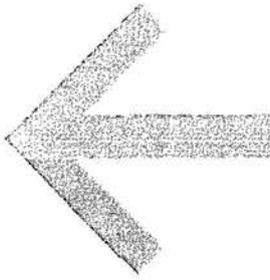


ARROW**INSURANCE ADJUSTING**

A DIVISION OF DELVE INSURANCE ADJUSTING P/L A.C.N. 007 047 976

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17 January, 1997

Dunhill Madden Butler
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Attn.: Paul Gamble

Dear Sir,

Re. [ACU] - ats - **TRUSTEES OF THE MARIST BROTHERS & ORS.**

We refer to your instructions a 3 December, 1996, 16 December, 1996 and 19 December, 1996, in relation to the three Claimants, [ACU] [ACZ] [ACZ] and [ACZ] and now report as follows.

We have carried out preliminary enquiries at Lismore with Trenches, Solicitors, also with Sister Mary Cannane and with Frank Hannigan and Father Peter Slack.

Mr. Hannigan is the solicitor acting for Bishop Sattersthwaite and the Catholic Education Office (C.E.O.). At this time we have yet to meet Mr. Howard Harrison of Messrs. Carroll & O'Dea in relation to certain documents in his possession. As you are aware, Mr. Harrison acts for the Marist Brothers, and for Brother Alexis Turton.

During the course of our interviews with Mr. Michael Best, solicitor with Messrs. Trenches, Solicitors, we secured copies of the documents held by him in relation to this matter, being documents numbered A1 to A10 as listed in the attached Schedule. In our interview with Mr. Frank Hannigan, Solicitor, we ascertained that he too had a copy of documents A1 to A10 in his possession, as well as a further two documents, being B1 and B2, both of which are attached to this report in the Schedule.

We also carried out an extensive and helpful interview with Sr. Mary Cannane, who is the current Leader of the Presentation Sisters, and she supplied a great deal of useful background information, as did Father Peter Slack, the Secretary to the Bishop of the Diocese of Lismore, who was present at our interview with Mr. Frank Hannigan, Solicitor.

At this time, we have not attempted to approach any of the former staff of St. Carthages School, these being the staff members named in the various documents attached, as we felt you would probably wish to peruse the enclosures to this report prior to giving further instructions for such interviews as you feel appropriate. At that time, we can attend to carrying out any such interviews in the Lismore and Northern Rivers area generally.

Perhaps we should mention that virtually all the documents in the attached Schedule of Enclosures were retained at the instigation of Sr. Julia O'Sullivan, the Principal of St. Carthages as at 1987. It appears that at that time, Sr. O'Sullivan was aware that the behaviour of Br. Gregory Sutton may have led to the claims now under investigation, and we were advised it was at her direction that all relevant documentation be retained for future reference.

INTERVIEW WITH MESSRS. TRENCHES, SOLICITORS

Through Mr. Michael Best, Partner of Trenches, Solicitors of Lismore, we arranged to attend at his office and copy relevant documentation held by him. We also carried out an interview of Mr. Best at his office, at which time he gave us some limited information regarding the running of St. Carthages School by the several religious bodies, i.e. the Marist Bros. and the Presentation Sisters.

It was Mr. Best's statement to us that the C.E.O. actually was responsible for the present running of St. Carthages Primary School, whereas the two religious bodies, the Marist Bros. and the Presentation Sisters, initially (in the last century) had been requested to operate this school.

He stated that the Principal of the School, being a teaching nun, is answerable to the C.E.O. on the day to day aspect of running the school, the funds for which are authorised through the C.E.O. He stated that at present there is only one teaching nun left in the Lismore Diocese, and she is not at the St. Carthages School, which is continuing to be run by the C.E.O. using only lay teachers.

We questioned Mr. Best as to the ownership of the land on which St. Carthages School is situated, and in reply he stated the land was owned by the Trustees of the Roman Catholic Church for the Diocese of Lismore, with ownership extending to all improvements on the land, i.e. buildings and other improvements.

