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NORTHERN DISTRICT OF CALIFORNIA

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18 **UNITED STATES DISTRICT COURT**

19 **NORTHERN DISTRICT OF CALIFORNIA**

20
21 **EMIL ALPERIN, et al.**

22 **Plaintiffs,**

23 **v.**

24 **VATICAN BANK, a/k/a "INSTITUTE OF**
RELIGIOUS WORKS" or "ISTITUTO PER
25 **LE OPERE DI RELIGIONE" IOR), Croatian**
Liberation Movement (HOP: Hrvatski
26 **oslobodilacki pokret) et al.**

27 **Defendants.**

NO. C99-4941 MMC

NOTICE OF PENDENCY OF
OTHER ACTION OR
PROCEEDING

Civ. L. Rule 3-13

and

CERTIFICATE OF SERVICE

JUN 28 2002

1 PLEASE TAKE NOTICE THAT A CAUSE OF ACTION ENTITLED *George Dale,*
2 *Commissioner of Insurance for the State of Mississippi et al vs. Emilio Colagiovanni and The*
3 *Holy See et al,* has recently been filed in the United States District Court for the Southern
4 District of Mississippi, Jackson Division (Case No. 3:01 CV 663BN).

6 ***DALE V. HOLY SEE***

7
8 *Dale v. Holy See* is a Racketeer Influenced and Corrupt Organization Act (RICO) lawsuit
9 filed by the combined State Insurance Commissioners of Mississippi, Tennessee, Missouri,
10 Oklahoma, and Arkansas, seeking approximately \$600 million in damages from the Holy See.
11 The gist of the lawsuit is an allegation that various personalities in the Holy See or associated
12 with it conspired with and/or aided and abetted convicted swindler, Martin Frankel, in a scheme
13 to launder money looted from American insurance companies using a Vatican Bank account and
14 other means. One of the personalities named in the lawsuit's allegations is Vatican Secretary of
15 State, Cardinal Sodano.
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17

18 The Vatican Bank is directly implicated in the allegations by the five state Insurance
19 Commissioners as follows:

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21 60. Frankel was also interested in securing the involvement of the Istituto per le
22 Opere di Religione ("IOR"), popularly known as the "Vatican Bank-" As a
23 Vatican entity, the IOR is beyond the reach of any regulatory scrutiny other
24 than the Vatican's own supervision. Although Colagiovanni informed Frankel
25 that, as a non-Catholic, he could not open his own account at the IOR,
26 Colagiovanni assured Frankel that any fund or donation given to MEF would
27 fall under the protection of the "very strict confidentiality and secrecy" laws
28 that apply to any entity linked to the IOR.

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30 61. The IOR was involved in a number of ways with Frankel's scheme, MEF
31 has an account at the IOR, and Colagiovanni and, apparently Jacobs, were both
32 authorized users of that account. Frankel wired money to MEF's account at the
33 IOR, as described below. Jacobs also had his own account at the IOR to which

1 Frankel wired money.

2
3 62. In addition, as part of the scheme, Frankel had Colagiovanni obtain a letter
4 from the IOR, indicating that MEF was an organization in good standing with
5 the IOR. Before the IOR would issue the letter, Colagiovanni was required to,
6 and did, provide the IOR with information about "Rosse" and the plan.
7 Colagiovanni and Frankel provided the IOR with the private telephone number
8 of Frankel's Swiss banker, Jean-Marie Wery ("Wery"), a Managing Director of
9 Banque SCS Alliance. The IOR contacted Wery to confirm that Frankel had
10 the wealth necessary to make the proposed donation.

11
12 63. After the IOR checked Frankel's bank reference, Salerno prepared a letter
13 confirming MEF's "uninterrupted relation" with IOR, which was signed by the
14 IOR's director, Dr. Lelio Scaletti, and by another IOR official, Dr. Anthony
15 Chiminello. This letter was used to bolster MEF's and St. Francis' credibility
16 with insurance regulators and others. For example, when lawyers and officials
17 connected with one of the United States insurance companies Frankel targeted
18 questioned the Vatican's connection to St. Francis, the IOR letter was presented
19 as proof of the association.

