

**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 APPOINTING A LEGAL REPRESENTATIVE TO  
REPRESENT THE INTERESTS OF UNKNOWN TORT CLAIMANTS, INCLUDING  
MINORS, IN THE REORGANIZATION CASES AND APPLICATION TO EMPLOY  
MICHAEL P. MURPHY AS UNKNOWN CLAIMS REPRESENTATIVE**

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 appointing a representative (the “**Unknown Claims Representative**”) to represent the interests of present-day adults who may have claims arising from sexual abuse experienced as minors but did not timely submit a proof of claim against the Debtors in the above-captioned, jointly administered Chapter 11 reorganization cases (the “**Reorganization Cases**”).<sup>1</sup> Although the Debtors are not currently

---

<sup>1</sup> Nothing herein shall be a waiver or shall be construed as a waiver by the Debtors or any of their successor(s)-in-interest of any defenses to any claim, whether such defense is based on expiration of the statute of limitations, failure to act prior to the applicable claims bar date, or otherwise.

aware of any such adults, the Arizona and New Mexico statutes of limitations for such claims may be tolled by certain circumstances. Additionally, while the Debtors are not yet aware of any tort claimants who may be younger than the age of legal majority, the interest of such minor tort claimants should also be represented, because they may be presently unable to come forward as a result of their minority. These claimants may be excused from filing claims prior to the bar date, and claimants whose claims may be currently tolled under applicable state statutes of limitations (together, “**Unknown Tort Claimants**”) should have an opportunity to participate in a distribution pursuant to any plan of reorganization that is confirmed in the Reorganization Cases. Appointment of an Unknown Claims Representative with the power and duty to protect and bind Unknown Tort Claimants, including any tort claimants who are currently minors, allows the interests of all such claimants to be heard and, through the Unknown Claims Representative, to participate in the Reorganization Cases, allows the Debtors to reorganize and emerge from Chapter 11 and provides an opportunity to preserve a portion of the funds under the plan of reorganization which will be established to compensate such claimants.

The Debtors nominate Michael P. Murphy, a Managing Director of AlixPartners (“**Murphy**”), as the Unknown Claims Representative in these Reorganization Cases. The Unsecured Creditors Committee (“**Committee**”) joined the Debtor in this nomination of Murphy as the Unknown Claims Representative. If the Court approves Murphy as the Unknown Claims Representative, Murphy applies herein pursuant to 11 U.S.C. §§ 327 and 328 for an Order authorizing the employment of AlixPartners, LLP (“**AlixPartners**”) to assist him in carrying out his duties as the Unknown Claims Representative. Counsel for the Committee and the Debtors have agreed that it is in the best interest of all parties-in-interest to employ an Unknown Claims

Representative, and, specifically, Murphy as the Unknown Claims Representative and AlixPartners to assist him in his duties.

## **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)(A), (B), and (O), among others. The grounds for the relief requested herein include 11 U.S.C. §§ 105, 327, 328, 524, 1109 and Rule 2014(a) of the Federal Rules of Bankruptcy Procedure.

### **II. BACKGROUND**

The organization and background of the Debtors, and the relationship among the Debtors, the Diocese, the Parishes and various other entities within the geographic territory of the Diocese is described in the “Declaration of Bishop James S. Wall in Support of Chapter 11 Petition and First Day Motions” [Dkt. No. 19] (“**Wall Declaration**”) and in prior pleadings filed in the Reorganization Cases, all of which are herein incorporated by this reference.

As explained in more detail in the Wall Declaration and prior pleadings filed in the Reorganization Cases, certain claims which have been asserted (and will be asserted) against the Debtors are unsecured claims of persons who assert abuse by clergy or other persons associated with the Debtors within the geographic area of the Diocese (“**Tort Claimants**”) for which such Tort Claimants contend the Debtors are liable under various theories (the “**Tort Claims**”). The sexual abuse that underlies the Tort Claims primarily occurred decades ago, by priests or other workers in the Diocese or associated with the Diocese. In addition, there is a possibility that certain Tort Claimants may be minors, although the Debtors have no current knowledge that there are any abuse victims who are currently minors. Although the Diocese is not aware of any minor Tort Claimants, the Diocese wishes to ensure that if any come forward in the future, their

interests have been represented in the Reorganization Cases and with respect to any plan of reorganization that may be confirmed.

The Tort Claims consist of (i) Tort Claimants who have filed lawsuits against RCCDG, (ii) Tort Claimants who have filed claims in the Reorganization Cases, (iii) those who have come forward and informed the Debtors of potential claims but who have not filed any legal actions and who may not have filed claims in the Reorganization Cases, (iv) Tort Claimants who identified themselves to RCCDG and subsequently settled their Tort Claims but who are included in the Confidential Master Mailing List in these Reorganization Cases out of an abundance of caution, and (v) those Unknown Tort Claimants who have never come forward and are not presently known to the Debtors.

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.

To achieve these goals, in addition to setting a claims bar date, the Debtors need to provide for a mechanism whereby the interests of Unknown Tort Claimants are represented and their representative has authority to negotiate on their behalf in constructing and confirming a plan of reorganization for the Debtors.

The claims bar date of August 11, 2014, was set to ascertain the universe of potential claims against the Debtors by a date certain. The Debtors now request appointment of the Unknown Claims Representative<sup>2</sup> who would also have the responsibilities, in appropriate circumstances, of a guardian *ad litem* or next friend,<sup>3</sup> and would represent the interests of the Unknown Tort Claimants in the Reorganization Cases, because some aspects of their interests may diverge from the interests of the constituents of the Official Committee of Unsecured Creditors (the “**Committee**”), and the Bankruptcy Code does not provide for a Committee to exercise the types of powers and obligations necessary in representing the interests of Unknown Tort Claimants. The relief requested in this Motion is a necessary step in bringing these Reorganization Cases to a successful conclusion.

### **III. ARGUMENT**

In order to achieve the Debtors’ objective of compensating all Tort Claimants in the Reorganization Cases, any plan of reorganization the Debtors may propose must provide for Unknown Tort Claimants that are currently unable to assert or are excused from asserting their Tort Claims because they are currently unable to advocate for themselves through the Committee or otherwise.

---

<sup>2</sup> The class of Unknown Tort Claimants should include only those individuals who experienced sexual abuse as minors. *See, In re Roman Catholic Archbishop of Portland in Oregon*, 2005 WL 148775, \*1 (Bankr.D.Or. 2005).

<sup>3</sup> In both Arizona and New Mexico, any settlement with minor or other incompetent person must be judicially approved, and the minor or other incompetent person must be represented by someone appointed by the Court to represent their legal interests, usually a next friend or a guardian *ad litem*. *See, Triste v. Indus. Comm’n*, 25 Ariz. App. 489, 491, 544 P.2d 706, 708 (Ariz. App. 1976) (overruled on other grounds), citing *Nesbitt v. Nesbitt*, 1 Ariz. App. 293, 402 P.2d 228 (Ariz. 1965); *Garcia v. Middle Rio Grande Conservancy Dist.*, 99 N.M. 802, 808, 664 P.2d 1000, 1006 (N.M. App. 1983) (overruled on other grounds).

