

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY  
**Caption in Compliance with D.N.J. LBR 9004-1**  
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In Re:

The Diocese of Camden, New Jersey,  
  
Debtor.

Case No.: 20-21257 (JNP)

Chapter: 11

Judge: Hon. Jerrold N. Poslusny, Jr.

**OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED TRADE CREDITORS TO THE DEBTOR'S MOTION FOR ENTRY OF AN ORDER (A) APPROVING DISCLOSURE STATEMENT; (B) ESTABLISHING PLAN SOLICITATION, VOTING, AND TABULATION PROCEDURES; (C) SCHEDULING A CONFIRMATION HEARING AND DEADLINE FOR FILING OBJECTIONS TO PLAN CONFIRMATION; AND (D) GRANTING RELATED RELIEF**

The Official Committee of Unsecured Trade Creditors (the "Trade Committee") appointed in the above-captioned case of The Diocese of Camden, New Jersey (the "Diocese" or the "Debtor"), by and through its undersigned counsel, submits this objection (the "Objection") to the Debtor's *Motion for Entry of an Order (A) Approving Disclosure Statement; (B) Establishing Plan Solicitation, Voting, and Tabulation Procedures; (C) Scheduling a Confirmation Hearing and Deadline for Filing Objections to Plan Confirmation; and (D) Granting Related Relief* [ECF No.

415] (the "Solicitation Procedures Motion"). In support of this Objection, the Trade Committee respectfully states as follows:<sup>1</sup>

### **PRELIMINARY STATEMENT**

1. On January 24, 2021, the Trade Committee highlighted for Debtor's counsel a variety of material deficiencies with respect to the Diocese's Disclosure Statement [ECF No. 305]. These deficiencies were highlighted because, pursuant to the Debtor's proposed plan, Class 2 claimants holding general unsecured claims will receive a *pro rata* portion of a \$20,000,000 distribution over ten years, amounting to an 8% distribution to general unsecured creditors each year. Unsurprisingly, the Trade Committee will object to such treatment, particularly in the face of a Disclosure Statement that does not provide "adequate information" that would enable trade creditors to make an informed judgment as to whether to accept or reject the Plan.

2. Unless and until the issues identified by the Trade Committee in its January 24, 2021 correspondence, and its Disclosure Statement objection [ECF No. 382] are addressed, the Trade Committee sees no realistic path forward to a May 12, 2021 confirmation date. Moreover, with the Claims Bar Date on the horizon (49 days after the Debtor's proposed confirmation hearing date), the Trade Committee believes that the most efficient and cost-effective manner to move toward confirmation would be to push confirmation until *after* expiration of the Claims Bar Date. Once the Disclosure Statement is finalized and the parties-in-interest can assess the full universe of claims filed in the case, the Debtor can then proceed toward confirmation.

3. The solicitation procedures, as proposed, are not designed to save the estate money, and are in certain aspects inadequate and/or inconsistent, and should therefore not be approved.

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<sup>1</sup> Unless otherwise noted, all capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Debtor's Solicitation Procedures Motion.

### **RELEVANT BACKGROUND**

4. On October 1, 2020 (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in this Court. No trustee or examiner has been appointed in this case.

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

6. On December 24, 2020, the Office of the United States Trustee filed a *Notice of Appointment of Official Committee*, *see* ECF No. 293. The Trade Committee is comprised of the following three members: (i) Porter & Curtis, LLC; (ii) Seton Hall University; and (iii) St. Mary's Villa. On December 29, 2020, the Trade Committee selected Porzio, Bromberg & Newman, P.C. to serve as its counsel.

7. On December 31, 2021, the Debtor filed the Disclosure Statement [ECF No. 305] and the Plan [ECF No. 306] (the "Plan"). The Plan proposes to pay, on account of Class 2 general unsecured claims totaling an estimated \$24.8 million, "a *pro rata* portion of a \$20,000,000 distribution over ten (10) years."

