

FILE

IN THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matters of the Complaints:

CCM Properties c/o Martin Management
Services,

Complainant,

v.

American Electric Power,

Respondent,

and

Reg Martin, Court Appointed Receiver
for 90 North High Partners, LLC,

Complainant,

v.

American Electric Power,

Respondent.

Case No.: 11-1185-EL-CSS, and

Case No.: 11-883-EL-CSS

PUCO

2011 AUG 22 PM 4:14

RECEIVED-DOCKETING DIV

POST HEARING BRIEF OF AMERICAN ELECTRIC POWER

Paul Leithart
Counsel of Record
Strip, Hoppers, Leithart, McGrath
& Terlecky Co., LPA
575 South Third Street
Columbus, Ohio 43215
Telephone (614) 228-6345
pwl@columbuslawyer.net

Counsel on Behalf of Complainants CCM
Properties c/o Martin Management and
Reg Martin, Court Appointed Receiver
for 90 North High Partners, LLC

Matthew J. Satterwhite
Marilyn McConnell
American Electric Power
Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
Telephone: (614) 716-1915
Facsimile: (614) 716-2950
mjsatterwhite@aep.com
mmccConnell@aep.com

Counsel for Respondent,
American Electric Power

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business.

Technician TM Date Processed AUG 22 2011

INTRODUCTION

These cases involve whether the application of Ohio Receivership law, R.C. §2735.01-§2735.06, trumps the Commission's power under Title 49 to regulate utilities, and whether a receiver appointed pursuant by a Court to manage a property that is in foreclosure is entitled to be treated like a new customer. The answer to both issues is no. The Commission is vested with the power to regulate public utilities and state law provisions dealing with receivership issues in no way limit the duty, power, or authority of the Public Utilities Commission of Ohio or any orders issued or rules promulgated by the agency.

AGREED STATEMENT OF FACTS

The Attorney Examiner encouraged the parties to these cases to discuss the issues and facts and determine whether the facts could be stipulated in lieu of a hearing. The parties successfully carried out the Attorney Examiner's request and entered into a joint statement of facts, filed with the Commission on July 28, 2011, entitled "Joint Proposed Agreed Statement of Facts and Issues by Complainant and Respondent."

Agreed Facts:

1. Reg Martin of Martin Management Services was appointed receiver in two separate cases where property related to customers of two different AEP entities were involved in foreclosure proceedings;
 - a. Ohio Power Company's customer located at 217 Larwill Avenue, Wooster, Ohio; *The Ohio State Bank v. Icarus Investments, LLC et al.* Case No.: 10-CV-470, Wayne County Court of Common Pleas
 - b. Columbus Southern Power's customer located at 90 N. High Street, Columbus, Ohio; *CF Bank v. 90 North High Partners, LLC, et al.*, Case No.: 10 CVH-010849

2. The records contained in the civil court dockets in each of the cases referenced in item 1 may be relevant to the Commission's consideration in the present cases before the Commission and the Parties agree that the documents in those dockets are available to each party for use as evidence in the proceedings in front of the Commission.
3. In both of the complaint cases before the Commission, AEP is owed for electric use for dates prior to the appointment of a receiver in the respective foreclosures from the active customer account.
4. Reg Martin asserts that AEP is an unsecured creditor for receivership purposes; AEP Ohio asserts that this characterization is irrelevant for purposes of this proceeding.
5. For the customer account located at 217 Larwill Avenue, AEP is owed for unpaid charges, beyond the current billing period, for electric use and charges incurred after the appointment of a receiver in that foreclosure. Reg Martin was appointed Receiver on the property on August 2, 2010. CCM is the customer of record, but is a management company and not the property owner that Reg Martin is serving as Receiver for in the receivership proceeding. CCM has been the name on the AEP account since April 28, 2010. Receiver first paid on the account in December 3, 2010. There were unpaid charges for electric use after Reg Martin was appointed Receiver. Reg Martin asserts those were unpaid due to issues he experienced dealing with the CCM management group.
6. AEP did not transfer this account into the receiver's name as a new account and the account, both pre and post receivership, remains in the name of CCM Properties care of Reg Martin, Martin Management as court appointed receiver.
7. For the customer located at 90 North High Street, AEP is not owed for electric use, beyond the current billing period, for post receivership debt incurred after the appointment of a receiver.
8. Reg Martin of Martin Management Services has been appointed a receiver by the civil courts in numerous foreclosures for a large number of properties.
9. In the foreclosure of the customer located at 217 Larwill Avenue, the original Order appointing Martin Management receiver was filed on August 3, 2010.
 - a. That Order forbade public utilities from disconnecting the properties that were the subject of the foreclosure, and also forbade public utilities from charging a deposit.
 - b. AEP intervened in that foreclosure, moved that the Order be set aside as the Court did not have subject matter jurisdiction to enjoin AEP from following its Tariff regarding disconnect and deposit issues.

- c. The Order was amended to delete the references to regulated utilities on January 31, 2011.
 - d. AEP scheduled a disconnect of the property for non-payment and disconnected the property on March 3, 2011.
 - e. As receiver, Reg Martin filed a Complaint on March 4, stating that as of March 2011, all current electric charges were paid in full through that date, and stated that there was a tenant currently in occupation at that address.
 - f. Based upon these statements, the attorney examiner issued an Entry the same day the Complaint was filed, ordering that the service to the residence be reconnected and placed in the name of Reg Martin, Receiver, as long as Mr. Martin continues to make full payment of all post-receivership bills.
 - g. AEP reconnected the property and noted in its system that Reg Martin's/Martin Management's name was the entity to deal with on the account and to whom to direct the bill.
 - h. Complainant requested a mailing change of address on September 3, 2010 and that request was honored.
10. For the property located at 90 North High Street.
- a. Reg Martin of Martin Management was first appointed receiver by the Court on July 30, 2010.
 - b. There were subsequent amendments to that Order.
 - c. AEP billed the property a deposit, due to unpaid bills--and late charges on those bills-- from prior to the appointment of the receiver.
 - d. Reg Martin as receiver disputed having to pay a deposit when the unpaid bills were incurred prior to July 30, 2010.
 - e. AEP did not put the account into Reg Martin's name as a new customer as Receiver.
11. Under the civil court's terms of the appointment as receiver (as indicated in 2 above), neither Reg Martin nor Martin Management is personally liable for the bills incurred by or on behalf of either of the properties that are in receiverships.
12. The Ohio Revised Code section on Receivership is R.C. 2735.01-2735.06.

13. Federal bankruptcy law is not the same as Ohio Receivership law governed by R.C. 2735.01- 2735.06 and applicable case law.
14. Reg Martin, has served as a receiver in past situations involving other AEP Ohio customers and received copies of bills to pay, in his role as receiver, without a demand for payment of pre-receivership debt. AEP changed its practices around a year and half ago to address this practice.

As part of the agreed facts, the parties incorporate by reference the filings in the foreclosure actions in which Complaint was appointed Receiver, and which underlie the present Commission Complaints. (¶ 2 Agreed Statement of Facts). Certain documents from these Court cases are relevant to the facts or issues in these Complaints, and are attached as Exhibits 1 through 4.

Exhibit 1 is the Docket in *The Ohio State Bank v. Icarus Investments, LLC, et al.* Case No. 10-CV-470, Wayne County Court of Common Pleas, which is the foreclosure action involving the 117 Larwill Avenue Property. Pleadings from that case relevant to the issues here are: “Amended Order Appointing Receiver” (Exhibit 2) filed January 31, 2011; “Report of Receiver and Application for Approval of Receiver and Counsel for Receivership Fees and Costs,” (Exhibit 3), filed on April 2, 2011, and approved by the Wayne County Court on May 4, 2011, according to the Docket (Exhibit 1). Exhibit 4 is the “Order Appointing Receiver” filed on July 30, 2010 in *CFBANK v. 90 North High Partners, LLC, et al.*, 10-CVE-07-10849, Franklin County Court of Common Pleas. Exhibit 5 is the Entry filed at the beginning of Case 11-1185-EL-CSS, ordering AEP to reconnect the property at Larwill Avenue that had been disconnected for non-payment.

LEGAL STANDARD

It is a well established Commission principle that the burden of proof in a complaint proceeding is on the Complainant. *In the matter of Complaint of Charlene*

Rundo v. Duke Energy Ohio, Inc., Case No. 06-940-GE-CSS, 2008 WL 647808 (Mar. 5, 2008) citing *Grossman v. Pub. Util. Comm.* (1966) 5 Ohio St. 2d 189. As such it is up to the Complainant to frame the issues in a complaint case and ultimately prove its case. The Commission is the proper authority to decide all issues regarding how a utility provides service to its customer. The Commission is “[V]ested with the power and jurisdiction to supervise and regulate public utilities and railroads, to require all public utilities to furnish their products and render all services exacted by the commission or by law. . .” R.C. 4905.04.

LAW AND ARGUMENT

AEP will address the “Issues for Commission Review” outlined on page 5 of the Joint Proposed Agreed Statement of Facts and Issues by Complainant and Respondent, filed in this docket on July 28, 2011, and the issues requested to be addressed by the Attorney Examiner in paragraph 5 of the Entry filed in this docket on August 10, 2011

1. Whether Ohio Receivership Law Preempts the Commission’s Jurisdiction and Orders Under Title 49 of the Ohio Revised Code.

The entire Ohio Revised Code regarding receiverships consists of exactly six statutes, only one of which sets forth what authority a receiver has over the property he manages. Ohio Revised Code §2735.04, titled “Powers of Receiver,” merely states:

Under the control of the court which appointed him, as provided in section 2735.01 of the Revised Code, a receiver may bring and defend actions in his own name as receiver, take and keep possession of property, receive rents, collect, compound for, and compromise demands, make transfers, and generally do such acts respecting the property as the court authorizes.

This section is silent regarding utilities. It is a general provision that does not directly supersede or disrupt the comprehensive legislative scheme for regulation of utilities

under Title 49. For this general section to supersede the very specific Title 49, there would have to be “manifest legislative intent” that receivership law regarding utilities trumps Commission jurisdiction and oversight. As stated by the Ohio Supreme Court:

“[W]e have held that where there is no manifest legislative intent that the general provision prevail over the specific provision, the specific provision applies. *State v. Chippendale* (1990), 52 Ohio St.3d 118, 556 N.E.2d 1134. Here, R.C. 4112.99 is the more general statute. Consequently, R.C. 4112.99 prevails over R.C. 4112.02(N) only if there is a clear manifestation of legislative intent.

Meyer v. UPS, 122 Ohio St. 3d 104, 109 (Ohio 2009)

Respondent claims that pre-receivership debt is “considered frozen, as in a bankruptcy, and payment . . . would be considered a preference. It should be noted that all debt incurred post receivership also is considered to be an administrative claim and carries a payment that is senior to even secured parties, after Court approval.” (Page 2, continued paragraph 1, Complaint 11-883-EL-CSS). As can be seen from §2735.04, this is a completely false statement of a receiver’s powers. There is nothing in the Ohio Revised Code that grants a receiver any such authority. These are federal powers granted to a bankruptcy trustee under Title 11 of the United States Code. *See* 11 U.S.C. §§ 101 *et seq.*, not a receiver under state Ohio Revised Code §2735.04. The attempt to bootstrap federal bankruptcy practices onto state law receivership practices to trump the clear authority of the Commission is invalid and should be rejected by the Commission.

Ohio Revised Code sections on receiverships—which fit comfortably on two pages—does not begin to compare to the Federal Bankruptcy Code, despite Complainant’s attempts to portray itself as having the same powers as a bankruptcy trustee. Federal Bankruptcy law is promulgated pursuant to Article I of the Constitution of the United States and does indeed regulate pre-petition debt, utility deposits,

preference actions, and administrative priorities. It does it very specifically, with protection of a creditor's right to notice of the bankruptcy proceeding, 11 U.S.C. §521, a creditor's right to file a proof of claim, 11 U.S.C. §501, liquidation of all of a debtor's assets to pay those claims, not just secured collateral, 11 U.S.C §521, protection of a utility's right to a post-petition deposit, 11 U.S.C §366, preference actions to recover preferential payments to creditors, 11 U.S.C §547, and provision for payment of administrative expenses, 11 U.S.C §503. If the foreclosing bank in either of these two actions wanted to avail itself of these procedures, it could—and should—have filed an involuntary bankruptcy action against its mortgagee. It did not. Complainant cannot appropriate the parts of the bankruptcy code that suit his purposes and claim they are part of the Ohio receivership statute.

2. Whether the Commission's Rules and Regulations Preclude AEP from Treating a Receiver as a New Customer on an Account Once He is Appointed as Receiver, and

3. Whether a Receiver is Merely an Extension of an Existing AEP Customer or Whether a Receiver is a New Customer Who is Entitled to Have Service Transferred Into His Name Upon His Appointment and Treated as a New Customer.

The second and third issues to be addressed are really two sides of the same coin—the ability or appropriateness of having a receiver considered a new customer. The issue really concerns the impact of making a back of office change to put a new customer on the bill and the impact that has on a utility's ability to protect against unpaid bills in the regulatory system provided by the Commission. The appointment of a receiver is a banking function that only changes who is managing the property. It does not change the actual usage of a premise. In fact, the basis of a receivership in many cases is to encourage the retention of paying tenants on a property to assist in the paying any unpaid

or ongoing costs of the property after the control of the property changes hands. Those are receivership issues. The public utility, in this case AEP, is expected by the Commission to manage its credit risk appropriately, and AEP has determined that to treat a receiver—or any other new manager of a commercial property—as a new customer, increases AEP’s write offs on uncollectible accounts.

The doctrine referred to as the “benefit of service” rule would bar the treatment being requested by Complainant in these cases. AEP is specifically authorized by the legislature under Title 49 to refuse to provide service to a “new” customer if the “old” customer is still on the premises receiving the benefit of service and owes an arrearage to AEP. Ohio Revised Code §4933.121(B) states:

(B) The company shall not refuse to furnish electricity on account of arrearages due it for electricity furnished to persons formerly receiving services at the premises as customers of the company, **provided** the former customers are not continuing to reside at the premises. (emphasis added).

There can be no question that in a receivership situation, the old customer is still on the premises. If there is an arrearage or “pre-receivership debt,” the legislature has specifically authorized utilities to refuse to provide service to a receiver who does not want to pay the “old” customer’s arrearage.

Treating a receiver as a new customer also does not logically fit with what constitutes a customer and carries with it other duties a receiver would be bound to, accept. A customer is liable for the utility bills it incurs—a receiver is not. (c.f. Exhibit 4, paragraph 14). Additionally, if a customer has unpaid closed accounts, the arrearages from those accounts can be transferred to a new account pursuant to AEP’s credit policies. If a receiver was truly a customer, a utility could transfer unpaid charges

from all of the other foreclosures in which that receiver had been appointed to a current account. This would lead to absurd results and would likely have receivers complaining to the Commission as the transferred charges would not be related to the actual customer at issue.

It is clear that the real customer is not the receiver. Federal bankruptcy law says that even if a property is in foreclosure and a receiver is appointed, the defendant in the foreclosure can still file for bankruptcy protection. *In re Orchards Village Investments, LLC*, 405 B.R. 341, (Bankr. D. Ore. 2009). The debts are the customer's debts, whether pre-or post- receivership, not the receiver's.

A receiver does not own the property or the business it is appointed to manage, merely having the right to manage the property as part of the bank foreclosure. Whoever buys the property at the end of the foreclosure proceeding is AEP's new customer, not the receiver. As stated previously, a receiver is nothing more than an interim manager appointed by the court during a foreclosure proceeding. He is a fiduciary of the court, controlled by the court, and is not a party to the foreclosure proceeding.

"A 'receiver' is defined as '[a]n indifferent person between the parties to a cause, appointed by the court to receive and preserve the property or fund in litigation, and receive its rents, issues, profits, and apply or dispose of them at the direction of the court * * *. A fiduciary of the court, appointed as an incident to other proceedings wherein certain ultimate relief is prayed. He is a trustee or ministerial officer representing the court * * *.'" *Id.* at 74, fn. 4, quoting Black's Law Dictionary (6th Ed. 1990) 1268.

Hummer v. Hummer, 2011 Ohio 3767, P15 (Ohio 8th District Ct. App., July 29, 2011)

A receiver merely steps into the shoes of the entity over which it was appointed receiver. In order for a receiver to bring a claim or file suit, the entity whom is in receivership has to have been able to bring that claim. If the entity has no right to bring a claim, neither does the receiver. As stated by the Sixth Circuit Court of Appeals:

We have recognized the general rule that a receiver acquires no greater rights and powers to sue than the person or entity whose property is in receivership. See *Javitch*, 315 F.3d at 625 ("Because they stand in the shoes of the entity in receivership, receivers have been found to lack standing to bring suit unless the receivership entity could have brought the same action.") (citations omitted).

