

# **Bond Case Briefs**

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## **BONDS - ARIZONA**

### **UMB Bank NA v. Harvest Gold Silica Incorporated**

**United States District Court, D. Arizona - November 16, 2023 - Slip Copy - 2023 WL 7924178**

Indenture Trustee moved for the appointment of a receiver following the default and apparent failure of a facility that remediated mine solid waste into silica-based products, which had been financed with \$22M of revenue bonds.

The District Court approved Indenture Trustee's petition for appointment of a receiver, finding that the balance of harms justified the appointment.

"The sheer disparity between money received and income, coupled with the lack of any payments and reporting transparency gives rise to at least an inference of poor management."

"The proposed receiver has stated he has no intention of liquidating the property, but instead intends to 'assess the site, determine the highest and best use for the collateral, stop any waste, and work diligently to identify a plan to maximize the value of the collateral for the benefit of the Bondholders and Trust Estate.'"

"Thus far, UMB has been unable to obtain payments on the bonds and is unable to ascertain whether the collateral is being wasted. Appointing a receiver to oversee the use of the collateral and ensure it is put to the most valuable use will serve UMB's interests."