

FILED  
FULTON COUNTY  
COMMON PLEAS COURT  
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PAUL E. MACDONALD  
CLERK

IN THE COURT OF COMMON PLEAS  
FULTON COUNTY, OHIO

THE FARMERS & MERCHANTS  
STATE BANK,

Plaintiff,

-vs-

ARCHBOLD ELEVATOR, INC., et al.,

Defendants.

) Case No. 11CV000128

) Judge Barber

) **RECEIVER'S FIFTH STATUS  
REPORT**

) Gerald R. Kowalski (0022323)

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) Receiver and Counsel

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This report will summarize the Receiver's activities since the filing of its Fourth Status Report on September 7, 2011. After receiving bids for the assets of the Archbold Entities on August 30, 2011, the Receiver had further negotiations with the bidders. The Receiver's negotiations concluded at noon on Friday, September 9, 2011 and the Receiver had scheduled a conference call for Monday, September 12, 2011 with all parties / secured creditors to announce the Receiver's recommendations. Unbeknownst to the Receiver, the Archbold Entities on behalf of its owner, William Fricke, filed a bankruptcy petition on September 9, 2011, thus temporarily staying the Receivership. Unfortunately, the filing of the bankruptcy caused significant

disruption to the operation of the Archbold Entities. The Receiver, its counsel and staff were required to devote significant time to the filing requirements of the bankruptcy court. The Receiver and its counsel attended hearings in the bankruptcy court. After an evidentiary hearing on September 26, 2011, the bankruptcy court dismissed Mr. Fricke's petition. Additionally, the filing of the bankruptcy petition caused significant morale issues with the employees of the Archbold Entities.

Because of numerous admissions made by Mr. Fricke under oath at the bankruptcy hearing and for other reasons, the Receiver terminated his employment on Wednesday, September 28, 2011. On that date, the Receiver also held a conference call wherein the Receiver announced his recommendations for the sale of the assets as a result of the previously described bidding process. All parties except Mr. Fricke consented to the Receiver's recommendations, thus resulting in additional work on behalf of the Receiver, including the filing of an emergency motion to approve the sale.

On September 30, 2011, Mr. Fricke consented to the Receiver's recommendations and the Court on October 4, 2011 approved the Receiver's Third Motion for the Sale of Certain

Assets:

- The elevator and feed business to Gerald Grain Company for \$2,380,000 plus the cost of the feed inventory to be determined on the date of the closing;
- Farmhouse, barn and other buildings and associated real estate located on County Road D in Fulton County, Ohio to Randy Ruffer for \$213,078; and
- Residential lots located in Jefferson Village, Williams County, Ohio to Michael and RoseMarie Dick for \$7,750.

The Receiver anticipates closings on the above sales to occur by October 28, 2011.

Immediately upon the court order approving the sale of the elevator and feed business the Receiver entered into a lease with the Gerald Grain Company to continue to operate the elevator. The Receiver had previously entered into a lease with The Andersons for the operation of the

elevator and The Andersons was fully cooperative in transitioning the operation of the elevator and in assisting Gerald Green to assume full operation.

The Receiver is in final negotiations for the remaining assets of the Archbold Entities – three sow units, the Kainos nursery and boars. Within the next seven days, the Receiver will present the Court with a motion to approve the sale of these remaining assets. If all parties do not consent to the Receiver's final recommendations, the Receiver will request the Court to hold a hearing so that this matter can be resolved promptly and efficiently.

The Receiver continues to supply finished hogs to IPC pursuant to its contractual obligations. The production shortages that resulted from the extreme summer heat which were discussed in the Receiver's Third and Fourth Reports are being reduced.

Within the next seven days, the Receiver will seek approval from the Court to begin distribution of funds to F&M Bank which is the first priority creditor.

Shultz Huber continues to perform monthly accounting services and they have been engaged to prepare 2010 tax returns for the four entities.

The Receiver continues to hold employee meetings to advise the Archbold Entity employees of the future of the businesses. Regular conference calls are held to the secured creditors / parties to apprise them of the status of all matters in the Receivership.

Respectfully submitted,



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Gerald R. Kowalski, Receiver  
Renisa A. Dorner  
Receiver and Counsel

CERTIFICATE OF SERVICE

This is to certify that on this 7<sup>th</sup> day of October, 2011, a copy of the foregoing *Receiver's*

*Fifth Status Report* was served by email and ordinary United States mail upon:

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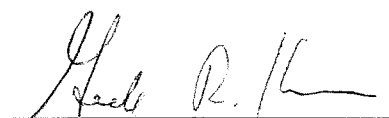
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