B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)	**ADVERSARY PROCEEDING NUMBER** (Court Use Only)

PLAINTIFFS	**DEFENDANTS**
THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF THE ROMAN CATHOLIC BISHOP OF OAKLAND	THE ROMAN CATHOLIC BISHOP OF OAKLAND, THE OAKLAND PAROCHIAL FUND, INC., AND JOHN DOE CHURCHES 1-82
ATTORNEYS (Firm Name, Address, and Telephone No.) KELLER BENVENUTTI KIM LLP, 425 Market Street, 26th Floor, San Francisco, California 94105 Telephone: (415) 496-6723	**ATTORNEYS** (If Known) FOLEY & LARDNER LLP
PARTY (Check One Box Only) □ Debtor □ U.S. Trustee/Bankruptcy Admin ☒ Creditor □ Other □ Trustee	**PARTY** (Check One Box Only) ☒ Debtor □ U.S. Trustee/Bankruptcy Admin □ Creditor □ Other □ Trustee

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

The adversary complaint seeks, among other things, declaratory relief that the Debtor owns all legal and equitable interests in certain property including, *inter alia,* pursuant to 11 U.S.C. § 541, and substantive consolidation against the Debtor and the other defendants.

NATURE OF SUIT

(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 7001(1) – Recovery of Money/Property
- ☐ 11-Recovery of money/property - §542 turnover of property
- ☐ 12-Recovery of money/property - §547 preference
- ☐ 13-Recovery of money/property - §548 fraudulent transfer
- ☐ 14-Recovery of money/property - other

FRBP 7001(2) – Validity, Priority or Extent of Lien
- ☒ 21-Validity, priority or extent of lien or other interest in property

FRBP 7001(3) – Approval of Sale of Property
- ☐ 31-Approval of sale of property of estate and of a co-owner - §363(h)

FRBP 7001(4) – Objection/Revocation of Discharge
- ☐ 41-Objection / revocation of discharge - §727(c),(d),(e)

FRBP 7001(5) – Revocation of Confirmation
- ☐ 51-Revocation of confirmation

FRBP 7001(6) – Dischargeability
- ☐ 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims
- ☐ 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud
- ☐ 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny

(continued next column)

FRBP 7001(6) – Dischargeability (continued)
- ☐ 61-Dischargeability - §523(a)(5), domestic support
- ☐ 68-Dischargeability - §523(a)(6), willful and malicious injury
- ☐ 63-Dischargeability - §523(a)(8), student loan
- ☐ 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)
- ☐ 65-Dischargeability - other

FRBP 7001(7) – Injunctive Relief
- ☐ 71-Injunctive relief – imposition of stay
- ☐ 72-Injunctive relief – other

FRBP 7001(8) Subordination of Claim or Interest
- ☐ 81-Subordination of claim or interest

FRBP 7001(9) Declaratory Judgment
- ☒ 91-Declaratory judgment

FRBP 7001(10) Determination of Removed Action
- ☐ 01-Determination of removed claim or cause

Other
- ☐ SS-SIPA Case – 15 U.S.C. §§78aaa *et.seq.*
- ☐ 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

☒ Check if this case involves a substantive issue of state law	□ Check if this is asserted to be a class action under FRCP 23
□ Check if a jury trial is demanded in complaint	Demand $

Other Relief Sought

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR THE ROMAN CATHOLIC BISHOP OF OAKLAND	BANKRUPTCY CASE NO. 23-40523 WJL	
DISTRICT IN WHICH CASE IS PENDING Northern District of California	DIVISION OFFICE Oakland	NAME OF JUDGE Judge Lafferty
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) /s/ *Gabrielle L. Albert*		
DATE 11/20/24	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Gabrielle L. Albert	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and **Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

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UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re: THE ROMAN CATHOLIC BISHOP OF OAKLAND, a California corporation sole, Debtor. --- THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF THE ROMAN CATHOLIC BISHOP OF OAKLAND,	Case No. 23-40523 WJL Chapter 11 Adv. Pro.

