

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO**

In re:  ROMAN CATHOLIC CHURCH OF THE DIOCESE OF GALLUP, a New Mexico corporation sole,  Debtor.	Chapter 11  Case No. 13-13676-t11  <b>Jointly Administered with:</b>
Jointly Administered with:  BISHOP OF THE ROMAN CATHOLIC CHURCH OF THE DIOCESE OF GALLUP, an Arizona corporation sole.  This pleading applies to:  <input checked="" type="checkbox"/> All Debtors. <input type="checkbox"/> Specified Debtor.	Case No. 13-13677-t11

**MOTION FOR ORDER EXTENDING THE DEBTORS' EXCLUSIVITY PERIODS**

Roman Catholic Church of the Diocese of Gallup (“**RCCDG**”) and the Bishop of the Roman Catholic Church of the Diocese of Gallup (the “**Arizona Entity**,” and collectively with RCCDG, the “**Debtors**”) respectfully request that the Court enter an Order extending the Debtors’ exclusivity periods under Bankruptcy Code § 1121(b), (c)(2), and (c)(3) in the above-captioned, jointly administered Chapter 11 reorganization cases (the “**Reorganization Cases**”) for a period of an additional 180 days, respectively. As discussed more fully herein, extension of exclusivity will will facilitate moving the case forward toward a fair and equitable resolution.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. JURISDICTION.**

The Court has jurisdiction over this Motion by virtue of 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). The grounds for the relief requested herein include 11 U.S.C. §§ 105 and 1121(d).

## **II. BACKGROUND.**

On November 12, 2013 (the “**Petition Date**”), the Debtors’ commenced the Reorganization Cases by filing voluntary Chapter 11 petitions. The Debtors are debtors-in-possession under 11 U.S.C. §§ 1107 and 1108.

The organization and background of the Debtors, and the relationship among them, the Diocese, the Parishes and various other entities within the geographic territory of the Diocese are described in the Wall Declaration, which is herein incorporated by this reference.

The Debtors filed these Reorganization Cases to help focus their efforts and limited financial resources to bring healing to those who were abused, parishioners, and others affected by the past acts of sexual abuse committed by clergy and others associated with the Diocese or who ministered within the geographic area of the Diocese. The Debtors seek to accomplish these goals by reorganizing their financial affairs pursuant to a plan of reorganization that will, among other things, fairly, justly, and equitably compensate those who were damaged because of sexual abuse by clergy or other workers in the Church, while allowing the Diocese to continue its ministry and mission, including providing counseling and other services to those who have been harmed and serving an underserved area and population with needed services.

On December 17, 2013, the US Trustee appointed an Unsecured Creditors’ Committee (the “**Committee**”).

The Debtors’ exclusive period to file a plan of reorganization expires on March 12, 2014 (the “**Filing Period**”) and the Debtors’ exclusive period to solicit acceptances of such plan expires on May 12, 2014 (the “**Acceptance Period**”).

Since the Petition Date, the Debtors have endeavored to work with the Committee. In connection with this, the Debtors are working with the Committee on a comprehensive list of

property, possible recovery of funds for the estate, and analysis of insurance coverage to maximize recovery to the creditors. While the Debtors have made progress toward identifying potential sources that might be used to fund a plan of reorganization, there is still work to be done and the Debtors hope that with more time, the Debtors and the Committee can agree on a consensual plan.

Accordingly, the Debtors' respectfully request that the Court enter an order extending the exclusive Filing Period through September 8, 2014, and the exclusive Acceptance Period through November 10, 2014. The relief requested in this Motion is a necessary step in bringing these Reorganization Cases to a successful conclusion.

