

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11  
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THE CHRISTIAN BROTHERS' INSTITUTE, *et al.* : Case No.: 11-22820 (RDD)  
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Debtors. : (Jointly Administered)  
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**ORDER APPROVING DEBTORS' MOTION FOR ORDER  
ESTABLISHING DEADLINES FOR FILING PROOFS OF CLAIM  
AND APPROVING FORM AND MANNER OF NOTICE THEREOF**

Upon the motion (the "Motion") of The Christian Brothers' Institute and The Christian Brothers of Ireland, Inc., as debtors and debtors-in-possession (the "Debtors"), for an Order Establishing Deadlines for Filing Proofs of Claim and Form and Manner of Notice Thereof (Docket No. 170);<sup>1</sup> and it appearing that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue of this case and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Motion being appropriate under the particular circumstances and no other or further notice being required except as provided herein; and upon the response of the Committee dated January 17, 2012 (Docket No. 215); and upon the objection of certain high schools (the "High Schools") dated January 19, 2012 (Docket No. 225); and upon the limited objection of Pacific Indemnity Company dated January 13, 2012 (Docket No. 209); and upon the Debtors' reply to the Committee's response dated January 19, 2012 (Docket No. 221); and upon the record established at the hearing held on January 23, 2012; and the Court having reviewed the letters, both dated February 7, 2012, of Peterm M. Friedman, Esq., for the High Schools and James I. Stang, for the Committee; and it appearing that the relief requested in the Motion and granted herein is in the best interest of the

<sup>1</sup> Capitalized terms not defined herein shall have the same meaning ascribed to them in the Motion.

Debtors' estates, their creditors and other parties-in-interest and necessary and appropriate for establishing an effective bar date for the submission of the types of claims provided for herein; and after due deliberation and sufficient cause appearing therefor; it is hereby

**ORDERED, ADJUDGED AND DECREED** that:

1. The Motion is granted as set forth herein.

2. The General Creditor Proof of Claim Form, the Sexual Abuse Proof of Claim Form, the General Creditor Bar Date Notice, the Sexual Abuse Bar Date Notice, and the Publication Notice, in the forms annexed hereto as **Exhibits "A," "B," "C," "D,"** and **"E,"** respectively, and the manner of providing notice of the Bar Dates proposed in the Motion, and as modified by this Order, are approved in all respects pursuant to Bankruptcy Rules 2002(a)(7) and 2002(l). The form and manner of notice of the Bar Dates approved herein are deemed to fulfill the notice requirements of the Bankruptcy Rules and the Local Rules for the Court, and notice of the Bar Dates in the form and manner as proposed by the Debtors herein is fair and reasonable and will provide good, sufficient, and due notice to all creditors of their rights and obligations in connection with claims they may assert against the Debtors' estates in these Chapter 11 cases. Accordingly, the Debtors are authorized and directed to serve and/or publish the notice of the Bar Date as set forth below.

3. Except as provided in paragraph 6 of this Order, any entity holding a pre-petition claim against the Debtors must file a proof of claim in accordance with the procedures described herein **on or before May 11, 2012, 4:00 p.m. (prevailing Eastern Time)** (the "General Bar Date"). The General Bar Date shall be identified in the General Bar Date Notice. Except as provided in paragraph 6 of this Order, the General Bar Date applies to all persons and entities (including government entities), other than Sexual Abuse Victims, that assert claims, as

defined in § 101(5) of the Bankruptcy Code, against the Debtors (whether secured, unsecured priority or unsecured non-priority) that arose prior to or on the Petition Date.

4. Except as provided in paragraph 6 of this Order, any entity holding a pre-petition claim arising from sexual abuse for which the individual believes that the Debtors may be liable, must file a proof of claim in accordance with the procedures described herein on or before **August 1, 2012, 4:00 p.m. (prevailing Eastern Time)** (the “Sexual Abuse Bar Date”). The Sexual Abuse Bar Date shall be identified in the Sexual Abuse Bar Date Notice and the Publication Notice.

