

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WASHINGTON AT SPOKANE

In re:

THE CATHOLIC BISHOP OF
SPOKANE, a/k/a The Catholic Diocese of
Spokane,

Debtor.

No. 04-08822

PLAN TRUSTEE'S MOTION FOR
ORDER APPROVING SETTLEMENT
AGREEMENT

COME NOW the Plan Trustee and the Reorganized Debtor, and respectfully move the Court for entry of the attached Order Approving the Settlement Agreement ("Agreed Order") proposed by the Plan Trustee and the Reorganized Debtor. The settlement described in the Agreed Order provides for early payment and discounting to the present value of the sums remaining due from the Reorganized Debtor to the Plan Trustee under the Plan.

The final payment due under the terms of the Plan is currently scheduled for payment on October, 2009. The Reorganized Debtor has timely and completely performed all of the Reorganized Debtor's obligations under the Plan, to date. This settlement would modify the Plan to reduce the Reorganized Debtor's remaining obligation from \$1,000,000 due and payable on October 1, 2009, to a discounted sum (approximately \$890,000), based upon the present value of the receipt of payment in January, 2008 rather than in October, 2009. The settlement will result in a payment to matrix tort claimants with allowed claims being made as early as February, 2008 rather than in October, 2009, about a year and a half earlier than required.

1 This Motion is supported by the contemporaneously filed Declaration of Gloria Z.
2 Nagler, and by the entire record on file with this Court. The text of the settlement is contained
3 completely within the Proposed Order attached to this motion.

4 The settlement is advantageous for the Plan Trustee, and the claimants entitled to
5 payment pursuant to the Plan. The early payment, with a discount based upon the present
6 commercially-available loan interest rate, but with no discount for loan setup or funding fees,
7 allows the Plan Trustee to pay most of the balance of the funds due the matrix tort claimants with
8 allowed claims in the early months of 2008 rather than at the end of 2009.. If the final
9 installment of the sums due from the Reorganized Debtor was paid to the Plan in October, 2009,
10 additional administrative costs for continuing to administer the Plan would have been incurred
11 by the Plan Trustee. There will be some administrative costs in any event, but less with this
12 settlement in place.

13 The delayed payment would have prevented the claimants from receiving any additional
14 significant distributions until October, 2009, with no interest earned on the balance due during
15 the intervening months. By receiving these funds earlier, the claimants will be able to invest or
16 use the funds much sooner. There may be at least one additional distribution to matrix tort
17 claimants with allowed claims in two to three years, of funds not expended and no longer needed
18 to be held for tax return work, indemnification purposes, etc.

19 The Declaration of Gloria Z. Nagler, the Plan Trustee, provides factual support for the
20 motion. The Declaration is enclosed with this Motion. The declaration also discusses the small
21 risk inherent in the assignment of the Parish Note 3 security interest to the Reorganized Debtor's
22 lender, which the Plan Trustee will continue to seek to minimize further by negotiation of a
23 creditor agreement with the Reorganized Debtor's lender, during the pendency of this motion.
24 The small risk posed by the assignment of the security interest from the Plan Trustee to the
25 lender is not sufficient to outweigh the tangible and immediate benefits of the proposed
26 settlement, and the parties request that Court approve the settlement as proposed whether or not
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1 the Plan Trustee successfully negotiates the creditor agreement with the lender to further
2 minimize the risk.

3 The counsel for a majority of the claimants have participated in and concurred in the
4 negotiation of this settlement. The Plan Trustee anticipates no opposition to the settlement.

5 WHEREFORE, the Plan Trustee and the Reorganized Debtor respectfully move the
6 Court for entry of the attached Agreed Order, approving the Settlement Agreement entered into
7 between the Plan Trustee and the Reorganized Debtor.

8 DATED this 28th day of December, 2007.

9 **NAGLER & ASSOCIATES**

10 /s/Gloria Z. Nagler
11 GLORIA Z. NAGLER, WSBA # 13176
Plan Trustee

12 PAINE HAMBLIN, LLP

13 /s/Shawn M. Cross
14 SHAUN M. CROSS, WSBA #9469
Attorneys for the Reorganized Debtor

The Honorable Patricia Williams
Chapter 11

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In re:

THE CATHOLIC BISHOP OF
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No. 04-08822

PROPOSED ORDER APPROVING
SETTLEMENT AGREEMENT

This Agreed Order comes before this Court on the Stipulation of the Plan Trustee and the Reorganized Debtor as represented by their subscription to this Order and based thereon,

IT IS ORDERED as follows:

1. The Plan in this case entitled "Debtor's Second Amended Plan of Reorganization" (the "Plan") was confirmed on April 24, 2007. The Plan provides for the administration and collection of settlement funds from various entities, including the Reorganized Debtor and the distribution of those funds to Allowed Tort Claimants by the Plan Trustee.
2. The Plan Trustee, Gloria Nagler was appointed effective March 13, 2007 by Order of this Court on April 13, 2007.

