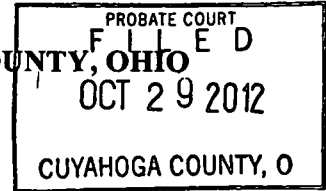


IN THE COURT OF COMMON PLEAS OF CUYAHOGA COUNTY, OHIO  
PROBATE DIVISION



**JERRY WRAY (formerly Jolene N  
Molitoris), DIRECTOR, OHIO  
DEPARTMENT OF TRANSPORTATION,**

**Plaintiff,**

**Case No 2010-ADV-0154719**

**vs**

**Judge Laura J Gallagher**

**CLEVELAND COLD STORAGE, INC ,  
et al ,**

**Defendants**

**AGREED JUDGMENT ENTRY FOR FINAL DISTRIBUTION OF FUNDS ON DEPOSIT**

On motion of the owners for an order of distribution, the Court finds that the Judgment Entry on Settlement has been filed in the above-captioned action awarding EIGHT MILLION THREE HUNDRED THOUSAND and NO ONE-HUNDREDTHS DOLLARS (\$8,300,000 00) to the owners of the property more fully described in the Petition to Appropriate and in motions for leave to intervene sustained by the Court, as compensation for land taken, in full payment and satisfaction for said taking of the property by Plaintiff Ohio Department of Transportation ("Plaintiff")

The Court further finds that this settlement has been confirmed by the Court and judgment duly entered thereon, that the sum of EIGHT MILLION THREE HUNDRED THOUSAND and NO ONE-HUNDREDTHS DOLLARS (\$8,300,000 00) for said settlement has been paid into Court by Plaintiff, including redeposit with the Court of Plaintiff's initial deposit in the case of \$4,510,000 00, which was escrowed pursuant to the Court's Agreed Judgment Entry of February 18, 2011, that under prior order of Court, no monies have been

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heretofore withdrawn by the said owners, and that this cause came on for hearing as to the distribution of said funds pursuant to Section 163 18 of the Ohio Revised Code

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that from the funds presently on deposit in the sum of EIGHT MILLION THREE HUNDRED THOUSAND and NO ONE-HUNDREDTHS DOLLARS (\$8,300,000 00), the Clerk shall forthwith issue and deliver payments based on the following instructions

- 1 The amount of FOUR MILLION THREE HUNDRED THOUSAND and NO ONE-HUNDREDTHS DOLLARS (\$4,300,000 00) plus any taxable accrued interest on the deposit with JP Morgan Chase shall be paid to Defendant **Beautiful Signage Limited Partnership** for its leasehold interest in the acquired property, made payable to "Beautiful Signage Limited Partnership" and mailed to its attorneys, Anthony J Coyne and Bruce G Rinker at Mansour, Gavin, Gerlack & Manos Co , LPA, 55 Public Square, Suite 2150, Cleveland Ohio 44113-1994
- 2 The remaining amount of FOUR MILLION and NO ONE-HUNDREDTHS DOLLARS (\$4,000,000 00) shall be paid collectively to Cleveland Cold Storage, its third-party creditors of record in this case, and its lienholders of record in this case as follows
  - a **Cuyahoga County Fiscal Office**, as successor to the Cuyahoga County Treasurer and the Cuyahoga County Auditor, \$777,438 66, representing full payment on real estate property taxes, special assessments, and interest due from Defendant Cleveland Cold Storage, Inc , formerly known as Bojack's Meat & Poultry, Inc ("Cleveland Cold Storage"), through the Court-ordered date of abatement, March 1, 2011, on Permanent Parcel No 004-2700032, i e , the property acquired by Plaintiff in this case, made payable to "Cuyahoga County, Ohio" and delivered to its

attorney, David G Lambert, Chief Civil Counsel, Office of the Cuyahoga County Prosecuting Attorney, Justice Center – Courts Tower, 8<sup>th</sup> floor, 1200 Ontario Street, Cleveland, Ohio 44113,

