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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA**

<p>In re:</p> <p>THE ROMAN CATHOLIC CHURCH OF THE DIOCESE OF TUCSON <i>aka</i> THE DIOCESE OF TUCSON, an Arizona corporation sole,</p> <p style="text-align: center;">Debtor.</p>	<p>In Proceedings Under Chapter 11</p> <p>Case No. 4-04-04721</p>
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**DISCLOSURE STATEMENT REGARDING PLAN OF  
REORGANIZATION DATED, SEPTEMBER 20, 2004**

DATED: September 20, 2004	Susan G. Boswell, Esq. Kasey C. Nye, Esq. Quarles & Brady Streich Lang, LLP One South Church Avenue Suite 1700 Tucson Arizona 85701 Attorneys for Debtor The Roman Catholic Church of the Diocese of Tucson
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**THIS DISCLOSURE STATEMENT HAS NOT YET BEEN APPROVED BY THE BANKRUPTCY COURT AS CONTAINING ADEQUATE INFORMATION WITHIN THE MEANING OF BANKRUPTCY CODE § 1125. IF YOU HAVE REQUESTED AND RECEIVED A COPY OF THE DISCLOSURE STATEMENT IN CONNECTION WITH THE COURT'S HEARING TO CONSIDER APPROVAL OF THE DISCLOSURE STATEMENT, NOTHING CONTAINED HEREIN IS OR WILL BE DEEMED A SOLICITATION OF ACCEPTANCE OF THE DEBTOR'S PLAN OF REORGANIZATION FILED BY THE DEBTOR.**

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XVII. RECOMMENDATIONS OF THE DEBTOR AND CONCLUSION ..... 71

1           The Roman Catholic Church of the Diocese of Tucson *aka* the Diocese of Tucson, an  
2 Arizona corporation sole and the debtor and debtor in possession in the above captioned Chapter  
3 11 reorganization case (the "Diocese" or the "Debtor"), has prepared this Disclosure Statement in  
4 connection with the solicitation of acceptances of the "Debtor's Plan of Reorganization" dated  
5 September 20, 2004 (the "Plan"). A copy of the Plan is attached as Exhibit "1" to this Disclosure  
6 Statement.

7 **I.     INTRODUCTION.**

8         **A.     The Filing of the Reorganization Case.**

9           On September 20, 2004 (the "Petition Date"), the Diocese commenced the above-  
10 captioned Chapter 11 reorganization case ("Reorganization Case") by filing a voluntary Chapter  
11 11 petition. The Diocese filed this Reorganization Case in order to reorganize its financial affairs  
12 pursuant to a plan of reorganization that will, among other things, fairly, justly and equitably  
13 compensate the victims of sexual abuse by clergy or others associated with the Diocese and bring  
14 healing to victims, Parishioners and other affected by the past acts of sexual abuse committed by  
15 clergy and others while allowing the Diocese to continue its ministry and mission. It is through  
16 the Reorganization Case that the Diocese seeks to finally and comprehensively address the issues  
17 resulting from the abuse crisis that has caused great harm to the victims, plunged the Diocese into  
18 a dire financial condition, and has interfered with the Catholic Church's traditional ministries in  
19 the communities within the Diocese.

20           In proposing the Plan, the Diocese seeks first to provide care, compassion and  
21 compensation to those who have endured harm. The Plan necessarily recognizes its financial  
22 limitations, while establishing a fund for those victims who have presently identified themselves  
23 and for those who recognize their Claims or identify themselves in the future. The Diocese  
24 believes that the Plan is the only vehicle available to it to ensure an equitable and fair distribution  
25 of compensation to victims, some identified and some still unknown.

26



1           The Plan maintains funding of programs within the Diocese which are essential to the  
2 financial reorganization of this religious organization as well as providing for the continuation of  
3 the programs that the Diocese has put in place to educate and screen people working with the  
4 Diocese and to ensure that the Diocese can continue to provide care and counseling to those  
5 injured. The ability of the Diocese to reorganize its financial affairs and provide an orderly way  
6 to deal with victims of abuse also provides for and allows the Diocese to continue programs  
7 recently started to respond to the crisis and which are described in more detail below which  
8 include screening Diocesan and other personnel, so that individuals of faith and integrity who  
9 have the highest standards of behavior will fill the trusted roles of clergy, teachers and  
10 administrators.

11           **B. Institution of Programs.**

12           Among other ways in which the Diocese responded to the sex abuse crisis was to establish  
13 a Sexual Misconduct Policy Review Committee in February 2002 to review all policies and  
14 procedures related to child abuse (reporting, prevention, response to victims) and to make pointed  
15 recommendations on how to strengthen policies and procedures. The Committee issued  
16 recommendations and proposed a Code of Conduct for All Who Minister in the Diocese (the  
17 "Code of Conduct") and comprehensive Guidelines for the Prevention of and Response to Sexual  
18 Misconduct ("Guidelines"). Pursuant to the recommendations of the Sexual Misconduct Policy  
19 Review Committee, the Diocese promulgated the Code of Conduct and Guidelines and  
20 established the Sexual Misconduct Review Board in July of 2002. The Sexual Misconduct  
21 Review Board is responsible for the review of all allegations of child abuse and sexual  
22 misconduct made against Church personnel and for the oversight of all efforts at Parishes and  
23 Schools to implement the Guidelines.

24           Also pursuant to the recommendations of the Sexual Misconduct Policy Review  
25 Committee, the Diocese created the Office of Child, Adolescent, and Adult Protection (the  
26 "Office") under the supervision of the Sexual Misconduct Review Board. The Office is headed

1 by Dr. Paul Duckro, Ph.D., a former senior clinician in the Program for Psychology and Religion  
2 at St. Louis Behavioral Medicine Institute, an academic affiliate of St. Louis University Health  
3 Sciences Center in St. Louis, Mo., and professor emeritus at the St. Louis University School of  
4 Medicine in the Department of Community and Family Medicine. Attached hereto as Exhibit "2"  
5 is a copy of Dr. Duckro's Curriculum Vitae.

6 Through the work of the Office, the Diocese has committed itself to work openly and  
7 collaboratively with law enforcement. The Diocese has held training for its employees and others  
8 associated with the Diocese, such as Priests, Parish employees, teachers and administrators.

9 Screening of current and new personnel is part of the preventive program. The Diocese  
10 hired a human resources director, Richard Serrano, to lead this effort. His work has included the  
11 development of systematic processes to recruit, screen and orient new personnel. He is also  
12 revising human resources policies to insure that management practices are consistent with the  
13 emphasis of the Code of Conduct and Guidelines on prudent behavior, early detection of  
14 problems, and effective response to problems.

15 Education is ongoing and focused on both awareness and motivation. Educational  
16 sessions that focus on diocesan policy and mandated reporting have been held around the Diocese  
17 for all personnel. That education process is continuing both at the Diocese and at the Parishes  
18 and Schools, and the Diocese is committed to continuing that effort which is why it is so  
19 important that the Diocese be able to continue these programs while as the same time finding a  
20 just and equitable way to respond to victims and provide for payment to its other creditors.

21 The Diocese has also established programs for screening candidates for the priesthood,  
22 deaconate and lay ministry. The screening programs are required before entry into the formation  
23 process so as to help ensure that mature persons of integrity with the highest standards of  
24 behavior are admitted. A program is underway to improve ongoing formation of priests.  
25 Outreach to victims is done by publicizing widely the Bishop's commitment to receive  
26 respectfully any report of sexual abuse by anyone ministering or working under the auspices of

1 the Diocese. High priority is given to the freedom of the victim to come forward when he or she  
2 is ready. Counseling is offered, and the individual is given the opportunity to meet with the  
3 Bishop if that is requested. Outreach is also conducted by collaborating with local agencies  
4 devoted to child advocacy and to child abuse prevention and awareness. The Director of Child,  
5 Adolescent and Adult Protection sits on the Board of the Southern Arizona Child Advocacy  
6 Center. The Diocese is a Corporate Member of the Pima County Child Abuse Prevention  
7 Council. The positive and productive relationships the Office has developed with law  
8 enforcement and social service, and child advocacy groups have been a hallmark of the Diocese's  
9 efforts to prevent child abuse within the Church.

10 While most Chapter 11 reorganization plans focus only on the financial, the Plan  
11 proposed by the Diocese addresses not only compensation for victims and other Creditors, but  
12 also proposes the continuation of the economic and institutional reforms it started so that the  
13 Diocese can further its role as a trusted, leader for both Catholic faithful and the communities it  
14 serves.

15 **II. STATEMENTS REGARDING REPRESENTATIONS.**

16 **A. Definitions And Plan Supremacy.**

17 Unless this Disclosure Statement expressly states that a term defined in the Plan will have  
18 a different meaning herein, all terms defined in the Plan will have the same meanings when used  
19 in this Disclosure Statement. In addition, unless otherwise stated, terms used in this Disclosure  
20 Statement will have the same meanings as in the Bankruptcy Code, the Federal Rules of  
21 Bankruptcy Procedure, or the Local Rules of the Bankruptcy Court. Terms defined in this  
22 Disclosure Statement which are also defined in the Plan or the other sources described above are  
23 solely for convenience; and the Debtor does not intend to change the definitions of those terms  
24 from the Plan or from the otherwise applicable sources. Furthermore, in the event of any  
25 inconsistency between the Plan and this Disclosure Statement, the Plan will control. The Exhibits

26

1 attached to this Disclosure Statement are incorporated into and are a part of this Disclosure  
2 Statement.

3 **B. Limited Representations.**

4 This Disclosure Statement is submitted in accordance with Bankruptcy Code § 1125 for  
5 the purpose of soliciting acceptances of the Plan from holders of certain Claims. It is subject to  
6 approval by the Bankruptcy Court as containing information of a kind, and in sufficient detail,  
7 which is adequate to enable you to make an informed judgment whether to vote to accept or to  
8 reject the Plan. This Disclosure Statement will be used to solicit acceptances of the Plan only  
9 after the Bankruptcy Court enters an order approving this Disclosure Statement as containing  
10 adequate information.

11 In determining whether the Plan should be confirmed, the Bankruptcy Court will consider  
12 whether the Plan satisfies the requirements of the Bankruptcy Code, including whether it is  
13 feasible, and whether it is in the best interests of the holders of Claims. The Bankruptcy Court  
14 also will receive and consider a ballot report prepared by the Debtor concerning the votes for  
15 acceptance or rejection of the Plan by parties entitled to vote. Only holders of Allowed Claims  
16 that are impaired under the Plan will be allowed to vote to approve or reject the Plan.

17 THIS DISCLOSURE STATEMENT IS NOT THE PLAN. THIS DISCLOSURE  
18 STATEMENT, TOGETHER WITH THE PLAN, WHICH IS ATTACHED  
19 HERETO AS EXHIBIT "1", SHOULD BE READ COMPLETELY. FOR THE  
20 CONVENIENCE OF CREDITORS, THE PLAN IS SUMMARIZED IN THIS  
21 DISCLOSURE STATEMENT, BUT ALL SUMMARIES AND OTHER  
STATEMENTS REGARDING THE PLAN ARE QUALIFIED IN THEIR  
ENTIRETY BY THE PLAN ITSELF, WHICH IS CONTROLLING IN THE  
EVENT OF ANY INCONSISTENCY.

22 The Bankruptcy Court will hold a hearing on confirmation of the Plan. The date and time  
23 of the hearing will be fixed by order of the Court and will be noticed to Creditors after the  
24 Disclosure Statement is approved. The Confirmation Hearing may be adjourned from time to  
25 time without further written notice.

26

1 Certain materials contained in this Disclosure Statement are taken directly from other,  
2 readily accessible documents or are digests of other documents. While every effort has been  
3 made to retain the meaning of such documents, you are urged to rely upon the contents of such  
4 documents only after a thorough review of the documents themselves.

5 NO REPRESENTATIONS OR ASSURANCES CONCERNING THE DEBTOR,  
6 INCLUDING, WITHOUT LIMITATION, ITS OPERATIONS, THE VALUE OF  
7 ITS ASSETS, OR THE FUTURE OPERATIONS OF THE REORGANIZED  
8 DEBTOR ARE AUTHORIZED BY THE DEBTOR OTHER THAN AS SET  
9 FORTH IN THIS DISCLOSURE STATEMENT.

10 THIS IS A SOLICITATION BY THE DEBTOR ONLY AND IT IS NOT A  
11 SOLICITATION BY THE DEBTOR'S ATTORNEYS OR ANY OTHER  
12 PROFESSIONALS EMPLOYED BY THE DEBTOR. THE  
13 REPRESENTATIONS MADE HEREIN ARE THOSE OF THE DEBTOR AND  
14 NOT OF THE DEBTOR'S ATTORNEYS OR ANY OTHER PROFESSIONAL.

15 REASONABLE EFFORTS HAVE BEEN MADE TO ACCURATELY  
16 PREPARE ALL UNAUDITED FINANCIAL STATEMENTS WHICH MAY BE  
17 CONTAINED IN THIS DISCLOSURE STATEMENT FROM THE  
18 INFORMATION AVAILABLE TO THE DEBTOR. HOWEVER, AS TO ALL  
19 SUCH FINANCIAL STATEMENTS, THE DEBTOR IS UNABLE TO  
20 WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED  
21 THEREIN IS WITHOUT ERROR.

22 **C. Voting Procedures.**

23 If you are the holder of a Claim that is "impaired" under the Plan, it is important that you  
24 vote. In that regard, acceptances of the Plan are sought only from those holders of Claims whose  
25 Claims are "impaired" by the Plan and who are not deemed to have accepted or rejected the Plan.  
26 Specifically, acceptances are solicited only from those Creditors and parties in interest whose  
legal, equitable, or contractual rights are altered by the Plan or who will not receive under the  
Plan the full amounts of their Allowed Claims in Cash. Holders of Claims which are not  
impaired under the Plan are deemed to have accepted the Plan. See Bankruptcy Code § 1126(f).  
Conversely, acceptances need not be solicited from the holders of Claims who will receive  
nothing under the Plan because they are deemed to have rejected the Plan. See Bankruptcy Code  
§ 1126(g).

1 In order for a Class of Claims to vote to accept the Plan, votes representing at least two-  
 2 thirds in amount and more than one-half in number in that Class must be cast in favor of  
 3 acceptance of the Plan. As more fully described below, the Debtor is seeking acceptances from  
 4 holders of Allowed Claims in the following Classes (reserving the right to supplement as to any  
 5 other impaired Class(es) of Claims, if any):

<u>Class</u>	<u>Description</u>	<u>Status</u>
Class 1	Priority Employee Unsecured Claims	Impaired – Entitled To Vote
Class 2	Prepetition Property Tax Secured Claims	Impaired – Entitled To Vote
Class 4	General Unsecured Convenience Claims	Impaired – Entitled To Vote
Class 6	Parish Unsecured Claims	Impaired – Entitled To Vote
Class 7	General Unsecured Claims	Impaired – Entitled To Vote
Class 8	Other Tort and Employee Claims	Impaired – Entitled To Vote
Class 9	Tort Claims	Impaired – Entitled To Vote

15 The following Classes of Claims are not impaired under the Plan or are otherwise  
 16 prohibited by the Bankruptcy Code from voting on the Plan for the reason indicated:

<u>Class</u>	<u>Description</u>	<u>Status</u>
Unclassified	Administrative Claims	Unimpaired – Deemed to Accept
Unclassified	Priority Unsecured Claims	Unimpaired – Deemed to Accept
Unclassified	Priority Tax Claims	Unimpaired – Deemed to Accept
Class 3	Other Secured Claims	Unimpaired – Deemed to Accept
Class 5	Parish Guaranty Claims	Unimpaired – Deemed to Accept
Class 10	Penalty Claims	Take Nothing- Deemed to Reject

24 The specific treatment of each Class under the Plan is set forth in the Plan and is  
 25 summarized in Article VII of this Disclosure Statement. Bankruptcy Code § 1129(b) provides  
 26 that, if the Plan is rejected by one or more impaired classes of Claims, the Plan nevertheless may

1 be confirmed by the Bankruptcy Court, if: (i) the Bankruptcy Court determines that the Plan does  
2 not discriminate unfairly and is fair and equitable with respect to the rejecting Class(es) of Claims  
3 or Interests that are impaired under the Plan; and (ii) at least one Class of Impaired Claims has  
4 voted to accept the Plan.

5 A VOTE FOR ACCEPTANCE OF THE PLAN BY THOSE HOLDERS OF  
6 CLAIMS WHO ARE ENTITLED TO VOTE IS MOST IMPORTANT. THE  
7 DEBTOR RECOMMENDS THAT THE HOLDERS OF ALLOWED CLAIMS  
8 VOTE IN FAVOR OF THE PLAN.

8 Unless otherwise expressly stated, portions of this Disclosure Statement describing the  
9 Diocese have not been subject to a certified audit, but have been prepared from information  
10 compiled by the Diocese from records maintained in the ordinary course of its business. Every  
11 effort has been made to be as accurate as possible in the preparation of this Disclosure Statement.

