

Tab 9

5

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

JOSEPH DIBIASE AND :
TINA DIBIASE :
Petitioners :

v. :

C.A. No.: PC-2015-5007

PROPERTY AT: 423 UNION AVENUE, :
PROVIDENCE, RHODE ISLAND, :
PLAT 104, LOT 24 :
Respondent :

And :

PROPERTY AT: 433 UNION AVENUE, :
PROVIDENCE, RHODE ISLAND, :
PLAT 104, LOT 362 :
Respondent :

ORDER APPOINTING PERMANENT RECEIVER

This cause came to be heard on the Petition for Appointment of Receiver for the above in rem respondent (the "Respondent"), and it appearing that the notice provided by the Order of this Court previously entered herein has been given, and upon consideration thereof, it is hereby

ORDERED, ADJGDG AND DECREED:

1. That John A. Dorsey, Esq., of 55 Pine Street, Suite Four, Providence, Rhode Island, be and hereby is appointed Permanent Receiver (the "Receiver") of Respondent, and of all the estate, assets, effects, property and business of Respondent of every name, kind, nature and description, with all the powers conferred upon the Receiver by the Rhode Island General Laws, by this order, or otherwise, and with all powers incidental to the Receiver's said Office.

2. That said Receiver shall, no later than five (5) days from the date hereof, file herein a bond in the amount of \$10,000 with corporate surety thereon authorized to do business in the State of Rhode Island conditioned that the Receiver will well and truly perform the duties of said office.

3. That said Receiver be and hereby is authorized, empowered and directed to take possession and charge of said estate, assets, effects, property and business of the Respondent, including cash surrender value of any insurance owned by Respondent, and to preserve the same, and is hereby vested with title to the same; to collect and receive the debts, property and other assets and effects of said Respondent, including such cash surrender value, with full power to prosecute, defend, adjust and compromise all claims and suits of, by or against said Respondent

and to appear, intervene or become a party in all suits, actions or proceedings relating to said estate, assets, effects and property as may in the judgment of the Receiver be necessary or desirable for the protection, maintenance and preservation of the property and assets of said Respondent.

4. That this appointment is made in succession to the appointment of Temporary Receiver heretofore made by order of this Court, and the Receiver shall take and be vested with the title to all assets, property and choses-in-action which have heretofore accrued to the Temporary Receiver with power to confirm and ratify in writing such agreements as are entered into by such Temporary Receiver and to carry out and perform the same.

5. That the Receiver is authorized, in the Receiver's discretion, to continue the business of the Respondent until further order of this Court, and to employ such persons as may be desirable for the foregoing purposes and, in connection therewith, to use such moneys as shall come into the Receiver's hands and possession, as far as the same shall be necessary, for the above purposes and for continuing the business of said Respondent until further Order of this Court. To the extent that there are any individual maintenance related expenses that exceed the sum of \$1,000.00 then, the Receiver shall provide prior notice to counsel for Bank of America and Coastway Credit Union.

6. That the Receiver is authorized to incur expenses for goods and services and to purchase for cash such merchandise, supplies and materials as in the Receiver's discretion may be desirable or necessary for continuance of the business of the Respondent.

7. That said Receiver be and hereby is authorized and empowered to sell, transfer and convey said Receiver's right, title and interest and the right, title and interest of said Respondent in and to any real property or personal property, tangible or intangible, for such sum or sums of money as to said Receiver appears reasonable and proper, at private sale or sales, provided, however, that approval is first given for such sale or sales by this Court on *ex parte* application by the Receiver, or after such notice as the Court may require.

8. That the Receiver is hereby authorized and empowered to sell at public auction any or all of the assets referred to in Paragraph 7. The Receiver is also authorized to engage an auctioneer and to insert such display ads within or without the State of Rhode Island as the Receiver deems proper advertising for such sale. Such a public auction sale conducted by said Receiver in accordance with the provisions of this paragraph shall be considered and is hereby declared to be a commercially reasonable sale, and such sale shall constitute compliance with the requirements of a commercially reasonable sale as set forth in Article 9 of the Uniform Commercial Code as enacted in Rhode Island.

