

1 SEDGWICK, DETERT, MORAN & ARNOLD
2 NICHOLAS W. HELDT (Bar No. 83601)
3 One Embarcadero Center, 16th Floor
4 San Francisco, CA 94111-3628
5 Telephone: (415) 781-7900
6 Facsimile: (415) 781-2635

7 Attorneys for Defendant
8 FRANCISCAN FRIARS OF CALIFORNIA, INC.

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SANTA BARBARA

11 [REDACTED]

12 Plaintiff,

13 vs.

14 ROBERT VAN HANDEL, et al.

15 Defendants.

16 Case No. [REDACTED]

17 AMENDED MEMORANDUM OF POINTS
18 AND AUTHORITIES IN SUPPORT OF
19 MOTION FOR SUMMARY JUDGMENT
20 AND SUMMARY ADJUDICATION

21 DATE: February 22, 2000

22 TIME: 8:30 a.m.

23 DEPT: 4

24 TRIAL DATE: August 4, 2000

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27 SEDGWICK,
DETERT, MORAN
& ARNOLD

28 One Embarcadero Center
Sixteenth Floor
San Francisco, California
94111-3628
Tel. 415.781.7900

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& ARNOLD
One Embarcadero Center
Sixteenth Floor
San Francisco, California
94111-3628
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DETERT, MORAN
& ARNOLD
One Embarcadero Center
Sixteenth Floor
San Francisco, California
94111-3628
Tel. 415.781.7900

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& ARNOLD

One Embarcadero Center
Sixteenth Floor
San Francisco, California
94111-3628
Tel. 415.781.7900

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I.

INTRODUCTION

Plaintiff [REDACTED] alleges in this action that he was sexually assaulted in 1982 and 1983 by Robert Van Handel, the Director of the Santa Barbara Boys Choir. Plaintiff has sued Robert Van Handel. Plaintiff has also sued the Franciscan Friars of California, Inc. (hereinafter the "Province"), the Roman Catholic Archbishop of Los Angeles (hereinafter referred to as the "Archbishop"), and the Santa Barbara Boys Choir (hereinafter the "Choir"). Against the Province and the Archbishop, plaintiff has alleged Seven Causes of Action seeking compensatory damages.¹

Plaintiff alleges he was a member of the Santa Barbara Boys Choir and Robert Van Handel was its Director. Although Robert Van Handel was a friar, a member of the Province, and a member of the faculty of St. Anthony's Seminary, he was off-duty, engaged in after school activities when he served as a Director of the Choir. The Santa Barbara Boys Choir was not operated by the Province and had no relationship to the Province. Undisputed facts show that the plaintiff never had any relationship with the Province, he did not rely on any representations by the Province, and he was never in the care or custody of the Province.

In this motion, the Province asks the court to summarily adjudicate six issues. These six issues dispose of all causes of action against the Province and the Archbishop in this case. Defendant asks, therefore, that summary judgment be granted in favor of the Archbishop and the Province.²

¹ Plaintiff has not included a claim of punitive damages against the Province or the Archbishop.

² When it originally filed this motion the Province asked only that the court grant summary adjudication in favor of the Province. Although the issues to be summarily adjudicated would have entitled the Province to summary judgment, the Province had chosen, for religious reasons, to consent to Entry of Judgment against the Province on the Sixth Cause of Action, without proof of the liability of the Province, if the jury were to find that plaintiff was sexually assaulted by Robert Van Handel and if the jury assessed compensatory damages in a trial in which evidence of the liability of the Province were not received. At plaintiff's request, and over the objection of the Province, this Consent to Entry of Judgment was

(continued...)

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II.

STATEMENT OF FACTS

Plaintiff alleges that in 1982, when he was approximately nine years old, he joined the Santa Barbara Boys Choir. [Third Amended Complaint ("TAC") 8:6-7] Plaintiff alleges that while he was a member of the Boys Choir he was sexually assaulted twice by its Director, Robert Van Handel. [TAC 11:27-12:4] Plaintiff claims that one assault occurred while he and other members of the Choir were watching a video tape in a room at St. Anthony's Seminary. [Plaintiff's deposition 39:7-24 (Exh. A)] Plaintiff claims that the second sexual assault occurred when he was at a summer camp near San Simeon, California with other members of the choir. [Plaintiff's deposition 46:5-18 (Exh. B)]

Robert Van Handel was ordained as a priest in 1975. [Declaration of Robert Van Handel ("Dec. RVH") ¶2] He was a member of the Province of St. Barbara. [Dec. RVH ¶2] He was assigned by his Provincial Minister to teach at St. Anthony's Seminary in Santa Barbara. [Dec. RVH ¶3] Soon after Robert Van Handel arrived in Santa Barbara, he founded the Santa Barbara Boys Choir with the assistance and cooperation of the parents of some boys who wished to participate in the choir. [Dec. RVH ¶4] The Santa Barbara Boys Choir was a private, non-denominational choir. [Dec. RVH ¶4] It was not created by the Province or operated by the Province. [Dec. RVH ¶5; Declaration of Mel Jurisich ("Dec. MJ") ¶¶3-5] While serving as the Director of the Choir, Robert Van Handel was not in the course and scope of his duties as a faculty member of St. Anthony's or as a member of the Province. [Dec. RVH ¶7; Dec. MJ ¶¶4 and 5] Robert Van Handel's activities for the Santa Barbara Boys Choir were conducted in his off-duty time. [Dec. RVH ¶7; Dec. MJ ¶4]

The Santa Barbara Boys Choir was incorporated as a nonprofit, public benefit corporation in 1980. [Dec. RVH ¶4] Parents of boys in the Choir served on the Board of Directors of the Corporation. [Dec. RVH ¶4] The Boys Choir maintained its own bank accounts and raised its own operating funds. [Dec. RVH ¶5] The Boys Choir received no

²(...continued)

stricken from the Province's answer.

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1 financial assistance from the Province. [Dec. RVH ¶5; Dec. MJ ¶5] The Choir rented a
 2 rehearsal room from St. Anthony's Seminary and paid \$100 per month rent for this room.
 3 [Dec. RVH ¶5; Dec. MJ ¶5] From time to time the Choir also conducted other activities on
 4 the property at St. Anthony's, such as rummage sales or patrons' dinners. When this
 5 occurred, the Choir paid rent to St. Anthony's for the use of the property. [Dec. RVH ¶6]

6 Robert Van Handel's participation in the Santa Barbara Boys Choir was not
 7 encouraged by the Province. [Dec. RVH ¶8; Dec. MJ ¶4] In fact, the Rector of St.
 8 Anthony's Seminary, Father Mel Jurisich, felt that Robert Van Handel's participation in the
 9 Santa Barbara Boys Choir detracted from Van Handel's commitment to St. Anthony's
 10 Seminary, in particular to the Seminary choir consisting of students at St. Anthony's. [Dec.
 11 RVH ¶8; Dec. MJ ¶4] These sentiments were communicated to Robert Van Handel. [Dec.
 12 RVH ¶8; Dec. MJ ¶4] Despite this discouragement by the Rector of St. Anthony's, Robert
 13 Van Handel was free to use his own time to pursue his activities with the Santa Barbara Boys
 14 Choir and he did so. [Dec. RVH ¶8; Dec. MJ ¶4]

15 Plaintiff and his family are not and never were Catholic. [Depo. of plaintiff
 16 29:3-8 (Exh. E; Declaration of [REDACTED] ("Depo. SLA") 80:1-2 (Exh. I); Deposition
 17 of [REDACTED] ("Depo. JCA") 37:6-7 (Exh. L). Before Plaintiff joined the Santa
 18 Barbara Boys Choir, plaintiff and his family knew no Franciscans. [Depo. SLA 100:19-
 19 102:21 (Exh. J); Depo. JCA 58:1-4 (Exh. P)] They spoke to no Franciscans concerning the
 20 Santa Barbara Boys Choir. In fact, before plaintiff joined the Santa Barbara Boys Choir
 21 neither he nor his family had any communications with any person, either written or oral
 22 concerning the Santa Barbara Boys Choir except plaintiff's mother had spoken with her
 23 friend, [REDACTED] a lay person (not a Franciscan) about the fact that [REDACTED] was
 24 in the choir and the choir rehearsed at St. Anthony's and plaintiff's father had spoken with his
 25 friend, [REDACTED] a lay person (not a Franciscan) about the fact that [REDACTED]
 26 [REDACTED] was in the choir. [Depo. of plaintiff 116:9-14 (Exh. H); Depo. SLA 50:1-51:21 (Exh. K);
 27 Depo. JCA 10:16-11;15 (Exh. N)] Other than these conversations with [REDACTED]
 28 and [REDACTED] neither plaintiff nor his parents had any communication with any person or

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1 entity concerning the Santa Barbara Boys Choir before plaintiff joined the choir. [Depo. of
2 plaintiff 116:9-14 (Exh. H); Depo. SLA 50:25-51:15 (Exh. K); Depo. JCA 11:10-15 (Exh. N)]
3 Neither plaintiff nor his parents had any understanding that the Choir was operated by the
4 Franciscans or by the Archbishop. [Depo. of plaintiff 41:26-42:9 (Exh. C); Depo. SLA
5 100;11-101:12 (Exh. J); Depo. JCA 15:4-23 (Exh. M)] Certainly the plaintiff and his parents
6 did not have any understanding, based on anything that had been said or represented by the
7 Province, that plaintiff would be in the care and protection of the Province while he
8 participated in the Santa Barbara Boys Choir. [Depo. of plaintiff 41:26-42:9 (Exh. C); Depo.
9 SLA 100;11-101:12 (Exh. J); Depo. JCA 15:4-23 (Exh. M), 42:12-14 (Exh. Q)]

10 Plaintiff has never been in the care or custody of the Province or the
11 Archbishop. Plaintiff has never been a member of or a participant in any activity in which
12 the Province or the Archbishop was responsible for his care.

13 III.

14 SUMMARY OF ARGUMENT

15 The relationship, or more precisely the lack of any relationship, between the
16 plaintiff and the Province and the Archbishop, or between Robert Van Handel and the
17 Province or the Archbishop while Robert Van Handel acted as the Director of the Santa
18 Barbara Boys Choir is a sufficient basis to summarily adjudicate each of the causes of action
19 against the Province and the Archbishop in this case. Although there was clearly a
20 relationship between Robert Van Handel and the Province in Van Handel's capacity as a
21 member of the faculty of St. Anthony's Seminary, Van Handel's status as a member of the
22 faculty of St. Anthony's Seminary has no casual relationship with plaintiff joining the Choir
23 or with plaintiff's claims that he was molested while a member of the Choir.

24 The propriety of summary adjudication of each of the causes of action that has
25 been plead against the Province and the Archbishop is separately addressed in Section V,
26 below. But before turning to the Causes of Action that have been plead, defendant will show
in Section IV, below, that certain allegations in the complaint, relating to prior molestation of
Robert Van Handel and relating to the behavior of other friars at Saint Anthony's Seminary

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1 have not been alleged as the basis for any cause of action and can not be so alleged.

2 It is the responsibility of a defendant moving for summary judgment to negate
3 only the causes of action raised by the complaint. Joslin v. Marin Municipal Water Dist.
4 (1967) 67 Cal.2d 132, 148; Hooks v. Southern Cal. Permanente Medical Group (1980)
5 107 Cal.App.3d 435, 442. A defendant is "not required to refute liability on some theoretical
6 possibility not included in the pleadings." IT Corp. v. Superior Court (1978) 83 Cal.App.3d
7 443, 451.

8 IV.

9 CAUSES OF ACTION THAT HAVE NOT BEEN AND CANNOT BE PLEAD

10 The Third Amended Complaint alleges that Robert Van Handel was sexually
11 molested by a Franciscan Friar sometime between 1961 and 1965 and that this made it
12 probable that he would repeat this behavior as a perpetrator. [TAC 5:5-23] The Third
13 Amended Complaint also alleges that eleven other friars perpetrated sexual abuse on minor at
14 St. Anthony's seminary between 1964 and 1967 and that "the defendants did nothing to
15 investigate, deter or prevent such conduct by the friars." [TAC 9:24-10:12] These
16 allegations, found in the general preamble to the complaint, are incorporated by reference in
17 all of the causes of action alleged, but are not specifically referred to as the basis for liability
18 in any of those causes of action. And, in fact, these allegations are insufficient to state a
19 cause of action against the Province or the Archbishop as shown below.

20 A. Premises Liability:

21 Plaintiff alleges that one of the two incidents of sexual assault upon him by
22 Robert Van Handel occurred at St. Anthony's seminary. [TAC 11:27-12:4] Plaintiff has not
23 asserted a cause of action for premises liability, nor could he. In Eric J. v. Betty M. (1999)
24 76 Cal.App.4th 715, the court held that there was no cause of action for premises liability
25 against the owner of premises where molestation occurred, even if the owner actually knows
26 that a person was a convicted child molester and that he had brought a child onto the
premises. Unless the owner of the premises stands in some custodial relationship to the child
or has a duty arising from some other source to control the conduct of the defendant

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94111-3628
Tel. 415.781.7900

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1 no liability based on the fact that molestation occurred on premises:

2 Under the circumstances of this case, premises liability is a make-weight
3 because there was no relationship between the harm and any premises owned
by family members on which the harm occurred.

4 Eric J. v. Betty M. (1999) 76 Cal.App.4th 715, 717. The court held that to state a cause of
5 action for premises liability there must be some causal relationship between the premises and
6 the harm and there was no such causal relationship in that case.

7 A similar result was reached in Kramer v. State Farm Fire and Cas. Co. (1999)
8 76 Cal.App.4th 332. In that case the issue was whether an insurance policy that covered
9 claims "arising from the ownership, maintenance, or use of the insured premises," covered
10 sexual molestation of a child on the premises. The court held that there must be a causal
11 relationship between the use of the premises and the molestation in order for the harm to arise
12 out of the use of the premises. And because the molestation in that case (just as in this case)
13 had occurred at other locations in addition to premises owned by the defendants, it was clear
14 there was no causal relationship:

15 The covered residences in this case were merely two of several locations at
16 which the Kramers had custody and control of the children. The required
causal relationship between use of those particular premises and the tortious
17 activity causing the injury therefore was lacking.

18 Kramer, supra, 76 Cal.App.4th 341.

19 Thus, the mere allegation that plaintiff was sexually molested at premises
20 owned by the Province is insufficient to state a cause of action. There are no allegations that
21 some feature of the property was causally related to the harm in this case. Indeed, there could
22 be no such allegation, where plaintiff also asserts that he was molested at a private
23 campground, not owned by any defendant in this case.

24 **B. Second Generation Molestation:**

25 Plaintiff alleges that Robert Van Handel was himself molested by a Franciscan
26 Friar sometime between 1961 and 1965. Plaintiff further alleges that it was therefore
foreseeable that Robert Van Handel would repeat this behavior.

28 The allegation that Robert Van Handel was molested by a Franciscan 35 to 40

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1 years ago, even if proven true, cannot form the basis of liability in this case for two reasons.
2 First, if a Franciscan sexually molested Robert Van Handel 35 to 40 years ago, that
3 Franciscan was not in the course and scope of his employment as a matter of law. John R. v.
4 Oakland Unified School District (1989) 48 Cal.3d 438; Jeffrey E. v. Central Baptist Church
5 (1988) 197 Cal.App.3d 718; Rita M. v. Roman Catholic Bishop (1986) 197 Cal.App.3d 1453.
6 Second, there is no causal relationship between any alleged molestation of Robert Van Handel
7 and any later alleged molestation by Robert Van Handel as a matter of law. In Evan F. v.
8 Hughson United Methodist Church (1992) 8 Cal.App.4th 828, a girl named Eyrene was
9 molested by her brother Evan. Eyrene claimed that her brother Evan had, in turn, been
10 molested by Dwayne Murphy who was employed by Hughson United Methodist Church.
11 Eyrene sued Dwayne Murphy and Hughson United Methodist Church, but the court granted
12 summary judgment in favor Murphy and the church. This was affirmed on appeal because
13 the court concluded, "on policy grounds, that Eyrene's injury was not proximately caused by
14 [the church]." Evan F., supra, 8 Cal.App.4th 838, n1.

15 Thus, even if plaintiff could establish as a fact that Robert Van Handel was
16 molested by a Franciscan Friar 35 to 40 years ago, this would not entitle plaintiff to recover
17 against either that individual Franciscan or against the Province. This assertion is causally
18 unrelated to plaintiff's alleged injury as a matter of law.

19 **C. Aider and Abettor Liability:**

20 Plaintiff alleges that between 1964 and 1967 at least 11 friars at St. Anthony's
21 seminary sexually assaulted minors. The third amended complaint plaintiff alleges that,
22 "defendants did nothing to investigate, deter or prevent such conduct by the friars." [TAC
23 10:7-8] Plaintiff does not allege that the friars rendered "substantial assistance or
24 encouragement" to Robert Van Handel, or that Robert Van Handel was even aware of
25 misconduct by other friars.

26 Even if plaintiff could prove that the Franciscans were aware of sexual
27 misconduct of other friars, and even if plaintiff could allege that Robert Van Handel was
28 aware of misconduct by other friars (a fact that plaintiff has not alleged) California law

1 clearly holds that this is insufficient to state a cause of action.

2 Restatement Second of Torts, Section 876, provides:

3 For harm resulting to a third person from the tortious conduct of another, a
4 person is liable if he (a) orders or induces such conduct, knowing of the
5 conditions under which the act is done or intending the consequences which
6 ensue, or (b) knows that the other's conduct constitutes a breach of duty and
7 gives substantial assistance or encouragement to the other so to conduct
8 himself, ...

7 This rule as stated in the Restatement of Torts, has been adopted as the law of the State of
8 California. Pasadena Unified School District v. Pasadena Federation of Teachers (1977) 72
9 Cal.App.3d 100, 113. The California courts recognize that section 876 of the Restatement is
10 liability for one who "aids and abets the commission of an intentional tort" by another person.
11 Saunders v. Superior Court (1994) 27 Cal.App.4th 832-846. The United States Supreme
12 Court has explained that Section 876 of the Restatement of Torts, "accepts a doctrine with
13 rough similarity to criminal aiding and abetting." Central Bank of Denver, N.A. v. First
14 Interstate Bank of Denver, N.A. (1994) 511 U.S. 164, 181, 114 S.Ct. 1439, 1450, 128
15 L.Ed.2d 119.

16 Plaintiff has not alleged that any other defendant "substantially assisted or
17 encouraged" Robert Van Handel to molest plaintiff. Mere knowledge that other friars have
18 molested other children, or even knowledge that Robert Van Handel had molested plaintiff,
19 together with a failure to prevent this, does not constitute aiding and abetting:

20 Mere knowledge that a tort is being committed and the failure to prevent it
21 does not constitute aiding and abetting. [citation omitted] "As a general rule,
one owes no duty to control the conduct of another."

22 Fiol v. Doellstedt (1996) 50 Cal.App.4th 1318, 1326. That case went on to state that, "mere
23 failure to act does not constitute the giving of 'substantial assistance or encouragement' to the
24 tortfeasor." Fiol, supra, 50 Cal.App.4th 1326.

25 In Cully v. Bianca (1986) 186 Cal.App.3d 1172, the court considered whether
26 liability could be imposed on passengers in a car operated by an intoxicated driver. In that
case the passengers had ridden to and from the liquor store where the liquor was purchased
with the driver and had ridden to and from the area where the liquor was consumed with the

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One Embarcadero Center
Sixteenth Floor
San Francisco, California
94111-3628
Tel. 415.781.7900

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1 driver. After the liquor was consumed, one of the passengers was riding with the intoxicated
2 driver at the time of the accident with the plaintiff. Immediately after the collision the
3 passenger yelled "go" to the intoxicated driver and the two left the scene. The Court held
4 that this was insufficient to impose liability on the passenger saying:

5 We believe that proof of such facts would fall short of establishing the
6 "substantial assistance or encouragement" required by Restatement §876.

7 Cully v. Bianca (1986) 186 Cal.App.3d 1172, 1178.

8 In Sindell v. Abbott Laboratories (1980) 26 Cal.3d 588, the California Supreme
9 Court considered whether plaintiff had alleged a cause of action under Restatement
10 §876. Plaintiff in that case alleged that all of the manufacturers of the drug DES had
11 performed inadequate testing, knew that their testing was inadequate, relied on one another's
12 testing, yet entered into a "tacit understanding" not to warn that the testing was inadequate.
13 Based on those alleged facts, plaintiff asserted that all manufacturers of DES were generally
14 liable to her because the marketing of DES was a concerted action by all of the defendants
15 and that each of the defendants had substantially assisted and encouraged each of the other
16 defendants to improperly market the drug. The Supreme Court held that plaintiff had failed
17 to state a cause of action under Restatement §876:

18 In our view, this litany of charges is insufficient to allege a cause of action
19 under the rules stated above. The gravamen of the charge of concert is that
20 defendants failed to adequately test the drug or to give sufficient warning of its
21 dangers and that they relied upon the tests performed by one another and took
22 advantage of each other's promotional and marketing techniques. These
allegations do not amount to a charge that there was a tacit understanding or a
common plan among defendants to fail to conduct adequate tests or give
sufficient warnings, and that they substantially aided and encouraged one
another in these omissions.