8. On January 27, 2021, the Trade Committee filed its *Objection to Debtor's Disclosure Statement* [ECF No. 382] (the "Disclosure Statement Objection").

9. On February 11, 2021, this Court entered that certain *Order Establishing Deadline for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof* [ECF No. 409] (the "Bar Date Order"), fixing June 30, 2021 at 11:59 p.m. (prevailing Eastern time) as the deadline for all persons or entities to file proofs of claim in this case (the "Claims Bar Date"), the date recommended by the Trade Committee in its response to the Debtor's bar date motion. *See Official Committee of Unsecured Trade Creditors' Response to the Motion for Entry of an Order*

*Establishing a Deadline for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof* [ECF No. 341].<sup>2</sup>

10. On February 16, 2021, the Debtor filed the Solicitation Procedures Motion, seeking approval of, *inter alia*, solicitation and tabulation procedures related to distributing materials and tabulating votes in connection with an approved Plan (the "Solicitation Procedures"). The Solicitation Procedures Motion is currently scheduled for a hearing date of March 24, 2021 at 10:00 a.m.

### **OBJECTION**

#### **A. THE DEBTOR HAS NOT ADDRESSED OUTSTANDING OBJECTIONS TO THE DISCLOSURE STATEMENT**

11. The Trade Committee raised various concerns related to the adequacy of the Disclosure Statement in its Disclosure Statement Objection filed on January 27, as well as informally to counsel to the Debtor on January 24. These concerns revolve around material deficiencies in the Disclosure Statement that will not allow Class 2 creditors to make an informed decision about the Plan. These material deficiencies include:

- a. No value ascribed to the Debtor's pension plans, *see* Disclosure Statement, at Art. IV, §D(a) and (b).
- b. No value ascribed to the Debtor's retirement benefits plan, *see id.*, at Art. IV, §D(c) and (d).
- c. No value ascribed to The Diocese of Camden Trusts, Inc., *see id.*, at Art. IV, §E(a).
- d. No value ascribed to The Diocese of Camden Healthcare Foundation, Inc., *see id.*, at Art. IV, §E(b).

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<sup>2</sup> The Trade Committee, as a steward of estate resources, has always acknowledged the competing interests in this case: on the one hand, the need for this case to proceed with deliberate speed to minimize administrative expenses and maximize an expeditious recovery for creditors, including victims of sexual abuse, and on the other hand, to bring as many claimants, both known and unknown, to come forward and make their claims known in this case. *See* ECF No. 341, at ¶ 8.

- e. No value ascribed to the Tuition Assistance Fund, Inc., *see id.*, at Art. IV, §E(c).
- f. No value ascribed to the Sharkey Family Charitable Trust, *see id.*, at Art. IV, §E(d).
- g. No value ascribed to the Frank J. and Rosina W. Suttill Catholic Foundation, *see id.*, at Art. IV, §E(e).
- h. No value ascribed to "Other Catholic Entities", including Sacred Heart Residence for Priests, Inc., Catholic Business Network of South Jersey, Inc., the Catholic-Jewish Commission of Southern N.J., Incorporated, the Catholic Star Herald, the Collegium Center for Faith and Culture, VITALity Catholic Healthcare Services, the Camden Center for Law and Social Justice, Guadalupe Family Services, Inc., *see id.*, at Art. IV, §F(a-h).
- i. No value ascribed to the Parish Trust accounts, *see id.*, at Art. IV, §G(a-d).
- j. Inadequate information about relevant language in all Parish Trust Agreements, *see id.*, at Art. IV, §G.
- k. No information about cemeteries allegedly owned by the Parishes, *see id.*, at Art. IV, §H.
- l. Inadequate information about funding of IVCP payments, *see id.*, at Art. IV, §J(a).
- m. Inadequate information about "Covered Parties" and "Substantial Contribution Amounts", including how such "Substantial Contribution Amounts" may impact available distributions to Class 2 creditors, *see generally, id.*, at Art. IX, §A(b)(ii), and Plan at Art. VI, §6.1(b)b.(iv).
- n. No analysis or justification for "excluding" or deeming an asset as "restricted."

