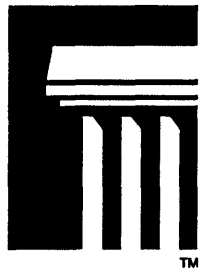


Patrick J. Maddock * †
Gordon W. Myerchin
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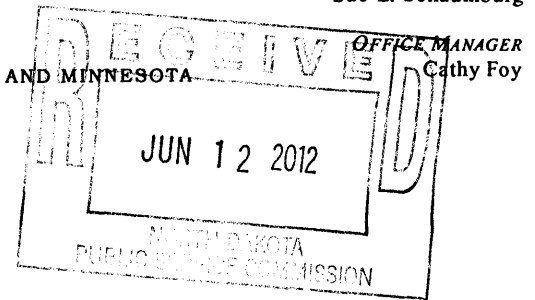
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CERTIFIED PARALEGALS

Lisa A. Knudson
Kathy L. Freidig
Stacey A. Larson
Sue L. Schaumburg

† *Certified Civil Trial Advocate -
National Board of Legal Specialty
Certification*

* *Licensed in ND only*



June 8, 2012

To All Parties Listed on the Enclosed Affidavit of Mail:

Enclosed and served upon you please find the RESPONSE OF PLATTE RIVER INSURANCE COMPANY TO NORTH DAKOTA PUBLIC SERVICE COMMISSION'S MOTION FOR ORDER APPROVING THE REPORT AND RECOMMENDATION OF TRUSTEE AND REQUIRING DEPOSIT OF BOND PROCEEDS scheduled to be heard on June 20, 2012 at the District Courthouse in Grafton, North Dakota.

Very Truly Yours,

Gordon W. Myerchin

GWM/hns

Enclosure: RESPONSE OF PLATTE RIVER INSURANCE COMPANY TO NORTH DAKOTA PUBLIC SERVICE COMMISSION'S MOTION FOR ORDER APPROVING THE REPORT AND RECOMMENDATION OF TRUSTEE AND REQUIRING DEPOSIT OF BOND PROCEEDS

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.

Civil No.: 50-2011-CV-00029

**RESPONSE OF PLATTE RIVER
INSURANCE COMPANY TO
NORTH DAKOTA PUBLIC SERVICE
COMMISSION'S MOTION FOR ORDER
APPROVING THE REPORT AND
RECOMMENDATION OF TRUSTEE
AND REQUIRING DEPOSIT OF BOND
PROCEEDS**

PSC Case No. GE-10-498

Respondent Platte River Insurance Company for its response to Petitioner North Dakota Public Service Commission's (PSC) Motion states as follows:

Platte River provided a surety bond to Grabanski Grain LLC for the time period October 26, 2009 to October 25, 2010 and extended by Platte River's cancellation of the bond to November 28, 2010. Prior to October 26, 2009 the bond provided for Grabanski Grain LLC was provided by Old Republic Surety Company and was for the period beginning October 26, 2007 and ending October 26, 2009. (Bond Number MLI - 1179606.

Surety bonds are not intended to provide coverage for claims which are outside of the bond period. Whether a claim occurred before, during or after the bond period is to be determined by the circumstances of each claim.

According to the PSC they received their first claim from a grower on July 23, 2010. Platte River agrees that July 23, 2010 is a date occurring during the period of coverage by Platte River's bond. However based on the limited information provide/available to Platte River it is clear that payment was due from Grabanski Grain LLC and sought by the growers prior to July 23, 2010.

The PSC has provided Exhibits A, B, C and D as part of its Motion. Exhibit A refers to what the PSC has labeled Valid Cash Claims. Exhibit B refers to what the PSC has labeled Invalid Credit Sale Claims. Exhibit C refers to what the PSC has labeled Invalid Cash Sale Claims. Exhibit D refers to what the PSC has labeled Invalid Credit Sale Claims.

Valid and Invalid Cash Claims relate to claims against the bond. These are the claims that concern Platte River Insurance Company.

