

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF VERMONT**

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In re:

Roman Catholic Diocese of Burlington,  
Vermont,<sup>1</sup>

Case No.: 24-10205-HZC  
Chapter 11 Case

Debtor.

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**AFFIDAVIT OF BISHOP JOHN J. MCDERMOTT IN SUPPORT OF INITIAL  
PLEADINGS AND PURSUANT TO LOCAL RULE 1007-1**

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I, John J. McDermott, being duly sworn, deposes and states:

1. I am the Bishop of the Roman Catholic Diocese of Burlington, Vermont (the “Diocese”). I was ordained to the priesthood on June 3, 1989. Since my ordination, I have served as (a) parochial vicar at St. Augustine Parish in Montpelier, Vermont, (b) chaplain at Rice Memorial Catholic High School, (c) Administrator and later Pastor of Assumption of the Blessed Virgin Mary Parish in Middlebury, Vermont, and also of St. Bernadette Parish, in Bridport, Vermont, (d) Catholic Chaplain to Middlebury College, (e) Associate Director of the Catholic Center at the University of Vermont, (f) Pastor of St. Thomas Parish in Underhill, Vermont, and also of St. Mary Parish in Cambridge, Vermont, (g) Vice-Chancellor of the Diocese, (h) Chancellor of the Diocese, and (i) Moderator of the Curia.

2. In June of 2009, I was appointed Vicar General of the Diocese and served in that role until the year 2014, when I served as Apostolic Administrator of the Diocese. I was reappointed Vicar General and served in this capacity until October 2023, when I was elected as

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<sup>1</sup> In accordance with Fed. R. Bankr. P. 2002(n) and 1005 and 11 U.S.C. § 342(c), as applicable, the Diocese’s address is 55 Joy Drive, South Burlington, Vermont 05403, and its Employer Identification Number (EIN) is 03-0180730.

Diocesan Administrator of the Diocese after the appointment of Bishop Christopher J. Coyne as Coadjutor Archbishop of Hartford. During that time, I served on the Diocesan Tribunal as the Defender of the Bond and Promoter of Justice, Pastor of Christ the King-St. Anthony Parish, Burlington, Vermont, and as Director of The Catholic Center at the University of Vermont.

3. In 2004 I earned the degree of Licentiate in Canon Law, which are the laws of the Catholic Church.<sup>2</sup>

4. On July 15, 2024, I was Ordained and Installed as the 11th Bishop of the Diocese.

5. I am familiar with the history, structure, and mission of the Diocese. I am also familiar with the Diocese's day-to-day operations, business affairs, and records.

6. I make this Declaration in support of the Diocese's petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") and the various "First Day Motions" the Diocese filed in connection with this case.

## **I. HISTORY AND STRUCTURE OF THE DIOCESE.**

7. In 1853, the Vatican established the Diocese as a new diocese within the Province of the Archdiocese of New York, with the Diocese later becoming a suffragan of the See of Boston on its establishment as Archdiocese in 1875.

8. The geographical area served by the Diocese includes the entire state of Vermont, comprising of approximately 9,135 square miles (the "Diocese's Region"). The northern border of the Diocese's Region is the Province of Quèbec, Canada. The Diocese shares the western border of its Region with the State of New York, including approximately 100 miles of Lake Champlain. The Connecticut River and the State of New Hampshire complete the eastern border of the

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<sup>2</sup> The universal Catholic Church seated in the Vatican and headed by Pope Francis and all other Catholic entities, including the Diocese, are subject to Canon Law. Canon Law was originally codified in 1917 and subsequently amended in 1983.

Diocese's Region. The State of Massachusetts is on the southern border of the Diocese's Region. The Diocese serves approximately 100,000 Catholic individuals, which makes up approximately 16% of the total population within the Diocese's Region.

9. The Diocese's Region contains 63 parishes. The parishes celebrate Mass, offer sacraments, and provide faith formation opportunities to children and adults. In addition, the parishes serve as community centers where pastoral care is extended to those facing serious life issues, where friends and family gather for baptisms and weddings, where the grieving are comforted at funerals, and where financial, food, and clothing donations are gathered for those in need locally and around the world. These parishes and individuals are served by approximately 38 active priests and 39 permanent deacons. The parishes, which are not separately incorporated, conduct the charitable and religious activities of the Diocese in their own geographic regions within the Diocese's Region. As such, the parishes maintain their own budgets, receive donations from parishioners, hire all personnel, have their own EIN numbers, and pay operating expenses. As described more fully below, separate parish trusts hold all assets attributable to a parish and the parishes are not under the fiscal or operating control of the Diocese.

10. The Diocese currently employs approximately 54 individuals, which includes clergy and laity. Under Canon Law, anyone not ordained a deacon, priest, or bishop is a layperson or "laity." In this legal sense, women in a religious order (sisters) and men in a religious order (brothers) are laity.

11. In addition to the 63 parishes, there are 12 Catholic schools and a catechetical system (collectively, the "Schools"), educating students from pre-kindergarten through high school, with a total current enrollment of approximately 2,500 students. The majority of the Schools are operated and controlled by specific parishes.

