

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
CATHOLIC DIOCESE OF WILMINGTON, INC., a Delaware Corporation,)	Case No. 09-13560 (CSS)
)	
Debtor.)	
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OFFICIAL COMMITTEE OF UNSECURED CREDITORS,)	Adv. Case No. 09-52866 (CSS)
)	
Plaintiff,)	Related Docket No. 115
v.)	
)	
CATHOLIC DIOCESE OF WILMINGTON, INC., a Delaware non-stock Corporation; et al.,)	
)	
Defendants.)	
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**ORDER PARTIALLY GRANTING AND PARTIALLY DENYING DECLARATORY
RELIEF WITH RESPECT TO THE SECOND AND FOURTH CLAIMS FOR RELIEF
OF THE COMPLAINT AND DIRECTING ENTRY OF FINAL JUDGMENT THEREON
(PHASE I)**

The Official Committee of Unsecured Creditors (the “Committee”) having commenced the above-captioned adversary proceeding (the “Adversary Proceeding”) on December 18, 2009 with the filing of the Committee’s *Complaint for Declaratory Relief and Substantive Consolidation* [Adv. Docket No. 1] against the Catholic Diocese of Wilmington, Inc. (the “Debtor”) and the Non-Debtor Defendants¹ (the “Complaint”);

¹ As used herein, the term “Non-Debtor Defendants” shall refer collectively to Catholic Diocese Foundation, the Diocese of Wilmington Schools, Inc., Catholic Cemeteries, Inc., Siena Hall, Inc., Children’s Home, Inc., Seton Villa, Inc., Catholic Youth Organization, Inc., St. Ann’s Roman Catholic Church, St. John the Beloved Roman Catholic Church, Holy Spirit Roman Catholic Church, St. Thomas the Apostle Roman Catholic Church and St. Francis de Sales Roman Catholic Church. The term “Defendants” refers to Debtor and the Non-Debtor Defendants.

The Catholic Diocese of Wilmington, Inc. (the “Debtor”) having filed its *Answer of Debtor-Defendant Catholic Diocese of Wilmington, Inc.* [Adv. Docket No. 18] on January 19, 2010 and the Non-Debtor Defendants having filed the *Answer of the Pooled Investment Participants* [Adv. Docket No. 20] on January 19, 2010;

The Adversary Proceeding having been bifurcated in accordance with the *Pre-Trial Order Approving the Joint Stipulation* [Adv. Docket No. 25] entered on January 28, 2010, with Phase I of the Adversary Proceeding to comprise the issues pertaining to Count II and Count IV of the Complaint;

This Court having jurisdiction over Phase I of the Adversary Proceeding pursuant to 28 U.S.C. §§ 157 and 1334, venue being proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, and Phase I of the Adversary Proceeding being a core proceeding pursuant to 28 U.S.C. § 157(b);

This Court having considered the arguments, testimony, exhibits and other evidence offered by the Committee, the Debtor and the Non-Debtor Defendants at the trial of Phase I of the Adversary Proceeding, which commenced on June 2, 2010 and concluded on June 8, 2010, as well as the *Joint Pre-Trial Memorandum (Phase I)* [Adv. Docket No. 99], the *Plaintiff's Trial Brief (Phase I)* [Adv. Docket No. 98], the *Non-Debtors Defendants' Pre-Trial Brief* [Adv. Docket No. 96], the *Appendix of Exhibits to Non-Debtors Defendants' Pre-Trial Brief* [Adv. Docket No. 97] and the *Joinder of Debtor-Defendant Catholic Diocese of Wilmington, Inc. in the Non-Debtor Defendants' Pre-Trial Brief* [Adv. Docket No. 100], and

This Court having entered its *Opinion* on June 28, 2010 [Adv. Docket No. 115] with respect to Phase I of this adversary proceeding which constitutes its findings of facts and conclusions of law pursuant to Fed. R. Bankr. P. 7052, and consistent with and pursuant to its *Opinion*, after due deliberation and sufficient cause appearing therefore, it is hereby

ORDERED that:

1. The relief requested in the Second Claim for Relief of the Complaint is DENIED on the grounds that the Defendants intended for the Debtor to hold the funds transferred by the Non-Debtor Defendants for investment into the PIA² in a resulting trust (except with respect to St. Ann's³) and that an express trust exists between the Debtor and St. Ann's;

2. The relief requested in the Fourth Claim for Relief of the Complaint is GRANTED (except with respect to St. Ann's) on the grounds that the Debtor and Non-Debtor Defendants (except St. Ann's) have failed to meet their burden of tracing the funds transferred to the Debtor into the PIA;

3. The relief requested in Fourth Claim for Relief of the Complaint is DENIED, in part, and only to the extent relief is sought with respect to St. Ann's on the grounds that the Debtor and St. Ann's have met their burden of tracing St Ann's funds in the PIA;

4. With the exception of the fractional interests in the PIA attributable to St. Ann's, which are represented by sub-funds numbered F055 and F0557 in the Debtor's books and

² As used herein, the term "PIA" shall have the meaning ascribed to it in the *Opinion* [Adv. Docket No. 115] entered on June 28, 2010 (the "Opinion").

³ As used herein, the term "St. Ann's" shall have the meaning ascribed to it in the *Opinion*.

records, the entire balance of the PIA is property of the Debtor's estate under section 541(a) of the Bankruptcy Code; *provided however*, that the rights of any person that has invested money in the PIA that is not a party to this adversary proceeding are preserved as set forth in *Official Comm. of Unsecured Creditors v. Catholic Diocese of Wilmington, Inc. (In re Catholic Diocese of Wilmington, Inc.)*, --- B.R. ----, 2010 WL 2594260, at *19 n. 93 (Bankr. D. Del. June 28, 2000) [Adv. Docket No. 115];

5. The fractional interests in the PIA represented by sub-funds numbered F055 and F0557 in the Debtor's books and records which are attributable to St. Ann's, constitute property held in a resulting trust for St Ann's and do not constitute property of the Debtor's bankruptcy estate;

6. The Debtor shall continue to use the same method of sub-fund accounting with respect to the PIA that it used prior to the commencement of its chapter 11 case, so that all post-petition transfers and transactions respecting the PIA shall be promptly recorded in, and readily ascertainable from, the Debtor's books and records;

7. Pursuant to Fed. R. Civ. P. 54(b), made applicable to this adversary proceeding by Fed. R. Bankr. P. 7054(a), the Court hereby determines that there is no just reason for further delay and directs entry of a final judgment on the Second and Fourth Claims for Relief of the Complaint; and

8. This Court retains jurisdiction to interpret, implement and enforce the provisions of this Order.

Dated: July 19, 2010



The Honorable Christopher S. Sontchi
United States Bankruptcy Judge