

STATE OF MISSOURI       )  
                                      ) SS.  
COUNTY OF FRANKLIN    )

IN THE CIRCUIT COURT OF THE COUNTY OF FRANKLIN  
STATE OF MISSOURI

EAST CENTRAL BROADCASTING,    )  
LLC, a Missouri Limited Liability    )  
Company                                )

and                                        )

LOUIS B. ECKELKAMP, III,        )  
an Individual                        )  
4103 Old Highway 100                )  
Washington, MO 63090,                )

Plaintiffs,                            )

v.                                        )

TWENTY-ONE SOUND                )  
COMMUNICATIONS, INC., a        )  
Missouri Corporation                )  
**Serve Registered Agent:**        )  
**Randy Wachter**                    )  
**3418 Douglas Road**                )  
**St. Louis County, MO 63034**        )

TWENTY ONE SOUND                )  
COMMUNICATIONS INC., a        )  
Missouri Corporation                )  
**Serve Registered Agent:**        )  
**Randal Lynn Wachter**            )  
**3418 Douglas Road**                )  
**St. Louis County, MO 63034**        )

BROADCAST MANAGEMENT        )  
INCORPORATED, a                    )  
Missouri Corporation                )  
**Serve Registered Agent:**        )  
**Randal Lynn Wachter**            )  
**3418 Douglas Road**                )  
**St. Louis County, MO 63034**        )

ADVERTISING COMMUNICATIONS    )

Case No. 16AB-CC00057

Division No. VII

INC., a Missouri Corporation	)
Serve Registered Agent:	)
Randy Wachter	)
3418 Douglas Road	)
St. Louis County, MO 63034	)
	)
BROADCAST ASSOCIATES INC.,	)
a Missouri Corporation	)
Serve Registered Agent:	)
Randy Wachter	)
3418 Douglas Road	)
St. Louis County, MO 63034	)
	)
BROADCAST MANAGEMENT INC.	)
a Missouri Corporation	)
Serve Registered Agent:	)
Randy Wachter	)
3418 Douglas Road	)
St. Louis County, MO 63034	)
	)
BROADCAST ENTERPRISES INC.	)
a Missouri Corporation	)
Serve Registered Agent:	)
Randy Wachter,	)
3418 Douglas Road	)
St. Louis County, MO 63034	)
	)
BROADCAST ENTERPRISES	)
INCORPORATED	)
a Missouri Corporation	)
Serve Registered Agent:	)
Randal Lynn Wachter	)
3418 Douglas Road	)
St. Louis County, MO 63034	)
	)
and	)
	)
RANDAL LYNN WACHTER,	)
Serve at:	)
3418 Douglas Road	)
St. Louis County, MO 63034	)
	)
Defendants.	)

## **ORDER APPOINTING RECEIVER**

THIS CAUSE came on to be heard upon Plaintiff's Count 5 for Appointment of Receiver of the Verified Petition (the "Verified Petition") filed by Plaintiff in this matter. Being first fully advised in the premises, and other good cause having been shown,

### **THE COURT HEREBY FINDS:**

A. The Court has jurisdiction of the parties and of the subject matter of the Verified Petition and venue is proper in this Court. The Defendants are currently in Default having failed to file an answer to the Verified Petition. The Properties (defined below), which are the subject of the Verified Petition are situated within Franklin County, St. Louis County, Lincoln County, Washington County, Audrain County and Ralls County, Missouri. The Properties include all of the real estate and the other property, both tangible and intangible, described in the Deeds of Trust and Security Agreements.

B. East Central Broadcasting, LLC and Louis B. Eckelkamp, III (collectively "Lender") originated the commercial loans and/or acquired the commercial loans originated by the United Bank of Union to Defendant, Twenty-One Sound Communications, Inc., ("TOSCI") Randy Wachter ("Wachter"), and the other Defendants (collectively "Borrowers"), on the dates and in the original principal amounts as set forth on Exhibit 1 (collectively the "Loans") attached to this Order.

