

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WISCONSIN**

CAROL CHESEMORE, et al., <i>Plaintiffs,</i> v. ALLIANCE HOLDINGS, et al., <i>Defendants.</i>	Case No. 09-cv-000413 Hon. Judge William M. Conley
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**AGREED CONSENT ORDER REGARDING DAVID B. FENKELL’S EMERGENCY
MOTION TO STAY AND TO RECONSIDER AMOUNT OF *SUPERSEDEAS* BOND**

Upon consideration of defendant David B. Fenkell’s (“Mr. Fenkell’s”) Emergency Motion to Stay and Reconsider Amount of *Supersedeas* Bond and Reply In Support (Dkt. Nos. 1122, 1123 & 1126), the judgment creditors’ joint Opposition and Sur-reply (Dkt. Nos. 1125 & 1129-1), the discussion of the parties with the Court during the status conference held on December 4, 2015, on December 7, 2015, and again on December 8, 2015, and the parties’ agreement to the entry of an Agreed Consent Order containing the terms and agreements recited below, the Court hereby orders as follows:

1. On September 8, 2014, the Court entered final judgment “in favor of plaintiffs against defendant David Fenkell on the unsettled claims as follows: a. David Fenkell is liable to restore to the Alliance ESOP \$2,044,014.42; b. David Fenkell shall indemnify defendants Mastrangelo, Seefeldt and Klute for any compensatory relief they are required to pay; c. David Fenkell shall be barred from continuing as trustee of the Alliance ESOP; and d. David Fenkell is liable to plaintiffs for attorney’s fees and costs in the total amount of \$1,854,008.50.” Dkt. No. 986. On October 16, 2014, the Court issued its Amended Final Judgment, clarifying that Mr. Fenkell is “liable to plaintiffs for attorney’s fees on all claims not part of the settlement

agreement in the amount of \$1,854,008.50.” Dkt. No. 999, at 2. All other orders in the September 8, 2014, Judgment (Dkt. No. 986) remained the same and were not changed by the Court’s Amended Final Judgment (Dkt. No. 999).

2. While Mr. Fenkell has appealed the Amended Final Judgment and other orders (e.g., Dkt. No. 988 & 1005), to date he has not posted a *supersedeas* bond pending appeal. See Fed. R. Civ. P. 62(d). On November 18, 2015, the Court held Mr. Fenkell in contempt for failure to pay the Amended Final Judgment ordering Mr. Fenkell “to restore \$2,044,014.42 to the Alliance ESOP or provide a bond assuring the payment of this sum pending appeal” or to post a *supersedeas* bond assuring the ordered restoration. Dkt. No. 1121. The Court ordered penalties that would apply in the event of Mr. Fenkell’s failure to comply with the November 18, 2015, opinion and order by December 9, 2015. *Id.* The Court also stated that if Mr. Fenkell pledged his unencumbered interest in his Alliance ESOP account in a way that is “legally binding,” Mr. Fenkell could reduce the amount of the bond by the value of his Alliance ESOP account. *Id.*

3. Mr. Fenkell’s Emergency Motion (Dkt. No. 1123 at p. 21) recites that he desires to pledge his interest in his Alliance ESOP account so as to reduce the amount of a *supersedeas* bond that he would otherwise be required to post to comply with the Court’s November 18, 2015, Opinion and Order. Mr. Fenkell represents that these assets are unencumbered. Mr. Fenkell agrees to execute the attached “Collateral Pledge of Assets” which is incorporated into this Order. Mr. Fenkell represents that he will never pursue or authorize any claim that this Collateral Pledge of Assets has deprived him of the rights provided to a participant under the Alliance Holdings, Inc. Employee Stock Ownership Plan and Trust, or is not permitted under the Alliance Holdings, Inc. Employee Stock Ownership Plan and Trust or any state or federal law. Mr. Fenkell intends to waive all claims related to this Collateral Pledge of Assets, and agrees that

the judgment creditors have no responsibility or liability for Mr. Fenkell's pledge. The Court orders that Mr. Fenkell's Alliance ESOP account pledge is effective notwithstanding any provision in the Alliance Holdings, Inc. Employee Stock Ownership Plan and Trust or state or federal law to the contrary.

