The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below.





United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF OHIO EASTERN DIVISION

IN RE:) CHAPTER 11
TWIN CITY HOSPITAL,) CASE NO. 10-64360
Debtor.) ADV. NO. 10-6130
THE COMMERCIAL AND SAVINGS BANK,)) JUDGE RUSS KENDIG)
Plaintiff,	
V.) MEMORANDUM OF OPINION) (NOT INTENDED FOR
WELLS FARGO BANK) PUBLICATION)
NATIONAL ASSOCIATION, AS)
INDENTURE TRUSTEE,))
Defendant.)

On Defendant's motion for summary judgment, the parties seek a determination of who holds a senior security interest in Debtor's accounts receivable. Because of an error by the Ohio Secretary of State, the financing statement filed by Defendant was not properly indexed. Thereafter, but before the error was recognized, Plaintiff filed a financing statement claiming an interest in the receivables. The state agency later issued a corrective entry. As a result of the filings, both parties assert they hold the first lien in the accounts receivable.

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The court has jurisdiction of this matter pursuant to 28 U.S.C. §§ 1334 and the general order of reference entered in this district on July 16, 1984. Venue in this district and division is proper pursuant to 28 U.S.C. § 1409. This is a core proceeding under 28 U.S.C. § 157(b)(2)(K). The following constitutes the court's findings of fact and conclusions of law pursuant to Federal Rule of Bankruptcy Procedure 7052.

This opinion is not intended for publication or citation. The availability of this opinion, in electronic or printed form, is not the result of a direct submission by the court.

FACTS

The parties have stipulated to the following facts:

- 1. Twin City Hospital (the "<u>Debtor</u>") owns certain land in Dennison, Ohio, upon which it operates an acute care critical access hospital facility (the "<u>Hospital</u>").
- 2. On September 20, 2007, U.S. Bank, N.A., predecessor in interest to the Indenture Trustee, properly filed a Uniform Commercial Code (hereinafter "<u>UCC</u>") financing statement with the Ohio Secretary of State evidencing it as a secured party in regard to substantially all of the Debtor's personal property including, but not limited to, the Debtor's accounts receivable (the "<u>Personal Property UCC</u>"). A true and accurate copy of the Personal Property UCC is attached hereto as Exhibit 1. The Personal Property UCC was stamped "Received" by the Secretary of State on September 20, 2007 at 3:58 p.m. The Secretary of State failed to index and image the Personal Property UCC correctly at the time it was filed.
- 3. On September 20, 2007, U.S. Bank, N.A. filed a second UCC financing statement with the Ohio Secretary of State, which was stamped "Received" by the Secretary of State on September 20, 2007 at 3:57 p.m., evidencing it as a secured party in regard to the Debtor's fixtures located at the hospital (the "Fixture UCC"). A true and accurate copy of the Fixture UCC is attached hereto as Exhibit 2. The Fixture UCC was properly indexed and imaged and was assigned a document identification of 200726402778 and an index of OH00119401517. The Ohio Secretary of State imaged and indexed the Fixture UCC twice, which was assigned a document identification of 200726402778 and an index of OH00119401517. The Ohio Secretary of State imaged and indexed the Fixture UCC twice, which was assigned a document identification of 200726402780 and an index of OH00119401840 (the "Duplicate UCC"). A true and accurate copy of the Duplicate UCC is attached hereto as Exhibit 3.
- 4. On December 16, 2009, the Plaintiff filed a UCC financing statement with the Ohio Secretary of State evidencing it as a secured party in regards to

the Debtor's accounts (the "<u>Plaintiff UCC</u>"). A true and accurate copy of the Plaintiff UCC is attached hereto as Exhibit 4. The Plaintiff UCC was properly indexed and imaged and was assigned a document identification of 200935034440 and an index of "OH00139076176."

- 5. Unbeknown to U.S. Bank, prior to filing the Plaintiff UCC, the Plaintiff conducted a search of the financing statements filed with the Ohio Secretary of State's Office. Such search revealed the Fixture UCC and the Duplicate UCC, but did not reveal the Personal Property UCC.
- 6. Subsequent to conversations with, and information provided to, the Ohio Secretary of State's filing office by the Plaintiff and Defendant, on November 5, 2010, the Ohio Secretary of State's filing office made a corrective filing when it filed an Administrative Action Statement, properly imaging and indexing the Personal Property UCC, stating that the incorrect image of the Personal Property UCC was scanned and incorrectly indexed (the "<u>Corrective Action Personal Property UCC</u>"). A true and accurate copy of the Corrective Action Personal Property UCC is attached hereto as Exhibit 5. The Corrective Action Personal Property UCC was assigned a document identification of 200726402780 and an index of "OH00119401840."
- 7. A review of the Ohio UCC filings on and after November 5, 2010 no longer shows the image of the Duplicate UCC, but rather the original Personal Property UCC filed on September 20, 2007 is now properly imaged at document identification #200726402780 and properly indexed at "OH00119401840."