Valid and Invalid Sale Claims related to claims against the North Dakota Credit Sale Contract Indemnity Fund. These are not claims against the Platte River Insurance Company but claims to be paid by the Fund.

The PSC has determined based on their examination of records that \$184,964.03 fall into the category of Valid Cash Claims against Platte River Insurance Company.

The PSC has alleged that Platte River Insurance Company is obligated to pay interest at a rate of 3.25% from July 23, 2010 on each of the individual claims. Using the \$184,964.03 amount alleged by the PSC interest to June 20, 2012 would be \$11,498.97.

The PSC has alleged it is entitled to costs of \$5898.60. The PSC has agreed that one half of those costs should be paid by the North Dakota Credit Sale Contract Indemnity Fund. One half of those costs is \$2949.30. Platte River believes the PSC would ask that the court order each party to pay \$2949.30.

The PSC has asked that Platte River be required to pay \$230,000 into the trust fund held by the Commission. Using the PSC claim amounts, some of which are still subject to possible objection by Platte River as will be set out below, Platte River objects to be required to pay that amount. Platte River's total potential obligation using PSC amounts would be \$199,412.30. Platte River would propose to pay into the trust fund held by the Commission the sum of \$200,000.00 pending further Order of the Court.

Subject to evidence presented at the Motion hearing and based on the representation of the PSC Platte River agrees as follows to the claims listed as Valid Cash Claims by the PSC:

Paul Grzadzielewski

Most of Grzadzielewski's claim relates to 15873.57 bu. that appear to have been delivered to Grabanski on June 30, 2009. This amount is shown on Basis Fixed Grain Purchase Contract 9257 (old contract #) dated 10-15-09. All of the events of this sale occurred prior to the effective date of Platte River's bond. The PSC's position is that the Basis Fixed Grain Purchase Contract is not applicable because Grzadzielewski has not signed it. This should not be considered a cash sale. If this was to be a cash sale then the sale occurred during the period in which Old Republic was providing bond coverage, not Platte River. The Platte River bond provides that "liability for this undertaking commencing on 10-26-09". 122 days passed between the delivery of the grain to Grabanski by Grzadzielewski and the first date of the bond liability.

The Paul Grzadzielewski elevator tickets from the year listed as 2008 on them make

reference a "contracted price" where other growers statements with tickets reference a "cash price". Platte River wishes to inquire as to this 15873.57 bu. sale which occurred over 1 year before Grabanski Grain LLC declared bankruptcy why Paul Grzadielewski had not paid? Did Paul Grzadielewski try to collect payment or was this this a Basic Fixed Grain Purchase Contract arrangement?

286.85 bu that also have a Basis Fixed Contract appear to have been delivered (sold) on 11-23-09. The sale does appear to be in the bond period. The amount of this claim according to your Exhibit A would be 719.99. Platte River will stipulate to bond payment for the 285 bu. in the amount of \$719.99 but reserve the right to inquire about Grzadielewski Basis Fixed Grain Purchase Contract #9257 and whether that claim for payment for the 15873.57 bu was not within Platte River's bond coverage period.

Wayne Knudson

Wayne Knudson delivered corn between January 14, 2010 and January 21, 2010 according to the Grabanski Grain ticket listing so it is within the bond coverage period. There is a Basis Fixed Grain Purchase Contract #9293 is dated 4-16-2010. There is a check payable for the amount of the claim in the records. We would question why. Platte River will stipulate to bond payment of the \$25,254.82 recommended by the PSC but reserve the right to inquire about the Basis Fixed Grain Purchase Contract.

Lance Lenton

All of Mr. Lenton's deliveries were within the bond period the first delivery listed as 2/26/10 and the last 4/9/10. Mr. Lention mentioned several attempts to get paid before getting a \$20,000 check (#10310). There is no Basis Fixed Grain Purchase Contract to inquire about. He claims price agreed to by Grabanski was \$3.00 per bu. and the PSC proposes that amount per bushel be paid under the bond. Platte River will stipulate to bond payment of the \$50,580.15 recommended by the PSC.