4. The Court further accepts the judgment creditors' offer to allow Mr. Fenkell to reduce the amount of the *supersedeas* bond by pledging all of his rights to receive phantom stock payments under The Spencer Turbine Company Phantom Stock Agreement and The Spencer Turbine Company Phantom Stock Plan ("Mr. Fenkell's Spencer Turbine Company Phantom Stock Rights") to Alliance. Mr. Fenkell represents that Mr. Fenkell's Spencer Turbine Company Phantom Stock Rights are unencumbered. Mr. Fenkell also agrees to execute the attached Collateral Pledge of Assets (including Mr. Fenkell's Spencer Turbine Company Phantom Stock Rights), which is incorporated into this Order. Mr. Fenkell represents that he will never pursue or authorize any claim that this Collateral Pledge of Assets has deprived him of the rights provided to a participant under the Spencer Turbine Company Phantom Stock Agreement signed by Mr. Fenkell and/or The Spencer Turbine Company Phantom Stock Plan, or is not permitted under the Spencer Turbine Company Phantom Stock Agreement signed by Mr. Fenkell and/or The Spencer Turbine Company Phantom Stock Plan or any state or federal law. Mr. Fenkell intends to waive all claims related to this Collateral Pledge of Assets, and agrees that the judgment creditors, The Spencer Turbine Company and The Spencer Turbine Company Phantom Stock Plan have no responsibility or liability for Mr. Fenkell's pledge. The Court orders that Mr. Fenkell's pledge of Mr. Fenkell's Spencer Turbine Phantom Stock Rights is effective notwithstanding any provision in The Spencer Turbine Company Phantom Stock Agreement

signed by Mr. Fenkell or The Spencer Turbine Company Phantom Stock Plan or state or federal law to the contrary.

5. The terms of the Collateral Pledge of Assets, which are incorporated into this Order, shall apply following the outcome of Mr. Fenkell's appeal to the U.S. Court of Appeals for the Seventh Circuit.

6. Should the U.S. Court of Appeals for the Seventh Circuit issue an opinion affirming this Court's judgment requiring Mr. Fenkell to restore \$2,044,014.42 to the Alliance ESOP, or a lesser amount, Mr. Fenkell agrees, and this Court orders, that the *supersedeas* bond shall be immediately payable to the Alliance ESOP, Mr. Fenkell's Alliance ESOP Account shall be forfeited to the Alliance ESOP, and Mr. Fenkell will forfeit all rights to Mr. Fenkell's Spencer Turbine Company Phantom Stock Rights and Alliance will pay \$600,000 to the Alliance ESOP; provided, however, that for seven (7) calendar days after the issuance of the Seventh Circuit's opinion, Mr. Fenkell shall have the option of paying the differential between the *supersedeas* bond and the \$2,044,014.42 restoration ordered by the Court in cash rather than with his pledged Alliance ESOP account assets and Mr. Fenkell's Spencer Turbine Company Phantom Stock Rights.

7. The Court also orders that Mr. Fenkell will be responsible for all tax consequences or liabilities related to Mr. Fenkell's Alliance ESOP account pledge and the pledge of Mr. Fenkell's Spencer Turbine Company Phantom Stock Rights, and that he will be held immediately responsible for any shortfall that results. The Court also orders that neither Alliance, the Alliance ESOP, nor The Spencer Turbine Company and The Spencer Turbine Company Phantom Stock Plan shall be charged or assessed any responsibility for any tax consequences or liabilities that Mr. Fenkell might incur.

