



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. On July 23, 2010, Michael Suda, Suda Group, a North Dakota partnership, 6609 County Road Eight, Grafton, North Dakota 58237 filed with the Public Service Commission a letter for collection of outstanding funds owed Suda Group by Grabanski Grain, LLC. 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.
6. In mid-August 2010, Grabanski Grain, LLC informally agreed that it would not buy any additional grain but informed the Commission that the warehouse was continuing to dry and warehouse 2010 crop.
7. 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 not conduct any further business under license number 1191.
8. On February 25, 2011, the Public Service Commission filed an Application for Appointment as Trustee and Motion to Join Surety as Party and for Deposit of Bond Proceeds in District Court, County of Walsh, Northeast Judicial District.
9. On March 14, 2011, Platte River Insurance Company filed a Request for Oral Argument as Allowed Under Rule 3.2 of the North Dakota Rules of Court on that Portion of the Public Service Commission's Motion Requiring Deposit of Bond Proceed and Response to the Public Service Commission's Application for

Appointment as Trustee and Motion to Join Surety as Party and for Deposit of Bond Proceeds.

10. On March 16, 2011, the District Court ordered that the Public Service Commission is appointed to act as trustee of a trust fund, that Grabanski Grain, LLC and Platte River Insurance Company are parties to the action and joined as parties, and that a hearing shall be held on April 20, 2011, on the portion of the motion of the Public Service Commission asking that Platte River Insurance Company be required to deposit bond proceeds with the Public Service Commission as trustee.
11. After supplemental filings including a request for continuance and a request for an evidentiary hearing, the Court, on June 9, 2011, issued a Notice of Hearing scheduling a hearing for July 20, 2011.
12. On July 18, 2011, the Public Service Commission, Platte River Insurance Company, and Grabanski Grain, LLC executed a Stipulation agreeing that the terms of the Court's Order, dated March 16, 2011, appointing the Commission to act as trustee of a trust fund to be established and administered in accordance with North Dakota Century Code Chapter 60-04 and joining Platte River Insurance company as a party to this action shall remain in full force and effect, that Grabanski Grain, LLC is insolvent effective July 23, 2010; that the Public Service Commission's request that Platte River Insurance Company be ordered to deposit the penal sum of its penal bond, or so much thereof as may be deemed necessary, into a trust account, is to be stayed by the Court subject to renewal of the request by the Commission, and that the Court's stay of its consideration of the Commission's request for deposit of the penal sum of the bond shall not be construed as a waiver of the rights of any parties with respect to the determination of the matter.
13. On July 19, 2011, the District Court ordered that subject to receipt of further evidence in this matter, Grabanski Grain, LLC was insolvent and established the date of insolvency as July 23, 2010, the date that the first claim for collection of outstanding funds owed for grain was filed, that the portion of the Public Service Commission's Application for Appointment as Trustee and Motion to Join Surety as Party and for Deposit of Bond Proceeds was stayed, and that the Commission may renew its request that Platte River Insurance Company be ordered to deposit the

penal sum of its penal bond, or so much there as may be deemed necessary, into the trust account. On August 9, 2011, a copy of the Notice of Entry of Orders with attached copies of the executed orders was served on the parties and also sent by regular mail to twenty eight persons the Commission identified as potential claimants in the insolvency proceeding from records of Grabanski Grain, LLC and other sources. The notice required the filing of claims with the Commission within 45 days of the second publication of the notice.

14. On August 8, 2011, the Court issued an Order for Rule 16 Scheduling Conference scheduling the conference for September 6, 2011.

15. The Notice of Appointment as Trustee and Notice to File Claims was published as a legal publication in the Walsh County Record on August 17 and August 24, 2011. The Walsh County Record is located in Walsh County and is the official county newspaper of the county in which the warehouse is located as provided in North Dakota Century Code § 60-04-03.3.

16. Eighteen claims totaling \$848,296.08 were filed with the Commission, as shown below and with additional detail on Exhibits A, B, C, and D attached to this report.