12. Along with the parishes and Schools, there are various other Catholic-based social and community service organizations operating within the Diocese's Region, including Catholic Charities, which operates three Catholic residential care homes and one Catholic college. As further discussed below, these other organizations are separately incorporated Catholic entities and not under the fiscal or operating control of the Diocese.

13. The Catholic Church is the largest non-governmental provider of social services in the United States and, in the Diocese's Region, the Diocese provides services to thousands of people a year, including over 3,000 Vermonters last year, regardless of faith background.

14. The Diocese, the parishes, the Schools, and the other Catholic organizations located in the Diocese's Region endeavor to provide the necessities of life, some of which are material and monetary and others of which are purely spiritual, for all human beings, regardless of their spiritual beliefs. The Diocese, through its ministry to the Catholic faithful and the promotion and administration of programs that benefit the people of the Diocese, is a stable, enriching element in the lives of all the people served in these communities.

## **II. BUDGET AND REVENUE.**

15. As a religious organization, the Diocese has no significant, ongoing for-profit business activities or business income. The Diocese's revenue primarily derives from donations, parish assessments, and investments.

## **III. NON-DEBTOR PARISH CORPORATIONS AND CATHOLIC ENTITIES.**

### **A. The Parishes and Parish Trusts.**

16. From the Diocese's civil incorporation in 1896, the Diocese operated under a "corporate sole" structure. Under this structure, the individual parishes existed under civil law as unincorporated associations as a part of the Diocese's civil corporation.

17. Nevertheless, each of the individual parishes operated, and continue to operate, as separate and distinct entities, maintaining their own finances, receiving donations directly from parishioners, hiring employees, holding separate EIN numbers, and paying operating expenses.

18. Recognizing this, the Diocese formed separate charitable trusts for each of the parishes (collectively, the “Charitable Trusts”) in May of 2006 pursuant to certain parish charitable trust agreements (each, a “Trust Agreement”) executed by the Most Reverend Salvatore R. Matano, the Bishop of the Diocese in 2006.

19. Pursuant to the terms of the Trust Agreement, the Charitable Trusts were exclusively formed for, and must be exclusively operated for,

charitable, religious or educational purposes by conducting or supporting activities exclusively for the benefit of, to perform the functions of, and to carry out the purposes of the Roman Catholic Church . . . specifically in connection with Diocese operations within the territorial confines of the Parish . . . including the advancement of religion within the Parish under the pastoral care of the Parish’s own pastor.

20. The assets of each Charitable Trust include all real and personal property, funds, and accounts used for the operation, maintenance, and administration of the respective parish.

21. The assets of each Charitable Trust are held separately and not commingled with the assets of any other Charitable Trust.

22. After formation of the Charitable Trust, the trusts have received donations from various sources based on the specific religious, charitable, and education purpose of the trust.

**B. Other Catholic Entities.**

23. As noted above, a number of separate Catholic entities also operate within the Diocese’s Region. These other Catholic entities are incorporated as separate non-profit corporations under Vermont law. The other Catholic entities have no corporate relationship with the Diocese and have their own separate tax identification numbers and property. The other

Catholic entities are responsible for their individual corporate actions and are not debtors in this chapter 11 case.

**C. Canon Law.**

24. In addition to the separate identities of the parishes and Catholic organizations established under civil law, Canon Law also provides that the parishes and other Catholic organizations are separate legal entities. Canon Law recognizes the existence of rights and obligations of physical, moral, and juridic persons.

25. “Juridic persons” are legal entities that are established by competent authority or by the law itself and are classified as either public or private. The Diocese and every parish are separate public juridic persons, capable of acquiring, retaining, administering, and alienating temporal goods, in accordance with the requirements of Canon Law.

26. The administration of property belonging to a juridic person pertains to its administrator, such as the diocesan bishop over the property of a diocese and the pastor over the property of a parish. Among other things, property held by a public juridic person is required to be managed by that person with diligence and care.

27. Consequently, under both civil law and Canon Law, the Diocese, Charitable Trust, and other Catholic organizations have separate and distinct legal existence from each other.

**IV. FUNDS NOT PROPERTY OF THE ESTATE.**

28. From time to time, the Diocese receives money donated for specific purposes depending on the intent of the donor. These donations are held in specific endowments and funds for the expressed charitable, religious, and educational purposes the donors intended. The funds and endowments are currently held in separate accounts with Charles Schwab and TD Wealth. The Diocese is legally bound to use the funds and endowments for their specific charitable,

religious, or educational purpose and the Diocese has no ownership interest in the funds and endowments. The following is a brief description of certain endowments and funds holding the donations:

- a. Scholarships for students and financial support for Catholic Schools (Rice Memorial High School Fund and Rice Memorial High School Endowment); and
- b. Retirement plan account for retired priests (Priest Benefit Fund Retirement Plan).

29. The Diocese continues to review its books and records and there may be additional funds and other property that the Diocese believes does not constitute property of the estate. The Diocese reserves the right to supplement the above list.

#### **V. THE CLERGY SEXUAL ABUSE CRISIS AND THE DIOCESE'S RESPONSE.**

30. During the last several decades, some clergy members violated the sacred trust placed in them by children, their families, and the Catholic Church by committing acts of sexual abuse. This conduct runs contrary to the teachings and traditions of the Church.