### 12 **III. OVERVIEW OF THE PLAN.**

#### 13 **A. General Structure Of The Plan.**

14 The Diocese filed the Reorganization Case in order to reorganize its financial affairs  
15 pursuant to a plan of reorganization that will, among other things, fairly, justly and equitably  
16 compensate the victims of abuse by clergy or others associated with the Diocese while allowing  
17 the Diocese to continue its ministry and mission and its efforts to prevent abuse of children in the  
18 future and attempt to finally bring healing to victims, parishioners and others affected by the past  
19 acts of abuse committed by clergy and others. The Plan seeks to achieve this healing by  
20 restructuring the Diocese's debt obligations so that it can fairly and justly compensate the victims  
21 of sexual abuse while the Diocese continues its ministry and mission. The Plan contemplates  
22 that, on the Effective Date, the Diocese will transfer certain assets consisting of Cash and a  
23 pledge of the proceeds from the sale of Diocese Real Property (to the extent not sold prior to the  
24 Effective Date), proceeds contributed by Settling Insurers, proceeds of settlements with  
25 Participating Third Parties and assignment of Insurance Actions or a mechanism for the Insurance  
26 Action Recoveries to be transferred in whole or in part. Pursuant to the Plan, a Settlement Trust

1 and a Litigation Trust will be established. The other Allowed Claims in the Estate will be paid in  
2 full in accordance with the terms of the Plan. Such other Allowed Claims will be paid from the  
3 reserves established by the Diocese for such payment and from the business operations of the  
4 Diocese.

5 All Tort Claimants will have their Claims treated and resolved under either the Settlement  
6 Trust or the Litigation Trust. All Tort Claimants will automatically be included in the Settlement  
7 Trust unless such Tort Claimant affirmatively elects to have his or her Claim treated under the  
8 terms of the Litigation Trust. The Settlement Trust and the Litigation Trust will be funded from  
9 the transfers by the Diocese on the Effective Date and any earnings obtained by the Trustees from  
10 investments of such assets after the Effective Date and any Insurance Action Recoveries after the  
11 Effective Date. The allocation of the transferred Cash and assets between the Settlement Trust  
12 and the Litigation Trust will be determined by the Bankruptcy Court as part of the confirmation  
13 process.

14 The Allowance of the Tort Claims in the Settlement Trust will be evaluated and  
15 determined by a Special Master selected by the Bankruptcy Court as part of the confirmation  
16 process. The Diocese will suggest at least three people who might serve as the Special Master  
17 and give notice of such suggestions prior to the Confirmation Hearing. If a Tort Claim is  
18 Allowed, such Tort Claim will be classified into a Tier based upon criteria proposed by the  
19 Diocese and finally determined by the Court. There are four (4) Tiers which are generally  
20 described in the Plan. The criteria for each Tier will be set forth in the Settlement Trust.<sup>1</sup>

21 If a Tort Claimant wishes to retain his/her right to a jury trial to liquidate such Tort Claim  
22 (a "Non-Settling Tort Claimant"), he or she will have to affirmatively elect such treatment on the  
23 Ballot sent with the Plan. Any jury trial of a Non-Settling Tort Claimant will be held in the  
24 United States District Court for the District of Arizona, Tucson Division.

---

25 <sup>1</sup> Proposed copies of the Settlement Trust Agreement and the Litigation Trust Agreement  
26 will be filed by the Diocese thirty (30) days prior to the hearing on the Disclosure Statement.



**B. Estimated Distributions To Creditors.**

The following is a summary of the projected recoveries for each the holders of Allowed Claims (or provisionally Allowed Claims) under the Plan:

<u>Class/Nature of Claim</u>	<u>Treatment</u>	<u>Approximate Total Estimated Allowed (Or Provisionally Allowed) Claims</u>	<u>Estimated Dates of Distributions</u>	<u>Estimated Distributions</u>
Class 1 Prepetition Employee Claims	Impaired	\$364,000.00	Various depending upon Employee's status and use of vacation time and sick leave time	To be satisfied by Diocese assuming and honoring policy after Effective Date
Class 2 Prepetition Property Tax Secured Claims	Impaired	\$8,754	One-half - 30 Days after Effective Date and One-half – 6 months after the Effective Date	\$8,754
Class 3 Other Secured Claims.	Unimpaired	\$3,300,000	January 24, 2007, the due date of the Promissory Note payable to the Escrow Agent	\$3,000,000 <sup>2</sup>
Class 4 General Unsecured Convenience Claims	Impaired	\$2,000 <sup>3</sup>	30 Days after the Effective Date or applicable Claim Payment Due	\$500 per Claim

<sup>2</sup> The other \$300,000 is a Secured Claim of Bank One, N.A. which secures a letter of credit issued by Bank One, N.A. The letter of credit has not been drawn upon and the Diocese is not in default of the obligation which the letter of credit secures.

<sup>3</sup> These consist of certain vendor payables in the amount of \$1000 or less that the Diocese believes may comprise the Class 4 Claims.

<u>Class/Nature of Claim</u>	<u>Treatment</u>	<u>Approximate Total Estimated Allowed (Or Provisionally Allowed) Claims</u>	<u>Estimated Dates of Distributions</u>	<u>Estimated Distributions</u>
Class 5 Parish Guaranty Claims	Unimpaired	\$6,900,000	No distribution. Parishes will continue to pay in accordance with terms	\$ -0-
Class 6 Parish Unsecured Claims	Impaired	\$7,100,000	Interest only at the rate of 2.5% per annum , monthly payments of \$44,738 until paid in full.	Unknown <sup>4</sup>
Class 7 General Unsecured Claims	Impaired	\$2,100,000 <sup>5</sup>	Paid in full in installments beginning 30 days after the Effective Date and monthly thereafter until paid in full. Obligations bear Interest at 4.5% per annum.	\$2,100,000
Class 8 Other Tort and Employee Claims	Impaired	\$Unknown	To be paid from proceeds of applicable insurance to the extent available. Otherwise, no distribution.	\$Unknown
Class 9 Tort Claims	Impaired	\$Unknown	To be paid from proceeds of Settlement Trust (Settling Tort Claimants) and Litigation Trust (Non-Settling Tort Claimants). Settling Tort Claimants will have Claims determined by Special Master and placed in Tiers. Distribution will depend upon Tier in which Tort Claim is placed and aggravating or mitigating factors. Non-Settling Tort Claimants share Pro Rata in proceeds of Litigation Trust.	\$Unknown
Class 10 Penalty Claims	Impaired	\$Unknown	N/A	\$0

<sup>4</sup> It is anticipated that the Parishes may contribute some portion of the amounts owed to become Participating Third Parties under the Plan. Therefore, any such contribution will be deducted from the amount owed.

<sup>5</sup> This amount does not include the amounts that might be owing to employees of the Diocese for nonpriority accrued vacation and sick leave in the event the Bankruptcy Court does not approve the Diocese's request to continue to honor its policy.

1 **IV. THE DEBTOR.**

2 **A. The History and Mission of the Diocese**

3 The Roman Catholic Church is a hierarchical religious organization governed by its own  
4 laws and customs. These laws are written in the Code of Canon Law. The Code of Canon Law  
5 defines the organization of the Church, the roles and powers of the various entities which  
6 comprise the Church, and the duties of the various entities participating in the Church. The Code  
7 of Canon Law applicable to the Roman Catholic Church is, for the most part: (i) a set of norms  
8 created to bring order to the life of the ecclesial community; (ii) articulated and promulgated by  
9 those who are entrusted with the community's care; and (iii) to serve the common good, thus  
10 imposing obligations and establishing legal bonds from which certain rights, duties and interests  
11 flow. Hereinafter the Code of Canon Law will be cited as the "Canon Law."

12 A diocese is a territory subject to the jurisdiction of the Bishop. The Diocese traces its  
13 origin to the activities of Padre Eusebio Francisco Kino, the Jesuit missionary who, in 1692,  
14 founded the Mission San Xavier del Bac, which today is a functioning Parish in the Diocese. In  
15 1897, the Church in Arizona was elevated to the status of a regular diocese, with Tucson as the  
16 see, under the jurisdiction of the first Bishop of Tucson, Bishop Peter Bourgade, who had been  
17 recruited in France by Bishop John Baptist Salpointe for missionary work in Arizona. The first  
18 U.S. born Bishop of Tucson was Bishop Daniel J. Gercke, who served as Bishop from 1922 until  
19 1960. Following Bishop Gercke were: Bishop Francis J. Green (1960-1981); Bishop Manuel D.  
20 Moreno (1982-2003); and Bishop Gerald F. Kicanas (2003 until the present).

21 The Diocese was incorporated by Bishop Granjon in 1914 in Arizona as a corporation sole  
22 under the name of "Roman Catholic Church of the Diocese of Tucson" with the stated purpose of  
23 the corporation being "the care and administration of the temporal affairs of the Roman Catholic  
24 Church of the Diocese of Tucson, which embraces the State of Arizona, and a portion of the State  
25 of New Mexico, and religious, educational, and charitable ministrations, and maintenance and  
26 care of all the property now held, or that may be received, by the said Roman Catholic Church of

1 the Diocese of Tucson."<sup>6</sup> The Articles of Incorporation have been amended over the years to  
2 reflect the succession of bishops and changes in the territory of the Diocese. The Diocese  
3 operates as a 501(c)(3) non-profit corporation.

4 Over the generations since Padre Kino, the Diocese has grown to serve 300,000 plus  
5 Roman Catholics and seventy-five (75) Parishes in the Diocese (the "Parishes") located within  
6 nine southern Arizona Counties (La Paz, Yuma, Pima, Santa Cruz, Pinal, Graham, Gila, Greenlee  
7 and Cochise) encompassing a territory of more than 40,000 square miles. A map showing the  
8 locations of the Parishes and missions located within the Diocese is attached as Exhibit "3".  
9 Geographically, the Diocese is the fifth largest diocese in the continental United States. The  
10 Diocese's southern border of 350 miles is also the border of the United States with Mexico, and is  
11 the largest such border with Mexico of any diocese in the United States.

12 In a total population of 1.45-million in the counties that comprise the territory of the  
13 Diocese, there are an estimated 300,000-plus Roman Catholics who are served by the Parishes,  
14 dozens of missions and twenty (20) parochial Schools. The Church personnel who minister in the  
15 territory of the Diocese<sup>7</sup> include 189 priests, 238 religious women (sisters), 143 deacons, nearly  
16 1,000 lay employees of Parishes and Schools, and forty-three (43) lay employees of the Diocese.  
17 In addition, there are thousands of volunteers who participate in the spiritual and service  
18 ministries of the Parishes and Schools. Roman Catholics comprise approximately twenty-five  
19 percent (25%) of the total population within the territory of the Diocese.

20 There are also dozens of charitable, fraternal, and spiritual organizations and movements  
21 through which thousands of Catholics serve their Parishes and their communities. For the most

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22 <sup>6</sup>In 1969, the Diocese of Phoenix was formed from the Diocese of Tucson, leaving the  
23 Diocese with its present territory.

24  
25 <sup>7</sup> These personnel are not employees of the Diocese but are associated with or employed  
26 by Parishes and other orders; however, they minister and carry on the work of the Catholic  
Church within the territory of the Diocese.

1 part, these organizations are affiliated with national and international Catholic institutes and  
2 organizations. Many operate in conjunction and collaboration with Parishes. The Knights of  
3 Columbus, Catholic Daughters of the Americas, Catholic Foresters, Cursillo Movement, St.  
4 Vincent de Paul, Serra Club International and Catholic Worker are among these organizations.  
5 These organizations are not part of the Diocese, nor do they receive support from the Diocese  
6 other than through the spiritual guidance of the Bishop and others associated with the Diocese.

7 The Diocese of Tucson is located in the Bishop Manuel D. Moreno Pastoral Center, 111  
8 South Church Avenue, in downtown Tucson. The Diocese has maintained offices in downtown  
9 Tucson since the formation of the Vicariate Apostolic in 1868.

10 The United States Conference of Catholic Bishops Secretariat on the Home Missions  
11 identifies the Diocese of Tucson as a "mission diocese" eligible for financial assistance from the  
12 annual Catholic Home Missions Appeal national collection taken up in Catholic Parishes across  
13 the United States. This identification is due to a number of geographic and socio-economic  
14 factors, including:

- 15 • the sheer size of the Diocese;
- 16 • the predominantly rural nature of the communities within the Diocese;
- 17 • the isolation of the Parishes that serve the communities (62% of the Parishes are located  
18 in rural areas or border towns);
- 19 • economies that are agriculture and service based;
- 20 • economic devastation of communities that were dependent on copper mining;
- 21 • nearly 50% of Parishes and missions within the Diocese have total annual incomes of  
22 less than \$150,000;
- 23 • four Native American reservations, one of which is geographically equivalent to the size  
24 of the state of Connecticut (On the Tohono O'odahm Reservation, there are only two priests for  
25 24,000 persons scattered over three million acres.);
- 26 • Arizona's low ranking as a state in several leading social and economic indices.

1           The Diocese of Tucson receives financial assistance annually from the Home Missions  
2 Appeal. The financial assistance is restricted and must be used to help fund diocesan  
3 evangelization efforts, Parish religious education programs, lay ministry training, and the pastoral  
4 care of migrant communities.

5           The Diocese is also the recipient of financial assistance from the Catholic Church  
6 Extension Society. The Society "extends" financial resources provided by Catholics in the United  
7 States to dioceses in rural and remote areas of the country. The resources are restricted and  
8 required to be used in support of salary subsidies for Church personnel in ministry, for  
9 construction of church buildings, and for Parish religious education programs.

10           The Diocese provides spiritual guidance for the Parishes and the Catholics within the  
11 Diocese through its Bishop and various offices discussed below. The Diocese also provides  
12 administrative services to the Parishes and missions located within the Diocese, such as financial  
13 services, property management, pension plan and insurance programs. The nature of these  
14 programs and the manner in which the Diocese is compensated for these services is discussed  
15 below.

16           **B. Organizational Structure Of The Diocese.**

17           The Diocese is structured and operates in accordance with Canon Law. Among other  
18 things, Canon Law establishes that the Roman Catholic Church is comprised of "juridic persons."  
19 According to Canon Law, a "juridic person" is the equivalent of a corporation in civil law. Each  
20 Parish, service organization, School, or other charity affiliated with the Church is considered a  
21 separate juridic person. An ordinary (bishop) is given the responsibility to supervise the juridic  
22 persons in a diocese.

23           The Bishop of the Diocese is the Most Reverend Gerald F. Kicanas, D.D. According to  
24 Canon Law, the Bishop is a teacher of doctrine, priest of sacred worship, and minister of  
25 governance. The Bishop governs those within the Diocese with legislative, executive, and  
26 judicial power. The Bishop also: explains the truths of faith; fosters vocations; strives to promote

1 holiness of the Christian faithful; presides over and administers the sacraments of the church; and  
2 protects the integrity of ecclesiastical discipline and sacraments. Part of the duties of the Bishop  
3 and the Diocese are carried out by the offices of the Diocese which consist of: Office of the  
4 Bishop (includes Vicars General, Moderator of the Curia, Vicar for the Religious, Vicar for  
5 Deacons, and Office of Child, Adolescent and Adult Protection); Chancellor's Office (includes  
6 Archives); Vocations; Human Resources; Fiscal Services; Property and Insurance Services;  
7 Community Relations (includes Catholic Vision newspaper); Tribunal; Formation; Catechesis;  
8 Evangelization; Catholic Schools; and Catholic Social Mission.

9         These offices are under the direct supervision of the Bishop. They conduct work of several  
10 types: work required by Canon Law; work required by civil law of a non-profit corporation; work  
11 that supports the Bishop in his responsibilities to the Catholic people and to their Parishes and  
12 Schools in the territory of the Diocese; work that supports the Bishop in his responsibilities to  
13 respond to social issues and concerns; and work that is involved in any business effort. Each of  
14 the offices performs specific functions in support of the Bishop's pastoral ministries and in  
15 support of the Parishes and Schools in the territory of the Diocese which include:

16         • Office of the Bishop: This Office deals with official correspondence of the Bishop;  
17 scheduling of appointments with pastors, Parish clergy, Parish staff, and parishioners; pastoral  
18 visits to Parishes and Schools, and Confirmations at Parishes; oversight of child protection efforts  
19 and initiation and coordination of training of Parish and School staff and volunteers in creation of  
20 safe environments for children (Office of Child, Adolescent, and Adult Protection).

21         • Vicar General: The Vicar General has the executive power over the Diocese which  
22 belongs to the Bishop by law, namely the power to place all administrative acts except those,  
23 however, that the Bishop has reserved to himself or which require a special mandate of the  
24 Bishop by law. There are two Vicar Generals in the Diocese: Rev. Van Wagner and Rev. Raul  
25 Trevizo.

26

1           • Moderator of the Curia: The Moderator of the Curia, under the authority of the Bishop,  
2 is to coordinate those things which pertain to the treatment of administrative affairs and to take  
3 care that the other members of the curia properly fulfill the office entrusted to them. The  
4 Moderator of the Curia in the Diocese is Rev. Al Schifano.

5           • Chancellor's Office: This office is responsible for facilitation of archival record keeping;  
6 arrangement of priest substitute needs for Parishes. The Chancellor is required by the Canon Law  
7 to ensure that all documents which regard the Diocese or Parishes must be protected with greatest  
8 care. The Chancellor ensures that there is in a safe place a diocesan archive, or record storage  
9 area in which instruments and written documents which pertain to the spiritual and temporal  
10 affairs of the Diocese are to be safeguarded after being properly filed and diligently secured. The  
11 Chancellor of the Diocese is June Kellen.

12           • Financial Officer: The Financial Officer administers the finances and property of the  
13 Diocese under the authority of the Bishop in accord with the budget determined by the finance  
14 council and, from the income of the Diocese, is to meet expenses which the Bishop or others  
15 designated by him have been legitimately authorized. The Financial Officer of the Diocese is  
16 Mary Huerstel.

17           • Vocations: This office provides for the recruitment of seminarians; initiation and  
18 coordination of Parish vocation awareness programs; assistance with and facilitation of responses  
19 at Parish level to interest in pursuing a ministry.

20           • Human Resources: This office participates in negotiations on behalf of all Parishes and  
21 Schools with employee benefit providers; facilitation of response of Parishes and Schools to  
22 employee needs; assistance with compliance by Parishes and Schools with child protection  
23 policies (fingerprinting of employees and volunteers and background checks of employees and  
24 volunteers). Richard Serrano is the head of Human Resources.

