

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

\_\_\_\_\_ )  
Public Service Commission )  
) )  
Petitioner, )  
) )  
vs. )  
) )  
Mitchell Feeds, Inc. )  
) )  
and )  
) )  
Western Surety Company )  
) )  
Respondents. )  
\_\_\_\_\_ )  
PSC Case No. GE-11-51 )  
\_\_\_\_\_ )

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

AFFIDAVIT OF  
SUSAN K. RICHTER

STATE OF NORTH DAKOTA )  
) )  
COUNTY OF BURLEIGH )  
) )

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 Public Service Commission and as such is charged with the duty of enforcing the provisions of North Dakota Century Code Chapter 60-02.1.
3. That Mitchell Feeds, Inc., a Minnesota business corporation, which is authorized to do business in North Dakota, operated as a roving grain buyer in North Dakota, and was licensed under North Dakota Century Code Chapter 60-02.1.

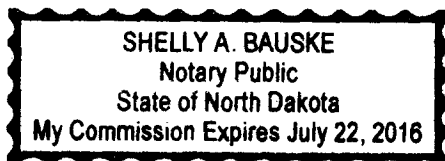
4. That Mitchell Feeds, Inc., PO Box 9122, Fargo, North Dakota 58106, operated as a roving grain buyer in North Dakota under license number 3159.
5. As part of the licensing process, Mitchell Feeds, Inc. filed a bond with the Commission as required by North Dakota Century Code § 60-02.1-08 in the amount of \$70,000 and identified as number 15352088 with Western Surety Company, 101 South Phillips Avenue, Sioux Falls, South Dakota 57104-6703, as surety.
6. On February 1, 2011, James and Cynthia Burckhard of Towner, North Dakota, filed a letter for collection of outstanding funds owed to them for grain sold to Mitchell Feeds, Inc. Subsequently, David Steeves of Sherwood, North Dakota, Gene W. Allen, attorney representing David Deslauriers of Sherwood, North Dakota, Paul A. Rohde of Halliday, North Dakota, Don Ackerson of Sherwood, North Dakota, Steven Neameyer of Mylo, North Dakota, Lana Anderson/Northland Farms of Sherwood, North Dakota, Greg Busch/Busch Farms, Inc. of Crosby, North Dakota, and Mitch Preskey, Glenburn, North Dakota, each filed letters for collection of outstanding funds owed to them for grain sold to Mitchell Feeds, Inc.
7. That affiant was informed and believes there are additional outstanding obligations for unpaid claims for grain sold to Mitchell Feeds, Inc. as a roving grain buyer under North Dakota Century Code Chapter 60-02.1 for which bond protection is available under the provisions of North Dakota Century Code § 60-02.1-08 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.

8. That Mitchell Feeds, Inc. is insolvent under North Dakota Century Code Chapter 60-02.1, as of February 1, 2011, the date the first claim for collection of outstanding funds owed for grain sold was filed, in that it is unable upon proper demand to make payment for grain purchased or make redelivery for grain delivered.
9. That the Commission is legally entitled to be appointed trustee of the trust fund provided under North Dakota Century Code Chapter 60-02.1.
10. That bond proceeds will be needed to redeem outstanding receipts issued by Mitchell Feeds, Inc.
11. 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.
12. That affiant believes it is in the public interest to immediately appoint the Commission as trustee under North Dakota Century Code Chapter 60-02.1.
13. That the affidavit is made for the purpose of securing the appointment of the Commission as trustee of Mitchell Feeds, Inc. and preserving any assets of the trust under North Dakota Century Code Chapter 60-02.1.

Dated this 14<sup>th</sup> day of April, 2011.

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

Subscribed and sworn to before me  
this 14<sup>th</sup> day of April, 2011.



*Shelly A Bauske*  
Notary Public