



July 10, 2012

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PUBLIC SERVICE COMMISSION

Michael L. Gust
Attorney at Law
4132-30th Ave SW, Suite 100
P.O. Box 10247
Fargo, ND 58106-0247

Re: Anderson Seed Company, Inc.

Dear Mr. Gust:

This letter is a follow-up to your April 5, 2012 correspondence to the North Dakota Public Service Commission. My office has been retained to provide assistance to the North Dakota Public Service Commission with regard to the Anderson Seed Company, Inc. receivership proceedings.

In your April 5, 2012 correspondence you raised a question with regard to whether or not Anderson Seed Company, Inc. has complied with North Dakota Century Code § 60-02-40 which requires a public warehouse to follow certain procedures prior to transferring a warehouse to any other individual, firm, or corporation. The Public Service Commission believes that the requirements of North Dakota Century Code § 60-02-40 have been satisfied.

Subsection 1 of § 60-02-40 requires notification to be provided to the Public Service Commission giving the name and address of the proposed purchaser. The Commission is satisfied that it has received adequate notice that Legumex Walker, Inc. is the purchaser. The mailing address for Legumex Walker, Inc. is 3401 Fremont Ave. N, Suite 242, Seattle, WA 98103.

Subsections 2 and 3 of § 60-02-40 require Anderson Seed Company to provide information regarding potential claims that may be filed against Anderson Seed Company. Those sections also provide that notice must be provided to any potential claimants. The Commission is satisfied that these requirements have been met. Anderson Seed Company provided a list of all of its customers. The Commission initiated contact with each of the customers. All of the customers on the list provided by Anderson Seed Company responded by filing a claim in the pending proceedings. In addition, the Commission provided notice by publication to any potential claimants who would have been omitted from the list provided by Anderson Seed Company.

While subsection 3 of § 60-02-40 requires certified or registered mail for the notice to claimants, the Commission is satisfied that the requirement has been met. As noted in the prior paragraph, Anderson Seed provided a list of its customers. Because each of the individuals/entities on the list has filed a claim in the pending proceedings, the Commission is satisfied that the claimants have actual notice.

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Follow up letter to Michael Gust re April 5, 2012 letter

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Subsection 4 of § 60-02-40 is intended to insure the protection of any potential claimants. As you are aware, two closely related issues have arisen regarding the sunflower seeds which were held by Anderson Seed Company; the existence of bailment transaction under § 60-02-25 and the existence of the statutory lien under § 60-02-25.1. Legumex Walker is in possession of the sunflower seeds and has asserted that neither § 60-02-25 nor § 60-02-25.1 prevent the transfer of ownership from Anderson Seed Company to Legumex Walker. These issues remain unresolved. However, the Commission is taking steps to protect all interested parties by entering into an agreement with Legumex Walker which will allow Legumex Walker to process the sunflower seeds while preserving the claimants' rights to the value of the sunflower seeds. The Commission believes that this is the most prudent course of action and will preserve the quality of the sunflower seeds while at the same time making available to claimants an amount equal to the value of the sunflower seeds in the event Legumex Walker does not have ownership.

Your April 5, 2012 letter raises two related issues regarding the sunflower seeds in the possession of Legumex Walker. You have raised an issue under § 60-02-25 regarding a bailment. This is closely related to the statutory lien created under § 60-02-25.1. As noted in the prior paragraph, the Commission is taking steps to protect claimants until the issue of whether or not a valid transfer of ownership to Legumex Walker occurred can be resolved. Resolution of whether ownership was transferred to Legumex Walker will require determining if Legumex Walker was a purchaser in the ordinary course of business. This is an issue which the District Court will likely be required to determine.

The Public Service Commission looks forward to working with the claimants represented by your office. As a courtesy, we would appreciate if your future correspondence could be addressed to both my office and Illona A. Jeffcoat-Sacco, the Special Assistant Attorney General representing the Public Service Commission.

Sincerely,

PEARSON CHRISTENSEN & CLAPP, PLLP



Jon J. Jensen

JJJ/maa

cc: Illana Jeffcoat-Sacco
Kevin Cramer
Brian P. Kalk
Bonny M. Fetch