

Chapter 7 Bankruptcy, which Debtors listed as a no-asset bankruptcy, alleging that all assets were fully encumbered, and no money would be left to pay unsecured creditors. FCE was the largest unsecured creditor.

Receiver began working with Attorney Van Patten from the Attorney General's Office, due to his extensive experience in bankruptcy litigation. The Attorney General's Office was a great asset and partner throughout this process.

Following the debtors' exam conducted by the Chapter 7 Trustee and Mr. Van Patten, Debtor converted the Bankruptcy to a Chapter 12 Reorganization Bankruptcy. However, similar to the original filing, the Chapter 12 filing contained numerous errors, including failure to account for growing crops.

Receiver hired an appraiser to assess the value of a commercial hay grinder and the real estate property. The most important thing in the appraisal was the pictures that the appraiser took while onsite as many unlisted assets were in the background of pictures. The appraisal greatly contradicted the bankruptcy filing and uncovered several undisclosed assets. Therefore, Receiver took depositions of Debtors in May 2022. Through the depositions, it was revealed that preferential payments were made to unsecured creditors and landlords.

However, it is the sincere belief of Receiver that the failure to disclose was not an act of bad faith on the part of Debtors but was rather upon the advice of counsel. This, along with other issues, would later prompt Receiver to object to attorney's fees in the plan.

After a couple different iterations of the plan, all parties ultimately agreed upon a plan that would pay all creditors in full, with FCE and other unsecured creditors receiving payment over a five-year period. (See Attachment 1, Bankruptcy Plan). The Debtors will make payments by December 31 annually, and per a request from Mr. Van Patten, the plan includes a provision

to address a default situation. The provision states that if Debtors fail to make payment on time pursuant to the Plan, the Debtors have thirty days to make payment otherwise the bankruptcy is void and assets may be liquidated to satisfy any remaining creditors. With all the hard work of the Receiver and Counsel it is important to remain the Receiver of FCE until the Debtors' plan is complete. The Receiver hopes the Debtors plan is successful and further action is not necessary but feels it would be prudent to remain on board in the event something unforeseen happens. In addition, as annual payments are received, Receiver will file the necessary statements of partial satisfaction with this court in Case No. 04CIV20-047.

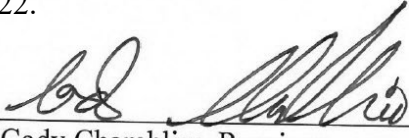
B. Other Updates and Plan Going Forward

At this time Receiver reports FCE is still operating their ranch store offering feed and farm supplies along with their fuel station. It is worth noting that this favorable outcome would not have been possible without the hard work of all parties, including FCE's Board of Directors, employees, patrons, and customers.

Simultaneous to filing this Report, Receiver filed with the Public Utilities Commission (Commission) a Request to Close Docket. This matter was opened with this honorable court after an Order to Seek Receivership was issued by the directing Commission Staff to apply to the circuit court for receivership. Therefore, Receiver thought it prudent to obtain affirmation from the Commission that the intent for which it ordered receivership be sought had been met and, with the exception of the aforementioned bankruptcy activities, no other continuing duties remain. While not legally required, Receiver views the act of publicly obtaining from the Commission agreement that the Commission believes this matter to be largely resolved as a good faith gesture toward acknowledging the progress FCE has made.

It would be the intent of Receiver to work with the FCE board to enter into a stipulation to limit Receivership duties, and file that stipulation with this court in the near future. Receiver anticipates that the stipulation would specify that duties going forward would be limited to collection of remaining receivables, specifically the bankruptcy and one small claims matter. FCE has its annual meeting on November 17, 2022, and having a stipulation in place memorializing the fact that the day-to-day operations of FCE are no longer subject to receivership would reinforce to the shareholders the financial stability of the business.

Dated this 4th day of October 2022.



Cody Chambliss, Receiver
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501
Kristen.edwards@state.sd.us