- b **KeyCorp, doing business as KeyBank National Association (“KeyBank NA”)** as the successor in interest to Society National Bank (“Society”), (i) in satisfaction of Society’s mortgage with Bojack’s Meat & Poultry, Inc (“Bojack’s”), whose interests were succeeded by Cleveland Cold Storage, recorded by the Cuyahoga County Recorder (“Recorder”) at vol 92-9427, pages 20-27, the associated “Subordination, Nondisturbance Attornment Agreement” recorded by the Recorder at 200308290711, page 1 through 9, and the associated judgment of February 14, 2005, against Cleveland Cold Storage in Case No CV-03-491343 in the Court of Common Pleas of Cuyahoga County, Ohio (“foreclosure judgment”), (ii) in satisfaction of KeyBank NA’s mortgage with Bojack’s, whose interests were succeeded by Cleveland Cold Storage, and recorded by the Recorder at 200005160384, pages 1 through 10, and (iii) in satisfaction of any other liens or claims by KeyCorp against Cleveland Cold Storage, including assumed or assigned liens or claims, for a total payment of **\$599,120 61** made payable to “KeyCorp” and mailed to its attorney, Dean D Gamín, 127 Public Square, Second Floor, Cleveland, Ohio 44114-1306,
- c **Ohio Department of Development (“Ohio Development”)** (i) in satisfaction of its mortgage with Bojack’s, whose interests were succeeded by Cleveland Cold Storage, recorded by the Recorder at vol 92-9427, pages 27 through 38, (ii) satisfaction of Ohio Development’s associated foreclosure judgment against

Cleveland Cold Storage, and (iii) in satisfaction of any other liens or claims of Ohio Development against Cleveland Cold Storage for a total payment of \$237,498 07 made payable to "Ohio Department of Development" and mailed to its attorney, William J Cole, Senior Assistant Attorney General, Executive Agencies Section, Office of the Attorney General of Ohio, 30 East Broad Street, 26<sup>th</sup> floor, Columbus, Ohio 43215,

- d **City of Cleveland, Department of Economic Development** ("Cleveland Development") (i) in satisfaction of its mortgage with Bojack's, whose interests were succeeded by Cleveland Cold Storage, recorded by the Recorder at vol 92-9427, pages 39 through 49, (ii) in satisfaction of the associated foreclosure judgment against Cleveland Cold Storage, (iii) in satisfaction of the associated collateral and associated judgment in Case No CV-09-713030 of the Court of Common Pleas of Cuyahoga County, Ohio, and (iv) in satisfaction of any other liens or claims of Cleveland Development against Cleveland Cold Storage, including assumed or assigned liens or claims, for a total payment of \$106,000 00 made payable to "City of Cleveland, Department of Economic Development" and mailed to its attorney, David M Douglass, Douglass & Associates Co , L P A , 4725 Grayton Road, Cleveland, Ohio, 44135,
- e **Marketing Holdings, LLC** ("Marketing Holdings"), successor in interest to Emanuel T Ciminello and Maryanne Ciminello ("Ciminellos"), who were prior successors in interest of RWG Enterprises, Inc ("RWG"), (i) in satisfaction of the Ciminellos' "Assignment of Mortgage" to Marketing Holdings, recorded by the Recorder at 200307221116, pages 1 through 6, relating to RWG's underlying

mortgage against Bojack's, recorded by the Recorder at vol 92-9427, page 50, and assigned to the Ciminellos by RWG through instruments recorded by the Recorder at vol 93-05253, page 50, and re-assigned by the Ciminellos to Marketing Holdings through instrument number 200308290709, pages 1 through 8, (ii) in satisfaction of Marketing Holdings' foreclosure judgment against Cleveland Cold Storage, and (iii) in satisfaction of any other of Marketing Holdings' liens or claims, including other assumed or assigned liens or claims, against Cleveland Cold Storage, for a total payment of \$128,700 made payable to "Marketing Holdings, LLC" and mailed to its attorneys, Anthony J Coyne and Bruce G Rinker, Mansour, Gavin, Gerlack & Manos Co , LPA , 55 Public Square, Suite 2150, Cleveland, Ohio 44113-1994,

f **Peter J Conlin** (i) in satisfaction of his mortgage with Bojack's, whose interests were succeeded by Cleveland Cold Storage, recorded by the Recorder at vol 92-9427, pages 57 through 60, and vol 92-9428, pages 1 through 3, and (ii) in satisfaction of any other of his liens or claims, including assigned liens or claims, against Cleveland Cold Storage, for a total payment of \$9,811 19 made payable to "Peter J Conlin" and mailed to his attorneys, David R Boldt and Peter S Kirner, Kirner and Boldt Co , L P A , 8025 Corporate Circle, North Royalton, Ohio 44133,

g **Commission House Drivers' Employees Local Union 400 Welfare and Pension Funds** ("Local 400 Funds") (i) in satisfaction of its judgment against Bojack's and Cleveland Cold Storage in Case No CV-03-511734 in the Cuyahoga County Court of Common Pleas and recorded as judgment lien JL-04-219582 in the Cuyahoga County Court of Common Pleas, and (ii) in satisfaction of any other of Local 400 Funds' liens or claims, including assigned liens or claims, against Cleveland Cold

