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*Special Insurance Counsel for
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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. 24-CV-01848-RFL

HON. RITA F. LIN

CHAPTER 11

BANKRUPTCY CASE No: 23-40523 WJL

ADVERSARY CASE No. 23-04037

HON. WILLIAM J. LAFFERTY

THE ROMAN CATHOLIC BISHOP OF
OAKLAND,

PLAINTIFF,

v.

AMERICAN HOME ASSURANCE CO., a
New York corporation; LEXINGTON
INSURANCE CO., a Delaware corporation,

DEFENDANTS.

**RESPONSE TO MOTION TO WITHDRAW
THE REFERENCE – NON-OPPOSITION**

DATE: MAY 14, 2024

TIME: 1:30 P.M.

LOCATION: 450 GOLDEN GATE AVENUE
COURTROOM 15 – 18TH FLOOR SAN FRANCISCO,
CA 94102

1 Plaintiff THE ROMAN CATHOLIC BISHOP OF OAKLAND, plaintiff in the above-
2 captioned adversary proceeding (the “Adversary Proceeding”), and the debtor and debtor in
3 possession (the “Debtor” or “Plaintiff”) in the underlying Chapter 11 bankruptcy case (the
4 “Bankruptcy Case”) pending in the United States Bankruptcy Court for the Northern District of
5 California before the Honorable William J. Lafferty, hereby submits this response to the *Motion*
6 *to Withdraw the Reference* filed in the Adversary Proceeding on March 22, 2024, and transferred
7 to this Court on March 26, 2024 (the “Motion to Withdraw”) by American Home Assurance Co.
8 (“Defendant”).

9 Pursuant to 28 U.S.C. § 157(a), the District Court may refer to the Bankruptcy Court all
10 cases in bankruptcy and any and all proceedings arising under, in, or related to cases in bankruptcy.
11 Pursuant to a motion to withdraw the reference, the District Court may exercise its authority to
12 withdraw a case from the bankruptcy court and hear the case instead in the District Court.

13 For the reasons described herein, Plaintiff does not oppose withdrawal of the bankruptcy
14 reference in this particular case.

15 Plaintiff’s proposed form of order withdrawing the bankruptcy reference is attached hereto
16 as Exhibit A (the “Proposed Order”).

17 In support of this response, the Plaintiff states:

- 18 1. The Debtor filed Chapter 11 on May 8, 2023.
- 19 2. Prior to filing Chapter 11, Plaintiff was named in more than 300 complaints
20 primarily filed in the Alameda Superior Court seeking recovery from Plaintiff for alleged negligent
21 supervision and hiring of certain clerical and ministerial personnel over a period of decades. After
22 filing Chapter 11, Plaintiff was named in more than 400 proofs of claim filed with the Bankruptcy
23 Court seeking recovery from Plaintiff on the same basis. All of these claims (collectively referred
24 to as the “Suits”) were triggered by California’s passing of AB 218, which revived the statute of
25 limitations for individuals to file civil lawsuits for childhood sexual abuse. The passage of AB
26 218 allowed certain individuals to bring what had been time-barred claims against individuals and
27 entities for such claims through and including December 31, 2022.

1 3. On August 30, 2023, the Debtor filed in the Bankruptcy Case its Complaint for
2 declaratory relief and breach of contract, seeking to liquidate the Debtor's claims against two
3 historical insurance carriers, thereby initiating the Adversary Proceeding as Case No. 23-04037
4 [AP Docket No. 1]. Debtor ultimately voluntarily dismissed one of the carriers leaving only
5 Defendant.

6 4. The Debtor amended its complaint in the Adversary Proceeding before the
7 Defendants moved to withdraw the reference. On December 19, 2023, the Debtor filed its first
8 amended complaint [AP Docket No. 13]. The first amended complaint is the operative complaint
9 and is attached hereto for reference as **Exhibit B**.

10 5. In response to the first amended complaint, the defendant filed a motion to dismiss
11 [AP Docket No. 17].

12 6. On March 22, 2024, the Defendant filed the Motion to Withdraw the Reference [AP
13 Docket No. 28].

14 7. Plaintiff's objective in the Adversary Proceeding has always been to obtain
15 coverage for the Suits as soon as possible.

