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JUN 17 2014

Commissioner of Insurance
State of North Dakota

Public Service Commission
600 East Boulevard Avenue Dept. 408
Bismarck, ND 58505-0480
701-328-4097 – phone
701-328-2410 - fax

Memo

To: Yvonne Keniston, Company Administrator
ND Insurance Department

From: Sue Richter, Licensing Division Director 

Date: 6/17/2014

Re: Public Service Commission, Petitioner vs.
Earth Harvest Mills, Inc., Respondent
Civil No. 52-2013-CV-00033, PSC Case No. GE-13-193

Enclosed are two photocopies of each of the documents listed below for use in providing service of process to Washington International Insurance Company in the captioned matter. Please mail the Admission of Service to the Public Service Commission, 600 East Boulevard Avenue – Dept 408, Bismarck, ND 58505-0480.

1. Notice of Entry of Judgment with Judgment attached
2. Copy of the June 16, 2014 Affidavit of Electronic Service (*without attachments*)
3. Copy of the June 16, 2014 Affidavit of Service (*without attachments*)

Thank you and if you have any questions, please call me at 328-4097.

Enclosures

151 GE-13-193 Filed: 6/17/2014 Pages: 13
Memo to ND Insurance Dept. with attachments

Public Service Commission
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Enclosures

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WELLS

SOUTHEAST JUDICIAL DISTRICT

_____)
Public Service Commission)
))
Petitioner,)
))
vs.)
))
Earth Harvest Mills, Inc.)
))
and)
))
Washington International Insurance Co.)
))
Respondents.)
))
_____)
PSC Case No. GE-13-193)
))
_____)

CIVIL NO. 52-2013-CV-00033

NOTICE OF ENTRY OF JUDGMENT

TO: Respondent, Earth Harvest Mills, Inc., Grayson Hoberg, CEO, 1540 Vision Drive, Platteville WI 53818-3838

Respondent, Earth Harvest Mills, Inc., Eric Hoberg, Registered Agent, 7041 41st Avenue SE, Wishek, ND 58495

Respondent, Washington International Insurance Company, Peter E. Karney, Corporate Solutions Claims, 475 North Martingale Road – Suite 850, Schaumburg, IL 60173

1. **PLEASE TAKE NOTICE** that a judgment was duly entered in the captioned action on the 12th day of June 2014, as Document Number 52, in favor of the Petitioner and against Respondents Earth Harvest Mills, Inc. and Washington International Insurance Co.
2. A copy of the Judgment 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 **13th day of June 2014**.



Illona 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, as Trustee

STATE OF NORTH DAKOTA
COUNTY OF WELLS

IN DISTRICT COURT
SOUTHEAST JUDICIAL DISTRICT

Public Service Commission
Petitioner,
vs.
Earth Harvest Mills, Inc.
and
Washington International Insurance Co.
Respondents.

CIVIL NO. 52-2013-CV-00033

JUDGMENT



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:

Received & Filed
This 12th day of June, 2014
Wells County Clerk of District Court

Filed - Clerk of District Court
6/11/2014 10:25:20 AM
Wells County, ND

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:

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:

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 Fessenden, North Dakota, this 12th day of June 2014.



Carle Wiliger

STATE OF NORTH DAKOTA
COUNTY OF WELLS

IN DISTRICT COURT
SOUTHEAST JUDICIAL DISTRICT

_____)
Public Service Commission)
))
Petitioner,)
vs.)
))
Earth Harvest Mills, Inc.)
))
Respondent.)
_____)
PSC Case No. GE-13-193)
_____)

CIVIL NO. 52-2013-CV-00033

AFFIDAVIT OF ELECTRONIC SERVICE

STATE OF NORTH DAKOTA)
)ss
COUNTY OF BURLEIGH)

Shelly A. Bauske being duly sworn, deposes and says that she is over the age of 18 years and not a party to this action and that on the 16th day of June, 2014 a copy of the following document:

1. Notice of Entry of Judgment

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:

Tim Lervick tlervick@crowleyfleck.com

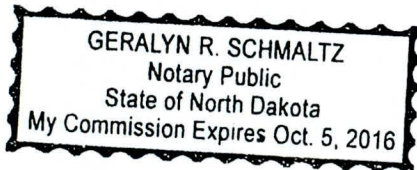
The address shown is the addressee's last reasonable ascertainable address.

Subscribed and sworn to before me
this 16th day of June, 2014.

Shelly A Bauske

Jeremy R Schmalz
Notary Public

SEAL



STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WELLS

SOUTHEAST JUDICIAL DISTRICT

Public Service Commission

Petitioner,

vs.

Earth Harvest Mills, Inc.

and

Washington International Insurance Co.

Respondents.

