

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF CASS

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

CIVIL NO. 09-2012-CV-00693

AFFIDAVIT OF SERVICE  
BY REGULAR MAIL

STATE OF NORTH DAKOTA

COUNTY OF BURLEIGH

)  
)ss  
)

Geralyn M. Schmaltz, being duly sworn, deposes and says that she is over the age of 18 years and not a party to this action and that on the **11<sup>th</sup> day of April, 2014**, she deposited in the United States Mail, Bismarck, North Dakota, 55 envelopes with postage, fully prepaid, securely sealed and each containing a photocopy of the following documents:

1. Notice of Entry of Amended Order and Notice of Entry of Judgment with copy of the Executed Amended Order and copy of the Executed Judgment;
2. Affidavit of Electronic Service;
3. Affidavit of Service by Regular Mail.

The envelopes were addressed as follows:

Sean Foss, Attorney for Tim Hase  
Kennelly O'Keefe Attorneys  
313 NP Avenue  
PO Box 2105  
Fargo ND 58107-2105

Kendall Bader, Attorney for  
Legumex Walker, Inc.  
Barnes & Thornburg LLP  
225 S Sixth St Suite 2800  
Minneapolis MN 55402

Mary Sennes, Attorney for  
Legumex Walker, Inc.  
Barnes & Thornburg LLP  
225 S Sixth St Ste 2800  
Minneapolis MN 55402

Steven K Aakre, Attorney for  
Legumex Walker, Inc.  
Stefanson Law  
403 Center Ave Ste 302  
Moorhead MN 56560

Auto-Owners Insurance Company  
Attn: Andrew Blackburn  
Surety Bond Underwriting Department  
PO Box 30660  
Lansing, MI 48909

Dean Gerving  
Box 607  
Glen Ullin, ND 58631

Dan Pfeile  
418 Avenue E E  
Napoleon, ND 58561

David Hill and Gary Hill  
2690 84<sup>th</sup> St. NE  
Willow City, ND 58384

Trevor Kohler  
2415b 23<sup>rd</sup> Avenue NW  
Benedict, ND 58716

Derrick Enos  
151 Valley Road  
Baker, MT 59313

Robert Weigel  
2651 66<sup>th</sup> St. SE  
Kintyre, ND 58549

David Wanner  
6975 38<sup>th</sup> Street  
Hebron, ND 58638

Robert Appelt  
3130 26<sup>th</sup> Ave. NE  
Martin, ND 58758

Randy Appelt  
3134 26<sup>th</sup> Ave. NE  
Martin, ND 58758

Craig Peerboom dba Peerboom Farms  
480 16<sup>th</sup> Ave. SE  
Goodrich, ND 58444

Dan Braaten  
5650 160 Ave. SE  
Kindred, ND 58051

Chadwick Rauser  
for Rauser Family, Inc.  
1521 14<sup>th</sup> Street NE  
Goodrich, ND 58444

Chadwick Rauser  
1519 14<sup>th</sup> Street NE  
Goodrich, ND 58444-9316

Chad Brusseau  
10790 39<sup>th</sup> St. SW  
Dickinson, ND 58601

DRO, Inc.  
Dirk O'Connor  
746 Pine Creek Rd.  
Plevna, MT 59344

Tim Hase  
1931 28<sup>th</sup> Street NE  
Martin, ND 58758

Travis Iglehart  
1451 57<sup>th</sup> Ave. NW  
Garrison, ND 58540

Michael Schmitcke  
235 64<sup>th</sup> Street SE  
Hazelton, ND 58544-9338

Kelly Schmitcke  
235 64<sup>th</sup> Street SE  
Hazelton, ND 58544-9338

Doll & Puzdernik Partnership  
Douglas D. Doll  
3901 Fave Ave. N  
Mandan, ND 58554

Michael Richter  
1261 18<sup>th</sup> Avenue NE  
Goodrich, ND 58444

Durnell Klain  
1364 20<sup>th</sup> St. NW  
Ruso, ND 58778

Jeff Schneider  
5932 25<sup>th</sup> Ave. SE  
Kintyre, ND 58549

Jeff Brown  
9008 133<sup>rd</sup> Avenue SW  
Scranton, ND 58653

Dick Hauser  
3280 23<sup>rd</sup> Avenue NE  
Martin, ND 58758

Greg Sletto  
502 Dakota Street  
Willow City, ND 58384

Jay Lutes  
14006 97<sup>th</sup> St. SW  
Bowman, ND 58623

Kevin Kessel  
2131 132<sup>nd</sup> Avenue SW  
Belfield, ND 58622

Wayne Schmitcke  
235 64<sup>th</sup> Street SE  
Hazelton, ND 5844-9338

Glen and Lisa Gerving  
Box 607  
Glen Ullin, ND 58631

Steichen Farms  
320 22<sup>nd</sup> Avenue NE  
Goodrich, ND 58444

Tri Steel Manufacturing Co.  
3001 North Washington Street  
PO Box 14716  
Grand Forks, ND 58208-4716