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Plaintiff,

v.

THE ROMAN CATHOLIC BISHOP OF OAKLAND, THE OAKLAND PAROCHIAL FUND, INC., AND JOHN DOE CHURCHES 1-82

Defendants.

ADVERSARY COMPLAINT FOR DECLARATORY RELIEF

Plaintiff, the Official Committee of Unsecured Creditors (the "**Committee**") of the Roman Catholic Bishop of Oakland (the "**Debtor**" or "**Diocese**"), brings this adversary complaint (the "**Complaint**") against the defendants named herein on behalf of creditors of the Debtor's Bankruptcy estate and hereby states and alleges as follows:

PRELIMINARY STATEMENT[1]

1. The Committee brings this action to resolve a fundamental dispute with the Debtor over the availability of hundreds of millions of dollars of cash, investments, and real estate, which, if declared property of the Debtor's estate, and/or substantively consolidated with the Debtor's estate, would be available to satisfy creditors' claims.

2. First, the Diocese contends that millions of dollars' worth of real and personal property are held in trust for the benefit of the Diocese's parish churches (the "**Churches**" and each, a "**Church**")[2], despite the fact that the Diocese also concedes the Churches are not

[1] Capitalized terms used but not otherwise defined in this Preliminary Statement shall have the meanings ascribed to them in this Complaint.

[2] The Committee understands that a parish is a geographical territory that contains, among other things, a Church that is served by a pastor and other clergy members that report directly to the Bishop, diocesan school(s), and vacant land (a "**Parish**"). The Committee uses the term "Churches" to refer to the entities for which the Diocese purportedly holds its property in trust because the Disclosure Statement provides that, "to the extent that the Bishop holds goods belonging to a parish—including, for example, real and personal property—he does so in trust *for the benefit of the applicable Church*." Disclosure Statement Art. IV.C (emphasis added).

separately incorporated entities under California law.[3] Still, the Diocese takes the position, as part of its asset protection scheme, that such assets are not part of its estate and thus cannot be reached by creditors of the Diocese—predominantly including the survivors of sexual abuse ("**Survivors**") comprising the Committee's constituency. By this adversary proceeding, the Committee, on behalf of the Diocese's chapter 11 estate, seeks a determination that the millions of dollars held in purported trusts for the benefit of the Churches are not held in a valid or enforceable trust, and that the assets in the purported trusts thus constitute property of the Diocese bankruptcy estate. Relatedly, the Committee seeks a determination that purportedly restricted funds are unrestricted property of the Debtor's estate.

3. Further, the Diocese transferred approximately $106 million comprised of cash in bank and investment accounts and loans receivable (the "**Shielded Assets**") to The Oakland Parochial Fund, Inc. (the "**OPF**"), a Diocese-operated shell corporation, roughly one month before the Diocese filed its chapter 11 bankruptcy case (the "**Chapter 11 Case**"). Shortly after receiving the Shielded Assets, the OPF purportedly loaned $35 million of the Shielded Assets back to the Diocese. The Diocese's Plan of Reorganization classifies the OPF's purposed claim for recovery of the "$35 million loan" as a Class 8 Claim.

4. Without question, the size of the Debtor's estate and in turn, the ability of the Debtor to fairly treat claims filed by Survivors will be materially impacted by resolution of these disputes. The transactions at issue should be seen for what they are: a transparent and intentional attempt to place the Diocese's assets beyond the reach of Survivors.

JURISDICTION AND VENUE

5. The Court has jurisdiction over this adversary proceeding (the "**Adversary Proceeding**") pursuant to 28 U.S.C. §§ 157 and 1334(b), 11 U.S.C. § 105; and Federal Rules of Bankruptcy Procedure 7001 and 7013.

Bishop holds goods belonging to a parish—including, for example, real and personal property—he does so in trust *for the benefit of the applicable Church*." Disclosure Statement Art. IV.C (emphasis added).