25           In addition, the Diocese provides, among other things:  
26



1 • Fiscal Services: training of Parish financial staff; assistance with bookkeeping and other  
2 Parish and School financial administration needs.

3 • Property and Insurance Services: facilitation of insurance claims reports; property  
4 recording assistance; construction project oversight assistance.

5 • Development Services: assistance with capital and other fundraising needs; assistance  
6 with Parish stewardship programs.

7 • Community Relations: publication of the diocesan newspaper, Catholic Vision.

8 • Tribunal: assistance with and facilitation of needs of parishioners related to the  
9 Sacrament of Marriage.

10 • Formation: initiation and coordination of workshops and certification training for the  
11 development of Parish lay leadership and for the permanent deacons.

12 • Catechesis: initiation and coordination of workshops and other training for Parish  
13 religious education teachers and youth ministers.

14 • Evangelization: initiation and coordination of resources and workshops and certification  
15 training for Parish-based evangelization programs.

16 • Catholic Schools: initiation and coordination of workshops for principals, faculty, and  
17 staff and facilitation of and assistance with certification of Catholic Schools.

18 • Catholic Social Mission: initiation and coordination of workshops for Parish staff and  
19 parishioners in response to social issues and concerns.

20 **C. Legal Structure of the Diocese.**

21 A juridic person is an artificial person, distinct from all natural persons or material goods,  
22 constituted by competent ecclesiastical authority for an apostolic purpose, with a capacity for  
23 continuous existence and with canonical rights and duties like those of a natural person (e.g., to  
24 own property, enter into contracts, sue or be sued). As decreed by Canon Law, every diocese  
25 (which is itself a juridic person) is to be divided into distinct parts or Parishes. The establishment  
26 of Parishes is obligatory, not optional. A Parish is a certain community of the church members

1 whose pastoral care is entrusted to a pastor under the authority of the diocesan bishop. Canon  
2 515, § 1. Once a Parish has been established, it becomes a juridic person. Canon 515, § 3. The  
3 Pastor (not the Bishop) represents the Parish in all juridic affairs in accord with the norm of  
4 Canon Law; he is to see to it that the goods of the Parish are administered in accordance with the  
5 norms of Canon Law. Canon 532.

6 While the Church (including each Diocese and each Parish) is governed by and adheres to  
7 Canon Law, the Church (and the Diocese and each Parish) also operates pursuant to civil laws  
8 that establish their own norms for, among other things, property ownership. Each Parish has its  
9 own governance structure. It has its own employees, it has its own tax identification number, it  
10 keeps its own books and records, it has its own bank accounts, and it is governed in accordance  
11 with Canon Law. Each Parish also has its own finance council which is responsible (along with  
12 the Pastor) for managing the financial affairs of the Parish. The closest analogous entity to a  
13 Parish commonly recognized under Arizona law is an unincorporated association. However,  
14 there are certain limitations on unincorporated associations. For example, Arizona law does not  
15 allow unincorporated associations to, among other things, hold title to real property.  
16 Accordingly, mere legal title to the Parish Real Property which is owned by the Parishes is in the  
17 name of the Diocese (or the Bishop). However, the Diocese does not have any equitable,  
18 beneficial or proprietary interest in the Parish Real Property.

19 As previously stated, the Diocese is a corporation sole. The utilization of the corporate  
20 structure of a corporation sole is a way of preserving the authority of the Bishop to make certain  
21 decisions under Canon Law which are tantamount to reserved powers under civil law. As stated,  
22 the Parishes operate separately and conduct their own business subject only to the oversight and  
23 reserved powers of the Bishop. The Diocese, under the direction and leadership of the Bishop  
24 and the Offices of the Diocese discussed above, provides services to the Parishes. The Diocese is  
25 compensated for these services both through the chancery tax and other agreed fees and  
26 compensation. The best analogy to this structure under civil law is a trust or restricted asset.

1 Under applicable trust law, as under Canon Law, the Diocese, acting through the Bishop,  
2 does not have unfettered authority to deal with the assets of the Parishes. Trust law (and the  
3 applicable trust documents) prescribe the actions of the trustees and give (or fail to give) authority  
4 for the trustees of a trust to act (or refrain from acting) in a certain way. If, for example, the  
5 Diocese were to attempt to alienate Parish property, sell Parish property or otherwise affect the  
6 Parishes without complying with the applicable requirements of Canon Law, the Bishop would  
7 violate Canon Law just as the Diocese (acting through the Bishop), acting as the trustee or holder  
8 of property subject to a restriction would be violating the trust or restriction encumbering the  
9 property if he took action in violation of the terms of the trust or applicable law.

10 The real property upon which a Parish is located is owned by the Parish. The Parish paid  
11 for the property (either by direct acquisition from a third party or acquisition from the Diocese).  
12 Improvements to those properties were made by the Parishes and paid for by the Parishes. To  
13 fund construction, Parishes either obtain loans or do not commence construction until all of the  
14 money required has been raised. The monies to build the churches, Schools and other  
15 improvements to Parishes come from the work and generosity of the parishioners of that Parish  
16 (and others who might donate). The monies to construct the churches, the Schools and associated  
17 improvements do not come from the Diocese unless it is through a loan which constitutes a legal  
18 obligation of a Parish and which is repaid.

19 However, as stated because the Parish has no "civil" legal<sup>8</sup> authority to hold title to real  
20 estate, mere legal title is in the name of the Diocese.<sup>9</sup> The Diocese has no equitable or beneficial  
21 interest in the Parish Real Property. The Parish Real Property has been described in Statement of

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22 <sup>8</sup> As opposed to whatever equitable, beneficial or proprietary rights the Parish may have in  
23 Parish Real Property.

24 <sup>9</sup> However, as the beneficiary of the trust between each Parish and the Diocese, the Parish  
25 has a beneficial, equitable and proprietary interest in the Parish Real Property. Consistent with  
26 this concept, under Canon Law, the Parish is the owner of its "temporal goods" which includes all  
real and personal property owned by a Parish. Therefore, civil and Canon Law are consistent  
with respect to the ownership of the Parish Real Property.

1 Financial Affairs filed by the Diocese. The Parish Real Property is not included as property of  
2 the Estate of the Diocese nor is it considered for purposes of the Plan.

3 The Diocese also administers certain pooled investments for the benefit of the Parishes  
4 and other associated entities. These funds consist of the regular collections and other monies of  
5 the Parishes and other entities in excess of the three months of expenses retained by the Parishes  
6 and which are not specifically restricted (the "Unrestricted Deposits"). In addition, the Parishes  
7 and other entities remit restricted funds to the Diocese for management (the "Third Party  
8 Restricted Deposits"). The Diocese is also the direct recipient of restricted donations, restricted  
9 grants and similar restricted gifts (the "Diocese Restricted Funds"). Collectively, the Third Party  
10 Restricted Deposits and the Diocese Restricted Funds will hereinafter be referred to as the  
11 "Restricted Funds". The Diocese pools the Unrestricted Deposits and the Restricted Funds and  
12 invests them for the benefit of the Parishes, the Diocese and other entities. The Diocese acts as a  
13 trustee, manager and custodian of the Third Party Restricted Deposits and the Unrestricted  
14 Deposits. Just as a trustee under a trust can invest, re-invest and manage assets of the Trust, so  
15 does the Diocese perform that function. In addition, just as a trustee of a trust acquires bare legal  
16 title to the assets under the trustee's management and control, so does the Diocese have bare legal  
17 title. However, just as a trustee of a trust does not acquire any beneficial or equitable interest in  
18 the property subject to the trust except as explicitly provided in the Trust or applicable law, the  
19 Diocese has no beneficial or equitable interest in the Restricted Funds and the Unrestricted  
20 Deposits except to the extent that the Diocese has also placed unrestricted and restricted assets in  
21 the fund. Moreover, the relationship between the Diocese and the Parishes and other entities that  
22 are themselves juridic persons is governed by Canon Law just as the obligations, rights and  
23 powers of a trustee are governed by state law. The pooled fund that is managed by the Diocese is  
24 commonly referred to as the Deposit and Loan Fund.

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**D. The Financial Structure and Operations of the Diocese**

The operations of the Diocese are funded through three primary sources: (1) a "tax" on the offertory donations collected by the Parishes (the "Chancery Tax"); (2) the difference in earnings on the Deposit and Loan Fund and the fixed rate of return paid to Parishes and other participants in the Deposit and Loan Fund; and (3) grants and direct donations.

The Diocese pays the participants in the Deposit and Loan Fund a fixed rate of return on their investments. As of the Petition Date, that rate was of .75 percent (the "Participant's Rate"). The difference between the Participant's Rate and the actual return on the investments is retained by the Diocese to compensate it for its services. In addition, as provided under Canon Law, the Diocese charges each Parish a "tax" on the total offertory donations collected by each Parish (the "Chancery Tax"). The Chancery Tax is used to fund Diocesan operations. As of the Petition Date, the Chancery Tax varied depending upon the Parish. The Diocese also receives grants and direct testamentary and non testamentary donations. Typically these funds are donated with a restricted purpose and are reflected on the books and records of the Diocese as restricted or endowment funds (also restricted). If no such restriction exists, those assets are considered to be part of the general assets of the Diocese.

Information regarding Diocese historical financial performance is contained in the Audited Financial Statements for fiscal years 2002 and 2003 which are attached hereto as Exhibit "4" and, the unaudited internally prepared financial statement dated September 20, 2004 which is attached hereto as Exhibit "5".

**E. The Diocese's Assets And Liabilities.**

Following is a description of some of the Assets and liabilities of the Diocese. This discussion is not inclusive of all Assets and liabilities as reflected on Exhibit "5" and for a more comprehensive listing of such Assets and liabilities, reference should be made to Exhibit "5".

1                   **1.     Assets**

2                               (a)     Real Property

3                   The Diocese owns certain real property. This real property consists primarily of two  
4 categories of property: (i) property given to the Diocese by a third party which might consist of a  
5 house, a vacant lot or similar property; and (ii) property which the Diocese has acquired to be  
6 used for establishing future Parishes within the Diocese. This real property, collectively, is more  
7 particularly described in Exhibit "6".<sup>10</sup> As of the Petition Date, the Diocese Real Property had a  
8 combined book value and fair market value<sup>11</sup> of approximately \$3.3 million dollars.<sup>12</sup> As part of  
9 the Plan, the Diocese intends to liquidate all of the Diocese Real Property. Proceeds of these  
10 sales, after payments of costs of sale including commissions, will be used to fund the Settlement  
11 Trust and the Litigation Trust in accordance with the terms of the Plan.

12                               (b)     Personal Property

13                                       (i)     Accounts Receivable

14                   These Assets consist of amounts owed to the Diocese by Parishes and others for chancery  
15 tax and other fees and costs. The amount, net of doubtful accounts, as of the Petition Date was  
16 \$211,638.

17                                       (ii)    St. Augustine High Catholic School

18                   The newly opened St. Augustine High Catholic School operates out of what used to be  
19 referred to as the Regina Cleri Center. The Diocese secured part of its obligations under the 2002  
20 Settlement (described in Section IV.E.2(c) below) with a deed of trust encumbering the Regina

21 \_\_\_\_\_  
22 <sup>10</sup> Many of these parcels of real property are located in remote locations and some without  
23 utilities. Therefore, there is some question as to whether the values reflected here could be  
obtained.

24 <sup>11</sup> Where recent appraisals were available to the Diocese, the Diocese listed the values at  
fair market value. Otherwise, the values listed are book value.

25 <sup>12</sup> The Diocese has fairly recent appraisals for these parcels of real property and believes  
26 that this value is obtainable in an orderly sale of this property.

1 Cleri property. In order to pay the settlement amount, and consistent with its mission to assist  
2 with Catholic education within the geographic area of the Diocese, the Diocese sold the Regina  
3 Cleri Property to the St. Augustine High School Corporation, an Arizona nonprofit corporation,  
4 subject to the deed of trust in favor of the Escrow Agent. The terms of the sale provided for a  
5 payment of \$600,000 (the "Restricted Payment") at the time of closing and a deferred payment of  
6 \$2,400,000 to be paid on September 1, 2006 (the "St. Augustine Deferred Payment"). The St.  
7 Augustine Deferred Payment is secured by a deed of trust encumbering the Regina Cleri property  
8 (the "St. Augustine Deed of Trust"). The St. Augustine Deed of Trust is a second priority deed of  
9 trust, second in priority only to the Deed of Trust securing the remaining payment on the  
10 Remaining 2002 Settlement Amount. As of the petition date, therefore, there was \$2,400,000  
11 owing to the Diocese by St Augustine High School. Under the terms of the sale, the Restricted  
12 Payment is to be held in restricted account and only used to pay the Remaining 2002 Settlement  
13 Amount owed to the Escrow Agent. The Restricted Payment plus the St. Augustine Deferred  
14 Payment are, by the terms of the transaction, restricted and can only be used to pay the  
15 Promissory Note.

16 (iii) Insurance Actions

17 The Diocese is the insured under certain general liability insurance policies (including  
18 sexual misconduct) which were issued at various times relevant to the times at which certain Tort  
19 Claims are alleged to have occurred. The Insurance Companies issuing the Insurance Policies  
20 and the effective year(s) for each Insurance Policy are set forth in Exhibit "7" attached hereto.  
21 Each of the Insurance Policies with the exception of the policy issued by The Ordinary Mutual is  
22 an occurrence policy which means that if the act occurred during a policy year, regardless of  
23 when the claim is made, then the claim is covered by the applicable Insurance Policy. The  
24 Ordinary Mutual Insurance Policy is a "claims made" policy which means that the relevant time  
25  
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1 period for determining coverage is not the date of occurrence, but the date the claim is first  
2 made.<sup>13</sup>

3 All of the Insurers have been put on notice of the Tort Claims which are known to the  
4 Diocese. For those Tort Claims which are currently the subject of a pending lawsuit, the Insurers  
5 are paying the cost of defense. Pursuant to the terms of the Ordinary Mutual policy, the Diocese  
6 must pay fifty percent (50%) of the costs of defense. Each of the Insurers (other than Ordinary  
7 Mutual) has reserved all rights with respect to whether there is coverage for the Tort Claims at all.  
8 The Diocese contends that it has various claims against the Insurance Company related to  
9 coverage and additional claims arising out of an Insurance Company's actions with respect to  
10 coverage and settlement (or failure to settle) of the Tort Claims.

11 Each Insurance Company will be given an opportunity to participate in the Plan and  
12 become a Settling Insurer. Any Insurance Company that fails to settle with the Diocese on terms  
13 and conditions acceptable to the Diocese and approved by the Bankruptcy Court will not receive  
14 the benefits of a Settling Insurer under the Plan. The Diocese has reserved the right with respect  
15 to the Insurance Actions, to the extent not commenced prior to the Effective Date, to assign the  
16 Insurance Actions to the Trustees of the Settlement Trust and the Litigation Trust. At this time it  
17 is not possible for the Diocese to provide an estimate of the total value of the Insurance Actions.

18 (iv) Interest of Bishop in certain other  
19 corporations

20 A number of nonprofit corporations associated with the mission of the Diocese have one  
21 member, the Bishop of the Diocese. Those corporations are Catholic Community Services, Inc.,  
22 Catholic Foundation and Diocese of Tucson Catholic Cemeteries, Inc. The Bishop has no  
23 proprietary interest in these corporations. Moreover, each of the articles and by-laws provide that  
24 upon a dissolution of the corporation, the assets are to be transferred to another religious entity

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25 <sup>13</sup> Although the Ordinary Mutual policy is a "claims made" policy, it is limited to claims  
26 first made after 1985.



1 that performs the same service as the dissolved corporation. The Bishop's only real authority is to  
2 remove and replace the board of directors of such corporation(s) if he disagrees with their actions.  
3 To the best of the knowledge of the Diocese, that power has not been exercised.

4 (v) Restricted Assets

5 There are various Assets which the Diocese lists on its financial statements as being held  
6 for others. As a non-profit religious organization, the Diocese is the recipient of grants, gifts and  
7 other assets which are subject to restrictions imposed by the donor or the grantor of the grant. In  
8 addition, the Diocese manages the Deposit and Loan Fund into which Restricted Deposits are  
9 made. These Restricted Deposits are subject to similar restrictions and are, therefore, not  
10 available for general purposes. These restricted assets are not property of the Estate nor are they  
11 available for distribution to Creditors.

12 **2. Liabilities**

13 (a) Parish Claims

14 The Claims of the Parishes against the Diocese arise in two respects. First, the Parishes  
15 have Claims against the Diocese for the amount of their Unrestricted Deposits.<sup>14</sup> In addition, a  
16 number of Parishes and affiliated entities have made unsecured loans to the Diocese to fund the  
17 2002 Settlement (collectively, the "Settlement Loans"). The balance of Settlement Loans as of  
18 the Petition Date were approximately \$4,700,000. The amount of the Unrestricted Deposits  
19 which comprise the balance of the Parish Claims is approximately \$2,400,000. Accordingly, the  
20 Parishes have Unsecured Claims against the Diocese (the "Parish Unsecured Claims") in the  
21 approximate amount of \$7,100,000. As of the petition date the Diocese had made no payments  
22 on the Parish Loans.

23  
24 \_\_\_\_\_  
25 <sup>14</sup> The Diocese believes that the Parishes dispute the Diocese's position, and that the  
26 Parishes will claim that the Unrestricted Deposits are not property of the Estate but are the  
property of the Parishes, are held for their benefit and cannot be used by the Diocese nor are they  
available for the Claims of Creditors.