Liberte Capital Group, LLC v. Capwill, 248 Fed. Appx. 650 (6th Circuit, Ohio 2007)

AEP's practice is in accordance with these principles. A receiver steps into the shoes of the entity in receivership and manages the property as he finds it. If the customer has an arrearage and the receiver wants to continue to receive electric service, it must comply with the terms of the tariff and AEP's credit policies. If a property is in financial trouble the answer cannot be to bar the Commission from providing a utility its collection and disconnection rights and risk incurring greater debt by requiring service to be continued. A receiver has no right to receive electric service under different terms than the customer it is managing -- standing in the shoes should mean standing in the shoes.

4. Is the Complainant Required or Authorized by the Court to Pay the Outstanding AEP Utility Bills for the Properties Placed into Receivership Prior to the Appointment of the Complainant?

Yes. See Exhibit 2, paragraphs 6 and 12, and Exhibit 4, paragraph 4(b).

5. Is AEP Authorized by Statute or Rule to Disconnect Utility Service to the Properties Managed by the Complainant for Failure to Pay the Utility Bills Incurred by the Properties Prior to the Appointment of the Complainant?

Yes, the Commission developed a number of rules to govern the disconnection of utility customers. In particular, the Commission promulgated a chapter of rules dedicated to the disconnection of residential customers (O.A.C. 4901:1-18 Termination of Residential Service) and other rules defining the parameters controlling the disconnection of non-residential customers (O.A.C. 4901:1-10-15 to 4901:1-10-17).¹

The fact that there is a new manager in control of the property, in these cases the Complainant, does not change the fact that the customer is still on the premises and receiving the benefit of service, and hence is still responsible for any debt incurred. AEP is specifically authorized to disconnect the premises. Ohio Revised Code §4933.121(B). Nothing in AEP's tariff or Title 49 states otherwise, or indicates that a change in managers of a property means that the property cannot be disconnected for charges incurred under a prior manager.

Further, the appointment of a receiver does not create a safe zone where a utility is guaranteed to receive payment of post-receivership debt barring any opportunity for justifiable disconnections. In fact Complainant admits that he failed to pay AEP's bills for electric service provided after he was appointed receiver for the Larwill Avenue property. (Agreed Statement of Facts, paragraph 5.) The Complainant represents that the failure to pay was due to issues with the property owner at the time. (Id.) This fact alone underscores the importance of allowing the utility to maintain its right to disconnect to encourage payment and to avoid further unpaid debt. Put simply, Complainant admits

¹ As indicated above there is a statute R.C. 4933.121 entitled: Company May Shut off Electricity; Exception.

that there can be issues between the receiver and management of a property even after a receiver is officially appointed by the Court that result in the utility bill not being paid for providing electric service. The Commission should not remove the utility's authority to manage its risk with the tools provided by the Commission which at times involve the right to disconnect.

A presumption that a receiver, who is not regulated by the Commission, can interrupt the Commission's disconnection process due to its standing as a receiver is a dangerous precedent to set. In fact, one of these very cases shows the danger of relying upon such a presumption. AEP had disconnected the Larwell property for non-payment of both pre-and post-receivership bills, pursuant to the terms of its tariff and in accordance with established procedures for disconnection. In order to get electric service restored, on March 4, 2011, Complainant filed 11-1185-EL-CSS, alleging that: 1) AEP's disconnect notices were based on unpaid pre-receivership debt and, 2) There was a tenant "currently in occupation." (Entry, Exhibit 5).

Based on these representations, the Commission did as requested and entered an immediate Entry on March 4, 2011—prior to even serving AEP with the Complaint—ordering AEP to reconnect the property. (Exhibit 5). The problem is it appears that neither of these assertions made by Complainant were true. As stated before, the Complainant admitted in the Agreed Statement of Facts that it was delinquent in paying for the electric usage incurred after he was appointed receiver for that property, and so his claim that these disconnect notices were based on pre-receivership debt was false. Any distinction attempted to be made that it was an issue between he and the management

company when he took over is irrelevant. He was the appointed receiver and the utility bill did not get paid.

Even more disturbing is the fact that he while represented to the Commission on March 4 2011 that there was a tenant at that location, in his final report to the Court filed on April 2, 2011, Complainant represented that “No rents were collected during the receivership as the properties were not occupied. Therefore, the Receiver holds no funds and an accounting is unnecessary.” (page 2, Exhibit 3, Report of Receiver and Application for Approval of Receiver and Counsel for Receiver Fees and Costs.) Complainant cannot in good faith represent that there were tenants at a property to the Commission in order to get an expedited Entry against AEP, and then, less than a month later, turn around and report to the Judge that appointed him receiver that the properties—specifically mentioning the Larwill Avenue property—were unoccupied during the entire period he was a receiver, including the time represented to the Commission that tenants were present.

The Commission allows for disconnection for the non-payment of utility bills. The fact that a third party may receive new management control of an account without any liability for payment of the account, does not preempt or dismiss the utility’s disconnection rights. The Commission’s disconnection procedure is well defined and provides the customers with proper notice. A change in management is not a change in customer and should not be used to dismiss the right of a utility to protect its interests or require it to continue to provide electric service to a customer not paying for service.

6. Why Did AEP Recently Change its Practice of Not Requiring a Receiver to Pay Pre-Receivership Debts? Was it Reasonable to Change its Practice?

AEP did not change its practice so much as it was forced to address the fact that the number of foreclosures skyrocketed and receivers started handling them differently. For many years receivers would just assume responsibility for a customer's account. AEP did not have any particular "receivership policy", as the receivers would just pay the bills in the ordinary course of business—catching up a customer where it had an arrearage, paying a deposit if the customer owed one, or just paying the monthly bills as they received them. AEP was not aware of any losses directly attributable to a receiver being appointed to manage AEP's customer.

About two years ago, about the same time the number of foreclosures increased astronomically, receivers started unilaterally making the distinction between "pre-receivership" bills and "post-receivership" bills. They started refusing to bring accounts current once they were appointed, or refused to pay deposits on delinquent accounts (where appropriate), and yet demanded that AEP continue to supply electricity to the customer until the property was sold at the end of the foreclosure. Foreclosing banks started asking courts for authority to require utilities to continue to provide electricity to the properties in foreclosure, regardless of non-payment. Some of the Orders even went so far as to require utilities to turn over customer's deposits to the receiver, and forbade utilities from disconnecting the properties for any reason whatsoever, even complete non-payment.

This resulted in increased delinquencies for AEP, and also resulted in receivers being treated differently than AEP's other customers. In order to rectify this situation, AEP has intervened in various foreclosures—as it did here in the Larwill Avenue foreclosure. Once AEP explains its tariff procedures and Commission jurisdiction to the

trial judges, trial judges almost universally understood the issue and amended their orders.

Despite vague allegations in the Complaint in Case No. 11-883-EL-CSS, AEP has never violated a Court Order of Receivership, and has instead intervened and moved to have those Orders set aside as improperly interfering with Commission jurisdiction. AEP's continued intervention in foreclosure has been successful in that Judges now rarely issue a receivership order that attempts to interfere with AEP's tariff terms. AEP has reduced its losses due to their commercial customers being in foreclosures, and has ensured consistent treatment of AEP's customers.

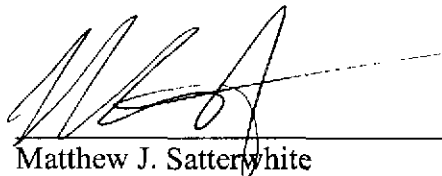
The efforts of AEP to ensure it is able to collect payment for the electric service it provides is very reasonable. If the Commission wants to establish a policy that will provide utilities recovery for these receivership and pre-receivership debts then it needs to issue a decision guaranteeing recovery of these costs. Absent this type of entry a utility cannot be expected to subsidize the banking receivership industry by absorbing debt related to property it needs to put into receivership. AEP reacted to a problem in an attempt to control the unrecovered debts owed to it and meet the expectations of the Commission to seek recovery of unpaid bills.

CONCLUSION

The Commission process for debt collection and disconnection is well regulated and full of due process overseen by an active Commission staff and Commission rules promulgated pursuant to statute. AEP respectfully requests that the Commission allow it and other utilities to utilize those tools the Commission provided. As shown by the agreed facts in this very case there is no guarantee of protection for the utility from

unpaid bills simply because a receiver is appointed. The Commission is charged with overseeing the utility industry and a busy civil court, acting under a short section of Ohio Revised Code is not in a position to govern utility matters. The interruption of a regulated utility practice due to a third party, uncontrolled by the Commission, should be rejected. Likewise, the creation of a new customer account for a receiver that will attach no personal responsibility for the account if unpaid by the receiver under the shield of a civil court order should also be rejected. Especially in a situation where the debt incurred will still be considered debt of the existing customer and not the receiver if it is unpaid. The new account number is nothing but a work around for the receiver working on behalf of the bank to circumvent utility practice. The Commission should see through this façade and maintain its control of its lengthy statutory authority over utility practice by denying the complaint and ordering the account to be paid or be subject to disconnection.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'MJA', is written over a horizontal line.

Matthew J. Satterwhite
Marilyn McConnell
American Electric Power
Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
Telephone: (614) 716-1915
Facsimile: (614) 716-2950
mjsatterwhite@aep.com
mmcconnell@aep.com

Counsel for Respondent, American Electric
Power

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served by First-Class United States Mail,
postage prepaid, upon the following parties via counsel:

Paul Leithart
Strip, Hoppers, Leithart, McGrath
& Terlecky Co., LPA
575 South Third Street
Columbus, Ohio 43215

by ordinary US Mail this 22nd day of August, 2011.

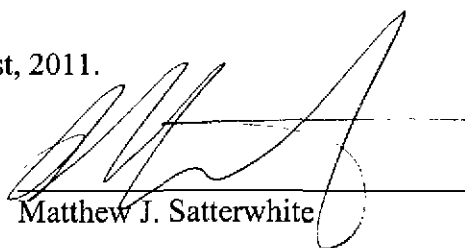
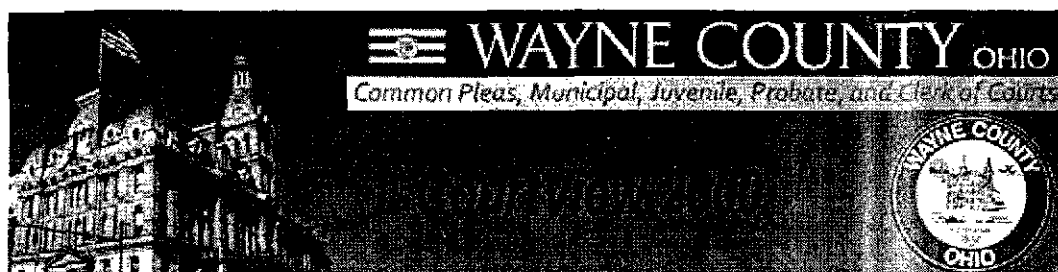

Matthew J. Satterwhite

EXHIBIT 1



General Inquiry


[New Search...](#)

Summary

Parties

Events

Dockets

Fields

Notes

Disposition

Costs

Docket Search

10-CV-0470 THE OHIO STATE BANK ICARUS INVESTMENTS LLC et al

Search Criteria

Docket Desc. ALL

Begin Date

Sort

End Date

☐ Ascending☒ Descending

Search Results 78 Docket(s) found matching search criteria.

Docket Date	Docket Text	Amount	Amount Due	Images
08/15/2011	TRACK CASE WITH C/A FILE IN CLERKS OFFICE	0.00	0.00	
08/15/2011	NOTICE OF APPEAL (11-CA-0040) DOCKETING STATEMENT	0.00	0.00	
07/15/2011	OHIO STATE BANK VS ICARUS INVESTMENTS BOND CHECK ISSUED TO MARTIN MANAGEMENT SERVICES INC	250.00	0.00	
07/15/2011	OHIO STATE BANK VS ICARUS INVESTMENTS DEPOSIT/REFUND CHECK ISSUED TO LARRY J MCCLATCHEY	33.66	0.00	
07/15/2011	JOURNAL ENTRY APPROVING FINAL REPORT OF RECEIVER AND APP TO CLOSE RECEIVERSHIP COPY MCCLATCHEY; MILLER; MCCONNELL; GOLDBERG Receipt: 55011 Date: 07/15/2011	2.00	0.00	
07/15/2011	TRACK-CASE IN CLERK'S OFFICE	0.00	0.00	
07/13/2011	TRACK CASE OUT TO JUDGE	0.00	0.00	

SPITLER		
07/13/2011	FILED FINAL REPORT OF RECEIVER AND APP TO CLOSE RECEIVERSHIP	0.00 0.00
07/01/2011	TRACK-CASE IN CLERK'S OFFICE	0.00 0.00
06/30/2011	JOURNAL ENTRY: THE APPELLATE DISMISSES THE APPEAL (11-CA-0009) (SEE JE)	0.00 0.00
05/04/2011	TRACK CASE WITH C/A FILE IN CLERKS OFFICE	0.00 0.00
05/04/2011	JOURNAL ENTRY APPROVING REPORT OF RECEIVER AND APP TO PAY RECEIVER AND COUNSEL FOR RECEIVER FEES AND COSTS COPY MCCLATCHEY Receipt: 55011 Date: 07/15/2011	2.00 0.00
05/04/2011	TRACK-CASE IN CLERK'S OFFICE	0.00 0.00
05/02/2011	TRACK CASE OUT TO JUDGE SPITLER	0.00 0.00
05/02/2011	FILED REPORT OF RECEIVER AND APP FOR APPROVAL OF RECEIVER AND COUNSEL FOR RECEIVER FEES AND COSTS	0.00 0.00
03/02/2011	TRACK CASE WITH C/A FILE IN CLERKS OFFICE	0.00 0.00
03/02/2011	NOTICE OF APPEAL (11-CA-0009) DOCKETING STATEMENT	0.00 0.00
02/02/2011	JOURNAL ENTRY APPROVING REPORT OF RECEIVER CONF SALE AND CLOSING COPY GOLDBERG; MCCLATCHEY; MCCONNELL; MILLER; Receipt: 55011 Date: 07/15/2011	2.00 0.00
02/02/2011	TRACK-CASE IN CLERK'S OFFICE	0.00 0.00
02/01/2011	TRACK CASE OUT TO JUDGE SPITLER	0.00 0.00
02/01/2011	FILED RECEIVERS REPORT OF PUBLIC SALE, APP FOR CONF OF SALE	0.00 0.00
01/31/2011	JOURNAL ENTRY AMENDED ORDER APPTG RECEIVER COPY MCCLATCHEY; MCCONNELL; GOLDBERG Receipt: 55011 Date: 07/15/2011	2.00 0.00
01/31/2011	TRACK-CASE IN CLERK'S OFFICE	0.00 0.00
01/28/2011	TRACK CASE OUT TO JUDGE SPITLER	0.00 0.00
01/28/2011	FILED RECEIVER'S COMBINED RESPONSE TO MOTION OF INTERVENOR, OHIO POWER, TO SET ASIDE ORDER APPTG RECEIVER	0.00 0.00
01/18/2011	JOURNAL ENTRY HEARING OF 1/28/11 SET ASIDE, RECEIVER HAS UNTIL 1/28/11 TO RESPOND TO	2.00 0.00

INTERVENOR'S MOTION TO BE
DECIDED W/OUT A HEARING COPY
MCCLATCHEY; GOELZ Receipt: 55011
Date: 07/15/2011

01/18/2011	TRACK-CASE IN CLERK'S OFFICE	0.00	0.00
01/12/2011	TRACK CASE OUT TO JUDGE SPITLER	0.00	0.00
01/12/2011	MOTION FILED FOR CONTINUANCE	0.00	0.00
01/05/2011	NOTICE OF HEARING SET 1/28/11 @ 11:00 AM	0.00	0.00
01/04/2011	JOURNAL ENTRY GRANTING LEAVE TO INTERVENE FOR OHIO POWER CO, MOTION OF OHIO POWER TO SET ASIDE ODER APPTG RECEIVER AS TO UTILITIES COPY MCCLATCHEY; MCCONNELL; GOLDBERG Receipt: 55011 Date: 07/15/2011	2.00	0.00
01/04/2011	TRACK-CASE IN CLERK'S OFFICE	0.00	0.00
12/27/2010	NOTICE OF PUBLIC SALE ON JANUARY 20, 2011 @ 11:00 AM.	0.00	0.00
11/17/2010	TRACK CASE OUT TO JUDGE BROWN	0.00	0.00
11/17/2010	MOTION FILED OF OHIO POWER TO INTERVENE AND LEAVE TO FILE MOTION TO SET ASIDE ORDER APPTG RECEIVER	0.00	0.00
11/09/2010	JOURNAL ENTRY AUTHORIZING RECEIVER TO SELL REAL ESTATE AT PUBLIC SALE COPY GOLDBERG JOURNAL ENTRY JUDGMENT IN FAVOR OF PLTNF COPY GOLDBERG Receipt: 55011 Date: 07/15/2011	4.00	0.00
11/09/2010	TRACK-CASE IN CLERK'S OFFICE	0.00	0.00
10/20/2010	MOTION FOR DEFAULT JUDGMENT (NEW) SENT TO MAG SPITLER	0.00	0.00
10/18/2010	MOTION FILED FOR DEFAULT JUDGMENT	0.00	0.00
10/15/2010	TRACK CASE OUT TO JUDGE BROWN	0.00	0.00
10/07/2010	JOURNAL ENTRY ORDERED THAT THE HEARING SCHEDULED FOR OCTOBER 7, 2010 IS HEREBY CONTINUED TIL OCTOBER 19, 2010 @ 2:45 PM. COPIES TO MCCLATCHEY, GOLDBERG, MILLER, ICARUS, UNKNOWN TENANTS. Receipt: 55011 Date: 07/15/2011	2.00	0.00
10/07/2010	NOTICE OF HEARING (MOTION FOR AUTHORITY TO SELL) OCTOBER 7, 2010 @ 2:30 PM.	0.00	0.00
10/07/2010	TRACK-CASE IN CLERK'S OFFICE	0.00	0.00

