

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

In re:

THE NORWICH ROMAN CATHOLIC
DIOCESAN CORPORATION,¹

Debtor.

Chapter 11

Case No: 21-20687 (JJT)

November 1, 2021

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

The above-captioned debtor and debtor-in-possession (the “Debtor”) hereby moves (this “Motion”) for entry of an order, substantially in the form attached hereto (the “Proposed Order”), pursuant to section 1121(d) of title 11 of the United States Code (the “Bankruptcy Code”), extending the Exclusive Periods (as defined herein) provided by Bankruptcy Code section 1121(b) and (c)(3), respectively, for filing of a chapter 11 plan and the solicitation of acceptances of the plan. In support of the Motion, the Debtor respectfully states as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Connecticut (the “Court”) has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Court may enter a final order consistent with Article III of the United States Constitution.

¹ The Debtor in this chapter 11 case is The Norwich Roman Catholic Diocesan Corporation, a/k/a The Roman Catholic Diocese of Norwich. The last four digits of the Debtor’s federal tax identification number are 7373.

2. The statutory bases for the relief sought herein section 1121(d)(1) of the Bankruptcy Code.

BACKGROUND

1. On July 15, 2021 (the "Petition Date"), the Debtor commenced the above-captioned chapter 11 case (the "Chapter 11 Case") by filing a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (as amended or modified, the "Bankruptcy Code").

2. The Debtor continues to operate its business and manage its properties as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. On July 29, 2021, the Office of the United States Trustee (the "U.S. Trustee") appointed an official committee of unsecured creditors (the "Committee") in the Chapter 11 Case pursuant to section 1102(a)(1) of the Bankruptcy Code.

4. The factual background relating to the Debtor's commencement of the Chapter 11 Case is set forth in detail in the Declaration of Rev. Peter J. Langevin in Support of First Day Pleadings [D.I. 12] (the "First Day Declaration") filed on the Petition Date.

EVENTS IN THE DEBTOR'S CHAPTER 11 CASE

5. Since the commencement of this case, the Debtor has worked diligently to effectuate a smooth and expedient transition into chapter 11. Progress made by the Debtor to date includes, among other things: (i) obtaining vital first- and second-day relief to provide for a smooth transition into chapter 11 and establish procedures for the efficient administration of this chapter 11 case; (ii) completing and filing the Debtor's schedules of assets and liabilities and statement of financial affairs, (iii) participating in the meeting of creditors under section 341 of the Bankruptcy Code; (iv) completing and filing monthly operating and reconciliation reports and complying with

UST and Committee requests for documents and information, including complying with ongoing Rule 2004 discovery propounded by the Committee; and (v) extensively negotiating the form, content and timing of a complex proof of claim bar date procedure. The Debtor accomplished a great deal in the first few months of this case and is well-positioned for the next phase of these proceedings. This next phase will focus on a number of important milestones in this chapter 11 case, including setting a bar date and providing broad notice thereof, resolving coverage disputes with the Debtor's insurers and coverage providers in preparation for negotiating a global settlement, and formulating the Debtor's plan of reorganization.

6. The Committee has advised it intends to complete its investigation, including obtaining and analyzing the discovery it seeks from the Debtor under Rule 2004 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), before discussing the parameters of a consensual plan of reorganization. Although the Debtor intends produce the discovery sought by the Committee within the timeframes demanded by the Committee, the Debtor does not believe that the Committee will have completed its investigation or be prepared to negotiate a plan by the expiration of the Debtor's current Exclusive Period, which expires on November 12, 2021.

7. Accordingly, an extension of the Exclusive Period to a date after the proposed proof of claim bar date would enable the Debtor and the Committee time to prepare for substantive plan discussions, informed by the amount and nature of timely filed claims.

RELIEF REQUESTED

8. The Debtor requests entry of an order pursuant to Bankruptcy Code section 1121(d) extending the following deadlines each for a period of 120 days: (a) the exclusive period during which only the Debtor may file a plan pursuant to Bankruptcy Code section 1121(b) and (c)(2) (the "Exclusive Filing Period") from **November 12, 2021** to **March 12, 2022**; and (b) the exclusive

period during which only the Debtor may confirm a plan pursuant to Bankruptcy Code section 1121(c)(3) (the “Exclusive Solicitation Period” and together with the Exclusive Filing Period, the “Exclusive Periods”) from **January 11, 2022 to May 11, 2022**. The Debtor believes it prudent to seek the requested extension of the Exclusive Periods.

BASIS FOR RELIEF

A. The Court Should Extend the Exclusive Periods for “Cause”

9. Under section 1121(b) of the Bankruptcy Code, a debtor has the exclusive right to file a chapter 11 plan in the first 120 days following the commencement of a chapter 11 case. If a debtor files a plan during this exclusive filing period, section 1121(c)(3) of the Bankruptcy Code provides a debtor with 60 days following the expiration of the exclusive filing period (or 180 days following the commencement of the case) to solicit acceptances of a plan.

