INDIANA COMMERCIAL COURT

STATE OF INDIANA	)	IN THE MARION SUPERIOR COURT
	) SS:	
COUNTY OF MARION	)	CAUSE NO.: 49D01-2603-CE-015945

UMB BANK, N.A., solely in its capacity as Trustee for the holders of the Public Finance Authority Bonds,	:
Plaintiff,	:
v.	:
CROSSROADS HEALTH MANAGEMENT LLC; PUBLIC FINANCE AUTHORITY; HICKORY HOUSE RECOVERY LLC; and WINTERSONG RECOVERY, LLC, d/b/a Hickory Treatment Center at Knox,	:
Defendants.	:

DEFENDANTS' RESPONSE TO UMB BANK, N.A.'S
MOTION FOR IMMEDIATE APPOINTMENT OF A RECEIVER

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Unable to satisfy the stringent legal standard for receivership or assert any contractual authority for the relief it seeks, the Trustee seeks extraordinary relief based on its speculative complaints about misappropriation of Revenues and patently false claims of financial irregularities. The Motion should be denied in its entirety. Accordingly, Defendants Crossroads Health Management LLC ("Crossroads", or the "Manager"), Hickory House Recovery LLC ("Hickory House"), and Wintersong Recovery, LLC, d/b/a Hickory Treatment Center at Knox ("Wintersong" and together with Hickory House, the "Operating Companies"), by counsel, respectfully submit this Response (the "Response") to the *Motion for Immediate Appointment of a Receiver* (the "Motion") of Plaintiff UMB Bank, N.A., solely in its capacity as Trustee for the holders of the Public Finance Authority Bonds (the "Trustee").[1]

INTRODUCTION

The complaints in the Trustee's Motion are wholly without merit and disingenuous, at best. And the sweeping relief the Trustee seeks—appointment of a receiver over two residential addiction treatment facilities (the "Facilities"); the Revenues, bank accounts, and books and records of those Facilities; as well as over Crossroads, Hickory House and Wintersong as entities—is without legal basis, extreme and unnecessary. The Trustee does not and cannot carry its burden of showing that the stringent requirements for a receivership are met in the circumstances or that he even has the authority to seek the relief he is requesting. Nor would granting any relief preserve

[1] Citations to exhibits throughout this Response identified as "Compl. Ex." are references to the exhibits attached to the Trustee's Complaint. Capitalized terms not defined herein shall have the meanings ascribed to them in the Indenture, Management Agreement, Mortgages, Bond Purchase Agreement, Liquidity Support Agreement-1, Liquidity Support Agreement-2, Environmental Indemnity Agreement, Indemnity Agreement, Intercreditor Agreement and Purchase Option (the "Bond Documents").

any value or aid in patient care. To the contrary, the Trustee's conduct puts patients at risk alongside the viability of the Facilities.

It should be noted from the outset that for all of the Trustee's mudslinging at Moshe Orlinsky, Crossroads' CEO, the Trustee does not address the fact that Mr. Orlinsky holds tens of millions of dollars of the bonds and as a consequence, is one of the largest bondholders for whom the Trustee purports to act.[2] Mr. Orlinsky has no desire to see the Facilities fail and his investment evaporate. The Trustee's personal attacks against Mr. Orlinsky have no relationship to reality. As noted below, beyond his purchase of tens of millions of dollars of the bonds at issue, Mr. Orlinsky, via Crossroads, has risked millions more to safeguard patients and put the Facilities on a stable and profitable path. If successful in its Motion, the Trustee will harm not only patients, but also likely completely devalue all the bondholders' investments.

The Trustee ultimately complains only that the Facilities did not generate profits as quickly as expected. Because the Trustee's claims are effectively for money, they could necessarily be addressed (if valid) through an award of economic damages—precluding the remedy of receivership it seeks here. And the profitability issues that the Trustee complains of are, on its own admission, due to risks that the Trustee and bondholders it purports to represent specifically accepted. These allegations cannot support the drastic remedy of receivership.

The Project suffered delays obtaining permits and Medicaid approvals, and in collecting on receivables from private insurers, in each case, wholly outside of Crossroads' control—delays

[2] It is worth emphasizing that since the closing of the issuance of the bonds, the Trustee and its counsel have deliberately excluded Mr. Orlinsky from any discussions or meetings with the Trustee, its counsel, and the other bondholders concerning the Facilities, notwithstanding Mr. Orlinsky's direct requests to be included. Indeed, Mr. Orlinsky's efforts to access his information and participation rights as a 21.5% bondholder have been purposefully ignored and blocked by the Trustee and its counsel, and Mr. Orlinsky reserves all claims and rights associated with these improper actions to disenfranchise him.

that arose from known and specifically disclosed risks accepted by the Trustee and bondholders. Crossroads addressed and navigated those challenges as they arose, and has put the Facilities on a path to success—despite the Trustee's refusal to cooperate. Crossroads has been consistently transparent and has engaged, in real time, with the Trustee and bondholders regarding these issues, fully disclosing the operational challenges and their potential effects on the Facilities. Indeed, Crossroads repeatedly requested the Trustee's, its counsel's, and bondholders' cooperation to address these issues, but they have largely refused, agreeing only to limited tolling agreements while refusing to obtain commitment of any additional capital to overcome these challenges or even to defer their fees or payment of returns to bondholders. Indeed, the Trustee's insistence that the Facilities' funds be taken by the bondholders as immediate profits through Debt Service Payments—rather than used for necessary Operating Expenses to permit the long-term success of the Facilities—has been an ongoing point of contention. It also belies any purported concern of the Trustee for patient safety or care.

In contrast, as the Trustee admits, Crossroads has made substantial financial contributions to shore up the Facilities and ensure excellent patient care. For example, Crossroads voluntarily contributed over $3.6 million of its own funds to the Facilities, voluntarily deferred taking any management fees (to which it was contractually entitled), and further contributed another $6 million to the Facilities through the Trustee's draws on Crossroads' letters of credit. Crossroads' efforts and financial contributions are indisputable.

The Trustee challenges Crossroads' management by concocting a bizarre theory that Crossroads diverted Revenue from the Facilities, only to reinject the money into the Facilities. The Trustee is fully aware that the source of the funds at issue was contributions by Crossroads

and Mr. Orlinsky—not Facility Revenue. Indeed, many of the payments challenged by the Trustee were transactions specifically requested, and agreed to, by the Trustee in tolling agreements.

The Trustee's further complaint about the financial records provided by Crossroads simply misstates Crossroads' disclosure obligations and the information it actually delivered pursuant to those obligations. In any event, any deficiencies in the financial records provided by Crossroads would be best remedied through other, far less drastic, forms of relief than receivership.

The receivership sought by the Trustee in its Motion is, in fact, a thinly veiled attempt to strong arm Crossroads into making further financial concessions and contributions to the Facilities that it has no obligation to make, or to cut Crossroads out of the Project and avoid repayment of over $10 million in funds contributed by Crossroads.

For these reasons, and as further set out below, the Court should deny the Trustee's Motion in its entirety.

