

Fr. H

290. *Fr. H* was ordained in 1985.³⁰ As early as 1993, when the Diocese removed *Fr. H* from ministry, the Diocesan Corporation was on notice of a substantial likelihood that *Fr. H* had sexually abused minors. Years later, instead of applying the *Charter* and the *Essential Norms*, the Diocesan Corporation allowed him to retire. The Diocesan Corporation also failed to sufficiently conduct internal investigations into allegations that *Fr. H* had sexually abused minors; failed to seek or, alternatively, reasonably document the DRB's assessment of sexual abuse allegations against *Fr. H*; and failed to refer *Fr. H* to the CDF. Further, the Diocesan Corporation engaged in other improper conduct by (a) allowing *Fr. H*—after his removal from ministry—to hold a position on site at a parish; (b) preparing false or misleading records to

³⁰ Unless otherwise noted, the allegations against *Fr. H* are based exclusively on documents that were obtained from public sources or produced from diocesan files for Attorney General review. The allegations against *Fr. H* have not been independently investigated by the Attorney General and are recited only to establish the information provided to, and decisions taken by, the Diocesan Corporation in connection with its response to reports of alleged sexual abuse.

establish a purported, legitimate basis for his retirement and eligibility for associated benefits; (c) providing these benefits and other compensation to *Fr. H* even though his laicization would have relieved the Diocesan Corporation of its duty to financially support him; and (d) failing to reasonably monitor *Fr. H*, exposing itself and minors to unnecessary risks.

Pre-2002 Notice of and Response to Sexual Abuse Allegations

291. Prior to the adoption of the *Charter* and the *Essential Norms*, the Diocesan Corporation received at least two complaints alleging that *Fr. H* had sexually abused minors. Records show that during this period, the Diocese assigned *Fr. H* to parishes until it removed him from ministry in 1993.

292. In February 1987, Bishop Head received a letter from the Apostolic Administrator of a Pennsylvania diocese. The letter encloses a diary kept by Complainant 1 and explained that Complainant 1 had met *Fr. H* at least twice during a family trip to Buffalo. The diary recounts alleged sexual acts between Complainant 1, a minor at the time, and *Fr. H*.

293. In March 1987, a diocesan priest prepared a report to Bishop Head regarding the priest's investigation into *Fr. H*'s conduct. The report concludes that "it would seem that the incidents did indeed happen." The "incidents" referred to *Fr. H* exposing himself to Complainant 1 and pulling down Complainant 1's pants to touch the minor's genitals.

294. Complainant 1 wrote to the Diocesan Corporation on August 4, 1987, and requested a meeting to discuss his "problems" with *Fr. H*. On August 19, 1987, Auxiliary Bishop Trautman prepared a memo to the file regarding his meeting with Complainant 1. According to the memo, Trautman told the teen that *Fr. H* had emphatically denied the allegations. The memo also describes Complainant 1 as a liar and a "very sick person" but concludes, without elaborating, that "[t]here was still definite imprudence."

295. In November 1992, Vicar General Cunningham documented a meeting with Complainant 2 regarding his allegations against *Fr. H*. The documentation indicates that Complainant 2 alleged that *Fr. H* had urged him to “get naked” and “touched” him to “help” him ejaculate. The documentation also indicates that alcohol and oral sex were involved. The document does not disclose Complainant 2’s age at the time of the alleged conduct but estimates that the abuse occurred when he was about nineteen or twenty years old. Cunningham’s memo, which does not identify the priest by name, is contained in *Fr. H*’s file.

296. In February 1993, Complainant 2 met with Vicar General Cunningham and asked whether *Fr. H* had admitted the allegations. In Cunningham’s memo of this meeting, he documented his response to Complainant 2 that “[*Fr. H*] had different perceptions of what took place, but that the accusations were serious enough to ensure that [*Fr. H*] would receive counseling.”

