

FILED  
FULTON COUNTY  
COMMON PLEAS COURT  
2011 NOV 10 P 3:02  
PAUL E. MACDONALD  
CLERK

IN THE COURT OF COMMON PLEAS  
FULTON COUNTY, OHIO

THE FARMERS & MERCHANTS ) Case No. 11CV000128  
STATE BANK, )  
 ) Judge Barber  
Plaintiff, ) ORDER  
-vs- )  
 )  
ARCHBOLD ELEVATOR, INC., et al., )  
 )  
Defendants. )

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This matter came on for hearing on November 1, 2011 on the Receiver's Motion for Instructions Concerning Sale of Remaining Assets. Notice of the hearing was provided to all parties and to all bidders. A Memorandum in Response to Receiver's Motion for Instructions was filed on behalf of William and Lynnette Fricke on October 31, 2011. A Supplement to Memorandum in Response to Receiver's Motion for Instructions was filed on the morning of November 1, 2011 on behalf of William and Lynnette Fricke.

A court reporter was present and the Court entertained arguments from counsel for all parties. The Court also entertained argument from counsel for any bidders. Counsel for William and Lynnette Fricke advised the Court that they had no evidence to present other than what was contained in the Memorandum and Supplement which had been filed.

At the conclusion of arguments, the Receiver advised the Court that he was of the opinion that William and Lynnette Fricke had not provided proof of adequate financing in order to consider their bids. The same conclusion was voiced by counsel for Farmers & Merchants Bank, The Andersons and D&D Ingredients.

The Court has carefully reviewed the pleadings, status report and memorandum filed on this issue. Upon due consideration, the Court finds that William and Lynnette Fricke have failed to provide proof of adequate financing to support their bids for some of the assets of the Archbold Entities.

It is therefore ORDERED, ADJUDGED and DECREED that the bids of William Fricke and Lynnette Fricke are hereby disqualified. The Receiver is ordered to consider the remaining bids and to proceed with the sale of the remaining Archbold Entity assets as soon as is practicable.

IT IS SO ORDERED.



JUDGE BARBER