

Witness Statement

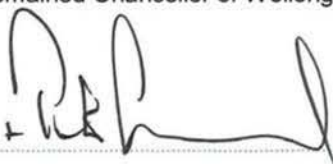
Name	Bishop Peter Andrew Comensoli
Address	Level 16, 133 Liverpool Street, Sydney NSW 2000
Occupation	Catholic Bishop, Apostolic Administrator, Catholic Archdiocese of Sydney
Date	5 June 2014

- 1 My name is Peter Andrew Comensoli.
- 2 I am a Catholic Bishop and the current Apostolic Administrator of the Archdiocese of Sydney.
- 3 Exhibited to me at the time of making this statement is a folder of documents that relate to my involvement with the case concerning Fr John Nestor (**Fr Nestor**). Where I refer to a document in this statement, I have used the document reference number which appears in the top right-hand corner of the document. I have not independently reviewed the files of the Diocese of Wollongong or other entities from which these documents have been drawn.
- 4 This statement has been prepared with the assistance of Gilbert + Tobin lawyers in response to and in compliance with a Summons or Notice issued by the Royal Commission in connection with a hearing into Case Study 14. It is produced to the Royal Commission on the basis that it will be tendered and received in evidence by the Royal Commission pursuant to that Summons or Notice, and on the basis that the statement will be treated as evidence pursuant to the Commonwealth or State legislation applicable to this Royal Commission case study.

Background

- 5 I was born in the Illawarra on **REDACT** 1964.
- 6 I commenced my studies for the priesthood at St Patrick's College, Manly in 1986. I was ordained to the priesthood for the Diocese of Wollongong on 22 May 1992.
- 7 During my time in the Diocese of Wollongong, I served as a priest in a number of parishes, as well as holding a number of appointments to various diocesan bodies and committees.
- 8 In July 2000, I was appointed Adjunct Chancellor of the Wollongong Diocese, alongside the then-Chancellor, Sister Elizabeth Delaney. On 11 September 2000, I was appointed Diocesan Chancellor for the Diocese of Wollongong. The Chancellor is responsible for assisting the Bishop and overseeing the administration of the Diocese.
- 9 I remained Chancellor of Wollongong until 31 July 2006.

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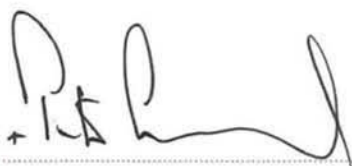


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- 10 At this time I moved to Scotland, where I undertook postgraduate studies in moral philosophy and theology at the universities of St Andrews (September 2006 to December 2007) and Edinburgh (December 2007 to December 2010). During this time I remained a priest of the Diocese of Wollongong on loan to the Archdiocese of St Andrews and Edinburgh.
- 11 Upon returning to Australia at the end of 2010, I was appointed to the parish of Helensburgh, in the Diocese of Wollongong, and as lecturer in moral theology at the Catholic Institute of Sydney.
- 12 On 20 April 2011, I was appointed Auxiliary Bishop for the Archdiocese of Sydney, and on 8 June 2011, I was ordained to the episcopate. At this time, I was also appointed parish priest of Our Lady Star of the Sea Parish, Watsons Bay.
- 13 On 27 February 2014, I was appointed Apostolic Administrator of the Sydney Archdiocese upon the appointment of the then archbishop, Cardinal George Pell, to a senior position in the Vatican. The Apostolic Administrator is responsible – as a caretaker – for the day-to-day running of the Archdiocese while the See is vacant. I am not permitted to innovate during the period of interregnum.
- 14 In about 1993, there were two very high profile child sexual abuse cases in the Wollongong Diocese involving Church personnel. The perpetrators were Brother Michael Evans (**ME**), a member of the Christian Brothers, and Fr Peter Lewis Comensoli (**PLC**), a priest of Wollongong Diocese and a cousin of mine. Sometimes people erroneously think references to my cousin are references to me. This is why I have always referred to myself as 'Peter A Comensoli', to distinguish myself from 'Peter L Comensoli'.
- 15 Throughout the cases involving ME and PLC, the *Illawarra Mercury* newspaper was extremely critical of the response by the diocese and its then bishop, Bishop William E Murray. Given the name similarities and family relationship, I was acutely conscious of these matters, and the impact on both my family and the wider Catholic community. I was also conscious that the broader community was alert and sensitive to child sexual abuse issues and the adequacy of the Church's response to them. Ultimately, PLC was tried and sentenced to a term of imprisonment; ME committed suicide in late 1994.
- 16 The ME and PLC cases were investigated as part of the Royal Commission into the NSW Police force in 1996 ("the Wood Royal Commission").

The Fr Nestor Case

- 17 I first came to know Fr Nestor when I became a seminarian for Wollongong Diocese in 1986. At this time, I think Fr Nestor was in his final year of seminary studies; at least I recall him being present at St Patrick's Seminary in my first year.
- 18 Fr Nestor remained in contact with the Wollongong seminarians (some more regularly than others) once he had left and been ordained, so I do recall meeting him from time to time while I continued my studies.




- 19 Our paths crossed on a regular, though not necessarily frequent, basis as clergy of Wollongong Diocese, once I had completed my studies and was ordained a deacon (19 October 1991) and then a priest (22 May 1992).
- 20 I was aware of the 'Summer Safari' program that Fr Nestor had approval from Bishop Murray to run. As I recall, this was a camping experience for teenage boys of some 3-4 weeks in length, during which they were given faith instruction and general human development in the context of a moving camp. (A separate camp experience for girls was later developed and run by Fr Nestor.)
- 21 My one and only direct involvement with the Summer Safari was during the January holidays of 1993. I had been temporarily appointed to the parish of Milton-Ulladulla, while the parish priest was on leave. The Summer Safari group for that year had previously arranged to camp for a night or two in the parish school grounds, making use of the facilities of the school. I cannot recall how many nights the group stayed. I do recall hearing the confessions of some of the boys during that time, and I probably would have concelebrated Mass with the group (though I do not recall doing so now).
- 22 I was Administrator of the Parish of Shellharbour when Fr Nestor was arrested in 1996. I had no personal knowledge of the case, other than what was publically revealed, until I became Chancellor. I have no recollection of ever having a conversation with either Mgr Ryan or Bishop Wilson about the matter prior to my becoming Chancellor. For much of the time between 1996 and my taking up the Chancellor's role, I was in Rome undertaking postgraduate studies (July 1998 to June 2000).
- 23 In July 2000, when I was appointed as Adjunct Chancellor for Wollongong Diocese, Bishop Philip Wilson was the Bishop of Wollongong, having replaced Bishop Murray in 1996.
- 24 As Chancellor, I worked closely with the Bishop, initially Bishop Wilson, and then Bishop Peter Ingham. We discussed significant matters on a frequent (often daily) and regular basis, and I often prepared drafts of – or comment on – the Bishop's correspondence. This is usually identifiable because letters bearing a reference 'pac' are those that I was directly involved in drafting for others, and 'PAC' was the reference for those that I wrote and signed myself. There are also other pieces of correspondence which do not reference my initials but which I recall being involved in composing or commenting on.
- 25 The Bishop's office and my office were located in close proximity to each other. Although we each had our own secretary, on matters involving sexual abuse and other professional standards issues, I would use the Bishop's secretary, who was familiar with the matters. The Bishop's secretary throughout my time as chancellor was Mrs Lorraine Tobin.
- 26 One of the significant matters that I discussed frequently and regularly with Bishop Wilson, initially, and subsequently with Bishop Ingham (as well as Fr Bryan Jones, while he was Diocesan Administrator), was the case of allegations of child sexual abuse and other misconduct against Fr Nestor. Sometime early in my time as Chancellor, I read through the files held by the Diocese relating to Fr Nestor. From my reading, I understood that at that time the status of the Fr Nestor matter was, in summary, as follows:

