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The following constitutes the order of the Court.

Signed: September 5, 2024

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William J. Lafferty, III
U.S. Bankruptcy Judge

*Counsel for the Official Committee of Unsecured
Creditors*

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

Case No. 23-40523 WJL

Chapter 11

In re:

THE ROMAN CATHOLIC BISHOP OF
OAKLAND, a California corporation sole,

Debtor.

**ORDER AUTHORIZING RETENTION
OF DOUGLAS WILSON COMPANIES
AS REAL ESTATE CONSULTANT TO
THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS**

Upon consideration of the *Second Amended Application for Entry of an Order Authorizing Retention of Douglas Wilson Companies as Real Estate Consultant to the Official Committee of Unsecured Creditors* (the "**Application**")¹ through which the Official Committee of Unsecured Creditors (the "**Committee**") of the Roman Catholic Bishop of Oakland (the "**Debtor**") seeks

¹ Capitalized terms used but not defined herein have the m



1 entry of an order, pursuant to sections 328(a) and 1103(a) of title 11 of the United States Code (the
2 **“Bankruptcy Code”**) and Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure,
3 authorizing the Committee to retain and employ Douglas Wilson Companies (**“DWC”**) as a real
4 estate consultant to the Committee; and this Court having reviewed the Application and the related
5 declarations of Douglas Wilson, including the *Third Declaration of Douglas P. Wilson in Support*
6 *of the Application for Entry of an Order Authorizing Retention of Douglas Wilson Companies as*
7 *Real Estate Consultant for the Official Committee of Unsecured Creditors* (the **“Wilson**
8 **Declarations”**); and the Court having jurisdiction pursuant to sections 157(a) and (b) and 1334(b)
9 of the Bankruptcy Code to consider the Application and the relief requested therein; and venue
10 being proper in this Court pursuant to sections 1408 and 1409 of title 28 of the United States Code;
11 and the Court being satisfied that notice of the Application and the opportunity for a hearing on
12 the Application was appropriate under the particular circumstances and no further or other notice
13 need be given; and the Court being satisfied, based on the representations made in the Application
14 and the Wilson Declarations, that DWC does not represent or hold any interest adverse to the
15 Debtor or its estate as to the matters upon which DWC have been and are to be employed, and that
16 DWC is a “disinterested person[s]” as such term is defined in section 101(14) of the Bankruptcy
17 Code; and that while employed by the Committee, DWC will not represent any other person or
18 entity having an adverse interest in connection with the Chapter 11 Case; and this Court having
19 determined that the legal and factual bases set forth in the Application and the Wilson Declarations
20 establish just cause for the relief granted herein; and after due deliberation and sufficient cause
21 appearing therefor,

22 **IT IS HEREBY ORDERED THAT:**

- 23 1. The Application is **GRANTED**.
- 24 2. The terms of the Consulting Agreement are approved in all respects, as modified
25 by this Order, and subject to further amendments, as applicable.
- 26 3. DWC is hereby appointed as real estate consultant to the Committee effective as of
27 August 5, 2024, pursuant to the Consulting Agreement, and its compensation is to be fixed and
28 paid as set forth in the Application and the Consulting Agreement.

1 4. Payment of all fees are subject to the approval of the Court and DWC shall submit
2 all fee applications in accordance with the Bankruptcy Code, the Federal Rules of Bankruptcy
3 Procedure, Local Rules, and the Interim Compensation Order. For all services provided by DWC
4 on a flat advisory fee basis, DWC shall be subject solely to the standard of review provided for in
5 section 328(a) of the Bankruptcy Code.

6 5. DWC may engage certain independent third-party consultants (“**Consultants**”) to
7 assist with the Project. The Debtor shall pay DWC Thirty Thousand Dollars (\$30,000) for the
8 estimated fees required to be paid to such consultants in the manner set forth below (the
9 “**Consultant Fee Reserve Amount**”). DWC shall (i) to the extent that it uses the services of
10 Consultants in this case, pass through the costs of Consultants to the Debtor at the same rate that
11 DWC pays the Consultants; (ii) seek reimbursement for actual costs only; and (iii) ensure that the
12 Consultants are subject to the same conflict checks and compensation procedures as required for
13 DWC. In connection therewith, DWC shall prepare, and the Committee shall file with the
14 Bankruptcy Court, any such disclosures as required by Bankruptcy Rule 2014. If, at the conclusion
15 of the Term or the termination of the Consulting Agreement, the Consultant Fee Reserve Amount
16 has not been exhausted, the balance of such Consultant Fee Reserve Amount shall be repaid to the
17 Debtor. If the fees to be paid to Consultants exceed the Consultant Fee Reserve Amount, DWC
18 will shall invoice the Committee monthly for reimbursement of any such costs and each such
19 invoice shall be paid upon approval of the Bankruptcy Court or as otherwise permitted by the
20 *Order Authorizing Procedures for Interim Compensation and Reimbursement of Expenses of*
21 *Professionals; provided, however,* that DWC may not incur any expenses arising out of its
22 engagement of Consultants in excess of the Consultant Fee Reserve Amount without the prior
23 written approval of the Committee.