**A. Unknown Tort Claimants Have Claims Cognizable in the Reorganization Cases.**

The Bankruptcy Code employs the “broadest possible definition” of the word “claim,” which is designed to ensure that “all legal obligations of the debtor, no matter how remote or contingent, will be able to be dealt with in the bankruptcy case.” *In re Grynberg*, 113 B.R. 709, 711 (Bankr. D.Colo. 1990), *aff’d* 966 F.2d 570 (10th Cir. 1992), quoting from H.R. Rep. Non. 595, 95th Cong. 2nd Sess. 1, 309 (1978). In the Tenth Circuit, Courts determine whether a claim is pre-petition such that it can be treated and discharged in a bankruptcy case by determining “the date of the conduct giving rise to the claim.” *In re Parker*, 313 F.3d 1267, 1269 (10th Cir. 2002). So, for example, a medical malpractice claim was dischargeable in the *Parker* case because the conduct giving rise to the claim—medical malpractice—occurred pre-petition. *Id.* at 1270. Whether Unknown Tort Claimants hold claims (“**Unknown Tort Claims**”), therefore, turns on when the conduct that gave rise to their claims occurred, which in almost all cases, is or will be prior to the petition date. Therefore, regardless of whether the Unknown Tort Claimants are yet able to urge their claims against the Debtors, such Unknown Tort Claims can and should be treated in a plan of reorganization and discharged.

**B. Unknown Tort Claims Present Due Process Issues.**

The existence of Unknown Tort Claims may present certain due process concerns. Certain Unknown Tort Claimants may assert that they were unaware of their claims such that even if they see publication notices informing them of the deadline to file claims, they might not recognize themselves as affected in any way by the Reorganization Cases and may, therefore, take no action to ensure their interests are protected. Due process is implicated because

the purpose behind requiring notice to creditors is to provide them the 'opportunity to be heard' which is 'the fundamental requisite of due process of law.' Such a notice by publication is an exercise in futility as applied to creditors who are not only unknown to the debtor, but are also unknown to themselves. It cannot possibly define the requirements of the Due Process Clause.

*In re Chance Industries, Inc.*, 367 B.R. 689, 708 (Bankr. D.Kan. 2006) (quoting Laura B. Bartell, *Due Process for the Unknown Claim in Bankruptcy-Is this Notice Really Necessary?*, 78 Am. Bankr. L.J. 339 (2004)).

The solution to this conundrum is proposed in this Motion, which is to appoint an Unknown Claims Representative to act as the representative of any Unknown Tort Claimants who claim that some disability prevented them from appreciating the existence of a claim and the need to file a claim. These Unknown Tort Claimants have a stake in the Reorganization Cases, in the plan confirmation process and in any plan of reorganization confirmed by the Debtors. Although the Debtors believe that substantially all victims of sexual abuse are capable of recognizing that their rights may be implicated, some may not be capable of recognizing constitutional notice or are otherwise legally excused from asserting claims. Appointment of an Unknown Claims Representative is, therefore, necessary to enable the Court to render valid and binding judgments against persons determined to be the Unknown Tort Claimants by enabling them, through a duly-appointed fiduciary representative, to participate in the reorganization process and to have their interests represented in that process.

**C. Appointment Of A Legal Representative For Unknown Tort Claimants Is Necessary And Proper Under The Circumstances.**

The appointment of a representative to protect the interests of unknown tort claimants in Title 11 cases related to mass tort litigation is well established. This course of action was pioneered in the asbestos cases and ultimately codified as to asbestos claims under 11 U.S.C. § 524(g)(2)(B). Prior to the enactment of 11 U.S.C. § 524(g), bankruptcy courts routinely

appointed unknown claims representatives as parties in interest pursuant to 11 U.S.C. § 1109(b)<sup>4</sup> and 105(a). *In re Johns-Manville Corp.*, 36 B.R. 743, 757 (Bankr. S.D.N.Y. 1984) (holding “[f]uture claimants are undeniably parties in interest to these reorganization proceedings pursuant to the broad, flexible definition of that term enunciated by the foregoing authorities. The drafting of ‘party in interest’ as an elastic concept was designed for just this kind of situation”); *In re UNR Industries, Inc.*, 46 B.R. 671 (Bankr. N.D. Ill. 1985) (finding that “[i]n this unique case with its unique circumstances, it is necessary for the Court to exercise its equitable authority to fashion some kind of procedural relief for these putative asbestos disease victims”); *In re Amatex Corp.*, 755 F.2d 1034, 1042-43 (3rd Cir. 1985).

*Johns-Manville* was one of the first cases to address the appointment of a legal representative for unknown claimants. Upon the request of the debtor, the *Johns-Manville* court determined that appointment of an unknown claims representative was necessary to effectuate a meaningful chapter 11 plan and to ensure the viability of the reorganized debtor:

...Unknown claimants are indeed the central focus of the entire reorganization. Any plan not dealing with their interests precludes a meaningful and effective reorganization and thus inures to the detriment of the reorganization body politic. Any meaningful plan will either provide funding for Unknown claimants directly or provide for the continuation of some form of responsive, ongoing entity post-confirmation, from which to glean assets with which to pay them. If they are denied standing as parties in interest, they will be denied all opportunity either to help design the ship that sails away from these reorganization proceedings with their cargo on board or to assert their interests during a pre-launching distribution. In either event, the direct impact on these claimants will be enormous.

*Johns-Manville* at 749. Likewise, although the Tort Claimants and Unknown Tort Claimants have many interests that coincide in the Reorganization Cases, there may be other instances where their interests are not entirely identical or may otherwise diverge. The majority of cases

---

<sup>4</sup> 11 U.S.C. § 1109(b) provides that “A party in interest, including a trustee, a creditors committee, an equity security holders committee, a creditor, an equity security holder, or an indenture trustee, may raise and may appear and be heard in any issue in a case under this chapter.”



appointing an independent representative for unknown claimants have done so based upon recognition of the potential conflict of interests between present and unknown claimants. As the Third Circuit put it in the *Amatex* Case:

[N]one of the parties currently involved in the reorganization proceedings have interests similar to those of Unknown claimants, and therefore Unknown claimants require their own spokesperson.

