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COMMON PLEAS COURT

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**IN THE COURT OF COMMON PLEAS  
OTTAWA COUNTY, OHIO**

CLERK OF COURTS  
OTTAWA COUNTY, OHIO

**RECORDED AND JOURNALIZED**

CARL R. AND GERRI GORDON	)	CASE# 2010-CV-271H
on behalf of themselves and all	)	
other similarly situated,	)	JUDGE BRUCE WINTERS
	)	
PLAINTIFFS,	)	
	)	
-v-	)	
	)	
ERIE ISLANDS RESORT & MARINA,	)	
et. al.,	)	
	)	<b>ORDER APPOINTING</b>
DEFENDANTS.	)	<b>RECEIVER</b>

This matter came before this Court upon the motion of Plaintiffs for the appointment of a receiver pursuant to R.C. §2735.01, et. seq. over the assets of defendant, Erie Islands Resort & Marina, Inc. a/k/a Erie Islands Resorts & Marina, Inc. (“**Erie Islands Resort**”). This court, having considered the pleadings and other papers presented in connection with this matter, hereby finds as follows:

A. Plaintiffs and Erie Islands Resort are co-owners of certain real property and improvements located in Bay Township, Ottawa County, Ohio, and more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the “**Jointly-Owned Real Property**”).

B. Erie Islands Resort owns additional real property and improvements located in Bay Township, Ottawa County, Ohio, and more particularly described in

Exhibit B attached hereto and incorporated herein by this reference (the “**Solely-Owned Real Property**”).

C. Erie Islands Resort contracted with Plaintiffs to provide Plaintiffs with access and the right to use and enjoy certain improvements and amenities situated upon the Solely-Owned Real Property.

D. Erie Islands Resort has been unable to pay and satisfy its debts and obligations as the same have become due and payable, including, without limitation, providing Plaintiffs with the amenities, which Erie Islands Resort is contractually obligated to provide to Plaintiffs.

E. Erie Islands Resort is insolvent or is in imminent danger of insolvency.

F. Substantial portions of the Jointly-Owned Real Property are in danger of being depleted, dissipated, and/or damaged by Erie Islands Resort.

G. Plaintiffs are entitled to the appointment of a receiver over all the assets and affairs of Erie Islands Resort pursuant to Revised Code Section 2735.01(A)(1) and Section 2735.01(A)(6).

**NOW THEREFORE**, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. **Appointment.** Mark S. Abood (“**Receiver**”), in his capacity as a principal of Hanna Commercial Real Estate (“**Hanna**”), who is not a party, attorney, or person interested in this action, shall be and hereby is appointed as the Receiver to take charge of and manage, in accordance with the provisions of this Order, for all of the assets and rights of Erie Islands Resort, whether real or personal, tangible or intangible, of whatever kind and description and wherever located, whether now existing or hereafter arising, and

whether in the possession of Erie Islands Resort, any person or entity affiliated with or related to Erie Islands Resort or any other bailee, warehouseman or other person or entity (collectively, the “**Receivership Property**”), including, without limitation, the following property:

- A. The undivided fee simple ownership interests of Lake Erie Islands Resort in the Jointly-Owned Real Property;
- B. The undivided fee simple ownership interests of Lake Erie Islands Resort in the Solely-Owned Real Property and any other real property interests of Erie Islands Resort, wherever located;
- C. Erie Islands Resort’s interest in all improvements, including fixtures, situated upon the Jointly-Owned Real Property and the Solely-Owned Real Property (the items described in Paragraphs 1(A) through 1(C) shall hereafter be referred to collectively as the “**Real Property**”);
- D. All machinery, equipment, trade fixtures, fittings, tools, and other tangible personal property of Erie Islands Resort;
- E. All office furnishings, display racks, shelves, decorations and related assets of Erie Islands Resort;
- F. All inventories and related supplies used in the operation of the businesses of Erie Islands Resort, including, without limitation, inventories of food and beverages, including alcoholic beverages;
- G. All cash, cash equivalents, demand deposit accounts, and other money and accounts of Erie Islands Resort, wherever located;
- H. All intellectual property and all rights, interests, and protections that are

