

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-00176

AFFIDAVIT OF ELECTRONIC SERVICE AND SERVICE BY REGULAR MAIL

Shelly A. Bauske deposes and says that she is over the age of 18 years and not a party to this action and, on the **18th day of March, 2014**, a copy of the following document:

1. Notice of Entry of Order to Bifurcate Proceeding, Approve First Report and Recommendation of Trustee, and Approve Credit-Sale Contract Indemnity Fund Payments

was served, via the Odyssey Electronic Service and File System using the email address provided on the Odyssey Electronic Service and File System, upon the following:

Michael L. Gust

mgust@andersonbottrell.com

Shelly A. Bauske, being duly sworn, further deposes and says that on the **18th day of March 2014**, she deposited in the United States Mail, Bismarck, North Dakota, 18 envelopes with postage, fully prepaid, securely sealed and each containing a photocopy of the following document:

1. Notice of Entry of Order to Bifurcate Proceeding, Approve First Report and Recommendation of Trustee, and Approve Credit-Sale Contract Indemnity Fund Payments with attached executed Order.

The envelopes were addressed as follows:

Michael Guenthner
Board President
Falkirk Farmers Elevator Co.
3807 3rd Street SW
Underwood, ND 58576

Derek Woodward
CNA Surety
PO Box 9322
Minneapolis, MN 55440-9322

Emily Grande Stearns
Barnes & Thornburg, LLP
Attorney for St. Hilaire Seed Co., Inc.
225 South Sixth Street, Suite 2800
Minneapolis, MN 55402-4662

Steve Strege
ND Grain Dealers Association
1325 23rd St. South – Suite A
Fargo, ND 58103-3723

Monty Fast
480 13th Ave. NW
Turtle Lake, ND 58575

Kelly & Kristi Erdmann
3507 17th Street NW
Garrison, ND 58540

Michael Guenthner
3807 3rd Street SW
Underwood, ND 58576

Gary Knell
831 45th Avenue NW
Hazen, ND 58545-9361

Lowayne Krush
204 Minnie Avenue
Wilton, ND 58579

Neal Peterson
Cowtrail Ranch
3959 7th Street SW
Washburn, ND 58577

Retterath Ranch Joint Venture
1291 33rd Avenue SW
Center, ND 58530

St. Hilaire Seed Co., Inc.
PO Box 85
St. Hilaire, MN 56754

Jerald Sommer
218 9th Street NW
Beulah, ND 58523

Marlyn & Kristie Seidler JV
464 23rd Avenue NW
Underwood, ND 58576-9679

Kjelstrup Farms Partnership
PO Box 281
Underwood, ND 58576

Jerry Blotter
1608 25th Avenue NW
Coleharbor, ND 58531

Steven Hager
Falkirk Farmers Elevator
2896 3rd Street NW
Underwood, ND 58576

Laura Maupin
Barnes & Thornburg, LLP
Attorney for St. Hilaire Seed Co., Inc.
225 South Sixth Street, Suite 2800
Minneapolis, MN 55402-4662

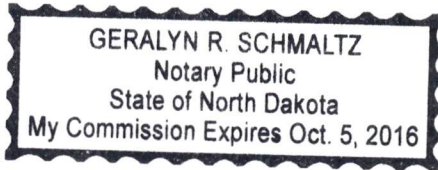
Each address shown is the respective addressee's last reasonable ascertainable address.

Shelly A Bank

Subscribed and sworn to before me
this **18th day of March, 2014.**

Geraldyn R. Schmaltz
Notary Public

SEAL



STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MCLEAN

SOUTH CENTRAL JUDICIAL DISTRICT

_____)	
Public Service Commission	)	CIVIL NO. 28-2012-CV-00176
)	
Petitioner,)	
vs.	)	NOTICE OF ENTRY OF
	)	ORDER TO BIFURCATE
Falkirk Farmers Elevator Co.	)	PROCEEDING, APPROVE
	)	FIRST REPORT AND
	)	RECOMMENDATION OF
	)	TRUSTEE, AND APPROVE
Respondent.	)	CREDIT-SALE CONTRACT
_____	)	INDEMNITY FUND PAYMENTS
PSC Case No. GE-12-769)	
)	
_____)	

1. **PLEASE TAKE NOTICE** that on 14 March 2014 the Court issued its Order to Bifurcate Proceeding, Approve First Report and Recommendation of Trustee, and Approve Credit-Sale Contract Indemnity Fund Payments, which was duly filed in the captioned proceeding on 14 March 2014, approving bifurcation to allow final disposition of the Credit-Sale Contract Indemnity Fund portion of the proceeding, approving the First Report and Recommendation of the Trustee, authorizing the Trustee to make Credit-Sale Contract Indemnity Fund payments on valid credit-sale contract claims and to reimburse the Commission for one-half the expenses of administration, all as specified in the First Report and Recommendation of Trustee, and finding that there is no just reason for delay in entering a final order, under Rule 54(b) of the North Dakota Rules of Civil Procedure, regarding the First Report and Recommendation of Trustee.

