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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re: THE ROMAN CATHOLIC BISHOP OF OAKLAND, a California corporation sole, Debtor.	Case No. 23-40523 Chapter 11 **THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS' RESPONSE IN OPPOSITION TO THE DEBTOR'S POST-TRIAL BRIEF**

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The Official Committee of Unsecured Creditors (the "**Committee**") of the Roman Catholic Bishop of Oakland (the "**Debtor**") in this chapter 11 bankruptcy case (the "**Chapter 11 Case**") files this response to the *Debtor's Post-Trial Brief in Support of Confirmation of Debtor's Modified Fourth Amended Plan of Reorganization* [Dkt. No. 3418] (the "**Debtor PT Brief**"),[1] and in further support of *The Official Committee of Unsecured Creditors' Post-Trial Brief in Opposition to Confirmation of the Debtor's Modified Fourth Amended Plan of Reorganization Dated March 27, 2026* [Dkt. No. 3416] (the "**Committee Brief**")[2] and the Committee Objection, both of which are incorporated as if set forth herein. In support of this response, the Committee states as follows:

I. PRELIMINARY STATEMENT

The Debtor's post-trial brief is long on assertions and short on references to evidence introduced at trial. The Court conducted a seven-day Confirmation Hearing; it heard from fifteen witnesses and received over sixty documents into evidence. While the Debtor recounts these facts in the Background section of the Debtor PT Brief, the remaining seventy pages of that brief are untethered to the evidence adduced at trial. Among the many deficiencies in the Debtor PT Brief are its repeatedly inaccurate recounting of witness testimony and characterization of the Committee's position(s), entire arguments that omit legal and/or factual attribution,[3] impermissible post-trial expert submissions, reliance on the arguments of counsel in lieu of evidence, and, unfortunately, citations to witness statements and case law that do not exist. But no number of adjectives, percentages, predictions, or arguments by counsel will substitute for the admissible evidence the Debtor was required to submit to sustain its burden of proof on each element of Section 1129—a burden it failed to carry.

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[1] Citations to page numbers in the Debtor PT Brief, and any other pleading filed on the docket in this Chapter 11 Case, refer to the ECF page numbers in red at the bottom of each page.

[2] Capitalized terms not defined herein shall have the meanings set forth in the Committee Brief or the Plan.

[3] In the instances where the Debtor cited to testimony, the citations were at times to the unrevised transcripts (rather than the corrected transcripts that the parties spent hours working to reconcile), making even those citations the Debtor included in the brief inaccurate.

Earnest as the Debtor's witnesses' hopes, confidences, and beliefs may be, they are no substitute for the objective evidence (e.g., quantitative data) that is required to prove, among other things, that the Debtor maximized the value of its assets for the benefit of its creditors. The Committee Objection and the Committee Brief detail the numerous legal and factual issues in the Debtor's case. The arguments below address the numerous factual and legal inaccuracies contained in the Debtor PT Brief, as well as the arguments the Debtor offers in response to issues raised by the Court at the post-trial conference held on July 7, 2026.

II. RESPONSE TO THE DEBTOR'S ARGUMENTS

A. The Debtor's Responses to the Court-Identified Issues Do Not Fill the Gaps in the Debtor's Testimony. (Response to Debtor PT Br. § I.B.)

1. Good Faith

Both during and after trial, this Court pressed the Debtor to provide it with the objective, quantitative data behind the Debtor's insistence that the Plan is the best it can do. (06/25/26 Trial Tr. (the Court) at 218:10–219:22; July 7, 2026 Post-Confirmation Hearing Transcript (the Court) at 21:3–23:7 ("[I]f there's something else that is analytical, if there's something else that is other than [Bishop Barber's] judgment of this issue, I would like you to point that out to me . . . .").) Repeatedly, and again in the Debtor PT Brief, the Debtor claims that the word of Bishop Barber and his fellow diocesan employees is enough for the Court to find that the Debtor could not give a penny more to compensate Abuse Claimants. But the bankruptcy system is not premised on promises or subjective intent—indeed, if intent, promise, and hope were sufficient, litigants would likely not need the court to guide a bankruptcy case at all.

The gap in the record—the missing data that this Court specifically requested—is evident in the Debtor PT Brief, which cites *no* testimony when responding to this Court's question of what the Court should consider as good faith. In fact, the only citations to the record at all are to the Court's request for more data, and a handful of pre- and post-petition statements by Bishop Barber indicating that certain churches will need to close "regardless" of whether the Plan is confirmed. (*See, e.g.*, Ex. D-75.)

The Debtor has the data the Court requested but, tellingly, *chose not to share that information with the Court*. The Committee's expert, after review of that (and other) data, determined that the Debtor can contribute more. (*See, e.g.*, Committee Br. at 37–42; *infra* at Section II.D.3.e.ii.) At best, the Court is left with conflicting testimony regarding what the Debtor can contribute—on one hand, the testimony of the Debtor's fact witnesses who possessed, but elected not to disclose, objective, quantitative data, and on the other hand, the testimony of the Committee's expert who analyzed and interpreted years of the Debtor's historical financials and tested his conclusion against an objective methodology. Based on the record before it, the Court cannot find that the Debtor met its burden to show that the Plan was proposed in good faith.

2. The Best Interests Test

The Debtor conceded that where "nothing in the Code or its legislative history creates a different standard for non-profit or noncommercial debtors," it is not exempt from following the letter of the law. (*See* Debtor PT Br. at 49–50.) It admits as much when it believes the law is on its side. However, when the Debtor cannot meet the Bankruptcy Code's clear requirements, it asks the Court to read words (i.e., "legally possible" hypothetical liquidation) into the statute that do not exist. (*See, e.g.*, *id.* at 14.) The Debtor cannot have it both ways.

When viewed through the appropriate lens—with reasonable, logical assumptions and proper inputs—the Debtor does not pass the best interests test. In fact, even if the Court were to accept certain of the Debtor's contradictory and unworkable assumptions—such as that a hypothetical liquidation would be concluded in twelve months (necessitating a proverbial fire sale of real property in just ninety days) but that the liquidated entity would continue its wind-down process including post-confirmation litigation for three additional years (accruing almost $100 million in incremental litigation costs)—the Plan *still* fails the best interests test when certain accurate inputs (i.e., using the only claim valuation in the record, rather than the Debtor's contribution, as a proxy for the value of Abuse Claims, and appraisals of the real property which the Debtor agreed were in line with its own analysis) are used. (*See infra* at Section II.C.4.)

Thus, as the evidence and case law together show, the Debtor is *required* to satisfy the best interests test in order to confirm the Plan, and it cannot do so.

3. The Fair and Equitable Standard

As set forth at length in the Committee Objection, the Committee Brief, and herein, the Debtor has not, and cannot, show that the Plan is fair and equitable under any conceivable measure. Nothing in the Debtor PT Brief—including without limitation post-trial (impermissible) expert submissions, mischaracterization of the Committee's expert witness testimony and the Committee's position(s), and requests that the Court compress, reinterpret, or ignore altogether sections of the Bankruptcy Code—changes that conclusion. No amount of obfuscation or misciting cases can fill the gap in the Debtor's testimony that the Court already acknowledged—nothing in the record provides actual, quantifiable, and fact-checkable detail into what the Debtor owns, what it needs to continue its mission, and why its current Plan represents a credible maximization of all of its assets. Without that information, the Plan cannot be crammed down under any metric.

B. The Court Must Look Only at the Plan Before It, Not the Debtor's Parade of Horribles if Confirmation is Denied. (Response to Debtor PT Br. § I.C.)

The "Collective-Remedy Imperative" is an inartful phrase the Debtor created to justify its desired outcome. (*See, e.g.*, Debtor PT Br. at 17.) No party disputed the theoretical underpinnings of bankruptcy "to address the needs and concerns of creditors with competing demands to debtors' limited assets, and with the understandable desire that the debtor's assets not go to the swiftest, or the most aggressive, of them." *In re Murray*, 543 B.R. 484, 494–95 (Bankr. S.D.N.Y. 2016), *aff'd*, 565 B.R. 527 (S.D.N.Y. 2017), *aff'd*, 900 F.3d 53 (2d Cir. 2018). But that is not the situation here. This Chapter 11 Case was filed to address the Debtor's liability for claims asserted by Class 4 Abuse Claimants. Absent the reopening of the revival window and the filing of more than 300 lawsuits against the Debtor, this Debtor would not be in bankruptcy. The evidence adduced at the Confirmation Hearing proves that there are not multiple classes of creditors competing for all of a debtor's limited assets; the creditors here, at least the ones the Debtor elected not to repay in full, are being told that they must divide the assets the Debtor is *willing* to part with.

There is nothing new in the Debtor's argument; the brief opens and closes with the same assertion that confirmation is required because "[n]o competing plan exists" and dismissal is the "only alternative to confirmation." (Debtor PT Br. at 9, 78.) While the Debtor consistently maintained that most claimants would receive nothing besides the ability to pursue insurance if the case were dismissed, it presented no evidence of the same. In fact, the evidence from the Debtor's own witness, Mr. Bardos, casts doubt on the veracity of that assertion. (*Notice of Filing of the Off. Comm. of Unsecured Creditors' Deposition Designations of the Debtor's Fact Witnesses and the Debtor's Resps. and Counter-Designations Thereto* [Dkt. No. 3202-1 at 14] (Attila Bardos Apr. 28, 2026 Dep. Tr. at 105:14–21 (stating that the Debtor believes it is only responsible to pay $250,000 of the $16 million Woodall verdict—the rest would be covered by insurance)).) Yet even if the Debtor was correct about the dissipation of its assets (which it likely is not), the Debtor advised voting creditors at length of the perceived risks of rejecting the Plan. Faced with those risks, the Abuse Claimants' vote on the Plan unequivocally demonstrated their preference for dismissal over confirmation of this Plan.

Putting aside the fact that Class 4 Abuse Claimants voted against the Plan in overwhelming fashion after being informed that this Chapter 11 Case would be dismissed if the Plan were not confirmed, whether a plan of reorganization can be confirmed is determined under Section 1129 of the Bankruptcy Code. It is axiomatic that Section 1129 does not provide that a plan of reorganization should be confirmed if it is merely better than other alternatives. A plan is likewise not confirmable merely because the Debtor averred that the Plan is the best it can do or because it is the only pending plan (as such a standard would render confirmation hearings in most chapter 11 cases superfluous). A plan is confirmable only if the Debtor proves that it meets each of the requirements of the Bankruptcy Code. If it does not, the Plan cannot be confirmed regardless of the alternative.

C. The Plan Does Not Satisfy Each Requirement for Confirmation Under Section 1129, and Therefore Cannot be Confirmed. (Response to Debtor PT Br. § III.A.)

The Debtor must show—through case law and evidence in the trial record—that it met *every* requirement of Section 1129. The Debtor attempts to minimize the Committee's argument to solely

"the Committee wants the Debtor to pay more." Of course the Committee wants the Debtor to pay more, but that is only a fraction of the story. The Committee wants the Debtor to pay *what it is required to under the Bankruptcy Code* and not *what it chooses to pay.* Most significantly, the Committee wants the Debtor to comply with all applicable sections of the Bankruptcy Code and propose a plan that complies with each provision of Section 1129. Because it has not done so with respect to several requirements, the Plan cannot be confirmed.

1. Uncontested or Inapplicable Provisions of Section 1129(a). (Response to Debtor PT Br. § III.A.1.)

The Debtor's argument that it satisfied each of the provisions contained in Exhibit A-1 to the Debtor PT Brief fails to address the Committee's position that the Debtor did not comply with the solicitation procedures approved by the Court. (*See The Off. Comm. of Unsecured Creditors' Mot. to Designate Certain Class 1, Class 3, and Class 6 Votes* [Dkt. No. 3001] (the "**Designation Mot.**") at 11–12.) In addition, the Debtor did not submit any evidence as to certain of the other "uncontested" provisions, such as classification of claims under Section 1123. Nonetheless, this response focuses on the evidentiary record at trial, and legal arguments associated therewith.

2. The Plan is Not Feasible Within the Meaning of Section 1129(a)(11). (Response to Debtor PT Br. § III.A.2.)

a) The Debtor Has Not Demonstrated that it Can Meet its Plan Funding Obligations. (Response to Debtor PT Br. § III.A.2.a.)

The Committee and the Debtor do not altogether disagree on the legal requirements the Debtor must satisfy to establish feasibility. However, the parties diverge on the application of that standard. As set forth in the Committee Brief, the Debtor has a burden to prove that the Plan is not a "visionary scheme[]" that the Debtor will not be able to fulfill, and is not based on "sheer optimism and hopefulness." (Committee Br. at 52–53 (quoting *In re Pizza of Hawaii, Inc.*, 761 F.2d 1374, 1382 (9th Cir. 1985); *In re Curiel*, 651 B.R. 548, 565 (B.A.P. 9th Cir. 2023)).) Where, as here, the Debtor's own experts' opinions and fact witnesses' testimony show that the Debtor will not be able to meet the funding obligations under the Plan, the Debtor cannot meet its burden.

b) The Debtor's Own Witnesses Prove the Plan is Not Feasible. (Response to Debtor PT Br. § III.A.2.b.)

Taken together and relying on each other's analyses, the testimony adduced at trial from the Debtor's witnesses affirmatively proves that the Debtor will not be able to meet its Plan funding obligations using the property the Debtor insists are the only assets available. As a result, the record is clear that the Plan is not feasible.

i. Charles Moore

The Debtor's use and characterization of Mr. Moore's testimony is circular: the Plan is feasible because Mr. Moore deemed the projections "reasonable," and the projections are reasonable because Mr. Moore says so. The Debtor specifically asserts Mr. Moore "testified that the Debtor's financial projections (2026–2030) are reasonable and achievable," (Debtor PT Br. at 20–21), but Mr. Moore's methodology consisted of reading the Debtor's own projected cash flow statement and pronouncing the results "sufficient," (06/15/26 Trial Tr. (Moore) at 147:3–155:14). At no point did Mr. Moore explain what is reasonable about the assumption on which the entire Plan turns, i.e., that the Debtor will generate $110 million in property sale proceeds within three and a half years.

In fact, Mr. Moore conceded on cross-examination that property sales are the "primary source of funds" for the Additional Debtor Contributions, (06/16/26 Trial Tr. (Moore) at 73:15–16), yet could not identify which properties would be sold, in which year, or for how much, (*id.* at 77:11–13; 06/15/26 Trial Tr. (Moore) at 209:20–210:15). Further, Mr. Moore admitted there are "no assurances for any of the property sales" and that no one should treat "Livermore or really anything as a given," (06/15/26 Trial Tr. (Moore) at 175:20–176:4), and acknowledged that his projections rely on unguaranteed revenue, (*see, e.g.*, 06/16/26 Trial Tr. (Moore) at 88:7–18 ($750,000 from CMS), 89:3–9 ($2.4 million from CTN), 80:14–81:12 ($730,000 from the Cathedral)).