[3] "None of the parish churches (the "Churches") within the diocese are separately incorporated entities under California law." Disclosure Statement Art. IV.C.

6. Venue in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409 as this Adversary Proceeding arises under and in connection with a case under chapter 11 of the Bankruptcy Code that is pending in this District.

7. This Adversary Proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O).

PARTIES

8. Plaintiff is the Official Committee of Unsecured Creditors in this Chapter 11 Case appointed by the Office of the United States Trustee under 11 U.S.C. § 1102(a).

9. The Committee is a party in interest in the Chapter 11 Case under 11 U.S.C. § 1109(b).

10. The Committee is comprised of nine Survivors asserting claims against the Diocese based on sexual abuse perpetrated by persons or entities associated with or representing the Diocese or other Diocese-related institutions served by the Diocese.

11. Defendant The Roman Catholic Bishop of Oakland, is the Debtor and debtor-in-possession in this Chapter 11 Case and is a corporation sole organized under the laws of California with its principal place of business at 2121 Harrison Street, Suite 100, Oakland, CA 94612.

12. The Diocese is led and controlled by the bishop, which is currently the Most Reverend Michael C. Barber, SJ (the "**Bishop**") who has served in that role since May 25, 2013.

13. Defendant The Oakland Parochial Fund, Inc. is a California nonprofit religious organization with its principal place of business also at 2121 Harrison Street, Suite 100, Oakland, CA 94612.

14. Defendant John Doe Churches 1-82 are the Churches, which are unincorporated churches within the Diocese's Parishes and under the Diocese's control. The Diocese has previously acknowledged, including in a stipulation filed in state court, that the Churches are not separate legal persons or entities but are a part of the Diocese, while at the same time claiming the Diocese holds assets for the Churches in trust. Accordingly, the Committee is unable to independently ascertain or confirm the Churches' true legal names, or even if the

Churches have true legal names, without further discovery. Upon information and belief, the following John Doe Churches 1-82 are Churches of the Diocese located in the State of California: Holy Spirit/Newman Hall Church, St. Mary Magdalen Church, Cathedral Of Christ The Light, St. Theresa Church, St. Patrick Mission, St. Barnabas Church, St. Joseph Basilica, St. Ambrose Church, Our Lady Of Grace Church, Transfiguration Church, St. Raymond Penafort Church, Corpus Christi Church, Holy Spirit Church, St. James The Apostle Church, St. Joseph Church, Our Lady Of Guadalupe Church, All Saints Church, St. Bede Church, St. Clement Church, St. Joachim Church, St. Charles Borromeo Church, St. Michael Church, St. Edward Church, St. Augustine Church, St. Benedict Church, St. Bernard Church, St. Elizabeth Church, St. Leo The Great Church, Our Lady Of Lourdes Church, St. Margaret Mary Church, St. Patrick Church, Sacred Heart Church, Corpus Christi Church, Catholic Community Of Pleasanton, Church Of The Assumption, Our Lady Of Good Counsel, St. Felicitas Church, St. Leander Church, St. John The Baptist Church, Our Lady Of The Rosary Church, St. Anne Church, St. Ignatius Of Antioch Church, Immaculate Heart Of Mary Church, St. Agnes Church, St. Bonaventure Church, St. Francis Of Assisi Church, Queen Of All Saints Church, St. Rose Of Lima Church, St. Isidore Church, St. Jerome Church, St. John The Baptist Church, St. Callistus Church, St. Perpetua Church, St. Catherine Of Siena Church, St. Monica Church, St. Anthony Church, Santa Maria Church, St. Joseph Church, Church Of The Good Shepherd, Our Lady Queen Of The World, St. Peter Martyr Church, Christ The King Church, St. Stephen Church, Our Lady Of Mercy Church, St. Cornelius Church, St. David Of Wales Church, St. Patrick Church, St. Joan Of Arc Church, St. Anne Church, St. John Vianney Church, St. Mary Church, Divine Mercy Church, St. Mark Church, St. Anthony/Mary Help Of Christians, St. Columba Church, St. Jarlath Church, St. Louis Bertrand, Most Holy Rosary Church, St. Joseph The Worker Church, St. Anne Church, St. Paul Church, And St. Philip Neri/St. Albert The Great Church.