FACTUAL BACKGROUND

The purchase, development, and operation of the two Facilities was financed through the issuance of more than $117 million in tax-exempt Revenue bonds by the Public Finance Authority (the "Authority"). Compl. Ex. 1. Pursuant to the Indenture, the Authority issued $85,590,000 in Senior Series 2023A Revenue Bonds (the "Senior Bonds") and $32,335,000 in Subordinate Series 2023B Revenue Bonds (the "Subordinate Bonds," and together with the Senior Bonds, the "Bonds"). *Id.*; Ex. A, M. Orlinsky Decl. ¶ 6. Pursuant to the Indenture, ownership of the Facilities was transferred to the Authority. *Id.*; Compl. Ex. 1.

Mr. Orlinsky, the Chief Executive Officer of Crossroads, holds approximately 21.5% of the outstanding Senior Bonds, and 100% of the outstanding Subordinate Bonds are held by an entity in which Mr. Orlinsky holds an interest. Ex. A, M. Orlinsky Decl. ¶ 6. Mr. Orlinsky has significant experience operating and managing residential healthcare facilities. Ex. B, Ltd.

Offering Mem., Appx. A-5. Not surprisingly, the Trustee and the Authority (which have no relevant experience) provided Mr. Orlinsky great latitude over the Project.

Mr. Orlinsky is the sole member of Crossroads, which is responsible for managing the day-to-day operations of the Facilities under the Asset Management Agreement between Crossroads and the Authority. Compl. Ex. 2. Under the Asset Management Agreement, Crossroads has the exclusive authority to manage and operate the Facilities in its complete discretion. *See id.*, § 1.02(a) (the "Manager shall have the sole and exclusive right and authority to act for and on behalf of Owner with respect to the operation, maintenance and management of the Project and shall have full, complete, and exclusive right to operate, maintain, manage and control the Project"); § 1.02(b) ("except as expressly set forth herein, Manager shall make all decisions affecting the operation, maintenance, and management of the Project"). The parties specifically agreed to these terms to defer to Crossroads in overseeing the Facilities. The Operating Companies are affiliates of Crossroads and serve limited supporting roles—most significantly, in holding certifications and other permits required for operation of the Facilities. *See id.*, § 3.03; Compl. Ex. 12.

A. The Hickory House Facility

The Hickory House Facility is a residential addiction treatment center located in Greenfield, Indiana. It provides treatment and related services to individuals suffering from substance use disorders. Ex. A, M. Orlinsky Decl. ¶ 10. Prior to the bond transaction, the Hickory House Facility operated as a thirty-bed facility. *Id*.

Under the Management Agreement, Crossroads was to expand the Hickory House Facility by adding fifteen beds "as soon as reasonably practicable." Compl. Ex. 2, § 3.01(c). Crossroads undertook improvements to the Hickory House Facility as soon as reasonably practicable and timely took all steps within its control to complete the contemplated renovations on the timelines set out in the Bond Documents. Ex. A, M. Orlinsky Decl. ¶ 11. Crossroads achieved licensing

approval for all forty-five beds at the renovated Facility from the Indiana Division of Mental Health and Addiction (the "DMHA") and the Indiana Family and Social Services Administration (the "FSSA") by April 2024. *Id*. at ¶ 12. Yet, following completion of the renovations to add forty-five beds, Crossroads learned of additional permitting needs and concerns from employees, requiring additional renovations to adequately serve forty-five beds. *Id*. at ¶ 13. Upon learning of this issue, Crossroads promptly informed the Trustee and bondholders, and explained that addressing these issues would require additional renovations at an approximate cost of $1 million. *Id*. at ¶ 14. The Trustee and bondholders declined to pursue the additional renovation. *Id*. at ¶ 15.

The Hickory House Facility nevertheless continues to serve thirty to thirty-five patients at a time, generating millions of dollars in Revenues annually. *Id*. at ¶ 16. Because the Hickory House Facility operates and is marketed primarily to serve patients using commercial insurance, its receivables arise almost exclusively from amounts billed to private insurers, and its ability to collect on these receivables is entirely dependent on the coverage determinations of those insurers. *Id*. at ¶ 17. Crossroads has observed a marked shift in the private insurance industry, whereby insurers have begun a concerted effort to resist payment for care provided for residential addiction treatment, including by denying or limiting coverage, requiring additional submissions and documentation, reducing payment amounts, and otherwise extending and complicating collections processes. *Id*. at ¶ 18-19. Because of this, the Hickory House Facility's collections process was delayed and more difficult than expected, resulting in a significant amount of receivables aging over 180 days past due. *Id*. at ¶ 20. This was a disclosed risk accepted by the Trustee and bondholders. *See, e.g.*, Ex. B, Ltd. Offering Mem. at 52 ("commercial third-party payors are increasingly attempting to control health care costs through increased utilization reviews, greater enrollment in managed care programs, such as HMOs and PPOs, and directly contracting with

providers to provide services on a discounted basis. The trend toward consolidation among private managed care payers tends to increase their bargaining power over prices and fee structures"); *id*. at 53 ("[t]he new demands of dominant health plans and other shifts in the managed care industry may also reduce patient volume and revenue"); *id*. ("the current trend of consolidation in the health insurance industry is likely to increase the leverage of commercial insurers when negotiating rates with health care providers").

Crossroads repeatedly and proactively informed and discussed these issues with the Trustee and the bondholders as they arose. Ex. A, M. Orlinsky Decl. ¶ 21. During those discussions, Crossroads and the Trustee discussed the *possibility* of engaging in a common industry practice of intentionally delaying billing for services so that patients would first exhaust their insurance deductibles before claims were submitted, but Crossroads *did not to pursue this approach*. *Id*. at ¶ 23. As Crossroads informed the Trustee and bondholders, Crossroads has never intentionally delayed billing for services, and the aged receivables are not the result of delayed billing practices. *Id*. The Trustee's speculation that Crossroads engaged in these practices or that they somehow caused the aged receivables is simply incorrect. *Id*. at ¶ 24.

Crossroads has made significant efforts to collect outstanding Hickory House Facility receivables, including by hiring a third-party billing and collections agency—at Crossroads' expense—to intensify those efforts. *Id*. at ¶ 22. Yet, a significant amount of receivables remain outstanding. *Id*. at ¶ 20.

B. The Wintersong Facility

The Wintersong Facility is located in Knox, Indiana, and operated as a skilled nursing facility prior to the bond transaction. *Id*. at ¶ 25. Under the Management Agreement, Crossroads was to use commercially reasonable efforts to convert the Wintersong Facility into a residential addiction treatment facility and achieve an occupancy rate of eighty-five percent or greater by

December 31, 2024. *See* Compl. Ex. 2, § 12.04(h). The Wintersong Facility was intended to be operated and marketed primarily to serve patients generally covered by Managed Medicaid Plans or Medicaid. Ex. A, M. Orlinsky Decl. ¶ 26.

