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Chapter 11 Debtor and Debtor-in-Possession*

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

In re:

THE DIOCESE OF CAMDEN, NEW JERSEY,

Debtor.

Chapter 11

Case No. 20-21257 (JNP)

Hearing Date and Time:
December 23, 2020 at 10:00am

**NOTICE OF MOTION TO EXTEND EXCLUSIVE PERIOD
TO FILE A CHAPTER 11 PLAN AND SOLICIT VOTES
FOR CHAPTER 11 PLAN PURSUANT TO 11 U.S.C. §
1121(d)**

PLEASE TAKE NOTICE that on **December 23, 2020 at 10:00 a.m.**, The Diocese of Camden, New Jersey, debtor and debtor-in-possession (the “Diocese”) will move before the Honorable Jerrold N. Poslusny, Jr., United States Bankruptcy Judge, at the United States Bankruptcy Court, Mitchell H. Cohen U.S. Courthouse, 400 Cooper Street, 4th Floor, Camden, New Jersey 08101¹, for the entry of an order (a) extending the period during which the Diocese has the exclusive right to file a chapter 11 plan (the “Exclusive Filing Period”) by 90 days, from January 29, 2021 through and including April 29, 2021, and extending the period during which the Diocese has the exclusive right to solicit votes thereon (the “Exclusive Solicitation Period,”

¹ Unless otherwise determined by the Court, the hearing will be held virtually.

and together with the Exclusive Filing Period, the “Exclusive Periods”) by 90 days, from March 30, 2021 through and including June 28, 2021, without prejudice to the Diocese’s right to seek further extensions of the Exclusive Periods; and (b) granting related relief (the “Motion”) (the “Motion”).

PLEASE TAKE FURTHER NOTICE that in support of the Motion the Diocese shall rely upon the brief submitted concurrently herewith. The Diocese submits that no separate memorandum of law is necessary because the applicable law is adequately set forth in the supporting brief.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the relief requested in the Motion shall: (i) be in writing; (ii) state with particularity the basis of the objection; and (iii) be filed with the Clerk of the United States Bankruptcy in accordance with D.N.J. LBR 9013-2.

PLEASE TAKE FURTHER NOTICE that unless an objection is timely filed and served, the Motion shall be deemed and the relief may be granted without a hearing.

PLEASE TAKE FURTHER NOTICE that oral argument is hereby waived unless timely objection is received.

PLEASE TAKE FURTHER NOTICE that an order granting the relief requested herein is submitted herewith and made part of the Motion herein.

**McMANIMON, SCOTLAND
& BAUMANN, LLC**
*Counsel for The Diocese of Camden, New Jersey,
Chapter 11 Debtor and Debtor-in-Possession*

By: /s/ Robert S. Roglieri
ROBERT S. ROGLIERI

Dated: December 1, 2020

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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

In re:

THE DIOCESE OF CAMDEN, NEW JERSEY,

Debtor.

Chapter 11

Case No. 20-21257 (JNP)

Hearing Date and Time:
December 23, 2020 at 10:00 a.m.

**BRIEF IN SUPPORT OF THE DIOCESE'S MOTION TO
EXTEND EXCLUSIVE PERIOD TO FILE A CHAPTER 11
PLAN AND SOLICIT VOTES FOR A CHAPTER 11 PLAN
PURSUANT TO 11 U.S.C. § 1121(d)**

The Diocese of Camden, New Jersey, debtor and debtor-in-possession (the "Diocese"), by and through its undersigned counsel, McManimon, Scotland & Baumann, LLC, submits this brief in support of its motion for entry of an order (a) extending the period during which the Diocese has the exclusive right to file a chapter 11 plan (the "Exclusive Filing Period") by 90 days, from January 29, 2021 through and including April 29, 2021, and extending the period during which the Diocese has the exclusive right to solicit votes thereon (the "Exclusive Solicitation Period," and together with the Exclusive Filing Period, the "Exclusive Periods") by 90 days, from March 30, 2021 through and including June 28, 2021, without prejudice to the

Diocese's right to seek further extensions of the Exclusive Periods; and (b) granting related relief (the "Motion"), and in support thereof respectfully represent as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the Standing Order of Reference to the Bankruptcy Court Under Title 11 of the United States District Court for the District of New Jersey, entered on July 23, 1984, and amended on September 18, 2012. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. The statutory predicates for the relief requested herein are section 1121(d) of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code") and Rule 9006 of the Federal Rules of Bankruptcy Procedure.

