

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Investigation into Orwell-Trumbull Pipeline)	
Company, LLC and Cobra Pipeline Company,)	Case No. 17-2424-PL-COI
Ltd.)	
In The Matter of The Application of Orwell-)	
Trumbull Pipeline Company, LLC To Amend)	Case No. 16-1726-PL-AIR
its Rates and Charges.)	
In the Matter of the Complaint of Orwell)	
Natural Gas Company,)	
)	
Complainant,)	
)	
v.)	Case No. 16-2419-GA-CSS
)	
Orwell Trumbull Pipeline Company, LLC,)	
)	
Respondent.)	
In The Matter of The Commission's)	
Investigation Into Cobra Pipeline Co. and)	Case No. 14-1709-GA-COI
Related Matters.)	

**MOTION TO INTERVENE OF ZACHARY BURKONS OF RENT DUE, LLC AS
RECEIVER FOR ORWELL TRUMBULL PIPELINE COMPANY, LLC**

Pursuant to Ohio Revised Code Section ("R.C.") 4903.221 and Ohio Administrative Code ("O.A.C.") Rule 4901-1-11, Zachary B. Burkons of Rent Due, LLC, acting as the court-appointed receiver ("Receiver") for Orwell Trumbull Pipeline Company, LLC, ("OTP") hereby requests leave to intervene. The Receiver has a real and substantial interest in these proceedings. Further, the Public Utilities Commission of Ohio's ("Commission") disposition of these

proceedings may impair or impede the Receiver's ability to protect that interest. The reasons supporting this motion are stated in the accompanying memorandum in support.

Respectfully submitted,



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MEMORANDUM IN SUPPORT

I. INTRODUCTION

Orwell Trumbull Pipeline Company, LLC (“OTP”) is a pipeline company as defined by R.C. 4905.03(F) and a public utility under R.C. 4905.02(A). The majority owner of OTP was, until recently, Richard M. Osborne Trust (“Osborne Trust”). The Osborne Trust was revoked by Richard M. Osborne (“Osborne”) on December 17, 2017 and its ownership interest was purportedly restored to Osborne, individually. Osborne is the managing member of OTP. In 2014, Osborne, OTP, and a number of entities owned by the Osborne Trust filed a complaint in the Cuyahoga County Court of Common Pleas, Ohio (Case No. CV-14-822810) against Park View Federal Savings Bank (“Park View”) n/k/a First National Bank of Pennsylvania (the “Bank”)(Case No. CV-14-822810 shall be referred to as the “State Court Action”). The Bank asserted certain counterclaims against OTP, Osborne Trust, and various entities affiliated entities owned by the Osborne Trust. The Bank also filed a motion for appointment of a receiver to take control and possession of all real and personal property of OTP and other entities owned by Osborne Trust.

The court denied the claims of Osborne, OTP, and the affiliated companies, and also entered judgment in favor of the Bank. Pursuant to R.C. 2735.01, the court also issued a number of entries, in which the court appointed Zachary B. Burkons as receiver (“Receiver”) for OTP. This appointment provided the Receiver broad receivership powers as set forth in R.C.

2735.04(B). Further, on November 21, 2017,¹ the court issued the Receivership Order which also set forth certain powers of the Receiver, which include, but are not limited to:

1. The authority to take complete possession, control, and custody of personal and real property, cash and cash equivalents, general intangibles, note receivables, and the books and records of OTP;²
2. The authority to sell OTP free and clear of all encumbrances, subject to court approval after notice and opportunity for a hearing;³ and
3. The authority to institute, prosecute, defend, compromise, adjust, intervene in, or become a party to any action and/or proceeding as necessary for the administration, prosecution, maintenance, protection, or preservation of OTP.⁴

Since his appointment as receiver, the Receiver has taken steps to ensure safe, continuous, and reliable service for OTP's customers. The Receiver has taken possession and control of OTP and has hired Utility Pipeline Ltd. ("UPL") to operate OTP and to assist in remedying any potential operational issues discovered on the system. The Receiver has been diligently working to obtain all documents and records regarding the current financial status of OTP, and also working to address outstanding accounts receivables to increase revenue to OTP. The Receiver is pursuing all necessary avenues to protect the value of OTP, which will further the Receiver's ultimate goal of selling OTP at its maximum value.

¹ See the November 21, 2017 Receivership Order of the court at **Attachment A**.

² See the November 21, 2017 Receivership Order at pg. 4.

³ *Id.*

⁴ *Id.* at 4-5.

