

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No. 20-60337

THE DIOCESE OF ST. CLOUD,
a Minnesota religious corporation

Chapter 11

Debtor.

Judge Robert J. Kressel

**APPLICATION TO EMPLOY STINSON LLP AS LEGAL COUNSEL
FOR THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS
EFFECTIVE AS OF JUNE 17, 2020**

TO: UNITED STATES BANKRUPTCY JUDGE AND THE UNITED STATES TRUSTEE:

The Official Committee of Unsecured Creditors (the “Committee”) of The Diocese of St. Cloud, a Minnesota Religious Corporation (the “Debtor”) respectfully submits this application (“Application”) seeking entry of an order, under 11 U.S.C. §§ 327, 328, and 1103, Fed R. Bankr. P. 2014, and Local Rule 2014-1, authorizing the Committee to retain and employ the law firm of Stinson LLP (“Stinson”) as its bankruptcy counsel in all matters pertaining to the above-referenced Chapter 11 case. In support of its Application, the Committee relies on the attached Declaration of Robert T. Kugler (the “Kugler Declaration”). In addition, the Committee respectfully represents:

1. Jurisdiction. The Court has jurisdiction to consider this Application pursuant to 28 U.S.C. §§ 157 and 1334, and Bankruptcy Rule 5005 and Local Rule 1070-1. This is a core proceeding pursuant to 28 U.S.C. § 157(b), and venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. Debtor. The Chapter 11 Debtor in this case is The Diocese of St. Cloud, a Minnesota Religious Corporation. The petition commencing this case was filed on June 15, 2020. This case is now pending in this Court.

3. Committee. On June 16, 2020, the Office of the United States Trustee appointed the Committee. The United States Trustee designated Donald Peschel as Acting Chairperson of the Committee until such time the Committee may elect an alternative chairperson. As of the date of this Application, Donald Peschel remains the Acting Chairperson.

4. Selection of Counsel. On June 17, 2020, the Committee unanimously selected Stinson to serve as its bankruptcy counsel, subject to this Court's approval. The Committee believes that Stinson possesses extensive knowledge and skill in the areas of law relevant to this case and that Stinson is well-qualified to represent the Committee's interests.

5. Qualifications of Counsel. Stinson has represented numerous unsecured creditors' committees and other parties in many significant Chapter 11 cases, including committees in multiple cases filed by non-profit, Catholic entities. Stinson has extensive experience on a number of issues in such cases, including, but not limited to: (a) analysis of property of the estate and maximizing recovery for the benefit of creditors; (b) the treatment of executory contracts and leases, including negotiations and litigation involving the rejection of contracts and leases; (c) the valuation and treatment of claims, including litigation involving objections to claims; (d) review and analysis of disclosure statements and plans of reorganization and liquidation and the treatment of unsecured creditors, including objections to those disclosure statements and plans; (e) avoidance litigation; (f) asset disposition, including review, analysis, and objections to, motions for the approval of sale of assets; (g) review and analysis of the debtor's monthly operating reports and objections to same; and (h) negotiations and mediation relating to abuse claim issues. Stinson also has a broad-based practice, including a high level of sophistication in the areas of corporate, non-profit, insurance, trust, and commercial law, as well as other areas that are relevant to the administration of this Chapter 11 case. Stinson served as counsel for the Official Committee of Unsecured Creditors in Chapter 11 bankruptcy cases filed by the Crosiers Order (Minn. Bankr. Case Nos. 17-41681, 17-41682-17-41683), the Archdiocese of Saint Paul and Minneapolis (Minn. Bankr. Case No. 15-30125), the Diocese of Duluth (Minn. Bankr. Case No. 15-50792), and the Diocese of New Ulm (Minn. Bankr. Case No. 17-30601). Each of these cases was resolved through

a consensual plan of reorganization proposed jointly by the debtors and the respective committees that Stinson represented. Stinson also currently serves as counsel for the Official Committee of Unsecured Creditors in Chapter 11 bankruptcy cases filed by the Diocese of Winona-Rochester (Minn. Bankr. Case No. 18-33707) and the Archbishop of Agaña, a Corporation Sole, (Guam Bankr. Case. No. 19-00010), and for the Official Committee of Tort Claimants in the Chapter 11 bankruptcy case filed by the Diocese of Harrisburg (Penn. Bankr. Case No. 20-00599). Stinson's experience in these other diocesan bankruptcy matters will provide a substantial benefit to the Committee in this Chapter 11 case.

