

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT
HARTFORD DIVISION**

In re:	§	
	§	Case No. 21-20687(JJT)
THE NORWICH ROMAN CATHOLIC DIOCESAN CORPORATION,	§	
	§	Chapter 11
	§	
Debtor.	§	November 8, 2021
	§	

**REPLY IN SUPPORT OF DEBTOR’S MOTION FOR ENTRY OF AN ORDER
EXTENDING ITS EXCLUSIVITY PERIOD FOR THE FILING AND SOLICITATION
OF ACCEPTANCE OF A CHAPTER 11 PLAN**

NOW INTO COURT, through undersigned counsel, comes the Association of Parishes of the Roman Catholic Diocese of Norwich, Connecticut (the “Association” or the “Parishes”) who respectfully files this *Reply* (this “Reply”) to the *Debtor’s Motion for Entry of an Order Extending its Exclusivity Period for the Filing and Solicitation of Acceptance of a Chapter 11 Plan* (ECF No. 330)(the “Exclusivity Motion”) and in support thereof does state as follows:

INTRODUCTION AND BACKGROUND

1. As indicated in the *Verified Statement of Association of Parishes of the Roman Catholic Diocese of Norwich, Connecticut and Jones Walker LLP under Bankruptcy Rule 2019* (ECF No. 347), the Association is a group of 51 church parishes within the geographic footprint of the Norwich Roman Catholic Diocesan Corp. (the “Debtor”).
2. On or about November 1, 2021, the Debtor filed the Exclusivity Motion.
3. On or about November 5, 2021, the Official Committee of Unsecured Creditors (the “Committee”) filed the *Objection of the Official Committee of Unsecured Creditors to the Debtor’s Motion for Entry of an Order Extending its Exclusivity Period for the Filing and Solicitation of Acceptance of a Chapter 11 Plan* (ECF No. 344)(the “Objection”).

RESPONSES AND LEGAL ARGUMENT

A. The Committee's Objection Is Disingenuous and Procedurally Improper

4. The Bankruptcy Code provides debtors with the exclusive right to file and solicit acceptances of a plan for 120 days after the Petition Date. 11 U.S.C. § 1121(b). The purpose of the exclusivity period “is to provide the debtor, at the outset of a chapter 11 case, with ‘the unqualified opportunity to negotiate a settlement and propose a plan of reorganization without interference from creditors or other interests.’” *U.S. Bank Nat’l Ass’n v. Wilmington Trust Co. (In re Spansion, Inc.)*, 426 B.R. 114, 140 (Bankr. D. Del. 2010)(quoting *In re Texaco, Inc.*, 81 B.R. 806, 809 (Bankr. S.D.N.Y. 1988)). The mere fact that a creditor constituency is unhappy or dissatisfied with the Debtor’s progress, “without more, does not constitute cause to end exclusivity and undermine the debtor’s chance of obtaining confirmation of its plan during that period.” *In re Adelphia Commc’n Corp.*, 336 B.R. 610, 676 (Bankr. S.D.N.Y. 2006).

5. The Committee argues that exclusivity should not be extended because the Debtor’s administrative expenses are too high. The Committee cites no authority for this dubious proposition and indeed none exists.¹ It is ironic for the Committee to complain about administrative costs and then propose a course of action that is almost guaranteed to result in significant litigation and increased administrative expenses. It is simply not feasible or economical to allow competing plans to be filed when the nature of the claims against the estate is unknown, and will remain unknown until at least February 2022.

6. More to the point, the Committee is using the Exclusivity Motion to object to the Debtor’s Professionals’ Monthly Fee Statements. Under the terms of this Court’s *Order Granting*

¹ *In re Borders Group, Inc.*, 460 B.R. 818, 826 (Bankr. S.D.N.Y. 2011)(holding that the Debtor’s ability to make all post-petition administrative expense payments is cause to extend exclusivity).

Debtor's Motion for Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals (ECF No. 314), parties in interest, including the Committee, have until November 22 to object to the fees of the Debtor's professionals. The Committee, however, wishes to prejudge the Monthly Fee Statements and use them as a bootstrap to pull an argument that the Debtor is being mismanaged. The Committee does not provide anything to this Court other than hyperbole and faux exasperation to indicate that the fees of the Debtor's professionals are unreasonable or unnecessary.

