

STATE OF SOUTH DAKOTA )  
 :SS  
COUNTY OF BON HOMME )

IN CIRCUIT COURT  
FIRST JUDICIAL CIRCUIT

04CIV21-037

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**IN THE MATTER OF  
FARMERS COOPERATIVE  
ELEVATOR, AVON, SOUTH  
DAKOTA**

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**ORDER APPOINTING RECEIVER**

The court has examined the Petition of the Staff of the South Dakota Public Utilities Commission (Commission) who requests appointment of Cody Chambliss, an employee of Commission, as receiver of the grain elevator portion/grain elevator assets of Farmers Cooperative Elevator (FCE) located in Avon, South Dakota. The court held a hearing on the Petition on July 26, 2021, at which hearing Commission’s attorney Kristen Edwards and Cody Chambliss were both present. As Commission’s counsel had given Notice of Hearing on Receivership (Ex Parte) to the FCE Board President and Manager of the Farmers Cooperative Elevator, there were persons from FCE present at the hearing. A written Consent for Receiver from FCE has been filed, and a letter of support from one of the creditors of FCE was included with the Petition. The court heard from Ms. Edwards and others at the hearing and made its oral ruling which is incorporated by reference. Therefore, it is

ORDERED that pursuant to SDCL 49-45-16.1 and SDCL Chapter 21-21, Cody Chambliss, manager of the Commission’s Grain Warehouse Program, is hereby appointed Receiver of the grain elevator portion only of FCE. The FCE feed/agronomy business and the FCE convenience store are not part of the receivership.

IT IS FURTHER ORDERED that the Receiver shall take an oath of office, a copy of which shall be filed in the court file.

IT IS FURTHER ORDERED that the Receiver shall file monthly reports with the court, with a copy served upon the Board of FCE and the manager of the elevator. The monthly reports shall contain, at a minimum, the following information regarding the receivership:

- a. Assets;
- b. Liabilities;
- c. Accounts Receivable;
- d. Accounts Payable;
- e. A listing of payments made in the ordinary course of business;
- f. A listing of creditors;
- g. Plan of action;

IT IS FURTHER ORDERED that all sales of grain or the sale of any other elevator asset, when the grain or asset is valued at an amount greater than \$500, shall only be completed by the Receiver after obtaining prior court approval. Court approval can be obtained by either submitting a stipulation signed by the FCE Board and Receiver to the court, or by requesting a court hearing.

IT IS FURTHER ORDERED that the Receiver shall have the power to pay all expenses of the FCE elevator incurred in the ordinary course of business (e.g., utility bills and other expenses incurred in the normal course of business) without prior court approval, but the Receiver must report what ordinary expenses were paid.

IT IS FURTHER ORDERED that all non-ordinary elevator expenses and debts, including the claims of any creditors, shall only be paid with consent of the court.

IT IS FURTHER ORDERED that Receiver shall not charge any fees or expenses to FCE, nor seek any compensation from the receivership, for the work done in this case.

IT IS FURTHER ORDERED that all documents filed in this case will be public, unless specific provisions of South Dakota law are cited that provide for the confidentiality of any detailed information submitted. Confidential information shall be submitted in a separate attachment, limited to the information that is required to be maintained as confidential.

Dated the 3<sup>rd</sup> day of August, 2021.

BY THE COURT:

ATTEST:  
Heather Humphrey  
Bon Homme County Clerk of Courts  
By \_\_\_\_\_

  
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Hon. Cheryl Gering, Circuit Court Judge