THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re: Whitehall Trust, et al.,[1] Debtors.	Chapter 11 Case No. 25-15241 Jointly Administered

DEBTORS' RESPONSE IN OPPOSITION TO RECEIVER'S MOTION FOR ENTRY OF ORDER ALLOWING AND DIRECTING PAYMENT OF ADMINISTRATIVE EXPENSE PURSUANT TO 11 USC 503(b)(3)(E)

The above-captioned debtors and debtors in possession (collectively, the "Debtors"), by and through their undersigned counsel, Dilworth Paxson LLP, hereby submit this Response in Opposition to Receiver's Motion for Entry of Order Allowing and Directing Payment of Administrative Expenses Pursuant to 11 UCS 503(b)(3)(E) and, in support hereof, respectfully state as follows:

BACKGROUND

1. On December 26, 2025 (the "Petition Date"), the Debtors each filed a petition for relief under Chapter 11 of title 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their property as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. As of the date of the filing of this Objection, no official committee of unsecured creditors, trustee, or examiner has been appointed or designated in these cases.

3. The Debtors consist of two Pennsylvania corporations, Whitehall Manor, Inc. and Saucon Valley Manor, Inc. (the "Manor Debtors") and two business trusts, Whitehall Trust and

[1] The Debtors in these Chapter 11 Cases are: (i) Whitehall Trust; (ii) Saucon Trust; (iii) Whitehall Manor, Inc. (5606); (iv) Saucon Valley Manor, Inc. (2894).

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Saucon Trust (the "Trust Debtors") that, together and under common management and control, operate two personal care homes in Whitehall Township, Pennsylvania and Hellertown, Pennsylvania, respectively.

The Appeal

4. Lehigh Valley I, LLC ("Lehigh") initiated foreclosure actions against the Debtor Trusts in the Eastern District of Pennsylvania.[2]

5. On May 2, 2025, the District Court appointed Erin Duffy as Receiver (hereinafter "Receiver") pursuant to Lehigh's request.

6. The May 2nd Receiver Order ("Order") was interlocutory and not final. The Debtors believe that the Order granted significantly broader powers to the Receiver, exceeding the limited receivership role (rent collection) contemplated by the security agreements entered between the parties. Through the Order, the Receiver sought to collect rents and profits for Lehigh's benefit by attempting to obtain control over the Manor Debtors' operations over their objection.[3]

7. The Manor Debtors are non-parties to the foreclosure action. Of import, the Manor Debtors are regulated healthcare facilities. As such, the Debtor Trusts appealed the Order to the Third Circuit Court of Appeals, case no. 25-1899 (the "Appeal"). The Appeal was

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[2] Windstream Capital LLC (a venture capital and private equity firm) purchased the Trust Debtors' loans in a private auction from the Housing of Urban Development ("HUD"). Whitehall's $12.5 million loan was purchased for $2.77 million and Saucon's $16.24 million loan was purchased for $3.35 million. Windstream assigned its loans its affiliate, Lehigh. On May 14, 2024, Lehigh entered a Collateral Assignment with Northeast Bank. As security for a loan, Lehigh pledged the Trust Debtors' mortgages, notes, security agreements, and other documents as collateral.

[3] Receiver timeslips show that Ms. Duffy was involved in the drafting of the Receiver Order. See Receiver Ex. "G" pg 4.

scheduled to be heard on or about March 5, 2026. However, the Appeal was stayed by the bankruptcy filing.

Receiver Claims

8. The Receiver claims that she and her law firm incurred $274,522.55 in fees and $29,716.73 in costs subsequent to entry of the Order because the Debtors resisted her efforts to collect rents and control the Debtors' operations and diverted funds.[4] Neither assertion is accurate.
9. The Receiver provides no support for her allegation that any funds were diverted or of any self-dealing. Indeed, the only payments being made to insiders were salary to the Debtors' administrators for services provided. The Debtors were not even paying their insider management company for shared services or out of pocket expenses, directing all revenues to their operations and care of their residents.
10. Prior to the Petition Date (December 26, 2025), the Receiver collected no pre-petition property on behalf of any Debtor.
11. The Receiver speculates in her Motion that her actions benefited the estate because she would have recovered $7,000,000 from the manors despite the fact that none of the Debtors had $7,000,000 at any time subsequent to the entry of the Order. As the third-party audits, weekly budgets, bank statements, Bankruptcy Schedules and Statements, pleadings, and testimony show, the collected rents are used to operate the Manors and to maintain the Debtors' properties. While, prior to the COVID pandemic, the Debtors

[4] Debtors' businesses were negatively impacted by Covid; all funds were spent guaranteeing the safety and wellbeing of residents and payment of staff; the Manor Debtors were not parties to the litigation; Debtors did cooperate; and Manor Debtors' regulatory compliance was paramount.

operated at a profit, since the losses suffered as a result of the pandemic, the Debtors have been steadfastly focused on restructuring their operations so that they may recover from those losses and again become profitable.