II. LAW AND ARGUMENT

R.C. 4903.221(B) and O.A.C. Rule 4901-1-11(A)(2) govern intervention in Commission proceedings. Substantially similar in substance, these provisions explain that the Commission may consider the following in determining whether to grant intervention:

1. The nature and extent of the person's interest;
2. The legal position of the person seeking intervention and its relation to the merits of the case;
3. Whether intervention would unduly delay the proceeding or unjustly prejudice any existing party;
4. The person's potential contribution to full development and equitable resolution of the issues involved in the proceeding; and
5. The extent to which the person's interest is represented by existing parties.

Based on the above factors, the Commission should grant the Receiver's motion to intervene in these proceedings. The Receiver has a substantial interest in these proceedings because of his role as the court-appointed receiver for OTP. Pursuant to R.C. 2735.01 and the Receivership Order, the Receiver is responsible for taking control and possession of OTP and protecting the value of OTP in anticipation of a potential sale. The Receivership Order provides the Receiver the authority to intervene in and become a party to any proceeding that may impact OTP. Granting the Receiver's motion to intervene is critical for an appropriate resolution to this proceeding because the Receiver is the sole entity tasked with ensuring that OTP is operated and eventually sold in a manner that maximizes the value of the asset.

Intervention of the Receiver is also appropriate because his interest is not represented by any of the existing parties. The Receiver's interest is compliance with his statutory and court-ordered obligation, which is to protect the assets and ongoing operation of OTP. As the court-appointed receiver, the Receiver obligated to protect the value of OTP in expectation of a

potential sale of the company. Because this interest may be impacted by these proceedings, the Commission should grant the Receiver's motion to intervene to ensure the Receiver has an opportunity to protect his interest.

III. CONCLUSION

Based on the foregoing, the Receiver requests that the Commission grant the motion to intervene.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion to Intervene was served upon the parties of record in these proceedings by electronic mail this 27th day of February 2018.



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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

RICHARD M. OSBORNE, *et al.*,

Plaintiffs/Counterclaim Defendants,

-v-

PARK VIEW FEDERAL SAVINGS
BANK n/k/a FIRST NATIONAL BANK
OF PENNSYLVANIA,

Defendants/Counterclaim Plaintiff.

CASE NO. CV 14 822810

JUDGE STUART A. FRIEDMAN

This matter is before the Court on the Motion to Appoint a Receiver ("*Motion*") filed by First National Bank of Pennsylvania ("*FNBPA*"), successor by merger to Park View Federal Savings Bank ("*Park View*"), pursuant to Civ. R. 66 and O.R.C. § 2735.01. Following a hearing at which counsel for all parties appeared and were heard, the Court entered a Journal Entry dated October 30, 2017 (the "*Initial Entry*"), in which the Court found appointment of a receiver to be appropriate under applicable law and, therefore, granted the Motion. In the Initial Entry, the Court also, among other things, (i) appointed Zachary B. Burkons to serve as receiver (the "*Receiver*"), (ii) directed FNBPA and the Counterclaim Defendants (defined below) to submit a joint proposed order regarding the receivership, to denote those provisions upon which they agree or as to which there are objections, and (iii) set a hearing for November 13, 2017 (the "*Hearing*"), regarding the terms for the receivership, after which the Court would enter its further order.

On November 1, 2017, the Court issued a second Journal Entry (the “*November 1 Entry*”), in which, among other things, it granted the Receiver unfettered access to various properties that may or would be subject to the receivership, for the purpose of conducting an inventory.

The Hearing occurred on November 13, 2017. Counsel for the respective parties appeared and were heard regarding the terms and provisions of this Order. Upon due consideration (the Court having found in the Initial Entry that the Motion should be granted), the Court hereby enters this Order to set forth in greater detail the particular terms and provisions governing this receivership.

FNBPA is seeking the appointment of a receiver to take possession of, manage, preserve, and sell in an expedited and commercially reasonable manner for the benefit of FNPBA and other creditors, if any, all property, both real and personal (collectively, the “*Receivership Property*”), owned by the Counterclaim Defendants Richard M. Osborne (“*Osborne*”), the Richard M. Osborne Trust (“*Osborne Trust*”), Junior Properties, Ltd. (“*Junior Properties*”), Rigrotona Trust (“*Rigrotona*”), Chowder Gas Storage Facility, LLC (“*Chowder Gas*”), Lake Shore Gas Storage, Inc. (“*Lake Shore*”), Orwell-Trumbull Pipeline, Co., LLC (“*Orwell-Trumbull*”), Heisley Hopkins, Inc. (“*Heisley Hopkins*”), Black Bear Realty, Ltd. (“*Black Bear*”), Hamilton Parties, Inc. (“*Hamilton Partners*”), and any of them (collectively, the “*Counterclaim Defendants*”), including, but not limited to, those certain parcels of real property attached as Schedule A to FNBPA’s Motion and to this Order. Without limiting the generality of the foregoing, and for the avoidance of doubt, in this Order “Receivership Property” does not include any assets owned by Cobra Pipeline Company, Ltd., and “Receivership Property” does

include any legal or beneficial interest owned, possessed, or held by any of the Counterclaim Defendants in or to Cobra Pipeline Company, Ltd.

