

July, 2007 - God, Incorporated

Ron Donoho, San Diego Magazine (CA)

The Roman Catholic Diocese of San Diego stared into the face of big payouts—for the sins of pedophile priests it long harbored—and declared bankruptcy. The diocese has clearly erred in reporting its finances. But how does it fairly compensate victims and not break the bank at local parishes?

IT'S AN UNUSUALLY gloomy April afternoon. A stiff breeze shoots rain pellets into your cold face. You step into the vast jury-pool room at the Federal Court Building on Front Street, after passing through the metal detector and handing over a tape recorder and camera-equipped cell phone. No recording devices are permitted inside. But there is plenty to see and hear, and there are heart-wrenching stories to consider.

An ungodly battle is buffeting through this bankruptcy court. The debtor is the San Diego Roman Catholic Diocese. Back on February 27—the day before the first of a slew of pedophile-priest cases was going to state court—the diocese filed for Chapter 11. That halted the trials. Now alleged victims—grown men and women who say their youthful innocence was tainted or stolen—are here by the dozens. In this 341 hearing, often referred to as a “first meeting of the creditors,” the people who say priests fondled, abused and raped them are not technically “victims.” They are “creditors.”

After a lengthy hail of legal questions and answers from diocese officials, here comes a creditor to sit at the U-shaped table at the front of the jury-pool room. Dianna Williams trembles as she slips on reading glasses. Directly across the table is Bishop Robert Brom. His hair is white, and he wears a clerical collar and black robe. A foot-tall cross hangs on a chain around his neck. He sits flanked by lawyers and a small coterie of church officials. In church hierarchy, Bishop Brom reports only to the Vatican. He is the highest-ranking Roman Catholic in San Diego. He is also the sole proprietor of the corporation that is the local diocese.

As she begins to speak, Williams is already crying. But she won't be deterred by tears. Her voice is loud and impassioned, even though her words are choked by an unseen pain.

“Bishop Brom, in 2004 you sent word you would help us with therapy,” she begins. “I needed it. I'm plagued with panic attacks. I couldn't take my children to school. I had suicidal thoughts. I wanted to put the Nazareth House boarding school behind me. I live my rape 24 hours a day. I started therapy, and you stopped it.

“I've lost my faith and my sister and my virginity and the rest of my life. Could you make good on that therapy promise? If you're honorable, reinstate my doctor.”

You're sure most first meetings of the creditors don't engender this sort of emotional drama. Officiating the hearing is United States Department of Justice trustee Steven Katzman. In a firm but compassionate manner, he informs the room that questions must be directed at the church's financial situation. Katzman starts to ask Williams if she has such a question.

But Brom speaks up. “I can't respond in this forum,” he says, and his manner of speaking—the measured enunciation—reminds you of Mr. Rogers, the late children's TV host.

“How can you not reinstate my doctor?” cries Williams. “How can you not publicly list my perpetrator's name? There were a lot of us there in Nazareth House.”

“I want to do what's right for you,” says Brom, leaning forward. “It may be more therapy. I don't know you . . .”

Katzman intercedes. “There have been some horrific crimes done here,” he says. “But we have to focus on financial affairs so the lawyers can proceed.”

Williams' attorney steps forward and reaches for a microphone. “This is about lives, too,” says Irwin Zalkin. “Not just schedules and disclosures, but people's lives.”

Diocesan lawyer Susan Boswell pipes in. “This diocese has great sympathy for the victims . . .” She barely gets the words out of her mouth before the crowd erupts in derisive laughter.

To you, new to this drama, it appears many people in this gray, antiseptic room have been battling this monolithic religious entity for restitution far too long—in court since 2003; in minds and hearts for most of their troubled adult lives.

This is how you watch the modern day morality play unfold. In your head, you hear the song by U2—”Bullet the Blue Sky”—in which Bono yells: “Well, the God I believe in isn’t short of cash, mister!” Sure, but how do you do the right thing when the rosary of religion is so entwined with the gold chain of capitalism? Lead the flock. But don’t forget to collect the alms. Comfort the sick and ailing. But don’t spend too much money doing it.

Welcome to Enron-by-the-Cross at God, Inc.

BISHOP BROM SAYS the diocese’s reason for declaring bankruptcy is twofold. “It’s the best way available to compensate all the victims of sexual abuse as fairly and equitably as our resources will allow without crippling our ability to accomplish the mission of the church,” he says.

You know Catholic education is at the heart of that mission. Since the founding of the San Diego Diocese, it has done many good deeds. Today, it provides financial assistance to parishes and schools with special needs. You’ve seen or heard of countless acts of benevolence and good ministry from Roman Catholic dioceses the world over. And you know the sins of the wicked should not be draped on the shoulders of all who wear the cloth and serve their God with faith and devotion.

