

Richter, Susan K.

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This is a service filing for Case No. 18-2015-CV-00240, Public Service Commission, et al. vs. Grand Forks Bean Company, Inc..

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STATE OF NORTH DAKOTA
COUNTY OF GRAND FORKS

IN DISTRICT COURT

Public Service Commission,	:	
	:	
Petitioner,	:	
	:	
-vs-	:	Case No.
	:	18-2015-CV-00240
Grand Forks Bean Company, Inc.,	:	
Auto-Owners Insurance Company,	:	
	:	
Respondents.	:	

TRANSCRIPT OF
DEPOSITION OF SUSAN RICHTER

 Taken At
122 East Broadway Avenue
Bismarck, North Dakota
January 14, 2016

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DEPOSITION OF SUSAN RICHTER	<u>Page</u>
Examination by Mr. Schroeder.....	5

CERTIFICATE OF DEPONENT.....	62
CERTIFICATE OF COURT REPORTER.....	63

DEPOSITION EXHIBITS:

<u>No.</u>	<u>Description</u>	<u>Marked</u>
1	Frequently Asked Questions, Credit-Sale Contract Indemnity Fund, Updated October 2011.....	21
2	PowerPoint Presentation Regarding Credit-Sale Contracts.....	24
3	PowerPoint Presentation Regarding Buying Grain in North Dakota.....	26
4	Grain Warehouse & Grain Buyer Examination Manual.....	27
5	January 2015 Public Service Commission Publication.....	30
6	Handwritten Notes.....	35
7	December 19 and 22, 2014, E-mail Chain.....	48
8	January 6, 2015, E-mail.....	56
9	January 8, 2015, Letter.....	57
10	January 8, 2015, E-mail.....	60

1 (Pursuant to Notice to Take Deposition of
2 **SUSAN RICHTER** in the above-entitled cause, the
3 following examination came on for taking before
4 Stephanie A. Smith, a Registered Professional
5 Reporter and a Notary Public in and for the State
6 of North Dakota, at the offices of Smith Bakke
7 Porsborg Schweigert & Armstrong, 122 East Broadway
8 Avenue, in the City of Bismarck, County of
9 Burleigh, State of North Dakota, on the 14th day of
10 January, 2016, commencing at 9:11 a.m., counsel
11 appearing on behalf of the respective parties as
12 hereinbefore indicated:)

13 -----

14 (The following proceedings were had and
15 made of record:)

16 **SUSAN RICHTER,**

17 being first duly sworn, was examined and testified
18 as follows:

19 **EXAMINATION**

20 **BY MR. SCHROEDER:**

21 Q. Good morning. This is the time and place
22 designated in a notice to take deposition in the
23 case Public Service Commission versus Grand Forks
24 Bean and Auto-Owners Insurance. Can you please
25 state your full name for the court reporter.

1 A. Susan K. Richter.

2 Q. Okay. And have you ever given a
3 deposition before?

4 A. Yes.

5 Q. Okay. And you're probably familiar with
6 this, but I'll say it for the record anyway. The
7 most important person in the room is this court
8 reporter, so she's taking down everything that's
9 being said. So please wait to answer the question
10 that I'm asking until I'm done asking it. I'll
11 show you the same -- her the same courtesy of
12 waiting to ask the next question until you answer.

13 If there's at any time a question you
14 don't understand, please ask me to rephrase it or
15 state I don't understand. If you answer the
16 question, I'm going to assume that you understood
17 the question.

18 If you need a break, please -- please let
19 us know and we can take a break. And if you -- the
20 question is a yes or no question, please say yes or
21 no, not a nod of the head or an mm-hmm or huh-uh.

22 All right. Let's see. So how long
23 have -- where -- where do you currently work?

24 A. At the Public Service Commission.

25 Q. Okay. What is your job title there?

1 A. I am the director of the licensing
2 division.

3 Q. Okay. How long have you worked at the
4 Public Service Commission?

5 A. I started in 1978.

6 Q. And how long have you been the director of
7 the licensing division?

8 A. I was appointed interim director in 2004
9 and my classification was approved in 2005.

10 Q. Prior to being the licensing division
11 director, what was your position at the Commission?

12 A. I was a licensing specialist in the same
13 division.

14 Q. Is that the -- where you had started when
15 you started at the Commission?

16 A. No.

17 Q. Okay. What -- when did you start as a
18 licensing specialist?

19 A. Well, that position was reclassified to
20 licensing specialist. I moved from the -- I moved
21 around a little bit and started in the grain
22 elevator division in -- I don't recall if it was
23 exactly 1983 or 1984.

24 Q. And then prior to 1983, what was your
25 position at the Public Service Commission?

1 A. I -- when I started in '78, I started at
2 the front desk and I worked there until 1980, at
3 which point I worked in the reclamation division
4 and then moved to licensing.

5 Q. Okay. So describe for me the -- the
6 duties that you had as a licensing specialist.

7 A. Well, as a licensing specialist I was
8 responsible for visiting with anybody that called
9 the Commission with information wanting to become
10 licensed or that had questions or concerns or
11 problems. I did all of the renewals. I worked
12 very closely with insolvencies when we had
13 insolvencies and provided assistance in whatever
14 area that the director needed assistance.

15 Q. Okay. What would be the duties that you
16 have now as the division director?

17 A. Well, in addition to some of those same
18 duties, which would be like I'm still the -- I used
19 to be the primary contact, and right now I am
20 basically the contact because the division consists
21 of myself, two inspectors who spend most of the
22 time out of the office, and then I have some
23 part-time support. So I'm the primary person when
24 anybody calls to talk about any grain matter or to
25 ask questions about becoming licensed or has

1 complaints or I'm the person that reviews all of
2 the documents that do come in with our applications
3 and our -- basically any requests for any kind of
4 an action in front of the Commission. I testify at
5 hearings, legislative, as an example, rulemaking,
6 and I'm here today.

7 Q. All right. So the -- can you describe the
8 hierarchy within the licensing division currently.

9 A. Well, again, I would be the division
10 director, and directly underneath me would be two
11 grain warehouse inspectors. And then I have a
12 temporary person. She works part-time for the
13 general office of the Commission and part-time for
14 the licensing division. And then I have a second
15 person that provides some support because the
16 licensing division, in addition to having the grain
17 elevator matters, has auction matters, and that
18 second support person handles most of the auction
19 calls.

20 Q. Okay. What are the different aspects of
21 the -- the licensing division? What are the
22 different roles that you play in the work of the
23 Commission?

24 A. I'm not sure if I know exactly what you're
25 looking for. The different roles, again, I'm the

1 division director, so I would be -- the inspectors
2 would be responsible to me. I'm responsible then
3 to the Commission for whatever is done within the
4 division.

5 Q. So it involves applications for new
6 licenses; right?

7 A. That's my responsibility. I review all of
8 the applications for new licenses, I review all of
9 the documents that come in with those applications.
10 I review -- and when I say "I review," I review for
11 compliance all of the documents and all of the
12 requests for any kind of changes that come in once
13 a licensee has become licensed. When the
14 inspectors do their examinations, I review all of
15 the memorandums of adjustments that they issue, and
16 I review all of the -- if there are compliance
17 items that have to be filed as a follow-up to those
18 memorandums, it's my responsibility to review them.

19 Q. Okay.

20 A. I'm in charge of the budgeting for the
21 division.

22 Q. So describe the -- the process for
23 continued oversight of your licensed grain
24 warehouses.

25 A. Well, initially a license application --

1 or an applicant company has to file an application,
2 and I review the application matters that come in
3 to make sure that they are compliant. If they meet
4 the requirements of, like, you know, is the
5 application, you know, completed, has it been
6 signed, is it notarized, is the correct license fee
7 included, is there a bond, is that bond correct, is
8 it in a sufficient amount, has everybody signed it
9 that needs to sign it. I review the insurance to
10 make sure that we have an acceptable insurance
11 filing for the grain which has to be insured, and I
12 review all of the documents to make sure that they
13 contain the components that statute says they have
14 to contain.

15 And then once all compliance has been met,
16 I will take that item to the Commission and ask the
17 Commission to approve a license. And once the
18 Commission adopts an order agreeing to issue a
19 license, then I will -- actually the person that
20 works underneath me will then -- I will actually
21 assign the license number, and the person
22 underneath me will then print that license and send
23 it in the mail along with some certain documents
24 that are required to be posted at the elevator.

25 Q. Okay. And for the licensees there are

1 annual -- annual filings they have to do; is that
2 right?

3 A. Well, licensees have to renew their
4 licenses on an annual basis. In 2015 there was a
5 slight change, so -- a legislative change resulted
6 with the August 1, 2015, licenses. Some of them
7 will be -- were renewed on a one-year basis and
8 some will be renewed on a two-year basis, and we
9 will -- next year the ones that were renewed on a
10 one-year basis will be issued a two-year license.
11 And so ultimately all of our elevators, except for
12 those licensed less than seven years, will have a
13 two-year license that's issued to them.

14 Q. For a licensee that is found by the
15 Commission to not be in compliance with your
16 regulations, what are some of the remedies
17 available?

18 A. Well, if -- repeat that question, please.

19 Q. Sure. If there's a licensee that's not in
20 compliance with the Commission's regulations, what
21 are some remedies for that noncompliance?

22 A. Well, I think we would work with that
23 licensee to bring them into compliance. Depending
24 on what the situation is, staff may visit with our
25 attorney about maybe some alternative action that

1 should be taken, or eventually in some cases we
2 could end up doing -- going to our Commission with
3 a recommendation to have a formal complaint.

4 Q. With the annual license renewal, is there
5 formal Commission action taken on each renewal?

6 A. There is not. The renewals are reviewed
7 by staff, and generally one of the grain warehouse
8 inspectors will do most of the review of those
9 applications, and if he has any questions or
10 concerns, he will bring those to my attention and
11 then I will determine how we should proceed from
12 there.

13 Q. Okay.

14 A. If there's --

15 Q. If there was an issue with a licensee
16 being out of compliance, when's that typically
17 discovered by Commission staff?

18 A. I think it could be different with every
19 instance.

20 Q. Okay. Is -- like an annual review, would
21 that be a typical time at the license renewal?

22 A. Sometimes there are, let's say, at a
23 renewal a document may come in that doesn't contain
24 everything that it's required to have. Before we
25 would renew that license, we would make that

1 applicant revise that document and resubmit it.
2 Once we have all items that are then correctly
3 submitted, we would go ahead and renew the license.

4 Q. Okay. And you've talked about having some
5 inspectors. Can you describe for me what the
6 inspectors do at the Commission.

7 A. Okay. We have two grain warehouse
8 inspectors. One recently retired and we will be --
9 hope to be filling that position in the near
10 future, but the inspectors visit the elevators and
11 they look at the books to verify that there is a
12 sufficient amount of inventory to cover grain
13 obligations. They will look at contracts to make
14 sure that contracts have been signed. They will
15 measure the grain. If they see anything that is
16 concerning, they will take whatever kind of action
17 is necessary. They may contact me at the office
18 for direction. They may -- if they find something
19 that needs to be corrected, would write it in a
20 document called a memorandum of adjustment, and
21 then the licensee would have 30 days to file
22 whatever documents they need in response to that
23 memorandum of adjustment.

24 Q. Okay.

25 A. If they see something significant, again,

1 they would bring that to my attention and we would
2 have to determine, possibly visit with legal, how
3 to proceed from there.

4 Q. Okay. You said if there's something
5 concerning, they may contact you. So let's --
6 let's say in 2014 -- 2015, this past -- past year,
7 how often would you be contacted by your grain
8 inspectors while they're doing an inspection?

9 A. Wow. Occasionally. I don't know that I
10 can give you a number.

11 Q. Okay.

12 A. It would be a random guess.

13 Q. Would you say less than half?

14 A. Yes.

15 Q. Okay. Do you know how many inspections
16 were done in, let's say, 2015?

17 A. I don't have the number off the top of my
18 head. I looked at a report for the last quarter,
19 and I believe we had completed 31 examinations that
20 consisted of 38 facilities. That number was
21 probably low because of the time of the year,
22 Christmas, New Year's, Thanksgiving.

23 Q. Of those 31 inspections, how many -- how
24 often were you contacted by the inspector while
25 they were doing an inspection?

1 A. I really don't have a definite answer.

2 Q. More than four?

3 A. Without actually having the list in front
4 of me and knowing the examinations and thinking
5 about what was written on them, I really can't give
6 you a number.

7 Q. I don't know if you identified, but can
8 you identify for me the two grain warehouse
9 inspectors that were working for the Commission in
10 2014?

11 A. They would be Timothy Erdmann and Michael
12 McNamee.

13 Q. Okay. How long have you worked with Tim
14 Erdmann?

15 A. Tim Erdmann worked for the Commission I
16 believe it was 16 or 18 years and I worked with him
17 his entire time.

18 Q. For that whole time were you Tim's
19 supervisor?

20 A. No.

21 Q. Okay. Were you ever Tim's supervisor?

22 A. Yes.

23 Q. Okay. When did you become Tim's
24 supervisor?

25 A. In 2004.

1 Q. Okay. What all are your duties in
2 supervising the grain warehouse inspectors?

3 A. Well, my duties would be to -- I mean I'm
4 responsible for their actions. I review their
5 memorandums. I -- if I need them to -- they
6 ultimately -- basically are responsible for setting
7 up their own examination schedule. If I need to
8 redirect them in a different direction, I would do
9 that. Generally the responsibilities that any
10 supervisor would have. I do their performance
11 evaluations. If there is something that I need to
12 bring to their attention in their -- as a
13 supervisor, then I do that as well.

14 Q. Okay. So in reviewing memorandums of
15 adjustment, can you describe how that process
16 works?

17 A. Okay. The inspectors will complete their
18 examination, issue what's called the memorandum of
19 adjustment. That memorandum will contain
20 anything -- it will identify anything that needs to
21 be addressed. So, as an example, if -- if
22 conversion hasn't happened in a certain period of
23 time, that would be addressed on a memorandum. If
24 there were contracts that weren't signed that had
25 to be signed, that would be addressed in a

1 memorandum. Those are created by the inspector.
2 They are reviewed with the elevator personnel,
3 whoever -- either the manager, bookkeeper, whoever
4 was helping with that examination, and then they
5 will be signed. And once they are signed, then a
6 copy will be provided to me so that I can review
7 them and I am aware of what took place at -- during
8 each one of the examinations. And if there is
9 subsequent follow-up, that is my responsibility.

10 Q. So you don't necessarily make changes to
11 the memorandums before they're issued?

12 A. I don't ever make a change to a memorandum
13 because it has been signed by both parties once
14 they have reviewed what's in it.

15 Q. So it's created by the inspectors at
16 the -- at the warehouse facility?

17 A. Right at the examination. Correct.

18 Q. Okay. You talked about performance
19 evaluations. Can you describe that -- the process
20 for that at the Commission?

21 A. Well, we have a set performance evaluation
22 that takes place in May of each year. We have a
23 written document that we go through with our
24 inspectors, and I evaluate the performance
25 throughout the course of the year. If there is

1 something that has come up outside -- at a
2 different time in the year that I would need to
3 address -- to visit with an inspector on, I would
4 do so at that time and therefore it would not be
5 included in that annual performance evaluation.

6 Q. But if there were large problems, that
7 would be in those performance evaluations; is that
8 right?

9 A. If I saw something that I felt was a large
10 problem and something that was not acceptable, then
11 I would put it into that evaluation unless it was
12 something that was handled and didn't belong in the
13 evaluation.

14 Q. Likewise, if -- if work was satisfactory
15 or very good work, that would also be in a
16 performance evaluation; is that right?

17 A. Yes. I would evaluate what I felt they
18 were -- how the inspector was doing his job.

19 Q. Okay. And so for each year that you've
20 been supervising Tim Erdmann, you'd have a written
21 performance evaluation for him; is that right?

22 A. Yes.

23 Q. Okay. Do you recall any of those
24 performance evaluations for Tim?

25 A. Not specifically.

1 Q. Okay. Do you recall the general --
2 generally what -- whether they were good
3 evaluations or bad evaluations?

4 A. I don't recall ever having anything -- any
5 significant concern that I have identified in an
6 evaluation for Tim Erdmann.

7 Q. What's your impression of Tim -- Tim's
8 work while you've been supervising him at the
9 Commission?

10 MR. ARMSTRONG: I'm going to object at
11 this point. I mean I think her opinion of Tim's
12 work at the Commission is one thing. I mean I
13 think she's gone over and explained her performance
14 evaluations. I don't know what that would possibly
15 have to do with Grand Forks Bean's insolvency. And
16 certain portions of performance evaluations are
17 confidential by statute in addition, so depending
18 on the specific of nature of it -- I mean if you
19 can relate it to Grand Forks Bean, that's one
20 thing, but, you know, her opinion of Tim is really
21 not admissible evidence or even calculated to lead
22 to in this case.

23 MR. SCHROEDER: Are you directing the
24 witness to not answer the question?

25 MR. ARMSTRONG: How is her opinion of Tim

1 related to admissible evidence? That would help me
2 explain whether I direct her to not answer the
3 question or not.

4 MR. SCHROEDER: The annual inspections is
5 one of the issues and one of the pieces of
6 evidence, and so related to that is supervision of
7 the inspectors.

8 MR. ARMSTRONG: So what was your question
9 again? Her general opinion of Tim over 16 to
10 18 years of his work at the Commission?

11 MR. SCHROEDER: I believe the question was
12 what is your general opinion of Tim's work at the
13 Commission while you've been his supervisor.

14 MR. ARMSTRONG: You can go ahead and
15 answer subject to my objection.

16 THE WITNESS: Tim has been a very good
17 employee for the Commission. Tim -- I would
18 classify Tim as an excellent employee, and I don't
19 believe I've ever given Tim an evaluation that did
20 not warrant excellent performance.

21 (Deposition Exhibit 1 was marked for
22 identification.)

23 Q. (MR. SCHROEDER CONTINUING) Okay. I'm
24 going to show you what's been marked as Deposition
25 Exhibit No. 1, and I'll represent to you these --

1 this is from the Commission's responses to our --
2 Bremer Bank's requests for the production of
3 documents. Can you look at that -- that document.

4 A. Yes.

5 MR. GAUSTAD: Counsel, this is Dan
6 Gaustad. Can you identify the Bates number on the
7 document?

8 MR. SCHROEDER: I'll go ahead and have the
9 deponent do that.

10 Q. (MR. SCHROEDER CONTINUING) Can you
11 identify the document -- the Bates stamp document
12 number on the bottom of that.

13 A. 2074, PSC 2074.

14 Q. And what is that document?

15 A. The title is Frequently Asked Questions,
16 credit-sale contract indemnity fund.

17 Q. Are you familiar with that document?

18 A. Yes, I am.

19 Q. Okay. Did you -- how are you familiar
20 with it?

21 A. I'm familiar with it because I was
22 involved when it was drafted initially back in
23 2003, and then I have been -- I have -- I mailed it
24 to all of our licensees. I have provided this on a
25 number of occasions to -- or directed through the

1 Commission's website anyone that has asked for
2 information -- most anyone that has asked for
3 information about the credit-sale contract
4 indemnity fund. I've used it -- or I've -- I've
5 updated it, actually, so it's -- I'm very familiar
6 with it.

7 Q. Was anybody else involved in the drafting
8 of this document?

9 A. The initial drafting, yes.

10 Q. Okay. So the initial drafting, who all
11 was involved with that?

12 A. It would have been the division director
13 at that time, our attorney at that time and members
14 of the agriculture community also were involved.

15 Q. Okay. Was a similar process used when the
16 document was revised?

17 A. I don't believe I used the members of the
18 industry, but I would have visited with my counsel.

19 Q. On the first page of that document, can
20 you read the statement after Q3.

21 A. NDCC Subsection -- Sections 60-02-01(2)
22 and 60-02.1-01(2) define a credit-sale contract as,
23 ellipsis, a written contract for the sale of grain
24 pursuant to which the sale price is to be paid or
25 may be paid more than 30 days after the delivery or

1 release of the grain for sale and which contains
2 the notice provided in ND Admin Code Section
3 69-07-03-06, period. Where a part of the sale
4 price of a contract for the sale of grain is to be
5 paid or may be paid more than 30 days after the
6 delivery or release of the grain for sale, only
7 such part of the contract is a credit-sale
8 contract. A credit-sale contract must be signed to
9 be valid and enforceable.

10 (Deposition Exhibit 2 was marked for
11 identification.)

12 Q. (MR. SCHROEDER CONTINUING) All right.
13 Now I'm handing you what's been marked as
14 Deposition Exhibit No. 2. It's Bates stamp 2084
15 through 2093. Can you identify that document for
16 me?

17 A. It's a page from a PowerPoint
18 presentation, credit-sale contract definition.

19 Q. Do you recognize the document?

20 A. Yes.

21 Q. Okay. How do you recognize it?

22 A. I created it.

23 Q. Okay. What was the purpose in creating
24 this PowerPoint presentation?

25 A. Well, I created a number of them. I

1 created this -- without knowing a little bit more
2 information regarding which page has been provided
3 to me, it was possibly for a presentation to
4 industry, either in the format of a -- maybe when I
5 did a series of credit-sale contract training
6 sessions or it may have been used during a
7 presentation that I did online. I guess based on
8 what I have, I can't say exactly the purpose.