The Court finds that FNBPA is entitled to the appointment of a receiver pursuant to R.C. §§ 2735.01(A)(2)(b), (A)(3), (A)(4) and (A)(7), and based upon the clear and unequivocal terms of the Mortgages.

IT IS THEREFORE HEREBY ORDERED, that:

1. **Appointment.** FNBPA's Motion to Appoint a Receiver is granted, retroactive to the date of the Initial Entry (October 30, 2017). As set forth in the Initial Entry, pursuant to O.R.C. § 2735.01 **Zachary B. Burkons**, of Rent Due, LLC, whose business address is 1621 Euclid Avenue, #408, Cleveland, Ohio 44115, who is not a party, attorney, or interested in this action, is hereby appointed the Receiver over the Receivership Property in this action. The Receiver shall have all the authority and power conferred upon him under this Order or any further orders of this Court. The Receiver shall perform his duties as authorized or ordered by the Court.

2. **Oath and Bond.** As set forth in the November 1 Entry, the Receiver has been administered the oath required by O.R.C. § 2735.03 and has accepted his appointment. The Receiver shall file a bond with the Clerk of this Court in the amount of \$10,000.00, and (as stated in the November 1 Entry) his bond hereby shall be and is retroactive to the date of his appointment (October 30, 2017).

3. **Authority of the Receiver.** The Court hereby authorizes the Receiver to do any and all of the following acts:

A. To take and have complete and exclusive possession, control, and custody of the Receivership Property, including, but not limited to, all assets and property appertaining thereto consisting of (1) all personal property (including accounts, payment intangibles, goods, equipment, inventory, letter of credit rights, investment property, each as defined in Chapter 1309 of the Ohio Revised Code, the Mortgages, or the Security Agreement, as the case may be), (2) all real property (including leasehold interests and easements of any kind or description), improvements, and fixtures, (3) all cash and cash equivalents (including all right, title, and interest in and to all deposit accounts), securities, rents, income, collections of accounts receivable, and other revenues of (or proceeds derived from the sale, use, or leasing of) any of the Receivership Property now due or hereafter becoming due and payable (collectively, and including payments made by or on behalf of any tenants, lessees, or other persons claiming an interest in any of the Receivership Property, the “*Revenues*”), (4) all general intangibles (including all choses in action, commercial tort claims, and other causes of action, as well as all actions to avoid, set aside, or recover any transfers of any of the Counterclaim Defendants’ assets) and all notes receivable, and (5) the Books and Records (defined below).

B. To sell the Receivership Property free and clear of all liens and encumbrances by private sale, private auction, public auction, or by any other method deemed appropriate by the Receiver, subject to Court approval, after notice and opportunity for a hearing.

C. Subject to Court Order, to institute, prosecute, defend, compromise, adjust, intervene in, or become a party to such actions and proceedings in state or federal courts as may, in the Receiver’s opinion, be necessary or proper for the administration, prosecution,

maintenance, preservation, recovery, management, or protection of the Receivership Property (or any of it) or for carrying out the terms of this Order (including, but not limited to: (1) any and all avoidance or recovery actions or similar actions which may be brought pursuant to O.R.C. §§ 1313.56, 1336.04, 1336.05, common law, or pursuant to any other statute or authority; (2) any and all actions to defend, compromise, adjust, or otherwise dispose of any of the Receivership Property; and (3) any and all actions or proceedings instituted against any of the Receivership Property). Without limiting the generality of the preceding sentence, and for the avoidance of doubt, any legal or equitable interests in real or personal property that any of the Counterclaim Defendants has transferred, sold, leased, assigned, conveyed, encumbered, or otherwise parted with (or that any of the Counterclaim Defendants hereafter may purport or attempt to transfer, sell, lease, assign, convey, encumber, or otherwise part with), and which is or are recovered by FNBPA or by the Receiver under applicable law, hereby are part of the Receivership Property within the meaning of this Order. Notwithstanding the precedence sentences of this Paragraph 3(C), the Receiver shall have no right to institute, prosecute, defend, compromise, adjust, intervene in, or become a party to any action against FNBPA.