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Witness 

- (a) Fr Nestor had been removed from his pastoral appointment in the Diocese of Wollongong.
- (b) By letter dated 30 April 1996, Fr Paul Ryan, as Diocesan Administrator, formally requested that Fr Nestor stand aside from the exercise of any public ministry [CTJH.001.12001.1381] **Tab 4** and on 2 May 1996, an unsigned document [CTJH.001.12001.1349] indicates that Fr Nestor **Tab 6** accepted that request.
- (c) Fr Nestor had been charged, tried in the Local Court and convicted on 20 December 1996 **Tab 14** [CTJH.001.12001.1322], then acquitted on appeal to the District Court on 22 October 1997 **Tab 20** [CTJH.001.12001.0999].
- (d) On 28 January 1998, Bishop Wilson had sent a letter to Cardinal Ratzinger, then Prefect of the Congregation for the Doctrine of the Faith (CDF) [CTHJ.001.12001.0384]. (The CDF is **Tab 39** the Congregation of the Holy See responsible for promoting and protecting the doctrinal and moral teachings of the Catholic Church, and for dealing with certain disciplinary matters.) The letter asked whether, in the Fr Nestor case, the Bishop should follow the procedures of the Instruction: *De modo procedendi in causis sollicitationis* issued in 1962 by the Supreme Sacred Congregation of the Holy Office, the predecessor of the CDF (the **1962 Instruction**). The 1962 Instruction is also known as *Crimen sollicitationis*, and, at paragraphs 71 to 73, deals with other sexual *delicts* (crimes), including child sexual abuse by clerics, and reserves jurisdiction over dismissal of priests for these offences to the CDF.
- (e) On 28 February 1998, the CDF confirmed by a letter which was received by Bishop Wilson on 13 March 1998 that the 1962 Instruction should be applied [CTJH.001.12003.0178]. **Tab 42**
- (f) On 29 June 1998, Bishop Wilson received a formal advice from the Professional Standards Resource Group (PSRG) [CTJH.001.12001.1046] that: **Tab 66**

"in light of the available evidence of his continuing and seriously imprudent and ambiguous behaviour, significantly at variance with any reasonable understanding of the obligations of his role, there are serious grounds for concern about Fr Nestor's suitability for pastoral ministry".

It recommended that:

"Fr Nestor should be requested as a conditione sine qua non for further appointment to undergo a full appraisal by Encompass Australasia as the means of providing [reassurance that Fr Nestor was a fit and proper person suitable to be reappointed]".

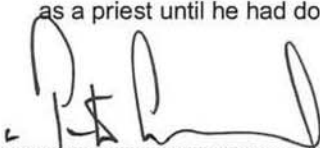
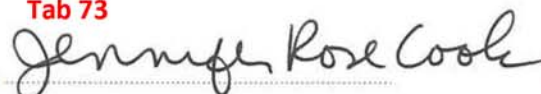
Encompass Australasia was a program established by the Australian Catholic Bishops Conference (ACBC) to identify and treat clergy and religious with psycho-sexual disorders and other psychiatric, psychological and behavioural conditions .

- (g) On 7 August 1998, Bishop Wilson had issued two decrees requiring Fr Nestor to undergo assessment by Encompass Australasia and preventing him from engaging in public ministry as a priest until he had done so [CTJH.001.12001.0556; CTJH.001.12001.1054].

CTJH.001.12001.1058

Tab 72

Tab 73

- (d) upheld Fr Nestor's recourse due to "lack of compliance, de procedendo with the norms of the Code of Canon Law for canonical process";
- (e) held that Bishop Wilson's 7 August 1998 Decree "lacks any juridic effect"; and
- (f) directed that "Rev Nestor is to be restored immediately to the full exercise of his priestly ministry in the Diocese of Wollongong and restitution is to be made of that of which he was deprived in keeping with the Diocesan norms for remuneration of Clergy and canon 281."

The outcome of the CFC recourse came as no great surprise. Bishop Wilson had expected the CFC's decision to be adverse to the diocese because of informal indications he had had from Rome. Moreover, it was Bishop Wilson's view that decisions about child sexual abuse matters were not within the jurisdiction of the CFC, whose function is essentially to represent the interests of priests.

31 On 2 January 2001, Bishop Wilson received a letter from Fr Nestor dated 24 December 2000

Tab 131 [CTJH.001.12001.0729]. The letter referred to the Decree issued by the CFC on 21 December 2000. Fr Nestor's letter said that the "Administrative Act of August 7th, 1998 [had] been set aside", that Fr Nestor had "already resumed public duties in the Diocese at the request of the appropriate authorities" and that Fr Nestor requested that Bishop Wilson advise him of "the pastoral appointment you wish to give me".

32 On 2 January 2001, I sent a letter [CTJH.001.12001.0728] to Fr Nestor in response to his letter to **Tab 133** Bishop Wilson of 24 December 2000. The letter stated that:

- (a) the Apostolic Nuncio, the representative of the Vatican in Australia (**Nuncio**), had advised that no action be taken in relation to the CFC Decree until the original had arrived; and
- (b) that the Diocese had ten canonical days to consider the decree, and until such canonical process had occurred, the Decree issued by Bishop Wilson on 7 August 1998 still stood.

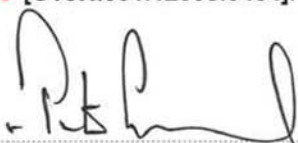
33 On 3 January 2001, Bishop Wilson issued a Media Statement referring to the CFC Decree and the advice from the Nuncio that no action be taken until the Decree itself had been received

Tab 134 [CTJH.001.12001.0726]. I was aware of the Media Statement but do not recall whether I helped to draft it.

34 On 4 January 2001:

- (a) I sent a memorandum regarding the CFC Decree to the PSRG and a list of other individuals including Kathleen McCormack and Margaret Chittick of Centrecare (now CatholicCare) Wollongong. The recipients of the memorandum had all been involved, one way or another, as informal advisers to Bishop Wilson in relation to the matter [CTJH.001.12003.0453]; **Tab 135**
- (b) I sent a letter to Bill d'Apice of Makinson & d'Apice, solicitors, seeking advice regarding the impact of the CFC Decree on the diocese's obligations under the *Commission for Children and Young People Act 1998 (CCYP Act)* and other child protection legislation.

