

FILED  
FULTON COUNTY  
COMMON PLEAS COURT  
2012 FEB 16 A 10:08  
ANGIE R. BROWN, 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

) **MOTION FOR INSTRUCTIONS  
CONCERNING DISTRIBUTION TO  
SECURED CREDITORS**

) Gerald R. Kowalski (0022323)

Renisa A. Dorner (0040192)

) Pariss M. Coleman (0065936)

COOPER & KOWALSKI, LPA

) 900 Adams Street

Toledo, Ohio 43604

) Telephone: (419) 241-1200

Telefax: (419) 720-3421

) Email: kowalski@cklpa.com

dorner@cklpa.com

) coleman@cklpa.com

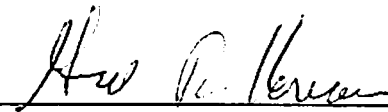
) Receiver and Counsel

---

The Receivership is nearly complete. Substantially all assets have been sold and the Receiver is prepared to make a final distribution to the secured creditors. The Receiver has been in extensive negotiations with the secured creditors, APEX and the ODA. In a phone conference on January 17, 2012, the Receiver believed that a tentative agreement had been reached with the secured creditors, APEX and the ODA. However, since that time, the Receiver has not received the consent of all of these parties to the proposal. Since an agreement has not been reached, the Receiver moves this Court for instructions as to the priority and payment to the secured creditors,

APEX and the ODA. The Receiver requests the Court to schedule this matter for a hearing as soon as possible so that this matter can be resolved and the Receivership can be finalized.

Respectfully submitted,

  
\_\_\_\_\_  
Gerald R. Kowalski, Receiver

**CERTIFICATE OF SERVICE**

This is to certify that on this 14<sup>th</sup> day of February, 2012, a copy of the foregoing *Motion for Instructions concerning Distribution to Secured Creditors* was served by email and ordinary United States mail upon:

David J. Coyle (coyle@slk-law.com)  
Nathan A. Hall (nhall@slk-law.com)  
Shumaker, Loop & Kendrick, LLP  
100 Jackson Street  
Toledo, Ohio 43604

*Counsel for Plaintiffs*

Brian C. Kalas (kalas@mchughlaw.com)  
McHugh & McCarthy, Ltd.  
5580 Monroe Street  
Sylvania, Ohio 43560

*Counsel for Defendants William & Lynette Fricke*

James R. Jeffery (jjeffery@snlaw.com)  
Laurie J. Pangle (lpangle@snlaw.com)  
James P. Silk, Jr. (jsilk@snlaw.com)  
Spengler Nathanson P.L.L.  
Four SeaGate, Suite 400  
Toledo, Ohio 43604-2622

*Counsel for Defendants The Andersons, Inc.  
and The Andersons Agriculture Group, L.P.*

Steven L. Diller (sdiller@dillerandricellc.com)  
Dillon W. Staas (dstaas@dillerandricellc.com)  
Diller & Rice, LLC  
124 E. Main Street  
Van Wert, Ohio 45891

*Counsel for Defendant D&D Ingredient  
Distributors, Inc.*

James R. Patterson (jpatterson@agri.ohio.gov)  
Ohio Department of Agriculture  
8995 East Main Street  
Reynoldsburg, Ohio 43068

Elizabeth J. Hall  
(betsy\_hall@andersonsinc.com)  
480 W. Dussel Drive  
Maumee, Ohio 43537

*Counsel for Defendants The Andersons, Inc. and  
The Andersons Agriculture Group, L.P.*

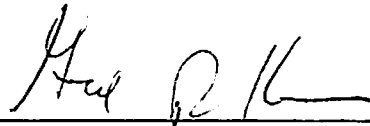
Michael S. Messenger  
(mmessenger@rcolaw.com)  
Mark A. Ozimek (mozimek@rcolaw.com)  
Robison, Curphey & O'Connell  
Ninth Floor, Four SeaGate  
Toledo, Ohio 43604

Gregory L. Arnold (glalawyer1@aol.com)  
Daniel C. Arnold (dcalawyer1@yahoo.com)  
Law Offices of Gregory L. Arnold &  
Associates, Ltd.  
5749 Park Center Court  
Toledo, Ohio 43615

*Counsel for Defendant Fenstermaker Farms,  
Inc.*

*Counsel for Agricultural Products Extension,  
LLC*

Toyota Motor Credit Corporation  
c/o Statutory Agent  
CT Corporation System  
1300 East Ninth Street  
Cleveland, Ohio 44114



---

Gerald R. Kowalski, Receiver