Crossroads successfully completed the necessary improvements to the Wintersong Facility by December 31, 2024. *Id*. at ¶ 27. Due to factors outside of Crossroads' control, it took much longer to obtain all required licensing for this Facility than originally anticipated. *Id*. at ¶ 28. Nonetheless, Crossroads diligently submitted all applications to obtain required licensing and approvals, including from Medicaid, but did not receive Medicaid approval until March 2026. *Id*. at ¶ 32. Again, these regulatory approval risks were disclosed as significant risks in the Limited Offering Memorandum and accepted by the Trustee and bondholders. *See* Ex. B, Ltd. Offering Mem. at 46 ("the certifications and accreditations may be affected by regulatory action and policy changes by governmental and private agencies that administer Medicare, Medicaid and third-party payment programs … [a]ctions in any of these areas could result in a reduction in utilization, revenues or both, or the inability of the Manager to operate all or a portion of the Facilities, and, consequently, could result in a material adverse effect on the Facilities' business or financial condition"); *id*. at 48 ("[t]he actions the State of Indiana could take to reduce Medicaid expenditures to accommodate any budgetary shortfalls include, but are not limited to, changes in the method of payment to addiction treatment facilities, changes in eligibility requirements for Medicaid recipients and delays of payments due to addiction treatment facilities. Any such material action taken by the State of Indiana could have a material adverse effect upon the operations and financial results of the Facilities").[3]

[3] The description of these aforementioned risks was fulsome. *See* Ex. B, Ltd. Offering Mem. at 41-42 ("the barrier to entry for facilities competing with the Facilities is low" in the state of Indiana, and thus, "[f]ewer clients receiving treatment at the Facilities due to competition from other

As Crossroads informed the Trustee and bondholders at the time, the most sensible and strategic approach to opening a residential care facility is to ramp up operations slowly. Ex. A, M. Orlinsky Decl. ¶ 31. This allows the Facility to begin to fill beds and commence billing, while hiring increases, staff is trained, procedures are put in place for medical records documentation, and all required licensing is obtained. *Id*. ¶¶ 30-31. Understandably, this is a lengthy and capital-intensive process, as collecting on receivables takes a significant amount of time, insurance approvals are complex and often not fully covered, and the timing of regulatory approvals is uncertain. Accordingly, despite the pending Medicaid application, Crossroads began publicizing job postings and hiring employees in April 2025 to begin the process of opening in anticipation of Medicaid approval. *Id*. ¶ 30. Over the next few months, Crossroads hired and trained incoming staff to ensure that the Wintersong Facility was ready to serve patients. *Id*. In September 2025, Wintersong took its first patient, and exercised its professional judgment to limit occupancy while Medicaid licensure approval was pending and collection of patient receivables consequentially was uncertain. *Id*. ¶ 31. In response to receiving the required Medicaid approval in March 2026, Crossroads has begun efforts to retro-bill for services provided to patients after the Medicaid application date but prior to approval, as appropriate under Medicaid guidelines. *Id*. ¶ 33.

facilities may have an adverse effect on the Facilities' ability to generate sufficient future Revenues to enable the Authority to pay principal of, premium, if any, and interest on the Series 2023A Bonds"); *see also id*. at 48 (changes to state and federal Healthcare Laws, and particularly to Medicaid have enacted "[d]iverse and complex mechanisms to limit the amount of money paid to health care providers under the Medicaid program," which "may have a material adverse impact on the Facilities' business or financial condition").

C. Crossroads Has Provided Continuing Support To The Facilities—Despite The Trustee's Interference

Crossroads has dedicated countless hours to managing the operations of the Facilities, even contributing its own funds and deferring taking Management Fees as owed, in an effort to sustain the Facilities' operations and maximize Revenue generation.

Due to the obstacles in getting the Facilities operating, Revenues were not generated to the levels originally anticipated on the estimated timeline. Though, again, those amounts and timelines were estimates subject to a host of disclosed risks. Throughout this start-up period, Crossroads continually kept the Trustee and Mr. Orlinsky's fellow bondholders informed of the need for additional funding to maintain operations of the Facilities until they were able to generate sufficient Revenue to sustain themselves and highlighted the issue that directing funds away from Operating Expenses could have a negative impact on patient care. *Id*. ¶ 34. The Trustee and other bondholders consistently declined to provide any additional funding, even after Crossroads explained the increased Revenue potential that would result from such funding. *Id*. ¶ 35. To the contrary, the Trustee insisted that available funds be diverted from paying Operating Expenses to instead be paid out as returns to the bondholders via Debt Service Payments. *Id*. The parties continually disputed how to use available funds, and whether these funds should be used to pay Operating Expenses or Debt Service Payments. Stated differently, available funds could either be applied towards maximizing overall, long-term returns, which would also serve to ensure the proper standard of patient care was maintained, or towards short-term payments that would eventually erode the ability to pay bondholders in full. The Trustee always sought the latter in a transparent effort to force Mr. Orlinsky to put more of his money at risk.

To make up for the shortfall in Revenues necessary to maintain operations of the Facilities, and given the Trustee's insistence that available funds be used to pay returns to bondholders,

Crossroads voluntarily advanced $3,622,996.96 of its own funds to support the Project financially between 2023 and 2026, pursuant to Section 3.06 of the Management Agreement. *Id*. ¶ 36. The Management Agreement specifically provides Crossroads the option—but not obligation—to provide these contributions: "Manager may, but shall not be required to: (i) advance any of its own funds for the benefit of Owner or the Project; (ii) provide any financial support for the Project." Compl. Ex. 2, § 3.06. Remarkably, the Trustee elides this language entirely in his Complaint and Motion.

Rather than acknowledge the Management Agreement's plain language, the Trustee complains that Crossroads' decision to exercise this contractual right constitutes an impermissible financial irregularity giving rise to the need for a receiver. Mot. at 14 ("Management Agreement does not permit the Manager to expend its own funds for operating expenses"); *see also id*. at 21. The Trustee insists that alternative procedures are available under the Management Agreement to replenish the Project Operating Account to pay for Operational Expenses, such as through payment from the Operations and Maintenance Reserve Fund and/or Surplus Fund. *See* Mot. at 21; Compl. Ex. 2, § 4.02; Ex. A, M. Orlinsky Decl. ¶ 37. Yet the Management Agreement grants Crossroads the option to elect either approach, and by the Trustee's own admission, requests to replenish the Project Operating Account with funds from the Operations and Maintenance Reserve Fund and/or Surplus Fund would have been futile, as these Funds held insufficient monies available to pay necessary operating expenses. *Id*.; *see also* Compl. Ex. 2, § 4.02(d) ("[a]ny request from the Operations and Maintenance Reserve Fund referred to in this Section 4.02 may be made from the Repair and Replacement Fund and/or the Surplus Fund if and to the extent permitted by the Indenture"); Compl. Ex. 1, § 5.09(c) (after funds in the Operations and Maintenance Reserve Fund

are exhausted, "Manager shall pay the excess amount of such costs directly"; Mot. at 16 ("the Surplus Fund … maintained a zero balance at all times").

To further support the Project financially and maintain the proper standard of patient care, Crossroads also deferred its own compensation and Management Fees to maximize funds available for continued operations of the Facilities. Ex. A, M. Orlinsky Decl. ¶ 38. Under section 5.01 of the Management Agreement, Crossroads is entitled to receive compensation in the form of a base management fee of 6.5% of Gross Operating Revenue (the "Base Fee" or the "Management Fees"). *See* Compl. Ex. 2, § 5.01. Crossroads is further entitled to pay itself fifty percent of the Base Fee (an amount equal to 3.25% of the Gross Operating Revenue, such amount, the "Preferred Base Fee") from the Project Operating Account on a monthly basis, prior to any distribution of Gross Operating Revenue to the Revenue Fund. *Id*. Throughout the duration of the Project, Crossroads has deferred paying itself monthly Preferred Base Fee payments as owed, in favor of preserving the limited funds available in the Project Operating Account for use towards sustaining the operations of the Facilities to ensure patient care needs were met without disruption. Ex. A, M. Orlinsky Decl. ¶ 38. Again, the Trustee insists that Crossroads' decision to defer payment of these Management Fees and merely accrue the fees as payables constitutes a financial irregularity giving rise to the need for a receivership. *See* Mot. at 16. Yet Crossroads' focus, unlike apparently the Trustee's, is not short-term gain at patient and bondholder expense.

