

MEMORANDUM

To: The Most Reverend Lee A. Piche

Fr: Reverend D [REDACTED] G [REDACTED] Delegate for Safe Environment

Re: Archbishop John Nienstedt Investigation

CC: The Most Reverend Andrew Cozzens

Date: July 7, 2014

I was very saddened to learn July 3, 2014 that Matthew Forsgren and David Wallace-Jackson have withdrawn as counsel to the Archdiocese in the matter of the investigation of Archbishop John C. Nienstedt. This is not a step that lawyers take lightly and they indicated in their letter believed they had little choice. Ultimately, lawyers only take this step when they believe they would violate their own personal ethics or the ethical rules of professional responsibility. As I indicate in more detail at the conclusion of this memo, I urge you Bishop Piche on behalf of the Archdiocese to reengage Greene Espel to complete its important work. Below, I will outline from my perspective the process that led to the investigation of Archbishop Nienstedt, the investigation itself and the events leading up to the resignation of Mr. Forsgren and Mr. Wallace-Jackson. My analysis will include attendant issues that are concerning to me and should be concerning to our Catholic faithful and to the Archdiocese. I will also provide you soon with an updated memorandum related to the Safe Environment of the Archdiocese and Archbishop John Nienstedt.

In the fall of 2013, two main streams of information converged regarding allegations of misconduct by Archbishop John C. Nienstedt. The first was a memo given to me by Fr. E [REDACTED] T [REDACTED] who had recently met with [REDACTED] wherein [REDACTED] recounted an unwanted touch that had occurred while [REDACTED] was a priest serving in the Archdiocese of St. Paul and Minneapolis. Fr. T [REDACTED] also referenced that [REDACTED] told a second priest about this unwanted touch, Fr. M [REDACTED] B [REDACTED]. The second source of information was Joe Kueppers who told me he had received letters this past fall from the "Happy Tap" (a gay bar and strip club in Windsor, Ontario) in which the writers alleged they knew Archbishop Nienstedt and intimated that he had spent time in their establishment. Joe also told me that some of his [REDACTED] colleagues with whom she worked in the Twin Cities arts industry indicated to her that they had knowledge that Archbishop Nienstedt had led a promiscuous gay lifestyle while living and working as a priest in Detroit. Previously, I had heard from a priest of this Archdiocese who wishes to remain anonymous that Archbishop Harry Flynn had conveyed his concerns in this regard to Cardinal Giovanni Battista Re, then Prefect for the Congregation for Bishops in Rome. Archbishop's concerns were based on a prior conversation that Flynn had with a Detroit priest who confirmed to him that then Monsignor Nienstedt had "come on to" him while he was at a parish in suburban Detroit. Earlier this year, Archbishop Flynn confirmed that he had both a conversation with the Detroit priest a number of years ago and a subsequent conversation with the aforementioned Cardinal in Rome. This same priest also told me that Sr. M [REDACTED] F [REDACTED] a St. Thomas University Board Member, had indicated

JAL 5/29/15 (11)



1/11

to other board members that people in Detroit knew that Archbishop Nienstedt was gay and that he had lived a promiscuous gay lifestyle. Another priest of our Archdiocese who also wishes to remain anonymous told me that while he was giving a program in Detroit, a priest of the Archdiocese of Detroit expressed similar concerns regarding Archbishop Nienstedt and his past.

Given the above, a group of chancery officials met in November of 2013 to discuss these allegations. Present at this meeting were Joe Kneppers, Susan Mulheron, Sara Mealey, Brian Wenger, and myself. (There may have been one or two others that I cannot recall.) At that meeting it was decided that these allegations should be investigated and that I would write up a memo which would be presented to Archbishop Nienstedt. Further, there was consensus that the Archbishop should be encouraged to allow these allegations to be investigated in the form of an internal investigation. I remember Susan Mulheron stated an objection and advocated for someone outside the Archdiocese to conduct the investigation. Why an investigation of the allegations against Archbishop Nienstedt? First, in justice, it was the right thing to do. If similar allegations had come into the chancery regarding any priest, there is no doubt we would investigate them. We believed that these allegations at least rose to the level of credible, meaning that they were not frivolous or manifestly false. Second, the decision to investigate these allegations against the Archbishop is an important statement to victims of clergy abuse and misconduct that we do indeed take these matters seriously and that everyone is held accountable for their behavior, no matter their rank or status.