31. The United States Conference of Catholic Bishops adopted the "Charter for the Protection of Children and Young People" (the "Charter") in June 2002. As part of the Charter, the Office of Child and Youth Protection was established and is responsible for assisting dioceses in implementing the Charter to ensure the consistent application of guidelines and procedures to prevent sexual abuse of minors and properly deal with allegations of misconduct.

32. The Diocese adopted the Charter in 2002 and is committed to the implementation of the Charter and following the guidelines and procedures to prevent sexual abuse of minors, as well as dealing proactively and diligently with allegations of misconduct, regardless of when they are alleged to have occurred.

33. In 2002, the Diocese turned over files containing credible allegations of clergy to the Vermont attorney general.

34. In 2003, the Diocese established the Victim Advocacy Group with the specific mission of aiding in the healing process for those who have been harmed. The work of the Victim Advocacy Group is now conducted through the Diocese's Victims Assistance Coordinator.

35. In 2006, the Diocese published its Policies on Ethics and Integrity in Ministry (the "Policy"). The Policy emphasizes prevention by communication to all parishioners that abuse must be reported, requiring background checks and safe environment training for all adults working with minors, and establishing a dedicated Safe Environment Coordinator for each parish and School, among a number of other policies designed to protect the youth of the Diocese. This policy has been updated regularly by the Diocesan Review Board with the most recent version dated 2022.

36. In 2018, the Most Reverend Christopher J. Coyne, Bishop of the Diocese, established an independent and volunteer committee of four lay men and three lay women to review clergy personnel files and compile a list of priests with credible allegations against them.

37. In 2019, the independent committee published a public report regarding the sexual abuse allegations and listing all credibly accused priests, along with information regarding the priests, including their assignments within the Diocese's Region.

38. To date, the Diocese has publicly disclosed 40 priests with credible claims of sexual abuse of a minor. Most of these incidents of sexual abuse of a minor occurred between 1950 and 1980. All of the individuals accused of sexual abuse have been permanently removed from ministry and 30 are deceased. For each individual against whom a credible claim has been made, the Diocese has disclosed certain background and biographical information, including the



following: (a) his year of birth and year of ordination, (b) whether he is alive or deceased, (c) if deceased, the year of his death, (d) his prior assignments, (e) the date of his permanent removal from ministry, and (f) for those who are alive, their present status with the Catholic Church (*i.e.*, retired, removed from ministry, or dismissed from the clerical state).

39. Due to the Diocese's efforts since 2002, there has only been one credible and substantiated claim of abuse, which involved an 18-year old who formed an emotional relationship that began when the victim was a minor. There are no priests in ministry within the Diocese who have had a credible and substantiated allegation made against them.

## **VI. CURRENT DIOCESAN PROCEDURES FOR SEXUAL ABUSE ALLEGATIONS.**

40. Pursuant to the Charter, when an allegation of sexual misconduct is made, the Diocese will immediately refer the matter to the proper civil authorities and help the alleged victim obtain whatever assistance may be required.

41. The Diocese maintains separate procedures for allegations of sexual misconduct by clergy and allegations of sexual misconduct by lay employees and volunteers (and visiting clergy or religious).

42. The Church is entitled to regulate the exercise of the priesthood through the grant or removal of "faculties." A priest who has abandoned, or has been permanently removed from ecclesial ministry, loses the right to remuneration (essentially, wages or salary) under Canon Law.

43. When sexual misconduct is alleged against a priest or deacon, after notifying the appropriate civil authorities, the Diocese will also initiate and conduct a preliminary investigation, in compliance with Canon Law, separate from the criminal investigation because the Diocese may believe it necessary to take disciplinary action even if a civil crime is not proven. During the preliminary investigation, appropriate administrative restrictions will be placed on any accused

individual, including removal or restriction of ministerial activity. The Bishop must consult with the Diocesan Review Board (the “Review Board”) regarding the assessment of the individual’s fitness for ministry in accord with Canon Law, supplemental universal legislation, and the Charter.

44. Pursuant to the Charter, if the preliminary investigation of a priest or deacon indicates there is sufficient evidence that sexual abuse of a minor has occurred, a canonical process is initiated to further resolve the claim and the accused priest or deacon will be removed from ministry, if not already done so, and from any office or function. As required by Canon Law, no priest who is found to have sexually abused a minor can ever return to public ministry.

45. Throughout this process, the Diocese continues to be committed to outreach by providing services that assess survivors’ emotional, psychological, and spiritual well-being, such as counseling and spiritual direction. Survivors are invited to talk with the Bishop if and when they wish to do so as part of their healing process. The Bishop is committed to meeting with survivors of sexual abuse in order to hear about their experiences and concerns and to provide solidarity and support.

## **VII. NECESSITY FOR COMMENCEMENT OF CHAPTER 11 CASE.**

46. In 1990, the Vermont legislature enacted 12 V.S.A. § 522, which created Vermont’s first statute of limitations specific to claims for sexual abuse, establishing a six year statute of limitations period from the time the victim discovered the injury. The 1990 version of 12 V.S.A. § 522 included a retroactivity provision that required the act of sexual abuse or the discovery of the injury or condition caused by the alleged sexual abuse to have occurred on or after July 1, 1984. Despite the strong protections afforded to the Diocese under the 1990 version of 12 V.S.A. § 522, the Diocese sought to compensate survivors of sexual abuse.

