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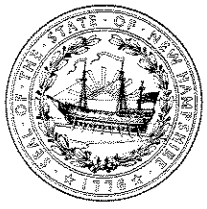

May 2, 2007

Bishop John McCormack
c/o Brian Quirk, Esq.
Preti, Flaherty, Beliveau, Pachios & Haley
57 North Main Street
P.O. Box 1318
Concord, New Hampshire 03302-1318

Re: Audit of 2002 Agreement Between State and Diocese

Dear Bishop McCormack:

Attached is a copy of the report generated by KPMG based on its assessment of the Diocese of Manchester's compliance program (the "2006 Audit"). Similar to the 2005 audit report released on March 27, 2006, the 2006 Audit is based on a comprehensive review of documentation, interviews with a number of Diocesan personnel, and sample testing of the compliance program at the Diocese, parishes, a school, and a camp. The findings are fully documented in the report. I write separately to emphasize that certain findings made by KPMG require prompt attention.

As an initial matter, I commend the Diocese on making significant advances toward implementing an effective program for the protection of children. The 2005 Audit identified substantial deficiencies in the Diocese's compliance program. Following the release of the 2005 Audit, the Diocese provided the State with a detailed action plan explaining the steps that the Diocese intended to take to correct these deficits. Based on the 2006 Audit, it appears that the Diocese has fulfilled those benchmarks. The Diocese's dedication of additional resources toward enhancing the compliance program is a positive step toward the fulfillment of the promise of the 2002 Agreement that the Diocese have a firmly established and highly effective child protection program in place.

Despite these laudable actions, the 2006 Audit has identified some critical gaps that need to be corrected in order for the Diocese to have a fully effective and sustainable compliance program. The 2006 Audit report contains detailed findings and recommendations. The Diocese should review those findings and recommendations and take appropriate action to correct the

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shortcomings identified by the report. In conducting the 2007 Audit, KPMG will review and assess the Diocese's performance based on the findings and recommendations contained in the prior audit reports. I write separately to address those issues that I believe require particular immediate attention.

1. Tone At The Top

One of the most troubling findings in the KPMG report is the lack of "acceptance or commitment to cooperation with a process" exhibited by senior members of the Diocese responsible for implementing the compliance program, particularly the Delegate of Ministerial Conduct, Fr. Edward Arsenault. As the 2006 Audit report points out, it is well-established through industry standards that "organizations must not only exercise due diligence to prevent and detect criminal conduct, but also otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance." A lack of commitment or acceptance is perhaps the greatest danger to the long-term sustainability of an effective child protection program.

While the newly-hired Compliance Coordinator, the Safe Environment Coordinators, other participants in the compliance program may be dedicated to the process, someone in a pivotal position such as the Delegate of Ministerial Conduct can substantially weaken the process if he is not fully committed. To many rank and file Diocesan employees and volunteers tasked with administering the compliance program, the Delegate is the face of the program. His attitude toward audit and, ultimately, the compliance program is conveyed to the people responsible for carrying out the program. I expect you will take prompt action to ensure that top management at the Diocese is committed to the compliance program and the audit process.

2. Removal of Diocesan Personnel Upon Receipt Of An Allegation

The *Promise to Protect, Pledge to Heal*, Policy for the Protection of Children and Young People (the "Policy") requires the Bishop to place an accused on administrative leave pending the outcome of the investigation, if the allegation is "deemed by the Bishop of Manchester to have a semblance of truth." The removal of an accused during the pendency of the investigation is an explicit term of the December 2002 Agreement between the Attorney General's Office and the Diocese. Accordingly, this provision is a necessary component of the Policy. As drafted, however, the Policy does not comport with the Agreement. The Agreement unambiguously requires: "Upon receipt of an allegation of sexual abuse, the Diocese will ensure that, pending the resolution of the allegations, the alleged abuser will be removed from any position in which there is the possibility for contact with minors." Agreement ¶2(f). The Agreement does not permit the Bishop to make a preliminary determination of whether the allegation appears truthful and removal must take place "upon receipt" of an allegation of sexual abuse.

The Policy also does not define "administrative leave" so it is unclear whether this will result in the removal of the alleged abuser from "any position in which there is the possibility of contact with minors." It is also unclear who is responsible for confirming that the alleged abuser has actually been removed and for communicating the alleged abuser's status to appropriate authorities in the parish, school, or camp.

Our Office has repeatedly pointed out these problems with the Policy to the Diocese and no corrective action has been taken. If the Diocese does not immediately amend the Diocesan written policies or procedures to correct this issue, we will be forced to take all necessary steps to enforce the Agreement.

3. Record Keeping and Reliance on Self-Reporting

The Diocese has made significant advances in background screening and training of Diocesan personnel. These measures have substantially improved the Diocese's compliance program. There are, however, still several important steps the Diocese needs to take to ensure that all Diocesan personally are properly screened and trained as required by the Agreement and Diocesan policies.

While the Diocese maintains several databases to keep track of the screening and training requirements, the Diocese is still largely reliant on self-reporting by the local parishes, camps, and schools. In other words, as of the 2006 Audit, it does not appear that the Diocese independently verified documentation at the parishes, schools, or camps to determine whether all volunteers and employees have, in fact, received the required training and background screening. The presence or absence of documentation in the file for an employee or volunteer establishing that both the screening and training have been completed is critical to an effective compliance program. Otherwise it is difficult, if not impossible, to reliably track the status of employees and volunteers.

In addition, based on the 2006 Audit report there appear to be several discrepancies in various databases that create confusion about the status of screening and training for particular employees. Such confusion creates a risk that Diocesan personnel will fall through the cracks and not receive the required screening or training. KPMG has detailed its findings and recommendations on pages 29-33 of the 2006 Audit report. The Diocese must address these issues in order to establish an effective compliance program.

Similar to the process following the 2005 Audit, within 30 days from today's date, the Diocese must develop and present to the Attorney General's Office a comprehensive written plan for resolving issues identified in KPMG's report and outlined above, including the goals and objectives related to the gaps identified, the identification of responsible parties, realistic and

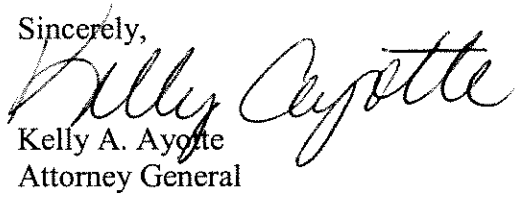
appropriate, but prompt, timelines for plan implementation, and mechanisms for ongoing oversight and progress reporting between annual audits.

The Office of the New Hampshire Attorney General, or its designated representative will review the submitted plan to assess its completeness, reasonableness, and ability to further assist the Diocese in complying with the Agreement. Thereafter, the Diocese will be responsible for implementing the agreed-upon plan within the timeframes designated, subject to audit by the New Hampshire Attorney General.

In addition, the Diocese shall address any deficiencies and/or findings outlined in KPMG's audit report but not covered in this letter prior to the next annual audit. Failure to take appropriate and timely steps to address deficiencies identified by the audit may result in court action for contempt or other appropriate legal remedies to enforce the Agreement.

I am encouraged by the progress exhibited by the Diocese over the last year. There is still important work to be accomplished. I am optimistic that the Diocese will continue to work to solidify an enduring, effective program for protecting children from sexual abuse.

Sincerely,



Kelly A. Ayotte
Attorney General