

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:

The Diocese of Rochester,

Debtor.

Case No. 19-20905

Chapter 11

**DEBTOR'S MOTION FOR ENTRY OF INTERIM AND FINAL
ORDERS (I) AUTHORIZING THE CONTINUED MAINTENANCE
OF THE DEBTOR'S PROTECTED SELF-INSURANCE PROGRAM;
AND (II) AUTHORIZING THE PAYMENT OF CERTAIN PREPETITION
OBLIGATIONS IN RESPECT THEREOF AND OTHER LEGACY CLAIMS**

The Diocese of Rochester, the debtor and debtor-in-possession in the above-captioned chapter 11 case (the “Debtor” or “Diocese”), hereby moves this Court (this “Motion”), pursuant to sections 105(a), 363, 1107 and 1108 of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 9013 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), for the entry of interim and final orders, in substantially the forms attached hereto as *Exhibits A* and *B* respectively, (i) authorizing the Debtor to continue to maintain its Protected Self-Insurance Program (“PSIP”), and (ii) authorizing, but not directing, the Debtor to pay any prepetition claims, premiums, legacy worker’s compensation obligations and other administrative costs of the PSIP. In support of this Motion, the Debtor respectfully represents as follows:

BACKGROUND

1. On September 12, 2019 (the “Petition Date”) the Debtor commenced this case by filing a voluntary petition for relief under chapter 11 of the title 11 of the United States Code (the “Bankruptcy Code”). The Debtor is authorized to continue to operate its business and remain in possession of its property as a debtor in possession pursuant to sections 1107 and 1108 of the

Bankruptcy Code. No trustee or examiner has been requested or appointed in this chapter 11 case, and as of the date of this Motion, no official committee has been appointed or designated.

2. Information regarding the Diocese's history, business operations, operational structure, facts supporting this Motion and the events leading up to the chapter 11 case can be found in the *Affidavit of Daniel J. Condon in Support of Chapter 11 Petition and First Day Pleadings* and the *Affidavit of Lisa M. Passero in Support of Chapter 11 Petition and First Day Pleadings*, each of which was filed on the Petition Date and is incorporated herein by reference.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory and rule-based predicates for the relief sought in this Motion are sections 105(a) and 363 of the Bankruptcy Code and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure.

PROTECTED SELF-INSURANCE PROGRAM

5. On or about June 1, 1977, the Diocese formally adopted the PSIP as a means of ensuring that the Diocese and certain non-debtor Catholic entities¹ (collectively, the "Participating Entities") had adequate insurance protection at a reasonable price by leveraging insurance costs at the diocesan level. A current list of the non-debtor Participating Entities is attached as ***Exhibit C***. The PSIP has operated continuously since that time.

¹ The Non-Debtor Catholic Entities that participate in the PSIP have changed over time, for example Catholic Charities left the PSIP in 2009 and is covered by separate insurance. The PSIP currently includes the Diocese, the 88 parishes within the geographical area of the Diocese along with certain other non-Debtor Catholic Entities. The current list of Participating Entities is attached as ***Exhibit C***.

6. Under the PSIP, the Diocese coordinates and administers an insurance program providing coverage for itself and each of the Participating Entities under several different policies obtained through third-party insurance carriers. The PSIP currently provides insurance coverage, subject to the applicable self-insured retention/deductible amounts and policy limits, for general liability, direct property loss, indirect property loss, short term disability, workers' compensation, boiler and machinery, sexual misconduct, fiduciary liability, cyber liability, terrorism liability, directors and officers, and excess liability.² The applicable policy limits are inclusive of defense costs and the PSIP is responsible for funding any such costs until the applicable deductible is met.

7. Waldorf Risk Solutions ("Waldorf") is the Diocese's third-party insurance administrator and broker of record for the PSIP. Waldorf assists the Diocese in binding appropriate coverage for itself and each of the Participating Entities under the PSIP.

8. Under the terms of the insurance policies providing coverage under the PSIP, various types of losses are subject to certain per occurrence deductibles. For liability coverage and property damage, the deductible is currently \$100,000 per loss. However, deductibles under the PSIP are subject to maximum annual stop loss limits of \$250,000 in the aggregate for property claims and \$250,000 in the aggregate for general liability claims, with a total annual stop loss limit under the PSIP of \$500,000. Any losses above the applicable deductible or stop-loss limits are covered by the applicable third-party insurance carrier, subject to the terms of the applicable policy. A chart showing the various insurance coverages and deductibles under the PSIP is attached as ***Exhibit E***.

² Copies of the declaration pages for the 2019-2020 property and liability policy are attached as ***Exhibit D***.

9. Assessments to cover the costs of providing insurance coverage under the PSIP are collected by the Diocese annually from each of the Participating Entities (the “PSIP Funds”). PSIP Assessments are calculated using allocation methodologies which take into account several different variables, including, among other things, replacement values, payroll dollars, square footage, acreage, and number of students. In calculating each Participating Entity’s contribution, the Diocese strives to achieve a consistent and a fair allocation of PSIP costs among the Participating Entities.

