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25 **UNITED STATES BANKRUPTCY COURT**
 26 **NORTHERN DISTRICT OF CALIFORNIA**
 27 **OAKLAND DIVISION**

28 *In re:*
 THE ROMAN CATHOLIC BISHOP OF
 OAKLAND, a California corporation sole,
 Debtor.

Case No. 23-40523 WJL

Chapter 11

**APPLICATION FOR THE RETENTION
 OF STOUT RISIUS ROSS, LLC AS
 EXPERT CONSULTANT ON
 VALUATION OF SEXUAL ABUSE
 CLAIMS EFFECTIVE AS OF
 SEPTEMBER 8, 2023**

Lowenstein Sandler LLP (“**Applicant**”), counsel to the Official Committee of Unsecured Creditors (the “**Committee**”) of the Roman Catholic Bishop of Oakland (the “**Debtor**”) files this application (this “**Application**”) seeking entry of an order, pursuant to sections 328(a) and 1103(a) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 2014(a) and 2016 of the

1 Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), authorizing the retention of
2 Stout Risius Ross, LLC (“**Stout**”) as an expert consultant, and expert witness if the Committee
3 deems necessary, for the purpose of valuing sexual abuse claims in the above-captioned chapter
4 11 case (the “**Chapter 11 Case**”), effective as of September 8, 2023. In support of this
5 Application, and incorporated herein by reference for all purposes, Applicant files the declaration
6 of Katie McNally (the “**McNally Declaration**”), a Managing Director at Stout. A proposed form
7 of order granting the relief requested herein is annexed hereto as **Exhibit A**. In further support of
8 this Application, Applicant represents as follows:

9 **BACKGROUND**

10 1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and
11 1334. This is a core proceeding within the meaning of 28 U.S.C. §157(b)(2). Venue of this
12 proceeding and this Application in this Court is proper under 28 U.S.C. §§ 1408 and 1409.

13 2. The statutory bases for the relief requested herein are sections 328(a) and 1103(a)
14 of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016.

15 3. On May 8, 2023 (the “**Petition Date**”), the Debtor filed a voluntary petition for
16 relief under chapter 11 of the Bankruptcy Code. The Debtor continues to operate its businesses
17 and manage its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the
18 Bankruptcy Code.

19 4. On May 23, 2023, the Office of the United States Trustee (the “**U.S. Trustee**”)
20 appointed nine survivors of sexual abuse holding claims against the Debtor to serve on the
21 Committee. The Committee is charged with representing the interests of all survivors of sexual
22 abuse (collectively, “**Survivors**”) in this Chapter 11 Case.

23 5. Upon formation, the Committee appointed Mr. Steve Woodall as its chairperson.

24 6. On September 8, 2023, (the “**Selection Date**”) the Committee authorized
25 Lowenstein to retain Stout as an expert consultant for the purpose of valuing sexual abuse claims
26 of Survivors (the “**Survivors Claims**”). The Committee further decided to authorize the retention
27 of Stout as an expert witness if one becomes necessary in the future.

28

1 **RELIEF REQUESTED**

2 7. Through this Application, Applicant requests that this Court enter an order
3 authorizing the retention of Stout as an expert consultant in this Chapter 11 Case effective as of
4 September 8, 2023, the date the Committee selected Stout as expert consultant.

5 8. Further, Applicant requests authority to retain Stout as an expert witness. Should
6 Applicant seek to do so, it proposes to provide 10 days' written notice to the Debtor and the U.S.
7 Trustee (the "**Notice Period**"). If no objections are timely received by Lowenstein to such notice,
8 the retention shall be effective as of the conclusion of the Notice Period. If an objection is received,
9 and the parties are unable to resolve any issues informally, Applicant will file an application with
10 this Court seeking to, among other things, resolve the objection asserted by the Debtor and/ or the
11 U.S. Trustee and obtain authority to retain Stout as an expert witness.

12 9. Additionally, Applicant requests that Stout be provided access to the proofs of
13 claim and the supplements thereto filed by, or on behalf of, Sexual Abuse Claimants, as an
14 Authorized Party, in accordance with the *Order Establishing Deadlines for Filing Proofs of Claim*
15 *and Approving the Form and Manner of Notice Thereof* (the "**Bar Date Order**") [Dkt. No. 293].

16 **BASIS FOR RELIEF REQUESTED**

17 10. 404 Survivors Claims were filed by the claims bar date set in the Bar Date Order.

