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June 29, 2008: Solemnity of Peter and Paul, Apostles

**CONFIDENTIAL**

Very Rev P Ingham D D  
Bishop of Wollongong  
PO Box 1239  
Wollongong NSW 2500

DIOCESE OF WOLLONGONG	
OFFICE OF THE BISHOP	
- 2 JUL 2008	
Attention	
File	Reply

Dear Bishop Ingham,

Thank you for your letter of June 12, 2008 listing your preliminary findings regarding four matters.

I ask that you reconsider your findings in matters one, two and four. My reasons are as follows:

1. I am innocent of any wrongdoing in the matters listed. This has been my assertion from the first time I heard of each matter- the first going back over twelve years. It continues to be my assertion. I have never been found to be in error, much less to be lying, in any matter relating to these four concerns. I have freely answered any questions relating to these matters, without reservation and without legal representation being present.
2. All of matters have been fully investigated multiple times by unbiased and competent bodies; none have found me guilty of wrongdoing. The matter concerning ABA was heard by the District Court where Justice Phelan found in my favour without my having to bring any of my more than sixty witnesses; his judgment lists multiple reasons for this finding : Errors of fact and inconsistencies in evidence by ABA and others of his family; his belief that ABA confused fact and fantasy; evidence that the change in behavior ABA claimed at the time of the alleged incident, not being borne out in school reports of the time, and that he had remained for several years after that time, a pleasant young man, to name a few.
3. All matters listed as allegations one to four in your letter, were further investigated at a later stage. The New South Wales Police, as you will be aware, were approached by a Diocesan official in 1998 in an attempt to interest them in making further charges relating to matters two three and four. After I presume the proper investigation, they never contacted me further, and I was neither questioned or charged.
4. Your matter two, which would be a serious crime had it occurred, has obviously been reported to the appropriate authorities, who, since they have never questioned me concerning it, have obviously decided that it is, even at the initial stage, incredible. I also point out that the evidence has been improved since it was made in 1998. As I stated before your Investigators, I remain

ready at any time to provide a account before an appropriate legal authority, which I am fully confident, can remove any doubt as to my innocence in this matter.

5. Your matter three and almost all of the 42 items in your matter four, were first recorded after my exoneration by the NSW District Court; This was after eighteen months of media attention, on radio, television and newspaper, of my alleged crime. One must ask why there was so little willingness by presumably good citizens to cooperate in my prosecution. Also, why these matters came to light at this particular time, after my exoneration, and what was the role of Diocesan officials in encouraging them. Further is the question as to why Diocesan officials, according to a number of reliable witnesses, discouraged persons favorable to my case and having relevant evidence, to put that evidence before the 1998 Diocesan Investigation.

6. Regarding matter one, was any inducement given, promised or implied to witnesses in consideration of their appearing in either the Local Court or District Court cases against me in 1996 and 1997 respectively? If after the appropriate enquiries you are not able to commit yourself by answering "no" to this question, matter one should, without further consideration, be changed to "Not sustained". Regarding matters two and four, the same question could be asked in regard to matters coming before the Diocesan Investigators in 1998.

7. All matters listed as your matters one to four, were still further investigated by the Sacred Congregation for Clergy in Rome in 1999-2000. Here, obviously, the objective was not to see if civil law had been breached, but to determine if any matter suggested that my behavior was not that expected of a priest. As you will be aware, the Diocese of Wollongong was fully involved in this case, and presented all evidence it saw fit, in an attempt to demonstrate its assertion that I was unsuitable for priestly work in the Diocese of Wollongong. After an investigation lasting some eighteen months, the Congregation in December 2000, formally decreed that there was nothing at all which suggested that I had acted in any way unsuitably. It ordered me to be restored to full priestly ministry in the Diocese of Wollongong and compensated.

8. An appeal, made by the Diocese of Wollongong, was rejected by the Congregation. Later the Diocese engaged one of the most famous canon lawyers working in the Vatican, and an appeal on purely procedural grounds was submitted to the Apostolic Signature. Although the Apostolic Signature found in 2006 that the Bishop of Wollongong was free to appoint or not appoint any priest to any office, therefore could not be compelled to appoint me to any office, it went out of its way to criticize the way the Diocese had acted towards me. The decision by the Apostolic Signature in no way questioned the substantive findings regarding these four matters, made by the Sacred Congregation for Clergy.

9. I now turn to two procedural matters in your letter. Firstly, you give no indication of the basis which you have used in reaching these preliminary findings, or to put it another way, your method of judging. Was it on the basis of beyond reasonable doubt, or on the balance of probabilities? Your predecessor bishop indicated in one letter to me that he worked on the basis that allegations were sustained unless he had moral certainty that they were false; the Congregation for Clergy, again in its judgment of December 2000, stated that the Diocese had

taken accusations against me at face value, without any attempt to test them, thus accepting any accusation or even rumour, as true.

