



written communications, each alleging nonpayment for sunflower seeds delivered or sold to Anderson Seed Co., Inc.

The Commission was informed and has reason to believe that there are outstanding obligations for unpaid claims for grain sold to Anderson Seed as a public warehouseman under North Dakota Century Code Chapter 60-02. Under the provisions of North Dakota Century Code §60-02-09, bond protection is available for the benefit of all persons storing or selling grain by such warehouseman. Under the provisions of North Dakota Century Code §60-10-04 a person is eligible to receive indemnity payments from the credit-sale contract indemnity fund if the licensed warehouse to which the person sold grain to becomes insolvent.

The Commission was informed and has reason to believe that Anderson Seed Co., Inc. moved or is in the process of moving grain by truck out of the licensed grain warehouses at Durbin, North Dakota and at Selz, North Dakota, to a storage facility in Fertile, Minnesota. The Commission is concerned that moving the grain could compromise the trust fund that is established under North Dakota Century Code §60-04-03.1.

North Dakota Century Code §60-04-03 provides that the court may issue *ex parte* a temporary order to preserve or protect the assets of the trust fund until the court issues its order granting or denying the application.

It is in the best interests of all claimants that the Court declare Anderson Seed Co., Inc. insolvent and establish the date of insolvency as February 15, 2012, the date the first claim for collection of outstanding funds owed was filed with Commission, and that the Commission be appointed Trustee, and be given the powers under North

Dakota Century Code Chapters 60-04 and 60-10 so that all claimants will be treated fairly. Further, it is in the best interest of the potential claimants that the Court issue *ex parte* a temporary order to preserve and protect the trust assets under North Dakota Century Code §60-04-03.1.

Upon the insolvency, the Commission has the authority under North Dakota Century Code Chapter 60-04 to make payment of valid claims to any persons holding noncredit-sale receipts for grain sold or stored.

The Commission has the authority under North Dakota Century Code §60-10-05 to make payment to any person who sold grain to the licensee under a credit-sale contract and who was not fully compensated under the contract.

The Court has jurisdiction under North Dakota Century Code §60-04-03, which provides for the filing of this action in the District Court, East Central Judicial District.

Bismarck, North Dakota, this 01<sup>st</sup> day of February, 2012.

Respectfully submitted,



Illona A. Jeffcoat-Sacco  
Special Assistant Attorney General  
State Bar ID No. 03315  
Public Service Commission  
600 E. Boulevard Avenue, Dept 408  
Bismarck, ND 58505  
(701) 328-2407  
(701) 328-2410 fax

Attorney for the Public Service Commission