20
21 97. Colagiovanni, and, indirectly, the Vatican, received benefits from
22 Colagiovanni's role in Frankel's scheme. From August 1998 to May 1999,
23 Frankel made periodic financial contributions to Colagiovanni, Jacobs and
24 MEF, and to accounts designated by them. The following represent some, but
25 not all, of the wire transfers:

26 • On August 24, 1998, Frankel wired \$ 100,000 from his Swiss bank account to
27 Jacobs' account at the IOR. Jacobs then wrote a check in that amount to
28 Laghi¹, which was apparently donated to a hospital with which Laghi had
some relationship. On December 11, 1998, Frankel wired \$10,000 from his
Swiss account to Jacobs' account at Chase Manhattan Bank in New York for
further credit to MEF's account at the IOR. On February 24, 1999, Frankel
caused \$10,000 to be wired from the account of "Rosse" at Chase Manhattan
Bank in New York to MEF's account at the IOR. On April 13, 1999, Frankel
wired \$25,000 from his Swiss account to the Don Orione Fathers at the Bank
of the Phillipines. The Don Orione Fathers, also known as the Sons of Divine
Providence, are an order of the Roman Catholic Church of which D'Ercole is a
member.

• On April 20, 1999, Frankel wired \$40,000 to Jacobs' account at the IOR for
the benefit of "Rosse/St. Francis."

• On April 22, 1999, one week before Colagiovanni's appearance in

¹Refers to Cardinal Laghi, the former Papal Nuncio to the United States.

1 Mississippi, Frankel wired \$30,000 to Jacobs' account at Chase Manhattan
2 Bank in New York. Jacobs wrote a check to Colagiovanni for \$20,000 which
3 Colagiovanni then deposited at the IOR. The funds used in these wire transfers
4 were assets of the Insurance Companies which Frankel had looted.

5 *Dale v. Holy See* deals with two issues of major importance to *Alperin v. Vatican Bank*.

6 First, and central to both cases, is the issue of Vatican amenability to jurisdiction under the
7 Foreign Sovereign Immunities Act (FSIA). Second are the allegations indicating that the Vatican
8 Bank has engaged in commercial activities involving American citizens Martin Frankel and Fr.
9 Peter Jacobs and laundered and received money looted from American insurance companies.
10 If these allegations are true, they call into grave doubt the veracity of the Declaration of
11 Avvocato Franzo Grande Stevens filed in support of defendant IOR's MTD.
12

13 Stevens who is self described as the attorney in Italy for the Holy See and the Vatican
14 Bank declared under penalty of perjury this key statement:
15

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

20 Yet the pleading in *Dale vs. Holy See* strongly suggests corruption and illegality at the
21 highest levels in the Holy See and Vatican Bank. If the allegations in *Dale v. Holy See* hold true,
22 it is certain that the IOR *does* offer services in the United States including soliciting money
23 laundering under the guise of pious acts. The involvement of Cardinal Sodano and other
24 cardinals and Vatican officials in the *Dale* matter indicates that impiety and racketeering may
25 be the rule rather than the exception at the IOR. Thus any factual finding in *Dale* is relevant to
26 *Alperin* on the issues of sovereign immunity and jurisdiction.
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ZIVKOVICH V. VATICAN BANK

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Additionally, the court is already aware of *Zivkovich v. Vatican Bank* (CV 00 4319 MJJ) which is an almost identical lawsuit as to the IOR and OFM defendants, anteceding *Alperin* in time of filing by several months, currently assigned to Judge Jenkins. Plaintiffs' attorneys have inspected the pleadings of all parties in the pending MTD in the *Zivkovich* case and find they are almost identical to the pleadings which have been on file in *Alperin* for well over a year. That matter is set for a hearing on the MTD on August 13, 2002. Thus *Zivkovich* appears to also be related to *Dale* and *Alperin* owing to its mirror image pleadings.

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SEXUAL ABUSE CASES

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Finally, several lawsuits naming the Vatican and Holy See as defendants have been filed in state and federal courts involving sexual molestations of minors by Roman Catholic priests. Plaintiffs are aware of the following lawsuits but it is likely others exist: *Doe vs. Holy See*, United States District Court for the District of Oregon, CV 02 430 BR. *Gomez vs. Holy See*, Circuit Court of the Sixth Judicial District In and For Pinellas County, Florida, Civil Division, Case No. 02-2692 C1 19. *Doe vs. Holy See*, Circuit Court of St. Louis County, Missouri, Case No. 02CC 001538.

