



AlaFile E-Notice

02-CV-2023-901332.00

Judge: MICHAEL A YOUNGPETER

To: JACKSON SARAH BRUCE
cissy.jackson@arentfox.com

NOTICE OF COURT ACTION

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

SYNOVUS CORPORATE TRUST V. WATER WORKS AND SEWER BOARD OF CITY OF PRIC
02-CV-2023-901332.00

A court action was entered in the above case on 11/10/2023 12:06:42 PM

ORDER

[Filer:]

Disposition: GRANTED
Judge: MAY
Notice Date: 11/10/2023 12:06:42 PM

SHARLA KNOX
CIRCUIT COURT CLERK
MOBILE COUNTY, ALABAMA
CIRCUIT CIVIL DIVISION
205 GOVERNMENT STREET
MOBILE, AL, 36644

251-574-8420
charles.lewis@alacourt.gov



IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

SYNOVUS CORPORATE TRUST,)	
Plaintiff,)	
)	
V.)	Case No.: CV-2023-901332.00
)	
WATER WORKS AND SEWER BOARD)	
OF CITY OF PRICHARD,)	
Defendant.)	

ORDER APPOINTING RECEIVER

This matter having come before the Court on the Complaint (Doc. No. 1) concerning a Trust Indenture (“Indenture”), and the Emergency Motion for the Appointment of a Receiver over the Water Works and Sewer Board of the City of Prichard (the “Receiver Motion”) (Doc. No. 7) filed by Synovus Bank, as Indenture Trustee (“Synovus” or the “Trustee”) against The Water Works and Sewer Board of the City of Prichard (the PWWSB”); the Court having reviewed all pleadings related to the Receiver Motion, having conducted a hearing on the Receiver Motion on October 10 and 11, 2023 (the “Hearing”), having considered the evidence, testimony of witnesses and legal arguments made at the Hearing, and being otherwise sufficiently advised; the Court hereby finds and concludes the following:

- A. This Court has subject matter jurisdiction over this case and personal jurisdiction over PWWSB.
- B. The Trustee has standing to bring this lawsuit.
- C. An Event of Default (as defined in the Indenture) has occurred and is continuing under § 12.1(a) of the Indenture as a result of PWWSB’s failure to make the full interest payment due on the Bonds on May 1, 2023.

D. An Event of Default has occurred and is continuing under § 12.1(e) of the Indenture as a result of the PWWSB's failure to comply with its covenant set forth in §§ 10.2(a) and 10.3 of the Indenture.

E. An Event of Default has occurred and is continuing under § 12.1(e) of the Indenture as a result of the PWWSB's failure to comply with its covenant set forth in § 13.7 of the Indenture and the PWWSB's failure to timely cure such default after notice thereof from the Trustee.

F. An Event of Default has occurred and is continuing under § 12.1(e) of the Indenture as a result of the PWWSB's failure to comply with its covenant set forth in § 13.3(o) of the Indenture and the PWWSB's failure to timely cure such default after notice thereof from the Trustee.

G. An Event of Default has occurred and is continuing under § 12.1(e) of the Indenture as a result of the PWWSB's failure to comply with its covenant set forth in § 11.2 of the Indenture and the PWWSB's failure to timely cure such default after notice thereof from the Trustee.

H. An Event of Default has occurred and is continuing under § 12.1(b) of the Indenture as a result of the PWWSB's failure to comply with its covenant set forth in § 11.5 of the Indenture and the PWWSB's failure to timely cure such default after notice thereof from the Trustee.

I. PWWSB did not commence and did not diligently pursue appropriate corrective action for its defaults under §§ 12.1(e) or 12.1(b) of the Indenture, there has been no waiver of any Event of Default, and the exceptions set forth therein are not in effect.

J. Section 12.2(c) of the Indenture, which provides for the appointment of a receiver, is valid and enforceable under Alabama law.

K. PWWSB's agreement to the appointment of a receiver in an event of default was and is a valid exercise of PWWSB's authority pursuant to Article 8, Chapter 50, Title 11 of the Code of Alabama 1975, as amended.

