

a. The Receiver shall take immediate possession, control, management and charge of the Property's accounting books and records of whatever nature and wherever located, in the possession of AEM or Defendant Mark Dente ("Dente") or any other person or entity, including all information regarding the assets, liabilities, equity, income and expenses of the Property. The Receiver shall take immediate possession, control, management and charge of all of the Property's financial statements, (whether consolidated or by individual entity), ledgers and journals, balance sheets, trial balances, statements of cash flows, income statements, statements of retained earnings, accounting journals and books of original entry, including but not limited to (1) accounts receivable aging's, rent rolls, and any other documentation which indicate the amounts owing from lessees and other debtors of the Property on accounts receivable and from whom such amounts are or were owing and when any amounts were collected and deposited; (2) fixed asset ledgers, schedules, records, documentation and/or appraisals of the Property's equipment, motor vehicles, boats and their engines, accessories, furniture inventory, furnishings, and supplies; (3) inventory listings or other detail; (4) all information and documentation which relates or pertains to any checking, saving, banking and money management accounts of any kind or nature of the Property or into which any proceeds of the collection or sale of any asset of the Property have been deposited; (5) all accounts payable documentation and information and all correspondence or written documents regarding negotiations with current accounts or proposed accounts; (6) all information of whatever type or nature, regarding the payroll and benefits of the employees of the Property, including wage or salary information, medical insurance information, child support payments or other employee deductions withheld or to be withheld, and all information regarding the trust fund or withholding

taxes whether federal, state, or local and any information regarding any and all of the employer matching obligations or the employer payroll tax obligations; (7) all information and documentation of any asset transfers by AEM and Dente any time in the past; (8) all information and documentation regarding the federal, state and local tax liabilities of the Property, including any and all federal, state and local tax returns filed or unfiled, and any documents generated during the preparation and filing of tax returns; (9) all contracts and leases pertaining to the Property and/or to which AEM is a party; (10) all information and documentation of any other financial transaction or interest in and any asset of the Property which may be necessary or pertinent to the Receiver's operation and management of AEM's assets; and (11) any documentation that relates or pertains to AEM and is kept in the ordinary course of its business in connection with the record-keeping or accounting. The information described in this subparagraph shall hereinafter be referred to as the "Books and Records."

b. The Receiver shall take immediate possession, control, management and charge of AEM and the Property, including all assets and property appertaining thereto consisting of all personal property, real property (including leasehold interests), all cash or cash equivalents including, but not limited to, rights, title and interest in and to all bank accounts, all accounts and notes receivable, all inventory of any type or nature, all furniture, fixtures, equipment, computers (hardware and software), and all general intangibles, including, but not limited to, all licenses and liquor licenses owned or utilized by the Property, rights in leases, rights to proceeds from any insurance or sales of equipment or other asset, all choses in action and causes of action, including avoidance actions for transfers of any of the assets of the Property for less than equivalent value against the transferees of those assets, and

any other asset or interest owned by Plaintiff or in which Plaintiff asserts an interest which has any value which pertains to the Property (collectively, "the Assets"), and the Books and Records and the Assets are hereby placed in *custodia legis* and are subject to the exclusive jurisdiction of this Court. Receiver shall not be charged with the responsibility to take possession of any real estate or other assets which had or have existing hazardous or toxic contamination nor shall the Receiver be required to take possession of any hazardous or toxic materials owned or used by AEM. Should the Receiver elect to take possession of, or exercise his dominion and control over, any real estate, hazardous or toxic materials, pollutants or contaminants, he shall do so in his capacity as Receiver for the Property.

c. The Receiver shall have the authority to operate and manage AEM and the Property as he deems prudent in his sole discretion throughout the litigation, subject to further order of this Court. The Receiver shall preserve and care for any and all of the Property and utilize any and all of the Property to preserve and maximize the value of the Property.

d. The Receiver is authorized to collect all profits, rents, receivables and revenues of any nature whatsoever generated from AEM and the Property and/or the business operations of AEM and Property and to pay all necessary expenses relating to said operations, including his fees and the fees of his attorneys, accountants and other professionals, as he deems prudent in his sole discretion, from funds in his possession, whether such funds are derived from the operation or the sale of AEM and the Property.

e. The Receiver shall have the authority to maintain or purchase insurance from any agent or carrier, of any type reasonably necessary or desirable, on all the Property, subject

to maintaining adequate coverage appropriately and naming appropriate loss payees as any properly perfected security interests provide within the corresponding security agreement.

f. The Receiver is authorized to establish or maintain one or more bank accounts in the Receiver's name for its operations as Receiver in this matter at any federally insured bank as reasonably needed to engage in business operations on behalf of AEM and the Property. The Receiver shall keep a true and accurate account of any and all receipts and disbursements which the Receiver shall receive or make as Receiver in the course of the operation of the Property.

