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10 UNITED STATES BANKRUPTCY COURT
11 DISTRICT OF OREGON

12 In re:

13 SOCIETY OF JESUS, OREGON
14 PROVINCE, an Oregon domestic nonprofit
religious corporation,
15 Debtor.

Case No. 09-30938-elp11
DECLARATION OF STEPHEN S.
GRAY IN SUPPORT OF
CONFIRMATION OF SECOND
MODIFIED JOINT PLAN OF
REORGANIZATION DATED JUNE 30,
2011

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17
18 I, Stephen S. Gray, declare as follows:

19 1. I am the Future Claimants Representative appointed by the Court to
20 represent the interests of the Future Abuse Claimants in this Case (the "FCR"). I am
21 also a Senior Managing Partner in CRG Partners Group, LLC ("CRG").
22

23 2. I am submitting this declaration in support of the confirmation of the
24 Second Modified Joint Plan of Reorganization Dated June 30, 2011 [Docket No. 1244-1]
25 (the "Plan").¹
26

¹ All capitalized terms used in this Declaration that are not specifically defined herein are defined in the Plan.

1 3. I am familiar with the Plan, the Disclosure Statement Regarding First
2 Modified Plan of Reorganization Dated May 27, 2011 [Docket No. 1187-1] (the
3 “Disclosure Statement”), and all the documents related thereto, having participated in
4 the negotiation and development of many features thereof.

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

7 **A. BACKGROUND OF THE FCR AND ITS INVOLVEMENT IN THE PLAN**
8 **NEGOTIATION PROCESS**

9 5. I was appointed the by the Court as the legal representative for the Future
10 Abuse Claimants by order entered August 10, 2009 [Docket No. 412] (the “FCR Order”).

11 6. Upon being appointed as the FCR, my colleague, Stephen Gerlach who is
12 a Director in CRG, and I performed an evaluation of the available Abuse Claims data
13 and significant discovery provided by the Debtor, which included the development and
14 application of a number of analytical methodologies, to arrive at an estimation of the
15 number and value of Future Abuse Claims that are anticipated to be asserted against
16 the Debtor Using that information, I participated in negotiations with the Debtor, the
17 Unsecured Creditors Committee (the “Committee”), and the Debtor’s insurers regarding
18 the settlements reached regarding the property of the estate litigation and the Debtor’s
19 claims for insurance coverage for the Abuse Claims. As part of those negotiations, I
20 reached an agreement with the Committee to allocate the settlement funds between
21 Current Abuse Claims and Future Abuse Claims. The Plan reflects the agreement
22 reached with the Committee on that allocation formula.

23 7. The Plan is the result of a collaborative effort between the Debtor, the
24 Committee, the Debtor’s insurers, Safeco, Travelers, and Western World (collectively
25 the “Settling Insurers”), and myself as the FCR. The Debtor, the Committee, the
26 Settling Insurers, and I and Stephen Gerlach, were involved in numerous mediation

1 sessions and settlement discussions over a period of approximately 20 months under
2 the supervision of the Hon. Gregg D. Zive, United States Bankruptcy Judge for the
3 District of Nevada. These negotiations involved both in-person meetings and telephone
4 conferences, with approximately eight or more in-person sessions being conducted in
5 Reno, Portland, Los Angeles, and Chicago. I, or Stephen Gerlach, personally attended
6 most of those sessions.

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

18 9. The Plan provides a period of 15 years for holders of Future Abuse Claims
19 to assert their Claims. Once asserted, the Claims will be reviewed pursuant to Allocation
20 Plan I by the Abuse Claims Reviewer Hon. William B. Bettinelli, Ret'd. Each Future
21 Abuse Claim will be allocated shares in the Future Abuse Claims Reserve Fund.
22 Dividends will be paid on those shares as set forth in the Plan. I agreed to the 15-year
23 time period for Future Abuse Claimants to assert their Claims because I believe it
24 provides adequate time for all holders of Future Abuse Claims, including minors, to
25 realize they have a claim and if they choose to do so, come forward and assert such
26 claim. I agreed to the allocation of funds between Current and Future Abuse Claimants

1 based on my firm's analysis of the number and value of Future Abuse Claims that are
2 estimated to be asserted in such 15-year period, the funds that are being made
3 available to pay Abuse Claims from the settlements with the Debtor, the Participating
4 Parties, and the Settling Insurers, and the mediation process lead by Judge Zive. I
5 agreed to have all Future Abuse Claims liquidated using Allocation Plan I based on my
6 belief that all Future Abuse Claimants will be better served by liquidating their claims
7 pursuant to Allocation Plan I than by litigating their claims. I believe the time and
8 expense that would be required to litigate the claims and the depletion of the Future
9 Abuse Claims Reserve Fund that would result from such litigation do not justify any
10 Future Abuse Claimant having his or her Claim determined through litigation.