10/06/2010	MOTION FILED FOR CONTINUANCE OF HEARING SCHEDULED FOR OCTOBER 7, 2010.	0.00	0.00
10/04/2010	MOTION FILED FOR RECEIVER OF AUTHORITY TO SELL REAL ESTATE AT PUBLIC SALE	0.00	0.00
09/30/2010	TRACK CASE OUT TO JUDGE BROWN	0.00	0.00
09/20/2010	NOTICE OF HEARING FOR MOTION FOR AUTHORITY TO SELL OCTOBER 6, 2010 @ 2:30 PM	0.00	0.00
09/20/2010	TRACK-CASE IN CLERK'S OFFICE	0.00	0.00
09/17/2010	TRACK CASE OUT TO JUDGE BROWN	0.00	0.00
09/17/2010	MOTION FILED FOTR AUTHORITY TO SELL REAL ESTATE AT PUBLIC SALE	0.00	0.00
08/17/2010	NOTICE OF APPEARANCE OF COUNSEL KENNETH R. GOLDBERG ON BEHALF OF RECEIVER, MARTIN MANAGEMENT SERVICES, INC.	0.00	0.00
08/10/2010	BOND DEPOSIT (CASH) PER RECIEVER Receipt: 45430 Date: 08/10/2010	250.00	0.00
08/10/2010	FILED RECEIVER'S UNDERTAKING	0.00	0.00
08/03/2010	JOURNAL ENTRY ORDER APPOINTING RECEIVER. COPIES TO ICARUS INVESTMENTS, GOLDBERG, PRINCE, MCCLATCHEY Receipt: 55011 Date: 07/15/2011	12.00	0.00
08/03/2010	ELECTRONIC CERTIFIED MAIL RETURNED FOR: ICARUS INVESTMENTS, E BROAD ST., COLUMBUS, OH SIGNED FOR BY: UNREADABLE 7/14/10	0.00	0.00
08/03/2010	TRACK-CASE IN CLERK'S OFFICE	0.00	0.00
07/28/2010	TRACK CASE OUT TO JUDGE BROWN	0.00	0.00
07/28/2010	ELECTRONIC CERTIFIED MAIL RETURNED FOR: ICARUS INVESTMENTS SIGNED FOR BY: CARPENTER 7/14/10	0.00	0.00
07/28/2010	NOTICE OF HEARING TELEPHONE CONFERENCE AUGUST 3, 2010 @ 9:00 AM.	0.00	0.00
07/28/2010	TRACK-CASE IN CLERK'S OFFICE	0.00	0.00
07/22/2010	ELECTRONIC CERTIFIED MAIL RETURNED FOR: ICARUS SIGNED FOR BY: RENEE MILLER 7/6/10	0.00	0.00
07/22/2010	ELECTRONIC CERTIFIED MAIL RETURNED FOR: SEC OF STATE SIGNED FOR BY:CARPENTER 7/14/10	0.00	0.00
07/12/2010	CERT MAIL SENT Receipt: 55011 Date:	8.98	0.00

07/15/2011

07/12/2010	FORECLOSURE SUMMONS ISSUED BY CERT MAIL FORECLOSURE SUMMONS Sent on: 07/12/2010 10:43:02 Receipt: 55011 Date: 07/15/2011	8.00	0.00
07/12/2010	FILED PLNT REQUEST FOR ADD'L SERVICE OF PROCESS ON OHIO SEC OF STATE, (4) COPIES OF SUMMONS AND COMPLAINT IN THIS MATTER, CHECK FOR \$5, AFFIDAVIT OF FAILURE OF DFNT TO MAINTAIN VALID STATUTORY AGENT ADDRESS.	0.00	0.00
07/09/2010	NOTICE OF FAILURE ON UNKNOWN TENANT #1 724 STATE STREET RETURNED VACANT Receipt: 55011 Date: 07/15/2011	2.00	0.00
07/07/2010	NOTICE OF FAILURE OF SERVICE CERT MAIL UNKNOWN TENANT, UNIT #2, 217 E. LARWILL ST., VACANT 7/6/10 Receipt: 55011 Date: 07/15/2011	2.00	0.00
07/07/2010	NOTICE OF FAILURE OF SERVICE CERT MAIL ICARUS INVESTMENTS S FIRST ST, RITTMAN, OH 7/3/10 NOT DELIVERABLE AS ADDRESSED, RETURN TO SENDER Receipt: 55011 Date: 07/15/2011	2.00	0.00
07/05/2010	ELECTRONIC CERTIFIED MAIL RETURNED FOR: UNKNOWN TENANT 435 NORTH GRANT ST SIGNED FOR BY: TIM J. WOLFE 7/2/10	0.00	0.00
07/05/2010	ELECTRONIC CERTIFIED MAIL RETURNED FOR: UNKNOWN TENANT #3 WOOSTER, OH SIGNED FOR BY: KAREN BAKSTON 7/2/10	0.00	0.00
07/02/2010	ANSWER FILED BY DEFENDANT REBECCA M. SCHENK	0.00	0.00
06/30/2010	TRACK CASE OUT TO JUDGE BROWN	0.00	0.00
06/30/2010	MOTION FILED FOR APPT OF RECEIVER	0.00	0.00
06/30/2010	CERT MAIL SENT Receipt: 55011 Date: 07/15/2011	45.36	0.00
06/30/2010	SENT MOTION FOR EXTENSION, REQ MEDIATION AND ANSWER SHEET W/SUMMONS	0.00	0.00
06/30/2010	FORECLOSURE SUMMONS ISSUED BY CERT MAIL FORECLOSURE SUMMONS Sent on: 06/30/2010 13:47:40 Receipt: 55011 Date: 07/15/2011	14.00	0.00
06/28/2010	FORECLOSURE FILED W/PRELIM JUDICIAL Receipt: 44202 Date:	264.00	0.00

06/28/2010

06/28/2010 FORECLOSURE DEPOSIT Receipt: 146.00 0.00
44202 Date: 06/28/2010

EXHIBIT 2

IN THE COURT OF COMMON PLEAS
WAYNE COUNTY, OHIO

FILED
WAYNE COUNTY
COMMON PLEAS COURT
2011 JAN 31 PM 4 44

TIM NEAL
CLERK OF COURTS

The Ohio State Bank, :
Plaintiff, :
vs. : Case No. 10 CV 470
Icarus Investments, LLC, et al. : Judge Robert J. Brown
Defendant. :

AMENDED ORDER APPOINTING RECEIVER

This case came before the Court upon the Motion of Intervenor, Ohio Power Company, to Set Aside the Order Appointing Receiver as it Pertains to Regulated Utilities and Motion of Receiver to Amend the Order Appointing Receiver.

The Court, upon reviewing the Motion, relevant authorities and otherwise being fully informed, finds that amending the order appointing receiver is warranted and the Motion should be and hereby is GRANTED. It is therefore ORDERED, ADJUDGED and DECREED that:

1. The Properties: 724 State Street, Wadsworth, Medina County, Ohio; 516 College Avenue, Wooster, Wayne County, Ohio; College Avenue land; 217 E. Larwill, Wooster, Wayne County, Ohio; 435 North Grant Street, Wooster, Wayne County, Ohio; and 308 E. Bowman Street, Wooster, Wayne County, Ohio ("the Property") be placed in the hands of a Receiver for the protection of creditors, and that Martin Management Services, Inc., by and through its principal, Reg Martin, be appointed receiver in this action (the "Receiver"). The Receiver shall take charge, possession and custody of the Property. The Receiver is granted all powers necessary and usual in such cases for the protection, possession, control, management, and operation of the Property.

2. Pursuant to Ohio Rev. Code § 2735.01, the Receiver shall serve after providing a bond in the amount of \$250.00.

3. The Receiver shall be compensated at the rate of \$125 per hour and shall be entitled to administrative expense priority on any claim for compensation. The Receiver is authorized to employ the services of the law firm of Strip, Hoppers, Leithart, McGrath & Terlecky Co., L.P.A. as legal counsel for the Receiver. Counsel for Receiver shall be compensated at the rate of \$250 per hour and shall be entitled to administrative expense priority on any claim for compensation.

4. Defendant, Icarus Investments, LLC, its agents and employees, shall turn over to the Receiver, immediately upon its qualification, all sums in existence on the date hereof that are related to or pertain to, or derived from the Property, including but not limited to: (a) all cash in and; (b) all cash equivalents and negotiable instruments (such as checks, notes, drafts or other related documents or instructions); and (c) all sums held in accounts in any financial institutions (including, without limitation, (i) tenant/lessee security deposits; (ii) deposits held in escrow for any purpose such as for payment of real estate taxes and insurance premiums; (iii) proceeds of insurance maintained for, or pertaining to, the Property; provided, however, any sums related to claims occurring prior to the date hereof shall be turned over to Bank; (iv) rent or prepaid rent; (v) funds designated or intended for capital improvements, repairs or renovations to, or in connection with, the Property; and (vi) all other sums of any kind relating to the use, enjoyment, possession, improvement or occupancy of all or any portion of the Property.

5. Icarus Investments, LLC, its agents and employees shall, from and after the date of the entry of this Order, turn over to the Receiver all of the personal property, if any, acquired

by Icarus Investments, LLC or used by Icarus Investments, LLC in connection with the Property including, but not limited to, all property which is subject to Bank's loan documents.

6. The Receiver is hereby further authorized: (a) to take possession of and operate and/or manage the Property; (b) to manage, control, and protect the Property during the pendency of this action; (c) to provide ongoing and adequate financial information to Bank; (d) to collect all Property income, including all rents, reimbursements and revenues from the Property; (d) to apply all income toward the payment of expenses required to maintain and manage the Property as determined by the Receiver, including management and operating expenses, taxes, assessments, utilities, mortgage payments, and insurance premiums against the Property; (e) to market the Property for sale and sell or liquidate the Property as provided in paragraph 7 of this Order; (f) to investigate and bring actions to recover any property of Bank; (f) to obtain insurance for the Property, in addition to existing prepaid coverage, if necessary, in such amounts, with such companies and to insure against such risks as the Receiver deems necessary or desirable; and (g) to do such other things as necessary to protect the Property under the supervision and direction of this Court.

7. The Receiver may sell, liquidate, lease or otherwise dispose of the Property or other property of Bank with the express consent and authorization of Bank and further Order of this Court. The Receiver shall promptly provide to Bank and other persons entitled to notice under this Order written summaries of all communications by or to the Receiver regarding potential sales of the Property. Each summary shall include a description of the property to be sold, the purchase price, and the proposed closing date. Any Order approving a sale of any property shall provide that the proceeds of such sale shall be encumbered by any and all liens or security interests encumbering such property to the same extent, validity, and priority as such

liens or security interests attached to the property sold. All such proceeds, net of cost and expenses of the sale, shall be segregated in a federally insured bank account created and maintained by the Receiver and disbursed only in a manner consistent with this Order or upon order of the Court. With the consent of Bank, the proceeds of the sale of the Property may be paid to Bank by the Receiver in an amount up to and including the full amount of indebtedness due and owing by Icarus Investments, LLC to Bank, the exact amount of which may be determined at that time by the Court.

8. Icarus Investments, LLC shall cooperate fully with the Receiver and shall take all steps necessary to comply with this Order and other orders of the Court, with all applicable law and/or rules, and is enjoined from interfering with the use, management, possession, control, and liquidation of the Property by the Receiver.

9. The Receiver shall have all powers at law or equity to carry out its duties and shall perform its duties under supervision of the Court.

10. To assist the Receiver in fulfilling his duties and obligations hereunder, the Receiver is authorized: (a) to hire employees of Martin Management Services, Inc., or others at its direction, at reasonable compensation to be approved by the Court; and (b) to hire or retain any other agents or employees with prior Court approval after notice and hearing.

11. The Receiver shall be allowed payment for its services, costs, and expenses from funds advanced by Bank. The out-of-pocket costs and expenses of the Receiver shall be paid in the ordinary course of the management of the Property without application to the Court. The Receiver and its agents, counsel, accountants and/or other retained professionals ("Professionals") shall submit regular fee applications to the Court, Bank, and all other creditors and other persons requesting notice in these proceedings. Such applications shall be heard by the

Court and subject to the Court's approval. Upon approval of the Receiver's fee application, the Receiver shall be permitted to withdraw its fees from the Receiver's account.

12. Bank may, in its sole discretion, make protective advances under the Loan Documents for payment of the following expenses in aid of the Receiver: (a) utilities for the Property, including gas, electric, telephone, and water; (b) security for the Property; (c) insurance for the Property; (d) taxes of any kind or nature accruing after the receivership required to be paid on the Property by the statutes of the United States or any state political subdivision or any governmental agency; and (e) such other expenses necessary to maintain and preserve the Property.

13. Any and all monies advanced by Bank shall become expenses of administration of the receivership, shall be refundable directly to Bank, and shall be secured by the Property.

14. The Receiver, and any designee hereafter appointed by the Receiver, shall have complete access over and through all of the Property, for purposes of performing the duties set forth herein and in any way related to the management and operation of the Property.

15. The Receiver shall cooperate with Bank and its counsel to the full extent necessary for the Receiver to fulfill the Receiver's fiduciary duties.

16. Nothing in this Order shall be construed to prevent Bank from pursuing a foreclosure action with respect to the Property or exercising any and all rights available to it under the Promissory Note, Mortgage, and other loan documents.

17. All creditors, claimants, bodies politic, parties in interest, and all sheriffs, marshals, and other officers, and their respective attorneys, servants, agents, and employees, and all other persons, firms and corporations be, and they hereby are, jointly and severally, enjoined and stayed from commencing or continuing any action at law or suit or proceeding in equity to

foreclose any lien on the Property, or against the Receiver in any court. All such entities are further stayed from executing or issuing or causing the execution or issuance out of any Court any writ, process, summons, attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with, or enforcing any claim or lien upon, any property owned by or in the possession of the said Receiver, and from doing any act or thing whatsoever to interfere with the Receiver in the discharge of his duties as set forth herein.


18. This Order shall be in full force and effect as of the date of its journalization with the Clerk of this Court.

19. It is further ORDERED that the Receiver notify all known creditors of the company of the receivership herein, and said creditors are ORDERED to file sworn claims within forty-five (45) days of the notice thereof or else be forever barred from asserting the same.

IT IS SO ORDERED.

1-31-11

Date


JUDGE ROBERT J. BROWN

cc:

Larry J. McClatchey, Esq.
Christy A. Prince, Esq.
Attorneys for Plaintiff, The Ohio State Bank

Marilyn McConnell, Esq.
Attorney for Movant, Ohio Power Company

Kenneth R. Goldberg, Esq.
Attorney for Receiver

JOURNALIZED

JAN 31 2011

TIM NEAL, CLERK
WAYNE COUNTY, OHIO

FILED
COMMON PLEAS COURT
WAYNE COUNTY, OHIO
2011 JAN 31 PM 11 24
TIM NEAL
CLERK OF COURTS

EXHIBIT 3

**IN THE COURT OF COMMON PLEAS
FOR WAYNE COUNTY, OHIO**

The Ohio State Bank,	:	
Plaintiff,	:	
vs.	:	Case No. 10 CV 470
Icarus Investments, LLC, et al.	:	Judge Robert J. Brown
Defendant.	:	

**REPORT OF RECEIVER AND APPLICATION FOR APPROVAL
OF RECEIVER AND COUNSEL FOR RECEIVER FEES AND COSTS**

The Receiver, Martin Management Services, Inc., by and through its principal, Reg Martin ("Receiver"), hereby submits its Report and Application for Approval of Receiver and Counsel for Receiver Fees and Costs. Since the inception of the Receivership, the Receiver has put significant effort into the prompt liquidation of the receivership assets which consisted of several real estate parcels. The Receiver obtained property valuations for the real estate and expended effort in securing and maintaining the real estate. The Receiver, through his own efforts and the efforts of a realtor marketed the real estate in an effort to sell the real estate. Ultimately, the Receiver determined that selling the real estate at a Receiver's Public Sale was the best method to liquidate the real estate. The Receiver, with the assistance of counsel, obtained court orders authorizing the public sale of the real estate, conducted a public sale of the real estate and obtained court approval of the sale and closing. Counsel for Receiver drafted appropriate motions and orders for court approval of the receiver's public sale. The Receiver and counsel communicated with counsel for Plaintiff, The Ohio State Bank, the first secured lienholder, to insure its approval of the process.