23 Sindell, supra, 26 Cal.3d 605. It is well established that, "mere failure to act does not
24 constitute the giving of 'substantial assistance or encouragement' to a tortfeasor." Fiol v.
25 Doellstedt (1996) 50 Cal.App.4th 1318, 1326. In Sindell, the Supreme Court went even
26 further, however, and expressed doubt that there could be liability as an aider and abetter even
if it were proven that there was a "tacit understanding to fail to perform an act."

It seems dubious whether liability on the concert of action theory can be

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1 predicated upon substantial assistance and encouragement given by one alleged
2 tortfeasor to another pursuant to a tacit understanding to fail to perform an act.

3 Sindell, supra, 26 Cal.3d 606.

4 A sexual assault upon a child is a crime. But unless the defendant stands in
5 some special relationship to the criminal or the victim, the defendant has no duty to prevent
6 the crime even if the defendant knows the crime is occurring.

7 It should be emphasized that all crimes are against the state and no citizen
8 except those officials charged with the duty to do so, is required to take any
affirmative action to prevent the commission of a public offense....

9 It is well settled that aiding and abetting the commission of a crime require
10 some affirmative action. The mere knowledge or belief that a crime is being
11 committed or likely to be committed, and the failure on the part of the one
having such knowledge or belief to take some steps to prevent it, in no sense
amounts to aiding and abetting.

12 People v. Weber (1948) 84 Cal.App.2nd 126, 130.

13 A case decided by the Missouri Court of Appeals is factually very similar to
14 the allegations plaintiff makes in this case. In Bradley v. Ray (Mo.App.1995) 904 S.W.2d
15 302, a child was molested by her stepfather. The child alleged that her mother became aware
16 of the abuse and arranged to have the stepfather treated by two psychiatrists. Neither the
17 mother nor either of the psychiatrists made a report of child abuse to any law enforcement
18 authority as required by the Missouri Child Abuse Reporting Act. Plaintiff alleged that after
19 the stepfather began treatment with the two psychiatrists he continued to abuse her as a result
20 of the psychiatrist's failure to report the abuse. The child alleged three causes of action
21 against the psychiatrists: (a) negligence per se based on failure to comply with the reporting
22 act; (b) common law negligence for failure to warn; and (c) aiding and abetting, under the
23 authority of Restatement §876. The court of appeal held that plaintiff had stated a cause of
24 action for common law negligence for failure to warn pursuant to Tarasoff v. Regents of
25 University of California (1976) 17 Cal.3d 425. But the Court of Appeal held that the causes
26 of action for negligence per se and for aiding and abetting were properly dismissed for failure
to state a cause of action. As to the claim of aiding and abetting, the Court stated that under
Restatement §876, "The defendant must affirmatively act to aid the primary tortfeasor; neither

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1 failure to object to the tortious act nor defendant's mere presence at the commission of the
2 tort is sufficient to charge one with responsibility." Bradley v. Ray, supra, 904 S.W.2d at
3 315. The Court held that plaintiff had not pled facts sufficient to state a cause of action under
4 Restatement §876:

5 [P]laintiff did not plead facts which support a claim of aiding and abetting
6 against defendants. Plaintiff merely states that Drs. Ray and Strnad were in
7 agreement with Ms. Kopan [plaintiff's mother] "to shield and protect said
8 Lester N. Pope [the stepfather] from further discovery, reporting and criminal
9 prosecution regarding his said abuse of Kelly with the intent to thereby aid and
10 abet said Lester N. Pope...." These facts do not establish that defendant
11 affirmatively acted by giving substantial assistance or encouragement to Mr.
12 Pope to abuse Kelly. Judgment of dismissal as to Count I is affirmed.

13 Bradley v. Ray, supra, 904 S.W.2d at 315.

14 In this case plaintiff alleges, in essence, that the Province did not vigilantly
15 police the behavior of other friars at St. Anthony's seminary and that this laxness by the
16 province encouraged Robert Van Handel to molest the plaintiff. But this is insufficient to
17 state a cause of action. Even if the allegation was made that the Province knew Robert Van
18 Handel (as opposed to other friars) was molesting children, mere failure of the Province to
19 take action to prevent further wrongdoing cannot be a basis of liability against the Province
20 unless there is a duty on the province to take action.³

21 Absent a "special relationship," one cannot be held liable for
22 mere nonfeasance, such as not protecting another from a criminal
23 attack by a third party.

24 Eric J. v. Betty M. (1999) 76 Cal.App.4th 715, 727. In that case the Court of Appeal
25 affirmed a nonsuit against a sexually molested child because, "The tort law of California does
26 not impose mandatory Good Samaritanism." Id.

27 Thus, no matter how rampant the sexual molestation of children may have been
28 by other friars, and no matter how much the Province may have known about misconduct by

3 Plaintiff attempts to allege the basis of a duty based on an employment relationship
between Robert Van Handel and the Province, and based on allegations that plaintiff was
under the custodial care of the Province. Those allegations are addressed in Section V which
follows.

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Tel. 415.781.7900

1 other friars,⁴ mere failure to act on the part of the Province is not a basis for liability in this
2 case.

3 V.

4 SUMMARY ADJUDICATION OF EACH CAUSE OF ACTION AGAINST THE
5 PROVINCE AND THE ARCHBISHOP SHOULD BE GRANTED.

6 There are seven causes of action in the third amended complaint asserted
7 against the province and the archbishop. One or more essential element of each of those
8 causes of action is indisputably missing.

9 A. The Third Cause of Action of Intentional Infliction of Emotional Distress:

10 In the Third Cause of Action plaintiff alleges intentional infliction of emotional
11 distress against Van Handel based on his alleged molestation of plaintiff when he served,
12 during his free time, as Director of the Choir. Plaintiff alleges that the Province is liable for
13 this intentional infliction of emotional distress based on the allegation that the Franciscans
14 allegedly ratified Van Handel's behavior. Before a defendant can be held liable based on
15 ratification it must be shown that the defendant had actual knowledge of what was done.
16 Volandri v. Hlobil (1959) 170 Cal.App.2d 656.

17 A principal is not bound by the unauthorized act of his agent
18 unless he had knowledge of the agent's violation of his authority.

19 Montgomery v. Bank of America (1948) 85 Cal.App.2d 559, 564; See, also, In Re Estate of
20 Fletcher (1940) 36 Cal.App.2d 567. Constructive knowledge is insufficient to support a claim
21 of ratification. Reusche v. California Pacific Title Ins. Co. (1965) 231 Cal.App.2d 731;
22 Volandi v. Hlobil (1959) 170 Cal.App.2d 656.

23 "As a general rule, in order that a ratification of an unauthorized
24 act of an agent may be valid and binding it is essential that the
25 principal have full knowledge at the time of the ratification of all
26 material facts and circumstances relative to the unauthorized act
or transaction . . . unless the principal is wilfully ignorant or
purposely refrains from seeking information." [citation omitted]

27 ⁴ The Province by no means admits that it had knowledge of rampant sexual
28 molestation by other friars at St. Anthony's Seminary before plaintiff claims he was molested
by Robert Van Handel. The evidence is to the contrary. See Declaration of [REDACTED]

1 "The doctrine of constructive knowledge of material facts or
2 imputation of knowledge of such facts does not generally obtain
3 in the case of ratification, as ordinarily it is what the principal
4 knows, and not what he has mere legal notice of, that is to be
5 considered in determining whether there has been ratification
A principal's failure to use diligence to make discovery" (i.e.
that one is doing unauthorized acts in his name) "is not such
negligence as will charge him with constructive knowledge of
what he might have discovered by such inquiry."

6 Gallagher v. California Pacific Title & Trust Co. (1936) 13 Cal.App.2d 482, 493.⁵

7 Plaintiff has testified in his deposition in this case that he told no one that he
8 had been molested by Van Handel before 1997. [Plaintiff deposition, 57:6-26; Exhibit F to
9 Declaration of Heldt.] Undisputed evidence shows that the Province had no actual knowledge
10 that Van Handel had molested anyone until 1992. When the Province was first informed that
11 Van Handel had molested a child, he was immediately removed from all responsibilities, sent
12 to an in-patient facility for evaluation and treatment, and he has never been returned to any
13 pastoral duties for the Franciscans (or for anyone else for that matter). [Declaration of [REDACTED]
14 [REDACTED] "Dec. JC") ¶¶6 and 7] Robert Van Handel is no longer a member of the Franciscan
15 order. [Dec. RVH ¶14]

16 Plaintiff cannot shown this court a scintilla of admissible evidence of
17 ratification. [Issue No. 2 to be summarily adjudicated.]

18 **B. The Fourth Cause of Action For Negligent Infliction of Emotional Distress:**

19 In the Fourth Cause of Action plaintiff alleges that, "the selection, approval,
20 employment and supervision of Van Handel and Does 1-5 at St. Anthony's Seminary and the
21 Santa Barbara Boy's Choir," caused plaintiff to suffer severe emotional distress. The
22 evidentiary shortcoming of this allegation is that there is no evidence that the Province had
23 anything to do with the selection, approval employment and supervision of Van Handel at
24 "the Santa Barbara Boy's Choir," which was a distinct entity that Van Handel participated in
25

26 ⁵ Occasionally a failure to investigate a specific complaint of assault is treated as the
equivalent of actual knowledge [McChristian v. Popkin (1946) 75 Cal.App.2d 249, 256] but
no case has held that ratification can be found in the absence of actual knowledge and in the
absence of a specific complaint of wrongdoing.

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1 while he was off duty.⁶ [Issue No. 4 to be summarily adjudicated] With regard to Van
2 Handel's "selection, approval, employment and supervision at St. Anthony's Seminary," the
3 defect in plaintiff's claim is that Van Handel's employment at the Seminary has no causal
4 relationship with any harm suffered by the plaintiff. [Issue No. 3 to be summarily
5 adjudicated]

6 In Mendoza v. City of Los Angeles (1998) 66 Cal.App.4th 1333, the court of
7 appeal affirmed summary judgment in favor of the City who employed a police officer who
8 shot a family member while off duty. The court recognized that "liability for negligent hiring
9 and supervision," exists only, "in factual settings where the plaintiff's injury occurred in the
10 work place, or the contact between the plaintiff and the employee was generated by the
11 employment relationship." Mendoza, supra 66 Cal.App.4th at 1339-1340. The court
12 recognized that, "failing to require a connection between the employment and the injured
13 party would result in the employer becoming an insurer of the safety of every person with
14 whom its employees come into contact, regardless of their relationship to the employer."
15 Mendoza, supra, 66 Cal.App.4th at 1341. The court of appeal went so far as to say,
16 "Assuming the evidence was sufficient to support the finding of negligence (and even if we
17 held it had a duty in this factual setting not to be), it was insufficient to support the finding of
18 causation." Mendoza, supra, 66 Cal.App.4th at 1342. Because there was no connection
19 between the victim who had been shot while the police officer was off duty, and the shooter's
20 employment as a police officer, the court of appeal reversed a judgment based on a jury
21 verdict against the City of Los Angeles.

22 Another case in which the existence of an employment relationship between the
23 defendant and a criminal wrongdoer was held to be legally irrelevant to the case was Koepke
24

25 ⁶ Although Van Handel was discouraged from directing the choir because the time
26 devoted to it detracted from his other duties, the Province had no reason to think that Van
Handel's work with the choir was a bad thing. At various times, other friars referred to Van
Handel's work with the choir as "good witness" of his faith and "excellent ministry." These
27 complements (which are the kind that could be given to any layperson by any friend who
28 shared his faith) do not make Van Handel an agent of the Province while serving as the
Director of the Choir.

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1 v. Loo (1993) 18 Cal.App. 4th 1444. In that case, the plaintiff was shot by her ex-boyfriend
2 who was employed by the defendant. The defendant had actual knowledge that the employee
3 was alcoholic, owned a gun and had threatened the plaintiff. The employer went so far as to
4 take away the employee's gun, arrange for counseling, and warn the plaintiff. Later,
5 however, the employer returned the employee's gun without warning the plaintiff. The
6 employee then used this gun to shoot the plaintiff. The trial court granted summary judgment
7 to the employer and the Court of Appeal affirmed. Why? Because the missing ingredient
8 was any connection between the employment and the plaintiff; plaintiff's relationship with the
9 employee was unconnected with his employment.

10 We reject with little discussion the concept that the Loo-Logan
11 [employer-employee] relationship gave rise to a duty to warn
12 Koepke [plaintiff]. Since Logan's [employee's] actions were in
13 no way related to his employment by Loo, the employer-
employee relationship which existed between them cannot give
rise to a duty.

14 Koepke v. Loo (1993) 18 Cal.App. 4th 1444, 1452.

15 Thus, plaintiff can never prevail on his allegations of the fourth cause of action
16 against the Province.

17 C. The Fifth Cause of Action for Negligent Hiring:

18 In the Fifth Cause of Action plaintiff alleges that the Province was negligent
19 when they "hired Van Handel and Does 1-5 as employees of St. Anthony's Seminary and the
20 Santa Barbara Boy's Choir," because the Province "knew, or in the exercise of reasonable
21 diligence should have known," that Van Handel was incompetent and unfit. This cause of
22 action suffers the same infirmities as the fourth cause of action. The Province did not hire
23 Van Handel to serve as director of the choir; and Van Handel's employment on the faculty of
24 St. Anthony's Seminary has no causal relationship to his contact with plaintiff.

25 Furthermore, no evidence exists that the Franciscans were negligent when they
26 hired Van Handel to serve on the faculty of St. Anthony's Seminary. California law is very
27 clear that before any person can be found negligent for failing to take steps to protect a child
28 from the deviant propensities of another person, plaintiff must show that the defendant

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1 charged with negligence "must know" of the deviant propensities, not merely have a basis to
2 suspect. This was the precise question confronted by the court in Chaney v. Superior Court
3 (1995) 39 Cal.App.4th 152. In that case a wife was sued for negligence after her husband
4 sexually abused children. The court of appeal stated in its opinion, "The question now is
5 what facts are required to be alleged to show a defendant wife's knowledge that her husband
6 harbors deviant propensities which would cause him to sexually molest a child." Chaney,
7 supra, 39 Cal.App.4th at 157. The court held that "actual knowledge" is required before a
8 defendant can be charged with negligence:

9 Without knowledge of her husband's deviant propensities, a wife
10 will not be able to foresee that he poses a danger and thus will
11 not have a duty to take measures to prevent the assault.
12 Although a wife's knowledge may be proven by circumstantial
13 evidence, such inference must reflect the wife's actual knowledge
14 and not merely constructive knowledge or notice.

15 Chaney v. Superior Court (1995) 39 Cal.App.4th at 157. The court in Chaney then went on to
16 examine the allegations of the complaint to determine if the allegations measured up to the
17 standard of "actual knowledge" if they were proven. The plaintiff in that case alleged that the
18 wife had "special and confidential information" about her husband's "deviant sexual
19 preferences and desires" which she failed to "recognize, accept and interpret." Plaintiff
20 alleged that the husband was "excessive" in his gift giving to the child and paid "excessive"
21 attention to her. The court of appeal held that these allegations were insufficient to withstand
22 a demurrer saying, "It is not enough to allege that the sexual misconduct was conceivable
23 [citation omitted]. The plaintiff must allege facts showing that it was foreseeable, i.e., facts
24 from which it can be inferred that the defendant wife must have known that her husband was
25 engaging in, or wished to engage in, acts of sexual misconduct with a minor." Chaney, supra,
26 39 Cal.App.4th at 159 (emphasis in original).

27 In this case, undisputed evidence shows that the Province did not have actual
28 knowledge of Van Handel's deviant propensities until 1992 when the first accusation of
sexual misconduct was made against him. This was roughly 10 years after plaintiff says he
was molested.

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1 **D. The Sixth Cause of Action for Negligent Supervision:**

2 In the Sixth Cause of Action plaintiff alleges that the Province was negligent in
3 its supervision of Van Handel "in their employment" of him. This cause of action suffers the
4 same infirmities as the third and fourth causes of action. The Province did not employ Van
5 Handel as the director of the choir and had no duty to supervise him in that capacity. With
6 regard to Van Handel's employment on the faculty at St. Anthony's Seminary, this
7 employment has no causal relationship or connection to the plaintiff in this case. Mendoza v.
8 City of Los Angeles (1998) 66 Cal.App.4th 1333. Koepke v. Loo (1993) 18 Cal.App. 4th
9 1444.

10 **E. The Seventh Cause of Action for Breach of Fiduciary Duty:**

11 In the Seventh Cause of Action plaintiff alleges a breach of fiduciary duty on
12 the basis that plaintiff was in the Province's "custody and control" on an ongoing basis during
13 1982 and 1983 while "participating in activities of the Santa Barbara Boy's Choir." The
14 factual defect of this cause of action is that the Province has no connection with the Santa
15 Barbara Boys Choir, nor did plaintiff or his family ever think that the Province had any
16 connection with the Santa Barbara Boys Choir. Plaintiff was not in the custody and control
17 of the Province while he was participating in activities of the Boy's Choir.

18 In addition to this glaring factual defect, the court has also previously sustained
19 a demurrer to this cause of action because the law does not recognize a fiduciary duty arising
20 out of either a pupil-school relationship [see, Martin v. Roman Catholic Archbishop (1958)
21 158 Cal.App.2d 64, 68] nor on the basis of a priest-parishioner relationship [Roman Catholic
22 Bishop v. Superior Court (1996) 42 Cal.App.4th 1556-1568 ("There is no special relationship
23 here creating a heightened duty of care based on a priest/parishioner relationship.")] Plaintiff
24 has attempted to amend this cause of action but the amendments are merely cosmetic. This
25 cause of action is susceptible both to summary adjudication and to judgment on the pleadings.

26 **F. The Eighth Cause of Action for Negligent Per Se:**

27 In the Eighth Cause of Action plaintiff alleges that the Province is guilty of
28 negligence per se because it failed to make reports of suspected child abuse pursuant to Penal

1 Code §11166. Leaving aside that there is no evidence that the Province failed to make any
2 mandatory report required by the Penal Code before plaintiff alleges he was molested, the
3 California Supreme Court has also held that the reporting scheme of Penal Code §11166 "was
4 intended to protect only those children in the custodial care of the person charged with
5 reporting the abuse, and not all children who may at some future time be abused by the same
6 offender." Randi W. v. Muroc Joint Unified School Dist. (1997) 14 Cal.4th 1066, 1087. In
7 that case the plaintiff had never been in the custodial care of the former employer of the
8 person she accused of molestation; therefore the Supreme Court held she could not state a
9 cause of action for negligence per se against that former employer of the alleged molester.
10 The same is true in this case. Plaintiff has never been in the custodial care of the Province or
11 the Archbishop. Therefore plaintiff has no standing to pursue a negligence per se cause of
12 action against the Province or the Archbishop based on an allegation that the Province or
13 Archbishop failed to report suspected child molestation by Van Handel.

14 G. The Ninth Cause of Action for Negligent Misrepresentation:

15 In the Ninth Cause of Action plaintiff alleges that the Province negligently
16 represented that plaintiff "would be under the protection and in the care of" the Franciscans
17 while he participated in the Choir; that the "Santa Barbara Boys Choir director" was of "high
18 religious, moral and scholastic character," and that the Franciscans "accepted and assumed
19 responsibility for the religious, physical, emotional, psychological, educational and moral
20 well-being of [REDACTED] while he was in defendant's custody and/or control." The glaring factual
21 deficiency of this case of action is that neither the plaintiff nor his parents had heard anything
22 said on any subject by any Franciscan before plaintiff joined the Boys Choir. Plaintiff and his
23 family did not know any Franciscans before plaintiff joined the Choir and had never
24 communicated with any Franciscan. Plaintiff and his family were not Catholics. Plaintiff and
25 his family had not seen any written materials concerning the choir before plaintiff joined the
26 Choir. Plaintiff and his family had talked only to two persons about the Choir before plaintiff
27 joined the Choir. These two persons, [REDACTED] a personal friend of plaintiff's father, and
[REDACTED] a personal friend of plaintiff's mother, are both lay people who were, at that

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& ARNOLD

One Embarcadero Center
Sixteenth Floor
San Francisco, California
94111-3628
Tel. 415.781.7900

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1 time, members of the board of directors of the Boy's Choir. Neither [REDACTED] nor
2 [REDACTED] had any relationship with the Franciscans that would permit them to speak on
3 behalf of the Province. Thus, the cause of action for misrepresentation is susceptible to
4 summary adjudication because no representations on any subject were ever made to the
5 plaintiff or her parents by the Franciscans.

