

SUMMARY REPORT

of the preliminary report of the first Special Investigative Committee and the proceedings of the Spiritual Court for Robert Kondratick

[Note: This Report contains almost all of the content of the preliminary report, which was prepared by the first Special Investigative Committee, chaired by Archbishop Job. That was the report presented to the Holy Synod and Metropolitan Council in March, 2007. Also within this Summary Report are highlights of the proceedings and the judgment of the Spiritual Court, issued on July 19, 2007. This Report in no way represents the work of the second Special Investigative Committee, which is chaired by Bishop Benjamin and which is in the midst of their work.]

In the fall of 2005, allegations were made about financial misconduct within the Orthodox Church in America (OCA). To investigate the allegations, the law firm of Proskauer Rose LLP was retained on behalf of the OCA. The accounting firm of Lambrides Lamos & Moulthrop LLP also was retained to audit the OCA's financial accounts for 2004 and to examine the disposition of monies collected through OCA appeals from 2001 through 2005.

In December 2006, during the joint meeting of the Holy Synod and the Metropolitan Council, Metropolitan HERMAN appointed a Special Committee "to work with the attorneys from Proskauer Rose and to bring the investigation to a conclusion in the most appropriate way." The Special Committee was composed of Archbishop Job, Bishop Benjamin, Fr. Vladimir Berzonsky, Fr. John Reeves, Gregory Nescott and Dr. Faith Skordinski.

In March 2007, the Special Committee presented its preliminary report to both the Holy Synod of Bishops and the Metropolitan Council. Having worked with the attorneys at Proskauer Rose LLP and the accountants at Lambrides Lamos & Moulthrop LLP, the Special Committee reported those professionals' observations, provided below, which became the basis of the accusations against the former Chancellor, Robert S. Kondratick.

- Between 2001 through 2005, over \$1,000,000.00 was withdrawn in cash from the operating checking account of the OCA and given directly to Robert Kondratick. The OCA records lack any supporting documentation to indicate how the cash was spent and for what purposes.
- \$575,300 of the approximately one million dollars withdrawn in cash was taken from the special appeals funds and given to Robert Kondratick, who has been unable to provide the name of one person or parish who received any of this cash.
- Despite meeting face-to-face five or six times with the accountants from Lambrides, Robert Kondratick could not provide them with the name of one 9/11 victim or parish who received any of the \$176,500 allegedly distributed.
- An audit of the check and wire disbursement from the special appeals funds, from 2001 through 2005, shows American Express charges of some \$5,600.00 for a

member of the Kondratick family, designated by Robert Kondratick as a charitable distribution.

- In December 2004, Robert Kondratick used for travel expenses in Russia \$12,000 that was raised and intended for the Christmas Stocking Project.
- From 1999 through 2005, the OCA paid not less than \$1.2 million in Kondratick family members' credit card charges, which covered no less than 22 credit cards. The majority of the credit card charges lack any documentation or original receipts to support the purchases by the OCA. To date, Robert Kondratick has failed to provide the OCA with receipts of any kind to support the expenditures of more than \$1,100,000.¹
- Credit card charges for which the OCA paid Robert Kondratick include personal travel to and lodging expenses for places including Aruba and Las Vegas, tanning and hair salon charges, jewelry store purchases, and his family members' ordinary monthly living expenses such as groceries, wine, newspaper and magazine subscriptions, cable bills, clothes, and shoes.
- Robert Kondratick still owes the OCA at least \$137,000 in acknowledged personal credit card charges.
- From at least February 1996 through August 2002, Metropolitan Theodosius and Robert Kondratick controlled three discretionary accounts under the name of the OCA, into which at least \$1,077,000 was deposited; the Metropolitan's account, a joint account whose signatories were Robert Kondratick and Metropolitan Theodosius, and an account for which Robert Kondratick was the signatory. Other than the Metropolitan's account, the very existence of the discretionary accounts was undisclosed to internal and external auditors.
- \$227,943 was deposited into Robert Kondratick's discretionary account from the operating account of the OCA and was spent almost entirely between February 1996 and February 1997.
- No less than \$850,000 was deposited into the two other discretionary accounts and spent on such things as Metropolitan Theodosius' and Robert Kondratick's personal lawyers, accountants, and other consultants relating to their opposition of auditing the discretionary funds in 1999 (\$125,000), Robert Kondratick's personal credit cards (\$50,000), and withdrawals in cash (\$195,000).
- In 1999, when the accountants from Lambrides were attempting to complete the audit of the financial statements of the OCA for 1998, they learned of the unreported discretionary accounts and wrote to officers and internal auditors of the OCA that the financial report could not be completed because (1) the financial statements prepared by the Church for audit were not presented in conformity with generally accepted accounting principles and did not include all assets and liabilities under the organization's control; (2) the OCA had not made available all financial records and related data; and (3) there were material transactions that had not been properly recorded in the accounting records underlying the financial statements. Because the OCA central administration officers failed to cooperate with Lambrides, the audit was never certified. Then, from 1999 through 2004, a

¹ These figures were amended during the spiritual court trial of Robert Kondratick and reflect the latest ascertainable information from the Lambrides accountants.

different accounting firm, Konsen & Hostelly LLP, located in Independence, Ohio provided the OCA with compilation reports, which are nothing more than a listing of expenses and deposits to the accounts as represented by the officers of the OCA.