D. Subject to Court Order, to borrow from FNBPA, on a secured basis, any funds required to pay (1) necessary improvements and operating expenses of the Receivership Property and (2) the Fee Carve-Out (as defined in Paragraph 9 below), without further notice, hearing, or order of this Court. Any funds advanced by FNBPA shall be and are secured by a first priority security interest – senior in priority to any and all existing claims, whether secured or unsecured, in the Receivership Property, except for and subject to the Fee Carve-Out (as defined in Paragraph 9 below) and the Indemnification Claim (as defined in Paragraph 7 below). Further, any funds advanced by FNBPA shall be held by the Receiver in a separate deposit account and

shall not be commingled with any existing funds that are or were held by the Counterclaim Defendants and turned over to the Receiver in connection with the Receivership Property. FNBPA is not required to file any additional financing statements or other documents or take any action to validate or perfect such security interest. Notwithstanding the foregoing provisions in this Paragraph 3(D), nothing herein obligates FNBPA to advance any funds to the Receiver, and the advancement of any funds shall be in the sole discretion of FNBPA (other than to pay Premiums under Paragraph 3(G) below and to pay the Fee Carve-Out as defined in Paragraph 6 below).

E. To open and maintain deposit accounts to be used exclusively for deposits and disbursements of the Revenues and other funds of the receivership estate, to collect any Revenues, and to direct any purchasers, tenants, lessees, or residents of the Receivership Property, or other debtors or obligors of any of the Counterclaim Defendants, to pay and deposit into those deposit accounts any funds now or hereafter due and owing to any of the Counterclaim Defendants and/or any of the Receivership Property. The Receiver shall supply FNBPA the identity of the financial institution where those deposit accounts are maintained, along with copies of all monthly statements of those deposit accounts.

F. To continue utilizing the service of any employees, management companies, or other entities retained by the Counterclaim Defendants (all of whom shall be subject to the Receiver's oversight and authority, and shall be answerable to the Receiver) to conduct the day-to-day operations of the Receivership Property. As incident to this authority, the Receiver may hire or terminate personnel or independent contractors, and may engage other employees, management companies, or other entities to augment or to replace any of those whom the Counterclaim Defendants retained, subject to the authority and order of this Court.

G. To secure appropriate liability and damage insurance for the Receivership Property and to pay any premiums for additional insurance coverage for the Receiver, including, without limitation, an errors and omissions policy and an umbrella policy (the “*Premiums*”). If insufficient Revenues or other funds exist in the receivership estate from which to pay those Premiums as and when they come due, then, under Paragraph 3(D) of this Order, the Receiver may borrow (and FNBPA shall advance) sufficient funds from which the Receiver can pay those Premiums as and when they come due, all without further notice, hearing, or order of this Court.

H. To take possession of or, if needed, to recover all mail or packages addressed to any of the Counterclaim Defendants in connection with the Receivership Property. The United States Postal Service and any private delivery services, commercial carrier, or messengers hereby are directed to surrender and release to the Receiver or his designee all mail and packages addressed to any of the Counterclaim Defendants.

I. To retain and employ professional persons, who, in the Receiver’s judgment, are necessary to advise, assist, or represent the Receiver (the “*Professionals*”). Such Professionals, whose retention is hereby authorized (without further notice, hearing, or order of this Court), include, but are not limited to:

a. Attorneys to act as the Receiver’s counsel, at hourly rates for their personnel as specified in Section 9(C), whose appointment hereby is made retroactive to and effective as of October 30, 2017.

b. A property manager, to perform management, accounting, and bookkeeping services for the Receiver, at hourly rates (depending upon the identity and experience of the personnel rendering said services) as specified in Section 9(B).

J. Subject to the Court's approval, to, in the exercise of the Receiver's reasonable discretion, reject, disavow, or otherwise nullify any unexpired lease, agreement, or executory contract that relates to or affects any of the Receivership Property (including, but not limited to, any real estate contracts, real estate listing agreements, or contracts to purchase or sell any real or personal property), after notice and opportunity for a hearing (such notice to be given to the parties in this case and to any counterparties to the unexpired lease or executory contract the Receiver seeks to reject, disavow, or otherwise nullify).

4. **Insurance.** The Receiver shall be named as a primary insured on existing liability and property damage insurance coverage for the Receivership Property and, if needed, the Receiver is authorized to pay any and all related Premiums.

