

**VI. Causes of Action**

**FIRST CAUSE OF ACTION  
Secure the Proper Administration of a Charitable Organization (EPTL § 8-1.4)  
(Against the Diocesan Corporation)**

735. The Attorney General repeats and re-alleges the preceding paragraphs, as though fully set forth herein.

736. Under section 8-1.4(a) of the EPTL, a trustee is defined as “any individual, group of individuals, executor, trustee, corporation or other legal entity holding and administering property for charitable purposes, whether pursuant to any will, trust, other instrument or agreement, court appointment, or otherwise pursuant to law, over which the attorney general has

enforcement or supervisory powers.”

737. The Diocesan Corporation is a trustee under section 8-1.4 of the EPTL.

738. Under section 8-1.4(m) of the EPTL, the Attorney General may commence a proceeding “to secure the proper administration of any trust, corporation or other relationship to which this section applies.”

739. The Diocesan Corporation, acting through its fiduciaries, trustees, officers, *de facto* directors and officers, employees, staff, or agents, failed to properly administer its affairs because, among other things, it:

(a) failed to comply with material provisions of the *Charter*, the *Essential Norms*, or the *Diocesan Policies and Procedures*, namely, the requirements that it (i) conduct or, alternatively, sufficiently conduct timely and independent internal investigations into allegations that priests had sexually abused minors; (ii) seek or, alternatively, reasonably document the DRB’s assessments of allegations that priests had sexually abused minors; and (iii) refer or, alternatively, timely refer priests accused of the sexual abuse of minors to the CDF;

(b) failed to reasonably document allegations that priests had sexually abused minors or adults;

(c) failed to sufficiently investigate allegations that certain priests had sexually abused adults;

(d) failed to inquire into the Diocesan Corporation’s failures to adhere to its material policies and procedures and to attempt, in good faith, to develop remedial measures to avoid these failures in the future;

(e) failed to reasonably monitor priests accused of sexually abusing minors or

adults;

(f) disregarded the risks that certain priests could sexually abuse minors or adults;

(g) prepared false or misleading business records related to priests accused of sexually abusing minors or adults;

(h) made false or misleading statements to the public and its beneficiaries regarding the status of priests accused of sexually abusing minors or adults;

(i) failed to provide appropriate or additional training to diocesan officials, who violated the *Charter*, the *Essential Norms*, the *Diocesan Policies and Procedures*, or applicable standards of care;

(j) misled the public and its beneficiaries about its adherence to its policies and practices governing the response to allegations that priests had sexually abused minors; and

(k) improperly administered its assets or funds by, for example, providing compensation and benefits to certain priests accused of the sexual abuse of minors.

740. The Diocesan Corporation was harmed through its improper administration because, among other things, it: (a) exposed beneficiaries to unnecessary risks of sexual abuse; (b) provided improper compensation and benefits to priests accused of sexually abusing minors; and (c) suffered damages from its failure to follow the *Charter* and the *Essential Norms*.

741. Because of the above acts and omissions, the Diocesan Corporation and its assets were improperly administered under section 8-1.4 of the EPTL. Therefore, to secure the proper administration of the Diocesan Corporation, the Attorney General seeks injunctive relief, including the appointment of an independent compliance auditor as detailed in the Prayer for Relief.

**SECOND CAUSE OF ACTION**  
**Enjoin Unauthorized Activities (N-PCL § 112(a)(1))**  
**(Against the Diocesan Corporation)**

742. The Attorney General repeats and re-alleges the preceding paragraphs, as though fully set forth herein.

743. Section 112(a)(1) of the N-PCL authorizes the Attorney General to commence an action against a corporation “to restrain it from carrying on unauthorized activities.” The Diocesan Corporation is subject to the RCL and relevant provisions of the N-PCL, including section 112(a)(1). Pursuant to section 2-a of the RCL, the RCL applies to corporations, like the Diocesan Corporation, which were created by special acts.

744. Pursuant to section 2-b(1) of the RCL, the N-PCL, with certain exceptions not relevant here, applies to every corporation that is also subject to the RCL.