C. Lender is also the holder and owner of: (1) the Promissory Notes described on Exhibit 1 evidencing the Loans and Borrowers' unconditional promise to repay the Loans along with interest and other applicable charges (the "Notes"); (2) the Deeds of Trust pursuant to which Borrowers granted to Lender first lien mortgages and security interests in and to the real Properties described on Exhibits 2-11 attached to the Verified Petition and this Order, legally described in the Deeds of Trust (attached to the Verified Petition), and as more fully described in each Deed of Trust, and a security interest in the personal property identified therein, which Deeds of Trust were duly recorded in the books and pages with the appropriate Recorder of Deeds (the "Deeds of Trust"); (3) the Security Agreements described on Exhibits 12-16 attached to the Verified Petition (the "Security Agreements"); and (4) certain Guaranties executed by Randy Wachter (the "Guarantor") in respect of certain obligations owing to Lender, said Guarantees described in Exhibits 17-19 attached to the Verified Petition (the "Guarantees") and this Order..

D. The Properties and improvements under the Loans consist of those real Properties described on the Exhibits attached to this Order, located within Washington County, Audrain County and Ralls County, Missouri, which are legally described in the Deeds of Trust attached to Plaintiff's Verified Petition along with all related personal property both tangible and intangible described on the Exhibits attached to this order, all said real and personal Properties constituting Lender's collateral, (the "Properties").

E. The Notes, the Deeds of Trust, Security Agreements and the Guaranties, and each of the other documents executed and delivered by Borrowers to Lender in connection therewith

are collectively referred to hereafter as the "Loan Documents".

F. Borrowers are in default under the Loan Documents for, among other things, failing to pay the Notes and real estate taxes as required by the Deeds of Trust when due despite demand therefore made by Lender.

G. Borrowers have been in possession of the Properties at all times relevant herein.

H. Lender has the right to the immediate appointment of a Receiver for the Properties and all rents, issues, profits and income therefrom pursuant to the terms of the Deeds of Trust and Security Agreements, and a Receiver is otherwise appropriate considering all of the circumstances of this case to, among other things, take possession and control of the Properties and of its rents, issues and profits; to utilize, secure, preserve and maintain the Properties; and to take all other actions reasonably necessary to operate and manage the Properties. Based on the foregoing, Lender is entitled to entry of this Order.

I. Dennis Wallace ("Wallace") is a broadcast engineer and radio station owner, operator and manager and is a suitable party to be appointed as receiver (hereinafter referred to as the "Receiver") for the Properties.

**BASED UPON THE FOREGOING FINDINGS IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

1. Wallace and/or entity created and controlled by him created for the purpose of acting as Receiver, is hereby appointed as Receiver for the Properties. The Receiver shall forthwith take physical possession of, manage, operate and protect the Properties.

2. The Receiver is hereby empowered to manage, operate and protect the Properties subject to the supervision and exclusive control of this Court, and subject to the permission and supervision of the Federal Communications Commission, which permission Receiver shall immediately apply for.

3. The Receiver shall have all of the powers and authority usually held by receivers and reasonably necessary to accomplish the purposes herein stated.

4. The Receiver shall post a bond in the amount of \$5,000.00.

5. The Receiver is hereby empowered to take or continue to take from Borrowers, their agents and employees, and Borrowers are ordered to surrender to the Receiver immediate possession of the Properties, the improvements thereon, and all things of value relating thereto, including without limitation their rents, security deposits, revenues, royalties, issues, income, payments and profits, and any and all personal property used or associated therewith, regardless of where such property is located, including, but not limited to, all keys and access codes to all the Properties, insurance payments, operating accounts, bank accounts, security deposits, records, files, reports, leases, contracts, and similar relationships with third parties, permits, licenses, documents, accounts receivable, fixtures, furniture, furnishings, software, computers, appliances, supplies, construction materials, goods, equipment, and other things and articles of

any and all types and kinds used or associated with the operations of the Properties. The Receiver is further empowered to exclude Borrowers, their agents and employees from such possession. The Receiver shall operate the Properties at the level determined by the Receiver, which may be at a limited service level, or may include suspension of operations, and collect the rents, revenues, income, profits and other benefits from the operation and management of the Properties, all of which will be held and disbursed pursuant to this Order.

