

28 May 2006

Serbian Orthodox Diocese of Canada
Ecclesiastical Court
7470 McNiven Rd. RR#3
Campbellville, ON, L0P 1B0

RE: EC. No.4, 15 May 2006

To the Ecclesiastical Court of the
Serbian Orthodox Diocese of Canada

Please accept this and the attached documents as a written response to EC No. 4, dated 15 May 2006, Toronto/Monastery Milton. Prior to offering a formal response to the submitted indictment, allow me to comment on the Ecclesiastical Court proceedings in general and the composition of the Court, as so invited in the Court Secretary's letter of the same date.

I draw your attention to the fact that any Ecclesiastical Court proceedings must take into account the following provincial legislation – *The Corporations Act*, *The Religious Organizations Lands Act*, and the *Trustees Act*. Any reluctance on the part of the Court to appropriately address these legislative instruments will invariably and immediately result in an application to the Superior Court of Ontario challenging the procedural aspects of the Ecclesiastical Court. Furthermore, I draw your attention to the fact that as of 9 February 2006 the Serbian Orthodox Diocese of Canada has filed a Statement of Claim within the Superior Court of Ontario against me and five others (Court File No. 06-CV-305807PD – document attached). While this Statement of Claim is on file with the Superior Court, any further Ecclesiastical Court action by the Diocese in regards to this matter would be a breach of the Code of Civil Procedure for the Province of Ontario, penalties of which may be harshly applied.

Regarding the composition of the Ecclesiastical Court, I draw your attention to the Group Agreement, dated 6 February 2004, signed by all the Clergy of the Serbian Orthodox Diocese of Canada (document attached). Given that this document, and the concerns over insurance fraud and exposed personal liabilities of trustees, is at the heart of these proceedings, I strongly submit that all signatories to this document have a “personal interest” in the subject being adjudicated, as specified in Art. 20.15 of the Statutes of Serbian Orthodox Church of Canada (hereinafter the Statute), and Art. 6, Part One, of the Rules & Regulations of the Serbian Orthodox Church of the USA & Canada (hereinafter the Rules & Regulations). As such, all signatories to this document are ineligible to participate in this Court.

Furthermore, I draw your attention to the documents entitled – EYO Бр. 26/06, E Бр. 159, and “*Javno Obracanje Svestenika Vernicima Eparhije Kanadske*” (all attached). These formal documents, public statements and Diocesan Acts have been signed by all the Clergy in Canada, and/or Bishop Georgije. These documents, statements and official acts testify without hesitation that I have already been found guilty of the charges within this Indictment by the signatories of these documents. As such, these signatories cannot participate in this Ecclesiastical Court as per the judgment of Justice R.H. Holland of the Supreme Court of Ontario in *Doder v. Radojkovic* (document attached). This has been confirmed by an article in *The Lawyers Weekly* of 3 July 1987 (attached) which comments on the improprieties of such participation. If indeed this Ecclesiastical Court were to be composed of these signatories, it would be in serious breach of this Supreme Court Decision, and may find itself in a situation of being in Contempt of Court.

I draw your attention to Art.10 of the *By-laws and Procedures for Ecclesiastical Courts of the Serbian Orthodox Church* (hereinafter Krivicna Pravila). Specifically, I point out that both Bishop Georgije and Father Mihajlo Doder have given statements under oath within the Supreme Court of Ontario which they later recanted in a document entitled “Statement of Understanding” (document attached). Father Vasilje Tomic, acting under oath as Ecclesiastical Court Prosecutor in an Indictment dated 9 November 1985, made similar statements which he later recanted in the same titled document. Furthermore, I point out that Bishop Georgije has signed under oath a document which purports to claim that Mr. Ilija Rakanovic was a Trustee of the Serbian Orthodox Diocese of Canada in the year 2000, when in fact this was not the case (documents attached). Given these improprieties, and the fact that the Krivicna Pravila has been referred to in the Indictment against me as an authoritative source of procedural action, I submit in the strongest possible terms that Bishop Georgije, Father Vasilje Tomic and Father Mihajlo Doder have disqualified themselves from participating in this Court.