associated with, similar to, or required for the exercise of, any of the foregoing, whether registered or unregistered, including any and all: (i) trademarks, service marks, trade names, brand names, logos, and other similar designations of source, sponsorship, association, or origin; (ii) internet domain names, whether or not trademarks, registered in any authorized private registrar or governmental agency, web addresses, web pages, websites and related content, accounts with Twitter, Facebook and other social media companies and the content found thereon and related thereto, and URLs; (iii) works of authorship, expressions, designs and design registrations, whether or not copyrightable, and all registrations, applications for registration and renewals of such copyrights; (iv) inventions, discoveries, trade secrets, business and technical information and know-how, databases, data collections and other confidential and proprietary information and all rights therein; (v) patents (including all reissues, continuations and continuations-in-part, re-examinations, renewals, substitutions, and extensions thereof), patent applications, and other patent rights; and (vi) software and firmware, including data files, source code, object code, application programming interfaces, architecture, files, records, schematics, computerized databases, and other related specifications and documentation;

- I. All rights of Erie Islands Resort under any consent, license, registration, certification, or permit issued, granted, given or otherwise made available by or under the authority of any governmental agency, including any

liquor permits;

- J. All lists, records, and files, or copies thereof, maintained in any tangible or electronic medium, pertaining to the business and affairs of Erie Islands Resort (the items described in Paragraphs 1(D) through 1(J) shall hereafter be referred to collectively as the “**Personal Property**”);
- K. All rents, income, profits and proceeds arising from the use and operation of the Real Property or the Personal Property;
- L. Any other property of Erie Islands Resort of whatever kind and wherever located.

Nothing in the foregoing shall be construed as granting a right to the Receiver or obligation of the Receiver to act on behalf of Erie Islands Resort (or any related entity) with regard to the defense of (or prosecution of any claims arising therefrom) the within action or any related action including, without limitation, the instant matter or those matters pending before this Court (or on appeal) bearing case numbers 2013-OT-040 E, 2015-OT-E 035A (collectively, the “**Pending Litigation**”).

2. **Bond.** The Receiver’s appointment shall be conditioned upon the posting of bond or other security in the amount of \$1,000.00.

3. **Authority of Receiver.** The Receiver shall have the full power and authority of a receiver under Chapter 2735 of the Ohio Revised Code and other applicable law. Without limiting the generality of the foregoing, this Court hereby authorizes the Receiver to perform and do any and all of the following actions:

- A. To immediately take and have complete and exclusive possession, control and custody of the Receivership Property, it being the intention of this

Court that all Receivership Property shall be placed *in custodia legis* and shall be subject to the exclusive jurisdiction of this Court;

- B. To hold, manage, and protect the Receivership Property and to operate the businesses of Erie Islands Resort, to the extent the Receiver, in his reasonable judgment, deems it prudent to do so;
- C. To collect, receive, and use all earnings, rents, income, issues, profits, and proceeds of the Real Property and Personal Property, including real estate tax refunds, accounts receivable, insurance refunds, proceeds from insurance claims, utility deposits, and all other revenues of Erie Islands Resort's business operations, whether now existing or hereafter arising (collectively, and including all payments made by or on behalf of any tenants, residents, or other persons with an interest in the Real Property, the "**Revenues**");
- D. Except for the Pending Litigation, to institute, prosecute, defend, compromise, adjust, intervene in, or become a party to any chose in action, cause of action or other proceeding before any state or federal court or other tribunal or governmental agency, as in the Receiver's business judgment, may be necessary or proper for the maintenance, preservation, and management of the Receivership Property or the carrying out the terms of this Order, whether such proceedings are now pending or hereafter commenced or initiated;
- E. To use the Revenues and such other funds which come into the Receiver's possession to pay all reasonable, necessary and verifiable expenses and