745. The Diocesan Corporation, acting through its fiduciaries, trustees, *de facto* directors and officers, employees, staff, and agents, engaged in unauthorized activities by, among other things:

(a) failing to comply with material provisions of the *Charter*, the *Essential Norms*, or the *Diocesan Policies and Procedures*, namely, the requirements that it (i) conduct or, alternatively, sufficiently conduct timely and independent internal investigations into allegations that priests had sexually abused minors; (ii) seek or, alternatively, reasonably document the DRB’s assessments of allegations that priests had sexually abused minors; and (iii) refer or, alternatively, timely refer priests accused of the sexual abuse of minors to the CDF;

(b) failing to reasonably document allegations that priests had sexually abused minors or adults;

(c) failing to sufficiently investigate allegations that certain priests had sexually

abused adults;

(d) failing to inquire into the Diocesan Corporation's failures to adhere to its material policies and procedures and to attempt, in good faith, to develop remedial measures to avoid these failures in the future;

(e) failing to reasonably monitor priests accused of sexually abusing minors or adults;

(f) disregarding the risks that certain priests could sexually abuse minors or adults;

(g) preparing false or misleading business records related to priests accused of sexually abusing minors or adults;

(h) making false or misleading statements to the public and its beneficiaries regarding the status of priests accused of sexually abusing minors or adults;

(i) failing to provide appropriate or additional training to diocesan officials, who violated the *Charter*, the *Essential Norms*, the *Diocesan Policies and Procedures*, or applicable standards of care;

(j) misleading the public and its beneficiaries about its adherence to its policies and practices governing the response to allegations that priests had sexually abused minors; and

(k) improperly administering its assets or funds by, for example, providing compensation and benefits to certain priests accused of the sexual abuse of minors.

746. The Diocesan Corporation was harmed by its unauthorized activities because, among other things, it: (a) exposed beneficiaries to unnecessary risks of sexual abuse; (b) provided improper compensation and benefits to priests accused of sexually abusing minors; and

(c) suffered damages from its failure to follow the *Charter* and the *Essential Norms*.

747. Based on the above acts and omissions, the Diocesan Corporation violated section 112(a)(1) of the N-PCL. Therefore, the Attorney General seeks injunctive relief, including the appointment of an independent compliance auditor as detailed in the Prayer for Relief and/or a temporary and permanent restraining order under New York law and section 112(b)(3) of the N-PCL.

**THIRD CAUSE OF ACTION**  
**Breach of Fiduciary Duties (N-PCL §§ 717, 720)**  
**(Against Bishop Malone and Auxiliary Bishop Grosz)**

748. The Attorney General repeats and re-alleges the preceding paragraphs, as though fully set forth herein.

749. Bishop Malone and Auxiliary Bishop Grosz were fiduciaries, trustees, or *de facto* directors or officers of the Diocesan Corporation and, as such, owed fiduciary duties to the Diocesan Corporation pursuant to section 717 of the N-PCL and New York law.

750. The Diocesan Corporation is subject to the RCL and relevant provisions of the N-PCL. Pursuant to section 2-a of the RCL, the RCL applies to corporations, like the Diocesan Corporation, which were created by special acts. Pursuant to section 2-b(1) of the RCL, the N-PCL, with certain exceptions not relevant here, applies to every corporation that is also subject to the RCL.

751. Bishop Malone and Auxiliary Bishop Grosz failed to discharge their duties as fiduciaries, trustees, or *de facto* directors and officers in good faith and with the required degree of care, skill, prudence, diligence, and undivided loyalty because they, among other things:

(a) failed to comply with material provisions of the *Charter*, the *Essential Norms*, or the *Diocesan Policies and Procedures*, namely, the requirements that the Diocesan Corporation: (i) conduct or, alternatively, sufficiently conduct timely and independent

internal investigations into allegations that priests had sexually abused minors; (ii) seek or, alternatively, reasonably document the DRB's assessments of allegations that priests had sexually abused minors; and (iii) refer or, alternatively, timely refer priests accused of the sexual abuse of minors to the CDF;

(b) failed to sufficiently investigate allegations that certain priests had sexually abused adults;

(c) failed to inquire into the Diocesan Corporation's failures to adhere to its material policies and procedures and to attempt, in good faith, to develop remedial measures to avoid these failures in the future;

(d) failed to reasonably monitor priests accused of sexually abusing minors or adults;

(e) disregarded the risks that certain priests could sexually abuse minors or adults;

(g) prepared false or misleading business records related to priests accused of sexually abusing minors or adults;

(h) made false or misleading statements to the public and the Diocesan Corporation's beneficiaries regarding the status of priests accused of sexually abusing minors or adults;

(i) failed to provide appropriate or additional training to diocesan officials, who violated the *Charter*, the *Essential Norms*, the *Diocesan Policies and Procedures*, or applicable standards of care;

(j) misled the public and the Diocesan Corporation's beneficiaries about the Diocesan Corporation's adherence to its policies and practices governing the response to allegations that priests had sexually abused minors; or

(k) improperly administered the Diocesan Corporation's assets or funds by, for example, providing compensation and benefits to certain priests accused of the sexual abuse of minors.