47. From 2006 until early 2010, the Diocese settled seven lawsuits for \$2,680,000. In May of 2010, the Diocese settled 29 lawsuits for \$20,625,000. In order to meet these settlement obligations, the Diocese sold several diocesan properties, including the former Chancery Office property in Burling and Camp Holy Cross in Colchester. The Diocese received some insurance funds to assist with the settlement payments.

48. In 2013, the Diocese settled 11 cases for \$6,750,000. To fund this settlement, the Diocese was forced to forfeit any claim for insurance coverage for allegations of sexual abuse by clergy that occurred in the 1970s through an insurance buyback with the Diocese's insurers.

49. In 2019, the Vermont legislature amended 12 V.S.A. § 522 to remove the limitations period and allow claims of childhood sexual abuse to be commenced "at any time after the act alleged to have caused the injury or condition." The amendment included a retroactivity provision that made the act retroactive to any claims of childhood sexual abuse that occurred prior to the amendment.

50. Due to the removal of the statute of limitations, the Diocese has settled 20 cases since 2019 at a cost of \$4,502,500. The Diocese funded these most recent settlement payments by using its unrestricted investments and regular operating funds.

51. As of the date of this Declaration, the Diocese faces 31 current lawsuits. Due to the lack of insurance coverage and the Diocese's depleted assets, the Diocese is concerned that too large of a settlement with a select group of pending cases or a judgment in favor of a single plaintiff could leave the Diocese with insufficient assets to fairly compensate other survivors and creditors, resulting in a disproportionate allocation of the limited funds available to the Diocese. Additionally, managing the civil court litigation and claims has been difficult and costly for the Diocese and the cost will likely only increase with the number of claims the Diocese faces.

### **VIII. GOALS OF THIS CHAPTER 11 CASE.**

52. Due to the number of civil cases and claims filed against the Diocese and limitations of the Diocese's resources, the Diocese determined that reorganization under chapter 11 is the only way to fairly and equitably fulfill the Diocese's obligations to all survivors of sexual abuse.

53. The Diocese is not filing this bankruptcy case in an attempt to avoid any responsibility regarding sexual misconduct by clergy or any mistakes made by the Diocese's administration. Rather, the Diocese has been, and continues to be, committed to addressing the wrongs perpetrated and fairly compensating survivors. Throughout this chapter 11 case, the Diocese will continue its outreach to survivors and others affected by the tragedy of sexual abuse.

54. The Diocese filed this chapter 11 case with the following paramount goals in mind:

a. To compensate, as fairly and as equitably as possible, all remaining survivors of sexual abuse with unresolved claims against the Diocese, including claims held by survivors that have not yet come forward. The Diocese endeavors to make efficient and responsible use of its resources, while also working to heal and reach resolutions with these survivors.

b. To continue the Diocese's essential ministries and functions associated with its mission. The Diocese plays an important and necessary role in the community and the plan of reorganization will provide for a feasible operational structure for the Diocese to continue its ministry in the community and provide the worship, outreach education, service, and charity that the Diocese currently provides.

55. Finally, due to the Diocese's limited resources and the enormous amount of professional and other fees that have been incurred in previous diocesan bankruptcy cases

throughout the United States, the Diocese is committed to moving this reorganization case forward as quickly as possible.

**IX. FACTS SUPPORTING INITIAL PLEADINGS.**

56. The following facts support the initial pleadings filed by the Diocese in this case.

**A. Diocese’s Emergency Motion and Memorandum for an Order (I) Authorizing the Debtor to Pay Accrued and Outstanding Prepetition Employee Compensation, Benefits, and Related Amounts and (II) Authorizing the Debtor to Maintain Existing Payroll Service.**

57. In the ordinary course of its business, the Diocese employs approximately 54 employees to run its operations, including but not limited to accounting professionals, program coordinators, human resources and payroll specialists, priests, and educators (the “Employees”). Out of these 54 employees, 31 are salaried employees, 22 are hourly employees, and 1 employee is a daily employee (paid per day of work). The Diocese owes its Employees prepetition compensation and prepetition amounts in connection with various compensation and benefit programs as described in detail below (collectively, the “Prepetition Employee Obligations”).

58. The Diocese’s Employees serve in a wide variety of roles critical to the Diocese’s ongoing operations, including providing essential managerial, financial, clerical, and other administrative services. These Employees are vital to the Diocese’s continued operations and to the administration of this case, the preservation of the Diocese’s assets, and the Diocese’s ability to successfully reorganize. Without the Employees, who would likely leave if the Prepetition Employee Obligations remain unpaid, the Diocese could not continue to provide resources, leadership, religious, and other services to the Diocese’s constituents, nor could it effectively pursue and implement a reorganization for the benefit of all creditors.

59. If prepetition compensation, benefit, and reimbursement amounts are not received by the Employees in the ordinary course, they will suffer personal hardship and, in many cases,

will be unable to pay their basic living expenses. Instead, those employees would simply receive an unsecured priority claim. Such a result would destroy Employee morale and result in unmanageable Employee turnover, causing immediate and pervasive damage to the Diocese's ongoing operations, service to parishes and communities, and ability to reorganize, thereby resulting in immediate and irreparable harm to the Diocese and its estate. In contrast, payment of these amounts would have little impact overall on other creditors.

