

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
BUTLER COUNTY

FIFTH THIRD BANK, :
 :
Plaintiff-Appellee, : CASE NO. CA2010-09-245
 :
- vs - : OPINION
 : 8/29/2011
 :
Q.W.V. PROPERTIES, LLC, et al., :
 :
Defendants-Appellants. :

CIVIL APPEAL FROM BUTLER COUNTY COURT OF COMMON PLEAS
Case No. CV2010-03-1006

Graydon Head & Ritchey LLP, Susan M. Argo, John C. Greiner and Zachary D. Prendergast, 1900 Fifth Third Center, 511 Walnut Street, Cincinnati, Ohio 45202, for receiver, Pete M. Lahni

Statman, Harris & Eyrich, LLC, Alan J. Statman and Brian T. Giles, 3700 Carew Tower, 441 Vine Street, Cincinnati, Ohio 45202, for plaintiff-appellee

Gregory J. Berberich, Nathaniel Ropes Building, 7815 Cooper Road, Suite G, Cincinnati, Ohio 45202, for defendants, Q.W.V. Properties, Michael Center and Vicki Center

James R. Hartke, 917 Main Street, Suite 400, Cincinnati, Ohio 45202, for defendant-appellant, Central Estate, Starv 'n Sam Co.

Barron Peck Bennie & Schlemmer, David H. Lefton, 3074 Madison Road, Cincinnati, Ohio 45209, for defendant, Bob Patel

Michael T. Gmoser, Butler County Prosecuting Attorney, Government Services Center, 315 High Street, 11th Floor, Hamilton, Ohio 45011-6057, for defendant, Butler County Treasurer, Nancy Nix

Nicholas J. Pantel, 221 East Fourth Street, Suite 400, Cincinnati, Ohio 45202, for defendants, United States of America and U.S. Small Business Administration

HUTZEL, J.

{¶1} Defendants-appellants, Central Estate, L.L.C. and Starv'n Sam, Inc. (collectively "Central"), appeal the Butler County Court of Common Pleas decision authorizing receiver-appellee, Peter M. Lahni, to sell property at a private sale free and clear of all liens and encumbrances. For the reasons outlined below, we affirm.

{¶2} On July 1, 2005, Q.W.V. Properties, L.L.C. executed a \$750,000 mortgage in favor of Fifth Third Bank to purchase a gas station and convenience store located at 7807-7809 Cincinnati-Dayton Road, Butler County, Ohio. The same day, Fifth Third executed three "Standby and Subordination" agreements with Central, the third lienholder, pursuant to which Central could purchase Fifth Third's debt if and when Q.W.V. defaulted on the loan.

{¶3} In March 2010, Q.W.V. defaulted on the Fifth Third loan, at which time Fifth Third received a judgment in foreclosure for the amount of \$666,527.34, plus interest and costs. On April 2, 2010, the trial court appointed a receiver, Peter M. Lahni (the "Receiver"), to preserve and protect the property. Upon his appointment, the Receiver took possession of the property and quickly discovered numerous issues that severely diminished its value. First, the Receiver discovered the gas station was out of gasoline. Secondly, the liquor licenses attached to the convenience store had been suspended due to \$56,000 in unpaid taxes which the Receiver was unable to pay due to lack of funding.¹ Third, significant real estate taxes were delinquent, and finally, Duke Energy was threatening to shut off all utilities, which would have forced the subtenant, Dunkin' Donuts,

1. Despite agreeing to the language of the Order Appointing the Receiver, Central refused to permit the interested creditors to advance funds for the continued operation of the complex.

to vacate the property.

{¶4} The Receiver indicated these issues created a pressing need to enter a sales contract in order to prevent the business from completely shutting down. As a result, the Receiver sought the assistance of Harry Eberle, an experienced broker who specialized in the sale of gas stations in Ohio and Kentucky. With Eberle's assistance, the Receiver obtained an initial offer for \$1,275,000 on April 5, 2010. However, the buyer revoked this offer upon discovering the aforementioned issues. Several days later, in an attempt to "stop the bleeding," the Receiver entered negotiations with Bhauesh Patel, an investor who owned several other gas stations in the tri-state. On April 8, 2010, Patel offered to purchase the property for \$1,175,000.