Third, at a time when we were attempting to restore trust among our important constituencies, it would have been unconscionable and unjust to do nothing in light of what we had learned. Had we not moved forward with an investigation, our Catholic faithful and the general public would be rightly perturbed and their trust further undermined. Regarding the nature of the allegations, it did not matter whether the behavior was of a homosexual or heterosexual character. Sexual misconduct is a violation of the moral law and the code of canon law, and it did not matter in the present case of the Archbishop what type (gay or straight) of alleged misconduct was involved. Thus, given the emerging consensus to look into these matters, I wrote a November 22, 2013 memorandum outlining the allegations and advocating that, in justice, these claims must be investigated as they pertained to the reputation of the Archbishop and the good of the Archdiocese. Bishop Piche and Mr. Brian Wenger presented the memorandum to Archbishop Nienstedt on Monday November 25, 2013. Archbishop Nienstedt took the next several weeks to decide whether to submit to an internal investigation of these claims. In December of 2013, I had a conversation with Brian Wenger. He told me he would strongly encourage Archbishop Nienstedt to agree to the investigation, and that if he didn't, Brian would consider stepping down as outside counsel to the Archdiocese. I told Brian that if Archbishop Nienstedt did not agree to have these allegations investigated, I would consider moving the matter beyond the Archdiocese to an appropriate authority. I believe Archbishop Nienstedt was aware of both Brian and my respective positions and it may have in part informed his decision to agree to the investigation.

On December 23rd, Mr. Jon Hopeman, the Archbishop's attorney, called me at Our Lady of Lourdes. He aggressively demanded the names of the individuals making the allegations and referred to the matter as a witch-hunt. Presumably, he wanted to call those alleging the misconduct and confront them. It would have been highly inappropriate of me to give him these names, and certainly not in keeping with proper protocol for an internal investigation. In mid-

January of 2014, Mr. Kueppers informed me that Archbishop Nienstedt had agreed to the investigation of the allegations. The Archbishop acknowledged recently in his interview with Mr. Forsgren and Mr. Wallace-Jackson that it was a possible MPR story regarding [redacted] that prompted his decision. Archbishop Nienstedt has recently stated, after the story of the investigation broke, that he agreed to the investigation because he decided he must submit himself to the same standard he would submit any priest under similar circumstances.

During the second half of January, I worked diligently with Mr. Kueppers to find a lawyer who could ably and confidentially undertake this important work. After Mr. Hopeman rejected several names of prominent and skilled attorneys, we arrived at the name of Mr. Forsgren. Mr. Kueppers told me that an email he had received from Mr. Hopeman included Mr. Forsgren's name as one of three possible attorneys for the investigation. (In the earlier debate regarding the possibility of an investigation, one of the concerns that many had was the possibility the investigation could be made public by any of the interviewees who would be approached in an interview. Despite that risk, many believed that an investigation was necessary.)

Regarding the possibility of Mr. Forsgren as lead investigator, I called Brian Wenger to inquire about Matt Forsgren as they had worked together for a number of years at Briggs and Morgan. Brian told me that Matt had handled several sensitive matters very well and was both a discreet and able lawyer. Brian believed Matt was the right man for the job. When I later learned about Matt's support of Lawyers United for All Families, I called Brian again, this time to inquire of his feelings regarding Matt's affiliation with this group, and whether this would affect his ability to conduct the investigation. Brian told me that it would not, and that Matt was a person of integrity who would not be biased because of this issue. I also raised this question with Mr. Forsgren in a late January phone call and he indicated he had clients on both sides of this issue and that it would not affect his ability to fairly conduct the investigation. I believe that Mr. Forsgren has more than adequately addressed this issue in a recent letter written to Mr. Hopeman, in which you were cc'd. In that same late January conversation with Mr. Forsgren, I asked him whether his professional relationship with Mr. Hopeman, which he described as friendly, would influence his ability to conduct a fair and partial investigation. He said it would not.

