

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Earth Harvest Mills, Inc.
Ex Parte Cease & Desist

Case No. GE-13-99

AFFIDAVIT IN SUPPORT OF
EX PARTE CEASE AND DESIST ORDER

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 and as such is charged with the duty of enforcing the provisions of North Dakota Century Code Chapter 60-02.

That Earth Harvest Mills, Inc. doing business as Dakota Prairie Organic Flour Company (Earth Harvest Mills) operates a licensed public grain warehouse at Harvey, North Dakota since December 2004. As required by North Dakota Century Code section 60-02-09 and North Dakota Administrative Code section 69-07-02-02, Earth Harvest Mills has a \$50,000 bond on file with the Public Service Commission (Commission).

That the Licensing Division has been monitoring the conversion activities of Earth Harvest Mills and has met with Earth Harvest Mills on numerous occasions to discuss conversion efforts.

That the Commission's Licensing Division Staff and Earth Harvest Mills entered into a Memorandum of Agreement whereby Earth Harvest Mills agreed to comply with North Dakota Century Code section 60-02-11 by converting into cash or credit-sale contracts all outstanding grain accounts, and to provide proof of full compliance by February 28, 2013 and providing proof of compliance by forwarding copies of executed deferred payment contracts or checks for full payment to the Commission.

That on December 27, 2012, the executed Memorandum of Agreement was filed with the Commission.

That on January 29, 2013, the Commission received a letter with attachments from Farmers Direct Co-op, of Regina, Saskatchewan, Canada, alleging the cooperative has not been paid for organic hard red spring wheat delivered to Earth Harvest Mills at its licensed grain warehouse in Harvey, North Dakota.

That on February 7, 2013, the Commission received a letter with attachments from Ray H. Miller, alleging nonpayment for grain delivered or sold to Earth Harvest Mills.

That in addition to the written communications received, the Licensing Division has received calls from additional producers alleging they had not been paid for grain delivered to Earth Harvest Mills. Earth Harvest Mills provided the Commission with proof of full or partial payment for some producers.

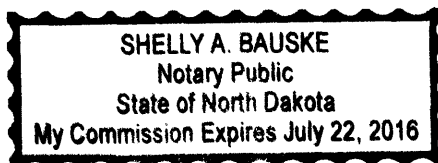
North Dakota Century Code section 60-02-42 provides the Commission with authority to issue a cease and desist order without prior notice against an entity that engages in an activity or practice that is contrary to the provisions of North Dakota law or rules.

Affiant believes that good cause exists which requires *ex parte* action by the Commission because grain sellers may suffer immediate economic loss, damage or injury as a result of the actions of Earth Harvest Mills.

Affiant supports the issuance of an *Ex parte* Cease and Desist Order against Earth Harvest Mills as authorized by North Dakota Century Code section 60-02-42 requiring the licensee to cease and desist all grain buying activities within the State of North Dakota.

Susan H. Richter

Subscribed and sworn to before me this 27th day of February, 2013.



Shelly A Bauske
Notary Public