6 V.

7 SUMMARY JUDGMENT SHOULD BE GRANTED TO THE ARCHBISHOP

8 The Archbishop truly has no legally cognizable relationship to the events of
9 this case. Robert Van Handel was never an employee of the Archbishop. St. Anthony's
10 Seminary was not operated or controlled by the Archbishop. The Santa Barbara Boys Choir
11 was not operated by the Archbishop. Plaintiff was never in the care or custody of the
12 Archbishop. The Archbishop never made any representations to plaintiff or his family about
13 anything related to the Santa Barbara Boys Choir, St. Anthony's Seminary, or Robert Van
14 Handel. Plaintiff and his family are not even Catholic. In the absence of all these facts, the
15 Archbishop owes no duties to plaintiff that will support any of the causes of action of the
16 complaint.

17 It is proper for the Province to request entry of summary judgment in favor of
18 the Archbishop because plaintiff has alleged that the Archbishop is the agent of the Province.
19 [TAC 4:6-11]

20 VI.

21 CONCLUSION

22 For the reasons set forth above, undisputed evidence shows that one or more
23 essential elements is missing from each cause of action against the Province and the
24 Archbishop. Defendant asks therefore that the court grant summary judgment in favor of the
25 Province and the Archbishop.

26 ///

27 ///

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DETERT, MORAN
& ARNOLD

One Embarcadero Center
Sixteenth Floor
San Francisco, California
94111-3628
Tel. 415.781.7900

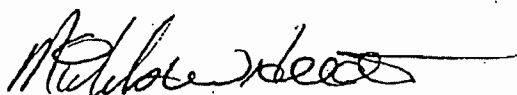
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Proposed Orders are submitted with this motion.

DATED: January 24, 2000

SEDGWICK, DETERT, MORAN & ARNOLD

By: 
NICHOLAS W. HELDT
Attorneys for Defendant
Franciscan Friars of California, Inc

SEDGWICK,
DETERT, MORAN
& ARNOLD

One Embarcadero Center
Sixteenth Floor
San Francisco, California
94111-3628
Tel. 415.781.7900

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1 [REDACTED] Van Handel, et al.

2 Santa Barbara County Superior Court; Case No. 228296

3 **PROOF OF SERVICE**

4 I am a resident of the State of California, over the age of eighteen years, and not a
5 party to the within action. My business address is One Embarcadero Center, 16th Floor, San
6 Francisco, California 94111. On January 25, 2000, I served the within documents:

7 **AMENDED MEMORANDUM OF POINTS AND AUTHORITIES IN
8 SUPPORT OF MOTION FOR SUMMARY JUDGMENT AND SUMMARY
9 ADJUDICATION**

10 ☐ by transmitting via facsimile the document(s) listed above to the fax number(s)
11 set forth below on this date before 5:00 p.m.

12 ☐ by placing the document(s) listed above in a sealed envelope with postage thereon
13 fully prepaid, in the United States mail at San Francisco, California addressed as
14 set forth below.

15 ☐ by causing personal delivery by _____ of the document(s) listed above to
16 the person(s) at the address(es) set forth below.

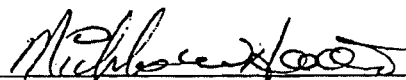
17 ☒ by personally delivering the document(s) listed above to the person(s) at the
18 address(es) set forth below.

19 ☐ by overnight courier of the document(s) listed above to the person(s) at the
20 address(es) set forth below.

21 David L. Nye, Esq.
22 Karen K. Peabody, Esq.
23 Carrington & Nye
24 33 West Mission St., Suite 201
25 Santa Barbara, CA 93101

26 Stanley M. Roden, Esq.
27 Hatch and Parent
28 21 E. Carillo Street
P.O. Drawer 720
Santa Barbara, CA 93102-0720

29 I declare under penalty of perjury under the laws of the State of California that the
30 above is true and correct. Executed on January 25, 2000, at San Francisco, California.

31 
32 Nicholas W. Heldt

33 **SEDGWICK,
34 DETERT, MORAN
35 & ARNOLD**

36 One Embarcadero Center
37 Sixteenth Floor
38 San Francisco, California
39 94111-3628
40 Tel. 415.781.7900

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**OFM VANH 1
0234**

1 [REDACTED] Van Handel, et al.

2 Santa Barbara County Superior Court; Case No. 228296

3 PROOF OF SERVICE

4 I am a resident of the State of California, over the age of eighteen years, and not a
5 party to the within action. My business address is One Embarcadero Center, 16th Floor, San
6 Francisco, California 94111. On January 24, 2000, I served the within documents:

7 AMENDED MEMORANDUM OF POINTS AND AUTHORITIES IN
8 SUPPORT OF MOTION FOR SUMMARY JUDGMENT AND SUMMARY
9 ADJUDICATION

10 ☐ by transmitting via facsimile the document(s) listed above to the fax number(s)
11 set forth below on this date before 5:00 p.m.

12 ☒ by placing the document(s) listed above in a sealed envelope with postage thereon
13 fully prepaid, in the United States mail at San Francisco, California addressed as
14 set forth below.

15 ☐ by causing personal delivery by _____ of the document(s) listed above to
16 the person(s) at the address(es) set forth below.

17 ☐ by personally delivering the document(s) listed above to the person(s) at the
18 address(es) set forth below.

19 ☐ by overnight courier of the document(s) listed above to the person(s) at the
20 address(es) set forth below.

21 David Ring, Esq.
22 McNicholas & McNicholas
23 10866 Wilshire Boulevard, Suite 1400
24 Los Angeles, CA 90024

Robert G. Howie, Esq.
Howie & Associates
1450 Chapin Avenue, Suite 200
Burlingame, CA 94010

25 Tina Mangerpan, Esq.
26 FORD, WALKER, HAGGERTY & BAHAR
27 One World Trade Center, 27th Floor
28 Long Beach, CA 90831-2700

29 I declare under penalty of perjury under the laws of the State of California that the
30 above is true and correct. Executed on January 24, 2000, at San Francisco, California.

31 
32 Kathleen Dorio

33 SEDGWICK,
34 DETERT, MORAN
35 & ARNOLD 36

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Sixteenth Floor
San Francisco, California
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Tel. 415.781.7900

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1 RESPONSE TO REQUEST FOR ADMISSION NO. 2:

2 *

3 REQUEST FOR ADMISSION NO. 3:

4 That in 1982 and 1983 Robert Van Handel was an agent of the Franciscan
5 Friars.

6 RESPONSE TO REQUEST FOR ADMISSION NO. 3:

7 *

8 REQUEST FOR ADMISSION NO. 4:

9 That St. Anthony's Seminary in Santa Barbara was owned and operated by the
10 Franciscan Friars.

11 RESPONSE TO REQUEST FOR ADMISSION NO. 4:

12 *

13 REQUEST FOR ADMISSION NO. 5:

14 That in 1982 and 1983 Robert Van Handel was a member of the faculty of
15 St. Anthony's Seminary in Santa Barbara.

16 RESPONSE TO REQUEST FOR ADMISSION NO. 5:

17 *

18 REQUEST FOR ADMISSION NO. 6:

19 That in 1982 and 1983 Robert Van Handel was an employee of St. Anthony's
20 Seminary.

21 RESPONSE TO REQUEST FOR ADMISSION NO. 6:

22 *

23 REQUEST FOR ADMISSION NO. 7:

24 That in 1982 and 1983 Robert Van Handel was an attorney of St. Anthony's
25 Seminary.

26 RESPONSE TO REQUEST FOR ADMISSION NO. 7:

27 *

A/C Privilege - Attorney Work Product

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je - Attorney Work Product

1 That in 1982 and 1983 Robert Van Handel resided on a full-time basis on the
2 grounds of St. Anthony's Seminary.

3 RESPONSE TO REQUEST FOR ADMISSION NO. 8:

4 *

5 REQUEST FOR ADMISSION NO. 9:

6 That Robert Van Handel formed the Santa Barbara Boys Choir.

7 RESPONSE TO REQUEST FOR ADMISSION NO. 9:

8 *

9 REQUEST FOR ADMISSION NO. 10

A/C Privilege - Attorney Work Product

10 That, in order to form the Santa Barbara Boys Choir, Robert Van Handel was
11 required to obtain permission to do so from the Franciscan Friars.

12 RESPONSE TO REQUEST FOR ADMISSION NO. 10:

13 *

14 REQUEST FOR ADMISSION NO. 11:

15 That Robert Van Handel did obtain permission from the Franciscan Friars to
16 form the Santa Barbara Boys Choir.

17 RESPONSE TO REQUEST FOR ADMISSION NO. 11:

18 *

19 REQUEST FOR ADMISSION NO. 12:

20 That the regular activities of the Santa Barbara Boys Choir were conducted on
21 the grounds of St. Anthony's Seminary.

22 RESPONSE TO REQUEST FOR ADMISSION NO. 12:

23 *

24 REQUEST FOR ADMISSION NO. 13:

VC Privilege - Attorney Work Product

25 That the rehearsals of the Santa Barbara Boys Choir were held on the grounds
26 of St. Anthony's Seminary.

27 RESPONSE TO REQUEST FOR ADMISSION NO. 13:

28 *

OFM VANH 1

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1 REQUEST FOR ADMISSION NO. 14:

2 That in 1982 and 1983 Robert Van Handel was the Director of the Santa
3 Barbara Boys Choir.

4 RESPONSE TO REQUEST FOR ADMISSION NO. 14:

5 *

6 REQUEST FOR ADMISSION NO. 15:

7 That, in order to serve as the Director of the Santa Barbara Boys Choir, Robert
8 Van Handel was required to obtain permission to do so from the Franciscan Friars.

9 RESPONSE TO REQUEST FOR ADMISSION NO. 15:

10 *

11 REQUEST FOR ADMISSION NO. 16:

12 That Robert Van Handel did obtain permission from the Franciscan Friars to
13 serve as the Director of the Santa Barbara Boys Choir.

14 RESPONSE TO REQUEST FOR ADMISSION NO. 16:

15 *

16 REQUEST FOR ADMISSION NO. 17:

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17 That, in order to take the Santa Barbara Boys Choir on overnight trips off the
18 grounds of St. Anthony's Seminary, Robert Van Handel was required to obtain permission to
19 do so from the Franciscan Friars.

20 RESPONSE TO REQUEST FOR ADMISSION NO. 17:

21 *

22 REQUEST FOR ADMISSION NO. 18:

23 That Robert Van Handel did obtain permission from the Franciscan Friars to
24 take the Santa Barbara Boys Choir on overnight trips off the grounds of St. Anthony's
25 Seminary.

26 RESPONSE TO REQUEST FOR ADMISSION NO. 18:

27 *

28 REQUEST FOR ADMISSION NO. 19:

OFM VANH 1
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1 That Robert Van Handel's activities with the Santa Barbara Boys Choir were in
2 the course and scope of his employment with the Franciscan Friars.

3 RESPONSE TO REQUEST FOR ADMISSION NO. 19:

4 *

5 REQUEST FOR ADMISSION NO. 20:

6 That Robert Van Handel's activities with the Santa Barbara Boys Choir were in
7 the course and scope of his employment with St. Anthony's Seminary.

8 RESPONSE TO REQUEST FOR ADMISSION NO. 20:

9 *

10 REQUEST FOR ADMISSION NO. 21:

11 That [REDACTED] was a member of the Santa Barbara Boys Choir in 1982-
12 1983.

13 RESPONSE TO REQUEST FOR ADMISSION NO. 21:

14 *

15 REQUEST FOR ADMISSION NO. 22:

16 That Robert Van Handel sexually molested [REDACTED] during the time that
17 [REDACTED] was a member of the Santa Barbara Boys Choir.

18 RESPONSE TO REQUEST FOR ADMISSION NO. 22:

19 *

20 REQUEST FOR ADMISSION NO. 23:

21 That Robert Van Handel sexually molested [REDACTED] at St. Anthony's
22 Seminary.

23 RESPONSE TO REQUEST FOR ADMISSION NO. 23:

24 *

25 REQUEST FOR ADMISSION NO. 24:

26 That Robert Van Handel sexually molested [REDACTED] while on a Boys
27 Choir camping trip in the San Simeon area.

28 RESPONSE TO REQUEST FOR ADMISSION NO. 24:

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REQUEST FOR ADMISSION NO. 25 Privilege - Attorney Work Prod

That Robert Van Handel molested at least 5 boys while he was a Franciscan Friar at St. Anthony's Seminary.

RESPONSE TO REQUEST FOR ADMISSION NO. 25:

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REQUEST FOR ADMISSION NO. 26 C Privilege - Attorney Work Produ

That Robert Van Handel molested at least 5 boys who were members of the Santa Barbara Boys Choir.

RESPONSE TO REQUEST FOR ADMISSION NO. 26:

*
DATED: January 24, 2000 SEDGWICK, DETERT, MORAN & ARNOLD

By: _____
Nicholas W. Heldt
Attorneys for Defendant
Franciscan Friars of California, Inc.

3RD PARTY PRIVACY

Privilege - Attorney Work Product

1 SEDGWICK, DETERT, MORAN & ARNOLD
2 NICHOLAS W. HELDT (Bar No. 83601)
3 One Embarcadero Center, 16th Floor
4 San Francisco, CA 94111-3628
5 Telephone: (415) 781-7900
6 Facsimile: (415) 781-2635

7 Attorneys for Defendant
8 FRANCISCAN FRIARS OF CALIFORNIA, INC.

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE CITY AND COUNTY OF SANTA BARBARA

11 [REDACTED]
12 Plaintiff,

13 vs.

14 ROBERT VAN HANDEL, et al.

15 Defendants.
16

Case No. [REDACTED]

RESPONSE TO DEMAND FOR
INSPECTION AND PRODUCTION OF
DOCUMENTS

17 PROPOUNDING PARTY: Plaintiff [REDACTED]

18 RESPONDING PARTY: Defendant FRANCISCAN FRIARS OF CALIFORNIA, INC.

19 SET NO: REVISED SET TWO

20 Comes now Defendant, Franciscan Friars of California, Inc., and responds to Plaintiff's
21 revised second demand for inspection and production of documents as follows:

22 DEMAND NO. 71:

23 WITHDRAWN

24 RESPONSE TO DEMAND NO. 71:
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1 DEMAND NO. 72:

2 Any and all documents created, received or maintained by the Provincial Definitorium relating
3 to allegations of sexual misconduct by clergy members against members of the Santa Barbara
4 Boys Choir alleged to have occurred between 1964 and 1987.

5 RESPONSE TO DEMAND NO. 72:

8 DEMAND NO. 73:

9 Any and all documents created, received or maintained by the Provincial Definitorium relating
10 to allegations of sexual misconduct by clergy members against members of the St. Anthony's
11 Seminary alleged to have occurred between 1964 and 1987.

12 RESPONSE TO DEMAND NO. 73:

15 DEMAND NO. 74:

16 Any and all documents created, received or maintained by the Board of Assessment pertaining
17 to Robert Van Handel.

18 RESPONSE TO DEMAND NO. 74:

21 DEMAND NO. 75:

22 Any and all documents created, received or maintained by the Board of Assessment pertaining
23 to allegations of sexual misconduct by clergy members involving members of the Santa
24 Barbara Boys Choir alleged to have occurred between 1964 and 1987.

25 RESPONSE TO DEMAND NO. 75:

28 OFM VANH 1
0243

1 DEMAND NO. 76:

2 Any and all documents created, received or maintained by the Board of Assessment pertaining
3 to allegations of sexual misconduct by clergy members involving members of the St.
4 Anthony's Seminary alleged to have occurred between 1964 and 1987.

5 RESPONSE TO DEMAND NO. 76:
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8 DEMAND NO. 77:

9 Any and all documents created, received or maintained by the Provincial Counsel pertaining
10 to Robert Van Handel.

11 RESPONSE TO DEMAND NO. 77:
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14 DEMAND NO. 78:

15 Any and all documents created, received or maintained by the Provincial Counsel pertaining
16 to allegations of sexual misconduct by clergy members involving members of the Santa
17 Barbara Boys Choir alleged to have occurred between 1964 and 1987.

18 RESPONSE TO DEMAND NO. 78:
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21 DEMAND NO. 79:

22 Any and all documents created, received or maintained by the Provincial Counsel pertaining
23 to allegations of sexual misconduct by clergy members involving members of the St.
24 Anthony's Seminary alleged to have occurred between 1964 and 1987.

25 RESPONSE TO DEMAND NO. 79:
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A/C Privilege - Attorney Work Product

1 DEMAND NO. 80:

2 Any and all records of payments made by the Franciscan Friars to counselors, psychologists,
3 psychiatrists or any other mental health professionals for treatment provided to Robert Van
4 Handel during the years 1961 through the present time.

5 RESPONSE TO DEMAND NO. 80:

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8 DEMAND NO. 81:

9 Any and all Provincial policies regarding employment outside of the Franciscan Friars.

10 RESPONSE TO DEMAND NO. 81:

13 DEMAND NO. 82:

14 Unredacted copies of all writings prepared by Attorney t Van Handel wherein he makes any
15 mention of his involvement in sexual children.

16 RESPONSE TO DEMAND NO. 82:

19 DEMAND NO. 83:

a/c privilege-atty work product

20 WITHDRAWN

21 RESPONSE TO DEMAND NO. 83:

24 DEMAND NO. 84:

25 Robert Van Handel's Attorney file.

26 RESPONSE TO DEMAND NO. 84:

OFM VANH 1
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1 DEMAND NO. 85:

2 A complete copy of the Board of Inquiry e - Attorney W went to [REDACTED] but that
3 was not released to the public.

4 RESPONSE TO DEMAND NO. 85:

7 DEMAND NO. 86:

8 Any and all correspondence received by anyone associated with the Franciscan Friars from
9 Robert Van Handel during that period of time that Robert Van Handel was incarcerated for
10 his conviction for child molesting.

11 RESPONSE TO DEMAND NO. 86:

14 DEMAND NO. 87:

15 Any and all correspondence between anyone associated with the Franciscan Friars and any
16 member of the Board of Inquiry.

17 RESPONSE TO DEMAND NO. 87:

20 DEMAND NO. 88:

21 Any document reflecting questions posed by [REDACTED] with respect to the actions of the
22 Independent Response Team on friar confidentiality (see page 143 of earlier document
23 production).

24 RESPONSE TO DEMAND NO. 88:

28 OFM VANH 1
0246

1 DEMAND NO. 89:

2 Any document reflecting the response of an American canonist, David Deibel, to a
3 memorandum from [REDACTED] as referenced on 143 of the earlier document production.

4 RESPONSE TO DEMAND NO. 89:

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6 A/C Privilege - Attorney Work Product

7 DEMAND NO. 90:

8 Any document reflecting the notes of [REDACTED] from conversation with Gilles Bourdeau
9 as referenced on page 143 of the earlier document production.

10 RESPONSE TO DEMAND NO. 90:

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13 DEMAND NO. 91:

14 Any and all correspondence or other documents evidencing communications with the Vicar
15 General concerning the sexual molestation of children by the Franciscan Friars at St.
16 Anthony's Seminary alleged to have occurred between 1964 and 1987.

17 RESPONSE TO DEMAND NO. 91:

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20 DEMAND NO. 92:

21 Any and all correspondence or other documents evidencing communications with the Vicar
22 General concerning the sexual molestation of children by Robert Van Handel alleged to have
23 occurred between 1964 and 1987.

24 RESPONSE TO DEMAND NO. 92:

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28 OFM VANH 1
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1 DEMAND NO. 93:

2 Any and all records provided to the Franciscan Friars or its agents by any health care provider
3 for psychological or psychiatric counselling, treatment or assessment of Robert Van Handel.

4 RESPONSE TO DEMAND NO. 93:

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7 DEMAND NO. 94:

8 Any and all bills and invoices provided to the Franciscan Friars or its agents by any health
9 care provider for psychological or psychiatric counselling, treatment or assessment of Robert
10 Van Handel.

11 RESPONSE TO DEMAND NO. 94:

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14 DEMAND NO. 95:

15 Any and all reports provided to the Franciscan Friars or its agents by any health care provider
16 for psychological or psychiatric counselling, treatment or assessment of Robert Van Handel.

17 RESPONSE TO DEMAND NO. 95:

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20 DEMAND NO. 96:

21 Any and all correspondence and other documents received by the Franciscan Friars or its
22 agents from St. Francis Retreat concerning Robert Van Handel.

23 RESPONSE TO DEMAND NO. 96:

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OFM VANH 1
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1 DEMAND NO. 97:

2 Any and all correspondence and other documents received by the Franciscan Friars or its
3 agents from St. Francis Retreat concerning the molestation of children by clergy assigned to
4 the St. Anthony's Seminar.