- 1 3. Excluding consideration of some of the Plan obligations related to Future Tort Claims,
2 the Plan Trustee has determined as of the date of this Order that the payments required
3 under the Plan and the Debtor's Note (defined in Section 15.1.1 of the Plan) from all
4 sources to the Plan Trust as of the date of this Order have been paid, except for the sum
5 of \$1 million which is to be paid on October 1, 2009 pursuant to Section 15.4.3.1.3 of the
6 Plan. This final remaining payment obligation, referred to in the Plan and hereinafter in
7 this Order as "Parish Note 3", does not bear interest.
- 9 4. The Plan Trustee and the Reorganized Debtor have reached agreement on a present value
10 discount for early payment by the Reorganized Debtor of the remaining 1 million dollars
11 due under the Debtor's Note and Parish Note 3. The calculation of the discount rate
12 utilizes the 7% interest rate to be charged to the Reorganized Debtor in obtaining the loan
13 for early payment. The discount calculation will not incorporate any other loan costs,
14 such as loan fees and other transaction expenses.
- 16 5. The early payment of the present value of the final \$1 million dollars due under the
17 Debtor's Note and Parish Note 3 will fully satisfy all of the Reorganized Debtor's
18 obligations to the Plan Trustee and the Plan Trust under the Debtor's Note and the
19 Parishes' Notes. The accelerated payment of the present value of the final \$1 million
20 dollars due under the Debtor's Note and Parish Note 3 will thus reduce the administrative
21 costs which would otherwise be payable from the current Tort Claimants fund. The
22 administrative costs savings to current Tort Claimants are a material consideration.
- 24 6. The Plan Trustee will continue to have duties and responsibilities related to Allowed
25 Future Tort Claimants as defined in the Plan. Those administrative costs will be borne by
26 the Future Tort Claims Fund as provided in the Plan.
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- 1 7. The amount of the discounted payment (the "Agreed Payment") will depend upon the
2 date of payment. Based upon the parties' agreement, the Agreed Payment will be
3 \$891,348 if paid on January 15, 2008 and \$893,764 if paid on January 31, 2008. The
4 amount of the Agreed Payment will increase with the passage of time and the parties
5 shall prorate the discount appropriately for the specific date the payment is made.
6
- 7 8. The Agreed Payment shall be made within 10 business days of the date of entry of this
8 Order by the Court.
- 9 9. The parties have stipulated that this Agreed Order shall be effective immediately upon
10 entry.
- 11 10. Upon the receipt by the Plan Trustee and bank clearance of the Agreed Payment,
12 consistent with ¶¶ 20.1, through 20.4 of the Plan which contemplate the dismissal of the
13 Reorganized Debtor from the state court lawsuits ("State Court Lawsuits") Orders of
14 dismissal in the State Court Lawsuits shall be subscribed by the parties and entered with
15 prejudice and without fees or costs assessed to either party to the orders. Diocese counsel
16 shall prepare the orders.
17
- 18 11. Reservations of the rights of claimants against co-defendants of the Reorganized Debtor
19 in the State Court Lawsuits other than those specifically discharged or released under the
20 Plan, shall continue as provided in ¶ 20.5 of the Plan.
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- 22 12. The Plan Trustee shall assign the Plan Trust's first deed of trust on Lourdes Cathedral to
23 the lender identified by the Reorganized Debtor under such standard closing procedures
24 as the parties and the lender deem appropriate. Any additional security interest granted
25 to the Reorganized Debtor's lenders on property which is subject to a Future Tort Claims
26 security interest shall require repayment of the obligation no later than October 1, 2009,
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1 so that the Future Tort Claims security interests are not materially impaired by reason of
2 the assignment of the Plan Trustee's security interest to the Reorganized Debtor's lender.
3 The Plan Trustee may, in her discretion, elect to obtain an agreement with the
4 Reorganized Debtor's lender allowing the Plan Trustee additional time, as holder of the
5 future claims deed of trust subordinated to the lender's deed of trust to secure payment of
6 the Agreed Payment, to cure any default by the Reorganized Debtor in repayment of the
7 obligation secured by the assigned deed of trust, but the Plan Trustee shall not be
8 required to obtain such agreement, as a condition of this settlement. To the extent that
9 the subordination, grant or release of security interests of the Plan Trustee or any lender
10 contemplated by this Order are inconsistent with terms of the Plan, the terms of this
11 Order shall control and no default in the performance of the Plan shall occur by reason of
12 the implementation of the terms of this Order.
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15 13. Upon payment of the Agreed Payment, the Plan Trustee shall, except as provided herein
16 below, execute full reconveyances of all of the deeds of trust on property of the entities
17 contributing to the Plan Trust, including the Reorganized Debtor's properties, the
18 Parishes' properties and Immaculate Heart Retreat Center's property. The Plan Trustee
19 shall not reconvey the Deeds of Trust which secure Allowed Future Tort Claims under
20 the Payment Agreement, nor shall the Plan Trustee reconvey the first position Deed of
21 Trust on Cathedral of Our Lady of Lourdes which will be assigned to the lender for the
22 Agreed Payment. The Plan Trustee shall also confirm in writing that the Debtor's Note,
23 Parishes' Note 1, Parishes' Note 2 and Parish Note 3, to the Reorganized Debtor, are paid
24 in full. The original deeds of trust and promissory notes may be delivered by the Plan
25 Trustee to the Trustee of the deeds of trust, for reconveyance.
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1 14. Because payment made hereunder is based upon a reasonable discount rate and thus
2 represents the present value of the payment that would otherwise be made by the
3 Reorganized Debtor on October 1, 2009 and considering the additional financial benefits
4 of the early termination of certain administrative expenses, this Agreed Order is not a
5 material alteration of the confirmed Plan.
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7 DATED January __, 2008.

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The Honorable Patricia C. Williams
10 United States Bankruptcy Judge
11 Eastern District of Washington
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