6. Services of Counsel. By this Application, the Committee seeks to employ Stinson as its counsel in the Debtor's Chapter 11 case. Accordingly, the Committee respectfully requests entry of an Order pursuant to sections 1103(a) and 328 of the Bankruptcy Code and Local Bankruptcy Rules 2014-1 and 9013-1 authorizing the Committee to retain and employ Stinson as its attorneys to perform for the Committee all necessary legal services, including but not limited to:

- (a) consulting with the Debtor and the Office of the United States Trustee regarding administration of the case;
- (b) advising the Committee with respect to its rights, powers, and duties as they relate to the case;
- (c) investigating the acts, conduct, assets, liabilities, and financial condition of the Debtor;
- (d) assisting the Committee in analyzing the Debtor's pre-petition and post-petition relationships with its creditors, equity interest holders, employees, and other parties in interest;
- (e) assisting and negotiating on the Committee's behalf in matters relating to the claims of the Debtor's other creditors;
- (f) assisting the Committee in preparing pleadings and applications as may be necessary to further the Committee's interests and objectives;
- (g) researching, analyzing, investigating, filing and prosecuting litigation on behalf of the Committee in connection with issues including but not limited to avoidance actions or fraudulent conveyances;

- (h) representing the Committee at hearings and other proceedings;
- (i) reviewing and analyzing applications, orders, statements of operations, and schedules filed with the Court and advising the Committee regarding all such materials;
- (j) aiding and enhancing the Committee's participation in formulating a plan;
- (k) assisting the Committee in advising its constituents of the Committee's decisions, including the collection and filing of acceptances and rejections to any proposed plan;
- (l) negotiating and mediating issues relating to the value and payment of claims held by the Committee's constituency; and
- (m) performing such other legal services as may be required and are deemed to be in the interests of the Committee.

7. Fees. Stinson will be compensated at or below its standard hourly rates for engagements of this nature. Such fees are based upon, among other things, the level and sophistication of each professional's experience, the size and complexity of the matter, and each professional's track-record for efficiency and effectiveness. Stinson's hourly rates for matters such as this are: \$140.00 – \$320.00 for paralegals; \$275.00 – \$410.00 for associates, and \$320.00 – \$710.00 for partners. Stinson has, however, agreed to reduce its fee requests as follows: Stinson will not bill attorney travel time, unless its attorneys are actually performing substantive work during travel and Stinson will cap its blended hourly rate for all billing professionals at \$475.00 per hour.

- (a) *Reasonableness of Fees*. The fees charged by Stinson are competitive with the fees charged by firms of similar size, level of expertise, and experience. The fees and costs charged by Stinson are at or below the fees and costs charged to other, similar clients of Stinson on matters of similar size and complexity. Stinson's fees also comply with the United States Trustee's Guidelines and orders of this Court. The Committee believes that Stinson's rates are reasonable.

(b) *Changes to the Fee Structure.* Stinson's hourly rates are subject to periodic adjustments in the ordinary course of practice. Such adjustments are generally made on an annual basis, and based upon changes in the legal market and the increased sophistication and effectiveness of a given professional. Any adjustments in hourly rates will not alter the blended rate cap of \$475.00 per hour.

8. Costs. It is Stinson's standard policy, in all areas of practice, to charge clients for certain expenses incurred in connection with the client's case. The Committee requests that all fees and related expenses incurred by Stinson on account of services rendered by Stinson in these cases be paid as administrative expenses of the estates pursuant to Sections 328, 330(a), 331, 503(b), and 507(a)(1) of the Bankruptcy Code. Stinson has agreed not to bill the Committee for the costs of attorney travel, such as hotel, airfare, or meals. The expenses to be charged by Stinson to the Debtor include, among other things, certain telephone and tele-copier charges, certain mail and express mail charges, special or hand delivery charges, certain photocopy charges, and computerized research expenses. Stinson will charge the Debtor for these expenses in a manner and at a rate consistent with charges made generally to Stinson's other clients, and in a manner consistent with the United States Trustee's Guidelines and Local Bankruptcy Rules.