24 6. The Debtor shall pay DWC (i) \$95,000 (representing 50% of the DWC
25 Compensation and entire amount of the Consultant Fee Reserve Amount) within 5 days of entry
26 of this Order, (ii) \$32,500 (representing 25% of the DWC Compensation) within 5 days of the
27 Committee providing notice to the Debtor that it has received a 60-day Project status report by
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1 DWC, and (iii) \$32,500 (representing the final 25% of the DWC Compensation) within 5 days of
2 the Committee providing notice to the Debtor that it has received the final Project report by DWC.

3 7. If requested by the Committee and agreed to by DWC, in its sole and absolute
4 discretion, DWC is authorized to provide Litigation Support Services (as defined in the
5 Application). Litigation Support Services shall be billed at the schedule of hourly rates for 2024
6 shown on Exhibit B attached to the Application. DWC may modify its hourly rates on ten days
7 written notice to the Committee, the Debtor and the U.S. Trustee. DWC shall bill its time in 6-
8 minute increments and invoices for DWC's hourly fees shall provide a description of the services
9 rendered by each professional as well as the time expended in providing each service (rounded in
10 increments to the nearest tenth of an hour.

11 8. Notwithstanding anything herein to the contrary, the U.S. Trustee retains all rights
12 to respond or object to DWC's interim and final applications for compensation and reimbursement
13 of out-of-pocket expenses on any grounds, including the reasonableness standard under section
14 330 of the Bankruptcy Code, and the Court retains jurisdiction to consider the U.S. Trustee's
15 response or objection to DWC's interim and final fee pursuant to section 330 of the Bankruptcy
16 Code.

17 9. Notwithstanding anything to the contrary in the Consulting Agreement, the Court
18 shall have exclusive jurisdiction over DWC's engagement during pendency of the Chapter 11
19 Case. Any binding or mandatory arbitration provisions, or provisions mandating the payment of
20 attorney's fees for enforcement and/or interpretation of the Consulting Agreement, shall not apply
21 during the Chapter 11 Case.

22 10. The Debtor shall indemnify DWC under the terms of the Consulting Agreement.
23 Consultants are not entitled to indemnification under the Consulting Agreement, and DWC shall
24 have no liability related to the services provided by any Consultants.

25 11. All requests by DWC for the payment of an indemnity claim as set forth in the
26 Consulting Agreement shall be made by means of an application to the Court and shall be subject
27 to review by the Court to ensure that payment of such indemnity conforms to the terms of the
28 Consulting Agreement, and is reasonable under the circumstances of the litigation or settlement in

1 respect of which indemnity is sought, *provided however*, that in no event shall DWC be
2 indemnified in the case of its own bad faith, self-dealing, breach of fiduciary duty, gross
3 negligence, or willful misconduct.

4 12. The Liquidated Damages provision in the Consulting Agreement shall be limited
5 to amounts actually paid to DWC under the Consulting Agreement, including amounts paid to
6 DWC for additional services to the Client in accordance with section 3.5 of the Consulting
7 Agreement.

8 13. Within five days of the Committee receiving (i) the draft report DWC is obligated
9 to provide the Committee within 60 days of the Effective Date and (ii) the final report DWC is
10 obligated to provide the Committee within 90 days of the Effective Date, the Committee shall
11 provide counsel to the Debtor with a copy of each report pursuant to the *Order Referring Parties*
12 *to Mediation, Appointing Mediators, and Granting Related Relief* with all protections provided to
13 documents exchanged in mediation.

14 14. All parties reserve their right to support or oppose the relevancy of DWC's
15 conclusions.

16 15. The Committee reserves the right to seek to retain such other consultants, advisors,
17 professionals and experts that it deems necessary to fulfil its fiduciary duties and the Debtor
18 reserves its rights to oppose such retentions.

19 16. If the Debtor elects to retain a real estate consultant, advisor, professional or expert,
20 the Committee may not oppose the retention on the grounds that such retention is unnecessary;
21 *provided, however*, the Committee reserves all other objections it may have to such retention. By
22 way of example, and not limitation, the Committee may oppose the Debtor's proposed retention
23 based on conflicts or unreasonableness of compensation.

24 17. This Court shall retain jurisdiction to hear and determine all matters arising from
25 or related to the implementation of this Order.

26 18. This Order shall be immediately effective and affordable upon its entry.

27 **END OF ORDER**

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All ECF Parties