We were later advised by Fr. Peter Slack, the Secretary to the Bishop of Lismore, that the ownership to the land is vested in The Body Corporate which was established under the Roman Catholic Trust Property Act, 1936 for the purpose of running teaching institutions, health, welfare, etc. for the diocese.

As you will be aware, the term "diocese" was explained to us by Fr. Slack as being an area of land broken up into parishes. He stated that the Lismore Diocese covers the area from Tweed Heads to Camden Haven (near Port Macquarie), and this is controlled by the Bishop of the Diocese, while each Parish within the Diocese is under the control of a Parish Priest. Within each Parish, religious institutions, such as the Presentation Sisters or the Marist Brothers, operate in apostolate, charitable or religious works.

Beyond the limited information set out above, and the copies of documents A1 to A10 as set out in the attached Schedule of Enclosures, Mr. Michael Best was unable to offer any further information, although he, we believe, readily gave us every possible assistance. So far as the enclosures A1 to A10 are concerned, we propose to make certain comments on them later in this report under "Enclosures".

INTERVIEW WITH SISTER MARY CANNANE

We arranged to interview Sr. Cannane at her home in Lismore. She is the current leader of the Presentation Sisters and was the Principal of Trinity Catholic College in Lismore. Sr. Cannane was of great assistance in giving some background history of the manner in which St. Carthages School was set up. We took extensive notes of our interview with Sr. Cannane.

Sr. Cannane stated that the Presentation Sisters were invited to come to Lismore in 1886, at which time the town of Lismore was part of the Armidale Diocese of the Catholic Church, in order to open a school for young ladies, presently known as Trinity Catholic College, which is now a private school run by a company made up of the Presentation Sisters, the Marist Brothers and the Parish of the Diocese of Lismore. She stated that this college, of which she was a Principal, has no connection with the C.E.O., and is a separate school from St. Carthages Primary school.

She explained that in 1886, the Presentation Sisters were also asked to operate a Parish School, i.e. St Carthages Primary School, on land owned by the same parish as operated Trinity Catholic College. Initially St Carthages Primary School was set up in Lismore on land at the corner of Leycester and Orion Streets, Lismore (now occupied by a motor garage), until the year 1954, when it was moved to new premises, also on Parish land, which it continues to occupy.

From 1954 until the early 1960's, the teaching staff at St. Carthages Primary School consisted exclusively of teaching nuns from the Presentation Sisters, when, we were advised, a decision was taken to appoint lay staff at St. Carthages, and this practice has continued ever since.

So far as the Marist Brothers are concerned, Sr. Cannane stated they came to Lismore in 1911, when they set up a boys school behind the present St. Carthages Primary School, (this being the present site of Trinity Catholic College). She stated that this boys school was a Parish School and not a private school, teaching boys from year 4 to Intermediate School level and later to Leaving Certificate level.

The major change to the teaching system occurred in the early 1970's when the Diocesan School System was set up and in approximately 1977, three other Catholic schools in the area, being St. Marys College and St. Josephs High School, were merged. As a result, the Marist Brothers teachers from these schools were sent to St. Carthages School to teach students for Years 4, 5 and 6.

We asked Sr. Cannane who had made the decision for the Diocesan School System to be set up, to which she replied stating that she believed this had been made by the parish priests for the area. She said that from 1977 onwards, St. Carthages School contained a mixture of Presentation Sister teachers, Marist Brothers teachers and lay teachers, the latter having been appointed, as far as we can ascertain, from the early 1960's.

It was stated by Sr. Cannane that the School Principal was normally a Presentation Sister, who would have made the decision as to which of the several variety of teachers on staff would have taught which years and which classes. Apparently, in setting up the Diocesan School System, it was one of the intentions to expose students to a variety of types of teaching experience, these being drawn from the three areas just described.

Sr. Cannane stated that the Marist Brothers teachers on the staff of St. Carthages would be appointed by their Provincial.

This was the extent of historical information Sr. Cannane could provide.

Prior to meeting with Sr. Cannane, we had obtained the copied documentation from Messrs. Trenches, Solicitors. In discussing these documents with Sr. Cannane, she recalled that prior to Sr. Julia O'Sullivan, resigning from the school in the late 1980's, by which time Sr. Julia was terminally ill with cancer (she died in about 1992 or 1993), she arranged for every document which she thought ought to be kept concerning Brother Gregory Sutton, and these are the documents provided to us by Messrs Trenches.