In essence, what the Debtor calls an expert feasibility opinion is an expert confirming the Debtor's spreadsheet contains no formula errors (which the Committee also proved incorrect) while disclaiming responsibility for whether any of its estimated inputs will materialize.

ii. Daniel Flanagan & Attila Bardos

The Debtor offers Mr. Flanagan's and Mr. Bardos's confidence as support that the Plan is feasible. (*See* Debtor PT Br. at 21.) That is insufficient. It also fails to reconcile evidence within the record that highlights that confidence is misplaced. For example, Mr. Flanagan's projections inaccurately include contributions from CMS that the Debtor will *not* in fact receive; a source of funding he testified he was confident the Debtor would receive even after RCC's representative definitively said it would not. (06/24/26 Trial Tr. (Flanagan) at 19:10–17, 62:3–15.) As to Mr. Bardos's testimony, the Debtor, without any specific citation, summarily states that he "corroborated Mr. Flanagan's assessment and the data he relied on to make it." (Debtor PT Br. at 21.) However, no specific or measurable data was offered by Mr. Flanagan. How such corroboration can occur with evidence that was never entered remains a mystery. It is therefore unsurprising that according to the Debtor, the most pertinent testimony regarding the Plan's feasibility elicited from Mr. Bardos was that he has "no doubt" the Plan can be done. (*Id.* (citing 06/25/26 Trial Tr. (Bardos) at 20:3–14).) The record shows otherwise.

iii. Andrew Currier

A fulsome review of Dr. Currier's testimony calls into question the Debtor's ability to make payments under the Plan, as it illustrates how the $30 million contribution from RCWC is illusory. The Debtor highlights RCWC's readiness and willingness to make this payment to the Survivors' Trust. (*See id.* at 22.) Omitted, however, are the crucial details of the mechanics of the RCWC payment—that the actual amount the Survivors' Trust will receive from RCWC is entirely unknowable, and is only available to certain claimants. (*Compare id.*, *with* 06/22/26 Trial Tr. (Currier) at 187:18–190:7, 191:25–192:8.) RCWC's desire to support the Debtor does not erase RCWC's "central and non-negotiable requirement" that the $30 million is "directed exclusively to persons with adjudicated, compensable claims against RCWC" who execute "a binding release of those claims." (Ex. D-49 ¶ 17.) Accordingly, the Debtor's claim that all Abuse Claimants will share in this additional funding from RCWC remains an illusory and artificial attempt to inflate the amount that all Class 4 Abuse Claimants are purported to receive under the Plan.

iv. John Satter

Mr. Satter's appraisals, coupled with the Debtor's representation in the Debtor PT Brief, expose a fatal contradiction in the Debtor's position, which claims to pledge as collateral the very churches it insists are mission critical and can never be sold. This is not an issue where there is a competing valuation or conflicting testimony of experts that can be explained by the argument of counsel; rather, the issue here is that the expert testimony and the argument of counsel conflict with the plain language of the Plan and the testimony of the Debtor's fact witnesses. An overview of the Plan requirements and related filings will contextualize the issue.

Section 9.3.1.6 of the Plan, entitled "Debtor Contribution Deeds of Trust," provides, in relevant part:

> To secure the Additional Debtor Contribution, the Debtor shall grant the Survivors' Trust a Lien on the real property listed on Schedule 9.3.1.6, to be filed with the Plan Supplement. The Liens shall be memorialized in deeds of trust to be executed and delivered on the Effective Date (such agreement being a 'Debtor Contribution Deed of Trust'). Such real property shall be valued by Hilco Real Estate, LLC in an amount of no less than one hundred percent (100%) of the Additional Debtor Contribution.

(*See* Plan § 9.3.1.6.) One of the many issues arising out of this provision is the fact that the Debtor never filed Schedule 9.3.1.6 with the Plan nor with any of the Plan Supplements. Instead, the Debtor filed Exhibit G in its Plan Supplement, (Ex. C-84 (the Real Property List)), the most recent version of which was filed on June 1, 2026, (*see Notice of Filing of Amendment to Plan Supplement in Connection with Debtor's Modified Fourth Amended Plan of Reorganization* ("**Notice of Plan Supplement**") [Dkt. No. 3037]; *see also* Ex. C-84 (Real Property List)), which the Debtor described as follows:

> Amended List of Real Property anticipated to be sold or collateralized to fund the Plan, including as collateral for the Exit Facility. The Amended List of Real Property attached as Exhibit G has been amended to (1) identify properties the Debtor intends use as collateral for the Exit Facility as negotiated between the Debtor and RCC, *and also identify properties to be used as collateral for the Additional Debtor Contribution to the Survivors' Trust pursuant to the Plan*; and (2) add certain additional properties to be used as collateral for the

> Exit Facility in order to meet the collateral requirements of the Plan and the Exit Facility.

(*See* Notice of Plan Supplement at 2 (emphasis added).)

The Real Property List, which both Mr. Satter and Mr. Bardos (among others) were questioned about, identifies five categories of properties: (1) "Non-Debtor Real Estate for Disposition/Collateralization"; (2) "Cemetery Property for RCC Loan Collateral"; (3) "Potential Parish Vacant Land Property Disposition/Collateralization (Vacant Portions Only)"; (4) Potential Parish House Disposition/Collateralization"; and (5) "Potential Whole Parish Site Property Disposition/Collateralization." (Ex. C-84 (Real Property List) at 6.) When the Real Property List is read in conjunction with the Real Property Stipulation, (Ex. C-86 (Real Property Stipulation)), the real estate identified as "Trust Collateral" are the only properties the Debtor is using to fund the Survivors' Trust. A plain reading of the Real Property List and Real Property Stipulation confirms that *only* the vacant portions of property in category three above will be disposed of *or* used as collateral; indeed, if the entire property were to be disposed of/collateralized, the real property would be listed in category five. Though the Debtor tried to sow doubt about what portions of the properties listed were being sold, Mr. Bardos confirmed that the above reading of the documents is accurate: the Debtor is selling "only the vacant portion" of each property in category three, i.e., not church buildings, and that no properties beyond those on the Real Property List will be sold or pledged as collateral to fund the Plan. (06/25/26 Trial Tr. (Bardos) at 96:15–100:3.)

Thus, the Debtor's statement that "Mr. Satter's testimony and appraisal provide uncontroverted evidence that the Debtor can satisfy the Plan requirement to provide collateral secured by deeds of trust to the Survivors' Trust valued by Hilco's appraisal at not less than the $110 million amount of the Debtor's post-Effective Date contribution obligations," (Debtor PT Br. at 22), is not true. What Mr. Satter actually testified was that to realize the full appraised value, "you have to sell the excess land" and "the parcel of property that's got the improvement on it," i.e., the church itself—which portions of the property are explicitly *excluded* from the Real Property List. (06/23/26 Trial Tr. (Satter) at 99:17–23.) Put differently, to achieve the $112 million in

property valuations the Debtor touts, churches that the Debtor deemed mission critical and proclaimed could never be liquidated would have to be sold. If limited to the parcels the Debtor testified that it actually intends to sell/collateralize under the Real Property Stipulation (i.e., the vacant parcels), Mr. Satter's appraisals yield only $54 million—roughly half of what the Plan requires in Additional Debtor Contributions. (*Id.* at 83:18–24; Ex. C-86 (Real Property Stipulation).)

In addition to being inadequate to cure a material deficiency in the Debtor's evidence, namely that it has not satisfied the requirements it imposed on itself under the Plan, the Debtor's new argument that the Survivors' Trust could "simply foreclose on its collateral" if the Debtor defaults, (*see* Debtor PT Br. at 22), flies in the face of its contention that its churches cannot be foreclosed on, (*see id.* at 63–68). The Debtor cannot have it both ways. It cannot credibly insist its churches are exempt from sale while citing their full appraisal value as a Plan funding source. (Debtor PT Br. at 22.) If the Debtor is now conceding that mission-critical property *can* be foreclosed upon and sold, the Committee welcomes that concession—but it eviscerates the Debtor's justification for excluding all of its real estate from its liquidation analysis.

v. Matthew Babcock

The Debtor grossly mischaracterizes Matthew Babcock's testimony and attempts to use it as some sort of expert opinion that the Plan is feasible even though Mr. Babcock testified as a fact witness on behalf of the Committee *before* the Debtor disclosed its intention of how it would meet its Plan obligations (which, after disclosure, the Committee understood the Debtor cannot do). (*See* Debtor PT Br. at 23.)

To put Mr. Babcock's testimony in context, pursuant to the *Confirmation Scheduling Order* [Dkt. No. 2790], Mr. Babcock sat for two depositions as the Committee's corporate designee—on April 30, 2026 (before the Committee Objection was filed) and again on June 3, 2026—to address a limited set of supplemental topics. It was not until June 1, 2026 that the Debtor disclosed, for the first time, which properties the Debtor proposes to sell to fund the Survivors' Trust versus use as collateral for the Exit Facility. (*See* Committee Br. at 52 n.16.) It was not until June 9, 2026 that

the Debtor and Committee entered the Real Property Stipulation that clarified (in the absence of further deposition) the Debtor's intended use of the property on the Real Property List. (*See* Ex. C-86 (Real Property Stipulation).)

The quotation relied on by the Debtor, taken from Mr. Babcock's April 30, 2026 deposition—more than one month before the Debtor disclosed which property would be used to fund the Survivors' Trust versus collateralize the Exit Facility—disingenuously conflates the Committee's argument, which it has repeatedly explained both to the Debtor and to the Court: the assets the Debtor is "willing" to part with are insufficient to fund the Additional Debtor Contributions, making the Plan not feasible. This position is not contradictory to the Committee's position that the Debtor has additional assets that it could *but is not* contributing which (if contributed) would increase the amount it can pay to compensate Abuse Claimants. Given that the Debtor claims that all of its remaining assets are mission critical and cannot be monetized, the Court must consider the Plan proposed by the Debtor, and only the assets it has stated will be used to fund that Plan. The fact that other assets exist is therefore irrelevant in the feasibility analysis.

Further, the quotation the Debtor relies on is taken out of context *and still* does not contain an admission that the Plan is feasible. The Debtor ignores that it asked *the exact* question going to the heart of feasibility, "Q. Does the committee doubt that the debtor can contribute $150 million of its own money over a three and a half-year period," (*Debtor the Roman Catholic Bishop of Oakland's Deposition Designations of Matthew Babcock and Related Objections* [Dkt. No. 3222] (the "**Babcock Designations**"), Ex. A, at 202:9–11), *immediately* before the quotation it cites that is purportedly an "admission" that the Plan is feasible. It is unsurprising that the Debtor does not point out this part of the discussion because Mr. Babcock affirmatively called into question the feasibility of *this* Plan in his response, noting that the Committee had not yet received responses to all of its discovery requests concerning the Debtor's proposed Plan funding. (*Id.* at 202:12–15 ("A. The committee has concerns with the amount and with the timing and the length of time and with lack of understanding currently regarding the real estate sales that the debtor's plan contemplates.").)

The Debtor's reliance on the Committee Plan—which was not admitted into evidence, but rather the Court took judicial notice of[4]—suffers a similar flaw. The Committee Plan represents the Committee's belief, at the time the Committee Plan was filed, of a reasonable amount the Debtor *could contribute* to compensate Abuse Claimants. That amount contemplated the use of other and additional assets that the Debtor unequivocally stated *will not* be used to fund the Plan. The Court is constrained to view feasibility in the context of what the Debtor stated on the record are the only assets that will be available, the value of those assets, and not the value of other assets that the Debtor claims are off limits to Survivors.

3. The Plan is not Designed to Achieve a Result Consistent with the Objectives of the Bankruptcy Code, and Therefore Does Not Meet the Good Faith Requirement of Section 1129(a)(3). (Response to Debtor PT Br. §§ I.B.1, III.A.3.)

Although the Debtor acknowledges that there is a good faith requirement under Section 1129(a)(3) and cites to case law which notes the applicable standard, (Debtor PT Br. at 23–24 (citing *In re Boy Scouts of Am. & Del. BSA, LLC*, 642 B.R. 504, 645 (Bankr. D. Del. 2022) ("**In re BSA**"))), the "proof" used to support its position does not follow the applicable standard.[5] Instead, the Debtor wants the focus to be on the moral character of individual(s) proposing the Plan, and not on the Plan itself. (Debtor PT Br. at 25–29.) It labels this process-focused inquiry into whether the Plan was proposed with sincerity, *regardless* of whether it maximizes estate value for creditors, as an "honest

[4] The Court's judicial notice of the withdrawn Committee Plan *is not* an admission of any fact therein. "When a party fails to identify any specific adjudicative facts contained in a document," as here, "a court may only take judicial notice of the fact that the document exists; it may not take judicial notice of any disputed facts contained in the document." *Allen v. loanDepot.com LLC*, No. 3:21-cv-00541-JR, 2021 WL 7186818, at *2 (D. Or. Aug. 26, 2021); *see also Lee v. City of Los Angeles*, 250 F.3d 669, 689–90 (9th Cir. 2001) (finding the District Court erred by taking judicial notice of disputed facts). Thus, unless the Debtor no longer contests that it can pay more to fund the Plan, the Committee's position in the Committee Plan remains a disputed fact. The case cited by the Debtor *supports* the Committee's position, finding that where a statement is not introduced into evidence, and contradictory testimony is not objected to, the statement cannot be considered a binding judicial admission. *See Am. Title Ins. Co. v. Lacelaw Corp.*, 861 F.2d 224, 227 (9th Cir. 1988).

[5] In *In re BSA*, the court noted that "[t]he important point of inquiry is the plan itself and whether such a plan will fairly achieve a result consistent with the objective and purpose of the Bankruptcy Code." 642 B.R. at 645. It cannot reasonably be disputed that a principal objective of the Bankruptcy Code is to maximize value for creditors.

effort" test, generically citing *Teamsters*[6] as support therefor. (*See id.* at 23–31.) Not only is this not the test of good faith under Section 1129(a)(3), but the Debtor also cannot sustain its burden on this requirement under the Bankruptcy Code by simply highlighting *the sincerity* of Bishop Barber's testimony. (*See id.* at 25–26.) Sincerity is not a substitute for evidence, and the Debtor PT Brief, much like the Debtor's presentation at trial, fails to point to *any* probative evidence illustrating that the Plan maximizes estate value for its creditors, which is the actual question before the Court. In short, neither the law nor the facts support the Debtor's assertions on good faith.