In addition to these financial contributions, Crossroads entered into two Liquidity Support Agreements through which it agreed to provide up to $6 million to support payments of operating expenses or debt service payments, as secured by two Letters of Credit (the "LOCs") issued to the Trustee on behalf of Crossroads. *See* Mot. Exs. 3-4.; Ex. A, M. Orlinsky Decl. ¶ 39. As the Trustee admits, it drew from and fully depleted these LOCs, and thus, Crossroads contributed an additional

$6 million to the Project.[4] Mot. at 13. The Trustee complains, however, that Crossroads resisted the Trustee's draws on the LOCs, but omits the crucial point that Crossroads' objection was specifically in response to use of these draws solely to replenish the Debt Service Reserve Fund or make Debt Service Payments. Ex. A, M. Orlinsky Decl. ¶ 40.

The Liquidity Support Agreements provide that draws on the LOCs can be used for *either* Operating Expenses *or* the Debt Service Account for Debt Service Payments. *See, e.g.*, Compl. Ex. 3, § 3.1(a)(i) & (ii). And as the Tolling Agreements associated with these draws make clear, the Manager "requested that the Trustee delay drawing down on the LOCs ***in connection with the July 1, 2025, debt service payment***," Compl. Ex. 8 at 2 (emphasis added), and "Manager has again requested that the Trustee delay drawing down on the LOCs ***in connection with the January 1, 2026, debt service payment***," Compl. Ex. 9 at 2 (emphasis added). To the extent funds were drawn on the LOCs, those funds would have been better used for Operating Expenses necessary to sustain Facilities operations and patient care standards rather than simply pay immediate returns that starve the Facilities of cash and put their future in jeopardy, as payment priority to Operating Expenses will generate Revenue to sustain Debt Service Payments into the future.

As with Crossroads' other contributions, the Trustee again insists that the additional contributions made by Crossroads pursuant to these tolling agreements somehow constitute financial irregularities giving rise to the need for a receiver.

Moreover, the Trustee complains of two wire transfers from Crossroads to an outside account totaling $900,000 in December 2025, and insinuates the mere use of an outside account to make these transfers indicates Crossroads improperly collected Revenue from the Facilities in

[4] Crossroads reserves all rights regarding these draws on the LOCs and whether they should have been made.

accounts not subject to Control Agreements under the Bond Documents. Mot. at 21; Ex. A, M. Orlinsky Decl. ¶ 47. Yet the Trustee is fully aware that these transfers were additional contributions by Crossroads of outside capital to the Operating Account specifically requested by the Trustee in the Amended and Restated December 2025 Tolling Agreement—unrelated to any Revenue from the Facilities. *Id.*; Ex. C, Emails re Dec. 2025 Tolling Agmt. The Trustee also complains that when Hickory House transferred $1.4 million in Revenues to the Trustee, Hickory House recorded an intercompany receivable owed by Crossroads as somehow suggestive of the improper handling of Revenues from the operation of the Facilities. Mot. at 21; Compl. Ex. 8; Ex. A, M. Orlinsky Decl. ¶ 48. There is nothing improper or irregular about Hickory House recording an intercompany receivable owed by Crossroads when it paid an obligation technically held by Crossroads. *Id*.

D. Crossroads Complied With The Revenue Flow Structure of the Bond Documents

As the Trustee notes, the Indenture provides that all Revenues derived from the operation of the Facilities must be deposited in specific Trustee-Controlled Accounts enumerated in the Indenture. Specifically, Revenues may be deposited into only (i) operating accounts subject to Control Agreements that provide for "control" of the account by the Trustee within the meaning of the Uniform Commercial Code ("Operating Accounts") or (ii) for Revenue from payors, collections accounts that are not subject to Control Agreements but are automatically swept into the Operating Accounts pursuant to sweep instructions that cannot be modified without the written consent of the Trustee (the Operating Accounts and collections accounts subject to this mandatory sweep are referred to collectively as the "Trustee-Controlled Accounts"). Compl. Ex. 2, §§ 4.04(a), 4.05(a).

And as the Trustee notes, after using Revenues for payment of Operating Expenses and reserving for 30 days of budgeted Operating Expenses, any remaining Revenues must be deposited into a Revenue Fund established under the Indenture. Compl. Ex. 1, §§ 5.01(b)(i), 5.02; Compl. Ex. 2, § 4.04.

Crossroads complied with these provisions. As noted previously, because Wintersong served Medicaid patients and was not approved as a Medicaid payee until just last month, only the Hickory House Facility generated Revenue. Ex. A, M. Orlinsky Decl. ¶ 43. And the Hickory House Revenues were from private insurers. *Id*. Accordingly, these Revenues were collected in the Hickory House Recovery LLC Non-Gov't Account, subject to a Control Agreement. *Id*.; Ex. D, Restricted Account Control Agreements. To the extent that any funds remained of that Revenue after payment of Operating Expenses and reserving thirty days of budgeted Operating Expenses, any remaining Revenue was deposited into the Revenue Fund. Ex. A, M. Orlinsky Decl. ¶ 45.

But as the Trustee acknowledges, as a result of the collections issues with commercial insurers, Revenues were limited and exceeded by Operating Expenses. Therefore, there generally was not any excess Revenue remaining after payment of Operating Expenses and reserving for thirty days of budgeted Operating Expenses to deposit in the Revenue Fund. *Id*. The Trustee has not identified any instance of Crossroads failing to comply with the Revenue control scheme for any actual Revenue from the Facilities. That Crossroads could not deposit excess Revenues into the Revenue Fund when there were no such excess Revenues is precisely what the parties contemplated.

Rather, as noted above, Crossroads continually contributed its own funds to pay Operating Expenses—as was its right. The Trustee apparently complains that Crossroads did not deposit these contributions into Trustee-Controlled Accounts or treat them as Revenue subject to the

Revenue control scheme (and presumably so that they could be distributed as debt payments), and that failure to do so constitutes another financial irregularity. *Id.* ¶ 41. But Crossroads' contributions are undisputably not Revenue from the operations of the Facilities—and thus were never subject to the Revenue control scheme. *Id*. ¶ 42.

E. Crossroads Has Provided The Required Financial Information

Crossroads has also consistently provided financial information regarding the Facilities, and the Trustee's fundamental complaint is merely that the information provided does not support its speculative claim that Crossroads converted the Facilities' Revenues. But no information Crossroads could provide would support that spurious claim. Indeed, the Trustee's requests for information merely seek to force Crossroads to cave to the Trustee's demands that Crossroads continue to provide additional funding—despite having no obligation to do so—or divert funds and Revenue away from payment of Operating Expenses and toward Debt Service Payments.

