



Public Service Commission
State of North Dakota

COMMISSIONERS

Kevin Cramer
Tony Clark
Brian P. Kalk

Executive Secretary
Darrell Nitschke

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May 10, 2011

Ms. Debra Simenson
Clerk of the District Court
Burleigh County Courthouse
PO Box 1055
Bismarck, ND 58102-1055

**RE: Public Service Commission vs. Mitchell Feeds, Inc.
CIVIL NO. 08-2011-CV-00917**

PSC Case No. GE-11-51

Dear Ms. Simenson:

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

1. Notice of Entry of Ex Parte Order with attached copy of executed Ex Parte Order to Preserve Trust Assets
2. Affidavit of Service by Certified and Regular Mail

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

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)
)

**NOTICE OF ENTRY
OF EX PARTE ORDER**

Civil No. 08-2011-CV-00917

PLEASE TAKE NOTICE that an Ex Parte Order to Preserve Trust Assets was executed by the Court on May 5th, 2011, and was duly filed in the above proceeding on May 5th, 2011, ordering that Mitchell Feeds, Inc. is prohibited from selling, transferring or removing potential assets of the trust fund as provided in North Dakota Century Code § 60-02.1-30, until the Court issues its order granting or denying the application for appointment of the Public Service Commission as Trustee of the trust fund in this proceeding.

A copy of this Order is attached hereto and by reference made a part hereof.

Bismarck, North Dakota, this 10th day of May 2011.

By: 

Ilona A. Jeffcoat-Sacco (ID No. 03315)

Mark Gruman (ID No. 06019)

Special Assistant Attorneys General

State Capitol – 12th Floor

600 East Boulevard Ave – Dept 408

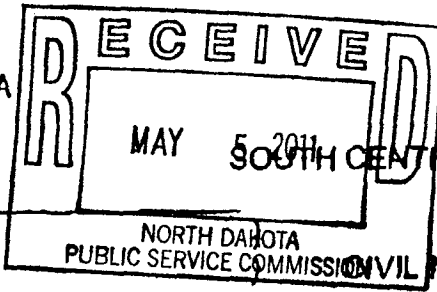
Bismarck, North Dakota 58505-0480

Telephone (701) 328-2400

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Attorneys for the Public Service Commission

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH



IN DISTRICT COURT
SOUTH CENTRAL JUDICIAL DISTRICT

Public Service Commission

CIVIL No. 08 2011 CV 917

Petitioner,

vs.

Mitchell Feeds, Inc.

and

Western Surety Company

Respondents.

EX PARTE ORDER
TO PRESERVE TRUST
ASSETS

PSC Case No. GE-11-51

The Public Service Commission (Commission) has petitioned the Court for appointment as trustee of Mitchell Feeds, Inc. under North Dakota Century Code Chapter 60-02.1. Mitchell Feeds, Inc., PO Box 9122, Fargo, North Dakota 58106, operates as a roving grain buyer in the State of North Dakota.

It appears from the record that Mitchell Feeds, Inc. is insolvent under North Dakota Century Code Chapter 60-02.1, and that it is in the best interest of the claimants and the parties to this proceeding that an ex parte order be issued by this Court to preserve and protect the potential assets of the trust fund until the court issues its order granting or denying the application. North Dakota Century Code § 60-02.1-30 provides that the trust fund must consist of the following:

1. Nonwarehouse receipt grain of the insolvent licensee held in storage or the proceeds obtained from the conversion of such grain.