Mark and Lori Martinson

The grain for which payment is requested was delivered in February 2010, which is within the bond period. The PSC proposes to pay \$2.83 a bu for the corn. No price per bushel appears to have been agreed to. PSC did not say where they got the \$2.83 per bushel. Platte River will stipulate to bond payment of the \$9,302.68 recommended by the PSC subject to information as to what was used to establish the per bushel price.

Dennis McGeary

All of the grain for which payment is requested was delivered in March of 2010, which is within the bond period. Platte River will stipulate to bond payment of the \$18,757.06 recommended by the PSC .

Louis Slominski Sr.

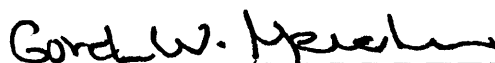
This claim has an unsigned by the grower Basis Fixed Grain Purchase Contract # 9280 with the documents. The delivery date listed in this contract in December of 2009. The tickets state all deliveries were made between 11-16-09 and 11-19-09. This is within the bond period. While the tickets state "cash price" it also shows 7% interest which I would question why interest would be showing on a cash price claim. Like the others with Basis Fixed Grain Purchase Contracts we reserve our right to ask what the grower knows about it. The entire # of busels in the sale (24,417.19) is referred to in the Basis Fixed Grain Purchase Contract so if Basis Fixed Grain Purchase Contract # 9280 applies there would be no bond claim but a would be a claim against the Credit Sale Contract Indemnity Fund. Platte River will stipulate to bond payment of the \$34023.45 recommended by the PSC but reserve the right to ask about the Basis Fixed Grain Purchase Contract.

Suda Group

This claim has an unsigned by the grower Basis Fixed Grain Purchase Contract # 9289 with the documents. The original date on the contract is 1-12-10. It is not signed by anyone. The delivery date listed in this contract is December of 09. The tickets state all deliveries were made between 11-11-09 and 11-14-09. This is within the bond period. The entire # of bushels in the sale (4643.64) is referred to in the Basis Fixed Grain Purchase Contract so if the contract applies there would be no bond claim but this would be a claim against the Credit Sale Contract Indemnity Fund. Like the others with Basis Fixed Grain Purchase Contracts we wish to ask what the grower knows about it. We will ask about the check which supposed existed but was not given to Suda's for \$9410.59 which is listed as paid 5/5/10 by check #10290. This check is older by date then the check which was paid to Lenton. Platte River will stipulate to bond payment of the \$9,411.54 recommended by the PSC but reserve the right to ask about the Basis Fixed Grain Purchase Contract and the payment of the check.

The total amount of Valid Cash sales that Platte River has stipulated to should add up to \$148,049.61.

DATED this 8th day of June, 2012.



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Platte River Insurance Company

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.

Civil No.: 50-2011-CV-00029

**AFFIDAVIT OF SERVICE
BY U.S. MAIL**

STATE OF NORTH DAKOTA)
) ss
COUNTY OF GRAND FORKS)

Heidi Sundquist, being first duly sworn, deposes and says that she is of legal age, neither a party to nor interested in the above-entitled action, and that on the 8th day of June, 2012, she served the attached:

- **Response of Platte River Insurance Company to Public Service Commission's Application for Appointment as Trustee and Motion to Join Surety as Party and for Deposit of Bond Proceeds**

upon the following as addressed:

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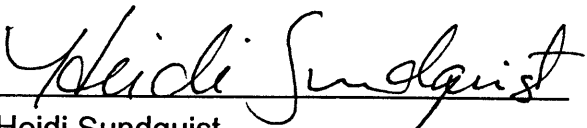
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Grafton, MD 58237-8831

BP & Sons Grain and Storage Inc.
Box 227
Morden, Manitoba
R6M 1B9
CANADA

by placing a true and correct copy in an envelope and depositing the same, with postage prepaid, in the United States mail at Grand Forks, North Dakota.


Heidi Sundquist

Subscribed and sworn to before me this 8th day of June, 2012.


NOTARY PUBLIC

