



# Public Service Commission

## State of North Dakota

### COMMISSIONERS

Kevin Cramer  
Tony Clark  
Brian P. Kalk

Executive Secretary  
Darrell Nitschke

600 E. Boulevard Ave. Dept 408  
Bismarck, North Dakota 58505-0480  
Web: [www.nd.gov/psc](http://www.nd.gov/psc)  
E-mail: [ndpsc@nd.gov](mailto:ndpsc@nd.gov)  
Phone 701-328-2400  
Toll Free 1-877-245-6685  
Fax 701-328-2410  
TDD 800-366-6888 or 711

25 February, 2011

Ms. Beverly Demers  
Clerk of the District Court  
Walsh County Courthouse  
600 Cooper Avenue  
Grafton, ND 58237-1542

**RE: Public Service Commission vs. Grabanski Grain LLC**  
**CIVIL NO. \_\_\_\_\_**

**PSC Case No. GE-10-498**

Dear Ms. Demers:

Enclosed for filing in the above proceeding please find the originals of:

1. Application for Appointment as Trustee and Motion to Join Surety as Party and for Deposit of Bond Proceeds.
2. Affidavit of Susan K. Richter.
3. Brief in Support of Application for Appointment as Trustee and Motion to Join Surety as Party and for Deposit of Bond Proceeds.
4. Notice of Application for Appointment as Trustee and Notice of Motion to Join Surety as Party and for Deposit of Bond Proceeds Under Rule 3.2.
5. Affidavit of Service by Certified Mail.
6. Order Appointing Trustee and Joining Surety as Party and for Deposit of Bond Proceeds.

After the notice period expires, if the Judge finds the Order Appointing Trustee and Joining Surety as Party and for Deposit of Bond Proceeds satisfactory, please have the Judge sign it and return a copy of the signed Order to us and we will provide Notice of Entry of Order and serve the parties of record.

If you have any questions, please do not hesitate to contact us. Thank you for your assistance in this matter.

Sincerely,

Illona A. Jeffcoat-Sacco (ID#03315)  
Special Assistant Attorney General

Enclosures

**20** **GE-10-498** Filed: 2/25/2011 Pages: 24  
**Letter with app. for Trustee with Brief, Affidavit,  
Notice and proposed Order**

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WALSH

NORTHEAST JUDICIAL DISTRICT

_____	)	
Public Service Commission	)	CIVIL NO. _____
	)	
Petitioner,	)	
	)	
vs.	)	
	)	APPLICATION FOR
Grabanski Grain LLC	)	APPOINTMENT AS
	)	TRUSTEE AND MOTION
and	)	TO JOIN SURETY AS PARTY
	)	AND FOR DEPOSIT OF BOND
Platte River Insurance Company	)	PROCEEDS
	)	
Respondents.	)	
_____	)	
PSC Case No. GE-10-498	)	
	)	
_____	)	

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

**1.**

Grabanski Grain LLC, a North Dakota limited liability company, authorized to do business in North Dakota, operated a grain warehouse at Grafton, North Dakota, and was licensed under North Dakota Century Code Chapters 60-02 and 60-04.

**2.**

Grabanski Grain LLC operated its grain warehouse at Grafton under license number 1191.

**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 \$340,000 and identified as number

41134564 with Platte River Insurance Company, 1600 Aspen Commons, Middleton, Wisconsin 56562, as surety.

4.

On July 22, 2010, Grabanski Grain LLC filed a Chapter 11 Voluntary Petition in the United States Bankruptcy Court for the District of North Dakota (Bankruptcy Court) as Case Number 10-30924.

5.

In mid-August 2010, Grabanski Grain LLC informally agreed that it would not buy any additional grain but was continuing to dry and warehouse 2010 crop.

6.

On October 27, 2010, Grabanski Grain LLC executed a Consent Order for License Cancellation and Cessation of Business voluntarily agreeing to cancel grain warehouse license number 1191 and voluntarily agreeing to cease doing business at the grain warehouse in Grafton, North Dakota. At its regular meeting on November 2, 2010, the Commission moved to issue the Consent Order for License Cancellation and Cessation of Business canceling grain warehouse license number 1191 issued to Grabanski Grain LLC and ordering that business at Grafton, North Dakota be ceased and that Grabanski Grain LLC shall not conduct any further business under license number 1191.