7. The Committee, hopefully recognizing its specious argument, nevertheless doubles down on its expensive gambit by explicitly threatening the Debtor with a trustee motion – a motion that is guaranteed to further increase the administrative expenses that the Committee pretends to be concerned about. Disingenuously, the Committee accuses the Debtor of gross mismanagement and of wasting estate assets, but the Committee has not offered any shred of evidence to support these explosive allegations.

8. The Committee wants to skip the litigation inherent in a motion to appoint a trustee, but use other methods to “wrest control” of the Debtor's estate from the Debtor. This end-run around Bankruptcy Court protections should not be countenanced.

9. Indeed, reorganization is largely a consensual process. *In re Aerovias Nacionales de Colombia, S.A.*, 303 B.R. 1, 13 (Bankr. S.D.N.Y. 2003)(citing *In re Curlew Valley Assocs.*, 14 B.R. 506, 511 (Bankr. D. Utah 1981). That is true in the diocesan bankruptcy world as well. Nearly every diocese or archdiocese that has filed for bankruptcy has emerged from bankruptcy after confirming consensual plans. See Mary T. Reilly, *Catholic Dioceses in Bankruptcy*, 49 SETON HALL L. REV. 871, 875 (2019). Blindly attacking the Debtor, the Debtor's management, and the Debtor's professionals does not advance the goal that the Committee professes.

10. “An official committee of unsecured creditors plays a pivotal role in the bankruptcy process. The function of an official creditors committee is to aid, assist, and monitor the debtor to ensure that the unsecured creditors’ views are heard and their interests promoted and protected.” *Pan Am Corp. v. Delta Air Lines, Inc.*, 175 B.R. 438, 515 (S.D.N.Y. 1994)(citations omitted). Therefore, “[i]t is well recognized that, to fulfill these roles, the members of an official creditors committee owe a fiduciary duty to their constituents – in the case of an official creditors committee, to all of the debtor’s unsecured creditors.” *In re Refco, Inc.*, 336 B.R. 187, 195 (Bankr. S.D.N.Y. 2006)(emphasis added). “The chief purpose of an official committee is to maximize distribution to this class.” *In re Garden Ridge Corp.*, No. 04-10324, 2005 Bankr. LEXIS 323 (Bankr. D. Del. Mar. 2, 2005).

11. The Debtor’s creditors, which consist of more than the abuse claimants, are not served by this needless hostility to the Debtor and its professionals. These are complex cases, and the needs of creditors may be at odds with each other at times. Creditors should expect the official committee to work within the consensual process to develop a fair plan of reorganization. Creditors should hope that their committee does not cause or exacerbate the waste of estate resources that are better spent repaying creditors and reorganizing a healthy debtor.

CONCLUSION

12. For the reasons explained, the Parishes request that this Court overrule the Committee Objection, and grant the Exclusivity Motion as proposed by the Debtor.

WHEREFORE, the Association of Parishes of the Roman Catholic Diocese of Norwich, Connecticut prays that the Objection be overruled, that the Exclusivity Order as proposed by the Debtor be entered, and for all other relief that it is entitled to in law and equity.

Dated: November 8, 2021

Respectfully submitted,

/s/ Mark A. Mintz

MARK A. MINTZ

SAMANTHA A. OPPENHEIM

Jones Walker LLP

201 St. Charles Avenue, 51st Floor

New Orleans, LA 70170

Telephone: (504) 582-8000

Facsimile: (504) 589-8260

Email: mmintz@joneswalker.com

Email: soppenheim@joneswalker.com

/s/ Jeffrey Hellman

Jeffrey Hellman

Law Offices of Jeffrey Hellman, LLC

195 Church Street, 10th Floor

New Haven, CT 06510

Tel. 203-691-8762

Email: jeff@jeffhellmanlaw.com

Federal Bar No.: ct04102

**ATTORNEYS FOR
THE ASSOCIATION OF PARISHES OF
THE ROMAN CATHOLIC DIOCESE
OF NORWICH, CONNECTICUT**

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CERTIFICATION OF SERVICE

I hereby certify that I have served forgoing **Reply In Support Of Debtor’s Motion For Entry Of An Order Extending Its Exclusivity Period For The Filing And Solicitation Of Acceptance Of A Chapter 11 Plan** by operation of the Court’s CM/ECF electronic system, by electronic mail, or by U.S., postage prepaid, mail on November 8, 2021 to the following:

