

October 10, 2016: Will the Church Go Bankrupt?

The question circulating around the island is “Will the Archdiocese of Agana go bankrupt?” This inquiry is in reaction to the recent passage of Public Law 33-187. The new law completely eliminates the statute of limitations for child sexual abuse. Prior to the law’s passage, several people accused Guam priests of molesting them or their relatives.

Everyone is now wondering, with the courthouse doors wide open, how many more accusers will come forward? If the experiences of other cities and states are any indication, we can expect those numbers to increase significantly. For example, when an investigation in Boston began, up to 20 priests were suspected of molesting children. By the time the investigation concluded, 249 priests stood accused.

Assuming that the Guam accusers make it past some initial legal hurdles, the potential damages could be staggering. Boston paid out \$85 million to the 552 victims. The 508 victims in Los Angeles, California shared \$660 million, while San Diego paid out \$198 million to 144 plaintiffs. What can Guam expect?

In his September 15, 2016, letter to all Guam Catholic parishioners, Archbishop Hon speculated that “the result will very likely be to drive the Archdiocese into bankruptcy. Bankruptcy *will* mean the forced sale of Church properties that currently house our schools and social services....” My research indicates that this probably won’t occur.

First, let’s get the terminology straight. “Bankruptcy” is a legal process controlled exclusively by the federal courts. Either an individual or business may apply for bankruptcy. A diocese is considered a business. There are two types of business bankruptcy procedures - Chapter 7 and Chapter 11. A Chapter 7 filing is used by a business with no hope of staying in operation. A trustee is appointed by the court to take possession of all assets and to distribute them among the creditors. The business then shuts down forever. None of the 13 U.S. dioceses that have filed for bankruptcy have filed a Chapter 7 bankruptcy.

Rather, all 13 dioceses have filed under Chapter 11. The goal under Chapter 11 is to restructure the company, or diocese, so it can continue in business. Undoubtedly, if the Archdiocese of Agana decides to file for bankruptcy, it will be under Chapter 11. With the guidance of a court trustee, the diocese will be required to file a reorganization plan that lists all its assets and debts, and explains how creditors will be paid. If any lawsuits are pending against the diocese, they will be frozen and the plaintiffs in the lawsuits will become creditors. The creditors vote on the restructuring plan but the judge makes the final decision.

Often the most contentious part of the process is trying to determine the extent of the diocese’s assets. Frequently, individual parishes, schools, and charitable organizations are separately incorporated and aren’t included in the list of diocese assets. My research indicates that very few schools, parishes or charitable organizations have been forced to close as a result of a bankruptcy proceeding.

The Archdiocese of Agana will undoubtedly weather this storm and continue to provide valuable services to the community. Perhaps the best way to ensure that no schools or social services are shuttered is for the archdiocese to reclaim ownership of the Redemptoris Mater Seminary property in Yona and place the property in trust for the victims of church-related sexual assaults.