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February 20, 2008

Bishop Thomas Rodi
Diocese of Biloxi
1790 Popps Ferry Road
Biloxi, Mississippi 39532-2118

Re: Schmidt v. Rodi, et al

Dear Bishop Rodi,

I respond to your correspondence of February 12, 2008, directed to me, and the other 150 plaintiffs who have filed suit against you, Father Dennis Carver and the Diocese of Biloxi. At the outset, I am compelled to tell you how your letter saddened me and my family.

Initially, you make the comment that “there is disagreement as to whether Holy Family Parish should have one or two churches.” You know full well that this is a factually incorrect statement. The lawsuit is about two simple secular questions; (1) can you, as the trustee of the St. Paul Church property sell or use that property to the detriment of the congregants of St. Paul Parish? and (2) can you misuse donated funds that were specifically donated for the purpose of rebuilding St. Paul Church in Pass Christian. The lawsuit does not question anything more or less and your statement that the disagreement is about “two churches” is incredibly false and misleading.

I am particularly surprised that you would continue to mischaracterize the proceedings, especially in light of the admonitions that you, Father Carver and the Diocese received from the Judge assigned to hear the case. In the Court decision of August 8, 2007, the Judge said that the decision to combine the Parishes was not an issue and that your claims to the contrary were “...inherently inaccurate...” (For the entire applicable portion of this order please see the attached exhibit.) Given the foregoing, I request that you notify all of the recipients of your letter that you were in error concerning your initial assertions.

Secondly, you failed to mention that the lawsuit also sought direction from the Court concerning the defendant’s misuse of donated funds. I, along with the other plaintiffs have asserted that monies donated for the sole purpose of rebuilding St. Paul’s Church have been misused. We went to great lengths to document this in the court papers, even including a reference to your website that was soliciting funds for this very purpose on the day we filed the

suit, well after all defendants knew you did not intend on rehabilitating or repairing St. Paul's Church.

In your letter you go on to state, or imply, that because three of the plaintiffs canonical appeal of issues, outside of those covered in the lawsuit, were dismissed by the Church, not on the merits of the appeal, but solely on the grounds that the appeal was not timely, that our lawsuit lacks merit. You failed to explain the reasons for the dismissal and its contents. Regardless of the foregoing you seem to say that because of the untimely appeal all of the plaintiffs should dismiss their lawsuit. This simply makes no sense since Judge Zebert himself has said the issues of the plaintiffs are "...purely secular in nature..."

If your "responsibility" is to make certain that people are "aware" of the dismissal for untimeliness, I call on you to explain this in a factually correct manner. Please forward a detailed explanation of those proceedings to the recipients of your letter and explain what issue we raised on appeal, and that the appeal was dismissed not on the merits, but only for timeliness.

You then go on to request "healing" within the Parish. I am surprised by your request. This request comes from you and on behalf of Father Carver who have continuously refused to explain why you will not act as a good steward of church property. I suggest that no healing can take place until you recognize your obligations under the trust.

Lastly, you seem to be ordering the plaintiffs to dismiss this lawsuit for no reason. Are you concerned about the outcome? Are you concerned that at some point in these proceedings the Court will say that the words contained in the deeds that you signed have meaning? Are you concerned that the Court will say it is wrong to ask people to give money to rebuild a church and then refuse to rebuild and use the money for other reasons?

I have always been taught, first by my parents, secondly by the St. Joseph nuns (St. Frances Cabrini) and by the Christian Brothers (Christian Brothers School) and lastly by the Jesuits (Jesuit High) that one must not accept wrongful acts if it is within the power of the offended to correct that wrong. I, for one, am not going to idly sit back and allow your abuse of trustee property and misuse of donated funds without seeking secular redress to a final decision. Do you believe that you have the "power" or authority to order your flock to dismiss the lawsuit? Is it your position that you have the power and authority to order the plaintiffs to dismiss the lawsuit? If so, please advise the basis of this authority.

By this letter, I seek your counsel concerning the recent actions of Father Carver who unilaterally dismissed, without notice, the duly elected members of the Parish Council. Father Carver neglected to inform the members, elected in February of 2007 that he had decided to disband them. (By the way, at least one of the members learned of their dismissal third hand, by a letter from your lawyer, Kevin Necaie, dated January 1, 2008.) It is only within the last week that the parish has learned that Father Carver has appointed a new Parish Council which largely consists of the Deacon and three other church employees. Obviously the priest is not interested in consulting with parishioners, but rather in making sure no one challenges his decisions. As you know, I am not a canon lawyer; however I cannot believe that this action is allowed by the church. I would appreciate your thoughts on this.