On January 31<sup>st</sup>, 2014 Archbishop Nienstedt signed a letter authorizing the investigation of these allegations and appointed you, Bishop Piche, as the person responsible to carry out the investigation. You in turn authorized me via email letter to serve as the liaison between the Archdiocese and the law firm selected to carry out the investigation. In that January 31<sup>st</sup> authorizing letter, Archbishop Nienstedt stated that the investigation of these allegations should be thorough and conducted in a manner in which the integrity of the investigation could not be impugned. In early February of 2014, the Archdiocese hired Greene Espel of Minneapolis to conduct the investigation of Archbishop John Nienstedt. At my initial meeting with Greene Espel, I told Mr. Forsgren and Mr. Wallace-Jackson that their sole objective was to discover, as best they could, the truth or falsity of these allegations. I indicated that this was not to be a witch-hunt or a white-wash. I provided them with a memorandum detailing these allegations, which they regarded as the road map for their work.

In that memo, I included concerns that Archbishop Nienstedt may have had a social relationship with Fr. Curtis Weymeyer, which may have affected his judgment regarding Weymeyer's past misconduct, as well as the Archbishop's controversial decision to name him Pastor of Blessed Sacrament. Given the significant judgment errors in the Weymeyer case, I believed this to be one of the most serious issues of the investigation, a conclusion also reached by our investigators prior to their withdrawal as counsel. I included this possible relationship with Weymeyer in my memo to Greene Espel because Mr. Kueppers had told me that [REDACTED] is a [REDACTED] at Blessed Sacrament and, in that capacity, had heard Wehmeyer comment on more than one occasion that he had had dinner the previous evening with Archbishop Nienstedt. Had the Archdiocese not followed through with its investigation of the Wehmeyer connection, we could be seen by others as covering up this potentially explosive issue.

The Task Force, in its separate unpublished document, indicated all the things that went wrong in the Wehmeyer case. Neither the Task force, nor the media, nor the Catholic faithful knew of this potential connection. Thus, as I believed that one of the most important dimensions of the Weymeyer case was the possibility of a social relationship between the two and whether this may have affected the Archbishop's judgment regarding Wehmeyer, I asked our investigators to look into this. What Greene Espel discovered regarding Archbishop Nienstedt's possible past misconduct, also raised the question of whether alleged sexual misconduct on the part of the Archbishop further affected his judgment regarding Wehmeyer. Again, to not investigate this possible connection and its import for the Archdiocese would have been tantamount to malpractice on the part of Greene Espel and dereliction of duty on the part of me, the Archdiocesan Delegate for Safe Environment.

With their memorandum in hand, Mr. Forsgren and Mr. Wallace-Jackson began their work of investigating the allegations of misconduct by Archbishop Nienstedt. Shortly after they began their work, the two lawyers met with you and me at the chancery. This was a productive meeting wherein you told them "to follow the facts wherever they may lead." You also told Mr. Forsgren and Mr. Wallace-Jackson to do their work as quickly and thoroughly as possible and to issue a report to you of their findings when they had completed their investigation. In response to these February meetings, Mr. Forsgren and Mr. Wallace-Jackson set out to determine as best they could the truth or falsity of the claims against Archbishop Nienstedt. Mr. Forsgren and Mr. Wallace-Jackson worked diligently, thoroughly. The investigation took them to Detroit at least twice and they interviewed several individuals both in Detroit and in Minnesota. They asked me to make introductory calls prior to their calls as they believed that this was the only way that individuals would agree to talk to them. Those whom they interviewed needed to know that this was a legitimate investigation and not a perfunctory exercise, or worse, a white-wash. I made the calls that Mr. Forsgren and Mr. Wallace-Jackson asked me to make and that helped pave the way for their subsequent calls and interviews.

