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8
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10 UNITED STATES BANKRUPTCY COURT
11 DISTRICT OF OREGON

12 In re:)
13 SOCIETY OF JESUS, OREGON) Case No. 09-30938-elp11
14 PROVINCE, an Oregon domestic nonprofit)
religious corporation,) DECLARATION OF ANTHONY L.
15 Debtor.) TO OBJECTIONS TO
16) CONFIRMATION OF FIRST
17) MODIFIED JOINT PLAN OF
REORGANIZATION DATED MAY 27,
2011

18
19 I, Anthony Atkinson, declare as follows:

- 20 1. I am the co-chairperson of the Official Committee of Unsecured Creditors
21 appointed in this Case (the "Committee").
22 2. I am submitting this declaration in support of the confirmation of the First
23 Modified Joint Plan of Reorganization Dated May 27, 2011 [Docket No. 1186-1] (the
24 "Plan").¹

25
26 ¹ All capitalized terms used in this Declaration that are not specifically defined herein are defined in the Plan.
**Page 1 of 6 – DECLARATION OF ANTHONY L. ATKINSON IN SUPPORT OF
CONFIRMATION AND IN RESPONSE TO OBJECTIONS TO CONFIRMATION OF
FIRST MODIFIED JOINT PLAN OF REORGANIZATION (Dated May 27, 2011)**

1 3. I am familiar with the Plan, the Disclosure Statement Regarding First
2 Modified Plan of Reorganization Dated May 27, 2011 (the "Disclosure Statement"),
3 having participated in the negotiation and development of many features thereof.

4 4. If I were called upon to testify, I would testify as to the facts set forth in
5 this Declaration.

6 **A. BACKGROUND OF THE COMMITTEE AND ITS INVOLVEMENT IN THE**
7 **PLAN NEGOTIATION PROCESS**

8 5. The Committee is comprised of seven survivors of sexual abuse by clergy
9 and others.

10 6. The Abuse Claims filed in the bankruptcy case remain unresolved and will
11 be Allowed or Disallowed pursuant to the Claims resolution procedures set forth in the
12 Plan. After elimination of duplicate and amended Abuse Claims, the Committee
13 estimates that approximately five hundred thirty five (535) unresolved Current Sexual
14 Abuse Claims and one (1) Future Abuse Claim (filed by the FCR) had been filed against
15 the Debtor.

16 7. The Committee has been intricately involved in negotiating agreements
17 leading to the filing of a joint plan of reorganization in this case. The Plan is the result of
18 a collaborative negotiating effort between the Debtor, the Committee, the FCR, and the
19 Debtor's insurers, Safeco, Travelers, and Western World (collectively the "Settling
20 Insurers"). The Debtor, the Committee, the FCR, and the Settling Insurers were
21 involved in numerous mediation sessions and settlement discussions over a period of
22 approximately 20 months under the supervision of the Hon. Gregg D. Zive, United
23 States Bankruptcy Judge for the District of Nevada. These negotiations involved both in-
24 person meetings and telephone conferences, with approximately 8 or more in-person
25

26 **Page 2 of 6 – DECLARATION OF ANTHONY L. ATKINSON IN SUPPORT OF**
CONFIRMATION AND IN RESPONSE TO OBJECTIONS TO CONFIRMATION OF
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DOCS_LA:240732.3 46352-002

1 sessions being conducted in Reno, Portland, Los Angeles, and Chicago. I personally
2 attended several of those sessions and actively participated in the negotiations.

3 8. Settlement discussions concerned the strengths and weaknesses of the
4 various participants' positions including, without limitation, the following issues: (1) the
5 aggregate estimated value of the Current Sexual and Non-Sexual Abuse Claims; (2) the
6 estimated number and value of anticipated Future Abuse Claims; (3) establishment of
7 both a non-litigation and litigation claims review process that was determined to be fair
8 and equitable by counsel for and members of the Committee, counsel for the majority of
9 the Current Known Abuse Claimants, and the FCR; (4) insurance coverage issues; and
10 (5) property of the estate issues. The parties met on numerous occasions and several
11 occasions by telephone conference call, and following negotiations between the Debtor,
12 the Committee, the FCR, and the Settling Insurers, through their respective counsel,
13 agreed upon the terms of the Plan.

14 9. The Plan includes certain non-monetary agreements by the Reorganized
15 Debtor and certain other parties that the Committee believes will reduce the risk of the
16 future sexual abuse of minors.

17 10. Based on my understanding of the Plan:

- 18 a. Sexual Abuse Claimants may elect to liquidate their Sexual Abuse
19 Claims through Allocation Plan I or II, litigate their Claims, or may be
20 treated as a Convenience Abuse Claim.
- 21 b. Abuse Claimants represented by counsel who liquidate their Claims by
22 an Allocation Plan will be assigned to Creditor Pools and Allocation
23 Plans based on prior designations by their counsel of record. Abuse
24 Claimants who are not represented by counsel of record will be
25 assigned to a Creditor Pool and Allocation Plan. Each Sexual Abuse
26

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1 Creditor Pool will be funded on a per capita basis utilizing the average
2 amount per claim based on the Trust's assets after reserves for (1)
3 expenses of the Trust's administration, (2) Abuse Claims to be
4 liquidated through litigation, (3) Non-Sexual Abuse Claims, and (4)
5 Future Abuse Claims. The Committee was primarily responsible for
6 bringing all parties together and successfully negotiating this aspect of
7 the Plan.

8 c. Abuse Claimants electing to litigate their Abuse Claims will be entitled
9 to have their Claims adjudicated and the Allowed amount of their
10 Claims determined by a court of competent jurisdiction.