Tab 136 [CTJH.001.12003.0454]. In particular, I wanted to know whether the Diocese was required to




ask Fr Nestor to give consent for a 'working with children' screening under Part 7 of the CCYP Act. I did this because I was anxious that the Diocese did not act inconsistently with its civil law obligations and sought clarification in relation to what constituted "new employment" (which I understood would trigger a requirement to screen); and

- (c) according to a file note [CTJH.402.0001.0092], I had a telephone conversation with Angela Kyriazopoulos of the NSW Professional Standards Office (the body responsible for administering the procedures in *Towards Healing* in New South Wales). I do not remember the call but according to the note I told her that the diocese had received the CFC Decree requiring that Fr Nestor be reinstated with full pay and that the news had been leaked to the press, and I asked her to ask whether the Child Protection Enforcement Agency (CPEA) had any information from the USA. I do not recall why I wanted this information: it may have been because it was around this time that I became aware that Fr Nestor was in the USA or because I wanted to check if there was anything of significance pertaining to his previous time in the US undertaking studies, or both.

35 On 8 January 2001:

- (a) the diocese received a letter dated 5 January 2001 from Fr Nestor to Bishop Wilson in which Fr Nestor again requested that he be appointed to a pastoral position in the Diocese

Tab 138[CTJH.001.12001.0722]; and

- (b) I received a letter dated 5 January 2001 from Fr Nestor [CTJH.001.12001.0720] which stated **Tab 137** that:

"as clerics in the Catholic Church, it is incumbent on all of us to take seriously, the Decree of a Roman Congregation. A Decree has been lawfully notified; I am bound by that Decree and propose to act in accordance with it, unless and until I receive any notification from the Congregation for Clergy, of its suspension".

The letter further requested that I arrange with the Diocesan Administrator for Fr Nestor's appointment to a pastoral position in the Diocese,

"which was decreed by the Congregation for Clergy to occur immediately, some two weeks ago".

36 On 8 January 2001, the Diocese received the original CFC Decree [CTJH.001.12001.0387].

37 I have been shown a handwritten file note [CTJH.305.01001.0100] dated 8 January 2001 which I understand comes from the files of the Catholic Commission for Employment Relations (CCER) and appears to mention Fr Nestor. I have no recollection of a conversation with someone from CCER on this date but have no reason to doubt that a conversation occurred.

38 On 9 January 2001 I sent a letter to Fr Nestor responding to his letter dated 5 January 2001. My letter confirmed that we had received the original CFC Decree and said that Archbishop-Elect Wilson




- would respond to him regarding his request for a pastoral position within the Diocese [CTJH.001.12001.0719]. **Tab 139**
- 39 On 10 January 2001, Archbishop-Elect Wilson wrote a letter to Fr Nestor, which stated that he was considering his options in relation to the CFC Decree, including an appeal to the Apostolic Signatura (**Signatura**), the highest judicial authority of the Church other than the Pope [CTJH.001.12001.0717]. **Tab 141A**
 I was fully aware of this and other correspondence during this period because Archbishop-Elect Wilson and I discussed the matter frequently, probably daily. At the same time, Archbishop-elect Wilson was also seeking advice from others. I was not necessarily privy to those conversations.
- 40 At around this time, Archbishop-Elect Wilson and I were drafting a letter to the CFC seeking review of its Decree. I was aware that this was a necessary step under canon law before an appeal to the Signatura could be made. On 10 January 2001, Archbishop-Elect Wilson sent a draft of the letter to the Nuncio for his review and comments [CTJH.001.12003.0447]. **Tab 141**
- 41 On 12 January 2001:
- (a) Archbishop-Elect Wilson sent a letter to the CFC requesting that it revoke the CFC decree on pastoral and procedural grounds [CTJH.001.12001.0391]: **Tab 143**
 - (i) because Fr Nestor had not sought recourse within the prescribed time period; and
 - (ii) because the Decree would have a negative effect on the faithful in the Wollongong Diocese.
 - (b) Archbishop-Elect Wilson sent a letter to Fr Nestor which informed him of his letter to the CFC [CTJH.001.12001.0710]. **Tab 144**
- 42 On 15 January 2001, Archbishop-Elect Wilson received:
- (a) a letter dated 11 January 2001 from Archbishop Carroll of the Archdiocese Canberra and **Tab 142** Goulburn [CTJH.001.12003.0441]. Archbishop Carroll was the President of the ACBC at the time. The letter stated that *"If conscience and perhaps civil law are in conflict with the decree, you deserve the support of your brother Bishops"*;
 - (b) a letter from Fr Nestor dated 10 January 2001 which stated that he intended to take one month's annual leave commencing 14 January 2001 [CTJH.001.12001.0718]; and
 - (c) a letter from Fr Nestor dated 13 January 2001 which responded to Archbishop-Elect Wilson's letter dated 10 January 2001 which warned that although *"responsibility for execution of the Decree will soon pass to the new Diocesan Administrator, responsibility in Canon law for offences which might be found to have arisen from matters listed in the Decree, remains with you"* [CTJH.001.12001.0709]. **Tab 145**
- 43 I have been shown a note dated 17 January 2001 of a conversation between me and someone at the CCER about the interaction of Canon law and civil employment and child protection laws



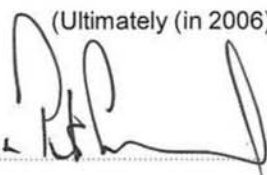

[CTJH.305.01001.0098]. I do not presently recall this conversation but I do not doubt that it occurred. The note referred to the fact that Archbishop-Elect Wilson had requested that the CFC revoke its Decree and that I had sought advice from Makinson & d'Apice. It stated under the heading "*Thoughts... Shld. not acquiesce to his ret. to ministry – breach of s 37(2)*".

- 44 On 18 January 2001, I received a letter from Richard d'Apice containing the advice requested on 4 January 2001 and confirming that any form of public ministry would be child-related employment triggering a requirement to undertake relevant procedures [CTJH.001.12003.0442]. **Tab 146**
- 45 Archbishop Wilson left for Adelaide, and on 2 February 2001, Fr Bryan Jones was appointed diocesan administrator. Fr Jones and I worked closely together throughout his term as Administrator. We frequently discussed the Fr Nestor matter. He also sought advice from others, which I was not necessarily privy to.
- 46 On 12 February 2001, after departing for Adelaide, Archbishop Wilson prepared a document entitled "*Notes on the Case concerning Fr John G Nestor*" [CTJH.001.12001.0706]. This was essentially a **Tab 147** briefing document for Fr Jones and me (and later, the incoming Bishop) in relation to the Fr Nestor matter, so that we could understand the way Bishop Wilson had envisaged that the matter be dealt with. The document summarised the Canon Law processes undertaken in relation to Fr Nestor to date, and the steps that Archbishop Wilson had planned might be taken going forward. The note explained that if the CFC declined to revoke its decree, recourse (appeal) could be made to the Signatura.

The grounds for the recourse identified were that the appeal to the CFC was out of time and that the matter was under the exclusive competence of the CDF (not the CFC). In addition, the note suggested that we "*discuss these strategies with the Nuncio and seek his advice. I would also refer everything to Archbishop Carroll as president of the ACBC and seek the help of the Conference as this case has implications for the whole Australian strategy.*" I understood that the strategy being referred to was the ACBC's commitment to *Towards Healing* as the means for addressing child sexual abuse.

- 47 On 22 February 2001, I sent a letter to the Nuncio [CTJH.001.12003.0427] seeking his guidance **Tab 153** regarding how to send two letters to the Signatura:
- (a) the first letter [CTJH.001.12003.0419] sought recourse against the CFC Decree on three **Tab 151** grounds: **CTJH.001.12001.0690**
- (i) that the canonical time limit expired before Fr Nestor sought recourse from the CFC;
 - (ii) that the CFC was not competent to judge the issue due to the operation of the 1962 Instruction; and
 - (iii) that contrary to canonical procedure, Archbishop Wilson was never forwarded from the CFC a copy of Fr Nestor's appeal or even a summary of the facts of the case.

