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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, vs. THE ROMAN CATHOLIC BISHOP OF OAKLAND, THE OAKLAND PAROCHIAL FUND, INC., AND JOHN DOE CHURCHES 1-82 Defendants.	Adv. Pro. No. 24-04051 WJL **REPLY MEMORANDUM IN SUPPORT OF THE OAKLAND PAROCHIAL FUND, INC.'S MOTION TO DISMISS** Date: June 4, 2025 Time: 2:00 p.m. Judge: Hon. William J. Lafferty, III Place: United States Bankruptcy Court Courtroom 220 1300 Clay Street Oakland, CA 94612

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TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF THE ROMAN CATHOLIC BISHOP OF OAKLAND:

PLEASE TAKE NOTICE that the Oakland Parochial Fund, Inc. ("OPF" or the "Non-Debtor Defendant"), defendant in the above-captioned adversary proceeding, hereby submits this *Reply Memorandum in Support of the Oakland Parochial Fund, Inc.'s Motion to Dismiss* (the "Reply"), in opposition to the *Omnibus Response of the Official Committee of Unsecured Creditors to (I) Debtor's Motion to Dismiss First Amended Adversary Complaint for Declaratory Relief and (II) The Oakland Parochial Fund's Motion to Dismiss* (the "Response") [Dkt. 48] and in further support of *the Motion of Oakland Parochial Fund, Inc. to Dismiss* (the "Motion"), pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure ("Rules"), as incorporated by Rule 7012 of the Federal Rules of Bankruptcy Procedure, the *First Amended Adversary Complaint for Declaratory Relief* (the "Complaint") filed against the Non-Debtor Defendant by the Official Committee of Unsecured Creditors of the Roman Catholic Bishop of Oakland (the "Committee"), on the grounds that the Complaint fails to allege a justiciable case or controversy against the Non-Debtor Defendant and, alternatively, fails to state a claim upon which relief may be granted.

Dated: June 2, 2025

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MEMORANDUM OF POINTS AND AUTHORITIES

I.

PRELIMINARY STATEMENT

The Committee's Response to OPF's Motion reiterates the notion that the Committee has manufactured this controversy in a hollow attempt to pull OPF into its ongoing bid to expand the universe of assets available to pay the Debtor's creditors. As explained in the Motion, the Committee's declaratory judgment action is non-justiciable as to, and fails to state a claim against, OPF.

In its Response, the Committee fails to contrive a justiciable controversy between itself and OPF. The Committee effectively concedes that it lacks a substantive right of action against OPF, and its contention that it has pleaded legal adversity between OPF and the Committee is conclusory, self-serving and unconvincing. The Complaint's suggestion that OPF exercises independent control over, and may may claim to, the assets that it holds for the Debtor finds no support in the Complaint and is an about-face from the Committee's prior position.

The Committee also responds that it has pleaded adequate facts to support each of the counts in its Complaint. But the Committee does not meaningfully address OPF's on-point authorities involving dismissals of better-pleaded adversary complaints, and its attempt to downplay the vagueness of the Complaint's factual allegations is unpersuasive.

Because the Committee's adversary complaint against OPF is neither justiciable nor adequately pleaded even if it were justiciable, dismissal of the Complaint is appropriate.

II.

ARGUMENT

A. The Committee's Response Does Not Posit a Justiciable Controversy Between Itself and OPF

The Committee cannot establish a justiciable case or controversy against OPF because the Committee lacks both a substantive right to relief against OPF (as it concedes) and a legal interest adverse to that of OPF. Additionally, the Committee's suggestion that OPF somehow maintains control of, or an interest in, the Debtor's assets finds no support in the Complaint.