Tyler C. Grubb  
PO Box 313  
Powers Lake, ND 58773

Josh, Brent, & Julie Basaraba  
37600 12<sup>th</sup> Street NE  
Wilton, ND 58579

Duane Dyk  
972 92<sup>nd</sup> St. SE  
Strasburg, ND 58573

Dale Hauser  
3239 23<sup>rd</sup> Avenue NE  
Martin, ND 58758

Chase Dewitz  
2961 37<sup>th</sup> Avenue SE  
Steele, ND 58482

Jeff Lutes  
PO Box 244  
Bowman, ND 58623

Michael Faul  
1580 9<sup>th</sup> Ave. NE  
McClusky, ND 58463

Ronald Pelton  
140 92<sup>nd</sup> Ave. NW  
Halliday, ND 58636

Todd Rodenburg  
9530 9<sup>th</sup> Ave. SE  
Hague, ND 58542

John Dulatski  
3890 132<sup>nd</sup> Ave. SW  
Belfield, ND 58622

Thomas Pfliger  
1117 Expansion Drive  
Hazen, ND 58545

Scott & Kristy Lazorenko  
521 110<sup>th</sup> Ave SW  
Killdeer, ND 58640-9734

Jim Voller  
1310 89<sup>th</sup> Street SE  
Strasburg, ND 58573

Jerrold Fix  
3353 23<sup>rd</sup> St. NE  
Harvey, ND 58341

Loren Henke  
2134 Highway 31  
Hannover, ND 58563-9175

Cordell & Heidie Meidinger  
PO Box 54  
Herried, SD 57632

Doug Goehring  
18250 62nd Ave. SE  
Menoken, ND 58558

Kim Raugust  
1350 19th Ave. NE  
Goodrich, ND 58444

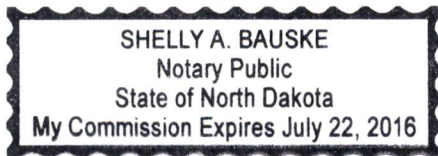
Each address shown is the respective addressee's last reasonable ascertainable address.



Subscribed and sworn to before me  
this 11<sup>th</sup> day of April, 2014.

  
Notary Public

SEAL



STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF CASS

EAST CENTRAL JUDICIAL DISTRICT

Public Service Commission	)	CIVIL NO. 09-2012-CV-00693
	)	
Petitioner,	)	
	)	
vs.	)	NOTICE OF ENTRY OF
	)	AMENDED ORDER
Anderson Seed Co., Inc.	)	
	)	and
	)	
Auto-Owners Insurance Company	)	NOTICE OF ENTRY OF
	)	JUDGMENT
	)	
Respondents.	)	
	)	
_____	)	
PSC Case No. GE-12-78	)	
_____	)	

**To: Respondent, Anderson Seed Co., Inc. and its Attorney of Record, Gary R. Leistico, Rinke Noonan, 1015 West St. Germain, Suite 300, PO Box 1497, St. Cloud, MN 56302-1497;**

**Respondent, Auto-Owners Insurance Company and its Attorney of Record, William P. Harrie, Nilles Law Firm, 1800 Radisson Tower, 201 North Fifth Street, PO Box 2626, Fargo, ND 58108-2626;**

**Legumex Walker, Inc., and its Attorneys of Record, Steven K. Aakre, Stefanson Law, 403 Center Avenue, Suite 302, Moorhead, MN 56560, and Mary Sennes and Kendall Bader, Barnes & Thornburg, LLP, 225 South Sixth Street, Suite 2800, Minneapolis, MN 55402 (Pro Hac Vice);**

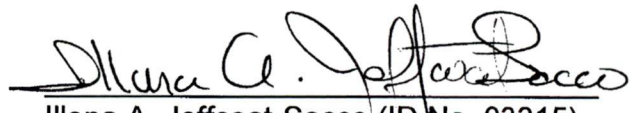
**CHS, Inc. d/b/a Midwest Cooperatives, and its Attorney of Record, Jon R. Brakke, Vogel Law Firm, 218 NP Avenue, PO Box 1389, Fargo, ND 58107-1389;**

**Glenn Gerving and Lisa Gerving, PO Box 607, Glen Ullin, ND 58631:**

- PLEASE TAKE NOTICE** that on 3 April 2014 the Court issued its Amended Order to Approve Settlement, Approve Report and Recommendation of Trustee, Authorize Payment, Require Deposit of Bond Proceeds, and Discharge Trustee,

which was duly entered in the captioned proceeding on 4 April 2014, denying the motion and objection filed by Glenn Gerving and Lisa Gerving, denying the objection filed by CHS, Inc. d/b/a Midwest Cooperatives to the reasonableness of the Trustee's settlement regarding trust assets and approving the settlement, authorizing reimbursement to the Commission of one-half the expenses of administration from the Credit-Sale Contract Indemnity Fund, ordering deposit of bond proceeds, authorizing payment to specified claimants, denying specified claims, and further, that the order constitutes a final order.

