

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MCLEAN

SOUTH CENTRAL JUDICIAL DISTRICT

Public Service Commission

Petitioner,

vs.

Falkirk Farmers Elevator Co.

Respondent.

PSC Case No. GE-12-769


CIVIL NO. 28-2012-CV-176

NOTICE OF ENTRY
OF EX PARTE ORDER

PLEASE TAKE NOTICE that an Ex Parte Order to Preserve Trust Assets was executed by the Court on December 31, 2012, and was duly filed in the above proceeding on December 31, 2012, ordering Falkirk Farmers Elevator Co. to preserve and protect the trust assets under North Dakota Century Code § 60-04-03.1 and authorizing the Commission to immediately take any action deemed necessary to preserve and protect the trust assets under North Dakota Century Code § 60-04-03.1 until the Court issues its order granting or denying the application for appointment of the Public Service Commission as Trustee of the trust fund in this proceeding.

A copy of this Order is attached hereto and by reference made a part hereof.

Bismarck, North Dakota, this 17th day of January 2013.

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COUNTY OF MCLEAN

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EX PARTE ORDER
TO PRESERVE TRUST
ASSETS

PSC Case No. GE-12-769

The North Dakota Public Service Commission (commission) has petitioned the court for appointment as trustee of Falkirk Farmers Elevator Co. under North Dakota Century Code chapter 60-04 and for Ex Parte Order to Preserve Trust Assets under North Dakota Century Code section 60-04-03. Falkirk Farmers Elevator Co. operated licensed grain warehouses at Falkirk until September 6, 2012, and at Hazen, North Dakota, until August 1, 2012.

It appears from the record that Falkirk Farmers Elevator Co. is insolvent under North Dakota Century Code chapter 60-04, and that it is in the best interest of the claimants and the parties to this proceeding that an *ex parte* order be issued by this court to preserve and protect the potential assets of the trust fund and that Falkirk Farmers Elevator Co. be ordered to take any action necessary to preserve the value of the bean inventory until the court issues its order granting or denying the application.

North Dakota Century Code section 60-04-03.1 provides that the trust fund must consist of the following:

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Executed Ex Parte Order to Preserve Trust Assets

District Court

DEC 31 2012

Lean County, ND

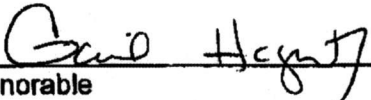
1. The grain in the warehouse of the insolvent warehouseman or the proceeds as obtained through the sale of such grain.
2. The proceeds, including accounts receivable, from any grain sold from the time of the filing of the claim that precipitated an insolvency until the commission is appointed trustee must be remitted to the commission and included in the trust fund.
3. The proceeds of insurance policies upon grain destroyed in the elevator.
4. The claims for relief, and proceeds therefrom, for damages upon any bond given by the warehouseman to ensure faithful performance of the duties of a warehouseman.
5. The claims for relief, and proceeds therefrom, for the conversion of any grain stored in the warehouse.
6. Unencumbered accounts receivable for grain sold prior to the filing of the claim that precipitated an insolvency.
7. Unencumbered equity in grain hedging accounts.
8. Unencumbered grain product assets.

ORDER

THEREFORE, the court orders that (1) Falkirk Farmers Elevator Co. is ordered to preserve and protect the trust assets under North Dakota Century Code section 60-04-03.1 and (2) the commission is authorized to immediately take any action deemed necessary to preserve and protect the trust assets under North Dakota Century Code section 60-04-03.1.

_____, North Dakota, this 31 day of Dec, 2012.

BY THE COURT



Honorable
Judge of the District Court