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Counsel for Plaintiff,

The Diocese of Camden, New Jersey

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

In re:

THE DIOCESE OF CAMDEN, NEW JERSEY,

Debtor.

Chapter 11

Case No. 20-21257 (JNP)

THE DIOCESE OF CAMDEN, NEW JERSEY,

Plaintiff,

Adv. Pro. No. 20-_____ (JNP)

v.

INSURANCE COMPANY OF NORTH AMERICA, now known as CHUBB LIMITED, UNDERWRITERS AT LLOYD'S, LONDON, NATIONAL CATHOLIC RISK RETENTION GROUP, INC., INTERSTATE FIRE & CASUALTY COMPANY d/b/a ALLIANZ INSURANCE GROUP, BERKSHIRE HATHAWAY INC. d/b/a RESOLUTE MANAGEMENT SERVICES LIMITED, ATHENA ASSURANCE CO., UNITED NATIONAL INSURANCE CO., HARTFORD FIRE INSURANCE CO., KEMPER INSURANCE, LEXINGTON INSURANCE CO., U.S. FIRE INSURANCE CO., INTERNATIONAL FIDELITY INSURANCE CO., NORTH RIVER INSURANCE CO., CENTURY INDEMNITY CO., GRANITE STATE INSURANCE CO., INTEGRITY

INSURANCE CO., COLONIAL PENN LIFE
INSURANCE, AND NORTHBROOK
INSURANCE ASSOCIATES, INC., and ABC
CORPS.,

Defendants.

**ADVERSARY COMPLAINT SEEKING DECLARATORY
RELIEF RESPECTING THE RIGHTS, DUTIES AND
LIABILITIES OF DEFENDANTS UNDER INSURANCE
POLICIES AND CERTIFICATES, AND DETERMINING
RIGHTS UNDER SAID POLICIES AND CERTIFICATES
ARE PROPERTY OF THE BANKRUPTCY ESTATE
PURSUANT TO 11 U.S.C. § 541**

Plaintiff The Diocese of Camden, New Jersey (the “Diocese” or “Plaintiff”), by way of this adversary complaint against defendants Insurance Company of North America, now known as Chubb Limited (“INA”), Underwriters at Lloyd’s, London (“Lloyd’s”), National Catholic Risk Retention Group, Inc. (“NCRRG”), Interstate Fire & Casualty Company d/b/a Allianz Insurance Group (“Interstate”), Berkshire Hathaway Inc., d/b/a Resolute Management Services Limited (“Berkshire Hathaway”), Athena Assurance Co. (“Athena”), United National Insurance Co. (“UNI”), Hartford Fire Insurance Co. (“Hartford”), Kemper Insurance (“Kemper”), Lexington Insurance Co. (“Lexington”), U.S. Fire Insurance Co. (“USFIC”), International Fidelity Insurance Co. (“IFIC”), North River Insurance Co. (“North River”), Century Indemnity Co. (“Century”), Granite State Insurance Co. (“Granite”), Integrity Insurance Co. (“Integrity”), Colonial Penn Life Insurance (“Colonial Penn”), Northbrook Insurance Associates, Inc. (“Northbrook”) and potentially other insurance companies which may have insured the Diocese during the relevant time periods described below (“ABC Corps.”) (where appropriate, collectively, “Defendants”), hereby states and alleges as follows:

PRELIMINARY STATEMENT

1. The Diocese seeks an order, pursuant to 11 U.S.C. § 105, for declaratory judgment regarding the rights, duties and liabilities of the Defendants regarding certain insurance policies (collectively, the “Policies”) and certificates (collectively, the “Certificates”) that Defendants sold or which the Defendants acquired responsibility for as they relate to insurance coverage for claims (“Survivor Claims”)¹ arising from or related to alleged child abuse against the Diocese and/or non-debtor parishes, schools, or other Catholic ministry entities and institutions within the geographical territory of the Diocese (collectively, the “Non-Debtor Parties”). This action also seeks declaratory relief to determine the extent of the rights of the Diocese in said Policies and Certificates to the extent they are property of the Diocese’s bankruptcy estate pursuant to 11 U.S.C. § 541.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the parties and the subject matter of this proceeding pursuant to Sections 157 and 1334 of Title 28 of the United States Code.