(Ultimately (in 2006), recourse was granted by the Signatura on grounds (ii) and (iii).)




- (c) the second letter [CTHJ.001.12003.0425] requested confirmation of the deposit due and Tab 152 sought advice on how to appoint a procurator-advocate to represent the Diocese before the Signatura. It also asked if the recourse itself suspended the effect of the CFC Decree and, if not, requested such a suspension.

The letters to the Signatura were drafted by Fr Jones and me with assistance and advice from Archbishop Wilson.

- 48 Later that day, Fr Jones wrote to Fr Nestor informing him that the Diocese had sought recourse to Tab 150 the Signatura [CTJH.001.12001.0687], and on the following day he held a media conference and issued a media release announcing this action [CTJH.001.02001.0133; CTJH.001.03006.0277]. Tab 154
- 49 On 25 February 2001, Fr Jones received an email from Bishop Geoffrey Robinson attaching a draft proposed letter from the ACBC to the Signatura supporting the diocese [CTJH.001.12003.0421; CTJH.001.12003.0422].
- 50 Throughout the period of my involvement in the Fr Nestor matter, community response in Wollongong was vigorous and divergent. Fr Nestor had a network of strong supporters who were vocal in their criticism of the way in which the diocese had handled the matter. Others in the community very much supported the diocese. This is illustrated by two letters Fr Jones received on 26 February 2001:
- (a) the first was from Janet Morrissey, who was a teacher at Edmund Rice College where Fr Nestor had one worked [CTJH.001.12001.0680]. Mrs Morrissey thanked us for "restoring my faith in the principles and procedures outlined in *Towards Healing* (1996)", and
- (b) the second was from Mary Bourke, one of Fr Nestor's strongest supporters [CTJH.001.12001.0682]. Mrs Bourke's letter alleged that "*Fr Nestor has been considered guilty in the eyes of church authorities from the moment the allegation was made*" and demanded that he be "*reinstated immediately as decreed by Rome.*"

Mrs Bourke was one of a number of supporters of Fr Nestor who believed that he was a good priest being punished for his orthodoxy and treated unjustly by the Diocese. We always gave serious consideration to their concerns, but ultimately were never swayed from the approach we had taken, for two reasons: firstly, the diocese considered that notwithstanding his acquittal, Fr Nestor's conduct in relation to ABA meant that he posed a risk to children; and secondly, the diocese was aware of a number of other allegations made against Fr Nestor that were not public and were not known to his supporters.

- 51 On 1 March 2001, the ACBC sent a letter to the Signatura signed by the ACBC President, Archbishop Francis Carroll [CTJH.001.12003.0371]. The letter was a revised version of the draft Tab 156 sent to Fr Jones by Bishop Robinson on 25 February 2001. The letter made it clear that the Australian bishops, because of their commitment to *Towards Healing*, had thrown their full support behind the actions of the Diocese of Wollongong in relation to Fr Nestor, observing that:

Signature 

Witness  Page 10

"Australian law has the concept of "unacceptable risk", meaning that a person cannot be appointed to an office if this appointment carries with it an unacceptable risk of abuse of minors",

and asking whether:

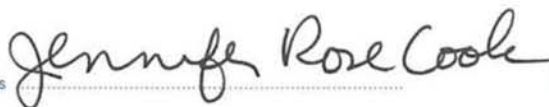
"If the idea of unacceptable risk is "foreign to canon law", then should the idea be rejected or should the law be changed?"

The letter also indicated that the Australian Bishops supported Bishop Wilson's right to make a decision in conscience.

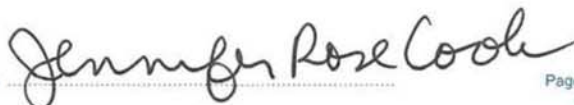
- 52 On 14 March 2001, Fr Jones received a letter from Fr Nestor which thanked him for extending his period of leave, acknowledged that the diocese had sought recourse from the Signatura, and stated that he had received no notice that the CFC Decree had been suspended [CTJJH.001.12001.0676]. **Tab 157** He again requested a pastoral appointment. It may have been around this time that I became aware that Fr Nestor may have been in the USA.
- 53 On 20 March 2001, Fr Jones received a letter dated 15 March 2001 from the NSW Commission for **Tab 158** Children and Young People (CCYP) [CTJH.001.12003.0640]. The letter stated that under the CCYP Act, employers were required to notify the CCYP of the particulars of any employee against whom disciplinary proceedings relating to child sexual abuse had been completed. It asked whether the Diocese wanted to notify the CCYP about Fr Nestor.
- 54 On 4 April 2001, I sent the CCYP's letter to Professor Patrick Parkinson, an academic at Sydney University Law School with expertise in clergy child sexual abuse, to request his opinion [CTJH.001.12003.0646].
- 55 I have been shown a reply from Professor Parkinson dated 5 April 2001 [CTJH.001.12003.0642]. I **Tab 161** do not now recall seeing this letter at the time, but I have no reason to doubt that I did. Professor Parkinson concluded that as no disciplinary process had yet been begun nor a disciplinary decision taken, no notification was required. However, he considered that Fr Nestor should undergo a working with children check before appointment to a parish.
- 56 On 12 April 2001, Fr Jones received a letter from Bishop Myers of Peoria, USA, asking whether Fr Nestor might be assigned as a priest in the Diocese of Peoria [CTJH.001.12001.0673]. This was the **Tab 160** first in a series of letters received by the diocese over the following months and years from bishops overseas who were interested in giving Fr Nestor an appointment. I recall Fr Jones taking some time to consider very carefully the issues raised by Bishop Myers' letter. On the one hand, if Fr Nestor could be assessed in the USA as to his suitability for appointment, it would then be a matter for Bishop Myers to decide whether Fr Nestor represented a risk to children and whether he should be given an appointment. On the other hand, we felt that our commitment to the safety of children did not stop at the border.