10. Section 1121(d) of the Bankruptcy Code provides a debtor with a mechanism to extend these exclusive periods, stating that “on request of a party in interest made . . . and after notice and a hearing, the court may for cause reduce or increase the 120-day period or the 180-day period referred to in this section.” 11 U.S.C. § 1121(d)(1). The ultimate decision to extend a debtor’s exclusive periods rests within the discretion of the bankruptcy court. *See In re Excel Mar. Carriers Ltd.*, No. 13-23060 (RDD), 2013 WL 5155040, at *2 (Bankr. S.D.N.Y. Sept. 13, 2013).

11. While the Bankruptcy Code does not define “cause,” courts rely on various factors to determine whether cause exists to extend a debtor’s exclusive periods. These factors include: (i) the size and complexity of the case; (ii) the necessity for sufficient time to negotiate a chapter 11 plan and prepare adequate information; (iii) the existence of good faith progress toward reorganization; (iv) the fact that the debtor is paying its debts as they come due; (v) whether the debtor has demonstrated reasonable prospects for filing a viable plan; (vi) whether the debtor has made progress negotiating with creditors; (vii) the length of time a case has been pending; (viii)

whether creditors are prejudiced by the extension; (ix) whether the debtor is seeking an extension to pressure creditors; and (x) whether or not unresolved contingencies exist. *See In re Adelpia Communs. Corp.*, 336 B.R. 610, 674 (Bankr. S.D.N.Y. 2006); *In re Cent. Jersey Airport Servs., LLC*, 282 B.R. 176, 184 (Bankr. D.N.J. 2002); *In re Express One Int'l Inc.*, 194 B.R. 98, 100 (Bankr. E.D. Tex. 1996); *see also In re Gibson & Cushman Dredging Corp.*, 101 B.R. 405, 409-10 (E.D.N.Y. 1989) (listing certain of the above factors); *In re Grand Traverse Dev. Co. Ltd. P'ship*, 147 B.R. 418, 420 (Bankr. W.D. Mich. 1992) (same).

12. Not all factors are relevant to every case, as courts tend to use a relevant subset of the above factors to determine whether cause exists to grant extensions of the Exclusivity Periods in a particular chapter 11 case. *See, e.g., Express One Int'l*, 194 B.R. 98, 100 (Bankr. E.D. Tex. 1996) (identifying four of the factors as relevant in determining whether “cause” exists to extend exclusive periods); *In re United Press Int'l, Inc.*, 60 B.R. 265, 269 (Bankr. D.D.C. 1986) (finding that the debtor showed “cause” to extend exclusive periods based on three of the factors).

13. Courts routinely grant a debtor’s first request for an extension if the facts and circumstances warrant such extension. *See, e.g., In re Apex Pharm., Inc.*, 203 B.R. 432, 441 (N.D. Ind. 1996) (“It is true that during the initial 120-day period in which Debtor have an exclusive right to file a plan of reorganization . . . the bankruptcy courts apply a lesser standard in determining whether the burden of showing ‘a reasonable possibility of a successful reorganization within a reasonable time’ has been satisfied.”) (citation omitted).

B. Cause Exists to Extend the Exclusive Periods

14. Based on a weighing of the relevant factors, there is more than sufficient cause to approve the extension of the Exclusive Periods requested by the Debtor:

- This chapter 11 case is highly complex. As of the Petition Date, the Debtor was a defendant in approximately 60 personal injury lawsuits pending in Connecticut

state court. The process of reaching an accurate and fair assessment of the Debtor's liability for sexual abuse claims and addressing the insurance coverage issues that must be resolved in formulating a consensual plan of reorganization, are necessarily complicated.

- The Debtor, its creditors and its insurers require additional time to gather and share the information needed to negotiate a plan of reorganization. To this end, the Debtor negotiated procedures to permit sharing appropriate information with its insurers and the Committee while protecting the confidentiality of claimants. Further, the universe of potential claims against the Debtor will not be known until the claims bar date has been reached.
- The Debtor has made good faith progress toward reorganization by, among other things, making progress towards establishing a claims bar date, and engaging in fruitful, ongoing negotiations with the Committee on a variety of issues.
- Since filing this Chapter 11 Case, the Debtor believes that it has continued to pay substantially all of its undisputed, postpetition expenses and invoices in the ordinary course of business or as otherwise provided by order of the Court.
- The requested extension of the Exclusive Periods is the first such request made in this Chapter 11 Case and is approximately seven (7) months after the Petition Date. This amount of time is not long given the complexity of the issues involved, the fact that the number of abuse claims against the Debtor remains unknown, and the number of interested parties and constituencies with whom the Debtor must confer to reach consensus on a plan.