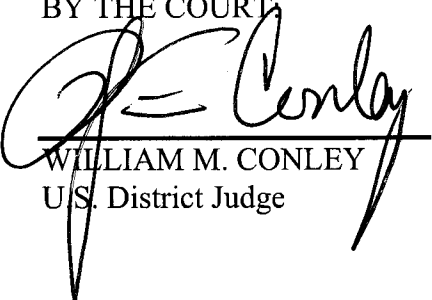
8. In consideration of the foregoing, the amount of the *supersedeas* bond to be posted shall be \$995,345.78 (\$2,044,014.42 less \$448,668.64 less \$600,000).

9. This Court retains jurisdiction to resolve any dispute related to this order except as otherwise ordered by the U.S. Court of Appeals for the Seventh Circuit.

10. Accordingly, to enforce the Court's judgment and amended judgments (Dkt. Nos. 986 & 999), it is hereby ORDERED AND ADJUDGED AS FOLLOWS:

- i. Mr. Fenkell's motion for a stay is denied.
- ii. Mr. Fenkell's Pledge of Collateral Assets (his Alliance ESOP account and Mr. Fenkell's Spencer Turbine Company Phantom Stock Rights) are enforceable.
- iii. By December 9, 2015, Mr. Fenkell is hereby ordered to post a *supersedeas* bond in the amount of \$995,345.78.
- iv. If Mr. Fenkell does not post a *supersedeas* bond in the required amount by December 9, 2015, fines will be imposed consistent with the Court's November 18, 2015 Opinion and Order (Dkt. No. 1121).

BY THE COURT



WILLIAM M. CONLEY
U.S. District Judge

AGREED AS TO FORM AND SUBSTANCE:

/s/David R. Johanson
David R. Johanson, Counsel for Mr. Fenkell

/s/Charles Jackson
Charles Jackson, Counsel for Alliance Holdings, Inc.

/s/Lars Golumbic
Lars Golumbic, Counsel for the Alliance Holdings, Inc. ESOP

Attachment to Agreed Order
(Collateral Pledge of Assets)

COLLATERAL PLEDGE OF ASSETS

COLLATERAL PLEDGE OF ASSETS, dated as of December 9, 2015 (the “**Collateral Pledge**”) by David B. Fenkell (“**Mr. Fenkell**”, or the “**Pledgor**”) in favor of Alliance Holdings, Inc. (“**Alliance**”) and the Alliance Holdings, Inc. Employee Stock Ownership Plan and Trust (“**Alliance ESOP**”), pursuant to the Order entered by The Honorable Judge William M. Conley, United States District Court for the Western District of Wisconsin (the “**Court**”) on December 9, 2015 regarding obligations of Pledgor to Alliance ESOP (the “**Court Order**”).

WHEREAS, on September 8, 2014, the Court entered a final judgment ordering Mr. Fenkell, among other things, to restore \$2,044,014.42 to the Alliance ESOP, and on October 16, 2014, entered an Amended Final Judgment ordering, among other things, Mr. Fenkell to restore \$2,044,014.42 to the Alliance ESOP (the “**Obligation**”);

WHEREAS, on November 18, 2015, the Court held Mr. Fenkell in contempt for failure to pay the Amended Final Judgment and ordered him to restore \$2,044,014.42 to the Alliance ESOP or to post a *supersedeas* bond assuring the ordered restoration and payment of this sum pending appeal to the Alliance ESOP. Dkt. No. 1121. The Court ordered penalties that would apply in the event of Mr. Fenkell’s failure to comply by December 9, 2015. *Id.* The Court also stated that if Mr. Fenkell pledged his unencumbered interest in his Alliance ESOP account in a way that is “legally binding,” Mr. Fenkell could reduce the amount of the bond by the value of his Alliance ESOP account, *id.*;

WHEREAS, Mr. Fenkell’s Emergency Motion (Dkt. No. 1123 at p. 21) recites that he desires to pledge his interest in his Alliance ESOP account so as to reduce the amount of a *supersedeas* bond that he would otherwise be required to post to comply with the Court’s November 18, 2015, Opinion and Order to restore \$2,044,014.42 to the Alliance ESOP or provide a *supersedeas* bond assuring the payment of this sum pending appeal (the “**Obligation**”). The Court ordered that the Mr. Fenkell’s ESOP Account pledge is effective notwithstanding any provision in the Alliance ESOP and Trust to the contrary;

