

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

The Episcopal Church in South Carolina,)	Case No. _____
)	
Plaintiff,)	
)	
v.)	COMPLAINT
)	
Church Insurance Company of Vermont,)	(JURY TRIAL DEMANDED)
)	
Defendant.)	
_____)	

INTRODUCTION

1. This is an extraordinarily egregious bad faith case involving a captive insurance company. As detailed herein, the captive insurance company willfully and recklessly breached and consciously disregarded its contractual and fiduciary duties owed to its insured. The policy at issue includes duties and restrictions provided by applicable captive insurance company law and the captive insurance company’s corporate charter, which are incorporated in the policy as if set forth verbatim therein. The captive insurance company secretly, knowingly, and wrongfully made payments and misdirected insurance proceeds to the insured’s disaffiliated adversaries to fund their litigation efforts against the insured and to aid and abet them in depriving the insured of valuable trust property that the policy was intended to protect and cover for the benefit of the insured. In addition to nominal and general damages that inherently arise as a matter of law from the wrongful conduct, the insured is entitled to compensatory and punitive damages in this action, in an amount to be determined at trial.

PARTIES

2. Plaintiff The Episcopal Church in South Carolina (“TECSC”) is the affiliated Episcopal diocese of The Episcopal Church (“TEC”) existing and operating in the eastern part of South Carolina. It is the continuation of the historic diocese founded in the eighteenth century that

has operated in this region using various similar names throughout its history, such as the “Protestant Episcopal Church in the Diocese of South Carolina,” “Episcopal Diocese of South Carolina,” and “Diocese of South Carolina.” It is the beneficiary of a trust that holds all of its diocesan property. It is also a beneficiary of numerous trusts that hold all of the property of numerous Episcopal parishes. Its principal place of business is in Charleston, South Carolina.

3. Upon information and belief, Defendant Church Insurance Company of Vermont (“CIC-VT”) is a captive insurance company organized and domiciled in Vermont. Its principal place of business is in Bennington, Vermont.

4. Upon information and belief, CIC-VT is not authorized, licensed, or registered to sell insurance in this State by the South Carolina Department of Insurance or to transact business in this State by the South Carolina Secretary of State, as required by South Carolina law, including but not limited to S.C. Code Ann. §38-90-60(B) (“No captive insurance company shall do any business in this State unless it first obtains from the director a certificate of authority authorizing it to do business in this State.”) and S.C. Code Ann. §38-5-10 (“Every insurer doing business in this State must be licensed and supervised by the director or his designee...”) and S.C. Code Ann. §38-5-110 (“It is unlawful for the Secretary of State to issue any charter or grant any amendments of charter to any insurer or permit any foreign or alien insurer to do business within this State without the written approval of the director or his designee.”). Notwithstanding, CIC-VT has conducted business in the state of South Carolina. As set forth more fully below, since the early 2000’s, CIC-VT has provided TECSC with insurance coverage in South Carolina to protect and insure the diocesan property held in trust for TECSC and the parish property held in trust for TECSC and TEC.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this dispute by virtue of Title 28 U.S.C. §1332 in

that there is complete diversity of citizenship between the parties and the amount in controversy is in excess of Seventy-Five Thousand Dollars (\$75,000.00) exclusive of costs.

6. Venue is properly laid in this Court by Title 28 U.S.C. §1391 and Local Rule 3.01 because a substantial part of the events or omissions giving rise to the claims occurred in this judicial district and division, because CIC-VT conducted the business of issuing an insurance policy covering property and claims in this judicial district and division, and because TECSC resides and does business in this judicial district and division.

FACTUAL BACKGROUND

A. CIC-VT is a captive insurance company of TEC that insures the diocesan and parish property held in trust for the affiliated Episcopal diocese of TECSC under a Diocesan Program Master Policy

7. CIC-VT is a captive insurance company.

8. CIC-VT is subject to applicable captive insurance company laws.

9. All policies of insurance issued by CIC-VT must be interpreted in accord with applicable captive insurance company laws, which are incorporated in such policies as if set forth verbatim therein.

