

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

Public Service Commission

Plaintiff,

vs.

Mitchell Feeds, Inc. and Western Surety Company,

Respondents.

Michael Aasen, Donald Ackerson, Sheldon Ackerson, Lana Anderson d/b/a Northland Farms, B & D Farms, Inc., Busch Farms, Inc., David Deslauriers, Scott Lazorenko, Mana Farms, Inc., Nathan Neameyer, Steven Neameyer, Mitch Preskey, Paul Rohde, James Routledge, Bart Savelkoul d/b/a Savelkoul Farms, Mike Schollmeyer, David Steeves, Robert Steeves, Paul Trout, Wurgler Farms, and Kelly Wurgler,

and

American Federal Bank

Intervenors.

PSC Case No. GE-11-051

CIVIL NO. 08-2011-CV-917

NOTICE OF ENTRY OF ORDER

and

NOTICE OF ENTRY OF JUDGMENT

**To: Respondent, Mitchell Feeds, Inc., and its Attorney of Record, David L. Johnson,** McNair, Larson & Carlson, Ltd., Suite 600, Dakota Center Building, 51 Broadway, PO Box 2189, Fargo, ND 58108;

**Respondent Western Surety Company, Sharon Sergeant,** Claims Manager, 101 South Reid Street, Suite 300, Sioux Falls, SD 57103-7046;

**Intervenor, Raul Rohde, and his Attorney of Record, Michael J. Maus,** Maus & Nordsvan, PC, 13 1<sup>st</sup> Avenue West, PO Box 570, Dickinson, ND 58602-0570;

**Intervenor, American Federal Bank, and its Attorney of Record, Tracy A. Kennedy,** Zimney Foster PC, 3100 S. Columbia Road, Suite 200, PO Box 13417, Grand Forks, ND 58208-3417;

**Intervenor, Michael Aasen**, 4465 County Road 2, Sherwood, ND 58782;

**Intervenor, Donald Ackerson**; 10435 54<sup>th</sup> Avenue NW, Sherwood, ND 58782;

**Intervenor, Sheldon Ackerson**, 10435 54<sup>th</sup> Avenue NW, Sherwood, ND 58782;

**Intervenor, Lana Anderson d/b/a Northland Farms**, 10845 53<sup>rd</sup> Avenue NW, Sherwood, ND 58782;

**Intervenor, B & D Farms, Inc.**, 3551 County Road 2, Sherwood, ND 58782;

**Intervenor, Busch Farms, Inc.**, 10685 101<sup>st</sup> Avenue NW, Columbus, ND 58730;

**Intervenor, David Deslauriers**, 4915 County Road 2, Sherwood, ND 58782;

**Intervenor, Scott Lazorenko**, 899 Brew Street, Killdeer, ND 58640;

**Intervenor, Mana Farms, Inc.**, 3551 County Road 2, Sherwood, ND 58782;

**Intervenor, Steven Neameyer**, 4921 85<sup>th</sup> Street, Mylo, ND 58353;

**Intervenor, Mitch Preskey**, 2485 Glenburn Road, Glenburn, ND 58740;

**Intervenor, James Routledge**, 3050 76<sup>th</sup> Street NW, Glenburn, ND 58740;

**Intervenor, Bart Savelkoul d/b/a Savelkoul Farms**, 8221 30<sup>th</sup> Avenue NW, Lansford, ND 58750;

**Intervenor, Mike Schollmeyer**, 549 101<sup>st</sup> Avenue SW, Dunn Center, ND 58626;

**Intervenor, David Steeves**, 4690 County Road 2, Sherwood, ND 58782;

**Intervenor, Robert Steeves**, 227 3<sup>rd</sup> Avenue East, Sherwood, ND 58782;

**Intervenor, Paul Trout**, 10285 Highway 28, Sherwood, ND 58782;

**Intervenor, Wurgler Farms**, 1600 Parkside Drive, Minot, ND 58701;

**Intervenor, Kelly Wurgler**, 1600 Parkside Drive, Minot, ND 58701;

1. **PLEASE TAKE NOTICE** that on 17 March 2014 the Court issued its Order Approving Trustee's Report, Requiring Deposit of Bond Proceeds, Approving Payment, and Discharging Trustee, which was duly entered in the captioned proceeding on 17 March 2014, as Document Number 136, approving the Report

