

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK**

IN RE:

**GATES COMMUNITY CHAPEL OF ROCHESTER,
INC. a/k/a EAGLE RANCH a/k/a GIFT OF
LIFE HOME d/b/a EAGLE PRINTING d/b/a
FREEDOM VILLAGE USA,**

BK. NO. 90-21729

Debtor.

With the changes to the Fourth Amended Plan of Reorganization that have been agreed to this morning, in accordance with Section 1129 of the Bankruptcy Code, I will confirm the Plan of Gates Community Chapel of Rochester, Inc., as so modified, finding that it meets all of the requirements of Section 1129 for confirmation including that it is: 1) in compliance with the applicable provisions of the Bankruptcy Code; 2) proposed in good faith; 3) in the best interests of creditors in that each class of creditors has either accepted the Plan or will receive under the Plan an amount which is not less than that class would receive in a Chapter 7 liquidation; 4) feasible; and 5) in accordance with Section 1129(b), in that each secured creditor class that has not accepted the Plan will retain its liens and will receive deferred cash payments totaling at least the amount of its allowed claim and of a value, as of the effective date of the Plan, of at least the value of the secured creditor's interest in the collateral.

Chapter 11 of the Bankruptcy Code provides the framework for reorganizations of financially distressed entities. It contemplates that in some cases it will be in the overall best interests of creditors and the public for a financially troubled entity, despite its past problems and failures, to be allowed to continue in some reorganized form even though it may not be able to repay all of its creditors in full. Section 1129 of the Bankruptcy Code sets out the basic minimum requirements that a Bankruptcy Judge must find in order to confirm a plan in Chapter 11. Beyond this, however, it is incumbent on the Bankruptcy Judge to make his or her best determination as to the overall equities of the case and what is in the best interests of the creditors and, in many cases, the public. Often the continuation of an entity

may mean the preservation of jobs, an important service to a community or other tangibles and intangibles that promote the best interests of the public.

The Chapter 11 case of Gates Community Chapel of Rochester, Inc. began in this Court nearly 2-1/2 years before my appointment in January of 1992. By then, there had been a great deal of activity in the case including the appointment of an Examiner and the filing of his extensive report; motions by the United States Trustee's office to dismiss the case; and investigations of the Debtor by numerous government authorities, including the Internal Revenue Service, the United States Postal Service, the Federal Bureau of Investigation, the United States Attorney's office, Yates County authorities, and the New York State Attorney General's office. Since January of 1992 an enormous amount of work has been done by the Debtor, its employees and attorneys, the United States Trustee's Office, the Court and its staff and creditors, in particular the Debtor's largest creditor, Cerullo World Evangelism, and its attorneys. These efforts were to determine whether there could be a plan of reorganization which could be confirmed by the Court as being in the best interests of the Debtor, its creditors and the public, or whether the case should be dismissed because no such plan was possible. The result of these efforts is the Fourth Amended Plan of Reorganization which, with some additional modifications, has now been confirmed by the Court as being in the best interests of the Debtor, its creditors and the public. Because this is a case which has throughout its history generated a great deal of public attention, including the publication this week of a fairly extensive series of articles in the Rochester Democrat & Chronicle, I believe that it is important that the Court set forth some of the many factors which it considered in making its decision to confirm the Debtor's plan.

Those factors are as follows:

1. Confirming this or any debtor's plan is not an endorsement by the Bankruptcy Court or of a debtor's creditors who vote for the plan of what may have gone on in the past in connection with that debtor. All debtors in this Court have had past failures, and some are more dramatic than others. To the contrary, the confirmation process is taking a realistic look at the entity today and projected out into the

future to determine, as I have previously stated, whether it can and should survive in some reorganized form because its ongoing survival will best serve the interests of the creditors, who will receive more than they would otherwise receive by its liquidation, and often because the public interest will also be better served.

2. Many questions that the creditors, the examiner and the investigating authorities have asked remain unanswered. The time and expense to obtain these answers, if they are even available, would be prohibitive and would not necessarily make any difference to the Debtor's current and projected operation, its prospects or ability to repay creditors, or the confirmability of its Plan.