Under section 3.13 of the Management Agreement, the Trustee may request inspections of books and records pertaining to the operation of the Project; Crossroads is required to cooperate with these requests, provided such inspections are conducted "so as not to unreasonably interfere with Manager's performance of its obligations." Compl. Ex. 2, § 3.13(a). Crossroads has cooperated with the Trustee's requests for information to the extent these requests have not interfered with Crossroads' ability to manage Project operations and has consistently furnished financial information to the Trustee in response to the Trustee's requests. *See, e.g.*, Compl. Ex. 16 (Crossroads provided information as requested regarding certification applications, inspection reports and approvals, bed waiver request letters, zoning approval documents, fire inspection report, state accreditation documentation, facility floorplans, confirmation letters regarding restraint and detoxification, timeline estimations for ramping up operations, cash flow projections, aging receivables report); *see also* Ex. A, M. Orlinsky Decl. ¶ 50-52.

Yet it is clear that the Trustee's requests were often intended to unnecessarily burden Crossroads to provide immaterial information, when the fulfilment of such requests would cause Crossroads to turn its attention from its actual obligations in managing operations and facilitating patient care.[5] *Id*. ¶ 50. Crossroads will continue to cooperate with the Trustee's requests for financial information necessary to evaluate Project finances, and which are not made for the purpose of unduly burdening Crossroads to furnish information extraneous to the Trustee's obligations under the Bond Documents.

F. The Trustee Failed To Comply With The Contractual Procedures To Authorize It To Seek A Receiver

The Indenture also provides for specific procedures the Trustee must follow to exercise any remedy in response to an Event of Default, including initiating this action for receivership. To the extent the Trustee received notice of an Event of Default, the Trustee must promptly notify the Authority, all Owners of Series 2023A Bonds, and Crossroads in writing. *See* Compl. Ex. 1, § 9.03. The Trustee must provide this notice "as soon as practicable, but in any event within two (2) Business Days." *Id*. The written notice letters issued by the Trustee providing notice of the Event

[5] As an example, the Trustee cites Crossroads' purported failure to provide a sufficient explanation of funds identified as being held in a "Surplus Fund" in a 2024 quarterly report as an example of an incident raising "serious concerns" regarding Crossroads' handling of Facility Revenues. *See* Mot. at 16. The Trustee, as the party responsible for maintaining this fund, knew that Crossroads did not deposit over $2.7 million in the Surplus Fund it maintains, as by the Trustee's own admission, this fund "maintained a balance of zero at all times." As Crossroads has previously explained to the Trustee, this figure was merely an amount reflecting the Days Cash on Hand calculation, used by the Trustee to apply the monies on deposit in the Surplus Fund in the order enumerated under section 5.11 of the Indenture. Ex. A, M. Orlinsky Decl. ¶ 46; Compl. Ex. 1, §5.11. As another example, the Trustee requested "daily census reports for each Facility for July 2024 and October 2025, including patient name, room assignment, payer source, admissions, discharges, and level of care." Compl. Ex. 17. The Trustee is not authorized to make such requests. *See, e.g.*, Compl. Ex. 2, § 3.13 (all requests by the Trustee to inspect books must "maintain the privacy of all residents and participants in any programs available at the Project"). Such a request for information is burdensome, invasive of patient privacy, and is unrelated to the Trustee's duties.

of Default and Manager Termination Default were addressed only to Crossroads and the Authority; Mr. Orlinsky, as a bondholder, did not receive notice as required by the Indenture. Ex. A, M. Orlinsky Decl. ¶ 54. Further, in its written notice letter indicating the Event of Default, the Trustee states the default occurred on October 25, 2024, but delayed issuing written notice until February 6, 2025, and thus failed to comply with the procedures set out in section 9.03 of the Indenture. *See Id*. ¶ 55; *see also* Compl. Ex. 7.[6]

Section 9.04 of the Indenture permits the Trustee to pursue remedies in response to an Event of Default only upon the "written consent of the Controlling Party" or "written Request of the Controlling Party." Compl. Ex. 1, § 9.04(a). The Trustee does not allege nor present any evidence that it received either a written request by or the prior written consent of the Controlling Party to pursue any remedies in response to any Events of Default, including the remedy of receivership sought in the Trustee's Motion. Ex. A, M. Orlinsky Decl. ¶ 57.

The Trustee is further required to promptly provide notice to the Data Room to all bondholders of any remedy it intends to exercise at the written direction of the Controlling Party. *See* Compl. Ex. 1, § 9.02. The Trustee has not presented any evidence that it posted notice to the Data Room informing the required parties of the proposed remedy of a receivership action, and Mr. Orlinsky, as a bondholder, is not aware of any notice posted by the Trustee to the Data Room proposing or providing notice of any remedies to be taken by the Trustee with respect to any Event of Default prior to the initiation of this lawsuit, including the remedy of receivership sought. *Id*. ¶ 59. Therefore, the Trustee has not demonstrated that it has authority under the Bond Documents to seek the appointment of receivership, despite its contrary assertions.

[6] In this written notice letter, the Trustee states the Event of Default occurred on October 25, 2025, but clearly meant October 25, 2024. *See Id*.; Mot. at 11 ("[t]he third consecutive missed deposit occurred on October 25, 2024").

ARGUMENT

The Trustee fails to satisfy the stringent legal standard for receivership under Indiana law and lacks contractual authority for the relief it seeks; further, its complaints about misappropriation of Revenues are mere speculation based on patently false claims of financial irregularities. The Motion should therefore be denied in its entirety.

A. Appointment of a Receiver Is a Drastic Remedy That Must Be Clearly Supported

Appointment of a receiver is an "extraordinary," "radical" and "drastic" remedy, upon which "courts do not look with favor." 24 Ind. Law Encyc. Receivers, § 3. Courts are clear that appointment of a receiver is appropriate under only the narrowest of circumstances, and that requests for appointment are subject to exceptional scrutiny. *See*, *e.g.*, *See*, *e.g.*, *Indianapolis Dairymen's Co-op v. Bottema*, 79 N.E.2d 399, 404 (Ind. 1948) (reversing order appointing receiver after holding that "power of appointment is a delicate one, and to be exercised with great circumspection"); *Ziffrin v. Ziffrin*, 179 N.E.2d 276, 279 (Ind. 1962) (reversing order appointing receiver after holding that the "court's appointive power should be exercised with the utmost care and caution"); *Crippin Printing Corp v. Abel*, 441 N.E.2d 1002, 1005 (Ind. Ct. App. 1982) (reversing order appointing receiver after holding that standard for appointment is "exceptionally stringent"); *City of S. Bend v. Century Indem. Co.*, 821 N.E.2d 5, 13 (Ind. Ct. App. 2005), *decision clarified on reh'g*, 824 N.E.2d 794 (Ind. Ct. App. 2005) (affirming denial of receivership motion after observing that appointment of receiver is statutorily granted authority which "must be strictly construed"); *In re Marriage of Gore*, 527 N.E.2d 191, 195 (Ind. Ct. App. 1988) (reversing receivership order over corporation after holding that "appointment of a receiver is an extraordinary and drastic remedy to be exercised with great caution").

The Indiana Supreme Court has stated unambiguously that appointment of a receiver is available only when: (1) an emergency is shown to exist such that the management and operation of the corporation must be taken over at once from those in control; (2) irreparable damage and injury will result unless a receiver is appointed; and (3) there exists no adequate remedy otherwise available. *Lafayette Realty Corp. v. Moller*, 215 N.E.2d 859, 862 (Ind. 1966). The party moving for a receivership bears the burden of meeting this arduous test by establishing "a plain and clear case." *Indianapolis Mach. Co. v. Curd,* 221 N.E.2d 340, 343 (Ind. 1966). And the power to appoint a receiver "is *never* exercised if there is an adequate remedy at law or the harm can be prevented by injunction or restraining order." *Lafayette Realty*, 215 N.E.2d at 862 (cleaned up, emphasis added). Here, completely undercutting its entire request, the Trustee makes clear that it wishes for Crossroads to continue managing these facilities (albeit with some unspecified oversight).