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(b) Catholic Order of Foresters

The Catholic Order of Foresters is a fraternal philanthropic Catholic organization (the "Foresters") which has loaned money to the Diocese from time to time and, as of the Petition Date, the Diocese was obligated to Foresters for Unsecured direct obligations of approximately \$2,000,000.

(c) 2002 Settlement Obligations

As part of the 2002 Settlement, the Diocese executed a promissory note in favor of the Escrow Agent in the principal amount \$3,000,000.00 (the "Promissory Note") secured by a first deed of trust against the Regina Cleri property. The Promissory Note is non-interest bearing and matures in 2007.

(d) Parish Guaranty Claims

As part of the administrative services that are provided to the Parishes by the Fiscal Office of the Diocese, the Diocese assists Parishes with obtaining loans from such organizations as the Foresters by guarantying payment on the loans. As of the Petition Date the Diocese had the Parish Guaranty Claims of approximately \$6,900,000. The Parish Guaranty Claims are contingent and the Diocese does not expect to have to pay any sums on the Parish Guaranty Claims because the Parishes will full perform on those loans.

(e) Trade Debt

The Diocese, as a business, has incurred certain trade debt. As of the Petition Date the Diocese believes that it had approximately \$55,000 in trade debt.

(f) Tort Claims

As is discussed in detail below, the Diocese is a party to a number of lawsuits or other claims wherein the claimants allege that they were abused by clergy or others associated with the Diocese. The Tort Claimants assert, among other things, that the Diocese is liable because it failed to properly supervise these individuals and that the Diocese knew or should have known about the actions of these individuals. The Diocese has denied these allegations and has been

1 defending those suits. The Diocese cannot, at this time, estimate the magnitude of the amount of  
2 the Tort Claims. In addition to the currently identified claims, the Diocese believes that there  
3 likely are Tort Claimants who, for one reason or another, have not yet come forward and,  
4 therefore, are not known to the Diocese (collectively the "Present Tort Claims"). The Diocese  
5 further believes that there may be other potential Tort Claimants who are either minors, or whose  
6 memories are still repressed ("Future Tort Claims").

7 Each of these categories of Tort Claimants<sup>15</sup> have claims that satisfy the definition of  
8 claim under the Bankruptcy Code and are addressed under the Plan. The Bankruptcy Code has  
9 the "broadest possible definition" of a claim which is designed to ensure that "all legal obligations  
10 of the debtor, no matter how remote or contingent, will be able to be dealt with in the bankruptcy  
11 case." California Dept. Health Services v. Jensen (In re Jensen), 995 F.2d 925, 929 (9<sup>th</sup> Cir.  
12 1993) quoting from H.R. Rep Non. 595, 95th Cong. 2nd Sess. 1, 309 (1978). In Jensen the 9<sup>th</sup>  
13 Circuit has adopted "what might be called the 'fair contemplation' test for determining when the  
14 relationship between a debtor and a putative creditor gives rise to a claim. The focus in  
15 determining whether the claim exists is on the debtor's pre-confirmation conduct and a  
16 determination as to whether a relationship existed pre-confirmation between an identifiable  
17 claimant or group of claimants and the debtor's pre-confirmation conduct. Epstein v. Committee  
18 of Unsecured Creditors (In re Piper Aircraft), 58 F.3d 1573 (11<sup>th</sup> Cir. 1995); Hassanally 208 B.R.  
19 52; Ritter Ranch 255 B.R. 765 See also, Jensen, 995 F.2d at 930. Claims have been recognized  
20 under these tests beyond the typical context of mass torts and environmental liabilities, and even  
21 where rights are not yet enforceable under state law. Ritter Ranch, 255 B.R. 765; Hassanally, 208  
22 B.R. at 51.

23 \_\_\_\_\_  
24 <sup>15</sup> These categories would include: (i) those Tort Claimants who have already instituted  
25 litigation; (ii) those Tort Claimants who have notified the Diocese of a claim but have either  
26 chosen to receive services from the Diocese or not pursue the claim at all; (iii) those Tort  
Claimants who are aware of their claims but haven't brought them as of the Petition Date; and (iv)  
the Future Tort Claimants.

1 In this case all of the Tort Claimants, irrespective of whether the repressed memories of  
2 the abuse have surfaced or they are minors, necessarily had a relationship and contact with clergy  
3 or others who were serving in the Diocese at the time the alleged abuse occurred. As such all of  
4 the Tort Claimants and Future Tort Claimants had an identifiable relationship with the Diocese  
5 which gives rise to the Claims. Accordingly, all of the Tort Claims may be addressed as part of  
6 the Plan.

7 The Diocese is requesting that the Court appoint a representative to represent the interests  
8 of the Future Claimants (the "Future Claims Representative"). The Future Claims Representative  
9 will be appointed by the Bankruptcy Court. The Diocese will solicit the input from interested  
10 parties with respect to the scope of the obligations and rights of the Future Claims Representative  
11 as well as the proposal(s) as to who the Future Claims Representative should be. Furthermore,  
12 the Diocese will request that the Court appoint a Guardian ad Litem to represent the interests of  
13 any minors who might have Claims arising out of abuse that would be included as Tort Claims  
14 (the "Guardian ad Litem"). Similar to the Future Claims Representative, the Diocese will solicit  
15 input from interested parties regarding the scope of the rights and obligations of the Guardian ad  
16 Litem as well as the selection of that person. The Guardian ad Litem will be appointed by the  
17 Bankruptcy Court after notice and hearing on motion of the Diocese for such appointment.

18 **F. The Sex Abuse Crisis**

19 Over the last fifty years a tragedy that runs contrary to the every teaching and tradition of  
20 the Roman Catholic Church has unfolded in the Roman Catholic Church as a whole and in the  
21 Diocese in particular: a small number priests, other clergy, and others took advantage of their  
22 positions of trust and respect in the community and sexually abused children. The Diocese was  
23 also affected by this tragedy. Starting in 1997, lawsuits were filed alleging that acts of abuse had  
24 been committed by clergy and others within the Diocese. Most of these claims were made by  
25 adults based upon acts that they alleged occurred as many as thirty years prior to bringing the suit.

26

1           Although generally the statute of limitations for bringing a civil suit is two years from the  
2 date of the act, that changed in Arizona in 1998 when the Arizona Supreme Court issued the *Doe*  
3 *v. Roe* opinion (*Doe v. Roe*, 191 Ariz. 313, 955 P.2d 951, 266 Ariz. Adv. Rep. 19 (Ariz.1998)),  
4 which recognized that childhood sexual abuse can create latent psychological injuries to the abuse  
5 victims which prevents the victims of that abuse from bringing a tort action within the statute of  
6 limitations. This doctrine, commonly known as the "Repressed Memory Doctrine", is a variation  
7 on the discovery rule that makes it legally possible for victims of sexual abuse to overcome the  
8 statute of limitations defense in such suits.

9                           **1.       The 2002 Settlement**

10           The first round of cases alleging liability on the part of the Diocese because of acts of  
11 clergy or others associated with the Diocese were starting toward trial in late 2001. At that time,  
12 the Diocese was a defendant in 11 suits involving 16 plaintiffs (the "2002 Cases").<sup>16</sup> Most of the  
13 plaintiffs were represented by the same counsel. In addition, the Diocese was providing  
14 counseling and other services to people who alleged they had been abused but who had not  
15 sought damages through civil actions. In early 2002, the Diocese and the plaintiffs in the 2002  
16 Cases participated in a mediation that resulted in a settlement (the "2002 Settlement").<sup>17</sup> As part  
17 of the 2002 Settlement, the Diocese and the plaintiffs agreed that \$3,000,000 of the settlement  
18 amount could be deferred until January, 2007 (the "Remaining 2002 Settlement Payment") which  
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21           <sup>16</sup> The plaintiffs consisted of 11 plaintiffs who alleged that they were the victims of sexual  
22 abuse and 5 parents who alleged damages as result of their children having been allegedly abused.  
23 The plaintiffs contended that the Diocese was liable for their damages on a theory of respondeat  
superior. The Diocese denied and continues to deny any liability for these acts by clergy and  
others.

24           <sup>17</sup> The 2002 Settlement provided that its terms, including the amount paid, were  
25 confidential. Although counsel for most of the plaintiffs in the 2002 Cases breached the  
26 confidentiality by disclosing the amount in a newspaper interview, the Diocese is going to abide  
by the confidentiality provisions of the 2002 Settlement unless the Court orders the Diocese to  
disclose the terms of the 2002 Settlement or the plaintiffs in the 2002 Cases request it.

1 is evidenced by the Promissory Note.<sup>18</sup> The Claimants in the 2002 Cases are, therefore, secured  
2 creditors in the Reorganization Case.

3 The Diocese believed at the time of the 2002 Settlement that the claimants in the 2002  
4 Cases, together with those who had informally sought help from the Diocese, constituted the  
5 universe of claims arising out of these problems. As part of the 2002 Settlement, the Diocese  
6 requested that the attorneys for the plaintiffs in the 2002 Cases disclose any other cases they were  
7 aware of that claims had not yet been brought. Based upon that disclosure and the knowledge of  
8 the Diocese at the time, the Diocese believed that the universe of claims was known and had been  
9 resolved. That belief was mistaken. In addition, there were additional claims that were brought  
10 after the 2002 Settlement that the Diocese settled.

## 11 **2. The Current Cases.**

12 Since the 2002 Settlement, another twenty-two (22) cases have been filed here and in  
13 California<sup>19</sup> involving thirty-four (34) plaintiffs alleging, among other things, the failure of the  
14 Diocese to properly supervise or otherwise deal with alleged knowledge by the Diocese of the  
15 actions of certain clergy and others.<sup>20</sup> Furthermore, additional Tort Claims have been made;  
16 however, no litigation has been commenced by the Tort Claimants. Given the experience since  
17 the 2002 Settlement as well as the experience of other Dioceses around the country who have  
18 settled these types of cases, the Diocese believes that there may well be other claimants who have  
19 not yet asserted formal (i.e. through litigation) or informal claims arising out of alleged abuse by  
20 clergy or others associated with the Diocese. The current Tort Claimants are, in many instances,

21 \_\_\_\_\_  
22 <sup>18</sup> Disclosure of this amount does not breach the confidentiality provisions of the 2002  
23 Settlement because this amount is a matter of public record, having been disclosed in the Deed of  
Trust that secures the Remaining 2002 Settlement Payment.

24 <sup>19</sup> The California cases name the Diocese as a defendant along with other Dioceses in  
California.

25 <sup>20</sup> None of the current cases have been tried; accordingly, neither the liability of the  
26 Diocese (which the Diocese disputes) nor the validity of the claims has been established.

1 seeking punitive damages. In addition, the demands of these Tort Claimants are far beyond the  
2 ability of the Diocese to respond, particularly given the likelihood that there are additional claims  
3 that have not yet been brought.

4 The purpose of this Reorganization Case is to enable the Diocese to pay fair and just  
5 compensation to all victims of clergy abuse irrespective of the happenstance of when their trial is  
6 scheduled or whether the alleged victim has recovered a repressed memory and at the same time  
7 allow the Diocese to continue its ministry, service its Parishes and Schools, continue its efforts to  
8 provide education and services to prevent child abuse and fairly pay its trade and other Creditors.

9 **V. SIGNIFICANT EVENTS PRIOR TO THE REORGANIZATION CASE.**

10 **A. The Response to Childhood Sexual Abuse Crisis**

11 Bishop Kicanas became the coadjutor Bishop of Tucson on October 30, 2001 and sole  
12 Bishop after the retirement of Bishop Manuel Moreno in 2003. Bishop Kicanas has led the  
13 Diocese's response to the sexual abuse issues by: (1) providing and offering support to the victims  
14 of childhood sexual abuse; (2) reforming Diocesan operations to provide improved transparency  
15 regarding finances and historic and present abuse allegations; and (3) reforming Diocesan  
16 operations to prevent future abuse from occurring and to appropriately respond to abuse  
17 allegations.

18 In addition to the response discussed in Section I. above, other examples of the response  
19 of the Diocese under the leadership of Bishop Kicanas include:

20 • Formed the Victim Assistance Program ("VAP"), in June of 2002 in conjunction with  
21 Catholic Social Service ("CSS") and Pima County Attorney's Office ("County Attorney"). The  
22 VAP is designed so that an abuse victim seeking assistance will receive appropriate care through  
23 a process that respects that person's privacy. When a person calls the VAP, a report is made both  
24 to law enforcement and to the Diocese so that the allegation can be investigated. Each allegation  
25 is either investigated by law enforcement or, when law enforcement declines to investigate  
26 because the alleged behavior occurred too long ago, by the Diocese. Without waiting for any

1 determination of the credibility or the validity of the allegation, the VAP may initiate counseling  
2 services through CSS or, if the individual prefers, through an independent licensed or certified  
3 professional.

4 • Established the Sexual Misconduct Review Board in October of 2002 consisting of  
5 noted community leaders.<sup>21</sup>

6 • Published (and continues to publish) the names of all priests and other workers for the  
7 Church against whom there are credible allegations of sexual misconduct involving children and  
8 updating this list when new allegations arise.

9 • Entered into an agreement with the County Attorney, under which the Diocese reports  
10 all allegations of sexual abuse of children it receives or which it becomes aware of to the County  
11 Attorney so that the County Attorney can initiate an appropriate law enforcement investigation  
12 and response. This agreement, entered into voluntarily by the Diocese, is considered a model for  
13 other dioceses and law enforcement agencies across the country.

14 • In conjunction with the release of the national John Jay College of Criminal Justice  
15 Study on the Nature and Scope of the Problem of Sexual Abuse of Children and Young People by  
16

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17 <sup>21</sup> Members of the Board are: Msgr. Arsenio S. Carrillo, Vicar General and Rector  
18 Emeritus of St. Augustine Cathedral; Charlotte Harris, former director of development of  
19 Salpointe Catholic High School; Maureen Keegan, retired teacher; Sister Kathleen Kluthe, S.S.F.,  
20 member of Jordan Ministry Team, which provides spiritual formation and religious education  
21 services in the Diocese of Tucson; Deacon Oscar Magallanes, child and family clinician at La  
22 Frontera Clinic in Tucson; Charles Pettis, retired president of Tucson Realty & Trust Co.; George  
23 Robles; retired Tucson Police Department officer, retired South Tucson Chief of Police, former  
24 chief investigator for the U.S. District of Arizona Federal Public Defender and former officer of  
25 Division 15 of the Pima County Superior Court; Dr. José Santiago (Board Chairman), senior vice  
26 president and chief medical officer at Carondelet Health Network in Tucson; Sarah R. (Sally)  
Simmons, attorney specializing in employment law, past president of the UA Law College  
Association, and past president of the State Bar of Arizona; Rev. Frederick Tillotson, O.Carm,  
president of Salpointe Catholic High School, former director of Clinical Ethics for the Franciscan  
Health System, member of the Institutional Review Board for behavioral and social sciences at  
the UA, a member of the ethics committee at Tucson Medical Center and a consultant on medical  
ethics for several Catholic hospitals; Mercy Valencia, director of Space Management at the  
University of Arizona, former management analyst of the UA Office of Institutional Research and  
program coordinator for the UA Office of Arid Lands Studies.



1 Catholic Priests 1950 – 2003, the Diocese released detailed statistics regarding allegations of  
2 sexual abuse by priests and other workers in the Diocese.

3 • Participated in annual Compliance Audits by The Gavin Group of Boston, an  
4 independent compliance auditing firm, regarding the Diocese's implementation of policies and  
5 procedures for the response to allegations of sexual abuse of minors, for the creation of safe  
6 environment programs, and for pastoral response and outreach to victims.

7 • Created and implemented the Safe Environment Program that includes training sessions  
8 of all Parish and School employees, mandatory fingerprinting of all current and prospective  
9 employees of the Diocese, Parishes and Schools (including priests, religious women, religious  
10 brothers, deacons, and seminarians) and volunteers as well as criminal history background checks  
11 of all current and prospective employees and volunteers. Through June of 2004 more than 2,000  
12 people had been fingerprinted and had received background checks. In addition, a structure for  
13 oversight of compliance with policies and procedures for the creation of safe environments for  
14 children at Parishes and Schools was established.

15 • Hired Richard Serrano as Director of Human Resources in July of 2003. His background  
16 in law enforcement and more than twenty-five (25) years of human resource experience with IBM  
17 international placed him in a unique position to work with Dr. Duckro to develop a safe  
18 environment program for all Parishes and Schools.

19 **B. The Reorganization Case**

20 As previously stated, at the time of the 2002 Settlement, the Diocese believed that  
21 substantially all of the victims of sexual abuse had come forward. That belief was mistaken as  
22 indicated above. The Diocese's attempts to resolve these later cases have been unsuccessful. As  
23 stated, the Diocese is a "mission" Diocese. It does not have unrelated business income or  
24 activities. It has limited property. And, most importantly, it is desirous of achieving a final just,  
25 equitable, and fair resolution for those who suffered abuse, for its parishioners, and for others so  
26 that this chapter in the history of the Diocese can be closed.

1 **VI. SIGNIFICANT EVENTS IN CHAPTER 11.**

2 This Disclosure Statement was filed with the Petition on the Petition Date. Accordingly,  
3 no significant events have occurred as of the date of this Disclosure Statement. However, in  
4 conjunction with the filing on the Petition Date, the Diocese also filed (or will be filing) the  
5 following motions:

- 6 • Motions to Employ Professionals for the Debtor<sup>22</sup>
- 7 • An application to file certain documents and creditor lists under seal.

8 Because of the sensitive nature of the Tort Claims and the concern of the Diocese not to  
9 publicize the names of the claimed victims, the Diocese has requested that certain  
10 information regarding the Tort Claimants be filed under seal.

