



Public Service Commission

State of North Dakota

COMMISSIONERS

Susan E. Wefald, President
Kevin Cramer
Tony Clark

Executive Director
Illona A. Jeffcoat-Sacco

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Bismarck, North Dakota 58505-0480
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e-mail: ndpsc@nd.gov
TTY 800-366-6888 or 711
Fax 701-328-2410
Phone 701-328-2400

September 3, 2008

Sent via fax to 701-662-2216 and U.S. Mail

Mr. Leonard Gasparre, President
Noodles by Leonardo, Inc.
PO Box 860
Devils Lake, ND 58301

Dear Mr. Gasparre:

On July 17, 2008, Public Service Commission staff sent a letter to Mr. Kenneth O. Aune warning that it appeared Noodles by Leonardo, Inc. had failed to convert scale tickets within 45 days of delivery of grain in violation of NDCC §60-02-11. The letter specified that Noodles by Leonardo, Inc. take corrective action by converting all scale tickets that had not been converted within 45 days of issuance. A copy of the warning letter was mailed to you at the Las Vegas, Nevada address identified on your firm's grain warehouse license renewal received in our office on July 21, 2008.

On August 26, 2008, we received an Aged Payables Report showing that some but not all scale tickets have been converted. We appreciate the efforts your firm has made in converting the scale tickets, however, it appears you remain out of compliance with state law.

The Commission has an obligation to protect the elevators or producers that are owed money as a result of not being paid within the timeframe as provided in statute. You must take immediate action to come into compliance.

All scale tickets exceeding 45 days must be converted into cash or credit-sale contracts as provide for in NDCC § 60-02-11 (see attached). If you convert the scale tickets into cash, please provide copies of the checks or check stubs to our office. If you convert the scale tickets into credit-sale contracts, please provide copies of properly executed contracts.

The Licensing Division is very concerned about your firm's non-compliance and we cannot be in a position of condoning your violation of statute. I have visited with our legal department about filing a formal complaint and if we do not receive documentation by September 15, 2008, verifying that all grain payables exceeding 45 days have been paid, staff intends to go forward with a formal complaint.

Mr. Leonard Gasparre, President
September 3, 2008
Page 2

If a complaint is filed and a violation is found, sanctions can be imposed as allowed by NDCC § 49-07-01.1, including suspension or revocation of your license, and/or a fine of up to \$5,000.

Please call me at 701-328-4097, if you have questions.

Sincerely,



Susan K. Richter, Director
Licensing Division

skr
Attachment

cc: Kenneth O. Aune

TITLE 60
WAREHOUSING AND DEPOSITS

Chapter	
60-02	Grain and Seed Warehouses.
60-02.1	Grain Buyers.
60-10	Credit-Sale Contract Indemnity.

CHAPTER 60-02
GRAIN AND SEED WAREHOUSES

Section		Section	
60-02-11.	Scale ticket — Contents — Conversion.	60-02-31.	Notice to owner of termination of storage contract — Repealed.
60-02-16.	Warehouse receipt — Contents and provisions.	60-02-32.	Reissue warehouse receipts — Provisions.
60-02-17.	Warehouse and storage contract — Storage rates — Terminal delivery.	60-02-37.	Destruction of warehouse — Duty to notify commission — Repealed.
60-02-24.	Reports to be made by public warehouseman — Penalty for failure.	60-02-40.	Transfer of warehouse — Redemption of receipts.
60-02-30.	Termination of public grain warehouse storage contracts — Notice to receiptholder.		

60-02-11. Scale ticket — Contents — Conversion.

1. Every public warehouseman, upon receiving grain into its warehouse, shall issue a uniform scale ticket for each load of grain received. Such tickets must be numbered consecutively, and one copy of each ticket must be retained and remain as a permanent record. The original ticket must be delivered to the person from whom the grain is received, upon receipt of each load of grain. All scale tickets must be converted into cash, noncredit-sale contracts, credit-sale contracts, or warehouse receipts within forty-five days after the grain is delivered to the warehouse.
2. Nothing in this chapter requires a warehouseman to receive grain for storage. A warehouseman shall publish and post, in a conspicuous place in its warehouse, a publication identifying whether storage will be available to its patrons or whether grain will be accepted via cash or a credit-sale contract arrangement.