### **III. ARGUMENT.**

Under Bankruptcy Code § 1121(d), a debtor may request an extension of the time periods set forth in Bankruptcy Code § 1121(c), commonly referred to as the "exclusivity period," on a showing of cause. In determining whether cause for an extension of exclusivity exists "a transcendent consideration is whether adjustment of exclusivity will facilitate moving the case forward toward a fair and equitable resolution." *In re Henry Mayo Newhall Mem'l Hosp.*, 282 B.R. 444, 452 (B.A.P. 9th Cir. 2002).<sup>1</sup> Additionally, "cause may be measured by a more lenient standard" when determining whether to grant an extension of the exclusive solicitation period

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<sup>1</sup> Some courts consider the following factors in determining cause for an extension of exclusivity: (1) the size and complexity of the case; (2) the necessity of sufficient time to permit the debtor to negotiate a plan of reorganization and prepare adequate information to allow a creditor to determine whether to accept such plan; (3) the existence of good faith progress towards reorganization; (4) the fact that the debtor is paying its bills as they become due; (5) whether the debtor has demonstrated reasonable prospects for filing a viable plan; (6) whether the debtor has made progress in negotiations with its creditors; (7) the amount of time that has elapsed in the case; (8) whether the debtor is seeking an extension of exclusivity in order to pressure creditors to submit to the debtor's reorganization demands; and (9) whether an unresolved contingency exists. *See In re Adelpia Commc'ns Corp.*, 352 B.R. 578, 586-87 (Bankr. S.D.N.Y. 2006) (citing *In re Dow Corning Corp.*, 208 B.R. 661, 664 (Bankr. E.D. Mich. 1997)).

under Bankruptcy Code § 1121(c)(3). *In re Mid-State Raceway, Inc.*, 323 B.R. 63, 68 (Bankr. N.D.N.Y. 2005) (quoting *In re Perkins*, 71 B.R. 294, 299 (Bankr. W.D. Tenn. 1987)).

Among the factors in this case which favor finding of cause for an extension are: (i) this is the first extension request; (ii) this case has not been pending for long, relative to its complexity; (iii) the Debtors have proceeded expeditiously and in good faith; (iv) the Debtors have made satisfactory progress negotiating with key creditors and creditor constituencies; and (v) the Debtors are not seeing an extension to pressure creditors. In addition, extending exclusivity in this case will facilitate moving the case forward toward a fair and equitable resolution. In light of its considerable progress thus far in this case, sufficient cause exists to extend exclusivity, as requested herein.

While these Debtors do not have significant assets, that does not make these cases any less complex. In many ways, it makes these cases more challenging. The Debtors have been working in good faith to determine the extent of the real property owned by the Debtors that is not used to carry out their mission and ministry. In addition, the Debtors have been attempting to get a more clear understanding of their insurance situation as well as identifying other entities that might have indemnification or contribution obligations to the Debtors for the abuse that occurred many decades ago.

The Debtors believe that extending exclusivity will facilitate negotiations with key creditors and creditor constituencies as opposed to submitting a plan now that has not been previewed or discussed with the Committee. Also, based on the experience of Debtors' counsel in these types of cases, a mediation in advance of submission of a plan can move the case forward and submission of a plan that has not been previewed or discussed with the Committee can sometimes be counterproductive. While the Debtors are not saying that they would not file a

nonconsensual plan if necessary, the Debtors do believe that it would be premature to do so now and could be detrimental to a consensual resolution at this time. For these same reasons, granting the Motion would not have the effect of pressuring creditors.

**IV. CONCLUSION.**

Based on the foregoing, and for good cause shown, the Debtors respectfully request the Court enter an Order:

- A. Extending the exclusive Filing Period through September 8, 2014, and the exclusive Acceptance Period through November 10, 2014; and
- B. Granting such other relief as is just under the circumstances.

RESPECTFULLY SUBMITTED this 11th day of February, 2014.

/s/ Susan G. Boswell

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**CERTIFICATE OF SERVICE**

Pursuant to F.R.C.P. 5(b)(3), F.R.B.P. 9036, NM LBR 9036-1(b), I hereby certify that service of the foregoing “Motion For Order Extending The Debtors’ Exclusivity Periods” was made on February 11, 2014 via e-mail and/or the notice transmission facilities of the Bankruptcy Court’s case management and electronic filing system on the following parties:

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