WHEREAS, the Court also accepted the judgment creditors’ offer to allow Mr. Fenkell to reduce the amount of the *supersedeas* bond by pledging all of his rights to receive phantom stock payments under The Spencer Turbine Company Phantom Stock Agreement and The Spencer Turbine Company Phantom Stock Plan to the Alliance ESOP (“**Mr. Fenkell’s Spencer Turbine Company Phantom Stock Rights**”) on the condition that these proceeds will be transferred to the Alliance ESOP. The Court ordered that Mr. Fenkell’s pledge of Mr. Fenkell’s Spencer Turbine Company Phantom Stock Rights is effective notwithstanding any provision in The Spencer Turbine Company Phantom Stock Agreement or The Spencer Turbine Company Phantom Stock Plan to the contrary;

WHEREAS, Mr. Fenkell agrees that he will be solely responsible for all tax consequences or liabilities, if any, related to the Mr. Fenkell’s ESOP Account pledge or transfer and the pledge or transfer of Mr. Fenkell’s Spencer Turbine Company Phantom Stock Rights, and that he will be solely responsible for any shortfall that results; and

WHEREAS, as collateral security for the Court’s November 18, 2015, Opinion and Order, and the Obligation, Pledgor has agreed to pledge to Pledgees (as defined below), and

grant Pledges a continuing lien on and security interest in, all of Pledgor's rights, benefits and privileges in the Collateral (as defined below) under this Collateral Pledge.

NOW, THEREFORE, the parties hereby agree as follows:

1. Pledge, and Grant of Security Interest. As collateral security for the Court's November 18, 2015, Opinion and Order, and the Obligation, Pledgor hereby collaterally assigns and pledges to the Alliance ESOP, and grants to the Alliance ESOP a continuing lien on and perfected security interest in, all of Pledgor's right, title, benefit and interest in Pledgor's Alliance ESOP account (the "**Mr. Fenkell's ESOP Pledge**"). As additional collateral security for the Court's November 18, 2015, Opinion and Order, and the Obligation, Pledgor hereby collaterally assigns and pledges to Alliance, and grants to Alliance a continuing lien on and perfected security interest in, all of Pledgor's right, title, benefit and interest in The Spencer Turbine Company Phantom Stock Agreement and the Spencer Turbine Company Phantom Stock Plan (the "**Spencer Turbine Pledge.**").

2. Pledgor's Representations, Warranties and Covenants.

(a) Pledgor warrants that (i) he is the absolute owner of his Alliance ESOP account and of Pledgor's rights under The Spencer Turbine Company Phantom Stock Agreement and The Spencer Turbine Company Phantom Stock Plan (previously defined as Mr. Fenkell's Spencer Turbine Company Phantom Stock Rights and, together with Mr. Fenkell's Alliance ESOP account, the "**Collateral**") and the Collateral is not subject to any lien, charge or encumbrance, other than the lien thereon in favor of Alliance and the Alliance ESOP (collectively, "**Pledges**") created hereby; and (ii) he has full capacity, and has taken all necessary action, to pledge and transfer unto Pledges the Collateral.