RESPONSE TO INDICTMENT

My formal response to this indictment begins with a clarification of legal fact. First, regardless of what civil governing jurisdiction within which the Church finds itself, the administrative operation of the Church must conform to the framework of the applicable civil laws within that jurisdiction. This is confirmed by Article 26 (1) & (2) of the Constitution of the Serbian Orthodox Church in the United States of America & Canada (hereinafter the Constitution), existing case law within the Province of Ontario including *Mirkovich v Bozenich* (1965) and *Doder v Radojkovic* (1987), and various Church Canons. This is reinforced by the recent Paschal (2006) message from His Holiness Patriarch Pavle imploring his children in the Diaspora to “*be good citizens of the countries in which you live, and faithful and active members of your Church*”. This requirement for conformity with civil law applies to both “Trusteeships” and “Charitable Corporations”.

The second legal fact is that the property of the IJHIO Niagara Falls has always been and is presently owned by the IJHIO Niagara Falls. This ownership is clearly indicated in the original 1957 Indenture Document (attached) which states clearly that the property is transferred to “Yerich, Sainovich, Vujaklija and Vorkapich as Trustees for St. George Serbian Orthodox Church of Niagara Falls”. This ownership was confirmed by the Supreme Court of Ontario in its decision in *Mirkovich v Bozenich (1965)*. As such, the property of the IJHIO is subject to Article 26 (1) & (2) of the Constitution, as well as (pre-18 December 05) the *Religious Organization Lands Act*, the *Charitable Gifts Act*, and *Trustee Act* of Ontario. Furthermore, the former Trustees of the IJHIO Niagara Falls (pre-18 December 05) acting as the legal representatives of the IJHIO Niagara Falls as specified in the local by-laws (1984) are subject to, and bound by, both the Constitution of the Serbian Orthodox Church of the United States & Canada and the laws of the Province of Ontario as indicated above. While the IJHIO Niagara Falls had been attempting to the best of our ability to maintain adherence to the “interim” Statutes of the Diocese of Canada, their validity as a binding document has become increasingly problematic due to (i) the lack of fulfillment of the Holy Synod’s authorizing statement, (ii) the absence of formal approval by the IJHIO Niagara Falls or amendments to its local by-laws, and (iii) the increasing realization that the Statute is not reflective of established legal facts, including the legal reality of IJHIO property ownership within the Diocese.

Events leading to the 20 December 2005 incorporation of the IJHIO Niagara Falls are well documented. As of February 2004, with the purpose of generating revenue, the Diocese had cancelled its longstanding Clergy health insurance policy with Great West Life. In its place, the Diocese established a “self-administered” fund (or bank account) from which it has been drawing in order to process any claims by Clergy or their families. This fund has limited liquidity and is not re-insured by any registered insurance company. This decision was made, and action taken, independently by the Diocese and Clergy, with no prior consultation with either the Diocesan Council or the Diocesan Assembly as specified in both the Statutes and the Constitution. The Church School Congregations (IJHIO) were not consulted regarding the decision or informed of the action, even though they are obligated to pay for such insurance and carry liability for their various Clergy. The concerns of the former Trustees of the IJHIO Niagara Falls were only confirmed when they secured a copy of the Group Agreement signed by all Clergy on 6 February 2004 (document attached).

In short, Diocesan authorities committed insurance fraud. As such, they had exposed the personal liabilities of our Church Trustees. Following a series of requests by the IJHIO Niagara Falls for clarification and explanation on this issue, which were not answered by the Diocese of Canada, the IJHIO Niagara Falls indicated that it would have to seek legal remedies to resolve the situation (correspondence attached). Therefore, in order for the IJHIO Niagara Falls to fulfill its obligation to protect its Trustees and administrative integrity before civil authorities, the IJHIO Niagara Falls, following a near unanimous vote by its members at its annual meeting on 18 December 2005, incorporated itself within the Province of Ontario as a not-for-profit incorporated charity, according to provisions specified in the *Religious Organizations Lands Act*, the *Corporations Act*, and the *Charities Accounting Act*. As of 20 December 2005, the IJHIO Niagara Falls

received its charter and was an incorporated body within the Province of Ontario. This legal status is precisely the same legal status as the IHHO Toronto (St. Sava), the IHHO Oakville (Sts. Peter & Paul), the IHHO Windsor (Dormition of the Theotokos), and, to best of my knowledge, the IHHO Vancouver (St. Sava).

