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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.	Case No. 23-40523 WJL Chapter 11
THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF THE ROMAN CATHOLIC BISHOP OF OAKLAND, Plaintiff,	Adv. Pro. 24-04051 WJL

Case: 24-04051 Doc# 36 Filed: 04/30/25 Entered: 04/30/ 23405232504300000000000009

v.

THE ROMAN CATHOLIC BISHOP OF OAKLAND and THE OAKLAND PAROCHIAL FUND, INC.,

Defendants.

FIRST AMENDED ADVERSARY COMPLAINT FOR DECLARATORY RELIEF

Plaintiff, the Official Committee of Unsecured Creditors (the "**Committee**") of the Roman Catholic Bishop of Oakland (the "**Debtor**" or the "**Diocese**"), files this first amended complaint (the "**Amended 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 over the availability of tens of millions of dollars to satisfy creditors' claims against the Debtor in the above captioned Chapter 11 case (the "**Chapter 11 Case**").

2. Although the Debtor's pre-petition audit indicates that only approximately $3.5 million of its assets contain restrictions on use, the Debtor now alleges that more than $38 million is held by it and the Churches in a charitable trust as a result of donor restrictions. The Debtor alleges those Shielded Assets are not property of the Debtor's estate, do not need to be included on the Debtor's Schedules and Statements of Financial Affairs (the "**Schedules and SOFAs**"), do not need to be reported in the Debtor's monthly operating reports, can be adjusted out of the Debtor's liquidation analysis, and cannot be used to pay its creditors, including but not limited to survivors of sexual abuse ("**Survivors**"). However, despite almost two years of discovery, the Committee has not been provided with documentation and identification sufficient to establish donor restrictions and/or a trust over the Shielded Assets.

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

3. Without question, the size of the Debtor's estate and, in turn, the ability of the Debtor to fairly treat claims filed by Survivors (and all creditors) will be materially impacted by resolution of this dispute. Thus, whether the Debtor is able to confirm its proposed Plan hinges on resolution of this dispute.

JURISDICTION AND VENUE

4. 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.

5. 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.

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

PARTIES

7. 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).

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

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

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

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

FACTUAL ALLEGATIONS

A. The Diocese Enterprise Corporate Structure

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

13. The Debtor is a religious corporation sole.

14. The churches within the Diocese (the "**Churches**") are not separately incorporated and do not hold property independently from the Debtor. Therefore, unless subject to a valid restriction, any property previously designated as property of the Churches or property being held for the benefit of Churches, is property of the Debtor's estate.

15. 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.

B. Significant Litigation Against the Diocese

16. 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.

17. 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.

C. The Debtor's Chapter 11 Case

18. On May 8, 2023, the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.

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

20. On November 8, 2024, the Debtor filed the *Debtor's Plan of Reorganization* (as subsequently amended, the "**Plan**") and the *Disclosure Statement for Debtor's Plan of Reorganization* (as subsequently amended, the "**Disclosure Statement**").

21. On April 4, 2025, the Court entered the *Order (I) Approving Third Amended Disclosure Statement; (II) Establishing Procedures for Plan Solicitation, Notice, and Balloting*.

22. A hearing on confirmation of the Plan is scheduled to begin on August 25, 2025.

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

24. In the Disclosure Statement, the Debtor alleges that "many" of its assets (the "**Shielded Assets**") cannot be used "to pay operational expenses, or to pay its creditors" because the assets are held in a charitable trust pursuant to the California Business and Professions Code (the "**CBPC**") section 17510.8.

D. The Adversary Proceeding

25. On November 20, 2024, the Committee filed a complaint (the "**Original Complaint**") initiating this Adversary Proceeding.

26. The Debtor and OPF each filed a motion to dismiss the Original Complaint.

27. On April 4, 2025, the Court entered the *Order After Hearing on Motions to Dismiss*, which granted the motions to dismiss the Original Complaint, granting the Committee leave to amend the Original Complaint.

E. The Shielded Assets

28. The Debtor currently alleges that approximately $38 million of its assets are Shielded Assets.

29. Upon information and belief, the Shielded Assets were commingled both with unrestricted assets, and with assets subject to different alleged restrictions.

30. Upon information and belief, the Shielded Assets are held in accounts at OPF, Bank of the West, Wells Fargo Bank, N.A., Fremont Bank, Mechanics Bank, Bank of America, US Bank, Bank of Marin, First Republic Bank, Edward Jones, United Business Bank, and JP Morgan Chase Bank, N.A.

i. The Individual Donor Assets

31. Certain of the Shielded Assets were donated or gifted to the Debtor by individual donors who allegedly specified restrictions on the use of the funds (the "**Individual Donor Assets**").