6. The Receiver is hereby appointed to take charge of and to manage, operate and protect the Properties, and is hereby given the powers and authority usually held by receivers and reasonably necessary to accomplish the purpose of this receivership, including, but not limited to, the following powers, all of which may be exercised without further order of this Court, except as expressly stated below:

- (a) To enter upon, take possession of and assume control of the Properties and all improvements thereto and all books, records and personal property relating to the Properties, including without limitation, computers, computer records and software systems and similar records and computer systems relating to information for the Properties;
- (b) To retain security personnel as necessary to secure the Properties;
- (c) To conduct a full inventory of all personal property comprising a part of the Properties, if necessary;
- (d) To take possession of and control and to draw checks on any and all bank checking, savings and depository accounts containing funds associated with the Properties, arising from the Properties, and any proceeds of the Loan Documents, including, but not limited to, any payroll accounts, vendor accounts, and petty cash accounts, and to open, transfer and change all bank and trade accounts relating to the Properties, so that all such accounts are in the control or name of the Receiver; and to make withdrawals from and issue checks upon such accounts to fund the operations of the receivership;
- (e) To manage, operate, maintain and otherwise control the Properties as necessary to prevent diminution of the Properties' value including, but not limited to, collection of deposits, fees, rents, income, issues, profits, royalties, payments and revenues of any kind or nature whatsoever relating to or arising in connection with the Properties now due or which may hereafter become due and to immediately take whatever steps are reasonably necessary to secure all such income, and (ii) to negotiate, extend, terminate, modify, renegotiate, ratify or enter into leases, contracts or other agreements related to the repair, maintenance, operation, rental occupancy, use or leasing of the Properties, and to contract for other capital improvements with respect to all or any portion of the Properties, and (iii) from the date of this Order, to pay payroll, taxes, insurance, utility

charges and other operating expenses and costs incurred in managing and preserving the Properties;

- (f) To suspend, limit or discontinue operations at the Properties;
- (g) To enforce, modify, renegotiate, or terminate, if appropriate, any existing contracts relating to the management, leasing, construction, maintenance, sales or security of the Properties and its improvements and to enter into new contracts, including, without limitation, to hire on a contract basis personnel and one or more contractors necessary to maintain, preserve and construct improvements on the Properties and to retain, hire and terminate property management and other personnel, and contract for and obtain such services, utilities, supplies, equipment, and goods as are reasonably necessary to operate, preserve, protect and complete any improvements on the Properties and to make such maintenance and repairs to the grounds and improvements on the Properties as the Receiver may reasonably deem necessary; provided, however, no contract shall extend beyond the termination of the receivership unless authorized by Lender, which authorization shall be deemed granted as a matter of course, unless an objection to such contract or other agreement is given to the Receiver within five (5) business days after the giving of written notice by the Receiver of the proposed contract or other agreement to Lender and its counsel, if any;
- (h) To perform ordinary and necessary repairs and maintenance on the Properties;
- (i) To continue, make, enforce, modify, negotiate and enter into such leases, rentals, occupancy, use and other contracts and service agreements with regard to the Properties as the Receiver may reasonably deem appropriate in connection with the discharge of the Receiver's duties; provided, however, no such leases, contracts and service agreements shall extend longer than sixty (60) days beyond the termination of the Receivership unless authorized by Lender in advance, and in the case of any such leases, contracts or agreements which are not in the best interests of the Properties to rescind or terminate the same;
- (j) To secure, operate and complete construction of any portion of the Properties;
- (k) To open, transfer and change all bank and trade accounts relating to the Properties, whether in the name of the Borrowers or in the names of third parties, to the extent that they contain payments or proceeds pertaining to or from operations of the Properties, so that all such accounts are in the control or name of the Receiver;

