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Filing Code: Brief

Filing Desc: Brief in Support of Conditional Objection of Brent Baldwin, Baldwin Farms, Inc., Duane Altendorf, Ron Adams, Nickolas Adams, Chuck B. Nelson and WSJ Nelson (John Nelson & Steve Nelson), Curt Amundson, and the Estate of Brad Nelson to Petitioner's Application for Appointment as Trustee

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Notification of Service – Brief

Ten growers – grower entities

J.Brakke, D.Gaustad, R.Melland



STATE OF NORTH DAKOTA
COUNTY OF GRAND FORKS

IN DISTRICT COURT
NORTHEAST CENTRAL JUDICIAL DISTRICT

Public Service Commission,

Petitioner,

v.

Grand Forks Bean Company, Inc.,

Respondent.

Civil No. 18-2015-CV-00240


**BRIEF IN SUPPORT OF
CONDITIONAL OBJECTION OF
BRENT BALDWIN, BALDWIN
FARMS, INC., DUANE
ALTENDORF, RON ADAMS,
NICKOLAS ADAMS, CHUCK B.
NELSON AND WJS NELSON
(JOHN NELSON & STEVE
NELSON), CURT AMUNDSON,
AND THE ESTATE OF BRAD
NELSON TO PETITIONER'S
APPLICATION FOR
APPOINTMENT AS TRUSTEE**

PSC Case No. GE-15-36

[¶ 1] In its application, Petitioner states that between December 19, 2014 and December 23, 2014, Petitioner received claims from eight producers. This is the basis for Petitioner's assertion that the date of Respondent's insolvency should be December 19, 2014. However, pursuant to N.D.C.C. § 60-04-02, the filing of a claim with the North Dakota Public Service Commission is not the only event determinative of whether a licensee such as Respondent is insolvent. The statute states that a licensee is insolvent when it refuses, neglects or is unable upon proper demand to make payment for grain purchased or marketed by the licensee or to make redelivery of payment for grain stored. Brent Baldwin, Baldwin Farms, Inc., Duane Altendorf, Ron Adams, Nickolas Adams, Chuck B. Nelson and WJS Nelson (John Nelson & Steve Nelson), Curt Amundson, and the Estate of Brad Nelson believe that under the statutory definition, Respondent was insolvent prior to December 19, 2014, with the latest

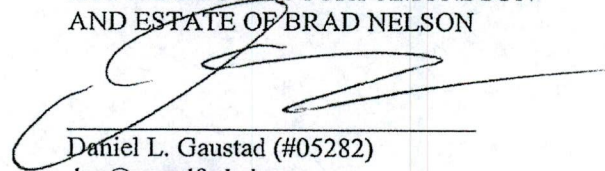
date that Respondent became insolvent being December 19, 2014. However, determination of the exact date of Respondent's insolvency is not critical for purposes of the relief sought by Petitioner in its application. Thus, rather than setting an evidentiary hearing on this question, Brent Baldwin, Baldwin Farms, Inc., Duane Altendorf, Ron Adams, Nickolas Adams, Chuck B. Nelson and WJS Nelson (John Nelson & Steve Nelson), Curt Amundson, and the Estate of Brad Nelson believe it would be appropriate for the Court to enter an order on Petitioner's application stating that Respondent was insolvent on or before December 19, 2014. Only if the question of whether Respondent was insolvent at an earlier date becomes critical to disputes that arise during the course of this proceeding will an evidentiary hearing need to be held on the matter.

Dated: March 6th, 2015.



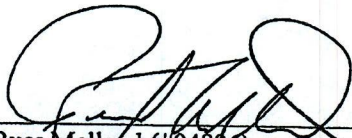
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Dated: March 6th, 2015.



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Dated: March 6, 2015.



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