9 Q. You just talked about a series of
10 credit-sale contract training seminars?

11 A. Mm-hmm.

12 Q. Can you describe what those are for me.

13 A. In 2004, I believe it was, while we had --
14 the Commission had been collecting the indemnity
15 fund assessments and we had become aware of some
16 concerns that we were repeatedly seeing with the
17 industry when they were being submitted, so I
18 created this credit-sale contract indemnity fund, a
19 presentation, and we had seminars, meetings that
20 the industry could attend in different parts of the
21 state. And we would explain what a credit-sale
22 contract is and the kinds of -- what you see on
23 here, kinds of contracts and talked about the
24 assessments and collections and so forth in an
25 effort to resolve some of those issues that we had

1 been seeing.

2 Q. By industry, who do you mean? What are
3 you -- who are you identifying by using that term?

4 A. That had been -- all of our licensees were
5 invited to participate.

6 Q. Looking at the first page of that
7 Exhibit 2, can you read the first line for me, the
8 reference to the definition.

9 A. NDCC Sections 60-02-01(2) and
10 60-02.1-01(2).

11 Q. Okay. And is that the definition you were
12 using for a credit-sale contract on this first page
13 here?

14 A. That would be the definition I always use
15 because it comes right out of statute.

16 Q. Okay.

17 (Deposition Exhibit 3 was marked for
18 identification.)

19 Q. (MR. SCHROEDER CONTINUING) Now I'll show
20 you what's been marked as Deposition Exhibit No. 3.
21 It's Bates numbers 2094 through 2104. Can you
22 describe what that document is.

23 A. The name of the -- at the top of the
24 document is Buying Grain in North Dakota, and I
25 believe this was the presentation that I organized

1 when we had an online education outreach effort to
2 grain buyers, roving grain buyers.

3 Q. Okay.

4 (Deposition Exhibit 4 was marked for
5 identification.)

6 Q. (MR. SCHROEDER CONTINUING) Now I'll show
7 you what's been marked as Deposition Exhibit No. 4.
8 It's Bates numbers 2105 through 2112. Do you
9 recognize that document?

10 A. Yes, I do.

11 Q. And what is that?

12 A. It's the North Dakota Public Service
13 Commission Grain Warehouse & Grain Buyer
14 Examination Manual.

15 Q. Okay. Is this something that was used by
16 you in your work at the Commission?

17 A. This manual was recently created, and it
18 is an abbreviated version of the full examination
19 manual that we use.

20 Q. You said it was recently created. How
21 recent?

22 A. I believe we completed this -- drafted
23 this in 2015, I believe.

24 Q. And you were involved in drafting this; is
25 that right?

1 A. Yes, I was in -- the inspectors and our
2 counsel and I worked on this. I'm rethinking the
3 date. I believe we started working on this
4 probably in the middle of 2014.

5 Q. And you said this is an abbreviated
6 version of a full manual?

7 A. Yes. We have a complete grain warehouse
8 examination manual that was drafted when we started
9 our examination program, which was back -- must
10 be somewhere around 20 years ago, and then I
11 revised that manual to include a safety section and
12 to expand from being geared toward grain warehouse
13 examinations to grain buyer examinations. And I
14 did that, I believe, around 2005. And then
15 following an -- an audit of -- at the Commission,
16 we drafted this manual to be used as a -- like I
17 said, abbreviated, something that can be handed to
18 industry that -- a little bit more clearly and
19 without getting into all the detail that's included
20 in our manual, that can be given to industry so
21 they would know what to expect during an
22 examination.

23 Q. Okay. So you would say the material in
24 here fairly reflects in an abbreviated version that
25 full manual?

1 A. Yes. Fairly well. Not a hundred percent.

2 Q. And so the purpose of this abbreviated one
3 was really to give to your licensees; is that true?

4 A. Correct.

5 Q. Okay. I'll have you turn to page 3. It's
6 Bates 2108. I'll have you read the material that
7 starts after point 3 in the middle of that page
8 where it says, "During the examination, the
9 inspector will."

10 A. Point 3 says, "Conduct a document check of
11 the following to insure compliance.

12 "A, all open assembly records.

13 "B, all open warehouse receipts.

14 "C, all unpaid credit-sale contracts.

15 D, a randomly selected group of scale
16 tickets."

17 Do you want me to go on to 4?

18 Q. No. That's -- that's fine. Thank you.

19 A. Sorry.

20 Q. In your supervision of Tim Erdmann, you --
21 you understood that he followed these examination
22 procedures; is that right?

23 A. When I am thinking about and working on my
24 evaluation, I do not open it up and go through what
25 I think Tim has done at each evaluation. What I do

1 is I evaluate what I see and what I hear, what I
2 visited with Tim, what -- I'm -- you know, he's
3 done examinations. Is he -- is he getting his
4 exams conducted? Is he providing me with the
5 memorandums once they've been issued? Is he
6 visiting with me about something that he finds
7 concerning? Is he, you know, conducting as many
8 exams as we want him to conduct? That's the type
9 of thing that's in my mind when I am preparing an
10 examination -- or when I'm preparing a performance
11 evaluation.

12 (Deposition Exhibit 5 was marked for
13 identification.)

14 Q. (MR. SCHROEDER CONTINUING) I'll show you
15 what's been marked as Deposition Exhibit No. 5.
16 It's Bates numbers 2113 and 2114. Do you recognize
17 that document?

18 A. Yes.

19 Q. Okay. And what is that?

20 A. It's a You Should Know brochure.

21 MR. GAUSTAD: I'm sorry. What were the
22 Bates numbers again?

23 THE REPORTER: I'm sorry. Who's speaking?

24 MR. GAUSTAD: Dan Gaustad. I apologize.

25 THE REPORTER: Thank you.

1 MR. SCHROEDER: 2113 and 2114.

2 MR. GAUSTAD: 2113?

3 MR. ARMSTRONG: 2113.

4 MR. GAUSTAD: Thank you.

5 Q. (MR. SCHROEDER CONTINUING) And who is
6 the -- so this is a publication created by the
7 Public Service Commission; is that right?

8 A. Yes.

9 Q. Okay. Is this something you would have
10 drafted?

11 A. No.

12 Q. No. Okay.

13 Who would have?

14 A. This was drafted quite a number of years
15 ago. I believe that the director at that time took
16 the lead with input from the attorney at that time
17 and myself.

18 Q. So you did have at least some part in
19 drafting the document, then?

20 A. I had some input.

21 Q. Okay. And who was the intended audience
22 with this -- this document?

23 A. I believe the intended audience would be
24 anyone that is selling grain or maybe has questions
25 regarding selling grain.

1 Q. So generally like farmers?

2 A. Farmers or I would direct someone that --
3 from another state maybe that was interested in
4 buying too. Probably anybody. Mostly farmers,
5 yes.

6 Q. And you said this was drafted by the
7 division director at the time. Who -- what's the
8 name of that individual?

9 A. It was Jon Mielke.

10 Q. And then looking at the top, do you see
11 where it says Rev. January 2015?

12 A. Yes.

13 Q. What -- what does that mean?

14 A. That means it was revised in January of
15 2015.

16 Q. Okay. Do you know who it was revised by?
17 That's an awkward question.

18 A. I believe that it is our -- the person
19 that's responsible for our public contact
20 information. I believe the reason it was revised
21 at that time is because we had a change of
22 commissioners.

23 Q. So as far as you know, the substantive
24 material, other than changing the names of the
25 commissioners, wasn't revised?

1 A. To the best of my knowledge, I believe
2 that's -- all that was changed on here was the
3 commissioners. The contents was not changed, the
4 contents of what it says.

5 Q. It would have just been the names on the
6 left-hand side of that first page?

7 A. The names. I'm not sure if the TD --
8 TDD/TTY number was on there at that time. That's
9 why I say the contents wasn't changed.

10 Q. Sure. I'll have you read the top -- the
11 first page, the top of the right-hand column
12 through that first bullet point.

13 A. "Credit-Sale Contracts and Indemnify Fund.
14 Delayed price and deferred payment contracts are
15 examples of credit-sale contracts. State law
16 defines credit-sale contracts as written grain sale
17 contracts that provide that the sale price may be
18 paid more than 30 days after the delivery or
19 release of the grain for sale."

20 Continue?

21 Q. No. That's fine. I'll have you turn to
22 the second -- second page there. Under where it
23 says Storage Rates and Handling Fees, in the second
24 column can you read that last bullet point?

25 A. "Farmers should not confuse storage rates

1 with credit-sale contract service or handling
2 charges," paren, "delayed price and deferred
3 payment-type transactions," paren. "These fees are
4 not regulated and are governed by the terms of the
5 contract that is entered into by the buyer and the
6 seller."

7 Q. Can you explain to me what that means.

8 A. That means that there is a difference
9 between a storage charge and a service charge.

10 Q. Okay. And what is a storage charge?

11 A. A storage charge is what is charged on a
12 warehouse receipt/storage contract.

13 Q. Okay. And what's a service charge then?

14 A. A service charge or fee is what an
15 elevator may assess on a credit-sale contract.

16 Q. And so storage -- storage fees, are those
17 regulated by the Commission?

18 A. Correct.

19 Q. Okay. And so there's specific statutes
20 and rules; we could go read about those?

21 A. Yes.

22 Q. But a service fee, those are entirely
23 unregulated; is that right?

24 A. Yes.

25 MR. SCHROEDER: Okay. I'm thinking a

1 five-minute break might be a good idea right now.

2 Let's go off the record.

3 (Recessed at 10:11 a.m. and reconvened at
4 10:24 a.m.)

5 MR. SCHROEDER: We'll go back on the
6 record.

7 (Deposition Exhibit 6 was marked for
8 identification.)

9 Q. (MR. SCHROEDER CONTINUING) I'm showing
10 you what's been marked as Deposition Exhibit No. 6.
11 It is Bates numbers 2272 through 2289. Now, I'm
12 looking through it and it looks like it does skip
13 some numbers within that. Generally, do you
14 recognize those documents?

15 A. Yes.

16 Q. Okay. And what are those?

17 A. Those are my notes that I -- phone
18 numbers, names in order to help refresh my memory
19 that I put on my tablets when I'm talking on the
20 phone.

21 MR. ARMSTRONG: Counsel, I'm looking -- I
22 apologize for interrupting. I'm looking at the
23 production here, and I don't -- I would just note
24 that it is incomplete, missing some pages, versus
25 what was produced. So I just want the record to

1 note that it's incomplete. I can get another copy,
2 complete, if you'd like. I can't remember which
3 pages we're missing, but some are.

4 THE WITNESS: 74, 79 through 84, 87, 88.

5 MR. SCHROEDER: Why don't we just go off
6 the record for a second.

7 (Recessed at 10:26 a.m. and reconvened at
8 10:31 a.m.)

9 Q. (MR. SCHROEDER CONTINUING) We're back on
10 the record. So now we're looking at what's been --
11 the previous Exhibit 6 has been withdrawn, and
12 what's been marked as Deposition Exhibit 6, it's
13 Bates numbers 2272 through 2292. Do you recognize
14 what those documents are?

15 A. Yes.

16 Q. Okay. And what are they?

17 A. Those are pages from my notebook where I
18 will write down phone numbers, names of callers and
19 often little words that kind of help remind me at a
20 later point in time of what I talked to them about.

21 Q. And looking at the -- the first page of
22 those notes, are these notes dated?

23 A. Sporadically.

24 Q. Okay. Do you see about halfway down
25 there's an 11-18-14 --

1 A. Yes.

2 Q. -- on the left-hand side? Does that
3 signify November 18, 2014?

4 A. Yes.

5 Q. Okay. And then about two-thirds of the
6 way down the page, there's a little star on the
7 left-hand side. What is that note a reference to
8 next to the star?

9 A. That -- I put a star on -- in front of
10 each one of the numbers that were related to --
11 that were on my list that related to Grand Forks
12 Bean Company.

13 Q. And the -- the first star on this
14 page 2272, what was the note referring to there?

15 A. It was a -- the phone number for Curt
16 Amundson who had called me to talk about Grand
17 Forks Bean.

18 Q. And the reference to 300,000 to 400,000 --
19 or 340,000, do you see that?

20 A. Yes.

21 Q. Do you recall what that note is to
22 signify?

23 A. I'm going to guess that that probably was
24 what he gave me maybe as a value of the beans that
25 he believed he had at Grand Forks Bean.

1 Q. Do you see on the right-hand side there's
2 a little number 2?

3 A. Yes.

4 Q. It looks like the notes may be cut off
5 there. Do you recall what that note says next to
6 the little number 2?

7 A. No. Brad N.

8 Q. Do you recall, was this the first page of
9 notes that you produced in your responses to Bremer
10 Bank's discovery requests in this matter?

11 A. Yes, for this kind -- this document.

12 Q. Okay.

13 A. This is the first page.

14 Q. Do you have any other notes like this
15 involving Grand Forks Bean prior to 11-18-2014?

16 A. My first phone call was on the 18th, so
17 no.

18 Q. And by "first phone call," what do you
19 mean?

20 A. The first time I was contacted by a farmer
21 that -- and Mr. Amundson contacted me asking about
22 redelivery, and following that phone call I -- the
23 Commission -- received a number of calls on the
24 same topic, Grand Forks Bean.

25 Q. I'll have you turn to the page marked

1 2273. Do you see the first star on the left-hand
2 side there?

3 A. Yes.

4 Q. Who is that a reference to, that note?

5 A. That was Jesse at Erickson & Associates,
6 and that was a name that was given to me by Tad
7 McGurk when I contacted him about the phone call
8 that I had received from Curt Amundson and I was
9 inquiring about the amount of inventory. Tad gave
10 me the name. I called Jesse and Jesse called me
11 back, so therefore he's on the list.

12 Q. And what date would Jesse have spoken to
13 you then?

14 A. The date one line up was from 11-19, so
15 most likely the 19th of November.

16 Q. Then I'll have you go down to the next
17 star where it's 11-25-14. Do you see that one?

18 A. Yes.

19 Q. Okay. And what does that note signify?

20 A. 218-779 -- I assume that most likely Curt
21 placed a call to me again and we talked about Grand
22 Forks Bean. Also must have talked about the three
23 loads that WJS Nelson had delivered in 2014 to
24 Grand Forks Bean.

25 Q. Do you recall anything else in that

1 conversation?

2 A. No. I mean I --

3 Q. I'll have you look at the third star down.
4 Do you see that?

5 A. Yes.

6 Q. Okay. And what is that note a reference
7 to?

8 A. I believe Curt Amundson would have called
9 me on that day again.

10 Q. And what day was that?

11 A. That would have been on the 11-26, I
12 believe.

13 Q. And what did you and Curt discuss on the
14 26th?

15 A. Well, I wrote, Price later contract. To
16 the right I wrote, No response regarding the
17 contract. We must have talked about a 2013 date
18 because it was on here. And, again, WJS and three
19 loads, we must have discussed the three loads that
20 WJS Nelson delivered to the elevator.

21 Q. I'll have you turn to the page marked
22 2275. Do you see the star about halfway down the
23 page there?

24 A. Yes.

25 Q. Okay. I guess going back to the top, do

1 you see 12-16-14 at the top?

2 A. Yes.

3 Q. Is that a reference to December 16, 2014?

4 A. Yes.

5 Q. Okay. So the note with the star on that
6 page, what's the -- that note a reference to?

7 A. Brent Baldwin. I have, Redelivery and
8 Grand Forks Bean, asked for beans back. So I --
9 Brent and I must have discussed taking redelivery
10 of the beans that he had delivered to Grand Forks
11 Bean.

12 Q. Do you recall anything else of that
13 conversation?

14 A. No.

15 Q. I'll have you turn to what's been marked
16 2276. I'll just have you go through each of the
17 notes on this page, if you would.

18 A. Okay. I -- the first one would have been
19 I talked to Ron Adams, Ron -- regarding obviously
20 it must have been Grand Forks Bean, and I was given
21 a Hotmail address. Maybe I was asked to send
22 something to him because they gave me that address,
23 but I -- I have these notes and I can tell you what
24 these notes say, but I can't tell you what the
25 entire rest of my conversation was with any of the

1 callers.

2 Q. Okay.

3 A. Russ Melland, Camrud law firm, I -- his
4 name is on here, his phone number is on here. I
5 know I talked to Russ Melland on more than one
6 occasion. And so I must, again, have had a
7 discussion with Russ on the Grand Forks Bean.

8 Chuck Nelson -- and I think as I go
9 through these, it will probably be the same thing.
10 Talked to Russ Melland about Grand Forks Bean.
11 Chuck Nelson from Thompson, North Dakota, Grand
12 Forks Bean, copy of contract and documents. I
13 don't recall if I asked him if he had a copy of
14 contract and documents or he may have asked me for
15 a copy of contracts and documents.

16 And then I talked to Joel, who is the
17 attorney that was representing the Grand Forks Bean
18 estate. I have Tad on here. We must have talked
19 about that. They had beans in the warehouse at --
20 you know, during the course of this period, we were
21 working on a stipulation with Mr. Arnason.

22 Q. I'll stop you there. Do you recall the
23 date that all of these notes were for?

24 A. Some of the dates I can tell you exactly
25 because I actually wrote the date on here, but if I

1 did not put a date on here, then I know it's only
2 between that range, but not the exact date.

3 Q. Okay. So do you see partway down where
4 it's 12-23-14?

5 A. Yes.

6 Q. Okay. So those notes would have been
7 before December 23, 2014?

8 A. Yes. I would guess 12-18 was on the prior
9 page, and I don't -- didn't put a date on here
10 again until the 23rd. So each of those phone
11 conversations took place somewhere between the 18th
12 and the 23rd.

13 Q. Okay.

14 A. I would guess the Joel Arnason one was
15 probably before the 23rd because of the location of
16 the 23rd.

17 Q. Okay. So if there's reference to a faxed
18 contract or copy of contract, if that was something
19 that your office had provided to the farmer or the
20 farmer had sent to the Commission, that would have
21 been in your production of documents that you sent
22 to me; is that right?

23 A. It should have been included.

24 Q. Okay. Based on these notes, your
25 testimony is that you're not specifically recalling

1 any of these conversations?

2 A. I had a lot of conversations and I
3 would -- can honestly say I don't specifically
4 remember those conversations. Again, I would
5 remember the gist of them, but I couldn't tell you
6 what every one is, you know.

7 Q. Well, let's start with Curt Amundson. So
8 in November and December 2013, what things did you
9 discuss with Curt Amundson?

10 A. Well, the first call that I had from Curt
11 Amundson he had told me that he delivered beans.
12 Grand Forks Bean was unable to market those beans.
13 He had visited with Tad McGurk who had stepped in
14 as a manager after his brother, Todd, passed away.
15 He'd asked Tad to redeliver his beans and was told
16 that Tad would redeliver him, and his first call to
17 me was regarding whether he was entitled to
18 redelivery of the gross or the net amount of the
19 beans that he had delivered.

20 Q. I guess I'll go with Nick Adams. Do you
21 recall in November and December 2014 the things you
22 discussed with Nick Adams?

23 A. I remember more of my conversations with
24 Curt because I recall them to be more detailed, and
25 often when he called me, he was calling -- you

1 know, kind of representative, if you will, of some
2 of the other people. So when Ron Adams called me,
3 I don't remember specifically what I talked to Ron
4 about.

5 Q. I guess I'll ask, so the only specific
6 conversations or the specific topics you remember
7 discussing, that would be with Curt; is that right?

8 A. Most of them. I remember some of the
9 other ones.

10 Q. Okay. What other ones do you remember?

11 A. Well, Brent I remember, if I recall
12 correctly, that -- and I note on here that the
13 farmers, I believe, were getting together for some
14 type of a meeting.

15 Q. And where is that note?

16 A. That would be the second one down on page
17 marked 2276. They were meeting Monday at nine
18 o'clock. Fax contract and assembly. I believe
19 that when I -- after I got my first call from Curt
20 and I had contacted the elevator and requested
21 documents, those documents included assemblies, and
22 if I recall correctly, I believe I faxed a copy of
23 the contracts and the assemblies.

24 Q. Faxed a copy to Brent?

25 A. To Brent -- I believe to Brent Baldwin. I

1 have -- I faxed them more than one occasion, so I
2 believe I faxed them to other people as well.

3 Q. Okay.

4 A. And I think some of those would show in
5 my -- if I kept the e-mail, it would show in there.
6 I mean sometimes I accidentally delete them, so if
7 I have it, it's there.

8 Chuck Nelson, again, the same thing, I
9 don't -- you know, a copy of the contract and
10 documents, I'm assuming that Chuck very likely
11 asked me to copy -- send him a copy of those
12 contracts and documents. Again, the conversation
13 was -- with Joel was related to keeping those beans
14 in the facility, making sure that they didn't go
15 anyplace until -- and keeping those beans. You
16 know, ultimately we worked on a stipulation, but
17 the Commission was concerned that these beans that
18 the elevator was agreeing to redeliver to the
19 farmers, that they would stay in the elevator until
20 everything could be figured out.

21 Q. Okay.

22 A. Russ Melland, I believe -- I don't know if
23 it was the call earlier or later when he told me
24 that he was representing the farmers, and I believe
25 I told him, you know, just what we had talked about

1 and that we had asked, you know, for Grand Forks
2 Bean to, you know, give us some assurance that they
3 were keeping the beans in the facility. I
4 recall -- I believe I asked either Russ or Russ
5 and/or the farmers that if they -- because
6 everybody was worried about the beans staying in
7 the elevator -- if they saw any activity, to please
8 let me know, and I gave Russ my personal cell phone
9 number.

10 Q. Okay.

11 A. Chuck Nelson, Beth Nelson, mailed PSC
12 docs -- e-mailed PSC docs on file. I'm
13 wondering -- I mean by this time we were getting --
14 through the 24th we were getting documents filed to
15 us in the form of a claim, and so I'm guessing that
16 some of these may have had to do with what they
17 need to send to us if they want to file a claim.

