

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
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*Proposed Counsel to Official Committee of Unsecured
Trade Creditors*

In Re:

The Diocese of Camden, New Jersey,

Debtor.

Case No.: 20-21257 (JNP)

Chapter: 11

Judge: Hon. Jerrold N. Poslusny, Jr.

**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**

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 proposed undersigned counsel, submits this response (the "Response") to the *Diocese's 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. 74] (the "Bar Date Motion"). In support of this Response, the Trade Committee respectfully states as follows:

RELEVANT BACKGROUND

1. 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.

2. On October 14, 2020, the Debtor filed the Bar Date Motion. The Bar Date Motion was originally scheduled for a hearing to be conducted on November 12, 2020, but was thereafter adjourned to December 23, 2020, and then to January 27, 2021.

3. 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.

4. On December 24, 2020, the Office of the United States Trustee filed a Notice of Appointment of Official Committee (the "Trade 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 proposed counsel.

RESPONSE

5. The Debtor has acknowledged that one of its fundamental goals in this Chapter 11 case is to provide victims of child sexual abuse with compensation for the harms they have suffered in the most equitable, efficient and expedient manner possible. See *Declaration of Reverend Robert E. Hughes Regarding Structure and Pre-Filing History of the Diocese of Camden, New Jersey, and in Support of the Chapter 11 Petition and First Day Pleadings* [ECF No. 3], at ¶¶ 7,

8. Moreover, the Diocese is committed to maintaining its mission of ministering to just under 500,000 Catholic faithful and providing critical ministries and support services to those in need

throughout Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem counties, including veterans, homeless, unemployed and poverty stricken individuals. *See id.*, at ¶ 9.

6. The Debtor's Bar Date Motion seeks to set February 21, 2021 as the bar date in this case. According to the Debtor, this is the right date because its proposed bar date "will provide potential claimants with an adequate amount of time after mailing of the Bar Date Notice and publication of the Publication Notice within which to review the Schedules, compare the information contained therein and, if necessary, prepare and file proofs of claim." *See Bar Date Motion*, at ¶ 51. Indeed, the Debtor points to comprehensive notice given to abuse claimants prepetition, including through, *inter alia*: (i) an extensive program to contact potential survivors of abuse by priests of the Diocese through the IVCP (107 letters were sent, resulting in 69 individuals filing claims with the IVCP); and (ii) wide-ranging advertising, including: (a) google search ads; (b) advertisements in the Catholic Star Herald; (c) all newspapers and radio/television news stations receiving a press release announcing the opening of the IVCP before its public start date; (d) Parish bulletins; and (e) social media announcements. *See id.*, at ¶¶ 7-13. The Debtor contends that the setting of such date "is essential for this Chapter 11 Case to progress . . . [and] will greatly facilitate the Diocese's mediation and negotiations with the Committee, insurance carriers, creditors and other parties in interest as the Diocese seeks to formulate a plan of reorganization." *See id.*, at ¶¶ 51, 52.

7. The Tort Committee is proposing that the bar date be coterminous with New Jersey's Child Victim's Act deadline of November 30, 2021. The Tort Committee avers that this is the appropriate date because: (i) the New Jersey Legislature's decision should be honored by this Court; (ii) this is not a routine Chapter 11 case and cannot be treated as such; and (iii) cutting the statute of limitations short will create confusion given the widely publicized November 30, 2021

deadline to bring an abuse claim. *See Objection of the Official Committee of Tort Claimant Creditors to the Bar Date Motion* [ECF No. 327].

8. As stewards of estate resources, the members of the Trade Committee are acutely aware of the competing interests at issue here: on the one hand, the need for this case to proceed with all deliberate speed in order to maximize and expedite a recovery for victims of child sexual abuse who have, in many cases, waited decades for closure, and to minimize administrative expenses of this case that may negatively impact the recovery for victims and other claimants, and on the other hand, the desire to eliminate confusion and to bring as many claimants, both known and unknown, to properly come forward and make their claims known in this case.