- (l) To obtain and renew all insurance policies that the Receiver deems necessary for the protection of the Properties and for the protection of the interests of the Receiver and the parties to this action with respect to the Properties, but in no event shall the Receiver maintain insurance for the Properties in an amount less than that required under the Loan Documents; to take such actions as the Receiver deems necessary to be named as an additional insured on any existing insurance policies upon the Properties; and to notify any insurers of the Properties of the pendency of these proceedings and that, subject to the prior rights of any person possessing a lien on the Properties, any proceeds paid under such policies shall be paid to the Receiver;
- (m) To dispose of or destroy items of personal property, including Borrowers' records and files, located at the Properties which are not necessary to the continued operation of the Properties, provided that in the case of Borrowers' records or files, the Receiver shall first give advance written notice to Borrowers of its intent to dispose of or destroy such items;
- (n) To borrow from Lender, on such reasonable terms as may be mutually acceptable to Lender and the Receiver, funds to meet working capital needs of the Properties in excess of the income from the Properties, such funds to be advanced under the Loan Documents to be added to the outstanding indebtedness of Borrower pursuant to the Loan Documents and to be secured by the Loan Documents;
- (o) To apply for, transfer, obtain and renew, as necessary to prevent the loss of or loss of use of all licenses, permits and entitlements required for the operation of the Properties or issued in connection therewith;
- (p) With respect to any operation or activity that is now conducted on the Properties or is customarily conducted on similar properties, and that may lawfully be conducted only under governmental license or permit, to continue such operation or activity under the licenses or permits issued to Borrowers subject to compliance with the terms thereof;
- (q) To enter into contracts for those services necessary to aid the Receiver in the administration of the receivership, including the retention of attorneys and accountants and other professionals, with all reasonable expenses incurred in connection therewith deemed to be expenses of the receivership;
- (r) To institute such legal actions as the Receiver deems necessary to: (i) collect accounts and debts, and enforce reservations and other agreements relating to the Properties; (ii) recover possession of the Properties and deposits from persons who may now or in the future be wrongfully occupying the Properties or any part thereof; and (iii) enforce all rights of

action and claims for recovery arising out of or related to the Properties or its operations, including without limitation, seeking substitution as the real party in interest in pending causes of action; to settle mechanic's liens, subject to Court approval; and to investigate and, if the Receiver deems appropriate, protest property taxes for all or parts of the Properties and, where available, file for abatement of previously paid property taxes;

- (s) To change any or all locks on the Properties;
- (t) To hire such property manager or managers for the Properties as the Receiver deems appropriate from time to time in its discretion; and to deal with, hire, or terminate present managers, agents, and employees of Defendants active in the day-to-day operations of the Properties;
- (u) To hire such real estate broker or brokers for the Properties as the Receiver deems appropriate to assist with listing and marketing the Properties for sale or for lease;
- (v) To employ contractors, as the Receiver deems appropriate, to undertake the management, maintenance and repair of improvements on the Properties and the operation thereof;
- (w) To preserve and protect the improvements located on the Properties and to secure same against loss or damage, and to preserve any and all claims and warranties as necessary;
- (x) To reject, ratify, confirm, renegotiate, modify, or hold all rental agreements, contracts, and other agreements relating to the operation, management, and rental of the Properties, including, without limitation, any settlement agreements entered into with respect to former or existing rental agreements, contracts, and other agreements and to deal as appropriate with and hire or terminate future managers, rental agents, or professionals dealing with the Properties;
- (y) To open and review any mail or other correspondence directed to Borrowers or their representatives that relates in any way to the Properties;
- (z) To complete any construction or renovation that may be in progress or that is required as a condition to retention of the Properties;
- (aa) Subject to the limitations of paragraph 10 below, if an environmental problem is brought to the Receiver's attention, to take steps necessary to evaluate the condition of the Properties and to preserve the Properties from material injury or depreciation in value, including depreciation or injury as a result of the presence of hazardous or potentially hazardous substances or materials brought to the Receiver's attention and located on



the Properties, requiring special handling, treatment, storage, transportation, and/or disposal and to hire any third parties for the purpose of testing for or disposing of such materials;