10. The PSIP Funds collected from the Participating Entities are used to pay policy premiums to third-party carriers, to pay claims (including defense costs) up to the amount of any applicable deductible and/or stop loss limits, and to cover risk management expenses and other administrative costs and obligations related to maintaining the PSIP.

11. In Fiscal Year July 1, 2019-June 30, 2020, approximately \$4.35 million in PSIP Funds are expected to be collected to support the program, and have been budgeted as shown in the table below:

PSIP BUDGET		\$4,350,000
Insurance Premiums to Third Party Carriers	\$2,267,000	
Brokerage Fees	\$150,000	
Risk Management/Loss Control/Training	\$540,000	
Legal Fees/USSCB/Audit Fees	\$300,000	
Stop Loss Aggregate	\$500,000	
Total Budgeted Costs	\$3,757,000	
Balance for Unanticipated Costs and Expenses		\$593,000

12. Once collected, the PSIP Funds are deposited into the Diocese’s main operating account at M&T Bank, and separately maintained in a sub account. As needed, these funds are

used to bind coverage, to pay the Diocese's administrative costs and other obligations related to risk management and maintaining the PSIP, or transferred to an account managed by Waldorf to pay per occurrence deductibles up to the amount of the insurance policy self-retention along with other PSIP related costs. In the event that there are surplus PSIP Funds remaining at the end of a fiscal year after payment of all costs and expenses related to the program, such surplus funds are deposited by the Diocese into a segregated account with The Communis Fund of the Diocese of Rochester, Inc.

13. As of the Petition Date, all 2019-2020 insurance premiums payable to third-party carriers under the PSIP have been paid in full.

14. The PSIP provides a practical, cost-effective way to procure and maintain broad insurance coverage for the Participating Entities under a single program. If the PSIP is not continued, the Diocese together with each of the Participating Entities, will be forced to purchase separate insurance policies covering each entity and their respective properties. Upon information and belief each of the Diocese and the other Participating Entities would incur substantially higher costs to obtain their own individualized insurance (with or without a retention or deductible) than what they are currently assessed under the PSIP. Moreover, without the broader collective risk profile provided by the PSIP, certain types of coverage may simply not be available to the Diocese or to the other Participating Entities on an individualized basis or on commercially reasonable terms.

15. The Diocese seeks to continue to maintain the PSIP for itself and on the behalf of the Participating Entities in accordance with past practice and in the ordinary course of business. The Diocese believes that the maintenance of the PSIP is in the best interest of the estate and its creditors.

LEGACY CLAIMS

16. The Diocese and the Participating Entities were substantially self-insured prior to July 1, 2009, including workers' compensation. Since that time, these entities have insurance for complete "dollar-one" coverage of all workers' compensation claims post July 1, 2009. Currently coverage is provided by Church Mutual Insurance Company.

17. With regard to pre-July 1, 2009 workers compensation claims, the Debtor maintains a legacy workers' compensation fund at Key Bank, which is maintained by a third-party administrator, FutureComp (formally USI Insurance Services, Key Insurance & Benefits Services and First Niagara Risk Management). This workers compensation fund is supported by a letter of credit in the amount of \$844,000 at M&T Bank.

18. Currently the Diocese is required, pursuant to orders issued by the New York Workers' Compensation Board, to pay three Diocese claimants and five Catholic Charities' claimants a total of approximately \$8,629 per month on average (the "Legacy Payments").

19. The Diocese requests court authority to continue to make these Legacy Payments in the ordinary course of business.

RELIEF REQUESTED

20. By this Motion the Diocese requests the entry of an order allowing the Diocese to continue to maintain the PSIP. The Diocese also seeks entry of an order authorizing, but not directing, the Diocese in its discretion to pay, from the PSIP Funds described above, prepetition claims, premiums, defense costs and administrative costs related to the PSIP, along with any Legacy Payments and authorizing checks and other withdrawals whether for pre- or postpetition periods, including amounts representing payments or reimbursement of claims payable under the PSIP and premiums, administrative and other costs associated with the PSIP to be honored. To

the extent coverage may be available under the PSIP policies for claims made pursuant to the New York Child Victims Act (the “CVA”), the Debtor is not seeking authority to pay such claims at this time. The Debtor proposes to address all CVA claims, as well as any insurance coverage which may be available to cover them, in connection with its plan of reorganization.

