

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF MISSISSIPPI

IN RE: EXPRESS GRAIN TERMINALS, LLC

CHAPTER 11

BANKRUPTCY CASE NO: 21-11832-SDM

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FARM GROUP I'S OBJECTIONS TO STONEX COMMODITY  
SOLUTIONS, LLC'S OFFICIAL FORM FOR ASSERTION  
OF INTEREST IN GRAIN (DKT. #1437)

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Farm Group I<sup>1</sup> files this Objections to StoneX Commodity Solutions, LLC's (StoneX's) Official Form for Assertion of Interest in Grain (Dkt. #1437), and in support states the following:

1. Under Mississippi law, warehouse receipts cannot be issued without an actual delivery of grain into the warehouse from which the warehouse receipts are issued, nor shall a warehouse receipt be issued for a greater quantity than was delivered, nor shall more than one (1) receipt be issued for the same lot of grain. Miss. Code Ann. § 75-44-61 (Rev. 2016). *See also* regulations issued by the Mississippi Department of Agriculture and Commerce, Subpart 2 – Administrative Rules; Chapter 10 Grain Warehouses; sections 110.02 and 110.03. The warehouse receipts in this case violate every one of these mandates.

2. In violation of Mississippi law, StoneX did not actually deliver any soybeans to the Business Debtors<sup>2</sup> at any time, although the StoneX warehouse receipts all indicate the delivery method is via “truck.”

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<sup>1</sup> Farm Group I consists of the following: Adron Farms, Ashton Planting Company, BC Farms, Black Dog Farms, Buck Harris Planting Company, Champion Farms, D.W. Clark, Jr., Tonia T. Clardy, Corley Moses Farms, DLH Farms, David Bratton Farms, Davis and Davis Farms, DeLoach Farms, Dodson Planting Company, Fulgham Farms, Tyler Gilliland, Highlandale Planting Company, Howard Farms, Idlewood Plantation, Jennings Planting Company, KMC Farms, Jacob Lindsey, Lake Lindsey, Little Bee Lake Farms, LLC, Jim Locke, MBM Farms, Inc., O'Neal Planting Company, Poe Planting Company, Fred J. Poindexter, Porter Farms, Prestidge Farms II, Ridgecrest Farms, Scott Farms, Mary Annette Morgan Smith, Tackett Planting Company II, Taylor Farms, Kelsie Fennell Tribble, VK Farms, W B Farms, W.M. Jennings & Son, Westwood Farms, Lawyer Wheeler and Wolf Run Farms.

<sup>2</sup> Express Grain Terminals, LLC, Express Biodiesel, LLC, and Express Processing, LLC are referred to collectively as “Business Debtors.”

3. StoneX knew the grain it “purchased” from the Business Debtors was commingled while being held at the Business Debtors’ facilities. However, in violation of Mississippi law, Miss. Code Ann. § 75-44-61 (Rev. 1996), there was not sufficient grain on hand to support the totality of receipts.

4. In addition, StoneX knew that the soybeans it was “purchasing” were being used by the Business Debtors in crushing operations. Once the Business Debtors used the farmers’ soybeans in that operation, they were gone. Invalidly issued warehouse receipts do not create a floating lien that attaches to all soybeans that come into the Business Debtors’ possession at various times. Indeed, this shortage of beans is why Mississippi law requires that warehouse receipts only be issued for grain that is actually delivered to the warehouse and only in the amount delivered for storage.

5. StoneX’s warehouse receipts also violate Mississippi law because they are too old and were issued well over a year before the bankruptcy. Mississippi law requires all warehouse receipts issued by a licensed warehouse to contain a provision requiring the holder of the warehouse receipts to demand delivery of the crops within one year of the warehouse receipt’s issuance. Miss. Code Ann. § 75-44-49 (1)(a). Five of the eight warehouse receipts held by StoneX are invalid as a matter of law because StoneX did not demand delivery of the grain within one year of issuance. Specifically, warehouse receipts ##MS1038, 3099, 3102, 3115, and 3126 are invalid because StoneX held them too long. (*See* 557 Report Supplement at page 2, Dkt. #1204-1).

6. Warehouse receipt #MS 2063 dated June 28, 2021, was swapped for warehouse receipt #MS 2032 on June 28, 2021; however, warehouse receipt #MS 2032 had already expired on June 28, 2021, having been issued on November 9, 2018. Accordingly, warehouse receipt #MS 2063 is invalid.

7. Warehouse receipt #MS 2064 dated July 21, 2021, was swapped for warehouse receipt # MS 2039 on July 21, 2021; however, warehouse receipt # MS 2039 had already expired on July 21, 2021, having been issued on January 3, 2019. Accordingly, warehouse receipt # MS 2064 is invalid.

