

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re: Chapter 11
THE DIOCESE OF ST. CLOUD, a Minnesota BKY 20-60337
religious corporation,

Debtor.

ORDER CONFIRMING SECOND AMENDED JOINT PLAN OF REORGANIZATION

This case is before the court pursuant to the *Second Amended Joint Plan of Reorganization* [Dkt. No. 170], filed and dated November 30, 2020, and proposed by the debtor and the committee of unsecured creditors. The court conducted the plan confirmation hearing on December 3, 2020 and admitted the declarations of Joseph Spaniol, Bishop Donald J. Kettler, and Donald Peschel as evidence at the confirmation hearing.

Based on the record, the court finds and concludes:

1. The plan satisfies and complies with each of the provisions of 11 U.S.C. § 1129 to the extent applicable to the plan and this case.
2. Every class that voted, all of which are impaired, voted to accept the plan. An overwhelming majority of the tort claimants—86 of 102—submitted ballots that were counted, and all but two voted in favor of the plan.
3. This case presents circumstances in which the channeling injunctions and releases provided under the plan may be approved. The debtor has numerous and significant liabilities for which the Protected Parties (as defined in the plan) may have obligations to some extent. Under the plan, the Protected Parties will make substantial contributions, as will the debtor, to provide for payment of the tort claimants. Such contributions are critical to the effective

implementation of the plan, and the plan would not be feasible without such contributions. The debtor and the other Protected Parties would not make such contributions unless they obtained the benefits of the releases and injunctions under the plan. Resolution of this case would not have been possible without such releases and injunctions.

4. The creditors most affected by the releases and injunctions—the tort claimants—have indicated by an overwhelming majority that they accept such provisions; indeed, the committee, made up of tort claimants, is a joint proponent of the plan. The debtor provided specific and adequate notice of, among other things: (i) the releases and injunctions provided for in the plan, (ii) the manner in which a creditor or interested party could take steps to obtain additional information regarding, or object to such, releases or injunctions, and (iii) the names of the Protected Parties. The debtor mailed such notice broadly.

5. No objections to the plan were filed.

6. The court has jurisdiction pursuant to 28 U.S.C. § 1334(a) and (b) to approve the exculpation, release, and limitation of liability provisions of the plan and the Plan Documents (as defined in the plan), and to issue the channeling injunction and other injunctions as provided in Article 26 of the plan.

7. The *Unknown Claims Representative's Report and Recommendations* [Dkt. No. 167] has been considered by the court and is accepted. The unknown claims representative is qualified to make the analysis and conclusions set forth in the report as a result of his background and experience. The report is comprehensive and the unknown claims representative has acted diligently in examining the potential for Unknown Tort Claims (as defined in the plan). Accordingly, the findings and recommendations contained in the report are adopted by the court and incorporated herein.

IT IS ORDERED:

A. Confirmation. The *Second Amended Joint Plan of Reorganization* [Dkt. No. 170], filed and dated November 30, 2020, is confirmed.

B. Binding Effect of the Plan. Immediately upon the entry of this order, the terms of the plan and the Plan Documents are approved, effective, and binding upon all parties, including, without limitation, any and all entities acquiring property under the plan, any and all holders of claims and interests, any and all non-debtor parties to executory contracts, any and all Tort Claimants (as defined in the plan), Unknown Tort Claimants, and other creditors, whether or not such creditor has filed a proof of claim, whether or not the claim of such creditor is impaired under the plan, and whether or not such creditor has accepted or rejected the plan. All entities must act or refrain from acting as set forth in the plan.

C. Vesting of Estates' Assets. Except as otherwise provided herein or in the plan, and as of the Effective Date (as defined in the plan) of the plan, under 11 U.S.C. §§ 1141(b) and 1141(c), all property of the debtor's estate and all property dealt with by the plan is vested in the Trust (as defined in the plan) or the reorganized debtor, as set forth in the plan, and such vesting is free and clear of all liens, interests, and claims of creditors. On November 5, 2020, the court approved the sale of certain real property owned by debtor. The order, entered at docket number 159, required the sale proceeds to be held in a segregated account pending further order of this court. On or after the Effective Date of the plan, such funds are released to the reorganized debtor.