5 RESPONSE TO DEMAND NO. 97:
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8 DEMAND NO. 98:

9 Any and all correspondence and other documents received by the Franciscan Friars from
10 Pacific Treatment Associates concerning Robert Van Handel.

11 RESPONSE TO DEMAND NO. 98:
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14 DEMAND NO. 99:

15 Any and all correspondence and other documents received by the Franciscan Friars or its
16 agents from Pacific Treatment Associates concerning the molestation of children by clergy
17 assigned to the St. Anthony's Seminar alleged to have occurred between 1964 and 1987.

18 RESPONSE TO DEMAND NO. 99:
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21 DEMAND NO. 100:

22 Any and all correspondence and other documents received by the Franciscan Friars or its
23 agents from St. Luke Institute concerning Robert Van Handel.

24 RESPONSE TO DEMAND NO. 100:
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Third party privacy

1 DEMAND NO. 101:

2 Any and all correspondence and other documents received by the Franciscan Friars or its
3 agents from St. Luke Institute concerning the molestation of children by clergy assigned to the
4 St. Anthony's Seminar alleged to have occurred between 1964 and 1987.

5 RESPONSE TO DEMAND NO. 101:
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8 DEMAND NO. 102:

9 Any and all correspondence and other documents received by the Franciscan Friars or its
10 agents from Michael John Eremia concerning Robert Van Handel.

11 RESPONSE TO DEMAND NO. 102:
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14 DEMAND NO. 103:

15 Any and all correspondence and other documents received by the Franciscan Friars or its
16 agents from Michael John Eremia concerning the molestation of children by clergy assigned
17 to the St. Anthony's Seminar alleged to have occurred between 1964 and 1987.

18 RESPONSE TO DEMAND NO. 103:
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21 DEMAND NO. 104:

22 Any and all photographs depicting activities involving the Boys Choir taken between 1980
23 and 1985.

24 RESPONSE TO DEMAND NO. 104:
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1 DEMAND NO. 105:

2 Any and all photographs taken by Robert Van Handel at any time while he was a Friar at St.
3 Anthony's Seminar that depicts a child under the age of 18 years.

4 RESPONSE TO DEMAND NO. 105:

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7 DEMAND NO. 106:

8 Any and all newsletters published by St. Anthony's Seminar between 1975 and 1985.

9 RESPONSE TO DEMAND NO. 106:

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12 DEMAND NO. 107:

13 Any and all minutes of meetings of the clergy at the St. Anthony's Seminar between 1975
14 and 1985.

15 RESPONSE TO DEMAND NO. 107:

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18 DEMAND NO. 108:

19 A full and complete copy of the 1917 Canon Law.

20 RESPONSE TO DEMAND NO. 108:

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23 DEMAND NO. 109:

24 A full and complete copy of the 1983 Canon Law.

25 RESPONSE TO DEMAND NO. 109:

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VC Privilege - Attorney Work Product

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1 DEMAND NO. 110:

2 Any and all correspondence or other documents sent to or received from the National
3 Conference of Catholic Bishops - United States Catholic Conference regarding Robert Van
4 Handel.

5 RESPONSE TO DEMAND NO. 110:

8 DEMAND NO. 111:

9 Any and all correspondence or other documents sent to or received from the National
10 Conference of Catholic Bishops - United States Catholic Conference regarding the molestation
11 of children by clergy at the St. Anthony's Seminary alleged to have occurred between 1964
12 and 1987.

13 RESPONSE TO DEMAND NO. 111:

16 DEMAND NO. 112:

17 Any and all statements, pastoral letters and pastoral plans issued by the National Conference
18 of Catholic Bishops - United States Catholic Conference regarding children and child
19 molesting.

20 RESPONSE TO DEMAND NO. 112:

23 DEMAND NO. 113:

24 Any and all documents in the possession of the Franciscan Friars that pertain in any way to
25 the Independent Board of Inquiry that convened to investigate the molestation of children by
26 priests at the St. Anthony's Seminary.

27 RESPONSE TO DEMAND NO. 113:

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OFM VANH 1
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1 DEMAND NO. 114:

2 Any and all correspondence or other documents created, received or maintained by anyone in
3 the Franciscan Friars and pertaining to any victim or the family of any victim of child
4 molestation by a priest assigned to the St. Anthony's Seminary between 1964 and 1987.

5 RESPONSE TO DEMAND NO. 114:

8 DEMAND NO. 115:

9 Any and all correspondence or other documents created, received or maintained by anyone in
10 the Franciscan Friars and pertaining to any priest who was suspected or known to have
11 molested children while assigned to the St. Anthony's seminary between 1964 and 1987.

12 RESPONSE TO DEMAND NO. 115:

15 DEMAND NO. 116:

16 Any and all documents created, received, published or maintained by the Franciscan Friars
17 between 1965 and the present that dealt in any way with the proper boundaries to be observed
18 by Friars when supervising or otherwise dealing with children under the age of 18.

19 RESPONSE TO DEMAND NO. 116:

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Attorney Client Privileged

22 DEMAND NO. 117:

23 Any and all documents created, received or maintained by the Franciscan Friars from 1980 to
24 the present that in any way document or reflect payment to any person claiming to have been
25 the victim of clergy child molestation by a priest assigned to the St. Anthony's Seminary.

26 RESPONSE TO DEMAND NO. 117:

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1 DEMAND NO. 118:

2 Any and all documents created, received or maintained by the Franciscan Friars from 1980 to
3 the present that in any way document or reflect payment to the family of any person claiming
4 to have been the victim of clergy child molestation by a priest assigned to the St. Anthony's
5 Seminary.

6 RESPONSE TO DEMAND NO. 118:

A/C Privilege - Attorney Work Product

9 DEMAND NO. 119:

10 Any and all documents created, received or maintained by the Franciscan Friars from 1980 to
11 the present that in any way document or reflect payment for counselling for any person
12 claiming to have been the victim of clergy child molestation by a priest assigned to the St.
13 Anthony's Seminary.

14 RESPONSE TO DEMAND NO. 119:

A/C Privilege - Attorney Work Product

17 DEMAND NO. 120:

18 Any and all documents created, received or maintained by the Franciscan Friars from 1980 to
19 the present that in any way document or reflect payment for counselling for the family of any
20 person claiming to have been the victim of clergy child molestation by a priest assigned to the
21 St. Anthony's Seminary.

22 RESPONSE TO DEMAND NO. 120:

25 DEMAND NO. 121:

26 Any and all documents created, received or maintained by the Franciscan Friars from 1990 to
27 the present that reflect any communications with the Servants of the Paraclete regarding
28 Robert Van Handel.

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1 RESPONSE TO DEMAND NO. 121:

C Privilege - Attorney Work Product

4 DEMAND NO. 122:

5 Any and all documents created, received or maintained by the Franciscan Friars from 1990 to
6 the present that reflect any communications with the RECON regarding Robert Van Handel.

7 RESPONSE TO DEMAND NO. 122:

12 DATED: January 22, 2000

SEDGWICK, DETERT, MORAN & ARNOLD

14 By

NICHOLAS W. HELDT
Attorneys for Defendant
Franciscan Friars of California, Inc

OFM VANH 1
0255

CARRINGTON & NYE
ATTORNEYS AT LAW
A PARTNERSHIP

14 H
DAVID L. NYE
KAREN K. PEABODY
OF COUNSEL
RICHARD A. CARRINGTON

January 13, 2000

Nicholas W. Heldt
Sedgwick, Detert, Moran & Arnold
One Embarcadero Center
Sixteenth Floor
San Francisco, Ca 94111

Re: [REDACTED] v. Van Handel
Santa Barbara Superior Court, Case No. [REDACTED]

Dear Mr. Heldt:

1. As we promised we would do in our meet and confer telephone conference on Monday, January 10th, this letter outlines for you the initial round of depositions we intend to notice and take in this matter. Rather than unilaterally setting dates for the depositions, as you did, and then refusing to alter the schedule, I am inviting you to call my office and provide me with dates that would be convenient for you and, insofar as the list includes individuals who are still Friars, your clients. I have marked with an asterisk the names of those individuals that I understand to still be associated with the Friars and for whom I intend to issue only a Notice of Deposition. If I am incorrect with regard to any of these individuals, I expect you to let me know so that I can arrange to have them subpoenaed to attend the deposition(s). In the general order that we intend to proceed, not including Boy's Choir personnel who will be added at the appropriate time, the list

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33 WEST MISSION STREET • SUITE 201 • SANTA BARBARA, CALIFORNIA 93101
TELEPHONE (805) 963-2345 • FACSIMILE (805) 563-5385

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Mr. Heldt

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2. Regarding the scheduling of these depositions, we believe that under CCP § 2025(c), it would be appropriate to ask the court to order most of the depositions of your client's employees in Santa Barbara, since they are spread all over the state. This would allow us to do more depositions in a much shorter period of time, and would dramatically reduce the expense to all parties. Please let me know your thoughts on this.

3. In your list of depositions, you identified an individual by the name of [REDACTED]. That name is unknown to us and does not appear in any of your interrogatory answers. Would you kindly advise us of who this person is, what his relationship with this lawsuit is, and the nature of the anticipated deposition testimony.

4. Your deposition notices of [REDACTED] in Colorado and [REDACTED] in Arizona are defective. Both Colorado and Arizona require a commission issued by a

court of competent jurisdiction, in this case the Santa Barbara Superior Court. A commission can only issue by noticed motion, which you did not do. Consequently, the depositions cannot go forward and any subpoenas you may have served on these deponents are of no force and effect. Please confirm in writing that these depositions are off calendar. Before you go to the time and expense of seeking a commission and having all of us travel to Colorado and Arizona, I suggest you allow my office to take the lead in coordinating the depositions of these two individuals in California. I believe they would both be willing to come to Santa Barbara where they could stay with friends and/or relatives, so the cost to the Friars would be far less than the other alternative. Please advise me of how you intend to proceed in this regard.

5. In our meet and confer session, we discussed the fact that both Mr. Roden and I have calendar conflicts on the date that you scheduled Robert Van Handel's deposition, January 25th. This conflict, the fact that you cannot compel us to move forward with Van Handel's deposition until we have received proper responses to our written discovery (which you asked for and the court granted more time to respond), and the fact that we have a motion to continue the hearing on the motion for summary judgment set on that same date in Santa Barbara, certainly amount to just cause to ask you to reset this deposition for a later date. However, you indicated that you would not consider changing this date because you felt you needed testimony from Mr. Van Handel to buttress your summary judgment motion. I find this strange, since you have virtually unlimited access to Mr. Van Handel and can obtain by declaration any testimony you want. The attorney for Mr. Van Handel has informed me that you are essentially directing Mr. Van Handel's defense in this case, as well as that of the Friars and the Archdiocese. If that remains your position, then we have no option but to file and serve a motion for a protective order. The filing of the motion does, of course, stay the deposition until the court can hear the motion, which we will schedule on the first available court date.

6. Scheduling depositions so as to take unfair advantage of your opponent constitutes sanctionable conduct under CCP § 128.5. Your motives here are transparent. You did not extend the normal professional courtesy of coordinating deposition dates. You have intentionally tied up virtually every day that plaintiff could have noticed depositions between now and the date of our presently due opposition to your motion for summary judgment. You have us travelling unnecessarily between San Francisco and Santa Rosa. You have scheduled depositions so as to make it almost impossible to find flights to and from Santa Barbara that will accommodate your schedule. You have refused to make any adjustments in those noticed depositions to accommodate the schedules of others. You have not even taken into consideration the schedules of any of the deponents/victims.

Mr. Heldt
January 13, 2000
Page 4

You have refused to stipulate to a continuance of the hearing on the motion for summary judgment, thus compelling us to bring yet another motion. It is clear that you are intent on making our discovery as difficult as possible in this case, and using your discovery to inconvenience us as much as possible. Such tactics are entirely unnecessary, unprofessional, and will certainly not prevent us from completing all of our desired discovery in due course now that the court has given us the time to do so.

Very truly yours,

CARRINGTON & NYE

By


DAVID L. NYE

DLN/rw

cc: Stan Roden


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3RD PARTY PRIVACY

DAVID L. NYE (Bar #67009)
KAREN K. PEABODY (Bar #187702)

CARRINGTON & NYE

Attorneys at Law

33 West Mission St., Suite 201
Santa Barbara, California 93101

Telephone: (805) 963-2345

Telecopier: (805) 563-5385

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

For the County of Santa Barbara

—o0o—

CASE NO. [REDACTED]

**AMENDED RESPONSES TO
SPECIAL INTERROGATORIES**

The Hon. James W. Brown

Complaint Filed: 1/11/99

Trial Date: 1/7/00

[REDACTED]
Plaintiff,

vs.

ROBERT VAN HANDEL, et al.,

Defendants.

PROPOUNDING PARTY:

Franciscan Friars

RESPONDING PARTY:

SET NUMBER:

[REDACTED]
One

Responding party hereby provides the following responses,
without prejudice to further discovery. Each of the following
responses is rendered and based upon information in the possession
of the responding party at the time of the preparation of these
responses. Discovery will continue as long as permitted by statute
or stipulation of the parties, and the investigation of this
responding party's attorneys and agents will continue to and

1 throughout the trial of this action. Responding party, therefore,
2 specifically reserves the right, at the time of trial, to introduce
3 any evidence from any source which may hereinafter be discovered
4 and testimony from any witness whose identity may hereinafter be
5 discovered. If any information has unintentionally been omitted
6 from these responses, this responding party reserves the right to
7 apply for relief so as to permit the insertion of the omitted data
8 from these responses. These introductory comments shall apply to
9 each and every response given herein, and shall be incorporated by
10 reference as though fully set forth in all of the responses
11 appearing in the following pages.

12

13 INTERROGATORY #6:

14 Responding party is informed and believes that Robert Van Handel
15 has indicated to several sources that on an occasion in 1962, when
16 he was 15 years old and a high school student at St. Anthony's
17 Seminary in Santa Barbara, he fell ill and reported to the
18 infirmary where he was allowed to rest. At that time, a seminary
19 priest, Father Martin McKeon, came into the room, put a towel on
20 Van Handel's chest, and then started to rub his stomach and chest
21 area, then rubbed his penis and genital area for approximately 10
22 minutes, causing Van Handel to obtain an erection. Van Handel
23 reported feeling very alarmed at what was happening and also
24 recalled being very concerned that the he would ejaculate in that
25 he felt it was a wrong thing to do. Van Handel reported that he
26 was very confused and embarrassed about what had happened and
27 decided to put it out of his mind, but he admits that the event
28 still affects him and that the molestation was very similar to his

3RD PARTY PRIVACY

1 own molestations of other children later on. Responding party is
2 aware of the following individuals who do or who may have knowledge
3 of this information: Robert Van Handel; Father Martin McKeon;
4 Michael John Eremia, Goleta Professional Building, Suite E, Goleta,
5 California, 93117, (805) 967-8513; Michael V. Stulberg, M.D., 504
6 W. Pueblo, Suite 304, Santa Barbara, CA 93105, (805) 682-1882. The
7 documents that contain this information are all contained in the
8 Probation Report for Robert Van Handel's criminal case in the Santa
9 Barbara Superior Court, Case Number 202042, dated August 12, 1994,
10 a copy of which has been produced to the propounding party.

11

12 **INTERROGATORY #7:**

13 Responding party is informed and believes that Robert Van Handel
14 had determined in his own mind by the early 1970's that he was
15 attracted to little boys, and in particular little boys who sang,
16 particularly little boys who had light brown or blond hair, blue
17 eyes and who sang well (i.e., [REDACTED] He had
18 determined that he liked to photograph nude little boys and did so
19 surreptitiously. He had already developed the ability to use a
20 child's parents to gain access to the child, and had also learned
21 that he could molest a child entrusted to his care, apparently
22 without any feeling of moral remorse to the child or his parents.
23 In fact, in this same time frame Van Handel orally copulated [REDACTED]

24 [REDACTED] In his sexual autobiography, which is part of the
25 Probation Report for Robert Van Handel's criminal case in the Santa
26 Barbara Superior Court, Case Number 202042, dated August 12, 1994,
27 a copy of which has been produced to the propounding party, Van
28 Handel documents an attempt in this same time frame to tell a

1 Franciscan counsellor about his vile thoughts and actions and his
2 attraction to little boys, but the counsellor, according to Van
3 Handel's account of the incident, after acknowledging that he knew
4 what Van Handel meant, was quick to change the subject and avoid
5 the admission that Van Handel was apparently interested in making,
6 or at least exploring at the time. The witnesses who would have
7 knowledge of these events are Robert Van Handel and an unknown
8 Franciscan Friar counsellor.

9
10 INTERROGATORY #8:

11 Responding party is informed and believes that Robert Van Handel
12 was ordained a priest in 1975 and, in the same time frame, was
13 accepted into the elementary teaching program at Cal Berkley,
14 obviously in the hope of teaching, being around, and having access
15 to young boys. However, in his sexual autobiography, which is part
16 of the Probation Report for Robert Van Handel's criminal case in
17 the Santa Barbara Superior Court, Case Number 202042, dated August
18 12, 1994, a copy of which has been produced to the propounding
19 party, Van Handel reports that the provincial intervened and sent
20 him, over his protest, to St. Anthony's Seminary to teach high
21 school age children, which are older than his preferred and
22 targeted age group of younger boys. The witnesses to this would
23 include Robert Van Handel and the provincial at the time, who is
24 believed to have been [REDACTED]

25
26 INTERROGATORY #9:

27 As indicated in answer to interrogatory #7 above, by the early
28 1970's Robert Van Handel had clearly developed a sexual attraction

1 to young boys. His interest in young boys was also noted in his
2 1970-1971 Semi-Annual Report #1 wherein it was written that "His
3 principal interest has been in the area of working with children.
4 One of his projects has been to organize and direct a boy's choir
5 for the Newman Center...." In his 1971-1972 Semi-Annual Report #1,
6 it is again noted that "His work with the Boys Choir at the Newman
7 Center, demanding as it is, is well worked into his schedule and he
8 shows good sense in making necessary choices." The Definitorium
9 clearly had the ability to approve or disapprove of this and other
10 Friar activity, as evidenced by Van Handel's March 22, 1973 letter
11 requesting permission to participate in a study on children and
12 government, and the response of [REDACTED] dated March 28, 1973,
13 communicating the Definitorium's enthusiasm over the project and
14 granting "permission" for Van Handel to accept. On November 4,
15 1978, after Van Handel had sought permission to travel abroad with
16 the Boy's Choir, [REDACTED] wrote to him and acknowledged the
17 "immense amount of good you have done with them and in the
18 community through them (the choir)." It was also recognized in
19 that letter that the project would mean a shift of Van Handel's
20 workload to other Friars while Van Handel prepared over the next
21 seven to eight months for the trip. On October 4, 1982, Van Handel
22 sought permission from the Definitorium to travel to England and
23 Ireland on what was best described as a church tour during the
24 months of July and August, 1983. On October 11, 1982, in response
25 to that request, the Definitorium wrote back and informed Van
26 Handel that "...you have our permission." On October 24, 1986, Van
27 Handel again wrote to the Definitorium, again asking for permission
28 to travel with the Boy's Choir to England and Switzerland this

1 time. In that letter, he points out that "While resident in Oxford
2 Cathedral the choir practiced three times a day and performed a
3 service daily. Sunday was a day spent in church with three
4 separate and different services." Predictably, the Definitorium
5 wrote back on October 31, 1986 and approved the travel, noting that
6 "We do affirm your work with the choir and the contribution that it
7 makes." On January 14, 1988, in applying for graduate studies at
8 UCSB, Van Handel wrote to the Friars Committee for Graduate
9 Studies, noting in that letter that "I am already serving the
10 province as administrator of St. Anthony's Seminary and chaplain to
11 the 'Greater Community.' This could continue as well as my
12 outreach work through and with the Santa Barbara Boy's Choir." On
13 September 10, 1989, in yet another travel request for a trip to
14 England, Van Handel points out that on this trip the tentative
15 plans are "...to go to Lichfield Cathedral (North of Birmingham)
16 and to sing the choral services there for a week. Then we would
17 travel west into northern Wales before going to Cork, Ireland. We
18 hope to be able to sing at St. Finbar's Cathedral, Cork, and
19 possibly at the Franciscan church in that city." In response, the
20 Definitorium wrote back on September 27, 1989 and advised Van
21 Handel "With this letter, please receive the formal permission of
22 the definitorium to travel to England next summer. We believe that
23 your work with the boy's choir is a good witness in Santa Barbara
24 and a fine ministry for you to be involved in." The witnesses to
25 the above would be Robert Van Handel, unknown persons who completed
26 his evaluation forms, members of the Devinitorium (unknown
27 identity), [REDACTED], [REDACTED], [REDACTED], and The
28 Friars' Committee for Graduate Studies. The documents are

described above and will be provided with the document production served concurrently herewith.