expenditures relating to the management, preservation or protection of the Receivership Property or the operation of the businesses of Erie Islands Resort, including, without limitation, payroll, utility payments, insurance premiums, and contractual commitments; provided, however, that unless the Receiver receives prior written consent from Plaintiffs or an order from this Court, the Receiver shall not pay the following expenses and expenditures: (i) any debts owed to Erie Islands Resort or any entities or persons affiliated with or related to Erie Islands Resort; (ii) any expenditures for capital improvements; (iii) any repair or maintenance expenses in excess of \$5,000 for any one item, unless such repair or maintenance expenses are incurred in connection with any emergency repair or maintenance reasonably required to protect persons or property from immediate harm or damage; or (iv) any expenditure incurred prior to the Receivership;

- F. To take custody, control, and possession of existing bank accounts of Erie Islands Resort (with signing authority transferred to the Receiver and/or his designees and any existing signing authority of the employees, officers, directors, members, managers, and other agents of Erie Islands Resort revoked, as determined by the Receiver in his sole discretion) and/or open and maintain new bank accounts to be used exclusively for deposits and disbursements of Revenues and funds of the Receivership estate and to direct payors, including, but not limited to, any tenants or other occupants of the Real Property to deposit funds due and owing to

Erie Islands Resort in such accounts as directed by the Receiver (the Receiver shall have the authority to use the taxpayer identification number (TIN) of Erie Islands Resort in connection with all such accounts);

- G. To employ or discharge such managers, agents, employees, and contractors, as in Receiver's judgment, may be advisable or necessary in the management, conduct, control or custody of the Receivership Property and the operation and/or winding down of the businesses of Erie Islands Resort, including, without limitation, any managers, agents, employees, and contractors retained previously by Erie Islands Resort (all of whom shall be subject to the Receiver's oversight and authority, and shall be answerable to the Receiver). As an incident to this authority, the Receiver may hire or terminate personnel, independent contractors, or property management companies, and adjust the salaries or compensation of personnel, independent contractors, or property management companies, in the Receiver's discretion (except as otherwise provided in this Order). The Receiver shall have the right to remove the current owner(s), officers, directors, shareholders, agents, employees, representatives, creditors and any other interested persons from the Real Property if they fail to cooperate with the Receiver;
- H. To secure appropriate liability and property damage insurance, in such amounts and with such coverage as reasonably determined by the Receiver, and to pay the premiums therefore, which insurance shall name the Receiver and Hanna as additional named insureds;



- I. To pay and disburse to the Receiver a fee for the Receiver's services and reimbursement for any reasonable and necessary disbursements the Receiver incurs on behalf of the receivership estate, in accordance with the procedures and limitations set forth in this Order;
- J. To ascertain the status of the accounting records of Erie Islands Resort and, if necessary, to retain accountants and other professionals to (i) insure that detailed accounting records are kept and financial reports prepared; and (ii) perform such forensic accounting as the Receiver deems appropriate to identify assets that may have been misapplied or misappropriated by Erie Islands Resort or its employees, agents or contractors; provided, however, that the Receiver shall not proceed with any forensic accounting without the prior approval of Plaintiffs or this Court;
- K. To take possession of or, if needed, to recover all mail or packages addressed to Erie Islands Resort in connection with the Receivership Property. The United States Postal Service and equivalent private delivery services (e.g. United Parcel Service) are directed to release all such mail and packages to the Receiver or a designee of the Receiver.
- L. To, subject to either the prior written consent of Plaintiffs' legal counsel or an order of this Court, retain accountants, attorneys, environmental consultants, brokers, leasing agents and other professionals who, in the Receiver's judgment, are reasonably necessary to advise and assist the

Receiver in connection with the receivership estate and the performance of the Receiver's duties hereunder (the "**Professionals**");

