

STATE OF NORTH DAKOTA

IN DISTRICT COURT

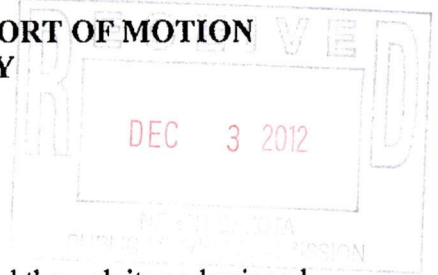
COUNTY OF CASS

EAST CENTRAL JUDICIAL DISTRICT

Public Service Commission, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 Anderson Seed Co., Inc., )  
 )  
 Respondent. )

Civil No.: 09-2012-CV-00693

**BRIEF IN SUPPORT OF MOTION  
TO JOIN PARTY**



The Court-appointed receiver, Public Service Commission, by and through its undersigned counsel, provides the following brief in support of its motion to compel.

**BACKGROUND**

Anderson Seed Co., Inc. operated as a licensed grain warehouse within the state of North Dakota. On February 15, 2012, the Public Service Commission received a letter from a producer indicating that the producer had not been paid for sunflower seed delivered to Anderson Seed Co., Inc. An additional 18 similar complaints were received by the Public Service Commission between February 21, 2012 and February 24, 2012. Pursuant to N.D.C.C. Chapters 60-04 and 60-10, the Public Service Commission initiated an action to be appointed as trustee/receiver for Anderson Seed Co., Inc. On April 9, 2012, the Court ordered the Public Service Commission to be appointed as trustee for the purpose of marshaling all trust assets of Anderson Seed Co., Inc.

Auto Owners Insurance Company is the surety for Anderson Seed Co., Inc. The Public Service Commission believes that proceeds from the bond issued by Auto Owners may be needed to redeem outstanding receipts issued by Anderson Seed Co., Inc. Auto Owners has consented to being joined as a party. Anderson Seed Co., Inc. has not responded to a request to stipulate to the joinder of Auto Owners.

**LAW AND ARGUMENT**

North Dakota Century Code § 60-04-03.3 provides that surety for an insolvent licensed grain warehouse within the state of North Dakota must be joined as a party to the insolvency proceedings upon motion by the Public Service Commission. Auto Owners does not object to being joined as a party to these proceedings.

The Public Service Commission respectfully requests that the Court order that Auto Owners be joined as an additional Defendant.

Dated this 3<sup>rd</sup> day of December, 2012.

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