INTERROGATORY #10:

[REDACTED] was molested at St. Anthony's Seminary during the school year 1980-81 by Brother Gus Krumm. [REDACTED] told his brother, [REDACTED], that he was having problems with Br. Krumm and his brother reported the matter to [REDACTED] counsellor, Fr. Robert Van Handel. The next day, Fr. Van Handel called [REDACTED] to his office, but said nothing about the problem with Br. Krumm. Within a day or two, two Franciscan Friars, Fr. Chris Berbina and Br. Bernard Connelly, and one Franciscan Associate Program member, Robert Mocney, each came into [REDACTED] bed area and "interviewed" him about what had happened. [REDACTED] told each of them what had happened, including the molestation. Nothing else was done.

[REDACTED] was repeatedly physically and sexually abused at St. Anthony's Seminary during the school year 1964 to 1966 by Fr. Mario Cimarusti, who routinely administered beatings to [REDACTED] and to other students. In the middle of [REDACTED] junior year, he complained to the Rector, Fr. Harris, about the abuse and informed him that he was going to quit the seminary. Fr. Harris tried to bribe him to not quit, and thereafter tried to threaten and intimidate him into not quitting.

[REDACTED] attended St. Anthony's Seminary as a boarding student during the school year 1966 to 1970. Fr. Mario Cimarusti

Third Party Privacy Rights

attorney work product

1 held was the Prefect of Discipline and also in charge of the
2 infirmary/student health at this time. Fr. Mario routinely
3 administered severe beatings to the students and gave genital
4 examinations to students. During his first year at St. Anthony's,
5 [REDACTED] confronted Fr. Mario about the beatings and examinations.
6 Fr. Mario's response to the confrontation was to threatened [REDACTED]

A/C Privilege - Attorney Work Product

17 [REDACTED] was sexually abused by a Friar(s) at St. Anthony's and
18 has consented to being identified as a witness and has agreed to an
19 interview, but has not been interviewed as of this date and the
20 details of his abuse and/or reporting are not yet known.

21

22 [REDACTED] was sexually abused by a Friar(s) at St. Anthony's and
23 has consented to being identified as a witness and has agreed to an
24 interview, but has not been interviewed as of this date and the
25 details of his abuse and/or reporting are not yet known.

26

27 [REDACTED] was sexually abused by a Friar(s) at St. Anthony's
28 and has consented to being identified as a witness and has agreed

Third Party Privacy Rights

1 to an interview, but has not been interviewed as of this date and
2 the details of his abuse and/or reporting are not yet known.

3
4 [REDACTED] was sexually abused by a Friar(s) at St. Anthony's and
5 has consented to being identified as a witness and has agreed to an
6 interview, but has not been interviewed as of this date and the
7 details of his abuse and/or reporting are not yet known.

8
9 [REDACTED] was sexually abused by a Friar(s) at St. Anthony's and
10 has consented to being identified as a witness and has agreed to an
11 interview, but has not been interviewed as of this date and the
12 details of his abuse and/or reporting are not yet known.

13
14 [REDACTED] was sexually abused by a Friar(s) at St. Anthony's
15 and has consented to being identified as a witness and has agreed
16 to an interview, but has not been interviewed as of this date and
17 the details of his abuse and/or reporting are not yet known.

18
19 Plaintiff is informed and believes and on that basis alleges that
20 [REDACTED] were sexually
21 abused by a Friar(s) at St. Anthony's but have not yet been
22 contacted and therefore have not yet consented to being identified
23 as a witness or agreed to an interview.

24
25 There are no additional documents known at this time that support
26 this allegation. Witnesses, known at this time, are:

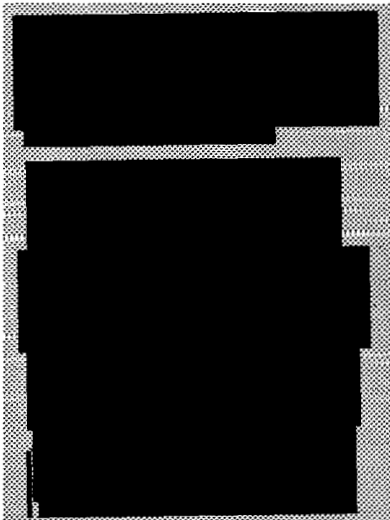
27 [REDACTED]
28 [REDACTED]

Third Party Privacy Rights

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[REDACTED]

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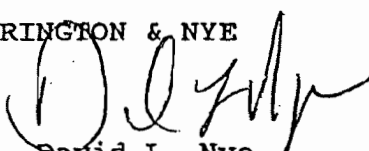
INTERROGATORY #11:

Please see response to interrogatory #10 above, which is incorporated herein.

Dated: December 14, 1999

CARRINGTON & NYE

By:


David L. Nye
Karen K. Peabody
Attorneys for Plaintiff

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Third party privacyVERIFICATION

STATE OF CALIFORNIA

COUNTY OF SANTA BARBARA

I have read the foregoing AMENDED RESPONSES TO SPECIAL INTERROGATORIES and know its contents.

I am [REDACTED] plaintiff in this action. The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification is executed this 14th day of December, 1999, at Chico, California.

[REDACTED]

PROOF OF SERVICE

I am employed in the County of Santa Barbara, State of California. I am over the age of eighteen years and not a party to this action. My business address is 33 West Mission, Suite 201, Santa Barbara, California 93101.

On the dates stated below, I served the following document(s): **AMENDED RESPONSES TO SPECIAL INTERROGATORIES, SET ONE** on the interested parties in this action, by placing [X] the original [TO NICHOLAS HELDT ONLY] [x] true copies thereof enclosed in sealed envelopes addressed as follows:

Nicholas W. Heldt
Sedgwick, Detert, Moran & Arnold
One Embarcadero Center
Sixteenth Floor
San Francisco, Ca 94111

John McNicholas
McNicholas & McNicholas
10866 Wilshire Boulevard
Suite 1400
Los Angeles, Ca 90024

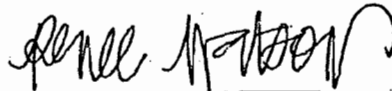
Mr. Robert G. Howie
Howie & Associates
1450 Chapin Ave., Suite 200
Burlingame, CA 94010

Stanley Roden
Hatch & Parent
21 East Carrillo Street
Santa Barbara, CA 93101

- [X] [By Mail] I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Santa Barbara, California on December 14, 1999.
- [] [By Personal Service] I caused such envelope(s) to be delivered by hand to the office(s) of the addressee(s) on December 14, 1999.
- [] [By Fax Service] I caused such document(s) to be sent via facsimile transmission on December 14, 1999.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: December 14, 1999



RENEE WATSON

**AGREEMENT BETWEEN ROBERT VAN HANDEL
AND FRANCISCAN FRIARS OF THE PROVINCE OF ST. BARBARA
CONCERNING FINANCIAL SUPPORT OF ROBERT VAN HANDEL**

This agreement is made between Robert Van Handel (hereinafter referred to as "Robert") and the Franciscan Friars of the Province of St. Barbara (hereinafter referred to as "the Franciscans") on this ____ day of _____, 1998.

Financial Assistance

Subject to the conditions set forth below, the Franciscans agree to pay Robert's housing costs for up to one year, to give him a monthly stipend for support, in an amount to be established by the Franciscans in their sole discretion, for up to one year, and to pay for costs of therapy, by a therapist approved by the Provincial Minister of the Franciscans, for up to one year. If Robert is able to support himself in less than one year, he is to assume his own support and the Franciscans may terminate financial assistance to Robert. If Robert is not able to support himself within one year, the Franciscans agree to evaluate after one year whether continued financial support for housing, monthly living expenses or therapy is appropriate for a second year.

Conditions to be Placed on Financial Support

1. So long as the Franciscans contribute to the costs of Robert's housing, the Franciscans shall have the right to approve or reject the place Robert chooses to live.

2. So long as the Franciscans contribute to the cost of therapy for Robert, Robert consents to disclosure of information from his therapist to the Provincial Minister of the Franciscans on the subjects of (a) whether Robert remains committed to the therapeutic goals, (b) whether continuing therapy will be beneficial, and (c) whether Robert presents a risk to any identifiable person or persons.

3. So long as the Franciscans contribute financially toward Robert's support in any way Robert agrees to faithfully visit the therapist approved by the Provincial Minister of the Franciscans and to pursue the goals of therapy.

4. So long as the Franciscans contribute financially toward Robert's support in any way, Robert agrees to obey all the terms of his parole or probation, including the obligation to register as a sex offender in any county where he resides. Robert consents to answer questions asked of him concerning his compliance with the terms of his probation and agree to provide the name and phone number of his probation officer as well as his consent that the probation officer may answer any questions

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concerning Robert's probation asked by the Provincial Minister of the Franciscans.

5. So long as the Franciscans provide financial support to Robert in any way, Robert agrees to seek and maintain suitable employment which does not involve working with children.

6. So long as the Franciscans provide any financial support for Robert, Robert agrees to disclose his efforts to seek employment and his financial condition, including the amounts of any wages or salary he is earning, an account of his financial obligations, and disclosure of any credit he has been extended.

7. Robert agrees he will have no overnight visits with children or with families having children, either in his home or in their home, unless in the presence of the children's parents who know of his conviction and its nature. Robert also agrees that he will spend no time with any child one-on-one, outside the presence of another adult.

8. Robert consents to disclosure by the Provincial Minister or his delegate to the press, to the public, or to any individual, of the nature of the support he is receiving and, if the Franciscans think it prudent or expedient, the conditions that have been placed on that support. Robert also consents to disclosure by the Provincial Minister or his delegate to the press, to the public, or to any individual, of statements describing the Franciscan's objectives in providing financial support to Robert, such as statements illustrated by the two block quotes in the next section of this agreement.

9. Robert consents to disclosure by the Franciscans to any of Robert's landlords, employers, prospective employers, co-workers, prospective co-workers, and others of Robert's conviction and its nature, if the Franciscans think it prudent or expedient.

10. If Robert does not abide by all of these conditions, then Robert understands that the financial support will be terminated immediately.

11. The financial support is for one year and it can be negotiated for a second year.

Answers to Questions of the Press or Public

The Franciscans may be questioned following the release of Robert from prison. The Franciscans, either as an

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organization, or as individuals, may be asked to comment in general on the release of Robert, or on his relationship to the Franciscan Order. The Franciscans may also be asked more specific questions if it is known the Franciscans are providing support to Robert.

The extent of support to be provided to Robert by the Franciscans, and the conditions placed on that support, may be shared with all members of the Province, together with a prepared statement, along the following lines, that can serve as a guide to any Franciscan who is contacted or called upon to address the public or the press concerning the situation:

Robert Van Handel has been (will be) released from prison in May 1998. While Robert Van Handel was in prison, he asked for and received an indult from the Vatican to be released from his vows and dispensed from priestly obligations. Robert Van Handel is now a layperson.

Although Robert Van Handel is no longer a Franciscan Friar of the Province of St. Barbara nor a Catholic priest and is not now a member of any Catholic religious order, the Franciscan Friars of the Province of St. Barbara have agreed under specified conditions to help in supporting him for a period of time, in finding suitable employment, in obtaining a suitable place to live, and in receiving needed therapy to help prevent re-offending.

The Franciscan Friars have agreed to provide this financial support for several reasons. Among those reasons is the requirement of Canon Law that a religious order is, "to observe equity and evangelical charity toward the member that is separated from it." In addition, however, the Franciscans remember the hope expressed by many victims that their painful disclosures would at least help prevent future wrongs. That hope of prevention of future wrongs cannot be best achieved if the Franciscans simply wash their hands of Robert now that he has left the Order. Therefore, the financial support to Robert Van Handel has certain conditions

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attached. To receive financial support Robert may not accept work with children. He must remain in therapy, and he must comply with the terms of his probation, including registering as a sex offender, among other things.

In 1993, the Franciscans made a public apology and a promise to work to prevent harm in the future when the Board of Inquiry publicly released the report of its investigation into the accusations of misconduct by friars at St. Anthony's Seminary. The Franciscans have endeavored to honor that pledge by addressing the needs of victims and their families who have sought help through the Board of Inquiry, many of whom are still receiving therapy. Robert Van Handel is in need of this healing assistance as well and does not, as yet, have the ability to provide it for himself.

It is the hope of the Franciscans that the assistance they offer to Robert Van Handel, as well as the assistance they continue to offer to his victims and others, will help prevent other wrongs in the future and will help restore the health and faith of so many people that has been tested.

If questions or concerns are raised that reveal a more specific awareness of the terms of the agreement between Robert and the Franciscans, or that probe more specifically the rationale for the Franciscans providing support to Robert, the following further statement can serve as a guide for a response:

Although the Franciscans are required by Canon law to act with charity toward our former member, Robert Van Handel, we have not forgotten the past. Our support of Robert Van Handel has conditions attached. For instance, in order to receive financial support from the Franciscans, Robert has agreed that we may speak with his therapist to determine whether Robert remains committed to the goals of his therapy. In addition, to receive financial support from the Franciscans, Robert has agreed that we may

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speak with his probation officer to determine if Robert is obeying all the terms of his probation. As long as Robert receives any financial support from the Franciscans, he has agreed that the Franciscans may disclose to his employers, co-workers, and others his conviction and its nature.

The Franciscans have attached these and other conditions to their financial support of Robert not so that he can begin a new life in a new place free of his past, but so that he can begin a new life in a new place in light of his past. When many of the victims came forward and shared their pain with the Board of Inquiry, they expressed the hope that their disclosures would make a difference for the future. They asked important questions about what the Franciscans would do to prevent such a thing from happening again and, more specifically, what the Franciscans would do to prevent Robert Van Handel from repeating his behavior. Robert Van Handel has now left the Franciscan Order and the Franciscans cannot control his life. But by helping Robert to establish a new life for himself, and attaching conditions to the support, the Franciscans hope that the new life Robert builds for himself will be amid a network of people who are aware of his past and in that way may serve as a check against any reoccurrence of his behavior. [The Independent Response Team, created by the Franciscans to identify and offer aid to victims, will be asked to enforce the conditions on the assistance offered to Robert Van Handel.]

The Franciscans have not forgotten the needs of Robert's victims in agreeing to provide financial support to Robert Van Handel. To contrary, the Franciscans have remembered the needs expressed by Robert's victims that their pain and disclosure should help spare children in the future.

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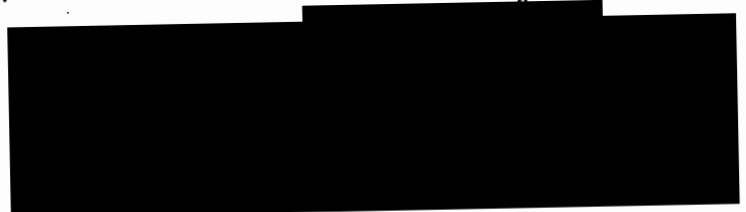
This writing contains the entire agreement between Robert and the Franciscans. There are no other terms or agreements between Robert and the Franciscans that are not expressly set forth in writing.

This agreement may only be modified in writing, signed by Robert and by the Provincial Minister of the Franciscan Province of St. Barbara.

Dated: May 6, 1998.

By Robert Van Handel
Robert Van Handel

Dated: May 9, 1998.



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3RD PARTY PRIVACY

Robert Van Handel
1705 Airline Hwy. #139
Hollister, CA 95023

[REDACTED]
Provincial
Franciscan Friars
1500 - 34th Ave.
Oakland, CA 94601

17 May 1999

Dear [REDACTED]

I hope this letter finds you well and enjoying the spring weather.

Last weekend, my sister, Christine, brought my parents down from Portland, Oregon, to visit me. We had a wonderful few days in Pacific Grove, and although it was cool and breezy, my parents really enjoyed escaping rainy Portland. The last time I saw my parents I was in prison in Vacaville. I tried to get up to see them at Thanksgiving, but Oregon Parole would not allow me in the state.

I was very sorry to hear about Berard's death. He had been a good friend to me; I always felt he understood my feelings, and he was supportive without being suffocating. Of course he certainly understood that I could not be in Santa Barbara for his funeral. I have heard many good things about the ceremonies and talks. I had to say "goodbye" from a distance. Bro. Angelo gave me a card from the funeral, and I hope I am still on the list to receive the obituaries.

In just over a week it will be one year since I was released on parole (May 25). I am very grateful to you and the friars for your most generous support of me during this transition. It has been difficult at times, but I felt cared for and loved by my family, friends, and the friars. I think Bro. Fabian has taken me on as his private apostolate! I can't imagine how I would have made it without so much help.

If I remember correctly, our agreement is to be reviewed by you at the end of one year, with the possible extension to a second year. As I think you know, I have been working for four months with Roger Holton, who was until recently employed by Aqua Prima, Inc; selling distilled drinking water machines. I am his administrative/sales assistant. I receive a base salary of \$500 a month plus a percentage of commissions, but we rarely sell a unit, so I have made little money. I am still working for Roger, (who now sells cars), and I am following up on the water customers who were good prospects. I have learned a lot about business, and about maintaining a computer database, but I am nowhere close to financial independence. Actually right now I am working on an idea of

starting my own business as a personal secretary/bookkeeper to the elderly who cannot take care of matters on their own, but I will tell you more of that later. Meanwhile I would like to request a continuance of the support I am receiving from the friars. Dr. Rosales is familiar with my present circumstances and he would be happy to share his thoughts with you on this matter. I would be pleased to meet with you or your delegate if that is in order. Thank you.

Quite independently of this request, I have written down some of my own thoughts on the past year while looking toward my second year on parole. As you might find it of interest, I will include it in this letter. I also gave a draft copy to Dr. Rosales.

Once again, many, many thanks for your help and support. If the opportunity presents itself, please pass on my gratefulness to the Province.

Sincerely yours,



Robert Van Handel

(831) 637-0835

ONE YEAR OUT - A SELF ASSESSMENT

GOALS

My primary goals were to avoid re-offending, maintain a clear parole record, continue my therapy sessions in PTA and elsewhere, make a smooth transition to life on my own, discover a career or job that met my needs financially and gave me a sense of purpose, in general make a place for myself in society.

INITIAL RELEASE

My first hours out on parole were mixed with elation at being out and free, and fear of being discovered by the public. In the first few weeks I was nearly paranoid. I listened for every car that entered the lot at the Wiebe Motel. I was frightened by every telephone call. The press and some civic leaders were trying to locate me, and it was only with the help of Wes Ellison, Parole Agent, that I was not fully exposed. There was a large, noisy community meeting in San Juan Bautista. I was in the papers and on the news. This was a very dicey period for me. Wes has said that my name still comes up in community meetings. I still have to be very careful in Hollister and San Juan.

PAROLE & LEGAL MATTERS

I was blessed with a concerned, helpful parole agent. Wes has advised me about how to stay out of trouble, has visited me regularly, has shielded me from the press and others, found a place for me to live, and yet maintains a professional distance. Every day I contact parole regarding my activities. Wes introduced me to some of the local police and sheriffs. Recently, with Wes at my side, I appeared before a law enforcement committee in Santa Cruz to answer questions about my offenses and life. At present there is a civil suit against the Province, and me, but I have been advised to not respond, as I have no wealth or property.

FINANCES

The Franciscans have from the beginning been my sole support. Besides providing me with a car, auto insurance, and health insurance, they pay all of my bills. I am extremely grateful for their generosity.

On February 15, I started working for Roger Holton as an administrative/sales assistant with a small base salary and one-third of all commissions. Unfortunately we have not had much success at this business, we have made little money, and Roger has left the company. Soon I will have to find another job. I am presently working on an idea of starting a service as an in-home secretary to those who need such. It seems that financial independence is still in the distance.

Herb and Beverly Liberman have given me a lot of assistance and encouragement in finding my place in the employment world.

MEDICAL

The Franciscans are paying for my Blue Cross Medical and Dental coverage. I have had some dental work done, and I need more, but I am waiting for the completion of one year of coverage so that the cost will be reduced. Basically I am in good physical condition, but there are a few old problems (blood pressure, hypothyroid), and one new one: Parkinson's Disease. I am only in the first stage of Parkinson's, but it affects my typing and coordination, particularly of my left hand.

THERAPY

Through the generosity of the Franciscans, I have been able to participate in a number of therapeutic experiences. I am a client of Pacific Treatment Associates in Santa Cruz where I participate in group therapy with Mary Simoni, a special "tape" group, workshops, and individual therapy with Dr. Vee Duvall. I am in weekly contact with Dr. Israel Rosales who coordinates my program on behalf of the Franciscans. Until recently I also met quarterly with Dr. Frank Lanou who worked for the parole system. Finally I am under the psychiatric care of Dr. William Harmon who treats me for depression.

SOCIAL LIFE

Outside of the Franciscans and PTA, I have made only one new friend: Bette Baptista, my landlady. I joined the choir at St. Mary's, Gilroy, but I had to give that up after a short time because too often children were at the practices. I volunteered for a short time at Dorothy's Place in Salinas, but I didn't like it there very much. I did enjoy volunteering at the St. Francis Catholic Kitchen in Santa Cruz, and I became somewhat friendly with the people there, but I had to quit when I started working for Roger.

