

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re: Chapter 11
THE DIOCESE OF ST. CLOUD, a Minnesota religious corporation, Case No. 20-60337
Debtor.

ORDER (I) APPROVING FIRST AMENDED DISCLOSURE STATEMENT; (II) APPROVING SOLICITATION PACKAGES AND VOTING PROCEDURES; (III) APPROVING BALLOT FORMS; (IV) FIXING THE VOTING DEADLINE; AND (V) APPROVING PROCEDURES FOR BALLOT TABULATION

This case came before the court on the plan proponents' motion for an order approving their disclosure statement, approving solicitation packages and voting procedures, approving ballot forms, fixing the voting deadline, and approving procedures for ballot tabulation. Based on the motion and the file,

IT IS ORDERED:

1. The motion is granted.
2. The plan proponents' disclosure statement dated and filed on October 24, 2020, as is approved.
3. Pursuant to Bankruptcy Rule 3017(c), the ballots are approved in the form attached to the motion and will be distributed to the known holders of claims in those classes that are entitled to accept or reject the plan.
4. The debtor will mail solicitation packages containing copies of (i) the order approving the disclosure statement; (ii) the notice of disclosure statement approval; (iii) the approved disclosure statement; (iv) the joint plan of reorganization; and (v) the ballot with a

postage prepaid return envelope. The solicitation packages will be mailed no later than **October 29, 2020** (the “**Solicitation Date**”) to: (i) the attorneys for the committee and the office of the U.S. Trustee; (ii) all persons or entities that filed proofs of claim on or before the date of the notice of disclosure statement approval, except to the extent that a claim was paid pursuant to, or expunged by, prior order of the court; (iii) all persons or entities listed in the debtor’s schedules, or any amendments thereof, as holding liquidated, non-contingent, and undisputed claims, in an amount greater than zero dollars (\$0.00); (iv) all parties to executory contracts listed in the schedules; (v) the Internal Revenue Service; (vi) any entity that has filed with the court a notice of transfer of a claim under Bankruptcy Rule 3001(e) prior to the date of the notice of disclosure statement approval; (vii) any other known holders of claims against the debtor; (viii) anyone against whom the debtor might hold a claim; (ix) state and local taxing authorities; and (x) Medicare and Medicaid authorities; *provided, however*, that the debtor is excused from mailing to entities from which notices of the disclosure statement hearing were returned as undeliverable by the United States Postal Service, unless the debtor is provided with accurate addresses for such entities on or before a date that is fifteen (15) days from the date of service.

5. The debtor will mail to all other persons on the master mailing list and confidential master mailing list: (i) the order approving the disclosure statement; (ii) the notice of disclosure statement approval; and (iii) the summary notice directing them to a website for the retrieval of the joint plan of reorganization and approved form of the disclosure statement.

6. Notwithstanding paragraphs 4 and 5 hereof, in the case of Class 10 claims, the debtor may serve one (1) solicitation package to each law firm that is counsel of record for Class 10 claimants, regardless of how many Class 10 claimants such law firm represents, *provided, however*, that each such law firm will receive a separate ballot for each client that is a Class 10

claimant. On request, the debtor will provide counsel for any Class 10 claimant with additional solicitation packages. The provisions of this paragraph will constitute proper service for the applicable Class 10 claimant.

7. In order to be counted as a vote to accept or reject the plan, a ballot must be properly executed, completed, and actually received by the clerk of the court on or before 5:00 p.m. (Prevailing Central Time) on **November 25, 2020**. A ballot may be delivered by any of the following means: (i) mail in a return envelope provided with each ballot, (ii) overnight courier, or (iii) personal delivery. The debtor must file a ballot report with the court in accordance with the Local Rules.

8. Solely for the purpose of voting to accept or reject the plan and not for the purpose of allowance of or distribution on account of a claim, and without prejudice to the rights of the plan proponents in any other context, each claim within a class of claims entitled to vote to accept or reject the plan is temporarily allowed in an amount equal to the amount of such claim as set forth in a timely filed proof of claim or, if no proof of claim was filed, the amount of such claim as set forth in the schedules; *provided, however*, that:

- i. If a claim is deemed allowed in accordance with the plan, such claim is allowed for voting purposes in the deemed allowed amount set forth in the plan;
- ii. If a claim has been estimated or otherwise allowed for voting purposes by order of the court, such claim is temporarily allowed in the amount so estimated or allowed by the court for voting purposes only, and not for purposes of allowance or distribution;

- iii. If a claim is listed in the schedules in the amount of zero dollars (\$0.00) or as contingent, unliquidated, or disputed, or if a proof of claim was not (i) filed by the proof of claim deadline or (ii) deemed timely filed by an order of the court prior to the Voting Deadline (unless the Plan Proponents have consented otherwise in writing), such claim shall be disallowed for voting purposes and for purposes of allowance and distribution pursuant to Bankruptcy Rule 3003(c); and
- iv. As to Class 10 claims, each claim will be temporarily allowed, for voting purposes only, in the amount of one dollar (\$1.00). Class 10 ballots will be pre-printed with the temporary allowance amount and the claimant's name.

