

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Mitchell Feeds, Inc.
Ex Parte Cease & Desist

Case No. GE-11-103

AFFIDAVIT OF SUSAN K. RICHTER

STATE OF NORTH DAKOTA)
) ss
COUNTY OF BURLEIGH)

Susan K. Richter, being first duly sworn, deposes and states:

That she is the Director of the Public Service Commission's Licensing Division.

That on February 1, 2011, the Commission received a letter with attachments from James Burckhard of Towner, North Dakota, alleging he had not been paid for sunflower seeds sold to Mitchell Feeds, Inc.

That on March 30, 2011, the Commission received a letter with attachments from David Steeves of Sherwood, North Dakota, alleging he had not been paid for sunflower seeds sold to Mitchell Feeds, Inc.

That on April 4, 2011, the Commission received a letter with attachments from Gene E. Allen, attorney representing David Deslauriers of Sherwood, North Dakota, alleging David Deslauriers had not been paid for sunflower seeds sold to Mitchell Feeds, Inc.

That on April 5, 2011, the Commission received letters with attachments from Paul A. Rohde of Halliday, North Dakota, Don Ackerson of Sherwood, North Dakota, and Steven Neameyer of Mylo, North Dakota, each alleging he had not been paid for sunflower seeds sold to Mitchell Feeds, Inc.

That during the week of March 28, 2011, the Licensing Division received numerous phone calls from additional North Dakota producers, all alleging they had not been paid for sunflower seeds sold to Mitchell Feeds, Inc.

That Mitchell Feeds, Inc. is licensed as a roving grain buyer since October 28, 2009. As required by North Dakota Century Code § 60-02.1-08 and North Dakota

Administrative Code § 69-07-02-02.1, Mitchell Feeds, Inc. has a \$70,000 bond on file with the Public Service Commission.

That Mitchell Feeds, Inc. provided information to the Public Service Commission showing a significant amount of grain was received from producers in 2009 and 2010 for which payment has not been made.

That the Licensing Division is preparing and will be asking the Commission to file documents with District Court, asking that Mitchell Feeds, Inc. be declared insolvent, the Commission be appointed trustee, and the surety be joined as a party to the insolvency proceeding.

That it appears the bond on file with the Public Service Commission will not be sufficient to cover the total amount owed to producers for the sunflower seeds sold to Mitchell Feeds, Inc.

North Dakota Century Code § 60-02.1-39 provides the Commission with authority to issue a cease and desist order without prior notice against an entity that engages in an activity or practice that is contrary to the provisions of Chapter 60-02.1 or related rules.

Mitchell Feeds, Inc. has violated North Dakota Century Code § 60-02.1-08 (4)(a) by failing to faithfully perform the licensee's duties as a roving grain buyer and North Dakota Century Code § 60-02.1-28 by refusing, neglecting, or being unable upon proper demand to make payment for grain purchased or make redelivery.

Affiant believes that good cause exists requiring ex parte action by the Commission because additional sellers of grain may suffer immediate economic loss, damage or injury if Mitchell Feeds, Inc. continues purchasing grain as a licensed roving grain buyer in North Dakota.

Affiant requests that the Commission issue an Ex parte Cease and Desist Order against Mitchell Feeds, Inc. as authorized by North Dakota Century Code § 60-02.1-39, ordering that Mitchell Feeds, Inc. cease and desist from purchasing grain in North Dakota.

Susan A. Richter

Subscribed and sworn to before me this 6th day of April, 2011.

Shelly A. Bauske

Notary Public