Mr. Forsgren and Mr. Wallace Jackson were surprised by what they gathered in terms of evidence. Mr. Forsgren, conveying surprise, described the experience as akin to stepping on a rake. At no time, did I see either of them gleeful or euphoric as Mr. Hopeman wrongly conveyed. Rather, as experienced investigators, they realized that they may have uncovered serious behavior or misconduct on the part of the Archbishop. At no time did they prejudge the investigation as they knew that Archbishop would have an opportunity to respond thoroughly to

all of the allegations as well as the evidence they had gathered. After Mr. Forsgren and Mr. Wallace-Jackson had obtained 10 affidavits, sworn statements of misconduct by Archbishop Nienstedt across both time and geography, I contacted you and Bishop Cozzens to alert you both of what our investigators had gathered thus far. In summary, Mr. Forsgren and Mr. Wallace-Jackson had gathered evidence in the form of sworn statements of the following regarding Archbishop Nienstedt: sexual misconduct; sexual harassment; reprisals in response to the rejection of unwelcome advances; and excessive drinking. Mr. Forsgren and Mr. Wallace-Jackson stated that they found all of the affiants to be credible and noted that many of their statements were against self interest and noted that in some cases the affiants put themselves in places they ought not to have been as priests.

April 10, 2014 you, Bishop Cozzens, Fr. Lachowitz, Brian Wenger and I gathered at Mr. Wenger's home to hear the evidence gathered thus far by Mr. Forsgren and Mr. Wallace-Jackson. Many of us read through the affidavits and heard the preliminary findings presented by the two lawyers. Our investigators clearly stated that this was a preliminary stage and that Archbishop Nienstedt would be given an opportunity to respond during his interview near the close of the investigation. I think it is fair to say that everyone believed that the evidence presented at the April 10th meeting was compelling. Near the close of the meeting, Brian went around the room to take a poll of the folks present and whether they believed that Archbishop Nienstedt should resign given the nature of the evidence gathered thus far. Everyone present, except the investigators of course, answered in the affirmative. Brian stated that even if the Archbishop was innocent, the evidence was damaging enough that it would render him incapable of leading the Archdiocese. With that consensus, the decision was made that the two auxiliary bishops would fly to Washington D.C. Saturday, April 12 to meet with the Apostolic Nuncio, Archbishop Carlo Maria Vigano. Archbishop Nienstedt was invited to join the auxiliary bishops and in fact did so, on their trip to Washington. The hope was to reach a pastoral resolution for the good of the Archdiocese, given the compelling evidence gathered thus far. As Mr. Forsgren and Mr. Wallace-Jackson stated they had at least 24 more leads to pursue, the decision was made to stop and assess the situation and to assess the options available to resolve the matter. After your meeting with Archbishop Vigano, you called me from the airport to say that you believed a resolution of the matter was on the horizon.

What ever occurred between your call to me on April 12th and a later call you received from Archbishop Vigano, I believe to be the turning point in the investigation and has put the Archdiocese in the very difficult position it finds itself today. I understand Archbishop Nienstedt had a conversation with the Nuncio after his meeting with you and Bishop Cozzens. In that meeting, he may have convinced the Nuncio that the allegations against him were all false and part of the conspiracy that Archbishop Nienstedt recently referenced last week as the news of the investigation broke in the media. As I further understand, the Apostolic Nuncio believed that the allegations were not as serious as you and Bishop Cozzens had indicated at your meeting and ordered you to have the lawyers quickly interview Archbishop Nienstedt and wrap up the investigation. The Nuncio said that the lawyers were not to pursue any further leads, including an allegation referenced by many of the affiants in Detroit that Archbishop Nienstedt may have had sexual relations with a Swiss Guardsman in Rome. In response to the Apostolic Nuncio's directives, you and Bishop Cozzens sought counsel and responded to the Nuncio, in letter form, stating that both of you disagreed with his decision to shut down the investigation, noting that

this would rightly be seen as a cover-up. In that same letter to the Nuncio, you and Bishop Cozzens further suggested that another bishop, one outside the Archdiocese, be appointed to oversee the completion of the investigation, as you had been put into a position that amounted to a conflict of interest. I agreed wholeheartedly with the decision of you and Bishop Cozzens to push back and to express your disagreement with the decision of the Nuncio in the form of a letter.

