

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	:	Chapter 11
	:	
THE ROMAN CATHOLIC DIOCESE OF	:	Case No. 20-12345
ROCKVILLE CENTRE, NEW YORK,	:	
	:	
Debtor.	:	

**SUPPLEMENTAL DECLARATION OF LINDSAY MALESON IN SUPPORT OF THE
APPLICATION OF THE DEBTOR AUTHORIZING IT TO RETAIN AND EMPLOY
NIXON PEABODY LLP AS SPECIAL COUNSEL, *NUNC PRO TUNC*
TO THE PETITION DATE**

Pursuant to Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Rule 2014-1 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”) and consistent with the *U.S. Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases, effective November 1, 2013* (the “U.S. Trustee Guidelines”), I, Lindsay Maleson, declare:

1. I am an attorney admitted and in good standing to practice in the State of New York and the U.S. District Court for the Eastern District of New York.

1. I am a partner with the law firm of Nixon Peabody LLP (“Nixon Peabody”) and am duly authorized to make this declaration on behalf of Nixon Peabody. On November 23, 2020, I submitted an initial declaration (the “Initial Declaration”) in support of the *Debtor’s Application For An Order Authorizing Its Retention And Employment Of Nixon Peabody LLP As Special Counsel, Nunc Pro Tunc To The Petition Date* [Docket No. 187] (the

“Application”).¹ I hereby submit this supplemental declaration (the “Supplemental Declaration”) in further support of the Application and incorporate by reference, in its entirety, the Initial Declaration as if fully set forth herein.

2. The facts set forth in this Supplemental Declaration are personally known to me and, if called as a witness, I could and would testify thereto.

**NIXON PEABODY’S QUALIFICATIONS
AND ENGAGEMENT BY THE DEBTOR**

3. The Debtor’s decision to retain Nixon Peabody as special counsel is based on a number of considerations which informed the Debtor’s pre-petition decision to retain Nixon Peabody. Nixon Peabody possesses the requisite experience and knowledge of certain of Debtor’s historical and ongoing government and internal investigations; reporting obligations to law enforcement authorities and reporting relationships with said authorities; and other internal processes and issues.

4. Nixon Peabody is well qualified to serve as the Debtor’s special counsel in this chapter 11 case. Nixon Peabody has assembled a highly qualified team of attorneys to service the Debtor with respect to the matters for which it was retained.

5. Nixon Peabody also is familiar with the Debtor’s ministry and financial affairs. Nixon Peabody was engaged by the Debtor in or around February of 2001 with respect to corporate, tax, real estate, trusts and estates, litigation, education, labor, investigation, and law enforcement reporting issues. Since the Debtor’s retention of Nixon Peabody, Nixon Peabody attorneys have worked closely with the Debtor’s management and other professionals and, as a result, have become well acquainted with the Debtor’s history, ministry, operations, policies,

¹ Capitalized terms not otherwise defined herein shall have the meanings given to them in the Application.

practices and procedures, as well as its capital and corporate structure and related matters for which it is to be retained. Accordingly, Nixon Peabody has developed substantial knowledge regarding the Debtor that will result in effective and efficient services in this chapter 11 case.

SERVICES TO BE PROVIDED BY NIXON PEABODY

6. The Debtor anticipates that Nixon Peabody will provide legal services as needed throughout the course of this chapter 11 case, potentially including, without limitation, advising on and providing services in connection with certain of Debtor's historical and ongoing government and internal investigations; reporting obligations to law enforcement authorities; internal processes and issues; laws applicable to the Debtor; and other matters as requested by Debtor from time to time.

7. Subject to the Court's approval of the Application, Nixon Peabody is willing to serve as the Debtor's counsel and to perform the services described above.