5. **Limitation on Receiver's Liability.** The Receiver and his Professionals shall not be liable for actions taken, actions not taken, or decisions made in performing the duties of Receiver under this Order or any other order of this Court and which are based upon the exercise of reasonably prudent business judgment. The Receiver shall have no responsibility for accounts receivable funds (if any) or any Revenues not transferred to the Receiver, other than to seek recovery of such funds or Revenues from any entity that purports to hold them or that does hold them, if the identity of such entity is known to the Receiver. Further, so long as the Receiver and his Professionals act as authorized in this Order or any other order of this Court, the Receiver and his Professionals shall be indemnified and held harmless by the receivership estate (including all Revenues and all of the Receivership Property) from any right, claim, or causes of action brought against the Receiver, including the costs, reasonable attorneys' fees, and expenses of defending those claims or actions (the "*Indemnified Claims*"). The Receiver shall not be liable for the obligations of any of the Counterclaim Defendants to third parties (i.e., any person or entity who

is not presently named as a party to this litigation), including, but not limited to: Any tax liability (payroll taxes, income taxes, sales taxes, or back taxes of any kind); any worker's compensation and unemployment compensation premiums or other obligations; any wages, benefits, and other compensation due to employees, officers, directors, or agents; and any contract indebtedness to third parties arising prior to his appointment and qualification as the Receiver in this action.

6. **Carve-Out for Fees.** As contemplated in Paragraph 3(D) of this Order, FNBPA's liens and security interests in the Receivership Property are subject and subordinate to the compensation owed to the Receiver and his Professionals for services rendered under or in connection with this Order or any other order of this Court in this action, and for reimbursement of expenses that are approved by the Court under Paragraph 11/8 of this Order (collectively, the "*Fee Carve-Out*").

7. **Expense Limit.** The Receiver shall not expend more than \$5,000.00 on any one item without the prior approval of the Court (except in emergency situations in which the Receiver determines, in his sole discretion, that an expenditure exceeding \$5,000.00 is necessary to protect the Receivership Property from imminent harm, damage, or loss).

8. **Surplus.** By Order of the Court, in the event the receivership estate operates at a surplus (and after setting aside reserves satisfactory to the Receiver from which to pay any compensation and reimbursement of expenses incurred by the Receiver and his Professionals), the Receiver may disburse funds to FNBPA on the unpaid balance of the Judgment against the Counterclaim Defendants.

9. **Payment of Fees and Expenses.** Subject to the remainder of this Paragraph 9, the Receiver and Professionals retained by the Receiver shall receive compensation for their services in this action as follows:

- A. The Receiver shall be compensated at an hourly rate of \$200/hour;
- B. Necessary maintenance mechanic services shall be reimbursed at a rate of \$35.00 per hour;
- C. Counsel for the Receiver shall be reimbursed at their customary hourly rates not to exceed the following: For shareholders, partners, and of-counsel (\$300/hour), for associate attorneys (\$225/hour), and for paralegals (\$130/hour); and
- D. Any other Professionals shall be compensated at ordinary customary rates to be approved by the Court.

The Receiver and Professionals shall also receive reimbursement of expenses and disbursements incurred in connection with the performance of their duties. To obtain approval for the payment of fees and expenses, the Receiver or Professionals shall specifically itemize all fees and expenses payable to the Receiver or Professionals for any given period in an Accounting that is filed with the Court under Paragraph 13 below. Any party who objects to the fees and expenses as set forth in an Accounting shall file an objection within ten (10) calendar days after that Accounting is filed with the Court (the “*Objection Period*”). In the event a party files an objection to an Accounting within the Objection Period, the Court shall set the matter for a hearing and determine the amounts of fees and expenses set forth in that Accounting to approve for payment. Unless an objection is filed within the Objection Period, that Accounting shall be

deemed approved by all parties subject to order of this Court (including the payment of fees and expenses of the Receiver or the Professionals set forth in that Accounting) and the Receiver then shall be and hereby is authorized to pay himself and the Professionals the amount of fees and expenses set forth in that Accounting. All fees and expenses approved by the Court under this Paragraph 9 shall be paid as and when so approved from the following sources and in the following order: First, from Revenues that the Receiver has collected (if any); second, from the proceeds derived from the Receiver's sales of the Receivership Property that have occurred (if any); and, third, if the first and second sources are insufficient to pay in full all of those fees and expenses at the time those fees and expenses are approved (or deemed approved) by the Court, from funds the Receiver borrows from FNBPA (and that FNBPA shall advance) under Paragraph 3(D) of this Order.