8. Warehouse receipt #MS 2062 was swapped for warehouse receipt #MS 3136 on December 1, 2020. Warehouse receipt #MS 3136 was issued pursuant to Contract No. 85923 for the “purchase” of soybeans at Sidon. Warehouse receipt #MS 2062 changed the location of the soybeans to Greenwood, without any delivery of soybeans. Warehouse receipt #MS 2062 is invalid.

9. The Business Debtors’ records also indicate that many of the StoneX warehouse receipts did not have sufficient grain in the warehouse to cover them at the time the receipts were issued.

- a. On May 9, 2019, the Business Debtors issued warehouse receipt #MS 3102 to StoneX for 500,000 bushels of soybeans to be held at Sidon. (*See* 557 Report Supplement at page 2, Dkt. #1204-1). But the Business Debtors’ records indicate that at the time, the Business Debtors only held 373,811 bushels of soybeans at Sidon. (Business Debtors’ Daily Position Reports, EGT DPR 2020 and EGT DPR 2017 – 2020 and EGT Daily Inventory Roll Forward 09.20.20). Moreover, StoneX still claimed an additional 300,000 bushels of beans at Sidon from the issuance of warehouse receipt #MS 3099. Accordingly, the Business Debtors were short 426,189 bushels of soybeans on May 9, 2019, to cover StoneX’s warehouse receipts.
- b. On June 1, 2020, the Business Debtors issued two additional warehouse receipts to StoneX, #MS 3126 for 350,000 bushels of soybeans to be held at

Sidon and #MS 1038 for 200,000 bushels of soybeans to be held at Minter City. (See 557 Report Supplement at page 2, Dkt. #1204-1). There are no numbers available to the farmers for June 1, 2020, but on June 30, 2020, there was not sufficient grain held on site at Sidon to cover the StoneX warehouse receipts ##MS 3099, 3102, 3115, and 3126. (total 1,700,000 bushes) and the Macquarie warehouse receipt #MS 3149 (1,000,000 bushels). The Business Debtors had only 369,179 bushels of soybeans stored in Sidon on June 30, 2020, so the warehouse receipts were short by 2,330,821 bushels. (Business Debtors' Daily Position Reports, EGT DPR 2020 and EGT DPR 2017 – 2020 and EGT Daily Inventory Roll Forward 09.20.20). The Business Debtors' records indicate that grain on site at all locations on June 30, 2020, was only 1,707,049 bushels so the warehouse receipts at the time were short by 1,192,951 bushels if one considers all locations (which Farm Group I does not concede is the appropriate consideration).

- c. On June 28, 2021, the Business Debtors issued a warehouse receipt to StoneX #MS 2063 for 200,000 bushels of soybeans to be stored at Greenwood. On December 1, 2020, they had issued a warehouse receipt #MS 2062 for 485,000 bushels of soybeans to be stored at Greenwood. (See 557 Report Supplement at page 2, Dkt. #1204-1). On June 28, 2021, the Business Debtors did not have a sufficient amount of soybeans stored in Greenwood to cover these outstanding warehouse receipts. The Business Debtors' reports indicate a negative balance of 288,850 bushels of soybeans in Greenwood when warehouse receipt #MS 2063 was issued to StoneX. Accordingly, there was a shortage of 973,850 bushels of beans at Greenwood on June 28, 2021, to

support 685,000 bushels of warehouse receipts issued to StoneX. (Business Debtors' Daily Position Reports, EGT DPR 2020 and EGT DPR 2017 – 2020 and EGT Daily Inventory Roll Forward 09.20.20).

- d. On July 21, 2021, the Business Debtors issued warehouse receipt #MS 2064 to StoneX for 195,000 bushels of soybeans to be stored at Greenwood. (*See* 557 Report Supplement at page 2, Dkt. #1204-1). The Business Debtors' records indicate that Greenwood held 205,437 bushels of soybeans on this date, but the Business Debtors had outstanding warehouse receipts that covered 880,000 bushels of soybeans on this date. Thus, the Business Debtors were short 674,663 bushels of soybeans at Greenwood to support 880,000 bushels of warehouse receipts issued through July 21, 2021. (Business Debtors' Daily Position Reports, EGT DPR 2020 and EGT DPR 2017 – 2020 and EGT Daily Inventory Roll Forward 09.20.20).