9. This temporary allowance of Class 10 claims is solely for purposes of voting to accept or reject the plan and not for the purpose of the allowance of, or distribution on account of, such claims, and without prejudice to the rights of the parties in any other context. If any creditor seeks to challenge the allowance of its claim for voting purposes in accordance with the above procedures, such creditor must file with the court and serve on the plan proponents a motion for an order pursuant to Bankruptcy Rule 3018(a) temporarily allowing such claim in a different amount for purposes of voting to accept or reject the plan so as to be received on or before November 16, 2020. The ballot of any creditor filing such a motion will not be counted unless temporarily allowed by the court for voting purposes, after notice and a hearing.

10. The plan proponents are not required to provide ballots to the holders of claims in Classes 1, 9, 12 and 14.

11. In tabulating the ballots, the debtor will utilize the following additional procedures: (a) any ballot that is properly completed, executed, and timely returned to the clerk but does not indicate an acceptance or rejection of the plan, or that indicates both an acceptance and rejection of the plan, shall not be counted; (b) if no votes to accept or reject the plan are received with respect to a particular class, such class shall be deemed to have voted to accept the plan; (c) if a creditor, or any person acting on behalf of a creditor under applicable law, casts more than one ballot voting the same claim or interest before the Voting Deadline, the latest

dated ballot received before the Voting Deadline will be deemed to reflect the voter's intent and thus supersede any prior ballots; (d) creditors must vote all of their claims within a particular class either to accept or reject the plan and may not split their votes within a particular class; (e) the person signing the creditor's proof of claim may complete and sign the creditor's ballot, except with respect to a Class 10 or Class 11 ballot, the following persons may sign such ballot: (1) a creditor holding a Class 10 claim, or (2) a power of attorney or court-appointed representative, with the power of attorney or court order attached to the ballot; and (f) any Class 10 ballot that indicates either acceptance or rejection of the plan will be counted as a vote to accept or reject the plan regardless of whether the releases and certifications portions of the ballot are completed; *provided, however*, that such claimant is not entitled to any distribution without complying with the terms of the plan, the confirmation order, and the trust.

12. The following ballots will not be counted or considered for any purpose in determining whether the plan has been accepted or rejected:

- i. Any ballot received after the Voting Deadline, unless the plan proponents have granted in writing an extension of the Voting Deadline with respect to such ballot;
- ii. Any ballot that is illegible or contains insufficient information to permit the identification of the creditor;
- iii. Any ballot cast by a person or entity that does not hold a claim in a class that is entitled to vote to accept or reject the plan;
- iv. Any ballot cast for a claim scheduled in the amount of zero dollars (\$0.00), or as unliquidated, contingent, or disputed, for which no proof of claim was timely filed;
- v. Any unsigned ballot;
- vi. Any ballot that does not indicate an acceptance or rejection or indicates both; and

vii. Any ballot transmitted to the clerk or the debtor by facsimile, email, or other electronic means unless the court has previously authorized such means in writing.

13. In addition to the plan proponents' right to solicit acceptance of the plan, the plan proponents will be permitted to contact creditors in an attempt to cure the deficiencies specified herein.

14. A signed ballot received after the Voting Deadline in which the releases, certifications, and elections are made will be effective as to such releases, certifications, and elections.

15. For purposes of determining whether the numerosity and claim or interest amount requirements of Bankruptcy Code §§ 1126(c) and 1126(d) have been satisfied, the debtor shall tabulate only those ballots cast by the Voting Deadline that comply with the terms of this order.

16. Mailing the solicitation and notice packages in accordance with this order constitutes adequate notice of the confirmation hearing and the Voting Deadline under Bankruptcy Rule 3017(d).

17. The form and notice of the approval of the disclosure statement and the form of summary notice providing instructions for accessing the plan and disclosure statement referenced in Paragraphs 4 and 5 of this order are hereby approved as constituting reasonable and adequate notice.

18. The plan proponents are authorized and empowered to take such steps and perform such acts as may be necessary to implement and effectuate this order.

19. To the extent necessary, the plan proponents and the clerk will confer to establish an appropriate procedure to protect the confidentiality of the Class 10 and Class 11 ballots submitted to the clerk.

DATED: October 26, 2020

/e/ Robert J. Kressel

ROBERT J. KRESSEL
UNITED BANKRUPTCY JUDGE