

IN DISTRICT COURT, WALSH COUNTY, NORTH DAKOTA

Public Service Commission,)
)
 Petitioner,)
)
 v.)
)
Grabanski Grain LLC, and)
Platte River Insurance Company,)
)
 Respondents.)

Civil No. 50-2011-CV-00029

Objection to Report and Recommendation of Trustee

This objection relates to two claims denied by the petitioner in its Report and Recommendation of Trustee (“Report”)¹. Pursuant to N.D.C.C. § 60-04-09 the holders of the denied claims state their objections as follows, and further allege there exist adequate bond proceeds to pay each claim:

A. Claim of Louie Slominski Jr.: The petitioner characterized this claim as an “invalid cash claim” because of an allegation that Slominski owed the warehouseman for drying charges. However, the petitioner had produced no documentation of, nor provided any substantiation for, this statement. Slominski maintains and reasserts his claim and asks that the Court modify the Report to include payment for this claim.

¹For sake of clarity, the Court should be informed that the undersigned has represented the two objecting claiming parties in matters related to the Grabanski bankruptcy cases, and has appeared on behalf of Grabanski Grain LLC in this proceeding. However, since Grabanski Grain LLC is under the administration of a bankruptcy trustee, the undersigned in good faith asserts that no conflict exists in lodging and preserving the objections indicated herein in this proceeding. Moreover, it is and has been the stated goal of the principal of Grabanski Grain LLC, Tom Grabanski, that all creditors receive the maximum amount possible, which is in line with the statutory purpose of Chapter 60-04.

B. Claim of Merlyn and Dolores Grabanski: The petitioner characterized this claim as an “invalid credit-sale claim.” As with the previous claim, taking the petitioner’s logic one step further, the Grabanskis find themselves having to prove a negative, prove that they were not paid for the corn they delivered to the warehouseman. Contrary to the statements of the petitioner, the Grabanskis identified to the petitioner substantial work done on behalf of the warehouseman and agreed that they lent the warehouseman money. But again, the petitioner has offered up no proof that the payments made to the Grabanskis were for corn and not for loan repayments. As such, the petitioner has insufficient bases to deny this claim.

For the foregoing reasons, the Court should modify the Report as provided in Section 60-04-09 to include payment of the foregoing claims, for which, as noted, sufficient proceeds exist for that payment.

Respectfully submitted and dated this 8th day of June, 2012.

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