

# Financial and Legal Advisory Committee

January 21, 2011

File No. 40335

## ***ATTENTION Father, Parish Pastoral Council Chairs and Parishioners***

### **Re: Financial and Legal Advisory Committee (FLAC) Update**

---

This letter is to update you with respect to recent developments pursuant to the Class Action Settlement Agreement.

The Committee is pleased to report that after a period of lengthy negotiations between Diocesan Counsel and Class Counsel, an agreement has been reached to provide for a simplified claims review process with respect to those individual claimants who have come forward under the Class Action Settlement Agreement. Our Committee has formally reviewed and provided its recommendation to Bishop Dunn that this simplified procedure be adopted. Subsequent to receiving the recommendation of our Committee, Bishop Dunn has formally instructed Diocesan counsel to execute this Revised Process Agreement. Our Committee is confident that this process will result in a more streamlined and efficient claims review process, while at the same time, attempting to address the hurt of those who have been abused and preserving the integrity of the Settlement Agreement.

The following are some of the key features and timelines associated with this Revised Process Agreement:

1. The Diocese reserves its right to exclude any claimant from the Revised Process Agreement. This would likely be done in situations where the Diocese intended to dispute all, or a portion, of the claim. A decision with respect to which claimants will not be entitled to move under this revised process was made by the Diocese on **December 17, 2010**.
2. All remaining claimants had until **January 14, 2011** to "opt in" on the Revised Process Agreement. All the claimants who were offered this Revised Process have since accepted.
3. Each qualified claimant shall be entitled to receive a one time gratuitous payment of Ten Thousand (\$10,000.00) Dollars in addition to their prorated settlement award. This payment would be made to all qualifying claimants under the revised process on or before **May 31, 2011**.
4. After opting into the Revised Process Agreement, each claimant will have a written record prepared which may include:
  - a. The Claim Form;
  - b. A claimants personal statement;
  - c. Optional limited documentary records; and
  - d. Optional psychological and economic reports (paid for through a reduction in any subsequent settlement award made to the claimant).
5. Where a claimant agrees to follow the Revised Process Agreement, the Diocese will waive:
  - a. Mandatory document disclosure;
  - b. Discovery examination of the claimant;
  - c. Preparation of psychological and medical reports; and
  - d. Preparation of an economic report,all of which are contemplated and will occur under the standard Settlement Agreement process.
6. The revised process contemplates a meeting amongst Counsel for all represented claimants and Class Counsel occurring in **March of 2011** for the purpose of reaching a Settlement Framework Agreement. The purpose of the tentative settlement grid would be to assist in establishing parameters for subsequent awards under the Revised Process Agreement.
7. Following development of the settlement framework, a meeting would be held of all Claimants' Counsel to facilitate individual claim settlements through the use of a mediator. This will involve all represented counsel, and will be done on a non adversarial basis having regard to the record of each claimant and its application to the settlement framework.

8. Following this process, Justice Walter Goodfellow will approve the individual proposed settlements on, or before, **April 8, 2011**. A more detailed procedure exists where Justice Goodfellow may identify concerns or require further information. However, for the purposes of the process, Justice Goodfellow will review all proposed settlements and confirm whether or not he is in agreement with them. This process will ensure that each claimants proposed settlement is assessed against all others and is determined to be reasonable in the circumstances by this independent retired Judge.
9. It is the intention that all settlements will have been negotiated, reviewed and approved by Justice Goodfellow on or before **May 30, 2011**.
10. The release of payments will occur as follows:
  - a. 30% of the Twelve Million (\$12,000,000.00) Dollars or **Three Million Six Hundred Thousand (\$3,600,000.00) Dollars on May 31, 2011** + Ten Thousand (\$10,000.00) Dollars per revised process claimant on **May 31**;
  - b. 35% of the Settlement equalling **Four Million Two Hundred Thousand (\$4,200,000.00) Dollars November 1, 2011**; and
  - c. 35% of the Settlement equalling **Four Million Two Hundred Thousand (\$4,200,000.00) Dollars November 1, 2012**.

The Committee views the successful conclusion of this Revised Process Agreement as significantly beneficial to the Diocese as well as to the individual claimants. The Revised Process Agreement maintains the original negotiated financial cap on settlement awards at Twelve Million (\$12,000,000.00) Dollars. Adopting this Revised Process Agreement however, will eliminate considerable costs that would have otherwise been wholly borne by the Diocese under the original Settlement Agreement. In particular, the savings include the time and cost associated with detailed discovery examination of individual claimants by Diocesan counsel, extensive review of documentary reports filed by individual claimants by Diocesan counsel, the preparation of psychological reports and economic loss reports for each claimant, individual contested hearings and formal adjudications. In recognition of these cost reductions to the Diocese, a portion of this savings is being made available to the claimants in the form of the individual Ten Thousand (\$10,000.00) Dollar consideration payments.

There will be individual claims which the Diocese will challenge; these will be handled according to the original standard Settlement Agreement process. There are a number of reasons why such claims may be denied the Revised Process Agreement including where a claim has been deemed to be highly questionable after initial review. It should be noted that all claims submitted have been subject to multiple reviews in order to identify any claims which may require further review and/or be subject to the formal Settlement Agreement process.

Finally, parishioners may hear comments to the effect that the Diocese has accepted all claims without validation. This is not correct. Initial claim forms were prepared through Diocesan counsel and Class Counsel which required individual claimants to summarize and outline in significant detail the nature and extent of their abuse claims. Each of these claims has been subject to a number of individual reviews beginning with Diocesan counsel. Further reviews of these claims occurred within the Diocese itself. Various further discussions were held to cross reference any concerns or anomalies noted in the Claim Forms. Only those claims which the Diocese was satisfied met, or exceeded, the standard imposed by the Diocese were, or will be, permitted to access the Revised Process Agreement. The Committee is reasonably confident that frivolous or vexatious claims have not been included under this revised process and will instead be subject to a full and complete review including document and discovery examinations required under the Settlement Agreement.

Should you have any questions or concerns with respect to this process, please feel free to direct any questions to a member of this Committee.

Respectfully, James R. Gogan, Chair

- If you would like to contact a member or members of the Financial and Legal Advisory Committee, please contact your Parish priest for contact information. FLAC Committee Members Include:

Bishop Brian Dunn	Father Paul Abbass	Father Angus MacDougall	Father William MacPherson
Mr. Frank Gillis, QC	Ms. Irene Lefort	Mr. John Higgins	Mr. Gerry Mackenzie F.C.A.
Mr. James R. Gogan	Ms. Mary Oxner		