Claimant Name	Claim Filed
a. Paul Grzadzielewski	\$ 79,051.00
b. Wayne Knudson	\$ 25,909.69
c. Lance Lenton	\$ 50,580.15
d. Mark & Lori Martinson JV	\$ 9,302.68
e. Dennis McGeary	\$ 18,757.06
f. Louis Slominski Sr. Farms	\$ 38,434.43
g. Michael Suda, Suda Group	\$ 9,410.59
h. Merlin and Delores Grabanski	\$ 87,163.20
i. Dean Lizakowski	\$ 22,196.99
j. Richard & Diane McDonald	\$ 5,737.30
k. Donald & Wilene Schuster	\$ 4,640.52
l. Donovan Schuster	\$ 25,072.66
m. Sproule Farms	\$ 321,426.44
n. Troftgruben Farms	\$ 7,832.29
o. Louis Slominski Jr. Farms	\$ 5,619.80
p. BP & Sons Grain and Storage, Inc.	\$ 105,380.38
q. Field Brothers Farms Inc.	\$ 26,403.90
r. Ronald J & Marie V. Pokrzywinski	\$ 5,377.00

17. There were no grain assets or unencumbered proceeds available to pay cash claims. The bond proceeds are needed to redeem outstanding claims for grain

purchased for cash by Grabanski Grain, LLC through its Grafton, North Dakota facility.

18. When the bond proceeds are paid over to the Commission as Trustee, there will be funds available from the bond proceeds to pay each cash claimant 100% of his valid claim.
19. When the bond proceeds are paid over to the Commission as Trustee, there will be funds available from the bond proceeds to pay the expenses incurred by the Commission in the administration of the insolvency, as provided in North Dakota Century Code § 60-04-09.
20. Under North Dakota Century Code § 60-04-09(4) interest may be paid to cash claimants at the weighted average prime rate charged by the Bank of North Dakota from the date of insolvency. The weighted average prime rate is 3.25% and this rate has been in place since July 23, 2010, the date that the first claim for collection of outstanding funds owed for grain was filed with the Commission. When the bond proceeds are paid over to the Commission as Trustee, there will be funds available from the bond proceeds to pay interest from the date of insolvency. Therefore, we propose to pay the cash claimants interest on each respective valid claim from the date of insolvency.
21. Proceeds from the credit-sale contract indemnity fund will be needed to meet the licensee's obligations to holders of credit-sale contracts. Payments will be made to valid credit-sale claimants with the claimants receiving 80% of the claimants' valid claims under North Dakota Century Code § 60-10-06.
22. The Commission recommends that the cash claimants be paid 100% of the claimants' valid cash claims plus interest. The Commission recommends that payment for each cash claim will be made jointly payable to the claimant and relevant valid lien holders at the time checks are issued. The final amounts to be paid will be determined once Court approval is received.
23. The valid cash claim amounts recommended by the Commission total \$184,964.03 as shown below and with additional detail on Exhibit A:

Claimant Name	Claim Filed	Valid Cash Claim
a. Paul Grzadzielewski	\$ 79,051.00	\$ 37,634.41
b. Wayne Knudson	\$ 25,909.69	\$ 25,254.82
c. Lance Lenton	\$ 50,580.15	\$ 50,580.15
d. Mark & Lori Martinson JV	\$ 9,302.68	\$ 9,302.68
e. Dennis McGeary	\$ 18,757.06	\$ 18,756.98
f. Louis Slominski Sr. Farms	\$ 38,434.43	\$ 34,023.45
g. Michael Suda, Suda Group	\$ 9,410.59	\$ 9,411.54

24. The Commission recommends that each credit-sale contract claimant be paid 80% of the claimant's valid credit-sale claim as provided under North Dakota Century Code § 60-10-06. The Commission recommends that payment for each credit-sale claim will be made jointly payable to the claimant and relevant valid lien holders at the time checks are issued.