60. Therefore, payment of the Prepetition Employee Obligations in accordance with the Diocese's prepetition business practices will enable the Diocese to continue to operate in an economic and efficient manner with minimal disruption, preserve value, and is in the best interests of the Diocese, its creditors, and all parties in interest.

61. The Diocese pays its employees on a bi-weekly basis, in arrears. The Diocese's current bi-weekly payroll totals approximately \$100,000, including benefits, taxes, and other withholdings ("Prepetition Compensation").

62. The Diocese has incurred costs and obligations with respect to the Employees that remain unpaid as of the Petition Date because they accrued, either in whole or in part, prior to the Petition Date.

63. The Diocese currently owes its Employees for work performed during the period from September 21, 2024, to October 4, 2024, which is payable on October 11, 2024. The prepetition portion of the bi-weekly gross wages is approximately \$94,000, including withholdings, benefits, and employer portion of payroll taxes due for the pay period which includes, and are payable after, the Petition Date.

64. The Diocese is current on all of its other payroll tax obligations.

65. In addition to Employee Compensation, the Diocese also maintains reimbursement programs (“Reimbursement Programs”).

66. The Diocese reimburses its current Employees for certain expenses that the Employees incur from time to time, and pay from their own personal funds, while working on behalf of the Diocese.

67. The Diocese has a process in place for submissions of such requests for the reimbursement of qualifying expenses.

68. The Employees incur and pay such expenses from personal funds with the expectation of being reimbursed by the Diocese upon request.

69. As of the Petition Date, the Diocese owes \$0 to Employees on account of outstanding reimbursement requests. However, there may be outstanding reimbursable expenses owed to Employees for which reimbursement requests have not yet been made and which may be submitted after the Petition Date.

70. It is necessary for it to continue to process and pay the reimbursements to carry out its mission and ministry and requests permission to pay all outstanding reimbursements to Employees pursuant to its Reimbursement Programs.

71. The Diocese also provides certain Employees and their dependents with various benefits (the “Benefit Plans”). The Benefit Plans include: health insurance, vision insurance, dental insurance, paid time off, long-term disability insurance, short term disability, accidental death and dismemberment insurance, tuition reimbursement, fitness membership reimbursement, and retirement.

72. With respect to the health insurance, the Diocese maintains a health insurance plan

(“Health Insurance Plan”) through MVP for the benefit of the Diocese’s Employees.

73. The Diocese deducts from payroll each of the Employees’ ratable portions of premiums to cover the costs of providing coverage for its respective employees and their dependents under the Health Insurance Plan. Health Insurance Plan premiums are paid on a per individual basis and are calculated based upon the Green Mountain Care Board approving the rate increases for the State of Vermont’s health exchange.

74. Additionally, the Employees also contribute a portion of the costs attributable to their respective insurance coverage.

75. The annual premium for fiscal year 2024-25 is \$620,000, of which approximately \$530,000 represents the Diocese’s ratable portion, and for which Employees contribute a significant portion of the annual premium and are responsible for the balance of their ratable portions. Payments on account of the Health Insurance Plan are paid on a monthly basis. The Diocese estimate that its accrued but unpaid portion of prepetition Health Insurance Plan obligations have a total value of approximately \$50,000.

76. In the event former employees become eligible, the Diocese offers its former employees COBRA coverage. Those eligible individuals would contribute 100% of the expected costs to fund the plan. The Diocese requests authority to offer COBRA coverage without interruption unless and until it discontinues its healthcare coverage in accordance with applicable law, including mandatory notice provisions

77. The Diocese also offers its employees dental and vision insurance plans.

78. The Diocese’s dental plan is administered by Delta Dental and is paid fully by the Employees through their payroll deductions. The Diocese’s average monthly cost for the dental plan is \$1,500.



79. The Diocese's vision plan is administered by VSP. The vision plan is also paid fully by the Employees through payroll deductions. The average monthly cost for the vision plan is \$275.

80. The Diocese's employees who work at least 20 hours per week receive vacation and discretionary time at the beginning of the fiscal year. The Diocese estimate that accrued but unused prepetition paid time off has a total value of approximately \$163,290.50.

81. The Diocese provides long term disability benefits for its Employees through Equitable.

82. For the current fiscal year, the annual premium is approximately \$6,000. No individuals contribute to payment of the long-term disability insurance premiums.

83. The Diocese provides short term disability benefits for its Employees through Equitable.

84. For the current fiscal year, the annual premium is approximately \$5,500. No individuals contribute to payment of the long-term disability insurance premiums.

85. The Diocese provides life insurance for its Employees through Equitable.

86. For the current fiscal year, the annual premium was approximately \$1,300. No individuals contribute to payment of the life insurance premiums.

87. The Diocese also pays 100% of the costs for accidental death and dismemberment insurance for its eligible employees. The insurance is administered by Equitable. The insurance provides a multiple of the Employees' annual earnings in the event of accidental death. The annual premium is approximately \$200.

88. The Diocese is a sponsor of a 403(b) retirement plan for is employees. To participate in the retirement plan, Employees must complete two years of service with the Diocese.

Once eligible, Employees receive contributions from the Diocese into their retirement account. The Diocese contributes approximately \$90,000 annually to the Retirement Plan.