The public sale was conducted for the real estate with the following sale results:

724 State Street, Wadsworth, Ohio also identified as parcel no. 038-17C-14-020 sold to The Ohio State Bank, or its assignee for \$32,000 (credit);

516 College Avenue, Wooster, Ohio also identified as parcel no. 64-01393.000 sold to The Ohio State Bank, or its assignee for \$29,000 (credit);

College Avenue Land also identified as parcel no. 64-00626.000 sold to JRD Enterprises, LLC for \$1,000 (cash);

217 East Larwill, Wooster, Ohio also identified as parcel no. 64-00424.000 sold to The Ohio State Bank, or its assignee for \$60,000 (credit);

435 N. Grant Street, Wooster, Ohio also identified as parcel no. 64-00835.000 and 64-00834.000 sold to The Ohio State Bank, or its assignee for \$31,000 (credit); and

308 E. Bowman Street, Wooster, Ohio also identified as parcel no. 64-00683.000 sold to E.W. Swartzentruber for \$400 (cash).

No rents were collected during the receivership as the properties were not occupied. Therefore, the Receiver holds no funds and an accounting is unnecessary.

The Receiver hereby requests approval from this Court for the payment of the fees and costs of the Receiver and that of its counsel as administrative expenses of the Receivership. The Receiver requests the approval of the payment of \$6,998.05 plus additional costs advanced in the amount of \$901.08 for the Receiver for its fees and costs incurred from the commencement of the receivership to the present and \$10,737.71 to counsel for the Receiver for its fees and costs from commencement of the receivership to the present. The fees and costs of the Receiver and counsel for the Receiver are set forth in detail in the attached Exhibits A and B.

The Receiver and counsel for the Receiver have worked diligently to successfully preserve and liquidate the assets of the receivership and obtain the highest and best value from

the sale of the assets. The Receiver states that all fees and costs are reasonable, were necessary for the administration of the Receivership, and hourly charges were consistent with the Order Appointing Receiver. The Receiver requests that same be paid as administrative expenses by Plaintiff, The Ohio State Bank at the closing of the sale of the real estate.

For these reasons, the Receiver respectfully requests that the Court approve this Report and authorize the payment of Receiver and counsel for Receiver fees and costs as administrative expenses of the receivership.

Respectfully submitted,



Kenneth R. Goldberg (0059724)

Attorney for Receiver,
Martin Management Services, Inc.

**STRIP, HOPPERS, LEITHART, MCGRATH
& TERLECKY CO., L.P.A.**

575 South Third Street

Columbus, OH 43215

(614) 228-6345 (telephone)

(614) 228-6369 (facsimile)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Report of Receiver and Application for Approval of Receiver and Counsel for Receiver Fees and Costs was served via regular U.S. mail on this 25th day of April, 2011, upon:

Larry J. McClatchey, Esq.
Christy A. Prince, Esq.
Kegler Brown Hill & Ritter
65 E. State St., Suite 1800
Columbus, OH 43215
Attorney for Plaintiff

Unknown Tenant
Unit #1
217 E. Larwell
Wooster, OH 44691

Marilyn McConnell, Esq.
American Electric Power Service Corp.
1 Riverside Plaza, 29th Fl.
Columbus, OH 43215
Attorney for Ohio Power Company

UNDELIVERABLE - VACANT
Unknown Tenant
Unit #2
217 E. Larwell
Wooster, OH 44691

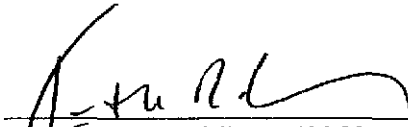
UNDELIVERABLE - VACANT
Unknown Tenant #2
516 College Ave.
Wooster, OH 44691

Renee S. Miller, Manager
Icarus Investments, LLC
103 S. First St.
Rittman, OH 44270

Icarus Investments, LLC
c/o Renee S. Miller, Statutory Agent
103 S. First St.
Rittman, OH 44270

UNDELIVERABLE - VACANT
Unknown Tenant
435 North Grants St.
Wooster, OH 44691

UNDELIVERABLE - VACANT
Unknown Tenant #1
724 State St.
Wadsworth, OH 44281



Kenneth R. Goldberg (0059724)
Counsel for Receiver, Martin Management
Services, Inc.

Recap of hours for ICARUS INVESTMENTS, LLC #1 by individual and services

	HOURS	TOTAL
Total Time Reg Martin	32.75	\$ 4,093.75
Total Time A. Evans	35.00	\$ 1,575.00
Total Time M. Feyes	3.00	\$ 150.00
Total Time Office	37.75	\$ 1,132.50
Total Postage		
Total Photo Copies - @ \$.15ea	312	\$ 46.80
Total Faxed - pages @ \$.20/page		
Project Manager expenses		
Total Time this period 8/1/10 - 3/28/11		\$ 6,998.05



Reg Martin		Activity	
Date	Time	Hours	Client
ICARUS #1 - WAYNE CTY			
8/4/10	8:45-3:30	6.75	Icarus #1
8/4/10	8:45-3:30		Icarus #1
8/6/10	2:45-3:15	0.50	Icarus #1
8/6/10	2:45-3:15		Icarus #1
8/9/10	10:00-10:15	0.25	Icarus #1
8/16/10	10:00-10:15	0.25	Icarus #1
8/23/10	10:00-10:15	0.25	Icarus #1
8/30/10	10:00-10:15	0.25	Icarus #1
9/7/10	12:15-12:30	0.25	Icarus #1
9/8/10	3:30-3:45	0.25	Icarus #1
9/13/10	1:00-1:15	0.25	Icarus #1
9/13/10	10:00-10:15	0.25	Icarus #1
9/17/10	5:15-5:30	0.25	Icarus #1
9/20/10	10:00-10:15	0.25	Icarus #1
9/20/10	5:00-5:15	0.25	Icarus #1
9/22/10	1:15-1:30	0.25	Icarus #1
9/22/10	1:15-1:30		Icarus #1
9/27/10	10:00-10:15	0.25	Icarus #1
9/27/10	3:30-3:45	0.25	Icarus #1
9/27/10	3:30-3:45		Icarus #1
9/30/10	2:15-2:30	0.25	Icarus #1
9/30/10	2:15-2:30		Icarus #1
9/2/10	9:30-10:00	0.50	Icarus #1
10/4/10	10:00-10:15	0.25	Icarus #1
10/11/10	10:00-10:15	0.25	Icarus #1
10/18/10	10:00-10:15	0.25	Icarus #1
10/21/10	9:00-9:15	0.25	Icarus #1
10/22/10	12:00-12:15	0.25	Icarus #1
10/22/10	12:00-12:15		Icarus #1
10/25/10	8:00-8:15	0.25	Icarus #1
10/26/10	9:00-9:15	0.25	Icarus #1
10/27/10	3:30-3:45	0.25	Icarus #1
10/28/10	1:30-1:45	0.25	Icarus #1
10/28/10	1:30-1:45		Icarus #1
11/1/10	2:00-2:15	0.25	Icarus #1
11/8/10	2:30-2:45	0.25	Icarus #1
11/15/10	7:30-7:45	0.25	Icarus #1
11/22/10	11:30-11:45	0.25	Icarus #1
11/22/10	11:30-11:45		Icarus #1
11/29/10	10:00-10:15	0.25	Icarus #1
11/30/10	10:15-11:00	0.75	Icarus #1
12/1/10	1:45-2:00	0.25	Icarus #1
12/1/10	1:45-2:00		Icarus #1

12/2/10	11:00-11:15	0.25	Icarus #1	Email received re: home winterizations. t/c A. Evans to discuss.
12/6/10	10:00-10:15	0.25	Icarus #1	pick up mail, review and distribute correspondence
12/13/10	10:00-10:15	0.25	Icarus #1	pick up mail, review and distribute correspondence
12/13/2010	2:30-2:45	0.25	Icarus #1	Received email from Att. Goldberg re: using lobby of Justice Center for public sale (agreed).
12/13/2010	2:30-2:45		Icarus #1	Received an email from A. Evans re: offer on 516 College for \$28,500.
12/16/10	11:45-12:00	0.25	Icarus #1	Confirmed Receiver's sale date on 1/20/11 in Wooster via email to Att. Goldberg.
12/20/10	10:00-10:15	0.25	Icarus #1	pick up mail, review and distribute correspondence
12/22/10	4:15-5:30	0.25	Icarus #1	Received \$29,000 offer from A. Evans (College Ave.). Advised to get in writing.
12/27/10	6:00-6:15	0.25	Icarus #1	Met with Att. Goldberg and discussed \$29,000 contract and assignment at Public sale.
12/27/10	7:30-7:45	0.25	Icarus #1	pick up mail, review and distribute correspondence
12/28/10	1:45-2:15	0.50	Icarus #1	Received, reviewed advertising for public sale and cost of \$1428. Received, reviewed notice of AEP motion to set aside receivership and Att. Goldberg's response. Received email from B. Rotten re: \$29,000 purchase offer. Responded and received answer.
12/28/10	1:45-2:15		Icarus #1	Received, reviewed copy of purchase contract for 516 College. Forwarded to Att. Goldberg.
12/29/10	4:15-4:30	0.25	Icarus #1	Received, reviewed amended order that was sent to AEP.
1/10/10	7:30-7:45	0.25	Icarus #1	pick up mail, review and distribute correspondence
1/3/11	10:00-10:15	0.25	Icarus #1	pick up mail, review and distribute correspondence
1/3/11	4:45-5:00	0.25	Icarus #1	Received, reviewed motion of receiver re: amended order re: receiver due to AEP objection.
1/5/11	3:00-3:15	0.25	Icarus #1	Received, reviewed an amended order appointing receiver. Received and reviewed emails between Att. McConnell (AEP) and Att. Goldberg re: subject.
1/13/11	11:30-11:45	0.25	Icarus #1	Met with L. Colosimo (PUCO) and advised of AEP's position and motion to change order. Advised balances to be paid and case closed after receiver's sale.
1/13/11	11:30-11:45		Icarus #1	t/c Att. S. Hawley (OSB) re: public sale and assignment of contract for 516 College. Reviewed contract
1/14/11	11:00-11:45	0.75	Icarus #1	discussed commission with realtor. Signed counter after bank approval. Requested bank give their opinion on opening value. Discussed utility bills and course of action. Email from Att. Goldberg approving language in counter.
1/14/11	11:00-11:45		Icarus #1	Reviewed utility spreadsheet and first draft of rent reconciliation.
1/14/11	7:30-7:45	0.25	Icarus #1	Email from AEP that they will not set up new account for receiver. Responded to G. Holland.
1/17/11	1:45-2:00	0.25	Icarus #1	pick up mail, review and distribute correspondence
1/19/11	5:45-6:15	0.50	Icarus #1	t/c B. Rovtar re: opening and minimum offers at 1/20/11 receiver's sale in Wooster. Received email from A. Evans to B. Rovtar re: location of non-improved parcels. Follow up email confirming conversation
1/19/11	5:45-6:15		Icarus #1	Traveled to Wooster for public sale of OSB properties. Conducted sale, sold seven properties. t/c.
1/20/11	8:30-1:00	4.50	Icarus #1	S. Keller at OSB to confirm purchase price on unimproved lots. Met with B. Rovtar (OSB) at sale to discuss banks interest in properties.
1/20/11	8:30-1:00		Icarus #1	Received, signed RE disclosure for 516 College.
1/26/11	1:00-1:15	0.25	Icarus #1	Received, signed counter for 516 College. Returned to realtor.
2/2/11	8:45-9:00	0.25	Icarus #1	Received, reviewed amended order approving receiver. Received, reviewed transcript of public sale.
2/3/11	3:30-3:45	0.25	Icarus #1	Received, reviewed order from court confirming public sale.
2/7/11	4:45-5:00	0.25	Icarus #1	Received, signed RE disclosure for 516 College.
2/15/11	1:15-1:30	0.25	Icarus #1	Email received from A. Evans. Buyer of 516 College ready to close. t/c Att. Goldberg.
2/18/11	3:30-3:45	0.25	Icarus #1	Received, reviewed A/P. Approved and processed invoices for payment.
3/15/11	12:45-1:00	0.25	Icarus #1	t/c Brad Royton (OSB) re: updated status of case for examiner visit.
3/15/11	3:30-3:45	0.25	Icarus #1	Received email from Att. Goldberg to A. Evans re: status of case and assignment and assumption agreement to execute.
3/21/11	11:30-12:00	0.50	Icarus #1	Received, reviewed email to B. Oberholzer (Talon Title) with copy of purchase contract, counter offer and partially signed assignment and assumption of contract agreement to be signed by the bank at closing. Received email from B. Oberholzer requesting court order. Received email with order.
3/21/11	11:30-12:00		Icarus #1	
3/21/11	11:30-12:00		Icarus #1	

3/21/11	4:00-4:15	0.25	Icarus #1	Received disconnect notice from AEP re: disconnect. Obtained PUCO previously ruling and forward to PUCO for response.
3/21/11	4:00-4:15		Icarus #1	
3/24/11	10:30-10:45	0.25	Icarus #1	Received email from Att. Auker (Talon Title) re: lot purchase by JRD with no access. Responded.
tbd	tbd	2.50	Icarus #1	Receive, review, execute all final documents for closing of receivership.

Total Hours	32.75
Rate	\$ 125.00
Total	\$ 4,093.75

A. Evans		Time	Hours	Client	Activity
Date					ICARUS #1 - WOOSTER
August-10	to		35.00		Duties associated with the rent, lease, valuation, maintenance of properties.
January-11					
Feb-11					
Mar-11					
Total Time			35.00		
Rate	x \$		45.00		
Total	\$		1,575.00		
M. Feyes		Time	Hours	Client	Activity
Date					ICARUS #1 - WOOSTER
August-10	to		3.00		Supervision of receivership accounts, project manager, staff, etc.
January-11					
Total Time			3.00		
Rate	x \$		50.00		
Total	\$		150.00		

D.Ronal		Activity	
Date	Time	Hours	Client
			ICARUS #1 - WOOSTER
August-10		1.50	Receive and prepare activity reports for receiver, project manager; other duties as required.
September-10		2.25	Receive and prepare activity reports for receiver, project manager; other duties as required.
October-10		2.25	Receive and prepare activity reports for receiver, project manager; other duties as required.
November-10		1.50	Receive and prepare activity reports for receiver, project manager; other duties as required.
December-10		2.50	Receive and prepare activity reports for receiver, project manager; other duties as required.
January-11		4.00	Receive and prepare activity reports for receiver, project manager; other duties as required.
February-11		1.25	Receive, update activity report, view attorney and project manager activity, update for court.
March-11		1.50	Receive, update activity report, view attorney and project manager activity, update for court.
D. Cafarella		Activity	
Date	Time	Hours	Client
			ICARUS #1 - WOOSTER
September-10		3.00	Accounts receivable (rents), accounts payable, check register, meetings/updates with Adam Evans.
October-10		3.00	Accounts receivable (rents), accounts payable, check register, meetings/updates with Adam Evans.
November-10		3.00	Accounts receivable (rents), accounts payable, check register, meetings/updates with Adam Evans.
December-10		3.00	Accounts receivable (rents), accounts payable, check register, meetings/updates with Adam Evans.
January-11		3.00	Accounts receivable (rents), accounts payable, check register, meetings/updates with Adam Evans.
February-11		3.00	Accounts receivable (rents), accounts payable, check register, meetings/updates with Adam Evans.
March-11		3.00	Accounts receivable (rents), accounts payable, check register, meetings/updates with Adam Evans.
TOTAL HOURS		37.75	
X		30.00	
TOTAL		1132.50	

STRIP, HOPPERS, LEITHART, McGRATH & TERLECKY
A LEGAL PROFESSIONAL ASSOCIATION
575 SOUTH THIRD STREET
COLUMBUS, OH 43215-5759
(614) 228-6345

EXHIBIT

tabbles®

B

Renee Miller Icarus Investment
Reg Martin, Receiver
Martin Management Services, Inc.