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First, the Committee's Response fails to dispute that the Complaint does not satisfy a bedrock requirement for justiciability—a "right to relief" arising under federal law. *See* Dkt. 40, at 6–7; *see also Stokes v. Duncan (In re Stokes)*, Bankr. No. 09–60265–RBK, Adv. No. 12–00052–RBK, 2013 WL 5313412, at *6 (B.A.P. 9th Cir. Sept. 23, 2013) ("[Bankruptcy Code] section 541 defines property of the estate, but does not create a right to relief. It, therefore, follows that an action to enforce a right thereunder cannot exist."); *Collin Cty., Tex. v. Homeowners Ass'n for Values Essential to Neighborhoods, (HAVEN)*, 915 F.2d 167, 171 (5th Cir. 1990) ("A party's legal interest must relate to an actual 'claim arising under federal law that another asserts against him[.]'" (internal citations omitted)). The Response does not address this core issue at all and thus concedes it. *Linder v. Golden Gate Bridge, Highway & Transport. Dist.*, No. 4:14-CV-03861 SC, 2015 WL 4623710, at *4 (N.D. Cal. Aug. 3, 2015) ("[F]ailure to respond in an opposition brief to an argument put forward in an opening brief constitutes waiver or abandonment . . . .") (quoting *Stichting Pensioenfonds ABP v. Countrywide Fin. Corp.*, 802 F. Supp. 2d 1125, 1132 (C.D. Cal. 2011)). Because the Committee cannot meet this requirement of Article III, its Counts I through V should be dismissed as non-justiciable.

Next, the Committee attempts to establish an adverse legal interest between OPF and the Committee by arguing that the Complaint "demonstrates OPF's control over the Debtor's assets," to the potential detriment of the Committee. Dkt. 48, at 7–8. In support, the Committee cites its allegation that "the Shielded Assets held at OPF were previously deemed unrestricted when held by the Debtor but have been deemed restricted only while in OPF's possession." *Id.* (citing Compl. ¶ 97). Even accepting this allegation as true,[1] the Committee notably stops short of alleging that *OPF* may independently deem funds restricted or unrestricted, absent direction from the Debtor. Indeed, the Committee's own allegations contradict the idea that OPF has such power. Compl. ¶ 15 (alleging that OPF is "operated, supervised[,] or controlled by [the Debtor]"). Because the Committee has not plausibly alleged that OPF may determine what funds are restricted, there can be no reasonable inference that OPF controls the Debtor's funds.

[1] OPF accepts this allegation as true solely for the purposes of this Motion. *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004).

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In a final effort to manufacture adversity, the Committee points to the fact that the Debtor's Amended Schedules of Assets and Liabilities previously listed an unsecured claim by OPF, as supposed proof that OPF's relationship to the Debtor is "unlike [that of] a neutral banking institution." Dkt. 48, at 8. The Complaint lacks any allegations that OPF lays claim to the Debtor's estate, and the Court should disregard the Committee's intimation to the contrary. *Lewter v. United States*, Nos: 10-CV-2390 W (WVG), 10-CV-848 W (WVG), 2012 WL 13034849, at *6 (S.D. Cal. Aug. 10, 2012) (holding that in deciding a facial jurisdictional challenge, a court determines whether "the allegations ***contained in a complaint*** are insufficient on their face to invoke federal jurisdiction" (emphasis added)).[2] In any event, it is the Committee that has taken an "inconsistent position" concerning the relationship between the OPF and the Debtor. The Committee previously argued that OPF had no "valid enforceable claim" against Debtor (or, by extension, an adverse interest as to creditors asserting such a claim). (Dkt. 1766, at 10–11). Now, when it must show adversity of interest between itself and OPF, the Committee reverses course. But a mere shift in the Committee's legal theory does not equate to well-pleaded factual allegations.

The Committee's failure to allege a justiciable controversy between itself and OPF warrants dismissal of the Complaint under Rule 12(b)(1).

B. <u>The Committee's Response Fails to Rebut OPF's On-Point Authority, Ignores OPF's Analysis of the Complaint's Allegations, and Relies on an Inapposite Legal Principle.</u>

In its Response, the Committee insists that the Complaint "provided more than sufficient factual detail" to meet its pleading burden. Dkt 48. at 6. But a review of the Response reveals that it fails to meaningfully address OPF's cited authority involving more detailed adversary complaints, mischaracterizes OPF's Rule 8 argument, and seeks to incorrectly shift the legal burden to OPF at the pleading stage.

[2] Notwithstanding this pleading deficiency, as explicitly addressed in the Debtor's Third Amended Disclosure Statement, the Debtor may, in accordance with Canon law, repay Church funds that it previously borrowed from OPF accounts, once all of the Plan obligations have been satisfied. Dkt. 1874, at 37.