89. Active, full-time Employees of the Diocese who have worked 90 or more days, worked the equivalent of one year of 780 hours per year, and maintained a satisfactory employee evaluation are eligible for a tuition reimbursement from the Diocese. These Employees receive a payment of up to \$1,200 per child (maximum yearly payout of \$5,000 per employee per family) for a child enrolled as full-time student in Pre-K through Grade 12 Catholic Schools in the State of Vermont. Part-time employees are pro-rated based on hours worked. The cost in the current fiscal year for the Tuition Reimbursement Plan is \$0.

90. All Employees of the Diocese are eligible for a Fitness Membership Reimbursement Plan for them and their spouse. Participating Employees pay an amount per pay period as a portion of the gym membership chosen by the Employee. The Diocese deducts the chosen gym membership amount from the Employee and pays the remaining cost of the membership. The Diocese contributes approximately \$3,700 annually for this Plan.

91. The Diocese provides benefits to active and retired priests who have been incardinated in the Diocese, contributed 20 years of service to the Diocese, and meet certain criteria through the "Priests' Benefit Fund."

92. Under the Priests' Benefit Fund, the Diocese sponsors a noncontributory, non-ERISA qualified defined benefit retirement plan and related trust and a defined health benefit postretirement plan, which provides medical care.

93. Expenses of the Priests' Benefit Fund include expenses related to active priests and expenses related to the ERISA retirement and postretirement benefit plans.

94. The Diocese funds plan costs as determined by the plans' actuaries and satisfies the

minimum funding standards as required by ERISA.

95. In the ordinary course of its business, the Diocese utilizes ADP (the “Payroll Service”) to maintain its payroll service for payment of wages to its employees, as well as payment of employer payroll taxes and employee withholding for income, Social Security, and federal unemployment taxes.

96. The Payroll Service receives monthly fees of approximately \$2,400, paid monthly.

**B. Diocese’s Emergency Motion and Memorandum for Order (I) Authorizing Continued Use of Existing Business Books, Records, Bank Accounts, and Check Stock (II) Authorizing Banks and Financial Institutions to Honor and Process Checks and Transfers, (III) Authorizing Electronic Funds Transfers and Automated Clearing House Transfers, (IV) Authorizing Maintenance of Investment Accounts, and (V) Granting Limited Relief from the Requirements of 11 U.S.C. § 345(b).**

97. As of the Petition Date, the Diocese maintains two accounts at TD Bank (the “Bank”), which is an authorized depository with the United States Trustee’s Office:

| Account No. | Account Type     | Purpose                | Checks      |
|-------------|------------------|------------------------|-------------|
| *0976       | Checking Account | Lock Box Sweep Account | No          |
| *9911       | Checking Account | Operating Account      | Yes – Paper |

(collectively, the “Bank Accounts”).

98. The Diocese uses the Lock Box Sweep Account to receive funds from the Bishop’s Annual Appeal, which is a direct appeal to the members of the Diocese to make a donation to support the mission and ministries of the Diocese. Funds are swept daily from the Lock Box Sweep Account to the Operating Account.

99. The Diocese also uses the Operating Account for general operating expenses, including payroll. The Diocese makes certain electronic payment transfers out of the Operating Account, including wire transfers and Automated Clearing House (“ACH”) transfers.

100. As of the Petition Date, the Diocese also maintains several investment accounts at certain banks or financial institutions that are not insured depositories with the United States Trustee’s Office.

101. The Diocese asserts these investments accounts are not property of the estate under 11 U.S.C. § 541(d) as they are specific trusts in which the Diocese only has a legal interest, not an equitable interest:

| <b>Bank or Financial Institution</b> | <b>Account No.</b> | <b>Account Name</b>                                 | <b>Purpose</b>   |
|--------------------------------------|--------------------|---|--|
| Charles Schwab                       | *9336              | Roman Catholic Diocese of Burlington, Vermont, Inc. | Supporting Rice Memorial High School                           |
| Charles Schwab                       | *5777              | Roman Catholic Diocese of Burlington, Vermont, Inc. | CRUT to establish endowment fund for Rice Memorial High School |
| Charles Schwab                       | *9166              | Roman Catholic Diocese of Burlington, Vermont, Inc. | Stock donation account   |
| TD Wealth                            | *1008              | Roman Catholic Diocese - PBF Retirement Plan - Main | Supporting care of elderly priests                             |

(collectively, the “Investment Accounts”).<sup>3</sup>

102. The Investment Accounts current hold approximately \$15.7 million.<sup>4</sup>

**C. Diocese’s Emergency Motion and Memorandum for an Order (I) Authorizing the Continued Maintenance of the Debtor’s Insurance Program and (II) Authorizing Payment of Prepetition Obligations in Respect Thereof.**

103. In the ordinary course of its operations, the Diocese maintains a Self-Insurance Program currently administered by Arthur J. Gallager Risk Management Services, LLC (“Arthur Gallager”). Arthur Gallager provides property, liability, crime, cyber, equipment breakdown,

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<sup>3</sup> There are other investment accounts in which the Diocese is not the named account holder or the trustee, but for which the Diocese may be a beneficiary.

