

**Fr. S**

555. *Fr. S* was ordained in 1966.<sup>42</sup> As early as 1986, the Diocesan Corporation was on notice of a substantial likelihood that *Fr. S* had sexually abused a minor. Years later, instead of applying the *Charter* and the *Essential Norms*, the Diocesan Corporation allowed him to retire. The Diocesan Corporation also failed to refer *Fr. S* to the CDF. Further, the Diocesan Corporation engaged in other improper conduct by (a) failing to maintain any record of *Fr. S*'s alleged sexual abuse of a minor; (b) disregarding the risk of sexual abuse; (c) making false statements to its beneficiaries by allowing *Fr. S* to publicly announce that his resignation was due to health issues; (d) preparing false records to establish a purported, legitimate basis for *Fr.*

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<sup>42</sup> Unless otherwise noted, the allegations against *Fr. S* are based exclusively on documents that were obtained from public sources or produced from diocesan files for Attorney General review. The allegations against *Fr. S* 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.

S's retirement and eligibility for associated benefits; (e) providing these benefits and other compensation to *Fr. S* even though laicization would have relieved the Diocesan Corporation of its duty to financially support him; and (f) failing to reasonably monitor *Fr. S*, exposing itself and minors to unnecessary risks.

*Pre-2002 Notice of and Response to Sexual Abuse Allegations*

556. Between 1967 and May 1985, *Fr. S* was assigned to parish ministry and appointed pastor in 1983. Records indicate that the Diocesan Corporation likely received information that *Fr. S* had committed sexual abuse before he resigned in 1985. A complainant's attorney recently alleged to the media that *Fr. S* had abused his client in 1983.

557. In May 1985, *Fr. S* submitted a resignation letter to Auxiliary Bishop Trautman, "requesting time for a Sabbatical for prayer, study and consultation, so that [he] might be a more effective priest." In a handwritten note by Trautman, attached to the file copy of this letter, Trautman wrote: "I asked [*Fr. S*] to word resignation letter in this fashion. [*Fr. S*] will go to Southdown on June 8 for an assessment."

558. In a recent interview with the media about his appearance on a diocesan list of priests accused of sexual abuse, *Fr. S* purportedly stated that when he had "crossed the line" and "d[one] something [he] shouldn't have done," he "got [help]" and spent seven months at Southdown. Diocesan records confirm that *Fr. S* received mental health treatment from about August 1985 to January 1986. In an August 1985 letter from *Fr. S* to the Diocesan Corporation, he discussed his treatment at Southdown, including his "sex therapy."

559. In March 1986, *Fr. S* was appointed chaplain at a hospital and at a nursing or retirement home as well as weekend-assistant at a parish where he resided. The Diocesan Corporation advised him that it would review these assignments in three months and compensate

*Fr. S* on a monthly basis, commensurate with a pastor's salary.

560. Vicar General Cunningham drafted two memos on July 2, 1991. The first, to the file, documented *Fr. S*'s treatment at Southdown and the destruction of the related records:

[*Fr. S*] was treated and assessed at Southdown ending the week of June 19, 1985. At that time, residential treatment was recommended for him in order that he might modify disfunctional [sic] personality problems. Residential treatment at Southdown was strongly suggested.

In accordance with regulations, the assessment report was destroyed after one year.

The Attorney General has yet to find any evidence of these "regulations." The second memo, to Bishop Head, appeared to relay a purported recommendation from Southdown regarding *Fr. S*'s return to ministry:

When [*Fr. S*] left Southdown, a letter dated February 25, 1986, recommended to the diocese that "it will be helpful for him to work through a period of rehabilitation in which he will not be alone, but after proving his reliability to the diocese should once again be placed in a position of parish responsibility."

The final letter, therefore, did not indicate he could not be placed in a position of parish responsibility.

561. In January 1992, *Fr. S* returned to parish ministry.

562. In August 1999, *Fr. S* wrote to Bishop Mansell to request a pastorate. After this request, *Fr. S* submitted to another Southdown evaluation. On January 6, 2000, Vicar General Cunningham drafted a memo that summarized his call with Southdown of the same day. Southdown advised that it: (a) had observed favorable changes in the "priest currently undergoing an evaluation" and (b) recommended *Fr. S* for a pastorate with only a "year-to-year commitment." Southdown recommended a pastorate for *Fr. S* if he agreed to, among other things, contact his diocesan counselor on a monthly basis and regularly meet with a supervisor and, separately, meet with other priests "so that he [would] not go far afield emotionally." Based

on all of this information, Cunningham recommended *Fr. S* for a pastorate and suggested that if Mansell could meet *Fr. S* on January 10, 2000, the appointment could be effective by January 15. On January 10, Mansell appointed *Fr. S* pastor for a six-year term. *Fr. S*'s file lacks records documenting the Diocesan Corporation's adherence to Southdown's recommendations or the Diocesan Corporation's regular supervision of *Fr. S*.