and Recommendation of the Trustee, which recommends deposit of bond proceeds and distribution of bond proceeds to valid cash claimants: requiring the surety, Western Surety Company, to deposit the total amount of the bond proceeds with the Trustee for payment of valid cash claims; authorizing the Commission, as Trustee, to make payments from the trust fund to claimants with valid cash claims for grain purchased for cash by Mitchell Feeds, Inc., in North Dakota as specified in the Report and Recommendation of Trustee, and, upon the distribution of trust fund proceeds to the cash claimants as provided in the Trustee's report, discharging the Trustee.

2. **FURTHER PLEASE TAKE NOTICE** that a judgment was duly entered in the captioned action on the 8 April 2014, as Document Number 138, in favor of the Petitioner and against Respondents Mitchell Feeds, Inc. and Western Surety Company.
3. A copy of the Order and a copy of the Judgment are included with this Notice, for those served other than via the Odyssey Electronic Service and File System.
4. Dated at Bismarck, North Dakota, this 23<sup>rd</sup> day of April 2014.



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Attorney for the Public Service Commission, as Trustee

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

Public Service Commission )  
 )  
 Plaintiff, )  
 vs. )  
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 Mitchell Feeds, Inc. and Western Surety )  
 Company, )  
 Respondents. )  
 )  
 Michael Aasen, Donald Ackerson, Sheldon )  
 Ackerson, Lana Anderson d/b/a Northland )  
 Farms, B & D Farms, Inc., Busch Farms, Inc., )  
 David Deslauriers, Scott Lazorenko, Mana )  
 Farms, Inc., Nathan Neameyer, Steven )  
 Neameyer, Mitch Preskey, Paul Rohde, James )  
 Routledge, Bart Savelkoul d/b/a Savelkoul )  
 Farms, Mike Schollmeyer, David Steeves, )  
 Robert Steeves, Paul Trout, Wurgler Farms, )  
 and Kelly Wurgler, )  
 and )  
 American Federal Bank )  
 Intervenor. )  
 )  
 PSC Case No. GE-11-051 )  
 )

CIVIL NO. 08-2011-CV-917

ORDER APPROVING TRUSTEE'S REPORT, REQUIRING DEPOSIT OF BOND PROCEEDS, APPROVING PAYMENT, AND DISCHARGING TRUSTEE



1. This matter came before the Court on the motion of the North Dakota Public Service Commission (Commission) seeking approval of its Report and Recommendation as Trustee of Mitchell Feeds, Inc., deposit of bond proceeds, approval of payment and discharge as Trustee. This motion was scheduled for hearing before this Court on **March 17, 2014 at 9:00 a.m. CST** at the Morton County Courthouse in Mandan, North Dakota, with proper notice having been given the claimants, as evidenced by the affidavit of service on file. The

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MAR 17 2014

Clk. of Crt. Burleigh Co.

143 GE-11-51 Filed: 3/17/2014 Pages: 2 Executed Order

Filed - Clerk of District Court 1/30/2014 4:58:10 PM Burleigh County, ND

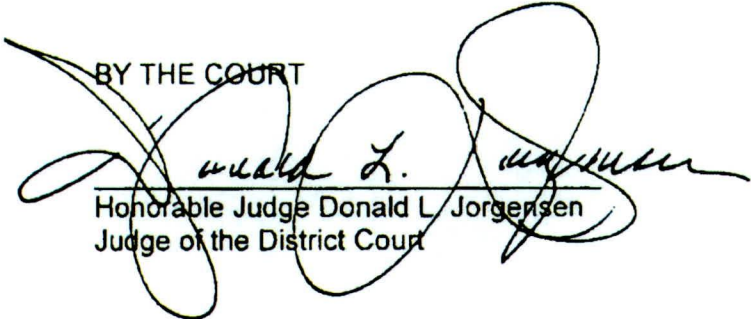
Commission appeared through Ilona A. Jeffcoat-Sacco, Special Assistant Attorney General. No other parties or claimants appeared.

