

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WELLS

SOUTHEAST JUDICIAL DISTRICT

| | | |
|--|---|----------------------------|
| _____ |) | |
| Public Service Commission |) | CIVIL NO. 52-2013-CV-00033 |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | |
| |) | |
| Earth Harvest Mills, Inc. |) | JUDGMENT |
| |) | |
| and |) | |
| |) | |
| Washington International Insurance Co. |) | |
| |) | |
| Respondents. |) | |
| _____ |) | |
| PSC Case No. GE-13-193 |) | |
| |) | |
| _____ |) | |

1. This action came on for hearing before the Court on 14 May 2014, the Honorable James D. Hovey presiding, and the Court having ordered:
2. That the Court has jurisdiction in this matter.
3. That the 28 March 2014 Report and Recommendation of Trustee, which recommends distribution of Trust Fund payments to valid noncredit-sale contract claimants, i.e. cash claimants, Credit-Sale Contract Indemnity Fund payments to valid credit-sale contract claimants, and reimbursement to the Commission, as Trustee, of one-half the expenses of administration from the Credit-Sale Contract Indemnity Fund is approved.
4. That Washington International Insurance Company is liable on its bond to pay a proportionate share of the following noncredit-sale contract (cash) claims:

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| a. Farmers Union Oil of Velva | \$ 4,539.76 |
| b. Phil Hooyer | \$ 20,713.10 |
| c. Lewis Ag | \$ 20,633.83 |
| d. Wendell Lund | \$ 12,150.85 |
| e. Jewell Mehlhoff | \$ 4,311.50 |
| f. Moshers Organic Grain | \$ 8,549.63 |
| g. Robert Porch | \$ 10,074.59 |

5. That taking into account the obligations owed under the bond by Washington International Insurance Company, it is appropriate to require Washington International Insurance Company to deposit the full amount of the bond, \$50,000.
6. That Washington International Insurance Company is hereby directed to deposit the bond proceeds, in the amount of \$50,000, with the Trustee to pay the approved share of valid noncredit-sale contract claims.
7. That judgment be entered for Petitioner Trustee to recover from Washington International Insurance Company the amount of fifty thousand dollars (\$50,000) bond proceeds for payment of the approved valid noncredit-sale claims.
8. That the Commission, as Trustee, is authorized to make prorated payments from the Trust Fund proceeds, which include only the bond proceeds, to claimants with valid noncredit-sale contract (cash) claims for grain sold to Earth Harvest Mills, Inc. as specified in the Report and Recommendation of Trustee. The Commission shall make the prorated payments for each noncredit-sale contract claim jointly payable to the claimant and relevant valid lien holders at the time the checks are issued.
9. That the Commission, as Trustee, is authorized to make prorated payments from the Trust Fund proceeds to valid noncredit-sale contract claimants resulting in

payment of approximately 62% of each valid noncredit-sale contract (cash) claim, as follows:

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| a. Farmers Union Oil of Velva | \$ 2,803.25 |
| b. Phil Hooyer | \$ 12,790.08 |
| c. Lewis Ag | \$ 12,741.14 |
| d. Wendell Lund | \$ 7,503.00 |
| e. Jewell Mehlhoff | \$ 2,662.30 |
| f. Moshers Organic Grain | \$ 5,279.29 |
| g. Robert Porch | \$ 6,220.94 |
10. That one noncredit-sale contract (cash) claim, the claim of Buesing Bulk Transport Inc., in the amount of \$54,041.53 is determined invalid for reasons set forth in the Report and Recommendation of the Trustee.
11. That the Commission, as Trustee, is authorized to make payment from the Credit-Sale Contract Indemnity Fund to each holder of valid credit-sale contracts for grain sold to Earth Harvest Mills, Inc., 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.
12. That the following individuals have valid credit-sale contract claims. Consequently, each is entitled to 80% of the claims, up to a maximum of \$280,000 from the Credit-Sale Contract Indemnity Fund. The sums awarded and representing 80% of each valid credit-sale contract claim or the maximum allowable amount of \$280,000 are:

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|-----------------------------|--------------|
| a. Lyle Busch | \$ 9,353.51 |
| b. Delbert Cousins | \$ 20,736.96 |
| c. Donald Dufner | \$ 38,648.65 |
| d. Farmers Direct Co-op Ltd | \$ 96,022.06 |
| e. Murray Foulston | \$ 3,221.42 |
| f. Ron Gleim | \$ 4,667.82 |
| g. David Hager | \$ 3,223.41 |
| h. Roger Hasse | \$ 19,791.00 |
| i. Hesco, Inc. | \$280,000.00 |
| j. Curtis Kosowan | \$ 13,787.11 |
| k. Jon & Amy Kvaalen | \$ 27,526.15 |
| l. Ray L. Miller | \$ 14,655.88 |
| m. Ty O'Connor | \$ 29,644.16 |
| n. Rowland Seeds, Inc. | \$280,000.00 |
| o. RW Organic Ltd. | \$ 31,529.85 |
| p. Lewis Siebold | \$ 3,225.32 |
| q. Lee Thomas | \$ 68,017.68 |
| r. Reed Zimmerman | \$ 4,901.71 |

13. That 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.
14. That the Commission, as Trustee, is authorized to make payment from the Credit-Sale Contract Indemnity Fund for reimbursement of one-half of the expenses related to these proceedings. The total amount of expenses incurred as of 30 April 2014 is \$339.03 and one-half is \$169.52.
15. That upon distribution of the Trust Fund proceeds to valid noncredit-sale contract (cash) claimants, payment from the Credit-Sale Contract Indemnity Fund to each valid credit-sale contract claimant, and reimbursement from the Credit-Sale

Contract Indemnity Fund of one-half of the expenses related to this proceeding,
all as provided for in this order, the Trustee is discharged.

Let judgment be entered accordingly

Dated at _____, North Dakota, this _____ **day of June 2014.**