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Although the Committee cites general propositions of law concerning a plaintiff's pleading burden under Rule 8, it wholly fails to engage with the decisions cited in OPF's Motion, which actually apply the standard to adversary complaints. *Compare* Dkt. 48, at 5–7, *with* Dkt. 40, at 8–12. OPF's authority shows that courts have dismissed complaints containing far more detail regarding institutional accounts purportedly holding a debtor's funds, as well as the amounts and sources of those funds. Dkt. 36, at 8 (citing *In re Silver Star of Nevada, Inc.*, No. 23-10315-SAH, Adv. No. 25-01005-SAH, 2025 WL 898334, at *4 (W.D. Okla. Mar. 24, 2025) (slip copy); *In re Caremerica, Inc.*, 409 B.R. 737, 751 (Bankr. E.D. N.C. 2009)). Similarly, OPF's authority shows that the Committee's "commingling" allegations are insufficient to survive a Rule 12(b)(6) motion. *Id.* at 10 (citing *In re Stillwater Asset Backed Offshore Fund Ltd.*, 559 B.R. 563, 588–89 (S.D.N.Y. Sept. 2, 2016). The Committee makes no effort to distinguish its Complaint from these decisions.

Further, contrary to the Committee's assertion, OPF's Motion explains at length how the Complaint's *factual allegations* (such as they are) fail to satisfy Rule 8 with respect to each count. *See* Dkt. 48, at 6 (asserting that "OPF confuses the relief requested with the factual allegations. (See OPF Mot. at 7)"). For instance, in discussing why the Complaint does not adequately identify the Shielded Assets that are allegedly comprised of the Campaign Assets (Count I) and Individual Donor Assets (Count II), OPF refers directly to the Complaint's "Factual Allegations" section. Compl., at 8–9 ("[W]hile the Committee alleges that the Shielded Assets include Individual Donor Assets and Campaign Assets (*Id.* ¶¶ 31, 33), the Committee does not specify when either category of donations was collected, or by which constituent entity or affiliate of the Debtor."). Likewise, regarding the Complaint's reference to a 2008 description of the Bishop's Appeal in the Debtor's bond offering materials, OPF points out that the Complaint does not identify what percentage of the Shielded Assets "are comprised of donations through the Bishop's Appeal, which accounts these donations are held in, when they were purportedly deposited with OPF, and whether funds presumably deposited over a decade ago even remain in an OPF account today." *Id.* at 9 (regarding Compl. ¶ 36). The Response addresses none of these issues.

As to Count IV, which seeks a declaration that the Shielded Assets are "commingled and not property accounted for," the Motion shows that the Committee's allegations regarding (i) the

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documentation accompanying Individual Donor Assets and (ii) the Solicitation Materials related to the Campaign Assets are vague and unsupported. *Id.* at 10 (citing Compl. ¶¶ 32, 38–39). The Motion similarly illustrates why the Committee's allegations are lacking in their support of Count V. *Id.* at 11–12 ("[T]he Committee vaguely alleges that the Individual Donor Assets were donated without restrictions on their use (*Id.* ¶ 32), that the materials used by the Debtor to solicit donations of Campaign Assets permitted the assets' unrestricted use (*Id.* ¶¶ 38, 39), and that no governing instrument, bylaw, or resolution of the Debtor impressed a trust on the Shielded Assets (*Id.* ¶¶ 84, 85)").[3] Again, the Response does not engage any of these issues.

In concluding, the Committee attempts to shift the Court's focus from its inadequate pleading by noting that "it is ultimately the Debtor's burden to prove the assets are restricted[.]" Dkt. 48, at 7 (citing *In re Wendt*, 320 B.R. 904, 909 (Bankr. D. Minn. 2005)). This statement in *In re Wendt* concerns the *evidentiary* burden of a party asserting that the bankruptcy estate does not encompass certain assets. The Debtor's "burden of production" in opposing the Committee's declaratory judgment action has no bearing on the latter's inability to meet its pleading burden.

III.

CONCLUSION

For the foregoing reasons, OPF respectfully requests its Motion to dismiss the Complaint for lack of subject matter jurisdiction under Rule 12(b)(1) or, alternatively, for failure to state a claim for relief under Rule 12(b)(6) be granted with respect to Counts I through V asserted in the Complaint.

[3] Paragraphs 84 and 85 are located in the "Causes of Action" section of the Complaint. However, the "Factual Allegations" section of the Complaint makes no reference whatsoever to the governing instruments of the Debtor.

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Dated: June 2, 2025

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