9. That said Receiver be, and hereby is, authorized and empowered, as soon as there are sufficient funds available, to pay all City, State and United States taxes of any kind, nature and description, including withholding taxes, as well as wages due employees, with such employees being relieved of the necessity of filing claims with the Receiver unless the amount paid or shown on the books of the Respondent is not acceptable to any employee, in which case said employee may file his/her claim in the same manner as other creditors.

10. In fulfillment of the reporting requirements set forth in Rule 66 (e) of the Superior Court Rules of Civil Procedure, the Receiver shall file with the Court the Reports referred to in said Rule, as and when the Receiver deems necessary or advisable under the circumstances, or, in any event, as and when required by Order of this Court. In addition, the Receiver shall file with the Court, on or before May 1 and October 1 of each year, a Receivership Control Calendar Report in accordance with Rhode Island Superior Court Administrative Order No. 98-7.

11. That the Receiver shall continue to discharge said Receiver's duties and trusts hereunder until further order of this Court; that the right is reserved to the Receiver and to the parties hereto to apply to this Court for any other or further instructions to said Receiver and that this Court reserves the right, upon such Notice, if any, as it shall deem proper, to make such further orders herein as may be proper, and to modify this Order from time to time.

12. All creditors or other claimants hereby are ordered to file under oath with the Receiver at 55 Pine Street, Providence, Rhode Island 02903 on or before April 5, 2016, a statement setting forth their claims, including, but without limiting the generality of the foregoing, the name and address of the claimant, the nature and amount of such claim, a statement of any security or lien held by the claimant to which such claimant is or claims to be entitled, and also a statement as to any preference or priority which the claimant claims to be entitled to over the claims of any other or all other claimants or creditors.

13. That the commencement, prosecution, or continuance of the prosecution, of any action, suit, arbitration proceeding, hearing, or any foreclosure, reclamation or repossession proceeding, both judicial and non-judicial, or any other proceeding, in law, or in equity or under any statute, or otherwise, against said Respondent or any of its property, in any Court, agency, tribunal, or elsewhere, or before any arbitrator, or otherwise by any creditor, stockholder, corporation, partnership or any other person, or the levy of any attachment, execution or other process upon or against any property of said Respondent, or the taking or attempting to take into possession any property in the possession of the Respondent or of which the Respondent has the right to possession, or the cancellation at any time during the Receivership proceeding herein of any insurance policy, lease or other contract with Respondent, by any of such parties as aforesaid, other than the Receiver designated as aforesaid, or the termination of telephone, electric, gas or other utility service to Respondent, by any public utility, without obtaining prior approval thereof from this Honorable Court, in which connection said Receiver shall be entitled to prior notice and an opportunity to be heard, are hereby restrained and enjoined until further Order of this Court.

14. That Notice be given of the entry of this order by the Clerk of this Court by publication of a copy of the annexed Receivership Notice in The Providence Journal on or before the day of January 26, 2016, and by the Receiver mailing on or before the day of January 26, 2016, a copy of said Receivership Notice to each creditor and stockholder of said Respondent known as such to the Receiver, or appearing as such on the books of said Respondent, addressed to each such stockholder or creditor at his last known address.

15. This Order is entered by virtue of and pursuant to this Court's equity powers and pursuant to its powers as authorized by the laws and statutes of the State of Rhode Island.

ENTERED, as an Order of this Court this 14 day of January 2016.

BY ORDER:

ENTER:

15/ Michael F. Silvestri Associate Justice
15/ Bearee Henglatsany Clerk 1/14/2016

Tab 10

the proceeds of any of the foregoing (collectively, the "Excluded Assets"). The Buyer acknowledges that the transfer and conveyance of the Premises does not and shall not constitute a transfer or conveyance of any right, title or interest in the Excluded Assets.

2. DATE OF THIS AGREEMENT:

The Date of this Agreement shall be the date on which the Receiver signs this Agreement, as set forth immediately under the Receiver's signature below.