<sup>4</sup> The stock donation account (\*9166) currently holds \$0.00. The Priests’ Benefit Fund (\*1008) currently holds \$14 million.

sexual misconduct, and workers' compensation insurance for the Diocese and the parishes within the Diocese with a special retention endorsement, commonly referred to as self-insurance. All assets relating to a parish are held in the separate Charitable Trusts with separate employees for each trust. As a result, each Charitable Trust owns and manages its own property and assets and keeps its own books and records. In addition, each Charitable Trust has its own employees and its own employer identification number. Each Charitable Trust pays its own employees, files the necessary tax and other reporting forms, and pays its own other operating expenses from its own bank accounts. The Charitable Trusts are not debtors in this or any other chapter 11 case.

104. Under the Self-Insurance Program, the Diocese is self-insured up to certain claim limits and maintains insurance policies to cover costs of claims that exceed the self-insured limits. The Diocese is billed annually for its Self-Insurance Program. The Diocese pays all insurance premiums in a lump sum. Non-debtor entities or persons that are additional insureds under the Self-Insurance Program are billed by the Diocese on an annual basis. The Diocese is responsible for paying all claims for losses up to a retained or deductible limit with any excess amount paid by Arthur Gallagher, up to the policy limits.

105. The Diocese's insurance policies range in coverage limits from \$150,000 to \$250,000,000. The present policies are in effect from July 1, 2024, to July 1, 2025, and the total cost of premiums for these policies is \$1,306,848.

106. The Self-Insurance Program provides a practical, cost-effective way to manage risk for the Diocese under a single, comprehensive insurance program. If the Self-Insurance Program is not continued, the Diocese will be forced to purchase separate insurance policies covering each entity/person and their respective properties. This would result in the Diocese incurring substantially higher costs to obtain their own individualized insurance (with or without

a retention or deductible) than what they are currently assessed under the Self-Insurance Program. Moreover, without the broad collective risk profile provided by the Insurance Program, certain types of coverage and available coverage limits may simply not be available on an individualized basis or on commercially reasonable terms.

**D. Diocese's Emergency Motion for Order Authorizing the Diocese to File Portions of Schedule F, the Statement of Financial Affairs, the Master Mailing List, and Other Pleadings and Documents under Seal.**

107. Many of the survivors of sexual abuse that commenced lawsuits against the Diocese or otherwise asserted claims against the Diocese have done so publicly only under pseudonyms or have disclosed their identities to the Diocese with the expectation that the Diocese would hold their identities in confidence.

108. The Diocese wishes to keep the identities of the survivors private. The survivors should not be forced to make their identities public in order to participate in this case. Additionally, the Diocese does not want to discourage any survivor from presenting his or her claims due to fear of public disclosure.

109. The Diocese has no objection if certain survivors decide to make their identities public; however, the Diocese believes that decision should be left to each individual survivor and should not be forced upon them due to this case.

**E. Diocese's Emergency Motion for Order (I) Establishing Deadlines for Filing Proofs of Claim, (II) Approving Sexual Abuse Claim Form, (III) Approving Form and Manner of Notice, and (IV) Approving Confidentiality Procedures.**

110. In 2019, the Vermont legislature amended 12 V.S.A. § 522 to remove the statute of limitations applicable to civil causes of action for damages based on sexual abuse. The amendment included a retroactivity provision and the major effect of the amendment was to permit alleged survivors of sexual abuse to file claims previously barred by prior statute of limitations.

111. Certain clergy members in the Diocese violated the sacred trust placed in them by children, their families, and the Diocese by committing acts of sexual abuse. As of the Petition Date, 31 civil actions were pending against the Diocese.

**X. INFORMATION REQUIRED BY LOCAL RULE 1007-1.**

112. Local Rule 1007-1 requires certain information related to the Diocese, which is set forth below.

**A. Commencement of Case under Chapter 11 (Local Rule 1007-1(h)(1)).**

113. The Diocese's case is a voluntary reorganization case under chapter 11 of the Bankruptcy Code. The Diocese was not previously subject of a case under chapters 7, 12, or 13 of the Bankruptcy Code. As of the date of this Affidavit, no trustee or creditors' committee has been appointed in this case.

**B. Prepetition Committees (Local Rule 1007-1(h)(2)).**

114. I am not aware of the formation of any committee, informal or otherwise, prior to the entry of the order for relief in this case.

**C. Nature of Diocese's Business and Concise Statement of Circumstances Leading to Diocese's Chapter 11 Filing (Local Rule 1007-1(h)(3)).**

115. The Diocese is a non-profit Catholic institution that provides religious, charitable, and educational services throughout the State of Vermont. The Diocese filed this case due the elimination of the statute of limitations for sexual abuse claims under 12 V.S.A. § 522, which resulted in the commencement of a significant amount of lawsuits against the Diocese and risk of further lawsuits.

116. A more complete description of the nature of the Diocese's business and the circumstances leading to the filing of this case is contained in paragraphs 7-14 and 48-53 of this Affidavit.

**D. Diocese's Publicly-Held Securities and Insider Holders Thereof (Local Rule 1007-1(h)(4)).**

117. There are no classes of shares of stock, debentures, or other securities of the Diocese.

**E. Diocese's Property in the Possession of Certain Others (Local Rule 1007-1(h)(5)).**

118. I am not aware of any property of the Diocese in the possession or custody of a custodian, public officer, mortgagee, pledgee, assignee of rents, receiver, secured creditor, or the agent of any of those entities.