First, the Debtor itself acknowledges that the actual test offered by the Court in *Teamsters I* was a three-part test.[7] After dedicating an entire paragraph to the three-part test from *Teamsters I*, (*see id.* at 24), the Debtor proceeds to completely disregard the *Teamsters* Court's standard and evidentiary burdens, and asks the Court to reduce the test to the ordinary meaning of the words itself, (*see id.* at 24–25). Indeed, the "distill[ation]" the Debtor attributes to the Ninth Circuit in *Teamsters II* did not occur. What the Ninth Circuit actually stated was that the bankruptcy court viewed the plan there as representing the debtor's "honest effort to satisfy the demands of its creditors." *Teamsters II*, 265 F.3d at 877. And though omitted from the Debtor PT Brief, (*see* Debtor PT Br. at 24), in the two sentences preceding the line the Debtor relies on, the Ninth Circuit recites the precise standard the Committee argued applies, *see Teamsters II*, 265 F.3d 869 at 877 ("A plan proposed in good faith is defined as one that satisfies the purposes of the bankruptcy code. . . . Those purposes of the bankruptcy code include facilitating the successful rehabilitation of the debtor, and maximizing the value of the bankruptcy estate." (citations omitted)).

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[6] *In re General Teamsters, Warehousemen and Helpers Union Local 890*, 225 B.R. 719 (Bankr. N.D. Cal. 1998) ("**Teamsters I**"), *aff'd*, 265 F.3d 869 (9th Cir. 2001) ("**Teamsters II**," and with *Teamsters I*, "**Teamsters**").

[7] (*See* Debtor PT Br. at 24 ("Regarding good faith, in the underlying bankruptcy court decision, Judge Weissbrodt distilled a three-part test from applicable Ninth Circuit case law: 1) the plan must be consistent with the objectives of the Bankruptcy Code, 2) it must demonstrate fundamental fairness in dealing with creditors, and 3) the totality of the circumstances must be considered. *In re General Teamsters, Warehousemen and Helpers Union Local* 890, 225 B.R. 719, 729 (Bankr. N.D. Cal. 1998), *aff'd*, 265 F.3d 869 (9th Cir. 2001) ('Teamsters I')").)

Second, the Debtor's analysis is hyper focused on the *proposal* of the Plan—inexplicably attempting to distinguish the *proposal* of the Plan from its terms. However, the Debtor's own cited authority undermines this position. In *In re BSA*, the court noted the good faith requirement's key inquiry "is *the plan itself* and whether such a plan will fairly achieve a result consistent with the objectives and purposes of the Bankruptcy Code." 642 B.R. at 645 (emphasis added).[8] Regardless of the Debtor's efforts to twist the case law into a standard that it might conceivably be able to satisfy on convictions alone, the Debtor cannot change that its sincerity[9] has minimal, if any, bearing on whether the Plan currently before the Court maximizes the value of assets for its estate and creditors and has been proposed in good faith.

With respect to formation of the Plan's *terms*, the Debtor credits Bishop Barber himself with performing the MAP analysis while the record actually shows it was performed by the Debtor's advisors and rubber-stamped by Bishop Barber after the fact. (*See, e.g.*, 06/22/26 Trial Tr. (Bishop) at 53:19–55:1.) Crucially, a significant portion of the Debtor's allegedly supporting testimony contains *no* citations to the record, *because no citations exist*. (*See, e.g.*, Debtor PT Br. at 27 (asserting without record citation, for example, that Bishop Barber undertook a "structured process of escalating sacrifice," and characterizing the entirety of this unsupported narrative as "the factual predicate the Court asked about").) These assertions are arguments of counsel dressed up as record evidence. But the statements and argument of counsel are not part of the record, and absent real citation to the actual record in this case, the Debtor cannot fill the holes in testimony through statements in a brief without ties to the trial record.

The Debtor also ignores Bishop Barber's testimony showing that he did not know that sale proceeds from the closure of churches *will not go to the Survivors' Trust*, a false narrative the Debtor

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[8] The Debtor further argues, citing to *Garvin v. Cook Investments NW, SPNWY, LLC*, 922 F.3d 1031 (9th Cir. 2019) (a case focusing on whether the Plan was proposed "not by any means forbidden by law"), that the Court should ignore the Plan's terms in this analysis. (*See* Debtor PT Br. at 23–24.) Such an interpretation is inconsistent with the remainder of the cases cited, none of which have separated the Plan's terms from the act of proposing a plan.

[9] The Committee has never suggested Bishop Barber acted in bad faith. The Debtor's attempts to conflate Section 1129(a)(3)'s requirement with an accusation regarding Bishop Barber's integrity is baseless. The Court should ignore the Debtor's invitation to find this factor satisfied because Bishop Barber led a life of service.

PT Brief perpetuates, but instead will be used to pay back its affiliate for amounts loaned to it. (06/22/26 Trial Tr. (Bishop) at 53:3–10.) Further, Bishop Barber admitted that the churches will be closed regardless of the outcome of the Chapter 11 Case and therefore cannot be attributed to needing to compensate Abuse Claimants. (*Id.* at 48:14–49:1.)

Mr. Bardos's repeated insistence that the Plan is proposed in good faith similarly does not satisfy the Debtor's burden. Without any substantiation for the statements, the Court is asked simply to find the Plan was proposed in good faith because the Debtor says it was. That is not enough to satisfy the Debtor's burden, particularly in light of testimony that the Debtor *can, but chooses not, to contribute more* to compensate the Abuse Claimants. (*See, e.g.*, Committee Br. at 71–74; 06/25/26 Trial Tr. (Bardos) at 81:14–21, 99:22–100:3; 06/24/26 Trial Tr. (Flanagan) at 52:22–53:8.)

Critically, even accepting the Debtor's interpretation of the case law it cites to, the Debtor offered no evidence of what is required for the Debtor to continue its mission and/or operations or what assets the Debtor is retaining and why. This analysis is critical to the required "totality of the circumstances" analysis that the Debtor itself concedes the good faith standard requires. *See Teamsters I,* 225 B.R. at 729–30. The record is devoid of any quantitative or specific qualitative data regarding the properties the Debtor will not sell and why those properties are mission critical. Without such data, the Court is left with only earnest statements which are contradicted by the record and the Committee's expert's opinion. Simply put, a statement that the Debtor met the standard is insufficient to meet the Debtor's burden; if it were, the requirement would be rendered meaningless (as no debtor would admit that its plan was proposed in anything but the highest levels of good faith).

Finally, the Debtor's haphazard characterization of the Committee's position regarding the Plan's failure to maximize estate value for creditors as an inquiry into "whether creditors wish the plan offered more," (Debtor PT Br. at 24), is not only hyperbolic but lacks *any* cognizable basis in the legal or evidentiary record in this case. That the Debtor had to resort to baseless mischaracterizations of the Committee's position, however, makes sense given that the cases the Debtor relies upon for its "honest effort" test do not contradict the Committee's stated legal standard.

See Teamsters II, 265 F.3d 869 at 877. Indeed, as the Committee demonstrated, the Plan caps the Debtor's contribution at an arbitrary amount untethered to any objective analysis. (*See* Committee Br. at 71–74.) In doing so, the Debtor is retaining hundreds of millions of dollars in assets it has unilaterally and baselessly declared off-limits for the creditors it purportedly seeks to compensate, and thus cannot satisfy the good faith standard. (*See, e.g.*, *id.*)

4. The Plan Fails the Best Interests of Creditors Test and Therefore Does Not Satisfy Section 1129(a)(7). (Response to Debtor PT Br. §§ I.B.2., III.A.4.a–b.)

Despite days of testimony on the illogical assumptions utilized to manufacture the various inputs and analyses the Debtor offered to prove that it satisfies the best interests of creditors test, the Debtor's argument thereon reads more like a disclosure statement than it does a post-trial brief. (Debtor PT Br. at 31–44.) Rather than addressing the numerous challenges raised with respect to the primary and supplemental liquidation analyses during the Committee's cross-examination of Mr. Moore and others, or more generally, discussing why the liquidation analyses Mr. Moore prepared were sound, the Debtor simply repeats its now-disproven claim that the Plan delivers "at least $247 million" to creditors. (*Id.* at 32–33.) As reflected in the trial testimony elicited by the Committee, the Debtor's Best Interests Test is riddled with insurmountable errors that render the analyses unusable. A summary[10] of those issues, with reference to the Committee Brief, are set forth below:

Debtor's Best Interests Test – Summary of Challenged Inputs/Assumptions	**Committee Brief**
Although the Debtor correctly indicates that the best interests test applies on a creditor-by-creditor basis, Mr. Moore analyzed the Class 4 Plan recovery on a class-wide basis, improperly assuming all Class 4 Abuse Claimants are eligible to recover from the $30 million RCWC contribution (the majority of which are not).	pp. 31, 44, 49–50
Mr. Moore utilized the $172.3 million contribution to the Survivors' Trust (including RCWC's contribution) as a proxy for the valuation of Class 4 Abuse Claims.	p. 48

[10] The Summary of Challenged Inputs/Assumptions is intended as a reference for summary purposes only, and nothing herein shall constitute a waiver of any arguments the Committee has asserted.

Debtor's Best Interests Test – Summary of Challenged Inputs/Assumptions	Committee Brief
The supplemental liquidation analysis does not include all the Debtor's real estate, contrary to the Debtor's continued claim (including in the Debtor PT Brief).	pp. 29, 50
Mr. Moore's adoption of Mr. Zimmerman's 25% discount across all those properties valued based, in part, on Mr. Zimmerman's assumption that all real property must be marketed and sold within sixty to ninety days necessitated by "tremendous" yet uncalculated carrying costs, is inappropriate and unsupportable.	pp. 25–29, 50
Mr. Moore included the entirety of RCC's prepetition claim as a deficiency claim, despite evidence that the RCC Loan Collateral had sufficient value to cover the entire claim and RCC's testimony that it would credit bid for that property.	p. 30
Mr. Moore factored fees and costs of administration into the hypothetical chapter 7 scenario, but did not in the Plan scenario, despite certain expenses being applicable in both scenarios.	pp. 29–30, 51
Mr. Moore inexplicably assumed a chapter 7 case would be completed within one year, but litigation of the Abuse Claims would occur over four years, and that the chapter 7 Trustee would hire "premiere" counsel at rates well above what insurers would reimburse for.[11]	pp. 29–30, 51

Even if the Committee were to substantially accept (solely for argument's sake)[12] the unsupported inputs and/or assumptions underlying the Debtor's Best Interests Test—only applying certain limited adjustments identified in subparagraphs (a)–(d) of this Section, the Plan would *still* unequivocally fail the best interests test. ***Figure 1*** below (the "**Alternative Best Interests Test**") is an illustrative chart intended to reflect this alternative (Debtor-friendly) outcome that largely presumes acceptance of the Debtor's Best Interests Test, subject only to the following limited adjustments:

[11] If, as Mr. Moore assumes, the trials will take four years, there is no justification that properties must sell within sixty to ninety days or be placed on the market at one time. Thus, without any evidence of carrying costs justifying a fire-sale of the real property, there is no justification for Mr. Zimmerman's across-the-board 25% discount. Conversely, if the chapter 7 case would be wrapped up within one year, the estate would not spend tens of millions of dollars on trials spanning several years after the case's conclusion.

[12] Nothing in the Alternative Best Interests Test (defined below) is an admission or concession as to any of the inputs and/or assumptions therein. The Alternative Best Interests Test is intended as a sensitivity exercise, is offered for illustrative purposes only, and does not reflect the Committee's position and/or view on the appropriateness of the inputs and assumptions in the Debtor's Best Interests Test.

a. ***Class 4 Abuse Claim Valuation***. Mr. Moore's unsubstantiated input of $172,300,000 was revised to the only claims valuation evidence presented at trial—Ms. McNally's valuation of the Abuse Claims at $420,566,040.

b. ***Class 4 Abuse Claim Plan Recovery***. With respect to the Plan recovery, the Alternative Best Interests Test (i) assumes the Debtor will be able to contribute $150 million to the Survivors' Trust; and (ii) excludes the $30 million RCWC Contribution which is not available to all creditors (and therefore not applicable to a creditor-by-creditor application of the test). It additionally excludes recoveries for Unknown Abuse Claims on grounds that the Class 5 claim valuation is undetermined and, in the absence of payments to Class 5 Unknown Abuse Claims, the full payment by the Debtor of $150 million would ascribe to Class 4 Abuse Claims. In the event Unknown Abuse Claims exist, less than $150 million will be available for Class 4 Abuse Claims, therefore reducing the projected amount and midpoint recovery for Class 4 Claims in the Plan scenario.

c. ***RCC's Class 1 Liquidation Recovery***. In the hypothetical liquidation scenario, RCC's projected liquidation recovery was revised to reflect a 100% recovery on account of the value of RCC's collateral based on the upward adjustment to the valuation of the RCC Collateral described in Section (d)(i) just below.

d. ***Ms. Rosen's Real Estate Valuation Subject to the 25% Real Estate Discount***. With respect to the liquidation scenario, the Alternative Best Interests Test relies upon Ms. Rosen's valuation of a portion of the Debtor-owned real estate at approximately $435 million,[13] subject to an upward adjustment for two Debtor properties valued by Mr. Zimmerman, but not by Ms. Rosen. The alternative analysis applies Mr. Zimmerman's 25% discount to all included real estate

[13] Notably, the Debtor appears to be under the mistaken impression that the Committee advocates for the application of the entirety of Ms. Rosen's approximate $807 million real estate valuation in a hypothetical liquidation scenario. (Debtor PT Br. at 46.) This is not a position the Committee asserted at trial, and it is not one the Committee asserts now.

i. ***Addition of Omitted Cemetery Property***. While the Debtor contends that the cemeteries have no value to parties other than RCC this view is inconsistent with its own communications with RCC. (*See* Ex. C-207 at 1–2 (November 2024 email communication between RCC's CFO, Mr. Gies, and the Debtor's own CFO and financial advisors reflecting agreement that the RCC Prepetition Collateral was worth $35.7 million).) Moreover, the Debtor identified five additional cemeteries as collateral for the DIP loan and Exit Facility funding from RCC. (*See* Ex. C-84 (Real Property List) at 6.) Accordingly, the Alternative Best Interests Test reflects an additional upward adjustment of $41.1 million at the midpoint for Debtor cemetery properties (which is also subject to Mr. Zimmerman's 25% real estate discount).[14]

ii. ***Liquidation Costs***. While this assumption does not reflect a departure from the Debtor's analysis, for the sake of clarity, the Alternative Best Interests Test does include Mr. Moore's $93 million in incremental litigation costs.[15] Additionally, because the line items for certain liquidation costs (i.e., chapter 7 trustee fees, trustee's professional fees, and broker fees) are calculated as a percentage of total gross liquidation proceeds, those line items were adjusted in accordance with the adjustment to the real property valuation.

