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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

**In re**  
**THE ROMAN CATHOLIC  
BISHOP OF SAN DIEGO, a  
California corporation sole,**  
  
**Debtor.**

**Case No. 07-00939-A11**

**Chapter 11**

**ORDER TO SHOW CAUSE  
RE: CONTEMPT OR OTHER  
SANCTIONS**

To: Roman Catholic Bishop of San Diego, Susan G. Boswell, its Counsel;  
the Parishes of the Diocese of San Diego and the Organization of  
Parishes, Jeffry Davis and Victor Vilaplana, their counsel; Rev. Bruce  
J. Orsborn; and Rev. Michael Gallagher ("Respondents").

YOU AND EACH OF YOU are directed to appear on April 11, 2007 at  
2:00 p.m., in Department 2 of the United States Bankruptcy Court, 325 West  
F Street, San Diego, California, to show cause why you should not be cited for  
contempt of Court or be otherwise sanctioned in connection with the  
following:

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///

1 At the time of filing its voluntary Chapter 11 case, the Roman Catholic  
2 Bishop of San Diego ("RCBSD") allegedly held property in trust for others,  
3 namely, over 770 bank accounts which are reported under the RCBSD's  
4 taxpayer identification number ("the Alleged Parish Accounts"). [See ¶ 14 of  
5 Amended Statement of Financial Affairs filed March 29, 2007, D.E. #158]  
6 Upon the filing of its bankruptcy case:

7 1. All legal and equitable interests of the debtor RCBSD in property,  
8 wherever located and by whomever held, became property of the estate.  
9 11 U.S.C. § 541(a)(1).

10 2. RCBSD may not transfer that property post-petition without  
11 authorization by the Court. 11 U.S.C. § 549(a).

12 3. A creditor or other claimant such as the parishes may not undertake  
13 any action to obtain possession of property of the estate or exercise control  
14 over that property. 11 U.S.C. § 362(a)(3).

15 4. RCBSD as the holder of cash collateral (the Alleged Parish Accounts)  
16 was prohibited from using the cash in said accounts, even in the ordinary  
17 course of business, without a Court order. 11 U.S.C. § 363(a).<sup>1</sup>

18 On March 1, 2007, this Court held a hearing to consider the RCBSD's  
19 request for authorization to use its existing cash management system,  
20 including the Alleged Parish Accounts, in the ordinary course of business.  
21 The Court authorized the use of the existing cash management system on an  
22 interim basis only, extending that order to March 6, 2007 and again to  
23 April 11, 2007.

24 On March 17, 2007, Rev. Michael Gallagher, pastor of Our Lady of  
25 Grace, distributed a letter stating, among other things, that this Court had  
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27 <sup>1</sup> Section 363(a) defines "cash collateral" as: "cash ... deposit accounts, or other cash  
28 equivalents whenever acquired in which the estate and an entity other than the estate have an interest  
...."

1 ordered parishes to obtain new taxpayer identification numbers for the  
2 Alleged Parish Account and that this Court had ruled that all contributions  
3 to the Annual Catholic Appeal are not considered the Debtor's assets. [See  
4 Letter of Michael Gallagher dated March 17, 2007, Ex. "A" to Decl. of Michael  
5 Zimmer filed March 30, 2007, D.E. #167]

6 On March 29, 2007, Rev. Bruce Orsborn, on behalf of the parishes and  
7 their newly-formed Organization of Parishes of the Roman Catholic Diocese  
8 of San Diego, distributed a memo urging the parishes to obtain new taxpayer  
9 identification numbers and immediately attempt to transfer to the parishes  
10 the Alleged Parish Accounts by employing various strategies, depending  
11 upon the bank's reaction to that request. He represents that this action should  
12 be undertaken on advice of counsel for the parishes and with the concurrence  
13 of this Court. Further, he directs parishes to cooperate and consult with the  
14 Diocese' Payroll Department to avoid any disruption in processing of their  
15 payroll. [See Special Communication of Rev. Bruce Orsborn dated March 29,  
16 2007, Ex. A to Decl. of Rosa Lopez-Gonzalez filed April 2, 2007, D.E. #174]

17 Based on the foregoing, the following conduct by the following persons  
18 and entities appears to materially misrepresent facts to the Court and the  
19 Courts orders, as well as violate the Order of the Court and the above-cited  
20 provisions of the Bankruptcy Code:

21 1. As to RCBSD and its counsel, Susan Boswell:

22 A. RCBSD and Boswell represented to the Court at the hearing  
23 held March 1, 2007 that they were not seeking to have the Court determine  
24 whether the Alleged Parish Accounts were either the Debtor's property or the  
25 parishes' property. [See R.T. date March 1, 2007 at pages 10:16-25, 11:1-25 and  
26 12:1-5, D.E. 174 (Ex. 2 to Response and Request of Union Bank filed April 2,  
27 2007)]. Boswell represented no change in ordinary operations would occur  
28 with respect to these accounts. Boswell represented to this Court that the

1 RCBSD received no reports concerning the alleged parish accounts and has  
2 no records for such accounts. [*Id.* at page 23:2-24]

3 B. It appears that RCBSD and Boswell have cooperated and  
4 conspired with parishes to effectuate a post-petition transfer of the alleged  
5 parish accounts. [*See* Gallagher letter] Further, it appears RCBSD regularly  
6 receives information concerning parish accounts. [Decl. of Hamid R. Rafatjoo  
7 and Ex. "C" and "D" thereto filed March 30, 2007, D.E. # 167)

8 2. As to the parishes of the RCDS, the Organization of Parishes and  
9 Jeffrey Davis and Victor Vilaplana, their counsel:

10 A. Davis and the parishes represented to this Court that they  
11 were not requesting a determination of ownership as to the Alleged Parish  
12 Accounts and that they would look into the possibility of separate taxpayer  
13 identification numbers prospectively. [R.T. dated March 1, 2007 at pages  
14 27:25, 28:1-28 and 29:1-14]

15 B. It appears that at some point the parishes formed Organization  
16 of Parishes and may have obtained new or additional counsel, Victor  
17 Vilaplana.

