

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: Chapter 11
BKY 15-30125

The Archdiocese of St. Paul and
Minneapolis,

Debtor.

**OBJECTION OF THE OFFICIAL COMMITTEE OF
PARISH CREDITORS TO CONFIRMATION OF THE CHAPTER 11 PLAN OF THE
OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

The Official Committee of Parish Creditors (the “Parish Committee”) submits this objection to the confirmation of the Official Committee of Unsecured Creditors’ (the “UCC”) chapter 11 plan of reorganization (the “UCC Plan”). The Parish Committee’s Objections are as follows:

1. The UCC Plan Seeks Collection of Parish Property. The UCC Plan seeks surrender of parish assets to the UCC Plan Trust (“the “Trust”), including the General Insurance Fund (the “GIF”) and the Archdiocese Medical Benefits Plan (the “AMBP”). *See UCC Plan* § 5.2; *UCC Disclosure Statement* §§ IV.B.1 (stating “that the liquidation value of the GIF...will be transferred to the Trust”); IV.B.2 (stating that the Plan provides for the transfer of the value” of the AMBP).

- a. Parishes hold the equitable interest in the accounts. The Debtor holds mere legal title as trustee. Thus, the funds are not property of the estate. 11 U.S.C. § 541(d). The plan and its proponent do not comply with the Code, do not propose plan terms in good faith, and propose actions forbidden by law. 11 U.S.C. §§ 1129(a)(1), (2), (3).

- b. The parishes have not accepted and receive no property on account of their claims in the GIF and AMBP. 11 U.S.C. §§ 1129(a)(7)(A), and (8); (b)(2)(B).
- c. The proposal is not fair nor equitable. 11 U.S.C. §§ 1129(b)(1), and (b)(2)(B).
- d. The contribution of AMBP accounts will likely cause the Debtor to undertake further financial reorganization. 11 U.S.C. § 1129(a)(11).

2. The UCC Plan Improperly Seeks Collection of Delinquent Parish Assessments. The UCC Plan proposes to collect delinquent parish assessments to fund the UCC Plan Trust. *See UCC Plan* § 5.2; *UCC Disclosure Statement* §§ IV.B.6; VIII.B. The UCC Plan improperly characterizes the assessments as collectible accounts receivable.

- a. Parishes dispute that assessments constitute civil obligations such that the Debtor could collect as a breach of contract claim. Rather, assessments are a duty imposed by canon law and are part of the free exercise of religion under the First Amendment of the U.S. Constitution and the Religious Freedom Restoration Act (42 U.S.C. § 2000bb, *et. seq.*). Therefore, the plan and its proponent do not comply with the Code, do not propose plan terms in good faith, and propose actions forbidden by law. 11 U.S.C. §§ 1129(a)(1), (2) and (3).
- b. The plan proposal contemplates transfers that violate provisions of nonbankruptcy law governing the transfer of property by non-profit and religious organizations. 11 U.S.C. § 1129(a)(16).

3. The UCC Plan Improperly Discharges Parish Contribution and Indemnity Claims. The UCC Plan extinguishes and discharges parish claims for contribution, indemnity or reimbursement against the Debtor arising out of the Debtor's liability to pay or defend against tort claims and any entity subrogated to such claims. *UCC Plan* §§ 4.13, 14.2. But the plan preserves tort claims against the Debtor and the parishes. *Id.* § 4.6.

- a. The UCC Plan classifies parish claims as disallowed under § 502(e) though they have not yet accrued under Minnesota law. Even if so classified, the discharge of such claims violates § 1141(d)(1)(A). The plan and its proponent do not comply with the Code, do not propose plan terms in good faith, and propose actions forbidden by law. 11 U.S.C. §§ 1129(a)(1), (2), and (3).
 - b. The plan provides no payment nor retention of claims to parishes, and parishes have not accepted. 11 U.S.C. §§ 1129(a)(7)(A) and (8).
 - c. In addition to preserving claims of the parishes' litigation opponents, the plan also preserves the claims of other contingent claims. *Compare* Class 11. The proposed treatment is discriminatory and is not fair nor equitable to the parishes. 11 U.S.C. § 1129(b)(1).
4. The UCC Plan Should Affirm Parish and Parish Insurer Rights Against the Debtor's Insurers and Other Liable Parties. As noted above, the UCC Plan provides that the tort claimants retain their rights against non-debtor parties, such as the parishes. As clarification, the UCC Plan should state that the parishes and their insurers also retain all rights, actions, and claims (in contribution, indemnity, subrogation, or otherwise) against non-debtor parties including the Debtor's insurers and other entities, such as Catholic orders, potentially liable for abuse claims. It does not appear that the UCC Plan intends to discharge such claims, but given certain provisions preserving rights for other constituencies as well as the proposed transfer of the Debtor's insurance rights, the UCC Plan should expressly preserve such rights for parishes and their insurers. Absent such preservation, the plan would arguably violate state law, would not be fair nor equitable, and would be discriminatory against Parishes and their insurers, violating 11 U.S.C. §§ 1129(a)(1), (2), (3), and (b)(1).