10. The majority of the outstanding warehouse receipts were issued before the farmers had delivered most of their soybeans for 2021. Based on the facts available to the farmers, as contained in the Business Debtors' Amended Schedule (Dkt. #1695), as of the "start of day" on September 28, 2021, the Business Debtors held 3,264,857 bushels of soybeans. According to the Amended Grain Report (Dkt. #1693), the Business Debtors shipped out (sold) 231,693.66 gross bushels of soybeans on September 28 and 29, 2021, leaving 3,033,163.34 bushels. Importantly, according to the initial Grain Report (Dkt. #1156-2), 3,130,954.22 net bushels of soybeans were delivered to the Business Debtors by the farmers in the twenty (20) days prior to the bankruptcy, meaning they were not sitting in a warehouse to cover the outstanding warehouse receipts. Additionally, CR3 indicates in a Break-Even Analysis that in the period between the week ended September 3, 2021, through October 1, 2021, the Business

Debtors crushed an average of 160,000 bushels of soybeans per week. Total warehouse receipts on the date of bankruptcy were for 4,815,000 bushels of soybeans.

11. Not only does StoneX not have a valid ownership claim in grain stored by the Business Debtors on September 29, 2021, but it also does not have a perfected security interest in that grain.

12. StoneX's Master Purchase and Sale Agreement (Dkt.# 1880) granted a security interest in "the Subject Commodity." The agreement defines "Subject Commodity" as "the Warehoused Commodity and the In-Transit Commodity." "Warehoused Commodity" is defined as "the Eligible Commodity sold and purchased under any Transaction under this Master Agreement which is on site and in storage with an Approved Warehouse." (Emphasis added).

13. As noted above in paragraph 9 and its subparts, at the time the warehouse receipts were issued there was not enough grain stored at the specified facilities to cover StoneX's warehouse receipts and the warehouse receipts issued to others. As such, there was no "Warehoused Commodity" to which StoneX's security interest could attach.

14. For a security interest to be enforceable, it must attach to the collateral. A security interest does not attach to collateral unless: (1) value has been given; (2) the debtor has rights in the collateral; and there is an agreement that it attach. *In this case*, there were not enough soybeans at the specified facilities when the warehouse receipts were issued to cover all of the Business Debtors' issued warehouse receipts and the Business Debtors had no rights in any soybeans to which StoneX's security interest could attach. As such, StoneX has no security interest in any "Warehoused Commodity."

15. Farm Group I objects to the Assertion of Interest filed by StoneX (Dkt. 1437) on the basis that the grain at issue is not property of the bankruptcy estate. A constructive trust arose as a matter of law in favor of the producers/farmers based on the fraud of Express Grain

Terminals, LLC in soliciting producers/farmers to sell grain to it in 2021 and fraud committed by Express Grain Terminals, LLC in obtaining its licenses to operate a grain warehouse in 2021, which licenses were revoked and held to be void *ab initio* by the Mississippi Department of Agriculture and Commerce by order dated February 10, 2022

This 14th day of March, 2022.

Respectfully submitted,

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### CERTIFICATE OF SERVICE

I, Jim F. Spencer, Jr., do hereby certify that I have caused to be served the above and for going pleading on all parties requesting notice by using the ECF filing system of the court and on the following by service upon the attorney of record or by U.S. Mail postage pre-paid as indicated:

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Vardaman, MS 38878

Romeo Delta Planting Co. LLC  
336 Lakeview Drive  
Tchula, MS 39169

Ronnie Moss Farms  
1309 Robert E Lee Drive  
Greenwood, MS 38930

Rusty Mims  
3995 Highway 35 South  
Holcomb, MS 38940

Silent Shade Planting Co.  
P. O. Box 534  
Belzoni, MS 39038

Spencer Alderman Farms  
2012 County Road 122  
Carrollton, MS 38917

SPP, LLC  
P. O. Box 675  
Webb, MS 38966

Steve Grisham Farms  
4301 State Highway 12 East  
Belzoni, MS 39038

Steve Parker Farms  
990 CR 308  
Big Creek, MS 38914

Steve Young  
2008 Eastridge Circle  
Madison, MS 39110

Stewart Farms  
1617 Hwy 16 West  
Carthage, MS 39051

Sunnyside Planting Co.  
P. O. Box 40  
Holcomb, MS 38940-0040

Teoc Farms LLC  
404 Hwy 7 North  
Greenwood, MS 38930

The Graves Place LLC  
P.O. Box 1720  
Collierville, TN 38027

Triple Tee Farms  
1829 Race Track Rd.  
West, MS 39192

Wayne Poe  
610 N. Aubrey Circle  
Greenwood, MS 38930

Wildwood Farms  
101 W. Front St.  
Greenwood, MS 38930

Willow French Farm  
PO Box 1127  
McGehee, AR 71654

WR Planting Co.  
500 E. Cleveland Ave.  
Greenwood, MS 38930

WTF Planting Company  
P. O. Box 8230  
Greenwood, MS 38935-8230

This 14th day of March, 2022.

By: /s/Jim F.Spencer,Jr.  
Their attorney