10. For example, South Carolina's captive insurance company law, Title 38, Chapter 90 of the South Carolina Code, entitled "Captive Insurance Companies," S.C. Code Ann. §§38-90-10, *et seq.*, includes but is not limited to the following pertinent statutory provisions and any applicable prior versions of the same, which are incorporated in all insurance policies CIC-VT issues to any insureds in South Carolina or for property in South Carolina as if set forth verbatim therein:

S.C. Code Ann. §38-90-10: "(8) 'Captive insurance company' means a pure captive insurance company, association captive insurance company, sponsored captive insurance company, special purpose captive insurance company, risk retention group, or industrial insured captive insurance company formed or licensed under this chapter. For purposes of this chapter, a branch captive

insurance company must be a pure captive insurance company with respect to operations in this State, unless otherwise permitted by the director.”

S.C. Code Ann. §38-90-20: “(A) A captive insurance company, when permitted by its articles of incorporation, articles of organization, operating agreement, or charter, may apply to the director for a license to provide any and all insurance, except workers’ compensation insurance written on a direct basis, authorized by this title; however: (1) a pure captive insurance company *may not insure* any risks other than those of its parent, affiliated companies, controlled unaffiliated business, risks assumed from a risk pool for the purpose of risk sharing, or a combination of them; (2) an association captive insurance company *may not insure* any risks other than those of the member organizations of its association and their affiliated companies...” (emphasis added).

11. Under such captive insurance company laws, TEC is the parent company or association or organization that CIC-VT serves and owes duties. Such duties extend to any of TEC’s affiliates that CIC-VT insures, including TEC’s affiliated Episcopal dioceses and affiliated Episcopal parishes. Accordingly, such duties extend to TECSC as an affiliated Episcopal diocese of TEC. Such duties include fiduciary duties of loyalty and care to insure risks only for TEC and its affiliates, and to properly process insurance claims only for the benefit of TEC and its affiliates.

12. Consistent with such captive insurance company laws and CIC-VT’s duties thereunder, CIC-VT’s corporate charter further acknowledges and expressly promises and agrees to undertake such duties to TEC and its affiliates, including TECSC as an affiliated Episcopal diocese of TEC, as follows:

The Corporation [CIC-VT] is organized and *shall be operated exclusively* for charitable and religious purposes as a supporting organization under §509(a)(3) of the Internal Revenue Code of 1986, as now in effect or as may hereafter be amended (the “Code”), *to carry out the charitable and religious purposes of [TEC] the Protestant Episcopal Church in the United States of America (the “Church”)*, which is exempt from federal income tax and described in §501(c)(3) of the Code, and which is not a private foundation under §509(a)(1) of the Code. *The Corporation shall accomplish these purposes by providing, or entering into arrangements with third parties who will provide insurance and reinsurance coverage*

for various property and casualty risks of the Church and its provinces, dioceses, parishes, missions, agencies, institutions and other entities connected with the Church, each of which shall be exempt from federal income tax and described in §501(c)(3) of the Code. The Corporation may engage in any and all other charitable activities within the meaning of §501(c)(3) of the Code and shall engage in any and all lawful activities incidental to the foregoing purposes, including any lawful act or activity permitted by insurance companies under the laws of the State of Vermont, as may from time to time be amended. (emphasis added).

13. Since the early 2000's, CIC-VT has insured TECSC, as an affiliated Episcopal diocese of TEC, together with affiliated Episcopal parishes within the diocese of TECSC, under a diocesan program master policy (the "Diocesan Program Master Policy").

14. The Diocesan Program Master Policy includes the duties and restrictions provided by applicable captive insurance company law and CIC-VT's corporate charter, which are incorporated in that policy as if set forth verbatim therein.

15. The purpose and intent of the Diocesan Program Master Policy is to protect and insure Episcopal property and affiliated Episcopal entities and individuals acting in affiliated Episcopal capacities within the affiliated Episcopal diocese of TECSC. The insured Episcopal property includes the diocesan property held in trust for TECSC and the parish property held in trust for TECSC and TEC.

16. The primary insured and intended beneficiary under the Diocesan Program Master Policy is TECSC. Each participating affiliated Episcopal parish within the diocese of TECSC is included in the Diocesan Program Master Policy as a participant. For any given year, two numbers are used to refer to the coverage provided to each participant: the master policy number and a participant certificate number.

17. The coverages provided under the Diocesan Program Master Policy include but are not limited to property coverage, crime and premises coverage, and liability coverage, which includes a duty to defend. These coverages protect and insure the diocesan property held in trust

for TECSC and the parish property held in trust for TECSC and TEC.

