UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, NEW YORK, Debtor.
ARK235 DOE, ARK242 DOE, ARK321 DOE, ARK 38 DOE, and ARK356 Doe, Appellants, -v- THE ROMAN CATHOLIC DIOCESE OF ROCKVILLE CENTRE, NEW YORK, Appellee.

23-CV-9210 (JPO)

OPINION AND ORDER

J. PAUL OETKEN, District Judge:

This appeal arises from the bankruptcy proceedings of the Roman Catholic Diocese of Rockville Centre, New York (the "Debtor"). Appellants ("Claimants") are individuals who allege that clergy and staff at religious institutions located within the Debtor's diocesan territory sexually abused them as children. They appeal from Chief U.S. Bankruptcy Judge Martin Glenn's order dismissing their claims in the Debtor's Chapter 11 bankruptcy case for failure to state a claim under the federal pleading standard. For the reasons that follow, the bankruptcy court's order is affirmed.

I. Background

The Court assumes familiarity with the factual and procedural background of this case as set forth in *In re Roman Cath. Diocese of Rockville Ctr., New York*, 651 B.R. 399 (Bankr. S.D.N.Y. 2023), and *In re Roman Cath. Diocese of Rockville Ctr.*, No. 20-12345, 2023 WL

6284596 (Bankr. S.D.N.Y. Sept. 26, 2023). As relevant here, Claimants allege that they were sexually abused as children by adults staffed at the religious institutions they attended in the Debtor's diocesan territory. In its June 2, 2023 Memorandum Opinion and Order, the bankruptcy court sustained without prejudice the Debtor's objection to thirty-eight claims for failure to plausibly allege that the Debtor had a duty prevent the abuse in question. 651 B.R. at 415-36. The court also sustained the objection to one claim with prejudice. *Id.* at 436. After Claimants re-filed proofs of claim with amendments, the bankruptcy court sustained the Debtor's objection to thirty-three claims with prejudice in its September 26, 2023 Memorandum Opinion and Order. *In re Roman Cath. Diocese of Rockville Ctr.*, 2023 WL 6284596, at *1, *8. Claimants filed a timely appeal. (ECF No. 1.)

II. Standard of Review

A bankruptcy court's findings of fact are reviewed for clear error, and its conclusions of law are reviewed *de novo*. *In re Bayshore Wire Prods. Corp.*, 209 F.3d 100, 103 (2d Cir. 2000). The legal standard of review of the disallowance of claims at a sufficiency hearing is equivalent to the standard applied to a motion to dismiss for failure to state a claim under Rule 12(b)(6) of the Federal Rules of Civil Procedure. *See* Fed. R. Bankr. P. 7012(b). The dismissal of a complaint pursuant to Rule 12(b)(6) is reviewed *de novo* on appeal. *See Nicosia v. Amazon.com, Inc*., 834 F.3d 220, 230 (2d Cir. 2016). Accordingly, this Court reviews the bankruptcy court's order *de novo*.

III. Discussion

Claimants argue that the bankruptcy court improperly applied the federal pleading standard as well as substantive principles of New York agency law. Claimants also contend that the First Amendment does not foreclose their arguments concerning the Bishop's control of Catholic organizations and clergy operating within the Diocese's territory and that the

bankruptcy court disregarded certain factual issues related to the Diocese's control over the alleged abusers. None of these arguments provides grounds for reversal.

The bankruptcy court properly applied the federal pleading standard in determining that Claimants' factual allegations were legally insufficient to state a plausible claim for relief. The parties agree that the federal "plausibility" standard set forth in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), and *Bell Atl. Corp. v. Twombly*, 550 U.S. 554 (2007), applies to the claims at issue. (*See* ECF No. 19 at 17; ECF No. 24 at 21-22.) But Claimants contend that the bankruptcy court misapplied the *Twombly-Iqbal* standard by "demanding hard proof and evidence" supporting their claims. (ECF No. 19 at 20.) Not so. The bankruptcy court carefully reviewed the factual allegations and properly determined that they were conclusory and therefore legally insufficient. None of Claimants' allegations contains sufficient factual content to "nudge[] their claims across the line from conceivable to plausible." *Twombly*, 550 U.S. at 570. Specifically, Claimants offer no non-conclusory allegations to support a theory of liability based on the Debtor's relationships with either the alleged abusers or the religious institutions where the abuse occurred. The court correctly determined that the allegations were merely conclusory recitals of the legal relationships Claimants seek to establish and failed to provide any factual heft. The court's conclusion is entirely consistent with the federal pleading standard, under which "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Iqbal*, 556 U.S. at 678.

The bankruptcy court also properly applied the substantive principles of New York agency law. To determine whether a claim is allowable by law, bankruptcy courts look to "applicable nonbankruptcy law." *In re W.R. Grace & Co*., 346 B.R. 672, 674 (Bankr. D. Del. 2006). Under New York law, a defendant cannot be held liable for tortious conduct by

individuals absent "the authority to supervise or control" them. *See Bautista v. Archdiocese of New York*, 84 N.Y.S.3d 47, 49 (1st Dep't 2018); *see also Farrulla v. Happy Care Ambulette Inc*., 5 N.Y.S.3d 11, 12 (1st Dep't 2015). Accordingly, to adequately assert state law tort claims, Claimants must plead that the Debtor had some control over the abusers or the religious institutions where the abuse occurred. As the bankruptcy court explained, "'control' is effectively nothing more than a shorthand . . . to describe the . . . relationships that could give rise to a tort duty—namely, that the Debtor was either an employer, or principal in a principal-agent relationship." 651 B.R. at 410. In other words, Claimants were required to plead the existence of an employment or agency relationship between the Diocese and the alleged abusers, or an agency relationship between the Diocese and the religious institutions.

