

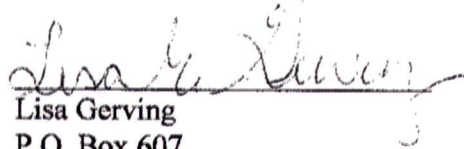


Dated this 30<sup>th</sup> day of January, 2014.



---

Glenn Gerving  
P.O. Box 607  
Glen Ullin, ND 58631  
(701) 391-6461  
[glgerving@hotmail.com](mailto:glgerving@hotmail.com)



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Lisa Gerving  
P.O. Box 607  
Glen Ullin, ND 58631  
(701) 391-6461  
[glgerving@hotmail.com](mailto:glgerving@hotmail.com)



STATE OF NORTH DAKOTA  
COUNTY OF CASS

IN DISTRICT COURT  
EAST CENTRAL JUDICIAL DISTRICT

Public Service Commission, )  
)  
)  
Petitioner, )  
)  
vs. )  
)  
Anderson Seed Co, Inc., and )  
Auto-Owners Insurance )  
Company, )  
Respondents. )  
)  
PSC Case No. GE-12-78 )

Case No. 09-2012-CV-00693

**OBJECTION TO PSC MOTION TO APPROVE  
SETTLEMENT  
AND  
MOTION TO REQUIRE PETITIONER  
TO HONOR JUDGMENT AND EXECUTION**

[1] Come now the Glenn Gerving and Lisa Gerving, pro se, and hereby object to the PSC's Motion to Approve Settlement and move this Honorable Court for the entry of an Order requiring the Public Service Commission, the Petitioner herein, to honor the Money Judgment that Glenn Gerving and Lisa Gerving have against Respondent, Anderson Seed Co., Inc., and to honor any Execution issued in furtherance of satisfaction of such Money Judgment. It is the intent hereof that the Public Service Commission be required to pay any funds obtained by them, in their role as trustee, and to provide such funds to the Sheriff to satisfy the Judgment that Glenn Gerving and Lisa Gerving have against Anderson Seed Co., Inc., before disbursing any other funds obtained by them in their role as trustee.

FACTS

[2] The operative facts which lead to the conclusion that the Petitioner, the North Dakota Public Service Commission, will have funds of Respondent, Anderson Seed Co., Inc., in their role as Trustee, are adequately set forth in their present Motion and supporting documents, dated November 25, 2013.

[3] Additionally, in support of this Motion, Glenn Gerving and Lisa Gerving obtained a

Money Judgment, dated December 14, 2012, in the amount of \$190,003.08, against Anderson Seed Co., Inc.

[4] A copy of that Money Judgment is being filed contemporaneously herewith as Exhibit GG-1.

[5] That Money Judgment has been transcribed to numerous counties in North Dakota, including Cass and Burleigh.

[6] An Execution has been issued to the Sheriff of Burleigh County and is being filed contemporaneously herewith as Exhibit GG-2.

[7] Previous counsel for the Public Service Commission, Jon J. Jensen, by a letter to our attorney, Rauleigh D. Robinson, indicated that they will not honor that Money Judgment or any Execution issued in attempts to satisfy that Money Judgment.

[8] A copy of that letter, dated January 25, 2013m, si being filed contemporaneously herewith as Exhibit GG-3.

[9] We are informed, and believe, that substitute counsel, Illona Jeffcoat-Sacco, has taken the same position.

[10] Accordingly, this Motion is brought to require that the Public Service Commission be required to pay any funds obtained by them, in their role as trustee, and to provide such funds to the Sheriff to satisfy the Money Judgment that Glenn Gerving and Lisa Gerving have against Anderson Seed Co., Inc., before disbursing any other funds obtained by them in their role as trustee.

#### LAW AND ARGUMENT

[11] North Dakota Century Code section 28-21-06 provides, "Upon receipt of an execution the sheriff shall:

“1. Satisfy the judgment with interest and accruing costs, out of the personal property of the judgment debtor. . . If property of the debtor is in the hands of a . . . trustee, the sheriff may satisfy the judgment out of that property; . . .” (Emphasis added.)

