



Public Service Commission

State of North Dakota

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18 May 2012

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

RE: Public Service Commission vs. Grabanski Grain, LLC
CIVIL NO. 50-2011-CV-00029

PSC Case No. GE-10-498

Dear Ms. Demers:

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

1. Notice of Motion and Notice of Hearing;
2. Motion to Approve Report and Recommendation of Trustee and Require Deposit of Bond Proceeds;
3. Brief in Support of Motion to Approve Report and Recommendation of Trustee and Require Deposit of Bond Proceeds;
4. Report and Recommendation of Trustee with Exhibit A, Exhibit B, Exhibit C, Exhibit D; and Exhibit E;
5. Proposed Order Approving Trustee's Report, Requiring Deposit of Bond Proceeds, Approving Payment and Discharging Trustee; and
6. Affidavit of Service by Certified and Regular Mail.

After the hearing, if the Judge finds the Proposed Order Approving Trustee's Report, Requiring Deposit of Bond Proceeds, Approving Payment and Discharging Trustee satisfactory, please have him 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,

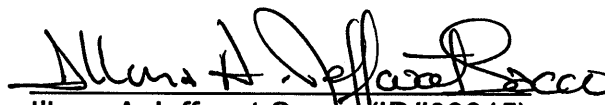
Illona A. Jeffcoat-Sacco (ID#03315)
Special Assistant Attorney General

Enclosures

at 9:00 a.m., CDST, if necessary, at the Walsh County Courthouse in Grafton, North Dakota.

FURTHER PLEASE TAKE NOTICE that under North Dakota Century Code § 60-04-09 any aggrieved person having an objection to the Commission's Report and Recommendation of Trustee shall file the objection with the Court and serve copies on the Commission, the warehouseman, and the surety at least ten (10) days before the hearing. Failure to file and serve objections in the time set is a waiver of the objection.

Bismarck, North Dakota, this 18th day of May 2012.



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701-328-2400

Attorney for the Public Service Commission

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WALSH

NORTHEAST JUDICIAL DISTRICT

_____)	
Public Service Commission	)	CIVIL NO. 50-2011-CV-00029
)	
Petitioner,)	
	)	BRIEF IN SUPPORT OF
vs.	)	MOTION TO APPROVE REPORT
	)	AND RECOMMENDATION OF
Grabanski Grain LLC	)	TRUSTEE AND REQUIRE DEPOSIT
	)	OF BOND PROCEEDS
and)	
)	
Platte River Insurance Company)	
)	
Respondents.)	
_____)	
PSC Case No. GE-10-498)	
)	
_____)	

The North Dakota Public Service Commission (Commission), as trustee of the trust fund provided by North Dakota Century Code § 60-04-03 for the purpose of marshalling all trust assets of Grabanski Grain, LLC, an insolvent grain warehouse, seeks an order approving the Report and Recommendation of Trustee and Requiring Deposit of Bond Proceeds. The Commission has the authority to bring this Motion and the Court has the power to grant the relief requested under North Dakota Century Code §§ 60-04-03 and 60-04-07.

A bond must be filed with the Commission before any license can be issued to any public warehouseman in North Dakota. North Dakota Century Code § 60-02-09. The bond is for the purpose of protecting the holders of outstanding receipts and for covering the costs incurred by the commission in the administration of the licensee's insolvency. North Dakota Century Code § 60-02-09. The insolvent warehouse, Grabanski Grain, LLC, had such a bond issued by Platte River Insurance Company, PO Box 5900, Madison, Wisconsin 53709-0900, as surety.

The Commission has reviewed claims filed against the warehouseman and detailed the Commission's determination regarding valid claims in the Report and Recommendation of Trustee. The proceeds from the bond will be needed to redeem outstanding receipts issued by Grabanski Grain, LLC and to pay the expenses incurred by the Commission in the administration of the insolvency, as provided in North Dakota Century Code § 60-04-09.

The Court has jurisdiction under North Dakota Century Code § 60-04-03.3 to order the deposit of bond proceeds.

North Dakota Century Code § 60-04-09 provides in part:

Following hearing, the court shall approve or modify the report and issue an order directing payment of the necessary bond proceeds, distribution of the trust fund, and discharge of the commission from its trust.