FACTUAL ALLEGATIONS

A. The Diocese Enterprise Corporate Structure

15. The Roman Catholic Bishop of Oakland, the Diocese, is incorporated under California law as a "corporation sole."

16. The Bishop is the head of the Diocese and has the ability, under civil law, to exercise control over all assets—including those purportedly owned by the Churches and Parish-affiliated schools (the "**Schools**")—within his jurisdiction.

17. According to the Debtors, the Bishop is charged with the collection of certain revenues earned or donated within the parishes of the Diocese to fund the activities and obligations of the Diocese, the review and approval of the Diocesan budget and investments, the review of and advice on parish and school budgets, and the setting of all policies regarding the mission of the Church within the Diocese.

18. The Bishop appoints each one of the principal staff members of the Diocese.

19. As set forth in the Global Notes to the Debtors' amended schedules of assets and liabilities [Dkt. Nos. 161 and 720] (the "**Schedules**") and second amended statement of financial affairs [Dkt. No. 693] (the "**SOFA**"), Fr. Lawrence D'Anjou splits his time and effort fulfilling responsibilities as both the Vicar General of the Diocese and pastor of St. Bonaventure Church in Concord. On average, he splits that time and effort 50/50 between the two assignments.

20. As a matter of administrative effectiveness and efficiency, St. Bonaventure Church pays Fr. D'Anjou's full salary as well as his full health and other benefits, then bills the Diocese central office for its 50% share/responsibility at the end of each month.

21. A similar administrative arrangement is used for other priests fulfilling pastor/parochial administrator assignments at other churches while also serving in part-time positions at the central office.

22. Father D'Anjou is also the Chief Executive Officer of the OPF, a position for which, upon information and belief, he is not compensated.

23. The Roman Catholic Welfare Corporation of Oakland (the "**RCWC**") is a California nonprofit religious corporation that purportedly oversees thirty-two elementary schools and two high schools. All the RCWC Schools' real property is owned by RCWC.

24. [redacted]

25. [redacted]

26. The Diocese acts as one body before the federal government and recognizes that the Parishes (including the Churches and Schools) fall under its umbrella, with all financial activity of the Parishes restricted by the Diocese.

27. No Parish may enter into a contract without the approval of the Diocese.

28. Before April 2023, the Diocese held, managed, and oversaw cash and investments allegedly related to or allegedly held in trust for Churches and RCWC / Schools in the Diocese's deposit and loan fund (the "**DLF**"), parochial investment pools (the "**Investment Pools**"), and other Diocese general operating accounts.

B. The Churches' Lack of Independent Control

29. None of the Churches are separately incorporated entities under California law.

30. The Diocese has represented to third parties that the Churches are merely part of the Diocese.

31. [redacted]

32. Before the Chapter 11 Case commenced, the Diocese entered into stipulations with several Survivor plaintiffs for the dismissal of Churches that had been named as defendants in state court lawsuits brought by Survivors (the "**State Court Stipulations**").

33. The State Court Stipulations provided that the dismissed Church "is not a separate corporation or civil legal entity of any kind, and The Roman Catholic Bishop of Oakland, a corporation sole, holds title to its assets under civil law."