[14] The $41.1 million valuation of cemetery real properties has been set to equal the amount of the RCC Prepetition Loan ($25,872,322) and the DIP Loan ($15,249,715), based on the conservative assumption that the cemetery property was worth as much as the loans they are securing. $41.1 million is a conservative assumption given, among other things, that the loan to value ratio of the RCC Prepetition Loan is 70%, (Ex. C-90 at 29), and the Debtor PT Brief concedes that the RCC Collateral is worth at least $41 million, (*see* Debtor PT Br. at 37).

[15] The Debtor's incremental litigation costs are accepted in this analysis, notwithstanding that it defies logic to apply litigation costs calculated over a three-year period in the same scenario that assumes a 25% discount based on an expedited chapter 7 marketing timeline.

Figure 1 –Alternative Best Interests Test

Alternative Best Interests Test							
Class	Claims / Equity Interests	Projected Midpoint Amount of Claims	Projected Amount Of Recovery Under The Plan	Projected Midpoint Recovery % Under the Plan	Projected Amount of Recovery Under Liquidation	Projected Midpoint Recovery % Under Liquidation	Pass / Fail
0	DIP Claims	$ 15,249,715	$ 15,249,715	100.0%	$ 15,249,715	100.0%	PASS
1	Secured Claims	$ 25,872,322	$ 25,872,322	100.0%	$ 25,872,322	100.0%	PASS
2	Priority Unsecured Claims	$ 8,840,495	$ 8,840,495	100.0%	$ 8,840,495	100.0%	PASS
3	General Unsecured Claims	$ 16,738,714	$ 16,738,714	100.0%	$ 9,461,772	56.5%	PASS
4	Abuse Claims	$ 420,566,040	$ 150,000,000	35.7%	$ 237,730,320	56.5%	FAIL
5	Unknown Abuse Claims	Undetermined	Undetermined	N/A	Undetermined	N/A	N/A
6	Non-Abuse Litigation Claims	$ 750,000	$ 750,000	100.0%	$ 423,947	56.5%	PASS
	TOTAL	$ 488,017,286	$ 217,451,246	44.6%	$ 297,578,571	61.0%	

As reflected above, the Alternative Best Interests Test reflects that, even if the parties were to significantly streamline the various disputed issues under Section 1129(a)(7), with the Committee accepting (solely for argument's sake) a highly deferential interpretation of the analysis and the evidence presented at trial, the Plan *still* cannot satisfy the best interests test. More specifically, after applying the limited adjustments described in subparagraphs (a) through (d) of this Section, the Alternative Best Interests Test reflects that Class 4 Abuse Claimants would receive a 35.7% recovery under the Plan, as compared to the 56.5% recovery in a hypothetical liquidation scenario. Accordingly, the evidence elicited by the Committee at trial firmly supports that the challenges to the Debtor's Best Interests Test create a margin so significant it is incapable of being overcome—even assuming generous concessions by the Committee.

a) The Debtor Misapplies Distinguishable Case Law to Justify its Unsupportable Liquidation Analyses. (Response to Debtor PT Br. § III.A.4.c.)

The Debtor invokes only *Teamsters*[16] for the sweeping proposition that "a debtor need only include in its liquidation analysis assets that could actually be liquidated under applicable law," and therefore churches "should not be included as realizable in the liquidation analysis." (Debtor PT Br. at 44.) But *Teamsters* does not support that position. It addressed an entirely different species

[16] It is not clear from the Debtor PT Brief whether it is citing *Teamsters I* or *Teamsters II* for support of this position. (*See* Debtor PT Br. at 44 (citing *Teamsters I*, 265 F.3d at 877).)

of "asset"—one incapable of existing in a chapter 7 as a matter of binding federal law—and its narrow holding has no application to tangible real property worth hundreds of millions of dollars.

In *Teamsters I*, the debtor was a nonprofit local labor union whose only assets of consequence beyond its real property and office equipment were collective bargaining agreements ("**CBAs**") and the right to collect future dues from its members in exchange for representational services. 225 B.R. at 722–23, 733–35. A creditor objected to confirmation, arguing that the CBAs and the right to future dues should be included in the liquidation analysis. *Id.* at 733–34. Judge Weissbrodt held—and the Ninth Circuit affirmed—that these items had a liquidation value of zero because the National Labor Relations Act ("**NLRA**") made them structurally non-transferable and non-existent upon conversion to chapter 7. *Id.* at 734–35; *Teamsters II*, 265 F.3d at 877.

Teamsters is readily distinguishable on at least three independently dispositive grounds. First, the legal barrier is categorically different. No federal or state statute renders church real estate non-transferable. The Debtor does not contend (nor could it) that church property cannot be sold. It contends only that this Court should not compel the sale over Bishop Barber's religious objections. That is not a self-executing legal bar as existed in *Teamsters*; it is instead a contested constitutional application requiring a judicial determination that the Debtor has never obtained and that no court has ever made. (Committee Br. at 44–45); *see also In re Roman Cath. Archbishop of Baltimore*, Case No. 23-16969-MMH, Dkt. No. 2813 at 11 (Bankr. D. Md. Aug. 4, 2026) ("[t]he Debtor does not get to decide unilaterally what assets it discloses or makes available for distribution to creditors").

Second, the contrast in asset value underscores the Debtor's misplaced reliance. The CBAs in *Teamsters* had zero economic value to any third party. 225 B.R. at 733–34. Here, Ms. Rosen independently appraised eighty-two Debtor-owned properties at approximately $430 million, (06/29/26 Trial Tr. (Rosen) at 52:1–12; *see also* Ex. C-6), and even the Debtor's own supplemental analysis projects liquidation proceeds of $146 million to $198 million, (06/15/26 Trial Tr. (Moore) at 141:4–10).

Finally, the Debtor's own conduct undermines its analogy. In *Teamsters*, the debtor could not monetize the excluded assets. *See, e.g.*, *Teamsters II*, 265 F.3d at 877 (confirming no additional assets for distribution upon liquidation "because the *NLRA* prevents collective representation rights from being transferred without worker approval and requires the chosen bargaining representative to use dues solely for the members' and the labor organization's benefit" (emphasis added) (citations omitted)). Here, the Debtor is voluntarily selling thirteen "church sites," i.e., twelve parishes and one pastoral center, to repay its affiliate. (*See, e.g.*, 06/16/26 Trial Tr. (Bishop) at 172:22–25.) The Debtor cannot fund its Plan with the proceeds from sales of real estate and simultaneously argue those same assets are legally incapable of liquidation.

Properly read, *Teamsters* supports the Committee's position. It confirms that asset exclusion from a liquidation analysis may be warranted only where federal law undisputedly prevents the sale of that asset under any circumstances. Where, as here, the Debtor prefers not to sell and invokes inapplicable constitutional principles, *Teamsters* offers no basis to exclude property.

b) The Debtor Mischaracterizes the Committee's Experts' Testimony in an Attempt to Salvage its Liquidation Analyses. (Response to Debtor PT Br. § III.A.4.d.)

Paul Shields did not admit "that including or omitting the fully encumbered cemeteries from either Liquidation Analysis makes no meaningful, if any, difference in creditor recoveries." (Debtor PT Br. at 45–46.) In fact, he never said anything even close to that because rather than asking that precise question, the answer to which would have devastated the Debtor's flawed and incomplete liquidation analyses, the Debtor elected to muse about lien satisfaction and whether any entity other than RCC might want to operate the cemeteries. (06/29/26 Trial Tr. (Shields) at 152:25–153:25.) The purported admission by Mr. Shields in the Debtor PT Brief is fabricated.

Perhaps more alarming than manufacturing testimony is the suggestion that removing an approximately $25 million deficiency claim—a deficiency claim that Mr. Moore accounted for in both of his liquidation analyses for RCC's prepetition secured claim—would not impact creditor recoveries. (Debtor PT Br. at 45–46.) In addition to the ample evidence in the record that

established that RCC was over-collateralized and that the value of its collateral was not included in the liquidation analyses, (*see* Committee Br. at 19–20), Mr. Moore (actually) admitted that if RCC took its collateral in a liquidation scenario, RCC would have no deficiency claim that would otherwise dilute recoveries for general unsecured creditors. (06/16/26 Trial Tr. (Moore) at 51:18–53:22.) While the Debtor attempts to shift the burden to the Committee to introduce expert testimony to affirmatively undermine its liquidation analyses, no such burden exists. The cross-examinations of Messrs. Moore, Zimmerman, and Bardos, along with the documents discussed during those examinations, illustrated numerous flaws in the Debtor's liquidation analyses, which were incomplete by design, contained illogical assumptions and internal inconsistencies, and ignored evidence that undermined the Debtor's desired outcome.

Unlike the Debtor's fabricated description of Mr. Shields's testimony, the Debtor was at least generally accurate in its recounting of Ms. Rosen's opinions. (Debtor PT Br. at 46–48.) While the basic hurdle of citing to actual testimony was cleared, the Debtor's discussion of Ms. Rosen's testimony in the context of the liquidation analyses is misplaced. Stated plainly, the Committee never questioned any of the Debtor's experts about the value of the Cathedral; nor did the Committee suggest that the omission of the Cathedral's value was a flaw in either of the liquidation analyses. Given that the Debtor failed to introduce any valuation of the Cathedral, an omission which is fatal to its request to consummate the CCCEB settlement, (*see infra* Section III.B.), there is no need to otherwise debate the nuances of Ms. Rosen's valuation except to say that her testimony illustrates a reasoned approach to valuing a unique piece of real estate that was unrebutted by either of the Debtor's real estate experts. (*See* 06/29/26 Trial Tr. (Rosen) at 30:4–25.)

D. The Plan Does Not Meet the Requirements for Cramdown (Section 1129(b)). (Response to Debtor PT Br. § III.B.)

The Debtor has not and cannot show, under any applicable standard, that the Plan meets the requirements for cramdown, which it must do in light of the overwhelming rejection by Class 4 Abuse Claimants. While on the one hand the Debtor asks that the cramdown requirements be strictly

construed, on the other, it asks for special treatment under inapplicable religious exemptions not found anywhere in the Bankruptcy Code.

The Committee does not contest that the Debtor must meet the standard for cramdown, and its argument should not be construed as such. Rather, the Committee's argument is, in light of the rejection by Class 4, that the Court apply the cramdown requirements to the Debtor as it would to any other debtor before it.

1. The Committee Does Not Dispute that the Debtor Must Meet the Standard for Cramdown. (Response to Debtor PT Br. § III.B.1.)

In the Debtor's own words, "nothing in the Code or its legislative history creates a different standard for non-profit or noncommercial debtors." (Debtor PT Br. at 49.) Accentuating the Debtor's hypocrisy, the Debtor emphasizes that "Congress did not provide the fair-and-equitable standard means something different when the debtor is a religious institution . . . ." and that "[t]hose standards have meaning and importance." (*Id.* at 49–50.) Yet, the Debtor goes on to ask for special treatment, different standards, and the application of cherry-picked provisions of the Bankruptcy Code.

The Committee never disputed that, in light of Class 4's vote to reject the Plan, the Debtor must satisfy the requirements of Section 1129(b) (as well as 1129(a)'s requirements) in order to confirm the Plan. However, the Debtor admitted that Abuse Claimants represent the fulcrum class of creditors which the Debtor filed bankruptcy to fairly compensate. Rather than arguing the requirements of Section 1129(a)(7) and 1129(b) do not apply to the Debtor in the same manner as other commercial debtors—a position the Debtor has taken from the start of this Chapter 11 Case—the Committee's position is that the Court *should apply* the well-established requirements of these sections of the Bankruptcy Code to the Debtor as it would to any other commercial debtor.

2. The Debtor Has Not Met its Burden to Justify the Plan's Unfair Discrimination Against Class 4. (Response to Debtor PT Br. § III.B.2.)

Other than conclusory statements that the Plan does not unfairly discriminate against Class 4 Abuse Claimants, the Debtor cites to no case law or evidence that supports its position. That is

likely because, as discussed in the Committee Brief, no evidence to justify the discrimination of Class 4 was introduced at trial. (*See* Committee Br. at 59–61.)

First, the Debtor cites to *In re Drexel Burnham Lambert Group*, 138 B.R. 687 (Bankr. S.D.N.Y. 1992) in connection with its unfair discrimination argument. But *Drexel* is a decision in an adversary proceeding seeking to compel payment of an officer's salary under an employment contract as an administrative expense. *Id.* at 690. The case does not involve plan confirmation or unfair discrimination, and neither the pincite nor the quoted language exist in the case whatsoever.

The remaining case law cited by the Debtor highlights the inadequacies in the Debtor's position. For example, *In re Hawaiian Telecom Communications*, 430 B.R. 564, 605–06 (Bankr. D. Haw. 2009), sets out a standard regarding permissible differentiations in treatment which the Debtor neither identifies nor attempts to satisfy. *Id.* Moreover, the *Hawaiian Telecom* Court determined that discrimination between unsecured trade claims (being satisfied in cash) and unsecured debt claims (being satisfied in equity securities in the reorganized debtor) did not constitute unfair discrimination because the treatment was "quite common" and aligned with the prepetition expectation of timing of payment for the different kinds of debt—facts which find no analogy to this case. *See id.*

In another case relied on by the Debtor, *In re Armstrong World Industries*, 348 B.R. 111 (D. Del. 2006), the Court found, based on the evidence presented, that where two classes of creditors of the same priority level will receive approximately the same percentage recovery of their claims and therefore no discrimination exists. *Id.* at 122, 124. Because, here, Class 4 Abuse Claimants will receive a materially lower percentage recovery than other general unsecured claims, (*see* Committee Br. at 52, Fig. 3), and have materially greater risk with respect to their recovery (i.e., Class 3's *de minimis* claims will be paid in one year from operating cash flow while Class 4's recovery is contingent on sale of real estate, the bulk of which will not be funded for three years following the Effective Date), there is a *presumption* of unfair discrimination. *See Armstrong*, 348 B.R. at 122.

The Debtor has not attempted to rebut the presumption under the applicable standard, and therefore it has not met its burden with respect to this factor, and the Plan cannot be confirmed.