10. **Injunction of Counterclaim Defendants and Related Entities.** The Counterclaim Defendants and all other entities affiliated with the Counterclaim Defendants (collectively, the "*Counterclaim Defendants Entities*"), and all officers, directors, attorneys, accountants, agents, employees, members, management companies, independent contractors, or any other persons or entities acting in concert or participating with the Counterclaim Defendants Entities, and all those who are under the Counterclaim Defendants Entities' direction or control, are hereby ordered to fully and completely cooperate with the Receiver and to surrender and deliver to the Receiver within five (5) days of the entry of this Order:

A. Any and all books, records, accounts receivable agings, accounts payable agings, computers, lap tops, tablets, software, e-mail accounts and passwords, leases, plans, architectural and engineering drawings, economic forecasts and/or projections, marketing materials, correspondence (with actual or potential buyers, tenants, ground lessees, contractors, trades

people, lenders, creditors, or vendors), contracts, agreements, documents evidencing the existence of easements, purchase orders, invoices, checks, checkbooks, deposit / bank account statements, ledgers, journals, computer source code and passwords, payroll and personnel files, and other documents of any kind or description, in whatever form they may be maintained (including any electronic media or paper), related to the Receivership Property, the Revenues, and/or operation of the Receivership Property, that the Receiver may deem necessary (in the Receiver's sole discretion) to fulfill the Receiver's duties and responsibilities under this Order and applicable law (collectively, the "***Books and Records***");

B. All plans and specifications, correspondence, security deposits, rental or other agreements, deposits held in trust or escrow for any purpose (such as the payment of real estate taxes and insurance premiums), all other sums of any kind relating to the use, employment, possession, improvement, or occupancy of the Receivership Property, all records and other information related to the Revenues, the Receivership Property, the operation of the Receivership Property, and/or to any property taxes, repairs, maintenance, insurance, accounts payable and receivable, and other matters pertaining to the Receivership Property and/or its operation;

C. All Revenues, including, but not limited to, all cash, cash equivalents, funds in any deposit accounts, collections of accounts receivable, earnings, rents, issues, profits, and other revenues of any kind or description previously, currently, or hereafter derived from or in any manner related to the Receivership Property; and

D. Any and all documents or information necessary to name the Receiver as a primary insured on any existing liability and property damage insurance coverage applicable to the Receivership Property.

After notice and Court approval, the Receiver hereby has the right and authority to remove from the Receivership Property (and to deny or prohibit access to the Receivership Property to) any current owner, officer, director, shareholder, agent, employee, representative, or other person who (1) fails to cooperate with the Receiver to his satisfaction or (2), in the Receiver's sole discretion, interferes with the Receiver's authority or the performance of his duties.

In addition to the foregoing and the injunctive provisions contained in the November 1 Entry, the Counterclaim Defendants Entities, and all officers, directors, attorneys, accountants, agents, employees, members, management companies, independent contractors, or any other persons or entities acting in concert or participating with the Counterclaim Defendants Entities, and all those who are under the Counterclaim Defendants Entities' direction or control, are hereby enjoined and restrained from transferring, selling, leasing, assigning, conveying, encumbering, or otherwise parting with any interest of the Counterclaim Defendants Entities (or any of them) in or to any of the Receivership Property [and any attempt to transfer, sell, lease, assign, convey, encumber, or otherwise part with any interest of the Counterclaim Defendants Entities (or any of them) in or to any of the Receivership Property hereby shall be and is null and void], unless and until the Court gives its written permission (in an order entered after notice and opportunity for hearing given to all other parties and the Receiver).

11. **Injunction.** The parties to this action are stayed and enjoined from (A) executing (or causing the execution) out of any court any writ, process, summons, attachment, subpoena, replevin, execution, or other process for the purpose of attaching, impounding, taking possession of, interfering with, enforcing any claim or lien upon, or asserting control over the Receivership Property, or any portion thereof, or the books, records, revenues, profits, and related assets

associated with the Receivership Property, or upon the Receiver, and from (B) doing any act or thing whatsoever that may or does interfere with the Receiver's authority or the performance of his duties. The Receiver may elect to apply to this Court or any court of competent jurisdiction for a stay of any current or future litigation against any of the Counterclaim Defendants, including, but not limited to, any claims for eviction, foreclosure, forfeiture, or the like. Nothing in this Order shall prohibit or stay any party to this action from asserting and/or enforcing any rights, claims, actions, or liens it may have against any asset of any of the Counterclaim Defendants or the Counterclaim Defendants Entities that do not constitute part of the Receivership Property and Revenues as defined in this Order.