LAW AND ANALYSIS

Federal Rule of Civil Procedure 56, adopted into bankruptcy practice by Federal Rule of Bankruptcy Procedure 7056, outlines the basis for summary relief:

The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

Since the facts are not in dispute, Defendant must demonstrate the law is in its favor.

The issue is who is to suffer from a mistake made by the filing office? Defendant argues

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in favor of a determination that advances a benchmark of UCC practice: "first in time, first in right." Under Defendant's view, it submitted the Personal Property UCC and it bears no responsibility for the filing/indexing failure. Plaintiff argues that notice is a hallmark of priority. Since it was impossible, because of the error, to obtain notice of an existing security interest, that interest should not now be given priority over Plaintiff's interest. The court finds the weight of the law supports Defendant.

In its motion, Defendant partially relies on Ohio Revised Code § 1309.517, which adopts UCC 9-517, and provides "[t]he failure of the filing office to index a record correctly does not affect the effectiveness of the filed record." The UCC official comment on § 9-517 states "[t]his section provides that the filing office's error in mis-indexing a record does not render ineffective an otherwise effective record. [T]his section imposes the risk of filing-office error on those who search the files rather than on those who file."

Although the Personal Property UCC was not assigned a document identification or file number on September 20, 2007, it still constituted a filed record under O.R.C. § 1309.516(A). Under this provision, "communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing." This finding is reinforced by the agency's corrective action issued on November 5, 2010 which "back-dated" the filing to September 20, 2007. There is no dispute that the document is deemed filed as of September 20, 2007.

Notably, the reason identified for the corrective action was that the "incorrect image for The Twin City Hospital Corporation was incorrectly indexed and scanned." This undisputed admission, directly from the filing office, puts this matter squarely under O.R.C. 1309.516(A). There is no evidence that Defendant is at fault.

If the first to file errs in a manner that causes another party to miss a financing statement, courts tend to direct the fallout on the filer. *See* Official Comm. of Unsecured Creditors v. Regions Bank (In re Camtech Precision Mfg., Inc.), 443 B.R. 190 (Bankr. S.D. Fla. 2011) (citing McMillin v. First Nat'l Bank & Trust Co. (In re Fowler), 407 F.Supp. 799, 803 (W.D. Okla. 1975), In re Vaughan, 1967 WL 8935 (Bankr. W.D. Mich. 1967)). There is no evidence that defendant erred in any manner, thus this exception is not applicable.

Since the Personal Property UCC has a filing date of September 20, 2007, it precedes the filing of respondent's financing statement. When there is a conflict between perfected security interests, the Ohio Revised Code, through its incorporation of UCC 9-322, advises that the liens must be "rank[ed] according to priority in time of filing or perfection." O.R.C. 1309.322(A)(1). Defendant was first to file and therefore holds the senior interest in the accounts receivable.

An order granting the motion shall be entered immediately.

#

Service List:

Frank J Rose, Jr Box 1014 140 Fair Ave NW New Philadelphia, OH 44663

Paul B Hervey Fitzpatrick, Zimmerman & Rose Co., L.P.A 116 Cleveland Ave. NW, Suite 802 Canton, OH 44702

Adrienne K. Walker Daniel S. Bleck Mintz, Levin, Cohn, Ferris, Glovsky One Financial Center Boston, MA 02111

Sherri Lynn Dahl Squire, Sanders & Dempsey (US) LLP 4900 Key Tower 127 Public Square Cleveland, OH 44114

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FILING OFFICE COPY - NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)



Rev 05/22/02

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10-06130-rk Doc 21 FILED 04/22/11 ENTERED 04/22/11 10:32:37 Page 8 of 24

UCC-1 With The Twin City Hospital Corporation, as Debtor And U.S. Bank National Association As Secured Party