BACKGROUND

3. On October 1, 2020 (the "Petition Date"), the Diocese filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code, commencing the above-captioned chapter 11 case in the United States Bankruptcy Court for the District of New Jersey. [ECF 1]

4. The Diocese continues to maintain its operations to fulfill its mission and manage its affairs as a debtor-in-possession pursuant to Bankruptcy Code Sections 1107(a) and 1108.

5. On October 23, 2020, the United States Trustee formed an Official Committee of Tort Claimant Creditors. [ECF 111].

6. The Diocese is a Roman Catholic diocese of the Latin Church in New Jersey in which there are sixty-two (62) separately constituted parishes and approximately 486,000 Catholic parishioners in the six (6) southern New Jersey counties of Atlantic, Camden, Cape

May, Cumberland, Gloucester, and Salem. The Diocese is a not for profit religious corporation organized under the laws of the State of New Jersey.

7. A more detailed history and description of the Diocese and its operations, together with the reasons for its Chapter 11 filing, are set forth in the First Day Declaration of Rev. Robert E. Hughes, Vicar General [ECF 3] and the Amended First Day Declaration of Laura J. Montgomery [ECF 43], which are incorporated herein as if set forth in their entirety.

The Exclusive Periods

8. The Diocese's Exclusive Filing Period expires on January 29, 2021 pursuant to section 1121(d) of the Bankruptcy Code. The Diocese's Exclusive Solicitation Period expires on March 30, 2021 pursuant to section 1121(d) of the Bankruptcy Code

9. In the approximately sixty days since the Petition Date, the Diocese has made significant, good-faith progress toward achieving its restructuring goals in this Chapter 11 case. In this regard, the Diocese has, among other things: (i) promptly completed and filed its schedules of assets and liabilities and statement of financial affairs [ECF 1]; (ii) successfully moved for, and obtained, various forms of "first day" relief that enables the Diocese to continue operating its mission without disruption; and (iii) began a mediation process with the Official Committee of Tort Claimant Creditors (the "Committee") and the Diocese's insurance carriers in order to resolve outstanding claims and issues. Additionally, the Diocese has been working diligently and has complied with all applicable orders, UST Guidelines, and chapter 11 procedures. The Diocese has also paid all its post-petition debts as they come due.

10. In addition, the Diocese has proven its efforts to move quickly towards its reorganization goals. To this end, the Diocese has, among other things: (i) filed a motion seeking approval of a claims bar dates in these Chapter 11 Cases to facilitate the timely assertion,

review and reconciliation of claims against its estate in order to better analyze the claim pool [ECF 74]; (ii) filed a motion seeking to mediate unliquidated claims against the estate [ECF 99]; and (iii) filed a motion to sell certain real property in order to bring additional funds into the estate [ECF 90].

11. Although the Diocese has made progress in connection with reorganization efforts, additional time is required in order to prepare and finalize a plan of reorganization. For the reasons set forth below, cause exists to provide additional time for the Diocese to do so on an exclusive basis.

RELIEF REQUESTED

12. By this Motion, the Diocese seeks entry of an order, substantially in the form submitted herewith, (a) extending the Diocese's Exclusive Filing Period by 90 days, from January 29, 2021 through and including April 29, 2021, and extending the Diocese's Exclusive Solicitation Period by 90 days, from March 30, 2021 through and including June 28, 2021, without prejudice to the Diocese's right to seek further extensions of the Exclusive Periods; and (b) granting related relief. This is the Diocese's first request for an extension of the Exclusive Periods.

BASIS FOR RELIEF

13. Pursuant to Bankruptcy Code section 1121(c)(3), a debtor has the exclusive right to solicit votes for a chapter 11 plan for the first 180 days of a chapter 11 case. Sections 1121(d)(1) and (2) of the Bankruptcy Code permit the court to increase a debtor's 180-day exclusivity period for cause, provided that the 180-day period not be extended beyond a date that is 20 months after the petition date. 11 U.S.C. § 1121(d)(1), (2).