2. **FURTHER, PLEASE TAKE NOTICE** that a Judgment was duly entered in the captioned action on the 8<sup>th</sup> day of April 2014, in favor of the Petitioner and against Respondents Anderson Seed Co., Inc. and Auto-Owners Insurance Company.
3. A copy of the Amended Order and a copy of the Judgment are included with this Notice, for those served other than via the Odyssey Electronic Service and File System.
4. Dated at Bismarck, North Dakota this 10<sup>th</sup> day of April, 2014.

  
Illona A. Jeffcoat-Sacco (ID No. 03315)  
Special Assistant Attorney General  
State Capitol – 12<sup>th</sup> Floor  
600 East Boulevard Ave – Dept 408  
Bismarck, North Dakota 58505-0480  
Telephone (701) 328-2400  
Facsimile (701) 328-2410  
ijs@nd.gov

Attorney for the Public Service Commission, as Trustee

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF CASS

EAST CENTRAL JUDICIAL DISTRICT

Public Service Commission

CIVIL NO. 09-2012-CV-00893

Petitioner,

**AMENDED**

vs.

ORDER TO APPROVE  
SETTLEMENT, APPROVE  
REPORT AND RECOMMENDATION  
OF TRUSTEE,  
AUTHORIZE PAYMENT, REQUIRE  
DEPOSIT OF BOND PROCEEDS,  
AND DISCHARGE TRUSTEE

Anderson Seed Co., Inc.

Auto-Owners Insurance Company

Respondents.



PSC Case No. GE-12-78

1. This matter came before the Court on the motion of the North Dakota Public Service Commission (Commission) seeking approval of the Trustee's settlement regarding trust assets, approval of its Report and Recommendation as Trustee, deposit of bond proceeds, authorization for payment, and discharge as trustee. This matter was scheduled for hearing before this Court on **February 25, 2014 at 9:00 a.m. CDT** at the Cass County Courthouse in Fargo, North Dakota, with proper notice having been given as evidenced by the affidavit of mailing on file. The Commission appeared through Ilona A. Jeffcoat-Sacco, Special Assistant Attorney General, Auto-Owners Insurance Company appeared through William P. Harrie, CHS, Inc. d/b/a Midwest Cooperatives (CHS) appeared through ~~Jon R. Brakke~~, Anderson Seed Co., Inc. appeared through Gary R. Leistico, Legumex

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Cass County, ND

Walker, Inc. appeared through Steven K. Aakre, with Mary Sennes and Kendall Bader appearing Pro Hac Vice, and Glenn Gerving and Lisa Gerving made no appearance. No other parties or claimants appeared.

2. The Court has reviewed the report and other documents of record, including the motion and objection of Glenn Gerving and Lisa Gerving, and the objection of CHS.
3. The Court has jurisdiction of this matter under North Dakota Century Code Chapters 60-04 and 60-10.
4. The Court finds the motion and objection of Glenn Gerving and Lisa Gerving without merit. In addition to the fact that the Gervings made no appearance at the hearing, and by that default may have abandoned their objection, the Court finds the objection is untimely and the judgment does not provide the Gervings any priority over the other beneficiaries of the trust fund.
5. The objection filed by CHS includes two separate objections. CHS objects to the reasonableness of the settlement and CHS also objects to the amount the Trustee concluded is owed CHS. As a result of its' second objection, CHS objects to the amount the Trustee recommends CHS be paid from the trust fund.
6. On the later objection, CHS requested additional time to review documents it recently received directly from Anderson Seed Co., Inc. related to the amount of CHS's claim and the amount the Trustee recommends be paid to CHS. At the hearing the Court granted CHS's request for additional time but required that CHS work with the Trustee to resolve the matter or proceed to hearing on that evidentiary question by March 14, 2014. On March 7, 2014, CHS filed a

withdrawal of its objection to the amount the Trustee recommends CHS be paid on its claim.