12. The Receiver collected nothing pre-petition because there was nothing to collect.

13. The Receiver performed no services that preserved or benefited the estates and the entire pleading is an admission that any fees and costs incurred do not satisfy the requirements of or warrant administrative status.

LEGAL ARGUMENT

14. Section 543(c)(2) permits the award of **reasonable** compensation "for services rendered and costs and expenses incurred" by receiver. 11 USC 543(c)(2) (emphasis added).

15. Compensation awarded may then be elevated to administrative expense status under Section 503(b)(3)(E), which provides, in pertinent part:

> After notice and a hearing, there shall be allowed administrative expenses...including...(3) the actual, necessary expenses, other than compensation and reimbursement specified in paragraph (4) of this subsection, incurred by – (E) a custodian superseded under section 543 of this title, and compensation for the services of such custodian... 11 U.S.C. § 503(b)(3)(E).

16. Paralleling the foregoing, Section 503(b)(4) likewise provides that the receiver's attorneys and accountants may be allowed an administrative expense for reasonable compensation for their services to the estate. 11 U.S.C. § 503(b)(4).

17. "A party seeking payment of costs and fees as an administrative expense must ... carry the heavy burden of demonstrating that the costs and fees for which it seeks payment provided an actual benefit to the estate and that such costs and expenses were necessary to preserve the value of the estate assets." *In re O'Brien Env't Energy, Inc.,* 181 F.3d 527, 533 (3d Cir. 1999) (internal citation omitted). Compensation is only appropriate "so far

as his services, or services procured by him, tend to the preservation or benefit of the estate." *Randolph v. Scruggs*, 190 U.S. 533, 538 (1903).

18. Here, Receiver has not met her burden to establish an administrative claim. She admits that her actions provided no preservation or benefit to the estate and simply surmises that she could have provided a benefit but for the Debtors' lack of cooperation while the Order was pending appeal. The Receiver provides no detailed information or analysis with respect to the work for which she expects to receive compensation and what, if any, benefit the estate received from those services.

19. The Receiver claims that she would have recovered $7,000,000 from the manors, but provides no support or basis for this assertion.

20. The Receiver knew Debtors had no funds outside operating expenses. Consultations occurred with her bankruptcy department and a bankruptcy analysis was performed. *See*, e.g. Exhibit "G" p 6-7, 5/28/25 and 5/29/25 entries. Mr. Messinger conducted research related to the "ability to have lender pay receiver outstanding invoices when insufficient resources from proceeds of operation of property." *See* Exhibit "G" p 31, 10/29/25 and 10/30/25 entries.

21. Timeslips also show that there was no plan as to how the Receiver would operate the manors. The Receiver provides no explanation as to how she would pay herself first but nevertheless continue to operate the manors in compliance with state regulations when the Debtors were not even able to pay their own management company for actual services provided. The first note relating to being appointed to operate a nursing home is August 6th. *See* Exhibit "G" p17. On August 8th, a redacted note refers to "operation of facilities". [5] *See* Exhibit "G" p17. Months later, in November, inquiries are made to a potential

[5] It is not clear why this entry is redacted. Debtors request a privilege log.

property manager. *See* Exhibit “G” p. 33-34, entries 11/12 (multiple) and 11/17. The Receiver provides no information whether the proposed property manager is qualified as an operator of personal care homes under state law. Moreover, the Receiver provides no information as to how she intended to pay for the significant administrative and maintenance services currently being provided by the affiliated management company below cost and/or without compensation.

22. Essentially, the Receiver makes the creative suggestion that the benefit and reasonableness of her actions should be judged prospectively and based on an assumed, rather than any actual, benefit to the estate; i.e. that if a potential future benefit to the estate can reasonably be assumed, whether realized or not, then the fees incurred toward that effort should be allowed as a priority administrative expense payable by the estate. To the contrary, the Bankruptcy Code requires that the Receiver establish an actual and necessary benefit to the estate in order to be compensated on an administrative basis.