3. TITLE AND COURT APPROVAL:

Conveyance of the Receiver's interest as aforesaid in the Premises shall be made by a Receiver's Deed ("Deed") in customary form, without covenants, warranties or representations of any kind whatsoever, conveying to the Buyer all of the Receiver's right, title and interest as said Receiver in and to the Premises, free and clear of all liens, mortgages, security interests, claims, encumbrances and interests specifically including, but not limited to, any and all statutory liens, judgment liens, claims for municipal real estate or tangible property taxes. The conveyance and transfer of the Premises is expressly made subject to approval of the Providence County Superior Court for the State of Rhode Island (the "Court") in the receivership proceeding pending before that Court as docket number PC-2015-5007, after hearing with notice to all interested parties, authorizing and ordering the sale free and clear of all liens, mortgages, security interests, claims, encumbrances and interests. The conveyance of the Premises shall be subject to all restrictions, easements and conditions of record, and subject to all applicable zoning and other federal, state and municipal laws and regulations.

Buyer acknowledges and understands that the consummation of this Agreement is subject to Court approval and that Receiver will be obligated to submit to the Court for its review and consideration any other offers for the Premises received by the Receiver subsequent to this Agreement for a purchase price higher than or on more advantageous terms than that set forth herein for the Court's review and consideration.

4. POSSESSION:

Upon conveyance of title to the Premises, full possession of the Premises shall be delivered to the Buyer inclusive of any tenants disclosed to Buyer by the Receiver.

5. PURCHASE PRICE:

The agreed total purchase price for the Premises is \$_____ (the "Purchase Price") of which \$_____ (the "Deposit"), representing five percent (5%) of the Purchase Price, has been paid herewith to the Receiver as a Deposit by cashier's or bank check, which said Deposit shall be held by the Receiver, until the Closing as defined herein, at which time the Deposit shall be applied to the Purchase Price, with the balance of the Purchase Price due at Closing.

6. THE CLOSING:

The Closing of the Premises is to be held at 10:00 am on the second business day following the date on which the time for all appeals of the Court Order approving this Real Estate Purchase

and Sale Agreement has expired (no stay of said sale having been perfected). At the Closing, Buyer shall pay the remainder of the Purchase Price set forth in section 5 hereof by certified check or wire transfer.

It is agreed and understood that **TIME IS OF THE ESSENCE** of this Agreement.

At Closing, Buyer shall provide Receiver with a copy of the Municipal Lien Certificate or other evidence of payment of taxes reasonably satisfactory to Receiver, and the basis for the computation of all adjustments and other entries on the Settlement Statement. At the Closing the Buyer's net proceeds check shall be delivered to the Receiver and held in escrow pending recording of the Deed, at which time such funds shall be released from escrow. Buyer agrees to record the Deed in the appropriate recording office forthwith after delivery of same. This provision shall be deemed to survive the Closing. Buyer shall notify Receiver forthwith of the recording of the Deed.

7. ADJUSTMENTS:

Rents, fuels, water charges, and sewer use charges, if any, shall be apportioned as of the date of delivery of the Deed as estimated on the basis of the best information available at the time, and the net amounts thereof shall be added to or deducted from the Purchase Price, as the case may be.

Any assessments constituting a lien on the Premises which are payable over a period of more than one (1) year shall be apportioned in such manner that Receiver shall pay installments due during the appropriate calendar or municipal fiscal years prior to the year said Deed is delivered, the installment due in that year shall be apportioned in the same manner as provided for taxes, and the Buyer shall pay or assume the balance of such assessment. Buyer hereby agrees to assume and pay when due all taxes and assessments which are allowed as a credit against the Purchase Price. Buyer shall be responsible for payment of all documentary transfer stamps and statutory recordings, fees and costs.

