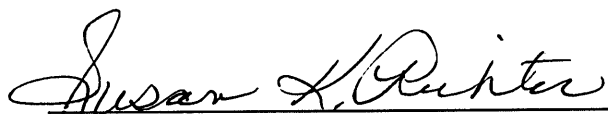
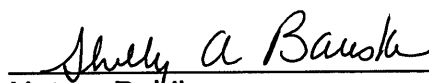


2. That in my 27 years experience in the Licensing Division I have seen that farmers appear to be reluctant to file a claim when they learn that the surety bond on file with the Public Service Commission likely does not provide 100% protection and that the insolvency process is lengthy.
3. That when a farmer contacts me regarding late payment, and I follow up with the licensee, the farmer is often paid by the licensee. It is an advantage if the licensee can pay the farmer before we take action against the surety bond, and especially if the licensee is not actually insolvent.
4. That when multiple calls are received regarding nonpayment or redelivery, I explain the insolvency process to callers. It is not until a formal written claim is filed, that we begin the insolvency process. Copy of an explanation of the insolvency process is attached as Attachment A.
5. That Shane Sickler called me in February 2010 regarding nonpayment. I don't recall specifically what I told him. My practice is to inform the caller he can file a written claim. Mr. Sickler did not file a written claim. A written claim starts the formal insolvency process.
6. That in late August or early September 2010, I received a call from Bart Savelkoul regarding nonpayment. Mr. Savelkoul did not file a written claim. Following Mr. Savelkoul's phone call, I contacted Mitchell Feeds, Inc. and I believe Mr. Savelkoul received some payment.
7. That before the formal insolvency process, I received a phone call from a farmer regarding nonpayment and in my follow up with Mitchell Feeds, Inc., Bob Mitchell agreed to redeliver sunflower seeds to the farmer.
8. That in a phone and e-mail conversation between October 2010 and December 2010, I was in contact with the Minnesota Department of Agriculture inquiring about whether Mitchell Feeds, Inc. needed a Minnesota grain buyer license because a producer told me that all of his sunflower loads were delivered to an elevator in Hendrum, Minnesota. The Minnesota regulators informed me that when they visited the facility, a representative of Mitchell Feeds Inc., told them that they were only purchasing grain in North Dakota. The Minnesota regulators also told me that if I get any more reports of selling grain to Mitchell Feeds in Minnesota to let the Minnesota regulators know.

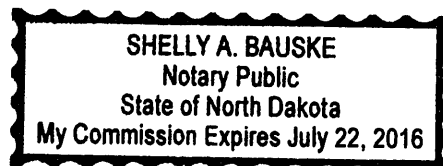
9. That in November 2010, the Commission's Grain Warehouse Inspector reviewed the Mitchell Feeds, Inc. documents and compiled a payables report based on the records provided to the inspector, Mr. Sickler was not included. Copy of the payables documents are attached as Attachment B.
10. That on December 10, 2010, the Commission received a letter from James and Cynthia Burckhard regarding Mitchell Feeds being five months overdue. I sent a letter to Burckhards informing them they can file a claim. I told them that they should send a letter to the Commission, include all information relevant to the matter, and attach support documents. Copy of letter attached as Attach C.
11. That the Commission's Staff is still in the process of obtaining information to prepare a report and recommendation. Staff completed an initial review of claims and prepared a preliminary spreadsheet showing claims received before and after the licensing period. Before staff is ready to present a draft report and recommendation to the Commission, with subsequent filing at court, there is still additional work to do. Work remaining includes further review of claims regarding the delivery period and transportation expenses.



Subscribed and sworn to before me this 9th day of July, 2012.



Notary Public



Grain Buyers Insolvency Process

North Dakota Century Code provides, “A licensee is insolvent when the licensee refuses, neglects, or is unable upon proper demand to make payment for grain purchased or marketed by the licensee or is unable to make redelivery upon proper demand.”

1. The Commission receives a written unpaid GRAIN claim.
2. Staff contacts licensee regarding the claim.
3. Commission files an application for appointment as trustee in Burleigh County district court. If it appears grain or accounts receivable are available, the Commission asks the court to issue an order to preserve or protect the assets of the trust fund until the court issues its order granting or denying the Commission’s application.
4. Once the Commission is appointed trustee:
 - a. A notice of appointment and notice to file claims is published once each week for two consecutive weeks in all daily newspapers in the state; and
 - b. A copy of the notice is sent *by ordinary mail* to outstanding receipt holders to file their claims with the Commission within 45 days after the last publication date.
5. The Commission:
 - a. Takes possession of relevant books and records of the licensee.
 - b. Seeks possession of grain and accounts receivable, liquidates grain inventories, collects outstanding receivables, and establishes a trust fund.
6. If the grain assets are not adequate to pay claims and the bond proceeds are needed, the Commission asks the court to join the surety and turn over the bond proceeds as needed.
7. Upon receipt and evaluation of filed claims, the Commission must prepare a report and file it with the court showing the amount and validity of each claim. The report must contain:
 - a. A proposed distribution of trust fund assets to valid cash claimants – plus interest from date of insolvency, if available;

- b. Proposed distribution of proceeds from the credit-sale contract indemnity fund to valid credit-sale claimants – not to exceed 80% of the amount owed for all of a person’s unsatisfied credit-sale contracts or \$280,000; and
 - c. Request for reimbursement of expenses incurred by the Commission in the administration of the insolvency.
8. A hearing is set by the court and following the hearing, the court must approve or modify the report and issue an order directing payment of the bond proceeds, payment of credit-sale contract indemnity fund proceeds, distribution of the trust fund, and reimbursement of Commission expenses and discharge of the Commission from its trust.
9. Once the court issues its order and the appeal period has passed, checks are issued. The original checks are sent via certified mail to claimants and copies of the checks are mailed to lien holders.