- M. To engage a locksmith to provide the Receiver with ingress and egress to the Receivership Property and/ or to change the locks and generally secure any Receivership Property, if the Receiver deems such services are necessary, as determined by the Receiver in his business judgment;
- N. To enter into new or renewal leases for all or portions of the Real Property with tenants, at rates, and on such other terms and conditions as the Receiver, in his business judgment, determines to be commercially reasonable;
- O. To enter into, or to continue to perform under, contracts executed by the Erie Islands Resort in connection with the Receivership Property or Erie Islands Resort's business operations (including, without limitation, utility contracts), to the extent the Receiver determines that such contracts are desirable or beneficial to the receivership estate;
- P. The right, but not the obligation, in the Receiver's business judgment and subject to an order of this Court, to dissolve and wind down the corporate affairs of Erie Islands Resort, including, without limitation: (i) preparing and providing W-2 forms to former employees; (ii) preparing final state, federal and local tax returns; (iii) finalizing payroll and workers' compensation filings and records; (iv) storing or abandoning; corporate, employee and other records and files in accordance with applicable law; (v) filing certificates of dissolution and other filings with appropriate

governmental agencies; and/or (vi) undertaking such other actions as are required to wind down or liquidate the Erie Islands Resort;

- Q. To the extent applicable: (i) collect sales taxes and other point of sale taxes, if any, to be collected from customers of Erie Islands Resort; (ii) directly incur other taxes, including, but not limited to, income, commercial activity, use, and franchise taxes; (iii) collect taxes required under federal, state or local law to be withheld from the wages of Erie Islands Resort's employees; and (iv) pay and remit any and all taxes payable with respect to the Receiver's activities; provided, however, that in no event shall the Receiver have any responsibility or liability with respect to any taxes relating to any period of time pre-dating this Order;
- R. To exercise any and all rights that Erie Islands Resort has in any homeowners' association, condominium association or as an owner of undivided interests in the Jointly-Owned Real Property or under any management or service agreement, including, without limitation, issuing assessments upon the ownership interests of any and all persons who own an interest in the Jointly-Owned Real Property, including Erie Islands Resort, and collecting such assessments as and when the same become due and payable or charging use fees, registration fees and other similar charges, if any, that have been charged historically by Erie Islands Resort;
- S. To conduct a current market analysis of the Receivership Property and, if needed and subject to the provisions of this Order, advertise and offer for

sale all or any part of the Receivership Property, free of all liens and encumbrances;

- T. To exercise any other authority granted to Receivers under Chapter 2735 of the Ohio Revised Code or under common law to the extent necessary to carry out the duties of the Receiver prescribed by this Order or any other order of this Court subsequently issued.

4. **Third Party Management.** Without limiting the generality of the provisions of Paragraph 3 of this Order, the Receiver is hereby authorized and empowered to engage Hanna, or any other company of his choosing, as a property manager to operate and manage any or all of the Receivership Property (“Manager”), subject to the direction and supervision of the Receiver and in accordance with the terms and provisions of any written management agreement entered into between the Receiver and Manager incorporating the pertinent provisions of this Order and such other terms and conditions as the Receiver finds commercially reasonable. The Receiver is authorized and empowered to pay, from the income, profits, proceeds and revenues of the Receivership Property, the fees and expenses due and payable to Manager under any such management agreement.

5. **Insurance.** The Receiver shall be named as a named insured party on all liability and property damage insurance policies now or hereafter issued with respect to the ownership, use and operation of all or any portion of the Receivership Property and, if needed, the Receiver is authorized to pay any and all related premiums as an administrative expense of the receivership.

6. **Water and Sewer Plant.** The Receiver shall have the full power and authority to do all things reasonably necessary to obtain and maintain all necessary permits and approvals from the Ohio Environmental Protection Agency and other governmental authorities exercising proper jurisdiction with respect to any Public Water System License relating to the Jointly-Owned Real Property and/or the Solely-Owned Real Property and otherwise comply with all applicable federal, state, and local environmental laws; provided, however, that the Receiver shall have no liability or responsibility to any person for any environmental condition concerning the Receivership Property, which exists as of the date of this Order, regardless of whether or not discovered, exacerbated or caused by the Receiver or his agents, employees or representatives during the term of this receivership.