21. As of June 30, 2019, the PSIP program had established case-specific reserves in the amount of \$182,000 for non-CVA personal injury and general liability claims, \$32,000 for property damage claims, and \$260,000 for workers compensation Legacy Payments. The Debtor also has additional reserves which it believes are sufficient to cover these known claims in the event the case-specific allocations prove to be insufficient, and to cover any additional claims which may have been incurred but not yet reported. These funds are required for the operation of the PSIP and the handling of such claims and are not included in the current fiscal year budget set forth above, but were instead specifically earmarked and reserved from prior year PSIP Funds to cover just such contingencies. As of the date of this Motion, the Debtor is aware of one pending property damage claim and has received notice of approximately 16 precautionary incident reports which may lead to general liability claims, all of which, if asserted would be covered under this fiscal year’s PSIP plan, but with respect to which the Debtor does not currently have sufficient information to establish a specific reserve amount.

22. An order granting the requested relief is necessary to minimize unnecessary disruption to the Diocese and other participants in the PSIP and to continue the insurance coverage funded with their premium payments.

23. The Diocese is not requesting the assumption or rejection of any executory contracts in connection with this Motion.

BASIS FOR RELIEF

24. This Court has authority to grant the relief requested herein pursuant to Bankruptcy Code sections 105(a) and 363(b). Bankruptcy Code section 363(b)(1) provides that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Moreover, Bankruptcy Code section 105(a) allows the Court to authorize payments on account of certain pre-petition claims when necessary. Bankruptcy Code section 105(a) provides, in relevant part, that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a). This is generally referred to as the “necessity of payment rule” or the “doctrine of necessity.” See *In re NVR, L.P.*, 147 B.R. 126, 128 (Bankr.E.D. Va. 1992); *In re Colad Grp., Inc.*, 324 B.R. 208, 213 (Bankr. W.D.N.Y. 2005); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 177 (Bankr. S.D.N.Y. 1989), accord *In re Financial News Network, Inc.*, 134 B.R. 732, 736 (Bankr. S.D.N.Y. 1991) (pre-petition claims may be paid when so doing is “critical to the debtor’s reorganization”); *In re Eagle-Pitcher Indus.*, 124 B.R. 1021, 1023 (Bankr. S.D. Ohio 1991) (payment must be “necessary to avert a serious threat to the Chapter 11 process”); *In re Structurlite Plastics Corp.*, 86 B.R. 922, 931 (Bankr. S.D. Ohio 1988) (payment necessary to “permit the greatest likelihood of survival of the debtor and payment of creditors in full or at least proportionately”) (quoting *In re Chateaugay Corp.*, 80 B.R. 279, 287 (S.D.N.Y. 1987)).

25. Courts have recognized that the “necessity of payment rule” is “well-established in bankruptcy common law.” *In re NVR, L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) (also stating that, under Bankruptcy Code section 105(a), a court “can permit pre-plan payment of a pre-petition obligation when essential to the continued operation of the debtor”); see also *Official*

Comm. of Unsecured Creditors of Motor Coach Indus. Int'l v. Motor Coach Indus. Int'l (In re Motor Coach Indus. Int'l), 2009 U.S. Dist. LEXIS 10024, at *7 n.5 (D. Del. Feb. 10, 2009) (“The ‘doctrine of necessity’ or ‘necessity of payment’ doctrine is a general rubric for the proposition that a court can authorize the payment of prepetition claims if such payment is essential to the continued operation of the debtor.”); *In re Just for Feet, Inc.*, 242 B.R. 821, 824-25 (D. Del. 1999) (holding that Bankruptcy Code section 105(a) provides a statutory basis for the payment of prepetition claims under the doctrine of necessity and noting that “[t]he Supreme Court, the Third Circuit and the District of Delaware all recognize the court’s power to authorize payment of prepetition claims when such payment is necessary for the debtor’s survival during chapter 11”); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (stating that a bankruptcy court’s use of its equitable powers to “authorize the payment of pre-petition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept”) (citing *NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 528 (1984)).

26. For the reasons described above, and in view of the Diocese’s need to maintain appropriate levels of insurance to support its reorganization efforts, authorizing the Diocese to continue to maintain the Insurance Program, including utilizing the services of Waldorf or a replacement agent or broker in the ordinary course of maintaining the PSIP, and making the payments required by the PSIP and the underlying insurance policies, is in the best interests of all parties in interest in this case. The continuance of the PSIP is essential to the Diocese’s ability to minimize disruption during this chapter 11 case and to maximize the value of its estate for the benefit of its creditors. Thus, the Diocese respectfully request authorization (but not direction) to fully retain in place the existing PSIP and to honor prepetition obligations related thereto, as well as the Legacy Payments.

27. Relief similar to that requested herein has been granted in many other chapter 11 cases in this circuit. *See, e.g., In re Eagle Bulk Shipping, Inc.*, Case No. 14-12303 (SHL) (Bankr. S.D.N.Y. Sept. 19, 2014) [Docket No. 99]; *In re Genco Shipping & Trading Ltd.*, Case No. 14-11108 (SHL) (Bankr. S.D.N.Y. Apr. 23, 2014) [Docket No. 168]; *In re Excel Mar. Carriers Ltd.*, Case No. 13-23060 (RDD) (Bankr. S.D.N.Y. Aug. 5, 2013) [Docket No. 127]; *In re Eastman Kodak Co.*, Case No. 12-10202 (ALG) (Bankr. S.D.N.Y. Feb. 15, 2012) [Docket No. 361]; *In re General Mar. Corp.*, Case No. 11-15285 (MG) (Bankr. S.D.N.Y. Dec. 15, 2011) [Docket No. 137].