- (bb) To generally do such other lawful acts as the Receiver reasonably deems necessary for the effective operation and management of the Properties and to perform such other functions and duties as may from time to time be required and authorized by this Court, by the laws of the State of Missouri or by the laws of the United States of America, and specifically the rules and regulations of the Federal Communications Commission;
- (cc) To sell the Properties, upon the consent of Lender, in the ordinary course of business or as a liquidation of assets upon order of this Court approving same entered upon written notice of the proposed terms of such sale, including any sales commission to Lender and any other party holding a record interest in the Properties and not less than ten (10) business days after Receiver's Motion to Approve Sale is filed with this Court. To the extent no timely written objection to Receiver's Motion to sell the Properties is filed within ten (10) business days of filing the Motion to Approve Sale shall be deemed granted and this Court shall enter an order approving such sale;
- (dd) To take any further actions that are customarily performed by or attributed to a receiver in similar circumstances in the broadcasting industry; and
- (ee) To pay any fines, which are levied, based upon property condition (such as weeds, abandoned cars, vagrancy, etc.), even if said fines are levied against any one or more of the Defendants.

7. That the Receiver is hereby directed to apply the rents, revenues, income, issues and profits collected by the Receiver in connection with the management and operation of the Properties in the following order: (a) to the payment of the fees of the Receiver; (b) to the payment of premiums for insurance required by the Deeds of Trust; (c) to the payment of all expenses for all normal maintenance and management of the Properties; and (d) to the performance of the terms of the Loan Documents. Any payment by Receiver to Lender hereunder shall not constitute a cure of Borrower's default.

8. In the event that a bankruptcy case is filed by Borrowers during the pendency of this receivership, Borrowers must give notice of same to this Court, to all parties, and to the Receiver, within 24 hours of filing of the bankruptcy case. Upon receipt of notice that a bankruptcy has been filed, which includes as part of the bankruptcy estate any receivership property which is the subject of this Order, the Receiver shall do the following:

- (a) The Receiver shall immediately contact Lender, and determine whether Lender intends to move in the Bankruptcy Court for an order for relief from the Receiver's obligation to turn over the Properties (11 U.S.C. §

543).

- (b) If Lender indicates no intention to make such a motion, then the Receiver shall immediately turn over the Properties to either the trustee in bankruptcy, if one has been appointed or, if not, then to the debtor in possession and otherwise comply with 11 U.S.C. § 543.
- (c) If Lender expresses an intention to immediately seek relief from the Receiver's obligation to turn over the Properties, then the Receiver is authorized to remain in possession and preserve the Properties pending the outcome of such motion (11 U.S.C. § 543(a)). The Receiver's authority to preserve the Properties is limited as follows: the Receiver may make disbursement, but only those which are necessary to preserve and protect the Properties; the Receiver shall not execute any new leases or other long-term contracts, the Receiver shall do nothing that would effect a material change in circumstances of the Properties.
- (d) Notwithstanding the above, if Lender fails to file a motion within ten (10) court days after its receipt of notice of the bankruptcy filing, then the Receiver shall immediately turn over the Properties either to the trustee in bankruptcy if one has been appointed or, if not, to the debtor in possession, and otherwise comply with 11 U.S.C. § 543.
- (e) The Receiver is authorized to retain legal counsel to assist the Receiver with the bankruptcy proceedings.