7. **Claims Administration.** The Receiver shall have the full power and authority to seek and solicit the presentation and proof of all claims and demands against Erie Islands Resort and of all rights, interests, or liens in or on any of the Receivership Property and establish the manner in which such proofs shall be made and the person to whom such presentations shall be made. When the Receiver has familiarized himself with the Receivership Property and the businesses of Erie Islands Resort, the Receiver shall apply to this Court for an Order establishing deadlines by which the creditors of Erie Islands Resort must submit their proofs of claim.

8. **Payment of Fees and Expenses.** The Receiver and Hanna shall receive compensation for the services rendered pursuant to their duties as specified in this Order, pursuant to the rate and fee schedule set forth on the attached Schedule A irrespective of any contrary provisions in Loc. R. 55. The Receiver, together with Professionals retained

by the Receiver, shall further receive reimbursement of expenses and disbursements incurred in connection with the performance of their duties. To obtain approval for payment of fees and expenses, the Receiver and Professionals retained by the Receiver shall submit a *joint* application for the payment of fees and expenses (partial or final) to the Clerk of this Court and shall serve copies on all parties. Any parties (including, without limitation, Plaintiffs) who wish to object to the fees shall serve an objection within fourteen (14) days after the filing of the application. If no objection is filed with the Court within fourteen (14) days after the filing of the application, the application will be deemed approved by the Court without further order. If an objection is filed within the fourteen (14) day period, the Court will consider and rule upon the application. All payments approved by this Court pursuant to this Paragraph shall be paid first from the rents, issues, profits, and proceeds of the Receivership Property.

9. **Receivership Expenses Taxed as Costs.** If, at any time, the rents, issues, profits, and proceeds of the Receivership Property are insufficient to pay all receivership expenses, including, without limitation, the fees of the Receiver and his Professionals, then pursuant to Revised Code Section 3735.04(C), any resulting deficiency shall be taxed as costs to the Plaintiffs and upon the Receiver's application, this Court may require the Plaintiffs to pay an additional deposit with the Clerk of this Court to pay such costs and fund any existing or anticipated deficiency. In addition, any unpaid expenses of this receivership, including, without limitation, the fees of the Receiver and his Professionals, shall constitute a first and best lien against the Receivership Property. Without in any way limiting the obligation of the Plaintiffs to fund any operating deficiency, if, at any time the Receiver determines that insufficient funds exist to cover

existing and anticipated receivership expenses, the Receiver may resign and/or file an application with this Court seeking to terminate this receivership.

10. **Right to Set Budget.** Generally, the Receiver is directed to use best efforts, consistent with the Receiver's duties herein and reasonably prudent business judgment, to handle this matter as cost-effectively as possible, and shall delegate duties and conserve resources to the extent it is reasonable to do so. Plaintiffs' have the right, upon motion to the Court, and upon terms that the Court approves, to set a budget (the "Budget"), for any fees and expenses incurred by the Receiver and/or the Professionals from the date of a Court order granting such motion forward. The Budget, once established, may be revised upon motion by the parties. The parties shall have ten (10) days to submit any objections, responses, or other comments in response to any new or revised Budget submitted pursuant to this Paragraph. Any new or revised Budget submitted pursuant to this Paragraph must be approved by the Court. Should Receiver and/or any Professionals working with Receiver object to a Budget approved by the Court, he/she shall have the right to withdraw as Receiver and/or the Professional upon filing and serving a notice of withdrawal with the Court. Such withdrawal will become effective on the tenth day after its filing and no further Court approval shall be necessary to effect such withdrawal. In the event of a withdrawal, the Receiver and/or Professional shall still be entitled to seek reimbursement for his/her services up to the date of the filing of the notice of withdrawal, and any reasonable expenses incurred in connection with transitioning to a new Receiver and/or Professional.