The bankruptcy court properly determined that Claimants offered no non-conclusory allegations to support either theory of liability. At best, the factual allegations, which describe the Diocese's involvement in decisionmaking and coordination of certain activities with Catholic institutions in its territory, plausibly support the existence of a close working relationship between the Debtor and those institutions. But the allegations are insufficient to plausibly allege an agency relationship, which under state law requires the agent to have the "power to alter legal relations between the principal and third persons." *Mouawad Nat Co. v. Lazare Kaplan Intern. Inc.*, 476 F. Supp.2d 414, 422 (S.D.N.Y. 2007). Furthermore, although Claimants have plausibly alleged that the Bishop, acting on behalf of the Debtor, has some authority to hire or appoint personnel at institutions within the Debtor's territory, Claimants have not plausibly alleged that the Debtor appoints all clergy members at the various Catholic institutions located in the Diocese. Even more crucially, Claimants have offered no non-conclusory allegations to support the inference that the Debtor actually exercised this authority to hire or appoint any of the

specific alleged abusers. Similarly, although Claimants' allegations indicate that the Diocese may have occasionally supervised or disciplined teachers at the institutions in question, there is no non-conclusory allegation that the Diocese exercised this authority over all teachers or over any specific alleged abuser. While the pleaded facts here may be "consistent with [the] defendant's liability," they "stop[] short of the line between possibility and plausibility of entitlement to relief." *Iqbal*, 556 U.S. at 678 (internal quotation marks omitted).

Claimants argue the bankruptcy court erred by focusing its inquiry on the Debtor's actual exercise of control rather than its right to control the religious institutions at issue. (ECF No. 19 at 27-32.) But the cases cited in support of this argument are inapposite, as they involve specialized rules for "construction manager[s]," *see In re Hirsch Elec. Co., Inc.*, 461 B.R. 167, 175 (Bankr. E.D.N.Y. 2011) (quoting *Construction Litigation* (Kenneth M. Cushman et al. eds., 1993)), or address a hiring party's right to control in the context of determining whether a worker is an employee or independent contractor, *see Eisenberg v. Advance Relocation & Storage Inc.*, 237 F.3d 111, 113-15 (2d Cir. 2000); *Frankel v. Bally, Inc.*, 987 F.2d 86, 89 (2d Cir. 1993). Here, Claimants have not alleged that the Diocese hired any of the alleged abusers in the first instance, and thus the Second Circuit's test to distinguish employees from independent contractors is not the appropriate inquiry. Based on the applicable New York agency law, Claimants do not plausibly allege that the Diocese controlled either the alleged abusers or the institutions with which they were affiliated.

Claimants also argue that the bankruptcy court erred by disregarding certain factual issues related to the Diocese's authority to confer "faculties" on members of religious orders within the Diocese. As the bankruptcy court explained, "faculties" are a concept from Canon Law that, as a matter of Roman Catholic doctrine, refer to "the capability to administer its

sacraments and engage in other religious rituals." 2023 WL 6284596 at *7. Claimants argue that the Bishop's authority to confer faculties on members of religious orders within the Diocese supports the existence of an agency or employment relationship under state law. Specifically, Claimants have alleged that in response to allegations of child sexual abuse, the Diocese withdrew the "faculties" of Father James Williams—who was President of Chaminade High School, a Marianist facility within diocesan territory—to function as a priest within its territory. (ECF No. 19 at 29.) The Debtor chose not to renew its objection to the claims against Father Williams and Chaminade after Claimants re-filed their proofs of claim in the bankruptcy court. Claimants argue that this allegation is relevant to similarly situated claims and demonstrates that the Diocese oversees all Catholic institutions within its territory through the "faculties" concept. (ECF No. 27 at 28-29).

The bankruptcy court correctly observed that "the Free Exercise Clause and Establishment Clause of the United States Constitution bar courts from interpreting issues of religious Canon Law to resolve disputes." 651 B.R. at 421. Instead, "the claimants must show that an employment or agency relationship existed between the Debtor and abuser or Religious Institutions/Orders, based on facts relevant to those theories as they are normally established in the secular context." *Id*. at 422. The bankruptcy court properly reasoned that the resolution of the issue presented in this case—the existence of employment or agency relationships—does not, however, depend upon any interpretation of Canon Law that would violate the First Amendment. Here, Claimants fail to state a claim because the allegation that the Diocese revoked the faculties of one abuser accused in connection with a claim that is not at issue in this appeal is insufficient to plausibly allege that the specific abusers at issue here were employees or agents of the Diocese, or that their institutions were agencies of the Diocese. As discussed above, an

allegation that the Diocese hired, fired, supervised, or disciplined an individual not at issue in this appeal does not support an inference that the Diocese has the power to control all clergy or staff at Catholic institutions within its geographic territory or exercised that power over any specific abuser in this appeal. Claimants fail to meet the pleading standard because they do not allege facts to show that the specific abusers at issue—and not others at the same institutions—were agents or employees of the Debtor or that their institutions were agents of the Debtor.

IV. Conclusion

For the foregoing reasons, the September 26, 2023 Memorandum Opinion and Order of the United States Bankruptcy Court for the Southern District of New York, sustaining the Debtor's Sixteenth Omnibus Objection with prejudice, is AFFIRMED.

The Clerk of Court is directed to mark this case as closed.

SO ORDERED.

Dated: July 15, 2024
New York, New York

J. PAUL OETKEN
United States District Judge