We asked her if she was aware of the possibility of any other Claimants beyond the present three Claimants, who have commenced or are proposing to commence action against the various bodies. It was her recollection, and this appeared to be slightly vague, that there were four children involved, although she had no knowledge of the names of the children.

It appears that Sr. Cannane was interviewed by Police, probably in relation to the criminal proceedings against Br. Sutton, and she recalled that at the time of her interview with the Police, she was shown a list of children in Br. Sutton's class. Sr. Cannane was then able to give us some information as to the likely whereabouts of the majority of the members of staff mentioned in the documents A1 to A10, and we were also able to confirm with the C.E.O. the present home addresses and telephone numbers of several of these members of staff.

As far as the contents of the attached enclosures are concerned, Sr. Cannane had a recollection that Sr. Julia O'Sullivan was unhappy with the work performance and attitude of Br. Sutton, doing what she described as "the first year", which we believe to be 1985, and it was her recollection that Sr. O'Sullivan "could not get the Brothers" to do anything about Br. Sutton, despite a number of complaints. We believe this is what initiated Sr. O'Sullivan to write the handwritten "Confidential Report" (Document A1) dated 13 April, 1997.

INTERVIEW WITH MR. FRANK HANNIGAN, SOLICITOR, AND FATHER PETER SLACK

We arranged to interview Mr. Hannigan at his office in Casino in order to inspect such documents as he held in relation to these claims. As it transpired, Mr. Hannigan had the same set of copied documents as we had obtained from Messrs. Trenches, i.e. documents A1 to A10, but also a further two documents, being documents B1 and B2, which we had not previously seen.

These are a letter from Mrs. Jan O'Grady, dated 22 August, 1987, with an attached 3 page memorandum, apparently typed by Mrs. O'Grady, confirming certain of the students who were in Br. Sutton's class.

We make the observation that, although we have not yet interviewed Mrs. O'Grady, a number of the students named in the typed annexure to the handwritten letter from Mrs. O'Grady may well be possible claimants, although we are not aware of which of these students, if any, are possible claimants.

Present at our interview with Mr. Hannigan was Fr. Peter Slack, who is the Secretary to the Bishop of the Diocese of Lismore, although previously we had not been aware that Fr. Slack was to be present at the time of our visit to Mr. Hannigan. Fr. Slack was able to give a good deal of background information, in particular concerning the appointment of Marist Brothers Teachers to St. Carthages School. He advised that the Brothers are appointed by the Provincial to be teachers at the school, but the actual choice of which class each would teach was made by the Principal of the school, who, at the relevant time, was Sr. O'Sullivan.

He stated that the Marist Brothers lived in a monastery and answered to the school principal, Sr. O'Sullivan during working and teaching hours, generally from 8.00 a.m. to 4.00 p.m., Monday to Friday, but were answerable to the Brother Superior "24 hours per day". He advised that as at 1987 this was Brother Anthony Hunt, to whom reference is made in the attached documentation.

Father Slack confirmed our earlier information that originally the Marist Brothers and the Presentation Sisters had been invited to run St. Carthages School. He explained that normally Marist Brothers were not in receipt of a salary, having taken a vow of poverty, although the lay staff at the school would be salaried employees and not necessarily Catholics.

We asked Father Slack about his knowledge of the normal procedure adopted by the School Principal if there were a problem with one of the Marist Brothers teachers at the school. Father Slack commented that the Principal, Sr. O'Sullivan, could have gone either to the Director of Catholic Education, or to her Parish Priest, or the acting Parish Priest, or the Administrator of the Catholic Cathedral, who, at 1987, was a Father Mulcahy.

He believes that the Catholic Education Office could also have offered advice regarding the correct procedure for handling disputes or difficulties experienced with teaching brothers at the school. At this stage, Mr. Frank Hannigan made the comment that he believes that this was not necessarily the case, stating that in his opinion the Catholic Education Office is only an advisory body, although he agreed that any problems experienced with actual teachers should have been referred to the C.E.O. He further commented that each parish school is an entity of its own according to Canon Law.