Bro. Fabian has been a great friend to me and he visits me regularly. I have also had rewarding visits from several Franciscans who have over and over shown their enduring friendship. I have been to San Diego twice to visit my sister, Christine; I have been to San Francisco and Berkeley, and I spent several wonderful days in Yosemite.

Oregon Parole would not let me visit my parents at Thanksgiving, but they are coming to see me in the middle of May.

SPIRITUAL MATTERS

I continue to pray the "Daily Office," and I go to Mass on Sundays, but I have not been able to establish satisfying contact with a religious community. I am conscious that I am not welcome in area churches, and my experiment at St. Mary's in Gilroy failed. I am grateful for God's goodness to me and of his protection, but even in prison I had a

community with which to pray. This lack has exacerbated my distance from the Franciscan Order.

SUMMARY

Half full – Half empty. That's the story here. I have come a long way from the terrors of my first days on parole. I have gained confidence and I am better able to deal with stress and my fear. I have not been "found" by those who would expel me, and I have enjoyed living in my little trailer in Hollister. Roger has been an employer and a friend. I have always enjoyed great support from my family and from the Franciscans. I am able to see most things in a much more balanced way, and as a result, things in general seem to be going much better now.

GOALS – YEAR II

In addition to continuing the goals from last year, some new ones have come to the fore. I need to make new friends. One of my goals for the second year is to find some organization or club—maybe connected with UCSC—where I will feel comfortable meeting people with whom I share an interest. Perhaps I will take a class at the university. Maybe there is a chapter of the American Guild of Organists in the area. Even though this will mean driving even more than I already do, I need to develop in this area.

Usually I attend Sunday Mass at Mission San Juan Bautista. I used to go to St. Mary's in Gilroy, but the pastor there, while telling me I was welcome, told Wes that he was nervous about my being there. I have not contacted the pastor at the Mission. I arrive late, sit by myself if possible, or next to an adult, and then I leave early so that the fewest possible number of people see me. Remember the people of San Juan met with Wes when I was first released to make sure I didn't settle in their town. This sort of shy appearance at services leaves me feeling estranged from a worshipping community. I would like to find somewhere that I could be an active part of the church without all the ramifications associated with "being found out."

I would like to move into a larger trailer, actually a mobile home, when one becomes available at my trailer park. I have already asked the landlady to hold one for me. While my rent would go up, living in a larger place would be a big improvement as then I could have my books, a chair, and even an office. Somewhere further down the line I would like to explore moving out of Hollister to Santa Cruz or some similar community, but now is not the time for a move.

Robert Van Handel
May 1999

ISRAEL B. ROSALES, Ph.D.
CLINICAL PSYCHOLOGIST
1734 FILLMORE STREET
SAN FRANCISCO, CALIFORNIA 94115
TEL: 415-441-9504
FAX: 415-383-3074

August 13, 1998

[REDACTED]
Provincial Minister
Franciscan Friars, St. Barbara Province
1500 34th Avenue
Oakland, California 94601


RE: ENCLOSED RELEASE

Dear [REDACTED]

Enclosed you will find a Release of Confidential Information signed by Robert Van Handel. In the future, I would like to review Robert's personnel file, particularly any psychological evaluations that he completed.

Please contact me if you have any questions.

Sincerely,


Israel B. Rosales, Ph.D.
California License No. PSY12747

ISRAEL B. ROSALES, Ph.D.
CLINICAL PSYCHOLOGIST
1734 FILLMORE STREET
SAN FRANCISCO, CALIFORNIA 94115
TEL: 415-441-9504
FAX: 415-383-3074

AUTHORIZATION FOR RELEASE OF CONFIDENTIAL INFORMATION

Client: Robert Van Handel Birthdate: 4/2/47

I, Robert Van Handel and/or N/A
Parent or Guardian

authorize the party below to disclose to and to receive information from Israel B. Rosales, Ph.D., with the knowledge that such contact discloses the fact that the named person has received psychological services:

Name: [REDACTED]

Address: [REDACTED]

The disclosure of records is required for evaluation, treatment planning, or for the following purpose:

It shall be limited to the following specific information:

1. ✓ Diagnosis
2. ✓ Legal Status
3. ✓ Results of psychological/vocational tests
4. ✓ Educational assessment
5. ✓ Pertinent summary of psychological/psychiatric history
6. ✓ Treatment summary
7. ✓ Medical information
8. ✓ Other: pertinent personnel records

This consent is subject to revocation by the undersigned at any time except to the extent that action has been taken in reliance thereon, and if not earlier revoked, this consent expires on:

8/1/00

x Robert Van Handel
Client/Parent/Guardian

x 7-17-98
Date

Client/Parent/Guardian

Date



CONFIDENTIAL

Province of St. Barbara

FRANCISCAN FRIARS

1500 34th Avenue Oakland California 94601 (510)536-3722 Fax (510)536-3970

April 14, 1998

COPY

Robert Van Handel - J30982
California Men's Facility - I231-L
P.O. Box 2000
Vacaville, CA 95696-2000

Dear Robert,

May the Lord give you peace. I hope that this letter finds you well. I have been in contact with Mike Doherty and he tells me that he is to visit you around the first of May. Hopefully, you will receive this letter and its contents before the first of May and be able to discuss it with Michael when he comes.

Enclosed with this cover letter is an agreement between the Franciscan Friars and yourself concerning financial support. This has been drawn up by the Definitorium and the attorneys of the Province and has gone through many changes. I hope the conditions are satisfactory and acceptable to you. Also included is a statement for the press should the press ask us anything regarding your release from prison.

I'm sure you know, Robert, that this is a very delicate issue and the Definitorium reviewed both the conditions and the press release and so did the attorneys of the Province. We are submitting them to you for your signature. Once you sign them, I will sign them and then, just before you are released, I have been asked to write a letter to each individual friar stating that you going to be released, and explaining the that we are giving you financial support and that the support is conditioned.

Know, Robert, that we pray for you often. I'm sure that Michael will explain to you the effort that the friars are making in finding you a place to stay and a job where you can work. Be assured of my prayers.

Fraternally,

Provincial Minister

Enclosure

OFM VANH 1
0286



CONSENT FOR THE RELEASE OF CONFIDENTIAL INFORMATION

I, Robert Van Handel
authorize Mary Simoni
and [REDACTED]

to exchange confidential information regarding:

treatment

This information is to be used for the following purposes:

monitoring

This release shall expire on: June 4, 2000
date June 4, 1998 Client signature Robert Van Handel

Witness signature Mary Simoni

OFM VANH 1
0287

Dear [REDACTED]

18 June 1998

I hope this note finds you well.

Enclosed is a release for you to speak with Mary Simore about my treatment. It is good to be back in that supportive group. All of the staff remembered me and seemed glad to see me.

I have moved out of the motel into a little trailer in a small trailer park. A week ago there was a big meeting about me in San Juan, but my parole officer tried to quiet the mob. I hope all this dies down soon.

Christine was here last weekend and helped me to set up the trailer. In a few days I will have a phone so I won't feel so isolated. Bro. Fabian continues to visit regularly.

The next big project, of course, is to find some type of appropriate work where they don't ask too many questions. Almost certainly [redacted], my parole officer, will have to explain the situation to my employer.

Thank you for your support, and for that of the province. I will let you know when the coffers grow low.

Please greet [redacted] and hope for me.

Gratefully,
Robert

My mailing address is:

1705 Airline Hwy #139
Hollister, CA 95023

AGREEMENT BETWEEN ROBERT VAN HANDEL
AND FRANCISCAN FRIARS OF THE PROVINCE OF ST. BARBARA
CONCERNING FINANCIAL SUPPORT OF ROBERT VAN HANDEL

This agreement is made between Robert Van Handel (hereinafter referred to as "Robert") and the Franciscan Friars of the Province of St. Barbara (hereinafter referred to as "the Franciscans") on this ____ day of _____, 1998.

Financial Assistance

Subject to the conditions set forth below, the Franciscans agree to pay Robert's housing costs for up to one year, to give him a monthly stipend for support, in an amount to be established by the Franciscans in their sole discretion, for up to one year, and to pay for costs of therapy, by a therapist approved by the Provincial Minister of the Franciscans, for up to one year. If Robert is able to support himself in less than one year, he is to assume his own support and the Franciscans may terminate financial assistance to Robert. If Robert is not able to support himself within one year, the Franciscans agree to evaluate after one year whether continued financial support for housing, monthly living expenses or therapy is appropriate for a second year.

Conditions to be Placed on Financial Support

1. So long as the Franciscans contribute to the costs of Robert's housing, the Franciscans shall have the right to approve or reject the place Robert chooses to live.

2. So long as the Franciscans contribute to the cost of therapy for Robert, Robert consents to disclosure of information from his therapist to the Provincial Minister of the Franciscans on the subjects of (a) whether Robert remains committed to the therapeutic goals, (b) whether continuing therapy will be beneficial, and (c) whether Robert presents a risk to any identifiable person or persons.

3. So long as the Franciscans contribute financially toward Robert's support in any way Robert agrees to faithfully visit the therapist approved by the Provincial Minister of the Franciscans and to pursue the goals of therapy.

4. So long as the Franciscans contribute financially toward Robert's support in any way, Robert agrees to obey all the terms of his parole or probation, including the obligation to register as a sex offender in any county where he resides. Robert consents to answer questions asked of him concerning his compliance with the terms of his probation and agree to provide the name and phone number of his probation officer as well as his consent that the probation officer may answer any questions.

AGREEMENT BETWEEN ROBERT VAN HANDEL AND FRANCISCAN FRIARS OF THE
PROVINCE OF ST. BARBARA CONCERNING FINANCIAL SUPPORT OF
ROBERT VAN HANDEL

Page 2

concerning Robert's probation asked by the Provincial Minister of the Franciscans.

5. So long as the Franciscans provide financial support to Robert in any way, Robert agrees to seek and maintain suitable employment which does not involve working with children.

6. So long as the Franciscans provide any financial support for Robert, Robert agrees to disclose his efforts to seek employment and his financial condition, including the amounts of any wages or salary he is earning, an account of his financial obligations, and disclosure of any credit he has been extended.

7. Robert agrees he will have no overnight visits with children or with families having children, either in his home or in their home, unless in the presence of the children's parents who know of his conviction and its nature. Robert also agrees that he will spend no time with any child one-on-one, outside the presence of another adult.

8. Robert consents to disclosure by the Provincial Minister or his delegate to the press, to the public, or to any individual, of the nature of the support he is receiving and, if the Franciscans think it prudent or expedient, the conditions that have been placed on that support. Robert also consents to disclosure by the Provincial Minister or his delegate to the press, to the public, or to any individual, of statements describing the Franciscan's objectives in providing financial support to Robert, such as statements illustrated by the two block quotes in the next section of this agreement.

9. Robert consents to disclosure by the Franciscans to any of Robert's landlords, employers, prospective employers, co-workers, prospective co-workers, and others of Robert's conviction and its nature, if the Franciscans think it prudent or expedient.

10. If Robert does not abide by all of these conditions, then Robert understands that the financial support will be terminated immediately.

11. The financial support is for one year and it can be negotiated for a second year.

Answers to Questions of the Press or Public

The Franciscans may be questioned following the release of Robert from prison. The Franciscans, either as an

AGREEMENT BETWEEN ROBERT VAN HANDEL AND FRANCISCAN FRIARS OF THE
PROVINCE OF ST. BARBARA CONCERNING FINANCIAL SUPPORT OF
ROBERT VAN HANDEL

Page 3

organization, or as individuals, may be asked to comment in general on the release of Robert, or on his relationship to the Franciscan Order. The Franciscans may also be asked more specific questions if it is known the Franciscans are providing support to Robert.

The extent of support to be provided to Robert by the Franciscans, and the conditions placed on that support, may be shared with all members of the Province, together with a prepared statement, along the following lines, that can serve as a guide to any Franciscan who is contacted or called upon to address the public or the press concerning the situation:

Robert Van Handel has been (will be) released from prison in May 1998. While Robert Van Handel was in prison, he asked for and received an indult from the Vatican to be released from his vows and dispensed from priestly obligations. Robert Van Handel is now a layperson.

Although Robert Van Handel is no longer a Franciscan Friar of the Province of St. Barbara nor a Catholic priest and is not now a member of any Catholic religious order, the Franciscan Friars of the Province of St. Barbara have agreed under specified conditions to help in supporting him for a period of time, in finding suitable employment, in obtaining a suitable place to live, and in receiving needed therapy to help prevent re-offending.

The Franciscan Friars have agreed to provide this financial support for several reasons. Among those reasons is the requirement of Canon Law that a religious order is, "to observe equity and evangelical charity toward the member that is separated from it." In addition, however, the Franciscans remember the hope expressed by many victims that their painful disclosures would at least help prevent future wrongs. That hope of prevention of future wrongs cannot be best achieved if the Franciscans simply wash their hands of Robert now that he has left the Order. Therefore, the financial support to Robert Van Handel has certain conditions

AGREEMENT BETWEEN ROBERT VAN HANDEL AND FRANCISCAN FRIARS OF THE
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Page 4

attached. To receive financial support Robert may not accept work with children. He must remain in therapy, and he must comply with the terms of his probation, including registering as a sex offender, among other things.

In 1993, the Franciscans made a public apology and a promise to work to prevent harm in the future when the Board of Inquiry publicly released the report of its investigation into the accusations of misconduct by friars at St. Anthony's Seminary. The Franciscans have endeavored to honor that pledge by addressing the needs of victims and their families who have sought help through the Board of Inquiry, many of whom are still receiving therapy. Robert Van Handel is in need of this healing assistance as well and does not, as yet, have the ability to provide it for himself.

It is the hope of the Franciscans that the assistance they offer to Robert Van Handel, as well as the assistance they continue to offer to his victims and others, will help prevent other wrongs in the future and will help restore the health and faith of so many people that has been tested.

If questions or concerns are raised that reveal a more specific awareness of the terms of the agreement between Robert and the Franciscans, or that probe more specifically the rationale for the Franciscans providing support to Robert, the following further statement can serve as a guide for a response:

Although the Franciscans are required by Canon law to act with charity toward our former member, Robert Van Handel, we have not forgotten the past. Our support of Robert Van Handel has conditions attached. For instance, in order to receive financial support from the Franciscans, Robert has agreed that we may speak with his therapist to determine whether Robert remains committed to the goals of his therapy. In addition, to receive financial support from the Franciscans, Robert has agreed that we may

AGREEMENT BETWEEN ROBERT VAN HANDEL AND FRANCISCAN FRIARS OF THE
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ROBERT VAN HANDEL

Page 5

speak with his probation officer to determine if Robert is obeying all the terms of his probation. As long as Robert receives any financial support from the Franciscans, he has agreed that the Franciscans may disclose to his employers, co-workers, and others his conviction and its nature.

The Franciscans have attached these and other conditions to their financial support of Robert not so that he can begin a new life in a new place free of his past, but so that he can begin a new life in a new place in light of his past. When many of the victims came forward and shared their pain with the Board of Inquiry, they expressed the hope that their disclosures would make a difference for the future. They asked important questions about what the Franciscans would do to prevent such a thing from happening again and, more specifically, what the Franciscans would do to prevent Robert Van Handel from repeating his behavior. Robert Van Handel has now left the Franciscan Order and the Franciscans cannot control his life. But by helping Robert to establish a new life for himself, and attaching conditions to the support, the Franciscans hope that the new life Robert builds for himself will be amid a network of people who are aware of his past and in that way may serve as a check against any reoccurrence of his behavior. [The Independent Response Team, created by the Franciscans to identify and offer aid to victims, will be asked to enforce the conditions on the assistance offered to Robert Van Handel.]

The Franciscans have not forgotten the needs of Robert's victims in agreeing to provide financial support to Robert Van Handel. To contrary, the Franciscans have remembered the needs expressed by Robert's victims that their pain and disclosure should help spare children in the future.

OFM VANH 1

0294

AGREEMENT BETWEEN ROBERT VAN HANDEL AND FRANCISCAN FRIARS OF THE
PROVINCE OF ST. BARBARA CONCERNING FINANCIAL SUPPORT OF
ROBERT VAN HANDEL

Page 6

This writing contains the entire agreement between Robert and the Franciscans. There are no other terms or agreements between Robert and the Franciscans that are not expressly set forth in writing.

This agreement may only be modified in writing, signed by Robert and by the Provincial Minister of the Franciscan Province of St. Barbara.

Dated: _____, 1998.

By _____
Robert Van Handel

Dated: _____, 1998.

By _____
Provincial Minister

SDSF3/52231

OFM VANH 1
0295

PROPOSED TERMS OF FINANCIAL SUPPORT OF ROBERT VAN HANDEL

Canon law instructs a religious institute, "to observe equity and evangelical charity toward the member who is separated from it." Robert Van Handel was laicized in 1997 and is expected to be released from prison on parole in approximately May, 1998. The Provincial has written to the parole authorities to request that Robert Van Handel be released to live outside of Santa Barbara, specifically to San Francisco, Alameda or Sacramento counties, in order of priority, and has informed the parole authorities that the Franciscans are willing to help Robert in several ways, including financial assistance to 1) find adequate housing, 2) prepare for and obtain suitable employment, and 3) obtain professional therapy.

This plan describes the offer that is proposed to be made to Robert, as well as the commitments proposed to be asked of Robert in return. The plan also describes the proposed response to the press and to the public when questions are raised concerning the Franciscans' financial assistance to Robert.

Financial Assistance

It is proposed to commit initially to pay Robert's housing costs for up to one year, to give him a monthly stipend for support for up to one year, and to pay for costs of therapy, by a therapist approved by the Provincial Minister of the Franciscans, for up to one year. If Robert is able to support himself in less than one year, he should be expected to assume his own support. If Robert is not able to support himself within one year, it is proposed that the Franciscans agree now to evaluate after one year whether continued financial support for housing, monthly living expenses or therapy was appropriate. With regard to therapy beyond the first year, it is likely that Robert will not have sufficient resources to pay for the costs of therapy even if he is then employed. It is proposed that the Franciscans agree now to favorably consider funding the cost of therapy beyond one year, and then on a year-to-year basis.

Conditions to be Placed on Financial Support

It is proposed that some conditions be placed on the Franciscans' agreement to provide financial support to Robert Van Handel.

1. So long as the Franciscans contribute to the costs of Robert's housing, the Franciscans will ask for the right to approve or reject the place Robert chooses to live. The purpose of this requirement is both fiscal, so that the place where Robert lives will be appropriately modest as befits one supported by a religious organization, as well as practical, to ensure that

PROPOSED TERMS OF FINANCIAL SUPPORT OF ROBERT VAN HANDEL
Page 2

Robert's housing is not unduly close to any schools, homes, or other places where children or families might feel threatened by Robert if they were aware of his conviction and its nature.

2. So long as the Franciscans contribute to the cost of therapy for Robert, Robert should consent to disclosure of information from his therapist to the Provincial Minister of the Franciscans on the subjects of (a) whether Robert remains committed to the therapeutic goals, (b) whether continuing therapy will be beneficial, and (c) whether Robert presents a risk to any identifiable person or persons.

3. So long as the Franciscans contribute financially toward Robert's support in any way Robert must agree to faithfully visit the therapist approved by the Provincial Minister of the Franciscans and pursue the goals of therapy.

4. So long as the Franciscans contribute financially toward Robert's support in any way, Robert must agree to obey all the terms of his parole or probation, including the obligation to register as a sex offender in any county where he resides. Robert must consent to answer questions asked of him concerning his compliance with the terms of his probation and agree to provide the name and phone number of his probation officer as well as his consent that the probation officer may answer any questions concerning Robert's probation asked by the Provincial Minister of the Franciscans.

5. So long as the Franciscans provide financial support to Robert in any way, Robert should agree to seek and maintain suitable employment which does not involve working with children.

6. So long as the Franciscans provide any financial support for Robert, Robert must agree to disclose his efforts to seek employment and his financial condition, including the amounts of any wages or salary he is earning, an account of his financial obligations, and disclosure of any credit he has been extended.

7. Robert must agree he will have no overnight visits with children or with families having children, either in his home or in their home, unless in the presence of the children's parents who know of his conviction and its nature. Robert must also agree that he will spend no time with any child one-on-one, outside the presence of another adult.

8. Robert must consent to disclosure by the Provincial Minister or his delegate to the press, to the public, or to any individual, of the nature of the support he is receiving and, if the Franciscans think it prudent or expedient, the conditions that have been placed on that support. Robert must also consent to disclosure by the Provincial Minister or his delegate to the press, to the public, or to any individual, of statements describing the Franciscan's objectives in providing financial support to Robert, such as statements illustrated by the two block quotes later in this proposal.