{¶5} The same day, Patel and the Receiver entered a sales and management agreement, pursuant to which Patel took immediate control of the property. At that time, Patel filled the gasoline tanks and applied for all licenses required by the city, county, and state. However, despite Patel's best efforts, additional challenges arose during the pendency of the sale. Specifically, the property's neighbor, Emmanuel Anagnostou, blocked the entrance to the complex's car wash using a trash dumpster. Anagnostou claimed he owned the portion of the lot containing the car wash and refused to negotiate an easement over the property line. Patel was also forced to cover additional expenses for landscaping and repairs to the parking lot and gasoline tanks.

{¶6} As a result of these issues, the parties agreed to an amended sales contract on June 3, 2010 for the reduced sum of \$1,076,929.68. When the Receiver sent the amended contract to Central's counsel for review, Central requested to have 60 additional days to gather the funds necessary to match Patel's offer.

{¶7} Despite Central's request, the Receiver applied for approval to sell the property to Patel "free and clear of all liens and encumbrances," whereby all interested

parties' claims would apply to the net proceeds in order of priority (the "Receiver's Sale Motion"). In response, Central filed numerous motions with the trial court, including: (1) motion to remove the Receiver and his counsel due to a conflict of interest; (2) motion to declare the Receiver's actions void ab initio; (3) motion to take control and possession of the property; and (4) motion to enforce the Standby and Subordination agreements.

{¶8} Following a hearing on June 28, 2010, the trial court granted the Receiver's Sale Motion and denied all but Central's motion to enforce the Standby and Subordination agreements. The sale closed on July 20, 2010 and the trial court filed its order confirming the sale on August 26, 2010. Using the proceeds of the sale, the Receiver was able to satisfy Fifth Third's loan in its entirety and used the remaining proceeds to partially satisfy the second mortgage held by the United States Small Business Administration ("SBA").²

{¶9} Central timely appeals, raising four assignments of error for review. Because Central's first, second, and third assignments of error are interrelated, we will address them together.

{¶10} Assignment of Error No. 1:

{¶11} "THE TRIAL COURT ERRS TO THE PREJUDICE OF APPELLANTS BY DENYING CENTRAL [sic] OBJECTIONS TO THE SALE OF QWV PROPERTY, WHERE THE RECEIVER ADMITS TO FAILING TO PERFORM HIS DUTIES, VIOLATING CENTRAL'S LEGAL RIGHTS TO POSSESSION OF PROPERTY, VIOLATING THE COURT ORDER APPOINTING HIM AND FAILING TO ENFORCE CENTRAL'S CONTRACTUAL LEGAL RIGHTS."

{¶12} Assignment of Error No. 2:

{¶13} "THE TRIAL COURT ERRS TO THE PREJUDICE OF APPELLANTS' [sic] CENTRAL BY DENYING CENTRAL'S MOTION TO TAKE CONTROL AND

2. SBA is not a party to the instant case.

POSSESSION OF QWV PROPERTIES. THE RECEIVER FAILED TO PERFORM HIS DUTIES AND DENIED CENTRAL THE LEGAL RIGHT TO POSSESSION OF THE QWV PROPERTY, WHICH CENTRAL IS ENTITLED BY THE CONTRACTUAL AGREEMENT SIGNED BY QWV."

{¶14} Assignment of Error No. 3:

{¶15} "THE TRIAL COURT ERRS TO THE PREJUDICE OF APPELLANT CENTRAL BY DENYING CENTRAL'S MOTION TO REMOVE ATTORNEY FOR RECEIVER, GHR LLP, AND RECEIVER LAHNI, DUE TO APPEARANCE OF CONFLICT OF INTEREST. THE RESULT IS THAT CENTRAL IS DENIED THE ENFORCEMENT OF THEIR CONTRACTUAL RIGHTS."

{¶16} In its first three assignments of error, Central questions the trial court's decision to approve the sale in light of the Receiver's various activities. We will address each issue in turn.

Standard of Review

{¶17} A trial court has the authority to appoint receivers pursuant to R.C. 2735.01. The primary purpose of a receiver is to carry out orders of the court. See *Park Natl. Bank v. Cattani, Inc.*, 187 Ohio App.3d 186, 189, 2010-Ohio-1291. The court may grant receivers broad powers to manage property pursuant to R.C. 2735.04, which provides, "[u]nder the control of the court which appointed him, * * * a receiver may bring and defend actions in his own name as receiver, take and keep possession of property, * * * make transfers, and generally do such acts respecting the property as the court authorizes."