WAIVER OF BANKRUPTCY RULES GOVERNING NOTICE AND STAY

28. Given the nature of the essential and critical relief requested herein, the Debtor respectfully requests a waiver of (a) the notice requirements under Bankruptcy Rule 6004(a), and (b) the 14-day stay under Bankruptcy Rules 6004(h), 7062, 9014 or otherwise.

DEBTOR'S RESERVATION OF RIGHTS

29. Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtor, a waiver of the Debtor's rights to dispute any claim, or an approval or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code, nor does the Debtor waive its rights under the Code of Canon law, or any applicable State or Federal law.

NOTICE

30. Notice of this Motion will be given to (i) the Office of the United States Trustee for the Western District of New York, (ii) the entities listed on the List of Creditors Holding the 20 Largest Unsecured Claims, (iii) all required governmental agencies and (iv) the Debtor's banks. Due to the urgency of the circumstances surrounding this Motion and the nature of the

relief requested herein, the Debtor respectfully submits that further notice of this Motion is neither required nor necessary.

NO PRIOR REQUEST

31. The Debtor has not previously sought the relief requested herein from this or any court.

WHEREFORE, the Diocese requests entry of interim and final orders, in substantially the form attached hereto as *Exhibits A* and *B* respectively: (i) authorizing, but not directing, the Diocese to pay or reimburse from the PSIP Funds claims and administrative costs payable under the Protected Self-Insurance Program whether incurred pre- or postpetition; (ii) pay any pre- or postpetition Legacy Payments; (iii) authorizing checks and other withdrawals whether for pre- or postpetition periods, including amounts representing payments or reimbursement of claims payable under the Protected Self-Insurance Program and premiums, administrative and other costs associated with the Protected Self-Insurance Program to be honored; and (iv) granting such further and equitable relief as this Court deems just and proper.

Dated: September 12, 2019

BOND, SCHOENECK & KING, PLLC

By: /s/ Stephen A. Donato

Stephen A. Donato

Charles J. Sullivan

One Lincoln Center

Syracuse, NY 13202-1355

Telephone: (315) 218-8000

sdonato@bsk.com

csullivan@bsk.com

Ingrid C. Palermo
350 Linden Oaks, Third Floor
Rochester, New York 14625-2825
Telephone: (585) 362-4700
ipalermo@bsk.com

*Proposed Attorneys for the Diocese of
Rochester*

Exhibit A

Proposed Interim Order

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:

The Diocese of Rochester,

Debtor.

Case No. 19-20905

Chapter 11

**INTERIM ORDER (I) AUTHORIZING THE CONTINUED MAINTENANCE OF
THE DEBTOR'S PROTECTED SELF-INSURANCE PROGRAM; AND
(II) AUTHORIZING THE PAYMENT OF CERTAIN PREPETITION
OBLIGATIONS IN RESPECT THEREOF AND OTHER LEGACY CLAIMS**

Upon the motion of the Diocese of Rochester (the "Debtor"), for entry of an order (i) authorizing the Debtor to continue to maintain its Protected Self-Insurance Program ("PSIP"), and (ii) authorizing, but not directing, the Debtor to pay any prepetition claims, premiums, legacy worker's compensation obligations and other administrative costs of the PSIP (the "Motion")¹; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of this chapter 11 case and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having determined that the relief requested in the Motion is in the best interests of the Debtor, its estate, its creditors and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given under the circumstances and that no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED, on an interim basis as set forth herein.

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them as in the Motion.

2. A final hearing on the Motion shall be held on October __, 2019 at ____:____ a.m./p.m. prevailing Eastern Time (the "Final Hearing"). Any objections or responses to the Motion shall be filed on or before _____, 2019 at 4:00 p.m. and served on parties in interest as required by the Local Rules. This Interim Order, and all acts taken in furtherance of or reliance upon this Interim Order, shall be effective notwithstanding the filing of an objection.

3. The Debtor is authorized, but not required, in its sole discretion, to continue to maintain and renew the PSIP and each underlying insurance policy on an uninterrupted basis and in accordance with the same practices and procedures as were in effect prior to the commencement of the Debtor's chapter 11 case.

4. The Debtor is authorized and empowered, but not directed, in its sole discretion, to pay from the PSIP Funds, any prepetition claims, premiums, defense costs and administrative costs related to the PSIP, along with any Legacy Payments.

