

February 18, 2007 - Pilla had hidden account, ex-CFO says

Diocese denies charges by indicted financial officer

Mike Tobin, Cleveland Plain Dealer Reporter

Former Cleveland Catholic Bishop Anthony Pilla received \$177,000 in money and furniture over a decade from an off-the-books church account set up to hide the transactions, a former diocesan official said.

The accusation came in a 40-page motion filed Friday in U.S. District Court by lawyers representing Joseph Smith, the former diocesan chief financial officer. Lawyers for Anton Zgoznic, a former diocesan employee, later joined the motion.

Smith and Zgoznic are accused of defrauding the Cleveland Catholic Diocese out of at least \$784,000 over seven years in an elaborate kickback scheme. The two men maintain they simply followed orders from diocesan supervisors, including Pilla, and are taking the fall for the church's poorly managed finances.

A diocesan spokesman denied Smith's accusations.

"We are sorry that Mr. Smith has resorted to making false accusations against those associated with the diocese," spokesman Bob Tayek said in a written statement released Saturday.

"Any suggestion that those involved with the administration of the diocese knew or approved of the activities charged against Mr. Smith, or engaged in similar acts, is false," Tayek said. "We continue to pray for Mr. Smith and his family."

Smith, 50, and Zgoznic, 40, were indicted in U.S. District Court last year on charges including conspiracy, money laundering, fraud and tax evasion. Both have pleaded not guilty.

Their trial is scheduled to begin in April.

Smith, of Avon Lake, and Zgoznic, of Kirtland Hills, are accused of running a kickback scheme using church money. As part of his job, Smith approved \$17.5 million in payments for accounting and financial work to companies owned by Zgoznic between 1996 and 2003. Some of the work was legitimate, but some of the work was not, prosecutors said.

In return, Zgoznic then paid \$784,000 in consulting fees to companies owned by Smith, prosecutors said.

Smith then used the money to pay for a Florida condo, his children's tuition, landscaping and resort membership, prosecutors said.

Prosecutors have not specified how much money Zgoznic got that he was not entitled to receive.

Smith and Zgoznic contend that diocesan supervisors, including Pilla and the Rev. John Wright, knew of and approved the payments as a way to supplement Smith's salary. Wright was Smith's supervisor for several years, until Smith succeeded him as financial secretary.

The motion filed Friday asks U.S. District Judge Ann Aldrich to force federal prosecutors or the Catholic diocese to produce financial documents that Smith's and Zgoznic's lawyers say would help exonerate the men.

Robert Rotatori, Zgoznic's lawyer, said the diocese had hundreds of bank accounts that were not listed on the financial books and records of the diocese. Those accounts were routinely used to give additional compensation to diocesan employees, including Pilla, Rotatori said.

"We want to demonstrate the diocese was working with off-book accounts and disbursing money," he said. "This is not something they're unfamiliar with."

In the motion, the lawyers outline transactions in several accounts they say existed but were not part of the diocese's official books and records. The documents list check numbers, dates, amounts and payees.

Philip Kushner, Smith's attorney, said Smith provided the information.

"Joe Smith worked at the highest levels of the diocese for over 20 years," Kushner said. "He's intimately familiar with diocesan operations and specific transactions."

Smith started working for the diocese in the 1980s. In 1994, he was named chief financial officer, becoming the highest-ranking lay person in the business office. In 2000, he was named legal and financial secretary, a job he held until 2004, when he was suspended.

One account detailed is the "Anthony M. Pilla Charitable Account" opened at McDonald & Co. The account had assets of more than \$500,000, Kushner said in the motion.

"Bishop Pilla withdrew money from the account for his own use in a manner designed to conceal the transactions and his use of the fund," Kushner wrote. "After the indictment in this case, Bishop Pilla resigned and filed amended tax returns which account for some of the activity in this account."

Pilla, who retired last year citing health concerns, declined through a spokesman Saturday to comment.

In September 1991, Pilla had two checks written on the Anthony M. Pilla Charitable Account totaling \$85,825. The money was deposited with the diocese, which then bought a money order payable to Pilla for the same amount, Kushner said.

In 1997, three checks were written on the Pilla account to Ivanhoe Furniture totaling \$78,759, Kushner said.

There were also 28 checks written between 1997 and 2001 made out to cash. Those checks totaled \$12,558, Kushner wrote.

In 2002, Pilla wrote a check payable to cash from the account for \$180,000, which was deposited with the diocese. It's unclear what became of that money, Kushner said.

Kushner declined to say whether the money in the Pilla account came from the diocese or from private donors. The account alternated between using the diocesan and Pilla's tax identification number but never appeared on the diocese's books or records, Kushner claims.

Smith also claims Wright, the former financial secretary for the diocese who now leads the Catholic Cemeteries Association, approved more than \$700,000 in payments to himself, his secretary and companies owned by friends and relatives.

Kevin Spellacy, a lawyer representing Wright, did not return calls seeking comment. Spellacy acknowledged last year that Wright approved paying Smith an additional \$270,000 that was placed in an account outside the diocese.

Spellacy said at the time that Wright was duped and did not know about the additional \$784,000 in payments made through Zgoznik.

Smith's lawyers say that Wright not only knew about the payments but also orchestrated them.

"He is a financially sophisticated attorney," Kushner wrote. "He arranged for other diocesan employees to receive compensation through Zgoznik enterprises, so it would not be disclosed on [diocesan] books and records."

Starting in 1998, Wright approved payments of more than \$500,000 to a die and mold company, which Kushner says is owned by a friend of Wright's. The money was paid through Basilica Corp., a subsidiary of the Catholic Cemeteries Association that manufactured burial monuments.

The motion also says Wright approved \$95,000 worth of payments to consulting and landscaping companies where relatives of Pilla and Wright worked.

Smith resigned from his job at the Cleveland diocese but then took a similar position with the Columbus diocese in 2004. He resigned from that job last year, after he was indicted.