

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF GRAND FORKS

NORTHEAST CENTRAL JUDICIAL DISTRICT

_____)	
Public Service Commission)	CIVIL NO. _____
)	
Petitioner,)	
)	
vs.)	
)	APPLICATION FOR
Northwood Mills LLLP)	APPOINTMENT AS
)	TRUSTEE AND MOTION
and)	TO JOIN SURETY AS PARTY
)	AND FOR DEPOSIT OF BOND
Travelers Casualty and Surety)	PROCEEDS
Company of America)	
)	
Respondents.)	
_____)	
PSC Case No. GE-09-31)	
_____)	

The North Dakota Public Service Commission (Commission) alleges as follows:

1.

Northwood Mills LLLP, a North Dakota Limited Liability Limited Partnership, authorized to business in North Dakota, operates a grain warehouse at Northwood, North Dakota, and is licensed under North Dakota Century Code Chapters 60-02 and 60-04.

2.

Northwood Mills LLLP operates the grain warehouse facility at Northwood under license number 1184.

3.

A surety bond is on file with the Commission as required by North Dakota Century Code §60-02-09. The surety bond is for \$50,000 and identified as number 104 796 578 with Travelers Casualty & Surety Company of America, One Tower Square, Hartford, Connecticut 06183, as surety.

4.

On January 9, 2009, Rachel Hellyer, Controller for Northwood Mills LLLP informed the Commission via a phone call that all grain inventories had been crushed into oil and there was no grain inventory in the warehouse facility. On January 14, 2009, the Commission received written notification of the same from Geoffrey Bengtson, General Manager of Northwood Mills LLLP.

5.

On January 20, 2009, the Commission received a letter from Columbia Grain – Midwest Division setting forth a claim against Northwood Mills LLLP for collection of outstanding funds owing to Columbia Grain – Midwest Division, 400 South 4th Street, 808 Grain Exchange Building, Minneapolis, Minnesota 55145, in the amount of \$19,399.26 for the purchase of 1,297.85 hundredweight of canola. Copies of the letter and supporting documentation are attached as Exhibit A.

6.

On January 21 and 22, 2009, an inspection subsequent to the claim confirmed that there was no grain inventory in the Northwood facility. However, the records provided during the inspection indicated that there were grain product assets consisting of meal in the Northwood facility and oil in rail tankards in Larimore.

7.

The Commission was informed and believes that there are outstanding obligations for any unpaid claims for grain sold to Northwood Mills LLLP as a public warehouseman under North Dakota Century Code Chapter 60-02 for which bond protection is available under the provisions of North Dakota Century Code §60-02-09 and for any credit-sale contracts for which protection is available from the credit-sale contract indemnity fund under North Dakota Century Code §§60-10-04 and 60-10-05.

8.

Northwood Mills LLLP is insolvent under North Dakota Century Code Chapter 60-04, in that it is unable upon proper demand to make payment for grain purchased or make redelivery for grain delivered.

9.

The Commission is legally entitled to be appointed trustee of the trust fund provided under North Dakota Century Code Chapter 60-04.

10.

All bond proceeds will be needed to redeem outstanding receipts issued by Northwood Mills LLLP. North Dakota Century Code §60-04-03.3 provides

The surety on the warehouseman's bond must be joined as a party to the insolvency proceeding upon a motion by the commission when the commission believes that proceeds from the warehouseman's bond may be needed to redeem outstanding receipts issued by the warehouseman. When it appears in the best interests of the receiptholders, the court may order the surety to deposit the penal sum of the bond, or so much thereof as may be deemed necessary, into the trustee's trust account pending a final determination of the surety's liability under the bond.

11.

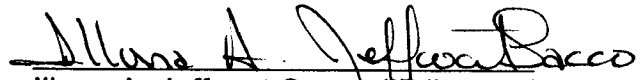
Proceeds from the credit-sale contract indemnity fund will be needed to meet the licensee's obligations to any holders of credit-sale contracts. North Dakota Century Code §60-10-05 provides:

Upon the insolvency of a licensed public warehouse or grain buyer and a declaration that the Public Service Commission serve as the trustee, the Public Service Commission shall make the proceeds of the credit-sale contract indemnity fund available for use in meeting the licensee's obligations with respect to the reimbursement of any person who sold grain to the licensee under a credit-sale contract and who was not fully compensated in accordance with the contract.

WHEREFORE the Public Service Commission respectfully requests:

1. That the Court declare Northwood Mills LLLP **INSOLVENT** within the meaning of North Dakota Century Code Chapter 60-04 and establish the date of insolvency as January 20, 2009.
2. That the Court **APPOINT** the Public Service Commission as trustee of the trust fund under North Dakota Century Code §60-04-03.
3. That the Court join Travelers Casualty and Surety Company of America, One Tower Square, Hartford, Connecticut 06183, as surety on the bond for Northwood Mills LLLP, as a respondent in this action.
4. That the Court order Travelers Casualty and Surety Company of America, as surety, to deposit the penal sum of the bond in the amount of \$50,000 in the trustee's trust account for payment of valid claims.

Bismarck, North Dakota, this 2nd day of February, 2009.

A handwritten signature in black ink, reading "Illona A. Jeffcoat-Sacco". The signature is written in a cursive style and is positioned above a horizontal line.

Illona A. Jeffcoat-Sacco (ID#03315)

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