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7 (Without waiver of defenses, jurisdictional or otherwise)

8 Attorney for INSTITUTE FOR RELIGIOUS WORKS

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 EMIL ALPERIN, et al,

12 Plaintiffs,

13 vs.

14 VATICAN BANK (INSTITUTE OF
15 RELIGIOUS WORKS), et al,

16 Defendants.

Case No. C 99-4941 MMC

17 **DECLARATION OF AVVOCATO**
18 **FRANZO GRANDE STEVENS IN**
19 **SUPPORT OF DEFENDANT IOR'S**
20 **MOTION TO DISMISS**
21 **PLAINTIFFS' THIRD AMENDED**
22 **COMPLAINT**

23 I, Avv. Franco Grande Stevens, hereby declare as follows:

24 1. I am an Attorney licenced to practice at the bar of Turin, Italy as well as at the Italian Supreme
25 Court in Rome. I have been the President of the National Forensic Board (i.e. Chairman of the Italian
26 Bar). For around fifteen years, I have been the attorney for the State of Vatican City (the Holy See), and
27 the IOR. My present work address is: Via del Carmine 2, Turin, Italy. My Rome office address is Via
28 Cassiodoro 15, Rome, Italy.

2. Except as to those matters stated on information and belief, the facts contained in this
declaration are based on my personal knowledge, and if called as a witness I could testify competently to
said facts.

NOV 17 2000

1 3. I am directly familiar with the legal structure and the practices of the IOR, the Government of
2 the State of Vatican City and the Secretary of State.

3 4. In support of Defendant IOR's Motion to Dismiss Plaintiffs' Third Amended Complaint, I
4 offer the following:

5 5. The institutional structure of the IOR is as follows: at the head of the structure is the
6 *Commissione Cardinalizia*, or "Cardinals' Commission". This Commission is composed of five Cardinals
7 who are appointed by the Sovereign Pontiff. The Cardinals' Commission of the IOR is headed by Sodano
8 Cardinal Angelo, who is presently the Secretary of State of the Vatican City State. The Commission
9 meets at least twice per year. The primary purpose of Commission is to review compliance of the IOR
10 with its internal statutory norms, and to check on the patrimony of the IOR to ensure that its assets
11 remain at a satisfactory level. This Commission also appoints and removes members of the Oversight
12 Council (whose function is discussed below).

13 6. The primary role of the Cardinals' Commission is to provide an institutional link between the
14 government of the Vatican City State and the IOR for government oversight purposes over the IOR.

15 7. Below this level is the *Direzione*, or Directorate. This roughly corresponds to an operative
16 "Board of Directors" which carries on the everyday administration of the IOR. The members of this
17 board are appointed by the Oversight Council subject to approval of the Cardinals' Commission. This
18 board is responsible for the operational activities of the IOR.

19 8. This institutional relationship between the Cardinals' Commission, the Prefate, and the Board
20 is set forth in the Sovereign Pontiffs' Chirograph dated March 1, 1990; the organizational structure of the
21 IOR is given further detail in the *Statuto*, or "by-laws" dated March 1, 1990. According to the
22 Chirographs and the by-laws, the IOR is a Canon Law Juridic Person, which can be sued in its own name
23 and which has its own legal representative. Nothing in the fundamental mission or relationship between
24 the IOR and the Vatican City State Government was substantially changed between the old and the new
25 legal structure of the IOR.

26 9. The IOR is located in the very heart of Vatican City, in a tower near the Sant' Anna Gate. Its

1 predecessor institutions were located in the same place and the IOR has never had any branch office
2 outside of the Vatican City. This central and exclusive physical location reflects the fact, described
3 below, that the IOR performs central financial functions for the Vatican City State Government.

4 10. The IOR is not a citizen of the United States and is not created under the laws of any third
5 country (i.e. it is created under the Laws of the Vatican State).

6 11. The IOR perform an essential function in the economic government of the State of Vatican
7 City. Among the other bodies that perform such functions are the Prefecture for Economic Affairs and
8 the Administration of the Patrimony of the Holy See. The IOR carries out the mission and policy goals of
9 the State of Vatican City.

10 12. The central position of the IOR in the financial activity of the State of Vatican City is
11 confirmed by the *Constitutio Apostolica Pastor Bonus* that has provided for a Committee of Cardinals
12 (headed by Cardinal Sodano) that has ultimate power to supervise the effectiveness of the IOR's activity.
13 Article 24 of that document, which refers to the "special institute. . . for managing economic assets
14 committed to it. . ." refers to the IOR.