*Defendants' Violations of Sexual Abuse Policies and Secular Fiduciary Duties*

563. Less than four months after the *Charter* was adopted, *Fr. S* submitted his resignation to Bishop Mansell because of purported health issues: “[T]he increasing stress related pressures has [sic] made it necessary to ask for a medical leave of absence without any responsibilities, so I might care for my mental, emotion [sic] and physical health needs.”

564. On information and belief, in October 2002, *Fr. S* publicly announced the following resignation to parishioners:

I would like you to know that I have asked the Bishop to accept my resignation as Pastor . . . and to grant me a medical Health [sic] leave of absence where I will be relieved of all my priestly responsibilities for the present time.

This decision has come after months of prayer, reflection and professional help. As my mental, emotional and physical health has begun to be affected, I know it is best for myself and for you to go the way I have chosen.

565. Diocesan records maintained to record a priest's status reflect that *Fr. S* was placed on medical leave on October 31, 2002, and then later retired on September 1, 2003. These documents and *Fr. S*'s statements were false because they indicated that *Fr. S* took a medical leave and retired in the ordinary course when, in fact, the Diocesan Corporation had removed *Fr. S* from ministry because of sexual abuse allegations.

566. Auxiliary Bishop Grosz prepared a memo in September 2004 regarding his meeting with *Fr. S*. The memo notes at the outset that “[*Fr. S*] informed Bishop Grosz about his

‘change in ministry,’” but the memo does not elaborate on the “change.” According to the memo, *Fr. S* confirmed his understanding that he was a retired priest but stated that the Diocesan Corporation had not sent him written confirmation about his status. Grosz indicated that he would check *Fr. S*’s file. The memo concludes with Grosz outlining certain restrictions placed on *Fr. S*:

Grosz assured him that he continues to be a priest of the Diocese of Buffalo. However, while he must refrain from celebrating public Mass or sacraments, wearing the collar, or being called “father,” he still should celebrate Mass daily as well as pray the Liturgy of the Hours. He is taking on a kind of “monastic” vocation at the present time.

567. By letter dated September 23, 2004, Auxiliary Bishop Grosz notified *Fr. S* that he had reviewed *Fr. S*’s file and uncovered an official notice from Vicar General Cunningham confirming the date of *Fr. S*’s retirement.

568. In May 2006, *Fr. S* sent an announcement of his forty-year anniversary of ordination to his family and friends. The announcement notes that he would be celebrating his anniversary at a Mass with his immediate family. *Fr. S* signed the announcement “Father [S].” Bishop Kmiec received the announcement and, in response, sent *Fr. S* a congratulatory letter, wishing *Fr. S* “an abundance of God’s graces as [he] celebrate[d] 40 years of priestly ministry.” *Fr. S*’s file lacks any record of the Diocesan Corporation’s attempts to stop *Fr. S* from celebrating Mass or publicly holding himself out as a priest.

569. In January 2007, *Fr. S* sent an announcement about his mother’s death to his friends and invited priests to concelebrate the funeral with him. *Fr. S* wrote the letter on diocesan letterhead, which identified the sender as “Rev. [S].” Bishop Kmiec received the announcement and replied with a letter expressing his condolences.

570. Among other things, the lack of documents in *Fr. S*’s file indicating that the Diocesan Corporation regularly supervised him shows that the Diocesan Corporation failed to

reasonably monitor *Fr. S*.

571. In March 2018, the Diocesan Corporation publicly identified *Fr. S* on a list of priests “who were removed from ministry, were retired, or left ministry after allegations of sexual abuse of a minor.” *Fr. S*’s file contains no information showing the basis for this disclosure. A few days later, a news outlet reported on the list and *Fr. S*’s appearance on that disclosure. According to the story, *Fr. S* purportedly made the following admissions: “[Years ago] I went to the bishop and I told him I believed I crossed the line. I said I needed help and I got it’ . . . . ‘I just did something I shouldn’t have done.’” *Fr. S* then stated that the Diocese had removed him from ministry in 2002 because of the *Charter*.

572. In about September 2019, in a disclosure on its website, the Diocesan Corporation indicated that it would refer *Fr. S* to the CDF, confirming that Bishop Malone had not done so prior to that time. No referral documents were produced to the Attorney General.

573. The Diocesan Corporation violated the *Charter* and the *Essential Norms* by failing to refer *Fr. S* to the CDF. Instead, it failed to maintain any record of *Fr. S*’s sexual abuse of a minor; allowed *Fr. S* to make false or misleading statements to its beneficiaries; prepared false or misleading business records; failed to reasonably monitor *Fr. S*; and disregarded the risk that *Fr. S* could sexually abuse minors. The Diocesan Corporation’s actions concealed *Fr. S*’s conduct from the public and placed its beneficiaries at risk.