

IN THE CIRCUIT COURT FOR HOWARD COUNTY, MARYLAND

KRISTINE KOUMENTAKOS,
ET AL

Plaintiff

VS.

METROPOLITAN HERMAN, ET AL

Defendant

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Case No. 13-C-08-073089-OT

FILED
08 NOV 12 AM 11:52
CIRCUIT COURT
FOR HOWARD COUNTY

AFFIDAVIT OF HERMAN SWAIKO

COMES NOW your Affiant, and upon personal knowledge states:

1. My name is Herman Swaiko. Until my retirement as of September 4, 2008, I was the Primate of the Orthodox Church in America, and my title within the Church was Metropolitan Herman. I am over the age of 18, competent to testify and I have personal knowledge of the facts set forth herein.

2. At all times applicable to this proceeding, The Orthodox Church in America (hereinafter "the Church") has been a New York Corporation which operates exclusively for religious, educational or charitable purposes. In my official capacity for the Church, I served as the Primate for the governing body of the Church as well as the Archbishop of the Washington and New York Diocese (hereinafter the "Diocese") of the Church. The office of Primate of the governing body of the Church may be analogized to the office of chairman of a corporation, although that nomenclature is not a part of the Church's lexicon. I never had any

individual duties or responsibilities, as apart from official duties or responsibilities, to the Diocese or the New York Corporation by which the Church conducts its business affairs.

3. The entity known as St. Matthew Housing Development, Inc. (SMHD, Inc.) is a Maryland Corporation which is organized as a not-for-profit entity. At all times applicable to this proceeding, SMHD, Inc. has solely owned and operated the St. Matthew House, a home in Columbia, Md. for 15 or so physically disabled adults who are not in need of a skilled nursing facility. The Church has no ownership in or control over SMHD, Inc. or over its affairs. I have no ownership in or control over the operation of or the affairs of SMHD, Inc. In my capacities as Primate and as Archbishop for the Church, I exercised no control or ownership over the operation of SMHD, Inc. or its affairs.

4. In neither my official capacity for the Church nor in my individual capacity have I ever possessed any right to control or supervise Father Raymond Velencia as relates to either (a) the operation of SMHD, Inc., including any hiring or firing decisions as to its employees, or (b) Fr. Velencia's day-to-day conduct, including his personal encounters with parishioners or any others including Mr. and Mrs. Koumentakos, at the Church of St. Matthew.

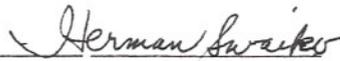
5. Fr. Raymond Velencia is not and never has been my employee, my agent nor my servant. I am not Fr. Raymond Velencia's employer, his master, nor am I his principal. I did not and do not control Fr. Velencia's day-in, day-out activities at the Church of St. Matthew. No written agreement has ever existed as

to any agency between me and Fr. Raymond Velencia. I have never given Fr. Raymond Velencia any power to alter any of my legal relations with anyone or any entity. I have never consented to Fr. Raymond Velencia acting on my behalf with respect to either the operation of SMHD, Inc. or insofar as his conduct with respect to maintaining confidence with respect to confessions which he hears. Fr. Raymond Velencia has never requested and never received my consent to act on my behalf with respect to either the operation of SMHD, Inc. or in the maintenance of confidence with regard to confessions he hears. I did not have any knowledge of, any participation in nor did I ever consent to the alleged tortious conduct by Fr. Raymond Velencia.

6. My duties as Primate of the Orthodox Church in America and as Archbishop of the New York and Washington Diocese were not performed in my individual capacity. My actions as Primate and Archbishop were in a representative capacity on behalf of the Orthodox Church in America.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT.

Date: October 9, 2008



HERMAN SWAIKO