- 57 On 19 April 2001, Fr Jones sent a letter to John Davoren of the PSRG [CTJH.402.05001.0368] enclosing Bishop Myers's letter, the CCYP letter and the Parkinson advice, and requesting his advice about how to respond to Bishop Myers. On 24 April 2001, I sent some additional material to Mr Davoren [CTJH.402.05001.0377]. I cannot presently remember why I sent this material but I assume it was to assist Fr Jones in obtaining advice on Bishop Myers' request. **CTJH.402.05001.0376**
- 58 On 1 May 2001, Mr Davoren wrote to Fr Jones [CTJH.001.12003.0360] confirming the PRSG's **Tab 163** advice dated 29 June 1998 that there were serious grounds for concern about Fr Nestor's suitability for pastoral ministry and that he should have to undergo a full appraisal by *Encompass Australasia* as a condition of receiving a pastoral appointment. The PRSG recommended that no clearance be given to allow Fr Nestor to work in Peoria. **CTJH.402.05001.0387**
- 59 On 5 June 2001, Fr Jones received a letter dated 19 May 2001 from the CFC rejecting the Diocese's request that CFC revoke its decree [CTJH.001.12001.0670]. **Tab 164**
CTJH.001.12001.0393
- 60 On 6 June 2001, it was announced that Bishop Peter Ingham was to become the Bishop of Wollongong.
- 61 I assisted Fr Jones to draft a letter to Bishop Myers dated 21 June 2001 [CTJH.001.12001.0596]. **Tab 166**
The letter outlined the history of the Fr Nestor matter and the PSRG's advice and stated that:
- "until such time as the judgment of the Apostolic Signatura is known, no consideration be given to changing the status of Fr Nestor... it would be inappropriate to respond positively to your request at this time."*
- 62 On 17 July 2001, Fr Jones received a letter dated 28 June 2001 from the Signatura **Tab 167**[CTJH.001.12001.0397] providing details of the deposit (3 million Lire) and a list of possible procurator-advocates for the Diocese. It stated that *"this is not a case in which the law gives recourse an automatic suspensive effect"* and requested that we submit an explanation for our request for a suspension.
- 63 I sent a copy of the letter from the Signatura, and the correspondence with Bishop Myers, to Archbishop Wilson [CTJH.001.12003.0384]. Although he was no longer the Bishop of the Diocese, we kept him up to date on the matter and also sought his canonical advice from time to time.
- 64 On 19 July 2001, Fr Jones asked me to contact Fr McGuckin, then Vicar General of the Parramatta diocese, to ask if he would provide advice and assistance. Fr McGuckin was himself a well-regarded canon lawyer. I spoke with Fr McGuckin by telephone and he agreed to assist. I accordingly sent him some documents including the letter from the Signatura dated 17 July 2001 [CTJH.001.12003.0374]. I also sent the Signatura's list of possible advocates, and an outline of its procedural rules, to Bishop Ingham, whom we were now briefing on the matter in advance of his commencement as the Bishop of Wollongong [CTJH.001.12003.0366].
- 65 On 22 July 2001, I received a fax from Fr McGuckin reporting on his inquiries about advocates and providing comments on my draft letter to the Signatura [CTJH.001.12003.0495].

- 66 On 23 July 2001, I telephoned Martha Wegan, one of the possible candidates to be our advocate, in Rome. Before the call I prepared a typewritten document listing questions I wanted to ask her, and during the call I made handwritten notes on the document of her answers [CTJH.001.12003.0492]. Following the telephone call, I sent her an email outlining the history of the case and accepting her **Tab 170** terms of appointment [CTJH.001.12003.0489]. I also said that we were most concerned about "the question of the request for an interim suspension" which we wished to send the following day.
- 67 I had prepared a file note entitled "*Reasons for Seeking an Interim Suspension of the decision by the Tab 171 Congregation for Clergy (1736§2)*" [CTJH.001.12003.0493]. I do not recall for whom I prepared this note – it may have been for my own benefit – nor do I recall who I sought advice from in preparing it. The handwriting on the note is mine.
- 68 On 24 July 2001, I assisted Fr Jones to prepare two letters to the Signatura. The first letter nominated Martha Wegan as our advocate and attached a cheque for 3 million Lire **Tab 172**[CTJH.001.12001.0660]. The second letter set out the diocese's reasons for seeking the interim suspension of the CFC Decree, including the pastoral harm that would be caused if he were allowed to minister before the issue was resolved [CTJH.001.12001.0661]. **Tab 173**
- 69 On 25 July 2001, Bishop Ingham commenced as the Bishop of Wollongong. On 22 August 2001, I assisted Bishop Ingham to prepare a letter to the Signatura [CTJH.001.12001.0401] informing them **Tab 175** of Bishop Ingham's appointment and attaching a copy of our mandate to Ms Wegan.
- 70 During this period, I spoke with and emailed Martha Wegan from time to time to make sure matters with the Signatura were progressing and to provide any information or evidence that she required. For example:
- (a) on 31 August 2001, I assisted Bishop Ingham to prepare a letter to Ms Wegan attaching documents she had requested [CTJH.001.12001.0841]; **Tab 176**
 - (b) on 19 September 2001, I sent a letter to Ms Wegan attaching documentation from the ACBC dealing with the adoption of *Towards Healing* [CTJH.001.12003.0467]. In my letter, I **Tab 177** observed that although *Towards Healing* had not been promulgated as a particular law nor had it received *recognitio* from the Holy See, "*it is the agreed procedure for dealing with cases of sexual abuse by Church personnel throughout the Catholic Church in Australia*"; and
 - (c) on 20 September 2001, I assisted Bishop Ingham to prepare a letter to Ms Wegan asking if she would meet with Bishop Wilson to discuss the case when he was in Rome in October [CTJH.001.12003.0466]. I understand that this meeting took place.
- 71 On or about 3 April 2002, Martha Wegan lodged the Diocese's *Memoriale* (which was a document which put forward the diocese's position) with the Signatura [CTJH.001.12001.0624]. I sent a copy **Tab 178** of this and other documents to Archbishop Wilson [CTJH.001.12003.0465]. He responded on 10 April 2002 [CTJH.001.12003.0464].

- 72 On 23 April 2002, I assisted Bishop Ingham to prepare a letter to Ms Wegan enclosing a cheque for her fees and stating, "*I was very pleased with your 'memoriale' – I feel that you have argued our case well. It is my hope that it will now proceed without too much further delay*" [CTJH.001.12003.0460]. The reason for the comment about delay was that it had by now been 14 months since we lodged our application for recourse and the delay from Rome and ongoing uncertainty was very difficult for both the diocese and Fr Nestor.
- 73 On 21 May 2002, we received a decree dated 22 April 2002 from the Signatura suspending that part of the CFC decree which required that "*the Rev. Nestor is to be restored immediately to the full exercise of his priestly ministry in the Diocese of Wollongong*", but not that part of the CFC Decree that required us to make restitution of any remuneration due to Fr Nestor [CTJH.001.12001.0621]. **Tab 179**
CTJH.001.03006.0235_T
- 74 On 11 June 2002, Bishop Ingham sent a letter to Bishop Jenky of Peoria, USA, referring to the Signatura's Decree and asking that Bishop Jenky "*disallow Fr Nestor from exercising ministry until he complies with the Decree of his home diocese*" [CTJH.001.12001.0609]. Knowing that Fr Nestor was **Tab 182** in the USA, we did make informal inquiries to find out precisely where he was and what he was doing but did not have any success.
- 75 On 11 July 2002, Bishop Ingham received a letter dated 24 June 2002 from Fr Nestor **Tab 183** [CTJH.001.12001.0594]. The letter stated that after the favourable decision of the CFC, Fr Nestor "*received permission – first from Bishop Wilson and then from the Administrator of the Diocese, Father Jones – to be absent in the United States to increase my pastoral skills in University apostolate.*" The letter said that, "*because of the pejorative publicity there, most of which appears to have been generated by Church Sources, it would be unwise for me to return to live in Australia*" and that Fr Nestor hoped that Bishop Ingham could "*see [his] way clear to resolving my situation before the Apostolic Signatura issues its final Decree*".
- 76 A copy of this letter was sent to Archbishop Wilson on 22 July 2002 [CTJH.001.12003.0357]. On 25 **Tab 184** July 2002, Archbishop Wilson telephoned the Diocese and a message was taken by Lorraine Tobin, the bishop's secretary, to the effect that Archbishop Wilson had not given permission for Fr Nestor to **Tab 184** go to America [CTJH.001.12003.0357]. Archbishop Wilson confirmed this by letter dated 9 August 2002 [CTJH.001.12003.0355]. **Tab 185**
- 77 On 13 March 2003, we received a letter dated 28 February 2003 from Bishop Korir in Kenya asking for a report and advice on an application for employment by Fr Nestor [CTJH.001.12001.0591]. **Tab 186**
- 78 On 13 March 2003, I sent an email to Martha Wegan asking whether she could find out the present status of our case, which had now been before the Signatura for over two years. She responded by email on the same day to say that she had heard nothing from the Signatura and suggesting that Bishop Ingham should write directly to the Signatura for an update [CTJH.001.12003.0463]. **Tab 187**
- 79 In accordance with Ms Wegan's advice, on 11 April 2003 I assisted Bishop Ingham in preparing a letter to the Prefect of the Signatura, Cardinal Pompedda, asking when judgment could be expected [CTJH.001.12003.0462]. **Tab 188**