18 C. The Organization of Parishes on advice of their counsel Davis  
19 and/or Vilaplana have attempted to exercise control over property of the  
20 estate by counseling and encouraging parishes to obtain new taxpayer  
21 identification numbers and attempting various stratagems to persuade the  
22 banks to transfer account balances in the Alleged Parish Accounts to new  
23 accounts. Further, it appears that by directing the parishes to consult the  
24 Payroll Department of RCBSD, the Organization of Parishes and their counsel  
25 Davis and/or Vilaplana have conspired with RCBSD and its counsel to  
26 effectuate a post-petition transfer of the Debtor's assets.

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1           3. As to Rev. Gallagher, misrepresenting to others the nature and effect  
2 of orders of this Court. [See Letter of Michael Gallagher dated March 17, 2007  
3 at Ex. "A" attached to Decl. of Michael Zimmer filed March 30, 2007, D.E.  
4 #167]

5           4. As to Rev. Orsborn, misrepresenting to others the nature and effect  
6 of orders of this Court. [See Special Communication of Rev. Bruce Orsborn  
7 dated March 29, 2007 at Ex. "A" attached to Decl. of Rosa Lopez-Gonzalez  
8 filed April 2, 2007, D.E. #174]

9           This Court orders the Respondents to show cause, if any, why they  
10 should not be cited for contempt of court pursuant to 11 U.S.C. § 105(a) and  
11 Fed. R. Bankr. P. 9011 (b) and (c)(1)(B) or otherwise appropriately sanctioned,  
12 including, but not limited to revocation of Ms. Boswell's *pro hac vice*  
13 authorization to appear in this Court. Response, if any, must be filed by  
14 declaration filed electronically under penalty of perjury no later than 5:00 p.m.  
15 April 10, 2007.

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19 Dated: 9 Apr 07



20 LOUISE DE CARL ADLER, Judge  
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1 CAD 168  
[Revised July 1985]

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3 UNITED STATES BANKRUPTCY COURT  
4 SOUTHERN DISTRICT OF CALIFORNIA

5 Case No. 07-00939-A11  
6 Case Name: THE ROMAN CATHOLIC BISHOP  
OF SAN DIEGO, etc.

7  
8 CERTIFICATE OF MAILING  
9

10 The undersigned, a regularly appointed and qualified clerk in the Office of the United  
11 States Bankruptcy Court for the Southern District of California, at San Diego, hereby  
certifies that a true copy of the attached document, to-wit:


12 **ORDER TO SHOW CAUSE RE: CONTEMPT**  
13 **OR OTHER SANCTIONS**

14 was enclosed in a stamped and sealed envelope and mailed to the following parties at their  
15 respective addresses listed below:

16  
17 ***SEE ATTACHED***  
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19  
20 The envelope(s) containing the above document was deposited in a regular United  
21 States mail box in the City of San Diego in said district on April 9, 2007.

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CAD 168

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Roma London, Deputy Clerk

1 CERTIFICATE OF SERVICE-Case No. 00939-A11

2 Electronically mailed to:

3 Individually and on behalf of Roman Catholic Bishop of San Diego:  
4 Susan G. Boswell [sboswell@quarles.com](mailto:sboswell@quarles.com)

5 Individually and on behalf the Parishes of the Diocese of San Diego, and the  
6 Organization of Parishes:

7 Jeffrey Davis [jadavis@mintz.com](mailto:jadavis@mintz.com)  
Victor Vilaplana [vavilaplana@foley.com](mailto:vavilaplana@foley.com)

8 On behalf of Rev. Michael Gallagher:  
9 Jeffrey Davis [jadavis@mintz.com](mailto:jadavis@mintz.com)  
Victor Vilaplana [vavilaplana@foley.com](mailto:vavilaplana@foley.com)

10 On behalf of Rev. Bruce J. Orsborn:  
11 Jeffrey Davis [jadavis@mintz.com](mailto:jadavis@mintz.com)  
Victor Vilaplana [vavilaplana@foley.com](mailto:vavilaplana@foley.com)

12  
13 Union Bank of California:  
14 Sara Chenetz [sara.chenetz@dlapiper.com](mailto:sara.chenetz@dlapiper.com)

15 Official Committee of Unsecured Creditors:  
16 James Stang [jstang@pszyjw.com](mailto:jstang@pszyjw.com)

17 United States Trustee:  
18 Tiffany Carroll [tiffany.l.carroll@usdoj.gov](mailto:tiffany.l.carroll@usdoj.gov)

19  
20 Mailed via U.S. Mail to:

21 Rev. Bruce J. Orsborn  
22 Blessed Sacrament  
4551 56<sup>th</sup> Street  
23 San Diego, CA 92115

24 Rev. Michael Gallagher  
25 Our Lady of Grace  
2766 Navajo Road  
26 El Cajon, CA 92020