7. The Trustee responded to CHS's objection to the reasonableness of the settlement by explaining the authority vested in the Commission as Trustee in insolvency proceedings, the actions taken by the Commission in reaching the settlement, and the factors the Commission considered. These include that the Commission investigated a potential claim to grain sold, the settlement was reached after a day of informal mediation followed by further negotiations, that only approximately \$970,000 of the grain at issue originated in North Dakota, the potential defenses available, the likelihood of success, and the cost of litigation in both time and money.
8. The Court finds the settlement reasonable. The Court recognizes the authority of the Commission to settle claims and the Commission's obligation, as Trustee, to act in the best interests of all beneficiaries. The Court also recognizes the exigencies of litigation and its potential risks, the benefits of compromise, the expertise of the Commission in grain warehouse insolvencies, and the considerable discretion of the Commission in such matters. There is no evidence of record to show the Commission's action was not reasonable, and nothing in CHS's exhibits to contradict the Commission's position that the settlement is fair and reasonable. The vast majority of the beneficiaries indicate, through silence or in more overt ways, that the settlement is reasonable. The Court declines to substitute its judgment for that of the Commission and will not second guess the Commission's decision to settle the potential grain claim.

9. At the hearing, the Commission requested an amendment to its Report and Recommendation to permit reimbursement of one-half of its expenses from the Credit-Sale Contract Indemnity Fund. No one objected to the amendment. The requested amendment is acceptable. As a matter of law, the Commission, as Trustee in an insolvency proceeding, is entitled to reimbursement of its expenses from the Credit-Sale Contract Indemnity Fund.

**ORDER**

**IT IS THEREFORE ORDERED:**

10. The Court has jurisdiction in this matter.
11. The motion and objection filed by Glenn Gerving and Lisa Gerving are denied.
12. The objection filed by CHS to the reasonableness of the settlement is denied. The Trustee's settlement regarding trust assets is approved.
13. The Commission's request to amend its Report and Recommendation of Trustee to permit reimbursement to the Commission, as Trustee, of one-half the expenses of administering the insolvency from the Credit-Sale Contract Indemnity Fund is approved.
14. The Commission's November 22, 2013 Report and Recommendation of Trustee, as amended by this order, which recommends distribution of Trust Fund payments to valid noncredit-sale contract claimants, i.e., cash claimants, distribution of Credit-Sale Contract Indemnity Fund payments to valid credit-sale contract claimants and reimbursement to the Commission, as Trustee, of one-half the expenses of administration from the Credit-Sale Contract Indemnity Fund, is approved.

W.C.

15. That Auto-Owners Insurance Company is liable on its bond to pay a proportionate share of the following noncredit-sale contract (cash) claims:

a.	Basaraba Farms LLP	\$ 116,754.18
b.	Chad Brusseau	\$ 24,486.74
c.	Doll & Pazdernik Partnership	\$ 157,572.68
d.	Derrick Enos	\$ 84,866.28
e.	Jerrold Fix	\$ 5,870.25
f.	Glen & Lisa Gerving	\$ 189,858.09
g.	Douglas Goehring	\$ 4,851.60
h.	Tim Hase	\$ 46,362.52
i.	Loren Henke	\$ 19,956.64
j.	David Hill	\$ 15,990.33
k.	Gary Hill	\$ 15,990.33
l.	Travis Inglehart	\$ 128,592.37
m.	Kevin Kessel	\$ 74,467.66
n.	Trevor Kohler	\$ 45,308.55
o.	Jay Lutes	\$ 23,158.56
p.	Jeff Lutes	\$ 85,286.05
q.	Kristy Lazorenko	\$ 29,425.01
r.	Scott Lazorenko	\$ 29,425.01
s.	Cordel Meidinger	\$ 41,486.62
t.	Peerboom Farms	\$ 164,556.32
u.	Ronald Pelton	\$ 137,692.01
v.	Dan Pfeifle	\$ 128,027.30
w.	Thomas Pfliger	\$ 8,795.74
x.	Rauser Family Farm Inc.	\$ 16,906.47
y.	Todd Rodenburg	\$ 173,545.19
z.	Jeff Schneider	\$ 67,789.53
aa.	Greg Sletto	\$ 6,354.28
bb.	Steichen Farms	\$ 86,536.52
cc.	David Wanner	\$ 43,936.73
dd.	Jim Voller	\$ 41,522.37
ee.	Michael Faul & shareholders	\$ 72,236.28

Edward Coombs	\$ 15,101.99
Jerome & Agnes Faul	\$ 41,366.25
Brian Thomas	\$ 41,366.25
Ronald G. Waitz	\$ 2,361.52
ff. CHS, Inc. dba Midwest Cooperatives	\$ 45,512.96