ACCOUNT NO:
STATEMENT NO:

Page:
09/29/201
14132-0001

Wayne County Receivership

		HOURS	
05/25/2010	TELEPHONE CONFERENCE WITH LARRY MCCLATCHEY AT KEGLER RE: POTENTIAL NEW RECEIVERSHIP; RECEIVED AND REVIEWED E-MAIL AND ATTACHMENT RE: SAME, GATHER FORM FOR MOTION AND ORDER APPOINTING RECEIVER	0.50	125.0
05/26/2010	ATTENTION TO PREPARING DRAFTS OF MOTION AND ORDER APPOINTING RECEIVER TO SEND TO LARRY MCCLATCHEY	0.60	150.0
06/28/2010	REVIEWED COMPLAINT FOR FORECLOSURE AND PROPOSED MOTION AND ORDER APPOINTING RECEIVER; ANALYZE ISSUE OF ONE PROPERTY BEING LOCATED IN MEDINA COUNTY; EXCHANGE E-MAILS WITH LARRY MCCLATHEY	1.00	250.0
07/01/2010	TELEPHONE CONFERENCE WITH CHRISTY PRINCE RE: APPROVAL OF MOTION AND ORDER FOR RECEIVER; REVIEWED MOTION AND ORDER FOR APPOINTMENT OF RECEIVER	0.40	100.0
07/19/2010	E-MAIL TO LARRY MCCLATCHY RE: STATUS	0.10	25.0
07/22/2010	EXCHANGE EMAILS RE: APPROVAL OF ORDER APPOINTING RECEIVER IN WAYNE COUNTY	0.30	75.0
08/04/2010	RECEIVED AND REVIEWED SIGNED ORDER APPOINTING RECEIVER; E-MAIL TO REG FORWARDING COPY OF ORDER AND STRATEGIZING RE: PROCEEDING WITH CASE; DRAFT RECEIVER'S UNDERTAKING	0.60	150.0
08/05/2010	ATTENTION TO NOTICE OF RECEIVERSHIP AND SUGGESTION OF STAY; REVIEWED FIRST MERIT CASE FILED AGAINST ICARUS IN MEDINA COUNTY, FINALIZE RECEIVER'S UNDERTAKING	1.10	275.0
08/06/2010	FINAL PREPARATION OF RECEIVER'S UNDERTAKING AND ARRANGE FILING	0.20	50.0
08/11/2010	PREPARE NOTICE OF APPEARANCE IN WAYNE COUNTY CASE; ORGANIZE FILES INCLUDING FILE RELATING TO FIRST MERIT V. ICARUS CASE IN MEDINA COUNTY	0.40	100.0

		HOURS	
3/20/2010	OFFICE CONFERENCE WITH REG RE: SALE OF REAL ESTATE	0.40	100.00
3/27/2010	OFFICE CONFERENCE WITH REG MARTIN RE: FILING FOR RECEIVER'S SALE ON SEVEN PROPERTIES	0.20	50.00
3/08/2010	OFFICE CONFERENCE WITH REG MARTIN RE: DRAFTING MOTION FOR PUBLIC RECEIVER'S SALE OF REAL ESTATE; PREPARE FOR DRAFTING MOTION FOR PUBLIC RECEIVER'S SALE FOR SEVERAL PARCELS	1.10	275.00
3/09/2010	DRAFT MOTIOIN FOR RECEIVER'S PUBLIC SALE	0.90	225.00
	TELEPHONE CONFERENCE WITH SEAN HARLEY RE: RECEIVERSHIP ISSUES	0.20	50.00
9/14/2010	DRAFT PROPOSED ORDER APPROVING MOTION FOR RECEIVER'S PUBLIC SALE	0.50	125.00
	DRAFT PROPOSED ORDER APPROVING MOTION FOR RECEIVER'S PUBLIC SALE; FINALIZE EXHIBIT TO MOTION FOR RECEIVER' S PUBLIC SALE	0.90	225.00
9/15/2010	FINAL PREPARATION MOTION AND PROPOSED ORDER TO CONDUCT RECEIVER'S PUBLIC SALE OF PROPERTIES	0.30	75.00
9/21/2010	RECEIVED AND REVIEWED NOTICE OF HEARING; E-MAIL TO REG RE: ATTENDANCE AT HEARING, DOCKET HEARING DATE	0.30	75.00
9/23/2010	TELEPHONE CONFERENCE WITH REG MARTIN RE: TERMS OF ORDER, WHETHER RECEIVER HAS RIGHT TO ICARUS ACCOUNTS NOT RELATED TO REAL ESTATE	0.20	50.00
	EXCHANGE E-MAILS WITH LARRY MCCLATCHEY RE: MOTION FOR PUBLIC SALE HEARING DATE	0.20	50.00
9/24/2010	EXCHANGE E-MAILS WITH LARRY MCCLATCHEY	0.10	25.00
9/27/2010	EXCHANGE E-MAILS WITH LARRY MCCLATCHEY RE: ATTENDANCE AT HEARING, BANKS POSITION RE: SAME	0.10	25.00
	Kenneth R. Goldberg	10.60	2,650.00
6/28/2010	CONFERENCE WITH ATTY GOLDBERG RE: RECEIVERSHIP SALE PROCESS WITH REAL PROPERTY IN TWO SEPARATE COUNTIES	0.20	41.00
8/05/2010	CONFERENCE WITH ATTY GOLDBERG RE: WAYNE CO. RECEIVERSHIP, AND PROVISIONS FOR LIMITED STAY	0.30	61.50
	Aaron C. Firstenberger	0.50	102.50
	FOR CURRENT SERVICES RENDERED	11.10	2,752.50
	TOTAL CURRENT WORK		2,752.50

Renee Miller Icarus Investment

Wayne County Receivership

Page: 3
09/29/2010
ACCOUNT NO: 14132-000R
STATEMENT NO: 1

BALANCE DUE

\$2,752.50

PLEASE INCLUDE YOUR ACCOUNT NUMBER ON YOUR CHECK

WE ACCEPT VISA/MASTERCARD PAYMENTS

PAYMENT METHOD ☐ CHECK ☐ VISA ☐ MASTERCARD
ACCOUNT NUMBER _____ EXP DATE _____
SIGNATURE _____ AMOUNT \$ _____

STRIP, HOPPERS, LEITHART, McGRATH & TERLECKY
A LEGAL PROFESSIONAL ASSOCIATION
575 SOUTH THIRD STREET
COLUMBUS, OH 43215-5759
(614) 228-6345

Renee Miller Icarus Investment
Reg Martin, Receiver
Martin Management Services, Inc.

Page: 1
10/28/2010
ACCOUNT NO: 14132-000R
STATEMENT NO: 2

Wayne County Receivership

	PREVIOUS BALANCE		\$2,752.50
		HOURS	
)/04/2010	RECEIVED AND REVIEWED NOTICE OF CANCELLATION/NEW HEARING; TELEPHONE CONFERENCE WITH COURT ADMINISTRATOR RE: OPTIONS; TELEPHONE CONFERENCE WITH REG MARTIN RE: HEARING DATE CHANGE	0.30	75.00
)/08/2010	RECEIVED AND REVIEWED ENTRY GRANTING CONTINUANCE OF HEARING; OFFICE CONFERENCE WITH REG MARTIN RE: SAME; E-MAIL TO SEAN HARLEY AT OSB RE: OBTAINING DEFAULT JUDGMENT	0.30	75.00
)/19/2010	PREPARE FOR HEARING; REVISE PROPOSED ORDER APPROVING PUBLIC RECEIVER'S SALE; RECEIVED AND REVIEWED MOTION FOR DEFAULT JUDGMENT; ATTEND COURT HEARING IN WAYNE COUNTY COMMON PLEAS COURT	4.90	1,225.00
)/20/2010	E-MAIL TO LARRY MCCLATCHEY AND CHRISTY PRINCE RE: RESULT OF HEARING IN WAYNE COUNTY	0.20	50.00
)/21/2010	REVIEWED DECREE IN FORECLOSURE TO DETERMINE WHETHER ALL PARCELS INCLUDED, COMPARE COMPLAINT FOR FORECLOSURE AND DECREE IN FORECLOSURE; E-MAIL TO MCCLATCHEY AND PRINCE RE: SAME	0.70	175.00
)/22/2010	REVIEWED PROPOSED PURCHASE CONTRACT FOR 724 STATE ST; E-MAIL TO REG MARTIN RE: SAME; EXCHANGE E-MAIL WITH LARRY MCCLATCHEY RE: FORECLOSURE DECREE; REVIEWED REVISED FORECLOSURE DECREE	0.70	175.00
	Kenneth R. Goldberg	7.10	1,775.00
)/06/2010	CONFERENCE WITH ATTY GOLDBERG RE: HEARING ON MOTION TO SELL; REVIEWING PLEADINGS; REVIEW DOCKET; LETTER TO R. MARTIN AND K. GOLDBERG RE: STATUS OF HEARING AND POSSIBLE WITHDRAWAL OF MOTION FOR LACK OF JUDGMENT; CONFERENCE WITH RECEIVER RE: STATUS OF HEARING ON SALE MOTION	0.80	164.00

Renee Miller Icarus Investment

Wayne County Receivership

ACCOUNT NO:
STATEMENT NO:

Page: 2
10/28/2010
14132-000R
2

	HOURS	
Aaron C. Firstenberger	0.80	164.00
FOR CURRENT SERVICES RENDERED	7.90	1,939.00
TOTAL CURRENT WORK		1,939.00
BALANCE DUE		<u>\$4,691.50</u>

PLEASE INCLUDE YOUR ACCOUNT NUMBER ON YOUR CHECK

WE ACCEPT VISA/MASTERCARD PAYMENTS
PAYMENT METHOD ☐ CHECK ☐ VISA ☐ MASTERCARD
ACCOUNT NUMBER _____ EXP DATE _____
SIGNATURE _____ AMOUNT \$ _____

STRIP, HOPPERS, LEITHART, McGRATH & TERLECKY
A LEGAL PROFESSIONAL ASSOCIATION
575 SOUTH THIRD STREET
COLUMBUS, OH 43215-5759
(614) 228-6345

Page: 1
01/31/2011
14132-000R
3

Renee Miller Icarus Investment
Reg Martin, Receiver
Martin Management Services, Inc.

ACCOUNT NO:
STATEMENT NO:

Wayne County Receivership

	PREVIOUS BALANCE		\$4,691.50
		HOURS	
01/05/2011	TELEPHONE CONFERENCE WITH REG MARTIN RE: AEP	0.30	105.00
	A. C. Strip	0.30	105.00
11/17/2010	RECEIVED AND REVIEWED MOTION TO INTERVENE AND MOTION TO VACATE RECEIVERSHIP ORDER AS TO UTILITY	0.40	100.00
11/30/2010	EXCHANGE E-MAILS WITH MS MCCONNELL RE: AMENDED ORDER APPOINTING RECEIVER	0.20	50.00
12/02/2010	PREPARE NOTICE OF RECEIVER'S SALE AND ADVERTISEMENT FOR RECEIVER'S SALE	0.50	125.00
12/03/2010	RECEIVED AND REVIEWED ORDER APPROVING RECEIVER'S PUBLIC SALE AND DECREE OF FORECLOSURE, CONFIRM THAT ALL PARCELS INCLUDED IN ORDERS; FINAL PREPARATION OF NOTICE OF RECEIVER'S SALE AND ADVERTISEMENT	0.70	175.00
12/13/2010	ATTENTION TO FINDING LOCATION TO CONDUCT RECEIVER'S PUBLIC SALE, EXCHANGE E-MAILS WITH CAROL RIGGS AND REG MARTIN RE: SAME; REVISE NOTICE OF RECEIVER'S SALE AND ADVERTISEMENT	0.50	125.00
12/21/2010	REVISE NOTICE OF RECEIVER'S PUBLIC SALE; REVIEWED EXHIBIT TO INSURE ALL PARCELS INCLUDED	0.40	100.00
12/22/2010	ATTENTION TO NOTICE OF RECEIVER'S SALE, VERIFY LEGAL DESCRIPTION OF REAL ESTATE	0.60	150.00
12/28/2010	DRAFT AMENDED ORDER APPOINTING RECEIVER TO SUBMIT IN ORDER TO RESOLVE PENDING MOTION TO VACATE	0.90	225.00
12/30/2010	FINAL PREPARATION OF AGREED AMENDED ORDER APPOINTING RECEIVER; E-MAIL TO MS MCCONNELL, EXCHANGE E-MAIL WITH LARRY MCCLATCHEY RE: SAME	0.60	150.00

Wayne County Receivership

		HOURS	
01/03/2011	REVIEWED PURCHASE CONTRACT FOR 516 COLLEGE AVENUE; EXCHANGE E-MAILS WITH REG MARTIN RE: SAME	0.50	125.00
01/05/2011	EXCHANGE E-MAILS WITH MARILYN MCCONNELL RE: PROPOSED AGREED AMENDED ORDER; OFFICE CONFERENCE WITH ATTY STRIP RE: SAME; SEVERAL TELEPHONE CONFERENCE CALLS WITH REG MARTIN RE: DISPUTE WITH AEP, MS MCCONNELL RE: LANGUAGE OF AGREED AMENDED ORDER, FORWARD E-MAILS TO REG, EXCHANGE E-MAILS WITH REG RE: SAME	1.10	275.00
01/06/2011	DRAFT MOTION FOR CONTINUANCE OF 1/28 COURT DATE DUE TO CONFLICT AND PROPOSED ORDER GRANTING SAME; EXCHANGE E-MAILS WITH MARILYN MCCONNELL RE: DISPUTE WITH AEP; TELEPHONE CONFERENCE WITH REG MARTIN RE: STATUS, EXCHANGE E-MAILS WITH REG MARTIN RE: DISPUTE WITH AEP	0.60	150.00
	E-MAIL TO REG RE: DATE AND OPENING BID FOR RECEIVER'S SALE; REVIEWED NOTICE OF RECEIVER'S SALE	0.20	50.00
01/14/2011	EXCHANGE E-MAILS WITH ADAM EVANS; REVIEW AND APPROVE LANGUAGE IN COUNTEROFFER FOR PURCHASE OF 516 COLLEGE	0.20	50.00
01/19/2011	DRAFT SCRIPT AND RECEIPT FOR RECEIVER'S PUBLIC SALE, ANALYZE BID PRICE FOR PROPERTIES	1.00	250.00
	REVIEWED COUNTY AUDITOR RECORDS FOR VALUATION AND SALES INFORMATION RELATING TO PARCELS	0.60	150.00
01/20/2011	ATTEND AND CONDUCT RECEIVER'S SALE AT THE JUSTICE CENTER IN WOOSTER, OHIO	3.00	750.00
01/21/2011	ATTENTION TO RESEARCH RELATIVE TO FILING RESPONSE TO MOTION TO VACATE ORDER APPOINTING RECEIVER	0.30	75.00
01/24/2011	DRAFT REPORT OF RECEIVER AND REQUEST FOR CONFIRMATION OF RECEIVER'S PUBLIC SALE AND PROPOSED ORDER APPROVING REPORT OF RECEIVER AND CONFIRMING RECEIVER'S PUBLIC SALE	1.00	250.00
01/25/2011	CONTINUED PREPARATION OF REPORT OF PUBLIC SALE, APPLICATION FOR CONFIRMATION AND REQUEST FOR AUTHORITY TO CLOSE AND PROPOSED ORDER APPROVING REPORT, CONFIRMING SALE AND AUTHORIZING CLOSING	0.80	200.00
01/26/2011	DRAFT ASSIGNMENT AND ASSUMPTION AGREEMENT RELATING TO PURCHASE CONTRACT FOR 516 COLLEGE ST, WOOSTER, OH FINAL PREPARATION OF ORDER APPROVING REPORT, CONFIRMING RECEIVER'S SALE AND AUTHORIZING CLOSING	0.30 0.60	75.00 150.00
01/27/2011	ATTENTION TO DRAFTING MEMO IN OPPOSITION TO MOTION TO VACATE ORDER APPOINTING RECEIVER AND MOTION TO AMEND ORDER APPOINTING RECEIVER, ARRANGE FILING; TELEPHONE CONFERENCE WITH REG MARTIN RE: SAME	0.90	225.00

Wayne County Receivership

		HOURS	
	Kenneth R. Goldberg	15.90	3,975.00
01/26/2011	CONFERENCE WITH ATTY GOLDBERG RE: TREATMENT OF CLOSING COSTS AT PUBLIC RECEIVER'S SALE	0.30	61.50
	Aaron C. Firstenberger	0.30	61.50
01/21/2011	MEETING WITH KEN GOLDBERG RE: MEMO IN OPPOSITION TO MOTION TO SET ASIDE ORDER APPOINTING RECEIVER	0.10	15.00
	NICK W. REEVES	0.10	15.00
	FOR CURRENT SERVICES RENDERED	16.60	4,156.50
	TOTAL CURRENT WORK		4,156.50
	BALANCE DUE		<u>\$8,848.00</u>

PLEASE INCLUDE YOUR ACCOUNT NUMBER ON YOUR CHECK

WE ACCEPT VISA/MASTERCARD PAYMENTS

PAYMENT METHOD ☐ CHECK ☐ VISA ☐ MASTERCARD

ACCOUNT NUMBER _____ EXP DATE _____

SIGNATURE _____ AMOUNT \$ _____

STRIP, HOPPERS, LEITHART, McGRATH & TERLECKY
A LEGAL PROFESSIONAL ASSOCIATION
575 SOUTH THIRD STREET
COLUMBUS, OH 43215-5759
(614) 228-6345

Renee Miller Icarus Investment
Reg Martin, Receiver
Martin Management Services, Inc.

