

FILED  
FULTON COUNTY  
COMMON PLEAS COURT  
2011 OCT 24 P 4: 16  
PAUL E. MACDONALD  
CLERK

IN THE COURT OF COMMON PLEAS  
FULTON COUNTY, OHIO

THE FARMERS & MERCHANTS ) Case No. 11CV000128  
STATE BANK, )  
 ) Judge Barber  
Plaintiff, ) ORDER  
-vs- )  
ARCHBOLD ELEVATOR, INC., et al., )  
 )  
Defendants. )

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This matter came on for consideration of the Receiver's Motion to Approve Initial Distribution. The Court notes that all secured creditors / parties and the intervening party consent to this Motion. The Court notes that all parties consent to the distribution of up to \$4,000,000 to the Farmers & Merchants Bank and for purposes of this Order, all parties have stipulated that the Farmers & Merchants Bank has the first priority security interest in these funds. The Court further notes that APEX, which claims a first priority security interest, consents to this Motion provided that the Receiver holds \$200,000 in a segregated account, which account will be maintained until the interest of APEX has been determined by Court Order. The Court also notes that the secured creditors are reserving their right to seek the application of the equitable doctrine of marshaling requiring all senior creditors to satisfy their claims first from property or funds in which any secured creditor has no interest as to all the

Archbold Entities. Similarly, Farmers & Merchants State Bank and all secured creditors reserve their right to challenge any request for marshaling of assets.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Receiver is permitted to distribute up to \$4,000,000 to the Farmers & Merchants State Bank. The Receiver is further ordered to maintain one of its money market accounts with the Huntington Bank with a current balance in excess of \$250,000 as the segregated account. The Receiver is further ordered to keep a minimum of \$250,000 in its operating account. No distribution beyond \$4,000,000 will be made without further order of this Court. The Court further orders the Receiver to promptly conclude its analysis of the priority of claims so that future distributions can be made as funds become available.

IT IS SO ORDERED.



Honorable James E. Barber