

STATE OF NORTH DAKOTA  
COUNTY OF WELLS

IN DISTRICT COURT  
SOUTHEAST JUDICIAL DISTRICT

\_\_\_\_\_ )  
**Public Service Commission** )  
) )  
**Petitioner,** )  
) )  
**vs.** )  
) )  
**Earth Harvest Mills, Inc.** )  
) )  
**Respondent.** )  
\_\_\_\_\_ )  
) )  
**PSC Case No. GE-13-193** )  
) )  
\_\_\_\_\_ )

CIVIL NO. \_\_\_\_\_

**AFFIDAVIT OF  
SUSAN K. RICHTER  
IN SUPPORT OF  
APPLICATION**

STATE OF NORTH DAKOTA )  
 )  
 )ss  
COUNTY OF BURLEIGH )

Susan K. Richter being duly sworn states as follows:

1. That she is a citizen of the United States of America, of legal age, residing at Bismarck, North Dakota.
2. That she is the Director of the Licensing Division for the Public Service Commission (Commission) and as such is charged with the duty of enforcing the provisions of North Dakota Century Code Chapters 60-02 and 60-04.
3. Earth Harvest Mills, Inc. (Earth Harvest Mills), a North Dakota business corporation, operates a grain warehouse at Harvey, North Dakota since December 2004 under North Dakota Century Code Chapters 60-02 and 60-04. Earth Harvest Mills, Inc. operates under the trade name of Dakota Prairie Organic Flour Company.

4. Earth Harvest Mills operates its grain warehouse facility at Harvey, North Dakota under license number 1155. Earth Harvest Mills processes grains into flour and other products for subsequent sale.
5. As part of the licensing process, Earth Harvest Mills filed a surety bond with the Commission as required by North Dakota Century Code section 60-02-09 and North Dakota Administrative Code section 69-07-02-02, in the amount of \$50,000 and identified as number 9145595 with Washington International Insurance Company, 475 North Martingale Road #850, Schaumburg, Illinois, as surety.
6. On April 26, 2013, the Commission received a letter with attachments from Delbert Cousins, Weirdale, Saskatchewan, Canada, alleging nonpayment for grain delivered or sold to Earth Harvest Mills. Copy attached as Exhibit A.
7. In addition to the written communication received, the Licensing Division has received and continues to receive phone calls from additional producers alleging they have not been paid for grain delivered or sold to Earth Harvest Mills and asking for instructions for filing a claim against the bond under the provisions of North Dakota Century Code section 60-02-09 or against the credit-sale contract indemnity fund under the provisions of North Dakota Century Code section 60-10-04.
8. Affiant believes that under North Dakota Century Code section 60-04-03 the court may issue a temporary *ex parte* order to preserve or protect the assets and any potential assets of the trust fund until the court issues its order granting or denying the application.

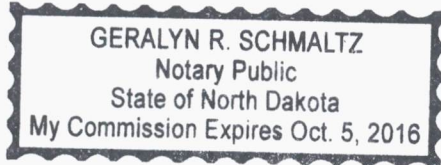
9. Affiant believes that Earth Harvest Mills refused, neglected, or is unable upon proper demand to make payment for grain purchased or marketed by the licensee or to make redelivery or payment for grain
10. Affiant believes, based on the claim for nonpayment filed with the Commission, Earth Harvest Mills is insolvent under North Dakota Century Code Chapter 60-04 in that it refused, neglected, or is unable upon proper demand to make payment for grain purchased or marketed by the licensee or to make redelivery or payment for grain stored.
11. Affiant believes it is in the best interest of the potential claimants that the Commission be appointed trustee in an insolvency proceeding under the provisions of North Dakota Century Code Chapter 60-04.
12. Affiant believes that the bond proceeds may be needed to redeem outstanding receipts issued by Earth Harvest Mills.
13. Affiant believes that proceeds from the credit-sale contract indemnity fund may be needed to meet the licensee's obligations to any holders of credit-sale contracts.
14. Affiant understands that under North Dakota Century Code section 60-04-03.1, grain assets are part of the trust fund, but only unencumbered grain product assets are part of the trust fund. Affiant is concerned that processing any grain in the facility may compromise the trust fund.

15. Affiant believes it is in the best interest of potential claimants that the Court issue *ex parte* a temporary order preserving and protecting any assets and potential assets of the trust under North Dakota Century Code Chapter 60-04.
16. That this affidavit is made for the purpose of securing the appointment of the Commission as trustee of Earth Harvest Mills and preserving any assets of the trust under North Dakota Century Code Chapter 60-04.

Dated this 1st day of May, 2013.

  
\_\_\_\_\_  
Susan K. Richter

Subscribed and sworn to before me  
this 1st day of May, 2013.



  
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Notary Public