755 F.2d at 1043. *See also*, *UNR*, 46 B.R. at 675 (finding the interests of UNR's unknown claimants were not adequately represented by the Debtor or the official committee of unsecured creditors); *Johns-Manville* at 749 (finding none of the existing committees of unsecured creditors and present asbestos claimants could represent unknown claimants). In addition, an unknown (or future) claims representative has been routinely appointed in diocesan reorganization cases. *See In re: Roman Catholic Archbishop of Portland in Oregon*, Case No. 04-37154-elp11, "Order Appointing Future Claimants Representative" [Dkt. No. 723]; *In re: The Catholic Bishop of Spokane*, Case No. 04-08822-PCW11, "Final Order Appointing a Legal Representative for Future Tort Claimants and Minors" [Dkt. No. 550]; *In re: Roman Catholic Church of the Diocese of Tucson*, Case No. 4:04-bk-04721-JMM, "Minute Entry" [Dkt. No. 121]; *In re: Archdiocese of Milwaukee*, Case No. 11-20059-svk, "Order Pursuant to Sections 105 and 1109 of the Bankruptcy Code Appointing Stephen S. Gray as Legal Representative for Future Claimants" [Dkt. No. 2393]; and, *In re: Diocese of Davenport*, Case No. 06-02229-lmj11, "Order Regarding Motion for Appointment of Legal Representative for Unknown Tort Claimants and Minors, Also Known As Future Claims Representative" [Dkt. No. 198].

The interests of minor or other incompetent claimants are also specifically addressed in the Federal Rules of Civil Procedure (incorporated in these proceedings by Federal Rules of Bankruptcy Procedure). 9014(c), Fed. R. Bankr. P., governing contested matters (such as plan

confirmation), provides that Fed. R. Bankr. P. 7017 is applicable in a contested matter. Rule 7017 incorporates Fed. R. Civ. P. 17, which mandates that “[t]he court must appoint a guardian ad litem—or issue another appropriate order—to protect a minor or incompetent person who is unrepresented in an action.” Fed. R. Civ. P. 17(c)(2). The rules, therefore, dovetail with precedent requiring a representative for unknown or minor claimants who cannot speak for themselves.

In these Reorganization Cases, the Debtors seek to balance the rights and needs of all prepetition creditors, including Unknown Tort Claimants, with the continued ministry and mission of the RCCDG, taking into account the Debtors’ limited resources. Although the Debtors do not believe that the universe of Unknown Tort Claimants is significant, they should be represented. One of the reasons for filing the Reorganization Cases was to ensure that when a plan of reorganization is confirmed and becomes effective, the Debtors will have finally resolved and provided a mechanism for satisfaction of all Tort Claims, including Unknown Tort Claims, from their limited pool of resources. For this process to work, an Unknown Claims Representative must be appointed to represent the interests of the Unknown Tort Claimants.

Therefore, the Debtors request that the Court appoint a single person as the Unknown Claims Representative and guardian *ad litem*, absent any clear conflict of interest of such person and so long as such person agrees that he or she is able to adequately represent both classes of claimants’ interests. Such an approach will conserve estate resources and reduce administrative claims because only one person (rather than two) will need to become familiar with the facts and issues in this case, and there does not appear to be any logical reason why one person could not represent the interests of each class of Tort Claimants.

#### IV. APPLICATION TO EMPLOY

Under 11 U.S.C. §§ 327 and 328, with this Court's approval, a disinterested professional may be employed in chapter 11 reorganization cases on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis. *See*, 11 U.S.C. §§ 327 and 328. After interviewing various potential unknown claims representatives and conferring with the Committee, the Debtors respectfully request the Court to appoint Murphy as the Unknown Claims Representative and respectfully requests that this Court allow Murphy's employer, AlixPartners, to assist in the performance of the duties of the Unknown Claims Representative on the terms and conditions set forth herein.

As evidenced by the statements in this Application and the "Verified Statement and Declaration of Michael P. Murphy With Respect to Debtors' Motion for Order Appointing a Legal Representative to Represent the Interests of Unknown Tort Claimants, Including Minors, in the Reorganization Cases and Application to Employ Michael P. Murphy as Unknown Claims Representative," attached hereto as Exhibit "1" (the "**Verified Statement**"), AlixPartners and Murphy have previous experience serving as the unknown claims representative in diocesan reorganization cases, and have appropriate experience and knowledge to perform the duties of the Unknown Claims Representative in the Reorganization Cases. Murphy was appointed by the Bankruptcy Court for the District of Alaska as the unknown claims representative for the Catholic Bishop of Northern Alaska in Case No. 08-00110-DMD. Murphy has also been appointed as a representative in *In re: The Roman Catholic Bishop of Stockton, a California corporation sole*, United States Bankruptcy Court for the Eastern District of California Case No. 14-20371 and *In re: Diocese of Davenport*, United States Bankruptcy Court for the Southern District of Iowa Case No. 06-02229-lmj11. Consequently, the Debtors wish to have this Court

appoint Murphy as the Unknown Claims Representative, with the assistance of AlixPartners. Murphy's rights, duties and responsibilities as the Unknown Claims Representative will include the following:

- Undertaking an investigation and analysis of the estimated number of Unknown Tort Claimants and the estimated value of any claims held by any Unknown Tort Claimants;
- Filing a Proof of Claim on behalf of all Unknown Tort Claimants within 60 days of entry of an order approving Murphy's retention, subject to extension by consent of the Debtors and the Committee or for good cause shown;
- Negotiating (including through mediation) with the Debtors, the Committee, and other appropriate parties, any provisions of a Chapter 11 plan for the evaluation, determination, and treatment of any claims of Unknown Tort Claimants;
- Advocating the legal position of Unknown Tort Claimants before this Court, and if necessary, filing pleadings and presenting evidence on any issue affecting the claims of the Unknown Tort Claimants;
- Taking all other legal actions reasonably necessary to represent the interests of the Unknown Tort Claimants; and
- Serving as an independent fiduciary acting on behalf of all Unknown Tort Claimants.<sup>5</sup>

The Unknown Claims Representative shall have access to the confidential Tort Claim Proofs of Claim pursuant to the terms of a confidentiality agreement to be negotiated with the Debtors and Committee and submitted to the Court for approval.

Subject to the approval of the Bankruptcy Court, as set forth in the Verified Statement, the Debtors, the Committee, and AlixPartners have made the following agreements regarding the employment of Murphy and AlixPartners, compensation for professional services, and

---

<sup>5</sup> To avoid any confusion, the Unknown Claims Representative shall not and cannot represent an individual Unknown Tort Claimant with respect to such claimant's specific, individual claim.

reimbursements of costs and other expenses that AlixPartners may incur as part of their representation:

a. Murphy will be employed as the Unknown Claims Representative, pending the approval of this Court, effective as of the date of the filing of this Application, and that AlixPartners will assist him in carrying out his duties.

b. Upon approval of this Court, AlixPartners will earn a flat fee of \$50,000 for AlixPartners' and Murphy's professional services (which may include the assistance of Murphy's colleagues, as set forth in the Verified Statement). Furthermore, upon approval of this Court, the Debtors will also reimburse AlixPartners for reasonable out-of-pocket expenses incurred in connection with this assignment, such as travel, lodging, and meals.

The services to be provided by AlixPartners will not unnecessarily duplicate or overlap the efforts of any other professionals retained in this matter. The services to be provided by AlixPartners are separate and different from the services to be provided by the other professionals and each is essential to the Debtors' reorganization efforts. Debtors do not currently owe AlixPartners any funds.