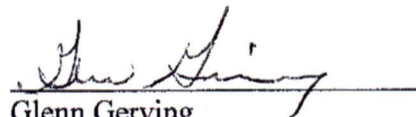
[12] This Court has the inherent power to grant relief that arises from its complete control of its own process. Mees v. Ereth, 466 NW 2d 135, 137 (ND 1991).

[13] It is submitted that, under the peculiar facts of this case, it is required that the Court grant this motion.

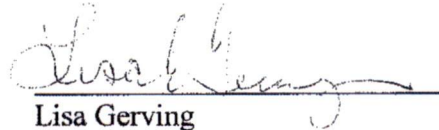
### CONCLUSION

[14] Movants, Glenn Gerving and Lisa Gerving are entitled to the entry of an Order that the Public Service Commission be required to pay any funds obtained by them, in their role as trustee, and to provide such funds to the Sheriff to satisfy the Money Judgment that Glenn Gerving and Lisa Gerving have against Anderson Seed Co., Inc., before disbursing any other funds obtained by them in their role as trustee.

Dated this 30<sup>th</sup> day of January, 2014.



Glenn Gerving  
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*Morton, 12/13/12*

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MORTON

SOUTH CENTRAL DISTRICT

Glenn Gerving and Lisa )  
Gerving )

Plaintiff, )

vs. )

Anderson Seed Co, Inc., )

Defendant. )

Case No. 30-2012-CV-00215

MONEY JUDGMENT

The Court has reviewed the filings herein, and granted the Plaintiff's Motion for Summary Judgment by its Order for Summary Judgment, dated December 5, 2012, finding that the Plaintiff is entitled to the entry of a Judgment against the Defendant, and issued its Order for Entry of Judgment, dated the 14<sup>th</sup> day of December, 2012.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Plaintiff has a Money Judgment against the Defendant, as follows:

1. A Money Judgment in the amount of \$189,878.08 (One Hundred Eighty-nine thousand Eight Hundred Seventy-eight and 08/100 Dollars).
2. Plus interest at the lawful rate of 6 1/2% per annum from and after December 15, 2011, and thereafter, until paid.
3. Plus Plaintiff's costs and disbursements herein, Sheriff's service \$35.00, filing fee \$80, and statutory costs of \$10, for a total of \$125.00.
4. For a total Money Judgment in the amount of \$190,003.08 (One Hundred Ninety Thousand Three and 08/100 Dollars), plus interest at the rate of 6 1/2% per annum on the amount of \$189,878.08 (One Hundred Eighty-nine thousand Eight Hundred Seventy-eight and 08/100 Dollars) from and after December 15, 2011, and thereafter, until paid.

Dated this 14<sup>th</sup> day of December, 2012.

*Rae Scharnholtz*  
Clerk of the District Court



**FILED**

DEC 14 2012

*EXH GG-1*

**EXECUTION OF JUDGMENT**

Judgment Debtor (Name & Address)  ANDERSON SEED CO., INC. 16774 300TH STREET SE PO BOX 201 MENTOR, MN 56736-0201  Alias(es):	Case No. 30-2012-CV-00215
	Judgment Ordered by: Hon. Bruce B Haskell
	Date of Judgment 12/14/2012
	Date & Time Docketed 12/14/2012 3:42 PM
	Original Judgment Amount \$190,003.08
	Current Judgment Balance \$190,003.08
Judgment Creditor GLENN GERVING, LISA GERVING	Interest Rate 6.50%
Creditor's Attorney RAULEIGH D ROBINSON; RAULEIGH D ROBINSON	Renewal Date
<b>EXECUTION FEES, TRANSCRIPTS AND ASSIGNMENTS</b>	
\$10.00 Transcribing fee    \$10.00 Execution fee	

STATE OF NORTH DAKOTA

DISTRICT COURT

COUNTY OF MORTON

SOUTH CENTRAL JUDICIAL DISTRICT

TO THE SHERIFF OF BURLEIGH COUNTY,

You are directed to satisfy the above judgment out of the personal property of the judgment debtor within your County. If sufficient personal property cannot be found, the judgment should be settled out of the real property in your County belonging to the judgment debtor on the day when the judgment was docketed in your County, or at anytime thereafter, and return this execution within sixty days after its receipt by you to the Clerk of the above named Court.