5. For the purposes of determining the timeliness of the filing of a proof of claim and for determining whether a creditor should use the General Creditor Proof of Claim Form or the Sexual Abuse Proof of Claim Form, sexual abuse is defined as any and all acts or omissions that the Debtors may be legally responsible for that in any way arise out of, are based upon, or involve sexual conduct or misconduct, sexual abuse or molestation, indecent assault, indecent battery, rape, lascivious behavior, pedophilia, ephobophilia, or sexually related psychological or emotional harm or contacts or interactions of a sexual nature between a child and an adult, or a non-consenting adult and another adult. It is possible that under applicable law, a person may be sexually abused whether or not this activity involves explicit force, whether or not this activity involves genital or other physical contact and whether or not there is physical, psychological or emotional harm to the person.

6. The following entities, whose claims otherwise would be subject to the Bar Dates, shall **not** be required to file proofs of claim in these Chapter 11 cases:

- (a) Any person or entity that has already properly filed a proof of claim against the Debtors with the Clerk of the Court for the United States Bankruptcy Court for the Southern District of New York (the “Court”), or with the Debtors’ Claims Agent – Omni

Management Group (“Omni” or the “Claims Agent”). Notwithstanding the foregoing, **Sexual Abuse Victims that previously filed with the Court a proof of claim must utilize the Sexual Abuse Proof of Claim Form and must refile the claim if that form was not used;**

- (b) Any person or entity: (a) whose claim is listed in the Schedules or any amendments thereto; and (b) whose claim is not described therein as “disputed,” “contingent,” or “unliquidated;” and (c) who does not dispute the amount or classification of its claim as set forth in the Schedules;
- (c) Any person or entity that asserts an administrative expense claim against the Debtors pursuant to § 503(b) and § 507(a)(2) of the Bankruptcy Code;
- (d) Any person or entity whose claim against the Debtors has been allowed by an order of the Court entered on or before the applicable Bar Date; and
- (e) Any person or entity whose claim has been paid in full. For the avoidance of doubt, this does not include Sexual Abuse Victims who were paid pursuant to settlement agreements but believe they have additional claims against the Debtors beyond what was agreed to in the settlement.

7. Any person or entity that holds a claim that arises from the rejection of an executory contract or unexpired lease, as to which the order authorizing such rejection is dated on or before the date of entry of this Order, must file a proof of claim based on such rejection on or before the General Bar Date, and any person or entity that holds a claim that arises from the rejection of an executory contract or unexpired lease, as to which an order authorizing such rejection is dated after the date of entry of this Order, must file a proof of claim on or before such date as the Court may fix in the applicable order authorizing such rejection.

8. The Debtors, and any party-in-interest, shall retain the right to: (i) dispute, on any ground, including statute of limitations, or assert offsets or defenses against, any filed claim or any claim listed or reflected in the Schedules as to nature, amount, liability,

classification or otherwise; and (ii) subsequently designate any claim as disputed, contingent or unliquidated.

9. Subject to the provisions of paragraph 6 of this Order, the following entities **must** file a proof of claim on or before the applicable Bar Date:

- (a) Any person or entity whose pre-petition claim against the Debtors is not listed in the Debtors' Schedules or whose pre-petition claim is listed in the Schedules but is listed as disputed, contingent or unliquidated and that desires to participate in these cases or share in any distribution in these cases;
- (b) Any person or entity that believes that its pre-petition claim is improperly classified in the Schedules or is listed in an incorrect amount and that desires to have its claim allowed in a classification or amount other than that identified in the Schedules; and
- (c) Any Sexual Abuse Victim who believes that he or she has a claim against the Debtors, including but not limited to, Sexual Abuse Victims who have previously filed lawsuits against the Debtors, and Sexual Abuse Victims who have never filed a lawsuit, entered into a settlement or reported their abuse.

10. **Pursuant to Bankruptcy Rule 3003(c)(2), any entity that is required to file a proof of claim in these Chapter 11 cases pursuant to the Bankruptcy Code, the Bankruptcy Rules, or this Order with respect to a particular claim against the Debtors, but that fails to do so by the applicable Bar Date, shall NOT be treated as a creditor with respect to such claim for the purposes of voting on and distribution under any Chapter 11 plan proposed and/or confirmed in these cases.**

11. If the Debtors amend or supplement their Schedules subsequent to the date hereof, the Debtors shall give notice of such amendment or supplement to the holders of claims affected thereby, and such holders shall be afforded thirty (30) days from the date of such notice to file proofs of claim in respect of their claims or be barred from doing so, and shall be given notice of such deadline.