The San Diego Diocese made an unsuccessful settlement attempt with a mega-group of lawyers from 23 firms representing more than 160 men and women with abuse claims. (Originally, 143 lawsuits were filed; more cases have been added.) But victims’ lawyers say the diocese has been deceptive on all financial fronts.

“This diocese has provided us with scant and misleading information,” says Zalkin, a partner at San Diego’s Zalkin & Zimmer. His firm is representing 63 victims, including Diana Williams. “I have not seen good faith displayed by them.”

Paperwork signed by Brom claims the diocese is worth \$165 million. The settlement offer was \$95 million. San Diego is the fifth—and largest—diocese to file bankruptcy in the face of hefty settlements, following those in Tucson, Portland, Spokane and Davenport, Iowa. The Diocese of Orange (County) recently settled with 90 victims for \$100 million. One Orange County man who alleged he was molested (for three years by a priest who died of AIDS) received \$3.7 million alone.

Plaintiffs’ lawyers—the group of 23 aligned firms—believe the San Diego settlement should be in the \$200 million range. They further believe the diocese is severely and strategically underreporting its assets.

There is little doubt there has been underreporting. The diocese twice had to amend its financial disclosure statements. Presiding federal Judge Louise DeCarl Adler calls the bookkeeping “Byzantine.” She is “mystified” as to why original statements don’t include 770 bank accounts held by the diocese’s 98 parishes. A core argument here is whether parish assets belong to the diocese or to the parishes themselves. (On May 10, Adler ruled the issue would be resolved in a fall trial.)

Under questioning by federal trustee Katzman, the diocese’s head financial officer, Richard Mirando, concedes that current market appraisals are not being used for 32 diocese properties. Rather, assessed or book values are listed. Many of these assessments were last done in the 1960s, some as far back as the ’40s.

The Holy Cross Cemetery is listed at an assessed value of \$11 million. But Newport Beach–based lawyer John Manly—part of the plaintiffs’ team— notes the general manager of the cemetery testified in court two years ago that the property was worth roughly \$40 million.

Asked if he thinks current San Diego real estate values might be substantially higher than old assessments, Mirando replies, “I expect it would be higher, but I don’t know what it would be.”

During the hearing, Katzman brings up two financial investments—for \$21 million and \$17 million—that are not on initial schedules filed by the diocese. Officials again say it was a mistake to leave them off, but call it clerical error.

You’re not keeping count, but Bishop Brom rivals Attorney General Alberto Gonzalez for the number of times he can’t recall or doesn’t know key facts about the organization he is running. At one point during the 341 hearing, Brom concedes: “I don’t know who might know what the net worth of the diocese is.”

Zalkin thinks it’s worth “hundreds of millions of dollars.” Attorney Andrea Leavitt believes the diocese might be worth a billion. Leavitt points out the diocese left a significant pending land sale off its statements. Two years ago, church-affiliated University of San Diego High School moved to Carmel Valley. It’s now become the state-of-the-art Cathedral Catholic High School. The “Uni” High land was sold to William Lyon Homes for at least \$65 million. The deal is currently on hold pending the diocese’s bankruptcy proceedings.

Diocesan lawyer Boswell says the Uni land is owned by Catholic Secondary Education, a separate corporation that has several high-ranking diocesan officials as officers. That’s one of the morass of matters Judge Adler will have to sort out.

Boswell, who has been involved on both sides of bankruptcy cases for 30 years, says the notion the diocese is hiding assets is ridiculous. “Look, prior to this filing, the diocese didn’t do reports on a consolidated basis,” she says. “Separate divisions had their own accounting and reporting. It’s not a small task to combine all this. Also, it’s not uncommon for ‘unknown’ to be put next to property, or for you to give the best information you have.”

ANDREA LEAVITT’S stylish downtown office is in Emerald Plaza, blocks from San Diego’s bankruptcy court. She strikes you as a pleasant woman who can be a lioness in court. Leavitt has 14 clients who allege abuse at the hands of the clergy. That caseload includes eight victims with claims against Reverend Franz Robier. Now deceased, Robier is on the list made public by Bishop Brom of “Priests of Dioceses of San Diego and San Bernardino with Credible Allegations Against Them.” (This is the list Dianna Williams’ alleged perpetrator has been left off.)

San Bernardino was part of the San Diego Diocese until 1978. A large majority of the abuse connected with these claims occurred in the 1950s, ’60s and ’70s.

In the 1990s, Leavitt worked on a committee to change the state’s civil statute on how and when victims could report childhood sexual abuse. “The age limit was 18, and then it was raised to 21,” she says. “In 1997, we got that statute amended. Now it’s 26—or within three years [of the time] you realize you were psychologically harmed by sexual abuse.”