18 11. The Debtor has commenced two adversary proceedings (the "**Adversary**
19 **Proceedings**") against its insurance companies, claiming in each proceeding "that the Defendants
20 were obligated to provide defense and indemnity to [the Debtor] regarding the claims made" in
21 the lawsuits filed against the Debtor. *The Roman Catholic Bishop of Oakland v. Pacific Indemnity,*
22 *et. al., Complaint,* Case No. 23-04028 [Docket No. 1]; *The Roman Catholic Bishop of Oakland v.*
23 *American Home Assurance Co. and Lexington Insurance Co., Complaint,* Case No. 23-04037
24 [Docket No. 1].

25 12. Applicant seeks to employ Stout as an expert consultant, and possibly expert
26 witness, in this Chapter 11 Case, in conjunction with the Adversary Proceedings, and any future
27 related proceedings that arise and concern the disposition of the Survivors Claims. The valuation
28 of Survivors Claims is essential to protecting Survivors' rights because understanding the Debtor's

1 liability to Survivors will help the Committee determine the fair and equitable treatment of those
2 claims in this Chapter 11 Case.

3 13. In accordance with Bankruptcy Rule 2014(a), this Application and the McNally
4 Declaration set forth the specific facts showing the necessity for Stout's employment; the reasons
5 for the selection of Stout as expert consultant, and expert witness if Applicant deems necessary;
6 the services proposed to be provided by Stout; the arrangement between Applicant and Stout with
7 respect to its compensation (as well as the reasonableness thereof); and, to the best of Applicant's
8 knowledge, the extent of Stout's connections, if any, to certain parties in interest in this matter.

9 **A. Stout's Qualifications**

10 14. After careful and diligent inquiry into the qualifications and connections of Stout,
11 Applicant selected Stout as its expert consultant (and possibly expert witness) on valuation of
12 Survivors Claims, subject to the approval of this Court. Applicant has found the professionals at
13 Stout to be well-qualified by reason of their ability, integrity, and professional experience. Stout
14 is uniquely qualified to serve as Applicant's valuation consultant in this Chapter 11 Case and
15 related proceedings.

16 15. Stout's professionals include individuals with advanced degrees (*e.g.*, Ph.D., J.D.,
17 MBA) as well as those with professional designations, such as CPAs, CFAs, and CFEs. Each
18 valuation professional is highly skilled at analyzing complex claims, including mass tort claims in
19 various settings, and each has experience documenting and supporting those analyses in reports,
20 presentations and recommendations. Stout's experts have testified to their findings in depositions,
21 trials, arbitrations and regulatory proceedings.

22 16. Stout's valuation experts are often retained by companies, individuals and their
23 representatives, including private and public corporations, transactional attorneys, litigators and
24 investment bankers. Stout has extensive experience advising and working in concert with
25 interested stakeholders on valuation of sexual abuse claims and allocating survivors' claims across
26 decades worth of historical insurance policies.

27 17. Stout has assisted several major universities, including Michigan State University,
28 in connection with the Dr. Larry Nassar molestation/abuse claims, as the retained valuation

1 consultants. In this role, Stout developed individual claim values for each claimant and assisted
2 in the settlement of the Nassar claims and hundreds of sexual abuse claims against other
3 defendants. Stout also worked closely with counsel and performed many allocations of such
4 claims across decades worth of available coverages to support insurance recovery efforts.

5 18. Stout, then known as The Claro Group LLC, has also been retained as an expert
6 consultant by the Official Committee of Tort Claimant Creditors in The Diocese of Camden, New
7 Jersey, Case No. 20-21257, by the Official Committee of Unsecured Creditors in The Diocese of
8 Rochester bankruptcy proceeding, Case No. 19-20905, by the Official Committee of Unsecured
9 Creditors in The Roman Catholic Diocese of Syracuse, New York bankruptcy proceeding, Case
10 No. 20-30663, by the Official Committee of Unsecured Creditors in The Roman Catholic Church
11 of the Archdiocese of New Orleans bankruptcy proceeding, Case No. 20-10846, by the Official
12 Committee of Unsecured Creditors in The Roman Catholic Diocese of Rockville Centre, New
13 York bankruptcy proceeding, Case No. 20-12345, and by the Tort Claimants' Committee in the
14 Boy Scouts of America and Delaware BSA, LLC bankruptcy proceeding, Case No. 20-10343. The
15 scope of Stout's services in those matters is substantially similar to that proposed in this case.

16 19. For the above reasons, Applicant believes that Stout is well qualified to provide
17 effective and efficient services as outlined herein.

