

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BOWMAN

SOUTHWEST JUDICIAL DISTRICT

Public Service Commission

Petitioner,

vs.

Minnesota Grain, Inc.

and

Hartford Fire Insurance Company,

Respondents.

PSC Case No. GE-07-99

CIVIL NO. 07C18

BRIEF IN SUPPORT OF
MOTION FOR APPROVAL AND
ADOPTION OF REPORT AND
RECOMMENDATION OF
TRUSTEE

The Public Service Commission (Commission), as trustee of the estate of Minnesota Grain, Inc., an insolvent grain warehouse, seeks an order approving the Report and Recommendation of Trustee. The Commission has the authority to bring this motion and the Court has the power to grant the relief requested under N.D.C.C. Sections 60-04-03, 60-04-07, 60-10-04, 60-10-05, 60-10-06 and 60-10-13.

A warehouseman’s bond is required to be filed with the Commission before any license can be issued to any public warehouseman in North Dakota. N.D.C.C. §60-02-09. The bond is for the protection of holders of outstanding receipts from the North Dakota licensed facility. N.D.C.C. §60-02-09(5)(a).

The proceeds from the bond will be needed to redeem outstanding receipts issued by Minnesota Grain, Inc. N.D.C.C. §60-04-09 provides in part:

Following hearing, the court shall approve or modify the report and issue an order directing payment of the necessary bond proceeds, distribution of the trust fund, and discharge of the commission from its trust.

The credit-sale contract indemnity fund was created for the purpose of providing protection for persons selling grain to a North Dakota licensed warehouse. N.D.C.C. §60-10-02. A person is eligible to receive payments from the credit-sale contract indemnity fund if the warehouse licensed under North Dakota law to which the person sold grain becomes insolvent and has not fully compensated the person in accordance with the credit-sale contract. N.D.C.C. §60-10-04.

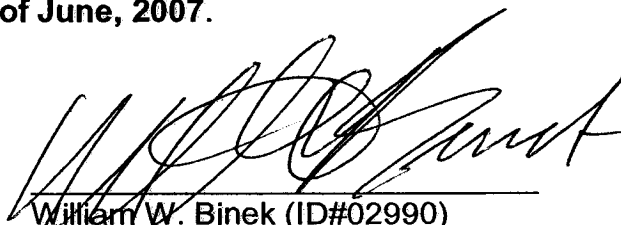
Proceeds from the credit-sale contract indemnity fund will be needed to meet the licensee's obligations to holders of credit-sale contracts. N.D.C.C. §60-10-05 provides:

Upon the insolvency of a licensed warehouse or grain buyer and a declaration that the public service commission serve as the trustee, the public service commission shall make the proceeds of the credit-sale contract indemnity fund available for use in meeting the licensee's obligations with respect to the reimbursement of any person who sold grain to the licensee under a credit-sale contract and who was not fully compensated in accordance with the contract.

Under N.D.C.C. §60-10-06, the amount payable to any eligible person from the credit-sale contract indemnity fund may not exceed the lesser of eighty percent of the amount owed to that eligible person under that person's unsatisfied credit-sale contracts or two hundred eighty thousand dollars.

Bismarck, North Dakota, this 27th day of June, 2007.

BY:



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