Storage, for a total payment of **\$91,767 50** made payable to “Commission House Drivers’ Employees Local Union 400 Welfare and Pension Funds” and mailed to Local 400 Funds’ attorney, Rudolph J Geraci, 5549 Harleston Drive, Cleveland, Ohio 44124,

**h Electrical Specialists, Inc , doing business as The Superior Group (“Superior”)**

(i) in satisfaction of its mechanic’s lien against Cleveland Cold Storage, recorded by the Recorder as instrument number 200304031184, and (ii) in satisfaction of any other of Superior’s liens or claims, including assigned liens or claims, against Cleveland Cold Storage, for a total payment of **\$12,340 00** made payable to “Electrical Specialists, Inc , and mailed to its attorney, David M Whittaker, Bricker & Eckler LLP, 100 South High Street, Columbus, Ohio 43215,

**i Cleveland Electric Illuminating Co , doing business as The Illuminating**

**Company (“CEI”),** (i) in satisfaction of CEI’s foreclosure judgment against Cleveland Cold Storage and the collateral judgment obtained by CEI against Cleveland Cold Storage in Case Number CV-02-465139 in the Cuyahoga County Court of Common Pleas and further recorded as JL-03-194973 with the Cuyahoga County Court of Common Pleas, and (ii) in satisfaction of any other of CEI’s liens or claims, including assumed or assigned liens or claims, against Cleveland Cold Storage, for a total payment of **\$42,620 38** made payable to “Cleveland Electric Illuminating Co ” and mailed to CEI’s attorneys, Robert B Weltman and Jennifer Monty Rieker, Weltman, Weinberg & Reis Co , L P A 323 West Lakeside Avenue, Suite 2000, Cleveland, Ohio 44113-1099,

**j Edward W Cochran** (i) in satisfaction of his mortgage against Bojack’s, whose

interests were succeeded by Cleveland Cold Storage, recorded by the Recorder as instrument 200306170474, pages 1 through 4, and (ii) in satisfaction of any other of his liens or claims, including assumed or assigned liens or claims, against Cleveland Cold Storage, for a total payment of \$13,333 33 made payable to "Edward W Cochran" and mailed to Edward W Cochran, 20030 Marchmont Road, Shaker Heights, Ohio 44122-2852,

k **Brian J Mackert** (i) in satisfaction of his mortgage against Bojack's, whose interests were succeeded by Cleveland Cold Storage, recorded by the Recorder as instrument 20030617475, pages 1 through 4, and (ii) in satisfaction of any other of his liens or claims, including assumed or assigned liens or claims, against Cleveland Cold Storage, for a total payment of \$43,333 33 made payable to "Brian J Mackert" and mailed to his attorney, Edward G Hack, 1991 Crocker Road, Suite 550, Westlake, Ohio 44145,

l **First Energy Corp** (i) in satisfaction of its judgment against Cleveland Cold Storage in Case Number CV-03-496251 of the Cuyahoga County Court of Common Pleas and collaterally recorded with the Cuyahoga County Common Pleas Court as JL-03-208204, and (ii) in satisfaction of any other lien or claim, including assumed or assigned liens or claims, against Cleveland Cold Storage, for a total payment of \$78,464 10 made payable to "First Energy Corp" and mailed to its attorneys, Robert B Weltman and Jennifer Monty Rieker, Weltman, Weinberg & Reis Co , L P A , 323 West Lakeside Avenue, Suite 200, Cleveland, Ohio 44113-1099,

m **Ohio Bureau of Workers' Compensation ("BWC")** (i) in satisfaction of its statutory liens against Cleveland Cold Storage through BWC policy number