2. The Court reviewed the Report and Recommendation, and other documents of record, and finds grounds for approving the Report and Recommendation, requiring deposit of bond proceeds, approving payment and discharging Trustee. There were no objections to the report, the Trustee's recommendation, the request for deposit of bond proceeds, or the Trustee's requests for approval of payment and discharge.

**ORDER**

3. **IT IS THEREFORE ORDERED:**
4. The Report and Recommendation of Trustee, dated January 28, 2014, which recommends deposit of bond proceeds and distribution of bond proceeds to valid cash claimants, is approved.
5. The surety, Western Surety Company, 101 South Phillips Avenue, P.O. Box 5077, Sioux Falls, South Dakota 58104-6703, within ten (10) days of the date of this Order, shall deposit \$70,000, the total amount of the bond proceeds, with the Trustee for payment of valid cash claims.
6. The Commission, as Trustee, is authorized to make payments from the trust fund to claimants with valid cash claims for grain purchased for cash by Mitchell Feeds, Inc., in North Dakota, as specified in the Report and Recommendation of Trustee. The payments for each cash claim shall be made jointly payable to the claimant and relevant valid lien holders at the time checks are issued.
7. Upon distribution of the trust fund proceeds to the cash claimants, as provided for in the Trustee's report, the Trustee is discharged.
8. Bismarck, North Dakota, this 14<sup>th</sup> day of March, 2014.

BY THE COURT

  
Honorable Judge Donald L. Jorgensen  
Judge of the District Court

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

Public Service Commission

Plaintiff,

vs.

Mitchell Feeds, Inc. and Western Surety  
Company,

Respondents.

Michael Aasen, Donald Ackerson, Sheldon  
Ackerson, Lana Anderson d/b/a Northland  
Farms, B & D Farms, Inc., Busch Farms, Inc.,  
David Deslauriers, Scott Lazorenko, Mana  
Farms, Inc., Nathan Neameyer, Steven  
Neameyer, Mitch Preskey, Paul Rohde, James  
Routledge, Bart Savelkoul d/b/a Savelkoul  
Farms, Mike Schollmeyer, David Steeves,  
Robert Steeves, Paul Trout, Wurgler Farms,  
and Kelly Wurgler,

and

American Federal Bank

Intervenors.

PSC Case No. GE-11-051

CIVIL NO. 08-2011-CV-917

JUDGMENT



1. This action came on for hearing before the Court on March 17, 2014, the Honorable Donald L. Jorgensen presiding, and the Court having ordered:
2. That the Report and Recommendation of the Trustee, which recommends deposit of bond proceeds and distribution of bond proceeds to valid cash claimants, is approved.

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APR 08 2014

Clk. of Crt. Burleigh Co.

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Burleigh County, ND

3. That the surety, Western Surety Company, 101 South Phillips Avenue, P.O. Box 5077, Sioux Falls, South Dakota 58104-6703, within ten (10) days of the date of the Order, shall deposit \$70,000, the total amount of the bond proceeds with the Trustee for payment of valid cash claims.
4. That the Commission, as Trustee, is authorized to make payments from the trust fund to claimants with valid cash claims for grain purchased for cash by Mitchell Feeds, Inc., in North Dakota, as specified in the Report and Recommendation of Trustee. That payments for each cash claim shall be made jointly payable to the claimant and relevant valid lien holders at the time checks are issued.
5. That upon distribution of the trust fund proceeds to the cash claimants, as provided for in the Trustee's report, the Trustee is discharged.

**Let Judgment be entered accordingly**

Dated at Bismarck, North Dakota, this 8<sup>th</sup> day of April 2014.

Debra Simons, Clerk