12. Each General Creditor Proof of Claim Form filed must: (a) be written in English; (b) be denominated in lawful currency of the United States as of the Petition Date; and (c) have attached copies of any writings upon which the claim is based in accordance with Bankruptcy Rules 3001(c) and 3001(d), including for secured claims, evidence that the alleged security interest has been perfected; and (d) be originally executed and mailed or delivered to Omni Management Group at the following address: Christian Brothers Institute, c/o Omni Management Group, LLC, 16161 Ventura Boulevard, Suite C, PMB608, Encino, California 91436 so as to be received by Omni on the General Bar Date (**proofs of claim sent by facsimile, telecopy, or e-mail will not be accepted**).

13. Sexual Abuse Proof of Claims Forms shall be submitted pursuant to the following Confidentiality Protocol:

- (a) Sexual Abuse Victims are directed **NOT** to file a Sexual Abuse Proof of Claim Form with the Court. Instead, the original and two (2) copies of each Sexual Abuse Proof of Claim Form must be mailed or delivered to Omni at the following address: Christian Brothers Institute, c/o Omni Management Group, LLC, 16161 Ventura Boulevard, Suite C, PMB608, Encino, California 91436.
- (b) Sexual Abuse Proof of Claim Forms submitted by Sexual Abuse Victims will not be available to the general public unless a Sexual Abuse Victim affirmatively indicates his or her desire that the proof of claim be made public in Part 1 of the Sexual Abuse Proof of Claim Form. The Confidentiality Protocol is for the benefit of the Sexual Abuse Victims. Accordingly, Sexual Abuse Victims may elect to make any of the information contained in a Sexual Abuse Proof of Claim Form public, even if they elected to file the Proof of Claim confidentially.
- (c) Sexual Abuse Proof of Claim Forms submitted by a Sexual Abuse Victim shall be held and treated as confidential by the Debtors and Debtors' counsel, and upon request to the parties listed below (the "Permitted Parties"), subject to each Permitted Party executing and returning to Debtors' counsel a confidentiality agreement (the "Confidentiality Agreement"), and to such other persons as the Court determines, provided, however, that all parties with access to

the Sexual Abuse Proof of Claim Forms shall agree to keep the information provided in a Sexual Abuse Proof of Claim Form confidential (unless the Sexual Abuse Victim elects otherwise in Part 1 of the Sexual Abuse Proof of Claim Form).

- (d) The Permitted Parties include:
- (i) Counsel for the Official Committee of Unsecured Creditors. For the avoidance of doubt, Committee members and their personal counsel shall be Permitted Parties; provided, however, that these parties shall have access to the Sexual Abuse Proof of Claim Forms submitted by a Sexual Abuse Victim (after the Sexual Abuse Proof of Claim Form has been redacted to remove the information identified in Parts 2(A) and 2(B) of the Sexual Abuse Proof of Claim Form); and provided further that (a) Committee counsel shall provide five days' notice in writing (including via email) to counsel to the High Schools of Committee counsel's intent to provide a copy of any Sexual Abuse Proof of Claim that identifies one or more of the High Schools to Committee members or their personal counsel, (b) the High Schools may seek entry of an order compelling the Committee counsel to redact any High School identified on a Sexual Abuse Proof of Claim (any such motion, a "Protective Motion"), and (c) Committee counsel shall not provide a copy of any such Sexual Abuse Proof of Claim Form(s) to Committee members or their counsel (unless the identity of the High School is redacted) until such time as the Court enters an order adjudicating any Protective Motion; provided, further, that, subject to further order of the Court, the Committee members and their personal counsel shall be permitted to use information acquired through access to the Sexual Abuse Proof of Claim Forms submitted by Sexual Abuse Victims only for the purpose of fulfilling their fiduciary duties as members of the Committee;
  - (ii) Insurance companies that provided insurance that may cover the claims described in the Sexual Abuse Proof of Claim Forms. For the avoidance of doubt, the Confidentiality Agreement executed by the insurance companies (or any other entity) will cover all employees and agents reasonably necessary to have access to the Sexual Abuse Proof of Claim Forms in order to properly analyze and determine whether to settle and/or defend such Sexual Abuse claims;