3. The case of Gates Community Chapel of Rochester, Inc. is an unusual case for a Bankruptcy Court and for Chapter 11. It is not the usual retailer or manufacturer, it is a church. Because of that, one of the options usually considered in determining whether to confirm a plan, the option to convert the Debtor to a Chapter 7 liquidation case where all of its assets would be marshalled, liquidated and the proceeds distributed to creditors, is not available. Under the Bankruptcy Code an entity such as this Debtor can not be converted to Chapter 7 without its consent, and this Debtor has continually indicated that it would not consent to a conversion to Chapter 7. That would leave the Court only with the option of dismissing the case if a plan is not confirmed which would place the Debtor back where it was before it filed its Bankruptcy petition with numerous judgments against it and creditors executing and attempting to sell its assets at forced sales. It is not unreasonable to believe, as the Debtor has asserted throughout its case, that the result of such a dismissal would be a disorderly rather than orderly liquidation, resulting in far less being obtained by all of the creditors, and then probably by fewer creditors than would receive benefits under the confirmed plan. Such a forced disorderly liquidation often only benefits the most aggressive creditors and those who can afford to hire attorneys to enforce their claims. Typically, those creditors would not be the many individual, often elderly, creditors of this Debtor who probably most need whatever monies they can obtain in repayment of their obligations from

this Debtor and can least afford to pursue their claims outside of this Court and in the absence of a confirmed Plan of Reorganization.

4. Although as I have stated, numerous governmental authorities have to varying degrees investigated the Debtor and some individuals associated with it, no criminal indictments to date have been handed down by any of those authorities, authorities whose responsibility it is to protect the public if crimes have been committed. Confirmation of the Debtor's Plan does not in any way prevent further or continuing investigations.

5. In the very early stages of the Debtor's Chapter 11 case and prior to January 1992, significant post-petition debt was incurred. The Debtor's current Plan provides for the immediate payment of those post-petition debts which are now in excess of \$400,000. This payment will be funded by a loan which will be paid from the liquidation of certain collateral or otherwise by the Debtor, but then not until the \$2.6 Million fund has been paid to creditors. If the Debtor's Plan were not confirmed and its case were dismissed, those post-petition creditors would not have any special priority and may never be paid because of the existing state court judgments and the probable executions which would be filed immediately upon a dismissal.

6. The Debtor has advised the Court that since the filing of its Chapter 11 petition in excess of \$1.4 Million of claims against it have been forgiven by the holders of those claims.

7. Based on balloting computations made and certified to the Court by the attorneys for the Debtor, Lacy, Katzen, Ryen & Mittleman, the holders of over \$7,422,000 in claims against the Debtor voted in connection with the Debtor's Plan. Of those voting creditors, in excess of 72%, creditors holding claims of in excess of \$5,370,000, voted "yes" for the Plan. These creditors represent in excess of 84% of those who voted. For whatever reason those "yes" votes were cast, they are a significant percentage of the voting creditors both in number and in amount. This is despite all of the concerns over the Debtor's past failures.

8. It appears from the Court's records that of what appears to be the 25 largest unsecured creditors of this Debtor, each of which has claims in excess of \$90,000: one (1) claimant has forgiven its claim for in excess of \$140,000; six (6) of the claimants voted "yes" to the Debtor's Plan; six (6) voted "no"; and twelve (12) did not even bother to vote.

9. The statistics on the voting which I have just set forth, with the exception of the vote of Cerullo World Evangelism, the Debtor's largest creditor, were cast in connection with an earlier plan of the Debtor which lacked what the Court feels are significant additional protections and benefits for creditors contained in the modified plan which has been confirmed. These modifications were the result of long and detailed discussions among the Debtor, the United States Trustee's Office, the attorneys for Cerullo World Evangelism and the Court.

10. These recent modifications to the Debtor's Plan include the following: (1) a requirement that the Debtor, in addition to payments to secured creditors, pay creditors in excess of \$2.6 Million before it receives any discharge of its debts, so that either creditors will receive this fund of in excess of \$2.6 Million or the Debtor will continue to owe all of its creditors the full amount which it currently owes them less any payments which are made; (2) a requirement that any creditor wishing to can obtain from the Debtor an affidavit of confession of judgment so that if the Debtor defaults under the Plan and its case is dismissed, the creditor will have the ability to immediately enter judgment in State Court and avoid the additional expense, delay and uncertainty of state court litigation; and (3) the default provisions of the Plan have been made more specific and more easily enforceable.

11. The Debtor's Plan does include the liquidation of some of its assets, with the liquidation to be supervised by a completely independent third party liquidating agent who has no prior or current connection whatsoever with the Debtor.

12. Throughout the Debtor's Chapter 11 case and most particularly after January 1992, the Debtor has been working with an outside accounting firm to establish accounting controls and to cut costs