7.

On July 23, 2010, Michael Suda, Suda Group, a North Dakota partnership, 6609 County Road Eight, Grafton, North Dakota 58237 filed a letter for collection of outstanding funds owed. Subsequently, Lance Lenton, 1821 125<sup>th</sup> Street SE, Minot,

North Dakota 58701, Paul Sproule, Managing Partner, Sproule Farms, PO Box 14867, Grand Forks, North Dakota 58208, and Eldon Troftgruben, Troftgruben Farms, 12341 77<sup>th</sup> Street NE, Edinburg, ND 58227 filed letters for collection of outstanding funds owed. Copies of the letters are attached as Exhibit A.

**8.**

The Commission was informed and believes that there are outstanding obligations for any unpaid claims for grain sold to Grabanski Grain LLC 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.

**9.**

Grabanski Grain LLC 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.

**10.**

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

**11.**

Bond proceeds will be needed to redeem outstanding receipts issued by Grabanski Grain LLC. 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 receipt holders, 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.

**12.**

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:

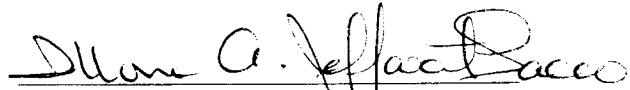
Upon the insolvency of a licensed public warehouse or grain buyer and a declaration that the Public Service Commission serve as the trustee, the Public Service Commission shall make the proceeds of the credit-sale contract indemnity fund available for use in meeting the licensee's obligations with respect 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 Grabanski Grain LLC **INSOLVENT** within the meaning of North Dakota Century Code Chapter 60-04 and establish the date of insolvency as July 23, 2010, the date that the first claim for collection of outstanding funds owed was filed.
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** Platte River Insurance Company, 1600 Aspen Commons, Middleton, Wisconsin 56562, as surety on the bond for Grabanski Grain LLC, as a respondent in this action.

4. That the Court **ORDER** Platte River Insurance Company, as surety, to deposit the penal sum of the bond in the amount of \$340,000 in the trustee's trust account for payment of valid cash claims.

Bismarck, North Dakota, this 25<sup>th</sup> day of February, 2011.



Illona A. Jeffcoat-Sacco (ID#03315)

Mark Gruman (ID#06019)

Special Assistant Attorneys General

State Capitol – 12<sup>th</sup> Floor

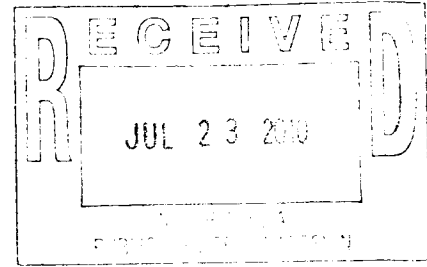
600 E Boulevard Ave – Dept 408

Bismarck, North Dakota 58505-0480

701-328-2400

Attorneys for the Public Service Commission

07/22/2010



Public Service Commission  
600 E Boulevard, Dept 408  
Bismarck, ND 58505-0480

Dear Sue:

Suda Group, a North Dakota partnership, sold corn to Grabanski Grain LLC in the fall of 2009. After a number of conversations with Tom we have not yet received payment. He showed the actual check to my brother, yet stated he did not have the funds to cover it. I am now asking the Commission to take action for this non-payment from Grabanski Grain LLC. Enclosed you will find a copy of the scale tickets. Please feel free to contact me at 701-360-6453 with any questions. I appreciate your help in this matter. Thank You.