g. The Receiver is authorized to negotiate and effect an orderly sale, transfer, use or assignment of all or a portion of any of the Property in or outside of the ordinary course of business of AEM and, from the proceeds thereof, to pay the secured and unsecured indebtedness of the Property. Payments to creditors by the Receiver shall include trade indebtedness which arises during the course of the Receiver's operation of the Property, which shall be paid first from the sale proceeds, together with the fees and expenses of the Receiver and his attorneys, accountants and other professionals. The Receiver is authorized to conduct such a sale of the Assets in any manner which he, in his good faith and reasonable discretion, believes will maximize the proceeds received from the sale.

h. The Receiver is authorized to institute, prosecute, or intervene in any lawsuit or summary proceeding against any other person(s) or entity(ies) to preserve and/or maximize the value of the Property or to obtain possession of any of the Property unlawfully in the possession of third parties.

i. The Receiver is authorized but not required to defend actions against and may incur expenses to defend such actions to the extent that he believes, in his sole discretion, it will protect and preserve the Property.

j. The Receiver is authorized to perform pursuant to the terms of any existing contracts executed by AEM and Dente in connection with the Property to the extent that the Receiver determines, in his sole discretion, that such performance will preserve and maximize the value of the Property. The Receiver may reject contracts not deemed to be in the interest of creditors of the estate, and the holder of any contract so rejected shall be allowed a claim as an unsecured creditor of the Property, said claim to be calculated consistent with the law.

k. The Receiver is authorized to employ any assistants, servants, agents, counsel or other persons deemed necessary or desirable to assist the Receiver in diligently executing the duties imposed upon the Receiver by this Order and Ohio law.

3. Notwithstanding the foregoing, the Receiver and the Receivership estate shall not be liable for the payment of taxes, assessments or utility charges pre-dating the date of this Order. Any individual or entity receiving a copy of this Order is hereby enjoined and restrained from discontinuing service to the Receiver or the Receivership estate based upon the non-payment of such taxes or utilities prior to the date of this Order and from attempting to collect taxes and utility charges from the Receiver pre-dating the date of this Order.

4. AEM and Dente and any persons, firms or entities acting under the direction of AEM and Dente, and any third parties, persons, firms or entities, shall, upon presentation of a copy of this Order, identify the location of and deliver to the Receiver, any and all receivership property, both the Books and Records and the Assets, in the possession or under the control of such parties;

and all persons are enjoined and restrained (a) from payment of any amounts owing to AEM and Dente relating to the Property to anyone other than the Receiver, and (b) from in any way disturbing or interfering with the collection, management or sale of any of the Assets.

5. All creditors, claimants, bodies politic, parties in interest, and their respective attorneys, servants, agents, and employees, and all other persons, firms, and corporations be, 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 the Property, or its Books and Records or Assets, or against the Receiver, in any court. The parties 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 the Property owned by or in the possession of AEM, or the Receiver, and from doing any act or thing whatsoever to interfere with the Receiver in the discharge of his duties in this proceedings or with the exclusive jurisdiction of this Court over the Property, its Books and Records and Assets and the said Receiver.

6. Parties in this case and their respective attorneys, servants, agents, and employees, and all other persons, firms, and corporations be, they hereby are, jointly and severally, enjoined and stayed from commencing any action at law or suit or proceeding in equity in any Court or to prosecute any claim, or to execute or issue or cause the execution or issuance out of any Court of any writ, process, summons, attachment or subpoena, against Mark E. Dottore, the individual, or any entity in which he holds an interest, without first obtaining permission of this appointing court. Such a lawsuit may be used to intimidate the Receiver and therefore interfere with the discharge of his duties in this proceeding. Upon a request to sue Mark E. Dottore, the individual, or an entity

in which he holds an interest, by any party, the Court will undertake a review of the facts and circumstances, and upon notice and hearing, determine whether the suit is meritorious or interposed for the purpose of harassment of the Receiver.

7. AEM and Dente and their agents and employees, and any other party, shall turn over to the Receiver, as soon as possible or within three (3) days from the date of this Order, any and all Books and Records.

8. AEM and Dente and their agents and employees, and any other party, shall turn over to the Receiver, as soon as possible or within three (3) days from the date of this Order, all sums in existence on the date hereof that are related or pertain to, or derived from the Property, including, but not limited to (a) all cash on hand; (b) all cash equivalents and negotiable instruments (such as checks, notes, drafts or other related documents or instruments); and (c) all sums held in accounts in any financial institutions, including but not limited to, all sums of any kind relating to the use, enjoyment, possession, improvement or occupancy of all or any portion of the Property.