Except as may be further disclosed in the Verified Statement, and to the best of the Debtors' knowledge, information, and belief, Murphy and AlixPartners do not have any other connections with the Debtors in the Reorganization Cases, the creditors of the Debtors' estates and any other parties-in-interest or their respective attorneys and accountants, the United States Trustee or any person employed by the Office of the United States Trustee. To the best of the Debtors' understanding, the information disclosed in the Verified Statement does not preclude Murphy from being appointed as the Unknown Claims Representative or AlixPartners from being employed as consultant to the Unknown Claims Representative, under applicable law and ethical rules. The Unknown Claims Representative and AlixPartners shall be paid per applicable fee application process from the assets of the Debtors' estate.

Except as otherwise disclosed in the Verified Statement and in accordance with 11 U.S.C. §§ 101(14), 327, and 328, AlixPartners and Murphy are “disinterested”; AlixPartners and Murphy are not employed by any entity in the Reorganization Cases that has any adverse interest to the Debtors; AlixPartners and Murphy do not hold an adverse interest to the Debtors in the Reorganization Cases, and AlixPartners and Murphy will not be employed by any other entity that may have an adverse interest to the Debtors or their estates during the course of its employment in this matter. As stated in the Verified Statement, to the extent that any new relevant facts or relationships bearing on the matters described herein during the period of AlixPartners’ retention are discovered or arise, Mr. Murphy will use reasonable efforts to file promptly a supplemental declaration, as required by Fed. R. Bankr. P. 2014(a).

The Debtors respectfully request immediate consideration of this Application so that the Debtors can proceed with negotiating and formulating a plan of reorganization and so that the interests of the Unknown Tort Claimants are represented and protected.

## **V. CONCLUSION**

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

A. Appointing an Unknown Claims Representative with the powers and duties set forth in this Motion to represent Unknown Tort Claimants and, on their behalf, to perform the duties enumerated in this Application; and take such other actions or perform such other duties as the Court may authorize upon request of the Unknown Claims Representative, the Debtors, or other party in interest;

B. Allowing the Debtors to employ Murphy as the Unknown Claims Representative and AlixPartners to assist Murphy with his duties on the terms stated in this Motion; and

C. Allowing AlixPartners to be compensated in the amount of \$50,000 as a flat fee for its services associated with Murphy's role as Unknown Claims Representative, plus allowing AlixPartners the reasonable, necessary, actual expenses incurred in the course of its services; and

D. Granting such other relief as is just under the circumstances.

RESPECTFULLY SUBMITTED this 11th day of February, 2015.

/s/ Elizabeth S. Fella

Susan G. Boswell (AZ Bar No. 004791)  
Lori L. Winkelman (AZ Bar No. 021400)  
Elizabeth S. Fella (AZ Bar No. 025236)  
*Admitted Pro Hac Vice*  
QUARLES & BRADY LLP  
One S. Church Ave., Suite 1700  
Tucson, Arizona 85701  
(520) 770-8700/Fax: (520) 623-2418  
susan.boswell@quarles.com  
lori.winkelman@quarles.com  
elizabeth.fella@quarles.com  
-and-

Thomas D. Walker  
WALKER & ASSOCIATES, P.C.  
500 Marquette N.W., Suite 650  
Albuquerque, New Mexico 87102  
(505) 766-9272  
Fax: (505) 722-9287  
twalker@walkerlawpc.com

*Counsel for the Debtors*

**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 APPOINTING A LEGAL REPRESENTATIVE TO REPRESENT THE INTERESTS OF UNKNOWN TORT CLAIMANTS, INCLUDING MINORS, IN THE REORGANIZATION CASES AND APPLICATION TO EMPLOY MICHAEL P. MURPHY AS UNKNOWN CLAIMS REPRESENTATIVE”** was made on February 11, 2015 via e-mail and the notice transmission facilities of the Bankruptcy Court’s case management and electronic filing system on the below listed parties, and via U.S. Mail to all additional parties on the Debtors’ Limited Notice List.

Ronald E. Andazola  
Leonard Martinez-Metzgar  
Office of the U.S. Trustee  
P.O. Box 608  
Albuquerque, NM 87103  
ustpreion20.aq.ecf@usdoj.gov  
ronald.andazola@usdoj.gov  
leonard.martinez-metzgar@usdoj.gov

Thomas D. Walker  
Stephanie L. Schaeffer  
Walker & Associates, P.C.  
500 Marquette N.W., Suite 650  
Albuquerque, NM 87102  
twalker@walkerlawpc.com  
sschaeffer@walkerlawpc.com  
*Local Counsel for Debtor  
and Debtor-in-Possession*

James I. Stang  
Gillian N. Brown  
Jonathan J. Kim  
Pachulski Stang Ziehl & Jones  
10100 Santa Monica Blvd., 13th Floor  
Los Angeles, CA 90067  
jstang@pszjlaw.com  
gbrown@pszjlaw.com  
jkim@pszjlaw.com  
*Counsel for the Official  
Committee of Unsecured Creditors*

Kenneth H. Brown  
Pachulski Stang Ziehl & Jones  
150 California Street, 15th Floor  
San Francisco, CA 94111  
kbrown@pszjlaw.com  
*Counsel for the Official  
Committee of Unsecured Creditors*

Robert E. Pastor  
Montoya, Jimenez & Pastor, P.A.  
3200 N. Central Ave., Suite 2550  
Phoenix, AZ 85012  
repastor@mjpgattorneys.com  
*Counsel for Tort Claimants*

John Manly  
Manly & Stewart  
19100 Von Karman Ave., Suite 800  
Irvine, CA 92612  
jmanly@manlystewart.com  
*Counsel for Tort Claimants*



Richard T. Fass  
Donald H. Kidd  
Perdue & Kidd, LLP  
510 Bering Dr., Suite 550  
Houston, TX 77057  
rfass@perdueandkidd.com  
dkidd@perdueandkidd.com  
*Counsel for Tort Claimants*

Robert M. Charles, Jr.  
Susan M. Freeman  
Justin J. Henderson  
Lewis Roca Rothgerber LLP  
201 E. Washington St., Suite 1200  
Phoenix, AZ 85004  
rcharles@lrrlaw.com  
sfreeman@lrrlaw.com  
jhenderson@lrrlaw.com  
*Counsel for Catholic Peoples Foundation and Parish  
Steering Committee of Roman Catholic Church of the  
Diocese of Gallup*

Christopher R. Kaup  
J. Daryl Dorsey  
Tiffany & Bosco  
Camelback Esplanade II  
2525 E. Camelback Rd., Ste. 300  
Phoenix, AZ 85016  
crk@tblaw.com  
jdd@tblaw.com  
*Counsel for Southwest Indian Foundation, Inc.*

Charles R. Hughson  
Rodey, Dickason, Sloan,  
Akin & Robb, P.A.  
P.O. Box 1888  
Albuquerque, NM 87103  
chughson@rodey.com  
*Counsel for St. Bonaventure Indian  
Mission & School*