Sincerely,

Michael Suda

**Lance Lenton**  
1821 125<sup>th</sup> St. SE  
Minot, ND 58701  
Email: [doublel@srt.com](mailto:doublel@srt.com)  
Phone: 701-833-1414



August 2, 2010

North Dakota Public Service Commissioner  
c/o Sue Richter  
600 E. Boulevard, Dept. 408  
Bismarck, ND 58505-0480

RE: Grabanski Grain LLC

I, Lance Lenton, sold 23,585.68 bushels of corn to Mr. Tom Grabanski, dba Grabanski Grain LLC, with the agreement that Mr. Grabanski pay \$3.00 per bushel for a total of \$70,757.04 less corn tax of \$176.89, leaving a total balance due to me of \$70,580.15. I have made several attempts to collect payment from Mr. Grabanski, and after several promises of payment in full from Mr. Grabanski, I finally received a partial payment of \$20,000, leaving a balance due (without interest) of \$50,585.15. To date, Mr. Grabanski has made no further attempts at resolving this matter.

I am requesting immediate action be taken against Mr. Grabanski in collection of the amount due to me.

I have enclosed a copy of the invoice listing each load of corn and the amount due, as well as copies of each of the load tickets.

If you have any questions or need further information, please don't hesitate to contact me.

Thank you for your prompt attention to this matter.

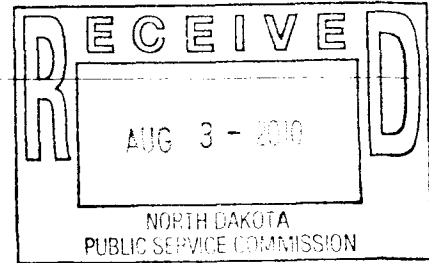
Sincerely,

Lance Lenton

1821 125<sup>th</sup> St SE  
Minot NDak. 58701

## Sproule Farms

PO Box 14867  
Grand Forks, ND 58208  
701-780-9616



August 2, 2010

North Dakota Public Commission  
600 E Boulevard, Dept 408  
Bismarck, ND 58505

To Whom It May Concern:

In the fall of 2009, our farm delivered 372,013.47 net bushels of corn into Grabanski Grain LLC in Grafton, ND. Enclosed please find the scale tickets and assembly sheet to verify the bushels hauled to this facility.

Throughout the winter, we made two sales of product and were paid by Mr. Grabanski for those sales. Our first sale was for 150,000 bushels at a cash price of \$2.88. This sale was paid in two installments, the first check on March 2, 2010 for \$200,000.00, and the second check on March 8, 2010 for \$26,584.23. Please note: the costs of drying and test weight deductions on all 372,013.37 net bushels hauled to the facility were deducted from this payment. The total amount of the deductions was \$204,335.77.

Our second sale was for 100,000 bushels at a cash price of \$2.71. This sale was paid in four installments, the first check on March 26, 2010 for \$70,000.00, the second check on April 7, 2010 for \$70,000.00, the third on April 12, 2010 for 60,000.00, and the fourth on April 23, 2010 for the balance of \$70,322.50.

On May 12, 2010, at Mr. Grabanski's request, we signed a fixed basis grain purchase contract with Grabanski Grain LLC on the balance of our bushels that were on storage at their facility. The contract was for 122,013.37 bushels of corn. Since the end of May, we have been contacting Mr. Grabanski requesting payment on our contract. He has failed to issue payment to us and has not been eager to help us get a resolution to this situation.

Please review the enclosed documents and let me know if there is any other information that you may need. I would appreciate any help that you are able to offer in order to collect on the contract we have with Grabanski Grain LLC.

Thank you for your time and consideration.

Thank you,

Paul Sproule, Managing Partner  
Sproule Farms

Enclosures

3

**GE-10-498** Filed: 8/3/2010  
**Unpaid Grain Claim**

Pages: 251

TROFTGRUBEN FARMS

10-14-10

ELDON TROFTGRUBEN  
FARM

Dear Sue

I am enclosing copies  
of state tax forms  
copy of the assembly  
sheet of corn to Grabanski  
Grain. Please keep me  
advised on any progress.  
Good luck on this one.  
It looks like a real  
mess!