11 **B. The Plan Satisfies Section 1129 of the Bankruptcy Code.**

12 10. Except as otherwise indicated, all facts set forth in this Declaration are
13 based on my personal knowledge, my experience, my understanding of the
14 requirements of Chapter 11 of the Bankruptcy Code as they relate to confirmation of a
15 plan of reorganization, the events that occurred throughout the Debtor's Chapter 11
16 case, the discussions I have had with various professionals during the case, and my
17 participation in this Chapter 11 case. Based thereon, I believe that the Plan complies
18 with the applicable provisions of Section 1129 of the Bankruptcy Code for confirmation
19 of a Plan.

20 **C. Proponents' Compliance with the Bankruptcy Code (Section 1129(a)(2) of**
21 **the Bankruptcy Code).**

22 11. On the basis of my understanding of the Bankruptcy Code requirements, I
23 believe that I, as the FCR, have complied with the applicable provisions of the
24 Bankruptcy Code, including Sections 1125 and 1126 of the Bankruptcy Code regarding
25 disclosure and plan solicitation. I was duly appointed as the FCR by Court order
26 entered August 10, 2009. I have diligently performed my duties as the FCR as required
by the Court's order, including: (a) filing a proof of claim on behalf of all Future Abuse

1 Claimants; (b) reviewing the Debtor's schedules of assets and liabilities and obtaining
2 discovery which my firm analyzed to determine the estimated number and value of
3 Future Abuse Claims that could be anticipated to be filed; and (c) participated in
4 settlement negotiations and the formulation of the Plan.

5 **D. Plan Provided in Good Faith (Section 1129(a)(3)).**

6 12. The Plan is the result of extensive, arms-length negotiations between and
7 among the Debtor, the Committee, the Settling Insurers, and me as the FCR. The Plan
8 and Disclosure Statement represent a culmination of those negotiations and the
9 substantial input of each representative group. Additionally, the Plan has been jointly
10 proposed by the Debtor, the Committee, and myself as the FCR, and received
11 overwhelming acceptance by creditors entitled to vote. Accordingly, the Plan achieves
12 the goal of consensual reorganization embodied in the Bankruptcy Code.

13 **E. Acceptance by Impaired Classes (Section 1129(a)(7)).**

14 13. I was involved in negotiating the aggregate amount of funding from the
15 Debtor and Participating Parties and from the Debtor's insurers for the Plan. I believe
16 the settlements reached between the Debtor, the Participating Parties, the Committee,
17 the Settling Insurers, and myself as the FCR, were negotiated in good faith and with due
18 consideration for the strengths and weaknesses of each party's position. As a result the
19 Plan provides for funding, based on settlements between the Debtor, the Committee,
20 the Participating Parties, and the Settling Insurers, which is believed to exceed the
21 amount that could be made available if the Debtor's and Participating Parties' assets
22 could be liquidated under Chapter 7 of the Bankruptcy Code. Those settlements have
23 resulted in funds to pay Administrative and Priority Claims in full (estimated to be
24 approximately \$5,000,000), and to provide \$500,000 to pay non-priority General
25 Unsecured Claims, resulting in a dividend of approximately 50% to General Unsecured
26 Creditors. In addition, the Trust will receive approximately \$43.1 million from the Debtor

1 and Participating Parties, approximately \$119.7 million in Insurance Recoveries from
2 Safeco, Travelers, and Western World, and the Avoidance Actions, and Third Party
3 Derivative Claims. This is substantially more than I believe the Debtor and Participating
4 Parties might be required to pay if their assets were liquidated. That is because the
5 majority of the funds being used to pay Claims are from settlement of the Debtor's
6 Insurance Claims against Safeco, Travelers, and Western World and from assets that
7 are held in the Formation Fund, Aged and Infirm Fund, and Apostolic Works Fund,
8 which the Debtor asserts are Charitable Trusts that the Debtor contends would not be
9 available to pay Claims, absent the settlement. That issue has not been fully litigated
10 but has been settled by the Debtor and the Committee to provide funding for the Plan.
11 Furthermore, the \$119.7 million being provided by Safeco, Travelers, and Western
12 World would not be available for distribution to all Abuse Claimants in Chapter 7. Those
13 funds only exists because of the insurance settlements reached in the Chapter 11 that
14 provide injunctions to protect the insurers from further claims. In Chapter 7, insurance
15 would only be available to each Claimant on a claim-by-claim basis, and would require
16 the Claimant to personally pursue whatever Insurance Coverage might be available for
17 his or her Claim. Litigation over the extent of the Debtor's assets that might be available
18 to pay Claims and the extent of Insurance Coverage, would be prolonged, subject to
19 appeals, very costly to the estate, and have an uncertain outcome. As a result, I believe
20 the Plan results in significantly more to Creditors than would be available if the Debtor's
21 and Participating Parties' assets were liquidated.