28 GE-11-51 Filed: 5/5/2011 Pages: 2
Executed Ex Parte Order to Preserve Trust Assets

RECEIVED & FILED

MAY 05 2011

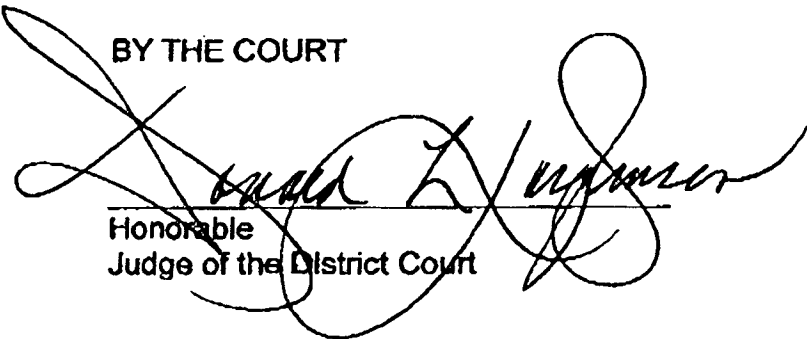
2. The proceeds, including accounts receivable, from any grain sold from the time of the filing of the claim that precipitated an insolvency until the commission is appointed trustee must be remitted to the commission and included in the trust fund.
3. The proceeds of insurance policies on destroyed grain.
4. The claims for relief, and proceeds therefrom, for damages upon bond given by the licensee to ensure faithful performance of the duties of a licensee.
5. The claim for relief, and proceeds therefrom, for the conversion of any grain stored in the warehouse.
6. Unencumbered accounts receivable for grain sold prior to the filing of the claim that precipitated an insolvency.
7. Unencumbered equity in grain hedging accounts.
8. Unencumbered grain product assets.

ORDER

THEREFORE, the Court orders that Mitchell Feeds, Inc. is prohibited from selling, transferring or removing potential assets of the trust fund as provided in North Dakota Century Code § 60-02.1-30, until the court issues its order granting or denying the application for appointment of the Public Service Commission as Trustee of the trust fund in this proceeding.

Bismarck, North Dakota, this 5th day of May, 2011. @ 8:40 A.M.

BY THE COURT



Honorable
Judge of the District Court

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)
)

**AFFIDAVIT OF SERVICE BY
CERTIFIED & REGULAR MAIL**

Civil No. 08-2011-CV-00917

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 **10th day of May, 2011**, she deposited in the United States Mail, Bismarck, North Dakota, **four envelopes** with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of:

1. Notice of Entry of Ex Parte Order with attached copy of signed Ex Parte Order to Preserve Trust Assets
2. Affidavit of Service by Certified and Regular Mail

The envelopes were addressed as follows:

Robert Mitchell
 Mitchell Feeds, Inc.
 PO Box 9112
 Fargo, ND 58106
Cert. No. 7010 3090 0002 4629 3747

Jackie Mitchell, Registered Agent for
 Mitchell Feeds, Inc.
 4905 County Highway 81 South
 Horace, ND 58047
Cert. No. 7010 3090 0002 4629 3754

Robert Mitchell
 Mitchell Feeds, Inc.
 4905 County Highway 81 South
 Horace, ND 58047
Cert. No. 7010 3090 0002 4629 3761

David L. Johnson
 Attorney for Mitchell Feeds, Inc.
 PO Box 2189
 Fargo, ND 58108-2189
Cert. No. 7010 3090 0002 4629 3778

Geralyn R. Schmaltz further deposes and says that on the **10th day of May, 2011**, she deposited in the United States Mail, Bismarck, North Dakota, **thirteen envelopes** by regular mail, with postage fully prepaid, securely sealed and each containing a photocopy of the same:

Sharon Sergeant, Claims Manager
Senior Claims Counsel, Claim Dept.
Western Surety Company
101 South Phillips Avenue
Sioux Falls, SD 57104-6703

Steven Neameyer
4921 85th Street
Mylo, ND 58353

Paul A. Rohde
PO Box 251
Halliday, ND 58636

David R. Steeves
4690 County Road 2
Sherwood, ND 58782

James and Cynthia Burckhard
5520 18th Avenue NE
Towner, ND 58788

Don Ackerson
10435 54th Avenue NW
Sherwood, MN 58782

Gene W. Allen, Attorney for David
Deslauriers
PO Box 998
Minot, ND 58702-0998

Lana Anderson/Northland Farms
10845 53rd Avenue NW
Sherwood, ND 58782

Greg Busch
Busch Farms, Inc.
PO Box 584
Crosby, ND 58730

Mitch Preskey
2485 Glenburn Road
Glenburn, ND 58740

Brent Keith
3551 County Road 2
Sherwood, ND 58782

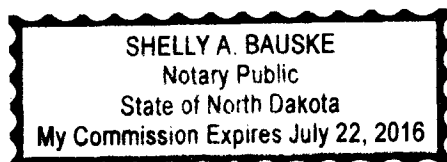
James A. Lodoen
Attorney for Leonard Lodoen
4200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2274

Scott Lazorenko
899 Brew Street
Killdeer ND 58640

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

Subscribed and sworn to before me
this **10th day of May 2011**.

SEAL



Geralyn R. Schmaltz

Shelly A. Bauske
Notary Public