(b) Pledgor represents, warrants and covenants that (i) he will not alter, amend or modify the Collateral without the prior written consent of Pledges; and (ii) he will not terminate, modify, cancel or surrender the Collateral, assign or sublease the Collateral, without the prior written consent of Pledges. Any moneys received by the Pledgor under the Collateral, whether as payments thereunder or otherwise, shall be proceeds of such Collateral subject to a lien in favor of Pledges which lien Pledgor hereby grants and shall be remitted by Pledgor to Pledgee within one (1) business day of an Event of Default for application to the Obligation as a payment thereon. An Event of Default shall mean the failure of Pledgee to satisfy in full the Obligation by payment of the \$2,044,014.42 Obligation in full to the Alliance ESOP within seven (7) calendar days after the issuance of the Seventh Circuit's opinion providing that the Seventh Circuit affirms the Court's judgment requiring Pledgor to restore \$2,044,014.42 or a lesser amount to the Alliance ESOP (a "**Seventh Circuit Affirmative Decision**"). Pledgor may pay the \$2,044,014.42 Obligation by applying (i) the *supersedeas* bond in the amount of \$995,345.78 (\$2,044,014.42 minus \$448,668.64 attributed to Mr. Fenkell's ESOP Pledge and minus \$600,000 attributed to Mr. Fenkell's Spencer Turbine Company Phantom Stock Rights) plus \$1,048,668.64 in cash; or by applying (ii) the *supersedeas* bond in the amount of \$995,345.78 plus release of Mr. Fenkell's ESOP Pledge (\$448,668.64) and/or release of all of Mr. Fenkell's Spencer Turbine Company Phantom Stock Rights (\$600,000) and/or substitution of cash to cover any differential attributable to Mr. Fenkell's retention of the pledged assets so long as the \$2,044,014.42 Obligation is satisfied within such seven (7) day period.

3. Events of Default and Remedies. Upon the occurrence and during the continuance of any Event of Default, title to Mr. Fenkell's Alliance ESOP account shall pass to the Alliance ESOP and title to the Mr. Fenkell's Spencer Turbine Company Phantom Stock Rights shall pass to Alliance and all of Pledgor's rights to the Collateral shall cease and be forfeited without any further action. The Court has ordered that Mr. Fenkell may provide a *supersedeas* bond in a reduced amount of \$995,345.78, together with his pledges of Mr. Fenkell's Alliance ESOP account and his Spencer Turbine Company Phantom Stock Rights to satisfy the Court's November 18, 2015, Opinion and Order, and the Obligation. In the event of a forfeiture hereunder, Mr. Fenkell will satisfy the Obligation by means of the *supersedeas* bond which immediately becomes payable and the forfeiture and transfer of Mr. Fenkell's Alliance ESOP account to the Alliance ESOP and the forfeiture and transfer of Mr. Fenkell's Spencer Turbine Company Phantom Stock Rights to Alliance. In no event shall Pledges be entitled to receive payment hereunder and as a result of the *supersedeas* bond in excess of the Obligation. Pledges may, in addition to any rights or remedies available to it hereunder or under the Court's November 18, 2015, Opinion and Order, and to the extent permitted by applicable law, take such action personally or through its agents or attorneys, with or without entry, and without notice, demand, presentment or protest (each and all of which are hereby waived by Pledgor), as either Pledgee deems necessary or advisable to protect and enforce its rights and remedies hereunder against Pledgor and in and to the Collateral (including without limitation to protect and enforce any rights of Pledgor to receive payments under the Collateral), at such time and in such order as such Pledgee may determine, in its sole discretion; provided, however, that no such actions by either Pledgee shall prevent Mr. Fenkell from exercising his right hereunder to make a cash payment of \$448,668.64 to the Alliance ESOP in lieu of releasing Fenkell's Alliance ESOP Account and/or \$600,000 to the Alliance ESOP in lieu of releasing Mr. Fenkell's Spencer Turbine Company Phantom Stock Rights to the Alliance ESOP and Alliance Holdings, Inc., respectively, within the seven (7) day period referred to in Section 2(b). of this Collateral Pledge.

4. Power of Attorney. Upon the occurrence and during the continuance of an Event of Default, each Pledgee shall have the right, and is hereby irrevocably appointed the true and lawful attorney in fact of Pledgor, coupled with an interest, in its name and stead, subject to the terms and conditions of the Collateral, to assign, convey, transfer or otherwise deal in or with, Pledgor's interest in the Collateral and any remaining right, interest or license of Pledgor with respect thereto, and Pledgor agrees to execute, acknowledge and deliver to such Pledgee, or to any pledgee or transferee of the Collateral of such rights, interests and licenses, upon request by such Pledgee, such instrument as may be advisable in Pledgee's judgment to ratify, confirm or evidence such assignment or other transaction.