11. **Marketing Receivership Property for Sale.** The Receiver, by and through his affiliation with Hanna, is authorized to advertise, market, and offer all or any

portion of the Receivership Property for sale in any commercially reasonable manner. In connection with the Receiver's marketing and sale efforts, this Court hereby authorizes the Receiver to perform and do any and all of the following actions:

- A. The Receiver, pursuant to Paragraph 3(l) of this Order, may list all or any of the Receivership Property for sale with Hanna identified as the listing broker;
- B. Subject to the provisions of Paragraph 15 of this Order, the Receiver may engage Hanna to auction all or some of the Receivership Property;
- C. The Receiver, pursuant to Paragraph 3(l) of this Order, may engage an appraiser or other professional to provide evidence of the value of the Receivership Property to be sold; and
- D. In addition to listing the Receivership Property for sale and providing marketing traditionally associated with a commercial listing, the Receiver is authorized to engage in such additional marketing efforts as the Receiver deems advisable in the exercise of his good faith judgment, including, without limitation, placing signage on or about the Receivership Property, advertising the Receivership Property for sale in such local, regional or national publications as the Receiver deems appropriate, and/or preparing and distributing brochures of the Receivership Property, the costs of which shall be receivership expenses.

12. **Brokerage Fees.** In the event the Receiver successfully sells any or all of the Receivership Property by means of a sale approved by this Court as provided herein,



Hanna shall be entitled to receive a commission in an amount equal to the sum of six percent (6.00%) of the gross sales price for the Receivership Property.

13. **Sale of Receivership Property.** In accordance with the provisions of Revised Code Section 2735.04(D), the Receiver is authorized to sell all or any portion of the Receivership Property, free and clear of liens, at one or more public or private sales at such prices and upon such terms and conditions as the Receiver, in his good faith business judgment, deems fair and reasonable to Plaintiffs, Lake Erie Islands Resort, and any other persons with an interest in the Receivership Property, taking into consideration then existing circumstances and the potential costs of holding and operating the Receivership Property. The Receiver's authority to consummate a sale of all or any portion of the Receivership Property free and clear of liens is subject to and conditioned upon this Court's approval as set forth in an order of confirmation or approval.

14. **Private Sale.** If the Receiver determines, after having given Plaintiffs' legal counsel a reasonable opportunity to provide written comment, that a private offer to purchase any or all of the Receivership Property should be accepted, the Receiver, in accordance with the provisions of Revised Code Section 2735.04(D)(2), shall file a motion or application with this Court seeking approval of the proposed sale, specifically identifying the proposed buyer and the terms of the sale.

15. **Public Sale.** If the Receiver determines, after having given Plaintiffs' legal counsel a reasonable opportunity to provide written comment, that any or all of the Receivership Property should be sold by public auction, the Receiver, in accordance with the provisions of Revised Code Section 2735.04(D)(2), shall file a motion or application with this Court setting forth the procedures that the Receiver desires to accept for

auctioning the Receivership Property to be sold, including, without limitation, bidding procedures, stalking horse agreement(s), buyer's premiums, and/or auctioneer's fees.

**16. Notice and Hearing.** Before the Receiver consummates any sale of Receivership Property:

- A. The Receiver, in accordance with the Civil Rules, shall give at least ten (10) days' prior notice of the proposed sale to Plaintiffs, Lake Erie Islands Resort, all other parties to this action, all other owners of the Receivership Property sought to be sold, and all other persons with a recorded or filed lien in the Receivership Property sought to be sold, as those persons are identified in a preliminary judicial report, commitment for owner's policy of insurance, UCC lien search, judicial lien search or tax lien search, as applicable, which if not previously filed by Plaintiffs, may be obtained by the Receiver and filed with his application for approval of sale or sale procedures. The costs of any preliminary judicial report, commitment for owner's policy of insurance, UCC lien search, judicial lien search or tax lien search obtained by the Receivers shall constitute receivership expenses.
- B. The Court shall provide an opportunity for a hearing at which all of the parties and persons entitled to notice of the Receiver's intended sale of Receivership Property may be heard; provided that if no such party or person files an objection to the Receiver's application or otherwise requests a hearing, the Court may approve the Receiver's application without conducting a hearing. Any party that fails to timely respond to a

motion served pursuant to this Paragraph 16 shall be deemed to have approved the proposed sale described in the Receiver's motion or application.