- (iii) Any future claims representative appointed under a plan of reorganization;
- (iv) Any special arbitrator/claims reviewer appointed to review and resolve the claims of Sexual Abuse Victims;
- (v) Any settlement trustee appointed to administer payments to Sexual Abuse Victims;
- (vi) Authorized representatives of a department of corrections if the Sexual Abuse Victim is incarcerated but only to the extent disclosure is authorized under applicable non-bankruptcy law;
- (vii) Unless otherwise ordered by the Court, members of the Committee and their personal counsel (after the Sexual Abuse Proof of Claim Form has been redacted to remove the Sexual Abuse Victim's name, address and any other information identified in Part 2(A) of the Sexual Abuse Proof of Claim Form); and
- (viii) Such other persons as the Court determines should have the information in order to evaluate Sexual Abuse Claims.<sup>2</sup>

14. Each Sexual Abuse Proof of Claim Form submitted must: (i) be written in English; (ii) be denominated in lawful currency as of the Petition Date; and (iii) be originally executed and received by Omni at the following address: Christian Brothers Institute, c/o Omni Management Group, LLC, 16161 Ventura Boulevard, Suite C, PMB608, Encino, California 91436 on or before the Sexual Abuse Bar Date (**proofs of claim sent by facsimile, telecopy, or e-mail will not be accepted**).

15. At least sixty (60) days prior to the General Bar Date, the Debtors shall serve by United States mail, first-class postage prepaid, the General Creditor Bar Date Notice Package, upon: (a) the Office of the United States Trustee for the Southern District of New York; (b) counsel to the Official Committee of Unsecured Creditors; (c) all entities who have filed a

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<sup>2</sup> The United States Trustee's Office shall have full access without being required to execute a Confidentiality Agreement.



notice of appearance in the Debtors' cases; (d) all entities listed in the Debtors' Schedules; (e) all parties to executory contracts and unexpired leases of the Debtors; (f) all entities that have previously filed proofs of claim in the Debtors' cases; (g) any other entities or their counsel, including governmental units, known to the Debtors as entities who may have claims against the estates; and (h) such additional persons and entities as deemed appropriate by the Debtors.

16. The Debtors shall provide notice of the Sexual Abuse Bar Date by serving, via United States mail, first-class postage prepaid, at least one hundred fifty (150) days prior to the Sexual Abuse Bar Date, the Sexual Abuse Bar Date Notice Package on known Sexual Abuse Victims who:

- (a) Filed, or threatened to file, lawsuits against the Debtors that allege they were abused;
- (b) contacted the Debtors to report that they were victims of abuse, whether or not that individual's claim was considered to be substantiated and whether or not the report was written or verbal;
- (c) entered into a settlement agreement with the Debtors stemming from allegations of abuse; and
- (d) received payment from the Debtors as a result of an allegation of abuse.

17. At least one hundred fifty (150) days prior to the Sexual Abuse Bar Date, to the extent the Debtors are able to obtain alumni directories, the Debtors will also serve a one page notice in the form annexed hereto as **Exhibit "E,"** on all known alumni of schools, or other institutions in which the Debtors are aware that alleged and/or credibly accused abusers taught or performed ministry, at the addresses set forth in the alumni directories.

18. The Debtors shall provide notice of the Sexual Abuse Bar Date by causing a copy of the publication notice in the form annexed hereto as **Exhibit "E,"** to be published as follows in national publications as well as community/local publications for areas in proximity of

the schools or institutions where the Debtors' Brothers have taught, performed ministry, or were otherwise affiliated with.

Publication twice (in English) in each of the following publications; the first publication to occur within two (2) weeks of the service of the Sexual Abuse Bar Date Notice Package (as required by paragraph 16 of this Order) and the second publication to occur forty-five (45) days prior to the expiration of the Sexual Abuse Bar Date:

National Publications:

New York Times – Nat'l Ed.  
USA Today – Nat'l Ed.

