

STATE OF SOUTH DAKOTA )

IN CIRCUIT COURT

COUNTY OF SPINK )

**FILED** )  
SS

FIFTH JUDICIAL CIRCUIT

MAY 01 2012

CIV. 12- 044

SOUTH DAKOTA UNIFIED JUDICIAL SYSTEM  
5TH CIRCUIT CLERK OF COURT

By \_\_\_\_\_ )

ORDER APPOINTING

IN THE MATTER OF THE ANDERSON )  
SEED CO INC GRAIN BUYER BOND )

SOUTH DAKOTA PUBLIC UTILITIES  
COMMISSION AS RECEIVER

Having examined the Petition of the South Dakota Public Utilities Commission (Commission) who requests appointment of itself as receiver of all bond proceeds of Anderson Seed Co., Inc., all arguments being heard and considered and upon good cause shown, it is therefore ORDERED:

1. That pursuant to SDCL 49-45-16.1 and SDCL Chapter 21-21, the Commission is hereby appointed Receiver of the following:

The cash proceeds of the grain buyer's bond number 66094009, commencing 6/30/11 and ending 6/30/12, through Auto-Owners Insurance Company, a corporate surety company organized and existing under the laws of the state of Michigan, and through Duane Hovland, its attorney in fact.

2. That the Commission, as Receiver shall collect all applicable bond proceeds for the benefit of grain seller claimants who are eligible for coverage under the bond and administer the claims process in accordance with SDCL Chapters 1-26 and 49-45 and the orders of this Court in order to provide an orderly and equitable process for determining the merits of claims, subject to the final approval of this Court, against the above stated bond. The Commission shall carry out all duties as the Court may direct in the future.
3. That the bonding company, Auto-Owners Insurance Company, a surety company organized and existing under the laws of the state of Michigan, is hereby directed to pay proceeds of all bonds described in the Petition herein to the Commission as Receiver within 10 days of written notification to do so by the Commission or its legal counsel. Nothing herein shall prejudice Auto-Owners Insurance Company from raising any defenses it may have to paying any bond proceeds. Further, pursuant to the dictates of SDCL 49-45-17, delivery of the proceeds by Auto-Owners Insurance Company to the commission will extinguish any and all rights creditors may have had to make direct claims against Bond Number 66094009. Any claims which could have been made against Bond Number 66094009 must now be made with the commission which will adjudicate those claims in a fashion consistent with the remainder of this order or further order of this Court. Delivery of the proceeds by Auto-Owners Insurance Company in conformance with the terms of this order will extinguish any further liability Auto-

Owners Insurance Company may have had with respect to Bond Number 66094009.

4. That the Commission shall collect all the above bond proceeds, when paid, deposit the same in an FDIC insured and interest bearing bank account in the City of Pierre, South Dakota, and hold such funds in a fiduciary capacity pending the final determination of pro rata claim entitlements pursuant to SDCL Chapters 1-26 and 49-45, SDCL 21-21-10, and the Order of this Court following the conclusion of the claims process.
5. That the Commission shall schedule and hold a hearing in accordance with the adjudicatory hearing provisions of Chapter 1-26 for claimants and other interested parties to present evidence and argument as to the merits of claims under the bond, and after consideration of the evidence and recommendations presented to it, the Commission shall then render, and submit to this Court, Proposed Findings of Fact, Conclusions of Law and Decision regarding the disposition of bond proceeds. The Commission shall give notice of this hearing to all known potential claimants and other interested parties in accordance with the notice provisions of SDCL 49-45-19.
6. That the Commission is hereby appointed as claims referee to preside at said hearing and to make a proposed decision for submittal to the Court regarding which claims are valid and in what amount.
7. That any surety bond required under SDCL Chapter 21-21 is hereby waived because the Commission is an administrative agency of the State of South Dakota and each Commissioner has a surety bond posted pursuant to SDCL 49-1-6.

Dated this 1<sup>st</sup> day of May, 2012

BY THE COURT:



Judge Tony Portra

Circuit Court Judge

ATTEST:

Alice Hare  
Clerk of Courts

By: \_\_\_\_\_