

McNAIR, LARSON & CARLSON, LTD.

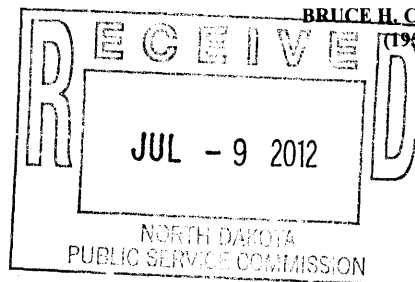
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BRUCE H. CARLSON
(1953 - 2009)



July 6, 2012

VIA EMAIL & U.S. MAIL

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Western Surety Company
101 South Phillips Ave.
Sioux Falls, SD 57104-6703

**RE: PUBLIC SERVICE COMMISSION VS. MITCHELL FEEDS, INC., ET AL
CASE NO. 08-2011-CV-917**

Ladies & Gentlemen:

I am enclosing and serving upon you by U.S. Mail, the Affidavit of Robert Mitchell. I am sending this via email as to all of you, but for Western Surety Company. I am also filing the Affidavit with the Court by overnight mail. This is set for hearing on Monday, July 9, 2012 at, I believe, 1:30 p.m. Mitchell Feeds, Inc. has adopted and incorporated by reference American Federal

105 GE-11-51 Filed: 7/9/2012 Pages: 6
Affidavit of Robert Mitchell

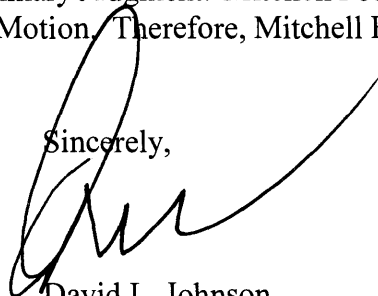
Mitchell Feeds, Inc.

David Johnson, Attorney

Page 2
July 6, 2012

Bank's Brief in Support of Motion for Summary Judgment. Mitchell Feeds, Inc. will not be making a separate argument as the hearing on the Motion. Therefore, Mitchell Feeds, Inc., does not intend to appear at the hearing.

Sincerely,

A handwritten signature in black ink, appearing to read 'DLJ', with a long horizontal flourish extending to the right.

David L. Johnson

DLJ:kj

Enc.

cc: Robert Mitchell (via email)

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STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

Public Service Commission,)

Petitioner,)

Civil No. 08-2011-CV-917

vs.)

PSC Case No. GE-11-51

Mitchell Feeds, Inc.,)

and)

Western Surety Company,)

Respondents,)

Michael Aasen, Donald Ackerson, Sheldon)

Ackerson, Lana Anderson d/b/a Northland)

Farms, B&D Farms, Inc., Busch Farms,)

Inc., David Deslauriers, Scott Lazorenko,)

Manna Farms, Inc., Nathan Neameyer,)

Steve Neameyer, Mitch Preskey, Paul)

Rohde, James Routledge, Bart Savelkoul)

d/b/a Savelkoul Farms, Mike Schollmeyer,)

David Steeves, Robert Steeves, Paul Trout,)

Wurgler Farms, Kelly Wurgler,)

and)

American Federal Bank,)

Intervenors.)

STATE OF ND)

AFFIDAVIT OF ROBERT MITCHELL

COUNTY OF CASS) ss.)

Robert Mitchell, being duly sworn, states:

1. I am a shareholder, officer and director of Mitchell Feeds, Inc. I run the day to day affairs of the company.

2. In June of 2011, I made arrangements with Susan K. Richter, Licensing Division Director for the North Dakota Public Service Commission, to view the grain buyer records of Mitchell Feeds, Inc.

3. At least two representatives of the Public Service Commission arrived on Monday, June 20, 2011, and one of my staff was on hand to assist them. The Public Service Commission representatives had unlimited access to the grain buyer records and were on site for at least two days.

4. These representatives were also granted access to the Hendrum, Minnesota, facility of Mitchell Feeds, Inc., to inspect the grain assets (sunflower inventory).

5. On or around the time Mitchell Feeds, Inc., applied for a grain roving buyer's license with the North Dakota Public Service Commission, Mitchell Feeds, Inc., was contacted on more than one occasion by the Minnesota Department of Agriculture and, on at least one occasion, a representative of the Minnesota Department of Agriculture was on site at the Hendrum, Minnesota, facility of Mitchell Feeds, Inc.

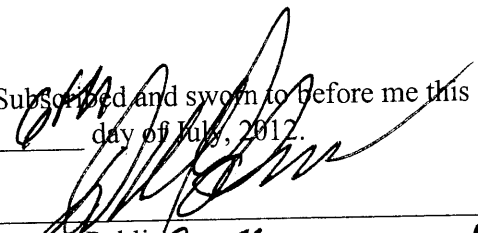
6. The Minnesota Department of Agriculture was informed that Mitchell Feeds, Inc., was purchasing sunflowers from North Dakota farmers and that Mitchell Feeds, Inc., was not purchasing nor did it intend to purchase any product from Minnesota farmers. On these facts, Mitchell Feeds, Inc., was informed by the Minnesota Department of Agriculture representative that a Minnesota license and bond was not required.

Dated this 7-6 day of July, 2012.



ROBERT MITCHELL

Subscribed and sworn to before me this
7-6 day of July, 2012.



Notary Public CASS County, ND

My Commission Expires:

G:\26213\Affidavit of Robert Mitchell.wpd

DAVID L. JOHNSON
Notary Public
State of North Dakota
My Commission Expires Mar. 13, 2015

AFFIDAVIT OF SERVICE BY MAILING

STATE OF NORTH DAKOTA)
) SS:
COUNTY OF CASS)

RE: Public Service Commission vs. Mitchell Feeds, Inc.,
and Western Surety Company; Michael Aasen, et al
vs. American Federal Bank
Case No. 08-2011-CV-917
PSC Case No. GE-11-51

Marlene Schumacher, being first duly sworn on oath deposes and says that she is a secretary in the office of McNair, Larson & Carlson, Ltd., Attorneys at Law, Post Office Box 2189, 51 Broadway, Dakota Center, Fargo, North Dakota; that on July 6th, 2012, she served:

■ **AFFIDAVIT OF ROBERT MITCHELL**

on the following persons by placing a copy thereof in an envelope addressed to them as follows:

Illona A. Jeffcoat-Sacco
Special Assistant Attorney General
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Bismarck, ND 58505-0480

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

Mark Gruman
Special Assistant Attorney General
State Capitol - 12th Floor
600 East Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480

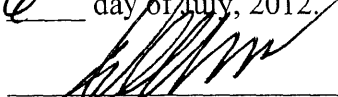
Tracy Kennedy
Attorney at Law
3100 South Columbia Road
P.O. Box 13417
Grand Forks, ND 58208-3417

Derrick Braaten
Attorney at Law
222 North 4th Street
Bismarck, ND 58501-4004

and the envelope with postage prepaid was deposited by her in the United States Mail at Fargo, North Dakota, for delivery by the United States Post Office Department as directed by said envelope.


MARLENE SCHUMACHER

Subscribed and sworn to before me this
6th day of July, 2012.



DAVID L. JOHNSON, Notary Public

Cass County, North Dakota

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DAVID L. JOHNSON
Notary Public
State of North Dakota
My Commission Expires Mar. 13, 2015