5. The Debtor is authorized, but not directed, in its sole discretion, to revise, extend, supplement or change insurance coverage under the PSIP as it deems necessary or advisable, including entering into new insurance policies, and to continue to collect PSIP Funds from Participating Entities for the purposes of providing continued insurance coverage. The Debtor will notify the Office of the United States Trustee within five (5) business days of making any determination to discontinue the PSIP program.

6. The banks and financial institutions on which checks were drawn or electronic payment requests were made in connection with any prepetition PSIP payments or obligations approved herein are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment (to the extent of funds on deposit),

and all such banks and financial institutions are authorized to rely on the Debtor's designation of any particular check or electronic payment request as being approved by this Order.

7. The Debtor is authorized, but not directed, in its discretion, to issue new postpetition checks, or to effect new funds transfers, on account of the PSIP payments and obligations and to replace any prepetition checks or electronic funds transfer requests issued that may be lost or dishonored or rejected as a result of the commencement of this chapter 11 case.

8. Nothing in this Order or any action taken by the Debtor in furtherance of the implementation hereof shall be deemed an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code, and the Debtor's rights with respect to such matters are expressly reserved.

9. Nothing in the Motion or this Order, nor the Debtor's payment of any amounts pursuant to this Order, if any, shall be construed as (i) an admission as to the validity of any claim against the Debtor, (ii) a waiver or impairment of the Debtor's rights to contest the validity or amount of any claim on any grounds, (iii) a promise to pay any claim, or (iv) an implication or admission by the Debtor that such claim is payable pursuant to this Order.

10. The requirements set forth in Local Rule 9013-1(A) and (B) are satisfied.

11. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied.

12. The requirements set forth in Bankruptcy Rule 6004(a) are satisfied.

13. This Order is immediately effective and enforceable, notwithstanding the possible applicability of Bankruptcy Rule 6004(h) or otherwise. Any subsequent modification or vacatur of this Order shall not invalidate any action taken pursuant to this Order prior to the modification or vacatur of the Order.

14. The Debtor is authorized and empowered to take all actions it determines are necessary to effectuate the relief granted pursuant to this Final Order in accordance with the Motion.

15. This Court retains jurisdiction with respect to all matters arising from or related to the enforcement of this Order.

Dated: September __, 2019
Rochester, New York

Hon. Paul R. Warren
United States Bankruptcy Judge

Exhibit B

Proposed Final Order

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re:

The Diocese of Rochester,

Debtor.

Case No. 19-20905

Chapter 11

**FINAL ORDER (I) AUTHORIZING THE CONTINUED MAINTENANCE OF
THE DEBTOR'S PROTECTED SELF-INSURANCE PROGRAM; AND
(II) AUTHORIZING THE PAYMENT OF CERTAIN PREPETITION
OBLIGATIONS IN RESPECT THEREOF AND OTHER LEGACY CLAIMS**

Upon the motion of the Diocese of Rochester (the "Debtor"), for entry of an order (i) authorizing the Debtor to continue to maintain its Protected Self-Insurance Program ("PSIP"), and (ii) authorizing, but not directing, the Debtor to pay any prepetition claims, premiums, legacy worker's compensation obligations and other administrative costs of the PSIP (the "Motion")¹; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of this chapter 11 case and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and an interim order with respect to the Motion having been entered on _____, 2019; and this Court having determined that the relief requested in the Motion is in the best interests of the Debtor, its estate, its creditors and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given under the circumstances and that no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED, on an final basis as set forth herein.

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them as in the Motion.

2. All Objections to the Motion or the relief requested therein that have not been made, withdrawn, waived or settled, and all reservations of rights included therein, are overruled and disallowed on the merits.

3. The Debtor is authorized, but not required, in its sole discretion, to continue to maintain and renew the PSIP and each underlying insurance policy on an uninterrupted basis and in accordance with the same practices and procedures as were in effect prior to the commencement of the Debtor's chapter 11 case.

4. The Debtor is authorized and empowered, but not directed, in its sole discretion, to pay from the PSIP Funds, any prepetition claims, premiums, defense costs and administrative costs related to the PSIP, along with any Legacy Payments.

5. The Debtor is authorized, but not directed, in its sole discretion, to revise, extend, supplement or change insurance coverage under the PSIP as it deems necessary or advisable, including entering into new insurance policies, and to continue to collect PSIP Funds from Participating Entities for the purposes of providing continued insurance coverage. The Debtor will notify the Office of the United States Trustee within five (5) business days of making any determination to discontinue the PSIP program.

6. The banks and financial institutions on which checks were drawn or electronic payment requests were made in connection with any prepetition PSIP payments or obligations approved herein are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment (to the extent of funds on deposit), and all such banks and financial institutions are authorized to rely on the Debtor's designation of any particular check or electronic payment request as being approved by this Order.

7. The Debtor is authorized, but not directed, in its discretion, to issue new postpetition checks, or to effect new funds transfers, on account of the PSIP payments and obligations and to replace any prepetition checks or electronic funds transfer requests issued that may be lost or dishonored or rejected as a result of the commencement of this chapter 11 case.