Applicable statute is found in NDCC Chapters 60-02.1 and 60-10.

Exam Date: 11/18/2010

Mitchell Feeds Inc.

Page: 1

Examiner: 1

PO Box 9112

Fargo, ND

County:

Customer Name	Grade	Quantity	Reference No.	Dollar Amount
Sunflowers - Confection				
<hr/>				
Payable 0-30				
Stein, Russell	1	290.08	7882	\$8,992.44
Sunflowers - Confection, Payable 0-30 Total:				8,992.44
<hr/>				
Sunflowers - Oil				
<hr/>				
Payable 0-30				
B&D Farms / Manna Farms	1	444.87	7714	\$8,230.15
Kling, Jeff	1	398.05	8085	\$10,548.33
Rusch, Rodney	1	887.20	8620	\$14,860.60
Svelkoul Farms	1	2573.02	8834	\$49,756.87
Wurgler Farms	1	958.25	8862	\$16,290.25
Wurgler, Kelly	1	497.61	8867	\$8,459.37
Sunflowers - Oil, Payable 0-30 Total:				108,145.57

Report Summary

Grain Payables:	\$117,138.01
Deferred Payment Contracts:	\$0.00
Total Grain Payables:	\$117,138.01
Receivables	\$0.00

PAYABLES/RECEIVABLES DATA LISTING

Number	Name	Grain	Category	Price	Quantity	Amount	Comments
7714	B&D Farms / Manna Farms	SFLRO	Payable 0-30	0.00000	444.87	8230.15	08/14/09 delivery
7882	Stein, Russell	SFLRC	Payable 0-30	0.00000	290.08	8992.44	08/14/09 delivery
8085	Kling, Jeff	SFLRO	Payable 0-30	26.50000	398.05	10548.33	08/05/09 delivery
8616	Rusch, Rodney	SFLRO	Payable 0-30	16.75000	461.76	7734.48	06/15/10 delivery
8620	Rusch, Rodney	SFLRO	Payable 0-30	16.75000	425.44	7126.12	06/29/10 delivery
8777	Svelkoul Farms	SFLRO	Payable 0-30	0.00000	485.45	9660.37	4/12/10 delivery
8787	Svelkoul Farms	SFLRO	Payable 0-30	0.00000	531.43	10575.45	04/23/10 delivery
8789	Svelkoul Farms	SFLRO	Payable 0-30	0.00000	523.22	10412.03	04/26/10 delivery
8830	Svelkoul Farms	SFLRO	Payable 0-30	18.50000	503.88	9321.78	06/15/10 delivery
8834	Svelkoul Farms	SFLRO	Payable 0-30	18.50000	529.04	9787.24	06/21/10 delivery
8860	Wurgler Farms	SFLRO	Payable 0-30	17.00000	478.65	8137.05	07/21/10 delivery
8862	Wurgler Farms	SFLRO	Payable 0-30	17.00000	479.60	8153.20	07/26/10 delivery
8867	Wurgler, Kelly	SFLRO	Payable 0-30	17.00000	497.61	8459.37	07/28/10 07/28/10 delivery

count: 13

81.00



Public Service Commission
State of North Dakota

COMMISSIONERS

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Executive Secretary
Darrell Nitschke

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TDD 800-366-6888 or 711

December 16, 2010

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

RE: Mitchell Feeds, Inc.

Dear James and Cynthia Burckhard:

On December 10, 2010, the Commission received your letter regarding the non-payment by Mitchell Feeds, Inc. for a load of sunflower seeds. In your letter you ask for direction regarding the best way to handle the matter.

North Dakota Century Code Section 60-02.1-28 provides, "A licensee is insolvent when the licensee refuses, neglects, or is unable upon proper demand to make payment for grain purchased or marketed by the licensee or is unable to make redelivery upon proper demand."

If you wish to file a claim against Mitchell Feeds, Inc.'s surety bond, please send a letter to the Commission. In your letter, please include all information relevant to this matter. Attach one copy of all support documents such as your letters to Mitchell Feeds, Inc. and Mitchell Feeds, Inc.'s response letter to you, scale tickets, bills of lading, or other memoranda given as evidence of the receipt of grain. Please mail your letter and support documents to the Public Service Commission, Attention Darrell Nitschke, at the above address.

If you have questions, please call me at 701-328-4097.

Sincerely,

Susan K. Richter, Director
Licensing Division