**F. Nature and Present Status of Actions or Proceedings Against the Diocese (Local Rule 1007-1(h)(6)).**

119. As of the date of this Declaration, there are 31 pending civil actions against the Diocese, but two of those actions involve pro se plaintiffs. The following is a list of the contact information for opposing counsel<sup>5</sup>:

a. Gravel & Shea PC represents nine plaintiffs in actions pending in Vermont. Gravel & Shea PC's address is Attn: Celeste Laramie, 76 St. Paul Street, 7th Floor, Burlington, Vermont, 05402. Gravel & Shea PC's phone number is 802-658-0220.

b. Shoup Evers & Green represents 14 plaintiffs in actions pending in Vermont. Shoup Evers & Green's address is Attn: John Evers, 84 Pine Street, Burlington, Vermont, 05401. Shoup Evers & Green's phone number is 802-861-6666.

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<sup>5</sup> While Local Rule 1007-1(i)(6) requires a debtor to identify the court and case number of the pending action, due to the sensitive nature of the cases and the Diocese's pending motion to file certain portions of pleadings under seal, this Affidavit does not contain that information. The Diocese reserves the right to supplement this Affidavit if necessary.



c. Kaplan & Kaplan represents one plaintiff in an action pending in Vermont. Kaplan & Kaplan’s address is Attn: Stephanie Greenlees, 95 St. Paul Street, Suite 405, Burlington, Vermont, 05401. Kaplan & Kaplan’s phone number is 802-651-0013.

d. Herman Law Group represents two plaintiffs in actions pending in New York. Herman Law Group’s address is Attn: Stuart Mermelstein, 475 Fifth Avenue, 17th Floor, New York, New York, 10017. Herman Law Group’s phone number is 212-390-0100.

e. Jeff Anderson & Associates, P.A. represents two plaintiffs in actions pending in New York. Jeff Anderson & Associates, P.A.’s address is Attn: Nahid A. Shaikh, 363 7th Avenue, Floor 12, New York, New York, 10001. Jeff Anderson & Associates, P.A.’s phone number is 646-759-2551.

f. D’Arcy Johnson Day PC represents one plaintiff in New Jersey. D’Arcy Johnson Day PC’s address is Attn: Andre J. D’Arcy, 3120 Fire Road, Egg Harbor Twp., New Jersey, 08243. D’Arcy Johnson Day PC’s phone number is 609-641-6200.

**G. Diocese’s Real Estate (Local Rule 1007-1(h)(7)).**

120. The Diocese claims an interest in the following real estate:

| Nature of Interest | Address             | City             | State   | Zip Code |
|--------------------|---------------------|------------------|---------|----------|
| Owned              | 55 Joy Drive        | South Burlington | Vermont | 05403    |
| Owned              | 59 Meadow Street    | Rutland          | Vermont | 05701    |
| Owned              | 127 Convent Avenue  | Rutland          | Vermont | 05701    |
| Owned              | 132 Convent Avenue  | Rutland          | Vermont | 05701    |
| Owned              | 47 Herrick Road     | Derby Line       | Vermont | 05830    |
| Owned              | 243 N. Prospect St. | Burlington       | Vermont | 05401    |
| Owned              | 99 Proctor Avenue   | South Burlington | Vermont | 05403    |
| Owned              | 200 Hinesburg Road  | South Burlington | Vermont | 05403    |

**H. Diocese to Continue Operating (Local Rule 1007-1(i)).**

121. The Diocese intends to continue its business while it restructures its debts under the protection of Chapter 11. Until the Diocese's reorganization plan is consummated and its restructuring completed, the Diocese will operate its business and manage its properties in accordance with sections 1107(a) and 1108 of the Bankruptcy Code.

**H. Diocese's Employees and Estimated Payroll (Local Rule 1007-1(i)(1)).**

122. The Diocese projects \$200,000 in total payroll and reimbursed expenses for all employees for the 30-day period following the filing of the petition commencing this case.

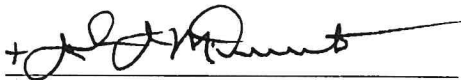
**I. Diocese's Estimated Cash Receipts and Disbursements (Local Rule 1007-1(i)(2)).**

123. Attached as Exhibit A is a true and correct copy of an estimated schedule of cash receipts and disbursements, in 30-day increments for the Diocese's operations for 90 days following the filing of the petition commencing this case.

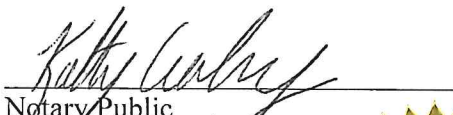
**J. Proof of Insurance (Local Rule 1007-1(i)(3)).**

124. Attached as Exhibit B is a true and correct copy of proof of the Diocese's insurance.

Dated: September 30, 2024

  
\_\_\_\_\_  
John J. McDermott  
Bishop of the Roman Catholic  
Diocese of Burlington, Vermont

Sworn and subscribed to before me, a notary public for the State of Vermont this 30th of September, 2024.

  
\_\_\_\_\_  
Notary Public  
Exp. Date: 1/31/25