8. Nothing in this Order or any action taken by the Debtor in furtherance of the implementation hereof shall be deemed an assumption or rejection of any executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code, and the Debtor's rights with respect to such matters are expressly reserved.

9. Nothing in the Motion or this Order, nor the Debtor's payment of any amounts pursuant to this Order, if any, shall be construed as (i) an admission as to the validity of any claim against the Debtor, (ii) a waiver or impairment of the Debtor's rights to contest the validity or amount of any claim on any grounds, (iii) a promise to pay any claim, or (iv) an implication or admission by the Debtor that such claim is payable pursuant to this Order.

10. The requirements set forth in Local Rule 9013-1(A) and (B) are satisfied.

11. This Order is immediately effective and enforceable, notwithstanding the possible applicability of Bankruptcy Rule 6004(h) or otherwise. Any subsequent modification or vacatur of this Order shall not invalidate any action taken pursuant to this Order prior to the modification or vacatur of the Order.

12. The Debtor is authorized and empowered to take all actions it determines are necessary to effectuate the relief granted pursuant to this Final Order in accordance with the Motion.

13. This Court retains jurisdiction with respect to all matters arising from or related to the enforcement of this Order.

Dated: October __, 2019
Rochester, New York

Hon. Paul R. Warren
United States Bankruptcy Judge

Exhibit C

Participating Entities

**Debtors Motion for an order authorizing maintenance of the
Protected Self Insurance Program (PSIP)**

Exhibit A

Parish Name
Blessed Sacrament, Rochester
Holy Apostles Church, Rochester
Holy Cross, Rochester
Immaculate Conception/St. Bridget Church Society
Our Lady of Lourdes, Rochester
Our Lady Queen of Peace, Rochester
Our Lady of Victory/St. Joseph, Rochester
Our Mother of Sorrows, Rochester
St. Anne, Rochester
St. Boniface, Rochester
St. Charles Borromeo, Rochester
St. George, Rochester
St. John the Evangelist, Rochester
St. Lawrence, Rochester
St. Mark's, Rochester
St. Mary's, Rochester
St. Monica, Rochester
St. Pius X, Rochester
St. Stanislaus Kostka, Rochester
St. Theodore's, Rochester
St. Thomas More, Rochester
Emmanuel Church of the Deaf, Rochester
Holy Family, Auburn
Sacred Heart, Auburn
St. Alphonsus, Auburn
St. Mary's, Auburn
St. Agnes, Avon
Nativity of the Blessed Virgin Mary, Brockport
Holy Cross, Freeville
St. Jerome, East Rochester
Church of the Assumption, Fairport
St. John of Rochester, Fairport
St. Anthony's, Groton
St. Leo, Hilton
St. Mary's, Honeoye
St. Paul of the Cross, Honeoye Falls
St. Mary Our Mother, Horseheads
Immaculate Conception, Ithaca
St. Catherine of Siena, Ithaca
St. Rose, Lima
All Saints, Lansing
St. Catherine of Siena, Mendon
St. Michael's, Newark
St. Benedict's, Watkins Glen
St. Ann's, Owasco
St. Patrick's, Owego
Holy Spirit Church, Webster
St. Joseph's, Penfield
St. Louis, Pittsford
St. John the Evangelist, Spencerport
St. Patrick's, Victor
St. Mary's of the Lake, Watkins Glen

Protected Self Insurance Program (PSIP)**Exhibit A**

Parish Name
Holy Trinity, Webster
St. Rita's, Webster
St. Paul's, Webster
St. Christopher, North Chili
Resurrection, Fairport
St. Elizabeth Ann Seton, Hamlin
Transfiguration, Pittsford
Good Shepherd Catholic Community, Aurora
All Saints, Corning
St. Matthew, Livonia
Blessed Trinity, Owego
Our Lady of the Valley, Hornell
Holy Family Catholic Community, Wayland
Our Lady of the Snow, Weedsport
St. Luke the Evangelist, Geneseo
Catholic Community of the Blessed Trinity, Wolcott
Our Lady of Peace, Geneva
Peace of Christ, Rochester
St. Maximilian Kolbe, Ontario
The Cathedral Community Church, Rochester
Ss. Isidore & Maria Torribia, Addison
St. Katharine Drexel, Macedon
St. Kateri Tekakwitha, Rochester
St. Frances Xavier Cabrini, Rochester
Our Lady of the Lakes Catholic Community, Penn Yan
St. Peter's Roman Catholic, Clifton Spring
St. John Vianney, Bath
St. Marianne Cope, Henrietta
Ss. Mary & Martha, Auburn
St. Joseph the Worker, Clyde
St. Benedict, Canandaigua
St. Frances and St. Clare, Waterloo
Parish of the Holy Family, Rochester
Mary, Mother of Mercy, Interlaken
Saint Martin de Porres, Caledonia
The Parish of the Most Holy Name of Jesus, Chumung County, NY
All Saints Academy, Corning
St. Joseph's School
St. Francis DeSales
Rochester Catholic Press, Rochester
Society of the Propagation of Faith
St. Bernard School of Theology, Rochester
St. Patrick/St. Mary's Cemetery, Geneva
Cornell Catholic Community, Inc.
Ithaca College Newman Foundation, Ithaca
Catholic Campus Parish at Rochester Institute, Rochester
Newman Community of the University, Rochester
Newman Oratory, Brockport
Holy Family Catholic School System
Patrick Place, Scottsville