A lot of victims don’t realize what has happened to them, says Leavitt. “They know they’ve been raped, or . . . forced to orally copulate someone . . . but they don’t realize they’ve been damaged psychologically,” she says. “They turn to alcohol, or they just can’t deal with it. It takes so much energy to keep trying not to think of it. But it haunts them. They have nightmares. Flashbacks.

“One of my clients is a darling, cute lady and bright as a tack. She doesn’t ever want to get married. Her perpetrator psychologically sterilized her. She was molested at a young age. She doesn’t want children, because she doesn’t think she could ever protect them—be with them 24/7—and she couldn’t ever live with herself if that child had to go through what she did.

“We are essentially representing children who had nobody to represent them while they were being brutally raped. They may be in adult bodies now. But when you do these cases, you hear the screams and the anguish and the tears of the children.”

Leavitt explains it wasn't until January 1, 2003, that third parties could be included in childhood sexual abuse lawsuits. That's when California's statute was broadened—and the statute of limitations was waived for one year. That's why there are so many cases all being brought at the same time against the San Diego Diocese.

You're wondering how it's possible to put a monetary value on the pain at issue here. This part feels surreal. The plaintiffs' attorneys believe each victim's case should be valued between \$1.1 and \$1.6 million. The diocese settlement offer of \$95 million calls for payments ranging from \$10,000 to \$800,000.

“In California law, a rape constitutes penetration of any orifice—any,” says Leavitt. “Not just with a penis—it can be with a finger [digital penetration] or with an object. And there are other factors to consider: The age of the victim. How many times abuse occurred. Over what length of time. Was the victim threatened? The fragility of the child—was the father away at war, or had he just died? And proximity to the child—when a child is molested, they live in fear of the next time. The angst of seeing the perpetrator creates so much horror. It's like waiting for the next bomb to go off in a war. It's like waiting for the boogie man to come. It's a living hell on earth.”

You try your best to imagine the pain and suffering, and you shudder. But wait. Aren't some of the plaintiffs' lawyers going to pocket 40 percent of the settlement? Is paying lawyer fees a good reason to disrupt the charitable works of the San Diego Diocese?

“Lawyers on this case have been working around the clock for five years with no pay,” says Leavitt. “Forty percent is in line with a contingency fee. We may never recover anything. We've had no compensation—some of us have dipped into our own savings on this. When you hear that the lawyers are greedy in this case, that's propaganda driven by the defendants and their insurance company. How come you never hear about a frivolous defense fund?”

“But stop and think about it and answer this question: Would you accept \$1.5 million for being raped for two years—as a child—and living in a state of fear where you never know when it's going to happen again? Not to mention that it will affect you for the rest of your life. Is that a fair exchange?”

"The bishop has to understand there is a face behind each creditor, and a voice for each creditor—who was a child who was a sexual abuse victim"

BEFORE THE START of the emotional 341 hearing, several lawyers and alleged victims had met to prepare in boardrooms at Leavitt's office. One victim, who asks that his real name not be used, consents to talk. “Don” is 47 years old, with salt-and-pepper hair and mustache. His black sports jacket is loose, and the white shirt under it is neatly pressed. Don has smiling blue eyes. He doesn't appear to be troubled or hurting.

“I try to keep my personal emotions intact,” he says. “I want to be respectful to the 10-year-old child inside me—to give that child a voice. It's something each person deals with in a different manner.”

Don isn't going to speak at the hearing. He'll cede his time to his lawyer. But he needs to be there. “The bishop has to understand there is a face behind each creditor, and a voice for each creditor—who was a child who was a sexual abuse victim,” he says. “Even though many of us are adults now, we're still the voice of that unsettled child.”

When the diocese declared bankruptcy, Don felt victimized all over again. “On a personal level, it felt like another tactic of hiding the truth,” he says. “We were going into the state court system, and now they've chosen

another venue—the federal court system. All the victims, all we've ever wanted is to get the truth heard. It's a search for truth and justice for us."

Now a nonpracticing Roman Catholic, Don says he lost his faith long ago. "There's just a distinct level of mistrust with the diocese," he says. "They talk incessantly about transparency, but actions speak louder than words . . . I was really interested to see how connected the bishop would be to the financial situations of his company. I wanted to see how in tune he is with the conditions of his company."

And that brings you back to creditor Dianna Williams. Her attorney has a letter from Monsignor Steve Callahan, vicar general for the diocese and victim assistance coordinator. The letter states the diocese's position on therapy—it says 52 weeks is the limit.

"Diana clearly needs more therapy," says attorney Zalkin. "But you heard them in the hearing say this letter—that says 52 weeks was the limit—was a 'misstatement of policy,' right?"

Indeed, that is what Callahan comes around to say at the 341 hearing. Brom also states: "We've taken every request for counseling very seriously."

Creditor Dianna Williams is quite anxious to get word about reinstating her therapy. While the Chapter 11 proceedings drag on, she continues to wait. And you can't help wonder why, in God's name, it has to be this way.