B. No Emergency Requiring Takeover of Management and Operation of the Corporation Exists

The Trustee cannot establish that any emergency exists requiring a receiver. Rather, the Trustee makes vague, unsupported, and speculative assertions of financial (not patient care) mismanagement to claim that certain Revenues are "in danger of dissipation." Mot. at 25-26. These hypothetical and disputed claims are baseless and do not establish the "plain and clear case" necessary to support a receivership. *Indianapolis Mach. Co.,* 221 N.E.2d at 343. The Trustee relies solely on an allegation of purported "financial irregularities," contending such "irregularities" raise the suspicion of mismanagement or misappropriation. Mot. at 18. There are no such financial irregularities, and, far from mismanaging the Project, Crossroads has diligently led the Facilities towards a path of success, amidst navigating operational risks as disclosed in the Limited Offering Memorandum. The Trustee effectively admits that it lacks any support for its claims by

acknowledging it is unaware of the "full extent of the financial condition of the Facilities," Mot. at 29, while insisting additional investigation is necessary to determine "if there was theft or conversion of receivables." Mot. at 33.

1. Crossroads Has Not "Mismanaged" the Facilities

The Trustee's complaints that Crossroads caused Revenue shortfalls due to mismanagement are meritless.

The Trustee contends that Crossroads mismanaged the Hickory House Facility by failing to achieve the occupancy targets by the estimated timeline. But the delay in achieving this capacity was the result of setbacks outside of Crossroads' control requiring additional costly renovations, which were repeatedly and proactively disclosed to the Trustee and bondholders. Ex. A, M. Orlinsky Decl. ¶ 13-15; Ex. B, Ltd. Offering Mem. at 54.

As explained in more detail *supra*, at 6, the bondholders decided not to fund these additional renovations necessary to adequately service forty-five beds. The Management Agreement expressly provides that Crossroads had no obligation to contribute funds to perform such unforeseen additional renovations, and further, that Crossroads "shall not be deemed to be in default of its obligations under this Asset Management Agreement to the extent it is unable to perform any obligation due to the lack of available funds from the operation of the Project or as otherwise provided by Owner or if Owner fails to or refuses to provide Manager with any consent or approval." Compl. Ex. 2, § 3.06. Given these constraints, the Trustee does not assert, and cannot demonstrate, that a receiver could somehow achieve a different result in expanding this Facility.

The Trustee also contends that Crossroads improperly managed its receivables by engaging in a strategy to intentionally delay billing to allow patients to exhaust their insurance deductibles before claims were submitted. But this is simply false. While Crossroads and the Trustee

discussed this strategy, Crossroads did not pursue it. Ex. A, M. Orlinsky Decl. ¶ 23. As substantiated *supra*, at 7-8, the Trustee does not and cannot demonstrate that the appointment of a receiver would somehow remedy the collection of past-due receivables, and Crossroads has engaged in significant efforts to overcome the collection problems on a go-forward basis, including hiring a third-party billing and collections company to further these efforts—at Crossroads' expense.

With respect to Wintersong, the Trustee contends only that Crossroads intentionally delayed Wintersong's opening to obtain leverage in its negotiations with the Trustee about prioritizing the use of available funds for Operating Expenses rather than Debt Service Payments. But no such delay occurred. As explained in greater detail *supra*, at 8-10, Crossroads successfully completed the necessary improvements to the Wintersong Facility by December 31, 2024, obtained the necessary DMHA license in April 2025, and immediately began staffing the Facility. Ex. A, M. Orlinsky Decl. ¶ 27-28. But Crossroads encountered delays outside of its control with respect to the time it took to obtain all required licensing, which permitted Wintersong to open and begin taking patients—but not reach the anticipated capacity or begin generating Revenue. *Id*. ¶ 29.

Because receivables cannot be collected from Medicaid before Medicaid approves the Facility as a payee, and because there is no guarantee these receivables can be collected retroactively, the most cost-efficient strategy is to minimize beds offered, thus limiting Operating Expenses, prior to obtaining Medicaid approval.[7] Crossroads followed this strategy, and its efforts prudently placed the Wintersong Facility in a position to minimize Operating Expenses prior to

[7] Challenges inherent in Medicaid receivables exist even after licensure. *See* Ex. B, Ltd. Offering Mem. at 49 ("Medicaid audits may result in reduced reimbursement or repayment obligations related to past alleged overpayments and may also delay Medicaid payments to providers pending resolution of the appeals process."). Such challenges cannot be remedied by the appointment of a receiver.

Medicaid approval, while finalizing internal procedures and staffing to place the Facility in a position to quickly expand and grow Revenue once Medicaid approval was granted. Crossroads' diligent efforts, and the related promising results, render receivership inappropriate. *See CST, Inc. by Mowatt v. Fishman*, No. 3:05-CV-002 RLY-WGH, 2005 WL 8165662 at *2 (S.D. Ind. Apr. 1, 2005) (holding that receivership was not appropriate over business when revenue was growing as to indicate "the survival of the corporation is not presently imperiled" even where the business "could be more profitable").

2. The Trustee's Claims of Financial Irregularities Are Concocted

To suggest some improper behavior putting the Facilities Revenues at imminent risk of loss, the Trustee attempts to concoct claims of financial irregularities when none exist.

The Trustee primarily complains that Crossroads did not comply with the Revenue control scheme in the Bond Documents. Mot. at 26-27. Yet the Trustee never identifies any Revenues from the Facilities that were improperly directed pursuant to this scheme. All Revenue from the operations of the Facilities was properly deposited in Trustee-Controlled Accounts and disbursed and deposited pursuant to the procedures in the Bond Documents. Ex. A, M. Orlinsky Decl. ¶ 42.

As explained at length *supra*, at 14, there was nothing improper or untoward about the transfers of funds cited by the Trustee as "inherently suspicious." Mot. at 28. The transfers were contributions and advances by Crossroads to financially support the Project, and are not Revenue, nor subject to the Revenue control scheme set forth in the Indenture.

Accordingly, what the Trustee attempts to spin as evidence of financial irregularities or mismanagement is in actuality evidence of Crossroads' financial contributions to the project, at its own risk, and as authorized by the Bond Documents, as explained in greater detail above.

The Trustee's complaints of alleged irregular reporting and accounting entries are equally nonsensical. For example, the Trustee complains that Management Fees have been accrued on

Crossroads' books, but have gone unpaid. *Id*. at 16. This merely reflects that Crossroads has deferred paying itself the Management Fees to which it is entitled, in favor of preserving the funds available in the Project Operating Account for use towards sustaining the operations of the Facilities and ensuring patient care needs are met. Ex. A, M. Orlinsky Decl. ¶ 38. The Trustee further complains that Crossroads reported $2.7 million in cumulative cashflow to a "Surplus Fund" in a 2024 quarterly report as an example of an incident raising "serious concerns" regarding Crossroads' handling of Facility revenues because the Surplus Fund was maintained by the Trustee with "a zero balance at all times." *See* Mot. at 16. But as Crossroads has previously explained to the Trustee, this figure was a calculation based on net income—not actual cashflow—that it understood that the Trustee had specifically requested. *See supra*, at 17; Compl. Ex. 1, § 5.11. The Trustee simply seeks to create confusion to suggest irregularity when none exists.

