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Subject: Notification of Service for Case No. 18-2015-CV-00240 (Public Service Commission, et al. vs. Grand Forks Bean Company, Inc.)

This is a service filing for Case No. 18-2015-CV-00240, Public Service Commission, et al. vs. Grand Forks Bean Company, Inc..

Date Submitted: 9/30/2015 1:40:36 PM

Filing Code: Brief

Filing Desc: Brief in Support of Motion to Approve Report and Recommendation of Trustee, Approve Payments, and Discharge Trustee

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E-file to Court – Brief in Support of Motion to Approve R & R

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STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF GRAND FORKS

NORTHEAST CENTRAL JUDICIAL DISTRICT

_____)	
Public Service Commission)	CIVIL NO. 18-2015-CV-00240
)	
Petitioner,)	
)	
vs.)	
)	BRIEF IN SUPPORT OF
Grand Forks Bean Company, Inc.)	MOTION TO APPROVE
)	REPORT AND
and)	RECOMMENDATION OF
)	TRUSTEE, APPROVE
Auto-Owners Insurance Company)	PAYMENTS, AND
)	DISCHARGE TRUSTEE
Respondents.)	
_____)	
)	
PSC Case No. GE-15-36)	
_____)	

1. The North Dakota Public Service Commission (Commission), as Trustee of the trust fund provided by North Dakota Century Code section 60-04-03 for the purpose of marshalling all trust assets of Grand Forks Bean Company, Inc., an insolvent grain warehouse, seeks an order approving the Report and Recommendation of Trustee, approving payment, and discharging trustee. The Commission has the authority to bring this Motion and the Court has the power to grant the relief requested under North Dakota Century Code sections 60-04-03 and 60-04-07.

2. The Commission has reviewed claims filed against the warehouseman and detailed determination regarding the validity of each claim is attached to and summarized in the Report and Recommendation of Trustee. The proceeds from the bond will not be needed

to redeem outstanding receipts issued by Grand Forks Bean Company, Inc., as provided in North Dakota Century Code section 60-04-09 if the Report and Recommendation of Trustee is approved.

3. The trust fund is made up of proceeds from the sale of grain and bond proceeds. North Dakota Century Code section 60-02-25.1 provides that grain contained in a warehouse is subject to a first priority lien in favor of the outstanding receiptholders.
4. Under North Dakota Century Code section 60-04-03.1 the “trust fund shall be established for the benefit of noncredit-sale receiptholders of the insolvent warehouseman and to pay the costs incurred by the commission in the administration of this chapter. . . .” The credit-sale contract indemnity fund was created for the purpose of providing protection for persons selling grain to a North Dakota licensed warehouse. North Dakota Century Code section 60-10-02. A person is eligible to receive payment from the credit-sale contract indemnity fund if the warehouse licensed under North Dakota law to which the person sold grain becomes insolvent and has not fully compensated the person in accordance with the credit-sale contract. North Dakota Century Code section 60-10-04.
5. Proceeds from the credit-sale contract indemnity fund will not be needed to meet the licensee’s obligations because there are no valid credit-sale contracts.
6. North Dakota Century Code section 60-04-09 provides in part:

Following hearing, the court shall approve or modify the report and issue an order directing payment of the necessary bond proceeds, distribution of the trust fund, and discharge of the commission from its trust.

7. We respectfully request that the Court approve the Report and Recommendation of Trustee, approve payments, and following payment to claimants, discharge the Commission as Trustee.

Dated this 30th day of September, 2015.

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