DISCLOSURE CONCERNING DISINTERESTEDNESS

8. Since the filing of the Initial Declaration, Nixon Peabody has become aware of additional Interested Parties in these chapter 11 cases (the "Additional Interested Parties"), the identity of whom are set forth on Schedule 1. In preparing this Supplemental Declaration, I caused to be submitted for review under our conflicts check system (the "Conflict Database") the names of the Additional Interested Parties. The results of our conflicts check were compiled and analyzed by Nixon Peabody attorneys acting under my supervision.

9. The Conflict Database maintained by Nixon Peabody is designed to include every matter on which the firm is now or has been engaged; by which entity the firm is now or has been engaged; and, in each instance, the identity of related parties and adverse parties and certain of the attorneys in the firm who are knowledgeable about the matter. It is the policy of Nixon Peabody that no new matter may be accepted or opened within the firm without completing and

submitting to those charged with maintaining the Conflict Database the information necessary to check each such matter for conflicts, including the identity of the prospective client, the matter, and related and adverse parties. Accordingly, Nixon Peabody maintains and systematically updates this system in the regular course of business, and it is the regular practice of the firm to make and maintain these records.

10. Set forth in **Schedule 2**, annexed hereto, is a listing of those Additional Interested Parties that Nixon Peabody either (i) currently represents (the “Current Clients”) in matters wholly unrelated to these Chapter 11 cases or (ii) has in the past represented in matters wholly unrelated to these Chapter 11 cases. In connection with the services to be rendered to the Debtors, Nixon Peabody will not commence a cause of action against any Current Client with respect to these Chapter 11 cases unless Nixon Peabody receives a waiver from the Current Client allowing Nixon Peabody to commence such an action. In connection with these Chapter 11 cases, to the extent any causes of action are commenced by or against any Current Client and a waiver letter is not obtained permitting Nixon Peabody to participate in such action, the Debtors will retain conflicts counsel to represent the Debtors’ interests in those matters.

11. As a result of Nixon Peabody’s review, I have thus far ascertained that, except as may be set forth herein, upon information and belief, if retained, Nixon Peabody:

- a) Is not a creditor of the Debtors (including by reason of unpaid fees for prepetition services), an equity security holder of the Debtors, or an “insider” of the Debtors, as that term is defined in § 101(31) of the Bankruptcy Code;
- b) Is not and has not been, within two (2) years before the date of the filing of the petitions, a director, officer, or employee of the Debtors; and

- c) Does not have an interest materially adverse to the interests of the Debtors' estates or any class of creditors by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors, or for any other reason.

12. Accordingly, I continue to believe that Nixon Peabody is a "disinterested person" as that term is defined in § 101(14), as modified by § 1107(b), of the Bankruptcy Code. If Nixon Peabody discovers additional information that requires disclosures, Nixon Peabody will file a supplemental declaration with the Court.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 18, 2020
New York, NY

/s/ Lindsay Maleson
Lindsay Maleson
Partner, Nixon Peabody

SCHEDULE 1

Additional Interested Parties

Banks / Lenders / UCC Lien Parties

MFS Investment Management
Charles Schwab & Company
Apple Inc.
CIT Bank, N.A.
IOR (Institute for Works of Religion)
NYS Workers Compensation Board
Peoples United Bank

Contract Counterparties

Catholic Health System of Long Island, Inc.
Chase Merchant Service LLC
Church of St. Philip Neri
Exxon Fleet Card Services

Parties to Litigation

ANDREOZZI + FOOTE
Camp Molloy
NAME ON FILE
Eisenberg & Baum, LLP
Father Gerald Fagan
NAME ON FILE
NAME ON FILE
Leeds Brown Law, P.C.
SAINT CATHERINE OF SIENNA R.C. CHURCH, A/K/A SAINT CATHERINE OF SIENNA
ROMAN CATHOLIC CHURCH
Sister Mary Thoma
St. Boniface Martyr Church and School
NAME ON FILE

Ordinary Course Professionals

Actuarial & Technical Solutions Inc
Biddle Consulting Group, Inc.
Bryan Cave Leighton Paisner LLP
Burnett Risk Control International, LLC
Certilman Balin Adler & Hyman LLP
Changing Our World Inc
Harris Beach, PLLC