- The Debtor is not seeking an extension of the Exclusive Periods to pressure or prejudice any of its stakeholders. Rather, the Debtor is seeking an extension of the Exclusive Periods to preserve and build upon the progress made to date by securing adequate time to develop a plan of reorganization. The Debtor's efforts towards reaching a global settlement with its insurers and claimants will benefit, not prejudice, its creditors.
- Understanding the universe of claims against the Debtor is a critical condition precedent to identifying the universe of claims asserted against the Debtor. In particular, the amount of such claims—and other details, such as when such claims allege that abuse occurred—will be critical in advancing discussions with the Debtor's coverage providers and insurers towards a global resolution of this Chapter 11 Case. Until the claims bar date is reached, the potential claims outstanding against the Debtor remain a significant unresolved contingency.

15. The relevant factors described above support the Debtor's requested extension of the Exclusive Periods. Extending the Exclusive Periods by one hundred twenty (120) days will ensure that the Debtor and its creditors are able to capitalize on the progress they have made to date in this chapter 11 case. Further, the requested extension is well within the range of similar relief granted by courts under similar circumstances. *See, e.g., In re Grupo Aeroméxico, S.A.B. de C.V.*, No. 20-11563 (SCC) (Bankr. S.D.N.Y. October 26, 2020) [D.I. 577] (granting an initial extension of the debtors' exclusive periods by 120 days); *In re Purdue Pharma L.P.*, No. 19-23649 (RDD) (Bankr. S.D.N.Y. Jan. 28, 2020) [D.I. 782] (granting an initial extension of the debtors' exclusive periods by 180 days); *In re Windstream Holdings, Inc.*, No. 19-22312 (RDD) (Bankr. S.D.N.Y. June 20, 2019) [D.I. 699] (same); *In re NII Holdings, Inc.*, No. 14-12611 (SCC) (Bankr.

S.D.N.Y. January 12, 2015) [D.I. 375] (granting an initial extension of the debtors' exclusive periods by 90 days).

16. Based on the foregoing, the Debtor respectfully submits that cause exists to extend the Debtor's Exclusivity Periods pursuant to section 1121(d) of the Bankruptcy Code.

NOTICE

17. Notice of this Motion will be provided to (a) the Office of the United States Trustee; (b) counsel to the Committee; (c) Scott Rosen, Esq., Cohn Birnbaum & Shea, P.C., counsel to People's United Bank, N.A.; (d) the Internal Revenue Service; (e) the United States Attorney's Office for the District of Connecticut; and (f) any other party that has requested service pursuant to Bankruptcy Rule 2002 as of the time of service.

18. The Debtors respectfully submit that such notice is sufficient and that no further notice of this Motion is required.

NO PRIOR REQUEST

19. No prior request for the relief sought in this herein has been made to this Court or any other court.

intentionally omitted]

WHEREFORE, the Debtor respectfully requests that the Court enter the proposed order substantially in the form attached hereto, granting the relief requested in the Motion and such other and further relief as may be just and proper.

Dated: Hartford, CT
November 1, 2021

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and Debtor-in-Possession*

Exhibit A

Proposed Order

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

In re:

THE NORWICH ROMAN CATHOLIC
DIOCESAN CORPORATION,¹

Debtor.

Chapter 11

Case No: 21-20687 (JJT)

**ORDER EXTENDING EXCLUSIVE PERIODS FOR THE
FILING AND SOLICITATION OF ACCEPTANCE OF A CHAPTER 11 PLAN**

Upon the motion (the “Motion”) of the Debtor for entry of an order, pursuant to Bankruptcy Code section 1121(d), extending the Debtor’s exclusive periods in which to file a chapter 11 plan (the “Exclusive Filing Period”) and solicit acceptances thereof (the “Exclusive Solicitation Period” and together with the Exclusive Filing Period, the “Exclusive Periods”); and the Court having reviewed the Motion; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. 157 and §§ 1334(b); and the Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given, under the circumstances, and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefore, it is hereby

ORDERED, ADJUDGED, AND DECREED THAT:

¹ The Debtor in this chapter 11 case is The Norwich Roman Catholic Diocesan Corporation, a/k/a The Roman Catholic Diocese of Norwich. The last four digits of the Debtor’s federal tax identification number are 7373.

1. The Motion is GRANTED as set forth herein.
2. Pursuant to Bankruptcy Code section 1121(d), the Exclusive Filing Period is extended from November 12, 2021, through and including 11:59 P.M. (Eastern) on _____.
3. Pursuant to Bankruptcy Code section 1121(d), the Exclusive Solicitation Period is extended from January 11, 2021 through and including 11:59 P.M. (Eastern) on _____.
4. The Extension of the Exclusive Periods granted herein is without prejudice to further requests that may be made pursuant to Bankruptcy Code section 1121(d).
5. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).
6. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, 9014 or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.
7. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation and/or interpretation of this Order.

Dated: _____, 2021

JAMES J. TANCREDI
UNITED STATES BANKRUPTCY JUDGE