766071, recorded with the Cuyahoga County Court of Common Pleas as JL-03-211764, JL-04-218333, and JL-10-412677, and in satisfaction of any other of its liens or claims, including assumed or assigned liens or claims, against Cleveland Cold Storage, for a total payment of \$81,120 69 made payable to “Ohio Bureau of Workers’ Compensation” and mailed to BWC’s attorneys, Heather J Grise and Richard L Boylan, Richard L Boylan Co , L P A , 929 Harrison Avenue, Suite 200, Columbus, Ohio 43215,

- n **Harper Industries, Inc** , (i) in satisfaction of its mechanic’s lien or mortgage against Cleveland Cold Storage, recorded by the Recorder as instrument number 200912150384, pages 1 through 9, and (ii) in satisfaction of any other of its liens or claims, including assumed or assigned liens or claims, against Cleveland Cold Storage, for a total payment of \$15,000 00 made payable to “Harper Industries, Inc and James Hyland” and mailed to Harper Industries, Inc , c/o President James Hyland, 3200 Berlin Station Road, Delaware, Ohio 43015,
- o **Cleveland Municipal Court, Clerk of Courts** (i) in satisfaction of fines, penalties, and costs against Cleveland Cold Storage or Bojack’s, assessed in Judgment Entries of Cleveland Municipal Court, Housing Division, in Case Numbers 2010CRB40337, 2010CRB40338, and 2010CRB40339, and 2007CRB03856, collaterally and respectively reduced to civil judgments in Case Numbers 2007CVH26229, 11CVH09651, and 2011CVH09655 in Cleveland Municipal Court, and respectively recorded with the Cuyahoga County Court of Common Pleas as JL-08-331825, JL-11-455465, and JL-11-455466, and (ii) in satisfaction of any other of its liens or claims, including assumed or assigned liens or claims,



against Cleveland Cold Storage, for a total payment of \$73,333.33 made payable to "Cleveland Municipal Court, Clerk of Courts" and mailed to its attorney, David M Douglass, Douglass & Associates Co., L.P.A., 4725 Grayton Road, Cleveland, Ohio 44135,

p **SimplexGrinnell LP** (i) in satisfaction of its civil judgment against Cleveland Cold Storage in Case Number 2003CVF0022321 in the Cuyahoga County Court of Common Pleas, collaterally recorded with the Cuyahoga County Court of Common Pleas as JL [REDACTED], and (ii) in satisfaction of any other of its liens or claims, including assumed or assigned liens or claims, against Cleveland Cold Storage, for a total payment of \$3,457.50 payable to "SimplexGrinnell LP" and mailed to its attorney, Ernest V Thomas, III, Thomas & Thomas LLC, 2323 Park Avenue, Cincinnati, Ohio 44206-2788,

q **Ohio Department of Taxation** (i) has cancelled its judgment lien filed as JL-97-070921 against Cleveland Cold Storage in Case Number ST97033524 in the Cuyahoga County Court of Common Pleas, and (ii) has asserted no other liens or claims, including assumed or assigned liens or claims, against Cleveland Cold Storage, and

r **Cleveland Cold Storage, Inc.**, for payment of its attorney fees for legal services and for reimbursement of advanced litigation-related costs to Buckley King LLP, Chester, Willcox & Saxbe LLP, now doing business as Taft, Stettinius & Hollister, and Frank A Ray Co., L.P.A., for payment and discharge of all outstanding balances due for preparation of this case for litigation, and for receipt of net proceeds after payment of the foregoing, in the total amount of \$1,686,661.31 made

payable to "Cleveland Cold Storage, Inc , and Frank A Ray Co Trust Account"  
and mailed or delivered to Cleveland Cold Storage's attorney, Frank A Ray, Frank  
A Ray Co , L P A , 89 East Nationwide Boulevard, Suite 200, Columbus, Ohio  
43215

The above-named third-party lienholders and creditors of Cleveland Cold Storage have separately agreed to the above-described distribution and have waived any further interest in the funds maintained on deposit other than that which is represented in the foregoing narrative Said lienholders and creditors hereby waive and release the Ohio Department of Transportation, Cleveland Cold Storage, and Beautiful Signage Limited Partnership for any other liability and further waive the right to notice of any further proceedings

Defendant Buckley King LPA withdraws and waives it previously filed Answer which asserted a lien against Cleveland Cold Storage