12. **Payment of Revenues.** All persons, entities, individuals, and parties indebted or otherwise obligated to any Counterclaim Defendant for any matter related to the Receivership Property are hereby directed to pay over to the Receiver all debts, obligations, or other Revenues now due or unpaid or that may hereafter become due to any such Counterclaim Defendant, until further order of the Court.

13. The Receiver shall file an initial report no later than 45 days after the entry of this Order detailing the actions he has taken to comply with this Order, including a summary of all money received and disbursed (the "*Initial Report*"). Copies of all vouchers and canceled checks showing disbursements shall be provided to any party to this action who requests production thereof. The Initial Report shall include an inventory of all assets in the Receiver's possession regarding the Receivership Property or otherwise located at the Receivership Property.

By the 20th day of each month following the entry of this Order (or by the next business day, if the 20th day is a weekend or holiday), the Receiver shall file a report showing a statement

of receipts and disbursements during the preceding calendar month. The first such monthly report shall cover the period from October 30, 2017, to November 30, 2017, and shall be filed with the Court by December 20, 2017; the second such report shall be filed by Monday, January 22, 2018, for the month of December 2017; the third report shall be filed by February 20, 2018, for the month of January 2018; and so on. Each of the Receiver's monthly reports should describe the activities undertaken by the Receiver and provide an accounting of the monies received by the receivership estate as well as the disbursements made. Unless an objection is filed within ten (10) business days after the report is filed, the report shall be deemed approved by all parties and by this Court, all without further notice, hearing, or order of this Court. The report shall be prepared in accordance with generally accepted accounting principles and shall be in reasonable detail so that sources of receipts and the payees of the disbursements are ascertainable.

The Initial Report and each of the monthly reports described in this Paragraph 13 is referred to in this Order as an "*Accounting*". An Accounting may include an itemization of, and a request for payment of, the Receiver's and his Professionals' fees and expenses for any prior period, as contemplated in Paragraph 9 of this Order. The Accounting(s) hereby are deemed to satisfy any requirement under this Court's local rules regarding the filing of periodic (e.g., quarterly) reports.

14. **Tax Returns.** Inasmuch as the Receiver is being appointed over the Receivership Property, the Receiver shall have no responsibility to prepare or file federal, state, or local income tax returns or commercial activity tax (CAT) returns relating to any Counterclaim Defendants, any Counterclaim Defendant Entities, or the Receivership Property for any time period, whether before or after the Receiver's appointment. Upon reasonable request by any

Counterclaim Defendants or Counterclaim Defendant Entities (a “*Request*”), the Receiver shall make available for inspection and copying to the person making that Request those Books and Records that are necessary or appropriate so that the person making that Request may prepare and file its, her, or his own tax returns. If any dispute arises between the Receiver and any person making a Request as to whether that Request is not reasonable or otherwise is objectionable, either the Receiver or the person making that Request may move this Court for instructions and guidance regarding that Request.

15. **Notice of Lis Pendens.** Within thirty (30) days after the filing of the Receiver’s initial report and inventory, the Receiver shall file a Notice of Lis Pendens in any Ohio county in which any real estate, improvements, or fixtures comprising a part of the Receivership Property is situated.

16. **Penalties for Interference.** Any entity, person, or individual who willfully interferes with the authority of the Receiver as set forth in this Order or in any subsequent order of this Court regarding the Receiver shall be subject to all appropriate penalties provided for under the laws of the State of Ohio and the United States and, without limiting the generality of the preceding, any such conduct may be punishable as a contempt of court.

17. **Assistance of Locksmith(s).** Subject to Court Order, the Receiver, in his sole discretion, may employ the services of one or more locksmiths to gain entry to any of the Receivership Property, to change the locks on any Receivership Property, and/or to secure any Receivership Property. Any fees of such locksmith(s) shall be expenses of administration of this receivership estate.

18. **Assistance by Law Enforcement.** Any law enforcement officer to whom the Receiver presents this Order is hereby ordered and directed to assist the Receiver in the

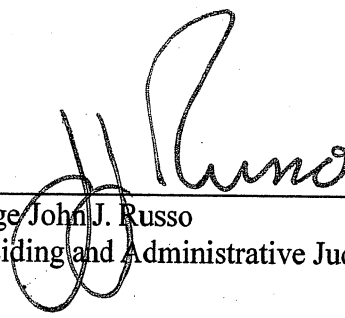
performance of his duties, without further notice, hearing, or order of this Court. At the discretion of that law enforcement officer, any entity, person, or individual who willfully interferes with the authority of the Receiver under this Order or any other order of this Court regarding the Receiver may be charged with disorderly conduct and such other charges, if any, as may be applicable.