9. Compensation Subject to Court Approval. As set forth in the Kugler Declaration, Stinson acknowledges that all compensation is subject to Court approval after a hearing and upon notice to the United States Trustee and other interested parties. Stinson may from time to time apply to the Court for interim compensation in conformity with Section 331 of the Bankruptcy Code. At the conclusion of these cases, Stinson will file an appropriate application seeking allowance of all fees and costs to date, regardless of whether interim compensation has been paid. The Committee and Stinson understand and agree that the proposed compensation arrangement shall be subject to Section 328(a) of the Bankruptcy Code, which authorizes this Court to modify Stinson's compensation if the fee arrangement appears in retrospect to have been improvident in light of developments unanticipated as of the time of this Application.

10. Timing of Fee Applications. The Committee requests that fee applications for Stinson be submitted for approval in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules and orders of this Court, and be paid pursuant to said Code, Rules, and orders.

11. Final Compensation. At the conclusion of this Chapter 11 case, Stinson will file an appropriate application seeking final allowance of its fees and costs, regardless of whether interim compensation has been paid to Stinson. Upon allowance of such fees and costs, the Debtor's estates will pay to Stinson the difference between the amounts allowed to Stinson and any interim compensation already distributed to Stinson.

12. Right to Withdraw. In the event that Stinson does not receive timely payment of its fees and expenses as provided in this Application, Stinson reserves the right to withdraw from its representation of the Committee.

13. Possible Disgorgement. Stinson understands and agrees that, if aggregate interim payments made to Stinson exceed the amount that is ultimately allowed to Stinson, Stinson will be required to, and will, promptly repay the entire difference to the Debtor's estate.

14. Stinson Is Not a Creditor. Stinson does not hold or assert a pre-petition claim against the Debtor, and Stinson is not otherwise a creditor of the Debtor.

15. Disinterestedness. To the best of the Committee's and Stinson knowledge, information, and belief, and as set forth in the Kugler Declaration, Stinson does not represent any interest adverse to the Debtor's estate or its creditors in connection with these Chapter 11 cases, and Stinson is disinterested within the meaning of sections 327(a), 328, and 1103(b) of the Bankruptcy Code and Bankruptcy Rule 2014. Aside from *de minimus* items that are specifically disclosed, counsel and associates of Stinson do not have any connection with the Debtor, its estate, or any other party in interest, its representative attorneys and accountants, the United States Trustee for Region 12, or any person employed in the Office of the United States Trustee for Region 12.

16. Continuing Duty to Disclose. Stinson has assessed, and will continue to monitor and assess, all of its client relationships to ensure that Stinson is, and remains, disinterested. In

addition, Stinson will disclose on an ongoing basis any relationship that may reflect upon its disinterestedness.

17. No Fee Sharing. In accordance with Bankruptcy Rule 2016(b), Stinson has not shared, or agreed to share, any compensation received in connection with these cases with any other entity.

18. No Prior Request. No previous request for the relief sought by the Application has been made to this or any other court.

WHEREFORE, the Committee respectfully requests entry of an order in the form attached authorizing the Committee to retain Stinson as its counsel in this Chapter 11 case, effective as of June 17, 2020, and granting such further relief as may be just and proper.

OFFICIAL COMMITTEE OF
UNSECURED CREDITORS

Date: June 19, 2020



Donald Peschel
Acting Chairperson

PREPARED BY:

/e/ Robert T. Kugler (# 194116)

Robert T. Kugler (MN # 194116)

Edwin H. Caldie (MN # 388930)

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*Proposed Counsel to the Official Committee of
Unsecured Creditors*

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No. 20-60337

THE DIOCESE OF ST. CLOUD,
a Minnesota religious corporation

Chapter 11

Debtor.