- 80 On 4 June 2003, Bishop Ingham replied to Bishop Korir saying that until the Signatura's decision was received, he did not think it opportune to comment on Fr Nestor's situation [CTJH.001.12001.0588]. **Tab 189** Similar letters were subsequently sent to Bishop Ricken of the Diocese of Cheyenne in the State of Wyoming, USA, and Bishop Biguzzi of Makeni in Sierra Leone, on 1 July 2003 and 20 August 2003 respectively [CTJH.001.12001.0576; CTJH.001.12001.0551], in response to similar inquiries that had been received from them. **Tab 191** **Tab 197**
- 81 The letter to Bishop Korir referred to Fr Nestor not currently having "faculties" as a priest. On 10 August 2003, Fr Nestor wrote to Bishop Ingham accusing him of misrepresenting Fr Nestor's status in stating that he did not have priestly faculties and of misconduct in distributing copies of the 1998 **Tab 193** PSRG advice [CTJH.001.12001.0566]. The term "priestly faculties" is used in two senses:
- (a) in a strictly formal sense, it refers to the 'licence' an ordained priest receives to exercise his priestly ministry. As at August 2003, Fr Nestor had not actually had his priestly faculties removed in this formal sense; however
 - (b) in a more colloquial sense, "priestly faculties" refers to the ability to actively engage in public ministry. Due to Bishop Wilson's 1998 decrees, Fr Nestor was restrained from engaging in public ministry. This was the sense in which Bishop Ingham used the phrase in his letter to Bishop Korir.
- 82 On 15 August 2003, Bishop Ingham sent a letter to Fr Nestor which said that "faculties" had been used in the loose sense referred to above and that it was only Bishop Wilson's decrees (one of which contained an extract from the PSRG report) that were sent to Bishop Ricken, not the PSRG report **Tab 195** itself [CTJH.001.12001.0564]. On 25 August 2003, Bishop Ingham received Fr Nestor's response dated 16 August 2003 [CTJH.001.12001.0560]. **Tab 196**
- 83 On 3 October 2003, Bishop Ingham sent another letter to the Signatura enquiring about the delay in their reaching a decision [CTJH.001.12003.0458]. **Tab 198**
CTJH.001.12003.0459
- 84 Cardinal Pompedda, Prefect of the Signatura, replied by letter dated 5 November 2003 stating that the procurator-advocate for the CFC submitted his *memoriale* "only weeks ago" and that the Promoter of Justice must now prepare his "*votum pro rei veritate*" [CTJH.001.12003.0455]. **Tab 199**
- 85 On 2 December 2003, Bishop Ingham received a letter from Archbishop Keleher of Kansas City, Kansas, USA, asking whether to employ Fr Nestor [CTJH.001.12001.0549]. As he had done with **Tab 200** previous such requests, Bishop Ingham responded in the negative (but on this occasion without saying Fr Nestor's faculties had been removed or including the text of Bishop Wilson's Decrees) on **Tab 202** 23 January 2004 [CTJH.001.12001.0519]. A copy of the response was provided to Fr Nestor under cover of a letter dated 27 January 2004 [CTJH.001.12001.0515]. **Tab 203**
- 86 On 17 February 2004, Bishop Ingham received an email from Fr Nestor asking whether he could be permitted to marry a couple in Chicago and be provided with a letter stating that he was in "good **Tab 209** standing" in his home diocese [CTJH.001.12003.0564]. Bishop Ingham asked me what I thought, and I indicated he should not acquiesce to this request. After a second email from Fr Nestor on 4




Tab 210 March 2004 [CTJH.001.12001.0510], Bishop Ingham responded by email dated 8 March 2004 that he could not provide a letter saying that Fr Nestor was a priest in good standing in the Wollongong

Tab 211 Diocese [CTJH.001.12001.0509]. The email commented that it was "*another consequence stemming from [his] refusal to follow your Bishop's direction*".

87 Around this time, Bishop Ingham asked me to look at the issue of remuneration due to Fr Nestor. This was primarily the role of the Clergy Remuneration Fund, administered by a board of priests of Wollongong Diocese, but the relationship between it and Fr Nestor had degenerated somewhat and the Bishop wanted to resolve the issue. It was clear as a matter of Canon Law and as required by the non-suspended part of the CFC Decree that Fr Nestor remained entitled to his remuneration for the time being. On 10 March 2004, Fr Nestor sent two emails to Bishop Ingham which were passed on to me:

(a) In the first email, Fr Nestor asked that the Bishop reconsider the issue of the wedding and provided numerous details relevant to his remuneration [CTJH.001.12001.0502]. I made **Tab 213** handwritten notes at the bottom of the email of the amounts that, following the making of inquiries, I considered were due to Fr Nestor; and

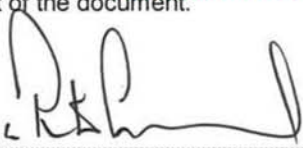
(b) In the second email, Fr Nestor asked for clarification of Bishop Ingham's comment about Fr Nestor's refusal to follow his Bishop's direction [CTJH.001.12001.0501]. **Tab 212**

88 On 16 March 2004, I sent an email to Fr Nestor about the accounts to which his car reimbursement allowance and car savings allowances were paid [CTJH.001.12003.0333].

89 On 18 March 2004, I spoke with Anne Walker-Rolls of the CCER regarding whether the *Ombudsman Act 1974* required the diocese to notify the Ombudsman of allegations relating to Fr Nestor. I have been shown a copy of her notes of our conversation [CTJH.001.12003.0645]. The notes record that **Tab 217** we discussed a new complaint against Fr Nestor made in February 2004 and that she advised that the matter was not within jurisdiction because Fr Nestor was not a current "employee" (as defined in the *Ombudsman Act*) of the Diocese due to his residence in the USA and because he was "*permanently stood down by the Diocese of Wollongong*". The note also records that I gave her a list of names, including Fr Nestor's, and asked her whether they had been notified to the Ombudsman's Office. I do not specifically recall this conversation but I do not doubt it took place. I cannot vouch for the accuracy of Ms Walker-Rolls's notes.

