

## MISSOURI NEWS SCENE

# Farmers left holding the bag



By JERILYN JOHNSON

## Key Points

- Two multimillion-dollar grain dealer insolvency cases emerge.
- MDA appointed trustee in both cases to protect farmers' assets.
- Farmer claimants total 242; investigation could take months.

**H**UNDREDS of Missouri farmers could be out millions in hard-earned grain sales after two grain dealer insolvencies were revealed recently, with one case under state criminal investigation and making national headlines.

The office of Missouri Attorney General Chris Koster opened an official investigation into an Audrain County grain dealer over concerns that millions of dollars owed to local farmers may be missing. Estimates from officials range from \$15 million to \$50 million. Koster is investigating whether the dealer violated consumer protection laws.

Representing the Missouri Department of Agriculture, Koster obtained a court order on Feb. 20, seizing the financial accounts of T.J. Gieseke Farms and Trucking, and T.J. Gieseke Trucking LLC. Both companies are owned by Cathy Gieseke and operate out of Martinsburg, a farming community of 326 people in Audrain County. MDA reports that Gieseke served as a broker between crop farmers in northeast Missouri and buyers in St. Louis; Louisiana, Mo.; Mexico, Mo.; and Quincy, Ill.

Gieseke held a Class IV

license. Class IV dealers primarily engage in trucking or transportation of grain. The dealers are required to pay the seller within 30 days of grain delivery or upon demand of the seller, whichever occurs first. MDA's Grain Regulatory Services protects the public interest by licensing, bonding and auditing grain warehouses and grain dealers to ensure financially sound grain markets for Missouri's farmers to store and merchandise their grain.

## MDA's role in cases

A routine audit by MDA in February showed discrepancies in Gieseke's financial records — she owed more than \$1.3 million in grain accounts payable (grain delivered and priced, but not paid) — leading department auditors to request assistance from the Attorney General's Office.

Missouri law allows the director of agriculture to go to court to be appointed receiver or trustee of any insolvent grain

dealer to protect the assets of farmers and other businesses who have stored grain at the facility. Being appointed trustee allows MDA to freeze the dealers' operations so funds and assets can be dispersed to farmers who have suffered losses due to the insolvency.

MDA hosted its first public informational meeting on March 4 in Martinsburg. More than 300 farmers and concerned residents packed the Knights of Columbus Hall to hear how the state might be able to help recover some of the farmers' losses.

Chris Klenklen, administrator for MDA Grain Regulatory Services, Jefferson City, reports that claimants in the Gieseke grain dealer case totaled 142 as of March 12. Farmers and grain sellers who sold grain to T.J. Gieseke Farms and Trucking and those who were not paid for grain sold were asked to

contact MDA's Grain Regulatory Services by March 31 to file a claim.

## Investigation under way

Koster says financial accounts, loan paperwork and other relevant documents have been seized, and forensic accounting will begin immediately. The attorney general's involvement in the case takes three forms:

1. an investigation of Gieseke for potential violations of federal and state consumer protection laws

2. continued representation of MDA in its role as receiver of the insolvent grain dealership as provided by Missouri law, and in the seizure of Gieseke's assets

3. full assistance and support of the criminal investigation launched by Audrain County Prosecuting Attorney Jason Lamb

Total claim amounts, however, have not yet been determined for either case as MDA staff continues to review the claims and the supporting evidence of each to determine the validity of the claim and/or how to value the claim.

"This process will not be completed until the claims are adjudicated by an administrative hearing officer. The administrative hearings will not be set until the claim filing process has expired," Klenklen says.

The Grain Regulatory Services staff is also focused on providing information to the ongoing criminal investigation, which is being conducted with the U.S. Attorney's Office in St. Louis, as well as the Missouri Attorney General's Office and the Audrain County prosecutor's office.

"We are reminded in both of these cases that a grain dealership is like a bank," Koster says. "Farmers who sell their grain to these companies need to be paid, and my office will do everything it can to make sure that happens. It has become obvious that the bonding requirement under state law is inadequate to cover the potential losses these farmers face."

To sort out all the issues surrounding the grain dealer insolvency cases, Missouri House Speaker Ron Richards announced the formation of a task force. Its goal is to tackle issues, such as bonding, creation of indemnity funds, MDA regulations and criminal penalties. The task force is expected to work into next year's legislative session.

## Insolvency cases ignite legislative action

**C**URRENT Missouri law requires licensed grain dealers post a bond with the Department of Agriculture each year that totals 1% of their total grain purchases for the previous year, not to exceed \$300,000. In both the Audrain and Daviess county cases, the bond amounts were insufficient to cover debts owed by the grain dealers.

Rep. Steve Hobbs, R-Mexico, and Rep. Brian Munzlinger, R-Williamstown, have filed a bill, H.B. 915, which would essentially raise the surety bond caps. In summary, the bill would:

- Raise the minimum bond from \$20,000 to \$50,000.
- Raise the maximum bond from \$300,000 to \$1,000,000.
- Raise the minimum percentage from 1% to 2% of grain purchases for the formula for determining the amount of bond.
- Eliminate the maximum percentage of 5%; require 2% for all grain dealers.
- Eliminate provisions in state law that allow lesser bonding amounts for dealers with less than \$400,000 in grain purchases.

Hobbs also filed H.B. 923, which would make it a Class A misdemeanor for any licensed grain dealer to act outside the scope of his or her license or classification of licensure.

At press time, the House Agribusiness Committee, chaired by Munzlinger, had been assigned both pieces of legislation.

## Double trouble

Attorney General Koster also took legal action to protect farmers owed money by an insolvent grain dealership in northwest Missouri last month. Koster obtained an order from a Daviess County judge on March 3, allowing the Missouri Department of Agriculture to take over operations of the Gallatin Grain Co., owned by Daniel Froman. In his petition, Koster said Gallatin Grain Co. has nearly \$700,000 in debts and appears to have no cash, grain or other assets on hand.

Gallatin Grain Co. claimants totaled around 100 at press time. MDA accepted claims through March 17.