18 Q. Okay.

19 A. Then, Curt, do we have to send individual
20 items? I'm guessing he asked me about what he
21 needs to submit to us, how many documents he needs
22 to submit.

23 Q. All right. Well, I'll stop you on that
24 page.

25 A. All right.

1 (Deposition Exhibit 7 was marked for
2 identification.)

3 Q. (MR. SCHROEDER CONTINUING) I'll show you
4 what's been marked as Deposition Exhibit No. 7,
5 Bates numbers 2295 and 2296. Do you recognize what
6 those are?

7 A. Yes.

8 Q. Okay. And what are those documents?

9 A. That is an e-mail that consists of
10 questions that Commissioner Christmann asked of me
11 regarding Grand Forks Bean and the responses that I
12 gave to him.

13 Q. Okay. And reading the -- the questions
14 and those responses, are those responses to those
15 questions, are those all true?

16 A. Yes.

17 Q. Okay. I'll have you look at the page
18 marked 2296, and that's discussing the -- an
19 unacceptable contract. Do you know what that's a
20 reference to?

21 A. Well, that was in reference to the
22 question that the commissioner asked me about when
23 they began using this contract that was sent to me
24 but was different than the -- this price later
25 marketing agreement which was different than the

1 price later agreement that was on file in our
2 office.

3 Q. Okay. And you had a conversation with Tim
4 Erdmann about that difference; is that right?

5 A. Yes, I did.

6 Q. Okay. What did you and Tim discuss?

7 A. Well, Tim and I discussed -- I just
8 brought it to his attention that we -- that I was
9 provided with a copy of a contract that I did not
10 recognize. It was not in our office, and I asked
11 Tim if he had seen that contract. He looked at it
12 and he said that he -- I mean he reviewed the
13 contracts to see if they had signatures, the ones
14 that he looked at, and that they did have
15 signatures on them. And he said that the language
16 that was missing -- the required credit-sale
17 contract language missing from this contract was an
18 oversight. As I mentioned before, Tim is a very
19 excellent employee and this is not something I had
20 come across before. So I called him to talk to him
21 about it.

22 Q. The reference to missing language, what
23 does that mean?

24 A. Well, when we get a credit-sale contract
25 filed in our office, I open up my book to the law

1 and I compare what the law says to what's on the
2 contract, and if each one of the items required in
3 our credit-sale contract law is not on that item,
4 then we will ask for that contract to be revised so
5 everything that's required to be on the contract is
6 on that contract. And the elevator is required to
7 submit any new contract that they are using prior
8 to their use of the document.

9 Q. And so using a contract that's not on file
10 with the Commission, is that something that would
11 be part of that remedying a violation that we
12 discussed earlier?

13 A. If a licensee is using a contract that
14 isn't on file -- if a licensee is using a contract
15 that doesn't comply, the inspectors look at those
16 contracts and can write them up.

17 Q. That might be in a memorandum of
18 adjustment?

19 A. It would be -- if they write them up, then
20 it would be in a memorandum of adjustment.

21 Q. Can I have you go back to the page that's
22 2295, the first page of Exhibit 7.

23 A. Yes.

24 Q. Okay. There is multiple dates on there.
25 What do all those dates signify?

1 A. Those would have been dates when an
2 examination was conducted and a memorandum of
3 adjustment either was issued or you'll see two
4 dates when a memorandum was not issued.

5 Q. It looks like the -- if there was no
6 review of the Grand Forks Bean's records by the
7 inspector, there was no memorandum of adjustment
8 issued; is that --

9 A. Correct.

10 Q. -- fair to say?

11 A. Correct.

12 Q. And so we should have a memorandum of
13 adjustment that would coincide to those -- those
14 dates?

15 A. Yes, you should.

16 Q. Would you agree that if there were a
17 problem with a licensee's documents, that during
18 the inspection that would be the time that the --
19 it would -- it should have been brought to the
20 licensee's attention by the inspector?

21 A. If the license -- if the inspector looked
22 at the contract and believed something was missing,
23 he would bring it to the attention of the licensee.

24 Q. And would you agree the licensee is going
25 to rely on the inspector saying these documents are

1 in order?

2 MR. ARMSTRONG: I'll object. That calls
3 for speculation. She can answer to the extent she
4 knows.

5 THE WITNESS: Can you ask me again,
6 please?

7 Q. (MR. SCHROEDER CONTINUING) Yep. Would
8 you agree that a licensee would rely on the
9 inspector having reviewed the documents and not
10 noting any issues with the documents, that the
11 licensee would believe those documents to be
12 proper?

13 A. If I'm understanding your question, I
14 don't think so.

15 Q. So if I'm a licensee and the governmental
16 body that oversees my operations comes in, looks at
17 all of my records of my business and says there's
18 no problem with these records, would I be
19 reasonable in believing that my records are -- are
20 valid, proper documents in my business?

21 MR. BEEHLER: I guess I've got to --

22 THE REPORTER: I'm sorry. Who's speaking
23 and can you speak up?

24 MR. BEEHLER: This is Beehler. I've got
25 to object. That's a pretty vague question.

1 MR. ARMSTRONG: Same objection. It calls
2 for speculation as well.

3 THE WITNESS: I'm not sure how I should
4 answer that, to be honest. I'm not sure how to
5 answer that. The law requires our licensees to
6 submit documents to our office. They are not to
7 use any documents unless they have been filed with
8 the office and I have gotten back to them to let
9 them know that the document is acceptable or not.
10 Before the elevator started using them, did the
11 elevator think at some point in time they had sent
12 them to me and they were acceptable? I don't know.
13 I can't answer that. If an inspector looked at a
14 contract and had a concern, I would have -- he most
15 likely would have visited -- should have visited
16 with the elevator about it.

17 Q. (MR. SCHROEDER CONTINUING) So if the
18 Commission representative comes and looks at my
19 documents and doesn't tell me anything is wrong
20 with them, I can assume that those are correct,
21 acceptable documents; is that right?

22 MR. ARMSTRONG: Same objection. Asked and
23 answered also.

24 THE WITNESS: I don't know what he's going
25 to assume.

1 Q. (MR. SCHROEDER CONTINUING) Do you recall
2 any conversations with any of the commissioners
3 regarding Grand Forks Bean that would not be part
4 of a recorded public meeting?

5 A. As I recall, we had some closed meetings
6 where we went into closed executive session. I
7 don't recall any specific meetings, but I tried to
8 keep Commissioner Christmann informed of where we
9 were with Grand Forks Bean because he is the
10 portfolio holder.

11 Q. Do you recall any of those -- what was
12 discussed in those conversations with Commissioner
13 Christmann?

14 A. One that sticks out in my mind relates to
15 the gist of the conversation that was in this
16 contract -- that was in this e-mail here about the
17 use of the contract and the oversight which was,
18 again, something that I was not used to seeing. We
19 had more conversations when we got into the
20 liquidation. I don't know if you want me to talk
21 about that or not.

22 Q. No. That's fine.

23 A. All right.

24 MR. SCHROEDER: Could we maybe take just a
25 five-minute break. I want to just organize where

1 I'm at and see what's maybe left.

2 MR. ARMSTRONG: Works for me.

3 (Recessed at 11:12 a.m. and reconvened at
4 11:19 a.m.)

5 MR. SCHROEDER: We'll go back on the
6 record.

7 Q. (MR. SCHROEDER CONTINUING) A follow-up
8 question about some of your duties at the
9 Commission. So do -- are you involved at all in
10 drafting legislation that gets proposed --

11 A. Yes.

12 Q. -- by the Commission?

13 Okay. Were you involved at all in the
14 creation of the credit-sale indemnity fund
15 legislation?

16 A. Very minimally because I -- the director
17 at the time was the one that did the majority of
18 the work.

19 Q. And that would have been Jon?

20 A. For me it would -- that would have been
21 Jon. For me my role really would have been more
22 does it make sense, are there typos, that kind of
23 thing.

24 Q. Okay.

25 A. Can I further answer that? We -- well,

1 after I became the director, we did have some minor
2 changes to the credit-sale contract indemnity fund
3 language, and so that was one that I was working on
4 drafting the language.

5 Q. Okay. So legislation after --

6 A. The fund was created.

7 Q. -- 2004, 2005 --

8 A. It would have been '5 or '7 --

9 Q. -- you would have been --

10 (The reporter interrupted the proceedings
11 due to participants speaking simultaneously.)

12 THE WITNESS: Sorry. I apologize.

13 Q. (MR. SCHROEDER CONTINUING) So after you
14 became the licensing director, you would have been
15 at least heavily involved in drafting that
16 legislation?

17 A. Yes.

18 (Deposition Exhibit 8 was marked for
19 identification.)

20 Q. (MR. SCHROEDER CONTINUING) I show you
21 what's been marked as Deposition Exhibit No. 8. Do
22 you recognize -- it's Bates number 452.

23 A. Yes.

24 Q. Do you recognize what that is?

25 A. Yes.

1 Q. And what is that document?

2 A. It's an e-mail from me to Russ Melland.

3 Q. And what -- what was the purpose of this
4 e-mail?

5 A. The purpose was to provide a copy of a
6 judge's order in the Grabanski insolvency, I
7 believe in response to a question regarding
8 credit-sale contracts.

9 Q. Okay. And so was that -- providing that
10 order, was that requested by Mr. Melland?

11 A. Most likely.

12 Q. Okay. And why did -- why did you provide
13 that -- that particular order?

14 A. As I recall, a number of our -- our
15 conversations with -- in the beginning of
16 Grabanski -- or in the beginning of Grand Forks
17 Bean went to the price later marketing agreement
18 that was provided to us and whether it was a
19 credit-sale contract. So when I was getting calls,
20 I was referring and would think about what the
21 judge's order in Grabanski had laid out.

22 (Deposition Exhibit 9 was marked for
23 identification.)

24 Q. (MR. SCHROEDER CONTINUING) I show you
25 what's been marked as Exhibit 9. Do you recognize

1 that document, which is Bates stamped 480?

2 A. Yes.

3 Q. And what is it?

4 A. It was a letter to me from Jon Brakke
5 referring to our discussion of the Grand Forks Bean
6 situation and notifying the Commission through me
7 that he had been retained by Curt Amundson and the
8 Nelson estate to represent their interests.

9 Q. And do you recall what you discussed in
10 that conversation?

11 A. Not specifically.

12 Q. Okay. And then did you -- at the bottom
13 of the letter, did you provide a copy of the
14 Grabanski grain order to Mr. Brakke?

15 A. Yes.

16 Q. Okay.

17 A. I believe I did, as well as the signed
18 stipulation.

19 Q. Is that basically for the same reasons of
20 why you provided it to Mr. Melland?

21 A. Yes. I believe Mr. Melland and Mr. Brakke
22 were -- had questions regarding that price later
23 marketing agreement, and as I had mentioned earlier
24 and I saw in one of the e-mails, that we were not
25 making -- I was not making an opinion and neither

1 was our legal counsel one way or the other
2 regarding that price later marketing agreement that
3 was used, and directed callers to contact attorneys
4 for their guidance. I assume that's what this was
5 about.

6 Q. So you just said you and legal counsel
7 didn't make a determination whether these were
8 credit-sale contracts or not; is that true?

9 A. We did not and it is not our practice to
10 make a determination regarding anything that may be
11 a claim when we receive documents because I will
12 look at them, legal will look at them, our
13 inspector will look at them, and then after all
14 interested parties and all staff have looked at
15 them, then we will make what we believe they will
16 be, like a -- it is a credit-sale contract, it
17 isn't, it's a cash claim, it's not a cash claim.
18 We will take that recommendation to our Commission.
19 Then the Commission will -- either they agree with
20 staff or they don't agree with staff, and then that
21 will be reflected in our report and recommendation.
22 And I think that it is important and I always -- we
23 always let the callers know that we're not the
24 decision-maker, the judge is the decision-maker.
25 So the Commission does no more than make a

1 recommendation based on the information that we
2 have available to us regarding claims.

3 (Deposition Exhibit 10 was marked for
4 identification.)

5 Q. (MR. SCHROEDER CONTINUING) I'll show you
6 what's been marked as Deposition Exhibit No. 10.
7 Do you recognize that document, which is Bates
8 stamped 478?

9 A. It's an e-mail to -- from Dan Gaustad to
10 me.

11 Q. Okay. Do you -- it references a
12 conversation. Do you recall anything from that
13 conversation on January 8 of 2015?

14 A. To the best of my knowledge, I'm going to
15 believe it was similar to the other conversations
16 that I'd had.

17 Q. Which was what?

18 A. Him letting us know that he'd been
19 retained. He asked for a copy of the documents
20 that we had from the growers, including his
21 clients, regarding the Grand Forks Bean facility,
22 the documents that we had obtained from Grand Forks
23 Bean, and then refer -- and then the Grand Forks --
24 or the Grabanski grain decision regarding the
25 judge's decision on credit-sale contracts.

1 Q. And so you sent to Dan a copy of that
2 decision?

3 A. I sent it to all three attorneys as
4 requested.

5 MR. SCHROEDER: Okay. I think that's all
6 I have. I don't know if any other counsel wanted
7 to ask any questions.

8 MR. ARMSTRONG: Dan, Brad or Russ, it
9 would be one of your people's turn, whoever's up,
10 if you have any questions.

11 MR. BEEHLER: This is Beehler. I have
12 none.

13 MR. GAUSTAD: This is Dan Gaustad. I have
14 none.

15 MR. MELLAND: Russ Melland. I have none.

16 MR. ARMSTRONG: And I have none. She'll
17 read and sign.

18 (Concluded at 11:30 a.m., the same day.)

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CERTIFICATE OF DEPONENT

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I, **SUSAN RICHTER**, the deponent in the foregoing deposition,

DO HEREBY CERTIFY that I have read the foregoing and attached 61 typewritten pages, and that the same are, with changes or corrections, if any, set forth on the following correction sheets (setting forth the reason assigned for each change or correction, and duly signed by me), a full, true, accurate and correct transcript of my deposition on oral examination given at the time and place therein indicated.

Dated this ____ day of _____, 2016.

SUSAN RICHTER

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CERTIFICATE OF COURT REPORTER AND NOTARY PUBLIC

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

BE IT KNOWN that I, Stephanie A. Smith, a Registered Professional Reporter, took the deposition herein pursuant to notice or agreement; that I was then and there a Notary Public in and for said County and State; that I exercised the power of that office in taking said deposition; that by virtue thereof, I was then and there authorized to administer an oath; that said witness, before testifying, was duly sworn to testify the truth, the whole truth and nothing but the truth relative to the cause specified therein;

That the said deposition, having been transcribed, was subsequently submitted by me to the said witness, who thereupon read the said deposition and made changes or corrections, if any, as appear noted therein, along with the reason for each thereof, and that the said deposition was thereupon subscribed to by the said witness; that the examination was conducted at the time and place therein specified on behalf of the respective parties as therein indicated; that the foregoing and attached typewritten pages contain a full, true, accurate and correct transcript of my shorthand notes, as they purport to contain, then and there taken;

That I am neither attorney or counsel for, nor related to or employed by, any of the parties to the action in which said deposition is taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

WITNESS MY HAND AND SEAL this _____ day of _____, 2016.

STEPHANIE A. SMITH
Court Reporter and Notary Public
My Commission expires: 6-19-16

	15:16, 27:23, 32:11, 32:15, 60:13	48 [1] - 4:20 480 [1] - 58:1	A
78 [1] - 8:1	2016 [4] - 1:20, 5:10, 62:16, 63:22 2074 [2] - 22:13 2084 [1] - 24:14 2093 [1] - 24:15 2094 [1] - 26:21 21 [1] - 4:11 2104 [1] - 26:21 2105 [1] - 27:8 2108 [1] - 29:6 2112 [1] - 27:8 2113 [4] - 30:16, 31:1, 31:2, 31:3 2114 [2] - 30:16, 31:1 218-779 [1] - 39:20 22 [1] - 4:19 2272 [3] - 35:11, 36:13, 37:14 2273 [1] - 39:1 2275 [1] - 40:22 2276 [2] - 41:16, 45:17 2289 [1] - 35:11 2292 [1] - 36:13 2295 [2] - 48:5, 50:22 2296 [2] - 48:5, 48:18 23 [1] - 43:7 23rd [4] - 43:10, 43:12, 43:15, 43:16 24 [2] - 3:4, 4:13 24th [1] - 47:14 26 [1] - 4:14 26th [1] - 40:14 27 [1] - 4:16	5 5 [5] - 4:3, 4:17, 30:12, 30:15, 56:8 500 [1] - 3:11 56 [1] - 4:21 57 [1] - 4:22 5758 [1] - 3:4 58201 [1] - 2:23 58206-5758 [1] - 3:5 58208-5849 [1] - 3:12 5849 [1] - 3:12 58502-0460 [1] - 2:5 58505-0480 [1] - 2:10	a.m. [8] - 5:10, 35:3, 35:4, 36:7, 36:8, 55:3, 55:4, 61:18 abbreviated [5] - 27:18, 28:5, 28:17, 28:24, 29:2 above-entitled [1] - 5:2 acceptable [5] - 11:10, 19:10, 53:9, 53:12, 53:21 accidentally [1] - 46:6 accurate [2] - 62:12, 63:16 action [6] - 9:4, 12:25, 13:5, 14:16, 63:19, 63:20 actions [1] - 17:4 activity [1] - 47:7 ADAMS [2] - 3:14 Adams [4] - 41:19, 44:20, 44:22, 45:2 addition [3] - 8:17, 9:16, 20:17 address [3] - 19:3, 41:21, 41:22 addressed [3] - 17:21, 17:23, 17:25 adjustment [9] - 14:20, 14:23, 17:15, 17:19, 50:18, 50:20, 51:3, 51:7, 51:13 adjustments [1] - 10:15 Admin [1] - 24:2 administer [1] - 63:8 admissible [2] - 20:21, 21:1 adopts [1] - 11:18 ago [2] - 28:10, 31:15 agree [5] - 51:16, 51:24, 52:8, 59:19, 59:20 agreeing [2] - 11:18, 46:18 agreement [6] - 48:25, 49:1, 57:17, 58:23, 59:2, 63:5 agriculture [1] - 23:14 ahead [3] - 14:3, 21:14, 22:8 ALTENDORF [1] - 3:7 alternative [1] - 12:25 amount [4] - 11:8, 14:12, 39:9, 44:18 Amundson [8] - 37:16, 38:21, 39:8, 40:8, 44:7, 44:9, 44:11, 58:7 AND [4] - 3:7, 3:14, 63:1, 63:21 annual [7] - 12:1, 12:4, 13:4, 13:20, 19:5, 21:4 answer [12] - 6:9, 6:12, 6:15, 16:1, 20:24, 21:2, 21:15, 52:3, 53:4, 53:5, 53:13, 55:25 answered [1] - 53:23 anyplace [1] - 46:15 anyway [1] - 6:6
1		6 6 [6] - 4:18, 4:21, 35:7, 35:10, 36:11, 36:12 6-19-16 [1] - 63:24 60 [1] - 4:23 60-02-01(2) [2] - 23:21, 26:9 60-02.1-01(2) [1] - 23:22 60-02.1-01(2) [1] - 26:10 600 [1] - 2:9 61 [1] - 62:7 62 [1] - 4:5 63 [1] - 4:6 69-07-03-06 [1] - 24:3	
1 [4] - 4:10, 12:6, 21:21, 21:25 10 [3] - 4:23, 60:3, 60:6 100 [1] - 2:15 10:11 [1] - 35:3 10:24 [1] - 35:4 10:26 [1] - 36:7 10:31 [1] - 36:8 11-18-14 [1] - 36:25 11-18-2014 [1] - 38:15 11-19 [1] - 39:14 11-25-14 [1] - 39:17 11-26 [1] - 40:11 11:12 [1] - 55:3 11:19 [1] - 55:4 11:30 [1] - 61:18 12-16-14 [1] - 41:1 12-18 [1] - 43:8 12-23-14 [1] - 43:4 122 [3] - 1:19, 2:4, 5:7 14 [1] - 1:20 14519 [1] - 2:15 14th [1] - 5:9 16 [3] - 16:16, 21:9, 41:3 18 [3] - 16:16, 21:10, 37:3 18-2015-CV-00240 [1] - 1:7 18th [2] - 38:16, 43:11 19 [1] - 4:19 1978 [1] - 7:5 1980 [1] - 8:2 1983 [2] - 7:23, 7:24 1984 [1] - 7:23 19th [1] - 39:15	3 3 [6] - 4:14, 26:17, 26:20, 29:5, 29:7, 29:10 30 [5] - 4:17, 14:21, 23:25, 24:5, 33:18 300,000 [1] - 37:18 31 [2] - 15:19, 15:23 3100 [1] - 2:22 340,000 [1] - 37:19 35 [1] - 4:18 38 [1] - 15:20	7 7 [5] - 4:19, 48:1, 48:4, 50:22, 56:8 74 [1] - 36:4 79 [1] - 36:4	
2		8 8 [6] - 4:21, 4:22, 4:23, 56:18, 56:21, 60:13 84 [1] - 36:4 87 [1] - 36:4 88 [1] - 36:4	
2 [6] - 4:12, 24:10, 24:14, 26:7, 38:2, 38:6 20 [1] - 28:10 200 [1] - 2:22 2003 [1] - 22:23 2004 [4] - 7:8, 16:25, 25:13, 56:7 2005 [3] - 7:9, 28:14, 56:7 2011..... [1] - 4:11 2013 [2] - 40:17, 44:8 2014 [9] - 4:19, 15:6, 16:10, 28:4, 37:3, 39:23, 41:3, 43:7, 44:21 2015 [12] - 4:17, 4:21, 4:22, 4:23, 12:4, 12:6, 15:6,	4 4 [4] - 4:15, 27:4, 27:7, 29:17 400,000 [1] - 37:18 4000 [1] - 2:15 401 [1] - 3:11 408 [1] - 2:9 452 [1] - 56:22 460 [1] - 2:4 478 [1] - 60:8	9 9 [3] - 4:22, 57:22, 57:25 9:11 [1] - 5:10	