18 **B. Necessity to Protect Survivors' Rights**

19 20. Stout's anticipated services are essential to protecting the rights of Survivors.
20 Indeed, for that very reason, the use of an expert for the purposes Applicant seeks is commonplace.
21 The bankruptcy courts in the Diocese of Camden, New Jersey bankruptcy proceeding, Case No.
22 20-21257, the Diocese of Rochester bankruptcy proceeding, Case No. 19-20905, and the Boy
23 Scouts of America and Delaware BSA, LLC bankruptcy proceeding, Case No. 20-10343, among
24 others, approved applications by the respective official committees representing sexual abuse
25 survivors in those cases to retain Stout to provide services similar to the services Stout would
26 provide to Applicant here.

27 21. Stout is a nationally recognized leader in claim valuations, and the individual
28 leading this engagement, Katie McNally, has reviewed claimant-level detail for thousands of

1 sexual abuse claims to identify factors relevant to claim valuation and provide valuation ranges
2 specific to each claim. Whether Stout’s services are utilized for estimation or in the context of an
3 eventual plan of reorganization confirmation, there can be no reasonable dispute that Stout’s
4 services are vital in defending Survivors’ rights.

5 **C. Services to Be Provided**

6 22. Applicant anticipates that Stout will render services for the benefit of the
7 Committee, including, but not limited to, the following (the “**Services**”):

- 8
- 9 (a) Expert consulting services and, if it becomes necessary, expert
10 testimony regarding the estimated value of aggregate Survivor
11 Claims in this case, and any related adversary proceedings;
- 12 (b) Expert consulting services, and if it becomes necessary, expert
13 testimony, in connection with any contested matters and/or litigation
14 arising in this case;
- 15 (c) Expert consulting services, and if it becomes necessary, expert
16 witness testimony, in connection with any plan or settlement filed
17 by any party-in-interest;
- 18 (d) Expert consulting services, and if it becomes necessary, expert
19 witness testimony, in connection with the review and evaluation of
20 reports prepared by the Debtor, its professionals, the Debtor’s
21 insurers, and their professionals;
- 22 (e) As may be requested by the Committee, assisting with the
23 preparation of affidavits/declarations, depositions, and briefing in
24 this case concerning the issues for which Stout is providing expert
25 consulting services;
- 26 (f) As may be requested by the Committee, assisting with the allocation
27 of claims to potentially available insurance coverage;
- 28 (g) If it becomes necessary, preparing for and providing both deposition
and court expert testimony in this case regarding the issues for which
Stout is providing expert consulting services; and
- (h) Such other consulting and advisory services as may be requested by
the Committee.

23. In addition to the services related to these areas, Stout understands that it may be
requested to render other services and to participate in meetings and discussions with the
Committee, the Debtor, and other parties-in-interest and their respective professionals pertaining
to the sexual abuse claims.

1 24. Stout will coordinate all tasks with counsel and other Committee professionals as
2 appropriate to achieve case efficiencies and avoid duplication of effort.

3 **D. Compensation and Fee Applications**

4 25. Subject to the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local
5 Bankruptcy Rules, the *United States Bankruptcy Court Northern District of California Guidelines*
6 *for Compensation and Expense Reimbursement of Professionals and Trustees effective February*
7 *19, 2014* (the “**Local Guidelines**”), and the Guidelines for Reviewing Applications for
8 Compensation and Reimbursement of Expenses (the “**Appendix A Guidelines**”) issued by the
9 Office of the United States Trustee, Stout will charge for its professional services on an hourly
10 basis in accordance with the ordinary and customary hourly rates in effect at the time the services
11 are rendered. Stout’s current customary rates, subject to change from time to time, are: Managing
12 Directors \$625 to \$900 per hour; Director \$450 to \$575 per hour, Managers/Senior Managers \$375
13 to \$450 per hour and Analysts/Associates \$275 to \$405 per hour. The hourly rate for Stout’s
14 professional anticipated to lead this engagement is Katie McNally: (\$750).

15 26. The hourly rates for Stout personnel who will or may work on this matter, and their
16 current hourly rates, are as follows:

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Billing Category	Hourly Rate Range
Managing Director	\$625 to \$900
Director	\$450 to \$575
Managers/Senior Managers	\$375 to \$450
Analysts/Associates	\$275 to \$405

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24 27. These rates are the normal billing rates charged by Stout in both bankruptcy and
25 non-bankruptcy matters, to both debtor and non-debtor clients. Stout’s hourly rates are comparable
26 to those charged by professionals of similar experience for engagements of scope and complexity
27 similar to this Chapter 11 Case. Stout will also seek reimbursement of actual and necessary out-
28

1 of-pocket expenses in accordance with regular company policies but subject to this Court's
2 approval.