5. The Plan Incorrectly Classifies Parish Classes as Unimpaired and Disenfranchises Such Classes. The UCC Plan classifies claimants of Classes 3 and 14 as unimpaired because the plan obligates the Debtor to continue funding the AMBP and the GIF for future obligations. But the plan seeks to transfer all existing deposits to the Trust. The plan also classifies Class 13 claimants as unimpaired despite disallowing and discharging their contribution and indemnity claims for no consideration. These plan provisions alter the legal and equitable rights of the parishes and the parishes are impaired. *See* 11 U.S.C. § 1124(1). The Code generally requires that impaired classes vote under §§ 1126(a) and (f), and §§ 1129(a)(7)(i) and (a)(8). Therefore, the plan and its proponent do not comply with the Code, do not propose plan terms in good faith, and propose actions forbidden by law. 11 U.S.C. §§ 1129(a)(1), (2) and (3).

6. The UCC Plan Proposes the Improper Transfer of Barred Avoidance Actions. The UCC Plan requires the transfer of all avoidance actions to the Trust. The UCC similarly seeks the transfer of claims to the Trust against non-debtor entities who employ persons that may have received payments from the Debtor on account of long-term disability, AD&D, life insurance, tuition assistance, or priest support payments as referenced on pages 10 and 11 of the UCC's Disclosure Statement. All such claims appear to be avoidance actions. The two-year limit has expired as to avoidance actions and this provision violates § 546(a)(1). Therefore, the plan and its proponent do not comply with the Code, do not propose plan terms in good faith, and propose actions forbidden by law. 11 U.S.C. §§ 1129(a)(1), (2) and (3).

7. The UCC Plan Fails to Resolve Sexual Abuse Claims; and Requires Extensive Litigation in the Bankruptcy Court. The UCC Plan provides no complete nor final resolution of tort claims. Parishes and their insurers will have to defend against and litigate such claims, as well as related coverage litigation. Parishes bearing financial costs related to such litigation will likely withhold assessments from the Debtor. Thus, the failure to completely resolve tort claims will

burden the Debtor beyond its own future costs of litigation. Moreover, the UCC Plan requires extensive litigation in the bankruptcy case, including, for example, litigation over the GIF and AMBP, and an extensive proceeding on the liquidation value of the Debtor's assets. The costs related to unresolved tort claims and contested bankruptcy issues will likely cause further financial reorganization once the Debtor is unable to pay its future expenses. As a result, the UCC Plan is not confirmable under 11 U.S.C. § 1129(a)(11).

8. Parishes Will Not Agree to Increased Assessments to Fund the UCC Plan. The UCC Plan suggests that the Debtor may fund the UCC Plan through an increase to parish assessments. *UCC Plan* § 5.2(b). Parishes will not agree to fund the UCC Plan through paying increased assessments. The UCC Plan is not feasible in its proposal to rely on increased voluntary support of the parishes to the Debtor. As a result, the UCC Plan is not confirmable under 11 U.S.C. § 1129(a)(11).

9. Joinder of Other Objections. The Parish Committee joins all other objections filed against the UCC Plan. The Parish Committee further reserves its rights to interpose additional objections to either the Supplemental Plan Documents or any subsequent amendments to the UCC Plan. Undersigned counsel certifies that objections 1 through 9, inclusive of all subparts, each contain 200 words or less. Counsel believes that objections 1(c), 2, 3, 4, 5 and 6 are objections to the UCC Plan as a matter of law.

Dated: June 7, 2017.

MANTY & ASSOCIATES, P.A.

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Attorneys for Official Committee of Parish
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VERIFICATION

I, Virginia Dwyer, Chair of the Official Parish Committee of Unsecured Creditors, named in the foregoing Response declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge and belief.

Executed on: June 6, 2017



Virginia Dwyer Chair

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: Chapter 11
BKY 15-30125

The Archdiocese of St. Paul and
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Debtor.

UNSWORN CERTIFICATE OF SERVICE

I, Amanda Hoffman, declare under penalty of perjury that on June 7, 2017, I caused the following documents:

1. The Objection of the Parish Committee to the Confirmation of the Chapter 11 Plan of the Unsecured Creditors' Committee.

to be filed electronically with the Clerk of Court, and that a copy of the above-referenced documents were delivered to the parties who are Filing Users, by automatic e-mail notification pursuant to the Electronic Case Filing System and this notice constitutes service pursuant to Local Rule 9006-1(a). The following parties required to receive service under Local Rule 9013-3(b) have received service by ECF:

The Plan Proponent and Attorneys for Official Committee of Unsecured Creditors:

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The United States Trustee:

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Executed on: June 7, 2017

Signed: /e/ Amanda Hoffman

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