonstrated below, at the time of this statement, the Diocesan Corporation had consistently failed to follow material aspects of its policies when responding to allegations against priests, including *Fr. R*.

108. On March 1, 2018, the day after the *Fr. R*-story, the Diocesan Corporation held a press conference, in part, to announce the establishment of a settlement fund for claimants of alleged sex abuse. During the press conference, when asked about other measures the Diocesan

Corporation was taking “so that this is not repeated,” Bishop Malone stated that Auxiliary Bishop Grosz “meets . . . regularly with priests who are unassignable.” Malone also described the Diocesan Corporation as having “a very serious program,” “always looking at how to make sure that that is a strong kind of a vigilance we keep.” Grosz then bolstered these points:

We . . . make sure that the priest goes through a process of rehabilitation. We have several of those centers. . . . And then the important thing as I say is the follow-up, and that’s to what the bishop is referring, to make sure that, again, there’s not a repeat of that inappropriate behavior. And so, when they are discharged [from a rehabilitation center] after [a] period of eighteen months, I continue to keep tabs on them. And they have an actual program of steps. For example, regular counselling, their spiritual director, their confessor, the accountability to me. In fact, there are individuals who meet with me on a regular basis, monthly, to be sure that they’re following their program as outlined by these professional people. . . . I [also] do have a group of priests who have been, we call unassignable priests, who do meet monthly and basically, it’s a spirituality kind of group in which they support one another, they pray together, but again the accountability is there, so on occasion I meet with them. I’ve attempted to form several of those groups, so they’re just not out there ready to kind of do the same thing they did before. So there is an accountability which has to be there and the oversight that definitely has to be there.

These statements falsely suggested that the Diocesan Corporation: (a) had a functional and reasonable policy or practice for monitoring accused priests, which included regular meetings between the Diocesan Corporation and the priests, and (b) regularly analyzed its monitoring efforts to strengthen them. In fact, the Diocesan Corporation lacked policies or procedures for monitoring accused priests and failed to reasonably monitor these priests. The Attorney General uncovered no evidence that the Diocesan Corporation regularly attempted to strengthen a monitoring program.

109. In March 2018, the Diocesan Corporation publicly identified forty-two priests accused of sexual abuse. When releasing the list of priests, Bishop Malone falsely touted the Diocesan Corporation’s “strict” compliance with the zero-tolerance policy and the *Charter*:

When we have . . . priests who have either admitted to have abused a minor or for

whom we have evidence that in fact that did take place, it seems to me, that that has to come out of the darkness into the light. . . . But sometimes, in decades past . . . , we would retire them or they would go on extended medical leave. And a lot of them were on medical leaves because they had to be sent for evaluation at various institutes that do that work for us. So, but that was, that was the way of the past. **Now, we follow strictly what’s called a zero-tolerance policy. And all of the United States bishops, we have 197 Catholic Dioceses in this country, all of us have pledged ourselves through something called the *Charter for the Protection of Children and Young People*. And there are *Norms that go with that to do things right*.** . . . (emphasis added).

110. Bishop Malone appeared before the media on August 26, 2018, to address allegations about clergy sex abuse and again claimed, despite a record of non-compliance, that the Diocesan Corporation had made diligent efforts to adhere to the *Charter*:

Since 2002, the *Charter for the Protection of Children and Young People* has been our guiding mandate. Our focus then has been on our children and teens. Those of us in Church leadership have worked diligently to apply its protocols to our handling of abuse allegations. In many ways, I have sought to make the *Charter* my personal charge to enforce this promise in a manner that honors survivors and protects those we serve. However, reflecting on my handling of recent allegations of sexual misconduct with adults, I fear that in seeking to uphold the *Charter* to the letter—remember the *Charter* is for young people—I may have lost sight of the *Charter*’s spirit, which applies to people of all ages.

111. In the fall of 2018, whistleblowers from the Diocesan Corporation alleged on the national television news show, *60 Minutes*, that the Diocesan Corporation knowingly omitted priests from its March 2018 disclosure of forty-two accused priests and that the Diocesan Corporation had failed to remove certain priests from the priesthood for sexually abusing minors.

112. On November 2, 2018, Bishop Malone once again falsely claimed that the Diocesan Corporation was “following [the *Charter*] very, very carefully.” These statements were not accurate, and Malone later admitted to the Attorney General that his statements “should have been qualified.”

113. On November 5, 2018, the Diocesan Corporation disclosed the identity of twenty additional diocesan priests with substantiated claims of sexual abuse of a minor who were

omitted from the Diocesan Corporation's March 2018 list. On the same day, at a press conference, the Diocesan Corporation's Judicial Vicar, Salvatore Manganello, incorrectly suggested that the Diocesan Corporation had observed the *Charter* since its adoption in 2002.¹⁹ In his examination, Bishop Malone admitted that Manganello's and the Diocesan Corporation's statements about compliance with the *Charter* were inaccurate:

Q: Monsignor Manganello states that the *Charter* has been followed since that time referencing 2002. Fair to say the public would believe that the Buffalo Diocese was following the material terms of the *Charter* when . . . Monsignor Manganello made those statements?

A: Yes.

Q: But that was . . . inaccurate, correct, because of the CDF failures?

A: That would be the one inaccuracy I could think of. Generally if I could—generally, I did believe the *Charter* was being followed which is—which is what he is saying.

. . .

Q: And fair to say statements from the diocese since 2012. . . [t]hat reassured the public that the *Charter* was being followed, in retrospect should have been qualified because of the failure of the diocese to refer priests to the CDF?

A: I—probably it should. I mean, I would—as I said before, I was—I am so committed, I am not the bishop anymore but I was so committed to correcting that error and moving forward with the CDF cases that that was my mentality, that we're doing this the way we ought to now but in retrospect, looking back at it, clearly that element needed attention that it did not get.