9. Robert must consent to disclosure by the Franciscans to any of Robert's landlords, employers, prospective employers, co-workers, prospective co-workers, and others of Robert's conviction and its nature, if the Franciscans think it prudent or expedient.

10. If Robert does not abide by all of these conditions, then Robert understands that the financial support will be terminated immediately.

11. The financial support is for one year and it can be negotiated for a second year.

Reaching an Agreement With Robert Van Handel

Robert Van Handel has written to the parole authorities on January 21, 1998, asking that he be permitted to live in San Francisco when he is released on parole. Among other things, his letter states that, "Franciscans Friars of California agreed to fully fund all living expenses for an extended period, or until no longer needed." The Franciscans must have a clear understanding and agreement with Robert Van Handel concerning the financial commitment the Franciscans are willing to make. Robert's letter to the parole authorities describes the extent of financial commitment as "fully fund" and describes the duration of the commitment as "an extended period." Robert may mean by these expressions the same extent and duration of commitment that this proposal describes. On the other hand, Robert may have different expectations as to what the Franciscans are willing to offer. In addition, the parole authorities may have an understanding that Robert has received a commitment of financial support that will last at least for the duration of his parole, which is likely to be more than a year.

A discussion with Robert Van Handel should be undertaken before the terms of his parole are finalized so that the extent and duration of the Franciscans' commitment is

mutually agreed upon and can be accurately described to the parole authorities if specific questions are asked. The agreement should be in writing to avoid later misunderstanding.

Answers to Questions of the Press or Public

The Franciscans may be questioned following the release of Robert Van Handel from prison. The Franciscans, either as an organization, or as individuals, may be asked to comment in general on the release of Father Van Handel, or on his relationship to the Franciscan Order. The Franciscans may also be asked more specific questions if it is known the Franciscans are providing support to Robert.

It is proposed that the extent of support to be provided to Robert by the Order, and the conditions placed on that support, be shared with all members of the Province, together with a prepared statement, along the following lines, that can serve as a guide to any Franciscan who is contacted or called upon to address the public or the press concerning the situation:

Robert Van Handel has been (will be) released from prison in May 1998. While Robert Van Handel was in prison, he asked for and received an indult from the Vatican to be released from his vows and dispensed from priestly obligations. Robert Van Handel is now a layperson.

Although Robert Van Handel is no longer a Franciscan Friar of the Province of St. Barbara nor a Catholic priest and is not now a member of any Catholic religious order, the Franciscan Friars of the Province of St. Barbara have agreed under specified conditions to help in supporting him for a period of time, in finding suitable employment, in obtaining a suitable place to live, and in receiving needed therapy to help prevent re-offending.

The Franciscan Friars have agreed to provide this financial support for several reasons. Among those reasons is the requirement of Canon Law that a religious order is, "to observe equity and evangelical charity toward the member that is separated from it." In

addition, however, the Franciscans remember the hope expressed by many victims that their painful disclosures would at least help prevent future wrongs. That hope of prevention of future wrongs cannot be best achieved if the Franciscans simply wash their hands of Robert now that he has left the Order. Therefore, the financial support to Robert Van Handel has certain conditions attached. To receive financial support Robert may not accept work with children. He must remain in therapy, and he must comply with the terms of his probation, including registering as a sex offender, among other things.

In 1993, the Franciscans made a public apology and a promise to work to prevent harm in the future when the Board of Inquiry publicly released the report of its investigation into the accusations of misconduct by friars at St. Anthony's Seminary. The Franciscans have endeavored to honor that pledge by addressing the needs of victims and their families who have sought help through the Board of Inquiry, many of whom are still receiving therapy. Robert Van Handel is in need of this healing assistance as well and does not, as yet, have the ability to provide it for himself.

It is the hope of the Franciscans that the assistance they offer to Robert Van Handel, as well as the assistance they continue to offer to his victims and others, will help prevent other wrongs in the future and will help restore the health and faith of so many people that has been tested.

If questions or concerns are raised that reveal a more specific awareness of the terms of the agreement between Robert and the Franciscans, or that probe more specifically the rationale for the Franciscans providing support to Robert, the following further statement can serve as a guide for a response:

Although the Franciscans are required by Canon law to act with charity toward our former member, Robert Van Handel, we have not

forgotten the past. Our support of Robert Van Handel has conditions attached. For instance, in order to receive financial support from the Franciscans, Robert has agreed that we may speak with his therapist to determine whether Robert remains committed to the goals of his therapy. In addition, to receive financial support from the Franciscans, Robert has agreed that we may speak with his probation officer to determine if Robert is obeying all the terms of his probation. As long as Robert receives any financial support from the Franciscans, he has agreed that the Franciscans may disclose to his employers, co-workers, and others his conviction and its nature.

The Franciscans have attached these and other conditions to their financial support of Robert not so that he can begin a new life in a new place free of his past, but so that he can begin a new life in a new place in light of his past. When many of the victims came forward and shared their pain with the Board of Inquiry, they expressed the hope that their disclosures would make a difference for the future. They asked important questions about what the Franciscans would do to prevent such a thing from happening again and, more specifically, what the Franciscans would do to prevent Robert Van Handel from repeating his behavior. Robert Van Handel has now left the Franciscan Order and the Franciscans cannot control his life. But by helping Robert to establish a new life for himself, and attaching conditions to the support, the Franciscans hope that the new life Robert builds for himself will be amid a network of people who are aware of his past and in that way may serve as a check against any reoccurrence of his behavior. [The Independent Response Team, created by the Franciscans to identify and offer aid to victims, will be asked to enforce the conditions on the assistance offered to Robert Van Handel.]

PROPOSED TERMS OF FINANCIAL SUPPORT OF ROBERT VAN HANDEL
Page 7

The Franciscans have not forgotten the needs of Robert's victims in agreeing to provide financial support to Robert Van Handel. To contrary, the Franciscans have remembered the needs expressed by Robert's victims that their pain and disclosure should help spare children in the future.

Monitoring And Enforcement of Conditions

If conditions are placed on the financial support that is provided to Robert Van Handel, then someone should be given the responsibility to enforce the conditions. A specific person should be assigned the task of regularly checking on Robert's efforts to find employment, on his financial condition, on his compliance with the terms of parole, and on his living arrangements. The proposed conditions give the Franciscans the right, if they think it prudent, to disclose Robert's conviction and its nature to his employer, co-workers, or others. The person charged with enforcing the conditions should periodically check to determine the nature of Robert's employment and the nature of his living arrangements, as well as what is known about Robert by his co-workers and neighbors to determine whether a disclosure by the Franciscans is prudent.

* * *

ISRAEL B. ROSALES, Ph.D.
CLINICAL PSYCHOLOGIST
1734 FILLMORE STREET
SAN FRANCISCO, CALIFORNIA 94115
TEL: 415-441-9504
FAX: 415-383-3074

August 13, 1998

██████████
Provincial Minister
Franciscan Friars, St. Barbara Province
1500 34th Avenue
Oakland, California 94601


RE: ENCLOSED RELEASE

Dear ██████████

Enclosed you will find a Release of Confidential Information signed by Robert Van Handel. In the future, I would like to review Robert's personnel file, particularly any psychological evaluations that he completed.

Please contact me if you have any questions.

Sincerely,


Israel B. Rosales, Ph.D.
California License No. PSY12747

OFM VANH 1
0303

Dear [REDACTED]

6 May 1998

Thank you very much for your letter of April 14, and for the agreement regarding financial support. I did read it carefully, and I discussed it with Mike Doherty and [REDACTED] when they were here last Saturday. I consider the offer of financial help very generous, and I am most grateful to you and the province. I will agree to all the conditions set forth, although I do have a few comments, and some practical questions.

The agreement in several places refers to parole or probation. I believe the proper term is parole, as probation is something different.

The agreement requires that I authorize release of information from my therapist and parole officer to the Provincial, but the press statement says these terms will be enforced by the Independent Response Team. Will the IRT get its information from you, or will it try to contact my therapist and parole officer?

Regarding my housing and employment, the parole officer will surely carefully evaluate these before I enter any lease or agreement. I recognize that you will also need to approve these. How in fact would I get your consent, and would this be needed before I agree to anything, or would you want the right to "veto" these situations after I enter into them?

OEM VANH 1
0304

I am very interested in therapy, and grateful that the province would support me. If I can get parole to approve it, I would like to go to Pacific Treatment Associates in Santa Cruz. This is a highly regarded relapse prevention program that I began the last time I lived in San Juan Bautista. It is not too expensive.

I understand that the province will cover costs of housing and therapy, as well as granting a stipend for living expenses. Will this stipend include health and dental insurance at least until I find a job with such benefits? What about a car and auto insurance? San Benito County has little or ^{no} public transportation, and certainly I could not get to Santa Cruz without a car. Would you like me always to contact you about financial questions, or should I speak with Lupe or someone else?

How will funds be transferred? Even before I have a bank account, I will have some immediate living expenses for which I will need cash. Actually there are probably going to be a lot of minor questions and requests until I can stabilize a regular spending pattern. To whom should these needs be made known? Is money from the province considered taxable income, and will the province make deductions? I hope to become financially independent as soon as I can, but it will take some time. Meanwhile I hate

Perhaps I should mention that I have never been officially notified of my dispensations from Orders and from vows. Mike Doberty did inform me that this was true, and of course it is in the press statement.

Thank you again for your generosity on behalf of the province. I know how much thought and careful work go into such an agreement. I am very grateful for these blessings.

Fraternally,

Robert Van Handel

ISRAEL B. ROSALES, Ph.D.
CLINICAL PSYCHOLOGIST
1734 FILLMORE STREET
SAN FRANCISCO, CALIFORNIA 94115
TEL: 415-441-9504
FAX: 415-383-3074

AUTHORIZATION FOR RELEASE OF CONFIDENTIAL INFORMATION

Client: Robert Van Handel Birthdate: 4/2/47

I, Robert Van Handel and/or N/A
Parent or Guardian

authorize the party below to disclose to and to receive information from Israel B. Rosales, Ph.D., with the knowledge that such contact discloses the fact that the named person has received psychological services:

Name: [REDACTED]

Address: [REDACTED]

The disclosure of records is required for evaluation, treatment planning, or for the following purpose:

It shall be limited to the following specific information:

1. ☒ Diagnosis
2. ☒ Legal Status
3. ☒ Results of psychological/vocational tests
4. ☒ Educational assessment
5. ☒ Pertinent summary of psychological/psychiatric history
6. ☒ Treatment summary
7. ☒ Medical information
8. ☒ Other: pertinent personal records

This consent is subject to revocation by the undersigned at any time except to the extent that action has been taken in reliance thereon, and if not earlier revoked, this consent expires on:

8/1/00

X Robert Van Handel
Client/Parent/Guardian

X 7-17-98
Date

Client/Parent/Guardian

Date



COPY

Province of St. Barbara

FRANCISCAN FRIARS

1500 34th Avenue Oakland California 94601 (510)536-3722 Fax (510)536-3970

May 5, 1998

Robert Van Handel - J30982
California Men's Facility - 1231-L
P.O. Box 2000
Vacaville, CA 95696-2000

Dear Robert,

██████████ called me today and informed me that he and ██████████ had a really fine meeting with you. I'm glad you had a chance to meet. He also mentioned that you wanted a copy of the rescript. Enclosed is a copy of the rescript and you can spend a lot of your time renewing your old Latin days in translating this.

Robert, please know that we are trying our best to make this time in your life as painless as possible. If I can be of any further help, please do not hesitate to let me know. Be assured of my prayers for you during this month of May. I am,

Fraternally yours, ██████████

████████████████████
Provincial Minister

Enclosure (2)
██████████

OFM VANH 1
0308



Province of St. Barbara

FRANCISCAN FRIARS

1500 34th Avenue Oakland California 94601 (510)536-3722 Fax (510)536-3970

Roger Cardinal Mahony, DD, MSW
Archbishop of Los Angeles
Los Angeles, CA
May 15, 1998

COPY

Your Eminence

May the Lord give you peace!

I hope this letter finds you well.

Today at St. Joseph's, I had a chance to speak with Bishop Blaire and he suggested I write you and send a copy of the letter to Bishop Curry.

At the end of this month, Robert Van Handel, former professor and rector of St. Anthony's Seminary, Santa Barbara, will be released from prison. He will be released in San Benito County. While he was in prison he asked for and was granted laicization.

As you recall, there are still some people in Santa Barbara who have been hurt and hold some anger. As a result there may be some adverse publicity.

Enclosed is a copy of a letter which I will send to each friar quite shortly

I just wanted to let you know so that this would not surprise you.

Thank you for your continued kindness to the friars of the province.

Fraternally,

[Redacted Signature]

Min. Prov.

c. Bishop Thomas J. Curry

OFM VANH 1
0309



Province of St. Barbara

FRANCISCAN FRIARS

1500 34th Avenue Oakland California 94601 (510)536-3722 Fax (510)536-3970

COPY

Most Rev. Sylvester D. Ryan, D.D.
Bishop of Monterey
Pastoral Office
580 Fremont St.
PO Box 2048
Monterey, CA 93942-2048

May 17, 1998

Most Reverend and Dear Bishop Ryan,

May the Lord give you peace!

I hope this letter finds you well.

I wish to inform you that toward the end of this month, Robert Van Handel, former professor and rector of our seminary in Santa Barbara, will be released from prison. He will be released in San Benito County. While in prison, Robert asked for and received laicization.

Enclosed is a copy of a letter which I am sending to each friar in the province.

I wanted to let you know about this so that it would not come as a surprise.

We will have a press release ready on the day he is released. If I can be of any help please don't hesitate to call.

Respectfully,

[Redacted Signature]

Min. Prov.

OFM VANH 1
0310

To: Lupe
From: [REDACTED]
RE: Robert Van Handel

May 14, 1998

Lupe,

I am trying to get in touch with Br. Fabian Walker. I will tell him the following:

1. He will get cash from you to rent a motel, to take care of food, etc.
2. He will also get forms for car and health insurance for Robert to sign and bank checks to pay the insurance premiums.
3. John H. is presently locating a used car for him. In one or two days after the release, Fabian will pick up the money to purchase the auto for/with Robert.

I think that this all we need to have ready for the initial release.

Thanks,

[REDACTED]

OFM VANH 1
0311

Bates Numbers 312-313 were removed by the Plaintiffs at the request of the Franciscans.

(COPY)



Province of St. Barbara

FRANCISCAN FRIARS

1500 34th Avenue Oakland California 94601 (510)536-3722 Fax (510)536-3970

To: Michael Doherty, OFM

From: [REDACTED]

RE: meeting with R.V.H.

April 15th, 1998

Dear Mike,

Enclosed is the information I sent to Robert Van Handel today. I think the letter is self-explanatory. If not let me know. I hope the conditions are clear. Should you have any questions, give me a call.

I realize that this will be tough for you. Know that I appreciate what you are doing very much.

Fraternally,

[REDACTED]

OFM VANH 1

0314



(COPY)

CONFIDENTIAL

Province of St. Barbara

FRANCISCAN FRIARS

1500 34th Avenue Oakland California 94601 (510)536-3722 Fax (510)536-3970

April 14, 1998

Robert Van Handel - J30982
California Men's Facility - I231-L
P.O. Box 2000
Vacaville, CA 95696-2000

Dear Robert,

May the Lord give you peace. I hope that this letter finds you well. I have been in contact with Mike Doherty and he tells me that he is to visit you around the first of May. Hopefully, you will receive this letter and its contents before the first of May and be able to discuss it with Michael when he comes.

Enclosed with this cover letter is an agreement between the Franciscan Friars and yourself concerning financial support. This has been drawn up by the Definitorium and the attorneys of the Province and has gone through many changes. I hope the conditions are satisfactory and acceptable to you. Also included is a statement for the press should the press ask us anything regarding your release from prison.

I'm sure you know, Robert, that this is a very delicate issue and the Definitorium reviewed both the conditions and the press release and so did the attorneys of the Province. We are submitting them to you for your signature. Once you sign them, I will sign them and then, just before you are released, I have been asked to write a letter to each individual friar stating that you going to be released, and explaining the that we are giving you financial support and that the support is conditioned.

Know, Robert, that we pray for you often. I'm sure that Michael will explain to you the effort that the friars are making in finding you a place to stay and a job where you can work. Be assured of my prayers.

Fraternally,

[REDACTED]
Provincial Minister

Enclosure

[REDACTED]

OFM VANH 1
0315

AGREEMENT BETWEEN ROBERT VAN HANDEL
AND FRANCISCAN FRIARS OF THE PROVINCE OF ST. BARBARA
CONCERNING FINANCIAL SUPPORT OF ROBERT VAN HANDEL

This agreement is made between Robert Van Handel (hereinafter referred to as "Robert") and the Franciscan Friars of the Province of St. Barbara (hereinafter referred to as "the Franciscans") on this ____ day of _____, 1998.

Financial Assistance

Subject to the conditions set forth below, the Franciscans agree to pay Robert's housing costs for up to one year, to give him a monthly stipend for support, in an amount to be established by the Franciscans in their sole discretion, for up to one year, and to pay for costs of therapy, by a therapist approved by the Provincial Minister of the Franciscans, for up to one year. If Robert is able to support himself in less than one year, he is to assume his own support and the Franciscans may terminate financial assistance to Robert. If Robert is not able to support himself within one year, the Franciscans agree to evaluate after one year whether continued financial support for housing, monthly living expenses or therapy is appropriate for a second year.

Conditions to be Placed on Financial Support

1. So long as the Franciscans contribute to the costs of Robert's housing, the Franciscans shall have the right to approve or reject the place Robert chooses to live.

2. So long as the Franciscans contribute to the cost of therapy for Robert, Robert consents to disclosure of information from his therapist to the Provincial Minister of the Franciscans on the subjects of (a) whether Robert remains committed to the therapeutic goals, (b) whether continuing therapy will be beneficial, and (c) whether Robert presents a risk to any identifiable person or persons.

3. So long as the Franciscans contribute financially toward Robert's support in any way Robert agrees to faithfully visit the therapist approved by the Provincial Minister of the Franciscans and to pursue the goals of therapy.

4. So long as the Franciscans contribute financially toward Robert's support in any way, Robert agrees to obey all the terms of his parole or probation, including the obligation to register as a sex offender in any county where he resides. Robert consents to answer questions asked of him concerning his compliance with the terms of his probation and agree to provide the name and phone number of his probation officer as well as his consent that the probation officer may answer any questions

OFM VANH 1
0316

AGREEMENT BETWEEN ROBERT VAN HANDEL AND FRANCISCAN FRIARS OF THE
PROVINCE OF ST. BARBARA CONCERNING FINANCIAL SUPPORT OF
ROBERT VAN HANDEL

Page 2

concerning Robert's probation asked by the Provincial Minister of the Franciscans.

5. So long as the Franciscans provide financial support to Robert in any way, Robert agrees to seek and maintain suitable employment which does not involve working with children.

6. So long as the Franciscans provide any financial support for Robert, Robert agrees to disclose his efforts to seek employment and his financial condition, including the amounts of any wages or salary he is earning, an account of his financial obligations, and disclosure of any credit he has been extended.

7. Robert agrees he will have no overnight visits with children or with families having children, either in his home or in their home, unless in the presence of the children's parents who know of his conviction and its nature. Robert also agrees that he will spend no time with any child one-on-one, outside the presence of another adult.

8. Robert consents to disclosure by the Provincial Minister or his delegate to the press, to the public, or to any individual, of the nature of the support he is receiving and, if the Franciscans think it prudent or expedient, the conditions that have been placed on that support. Robert also consents to disclosure by the Provincial Minister or his delegate to the press, to the public, or to any individual, of statements describing the Franciscan's objectives in providing financial support to Robert, such as statements illustrated by the two block quotes in the next section of this agreement.

9. Robert consents to disclosure by the Franciscans to any of Robert's landlords, employers, prospective employers, co-workers, prospective co-workers, and others of Robert's conviction and its nature, if the Franciscans think it prudent or expedient.

10. If Robert does not abide by all of these conditions, then Robert understands that the financial support will be terminated immediately.

11. The financial support is for one year and it can be negotiated for a second year.

Answers to Questions of the Press or Public

The Franciscans may be questioned following the release of Robert from prison. The Franciscans, either as an

OFM VANH 1
0317

AGREEMENT BETWEEN ROBERT VAN HANDEL AND FRANCISCAN FRIARS OF THE
PROVINCE OF ST. BARBARA CONCERNING FINANCIAL SUPPORT OF
ROBERT VAN HANDEL

Page 3

organization, or as individuals, may be asked to comment in general on the release of Robert, or on his relationship to the Franciscan Order. The Franciscans may also be asked more specific questions if it is known the Franciscans are providing support to Robert.