As to the appointment of teaching brothers to St. Carthages School, Fr. Slack believes this would have been a verbal appointment by The Provincial, and that there may be a letter of appointment of the individual teaching brothers in the records kept by The Provincial. Fr. Slack stated that if, for example, a child's parent was to complain about the behaviour of a particular teaching brother to the Bishop of the Diocese of Lismore, such a complaint would be referred to the Director of Catholic Schools.

Fr. Slack also stated that he believed the original agreement, which he thought was dated in or about the year 1918, to supply teaching brothers to St. Carthages School, would have been by way of the exchange of letters between the Bishop of the Diocese of Lismore and the then Provincial of the Marist Brothers. We asked Fr. Slack if he were aware that such records would have been retained, and he said that this could be ascertained by him checking into records which may be held in the Bishop's office in Lismore.

At this time we have not pursued this line of investigation although Fr. Slack can be contacted at P.O. Box 1, Lismore (Tel.: (066) 219-444) should this be required.

ENQUIRIES WITH THE CATHOLIC EDUCATION OFFICE

Initially we attempted to contact Mr. John Kelly, being the Director of the Catholic Education Office, but were unable to actually pursue enquiries with Mr. Kelly, and in the event, spoke with Mr. Peter Corless of the C.E.O. in Lismore.

At first, Mr. Corless was reluctant to provide any details to us concerning the present or last known address of some of the teaching staff referred to in the attached enclosures, but after several discussions with Mr. Frank Hannigan, Mr. Corless released details of the last known addresses of Mrs. Jan O'Grady and Mrs. Beverley Fitmers, both of whom are referred to in the documents.

We also asked Mr. Corless whether or not the C.E.O. has kept school records for St. Carthages, and, in particular, individual records, or possibly record charts relating to the three known claimants.

Mr. Corless stated that roll books for the school are kept, but he could not advise whether or not actual individual record cards would have been retained for students over the period of time involved. He stated that certainly these records were not kept by the C.E.O., and that it would be necessary to contact the new Principal of St. Carthages, Mr. Jim McGrath, who is due start at the school at the commencement of the first term for 1997. Fairly obviously, we have not been in a position to approach Mr. McGrath at this time, and it is not yet known if he has actually arrived in Lismore.

ENCLOSURES

As previously mentioned, Documents A1 to A10 inclusive were provided by Trenches, Solicitors. At this time, we can only state that this documentation provides a wealth of evidence of the knowledge of the various members of the teaching staff at St. Carthages School of difficulties which were experienced with Brother Gregory Sutton from about 1985.

It appears the most significant documents relating to such problems are Documents A1 to A10 inclusive, these being individual reports and memorandums prepared by Sr. Julia O'Sullivan (Documents A1 and A2), Mr. Alan Duroux (Documents A3 and A4). We have been advised that Mr. Duroux is presently teaching at Mt. St. Patricks Regional School in Murwillumbah and lives in the town of Uki.

Document A5 is of particular interest and we believe, although we are not absolutely certain, that this is the document referred to as the "contract" to which you made reference in your instructions of 3 December, 1996, in the matter of ACU [redacted]. As can be seen, this document was signed on Sr. O'Sullivan on 7 March, 1986, and by Br. Gregory Sutton on 11 March, 1986.

Document A6 is an extensive list of specific and dated complaints concerning Br. Sutton prepared by Mrs. Jan O'Grady, dating from 1985 to April, 1987.

Document A7 is a list of specific concerns and memoranda prepared by Mr. Alan Duroux.

Document A8 is a specific note by Mrs. Beverley Fitmers, a lay teacher at St. Carthages, who also prepared Document B2, a copy of which is also provided.

Document A9 is a 2 page typed memorandum by Mrs. Margaret Condon, a lay teacher at St. Carthages, who has recently been appointed to St. Michaels Infant School at Casino, where she is to take up teaching duties this year.

Document A10 is by Mrs. Roslyn Howard, who was a lay teacher at St. Carthages, and we believe she may still be at that school.

