

## **Diocese of Davenport - Supplemental Information Regarding the Reorganization Process**

**The following summary is not a legal interpretation. If you have questions concerning the chapter 11 bankruptcy process, please consult with an attorney who specializes in bankruptcy law.**

### **Introduction**

A case filed under chapter 11 of the United States Bankruptcy Code is often referred to as a "reorganization" bankruptcy because it is typically used to reorganize a business so that creditors are paid and the organization survives.

### **Terms Used**

Claim - A right to payment

Claims bar date – A deadline by which all claims must be filed.

Creditor – Someone who claims to be owed money by the Diocese.

Creditors' Committee – The committee appointed by the U.S. trustee and ordinarily consists of unsecured creditors who hold the seven largest unsecured claims against the Diocese. This includes victims of abuse who have made claims against the Diocese. The committee: consults with the Diocese on the administration of the case, investigates the Diocese's conduct and operation of the business, and participates in creating a plan for reorganization.

U.S. trustee - The U.S. trustee is an officer of the Justice Department responsible for supervising the administration of bankruptcy cases. The U.S. trustee is responsible for monitoring the Diocesan operation. In addition, the U.S. trustee monitors applications for compensation and reimbursement by professionals, plans and disclosure statements filed with the U.S. trustee, and creditors' committees. The U.S. trustee conducts a meeting of the creditors. The U.S. trustee and creditors may question the Diocese under oath at these meetings concerning the Diocese's acts, conduct, property, and the administration of the case. The U.S. trustee also imposes certain requirements on the Diocese such as reporting monthly income and operating expenses, establishing new bank accounts, and paying current employee withholding and other taxes.

### **The Process of Reorganization**

The process of reorganization begins with the filing of a petition by the Diocese with the bankruptcy U.S. trustee. The Diocese also must file with the U.S. trustee: (1) schedules of assets and liabilities; (2) a schedule of current income and expenditures; (3) a schedule of executory contracts and unexpired leases; and (4) a statement of financial affairs.

When the petition is filed, the Diocese automatically assumes an additional identity as the "debtor in possession." This means the Diocese keeps possession and control of its assets while undergoing the reorganization process until the Diocese's plan of reorganization is confirmed.

A written disclosure statement and a plan of reorganization must be filed with the U.S. trustee. The disclosure statement includes the assets, liabilities, and business affairs of the Diocese so that a creditor is able to make an informed judgment about the Diocese's plan of reorganization. After the disclosure statement is filed, the U.S. trustee must hold a hearing to determine whether the disclosure statement should be approved. After the U.S. trustee approves the disclosure statement, the Diocese or proponent of a plan can begin to solicit acceptances of the plan, and creditors may also solicit rejections of the plan.

The Diocese has 120 days to file a plan. This period may be extended up to 18 months by the U.S. trustee. The plan must include a classification of claims and how each class of claims will be treated. Creditors, who will be paid less than the full value of their claims under the plan, vote on the plan by

## **Diocese of Davenport - Supplemental Information Regarding the Reorganization Process**

ballot. After the disclosure statement is approved by the U.S. trustee and the ballots are collected and tallied, the U.S. trustee will conduct a confirmation hearing to determine whether to confirm the plan.

### **The Automatic Stay**

When the petition is filed, an automatic stay provides a period of time in which all lawsuits, judgments, collection activities, foreclosures, and repossessions of property are suspended and may not be pursued by the creditors on any debt or claim that was made before the petition was filed.

### **Avoidable Transfers**

The Diocese and the trustee may undo a transfer of money or property made during a certain period of time before the filing of the bankruptcy petition so that assets are available to pay creditors. This prevents unfair payments to one creditor at the expense of all other creditors.

### **Claims**

Generally, any creditor whose claim is not listed by the Diocese or is scheduled as disputed, contingent, or unliquidated, must file a proof of claim in order to be treated as a creditor for purposes of voting on the plan and distribution under it. The Diocese must provide notification to the creditors whose are added and whose claims are listed as a result of an amendment to the schedules. The notification also should advise these creditors of their right to file proofs of claims. Failing to file may prevent them from voting on the Diocese's plan of reorganization or participating in any distribution under that plan. If the Diocese amends the schedule of liabilities to add a creditor or change the status of any claims to disputed, contingent, or unliquidated, the Diocese must provide notice of the amendment to anyone affected.

### **Claims Bar Date**

The court will establish a deadline for claims to be filed. Failure to file by the deadline results in not being entitled to pursuing claims against the Diocese and from participating in distributions.

### **Acceptance of the Plan of Reorganization**

The Diocese has 180 days after the petition date to have the plan accepted. The U.S. trustee may reduce or extend this period for up to 20 months. If the period expires before the Diocese has filed and obtained acceptance of a plan, the creditors' committee or a creditor may file a plan. Plans may compete with a plan filed by another party or by the Diocese.

When competing plans are presented that meet the requirements for confirmation, the U.S. trustee must consider the preferences of the creditors in determining which plan to confirm. Any party may file an objection to confirmation of a plan. The Bankruptcy Code requires the U.S. trustee to hold a hearing on the confirmation of a plan. If no objection to confirmation has been timely filed, the Bankruptcy Code allows the U.S. trustee to determine whether the plan has been proposed in good faith and according to law.

### **The Discharge**

Confirmation of a plan discharges a Diocese from any debt that arose before the date of confirmation. After the plan is confirmed, the Diocese is required to make plan payments and is bound by the provisions of the plan of reorganization. The confirmed plan creates new contractual rights.

### **The Final Decree**

A final decree closing the case must be entered after the estate has been "fully administered." Local bankruptcy U.S. trustee policies generally determine when the final decree is entered and the case is closed.