Page:
02/22/2011
14132-0001
ACCOUNT NO:
STATEMENT NO:

Wayne County Receivership

		HOURS	
	PREVIOUS BALANCE		\$8,848.00
02/02/2011	RECEIVED AND REVIEWED TRANSCRIPT FROM RECEIVER'S PUBLIC SALE; FORWARD COPY TO REG MARTIN	0.20	50.00
02/03/2011	RECEIVED AND REVIEWED ORDER CONFIRMING PUBLIC SALE; FORWARD COPY TO REG	0.20	50.00
02/16/2011	DRAFT REPORT OF RECEIVER AND APPLICATION FOR APPROVAL OF FEES AND COSTS AND PROPOSED ORDER APPROVING REPORT AND APPLICATION FOR APPROVAL OF FEES AND COSTS	0.80	200.00
	Kenneth R. Goldberg	1.20	300.00
01/27/2011	DRAFTED JOINT MOTION TO AMEND ORDER APPOINTING RECEIVER AND MEMO IN OPP TO MOTION TO SET ASIDE ORDER	2.20	330.00
	NICK W. REEVES	2.20	330.00
	FOR CURRENT SERVICES RENDERED	3.40	630.00
01/27/2011	FEDERAL EXPRESS EXPENSE		32.20
	TOTAL EXPENSES		32.20
	TOTAL CURRENT WORK		662.20
	BALANCE DUE		<u>\$9,510.20</u>

TRUST ACCOUNT SUMMARY AS OF 02/22/2011 \$140.00

PLEASE INCLUDE YOUR ACCOUNT NUMBER ON YOUR CHECK

WE ACCEPT VISA/MASTERCARD PAYMENTS
PAYMENT METHOD ☐ CHECK ☐ VISA ☐ MASTERCARD
ACCOUNT NUMBER _____ EXP DATE _____
SIGNATURE _____ AMOUNT \$ _____

STRIP, HOPPERS, LEITHART, McGRATH & TERLECKY
A LEGAL PROFESSIONAL ASSOCIATION
575 SOUTH THIRD STREET
COLUMBUS, OH 43215-5759
(614) 228-6345

Renee Miller Icarus Investment
Reg Martin, Receiver
Martin Management Services, Inc.

Page: 1
03/24/2011
ACCOUNT NO: 14132-000R
STATEMENT NO: 5

Wayne County Receivership

PREVIOUS BALANCE			\$9,510.21
		HOURS	
3/04/2011	TELEPHONE CONFERENCE WITH REG MARTIN AND REVIEW OF COMPLAINT TO PUCO RE: AEP	0.40	140.00
	A. C. Strip	0.40	140.00
3/02/2011	RECEIVED AND REVIEWED NOTICE OF APPEAL FILED BY AEP; TELEPHONE CONFERENCE WITH REG MARTIN RE: SAME, FORWARD COPY OF NOTICE OF APPEAL TO REG MARTIN	0.30	75.00
3/03/2011	OFFICE CONFERENCE WITH REG MARTIN RE: ISSUES RELATING TO AEP, SHUT OFF OF POWER AT RENTED PREMISES; RECEIVED AND REVIEWED E-MAIL AND ATTACHMENTS FROM MARILYN MCCONNELL	0.40	100.00
3/04/2011	TELEPHONE CONFERENCE WITH JEFF AUKER RE: RESULTS OF RECEIVER SALE, ISSUES RELATING TO CLOSING OF SALE OF REAL ESTATE, ETC	0.40	100.00
	REVIEWED EMERGENCY PUCO COMPLAINT	0.40	100.00
3/11/2011	REVISE REPORT OF RECEIVER AND APPLICATION FOR RECEIVER AND COUNSEL FOR RECEIVER FEES AND COSTS, EXHIBITS AND PROPOSED ORDER	0.40	100.00
3/15/2011	EXCHANGE E-MAILS WITH ADAM EVANS RE: CLOSING ON SALE OF 516 COLLEGE AVENUE; REVIEWED ORDER APPROVING SALE AND ASSIGNMENT/ASSUMPTION AGREEMENT; TELEPHONE CONFERENCE WITH REG RE: CLOSING; TELEPHONE CONFERENCE WITH JEFF AUKER (VOICE MAIL)	0.40	100.00
	Kenneth R. Goldberg	2.30	575.00
	FOR CURRENT SERVICES RENDERED	2.70	715.00
	TOTAL CURRENT WORK		715.00

Renee Miller Icarus Investment

Wayne County Receivership

Page: 2
03/24/2011
ACCOUNT NO: 14132-000R
STATEMENT NO: 5

BALANCE DUE

\$10,225.21

TRUST ACCOUNT SUMMARY AS OF 03/24/2011 \$140.00

PLEASE INCLUDE YOUR ACCOUNT NUMBER ON YOUR CHECK

WE ACCEPT VISA/MASTERCARD PAYMENTS
PAYMENT METHOD ☐ CHECK ☐ VISA ☐ MASTERCARD
ACCOUNT NUMBER _____ EXP DATE _____
SIGNATURE _____ AMOUNT \$ _____

STRIP, HOPPERS, LEITHART, McGRATH & TERLECKY
A LEGAL PROFESSIONAL ASSOCIATION
575 SOUTH THIRD STREET
COLUMBUS, OH 43215-5759
(614) 228-6345

Renee Miller Icarus Investment
Reg Martin, Receiver
Martin Management Services, Inc.

ACCOUNT NO:
STATEMENT NO:

Page: 1
04/22/2011
14132-000R
6

Wayne County Receivership

		HOURS	
	PREVIOUS BALANCE		\$10,225.21
03/24/2011	EXCHANGE E-MAILS WITH REG AND JEFF AUKE RE: COLLEGE AVENUE PARCEL	0.10	25.00
03/28/2011	TELEPHONE CONFERENCE WITH JEFF AUKE RE: TITLE ISSUES THAT NEED TO BE ADDRESSED PRIOR TO CLOSING	0.20	50.00
04/12/2011	RECEIVED AND REVIEWED NOTICE FROM 9TH DISTRICT COURT OF APPEALS RE: FILING OF RECORD, EXCHANGE E-MAILS WITH REG RE: SAME	0.20	50.00
04/13/2011	ATTENTION TO ISSUES RELATING TO CLOSING SALE OF REAL ESTATE; RECEIVED AND REVIEWED E-MAILS FROM REG MARTIN AND SEAN HARLEY	0.20	50.00
04/19/2011	FINAL PREPARATION OF REPORT OF RECEIVER AND APPLICATION FOR APPROVAL OF RECEIVER AND COUNSEL FOR RECEIVER FEES AND COSTS AND PROPOSED ORDER APPROVING REPORT OF RECEIVER AND APPLICATION FOR RECEIVER AND COUNSEL FOR RECEIVER FEES AND COSTS; EXCHANGE E-MAILS WITH BECKY OBERHOLTZER RE: SETTLEMENT STATEMENT, CLOSING ISSUES; DRAFT FINAL REPORT OF RECEIVER OF RECEIVER AND APPLICATION FOR AUTHORITY TO CLOSE RECEIVERSHIP AND PROPOSED ORDER APPROVING FINAL REPORT OF RECEIVER AND APPLICATION FOR AUTHORITY TO CLOSE RECEIVERSHIP	1.50	337.50
	Kenneth R. Goldberg	2.20	512.50
	FOR CURRENT SERVICES RENDERED	2.20	512.50
	TOTAL CURRENT WORK		512.50
	BALANCE DUE		<u>\$10,737.71</u>

STRIP, HOPPERS, LEITHART, McGRATH & TERLECKY
A LEGAL PROFESSIONAL ASSOCIATION
575 SOUTH THIRD STREET
COLUMBUS, OH 43215-5759
(614) 228-6345

Renee Miller Icarus Investment
Reg Martin, Receiver
Martin Management Services, Inc.

ACCOUNT NO:

Page: 1
04/22/2011
14132F

PREVIOUS BALANCE	FEES	EXPENSES	ADVANCES	PAYMENTS	BALANCE
14132-000 Wayne County Receivership					
10,225.21	512.50	0.00	0.00	0.00	<u>\$10,737.71</u>

PLEASE INCLUDE YOUR ACCOUNT NUMBER ON YOUR CHECK

WE ACCEPT VISA/MASTERCARD PAYMENTS

PAYMENT METHOD ☐ CHECK ☐ VISA ☐ MASTERCARD
ACCOUNT NUMBER _____ EXP DATE _____
SIGNATURE _____ AMOUNT \$ _____

EXHIBIT 4

COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

CFBANK

Plaintiff,

v.

90 NORTH HIGH PARTNERS LLC, et al.,

Defendants.

Case No. 10-CVE-07-10849
Judge BesseyFILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
2010 JUL 30 PM 12:45
CLERK OF COURTSORDER APPOINTING RECEIVER

This matter came before the Court on the Plaintiff CFBANK's ("CFBANK") Motion for the Appointment of Receiver with: (1) a Memorandum in Support, (2) the Affidavit of Kemper Allison, (3) the Exhibits attached to the Affidavit of Kemper C. Allison; and (4) the bio and resume of Reg Martin of Martin Management Services, Inc ("Martin Management"). The Court being fully advised that CFBANK obtained a judgment in the Court of Common Pleas, Franklin County, Ohio Case Number 10-CVH-7-9938 (the "Judgment") against defendants 90 North High Partners, LLC ("90 North High Partners"), Jason L. Gunsorek and Lawrence F. Gunsorek on July 7, 2010, and the Court finds that, at this stage of the proceeding, it appears that one or more condition(s) of the Mortgage¹ executed by 90 North High Partners has not been performed, that a Receiver is authorized by virtue of statute and the provisions of the Mortgage, and that a Receiver is required to assure preservation of the Property, as defined below.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. This Court has jurisdiction over the parties, the real estate legally described in the Mortgage and Partial Release of Mortgage² ("the "90 North High Property") which is located at 90 North High Street, Columbus, Ohio 43215 in Franklin County, Ohio and any and all rents,

¹ Exhibit B to the Complaint.

² Exhibit D to the Complaint.

income and other personal property located on, arising from or used in any way in conjunction with the 90 North High Property (collectively, the "Property").

2. The Court finds that it is in the best interest of this proceeding that a Receiver be appointed for the Property.

3. Martin Management Services, Inc. is hereby appointed Receiver (the "Receiver") by and through its principal Reg Martin to manage, control and conserve the Property. Specifically, the Receiver is granted the following duties, powers and authority:

- (a) to assume control over the Property, including all fixtures, equipment, inventory, and personal property of any kind located at or on the Property owned or controlled by 90 North High Partners that is in any way used in conjunction with the Property;
- (b) to collect and receive all cash, cash in hand, checks, cash equivalents, credit card receipts, demand deposit accounts, bank accounts, cash management or other financial accounts, bank or other deposits (all whether now existing or later arising); current and past due earnings, revenues, rent, issues, profits, income, cash collateral, lease termination or rejection claims, and all other gross income derived with respect to the Property, regardless of whether earned before or after entry of this Order (collectively, the "Income");
- (c) to apply the Income to pay the following obligations related to the Property: (1) the Receiver's reasonable fees and expenses, and the reasonable fees and expenses of the Receiver's legal counsel; (2) premiums for adequate property and liability insurance; (3) real estate taxes and assessments; (4) utility bills and garbage and waste removal; (5) expenses for minor, routine and ordinary items of maintenance and repair not involving capital improvements (the Receiver may specifically do all minor repairs and maintenance from time to time as may be required so as to avoid loss or damage

to the Property); and (6) expenses to continue the leasing and day to day operations of the Property, including all persons, contractors and third-party vendors as the Receiver deems necessary and appropriate to assist him in managing, advertising, and leasing the Property in a business-like manner during the Receivership;

- (d) to change any locks and, if appropriate, limit access to some or all of the Property;
- (e) to retain, hire or discharge on-site employees (none of whom are, or shall be deemed to be, employees of CFBANK or the Receiver) and to establish their pay rates;
- (f) to review existing worker's compensation, disability, general liability and "all risks" hazard insurance and to retain, modify, or purchase such insurance, to engage the insurance agent of record, and name the CFBANK and the Receiver as additional insureds or loss payees, as the Receiver deems appropriate for the Property's preservation and protection;
- (g) to review all leases covering any portion of the Property and determine what expenses the landlord (now the Receiver per this Order) must pay as opposed to the expenses to be paid by the tenant(s);
- (i) to lease the Property for rent at appropriate rates, provided no lease executed by the Receiver shall be for a term in excess of two years without the agreement of CFBANK; and
- (j) to receive, open and act upon all mail received at the Property and to direct such mail to other addresses as the Receiver may determine necessary or appropriate.

4. The Receiver shall communicate with CFBANK and obtain written approval from CFBANK or its authorized agents prior to making any payments that exceed the funds available from the accounts and income generated from the Property. The Receiver is authorized to do

any of the following only upon CFBANK's written consent either directly by CFBANK or through its counsel:

- (a) Engage contractors and skilled trades on a competitive bid basis to complete capital improvements to the real estate and/or maintain the real estate, to execute such contracts for such purposes as the Receiver deems appropriate, to make payments for work in progress where the aggregate cost of the improvement or work in progress exceeds \$1,500.00. The Receiver need not obtain consent from CFBANK for improvements, contracts or work-in-progress needed for life-threatening, health, safety or emergency issues; or if the aggregate amount of the improvement, contract or work-in-progress is \$1,500 or less. Upon approval of CFBANK, the Receiver may pay any and all outstanding utilities, sewer expenses and other lienable obligations, and any and all other outstanding obligations to suppliers incurred in arm's length transactions who prior to the entry of this Order furnished materials, business supplies and/or labor to or for the benefit of the Property, but only to the extent the Receiver determines that it is prudent to do so in order to maintain the business relationships with such suppliers for the benefit of the preservation of the Property.
- (b) Make payments for all utility, sewer expense or lien obligations that exceed \$3,000. The Receiver need not obtain consent from CFBANK for any such payments that are \$3,000 or less.
- (c) Execute, cancel, modify, renegotiate or abrogate all service, maintenance or other contracts relating to the operations of the Property where the contracts involve aggregate payments in an amount in excess of \$2,500.00. The Receiver need not obtain consent from CFBANK for any such contracts involving payments in the aggregate amount of \$2,500 or less. All such contracts are to be terminated upon a sale or disposition of the Property or termination of the Receivership.

- (e) Employ attorneys, accountants, agents and other professionals as the Receiver may from time to time deem appropriate on such terms and conditions as the Receiver deems appropriate.
- (e) Borrow funds for purposes relating to the operation of the Receivership Property. Receiver shall not borrow funds without first providing CFBANK, by advance written notice, a reasonable opportunity to elect to advance funds required by the Receiver.
- (f) Contest, protest or appeal any ad valorem tax or assessment, real estate tax, personal property tax or other tax or assessment pertaining to the Property. Any refund or reimbursement of taxes whether paid by the Receiver or 90 North High Partners shall be deemed income to be applied as provided herein.
- (h) Defend actions against 90 North High Partners related to the Property and may incur expenses to defend such actions to the extent that the Receiver believes, in its sole discretion, that it will protect and preserve the Property.
- (i) The Receiver may engage a licensed real estate broker, real estate agent and/or real estate auctioneer to list, market and sell the Property. The identity of any such broker, agent or auctioneer and the terms of any agreement with said broker, agent or auctioneer are subject to CFBANK approval.
- (j) The Receiver may engage a licensed property manager. The identity of any such property manager and the terms of any agreement with said property manager shall be subject to CFBANK approval.
- (k) Upon notice to all parties and subject to an Order of this Court, the Receiver may execute any and all documents/instruments necessary on behalf of and in the name of 90 North High Partners to convey the Property, including but not limited to a listing agreement, purchase agreement, a deed and all required closing documents, with the express understanding that:

- (i) The Receiver, on behalf of 90 North High Partners, and the purchaser shall have executed and delivered a purchase contract in form and substance acceptable to CFBANK in its sole discretion,
- (ii) CFBANK shall have received the conveyance proceeds by wire transfer, certified check or such other manner acceptable to CFBANK in its sole discretion and all other conditions precedent to sale of the Property under the terms of the contract have been satisfied; and
- (iii) The total commissions to be paid from the conveyance of the Property shall be approved by CFBANK, and
- (iv) Receiver shall have timely and strictly performed all covenants and obligations of Receiver hereunder and complied with all conditions required by this Agreement.

