

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE UNITED STATES TRUSTEE
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re: : Chapter 11
: :
: Case No. 20-21257 (JNP)
The Diocese of Camden, New Jersey, :
: :
: Judge: Honorable Jerrold N. Poslusny, Jr.
Debtor. :
: :
: Hearing Date: November 25, 2020 @ 11:30 am

**OBJECTION OF THE UNITED STATES TRUSTEE TO MOTION OF THE OFFICIAL
COMMITTEE OF TORT CLAIMANT CREDITORS FOR THE ENTRY OF AN ORDER
AUTHORIZING THE RETENTION OF EXPERTS**

The United States Trustee (“U.S. Trustee”), by and through counsel, and in furtherance of his duties pursuant to 28 U.S.C. §§ 586(a)(3) and (5), respectfully submits this objection (the “Objection”) to the Motion of the Official Committee of Tort Claimant Creditors for the Entry of an Order Authorizing the Retention of Experts (ECF No. 204) (the “Comfort Order Motion”).¹

1. This Court has jurisdiction to hear and determine this Objection.
2. Pursuant to 28 U.S.C. § 586(a)(3), the U.S. Trustee is charged with administrative oversight of the bankruptcy system in this District. Such oversight is part of the U.S. Trustee’s overarching responsibility to enforce the laws as written by Congress and interpreted by the

¹ Capitalized terms used as defined terms and not otherwise defined shall have the meaning ascribed to them in the Comfort Order Motion.

courts. *See United States Trustee v. Columbia Gas Systems, Inc. (In re Columbia Gas Systems, Inc.)*, 33 F.3d 294, 295-96 (3d Cir. 1994) (noting that U.S. Trustee has “public interest standing” under 11 U.S.C. § 307 which goes beyond mere pecuniary interest); *Morgenstern v. Revco D.S., Inc. (In re Revco D.S., Inc.)*, 898 F.2d 498, 500 (6th Cir. 1990) (describing the U.S. Trustee as a “watchdog”).

3. Under 11 U.S.C. § 307, the U.S. Trustee has standing to be heard on the issues raised by this Objection.

BACKGROUND

4. On October 1, 2020 (“Petition Date”), The Diocese of Camden, New Jersey (“Debtor”) filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (“Bankruptcy Code”). *See* ECF No. 1.

5. On October 14, 2020, the Debtor filed a Motion for Entry of an Order Establishing a Deadline for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof (the “Bar Date Motion”). *See* ECF No. 74. The Bar Date Motion was originally scheduled for a hearing to be conducted on November 12, 2020 but has been adjourned to December 23, 2020.

6. On October 23, 2020, the U.S. Trustee filed a Notice of Appointment of Official Committee of Tort Claimant Creditors (the “Committee”). *See* ECF No. 123.

7. On November 13, 2020, the Committee filed the Comfort Order Motion. *See* ECF No. 204. The Comfort Order Motion is currently scheduled to be heard on November 25, 2020. The Committee extended the U.S. Trustee’s deadline to object to the Comfort Order Motion to November 24, 2020.

8. For the reasons set forth below, the Comfort Order Motion should be denied.

OBJECTION

9. The Committee seeks a comfort order authorizing it to: (i) retain any experts it may need to use in this case without requiring the submission of separate retention applications for each expert; (ii) determine that any experts will not be required to file fee applications but such fees and expenses will be passed through to the Debtor's estate as disbursements on counsel's fee applications, (iii) require the U.S. Trustee to keep any expert billing statements confidential; and (iv) require the Court to conduct an in camera review of any issues concerning the payment of fees and expenses of an expert. *See* ECF No. 204.

10. As set forth in the Comfort Order Motion, "while the Committee does not believe the relief sought herein is required, it files this motion in an abundance of caution to make clear that it is authorized to retain any Experts it may need to use in this case without requiring the submission of separate retention applications for each expert." *See id.* at page 3-4 of 11. The U.S. Trustee agrees with the Committee that the relief requested in the Comfort Order Motion may not be required.

11. The relief requested in the Comfort Order Motion may not be required or necessary because the Committee does not believe that any experts are professionals under Section 327(a). Any such ruling by the Court at this time would be a preliminary ruling without any information concerning the names of the experts and the services to be provided by such experts. In fact, the Comfort Order Motion is extremely broad as it authorizes the Committee to hire any experts without filing retention applications pursuant to Section 327(a). Also, the Comfort Order Motion is completely devoid of any information as to what these experts are being retained for.

12. To assist a committee with its statutory rights and duties under section 1103(c) of the Bankruptcy Code, it appears that a committee may employ any other agents to perform services for the committee, which appears to include experts and consultants. *See* 11 U.S.C. 1103(a). Any such experts and consultants not required to be retained under section 327 can receive their fees and costs as an expense in fee applications filed by committee counsel. At that time, parties will have an opportunity to object to a committee's fees including the expenses of any experts engaged by a committee.

13. At the same time a committee files its fee application, a committee can file a motion under 11 U.S.C. § 107 seeking to seal the billing statements and time records of any experts. However, the U.S. Trustee does not believe hearings concerning the billing statements and time records of any experts should be held "in camera" but should instead be held in open court unless otherwise required by an order entered pursuant to Section 107. At this time the Committee has not provided sufficient information to require an "in camera" review of fees and expenses of experts. In fact, the confidentiality and "in camera" provisions were not even included in the Motion but instead included in the proposed form of order.

WHEREFORE, the U.S. Trustee respectfully requests that the Court sustain the Objection and grant such other relief as it deems just and necessary.

Respectfully submitted,

ANDREW R. VARA
UNITED STATES TRUSTEE
REGIONS 3 & 9

By: /s/ Jeffrey M. Sponder
Jeffrey M. Sponder
Trial Attorney

/s/ Lauren Bielskie
Lauren Bielskie
Trial Attorney

Dated: November 24, 2020

UNITED STATES BANKRUPTCY COURT
 DISTRICT OF NEW JERSEY
 Caption in Compliance with D.N.J. LBR 9004-2(c)
 UNITED STATES DEPARTMENT OF JUSTICE
 OFFICE OF THE UNITED STATES TRUSTEE
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In Re:

 The Diocese of Camden, New Jersey,

 Debtor.

Case No.: 20-21257/JNP

 Chapter 11

 Hearing Date: November 25, 2020 @ 11:30 a.m.

 Judge: Jerrold N. Poslusny

CERTIFICATION OF SERVICE

1. I, Jeffrey M. Sponder:

- represent the US Trustee in this matter.
- am the secretary/paralegal for _____, who represents _____ in this matter.
- am the _____ in this case and am representing myself.

2. On November 24, 2020, I sent a copy of the following pleadings and/or documents to the parties listed in the chart below.

- The United States Trustee’s Objection to the Motion of the Official Committee of Tort Claimant Creditors for the Entry of an Order Authorizing the Retention of Experts.

3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Date: 11/24/20

/s/ Jeffrey M. Sponder
 Jeffrey M. Sponder
 Trial Attorney

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
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