Edward A. Mazel  
James A. Askew  
Daniel A. White  
Askew & Mazel, LLC  
320 Gold Ave. S.W., Suite 300 A  
Albuquerque, NM 87102  
edmazel@askewmazelfirm.com  
jaskew@askewmazelfirm.com  
dwhite@askewmazelfirm.com  
*Counsel for New Mexico Property and Casualty  
Insurance Guaranty Association*

Dennis Jontz  
Lewis Roca Rothgerber  
201 Third Street, NW, Ste. 190  
Albuquerque, NM 87102  
djontz@lrrlaw.com  
*Local Counsel for Catholic Peoples Foundation and  
Parish Steering Committee of Roman Catholic Church  
of the Diocese of Gallup*

Douglas R. Vadnais  
Modrall, Sperling, Roehl,  
Harris & Sisk, P.A.  
P.O. Box 2168  
Albuquerque, NM 87103  
drv@modrall.com  
*Counsel for The Bank of Colorado  
d/b/a Pinnacle Bank*

George M. Moore  
Bonnie B. Gandarilla  
Moore Berkson & Gandarilla P.C.  
3800 Osuna Rd., NE, Ste. 2  
Albuquerque, NM 87109  
mbglaw@swcp.com  
bbg1lusc@swcp.com  
*Local Counsel for Southwest  
Indian Foundation, Inc.*

Steven D. Jerome  
Snell & Wilmer, LLP  
One Arizona Center  
400 E. Van Buren St., Ste. 1900  
Phoenix, AZ 85004  
sjerome@swlaw.com  
*Counsel for The Roman Catholic  
Church of the Diocese of Phoenix*

Randy S. Bartell  
Victor R. Ortega  
Sharon T. Shaheen  
Montgomery & Andrews, P.A.  
P.O. Box 2307  
Santa Fe, NM 87504  
rbartell@montand.com  
vortega@montand.com  
sshhaheen@montand.com  
*Counsel for Catholic Mutual Relief Society of America*

Rodney L. Schlagel  
James H. Johansen  
Butt Thornton & Baehr P.C.  
P.O. Box 3170  
Albuquerque, NM 87190  
rlschlagel@btblaw.com  
jhjohansen@btblaw.com  
*Counsel for the Roman Catholic Diocese  
Of Corpus Christi*

Alyson M. Fiedler  
Schiff Hardin LLP  
666 Fifth Avenue, 17th Floor  
New York, NY 10103  
afiedler@schiffhardin.com  
ldelucia@schiffhardin.com  
*Counsel for Catholic Mutual Relief Society*

David Spector  
Everett Cygal  
Schiff Hardin LLP  
233 S. Wacker Dr., Suite 660  
Chicago, IL 60606  
dspector@schiffhardin.com  
ecygal@schiffhardin.com  
*Counsel for Catholic Mutual Relief Society*

/s/ Elizabeth S. Fella  
Elizabeth S. Fella

# **EXHIBIT “1”**

**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

**Jointly Administered with:**

Case No. 13-13677-t11

Jointly Administered with:

BISHOP OF THE ROMAN CATHOLIC  
CHURCH OF THE DIOCESE OF GALLUP,  
an Arizona corporation sole.

This pleading applies to:

- All Debtors.  
 Specified Debtor.

**VERIFIED STATEMENT AND DECLARATION OF MICHAEL P. MURPHY  
WITH RESPECT TO MOTION FOR ORDER APPOINTING A LEGAL  
REPRESENTATIVE TO REPRESENT THE INTERESTS OF UNKNOWN TORT  
CLAIMANTS, INCLUDING MINORS, IN THE REORGANIZATION CASES  
AND APPLICATION TO EMPLOY MICHAEL P. MURPHY AS UNKNOWN  
CLAIMS REPRESENTATIVE**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

I, Michael P. Murphy, make this verified statement and declaration pursuant to 28 U.S.C. § 1746 and Fed.R.Bankr.P. 2014 and state:

1. I am duly authorized to make all statements that I have made herein with respect to the Unknown Claims Representative appointment and the requested employment of AlixPartners.

**QUALIFICATIONS**

2. I previously served as the unknown claims representative in the Diocese of Davenport, Iowa, *In re: Diocese of Davenport*, United States Bankruptcy Court for the

Southern District of Iowa, Case No. 06-02229-lmj11, and on behalf of the Catholic Bishop of Northern Alaska, *In re: Catholic Bishop of Northern Alaska*, United States Bankruptcy Court for the District of Alaska, Case No. 08-00110-DMD. I am currently serving as the unknown claims representative for the Roman Catholic Bishop of Stockton, *In re: The Roman Catholic Bishop of Stockton*, United States Bankruptcy Court for the Eastern District of California, Case No. 14-20371-C-11.

3. I have more than 30 years professional experience in providing restructuring and financial consulting services. My qualifications for this assignment are further set forth in my curriculum vitae, attached hereto as “**Schedule 1.**”

4. I, a Managing Director of AlixPartners, LLP (“**AlixPartners**”), am seeking Court approval of my role as Unknown Claims Representative in the above-captioned chapter 11 reorganization cases (the “**Reorganization Cases**”) and to employ AlixPartners to assist me with my duties as the Unknown Claims Representative, as outlined by the Motion.

#### **SERVICES TO BE RENDERED**

5. My duties and responsibilities as the Unknown Claims Representative will include the following:

- Undertaking an investigation and analysis of the estimated number of Unknown Tort Claimants and the estimated value of any claims held by any Unknown Tort Claimants;
- Filing a Proof of Claim on behalf of all Unknown Tort Claimants within 60 days of entry of an order approving my retention, subject to extension by consent of the Debtors and the Committee or for good cause shown;
- Negotiating (including through mediation) with the Debtors, the Committee, and other appropriate parties, any provisions of a chapter 11 plan for the evaluation, determination, and treatment of any claims of

Unknown Tort Claimants;

- Advocating the legal position of Unknown Tort Claimants before this Court, and if necessary, filing pleadings and presenting evidence on any issue affecting the claims of the Unknown Tort Claimants;
- Taking all other legal actions reasonably necessary to represent the interests of the Unknown Tort Claimants; and
- Serving as an independent fiduciary acting on behalf of all Unknown Tort Claimants.

### **PROFESSIONAL COMPENSATION**

6. I request compensation for myself and AlixPartners, subject to Court approval, for services rendered in connection with the Reorganization Cases, at the flat fee of \$50,000.00. Only myself and one AlixPartners consultant (or one consultant-equivalent) will work on this matter.

7. In addition to the flat fee outlined above, AlixPartners and I seek this Court's approval for reimbursement of all reasonable out-of-pocket expenses incurred in connection with this assignment, such as travel, lodging, and meals.

8. The flat rate and costs, including expenses, charged by AlixPartners will include all of my services as Unknown Claims Representative, and all of AlixPartners' work in assisting me in my role as Unknown Claims Representative.

9. The fee structure described above (the "**Fee Structure**") is consistent with AlixPartners' normal and customary billing practices for similar cases involving the services to be provided in connection with these chapter 11 cases. I believe that the Fee Structure is both reasonable and consistent with the market for such services.