23. As of the Petition Date, the Receiver had not recovered anything for the benefit of the estate and had not resolved any issues with creditors.

24. Instead, the Receiver’s proof of a benefit is limited to discovery disputes and bald allegations that the Debtors’ were not cooperating and were self-dealing and diverting funds. Receiver cites no authority that would allow an administrative claim based on assertions that a benefit could not be provided to the estate because of Debtor’s pre-petition failure to cooperate while the Order was on appeal.

25. Moreover, the record in these cases belies the Receiver’s claims regarding her assumed ability to recover $7 million or otherwise benefit the estate.

26. On January 14, 2026, the Debtors appeared for the Initial Debtor Interview (“IDI”), having provided voluminous financial records to the Office of the United States Trustee,

including tax returns for the businesses and the Atiyehs personally, bank statements, operating reports, and insurance.

27. The Debtors have timely filed their December and January monthly operating reports. [DI 111-114, 213-217]

28. The Debtors timely filed their Schedules and Statements [223-227]. The 341 is scheduled to be held on March 6, 2026.

29. The Debtors have provided voluminous financial data to Lehigh over the course of these cases.

30. None of this data in any way suggests that funds have been diverted from the estates to the Atiyeh family, especially to the extent baldly alleged by the Receiver.

31. Throughout the bankruptcy process (and during the foreclosure) Lehigh received voluminous financial records, including rent rolls, HUD documents, operating reports, tax returns, intercompany transfers, and weekly operating reports. Lehigh has not demonstrated that the Atiyehs diverted funds for any self-interest or for the "sole purpose" of diverting money from the estate to be managed by the Receiver. Instead, the financials support Debtors' contention that the manors simply did not have the funds following the COVID pandemic and are not even paying many of the Debtors' obligations to insiders since then.

32. On February 24, 2026, the court-appointed ombudsman provided the Court with a favorable report about the condition of the Manors. Prior to the court appointing the ombudsman, the Manors were routinely inspected by the state ombudsman. The Manors' Certificates of Compliance are current. The conditions of the manors support Debtors' position that all funds are used to care for the residents.

33. Considering the Debtors' transparency with its financial information and property inspections by Ombudsman, the Receiver cannot show that her services were reasonable and necessary or provided any actual and necessary benefit to the estates. The Receiver's request for an administrative claim must be denied.

11 USC 503(b)(4)

34. The Receiver claims that the standards of 503(b)(3)(E) apply to her services instead of 503(b)(4) without citing applicable caselaw. Section 503(b)(3)(E) is focused on the expenses of a custodian, while 503(b)(4) covers the professional fees of a person aiding the administration of a bankruptcy case. Section 503(b)(4) authorizes an award of legal fees only if the requirements of section 503(b)(3) are met. Here, the Receiver's fees provided no measurable gain to the estate as discussed above. Therefore, the Receiver cannot recover any of her fees and costs under 503(b)(4). Any claim asserted by the Receiver is a general unsecured claim under the facts and circumstances of this case.

35. The Receiver's fees provided no actual benefit to the estate under section 503(b)(3)(E). Therefore, the work performed by her as well as her attorneys is not recoverable under section 503(b)(4).

36. Even if fees may be recoverable under section 503(b)(3)(E), the Receiver here has not met her burden of proof. Court looks to 11 U.S.C. § 503(b)(4) to determine if the compensation sought is "reasonable" under an assessment of a number of factors. Specifically, section 503(b)(4) states:

> (4) **reasonable** compensation for professional services rendered by an attorney or an accountant of an entity whose expense is allowable under paragraph (3) of this subsection, **based on the time, the nature, the extent, and the value of such services, and the cost of comparable services** other than in a case under this

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> title, and reimbursement for actual, necessary expenses incurred by such attorney or accountant....

11 U.S.C. § 503(b)(4).

37. The Receiver has not met her burden of proof for any of the factors. Here, other lawyers in her firm performed much of the work and acted as her legal counsel. Their work provided no value to the estates. For example, the Debtors owed outstanding property taxes. It was the Debtors' attorneys who negotiated deals with the taxing authorities not the Receiver.

