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Jon J. Jensen
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July 23, 2012

Marc A. Al
Stoel Rives LLP
33 S 6th St., Suite 4200
Minneapolis, MN 55402



Re: Anderson Seed Company Receivership;
Receiptholder's Lien;
Our File No.: 11369.001

Dear Mr. Al:

This letter is a follow-up to our recent telephone conversation. During that telephone conversation we briefly discussed the statutory lien created under North Dakota Century Code § 60-02-25.1. Section 60-02-25.1 creates a receiptholder's lien in favor of a producer storing, selling or depositing grain in a warehouse. The lien created under § 60-02-25.1 is preferred to any lien or security interest in favor of any creditor of the warehouseman regardless of the time when the creditor's lien or security interest attached to the grain. A receiptholder's lien can only be discharged through satisfaction of the receiptholder's interest or if the grain is sold by the warehouseman to a buyer in the ordinary course of business.

The Commission is continuing its investigation into whether or not Legumex was a buyer in the ordinary course of business. The preliminary opinion provided by my office to the Commission is that Legumex does not satisfy the requirements of a buyer in the ordinary course of business.

Under North Dakota law, a buyer in the ordinary course of business is treated differently than a bona fide purchaser. In Re Woods Farmers Coop Elevator Company, 946 F.2d 1411 (8th Cir. 1991). A bona fide purchaser is a purchaser who in good faith, and for value, acquires title without actual or constructive knowledge of another's rights. Wehner v. Schroeder, 335 N.W.2d 563, 565 (ND 1983). A buyer in the ordinary course of business not only needs to satisfy the requirements of a bona fide purchaser, but must also buy the goods "in the ordinary course from a person in the business of selling goods of that kind." In Re Woods Farmers Coop Elevator, 946 F.2d 1411 (8th Cir. 1991) (citing N.D. Cent. Code § 60-02-25.1).

Setting aside the initial question of whether or not Legumex was a bona fide purchaser, it is the opinion of my office that Legumex would not qualify as a purchaser "in the ordinary course from a person in the business of selling goods of that kind." In particular, North Dakota law provides that a company's sale of assets as part of a liquidation do not constitute a sale in the usual and regular course of a company's

122 GE-12-78 Filed: 7/24/2012 Pages: 2
Letter re potential claim

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business. See, e.g., N.D. Cent. Code § 10-19.1-104 (corporation transfer of assets requiring shareholder approval).

The purpose of this letter is to provide you with notice of this potential claim. Hopefully we can work together to resolve this issue as quickly as possible.

Sincerely,

PEARSON CHRISTENSEN & CLAPP, PLLP


Jon J. Jensen

JJJ/maa

cc: Ilona Jeffcoat-Sacco