Given the complete lack of engagement by the Diocese of Canada in addressing our requests for clarification regarding such issues as misrepresentation (fraud), and the breaking of federal and provincial law, the IHHO Niagara Falls had to determine what the proper procedure was for incorporation. As such we reviewed the case of the IHHO Toronto (St. Sava). Their application for incorporation (copy attached) signed by the original seven directors, including Father Mihajlo Doder, was submitted to the Ministry of Consumer & Commercial Relations on 29 April 1983 with all appropriate documentation required for review and approval of the application. This documentation did not include consent from Diocesan authorities. The Letters Patent for the corporation were issued on 20 May 1983. While an unofficial request for approval from Bishop Christopher was sent by telegram on 12 May 1983, and his Grace issued his consent on 16 May 1983, it was only *received* in the Ministry on 20 May 1983 (documents attached). Therefore, *the consent of His Grace had no bearing as a requirement for civil authorities* and furthermore, *had no bearing on Father Doder's original signature on the initial application*. This was indeed confirmed by Supreme Court Justice Holland in *Doder v Radojkovic*. In short, it was clear from precedent that, although very much desirable, formal consent from Diocesan authorities was not essential.

Given this precedent, the IHHO Niagara Falls, following a vote on 18 December 2005 by the vast majority of its membership, filed for incorporation and received its Letters Patent on 20 December 2005. Once the vote was taken and the Letters Patent were issued, the Trustees of the IHHO Niagara Falls were obligated by law to transfer the property to the newly incorporated entity. To not do so would contravene provincial law. As of 20 December 2005, the IHHO Niagara Falls transformed from having to conform to the Religious Organization Lands Act to that of the Corporations Act of Ontario.

Given this fact, DAB No. 137/05 dated 28 December 2005 was irrelevant since the corporation was already in existence. The Extra-Ordinary Meeting called for 15 January 2006, *including the agenda* as indicated in IHHO Бр. 43/05 dated 30 December 2005, was approved by the Diocesan Administrative Board in EVO Бр. 2/06 dated 4 January 2006. The agenda was followed without alteration. Furthermore, IHHO Br.1/2006 (Niagara Falls) dated 16 January 2006 states clearly that, given the facts listed in IHHO Br. 1/2006, “*the administrative body of the IHHO Niagara Falls, its Trustees, Executive Board, members and parishioners, have lost confidence and trust in the Diocesan Administrative Board's motivations and their ability to address this situation*”. The situation referred to is the illegal establishment and misrepresentation of insurance for its clergy. Further, the action of incorporation was undertaken in order to protect the personal liabilities of its Trustees.

The letter from the lawyer representing the IHHO Niagara Falls dated 2 February 2006 (copy attached) is directed to Mr. Davor Milicevic, not Bishop Georgije. The letter

clearly indicates that correspondence regarding the incorporation and land registry issues should be directed to his office. It does not restrict communication between Diocesan authorities and Church members, parishioners, and the Executive Board in Niagara Falls. Furthermore, the letter does not “forbid Diocesan Authorities from initiating any kind of ecclesiastical disciplinary action”, it merely states pointedly that such action will be “vehemently opposed”.

I and/or others who attended a proposed meeting on 4 February 2006 at the Diocesan Residence agreed to engage in a “Without Prejudice” meeting, having serious concerns that any comments made would be used in civil proceedings. Bishop Georgije refused to engage in a “without prejudice” meeting, hence we could only listen to his comments and not offer response. Our concerns were justified since halfway through the meeting, Bishop Georgije confirmed that he was “taping the session for future reference and we should not be afraid to speak”. In short, he was planning on taping our conversation without our consent, which is against the law. Our fears were further confirmed when we received a Statement of Claim filed by the Diocese of Canada with the Superior Court of Ontario on 9 February 2006, claiming damages of \$17 Million.