752. The Diocesan Corporation was harmed through Bishop Malone's and Auxiliary Bishop Grosz's breaches of fiduciary duties because, among other things, they caused the Diocesan Corporation to (a) expose its beneficiaries to unnecessary risks of sexual abuse; (b) provide improper compensation and benefits to priests accused of sexually abusing minors; and (c) suffer damages from its failure to follow the *Charter* and the *Essential Norms*.

753. Based on the above acts and omissions, Bishop Malone and Auxiliary Bishop Grosz breached their fiduciary duties to the Diocesan Corporation and its beneficiaries and are thus liable under sections 720(a)(1)(A) and 720(a)(1)(B) of the N-PCL for their (a) "neglect of, or failure to perform, or other violation[s] of [their] duties in the management and disposition of corporate assets" or (b) the "loss or waste of corporate assets due to any neglect of, or failure to perform, or other violation[s] of [their] duties." Accordingly, Malone and Grosz should be enjoined from serving as a director, trustee, officer, or equivalent position of any not-for-profit or charitable organization incorporated or authorized to conduct business or solicit charitable donations in the State of New York, except that such injunction shall not bar them from serving in a ministerial, pastoral, or spiritual role.

**FOURTH CAUSE OF ACTION**  
**Failure To Properly Administer a Charitable Organization (EPTL § 8-1.4)**  
**(Against Bishop Malone and Auxiliary Bishop Grosz)**

754. The Attorney General repeats and re-alleges the preceding paragraphs, as though fully set forth herein.

755. Bishop Malone and Auxiliary Bishop Grosz were trustees of the Diocesan Corporation under section 8-1.4 of the EPTL and, as such, were responsible for the proper

administration of the Diocesan Corporation and the Diocesan Corporation's charitable assets.

756. Bishop Malone and Auxiliary Bishop Grosz failed to properly administer the Diocesan Corporation because they, among other things:

(a) failed to comply with material provisions of the *Charter*, the *Essential Norms*, or the *Diocesan Policies and Procedures*, namely, the requirements that the Diocesan Corporation: (i) conduct or, alternatively, sufficiently conduct timely and independent internal investigations into allegations that priests had sexually abused minors; (ii) seek or, alternatively, reasonably document the DRB's assessments of allegations that priests had sexually abused minors; and (iii) refer or, alternatively, timely refer priests accused of the sexual abuse of minors to the CDF;

(b) failed to sufficiently investigate allegations that certain priests had sexually abused adults;

(c) failed to inquire into the Diocesan Corporation's failures to adhere to its material policies and procedures and to attempt, in good faith, to develop remedial measures to avoid these failures in the future;

(d) failed to reasonably monitor priests accused of sexually abusing minors or adults;

(e) disregarded the risks that certain priests could sexually abuse minors or adults;

(g) prepared false or misleading business records related to priests accused of sexually abusing minors or adults;

(h) made false or misleading statements to the public and the Diocesan Corporation's beneficiaries regarding the status of priests accused of sexually abusing minors or adults;

(i) failed to provide appropriate or additional training to diocesan officials, who violated the *Charter*, the *Essential Norms*, the *Diocesan Policies and Procedures*, or applicable standards of care;

(j) misled the public and the Diocesan Corporation's beneficiaries about the Diocesan Corporation's adherence to its policies and practices governing the response to allegations that priests had sexually abused minors; or

(k) improperly administered the Diocesan Corporation's assets or funds by, for example, providing compensation and benefits to certain priests accused of the sexual abuse of minors.

757. Pursuant to the EPTL, Bishop Malone and Auxiliary Bishop Grosz owed fiduciary duties to the Diocesan Corporation and its beneficiaries and are thus liable under the EPTL for damages resulting from loss or waste of corporate assets, including improper compensation and benefits provided to priests accused of sexually abusing minors.

758. The Diocesan Corporation was harmed through Bishop Malone's and Auxiliary Bishop Grosz's improper administration of the Diocesan Corporation because, among other things, they caused the Diocesan Corporation to (a) expose its beneficiaries to unnecessary risks of sexual abuse; (b) provide improper compensation and benefits to priests accused of sexually abusing minors; and (c) suffer damages from its failure to follow the *Charter* and the *Essential Norms*.

759. Based on the above acts and omissions, Bishop Malone and Auxiliary Bishop Grosz violated section 8-1.4 of the EPTL. Accordingly, Malone and Grosz should be enjoined from serving as a director, trustee, officer, or equivalent position of any not-for-profit or charitable organization incorporated or authorized to conduct business or solicit charitable

donations in the State of New York, except that such injunction shall not bar them from serving in a ministerial, pastoral, or spiritual role.