9. That notwithstanding anything to the contrary contained in this Order, the Receiver shall not take any action with regard to ownership, operation, control, storage, generation, or disposal of: (a) any substance deemed a "hazardous substance", "pollutant", "contaminant", or similar substance under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675, the Conservation and Recovery Act of 1976, the Solid Waste Amendments of 1984, the Superfund Amendments and Reauthorization Act of 1986, and any other amendments; or (b) any other chemical, toxin, pollutant or substance defined as hazardous or dangerous to human health under any other federal, state or local law, regulation, rule or ordinance, including, without limitation thereto, petroleum, crude oil, or any fraction thereof (all collectively referred to herein as "Hazardous Substances"), without first applying for and obtaining an Order of this Court specifically setting forth the action or actions proposed to be taken by Receiver. Without first applying for and obtaining such an Order of this Court, Receiver shall have no ownership, control, authority or power (neither shall Receiver have any obligation to exercise ownership, control, authority or power) over the operation, storage, generation or disposal of any Hazardous Substances. All decisions relating to the ownership, operation, control, storage, generation and disposal of any Hazardous Substances shall be resolved by this Court. Notwithstanding the foregoing provisions of this Section 10, substances typically stored, used or consumed in the hospitality industry shall be excluded from the provisions of this Section, provided such storage, use or consumption are all in accordance with applicable law.

10. That commencing with the first full month after its appointment, the Receiver shall:

- (a) Provide on a periodic basis to the parties to this action information relating to the management and operation of the Properties, including financials;
- (b) Within thirty (30) days after the end of each calendar month file with this Court a report concerning the Receivership activity of the Properties and an accounting to the Court for the preceding calendar month, and shall serve same on counsel for Lender, Defendants, and all other persons who enter an appearance in this action; and
- (c) All receiver reports and accountings shall be deemed approved unless specific written objections thereto and a motion for hearing upon such objections are filed with this Court within ten (10) business days of Receiver's filing.

11. That Borrowers, the Guarantors, and all persons in active concert and participation or in a contractual relationship with Borrowers, including employees, agents, managers, and accountants, be, and the same hereby are, ordered:

- (a) To immediately surrender possession and control of the Properties to the Receiver;
- (b) To immediately surrender possession and control, and deliver over to the Receiver or its agents all property related to the Properties, as described above, including without limitation, any and all rental payments, lease payments, keys to the Properties, accounts receivable, security deposits, trust accounts, bank accounts, all merchant accounts, whether in the name of any of the Defendants or in the names of third parties, to the extent that they contain payments or proceeds pertaining to or from the Properties, personnel files, operations manuals, financial records, payroll records, records, contracts for outside services and consultants, certificates and licenses, contracts, leases, rent rolls, fixtures, inventory, supplies, furniture and equipment used or associated therewith, and all other things of value relating to the Properties (including without limitation such records and other papers in its possession or under its control as may be pertinent to the status of the Properties and the Receiver's operation and management thereof), properly endorsed to the Receiver when necessary;
- (c) To deliver immediately to the Receiver all collections on accounts receivable and credit card receivables, security deposits, lease payments, rental payments, other collections, books, rent rolls and other records relating to the operation, maintenance and management of the Properties,

and to permit the Receiver to carry out its duties hereunder without interference;