D. Discharge. Except as otherwise expressly provided in the plan or in this order, on the Effective Date, the debtor is discharged from and its liability is extinguished completely in respect of any claim and debt, whether reduced to judgment or not, liquidated or unliquidated,

contingent or non-contingent, asserted or unasserted, fixed or not, matured or unmatured, disputed or undisputed, legal or equitable, known or future, that arose from any agreement of the debtor entered into or obligation of the debtor incurred before the confirmation date, or from any conduct of the debtor prior to the confirmation date, or that otherwise arose before the confirmation date, including, without limitation, all interest, if any, on any such claims and debts, whether such interest accrued before or after the petition date, and including all claims and debts of the kind specified in 11 U.S.C. §§ 502(g), 502(h), and 502(i), whether or not a proof of claim is filed or is deemed filed under 11 U.S.C. § 501, such claim is allowed under 11 U.S.C. § 502, or the holder of such claim has accepted the plan.

E. Exculpation and Limitation of Liability. Except as expressly provided in the plan, none of the Exculpated Parties (as defined in the plan) will have or incur any liability for any act or omission in connection with, relating to, or arising out of the reorganization case, including the exercise of their respective business judgment and the performance of their respective fiduciary obligations, the pursuit of confirmation of the plan, or the administration of the plan or the property to be distributed under the plan or the Trust created thereunder, except for their willful misconduct or gross negligence and in all respects such parties will be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities under the plan or the reorganization case. Without limiting the generality of the foregoing, the committee and the debtor and their respective professionals are entitled to and granted the benefits of Bankruptcy Code § 1125(e) and the channeling injunction.

F. Channeling Injunction. In consideration of the undertakings of the Protected Parties under the plan and other consideration, which also benefit the Tort

Claimants and Unknown Tort Claimants, and the protections afforded the Protected Parties under the Bankruptcy Code, including Bankruptcy Code § 105:

1. Any and all Channeled Claims (as defined in the plan) are channeled into the Trust and will be treated, administered, determined, and resolved under the procedures and protocols and in the amounts as established under the plan, the Allocation Protocols (as defined in the plan), and the Trust Documents (as defined in the plan), as the sole and exclusive remedy for all holders of Channeled Claims; and

2. All Entities (as defined in the plan) that have held or asserted, presently hold or assert, or may in the future hold or assert, any Channeled Claim are hereby permanently stayed, enjoined, barred, and restrained from taking any action, directly or indirectly, for the purpose of asserting, enforcing, or attempting to assert or enforce any Channeled Claim, including:

i. commencing or continuing in any manner any action or other proceeding of any kind with respect to any Channeled Claim against any of the Protected Parties or against the property of any of the Protected Parties;

ii. enforcing, attaching, collecting, or recovering, by any manner or means from any of the Protected Parties, or from the property of any of the Protected Parties with respect to any such Channeled Claim, any judgment, award, decree, or order against any of the Protected Parties;

iii. seeking the enforcement, attachment, collection, or recovery by any manner or means of any judgment, award, decree, or order against the Protected Parties or the property of the Protected Parties, with respect to any discharged Claim (as defined in the plan) or Channeled Claim;

iv. creating, perfecting, or enforcing any lien of any kind against any Protected Parties, or the property of any of the Protected Parties with respect to any such Channeled Claim;

v. asserting, implementing, or effectuating any Channeled Claim of any kind against: (1) any obligation due from any of the Protected Parties; (2) any Protected Party; or (3) the property of any Protected Party;

vi. taking any act, in any manner, in any place whatsoever that does not conform to, or comply with, the provisions of the Plan; and

vii. asserting or accomplishing any setoff, right of indemnity, subrogation, contribution, or recoupment of any kind against any obligation due from any of the Protected Parties or the property of any of the Protected Parties.

3. The provisions of this Channeling Injunction will further operate, as between all Protected Parties, as a mutual release of all Claims relating to the debtor and the Claims against the debtor, which any Protected Party may have against another Protected Party except as may specifically be reserved or set forth in the plan. The foregoing channeling provisions are an integral part of the plan and are essential to its implementation.

