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Counsel for Claimant 20089

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

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In re:

THE ROMAN CATHOLIC DIOCESE OF  
ROCKVILLE CENTRE, NEW YORK,

Debtor.

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Chapter 11

Case No. 20-12345 (MG)

**OBJECTION TO THE DEBTOR'S ELEVENTH OMNIBUS OBJECTION**

Claimant [REDACTED] (20089) by his attorneys, Slater Slater Schulman LLP, files this response to the Eleventh Omnibus Objection (Docket No. 2117) (the "Objection") and respectfully states as follows:

1. The Objection advanced by Debtor should be overruled as premature. While Claimant does not dispute the procedural history of the Boy Scouts of America (“BSA”) bankruptcy proceeding set forth in the Objection and acknowledges that the effective date of the BSA Plan is April 19, 2023, Claimant submits that this does not mean that Claimant is guaranteed resolution of his claims under the BSA bankruptcy at this time.

2. Uncertainty as to the ultimate outcome of the BSA bankruptcy proceeding still remains. There are presently sixteen appeals that arise from the BSA Confirmation Order pending before the Third Circuit. While the Third Circuit declined to stay the effective date of the BSA Plan, the ultimate fate of the BSA Plan is unsettled.

3. As a result, Claimant herein is faced with potential legal limbo. If his claim in this bankruptcy is expunged, as Debtor urges it should be, and then the BSA Confirmation Order is vacated, he will be left with no compensation and no forum in which to proceed. This result is fundamentally unfair and unnecessary and would be avoided if this objection is held in abeyance pending resolution of the Third Circuit appeals. In the event that the Court is inclined to rule immediately on the objection, it is respectfully submitted that, in the event that the objection is sustained, it should be without prejudice to Claimant seeking further relief from this Court in the event that the BSA Plan is not sustained on appeal.

### **JURISDICTION AND JURY TRIAL DEMAND**

4. This Court has jurisdiction over this contested proceeding pursuant to 28 U.S.C. §§ 157(b)(1) and 1334, the Amended Standing Order of Reference from the United States District Court for the Southern District of New York dated January 31, 2012 and Federal Rule of Bankruptcy Procedure 7001.

5. Venue in this judicial district is appropriate pursuant to 28 U.S.C. §1409.

6. This contested proceeding is not a core proceeding pursuant to 28 U.S.C. §157(b)(2)(B).

7. Claimant does not consent to the entry of final orders or a final judgment by this Court in this contested proceeding.

8. Claimant asserts his right to a jury trial in this contested proceeding and does not consent to the Bankruptcy Court conducting this jury trial.

### **FACTUAL BACKGROUND**

9. Claimant herein is the victim of childhood sexual abuse. The details of this abuse are set forth in the claim filed on his behalf and are incorporated as if fully set forth herein.

10. Because Debtor's Objection is made in a bankruptcy proceeding in which discovery is not available to Claimant, to the extent that necessary facts are presently unavailable to Claimant, Claimant reserves the right to amend this Response once discovery is available.

11. In 1990, when Claimant was approximately 13 years old, he was sexually abused by Robert Robinson, the adult leader of Claimant's BSA troop. This BSA troop was chartered by Holy Spirit Catholic Church.

12. Specifically, Robert Robinson fondled and groped Claimant's bare genitals after unzipping Claimant's pants.

### **ARGUMENT**

13. A proof of claim executed and filed in accordance with the Federal Rules of Bankruptcy Procedure is presumptively allowed and shall constitute *prima facie* evidence of the amount of the claim and its validity. 11 U.S.C. § 502; Federal Rule of Bankruptcy Procedure §3001(f).

14. An objector to a bankruptcy claim must “produce evidence which, if believed, would refute at least one of the allegations that is essential to the claim’s legal sufficiency.” *Feinberg v. Bank of N.Y.*, 442 B.R. 215, citing *In re Spiegel, Inc.*, No.03-11540, 2007 U.S. Dist. LEXIS 62303, 2007 WL 2456626 \*15 Bankr. S.D.N.Y. Aug. 22, 2007). Only once the objector meets its prima facie burden does the burden shift to Claimant to prove the validity of their claim by a preponderance of the evidence. *Id.* Debtor has failed to do this in their Objection.

15. The standard of review on this Objection is as provided in Fed. R. Civ. P. 12(b), made applicable through Bankruptcy Rule 7012(b). Under this this rule, “the Court assesses the sufficiency of the facts alleged in support of the [c]laim in light of the pleading requirements under Rule 8(a) of the Federal Rules of Civil Procedure.” *In re Ditech Holding Corp.*, 19-10412(JLG), 2022 WL 17905335 at \*6 (Bankr. SDNY Dec. 23, 2022).

16. In determining whether a claim is plausible, a court “is merely to assess the legal feasibility of the complaint, not to assay the weight of the evidence which might be offered in support thereof.” *DiFolco v. MSNBC Cable LLC*, 622 F.3d 104, 113 (2<sup>nd</sup> Cir. 2010).

17. A proof of claim is prima facie evidence of its validity. *Whitney v. Dresser*, 200 U.S. 532 (1906). “Section 502(b) instructs the Bankruptcy Court to allow the claim unless it finds one of several specifically listed reasons for disallowance.” *Robinson v Olin Fed. Credit Union*, 48 BR 732, 736 (D. Conn 1984). The Debtor has not identified that any enumerated basis under Section 502(b) exists. On this basis alone, the objection should be overruled.

18. Debtor argues in this Objection that Claimant’s claim should be disallowed “pursuant to plain terms of the effective BSA Plan.” Claimant submits that, given the pending Third Circuit appeals, uncertainty regarding the ultimate fate of the BSA Plan creates the real possibility that Claimant will be left in legal limbo, and without any recourse, should his claim in

this bankruptcy proceeding be dismissed. For this reason, Claimant requests that the Court hold this objection in abeyance pending resolution of the Third Circuit BSA appeals, in the interests of justice. In the alternative, Claimant requests that should the Court decide to immediately rule upon the objection, that any dismissal be without prejudice, affording Claimant the opportunity to seek further relief from this Court should the BSA Plan be dismissed on appeal or otherwise fail to be effectuated.

### **CONTACT**

19. The Debtor must return any reply to this response to Claimant's counsel, Slater Slater Schulman LLP, 445 Broad Hollow Road, Suite 419, Melville, NY 11747, [lleder@sssfirm.com](mailto:lleder@sssfirm.com); [drvc@sssfirm.com](mailto:drvc@sssfirm.com). Counsel is also the appropriate party to contact with respect to all matters regarding Claimant's claim herein. Counsel is also the appropriate party to contact regarding reconciling, settling, or otherwise resolving the claim. Claimant has ultimate authority to reconcile, settle, or otherwise resolve the claim but no other case party is permitted to contact Claimant directly and such contact should only occur through Counsel at the previously stated address.

Dated: June 29, 2023  
Melville, New York

Respectfully submitted,

*/Linc C. Leder/*

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