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

3. Bismarck, North Dakota, this **18th day of March 2014.**



Ilona A. Jeffcoat-Sacco (ID No. 03315)
Special Assistant Attorney General
State Capitol – 12th Floor
600 East Boulevard Ave – Dept 408
Bismarck, North Dakota 58505-0480
Telephone (701) 328-2400
Facsimile (701) 328-2410
ijs@nd.gov

Attorney for the Public Service Commission

STATE OF NORTH DAKOTA
COUNTY OF MCLEAN

IN DISTRICT COURT
SOUTH CENTRAL JUDICIAL DISTRICT

Public Service Commission	)	CIVIL NO. 28-2012-CV-00176
)	
Petitioner,)	
vs.	)	ORDER TO BIFURCATE
	)	PROCEEDING, APPROVE
Falkirk Farmers Elevator Co.	)	FIRST REPORT AND
	)	RECOMMENDATION OF
	)	TRUSTEE, AND APPROVE
Respondent.	)	CREDIT-SALE CONTRACT
	)	INDEMNITY FUND PAYMENTS
)	
PSC Case No. GE-12-769)	
)	

1. This matter came before the Court on the motion of the North Dakota Public Service Commission (Commission) seeking bifurcation of proceeding, approval of the Trustee's First Report and Recommendation, and authorization for payment. This matter was scheduled for hearing before this Court on **March 14, 2014 at 9:30 a.m. CDT** at the Burleigh County Courthouse in Bismarck, North Dakota, with proper notice having been given as evidenced by the affidavits of service on file. The Commission appeared through Illona A. Jeffcoat-Sacco, Special Assistant Attorney General. Falkirk Farmers Elevator Co. appeared through its attorney Michael Gust. No other parties or claimants appeared.
2. The Court has reviewed the Trustee's First Report and Recommendation, and other documents of record. No objections have been filed or made to the Commission's First Report and Recommendation.

3. The Court has jurisdiction of this matter under North Dakota Century Code Chapters 60-04 and 60-10.
4. As a matter of law, the Commission, as Trustee, is entitled to reimbursement of its expenses from the Credit Sale Contract Indemnity Fund.
5. The Court finds there is no just reason for delay in reaching a final determination on the portion of the insolvency proceeding relating to the credit-sale contract claims and disbursements from the Credit-Sale Contract Indemnity Fund because under North Dakota Century Code Chapter 60-04, the Credit-Sale Contract Indemnity Fund portion of the proceeding has no relationship to the Trust Fund and is not dependent on resolution of the sole claim against the trust assets. Consequently, since the recommendations in the First Report and Recommendation relate only to the Credit-Sale Contract Indemnity Fund portion of the proceeding, the Court will enter a final order under Rule 54(b) North Dakota Rules of Civil Procedure approving the First Report and Recommendation of Trustee, including credit-sale contract claims and disbursements, and reimbursement to the Commission of one-half the expenses incurred in administering the insolvency.

ORDER

IT IS THEREFORE ORDERED:

6. The Court has jurisdiction in this matter.
7. The proceeding is bifurcated to allow final disposition of the Credit-Sale Contract Indemnity Fund portion of the proceeding.

8. The First Report and Recommendation of Trustee, dated December 31, 2013, requesting authorization to make Credit-Sale Contract Indemnity Fund payments on valid credit-sale contract claims and reimbursement of Commission expenses, is approved.

9: The Commission, as Trustee, is authorized to make payment from the Credit-Sale Contract Indemnity Fund to each valid credit-sale contract claimant for grain sold to Falkirk Farmers Elevator Co., not to exceed the lesser of eighty percent of the amount owed to each claimant or two hundred eighty thousand dollars as specified in the Report and Recommendation of Trustee. The Commission shall make the payments for each credit-sale contract claim jointly payable to the claimant and relevant valid lien holders at the time checks are issued.

10. The following individuals each have a valid credit-sale contract claim s. Consequently, each is entitled to 80% of the valid claim from the Credit-Sale Contract Indemnity Fund. The sums awarded, representing 80% of each valid credit-sale contract claim, are:

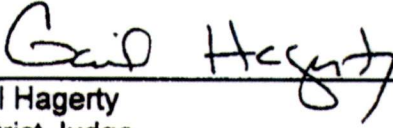
a.	Kelly & Kristi Erdmann	\$ 94,852.92
b.	Monty Fast	\$ 30,368.90
c.	Michael Guenther	\$ 4,711.91
d.	Gary Knell	\$ 7,359.42
e.	Lowayne Krush	\$ 5,514.15
f.	Neal Peterson	\$ 4,446.33
g.	Retterath Ranch Joint Venture	\$ 75,800.83

11. That the following credit-sale contract claim is denied for the reasons set forth in the First Report and Recommendation:

a. Jerry Blotter \$ 6,452.73

12. As a matter of law, the Commission, as Trustee, is entitled to reimbursement from the Credit-Sale Contract Indemnity Fund for expenses incurred in the administration of the insolvency.
13. The Commission, as Trustee, is authorized to make payment for reimbursement of one-half of the expenses related to this proceeding. One-half the expenses to date total \$207.08.
14. That that there is no just reason for delay in entering a final order, under Rule 54(b) of the North Dakota Rules of Civil Procedure, regarding the First Report and Recommendation of Trustee.
15. Dated at Bismarck, North Dakota, this 14 day of March, 2014.

BY THE COURT



Gail Hagerty
District Judge

ORDER

Attorney for the Trustee is to serve a copy of this Order on all parties and claimants.

NOTICE OF FINAL ORDER

This constitutes a final order regarding the First Report and Recommendation of Trustee.