Exhibit D

2019-2020 Policy Declarations

This Insurance is effected with certain Underwriters at Lloyd's, London and HDI Global Specialty SE under Binding Authority Agreement Number: **B128411222W19**

This Certificate is issued in accordance with the limited authorization granted to the Coverholder by HDI Global Specialty SE and certain Underwriters at Lloyd's, London whose syndicate numbers (where applicable) and the proportions underwritten by them, which are defined in the attached Schedule of Security, can be ascertained from the office of the said Coverholder (such Underwriters being hereinafter called "the Insurers") and in consideration of the premium specified herein, the Insurers hereby bind themselves severally and not jointly, each for his own part and not one for another, their Executors and Administrators.

The Insured is requested to read this Certificate, and if it is not correct, return it immediately to the Coverholder for appropriate alteration.

In Witness whereof this Certificate has been signed at the place and on the date specified below;

For And on Behalf of:

**THE COVERHOLDER,
BMS Group Limited,
One America Square,
London,
EC3N 2LS.**



Dated in London: 16th August 2019

MAIN DECLARATIONS

Certificate No.: 19W2012

Unique Market Reference (UMR) Number: B128419W2012

Name of Insured:

DIOCESE OF ROCHESTER, NEW YORK, Most Reverend Salvatore Ronald Matano Roman Catholic Bishop of Rochester or his successor and all subordinate civil corporations and all unincorporated agencies, departments or commissions composing the Diocese of Rochester under his management and control, as may now or hereafter be constituted, including Parishes, Schools, Cemeteries and other directly connected agencies and Providence Housing Development, and its Subsidiary, Associated or Allied Company, Corporation, Firm, Organization and its interest in any partnership or joint venture in which it has at least fifty-one per cent (51%) management control or ownership as now constituted or hereafter is acquired as their respective interest may appear, all hereafter referred to as the "Insured", including legal representatives.

Address of Named Insured:

1150 Buffalo Road, Rochester, New York, New York 14624-1890, United States of America.

Period of Insurance:

From: 1st July 2019

To: 1st July 2020

Both days at 12.01 a.m. Standard Time at the address of the Named Insured shown above and for such further period or periods as may be mutually agreed upon.

Type of Insurance:

Institutional Property Insurance, Commercial General Liability Insurance, Sexual Misconduct Liability, Employee Dishonesty and Crime, Errors and Omissions, Employment Practices and Management Liability Insurance, Employee Benefits Administration and Fiduciary Liability and Crisis Administration Liability.

The Interest:

- | | |
|---------------|--|
| Section A | All real and personal property of every kind and description belonging to the Insured including the property of others in the care, custody or control of the Insured. |
| Section B (1) | Commercial General Liability, on all the Named Insured's operations. |
| Section B (2) | Sexual Misconduct Liability. |
| Section B (3) | Employee Dishonesty and Crime. |
| Section B (4) | Errors and Omissions. |
| Section B (5) | Employment Practices and Management Liability. |
| Section B (6) | Employee Benefits Administration and Fiduciary Liability. |
| Section B (7) | Crisis Administration Liability. |

Page 3



This is to certify that Excess Line Association of New York received and reviewed the attached insurance document in accordance with Article 21 of the New York State Insurance Law 08/19/2019
Id:865076080

THE INSURER(S) NAMED HEREIN IS (ARE) NOT LICENSED BY THE STATE OF NEW YORK, NOT SUBJECT TO ITS SUPERVISION, AND IN THE EVENT OF THE INSOLVENCY OF THE INSURER(S), NOT PROTECTED BY THE NEW YORK STATE SECURITY FUNDS. THE POLICY MAY NOT BE SUBJECT TO ALL OF THE REGULATIONS OF THE DEPARTMENT OF FINANCIAL SERVICES PERTAINING TO POLICY FORMS.

MAIN DECLARATIONS

Certificate No.: 19W2012

Unique Market Reference (UMR) Number: B128419W2012

Name of Insured:

DIOCESE OF ROCHESTER, NEW YORK, Most Reverend Salvatore Ronald Matano Roman Catholic Bishop of Rochester or his successor and all subordinate civil corporations and all unincorporated agencies, departments or commissions composing the Diocese of Rochester under his management and control, as may now or hereafter be constituted, including Parishes, Schools, Cemeteries and other directly connected agencies and Providence Housing Development, and its Subsidiary, Associated or Allied Company, Corporation, Firm, Organization and its interest in any partnership or joint venture in which it has at least fifty-one per cent (51%) management control or ownership as now constituted or hereafter is acquired as their respective interest may appear, all hereafter referred to as the "Insured", including legal representatives.