15 13. When matters come to the attention of the President of the Oversight Counsel, Professor
16 Angelo Caloia, or to the attention of the Director General Commendatore Lelio Scaletti, which involve
17 any sort of policy decision, or strategic decision about the IOR's activities, they are commonly referred to
18 the attention of the Secretary of State, who decides how to proceed. In such cases, the IOR follows, and
19 it has been the custom of the IOR to follow, any advice that the Secretary considers in the best interests
20 of the Vatican State. This is based upon my experience in working with both representatives of the IOR
21 and with the Secretary of State.

22 14. I can also add that, while the day-to-day operations of the IOR are managed by the IOR itself
23 (as it is natural for a juridical person) the custom and practice of the IOR is attuned and responsive to the
24 policy vision of the Secretary of State, who is the highest delegate of the Sovereign Pontiff's temporal
25 authority over Vatican City State. For this reason, it is the practice of the President and Director General
26 of the IOR to report to Cardinal Sodano in his capacity of Secretary of State and as Chairman as the

Cardinal's Commission, and to furnish him with any information and records that he requires. In this sense, the Secretary of State's function, for all matters of particular importance in the IOR, can best be defined as an active supervisory role. Hence, the Secretary of State has considerable control over the programming and execution of IOR activities (including budget and operations) that he considers of State interest.

15. The IOR offers and performs the following services to the Vatican State and its temporal head, the Sovereign Pontiff. It acts as a clearing house for payments between the various Vatican State agencies. It finances a variety of religious works within the State. It operates the electronic payment and ATM network in place throughout Vatican State territory. This service is provided at less than cost, and as a service to the Vatican State. It manages the pension system for its own employees as well as all the other employees of the Vatican State. In this way, the IOR supports the operations of the Vatican City State in its own territory.

16. The structure and regulations governing the pension System for IOR employees and other Vatican State employees is virtually identical.

17. In keeping with the IOR's mission of pious purposes, at the Secretary of State's request, in his capacity as temporal delegate of the Sovereign Pontiff, the IOR makes available to the State of Vatican City Government funds to pursue its pious purposes. In this sense the IOR is used to forward the goals of the State of Vatican City, and to otherwise carry out State of Vatican City foreign relations objectives.

18. At the end of each year, once the funds necessary for the IOR's money management for pious purposes are set aside, remaining funds are made available to the Holy See to carry out its goals. When fund management has not produced sufficient funds, no such payment is made, however. No profit is kept by the IOR.

19. The Holy See has, on past occasions provided financial assistance for the IOR.

20. The IOR is a limited depository institution. It is not open to the public in the sense that the depositors are essentially limited to Vatican State employees, members of the Holy See, religious orders,

and persons who deposit money destined, at least in part, for works of piety.

21. It is the custom and practice of the IOR to not retain records after ten years. There is presently no employee, and I know of no person, who worked at the IOR in the years of World War II.

22. The IOR is a creature of the sovereign will and could be wound up and its assets liquidated by direction of the sovereign. According to the Chirograph that has created the IOR as a Canon law juridical person, the IOR cannot change its bylaws. Any changes to the by-laws would only be made with final approval of the Sovereign Pontiff.

23. The origin of the fund that gave birth to the IOR was a capital contribution to its antecedent institution, the *Commission ad Pias Causas*, created by Pope Leo XIII in 1887.

24. IOR is a Canon Law Juridic person whose fundamental purpose is to promote pious acts. As such, it does not manufacture or sell any goods in either the State of California or the United States, nor does it sell any services to the general public in either the State of California or the United States.

25. IOR has no registered agent for legal notifications in either the State of California or the United States.

26. IOR has no offices or other facility of any kind in either the State of California or the United States.

27. IOR does not own, lease or rent any real property in either the State of California or the United States.

28. IOR has no employees based in either the State of California or the United States.

29. IOR conducts no advertising and does not market any products in either the State of California or the United States.

30. IOR has no mailing or other address, telephone number, telex, or fax number by which it may be reached in either the State of California or the United States.

31. None of the members of the board of directors and council (charged with day-to-day operations) of IOR is a resident of either the State of California or the United States.

32. IOR does not direct or control the day-to-day operations or management of any other entity

1 that conducts business in the United States.

2 33. Nothing in this declaration, which is made only to address issues of subject matter and
3 personal jurisdiction which may arise in the present controversy, is meant to, or should be taken as,
4 submitting to the jurisdiction of this Court, or waiving any right to claim sovereign immunity or any other
5 privileges.

6 I declare under penalty of perjury under the laws of the United States of America that the
7 foregoing is true and correct.