As mentioned, Document B1, prepared by Mrs. Jan O'Grady, contains information of particular interest as far as the names on the part?? pages of that enclosure are concerned.

COMMENTS

As can be seen by a perusal of the enclosures to this report, Sr Julia O'Sullivan kept good records regarding her concerns about Br Sutton, and it appears clear that both the Sisters and the Marists were aware of the allegations against Br Sutton in the very early stages, but what is not clear from the documentation is when they became aware of the sexual nature of his activities.

In this respect, we believe that the former Deputy Principal, Jan O'Grady may be able to shed some light on the real concerns shared by the staff. Certainly his behaviour was very odd, and raised suspicions, but like most of these matters, the language used in correspondence is somewhat convoluted.

We did make a number of attempts to contact Mrs. Jan O'Grady the former Deputy Principal, prior to, and while in the Lismore area. Our attempts were fruitless, however, and we believe at present she may be on holidays away from the Kingscliff area, where she understood to reside with her husband and family.

We understand Mrs. O'Grady is still an employee of the Catholic Education Office, and holds the position of Assistant Principal at St. Anthonys Primary School in Kingscliff, which is on the far north coast of N.S.W., towards Tweed Heads. The C.E.O. provided us with her home address and telephone number, but, as we have stated, it appears she may be on leave away from the area at the present time.

We also make the observation that the C.E.O. has ultimate responsibility for the running of the school, and it was they who appointed Sr Julia as Principal. It appears that Br Sutton was appointed to the school by the Marist Brothers Provincial at the time, and while we have not perused Br Sutton's file, it may well have been done verbally, as there is no appointment document in the school files that we are aware of.

We are attempting to set up a conference with Howard Harrison at which time we have been assured that certain material in Br Sutton's file will be available, and will await your further instructions as to what further investigations are required.

In this respect, it would be extremely interesting to know where Br Sutton was prior to taking up his appointment at St Carthages, as it is possible that the Marists may have been aware of his tendencies prior to his appointment.

We would make the comment that there is a reference to a Mr. Frank Bennon in Document A3, and we have been advised that Mr. Bennon is a Social Worker who, as at 1986, was working for the Department of Community Services, specifically in relation to matters of Children at Risk, and is presently thought to be living in the Coffs Harbour area, and he may be able to recall the nature of his conversations with Sr Julia, but as he is not really a party to proceedings, you may deem him inappropriate to interview.

We submit this report for your information and thank you for your instructions in this matter.

Yours faithfully,

Ian Whitehead
ARROW INSURANCE ADJUSTING

SCHEDULE OF ENCLOSURES

- A.1. Confidential Report concerning Brother Gregory Sutton prepared by Sister Julia O'Sullivan, dated 13 April, 1987 (3 pages)
- A.2. Handwritten notes by Sr. O'Sullivan concerning Br. Sutton (8 pages)
- A.3. Document titled "Interview with Frank Brennon of C.G.S. - Wednesday, 26/2/86" prepared by Alan Duroux. (2 pages)
- A.4. Documents titled "Interview with Mrs. Helen Devoi" by Mr. Alan Duroux dated 3 March 1986 (3 pages).
- A.5. Memorandum from Sr. Julia O'Sullivan to Br. Gregory Sutton dated 7 March 1986. (1 page)
- A.6. Typed Memoranda by Mrs. Jan O'Grady (21 pages)
- A.7. Various typed Memoranda prepared by Mr. Alan Duroux dated 13 April, 1987 (8 pages)
- A.8. Handwritten memorandum from Mrs. Beverley Fitmers (1 page)
- A.9. Typed Memorandum from Mrs. Margaret Condon - undated (2 pages)
- A.10. Handwritten Memorandum prepared by Roslyn Howard, dated 27 February, 1985 (4 pages)
- B1 Handwritten letter by Mrs. Jan O'Grady dated 27 August 1987 with attached 3 page typed Memorandum (5 pages in total)
- B2 Handwritten Memorandum (undated) prepared by Mrs. Beverley Fitmers, lay teacher at St. Carthages School (10 pages)