

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

Case No. GE-11-103

EX PARTE CEASE AND DESIST ORDER

April 14, 2011

On April 6, 2011, Commission Staff (Staff) filed an Affidavit and Staff Memorandum providing the Commission with information sufficient to support issuance of 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 all roving grain buyer activities in North Dakota.

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 E. Allen, attorney representing David Deslauriers of Sherwood, North Dakota, Paul A. Rohde of Halliday, North Dakota, Don Ackerson of Sherwood, North Dakota, and Steven Neameyer of Mylo, North Dakota, each filed letters for collection of outstanding funds owed to them for grain sold to Mitchell Feeds, Inc.

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.

On February 9, 2011, Mitchell Feeds, Inc. provided information to the Public Service Commission showing Mitchell Feeds, Inc. received a significant amount of grain from producers in 2009 and 2010 for which payment has not been made.

The Licensing Division is preparing and will be asking the Commission to file a Motion for Appointment as Trustee and supporting 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.

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.

North Dakota Century Code § 60-02.1-39 provides the Commission with authority to issue a cease and desist order on its own motion with or without complaint prior notice against an entity that engages in an activity or practice that is contrary to the provisions of North Dakota Century Code Chapter 60-02.1 or related rules. A cease and desist order must be accompanied by a notice of opportunity to be heard on the order within fifteen days of the issuance of the order.

The Commission has considered the information provided by staff and finds that unless an ex parte cease and desist order is issued, grain sellers are at risk to suffer immediate damage or injury as a result of the actions of Mitchell Feeds, Inc.

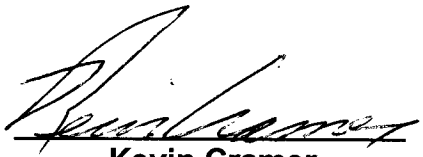
Therefore, the Commission issues the following:

Order

The Commission orders:

1. That Mitchell Feeds, Inc. Cease and Desist all roving grain buying activities in North Dakota.
2. Contemporaneously with this Order, the Commission is issuing to Mitchell Feeds, Inc. a notice of opportunity to be heard within fifteen days of the issuance of this order.

PUBLIC SERVICE COMMISSION



Kevin Cramer
Commissioner



Tony Clark
Chairman



Brian P. Kalk
Commissioner