16. Taking into account the obligations owed under the bond by Auto-Owners Insurance Company, it is appropriate to require Auto Owners Insurance Company to deposit the full sum of the bond, \$280,000, with the Trustee.
17. Auto-Owners Insurance Company is hereby directed to deposit the total bond proceeds in the amount of two hundred eighty thousand (\$280,000) dollars with the Trustee to pay the approved valid noncredit-sale contract claims.
18. The Commission, as Trustee, is authorized to make prorated payments from the Trust Fund proceeds, which include the bond proceeds, the settlement proceeds, and grain proceeds, to claimants with valid noncredit-sale contract (cash) claims for grain sold to Anderson Seed Co., Inc. at its Durbin and Selz, North Dakota facilities all as specified in the Report and Recommendation of Trustee. The Commission shall make the prorated payments for each noncredit-sale contract claim jointly payable to the claimant and relevant valid lien holders at the time checks are issued.
19. The Commission, as Trustee, is authorized to make prorated payments from the Trust Fund proceeds resulting in payment of approximately 43% of each valid noncredit-sale contract (cash) claim, as follows:
- |                                 |              |
|---------------------------------|--------------|
| a. Basaraba Farms LLP           | \$ 50,565.07 |
| b. Chad Brusseau                | \$ 10,604.96 |
| c. Doll & Pazdernik Partnership | \$ 68,243.15 |

d.	Derrick Enos	\$ 36,764.27
e.	Jerrold Fix	\$ 2,542.35
f.	Glen & Lisa Gerving	\$ 82,139.02
g.	Douglas Goehring	\$ 2,101.18
h.	Tim Hase	\$ 20,079.14
i.	Loren Henke	\$ 8,643.02
j.	David Hill	\$ 6,925.25
k.	Gary Hill	\$ 6,925.25
l.	Travis Inglehart	\$ 55,692.07
m.	Kevin Kessel	\$ 32,251.20
n.	Trevor Kohler	\$ 19,621.81
o.	Jay Lutes	\$ 10,029.74
p.	Jeff Lutes	\$ 36,936.54
q.	Kristy Lazorenko	\$ 12,743.68
r.	Scott Lazorenko	\$ 12,743.68
s.	Cordel Meidinger	\$ 17,971.77
t.	Peerboom Farms	\$ 71,267.70
u.	Ronald Pelton	\$ 59,633.03
v.	Dan Pfeifle	\$ 55,447.34
w.	Thomas Pfliger	\$ 3,809.35
x.	Rausser Family Farm Inc.	\$ 7,322.02
y.	Todd Rodenburg	\$ 75,160.69
z.	Jeff Schneider	\$ 29,358.97
aa.	Greg Sletto	\$ 2,751.98
bb.	Steichen Farms	\$ 37,478.10
cc.	David Wanner	\$ 19,028.56
dd.	Jim Voller	\$ 17,982.92
ee.	Michael Faul & shareholders	\$ 31,284.81
	Edward Coombs	\$ 6,540.52
	Jerome & Agnes Faul	\$ 17,915.31
	Brian Thomas	\$ 17,915.31
	Ronald G. Waltz	\$ 1,022.75
ff.	CHS, Inc. dba Midwest Cooperatives	\$ 19,711.21

20. That the following noncredit-sale contract (cash) claims are denied for the reasons set forth in the Report and Recommendation of Trustee:

a.	Dan Braaten	\$ 57,589.39
b.	Jeff Brown	\$ 17,280.52
c.	DRO INC. Dirk O'Connor	\$ 107,136.22
d.	Durnell Klain	\$ 37,104.05
e.	Tri-Steel Manufacturing Co.	\$ 24,800.65
f.	Cordel Meldinger	\$ 20,487.80
g.	CHS, Inc. dba Midwest	\$ 694,627.56

Cooperatives

21. The Commission, as Trustee, is authorized to make payment from the Credit-Sale Contract Indemnity Fund to each holder of valid credit-sale contracts for grain sold to Anderson Seed Co., Inc., not to exceed the lesser of eighty percent of the amount owed to each claimant or two hundred eighty thousand dollars as specified in the Report and Recommendation of Trustee. The Commission shall make the payments for each credit-sale contract claim jointly payable to the claimant and relevant valid lien holders at the time checks are issued.