With respect, I ask that you personally review the behavior of Father Carver who seems unwilling to accept the fact that reasonable minds may differ concerning your trust obligations and the proper use of donated funds. Disagreement, however, does not justify his accusations, to certain members of the parish, that my wife and I, Frank and Shirley Schmidt and Dave and Jane

Dennis are “cancers” within the parish. While we were honored to be included with the Schmidt and Dennis families, I request that Father Dennis publicly apologize for his remark.

As you will recall, when Father Dennis announced that Holy Family Parish would not, in fact, have two churches, as both he and you promised the parish, Father Carver again promised that the church building in Pass Christian would be restored and rebuilt, in its current configuration, as a “Community Center”. While we hope someday that it will once again be used as a church, in the meantime I ask that you immediately take steps to restore the building to prevent its wasting. As a faith community, the church has an obligation to the City of Pass Christian, and its people, to restore this facility and assist the City in its rebuilding efforts. Hopefully, we can agree on steps that can be taken to restore the building on an interim basis.

In conclusion, I cannot understand your and Father Carvers’ indifferent behavior towards the members of St. Paul Parish. After the “decision” was made you failed to present yourself to the congregation to explain your reasoning. I can only assume that you ordered and planned the behavior of Father Carver in which he has steadfastly refused to engage in any dialogue to explain his behavior.

I am available at any time to discuss this with you and look forward to your response.

Sincerely,

HENRY W. KINNEY

HWK:bsm

Cc: The Congregation of St. Paul’s Church
The Congregation of Holy Family Parish
Mayor Leo McDermott

Attached see “Exhibit A” Ruling of Judge Zebert

VI.

Plaintiffs allege that the Defendants incorrectly allege in their pleadings that the Complaint filed herein is intended to have the Court review the internal ecclesiastical decisions of the Catholic Church. *See*. Motion to Dismiss at ¶3. Specifically, Bishop Rodi's decision to combine St. Paul Parish and Our Lady of Lourdes Parish. *See* Brief at n. 9. These claims are inherently inaccurate. Upon review of the Complaint, this Court will note that The Code of Canon Law is not mentioned or questioned. The issues Plaintiffs bring before this Court are purely secular in nature, primarily: (1) Is Bishop Rodi and/or the Catholic Diocese of Biloxi holding title to the real property generally known as St. Paul Catholic Church, and the insurance proceeds, cash deposits and donations and charitable contributions received expressly for St. Paul Church, in trust for the benefit of Plaintiffs, as members of the congregation of St. Paul Catholic Church, Pass Christian, Mississippi? (2) If they are holding such real and/or personal property in trust for the Plaintiffs, do Defendants owe Plaintiffs a fiduciary duty with regard to the management of such property? (3) Do Defendants have the right to ignore the wishes and intentions of donors by diverting donations from their intended purpose to another purpose of Defendants'; choosing? And (4) Do Defendants have the right to convert the St. Paul Church building into a diocesan community center? (emphasis added)

VII.

Nowhere in the Complaint is there any demand for the Defendants to reopen St. Paul Church. Plaintiffs have simply alleged that it would be a violation of Mississippi law for Defendants to seize assets they are holding in trust for the Plaintiffs and convert these assets for their own use.

VIII.

The Affidavit (of the Bishop) incorrectly focuses on Bishop Rodi's authority to consolidate St. Paul Parish and Our Lady of Lourdes Parish into the newly formed Holy Family Parish. In support of his decision to combine the two parishes, the Most Reverend Thomas J. Rodi ["Bishop Rodi"] is of the opinion that "The Code of Canon Law sets forth a "specific process" by which a bishop must follow when altering parishes such as St. Paul's. Canon 515; 127" *See*. Affidavit of Bishop Rodi at ¶16. Bishop Rodi further avers that "this process was followed when reaching the decision". *Id.* Bishop Rodi does not identify what steps make up this "specific process", nor does he indicate what steps he actually took. Not only is Bishop Rodi making conclusory allegations without providing supporting facts

based upon personal knowledge, these allegations are not applicable to the issues before this Court.

IX.

It does not appear to this Court that the merger of the two parishes is before this Court and Plaintiffs have not questioned Bishop Rodi's decision to merge the two parishes. The opinions contained in the Affidavit have limited probative value to the issues before this Court. (emphasis added)

X.

The conclusory allegations contained in the Affidavit (of the Bishop) appear to be general statements of fact and which do little more than emphasize Defendants' legal arguments". For the Affidavit to be of probative value, it should describe in detail all of the steps in the "specific process" the individual Defendant were required to follow in deciding to close St. Paul Church and convert the church building into a diocesan community center; in deciding to convert the insurance proceeds, and other monies Defendants are holding in trust for Plaintiffs, as members of the congregation of St. Paul Church, for their own use; and in deciding to ignore the intentions of the donors and divert donations from their intended purpose. In addition, the Affidavit should also describe in detail what steps were actually taken by Defendants in making these decisions.