9. Bankruptcy courts regularly set bar dates that are shorter, often by years, than the available time allowed to file suit under applicable state law statutes of limitation. A bar date "contributes to one of the main purposes of bankruptcy law, securing, within a limited time, the prompt and effectual administration and settlement of the Debtor's estate." *In re New Century TRS Holdings, Inc.*, 465 B.R. 38, 46 (Bankr. D. Del. 2012) (citing *In re Smidth & Co.*, 413 B.R. 161 (Bankr. D. Del. 2009)). A bar date is "an integral step in the reorganization process." *In re Best Products Co., Inc.*, 140 B.R. 353, 357 (Bankr. S.D.N.Y. 1992). "A personal injury claimant is given no special dispensation. The Claimant must comply with the Code, the Federal Rules of Bankruptcy Procedure, and court orders for claims handling procedure before there is a valid bankruptcy claim" *Id.*

10. Notably, only a few Courts overseeing diocesan bankruptcy cases have been tasked with determining whether, in the unique circumstance of sexual abuse claimants, the bar date should be coterminous with the relevant extended statutory deadline, notwithstanding that such

decision may delay or cause increased costs for the bankruptcy estate. The courts that have ruled on such issue have been split.

11. In the chapter 11 case of The Roman Catholic Diocese of Syracuse, New York, the bar date set was *not* coterminous with New York's CVA. *See In re The Roman Catholic Diocese of Syracuse, New York*, Case No. 20-30663 (MMC) (Bankr. N.D.N.Y., November 6, 2020), *Bar Date Order Establishing April 15, 2021 as the Deadline for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof* [ECF No. 214]. The Court in *Syracuse* acknowledged that in setting a bar date, the Court must balance the needs of the entity requiring reorganization against the needs of the victim-claimants. The Court found that the 4-month dispute between the Debtor's proposed date and the Committee's proposed date would likely not make a difference, since, for many of these victims, "five years wouldn't make the difference either." The Court also found that "in all cases there can be a statute of limitations that's out there for six year[s] ... where the bar date is not – six years." Based on the Court's recommendation, the parties ultimately settled on an April 15, 2021 bar date. *See id.*, ECF No. 193.

12. Similarly, in The Diocese of Rochester's chapter 11 case, Judge Warren *denied* a motion from the unsecured creditors' committee to extend the bar date to make it coterminous with the then-recently enlarged CVA window. *See In re The Diocese of Rochester*, Case No. 19-20905 (PRW) (Bankr. W.D.N.Y. July 29, 2020) [ECF No. 700] (the "Rochester Decision"). In denying the request to extend the bar date in that case through January 14, 2021, which was a revised deadline for commencing CVA civil actions set by an Executive Order before the Legislature extended it through August 2021, Judge Warren expressly noted that the COVID-19 pandemic impacted claimants' ability to commence new actions in the New York State court system, which stopped accepting filings in most matters at the onset of the pandemic, but that the federal

bankruptcy court remained open for business throughout. *See Rochester Decision*, 3-4. Judge Warren also observed that, notwithstanding the pandemic, between March 16, 2020 and July 29, 2020, 172 abuse claimants had successfully filed proofs of claim with the debtor's claims agent. *Id.* at 4. Ultimately, Judge Warren balanced the interests of unknown potential claimants against those actual known abuse claimants who had already filed their proofs of claim, and declined to extend the bar date until the new January 2021 deadline for submitting CVA claims. *Id.* at 8.

13. Alternatively, the Court in *The Diocese of Buffalo, N.Y.* matter found that cutting the bar date short as compared to the CVA deadline would *not* be appropriate. *See In re The Diocese of Buffalo, N.Y.*, 620 B.R. 445, 452 (Bankr. W.D.N.Y. 2020) (the "Buffalo Decision"). Indeed, in the *Buffalo Decision*, the Court stated: "In reopening the statute of limitations, the CVA expressed a policy decision that deserves the respect of this Court. Unless good cause is otherwise demonstrated, we should appropriately honor the decision of New York to allow the assertion of claims through August 14, 2021." *Id.*

14. Recognizing these concerns, and the competing decisions out of Buffalo, Rochester and Syracuse, the Trade Committee believes that the twin goals of due process on the one hand, and efficiency, finality and preservation of estate assets on the other hand, could be properly met on all sides via a June 30, 2021 bar date. This potentially shortens the length and cost of the case by five (5) months from where the Tort Committee would have, while at the same time providing a full five (5) months for additional marketing, noticing and advertising by the plaintiff's lawyers who are working to continue to locate victims. Whether the Court selects that specific date or another date, we respectfully request that the Court balance the competing goals of finality, efficiency, and husbanding estate resources (by not allowing a case to drag on), while recognizing the concerns expressed by the Tort Committee as to adequate notice.

Respectfully submitted,

Dated: January 13, 2021

PORZIO, BROMBERG & NEWMAN, P.C.

By: /s/ Warren J. Martin, Jr.
Warren J. Martin Jr.

*Proposed Counsel to Official Committee of
Unsecured Trade Creditors*