38. Much of the work, as reflected in the time reports, was duplicative. For example, at least five attorneys reviewed and researched the lease amendments to determine whether the amendments could be voided/cancelled. Three attorneys were used to file a simple Motion to Compel. *See* Exhibit "G" pp 33-35. The time was duplicative, excessive and not reasonable, especially for the drafting of simple motions and reviewing leases.

39. Administrative work was being billed at an attorney rate. There are multiple entries for "data room permission" and coordinating courtesy copies. *See*, e.g. Exhibit "G" pp 12, 13, 18, 29. There are also entries related to Ms. Hawekotte's attempts to be admitted into EDPA. *See* Exhibit "G" entries 6/3/25, 6/13/25. These provided no benefit to the estate.

40. The timeslips also show the Debtors provided documents and/or the Receiver had the ability to obtain information. *See, e.g.*, Exhibit "G" p13, 7/21/25 entries referring to insurance, bank statements and "search through new documents"; p. 18, 8/8/25 review Whitehall balance sheet; issuance of third-party subpoenas to Debtors' only bank (Truist) and to sublessee Good Shephard.

41. When reviewing the reasonableness and "time, the nature, the extent, and the value", this Court should be guided by a comparable section – section 330(a). Section 330(a) states:

> **(3)** In determining the amount of reasonable compensation to be awarded …the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including--
>
> **(A)** the time spent on such services;
>
> **(B)** the rates charged for such services;
>
> **(C)** whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
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> **(D)** whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
>
> **(E)** with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
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> **(F)** whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.
>
> **(4)(A)** Except as provided in subparagraph (B), the court shall not allow compensation for--
>
> **(i)** unnecessary duplication of services; or
>
> **(ii)** services that were not--
>
> **(I)** reasonably likely to benefit the debtor's estate; or
>
> **(II)** necessary to the administration of the case.

11 U.S.C.A. § 330.

42. The Receiver has not offered sufficient support under section 330(a)(3) or 330(a)(4)(A) for the same reasons previously discussed.

43. Moreover, in this Circuit, an allowance of reasonable fees under section 330(a) for a professional, such as an attorney, is determined using the lodestar approach. *See, e.g., In re Busy Beaver Building Centers, Inc.*, 19 F.3d 833, 856 (3d Cir. 1994). The lodestar method involves the multiplication of a prevailing market hourly rate, taking into account the experience of the professional and the nature of the professional services provided, by

the number of hours reasonably expended in providing those services. *See, e.g., In re Busy Beaver Building Centers, Inc.*, 19 F.3d at 849 n.21.

44. The lodestar approach (because the statues are comparable) applies to 503(b)(4). However, no evidence was provided to make a lodestar determination other than the Court's order appointing the Receiver at her billable rate. Moreover, at least five (5) different attorneys worked on this file, including a first-year associate. However, the hourly rates for each are not provided.

45. When applying section 330(a), like section 503(b)(4), a bankruptcy court must consider the benefit achieved by the services rendered. *See, e.g., In re Engel*, 124 F.3d 567, 573 (3d Cir. 1997). The Third Circuit Court of Appeals noted that there is an "express mandate of 'benefit-to-the-estate' imposed by § 330." *Id.* at 577. The language of section 330(a)(3), requires that the services be reasonably likely to yield a benefit to the estate at the time they were provided; not that they actually do so. *See In re Mushroom Transp. Co., Inc.*, 486 B.R. 148, 164 (Bankr. E.D. Pa. 2013)(Thus, "[s]ervices reasonably likely to provide an identifiable, tangible and material benefit to the estate when rendered are compensable even if they don't actually end up providing such a benefit (as long as the services are otherwise compensable under § 330(a)).")(internal citation omitted).

46. The Receiver's services were not "reasonably likely to provide an identifiable, tangible and material benefit to the estate." The Receiver speculates that she would recover $7,000,000 from the Debtor Manors knowing full well such funds did not exist. The Receiver had the Debtors' financials and bank statements showing insufficient funds and receivables. Any receivables that did exist were necessary for the Debtors' operations.

47. Section 543(c)(2) states that the court shall "provide for the payment of *reasonable* compensation for services rendered and costs and expenses incurred by" a custodian. 11

U.S.C. § 543(c)(2). For the reasons stated above, the fees and costs incurred by the Receiver related to her legal fees were not reasonable or necessary and provided no benefit to the estate. The Receiver held no property for the estate and recovered no property for the estate. Accordingly, to the extent allowed, the asserted fees and costs should be treated as general, unsecured claims.