3 28. Stout will maintain detailed, contemporaneous time records in six-minute intervals
4 and apply to this Court for payment of compensation and reimbursement of expenses in accordance
5 with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy
6 Rules, the Local Guidelines, the Appendix A Guidelines, and any additional procedures that may
7 be established by the Court in this Chapter 11 Case. Stout may apply to the Court to authorize a
8 monthly allowance that will permit provisional monthly payment of up to 80% of its fees and
9 100% of its expenses pursuant to the *Order Authorizing Procedures for Interim Compensation and*
10 *Reimbursement of Expenses of Professionals* [Docket No. 170]. Stout understands that interim
11 and final fee awards are subject to approval by this Court.

12 29. Stout will use its best efforts to staff and supervise the engagement with appropriate
13 personnel utilizing rates at the lower end of the hourly rate ranges stated above; however, there
14 may be requirements and circumstances of the case that require specialized expertise or time
15 sensitive assignments where certain personnel may be required at the higher end of the stated
16 range.

17 30. Stout will charge for all services provided and for other charges and disbursements
18 incurred in rendering services to the Committee. These customary items include, among other
19 things, travel and lodging expenses, business meals, costs of reproduction, research,
20 communications, legal counsel costs, applicable sales or excise taxes and other direct expenses.
21 Internal costs or overhead costs and document production services (including regular secretarial
22 and word processing time) will not be charged for separately. Stout has acknowledged that the
23 Committee, its constituents, its advisors or professionals shall not be liable for the fees, expenses
24 or other amounts payable to Stout.

25 **E. Disclosures Concerning Disinterestedness**

26 To the best of Applicant's knowledge, the professionals of Stout do not have any
27 connection with or any interest adverse to the Committee, except as may be set forth in the
28 McNally Declaration. Based upon the McNally Declaration, Stout has concluded that it is a

1 “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code as
2 modified by section 1107(b) of the Bankruptcy Code. Stout will conduct an ongoing review of its
3 files to ensure that no disqualifying circumstances arise. If any new relevant facts or relationships
4 are discovered, Stout will supplement its disclosure to the Court.

5 **REQUEST FOR NUNC PRO TUNC RETENTION**

6 31. *Nunc pro tunc* retention is appropriate here because this Application was filed
7 shortly after the Committee selected Stout to be its expert consultant, and the Committee
8 determined that it needed certain services from Stout immediately upon such selection.

9 **REQUEST FOR ACCESS TO THE SURVIVORS’ PROOFS OF CLAIM**

10 32. The Bar Date Order establishes which parties are allowed access to proofs of claim
11 filed by Survivors and/or supplements thereto. Bar Date Order, ¶ 14(iii). Paragraph 14(iii) of the
12 Bar Date Order provides that “Authorized Parties” may include “[s]uch other persons as this Court
13 may, pursuant to subsequent order, authorize access to a Sexual Abuse Claimant’s Official Proof
14 of Claim Form and/ or the Supplement; *provided, however,* that any such determination shall be
15 made on no less than 10 business days’ notice to the affected Sexual Abuse Claimant(s) and their
16 counsel of record, the Committee and the Debtor.” *Id.* ¶14(iii)(j). In order to effectively undertake
17 its role as expert consultant to assess the estimated value of the Survivors Claims, Stout needs
18 access to proofs of claim filed by Survivors and/or supplements thereto. Applicant therefore
19 requests that the Court authorize such access to the Stout as an Authorized Party pursuant to the
20 terms of the Bar Date Order.

21 **NOTICE**

22 33. Notice of this Application will be provided to (i) the Office of the United States
23 Trustee for Region 17 (Attn: Tracy Hope Davis, Esq.); (ii) the Debtor; and (iii) those persons who
24 have formally appeared and requested service pursuant to Bankruptcy Rule 2002. The Committee
25 respectfully submits that no further notice is required. No previous request for the relief sought
26 herein has been made to this or any other Court.

1 **WHEREFORE**, the Committee requests that the Court approve Stout's employment
2 under the terms specified herein.

3 Dated: September 27, 2023

LOWENSTEIN SANDLER LLP

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By: /s/ Jeffrey D. Prol

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EXHIBIT A

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13 *Counsel for the Official Committee of Unsecured*
14 *Creditors*

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

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19 *In re:*
20 THE ROMAN CATHOLIC BISHOP OF
21 OAKLAND, a California corporation sole,
22 Debtor.