18. The Diocesan Program Master Policy also includes a duty of good faith and fair dealing.

19. TECSC has relied on the Diocesan Program Master Policy and CIC-VT's services in processing claims to protect and insure the diocesan property held in trust for TECSC and the parish property held in trust for TECSC and TEC since the early 2000's.

20. The Diocesan Program Master Policy has been renewed annually to the diocese of TECSC, including in all years between 2012 and 2019 (including 2013 following the events that occurred in 2012 discussed below). In the Diocesan Program Master Policy for the year 2013, CIC-VT included a letter that stated as follows:

“Thank you for choosing to *renew* your property and casualty coverage with Church Insurance. It is a privilege to serve your organization. As you know, *it is our mission to assist the Episcopal Church in a financially responsible way while providing the best coverage available.*” (emphasis added).

B. In 2012, a faction, led by Bishop Lawrence, disaffiliated from TEC

21. In 2012, a faction, led by Bishop Mark Lawrence, a former Bishop of TEC and of the historic diocese currently operating under the name TECSC, wrongly claimed to disaffiliate that historic diocese from TEC and to maintain control of it independently (the “Lawrence Diocese”).

22. Numerous parish entities, following Bishop Lawrence, also claimed to disaffiliate from TEC (the “Lawrence Parish Entities”).

23. TEC, under its hierarchical governance and applicable law, did not recognize Bishop Lawrence's attempt to disaffiliate the historic diocese and instead recognized TECSC as the continuation of that historic diocese.

24. At the time of their purported disaffiliation, the Lawrence Diocese and the

Lawrence Parish Entities wrongly took diocesan and parish property with them to use for their own purposes. It was unlawful for them to do so because of TECSC's and TEC's trust interests in that property.

25. The parish property is subject to numerous trusts benefiting TECSC and TEC created by each parish's accession to the terms of the Dennis Canon, which provides as follows:

All real and personal property held by or for the benefit of any Parish, Mission, or Congregation is held in trust for this Church and the Diocese thereof in which such Parish, Mission or Congregation is located. The existence of this trust, however, shall in no way limit the power and authority of the Parish, Mission or Congregation otherwise existing over such property so long as the particular Parish, Mission or Congregation remains a part of, and subject to, this Church and its Constitution and Canons.

26. The diocesan property is subject to a trust benefiting TECSC under an 1880 Act of the South Carolina General Assembly, as amended by a 1902 Act, which provides, in pertinent part, as follows:

1880 Act: "...That the Bishop and members of the Standing Committee for the time being of the Protestant Episcopal Church for the Diocese of South Carolina . . . are hereby appointed trustees for the purpose of holding in trust any property heretofore given or acquired, or hereafter to be given or acquired, for objects connected with said Church, in said Diocese..."

1902 Act: "...That the Trustees herein provided for and incorporated and their successors in office are hereby constituted such Trustees for the purpose of holding any and all property..."

27. The diocesan and parish property subject to TECSC's trust interests includes *all* such property, including but not limited to real estate, buildings, accounts, historic artifacts, names, marks, and goodwill. *It also includes all rights to insurance policies protecting such property and receivable insurance proceeds.*

28. In early 2013, the Lawrence Diocese and the Lawrence Parish Entities sued TECSC and TEC, seeking to legitimize their disaffiliated possession and control and use of the diocesan

and parish property held in trust for TECSC and TEC. Upon information and belief, CIC-VT had knowledge of that lawsuit soon after it was filed, in 2013.

29. In a final decision issued by the South Carolina Supreme Court on August 2, 2017, TECSC and TEC prevailed over the Lawrence Diocese and 29 of the Lawrence Parish Entities. *Protestant Episcopal Church in the Diocese of South Carolina, et. al. v. The Episcopal Church, et. al.*, 421 S.C. 211, 806 S.E.2d 82 (Aug. 2, 2017), *reh'g denied* (Nov. 17, 2017), *cert. denied* (June 11, 2018). Upon information and belief, CIC-VT had knowledge of that decision soon after it was issued, in 2017.