Issued this 2nd day of January, 2014.

Lois Scharnhorst  
Clerk of District Court

By Joyce Bauer  
Deputy Joyce Bauer

E+H  
GG-2

**FILED**

JAN -2 2014

Morton County District Court

1/28/13



January 25, 2013

Rauleigh D. Robinson  
Attorney at Law  
15901-62<sup>nd</sup> Ave. SE  
Menoken, ND 58558

Re: Public Service Commission v. Anderson Seed Co., Inc., Civil No. 09-2012-CV-00693  
PSC Case No. GE-12-78  
Glenn & Lisa Gerving

Dear Mr. Robinson:

Your letter dated December 18, 2012 regarding your clients Glenn and Lisa Gerving has been forwarded to my office. Your letter indicates that Glenn and Lisa Gerving have obtained a money judgment against Anderson Seed Co., Inc. Your letter also asserts that the money judgment "puts them into a priority position to receive the first of any funds" obtained as part of the receivership for Anderson Seed Co., Inc.

It is the initial opinion of Public Service Commission staff that the existence of bailment transactions under N.D.C.C. § 60-02-25 and the existence of statutory liens under § 60-02-25.1 create claims with priorities which exceed general claims against Anderson Seed Co., Inc. Under § 60-04-03.1, grain in the warehouse or proceeds obtained through the sale of such grain and accounts receivable are part of the trust fund and must be distributed among receiptholders.

As provided under § 60-04-09, your client's claim will be evaluated as part of the receivership proceedings. After all claims have been evaluated, the Commission will prepare a report and file it with the court showing the amount and validity of each claim. You and Glenn and Lisa Gerving will receive a copy of the Commission's Report and Recommendation when it is filed with court.

If you have any questions regarding this letter, please feel free to contact my office.

Sincerely,

Jon J. Jensen

JJJ/maa  
cc: Susan Richter  
Illona Jeffcoat-Sacco

EXH GG-3

## Jeffcoat-Sacco, Illona

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**From:** no-reply@tylerhost.net  
**Sent:** Friday, January 31, 2014 2:08 PM  
**To:** Jeffcoat-Sacco, Illona  
**Subject:** Notification of Service for Case No. 09-2012-CV-00693 ( Public Service Commission vs. Anderson Seed Co Inc, et al. )

This is a service filing for Case No. 09-2012-CV-00693, Public Service Commission vs. Anderson Seed Co Inc, et al..

Date Submitted: 1/31/2014 2:05:59 PM  
Filing Code: Notice of Hearing  
Filing Desc: Notice of Objection, Motion and Notice of Hearing  
The following are service contacts on this filing:  
Public Service Commission:

Illona Jeffcoat-Sacco ([ijs@nd.gov](mailto:ijs@nd.gov))

Anderson Seed Co Inc:

Gary Leistico ([gleistico@rinkenoonan.com](mailto:gleistico@rinkenoonan.com))

Gary Leistico ([gleistico@rinkenoonan.com](mailto:gleistico@rinkenoonan.com))

Auto Owners:

William Harrie ([wharrie@nilleslaw.com](mailto:wharrie@nilleslaw.com))

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## Jeffcoat-Sacco, Illona

---

**From:** no-reply@tylerhost.net  
**Sent:** Friday, January 31, 2014 12:38 PM  
**To:** Jeffcoat-Sacco, Illona  
**Subject:** Notification of Service for Case No. 09-2012-CV-00693 ( Public Service Commission vs. Anderson Seed Co Inc, et al. )

This is a service filing for Case No. 09-2012-CV-00693, Public Service Commission vs. Anderson Seed Co Inc, et al..