Judge Robert J. Kressel

**DECLARATION OF ROBERT T. KUGLER IN SUPPORT OF
APPLICATION TO EMPLOY STINSON LLP AS LEGAL COUNSEL
FOR THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS**

Robert T. Kugler, Esq., makes the following declaration (“Declaration”) in support of the Application (“Application”) of the Official Committee of Unsecured Creditors (“Committee”) to employ Stinson LLP as its legal counsel effective as of June 17, 2020.

1. I am a partner in the law firm of Stinson LLP (“Stinson”), which maintains offices for the practice of law at, among other locations, 50 South Sixth Street, Suite 2600, Minneapolis, Minnesota, 55402. I am duly admitted to practice law in the State of Minnesota, the United States Court of Appeals for the Eighth Circuit, United States District Court for the District of Minnesota, the United States District Court for the Northern District of California, and the United States District Court for the Western District of Wisconsin.

2. I submit this Declaration in support of the Application of the Committee pursuant to sections 328 and 1103 of Title 11 of the United States Code (the “Bankruptcy Code”), Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 2014-1 of the Local Rules of Bankruptcy Procedure (“Local Rules”), for entry of an order authorizing the employment and retention of Stinson as counsel to the Committee, effective as of June 17, 2020.

3. Except as otherwise indicated, the facts set forth in this Declaration are personally known to me and, if called as a witness, I could and would testify thereto.

4. To the extent that any information disclosed herein requires supplementation, amendment or modification upon Stinson's completion of further analysis or as additional information becomes available to it, a supplement to this Declaration will be filed with the Court.

5. No member of Stinson has ever been an officer or director of The Diocese of St. Cloud, a Minnesota religious corporation (the "Debtor"), and no member of Stinson is an insider of the Debtor.

6. Stinson has completed a conflict check with the list of the Debtor, its officers and directors, and all of its creditors as previously furnished by counsel for the Debtor. Stinson will promptly supplement this Declaration in the future when, and if, other creditors become known.

7. Based on the results of the above-referenced conflict check, and to the best of my knowledge, neither I nor Stinson have represented or had any connection with the Debtor, its creditors, or any other person employed in the Office of the United States Trustee within the meaning of Bankruptcy Rule 2014, except as stated below:

a. Stinson currently represents the entities identified on **Exhibit 1** attached hereto who may be creditors or otherwise hold interests relevant to this case, all in matters wholly-unrelated to the Debtor and this Chapter 11 case. In instances in which there is any uncertainty as to whether Stinson currently represents a party, Stinson has listed such party on Exhibit 1 out of an abundance of caution to ensure thorough disclosure.

b. Stinson further discloses that it – or one of its legacy firms – formerly represented the parties-in-interest identified on **Exhibit 2** attached hereto (or an affiliate, subsidiary or related entity thereof), in matters wholly-unrelated to the Debtor and this Chapter 11 case. Where there is any uncertainty as to whether Stinson previously represented any party-in-interest, Stinson has listed such party-in-interest on Exhibit 2 out of an abundance of caution to ensure thorough disclosure.

c. Stinson also discloses that certain of its attorneys currently serve on the boards of directors for the estate creditors identified on **Exhibit 3** attached hereto.

d. Stinson is frequently involved in Chapter 11 cases. As such, Stinson is often adverse to the Office of the United States Trustee and is often adverse to, or allied with, other law firms and the interests of their clients and other accountants and the interests of their clients.

8. None of the above relationships constitute actual conflicts, but may be "connections" within the meaning of Bankruptcy Rule 2014 or may constitute potential conflicts and are therefore disclosed.

9. There may be other persons within the scope of Bankruptcy Rule 2014 that, unknown to me, Stinson has represented in particular matters in the past. Stinson agrees not to represent such persons or other parties in interest in this case while representing the Committee, without further disclosure, and we agree to disclose any connections within the meaning of Bankruptcy Rule 2014 that we may discover subsequent to the execution of this Declaration.

10. Insofar as I have been able to ascertain, the partners, counsel, associates, and paraprofessionals of Stinson are "disinterested" parties within the meaning of Section 101(14) of the Bankruptcy Code, and do not represent any other entity having an interest adverse to the Committee in connection with this Chapter 11 case.