Jackson Lewis P.C
Mullholand Minion Davey McNiff & Beyrer
NAVEX Global Inc
Nixon Peabody LLP
Patrick F Adams P.C.
Proskauer Rose LLP
Renaissance Associates Ltd
Sahn Ward Coschignano, PLLC
Smith & Downey
The Law Offices of Kenneth R Feinberg PC
Wilkinson Barker Knauer LLP
Wright Insurance Group

Unsecured Creditors' Committee Advisors

Dr. Jon R. Conte
Kinsella Media, LLC
Berkeley Research Group
Burns Bowen Bair LLP
Pachulski Stang Ziehl & Jones

Unsecured Creditors' Committee Members

Charles d'Estries
John Daly
John Refior
John Shields
Keith Lizzi
Michael Miskell
Patricia Romano
Richard Tollner
Ursula Moore

Insurance

Allied World National Assurance Company
Aspen Specialty Insurance Company
Ategrity Specialty Insurance Company
AXIS Surplus Insurance Company
Berkley Insurance Company
Berkley National Insurance Company
Crum & Forster Specialty Insurance Company
Endurance American Insurance Company
Endurance American Specialty Insurance Company
Everest Indemnity Insurance Company
GuideOne Mutual Insurance Company

Hallmark Specialty Insurance Company
HDI Specialty Insurance Company
Inronshore Indemnity, Inc.
Kinsale Insurance Company
Landmark American Insurance Company
Liberty Surplus Insurance Corporation
Markel Insurance Company
Miller Insurance Services LLP
National Union Fire Insurance Company of Pittsburgh, PA
Navigators Insurance Company
New York State Insurance Fund
Philadelphia Indemnity Insurance Company
Porter & Curtis LLC
ProAssurance American Mutual, A Risk Retention Group
RLI Insurance Company
RSUI Indemnity Company
Steadfast Insurance Company
The State Insurance Fund
U.S. Specialty Insurance Company
Westchester Surplus Lines Insurance Company

Insurance Claimants

ALL DRY USA
ALPINE ADJUSTMENT
BELFOR RESTORATION
BOYLE SERVICES, INC
CURE OF ARS CHURCH
NAME ON FILE
ELMER L HENN, INC
ENTERPRISE RENT A CAR
FRANKLIN COURT PRESS INC
GLEN COVE VOLVO
NAME ON FILE
OUR LADY OF THE ASSUMPTION CHURCH
PANZNER DEMO & ABATEMENT
REILLY'S AUTO COLLISION
TMESYS
WORLDWIDE TV SALES INC
NAME ON FILE

Vendors

BANK OF AMERICA MERCHANT SERVICES
CHARLES J O'SHEA FUNERAL HOMES
CITIMEDICAL I LLC

CROCE'S BODY SHOP
ELLEN M LEVANTI
FINAL TOUCH AUTO COLLISION
FRANCISCAN UNIVERSITY OF STEUBANVILLE
MASSAPEQUA AUTOBODY
MICHELE LUCERO PSY D
MULHOLLAND MINION DUFFY DAVEY ET AL
UNITED STATES CONFERENCE OF CATHOLIC BISHOPS

SCHEDULE 2

Firm's Connections

Nixon Peabody currently represents the following Additional Interested Parties in **matters unrelated to the Debtors or the Debtors' Chapter 11 case:**

- Allied World Assurance Co. (U.S.) Inc.
- Allied World Insurance Co.
- Axis Financial Insurance Solutions
- Enterprise Holdings d/b/a Enterprise Rent-A-Car
- Everest National Insurance Company
- GuideOne Mutual Insurance and certain of its affiliates
- Landmark American Insurance Company
- RSUI Indemnity Co.
- National Union Fire Insurance Co. of Pittsburgh, PA
- Westchester Surplus Lines Insurance Co.