3. This is a core proceeding within the meaning of Section 157(b) of Title 28 of the United States Code. The Diocese confirms its consent, pursuant to Bankruptcy Rule 7008, to the entry of a final order by the Court if it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

4. This Court may provide declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202, 11 U.S.C. §§ 105(a) and 541(a).

5. Venue of this action in the District of New Jersey is proper pursuant to Sections 1408 and 1409 of Title 28 of the United States Code.

¹ Collectively, the holders of Survivor Claims shall hereinafter be referred to as “Survivor Claimants”.

PARTIES

6. The Diocese is a New Jersey not-for-profit religious corporation with its principal place of business at 631 Market Street, Camden, New Jersey 08102, and is the Chapter 11 debtor and debtor-in-possession in the underlying bankruptcy proceeding.

7. Upon information and belief, Defendant INA, now known as Chubb, is a Pennsylvania corporation authorized to do business in the State of New Jersey with its principal place of business located at 436 Walnut Street, Philadelphia, Pennsylvania 19106.

8. Upon information and belief, Defendant Lloyd's is an international company authorized to do business in the State of New Jersey with its principal place of business located at c/o Lloyd's America, Inc., The Museum Office Building, 25 West 53rd Street, 14th Floor, New York, New York 10019. Alternatively, Lloyd's has a business address of c/o Lloyd's America, Inc., Attn: Barbara Demosthene, Litigation Counsel, 280 Park Avenue, East Tower, 25th Floor, New York, New York 10017.

9. Upon information and belief, Defendant NCRRG is a Vermont corporation authorized to do business in the State of New Jersey with its principal place of business located at 463 Mountain View Drive, Suite 301, 3rd Floor, Attn: Susan Muscat, Cohlchester, Vermont 05446.

10. Upon information and belief, Defendant Interstate is an Illinois company authorized to do business in the State of New Jersey with its principal place of business located at 33 West Monroe Street, Chicago, Illinois 60603.

11. Upon information and belief, Defendant Berkshire Hathaway is a Nebraska company authorized to do business in the State of New Jersey with its principal place of business located at 3555 Farnam St., Omaha, Nebraska 68131.

12. Upon information and belief, Defendant Athena is an Iowa company authorized to do business in the State of New Jersey with its principal place of business located at 7700 Mills Civic Parkway, West Des Moines, Iowa 50266.

13. Upon information and belief, Defendant UNI is a Pennsylvania company authorized to do business in the State of New Jersey with its principal place of business located at 3 Bala Plaza East, Suite 300, Bala Cynwyd, Pennsylvania 19004.

14. Upon information and belief, Defendant Hartford is a Connecticut company authorized to do business in the State of New Jersey with its principal place of business located at One Hartford Plaza, Hartford, Connecticut 06155.

15. Upon information and belief, Defendant Kemper is an Illinois company authorized to do business in the State of New Jersey with its principal place of business located at 200 East Randolph Street Suite 3300, Chicago, Illinois 60601.

16. Upon information and belief, Defendant Lexington is a Massachusetts company authorized to do business in the State of New Jersey with its principal place of business located at 99 High Street, Floor 23, Boston, Massachusetts 02110.

17. Upon information and belief, Defendant USFIC is a New Jersey company with its principal place of business located at 305 Madison Avenue, Morristown, New Jersey 07962.

18. Upon information and belief, Defendant IFIC is a New Jersey company with its principal place of business located at One Newark Center, 20th Floor, Newark, New Jersey 07102.

19. Upon information and belief, Defendant North River is a New Jersey company with its principal place of business located at 305 Madison Avenue, Morristown, New Jersey 07960.

20. Upon information and belief, Defendant Century is a Pennsylvania company authorized to do business in the State of New Jersey with its principal place of business located at 30 South 17th Street, Philadelphia, Pennsylvania 19103.

21. Upon information and belief, Defendant Granite is a New York company authorized to do business in the State of New Jersey with its principal place of business located at 175 Water Street, 18th Floor, New York, New York 10038.

22. Upon information and belief, Defendant Integrity is a Wisconsin company authorized to do business in the State of New Jersey with its principal place of business located at 2121 East Capital Drive, Appleton, Wisconsin 54912.

23. Upon information and belief, Defendant Colonial Penn is a Pennsylvania company authorized to do business in the State of New Jersey with its principal place of business located at 399 Market Street, Philadelphia, Pennsylvania 19181.

24. Upon information and belief, Defendant Northbrook is a Wisconsin company authorized to do business in the State of New Jersey with its principal place of business located at 1155 East Commerce Boulevard, Slinger, Wisconsin 53086.