5. 90 North High Partners, its property manager(s), and their respective agents, consultants, contractors and/or employees are ordered to cooperate with the Receiver in the transition of the management of the Property to the Receiver and shall turn over all of the following pertaining to the Property:

- (a) all keys;
- (b) all leases including all communication / correspondence files;
- (c) a current rent-roll;
- (d) contact information for all current tenants;
- (e) all bank accounts, financial accounts, security deposits, security deposit accounts, and an accounting for all such accounts and deposits;
- (f) an existing occupant ledger if different from the rent roll;
- (g) a current aged account receivable or delinquency report;
- (h) an aged listing of all trade payables and other payables;
- (i) documents identifying and summarizing all pending litigation (excluding this action);
- (j) documents pertaining to all pending new leases / renewals and all documents relating to any and all independent contractor relationships

with the Defendant relating to the Property, and a list of utilities and utility accounts and all tenant and vendor insurance certificates

- (k) all existing service contracts;
- (l) all pending bids for contractor work;
- (m) all records, applications and payroll related documents concerning any on-site employees who work at the Property. All permits, licenses and other contracts pertaining to the Property and the operations of the Property;
- (n) all documents, books, records and computer files, all passwords needed to access e-mail accounts and all other records, including all electronic records, concerning the income, and operation and management of the Property;
- (o) a list of utilities and utility accounts;
- (p) an inventory of all equipment, furniture, vehicles and supplies;
- (q) the petty cash fund, if any;
- (r) year-end 2009 operating statements and year-to-date 2010 operating statements;
- (s) any site plans, specifications, floor plans, drawings, and measurements;
- (t) all insurance policies and their declaration pages and all books, records, accounts or documents which in any way relate to the Property or the operations of the Property, and copies of all documents 90 North High Partners is legally obligated to retain except those that are covered by the attorney-client privilege;
- (u) all tenant and vendor insurance certificates;
- (v) a list of historical maintenance charges and operating expenses for 2008 and 2009;
- (w) all computer equipment, software, management files, equipment, furniture, supplies, and all passwords needed to access all software and computer files maintained at any on-site management office(s);
- (x) such other records pertaining to the management of the Property as may be reasonably requested by the Receiver; and

- (y) 90 North High Partners' federal tax identification number and any other information needed by the Receiver to gain control of the Property, receive and handle the Income, and prepare and file any documents that the Receiver is required by law to prepare and file.

6. Within sixty (60) days of the date of this Order and every thirty (30) days thereafter, the Receiver shall prepare a financial report (including, without limitation, an income and expense statement, balance sheet and a cash flow analysis) on a monthly basis pertaining to the operations of the Property during the immediately preceding month. The Receiver shall further prepare a proposed operating budget and capital budget for 2010 for the Receivership Property (the "Budget") within 60 days of the effective date of this Order and thereafter each December 1 for the succeeding year (collectively, the "Receiver's Reports"). The Budget will be reviewed by CFBANK and be subject to CFBANK's approval. The Budget as approved shall be the "Approved Budget."

7. The Receiver shall send the Receiver's Report and Approved Budget to:

Kemper C. Allison, Vice President
CFBank
7000 North High Street
Worthington, Ohio 43085

8. Income shall be applied as follows (but subject to lien rights granted to CFBANK):

- (a) To the Receiver's approved fees and expenses;
- (b) To the current post-Receivership operating expenses, including any on-site employee payroll expenses, any real estate taxes and any other taxes stemming from the operations of the Project and used in normal business operations incurred during the Receivership to the extent set forth in the

Approved Budget. The Receiver shall not make disbursements other than permitted under the Approved Budget except for:

- (i) life-threatening or other health or safety issues;
- (ii) variations on individual line items not exceeding 10% so long as expenses in the aggregate are within 5% of the Approved Budget on a monthly basis, or;
- (iii) upon CFBANK's Approval;
- (c) To the loan balance due CFBANK, with all payments to be applied first to accrued interest, late charges and other applicable costs and fees, and then to principal until paid in full; and
- (d) Any surplus to be held pending further order of the Court.

9. The Receiver shall make interim distributions of Income to be applied to CFBANK's Judgment after payment of current operating expenses and expenses required under the Approved Budget unless otherwise agreed in writing by CFBANK.

10. 90 North High Partners, its property manager(s), and their respective agents, consultants, counsel, contractors and/or employees: (i) are prohibited from removing any personal property or diverting any Income from the Property; (ii) shall fully cooperate with the Receiver in adding the Receiver and CFBANK as additional insureds and the CFBANK as the loss payee on all insurance relating to the operating and management of the Property including, but not limited to, fire, extended coverage, property damage, liability, fidelity, errors and omissions, and workers compensation, and modifying the agent of record and the policies if deemed appropriate by the Receiver; (iii) shall immediately notify the insurance agent of record of the change in management, and grant full permission for the Receiver to acquire from the

insurance agent any and all policy information, loss runs and any other insurance information deemed necessary by Receiver for managing the property; (iv) are all prohibited from canceling, reducing, or modifying any lease or rental agreement concerning the Property; and (v) are all prohibited from canceling, reducing, or modifying any and all insurance coverage in existence with respect to the Property.

11. 90 North High Partners and its property manager(s), employees, and agents are all prohibited from discussing this Receivership with any tenant or other occupant of the Property. The Receiver is specifically charged with contacting any tenants or inhabitants of the Property and informing them of the Receiver's Court ordered temporary control of the Property.

12. The Receiver shall provide any party with information in the Receiver's possession that may be necessary for 90 North High Partners or their affiliate(s) to prepare and file their own tax returns. Except as it deems necessary, the Receiver shall not be responsible for the preparation and filing of any tax returns for 90 North High Partners or any affiliate(s) of any 90 North High Partners, including income, personal property, commercial activity, gross receipts, sales and use, or other tax returns.

13. No person or entity shall file suit against the Receiver, take other action against the Receiver, or execute against the Property, without an order of this Court permitting the suit or action provided, however, that no prior court permission is required to file a motion in this action to enforce the provisions of this or any other order of this Court in this action.

14. The Receiver and its employees, agents, and attorneys shall have no personal liability in connection with any liabilities, obligations, liens or amounts owed to 90 North High Partners or 90 North High Partners' creditors because of its duties as Receiver. Nothing in this

Order shall grant any rights to trade creditors or general unsecured creditors, whose rights shall be solely determined in accordance with Ohio law.

15. That any party or parties having any assets, including, but not limited to, funds collected or on deposit on any accounts and books and records, making up the Property are authorized and directed to surrender the same to the Receiver. In particular, any on-site property management company is ordered to pay to the Receiver any funds collected or recovered that are assets of or arise out of the Property, including any insurance proceeds. The Receiver be and is authorized to file suit for any rents, revenues and other income which are due to 90 North High Partners or the Receiver. The Receiver is authorized to make such expenditures as are necessary to hire and consult legal counsel with respect to the Property.

16. The Receiver may compromise or forgive profits, payments, collections of accounts receivable, or proceeds that may become due. The Receiver may receive and endorse checks pertaining to the Property either in the Receiver's name or in Sanborn Partner's name, pay all appropriate real estate taxes, and any other taxes or assessments against the Property; enforce, terminate or approve any contracts and/or agreements regarding the Property. The Receiver may challenge the taxes assessed against the Property if it believes that challenge is appropriate.

17. That all parties, including, without limitation all tenants of the Real Property, be directed to make all rental payments to the Receiver.

18. The Receiver shall be compensated pursuant to Court approval and in accordance with Local Rule 93, at a rate not to exceed \$75 per hour, plus expenses, or at such hourly rates for fees to be determined by the Court in accordance with Local Rule 93, and shall be entitled to administrative expense priority on any claim for compensation. The Receiver is authorized to employ the law firm of Strip, Hoppers, Leithart, McGrath & Terlecky Co., LPA as attorney for the Receiver. The attorney for Receiver shall be compensated pursuant to Court approval and subject to Local Rule 93, at a rate not to

exceed \$150 per hour, plus expenses, or at such hourly rates for fees to be determined by the Court in accordance with Local Rule 93, and shall be entitled to administrative expense priority on any claim for compensation.

19. The Receiver may recommend to the Court that the Receiver perform any other duties when the Receiver reasonably believes that performance thereof is necessary to the objectives of the Receivership.

20. Neither the Receiver nor CFBANK shall be liable for any expenses or accounts payable with regard to the Property incurred prior to the Receiver's taking possession of the Property. Neither the Receiver nor CFBANK shall be liable for any expenses or accounts payable with regard to the Property incurred after the Receiver's taking control and possession of the Property unless the CFBANK or Receiver shall specifically and in writing assume and accept liability for any particular expenses or accounts payable with regard to the Property.

21. The Receiver shall post a bond with sufficient surety with the Clerk of this Court and hereupon enter upon its duties. Said bond shall be in the sum of \$500 cash or security as the Receiver may choose. The costs of said bond shall be deemed costs of this action and assessed as the Court may hereafter order.

22. The Receiver shall not spend any income generated by the Property in a manner inconsistent with this Order. The Receiver shall keep the Property's income and expenses separate from those of any other property, including any other property owned by any party to this litigation.

23. The Receiver shall take possession of and receive from all depositories, banks, brokerages and otherwise (collectively the "Financial Institutions"), any money on deposit in all such Financial Institutions belonging to or arising from the operation of the Property, whether such funds be in accounts titled in the name of 90 North High Partners or not (but excluding any monies paid to or held by

CFBANK). All Financial Institutions are directed to deliver such deposits to the Receiver and such records as the Receiver may reasonably request with respect to such accounts. The Receiver may indemnify the Financial Institution upon whom such demand is made, and is empowered to open or close any such accounts. The Receiver shall deposit monies and funds collected and received in connection with the Property into a deposit account maintained by CFBANK.

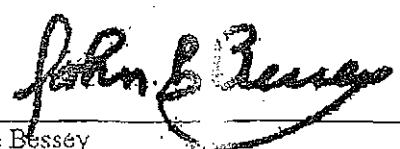
24. The Receiver shall be entitled to exercise of the powers stated in this Order in its own sound business judgment as it deems appropriate. The Receiver shall not be liable for any action taken or not taken by it in good faith and shall not be liable for any mistake of fact or error of judgment or for any acts or omissions of any kind unless caused by willful misconduct or gross negligence.

25. The Receiver is authorized to initiate legal action to protect the Property and to collect amounts owed to the Receiver but not paid to the Receiver, including but not limited to pursuing eviction actions.

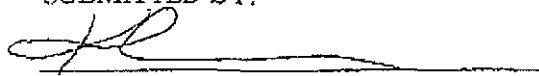
26. The Receiver is authorized to make such expenditures as are necessary to hire and employ security guards for the Property. The Receiver is authorized to take any actions the Receiver deems reasonable and appropriate to take possession of, to exercise full control over, and to prevent waste and to preserve, manage, maintain, secure and safeguard the Property.

27. This Order shall be effective immediately upon its entry and for all purposes.

IT IS SO ORDERED


Judge Bessey

SUBMITTED BY:


Kevin T. Shook (0073718)

Bonnie L. Wolf (0081330)
FROST BROWN TODD LLC
10 West Broad Street, Suite 2300
Columbus, Ohio 43215
614-464-1211 Phone
614/464-1737 Fax
E-mail: kshook@fbtlaw.com
bwolf@fbtlaw.com
ATTORNEYS FOR PLAINTIFF/JUDGMENT CREDITOR CFBANK

Name: 90 N HIGH PARTNERS

Street: 90 N HIGH ST

Account #: 105-516-250-2

Transaction Date	Due Date	Type	Charges	Payments	Balance	Number Of Days
11-29-10	12/21/10	BILL METERED AMOUNT	804.19		7,448.87	
11-29-10		ADJUSTMENT DEBIT	705.11			
11-29-10		ADJUSTMENT CREDIT		1,775.08		
11-29-10		DEPOSIT AMOUNT BILLED	288.00			
11-15-10		PAYMENT - ELECTRONIC REMITTANCE PROC		4,721.34		
11-08-10	11/30/10	BILL METERED AMOUNT	1,775.08		12,147.99	
11-08-10		DEPOSIT AMOUNT BILLED	288.00			
10-29-10		DISCONNECT-TRIP-CHG	8.00			
10-21-10		LATE CHARGE	97.79			
09-27-10	10/19/10	BILL METERED AMOUNT	1,955.79		9,979.12	
09-24-10		LATE CHARGE	250.17			
08-31-10	09/22/10	BILL METERED AMOUNT	2,667.76		7,773.16	
08-31-10		ADJUSTMENT DEBIT	2,737.14			
08-31-10		ADJUSTMENT DEBIT	2,971.37			
08-31-10		LATE CHARGE	32.78			
08-31-10		AR-TRANSFER-WITHIN	0.00			
08-31-10		LATE CHARGE CANCEL		32.78		
08-31-10		ADJUSTMENT CREDIT		657.70		
08-31-10		ADJUSTMENT CREDIT		633.76		
08-25-10		LATE CHARGE	32.78			
07-30-10	08/23/10	BILL METERED AMOUNT	657.70		655.57	
07-30-10		AR-TRANSFER-WITHIN	0.00			
07-20-10		PAYMENT - CENTRAL CASH-REMITTANCE PR		2.38		
07-20-10		PAYMENT - CENTRAL CASH-REMITTANCE PR		636.14		
07-06-10		LATE CHARGE	0.25			
06-29-10	07/21/10	BILL METERED AMOUNT	633.76		636.14	
06-10-10	07/02/10	BILL METERED AMOUNT	2.38		2.38	
05-21-10		PAYMENT - CENTRAL CASH-REMITTANCE PR		815.00		
05-20-10		DEPOSIT AMOUNT BILLED	815.00			

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

GE COMMERCIAL FINANCE BUSINESS
PROPERTY CORPORATION,

Plaintiff,

vs.

255 MAIN ANCHOR, LLC,

Defendant.

CASE NO. 09 CVE 11-17605

JUDGE FRYE

ENTRY AND ORDER GRANTING PLAINTIFF'S MOTION
FOR ORDER APPOINTING RECEIVER

This matter is before the Court upon the Plaintiff's Motion for Immediate Appointment of Receiver (the "Motion"). This Court, having reviewed the pleadings filed herewith, and being sufficiently advised and for good cause shown, and pursuant to the agreement of the parties, finds that Plaintiff GE Commercial Finance Business Property Corporation ("GE"), through the Motion and its supporting affidavit and documentation, has presented clear and convincing evidence that the immediate appointment of a receiver is necessary and proper. Specifically, this Court finds that the Open-End Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing (the "Mortgage"), attached to this Motion and authenticated by the Affidavit of Carla Herring, sets forth the rights of Plaintiff to take possession of the Property (defined as the real estate commonly known as 255 East Main Street, Columbus, Ohio, as well as all of the additional items described and defined more fully in the Mortgage), to collect rents upon an event of default (as defined in the Complaint), and to obtain the appointment of a receiver to ensure adequate enforcement of Plaintiff's rights. This Court further finds that, by executing the Mortgage, 255 Main Anchor LLC ("Main Anchor") irrevocably consented to the appointment of a receiver in this case.

2009 DEC 11 AM 11:02
CLERK OF COURT
Franklin County, Ohio
Case No. 09 CVE 11-17605

This Court further finds that this Court has jurisdiction over this matter, that Main Anchor's principal place of business and the subject real property are located in Franklin County, Ohio, and that venue is appropriate in this Court pursuant to Civil Rule 3(B).

This Court further finds that Plaintiff is entitled to a receiver pursuant to Revised Code Sections 2735.01(F) because such appointment is permitted by the Mortgage.

This Court further finds that Martin Management Services, Inc., the proposed Receiver, is experienced in serving as receiver and is qualified to serve as receiver in this matter. Based on the qualifications noted in Plaintiff's Motion, this Court finds that Martin Management Services, Inc. should be appointed Receiver in this case.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

1. Plaintiff's Motion for Appointment of a Receiver shall be and hereby is **GRANTED**.
2. Martin Management Services, Inc. (the "Receiver"), is hereby appointed Receiver in this case based on the terms of the Mortgage, Main Anchor's irrevocable consent contained in the Mortgage, and pursuant to Revised Code Section 2735.01(F).
3. The Receiver is authorized in its discretion to engage and employ and dismiss others (without Court approval), including but not limited to agents, managers, employees, servants, attorneys, and accountants as may in its judgment be advisable or necessary in the management, control, or protection of the Property and, subject to available funds from the Property, make such payments and disbursements to such persons or entities, as may be necessary or proper for the maintenance, control or protection of the Property.