10. In light of the foregoing, and given the numerous issues that AlixPartners and I may be required to address in the performance of its services, I believe that the Fee

Structure is fair, reasonable, and market-based under the standards set forth in Bankruptcy Code section 330.

### **DISINTERESTEDNESS**

11. In connection with the proposed retention, AlixPartners undertook a lengthy review to determine whether it had any conflicts or other connections that might cause it not to be disinterested or to hold or represent an interest adverse to the Debtors. Specifically, AlixPartners and I obtained from the Debtors, and/or their representatives, the names of individuals and entities that may be parties-in-interest in the Reorganization Cases (“**Potential Parties-In-Interest**”). Such parties are listed on “**Schedule 2**”, attached hereto. A search was performed for connections to the Potential Parties-in-Interest within the past ten (10) years and results were disclosed as to AlixPartners Holdings, LLP (“**AP Holdings**”), AlixPartners’ parent company, and each of AP Holdings’ U.S. and non-U.S. subsidiary affiliates. In addition, AlixPartners sends a firm-wide email to all of its professionals inquiring of any potential connections.

12. Based on that review, AlixPartners represents that, to the best of its knowledge, AlixPartners knows of no fact or situation that would represent a conflict of interest for AlixPartners with regard to the Reorganization Cases. Unless otherwise noted, references to AlixPartners in the disclosures below collectively refer to AlixPartners, AP Holdings, and each of their subsidiary affiliates. AlixPartners wishes to disclose the following:

- Funds managed by subsidiaries of CVC Capital Partners SICAV-FIS S.A. (“CVC”), a private equity and investment advisory firm, own a controlling stake in AP Holdings, the parent of AlixPartners. CVC Credit Partners, L.P. (“CVC Credit Partners”) is a global debt management business and a majority owned subsidiary of CVC.

CVC's private equity funds ("CVC Funds") and debt funds ("CVC Credit Partners' Funds") are managed independently from each other, with no overlap in membership of the relevant investment committees or boards of entities with responsibility for investment decisions. CVC has in place an internal information barrier between the CVC Funds and the CVC Credit Partners' Funds. All CVC Credit Partners investment professionals are dedicated to CVC Credit Partners and are not involved in the private equity business. CVC Credit Partners also has separate IT systems and workspaces.

No material nonpublic information about the Debtor has been furnished by AlixPartners to CVC or any CVC managed funds or their portfolio companies, including without limitation, CVC Credit Partners (collectively, the "CVC Entities") and AlixPartners will continue to abide by its confidentiality obligations to the Debtor. AlixPartners operates independently of the CVC Entities, and does not share employees or officers with the CVC Entities. A managing partner of CVC is on the Board of Directors of AlixPartners, LLP and AP Holdings and on the advisory board to CVC Credit Partners, and a managing director of CVC Credit Partners is on the Board of Directors of AlixPartners, LLP. Certain other CVC executives, who are not connected with CVC Credit Partners, are also on either the Board of Directors of AlixPartners, LLP or the Board of Directors of AlixPartners Holdings, LLP. AlixPartners and the CVC Entities have separate offices in separate buildings and use separate Internet email addresses. AlixPartners financial performance is not directly impacted by the success or failure of the CVC Entities.

As a component of its conflict checking system, AlixPartners has searched the names of CVC, CVC Credit Partners, the CVC Credit Partners' Funds, the CVC Funds, each managing partner of CVC and each portfolio company of the CVC Funds (the "CVC Conflict Parties") against the list of Potential Parties in Interest, and AlixPartners has determined to the best of its knowledge it has no connection or relationship with the CVC Conflict Parties that requires disclosure other than as noted herein. The term "portfolio company" means any business in which a CVC fund has a direct controlling or minority interest. The term "portfolio company" does not include indirect investments such as businesses owned or investments made by a CVC Funds portfolio company or investments made by the CVC Credit Partners' Funds. CVC Credit Partners Funds, as well as other CVC Entities, may in the ordinary course from time to time hold, control and/or manage loans to, or investments in the Debtor and parties in interest in these cases. Further, the CVC Entities may have had, currently have or may in the future have business relationships or connections with the Debtor or other Potential Parties in Interest in matters related to or unrelated to the Debtor or their affiliates or these chapter 11 cases. Furthermore, AlixPartners has provided to CVC the list of Debtor and has performed appropriate checks to determine if there exists any material connection or relationship between the CVC Conflict Parties and the Debtor. AlixPartners will supplement this disclosure if it obtains information regarding any such connection. Other than as specifically noted herein, AlixPartners has not undertaken to determine the existence, nature and/or full scope of any business relationships or



connections that the CVC Entities may have with the Potential Parties in Interest, the Debtor and their affiliates or these chapter 11 cases.

Certain of the CVC Credit Partners' Funds act as lenders to AlixPartners. Further, AlixPartners may have had, currently has or may in the future have other business relationships with, among other entities, portfolio companies or managed funds of CVC in matters unrelated to the Debtor or their affiliates in these chapter 11 cases. Based on, among other things, the business separation between the CVC Funds and the CVC Credit Partners' Funds, the business separation between the CVC Entities and AlixPartners, and the confidentiality obligations referred to above, AlixPartners believes that it does not hold or represent an interest adverse to the estate with respect to the engagement.

- Bank of America, a creditor to the Debtors, is affiliated with entities that are current and former AlixPartners clients, as well as material contract parties, creditors, and lenders to current and former AlixPartners clients in matters unrelated to the Debtors. Bank of America is a current and former AlixPartners client in matters unrelated to the Debtors. Bank of America is the previous employer of a current AlixPartners employee. Bank of America is an AlixPartners vendor.
- Card Services, specifically Barclays Card Services (“**Barclays**”), a creditor to the Debtors, is affiliated with entities that are creditors, significant shareholders, adverse parties, lenders and bondholders to current and former AlixPartners clients in matters unrelated to the Debtors. Barclays is a current AlixPartners client in matters unrelated to the Debtors. Barclays is a vendor to AlixPartners and is a current AlixPartners client in matters unrelated to the Debtors. Barclays is the previous employer of a current AlixPartners employee.
- Pachulski Stang Ziehl & Jones LLP, a professional in interest in this bankruptcy matter, is a current and former AlixPartners client in matters unrelated to the Debtors. Pachulski Stang Ziehl & Jones LLP is a professional in interest to current and former AlixPartners clients in matters unrelated to the Debtors.
- Quarles & Brady LLP, formerly known as Quarles & Brady Streich Lang, a professional in interest in this bankruptcy matter, was opposing counsel and a professional in interest to former AlixPartners clients in matters unrelated to the Debtors.
- St. Anthony Church, a creditor to the Debtors, is a creditor to a current AlixPartners client in matters unrelated to the Debtors.
- Virtus, a creditor to the Debtors, is a creditor and vendor to current AlixPartners clients in matters unrelated to the Debtors.