30. For the last seven years, the Lawrence Diocese and 29 of the Lawrence Parish Entities have unlawfully possessed and controlled and have been misusing, depleting, and diminishing the diocesan and parish property held in trust for TECSC and TEC. They still do today. They refuse to accept and obey the final decision of the South Carolina Supreme Court. They are currently opposing its enforcement in the state circuit court, on remittitur. They are also opposing an action pending in this Court seeking an injunction against their ongoing trademark infringement. *vonRosenberg v. Lawrence*, 2:13-cv-00587-RMG (D.S.C.). They also filed a separate action against TECSC and TEC in state court under the Betterment Act. *Protestant Episcopal Church in the Diocese of South Carolina, et. al. v. The Episcopal Church, et. al.*, 2017 CP-18-1909 (Dorchester County Circuit Court). All of these efforts are part of a collective and comprehensive litigation strategy against TECSC and TEC that they have carried out while continuing to misuse, deplete, and diminish the diocesan and parish property held in trust for TECSC and TEC. Upon information and belief, CIC-VT knew or should have known about all of the above soon after such actions were taken.

C. **CIC-VT's wrongful conduct**

31. TECSC recently discovered that CIC-VT secretly, wrongfully, and knowingly paid

and misdirected insurance proceeds to at least one of the disaffiliated Lawrence Parish Entities to fund their litigation efforts against TECSC and TEC.

32. CIC-VT did not inform TECSC of this wrongful conduct prior to TECSC's recent discovery, and upon information and belief, CIC-VT attempted to keep this wrongful conduct secret from TECSC.

33. TECSC's discovery of this wrongful conduct occurred by way of its review of an online publication of an "Annual Report," dated March 3, 2019, by a Lawrence Parish Entity unlawfully maintaining possession and control of and misusing, depleting, and diminishing the trust property known as the "Saint Philip's" church in downtown Charleston. The "Annual Report" discovered online stated as follows:

"After spending for TEC legal fees, Loan Amortization, and Capital Expenditures, St. Philip's incurred a net cash deficit of \$79,045. However, *roughly half of the TEC Legal Fees were eligible for partial reimbursement from the Church Insurance Co. of Vermont, totaling some \$111,749.*" (emphasis added).

34. Upon information and belief, CIC-VT made such payments of insurance proceeds to that Lawrence Parish Entity during the year 2018 and/or 2019 and/or other years with knowledge that it has claimed to be disaffiliated from TEC since 2012; with knowledge of its unlawful possession and control and use of parish property held in trust for TECSC and TEC; with knowledge of the South Carolina Supreme Court's final decision against it on August 2, 2017; and with knowledge that the insurance proceeds would not be held in trust for TECSC and TEC but would rather be used to fund its ongoing litigation efforts against TECSC and TEC.

35. This wrongful conduct constitutes a breach by CIC-VT of its contractual and fiduciary duties owed to TECSC under the Diocesan Program Master Policy that was entered into based upon and pursuant to the legal authority and restrictions in its corporate charter and applicable captive insurance company laws, and provided coverages to protect and insure the

valuable property held in trust for TECSC and TEC.

36. Any insurance proceeds paid by CIC-VT in connection with the Diocesan Program Master Policy relating to the participation of an affiliated Episcopal parish known as “Saint Philip’s” should have been paid to TECSC because:

- i. TECSC is the primary insured under the Diocesan Program Master Policy;
- ii. TECSC is the intended beneficiary of such insurance proceeds under the Diocesan Program Master Policy; and
- iii. TECSC and TEC are the beneficiaries of the trust that includes all such property, including any insurance proceeds (together with all of the other parish property held in trust).

37. Conversely, such insurance proceeds should not have been paid by CIC-VT to a disaffiliated Lawrence Parish Entity because:

- i. a disaffiliated Lawrence Parish Entity is not and cannot be insured by CIC-VT under the Diocesan Program Master Policy (in the alternative, to the extent it may have been an insured under the Diocesan Program Master Policy as an affiliated Episcopal parish participant of TECSC in 2012, its disaffiliation affected any status and rights it may have had as an insured under the Diocesan Program Master Policy and applicable law);
- ii. a disaffiliated Lawrence Parish Entity is not and cannot be the intended beneficiary of any such insurance proceeds paid by CIC-VT under the Diocesan Program Master Policy (in the alternative, to the extent it may have been an intended beneficiary under the Diocesan Program Master Policy as an affiliated Episcopal parish participant of TECSC in 2012, its disaffiliation affected any status and rights it may have had as an intended