16 8. Plaintiff has maintained insurance coverage through a series of primary, excess,
17 and umbrella insurers from the early 1960's through the present time. Plaintiff has tendered
18 through its broker both Plaintiff's defense and indemnity of the Suits under all applicable insurance
19 policies to the associated defendants that issued those policies and were not insolvent.

20 9. Plaintiff continues to progress toward its objective in the Bankruptcy Case by
21 setting the groundwork necessary to achieving a confirmed plan of reorganization.

22 10. The Motion to Withdraw presents an issue only as to which court – the Bankruptcy
23 Court or this Court – will adjudicate the Adversary Proceeding. The Motion to Withdraw presents
24 an obstacle to Plaintiff's goals only in the sense that opposing or litigating the Motion to Withdraw
25 would cost Plaintiff money and time and thus distract from Plaintiff's objective in both the
26 Adversary Proceeding and the Bankruptcy Case.

1 11. Based on the foregoing and due to the unique circumstances of this case, Plaintiff
2 does not oppose the withdrawal of the bankruptcy court reference in this case.

3 12. Withdrawal of the bankruptcy reference would only affect the Adversary
4 Proceeding such that it would be adjudicated in this Court going forward. Plaintiff remains a debtor
5 in possession in the Bankruptcy Case and all orders in the Bankruptcy Case should otherwise be
6 unaffected by withdrawal of the bankruptcy reference for this particular Adversary Proceeding.

7 13. There are companion Adversary Proceedings virtually identical in nature between
8 the Debtor and other historical insurance companies where motions to withdraw the reference have
9 been granted are currently pending in the district court, case numbers No. 3:24-cv-00709-JSC and
10 No. 3:24-cv-00711-JSC. Although the motions to withdraw the reference are pending
11 procedurally as separate case numbers, they relate to the same above-captioned Adversary
12 Proceeding. Plaintiff submits that in the interests of efficiency and judicial economy, the motions
13 should therefore be considered together and either granted or denied collectively.

1 WHEREFORE, Plaintiff requests the Court enter an order, substantially in the form of the
2 Proposed Order, withdrawing the automatic bankruptcy reference of this Adversary Proceeding
3 and letting this case proceed as a civil action in the United States District Court, and further relief
4 as may be just and proper.
5
6

7 DATED: April 11, 2024

8 **BREALL & BREALL, LLP**
9

10 By: /s/ Joseph M. Breall
11 Joseph M. Breall
12 *Special Insurance Counsel for Debtor,*
13 *The Roman Catholic Bishop of Oakland*
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Exhibit A

Proposed Order

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AMERICAN HOME ASSURANCE CO., a
New York corporation; LEXINGTON
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DEFENDANTS.

**ORDER ON MOTION TO WITHDRAW
REFERENCE**

Upon the *Motion to Withdraw the Reference* filed by American Home Assurance Co. for entry of an order withdrawing the reference of this Adversary Proceeding (the “Motion”), and the *Response to Motion to Withdraw the Reference* filed by the Roman Catholic Bishop of Oakland, a California corporation sole, and the debtor and debtor in possession (the “Debtor” or “Plaintiff”) in the above-captioned chapter 11 bankruptcy case (the “Chapter 11 Case”); and the Court having reviewed and considered the Motion; and after due deliberation and good cause appearing,

IT IS HEREBY ORDERED as follows:

The automatic reference of the Adversary Proceeding (Case No. 23-04037 WJL) to the Bankruptcy Court is withdrawn pursuant to 28 U.S.C. § 157(d), Bankruptcy Rule 5011, and Local Bankruptcy Rule 5011-2 and this case can proceed as a civil action in the United States District Court. All orders entered by the Bankruptcy Court in the Adversary Proceeding prior to entry of this Order shall remain in full force and effect subject to further order of this Court. For clarity, this Order applies only to the Adversary Proceeding and does not affect any of the Bankruptcy Court's orders in the Bankruptcy Case (Case No. 23-40523 WJL), or the continued reference of the Bankruptcy Case to the Bankruptcy Court.

*** END OF ORDER ***

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All ECF Recipients

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