- 11 • An application to pay certain prepetition wages in an amount that is less  
12 than the priority claims such employees would have under Bankruptcy Code § 507 if the  
13 claims were not paid.

- 14 • A motion to allow the Diocese to continue to honor certain employee  
15 benefit plans for vacation and sick pay in order to retain its current employees.

- 16 • A motion to establish a procedure for allowance and payment of  
17 professionals during the course of the Reorganization Case.

- 18 • A motion to allow the Diocese to continue its current bank accounts and  
19 current cash management system in order to avoid disruption in the Diocese's business  
20 and conserve Estate assets.

- 21 • A motion to set a date by which claims against the Estate must be filed or  
22 be barred.

23  
24 \_\_\_\_\_  
25 <sup>22</sup> The Chapter 11 professionals that the Debtor is seeking to employ are the Proposed  
26 counsel for the Debtor; Gust Rosenfeld PLC as general business counsel; Thomas A. Zlaket  
P.L.L.C. as counsel for the Debtor with respect to special matters; and Keegan, Linscott & Kenon  
P.C. as accountants and financial advisors to the Diocese.

1           • In addition, the Diocese filed its Statement of Financial Affairs and  
2 Schedules of Assets and Liabilities on the Petition Date.

3           • A motion to appoint Future Claims Representative to represent the interest  
4 of future claimants who might still be suffering from repressed memory will be filed.

5           • A motion to appoint a Guardian ad Litem to represent the interests of any  
6 minor Tort Claimants will be filed.

7 **VII. DESCRIPTION OF THE PLAN.**

8           The following description of the Plan is for informational purposes only. Creditors and  
9 holders of Equity Interests should not rely on this description for voting purposes, but should read  
10 the Plan in its entirety. This summary of the Plan does not purport to be complete. THE PLAN  
11 IS CONTROLLING IN THE EVENT OF ANY INCONSISTENCY BETWEEN THE  
12 CONTENTS OF THE PLAN AND THIS DISCLOSURE STATEMENT.

13 **A. Classification And Treatment Of Claims Under The Plan.**

14 **1. Claim Amounts.**

15           Until Allowed by the Court, certain Claims against the Diocese are in unknown or  
16 undetermined amounts. Accordingly, the amounts of Claims specified in this Disclosure  
17 Statement reflect only the Diocese's best estimates. Additionally, the amounts of Claims  
18 specified in this Disclosure Statement do not include all Claims that may arise from the rejection  
19 of certain executory contracts or other contingent or unliquidated Claims against the Diocese.

20 **2. Effective Date of the Plan.**

21           The "Effective Date" of the Plan determines when the performance of many of the  
22 obligations under the Plan are due. The Effective Date is defined in the Plan.

23 **3. Classification generally.**

24           The Plan divides Claims against the Diocese into ten (10) separate Classes which the  
25 Diocese believes complies with the requirements of the Bankruptcy Code. Unless otherwise  
26 expressly stated in the Plan, the respective treatments under the Plan of Allowed Claims are in

1 full discharge and satisfaction of those Allowed Claims. Except as provided in the Plan, all  
2 Claims against the Diocese arising prior to entry of the Confirmation Order will be discharged as  
3 of the Confirmation Date pursuant to Bankruptcy Code § 1141(d).

4 **B. Unclassified claims**

5 **1. Administrative Claims.**

6 The Administrative Claims consist of the Allowed fees of the Chapter 11 Professionals  
7 and other Claims that would be allowable as Administrative Claims pursuant to Bankruptcy Code  
8 § 503. The holder of an Allowed Administrative Claim will receive, in full satisfaction of such  
9 Claim: (a) a single Cash payment in the Allowed amount of the Claim on the Effective Date (or  
10 the applicable Claim Payment Date if the Administrative Claim is not an Allowed Claim on the  
11 Effective Date); or (b) as otherwise agreed in writing by the holder of the Allowed Claim or  
12 ordered by the Bankruptcy Court. Every Allowed Administrative Claim for an expense of  
13 operation of the Debtor incurred in the ordinary course of such operations will be paid fully and  
14 in Cash in the ordinary course of business (including any payment terms applicable to any such  
15 expense). The Diocese cannot estimate at this time the amount of Administrative Claims in light  
16 of the fact that the Petition Date has just occurred but will supplement this Disclosure Statement  
17 as more information is available.

18 **2. Priority Unsecured Claims.**

19 The holder of every Allowed Priority Unsecured Claim will be paid, in full satisfaction of  
20 such Claim: (a) a single Cash payment in the Allowed amount of the Claim on the Effective Date  
21 (or the applicable Claim Payment Date if the Unsecured Priority Claim is not an Allowed Claim  
22 on the Effective Date); or (b) as otherwise agreed in writing by the holder of the Allowed Claim  
23 or ordered by the Bankruptcy Court. The Priority Unsecured Claims include all Claims entitled  
24 to priority pursuant to Bankruptcy Code § 507 other than Employee Unsecured Priority Claims  
25 which are treated elsewhere in the Plan. The Diocese does not believe that there are any Priority  
26 Unsecured Claims.

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**3. Priority Tax Claims.**

The holder of every Allowed Priority Tax Claim, will be paid, in full satisfaction of such Claim pursuant to the provisions of Bankruptcy Code § 1129(a)(9)(C): (a) in deferred Cash payments over a period of six (6) years from the date of assessment, to be paid in equal quarterly installments of principal and interest; (b) the first payment to be made on the first Business Day after the day which is ninety (90) days after the applicable Claim Payment Date, and each payment thereafter to be paid on the first Business Day of each succeeding quarter until paid in full; provided, however, that, the entire unpaid amount of the Allowed Priority Tax Claim, together with any interest accrued thereon, will be paid in full on the date which is six (6) years after the date of assessment of such Allowed Priority Tax Claim; or (c) as otherwise agreed in writing by the holder of the Allowed Claim or ordered by the Bankruptcy Court. The Debtor does not believe there are any Priority Tax Claims.

**C. Unimpaired Claims.**

**1. Other Secured Claims – Class 3. Unimpaired**

The legal, equitable and contractual rights of holders of Allowed Other Secured Claims in Class 3 will either: (a) not be altered by the Plan; or (b) at the option of the Debtor, be treated in any other manner that will result in such Allowed Secured Claims being deemed unimpaired under Bankruptcy Code § 1124, including, but not limited to, the retention by the holder of an Allowed Other Secured Claim of the lien on its collateral to the extent of his/her/its Allowed Other Secured Claim. The Other Secured Claims consist of the amounts due the Escrow Agent pursuant to the Promissory Note in the amount of \$3,000,000. In addition Bank One, N.A. has a contingent secured claim in the amount of \$300,000 arising out of a letter of credit issued by Bank One, N.A. The obligations to the beneficiary of the letter of credit are current. The Debtor does not believe that there are additional Other Secured Claims other than those identified.

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**2. Parish Guaranty Claims – Class 5. Unimpaired**

The holders of Allowed Parish Guaranty Claims will retain their Claims, if any, against the Reorganized Debtor, and the Plan will leave unaltered the legal, equitable and contractual rights to which such Claims entitle the holders thereof. The Parish Guaranty Claims consist of obligations of the Parishes which are guaranteed by the Diocese. These Parish Guaranty Claims are Unsecured Claims and are contingent and unliquidated. The Parish obligations are not in default and the Diocese does not anticipate that there will be a default by any Parish. The guaranty(s) by the Diocese will continue unaffected by the Plan or the Reorganization Case. The full amount of the guaranties outstanding which are Parish Guaranty Claims is approximately \$6,900,000. These Claims are unimpaired. The Diocese does not anticipate any distribution to the holders of Parish Guaranty Claims under the Plan.

**D. Impaired Claims**

**1. Class 1: Priority Employee Unsecured Claims.**

Class 1 consists of every Unsecured Claim of an employee of the Diocese for vacation or sick leave pay which is otherwise entitled to priority pursuant to Bankruptcy Code § 507(a)(3)(A). No holder of an Allowed Priority Employee Unsecured Claim will receive any Cash on account of such Claim. All Allowed Priority Employee Unsecured Claims will be satisfied, in full, in accordance with the policies and procedures regarding vacation and sick leave pay in effect at the Diocese at the time such Priority Employee Unsecured Claim becomes matured and liquidated. If the Bankruptcy Court grants the Debtor's motions to pay any prepetition wages and continue to honor the Diocese's sick pay and vacation policy, there will be no Priority Employee Unsecured Claims. If it does not, the Unsecured Priority Claims will be approximately \$343,000 but will be satisfied by the Diocese continuing to honor the accrued vacation and sick time and will not require any Cash payment under the Plan.

**2. Class 2: Pre-petition Date Property Tax Secured Claims.**

1           Class 2 Claims consist of every whole or prorated portion of a Secured Tax Claim which  
2 arises before and up to the Petition Date. Class 2 Claims, when and as they become Allowed  
3 Claims, will be determined based upon the Property Tax Claims Proration, if necessary. Any  
4 Allowed Class 2 Claims will bear interest at the rate of three percent (3%) per annum from the  
5 Effective Date until paid. Any Allowed Class 2 Claims, including interest thereon, will be paid in  
6 two equal installments. The first installment will be paid on the first Business Day which is thirty  
7 (30) days after the Effective Date or the applicable Claim Payment Date. The second installment  
8 will be paid on the first Business Day of the sixth (6th) month after the Effective Date or the  
9 applicable Claim Payment Date. No penalties will be paid on any of the Allowed Class 2 Claims.

10                           **3.       Class 4: General Unsecured Convenience Claim.**

11           Class 4 General Unsecured Convenience Claims will consist of all Unsecured Claims  
12 (other than Tort Claims) in an amount of \$500 or less, and the Claims of any holder of a General  
13 Unsecured Claim that makes an election to reduce such holder's General Unsecured Claim to an  
14 amount of \$500 or less, in which event such Claim will be treated as a General Unsecured  
15 Convenience Claim for all purposes. Such election will be made on the ballot for accepting or  
16 rejecting the Plan, completed and returned within the time fixed by order of the Court. The  
17 Diocese believes that the total amount of the Class 4 General Unsecured Convenience Claims will  
18 not exceed \$2,000.

19                           **4.       Class 6: Parish Unsecured Claims.**

20           The Class 6 Parish Unsecured Claims will consist every Unsecured Claim against the  
21 Diocese now held by a Parish, including, but not limited to, all Claims of a Parish for any  
22 unrestricted funds on deposit with the Diocese and managed by the Diocese and all Parish Loans  
23 including all interest, attorneys' fees and other costs and charges to which each Parish is entitled  
24 pursuant to the terms of the Parish Loan, any agreements between the Diocese and a Parish and  
25 applicable law. Each Allowed Parish Unsecured Claim that is not otherwise contributed or  
26 becomes part of the consideration for a Parish to participate as a Participating Third Party will

1 bear interest from and after the Effective Date at the rate of two and one-half percent (2.5%) per  
2 annum or such other rate as set by the Bankruptcy Court in the Confirmation Order. The Diocese  
3 will make monthly payments, including interest, in the amount of \$44,738 per month until the  
4 Allowed Parish Unsecured Claims are paid in full. The full amount of the Parish Unsecured  
5 Claims are unknown at this time because there are no agreements with any Parish regarding how  
6 and if any contributions will be made by a Parish in order to become a Participating Third Party.  
7 As soon as that information is known, the Diocese will supplement this Disclosure Statement.

8 **5. Class 7: General Unsecured Claims.**

9 The Class 7 Claims will consist of all General Unsecured Claims that are not General  
10 Unsecured Convenience Claims, Administrative Priority Claims, Priority Unsecured Claims,  
11 Priority Tax Claims, Priority Employee Unsecured Claims, Parish Guaranty Claims, Parish  
12 Unsecured Claims, Other Tort and Employee Claims, Tort Claims or Penalty Claims. Class 7  
13 Claims will also include every Unsecured Claim arising from the rejection of an Executory  
14 Contract and every Claim which is the undersecured portion of any Secured Claim. The Class 7  
15 Claims consist of the Claims of Foresters and any holders of Class 7 Claims who have not elected  
16 to be treated as General Unsecured Convenience Claims. The holders of all General Unsecured  
17 Claims will be paid in full. Such Claims will bear interest at the rate of four and one-half percent  
18 (4.5%) per annum or such other rate as set by the Bankruptcy Court in the Confirmation Order.  
19 Each holder of an Allowed General Unsecured Claim will be paid the Allowed amount of such  
20 General Unsecured Claim in monthly installments, including interest, with the first installment to  
21 be paid on the first Business Day that is thirty (30) days after the Effective Date (or the applicable  
22 Claim Payment Date) and succeeding monthly installments to be paid on the same day of each  
23 month thereafter until paid in full. The Class 7 General Unsecured Claims consist of the  
24 Unsecured Claims of Foresters in the approximately amount of \$2,000,000, a Claim of Arthur  
25 Gallagher in the approximate amount of \$43,000 and certain Unsecured trade/vendor Claims in  
26 the approximate amount of \$54,000.



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**6. Class 8: Other Tort and Employee Claims.**

The Class 8 Other Tort and Employee Claims are those Unsecured Claims, demands, suits, causes of action, proceedings or any other rights or asserted right to payment heretofore, now or hereafter asserted against the Debtor, whether or not reduced to judgment, based upon or in any manner arising from acts or failure to act by the Debtor which has allegedly resulted in injury asserted against the Diocese for torts, including claims by employees of the Diocese, other than Tort Claims. The holder of each Class 8 Claim, as and when such Claim becomes an Allowed Claim, will be paid solely from the proceeds of any insurance policies applicable to such Other Tort and Employee Claim. These Claims consist of certain "slip and fall" type Claims. There is one other Claim related wrongful discharge or failure to hire because the plaintiff alleged he was a whistleblower. To the extent that such Claims may not be satisfied in full by the foregoing, then such Claims, to the extent not so satisfied, will be Disallowed.

**7. Class 9: Tort Claims.**

(a) Definition of Class 9 Tort Claims.

The Class 8 Tort Claims are all Claims, demands, suits, causes of action, proceedings or any other rights or asserted rights to payment, including, but not limited to: (i) an Claims, demands, suits, or causes of action for personal injuries, including emotional distress; (ii) for damages, including punitive damages; (iii) for attorneys' fees and other expenses, fees or costs, and for any equitable remedy, heretofore, now or hereafter asserted against the Debtor, any Released Parties, any Participating Third Parties, any Settling Insurers or the Litigation Trust, whether or not reduced to judgment, based upon or in any manner arising from or related to: (a) acts of sexual abuse committed by any clergy or other person associated with the Diocese or any Parish, including but not limited to all employees and volunteers; (b) the failure of the Diocese to properly supervise any clergy or any other employee of or person associated with the Diocese or a

1 Parish, including, but not limited to volunteers; (c) the processing, adjustment, defense,  
2 settlement, payment, negotiation or handling of any claims, demands, suits, proceedings or causes  
3 of action based upon or relating in any way to the Claims made as a result of any alleged abuse or  
4 other Tort Claim asserted by a Tort Claimant; or (d) the failure to warn, disclose or provide  
5 information concerning, the alleged sexual abuse and other misconduct of clergy or other  
6 employees of or persons associated with the Diocese or the Parishes, including, without  
7 limitation, volunteers.

8 (b) Treatment

9 The Claim of each Tort Claimant will automatically be determined and treated pursuant to  
10 the terms of the Settlement Trust unless such holder of a Tort Claim affirmatively elects to have  
11 his or her Claim determined and treated pursuant to the terms of the Litigation Trust. The  
12 election of a Tort Claimant to have his or her Claim determined and treated in accordance with  
13 the Litigation Trust will be made on the Ballot accompanying the Plan. The election (or failure to  
14 elect) will be irrevocable and can only be changed upon a showing of excusable neglect or  
15 unavoidable mistake. The Diocese will fund the Settlement Trust and the Litigation Trust with  
16 the sum of \$3,200,000 (or such lesser amount if all of the Diocese Real Property has not been  
17 sold by the Effective Date) and the proceeds from the sale of the Diocese Real Property if all  
18 parcels of Diocese Real Property have not been sold on or before the Effective Date.<sup>23</sup> To the  
19 extent the Diocese Real Property has not been sold by the Effective Date, the Diocese will pay the  
20 proceeds from the sale of the Diocese Real Property which occurs after the Effective Date to fund  
21 the Settlement Trust and the Litigation Trust in the same proportion as the Court determines for  
22 the initial funding. The Court, as part of the confirmation process will determine the amount or  
23 percentage of the payments to be made by the Debtor, any Participating Third Parties and any  
24 Settling Insurers that will be used to fund the Settlement Trust and the Litigation Trust. The

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25 <sup>23</sup> It is anticipated that the total funding from the Diocese from its funds and from the sale  
26 of the Diocese Real Property will be \$3,200,000.

1 Settlement Trust and the Litigation Trust may also be funded from funds received from  
2 Participating Third Parties, Settling Insurers and Insurance Action Recoveries. The Tort Claims  
3 will be determined and satisfied as follows:

4 (i) Determination and Treatment  
5 pursuant to the Settlement Trust.

6 The Settlement Trust will be established on the Confirmation Date and will be funded by  
7 the Diocese on the Effective Date in the amounts as determined by the Bankruptcy Court.  
8 Settling Tort Claimants will receive payment of their Allowed Claims in accordance with the  
9 terms, provisions and procedures contained in the Settlement Trust. The following contains a  
10 brief description of the Settlement Trust and the procedure for allowing and treating Claims. For  
11 a full description and understanding of the Settlement Trust, any reader of this Disclosure  
12 Statement should refer to the Settlement Trust Agreement. If there is any inconsistency between  
13 the Settlement Trust Agreement and this Disclosure Statement, the Settlement Trust will control.