25. The valid credit-sale claim amounts recommended for payment by the Commission total \$379,054.84 and by law each claimant is entitled to 80% of the respective valid credit-sale claim as shown below and with additional detail on Exhibit B:

Claimant Name	Claim Filed	Valid Credit-Sale Claim	80% of Valid Credit-Sale Claim
a. Dean Lizakowski	\$ 22,196.99	\$ 22,196.99	\$ 17,757.59
b. Richard & Diane McDonald	\$ 5,737.30	\$ 5,718.23	\$ 4,574.58
c. Donald & Wilene Schuster	\$ 4,640.52	\$ 4,640.52	\$ 3,712.42
d. Donovan Schuster	\$ 25,072.66	\$ 25,072.66	\$ 20,058.13
e. Sproule Farms	\$ 321,426.44	\$ 321,426.44	\$257,141.15
f. Troftgruben Farms	\$ 7,832.29	\$ 0.00	\$ 0.00

26. The Commission recommends that four cash claims in the total amount of \$142,781.08 be denied as shown below and with details and the basis for denial provided on Exhibit C:

Claimant Name	Claim Filed	Invalid Cash Claim
a. Louis Slominski Jr. Farms	\$ 5,619.80	\$ 5,619.80
b. BP & Sons Grain & Storage, Inc.	\$ 105,380.38	\$ 105,380.38
c. Field Brothers Farms Inc.	\$ 26,403.90	\$ 26,403.90
d. Ronald J. & Marie V. Pokrzywinski	\$ 5,377.00	\$ 5,377.00

27. The Commission recommends that one credit-sale contract claim in the amount of \$87,163.20 be denied as shown below and with details and the basis for denial provided on Exhibit D:

<b>Claimant Name</b>	<b>Credit-Sale Claim Filed</b>	<b>Invalid Credit-Sale Claim</b>
a. Merlin & Delores Grabanski	\$ 87,163.20	\$ 87,163.20

28. The Commission claims expenses incurred through April 30, 2012, in the amount of \$5,898.60 for postage, publication, travel, legal, and miscellaneous expenses as evidenced with detail provided on Exhibit E. The final amount to be paid will be determined once Court approval is received.

29. The Court has scheduled a hearing on this matter for June 20, 2012, at 9:00 a.m. CDST and continuing on June 21, 2012, at 9:00 a.m. CDST, if necessary, at the Walsh County Courthouse in Grafton, North Dakota for interested parties to show cause why the Report and Recommendation of Trustee should not be approved.

**Wherefore the Commission asks the Court to:**

1. Approve the Report and Recommendation of Trustee.
2. Order the surety, Platte River Insurance Company, PO Box 5900, Madison, Wisconsin 53709-0900, to deposit \$230,000 of the bond proceeds with the Trustee for payment of the approved valid cash claims plus interest from the date of insolvency at the weighted average prime rate charged by the Bank of North Dakota and to reimburse the Commission for expenses incurred in this proceeding.
3. Authorize the Commission to make payments of trust fund proceeds consistent with this Report and Recommendation to persons with valid claims for grain purchased for cash by Grabanski Grain, LLC at Grafton, North Dakota.
4. Authorize the Commission to make payments from the credit-sale contract indemnity fund consistent with this Report and Recommendation to persons with valid credit-sale contract claims for grain purchased via credit-sale contract by Grabanski Grain, LLC.

5. Authorize the Commission to make payment of trust fund proceeds consistent with this Report and Recommendation to the Commission as reimbursement for expenses incurred in this proceeding.
6. Authorize the Commission to refund bond proceeds in excess of the amounts required to pay the valid cash claims with interest and the Commission's expenses to Platte River Insurance Company.

Respectfully submitted at Bismarck, North Dakota, this 18<sup>th</sup> day of May 2012.