FACTUAL BACKGROUND

The Chapter 11 Reorganization

25. On October 1, 2020 (the “Petition Date”), the Diocese filed its voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”).

26. The Diocese continues to operate to fulfill its mission and manage its affairs as a debtor-in-possession pursuant to Bankruptcy Code Sections 1107(a) and 1108.

27. As of the filing of this Complaint, no trustee, examiner or creditors’ committee has been appointed in this case.

Canon Law Structure

28. It is a matter of faith that the Catholic Church (the “Church”)² was founded by Jesus Christ to carry out the mission to teach, sanctify and serve the needs of others.

29. The *Code of Canon Law*³ establishes the internal organizational structure and procedures to be followed within the Church.

30. Canon Law also identifies property rights and agency relationships among the various structures within the community of the Church.

31. While the Church is organized in a hierarchical structure, it is not a monolithic corporate entity. A variety of organizations operate in ecclesiastical harmony to carry out the mission of the Church.

32. The Church is organized by territorial districts, the most common of which is a diocese. A diocese usually is defined by a geographic area and is created to serve the community of Latin Rite Catholics present in that area. The bishop of a diocese is appointed by the Pope.

33. The territory of the Diocese is co-extensive with the six (6) counties of Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem in New Jersey, with a Catholic population of approximately 486,000.

34. Within the territory of a diocese are separately constituted parishes. Like a diocese, a parish usually is defined territorially.

² As used herein, “Church” means the universal Catholic Church (*i.e.*, the “one, holy, catholic and apostolic church” of Catholic belief, seated in the Vatican and headed by Pope Francis). For the avoidance of doubt, particular places of worship are referred to herein as “churches” without capitalization.

³ Canon Law comes from several sources of Church law that together establish the internal organizational structure and relationships among the entities and organizations that comprise the Church. Canon Law was originally codified in 1917 and revised by Pope John Paul II on January 25, 1983. See 1983 Code of Canon Law c. 1-1752 (1983) (“Canon Law”).

35. “Juridic persons” are constituted pursuant to Canon Law or by a special grant of competent authority given through a decree, and they have perpetual existence unless extinguished in accordance with Canon Law.

36. Each public juridic person owns all the property it has acquired. A juridic person possesses property in order to carry out its mission to teach, sanctify and serve. These purposes are broadly defined as the conduct of worship, the support of employees and ministers, and the works of the apostolate.

37. Canon Law requires the ownership of property to be protected by valid means under secular civil law, and permits the formation of secular legal entities, like the Diocese and parishes located within its ecclesiastical boundaries to hold property and conduct the business of a public juridic person.

38. The administration of property is the responsibility of a public juridic person’s administrator, such as a diocesan bishop over the property of a diocese or a pastor over the property of a parish. It is a fundamental canonical understanding that property owned by one public juridic person cannot be simultaneously owned or controlled by another.

Corporate Structure of the Diocese

39. Under New Jersey Law, the Diocese is an incorporated legal entity formed pursuant to New Jersey’s Religious Corporations Law, Title 16 of the *Revised Statutes of New Jersey*, with its own corporate structure and governance, separate from the Parishes and schools, which are other Catholic entities within its territory (collectively, the “Other Catholic Entities”).

40. The Other Catholic Entities are separate civil corporations, several of which predate the establishment of the Diocese, with their own employees and which maintain their own books, records, bank accounts and employee payrolls.

41. These Other Catholic Entities are not debtors in this chapter 11 proceeding and have not otherwise sought relief under the Bankruptcy Code.

42. The juridic person of the Diocese of Camden was canonically established on December 9, 1937. Thereafter, on June 17, 1938, a corporation was formed to constitute the Diocese of Camden under N.J.S.A. 16:15-9 to 16:15-17.

43. There are currently 62 parishes (each, a “Parish,” and collectively, the “Parishes”) which serve approximately 486,000 Catholic individuals in the territory of the Diocese. The Parishes are incorporated under N.J.S.A. 16:15-1 to 16:15-8.

44. The secular legal embodiments of the Parishes extant within the Diocese are incorporated, and function pursuant to, separate provisions of the Religious Corporation Law that provide for the incorporation and operations of Dioceses. Pursuant to N.J.S.A. 16:15-1 and 15-3, each of the Parish Corporations is governed by a Board of Trustees comprised of the Bishop, the Vicar General of the Diocese, the Pastor of the Parish and two lay members of the Parish.