11. Stinson intends to apply for compensation for professional services rendered in connection with this Chapter 11 case, subject to the approval of this Court and in compliance with applicable provisions of the Bankruptcy Code, Bankruptcy Rules, the Local Bankruptcy Rules, and orders of this Court, on an hourly basis, plus reimbursement for all actual, necessary out-of-pocket expenses and other charges incurred by Stinson.

12. The legal services to be rendered by Stinson as counsel to the Committee include but are not limited to:

- (a) consulting with the Debtor and the Office of the United States Trustee regarding administration of the case;
- (b) advising the Committee with respect to its rights, powers, and duties as they relate to the case;
- (c) investigating the acts, conduct, assets, liabilities, and financial condition of the Debtor;
- (d) assisting the Committee in analyzing the Debtor's pre-petition and post-petition relationships with its creditors, equity interest holders, employees, and other parties in interest;
- (e) assisting and negotiating on the Committee's behalf in matters relating to the claims of the Debtor's other creditors;
- (f) assisting the Committee in preparing pleadings and applications as may be necessary to further the Committee's interests and objectives;
- (g) researching, analyzing, investigating, filing and prosecuting litigation on behalf of the Committee in connection with issues including but not limited to avoidance actions or fraudulent conveyances;
- (h) representing the Committee at hearings and other proceedings;
- (i) reviewing and analyzing applications, orders, statements of operations, and schedules filed with the Court and advising the Committee regarding all such materials;
- (j) aiding and enhancing the Committee's participation in formulating a plan;
- (k) assisting the Committee in advising its constituents of the Committee's decisions, including the collection and filing of acceptances and rejections to any proposed plan;
- (l) negotiating and mediating issues relating to the value and payment of claims held by the Committee's constituency; and
- (m) performing such other legal services as may be required and are deemed to be in the interests of the Committee.

13. No promises have been received by Stinson or any partner, counsel or associate thereof as to compensation in connection with this Chapter 11 case other than in accordance with the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, and orders of this Court.

14. In accordance with Section 504 of the Bankruptcy Code, no agreement or understanding exists between me, my firm or any partner or employee thereof, on the one hand, and any other person, on the other hand, for the division of such compensation as my firm may receive from the Court herein, nor will any division of fees prohibited by Section 504 of the Bankruptcy Code be made by me, or any partner or employee of my firm.

15. Stinson is experienced in representing committees in chapter 11 cases and has the financial wherewithal to, and will, disgorge fees if the Court so orders at any point in this case.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: June 19, 2020

/e/ Robert T. Kugler
Robert T. Kugler

EXHIBIT 1

Client Name
KSTC-TV / Hubbard
Summit Companies
Verizon Wireless
CliftonLarsonAllen LLP
Medtronic, Inc.
US Bank NA
CenturyLink
United Bankers Bank
Arvig Enterprises
Bremer Bank
Waste Management
Auto Owners Insurance
Johnson Controls
Wells Fargo Bank

EXHIBIT 2

Former Client Name
All Saints Academy
Optum Bank
Office Superstore East LLC f/k/a Staples the Office Superstore East
Star Tribune Media Company
Star Tribune Company
Midwest Machinery Co.
Jean Olmscheid
Richard and Mary Ann Daas
Allstream

EXHIBIT 3

Creditor Name	Stinson Attorney Sitting on Board
University of St. Thomas	Attorney Aalok Sharma
College of Saint Benedict	Attorney Dan Scott

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No. 20-60337

THE DIOCESE OF ST. CLOUD,
a Minnesota religious corporation

Chapter 11

Debtor.

Judge Robert J. Kressel

**ORDER APPROVING EMPLOYMENT OF STINSON LLP AS LEGAL COUNSEL
FOR THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS
EFFECTIVE AS OF JUNE 17, 2020**

At Minneapolis, Minnesota, June _____, 2020,

Based on the application filed on June 19, 2020, by the Official Committee of Unsecured Creditors pursuant to 11 U.S.C. §§ 328(a) and 1103:

IT IS ORDERED:

1. The employment by the committee of Stinson LLP to represent the committee in carrying out its duties under Title 11 is approved, effective as of June 17, 2020.

ROBERT J. KRESSEL
UNITED STATES BANKRUPTCY JUDGE