All present and future Gross Receipts, being all cash and other receipts, present and future accounts, receivables, contracts and contract rights (including particularly contracts, agreements, contract rights and agreement rights, particularly those between any member of the Obligated Group and the State of Ohio with respect to Medicaid, any member of the Obligated Group and third-party insurers of patients of any members of the Obligated Group and any member of the Obligated Group and the United States of America with respect to Medicare, and all other equivalent insurance programs, or any state or federal program substituted in lieu thereof), general intangibles, documents and instruments, which are now owned or hereafter acquired by the Obligated Group, and all proceeds therefrom, whether cash or noncash, derived by the Obligated Group from the conduct of all or any part of its operations, and all revenue and income of the Obligated Group from whatever source derived, including not only that derived by the Obligated Group from the Existing Facilities but also from any and all facilities hereafter acquired, leased or used by the Obligated Group, income from and the principal of investments, leases and income received from leases, and grants received by the Obligated Group from any source and excluding only (i) grants, gifts, bequests, contributions and other donations, to the extent specifically restricted by the donor or grantor to a special object or purpose so as to preclude use thereof for payment of principal or interest on the Notes, (ii) the proceeds of any borrowing or any funds held in trust by a trustee as security for such borrowing, (iii) revenues, income, receipts and money received by a member of the Obligated Group as agent for and on behalf of a Person other than a member of the Obligated Group, and (iv) any Property that is the subject of a lien or encumbrance permitted by the Indenture or that has been conveyed or otherwise disposed of as permitted by the Indenture.

All moneys and securities from time to time held by the Trustee under the terms of the Indenture and any and all real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred, as and for additional security under the Indenture by the Debtor, or by anyone on its behalf or with its written consent, subject, in all events, to Permitted Encumbrances.

All capitalized terms used in the preceding paragraphs shall be interpreted as defined in the Master Trust Indenture dated as of September 1, 2007, between The Twin City Hospital Corporation, as the Debtor, and U.S. Bank National Association as the Secured Party, as previously supplemented and amended and as supplemented and amended from time to time.

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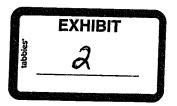
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EXHIBIT "A"

DESCRIPTION OF A 10.764 ACRE TRACT THE TWIN CITY HOSPITAL COREORATION

Situated in the Village of Dennison, County of Tuscarawas and State of Ohio.

Diffuence in the Village of Dennison, Crowny or Inscaraway and State of Olio. Being all of Lots 1281 through 1292 (known as Tax Parcel Nos. 42-00149,000, 42-00186,000, 42-00941,000, 42-01577,000, 42-01217,000, 42-01216,000 and 42-01215,000 and Outloi 11 (3) (known as Tax Parcel No. 42-01571,000) of Wilson & Huston Addition as recorded in Flat Book 1-B, Page 26 of the Tuscarawas County Plat Records, all of a vacated alley (Ordinance No. 2327) as recorded in Volume 1264, Page 1065 of the Official Records of Tuscarawas County, and being all of tracts of land conveyed to The Twin City Hospital Corporation by deeds in Volume 1136, Page 625, Volume 1189, Page 2413 and Volume 1209, Page 2561 of the Official Records of Tuscarawas County, and Volume 570, Page 590, 901, 902 and 905 of the Tuscarawas County Deed Records; and being part of Lot 4 of the Spencer Tract in the First Quarter of Township 7, Range 1 being all of tracts of land conveyed to Tisc Twin City Hospital Corporation by deeds in Volume 570, Page 997 (remainder of 3-3/4 acres - known as Tax Parcel No. 42-0057,000), Volume 570, Page 902 (1.55 acres - known as Tax Parcel No. 42-01214 000), Volume 570, Page 905 (L-14 acres - known as Tax Parcel No. 42-01576000), Volume 570, Page 905 (L-14 acres - known as Tax Parcel No. 42-01576000), Volume 570, Page 905 (L-14 acres - known as Tax Parcel No. 42-01576000), Volume 70, Page 905 (L-14 acres - known as Tax Parcel No. 42-01578,000), and Volume 138 acres, 5225 acres, 6145 acres, 6341 acres and vacated aliey - known as Tax Parcel No. 42-0178,000) and Volume 102, Page 530 (Jr211 ucres - known as Tax Parcel No. 42-001376,000) of the Official Records of Tuscarawas County and being more fully described as follows: Baoinging at an inve pin found at the intersection of the acre line of Uniter Start and

Beginning at an iron pin found at the intersection of the north line of Wilson Street and est line of First Street, said point being the southeast corner of Lot 1281 and being the

the west line of First Street, sud point being inte studies to that of the first state state TRUE PLACE OF BEGINNING for the parcel herein described: Thence with the east line of Lots 1281 through 1286, said 1.14 acres tract and 4.36 acre tracts, and the west line of First Street, North 03 deg. 05 min, 22 sec. East, 440.54 feot to a point in Fuhr Street and passing on line an iron pin found at 410.37 feet; Unever with Fuhr Street and the north line of said 4.36 acre tract, North 88 deg. 54 roln.