apologize [3] - 30:24, 35:22, 56:12
appear [1] - 63:12
APPEARANCES [1] - 1:23
appearing [1] - 5:11
applicant [2] - 11:1, 14:1
application [4] - 10:25, 11:1, 11:2, 11:5
applications [5] - 9:2, 10:5, 10:8, 10:9, 13:9
appointed [1] - 7:8
approve [1] - 11:17
approved [1] - 7:9
area [1] - 8:14
ARMSTRONG [13] - 2:2, 20:10, 20:25, 21:8, 21:14, 31:3, 35:21, 52:2, 53:1, 53:22, 55:2, 61:8, 61:16
Armstrong [2] - 2:3, 5:7
Arnason [2] - 42:21, 43:14
AS [1] - 1:23
aspects [1] - 9:20
assemblies [2] - 45:21, 45:23
assembly [2] - 29:12, 45:18
assess [1] - 34:15
assessments [2] - 25:15, 25:24
assign [1] - 11:21
assigned [1] - 62:10
assistance [2] - 8:13, 8:14
Associates [1] - 39:5
ASSOCIATION [1] - 2:25
assume [5] - 6:16, 39:20, 53:20, 53:25, 59:4
assuming [1] - 46:10
assurance [1] - 47:2
attached [2] - 62:7, 63:15
attend [1] - 25:20
attention [6] - 13:10, 15:1, 17:12, 49:8, 51:20, 51:23
attorney [6] - 12:25, 23:13, 31:16, 42:17, 63:18, 63:20
attorneys [2] - 59:3, 61:3
Attorneys [5] - 2:3, 2:14, 2:21, 3:3, 3:11
auction [2] - 9:17, 9:18
audience [2] - 31:21, 31:23
audit [1] - 28:15
August [1] - 12:6
authorized [1] - 63:8
AUTO [1] - 2:17
Auto [2] - 1:8, 5:24
AUTO-OWNERS [1] - 2:17
Auto-Owners [2] - 1:8, 5:24
available [2] - 12:17, 60:2
Avenue [4] - 1:19, 2:4, 3:11, 5:8
aware [2] - 18:7, 25:15

awkward [1] - 32:17

B

bad [1] - 20:3
Bakke [2] - 2:2, 5:6
BALDWIN [2] - 3:6
Baldwin [2] - 41:7, 45:25
BANK [1] - 2:24
Bank's [2] - 22:2, 38:10
based [3] - 25:7, 43:24, 60:1
basis [4] - 12:4, 12:7, 12:8, 12:10
Bates [14] - 22:6, 22:11, 24:14, 26:21, 27:8, 29:6, 30:16, 30:22, 35:11, 36:13, 48:5, 56:22, 58:1, 60:7
BE [1] - 63:4
Bean [26] - 1:8, 5:24, 20:19, 37:12, 37:17, 37:25, 38:15, 38:24, 39:22, 39:24, 41:8, 41:11, 41:20, 42:7, 42:10, 42:12, 42:17, 44:12, 47:2, 48:11, 54:3, 54:9, 57:17, 58:5, 60:21, 60:23
Bean's [2] - 20:15, 51:6
beans [13] - 37:24, 41:8, 41:10, 42:19, 44:11, 44:12, 44:15, 44:19, 46:13, 46:15, 46:17, 47:3, 47:6
became [2] - 56:1, 56:14
become [4] - 8:9, 10:13, 16:23, 25:15
becoming [1] - 8:25
BEEHLER [4] - 2:13, 52:21, 52:24, 61:11
Beehler [2] - 52:24, 61:11
began [1] - 48:23
beginning [2] - 57:15, 57:16
behalf [2] - 5:11, 63:14
belong [1] - 19:12
best [2] - 33:1, 60:14
Beth [1] - 47:11
between [3] - 34:9, 43:2, 43:11
Bismarck [4] - 1:19, 2:5, 2:10, 5:8
bit [3] - 7:21, 25:1, 28:18
body [1] - 52:16
bond [2] - 11:7
book [1] - 49:25
bookkeeper [1] - 18:3
books [1] - 14:11
bottom [2] - 22:12, 58:12
Boulevard [1] - 2:9
Box [4] - 2:4, 2:15, 3:4, 3:12
Brad [2] - 38:7, 61:8
BRADLEY [1] - 2:13
Brakke [3] - 58:4, 58:14,

58:21
break [4] - 6:18, 6:19, 35:1, 54:25
Bremer [2] - 22:2, 38:9
BREMER [1] - 2:24
Brent [6] - 41:7, 41:9, 45:11, 45:24, 45:25
BRENT [1] - 3:6
bring [5] - 12:23, 13:10, 15:1, 17:12, 51:23
Broadway [3] - 1:19, 2:4, 5:7
brochure [1] - 30:20
brother [1] - 44:14
brought [2] - 49:8, 51:19
budgeting [1] - 10:20
bullet [2] - 33:12, 33:24
Burleigh [1] - 5:9
BURLEIGH [1] - 63:3
business [2] - 52:17, 52:20
Buyer [2] - 4:15, 27:13
buyer [2] - 28:13, 34:5
buyers [2] - 27:2
buying [1] - 32:4
Buying [2] - 4:14, 26:24
BY [1] - 5:20

C

calculated [1] - 20:21
callers [4] - 36:18, 42:1, 59:3, 59:23
Camrud [2] - 3:10, 42:3
case [2] - 5:23, 20:22
Case [1] - 1:7
cases [1] - 13:1
cash [2] - 59:17
cell [1] - 47:8
certain [3] - 11:23, 17:22, 20:16
CERTIFICATE [4] - 4:5, 4:6, 62:1, 63:1
CERTIFY [1] - 62:6
Chain..... [1] - 4:20
change [5] - 12:5, 18:12, 32:21, 62:10
changed [3] - 33:2, 33:3, 33:9
changes [5] - 10:12, 18:10, 56:2, 62:8, 63:12
changing [1] - 32:24
charge [7] - 10:20, 34:9, 34:10, 34:11, 34:13, 34:14
charged [1] - 34:11
charges [1] - 34:2
check [1] - 29:10
Christensen [1] - 3:3
Christmann [3] - 48:10, 54:8, 54:13

Christmas [1] - 15:22
CHUCK [1] - 3:14
Chuck [5] - 42:8, 42:11, 46:8, 46:10, 47:11
City [1] - 5:8
claim [5] - 47:15, 47:17, 59:11, 59:17
CLAIMANT [1] - 2:24
CLAIMANTS [2] - 3:6, 3:13
claims [1] - 60:2
classification [1] - 7:9
classify [1] - 21:18
clearly [1] - 28:18
clients [1] - 60:21
closed [2] - 54:5, 54:6
closely [1] - 8:12
Code [1] - 24:2
coincide [1] - 51:13
collecting [1] - 25:14
collections [1] - 25:24
Columbia [1] - 2:22
column [2] - 33:11, 33:24
commencing [1] - 5:10
Commission [48] - 1:5, 2:8, 4:17, 5:23, 6:24, 7:4, 7:11, 7:15, 7:25, 8:9, 9:4, 9:13, 9:23, 10:3, 11:16, 11:17, 11:18, 12:15, 13:2, 13:5, 13:17, 14:6, 16:9, 16:15, 18:20, 20:9, 20:12, 21:10, 21:13, 21:17, 25:14, 27:13, 27:16, 28:15, 31:7, 34:17, 38:23, 43:20, 46:17, 50:10, 53:18, 55:9, 55:12, 58:6, 59:18, 59:19, 59:25, 63:24
COMMISSION [1] - 2:11
Commission's [3] - 12:20, 22:1, 23:1
commissioner [1] - 48:22
Commissioner [3] - 48:10, 54:8, 54:12
commissioners [4] - 32:22, 32:25, 33:3, 54:2
community [1] - 23:14
company [1] - 11:1
Company [3] - 1:8, 1:8, 37:12
COMPANY [1] - 2:18
compare [1] - 50:1
complaint [1] - 13:3
complaints [1] - 9:1
complete [3] - 17:17, 28:7, 36:2
completed [3] - 11:5, 15:19, 27:22
compliance [8] - 10:11, 10:16, 11:15, 12:15, 12:20, 12:23, 13:16, 29:11
compliant [1] - 11:3
comply [1] - 50:15

<p>components [1] - 11:13</p> <p>concern [2] - 20:5, 53:14</p> <p>concerned [1] - 46:17</p> <p>concerning [3] - 14:16, 15:5, 30:7</p> <p>concerns [3] - 8:10, 13:10, 25:16</p> <p>Concluded [1] - 61:18</p> <p>conduct [2] - 29:10, 30:8</p> <p>conducted [3] - 30:4, 51:2, 63:14</p> <p>conducting [1] - 30:7</p> <p>confidential [1] - 20:17</p> <p>confuse [1] - 33:25</p> <p>consisted [1] - 15:20</p> <p>consists [2] - 8:20, 48:9</p> <p>Cont'd [1] - 3:1</p> <p>contact [6] - 8:19, 8:20, 14:17, 15:5, 32:19, 59:3</p> <p>contacted [6] - 15:7, 15:24, 38:20, 38:21, 39:7, 45:20</p> <p>contain [6] - 11:13, 11:14, 13:23, 17:19, 63:15, 63:16</p> <p>contains [1] - 24:1</p> <p>contents [3] - 33:3, 33:4, 33:9</p> <p>continue [1] - 33:20</p> <p>continued [1] - 10:23</p> <p>CONTINUING [18] - 21:23, 22:10, 24:12, 26:19, 27:6, 30:14, 31:5, 35:9, 36:9, 48:3, 52:7, 53:17, 54:1, 55:7, 56:13, 56:20, 57:24, 60:5</p> <p>Contract [1] - 4:11</p> <p>contract [49] - 22:16, 23:3, 23:22, 23:23, 24:4, 24:7, 24:8, 24:18, 25:5, 25:10, 25:18, 25:22, 26:12, 34:1, 34:5, 34:12, 34:15, 40:15, 40:17, 42:12, 42:14, 43:18, 45:18, 46:9, 48:19, 48:23, 49:9, 49:11, 49:17, 49:24, 50:2, 50:3, 50:4, 50:5, 50:6, 50:7, 50:9, 50:13, 50:14, 51:22, 53:14, 54:16, 54:17, 56:2, 57:19, 59:16</p> <p>contracts [17] - 14:13, 14:14, 17:24, 25:23, 29:14, 33:14, 33:15, 33:16, 33:17, 42:15, 45:23, 46:12, 49:13, 50:16, 57:8, 59:8, 60:25</p> <p>Contracts [1] - 33:13</p> <p>Contracts..... [1] - 4:13</p> <p>conversation [9] - 40:1, 41:13, 41:25, 46:12, 49:3, 54:15, 58:10, 60:12, 60:13</p> <p>conversations [11] - 43:11, 44:1, 44:2, 44:4, 44:23, 45:6, 54:2, 54:12, 54:19,</p>	<p>57:15, 60:15</p> <p>conversion [1] - 17:22</p> <p>copy [16] - 18:6, 36:1, 42:12, 42:13, 42:15, 43:18, 45:22, 45:24, 46:9, 46:11, 49:9, 57:5, 58:13, 60:19, 61:1</p> <p>correct [10] - 11:6, 11:7, 18:17, 29:4, 34:18, 51:9, 51:11, 53:20, 62:12, 63:16</p> <p>corrected [1] - 14:19</p> <p>correction [2] - 62:9, 62:11</p> <p>corrections [2] - 62:8, 63:12</p> <p>correctly [3] - 14:2, 45:12, 45:22</p> <p>counsel [10] - 5:10, 22:5, 23:18, 28:2, 35:21, 59:1, 59:6, 61:6, 63:18, 63:20</p> <p>COUNTY [2] - 1:3, 63:3</p> <p>County [2] - 5:8, 63:6</p> <p>course [2] - 18:25, 42:20</p> <p>Court [1] - 63:24</p> <p>court [2] - 5:25, 6:7</p> <p>COURT [3] - 1:2, 4:6, 63:1</p> <p>courtesy [1] - 6:11</p> <p>cover [1] - 14:12</p> <p>created [10] - 18:1, 18:15, 24:22, 24:25, 25:1, 25:18, 27:17, 27:20, 31:6, 56:6</p> <p>creating [1] - 24:23</p> <p>creation [1] - 55:14</p> <p>Credit [2] - 4:11, 4:13</p> <p>credit [27] - 22:16, 23:3, 23:22, 24:7, 24:8, 24:18, 25:5, 25:10, 25:18, 25:21, 26:12, 29:14, 33:13, 33:15, 33:16, 34:1, 34:15, 49:16, 49:24, 50:3, 55:14, 56:2, 57:8, 57:19, 59:8, 59:16, 60:25</p> <p>Credit-Sale [2] - 4:11, 4:13</p> <p>credit-sale [27] - 22:16, 23:3, 23:22, 24:7, 24:8, 24:18, 25:5, 25:10, 25:18, 25:21, 26:12, 29:14, 33:13, 33:15, 33:16, 34:1, 34:15, 49:16, 49:24, 50:3, 55:14, 56:2, 57:8, 57:19, 59:8, 59:16, 60:25</p> <p>Curt [13] - 37:15, 39:8, 39:20, 40:8, 40:13, 44:7, 44:9, 44:10, 44:24, 45:7, 45:19, 47:19, 58:7</p> <p>cut [1] - 38:4</p>	<p>5:9, 26:24, 27:12, 42:11</p> <p>Dakota..... [1] - 4:14</p> <p>Dan [6] - 22:5, 30:24, 60:9, 61:1, 61:8, 61:13</p> <p>DANIEL [1] - 3:2</p> <p>date [9] - 28:3, 39:12, 39:14, 40:17, 42:23, 42:25, 43:1, 43:2, 43:9</p> <p>Dated [1] - 62:15</p> <p>dated [1] - 36:22</p> <p>dates [6] - 42:24, 50:24, 50:25, 51:1, 51:4, 51:14</p> <p>days [4] - 14:21, 23:25, 24:5, 33:18</p> <p>December [5] - 4:19, 41:3, 43:7, 44:8, 44:21</p> <p>decision [5] - 59:24, 60:24, 60:25, 61:2</p> <p>decision-maker [2] - 59:24</p> <p>deferred [2] - 33:14, 34:2</p> <p>define [1] - 23:22</p> <p>defines [1] - 33:16</p> <p>definite [1] - 16:1</p> <p>definition [4] - 24:18, 26:8, 26:11, 26:14</p> <p>delayed [2] - 33:14, 34:2</p> <p>delete [1] - 46:6</p> <p>delivered [5] - 39:23, 40:20, 41:10, 44:11, 44:19</p> <p>delivery [3] - 23:25, 24:6, 33:18</p> <p>DeMers [1] - 3:11</p> <p>DEPARTMENT [1] - 2:9</p> <p>DEPONENT [1] - 62:1</p> <p>deponent [2] - 22:9, 62:4</p> <p>DEPONENT..... [1] - 4:5</p> <p>DEPOSITION [3] - 1:14, 4:2, 4:8</p> <p>Deposition [21] - 5:1, 21:21, 21:24, 24:10, 24:14, 26:17, 26:20, 27:4, 27:7, 30:12, 30:15, 35:7, 35:10, 36:12, 48:1, 48:4, 56:18, 56:21, 57:22, 60:3, 60:6</p> <p>deposition [10] - 5:22, 6:3, 62:5, 62:13, 63:5, 63:7, 63:10, 63:12, 63:13, 63:19</p> <p>describe [8] - 8:5, 9:7, 10:22, 14:5, 17:15, 18:19, 25:12, 26:22</p> <p>Description [1] - 4:9</p> <p>designated [1] - 5:22</p> <p>desk [1] - 8:2</p> <p>detail [1] - 28:19</p> <p>detailed [1] - 44:24</p> <p>determination [2] - 59:7, 59:10</p> <p>determine [2] - 13:11, 15:2</p> <p>difference [2] - 34:8, 49:4</p>	<p>different [9] - 9:20, 9:22, 9:25, 13:18, 17:8, 19:2, 25:20, 48:24, 48:25</p> <p>direct [2] - 21:2, 32:2</p> <p>directed [2] - 22:25, 59:3</p> <p>directing [1] - 20:23</p> <p>direction [2] - 14:18, 17:8</p> <p>directly [1] - 9:10</p> <p>director [14] - 7:1, 7:6, 7:8, 7:11, 8:14, 8:16, 9:10, 10:1, 23:12, 31:15, 32:7, 55:16, 56:1, 56:14</p> <p>discovered [1] - 13:17</p> <p>discovery [1] - 38:10</p> <p>discuss [3] - 40:13, 44:9, 49:6</p> <p>discussed [7] - 40:19, 41:9, 44:22, 49:7, 50:12, 54:12, 58:9</p> <p>discussing [2] - 45:7, 48:18</p> <p>discussion [2] - 42:7, 58:5</p> <p>DISTRICT [1] - 1:2</p> <p>division [18] - 7:2, 7:7, 7:10, 7:13, 7:22, 8:3, 8:16, 8:20, 9:8, 9:9, 9:14, 9:16, 9:21, 10:1, 10:4, 10:21, 23:12, 32:7</p> <p>DO [1] - 62:6</p> <p>docs [2] - 47:12</p> <p>document [28] - 13:23, 14:1, 14:20, 18:23, 22:3, 22:7, 22:11, 22:14, 22:17, 23:8, 23:16, 23:19, 24:15, 24:19, 26:22, 26:24, 27:9, 29:10, 30:17, 31:19, 31:22, 38:11, 50:8, 53:9, 57:1, 58:1, 60:7</p> <p>documents [33] - 9:2, 10:9, 10:11, 11:12, 11:23, 14:22, 22:3, 35:14, 36:14, 42:12, 42:14, 42:15, 43:21, 45:21, 46:10, 46:12, 47:14, 47:21, 48:8, 51:17, 51:25, 52:9, 52:10, 52:11, 52:20, 53:6, 53:7, 53:19, 53:21, 59:11, 60:19, 60:22</p> <p>done [5] - 6:10, 10:3, 15:16, 29:25, 30:3</p> <p>down [9] - 6:8, 36:18, 36:24, 37:6, 39:16, 40:3, 40:22, 43:3, 45:16</p> <p>drafted [7] - 22:22, 27:22, 28:8, 28:16, 31:10, 31:14, 32:6</p> <p>drafting [8] - 23:7, 23:9, 23:10, 27:24, 31:19, 55:10, 56:4, 56:15</p> <p>Drive [1] - 2:15</p> <p>DUANE [1] - 3:7</p> <p>due [1] - 56:11</p> <p>duly [3] - 5:17, 62:11, 63:8</p>
D			
	<p>DAKOTA [2] - 1:2, 63:2</p> <p>Dakota [12] - 1:19, 2:5, 2:10, 2:16, 2:23, 3:5, 3:12, 5:6,</p>		