297. On March 4, 1993, Auxiliary Bishop Grosz drafted a memo to Bishop Head, providing a detailed plan for announcing *Fr. H*’s exit from his parish. The plan emphasized non-disclosure of the true circumstances surrounding *Fr. H*’s departure:

1) [The pastor] . . . will note that Bishop Head has informed Father [*H*] that his term of assignment of five years at [the parish] has been completed. Thus, in accord with Diocesan policy Father [*H*] would be receiving a new assignment.

. . .

3) Bishop Grosz advised both Father [*H*] and [the pastor] to be very prudent in their response to questions presented to them by parishioners. Bishop Grosz advised that no details of the arrangements for Father [*H*]’s period of time off or his future assignment be presented to anyone. The less said, the better.

. . .

5) . . . [The pastor] . . . seemed to intimate that he has concluded that there is more of a problem with Father [*H*] than merely burn-out. Bishop Grosz has not revealed any confidential information to [the pastor].

6) Bishop Grosz advised Father [H] not to use the word “sabbatical” in referring to his “time-off” between his departure from [the] parish and his time of re-assignment by Bishop Head. . . . [T]hat term is a technical term, which would imply that if [sic] priests knew that Father [H] was taking a sabbatical, they would begin to ask questions.

298. On information and belief, the Diocesan Corporation publicly announced that *Fr. H* was leaving his parish in March 1993 because his five-year term of service had expired.

299. On March 4, 1993, Vicar General Cunningham directed the Diocesan Corporation’s Payroll Department to place *Fr. H* on the “salary list” and to cover *Fr. H*’s benefits “as for any other priest ‘sick and on leave.’”

300. In September 1994, the Diocesan Corporation agreed to pay *Fr. H* a monthly sum and to continue covering his health, dental, and car insurance.

301. On August 2, 1995, Vicar General Cunningham advised *Fr. H* that Bishop Mansell agreed with the St. Luke Institute’s recommendation that Mansell remove *Fr. H* from ministry for three years.

302. A handwritten note on Vicar General Cunningham’s stationary, contained in *Fr. H*’s file and dated August 11, 1995, states: “Bishop—3 instances (1) 14 yr old-[Complainant 1] (2) 19 yr old-[Complainant 2] (3) Priest of another diocese.” The note also states: “Priest Status: on leave—3 yr period working on own—no public ministry.”

303. In January 1996, Auxiliary Bishop Grosz met with Complainant 2. They discussed Complainant 2’s interest in the priesthood and his “negative relationship” with a priest; Grosz’s memo documenting the meeting does not identify the priest. With respect to the “negative relationship,” Grosz asked Complainant 2 if he could forgive “Fr. X.”

304. On or about September 8, 1998, *Fr. H* sent a letter to Bishop Mansell, requesting that Mansell clarify *Fr. H*’s status, including his ministry restrictions. The letter states that if

Mansell did not respond, *Fr. H* would seek relief from the Vatican.

305. On or about September 17, 1998, Bishop Mansell wrote to the Vatican in anticipation of *Fr. H*'s contact. Mansell's letter discusses three incidents: (a) "an inappropriate relationship with a fourteen year old" followed by counseling for *Fr. H*; (b) "inappropriate sexual activity" with an eighteen-year-old man; and (c) "an inappropriate relationship with a priest of another diocese." Mansell concluded that "[n]o bishop, once the facts are known, would risk the possibility of Father [*H*] hurting another individual."

306. On or about December 9, 1998, the Vatican acknowledged receipt of Bishop Mansell's letter and noted that "[a]s in all similar cases, it is always well to have the advice of a canonist well versed in procedural law to ensure avoidance of possible pitfalls along the way."

307. Although internal diocesan records imply that *Fr. H* remained removed from ministry, he continued to work in the Diocesan Corporation after 2002.