12. To date, and notwithstanding representations by the Diocese that it has worked cooperatively with other parties to revise the Disclosure Statement, no official reply to the Disclosure Statement Objection has been filed by the Debtor, and the Trade Committee has not otherwise received any responses to its informal Disclosure Statement comments.<sup>3</sup> Bearing in

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<sup>3</sup> The Trade Committee is hopeful that parties-in-interest will see a revised Disclosure Statement shortly addressing many, if not all, of these issues.

mind that the Disclosure Statement is part of the solicitation materials that the Debtor seeks approval to send to parties, the Trade Committee hereby incorporates by reference all objections to the Disclosure Statement contained in its Disclosure Statement Objection.

13. Accordingly, the Trade Committee does not believe it appropriate to forge ahead with the Solicitation Procedures Motion, and begin the plan confirmation process, before the solicitation materials themselves are finalized.

**B. THE SOLICITATION PROCEDURES MOTION IS PREMATURE AND THE TIMETABLE PROPOSED SHOULD NOT BE ADOPTED**

14. The Solicitation Procedures Motion seeks to, *inter alia*: (i) set a record date of March 24, 2021, (ii) permit the Debtor to send solicitation packages on or before March 31, 2021, (iii) set a voting deadline of May 5, 2021, and (iv) set a confirmation hearing for the Plan (the "Confirmation Hearing") on May 12, 2021 (the "Proposed Confirmation Date"). However, the Claims Bar Date is June 30, 2021. Thus, the Debtor's proposal allows for a record date, distribution of solicitation packages, voting deadline, and confirmation hearing that would all be *prior to* the Claims Bar Date, the date by which the universe of creditors would be known to the Debtor.

15. If the solicitation period and the Proposed Confirmation Date are carried until after the Claims Bar Date, it will allow the entire universe of claims in this case to be known, thus: (i) preventing disenfranchising of certain creditors who may file claims closer to the bar date; (ii) providing for more efficient and cost-effective Solicitation Procedures; and (iii) fostering a much more inclusive and comprehensive voting process. This is consistent with this Court's ruling with respect to the Bar Date Order, in which the Court acknowledged that the bar date "will be one of the gatekeepers in allowing the Diocese to move forward, and may be necessary to the formulation of a feasible plan." Hr'g Tr. at 14:14-16, *In re the Diocese of Camden*, Case No. 20-21257-JNP (Bankr. D.N.J. Feb. 5, 2021).

16. Accordingly, the Trade Committee believes the Debtor should adjust its solicitation timetable now and use the time before the Claims Bar Date to address the identified deficiencies in the Disclosure Statement. Moreover, while adjourning the dates proposed in the Solicitation Procedures Motion would cause little prejudice to the Debtor, approving the dates as proposed by the Debtor would cause significant exposure to greatly increased legal fees and ultimately delay distributions to creditors.<sup>4</sup>

**C. THE SOLICITATION PROCEDURES MAY PREJUDICE CREDITORS OF THE ESTATE**

17. There are certain inappropriate provisions, deficiencies, and inconsistencies included in the proposed Solicitation Procedures that could prejudice creditors of the Debtor's estate. The Solicitation Procedures must be revised so that they are consistent with due process considerations and are straightforward. Some of the objectionable provisions include:

- a. The proposed Solicitation Procedures allow the Debtor, in its sole discretion, to "reject any Ballots not submitted in the proper form." Solicitation Procedures Motion at ¶ 36. Although the Debtor states deficiencies "must be cured within such time as the Diocese, or the Court, determines," the Debtor makes clear that it "shall not be under any duty to notify any creditors of any deficiencies or irregularities with respect to the deliveries of Ballots . . . ." *Id.*
- b. If a claimant timely files a Rule 3018 Motion, the Debtor proposes to "provide such creditor with a provisional Ballot, which the creditor must complete and return to counsel for the Diocese within 2 business days." Solicitation Procedures Motion at ¶ 34. This provision forces a claimant to receive the ballot, analyze and complete the ballot, and return same to counsel for the Debtor in a period of forty-eight (48) hours.
- c. Although the Debtor seeks authorization to send the solicitation materials in electronic format, the Debtor does not allow *return* of the ballots in similar electronic format, and requires ballots to be submitted by (i) first-class mail, (ii) overnight courier, or (iii) personal delivery. *Id.* at ¶ 32.

