

Fr. W

665. *Fr. W* was ordained in 1970.⁴⁶ As early as 1993, the Diocesan Corporation was on notice of a substantial likelihood that *Fr. W* had sexually abused a minor yet allowed him to retire and leave ministry. Years later, instead of applying the *Charter* and the *Essential Norms*,

⁴⁶ Unless otherwise noted, the allegations against *Fr. W* are based exclusively on documents that were obtained from public sources or produced from diocesan files for Attorney General review. The allegations against *Fr. W* 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.

the Diocesan Corporation failed to conduct internal investigations into allegations that *Fr. W* had sexually abused minors; failed to seek or, alternatively, reasonably document the DRB's assessment of sexual abuse allegations against *Fr. W*; and failed to refer *Fr. W* to the CDF. Further, the Diocesan Corporation engaged in other improper conduct by (a) failing to maintain any record of *Fr. W*'s alleged sexual abuse of a minor and (b) failing to reasonably monitor *Fr. W*, exposing itself and minors to unnecessary risks.

Pre-2002 Notice of and Response to Sexual Abuse Allegations

666. After his ordination, *Fr. W* generally served in parish ministry. Before 2002, his file lacks any complaints of sexual abuse. But other documentation in the file and public information evidences that the Diocesan Corporation was on notice of a substantial likelihood that he had sexually abused at least one minor before 2002.

667. In June 1989, *Fr. W*, a pastor at the time, submitted his resignation to Bishop Head. In his resignation letter, *Fr. W*—without explaining the context for his letter—also surrendered his faculties and requested an indefinite leave of absence to “[possibly] reconsider [his] call to the priesthood.” Further, *Fr. W* expressed his anger at Head, in part, because of Head’s “lecture” about the seriousness of an unidentified “issue,” which led *Fr. W* to seek counseling. At about this time, *Fr. W* disclosed to his parishioners that he was taking an indefinite leave of absence because of “burn[] out.”

668. Auxiliary Bishop Trautman drafted a response for Bishop Head to *Fr. W*'s resignation letter. Trautman's proposed response appears to commend *Fr. W* for his admission to some form of misconduct: “You have humbly admitted that personal behavioral mistakes have been made. I believe that therapy available at Southdown or St. Luke's will greatly assist you and can enable you to resume your ministry with joy and peace.”

669. In December 1989, Southdown advised Auxiliary Bishop Trautman that *Fr. W* had begun receiving mental health treatment at its facility. Internal diocesan records indicate that *Fr. W* completed his treatment at Southdown in May 1990.

670. A few months later, in October 1990, *Fr. W* returned to ministry as a pastor. He later was appointed pastor of another parish in February 1993.

671. On information and belief, in about the summer of 1993, Complainant 1 filed a complaint with the Diocesan Corporation, alleging that, beginning in 1971, when he was a child, *Fr. W* had sexually abused him. This complaint is not contained in *Fr. W*'s file.

672. In July 1993, Vicar General Cunningham informed *Fr. W* that Bishop Head had placed *Fr. W* on administrative leave and revoked his faculties. In August 1993, *Fr. W* resigned his pastorate and simultaneously announced his retirement to Head. The Diocesan Corporation's current, public list of *Diocesan Priests with Substantiated Allegations of Abuse of a Minor* represents that *Fr. W* was removed from ministry in 1993.

673. In October 1993, Bishop Head alerted *Fr. W* to public inquiries about his status: "[T]he Buffalo News has also asked questions about a number of men, including you. The response we gave indicated that you had resigned and did not intend to resume priestly ministry for personal reasons and that confidentiality would dictate that we say nothing else."

674. In August 1993, Bishop Head urged *Fr. W* to seek his own laicization. There is no evidence in *Fr. W*'s file that the Diocese further pursued this recommendation.

675. On information and belief, after *Fr. W* resigned, he moved to Alaska.

676. On information and belief, in about 1994, the Diocesan Corporation resolved a dispute with Complainant 1 regarding his legal claims against the Diocesan Corporation.

Defendants' Violations of Sexual Abuse Policies and Secular Fiduciary Duties

677. After the *Charter* was adopted in June 2002, there is no evidence in *Fr. W's* file that the Diocesan Corporation began an independent investigation into the allegations that *Fr. W* had sexually abused Complainant 1.

678. In June 2011, writing from Hawaii, *Fr. W* asked Auxiliary Bishop Grosz to inquire about *Fr. W's* eligibility for a pension from the Diocesan Corporation. Bishop Kmiec dismissed *Fr. W's* request: "Due to the circumstances under which you separated from the Diocese of Buffalo, you are not eligible for pension benefits from the Diocese of Buffalo. Be assured of my prayers for you in your retirement years in Hawaii."

679. In March 2012, Complainant 2 filed a complaint with the Diocesan Corporation, alleging that in about 1978 or 1979, *Fr. W* had groomed and repeatedly sexually abused him, when he was fifteen or sixteen years old. *Fr. W's* file does not contain any decrees opening or closing a diocesan investigation into Complainant 2's claims. The Diocesan Corporation failed to investigate Complainant 2's allegations pursuant to the *Charter* and the *Essential Norms*.

680. In June 2012, Complainant 3 filed a complaint with the Diocesan Corporation, alleging that in 1971, when he was twelve or thirteen years old, *Fr. W* took him to his bedroom in the rectory, undressed him, and touched his genitals until he defended himself. The Complainant also alleged that when he was seventeen or eighteen years old, *Fr. W* fondled him. *Fr. W's* file does not contain any decrees opening or closing a diocesan investigation into Complainant 3's claims. The Diocesan Corporation failed to investigate Complainant 3's allegations pursuant to the *Charter* and the *Essential Norms*.

