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29 December 1999

**PRIVATE AND CONFIDENTIAL**

Gerard Phillips  
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Solicitors  
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Dear Sir

**DIOCESE OF MAITLAND/NEWCASTLE**

We have now obtained instructions from our client, Catholic Church Insurances Limited, concerning your application for indemnity under various liability policies dating from 1 May 1981 through to 1984.

We note that by letters of 15 December 1997 and 20 October 1999 indemnity has been sought on behalf of the Diocese in relation to claims against it by Messrs REDACTED and CNF

Having considered its position and taking into account the various submissions made by you on behalf of the insured, we are instructed that our client denies indemnity under the terms of those liability policies.

The denial of indemnity is based on:

1. Material non-disclosure;

It is apparent from all information that the Diocese through its servants and agents were aware of the activities of Fr Ryan prior to entering into the contract of insurance in May 1981. The activities of Fr Ryan as reported to the Diocese in 1974 and 1975 were, we acknowledge, dealt with internally. Irrespective of that fact, however, those activities were criminal in nature and would have amounted to a conviction against Fr Ryan had they been properly reported to the police when they first came to the knowledge and attention of the Diocese.

As such our client is of the view that the activities of Fr Ryan within the knowledge of the Diocese prior to 1 May 1981, were material facts which ought to have been disclosed to it to enable it to make a proper determination as to the terms on which the insurance might be offered or any exclusions, excesses or additional premium that might have been charged.

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Mr Howard Harrison  
Carroll & O'Dea

29 December 1999

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2. The events for which indemnity is claimed are not an accident within the terms of the liability policy.

It is the view of our instructors that the bodily injury occurring to the claimants (the victims of Fr Ryan) cannot be said to have been "as a result of an accident" such to make the policy respond.

Given the state of knowledge on the part of the Diocese and its subsequent actions after the report to the Diocese in 1974 and 1975 of Fr Ryan's activities, it cannot be said that its subsequent activities (which were a continuation of his activities in 1974 and 1975) were unexpected, unintended and/or unforeseen.

3. The Diocese has breached a policy condition which provided inter alia:

The insured shall exercise reasonable care that only competent employees are employed and shall take all reasonable precautions to prevent bodily injury ...

The failure by the Diocese to ensure that Fr Ryan was treated appropriately and removed from contact with children bearing in mind that there was no official reprimand or sanction put in place, that there were no steps taken to ensure that he was properly treated, there were no steps taken to obtain a report from his treaters to ensure that the treatment was appropriate and that he was fit for return to Parish work, that there were no steps taken to monitor his activities subsequent to his return to Parish work even though he was, at the time, sharing a residence with Monsignor Cotter who was well aware of his previous problems, there were no steps taken to ensure that proper records and reports were made and provided to Bishop Clarke concerning the complaints in 1975 and the subsequent actions taken. At best the activities of various agents of the Diocese in that period can be described as reckless indifference. At worst, as you are aware, the police had considered charging Monsignor Cotter with criminal offences relating to his failure to deal with this matter appropriately.

In all of the above circumstances and without limiting our client's right to rely on other matters, we are instructed that the formal request for indemnity made by the Diocese is denied.

We understand that Mr Peter Rush will be contacting either Bishop Malone or John Feenan to discuss this matter further, direct.

Yours faithfully  
DUNHILL MADDEN BUTLER

Paul Gamble