Date Submitted: 1/31/2014 12:35:35 PM

Filing Code: Response

Filing Desc: Objection to PSC Motion to Approve Settlement and Motion to Require Petitioner to Honor Judgment and Execution

The following are service contacts on this filing:

Public Service Commission:

Illona Jeffcoat-Sacco ([ijs@nd.gov](mailto:ijs@nd.gov))

Anderson Seed Co Inc:

Gary Leistico ([gleistico@rinkenoonan.com](mailto:gleistico@rinkenoonan.com))

Gary Leistico ([gleistico@rinkenoonan.com](mailto:gleistico@rinkenoonan.com))

Auto Owners:

William Harrie ([wharrie@nilleslaw.com](mailto:wharrie@nilleslaw.com))

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## Jeffcoat-Sacco, Illona

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**From:** no-reply@tylerhost.net  
**Sent:** Friday, January 31, 2014 12:39 PM  
**To:** Jeffcoat-Sacco, Illona  
**Subject:** Notification of Service for Case No. 09-2012-CV-00693 ( Public Service Commission vs. Anderson Seed Co Inc, et al. )

This is a service filing for Case No. 09-2012-CV-00693, Public Service Commission vs. Anderson Seed Co Inc, et al..

Date Submitted: 1/31/2014 12:37:22 PM

Filing Code: Exhibit

Filing Desc: Exh GG-1 Money Judgment Gerving v. Anderson Seed Co, Inc

The following are service contacts on this filing:

Public Service Commission:

Illona Jeffcoat-Sacco ([ijs@nd.gov](mailto:ijs@nd.gov))

Anderson Seed Co Inc:

Gary Leistico ([gleistico@rinkenoonan.com](mailto:gleistico@rinkenoonan.com))

Gary Leistico ([gleistico@rinkenoonan.com](mailto:gleistico@rinkenoonan.com))

Auto Owners:

William Harrie ([wharrie@nilleslaw.com](mailto:wharrie@nilleslaw.com))

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## Jeffcoat-Sacco, Illona

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**From:** no-reply@tylerhost.net  
**Sent:** Friday, January 31, 2014 12:40 PM  
**To:** Jeffcoat-Sacco, Illona  
**Subject:** Notification of Service for Case No. 09-2012-CV-00693 ( Public Service Commission vs. Anderson Seed Co Inc, et al. )

This is a service filing for Case No. 09-2012-CV-00693, Public Service Commission vs. Anderson Seed Co Inc, et al..

Date Submitted: 1/31/2014 12:38:35 PM  
Filing Code: Exhibit  
Filing Desc: Exh GG-2 (Execution of Judgment)  
The following are service contacts on this filing:  
Public Service Commission:

Illona Jeffcoat-Sacco ([ijs@nd.gov](mailto:ijs@nd.gov))

Anderson Seed Co Inc:

Gary Leistico ([gleistico@rinkenoonan.com](mailto:gleistico@rinkenoonan.com))

Gary Leistico ([gleistico@rinkenoonan.com](mailto:gleistico@rinkenoonan.com))

Auto Owners:

William Harrie ([wharrie@nilleslaw.com](mailto:wharrie@nilleslaw.com))

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## Jeffcoat-Sacco, Illona

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**From:** no-reply@tylerhost.net  
**Sent:** Friday, January 31, 2014 12:42 PM  
**To:** Jeffcoat-Sacco, Illona  
**Subject:** Notification of Service for Case No. 09-2012-CV-00693 ( Public Service Commission vs. Anderson Seed Co Inc, et al. )

This is a service filing for Case No. 09-2012-CV-00693, Public Service Commission vs. Anderson Seed Co Inc, et al..

Date Submitted: 1/31/2014 12:40:05 PM

Filing Code: Exhibit

Filing Desc: Exh GG-3 (Letter from Jon Jensen to Rauleigh Robinson)

The following are service contacts on this filing:

Public Service Commission:

Illona Jeffcoat-Sacco ([ijs@nd.gov](mailto:ijs@nd.gov))

Anderson Seed Co Inc:

Gary Leistico ([gleistico@rinkenoonan.com](mailto:gleistico@rinkenoonan.com))

Gary Leistico ([gleistico@rinkenoonan.com](mailto:gleistico@rinkenoonan.com))

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