681. After 2012, Complainant 4 filed a lawsuit against the Diocesan Corporation and others, alleging that *Fr. W* had sexually abused him between 1979 and 1982, when he was a

minor.

682. In about mid-2015, Auxiliary Bishop Grosz attempted to locate *Fr. W*, in part, by inquiring with priests of the Diocese. One priest knew *Fr. W*'s address but would not reveal it, demonstrating the Diocesan Corporation's failure to reasonably monitor *Fr. W*. Grosz did receive information that *Fr. W* currently lived in New York State.

683. *Fr. W*'s file contains a draft document entitled *Pastoral Attempts by Bishop Malone To Have Cleric Desist from His Contumacy and from His Voluntary and Illicit Absence from Ministry Regarding the Matter of Rev. W*. This document, dated September 13, 2015, states, among other things, that:

- 1) In 1994, Most Reverend Edward D. Head, Bishop of Buffalo and Rev. [W] met to discuss his decision to resign from his parish and permanently resign from priestly ministry. . . . In a letter dated (Date), Rev. [W] . . . reaffirmed his intention to leave the priesthood.
- 2) Since leaving his priestly ministry in (date), the cleric last had contact with the Diocese of Buffalo in (date). There had been no further contact with the Diocese of Buffalo by the cleric concerning his status as a cleric.
. . .
- 4) It is apparent that the cleric (does / does not) desire to voluntarily petition for a return to the lay state with a dispensation from the obligations of holy order including the obligation of celibacy, to participate in this process or respond to the petition.

Fr. W's file does not contain a finalized version of this document.

684. *Fr. W*'s file contains an unsigned *Declaration of Cleric's Irreversible Abandonment of Ministry Regarding the Matter of Rev. W*. The document, dated December 7, 2015, states in part that:

I, the Most Reverend Richard J. Malone, Bishop of Buffalo, aware that back in 1994 it was agreed upon between my predecessor, Most Reverend Edward D. Head and Reverend [W]; that Reverend [W] would seek voluntary laicization from the priesthood

However, that never occurred, and as a result, the Diocese of Buffalo is still the diocese of incardination of Reverend [W]. . . .

The cleric, Reverend [W], had persisted and continues to persist in the voluntary and illicit absence from ministry and has persisted in his abandonment of ministry for a period of more than five consecutive years.

. . .

Wherefore, as of today, December 7, 2015, I formally and [sic] asking you to begin the process of voluntary laicization. You have brought truly grave scandal to not only the priesthood and your brother priests, but also to . . . the Diocese of Buffalo.

Fr. W's file does not contain a final version of this document.

685. In March 2016, a diocesan attorney prepared a memo to his file, purporting to summarize DRB business regarding Complainants 2 and 4:

At the [DRB] meeting, we decided that [the Victim Assistance Coordinator] will continue to work with [Complainant 2] and provide support. At this time, the Board was not inclined to recommend that the Diocese provide him with the lump sum payment that he is seeking, especially because he seems to keep changing his plans about how he will support himself. . . .

The memo also documents the Diocesan Corporation's decision "not to draft a letter for Bishop Malone to send to Fr. [W] seeking a voluntary dismissal from the clerical state at this time, especially in light of the ongoing litigation ([Complainant 4])." *Fr. W's* file lacks any record of this DRB meeting prepared by the DRB.

686. On information and belief, in about June 2016, the Diocesan Corporation resolved a dispute with Complainant 4 regarding his legal claims.

687. In March 2018, the Diocesan Corporation publicly identified *Fr. W* 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 at least two complaints alleging that, between 1966 and 1971, *Fr. W* had sexually abused minors.

688. *Fr. W's* file includes an unsigned Decree of Suspension. The decree, dated June 26, 2018, revokes *Fr. W's* faculties based, in part, on an investigation which found that *Fr. W* had sexually abused minors. *Fr. W's* file does not contain a signed version of the decree nor a report of investigation.

689. *Fr. W's* file contains an unsigned letter from Bishop Malone to the CDF dated June 26, 2018, in which Malone related that: (a) an investigation had found that *Fr. W* had sexually abused minors; (b) *Fr. W* had not responded to Malone's December 2015 suggestion that *Fr. W* seek laicization; and (c) *Fr. W* was leading a life of prayer and penance, thus, no further action was needed. *Fr. W's* file does not include a finalized version of this letter.

690. In a letter to Bishop Malone, a diocesan attorney recounted that during a meeting of the DRB in December 2018, Malone, based on the DRB's recommendation, had directed the attorney to attempt to settle Complainant 2's claims against the Diocesan Corporation. In January 2019, the Diocesan Corporation entered into a settlement agreement with Complainant 2. The agreement notes that Complainant 2's allegations had been investigated and presented to the DRB. *Fr. W's* files does not contain this presentation to the DRB.

691. In about November 2019, the Diocesan Corporation, in a disclosure on its website, indicated that it would refer *Fr. W* to the CDF, confirming that Bishop Malone had not done so as of that time.

692. The Diocesan Corporation repeatedly violated the *Charter* and the *Essential Norms* by failing to conduct internal investigations into allegations that *Fr. W* had sexually abused minors; failing to seek or, alternatively, reasonably document the DRB's assessment of sexual abuse allegations against *Fr. W*; and failing to refer *Fr. W* to the CDF. Instead, it failed to maintain any record of *Fr. W's* sexual abuse of a minor and failed to reasonably monitor *Fr. W*.

The Diocesan Corporation's actions concealed *Fr. W's* conduct from the public and placed its beneficiaries at risk.