- beneficiary under the Diocesan Program Master Policy and applicable law);
- iii. a disaffiliated Lawrence Parish Entity is not the beneficiary of any such parish property held in trust for TECSC and TEC, including insurance proceeds (together with all of the other parish property held in trust for TECSC and TEC);
 - iv. CIC-VT knew that the Lawrence Parish Entity would not actually hold the insurance proceeds in trust for TECSC, its own insured;
 - v. CIC-VT intentionally made such payment(s) for the improper purpose of funding litigation efforts against TECSC, its own insured; and
 - vi. CIC-VT further intended or knew or should have known that such improper payment(s) caused and resulted in and aided and abetted the following:
 - a. the protraction of such litigation efforts against TECSC, its own insured;
 - b. the refusal to obey and the opposition to the enforcement of the South Carolina Supreme Court's final decision in favor of TECSC, its own insured;
 - c. the delay of the transfer of possession and control and use of the property to TECSC, its own insured; and
 - d. the continued misuse, depletion, and diminishment of such property that the Diocesan Program Master Policy was intended to insure and protect and cover for the benefit of TECSC, its own insured.

38. This wrongful conduct by CIC-VT was willful, reckless, and committed with conscious disregard for its contractual and fiduciary duties and resulting harm to TECSC.

D. Upon information and belief, CIC-VT has engaged in similar wrongful conduct with respect to the Lawrence Diocese and other Lawrence Parish Entities

39. Upon information and belief, similar wrongful conduct also occurred with respect to the Lawrence Diocese and/or additional Lawrence Parish Entities to the extent that CIC-VT similarly made payments and misdirected insurance proceeds to them (which is suspected based upon the facts and circumstances set forth herein, but has not been publicly disclosed and will be subject to discovery in this action).

40. Upon information and belief, the Lawrence Diocese and the Lawrence Parish Entities are similarly situated in many respects and have engaged in the litigation against TECSC and TEC oftentimes jointly, collectively, and under common lead representation. They have likewise acted in many respects jointly, collectively, and under common lead representation in making claims and litigating against CIC-VT, as further described below.

41. Upon information and belief, in or around 2013, the Lawrence Diocese tendered a claim seeking coverage from CIC-VT. Upon information and belief, the final resolution or settlement of that claim and the making of any payments with respect thereto, if any, has not been publicly disclosed, but will be subject to discovery in this action.

42. Upon information and belief, in or around 2013 or 2014 or 2015 or other subsequent years, at least some of the other Lawrence Parish Entities also tendered claims seeking coverage from CIC-VT. Upon information and belief, the final resolution or settlement of those claims and the making of any payments with respect thereto, if any, has not been publicly disclosed, but will be subject to discovery in this action.

43. In 2015, some of the Lawrence Parish Entities sued CIC-VT (including the Lawrence Parish Entity unlawfully maintaining possession and control of and misusing, depleting, and diminishing the trust property known as the “Saint Philip’s Episcopal” church in downtown Charleston). *Church of the Redeemer, et. al. v. The Church Insurance Company, et. al.*, 2:15-CV-

02590 (D.S.C.). The public record in that action reveals that before any dispositive motions were filed, the action was dismissed by a final joint stipulation of the parties on November 11, 2015. *Id.* (Dkt. 30). Upon information and belief, the final resolution or settlement of those claims and the making of all payments with respect thereto has not been publicly disclosed, but will be subject to discovery in this action.

44. CIC-VT's defensive pleading in that action, which it filed with this Court in 2015, asserted that the Lawrence Parish Entities had no coverage under the Diocesan Program Master Policy because "*only affiliates of The Episcopal Church are eligible for coverage from CIC-VT.*" *Id.* (Dkt. 22 at 22). CIC-VT has egregiously disregarded this fact that it acknowledged and asserted in its own defense in prior litigation by subsequently, as set forth above, wrongfully and knowingly making payments and misdirecting insurance proceeds to at least one of the Lawrence Parish Entities that brought that suit, and upon information and belief, many others.

E. Damages to TECSC

45. In addition to nominal and general damages that inherently arise as a matter of law from the above wrongful conduct, the direct and known and reasonably foreseeable damages to TECSC resulting from such wrongful conduct include: lost insurance proceeds; lost value of other diocesan and parish property held in trust that has been misused, depleted, and diminished; increased costs of litigation against disaffiliated adversaries; and attorneys' fees and costs in this action.

46. TECSC is also entitled to punitive damages because CIC-VT's wrongful conduct was willful and reckless and committed with conscious disregard for its contractual and fiduciary duties and the known and reasonably foreseeable resulting harm to TECSC.