Regarding the 8 February 2006 decision to “dissolve the Board in Niagara and.....appoint a temporary trusteeship”, and the 10-12 February 2006 Assembly Resolution demanding the withdrawal of the incorporation of the IJHIO Niagara Falls, please note that these “decisions” cannot be executed under the Corporations Act of Ontario. In fact, they are illegal. For confirmation I refer you to *Doder v Radojkovic*. While these requests can certainly be made, in order to comply with the Corporations Act of Ontario, the implementation of these requests must have the approval of the membership of the IJHIO Niagara Falls, or imposed by Court Order. This also applies to IJHIO Bp. 11/2006, dated 24 February 2006, which outlines our inability to transfer control of the IJHIO Niagara Falls to the “temporary trusteeship” since this would be in contravention of the Corporations Act.

Regarding the contractual agreement to secure a \$75,000 loan from the Serbian Shield Society to assist with the Tesla Monument in Niagara Falls, you should be aware that this agreement was (i) secured by a personal promissory note, and (ii) received approval from the Church membership at the Annual General Meeting on 18 December 2005, and again at the extra-ordinary meeting on 15 January 2006.

I firmly and vehemently deny that I am in breach of the Oath that I have taken as a Board Member of the IJHIO Niagara Falls. In fact, it has been the attempt to uphold this oath and fulfill my obligations under the Statutes and the Constitution that initiated our concerns regarding insurance fraud in the first instance. I refer you to our letter IJHIO 7/2005 dated 4 May 2005 in which we make a firm request to the Diocesan Administrative Board to help us fulfill our obligations under the Statutes. This request, along with all others, was met with silence. As for Statute Articles 31.21(5)/31.21(22), I repeat in the strongest possible terms, as a Citizen of Canada I can only comply to directives issued under these articles to the extent that they do not conflict with civil law.

Furthermore, I firmly and vehemently deny that I have violated canonical principles or the Statute Articles 9.3 or 12.6. You should note that these articles refer to “Diocesan Property” not Church-School Congregation Property. As for Article 14.3, it refers to a “supervisory role” for Diocesan Authorities, not direct control of property through ownership.

As for actual or potential accusations of conspiracy, utterances of falsehoods, and calumnies, I would ask that you provide clear and specific evidence for such accusations. Hearsay has no place in a proper court of law. Regarding actual or rumoured “participation in gatherings organized by the dismissed board members of the Hamilton Church-School Congregation”, please indicate the specific infraction that is in question according to the Krivicna Pravila (certified English translation).

Let me conclude by recounting our final attempt with Bishop Georgije to mediate the situation. A direct discussion took place with Bishop Georgije on 8 April 2006. In attendance were Aco Pantelic, Dushan Kolundzic, Father Dejan Obradovic, Ilija Rakanovic, and Bishop Georgije. During this attempt to mediate Bishop Georgije made two critical statements. First, Bishop Georgije indicated that while other Bishops in the Church might allow this to go forward (i.e. the incorporation), he cannot, because he must “hold firm to the law of the Church”. This implies that his decision is “his alone” and not “institutionally prescriptive” on the part of the Serbian Orthodox Church in the United States & Canada. Further it indicates that Bishop Georgije does not acknowledge the civil administrative law within which the Church exists in Canada.

This was indeed confirmed by his second critical statement. When confronted with the fact that his requested options to resolve the situation were in fact illegal under civil law, the Bishop’s response was as follows: *“Your lawyer might tell you that these options are illegal, but I will find you a lawyer that says they are legal”*. In short, it would appear that Bishop Georgije maintains a complete disregard for civil law and the legal administrative framework within which the Church finds itself in Canada.

Unlike the Constitution of the Serbian Orthodox Church in the United States & Canada, which contains appropriate language to address this legal administrative framework, namely Articles 3, 7 & 26, the Statutes of the Serbian Orthodox Diocese of Canada do not contain such Articles and language, as is required under Canadian law. In short, if this Ecclesiastical Court action moves forward and rules in any way contrary to the requirements of this legal administrative framework, the subsequent application to the Superior Court of Ontario will certainly invalidate the Statutes of the Serbian Orthodox Diocese of Canada.

I most humbly submit that I have always simply looked to fulfill His Holiness Patriarch Pavle's 2006 Paschal message imploring his spiritual children in the Diaspora to ***“be good citizens of the countries in which you live, and faithful and active members of your Church”***.