In all these cases, the sovereign immunity or lack thereof by the Holy See is an issue of first importance.

APPLICABILITY OF 28 U.S.C. § 1407

Alperin plaintiffs believe that 28 U.S.C. § 1407 may be applicable to the pending federal court cases on the following joint issues:

1. Sovereign immunity of the Holy See or its instrumentalities in regards to all cases

1 pending in which Vatican entities are defendants.

2
3 2. Jurisdiction in US courts as to the IOR for *Alperin, Zivkovich, and Dale*.

4 Since 28 U.S.C. § 1407 concerns pretrial matters in which matters of common fact are
5 pending, some form of coordination up to and including referral to the judicial panel on
6 multidistrict litigation seems appropriate. Without such coordination, the following results are
7 possible:
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10 1. Nearly identical lawsuits in *Alperin* and *Zivkovic* could result in either duplicative
11 findings or findings at odds with each other on the same or nearly identical facts and pleadings.

12
13 2. Factual allegations in *Dale* about IOR which are seemingly at odds with exhibits in
14 *Alperin* and presumably *Zivkovich* could be adjudicated as true while an opposite result is
15 achieved in *Alperin*. Likewise jurisdictional discovery, already a hotly contested matter in
16 *Alperin*, may very likely be handled in an uncoordinated fashion causing undue delay and tying
17 up court resources.

18
19 3. Any of the pending lawsuits could trigger a suggestion or statement of interest by the
20 U.S. State Department on the matter of Vatican sovereign immunity. The IOR has already
21 requested the intervention of the State department in *Alperin* and *Zivkovich*. In the event the
22 State Department intervenes in any of the separately pending cases, other courts might interpret
23 such intervention in inconsistent manners.
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26 Plaintiffs therefore believe some form of coordination is necessary on both the issue of
27 Vatican sovereign immunity and jurisdictional/factual matters relating to the IOR in order to
28 avoid conflicts, conserve resources and promote an efficient determination of the action.

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PENDING STATE COURTS MATTERS

Further the state cases naming the Holy see or Vatican as defendants should also be coordinated in some manner to avoid divergent findings on the issue of Vatican amenability to suit in the United States.

AMELIORATING PREJUDICE TO DEFENDANTS & PLAINTIFFS

Defendant OFM (Franciscan Order) is so closely associated with IOR in this matter that there can be no undue prejudice to them by coordinating related matters. OFM is a religious order based at the Vatican, and they have asserted many of the same defenses as the IOR. OFM is ultimately answerable to the Pope who is also the ultimate authority at the IOR.

Defendant HOP (Croatian Liberation Movement) has been repeatedly served and a default motion was pending at the May 25, 2001 hearing but was continued. Plaintiffs request the court grant the default forthwith. Many of the *Alperin* plaintiffs are elderly, several are in their eighties and approaching age ninety. HOP is a direct descendent of the Ustasha organization which slaughtered their relatives during World War II. HOP continues to spew forth anti-Semitic and anti-Serb propaganda from its headquarter in Zagreb, Croatia.

Defendant SNB (Swiss National Bank) is the subject of a Dismissal without Prejudice filed by plaintiffs concurrently with this notice. It appears that the Second Circuit's ruling in *In re Holocaust Victims Assets Litigation*, 225 F.3d 191 (2d Cir. 2000), in which attempts by Polish claimants excluded from the settlement class to intervene were denied, has made any new Holocaust related lawsuits against SNB untenable. Plaintiffs had expected that the ruling would not stand on appeal but that has not happened. In that case, the court found that the classes of beneficiaries of the Swiss Bank Holocaust settlement were immutable. SNB has represented to

1 plaintiffs through their counsel that the settlement *in In re Holocaust Victims Assets Litigation*
2 precludes any new Holocaust era claims against SNB. Likewise the involvement of the US State
3 and Treasury Department in negotiating the Swiss agreement and the Austrian, German, and
4 French claims as well makes any attempt to upset the status quo highly political and unlikely to
5 succeed.
6

7
8 Plaintiffs therefore respectfully request that the Court consider the above arguments and
9 rule as soon as possible.