Eldon Troftgruben

RECEIVED	
[REDACTED]	
PHONE 701.993.2284 NORTH DAKOTA PUBLIC SERVICE COMMISSION	

CELL 701.331.2092  
e-mail [etfarm@polarcomm.com](mailto:etfarm@polarcomm.com)

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WALSH

NORTHEAST JUDICIAL DISTRICT

\_\_\_\_\_ )  
 Public Service Commission )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 Grabanski Grain LLC )  
 )  
 and )  
 )  
 Platte River Insurance Company )  
 )  
 Respondents. )  
 \_\_\_\_\_ )  
 PSC Case No. GE-10-498 )  
 \_\_\_\_\_ )

CIVIL NO. \_\_\_\_\_

AFFIDAVIT OF  
SUSAN K. RICHTER

Susan K. Richter being duly sworn states as follows:

1. That she is a citizen of the United States of America, of legal age, residing at Bismarck, North Dakota.
2. That she is the Director of the Licensing Division for the North Dakota Public Service Commission (Commission) and as such is charged with the duty of enforcing the provisions of North Dakota Century Code Chapter 60-04.
3. Grabanski Grain LLC, a North Dakota limited liability company, which is authorized to business in North Dakota, operated a grain warehouse at Grafton, North Dakota, and was licensed under North Dakota Century Code Chapters 60-02 and 60-04.

4. Grabanski Grain LLC operated its grain warehouse facility at Grafton, North Dakota under license number 1191.
5. As part of the licensing process, Grabanski Grain LLC filed a surety bond with the Commission as required by North Dakota Century Code §60-02-09 in the amount of \$340,000 and identified as number 41134564 with Platte River Insurance Company, 1600 Aspen Commons, Middleton, Wisconsin 56562, as surety.
6. On July 22, 2010, Grabanski Grain LLC filed a Chapter 11 Voluntary Petition in the United States Bankruptcy Court for the District of North Dakota (Bankruptcy Court) as Case Number 10-30924.
7. In mid-August 2010 Grabanski Grain LLC informally agreed that it would not buy any additional grain but was continuing to dry and warehouse 2010 crop.
8. On October 27, 2010, Grabanski Grain LLC executed a Consent Order for License Cancellation and Cessation of Business voluntarily agreeing to cancel grain warehouse license number 1191 and voluntarily agreeing to cease doing business at the grain warehouse in Grafton, North Dakota. At its regular meeting on November 2, 2010, the Commission moved to issue the Consent Order for License Cancellation and Cessation of Business canceling grain warehouse license number 1191 issued to Grabanski Grain LLC and ordering that business at Grafton, North Dakota be ceased and that Grabanski Grain LLC shall not conduct any further business under license number 1191.
9. On November 2, 2010, the Commission ordered that grain warehouse license number 1191 is cancelled and business at Grafton, North Dakota, is ceased and

Grabanski Grain LLC shall not conduct any further business under license number 1191.

10. On July 23, 2010, Michael Suda, Suda Group, a North Dakota partnership, 6609 County Road Eight, Grafton, North Dakota 58237 filed a letter for collection of outstanding funds owed. Subsequently, Lance Lenton, 1821 125<sup>th</sup> Street SE, Minot, North Dakota 58701, Paul Sproule, Managing Partner, Sproule Farms, PO Box 14867, Grand Forks, North Dakota 58208, and Eldon Troftgruben, Troftgruben Farms, 12341 77<sup>th</sup> Street NE, Edinburg, ND 58227 filed letters for collection of outstanding funds owed.
11. That affiant believes that there may be additional outstanding obligations for unpaid claims for grain sold to Grabanski Grain LLC 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.
12. That Grabanski Grain LLC is insolvent under North Dakota Century Code Chapter 60-04, as of July 23, 2010, the date the first claim for collection of outstanding funds owed was filed, in that it is unable upon proper demand to make payment for grain purchased or make redelivery for grain delivered.
13. That the Commission is legally entitled to be appointed trustee of the trust fund provided under North Dakota Century Code Chapter 60-04.
14. That bond proceeds may be needed to redeem outstanding receipts issued by Grabanski Grain LLC.

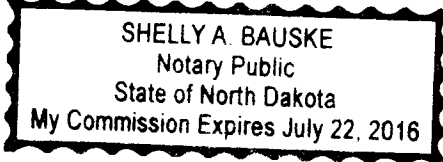
- 15. That proceeds from the credit-sale contract indemnity fund may be needed to meet the licensee's obligations to any holders of credit-sale contracts.
- 17. That affiant believes that it is in the public interest to immediately appoint the Commission as trustee under North Dakota Century Code Chapter 60-04.
- 18. That the affidavit is made for the purpose of securing the appointment of the Commission as trustee of Grabanski Grain LLC and preserving any assets of the trust under North Dakota Century Code Chapter 60-04.