Under North Dakota Century Code § 60-04-03.1 the "trust fund shall be established for the benefit of noncredit-sale receipt holders of the insolvent warehouseman and to pay the costs incurred by the commission in the administration of this chapter. . . ."

The credit-sale contract indemnity fund was created for the purpose of providing protection for persons selling grain to a North Dakota licensed warehouse. North Dakota Century Code § 60-10-02. A person is eligible to receive payment from the credit-sale contract indemnity fund if the warehouse licensed under North Dakota law to which the person sold grain becomes insolvent and has not fully compensated the person in accordance with the credit-sale contract. North Dakota Century Code § 60-10-04.

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

Upon the insolvency of a licensed 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.

Under North Dakota Century Code § 60-10-06, the amount payable to any eligible person from the credit-sale contract indemnity fund may not exceed the lesser of eighty percent of the amount owed to that eligible person under that person's unsatisfied credit-sale contracts or two hundred eighty thousand dollars.

Bismarck, North Dakota, this 18th day of May, 2012.



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STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF WALSH

NORTHEAST JUDICIAL DISTRICT

_____)	
Public Service Commission	)	CIVIL NO. 50-2011-CV-00029
)	
Petitioner,)	
)	
vs.)	
)	
Grabanski Grain LLC	)	REPORT AND
	)	RECOMMENDATION OF
and	)	TRUSTEE
)	
Platte River Insurance Company)	
)	
)	
Respondents.)	
_____)	
PSC Case No. GE-10-498)	
)	
_____)	

The North Dakota Public Service Commission (Commission) as Trustee, makes the following Report and Recommendation to the Court:

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 facility at Grafton, North Dakota under license number 1191.
3. As part of the licensing process, Grabanski Grain, LLC, filed a 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, PO Box 5900, Madison, Wisconsin 53709-0900, 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. 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 125th 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 77th 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 McGearly	\$ 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:

Claimant Name	Credit-Sale Claim Filed	Invalid Credit-Sale Claim
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 18th day of May 2012.



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Attorney for the Public Service Commission

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

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<u>Claimant Name & 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
<p>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.</p>							
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
<p>Claim difference- corrected test weight dockage errors resulting in 10,740.23 bushels unpaid, 248.68 bu. Less than claimed.</p>							
Lenton, Lance 1821 125th Street SE Minot, ND 58701	cash	corn	23,585.68	\$ 50,580.15			\$ 50,580.15
<p>No differences from the claim.</p>							
Martinson JV, Mark & Lori 3907 Highway 66 Rolette, ND 58366-9001	cash	corn	3,573.97	not priced			\$ 9,302.68
<p>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</p>							

VALID CASH CLAIMS

May 16, 2012

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Exhibit A

<u>Claimant Name & 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>	
McGeary, Dennis 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	
Slominski, Louis SR, Farms 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	
Suda Group 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	
Total								\$ 184,964.03

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
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<u>Claimant Name & 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>
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 & 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			\$ -	\$ -
Totals							\$ 379,054.84	\$ 303,243.87

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
CIVIL NO. 50-2011-CV-00029
PSC Case No. GE-10-498

INVALID CASH CLAIMS

May 16, 2012
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<u>Claimant Name & 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
CIVIL NO. 50-2011-CV-00029
PSC Case No. GE-10-498

INVALID CREDIT-SALE CLAIMS

May 16, 2012

PAGE 1 OF 1

<u>Claimant Name & 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
Total Expenses	\$ 5,898.60

STATE OF NORTH DAKOTA
COUNTY OF WALSH

IN DISTRICT COURT
NORTHEAST JUDICIAL DISTRICT

Public Service Commission	)	CIVIL NO. 50-2011-CV-00029
)	
Petitioner,)	
)	
vs.	)	ORDER APPROVING
	)	TRUSTEE'S REPORT,
Grabanski Grain LLC	)	REQUIRING DEPOSIT
	)	OF BOND PROCEEDS,
and	)	APPROVING PAYMENT AND
	)	DISCHARGING TRUSTEE
Platte River Insurance Company)	
)	
)	
Respondents.)	
)	
)	
PSC Case No. GE-10-498)	
)	