11ence winn runt street min the norm me of and 4.56 acts that, Fold to dege 4 tonin 47 sec. West, 202.47 feet to a point; Thence leaving said street, with the east line of said 1.38 acts tract and 0.1721 sere tract and with the west line of a 0.14 ares tract conveyed to Donald E. & Holen J. Wright (DR 439. 140), North 14 deg. 33 min. 20 sec. West, 142 74 feet to an iron pin found and passing on line an

1403, North 19 acg. 33 rain. 20 sec. West, 142 /9 teet to an iron put found and passing on line and iron pin found at 31.00 feet; Thence continuing with the cast line of said 0.1721 acre tract. North 36 deg. 17 min. 36 sec. East, 9.67 feet to an iron pin found; Thence continuing with the east line of said 0.1721 acre tract and the center of said vacated alley. North 14 deg. 33 min. 20 sec. West, 292.12 feet to an iron pin set in the porth line of cold water. A allow

of said vacated alley;

or suig vecated nitey; Thenee with taid north lite, South 76 deg. 23 min. 40 sec. West, 7.50 feet to an iron pin set in the east line of said 1.38 acre tract; Thance with the east line of said 1.38 acre tract, North 14 deg. 33 min. 20 sec. West, 22,50 feet to a point in McKes Road (Township Road 287); Thenee with said toad and the north line of said 1.38 acre tract, South 76 deg. 58 min. 26 West, 13:00 feet to a point.

There with said found use motor into 0 state 1.35 size case, rest for the point (34, 53, 50, 56 sto a point; Thence continuing with said road and with the north line of said 6561 acre tract, North 88 deg. 05 min, 13 sec. West, 138,45 fors to a point; There a leaving said road and with the west line of said .6561 acre tract the following four

(4) courses:

(4) courses:

South 09 deg. 51 min. 47 sec. West, 30.00 feet to an iron pin set;
North 80 deg. 08 min. 13 sec. West, 70,30 feet to an iron pin set;
South 29 deg. 28 min. 13 sec. East, 90.00 feet to an iron pin set;
South 24 deg. 31 min. 47 sec. West, 55.00 feet to a point in Wilson Street

Extension and the east line of said 3-3/4 sece tract, and passing on line at iron pin set at 35.00 feet

Thence with said road and east line, North 29 deg. 28 min. 13 sec. West, 132.89 livet to a point, said point being the southeast comer of a .38 acre tract conveyed to Johanne Jones, John A. Rogers and Edith A. Lawver (DR 676-466);

Thenes leaving said road and with the south line of said 0.58 sere tract, South 30 deg. 39 min. 17 sec. West, 17.20 feet to an iron pin set:

Thence continuing with soid south line. South 51 deg. 39 min. 17 sec. West, 222.20 feet

Thence continuing with said south line. South 51 deg. 39 min. 17 soc. West, 222.20 feet to an iron pin set;
Thence continuing South 88 deg. 43 min. 27 sec. West, 94.79 feet to a point in Little Thence continuing South 88 deg. 43 min. 27 sec. West, 94.79 feet to a point in Little Stillwater Creek and the north line of Park View Addition (Plan Book 7, Page 90);
South 34 deg. 09 min. 39 soc. Test, 43.42 feet to a point;
South 59 deg. 12 min. 64 soc. Test, 43.42 feet to a point;
South 59 deg. 12 min. 64 soc. Test, 47.47 feet to an iron pin found;
South 29 deg. 20 min. 79 soc. Test, 47.47 feet to a point;
South 29 deg. 20 min. 60 sec. Test, 47.47 feet to a point;
South 24 deg. 51 min. 57 sec. Test, 47.47 feet to a point;
South 24 deg. 21 min. 49 sec. Test, 42.19 feet to a point;
South 52 deg. 22 min. 26 sec. Test, 47.41 feet to a point;
South 54 deg. 53 min. 31 sec. Test, 42.19 feet to a point;
South 64 deg. 53 min. 31 sec. Test, 47.47 feet to a point;
South 64 deg. 53 min. 31 sec. Test, 47.45 feet to a point;
South 32 deg. 22 min.26 sec. Test, 47.31 feet to a point;
South 32 deg. 22 min.26 sec. Test, 47.31 feet to a point;
South 32 deg. 22 min.26 sec. Test, 47.31 feet to a point;
South 32 deg. 49 with, 54 sec. Test, 47.31 feet to a point;
South 32 deg. 49 with, 54 sec. Test, 47.31 feet to a point;
South 32 deg. 49 with, 54 sec. Test, 47.31 feet to a a point;
South 32 deg. 49 with, 54 sec. Test, 47.31 feet to a a sol wert were the conveyed to the critical work were the orth line of sol 1.55 sero tract, south 38 deg. 15 sec. Test, 47.31 feet to a and sol wert line, and the west line of wills on & the work line of sol 1.55 sero tract. West, 148.50 feet to a point in add creck;
Thence continuing with tesid were line of sol 14.50 acre tract and sol wert line, and the west line of Wilson & Huston Addition, South 21 deg. 43 min. 04 sec.