{¶18} The Ohio Supreme Court has interpreted R.C. 2735.04 as "enabling the trial court to exercise its sound judicial discretion to limit or expand a receiver's powers as it deems appropriate." *Celebrezze v. Gibbs* (1991), 60 Ohio St.3d 69, 74. "R.C. Chapter

2735 does not contain any restrictions on what the court may authorize when it issues orders regarding receivership property." *Quill v. Troutman Ent., Inc.*, Montgomery App. No. 20536, 2005-Ohio-2020, ¶34. A reviewing court will not disturb the trial court's judgment absent a clear abuse of discretion. See *Cattani*, 187 Ohio App.3d at 190. An abuse of discretion is more than an error of law; rather, it suggests that the trial court's decision is unreasonable, arbitrary, or unconscionable. *Natl. City Bank v. Semco, Inc.*, 183 Ohio App.3d 229, 232, 2009-Ohio-3319, citing *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219.

{¶19} Under this standard, the trial court had a duty to independently monitor and evaluate the Receiver's conduct in relation to the duties the Receiver owed the parties and the assets under their control. See *Hummer v. Hummer*, Cuyahoga App. No. 96132, 2011-Ohio-3767, ¶18.

{¶20} With these principles in mind, we now address Central's claims challenging the Receiver's activities and the trial court's overall decision.

Balance Sheet

{¶21} First, Central argues the Receiver failed to obtain a balance sheet of Q.W.V.'s assets and liabilities as required by Loc.R. 4.18(D) of the Court of Common Pleas of Butler County, General Division, which states, in pertinent part, "[w]hen a defendant consents to the appointment of a receiver, there shall be presented to the Court a complete statement of assets and liabilities as of the nearest date obtainable[.]"

{¶22} Pursuant to this rule, Central argues that without a balance sheet, the Receiver was unaware of "who the creditors [were] and was not aware of the legal contractual obligations of Q.W.V. due to Central." However, our review of the record reveals no such ignorance on the part of the Receiver. In fact, in the Order Appointing the Receiver, the trial court clearly stated the Receiver's appointment was "necessary for the

preservation and protection of the Property and the rights of Fifth Third Bank, Central Estate, LLC, and Starv'n Sam Co." As such, this order clearly informed the Receiver that he was obligated to protect Central's interest. Based upon this evidence, we reject Central's first argument.

Contractual Rights

{¶23} Second, Central argues the Receiver failed to consider its contractual rights pursuant to agreements with Q.W.V. and Fifth Third. Central argues that in selling the property to Patel, the Receiver ignored Central's rights to: (1) take possession of the property upon default pursuant to its mortgage with Q.W.V., and (2) purchase Fifth Third's debt under the Standby and Subordination agreements.

{¶24} As an initial matter, we note Central was clearly aware that Fifth Third requested the trial court to appoint a receiver following the judgment in foreclosure. In fact, Central submitted a motion requesting additional information on Lahni prior to his appointment as the Receiver. Additionally, in its mortgage with Q.W.V., Central consented to the possibility that a receiver would "enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof[.]" Thus, despite an awareness of the pending receivership, Central made no effort to take possession of the property prior to the court's decision. Under these circumstances, we reject Central's argument that it was deprived of contractual rights with Q.W.V. when Central failed to enforce its rights in a timely manner.

{¶25} Regarding the Standby and Subordination agreements, we note that during the hearing on the Receiver's Sale Motion, the Receiver was asked why he was opposed to giving Central an additional 60 days to purchase Fifth Third's debt. In response, the Receiver asked: "where has [Central] been since April 2nd? It is now June 28th."

{¶26} We are similarly unaware of Central's whereabouts on April 2, 2010, when

the Receiver was appointed and began to vet potential buyers, or for that matter, Central's whereabouts on March 4, 2010, when Q.W.V. defaulted on Fifth Third's loan.³ The Standby and Subordination agreements clearly state that the "Standby Creditor [i.e., Central] shall have the option, *upon default relating to the subordinated claim*, to purchase the Fifth Third indebtedness, at a price equal to the payoff amount." (Emphasis added.) Under such circumstances, we cannot conclude that the Receiver had further duties to honor contractual rights that Central failed to exercise for nearly a month at the time of his appointment. As with the Q.W.V. mortgage, Central had ample time to exercise its rights under the Standby and Subordination agreements, but failed to do so. Accordingly, we do not challenge the Receiver's decision to pursue the sale to Patel or the trial court's approval thereof.