13. AlixPartners and its subsidiary affiliates are claims agents, advisors, and crisis managers providing services and advice in many areas, including restructuring and

distressed debt. As part of its diverse practice, AlixPartners appears in numerous cases, proceedings, and transactions involving many different attorneys, accountants, investment bankers, and financial consultants, some of whom may represent claimants and parties in interest in the Reorganization Cases. Furthermore, AlixPartners has in the past been, and may in the future be, represented by various attorneys and law firms, some of whom may be involved in the Reorganization Cases. In addition, AlixPartners has been in the past, and likely will be in the future, engaged in matters unrelated to the Debtors or the Reorganization Cases in which it works with or in opposition to other professionals involved in the Reorganization Cases. Moreover, AlixPartners might have referred work to other professionals who are retained in the Reorganization Cases. Likewise, certain such professionals who are retained in the Reorganization Cases might have referred work to AlixPartners. To the best of my knowledge, information and belief, insofar as I have been able to ascertain after reasonable inquiry, none of these business relationships constitute interests adverse to the the Debtors or their estates.

14. From time to time, AlixPartners has provided services, and likely will continue to provide services, to certain creditors of the Debtors, and various other parties in interest who may in the future be adverse to the Debtors or their estates, in matters wholly unrelated to the Reorganization Cases. As described herein, however, AlixPartners has undertaken a detailed search to determine, and to disclose, whether it is providing or has provided services to any significant creditor, equity security holder, insider or other party-in-interest in such unrelated matters.

15. To the best of my knowledge, information and belief, insofar as I have been able to ascertain after reasonable inquiry, except as otherwise disclosed herein, neither I

nor any of AlixPartners' professional employees or representatives: (a) have any connection with the Debtors, their creditors or any other Potential Parties-in-Interest in the Reorganization Cases; nor (b) are related or connected to any United States Bankruptcy Judge for the District of New Mexico, any of the District Judges for the District of New Mexico who handle bankruptcy cases, the U.S. Trustee or any employee in the Office of the U.S. Trustee, except as otherwise set forth herein.

16. Despite the efforts described above to identify and disclose the connections that AlixPartners and its affiliates have with parties-in-interest in the Reorganization Cases, because the Debtors are a large enterprises with numerous creditors and other relationships, AlixPartners is unable to state with certainty that every client relationship or other connection has been disclosed.

17. In accordance with Bankruptcy Code section 504 and Bankruptcy Rule 2016, except as specifically identified in this Declaration, neither I, nor AlixPartners, have entered into any agreements, express or implied, with any other party in interest, including the Debtors, any creditor, or any attorney for such party in interest in the Reorganization Cases, (a) for the purpose of sharing or fixing fees or other compensation to be paid to any such party in interest or its attorneys for services rendered in connection therewith, (b) for payment of such compensation from the assets of the estates in excess of the compensation allowed by this Court pursuant to the applicable provisions of the Bankruptcy Code, or (c) for payment of compensation in connection with the Reorganization Cases other than in accordance with the applicable provisions of the Bankruptcy Code.

18. Based solely on the conflicts procedures conducted to date and described herein, to the best of my knowledge and insofar as I have been able to ascertain, (a)

AlixPartners is a “disinterested person” within the meaning of section 101(14) of the Bankruptcy Code, (b) AlixPartners does not represent any person or entity having an interest adverse to the Reorganization Cases, (c) AlixPartners does not hold or represent an interest adverse to the interests of the Debtors’ estates with respect to matters on which AlixPartners is employed and (d) AlixPartners has no connection to the Debtors, their creditors or any other party in interest except as disclosed herein.

19. If I or AlixPartners discover additional information that requires disclosure, I will promptly file a supplemental disclosure with this Court as required by Bankruptcy Rule 2014.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

DATED: February \_\_, 2015



---

MICHAEL P. MURPHY

---

**MICHAEL MURPHY**

Managing Director  
Financial Advisory Services  
AlixPartners, San Francisco

---

Mr. Murphy has over twenty five years of professional experience in providing restructuring and financial consulting services. Mr. Murphy specializes in consulting engagements for debtors and creditors involved in turnarounds, loan workouts, and bankruptcies as well as for litigation matters and other business disputes. On multiple engagements, he has served as Chief Restructuring Officer or Chief Financial Officer. Mr. Murphy has extensive consulting experience in a broad range of industries including financial services, real estate, agriculture, construction, retail, insurance, and manufacturing.

Mr. Murphy has testified as an expert witness in State Superior Courts, United States Federal Courts, and in domestic and international arbitration matters. Mr. Murphy has also acted as an independent arbitrator in a number of litigation matters. Mr. Murphy was the Lead Financial Advisory Services Partner for one of the Big Four accounting firm's Financial Institution practice.

**SELECT  
PROFESSIONAL  
EXPERIENCE**

- Currently serving as the Future Claims Representative in the Diocese of Stockton bankruptcy.
- Served as the Future Claims Representative in the bankruptcy matter of Diocese of Davenport (Iowa).
- Served as the Future Claims Representative in the bankruptcy matter of the Catholic Bishop of Northern Alaska.
- Recently served as interim Chief Financial Officer for Diamond Foods, a \$1 billion revenue CPG company which includes the Diamond Walnut, Kettle Chip, Emerald Nuts and PopSecret brands. Drove significant financial and operational improvements, and directed business plan development, budget and financial reporting functions, and various business line strategies. Led a successful bank restructuring and subsequent recapitalization, resulting in significant new private equity investment.
- Served as the Chief Restructuring Officer or Chief Financial Officer of several entities with respect to restructuring matters. Entities included Great American Development, Criimi Mae, Trusthouse Forte, Old Republic, Quadramed, Joe Boxer, and Midwest Savings and Loan.
- Led multiple engagements for major banks involving issues concerning litigation, performance of due diligence procedures, valuations, disclosures, underwriting, and fraudulent conveyance with respect to the restructuring and/or disposition of multi-billion dollar corporate banking and real estate portfolios.

- 
- Provided litigation consulting services to various lenders in multiple lender liability matters. Analyses included review of commercial reasonableness of the transactions.
  - Advised on and held key roles related to the credit review function. Enhanced credit review processes and procedures.
  - Testified as expert witness and served as financial advisor in numerous workouts and restructuring matters. Engagements included evaluating debtors' collateral coverage, the viability of the companies, reorganization alternatives, and its risks under various alternatives. Also, evaluated cash projections and proposed budgets for use of cash.
  - Provided corporate recovery services to a variety of financial institutions and real estate entities. Engagements involved developing long-term strategic marketing plans, evaluating and monitoring construction budgets and timetables, preparing valuations, and restructuring and/or disposing of asset portfolios.
  - Led an engagement for a major money center bank, involving the performance of due diligence and valuation procedures with respect to the restructuring and/or disposition of a \$2 billion corporate banking and real estate portfolio.
  - Assisted outside counsel in conducting a SEC 10b investigation of management at several financial, real estate, and construction companies. The investigation regarded alleged intentional nondisclosure of certain revenue recognition issues as well as other related disclosure and valuation matters. Activities consisted of interviewing appropriate personnel, analyzing audit work papers, presenting findings to the audit committee of the board of directors, and conducting a revenue recognition presentation to company sales and marketing personnel.
  - Prepared the forensic accounting analysis related to an investment fraud involving multiple savings and loan related to the purchase and financing of real property and partnership interests. This fraud involved repeated and convoluted sales to straw parties which resulted in the inflation of values by over \$400 million.
  - Performed an investigation of the accounting practices of a telecommunications company on behalf of a special committee. The investigation regarded the company's restatement of prior year financial statements and significant adjustments to current year financial statements. Activities consisted of interviewing appropriate personnel, reviewing company documentation, and communicating these findings to outside counsel.
  - Provided litigation consulting services in support of expert testimony on lost profits in connection with breach of contract in various real estate

---

development matters. Projects involved the review and critique of various construction matters including selection of vendors, cost overruns, compliance with contracts, etc. Related projects included residential, hotel, resort, office, and industrial properties.

