



### **Accounts Receivable**

Prior to the receivership, FCE had written off nearly \$400,000 in bad debt. After reviewing these debts, Receiver determined that at least some of this was likely collectable and sent letters to debtors for whom judgments had not previously been obtained in small claims or circuit court. Attorney for Receiver filed statements of satisfaction as necessary to note collections made.

Receiver was contacted by an individual owing \$12,000, all of which is greater than ninety days past due. That individual stated that he would pay the entire amount after harvest. The bill has now been paid in full.

The largest of the accounts receivable relates to a \$214,000 judgment against Joel Namminga was attempted to be executed, which prompted Namminga to file for Chapter 7 bankruptcy in August. This bankruptcy was converted to a Chapter 12 on October 11, 2021. Attorney Jonathan Van Patten continues to zealously represent FCE as a creditor, through Receiver, and Receiver remains optimistic about recovery of this receivable over time.

As reflected in the Financial Report table, the accounts receivable decreased from the original amount of \$410,063 to \$126,857. Of the total receivables \$80,658 is current, meaning it is less than thirty days old. Only \$14,447 is over ninety days old. Last month, \$43,516 was over ninety days old. FCE has done an excellent job collecting on aged receivables.

### **Community Bank of Avon**

The largest impetus for the receivership was the calling of the bank note on FCE's loan and line of credit from Community Bank of Avon, South Dakota (the Bank). The amount due to the Bank on November 15, 2021, is approximately \$1,100,000. As discussed in the October Report, the Bank previously sent a letter stating it would require payment of \$350,000 by

December 1, 2021. However, on or about October 15, 2021, the Bank made the unusual and unfortunate decision to sweep \$150,000 from FCE's patrons account, held at the Bank. Receiver and FCE were notified of this action after it had taken place. (See Attachment 1)

In addition, it came to Receiver's attention that earlier this year, the Bank increased the interest on FCE's loan from six percent to eleven percent.

### **Sale of Intermediate Assets**

Though the Bank has demanded the sale of certain pieces of equipment, the Bank has declined to personally auction or sell the equipment. Therefore, Receiver has organized and conducted all sales, with all proceeds then being turned over to the Bank.

Receiver posted several pieces of equipment for sale on the South Dakota Farm Equipment Facebook page. Pursuant to the court order, items were allowed to be sold, provided they were sold for no less than ninety percent of their appraised value. Receiver sold a fuel truck for \$8,000.00, which was 107% of the appraised value, and three spreaders for \$3,200 each, also 107% of the appraised value. Receiver also sold an auger for \$35,000. The auger had appraised for \$34,000.

Pursuant to a lien and demand from the Bank, the proceeds from the sale of this equipment were deposited into a new account set up by the Bank. The money in that account will be put toward the \$200,000 owed to the Bank on or before December 1, 2021, assuming that the Bank adheres to its most recent demand, dated October 14, 2021, and attached hereto.

The benefit to selling the equipment through the Facebook site is that there is no commission deducted from the proceeds. However, in order to meet the deadline set by the Bank, Receiver will need to sell much of the remaining equipment through an auction company. Anything that did not quickly sell on the Facebook site will be placed on auction.

**Payments made in Ordinary Course of Business**

In the month of October, FCE made \$430,787 of payments in the ordinary course of business.

The following are payments attributable in whole or in part to FCE's grain business.

<b>Payment made to:</b>	<b>Amount</b>
Payroll	\$21,677
Utilities*	\$4,721
Phone Service*	\$1,131
Insurance *	\$7,615
Garbage Service*	\$500
Taxes and Regulatory Fees*	\$1,970
Bank*	\$155,000

\*Not all of this amount is attributable to grain

**List of Creditors**

<b>Creditor</b>	<b>Amount owed</b>
Community Bank of Avon	\$922,899
Patrons of FCE	\$1,260,000
Producer under contract for payment	\$653,000
Producers (15)*	\$954,383

\*This number still includes the amount owed to Hornstra Dairy, which Receiver and FCE ultimately hope to offset pursuant to a previously filed Motion.

While visiting FCE in October, Receiver discovered that two producers were paid between the time the Commission ordered receivership to be sought and the time Mr. Chambliss was appointed Receiver by this court. Therefore, the amount owed to producers has been adjusted in this month's report. That adjustment is also reflected in the grain payables column of the chart on the first page.

### **Other Notable Developments**

Two other large debts were paid by FCE this month. They were both debts of non-grain elevator portions of FCE and not part of this receivership. However, because of his contacts within the industry, Receiver was able to assist FCE in negotiating with the two creditors to have interest and penalties forgiven. This saved FCE, specifically the agronomy entity, more than \$10,000.

Harvest season was in full swing, which caused a large increase in business activity. FCE's trucks were on the road almost constantly, hauling grain for hire, and the fuel store sold nearly \$16,000 worth of fuel in a single day.

### **Plan of Action**

The lease of the elevator facilities continues to generate income for FCE. At this time, the plan is to continue to sell off the equipment that FCE is no longer using and to pursue the sale of the elevator after the lease period ends in March of 2022. Interest in purchasing the facilities has already been expressed.

Because of the progress that FCE has made, it may be beneficial to begin to pay creditors prior to the sale of the facilities. As those situations arise, Receiver and FCE will work together to bring stipulations before the court.

Receiver continues to actively engage with the Board of Farmers Cooperative Elevator.

Dated this 8<sup>th</sup> day of November 2021.



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