11 d. The Abuse Claimants will retain their rights, if any, against any Person
12 or Entity other than the Debtor, the Reorganized Debtor, the
13 Participating Parties, the Released Parties, and the Settling Insurers
14 for the Abuse Claims, including, without limitation, (i) a Person or
15 Persons having personally committed an act or acts of Abuse resulting
16 in a Claim against the Debtor or a Participating Party, (ii) the Society of
17 Jesus; (iii) the Father General of the Society of Jesus and his
18 predecessors, (iv) the Society of Jesus General Curia; (v) a successor
19 or predecessor of the Debtor to the extent of such successor's or
20 predecessor's independent liability for an act or acts of Abuse; (vi)
21 Seattle University; (vii) Gonzaga University, and (viii) the Jesuit High
22 Schools.

23 **C. The Plan Satisfies Section 1129 of the Bankruptcy Code.**

24 14. Except as otherwise indicated, all facts set forth in this Declaration are
25 based on my personal knowledge, my experience as the chairperson of the Committee,
26

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1 my understanding of the requirements of Chapter 11 of the Bankruptcy Code as they
2 relate to confirmation of a plan of reorganization, the events that occurred throughout
3 the Debtor's Chapter 11 case, the discussions I have had with various professionals
4 during the case, and my participation in this Chapter 11 case. Based thereon, I believe
5 that the Plan complies with the applicable provisions of Section 1129 of the Bankruptcy
6 Code for confirmation of a Plan.

7
8 **D. Proponents' Compliance with the Bankruptcy Code (Section 1129(a)(2) of
the Bankruptcy Code).**

9 15. The Committee has performed the following duties (a) retained counsel to
10 represent the Committee; (b) consulted with the Debtor regarding the use of funds in its
11 operations and agreed to the entry of various operating orders during the case; (c)
12 reviewed the Debtor's schedules of assets and liabilities and obtained discovery which
13 the Committee's counsel reviewed to evaluate the Debtor's assertion that certain of its
14 assets were held in trust and were unavailable to pay Claims; (d) participated
15 extensively in the formation of the Plan; and (e) obtained from the Debtor the non-
16 monetary considerations that the Committee believes will assist in helping to prevent
17 further abuse.

18 **E. Plan Provided in Good Faith (Section 1129(a)(3)).**

19 16. The Plan is the result of extensive, arms-length negotiations between and
20 among the Debtor, the Committee, the FCR, and the Settling Insurers. The Plan and
21 Disclosure Statement represent a culmination of those negotiations and the substantial
22 input of each representative group. Additionally, the Plan has been jointly proposed by
23 the Debtor, the Committee, and the FCR, and received overwhelming acceptance by
24 creditors entitled to vote. Accordingly, the Plan achieves the goal of consensual
25 reorganization embodied in the Bankruptcy Code.

26 **G. Acceptance by Impaired Classes (Section 1129(a)(7)).**

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1 17. I was involved in negotiating the aggregate amount of funding from the
2 Debtor and Participating Parties and from the Debtor's insurers for the Plan. I believe
3 the settlements reached between the Debtor, the Committee, the FCR, and the Settling
4 Insurers were negotiated in good faith and with due consideration for the strengths and
5 weaknesses of each party's position. The Trust will receive approximately \$43.1 million
6 from the Debtor (which is the sum net of an administrative expense reserve subject to
7 Bankruptcy Court approval of fees and expenses) and Participating Parties,
8 approximately \$119.7 million in Insurance Recoveries from the Safeco, Travelers, and
9 Western World, and the Avoidance Actions, and Third Party Derivative Claims. A
10 portion of the money paid by the Debtor was allegedly held in the Formation Fund, Aged
11 and Infirm Fund, and Apostolic Works Fund, which the Debtor asserts are Charitable
12 Trusts that the Debtor contends would not be available to pay Claims, absent the
13 settlement. That issue has not been fully litigated but has been settled by the Debtor
14 and the Committee to provide funding for the Plan.

15 I declare under penalty of perjury under the laws of the United States of America
16 and the state of Oregon that the foregoing is true and correct.

17 Dated this 5th day of July, 2011 at Hansville, WA.

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19 

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21 _____
Anthony Atkinson

22 F:\CLIENTS\19620\004\PLAN & DISCLOSURE STATEMENT\P-DECLARATION ATKINSON (PLAN CONFIRMATION).DOC

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26 **Page 6 of 6 – DECLARATION OF ANTHONY L. ATKINSON IN SUPPORT OF
CONFIRMATION AND IN RESPONSE TO OBJECTIONS TO CONFIRMATION OF
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1 CERTIFICATE OF SERVICE

2 I, Janine E. Hume declare as follows:

3 I am employed in the county of Multnomah, state of Oregon; I am over the age of
4 eighteen years and am not a party to this action; my business address is 1000 SW
5 Broadway, Suite 1400, Portland, Oregon 97205-3089, in said county and state.

6 I certify that on July 6, 2011, I served, by **first class mail**, a full and correct
7 copy of the foregoing **DECLARATION OF ANTHONY L. ATKINSON** on the parties of
8 record, addressed as follows:

9 **See attached service list.**

10 I also certify that on **July 6, 2011**, I served the above-referenced document(s) on
11 all ECF participants as indicated on the Court's Cm/ECF system.

12 I swear under penalty of perjury that the foregoing is true and correct to the best
13 of my knowledge, information, and belief.

14 Dated: July 6, 2011

15
16 */s/ Janine E. Hume*

17 _____
18 Janine E. Hume, Legal Assistant

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