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COURT OF COMMON PLEAS
FULTON COUNTY, OHIO

The Farmers & Merchants State Bank,) Case No. 11CV000128
)
Plaintiff,) Judge Barber
)
-vs-) **JUDGMENT ENTRY SETTLING**
) **TRUPOINTE COOPERATIVE,**
Archbold Elevator Inc., et al.,) **INC.'S ALLEGED SECURED CLAIM**
)
Defendants.)
* * *

This matter is before the Court on plaintiff The Farmers & Merchants State Bank's ("Farmers") Emergency Motion to Settle Alleged Secured Claim of Trupointe Cooperative, Inc. ("Trupointe") (the "Motion") seeking a judgment entry approving and entering the terms of a settlement reached by and between Farmers, Trupointe, and the Receiver¹, and stipulated, consented and agreed to by the Andersons and Andersons Agriculture (all collectively, the "Parties"), that resolves the alleged security interest in the Collateral being asserted by Trupointe. Upon review of the entire record in this case and the testimony and evidence offered to the Court, the Court finds as follows:

A. The Receiver was appointed in this matter to take control of, preserve, and protect the Receivership Property (including the Collateral) on April 12, 2011.

B. Farmers has a security interest in substantially all of the Collateral, and contends its security interest is in the first priority position.

¹ All capitalized terms not herein defined shall have the same meaning as set forth in the Motion.

C. Trupointe claims to have a security interest in a portion of the Collateral, and specifically in the Hogs, pursuant to O.R.C. §1311.48, and claims that its alleged security interest in the Hogs is in the first priority position. Farmers and the Receiver dispute Trupointe's alleged security interest in the Collateral.

D. Pursuant to the Security Agreements, the Archbold Entities had an obligation to preserve and protect Farmers' security interest in the Collateral, and the Archbold Entities failed to do so to the extent Trupointe has a valid first-priority lien on any portion of the Collateral, including the Hogs. The Security Agreements authorize Farmers to advance additional funds to preserve and protect the Collateral and Farmers' security interest in the Collateral, which additional advanced funds are secured by Farmers' current security interest and priority in the Collateral.

E. The expeditious resolution of the issue of whether Trupointe has a valid first-priority security interest in the Hogs (or any Collateral) is critical to the Receiver's efforts to preserve and protect the Collateral, in large part because the Hogs must go to market on or about May 18, 2011 or shortly thereafter, and also because the cost of litigating this issue will deplete the Collateral to the detriment of all the Archbold Entities' creditors.

F. The Parties have proposed and agreed to settle this dispute by Farmers advancing funds to pay Trupointe one-half its alleged secured claim in exchange for Trupointe releasing any security interest it has or claims to have in the Hogs and the Collateral, pursuant to the terms more specifically enumerated in the Motion. Farmers' payment will benefit the receivership estate by eliminated a significant alleged secured

claim in the Collateral and preventing the estate from bearing the costs associated with litigating this issue and boarding and feeding the Hogs for longer than necessary and appropriate.

G. The proposed settlement is in the best interest of the Parties, the receivership estate, and the Archbold Entities' secured and unsecured creditors.

It is, therefore, **ORDERED** as follows:

1. The Motion is granted, and due to the emergency nature of the relief requested, the time periods allowed by Local Rule 2(D)(2) are waived;
2. Farmers shall pay the total sum of One Hundred Thirty-Five Thousand Six Hundred Sixty-Three and 66/100 Dollars (\$135,663.66) to Trupointe in full satisfaction of Trupointe's alleged secured claim in the Collateral;
3. The \$135,663.66 paid to Trupointe by Farmers shall be added to the total secured indebtedness owed from the Archbold Entities to Farmers, and shall be secured by Farmers' current security interest and priority in the Collateral;
4. Upon Trupointe's receipt of \$135,663.66 from Farmers, any and all security interests Trupointe has or claims to have in the Collateral shall be and are released;
5. Any and all additional sums owed from the Archbold Entities to Trupointe that arose before the receiver was appointed shall be and are unsecured; and
6. The Receiver shall have the right to object to the unsecured claims of Trupointe.

IT IS SO ORDERED:



Judge Barber

Dated: 5-13-11