

Defense says church destroyed, hid records

Nearly a decade's worth of the Catholic Diocese of Cleveland's most confidential financial documents will be on display when the trial of a former diocesan accountant begins Monday in U.S. District Court.

The kickback trial of Anton Zgoznic opens amid a flurry of accusations by defense lawyers that the diocese destroyed and continues to hide documents critical to their case and embarrassing to the church.

Zgoznic's co-defendant, Joseph Smith, the diocese's former chief financial officer and legal counsel, will stand trial later. Each is charged with multiple counts of conspiracy, money laundering, mail fraud and obstruction of justice.

The defendants were hit with several trial setbacks on Friday. U.S. District Judge Ann Aldrich rejected their attempts to prevent introduction of financial records that prosecutors say document Smith and Zgoznic's elaborate kickback scheme.

But defense attorneys could prevail on a more significant issue if Aldrich permits them to show the jury reams of documents dealing with hundreds of off-the-books church bank accounts, including several controlled by Bishop Anthony Pilla, now retired. Defense lawyers hope the documents will convince the jury that under-the-table employee compensation was common practice at the diocese.

Assistant U.S. Attorney John Siegel last week filed a nine-page motion outlining the government's case against Zgoznic and Smith. He explained how Zgoznic, earning a modest salary as the diocese's assistant treasurer, resigned in 1998 - at Smith's urging - to open an accounting firm.

Then Smith hired Zgoznic's company to modernize the diocese's bookkeeping system. Over the next five years, the diocese paid Zgoznic more than \$17.5 million. In his motion, Siegel said that Zgoznic, 40, of Kirtland Hills, kicked back more than \$784,000 of that money to Smith.

Siegel also revealed in court papers that an agent of the Willis Corroon insurance brokerage firm, which did a substantial amount of business with the diocese, paid Smith \$15,000 over two years to rent Smith's Florida condominium. The agent never used the condo, and Siegel said the payments actually were kickbacks.

Zgoznic submitted hundreds of paltry invoices to different diocesan offices - each with a separate budget - which kept church officials in the dark about the millions of dollars they were paying Zgoznic, prosecutors say. One month, Zgoznic submitted 47 invoices, Siegel said.

Diocesan officials "were shocked when they learned the actual magnitude" of the payments to Zgoznic, Siegel said.

Prosecutors said they would call witnesses to testify that Zgoznic's services were unnecessary and the payments excessive. They accused Smith of hiring his friend Zgoznic with the primary purpose of enriching himself.

Zgoznic's attorney, Robert Rotatori, said his client performed a valuable service for the diocese and, after paying salaries and benefits to 60 employees, "really wasn't making a lot of money."

"The diocese's finance council determined that Anton's work was worth it and cheaper than they could have done it themselves," Rotatori said. "Unfortunately, they can't find the minutes of the meetings where they made these statements."

Rotatori and attorney Philip Kushner, who represents Smith, presented evidence last week that they say shows that Kevin O'Donnell, the former head of the finance council, instructed an employee to destroy records of their meetings. O'Donnell's order came shortly after a whistleblower exposed the alleged kickback scheme, the lawyers contend.

O'Donnell testified last week that the records were old and were discarded during routine file cleaning. Attorney Steve Sozio, who represents the diocese, said none of the documents were removed for nefarious reasons or because of their subject matter.

After hearing O'Donnell's explanation, Judge Aldrich rejected the defense's claims that the records were destroyed in bad faith or in collusion with prosecutors. She has declined to instruct the jury that had the missing documents been found, they would have helped the defense.

Rotatori said the diocese also failed to produce accounting ledgers he believes would bolster his client's defense. He accused the diocese of stonewalling the defense and the government of failing to thoroughly investigate his allegations against the diocese.

"They deep-six the stuff, then claim they did nothing wrong," Rotatori said.

Anne Barrett Doyle, co-director of Boston-based BishopAccountability.org, said Zgoznic's trial will get national attention.

"Nationwide, the judges' willingness to demand that the dioceses make financial disclosures is something we're seeing with increasing frequency," Doyle said. Church officials "have been shown to be secretive and not honest."

In expectation of widespread media coverage, Bishop Richard Lennon last week sent letters to all of the Cleveland Diocese parishes, warning the pastors to be prepared for "sensational" news reports from the trial.

The defendants are expected to call retired Bishop Pilla to testify at both trials.

Sozio, the diocesan attorney, predicted the defendants would take extreme measures to divert attention from their crimes.

"These are desperate allegations by desperate men," Sozio said.