8 Executed on 30 day of October, 2000 at Turin, Italy.

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10 Franco Grande Stevens
11 Avvocato Franco Grande Stevens, Attorney for
12 IOR and State of Vatican City
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Case No. C 99-4941 MMC

SUPPLEMENTAL DECLARATION OF
AVVOCATO FRANZO GRANDE
STEVENS IN SUPPORT OF
DEFENDANT IOR'S MOTION TO
DISMISS PLAINTIFFS' THIRD
AMENDED COMPLAINT

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20 I, Avv. Franzo Grande Stevens, hereby declare as follows:

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22 Supreme Court in Rome. I have been the President of the National Forensic Board (i.e. Chairman of the
23 Italian Bar). For around fifteen years, I have been the attorney for the State of Vatican City (the Holy
24 See), and the IOR. My present work address is: Via del Carmine 2, Turin, Italy. My Rome office address
25 is Via Cassiodoro 15, Rome, Italy.

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27 declaration are based on my personal knowledge, and if called as a witness I could testify competently to
28 said facts.

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1 3. I am directly familiar with the legal structure and the practices of the IOR, the Government of
2 the State of Vatican City and the Secretary of State.

3 4. In support of Defendant IOR's Motion to Dismiss Plaintiffs' Third Amended Complaint, I
4 offer the following:

5 5. The purpose of this declaration is to provide further information related to the composition of
6 the IOR's *Commissione Cardinalizia*, or "Cardinals' Commission" referred to in my Declaration of
7 Avvocato Franco Grande Stevens in Support of Defendant IOR's Motion to Dismiss Plaintiffs' Third
8 Amended Complaint, and in particular to detail the deep institutional links between the IOR's Cardinals'
9 Commission and the government of the State of Vatican City mentioned in paragraph 6 of my previous
10 declaration.

11 6. Of the five members of the IOR's Cardinals' Commission, the first, **Angelo Cardinal**
12 **Sodano**, is among the six highest ranking Cardinals in the Cardinals' College, is the Secretary of State
13 of the State Vatican City, and is a member of the Council of Cardinals and Bishops (*Consiglio di*
14 *Cardinali e Vescovi*) of the Secretary of State's Office, the Congregation for the Doctrine of the Faith,
15 the Congregation of Bishops and the Congregation for Eastern Churches. The second, **John Joseph**
16 **Cardinal O'Connor**, was, until his recent death, a member of the Council for the Study of
17 Organizational and Economic Problems of the Holy See, was a member of the Council of Cardinals and
18 Bishops within the Secretary of State's Office, and also held high office within the Roman Curia's
19 Congregation for Eastern Churches (*Congregazione per le Chiese Orientali*). Recently, **Adam Cardinal**
20 **Joseph Maida** was named to succeed him on the aforementioned Commission of Cardinals. **Cardinal**
21 **Maida**, Archbishop of Detroit, is a member of the Congregation for the Clergy, the Congregation for
22 Catholic Education and the Pontifical Council for the Pastoral Care of Migrants and Itinerant People.
23 The third, **Carlo Cardinal Furno**, is a member of the Council of Cardinals and Bishops within the
24 Secretary of State's Office, and also holds high office within the Roman Curia's Congregation for
25 Eastern Churches. The fourth, **Rosalio Jose' Cardinal Castillo Lara**, is a member of the Council of
26 Cardinals and Bishops within the Secretary of State's Office, and also held high office within the Roman

1 Curia's Congregation for the Institutes of Consecrated Life and the Society for Apostolic Life
2 (*Congregazione per gli Istituti di Vita Consacrata e Le Società di Vita Apostolica*). The fifth, Eduardo
3 Cardinal Martinez Somalo, Prefect for the Congregation for Institutes of Consecrated Life and for
4 Societies of Apostolic Life, is a member of the Council of Cardinals and Bishops within the Secretary of
5 State's Office, and also held high office within the Holy See as a member of the council to the Secretary
6 General of the Synod of Bishops.

7 7. In summary, all five members (if one counts the long-sitting, but recently deceased Cardinal
8 O'Connor), have been members of the Secretary of State's twenty-two member Council of Bishops and
9 Cardinals, one member is the Secretary of State, and all hold high office elsewhere within the Holy See
10 or the Roman Curia in addition to their duties in the Office of the Secretary of State and at the IOR.

11 8. This data may be confirmed by consulting of the *Annuario Pontificio 2000* (Pontifical
12 Annual, 2000), which is the standard comprehensive reference work published by the Holy See
13 (Publisher: Libreria Vaticana, 2000) to describe the offices and personnel of the State of Vatican City and
14 the world-wide Roman Catholic Church.

15
16 I declare under penalty of perjury under the laws of the United States of America that the
17 foregoing is true and correct.

18 Executed on 12 day of November October, 2000 at Turin, Italy.

19
20 Franco Grande Stevens
21 Avvocato Franco Grande Stevens, Attorney for
22 IOR and State of Vatican City