The extent of support to be provided to Robert by the Franciscans, and the conditions placed on that support, may be shared with all members of the Province, together with a prepared statement, along the following lines, that can serve as a guide to any Franciscan who is contacted or called upon to address the public or the press concerning the situation:

Robert Van Handel has been (will be) released from prison in May 1998. While Robert Van Handel was in prison, he asked for and received an indult from the Vatican to be released from his vows and dispensed from priestly obligations. Robert Van Handel is now a layperson.

Although Robert Van Handel is no longer a Franciscan Friar of the Province of St. Barbara nor a Catholic priest and is not now a member of any Catholic religious order, the Franciscan Friars of the Province of St. Barbara have agreed under specified conditions to help in supporting him for a period of time, in finding suitable employment, in obtaining a suitable place to live, and in receiving needed therapy to help prevent re-offending.

The Franciscan Friars have agreed to provide this financial support for several reasons. Among those reasons is the requirement of Canon Law that a religious order is, "to observe equity and evangelical charity toward the member that is separated from it." In addition, however, the Franciscans remember the hope expressed by many victims that their painful disclosures would at least help prevent future wrongs. That hope of prevention of future wrongs cannot be best achieved if the Franciscans simply wash their hands of Robert now that he has left the Order. Therefore, the financial support to Robert Van Handel has certain conditions

AGREEMENT BETWEEN ROBERT VAN HANDEL AND FRANCISCAN FRIARS OF THE
PROVINCE OF ST. BARBARA CONCERNING FINANCIAL SUPPORT OF
ROBERT VAN HANDEL

Page 4

attached. To receive financial support Robert may not accept work with children. He must remain in therapy, and he must comply with the terms of his probation, including registering as a sex offender, among other things.

In 1993, the Franciscans made a public apology and a promise to work to prevent harm in the future when the Board of Inquiry publicly released the report of its investigation into the accusations of misconduct by friars at St. Anthony's Seminary. The Franciscans have endeavored to honor that pledge by addressing the needs of victims and their families who have sought help through the Board of Inquiry, many of whom are still receiving therapy. Robert Van Handel is in need of this healing assistance as well and does not, as yet, have the ability to provide it for himself.

It is the hope of the Franciscans that the assistance they offer to Robert Van Handel, as well as the assistance they continue to offer to his victims and others, will help prevent other wrongs in the future and will help restore the health and faith of so many people that has been tested.

If questions or concerns are raised that reveal a more specific awareness of the terms of the agreement between Robert and the Franciscans, or that probe more specifically the rationale for the Franciscans providing support to Robert, the following further statement can serve as a guide for a response:

Although the Franciscans are required by Canon law to act with charity toward our former member, Robert Van Handel, we have not forgotten the past. Our support of Robert Van Handel has conditions attached. For instance, in order to receive financial support from the Franciscans, Robert has agreed that we may speak with his therapist to determine whether Robert remains committed to the goals of his therapy. In addition, to receive financial support from the Franciscans, Robert has agreed that we may

AGREEMENT BETWEEN ROBERT VAN HANDEL AND FRANCISCAN FRIARS OF THE
PROVINCE OF ST. BARBARA CONCERNING FINANCIAL SUPPORT OF
ROBERT VAN HANDEL

Page 5

speak with his probation officer to determine if Robert is obeying all the terms of his probation. As long as Robert receives any financial support from the Franciscans, he has agreed that the Franciscans may disclose to his employers, co-workers, and others his conviction and its nature.

The Franciscans have attached these and other conditions to their financial support of Robert not so that he can begin a new life in a new place free of his past, but so that he can begin a new life in a new place in light of his past. When many of the victims came forward and shared their pain with the Board of Inquiry, they expressed the hope that their disclosures would make a difference for the future. They asked important questions about what the Franciscans would do to prevent such a thing from happening again and, more specifically, what the Franciscans would do to prevent Robert Van Handel from repeating his behavior. Robert Van Handel has now left the Franciscan Order and the Franciscans cannot control his life. But by helping Robert to establish a new life for himself, and attaching conditions to the support, the Franciscans hope that the new life Robert builds for himself will be amid a network of people who are aware of his past and in that way may serve as a check against any reoccurrence of his behavior. [The Independent Response Team, created by the Franciscans to identify and offer aid to victims, will be asked to enforce the conditions on the assistance offered to Robert Van Handel.]

The Franciscans have not forgotten the needs of Robert's victims in agreeing to provide financial support to Robert Van Handel. To contrary, the Franciscans have remembered the needs expressed by Robert's victims that their pain and disclosure should help spare children in the future.

AGREEMENT BETWEEN ROBERT VAN HANDEL AND FRANCISCAN FRIARS OF THE
PROVINCE OF ST. BARBARA CONCERNING FINANCIAL SUPPORT OF
ROBERT VAN HANDEL

Page 6

This writing contains the entire agreement between Robert and the Franciscans. There are no other terms or agreements between Robert and the Franciscans that are not expressly set forth in writing.

This agreement may only be modified in writing, signed by Robert and by the Provincial Minister of the Franciscan Province of St. Barbara.

Dated: _____, 1998.

By _____
Robert Van Handel

Dated: _____, 1998.

By _____
Provincial Minister

SDSF3/52231

OFM VANH 1
0321

CONFIDENTIAL

DRAFT of April 27, 1998

CONFIDENTIAL

Dear Brothers,

May the Lord give you peace.

The purpose of this letter is to inform you, my brothers, that Robert Van Handel will be released from prison sometime in May. While Robert was in prison, he asked for and received an indult from the Vatican to be released from his vows and dispensed from priestly obligations. Robert Van Handel is now a lay person. Although he is no longer a friar and a priest, and not a member of any Catholic religious order, the Province has agreed to support him for a period of time in order to help Robert find suitable employment and to help him to find a suitable place to live. We have also agreed to help him receive needed therapy during this time. We have agreed to provide this financial support for several reasons. We know that both our Franciscan legislation and canon law ask us to observe evangelical charity and equity toward the member who has left the Order (Canon 702, General Statute 237). In addition, however, we remember the hope expressed by many that the painful disclosures would at least prevent future wrong. I believe that the prevention of future wrong cannot be best achieved if we simply wash our hands over the financial support to Robert Van Handel. To receive the Franciscan support, Robert must fulfill certain conditions among which are the following: (a) he must remain in therapy; (b) he must comply with the

terms of his probation including registering as an offender, and (c) he must not accept any work where children are present. [There will be a responsible person selected by the friars to see that these and all the other significant conditions are met.)

We remember the evening of November 29, 1993 when the Provincial, in our name, made a public apology and a promise to work to prevent harm in the future and, publicly released the Board of Inquiry's report of its investigation into the accusations of misconduct at St. Anthony's Seminary. The friars have endeavored to honor that pledge by addressing the needs of victims and their families who have sought help through the Independent Response Team. Many of them are still receiving therapy. Robert Van Handel is in need of this healing assistance as well. He cannot, as yet, provide it for himself due to the vow of poverty under which he has lived for so many years. It is the hope of the friars that the assistance we offer to Robert, as well as the assistance we continue to offer to the victims and to others, will help prevent such wrongs in the future and will help restore the health and the faith of so many people. I am sure you can see that the Province is very concerned about the victims demands for future protection; our attempt to meet these demands has led us to place the many conditions on the financial support to Robert.

My brothers, I hope this letter answers some of the questions you may have about this issue. Should you have any further questions, please call the

Provincial Office. Associate Treasurer John Hardin is the spokesperson.

Please be assured of my prayers. Please pray for Robert.

Fraternally,

[REDACTED]

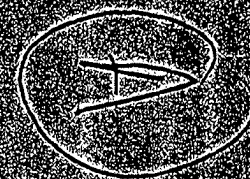
Provincial Minister

OFM VANH 1

0324

Robert van Handel
(Dispensed Friar)
LEGAL (abuse) FIL

CONFIDENTIAL



OFM VANH I
0325

Bates Numbers 326-346 were removed by the Plaintiffs at the request of the Franciscans.



Province of St. Barbara

FRANCISCAN FRIARS

1500 34th Avenue Oakland California 94601 (510)536-3722 Fax (510)536-3970

To: Robert Van Handel

From: [REDACTED]

RE: release

May 13, 1998

Dear Robert,

Thanks so very much for your letter. I will try to set your mind at ease regarding the first days of your release. We will make sure that Fabian Walker will have the initial aid which you will need. He will also have health insurance and car insurance forms for you to sign. John Hardin is at present looking for a car for you. A day or so after your release, Fabian will be able to take you to the place to pick it up. I hope this is helpful for you. We will make sure that Fabe gets all this information.

After you get settled, Israel Rosales, a therapist for the IRT will visit with you. I will try to be there too.

I think that this will help answer some of your initial worries.

Take care.

Sincerely,

[REDACTED]

Min. Prov.

Robert,

I know I didn't answer all your questions - but hopefully I took care of some of the initial worries.

[REDACTED]

OFM VANH 1
0347



Province of St. Barbara

FRANCISCAN FRIARS

1500 34th Avenue Oakland California 94601 (510)536-3722 Fax (510)536-3970

Robert Van Handel
1705 Airline Highwayt, #139
Hollister, CA 95023
November 23, 1999

COPY

Dear Robert,

May the Lord give you peace.

Recently it was brought to my attention that the funds we set aside for you have just about run out. We discussed the matter at the definitorium meeting at San Juan Bautista. We plan to continue to help financially with your expenses until the end of May, 2000. Could you possibly help us by sending us a proposed budget for these intervening months?

Robert, I realize that this is a difficult time for you and I surely do not want to cause you added anxiety; however this does say to us that we must look for other avenues and various creative ways to deal with the financial situation until you find ways to support yourself.

Be assured of our prayers.

Sincerely,

Min. Prov.

OFM VANH 1
0348

3RD PARTY PRIVACY

Robert Van Handel

1. Robert was first named by [REDACTED] then his name came up extensively before the Board of Inquiry. He pled guilty and was sentenced to eight years in prison for abuse of a minor. Due to be released in May, 1998. Numerous lawsuits. Currently serving in California Medical Facility, Vacaville.

2. Extensive evaluations and therapy. Very severe pathology, pedophilia, etc.

3. Has applied now for laicization with case pending in Rome. Upon his release from prison:

a) the definitorium has set aside a transition fund for his use; confer Lupe Aceves.

b) before he is released, his venue needs to be changed, as state law requires him to be released in county in which he was sentenced.

c) confer correspondnece between provicnial minister and Robert Van Handel as to his future possibilities outside the Order.

d) present case load of IRT should be reviewed so a good picture is given of the future. Confer report Radhule Weininger to [REDACTED]

OFM VANH 1

0349

**CURRICULUM VITAE
OF
ROBERT VAN HANDEL, OFM**

Name: Robert Michael Van Handel

Birth place: Georgetown, British Guiana Birth date: April 2, 1947

Investiture: September 14, 1969

First Profession: September 17, 1970

Solemn Profession: October 1, 1973

Priesthood: May 17, 1975

Education Background:

High School Seminary:	St. Anthony's Seminary, Santa Barbara
College Seminary:	San Luis Rey College, San Luis Rey, CA
	BA in Philosophy
Theological studies:	The Franciscan School of Theology, Berkeley, CA & The Graduate Theological Union, Berkeley, CA
	MA in Theology
Historical studies:	The University of California, Santa Barbara
	MA in Spanish American History

Principal Assignments:

1975	St. Mary's Church, Phoenix, Arizona: deacon experience
1975 - 1985	St. Anthony's Seminary, Santa Barbara, CA: seminary professor
1985 - 1987:	St. Anthony's Seminary, Santa Barbara, CA: Rector of Seminary
1987 - 1991:	St. Anthony's Seminary closed; remained as administrator of the property and buildings
1991 - 1993:	The Franciscan School of Theology, Berkeley, CA: post-novitiate director of formation and secretary to the Provincial Minister
1993	St. Francis Retreat, San Juan Bautista, CA: in residence; assist in retreat ministry

CONFIDENTIAL

Robert Van Handel

September 30, 1994

The Provincial Definitorium of the Province of St. Barbara met to discuss the status of Robert Van Handel's relation to the Order now that he has been convicted and sentenced for the sexual molestation of someone under 16 years of age. The Definitorium must consider if Robert is to be dismissed from the Order according to Canon 1395.2. The Canon does not require dismissal (si casus ferat). However, the Definitorium must review the case and offer an opinion to the Minister Provincial.

The Definitorium looked at the factors involved in this discussion: liability for the Province, scandal for the people of God, health of Robert, good of the fraternity, the gospel way of life, the timing and the situation, the reputation and morale of the local community that he might live with if he stays in the Order.

The Definitorium examined the following options available to it:

- a. do nothing
- b. dismiss him immediately
- c. decide not to dismiss
- d. request letter from Robert in which he would ask to leave the Order
- e. delay any final decision.

The Definitorium is recommending to the Provincial Minister that he not act at this time, but leave the option open for review in the future and that such a review should take place in a year. The Definitorium recommends the above action for the following reasons:

- the frail psychological state of Robert Van Handel
- the lack of further information regarding liability implications
- the expectation of the people of God that the Province oversee Robert in the future
- the desire of the majority of friars to balance justice with mercy in the treatment of Robert
- give Robert time to discern his own future vocation
- the Province's plan to set up a house of containment could impact Robert's future.

CONFIDENTIAL

Robert Van Handel

September 1995

██████████ reported to the Definitorium that he had visited Robert at the San Luis Obispo Men's Colony. During his visit, ██████ raised a number of issues with Robert. One such issue was Robert's future once he is released from prison. Robert and the Definitorium will need to look at a number of options.

It was also reported that individuals are coming forward at this time who say that they were abused by Robert from the years 1984 - 1989 when Robert left Santa Barbara.

It was agreed that there would be a thorough evaluation of Robert's situation at the November meeting of the Definitorium.

OFM VANH 1
0352

CONFIDENTIAL

Robert Van Handel

November 1995

The Definitorium reviewed the situation of Robert Van Handel. He is presently in the State Prison at Vacaville, California and has a possible release date of March 1998.

██████████ the Provincial Minister, made the following observations:

- Robert has not given any consideration as to his future after his release date;
- It is a fact that he will always be in a high risk category which means that he will always need a high level of constant care and monitoring.

In discussing the various options open to Robert, the Definitorium made the following points:

- Robert needs to work through his future vis a vis the Order; it would be preferable if he made the decision while he was in a safe environment;
- Robert as part of his decision-making process needs to understand the severity of limitations that will be placed on him if he remains in the Order.

It was agreed that this Definitorium would like to set as its goals with respect to Robert:

- help him make the decision to leave the Order on his own;
- assure him that the Order would take care of him during his probation and help him during his probation to leave the Order and get established;
- make a final decision on this issue by September 1996.

If Robert does not agree to the above, it was the tentative opinion of the Definitorium that the Canon Law regarding dismissal from the Order should be invoked in this case.

OFM VANH 1

0353



Province of St. Barbara

FRANCISCAN FRIARS

1500 34th Avenue Oakland California 94601 (510)536-3722 Fax (510)536-3970

Robert Van Handel, O.F.M. J30982
California Men's Facility
POB 2000
Vacaville, California 95696-2000

January 10, 1997

Dear Robert

Peace and good.

At the last meeting of the definitorium in November we discussed your concerns in full session, and with the full consent of the definitorium and on my authority as provincial minister, I would like to answer your concerns in a formal way.

Clearly, we all recognize the extraordinary circumstances which occasion your concerns. I have just sent your petition for laicization to Rome and we can hope for some action in the next six months. Thank you for freely taking this courageous step.

Juridic relationships and the responsibilities which go with them are one thing; the bonds of friendship and love are entirely different. The Provincial Minister and the definitorium are bound by the common law of the Church and by the dictates of the Order's Constitutions. Upon a juridic severance from the Order, there is explicit provision that the demands of justice and charity be met in some way.

Recognizing this in your situation, the definitorium has established a "transition fund" which should aid you in a return to the lay state and secular work after a release from prison. This fund is at the discretion of the provincial minister, but it is common and necessary that the demands of the law be met. Even more significantly, I would like to say on behalf of the definitorium and myself that the preservation of friendship and the continued concern that goes with it are even more important. I know that myself and others will be speaking with you and will accompany you to see how we might be of support.

With fraternal love

OFM VANH 1

0354

Bates Numbers 355-359 were ordered removed by the trial court.

3. V/H:

1) 2 cases - no right to report - no right to investigate -

2) policies of persons do not speak clearly of their situation -

- process of investigation has its own internal clock - cannot be rushed.
especially true of mine.

- we would like to do something - but what?

Parents & daughter would not let it be resolved.

- lack of honesty, probably not more extensive.

Do we do damage in catching people? Make victims uncomfortable

slowly - in 3rd - respect - no harm in sitting
gradually?

- could be helpful for some, satisfy family,

How is this experienced - intrusively?

Have from when epiphany - words of epiphany better - continues
re-interview.

He does know them - has contact of some.

- Question to explore?

Have non-specific letter in primary person's bio. D/H - kid -
meaning person is good, the kid...

X letter in free-to-free

① do nothing

② Bolt - make words

③ Person's judgment -

— victim doesn't find; he gets true among victim
sympathy.

Offering to interview - you don't want to reinterview.

OFM VANH 1

0360

Bates Numbers 361-362 were removed by the Plaintiffs at the request of the Franciscans.



Attorney Client Privileged

OFM VANH 1
0363

MEMO TO:

FROM: [REDACTED]

RE: Robert's civil attorney

DATE: September 22, 1994

REDACTED

I had a long talk with Skip Howie, Robert's civil attorney in San Jose. He had several issues on the agenda:

1. Robert's name in the lawsuit: he wants to talk with Nick Heldt but he feels that Robert should default on it (I gather that means not to respond). As Skip put it: why should the friars pay an attorney to protect Robert's assets when he doesn't have assets? They can sue Robert for any amount but if he does not have anything, then they can't get anything. In addition Robert's in jail so what does he care? I believe Skip is trying to save us some money.
2. He is trying to figure out for himself what he can do for Robert. He genuinely likes Robert and feels that he ought to do something. He talked about going down to Wasco. As Robert's attorney, he could get in but will that cause more problems especially if he tries to get Robert protected. He would be taking on the prison system and that might hurt Robert more. That is why he really does not know what to do.
3. In connection with #1, he wanted to know if the insurance carriers agreed to defend Robert. I said to the best of my knowledge each of the carriers has denied that they have an obligation to defend the individual friars. That is why he thought it best for Robert to default.

REDACTED

Attorney Client Privileged

OFM VANH 1
0364

May 9 - telephone 7 am

Mike Galloway

① Phone report - they will investigate; will serve important;
state of facts; realizations in of opposite counsel -

② "Bugs Union"

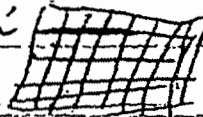
- should get union attorney - more than we have

- attorney of Bureau

CPS - at last subjects etc; interviewed him - he should have
independent counsel; Ask Brown to look; do not refer to Ray, Foster

- will be a narrowly focused investigation

Ask him counsel; should we meet of Bureau



Ask Brown what his opinion is - how fast do they move?

① counsel - state of limitation

② civil - case power changed; tone to wrongful death -

- change

- positive change; on the paper assumption

Paul & Daisy Smith

45:50 minutes, May 10, 1992

Ever since P. said, he wouldn't have any other. It was
not of the counsel. Why any of us "Rope, the party."
Boulders, clouds, but, inside family. "Robert is lost
us; as much the best of ourselves." Note a single summer,
typically.

How should we feel of this? Things for the year -
"a better to the family."

Bennie is in New York now - going to home, home country.

"Mats will be good."

There is a report on the situation. It is 10 years old -
planned by many people, but of the choice. We're still in the
need to protect them.

- 9th report: 2 weeks ago: appeared to have a festival Paul & Daisy
They filed a lawsuit.

Bates Numbers 366-367 were removed by the Plaintiffs at the request of the Franciscans.

Dear [REDACTED]

A/C

(From below?)

Here is (1) the Manila
law and (2) a copy of
statute of limitations for civil suits.

The statute of limitations for Criminal
cases is 1 yr. from the date of the
offense for misdemeanor and, usually,
3-6 yrs for most felonies, except
murder + theft of public money. So, in
this case, the statute of limitations has
run no matter what happened. The SBPO
is not doing anything on the matter. It is
closed. This answers your first 2 questions:
why was it reported and what is going to
happen.

You third question - is there any obligation
to see if other cases - is not in my
area of expertise. Therefore, was advised.

OFM VANH 1

0368

Bates Number 369 was removed by the Plaintiffs at the request of the Franciscans.

BRIAN P. BROSDAHAN
ATTORNEY

333 BUSH STREET
SAN FRANCISCO
CALIFORNIA 94104-2878

FAX: (415) 772-6268
TEL: (415) 772-6302

HELLER EHRMAN WHITE & McAULIFFE

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OFM VANH 1
0370

Bates Numbers 371-374 were ordered removed by the trial court.