Case No. 23-40523 WJL

Chapter 11

**ORDER AUTHORIZING THE
RETENTION OF STOUT RISIUS ROSS,
LLC AS EXPERT CONSULTANT ON
VALUATION OF SEXUAL ABUSE
CLAIMS EFFECTIVE AS OF
SEPTEMBER 8, 2023**

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24
25 Upon consideration of the *Application for the Retention of Stout Risius Ross, LLC as Expert*
26 *Consultant on Valuation of Sexual Abuse Claims, Effective as of September 8, 2023* (the
27 “**Application**”)¹, pursuant to sections 328(a) and 1103(a) of title 11 of the United States Code (the

28 ¹ Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Application.

1 **“Bankruptcy Code”**) and Rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure
2 (the **“Bankruptcy Rules”**), for an order authorizing and approving the retention and employment
3 of Stout Risius Ross, LLC (**“Stout”**) as expert consultant, and expert witness if the Committee
4 deems necessary, on the valuation of sexual abuse claims in the above-captioned chapter 11 case
5 (the **“Chapter 11 Case”**); and upon consideration of the McNally Declaration filed in support of
6 the Application; and this Court having jurisdiction to consider the Application and the relief
7 requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of this
8 Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. §
9 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and it
10 appearing that the relief requested in the Application is in the best interests of the Debtor’s estate,
11 its creditors and other parties in interest; and the Committee having provided adequate and
12 appropriate notice of the Application; and that legal and factual bases set forth in the Application
13 establish just cause for the relief granted herein; and after due deliberation and good and sufficient
14 cause appearing therefor;

15 **IT IS HEREBY ORDERED THAT:**

- 16 1. The Application is granted as provided herein.
- 17 2. Applicant is authorized to retain and employ Stout as expert consultant in this
18 Chapter 11 Case, effective as of September 8, 2023.
- 19 3. Stout is authorized to render the following professional services:
 - 20 (a) Expert consulting services and, if it becomes necessary, expert
21 testimony, regarding the estimated value of aggregate Survivor
22 Claims in this case, and any related adversary proceedings;
 - 23 (b) Expert consulting services, and if it becomes necessary, expert
24 testimony, in connection with any contested matters and/or litigation
25 arising in this case;
 - 26 (c) Expert consulting services, and if it becomes necessary, expert
27 witness testimony, in connection with any plan or settlement filed
28 by any party-in-interest;
 - (d) Expert consulting services, and if it becomes necessary, expert
witness testimony, in connection with the review and evaluation of
reports prepared by the Debtor, its professionals, the Debtor’s
insurers, and their professionals;

- 1 (e) As may be requested by the Committee, assisting with the
2 preparation of affidavits/declarations, depositions, and briefing in
3 this case concerning the issues for which Stout is providing expert
4 consulting services;
- 5 (f) As may be requested by the Committee, assisting with the allocation
6 of claims to potentially available insurance coverage;
- 7 (g) If it becomes necessary, preparing for and providing both deposition
8 and court expert testimony in this case regarding the issues for which
9 Stout is providing expert consulting services; and
- 10 (h) Such other consulting and advisory services as may be requested by
11 the Committee.

12 4. Stout shall apply for compensation of professional services rendered and
13 reimbursement of expenses incurred beginning on September 8, 2023 in connection with the
14 Debtor's case as set forth in the Application and in compliance with the provisions of the
15 Bankruptcy Rules, the Local Rules, and any other applicable procedures and orders of this Court.

16 5. No additional fee shall be paid to Stout, including the use of any retainer received
17 for postpetition services, without prior approval of this Court.

18 6. This Court further authorizes Stout access to proofs of claim filed by Survivors
19 and/or supplements thereto, as an Authorized Party, in accordance with the *Order Establishing*
20 *Deadlines for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof* [Dkt.
21 No. 293].

22 7. If Applicant decides to retain Stout as an expert witness, it shall provide 10 days'
23 written notice to the Debtor and the U.S. Trustee (the "**Notice Period**"). If no objections are
24 timely received by Applicant to such notice, the retention shall be effective as of the conclusion
25 of the Notice Period. If an objection is received, and the parties are unable to resolve any issues
26 informally, Applicant shall file an application with this Court seeking to, among other things,
27 resolve the objection asserted by the Debtor and/ or the U.S. Trustee and obtain authority to
28 retain Stout as an expert witness.

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

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9. Notwithstanding any provision in the Bankruptcy Rules to the contrary, this Order shall be immediately effective and affordable upon its entry.

END OF ORDER

Service List

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