Defendants' Violations of Sexual Abuse Policies and Secular Fiduciary Duties

308. In March 2002, Vicar General Cunningham recorded a complaint that *Fr. H* was wearing clerical garb and introducing himself as a priest. Cunningham's memo notes that "[*Fr. H*] is currently doing work at [a] Parish." Bishop Mansell directed Cunningham to inquire into the complaint, citing the "many times" he had warned *Fr. H* "not to dress like a priest or have people refer to him as 'Father.'"

309. In May 2002, Vicar General Cunningham met with *Fr. H* and told him "that he would not be able to resume ministry and that he should not wear a collar or introduce himself as 'Father.'" Cunningham acknowledged during the meeting that the "Diocese continue[d] to support [*Fr. H*] and cover his health insurance," but Cunningham warned that this support could not continue indefinitely. Cunningham's memo also states that "[a]t the present time, [*Fr. H*] is

working as an organist at [a worship site] and refurbishing statues at [a parish].”

310. In June 2002, less than two weeks after the adoption of the *Charter*, Vicar General Cunningham memorialized a call from Complainant 3 regarding *Fr. H*'s alleged inappropriate sexual behavior before 1993. No details of the alleged behavior or Complainant 3's age at the time of the alleged behavior are included in the memo.

311. On July 11, 2002, Vicar General Cunningham met with *Fr. H* to discuss Complainant 3's allegations. *Fr. H* indicated that he had met Complainant 3 when the Complainant was fourteen years old. *Fr. H* denied touching Complainant 3. The Diocesan Corporation failed to sufficiently investigate Complainant 3's allegations pursuant to the *Charter* and the *Essential Norms*.

312. During the July 11, 2002 meeting, Vicar General Cunningham cited the *Charter* to reiterate *Fr. H*'s restrictions, explaining that “in light of the Bishops' Charter in Dallas, [(a)] that there was no possibility that he would ever return to a form of public ministry; [(b)] that he should not identify himself as a priest; and [(c)] that he should not be wearing clerical garb.” *Fr. H* responded that “since [their] last meeting, he was no longer wearing clerical garb or identifying himself as a priest.”

313. On or about October 20, 2003, Complainant 2 informed the Diocesan Corporation that he met *Fr. H* at age seventeen. Complainant 2 alleged that one night, while he was “out of it,” he realized that *Fr. H* was performing oral sex on him. Complainant 2 also suggested that this incident contributed to his suicide attempt. The Diocesan Corporation failed to adequately investigate Complainant 2's allegations.

314. *Fr. H* continued to work at a diocesan worship site or parish. The Diocesan Corporation was on notice of complaints that *Fr. H* failed to comply with the Diocesan

Corporation's directives not to publicly present himself as a priest. The Diocesan Corporation also received reports that *Fr. H* wore clerical garb and maintained an art studio at the worship site and allowed others to refer to him as "Father."

315. On June 4, 2004, Auxiliary Bishop Grosz memorialized a meeting with *Fr. H* of the same day. In the meeting, Grosz decided that *Fr. H* would continue to work in and receive compensation from the Diocesan Corporation. He rejected *Fr. H's* suggestion that such work was inconsistent with the *Charter*:

[*Fr. H*] questioned Bishop Grosz as to whether or not in light of the present "safe environment" situation, he might leave his position as organist at [the worship site] and perhaps move his studio to another place. That would mean he would need some additional compensation.

After some discussion, Bishop Grosz and [*Fr. H*] agreed to the present [sic]: [*Fr. H*] would continue with his present employment, that is, serving as organist at [the site] as well as to continue his work in his art studio.

If a problem arises relative to the above employment, [*Fr. H*] will then apply to the Diocese for greater financial compensation from the Diocese, which compensation would be similar to the compensation of a "retired priest."

