



October 30, 2014

Reply to St. Paul

Illona A. Jeffcoat-Sacco  
Special Assistant Attorney General  
600 East Boulevard Avenue, Dept. 408  
Bismarck, ND 58505-0480

Re: Public Service Commission v. Falkirk Farmers Elevator Co. and Western Surety Company  
Civil No. 28-2012-CV-00176  
Our File No.: 68355

Dear Ms. Jeffcoat-Sacco:

Pursuant to the October 21, 2014 Order to Approve Second Report and Recommendation of Trustee, Require Deposit of Bond Proceeds, Approve Payment, and Discharge Trustee, enclosed please find a check in the amount of \$380,000.00 payable to North Dakota – Public Service Commission. I have enclosed a copy of the Order requiring this payment as well for convenience.

Please advise if you have any questions or concerns. Thank you.

Sincerely,

Kelly S. Hadac  
Attorney at Law  
[khadac@murnane.com](mailto:khadac@murnane.com)  
ksh/ksh/2138147

**199 GE-12-769** Filed: 11/3/2014 Pages: 7  
**Letter enclosing bond proceeds check**

Murnane Brandt

Kelly Hadac, Attorney

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STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MCLEAN

SOUTH CENTRAL JUDICIAL DISTRICT

_____	)	
Public Service Commission	)	CIVIL NO. 28-2012-CV-00176
	)	
Petitioner,	)	ORDER TO APPROVE
vs.	)	SECOND REPORT AND
	)	RECOMMENDATION OF
Falkirk Farmers Elevator Co.	)	TRUSTEE, REQUIRE DEPOSIT
	)	OF BOND PROCEEDS,
and	)	APPROVE PAYMENT, AND
	)	DISCHARGE TRUSTEE
Western Surety Company,	)	
	)	
Respondents.	)	
_____	)	
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 approval of its Second Report and Recommendation as Trustee, Requiring Deposit of Bond Proceeds, Authorizing Payment from the Trust Fund, and Discharging Trustee. This matter was scheduled for hearing before this Court on October 21, 2014 at 1:30 p.m., at the Burleigh County Courthouse in Bismarck, North Dakota, with proper notice having been given as evidenced by the affidavit of service on file. The Commission appeared through its attorney Illona A. Jeffcoat-Sacco, Special Assistant Attorney General. Falkirk Farmers Elevator Co. appeared by telephone through its attorney Michael L. Gust. Western Surety Company appeared by telephone through its attorney Nicholas J. O'Connell. Claimant St. Hilaire Seed

Company, Inc. appeared by telephone through its attorney, Tina A. Syring-Petrocchi, with Laura N. Maupin appearing *pro hac vice*. No other parties or claimants appeared.

2. On October 20, 2014, the Court ordered that Western Surety Company be joined as a Respondent in these proceedings.
3. The Court has reviewed the Trustee's Second Report and Recommendation and other documents of record and finds grounds for approving the Second Report and Recommendation of Trustee. No objections have been filed or made to the Trustee's recommendation or its second report.
4. The Court has jurisdiction in this matter under North Dakota Century Code chapter 60-04.
5. At the time of insolvency, there were grain assets available. The Commission liquidated all grain assets stored on behalf of Falkirk Farmers Elevator Co. in an unlicensed facility in Cummings, North Dakota, with a value of \$7,000 and all grain assets in Falkirk Farmers Elevator Co.'s Falkirk facility, with a value of \$71,507.10, and deposited the proceeds in the Trust Fund. The Commission also collected an outstanding account receivable from a grain sale in the amount of \$2,000 and deposited the proceeds in the Trust Fund. The total assets in the Trust Fund, including interest earned on the account as of July 31, 2014, is \$80,998.41.
6. The \$380,000 bond proceeds are needed to redeem the valid noncredit-sale contract claim against Falkirk Farmers Elevator Co. through its Falkirk and Hazen, North Dakota facilities.

## ORDER


### IT IS THEREFORE ORDERED:

7. The Court has jurisdiction in this matter.
8. The Commission's Second Report and Recommendation of Trustee which recommends deposit of bond proceeds and distribution of a Trust Fund payment to the valid noncredit-sale contract claimant, is approved.
9. That Western Surety Company is liable on its bond to pay a proportionate share of the valid St. Hilaire Seed Company, Inc. noncredit-sale contract claim in the amount of \$495,795.30.
10. Taking into account the obligations owed under the bond by Western Surety Company, it is appropriate to require Western Surety Company to deposit the full amount of the bond, three hundred eighty thousand (\$380,000) dollars with the Trustee.
11. Western Surety Company is hereby directed to deposit the total bond proceeds in the amount of three hundred eighty thousand (\$380,000) dollars with the Trustee within 10 days of service of Notice of Entry of Judgment to pay the approved share of the valid noncredit-sale contract claim.
12. The Commission, as Trustee, is authorized to make payment from the Trust Fund proceeds, which include the grain proceeds, interest earned and bond proceeds, to the one valid noncredit-sale contract claimants specified in the Second Report and Recommendation of Trustee. The Commission shall make the payment jointly payable to the claimant and relevant valid lien holders at the time the check is issued.

13. That upon distribution of the Trust Fund proceeds to the valid noncredit-sale contract claimant as provided for in this order, the Trustee is discharged.

Dated at Bismarck, North Dakota this 21 day of October, 2014.

BY THE COURT

  
\_\_\_\_\_  
Honorable Gail Hagerty  
Judge of the District Court

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.

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
Falkirk Farmers Elevator Co.	)	APPROVING SECOND REPORT
	)	AND RECOMMENDATION,
and	)	REQUIRING DEPOSIT OF
	)	BOND PROCEEDS,
Western Surety Company	)	APPROVING PAYMENT AND
	)	DISCHARGING TRUSTEE
Respondents.	)	
_____	)	
PSC Case No. GE-12-769	)	
_____	)	

**TO: RESPONDENT, FALKIRK FARMERS ELEVATOR COMPANY AND ITS ATTORNEY MICHAEL LEONARD GUST, ANDERSON, BOTTRELL, SANDEN AND THOMPSON, 4132 30<sup>TH</sup> AVE SW, SUITE 100, P.O. BOX 10247, FARGO, NORTH DAKOTA 58106;**

**RESPONDENT WESTERN SURETY COMPANY AND ITS ATTORNEY NICHOLAS JOHN O'CONNELL, MURNANE BRANDT, 30 EAST SEVENTH STREET, SUITE 3200, ST. PAUL, MINNESOTA 55101-4919**

**CLAIMANT ST. HILAIRE SEED COMPANY, INC., AND ITS ATTORNIES LAURA N. MAUPIN *PRO HAC VICE* AND TINA A. SYRING-PETROCCHI, BARNES & THORNBURG, LLP, 225 SOUTH SIXTH STREET, SUITE 2800, MINNEAPOLIS, MINNESOTA 55402**

1. **PLEASE TAKE NOTICE** that an order approving second report and recommendation, requiring deposit of bond proceeds, approving payment and discharging trustee was executed by the court on the 21<sup>st</sup> day October 2014, and was duly entered in the captioned action on the 21<sup>st</sup> day of October 2014, as Document Number 95.

2. A copy of the Order is included with this Notice, for those served other than via the Odyssey Electronic Service and File System.
3. Dated at Bismarck, North Dakota this this 22<sup>nd</sup> day of October, 2014.



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Attorney for the Public Service Commission, as Trustee