22 **F. The Exculpation and Limitation of Liability Provisions Are Appropriate**
23 **Under the Circumstances of this Case.**

24 14. My duties under the order appointing me as the FCR included the duty to
25 "negotiate on behalf of the Future Claimants their treatment in any proposed plan of
26 reorganization and shall vote on behalf of the Future Claimants to accept or reject the

1 plan.” *FCR Order* ¶ 3.

2 15. Before the Debtor could formulate a plan and before I could meaningfully
3 participate in that process, among other reasons, it was necessary to attempt to
4 estimate the number and dollar amount of Abuse Claims of the Future Abuse
5 Claimants. The estimation of those claims performed by CRG, under my direction, is of
6 its nature subject to considerable uncertainty.

7 16. The Plan incorporates a number of interrelated settlements that together
8 are intended by the Proponents to fairly and fully resolve all their disputes. A primary
9 objective of the Joint Plan is to fairly resolve the disputes over the estate’s property,
10 including insurance, that would be available to pay the Abuse Claims. Another objective
11 is to provide fair evaluation and compensation of all Abuse Claims, including Future
12 Abuse Claims. I recognized early in the Case that negotiations on a consensual plan,
13 would require the Current and Future Abuse Claimants to agree on the allocation of the
14 funds that would be made available to pay the Abuse Claims.

15 17. The amount allocated for the Future Abuse Claims and the 15-year
16 duration of the time period for Future Abuse Claimants establishes the limit of the
17 Debtor’s liability to Future Abuse Claimants under the Plan. I negotiated those terms, in
18 large part, based on CRG’s analysis and estimates, and agreed with the Committee to
19 an allocation of the funds and to the 15-year time period for asserting Future Abuse
20 Claims, with my goal being to ensure that Future Abuse Claimants were given sufficient
21 time to assert their Claims, that the Plan provided a fair and efficient process to resolve
22 those Claims, and that there would be funding available to pay those Claims as they
23 were resolved.

24 18. There are a number of risks to my constituency, including (i) the risk that
25 the Future Abuse Claims Reserve Fund will prove to be inadequate because the actual
26 number of Future Abuse Claims materially exceeds the estimates, and (ii) the risk that

1 some Future Abuse Claimants may not become aware of their Future Claims in time to
2 assert them before the Future Claims Bar Date expires. But I also believe that, under
3 the facts of this case, the body of sexual abuse literature and precedents of other similar
4 bankruptcy cases, there is no option available to me that does not involve a risk of
5 nonpayment or reduced payment to some members of my constituency.

6 19. I have negotiated what I believe, based on the information available to me,
7 to be the best treatment available under the circumstances for Future Abuse Claimants.
8 However, considering the uncertainties that I faced in fulfilling my duties as the FCR to
9 negotiate that treatment, and the real possibility that the estimates I relied on could in
10 the future prove to be significantly different than what actually occurs, I believe the
11 inclusion of the exculpation clause in the Plan is a reasonable and necessary provision
12 for anyone placed in the position of serving as the FCR in a Case such as this.

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

15 Dated this 6th day of July, 2011.

16 */s/ Stephen S. Gray*

17 _____
18 Stephen S. Gray

19 F:\CLIENTS\19620\004\PLAN & DISCLOSURE STATEMENT\P-DECLARATION OF STEPHEN S GRAY (PLAN CONFIRMATION) VER 3.DOC

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CERTIFICATE OF SERVICE

I, Janine E. Hume declare as follows:

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

I certify that on July 6, 2011, I served, by **first class mail**, a full and correct copy of the foregoing **DECLARATION OF STEPHEN S. GRAY** on the parties of record, addressed as follows:

See attached service list.

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

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

Dated: July 6, 2011

/s/ Janine E. Hume

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