17. **Injunction of Erie Islands Resort and Other Pending Litigation Defendants and Affiliates.** Erie Islands Resort and the defendants in the Pending Litigation and all other entities affiliated with the defendants in the Pending Litigation (collectively, the "**Receivership Defendant Parties,**") and all officers, directors, attorneys, accountants, agents, employees, members, shareholders, management companies, independent contractors, or any other persons or entities acting in concert or participating with the Receivership Defendant Parties, and all those who are under the Receivership Defendant Parties' direction or control, are hereby enjoined and directed (A) to fully and completely cooperate with the Receiver and (B) forthwith upon entry of this Order, to surrender and deliver to the Receiver:

- A. Any and all books, records, leases, plans, architectural and engineering drawings, economic and/or projections, marketing materials, correspondence with actual or potential buyers, tenants, ground lessees, contractors, trades people, vendors, contracts, agreements, purchase orders, invoices, checks, checkbooks, bank account statements, ledgers, journals, computer source code and passwords, keys, payroll and personnel files, rent rolls, leases, lease abstracts, competitive property market studies and other documents of any kind or description, in whatever form they may be maintained (including in any electronic media or paper), related to the Revenues, the Receivership Property, and/or the

operation of any of the Receivership Property, that the Receiver may deem necessary (in the Receiver's sole discretion) to fulfill the Receiver's duties and responsibilities pursuant to this Order and applicable law;

- B. All cash, bank accounts, and securities, plans and specifications, correspondence with residents, security deposits, resident or other agreements, deposits (other than with respect to bond debt) 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 any 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, utilities, accounts payable and receivable, and other matters pertaining to the Receivership Property and its operation;
- C. All Revenues, including all 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;
- D. Copies of Erie Island Resorts' and any other corporate entities comprising the Receivership Defendant Parties' respective financial statements and federal and state tax returns for the preceding two (2) taxable years; as well as a the current taxable year;

- E. ALTA survey, all environmental reports, all constructions drawings, a list of all prior and current code violations, a current title report the last two years of security incidents/incident reports/insurance claims/real estate tax appeals/state and county inspection reports and citations and reports of any similar events; and
- F. Any and all documents necessary to name the Receiver and Hanna as primary insured parties on any existing liability and property damage insurance coverage applicable to the Receivership Property.

18. **Injunction of Other Claimants.** All creditors, claimants, bodies politic, parties in interest, utility companies, and their respective attorneys, agents, employees, and all other persons, firms, and corporations be, and they hereby are, jointly and severally enjoined and stayed from commencing or continuing any action at law or suit or proceeding in equity to enforce any claim against the Receivership Property, the books, records, revenues, profits, and related assets associated with the Receivership Property, or against the Receiver in any Court. Such parties are further stayed 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 upon any of the Receivership Property or the books, records, revenues, profits and related assets associated with the Receivership Property, or upon the Receiver, and from doing any act or thing whatsoever to interfere with the Receiver in the discharge of its duties in the proceeding or with the exclusive jurisdiction of this Court over the Receivership Property and the books, records, revenues, profits and related assets associated with the

Receivership Property. Finally, utility companies and other critical vendors are hereby prohibited from discontinuing service to the Receivership Property on the grounds of non-payment invoices or fees arising prior to the receivership without first obtaining an order from this Court.

19. **Payment of Revenues.** All parties indebted or otherwise obligated to Receivership Defendant Parties for any matters related to the Receivership Property are hereby directed to pay over to the Receiver all Revenues now due or unpaid or that may hereafter become due to Receivership Defendant Parties until further order of this Court.

20. **Accountings.** The Receiver shall prepare and file with the Court for its approval, quarterly reports commencing on February 15, 2017 for the quarter ending January 31, 2017 and quarterly thereafter, so long as any part of the Receivership Property remains in the Receiver's possession, and on or within sixty (60) days after termination of the receivership, a full and complete report setting forth all receipts and disbursements and reporting. The Receiver is further directed to serve copies thereof on the attorneys of record for all named parties in compliance with this Court's Local Rules.