4. The Receiver shall take possession of the Property and shall collect and receive rent and income therefrom and do other such acts with respect to the Property as authorized herein.
5. *The appointment of the Receiver shall become effective upon the entry of the order with the Clerk of Courts. The Receiver is hereby ordered to file a receiver's oath and to post a bond in the amount of \$1,000.00.*
6. The Receiver is hereby further authorized to:
 - a. Operate and/or manage the Property and all business of the Property;
 - b. Manage, control, and protect the Property;
 - c. Collect all Rents (including imputed rents), income, revenues, profits, and accounts receivable arising from or pertaining to the Property;
 - d. Apply all Rents, income, revenues, profits, and/or accounts receivable toward the payment of ordinary and necessary costs and expenses of the day-to-day business of the Property, including management and operating expenses, taxes, assessments, utilities, and insurance premiums;
 - e. Secure the books, records and bank accounts of or pertaining to the Property, including but not limited to any such books, records and bank accounts in the possession or control of Main Anchor and open an account or accounts as may be appropriate for the receivership estate;
 - f. Employ such persons as necessary to assist with the Receiver's obligations; and
 - g. Do all such other things as necessary to marshal, collect, and protect the Property under the supervision and direction of this Court.
7. Upon the entry of the order with the Clerk of Courts, Main Anchor and its principals, shareholders, members, officers, directors, managers, and employees are hereby ORDERED and directed to immediately convey and deliver to the

Receiver all rents, funds and assets of any kind which have arisen by virtue of income, revenues or other receipts from the Property which are in the possession of Defendant, its principals, shareholders, members, officers, directors, managers, and employees or their respective servants, agents, employees or affiliates.

8. Upon the entry of the order with the Clerk of Courts, Main Anchor and its principals, shareholders, members, officers, directors, managers, and employees are hereby ORDERED and directed to immediately convey and deliver to the Receiver: (a) the Property; (b) all books and records pertaining to the Property; (c) all financial information and/or operational data, whether in electronic form or otherwise, relating to the Property, including but not limited to credit cards; and (d) all other matters, documents or information related to the Property.
9. Upon the entry of the order with the Clerk of Courts, Main Anchor and its principals, shareholders, members, officers, directors, managers, and employees are hereby ORDERED to cooperate with the Receiver and appear upon reasonable notice at such places and times as may be required to sign such legal documents as may be necessary consistent with this Order, and upon reasonable notice to furnish such records and other items or articles as set forth herein or as the Receiver may otherwise require consistent with this Order.
10. From and after the date of this Order and until the receivership estate is dissolved in accordance with the terms hereof or by further order of this Court, Main Anchor, its principals, shareholders, members, officers, directors, managers, and employees are hereby restrained from disposing of, transferring, conveying, or otherwise encumbering all or any portion of the Property, including, but not

limited to, books, files, records, statements, accounts, bank accounts, check books, check registers, passbooks and any other relevant written material *evidencing or arising from the banking, borrowing or investment relations* between Main Anchor and any other person or entity, related to the Property.

11. The Receiver is authorized to receive, open and act upon all mail received at the addresses of the Property and to direct such mail to other addresses as the Receiver may determine necessary or appropriate; provided, however, that for the 60 days following appointment of the Receiver, the Receiver shall provide copies of the mail received to Main Anchor. Attn: Jason Gunsorek..
12. The Receiver is authorized, on behalf of the receivership estate, to procure or maintain, at the expense of the receivership estate, public liability insurance, workmen's compensation insurance if applicable, and fire and extended coverage insurance, for the protection of the Receiver, the owners of the Property, the Plaintiff and any parties who become parties, as their interest may appear.
13. With regard to any repair or other expenditure deemed necessary by the Receiver with respect to the Property that will cost in excess of \$5,000 or if such repair or *other expenditure would be prejudicial to the rights of the lien holder*, the Receiver shall first obtain written consent for such expenditure from GE and provide notice in writing (via e-mail and regular mail) to Main Anchor. If, however, the Receiver and GE cannot come to an agreement with respect to such expenditure, the Receiver shall file an application with the Court for authority to make such repair or incur such expenditure, together with acknowledgement of notice by the affected lien holder of the time of hearing of said application.

14. The Receiver shall maintain bank accounts in its own name, as Receiver, as it may deem advisable for the operation and maintenance of the Property, in which it shall deposit money received by it, and from which it shall disburse such funds as may be required to pay the expenses of the receivership.
15. The Receiver may pay any and all outstanding utilities, sewer expenses and other lienable obligations, and any and all other outstanding obligations to suppliers incurred in arm's length transactions who prior to the entry of this Order furnished materials, business supplies and/or labor to or for the benefit of the Property, but only to the extent the Receiver, in its sole discretion, shall determine that is prudent to do so in order to maintain the business relationships with such suppliers for the benefit of the preservation of the Property; provided, however, nothing contained herein shall permit the Receiver from preventing the current tenant from meeting their current contractual obligations and paying those obligations submitted to it on or before entry of this Order and those accrued expenses that tenant is obligated to pay but are not yet due, including, but not limited to, bills owed to AEP, AT&T, trash collection, and water and sewer. Receiver shall arrange to move any and all utility accounts in its name as soon as may be practicable following appointment; provided, however, and subject to non-payment by tenant, Receiver shall pay all utilities due and owing under the current accounts up to \$17,500 and related to the Property prior to transfer.
16. Any funds coming into the hands of the Receiver, which are not used for operation, maintenance or protection of the Property or expenditures authorized by the Court for costs of administration, shall be remitted to GE monthly for

credit against the outstanding balance of the indebtedness, accompanied by an accounting of all income collected from the Property, and disbursements made by the Receiver. Any funds received by GE from the Receiver pursuant to this paragraph shall be applied first to the costs and expenses of this action, then to any accrued interest, late charges and other applicable costs and fees, and finally to principal.

17. The Receiver shall faithfully discharge the duties of receiver and obey the orders of this Court.
18. The Receiver shall be compensated at the rate of \$125.00 per hour, and shall be entitled to administrative expense priority on any claim for compensation.
19. The Receiver is authorized to employ the law firm of Strip, Hoppers, Leithart, McGrath & Terlecky Co., L.P.A. as attorneys for the Receiver. Any monthly expenditure of fees in excess of \$5,000 shall require the prior written consent of Plaintiff and notice to Main Anchor.
20. Counsel for the Receiver shall be compensated at the rate of \$250.00 per hour for A.C. Strip, Esq., and at appropriate lesser rates for other attorneys of Strip, Hoppers, Leithart, McGrath & Terlecky Co., L.P.A. working at Mr. Strip's direction. Counsel for the Receiver shall be entitled to administrative expense priority on any claim for compensation.
21. In the event Plaintiff makes any advances to the Receiver for the preservation of the Property, said advances shall be treated as administrative expenses with payment priority over general unsecured claims against the receivership estate.

22. The Receiver shall file with the Court on or before January 10, 2010 and no less frequently than every month thereafter, and within thirty (30) days after termination of the receivership, a full and complete accounting of all financial transactions for the receivership period, including all receipts, vouchers, cancelled checks, and disbursements. The Receiver is further directed to serve copies thereof on the parties and their attorneys of record.
23. Receiver shall furnish to the parties' counsel or the parties any additional information regarding the Property as required by law and as may be reasonably requested by Plaintiff, Main Anchor or other parties to this action, but Receiver is authorized to request instructions from this Court should any party request information on documents which would be a breach of confidentiality, unduly burdensome or expensive to produce or to annoy or harass or for other improper purpose. Further, Receiver shall provide Main Anchor with any information necessary for Main Anchor to prepare and file tax returns.
24. All creditors, claimants, bodies politic, parties in interest, and all sheriffs, marshals, and other officers, and their respective attorneys, servants, agents, and employees and all other firms, persons and corporations be, and they hereby are, jointly and severally enjoined and stayed from commencing or continuing any action at law or suit or proceeding in equity to foreclose any lien or enforce any claim against said Property or its business operations, or against the Receiver, in any court. Without further order from this Court, all such entities or individuals are further stayed from executing or issuing or causing the execution or issuance out of any court of any writ, process, summons, attachment, subpoena, replevin,

execution or other process for the purpose of impounding or taking possession of or interfering with, or enforcing any claim or lien upon said Property in the possession of the Receiver, and from doing any and all things whatsoever to interfere with the Receiver in the discharge of his duties in this proceeding or with the exclusive jurisdiction of this Court over said Property and the Receiver.

25. This Order shall be in full force and effect as of the date of its journalization with the Clerk of this Court.
26. Pursuant to Ohio law, no action may be commenced or maintained against the Receiver without leave of this Court being first obtained.
27. The Receiver's appointment shall remain in effect until further order of this Court.
28. The powers herein granted to the Receiver shall be in addition to, and not in lieu of, all powers vested in Receiver by applicable law or rule of the Court. The Receiver will be responsible only to the Court for the performance of its duties as Receiver, and neither GE nor Main Anchor defendant shall delay, hinder or obstruct the Receiver in the performance of its duties.
29. The Property shall not be liquidated or otherwise disposed of without further Court order, notice to all parties-in-interest and compliance with Ohio Revised Code provisions related to foreclosure of real property.
30. This Order shall be effective immediately upon its entry and for all purposes. Any party objecting to this Order must file an objection no later than ten (10) days after entry of this Order. In the event any such an objection is timely filed, this Court shall hold a hearing on all such objections on a date and at a time to be

established by this Court. Pending any such hearing, this Order shall remain in full force and effect.

IT IS SO ORDERED.

12/11/09
DATE

Richard A. Fye
JUDGE

ACCEPTE:

Keith Shumate
Keith Shumate (0056196)
SHUMATE, SANDERS & DEMPSEY L.L.P.
2600 Huntington Center
41 South High Street
Columbus, Ohio 43215
(614) 365-2700
Counsel for GE Commercial Finance Business Property Corporation

Bryan T. Kooperman
Bryan T. Kooperman (#0077966)
8 East Long Street, 3rd Floor
Columbus, Ohio 43215
Phone: (614) 884-0800, Ext. 12
Fax: (614) 884-0999
bkooperman@anchoreos.com
Counsel for 255 Main Anchor LLC

Name: 255 MAIN ANCHOR LLC

Street: 255 E MAIN ST

Account #: 168-279-750-5

Transaction Date	Due Date	Type	Charges	Payments	Balance	Number Of Days
12-03-10		DISCONNECT-TRIP-CHG	8.00			
11-24-10	12/20/10	BILL METERED AMOUNT	14,191.73		41,495.60	
11-22-10		LATE CHARGE	807.80			
11-11-10		PAYMENT - CENTRAL CASH-REMITTANCE PR		16,155.98		
10-28-10	11/19/10	BILL METERED AMOUNT	16,155.98		42,652.05	
10-21-10		LATE CHARGE	964.99			
10-08-10		PAYMENT - CENTRAL CASH-REMITTANCE PR		19,299.71		
09-27-10	10/19/10	BILL METERED AMOUNT	19,299.71		44,830.79	
09-27-10		DEPOSIT AMOUNT BILLED	7,193.00			
09-20-10		LATE CHARGE	873.24			
09-02-10		PAYMENT - CENTRAL CASH-REMITTANCE PR		20,253.67		
08-26-10	09/17/10	BILL METERED AMOUNT	20,253.67		37,718.51	
08-26-10		DEPOSIT AMOUNT BILLED	7,193.00			
08-23-10		LATE CHARGE	489.13			
08-04-10		PAYMENT - CENTRAL CASH-REMITTANCE PR		19,784.29		
07-28-10	08/19/10	BILL METERED AMOUNT	19,784.29		29,567.00	
07-28-10		DEPOSIT AMOUNT BILLED	7,193.00			
07-22-10		LATE CHARGE	123.32			
07-08-10		PAYMENT - CENTRAL CASH-REMITTANCE PR		20,921.38		
06-28-10	07/20/10	BILL METERED AMOUNT	20,921.38		23,387.77	
06-21-10		LATE CHARGE	117.45			
06-02-10		PAYMENT - ELECTRONIC REMITTANCE PROC		16,530.10		
06-02-10		DEPOSIT REFUND (CHECK)		507.88		
06-02-10		DEPOSIT REFUND (CHECK)		6,920.12		
06-02-10		DEPOSIT REFUND (CHECK)		7,428.00		
06-02-10		DEPOSIT AMOUNT BILLED	0.00			
05-27-10	06/18/10	BILL METERED AMOUNT	16,530.10		41,162.04	
05-24-10		LATE CHARGE	782.15			
05-07-10		PAYMENT - ELECTRONIC REMITTANCE PROC		15,643.03		
04-28-10	05/20/10	BILL METERED AMOUNT	15,643.03		39,492.82	
04-28-10		DEPOSIT AMOUNT BILLED	7,427.00			
04-23-10		LATE CHARGE	757.85			
04-08-10		PAYMENT - ELECTRONIC REMITTANCE PROC		15,157.06		
03-30-10	04/21/10	BILL METERED AMOUNT	15,157.06		30,822.00	
03-30-10		DEPOSIT AMOUNT BILLED	7,428.00			
03-24-10		LATE CHARGE	392.24			
03-10-10		PAYMENT - ELECTRONIC REMITTANCE PROC		14,143.92		
02-26-10	03/22/10	BILL METERED AMOUNT	14,143.92		21,988.62	
02-26-10		DEPOSIT AMOUNT BILLED	7,428.00			
02-22-10		LATE CHARGE	19.84			
02-18-10		PAYMENT - ELECTRONIC REMITTANCE PROC		7,937.27		
02-18-10		PAYMENT - ELECTRONIC REMITTANCE PROC		14,596.66		
01-28-10	02/19/10	BILL METERED AMOUNT	14,596.66		22,930.79	
01-22-10		LATE CHARGE	396.86			
12-29-09	01/20/10	BILL METERED AMOUNT	7,937.27		7,937.27	

EXHIBIT 5

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Martin)	
Management Services,)	
)	
Complainant,)	
)	
v.)	Case No. 11-1185-EL-CSS
)	
Ohio Power Company d/b/a American)	
Electric Power,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On March 4, 2011, Martin Management Services (complainant) filed a complaint against Ohio Power Company d/b/a American Electric Power (AEP), alleging that AEP improperly disconnected service to a residence at 217 East Larwill Street, Wooster, Ohio (Larwill Street residence) and further refused to place electric service for the Larwill Street residence in complainant's name. The complaint explains that complainant is a court-appointed receiver for the Larwill Street residence, as that property was placed into a court ordered receivership on August 3, 2010. According to the complaint, the property is owned by Icarus Investments and was managed pre-receivership by CCM Properties LLC. The complainant states that, as of March 3, 2011, all current electric charges have been paid in full from the August 3, 2011, start date of the receivership through the current date. Complainant alleges that during this time period AEP has sent disconnection notices, based on unpaid pre-receivership debt, and that electric service to the Larwill Street residence has been disconnected despite the fact that a tenant is currently in occupation. The complaint requests that, during the pendency of the complaint, AEP be ordered to reinstate electric service to the Larwill Street residence, provided that the complainant continues to pay all post-receivership billings. In addition, complainant requests that service be placed in the name

of Reg Martin, Receiver, Icarus Investments, P.O. Box 20405, Columbus, Ohio 43220.

- (2) The attorney examiner finds that complainant's request that electric service to the Larwill Street residence be reconnected in the receiver's name during the pendency of this proceeding, under the requirement that the receiver continue to make full payment of all post-receivership bills, is reasonable and should be granted. Accordingly, AEP is directed to reconnect service to the Larwill Street residence as soon as possible. AEP is also directed to place the account for the Larwill Street residence in the name of Reg Martin, Receiver, Icarus Investments LLC, P.O. Box 20405, Columbus, Ohio 43220. In addition, the attorney examiner finds that AEP should not disconnect service to the Larwill Street residence for nonpayment of any pre-receivership debt during the pendency of this matter.

It is, therefore,


ORDERED, That AEP reconnect electric service to 217 East Larwill Street, Wooster, Ohio, in accordance with finding (2). It is, further,

ORDERED, That AEP place the account for 217 East Larwill Street, Wooster, Ohio, in the name of Reg Martin, Receiver, Icarus Investments LLC, P.O. Box 20405, Columbus, Ohio 43220. It is, further,

ORDERED, That, during the pendency of this proceeding, AEP refrain from disconnecting service to 217 East Larwill Street, Wooster, Ohio, due to nonpayment of any pre-receivership debt. It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Henry H. Phillips-Gary
Attorney Examiner

/dah PJD

Entered in the Journal

MAR 04 2011



Renee J. Jenkins
Secretary