I conveyed the directive of the Apostolic Nuncio to Mr. Forsgren and Mr. Wallace-Jackson as well as your request for them to pause in their investigation. Mr. Forsgren and Mr. Wallace-Jackson noted to me that this decision was not in keeping with the original mandate to conduct a thorough investigation, the integrity of which cannot be impugned. The work that was done after your request, was done either in preparation of their interview of Archbishop Nienstedt or in following up and closing out current or previous matters they had been pursuing. On April 17, a man whom Mr. Forsgren and Mr. Wallace-Jackson had contacted via email weeks before, responded to their original inquiry. This correspondence resulted in an eleventh affidavit wherein the man alleged that then Monsignor Nienstedt promptly dismissed him from the seminary in Detroit after the then 19 year old seminarian turned down as inappropriate, Nienstedt's invitation to join him and two other seminarians on a ski trip.

After Easter, Mr. Wallace-Jackson and I met with you at your office in the chancery. At that meeting, you told both of us that the attorneys were to narrow the focus of their investigation to the questions of whether a crime or a grave delict had been committed by Archbishop Nienstedt and that their interview of the Archbishop should likewise focus on these questions. When Mr. Wallace-Jackson asked whether they could do more investigative work and to pursue further leads to determine these answers, you stated that he would have to get the permission of the Nuncio; permission, you stated that you believed would be denied. At this same meeting, I raised the issue of the two potential cases of sexual harassment presented in the evidence. I noted that these were serious claims and that the one involving [REDACTED] presented potential liability for the Archdiocese as well as the Archbishop. You agreed to allow the investigators to cover this area as well, but not as their main focus. In response, both David and I stated that this further narrowing of the investigation was not in keeping with the original January 31st letter calling for a thorough investigation the integrity of which cannot be impugned. In the presence of Mr. Wallace-Jackson, I said that these two lawyers worked at a very well respected law firm and were well respected in their own right. I further stated that I could not imagine that they would be party to a white-wash, effectively allowing themselves to be patsies in a cover-up. I further indicated to you that your directive (or perhaps the Nuncio's) not to investigate other alleged misconduct clearly applied a different and more permissive standard to the Archbishop than would be applied to priests serving in the Archdiocese. You did not disagree with this assessment.

At that same post-Easter meeting, you gave Mr. Wallace-Jackson a correspondence which you later took out of his hand as he was reading it, saying that he could not read it, nor could he be given a copy of this and that you should not have given it to him in the first place. Mr. Wallace-Jackson was very concerned by this and asked me to follow up to obtain a copy. In a subsequent conversation with you, I asked you if the investigators could see the letter and you said no. At this same meeting, you indicated to Mr. Wallace-Jackson and me that after you and Bishop

Cozzens had sent your April letter to the Apostolic Nuncio, the Nuncio in response asked you to take back the letter and destroy it. You did not indicate whether you had complied with this request, or perhaps it was a directive. I would like to pause for a moment and visit the gravity of what you conveyed to Mr. Wallace-Jackson and me in your office at the chancery. The destruction of evidence is a crime under federal law and state law and the fact that this request was made of you by a papal representative to the United States is most distressing. I sincerely hope and trust that you and/or Bishop Cozzens did not comply with this shocking request/directive made of you by the Apostolic Nuncio to the United States. I would advise you that if you have not done so already, to report this request (or perhaps directive) made by the Nuncio to destroy evidence to an appropriate authority in the Vatican.

Regarding the decision to interview Ms. Haselberger, this decision was in keeping with a thorough investigation, the integrity of which could not be impugned. Both the Task Force and Kinsale Management reached out to Ms. Haselberger for an interview, and were denied. Everyone who knew of the investigation knew that there was a risk that any of those interviewed could go to the press. I believe this risk was one of the reasons Archbishop Nienstedt took so long to agree to the investigation. Our investigators did stress confidentiality as I did in my introductory phone calls. I would note here that I did not contact Ms. Haselberger prior to her conversation with Greene Espel because I believed it would have been inappropriate given her pending matter with the Archdiocese. I thought it best to have our independent investigators contact her. Mr. Forsgren and Mr. Wallace-Jackson laid out well their rationale in contacting Ms. Haselberger as her interview potentially pertained to concerns regarding a possible relationship between Archbishop Nienstedt and Curtis Wehmeyer. I would like to correct the record regarding one point in Mr. Forsgren and Mr. Wallace-Jackson's July 3rd letter in regards to the interview of Ms. Haselberger. I did not specifically instruct them to interview Ms. Haselberger. Rather, they made the case to me that in their professional judgment it was absolutely necessary to interview Ms. Haselberger. As this was to be a thorough and independent investigation and as Mr. Forsgren and Mr. Wallace-Jackson are skilled investigators, I relied on their professional judgment and allowed the interview to proceed. Given the number of those interviewed and given the number of sworn statements obtained, I have no doubt that this matter was going to be made public eventually. I do regret that the investigation was made public, especially prior to conclusion of the investigation. Although, as it turns out, that point is now moot as our investigators have now withdrawn given the inhibiting restrictions placed on the independent investigation.

