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Sent: Monday, September 19, 2016 9:28 AM
To: Richter, Susan K.; Jeffcoat-Sacco, Illona
Subject: FW: Notification of Service for Case No. 18-2015-CV-00240 (Public Service Commission, et al. vs. Grand Forks Bean Company, Inc.)

From: efilingmail@tylerhost.net [<mailto:efilingmail@tylerhost.net>]
Sent: Thursday, September 15, 2016 3:24 PM
To: Mitch Armstrong <MArmstrong@smithbakke.com>
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: 9/15/2016 3:21:06 PM CDT
Filing Code: Order - Internal Court Use Only
Filing Desc: Order Denying Post-Judgment Relief - Motion Filed August 24, 2016
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426 GE-15-36 Filed: 9/19/2016 Pages: 4
Notification of Service - Order Denying
Post-Judgment Relief

Grand Forks County District Court

The Honorable Jon J. Jensen

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STATE OF NORTH DAKOTA
COUNTY OF GRAND FORKS

IN DISTRICT COURT
NORTHEAST CENTRAL JUDICIAL DISTRICT

Public Service Commission,)
)
Petitioner,)
)
vs.)
)
Grand Forks Bean Company, Inc.)
and Auto-Owners Insurance)
Company,)
)
Respondents.)

Case No.: 18-2015-CV-00240
ORDER DENYING POST-JUDGMENT
RELIEF – MOTION FILED
AUGUST 24, 2016

[¶ 1] Auto-Owners Insurance Company [Auto-Owners] has requested relief from the Judgment entered in this proceeding on July 5, 2016. Auto-Owners asserts that the Court incorrectly determined that all of the parties were in agreement with determining the date of Grand Forks Bean Company’s insolvency by applying N.D.C.C. § 60-04-02 and that the Court should have applied N.D.C.C. § 60-02-41 to determine the date of insolvency. The date of Grand Forks Bean’s date of insolvency is important because it determines the amount of the claims asserted by the growers. Auto-Owners contends that applying § 60-02-41 would reduce the growers’ claims to a point that it would not be necessary for Auto-Owners to provide funds under the terms of its bond; there would be sufficient assets in the trust fund to cover the claims and expenses.

[¶ 2] Auto-Owners is correct in its observation that all of the parties did not agree that § 60-04-02 was the appropriate statute for determining the date of insolvency. Both Auto-Owners and Bremer Bank National Association contend that § 60-02-41 should apply. However, the incorrect statement that all parties agreed on the application of § 60-

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04-02 does not change the conclusion that the appropriate statutory provision to apply to determine Grand Forks Bean Company's insolvency is § 60-04-02.

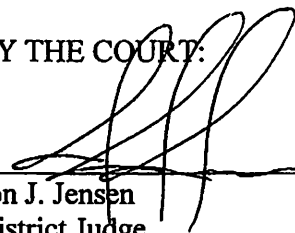
[¶ 3] These proceedings were initiated under Chapter 60-04 governing warehouse insolvency. As noted in the Order dated May 3, 2016, Chapter 60-02 is directed toward the regulation of warehouses while Chapter 60-04 governs warehouse insolvency proceedings. While the two chapters are part of the same regulatory scheme (Public Service Com'n v. Minnesota Grain, Inc., 2008 ND 184, ¶ 17, 756 N.W.2d 763), it is not necessary to go beyond § 60-04-02 to determine the date of insolvency in proceedings governed by Chapter 60-04.

[¶ 4] Based upon the above findings and/or conclusions:

ORDER

[¶ 5] Auto-Owners Insurance Company's motion for post-judgment relief filed August 24, 2016 is DENIED.

Dated this 15th day of September, 2016.

BY THE COURT:


Jon J. Jensen
District Judge

cc: Mitchell D. Armstrong
Joel F. Arnason
Tracy A. Kennedy
John D. Schroeder
Russell J. Melland
Daniel L. Gaustad
Jon R. Brakke
Michael J. Morley
Scott M. Knudsvig