14. Whether or not to grant an extension of exclusivity “is a matter of discretion based on all facts and circumstances, but the discretion is limited by the requirement that cause be shown However, a bankruptcy court has broad discretion to determine what is sufficient cause in each individual case.” See Continental Casualty Am. Casualty Co. v. Burns & Roe Enterprises, Inc. (In re Burns and Roe Enters., Inc.), No. 00-41610 (RG), 2005 WL 6289213, at *3 (D. N.J. Nov. 2, 2005) (citations omitted); see also In re Geriatrics Nursing Home, Inc., 187 B.R. 128, 132 (Bankr. D.N.J. 1995) (section 1121(d)(1) “grants great latitude to the Bankruptcy Judge in deciding, on a case-specific basis, whether to modify the exclusivity period on a showing of ‘cause’”); In re Cent. Jersey Airport Servs., LLC, 282 B.R. 176, 184 (Bankr. D.N.J. 2002).

15. In determining what constitutes “cause” under section 1121(d), courts look at factors such as the: (a) size and complexity of the case; (b) necessity of sufficient time to negotiate and prepare adequate information; (c) existence of good faith progress; (d) whether the debtor is paying its debts as they mature; (e) whether the debtor has demonstrated reasonable prospects for filing a viable plan; (f) whether the debtor has made progress negotiating with creditors; (g) length of time a case has been pending; (h) whether the debtor is seeking an extension to pressure creditors; and (i) whether unresolved contingencies exist. Central Jersey, 282 B.R. at 184 (citing In re Service Merchandise Co., 246 B.R. 744, 751 (Bankr. M.D. Tenn. 2000)); see also Burns & Roe, 2005 WL 6289213, at *3 (affirming the bankruptcy court’s fourteenth and fifteenth extensions of the exclusivity periods based on an examination of several of the above factors); In re R.G. Pharm., Inc., 374 B.R. 484, 487 (Bankr. D. Conn. 2007); In re Friedman’s Inc., 336 B.R. 884, 888 (Bankr. S.D. Ga. 2005).

16. Courts only analyze the factors that are relevant to each case as not all of the above factors are relevant to every case. Thus, a court will only review the relevant subset of factors to determine whether cause exists to grant an exclusivity extension in a particular chapter 11 case. See, e.g., In re Express One Int'l, Inc., 194 B.R. 98, 100-01 (Bankr. E.D. Tex. 1996) (identifying four of the nine factors as relevant in determining whether cause exists to extend exclusivity); In re United Press Int'l, Inc., 60 B.R. 265, 269 (Bankr. D.C. 1986) (holding that debtor showed cause to extend exclusive period based upon three of the nine factors); In re Pine Run Trust, Inc., 67 B.R. 432, 435 (Bankr. E.D. Pa. 1986) (relying on two factors in holding that cause existed to extend exclusivity); Official Comm. of Unsecured Creditors v. The Elder-Beerman Stores Corp. In re The Elder-Beerman Stores Corp., 1997 WL 1774880, at *4 (S.D. Ohio June 23, 1997) (“although there are a large number of potential factors that have been identified by various courts as being pertinent to a determination of whether cause has been shown, many courts have chosen to rely upon relatively few factors – albeit different ones – to determine whether the necessary cause exists to alter the statutory time period set forth in 11 U.S.C. § 1121.”); In re Dow Corning Corp., 208 B.R. 661, 669-70 (Bankr. E.D. Mich. 1997) (stating that “[s]ometimes one or more factors strongly point to a particular result while others point the other way only weakly. And sometimes certain factors are just more relevant or important than others”).

17. The Diocese submits that there is sufficient cause to extend the Exclusive Solicitation Period. Moreover, the Diocese submits that each relevant factor for extending the exclusivity period warrants an extension thereof:

- a. **Size and Complexity of the Case.** The Court has recognized that this is a complex case. In this regard, on October 8, 2020 the Honorable Judge Jerrold N. Poslusny, Jr., entered an Order Granting Complex Chapter 11 Case Treatment. [ECF 52]. This case is complex due to the size and variety of the creditor body.