Regarding the decision to not publicize the investigation, I agree with this decision. There is no way that Mr. Forsgren and Mr. Wallace-Jackson would have been able to conduct the investigation they did and gather the evidence they did if the investigation was announced before hand. Further, the Archbishop is entitled to his good name and to make the investigation public would have unjustly tarnished his reputation prior to the findings of the investigation. The decision of whether the Archbishop should have stepped down during the investigation is his to make in consultation with the Apostolic Nuncio. Bishop Cozzens noted that when we were presented with compelling evidence gathered during the preliminary stage of the investigation, this would have been an appropriate time to ask the Archbishop to temporarily step down. But, as the Archbishop had just returned to ministry, we were presented with a difficult dilemma. To

my knowledge, this dilemma further prompted the decision of you and Bishop Cozzens to fly to Washington D.C. to advocate for a pastoral solution.

Obviously, when the story broke Tuesday of the existence of the investigation, the Archdiocese found itself in a difficult decision. Still, there was the possibility that some semblance of a credible investigation and report could be salvaged, notwithstanding the Nuncio's unfortunate interventions. As you know, I counseled strongly this past Tuesday that due to the public revelations of the investigation, the interests of the Archdiocese and the Archbishop were not in total concert. Thus, I argued that the Archdiocese should be very careful to make neutral statements regarding the Archbishop and the investigation as this would be in-keeping with its future interests as well as the integrity and independence of the investigation. It is very unfortunate that your statement was not provided to Commonweal, nor was it included in the Catholic Spirit. In my opinion this was a significant communications error. The only response from attributed to the Archdiocese were the vigorous denials of the allegations by the Archbishop. The Archbishop certainly has the right to publically express his denials; but the Archdiocese also has a right, and in fact a duty, to express its neutrality in response to an ongoing independent investigation.

Additionally, the Archbishop's statements that he had called for the investigation were at best misleading. As we know, he only agreed to it after pressure from some in the chancery, including from Brian Wenger and me. As the Archbishop indicated to Mr. Forsgren and Mr. Wallace-Jackson in his interview, he agreed to the investigation because there was a possible MPR story on the horizon. Archbishop Nienstedt's comments that his alleged behavior did not implicate anything illegal is not accurate as the Archdiocese and the Archbishop face possible exposure regarding sexual harassment, related to his alleged unwelcome touch of [REDACTED]

Rarely, have I been more stunned than when I read the letter written by Mr. Forsgren and Mr. Wallace-Jackson July 3, 2014 withdrawing as counsel to the Archdiocese in the investigation of Archbishop Nienstedt. In working with both of them, I found them to be highly competent, professional and exhibiting consistent integrity. The fact that they were able to gather the evidence they did is remarkable especially given the secretive culture of the Church which is replete with fear of reprisals. They were asked to complete a very difficult and sensitive task for the Archdiocese. Along the way, they were insulted and swore at by Mr. Hopeman, unjustly accused of investigative bias and euphoria at their results, and hamstrung in their work as the ground-rules and scope kept changing. Bishop Piche, I assume you received counsel in the July 2nd letter you sent to Mr. Forsgren and Mr. Wallace-Jackson. I have not seen the letter, but I can only conclude by the response of Greene Espel and their description of its contents, that you received very poor counsel in the drafting and sending of the July 2nd letter. Although I am liaison between the Archdiocese and Greene Espel, I was not consulted regarding the July 2nd letter and have heard nothing from you since our lawyers withdrew as counsel.