32. The documentation relating to certain of the Individual Donor Assets permitted the Debtor and/or the Bishop to use the funds in its/his discretion or otherwise did not specify any restriction for the donation.

ii. The Campaign Assets

33. The Debtor, Churches, and third parties have run campaigns and/or other collections to raise money from parishioners and others associated with the Debtor and/or its affiliates (the "**Campaign Assets**").

34. The Campaign Assets were donated to the Debtor as a result of solicitations (the "**Solicitation Materials**") through the Debtor and the Churches.

35. One such solicitation is referred to as the "**Bishop's Appeal**."

36. In or about 2008, the Debtor informed prospective purchasers of its bonds that the funds held in its deposit and loan fund (the "**DLF**"), collected in connection with the Bishop's Appeal were "unrestricted," noting

> The Bishop's Appeal is an annual direct appeal by the Bishop to every Catholic household in the Diocese to provide funding for the agencies of the Diocese. All of these funds are

unrestricted and available to pay the budgeted expenses of the Diocese as well as any amounts payable on debt of the Diocese, including the Bonds.

37. In the Disclosure Statement, the Debtor now asserts that the funds raised through the Bishop's Appeal, now called the Bishop's Ministries Appeal, are restricted assets.

38. Certain of the Solicitation Materials included provisions that the Debtor and/or the Bishop can use the Campaign Assets at their discretion.

39. Certain of the Solicitation Materials, or documents regarding the use of funds received on account of the Solicitation Materials, at times, provided that the funds raised were to be used to service or pay down outstanding debts of certain Churches.

[redacted]

CAUSES OF ACTION

COUNT ONE

(Declaratory Relief: The Campaign Assets Are Not Held in Charitable Trust Under Section 17510 *et seq.* of the CBPC)

(Against the Debtor and OPF)

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

42. Section 17510 *et seq.* of the CBPC provides that a charitable trust is established with respect to donations and gifts to a charity that are solicited for charitable purposes.

43. The Solicitation Materials did not seek donations for charitable purposes.

44. As a result, section 17510 *et seq.* of the CBPC does not apply to the Campaign Assets.

45. Section 17510.3 of the CBPC sets forth requirements for solicitations to create a charitable trust, including (i) the solicitor shall exhibit to the prospective donor a card entitled "Solicitation or Sale for Charitable Purposes Card" that is signed and dated under penalty of

perjury by an individual who is a principal, staff member, or officer of the soliciting organization, among other requirements, or (ii) distributing printed material including, among other things, the name and address of each organization on behalf of which all or any part of the money collected will be utilized for charitable purposes, the manner in which the money collected will be utilized for charitable purposes, and the percentage which may be deducted as a charitable contribution under both federal and state law.

46. The Solicitation Materials did not include a card entitled "Solicitation or Sale for Charitable Purposes Card" that was signed and dated under penalty of perjury by an individual who is a principal, staff member, or officer of the solicitating organization.

47. The Solicitation Materials did not include printed material including the name and address of each organization on behalf of which all or any part of the money collected would be utilized for charitable purposes, the manner in which the money collected would be utilized for charitable purposes, nor the percentage which may be deducted as a charitable contribution under both federal and state law.

48. The Solicitation Materials do not comply with section 17510.3 of the CBPC.

49. Section 17510.4 of the CBPC provides that "[i]f the initial solicitation or sales solicitation is made by radio, television, letter, telephone, or any other means not involving direct personal contact with the person solicited, including over the Internet, this solicitation shall clearly disclose the information required by Section 17510.3."

50. Because the Solicitation Materials do not comply with section 17510.3 of the CBPC, upon information and belief, the Solicitation Materials do not comply with section 17510.4 of the CBPC, to the extent applicable.

51. Section 17510.6 of the CBPC provides that "[t]he provisions of this article [creating a charitable trust] shall not apply to solicitations, sales, offers, or attempts to sell within the membership of a charitable organization or upon its regular occupied premises . . . ."

52. The solicitations leading to donations of the Campaign Assets were within the membership of the Debtor and/or its affiliates or upon its regular occupied premises.

53. To the extent the Debtor is a charity, the Solicitation Materials are not in compliance with section 17510.6 of the CBPC.

54. Section 17510.8 of the CBPC establishes a charitable trust and a duty on the part of the charity and the person soliciting on behalf of the charity to use those charitable contributions for the declared charitable purposes for which they are sought.