It is impossible for me to fully and properly respond to the four matters you have raised, unless I am told the method of judgment you have used. This is routinely provided at the beginning of every civil law judgment, and is similarly indicated in canon law judgments where there is any doubt; you will find it both in Justice Phelan's judgment and in that of the Sacred Congregation for the Clergy. So I ask that you let me know whether your judgment was made on the basis of beyond reasonable doubt, on the balance of probabilities, or on some other basis.

The second procedural matter is the lack of any stated reasons for the decisions you have made; again, both civil law judgments and those of canon law, always give such reasons. In other words, what specific evidence led you to arrive at your finding, and what evidence did you regard as not worthy of acceptance, and why? Again, without any reasons for your findings, I am of course unable to make a full and proper response, which you have stated is my right. When I have your reply on these matters, I will make a more complete response than herein.

10. In particular, your matter four is actually some 42 different matters, in many cases completely unconnected as to time, place and persons. You have stated that it is sustained. Are you stating that all 42 matters are sustained, or only some of them? Under normal procedures followed in western societies, if you group 42 matters together and I demonstrate that one is, say, physically impossible, the whole group would fall. I ask that you follow the procedures outlined in my point 9 above, in relation to these 42 matters individually, or alternately, that you find the particular matters unsustainable.

11. I have noted a number of serious deficiencies in the conduct of this investigation, in my letter to your contracted Investigator, Kamira Stacey Consulting dated November 4, 2007. I am aware that my letter was forwarded to you by them. In a letter to me of April 18, 2008, you purported to address a minority of my concerns; but in fact your letter in no way seriously addressed- let alone answered- any of the matters I had raised in my letter. I have enclosed a copy of this letter and ask for your response to each matter I have raised.

12. However, I wish to especially draw your attention now to one matter in my letter to Stacey Kamira Consulting. It is that of the apparent attempt by the Diocese in 1998 to pervert the course of justice by claiming that a person had made a complaint about me, when in fact she claims that although approached by a representative of the Diocese to complain about me, she refused and made no such complaint. As you have been aware of this matter for some months, if you were not before that time, I ask - in the first instance- what explanation you have for it.

13. The fact that without any systematic attempt, I have discovered an apparent falsification of evidence by the Diocese against me, opens the wider question of your refusal to provide any witness statements supposedly made about me. Since you have provided me with detailed allegations, and have included the names of the persons supposedly ill-treated by me, why would

you not provide witness statements? There is, of course, one obvious possibility, especially given the case cited in the paragraph above. Also, the Congregation for Clergy, in its judgment of December 2000, states that you were also unable to provide such witness statements to them. Do such witness statements exist, or has the Diocese simply collected a list of rumors and remanufactured matters perhaps raised in counseling sessions- supposedly confidentially- which represent personal fears, not necessarily facts?

14. Your stricture about my not having any contact with persons claimed by you to have complained about me, also seems in the light of my previous point, to be highly suspicious. There is no property in a witness. While I have never in any way put pressure on any person to support me, the Diocese is on record as having harassed at least one person in the past (Mr Wilson) in an attempt to have him make complaints about me.

15. You will be aware too, that attempts by your office to involve other persons- including your own clergy and prominent Wollongong lay people- in the current investigation have met with a general refusal to be involved in such a spurious process, and probably any process emanating from your Chancery office. These people and so many others who have privately or publicly approached you to speak well of me, may all be deluded about me. But is this really tenable?

16. Finally, you mention the matter of my suitability for ministry, and relate it directly to this investigation under the Ombudsman's Act. It is my understanding that matters covered in this Investigations can be used only for the purposes cited in the Act and its various regulations, and are strictly confidential. I also remind you that I have not been informed of any investigation into my suitability for ministry, which I understand is required under Canon Law before such an investigation can commence. There is also the fact that all matters covered in this Ombudsman's Act Investigation, have already been fully investigated by the Congregation for Clergy, which has found no grounds for restrictions on my ministry.

I hope you will address the matters I have raised and give me clear answers.

I must say in concluding that the progress of this whole matter, since the Diocesan Chancellor of the time, initiated it in late April of 1996, has been one of the truth slowly but surely coming out: And the Truth will out. I appreciate that in the atmosphere of 1996, Diocesan officials might have made poor decisions under pressure. I appreciate that to now admit the full truth might be embarrassing and even damaging for some such officials. But I must say that your actions in this regard appear to me as of a person digging himself into an increasingly deep hole. You must realize that your approach this matter is becoming increasingly counterproductive, if not absurd. As a priest, of course, my concern is not only for the way this is effecting the Diocese, but more importantly, the effect on your soul.

Yours faithfully,

*Fr J G Nestor*

Fr J G Nestor.

Enclosure: Letter to Kamira Stacey Consulting, November 4, 2007  
(See Alleg. 4, WRITTEN RESPONSE)