This letter and the understandable, and predictable, response from Greene Espel has now put the Archdiocese in a very difficult position. First, as stated above, I strongly advise the Archdiocese to contact Greene Espel in an effort to reengage them to complete this investigation. If that route is not pursued, I strongly advise the Archdiocese to make known to the public immediately Greene Espel's decision to withdraw as counsel to the Archdiocese. It only takes one reporter's

question or one affiant or interviewee to call and inquire of Greene Espel regarding the investigation. Their truthful and appropriate response will be "we no longer represent the Archdiocese." This fact will be known soon and if the Archdiocese does not disclose this before it becomes public, we will look even worse than we otherwise would have if we fail to disclose that Greene Espel's withdrawal as our attorneys. The decisions made subsequent to your April visit to the Apostolic Nuncio to comply with his request to narrow the scope of the investigation, to quickly bring the matter to a close despite at least 24 leads, and now to further inhibit the work of our lawyers in this so called independent investigation have made the Archdiocese complicit in a white-wash and a cover-up. I believe there still exists a principle of Catholic moral theology that one's conscience is not bound by something immoral or unjust. There is still the possibility to allow Greene Espel to complete this investigation consistent with the January 31<sup>st</sup> letter and in furtherance of both truth and justice.

Regarding Greene Espel's decision to withdraw and their July 3rd letters addressed to you, I cannot find fault with their decision, as regrettable as it is for the Archdiocese. As indicated in their letter, they were not willing to sacrifice the hard won reputation of their firm by agreeing to perpetuate the myth that this was truly an independent and thorough investigation. Sadly, this investigation could have been both had Greene Espel been allowed to follow the original January 31st mandate. Greene Espel had all but concluded its investigation as they had interviewed Archbishop Nienstedt twice and were now circling back to affiants one more time. To my knowledge, they were already drafting their final report. To limit Greene Espel to present only factual findings as the July 2nd letter apparently conveyed is not only inconsistent with normal protocol for internal investigations, it also inconsistent with the original January 31st mandate authorizing the investigation. In an unrelated matter I recently received a detailed 43 page report from another reputable and prominent Minneapolis law firm. In its report, the firm presented its findings, an evaluation of the credibility of witnesses, the judgment of the investigators, and their conclusions, all of which are standard protocol for internal investigations. Was the Archdiocese anticipating a final report that might have been unfavorable to the Archbishop? Did this possibility prompt this ill advised decision, one that has now put the Archdiocese in a most difficult position? Whatever the answer to these questions may be, the Archdiocese should endeavor to find a solution to its untenable position.

In response to the difficult situation that the Archdiocese now finds itself in, I offer a few suggestions by way of counsel. If the Archdiocese chooses not to reengage Greene Espel in this matter as I recommend, I strongly advise the Archdiocese not to hire another law firm to complete the investigation. This would be rightly seen by the public and our Catholic faithful as not credible and thus unworthy of trust. I have little doubt that it will eventually come out that Greene Espel withdrew because they were not allowed to do their work consistent with the original charge of a thorough and independent investigation. I would advise the Archdiocese to send the affidavits and any work product of Greene Espel, along with original memos to the Congregation for Bishops. This was originally Susan Mulheron's suggestion as she voiced prescient concern that the Nuncio would bury the findings of an investigation. The Congregation can do what it chooses with the information it receives. This course of action is proper as the Archdiocese is taking the step of advancing issues of serious concern to an appropriate authority. The Archdiocese should prepare for the eventuality that any or all of the affidavits may be made public and/or may be compelled through discovery. Accordingly, the Archdiocese ought to be

9/11

very careful not to make any statements inconsistent with information contained in these affidavits. Archbishop Nienstedt has already made several comments in response the Commonweal story that are concerning at best and some which are factually wrong. It is important to also know that any of the affiants are free to do what they wish with their affidavits, including giving them to the press. Our ill advised decision to further inhibit the investigation at this eleventh hour may just prompt them to do so.