Address of Named Insured:

1150 Buffalo Road, Rochester, New York, New York 14624-1890, United States of America.

Period of Insurance:

From: 1st July 2019

To: 1st July 2020

Both days at 12.01 a.m. Standard Time at the address of the Named Insured shown above and for such further period or periods as may be mutually agreed upon.

Type of Insurance:

Institutional Property Insurance, Commercial General Liability Insurance, Sexual Misconduct Liability, Employee Dishonesty and Crime, Errors and Omissions, Employment Practices and Management Liability Insurance, Employee Benefits Administration and Fiduciary Liability and Crisis Administration Liability.

The Interest:

- | | |
|---------------|--|
| Section A | All real and personal property of every kind and description belonging to the Insured including the property of others in the care, custody or control of the Insured. |
| Section B (1) | Commercial General Liability, on all the Named Insured's operations. |
| Section B (2) | Sexual Misconduct Liability. |
| Section B (3) | Employee Dishonesty and Crime. |
| Section B (4) | Errors and Omissions. |
| Section B (5) | Employment Practices and Management Liability. |
| Section B (6) | Employee Benefits Administration and Fiduciary Liability. |
| Section B (7) | Crisis Administration Liability. |

Territorial Limits:

Worldwide.

Insurance Limit(s) of Liability:

Section A	USD100,000,000 each and every loss sub-limited as per the schedule of sub-limits attached.	
Section B(1)	USD1,000,000 combined single limit each and every occurrence subject to an aggregate of USD3,000,000.	
Section B(2)	USD1,000,000 per claim inclusive of Defense Costs subject to an aggregate of USD2,000,000 inclusive of Defense Costs.	
Section B(3)	USD1,000,000 per loss and in the aggregate.	
Section B(4)	USD1,000,000 per claim inclusive of Defense Costs and in the aggregate.	
Section B(5)	USD1,000,000 per claim inclusive of Defense Costs and in the aggregate.	
Section B(6)	USD1,000,000 per claim inclusive of Defense Costs and in the aggregate.	
Section B(7)	USD100,000	Crisis Administration Loss (inclusive of Crisis Administration Counseling) per circumstance.
	USD10,000	Crisis Administration Counseling per Circumstance
	USD50,000	aggregate limit for all Crisis Administration Loss
	USD100,000	aggregate limit for all Crisis Administration Loss

Premium:

USD1,228,287.80 (100%) annual being allocated as follows:

Section A

USD904,896.71 (100%) annual.

Section B

USD323,391.09 (100%) annual.

Premium is exclusive of any taxes and charges payable by the Insured in addition to the premium.

Premium Payment Terms:

45 days

SCHEDULE OF SECURITY DETAILS

SECTION A

Proportion %	Lloyd's Syndicate / Insurance Company	
20.000	XL Catlin Underwriting Agencies Limited	XLC 2003
11.750	Chubb Underwriting Agencies Limited	CGM 2488
10.000	Ascot Underwriting Limited	ASC 1414
9.000	Argenta Syndicate Management Limited	ARG 2121
8.250	Vibe Syndicate Management Limited	VSM 5678
7.500	QBE Underwriting Limited	QBE 1886
6.500	Axis Managing Agency Ltd	AXS 1686
5.000	S.A. Meacock & Company Limited	SAM 727
2.000	Pioneer PPP Consortium 9981	PPP 9981
	Lloyd's Syndicate No. 1980 – PIO - 100%	
20.000	HDI Global Specialty SE	
	In accordance with the authority granted under Binding Authority Reference: B1284 11222W19	
TOTAL LINE		
100.000%		

SCHEDULE OF SECURITY DETAILS

SECTION B

Proportion % Lloyd's Syndicate / Insurance Company

30.000	MS Amlin Underwriting Limited	AML 2001
22.000	Chaucer Syndicates Limited	CSL 1084
10.000	XL Catlin Underwriting Agenices Limited	XLC 2003
7.000	Pembroke Managing Agency Limited	ACA 2014
3.500	Vibe Syndicate Management Limited	VSM 5678
3.500	AEGIS Managing Agency Limited	AES 1225
4.000	S.A. Meacock & Company Limited	SAM 727
20.000	HDI Global Specialty SE	

In accordance with the authority granted under Binding Authority Reference:
B1284 11222W19

TOTAL LINE

100.000%

Exhibit E

Coverage Chart

2019-2020

Case 2:19-cv-00511-PW Document 1-5 Filed 09/12/19 Entered 09/12/19 11:54:46
Description: Exhibit E - Coverage Chart, Page 2 of 2

SIR