G. Effectiveness of Releases and Injunctions. Except as otherwise expressly provided in the plan, for the consideration described therein, all entities who have held, hold, or may hold Channeled Claims or claims against the Protected Parties, whether known or unknown, and their respective civil law and Canon Law (as defined in the plan) officers, directors, officials, representatives, council members, employees, accountants, agents, attorneys, and all others acting for or on their behalf, will be permanently enjoined

on and after the Effective Date from: (i) commencing or continuing in any manner any action or any other proceeding of any kind with respect to any claim, including, but not limited to, any Tort Claim (as defined in the plan), any Unknown Tort Claim (as defined in the plan), or any Channeled Claim against the Protected Parties or their property; (ii) asserting a claim against any person if as a result of such claim such person has or may have a claim against one or more of the Protected Parties; (iii) seeking the enforcement, attachment, collection, or recovery by any manner or means, from any of the Protected Parties, or from property of any of the Protected Parties, with respect to any such Channeled Claim, of any judgment, award, decree, or order against any of the Protected Parties; (iv) creating, perfecting, or enforcing any lien of any kind against the Protected Parties with respect to any discharged claim or Channeled Claim; (v) asserting any setoff, right of subrogation, or recoupment of any kind against any obligation due to the Protected Parties with respect to any discharged Claim or Channeled Claim; and (vi) taking any act, in any manner and in any place whatsoever, that does not conform to or comply with provisions of the plan or the Plan Documents, including the Trust Agreement (as defined in the Plan). Any and all currently pending court proceedings, the continuation of which would violate the provisions of this section, shall be dismissed with prejudice.

H. **Injunctions Are Permanent; Existing Injunctions and Stays Remain in Effect until Effective Date.** On the Effective Date, the injunctions provided for in the plan are deemed issued, entered, valid, and enforceable according to their terms and are deemed permanent and irrevocable. All injunctions and/or stays provided for in the plan, the injunctive provisions of Bankruptcy Code §§ 524 and 1141, and all injunctions or stays

protecting any Protected Party are permanent and will remain in full force and effect following the Effective Date and are not subject to being vacated or modified.

I. Faricy Claim. The settlement agreement between the debtor and Faricy Law Firm, P.A., a copy of which is attached to the plan, is approved, and the debtor and the Faricy firm are authorized and directed to take all actions required under the settlement agreement. As provided in the agreement, the injunctions and releases set forth in the plan and as issued in Paragraphs F, G, and H above in favor of the Protected Parties will apply with equal force and effect to any claims Faricy has asserted or may assert against the Protected Parties of every character, whether known or unknown, direct and/or indirect, contingent or matured, of whatever kind or nature, for or because of any matter or things done, omitted, or suffered to be done by any of the Protected Parties, at law or in equity.

J. Deadline for Filing Administrative Claims. All professionals requesting compensation or reimbursement of expenses under 11 U.S.C. §§ 327, 328, 330, 331, 503(b) and 1103 for services rendered prior to the Effective Date for Professional Charges (as defined in the Plan), and all other requests to order payment of an Administrative Claim (as defined in the Plan), must be made by motion in accordance with Local Rules 2016-1 and 3002-2 and shall be filed and served no later than 45 days after the date of this order.

K. Objections to Non-Tort Claims. All objections to proofs of claim filed by creditors whose claims are not Tort Claims shall be made by motion under Local Rule 3007-1, and shall be served and filed within 60 days after the date of this order.

L. Other Proceedings. All other motions, applications, or complaints shall be filed within 60 days after the date of this order unless the plan expressly provides otherwise. Any time limit provided in this order may be extended or waived by the court for cause after notice and a

hearing. Nothing in this order shall preclude any proceeding in another court with jurisdiction and within time limits otherwise applicable.

M. Mailing of Notice. The debtor shall forthwith mail copies of this order as notice of entry of this order and confirmation of the plan to the entities specified in Local Rules 9013-3 and to all creditors and other parties in interest.

DATED: December 3, 2020

/e/ Robert J. Kressel

ROBERT J. KRESSEL
UNITED STATES BANKRUPTCY JUDGE