- On June 12, 2006, the lawyers for the OCA unsuccessfully attempted to obtain answers relating to these discretionary accounts by questioning Robert Kondratick, who refused to answer the questions on canonical grounds.
- In September 2006, Robert Kondratick and his wife sued the OCA and other individuals, alleging that they were owed \$250,000, plus interest, for renovations allegedly costing \$110,000 they made to a house deeded to the OCA, but in which they lived while receiving a housing allowance. The renovations were made shortly after the purchase, but apparently were not approved by the Metropolitan Council. The files provided by Father Kondratick did not indicate how or by whom these improvements were paid.

Upon hearing and discussing the report of the Special Committee, the Metropolitan Council and Holy Synod of Bishops endorsed several recommendations on how to proceed. The first recommendation was the following:

Immediate suspension of Father Kondratick by his bishop. Based upon the facts established thus far, failure to remove him immediately from access to any and all sources of Church funds demonstrates irresponsibility with regard to fiduciary duties on behalf of the Holy Synod and Metropolitan Council and significantly increases the liability risks of the OCA.

In April 2007, Faith Skordinski, as a member of both the Metropolitan Council and the Special Committee, submitted written accusations against Father Kondratick. As the OCA Statute allows, Metropolitan HERMAN temporarily suspended Robert Kondratick and selected a spiritual court composed of the following people: Archbishop Nathaniel, presiding as a non-voting member; Fr. Michael Dahulich; Fr. John Erickson; Fr. David Garretson; and Fr. Joseph Lickwar (“Spiritual Court”). The Spiritual Court unanimously determined that the evidence presented was sufficient to justify a trial where Robert Kondratick would have to answer the charges against him. The Spiritual Court informed Metropolitan HERMAN of its finding and he promptly issued and had served on Robert Kondratick a summons for his appearance at a spiritual court trial. On April 30, 2007, Robert Kondratick requested an extension of time to prepare for the trial, which the Spiritual Court granted.

On June 11, 2007, the trial commenced. Robert Kondratick was present and represented by his attorney, Harry Kutner, and Monk James Silver. The Spiritual Court did not report to Metropolitan HERMAN the events that unfolded that day until it presented its formal report of the trial. The report stated the following:

The Court granted Mr. Kutner’s request to be heard on objections by the Accused to certain preliminary matters. Mr. Kutner objected

to Rule 3 of the Procedural Guidelines which did not permit a transcript of the proceedings. In addition, Mr. Kutner mentioned other issues of concern such as the fact that the Court was comprised of judges who were in the Accused's opinion, biased. After hearing substantial arguments from the Accused and his attorney, the Court denied the Accused's demand that a transcript be kept and denied his request to have the Court reconstituted. After nearly one hour of continued discussions, the Accused requested that the Trial be suspended and that he be given the right to appeal the denial of his requests and other procedural issues, to the Holy Synod at its next regular session in the fall of 2007. The Court denied the Accused's request since it was not a statutorily permitted right of the Accused, was viewed as an improper attempt to delay the proceedings, and would, if granted, violate Article XI, § 6(e) of the Statute ["The Holy Synod shall never act as a court of first instance in cases which are within the competence of Diocesan Courts."]. The Accused informed the Court that he would not proceed with his defense unless his demands were met. The Court requested the Accused to reconsider his position and warned him that the trial had been convened, that leaving would be viewed by the Court as a default and that the Court could proceed in his absence. The Accused refused to continue his defense and he and his representatives left the proceedings.

After due deliberation, the Spiritual Court found Robert Kondratick to be in default and proceeded with the trial, which included over 18 hours of live testimony over two days (June 11, 2007 and July 6, 2007) from ten witnesses (Helen Cavounis, Father Paul Kucynda, Mr. Stephen Lamos, CPA, Fr. Dimitri Oselinsky, Fr. Steven Strikis, Mr. Robert H. Taylor, CPA, Metropolitan Theodosius, Deacon Eric Wheeler, Fr. Zacchaeus (Wood), and Deacon John Zarras), as well as documentary evidence. The proceedings closed on July 6, 2007.

On July 19, 2007 the Spiritual Court issued the following judgment with a written report:

[I]t is the Judgment of the Court that the Accused, Protopresbyter Robert S. Kondratick, committed theft of Church funds, alienated Church funds for his personal use, repeatedly refused to cooperate with those who were charged with giving an accounting of Church funds, actively concealed his actions, refused to cooperate with this Court and thus has brought shame and reproach to the priesthood all in violation of the cited canons, scriptural commands, and the oath that he took upon being ordained into the priesthood.

The Court recommended that the suspended priest, Fr. Robert Kondratick, be permanently deposed from all sacred functions of the priesthood and that his name be

removed immediately from the rolls of the clergy of the OCA. On July 31, 2007, the Holy Synod of Bishops, after being presented with the report of the Court, accepted the recommendation and confirmed the final deposition (defrocking) of Fr. Kondratick, which was in conformance with the Statute of the OCA.

On August 26, 2007, Robert Kondratick wrote to Archbishop Seraphim, as Secretary of the Holy Synod of Bishops, stating that he wished to appeal his deposition. On October 16, 2007, he presented the Holy Synod with his appeal and an appended packet of documents. After careful review of these documents, the Holy Synod met in special session on December 13, 2007. Giving due deliberation to the appeal, the Holy Synod concluded that the decision to depose Robert Kondratick would remain in effect.