90 The *Votum* of the Promoter of Justice was submitted to the Signatura on 20 January 2004 **Tab 201** [CTJH.001.12001.0475]. We received a copy of it in early April. Bishop Ingham sent a copy of it to Archbishop Wilson on 7 April 2004 [see handwritten note on the bottom of CTJH.001.12003.0352]. It was in Italian, which I do not understand well, but I could work out that it recommended that the recourse be 'admitted'. I am not a canon lawyer but so far as I understand the process this meant the matter should proceed to a hearing before the Signatura.

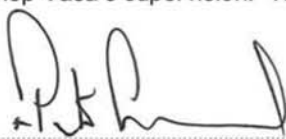
91 On 18 March 2004, the Signatura issued a Decree to the effect that it would proceed to a hearing of the Fr Nestor case [CTJH.001.12001.0473]. While I do not understand Latin well, I could work out **Tab 216** the gist of the document. **CTJH.001.12001.0473_T**




- 92 On 30 April 2004, Bishop Ingham received a letter from Fr Nestor which alleged that Bishop Wilson had engaged in "*continuing attempts to damage my good name, harassment in not granting me the normal permissions given to priests, in suspending for several months the income to which I am entitled*" and said that such conduct "*infringes not only Church law, but the civil law in Australia. In particular, defamation and natural justice...*" [CTJH.001.12001.0470]. Bishop Ingham responded by email dated 28 April 2004 that he had read Fr Nestor's email and noted its contents [CTJH.001.12003.0332]. **Tab 219**
- 93 On 3 May 2004, Bishop Ingham forwarded Fr Nestor's email dated 30 April 2004 to Bill d'Apice of Makinson & d'Apice for his advice on the allegations in it [CTJH.001.12003.0346]. **Tab 221**
- 94 On 13 May 2004, I received an email from Martha Wegan which said that she had exhibited the Index for the Summarium and was waiting on a copy of it, but that there may not be a June Plenary **Tab 222** (or sitting) of the Signatura [CTJH.001.12001.0499]. I responded by email on the same day that this was frustrating because Fr Nestor was putting pressure on us and further delay would exacerbate **Tab 223** matters [CTJH.001.12003.0344 at 0345].
- 95 On 17 May 2004, I received an email from Ms Wegan saying that she had received the *Summarium* and seeking further instructions so that she could prepare the defence [CTJH.001.12003.0344]. On 19 May 2004, I sent Martha Wegan various documents relevant to the case [CTJH.001.12003.0331]. **Tab 223** **Tab 224**
- 96 On 28 May 2004, Martha Wegan emailed me the defence and another *Memoriale* dated 24 May 2004 which had been submitted to the Signatura [CTJH.001.12003.0343; CTJH.001.12001.0450]. **Tab 225** **Tab 226** **CTJH.001.12001.0450_T**
- 97 On 16 August 2004, I received a letter from Ms Walker-Rolls of CCER which confirmed that in the CCER's opinion the allegation against Fr Nestor made in February 2004 was not reportable to the Ombudsman's Office pursuant to the *Ombudsman Act* 1974 because Fr Nestor was in the USA [CTJH.001.12003.0644]. **Tab 227**
- 98 On 20 August 2004, Bishop Ingham received a letter from Fr Nestor asking the Bishop to issue a **Tab 228** *celebret* [CTJH.001.12003.0339]. A *celebret* is a document which a Bishop can issue to a priest to notify other Bishops that the cleric is a priest in good standing. It indicates that the priest is free from canonical censures.
- 99 On 31 August 2004, Bishop Ingham sent Fr Nestor's letter to Archbishop Wilson for his advice **Tab 229** [CTJH.001.12003.0340]. Bishop Ingham observed that the delay in the Signatura was adding significantly to the "*pathos of this whole situation*".
- 100 On 17 September 2004:
- (a) Bishop Ingham received a letter dated 8 September 2004 from Fr Nestor following up on his request for a *celebret* [CTJH.001.12001.0447]; and **Tab 230**
- (b) he replied to Fr Nestor saying that he was "still puzzling over" the request for a *celebret* because he failed to see how anything had changed. He also expressed his distress at the continuing delay [CTJH.001.12001.0444]; and **Tab 231**




- (c) he sent Fr Nestor's letter and his own response to Martha Wegan in case she thought they were relevant to the case and wanted to pass them on to the Signatura [CTJH.001.12003.0342].
- 101 On 21 September 2004, Bishop Ingham received a letter from Fr Nestor requesting that Bishop Ingham reconsider his decision not to grant a *celebret* [CTJH.001.12001.0442]. The letter referred to Tab 232 the CFC Decree nullifying Bishop Wilson's decrees of 7 August 1998, but ignored the effect of the suspension granted by the Signatura. Bishop Ingham forwarded the letter to Archbishop Wilson for his advice [CTJH.001.12003.0336]. Tab 233
- 102 On 4 November 2004, I received a further letter from Anne Walker-Rolls regarding an allegation made against Fr Nestor to CCER on 16 February 2004 and the issue of notification to the Tab 234 Ombudsman [CTJH.001.12001.0438]. The letter confirmed that the allegation against Fr Nestor made in February 2004 need not be notified to the Ombudsman but requested that I provide information regarding Fr Nestor and any allegations against him. By letter dated 8 December 2004 Tab 235 [CTJH.305.01001.0014], Mr Michael McDonald of CCER followed up on Ms Walker-Rolls' request.
- 103 By early 2005 I had begun gathering information to provide to CCER and that might be relevant to a notification to the Ombudsman should one be required to be made at some stage. In a letter dated 14 February 2005, Michael McDonald from CCER [CTJH.305.01001.0012] followed up on the status Tab 237 of my information gathering. I have been shown a CCER file note dated 3 March 2005 [CTJH.305.01001.0010] which records, among other things, that I was hoping to provide CCER with information during the week of 7 March. I cannot recall this conversation but do not doubt that it occurred.
- 104 On 23 March 2005 I had a telephone conversation with Rosemary Harris at the NSW Professional Standards Office (PSO). I have been shown Ms Harris's note of the conversation [CTJH.402.05001.0395] which records that I asked whether the PSO had a copy of the 1998 report into Fr Nestor by *Towards Healing* assessors, Elizabeth Hannan and Howard Murray and, if so, whether the PSO had sent a copy to CCER. To the best of my recollection, this note correctly summarises the substance of my telephone conversation with Ms Harris.
- 105 On 17 May 2005, I assisted Bishop Ingham to prepare a letter to the Signatura, referring to our concern that the lengthy delay was having an "adverse impact on our diocese and the priest Tab 239 involved" [CTJH.001.12001.0424]. On 23 May 2005 I forwarded a copy of this letter to Fr Nestor to reassure him that we were doing our best to progress the matter [CTJH.001.12001.0422].
- 106 In about July 2005, Sister Moya Hanlen (who would become the next Chancellor after me) started work at the Diocese as a canonical adviser. She had recently completed studies in canon law.
- 107 On 2 September 2005, Bishop Ingham received a letter from Bishop Vasa of the Diocese of Baker, Tab 240 Oregon, USA [CTJH.001.12001.0412]. The email suggested that if Fr Nestor was a risk to children, then it would be better if he were supervised rather than be allowed to continue with neither ministry nor supervision. He requested permission to let Fr Nestor minister in the Diocese of Baker under Bishop Vasa's supervision. This was a different perspective on the problem, and therefore and