This matter came before the Court on the motion of the North Dakota Public Service Commission (Commission) seeking approval of its Report and Recommendation as Trustee of Grabanski Grain, LLC and deposit of bond proceeds. This matter was scheduled for hearing before this Court on **June 20, 2012 at 9:00 a.m. CDST** at the Walsh County Courthouse in Grafton, North Dakota, with proper notice having been given as evidenced by the affidavit of mailing on file. The Commission appeared through Illona A. Jeffcoat-Sacco, Special Assistant Attorney General and Platte River Insurance Company appeared through Gordon W. Myerchin. No other parties or claimants appeared.

The Court reviewed the report and other documents of record and finds grounds for approving the report and requiring deposit of bond proceeds. There were no objections to the report, the Trustee's recommendation, or the request for deposit of bond proceeds.

ORDER

IT IS THEREFORE ORDERED:

1. That the Report and Recommendation of Trustee, dated May 18, 2012, which recommends deposit of bond proceeds, distribution of bond proceeds to valid cash claimants, credit-sale contract indemnity fund payments to valid credit-sale claimants, reimbursement of expenses to the Commission, and return of the remaining balance in the trust fund to Platte River Insurance Company, is approved.
2. That the surety, Platte River Insurance Company, PO Box 5900, Madison, Wisconsin 53709-0900 deposit, within ten (10) days of the date of this order, \$230,000 of the bond proceeds with the Trustee sufficient to pay all valid cash claims.
3. The Commission, as Trustee, is authorized to make payments plus interest from the date of insolvency at the weighted average prime rate charged by the Bank of North Dakota from the trust fund to claimants with valid cash claims for grain purchased for cash by Grabanski Grain, LLC, at its Grafton, North Dakota facility as specified in the Report and Recommendation of Trustee. The payments for each cash claim will be made jointly payable to the claimant and relevant valid lien holders at the time checks are issued.
4. That the Commission, as Trustee, is authorized to make payment from the credit-sale contract indemnity fund to each holder of valid credit-sale contracts for grain sold to Grabanski Grain, LLC, not to exceed the lesser of eighty percent of the amount owed to each claimant or two hundred eighty thousand dollars as specified in the Report and Recommendation of Trustee. The payments for each credit-sale contract claim will be made jointly payable to the claimant and relevant valid lien holders at the time checks are issued.
5. That the Commission, as Trustee, is authorized to make payment to the Commission for reimbursement of expenses under North Dakota Century Code § 60-04-09 in the amount of \$5,898.60 for postage, publication, travel, legal, and

miscellaneous expenses incurred to date plus additional expenses that are incurred after the date of filing and serving the Report and Recommendation.

6. That the Commission, as Trustee, is authorized to return the remaining balance in the trust fund to the surety, Platte River Insurance Company.
7. That upon distribution of the trust fund proceeds to the cash claimants, payment from the credit-sale contract indemnity to each holder of valid credit-sale contracts, reimbursement to the Commission for its expenses incurred in the administration of the proceeds, and return of the remaining balance in the trust fund to Platte River Insurance Company, as provided for in the Trustee's report, the Trustee is discharged.

Grafton, North Dakota, this _____ day of June, 2012.

BY THE COURT

Honorable M. Richard Geiger
Judge of the District Court

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. 50-2011-CV-00029

AFFIDAVIT OF SERVICE
BY CERTIFIED AND
REGULAR MAIL

STATE OF NORTH DAKOTA

COUNTY OF BURLEIGH

)
)ss
)

Geralyn R. Schmaltz deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **18th day of May, 2012**, she deposited in the United States Mail, Bismarck, North Dakota, **4 envelopes** with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of:

1. Notice of Motion and Notice of Hearing;
2. Motion to Adopt Report and Recommendation of Trustee and Require Deposit of Bond Proceeds;
3. Brief in Support of Motion to Adopt Report and Recommendation of Trustee and Require Deposit of Bond Proceeds;
4. Report and Recommendation of Trustee with Exhibit A, Exhibit B, Exhibit C, Exhibit D, and Exhibit E;
5. Proposed Order Adopting Report and Recommendation of Trustee and Requiring Deposit of Bond Proceeds
6. Affidavit of Service by Certified and Regular Mail.