Here, the Diocese has a large body of potential claims, including the following: (i) claims of survivors of child abuse; (ii) claims of various vendors that support the Diocese's mission; (iii) claims of institutions including the various parishes and schools located within the territory of the Diocese; and (iv) claims made by PNC Bank, N.A. on behalf of an approximately \$26 million unsecured line of credit and a "PPP" loan. In addition to the creditor body, the Diocese has filed two adversary complaints, one of which includes claims against no less than ten insurance companies. Thus, the size of the case supports extending exclusivity.

- b. **Necessity of Time.** The Diocese's request for an extension of the exclusivity period is the Diocese's first such request and comes less than four months after the Petition Date. The Diocese intends to use any additional time to complete its due diligence efforts and finalize any other necessary negotiations to confirm a plan. Through this process, the Diocese will seek a result that will be fair, equitable, and transparent to all its creditors.
- c. **The Diocese Has Made Good Faith Progress Towards Exiting Chapter 11.** As stated above, the Diocese is diligently working towards the goal of exiting this chapter 11 case and reorganizing its affairs so that it can continue its mission, which supports the poor, veterans, unemployed and others in the six counties of southern New Jersey. The Diocese has already begun formulating a plan, and it is hopeful that, with an extension of time, it can file a plan that is supported by the Committee and other parties in interest.
- d. **The Diocese is paying its debts as they mature.** As reflected in the Diocese's monthly operating reports, The Diocese is paying its post-petition debts as they become due.
- e. **The Diocese has made progress negotiating with creditors.** The Diocese has made progress negotiating and the Debtor is still in the process of negotiation. The Diocese has engaged in good faith negotiations with the Committee and is in the process of engaging in mediation before the Honorable Michael B. Kaplan, Chief Judge. In the month and half that this case has been pending, the Diocese has made good faith efforts to discuss and resolve issues with the Committee, the Office of the United States Trustee and any other party in interest. The Diocese continues to be willing to engage in good faith negotiations.
- f. **The Diocese is not Seeking an Extension to Pressure Creditors.** The Diocese is not seeking an extension of the Exclusivity Periods to pressure creditors and is willing to work with and negotiate with the Committee and individual creditors through the pendency of the chapter 11 case. Instead, the Diocese is seeking to extend the exclusive periods in order to have additional time to engage in discussions with various parties in interest. Thus, extending the exclusive period will afford the Diocese a meaningful opportunity to proceed with the plan process for the benefit of all creditors.

- g. **Length of Time Case has been Pending.** As set forth above, the case has only been pending for less than two months and this is the Diocese's first request for an extension of the exclusive period. Accordingly, this factor weighs in favor of extending the exclusive periods.
- h. **Unresolved Contingencies.** As set forth above, outstanding contingencies exist in this case, which weighs in favor of extending the exclusive period for the Diocese to solicit votes on a plan.

18. Therefore, adequate cause exists for the Court to grant this Motion. The Diocese seeks extension of the exclusivity period for solely legitimate reasons.

WAIVER OF BRIEF AND NO PRIOR REQUEST

19. As the legal points and authorities upon which the Diocese relies are incorporated herein and do not raise any novel issues of law, the Diocese respectfully requests that the requirement of service and filing of a separate memorandum of law pursuant to Local Rule 9013-2 be deemed waived.

NO PRIOR REQUEST

20. No prior request for the relief sought herein has been made by the Diocese to this or any other Court.

NOTICE

21. Notice of this Motion has been given to: (i) the Office of the United States Trustee for the District of New Jersey, One Newark Center, Suite 2100, Newark, NJ 07102; (ii) counsel for the Committee; (iii) those parties who have filed a notice of appearance and request for service of pleadings in these Chapter 11 Cases pursuant to Fed. R. Bankr. P. 2002; and (iv) the Diocese's twenty largest unsecured creditors. In light of the nature of the relief requested herein, the Diocese respectfully submits that no other or further notice is required.