- therefore needed to be considered in its own right. However, after giving it much consideration it did not change our view of the correct course of action. On 6 October 2005, I assisted Bishop Ingham in sending a letter to this effect to Bishop Vasa [CTJH.001.12001.0377]. **Tab 241**
- 108 On 10 November 2005, I received an email from Martha Wegan which said that the promoter of justice had submitted his *Votum*, which was "very good and in our favour", but that the case would not be judged until January or February 2006 [CTJH.001.12003.0637]. **Tab 242**
- 109 On 23 March 2006, Bishop Ingham received an email from Fr Nestor which stated that he had returned to Australia and wanted to look at his file held by the diocese [CTJH.001.12001.0127]. **Tab 244**
 Bishop Ingham responded by email dated 24 March 2006 [CTJH.001.12001.0374] to the effect that: **Tab 245**
CTJH.001.12001.0372
- (a) no decision had yet been received from the Signatura and that Fr Nestor's canonical status was therefore impaired;
 - (b) Tony Abela of the Clergy Remuneration Fund would contact him with regard to his costs; and
 - (c) so far as access to the files was concerned, Fr Nestor already held copies of all of the diocese's correspondence with him.
- 110 On 29 March 2006, Bishop Ingham received an email from Fr Nestor which stated that Bishop Ingham had misunderstood the nature of the Signatura's Decree effecting a partial suspension of the CFC Decree and demanded that he be given access to all documents 'about' him, rather than 'to' **Tab 246** him [CTJH.001.12003.0635]. Lorraine Tobin, the Bishop's secretary, showed me this email because the Bishop was away from the diocese at the time.
- 111 On 30 March 2006, I responded to Fr Nestor [CTJH.001.12003.0634]. I provided assurances in **Tab 247** relation to his queries about accommodation and financial matters. I also informed Fr Nestor that the Bishop was obtaining appropriate advice about his request to see his file.
- 112 Fr Nestor's return to Australia caused me to determine whether the diocese now had an obligation to report him to the Ombudsman. My understanding was that his residency in Australia would trigger the need for action in this regard.
- 113 On 10 April 2006, we received a letter dated 30 March 2006 attaching an authentic copy of the decision of the Signatura dated 18 March 2006 [CTJH.001.12001.0360]. The decision was in Latin, **Tab 248** but I understood it sufficiently to know that it was in favour of the diocese.
- 114 Also on 10 April 2006, at my direction, Sr Hanlen had a telephone call with Alex Kohn of Makinson d'Apice about the diocese's obligations in relation to the release to Fr Nestor of his file. I have read Sr Hanlen's note of the conversation [CTJH.001.12003.0327]. I instructed Sr Hanlen to prepare the file for inspection by getting all the documents together and redacting legal advice, the names and identifying features of complainants and other confidential material.
- 115 On 11 April 2006, I sent an email to Fr Nestor asking him to call me about the Signatura's decision [CTJH.001.02001.0246]. I cannot presently recall whether he called me as requested.




- 116 On 4 June 2006, Bishop Ingham received an email from Fr Nestor requesting a meeting
Tab 250 [CTJH.001.12001.0358]. They met on Wednesday, 5 July 2006, and I attended the second half of the meeting to discuss the requirement to report to the Ombudsman now that Fr Nestor had returned to Australia.
- 117 Sometime in June 2006, Fr Nestor attended the Diocese office and was permitted to sit in a private room to read his file (in the form prepared by Sr Hanlen) and take notes.
- 118 On 6 July 2006, as part of my gathering of information for the report to the Ombudsman, I telephoned Michael Salmon at the PSO and requested that they provide copies of all files held by the PSO relevant to Fr Nestor.
- 119 That same day, Bishop Ingham received an email from Fr Nestor [CTJH.001.12001.0356] indicating, **Tab 252** among other things, that he had, of his own accord, contacted the Child Protection Unit of the Ombudsman's Office to ascertain information regarding his circumstances.
- 120 On 7 July 2006, Mr Salmon sent the relevant files by email [CTJH.402.05001.0095]. **Tab 253**
- 121 On 13 July 2006, Bishop Ingham sent a letter to Fr Nestor which confirmed that as the definitive response from the Signatura had not yet been received, the Bishop could not give him a pastoral
Tab 255 appointment [CTJH.001.12001.0355]. My understanding is that this was a reference to the Signatura's reasons (as opposed to the decision itself) not yet having been received. The letter went on to warn that under the *Sacramentorum sanctitatis tutela* promulgated by Pope John Paul II in 2001 (replacing the 1962 Instruction), the case had to be submitted to the CDF.
- 122 It was the Bishop's intention, once the Signatura processes had been completed, to refer the matter of Fr Nestor to the CDF, which had exclusive jurisdiction in relation to child sexual abuse matters involving clerics. I had accordingly begun considering the requirements for a submission to the CDF, including by having conversations with Fr Anthony Randazzo, an Australian priest whom I knew who worked at the CDF, regarding the proper process to be followed.
- 123 On 25 July 2006, I sent a letter to the Ombudsman's office seeking clarification about whether the Fr Nestor matter came under the Ombudsman's jurisdiction or should be reported to the CCYP [CTJH.001.12001.0128]. **Tab 141A**
OMB.0004.001.0717
- 124 On 27 July 2006, my term as Chancellor of the Wollongong diocese came to an end, and Sr Hanlen took over the role. I became aware in 2009 that the Holy Father, through the CDF, had dismissed Fr Nestor from the clerical state, meaning he was no longer able to exercise his priestly ministry.
- 125 My only other contact with the Fr Nestor matter occurred on 15 August 2007, when Sr Hanlen telephoned me when I was studying in Edinburgh as part of her investigation into Fr Nestor undertaken at the direction of the Ombudsman's office. I have been shown a copy of her note of our conversation [CTJH.001.03009.0123]. She called to discuss comments she had read in a report from the NSW Department of Community Services regarding an allegation against Fr Nestor by a

ABP

Signature



Witness



Page 20

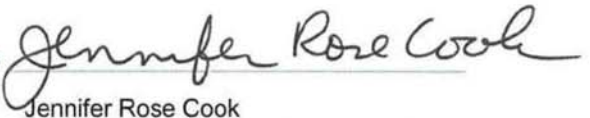
- (a) the document said that a camp in January 1991 was "conducted by Father Nester [sic] and Father Comensoli from the Dapto parish". I told her that must have been a reference to my cousin, PLC, as was evident from the fact that I was not ordained until 1992 and was never appointed to the Dapto parish; and
- (b) the document said that "Fr Comensoli who went on the trip with Fr Nester [sic] is the nephew of another Father Comensoli who was also in Wollongong... Fr Comensoli was a good man and was not showing any behaviour like Fr Nestor did." I told her that while this seemed to refer to me, PLC was my cousin, not my uncle, and that while I had heard confession at one of Fr Nestor's camps it was not in 1991. It may be that ABP is confusing more than one camp – the one in 1991 at which the alleged events are said to have occurred, and the one which took place in 1993, where I heard confessions.

The note is an accurate record of our conversation to the best of my recollection.

Signature 

Name Bishop Peter Andrew Comensoli

Date 5 June 2014

Witness 

Name Jennifer Rose Cook

Date 5 June 2014

Signature 

Witness 

Page 21