22. The following individuals have valid claims as credit-sale contracts. Consequently, they are entitled to 80% of those claims from the Credit-Sale Contract Indemnity Fund. The sums awarded and representing 80% of their valid claims as credit-sale claims are:

a.	Randy Appelt	\$ 25,531.48
b.	Robert Appelt	\$ 4,205.07
c.	Chase Dewitz	\$ 88,948.18
d.	John Duletski	\$ 54,225.18
e.	Tyler Grubb	\$ 38,242.62

f.	Dale Hauser	\$ 3,029.17
g.	Dick Hauser	\$ 1,009.63
h.	Kevin Kessel	\$ 57,427.26
i.	Ronald Pelton	\$ 54,200.24
j.	Kim Raugust	\$ 14,784.45
k.	Chadwick Rauser	\$ 49,106.61
l.	Michael Richter	\$ 33,736.04
m.	Todd Rodenburg	\$ 23,221.43
n.	Kelly Schmitcke	\$ 28,287.39
o.	Michael Schmitcke	\$ 28,287.39
p.	Wayne Schmitcke	\$ 56,573.49
q.	David Wanner	\$ 31,599.36
r.	Robert Weigel	\$ 54,797.16

23. That the following credit-sale contract claims are denied for the reasons set forth in the Report and Recommendation:

a.	Duane Dyk	\$ 28,371.15
b.	Todd Rodenburg	\$ 36,126.26

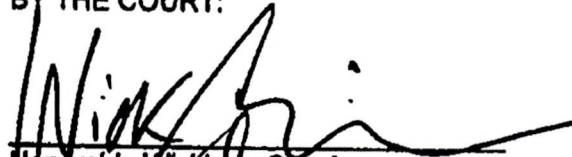
24. As a matter of law, the Commission, as Trustee, is entitled to reimbursement from the Credit-Sale Contract Indemnity Fund for the expenses incurred in the administration of the insolvency.

25. The Commission, as Trustee, is authorized to make payment from the Credit-Sale Contract Indemnity Fund for reimbursement of one-half of the expenses related to this proceeding. One-half of the expenses to date total \$15,620.25.

26. That upon distribution of the Trust Fund proceeds to valid noncredit-sale contract (cash) claimants, payment from the Credit-Sale Contract Indemnity Fund to each valid credit-sale contract claimant, and reimbursement from the Credit-Sale Contract Indemnity Fund of one-half of the expenses related to this proceeding, all as provided for in this Order, the Trustee is discharged.

27. Dated at Fargo, North Dakota, this 12<sup>3</sup> day of April WC, 2014.

BY THE COURT:

  
Honorable Wickham Corwin  
Judge of the District Court

ORDER

Attorney for the Trustee is to serve a copy of this Order on all parties and claimants.

NOTICE OF FINAL ORDER

This constitutes a final order.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF CASS

EAST CENTRAL JUDICIAL DISTRICT

Public Service Commission

Petitioner,

vs.

Anderson Seed Co., Inc.

Auto-Owners Insurance Company

Respondents.

PSC Case No. GE-12-78

CIVIL NO. 09-2012-CV-00693

JUDGMENT



1. This action came on for hearing before the Court on February 25, 2014, the Honorable Wickham Corwin presiding, and the Court having ordered:
2. That the Court has jurisdiction in this matter.
3. That the motion and objection filed by Glenn Gerving and Lisa Gerving are denied.
4. That the objection filed by CHS to the reasonableness of the settlement is denied.
5. That the Trustee's settlement regarding trust assets is approved.
6. That the Commission's request to amend its Report and Recommendation of Trustee to permit reimbursement to the Commission, as Trustee, of one-half the

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expenses of administering the insolvency from the Credit-Sale Contract Indemnity Fund is approved.

7. That the Commission's November 25, 2013 Report and Recommendation of Trustee, as amended by the Court's order, which recommends distribution of Trust Fund payments to valid noncredit-sale contract claimants i.e., cash claimants, distribution of Credit-Sale Contract Indemnity Fund payments to valid credit-sale contract claimants and reimbursement to the Commission, as Trustee, of one-half the expenses of administration from the Credit-Sale Contract Indemnity Fund, is approved.

8. That Auto-Owners Insurance Company is liable on its bond to pay a proportionate share of the following noncredit-sale contract (cash) claims:

a. Basaraba Farms LLP	\$116,754.18
b. Chad Brusseau	\$ 24,486.74
c. Doll & Pazdernik Partnership	\$157,572.68
d. Derrick Enos	\$ 84,888.28
e. Jerrold Fix	\$ 5,870.25
f. Glen & Lisa Gerving	\$189,658.09
g. Douglas Goehring	\$ 4,851.60
h. Tim Hase	\$ 46,362.52
i. Loren Henke	\$ 19,956.64
j. David Hill	\$ 15,990.33
k. Gary Hill	\$ 15,990.33
l. Travis Inglehart	\$128,592.37