34. The Diocese has complete control of and domination over the Parishes, the Churches, and the Property (as defined herein), as evidenced by the fact that the Diocese:

[redacted]

35. In addition (and as set forth in the Handbook):

[redacted]

[redacted]

C. The Property Purportedly Held "In Trust"

36. The Diocese holds legal title to all real and personal property purportedly owned by the Churches.

37. Notwithstanding the Diocese's complete control and dominion over the Churches, the Parishes and the Property, the Disclosure Statement provides that, "to the extent that the Bishop holds goods belonging to a parish—including, for example, real and personal property—he does so in trust for the benefit of the applicable Church." Disclosure Statement Art. IV.C

38. In its SOFA, the Diocese listed millions of dollars in bank and investment accounts containing cash and investments (the "**Personal Property**") and real property (the "**Real Property,**" and, together with the Personal Property, the "**Property**"), which it purports to hold in trust for the benefit of individual Churches, which are listed as the "Property Owner."

39. Upon information and belief, the Property titled in the Diocese's name is not subject to a written trust agreement.

40. Upon information and belief, the Diocese and the Churches never intended to establish trusts for the Property.

41. As the Diocese has represented, it can use the Personal Property for its own purposes.

42. In the SOFA, the Diocese lists 203 parcels of real property—the Real Property—purportedly held by the Debtor in trust for the benefit of the Churches, which the Diocese contends has a tax assessed value in excess of $225 million.

43. The Diocese also lists 279 bank and investment accounts containing cash and investments—the Personal Property—purportedly held by the Debtor in trust for the benefit of the Churches, which the Diocese contends has a value in excess of $49.6 million.

44. For the avoidance of doubt, the Property is not limited to the real and personal property listed on the SOFA.

45. The Diocese included none of the Property in the Schedules as property of the Debtor's estate.

D. The OPF and its Corporate Structure

46. The OPF is a separately incorporated California nonprofit religious corporation that was established in 2014 with the primary purpose of supporting the missions and purposes of the Diocese, to be "operated, supervised or controlled by The Roman Catholic Bishop of Oakland."

47. Before April 1, 2023, within roughly one month of the commencement of the Diocese's Chapter 11 Case, the OPF held no cash or investments and conducted no business of any kind.

48. Upon information and belief, the OPF only has two officers: Father Lawrence D'Anjou and Paul A. Bongiovanni.

49. Father Lawrence D'Anjou is the Chief Executive Officer and President of the OPF and the Vicar General of the Diocese.

50. At the time of the Transfers (defined below) to OPF, Paul A. Bongiovanni was the Chief Financial Officer and Secretary of the OPF, the Chief Financial Officer of the Diocese, and the Chief Financial Officer of the RCWC.

51. The OPF's Articles of Incorporation (the "**OPF Charter**") provide that "all corporate property is irrevocably dedicated to support the religious mission and purposes, and teachings, beliefs and activities, of the [Diocese] . . . and is formed, and shall be operated, supervised or controlled by the Diocese."

52. While the OPF Charter also provides that the OPF's powers shall be exercised, its properties controlled, and its affairs conducted by OPF's board of directors (the "**OPF Board**"), particular actions by the OPF Board, including the following, ***are effective only upon the written consent of the Diocese***:

> (i) any borrowing for capital or other similar needs;
>
> (ii) entering into any transaction outside the ordinary course of the affairs of the corporation; or

(iii) any amendment, restatement, repeal or adoption of the Articles of Incorporation or Bylaws of the corporation.

53. The agent and incorporator identified in OPF's Charter is Michael P. Canizzaro, [redacted]

54. Since its incorporation in 2014, the OPF has never had any employees.

55. According to the Diocese, the Parishes and RCWC have "the opportunity, but not the obligation, to invest their funds" with the OPF, and the OPF serves as a "non-profit fund manager for investments" of the Parishes and RCWC "to the extent they choose to participate."

56. The Debtor concedes that the "OPF relies on the Debtor for finance and accounting services related to the closing of books and maintaining its accounting records."

E. Significant Litigation Against the Diocese

57. On October 13, 2019, Governor Gavin Newsom signed into law California Assembly Bill No. 218 ("**AB 218**"). AB 218 revived the statute of limitations for individuals to file civil lawsuits for childhood sexual abuse. The passage of AB 218 allowed certain Survivors to bring what had been time-barred claims against individuals and entities for such claims through and including December 31, 2022.