14 There will be a Special Master suggested by the Diocese with input from interested parties  
15 and approved by the Bankruptcy Court. The Special Master will hear and consider each Claim of  
16 a Settling Tort Claimant in accordance with the provisions of the Settlement Trust Agreement.  
17 The Special Master will place each Claim in a Tier based upon whether the nature of the abuse  
18 fits within Tier One, Tier Two, Tier Three or Tier Four in accordance with criteria suggested by  
19 the Diocese and with input from interested parties and approved by the Bankruptcy Court as part  
20 of the confirmation process. The Special Master will have the ability to request additional  
21 information from a Settling Tort Claimant if sufficient information is not submitted as part of the  
22 Proof of Claim in order for the Settlement Master to fully evaluate the Claim. The Special Master  
23 will consider any mitigating or aggravating factors which could result in the Special Master  
24 increasing or decreasing the presumptive amount of recovery for a Tort Claimant with an  
25 Allowed Claim in a Tier but not beyond the range of recoveries provided for each Tier. In no  
26 event, however, will the Special Master be able to increase the Tier One Recovery Amount, the

1 Tier Two Recovery Amount, the Tier Three Recovery Amount or the Tier Four Recovery  
2 Amount, as applicable, beyond the maximum amount in such Tier, nor will the Special Master  
3 have the power to move a Tort Claim into a different Tier to increase the recovery if the acts of  
4 abuse do not fit within a particular Tier. The determination of the Special Master will be final  
5 and there will be no right of appeal from the determination of the Special Master. A Settling Tort  
6 Claimant will have no right to opt out of the Settlement Trust except at the time of voting on the  
7 Plan. A Settling Tort Claimant whose Claim is Disallowed pursuant to the claim determination  
8 procedures set forth in the Settlement Trust Agreement will receive no distribution under the Plan  
9 and will have no further Claim against the Diocese or the Reorganized Debtor.

10 There may be Tort Claims that are filed and Disallowed because the applicable statute of  
11 limitations for bringing such a Claim has run and no circumstances exist whereby such the time  
12 for bringing such a Claim was tolled. The Diocese is concerned about such Tort Claimants and  
13 wants those Claimants with Barred Tort Claims to have the resources of the Diocese available to  
14 them through the VAP. Therefore, if the Claim of a Settling Tort Claimant is Disallowed because  
15 it is a Barred Tort Claim, the holder of the Disallowed Tort Claim will be given the opportunity to  
16 participate in the VAP.<sup>24</sup>

17 (ii) Claim Amounts in Settlement Trust.

18 The range of recoveries within a Tier will be determined by the Bankruptcy Court as part  
19 of the confirmation process.

20 (iii) Distributions from Settlement Trust.

21 The Trustees of the Settlement Trust will establish a reserve for future claims based upon  
22 a formula determined by the Bankruptcy Court as part of the confirmation process. The Trustees  
23 of the Settlement Trust will also establish such other reserves for fees, costs and expenses of the

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25 <sup>24</sup> To the extent that any such Tort Claimant is already participating in counseling that is  
26 provided by the Diocese other than through the VAP, such Tort Claimant will be given the  
opportunity to continue such counseling.

1 Settlement Trust as are required pursuant to its terms. After Allowance of all Claims of the  
2 Settling Tort Claimants and establishment of the reserves, the Trustees will pay the Allowed  
3 Claims of the Settling Tort Claimants. To the extent that the Settlement Trust has not been fully  
4 funded as of the date that all Claims of Settling Tort Claimants have been determined<sup>25</sup>, the  
5 Trustees will distribute a Pro Rata share of the funds allocated to the Settlement Trust after a  
6 reserve is established for future fees, costs and expenses of the Trustees of the Settlement Trust  
7 and the Settlement Master.

8 (iv) Attorney's Fees of Settling Tort Claimants.

9 The fees and expenses of attorneys representing any of the Settling Tort Claimants who  
10 receive payment from the Settlement Trust will be borne by such Claimants based on applicable  
11 state law and individual arrangements made between each Settling Tort Claimant and his or her  
12 attorneys. In no event will the Diocese, the Reorganized Debtor or the Trustees of the Settlement  
13 Trust have any liability for any fees and expenses of attorneys representing any of the Settling  
14 Tort Claimants and any such Claims, if any, will be Disallowed.

15 (c) Determination and Treatment of Claims in Litigation Trust

16 Tort Claimants who opt out of the Settlement Trust ("Non-settling Tort Claimants") will  
17 be: (a) subject to the Litigation Protocol; and (b) not receive any payment if (and to the extent)  
18 the Claim is Disallowed pursuant to the litigation procedures constituting the Litigation Protocol.  
19 To the extent that the Debtor has removed all pending actions to the United States District Court,  
20 the Non-settling Tort Claimants will be heard and determined in the District Court. All Non-  
21 settling Tort Claimants will retain the right to adjudicate their Claims through litigation (including  
22 trial by jury), subject however, to the provisions of the Plan and the Litigation Trust Agreement.  
23 No payments will be made by the Trustees of the Litigation Trust until all Tort Claims of Non-  
24 settling Tort Claimants have been determined. The Trustees in the Litigation Trust as well as the

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25 <sup>25</sup> For example, any Insurance Actions may not be finally resolved when the Special  
26 Master has determined all Tort Claims of Settling Tort Claimants.

1 any Tort Claimant will retain all appeal rights from any decision by the District Court or a jury to  
2 determine the amount of any Tort Claim to be determined pursuant to the Litigation Protocol. All  
3 costs and expenses of the Trustees including all attorneys' fees and costs will be paid from the  
4 assets of the Litigation Trust prior to any distribution to the Tort Claimants..

5 (i) Distributions from Litigation Trust

6 At such time as all Tort Claims that are part of the Litigation Trust have been determined  
7 by entry of a Final Order, the Trustees of the Litigation Trust will distribute the proceeds of the  
8 Litigation Trust Pro Rata based upon the total amount of Allowed Tort Claims in the Litigation  
9 Trust as determined by the Litigation Protocol. If the amount allocated by the Court to the  
10 Litigation Trust as part of the confirmation process is not sufficient to pay all Allowed Tort  
11 Claims in the Litigation Trust in full, any amounts remaining unpaid after the Pro Rata  
12 distribution will be Disallowed. No Non-settling Tort Claimant will have recourse to the  
13 Settlement Trust or the Reorganized Debtor, any Participating Third Party or any Settling Insurer  
14 and any such Disallowed portion of the Tort Claim of a Non-settling Tort Claimant will be  
15 discharged and released.

16 (ii) Attorney's Fees of Tort Claimants in Litigation Trust.

17 The fees and expenses of attorneys representing any of the Tort Claimants who opt into  
18 the Litigation Trust will be borne by such Claimants based on applicable state law and individual  
19 arrangements made between each Tort Claimant and his or her attorneys. In no event will the  
20 Diocese, the Reorganized Debtor or the Trustees of the Litigation Trust have any liability for any  
21 fees and expenses of attorneys representing any of such Tort Claimants and any such Claims, if  
22 any, will be Disallowed.

23 **8. Class 10 - Penalty Claims.**

24 Class 10 Penalty Claims will include any fine, penalty, forfeiture, multiple damages,  
25 punitive damages, or exemplary damages not meant to compensate the claimant for actual  
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1 pecuniary loss. No Penalty Claims will be Allowed and there will be no distribution to the  
2 holders of any Penalty Claims

3 **VIII. Means For Execution of the Plan.**

4 **A. Creation and Funding of the Settlement Trust and the Litigation Trust**

5 On or before the Effective Date (but after entry of the Confirmation Order), the  
6 Reorganized Debtor will, in full release, satisfaction and discharge of all Claims in Class 9 (Tort  
7 Claims) cause the following to occur: (a) the execution and delivery of the Settlement Trust  
8 Agreement and the Litigation Trust Agreement, which will establish the Settlement Trust and the  
9 Litigation Trust; (b) the delivery of the initial funding of each trust based upon the allocation  
10 determined by the Bankruptcy Court as part of the confirmation process; and (c) the execution  
11 and delivery of any other agreements, assignments or commitments to carry out the terms of the  
12 Plan or the funding of the Settlement Trust or the Litigation Trust. Any funds received from the  
13 Settling Insurers and Insurance Action Recoveries allocated to the Settlement Trust and the  
14 Litigation Trust received as of the Effective Date will also be paid or distributed by the Debtor to  
15 the Trustees to be held and distributed in accordance with the Settlement Trust Agreement and the  
16 Litigation Trust Agreement. If, on the Effective Date, there remain any Insurance Actions that  
17 have not been resolved prior to the Effective Date, the Debtor may assign all rights and interests  
18 in the Insurance Actions to the Trustees as determined by the Bankruptcy Court as part of the  
19 confirmation process. To the extent the Insurance Actions are assigned to the Trustees, the  
20 Trustees will substitute in any Insurance Actions as the real party in interest after the Effective  
21 Date.

22 The Trustees of the Settlement Trust and the Litigation Trust will assume full  
23 responsibility for resolving all Tort Claims pursuant to the Settlement Trust Agreement and the  
24 Litigation Trust Agreement, as applicable; for making payments to the holders of Allowed Tort  
25 Claims that become Allowed under the conditions set forth in the Settlement Trust Agreement or  
26 the Litigation Trust Agreement; for collecting, investing and distributing funds for the benefit of

1 the holders of Allowed Tort Claims; for fulfilling all other obligations under the Settlement Trust  
2 Agreement and the Litigation Trust Agreement; and for paying the costs and expenses of the  
3 Settlement Trust and the Litigation Trust, all set forth more fully in the Settlement Trust  
4 Agreement and the Litigation Trust Agreement.

5 **B. Treatment of Executory Contracts.**

6 **1. Assumption and Rejection of Executory Contracts.**

7 On the Confirmation Date, except as otherwise provided herein, all Executory Contracts  
8 of the Debtor will be deemed rejected in accordance with the provisions and requirements of  
9 Bankruptcy Code §§ 365 and 1123 other than those Executory Contracts that: (a) have already  
10 been assumed by order of the Bankruptcy Court; (b) are subject to a motion to assume Executory  
11 Contracts that is pending on the Confirmation Date; or (c) are subject to a motion to reject an  
12 Executory Contract pursuant to which the requested effective date of such rejection is after the  
13 Confirmation Date. Approval of any motions to assume Executory Contracts pending on the  
14 Confirmation Date will be approved by the Bankruptcy Court on or after the Confirmation Date  
15 by a Final Order. Each Executory Contract assumed will revert in and be fully enforceable by the  
16 Reorganized Debtor in accordance with its terms, except as such terms are modified by the  
17 provisions of the Plan or any order of the Bankruptcy Court authorizing and providing for its  
18 assumption or applicable law.

19 **2. Claims Based on Rejection of Executory Contracts.**

20 Every Claim asserted by a Creditor arising from the rejection of an Executory Contract  
21 pursuant to the Plan must be filed with the Bankruptcy Court no later than the first Business Day  
22 which is thirty (30) days after the Confirmation Date or the first Business Day that is thirty (30)  
23 days after entry of the Final Order of the Bankruptcy Court approving rejection if such Final  
24 Order is entered after the Confirmation Date. Every such Claim which is timely filed, as and  
25 when it becomes an Allowed Claim, will be treated under Class 7 of the Plan. Every such Claim  
26 which is not timely filed by the deadline stated above will be forever barred, unenforceable, and



1 discharged, and the Creditor holding the Claim will not receive or be entitled to any distribution  
2 under the Plan on account of such Claim.

3 **3. Effect of Assumption of Executory Contracts.**

4 Any Executory Contracts assumed prior to the Effective Date, whether assumed prior to  
5 the Confirmation Date or as part of the confirmation process will be dealt with in accordance with  
6 the terms of the Executory Contract.

7 **C. Funding on the Effective Date.**

8 All payments under the Plan which are due on the Effective Date will be funded from the  
9 Cash on hand, from the proceeds of the sale of the Diocese Real Property, from any contributions  
10 or settlements with any Participating Third Party and Settling Insurers and from the proceeds of  
11 any debtor in possession or exit financing, if any, received by the Debtor during the course of the  
12 case or prior to or in conjunction with the Confirmation Hearing.

13 **D. Funding After the Effective Date.**

14 The funds necessary to ensure continuing performance under the Plan after the Effective  
15 Date will be (or may be) obtained from any Cash retained by the Reorganized Debtor after the  
16 Effective Date; any Cash generated from the post-Effective Date operations of the Reorganized  
17 Debtor; and any other contributions or financing (if any) which the Reorganized Debtor may  
18 obtain on or after the Effective Date.

19 **E. Procedure for Determination of Claims Other Than Tort Claims.**

20 (a) Objections to Claims. Notwithstanding the occurrence of the  
21 Effective Date, and except as to any Claim that has been Allowed prior to the Effective Date or  
22 any Tort Claim, the Reorganized Debtor may object to the allowance of any Claim against the  
23 Debtor or seek estimation thereof on any grounds permitted by the Bankruptcy Code by filing an  
24 objection within one hundred eighty (180) days after the Effective Date.

25 (b) Disputed Claims. No payments or other distributions will be made  
26 to holders of Claims unless and until such Claims are Allowed Claims pursuant to a Final Order.

1 (c) Treatment of Contingent Claims. Until such time as a Contingent  
2 Claim or a Contingent portion of an Allowed Claim becomes fixed or absolute or is Disallowed,  
3 such Claim will be treated as a Disputed Claim for all purposes related to distributions under the  
4 Plan.

5 **F. Payments Effective Upon Tender.**

6 Whenever the Plan requires payment to be made, such payment will be deemed made and  
7 effective upon tender thereof by the Debtor or the Reorganized Debtor to the Creditor to whom  
8 payment is due. If any Creditor refuses a tender, the amount tendered and refused will be held by  
9 the Debtor or the Reorganized Debtor for the benefit of that Creditor pending final adjudication of  
10 the dispute. However, when and if the dispute is finally adjudicated and the Creditor receives the  
11 funds previously tendered and refused, the Creditor will be obliged to apply the funds in  
12 accordance with the Plan as of the date of the tender; and while the dispute is pending and after  
13 adjudication thereof, the Creditor will not have the right to claim interest or other charges or to  
14 exercise any other rights which would be enforceable by the Creditor if the Debtor or the  
15 Reorganized Debtor failed to pay the tendered payment.

16 **G. Preservation of Debtor's Claims, Demands, And Causes of Action.**

17 All claims, demands, and causes of action of any kind or nature whatsoever held by,  
18 through, or on behalf of the Debtor and/or the Estate against any other Person, including but not  
19 limited to, all Avoidance Actions arising before the Effective Date and all Insurance Actions and  
20 which have not been resolved or disposed of prior to the Effective Date, are hereby preserved in  
21 full for the benefit of the Reorganized Debtor, except for such claims or causes of action, cross-  
22 claims, and counterclaims which have been released hereunder or pursuant to a Final Order prior  
23 to the Effective Date. To the extent necessary, the Reorganized Debtor is hereby designated as  
24 the estate representative pursuant to and in accordance with Bankruptcy Code § 1123(b)(3)(B).  
25 Furthermore, in accordance with Bankruptcy Code § 1123(b)(3), after the Effective Date, the  
26 Reorganized Debtor will own and retain, and may prosecute, enforce, compromise, settle, release,

1 or otherwise dispose of, any and all claims, defenses, counterclaims, set offs, and recoupments  
2 belonging to the Debtor or its Estate. All defenses, counterclaims, Claims and demands related to  
3 the Tort Claims are preserved and transferred to the Trustees of the Litigation Trust and the  
4 Settlement Trust in accordance with Bankruptcy Code § 1123(b). The Debtor and the  
5 Reorganized Debtor will also be entitled to assign their rights under the Plan. On the Effective  
6 Date, the Trustees and the Trust are hereby designated as the estate representative pursuant to and  
7 in accordance with Bankruptcy Code § 1123(b)(3)(B) with respect to the Insurance Actions to the  
8 extent the Insurance Actions are assigned to the Trustees.

9 **H. Special Provisions Governing Unimpaired Claims.**

10 Except as otherwise provided in the Plan, nothing will affect the Debtor's or the  
11 Reorganized Debtor's rights and defenses with respect to any Unimpaired Claims, including, but  
12 not limited to, all rights with respect to legal and equitable defenses to or setoffs or recoupments  
13 against such Unimpaired Claims.

14 **I. Operative Documents.**

15 The Debtor will prepare any documents which the Debtor and the Reorganized Debtor  
16 deem are necessary or appropriate to execute the Plan or provided for under the Plan. If there is  
17 any dispute regarding the reasonableness or propriety of any such documents after reasonable and  
18 good faith efforts by the Debtor to negotiate and obtain approval of the documents by the other  
19 affected Person(s), any such dispute will be presented to the Bankruptcy Court for determination  
20 at or in conjunction with the Confirmation Hearing.

21 **J. Return of Deposits.**

22 To the extent that the Debtor was required to and did pay deposits to any Creditors after  
23 the Petition Date as a condition of or as security for continued service after the Petition Date,  
24 then, upon satisfaction of the Claims of such Creditor(s) pursuant to the Plan, any such deposits,  
25 together with any interest or other income earned thereon, if any, will be refunded to the  
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1 Reorganized Debtor within fifteen (15) days of demand by the Reorganized Debtor for return of  
2 such deposit(s).