L. Citing *United States v. Jefferson County*, 2013 WL 4482970, *15 (N.D. Ala. Aug. 20, 2013), PWWSB notes that "the appointment of a receiver to act in the place of 'elected and appointed officials is an extraordinary step warranted only by the most compelling circumstances.'" The Court agrees and finds that the compelling circumstances at hand meet that standard. As a result of years of mismanagement and fiscal irresponsibility, PWWSB's assets have dissipated and fallen into ruin. The undisputed evidence showed that 60% of the water purchased by PWWSB is lost through the dilapidated PWWSB system before it reaches its consumers. That is a staggering figure, and it constitutes compelling evidence that the system is in crisis -- without regard to the fiscal fraud, theft and abuse which occurred on PWWSB's watch. This is not a situation where a natural disaster (hurricane, earthquake, etc.) caused immediate and unforeseen damage to the infrastructure of PWWSB, but instead, the dilapidated state of PWWSB's system is the result of years of poor planning, mismanagement or worse. Consequently, when seeking a badly needed bond issue, PWWSB undoubtedly had no choice but to agree to the terms of the Indenture which provided for the appointment of a receiver upon the occurrence of any contractual default. The evidence also showed that bond proceeds of the Indenture, which were earmarked for specific capital improvements, were mostly used as operational funds. That is, very little of the bond money received in

2019 was actually used for the capital improvements designated in the Indenture. Accordingly, the Court finds that the Trustee was entitled to seek this remedy, and the Court further finds that irreparable harm will occur through the dissipation and wasting of PWWSB's assets if a receiver is not appointed by the Court.

M. There is no adequate remedy at law for the injuries the Trustee will suffer absent the entry of an order appointing a receiver.

N. The appointment of a receiver over PWWSB is warranted under Alabama law based upon a consideration of the relevant factors.

O. PWWSB contends that any appointed receiver cannot exercise "all rights and powers of PWWSB," arguing that such broad authority would usurp the "statutory grant of power to PWWSB" and violate Alabama law. If that argument was correct, then a receiver could never be appointed to run a statutorily created public entity like the PWWSB. However, it is clear that a receiver may be appointed to run a public entity. See *Jefferson County, supra*. PWWSB cites *Randall v. Water Works & Sewer Bd. of City of Birmingham*, 885 So.2d 757 (Ala. 2003) in support of its contention, but *Randall* is inapposite. In *Randall*, the Alabama Supreme Court dealt with a municipal ordinance which purported to usurp Alabama state legislation dealing with the creation of a public corporation to operate a waterworks system. It is a hornbook proposition that a municipality may not pass laws which are inconsistent with the general laws of the state. *Randall*, 885 So. 2d at 767-68. Here, Synovus is not seeking to legislatively change the manner in which the water and sewer system is created and operated in Prichard. Rather, Synovus is simply seeking the temporary appointment of a receiver to protect against the dissipation and wasting of PWWSB's assets.

P. PWWSB is not being dissolved, and its board members are not being impeached or otherwise removed. The Order herein provides that any rate changes sought by the receiver will be proposed to PWWSB. Any plan for refinancing the subject bonds will be proposed to PWWSB and Synovus. Likewise, any plan to sell, dispose, or transfer system assets (or privatize the system) will first be proposed to PWWSB, the Trustee, the Advisory Council (discussed below), the City of Prichard, and the Court.

Therefore, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. The Receiver Motion is GRANTED.
2. John S. Young, Jr., LLC is appointed as receiver for the System (the "Receiver") pursuant to the terms of the Trust Indenture between PWWSB and Synovus dated as of November 1, 2019 (the "Indenture").
3. A Prichard Citizens Advisory Council (the "Advisory Council") is hereby created and shall consist of fifteen seats, allocated as follows: one representative from each of the five districts of Prichard, appointed by the respective Councilperson; one representative from We Matter Eight Mile Community Association, appointed by the organization; one representative of United Concerned Citizens of Prichard, appointed by the organization; two residents of Chickasaw, appointed by the Mayor and City Council; one resident of Mobile County, appointed by the County Commissioner; one representative from the office of the Mayor of Prichard; one representative from the office of each State Representative for the House Districts 97, 98 and 99 appointed by the respective Representative; and one representative from the office of the State Senator in the 33rd District. Advisory Council members may be removed by this Court, or by majority vote of the Advisory Council itself. The Receiver shall request feedback from the Advisory

Council before assets are sold, rates are raised, or any discontinuance of service to a group of five or more customers. The Advisory Council shall vote on the Receiver's major decisions (including but not exclusive of rate increases or asset sales). The results of such vote shall be provided to the Receiver, but the vote shall not be binding on the Receiver. Further, the Advisory Council should be apprised of, and feedback should be sought during, the financial audit that ADEM is financing once the Receiver has received this information. The Advisory Council shall cease to exist when the Court terminates the Receiver's position as Receiver and the Court ends its supervision of the System.

I. PWWSB and the Assets

4. The Receiver shall exercise all rights and powers of PWWSB with respect to the operation and control of the System. The "System" as used herein shall mean the entire water supply and distribution system and sanitary sewer system owned by PWWSB and all additions thereto and replacements thereof, and all properties, rights, easements and franchises appurtenant thereto, whether now owned by PWWSB or may be hereafter acquired by it, including but not limited to any and all of the income, System Revenues (as defined in the Indenture, but including federal and state grants and all income derived therefrom, deposits and payments by contractors to offset the cost of extensions or new connections, and customer deposits to ensure payment of utility services, hereinafter the "System Revenues"), properties, assets, claims by or on behalf of PWWSB, rights and interests of whatever kind, character or description, whether real, personal or mixed, whether tangible or intangible, whether accrued, contingent or otherwise, wherever situated, that PWWSB owns, controls or has an interest of any kind in or are hereinafter

acquired by PWWSB. The assets of PWWSB that are within the definition of "System" as used herein include, but are not limited to:

- a. any and all real or personal property used in or related to the maintenance and operation of the System, including but not limited to all mains, laterals, collectors, transmission mains, outfalls, pumping stations, sewage treatment plants, equipment, fixtures, machinery, motor vehicles, automobiles, trucks, other rolling stock, leasehold improvements, construction work in progress, supplies, raw materials, inventory, goods, work in process, parts, computers, computer software, (including all documentation and source codes with respect thereto, and licenses and leases), telecommunication systems, fixtures, furniture, furnishings, office equipment, all tangible property furnished by or used in connection with the System, and any other tangible or physical property of any kind, as well as all rights, easements and franchises appurtenant thereto, (collectively, the "Physical Assets");
- b. any and all cash, cash equivalents, bank accounts, deposit accounts, credits, prepaid expenses, deposits, deferred charges, advance payments, security deposits, prepaid items, funds (not including any funds held by the Trustee under the Indenture), securities, investment accounts, accounts receivable, notes, notes receivable, mortgages, security interests, income, receipts and revenues (including payments received from customers) on account

of or related to the System, System Revenues, the Revenue Account (as defined in the Indenture, but including federal and state grants and loans and all income derived therefrom, deposits and payments by contractors to offset the cost of extensions or new connections, and customer deposits to ensure payment of utility services, hereinafter the "Revenue Account"), insurance claims, insurance proceeds and any and all other rights to receive payments or property used in, generated from or related to the maintenance and operation of the System as well as all rights, interests, licenses and franchises related thereto (collectively, the "Cash Equivalent Assets");

- c. any and all claims, causes of action of any type against any party arising from or related to the Indenture, PWWSB, the System, fraud, malfeasance, or negligence in the operation of the System, the construction of the System, operation of the System or any aspect, direct or indirect, of the financing, structure of the financing, negligence, malfeasance or fraud related to the financing of the System (by the Indenture or otherwise), whether legal or equitable, choate or inchoate, known or unknown, contingent or otherwise (collectively, the "PWWSB Claims");
- d. any and all records, documents, operating data and electronically stored information (the "ESI") as defined by Rule 34(a)(1) of the Alabama Rules of Civil Procedure and the computer or other

operating systems in which the ESI is stored, in the possession, custody or control of PWWSB or any of the PWWSB's agents, including its attorneys, accountants, commissioners and financial advisors (collectively, the "System Records"). The Receiver shall be the holder of any attorney-client privilege, work-product privilege or other privilege of any kind related to the System Records; and

- e. any and all of the intangible and intellectual property that PWWSB possesses or owns, including all internet domain names, marks, whether registered or unregistered, trade secrets, patents and copyrights and all applications for registration thereof, all post office box numbers, all telephone and facsimile numbers, other listings and numbers used by PWWSB or any other intangible assets related to the System (collectively, the "Intellectual Property Assets").

Collectively, the assets of PWWSB set forth in this paragraph are hereinafter referred to as the "Assets."

5. PWWSB shall provide the Receiver with: (a) full access to all System Records, including but not limited to any ESI; and (b) full and exclusive control over all Cash Equivalent Assets, including all authorizations or other documentation necessary or desirable for the Receiver to exercise full and exclusive control over the Cash Equivalent Assets. The Receiver shall have the absolute right, but not the duty, to change any accounts or other investment funds in which the Cash Equivalent Assets are currently maintained to any other account or fund if such change is in compliance with the terms of the Indenture.

6. The Receiver shall have full and sole control over all remaining Assets, including all authorizations or other documentation necessary or desirable for the Receiver to control or operate the Assets. The Receiver's full and sole control of the System and the Assets shall not in any way diminish the duties and cooperation required of PWWSB by Section IV of this Order.

II. **Powers of the Receiver**

7. The Receiver shall have and is specifically vested with all contractual, statutory, and common law powers, rights and privileges of a receiver, including but not limited to those set forth in Rule 66 of the Alabama Rules of Civil Procedure and all powers granted to a receiver under the terms of the Indenture. Further, the Receiver is vested with and granted the following powers:

- a. The sole and exclusive right and authority to take complete and exclusive possession, control, and custody of and to exclusively run, operate, administer, manage, and perform all acts necessary to operate the System in the ordinary course of business, in accordance with the provisions of applicable state and federal law and the terms of the Indenture.
- b. The sole and exclusive right and authority to implement operational efficiencies and revenue enhancement programs.
- c. The right and authority to propose to PWWSB to impose charges or fix, charge, and adjust rates for use of the System; provided, however that in determining whether or by what amount water and sewer rates should be changed, the Receiver shall provide customers of the

System the opportunity to present, in writing, information for the Receiver's consideration and shall post notice of such opportunity on the PWWSB website no fewer than 30 days before the implementation of any rate changes. The Receiver shall make best efforts, based on feedback from the Advisory Council and the Trustee, to include in any proposed upward adjustment of water or sewer rates some percentage for System improvement. Rate increases by the Receiver will be subject to the same judicial review for reasonableness as if no receiver were appointed. If PWWSB rejects a proposal by the Receiver to fix, charge, and adjust rates for use of the system, this Court shall review any such proposal after the filing of an appropriate motion, notice and a hearing.

- d. The sole and exclusive right and authority to consider, develop and implement any proposals to pay Operating Expenses (as defined in the Indenture) related to the System or the Assets and meet the obligations of PWWSB under the Indenture.
- e. The sole and exclusive right and authority to assess the status of the Physical Assets and any needed repairs, replacements, or capital improvements, their cost, and make recommendations for such activities.
- f. The sole and exclusive right and authority to maintain the System Records, which shall be done in compliance with laws applicable to public corporations organized under the provisions of the provisions

of Article 8, Chapter 50, Title 11 of Code of Alabama 1975, as amended.

- g. The sole and exclusive right and authority to conduct a thorough review of System Records to determine accurately the assets and liabilities of the System.
- h. The sole and exclusive right and authority to implement any and all reasonable reductions of Operating Expenses, without undermining the duty to ensure safe drinking water, in the ordinary course of business.
- i. The sole and exclusive right and authority to implement any and all reasonable reductions of Operating Expenses which are outside the ordinary course of business that will permit the continued operation of the System in accordance with applicable state and federal law and the terms of the Indenture.
- j. The sole and exclusive right and authority to direct the Trustee regarding the investment of moneys in the 2019 Construction Fund (as defined in the Indenture) pursuant to Section 9.6 of the Indenture.
- k. The right and authority to propose to the Trustee and PWWSB a plan for the refinancing of the \$55,780,000 Water and Sewer Revenue Bonds, Series 2019 (the "Series 2019 Bonds") that will allow for the continued operation of the System in accordance with applicable state and federal law and the terms of the Indenture.

- l. The right and authority to negotiate on behalf of PWWSB with the Trustee and holders of the Series 2019 Bonds and all other creditors with claims against PWWSB which first arise after the entry of this Order to affect a plan to put the System and the Assets on a sound and secure financial and operating footing on an ongoing basis.
- m. The right and authority to propose to PWWSB to transfer all or a portion of the System to a municipal or public corporation or entity whose property and income are not subject to taxation and which has the power to own and operate the System, subject to the terms of the Indenture including Section 11.6 thereof. The Receiver shall provide Advisory Council, Trustee, and the City of Prichard with opportunity to provide feedback regarding any final transfer or sale of the System. If PWWSB rejects a proposal by the Receiver to transfer all or a portion of the System to a municipal or public corporation or other entity, this Court shall review any such proposal after the filing of an appropriate motion, notice and a hearing.
- n. The right and authority to propose to PWWSB to dispose of any of PWWSB's personal property, the Assets, or portions of the System that the Receiver, in its business judgment, determines have become inadequate, obsolete, worn out, unsuitable for use or undesirable or unnecessary for use as a part of the System, subject to the terms of the Indenture. The proceeds of any such sale or other disposition shall be applied by the Receiver for the payment of Improvement

Costs (as defined in the Indenture). If PWWSB rejects a proposal by the Receiver to dispose of any of PWWSB's personal property, the Assets, or portions of the System, this Court shall review any such proposal after the filing of an appropriate motion, notice and a hearing.

- o. The sole and exclusive right to discontinue furnishing service to any user of service supplied by PWWSB that remains unpaid for a period of sixty days after such account becomes due, subject to the terms of the Indenture; provided, however, that all customers of PWWSB shall be afforded all due process rights applicable under local, state, and federal law including a clear process allowing not less than 45 days to initiate an appeal of erroneous billing before issuance of a shutoff notice and for appealing water shutoffs. No service shall be discontinued for any customer before or without, in each case to the extent requested by such customer, a reread of such customer's meter, a re-testing of such customer's meter when appropriate, and/or an individual billing audit of such customer. Additionally, Receiver shall provide for the:

- i. Publication of a known point of contact for disputed billing;
- ii. Creation of an online dispute form; and
- iii. Implementation of installment payment plan options.

- p. The sole and exclusive right and authority, after notice to the contract counterparty, to terminate or modify any currently existing written or oral contract (other than the Indenture) concerning or related to PWWSB, the System, Assets, Operating Expenses or System Revenues, with no further obligation or liability under any terminated contract, and to assume and assign said contracts in accordance with the terms of this Order.
- q. The sole and exclusive right and authority to enter into new contracts for goods or services that the Receiver, in its business judgment, deems necessary for the operation of the System which are in the ordinary course of PWWSB's business ("Ordinary Course Contracts"). For the avoidance of doubt, the Receiver may enter into any Ordinary Course Contract notwithstanding any appropriation or solicitation process or other applicable rule or regulation that would otherwise be applicable to PWWSB in entering into such Ordinary Course Contract.
- r. The right and authority to propose to PWWSB to enter into new contracts for goods or services (that the Receiver, in its business judgment, deems necessary for the operation of the System) which are outside of the ordinary course of PWWSB's business ("New Contracts"). If PWWSB rejects a proposal by the Receiver to enter into such New Contracts, this Court shall review any such proposal after the filing of an appropriate motion, notice and a hearing. In the

absence of a stay pending appeal, any New Contracts entered into by the Receiver shall be binding on PWWSB.

- s. The sole and exclusive right and authority to file, investigate, institute, prosecute, defend, compromise, adjust or intervene in any action or proceeding, legal or equitable, before this Court, or any other appropriate court, agency or tribunal, as the Receiver may deem, in its sole business judgment, to be necessary and proper for the protection, maintenance and preservation of the Assets, expressly including the PWWSB Claims, or to further the provisions of this Order.
- t. The right and authority to negotiate with federal and state authorities to defend, compromise, or cure existing violations of federal and state laws and regulations, if any, as the Receiver may deem, in its sole business judgment, to be necessary and proper for the protection, maintenance and preservation of the Assets or to further the provisions of this Order.
- u. The right and authority to investigate and determine the nature and extent of any and all prior expenditures that were improperly diverted from Indenture Funds (as defined in the Indenture) or that were improperly requisitioned from the 2019 Construction Fund and take all reasonable and necessary action to return such funds.
- v. The sole and exclusive right and authority, after notice to the Trustee and PWWSB, to enter into employment contracts with any person

that the Receiver believes in its business judgment is necessary for the continued operation of the System in the ordinary course of business as a going concern in accordance with the applicable state and federal law and the terms of the Indenture. For the avoidance of doubt, the Receiver may enter into any employment contract notwithstanding any appropriation or solicitation process or other applicable rule or regulation that would otherwise be applicable to PWWSB in entering into such employment contract.

- w. The sole and exclusive right and authority, after notice to the Trustee and PWWSB, to enter into contracts for any insurance that the Receiver believes in its business judgment is necessary for the continued operation of the System in the ordinary course of business as a going concern in accordance with applicable state and federal law and the terms of the Indenture, which has not been provided by PWWSB as required by the Indenture. Such insurance contracts may include, but are not limited to, contracts insuring against liability for the Receiver arising from or related to its actions or inaction related to PWWSB, the System, and the Assets. The payment of premiums for such insurance contracts shall be submitted for approval to this Court.
- x. The right and authority, upon consent of the Trustee and Court approval, to employ professionals, including but not limited to investment bankers, consultants, brokers, accountants, engineers,

licensed wastewater operators, and attorneys and other service providers (collectively, the “Professionals and Service Providers”), as it may deem necessary in its business judgment to discharge its duties hereunder for the management, conduct, control, operation, refinancing or sale of the System and the Assets. For the avoidance of doubt, the Receiver may employ professionals notwithstanding any appropriation or solicitation process or other applicable rule or regulation that would otherwise be applicable to PWWSB in employing such professionals.

- y. The right and authority to pay the monthly fees of Professionals and Service Providers from the System Revenues as Operating Expenses, subject to the Budget (defined below) and the review and approval of final fee applications that will be filed by the Professionals and Service Providers with this Court at the conclusion of their engagement.
- z. The right and authority to explain and communicate with interested parties and customers of the System concerning the objectives and the steps taken or proposed to be taken by the Receiver in carrying out the actions that the Receiver is authorized to take pursuant to this Order.
- aa. The sole and exclusive right and authority to delegate or assign any and all rights and powers of the Receiver set forth in this Order, subject to Court approval.

- bb. The sole and exclusive right and authority to pursue and enter into agreements to receive funding of any kind from federal, state and municipal agencies.
- cc. To carry out all other legitimate functions and activities of the System.

8. The Receiver's fees shall be billed in the amounts and at the times specified in a further order of this Court.

III. Duties of the Receiver

9. The Receiver shall develop and submit to the Court, on or before July 31, 2024, a written Status Report (the "Status Report") which shall contain a summary of community engagement efforts taken as well as efforts to engage the Environmental Protection Agency (EPA), the Alabama Department of Environmental Management (ADEM), the Alabama Department of Conservation and Natural Resources (ADCNR), the Alabama Department of Health, and other federal, state, and local agencies. The Status Report shall demonstrate the Receiver has:

- a. Applied for an EPA Technical Assistance Provider, fully funded by the EPA;
- b. Undertaken water quality testing and analysis from an ADEM-certified laboratory;
- c. Conducted an affordability study/assessment of the System;
- d. Initiated a feasibility study on alternative water sources for the System;

- e. Completed the Low-Income Household Water Assistance Program (LIHWAP) vendor agreement with the Alabama Department of Economic and Community Affairs;
 - f. Met with the Advisory Council at least once to solicit feedback on the Draft Master Plan (defined below), and has set a schedule for subsequent monthly meetings with the Advisory Council which shall be open to the public;
 - g. Held at least one public meeting (at a location of sufficient size capacity and convenience to community) to explain and answer questions regarding the components of a Draft Master Plan, and
 - h. Developed an electronic system for immediate, accessible information sharing between the Receiver, the Advisory Council, and the citizens of Prichard.
- 10.
- a. The Receiver shall develop, on or before July 31, 2024, a draft master plan, acceptable in form and substance to the Trustee, to address the stabilization of the water system and to address the capital improvement and infrastructure needs of the System to ensure the compliance with the Rate Covenant (as defined in the Indenture) through the term of the Bonds (the "Draft Master Plan"). The Draft Master Plan shall be filed with the Court on or before July 31, 2024, and shall contain (i) a detailed plan to repair and replace existing System assets and undertake capital improvements of the System to the extent necessary to ensure (A) safe and affordable access to

water and (B) sufficient revenues of the System to pay Operating Expenses and Debt Service (each as defined in the Indenture), and to meet the Rate Covenant throughout the term of the Bonds (as defined in the Indenture); (ii) a timeline for the implementation of any repairs, replacements, or capital improvements contemplated by the Draft Master Plan, including specific deadlines for the initiation, intermediate deadlines, and completion of individual projects; and (iii) a budget of expenses, and, to the extent possible, projected revenues, for the System (the "Budget") which shall be acceptable in form and substance to the Trustee and include (A) Operating Expenses and, to the extent possible, System Revenues; (B) the aggregate amount required by the Indenture to be paid into Indenture Funds; (C) capital improvements to the System, including estimated costs and proposed sources of funding for each contemplated project included in the Draft Master Plan; and (D) a plan for the disposition and use of the funds remaining on deposit in the 2019 Construction Fund.

- b. On a later date certain agreeable to the Receiver and the Trustee, the Receiver shall file with the Court a revised Master Plan, acceptable in form and substance to the Trustee, ("the Revised Master Plan") that includes (x) a revised Budget in form and substance agreeable to the Trustee that includes System Revenues, Operating Expenses, and the information required by (iii)(B), (C), and (D) of subparagraph (a) of this paragraph. The Receiver may otherwise revise the Draft Master Plan or the Revised Master

Plan with the consent of the Trustee and after soliciting feedback from the Advisory Council.

- c. On a later date certain agreeable to the Receiver and the Trustee, the Receiver shall file with the Court, in form and substance acceptable to the Trustee, the anticipated exit strategy outlining steps, and the proposed timing of steps, the Receiver will take to provide for the long-term survival of the System upon conclusion of this Court's supervision over the System.

11. The Receiver shall only make expenditures that are in accordance with the Budget and shall not amend the Budget without the Trustee's prior written consent.

12. The Receiver shall not, without the Trustee's prior written consent, make any requisition for disbursement from the 2019 Construction Fund pursuant to the Indenture, unless such requisition is in compliance with the Budget.

13. To the extent that third-party funds, including from grants provided by state, local or federal authorities or from donations, are available for such expenditures, the Receiver shall provide for:

- a. The purchase and distribution of water filtration systems and testing kits for System customers while the Draft Master Plan is being adopted and implemented; and
- b. A low-income assistance fund for PWWSB customers, administered by a local 501(c)(3) nonprofit organization and funded by donations.

14. The Receiver shall comply with the rules and regulations promulgated by ADEM applicable to public drinking water systems and public sewer systems in Alabama including with respect to providing notices to residents.

15. The Receiver shall create a contingency plan for if the water system fails and create processes to timely respond and troubleshoot issues raised by community residents regarding current and future problems with the water system.

16. The Receiver shall maintain service to all existing, paying PWWSB customers.

IV. Duties and Cooperation of the PWWSB

17. PWWSB along with its agents, employees, officials, officers and directors shall fully cooperate with the Receiver in all matters related to this Order and the operation of the System, including executing all documents, providing all authorizations and taking any other action that the Receiver reasonably believes is necessary or desirable to facilitate the operation of the System or to exercise its powers as a Receiver.

18. PWWSB is specifically enjoined from taking any action which would interfere with the Receiver's operating of the System or the Assets or removing any of the Assets from the control of the Receiver. In the absence of a stay pending appeal, any contracts entered into by the Receiver shall be binding.

19. PWWSB shall continue to maintain, at its cost, all insurance on the System required by the Indenture including Section 11.13 thereof.

V. Application of Moneys in the Revenue Account

20. On or before the last Business Day (as defined in the Indenture) of each calendar month, the Receiver shall pay, to the Trustee, System Revenues that remain after payment of Operating Expenses in accordance with Section 10.1 of the Indenture.

VI. Liability of the PWWSB and Receiver

21. The Receiver and its sole member, John Young, shall only be liable to PWWSB for any losses, claims, damages or liability that are judicially determined with finality by this Court to have resulted from either their willful misconduct or gross negligence. The Receiver and its sole member, John Young, and any other Professional and Service Provider employed in this case shall owe duties only to PWWSB and the Court and shall not owe any duty, directly or indirectly, to the Trustee or any other third party.