55. Section 17510.25 of the CBPC defines "charity" as "a charity subject to supervision by the Attorney General pursuant to Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code."

56. Article 7 (Section 12583) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code provides that "[t]he filing, registration, and reporting provisions of this article do not apply to . . . any religious corporation sole or other religious corporation or organization that holds property for religious purposes, or to any officer, director, or trustee thereof who holds property for like purposes, to a cemetery corporation regulated under Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, or to any committee as defined in Section 82013 that is required to and does file any statement pursuant to Article 2 (commencing with Section 84200) of Chapter 4 of Title 9, or to a charitable corporation or unincorporated association organized and operated primarily as a religious organization [or an] educational institution . . . ."

57. The Debtor is a religious corporation sole.

58. OPF is a religious corporation.

59. Accordingly, neither the Debtor nor OPF are charities as defined by section 17510.25 of the CBPC.

60. Accordingly, section 17510.8 of CBPC does not apply to the funds held by the Debtor or OPF.

61. Section 17510 *et seq.* does not apply to the Campaign Assets.

62. Accordingly, a charitable trust was not established with respect to the Campaign Assets pursuant to section 17510 *et seq.* of the CBPC.

63. The Debtor asserts that many of its assets are held in a charitable trust pursuant to section 17510.8 of the CBPC.

64. Accordingly, an actual, substantial, and justiciable controversy exists as to whether or not the Campaign Assets are held in a charitable trust pursuant to section 17510.8 of the CBPC.

65. The Committee is entitled to a judicial determination that the Campaign Assets are not held in a charitable trust.

COUNT TWO

(Declaratory Relief: The Individual Donor Assets Are Not Held in Charitable Trust Under Section 17510 *et seq.* of the CBPC)

(Against the Debtor and OPF)

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

67. Section 17510 *et seq.* of the CBPC provides that a charitable trust is created with respect to donations and gifts that are solicited for charitable purposes.

68. The Individual Donor Assets were not donated in response to any solicitation by the Debtor.

69. Section 17510 *et seq.* of the CBPC does not apply to the Individual Donor Assets.

70. Section 17510.8 of the CBPC establishes a charitable trust and a duty on the part of the charity and the person soliciting on behalf of the charity to use those charitable contributions for the declared charitable purposes for which they are sought.

71. Section 17510.25 of the CBPC defines "charity" as "a charity subject to supervision by the Attorney General pursuant to Article 7 (commencing with section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code."

72. Article 7 (Section 12583) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code provides that "[t]he filing, registration, and reporting provisions of this

article do not apply to . . . any religious corporation sole or other religious corporation or organization that holds property for religious purposes, or to any officer, director, or trustee thereof who holds property for like purposes, to a cemetery corporation regulated under Chapter 12 (commencing with Section 7600) of Division 3 of the Business and Professions Code, or to any committee as defined in Section 82013 that is required to and does file any statement pursuant to Article 2 (commencing with Section 84200) of Chapter 4 of Title 9, or to a charitable corporation or unincorporated association organized and operated primarily as a religious organization [or an] educational institution . . . ."

73. The Debtor is a religious corporation sole.

74. OPF is a religious corporation.

75. Accordingly, neither the Debtor nor OPF are charities as defined by section 17510.25 of the CBPC.

76. Accordingly, section 17510.8 of the CBPC does not apply to the funds held by the Debtor or OPF.

77. Therefore, the Individual Donor Assets are not held in a charitable trust pursuant to section 17510.8 of the CBPC.

78. The Debtor asserts that many of its cash assets are held in a charitable trust pursuant to section 17510.8 of the CBPC.

79. Accordingly, an actual, substantial, and justiciable controversy exists as to whether or not the Individual Donor Assets are held in a charitable trust pursuant to section 17510.8 of the CBPC.

80. The Committee is entitled to a judicial determination that the Individual Donor Assets are not held in a charitable trust.

COUNT THREE

(Declaratory Relief: The Shielded Assets Are Not Held in Trust Pursuant to Section 9142(c) of the California Corporations Code)

(Against the Debtor and OPF)

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

82. Section 9142(c) of the California Corporation Code provides:

> (c) No assets of a religious corporation are or shall be deemed to be impressed with any trust, express or implied, statutory or at common law unless one of the following applies:
>
> (1) Unless, and only to the extent that, the assets were received by the corporation with an express commitment by resolution of its board of directors to so hold those assets in trust.
>
> (2) Unless, and only to the extent that, the articles or bylaws of the corporation, or the governing instruments of a superior religious body or general church of which the corporation is a member, so expressly provide.
>
> (3) Unless, and only to the extent that, the donor expressly imposed a trust, in writing, at the time of the gift or donation.