{¶27} We reject Central's arguments as they relate to its agreements with Q.W.V. and Fifth Third.

Receiver's Bond and Oath

{¶28} Next, Central argues the Receiver "took actions without legal authority to do so in violation of R.C. 2735.03[.]" Specifically, Central argues the Receiver failed to post a bond or take an oath as required by R.C. 2735.03 and thus the Receiver's actions were void ab initio.

3. In fairness to Central, we understand that Fifth Third did not quote Central a debt purchase price until March 30, 2010, and until that time, Central could not officially purchase the debt under the Standby and Subordination agreements. However, we note that Central cannot explain its failure to accrue funds in anticipation of Fifth Third's quote. While this is not dispositive as to whether Central truly intended to purchase Fifth Third's debt, it certainly contributes to the notion that Central's offer was speculative. In contrast, the record indicates Patel was prepared to furnish a cashier's check for the property within 24 hours of the trial court's approval. Such facts provide further support for the Receiver's decision to pursue a guaranteed sale to Patel versus prolonging the sale to entertain Central's speculative offer. As the trial court noted, Central left the Receiver with no choice but to market the property without operating funds, gasoline, inventory, and perhaps even electricity. Under these circumstances, the trial court stated that allowing Central "simply to step into the shoes of Mr. Patel and get the benefit of that sale price, then basically [Central has] depressed the market by creating that type of sale environment[.]" In light of these considerations, we maintain our conclusion that the trial court did not abuse its discretion in upholding the Receiver's decision to proceed with the sale despite Central's speculative offer.

{¶29} R.C. 2735.03 provides:

{¶30} "Before a receiver appointed as provided in section 2735.01 of the Revised Code enters upon his duties, he must be sworn to perform his duties faithfully, and with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein."

{¶31} In the case at bar, the trial court set the Receiver's bond at \$0. While Central takes issue with the Receiver's failure to post a bond, it does not present an alternative figure for this court to contemplate. We further note that R.C. 2735.03 does not list specific criteria to guide the trial court's decision regarding the bond amount. See *Metro. Sav. Bank v. Papadelis* (Sept. 13, 1995), Medina App. C.A. NO. 2380-M, 1995 WL 542214, at *4. The statute only states that a receiver must post a bond "in such sum as the court or judge directs[.]" R.C. 2735.03. "Calculating the amount of the bond, therefore, is committed to the discretion of the trial court." *Papadelis* at *4. See, also *Hummer*, 2011-Ohio-3767 at ¶21. Given the record before us, we cannot say the Receiver erred in "failing" to post, for all intents and purposes, a nonexistent bond.

{¶32} Central also argues the trial court violated R.C. 2735.03 by failing to administer an oath to the Receiver before the Receiver's appointment. We disagree. In its entry denying Central's motion to declare the Receiver's actions void ab initio, the trial court stated: "The Court also finds that the Receiver took an appropriate oath at the hearing on the motion to appoint a receiver." The trial court then ordered the Receiver to file his oath nunc pro tunc and declared the oath would relate back to the Order Appointing the Receiver. Ohio courts have held that a trial court may order the posting of a bond nunc pro tunc to comply with the correct procedure, and that the bond relates back to the receiver's appointment. See *Hummer* at ¶13. Likewise, "when a receiver takes his

oath after his appointment, the oath relates back to the date of his appointment." *Starr v. Dotsikas* (Aug. 6, 1998), Cuyahoga App. No. 73201, 1998 WL 456408, at *4. Where this is the only credible, independent evidence of whether the Receiver's oath was administered, we cannot say any error occurred in this regard.

{¶33} Accordingly, we reject Central's arguments as they relate to the Receiver's bond and oath.

Miscellaneous Activities; Conflict of Interest

{¶34} Next, Central sets forth three additional arguments challenging the Receiver's activities during the pendency of the sale. Central argues the Receiver acted improperly by: (1) failing to oversee Patel's finances pursuant to the management agreement; (2) acting as a "liquidator" rather than a receiver; and (3) hiring counsel that previously represented Fifth Third, thereby creating a conflict of interest.