3. The Debtor Has Not Established the Plan is Fair and Equitable. (Response to Debtor PT Br. §§ I.B.3, III.B.3.)

The Committee and the Debtor both acknowledge that application of the traditional fair and equitable analysis to a nonprofit debtor presents somewhat of a square peg / round hole predicament. (*See* Debtor PT Br. at 54 (referencing *Teamsters I* for the proposition that the traditional analysis is not a comfortable fit for nonprofit debtors).) In a manner somewhat emblematic of the parties' respective approaches throughout this Chapter 11 Case—the Committee attempted to address this relatively novel incongruity by presenting thoughtful legal and evidentiary analysis under three different potentially instructive frameworks: the traditional analysis, a so-called modified nonprofit framework, and an analysis of analogous chapter 9 municipality precedent. (*See* Committee Br. at 61–67.) Rather than addressing how the fair and equitable requirement might apply to a nonprofit debtor, the Debtor opted instead to continue to lob ad hominem attacks, blaming the Committee for the Court having to evaluate the issue. (*See* Debtor PT Br. at 54.) While the nearly unanimous vote in rejection by Class 4 Abuse Claimants is highly relevant to this Court's consideration of the Plan, the Committee has never taken the position that rejection of the Plan is prima facie evidence that the Plan is not fair and equitable.

The Debtor's argument that its Plan is fair and equitable because the absolute priority rule is satisfied on its face,[17] or because the Debtor need only show an "honest effort" to establish that the Plan is fair and equitable, finds no support in the Bankruptcy Code or the case law construing it. As set forth in the Committee Brief, the Plan is not fair and equitable under *any* framework the Court may choose to consider. (*See* Committee Br. at 61–67.)

a) The Absolute Priority Rule, Which is Not Satisfied, is Only the Start of the Court's Analysis. (Response to Debtor PT Br. § III.B.3.a.)

Although the Debtor failed to cite a single fact in the record, (*see* Debtor PT Br. at 53–54), in lieu thereof, the Debtor strings together several cases, including *Teamsters II*, *In re Wabash Valley*

[17] In Section V.B. of the Committee Brief and Section V.D. of the Committee Objection, the Committee establishes that the absolute priority rule, or, at minimum, the protections it is intended to afford unsecured creditors, apply in this Chapter 11 Case.

Power Association, *In re Henry Mayo Newhall Memorial Hospital* and *In re Corcoran Hospital District* for the proposition that nonprofits are effectively exempt from the absolute priority rule. (Debtor PT Br. at 51–54.) Every one of those decisions answers a different question than the one before this Court.

The question those cases answer is whether *governance rights*—continued control of a union, membership in a cooperative, board seats at a hospital—constitute property retained on account of a junior interest. *See Teamsters II*, 265 F.3d at 872–77 (addressing whether international parent union held an "equity interest" in not-for-profit local union by virtue of constitutional escheat provision); *In re Wabash Valley Power Ass'n, Inc.*, 72 F.3d 1305, 1315, 1317–20 (7th Cir. 1995) (addressing whether cooperative members' continued representation on board of directors constituted "property" retained "on account of" their prior interests); *In re Corcoran Hosp. Dist.*, 233 B.R. 449, 458 (Bankr. E.D. Cal. 1999) ("The residents of the District have no ownership interest in the debtor akin to that of shareholders of a corporation or partners in a partnership."); *In re Henry Mayo Newhall Mem'l Hosp.*, 282 B.R. 444, 453 (B.A.P. 9th Cir. 2002) (recognizing that "the Hospital's nonprofit status puts creditors in an unusually disadvantaged negotiating position because they are not able to assert the Bankruptcy Code's absolute priority rule to block unacceptable plans that give value to junior interests before paying creditors in full"). The courts said no, because control of a nonprofit does not allow for the ability to extract profit. *See, e.g.*, *In re Wabash*, 72 F.3d at 1318 ("Control alone, divorced from any right to share in corporate profits or assets, does not amount to an equity interest."); *Teamsters II*, 265 F.3d at 873–74 ("Where control does not convey the ability to make commercial decisions that generate profits or corporate ownership, there is no property retained on account of an equity interest and therefore no absolute priority problem." (citation omitted)). Here, although the Debtor makes broad statements about the Debtor's governance rights, (Debtor PT Br. at 53–54), it does not cite to any evidence in the record, because no such testimony was elicited from the Debtor at the Confirmation Hearing, nor do any admitted exhibits provide the factual basis for the arguments of counsel in the brief.

The question before this Court is different: whether a debtor may retain a multi-million-dollar portfolio of unencumbered, freely alienable real property and other assets—assets that can be (and are being) sold, mortgaged, and converted to cash—but nonetheless satisfy the absolute priority rule under Section 1129(b) as to a rejecting class paid mere pennies on the dollar. No case the Debtor cites has facts remotely approaching those here.[18]

Section 1129(b)(2) of the Bankruptcy Code provides that the term "fair and equitable" "includes" satisfaction of the absolute priority rule. Under Section 102(3) of the Bankruptcy Code, "'includes' and 'including' are not limiting." Complying with the absolute priority rule is thus the bare minimum a plan proponent must do before the plan may be deemed fair and equitable. Satisfying—or being incapable of violating—a required condition establishes only that a plan of reorganization has cleared the minimum threshold; it says nothing about whether the plan is fair and equitable. The Debtor's own authorities confirm this. *See In re 2712 Mission Partners, L.P.*, No. 08-32226 TEC, 2010 WL 431738, at *4 (Bankr. N.D. Cal. Jan. 22, 2010) ("A plan may fail to be fair and equitable in a more general sense even if it satisfies the requirements of Section 1129(b)."); *In re 2655 Bush LLC*, No. 12-30388 TEC, 2012 WL 2792325, at *3 (Bankr. N.D. Cal. July 6, 2012) (same). The Debtor quotes both, (*see* Debtor PT Br. at 12 n.4), but then asks the Court to do the opposite of what they say. Thus, even in a case where the absolute priority rule is satisfied on its face—which is not the case here—the "fair and equitable" inquiry does not end; it *begins*.

The absolute priority rule, or, at minimum, the protections it is intended to afford unsecured creditors, apply in this Chapter 11 Case. (*See* Committee Br. at 61–67; Committee Obj. at 37–40.) Taken together, these authorities establish one uncontroversial point: a nonprofit's *continued existence* does not, without more, violate the absolute priority rule. The Committee does not argue otherwise. However, a plan cannot satisfy the absolute priority rule when the debtor pays its

[18] In sum, the Debtor proposes that it should be able to modify both Section 1129(a)(7), by limiting the assets included in its liquidation analysis to a self-selected set, and Section 1129(b)(2) to eliminate compliance with the absolute priority rule. Taking away these two provisions in the Bankruptcy Code serves to eviscerate general unsecured creditors' fundamental protections. The Debtor would be given license to subjectively determine what it wants to pay creditors, when it wants to pay them, and how much of its assets it chooses to retain without any objective metrics from which to judge the Debtor's proposal.

creditors pennies on the dollar yet is permitted to retain the assets of its choosing. Indeed, confirming the Plan would force Survivors to accept a recovery untethered from the value of their claims while the entity whose conduct created those claims walks away with the bulk of its prepetition wealth intact. That outcome inverts the priority scheme Congress enacted and cannot be reconciled with Section 1129(b)(2).

b) The Debtor Has Not Satisfied the *Teamsters* "Honest Effort" Test Even if that Standard Applies. (Response to Debtor PT Br. § III.B.3.b.)

The Debtor's "secondary argument"—even if the Court views the absolute priority rule as inapplicable, it need only show an "honest effort" to establish that the Plan is fair and equitable—asks this Court to adopt a test which has never been used under facts even closely resembling those before this Court. (Debtor PT Br. at 15.) There are three reasons the Debtor is mistaken in arguing that its interpretation of the "honest effort" test supplies the Section 1129(b) test. (*Id.* at 12, 15, 48–49, 54–55.)

First, nowhere in *Teamsters II* does the Ninth Circuit hold that a debtor's subjective sincerity substitutes for the substantive protection Section 1129(b) affords a rejecting class of creditors. Notably, the *Teamsters* debtor agreed to fund its plan of reorganization by borrowing and contributing an amount equal to the equity in the estate's real property and tangible personal property. *Teamsters I*, 225 B.R. at 722. The debtor also agreed to contribute any gain realized by it through a sale or refinancing of assets during the five-year post-confirmation period. *Id.* Here, the Debtor's Plan does neither. The evidence adduced shows that Abuse Claimants' recovery is arbitrarily capped at $150 million from the Debtor, and there is no mechanism to share in any proceeds realized from the sale of its real property, the Livermore Property, or in assets that are later determined to be unrestricted.

Second, the Debtor admits there is no authority supporting its novel interpretation of the Bankruptcy Code. The Debtor concedes that "no prior court has definitively addressed the proper application of the fair-and-equitable standard in a nonconsensual diocesan (or mass tort) cramdown case." (Debtor PT Br. at 51.) The Debtor is not applying settled law; it is asking this Court to make

new law. Ironically, the Debtor PT Brief cites to four cases which are either irrelevant to the issue before this Court or conduct the very analysis the Committee advocates for here: determining whether a plan is fair and equitable considering the particular facts and circumstances of the case. *See, e.g.*, *In re Sagewood Manor Assocs., Ltd. P'ship*, 223 B.R. 756, 767–68, 771, 775 (Bankr. D. Nev. 1998) (proposed plan could be crammed down over secured creditor bank's objection as fair and equitable where bank retained its lien and was paid in full, over time, plus interest); *In re 2655 Bush LLC*, 2012 WL 2792325, at *1 (court used "fair and equitable" analysis to deny a creditor immediate relief from a stay in a single asset real estate case where lender was poised to receive payment in full); *In re 2712 Mission Partners, L.P.*, 2010 WL 431738, at *4 (holding plan was not fair and equitable as a matter of equity where plan, among other things, unduly delayed payment to secured creditors); *In re Avondale Gateway Ctr. Entitlement L.L.C.*, No. 09-bk-12153-CGC, 2011 WL 6936526, at *12–14 (Bankr. D. Ariz. Dec. 27, 2011) (deciding the fair and equitable test solely for the secured creditor under Sections 1129(b)(2)(A)(i) and (iii)).[19]

Third, the Debtor's proposed standard upon which fair and equitable is to be adjudged—a debtor need only show an "honest effort" in promulgating a plan—is mainly subjective. Under the Debtor's test, no religious nonprofit debtor would ever fail Section 1129(b) because every debtor will testify that their subjective intent is to treat creditors fairly. No objector could examine any alleged payment constraints on the debtor without being told it is up to the debtor alone how much it chooses to pay in consideration for a discharge because to question otherwise is constitutionally forbidden. A standard that cannot be failed is not a standard.

Even if this Court were to adopt an "honest effort" standard in determining whether the Debtor's Plan is fair and equitable or more holistically analyze the facts and circumstances of this case, the Plan fails as set forth, in detail, in the Committee Brief. (Committee Br. at 65–70.)

[19] The Debtor's citations to these four cases is also odd given that each arose in the secured creditor context under Section 1129(b)(2)(A), where the Bankruptcy Code independently guarantees full payment of allowed secured claims.

c) Dr. Martin's New Inadmissible Testimony Does Nothing to Make her Opinions More Relevant. (Response to Debtor PT Br. § III.B.3.c.)

At first blush, the Debtor's description of the "best way" to analyze the value of Abuse Claims seems to support Ms. McNally's analysis. Indeed, Ms. McNally looked at "actual real-world negotiations between parties" "in as close a market as you can to make the valuation as comparable as can be," using negotiations between the Debtor and Survivors of sexual abuse at the hands of the Debtor during open revival windows. (*See* Debtor PT Br. at 56; Committee Br. at 35–36; Ex. C-137.)

Instead of looking at "as close a market as you can" (i.e., the same entity with claims of sexual abuse by many of the same perpetrators), Dr. Martin looked to other dioceses, with different assets, different liabilities, and different applicable laws (among other differences), to back-in to a justification that the Debtor and RCWC's contribution (which is not available to all claimants) is "economically reasonable"—an undefined metric used only by Dr. Martin that was dismissed by another bankruptcy court.

Worse still, the Debtor impermissibly[20] attempts to submit new evidence attached to the Debtor PT Brief, including new charts prepared by Dr. Martin, which now include thirty-one diocesan and religious-order cases that were resolved consensually. The Debtor invokes the consensual outcomes as its benchmark from which to judge whether its Plan treats Survivors fairly. A database of negotiated settlements—in different jurisdictions with different legal frameworks, different assets, and different liabilities, among other differences which the Debtor notes as relevant (and which the Debtor's expert did not consider)—does not replace the evidence Section 1129 requires. Section 1129(a)(7) does not ask whether the Debtor paid more than the Tucson Diocese. Section 1129(b) does not ask where the Debtor ranks against the Diocese of Helena or Davenport. Those provisions ask what creditors *in this case* would receive in a hypothetical chapter 7 liquidation

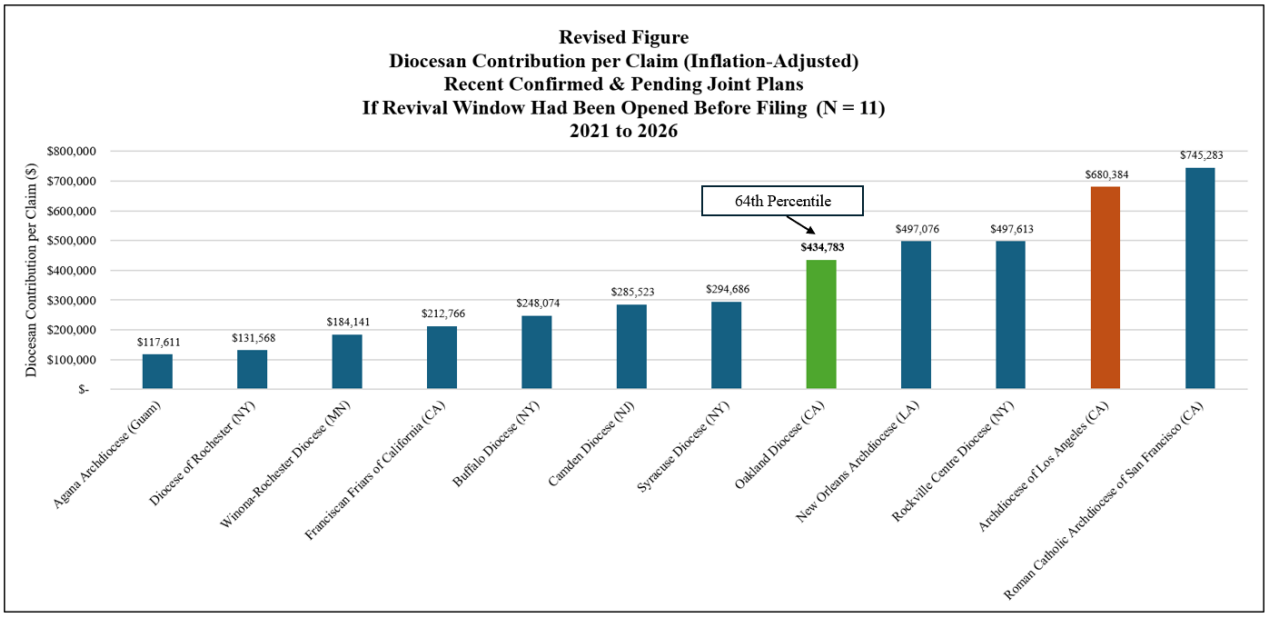
[20] Dr. Martin's new analysis includes the Archdiocese of San Francisco settlement. The Debtor argues that the size, history, and amount of assets of the Archdiocese of San Francisco make San Francisco too different to be comparable here. (*See* Debtor PT Br. at 15–16.) But Dr. Martin did not consider any such factors with respect to the Debtor or *any* of the dioceses she otherwise blindly considered "comparable."

of *this* estate, and whether *this* Plan is fair and equitable to the 331 Survivors who rejected it based on, among other things, this Debtor's assets and the claims filed against this Debtor.