point in said creck; Thence continuing with said west line and said ereck, South 31 deg. 46 min. 56 sec. East,

Thence continuing with said west line and said ereck. South 31 062, 40 min. 30 sec. Eds., 46 20 feet to a point;
Thence continuing with said creck and with the south line of Wilson & Huston Addition, South 75 deg. 03 min. 28 sec. East, 135.14 feet to a point;
Thence continuing with said creck and with the south line of Wilson & Huston Addition, South 75 deg. 03 min. 28 sec. East, 135.14 feet to a point;
Thence continuing with said south line. South 89 deg. 01 min. 56 sec. Past, 381.02 feet to the PLACE OF BEGINVING and containing 10.764 acres of land, more or lass, of which Lots 1281 through 1286 aach contain 0.072 acre, Lot 1287 contains 0.082 acre, Lot 1282 contains 0.040 acre and Outlot 11 (3) contains 0.084 acre, 0.086 mere is all of the socied alley (Ordinance No. 2227); 1.813 acres is all of the remainder of the 3-34 acre inset.
1.050 acres is all of the 1.155 acre tract, 1.618 acres is all of the remainder of the 1.38 acre tract, 0.625 arcs is all of the 1.152 erre tract, 0.617 is all of the 6145 arcs tract, 0.656 is all of the .624 arcs is 0.044 acre is all of the interminder of the 1.38 acre tract, 0.654 arcs tract, 0.044 acre is all of the interminder of the 1.38 acre tract, 0.654 arcs tract, 0.044 acre is all of the interminder of the 1.721 acre tract, 0.044 acre is all of the interminder of the .172 arcs is all of the interminder of the .172 arcs is all of the interminder of the interminder of the .1721 acre intert, 0.544 acre intert, 0.5456 is all of the interminder of the .1721 acre intert is all of the interminder of the .1721 acre intert is all of the interminder of all of the .1721 acre intert is all of the interminder of the .1721 acre intert is all of the interminder of the .1721 acre intert is all of the interminder of the .1721 acre intert is all of the interminder of the .1721 acre intert is all of the interminder of the acre intert acre. an assumed north.

Survey and description prepared by James H. Marsh, Registered Surveyor No. 7156 on July 31, 2007, revised August 17, 2007.

LULAS Marsh Registered S ed Surveyor No. 7155 James H

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EXHIBIT "A"

DESCRIPTION OF A 10.764 ACRE TRACT THE TWIN CITY HOSPITAL CORBORATION

Situated in the Village of Denuison, County of Tuscarawas and State of Ohio.

Situated in the Vurlage of Demission, County of Luscrawas and State of Unio. Being all of Lots 1281 through 1292 (known as Tax Parcel Nos, 42-00149,000, 42-00185,000, 42-00941,000, 42-01577,000, 42-01217,000, 42-01216,000 and 42-01215,000) and Outlot 11 (3) (known as Tax Parcel No. 42-01579,000) of Wilson & Huston Addition as freeroted in Plat Book 1-28, Page 26 of the Turcerawas County Plat Records, all of a vascated allay (Ordinance No. 2327) as recorded in Volume 1264, Page 1065 of the Official Records of Turcerawas County, and being all of tracts of land conveyed in The Twin City Hospital Corporation by deeds in Volume 136, Page 625, Volume 1189, Page 2413 and Volume 1209, Page 2561 of the Official Records of Turcarawas County, and Volume 570, Pages 900, 901, 902 and 905 of the Turcerawas County, and Heing part of Lot 4 of the Spencer Tract in the First Quarter of Township 7, Range 1 being all of tracts of land conveyed to Tas Twin City Hospital Corporation by deeds in Volume 570, Page 902 (155 acres - known as Tax Parcel No. 42-01214 000), Volume 570, Page 903 (ternainder of 4.36 acres - known as Tax Parcel No. 42-01576.000), Volume 570, Page 902 (1.14 acres - known as Tax Parcel No. 42-01576.000), Volume 570, Page 903 (ternainder of 4.36 acres - known as Tax Parcel No. 42-01576.000), Volume 570, Page 905 (1.14 acres - known as Tax Parcel No. 42-01576.000), Volume 570, Page 905 (1.14 acres - known as Tax Parcel No. 42-01576.000), Volume 570, Page 905 (1.14 acres - known as Tax Parcel No. 42-01576.000), Volume 570, Page 905 (1.14 acres - known as Tax Parcel No. 42-01576.000), Volume 570, Page 905 (1.14 acres - known as Tax Parcel No. 42-01576.000) and Volume 570, Page 907 (ternainder of 1.33 acres - known as Tax Parcel No. 42-01576.000) acres and Tax Parcel No. 42-01578.000) and Parce Parcel No. 42-01578.0000 acres and Volume 570, Page 905 (1.14 acres - known as Tax Parcel No. 42-01578.000) and Volume 570, Page 907 (ternainder of 1.33 acres - known as Tax Parcel No. 42-01578.000) acres Parce Parc