Dated this 25<sup>th</sup> day of February, 2011.

By: *Susan K. Richter*  
Susan K. Richter

Subscribed and sworn to before me  
this 25<sup>th</sup> day of February, 2011.

*Shelly A. Bauske*  
Notary Public



STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WALSH

NORTHEAST JUDICIAL DISTRICT

_____	)	
Public Service Commission	)	CIVIL NO. _____
	)	
Petitioner,	)	
	)	
vs.	)	BRIEF IN SUPPORT OF
	)	APPLICATION FOR
Grabanski Grain LLC	)	APPOINTMENT AS TRUSTEE
	)	AND MOTION TO JOIN SURETY
and	)	AS PARTY AND FOR DEPOSIT
	)	OF BOND PROCEEDS
Platte River Insurance Company	)	
	)	
Respondents.	)	
_____	)	
PSC Case No. GE-10-498	)	
	)	
_____	)	

The North Dakota 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.

On July 23, 2010, Michael Suda, Suda Group, a North Dakota partnership, 6609 County Road Eight, Grafton, North Dakota 58237 filed a letter for collection of outstanding funds owed. Subsequently, Lance Lenton, 1821 125<sup>th</sup> Street SE, Minot, North Dakota 58701, Paul Sproule, Managing Partner, Sproule Farms, PO Box 14867, Grand Forks, North Dakota 58208, and Eldon Troftgruben, Troftgruben Farms, 12341

77<sup>th</sup> Street NE, Edinburg, ND 58227 filed letters for collection of outstanding funds owed. Grabanski Grain LLC is unable, upon proper demand, to pay for grain purchased or make redelivery for grain delivered.

The Commission is informed and has reason to believe that there are outstanding obligations for unpaid claims for grain sold to Grabanski Grain LLC 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 Court declare Grabanski Grain LLC insolvent and establish the date of insolvency as July 23, 2010, the date the first claim for collection of outstanding funds owed was filed, and 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 Judicial District.

Bismarck, North Dakota, this 25<sup>th</sup> day of February, 2011.

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 a horizontal line.

Illona A. Jeffcoat-Sacco (ID#03315)  
Mark Gruman (ID#06019)  
Special Assistant Attorneys General  
Public Service Commission  
State Capitol – 12<sup>th</sup> Floor  
600 E Boulevard Ave – Dept 408  
Bismarck, North Dakota 58505-0480  
701-328-2400

Attorneys for the Public Service Commission

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WALSH

NORTHEAST JUDICIAL DISTRICT

\_\_\_\_\_ )  
 Public Service Commission )  
 )  
 ) Petitioner. )  
 )  
 vs. )  
 )  
 Grabanski Grain LLC )  
 )  
 and )  
 )  
 Platte River Insurance Company )  
 )  
 ) Respondents. )  
 )  
 \_\_\_\_\_ )  
 PSC Case No. GE-10-498 )  
 )  
 \_\_\_\_\_ )

CIVIL NO. \_\_\_\_\_

NOTICE OF APPLICATION  
FOR APPOINTMENT AS  
TRUSTEE AND NOTICE  
OF MOTION TO JOIN SURETY  
AS PARTY AND FOR DEPOSIT  
OF BOND PROCEEDS  
UNDER RULE 3.2

TO: **Thomas M. Grabanski and Mari K. Grabanski, Grabanski Grain LLC**, 223 W. 17<sup>th</sup> Street, PO Box 148, Grafton, ND 58237 and PO Box 621, Blossom, TX 75416

**Thomas M. Grabanski, Registered Agent for Grabanski Grain LLC**, 223 W. 17<sup>th</sup> Street, PO Box 148, Grafton, ND 58237 and PO Box 621, Blossom, TX 75416

**DeWayne Johnston, Johnston Law Office, Attorney for Grabanski Grain LLC**, 221 South 4<sup>th</sup> Street, Grand Forks, ND 58201