{¶35} Regarding Central's first two arguments, we fail to see how the Receiver's activities affected Central's interest or otherwise influenced the situation at hand. First, Central sets forth no evidence that Patel mismanaged the property's finances or how increased oversight would have benefitted the value of the property or, for that matter, Central. Secondly, under the facts and circumstances of this case, it is irrelevant whether we label Lahni as a "receiver" or "liquidator." Pursuant to R.C. 2735.04, a receiver is "[u]nder the control of the court which appointed him, * * * [and may] generally do such acts respecting the property as the court authorizes." As previously discussed, the Ohio Supreme Court has interpreted R.C. 2735.04 "as enabling the trial court to exercise its sound judicial discretion to limit or expand a receiver's powers as it deems appropriate." *Celebrezze*, 60 Ohio St.3d at 74. See, also, *Huntington Natl. Bank v. Motel 4 BAPS, Inc.*, 191 Ohio App.3d 90, 93-95, 2010-Ohio-5792.

{¶36} Our review of the record indicates the Receiver's activities remained subject

to the court's discretion at all times, therefore we reject Central's attempt to characterize the Receiver as anything other than an authorized fiduciary of the court. *Celebrezze* at fn.4. Accordingly, we reject Central's first and second arguments.

{¶37} In its third argument under this subsection, Central argues the Receiver was not impartial to all parties due to a business relationship with employees of Fifth Third and Graydon Head & Ritchey, LLP ("GHR"). In support of its argument, Central cites Butler CP Loc.R. 4.18(A), which states:

{¶38} "A receiver may be appointed by a judge of the Court of Common Pleas as provided in R.C. §2735.01. No party, attorney, or person interested in an action shall be appointed receiver therein except by consent of the parties (R.C. §2735.02). The Court, whenever a receiver is appointed, shall also appoint an attorney for the receiver. Said attorney shall in no case be an attorney who also represents the party who is placed into receivership."

{¶39} In the case at bar, the Receiver hired Susan Argo from GHR to serve as his counsel. Central argues a conflict of interest exists because Argo represented Fifth Third in prior cases. Central argues a further conflict of interest exists because the Receiver: (1) conducted a liquidation involving Fifth Third in 2001, and (2) belongs to the same trade association as several Fifth Third employees. Based upon this information, Central argues the Receiver acted improperly and the trial court erroneously denied Central's request to remove Argo and the Receiver from the case.

{¶40} In reviewing a trial court's decision to disqualify a party's counsel, we continue to apply the abuse of discretion standard. See *155 N. High, Ltd. v. Cincinnati Ins. Co.*, 72 Ohio St.3d 423, 426, 1995-Ohio-85. We are mindful that disqualification constitutes a "drastic measure which courts should hesitate to impose except when absolutely necessary[.]" in large part because it deprives a client of the counsel of his

choosing. *Litigation Mgt., Inc. v. Bourgeois*, 182 Ohio App.3d 742, 746, 2009-Ohio-2266.

{¶41} "An attorney should not be disqualified *solely* upon an allegation of a conflict of interest; even where the requested disqualification is based upon ethical considerations, the moving party still must demonstrate that disqualification is necessary." (Emphasis sic.) *Creggin Group, Ltd. v. Crown Diversified Industries Corp.* (1996), 113 Ohio App.3d 853, 858. Even if an attorney's continued representation would violate one of the Canons of the Code of Professional Responsibility, counsel should not be disqualified unless the attorney's conduct poses a significant risk of tainting the proceedings. *Id.*

{¶42} In the case at bar, the trial court was not convinced that the proceedings would be tainted by any potential conflict of interest. After reviewing the record, we find the trial court did not abuse its discretion in denying Central's motion to remove Argo and the Receiver from the case. In his prior affiliation with Fifth Third, the Receiver unequivocally acted in his separate capacity as a liquidator, not a receiver, in a bankruptcy action. Further, upon entering her appearance on behalf of the Receiver, Argo clearly indicated she previously represented Fifth Third in "matters *unrelated* to these proceedings." (Emphasis added.) Guided by these facts, we find Argo's conduct did not pose a significant risk of tainting the proceedings, therefore Central did not demonstrate it was necessary to remove Argo and the Receiver from the case.

{¶43} Accordingly, we reject Central's arguments relating to alleged conflicts of interest.