Post-petition fees

48. Section 543(a) of the Code provides that the commencement of a bankruptcy case supersedes a receiver's appointment and prohibits the receiver from continuing to work in that capacity. 11 U.S.C. §§ 543(a). Except as provided in Section 543(d), which is not applicable in these cases, Section 543(b) requires the receiver to immediately turn over to the trustee all estate property and account for any (including any proceeds or products) that came into her possession. 11 U.S.C. § 543(b).

49. To date, the Receiver has neither filed an accounting of property with this Court nor sought authorization to continue in any capacity post-petition.

50. Asserted fees and costs incurred post-petition are redacted. Therefore, Debtors cannot determine whether these fees were reasonable and reserves all rights.

51. The record is barren of evidence that the Receiver engaged in any post-petition activity that could be considered beneficial to the estate. [6] There are no averments that she identified, preserved and protected the assets received prepetition. Instead, the record shows that the Receiver refused to turnover post-petition property, which is not compensable.

[6] Of the approximately 50 entries, Ms. Duffy (the Receiver) is mentioned once. Therefore, it is not clear what she was doing to preserve or benefit the estate.

52. The Receiver was working with Lender to frustrate Debtors' attempts to recover estate and debtor property received post-petition.[7]

53. Receiver turned over the funds to be held in escrow only to avoid a violation of 543 and the automatic stay. Therefore, the post-petition fees must be denied. *See, e.g., In re Posadas Associates*, 127 B.R. 278 (Bankr. D. N.M. 1991) (denying administrative claim of custodian for post-petition costs where the custodian incurred costs not for complying with the turnover provisions of the Code but for resisting turnover).

54. Furthermore, a receiver's compensation will be awarded administrative priority status pursuant to Section 503 (b)(3)(E) for only those post-petition services that resulted in some benefit to the estate. *Randolph v. Scruggs,* 190 U.S. 533, 538 (1903); *In re Lake Region Operating Corp*., 238 B.R. 99, 102 (Bankr. M.D. Pa. 1999). As discussed, the record lacks evidence of any benefit to the Debtors' estates.

Lender to Compensate Receiver

55. Under the facts and circumstances of these cases, it is the Lender who should compensate the Receiver, if any compensation is due.

56. Receiver is not the agent of any party but acts for the benefit of all holding an interest in the receivership property. Here, the timeslips show that the Receiver was acting solely for the benefit of and in coordination with Lehigh.

57. Lehigh sought the Receiver with knowledge that insufficient funds existed to pay the Lender or Receiver.

[7] Debtors incorporate their pleadings related to the Motion to Release Funds as fully set forth herein. Interestingly, Lehigh claims that the rental income is not property of the estate or debtors because of constructive possession. If true (which it is not) then this is further proof that all the work performed by the Receiver was not for the benefit or preservation of the estates.

58. Accordingly, Lehigh must compensate the Receiver. *See e.g. U.S. Bank Nat'l Ass'n v. Anderson Hill Cap., LLC*, 231 A.D.3d 765 (2024); *Baldwin v. Baldwin*, 82 Cal. App. 2d 851, 856 (1947) ("Courts generally are vested with large discretion in determining who shall pay the costs and fees of receiverships. The court may assess the cost of the receivership against the fund or property in receivership or against the applicant for the receivership, or it may apportion them among the parties, depending on the circumstances.").

Conclusion

For the foregoing reasons, the Receiver's motion for entry of an order allowing and directing payment of an administrative claim must be denied. To the extent that the Receiver incurred fees and costs following the entry of the Order, there is no evidence that such fees and costs provided any actual or necessary benefit to the Debtors' bankruptcy estates. Accordingly, the Receiver has failed to meet her burden to establish an entitlement to an administrative claim and any fees or costs incurred by the Receiver are, at best, a general unsecured claim in these cases.

Dated: March 4, 2026
Philadelphia, Pennsylvania

/s/ Michelle Lee

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THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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ORDER

Upon consideration of the Receiver's Motion for Entry of Order Allowing and Directing Payment of Administrative Expense Pursuant to 11 USC 503(b)(3)(E) and Debtors' Response in Opposition thereto, it is hereby ORDERED that the Motion is DENIED.

Dated: ______________________________
Honorable Patricia Mayer

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