Even if any funds were missing as a result of these errors, locating those funds would not require a receiver. *See Shah v. Rodino*, No. 3:13-CV-103-JD-CAN, 2013 WL 12489650 at *6 (N.D. Ind. Apr. 22, 2013) (finding where "the location of allegedly misappropriated assets may be unknown, . . . tracking those funds down to ensure fulfillment of any judgment could be handled effectively" through non-receivership remedies). That the Trustee focuses on inconsequential procedural issues—such as the account from which the contracted-to transfers for debt service payment were made, Mot. at 21—rather than the substance of Crossroads' contributions, speaks to the Trustee's overall strategy of omitting Crossroads' remarkable contributions to the Project to keep it afloat in favor of attention to, and weaponization of, minor procedural deviations in furtherance of maximizing the value of the Facilities.

3. Crossroads Has Gone Above And Beyond To Prevent Harm to the Facilities—Despite The Trustee's Interference

Crossroads' efforts have been specifically directed at avoiding harm to the Project from the Trustee's actions. Crossroads has consistently prioritized the maintenance and support of the Facilities to ensure patient care through prioritization of payment of Operating Expenses over the Trustee's insistence that all available funds be used towards Debt Service Payments. The former is necessary to cover employee wages and costs for patient services; the latter merely results in payment of returns to bondholders.

The Trustee has attempted to exert inappropriate pressure on Crossroads to prioritize the flow of funds to Debt Service Payments rather than Operating Expenses, including threatening to draw, and drawing, on the LOCs to make debt service payments—despite the availability of other funds. *See* Mot. at 11 ("there were sufficient funds to make two debt service payments on July 1, 2025 and January 1, 2026 as a result of tolling agreements executed between the Manager and the Trustee on June 30, 2025 and December 31, 2025. In those agreements, the Trustee agreed to delay drawing on the Letters of Credit to fund the July 1, 2025 and January 1, 2026 debt service payments, respectively").[8] In fact, Crossroads made clear its objection to the Trustee drawing on the LOCs was premised entirely on the Trustee's plan to use these funds for Debt Service Payments, instead of using them towards payment of Operating Expenses needed to sustain Facilities operations, as memorialized in the Tolling Agreements, and described in greater detail *supra*, at 13.

[8] Further, in claiming Crossroads intentionally delayed opening the Wintersong Facility until Crossroads determined "its demands would likewise be met in connection with the January 1, 2026 debt service payment," the Trustee cites to Renert Aff. ¶ 38 as evidence of this assertion ("[n]evertheless, I understand that Wintersong did not begin operations until October 2025, which is substantially later than contemplated by the Management Agreement and financial projections"), which demonstrates nothing of the sort.

Despite the Trustee's interference and apparent disregard for the need for funds to pay Operating Expenses, Crossroads has demonstrated its unwavering commitment to the Project by not only contributing its own funds to sustain the Facilities, but also deferring its own compensation before Revenues were sufficient to sustain operations. The Trustee bizarrely complains about Crossroads' contributions as improper, contending that Section 1.02(c) of the Management Agreement prohibits Crossroads from "expend[ing] its individual funds for payment to third parties or to undertake any individual liability or obligation on behalf of Owner." Compl. Ex. 2, § 1.02(c). The Trustee further contends that the Indenture provides a procedure to request funding of the Project Operating Account on an as-needed basis from the Operations and Maintenance Reserve Fund, Repair and Replacement Fund, and/or Surplus Fund. *See* Compl. Ex. 1, §§ 5.08, 5.09, 5.11. Yet the Trustee acknowledges that a request to replenish the Project Operating Account from these reserves would have been futile.

And the Trustee ignores that Section 3.06 of the Management Agreement expressly provides that Crossroads has the authority, in its own discretion, to "advance any of its own funds for the benefit of Owner or the Project" or "provide any financial support for the Project."[9] Compl. Ex. 2, § 3.06. Crossroads did just this—advance its own funds to the Operating Account as financial support for the Project. *See* Compl. Ex. 16. Crossroads did not expend individual funds for payment to third parties or undertake individual liability on behalf of the Owner, as disallowed under Section 1.02(c).

[9] That the Management Agreement includes these two sections necessitates an interpretation that any funds contributed by Crossroads in its own discretion under section 3.06 do not constitute the individual liabilities and/or obligations contemplated under section 1.02(c); the Trustee's construction of the same creates inherent contradiction.

Indeed, the Trustee proffers an inconsistent argument; on the one hand, the Trustee alleges Crossroads contributed its own funds to "clandestinely make itself whole" in an effort to recover the funds as a reimbursement ahead of the application of proceeds prescribed under the Bond Documents, Mot. at 14, while on the other hand, the Trustee admits "there were periods during which the Facilities would have lacked sufficient cash to pay operating expenses absent these Manager contributions." Mot. at 20. The truth of the matter is that without Crossroads' contributions, the operations of the Facilities could not have sustained, and the exact emergency the Trustee purports to seek to prevent could have occurred.

In short, no emergency exists and the Project has never been imperiled due to the acts of Crossroads, which has always acted in the best interests of the Facilities in spite of the Trustee's improper attempts to exert control over the management of the Facilities.

C. No Irreparable Damage Or Injury Will Occur If A Receiver Is Not Appointed

The appointment of a receiver requires that the movant establish that "[i]rreparable damage and injury must result unless a receiver is appointed." *Lafayette Realty Corp.*, 215 N.E.2d at 862. As with other factors, the Trustee has failed to carry its burden.

"Mere injuries, however substantial, in terms of money, time and energy" are insufficient to sustain a claim of "irreparable harm." *Indiana Fam. & Soc. Servs. Admin. v. Walgreen Co.*, 769 N.E.2d 158, 162 n.4 (Ind. 2002). Accordingly, the "possibility that adequate compensatory or other corrective relief will be available at a later date, in the ordinary course of litigation, weighs heavily against a claim of irreparable harm." *Id.* Here, the Trustee alleges Crossroads misappropriated or converted Revenues or receivables. Crossroads vigorously denies this allegation but, even if it could be sustained, the Trustee's claim would be compensable through money damages in the ordinary course of litigation. A receiver is not required.

Contrary to the Trustee's inflammatory rhetoric, there is no "imminent risk" of Revenue dissipation absent a Receiver. Mot. at 29. The Trustee itself concedes the specious nature of this allegation—admitting that it has not actually determined the Facilities' financial condition. *See, e.g.*, Mot. at 22 ("the Facilities' financial condition cannot be determined"). Where a party moving for receivership "admit[s] that they cannot quantify the losses" due to a lack of evidence, the appointment of a receiver to obtain evidence of allegations sought is not warranted. *Shah*, 2013 WL 12489650 at *6. In fact, Crossroads has overseen the Facilities so as to place them in a position to increasingly grow Revenues. In any event, the Trustee's claim is insufficient to support a showing or "irreparable harm." Under these circumstances, the appointment of a receiver "is a dangerous remedy which could injure rather than protect" the Project. *In re Marriage of Gore*, 527 N.E.2d at 199.