316. On June 18, 2004, Auxiliary Bishop Grosz and *Fr. H* again discussed issues related to compensation. Grosz informed *Fr. H* that if he obtained a full-time job, he would forfeit his diocesan salary and benefits. Grosz also told *Fr. H* that he would receive a diocesan pension in the future. In a memo summarizing the conversation, Grosz shed light on the Diocesan Corporation's rationale for compensating and retiring priests accused of sexual abuse:

[*Fr. H*] was concerned that if, perhaps, he would no longer have specific employment, would he be able to move into the area of being considered "retired" as a priest. Bishop Grosz indicated that he did not foresee that happening, simply because the instances in which [*Fr. H*] was involved were not of a public nature. Of course, [*Fr. H*] is only 46 at the time. The retirement benefits would be for individuals who would be older as well as, perhaps, part of a public scandal situation.

[*Fr. H*] does not envision himself seeking laicization. The incidents in which he

was involved are not of a public nature.

Bishop Grosz encouraged [*Fr. H*] to continue his work in his studio at [a worship site], as well as to serve as organist at [the site].

. . . Bishop Grosz encouraged [*Fr. H*] to exercise extreme prudence in regard to all of his words and actions. [*Fr. H*] was very open to doing that, as he has been doing.

317. Further internal diocesan documents reflect concern that *Fr. H*'s work in the Diocesan Corporation was not appropriate in light of the sexual abuse allegations and the mandates of the *Charter*. Yet at the same time, the Diocesan Corporation sought to preserve *Fr. H*'s access to continued compensation and benefits. On February 28, 2008, Bishop Kmiec decided that the Diocesan Corporation would terminate *Fr. H* but provide him with "full benefits as a retired priest."

318. On March 3, 2008, Vicar General Slubecky wrote in an internal memo that he had met with *Fr. H* on that date and that *Fr. H* "understood that . . . the new policies initiated by the Catholic Conference warranted his separation as an organist for [the worship site] and renting art space."

319. In a letter to *Fr. H* dated the same day, Vicar General Slubecky notified *Fr. H* that "[w]e *recently* learned that you are serving as the organist at [the worship site]." (emphasis added). The letter terminated *Fr. H* pursuant to the *Charter* and diocesan policy because "a single incident of inappropriate conduct precludes further service."

320. In a separate letter to *Fr. H* dated March 3, 2008, copying Bishop Kmiec and others, Vicar General Slubecky confirmed *Fr. H*'s retirement benefit of \$1,450 per month (\$865 benefit and \$585 for room and board) in addition to the Diocesan Corporation's coverage of *Fr. H*'s health, dental, and car insurance.

321. Internal diocesan records maintained to record a priest's status reflect that *Fr. H*

retired on March 3, 2008. These records falsely state that *Fr. H* retired, when, in fact, the Diocesan Corporation removed him from a worship site because it believed that he had sexually abused a minor.

322. Among other things, the absence of documentation indicating the Diocesan Corporation's regular supervision of *Fr. H*, shows that the Diocesan Corporation failed to reasonably monitor him.

323. In March 2018, the Diocesan Corporation publicly identified *Fr. H* on a list of "diocesan priests who were removed from ministry, were retired, or left ministry after allegations of sexual abuse of a minor." After this disclosure, the Diocesan Corporation received two complaints alleging that between 1986 and 1993, *Fr. H* had sexually abused two minors.

324. In about September 2019, the Diocesan Corporation, in a disclosure on its website, indicated that it would refer *Fr. H* to the CDF, confirming that Bishop Malone had not done so as of that time. No documents reflecting a referral to the CDF were produced in response to the Attorney General's subpoena.

325. The Diocesan Corporation repeatedly violated the *Charter* and the *Essential Norms* by failing to sufficiently conduct internal investigations into allegations that *Fr. H* had sexually abused minors; failing to seek or, alternatively, reasonably document the DRB's assessment of sexual abuse allegations against *Fr. H*; and failing to refer *Fr. H* to the CDF. Instead, it prepared false or misleading business records; failed to reasonably monitor *Fr. H*; and disregarded the risk that *Fr. H* could sexually abuse minors. The Diocesan Corporation's actions concealed *Fr. H*'s conduct from the public and placed its beneficiaries at risk.