3 **K. Administrative Claims Bar Date.**

4 All requests for payment of administrative costs and expenses incurred prior to the  
5 Effective Date pursuant to Bankruptcy Code §§ 507(a)(1) and 503(b) will be served and filed  
6 with the Bankruptcy Court no later than thirty (30) days after the Effective Date. Any such Claim  
7 which is not served and filed within this time period will be forever barred. Any Claims for fees,  
8 costs, and expenses incurred by any Chapter 11 Professionals after the Effective Date will be  
9 treated as part of the fees and expenses of the Reorganized Debtor and need not be submitted to  
10 the Bankruptcy Court for approval. After approval of the final fee applications of the Chapter 11  
11 Professionals by the Bankruptcy Court for services provided and costs incurred during the course  
12 of administration of the Reorganization Case and prior to the Effective Date, the Chapter 11  
13 Professionals will not be required to submit any further fee applications to the Bankruptcy Court  
14 in accordance with Bankruptcy Code § 330.

15 **L. Delivery Of Distributions.**

16 Distributions will be made by the Debtor or the Reorganized Debtor with respect to all  
17 Claims other than Tort Claims<sup>26</sup> as follows:

18 (a) At the addresses set forth in the proofs of Claim filed by holders of  
19 Claims (or the last known addresses of such holders if no proof of Claim is filed or if the Debtor  
20 or the Reorganized Debtor has not been notified of a change of address);

21 (b) At the addresses set forth in written notices of address change  
22 delivered to the Debtor or the Reorganized Debtor after the date of any related proof of Claim;

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24  
25 <sup>26</sup> Distributions to Tort Claimants will be pursuant to the terms of the Litigation Trust  
26 Agreement or the Settlement Trust Agreement although the procedures may be similar or the  
same as the procedures set forth above.

1 (c) At the addresses reflected in the Schedules if no proof of Claim has  
2 been filed and the Debtor or the Reorganized Debtor has not received a written notice of change  
3 of address; or

4 (d) If any distribution to a holder of an Allowed Claim is returned as  
5 undeliverable, no further distributions to such holder will be made unless and until the Debtor or  
6 the Reorganized Debtor is notified of such holder's then-current address, at which time all missed  
7 distributions will be made to the holder without interest.

8 All claims for undeliverable or uncashed distributions must be made on or before the first  
9 (1st) anniversary of the date applicable to such distribution, or with respect to the a final  
10 distribution to a Creditor holding an Allowed Claim, within ninety (90) days thereof. After such  
11 date, all such unclaimed property will revert to the Reorganized Debtor for further distribution in  
12 accordance with the Plan, and the Claim of any holder or successor to such holder with respect to  
13 such property will be discharged and forever barred, notwithstanding any federal or state escheat  
14 law to the contrary.

15 **M. Limitation on De Minimis Payments.**

16 The Debtor or the Reorganized Debtor will make no distributions of less than \$50 to any  
17 Creditor holding an Allowed Claim. If a Creditor holding an Allowed Claim does not receive a  
18 distribution due to the provisions of this Section on any date on which is a distribution is to be  
19 made to Creditors in the same Class as the Creditor being entitled to such de minimis payment,  
20 then the Claim (so long as it is an Allowed Claim) will remain eligible for distributions on any  
21 subsequent distribution date, subject to the provisions of this Section. In all events, the Creditor  
22 holding an Allowed Claim which has not received a distribution on any previous distribution  
23 dates because of this provision, will receive such distribution on the date that final distribution is  
24 made to Creditors in the same Class as the Creditor being entitled to such de minimis payment.

25 **IX. CONDITIONS TO EFFECTIVE DATE**

26 **A. Conditions To Occurrence Of Effective Date.**

1           Each of the following are conditions to the Effective Date, which conditions must be  
2 satisfied or waived by the Debtor.

3                       (a)     The Confirmation Order has been entered by the Bankruptcy Court  
4 and the Confirmation Order has become a Final Order.

5                       (b)     The Confirmation Order is in form and substance satisfactory to the  
6 Debtor.

7                       (c)     All actions, documents, and agreements necessary to implement the  
8 Plan will have been effected or executed.

9           **B. Debtor's Obligations to Cause Effective Date to Occur.**

10           Upon satisfaction of the conditions to the Effective Date, the Reorganized Debtor shall  
11 pay or make provision for the prompt payment to holders of Allowed Claims to whom payments,  
12 pursuant to the Plan, are to be made on the Effective Date. The Reorganized Debtor will also  
13 make the transfers required to be made to the Settlement Trust and the Litigation Trust unless  
14 such transfers have occurred prior to the Effective Date, and such transfers will be in full release  
15 and complete satisfaction and discharge of the Tort Claims.

16           **C. Waiver Of Conditions.**

17           The Debtor, in its sole discretion, may waive any of the conditions to the occurrence of  
18 the Effective Date including waiver of the Final Order condition any time from and after the  
19 Confirmation Date. In that event, the Debtor will be entitled to render any or all of its  
20 performance under the Plan prior to what otherwise would be the Effective Date if the above-  
21 referenced conditions were not waived, including, but not limited to, the right to perform under  
22 any circumstances which would moot any appeal, review, or other challenge of any kind to the  
23 Confirmation Order if the Confirmation Order is not stayed pending such appeal, review, or other  
24 challenge.

25           **D. Effect of Non-occurrence of Conditions.**

26

1           If the consummation of the Plan does not occur, the Plan will be null and void in all  
2 respects and nothing contained in the Plan or this Disclosure Statement will: (a) constitute a  
3 waiver or release of any Claims by or against the Debtor; (b) prejudice in any manner the rights  
4 of the Debtor; or (c) constitute an admission, acknowledgement, offer, or undertaking by the  
5 Debtor in any respect.

6           **E. Merger; Choice of Law.**

7           All obligations of the Debtor to all Claimants will be merged into the Plan and the  
8 documents executed by the Reorganized Debtor at Closing and delivered to the respective  
9 affected Claimants. All such obligations of the Reorganized Debtor will be evidenced by the Plan  
10 and such executed and delivered documents. Unless otherwise provided therein, such documents  
11 will be governed by and construed in accordance with Arizona law.

12           **F. Other Obligations of the Reorganized Debtor.**

13           The Reorganized Debtor will review all Claims other than Tort Claims filed against the  
14 estate and, if warranted, object to Claims within the time period provided in the Plan; and perform  
15 all of its obligations under the Plan Documents, including, without limitation, those obligations  
16 provided in the Settlement Trust Agreement and the Litigation Trust Agreement.

17           **G. Modifications To Plan.**

18           The Plan may be modified by the Debtor or the Reorganized Debtor (as applicable)  
19 subject to and in accordance with the provisions and requirements of Bankruptcy Code § 1127.

20           **X. EFFECT OF CONFIRMATION.**

21           **A. Discharge.**

22           Except as otherwise expressly provided in the Plan or in the Confirmation Order, on the  
23 Effective Date the Debtor will be discharged from and its liability shall be extinguished  
24 completely in respect of any Claim and Debt, whether reduced to judgment or not, liquidated or  
25 unliquidated, contingent or noncontingent, asserted or unasserted, fixed or not, matured or  
26 unmatured, disputed or undisputed, legal or equitable, known or unknown, that arose from any

1 agreement of the Debtor entered into or obligation of the Debtor incurred before the Confirmation  
2 Date, or from any conduct of the Debtor prior to the Confirmation Date, or that otherwise arose  
3 before the Confirmation Date, including, without limitation, all interest, if any, on any such  
4 Claims and Debts, whether such interest accrued before or after the date of commencement of the  
5 Case, and including, without limitation, all Claims and Debts based upon or arising out of Tort  
6 Claims and from any liability of the kind specified in Bankruptcy Code §§ 502(g), 502(h), and  
7 502(i), whether or not a proof of claim is filed or is deemed filed under Bankruptcy Code § 501,  
8 such Claim is Allowed under Bankruptcy Code § 502, or the holder of such Claim has accepted  
9 this Plan.

10 **B. Vesting.**

11 Except as otherwise expressly provided in the Plan or in the Confirmation Order, on the  
12 Effective Date the Reorganized Debtor shall be vested with all of the property of the Estate free  
13 and clear of all Claims, Liens, encumbrances, charges and other interests of Creditors, and will  
14 thereafter hold, use, dispose or otherwise deal with such property and operate its business free of  
15 any restrictions imposed by the Bankruptcy Code or by the Court. All Debtor Actions and, except  
16 to the extent the same are transferred to the Settlement Trust or the Litigation Trust, all Insurance  
17 Actions are hereby preserved for the benefit of the Reorganized Debtor under the respective trust  
18 agreements, the proceeds of which shall be used, as necessary for funding obligations to either the  
19 Settlement Trust or the Litigation Trust, except as otherwise provided in settlements approved by  
20 prior order of the Court or approved by the Court in connection with confirmation of the Plan.  
21 Prosecution and settlement of the Debtor Actions and the retained interest in any Insurance  
22 Actions shall be the exclusive responsibility of the Reorganized Debtor. The Reorganized Debtor  
23 shall have sole and absolute discretion over whether to prosecute or settle such causes of action.

24 **C. Permanent Injunction Against Prosecution of Released Claims and**  
25 **Claims Against Participating Third Parties and Settling Insurers.**

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1           Except as otherwise expressly provided in the Plan, for the consideration described in the  
2 Plan, on the Effective Date all Persons who have held, hold, or may hold Channeled Claims or  
3 Claims against the Diocese, whether known or unknown, and their respective agents, attorneys,  
4 and all others acting for or on their behalf, shall be permanently enjoined on and after the  
5 Effective Date from: (a) commencing or continuing in any manner, any action or any other  
6 proceeding of any kind with respect to any Claim against the Parties, the Diocese, the  
7 Reorganized Debtor, the Settlement Trust, the Litigation Trust, the Trustees, and their respective  
8 predecessors, successors, officials, shareholders subsidiaries, divisions, affiliates, representatives,  
9 attorneys, merged or acquired companies or operations or assigns (collectively, the "Parties") or  
10 the property of the Parties; (b) seeking the enforcement, attachment, collection or recovery by any  
11 manner or means of any judgment, award, decree, or order against the Parties or the property of  
12 the Parties, with respect to any discharged Claim or Channeled Claim; (c) creating, perfecting, or  
13 enforcing any encumbrance of any kind against the Parties or the property of the Parties with  
14 respect to any discharged Claim or Channeled Claim; (d) asserting any setoff, right of  
15 subrogation, or recoupment of any kind against any obligation due to the Parties with respect to  
16 any discharged Claim or Channeled Claim; and (e) taking any act, in any manner and in any place  
17 whatsoever, that does not conform to or comply with provisions of the Plan, the Settlement Trust  
18 Agreement or the Litigation Trust Agreement. Notwithstanding, such provisions in the Plan, each  
19 Non-Settling Tort Claimant will be entitled to continue or commence an action against the  
20 Trustees of the Litigation Trust (in their capacity as Trustees only and not in their individual  
21 capacity) in which the Non-Settling Tort Claimant will be entitled to a jury trial for the sole  
22 purpose of obtaining a judgment as permitted by the Litigation Trust Agreement, thereby  
23 liquidating such Non-Settling Tort Claimant's Claim so that it may be paid with other Allowed  
24 Tort Claims in the ordinary course of the operations of the Litigation Trust, consistent with the  
25 provisions of the Litigation Trust Agreement. The holder of any such judgment will be enjoined  
26 from executing against the Litigation Trust or its assets. In the event any Person takes any action

1 that is prohibited by, or is otherwise inconsistent with the provisions the Plan related to the  
2 release, discharge and injunction, then, upon notice to the Court by an affected Party, the action  
3 or proceeding in which the Claim of such Person is asserted will automatically be transferred to  
4 the Court (or, as applicable, the District Court) for enforcement.

5 The discharge and injunction provisions of the Plan are integral parts of the Plan.

6 **XI. RETENTION OF JURISDICTION**

7 Notwithstanding confirmation of the Plan and the occurrence of the Effective Date, the  
8 Bankruptcy Court will retain jurisdiction for the following purposes specifically described in the  
9 Plan which include, but are not limited to:<sup>27</sup> (i) determine the allowance and payment of any  
10 Claims upon any objections thereto (or other appropriate proceedings) other than Tort Claims  
11 unless specifically provided for in the Settlement Trust or the Litigation Trust; (ii) determine any  
12 dispute which may arise regarding the interpretation of any provision of the Plan; (iii) enforce any  
13 provisions of the Plan and any and all documents relating to the Plan; (iv) determine any matter  
14 relating to the implementation, effectuation, and/or consummation of the Plan as expressly  
15 provided in any provision of the Plan; (v) facilitate the performance of the Plan by entering,  
16 consistent with the provisions of the Plan, any further necessary or appropriate order regarding  
17 enforcement of the Plan; (vi) facilitate or implement the allowance, disallowance, treatment, or  
18 satisfaction of any Claim, or any portion thereof; (vii) adjudicate any dispute or to hear and  
19 determine any action taken, proposed, or threatened by any state, federal, or local governmental  
20 regulatory agency or unit having or asserting jurisdiction or power over the conduct of the  
21 business of the Debtor and/or the Reorganized Debtor; (viii) enter an appropriate final decree in  
22 the Bankruptcy Case; (ix) implement and enforce the Confirmation Order and the Plan according  
23 to their terms; (x) determine any and all motions regarding assumption or rejection of Executory

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24 <sup>27</sup> However, the continuing and retained jurisdiction of the Court is limited so that any  
25 internal disputes between a Parish and the Diocese or any other entity whose dispute should be  
26 determined in a church tribunal or in accordance with Canon Law, will be determined in such  
tribunal and not in the Bankruptcy Court.

1 Contracts and any and all Claims arising therefrom; (xi) hear and determine any claim or cause of  
2 action by or against the Debtor; the Debtor's officers, directors, and employees; the Chapter 11  
3 Professionals; and the Reorganized Debtor; (xii) adjudicate any causes of action or other  
4 proceeding currently pending or otherwise referenced here or elsewhere in the Plan, including,  
5 but not limited to, the adjudication of the Avoidance Actions and any and all "core proceedings"  
6 under 28 U.S.C. §157(b) which may be pertinent to the Reorganization Case and which the  
7 Debtor or the Reorganized Debtor may deem appropriate to initiate and prosecute before the  
8 Court in aid of the implementation of the Plan; (xiii) modify the Plan pursuant to the provisions of  
9 the Plan.

10 If the Bankruptcy Court abstains from exercising or declines to exercise jurisdiction or is  
11 otherwise without jurisdiction over any matter arising out of the Reorganization Case, the  
12 provisions regarding retention of jurisdiction by the Bankruptcy Court will not diminish, control,  
13 prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with  
14 respect to such matter.

## 15 **XII. GENERAL PROVISIONS**

### 16 **A. Extension Of Payment Dates.**

17 If any payment date falls due on any day which is not a Business Day, then such due date  
18 will be extended to the next Business Day.

### 19 **B. Notices.**

20 Any notice required or permitted to be provided under the Plan will be in writing and  
21 served by regular first class mail, overnight delivery, or hand-delivery.

### 22 **C. Closing of the Case.**

23 At such time as the Plan has been fully administered and/or the Plan has been substantially  
24 consummated, the Reorganized Debtor will file an application for Final Order showing that the  
25 Plan has been substantially consummated. The Reorganized Debtor will file an application for  
26 Final Order upon notice to only those Creditors, holders of Interests, and parties that, after the

1 Effective Date, have specifically requested, after which an order approving the Reorganized  
2 Debtor's final report and closing the Reorganization Case may be entered.

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5 **D. Interest.**

6 Whenever interest is to be computed under the Plan, interest will be simple interest and  
7 not compounded.

8 **E. Additional Assurances.**

9 The Debtor, the Reorganized Debtor, and the Creditors holding Claims herein will execute  
10 such other further documents as are necessary to implement any of the provisions of the Plan.

11 **F. Confirmation By Nonacceptance Method.**

12 The Debtor has requested, as part of the Plan, confirmation of the Plan pursuant to  
13 Bankruptcy Code § 1129(b) with respect to any impaired Class of Claims which does not vote to  
14 accept the Plan.

15 **G. Withdrawal Of Plan.**

16 The Plan may be withdrawn or revoked prior to entry of the Confirmation Order.

17 **H. Severability And Reformation.**

18 It is the Debtor's intention to comply fully with the Bankruptcy Code and applicable  
19 nonbankruptcy law in proposing the Plan. Therefore, if any provision of the Plan is determined  
20 by the Bankruptcy Court to be contrary to the Bankruptcy Code or applicable nonbankruptcy law,  
21 that provision will be deemed severed and automatically deleted from the Plan, if it cannot be  
22 reformed or the provision or its interpretation will be deemed reformed to ensure compliance;  
23 provided, however, that nothing contained in this Section will prevent the Debtor from modifying  
24 the Plan in any manner whatsoever in accordance with and as set forth in the Plan. Pursuant to  
25 any ruling by the Bankruptcy Court regarding the subject matter of this Section, any such

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1 severance or reformation will be stated specifically in the Confirmation Order, which then will  
2 control notwithstanding any contrary or inconsistent provisions of the Plan.

3 **I. Prohibition Against Prepayment Penalties.**

4 If the Debtor or the Reorganized Debtor chooses, in its sole and absolute discretion, to  
5 prepay any obligation on which deferred payments are provided for under the Plan, the Debtor or  
6 the Reorganized Debtor will not be liable or subject to the assessment of any prepayment penalty  
7 thereon unless otherwise ordered by the Bankruptcy Court.

8 **J. Fractional Dollars.**

9 Notwithstanding any other provision of the Plan, no payments or distributions under the  
10 Plan of or on account of fractions of dollars will be made. When any payment or distribution of  
11 or on account of a fraction of a dollar to any holder of an Allowed Claim would otherwise be  
12 required, the actual payment or distribution made will reflect a rounding of such fraction to the  
13 nearest whole number (up or down).