**Andy Anderson, Manager, Bond Claims Department, Platte River Insurance Company/Capitol Insurance Company**, 1600 Aspen Commons, Middleton, WI 53562

**Ginny Spencer, Platte River Insurance Company**, PO Box 5900, Madison, WI 53705-0900

**Adam W. Hamm, Insurance Commissioner**, State Capitol – 5<sup>th</sup> Floor, 600 East Boulevard Avenue, Bismarck, ND 58505-0320

**Michael Suda, Suda Group, a North Dakota partnership,** 6609 County Road Eight, Grafton, ND 58237

**Lance Lenton,** 1821 125<sup>th</sup> Street Southeast, Minot, ND 58701

**Paul Sproule, Manager Partner, Sproule Farms,** PO Box 14867, Grand Forks, ND 58208

**Eldon Troftgruben, Troftgruben Farm,** 12341 77<sup>th</sup> Street Northeast, Edinburg, ND 58227

**PLEASE TAKE NOTICE** that the Public Service Commission, Movant in the above proceeding, respectfully moves the Court for an order declaring Grabanski Grain LLC insolvent and establishing the date of insolvency as of July 23, 2010, the date the first claim for collection of outstanding funds owed was filed, and appointing the Public Service Commission Trustee for Grabanski Grain LLC, joining the surety as a party to the action, and ordering the surety to deposit the penal sum of the bond in the amount of \$340,000 in the trustee's trust account. The application and motion, affidavit and brief in support of the application and motion are attached to this notice and by reference made a part hereof.

**YOU ARE HEREWITH NOTIFIED** that the Application for Appointment as Trustee and Motion to Join Surety as Party and for Deposit of Bond Proceeds has been submitted to the Court pursuant to Rule 3.2 of the North Dakota Rules of Court. The motion will be decided on briefs unless oral argument is timely requested. You have ten (10) days after the service of the Notice to file your response and other supporting papers.

Bismarck, North Dakota, this 25<sup>th</sup> day of February, 2011.

A handwritten signature in black ink, appearing to read "Illona A. Jeffcoat-Sacco". The signature is written in a cursive style with a horizontal line underneath.

Illona A Jeffcoat-Sacco (ID#03315)

Mark Gruman (ID#06049)

Special Assistant Attorneys General

Public Service Commission

State Capitol – 12<sup>th</sup> Floor

600 E Boulevard Ave – Dept 408

Bismarck, North Dakota 58505-0480

701-328-2400

Attorneys for the Public Service Commission

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WALSH

NORTHEAST JUDICIAL DISTRICT

\_\_\_\_\_  
Public Service Commission

Petitioner,

vs.

Grabanski Grain LLC

and

Platte River Insurance Company

Respondents.  
\_\_\_\_\_

PSC Case No. GE-10-498

CIVIL NO. \_\_\_\_\_

AFFIDAVIT OF  
SERVICE BY  
CERTIFIED MAIL

STATE OF NORTH DAKOTA

COUNTY OF BURLEIGH

)  
)ss  
)

Shelly A. Bauske deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **25<sup>th</sup> day of February, 2011**, she deposited in the United States Mail, Bismarck, North Dakota, **11 envelopes** with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

1. Application for Appointment as Trustee and Motion to Join Surety as Party and for Deposit of Bond Proceeds
2. Affidavit of Susan K. Richter
3. Brief in Support of Application for Appointment as Trustee and Motion to Join Surety as Party and for Deposit of Bond Proceeds
4. Notice of Application for Appointment as Trustee and Notice of Motion to Join Surety as Party and for Deposit Bond Proceeds Under Rule 3.2
5. Affidavit of Service by Certified Mail

The envelopes were addressed as follows:

Thomas M. Grabanski  
223 W. 17<sup>th</sup> Street  
PO Box 148  
Grafton, ND 58237  
**Cert. No. 7009 2820 0002 9238 0545**

Mari K. Grabanski  
223 W. 17<sup>th</sup> Street  
PO Box 148  
Grafton, ND 58237  
**Cert. No. 7009 2820 0002 9238 0552**