58. As of May 4, 2023, the Debtor estimated that there were 332 separate, active lawsuits or mediation demands pending against the Debtor filed by Survivors alleging sexual abuse by clergy or others associated with the Debtor.

F. The Sham OPF Agreements

59. In the two months leading up to the Chapter 11 Case, the Diocese entered into a series of sham agreements in a transparent attempt to obfuscate its divestiture of estate assets.

60. [redacted]

61. [redacted]

62. [redacted]

63. [redacted]

64. [redacted]

65. [redacted]r.

66. [redacted]

67. [redacted]

68. [redacted]

69. [redacted]

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70. Paul A. Bongiovanni [redacted] and Father Lawrence D'Anjou [redacted]

[redacted]

71. [redacted]

[redacted]

72. [redacted]

[redacted]

73. [redacted]

[redacted]

74. [redacted]

[redacted]

75. [redacted]

[redacted]

[redacted]

76. [redacted]

77. [redacted]

78. [redacted]

G. The Fraudulent Transfers

79. Before April 2023, the Diocese held, managed, and oversaw cash and investments allegedly related to or allegedly held in trust for Churches and the RCWC in the Diocese's deposit and loan fund (the "**DLF**"), parochial investment pools (the "**Investment Pools**"), and other Diocese general operating accounts.

80. On April 1, 2023 and May 5, 2023, purportedly in connection with the Investment Agreement, the Management Agreement, and the Parochial Fund Agreement, the Diocese transferred approximately $106 million of its property to the OPF.

81. More specifically, on April 1, 2023, with hundreds of litigation claims by Survivors pending, the Diocese made two transfers of the Shielded Assets to the OPF: (i) a $69,835,616.68 transfer of DLF funds (the "**First Transfer**"); and (ii) a $31,137,695.47 transfer of Investment Pool funds (the "**Second Transfer**").

82. On May 5, 2023, just three days before filing for bankruptcy, the Diocese transferred an additional $5,002,915.65 of DLF funds to the OPF (the "**Third Transfer**," and together with the First Transfer and Second Transfer, the "**Transfers**").

83. The Transfers total approximately $106 million, which upon information and belief, included approximately $92 million in cash and investments and $14 million in net loans

receivable. The $14 million of net loans receivable include the Diocese's purported right to payment from the Churches and RCWC.

84. Although, upon information and belief, the Debtors contend the Shielded Assets were transferred to the OPF with liabilities in corresponding amounts reflecting the amounts purportedly owed by the Diocese to the Churches and RCWC, any such purported liabilities are not only illusory, but entirely void of documentary support.

H. The Sham Term Loan Agreement

85. On April 28, 2023, just after the First and Second Transfers, and just before the Third Transfer, the Debtor and the OPF entered into a term loan agreement (the "**Term Loan Agreement**") under which the OPF purportedly loaned the Debtor $35 million on an unsecured basis (the "**OPF Claim**").

86. The OPF Claim is scheduled for $35,019,178.08 on Schedule E/F of the Debtor's Schedules.

87. [redacted]

I. The Diocese's Chapter 11 Case

88. On May 8, 2023 (the "**Petition Date**"), the Diocese filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

89. The Diocese concedes that it lacked the financial means to litigate the approximately 332 lawsuits and mediation demands that were pending against the Debtor as of May of 2023.

90. On June 8, 2023, the Diocese filed its amended Schedules, which list the Investment Agreement, Management Agreement, and Parochial Fund Agreement as executory contracts to which the Diocese is a party.

91. The Diocese admits having, or having had, an interest in the OPF and describes it as an "[i]nvestment fund organized for the purpose of offering the [Parish] Churches and

certain Non-Debtor Affiliated Catholic Entities the opportunity, but not the obligation, to invest their funds."