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Exhibit A

**PSC vs. Grabanski Grain LLC and Platte River Insurance Company**  
**CIVIL NO. 50-2011-CV-00029**  
**PSC Case No. GE-10-498**

VALID CASH CLAIMS  
 May 16, 2012  
 page 1 of 2

<u>Claimant Name &amp; Address</u>	<u>ASSEMBLY / CONTRACT</u>	<u>Grain</u>	<u>Quantity net bushels</u>	<u>Claim filed</u>	<u>Discounts/ Premium</u>	<u>Invalid Claim</u>	<u>Valid Cash Claim</u>
Grzadzielewski, Paul 1308 Western Avenue Manvel, ND 58256	BF # 9282 not signed	corn	16,160.42	\$ 79,051.00		\$ 41,416.59	\$ 37,634.41
Claimant used a price of \$4.91/bushel, and the claim indicated 2008 crop was not priced under basis fixed. Applied the cash price of \$2.83/bu. on 15,873.57 bushels of 2008 crop. The claim indicated 286.85 bushels of 2009 crop priced at \$2.51/bu. Correction of corn promotion and test weight discount errors, resulted in an unpaid balance of \$37,634.41.							
Knudson, Wayne 2077 35th Street NE Larimore, ND 58251	BF # 9293 not signed	corn	10,988.91	\$ 25,909.69	\$ (654.87)		\$ 25,254.82
Claim difference- corrected test weight dockage errors resulting in 10,740.23 bushels unpaid, 248.68 bu. Less than claimed.							
Lenton, Lance 1821 125th Street SE Minot, ND 58701	cash	corn	23,585.68	\$ 50,580.15			\$ 50,580.15
No differences from the claim.							
Martinson JV, Mark & Lori 3907 Highway 66 Rolette, ND 58366-9001	cash	corn	3,573.97	not priced			\$ 9,302.68
This corn was unpriced in the claim, thus no dollar value is indicated. Adjusting for errors on test weight discounts resulted in 62 more bushels than the claim. Cash corn priced at \$2.83/bu on 3635.97 bushels							

**VALID CASH CLAIMS**

May 16, 2012

page 2 of 2

**Exhibit A**

<b>Claimant Name &amp; Address</b>	<b>ASSEMBLY / CONTRACT</b>	<b>Grain</b>	<b>Quantity net bushels</b>	<b>Claim filed</b>	<b>Discounts/ Premium</b>	<b>Invalid Claim</b>	<b>Valid Cash Claim</b>	
<b>McGeary, Dennis</b> 30925 Center Street East Oklee, MN 56742 Claim amount is slightly different due to computer rounding up and/or down.	cash	corn	7,890.74	\$ 18,757.06	\$ (0.08)		\$ 18,756.98	
<b>Slominski, Louis SR, Farms</b> 118 Wilson Avenue Minto, ND 58261 Unpaid balance on 12,417.19 bushels at \$2.90. Interest claim of 7% & 10% drying discount is disallowed. Also adjusted for corn promotion errors. Recalculated balance unpaid of \$34,023.45.	BF# 9280 not signed	corn	12417.19	\$ 38,434.43		\$ 4,410.98	\$ 34,023.45	
<b>Suda Group</b> Michael Suda 6609 County Road 8 Grafton, ND 58237 Error on corn promotion resulted in \$.95 higher than the claim.	BF# 9289 not signed	corn	4,643.60	\$ 9,410.59	\$ 0.95		\$ 9,411.54	
<b>Total</b>								<b>\$ 184,964.03</b>

The procedure used for cash corn not priced by the claimant or Grabanski records was as follows: Contacted 5 local Grafton area grain warehouses for the closing price on July 23, 2010 and the average of those 5 prices was \$2.83/bushel.

