

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF GRAND FORKS

NORTHEAST CENTRAL JUDICIAL DISTRICT

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

The Public Service Commission (Commission) has jurisdiction over public grain warehouses under North Dakota Century Code Chapters 60-02 and 60-04, which provides for the appointment of the Commission as trustee of the assets of a public warehouse upon the filing of a notice with the Commission that the public warehouseman has defaulted in the payment for grain purchased by the buyer.

The Commission received a claim from Columbia Grain – Midwest Division, 400 South 4th Street, 808 Grain Exchange Building, Minneapolis, Minnesota 55415 against Northwood Mills LLLP for collection of outstanding funds owed to Columbia Grain –

Midwest Division for grain sold to Northwood Mills LLLP. Northwood Mills LLLP is unable, upon proper demand, to pay for grain purchased.

The Commission is informed and has reason to believe that there are outstanding obligations for 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 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.

It is in the best interests of all claimants that the Commission be appointed Trustee, and be given the powers under North Dakota Century Code Chapters 60-04 and 60-10 so that all claimants will be treated fairly.

It is in the best interest of all claimants that the surety be joined as a party as provided for under North Dakota Century Code §60-04-03.3 and be required to deposit bond funds with the trustee for payment of valid claims to any persons holding receipts other than credit-sale contracts from the licensee for grain sold or stored.

Upon the insolvency, the Commission has the authority under North Dakota Century Code §60-10-05 to make payment to any person who sold grain to the licensee under a credit-sale contract and who was not fully compensated under the contract.

The Court has jurisdiction under North Dakota Century Code §60-04-03, which provides for the filing of this action in the District Court, Northeast Central Judicial District.

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Illona A. Jeffcoat-Sacco". The signature is written in a cursive style and is positioned above the typed names.

Illona A. Jeffcoat-Sacco (ID#03315)

Annette Bendish (ID#05790)

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