Beginning at an iron pin found at the intersection of the north line of Wilson Sireet and the west line of First Sireet, said point being line southteast corner of Lot 1281 and being the TRUE PLACE OF BEGINNING for the parcel barein described: Thence with the cust line of Lots 1281 through 1286, said 1.14 mers tract and 4.36 acre tracts, and the west line of First Sired, North 13 deg. 05 rain, 22 sec. East, 440.54 fest to a point in Fuhr Street and passing on line an iron pin found at 410.37 feet; Thence with Fuhr Street and the corth line of said 4.36 acre tract, North 88 deg. 54 min. 47 sec. West. 2024 7 feet to a noint

Thence with Fuhr Street and the north time of said 4.36 acre tract, North 83 ccg. 54 Juin. 47 sec. West, 202.47 feet to a point Thence leaving soid street, with the east line of said 1.38 acre tract and 0.1721 acre tract and with the west line of a 0.14 acre tract conveyed to Doneid E. & Helen J. Wright (DR 439-140), North 14 deg. 33 min, 20 Sec. West, 142.74 feet to an Iron pin found and passing on line an

raup, route re use ... so inter to access the second secon

sec. Bast, 0.67 feet to an from pin found; Thenese continuing with the cast the of said 0.1721 acts tract and the center of said vacaled alley, North 14 deg. 33 thin. 20 sec. West, 292.12 feet to an iron pin set in the north line

vicelie of alley, to introduce of the section of section of the

West, 139.00 feet to a point; Thence continuing with said road and with the north line of said .6561 acre tract, North 88 deg. 05 min. 13 sec. West, 138.46 feet to a point; Thence leaving said road and with the west line of said 6561 sere tract the following four

(4) courses:

(4) coursest
(1) South 09 deg. S1 min. 47 sec. West, 30,00 feet to an iron pin set;
(2) North 80 deg. 08 min. 13 sec. West, 70,30 feet to an iron pin set;
(3) South 20 deg. 28 min. 13 sec. East, 90,00 feet to an iron pin set;
(4) South 60 deg. 31 min. 47 sec. West, 55,00 feet to a point in Wilson Streat
Extension and the east line of said 3-3/4 arcs tract, and passing on line an iron pin set 35,00 feet

Thence with said road and east line, North 29 deg. 28 min. 13 sec. West, 132,89 feet to a point, said point being the southeast comet of a .58 acre tract conveyed to Johnnan Jones, John A. Rogers and Edith A. Lawver (DR 676-466); feet;



Thence leaving said road and with the south line of said 0.58 acre tract, South 30 deg. 39 min. 17 sec. West, 17.20 feet to an iron pin set; Thence continuing with said south line, South 51 deg. 39 min. 17 sec. West, 222.20 feet to be the set.