Exhibit B

**PSC vs. Grabanski Grain LLC and Platte River Insurance Company**

CIVIL NO. 50-2011-CV-00029

PSC Case No. GE-10-498

**VALID CREDIT-SALE CLAIMS**

May 16, 2012

page 1 of 2

<u>Claimant Name &amp; Address</u>	ASSEMBLY / CONTRACT	Grain	Quantity net bushels	Claim filed	Discounts/ Premium	Invalid Claim	Valid Credit Sale Claim	80% of Valid Credit-sale Claim
Lizakowski, Dean 15408 60th Street, NE Minto, ND 58261 Properly executed basis fixed contract on 2008 corn crop, thus refer to pricing as indicated in footnote 1. 12,000 bushels was sold and paid and the remaining 10,591.49 bushels priced & unpaid at \$2.17/bu. Also adjusted for errors on corn promotion and test weight discounts.	BF# 9261 signed	corn	10,591.59	Unpriced			\$ 22,196.99	\$ 17,757.59
McDonald, Richard & Diane 3540 35th Street NE Inkster, ND 58244 Properly executed basis fixed contract on 2009 corn crop priced in the claim at \$1.25/bushel. Adjusted for errors on test weight discount resulted 4980.49 bushels unpaid.	BF #9292 signed	corn	4995.78	\$ 5,737.30	\$ (19.07)		\$ 5,718.23	\$ 4,574.58
Schuster, Donald & Wilene 15776 66th Street NE Grafton, ND 58237 Properly executed basis fixed contract on 2009 corn crop, thus refer to pricing in footnote 2. 2302.53 bushels priced at \$2.64	BF# 9291 signed	corn	2,302.53	Unpriced			\$ 4,640.52	\$ 3,712.42

**VALID CREDIT-SALE CLAIMS**

May 16, 2012

page 2 of 2

**Exhibit B**

<u>Claimant Name &amp; Address</u>	<u>ASSEMBLY / CONTRACT</u>	<u>Grain</u>	<u>Quantity net bushels</u>	<u>Claim filed</u>	<u>Discounts/ Premium</u>	<u>Invalid Claim</u>	<u>Valid Credit Sale Claim</u>	<u>80% of Valid Credit-sale Claim</u>
Schuster, Donovan 15776 66th Street NE Grafton, ND 58237 Properly executed basis fixed contract on 2009 corn crop, thus refer to pricing in footnote 2. 12,963.46 bushels priced at \$2.64	BF# 9276 signed	corn	12963.46	Unpriced			\$ 25,072.66	\$ 20,058.13
Sproule Farms PO Box 14867 2375 Bacon Road Grand Forks, ND 58208 Properly executed basis fixed contract on 2009 corn crop, thus refer to pricing in footnote 2. 250,000 bushels priced and paid, leaving an unpaid balance of 122,013.56 bushels at \$2.64. Adjusted for errors on corn promotion and slight computer differences in rounding bushel amounts up and or down.	BF# 9288 signed	corn	122,013.37	Unpriced			\$ 321,426.44	\$ 257,141.15
Troftgruben Farms Eldon Troftgruben 12341 77th Street NE Edinburg, ND 58277 Properly executed basis fixed contract on 2008 corn crop, thus refer to pricing in footnote 2. No payment to be made, the corn was of such high moisture and of such low test weight that corn did not have enough value to pay the drying charges. Net value of corn \$6386.97 minus drying charges \$7381.56 = (994.59)	BF # 9262 signed	corn	3,609.35	Unpriced			\$ -	\$ -
<b>Totals</b>							<b>\$ 379,054.84</b>	<b>\$ 303,243.87</b>

**CORN PRICING - Initial reference- The Chicago Board of Trade(CBOT) closing price on July 23, 2010 on the September 2010 corn contract was \$3.71/bushel**

1. The formula for unpriced corn subject to properly executed basis fixed contract issued for 2008 crop at \$1.10 under the CBOT December 2009 contract is as follows: \$3.71 minus \$1.10 minus 4 contract roll fees totaling \$.44, equals a final price of \$2.17/bushel.
2. The formula for unpriced corn subject to properly executed basis fixed contract issued for 2009 crop at \$.90 under the CBOT May 2010 contract is as follows: \$3.71 minus \$.90 minus 2 contract roll fees totaling \$.17, equals a final price of \$2.64/bushel.