Summary

{¶44} Having addressed Central's claims, we find the trial court fulfilled its duty to evaluate the Receiver's conduct in relation to his duties to the interested parties. See *Hummer*, 2011-Ohio-3767 at ¶18. Cf. *Thayer v. Diver*, Lucas App. No. L-07-1415, 2009-

Ohio-2053. Under the trial court's watchful eye, we also find the Receiver acted dutifully in pursuing Patel's offer, rather than prolonging the process to the detriment of the property. Had the Receiver acted differently, the property would have lost electricity, thereby forcing its valuable subtenant, Dunkin' Donuts, to vacate the premises. Moreover, based upon the Receiver's 11 years of experience in the business, a property without electricity attracts fewer potential buyers and drastically reduces their opening offers. To prevent the highest available bidder, i.e., Patel, from further reducing his offer or abandoning the deal altogether, we find the Receiver was left with no choice but to immediately enter a contract with Patel before the property depreciated further. Under such circumstances, we find the Receiver acted in accordance with his duties to procure the highest possible sale price for the property and to preserve all remaining value therein. See *Advantage Bank v. Waldo Pub., L.L.C.*, Marion App. No. 9-08-67, 2009-Ohio-2816, ¶31 (receiver must act in accordance with duties to take charge of assets "for the purpose of conserving them to the ends of equity or for the benefit of creditors").

{¶45} Accordingly, we find the trial court did not abuse its discretion in approving the sale of the property to Patel.

{¶46} Central's first, second, and third assignments of error are overruled.

{¶47} Assignment of Error No. 4:

{¶48} "THE TRIAL COURT ERRS TO THE PREJUDICE OF APPELLANTS' [sic] CENTRAL BY DENYING CENTRAL'S MOTION OBJECTING TO RECEIVER'S REPORT DATED 7-1-10. IN THE FINAL ACCOUNTING OF THE RECEIVERSHIP THERE IS A MANAGEMENT CONTRACT ENTERED BY THE RECEIVER ON APRIL 8, 2010 WITH PATEL. THE ACCOUNTING FILED BY THE RECEIVER ON JULY 1, 2010 DID NOT SHOW ANY ACCOUNTING FOR THE TRANSACTIONS OR REPORTS ON THIS MANAGEMENT CONTRACT."

{¶49} In its fourth and final assignment of error, Central argues the trial court erroneously overruled its objections to the Receiver's report dated July 1, 2010. Specifically, Central argues the Receiver's report is incomplete "as it does not include the financials on the management agreement signed on April 8, 2010 with Patel, and the report is not in accordance with generally accepted accounting principals [sic.]"

{¶50} In support of its argument, Central cites Butler CP Loc.R. 4.18(L), which states:

{¶51} "A receiver who, upon application is permitted to operate a business as a going concern, shall at the expiration of each thirty-day (30) period following appointment, or at such other interval as the court may upon motion order, file a statement of operation, showing a balance sheet for the period, and operating statement of income and expenditures, etc., or a list of cash receipts and disbursements with the necessary accruals to make a comprehensive statement of profit and loss for the period, with an inventory or estimated inventory. In the same report, receiver shall set forth any unusual or peculiar conditions existing in the business then or during receiver's operation, together with a list of expenses of operation, current interest accrued on loans during the period, depreciation on buildings, machinery and equipment during the same time."

{¶52} In overruling Central's objections to the Receiver's report, the trial court found Central failed to show the Receiver's report violated generally accepted accounting principles ("GAAP") or how the absence of the management agreement impacted the

Receiver's report.⁴ As the Receiver correctly points out, Central does not offer a relevant local rule that requires receiver reports to conform to a particular standard, GAAP or otherwise. Lastly, Central does not deny that it was fully aware of the management agreement, nor does it indicate how including it in the Receiver's report would have impacted the situation at hand.

{¶53} Accordingly, Central's fourth assignment of error is overruled.

{¶54} Judgment affirmed.

POWELL, P.J., and RINGLAND, J., concur.

4. The trial court also found Central's objections were untimely pursuant to the Order Appointing the Receiver, which indicated; "[u]nless an objection [to the Receiver's report] is filed within twenty (20) days of the report's filing, the report shall be deemed approved by all parties[.]" The Receiver filed his report on July 1, 2010; Central did not file its objections until July 30, 2010. Thus, the trial court overruled Central's objections on the additional basis that they were untimely. Because we agree with the trial court's decision on the merits of this matter, we decline to further address this particular finding.