5. PLEDGOR HEREBY ACKNOWLEDGES AND AGREES THAT PLEDGOR'S REASONABLE EXPECTATION WITH RESPECT TO THE AUTHORIZATION GRANTED PURSUANT TO ANY POWER OF ATTORNEY SET FORTH IN SECTION 4. HEREUNDER IS THAT THE PLEDGEEES OR ITS ATTORNEY MAY SEEK TO FORECLOSE ON THE COLLATERAL AND TAKE ANY OTHER ACTIONS WITH RESPECT TO THE EXERCISE OF THE PLEDGEEES' RIGHTS AND REMEDIES HEREUNDER. PLEDGOR HEREBY WAIVES ALL OTHER DUTIES OF THE PLEDGEEES THAT MAY ARISE UNDER 20 PA. C.S.A. §5601.3(b). WITH RESPECT TO THE EXECUTION OF THIS COLLATERAL PLEDGE, PLEDGOR HEREBY REMISES, RELEASES, AND FOREVER DISCHARGES, AND WAIVES ALL CLAIMS, CAUSES OF ACTION AND ANY OTHER RIGHTS AGAINST PLEDGEEES AND ANY PREDECESSORS, LEGAL REPRESENTATIVES, PAST AND PRESENT PARENT COMPANIES, SUBSIDIARIES, AGENTS, EMPLOYEES,

SERVANTS, INSURERS, ATTORNEYS, OFFICERS, DIRECTORS, STOCKHOLDERS, AFFILIATES, AFFILIATE COUNTERPARTIES, SUCCESSORS IN INTEREST, AND ASSIGNS OF AND FROM ANY AND ALL CLAIMS, DEMANDS, DAMAGES, FEES, AND COSTS, SUMS OF MONEY, RIGHTS, CAUSES OF ACTIONS, OBLIGATIONS AND LIABILITIES OF ANY KIND OR NATURE WHATSOEVER INCLUDING ATTORNEYS' FEES, ARISING UNDER OR RELATING TO ANY DUTIES OF AN AGENT UNDER 20 PA. C.S.A. §5601.3 OR OTHERWISE.

6. Filings. Pledgor hereby authorizes Pledgees to file against Pledgor, one or more financing, continuation or amendment statements pursuant to the Uniform Commercial Code in form and substance satisfactory to Pledgor to perfect Pledgees' security interest in the Collateral.

7. Covenants. No delegation to, or assumption by, Pledgees of any of Pledgor's liabilities, duties or obligations under the Collateral is intended by this Collateral Pledge nor shall any such delegation or assumption be deemed to have been made or incurred. No rights are intended to be granted hereunder in favor of any third party donee, creditor or incidental beneficiary.

8. General Provisions. This Collateral Pledge cannot be modified, changed or discharged except by an agreement in writing, signed by the party against whom enforcement of such modification, change or discharge is sought. This Collateral Pledge and all matters relating hereto and arising herefrom (whether arising in tort, contract law, or otherwise) shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. This Collateral Pledge shall bind Pledgor, its successors and assigns, and shall inure to the benefit of Pledgees, and any successor of Pledgees under the Collateral. The Spencer Turbine Company has signed below to indicate its acknowledgement of and consent to the foregoing collateral pledge by Pledgor of Mr. Fenkell's Spencer Turbine Company Phantom Stock Rights.

9. No Assumption of Tax or Other Obligations by Pledgees. Pledgees shall not be deemed to have assumed any of the tax obligations or other duties, undertakings, obligations or liabilities of Pledgor (and/or any of its permitted successors and assigns) under the Collateral by reason of this Collateral Pledge or any enforcement by Pledgees of their rights thereunder. Pledgor shall be solely responsible for all tax consequences or liabilities related to the pledge, assignment, transfer or forfeiture of the Collateral. Mr. Fenkell acknowledges that Pledgees have not made any representations to him regarding tax matters and that he is not relying on Pledgees with respect to the tax consequences of his actions hereunder.