m. Kevin Kessel	\$ 74,467.66
n. Trever Kohler	\$ 45,306.55
o. Jay Lutes	\$ 23,158.56
p. Jay Lutes	\$ 85,286.05
q. Kristy Lazorenko	\$ 29,425.01
r. Scott Lazorenko	\$ 29,425.01
s. Cordel Meidinger	\$ 41,496.62
t. Peerboom Farms	\$164,556.32
u. Ronald Pelton	\$137,692.01
v. Dan Pfeifle	\$128,027.30
w. Thomas Pfliger	\$ 8,795.74
x. Rauser Family Farm Inc.	\$ 16,906.47
y. Todd Rodenburg	\$173,545.19
z. Jeff Schneider	\$ 67,789.53
aa. Greg Sletto	\$ 6,354.28
bb. Steichen Farms	\$ 86,536.52
cc. David Wanner	\$ 43,936.73
dd. Jim Voller	\$ 41,522.37
ee. Michael Faul & shareholders	\$ 73,236.28
Edward Coombs	\$ 15,101.99
Jerome & Agnes Faul	\$ 41,366.25
Brian Thomas	\$ 41,366.25
Ronald G. Waltz	\$ 2,361.52
ff. CHS, Inc. dba Midwest Cooperatives	\$ 45,512.96

9. That taking into account the obligations owed under the bond by Auto-Owners Insurance Company, it is appropriate to require Auto Owners Insurance Company to deposit the full sum of the bond, \$280,000, with the Trustee.
10. That Auto-Owners Insurance Company is hereby directed to deposit the total bond proceeds in the amount of two hundred and eighty thousand dollars (\$280,000) with the Trustee to pay the approved valid noncredit-sale contract claims.
11. That judgment be entered for Petitioner Trustee to recover from Auto Owners Insurance Company the amount of two hundred and eighty thousand dollars (\$280,000) bond proceeds for payment of the approved valid noncredit-sale claims.
12. That the Commission, as Trustee, is authorized to make prorated payments from the Trust Fund proceeds, which include bond proceeds, settlement proceeds, and grain proceeds, to claimants with valid noncredit-sale contract (cash) claims for grain sold to Anderson Seed Co., Inc. at its Durbin and Selz, North Dakota facilities all as specified in the Report and Recommendation of Trustee. The Commission shall make the prorated payments for each noncredit-sale contract claim jointly payable to the claimant and relevant valid lien holders at the time checks are issued.
13. That the Commission, as Trustee, is authorized to make prorated payments from the Trust Fund proceeds resulting in payment of approximately 43% of each valid noncredit-sale contract (cash) claim, as follows:
  - a. Basaraba Farms LLP \$ 50,565.07

b. Chad Brusseau	\$ 10,604.96
c. Doll & Pazdernik Partnership	\$ 68,243.15
d. Derrick Enos	\$ 36,764.27
e. Jerrold Fix	\$ 2,542.35
f. Glen & Lisa Gerving	\$ 82,139.02
g. Douglas Goehring	\$ 2,101.18
h. Tim Hase	\$ 20,079.14
i. Loren Henke	\$ 8,643.02
j. David Hill	\$ 6,925.25
k. Gary Hill	\$ 6,925.25
l. Travis Inglehart	\$ 55,692.07
m. Kevin Kessel	\$ 32,251.20
n. Trever Kohler	\$ 19,621.81
o. Jay Lutes	\$ 10,029.74
p. Jay Lutes	\$ 36,936.54
q. Kristy Lazorenko	\$ 12,743.68
r. Scott Lazorenko	\$ 12,743.68
s. Cordel Meidinger	\$ 17,971.77
t. Peerboom Farms	\$ 71,267.70
u. Ronald Pelton	\$ 59,633.03
v. Dan Pfeifle	\$ 55,447.34
w. Thomas Pfliger	\$ 3,809.35
x. Rauser Family Farm Inc.	\$ 7,322.02

y. Todd Rodenburg	\$ 75,160.69
z. Jeff Schneider	\$ 29,358.97
aa. Greg Sletto	\$ 2,751.98
bb. Steichen Farms	\$ 37,478.10
cc. David Wanner	\$ 19,028.56
dd. Jim Voller	\$ 17,982.92
ee. Michael Faul & shareholders	\$ 31,284.81
Edward Coombs	\$ 6,540.52
Jerome & Agnes Faul	\$ 17,915.31
Brian Thomas	\$ 17,915.31
Ronald G. Waltz	\$ 1,002.75
ff. CHS, Inc. dba Midwest Cooperatives	\$ 19,711.21

14. That the following noncredit-sale contract (cash) claims are denied for the reasons set forth in the Report and Recommendation of Trustee:

a. Dan Braaten	\$ 57,589.39
b. Jeff Brown	\$ 17,260.52
c. DRO INC. Dirk O'Connor	\$107,136.22
d. Durnell Klain	\$ 37,104.05
e. Tri-Steel Manufacturing Co.	\$ 24,800.65
f. Cordel Meidinger	\$ 20,487.80
g. CHS, Inc. dba Midwest Cooperative	\$694,627.56

15. That the Commission, as Trustee, is authorized to make payment from the Credit-Sale Contract Indemnity Fund to each holder of valid credit-sale contracts for grain sold to Anderson Seed Co., Inc., not to exceed the lesser of eighty percent of the amount owed to each claimant or two hundred eighty thousand dollars as specified in the Report and Recommendation of Trustee. The Commission shall make the payments for each credit-sale contract claim jointly payable to the claimant and relevant valid lien holders at the time checks are issued.