Real Estate taxes, tangible property taxes, and fire district taxes assessed upon the Premises as of December 31 of the year immediately preceding the year in which the delivery of the Deed occurs, applicable to the following year, shall be apportioned, in accordance with the manner such taxes are customarily prorated in the municipality where the Premises is located, in such a manner that Receiver shall pay, or, at Receiver's election, allow to Buyer as a credit against the Purchase Price, that portion thereof which corresponds to the portion of said year which has expired on the date of delivery of the Deed, and Buyer shall pay or assume the balance. Receiver shall pay or, at Receiver's election, allow to Buyer as a credit against the Purchase Price, all other taxes which are a lien upon the Premises. In the event that at the time of delivery of said Deed the amount of such taxes shall not be definitely fixed and ascertainable, it shall, for the purposes of making such apportionment, be conclusively assumed that the amount of such taxes will be identical with those of the next prior assessment.

The Receiver shall be entitled, at the Receiver's discretion, to use any portion or all of the Purchase Price to pay any of the foregoing or any other liens or encumbrances against the Premises. In the event that a portion or all of the Purchase Price is used to pay any of the foregoing, the Settlement Agent shall provide copies of receipts or other evidence of payment satisfactory to the Receiver within forty-eight (48) hours of the recording of the Deed.

8. EXTENSION OF CLOSING:

If the Receiver shall be unable to give title to Buyer, or to make conveyance, or to deliver possession of the Premises, all as in accordance with this Agreement, or if at the time of the Closing, the Premises does not conform with the provisions of this Agreement, then the Receiver, shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the Premises conform to the provisions hereof, as the case may be, in which event the Closing hereunder shall be extended by thirty (30) days. It is understood and agreed that Receiver shall not be under any obligation to attempt to cure by litigation or otherwise any defect which may be found to exist in the title to the Premises or to remove any encumbrances upon the title to the Premises not voluntarily placed thereon by the Receiver subsequent to the date hereof or to correct any violations of subdivision, plat, zoning, building, minimum housing standard regulations or other similar restrictions or regulations. This paragraph is also not intended to apply to any damage to the Premises caused by fire or other casualty, as to which the provision of a Paragraph hereof entitled "10. INSURANCE:" shall apply. The Buyer may, however, with the Receiver's consent, elect to waive any such defects and accept such title to the Premises as the Receiver is able to convey, without any warranty as to such conditions and without a reduction of the Purchase Price, and an acceptance of the Deed by the Buyer shall be deemed full performance and discharge of all the obligations of the Receiver under this Agreement.

9. RECEIVER'S TENDER OF DEED.

The tender of the Deed by the Receiver and acceptance by Buyer shall be deemed full performance and discharge of every agreement and obligation of the Receiver contained or expressed in this Agreement.

10. INSURANCE:

Until delivery of the Deed to Buyer, the buildings on the Premises shall be insured by Receiver against loss by fire under the same policy as exists at present, and in case of any loss or other casualty in an amount less than **Twenty-Five Thousand (\$25,000.00) Dollars** occurring between the date of this Agreement and the delivery of the Deed, Buyer shall remain bound to purchase the Premises and Receiver agrees to pay over or assign to Buyer upon payment of the remainder of the Purchase Price all sums recovered or recoverable on account of said insurance, plus the deductible amount, if any, unless the Receiver shall have restored the premises to their former condition in which event the proceeds shall be retained by Receiver.

In the event of any loss or casualty occurring after Court approval of this Agreement and prior to delivery of the Deed in an amount in excess of **Twenty-Five Thousand (\$25,000.00) Dollars**, the Receiver shall have the option of, but shall have no obligation of (a) restoring the Premises to the same condition in which they were on the date of this Agreement, reasonable wear and tear excepted; or (b) reducing the Purchase Price by the amount of such damage, as said amount may be agreed to by the parties; or (c) failing such agreement, seek a determination from the Court as to the treatment of such loss or casualty.

11. DEFAULT:

If the Buyer shall default in the performance of Buyer's obligations hereunder, the Receiver shall have the right to retain the deposit and resell the Premises without notice to the Buyer, or require specific performance without prejudice to any of Receiver's other rights or remedies at law and in equity.

