

STATE OF SOUTH DAKOTA  
COUNTY OF SPINK

IN DISTRICT COURT  
FIFTH JUDICIAL CIRCUIT

---

IN THE MATTER OF THE ANDERSON SEED  
CO., INC. GRAIN BUYER BOND

Case No . 12-044

**OBJECTION OF CHS, INC. D/B/A  
MIDWEST COOPERATIVES TO  
THE DECISION OF RECEIVER  
AND PROPOSED FINDINGS OF  
FACT, CONCLUSIONS OF LAW  
AND DECISION OF RECEIVER**

---

CHS, Inc. d/b/a Midwest Cooperatives ("CHS") states the following objections to the February 11, 2013 Decision of Receiver, proposed Findings of Fact, Conclusions of Law, and Decision:

1. CHS initially submitted a claim in the amount of \$687,117.59. The Receiver, based supposedly on a review of the records of Anderson Seed Co. and documents annexed to the proof of claim of CHS, determined CHS's claim included amounts due on deliveries made outside the State of South Dakota and amounts for losses on contracts on which delivery had not been made. As a consequence, the Receiver recommended reduction of CHS's claim to \$319,684.44.

2. CHS objected to this determination and provided records documenting its original claim excluded amounts due on contracts on which deliveries had not been made and that the Receiver had over-estimated the debt related to out-of-state crop deliveries. Using proper adjustments, CHS established its claim amount should be \$443,867.19.

3. In refusing to consider CHS's objection, the Receiver stated there is "... no evidence upon which the Commission could reliably base a finding ..." that there were additional in-state deliveries by CHS. This ruling was not in accord with the weight of the evidence and was unreasonable given the evidence available to the Receiver.

4. In its February 11, 2013 Decision, the Receiver concluded the claim of Dakota Mill & Grain, Inc. should be reduced from \$672,275.76 to \$464,280.76. However, contrary to that determination, Exhibit A attached to the Receiver's Decision, proposed Findings of Fact, Conclusions of Law and Decision, uses a claim amount for Dakota Mill & Grain, Inc. of \$672,275.76.

5. If the correct amount of \$443,867.19 is utilized for the claim of CHS and the correct amount of \$464,280.76 is used for the claim of Dakota Mill & Grain, Inc., the percentage of claims held by CHS would be 20% and the amount owed to CHS on distribution of the bond proceeds would be \$20,033.35.

Dated this 21<sup>st</sup> day of February, 2013.

BY: 

Jon R. Brakke (#03554)

**VOGEL LAW FIRM**

218 NP Avenue

PO Box 1389

Fargo, ND 58107-1389

Telephone: 701.237.6983

ATTORNEYS FOR CHS, INC. D/B/A

MIDWEST COOPERATIVES

1585630.1