92. On November 8, 2024, the Debtor filed the Plan, of which it will seek approval without the support of the Committee.

93. The Plan classifies the OPF Claim as a Class 8 Claim which is entitled to vote on the Plan.

94. The Debtor asserts the Class 8 Claim is impaired for voting on the Plan.

95. The Plan provides that claims of Survivors—which are classed in Class 4 (Abuse Claims) and Class 5 (Unknown Abuse Claims)—are impaired under the Plan.

CAUSES OF ACTION

COUNT ONE
(Declaratory Relief: The Churches are Unincorporated Divisions of the Diocese)
(Against the Diocese and John Doe Churches 1-82)

96. The Committee repeats and realleges each of the allegations set forth above and below as if fully set forth herein.

97. The Churches are not separately incorporated under California law, and have no independent legal existence separate from the Diocese.

98. The Diocese is a corporation.

99. Upon information and belief, the Diocese contends that the Churches are not unincorporated divisions, but are instead entities capable of owning the Property.

100. An actual, justiciable controversy exists as to whether the Churches are unincorporated divisions of a corporation and are merely parts of the Diocese.

101. The Committee is entitled to a judicial determination that the Churches are unincorporated divisions of a corporation and are, accordingly, merely parts of the Diocese.

COUNT TWO
(Declaratory Relief: Diocese Owns all Legal and Equitable Interests in the Property Pursuant to 11 U.S.C. § 541)
(Against the Diocese and John Doe Churches 1-82)

102. The Committee repeats and realleges each of the allegations set forth above and below as if fully set forth herein.

103. Because the Churches are unincorporated divisions with no separation from the Diocese, and because title to the property is in the name of the Diocese, the Diocese holds all legal and equitable interests in the Property.

104. The significant dominance and control the Diocese exerts over the Property—and corresponding lack of control held by the Parishes over the Churches—further demonstrate that the Diocese holds both the legal and equitable interests in the Property, and that it is property of the Debtor's estate.

105. The Diocese asserts that the Property is held in trust for the benefit of the Churches.

106. Upon information and belief, there are no written trust agreements and there is no resulting trust.

107. An actual, justiciable controversy exists as to whether the Diocese owns all legal and equitable interest in the Property.

108. The Committee is entitled to a determination that the Diocese owns all legal and equitable interest in the Property, and that the Property is property of the Debtor's estate pursuant to section 541 of the Bankruptcy Code.

COUNT THREE
(Declaratory Relief: No Valid Trust Exists with Respect to the Property)
(Against the Diocese and John Doe Churches 1-82)

109. The Committee repeats and realleges each of the allegations set forth above and below as if fully set forth herein.

110. Upon information and belief, neither the Diocese nor the Parishes or Churches intended that any of the Property was to be held in trust by the Diocese for the benefit of the Churches.

111. Upon information and belief, the Property, which is titled in the Diocese's name, is not subject to a written trust agreement.

112. The Churches are unincorporated divisions of a corporation and are not capable of owning property or being beneficiaries of a trust.

113. The legal interest in the Property (purportedly held by the Diocese) and the beneficial interest in the Property (purportedly held by the Churches) are identical and held by the same legal entity.

114. The Diocese asserts that the Property is held in trust for the benefit of the Churches.

115. An actual, justiciable controversy exists as to whether a valid trust exists with respect to the Property.

116. The Committee is entitled to a judicial determination that no valid trust exists with respect to the Property.

COUNT FOUR
(Substantive Consolidation of the Churches and Diocese)
(Against the Diocese and John Doe Churches 1-82)

117. The Committee repeats and realleges each of the allegations set forth above and below as if fully set forth herein.

118. To the extent that the Court determines the Churches are capable of owning the Property, the Churches have entangled business dealings with the Debtor, as set forth in paragraphs 34 and 35 herein. [redacted]

119. [redacted]

[redacted]

120. The time and expense necessary to attempt to unscramble the entanglement of the Diocese's affairs with that of the Churches is so substantial that no accurate identification and allocation of assets is possible in the absence of substantive consolidation.