45. Each Parish corporation owns the real and personal property that is used in its ministry. Each Parish pays its own employees, has its own taxpayer/employer identification number, holds its own meetings, and appoints its own councils and committees.

46. There are twenty-two (22) elementary schools operated in conjunction with the Diocese. With the exception of the Bishop McHugh Regional School in Dennis Township in Cape May County, each elementary school is owned by the respective parish where it is located, although most are regional schools that serve multiple parishes. The Bishop McHugh Regional School, Inc. (Pre-K through 8th Grade), located in Cape May County, is a separate nonprofit corporation whose trustees are *ex officio* pastors of parishes in that County. Additionally, the junior high school (7th and 8th grades) affiliated with Gloucester Catholic High School in Gloucester

City in Camden County is owned by St. Mary's Parish in Gloucester, and the pre-K-12th grade Wildwood Catholic Academy in Wildwood, in Cape May County, is owned by Notre Dame de la Mer Parish in Wildwood. Additionally, there are four elementary schools (three of which are in Camden, and one of which is in Pennsauken), which are owned by Parishes but operated by Catholic Partnership Schools, Camden, N.J., Inc.

47. St. Joseph Child Development Center, Inc., which was incorporated in 2003, operates a pre-school daycare program and facilitates early childhood education in Camden, New Jersey for approximately 120 children ages 2½ through 6. The pastor of St. Joseph's Pro-Cathedral is an *ex officio* trustee, and the other trustees are appointed by the Bishop. The current trustees are the pastor, Father Jaime Hostios, and the lay trustees: Mr. James Catrambone and Ms. Frances Montgomery.

48. There are five high schools affiliated with the Diocese. Three of these high schools are Title 15A nonprofit corporations: (i) Camden Catholic High School located in Cherry Hill, New Jersey; (ii) Holy Spirit High School located in Absecon, New Jersey; and (iii) Paul VI High School located in Haddon Township, New Jersey. The Bishop of the Diocese is the member of the corporation and he appoints the trustees and certain corporate officers and has certain reserved powers. Gloucester Catholic High School is located in Gloucester City, New Jersey; it is part of St. Mary's Parish in Gloucester and is not separately incorporated. Wildwood Catholic Academy (pre-kindergarten through 12th grade) is located in Wildwood, New Jersey; it is part of Notre Dame de la Mer Parish in Wildwood and is not separately incorporated.

Litigation Against the Diocese

49. On December 1, 2019, amendments to New Jersey's statute of limitations went into effect and opened a two-year window for individuals to assert claims of child and/or adult sexual

abuse regardless of when it is reported to have occurred, and to file claims against institutions and individuals, even if those claims had already expired and/or were dismissed because they were filed late. Additionally, the new law also expands the statute of limitations for victims to bring claims of child sexual abuse to age 55 or until seven years from the time that an alleged victim became aware of his/her injury, whichever comes later.

50. From December 1, 2019 through the Petition Date, fifty-seven (57) lawsuits were filed against the Diocese by plaintiffs who are seeking damages as a result of alleged abuse relating to the Survivor Claims (the “Survivor Plaintiffs”), three (3) of which have been voluntarily withdrawn. On October 12, 2020, another lawsuit was filed, but it was voluntarily dismissed on October 14, 2020. Thus, fifty-four (54) lawsuits are currently pending and stayed in the Superior Court of New Jersey.

New Jersey Independent Victim Compensation Program

51. Beginning on June 15, 2019, the Roman Catholic Archdiocese of Newark and the dioceses of Camden, Metuchen, Paterson and Trenton established the Independent Victim Compensation Program (“IVCP”) to begin accepting claims related to the abuse of minors by priests of these dioceses.

52. The Diocese paid over \$842,000 for the IVCP administration.

53. Through the IVCP, the Diocese has resolved seventy-one (71) claims since the IVCP began (“IVCP Resolved Claims”), but 141 Survivor Claims remain pending.

54. Of those 141 remaining Survivor Claims, offers were made by the IVCP to twenty-one (21)⁴ of those claimants before the effective suspension of the IVCP on July 31, 2020.

55. The IVCP Resolved Claims were resolved with payments totaling \$8,102,000.

⁴ Certain claims were disallowed.

56. In addition to the IVCP Resolved Claims, ninety-nine (99) pre-IVCP claims were settled for approximately \$10,120,000.

57. Although the Diocese used its best efforts to contact all Survivor Claimants for participation in the IVCP, it is likely that there are additional Survivor Claimants that are not Survivor Plaintiffs and/or did not participate in the IVCP.