FOR A FIRST CAUSE OF ACTION

(Breach of Contract)

47. The allegations of the foregoing paragraphs are incorporated by reference as if fully stated herein.

48. TECSC is the primary insured and intended beneficiary under the Diocesan Program Master Policy issued by CIC-VT, including for all master policy numbers and participant certificate numbers in all years between 2012 and 2019.

49. The Diocesan Program Master Policy includes contractual duties and restrictions provided by applicable captive insurance company laws and CIC-VT's corporate charter as if set forth verbatim therein. It also includes contractual duties to provide coverages to protect and insure the diocesan and parish property held in trust for TECSC, including but not limited to property coverage, crime and premises coverage, and liability coverage, which includes a duty to defend.

50. CIC-VT breached such contractual duties when it knowingly and wrongfully made payments and misdirected insurance proceeds to at least one Lawrence Parish Entity to fund its litigation efforts against TECSC and TEC and to aid and abet it in depriving TECSC of trust property that the Diocesan Program Master Policy was intended to cover and protect. Further, CIC-VT breached such contractual duties by failing to provide or denying coverages to protect and insure the property held in trust for TECSC from the losses CIC-VT caused and aided and abetted.

51. Upon information and belief, similar breaches of contract also occurred with respect to the Lawrence Diocese and/or additional Lawrence Parish Entities to the extent that CIC-VT similarly made payments and misdirected insurance proceeds to them, which is suspected based upon the facts and circumstances set forth above, but has not been publicly disclosed and will be subject to discovery in this action.

52. In addition to nominal and general damages that inherently arise as a matter of law from the above breaches of contract, the direct and known and reasonably foreseeable damages to

TECSC resulting from such breaches of contract include: lost insurance proceeds; lost value of other diocesan and parish property held in trust that has been misused, depleted, and diminished; increased costs of litigation against disaffiliated adversaries; and attorneys' fees and costs in this action.

FOR A SECOND CAUSE OF ACTION

(Bad Faith)

53. The allegations of the foregoing paragraphs are incorporated by reference as if fully stated herein.

54. TECSC is the primary insured and intended beneficiary under the Diocesan Program Master Policy issued by CIC-VT, including for all master policy numbers and participant certificate numbers in all years between 2012 and 2019.

55. The Diocesan Program Master Policy includes contractual and fiduciary duties and restrictions provided by applicable captive insurance company laws and CIC-VT's corporate charter as if set forth verbatim therein. It also includes contractual and fiduciary duties to provide coverages to protect and insure the diocesan and parish property held in trust for TECSC, including but not limited to property coverage, crime and premises coverage, and liability coverage, which includes a duty to defend.

56. CIC-VT breached an implied covenant of good faith and fair dealing and acted unreasonably and in bad faith when it knowingly and wrongfully made payments and misdirected insurance proceeds to at least one Lawrence Parish Entity to fund its litigation efforts against TECSC and TEC and to aid and abet it in depriving TECSC of valuable trust property that the Diocesan Program Master Policy was intended to cover and protect.

57. Upon information and belief, similar bad faith conduct also occurred with respect to the Lawrence Diocese and/or additional Lawrence Parish Entities to the extent that CIC-VT

similarly made payments and misdirected insurance proceeds to them, which is suspected based upon the facts and circumstances set forth above, but has not been publicly disclosed and will be subject to discovery in this action.

58. In addition to nominal and general damages that inherently arise as a matter of law from the above bad faith conduct, the direct and known and reasonably foreseeable damages to TECSC resulting from such bad faith conduct include: lost insurance proceeds; lost value of other diocesan and parish property held in trust that has been misused, depleted, and diminished; increased costs of litigation against disaffiliated adversaries; and attorneys' fees and costs in this action.

59. TECSC is further entitled to punitive damages because CIC-VT's bad faith conduct was willful and reckless and committed with conscious disregard for its contractual and fiduciary duties and the known and reasonably foreseeable resulting harm to TECSC.

FOR A THIRD CAUSE OF ACTION

(Breach of Fiduciary Duty)

60. The allegations of the foregoing paragraphs are incorporated by reference as if fully stated herein.

61. The relationship between CIC-VT and TECSC is a fiduciary one, with CIC-VT owing fiduciary duties to TECSC by virtue of the duties and restrictions provided by applicable captive insurance company laws and CIC-VT's corporate charter. Such fiduciary duties include duties of loyalty and care to insure risks only for TEC and its affiliates, and to properly process insurance claims only for the benefit of TEC and its affiliates, including claims to protect and cover and insure TECSC and the diocesan and parish property held in trust for TECSC. Such fiduciary duties are included in the Diocesan Program Master Policy as if set forth verbatim therein.