Linence continuing with said south thre, bouth 31 areg, 39 hint. 17 sec. West, 222.20 feet to an iron pin set; Thence continuing South 38 deg. 43 min. 27 sec. West, 94.79 feet to a point in Linle Stillwater Creck and the north line of Park View Addition (Plat Book 7, Page 90); Stillwater Creck and the north line of Eark View Addition (Plat Book 7, Page 90); Stillwater Creck and the north line of Eark View Addition (Plat Book 7, Page 90); Stillwater Creck and the north line the following twelve (12) courses: 1) South 34 deg. 09 min. 39 sec, East, 42.14 feet to a point; 2) South 59 deg. 12 min. 04 sec. East, 42.11 feet to a point; 3) South 34 deg. 21 min. 67 sec. East, 42.14 feet to a point; 5) South 52 deg. 22 min. 69 sec. East, 42.19 feet to a point; 6) South 52 deg. 23 min. 69 sec. East, 42.19 feet to a point; 7) South 63 deg. 16 feet; 8) South 63 deg. 16 feet; 9) South 63 deg. 10 min. 26 sec. East, 42.37 feet to a point; 9) South 63 deg. 26 min. 31 sec. Jiast, 43.53 feet to a point; 9) South 63 deg. 26 min. 31 sec. Jiast, 45.52 feet to a point; 10) South 32 deg. 22 min. 26 sec. East, 45.52 feet a point; 11) South 32 deg. 20 min. 35 sec. East, 45.52 feet to a point; 12) South 32 deg. 20 min. 26 sec. East, 45.52 feet to a point; 13) South 32 deg. 20 min. 35 sec. East, 45.52 feet to a point; 14) South 32 deg. 20 min. 36 sec. East, 45.52 feet to a point; 15) South 32 deg. 42 min. 26 sec. East, 45.52 feet to a point; 16) South 32 deg. 42 min. 36 sec. East, 45.52 feet to a point; 17) South 32 deg. 42 min. 36 sec. East, 45.51 feet to a point; 18) South 32 deg. 42 min. 36 sec. East, 45.51 feet to a point; 19) South 32 deg. 42 min. 36 sec. East, 45.52 feet to a point; 11) South 32 deg. 42 min. 36 sec. East, 45.52 feet to a point; 12) South 32 deg. 42 min. 36 sec. East, 45.52 feet to a point; 13) South 32 deg. 42 min. 36 sec. East, 45.51 feet to a so lion pin set; 14 hence continuing with line south line, the north line dual 14.50 acre tract conveyed to the City of Uniclesville and the west line of said 1.55 acre tract

East, 195,93 feet to an iron pin set; Thetee continuing with the north line of said 14.50 sere finet and sold west line, and the west line of Wilson & Huston Addition, South 21 deg. 43 min. 04 sec. West, 148.50 feet to a

point in said creek; Thence continuing with said west line and said creek, South 31 deg. 46 ndg. 56 sec. Bact, 46.20 feet to a point;

Thenes continuing with said creek and with the south line of Wilson & Huston Addition,

Thence continuing with said creck and with the south line of Wilson & Huston Addition, South 75 deg. 03 min. 28 sec. East, 135.14 feet to a boint; Thence continuing with said south line, South 89 deg. 01 min. 56 sec. East, 381.02 feet to the PLACE OF BEGINNING and containing 10.764 acces of land, more or less, of which Lots 1281 through 1286 each contain 0.072 acre, Lot 1287 contains 0.082 acre, Lot 1288 contains 0.075 acre, Lot 1289 contains 0.066 acre, Lot 1287 contains 0.082 acre, Lot 1288 contains 0.040 acre, Lot 1292 contains 0.040 acre and Outlot 11 (3) contains 0.864 acre; 0.086 acre is all of the vacated alley (Ordinance No. 2327); 1.813 acres is all of the remainder of 1.456 eacre tract, 1.050 perces is all of fue 1.55 acre tract, 1.618 acre is all of the remainder of 1.456 eacre tract, 0.625 acres is all of the 1.14 acres tract, 1.260 earce is oll of the remainder of the 1.38 acre tract, 0.625 acres is all of the 1.54 acre tract, 1.618 acre is all of the code is all of the .554 acre tract; 0.044 acro is all of the strainder of the vacated alley, and 0.172 acre is all of the .554 acre tract; 0.044 acro is all of the strainder of the vacated alley, and 0.172 acre is all of the .554 acre tract; 0.044 acro is all of the strainder of the vacated alley, and 0.172 acre is all of the .554 acre tract; but subject to all legal highways and easements of record. Bearings were oftented to an assumed north. an assumed north

Survey and description prepared by James H. Marsh, Registered Surveyor No. 7156 on July 31, 2007, revised August 17, 2007.

James H. Marsh Registered Surveyor No. 7156

UCC FINANCING STATEMENT

File Number: OH00139076176 Date Filed: 12/16/2009 04:14 PM Jennifer Brunner

Secretary of State

FILER INFORMATION

CONTACT INFORMATION FOR FILER

CONTACT EMAIL	CONTACT NAME	CONTACT PHONE	CONTACT FAX
pam.bromund@csb1.com	THE COMMERCIAL & SAVINGS BANK	330-763-2835	330-674-0148

SEND ACKNOWLEDGMENT TO:

PACKET NO 7162	CLIENT A	ACCOUNT #					
INDIVIDUAL'S LAST NAME BROMUND		FIRST NAME PAMELA		MIDDLE N LOU	AME	SUFF MRS	FIX
MAILING ADDRESS 91 N. CLAY STREET		CITY MILLERSBURG	s o	FAT H	POSTAL C 44654	ODE	COUNTRY US