- (d) To turn over and deliver immediately to the Receiver any and all mail or other correspondence directed to the Borrowers or their representatives that in any way relates to the Properties or the operation of the Properties, and neither the Borrower nor any of its representatives or agents shall take any action that may interfere with the delivery of the Borrowers' mail or correspondence to the Receiver;
- (e) To turn over and provide to the Receiver all domain names, electronic mail accounts, marketing accounts, and access to related or similar online resources related to the Properties, including all passwords or other credentials required to access such accounts so that the Receiver may gain access to and control over all such accounts and resources;
- (f) When necessary or when requested, to explain the operation, maintenance and management of the Properties to the Receiver or its agents;
- (g) To deliver (except to the extent located at the Properties and turned over with possession) to the Receiver within fourteen (14) days after the date of this Order: (1) statements of the Properties' financial affairs and condition including a balance sheet and a statement of profit and loss for Borrowers in such detail as Lender or Receiver may reasonably request setting forth the financial condition and the income and expenses for the Properties through the current period for reporting, with a certificate executed by the chief financial officer of Borrower or the manager or officer of Borrowers, as applicable, stating that each such statement is true and correct in all material respects; and (2) an itemization of all unpaid bills and other amounts due and payable relating to the Properties, together with all bills, invoices and other writings evidencing or relating thereto;
- (h) To cause all insurance policies currently insuring or otherwise relating to the Properties and/or to the ownership, maintenance, repair, improvement, management, leasing, use, preservation, and protection of the Properties or to Borrowers' interest in the Properties to be endorsed to name the Receiver and its agents, employees and contractors as additional insureds or as loss payees (as applicable) thereunder, all as their respective interests may appear; and shall promptly deliver to Receiver and Lender all communications received by Borrower from the issuer of any such insurance policies. The Receiver is authorized to obtain from Borrowers' insurance carriers the industry standard insurance protections for managers of similarly situated properties, including, but not limited to, being named as an additional insured on Borrowers' liability policies related to the Properties and receiving from Borrowers' property insurance policies and business interruption or rent loss insurance policies appropriate waivers of

subrogation clauses pursuant to which the Borrowers' insurance carriers would waive all rights of subrogation against Receiver with respect to losses payable under such policies. The Receiver is authorized and directed to maintain in full force and effect all such insurance policies and, if and when necessary upon expiration or termination of such currently existing policies, to procure and pay the premiums for comparable insurance policies relating to the Properties with such types of coverages, in such amounts and issued by such companies as are specified in the Loan Documents, or otherwise as may be approved by Lender;

- (i) To promptly deliver to the Receiver any and all notices and other written communications and to promptly notify the Receiver of any oral notices or communications in any way relating to the Properties which are received by such party on or after the date of this Order; and
- (j) To comply with all reasonable requests of the Receiver.

12. That Lender has duly revoked Borrowers' limited licenses to collect Rents (as that term is defined in the Deeds of Trust) related to the Properties, and all such Rents that may have been collected by Borrowers prior to or following the commencement of this case shall be immediately turned over to the Receiver for the benefit of Lender.

13. That by making this request for the appointment of a Receiver, Lender does not render itself liable for the costs and expenses of the Receiver nor is Lender required to advance funds to the Receiver to meet the working capital needs of the Properties; nor shall anything in this Order be construed as obligating the Receiver to advance its own funds to pay costs and expenses of the receivership which have been approved by this Court.

14. That except as may be expressly authorized by this Court hereafter upon notice and a hearing, Borrowers, their agents, employees, representatives or anyone claiming under such persons, and all persons in active concert and participation, or in any contractual relationship with any of them, including employees, agents, managers, accountants, franchisors, utility or service providers, licensors and banks, are enjoined from:

- (a) Other than under the supervision of the Receiver, collecting any rents, revenues, accounts, issues and profits from the Properties or withdrawing funds from any bank or other depository account relating to the Properties;
- (b) Taking, or remaining in, possession of any part of the Properties or any other assets associated therewith;
- (c) Withdrawing funds from any bank or depository account relating to the Properties;
- (d) Entering into any agreement or renewing, extending, modifying, amending in any way or terminating any agreement in any way related to the

Properties;

- (e) Hindering or interfering with in any way the performance of the Receiver's obligations, duties and instructions hereunder or with the Properties or any assets associated therewith or the Receiver's possession and control thereof;
- (f) Terminating or causing to be terminated any license, franchise agreement, permit, lease, contract, agreement or service, including utility service, relating to the Properties or the operation of any of the businesses on the Properties;
- (g) Taking any action inconsistent with the terms of this Order;
- (h) Removing, destroying, concealing or altering any of the Properties or any assets associated therewith;
- (i) Taking any action with respect to the control, use, management, preservation, repair, maintenance, leasing, sale or operation of the Properties and any assets associated therewith, except as otherwise permitted under this Order or upon the specific request of the Receiver; and
- (j) Otherwise interfering with the operation of the Properties or the Receiver's discharge of its duties hereunder.