62. CIC-VT breached such fiduciary duties when it knowingly and wrongfully made payments and misdirected insurance proceeds to at least one Lawrence Parish Entity to fund its litigation efforts against TECSC and TEC and to aid and abet it in depriving TECSC of trust property that the Diocesan Program Master Policy was intended to cover and protect. Further, CIC-VT breached such fiduciary duties by failing to provide or denying coverages to protect and insure the property held in trust for TECSC from the losses CIC-VT caused and aided and abetted.

63. Upon information and belief, similar breaches of fiduciary duty also occurred with respect to the Lawrence Diocese and/or additional Lawrence Parish Entities to the extent that CIC-VT similarly made payments and misdirected insurance proceeds to them, which is suspected based upon the facts and circumstances set forth above, but has not been publicly disclosed and will be subject to discovery in this action.

64. In addition to nominal and general damages that inherently arise as a matter of law from the above breaches of fiduciary duty, the direct and known and reasonably foreseeable damages to TECSC resulting from such breaches of fiduciary duty include: lost insurance proceeds; lost value of other diocesan and parish property held in trust that has been misused, depleted, and diminished; increased costs of litigation against disaffiliated adversaries; and attorneys' fees and costs in this action.

65. TECSC is further entitled to punitive damages because CIC-VT's breaches of fiduciary were willful and reckless and committed with conscious disregard for its contractual and fiduciary duties and the known and reasonably foreseeable resulting harm to TECSC.

FOR A FOURTH CAUSE OF ACTION

(Aiding and Abetting a Breach of Fiduciary Duty)

66. The allegations of the foregoing paragraphs are incorporated by reference as if fully stated herein.

67. The Lawrence Diocese and the Lawrence Parish Entities owe fiduciary duties to TECSC arising from their possession and control and use of diocesan and parish property held in trust for TECSC and TEC.

68. The Lawrence Diocese and the Lawrence Parish Entities have breached such fiduciary duties by litigating against TECSC and TEC, and by unlawfully maintaining possession and control and use of and misusing, depleting, and diminishing the diocesan and parish trust property.

69. CIC-VT knew or should have known about such fiduciary duties and the Lawrence Diocese and the Lawrence Parish Entities' breaches thereof.

70. CIC-VT has enabled and aided and abetted at least one Lawrence Parish Entity in breaching such fiduciary duties, participating by wrongfully paying and misdirecting insurance proceeds to it for the known purpose of funding their litigation efforts against TECSC and TEC.

71. Upon information and belief, similar aiding and abetting also occurred with respect to the Lawrence Diocese and/or additional Lawrence Parish Entities to the extent that CIC-VT similarly made payments and misdirected insurance proceeds to them, which is suspected based upon the facts and circumstances set forth above, but has not been publicly disclosed and will be subject to discovery in this action.

72. In addition to nominal and general damages that inherently arise as a matter of law from the above aiding and abetting a breaches of fiduciary duty, the direct and known and reasonably foreseeable damages to TECSC resulting from such wrongful conduct include: lost insurance proceeds; lost value of other diocesan and parish property held in trust that has been misused, depleted, and diminished; increased costs of litigation against disaffiliated adversaries; and attorneys' fees and costs in this action.

73. TECSC is further entitled to punitive damages because CIC-VT's aiding and abetting breaches of fiduciary duty was willful and reckless and committed with conscious disregard for its contractual and fiduciary duties and the known and reasonably foreseeable resulting harm to TECSC.

DEMAND FOR JURY TRIAL

TECSC demands a jury trial for all claims so triable.

PRAYER FOR RELIEF

WHEREFORE, TECSC prays for this Court to issue:

- a. a judgment in favor of TECSC on all claims;
- b. an award to TECSC of nominal and general damages, in an amount to be determined at trial;
- c. an award to TECSC of compensatory damages, in an amount to be determined at trial;
- d. an award to TECSC of punitive damages, in an amount to be determined at trial;
- e. an award to TECSC of its reasonable attorneys' fees and costs in this action;
- f. an award to TECSC of an equitable accounting; and
- g. an award to TECSC of such other and further relief as the Court deems just and proper.

Dated: June 11, 2019

Respectfully submitted,

/s/ Thomas S. Tisdale

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