Exhibit C

**PSC vs. Grabanski Grain LLC and Platte River Insurance Company**  
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**PSC Case No. GE-10-498**

**INVALID CASH CLAIMS**

May 16, 2012  
 page 1 of 1

<u>Claimant Name &amp; Address</u>	<u>ASSEMBLY / CONTRACT</u>	<u>Grain</u>	<u>Quantity net bushels</u>	<u>Claim filed</u>	<u>Discounts/ Premium</u>	<u>Invalid Cash Claim</u>	<u>Valid Cash Claim</u>
Slominski, Louis JR, Farms PO Box 207 6065 150th Avenue NE Minto, ND 58261	BF# 9279 not signed	corn		\$ 5,619.80		\$ 5,619.80	
<p>INVALID CLAIM L. Slominski Jr. delivered 40,082 bushels of corn to Grabanski Grain in the Fall of 2010 for drying and, according to Grabanski Grain's attorney, redelivery. The payable for drying amounts to \$18,713 and staff found no evidence the amount due was paid.</p>							
BP & Sons Grain and Storage Inc. Box 2277 Morden, Manitoba R6M 1B9				\$105,380.38		\$ 105,380.38	
<p>INVALID CLAIM The claim is for overpayment on corn purchased from Grabanski Grain. In an insolvency proceeding, the bond and indemnity fund is for individuals that delivered grain to Grabanski Grain on a valid inbound scale ticket, not for entities that purchased grain from Grabanski Grain. Additionally, staff made a formal request to BP Grain to provide settlement information on all grain received by BP Grain on behalf of Grabanski Grain, and BP Grain's response was incomplete. Staff has evidence that at least 108,864 bushels of corn was shipped from Grabanski Grain to BP Grain on outbound Grabanski Grain documents in the Fall of 2010, and settlement information on these shipments was not provided by BP Grain.</p>							
Field Brothers Farms Inc. 38177 390th Street NW Stephen, MN 567576			9,330.00	not priced		9,330 bushels	
<p>INVALID CLAIM - Last day to file a claim was October 10, 2011 and claim was received on November 7, 2011                      No price indicated in claim. Claimant indicated grain was on basis fixed contract. A contract was not provided nor found in Grabanski Grain records.</p>							
Ronald J & Maria V Pokrzywinski 6426 157th Avenue NE Grafton, ND 58237-8831			1,900.00	not priced		1,900 bushels	
<p>INVALID CLAIM This claim is from a landlord/leasee dispute regarding nonpayment or underpayment by the entity from which Tom Grabanski rented the Pokrzywinski's land.</p>							

**PSC vs. Grabanski Grain LLC and Platte River Insurance Company**  
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**PSC Case No. GE-10-498**

**INVALID CREDIT-SALE CLAIMS**

May 16, 2012

PAGE 1 OF 1

<u>Claimant Name &amp; Address</u>	ASSEMBLY / CONTRACT	Grain	Quantity net bushels	Claim filed	Discounts/ Premium	Invalid Credit Sale Claim	Valid Credit Sale Claim	80% of Valid Credit-sale Claim
Grabanski, Merlin and Delores 15759 65th St NE Grafton, ND 58237	BF# 9281 signed	corn	42,212.08	\$ 87,163.20		\$ 87,163.20		

Properly executed basis fixed contract on 2009 corn crop priced in the claim at \$3.25/bushel.

**INVALID CLAIM** Appears that M&D Grabanski made loans to Grabanski Grain and received several payments from Grabanski Grain. Staff requested information clarifying the purpose of each payment and received an incomplete response. M&D Grabanski delivered 133,716 bushels corn to Grabanski Grain in Fall 2010, with drying charges payable of \$57,531. Staff found no evidence that these charges were paid. Grabanski Grain's attorney said the corn was redelivered to M&D Grabanski.

**PSC vs. Grabanski Grain LLC and Platte River Insurance Company  
CIVIL NO. 50-2011-CV-00029  
PSC Case No. GE-10-498**

**Exhibit E**

**Commission Expenses  
May 16, 2012**

**Expenses through April 30, 2012**

Lodging	\$ 457.44
Meals	\$ 342.00
Vehicle Mileage	\$ 214.66
Postage	\$ 122.12
Publication	\$ 117.86
Legal Costs	\$ 4,610.76
Miscellaneous	\$ 33.76
<b>Total Expenses</b>	<b>\$ 5,898.60</b>