<p>during [6] - 18:7, 25:6, 28:21, 29:8, 42:20, 51:17 duties [6] - 8:6, 8:15, 8:18, 17:1, 17:3, 55:8</p>	<p>63:14 EXAMINATION [1] - 5:19 examinations [7] - 10:14, 15:19, 16:4, 18:8, 28:13, 30:3</p>	<p>filings [1] - 12:1 filling [1] - 14:9 financially [1] - 63:20 fine [3] - 29:18, 33:21, 54:22 firm [1] - 42:3 Firm [1] - 2:14</p>	<p>geared [1] - 28:12 general [4] - 9:13, 20:1, 21:9, 21:12 generally [5] - 13:7, 17:9, 20:2, 32:1, 35:13 gist [2] - 44:5, 54:15 given [6] - 6:2, 21:19, 28:20, 39:6, 41:20, 62:13 governed [1] - 34:4 governmental [1] - 52:15 Grabanski [5] - 57:6, 57:16, 57:21, 58:14, 60:24 Grain [6] - 4:14, 4:15, 26:24, 27:13 grain [28] - 7:21, 8:24, 9:11, 9:16, 10:23, 11:11, 13:7, 14:7, 14:12, 14:15, 15:7, 16:8, 17:2, 23:23, 24:1, 24:4, 24:6, 27:2, 28:7, 28:12, 28:13, 31:24, 31:25, 33:16, 33:19, 58:14, 60:24 GRAND [1] - 1:3 Grand [33] - 1:8, 2:16, 2:23, 3:5, 3:12, 5:23, 20:15, 20:19, 37:11, 37:16, 37:25, 38:15, 38:24, 39:21, 39:24, 41:8, 41:10, 41:20, 42:7, 42:10, 42:11, 42:17, 44:12, 47:1, 48:11, 51:6, 54:3, 54:9, 57:16, 58:5, 60:21, 60:22, 60:23 gross [1] - 44:18 group [1] - 29:15 growers [1] - 60:20 guess [9] - 15:12, 25:7, 37:23, 40:25, 43:8, 43:14, 44:20, 45:5, 52:21 guessing [2] - 47:15, 47:20 guidance [1] - 59:4</p>
E			
<p>E-mail [1] - 4:19 e-mail [6] - 46:5, 48:9, 54:16, 57:2, 57:4, 60:9 E-mail..... [2] - 4:21, 4:23 e-mailed [1] - 47:12 e-mails [1] - 58:24 East [4] - 1:19, 2:4, 2:9, 5:7 education [1] - 27:1 effort [2] - 25:25, 27:1 either [5] - 18:3, 25:4, 47:4, 51:3, 59:19 elevator [14] - 7:22, 9:17, 11:24, 18:2, 34:15, 40:20, 45:20, 46:18, 46:19, 47:7, 50:6, 53:10, 53:11, 53:16 elevators [2] - 12:11, 14:10 ellipsis [1] - 23:23 employed [2] - 63:18, 63:20 employee [4] - 21:17, 21:18, 49:19, 63:19 end [1] - 13:2 enforceable [1] - 24:9 entered [1] - 34:5 entire [2] - 16:17, 41:25 entirely [1] - 34:22 entitled [2] - 5:2, 44:17 Erdmann [7] - 16:11, 16:14, 16:15, 19:20, 20:6, 29:20, 49:4 Erickson [1] - 39:5 estate [2] - 42:18, 58:8 evaluate [3] - 18:24, 19:17, 30:1 evaluation [11] - 18:21, 19:5, 19:11, 19:13, 19:16, 19:21, 20:6, 21:19, 29:24, 29:25, 30:11 evaluations [8] - 17:11, 18:19, 19:7, 19:24, 20:3, 20:14, 20:16 eventually [1] - 13:1 evidence [3] - 20:21, 21:1, 21:6 exact [1] - 43:2 exactly [4] - 7:23, 9:24, 25:8, 42:24 Examination [3] - 4:3, 4:16, 27:14 examination [15] - 5:3, 17:7, 17:18, 18:4, 18:17, 27:18, 28:8, 28:9, 28:22, 29:8, 29:21, 30:10, 51:2, 62:13,</p>	<p>examined [1] - 5:17 example [2] - 9:5, 17:21 examples [1] - 33:15 exams [2] - 30:4, 30:8 excellent [3] - 21:18, 21:20, 49:19 except [1] - 12:11 executive [1] - 54:6 exercised [1] - 63:6 Exhibit [24] - 21:21, 21:25, 24:10, 24:14, 26:7, 26:17, 26:20, 27:4, 27:7, 30:12, 30:15, 35:7, 35:10, 36:11, 36:12, 48:1, 48:4, 50:22, 56:18, 56:21, 57:22, 57:25, 60:3, 60:6 EXHIBITS [1] - 4:8 expand [1] - 28:12 expect [1] - 28:21 expires [1] - 63:24 explain [3] - 21:2, 25:21, 34:7 explained [1] - 20:13 extent [1] - 52:3</p>	<p>first [21] - 5:17, 23:19, 26:6, 26:7, 26:12, 33:6, 33:11, 33:12, 36:21, 37:13, 38:8, 38:13, 38:16, 38:18, 38:20, 39:1, 41:18, 44:10, 44:16, 45:19, 50:22 five [2] - 35:1, 54:25 five-minute [2] - 35:1, 54:25 follow [3] - 10:17, 18:9, 55:7 follow-up [3] - 10:17, 18:9, 55:7 followed [1] - 29:21 following [6] - 5:3, 5:14, 28:15, 29:11, 38:22, 62:9 follows [1] - 5:18 FOR [6] - 2:6, 2:11, 2:17, 2:24, 3:6, 3:13 foregoing [3] - 62:5, 62:7, 63:15 FORKS [1] - 1:3 Forks [33] - 1:8, 2:16, 2:23, 3:5, 3:12, 5:23, 20:15, 20:19, 37:11, 37:17, 37:25, 38:15, 38:24, 39:22, 39:24, 41:8, 41:10, 41:20, 42:7, 42:10, 42:12, 42:17, 44:12, 47:1, 48:11, 51:6, 54:3, 54:9, 57:16, 58:5, 60:21, 60:22, 60:23 form [1] - 47:15 formal [2] - 13:3, 13:5 format [1] - 25:4 forth [3] - 25:24, 62:9, 62:10 Foster [1] - 2:21 four [1] - 16:2 Fourth [1] - 3:4 Frequently [2] - 4:10, 22:15 front [4] - 8:2, 9:4, 16:3, 37:9 full [6] - 5:25, 27:18, 28:6, 28:25, 62:11, 63:15 Fund [2] - 4:11, 33:13 fund [7] - 22:16, 23:4, 25:15, 25:18, 55:14, 56:2, 56:6 future [1] - 14:10</p>	<p>grained [1] - 28:12 general [4] - 9:13, 20:1, 21:9, 21:12 generally [5] - 13:7, 17:9, 20:2, 32:1, 35:13 gist [2] - 44:5, 54:15 given [6] - 6:2, 21:19, 28:20, 39:6, 41:20, 62:13 governed [1] - 34:4 governmental [1] - 52:15 Grabanski [5] - 57:6, 57:16, 57:21, 58:14, 60:24 Grain [6] - 4:14, 4:15, 26:24, 27:13 grain [28] - 7:21, 8:24, 9:11, 9:16, 10:23, 11:11, 13:7, 14:7, 14:12, 14:15, 15:7, 16:8, 17:2, 23:23, 24:1, 24:4, 24:6, 27:2, 28:7, 28:12, 28:13, 31:24, 31:25, 33:16, 33:19, 58:14, 60:24 GRAND [1] - 1:3 Grand [33] - 1:8, 2:16, 2:23, 3:5, 3:12, 5:23, 20:15, 20:19, 37:11, 37:16, 37:25, 38:15, 38:24, 39:21, 39:24, 41:8, 41:10, 41:20, 42:7, 42:10, 42:11, 42:17, 44:12, 47:1, 48:11, 51:6, 54:3, 54:9, 57:16, 58:5, 60:21, 60:22, 60:23 gross [1] - 44:18 group [1] - 29:15 growers [1] - 60:20 guess [9] - 15:12, 25:7, 37:23, 40:25, 43:8, 43:14, 44:20, 45:5, 52:21 guessing [2] - 47:15, 47:20 guidance [1] - 59:4</p>
F			
<p>63:14 EXAMINATION [1] - 5:19 examinations [7] - 10:14, 15:19, 16:4, 18:8, 28:13, 30:3 examined [1] - 5:17 example [2] - 9:5, 17:21 examples [1] - 33:15 exams [2] - 30:4, 30:8 excellent [3] - 21:18, 21:20, 49:19 except [1] - 12:11 executive [1] - 54:6 exercised [1] - 63:6 Exhibit [24] - 21:21, 21:25, 24:10, 24:14, 26:7, 26:17, 26:20, 27:4, 27:7, 30:12, 30:15, 35:7, 35:10, 36:11, 36:12, 48:1, 48:4, 50:22, 56:18, 56:21, 57:22, 57:25, 60:3, 60:6 EXHIBITS [1] - 4:8 expand [1] - 28:12 expect [1] - 28:21 expires [1] - 63:24 explain [3] - 21:2, 25:21, 34:7 explained [1] - 20:13 extent [1] - 52:3</p>	<p>facilities [1] - 15:20 facility [4] - 18:16, 46:14, 47:3, 60:21 fair [1] - 51:10 fairly [2] - 28:24, 29:1 familiar [5] - 6:5, 22:17, 22:19, 22:21, 23:5 far [1] - 32:23 farmer [3] - 38:20, 43:19, 43:20 farmers [8] - 32:1, 32:2, 32:4, 33:25, 45:13, 46:19, 46:24, 47:5 FARMS [1] - 3:7 fax [1] - 45:18 faxed [5] - 43:17, 45:22, 45:24, 46:1, 46:2 fee [3] - 11:6, 34:14, 34:22 Fees [1] - 33:23 fees [2] - 34:3, 34:16 felt [2] - 19:9, 19:17 figured [1] - 46:20 file [7] - 11:1, 14:21, 47:12, 47:17, 49:1, 50:9, 50:14 filed [4] - 10:17, 47:14, 49:25, 53:7 filing [1] - 11:11</p>	<p>gardens [1] - 12:1 garden [1] - 2:15 Gaustad [4] - 22:6, 30:24, 60:9, 61:13 GAUSTAD [7] - 3:2, 22:5, 30:21, 30:24, 31:2, 31:4, 61:13</p>	<p>garden [1] - 2:15 Gaustad [4] - 22:6, 30:24, 60:9, 61:13 GAUSTAD [7] - 3:2, 22:5, 30:21, 30:24, 31:2, 31:4, 61:13</p>
G			
<p>63:14 EXAMINATION [1] - 5:19 examinations [7] - 10:14, 15:19, 16:4, 18:8, 28:13, 30:3 examined [1] - 5:17 example [2] - 9:5, 17:21 examples [1] - 33:15 exams [2] - 30:4, 30:8 excellent [3] - 21:18, 21:20, 49:19 except [1] - 12:11 executive [1] - 54:6 exercised [1] - 63:6 Exhibit [24] - 21:21, 21:25, 24:10, 24:14, 26:7, 26:17, 26:20, 27:4, 27:7, 30:12, 30:15, 35:7, 35:10, 36:11, 36:12, 48:1, 48:4, 50:22, 56:18, 56:21, 57:22, 57:25, 60:3, 60:6 EXHIBITS [1] - 4:8 expand [1] - 28:12 expect [1] - 28:21 expires [1] - 63:24 explain [3] - 21:2, 25:21, 34:7 explained [1] - 20:13 extent [1] - 52:3</p>	<p>facilities [1] - 15:20 facility [4] - 18:16, 46:14, 47:3, 60:21 fair [1] - 51:10 fairly [2] - 28:24, 29:1 familiar [5] - 6:5, 22:17, 22:19, 22:21, 23:5 far [1] - 32:23 farmer [3] - 38:20, 43:19, 43:20 farmers [8] - 32:1, 32:2, 32:4, 33:25, 45:13, 46:19, 46:24, 47:5 FARMS [1] - 3:7 fax [1] - 45:18 faxed [5] - 43:17, 45:22, 45:24, 46:1, 46:2 fee [3] - 11:6, 34:14, 34:22 Fees [1] - 33:23 fees [2] - 34:3, 34:16 felt [2] - 19:9, 19:17 figured [1] - 46:20 file [7] - 11:1, 14:21, 47:12, 47:17, 49:1, 50:9, 50:14 filed [4] - 10:17, 47:14, 49:25, 53:7 filing [1] - 11:11</p>	<p>gardens [1] - 12:1 garden [1] - 2:15 Gaustad [4] - 22:6, 30:24, 60:9, 61:13 GAUSTAD [7] - 3:2, 22:5, 30:21, 30:24, 31:2, 31:4, 61:13</p>	<p>garden [1] - 2:15 Gaustad [4] - 22:6, 30:24, 60:9, 61:13 GAUSTAD [7] - 3:2, 22:5, 30:21, 30:24, 31:2, 31:4, 61:13</p>
H			
<p>63:14 EXAMINATION [1] - 5:19 examinations [7] - 10:14, 15:19, 16:4, 18:8, 28:13, 30:3 examined [1] - 5:17 example [2] - 9:5, 17:21 examples [1] - 33:15 exams [2] - 30:4, 30:8 excellent [3] - 21:18, 21:20, 49:19 except [1] - 12:11 executive [1] - 54:6 exercised [1] - 63:6 Exhibit [24] - 21:21, 21:25, 24:10, 24:14, 26:7, 26:17, 26:20, 27:4, 27:7, 30:12, 30:15, 35:7, 35:10, 36:11, 36:12, 48:1, 48:4, 50:22, 56:18, 56:21, 57:22, 57:25, 60:3, 60:6 EXHIBITS [1] - 4:8 expand [1] - 28:12 expect [1] - 28:21 expires [1] - 63:24 explain [3] - 21:2, 25:21, 34:7 explained [1] - 20:13 extent [1] - 52:3</p>	<p>facilities [1] - 15:20 facility [4] - 18:16, 46:14, 47:3, 60:21 fair [1] - 51:10 fairly [2] - 28:24, 29:1 familiar [5] - 6:5, 22:17, 22:19, 22:21, 23:5 far [1] - 32:23 farmer [3] - 38:20, 43:19, 43:20 farmers [8] - 32:1, 32:2, 32:4, 33:25, 45:13, 46:19, 46:24, 47:5 FARMS [1] - 3:7 fax [1] - 45:18 faxed [5] - 43:17, 45:22, 45:24, 46:1, 46:2 fee [3] - 11:6, 34:14, 34:22 Fees [1] - 33:23 fees [2] - 34:3, 34:16 felt [2] - 19:9, 19:17 figured [1] - 46:20 file [7] - 11:1, 14:21, 47:12, 47:17, 49:1, 50:9, 50:14 filed [4] - 10:17, 47:14, 49:25, 53:7 filing [1] - 11:11</p>	<p>gardens [1] - 12:1 garden [1] - 2:15 Gaustad [4] - 22:6, 30:24, 60:9, 61:13 GAUSTAD [7] - 3:2, 22:5, 30:21, 30:24, 31:2, 31:4, 61:13</p>	<p>half [1] - 15:13 halfway [2] - 36:24, 40:22 hand [6] - 33:6, 33:11, 37:2, 37:7, 38:1, 39:1 HAND [1] - 63:21 handed [1] - 28:17 handing [1] - 24:13 handled [1] - 19:12 handles [1] - 9:18 Handling [1] - 33:23 handling [1] - 34:1 Handwritten [1] - 4:18 head [2] - 6:21, 15:18 hear [1] - 30:1 hearings [1] - 9:5 heavily [1] - 56:15 help [3] - 21:1, 35:18, 36:19</p>

<p>helping [1] - 18:4 HEREBY [1] - 62:6 HEREIN [1] - 1:23 herein [1] - 63:5 hereinbefore [1] - 5:12 hereto [1] - 63:20 hierarchy [1] - 9:8 hmm [2] - 6:21, 25:11 holder [1] - 54:10 honest [1] - 53:4 honestly [1] - 44:3 hope [1] - 14:9 Hotmail [1] - 41:21 hundred [1] - 29:1</p>	<p>19:3, 19:18, 29:9, 51:7, 51:20, 51:21, 51:25, 52:9, 53:13, 59:13 inspectors [18] - 8:21, 9:11, 10:1, 10:14, 13:8, 14:5, 14:6, 14:8, 14:10, 15:8, 16:9, 17:2, 17:17, 18:15, 18:24, 21:7, 28:1, 50:15 instance [1] - 13:19 Insurance [2] - 1:8, 5:24 insurance [2] - 11:9, 11:10 INSURANCE [1] - 2:17 insure [1] - 29:11 insured [1] - 11:11 intended [2] - 31:21, 31:23 interested [3] - 32:3, 59:14, 63:20 interests [1] - 58:8 interim [1] - 7:8 interrupted [1] - 56:10 interrupting [1] - 35:22 inventory [2] - 14:12, 39:9 invited [1] - 26:5 involved [8] - 22:22, 23:7, 23:11, 23:14, 27:24, 55:9, 55:13, 56:15 involves [1] - 10:5 involving [1] - 38:15 issue [4] - 10:15, 11:18, 13:15, 17:18 issued [7] - 12:10, 12:13, 18:11, 30:5, 51:3, 51:4, 51:8 issues [3] - 21:5, 25:25, 52:10 IT [1] - 63:4 item [2] - 11:16, 50:3 items [4] - 10:17, 14:2, 47:20, 50:2</p>	<p style="text-align: center;">K</p> <p>keep [1] - 54:8 keeping [3] - 46:13, 46:15, 47:3 kept [1] - 46:5 kind [7] - 9:3, 10:12, 14:16, 36:19, 38:11, 45:1, 55:22 kinds [2] - 25:22, 25:23 knowing [2] - 16:4, 25:1 knowledge [2] - 33:1, 60:14 KNOWN [1] - 63:4 knows [1] - 52:4</p>	<p>8:6, 8:7, 9:8, 9:14, 9:16, 9:21, 56:14 likely [5] - 39:15, 39:20, 46:10, 53:15, 57:11 likewise [1] - 19:14 line [2] - 26:7, 39:14 liquidation [1] - 54:20 list [3] - 16:3, 37:11, 39:11 loads [3] - 39:23, 40:19 location [1] - 43:15 look [9] - 14:11, 14:13, 22:3, 40:3, 48:17, 50:15, 59:12, 59:13 looked [6] - 15:18, 49:11, 49:14, 51:21, 53:13, 59:14 looking [8] - 9:25, 26:6, 32:10, 35:12, 35:21, 35:22, 36:10, 36:21 looks [5] - 35:12, 38:4, 51:5, 52:16, 53:18 low [1] - 15:21 Ltd [2] - 2:14, 3:10</p>
<p style="text-align: center;">I</p> <p>idea [1] - 35:1 identification [10] - 21:22, 24:11, 26:18, 27:5, 30:13, 35:8, 48:2, 56:19, 57:23, 60:4 identified [2] - 16:7, 20:5 identify [5] - 16:8, 17:20, 22:6, 22:11, 24:15 identifying [1] - 26:3 ILLONA [1] - 2:8 important [2] - 6:7, 59:22 impression [1] - 20:7 IN [1] - 1:2 Inc [1] - 1:8 include [1] - 28:11 included [5] - 11:7, 19:5, 28:19, 43:23, 45:21 including [1] - 60:20 incomplete [2] - 35:24, 36:1 Indemnify [1] - 33:13 indemnity [6] - 22:16, 23:4, 25:14, 25:18, 55:14, 56:2 Indemnity [1] - 4:11 indicated [3] - 5:12, 62:14, 63:15 individual [2] - 32:8, 47:19 industry [7] - 23:18, 25:4, 25:17, 25:20, 26:2, 28:18, 28:20 information [6] - 8:9, 23:2, 23:3, 25:2, 32:20, 60:1 informed [1] - 54:8 initial [2] - 23:9, 23:10 input [2] - 31:16, 31:20 inquiring [1] - 39:9 insolvencies [2] - 8:12, 8:13 insolvency [2] - 20:15, 57:6 inspection [3] - 15:8, 15:25, 51:18 inspections [3] - 15:15, 15:23, 21:4 inspector [12] - 15:24, 18:1,</p>	<p style="text-align: center;">J</p> <p>January [9] - 1:20, 4:17, 4:21, 4:22, 4:23, 5:10, 32:11, 32:14, 60:13 JEFFCOAT [1] - 2:8 JEFFCOAT-SACCO [1] - 2:8 Jesse [4] - 39:5, 39:10, 39:12 job [2] - 6:25, 19:18 Joel [3] - 42:16, 43:14, 46:13 JOHN [1] - 2:20 Jon [4] - 32:9, 55:19, 55:21, 58:4 judge [1] - 59:24 judge's [3] - 57:6, 57:21, 60:25</p>	<p style="text-align: center;">L</p> <p>laid [1] - 57:21 language [5] - 49:15, 49:17, 49:22, 56:3, 56:4 large [2] - 19:6, 19:9 Larson [1] - 3:10 last [2] - 15:18, 33:24 Law [6] - 2:3, 2:14, 2:14, 2:21, 3:3, 3:11 law [6] - 33:15, 42:3, 49:25, 50:1, 50:3, 53:5 lead [2] - 20:21, 31:16 least [2] - 31:18, 56:15 left [5] - 33:6, 37:2, 37:7, 39:1, 55:1 left-hand [4] - 33:6, 37:2, 37:7, 39:1 legal [4] - 15:2, 59:1, 59:6, 59:12 legislation [4] - 55:10, 55:15, 56:5, 56:16 legislative [2] - 9:5, 12:5 less [2] - 12:12, 15:13 letter [2] - 58:4, 58:13 Letter..... [1] - 4:22 letting [1] - 60:18 license [13] - 10:25, 11:6, 11:17, 11:19, 11:21, 11:22, 12:10, 12:13, 13:4, 13:21, 13:25, 14:3, 51:21 licensed [5] - 8:10, 8:25, 10:13, 10:23, 12:12 licensee [13] - 10:13, 12:14, 12:19, 12:23, 13:15, 14:21, 50:13, 50:14, 51:23, 51:24, 52:8, 52:11, 52:15 licensee's [2] - 51:17, 51:20 licensees [6] - 11:25, 12:3, 22:24, 26:4, 29:3, 53:5 licenses [4] - 10:6, 10:8, 12:4, 12:6 licensing [14] - 7:1, 7:7, 7:10, 7:12, 7:18, 7:20, 8:4,</p>	<p style="text-align: center;">M</p> <p>Maddock [1] - 3:10 mail [8] - 4:19, 11:23, 46:5, 48:9, 54:16, 57:2, 57:4, 60:9 mail..... [2] - 4:21, 4:23 mailed [3] - 22:23, 47:11, 47:12 mails [1] - 58:24 majority [1] - 55:17 maker [2] - 59:24 manager [2] - 18:3, 44:14 Manual [1] - 27:14 manual [8] - 27:17, 27:19, 28:6, 28:8, 28:11, 28:16, 28:20, 28:25 Manual..... [1] - 4:16 marked [26] - 21:21, 21:24, 24:10, 24:13, 26:17, 26:20, 27:4, 27:7, 30:12, 30:15, 35:7, 35:10, 36:12, 38:25, 40:21, 41:15, 45:17, 48:1, 48:4, 48:18, 56:18, 56:21, 57:22, 57:25, 60:3, 60:6 Marked [1] - 4:9 market [1] - 44:12 marketing [4] - 48:25, 57:17, 58:23, 59:2 material [3] - 28:23, 29:6, 32:24 matter [2] - 8:24, 38:10 matters [3] - 9:17, 11:2 McGurk [2] - 39:7, 44:13 McNamee [1] - 16:12 mean [12] - 17:3, 20:11,</p>