10 Dated: June 24, 2002.

11 
12 Thomas Dewey Easton

13 **CERTIFICATE OF SERVICE BY MAIL**

14 The undersigned hereby certifies that he is a member in good standing of the bar of this court and
15 that copies of the foregoing:

16 **NOTICE OF PENDENCY OF OTHER ACTION OR PROCEEDING** Civ. L. Rule 3-13

17 in this case were served this date by placing copies in the United States mail, with postage prepaid
18 thereon, addressed to:


19 **RONALD E. MALLEN, Esq.**
20 **Hinshaw & Culbertson**
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Fax: 415-834-9070

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24 **Law Offices of Jeffrey S. Lena**
25 **1152 Keith Avenue**
26 **Berkeley CA 94708-1607**

Attorney for Defendant IOR
Tel: 510-665-1713
Fax: 510-665-1712

27 I declare under penalty of perjury under the laws of the State of California that the foregoing is
28 true and correct, and that this certificate was executed in Bend, Oregon on June 24, 2002.


Thomas Dewey Easton

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21 **EMIL ALPERIN, et al.**
22 **Plaintiffs,**
23 **v.**

24 **VATICAN BANK, a/k/a "INSTITUTE OF**
RELIGIOUS WORKS" or "ISTITUTO PER
25 **LE OPERE DI RELIGIONE" (IOR); THE**
FRANCISCAN ORDER (OFM.) a/k/a
26 **CROATIAN FRANCISCANS and**
CROATIAN COFRATERNITY OF THE
27 **COLLEGE of SAN GIROLAMO DEGLI**
ILLIRICI, UNKNOWN CATHOLIC
28 **RELIGIOUS ORDERS, and their successors,**
CROATIAN LIBERATION MOVEMENT
(HOP), SWISS NATIONAL BANK,



**SUBMITTING
COUNSEL DIRECTED
TO SERVE THIS ORDER
UPON ALL OTHER
PARTIES IN THIS
ACTION**

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ORIGINAL FILED
JUN 25 2002
RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

IT IS SO ORDERED
MAXINE M. CHESNEY
MAXINE M. CHESNEY
UNITED STATES DISTRICT JUDGE
DATE JUN 25 2002

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

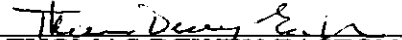
NO. C99-4941 MMC
**NOTICE OF VOLUNTARY
DISMISSAL**
and
CERTIFICATE OF SERVICE

1 **UNKNOWN RECIPIENTS OF NAZI AND**
2 **USTASHA LOOT, AND SWISS, AUSTRIAN,**
3 **ARGENTINE, BRAZILIAN, SPANISH,**
4 **ITALIAN, PORTUGUESE, VATICAN &**
5 **GERMAN BANKING INSTITUTIONS AND**
6 **CALIFORNIA AND OTHER UNITED STATES**
7 **CORRESPONDENT BANKS AS DOES #1-100,**

8 **Defendants.**

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NOTICE IS HEREBY GIVEN that pursuant to Fed.R.Civ.Pro. 41(a), plaintiffs voluntarily dismiss defendant Swiss National Bank from the above-captioned action without prejudice.

DATED: June 24, 2002.


THOMAS DEWEY EASTON
Of Attorneys for Plaintiffs

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that he is a member in good standing of the bar of this court and that copies of the foregoing:

NOTICE OF VOLUNTARY DISMISSAL

in this case were served this date by placing copies in the United States mail, with postage prepaid thereon, addressed to:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this certificate was executed in Bend, Oregon on June 24, 2002.


Thomas Dewey Easton

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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that he is a member in good standing of the bar of this court and that copies of the foregoing:

NOTICE OF VOLUNTARY DISMISSAL

in this case were served this date by placing copies in the United States mail, with postage prepaid thereon, addressed to:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this certificate was executed in Bend, Oregon on June 29, 2002.


Thomas Dewey Easton