On motion of Plaintiff to find Defendant Cleveland PCS Realty, LLC ("Cleveland PCS"), in default in this case, the Court finds that since Cleveland PCS never filed an Answer to Plaintiff's Petition and failed to file a Proof of Claim as ordered by this Court, the Court finds and orders that Cleveland PCS is in default in this case Accordingly, the Court further finds and orders that Cleveland PCS has forfeited any right to compensation in this case with regard to its lease purportedly relative to the acquired property and recorded with the Recorder as instrument 200104240272 and that any claimed lien of Cleveland PCS against the acquired property is discharged and held null and void

In view of the disclaimers of liens and interest with regard to acquired property in this case filed by the Internal Revenue Service of the United States of America ("IRS") and by Norfolk and Southern Railway Company ("N&S"), the Court finds and orders that the IRS and

N&S have each forfeited any right to compensation in this case and that any claimed lien of the IRS and/or of N&S against the acquired property is discharged and held null and void

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the costs of these proceedings be assessed against Plaintiff

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all interest earned on the initial deposit while maintained in a separate account under the Court's order of February 11, 2011, shall be paid to Defendant, Beautiful Signage Limited Partnership, outside of these proceedings, with the agreement that Beautiful Signage Limited Partnership assumes sole and full responsibility for payment of any federal, state and local income taxes on such interest

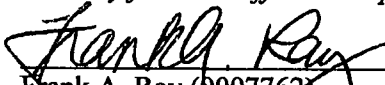
IT IS SO ORDERED

  
JUDGE LAURA J. GALLAGHER

Approved

  
Richard J. Makowski (0006892)

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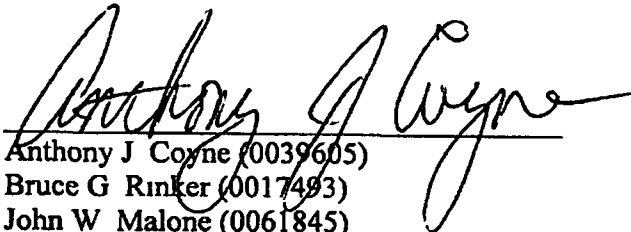
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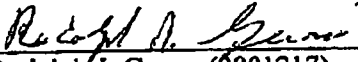
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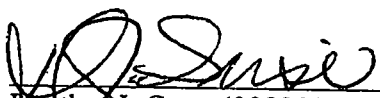
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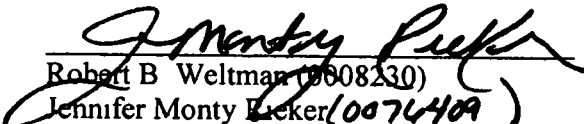


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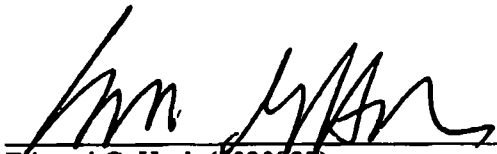
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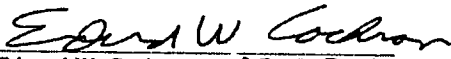
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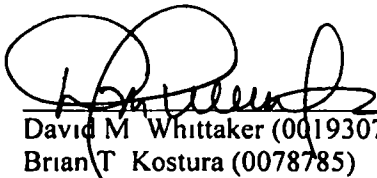
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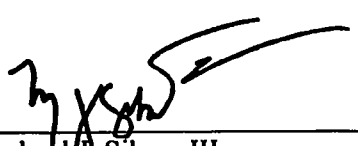
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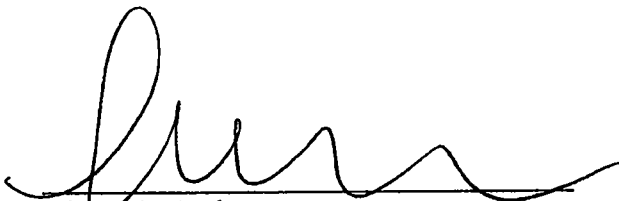
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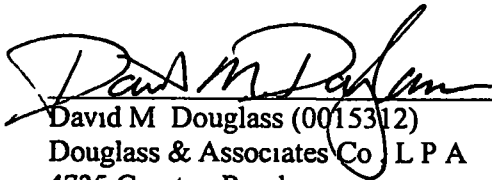
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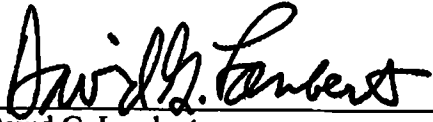
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