

John Andrew Ellis

REDACTED



14 July 2004

The Very Rev Mgr Brian Rayner  
Vicar General, Chancellor and  
Moderator of the Curia  
Catholic Archdiocese of Sydney  
Polding Centre  
133 Liverpool Street  
Sydney NSW 2000

by e-mail [chancery@ado.syd.catholic.org.au](mailto:chancery@ado.syd.catholic.org.au)

Dear Monsignor Rayner

**Re: Towards Healing Complaint, Mr John Ellis and Rev Aidan Duggan OSB**

I refer to my letter dated 6 July 2004 and to the form of “Deed of Release” forwarded to me by Mr Raymond Brazil on 9 July 2004.

I apologise for my delay in responding with comments on the deed. This is as a result of discussions I have had with Mr Brazil. My first reaction to the pro-forma deed was that there had been an error or oversight on the part of your office, as the document forwarded to me was based on the settlement of a damages claim against His Eminence and the Trustees of the Archdiocese, and was not directed to the type of financial gesture or gratuity that I had discussed with Mr Brazil, which is expressly not intended as “compensation” or “damages” in the legal sense.

I confirm, as advised to Mr Brazil, that I have made no claim for damages against the Church, and that I have no intention of considering any potential claim or taking any legal advice in relation to such a claim until the completion of the Towards Healing process. I have engaged in this process in good faith with the intent of seeking to heal my relationship with the Church, and have made a conscious decision to consider the totality of the Church’s response at the facilitation meeting before considering any other available courses of action or redress. I understand this to be consistent with the advice given to me by the Professional Standards Office that the Towards Healing process is one way the Church has sought to deal with complaints such as mine, and does not exclude any other means of redress.

However, despite this, I understand from further discussions with Mr Brazil today that your office has confirmed that the form of deed sent is the one you intend to use as a starting point for the document to be executed and handed over at the proposed facilitation meeting on 20 July 2004 as a condition of the proposed financial gesture.

I interpose that Mr Brazil has confirmed your instructions that the gesture is to be made at the facilitation meeting, subject to a suitable deed being executed by myself. I thank you for this gesture in anticipation, and the good will it demonstrates.

Mr Brazil has noted (and I understand relayed to you) my comment that the deed does not appear to be an appropriate starting point. This is because it is premised on there having been a claim for damages and an agreed settlement of such claim. I expressed to Mr Brazil my view that this premise pervades the whole of the deed such that to comment in detail on specific provisions makes little sense and the comments I would therefore make may appear to be trite and “clever”.

My preferred course would therefore be to draft an alternative form of document embracing the following:

1. An acknowledgment of my complaint.
2. An acknowledgment that the Church has investigated the complaint, that it makes no admission, but that within the spirit of the Towards Healing protocol wishes to make a pastoral response based on the assessment report.
3. That as part of that response, the Church has agreed to make a financial gesture of atonement, receipt of which is acknowledged.
4. That this gesture is not compensation or damages.
5. That no claim for damages has been made, and the gesture is without prejudice to any claim that I may otherwise have.
6. However, if any claim for damages is subsequently made arising out of the circumstances alleged in my complaint, the amount of the gesture is to be set off as part-payment towards satisfaction or settlement of any such claim.

However, Mr Brazil has requested that I do comment in detail on the form of deed provided by your office, despite some of those comments going to the root of the document. In accordance with this request, I therefore provide the following detailed comments on the deed:

<b>Clause</b>	<b>Comment</b>
Recital D (i)	Delete. There have been no claims and no allegation of liability.
Recital D (ii)	Delete the second line “ <i>but do not admit ...loss and damage claimed</i> ”.
Recital D (iii)	Delete. As there has been no claim, there has been no settlement.
Clause 1	Amend to reflect that payment is to be made upon execution. Delete the reference to legal costs. Include an acknowledgement of receipt.
Clause 2	Delete. There is no claim for this clause to refer to.
Clause 3	Delete. There are no legal proceedings.
Clause 4	Delete. This clause does not apply, as there is no payment of damages
Clause 5	Delete. This is not applicable, as I am not a Social Security recipient and there are no criminal proceedings or victims compensation claim.
Clause 6	Delete. There is no claim to which this clause can relate

Clause 7	The proper law should be New South Wales
Clause 8	Delete. There is no claim to which this clause can relate
Clause 9	Amend to refer to an acknowledgement that I will not seek any further financial assistance (without in any way affecting any claim I may otherwise have to recover loss or damage arising out of the circumstances of my complaint or the facts upon which it is based).
Clause 10	Delete. There is no claim to which this clause can relate
Clause 12	Delete the reference to " <i>the claim and the proceedings</i> ".
Clause 14	Delete. There are no solicitors involved.
Other	It would seem appropriate to include (consistently with Item #6 from my list above) an acknowledgment that if any claim for damages is subsequently made by me arising out of the circumstances alleged in my complaint, the amount of the gesture is to be set off as part-payment towards satisfaction or settlement of any such claim.

Given the short time now remaining before the facilitation meeting, I would appreciate your response to the matters I have raised as soon as possible. I understand that you have other matters, but if this is to be resolved prior to the meeting, a response by the end of tomorrow (**Thursday 15 July**) would be appreciated.

If you are able to send me an electronic version of the pro-forma deed, I am happy to make any agreed amendments, if this would save time, expense and effort on your part. I am also happy to speak directly with the person in your office (or any external counsel) responsible for preparing and signing off on the deed on behalf of the Archdiocese. I trust that proceeding in this way will still allow me to return the signed documents to you at the meeting on 20 July 2004, thereby removing any bar to the gesture being made on that day, as part of the Church's total response to my complaint.

I look forward to hearing from you shortly in relation to the above.

Yours sincerely in faith



John Ellis

cc **Michael Salmon**  
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cc **Raymond Brazil**  
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