Nonetheless, in her new analysis, Dr. Martin neglected to correct several errors in her original analysis that were noted at trial, namely: (i) Dr. Martin used an incorrect input for the Debtor's contribution to the Survivors' Trust (the Debtor's contribution to the Survivors' Trust is $150 million which is available to all Abuse Claimants, including the $7.7 million Unknown Abuse Claims Reserve, not $180 million which includes the $30 million RCWC contribution that is only available to a fraction of Abuse Claimants);[21] (ii) half the cases Dr. Martin includes in her analysis involve cases where the statute of limitations was closed, meaning those dioceses had absolute defenses to liability that the Debtor here does not have (making them incomparable to the present case); and (iii) Dr. Martin excluded the settlement with the Archdiocese of Los Angeles, even though she did not analyze that diocese's solvency or its assets (and therefore had no idea whether it was within the same "market" as the Debtor), and ignored that the Debtor itself considered that a relevant comparator.

[21] Notably, this calculation assumes there are no Unknown Abuse Claims. If the Unknown Abuse Claims Reserve is used in full to compensate Class 5 Claimants, the Diocesan Contribution per Claim amount drops further to $412,463.77. Similarly, if more than 345 Class 4 Abuse Claims (the number stipulated to for the sake of ease at the Confirmation Hearing) exist, the average per claim will be further reduced.

After correcting these errors, as set forth in the Figure below, the average diocesan contribution per claim (inflation adjusted) in cases from 2021 to 2026 (as in Dr. Martin's Figure 7 attached to the Debtor PT Brief)[22] drops from the 92nd percentile to the 64th percentile.



When compared to the cases in California only (Roman Catholic Archdiocese of San Francisco, Archdiocese of Los Angeles, and Franciscan Friars of California)—which are subject to the same revival window and potential treble damages as the Debtor and the same formation statutes—the Debtor's Contribution per Claim is one of the *lowest*; the Debtor proposes to pay $245,601 *less* per claim than the Archdiocese of Los Angeles and $310,500 *less* per claim than the Archdiocese of San Francisco.

Thus, even Dr. Martin's new testimony skews her analysis to a favorable result for the Debtor, while continuing to be irrelevant to the questions posed to this Court.

d) The Record Contains No Evidence that the Insurance Assignment Has "Tremendous Value." (Response to Committee Br. § III.B.3.d.)

As a preliminary matter, the arguments of Committee counsel (such as with respect to the Debtor's insurance assets) are not evidence. *In re Vu*, No. BAP CC-10-1332-PADKI, 2012 WL

[22] The corrected chart removes the Santa Fe Archdiocese, Harrisburg Diocese, and Norwich Diocese from Dr. Martin's new Figure 7, as those debtors did not have open revival windows prior to filing for bankruptcy.

1521635, at *8 (B.A.P. 9th Cir. May 1, 2012) ("[A]rguments and statements of counsel are not evidence." (citation omitted)). Nor can they be weaponized by the Debtor as purported judicial admissions to relieve it of its evidentiary burden.

Judicial admissions "withdraw a fact from issue and dispense wholly with the need for proof of that fact." *Or. Nat. Desert Ass'n v. Bushue*, 644 F. Supp. 3d 813, 828 n.1 (D. Or. 2022). Further, "[j]udicial admissions apply only to factual statements, not statements of law." *Maloney v. Scottsdale Ins. Co.*, 256 F. App'x 29, 32 n.3 (9th Cir. 2007). The cherry-picked statements of Committee counsel in Exhibit A-3 to the Debtor PT Brief (which are not a part of the trial record) were made during legal argument and in relation to the disposition of insurance rights, which this Court described as "highly contested," (*see* 06/25/26 Trial Tr. (the Court) at 43:23–25). Accordingly, they cannot be considered judicial admissions to the value of the Insurance Assignment, which remains unknown; nor can they be considered proof that this provision is a catchall supplementary contribution under the Plan blessing a cramdown on Survivors.[23]

Notwithstanding the Debtor's position that the Insurance Assignment is "likely" the "largest" contribution under the Plan, (Debtor PT Br. at 58), the Debtor made no effort to value it. It is absent from the Debtor's own expert analysis of the value being contributed to the Plan. (06/16/26 Trial Tr. (Moore) at 39:25–40:3.) And limited and generalized testimony of Bishop Barber and Mr. Bardos regarding the Insurance Assignment is insufficient to establish the alleged magnitude of this provision of the Plan. Neither of those individuals are experts on insurance and were unable to offer an opinion on the actual value of the Insurance Assignment during the trial.

[23] The cases relied on by the Debtor are not analogous to the arguments of Committee counsel collected in Exhibit A-3 to the Debtor PT Brief. For example, in the criminal immigration case, *United States v. Zamudio*, 787 F.3d 961 (9th Cir. 2015), the judicial admission was an attorney's express concession of a specific, undisputed fact—that his client's drug conviction was for methamphetamine. *Id.* at 965. Here, the disposition of insurance rights under the Plan remains in contention. The remaining cases are similarly misapplied. *See Kohler v. Inter-Tel Techs.*, 244 F.3d 1167, 1170 n.3 (9th Cir. 2001) (finding that a party that sought federal jurisdiction but conceded at oral argument that she had not properly pled and met her burden to obtain supplemental jurisdiction constituted a binding judicial admission); *Pietrzak v. Mukasey*, 260 F. App'x 337, 340 (2d Cir. 2008) (concluding that concession made by petitioner's counsel regarding the petitioner's removability was binding because the attorney expressed reasonable professional judgment, and because the petitioner failed to offer any argument as to why this concession was false).

For example, Bishop Barber lacked any first-hand knowledge or personal understanding of this topic. (06/16/26 Trial Tr. (Bishop) at 157:5–7.) In fact, when Bishop Barber approached testifying on the value of the Insurance Assignment during his direct testimony, following several objections by Insurers' counsel, the Court cautioned him from doing so for that exact reason. (*See id.* at 157:21–158:12.) Similar issues arose during Mr. Bardos's testimony. As the Debtor's line of questioning drifted into the topic of insurance, and again the Insurers objected regarding Mr. Bardos's ability to offer such testimony, the Court warned that Mr. Bardos "is not an expert about insurance." (06/25/26 Trial Tr. (the Court) at 39:23–40:4.) Accordingly, Mr. Bardos's assertion that the Insurance Assignment has "potentially significant," (*id.* (Bardos) at 53:3–9), or "potentially tremendous value," (*id.* at 54:17–18), was unsupported by his own experience, was not a definitive statement, and was uncorroborated by any other witness or piece of evidence at the trial.[24] The Debtor's refusal (or failure) to offer any calculation or quantification of the Insurance Assignment does not permit it to substitute record evidence with blind belief.

The Debtor's contention that the testimony of the Committee's corporate designee proves the value of the Insurance Assignment under the Plan is also unavailing. (*See* Debtor PT Br. at 59.) The Debtor argues that the Committee's 30(b)(6) witness "conceded that the Litigation Option, made possible by the Insurance Assignment, combined with the contributions from RCBO and RCWC, could make Survivors whole." (*Id.*) As support for this proposition, the Debtor quotes the below:

> Q. Right. But assuming the policies covered the loss, and assuming the insurers have the wherewithal, that's certainly a possibility, that they get some money from -- a decent amount of money from RCBO, and then they also get, as part of the consideration, the right to pursue insurers for all of the rest?
>
> [counsel objection]
>
> A. I suspect it could be a possibility.

[24] Importantly, the Court took judicial notice of the docket in the Coverage Action, which has been pending for more than three years, and is currently awaiting decision on the insurers' motion to dismiss the *sixth* amended complaint—showing that the Debtor's position with respect to insurance coverage is disputed by the insurers.

(Debtor PT Br. at 59 (citing Babcock Designations at 52 (100:16–25).)

First, the Committee reviewed Docket Entry 3222, as well as the April 30, 2026 and June 3, 2026 depositions of Matthew Babcock, and cannot locate the quoted language cited by the Debtor. That is because the testimony does not belong to Mr. Babcock at all. The Debtor misattributes this testimony as a "binding judicial admission by the Committee itself, through its designated representative," and constructs an entire argument around it—claiming that the Committee's "own corporate representative testified under oath that it is possible Survivors could, through the combination of the cash contributions and the Insurance Assignment, be made whole." (*See id.*) The quoted exchange actually comes from a deposition of the Committee's *expert*, Paul Shields—who was not identified as a fact witness and could not make admissions on the Committee's behalf. In any event, even if Mr. Babcock was asked the above question and gave the above answer (which he did not) the response of Mr. Babcock—who was not offered as an expert on any topic, let alone valuation of insurance assets—to a vague, improper hypothetical is certainly not a measure for how the Insurance Assignment acts as a supplementary contribution under the Plan. Nor could it be considered a "binding judicial admission." (*Id.* at 59); *see Snapp v. United Transp. Union*, 889 F.3d 1088, 1104 (9th Cir. 2018) (rejecting the plaintiff's argument that statements of a 30(b)(6) witness have the effect of binding judicial admissions). Further, Mr. Shields was not offered as an expert on insurance, and the Committee objected to the cited deposition designation on the grounds that deposition designations of experts are impermissible under the Federal Rules of Civil Procedure. (*See* Dkt. No. 3204-3 at 12.)

At bottom, the Debtor failed to provide any admissible evidence of the value of the Insurance Assignment during the Confirmation Hearing. As speculation cannot substitute proof, the Debtor's claim that the Insurance Assignment provides tremendous value to its contribution under the Plan must be rejected.

e) The Debtor's Attacks on the Committee's Experts Do Nothing to Shift or Satisfy its Burden. (Response to Debtor PT Br. § III.B.3.e.)

The Debtor misconstrues both the purpose and the substance of the Committee's expert testimony. Worse, the Debtor attempts to shift its burden—to prove that it is maximizing value of its assets for the benefit of all creditors—to the Abuse Claimants themselves. Nonetheless, the Committee Brief explains, with (actual) facts and law, how the Debtor is contributing what it *wants* to—not what it can. The arguments below address the Debtor's misguided attacks on Ms. McNally and Mr. Shields, both of whom provided unimpeachable testimony grounded in reliable methodologies and a review of the Debtor's historical performance.

i. Katheryn McNally

Ms. McNally did not offer any testimony about the amount of the Debtor's proposed contribution to Class 4 Abuse Claimants under the Plan. (06/29/26 Trial Tr. (McNally) at 85:25.) She did not opine as to what distribution would be fair and equitable, (*id.* at 72:19–21); whether the Debtor made any effort (let alone an "honest effort") to contribute the maximum available to the Plan, (*see id.* at 72:25–73:11); what Abuse Claimants should expect to receive under the Plan, (*id.* at 72:25–73:2); or whether the Plan is feasible. And though Ms. McNally stated as much on direct and confirmed it during her cross-examination—which is one of the few things actually cited in the Debtor PT Brief, (*see* Debtor PT Br. at 60)—the Debtor still argues that the Court should not consider Ms. McNally's opinion on issues that she did not opine on.

What Ms. McNally did opine on is the pre-petition value of the Abuse Claims, (*see* Committee Br. at 35–36)—an issue that, contrary to the Debtor's assertion, is directly relevant to measuring the Plan's adequacy under Section 1129(a)(7). In addressing the Court's question on how the claims valuation should help it reach a conclusion, the answer is that it provides the only evidence in the record (fact or expert) that the Court can use to properly evaluate whether the requirements of Section 1129(a)(7) have been met with respect to individual Class 4 Abuse Claimants.

With respect to the question of reliability, the Debtor recycles the same unpersuasive arguments about Ms. McNally's work used by other adversaries in prior cases to impugn Ms. McNally's unrebutted work. The Debtor adduced no testimony and made no argument that the calculation Ms. McNally performed was incorrect. Put simply, Ms. McNally has never offered an opinion in the cases referenced by the Debtor on what amount a Debtor *should or could pay* in a bankruptcy case, and she did not do that here either. (*See* 06/29/26 Trial Tr. (McNally) at 72:25–73:11.) However, the *value* of a claim does not change because a debtor enters bankruptcy; all that may change is what a creditor will be paid on account of that claim. For example, Bishop Barber had a pre-petition claim for $300 for an uncashed check. (06/16/26 Trial Tr. (Moore) at 19:3–8; Committee Br. at 57.) There was no testimony from any of the Debtor's witnesses that the amount of that claim changes now that the Debtor filed for bankruptcy. Unlike the Class 4 Abuse Claimants who are being offered pennies on the dollar for the horrific trauma they endured, the Plan proposes to pay Bishop Barber in full. (*See* Committee Br. at 57; 06/25/26 Trial Tr. (Bardos) at 129:12–130:5.) This demonstrates the point that the value of a claim is unchanged because a debtor seeks bankruptcy protection.