10. Termination. In the event that the U.S. Court of Appeals for the Seventh Circuit issues an opinion which does not affirm the Court's judgment requiring Pledgor to restore \$2,044,014.42 or a lesser amount to the Alliance ESOP, this Agreement shall terminate. In the event that the U.S. Court of Appeals for the Seventh Circuit issues an Opinion which affirms the Court's Amended Final Judgment but requires Pledgor to restore an amount less than \$2,044,014.42, then Pledgor shall have the right to pay such lesser amount in cash and may use the *supersedeas* bond to pay up to \$995,345.78 of such lesser amount, in which event Collateral pledged hereunder shall be released by Pledgees.

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IN WITNESS WHEREOF, this Collateral Pledge has been duly executed by Pledgor as of the date and year first above written.

David B. Fenkell

Accepted by:

ALLIANCE HOLDINGS, INC.

Notary Public

By: _____
Title:

My Commission Expires: _____


**ALLIANCE HOLDINGS, INC.
EMPLOYEE STOCK OWNERSHIP
PLAN**

By: _____
Trustee

THE SPENCER TURBINE COMPANY

By: _____
Title:

IN WITNESS WHEREOF, this Collateral Pledge has been duly executed by Pledgor as of the date and year first above written.



David B. Fenkell

Accepted by:

ALLIANCE HOLDINGS, INC.

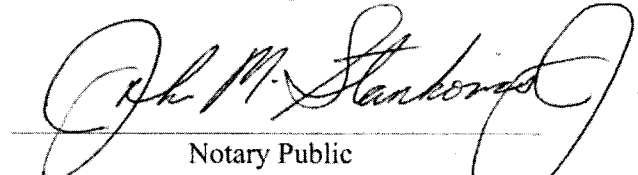
By: _____
Title:

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PLAN**

By: _____
Trustee

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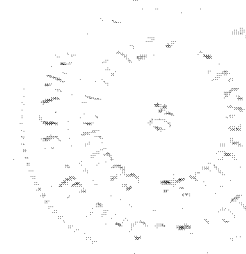
By: _____
Title:



Notary Public
My Commission Expires: 4/7/19

Sworn to and subscribed before me
this 8 day of DEC 2015

NOTARIAL SEAL
JOHN M. STANKOVICS, JR., Notary Pu
City of Philadelphia, Phila. County
My Commission Expires April 7, 201



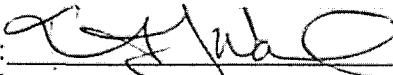
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IN WITNESS WHEREOF, this Collateral Pledge has been duly executed by Pledgor as of the date and year first above written.

David B. Fenkell

Accepted by:

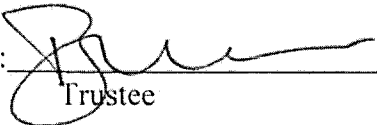
ALLIANCE HOLDINGS, INC.

By: 
Title: President

Notary Public

My Commission Expires: _____

**ALLIANCE HOLDINGS, INC.
EMPLOYEE STOCK OWNERSHIP
PLAN**

By: 
Trustee

THE SPENCER TURBINE COMPANY

By: _____
Title: _____

IN WITNESS WHEREOF, this Collateral Pledge has been duly executed by Pledgor as of the date and year first above written.

David B. Fenkell

Accepted by:

ALLIANCE HOLDINGS, INC.

Notary Public

By: _____
Title: _____

My Commission Expires: _____

**ALLIANCE HOLDINGS, INC.
EMPLOYEE STOCK OWNERSHIP
PLAN**

By: _____
Trustee

THE SPENCER TURBINE COMPANY

By: _____

Title: ERIC M LYNN

VP