83. Because the Debtor and OPF are religious corporations, section 9142(c) of the California Corporations Code applies to determine whether the Shielded Assets are held in trust.

84. None of the Shielded Assets were received by the Debtor with an express commitment by resolution of its board of directors to so hold those assets in trust.

85. Neither the Debtor's articles or bylaws, or other governing instruments, expressly provide for any of the Shielded Assets to be held in trust.

86. The Solicitation Materials do not expressly impose a trust, in writing, over any Campaign Assets.

87. The Campaign Assets donated in response to Solicitations Materials do not expressly impose, in writing, a trust over the Campaign Assets.

[redacted]

90. Upon information and belief, certain of the Individual Donor Assets, even if properly restricted, can be used to pay creditors of the Debtor that fall within the restricted purpose.

91. The Shielded Assets are not held in trust pursuant to sections 9142(c) of the California Corporations Code.

92. The Debtor asserts that the Shielded Assets are held in trust.

93. Accordingly, an actual, substantial, and justiciable controversy exists as to whether or not the Shielded Assets are held in trust.

94. The Committee is entitled to a judicial determination that the Shielded Assets are not held in trust pursuant to Section 9142(c) of the California Corporations Code.

COUNT FOUR

(Declaratory Relief: The Shielded Assets Are Commingled and Not Properly Accounted For or Identified)

(Against the Debtor and OPF)

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

96. Upon information and belief, the Shielded Assets are, or have been, commingled both with unrestricted assets and with assets subject to different alleged restrictions.

97. The Shielded Assets now being held at OPF were previously deemed unrestricted by the Debtor while such funds were held in the Debtor's DLF.

[redacted]

99. Upon information and belief, the use of Shielded Assets is not properly accounted for.

100. Upon information and belief, the Shielded Assets have not been identified in actual segregated bank and/or investment accounts or, in the alternative, have not been traced using an acceptable methodology if commingled.

101. Upon information and belief, the Debtor has not analyzed whether the Shielded Assets could be used to pay creditors of the Debtor other than Survivors.

102. The Debtor asserts that the Shielded Assets are properly accounted for and cannot be used to pay creditors of the Debtor's estate.

103. Accordingly, an actual, substantial, and justiciable controversy exists as to whether or not the Shielded Assets are in fact properly accounted for such that the Shielded Assets are subject to valid restriction and/or available to pay creditors of the Debtor.

104. The Committee is entitled to a judicial determination that the Shielded Assets are commingled and are not properly accounted for and therefore are not subject to a valid restriction and are available to pay creditors of the Debtor.

COUNT FIVE

(Declaratory Relief: The Shielded Assets Are Unrestricted Property of the Debtor's Estate Under 11 U.S.C. § 541(a)(1))

(Against the Debtor and OPF)

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

106. The Shielded Assets constitute unrestricted assets of the Debtor's estate, are not held in trust, and may be used to pay the claims of the Debtor's creditors.

107. The Debtor asserts that the Shielded Assets constitute restricted assets, which the Debtor holds in trust, and therefore cannot be used to pay the claims of any creditors.

108. Accordingly, an actual, substantial, and justiciable controversy exists as to whether or not the Shielded Assets are in fact restricted.

109. The Committee is entitled to a judicial determination that the Shielded Assets (i) are not subject to valid restriction or held in any trust that prohibits them from being used to pay creditors of the Debtor, (ii) must be included in the Debtor's Schedules and SOFAs, (iii) must be reported in the Debtor's Monthly Operating Reports, and (iv) must be included in the Debtor's liquidation analysis without adjustment or reduction.

PRAYER FOR RELIEF

WHEREFORE, the Committee seeks judgment as follows:

a. A determination that the Campaign Assets are not held in a charitable trust pursuant to section 17510 *et seq.* of the California Business and Professions Code.

b. A determination that the Individual Donor Assets are not held in a charitable trust pursuant to section 17510 *et seq.* of the California Business and Professions Code.

c. A determination that the Shielded Assets are not held in trust pursuant to section 9142(c) of the California Corporations Code.

d. A determination that the Shielded Assets were commingled and not properly accounted for or identified.

e. A determination that the Shielded Assets are not restricted, are not held in trust, and can be used to pay creditors of the Debtor; and

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

Dated: April 30, 2025

KELLER BENVENUTTI KIM LLP
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