The Trustee's contention that Crossroads committed procedural errors in complying with the procedures set out in the Bond Documents is equally specious and insufficient to demonstrate the risk of "irreparable harm" required for appointment of a receiver. Crossroads vigorously denies that it committed any procedural errors.

D. Adequate Remedies Are Otherwise Available

The Trustee has also failed to carry its burden of showing that there is "no adequate remedy otherwise available." *Lafayette Realty Corp.*, 215 N.E.2d at 862. To the contrary, far less drastic options exist as relief should the Court find that any of the Trustee's claims are meritorious.

For instance, the Trustee's complaint that Crossroads allegedly failed to provide operational and financial reporting information (if valid) would be properly remedied by methods far less burdensome than a receivership, such as an accounting or limited injunction. *See id.* at 862 (finding a receivership would be an unwarranted radical remedy, as "[a] restraining order and an injunction could have promptly stopped the practices complained of in this case").

Moreover, the Trustee brings its Motion before having attempted to pursue *any* less radical mitigating relief much less having exhausted other options. *See Burke v. Am. Gen. Fin. Servs., Inc.,* 2011 WL 810336, at *6 (Ind. Ct. App. March 9, 2011) (concluding no adequate remedy at law existed other than receivership only after plaintiff had exhausted all other avenues, including initiating a replevin action and undergoing an extensive discovery process, to no avail, in remedying the issues apparent).

Here, because many other adequate and less extraordinary remedies exist at law (which the Trustee has failed to pursue), its request for emergency appointment of a receiver should be denied.

E. A Receivership Over Crossroads And The Operating Companies Is Improper

The Trustee also overreaches in the relief it seeks, improperly seeking a general receivership over not only the collateral pledged—the Facilities' assets and the Facilities themselves—but also over Crossroads and the Operating Companies. Yet nothing in the Bond Documents authorizes the Trustee to move for this relief. Section 9.04(a)(vi) of the Indenture on which the Trustee relies, provides that the Trustee, under certain specific conditions, may "request that an Indiana or federal court having jurisdiction appoint, to the extent permitted by law, [appoint] a receiver or receivers of the assets pledged under this Indenture, and the income, revenues, profits and use thereof." Compl. Ex. 1, § 9.04(a)(vi). This language unambiguously limits the Trustee's authority to seek a receivership over the Facilities themselves (as assets pledged under the Indenture), and the income, Revenues, profits and use thereof. Accordingly, the Trustee has no authority under the Indenture to seek a general receivership over Crossroads or the Operating Companies.[10]

[10] Moreover, the Trustee claims in the Motion, "the Indenture and Senior Mortgages expressly authorize the Trustee to seek this relief." Mot. at 31. Not quite. The Trustee's authority under the Mortgages is expressly contingent on a foreclosure action by the Trustee. *See* Mot. Exs. 10, 11, § 6.10(e). As the Trustee has not initiated any foreclosure action, the Trustee does not have

Further, despite the Trustee's complaints that Crossroads may not have strictly followed the procedures under the Bond Documents, the Trustee has also failed to demonstrate that it followed these very procedures in seeking the appointment of a receiver in this case, depriving it of authority to seek this receivership. As explained in greater detail *supra*, at 18-19, the Trustee has not alleged or presented any evidence that it issued proper notice to the parties required of the Event of Default within two business days, nor has it provided evidence that it received a written request or the written consent of the Controlling Party to pursue the remedy of seeking appointment of receivership, all as required under the Indenture. If the Trustee did receive such direction from the Controlling Party to pursue the remedy of receivership, it failed to furnish such information to the bondholders by posting notice in the data room, as required pursuant to the Indenture.

Due to the Trustee's failures to abide by the procedures required under the Indenture to seek a remedy in response to an Event of Default, the Trustee lacks contractual authority to seek appointment of a receiver under the Bond Documents, nor has it demonstrated any statutory authority for this extraordinary remedy.

Having no support or authority for its requested relief in the Bond Documents, the Trustee attempts to rely on case law it contends supports its request for a receivership over these entities. Mot. at 32. But none of the case law cited by the Trustee provides support for its request. In *Donovan v. Robbins*, the court did not examine or grant a receivership over a defendant entity—but only "a receivership on the property and assets" of the defendants. 588 F. Supp. 1268, 1270 (N.D. Ill. 1984). The Trustee's reliance on *BMO Harris Bank N.A. v. Gibson Grain & Supply* is similarly misplaced, because the court in that case simply entered an agreed order appointing a

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authority under the Senior Mortgages to seek the relief requested in the Motion and in any event, such authority would not apply to Crossroads or the Operating Companies.

receiver. 2015 WL 5123857, at *1-2 (S.D. Ind. Sep. 1, 2015). In particular, the court noted that it was permitting a receivership over the defendant entities because the defendants had "consent[ed] to the appointment of a receiver" over the entity (emphasis added). *Id*. And in *Miller v. Up in Smoke*, the court granted, in part, a motion to appoint a receiver over only one defendant entity to preserve its corporate assets for shareholders bringing derivative claims. No. 1:09-CV-242, 2010 WL 5095812, at *7 (N.D. Ind. Dec. 8, 2010). Here, Defendants have not consented to the appointment of a receiver, and neither the Trustee nor the bondholders it purports to represent are shareholders of Crossroads or the Operating Companies.

F. The Trustee's Request To Waive The Statutory Requirement of a Receiver's Bond Should Be Denied

The Trustee's request for the waiver of the requirement for a receiver's bond, should a receiver be appointed, must also be rejected. A receiver's bond is required by statute, and there is no statutory exception or other reason for waiving this bond. *See* Ind. Code, § 32-30-5-3; *Burelli v. Martin*, 130 N.E.3d 661, 671 (Ind. Ct. App. 2019) ("[t]he receivership statute, however, expressly states the receiver must post a bond, and ***there is no statutory exception***") (emphasis added). Accordingly, the receiver's bond requirement may not be waived. *Id*.

Moreover, a receiver's bond serves as security for all interested parties, as the receiver is personally liable to such interested parties for any loss arising from the receiver's negligence or misconduct in administering the receivership. *See, e.g.*, *Keybank Nat. Ass'n v. Shipley*, 846 N.E.2d 290, 296 (Ind. Ct. App. 2006). Accordingly, the parties would be prejudiced by relieving any receiver from the requirement of posting a bond commensurate with the scope and extent of assets to be placed in a receivership. Given the value of the assets over which the Trustee seeks receivership (Facilities purchased for more than $60 million, Mot. at 4, and, by the Trustee's admission, generating millions in annual Revenue, *id*. at 2), and the attendant risk and liability

associated with managing those assets, a receiver's bond would need to be substantial—more than $1 million.

CONCLUSION

WHEREFORE, Defendants respectfully request that the Court deny the Trustee's Motion for Immediate Appointment of a Receiver in its entirety. In particular, Defendants request that the Court deny the Trustee's request to appoint a receiver over Crossroads and the Operating Companies, and deny the Trustee's request to waive the statutory requirement that any receiver be required to post a receiver's bond. Defendants further request such other and further relief as the Court deems just and proper.

Dated: May 1, 2026

Respectfully submitted,

/s/ *Craig A. Stanfield*

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* Motion for *pro hac vice* admission forthcoming

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed and served electronically on all counsel of record this first day of May, 2026 via IEFS.

/s/ *Riley H. Floyd*