Thomas M. Grabanski  
PO Box 621  
Blossom, TX 75416  
**Cert. No. 7009 2820 0002 9238 0569**

Mari K. Grabanski  
PO Box 621  
Blossom, TX 75416  
**Cert. No. 7009 2820 0002 9238 0576**

Ginny Spencer  
Platte River Insurance Company  
PO Box 5900  
Madison, WI 53705-0900  
**Cert. No. 7009 2820 0002 9238 0583**

Andy Anderson, Manager  
Bond Claims Department  
Platte River Insurance Co./  
Capitol Insurance Co.  
1600 Aspen Commons  
Middleton, WI 53562  
**Cert. No. 7009 2820 0002 9238 0590**

DeWayne Johnston  
Johnston Law Office  
Attorney for Grabanski Grain LLC  
221 South 4<sup>th</sup> Street  
Grand Forks ND 58201  
**Cert. No. 7009 2820 0002 9238 0613**

Paul Sproule Managing Partner  
Sproule Farms  
PO Box 14867  
Grand Forks, ND 58208  
**Cert. No. 7009 2820 0002 9238 0644**

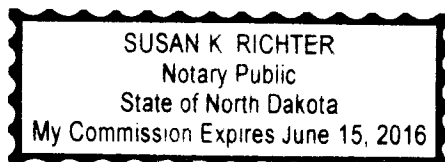
Michael Suda  
Suda Group, a North Dakota partnership  
6609 County Road Eight  
Grafton, ND 58237  
**Cert. No. 7009 2820 0002 9238 0620**

Lance Lenton  
1821 125<sup>th</sup> Street SE  
Minot, ND 58701  
**Cert. No. 7009 2820 0002 9238 0637**

Eldon Troftgruben  
Troftgruben Farm  
12341 77<sup>th</sup> Street NE  
Edinburg, ND 58227  
**Cert. No. 7009 2820 0002 9238 0651**

Subscribed and sworn to before me  
this **25<sup>th</sup> day of February, 2011.**

SEAL



*Shelly A Bauska*

*Susan K. Richter*  
Notary Public

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WALSH

NORTHEAST JUDICIAL DISTRICT

\_\_\_\_\_ )  
Public Service Commission )  
) )  
Petitioner, )  
) )  
vs. )  
) )  
Grabanski Grain LLC )  
) )  
and )  
) )  
Platte River Insurance Company )  
) )  
Respondents. )  
\_\_\_\_\_ )  
) )  
PSC Case No. GE-10-498 )  
) )  
\_\_\_\_\_ )

CIVIL NO. \_\_\_\_\_

ORDER APPOINTING  
TRUSTEE AND JOINING  
SURETY AS PARTY AND FOR  
DEPOSIT OF BOND  
PROCEEDS

The Public Service Commission (Commission) has moved the Court for appointment as trustee of Grabanski Grain LLC, under North Dakota Century Code Chapter 60-04, and to join Platte River Insurance Company as a party to the action and for deposit of the bond proceeds. Grabanski Grain LLC operates as a public warehouseman in the State of North Dakota.

It appears from the record that Grabanski Grain LLC is insolvent under North Dakota Century Code Chapter 60-04 as of July 23, 2010, that it is in the best interest that a trustee be appointed, and that the surety Platte River Insurance Company be joined as a party to this proceeding and ordered to deposit the penal sum of the bond in the amount of \$340,000 in the trustee's trust account.

**ORDER**

**THEREFORE** on the Motion of the Commission by and through its attorney, the Commission is appointed trustee of the trust fund provided by North Dakota Century Code §60-04-03 for the purpose of marshalling all trust assets of the insolvent Grabanski Grain LLC in the manner provided by law and that the date of insolvency be established as July 23, 2010.

**IT IS FURTHER ORDERED** that surety, Platte River Insurance Company, 1600 Aspen Commons, Middleton, Wisconsin 56562, is joined as a respondent in this action and ordered to deposit the penal sum of the bond with the Commission, as trustee.

\_\_\_\_\_, North Dakota this \_\_\_\_ day of \_\_\_\_\_, 2011.

BY THE COURT

\_\_\_\_\_  
Honorable  
Judge of the District Court