12. BROKERS AND AGENTS:

Buyer and Seller agree to indemnify the other party against, and to hold the other party harmless from any and all cost, expense or liability based upon or related to a claim for a brokerage commission or finder's fees in connection with the transaction contemplated hereby to the extent such liability shall be based upon arrangements or agreements made or claimed by third parties to have been made by or on behalf of the Buyer or the Seller, as the case may be, and not disclosed in this Agreement.

13. NOTICES:

All notices as required in this Agreement must be in writing. All notices shall be by certified mail or by personal delivery. Notice by certified mail will be effective upon sending. Notice by personal delivery will be effective upon delivery to the other party. Notices to the Receiver and the Buyer must be addressed to the addresses that appear in the first paragraph of this Agreement.

14. BUYER REQUIRED TO COMPLY WITH ZONING:

Buyer is obligated to comply with any and all state and local real estate ordinances, statutes and/or regulations, commercial or otherwise.

15. RADON GAS:

Radon gas has been determined to exist in the State of Rhode Island. The Buyer acknowledges that the Receiver has no obligation whatsoever to perform any tests for radon, and that such testing, if any, shall be solely at Buyer's expense. The Receiver makes no representation whatsoever concerning the existence or absence of radon in the Premises. The discovery of radon shall in no way relieve the Buyer from its performance and/or obligations under this Agreement.

16. LEAD POISONING DISCLOSURE:

The Buyer acknowledges that the Receiver shall have no obligation whatsoever to perform any risk assessments or inspections for lead-based paint hazards within the Premises. Any such inspections or risk assessments shall be done solely at the Buyer's election and expense. Buyer acknowledges that Buyer has been advised that Receiver has no reports or information concerning lead-based hazards within the Premises, and that Receiver makes no representations concerning the existence or absence of lead-based paint within the Premises. The discovery of any lead-based paint hazards shall in no way relieve the Buyer from its performance and/or obligations under this Agreement.

17. NO ENVIRONMENTAL CONDITION:

Buyer acknowledges that Buyer may conduct any environmental site assessments or studies of any kind, which Buyer deems advisable and/or necessary, at Buyer's sole expense, subject to Receiver's approval. However, Buyer expressly acknowledges and agrees that the conveyance contemplated hereunder is not conditioned in any way whatsoever upon the Receiver's conducting or performing any cleanup or remedial action of any kind or nature on the Premises.

18. CLOSING/CONVEYANCE NOT SUBJECT TO ANY CONTINGENCIES:

Buyer expressly acknowledges and agrees that neither the closing nor the conveyance contemplated hereunder are conditioned in any way whatsoever upon the Buyer or the Receiver complying with any contingencies, including, but not limited to Buyer financing, structural or environmental inspections, zoning, licensing and/or any other contingency of any kind or nature relative to the Premises.

19. WETLANDS DISCLOSURE:

All or part of the Premises may have been previously determined by the Rhode Island Department of Environmental Protection to be a wetland, bank, bog, salt marsh, swamp, meadow, or flat as these terms are defined in Chapter 1, Section 20 of Title 2 of the Rhode Island General Laws. The parties hereto acknowledge that it shall be Buyer's sole responsibility to conduct any independent examination to determine whether the Premises are in an area determined to be a Wetlands pursuant to such statutory provisions.

20. RESTRICTIONS OR LEGISLATIVE/GOVERNMENTAL ACTION:

Buyer is responsible for investigating whether there are any restrictions or legislative/governmental actions, present or proposed, which affect or would affect the use of the Premises and Buyer acknowledges that it has not relied on any advice or any representations by Receiver, his employees, attorneys, consultants, agents, or any other representatives of Receiver in this transaction with regard to same.

21. NO WARRANTIES AND REPRESENTATIONS AND NO RELIANCE ON OTHERS:

Buyer has entered into this Agreement based on Buyer's independent review and investigation of the Premises and not based upon any representations made by the Receiver or any of Receiver's agents or representatives. THIS MEANS THAT THE PREMISES IS BEING SOLD "AS IS", "WHERE IS", AND "WITH ALL FAULTS".