Local U.S. Publications:

Albany Times Union  
Arizona Republic  
Asbury Park Press  
Bergen Record  
Bonita Daily News  
Boston Globe  
Californian  
Chandler Times  
Chicago Sun-Times  
Contra Costa Times  
Hudson Valley Times  
Kent Reporter  
Los Angeles Times  
Madison County Journal  
Miami Herald  
Montebello Comet  
Mountain Eagle  
Naples Record  
New York Times – NY Metro Ed  
Newark Star Ledger  
Oakland Press  
Ocala Star Banner  
Poughkeepsie Journal  
Rochester Democrat & Chronicle  
San Antonio Express News  
Seabee Banner  
Star Advertiser  
Tampa Tribune  
The Bugle

The Herald-News  
The Jena Times  
The Montana Standard  
The Post and Courier  
Times Picayune  
Vallejo Times Herald  
Warwick Beacon

Canadian Publications:

Advertiser  
Burnaby / New Westminister NewsLeader  
Chronicle  
Journal de Montreal  
Journal de Quebec  
Kamloops This Week  
St. John's Telegram  
The Charter  
The Citizen  
The Compass  
The Daily News  
The National Post  
The Western Star  
Times Colonist  
Toronto Star  
Vancouver Province  
Welland Tribune

19. The Debtors shall provide further notice of the Sexual Abuse Bar Date by taking the following measures:

- (a) Upon entry of this Order, the Debtors shall post component parts of the Sexual Abuse Bar Date Notice Package on the following website:

**[www.omnimgt.com/TheChristianBrothers](http://www.omnimgt.com/TheChristianBrothers)**

- (b) The Debtors and the Committee shall maintain a toll free number which may be used by Sexual Abuse to ask questions or obtain copies of the Sexual Abuse Bar Date Notice Package or parts thereof;
- (c) Within one (1) week of the service of the Sexual Abuse Bar Date Notice Package (as required by paragraph 16 of this Order), the Debtors shall mail a copy of the Sexual Abuse Bar Date Notice to the following: (i) the attorney general for each U.S. state where a school is located, and the Canadian counterpart to an attorney general; (ii) the district attorney for each U.S. county where a school is located and the Crown Prosecutor for each Canadian province where a school is located; (iii) the public health agency for each locality where a school is located; (iv) a substance abuse agency in each locality where a school is located; (v) the police department for each locality where a school is located; (vi) the

hospital for each locality where a school is located; and (vii) the Catholic diocese which governs the area where a school is located – and request that each party post such Notice until the expiration of the Sexual Abuse Bar Date;

20. Each request described above shall be on the Debtors' stationery, personally signed by a Christian Brother who is an officer of the Debtors and be in a format approved by the Committee or the Court. The request shall include a statement at the bottom for the recipient to indicate whether it will comply with the request and the request shall include a stamped self-addressed return envelope.

21. For any proof of claim to be validly and properly filed, a signed original together with any accompanying documentation required by Bankruptcy Rules 3001(c) and 3001(d), must be mailed or delivered to Omni at the address identified on the applicable Bar Date Notice so as to be received **no later than 4:00 p.m. (prevailing Eastern Time)** on the applicable Bar Date. Proofs of claim may be submitted in person or by courier service, hand delivery or U.S. mail. Proofs of claim submitted by facsimile or e-mail shall not be accepted. Proofs of claim shall be deemed filed when actually received by Omni by the applicable Bar Date. If a creditor wishes to receive acknowledgement of Omni's receipt of a proof of claim, the creditor also must submit to Omni by the applicable Bar Date and concurrently with submitting its original proof of claim: (i) a copy of the original proof of claim; and (ii) a self-addressed, stamped return envelope.

22. Any person or entity who desires to rely on the Schedules will have the responsibility for determining that the claim is accurately listed in the Schedules.

23. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

24. Entry of this Order is without prejudice to the right of the Debtors to seek a further order of this Court fixing a date by which holders of claims not subject to the applicable Bar Dates established herein must file proofs of claim or be barred from doing so.

25. Nothing contained herein shall constitute a waiver by the Debtors or any party in interest of (a) any defenses in connection with any claims that are asserted against them; or (b) the right to assert that any claims are barred by applicable statutes of limitations.

26. Nothing contained in the definition of sexual abuse in this Order, or in any Exhibit attached to this Order, creates or confers a right of recovery that does not otherwise exist under applicable non-bankruptcy law, nor does it impair any defense or denial otherwise available under applicable non-bankruptcy law.

27. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

Dated: White Plains, New York  
February 10, 2012

/s/Robert D. Drain  
HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE