

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DIGITAL MEDIA SOLUTIONS, LLC,)	CASE NO. 1:19-cv-145
)	
PLAINTIFF,)	JUDGE
)	
V.)	
)	
SOUTH UNIVERSITY OF OHIO, LLC, <i>et</i>)	
<i>al.</i> ,)	
)	
DEFENDANTS.)	

**EMERGENCY MOTION FOR THE APPOINTMENT OF A RECEIVER AND ENTRY
OF A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Plaintiff, Digital Media Solutions (“DMS”) through counsel, respectfully moves this Court to appoint a receiver (“Receiver”) to oversee the affairs of Defendants South University of Ohio, LLC and Dream Center Education Holdings, LLC (“DCEH”), and DCEH’s assets, specifically: its direct subsidiaries The DC Art Institute of Raleigh-Durham LLC, The DC Art Institute of Charlotte LLC, DC Art Institute of Charleston LLC, DC Art Institute of Washington LLC, The Art Institute of Tennessee – Nashville LLC, AiTN Restaurant LLC, The Art Institute of Colorado LLC, DC Art Institute of Phoenix LLC, The Art Institute of Portland LLC, The Art Institute of Seattle LLC, The Art Institute of Pittsburgh, DC LLC, The Art Institute of Philadelphia, DC, LLC, DC Art Institute of Fort Lauderdale LLC, The Illinois Institute of Art LLC, The Art Institute of Michigan LLC, The Illinois Institute of Art at Schaumburg LLC, DC Art Institute of Phoenix, LLC and its direct subsidiaries the Art Institute of Las Vegas LLC, the Art Institute of Indianapolis, LLC, and AiIN Restaurant LLC; Dream Center Argosy University of California LLC and its direct subsidiaries, Argosy Education Group LLC and AU Student Funding, LLC; Dream Center Education Management LLC; and, South University of Michigan

LLC (collectively “DCEH and its subsidiaries”), and for the entry of a temporary restraining order and preliminary injunction and states as follows:

INTRODUCTION

DMS, founded by a team of lifelong athletes, specialized in helping its clients accelerate their growth by deploying diversified and data-driven digital media customer acquisition solutions. DMS provided those services generally, and student lead generation specifically, to DCEH’s Argosy, South, and Art Institute campuses through the course of 2018. It invoiced those three school systems for a total of \$252,737.00, which remains unpaid. Of that sum, \$187,532 was invoiced to South.

DMS understands that DCEH and its subsidiaries are very likely insolvent, and face claims from a variety of creditors including a pending eviction action filed against the South University of Ohio campus located in Warrensville Heights, Ohio. DMS understands that DCEH and its subsidiaries work within a highly regulated industry and the concern is that their insolvency could lead to their ineligibility to continue receiving Title IV funds, which would destroy the enterprise value of the company in short order, leaving it unlikely that DMS or any of the other creditors would recover much, if any, of the sums due them.

However, while DCEH and the schools it continues to own (the “Universities”) face the within lawsuit for breach collection of a debt due to DMS, and more suits to follow across the country, they operate in a highly regulated industry and cannot simply cease operations and file for protection under the bankruptcy code. DMS understands that a bankruptcy filing would render SUO, DCEH and the Universities ineligible to receive the principal source of their revenues: federal grants and student loans provided under the Higher Education Act of 1965 (the “Act”), 20 U.S.C. §1001 et seq. In order to qualify and receive such funding under the Act,

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DCEH and the Universities must be “eligible institution[s]” which is defined, in part, as an institution that has not filed for bankruptcy. 20 U.S.C. §1002(a)(4)(A); 34 C.F.R. § 600.7 (a)(2). As a result of this statutory impediment, and as a means of protecting and preserving any going concern value associated with the Universities, DCEH and the Universities should be placed into receivership in a forum that maintains the requisite equitable powers that will serve to protect dozens of campuses, thousands of students, Defendants assets and their stakeholders, DMS included.

Just as a bankruptcy will destroy the enterprise value of DCEH and the Universities, simply closing campuses overnight will do the same. DMS understands that a particular campus can close only once its students have completed their program of study or been placed at another institution to complete their program (a process commonly called a “teach-out”). The “teach-out” process itself is a highly regulated process involving the submission of a proposed plan to the United States Department of Education (“DOE”) as well as academic accreditors for review and possible approval. As discussed in detail below, the immediate closure of a campus, which forecloses the ability of existing students to complete their courses of study, triggers certain fatal ramifications with accreditors that ultimately result in the cessation of federal funding. Students are then left without the classes for which they registered, and ineligible for federal funding to pay for those classes. Absent that funding, DCEH and the Universities will lack the funds to pay DMS and the other creditors.

While it would be best to close the Teach-out Schools on an orderly basis, DMS understands that the DOE limited SUO’s ability to pay its creditors. Payments to some vendors were specifically not deemed to be allowable teach-out expenses. Compounding the difficulties faced by SUO are a series of restructuring actions negotiated between the secured creditors

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DCEH and its school systems with input by the U.S. Department of Education in December of 2018 and early January 2019, which has resulted in an interruption of the flow of federal funds to SUO, DCEH and the Teach-Out Schools.

The Universities' dire financial condition has resulted in this Plaintiff seeking to enforce its remedies following the DCEH and the Universities' default of their obligations to pay for the services DMS provided them.¹ DMS understands that DCEH and the Universities are on the precipice of a landslide of adverse actions filed by landlords, other creditors and vendors, and are in default with certain commercial lenders (the "Secured Lenders") that hold security interests in the assets of SUO and the other Universities. DMS believes that adverse action against the Universities and the cascading shutdowns will trigger the termination of funding by the DOE and loss of accreditation by applicable accreditation agencies with jurisdiction over the Universities. The inevitable result will be the termination or a substantial disruption in the students' ability to continue and then complete their respective courses of study, the diminution of the value of the DCEH and Universities' assets, and significant harm to all stakeholders including the taxpayers who will bear the financial brunt of the forgiven student loans.

If allowed to proceed in an orderly fashion, the Universities will follow the teach-out protocols to end operations at the Teach-out Schools, thereby protecting the stakeholders, including creditors such as DMS, the students, and the taxpayers. DMS has also been led to

¹ DMS notes that the media has also picked up on these issues. In article published in the Pittsburgh Post-Gazette on January 14, 2019, the author noted "The Dream Center Education Holdings is 'at risk of becoming financially insolvent and is now working with the United States Department of Education to reorganize AI Seattle and the existing Art Institute Campuses to preserve their ongoing operations.' . . . The apparently dire financial situation could be one reason the schools have faced pushback from accreditors over the last year." Daniel Moore, *Dream Center plans pullout from most Art Institute Campuses*, Pittsburgh Post-Gazette, 2019, available at <https://www.post-gazette.com/business/career-workplace/2019/01/14/Dream-Center-Education-Holdings-bankruptcy-reorganize-Art-Institutes-campuses-EDMC-accreditation/stories/201901140087> (last visited January 17, 2019).

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believe that DCEH is also actively negotiating with a number of buyers to sell those schools that will remain (the “Go-forward Schools”).

DMS is therefore faced with two possibilities: one in which a cascade of creditor suits against DCEH and the Universities proceed unchecked and thereby spark a mass lock out of all students and faculty of the Universities and the accordant diminution of value for their creditors, DMS included; or, one in which a Receiver is appointed and given the requisite authority under the supervision of this Court in order to proceed with the appropriate teach-outs, which will include SUO and its students, and the controlled sales of the Go-forward Schools to protect the rights of students, faculty, and to maximize the going concern value of the assets to be sold for the benefit of creditors.

ARGUMENT

1. The Standard for Appointment of a Receiver.

As this Court is aware, there is no bright line rule regarding the appointment of a receiver. Rather, there are a number of elements to be considered:

Although there is no precise formula for determining when a receiver may be appointed, factors typically warranting appointment are a valid claim by the party seeking the appointment; the probability that fraudulent conduct has occurred or will occur to frustrate that claim; imminent danger that property will be concealed, lost, or diminished in value; inadequacy of legal remedies; lack of a less drastic equitable remedy; and likelihood that appointing the receiver will do more good than harm.

Aviation Supply Corp. v. R.S.B.I. Aerospace, Inc., 999 F.2d 314, 316-317 (8th Cir.1993), *see also BMW of N. Am., LLC v. CJM Automotive II, LLC*, N.D. Ohio No. 1:17CV2688, 2018 U.S. Dist. LEXIS 112982 (Apr. 26, 2018).

The first factor to be considered – the probability that fraudulent conduct has occurred or will occur – must yield in the face of the dire financial circumstances facing the parties and the Universities’ students. *United States Bank Natl. Assn. v. Nesbitt Bellevue Property LLC*, 866 {797047; 1425-0001}

F.Supp.2d 247 (S.D.N.Y.2012) (finding that courts appoint receivers in the absence of fraud when there is imminent danger of the diminution of value of the properties), *D.B. Zwirn Special Opportunities Fund, L.P. v. Tama Broadcasting, Inc.*, 550 F.Supp.2d 481, 491 (S.D.N.Y.2008) (noting that the “Court has appointed receivers even where there was no evidence of fraud,” when there are dire financial stresses that cause a meaningful risk of the loss of the asset value and a deprivation of the creditors’ ability to collect the sums due). Thus, the second factor to be considered – the imminent danger of the diminution of assets – is clearly at issue in this matter. DCEH’s dire financial status has been discussed in detail above. The appointment of a receiver and issuance of a restraining order will prevent a number of the Universities’ campuses from being locked by zealous landlords, leaving the students stranded and without recourse. The receiver and restraining order will also allow for the appropriate teach-outs to be concluded and the assets liquidated in an orderly fashion, thereby maximizing their value and promoting the best recovery for DMS and the other creditors.

The third factor – the inadequacy of legal remedies – also weighs in favor of appointing a receiver. First and foremost, a bankruptcy is not an option, for the reasons discussed above. In the absence of a bankruptcy, which would bring all claims into a single forum to be addressed in an organized fashion, SUO, DCEH and the Universities would be forced to fight each landlord’s eviction efforts and each creditor’s collection efforts on a piecemeal basis. The result of the piecemeal litigation would be the irreparable and immediate damage caused to the value of the entire enterprise. DCEH will, for obvious reasons, not be able to sell one of the university systems if that system has lost a campus and is facing claims not only from its creditors but the aggrieved students who lost their school programming in the midst of a semester. The single best solution is therefore the broad application of the Court’s equitable powers to the entire

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enterprise. It can also oversee the orderly teach-out and liquidation of assets remaining on the newly closed campuses and supervise and ultimately approve the sale of the Go-forward Schools as going concerns.

The fourth factor – less drastic equitable remedies – also weighs in favor of a receivership. Each school within the University system is either its own independent LLC wholly owned by DCEH or a trade name used by DCEH. Thus, while DCEH maintains exclusive control over each campus, roughly half of those campuses are themselves independent legal entities. Appointing a receiver over each one of the campuses would be both impractical and inefficient.

The final factor - whether the appointment of a receiver will do more good than harm – obviously weighs in favor of a receivership. While a bankruptcy would provide a single, efficient, coordinated forum to resolve all of the disputes that surround the Universities, it is simply not an option. The receivership would serve as an alternative to a bankruptcy proceeding – allowing for the protection of the assets and operations of all Universities and provide for a coordinated and efficient resolution of the Teach-out Schools, continuing operation and sale of the Go-forward Schools, and preservation of the assets, allowing the Universities to reorganize and cause the least impact in the process. A receivership avoids the likelihood of individual campuses being shuttered mid-semester, leaving thousands of students without a place to attend the classes and pursue their degrees, and without a clear transition to another school’s program that would accept them and allow them to proceed toward graduation. A receivership avoids the immediate destruction of the value of the Universities and allows them to be sold free and clear of claims from aggrieved creditors and students. The single harm of a receivership – a short delay in the creditors collecting sums due – is more than outweighed by the preservation of the

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value of the assets and the accordant likelihood that the creditors will collect more through the course of a receivership than they would through individual actions scattered throughout the country.

2. Emergency TRO and Preliminary Injunctive Relief

The standard for granting either a temporary restraining order (“TRO”) or preliminary injunctive relief is the same. A TRO and preliminary injunction are warranted, pursuant to Federal Rule of Civil Procedure 65, upon the demonstration that: (1) DMS has a substantial likelihood of success on the merits; (2) DMS will suffer irreparable injury if the injunction is not granted; (3) an injunction will not substantially injure other interested parties; and (4) an injunction will further the public interest. *Sony/ATV Publ’g, Ltd. Liab. Co. v. Marcos*, 651 F.App’x 482 (6th Cir.2016).

The requested relief is warranted herein because (a) there is a strong likelihood that DMS will succeed on the merits of its very simple breach of contract / suit on account / unjust enrichment claims; (b) absent the Court’s appointment of a receiver, the pending eviction actions scattered across the country will result in the prompt loss of accreditations and eligibility for Title IV funding, resulting in both the creditors’ inability to recover the sums due and the students’ loss of time and energy devoted to pursuing their educational goals; (c) it is necessary to prevent a race to DCEH and the Universities’ assets, to enjoin eviction proceedings, and to prevent a disruption of the highly regulated teach-out process; (d) the appointment of a receiver will cause DMS and other creditors to suffer less harm than they would absent a receiver; and (e) the public interest weighs heavily in favor of appointing a receiver to permit DCEH and the Universities to continue their educational mission for the benefit of their students, and to

facilitate an equitable distribution of DCEH and its subsidiaries' assets for the benefit of their creditors.

Creditors have no alternative legal remedy since seeking protection in a traditional bankruptcy filing is simply not an option because a bankruptcy filing would immediately and permanently render the Universities ineligible to participate in federal student aid programs authorized by the Higher Education Act. If SUO, or any of the Universities filed for bankruptcy protection, or were subjected to an involuntary bankruptcy filing, their students would lose access to the federal grants and loans necessary to pay their tuition and fees and face the immediate disruption of their educational goals, challenges of transferring credits, delays in obtaining their sought after accredited degrees, and an inability to access Title IV funds to cover immediate living expenses, such as rent, groceries, daycare expenses, etc. A single federal receivership over this collective proceeding would allow DCEH and its subsidiaries to address these actions in a coordinated, consolidated fashion through application of 28 U.S.C. §754 and 28 U.S.C. §1692.

DMS is a business and, as such, dedicated to providing high quality services for a reasonable cost. It cannot, however, provide its services for free. While the Universities may not have thrived, that failure was not the result of DMS' inability to provide valuable student leads and DMS has every intent of collecting as much of its receivables due from DCEH and the Universities as possible. But, and that said, DMS is not ignorant of the fact that the appointment of the Receiver, along with a TRO and Preliminary Injunction will enable SUO, DCEH, and its subsidiaries to, *inter alia*, satisfy their educational obligations to thousands of students at the Teach-out Schools, preserve the educational futures of students at the Go-forward Schools, stabilize the employment of DCEH and its subsidiaries' thousands of employees, prevent many

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tens of millions of loss to the Treasury in the form of student loan discharge obligations (which would be borne by taxpayers), provide significant adequate assurance to numerous landlords, and allow for an orderly transition of DCEH and its subsidiaries' operations through a sale and restructuring plan. On the other hand, if the requested receivership relief is not granted, students at both Teach-out and Go-forward Schools will see their educational plans disrupted, if not altogether eliminated, all of DCEH and its subsidiaries' thousands of employees will be terminated, the taxpayer-supported Treasury will be burdened with millions of dollars of discharge obligations, and DMS will recover a fraction of what it would recover through the course of a receivership.

DMS also notes that public policy greatly favors protecting the Universities' students. The student population largely comprises nontraditional students, including unemployed or underemployed adults seeking to obtain job skills in order to find employment or change careers. The immediate appointment of the Receiver and the entry of an Order restraining and enjoining other claims will ensure that DCEH and the Universities are able to fulfill the mission of educating students without the unnecessary disruption of those students' educational plans.

3. The Recommended Receiver.

DMS requests that the Court appoint Mark Dottore, of Dottore Companies, LLC, as Receiver for the within matter. Mr. Dottore is uniquely qualified for the position of receiver. Putting aside his more than thirty years of management, business, and financial experience, and the fact that he has been regularly appointed as a receiver by the Cuyahoga County Court of Common Pleas as a receiver since 1982, by the Cuyahoga County Court of Common Pleas Domestic Relations Division since 2000, and the U.S. District Court of the Northern District of Ohio since 2004, there are two principal reasons Mr. Dottore is particularly well qualified to

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serve as Receiver over the assets of SUO, DCEH, and the Universities. First, he has experience serving as a special master for a distressed university: Myers University. Myers was in dire financial straits in late 2007, and was on the verge of closing its doors, causing the costly and substantial disruption in the educational plans of the students, and placing hundreds of jobs and millions of dollars in governmental educational bonds at risk. The school's accreditation was also in jeopardy, leaving the credits earned by thousands of students potentially worthless. Mr. Dottore was appointed Special Master with the powers of a receiver in an effort to stabilize, then liquidate, the university. Working within the strict regulatory confines of a school of higher education, he was successful in securing a Title IV funding program, which he implemented along with immediate cost reductions. The restructured finances allowed the University to remain open and to continue serving its student population. Once the immediate risk of closure was past, Mr. Dottore identified transitional leadership and twelve possible suitors to buy the university, and then negotiated and oversaw a sale to the highest bidder, who had promised to maintain the integrity of the School's structure and mission. He also oversaw repayment to government bond and tax agencies, lenders, and creditors, with above-average recoveries of 82% of the total outstanding debt paid. Of particular importance was the fact that not only did students and staff continue business as usual with no disruption to credits or jobs, but that Mr. Dottore was successful in preserving the school's accreditation. The continued accreditation maximized the value of the school and, by proxy, allowed for an outstanding recovery for the school's creditors.

The second reason Mr. Dottore is particularly and uniquely well qualified to serve as receiver in this matter is the fact that he has been serving as a consultant for DCEH and the Universities since October 9, 2018. He and his team were hired to: familiarize themselves with

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the business, operations, properties, financial condition, and prospects; develop and implement a financial strategic plan to market and sell certain assets or equity; develop and implement a closure plan; work with governmental and regulatory agencies as necessary; and, perform such other work as required to effectuate the closure of the company. As of late December 2018, Mr. Dottore had already provided more than 300 hours of his services, and his team provided more than 50 hours, since being retained. Mr. Dottore's work has provided meaningful benefits: he has identified and started negotiations with two potential suitors. As recently as December 12, 2017, Mr. Dottore, representatives of DCEH, and representatives of EGCC traveled to Washington D.C. to meet with the undersecretary of the US Department of Education and their staff to address the dire financial condition of DCEH and the Universities and their plan to restructure, including potential plans to seek the immediate appointment of a federal receiver to stabilize the assets and operations of DCEH and the Universities and continue with the proposed sale of all or substantially all of the Universities in a controlled setting all subject to approval by this Court.

If this Court were to grant this Motion and appoint a receiver, DMS believes that Mr. Dottore, as Receiver, would save the receivership estate all of the time and expense of bringing the new person up to speed where time is of the essence to protect the interests of the students and preserve and safeguard the Universities until a controlled restructuring can be completed.

CONCLUSION

Wherefore, and for the reasons set forth above, the immediate appointment of a receiver will serve to both protect thousands of students, spread across Ohio and the entire United States, as well as Plaintiff Digital Media Solutions and hundreds of other trade creditors. Only the

receivership structure will allow SUO's and the Universities' teach-outs to proceed to an orderly conclusion, while preserving the enterprise value.

DMS therefore requests that this Court grant this motion, issue the requested preliminary injunction and temporary restraining order, and appoint a receiver to oversee SUO, DCEH and its subsidiaries, as set forth in the proposed Order (attached as Exhibit A).

Dated: January 18, 2019

Respectfully submitted,

/s/ Audrey K. Bentz

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UNITED STATES DISTRICT COURT
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DIGITAL MEDIA SOLUTIONS, LLC,)	CASE NO. 1:19-cv-145
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PLAINTIFF,)	JUDGE
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SOUTH UNIVERSITY OF OHIO, LLC, <i>et</i>)	
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ORDER APPOINTING RECEIVER

This cause coming to be heard on the Emergency Motion for Appointment of Receiver *Ex Parte* (the “**Motion**”) filed by Plaintiff Digital Media Solutions, LLC (“DMS”).

The Court hereby finds that:

1. This Court has subject matter jurisdiction under U.S. CONST. art. III, § 2 and 28 U.S.C. § 1332. This Court exercises diversity because the parties are of complete diverse citizenship and the amount in controversy is in excess of \$75,000. The Court has ancillary jurisdiction of the request to appoint a receiver and for an injunction, because such relief is substantially related to the claims of the Plaintiff. See, *U.S. Bank Nat’l Assoc. v. Nesbitt Bellevue Props.*, 866 F.Supp.2d 247, 255 (S.D.N.Y. 2012) (appointing a receiver while exercising diversity subject matter jurisdiction as an ancillary remedy to protect the value of properties located in six states). Venue is proper in this Court under 28 U.S.C. § 1391(e)(1)(B) because a substantial part of the events giving rise to this action took place in this judicial district and a substantial part of the property that is the subject of the action is situated in this judicial district.



South Ohio currently employs approximately many Ohio residents and their Ohio institution has enrolled over 50 active students; and

2. Defendants South University of Ohio, LLC (“**South Ohio**”) and Dream Center Educational Holdings LLC (“**DCEH**”) (collectively, “**Defendants**”) are indebted to Plaintiff for a sum in excess of \$250,000; and

3. Defendants are also indebted to other secured, trade, and unsecured creditors for a sum in excess of \$100,000,000; and

4. Federal courts typically consider the following factors when determining whether to appoint a receiver: (1) the probability that fraudulent conduct has occurred or will occur to frustrate that claim; (2) imminent danger that property will be concealed, lost, or diminished in value; (3) inadequacy of legal remedies; (4) lack of a less drastic equitable remedy; and (5) likelihood that appointing a receiver will do more good than harm. See, *Consolidated Rail Corp. v. Fore River Ry.* 861 F.2d 322, 326-327 (1st Cir. 1988); *Mintzer v. Arthur Wright & Co.*, 263 F.2d 823, 826 (3d Cir. 1959); *Bookout v. Atlas Fin. Corp.*, 395 F. Supp. 1338, 1342 (N.D. Ga 1974), *aff’d* 514 F.2d 757 (5th Cir. 1975); and

5. Based on an analysis of these factors, the Court finds that a receiver should be appointed because both the Plaintiff and the Defendants have demonstrated that (i) there is a significant sum due Plaintiff and other creditors; (ii) that there is imminent danger of damage to the stakeholders of the Defendants, which include the students that are enrolled in the Defendants’ educational institutions (whether owned directly or through a limited liability company ownership interest) (the “**Institutions**”); (iii) the Plaintiffs’ other legal remedies are not adequate to protect their interests and the interests of other stakeholders, including the interests of the students; (iv) a receiver will protect the interests of the Secured Lenders, the students, the

Department of Education, the accrediting agencies and the other stakeholders; (v) there is no other adequate remedy available to the Plaintiffs and the Defendants because a bankruptcy filing is not reasonable or practical in the circumstances; and (vi) the appointment of a receiver is appropriate and necessary to preserve, manage and dispose of the assets in accordance with the Credit Documents and to prevent waste; and

6. Mark E. Dottore is (i) a resident of Ohio; (ii) a disinterested person; and (iii) an experienced and qualified receiver.

Accordingly, after due consideration and for good cause shown, pursuant to Rule 65 and Rule 66 of the Federal Rules of Civil Procedure, said Motion is hereby GRANTED.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Mark E. Dottore (the “**Receiver**”), whose business address is 2344 Canal Road, Cleveland, Ohio 44113, is hereby appointed the federal equity receiver, custodian and Liquidator for South University of Ohio LLC, Dream Center Education Holdings LLC, The DC Art Institute of Raleigh-Durham LLC, The DC Art Institute of Charlotte LLC, DC Art Institute of Charleston LLC, DC Art Institute of Washington LLC, The Art Institute of Tennessee – Nashville LLC, AiTN Restaurant LLC, The Art Institute of Colorado LLC, DC Art Institute of Phoenix LLC, The Art Institute of Portland LLC, The Art Institute of Seattle LLC, The Art Institute of Pittsburgh, DC LLC, The Art Institute of Philadelphia, DC, LLC, DC Art Institute of Fort Lauderdale LLC, The Illinois Institute of Art LLC, The Art Institute of Michigan LLC, The Illinois Institute of Art at Schaumburg LLC, DC Art Institute of Phoenix, LLC and its direct subsidiaries the Art Institute of Las Vegas LLC, the Art Institute of Indianapolis, LLC, and AiIN Restaurant LLC; Dream Center Argosy University of California LLC and its direct subsidiaries,

Argosy Education Group LLC and AU Student Funding, LLC; Dream Center Education Management LLC; and, South University of Michigan LLC (the “**Receivership Entities**”), effective upon the Receiver’s posting of the bond as required below and taking the oath required by law. The Receiver is hereby authorized to take possession and control of all of the real and personal property arising out of, or pertaining to the Receivership Entities, including but not limited to, any and all cash and cash deposits, receivables and accounts receivable, obligations or commitments owed by any person or entity, including the United States Department of Education, equipment, furniture, fixtures and deposit accounts held by third parties, the general intangibles, any real property (the “**Real Property**”), any and all tax attributes, and all other assets of whatever kind or nature belonging to the Receivership Entities and the Receiver shall have all authority and power of a receiver under 28 U.S.C. §§ 754, 959 and 1692, Rule 66 of the Federal Rules of Civil Procedure and Rule 66.1(d) of the Local Rules for the United States District Court for the Northern District of Ohio, this Court’s inherent powers, and Ohio laws where applicable (the “**Receivership Authorities**”), and as ordered further by this Court. (Hereinafter, all of the assets described in this paragraph shall be referred to as the “**Receivership Property**”).

2. The Receiver shall take immediate possession, control, management, operation and charge of the Receivership Entities and its Receivership Property and maintain all such entities and property in a Receivership Estate. This Court hereby vests the Receiver with authority and jurisdiction over the Receivership Estate and the Receivership Property to the maximum extent permitted by the Receivership Authorities, and hereby empowers and permits the Receiver to take any and all actions necessary and proper to carry out the express provisions of this Order, including but not limited to the following powers and duties:

a. The Receiver shall take immediate possession, control, management and charge of the Receivership Entities' accounting books and records of whatever nature and wherever located, in the possession of the Receivership Entities or any other person or Entities, including all information regarding the assets, liabilities, equity, income and expenses of the Receivership Entities. The Receiver shall take immediate possession, control, management and charge of all of the Receivership Entities's financial statements, ledgers and journals, balance sheets, trial balances, statements of cash flows, income statements, statements of retained earnings, accounting journals and books of original entry, including but not to (i) accounts receivable agings, rent rolls, and any other documentation which indicate the amounts owing from lessees and other debtors of the Receivership Entities on accounts receivable and from whom such amounts are or were owing and when any amounts were collected and deposited; (ii) fixed asset ledgers, schedules, records, documentation and/or appraisals of the Receivership Entities's equipment, motor vehicles, boats and their engines, accessories, furniture inventory, furnishings, and supplies; (iii) inventory listings or other detail; (iv) all information and documentation which relates or pertains to any checking, saving, banking and money management accounts of any kind or nature belonging to the Receivership Entities, or into which any proceeds of the collection or sale of any asset of the Property have been deposited; (v) all accounts payable documentation and information and all correspondence or written documents regarding negotiations with current accounts or proposed accounts; (vi) all information of whatever type or nature, regarding the payroll and benefits of the employees of the Receivership Entities, including wage or salary information, medical insurance information, child support payments or other employee deductions withheld or to be withheld, and all information regarding withholding taxes whether federal, state, or local and any information regarding any and all of the employer matching obligations or the employer payroll tax obligations; (vii) all information and documentation of any asset transfers by the Receivership Entities any time in the past; (viii) all information and documentation regarding the federal, state and local tax liabilities and tax attributes of the Receivership Entities, including any and all federal, state and local tax returns filed or unfiled, and any documents generated during the planning of any construction project, including the Real Property, and the preparation and filing of tax returns for the Receivership Entities; (ix) all contracts and leases pertaining to the Property and/or to which Receivership Entities are a party; (x) all information and documentation of any other financial transaction or interest in and any asset of the Receivership Entities which may be necessary or pertinent to the Receiver's operation and management of the Receivership Entities's assets; and (xi) any documentation that relates or pertains to the Receivership Entities and is kept in the ordinary course of their business in connection with the

record-keeping or accounting. The information described in this subparagraph shall hereinafter be referred to as the “**Books and Records.**”

b. The Receiver shall take immediate possession, control, management and charge of the Property, including all assets and property appertaining thereto consisting of all personal property, real property (including leasehold interests), all cash or cash equivalents including, but not limited to, rights, title and interest in and to all bank accounts, all accounts and notes receivable, all inventory of any type or nature, all furniture, fixtures, equipment, computers (hardware and software), and all general intangibles, including, but not limited to, all licenses and liquor licenses applied for, owned or utilized by the Receivership Entities, rights in leases, rights to proceeds from any insurance or sales of equipment or other asset, all choses in action and causes of action, including avoidance actions for transfers of any of the assets of the Receivership Entities for less than equivalent value against the transferees of those assets, and any other asset or interest owned by the Receivership Entities or in which the Receivership Entities asserts an interest which has any value which pertains to the Property, and the Books and Records and the Property are hereby placed in custodia legis and are subject to the exclusive jurisdiction of this Court. Receiver shall not be charged with the responsibility to take possession of any real estate or other assets which had or have existing hazardous or toxic contamination nor shall the Receiver be required to take possession of any hazardous or toxic materials owned or used by the Receivership Entities. Should the Receiver elect to take possession of, or exercise his dominion and control over, any real estate, hazardous or toxic materials, pollutants or contaminants, he shall do so in his capacity as Receiver for the Property.

c. The Receiver shall have the authority to operate and manage the Receivership Entities and the Property as he deems prudent in his sole discretion throughout the litigation, subject to further order of this Court. The Receiver shall preserve and care for any and all of the Property and utilize any and all of the Property to preserve and maximize the value of the Property.

d. The Receiver shall secure the business premises, business equipment, data and documents; take control of all means of communication with students, investors, secured and unsecured lenders, landlords, vendors, agents and others doing business with the Receivership Entities (the “**Business**”). The Receiver shall have the authority to communicate and negotiate with and enter into agreements with the Department of Education regarding the “teach-out” or any other

issue. The Receiver shall have the authority to take all reasonable and necessary steps to wind-down and liquidate the business operations.

e. The Receiver shall have the authority, responsibility and duty to review the participation of the directors, officers or managers of any entity whose stock shares or membership interest he holds and based upon his business judgment, to remove any director, officer or manager and nominate and elect any replacement director, officer or manager. However, the Receiver shall not remove any officer or director without seeking and obtaining leave of Court. The Receiver is hereby authorized to take any action, execute any document and do those things necessary to transfer a stock interest to himself, or accept admission as a member of any limited liability entity.

f. The Receiver shall succeed to management of each of the Receivership Entities, to be the sole and exclusive managing member, representative, custodian, and, its Liquidator, as that term is described in each entity's Operating Agreement, with the sole and exclusive power and authority to manage and direct the business and financial affairs of the Receivership Entities and its liquidation and wind-down, including without limitation, the authority to petition for protection under the Bankruptcy Code, 11 U.S.C. §§ 101 et. seq. (the "**Bankruptcy Code**") for the Receivership Entities and in connection therewith be and be deemed a debtor in possession for the Receivership Entities in proceedings under the Bankruptcy Code, and prosecute such adversary proceedings and other matters as may be permitted under the Code and/or applicable law.

g. The Receiver may, without seeking further authorization from this Court, file voluntary petitions for relief under title 11 of the United States Code (the "**Bankruptcy Code**") for each of the Defendants and for any entity whose membership interests are held in whole or in part by Dream Holdings. If any of Defendants, or any of the entities whose membership interests are held in whole or in part by Dream Holdings are placed in bankruptcy proceedings, the Receiver may become the management of any debtor in possession or may be appointed as the trustee of the debtor, and is thus empowered to operate each of those debtor entities as a debtor in possession. In such a situation, the Receiver shall have all of the powers and duties as provided a debtor in possession under the Bankruptcy Code to the exclusion of any other person or entity. Pursuant to Paragraph 2(e) above, the Receiver is vested with management authority for the Defendants and all entities whose membership interests are held in whole or in part by Dream Holdings and may therefore file and manage a Chapter 11 petition. *See, In re Bayou Group, LLC*, 564 F.3d 541, 548-49 (2nd Cir. 2009).

h. The Receiver shall, in his own business judgment, determine whether to file a plan for liquidation and distribution of the Property, and if the Receiver shall so determine, then in conjunction with and in consultation with, the Receivership Entities' secured and general creditors, the Receiver shall submit such a plan to this Court for approval.

i. The Receiver shall immediately implement the use of any state or federal historic tax credits (the "**Tax Credits**") that may be available to the Receivership Entities and take all necessary actions to preserve the value and prevent the waste of the Tax Credits.

j. The Receiver is authorized to collect all profits, rents, receivables and revenues of any nature whatsoever generated from the Property and/or the business operations of the Property and to pay all necessary expenses relating to said operations, including his fees and the fees of his attorneys, accountants and other professionals, as he deems prudent in his sole discretion, from funds in his possession, whether such funds are derived from the operation or the sale of the Property.

k. The Receiver shall have the authority without further order of this Court to maintain or purchase insurance from any agent or carrier, of any type reasonably necessary or desirable, on all the Property, subject to maintaining adequate coverage appropriately and naming appropriate loss payees as any properly perfected security interests provide within the corresponding security agreement.

l. The Receiver is authorized to establish or maintain one or more bank accounts in the Receiver's name for its operations as Receiver in this matter at any federally insured bank as reasonably needed to engage in business operations on behalf of the Property. The Receiver shall keep a true and accurate account of any and all receipts and disbursements which the Receiver shall receive or make as Receiver in the course of the operation of the Property.

m. The Receiver is hereby authorized to negotiate, enter into and execute leases of any portion or part of the premises of the Real Property at rental rates and for terms of years consistent with those that the market will bear, which he, in his business judgment concludes are in the best interest of the creditors of the Receivership Estate.

n. The Receiver is authorized to negotiate and effect an orderly sale, transfer, use or assignment of all or a portion of any of the Property in or outside of the ordinary course of business of the Receivership Entities and, from the proceeds thereof, to pay the secured and unsecured indebtedness of the Property, including the Real Property. Payments to

creditors by the Receiver shall include trade indebtedness which arises during the course of the Receiver's operation of the Property, which shall be paid first from the sale proceeds, together with the fees and expenses of the Receiver and his attorneys, accountants and other professionals. The Receiver is authorized to conduct such a sale of the Property in any manner which he, in his good faith and reasonable discretion, believes will maximize the proceeds received from the sale.

o. The Receiver is authorized to institute, prosecute, or intervene in any lawsuit or summary proceeding against any other person(s) or entity(ies) to preserve and/or maximize the value of the Property or to obtain possession of any of the Property unlawfully in the possession of third parties.

p. The Receiver is authorized but not required to defend actions against the Property or the Receivership Entities and may incur expenses to defend such actions to the extent that he believes, in his sole discretion, it will protect and preserve the Property.

q. The Receiver is authorized to perform pursuant to the terms of any existing contracts executed by the Receivership Entities in connection with the Property to the extent that the Receiver determines, in his sole discretion, that such performance will preserve and maximize the value of the Property. The Receiver may reject contracts not deemed to be in the interest of creditors of the estate, and the holder of any contract so rejected shall be allowed a claim as an unsecured creditor of the Property, said claim to be calculated consistent with the law.

r. The Receiver is authorized to employ any assistants, servants, agents, tax accountants, financial accountants, attorneys, or other persons deemed necessary or desirable to assist the Receiver in diligently executing the duties imposed upon the Receiver by this Order and pursuant to the Receivership Authorities.

s. The Receiver is authorized to repair the Property, and/or its fixtures and appurtenances as needed. Such repairs shall be made at the time and in the way that the Receiver, in his sole discretion, deems reasonable and necessary in the circumstances. Such repairs and construction include the time and expense of relocating tenants or caring for tenants while their suites are under construction.

t. Any person or entity, other than the Receiver, is barred from placing any of the Receivership Entities in bankruptcy proceedings.

3. Notwithstanding the foregoing, the Receiver and the Receivership Estate shall not be liable for the payment of taxes, assessments or utility charges pre-dating the date of this Order. Any individual or entity receiving a copy of this Order is hereby enjoined and restrained from discontinuing service to the Receiver or the Receivership Estate based upon the non-payment of such taxes or utilities prior to the date of this Order and from attempting to collect taxes and utility charges from the Receiver pre-dating the date of this Order.

4. No provision of this Order shall be deemed by any federal, state, or local governmental agency, or accrediting agency, as having triggered a substantive change of ownership or control requiring the approval of such agency; further, the actions taken by the Receiver during the course of the receivership shall not be taken into account by any such agency in any future determination of whether the Receiver is qualified to hold the stock or membership interest of, or serve in any capacity with, an institution approved or regulated by that agency.

5. The Receiver shall not be deemed, nor or at any point in the future, to exercise, or have exercised, “substantial control” as that term is defined in 20 U.S.C. § 1099c and 34 C.F.R. § 668.174, over the Receivership Entities, the Business, the Receivership Estate, or the Receivership Property based upon the Receiver’s appointment by this Court or subsequent involvement in the operation and management of the Business and the Receivership Property.

6. The Receiver may obtain unsecured credit and incur unsecured debt in the ordinary course of business of this title and said unsecured debt shall be a lien shall be a charge upon all property of whatsoever kind or nature in the Receivership Estate and the lien shall extend to all proceeds of or arising from the Receivership Property or any other property in the Receivership Estate, including all after-acquired property which but for the date of the

acquisition would have been Receivership Property in the Receivership Estate, second in priority to the Receiver's lien for fees and expenses set forth in Paragraph 25 of this Order.

7. If the Receiver is unable to obtain unsecured credit consistent with the terms and conditions set forth in Paragraph 8 above, this Court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt on such other terms and conditions as are equitable in the circumstances, including the granting of a lien secured by property of the Receivership Estate that is not otherwise subject to a lien or secured by a junior lien on property of the estate that is subject to a lien. The Court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if it is equitable in the circumstances and only if the holder of any lien on property receives adequate protection.

8. The reversal or modification on appeal of an authorization given to the Receiver to obtain credit or incur debt, or of a grant by this Court of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

9. The Receivership Entities and any persons, firms or entities acting under the direction of such Receivership Entities, and any third parties, persons, firms or entities, shall, upon presentation of a copy of this Order, identify the location of and deliver to the Receiver, any and all receivership property, both the Books and Records and the Property, in the possession or under the control of such parties; and all persons are enjoined and restrained: (a) from payment of any amounts owing to the Receivership Entities relating to the Property to

anyone other than the Receiver; and (b) from in any way disturbing or interfering with the collection, management or sale of any of the Property.

10. All creditors, claimants, bodies politic, parties in interest, and their respective attorneys, servants, agents, and employees, and all other persons, firms, and corporations be, and they hereby are, jointly and severally, enjoined and stayed from commencing or continuing any action at law or suit or proceeding in equity to foreclose any lien or enforce any claim against the Property, or its Books and Records or Property, or against the Receiver, in any court. The parties are further stayed from executing or issuing or causing the execution or issuance out of any court of any writ, process, summons, attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with, or enforcing any claim or lien upon the Property owned by or in the possession of the Receivership Entities, or the Receiver, and from doing any act or thing whatsoever to interfere with the Receiver in the discharge of his duties in this proceedings or with the exclusive jurisdiction of this Court over the Property, its Books and Records and Property and the said Receiver.

11. Parties in this case and their respective attorneys, servants, agents, and employees, and all other persons, firms, and corporations be, and they hereby are, jointly and severally, enjoined and stayed from commencing any action at law or suit or proceeding in equity in any court or to prosecute any claim, or to execute or issue or cause the execution or issuance out of any court of any writ, process, summons, attachment or subpoena, against Mark E. Dottore, the individual, or any entities in which he holds an interest, without first obtaining permission of this appointing Court. Such a lawsuit may be used to intimidate the Receiver and therefore interfere with the discharge of his duties in this proceeding. Upon a request to sue Mark E. Dottore, the individual, or an entities in which he holds an interest, by any party, the Court will undertake a

review of the facts and circumstances, and upon notice and hearing, determine whether the suit is meritorious or interposed for the purpose of harassment of the Receiver.

12. The Receivership Entities and its agents and employees, and any other party, shall turn over to the Receiver, as soon as possible or within three (3) days from the date of this Order, any and all Books and Records.

13. The Receivership Entities and its agents and employees, and any other party, shall turn over to the Receiver, as soon as possible or within three (3) days from the date of this Order, all sums in existence on the date hereof that are related or pertain to, or derived from the Property, including, but not limited to (a) all cash on hand; (b) all cash equivalents and negotiable instruments (such as checks, notes, drafts or other related documents or instruments); and (c) all sums held in accounts in any financial institutions, including but not limited to, all sums of any kind relating to the use, enjoyment, possession, improvement or occupancy of all or any portion of the Property.

14. Except as directed by the Receiver, the Receivership Entities, its affiliates, agents, officers, directors, shareholders, members, employees, representatives or creditors, and all other persons or entities, are hereby prohibited from taking any act for or on behalf of the Receivership Entities, interfering in any way with the acts of the Receiver, and from in any way, manner or means wasting, disposing of, transferring, selling, assigning, pledging, canceling, concealing, interfering with, or hypothecating any of the Books and Records or the Property. Upon the request of the Receiver, the foregoing persons and entities shall cooperate and affirmatively assist the Receiver in making available to the Receiver or his agents, the Books and Records and the Property. Nothing in this paragraph shall be construed to require a waiver of any attorney-client privilege.

15. The Receiver, and his agents, including his attorneys and any accountants or other professionals that are appointed by the Court, shall be entitled to reasonable compensation for services rendered and reimbursement for expenses incurred which are (a) related to the Receiver's duties, rights, and obligations under this order or any future orders of the Court and applicable law; (b) related to the administration, management, protection or liquidation of the Property; or (c) related to the defense or prosecution of any claim or suit brought by or against the Receiver or by the Receiver against any person or entities. Such compensation of the Receiver and his agents, his counsel and his accountants shall be paid consistent with the Receivership Authorities, Paragraphs 16 through 19 of this Order Appointing Receiver and awarded from the Receivership Estate. As and for the payment of the Receiver's fees and expenses and the fees and expenses of his attorneys, accountants and other professionals, the Receiver is hereby granted a lien upon all of the Assets in the Receivership Estate, which lien shall be a charge upon all property of whatsoever kind or nature in the Receivership Estate and the lien shall extend to all proceeds of or arising from the Assets or other property in the Receivership Estate, including all after-acquired property which but for the date of the acquisition would have been an Asset of the Receivership Estate. If the Receivership Estate does not have funds to pay the fees and expenses of the Receiver and his attorneys, accountants and other professionals, those fees will be assessed as costs of this case.

16. The Receiver shall be compensated at his normal hourly billing rate, which is the rate he charges in cases of like kind and complexity. At this time, the Receiver's billing rate is \$400.00 per hour plus reimbursement for all reasonable and necessary out of pocket costs and expenses.

17. From time to time, the Receiver utilizes the assistance and expertise of persons on the payroll of his companies. These individuals are billed hourly as follows: administrative personnel (\$125.00); Thomas Dottore (\$300.00) and Charles Dottore (\$300.00). If the services of others are required, they will be billed at an hourly rate consistent with or below the rates charged by others in this community with similar skills and ability, as is true with all hourly rates charged under this Order.

18. Routine accounting services are included in the rates charged by the Receiver. Routine accounting services include bookkeeping, bank account review and reconciliation, and the filing of periodic reports required by this Order and under the Receivership Authorities. The filing of tax returns, other governmental reporting requirements, assistance to any governmental law enforcement agency, and other non-bookkeeping accounting functions will be charged at ordinary, hourly rates. The Receiver will utilize the services of Mr. David S. Linscott, CPA, CIRA, at the rate of \$325.00 per hour.

19. The Receiver and his attorneys, accountants, or other professionals hired by him, may, at the Receiver's option, file with this Court monthly applications (or less frequent, if he deems appropriate), for payment of fees and expenses incurred in the conduct of this Receivership Estate, and each such application shall be served via U.S. Mail upon the Plaintiff, the Defendants, and other interested parties who have requested that such applications be served upon them. The Receiver shall be authorized to pay the fees and expenses requested by the Receiver or his attorneys, accountants or other professionals in any such application after ten (10) days have expired after service has been effected, without further order of this Court. If any party or person shall file an objection to the fees and expenses of the Receiver, or of his attorneys, accountants or other professionals, the Court shall consider the objection in the

ordinary course. Pending consideration of the objection, the Receiver shall be authorized to pay any portion of the fees and expenses not subject to the objection.

20. The Receiver shall have full and unrestricted access to all of the Property, and the Receivership Entities and its officers, directors, shareholders, employees and agents, and any other party, are directed to take all steps necessary to give the Receiver access to the premises and to give the Receiver all keys to the facilities.

21. Nothing in this Order shall be read or interpreted as requiring Plaintiff to continue to extend credit to the Receivership Entities and Plaintiff shall continue to have all rights and remedies to which it is entitled under its agreements with Defendants and pursuant to the Receivership Authorities and subject to the terms of this Order.

22. The Receiver may, from time to time, make payments to creditors on account of pre-receivership claims, especially secured creditors, according to their interests as they may appear. The Receiver, in his sole discretion, shall determine when or if it is appropriate to make payments to creditors, if any. All payments made prior to the conclusion of the Receivership shall be made after application to the Court and pursuant to Court Order.

23. The Receiver shall, under his authority to operate and manage the businesses of the Receivership Entities, operate and manage such businesses in compliance with applicable statutes. Nothing in this Order shall be read or interpreted, however, to abrogate the Receiver's immunities from personal liability for conduct related to his receivership duties.

24. The Bond of the Receiver is set at \$100.00.

25. The Court retains jurisdiction with respect to any matters addressed in this Order, including without limitation any and all matters relating to or affecting the Receivership Estate,

the Property, the Receiver and the scope of authority granted the Receiver hereunder. The terms of this Order shall continue in full force and effect unless and until further order of this Court.

[signature page to follow]

IT IS SO ORDERED this ____ day of _____, 2019.

U.S. DISTRICT JUDGE