- Manager on restructuring/turnaround engagements involving several government contractors. Projects involved negotiating with creditors, obtaining and negotiating DIP facilities, and developing comprehensive business plans.
- Provided corporate recovery services to the creditors' committee of several large retailers. Engagements included monitoring the debtor's weekly and monthly projected cash flows, analyzing the debtor's business plan and plan of restructuring, and valuing business segments and subsidiaries.
- Conducted a forensic accounting investigation for the estate of Larry Hilbloom, which involved asset tracing and performance of a flow of funds analysis with respect to over \$1 billion dollars in assets around the world.
- Financial advisor in the reorganization of a \$ 5 billion telecom company. Project scope included business strategy, valuation, and restructuring services. This large-scale project involved an assessment of the company's business plan, recommendations on changes in strategy, and analysis of restructuring alternatives. In addition, services included due diligence activities with over 30 interested buyers, providing detailed analyses on network assets, revenue projections, and customer data.
- Provided restructuring consulting services to a national semiconductor manufacturer. This engagement included monitoring the debtor's weekly and monthly projected cash flows, analysis of the debtor's business and restructuring plans, and valuation of business segments and international subsidiaries. Participated in restructuring negotiations with the debtor and its advisors.
- Financial advisor in the bankruptcy of a software system integrator. Project efforts included analyzing debtor's business plan, debt restructuring scenarios, and weekly cash flows. Provided valuation services and courtroom testimony.
- Provided financial advisory services in several disputes regarding commercial wineries. Issues related to management, viability, valuation, and operations.
- Assisted the debtor of a global fruit and vegetable seed grower in negotiating with the lender group to amend its secured loan agreement. Also, forecasted cash flows, assisted management in preparing a five-year business plan, and reviewed and recommended operational changes

---

to improve business.

- Served as financial advisor to the Lender Group of ICG Communications. Assisted the Lender Group in evaluating ICG's collateral coverage, viability, reorganization alternatives, and its risks under various alternatives. Also, evaluated the company's cash projections, proposed budget for use of cash collateral, and assisted the Lender Group in preparing a DIP financing proposal.
- Served as financial advisor to the bondholders of Globopar, the largest Brazilian media company, regarding its restructuring. Services included valuation of all business lines and forecasts (including television, cable, print and ISP operations), critique of managements proposed restructuring plans and assistance in negotiating with the secured lenders and other stakeholders.
- Retained by a national food processing company to prepare a market assessment; assess viability, including profitability of the product line and identification of major opportunities of profit improvement; and assist in determining enterprise value.
- Retained by a troubled food processor to prepare management discussions with prospective investors and develop information requested by the company's lender group. Tested the validity of the current business plan, including ability to achieve sales, gross margins and expenses while factoring in market share trends, price trends and cost structure. Analyzed profitability by commodity and channel, while identifying opportunities for cost reduction.
- Engaged by a class of WorldCom bondholders to address network assets by business line, product line profitability, issues related to substantial consolidation, evaluation of corporate governance matters, and issues raised by the WorldCom executives.
- Served as the financial advisor to Digital Teleport with respect to its bankruptcy filing and restructuring sale. Services provided included analyses of collateral by legal entity and encumbrances, valuation of enterprise value and tangible assets, preparation of DIP financing analysis, and cash flow projections and forecasts. Also prepared due diligence materials and coordinated due diligence processes, including analyses of assets by type, location, encumbrance, value and issues related thereto. Other services included transition advisory, cash flow monitoring and responding, claims analyses, preference analyses and financial reporting.
- Served as the financial advisor to GST Telecommunications, Inc. with respect to its bankruptcy filing and sale to Time Warner Cable. Services provided included analyses of collateral by legal entity and encumbrances, valuation of enterprise value and tangible assets,



---

preparation of DIP financing analysis, and cash flow projections and forecasts. Also prepared due diligence materials and coordinated due diligence processes, including analyses of assets by type, location, encumbrance, value, and issues related thereto. Other services included transition advisory, cash flow monitoring and responding, claims analyses, preference analyses, and financial reporting.

- Performed an investigation of the accounting practices of a large public food manufacturer on behalf of a board-appointed special committee. Activities consisted of interviewing appropriate personnel, reviewing company documentation, and communicating these findings to outside counsel. Services also included assisting the board of directors in understanding the financial statement adjustments and in communicating with the bank group. Defense of the class action securities lawsuit is now in progress.
- Performed an investigation of financial adjustments in a subsidiary of a large food distribution company. Project consisted of analyzing the timeframe and cause of adjustments over a three-year period. Efforts also included analyzing the prior internal control environment and making recommendations for future procedures.
- Provided consulting services on several matters related to mergers and acquisitions of high tech companies, including analyses of the adequacy of representations and warranties, valuations, financial statement disclosures, and projections.
- Served as the financial advisor to two Japanese companies related to the restructuring and sale of certain U.S. semiconductor operations. Engagements involved preparation of financial projections, valuations, and a detailed plan of reorganization.
- Supervised and conducted investigation into theft of inventory and intellectual property for a large publicly traded high tech company.
- Performed several investigations related to financial reporting issues with respect to publicly traded high tech companies. Matters addressed included revenue recognition, accounting for inventory, adequacy of various reserves, and general industry practice.
- Provided dispute-consulting services in the area of business interruption insurance claims for several high tech companies. Services included quantification of lost profits, valuation of inventory, determination of extra expenses incurred, and negotiations with insurance carriers.
- Led several restructuring engagements in the defense/aerospace industry. Projects involved review and critical assessment of the company's business plan, preliminary valuation of entities and individual subsidiaries, and participation in the restructuring negotiations.

- Provided litigation consulting services on several matters related to mergers and acquisitions, including analyses of the adequacy of representations and warranties, valuations, financial statement disclosures, and projections. Such engagements have included entities in the following industries, high tech, real estate, financial services, and manufacturing.

**PROFESSIONAL  
AFFILIATIONS**

Turnaround Management Association  
Financial Analyst Society

**EDUCATION**

Old Dominion University, B.S. Accounting