14 **K. Payment Of Statutory Fees And Filing of Quarterly Reports.**

15 All fees payable pursuant to Section 1980 of Title 28 of the United States Code, 28 U.S.C.  
16 § 1980, as determined by the Bankruptcy Court at or in conjunction with the Confirmation  
17 Hearing, will be paid on or before the Effective Date and, thereafter, in accordance with  
18 applicable bankruptcy law. All quarterly reports of disbursements required to be filed by  
19 applicable bankruptcy law will be filed in accordance with applicable bankruptcy law.

20 **L. Reservation of Rights.**

21 Except as expressly provided in the Plan and this Disclosure Statement, the Plan will have  
22 no force or effect unless the Confirmation Order is entered by the Bankruptcy Court and the  
23 Effective Date has occurred. None of the filing of the Plan, any statement or provision contained  
24 in the Plan or in this Disclosure Statement, or the taking of any action by the Debtor with respect  
25 to the Plan will be or will be deemed to be an admission or waiver of any rights of the Debtor  
26 with respect to the holders of Claims prior to the Effective Date.

1           **M. No Professional Fees or Expenses.**

2           No professional fees or expenses will be paid by the Debtor or the Reorganized Debtor  
3 with respect to any Claim except as specified in the Plan or as Allowed by Final Order of the  
4 Court.

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6           **N. Dissolution of Unsecured Committee.**

7           Upon the occurrence of the Effective Date, the Unsecured Committee will dissolve and  
8 members will be released from all rights and duties arising from or related to the Reorganization  
9 Case.

10           **O. Section 1146 Exemption.**

11           Pursuant to Bankruptcy Code § 1146(c), any transfers of property pursuant hereto will not  
12 be subject to any document, recording tax, stamp tax, conveyance fee, intangibles or similar tax,  
13 mortgage tax, stamp act, real estate transfer tax, mortgage recording tax or other similar tax or  
14 governmental assessment in the United States, and the confirmation Order will direct the  
15 appropriate state or local governmental officials or agents to forgo the collection of any such tax  
16 or governmental assessment and to accept for filing and recordation any of the foregoing  
17 instruments or other documents without the payment of any such tax or governmental assessment.

18           **P. Successors and Assigns.**

19           The rights, benefits and obligations of any Person named or referred to in the Plan will be  
20 binding upon, and will inure to the benefit of, the heir, executor, administrator, successor or  
21 assign of such Person.

22           **XIII. POST-CONFIRMATION MANAGEMENT AND REORGANIZED DEBTOR**

23           **1. The Diocese**

24           The administration of the Reorganized Debtor will continue with the same offices and  
25 individuals in those offices as identified in Section IV.B. above.

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1 Bishop Kicanas became Bishop of Tucson on March 7, 2003. He was born in Chicago  
2 and was ordained a priest for the Archdiocese of Chicago on April 27, 1967. Bishop Kicanas  
3 served in various capacities in the Archdiocese's seminary system for over 25 years. In 1984, he  
4 was appointed Rector of Mundelein Seminary at the University of St. Mary of the Lake,  
5 Mundelein, Illinois, which is the Theologate graduate level seminary of the Archdiocese.  
6 Concurrently, he served as a Lecturer in Community and Organization Development at Loyola  
7 University. Bishop Kicanas has a Ph.D. in Educational Psychology, a M.Ed. in Guidance and  
8 Counseling from Loyola University, and a Licentiate in Sacred Theology from St. Mary of the  
9 Lake Seminary, Mundelein, IL.

10 **XIV. FEDERAL TAX CONSEQUENCES.**

11 THE FEDERAL, STATE, LOCAL, AND FOREIGN TAX CONSEQUENCES OF THE  
12 PLAN ARE COMPLEX AND, IN MANY AREAS, UNCERTAIN. ACCORDINGLY, ALL  
13 HOLDERS OF CLAIMS ARE STRONGLY URGED TO CONSULT THEIR TAX ADVISORS  
14 WITH SPECIFIC REFERENCE TO THE FEDERAL, STATE, AND LOCAL TAX  
15 CONSEQUENCES OF THE PLAN WITH RESPECT TO SUCH HOLDER. NEITHER THE  
16 DEBTOR NOR DEBTOR'S COUNSEL MAKES ANY REPRESENTATIONS REGARDING  
17 THE PARTICULAR TAX CONSEQUENCES OF CONFIRMATION AND  
18 CONSUMMATION OF THE PLAN AS TO THE DEBTOR OR ANY CREDITOR.

19 Under the Internal Revenue Code of 1986, as amended (the "Code"), there may be  
20 significant federal income tax issues arising under the Plan described in this Disclosure Statement  
21 that affect Creditors in the case.

22 The Settlement Trust and the Litigation Trust is each a "qualified settlement fund"  
23 ("QSF") with in the meaning Treasury Regulations enacted under Internal Revenue Code Section  
24 486B(g). Each Trust is characterized as a QSF because:

- 25 1. The Trust is established pursuant to an order of, or is approved by, the United  
26 States, any state or political subdivision thereof, or any agency or instrumentality

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(including a court of law) of any of the foregoing and is subject to the continuing jurisdiction of that governmental authority;

2. The Trust is established to resolve or satisfy one or more contested or uncontested claims that have resulted or may result from an event that has occurred and that has given rise to at least one claim asserting liability arising out of, among other things, a tort, breach of contract, or violation of law (but excluding non-tort obligations of the Diocese to make payments to its general trade creditors or debt holders that relates to: a case under title 11 of United States Code, a receivership, foreclosure of similar proceeding in a Federal or State court, or a workout); and
3. The Trust is a trust under state law.<sup>28</sup>

The primary tax consequences of the Trust being characterized as a QSF are the following:

1. The Trust must use a calendar taxable year and the accrual method of accounting.
2. If the Diocese funds the Trust with appreciated property, the Diocese is deemed to sell the property to the Trust. Accordingly, any gain or loss from the deemed sale must be reported by the Diocese.
3. The Trust takes a fair market value basis in property contributed to it by the Diocese.
4. The Trust's gross income less certain modifications is taxable at the highest federal tax rate applicable to trusts and estates (currently 35%). The Diocese's funding of the Trust with cash and other property is not reported by the Trust as taxable income. However, earnings recognized from, for example, the short-term investment of the Trust's funds will be subject to tax.

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<sup>28</sup> Treas. Reg. 1.468B-1(c)



- 1           5.     The Trust may deduct from its gross income a limited number of administrative  
2           expenses; the Trust is not entitled to deduct distributions paid to its beneficiaries.
- 3           6.     The Trust will have a separate taxpayer identification number and will be required  
4           to file annual tax returns (which are due on March 15). The Trust will also be  
5           required to comply with a number of other administrative tax rules including filing  
6           information returns (generally IRS Form 1099) when approved payments are made  
7           to claimants.

8           It is not practicable to present a detailed explanation of every possible federal income tax  
9           ramifications of the Plan.

10       **XV. ACCEPTANCE AND CONFIRMATION.**

11       **A. Voting Procedures.**

12       **1. Generally.**

13           Only those Classes that are impaired under the Plan are entitled to vote to accept or reject  
14           the Plan. The Diocese reserves the right to supplement this Disclosure Statement (if necessary)  
15           and to solicit any of those Classes which may prove to be impaired or unimpaired, as the  
16           Reorganization Case develops further.

17           Separate ballots will be sent to the known holders of Claims whether or not such Claims  
18           are disputed. However, only the holders of Allowed Claims (or Claims that have been  
19           temporarily allowed or have been estimated by the Bankruptcy Court) which are impaired are  
20           entitled to vote on the Plan. A Claim to which an objection has been filed is not an Allowed  
21           Claim unless and until the Bankruptcy Court rules on the objection and any appeals are  
22           determined. The holders of such Disputed Claims are not entitled to vote on the Plan unless they  
23           request that the Bankruptcy Court, pursuant to Bankruptcy Rule 3018, temporarily allow the  
24           Claims in appropriate amounts solely for the purpose of enabling the holders of such Disputed  
25           Claims to vote on the Plan, and the Bankruptcy Court does so.

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**2. Incomplete Ballots.**

Ballots which are signed, dated, and timely received, but on which a vote to accept or reject the Plan has not been indicated, will not be counted as a vote either to accept or to reject the Plan or as a vote cast with respect to the Plan.

**3. Withdrawal Of Ballots; Revocation.**

Any Creditor holding an impaired Allowed Claim which has delivered a Ballot accepting or rejecting the Plan or opting out of the Settlement Trust may withdraw such acceptance or rejection or election by delivering a written notice of withdrawal to the Diocese at any time prior to the voting deadline. A notice of withdrawal, to be valid, must: (i) contain the description of the Claim to which it relates and the amount of such Claim; (ii) be signed by the voting Creditor, in the same manner as the Ballot; and (iii) be received by the Diocese in a timely manner at the address set forth below. Unless otherwise directed by the Bankruptcy Court, a purported notice of withdrawal of Ballots or change in the Claimants election to opt out of the Settlement Trust which is not received in a timely manner will not be effective to withdraw a previously furnished Ballot.

**4. Submission Of Ballots.**

The form of Ballot for each of the Classes entitled to vote on the Plan will be sent to all Creditors along with a copy of the Court-approved Disclosure Statement and a copy of the Plan. Creditors should read the Ballot carefully. If any Creditor has any questions concerning voting procedures, it may contact:

QUARLES & BRADY STREICH LANG LLP  
One South Church Avenue, Suite 1700  
Tucson, AZ 85701  
(520)770-8700  
Attention: Suzanne Utter and Sybil Taylor Aytch

Ballot(s) or withdrawals/revocations or changes of election thereof must be returned to the above counsel for the Diocese. Ballots (and withdrawals/revocations and changes of elections of

1 Ballots) must be postmarked no later than \_\_\_\_\_, 2004. In addition, Ballots may be  
2 faxed, Attention: Suzanne Utter, (520) 770-2228. To be effective, transmission of the facsimile  
3 must begin no later than 5:00 P.M. on \_\_\_\_\_, 2004.

4 In addition, the Bankruptcy Court will hold a hearing on confirmation of the Plan  
5 commencing on \_\_\_\_\_, 2004 at \_\_\_\_\_ a.m./p.m. in the Bankruptcy Courtroom No.  
6 8219, 110 South Church Avenue, Tucson Arizona 85701. All objection(s), if any, to the  
7 confirmation of the Plan must be in writing; must state with specificity the grounds for any such  
8 objections); and must be filed with the Bankruptcy Court and served upon counsel for the Diocese  
9 at the following address on or before \_\_\_\_\_, 2004:

10 QUARLES & BRADY STREICH LANG LLP  
11 One South Church Avenue Suite 1700  
12 Tucson, Arizona 85701  
13 (520) 770-8700  
14 Attention: Kasey C. Nye, Esq.

15 **B. Feasibility.**

16 The Bankruptcy Code requires, as a condition to confirmation, that the Bankruptcy Court  
17 find that liquidation of the Diocese or the need for future reorganization is not likely to follow  
18 after confirmation. For the purpose of determining whether the Plan meets this requirement, the  
19 Reorganized Debtor's ability to meet its obligations under the Plan has been analyzed. As  
20 discussed previously, the Diocese has prepared projections of the cash flow for the Diocese's  
21 businesses. The projections were prepared by Keegan, Linscott & Kenon and are attached as  
22 Exhibit "8" to this Disclosure Statement. The Diocese reasonably believes that the Debtor will be  
23 able to fund the Plan on the Effective Date and the Reorganized Debtor will be able to make all  
24 payments required to be made pursuant to the Plan.

25 **C. Best Interests Of Creditors And Liquidation Analysis.**

26 Under Bankruptcy Code § 1129(a)(7), the Plan must provide that Creditors receive as  
much or more under the Plan than they would receive in a Chapter 7 liquidation of the Diocese.  
This analysis is unusually hypothetical in this case, because, as a non profit entity, the Diocese's

1 Reorganization Case cannot be converted to a Chapter 7 without the Diocese's consent under 11  
2 U.S.C. § 1112(c)(disallowing conversion of chapter 11 cases where the debtors is "not a moneyed  
3 corporation"). The Diocese submits that the best interest of creditors test in this context is akin to  
4 that of a Chapter 9 proceeding.

5 While the best interests of the creditors test is an elusive standard in Chapter 9]  
6 nevertheless the concept is not without meaning.... The concept should be  
7 interpreted to mean that the plan must be better than the alternative that creditors  
8 have. In the chapter 9 context, the alternative is dismissal of the case, permitting  
9 every creditor to fend for itself in the race to obtain the mandamus remedy and to  
10 collect the proceeds.... [The courts] must apply **the test to require a reasonable  
11 effort by the municipal debtor that is a better alternative to the creditors than  
12 dismissal of the case.**

13 In re County of Orange, 191 B.R. 1005, 1020 (Bankr. C.D. Ca. 1996)(quoting 4 Collier on  
14 Bankruptcy, 943.03(7) (15th ed. 1995)(emphasis added by Judge Ryan). Accordingly, it is the  
15 Diocese's position that the best interest of creditors standard be applied to compare this Plan to  
16 the true alternative of dismissal and a race to the courthouse which greatly benefits the first to sue  
17 over the claims of others. Nevertheless in a hypothetical liquidation, the Diocese asserts that all  
18 Creditors will receive more under the Plan than they would in a liquidation. In a liquidation not  
19 only would the assets subject to restriction be in dispute, but the Participating Third Parties and  
20 Settling Insurers would not voluntarily contribute without the corresponding benefit of putting  
21 these claims behind them.

22 **D. Confirmation Over Dissenting Class.**

23 In the event that any impaired Class of Claims does not accept the Plan, the Bankruptcy  
24 Court may nevertheless confirm the Plan at the request of the Diocese if all other requirements  
25 under Bankruptcy Code § 1129(a) are satisfied, and if, as to each impaired Class which has not  
26 accepted the Plan, the Bankruptcy Court determines that the Plan "does not discriminate unfairly"  
and is "fair and equitable" with respect to such non-accepting Classes. Each of these  
requirements is discussed below.

1                   **1.     No unfair discrimination.**

2                   The Plan "does not discriminate unfairly" if: (a) the legal rights of a dissenting Class are  
3 treated in a manner that is consistent with the treatment of other Classes whose legal rights are  
4 similar to those of the dissenting Class; and (b) no Class receives payments in excess of those  
5 which it is legally entitled to receive for its Claims. The Diocese believes that under the Plan: (i)  
6 all Classes of impaired Claims are treated in a manner that is consistent with the treatment of  
7 other similar Classes of Claims; and (ii) no Class of Claims will receive payments or property  
8 with an aggregate value greater than the aggregate of the Allowed Claims in such Class.  
9 Accordingly, the Diocese believes that the Plan does not discriminate unfairly as to any impaired  
10 Class of Claims.

11                   **2.     Fair and Equitable Test.**

12                   The Bankruptcy Code establishes different "fair and equitable" tests for Secured Claims,  
13 Unsecured Claims, and holders of Equity Interests, as follows:

14                   (a)     Secured Creditors. Either (i) each impaired Secured Creditor  
15 retains its liens securing a Secured Claim and receives on account of its Secured Claim deferred  
16 cash payments having a present value equal to the amount of its Allowed Secured Claim, (ii) each  
17 impaired Secured Creditor realizes the "indubitable equivalent" of its Allowed Secured Claim, or  
18 (iii) the property securing the Claim is sold free and clear of liens with such liens to attach to the  
19 proceeds, and the liens against such proceeds are treated in accordance with clause (i) or (ii) of  
20 this subparagraph (a).

21                   (b)     Unsecured Creditors. Either (i) each impaired unsecured Creditor  
22 receives or retains under the Plan property of a value equal to the amount of its Allowed Claim, or  
23 (ii) the holders of Claims and Equity Interests that are junior to the Claims of the non-accepting  
24 Class do not receive any property under the Plan on account of such Claims and Equity Interests.

25                   (c)     Equity Interests. Either (i) each holder will receive or retain under  
26 the Plan property of a value equal to or greater than (A) the fixed liquidation preference or

1 redemption price, if any, of such interest or (B) the value of such interest, or (ii) the holders of  
2 interests that are junior to the non-accepting Class will not receive any property under the Plan.  
3 The Diocese believes that the Plan satisfies the "fair and equitable" test with respect to all  
4 impaired Classes.

5 As with the best interests of creditors test, the fair and equitable test is applied differently  
6 in the Reorganization Case than in most reorganization cases because the Diocese is not a  
7 moneyed corporation. This is the case because the members of a non-profit, in this case, the  
8 Bishop, have no personal interest in the property of the corporation. Accordingly there is  
9 effectively no equity interest in the Diocese. "Thus, what is commonly referred to as the  
10 "absolute priority rule" embodied by Bankruptcy Code § 1129(b)(2)(B) does not prevent the  
11 debtor here from continuing to operate".

12 **XVI. ALTERNATIVES TO THE PLAN.**

13 If the Plan is not confirmed, several different events could occur: (1) the Debtor could  
14 propose another plan providing for different treatment of certain Creditors; or (2) the Bankruptcy  
15 Court (after appropriate notice and hearing) could dismiss the Reorganization Case if the Debtor  
16 is unable to confirm an alternative plan in a reasonable period of time.

17 **XVII. RECOMMENDATIONS OF THE DEBTOR AND CONCLUSION.**

18 The Diocese recommends that all Creditors vote to accept the Plan. The Diocese believes  
19 that the Plan provides the best possible return to Creditors under the circumstances.  
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DATED: September \_\_, 2004.


THE ROMAN CATHOLIC CHURCH  
OF THE DIOCESE OF TUCSON, an Arizona  
corporation sole

By +   
The Most Reverend Gerald F. Kicanas, D.D.

Responsible Person for the Roman Catholic Church  
of the Diocese of Tucson

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