

# ANDERSON, BOTTRELL, SANDEN & THOMPSON

ATTORNEYS AT LAW

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April 5, 2012

Ilona A. Jeffcoat-Sacco  
Special Assistant Attorney General  
North Dakota Public Service Commission  
600 E. Boulevard Avenue, Dept. 408  
Bismarck, ND 58505

Re: Anderson Seed Co., Inc.

Dear Ms. Jeffcoat-Sacco:

I have been retained by the following individuals to assist them with possible claims against Anderson Seed: Todd Rodenburg, Basaraba Farms, Craig Peerboom, Kevin Kessel, Ken Rauser, Chad Rauser, DRO, Inc., Derrick and Alison Enos, Jeff Schneider, Dan Pfeifle, Dean Steichen, Trevor Kohler, Chase Dewitz, Bob Weigel, Mike Faul, Wayne Schmitcke, and Ron Pelton. I write regarding multiple issues.

First, as you are aware, North Dakota Century Code § 60-02-40 requires a public warehouse to follow certain procedures when they wish to sell their warehouse to a new individual, firm, or corporation. Specifically, the statute requires that the public warehouseman notify the Commission of its intent to transfer the warehouse and provide the Commission with a name and address of the proposed purchaser. Furthermore, the statute requires that the public warehouse then furnish a statement of all proper claims against it, as well as provide notice to receipt holders which may have claims against the warehouse of their intent to sell. I am certain, that at least the notice to receipt holders, was not done in this case. It is my assumption that the other provisions of the statute were not complied with by Anderson Seed when they sold the Durbin, North Dakota and Selz, North Dakota facilities to Legumex Walker. Section 60-02-40 states that, "No sale, lease, or transfer of any warehouse will be recognized or permitted by the commission except made in accordance with the provisions of this section." N.D.C.C. § 60-02-40. Again, I am assuming, but I believe it is an appropriate assumption, that Legumex Walker plans on operating the Durbin and Selz facilities. What is the Public Service Commission's stance on Legumex Walker operating these facilities if producers of sunflowers remain unpaid by Anderson Seed?

Richard P. Anderson\*\*  
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Letter indicating claimants representation and re  
issues regarding claims

April 4, 2012

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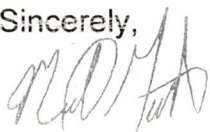
Second, pursuant to North Dakota Century Code § 60-02-25, when grain is delivered to a public warehouseman and an uncontroverted scale ticket or warehouse receipt is issued, the delivery is treated as a bailment and not a sale of the grain. In this case, it is my understanding that at least 20 North Dakota producers are out at least \$1.4 million dollars based upon deliveries made to Anderson Seed. Furthermore, from our investigation to date, it would appear as though Anderson Seed was simultaneously taking grain for delivery and removing that grain from the state via its own trucks to be stored in Redfield, South Dakota, Mentor, Minnesota or other private residences in Minnesota. Since Anderson Seed was issuing scale tickets and warehouse receipts, and therefore had no ownership in the grain it was transporting, and apparently allegedly sold to Legumex Walker, this seems to be a clear case of conversion of that grain. Additionally, when more facts come to light regarding this transaction, there is definitely a potential fraud claim against Anderson Seed. Is the Public Service Commission pursuing this matter at all?

Third, and related to the above, as you are aware North Dakota has a receipt holders lien statute found at North Dakota Century Code § 60-02-25.1. The facts as I know them, it would appear as though Anderson Seed was transferring the grain to Mentor, Minnesota and Redfield, South Dakota in an attempt to get around this statute. I cannot imagine that any court of competent jurisdiction would allow such acts, i.e. the transportation across state lines, to negate the receipt holder's lien. Is the Public Service Commission following up on this issue?

Finally, when we were initially retained by our clients we had some communications with Sue Richter in the Office of the Public Service Commission. At this time, we are no longer having contacts with her as yourself is representing the Public Service Commission. In the future, would you like all questions and correspondence to be directed to you?

If you have any questions, or would like to discuss this matter, please feel free to contact me at 701-235-3300.

Sincerely,



Michael L. Gust

MLG:jae

cc: Kevin Cramer

Tony Clark

Brian P. Kalk

Wayne Stenehjem

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