<p>20:12, 20:18, 26:2, 32:13, 38:19, 40:2, 46:6, 47:13, 49:12, 49:23</p> <p>means [3] - 32:14, 34:7, 34:8</p> <p>measure [1] - 14:15</p> <p>meet [1] - 11:3</p> <p>meeting [3] - 45:14, 45:17, 54:4</p> <p>meetings [3] - 25:19, 54:5, 54:7</p> <p>Melland [9] - 42:3, 42:5, 42:10, 46:22, 57:2, 57:10, 58:20, 58:21, 61:15</p> <p>MELLAND [2] - 3:10, 61:15</p> <p>members [2] - 23:13, 23:17</p> <p>memorandum [13] - 14:20, 14:23, 17:18, 17:19, 17:23, 18:1, 18:12, 50:17, 50:20, 51:2, 51:4, 51:7, 51:12</p> <p>memorandums [6] - 10:15, 10:18, 17:5, 17:14, 18:11, 30:5</p> <p>memory [1] - 35:18</p> <p>mentioned [2] - 49:18, 58:23</p> <p>met [1] - 11:15</p> <p>Michael [1] - 16:11</p> <p>middle [2] - 28:4, 29:7</p> <p>Mielke [1] - 32:9</p> <p>might [2] - 35:1, 50:17</p> <p>mind [2] - 30:9, 54:14</p> <p>minimally [1] - 55:16</p> <p>minor [1] - 56:1</p> <p>minute [2] - 35:1, 54:25</p> <p>missing [6] - 35:24, 36:3, 49:16, 49:17, 49:22, 51:22</p> <p>MITCHELL [1] - 2:2</p> <p>Monday [1] - 45:17</p> <p>Morley [1] - 2:14</p> <p>morning [1] - 5:21</p> <p>most [10] - 6:7, 8:21, 9:18, 13:8, 23:2, 39:15, 39:20, 45:8, 53:14, 57:11</p> <p>mostly [1] - 32:4</p> <p>moved [3] - 7:20, 8:4</p> <p>MR [57] - 2:2, 2:13, 2:20, 3:2, 3:10, 5:20, 20:10, 20:23, 20:25, 21:4, 21:8, 21:11, 21:14, 21:23, 22:5, 22:8, 22:10, 24:12, 26:19, 27:6, 30:14, 30:21, 30:24, 31:1, 31:2, 31:3, 31:4, 31:5, 34:25, 35:5, 35:9, 35:21, 36:5, 36:9, 48:3, 52:2, 52:7, 52:21, 52:24, 53:1, 53:17, 53:22, 54:1, 54:24, 55:2, 55:5, 55:7, 56:13, 56:20, 57:24, 60:5, 61:5, 61:8, 61:11, 61:13, 61:15, 61:16</p> <p>MS [1] - 2:8</p>	<p>multiple [1] - 50:24</p> <p>must [9] - 24:8, 28:9, 39:22, 40:17, 40:19, 41:9, 41:20, 42:6, 42:18</p> <p>MY [1] - 63:21</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>name [6] - 5:25, 26:23, 32:8, 39:6, 39:10, 42:4</p> <p>names [5] - 32:24, 33:5, 33:7, 35:18, 36:18</p> <p>NATIONAL [1] - 2:24</p> <p>nature [1] - 20:18</p> <p>ND [1] - 24:2</p> <p>NDCC [2] - 23:21, 26:9</p> <p>near [1] - 14:9</p> <p>necessarily [1] - 18:10</p> <p>necessary [1] - 14:17</p> <p>need [7] - 6:18, 14:22, 17:5, 17:7, 17:11, 19:2, 47:17</p> <p>needed [1] - 8:14</p> <p>needs [5] - 11:9, 14:19, 17:20, 47:21</p> <p>NELSON [2] - 3:14, 3:15</p> <p>Nelson [8] - 39:23, 40:20, 42:8, 42:11, 46:8, 47:11, 58:8</p> <p>net [1] - 44:18</p> <p>New [1] - 15:22</p> <p>new [3] - 10:5, 10:8, 50:7</p> <p>next [5] - 6:12, 12:9, 37:8, 38:5, 39:16</p> <p>Nick [2] - 44:20, 44:22</p> <p>NICKOLAS [1] - 3:14</p> <p>nine [1] - 45:17</p> <p>noncompliance [1] - 12:21</p> <p>none [4] - 61:12, 61:14, 61:15, 61:16</p> <p>NORTH [2] - 1:2, 63:2</p> <p>North [14] - 1:19, 2:5, 2:10, 2:16, 2:23, 3:4, 3:5, 3:12, 4:14, 5:6, 5:9, 26:24, 27:12, 42:11</p> <p>notarized [1] - 11:6</p> <p>NOTARY [1] - 63:1</p> <p>Notary [3] - 5:5, 63:6, 63:24</p> <p>note [13] - 35:23, 36:1, 37:7, 37:14, 37:21, 38:5, 39:4, 39:19, 40:6, 41:5, 41:6, 45:12, 45:15</p> <p>notebook [1] - 36:17</p> <p>noted [1] - 63:12</p> <p>NOTED [1] - 1:23</p> <p>notes [13] - 35:17, 36:22, 38:4, 38:9, 38:14, 41:17, 41:23, 41:24, 42:23, 43:6, 43:24, 63:16</p> <p>Notes..... [1] - 4:18</p>	<p>nothing [1] - 63:9</p> <p>Notice [1] - 5:1</p> <p>notice [3] - 5:22, 24:2, 63:5</p> <p>notifying [1] - 58:6</p> <p>noting [1] - 52:10</p> <p>November [4] - 37:3, 39:15, 44:8, 44:21</p> <p>number [19] - 11:21, 15:10, 15:17, 15:20, 16:6, 22:6, 22:12, 22:25, 24:25, 31:14, 33:8, 37:15, 38:2, 38:6, 38:23, 42:4, 47:9, 56:22, 57:14</p> <p>numbers [11] - 26:21, 27:8, 30:16, 30:22, 35:11, 35:13, 35:18, 36:13, 36:18, 37:10, 48:5</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>o'clock [1] - 45:18</p> <p>oath [1] - 63:8</p> <p>object [3] - 20:10, 52:2, 52:25</p> <p>objection [3] - 21:15, 53:1, 53:22</p> <p>obligations [1] - 14:13</p> <p>obtained [1] - 60:22</p> <p>obviously [1] - 41:19</p> <p>occasion [2] - 42:6, 46:1</p> <p>occasionally [1] - 15:9</p> <p>occasions [1] - 22:25</p> <p>October [1] - 4:11</p> <p>OF [11] - 1:2, 1:3, 1:13, 1:14, 4:2, 4:5, 4:6, 62:1, 63:1, 63:2, 63:3</p> <p>office [10] - 8:22, 9:13, 14:17, 43:19, 49:2, 49:10, 49:25, 53:6, 53:8, 63:7</p> <p>offices [1] - 5:6</p> <p>often [4] - 15:7, 15:24, 36:19, 44:25</p> <p>Olson [1] - 3:10</p> <p>once [7] - 10:12, 11:15, 11:17, 14:2, 18:5, 18:13, 30:5</p> <p>one [26] - 12:7, 12:10, 13:7, 14:8, 18:8, 20:12, 20:19, 21:5, 29:2, 37:10, 39:14, 39:17, 41:18, 42:5, 43:14, 44:6, 45:16, 46:1, 50:2, 54:14, 55:17, 56:3, 58:24, 59:1, 61:9</p> <p>one-year [2] - 12:7, 12:10</p> <p>ones [4] - 12:9, 45:9, 45:10, 49:13</p> <p>online [2] - 25:7, 27:1</p> <p>open [4] - 29:12, 29:13, 29:24, 49:25</p>	<p>operations [1] - 52:16</p> <p>opinion [6] - 20:11, 20:20, 20:25, 21:9, 21:12, 58:25</p> <p>oral [1] - 62:13</p> <p>order [8] - 11:18, 35:18, 52:1, 57:6, 57:10, 57:13, 57:21, 58:14</p> <p>organize [1] - 54:25</p> <p>organized [1] - 26:25</p> <p>outreach [1] - 27:1</p> <p>outside [1] - 19:1</p> <p>oversees [1] - 52:16</p> <p>oversight [3] - 10:23, 49:18, 54:17</p> <p>own [1] - 17:7</p> <p>OWNERS [1] - 2:17</p> <p>Owners [2] - 1:8, 5:24</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P.C [1] - 2:21</p> <p>P.O [4] - 2:4, 2:15, 3:4, 3:12</p> <p>Page [1] - 4:2</p> <p>page [26] - 23:19, 24:17, 25:2, 26:6, 26:12, 29:5, 29:7, 33:6, 33:11, 33:22, 36:21, 37:6, 37:14, 38:8, 38:13, 38:25, 40:21, 40:23, 41:6, 41:17, 43:9, 45:16, 47:24, 48:17, 50:21, 50:22</p> <p>pages [5] - 35:24, 36:3, 36:17, 62:7, 63:15</p> <p>paid [5] - 23:24, 23:25, 24:5, 33:18</p> <p>paren [2] - 34:2, 34:3</p> <p>part [8] - 8:23, 9:12, 9:13, 24:3, 24:7, 31:18, 50:11, 54:3</p> <p>part-time [3] - 8:23, 9:12, 9:13</p> <p>participants [1] - 56:11</p> <p>participate [1] - 26:5</p> <p>particular [1] - 57:13</p> <p>parties [6] - 5:11, 18:13, 59:14, 63:15, 63:18, 63:20</p> <p>parts [1] - 25:20</p> <p>partway [1] - 43:3</p> <p>passed [1] - 44:14</p> <p>past [2] - 15:6</p> <p>payment [2] - 33:14, 34:3</p> <p>payment-type [1] - 34:3</p> <p>Pearson [1] - 3:3</p> <p>people [2] - 45:2, 46:2</p> <p>people's [1] - 61:9</p> <p>percent [1] - 29:1</p> <p>performance [13] - 17:10, 18:18, 18:21, 18:24, 19:5, 19:7, 19:16, 19:21, 19:24, 20:13, 20:16, 21:20, 30:10</p>
---	---	---	--

<p>period [3] - 17:22, 24:3, 42:20</p> <p>person [9] - 6:7, 8:23, 9:1, 9:12, 9:15, 9:18, 11:19, 11:21, 32:18</p> <p>personal [1] - 47:8</p> <p>personnel [1] - 18:2</p> <p>Petitioner [1] - 1:6</p> <p>PETITIONER [1] - 2:6</p> <p>phone [11] - 35:17, 35:20, 36:18, 37:15, 38:16, 38:18, 38:22, 39:7, 42:4, 43:10, 47:8</p> <p>pieces [1] - 21:5</p> <p>place [6] - 5:21, 18:7, 18:22, 43:11, 62:14, 63:14</p> <p>placed [1] - 39:21</p> <p>play [1] - 9:22</p> <p>PLLP [1] - 3:3</p> <p>point [8] - 8:3, 20:11, 29:7, 29:10, 33:12, 33:24, 36:20, 53:11</p> <p>Porsborg [2] - 2:2, 5:7</p> <p>portfolio [1] - 54:10</p> <p>portions [1] - 20:16</p> <p>position [4] - 7:11, 7:19, 7:25, 14:9</p> <p>possibly [3] - 15:2, 20:14, 25:3</p> <p>posted [1] - 11:24</p> <p>power [1] - 63:7</p> <p>PowerPoint [4] - 4:12, 4:14, 24:17, 24:24</p> <p>practice [1] - 59:9</p> <p>preparing [2] - 30:9, 30:10</p> <p>presentation [6] - 24:18, 24:24, 25:3, 25:7, 25:19, 26:25</p> <p>Presentation [2] - 4:12, 4:14</p> <p>pretty [1] - 52:25</p> <p>previous [1] - 36:11</p> <p>Price [1] - 40:15</p> <p>price [10] - 23:24, 24:4, 33:14, 33:17, 34:2, 48:24, 49:1, 57:17, 58:22, 59:2</p> <p>primary [2] - 8:19, 8:23</p> <p>print [1] - 11:22</p> <p>problem [3] - 19:10, 51:17, 52:18</p> <p>problems [2] - 8:11, 19:6</p> <p>procedures [1] - 29:22</p> <p>proceed [2] - 13:11, 15:3</p> <p>proceedings [2] - 5:14, 56:10</p> <p>process [4] - 10:22, 17:15, 18:19, 23:15</p> <p>produced [2] - 35:25, 38:9</p> <p>production [3] - 22:2, 35:23, 43:21</p> <p>Professional [2] - 5:4, 63:5</p>	<p>program [1] - 28:9</p> <p>proper [2] - 52:12, 52:20</p> <p>proposed [1] - 55:10</p> <p>provide [4] - 33:17, 57:5, 57:12, 58:13</p> <p>provided [9] - 8:13, 18:6, 22:24, 24:2, 25:2, 43:19, 49:9, 57:18, 58:20</p> <p>provides [1] - 9:15</p> <p>providing [2] - 30:4, 57:9</p> <p>PSC [3] - 22:13, 47:11, 47:12</p> <p>public [2] - 32:19, 54:4</p> <p>PUBLIC [2] - 2:11, 63:1</p> <p>Public [12] - 1:5, 2:8, 4:17, 5:5, 5:23, 6:24, 7:4, 7:25, 27:12, 31:7, 63:6, 63:24</p> <p>publication [1] - 31:6</p> <p>Publication..... [1] - 4:17</p> <p>purport [1] - 63:16</p> <p>purpose [5] - 24:23, 25:8, 29:2, 57:3, 57:5</p> <p>pursuant [2] - 23:24, 63:5</p> <p>Pursuant [1] - 5:1</p> <p>put [5] - 19:11, 35:19, 37:9, 43:1, 43:9</p>	<p>recent [1] - 27:21</p> <p>recently [3] - 14:8, 27:17, 27:20</p> <p>Recessed [3] - 35:3, 36:7, 55:3</p> <p>reclamation [1] - 8:3</p> <p>reclassified [1] - 7:19</p> <p>recognize [12] - 24:19, 24:21, 27:9, 30:16, 35:14, 36:13, 48:5, 49:10, 56:22, 56:24, 57:25, 60:7</p> <p>recommendation [4] - 13:3, 59:18, 59:21, 60:1</p> <p>reconvened [3] - 35:3, 36:7, 55:3</p> <p>record [8] - 5:15, 6:6, 35:2, 35:6, 35:25, 36:6, 36:10, 55:6</p> <p>recorded [1] - 54:4</p> <p>records [5] - 29:12, 51:6, 52:17, 52:18, 52:19</p> <p>redeliver [3] - 44:15, 44:16, 46:18</p> <p>redelivery [3] - 38:22, 41:9, 44:18</p> <p>Redelivery [1] - 41:7</p> <p>redirect [1] - 17:8</p> <p>refer [1] - 60:23</p> <p>reference [11] - 26:8, 37:7, 37:18, 39:4, 40:6, 41:3, 41:6, 43:17, 48:20, 48:21, 49:22</p> <p>references [1] - 60:11</p> <p>referring [3] - 37:14, 57:20, 58:5</p> <p>reflected [1] - 59:21</p> <p>reflects [1] - 28:24</p> <p>refresh [1] - 35:18</p> <p>Regarding [2] - 4:12, 4:14</p> <p>regarding [14] - 25:2, 31:25, 40:16, 41:19, 44:17, 48:11, 54:3, 57:7, 58:22, 59:2, 59:10, 60:2, 60:21, 60:24</p> <p>Registered [2] - 5:4, 63:5</p> <p>regulated [2] - 34:4, 34:17</p> <p>regulations [2] - 12:16, 12:20</p> <p>relate [1] - 20:19</p> <p>related [6] - 21:1, 21:6, 37:10, 37:11, 46:13, 63:18</p> <p>relates [1] - 54:14</p> <p>relative [2] - 63:9, 63:19</p> <p>release [3] - 24:1, 24:6, 33:19</p> <p>rely [2] - 51:25, 52:8</p> <p>remedies [2] - 12:16, 12:21</p> <p>remedying [1] - 50:11</p> <p>remember [9] - 36:2, 44:4, 44:5, 44:23, 45:3, 45:6, 45:8, 45:10, 45:11</p>	<p>remind [1] - 36:19</p> <p>renew [3] - 12:3, 13:25, 14:3</p> <p>renewal [4] - 13:4, 13:5, 13:21, 13:23</p> <p>renewals [2] - 8:11, 13:6</p> <p>renewed [3] - 12:7, 12:8, 12:9</p> <p>repeat [1] - 12:18</p> <p>repeatedly [1] - 25:16</p> <p>rephrase [1] - 6:14</p> <p>report [2] - 15:18, 59:21</p> <p>REPORTER [4] - 30:23, 30:25, 52:22, 63:1</p> <p>reporter [3] - 5:25, 6:8, 56:10</p> <p>Reporter [3] - 5:5, 63:5, 63:24</p> <p>REPORTER..... [1] - 4:6</p> <p>represent [2] - 21:25, 58:8</p> <p>representative [2] - 45:1, 53:18</p> <p>representing [2] - 42:17, 46:24</p> <p>requested [3] - 45:20, 57:10, 61:4</p> <p>requests [4] - 9:3, 10:12, 22:2, 38:10</p> <p>required [6] - 11:24, 13:24, 49:16, 50:2, 50:5, 50:6</p> <p>requirements [1] - 11:4</p> <p>requires [1] - 53:5</p> <p>resolve [1] - 25:25</p> <p>responsive [2] - 5:11, 63:14</p> <p>RESPONDENT [1] - 2:17</p> <p>Respondents [1] - 1:9</p> <p>response [3] - 14:22, 40:16, 57:7</p> <p>responses [5] - 22:1, 38:9, 48:11, 48:14</p> <p>responsibilities [1] - 17:9</p> <p>responsibility [3] - 10:7, 10:18, 18:9</p> <p>responsible [6] - 8:8, 10:2, 17:4, 17:6, 32:19</p> <p>rest [1] - 41:25</p> <p>resubmit [1] - 14:1</p> <p>resulted [1] - 12:5</p> <p>retained [2] - 58:7, 60:19</p> <p>rethinking [1] - 28:2</p> <p>retired [1] - 14:8</p> <p>Rev [1] - 32:11</p> <p>review [16] - 10:7, 10:8, 10:10, 10:14, 10:16, 10:18, 11:2, 11:9, 11:12, 13:8, 13:20, 17:4, 18:6, 51:6</p> <p>reviewed [5] - 13:6, 18:2, 18:14, 49:12, 52:9</p> <p>reviewing [1] - 17:14</p> <p>reviews [1] - 9:1</p>
Q			
<p>Q3 [1] - 23:20</p> <p>quarter [1] - 15:18</p> <p>questions [10] - 8:10, 8:25, 13:9, 31:24, 48:10, 48:13, 48:15, 58:22, 61:7, 61:10</p> <p>Questions [2] - 4:10, 22:15</p> <p>quite [1] - 31:14</p>			
R			
<p>random [1] - 15:12</p> <p>randomly [1] - 29:15</p> <p>range [1] - 43:2</p> <p>Rates [1] - 33:23</p> <p>rates [1] - 33:25</p> <p>read [9] - 23:20, 26:7, 29:6, 33:10, 33:24, 34:20, 61:17, 62:6, 63:11</p> <p>reading [1] - 48:13</p> <p>really [5] - 16:1, 16:5, 20:20, 29:3, 55:21</p> <p>reason [3] - 32:20, 62:10, 63:12</p> <p>reasonable [1] - 52:19</p> <p>reasons [1] - 58:19</p> <p>recalling [1] - 43:25</p> <p>receipt/storage [1] - 34:12</p> <p>receipts [1] - 29:13</p> <p>receive [1] - 59:11</p> <p>received [2] - 38:23, 39:8</p>			