It bears noting that the Debtor's principal attack on Ms. McNally's work—that her claims valuation does not reflect the amount creditors will receive in bankruptcy—does not survive scrutiny. By example, the Debtor's reference to Ms. McNally's work in *In re BSA* rests on headline numbers; when Ms. McNally's opinion in that case is examined, her liability estimates were remarkably accurate. Judge Silverstein's *Opinion* and *Supplemental Findings of Fact and Conclusions of Law* made clear that the allowed amount of the sexual abuse claims was to be determined by the Trust Distribution Procedures ("**TDP**")—not the amounts paid into the trust or to the survivors. *See Op.*, *In re Boy Scouts of Am. and Del. BSA, LLC*, Case No. 20-10343-LSS (Bankr. D. Del. July 29, 2022), Dkt. No. 10136, at 65; *Supp. Findings of Fact and Conclusions of L. and Ord. Confirming the Third Modified Fifth Amended Chapter 11 Plan of Reorganization (With Tech. Modifications) for Boy Scouts of America and Delaware BSA, LLC*, *In re Boy Scouts of Am. and Del. BSA, LLC*, Case No. 20-10343-LSS (Bankr. D. Del. Sept. 8, 2022), Dkt. No. 10316 at 9. In

fact, public records show that, as of March 2, 2026, the Trustee valued and made disbursements to over 35,000 BSA claimants that filed to be valued pursuant to the TDP matrix. *See* Scouting Settlement Trust, *Scouting Settlement Trust Monthly Report – February 2026*, https://www.scoutingsettlementtrust.com/s/news-and-key-links (last visited Aug. 13, 2026). The Trustee valued those 35,000 claims at over $21 *billion* in the aggregate, representing an average valuation of over $590,000 per claim.[25] As Dr. Martin cites in her own Declaration, the midpoint per-claim value estimated by Ms. McNally for the BSA claims was just under $588,000. (D-43 ¶ 23, tbl. 4.)

At bottom, Ms. McNally's expert testimony on the value of the Class 4 Abuse Claims stands alone in the trial record. The Debtor never attempted to perform that valuation,[26] and rather than acknowledge this critical error, it now claims that Ms. McNally answered a question that did not need to be asked. Not so. The Court cannot confirm the Plan unless *each individual* dissenting impaired creditor receives at least as much under the Plan as it would in a hypothetical chapter 7 liquidation. *See* 11 U.S.C. § 1129(a)(7). When inserting the Debtor's proposed payment to creditors as the value of their claims, the Plan will always achieve that outcome; when properly judged against the only claims valuation in the record, the expert testimony of Ms. McNally, it does not.

ii. Paul Shields

The Debtor's half-hearted attempt to undermine Mr. Shields's opinion specifying additional funds that the Debtor could contribute is similarly imprecise, inaccurately recounted, and unpersuasive. Irrespective of whether the Debtor intended to misrepresent Mr. Shields's testimony, Mr. Shields did not testify that the Debtor has "the ability to fund an additional $27.5 million to the Survivors' Trust—if the Debtor were to undergo a further restructuring (i.e., sell more churches)

[25] Per the Trust's February 2026 Monthly Report, dated March 2, 2026, 58,090 claimants have filed for matrix valuation, of which 35,841 disbursements had been issued, totaling $319,397,306 ($8,911 average payment per claimant). The report states this initial distribution reflects 1.5% of the allowed claim amount as well as certain advanced payments. This imputes to an aggregate valuation for these claims of at least $21,293,153,733, or $594,100 per claim.

[26] Indeed, the Debtor's corresponding expert was not asked to, and did not, attempt to value the Abuse Claims from any perspective.

and use more cash and investments from parishes." (Debtor PT Br. at 61.) He also did not "recommend[]" that the Debtor should sell more Churches." (*Id.*; 06/29/26 Trial Tr. (Shields) at 143:24–144:2, 166:10–12.) Mr. Shields's actual testimony was that there are four discrete sources of additional value the Debtor could utilize to fund the Plan, three of which are summarized below. (06/29/26 Trial Tr. (Shields) at 108:2–10; *see* Committee Br. at 67.)

First, Mr. Shields's testimony on the further parish restructuring addressed the financial contribution that the Debtor could make in the event that the Debtor sold the real estate of fourteen additional parishes beyond the thirteen already scheduled for closure. (06/29/26 Trial Tr. (Shields) at 143:1–20, 174:2–7.) Those sales, according to Mr. Shields's calculation, would yield an additional $71.4 million. (*Id.* at 174:2–7.) The data on which those potential sales relied was not cash and investment balances; rather, Mr. Shields tracked a quantitative analysis performed by the Debtor regarding potential closures before the bankruptcy—an analysis omitted from the Debtor's evidentiary presentation even though it likely guided Bishop Barber's public statement regarding a reduction down to "fifty or fifty-four parishes." (*Id.* at 142:6–25.) Indeed, Mr. Shields made clear he was not opining on whether any particular parish should be closed. (*Id.* at 143:24–144:2.)

Mr. Shields's testimony on the additional cash contributions consisted of two discrete sources, neither of which were contingent on real estate sales. The first was an additional $22.5 million from *existing* cash and investment balances of the parishes and the chancery. (*Id.* at 113:1–114:11.) To arrive at his conclusion, Mr. Shields calculated a "scorecard indicated outcome" by applying the same well-established credit analytics methodology utilized by Moody's to assess long-term debt ratings for nonprofits, including religious organizations. (*Id.* at 116:22–117:13.) That analysis, contrary to what the Debtor asserts, has only two qualitative subfactors[27]—they are, the (i) "brand and strategic positioning," which is just one subfactor, and (ii) "financial strategy." (*Id.* at 123:10–12.) The mapping of these two subfactors is far from the subjective exercise the Debtor

[27] Of course, the Debtor ignores that the remaining seven subfactors are largely objective "formulaic" quantitative sub-factors, (*id.* at 123:12), which Mr. Shields analyzed using, *inter alia*, financial statements for the parishes and the chancery, (*id.* at 128:14–16).

alludes to; it requires the analyst to select the appropriate input from a list of descriptions, and that selection leads to a lettered scoring range. (*Id.* at 124:25–125:3, 125:16–21, 126:3–8.) As it relates to the brand and strategic positioning subfactor, the Debtor's argument repeats the same ineffective themes that the Debtor offered during cross-examination. Reducing those questions to writing and adding adjectives does not alter the fact that Mr. Shields employed a conservative approach which could accommodate even a *two-level downward adjustment* of the Debtor's brand and strategic positioning subfactor score while *still* yielding an investment grade scorecard-indicated outcome (Baa3 or higher). (*See id.* at 205:22–25.) Put differently, even if the Debtor had "very poor brand strength," which the Debtor is apparently advocating for, the scorecard-indicated outcome would still be investment grade.

Finally, the Debtor's claim that Mr. Shields failed to account for the "ongoing bankruptcy or the $16 million verdict from the Woodall trial," (Debtor PT Br. at 62), evidences a misunderstanding of what Mr. Shields's analysis was intended to show. The "ability to pay" assessment is a financial analysis that solves for the amount of funds that could be contributed by the Debtor in order to discharge the abuse claims liability. As such, the $16 million verdict (the Debtor's portion of which is, according to the Debtor, only $250,000), and the level of abuse claims relative to the Archdiocese of Chicago and the Diocese of Phoenix are irrelevant because the abuse claims liability, including liability to Mr. Woodall, will ultimately be discharged if the Debtor is successful in confirming a plan.

The second source of funds Mr. Shields identified was $10 million in additional future cash flow from the parishes, (06/29/26 Trial Tr. (Shields) at 139:20–140:7)—a contribution which has nothing to do with real estate sales. Remarkably absent from the Debtor PT Brief is any quantitative challenge to Mr. Shields's analysis regarding the parishes' future cash flow. In an attempt to undermine Mr. Shields's future cash flow analysis, the Debtor counters with a single point—that Mr. Shields failed to consider Mr. Moore's testimony that parishioner contributions could potentially decrease going forward. (*See* Debtor PT Br. at 62.) However, Mr. Shields's testimony, which was based on fifteen years of financial information (including on parishioner donations),

evidenced a conservative and thoughtful approach in which Mr. Shields applied what, in his view, were the appropriate adjustments to account for potential decreases in future cash flow including the removal of non-recurring items like Paycheck Protection Program loan proceeds. Moreover, given that (i) Mr. Moore's testimony was a generalized statement unsupported by any quantifiable data, (*see* Debtor PT Br. at 62), and (ii) the Debtor's own financial projections assumed parishioner donations would remain essentially flat with modest inflationary growth (i.e., the Debtor did not project any significant decrease in parishioner donations on a go-forward basis),[28] this criticism is disingenuous, at best.

Thus, in determining which testimony is actually reliable, the Court faces a straightforward choice: accept Mr. Moore's beliefs about events that might occur in the future or rely on Mr. Shields's unrebutted analysis of the Debtor's actual financial performance over the last fifteen years, including years in which the Debtor was in bankruptcy. Strip away the speculation and the choice becomes obvious.

In sum, some may view the Debtor's repeated mischaracterizations of Mr. Shields's testimony as advocacy. It is not. What it is, however, is evidence of the Debtor's tacit acknowledgement that no amount of earnest belief, confidence, or hope will suffice when confronted with reasoned analysis grounded in reliable data.

[28] (*See* Ex. D-165 (Debtor's Projected Cash Flows) (projecting parish assessment revenue—which reflects a 12% assessment on parish collections—of $7.6 million in 2026 followed by a 5% increase in 2027, no change in 2028 or 2029, and a 1% growth rate thereafter); 06/16/26 Trial Tr. (Moore) at 82:18–20, 83:12–19; *see also* 06/24/26 Trial Tr. (Flanagan) at 19:18–25, 20:11 (corroborating modest growth projections for cash receipts).)

E. The Debtor's Constitutional Arguments are a Shield it Cannot Use. (Response to Debtor PT Br. § III.C.)

Time and again the Debtor protested the neutral application of the secular laws of which it voluntarily availed itself. Its argument evolved from claiming that forcing it to sell churches would violate the First Amendment, RFRA, and other religious exemption doctrines, (*see, e.g.*, Debtor's Br. at 70–77), to now proclaiming that these constitutional doctrines exempt it from even judicial challenge or scrutiny—both by the Committee and the Court, (*see* Debtor PT Br. at 62–68).[29] That is not the law, not for this Debtor and not for any debtor. *See Order Granting Prelim. Inj., Off. Comm. of Unsecured Creditors v. Roman Cath. Archbishop of Balt.*, Adv. No. 26-00041-MMH (Bankr. D. Md. Apr. 3, 2026), Dkt. No. 22 at 7 (holding that religious entities "cannot accept all the benefits of chapter 11 while rejecting its burdens"). As explained in greater detail in the Committee Objection and Committee Brief, (*see, e.g.*, Committee Obj. at 23–25; Committee Br. at 42–48), the Debtor's religious mission does not exempt it from compliance with the Bankruptcy Code.

Undeterred by its previous failures to invoke various constitutional doctrines, the Debtor PT Brief now mangles the facts so they fit within the doctrines it cites. But the record establishes that no one is compelling the Debtor to sell any assets and no one is interfering with (i) a religious body's determinations of what is necessary to conduct its faith and serve its congregants and (ii) non-secular guidelines (e.g., canon law) that govern the Debtor's internal governance and management decisions. Thus, the Court need not consider any of the constitutional arguments made by the Debtor. They are predicated on facts which do not exist.

What the Debtor is really demanding is an exemption from the requirement of Section 1129(a)(7) of the Bankruptcy Code based on a thought exercise. The Debtor contends that the mere arithmetic the statute requires—a hypothetical comparison of Plan distributions against a hypothetical chapter 7—strips it of all sorts of rights, constitutional and otherwise. The hypothetical

[29] For example, the Debtor claims that if it "believes in good faith it cannot sell more than thirteen churches without compromising its religious mission (and it does), its good faith belief cannot possibly be a basis for finding the Debtor lacks good faith." (Debtor PT Br. at 63.) In other words, the Debtor's subjective determination that it is acting in good faith ends the inquiry and there is nothing for this Court to decide on this issue. Section 1129(a)(3)'s good faith requirement would thus be stripped out of the Bankruptcy Code.

liquidation test does not rest on whether the Debtor's assets could be involuntarily liquidated under chapter 7. *See* 11 U.S.C. § 1129(a)(7). The term "hypothetical" is defined as "a supposition; a conjectural or assumed case made for the purpose of argument or investigation." Black's Law Dictionary (11th ed. 2019). And the "hypothetical liquidation" analysis exists only to ensure "each creditor . . . will receive at least as much in reorganization as it would in liquidation." *In re Sierra-Cal*, 210 B.R. 168, 172 (Bankr. E.D. Cal. 1997) (citations omitted). Nothing in the cases the Debtor cites, nor the facts it invents, obliterates this basic protection. As another court recently observed: "The Debtor does not get to decide unilaterally what assets it discloses . . . Those matters are decided under the Bankruptcy Code in the first instance, even if the assets may subsequently be removed from the estate or restricted from creditors' access." *See Order Den. Approval of Disclosure Statements*, *In re Roman Cath. Archbishop of Balt.*, Case No. 23-16969-MMH (Bankr. D. Md. Aug. 4, 2026), Dkt. No. 2813 at 11.

Given that the Debtor has not proven that compliance with Section 1129(a)(7), or any provision of the Bankruptcy Code, creates the requisite substantial burden on its religious activities, it is arguably unnecessary to address any of the Debtor's religious freedom arguments. To avoid any claim of waiver, the Committee will briefly address the assertions made in the Debtor PT Brief.[30]

First, RFRA is inapplicable to this case. Notwithstanding the Debtor's devotion of seven pages to this point, nothing cures the basic deficiency in the Debtor's argument that there is no

[30] The Committee need not address in any detail the Debtor's argument that the Doctrine of Unconstitutional Conditions provides it with any special protection. That doctrine prohibits the government from conditioning a party's receipt of a discretionary benefit on a basis that infringes the party's constitutional rights. (Debtor PT Br. at 68–69). The Committee is not arguing that the Debtor does not qualify for the protections afforded a debtor under chapter 11 because it will not "put in peril" the Churches needed to worship. (*Id.* at 69.) The Debtor's framing stands the issue on its head. The question being asked is whether this Debtor can receive the protections afforded by the Bankruptcy Code when refusing to abide by its provisions. It cannot. *See*, *e.g.*, *In re BSA*, 642 B.R. at 662 (observing a nonprofit "can voluntarily file a bankruptcy case under either chapter 11 or chapter 7 or it can look to its state law alternatives," but if choosing to voluntarily file under chapter 11, "it must meet all applicable requirements of § 1129"—a section that includes the hypothetical liquidation analysis under Section 1129(a)(7)), *aff'd in part, rev'd in part on other grounds, dismissed in part on other grounds In re Boy Scouts of Am.*, 137 F.4th 126 (3d Cir. 2025).

governmental action to challenge. (*See* Committee Br. at 42–48.) The Debtor's selection and recitation of cases in that section of its brief are also peculiar—and unsurprisingly inaccurate. Omitted from the Debtor PT Brief is any mention of *Listecki v. Official Committee of Unsecured Creditors*, 780 F.3d 731 (7th Cir. 2015), a highly analogous case. There, the Archdiocese of Milwaukee invoked RFRA to shield property from a creditors' committee in its chapter 11 case. *See id.* at 734–41. The Seventh Circuit rejected the claim outright, holding that the committee is not the "government" within RFRA's definition, that a committee's litigation position is not action "under color of law," and that a court's adjudication of a private dispute does not transform a private party into a governmental one. *See id.* at 737–41.