- **Kellianne Baranowsky:** kbaranowsky@gs-lawfirm.com; aevans@gs-lawfirm.com; kbaranowsky@ecf.courtdrive.com
- **Patrick M. Birney:** pbirney@rc.com, ctrivigno@rc.com
- **Christopher H. Blau:** cblau@zeislaw.com
- **Harrison H.D. Breakstone:** hbreakstone@archerlaw.com; chansen@archerlaw.com
- **Daniel Allen Byrd:** dbyrd@zeislaw.com
- **John C. Cannizzaro:** john.cannizzaro@icemiller.com
- **Holley L. Claiborn:** holley.l.claiborn@usdoj.gov
- **Louis T. DeLucia:** louis.delucia@icemiller.com; john.acquaviva@icemiller.com
- **Andrew A. DePeau:** ADEPEAU@RC.COM; RBANGHAM@RC.COM
- **Alyson M. Fiedler:** alyson.fiedler@icemiller.com
- **Joseph Mark Fisher:** mfisher@schiffhardin.com
- **Lawrence S. Grossman:** LGrossman@gs-lawfirm.com; aevans@gs-lawfirm.com; ngolino@gs-lawfirm.com; lawrencegrossman@ecf.courtdrive.com; mbuckanavage@gs-lawfirm.com; eross@gs-lawfirm.com
- **Honor S. Heath:** honor.heath@eversource.com; honor.heath@hotmail.com
- **Eric A. Henzy:** ehenzy@zeislaw.com; kjoseph@zeislaw.com
- **Allen G. Kadish:** akadish@archerlaw.com
- **Stephen M. Kindseth:** skindseth@zeislaw.com; swenthen@zeislaw.com; kjoseph@zeislaw.com

- **Jon P. Newton:** jnewton@reidandriege.com; umongrain@rrlawpc.com
- **Scott D. Rosen:** srosen@cb-shea.com; kseaman@cbshealaw.com
- **Jeffrey M. Sklarz:** jsklarz@gs-lawfirm.com; aevans@gs-lawfirm.com; mbuckanavage@gs-lawfirm.com; eross@gs-lawfirm.com; jsklarz@ecf.courtdrive.com
- **Annecca H. Smith:** asmith@rc.com
- **Suzanne B. Sutton:** ssutton@cohenandwolf.com
- **Daniel R. Swetnam:** daniel.swetnam@icemiller.com
- **Jason M. Torf:** jason.torf@icemiller.com
- **U. S. Trustee:** USTPRegion02.NH.ECF@USDOJ.GOV

Steven E. Mackey
Office of the U.S. Trustee
The Giaimo Federal Building
150 Court Street, Room 302
New Haven, CT 06510
Steven.E.Mackey@usdoj.gov

Brown Jacobson PC
Attn: Michael Driscoll
22 Courthouse Square
Norwich, CT 06360

Epiq Corporate Restructuring, LLC
Attn: Managing Member
777 Third Avenue, Floor 12
New York, NY 10017

GlassRatner Advisory & Capital Group LLC
d/b/a B. Riley Advisory Services
Attn: Managing Director
299 Park Avenue, Floor 21
New York, NY 10171

Ice Miller LLP
Attn: Managing Director
1500 Broadway, Ste 2900
New York, NY 10036

Norwich Public Utilities
c/o Law Offices of Lloyd L. Langhammer
Attn: Managing Director
18A Granite Street
New London, CT 06320

Michael Quartararo
EDPM Advisory Services
10 Bay Shore Avenue, Ste 5414
Bay Shore, NY 11706

Robinson & Cole LLP
Attn: Patrick M. Birney
280 Trumbull Street
Hartford, CT 06103

Daniel J. Schufreider
233 South Wacker Drive, Ste 7100
Chicago, IL 60606

David M. Spector
Schiff Hardin LLP
233 South Wacker Drive, Ste 7100
Chicago, IL 60606

Jin Yan
Schiff Hardin LLP
233 South Wacker Drive, Ste 7100
Chicago, IL 60606

By: /s/ Jeffrey Hellman
Jeffrey Hellman