15. Any financial institution and any other person in active concert, participation or connection with the Borrower or the Guarantors shall take such steps as are necessary to restrain or prevent said Borrowers and Guarantors from withdrawing, disbursing, distributing or causing the diversion of any funds, cash, income, and deposits in any of Borrowers' accounts relating to the Properties or any funds which may hereafter be deposited in any of Borrowers' or Guarantors' accounts relating to the Properties and shall cooperate with the Receiver in securing possession of all of Borrowers' assets in their possession, custody or control.

16. That the assistance of the Sheriff or other law enforcement agency to enforce the terms of this Order in the form of peacekeeping duties is hereby authorized.

17. That Lender or Receiver may from time to time request that the Court enter additional orders to supplement, clarify or amend this Order.

18. That the Receiver shall continue in possession of the Properties during any period of redemption and thereafter, until discharged by the Court.

19. That the Receiver and those agents and any property managers acting under its control, shall have no personal liability in connection with their actions undertaken in furtherance of the Receiver's duties, except for damages arising from their gross negligence, willful

misconduct and/or willful failure to comply with the orders of this Court.

20. That the Receiver shall not be obligated to assume any specific lease, agreement, contract or return security deposits not received from Borrower. The Receiver may, but shall not be liable for and shall have no obligation to, pay any amounts, including payroll payments and taxes, incurred prior to the date it takes control of the Properties,

21. That state and local authorities, utility providers, and any contractor doing work affecting the Properties are directed to expedite the immediate transfer to the Receiver of all licenses, agreements and authorizations to do business associated with the Properties.

22. That the Receiver shall forthwith provide a copy of this Order to Borrowers and any other persons in possession of the Properties or otherwise affected by this Order.

23. That nothing herein shall impair or otherwise affect Lender's ability to foreclose upon the Properties pursuant to the Deeds of Trust without judicial process or to take any other action against Lender's other collateral in connection with the Properties, pursuant to the Uniform Commercial Code or otherwise.

24. The Receiver shall be paid the following fee:

The sum of \$200.00 per hour plus Costs as set forth below.

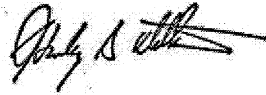
Payment for services rendered is due on the 10<sup>th</sup> calendar of the following month.

(a) Costs attributable to the Receiver fee includes but not limited to: Supervision by the Receiver; hiring, supervision, and termination of site personnel; general maintenance of property books and records (general ledger, accounts payable and receivable, payroll, etc.); preparation of budgets; reviews of tenant certifications; preparation, approval and distribution of operating disbursements and oversight of property receipts and reconciliation of deposits; overhead of management agent; development, preparation, revision of marketing plans; management plans and/or agreements; maintenance of bank accounts and monthly reconciliation; preparation of reports to the court, lender and applicable regulatory agencies.

(b) Direct costs to be paid from the property(ies) revenue include, but are not limited to the following: expenses when directly identified with the property and assigned property employees or functions: Office supplies and copying expenses, postage and delivery costs; maintenance materials and repair supplies; office rent, telephones; data processing services and hardware/software costs; bank charges and fees; property advertising; applicant screening expenses; salary/wages, applicable payroll taxes and employer contribution to health insurance and other fringe benefits, workmen's compensation; direct contract cost, liability and property

insurance; costs of travel to off-site locations; legal fees related to management; accounting and auditing fees; and unit turnover expenses; preventive maintenance expenses; snow removal; landscaping maintenance and snow removal; expenses related to site utilities; real estate taxes; professional service contracts.

**SO ORDERED** this 16<sup>th</sup> day of May, 2016.



\_\_\_\_\_  
Judge