Buyer specifically acknowledges that the property shall be sold to Buyer "as is", "where is", and "with all faults" and that no warranties or representations or covenants of any kind, expressed or implied, have been or will be made by Receiver or any other party with respect to the physical, operating or any other condition of any kind or nature with respect to the Premises, or repair of the Premises, or utilities or sewer systems servicing the same or the use or operation to which the Premises may be put by Buyer, or the applicability of or compliance with any applicable federal, state, county, city or other public authorities having or claiming jurisdiction over the Premises or

any laws, statutes, codes, ordinances or regulations of any government authority, including without limitation, zoning, land use, building and fire safety, and environmental laws, including, without limitation, all laws, ordinances and regulations concerning hazardous waste and toxic substances, odors, noise, air emissions, discharge of water, chemicals and/or air pollution, or otherwise.

Buyer acknowledges that there have been no representations or warranties as to quality, quantity, durability, condition, merchantability, fitness for any particular purpose, or any other aspects of the Premises. Buyer acknowledges that it has not been influenced to enter into this transaction by the Receiver or his attorney, or their employees, agents, consultants or representatives, and that Buyer has not relied upon any statements or representations made by the Receiver or his attorney, or their employees, agents, consultants or representatives.

Receiver specifically disclaims all warranties imposed by statute or otherwise and makes no warranty of habitability, merchantability or fitness of the Premises for a particular purpose. The terms and provisions of this section shall survive the Closing.

22. AMENDMENTS:

This Agreement may not be amended or modified except pursuant to a written instrument executed by both Buyer and Receiver.

23. CONSTRUCTION OF AGREEMENT:

This Agreement may be executed in one or more counterparts and each shall be deemed to be an original, and shall be binding upon and inure to the benefit of the respective heirs, executors and/or administrators, successors, and/or assigns, of the respective parties hereto, subject to the express conditions stated herein. This Agreement and the interpretation hereof shall be governed by the laws of the State of Rhode Island and the parties expressly agree that the Court shall have jurisdiction to resolve any and all disputes arising under this Agreement, to interpret any terms hereof, and to enforce any and all provisions of this Agreement.

24. ENTIRE AGREEMENT:

The parties hereto, each declare that this Agreement and any other agreements entered into in connection herewith contain the entire agreement between the parties, and that it is subject to no understandings, conditions or representations other than those expressly stated herein or therein. All understandings and agreements heretofore had between the parties, if any, are extinguished and are of no force and effect whatsoever except as the same may be expressly set forth in this Agreement or any other agreement entered into between the Parties in connection herewith. This Agreement is entered into by the Buyer after full investigation of the Premises, and no reliance is made by the Buyer upon any statements or representations not made in this Agreement.

25. PROHIBITION AGAINST RECORDING:

This Agreement may not be recorded in the Records of Land Evidence of the municipality in which the Premises is located. IN THE EVENT OF ANY RECORDING OF THIS AGREEMENT, AT THE OPTION OF THE RECEIVER, THE BUYER WILL CONCLUSIVELY BE DEEMED IN DEFAULT HEREUNDER ENTITLING THE RECEIVER TO EXERCISE ALL RIGHTS AND REMEDIES HEREUNDER FOR BUYER'S DEFAULT. In addition, any third party may conclusively rely upon an affidavit executed and recorded by the Receiver in said Land Evidence records stating the Receiver has elected to hold the Buyer in default, as conclusively establishing that the Buyer has no further right, title, or interest under this agreement or to the Premises, all of which will be deemed released and conveyed to Receiver.

26. NO PERSONAL LIABILITY:

Notwithstanding anything herein to the contrary, the Receiver's execution of this Agreement is solely in his capacity as Receiver and shall not render the Receiver personally liable in any way whatsoever.

WITNESS the signatures of the above parties on the date set forth below.

BUYER:

By: _____

Date

Witness to Above Signature

RECEIVER:

By: _____
John A. Dorsey, Esq., as and
only as the Permanent Receiver
of 423-433 Union Avenue, and
not individually

Date

Witness to Above Signature

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