<p>revise [1] - 14:1 revised [7] - 23:16, 28:11, 32:14, 32:16, 32:20, 32:25, 50:4 Richter [1] - 6:1 RICHTER [6] - 1:14, 4:2, 5:2, 5:16, 62:4, 62:20 right-hand [2] - 33:11, 38:1 Road [1] - 2:22 role [1] - 55:21 roles [2] - 9:22, 9:25 Ron [4] - 41:19, 45:2, 45:3 RONALD [1] - 3:13 room [1] - 6:7 roving [1] - 27:2 rulemaking [1] - 9:5 rules [1] - 34:20 Russ [11] - 42:3, 42:5, 42:7, 42:10, 46:22, 47:4, 47:8, 57:2, 61:8, 61:15 RUSSEL [1] - 3:10</p>	<p>37:19, 38:1, 39:1, 39:17, 40:4, 40:22, 41:1, 43:3, 49:13, 51:3, 55:1 seeing [3] - 25:16, 26:1, 54:18 selected [1] - 29:15 seller [1] - 34:6 selling [2] - 31:24, 31:25 seminars [2] - 25:10, 25:19 send [5] - 11:22, 41:21, 46:11, 47:17, 47:19 sense [1] - 55:22 sent [6] - 43:20, 43:21, 48:23, 53:11, 61:1, 61:3 series [2] - 25:5, 25:9 SERVICE [1] - 2:11 Service [9] - 1:5, 2:8, 4:17, 5:23, 6:24, 7:4, 7:25, 27:12, 31:7 service [5] - 34:1, 34:9, 34:13, 34:14, 34:22 session [1] - 54:6 sessions [1] - 25:6 set [2] - 18:21, 62:9 setting [2] - 17:6, 62:10 seven [1] - 12:12 sheets [1] - 62:9 shorthand [1] - 63:16 show [11] - 6:11, 21:24, 26:19, 27:6, 30:14, 46:4, 46:5, 48:3, 56:20, 57:24, 60:5 showing [1] - 35:9 side [5] - 33:6, 37:2, 37:7, 38:1, 39:2 sign [2] - 11:9, 61:17 signatures [2] - 49:13, 49:15 signed [11] - 11:6, 11:8, 14:14, 17:24, 17:25, 18:5, 18:13, 24:8, 58:17, 62:11 significant [2] - 14:25, 20:5 signify [4] - 37:3, 37:22, 39:19, 50:25 similar [2] - 23:15, 60:15 simultaneously [1] - 56:11 situation [2] - 12:24, 58:6 skip [1] - 35:12 slight [1] - 12:5 Smith [4] - 2:2, 5:4, 5:6, 63:4 SMITH [1] - 63:23 someone [1] - 32:2 sometimes [2] - 13:22, 46:6 somewhere [2] - 28:10, 43:11 sorry [5] - 29:19, 30:21, 30:23, 52:22, 56:12 South [1] - 2:22 speaking [3] - 30:23, 52:22, 56:11</p>	<p>specialist [5] - 7:12, 7:18, 7:20, 8:6, 8:7 specific [5] - 20:18, 34:19, 45:5, 45:6, 54:7 specifically [5] - 19:25, 43:25, 44:3, 45:3, 58:11 specified [2] - 63:9, 63:14 speculation [2] - 52:3, 53:2 spend [1] - 8:21 spoken [1] - 39:12 sporadically [1] - 36:23 ss [1] - 63:3 staff [6] - 12:24, 13:7, 13:17, 59:14, 59:20 stamp [2] - 22:11, 24:14 stamped [2] - 58:1, 60:8 star [9] - 37:6, 37:8, 37:9, 37:13, 39:1, 39:17, 40:3, 40:22, 41:5 start [2] - 7:17, 44:7 started [9] - 7:5, 7:14, 7:15, 7:21, 8:1, 28:3, 28:8, 53:10 starts [1] - 29:7 state [5] - 5:25, 6:15, 25:21, 32:3, 33:15 STATE [2] - 1:2, 63:2 State [3] - 5:5, 5:9, 63:6 statement [1] - 23:20 statute [3] - 11:13, 20:17, 26:15 statutes [1] - 34:19 stay [1] - 46:19 staying [1] - 47:6 STEPHANIE [1] - 63:23 Stephanie [2] - 5:4, 63:4 stepped [1] - 44:13 sticks [1] - 54:14 still [1] - 8:18 stipulation [3] - 42:21, 46:16, 58:18 stop [2] - 42:22, 47:23 Storage [1] - 33:23 storage [6] - 33:25, 34:9, 34:10, 34:11, 34:16 Street [1] - 3:4 subject [1] - 21:15 submit [4] - 47:21, 47:22, 50:7, 53:6 submitted [3] - 14:3, 25:17, 63:11 subscribed [1] - 63:13 Subsection [1] - 23:21 subsequent [1] - 18:9 subsequently [1] - 63:11 substantive [1] - 32:23 sufficient [2] - 11:8, 14:12 Suite [3] - 2:15, 2:22, 3:11 supervising [3] - 17:2, 19:20, 20:8</p>	<p>supervision [2] - 21:6, 29:20 supervisor [6] - 16:19, 16:21, 16:24, 17:10, 17:13, 21:13 support [3] - 8:23, 9:15, 9:18 SUSAN [6] - 1:14, 4:2, 5:2, 5:16, 62:4, 62:20 Susan [1] - 6:1 sworn [2] - 5:17, 63:8</p>
S			
<p>SACCO [1] - 2:8 safety [1] - 28:11 Sale [3] - 4:11, 4:13, 33:13 sale [35] - 22:16, 23:3, 23:22, 23:23, 23:24, 24:1, 24:3, 24:4, 24:6, 24:7, 24:8, 24:18, 25:5, 25:10, 25:18, 25:21, 26:12, 29:14, 33:15, 33:16, 33:17, 33:19, 34:1, 34:15, 49:16, 49:24, 50:3, 55:14, 56:2, 57:8, 57:19, 59:8, 59:16, 60:25 satisfactory [1] - 19:14 saw [3] - 19:9, 47:7, 58:24 scale [1] - 29:15 schedule [1] - 17:7 SCHROEDER [31] - 2:20, 5:20, 20:23, 21:4, 21:11, 21:23, 22:8, 22:10, 24:12, 26:19, 27:6, 30:14, 31:1, 31:5, 34:25, 35:5, 35:9, 36:5, 36:9, 48:3, 52:7, 53:17, 54:1, 54:24, 55:5, 55:7, 56:13, 56:20, 57:24, 60:5, 61:5 Schroeder..... [1] - 4:3 Schweigert [2] - 2:2, 5:7 SEAL [1] - 63:21 second [7] - 9:14, 9:18, 33:22, 33:23, 36:6, 45:16 section [1] - 28:11 Section [1] - 24:2 Sections [2] - 23:21, 26:9 see [18] - 6:22, 14:15, 14:25, 25:22, 30:1, 32:10, 36:24,</p>			<p>supervision [2] - 21:6, 29:20 supervisor [6] - 16:19, 16:21, 16:24, 17:10, 17:13, 21:13 support [3] - 8:23, 9:15, 9:18 SUSAN [6] - 1:14, 4:2, 5:2, 5:16, 62:4, 62:20 Susan [1] - 6:1 sworn [2] - 5:17, 63:8</p>
T			
			<p>tablets [1] - 35:19 Tad [6] - 39:6, 39:9, 42:18, 44:13, 44:15, 44:16 TD [1] - 33:7 TDD/TTY [1] - 33:8 Telephone [3] - 2:18, 3:8, 3:15 temporary [1] - 9:12 term [1] - 26:3 terms [1] - 34:4 testified [1] - 5:17 testify [2] - 9:4, 63:9 testifying [1] - 63:8 testimony [1] - 43:25 Thanksgiving [1] - 15:22 THE [14] - 2:6, 2:11, 2:17, 2:24, 3:6, 21:16, 30:23, 30:25, 36:4, 52:5, 52:22, 53:3, 53:24, 56:12 therefore [2] - 19:4, 39:11 therein [5] - 62:14, 63:9, 63:12, 63:14, 63:15 thereof [2] - 63:7, 63:13 thereupon [2] - 63:11, 63:13 they've [1] - 30:5 thinking [3] - 16:4, 29:23, 34:25 third [1] - 40:3 thirds [1] - 37:5 Thompson [1] - 42:11 three [4] - 39:22, 40:18, 40:19, 61:3 throughout [1] - 18:25 tickets [1] - 29:16 Tim [21] - 16:13, 16:15, 19:20, 19:24, 20:6, 20:7, 20:20, 20:25, 21:9, 21:16, 21:17, 21:18, 21:19, 29:20, 29:25, 30:2, 49:3, 49:6, 49:7, 49:11, 49:18 Tim's [6] - 16:18, 16:21, 16:23, 20:7, 20:11, 21:12 Timothy [1] - 16:11 title [2] - 6:25, 22:15 today [1] - 9:6 Todd [1] - 44:14 together [1] - 45:13</p>

<p>took [4] - 18:7, 31:15, 43:11, 63:5 top [7] - 15:17, 26:23, 32:10, 33:10, 33:11, 40:25, 41:1 topic [1] - 38:24 topics [1] - 45:6 toward [1] - 28:12 training [2] - 25:5, 25:10 transactions [1] - 34:3 transcribed [1] - 63:11 TRANSCRIPT [1] - 1:13 transcript [2] - 62:12, 63:16 tried [1] - 54:7 true [5] - 29:3, 48:15, 59:8, 62:12, 63:16 truth [3] - 63:9, 63:9 turn [6] - 29:5, 33:21, 38:25, 40:21, 41:15, 61:9 two [9] - 8:21, 9:10, 12:8, 12:10, 12:13, 14:7, 16:8, 37:5, 51:3 two-thirds [1] - 37:5 two-year [3] - 12:8, 12:10, 12:13 type [3] - 30:8, 34:3, 45:14 typewritten [2] - 62:7, 63:15 typical [1] - 13:21 typically [1] - 13:16 typos [1] - 55:22</p>	<p>versus [2] - 5:23, 35:24 Via [3] - 2:18, 3:7, 3:15 View [1] - 2:15 violation [1] - 50:11 virtue [1] - 63:7 visit [4] - 12:24, 14:10, 15:2, 19:3 visited [5] - 23:18, 30:2, 44:13, 53:15 visiting [2] - 8:8, 30:6 vs [1] - 1:7</p>	Z
U	W	<p>Zimney [1] - 2:21</p>
<p>ultimately [3] - 12:11, 17:6, 46:16 unable [1] - 44:12 unacceptable [1] - 48:19 under [1] - 33:22 underneath [3] - 9:10, 11:20, 11:22 understood [2] - 6:16, 29:21 unless [2] - 19:11, 53:7 unpaid [1] - 29:14 unregulated [1] - 34:23 up [13] - 10:17, 13:2, 17:7, 18:9, 19:1, 29:24, 39:14, 49:25, 50:16, 50:19, 52:23, 55:7, 61:9 updated [1] - 23:5 Updated [1] - 4:11</p>	<p>wait [1] - 6:9 waiting [1] - 6:12 Warehouse [2] - 4:15, 27:13 warehouse [11] - 9:11, 13:7, 14:7, 16:8, 17:2, 18:16, 28:7, 28:12, 29:13, 34:12, 42:19 warehouses [1] - 10:24 warrant [1] - 21:20 website [1] - 23:1 whoever's [1] - 61:9 whole [2] - 16:18, 63:9 withdrawn [1] - 36:11 witness [4] - 20:24, 63:8, 63:11, 63:13 WITNESS [7] - 21:16, 36:4, 52:5, 53:3, 53:24, 56:12, 63:21 WJS [4] - 3:14, 39:23, 40:18, 40:20 wondering [1] - 47:13 words [1] - 36:19 works [4] - 9:12, 11:20, 17:16, 55:2 worried [1] - 47:6 wow [1] - 15:9 write [4] - 14:19, 36:18, 50:16, 50:19 written [5] - 16:5, 18:23, 19:20, 23:23, 33:16 wrote [3] - 40:15, 40:16, 42:25</p>	
V	Y	<p>year [12] - 12:7, 12:8, 12:9, 12:10, 12:13, 15:6, 15:21, 18:22, 18:25, 19:2, 19:19 Year's [1] - 15:22 years [5] - 12:12, 16:16, 21:10, 28:10, 31:14</p>
<p>vague [1] - 52:25 valid [2] - 24:9, 52:20 value [1] - 37:24 verify [1] - 14:11 version [3] - 27:18, 28:6, 28:24</p>		

FREQUENTLY ASKED QUESTIONS
CREDIT-SALE CONTRACT INDEMNITY FUND
Compiled by the North Dakota Public Service Commission
Updated October 2011

Q 1: *What is the credit-sale contract indemnity fund?*

A: This fund was created by the 2003 Legislature to provide partial protection for unpaid credit-sale contracts in grain elevator or grain buyer insolvencies. Money comes from a 0.2% (.002) assessment on all credit-sale contracts and is deposited in a fund administered by the Public Service Commission (Commission). Legislation in 2007 reduced the cap from \$10 million to \$6 million. The fund reached \$6 million and assessments stopped on July 1, 2008. Assessments will remain ceased until the fund balance drops below \$3 million.

Q 2: *How much coverage does the indemnity fund provide?*

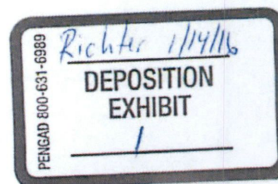
A: Any eligible person's coverage is limited to 80% of their unpaid credit-sale contract(s) with the insolvent buyer, up to a maximum payout of \$280,000 per insolvency. For example: \$50,000 in contracts = \$40,000 payout; \$150,000 in contracts = \$120,000 payout; \$350,000 or more in contracts = maximum \$280,000 payout. Assessments are collected on the value of all grain sold via credit-sale contract, even if a producer has more than \$350,000 in outstanding contracts.

Q 3: *What is a credit-sale contract?*

A: NDCC §§ 60-02-01(2) and 60-02.1-01(2) define a credit-sale contract as ". . . a written contract for the sale of grain pursuant to which the sale price is to be paid or may be paid more than 30 days after the delivery or release of the grain for sale and which contains the notice provided in ND Admin. Code § 69-07-03-06. Where a part of the sale price of a contract for the sale of grain is to be paid or may be paid more than 30 days after the delivery or release of the grain for sale, only such part of the contract is a credit-sale contract." A credit-sale contract must be signed to be valid and enforceable.

Q 4: *What are common kinds of credit-sale contracts?*

A: Common forms of credit-sale contracts include: deferred payment, delayed pricing or no price established, installment sales, or variations of these contracts by another name. These contracts are not always credit-sale - the key is payment in more than 30 days. For example, a deferred payment contract written on December 3 for payment on January 2 is not a credit-sale contract and would have no assessment taken against it because payment is made within 30 days. Conversely, a deferred payment contract written on December 3 for payment on January 5 is a credit-sale contract, since payment will be made more than 30 days after the release date.



Q 5: What if a producer enters into a contract on December 3rd that provides for payment on January 5th, but the producer later requests and receives payment on January 2nd? Is this a credit-sale contract?

A: Opinions may differ, but the Commission believes the answer is "no." The original contract was a credit-sale because payment was to be made after 30 days. However, the contract was amended when both parties agreed to payment in 30 days or less and because payment was made in 30 days or less it is not a credit-sale contract and no assessment is payable.

Q 6: What about delayed pricing contracts in which the producer might pick a price any time within the next six or nine months?

A: Again, 30 days is the key. Any money that is paid out in 30 days or less is not a credit-sale and is not subject to the assessment. Payments that are made more than 30 days after title passes are credit-sale transactions and are subject to the assessment.

Q 7: What if a contract is signed on December 5th and it provides for a "window of payment" option (e.g. "Payment will be made between January 1 – 15.")? Is this a credit-sale contract?

A: It depends on when the payment is actually made. If the licensee pays for the grain in 30 days or less, the transaction is not a credit-sale and no assessment should be collected. If payment is made after more than 30 days, the transaction is a credit-sale and the assessment should be collected.

Q 8: Do I collect an assessment if I give an advance on a contract?

A: If the contract provides for an advance within the first 30 days, the portion advanced is not a credit-sale and would not be subject to the assessment. If there is a delayed advance of more than 30 days from the execution of the contract, that portion is a credit-sale and is subject to the assessment. A payment made more than 30 days after the contract is executed is a credit-sale that is subject to assessment.

Q 9: When did assessments begin?

A: Assessments began on credit-sale contracts issued after August 1, 2003. Any grain sold prior to August 1, 2003 is not eligible for protection from the indemnity fund.

Q 10: On what amount is the assessment taken?

A: On the value of the grain, after quality discounts are taken, but before any fees are subtracted.

Q 11: Whose contracts are assessed?

A: All credit-sale contracts are assessed, regardless of whether the seller is a producer or another elevator or a grain buyer. All grain purchased via credit-sale by a North Dakota licensed grain elevator, grain buyer, or processor is subject to assessment.

Q 12: How is the program administered?

A: The Commission provides each licensee with a short remittance form that must be returned within 30 days after the end of each calendar quarter along with the appropriate remittance. Documentation of the assessment collected must be maintained by the licensee for review by Commission inspectors.

Q 13: Do I need to submit a report if I didn't make any payments on credit-sale contracts during the quarter?

A: Yes. If a licensee doesn't submit a report, the Commission does not know if there were no credit-sale payments during the quarter or if the licensee simply forgot to send in the report. Requiring a report from each licensee every quarter allows the Commission to monitor compliance.

Q 14: Do I need to fill out a separate report for each of my firm's elevator locations?

A: No. Licensees with multiple locations can submit one report and one remittance check. Company records must, however, be compiled to reflect how the remittance was calculated and which contracts were involved.

Q 15: Do I need to participate in this program if I am a roving grain buyer or a federally licensed warehouse with a state grain buyer's license?

A: Yes. Participation in this program is mandatory. For federally licensed facilities, collections for this patron funded program are not prohibited by the United States Warehouse Act.

Q 16: Does the assessment have to be noted on credit-sale contracts?

A: The law requires that the assessment be noted on each contract.

Q 17: If a seller prices out a delayed pricing contract and puts the proceeds on a deferred payment contract, do I collect two assessments?

A: No. The assessment is calculated only when the actual payment is made. If one contract is rolled over into another and no payment is made at the time of the rollover, no assessment is due. That will happen when payment is made under the new contract.

Q 18: How about minimum price and basis-fixed or basis-open contracts?

A: Keep in mind that if payment is made more than 30 days after delivery or release of the grain for sale, the agreement is a credit-sale contract and the assessment should be taken when payment is made.

Q 19: Is participation in this program voluntary?

A: No. Anyone that sells grain via a credit-sale contract whether they are a licensee or a producer must participate in the program and cannot "opt-out" or apply for a refund.

Q 20: My elevator purchases bond coverage to protect deferred payment contracts and it appears there is double coverage. What should we do?

A: This is a decision each elevator must make and regardless of that decision, the indemnity fund assessments must be collected and remitted - even if credit-sale bond coverage is in place. Ultimately, it might be up to a court to decide which coverage would apply in the insolvency.

Q 21: What if deferred payment contract dollars are escrowed for the benefit of sellers?

A: The assessment is still required. There is nothing in the indemnity fund law to prevent escrowing. That is up to the parties involved.

Q 22: What if a producer can't or won't decide what to do with his grain or wants to sell his grain on some form of credit-sale contract but then doesn't sign the contract in a timely manner?

A: State law requires that all scale tickets must be converted into cash, noncredit-sale contracts, credit-sale contracts, or warehouse receipts within 45 days after the grain is delivered to the warehouse (NDCC § 60-02-11). Since a credit-sale contract must be signed to be valid and enforceable, an unsigned credit-sale contract is not valid and is, in effect, an open scale ticket.

Q 23: Can a licensee request a refund?

A: A refund will be issued if an erroneous assessment was made on a credit-sale contract. The refund will be made to the licensee and the licensee will be responsible for issuing the refund. A request for a refund must be submitted in writing and must include a detailed list of the assessment error(s).

Q 24: What can be done to prevent an unscrupulous claim against the fund?

A: Indemnity Fund payments constitute a debt obligation of the person who caused the payment to be made. The Legislature has given the Commission the authority to take legal action against any person / licensee who causes a payment to be made out of the fund.

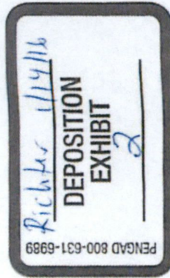
Q 25: What if I have other questions?

A: Call the Public Service Commission at 701-328-4097.

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Credit-Sale Contract Definition

- Definition - NDCC §§ 60-02-01(2) & 60-02.1-01 (2)
 - Credit-sale contract means a written contract for the sale of grain pursuant to which the sale price is to be paid or may be paid more than thirty days after the delivery or release of the grain for sale and which contains the notice provided... Where a part of the sale price of a contract for the sale of grain is to be paid or may be paid more than 30 days after the delivery or release of the grain for sale, only such part of the contract is a credit-sale contract.
 - Commonly used kinds of contracts
 - Combination contracts



PENGAD 800-631-6989

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Credit-Sale Contract Contents

- NDCC §§ 60-02-19.1, 60-02.1-14 & 60-10-01
 - In writing
 - Consecutively numbered
 - Contain sellers name and address
 - Conditions of delivery
 - Contain the amount and kind of grain delivered
 - Contain the price per unit or basis of value
 - Date payment is to be made & duration of contract
 - Disclaimer language
 - **MUST BE SIGNED BY BOTH PARTIES**
 - Provide for assessment

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Indemnity Fund Documents

- Remittance form
- Poster
- Ledger contains
 - Contract number
 - Seller's name
 - Date contract signed by seller
 - Date paid
 - Remittance at 2/10 of 1% (.002)

Assessments Taken/Remittances

- When to apply
 - Preferred
 - Optional

- Mandatory to file quarterly
- Within 30 days of end of quarter

Convert Scale Tickets

- Law provides
 - All scale tickets must be converted into cash, noncredit-sale contracts, credit-sale contracts, or warehouse receipts within 30 days after the grain is delivered to the warehouse.

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Refunds

- Must be in writing
- List of errors

Credit-Sale Contract Bonds

- Elevator's decision
- Double coverage
 - What it mean's

Insolvency

- Who could force insolvency
 - Prior to August 1, 2003
 - After August 1, 2003

- Who is eligible
 - Payout
 - Debt obligation

Contacts

- Sue Richter
 - 701-328-4097
 - E-mail skr@psc.state.nd.us
 - Website – www.psc.state.nd.us

- Inspector Tim Erdmann
 - E-mail tae@psc.state.nd.us

- Inspector Rick Fillbrandt
 - E-mail rfillbrandt@psc.state.nd.us

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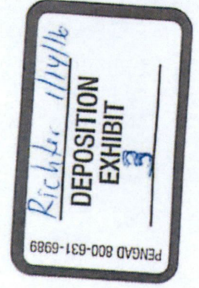
Thank you!

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Buying Grain in North Dakota

Sue Richter – Director
Licensing Division
Public Service Commission

- Bismarck, North Dakota
- October 2006



License Required

- Who needs a license to buy grain?
- Why license?