### Conclusion

The Archdiocese was on the verge of an unprecedented moment in the history of the Church in the United States. In an attempt to turn the page and begin to restore trust in an Archdiocese that was presently in crisis, some in the Archdiocese insisted in justice that the Archbishop be held to the same standard as priests serving in the Archdiocese. In addition to conducting this investigation, the Archdiocese also decided to disclose the matter of this investigation to the St. Paul Police and the Ramsey County Attorney's Office. This decision represents a positive step forward. Additionally, upon the wise counsel of Mr. Forsgren, I informed one of the former members of the Task Force of the investigation by way of a courtesy call. Simply put, this investigation was the right thing to do and the Archdiocese took a number of correct steps in the past several months. However, as was revealed in the course of the investigation, sometimes the right thing to do is also the hardest thing to do. I commend Archbishop Nienstedt for agreeing to this investigation and for authorizing a thorough and independent investigation, the integrity of which could not be impugned. I commend you and Bishop Cozzens for going to Washington D.C. to meet with the Nuncio and for your letter of disagreement with Archbishop Vignano. Both of these decisions were also positive steps forward and examples of integrity in the face of challenging circumstances.

The reality of this current matter demonstrates that as the evidence began to come into the Archdiocese from our skilled and independent investigators, apparently some in the Archdiocese and some beyond the Archdiocese were not able to face the reality of emerging truth and its attendant call for accountability. What has unfolded in the face of compelling evidence amounts to a good old fashioned cover-up to preserve power and avoid scandal and accountability. As a result, the Archdiocese and the wider Church is now facing a much more significant scandal. At each stage of the investigation, as more and more evidence was gathered, the reigns on our investigators tightened and they were inhibited from carrying out their original charge. At each stage of the investigation, the decision to narrow the scope of the investigation and to quickly bring it to a close should be noted for its stark inconsistency with the original mandate. Now, given the decisions made subsequent to the April 12th meeting with the Apostolic Nuncio as well as the July 2nd letter inhibiting the work of our investigators, the Archdiocese is complicit in a cover-up, and, in part, responsible for the coming scandal and further loss of trust of our Catholic faithful. In addition, scandalous too is the amount of money spent (approximately \$400,000) on an aborted investigation.

To be sure, this will all come out and it will take many years to repair the breach of trust that has resulted from this sad chapter in the life of our local Church. I love my Catholic faith and the Catholic Church and I want her to be more like Christ her spouse. I am by no means a perfect priest, nor is my judgment perfect. In one of my recent meetings with Bishop Cozzens I told him

that his generation of bishops must work hard to hold their brother bishops accountable. This is an area that needs serious reform throughout the Catholic Church. There is an ugly clericalism on full display in this present matter, the type of which Pope Francis is trying to purge from the Church. Our bishops must be held accountable for their decisions, their behavior, and their performance. Our Catholic faithful deserve better and will demand better in the coming years. Please do not take the above as anything other than an honest and thorough account of this investigation from my perspective and what I see as the potential consequences of the decisions that have been made. It may have seemed that I was harsh in my assessment, but I would prefer the term honest. I am certainly not without fault in my role as liaison and would have done some things differently if I had them to do over again. I can say with honesty that none of my decisions were made in bad faith and none inhibited the pursuit of truth in this matter. Bishop Piche, I don't believe your decisions were made in bad faith either and as I indicated above, you were placed in an untenable position.

As the liaison between the Archdiocese and Greene Espel, I told our investigators at the outset of their investigation that their sole goal was to discover the truth as best they could. They diligently and skillfully pursued that aim. Truth was my sole goal as well in my role as liaison. The truth will indeed come out and when it does, the Archdiocese will have to answer for it and the decisions made in regard to this investigation. I have respect for both you and Bishop Cozzens and know that you were put in a very difficult position. You both did the right thing by seeking to achieve a pastoral solution in April and you both did the right thing by writing your response letter to the Apostolic Nuncio wherein you stated your objections to his directives. These decisions showed courage. However, more needed to be done after the April 12<sup>th</sup> meeting to ensure the integrity of this investigation and the pursuit of truth in this matter. I will continue to pray for a just resolution of this matter, one that is consistent with truth and integrity. Please know of my prayers in the coming years for both of you and my gratitude for your episcopal ministry. Mary, Mother of the Church pray for us! St. Paul intercede for us!



u/11