22. PWWSB shall indemnify and hold harmless the Receiver and its present and future directors, officers, shareholders, partners, members, employees, agents, representatives, advisors, and controlling persons (in their capacity as such, collectively, the "Indemnified Parties"), from and against any and all losses, claims, damages or liabilities (or actions in respect thereof), joint or several, arising out of or related to this proceeding or the System, or any actions taken or omitted to be taken by an Indemnified Party in connection with this proceeding or PWWSB and shall reimburse each Indemnified Party for all reasonable out-of-pocket expenses (including without limitation the reasonable fees and expenses of counsel) as they are incurred in connection with investigating, preparing, pursuing, defending, settling or compromising any action, suit, inquiry, investigation or proceeding, pending or threatened, brought by or against any person arising out of or relating to PWWSB or this proceeding. However, PWWSB shall not be liable under the foregoing indemnity and reimbursement agreement for any loss, claim, damage or liability which is finally judicially determined by the Court to have

resulted primarily from the willful misconduct or gross negligence of any Indemnified Party.

23. The indemnity, reimbursement, and other obligations and agreements of PWWSB set forth herein (a) shall remain operative and in full force and effect regardless of any investigation made by or on behalf of the Receiver, and (b) shall survive the completion of the services described in this Order, and any expiration or termination of the duties of the Receiver.

24. Any claim brought by or against the Receiver; the Receiver's sole member, John Young; PWWSB; or Professionals and Service Providers related in any way to PWWSB or the operation or control of PWWSB by the Receiver asserted by any party (the "Receiver Claims") may be filed in this Court.

25. The Receiver, PWWSB, the System, and the Assets shall be subject to and liable for only such local, state and federal taxes as PWWSB would have been liable for in its operation of the System or the Assets.

26. The Receiver may only be removed by order of this Court upon appropriate motion, notice and hearing, after a showing of good cause.

27. The Receiver and its sole member, John Young, shall have the same judicial immunity the Court possesses.

VII. Receiver Reports and Final Fee and Expense Applications

28. The Receiver shall file monthly reports starting 30 days after the entry of this Order concerning the financial operations of the PWWSB, PWWSB's compliance with the Budget, the Draft Master Plan and the Revised Master Plan, and the status of the Receiver's efforts in resolving PWWSB's defaults under the Indenture. The subsequent

monthly reports shall be shared with the Advisory Council, posted on PWWSB's website, and filed with this Court within 20 days after the end of each calendar month. The Receiver also may file supplemental reports or other pleadings in its discretion to provide updates to this Court.

29. The Receiver may seek direction from this Court on any matter related to the System, including but not limited to relief from or modification of the provisions of this Order. The Receiver may seek such further orders of this Court as it deems necessary or expedient to carry out its duties and responsibilities under this Order or to put the System and the Assets on a sound financial and operating footing on an ongoing basis.

30. At the completion of its duties set forth in this Order, the Receiver shall file a motion seeking to terminate its position as Receiver and the Court supervision of the System ("Termination Motion"), which should include: (a) a full and detailed report on the activities of the Receiver and Professionals and Service Providers; (b) a full and detailed accounting of all funds administered by the Receiver and all Assets to be turned over to PWWSB; and (c) a final application seeking this Court's approval of all fees and expenses paid or owed to the Receiver.

31. All Professionals and Service Providers shall have sixty (60) days from entry of the Order approving the Termination Motion or the end of their duties in this case to file final applications with this Court seeking final approval of all fees and expenses paid or owed by the Receivers.

VIII. Reservation of Rights

32. Nothing contained in the Order shall suspend, delay, alter, affect, or prejudice the rights, claims, defenses, or obligations of any party under any of the

documents related to the PWWSB's indebtedness, including, without limitation, the Indenture.

33. Notwithstanding anything contained herein, the terms and conditions of the Indenture and any related documents (the "Indenture Documents"), and the rights, property, powers, authority, and assets conferred therein remain in full force and effect. Nothing contained in this Order shall act to divest, in any way, the Trustee of any collateral, property, or asset under the control of the Trustee, or enjoin or otherwise prohibit the Trustee from pursuing any remedies as provided in the Indenture Documents or as otherwise provided by law or equity. By commencing this action and seeking the appointment of a receiver, the Trustee has not waived, and expressly reserves all other rights, remedies, and relief available under the Indenture, or as otherwise provided by law or equity.

IX. Effective Date; No Bond Required

34. This Order shall be effective immediately upon its entry and shall continue until further order of this Court.

35. Because the Court is appointing a receiver pursuant to the express terms of the Indenture, the Trustee is not required to post a bond.

DONE this 10th day of November 2023.



MICHAEL A. YOUNG PETER
CIRCUIT JUDGE