In place of *Listecki*, the Debtor elected to highlight *Apache Stronghold v. United States*, 101 F.4th 1036 (9th Cir. 2024) and *In re Roman Catholic Archbishop of Portland, Or.*, 335 B.R. 842 (Bankr. D. Or. 2005)—neither of which supports its argument. *Apache Stronghold* does not demonstrate "the teeth behind the RFRA," (*see* Debtor PT Br. at 64); it is a case where the Ninth Circuit, *en banc*, rejected the RFRA claim. *See Apache Stronghold*, 101 F.4th at 1044, 1065. In fact, the circuit held that government action that neither coerces conduct contrary to religious belief nor conditions a benefit on abandoning religious practice is not a substantial burden, even when it results in the permanent destruction of a site of profound religious significance. *See id.* at 1043–44, 1051–55. If the transfer of land central to a tribe's religious exercise is not a substantial burden, a bankruptcy court's analysis of asset values is not one either.

Portland, when read in its entirety, is also unhelpful to the Debtor. That case does not contain the holding the Debtor yearns for; instead, the court there held that substantial burden was a question of fact for trial. *In re Roman Cath. Archbishop of Portland, Or.*, 335 B.R. at 864. Although *Portland* may have helped the Debtor withstand a motion for summary judgment by the Committee (had one been filed), its framework, which required the Debtor to offer sufficient evidence of a burden at trial, only bolsters the inadequacy of the Debtor's case for confirmation.

Finally, the Debtor's citation and parenthetical description of *In re Khan* is illustrative of the care, or lack thereof, that the Debtor took in ensuring that the authority included in its brief is worthy

of consideration. No. 10-46901-ESS, 2014 WL 10474969 (E.D.N.Y. Dec. 24, 2014). While the selective quotation of *Khan* is accurate, the remainder of the fifty-plus page decision has nothing to do with the issues in this case. *See generally id.* The eight paragraphs that do discuss RFRA actually undermine the Debtor's entire constitutional argument insofar as the court stated:

> This Court respects and acknowledges the sincerity of the Defendant's religious beliefs. But that does not mean that those beliefs, and the Defendant's free exercise of his religion, is burdened by the relief sought by the Trustee. The Defendant has not shown that the avoidance of the Mortgage Proceeds Transfer and the Sale Proceeds Transfer, as sought by the Trustee under New York Debtor and Creditor Law, the Bankruptcy Code, and common law, substantially burdens the Defendant's right to practice his religion. He has not shown that he will be required to refrain from engaging in a practice important to his religion, or compelled to choose between following the precepts of his religion or accepting a benefit under law. Nor has he demonstrated that he is under 'substantial pressure . . . to modify his behavior' or 'to violate his beliefs.'

Id. at *56. Though these same sentiments apply here, so too does the reality that the Debtor has not proven that any part of Section 1129 substantially burdens its right or ability to practice its religion.

The Debtor's arguments regarding the Free Exercise Clause and Church Autonomy Doctrine are equally unavailing. The Free Exercise Clause prohibits laws that discriminate against religion or target religious practice. *See Church of Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 532 (1993). "[T]he right of free exercise does not relieve an individual of the obligation to comply with a 'valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes).'" *Emp. Div., Dep't of Hum. Res. of Or. v. Smith*, 494 U.S. 872, 879–81 (1990) (citation omitted). The government's interest in the uniform, equitable administration of the Debtor's bankruptcy estate, and in providing a collective remedy to survivors of childhood sexual abuse is compelling, and the Bankruptcy Code's mandatory creditor-protection provisions are the least restrictive means of serving it. The Debtor's arguments are only weakened by the fact that any burden here is self-imposed. A party that invokes a federal statutory scheme for its benefit is in a poor position to argue that the scheme's conditions are unconstitutional as applied to it.

Although the historical breadth of the Debtor's citations is commendable, not one of the cases cited by the Debtor over the last three centuries is applicable to the facts here. (*See* Debtor PT Br. at 65–67 (citing cases from as early as 1871).) Each of the cases cited involves resolution of ecclesiastical questions—who leads the church, what its doctrine means, or who it may employ—none of which is at issue here. *See Kedroff v. St. Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 107–08, 115–16, 119 (1952) (striking down a New York statute that chose which faction of the Russian Orthodox Church controlled a cathedral (i.e., which bishop got to occupy it)—a purely intra-church dispute that was described as "strictly a matter of ecclesiastical government"); *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440, 443–44, 449 (1969) (reversing an award of church property because courts cannot resolve property disputes by interpreting church doctrine, but cautioned that "not every civil court decision as to property claimed by a religious organization jeopardizes values protected by the First Amendment. Civil courts do not inhibit free exercise of religion merely by opening their doors to disputes involving church property"); *Serbian E. Orthodox Diocese for the U.S. of Am. & Canada v. Milivojevich*, 426 U.S. 696, 709, 717–18, 720–21 (1976) (though portrayed as a property dispute, control of the property followed whoever was the legitimate bishop, as the actual holding was that a state court erred by reinstating a defrocked bishop based on its interpretation of the church's constitution); *Union Gospel Mission of Yakima Washington v. Brown*, 162 F.4th 1190, 1196–97 (9th Cir. 2026), *reh'g en banc granted, op. vacated*, 181 F.4th 1331 (9th Cir. 2026) (holding in a decision that has since been vacated—which the Debtor failed to notate—that Washington could not force a Christian ministry to hire employees who reject its faith for non-ministerial positions).

Finally, the ministerial exception, which counsels that courts should not interfere with the internal affairs of a religious organization, is similarly irrelevant. (*See* Debtor PT Br. at 67.) In *Hosanna-Tabor*, the Supreme Court held that the First Amendment "precludes application of [employment discrimination laws] to claims concerning the employment relationship between a religious institution and its ministers." 565 U.S. 171, 188 (2012). The Court recognized a "ministerial exception" to the First Amendment because requiring a church to retain an unwanted

minister "interferes with the internal governance of the church, depriving the church of control over the selection of those who will personify its beliefs." *Id.* The Court did not suggest that the "ministerial exception" would protect a religious employer from a lawsuit resulting from the predatory conduct of its employees, *see id.* at 196, much less enunciate a broader principle that would protect religious institutions from compliance with neutral secular laws, like the Bankruptcy Code. Deciding which pastor leads a church is an intra-church matter and not one that concerns civil authorities. *See id.* at 195–96. On the other hand, deciding what property must be valued in a hypothetical liquidation analysis is a matter for Congress and this Court. *See Gen. Council on Fin. & Admin. of United Methodist Church v. Super. Ct. of Cal., San Diego Cnty.*, 439 U.S. 1355, 1372–73 (1978) (Rehnquist, J.) (order denying stay) (noting that considerations about the "perceived danger that in resolving intrachurch disputes the State will become entangled in essentially religious controversies . . . are not applicable to purely secular disputes between third parties and a particular defendant, albeit a religious affiliated organization, in which fraud, breach of contract, and statutory violations are alleged").

The Debtor's inclusion of arguments based on the ministerial exception is not creative advocacy; it is frivolous. In that section of its brief alone, the Debtor cited a half-dozen cases under the guise that they support the audacious premise that the "Court cannot second guess or override Bishop Barber's determination of what is required to serve the Debtor's parishioners and fulfill its religious mission." (Debtor PT Br. at 67–68.) Not one case, lengthy as they may be, even remotely supports the Debtor's position. The Court need look no further than the first paragraph of the Ninth Circuit's analysis in *Behrend v. San Francisco Zen Center, Inc.*, 108 F.4th 765, 766 (9th Cir. 2024) to see the frivolity in the Debtor's argument. The Circuit explained that:

> The ministerial 'exception exempts a church's employment relationship with its "ministers" from the application of some employment statutes, even though the statutes by their literal terms would apply.' *Alcazar v. Corp. of the Cath. Archbishop of Seattle*, 627 F.3d 1288, 1290 (9th Cir. 2010) (en banc). The exception is grounded in both religion clauses of the First Amendment. 'The Establishment Clause prevents the Government from appointing ministers, and the

> Free Exercise Clause prevents it from interfering with the freedom of religious groups to select their own.' *Hosanna- Tabor*, 565 U.S. at 184. 'Requiring a church to accept or retain an unwanted minister, or punishing a church for failing to do so, . . . interferes with the internal governance of the church, depriving the church of control over the selection of those who will personify its beliefs.' *Id.* at 188 . . . So '[t]he ministerial exception was recognized to preserve a church's independent authority' 'to select, supervise, and if necessary, remove a minister without interference by secular authorities.' *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 591 U.S. 732, 747 . . . (2020).

Behrend, 108 F.4th at 768; *see also Our Lady of Guadalupe Sch.*, 591 U.S. at 738–44 (considering whether the ministerial exception applied to elementary school teachers at Catholic schools who were not trained by the church but were required to teach religion and pray with students).

In sum, the majority of the cases the Debtor cites are all irrelevant and readily distinguishable; most do not mention bankruptcy, none reference Section 1129 and/or the hypothetical liquidation analysis; not one justifies altering the best interests test for a religious entity; and the cases certainly do not support subjugating the Court's judgment and application of neutral principles of law to Bishop Barber's earnest, but unsubstantiated beliefs.

III. OMNIBUS RESPONSE TO REMAINING OBJECTIONS

A. The Debtor's Argument Regarding Section 1129(a)(10) is Insufficient to Meet its Burden. (Response to Debtor PT Br. § IV.A.)

The Debtor doubles down on its position that the Court should confirm the Plan, over the objection of 331 Survivors, based on the votes of (i) an insider; (ii) twelve general unsecured creditors with ties to the Debtor who will be paid in full; and (iii) a non-creditor who did no diligence on behalf of the class he owes a fiduciary duty to.[31]

With respect to Class 1, the Debtor concludes, without reference to *any* evidence or case law, that RCC is not an insider. The Committee directed the Debtor and the Court, on multiple occasions, to case law and evidence to the contrary. (*See* Committee Br. at 55–57; Committee Obj. at 34–35; Designation Mot. at 12–14.) The Debtor never responded to *any* of the arguments set

[31] Although the Committee agreed to withdraw the Designation Motion, the Committee does not agree that the Debtor complied with solicitation procedures. (*See* Designation Mot. at 11–12.)

forth by the Committee, and therefore the argument that RCC is an insider whose vote may not be counted for purposes of Section 1129(a)(10) is effectively uncontroverted.

With respect to Class 3, an artificially impaired class of creditors with ties to the Debtor holding *de minimis* claims, the Debtor takes the incongruous position that it cannot pay whatever interest might be owed on the $1.4 million of Class 3 claims in order to make the $40 million Initial Debtor Contribution. This position is not only illogical, but is disproved by the record, which established that the Debtor did not calculate and has no idea of the amount that would need to be paid to render Class 3 unimpaired.[32]

Finally, the Debtor's argument with respect to the vote of the Unknown Abuse Claims Representative misses the point. The Committee does not contest that the order appointing Mr. Hogan as the Unknown Abuse Claims Representative (the "**Appointment Order**") permits him in his role to cast a vote in connection with any plan solicited. However, nothing in the Appointment Order or applicable case law permits that the vote of a non-creditor such as an unknown claims representative may serve as an impaired consenting class for purposes of Section 1129(a)(10), especially when that non-creditor undertook no investigation whatsoever into the existence of unknown claimants, the Debtor's assets, the value of Abuse Claims, or the feasibility of the Plan and ignored his predecessor's rationale for voting against the Third Amended Plan. (*See* Committee Br. at 20–21, 59.)

Absent reliance on case law or the evidentiary record, the Debtor's perfunctory arguments with respect to its compliance with Section 1129(a)(10) should be overruled.

[32] Further, any inability to pay Class 3 Claims in full on the Effective Date is of the Debtor's own making, as it refused to liquidate sufficient assets in the several years this Chapter 11 Case has been pending that would provide more than sufficient funds to pay Class 3 Claims.

B. The Catholic Cemeteries of the East Bay Settlement Should Not Be Approved. (Response to Debtor PT Br. § IV.B.)

The Debtor has done *nothing* to meet its burden with respect to approval of the CCCEB Settlement. In fact, it does not cite to a single case on the standard, and the *only* citation to the record is to an assumption made by one of the Debtor's experts, who also testified that *he did not know* whether CCCEB's assets were sufficient to satisfy the CCCEB receivable. (*Id.* at 75 (citing 06/16/26 Trial Tr. (Moore) at 79:3–22).) As set forth in the Committee Brief, there is not *one iota* of factual evidence in the record relating to the collectability of the CCCEB receivable or the proposed settlement with CCCEB. (*Id.* at 74–75.)

The Debtor's attempt to shift the burden to the Committee, asserting it was responsible to introduce evidence that the CCCEB receivable is collectible, strains credulity and is contrary to established case law. *See In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1986).

Understanding, after the close of evidence, that it neglected to present *any* evidence in support of the CCCEB Settlement, the Debtor PT Brief half-heartedly asserts "facts" which are unsupported by the record (and, tellingly, contain no citation to exhibits or testimony whatsoever). (*See, e.g.*, Debtor PT Br. at 71.) Thus, these unsubstantiated statements by counsel about, for example, CCCEB's revenue streams and assets, "extreme" difficulties in collection, the cost of litigation to collect the CCCEB receivable cannot be considered by this Court. (*See generally id.*) Similarly missing from the record is evidence about the go-forward cost to maintain the Cathedral included in the Debtor's projections, which do not seem to have been considered by the Debtor at all, but are integral to the Debtor's burden, the reliability of the Debtor's projections, and the feasibility of the Plan.

Because the Debtor has not come close to meeting its burden, either from an evidentiary perspective or legally (particularly concerning a settlement with an insider), the CCCEB Settlement, and therefore the Plan to which the CCCEB Settlement is integral, cannot be approved.

IV. CONCLUSION

For the reasons set forth herein, in the Committee Brief, and in the Committee Objection, the Committee requests that the Court deny confirmation of the Plan.

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Dated: August 19, 2026

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