9. Except as directed by the Receiver, AEM, Dente, their affiliates, agents, officers, directors, shareholders, members, employees, representatives or creditors, and all other persons or entities, are hereby prohibited from taking any act for or on behalf of AEM, interfering in any way with the acts of the Receiver, and from in any way, manner or means wasting, disposing of, transferring, selling, assigning, pledging, canceling, concealing, interfering with, or hypothecating any of the Books and Records or the Property. Upon the request of the Receiver, the foregoing persons and entities shall cooperate and affirmatively assist the Receiver in making available to the Receiver or his agents, the Books and Records and the Property. Nothing in this paragraph shall be construed to require a waiver of any attorney-client privilege.

10. The Receiver, and his agents, including his counsel and any accountants that are appointed by the Court, shall be entitled to reasonable compensation for services rendered and reimbursement for expenses incurred which are (a) related to the Receiver's duties, rights, and obligations under this order or any future orders of the Court and applicable law; (b) related to the administration, management, protection or liquidation of the Property; or (c) the defense or prosecution of any claim or suit brought by or against the Receiver or by the Receiver against any person or entity. Such compensation of the Receiver and his agents, his counsel and his accountants shall be paid consistent with Paragraphs 11 through 14 of this Order Appointing Receiver and awarded from the Receivership estate and/or pursuant to Ohio Revised Code Section 2333.27. If the Receivership does not have funds to pay the fees and expenses of the Receiver and his attorneys, accountants and other professionals, those fees will be assessed as costs of this case.

11. The Receiver shall be compensated pursuant to the Receiver's normal billing rate of \$400.00 per hour plus reimbursement for all reasonable and necessary out of pocket costs and expenses.

12. From time to time, the Receiver utilizes the assistance and expertise of persons on the payroll of his companies. When additional compensation is appropriate under Local Rule 9.02(F), these individuals are billed according to their regular hourly rates. If the services of others are required, they will be billed at an hourly rate consistent with or below the rates charged by others in this community with similar skills and ability, as is true with all hourly rates charged under this Order.

13. Routine accounting services are included in the percentage rates charged by the Receiver. Routine accounting services include bookkeeping, bank account review and reconciliation, and the filing of periodic reports required pursuant to Local Rule 9.02(B). The

filing of tax returns, other governmental reporting requirements, assistance to any governmental law enforcement agency, and other non-bookkeeping accounting functions will be charged at ordinary, hourly rates.

14. The Receiver may retain counsel in this matter. Said counsel will charge the Receivership at his/her ordinary and customary rates, and will work to promote efficiency in the proceedings wherever possible.

15. The Receiver and his attorneys, accountants, or other professionals hired by him, may, at the Receiver's option, file with this Court monthly applications (or less frequent, if he deems appropriate), for payment of fees and expenses incurred in the conduct of this receivership estate, and each such application shall be served via U.S. Mail upon the Plaintiff, the Defendants, and other interested parties who have requested that such applications be served upon them. The Receiver shall be authorized to pay the fees and expenses requested by the Receiver or his attorneys, accountants or other professionals in any such application after ten (10) days have expired after service has been effected, without further order of this Court. If any party or person shall file an objection to the fees and expenses of the Receiver, or of his attorneys, accountants or other professionals, the Court shall consider the objection in the ordinary course. Pending consideration of the objection, the Receiver shall be authorized to pay any portion of the fees and expenses not subject to the objection.

16. The Receiver shall have full and unrestricted access to all of the Property, and AEM and Dente and all of their and AEM's officers, directors, shareholders, employees and agents, and any other party, are directed to take all steps necessary to give the Receiver access to the premises and to give the Receiver all keys to the facilities.

17. The Receiver may, from time to time, make payments to creditors on account of pre-receivership claims, especially secured creditors, according to their interests as they may appear. The Receiver, in his sole discretion, shall determine when or if it is appropriate to make payments to creditors, if any. All payments made prior to the conclusion of the Receivership shall be made after application to the Court and pursuant to Court Order.

18. The Receiver shall, under his authority to operate and manage the businesses of AEM, operate and manage such businesses in compliance with applicable statutes. Nothing in this Order shall be read or interpreted, however, to abrogate the Receiver's immunities from personal liability for conduct related to his receivership duties.

19. The Bond of the Receiver is set at \$100.00.

20. The terms of this Order shall continue in full force and effect unless and until further order of this Court.

IT IS SO ORDERED.

6-22-22

Date

Pat A. Casone

Judge

22 JA 1384

Submitted by:

s/ Nicholas R. Oleski

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**I certify this to be a true copy of the original
Sandra Kurt, Clerk of Courts.**

Sandra Kurt

Deputy Clerk

Counsel for Plaintiff Christopher Longo