The envelopes were addressed as follows:

Thomas M. Grabanski
PO Box 621
Blossom, TX 75416
Certified Mail No. 7011 2000 0002 0363 3219

Mari K. Grabanski
PO Box 621
Blossom, TX 75416
Certified Mail No. 7011 2000 0002 0363 3226

DeWayne Johnston
Johnston Law Office
Attorney for Grabanski Grain LLC
221 South 4th Street
Grand Forks ND 58201
Certified Mail No. 7011 2000 0002 0363 3233

Gordon W. Myerchin, Attorney for
Platte River Insurance Company
Camrud, Maddock, Olson & Larson, Ltd.
PO Box 5849
Grand Forks, ND 58201
Certified Mail No. 7011 2000 0002 0363 3240

Geralyn R. Schmaltz further deposes and says that on the **18th day of May, 2012**, she deposited in the United States Mail, Bismarck, North Dakota, 28 envelopes by regular mail, with postage fully prepaid, securely sealed, each containing a photocopy of the same.

The envelopes were addressed as follows:

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

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

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

Lance Lenton
1821 125th Street SE
Minot, ND 58701

Eldon Troftgruben
Troftgruben Farm
12341 77th Street NE
Edinburg, ND 58227

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

Russell Edgar
15301 100th St. NE
Bathgate, ND 58216

Field Brothers
38177 390th St. NW
Stephen, MN 56757

Merlyn & Delores Grabanski
15759 65th St. NE
Grafton, ND 58237

Paul Grzadzielewski
1308 Western Avenue
Manvel, ND 58256

Dave Hankey
13828 69th St. NE
Park River, ND 58270

John & Tom Holmes
13266 76th St. NE
Hoople, ND 58243-9466

Dan Wilde
32317 440th Street
Fosston, MN 56542

Wayne Knudson
2077 35th St. NE
Larimore, ND 58251

Martinson JV, Mark & Lori
3907 Highway 66
Rolette, ND 58366-9001

Dennis McGeary
30925 Center St. East
Oklee, MN 56742

Cordel Pulkrabek
44437 130th St. SW
East Grand Forks, MN 56721

Dean Lizakowski
15408 60th St. NE
Minto, ND 58261

John Schumacher
PO Box 344
Drayton, ND 58225

Donovan Schuster
15776 66th St. NE
Grafton, ND 58237

Louie Slominski Jr.
PO Box 207
Minto, ND 58261

Richard & Diane McDonald
3540 35th St. NE
Inkster, ND 58244

Mark E. Novak
12634 County Road 15
Lankin, ND 58250

Russell/Grant Pulkrabek
34538 120th St. NW
Warren, MN 56762

S & G Farms
Louie Slominski
PO Box 207
Minto, ND 58261

Donald & Wilene Schuster
15776 66th St. NE
Grafton, ND 58237

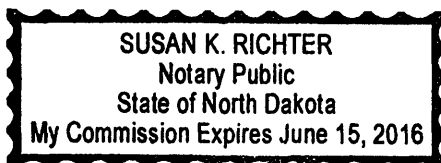
Joel Slominski
1965 36th Avenue NE
Ardoch, ND 58261

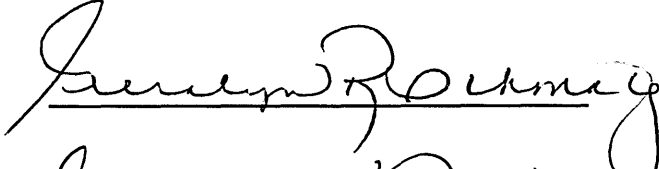
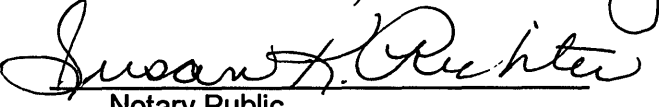
Louie Slominski Sr.
PO Box 177
Minto, ND 58261

Each post office address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this 18th day of May, 2012.

SEAL





Notary Public