

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WASHINGTON AT SPOKANE

In re:

THE CATHOLIC BISHOP OF
SPOKANE, a/k/a The Catholic Diocese of
Spokane,

Debtor.

No. 04-08822

PLAN TRUSTEE'S MOTION FOR
ORDER APPROVING STIPULATED
"THIRD TOLLING AGREEMENT"

COMES NOW the Plan Trustee, and respectfully moves the Court for an Order Approving the Stipulated "Third Tolling Agreement". This Motion is supported by the contemporaneously filed Declaration of Gloria Z. Nagler, and by the entire courtfile herein.

The relevant facts underlying this motion are set forth fully in the contemporaneously filed Declaration of Gloria Z. Nagler. By way of summary, the Debtor and Paine Hamblen entered into a Tolling Agreement ("First Agreement") on January 2, 2007. *See*, Declaration of Gloria Z. Nagler, ¶ 3. The First Agreement provided for extension of the deadline for the Debtor to commence any avoidance actions on behalf of its bankruptcy estate arising under 11 U.S.C. §§ 544, 545, 547, 548, or 553 ("Avoidance Actions") against Paine Hamblen, from December 6, 2006 to and including the latter of June 29, 2007 or thirty (30) days after the Effective Date. *See*, Declaration of Gloria Z. Nagler, ¶ 4.

On June 8, 2007, a "Second Tolling Agreement" was entered into between the Debtor and Paine Hamblen. *See*, Declaration of Gloria Z. Nagler, ¶ 5. This Second Tolling Agreement

1 was approved by Order of this Court on June 28, 2007, and provided for the extension of the
2 deadline for Debtor to commence any Avoidance Actions on behalf of its bankruptcy estate
3 against Paine Hamblen from June 29, 2007 to August 31, 2007. *See*, Declaration of Gloria Z.
4 Nagler, ¶ 5.

5 Pursuant to the terms of the Debtor's confirmed Second Plan of Reorganization, the Plan
6 Trustee effectively stands in the shoes of the Debtor *vis a vis* commencement and prosecution of
7 the Avoidance Actions. *See*, Declaration of Gloria Z. Nagler, ¶ 6. In order to preserve her rights
8 as Plan Trustee with regard to the Avoidance Actions, while simultaneously avoiding litigation
9 which may be premature at this time, the Plan Trustee has entered into a "Third Tolling
10 Agreement" with Paine Hamblen. *See*, Declaration of Gloria Z. Nagler, ¶ 7. The Third Tolling
11 Agreement extends the deadline by which the Plan Trustee may commence Avoidance Actions
12 from August 31, 2007 through January 31, 2008. *See*, Declaration of Gloria Z. Nagler, ¶7. A
13 true and correct copy of the Third Tolling Agreement has been filed as Exhibit A to the
14 Declaration of Gloria Z. Nagler.

15 WHEREFORE, the Plan Trustee respectfully moves the Court for an Order approving the
16 stipulated "Third Tolling Agreement" entered into between the Plan Trustee and Paine Hamblen.

17 DATED this 7th day of August, 2007.

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19 **NAGLER & ASSOCIATES**

20 /s/Gloria Z. Nagler
21 GLORIA Z. NAGLER
22 WSBA # 13176
23 Plan Trustee
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