

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Anderson Seed Co., Inc.
Ex Parte Cease & Desist**

Case No. GE-12-089

AFFIDAVIT OF SUSAN K. RICHTER

STATE OF NORTH DAKOTA)
) ss
COUNTY OF BURLEIGH)

Susan K. Richter, being first duly sworn, deposes and states:

That she is the Director of the Public Service Commission's Licensing Division.

That on February 15, 2012, the Commission received a letter with attachments from Douglas Doll on behalf of the Doll & Pazdernik Partnership of Mandan, North Dakota, alleging the partnership has not been paid for sunflower seeds delivered to Anderson Seed Co., Inc. at their licensed grain warehouse in Durbin, North Dakota.

That between February 21, 2012 and February 24, 2012, the Commission received 18 additional written communications, each alleging nonpayment for sunflower seeds delivered or sold to Anderson Seed Co., Inc.

That in addition to the written communications received, the Licensing Division has received and continues to receive numerous phone calls from additional producers alleging they had not been paid for sunflower seeds sold to Anderson Seed Co., Inc. and asking for instructions for filing a claim against the bond or the credit-sale contract indemnity fund.

That Anderson Seed Co., Inc. of Mentor, Minnesota, operates licensed public grain warehouses in North Dakota at Durbin, North Dakota since October 2003 and at

Selz, North Dakota since October 2004. As required by North Dakota Century Code §60-02-09 and North Dakota Administrative Code § 69-07-02-02 Anderson Seed Co., Inc. has a \$280,000 bond on file with the Public Service Commission.

That in early February 2012, Anderson Seed Co., Inc. provided information to the Public Service Commission showing a significant amount of grain was received from producers in 2011 for which payment has not been made.

That the Licensing Division is preparing and will be asking the Commission to file documents with Cass County District Court, asking that Anderson Seed Co., Inc. be declared insolvent under North Dakota Century Code Chapter 60-04, and the Commission be appointed trustee in the insolvency proceeding.

That it appears the bond on file with the Public Service Commission will not be sufficient to cover the total amount owed to producers for the sunflower seeds delivered or sold to Anderson Seed Co., Inc.

Affiant has reason to believe that Anderson Seed Co., Inc. moved or is in the process of moving grain by truck out of the licensed public warehouses at Selz, North Dakota and Durbin, North Dakota to a storage facility in Fertile, Minnesota. Affiant is concerned that moving the grain could compromise the trust fund.

North Dakota Century Code §60-02-42 provides the Commission with authority to issue a cease and desist order without prior notice against an entity that engages in an activity or practice that is contrary to the provisions of North Dakota Century Code Chapter 60-02 or related rules.

Affiant has reason to believe Anderson Seed Co., Inc. has violated North Dakota Century Code §60-02-09 (4)(a) by failing to faithfully perform the licensee's duties as a public warehouseman and North Dakota Century Code §60-04-02 by refusing,

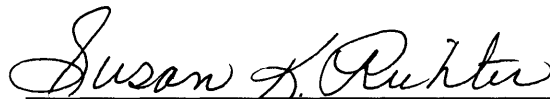
neglecting, or being unable upon proper demand to make payment for grain purchased or marketed by the licensee or to make redelivery or payment for grain stored.

Affiant believes that good cause exists requiring *ex parte* action by the Commission because additional sellers may suffer economic loss, damage or injury if Anderson Seed Co., Inc. continues receiving or purchasing grain as a licensed public warehouseman in North Dakota or if Anderson Seed Co., Inc. is permitted to move any more grain out of North Dakota that may be an asset of the insolvency trust.

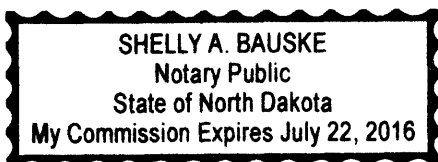
It is Affiant's opinion that based on the written information filed with the Commission for the nonpayment for sunflower seeds delivered or sold to Anderson Seed Co., Inc. at Durbin, North Dakota and Selz, North Dakota, Anderson Seed Co., Inc. is insolvent under North Dakota Century Code Chapter 60-04.

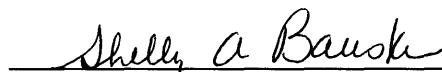
Further, it is Affiant's opinion that in order to preserve the potential trust, Anderson Seed Co., Inc. should not be allowed to move any grain without Commission approval.

Affiant requests that the Commission issue an Ex Parte Cease and Desist Order against Anderson Seed Co., Inc. as authorized by North Dakota Century Code §60-02-42, ordering that Anderson Seed Co., Inc. cease and desist from receiving or purchasing grain in North Dakota and cease and desist from moving grain out of North Dakota.



Subscribed and sworn to before me this 24th day of February, 2012.





Notary Public