CONCLUSION

WHEREFORE, the Diocese respectfully requests that this Court: (i) enter an order, substantially in the form submitted herewith, granting the relief requested herein; and (ii) grant the Diocese such other and further relief as the Court deems just and proper.

**McMANIMON, SCOTLAND
& BAUMANN, LLC**

*Counsel for The Diocese of Camden, New Jersey,
Chapter 11 Debtor and Debtor-in-Possession*

By: /s/ Robert S. Roglieri

ROBERT S. ROGLIERI

Dated: December 1, 2020

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
McMANIMON, SCOTLAND & BAUMANN, LLC 75 Livingston Avenue, Second Floor Roseland, NJ 07068 (973) 622-1800 Richard D. Trenk (rtrenk@msbnj.com) Robert S. Roglieri (rroglieri@msbnj.com) <i>Counsel for The Diocese of Camden, New Jersey, Chapter 11 Debtor and Debtor-in-Possession</i>	
In re: THE DIOCESE OF CAMDEN, NEW JERSEY, Debtor.	Chapter 11 Case No. 20-21257 (JNP) Hearing Date and Time: December 23, 2020 at 10:00 a.m.

**ORDER GRANTING THE DIOCESE'S MOTION TO
EXTEND EXCLUSIVE PERIOD TO FILE A CHAPTER 11
PLAN AND TO SOLICIT VOTES FOR A CHAPTER 11
PLAN PURSUANT TO 11 U.S.C. § 1121(d)**

The relief set forth on the following pages, numbered two (2) through three (3), is hereby
ORDERED.

(Page 2)

Debtor: The Diocese of Camden, New Jersey

Case No. 20-21257 (JNP)

Caption of Order: Order Granting the Diocese's Motion to Extend Exclusive Period to File a Chapter 11 Plan and Solicit Votes for a Chapter 11 Plan Pursuant to 11 U.S.C. § 1121(d)

THIS MATTER having been presented to the Court by The Diocese of Camden, New Jersey, debtor and debtor-in-possession (the "Diocese"), by and through its counsel, McManimon, Scotland & Baumann, LLC., upon the filing of a motion for entry of an order (a) extending the period during which the Diocese has the exclusive right to file a chapter 11 plan (the "Exclusive Filing Period") by 90 days, from January 29, 2021 through and including April 29, 2021, and extending the period during which the Diocese has the exclusive right to solicit votes thereon (the "Exclusive Solicitation Period," and together with the Exclusive Filing Period, the "Exclusive Periods") by 90 days, from March 30, 2021 through and including June 28, 2021, without prejudice to the Diocese's right to seek further extensions of the Exclusive Periods, and (b) granting related relief (the "Motion"); and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11 of the United States District Court for the District of New Jersey*, as amended on September 18, 2012; and venue being proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Motion being sufficient under the circumstances; and it appearing that no other or further notice need be provided; and the Court having determined that the relief sought in the Motion is in the best interests of the Diocese, its estate and creditors; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED as follows:

1. The Motion is **GRANTED** as set forth herein.

(Page 3)

Debtor: The Diocese of Camden, New Jersey

Case No. 20-21257 (JNP)

Caption of Order: Order Granting the Diocese's Motion to Extend Exclusive Period to File a Chapter 11 Plan and Solicit Votes for a Chapter 11 Plan Pursuant to 11 U.S.C. § 1121(d)

2. Pursuant to section 1121(d) of the Bankruptcy Code, the Diocese's Exclusive Filing Period under section 1121(b) of the Bankruptcy Code is hereby extended through and including April 29, 2021.

3. Pursuant to section 1121(d) of the Bankruptcy Code, the Diocese's Exclusive Solicitation Period under section 1121(c) of the Bankruptcy Code is hereby extended through and including June 28, 2021.

4. Nothing herein shall prejudice (a) the Diocese's right to seek further extensions of the Exclusive Periods consistent with 1121(d) of the Bankruptcy Code, or (b) the rights of any party in interest to object to any requests for further extensions.

5. This Order shall be immediately effective and enforceable upon its entry.

6. The Diocese is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

7. This Court shall retain exclusive jurisdiction to hear and decide any and all disputes related to or arising from the implementation, interpretation, or enforcement of this Order.