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<sup>4</sup> The Trade Committee notes that the various insurance companies involved in this case have made it clear that any proposed contribution from them would be contingent upon knowledge of the full universe of claims against the Debtor. This further underscores that the better course for the Debtor and its creditors is to adjourn the Proposed Confirmation Date until after the Claims Bar Date.

- d. The form of ballot proposed by the Debtor requires the voter to include their federal tax ID or Social Security Number, yet provides no security measures or protocols to protect individuals' sensitive personal information. *See*, Ballot at "Acknowledgements and Certification," attached as Exhibit C to the Solicitation Procedures Motion.
- e. The provisions of Paragraph 33 of the Solicitation Procedures Motion are inconsistent. Namely, subsections (c) and (e) conflict with one another in that subsection (c) states that, for a claim where no proof of claim is filed, and an amount is listed on the Debtor's Schedules as contingent or unliquidated, such a claim will be temporarily allowed for voting purposes only. *Id.* at ¶ 33(c). Conversely, subsection (e) states that, for a claim where no proof of claim was timely filed or otherwise allowed by the Court, and the Debtor's Schedules list said claim as contingent, unliquidated, or disputed, "such claim will be disallowed for voting purposes . . . ." *Id.* at ¶ 33(e).
- f. Paragraph 35 of the Solicitation Procedures Motion directly conflicts with Paragraph 17 of the proposed order submitted therewith. The Solicitation Procedures Motion states, "if no votes to accept or reject the Plan are received from a particular Class, such Class shall be deemed to have **accepted** the Plan." Solicitation Procedures Motion at ¶ 35 (emphasis added). However, the proposed order submitted therewith states, "if no votes to accept or reject the Plan are received from a particular Class, such Class shall be deemed to have **rejected** the Plan." Proposed Order [ECF No. 415-6], at ¶ 17 (emphasis added).
- g. The Voting Deadline is cited as being May 5, 2021 at **11:59 p.m.** in a number of places through the Solicitation Procedures Motion.<sup>5</sup> However, the Confirmation Hearing Notice cites the Voting Deadline as being May 5, 2021 at **5:00 p.m.** Confirmation Hearing Notice at ¶ 6, attached as Exhibit D to the Solicitation Procedures Motion. The Solicitation Procedures Motion itself is internally inconsistent, in that it also refers to the Voting Deadline as May 5, 2021 at **4:00 p.m.** Solicitation Procedures Motion at ¶ 32.

18. The Debtor must revise the inappropriate and/or inconsistent provisions identified above, with the Trade Committee reserving all rights upon such amendments.

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<sup>5</sup> *See, e.g.*, Solicitation Procedures Motion at ¶ 11; Proposed Order at ¶ 14; Ballot at ¶ 4, 7.



**RESERVATION OF RIGHTS**

The Trade Committee reserves the right to supplement this Objection or to raise additional or further objections to the Solicitation Procedures Motion. Further, the Trade Committee reserves the right to raise further objections to any amended solicitation materials, amended Disclosure Statement, or amended Plan.

**CONCLUSION**

Based on the foregoing, the Trade Committee respectfully requests that (i) the Solicitation Procedures Motion be denied and (ii) an order be entered denying approval of the Disclosure Statement and granting the Trade Committee such other relief as is just and proper.

Respectfully submitted,

Dated: March 10, 2021

**PORZIO, BROMBERG & NEWMAN, P.C.**

By: /s/ Rachel A. Parisi  
Rachel A. Parisi

*Counsel to Official Committee of Unsecured Trade Creditors*