19. **Further modification.** This Order shall be subject to further review and/or modification by the Court, upon notice and opportunity for a hearing to all parties.

IT IS SO ORDERED.

Date: _____

11/21/17



Judge John J. Russo
Presiding and Administrative Judge

SCHEDULE A
(REAL PROPERTY COLLATERAL)

LOAN	ADDRESS	COUNTY	PARCEL NO.
27000100	7265 Markel Road, Waite Hill	Lake	25A00600001
	26 Fairport Nursery, Painesville Twp.	Lake	11B03000002
	1043 Erie Road, Eastlake	Lake	34A012000004
	1101 Lost Nation, Willoughby	Lake	27B056E00054
	XXXX Shadowrow Ave., Willoughby	Lake	27B056E00053
	1113 Lost Nation, Willoughby	Lake	27B056E00005
	1113 Lost Nation, Willoughby	Lake	27B056E00006
	PLAINS CT	Lake	27B056E00007
	PLAINS CT	Lake	27B056E00008
	1080 Shadowrow Ave., Willoughby	Lake	27B057C00037
	1086 Shadowrow Ave., Willoughby	Lake	27B057C00038
	1073 Lost Nation, Willoughby	Lake	27B057C00039
	6042 Andrews Rd., Mentor-On-The-Lake	Lake	19A09I00001
	XXXX Primrose Andrews Rd., Mentor-On-The-Lake	Lake	19A09I00002
	6042 Andrews Rd., Mentor-On-The-Lake	Lake	19A09I00006
	25300 Euclid Ave., Euclid	Cuyahoga	648-54-005
	25330 Euclid Ave., Euclid	Cuyahoga	645-54-004
	XXX North Ridge Rd., Madison Twp.	Lake	01B018B00001
	538 Frost, Streetsboro	Portage	350230000023
	7724 Hunting Lake Dr., Concord Twp.	Lake	08A013Q00001
	1186 West Jackson, Painesville	Lake	15C036H00019
	1204 West Jackson, Painesville	Lake	15C036H00014
	1216 West Jackson, Painesville	Lake	15C036H00012
	1220 West Jackson, Painesville	Lake	15C036H00011
	8310 Bellflower, Mentor	Lake	16C077J00020
	7800 Ravenna, Concord Twp.	Lake	08A004B00018
	2450 North Ridge, Painesville Twp.	Lake	11B034000005
	366 Center, Chardon	Geauga	10-164500
	432 Water, Chardon	Geauga	10-150000
	434 Water, Chardon	Geauga	10-154300
	XXX Elberta, Painesville	Lake	35A008000012
	XXX Elberta, Painesville	Lake	35A00B000013
	XXX Elberta, Painesville	Lake	35A008000014
	XXX Elberta, Painesville	Lake	35A008000015
	7020 Williams, Painesville	Lake	08A006B00008
27000170	11551 Sunny Dr., Warrensville Heights	Cuyahoga	763-19-002
	11555 Sunny Dr., Warrensville Heights	Cuyahoga	763-19-003
	11559 Sunny Dr., Warrensville Heights	Cuyahoga	763-19-004
	21006 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-054
	21010 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-055
	21014 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-056
	21018 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-020
	21022 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-030
	21026 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-031
	21030 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-069
	21034 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-070

	21036 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-071
	21040 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-072
	21044 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-073
	21050 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-074
	21067 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-078
	21063 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-079
	21059 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-080
	21047 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-083
	21043 Sarah Dr., Warrensville Heights	Cuyahoga	763-19-084
20071079 3082091674 3082092386 3082093611	1284 Painesville Warren Rd., Leroy Twp.	Lake	07A016A00014
	XXX Mentor Ave., Mentor	Lake	16B031A00029
	XXX Mentor Ave., Mentor	Lake	16B031A00031
	XXX Mentor Ave., Mentor	Lake	16B031A00030
3082093881	Pelton Road, Willoughby	Lake	27B0939A00005
	38705 Mentor Ave., Willoughby	Lake	27B039-00003

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Case No(s). 17-2424-PL-COI, 16-1726-PL-AIR, 16-2419-GA-CSS, 14-1709-GA-COI

Summary: Motion to Intervene of Zachary Burkons of Rent Due, LLC, as Receiver for Orwell Trumbull Pipeline Company, LLC electronically filed by Teresa Orahod on behalf of Devin D. Parram