Source: S.L. 1981, ch. 126, § 6; R.C. 1895, § 1790; R.C. 1899, § 1790; R.C. 1905, § 2248; C.L. 1913, § 3112; S.L. 1927, ch. 155, § 12; R.C. 1943, § 60-0211; S.L. 1971, ch. 584, § 1; 1983, ch. 672, § 8; 1985, ch. 661, § 6; 1989, ch. 741, § 3; 2005, ch. 587, § 1.

Effective Date.

The amendment of this section by section 1 of chapter 587, S.L. 2005 became effective August 1, 2005.

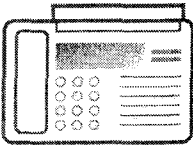
60-02-16. Warehouse receipt — Contents and provisions. A warehouse receipt shall:

1. Be issued only upon the actual delivery of grain to the warehouse for storage.
2. Contain the following provisions:

FAX

Public Service Commission

600 E Boulevard Ave – Dept 408
Bismarck, ND 58505-0480
www.psc.state.nd.us



To: Leonard Gasparre, Noodles by Leonardo
Fax number: 701-662-2216

From: Sue Richter, Licensing Division
Fax number: 701-328-2410

Sue Richter

Date: 9/3/2008

Regarding: Grain Warehouse Examination
Probable Violations Letter

Phone number for follow-up:
701-328-4097

Comments:

See attached letter regarding failure of Noodles by Leonardo. Inc. to convert scale tickets within 45 days of delivery of grain in violation of NDCC Section 60-02-11.

If you have any questions, please call our office at 701-328-4097.

ACTIVITY REPORT

TIME : 09/03/2008 13:32
 NAME : NDPSC
 FAX : 7013282410
 TEL : 7013282400
 SER.# : BROJ1J595612

NO.	DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
#423	08/29	09:17	12182875499	15	01	OK	RX ECM
	08/29	11:09	7012350772	19	01	OK	RX ECM
	08/29	13:59	81506	53	08	OK	TX ECM
#424	08/29	14:04	92582755	22	01	OK	TX
	08/29	15:23	701 253 4717	26	03	OK	RX ECM
#425	08/29	16:55	218 773 9809	18	01	OK	RX ECM
	08/29	23:01	9529448917	01:35	02	OK	RX
	09/02	08:12		15	01	OK	RX ECM
	09/02	08:29	917013782388	19	01	OK	TX ECM
	09/02	09:02	701 378 2388	25	01	OK	RX ECM
#426	09/02	09:37	701 356 5313	01:05	05	OK	RX ECM
	09/02	10:44	917019842616	15	01	OK	TX ECM
#427	09/02	10:55	917012827574	31	03	OK	TX ECM
	09/02	11:32	701 293 0310	01:10	05	OK	RX ECM
#428	09/02	11:44		01:31	02	OK	RX ECM
	09/02	14:42	92582755	22	01	OK	TX
	09/02	15:43	7018526058	18	01	OK	RX ECM
#429	09/02	16:16	7018734508	01:18	03	OK	RX
	09/02	16:59	92224267	38	02	OK	TX ECM
	09/02	17:14	306 569 4787	01:20	02	OK	RX
	09/02	19:52	791795211	23	01	OK	RX ECM
#430	09/03	07:18	7013282133	29	02	OK	RX ECM
	09/03	07:56	7012827574	21	02	OK	RX ECM
	09/03	09:11	6053529818	28	03	OK	RX ECM
	09/03	09:22	917012351026	01:03	08	OK	TX ECM
	09/03	09:36	917013564102	41	03	OK	TX ECM
#431	09/03	09:42	17014567100	26	01	OK	RX ECM
	09/03	10:12	701 356 4102	25	01	OK	RX ECM
#432	09/03	10:23	917016962042	01:01	08	OK	TX ECM
#433	09/03	10:56	917017494007	18	01	OK	TX ECM
	09/03	11:20	701 223 8202	16	01	OK	RX ECM
#434	09/03	11:23	998189094703	00	00	BUSY	TX
#435	09/03	11:24	98189094703	00	00	BUSY	TX
	09/03	11:51	4067617926	27	03	OK	RX ECM
#436	09/03	12:38	4067617926	16	01	OK	RX ECM
	09/03	13:16	7017809050	35	01	OK	RX
	09/03	13:29	916203794459	24	01	OK	TX ECM
#437	09/03	13:30	917016622216	01:32	04	OK	TX

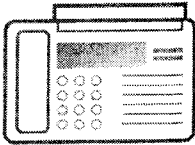
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