PSC Case No. GE-13-193

CIVIL NO. 52-2013-CV-00033

AFFIDAVIT OF SERVICE

STATE OF NORTH DAKOTA

COUNTY OF BURLEIGH

)
)ss
)

Geralyn R. Schmaltz deposes and says that she is over the age of 18 years and not a party to this action and, on the **16th day of June, 2014**, she deposited in the United States Mail, Bismarck, North Dakota, 3 envelopes with certified postage, fully prepaid, return receipt requested, securely sealed and containing a photocopy of the following documents:

1. Notice of Entry of Judgment with attached copy of the Executed Judgment.
2. Affidavit of Electronic Service.
3. Affidavit of Service.

The envelopes were addressed as follows:

Grayson Hoberg, CEO
Earth Harvest Mills, Inc.
1540 Vision Drive
Platteville WI 53818-3838
Certified Mail No. 7012 2210 0001 5060 7848

Eric G. Hoberg, Registered Agent
Earth Harvest Mills, Inc.
7041 41st Avenue SE
Wishek, ND 58495
Certified Mail No. 7012 2210 0001 5060 7855

Peter E. Karney, Esq.
Corporate Solutions Claims
Washington International Insurance Company
475 North Martingale Road – Suite 850
Schaumburg, IL 60173
Certified Mail No. 7012 2210 0001 5060 7862

Geralyn R. Schmaltz further deposes and says that on the **16th day of June, 2014**, she deposited in the United States Mail, Bismarck, North Dakota, 29 envelopes by regular mail, with postage fully prepaid, securely sealed, each containing a photocopy of the same.

The envelopes were addressed as follows:

Steven T. Ottmar
Ottmar & Ottmar, PC
Attorney for Buesing Bulk Transport, Inc.
PO Box 1397
Jamestown, ND 58402-1397

Bryan Van Grinsven
McGee, Hankla, Backes & Dobrovolny
Attorney for Farmers Union Oil Co of Velva
PO Box 998
Minot, ND 58702-0998

Ray L. Miller
R & S Organic Farm
1504 W 11th Road
Aurora, NE 68818-3920

Jason Freeman, General Manager
Farmers Direct Co-Operative LTD
1536 Victoria Avenue
Regina, SK CN S4P 0P5

Lyle Busch
14641 514th Ave.
Bristol, SD 57219

Lewis Siebold
1397 51st Ave. NE
Cathay, ND 58422

Ty O'Connor
1 O'Connor Road
Broadus, MT 59317

Ron Gleim
PO Box 298
Chaplin, SK CN SOH OVO

Robert Porch
27403 Husle Road
Wanblee, SD 57577

Phil Hooyer
3867 Cherry Ave.
Hudson, SD 57034

Murray Foulston
PO Box 190
Tugaske, SK CN SOH 4BO

Jewell Mehlhoff
1821 Josephine Lane
Tuttle, ND 58488

Farmers Union Oil of Velva
112 1st St W
Martin, ND 58758-7128

Delbert Cousins
Box 38
Weirdale, SK CN SOJ 2ZO

David Hager
2775 Hwy 3 Northeast
Harvey, ND 58341

Curtis Kosowan
PO Box 141
Mealth Park, SK CN SOJ 1TO

Roy Brewin
Rowland Seeds, Inc.
Box 4776
Taber, Alberta CN T1G 2E1

RW Organic Ltd.
Box 232
Mossbank, SK CN S0H 3G0

Brad Hennrich, President-Hesco, Inc.
500 19th Street SE
Watertown, SD 57201

Wendell Lund
1539 104th Street NE
Bottineau, ND 58318

Jon & Amy Kvaalen
PO Box 21
Lambert, MT 59243

Lee Thomas
12506 20th Street North
Moorhead, MN 56560

Lewis Ag
6820 30th Road
Thayer, KS 66776

Mosher's Organic Grain
PO Box 51
Bushnell, NE 69128

Reed Zimmerman
6112 45th Avenue SE
Napoleon, ND 58561

Roger Hasse
4433 41st Avenue SE
Tappen, ND 58487

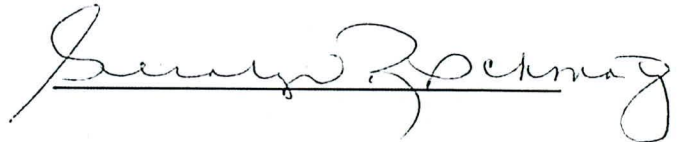
Donald Dufner
1148 169th Avenue NE
Buxton, ND 58218

Reva Held, Director of Revenue Recovery
American Med Systems, Inc.
1519 Boettler Road, Suite A
Green, OH 44685

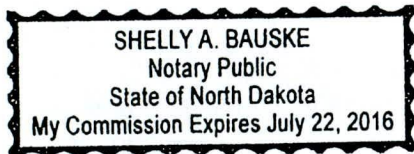
Emily Kaufman
Emport, LLC
4327 Butler Street - Floor No. 2
Pittsburg, PA 15201

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

Subscribed and sworn to before me
this 16th day of June, 2014.



SEAL




Notary Public