The Diocese's Insurance Coverage

58. From November 27, 1969 through the present, the Diocese had various insurance coverage with the Defendants which covered the Survivor Claims.

59. Per a settlement agreement with Lloyds dated April 29, 2010 and May 5, 2010, the Diocese does not have coverage for any abuse claims for which money was demanded before October 22, 2009, or for claims identified in said settlement agreement. The settlement agreement, however, does not preclude coverage for claimants who were only receiving payments for therapy, and for claimants who were unknown to the Diocese before October 22, 2009.

60. The Survivor Claims center on allegations made by the plaintiffs that the Diocese, as well as additional parties and certain priests, other individuals and/or other entities are liable under several theories for alleged personal injuries arising from alleged child abuse committed by individuals allegedly employed by or under the supervision of the Diocese or other Non-Debtor Parties.

61. The Survivor Claimants generally allege that the Diocese and/or the Non-Debtor Parties are liable for the conduct of certain priests and other individuals based on their alleged actions and omissions in connection with employing and/or supervising the alleged abuse perpetrators.

62. The Survivor Claimants seek both compensatory and punitive damages against the Diocese, as well as the Non-Debtor Parties.

63. The Diocese's self-insurance reserves are finite as are the availability of insurance.

COUNT I
(Declaratory Judgment)

64. The Diocese repeats and realleges the allegations set forth above as if set forth at length herein.

65. The Diocese seeks a judicial determination of the rights and duties of the Diocese and the Defendants with respect to an actual controversy arising out of the Policies and Certificates.

66. Pursuant to the terms of the Policies and the Certificates, each of the Defendants is obligated to pay, or in the alternative to reimburse to the Diocese, the full expenditures made by the Diocese to defend itself against and pay the Survivor Claims, subject to any applicable self-insured retention, deductible and policy aggregate.

67. Upon information and belief, Defendants will or have failed and refused to accept their legal obligations under the subject Policies and Certificates to pay or reimburse the Diocese for the Survivor Claims, to the full extent of their obligations.

68. Upon information and belief, Defendants intend to dispute, limit, or deny coverage for abuse claims and/or will have failed and refused to accept their legal obligations under the subject Policies and Certificates to pay or reimburse the Diocese for the Survivor Claims, to the full extent of their obligations.

69. Specifically, certain Defendants may assert coverage positions including, but not limited to:

- a. The Survivor Claims present a separate occurrence per victim, per-priest, per-policy year;

- b. The multi-year Policies and Certificates provide a separate per occurrence limit of liability in each annual period; and
 - c. The Policies and Certificates' aggregate limits, if any are stated, do not apply to the Survivor Claims.
70. The Diocese disputes these coverage positions.
71. An actual controversy of a justiciable nature presently exists between the Diocese and the Defendants concerning the proper construction of the Policies and Certificates and rights and obligations of the parties thereto with respect to the Survivor Claims. The controversy is of sufficient immediacy and magnitude to justify the issuance of a declaratory judgment.
72. The issuance of declaratory relief by this Court will resolve some or all of the existing controversy between the parties.

WHEREFORE, the Diocese seeks judgment against the Defendants as follows:

- a. for a declaration in favor of the Diocese and against each of the Defendants, regarding the rights, duties and liabilities in the Policies and Certificates;
- b. finding for costs incurred in bringing this action, including attorneys' fees; and
- c. for such other and further legal and equitable relief as this Court deems just and proper.

COUNT II
(11 U.S.C. § 541)

73. The Diocese repeats and realleges the allegations set forth above as set forth at length herein.
74. The Diocese's interests in the Policies and Certificates are property of the reorganization estate pursuant to 11 U.S.C. § 541.
75. As such, the Defendants are required to insure, defend and indemnify the Diocese under the Policies, Certificates and related insurance documents.

WHEREFORE, the Diocese demands judgment against Defendants, and each of them, as follows:

- a. compelling the Defendants to provide coverage for, indemnify and defend the Diocese under the Policies and Certificates;
- b. awarding attorneys' fees and costs; and
- c. granting such other and further relief as is just and appropriate.

**McMANIMON, SCOTLAND
& BAUMANN, LLC**
*Counsel for Plaintiff,
The Diocese of Camden, New Jersey*

By: /s/ Richard D. Trenk
RICHARD D. TRENK

Dated: October 21, 2020