121. The benefits of substantive consolidation of the Churches and the Diocese outweigh the harm (if any) of the consolidation.

122. Substantive consolidation is necessary to ensure fairness to all creditors.

123. Accordingly, the Churches and Diocese should be substantively consolidated.

COUNT FIVE
(Declaratory Relief: The Term Loan Agreement Proceeds Transferred into Purportedly Restricted Bank Accounts are Unrestricted Property of the Estate Pursuant to 11 U.S.C. § 541)
(Against OPF)

124. The Committee repeats and realleges each of the allegations set forth above and below as if fully set forth herein.

125. Subsequent to entry into the Term Loan Agreement, the Diocese transferred the Term Loan Proceeds from unrestricted Diocese bank accounts (including from the Diocese's general operating account) into newly-created and purportedly restricted bank accounts.

126. Upon information and belief, such funds are not restricted pursuant to any valid governance document setting forth an intent to restrict the funds to a specific purpose.

127. The Diocese maintains that such funds are restricted.

128. An actual, justiciable controversy exists as to whether such funds are restricted.

129. The Committee is entitled to a judicial determination that the funds are unrestricted funds of the Debtor's estate under section 541 of the Bankruptcy Code.

COUNT SIX
(Substantive Consolidation)
(Against OPF)

130. The Committee repeats and realleges each of the allegations set forth above and below as if fully set forth herein.

131. Through the Bishop and with the assistance of other high-level management personnel of the Diocese—who are also officers of the OPF—the Diocese exercises such a high degree of domination and control over the OPF that the OPF is so entangled with the affairs of the Diocese that consolidation will benefit all creditors.

132. OPF is a shell entity and mere instrumentality of the Diocese that has never had any employees since its incorporation in 2014 and, prior to April 1, 2023, held no cash or investments and conducted no business of any kind. The OPF Board needs the written consent of the Diocese to do any of the following: borrowing for capital or other similar needs; entering into any transaction outside the ordinary course of the affairs of the corporation; or amending, restating or adopting the Articles of Incorporation or bylaws. OPF relies on the Debtor for finance and accounting services related to the closing of books and maintaining its accounting records. All corporate property of OPF is formed, and shall be operated, supervised or controlled by the Diocese. [redacted]

133. The OPF was created and operates merely for the purpose of funding the Diocese's capital needs and shielding funds from the Diocese's creditors, including Survivors. The OPF solely serves as a conduit for the Diocese, and the Shielded Assets purportedly owned or held by the OPF is property of the Diocese's estate.

134. The time and expense necessary to attempt to unscramble the entanglement of the Diocese's affairs with that of OPF is so substantial that no accurate identification and allocation of assets is possible in the absence of substantive consolidation.

135. Because the Diocese is attempting to use its bankruptcy filing to obtain a litigation advantage over Survivors and to place the assets it owns and controls beyond the reach of the Survivor claimants but still within the Diocese's reach and control and, accordingly, the benefit of substantive consolidation outweighs the harm (if any) to OPF and the Diocese.

136. Accordingly, OPF and the Diocese should be substantively consolidated, *nunc pro tunc*, effective as of the Petition Date.

PRAYER FOR RELIEF

WHEREFORE, the Committee seeks judgment as follows:

a. A determination that the Churches are unincorporated divisions of the Diocese;

b. A determination that the Diocese owns all legal and equitable interest in the Property and the Property constitutes property of the Diocese's estate under 11 U.S.C. § 541(a);

c. A determination that no valid trust exists with respect to the Property;

d. Substantively consolidating the Churches and the Diocese, *nunc pro tunc*, effective as of the Petition Date;

e. A determination that the Term Loan Proceeds transferred into purportedly restricted bank accounts are unrestricted property of the Debtor's estate;

f. Substantively consolidating OPF and the Diocese *nunc pro tunc*, effective as of the Petition Date; and

g. Any other relief that the Court deems just and proper.

Dated: November 20, 2024

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