16. That the following individuals have valid claims as credit-sale contracts. Consequently, they are entitled to 80% of those claims from the Credit-Sale Contract Indemnity Fund. The sums awarded and representing 80% of their valid claims as credit-sale claims are:

a. Randy Appelt	\$ 25,531.48
b. Robert Appelt	\$ 4,205.07
c. Chase Dewitz	\$ 88,948.18
d. John Duletski	\$ 54,225.18
e. Tyler Grubb	\$ 38,242.62
f. Dale Hauser	\$ 3,029.17
g. Dick Hauser	\$ 1,009.63
h. Kevin Kessel	\$ 57,427.26
i. Ronald Pelton	\$ 54,200.24
j. Kim Raugust	\$ 14,784.45
k. Chadwick Rauser	\$ 49,106.61

l. Michael Richter	\$ 33,738.04
m. Todd Rodenburg	\$ 23,221.43
n. Kelly Schmitcke	\$ 28,287.39
o. Michael Schmitcke	\$ 28,287.39
p. Wayne Schmitcke	\$ 56,573.49
q. David Wanner	\$ 31,599.36
r. Robert Weigel	\$ 54,797.16

17. That the following credit-sale contract claims are denied for the reasons set forth in the Report and Recommendation:
- |                   |              |
|-------------------|--------------|
| a. Duane Dyk      | \$ 26,371.15 |
| b. Todd Rodenburg | \$ 36,126.26 |
18. That as a matter of law, the Commission, as Trustee, is entitled to reimbursement from the Credit-Sale Contract Indemnity Fund for the expenses incurred in the administration of the insolvency.
19. That the Commission, as Trustee, is authorized to make payment from the Credit-Sale Contract Indemnity Fund for reimbursement of one-half of the expenses related to this proceeding. One-half of the expenses to date of the Court's March 12, 2014 order total \$15,620.25.
20. That upon distribution of the Trust Fund proceeds to valid noncredit-sale contract (cash) claimants, payment from the Credit-Sale Contract Indemnity Fund to each valid credit-sale contract claimant, and reimbursement from the Credit-Sale Contract Indemnity Fund of one-half of the expenses related to this proceeding, all as provided for in the Court's order, the Trustee is discharged.

Let judgment be entered accordingly.

Dated at Fargo, North Dakota, this 8 day of April, 2014.

*Kathryn Ouren - clerk of Court*



By: *[Signature]*, Deputy Clerk



CHS, Inc. d/b/a Midwest Cooperatives through its attorney  
Jon R. Brakke [jbrakke@vogellaw.com](mailto:jbrakke@vogellaw.com)

Glenn Gerving and Lisa Gerving through their Attorney of Limited Representation  
Rauleigh D. Robinson [rauleve@bektel.com](mailto:rauleve@bektel.com)

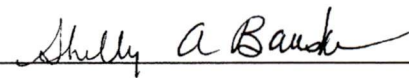
Michael L. Gust [mgust@andersonbottrell.com](mailto:mgust@andersonbottrell.com)

Shelly A. Bauske further deposes that on the **10<sup>th</sup> day of April, 2014** a copy of the following document:

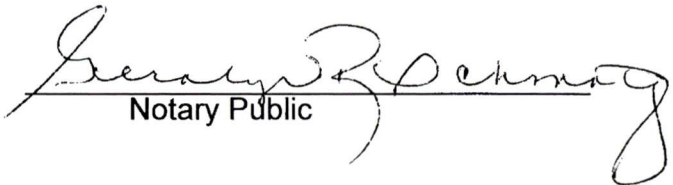
1. Notice of Entry of Amended Order and Notice of Entry of Judgment

was served, via the Odyssey Electronic Service and File System using the email addresses provided on the February 19, 2014 Motions for Admission Pro Hac Vice, upon the following:

Legumex Walker, Inc., through its attorneys  
Kendall Bader [kendall.bader@btlaw.com](mailto:kendall.bader@btlaw.com)  
Mary Sennes [mary.sennes@btlaw.com](mailto:mary.sennes@btlaw.com)  
Steven K Aakre [saakre@stefansonlaw.com](mailto:saakre@stefansonlaw.com)

  
\_\_\_\_\_

Subscribed and sworn to before me  
this **10<sup>th</sup> day of April, 2014.**

  
Notary Public

SEAL