FILE RECORD

FILING TYPE Initial		
FILERS UNIQUE	ALTERNATE NAME DESIGNATION DEBTOR/SECURED PARTY	ALTERNATE FILING TYPE AGRICULTURAL LIENS
ADDITIONAL INFORMAT	ION	MATURITY DATE

DEBTOR DATA

ORGANIZATION NAME THE TWIN CITY HOSPITAL CORPO	PRATION				
TYPE OF ORGANIZATION CORPORATION	JURI	SDICTION OF ORGANIZATION		ORGAN 33882	ZATION ID# (if
MAILING ADDRESS 819 N FIRST STREET		CITY DENNISON	STAT OH	E	POSTAL CODE 44621
COUNTRY US	ALTERNATE CAPAC	CITY OF DEBTOR			

SECURED PARTY DATA

ORGANIZATION NAME THE COMMERCIAL & SAVINGS BANK				
MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
91 NORTH CLAY STREET	MILLERSBURG	он	44654	US

This FINANCING STATEMENT covers the following Collateral:

All Accounts; whether any of the foregoing is owned now or acquired later; all accessions, additions, replacements, and substitutions relating

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10-06130-rk Doc 21 FILED 04/22/11 ENTERED 04/22/11 10:32:37 Page 20 of 24

to any of the foregoing; all records of any kind relating to any of the foregoing; all proceeds relating to any of the foregoing (including insurance, general intangibles and other accounts proceeds).

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UCC-1 With The Twin City Hospital Corporation, as Debtor And U.S. Bank National Association As Secured Party

All present and future Gross Receipts, being all cash and other receipts, present and future accounts, receivables, contracts and contract rights (including particularly contracts, agreements, contract rights and agreement rights, particularly those between any member of the Obligated Group and the State of Ohio with respect to Medicaid, any member of the Obligated Group and third-party insurers of patients of any members of the Obligated Group and any member of the Obligated Group and the United States of America with respect to Medicare, and all other equivalent insurance programs, or any state or federal program substituted in lieu thereof), general intangibles, documents and instruments, which are now owned or hereafter acquired by the Obligated Group, and all proceeds therefrom, whether cash or noncash, derived by the Obligated Group from the conduct of all or any part of its operations, and all revenue and income of the Obligated Group from whatever source derived, including not only that derived by the Obligated Group from the Existing Facilities but also from any and all facilities hereafter acquired, leased or used by the Obligated Group, income from and the principal of investments, leases and income received from leases, and grants received by the Obligated Group from any source and excluding only (i) grants, gifts, boquests, contributions and other donations, to the extent specifically restricted by the donor or grantor to a special object or purpose so as to preclude use thereof for payment of principal or interest on the Notes, (ii) the proceeds of any borrowing or any funds held in trust by a trustee as security for such borrowing, (iii) revenues, income, receipts and money received by a member of the Obligated Group as agent for and on behalf of a Person other than a member of the Obligated Group, and (iv) any Property that is the subject of a lien or encumbrance permitted by the Indenture or that has been conveyed or otherwise disposed of as permitted by the Indenture.

All moneys and securities from time to time held by the Trustee under the terms of the Indenture and any and all real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred, as and for additional security under the Indenture by the Debtor, or by anyone on its behalf or with its written consent, subject, in all events, to Permitted Encumbrances.

All capitalized terms used in the preceding paragraphs shall be interpreted as defined in the Master Trust Indenture dated as of September 1, 2007, between The Twin City Hospital Corporation, as the Debtor, and U.S. Bank National Association as the Secured Party, as proviously supplemented and amended and as supplemented and amended from time to time.

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FILING OFFICE ADMINISTRATIVE ACTION STATEMENT INTERNAL USE ONLY 1. Identification of the Record to which the FILING OFFICE STATEMENT relates RECORD # (DIN) 1a. 200726402780 DATE AND TIME RECORD FILED 1b. 09/20/2007 09:00 am FILE # OF FINANCE STATEMENT TO WHICH THE RECORD RELATES	
lc. OH00119401840	
 [⊕] 2. Describe the inaccuracy or mistake on the part of the filing office. The incorrect image for The Twin City incorrectly indexed and scanned. 	Hospital Corporation was
Θ 3. Describe the filing office administrative action taken as a result of inaccu	racy or mistake (including date of each action).
Reimaged the correct filing images for The	Twin City Hospital Corporation

Filing Clerk Lisa Kruse Date this FILING OFFICE ADMINISTRATIVE ACTION STATEMENT filed 11/5/2010

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