21. **Limitations on Receiver's Liability.** The Receiver, his employees, agents, retained Professionals, and others engaged in connection herewith shall not liable for actions taken, actions not taken, or decisions in performing the duties of the Receiver under this Order which are taken in good faith and are based upon the exercise of reasonably prudent business judgment. The Receiver shall not liable for any mistake of fact or error of judgment unless caused by willful misconduct or gross negligence. The Receiver shall have no personal liability with respect to any employment, environmental or other liabilities arising out of or relating to the Receivership Property and arising or

accruing prior to the Receiver's appointment and qualification as the Receiver. Without limiting the generality of the foregoing, the Receiver shall not be liable for obligations of Receivership Defendant Parties to third parties (i.e. persons or entities not a party to this litigation) to include, without limitation, environmental liability, tax liability (payroll taxes, income taxes, or back taxes of any kind); workmens' compensation and unemployment compensation premiums or other obligations; benefits, and other compensation due to employees, officers, directors, or agents; and contract indebtedness to third parties prior to his appointment as Receiver.

22. **Indemnification of Receiver.** The Receiver shall be indemnified and held harmless by the receivership estate from and against any right, claim, or causes of action brought against the Receiver or his agents, employees or representatives, including the costs and expenses of defense of such claims or actions; provided, however, that the Receiver shall not be indemnified from any claim or causes of action arising from the gross negligence or willful misconduct of the Receiver or the Receiver's employees, agents or representatives. Any and all causes of action against the Receiver (if any) must be filed in this Court and may be filed only after receiving leave of this Court to do so.

23. **Tax Returns.** The Receiver shall have no personal responsibility or liability for filing any tax documents nor for paying any taxes relating to the Receivership Property. The Receiver is authorized, but not required, to appear before any taxing authority on behalf of all or any part of the Receivership Property. To the extent the Receiver files any tax return on behalf of Erie Islands Resort, the taxes attributable to the receivership estate may be determined by assuming that the applicable taxable period consisted of two taxable separate periods: one that ended on the day immediately before

the enactment of this receivership; and the other that began on the enactment of this receivership, and items of income, gain, deduction, loss, or credit, and state and local apportionment factors of Erie Islands Resort shall be allocated between such two taxable periods on a "closing of the books basis" by assuming that the books and records of Erie Islands Resort were closed at the close of business on the day immediately preceding the enactment of this receivership; provided, however, that exemptions, allowances, or deductions that are calculated on an annual basis, such as depreciation shall be apportioned ratably between such periods on the basis of the number of days elapsed in each such period.

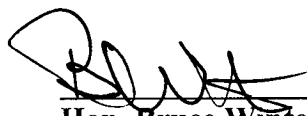
24. **Penalties for Interference.** Any person or individual who willfully interferes with the authority of the Receiver as set in this Order or any subsequent order of this Court shall be subject to all appropriate penalties provided for under the laws of the State of Ohio and the United States, and any such conduct may be punishable as a contempt of Court.

25. **Further Assurances.** Receiver is hereby authorized, without further Order of the Court, to take any and all actions and perform any and all things relating to the operation of the business of the Receivership Property as authorized by statute or other applicable law and not in conflict with the terms of this Order and/or this Court's other orders.

26. **No Just Reason for Delay.** The Court has determined that there is no just reason for delay.

**IT IS SO ORDERED.**

\_\_\_\_\_  
Date



\_\_\_\_\_  
Hon. Bruce Winters, presiding Judge



Submitted and Approved by:

/s/ D. Jeffery Rengel

D. Jeffery Rengel (#0029069)

Thomas R. Lucas (#0071916)

Rengel Law Office

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Sandusky, Ohio 44870

419-627-0400

*Attorneys for Plaintiffs' Class*

Schedule A  
(Receiver's Fee Schedule)

Fees per the rates in the following schedule, plus direct reimbursable expenses:

Principal (Mark Abood).....	\$225/hour
Associates/Accounting/Management.....	\$150/hour
On-Site Maintenance .....	\$60/hour