ND
D
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C
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License Not Required

- Selling grain out of state
- Exemptions

License Types

- Public grain warehouse
 - NDCC Chapter 60-02
 - ND Admin Code Chapters 69-07-01 thru 04
- Facility-based & roving grain buyer
 - NDCC Chapter 60-02.1
 - ND Admin Code Chapters 69-07-01 thru 04

Public Grain Warehouse – License Requirements

- Application
- Fee
- Surety Bond
- Certificate of Insurance on Grain
- Warehouse Documents

ND ID P S C 1

Facility-Based Grain Buyer – License Requirements

- Application
- Fee
- Bond
- Certificate of Insurance on Grain
- License Documents

INDPSC

Roving Grain Buyer – License Requirements

- Application
- Fee
- Bond
- Scale Ticket or Comparable Document

Insolvency

- When is a licensee insolvent
 - NDCC 60-04 – grain & seed warehouses
 - NDCC 60-02.1 – grain buyers
- Process
 - Trustee
 - Claims
 - Report & Recommendation
- History

Credit-Sale Contract Indemnity Fund

- NDCC Chapter 60-10
- What is fund for?
- Who participates in the fund
- Assessment & collections
- Payments from the fund

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Unlicensed Grain Buyers

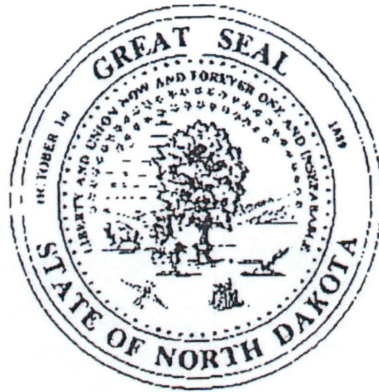
- Letter
- Education
- Cease & Desist
- Complaint

Contacts

- Phone: 701-328-4097
- Fax: 701-328-2410
- E-mail: srichter@nd.gov
- Website: www.psc.state.nd.us

North Dakota Public Service Commission

Grain Warehouse & Grain Buyer Examination Manual



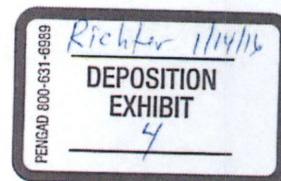
Julie Fedorchak, Chairman
Randy Christmann, Commissioner
Brian Kalk, Commissioner

Darrell Nitschke, Executive Secretary

Sue Richter, Licensing Division Director
Tim Erdmann, Grain Warehouse Inspector
Mike McNamee, Grain Warehouse Inspector

600 East Boulevard Avenue – Dept 408
Bismarck, ND 58505-0480

701-328-2400
www.psc.nd.gov



PSC 2105

The Public Service Commission (Commission) is the State agency responsible for overseeing the licensing and bonding of all grain elevators and grain buyers and exercising general supervision of these licensees. These entities serve as the initial market for much of the grain produced by North Dakota farmers. Regulation of these entities is intended to protect the people who sell grain to or store grain in the warehouses and is enforced within a framework that minimizes negative economic impacts on regulated industries and individual entities.

The Commission developed procedures that are used by its grain warehouse inspectors when conducting grain warehouse and grain buyer examinations to ensure examinations are conducted fairly and uniformly for the benefit of producers and licensees. The procedures may vary slightly on a case-by-case basis during each examination.

During an examination the grain warehouse inspector (inspector), as appropriate, will:

1. Review company operations to determine if the licensee is adhering to generally accepted business practices and state grain warehouse / grain buyer laws and rules.
2. Verify every document used by the licensee complies with statutory requirements and bears the same company name.
3. Verify the current license and all required notices are conspicuously posted.
4. Physically inspect each facility used for storing grain to determine if the licensee is using only approved space, if each stated physical capacity is accurate; and if the company is adequately bonded.
5. Physically measure all grain on hand to determine if inventories agree with company records and are of a kind and quantity sufficient to cover all outstanding storage obligations.

When appropriate, an examination will be unannounced. If an announced examination is planned, the inspector will call the licensee to schedule the examination. An announced examination will be determined on a case-by-case basis.

Reasons for an announced examination may include:

1. Lack of licensee support staff – If a shuttle train was delivered to a shuttle facility, is expected, or the licensee is moving grain from outlying warehouses in preparation of the arrival of a shuttle train, the licensee may not have staff available to provide support to the inspector. The inspector may interfere with the licensee's ability to timely load a shuttle train thereby creating a financial burden to a licensee, which ultimately will affect the producers. Loading a shuttle train is a labor intensive operation with grain handling machinery working at or near full capacity which could create unsafe work conditions for an inspector.
2. Licensee has limited staff – If a warehouse has limited staff, the inspector may arrive to conduct an examination and there may not be appropriate staff available to assist with the examination.
3. Records located out-of-state – When the licensees' records are located out-of-state, staff must make arrangements for the records to be made available for inspection in North Dakota.
4. Seasonal work – During spring and harvest seasons, staff may not be available to provide support to the inspector which could create unsafe work conditions for an

inspector. An inspection may cause unwanted delays to the operation of the licensee which ultimately affects the producer.

Initial/First Grain Warehouse Examination

An initial grain warehouse examination will be unannounced unless exceptions outlined above apply. After a grain warehouse license is issued, the inspector will endeavor to conduct an examination within four months of issuance of the license. Upon arrival at the grain warehouse, the inspector will:

1. Introduce himself to the manager, bookkeeper, and/or appropriate staff and brief the licensee on the purpose and anticipated timeframe of the visit before starting any phase of the examination.
2. Make arrangements for use of office space, personnel, and access to records, etc.
3. Be subject to the requirements of any safety program in effect at a North Dakota warehouse while on the premises and be familiar with the emergency evacuation plan, signals, and routes.
4. Provide the licensee with a copy of the examination manual, if necessary and give details of the procedures the inspector will follow throughout the examination.
5. The inspector will view the licensee's records to:
 - a. Insure the licensee is operating in a manner consistent with the license application as filed.
 - b. Review all applicable laws and rules with the new licensee.
 - c. Prepare or update a bin chart and warehouse diagram, as necessary.
 - d. Verify the new licensee filed adequate bond and documents.
6. Verify the following items are posted in an area easily viewable by the public:
 - a. Current license.
 - b. Notice of procedures for resolving disputes over grain.
 - c. Credit-sale contract and indemnity fund posters.
 - d. Storage and handling policy – when applicable.
 - e. Dry edible bean redelivery policy – when applicable.
 - f. Notice of modified office hours – when applicable.

Subsequent Grain Warehouse Examination

The inspector will review the following items prior to a subsequent examination.

1. Most recent inspection report.
2. Prior inspection reports if the licensee has a history of prior deficiencies.
3. Current bin chart, warehouse diagram, and statement of capacities.
4. All capacity and bond changes since last inspection.
5. All Commission orders issued following a complaint filing.

Upon arrival at the grain warehouse, the inspector will:

1. Greet staff, making any introductions necessary.
2. Brief the licensee on the purpose and anticipated timeframe of the visit before starting any phase of the examination.
3. Make arrangements for use of office space, personnel, and access to records, etc.
4. Be subject to the requirements of any safety program in effect at a North Dakota warehouse while on the premises and be familiar with the emergency evacuation plan, signals, and routes.

5. Provide the licensee with a copy of the examination manual, if necessary and give details of the procedures the inspector will follow throughout the examination.
6. The inspector will view the licensee's records to:
 - a. Insure the licensee is operating in a manner consistent with its license.
 - b. Review applicable laws and rules as necessary.
 - c. Update a bin chart and warehouse diagram, as necessary.
7. Verify the following items are posted in an area easily viewable by the public:
 - a. Current license.
 - b. Notice of procedures for resolving disputes over grain.
 - c. Credit-sale contract and indemnity fund posters.
 - d. Storage and handling policy – when applicable.
 - e. Dry edible bean redelivery policy – when applicable.
 - f. Notice of modified office hours – when applicable.

During each examination, the inspector will:

1. Discuss with staff, the activities at the warehouse to accommodate a measure-up and consult with staff to establish a cut-off of inventory records to coincide with the measure-up.
2. Conduct a measure-up of all warehouse facilities containing grain and enter the grain measurement data into the examination program for the purpose of verifying the accuracy of the licensee's grain inventory.
3. Conduct a document check of the following to insure compliance:
 - a. All open assembly records.
 - b. All open warehouse receipts.
 - c. All unpaid credit-sale contracts.
 - d. A randomly selected group of scale tickets.
4. Verify the physical capacity of the warehouse to determine whether the warehouseman is using any unlicensed and/or under bonded space. Compare the firm's warehouse facilities with the warehouse diagram and bin chart on file with the Commission. Newly constructed or off-site bins added to the warehouse's capacity since the last examination must be measured and added to the bin documents.

Roving Grain Buyer Examination (Book Audit)

An examination for a roving grain buyer consists of a book audit only. A roving grain buyer does not operate a warehouse in North Dakota where grain is received. Therefore, a roving grain buyer has no warehouse to inspect, nor any grain to measure. Many licensed roving grain buyers are located in another state or country, making it impossible to conduct an unannounced examination/book audit.

The inspector will call the roving grain buyer, make introductions and visit with the roving grain buyer about applicable laws and rules and the book audit that will take place. The inspector requests a list of scale ticket numbers within a random period of time from the roving grain buyer. The inspector enters the scale ticket numbers into the exam program. The program generates a list of ticket numbers and the inspector asks the roving grain buyer to provide settlement information for each scale ticket. The inspector reviews the settlement information for compliance.

Facility-Based Grain Buyer Examination

The United States Department of Agriculture (USDA) conducts examinations at facility-based grain buyer facilities. The examination process used by the USDA is similar to the Commission's process. The USDA does not require scale tickets be converted in a specified timeframe and considers grain delivered on a scale ticket to be open storage, unless otherwise specified. The USDA reviews business documents during an examination, including reviewing credit-sale contracts for proper execution.

Conclusion of Examination/Book Audit

At the conclusion of a grain warehouse examination, the inspector will issue a Memorandum of Adjustment (MOA). Any deficiency found during an examination will be noted on the MOA and the MOA will be given to the licensee for review and signature. A copy of the signed MOA will be left with the licensee and a copy will be submitted to the Licensing Division office. A copy of the MOA will also be mailed to the president. If a deficiency is noted on the MOA, the licensee will have a maximum of 30 days from the date the MOA is signed to provide written proof of full compliance to the Licensing Division. If a serious deficiency is noted on the MOA, the inspector will IMMEDIATELY bring this to the attention of his supervisor.

The final step of a roving grain buyer book audit is to prepare a MOA and mail it to the roving grain buyer with instructions to review the MOA and sign and return a copy to the Commission. If a deficiency is noted on the MOA, the licensee will have a maximum of 30 days from the date the MOA was signed to provide written proof of full compliance to the Licensing Division. If a serious deficiency is noted on the MOA, the inspector will IMMEDIATELY bring this to the attention of his supervisor.

Deficiencies that may result in a formal complaint include, but are not limited to the following:

1. Scale tickets not timely converted.
2. Improper credit-sale contracts (eg. unsigned or language is missing).
3. Use of unlicensed space – including ground storage.
4. Payment delays.
5. Insufficient grain on hand to cover storage obligations.

If the license and all required posters are not posted in an area easily viewable by the public, this must be noted on the MOA.

The inspector will note on the MOA, matters indicative of underlying problems such as:

1. Facilities in disrepair.
2. Untidy office and facilities.
3. Out of condition grain - rodent or bird droppings, bugs, and/or sour smell.
4. Uncooperative staff.

When a formal complaint is filed, the first step in the process is for the Commission to serve the complaint on the licensee. The licensee will have 20 days to answer the complaint, pointing out where it believes the complaint is wrong. The licensee can

challenge the facts alleged in the complaint, the law relied upon, the relief sought, or any combination of these.

If the licensee responds, the matter will be set for hearing unless the matter is resolved outside the hearing process. If a public hearing is held, a Notice of Hearing will be issued and served at least 45 days before the hearing. At hearing, the complainant has the burden of proof and the burden of going forward with the evidence. All evidence must be given under oath and subject to cross-examination. All hearings are public, and any member of the public may appear and testify. After hearing and once the record is closed, the Commission may make a decision based on the record evidence. The decision may include a penalty consistent with North Dakota Century Code Chapter 49-07.

Options for resolving include a consent order, recommending to the Commission that no further action be taken and the case be closed. A consent order may include a penalty consistent with North Dakota Century Code Chapter 49-07.

Proposed Civil Penalty

The following may be taken into consideration when determining a civil penalty:

1. The nature, circumstances, and severity of the complaint.
2. The respondent's history of prior violations or complaints.
3. A good faith effort by the respondent in attempting to achieve compliant; and
4. The effect the penalty may have on the respondent's ability to continue in business.

North Dakota Century Code section 49-07-01.1 provides any person who violates any statute, commission order, or commission rule shall be subject to a civil penalty not to exceed \$5,000. A penalty may be compromised by the Commission and may be recovered in a civil action in district court.

Inspection Activity Report

An inspection activity report is compiled and reported to the Commission on a quarterly basis. This report is also posted on the Public Service Commission's website.

The report is a compilation of the deficiencies identified during an examination and noted on the Memorandum of Adjustment and summary of filed responses. The report includes licensees' names, locations included in examination, date of examination, response time, etc.

A publication specifying grain will be received for storage or accepted via cash or credit-sale contract only.

Roving Grain Buyer Scale Ticket or Comparable Receipt

A grain buyer, upon receiving grain, shall issue a uniform scale ticket or comparable receipt for each load of grain received.

Storage & Handling Policy

A publication with the fees that will be assessed for receiving, storing, processing, or redelivering grain and the termination date of the warehouse receipt.

Warehouse Receipt/Storage Contract

A warehouse receipt is issued as proof of ownership of an identified amount and kind of grain. All warehouse receipts/storage contracts terminate on the date identified in the storage and handling policy and the licensee must notify the receipt holder of the expiration at least thirty days before the termination date.

You should know...



North Dakota Public Service Commission

Issue G-1, Rev. January 2015



Selling Grain?

Know your rights and responsibilities regarding grading disputes, payment, storage rates, and handling fees.

North Dakota Public
Service Commission

Commissioners:
Julie Fedorchak
Randy Christmann
Brian Kalk

600 E Boulevard Ave.
Department 408
Bismarck ND
58505-0480

Telephone:
701-328-2400

Facsimile:
701-328-2410

TDD/TTY:
800-366-6888

E-mail:
ndpsc@nd.gov

Website:
www.psc.nd.gov

NO GRAIN LICENSE— NO BOND PROTECTION

- ⊗ Bond coverage does not exist if a buyer is not licensed. If grain is sold to an unlicensed buyer and if the buyer does not pay for the grain, there is no bond coverage available to help pay the seller. Court action may be a farmer's only recourse if an unlicensed buyer fails to pay for grain. **Therefore, farmers are strongly encouraged to check to ensure that the buyer is licensed. Warehouses and grain buyers must be licensed and bonded. Unlicensed buyers are operating illegally.**
- ⊗ In North Dakota, bond requirements are based on the physical size of an elevator or on the amount of grain that a grain buyer handles. **Even if the buyer is licensed and bonded, there is no guarantee that farmers will be fully reimbursed if a buyer becomes insolvent. If the buyer does not have enough grain and bond assets available to satisfy all valid grain claims, available funds are distributed on a prorated basis.**
- ⊗ Farmers must also be aware that **bond coverage may not be available if grain is sold to a company that is located outside the state. If grain is sold to out-of-state entities, the laws of the state in which the buyer is located may govern the transaction. Farmers may find that they have far less protection in those states than they do if the grain was sold to a company that is licensed in North Dakota.**
- ⊗ To find out if a warehouse or grain buyer is licensed in North Dakota, visit the Public Service Commission web site at www.psc.state.nd.us or call (701) 328-4097.

CREDIT-SALE CONTRACTS AND INDEMNITY FUND

- ⊗ Delayed price and deferred payment contracts are examples of credit-sale contracts. State law defines credit-sale contracts as written grain sale contracts that provide that the sale price may be paid more than 30 days after the delivery or release of the grain for sale.

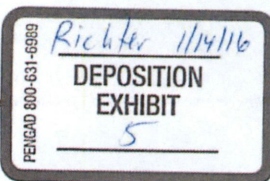
Title to grain will pass from the farmer to the buyer when a credit-sale contract is signed, unless the farmer has signed a contract providing for the title to the grain to pass to the buyer at the time of delivery.

Farmers should be aware that credit-sale contracts are not protected by the buyer's bond unless the buyer has secured independent bond coverage. If the buyer has secured independent bond coverage, the amount of bond available should be identified in the contract disclaimer. If no credit-sale contract bond coverage is available, disclaimer language concerning the lack of bond coverage must be printed in bold type immediately above the signature block on the contract. The disclaimer statement must contain the following or similar language:

**THIS CONTRACT IS NOT PROTECTED BY
BOND COVERAGE IN THE EVENT OF THE
BUYER'S INSOLVENCY.**

Although there may not be bond protection afforded to those entering into credit-sale contracts, a fund was created by the 2003 Legislature that provides protection for unpaid credit-sale contracts executed after August 1, 2003, in grain elevator or grain buyer insolvencies. Each patron's coverage is limited to 80% of the patron's unpaid credit-sale contracts with the insolvent buyer, up to a maximum payout of \$280,000.

The reader agrees that use of this information is entirely at the customer's own risk. The Public Service Commission's services are provided, as is, without warranty of any kind, either expressed or implied, including without limitation any warranty for information provided through or in connection with this service.



PSC 2113

Selling Grain?

Know your rights and responsibilities regarding grading disputes, payment, storage rates and handling fees.
(cont.)

FARMERS--CREDIT-SALE CONTRACTS MUST BE SIGNED

State law requires that scale tickets be issued for every load of grain received and that all scale tickets be converted into cash, noncredit-sale contracts, credit-sale contracts, or warehouse receipts within 30 days after the grain is delivered to the warehouse. State law also requires every grain buyer, upon receiving grain, to issue a scale ticket or comparable receipt and shall pay the farmer within 45 days of receipt of the grain.

A farmer, who makes the decision to sell grain and take payment more than 45 days after the delivery or release of the grain for sale, must enter into a credit-sale contract with the grain warehouse where the grain is delivered or with the grain buyer that received the grain. A credit-sale contract must be signed to be valid and enforceable. If credit-sale contracts are not signed within the required time, grain warehouses and grain buyers are at risk of having a complaint filed against them.

Farmers are encouraged to work with their grain warehouses and grain buyers to get all credit-sale contracts signed within the time permitted by state law.

STORAGE RATES AND HANDLING FEES

- ☞ State law does not prescribe grain elevator storage rates and handling fees. Each state licensed grain warehouse sets its own storage rates and redelivery fees (i.e. "in" and "out" charges).
- ☞ Licensees cannot, however, unjustly discriminate among patrons. State licensed grain warehouses must file their proposed rate schedule with the Public Service Commission; it must also be posted at the warehouse. The rates may be revised upon filing with the PSC.
- ☞ Storage rates must be stated on warehouse receipts. If a warehouseman changes his rates, the rates that were in effect when a warehouse receipt was issued are the rates that apply to

that storage contract. Warehouse receipts on beans expire on April 30 of each year; other grain receipts expire on June 30. If expired receipts are reissued, the storage rate in effect at the time is the rate that will apply to the renewed receipt.

- ☞ Farmers should not confuse storage rates with credit-sale contract service or handling charges (delayed price and deferred payment-type transactions). These fees are not regulated and are governed by the terms of the contract that is entered into by the buyer and the seller.

GRADING DISPUTES - DON'T WAIT OR YOU'LL BE TOO LATE

- ☞ State law does not regulate elevator purchase prices, premiums, or discounts. State law does provide, however, that warehousemen may not unjustly discriminate among patrons.
- ☞ If a farmer does not agree with an elevator's test results he has the right to ask that an independent test be performed on his grain. He must, however, ask for the test when the grain is delivered.
- ☞ To initiate the process, the farmer must ask for the independent test. The farmer and the warehouseman must then draw a mutually agreeable sample of the load. This sample must be sealed in a container and sent to a federally licensed inspection service or to some other mutually agreed to third party for testing.
- ☞ The buyer and the seller are both obligated to accept the results of the independent test. The farmer is responsible for the cost of the tests.
- ☞ State law requires that warehousemen and grain buyers post a notice concerning the law's provisions concerning the resolution of grain grading disputes. To obtain a copy of the notice, visit the PSC's website at www.psc.nd.gov or call (701) 328-4097.

✓ Steve Woodworth -

230 2996 ✓ Pete Nelson

11-12-14
240-5010 ✓ Scott Ross - Lane Prairie - in with ⁴³⁸⁰⁰ ^{1/17/17}

✓ Tom Lutza - Corn Growers - re: bond proposals

636-5103 ✓ Scott - Alton - Alton ^{Archives \$20,000}
2311) \$15,000 - Audit cost

101-682- ✓ Mike
5151 ^{Paul's Sud -} deferred payment
workouts

11-17-14
306-352 ✓ Jason - Burma Audit

2444
11-18-14
907-8312 ✓ Rick Burgum - Grain movement

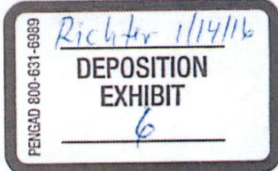
279-5824 ✓ Dale Hardy - All Bond

644-2757 ✓ Lee S. Edmore - Sent in grain inspection
open count in Canada - samples - 2 shots - ^{write to Dan}
^{5 strips}

218-176565 ✓ Grand Suras Bar -
Aunt Ann ^{to} 300,000-840,000 Bonds \$2400 ^{all} ^{you} ^{testing}
^{you} ^{old} ² ^{sub}

402-964-5214 ✓ Mike Schmidt - submit without
marking - PSC ^{waiting for the light} ^{1/17/17} ^{1/17/17}
Chuck Nelson ² ^{did} ^{just} ^{est}

204-2502 ✓ Don - Jamestown - buy pricing
downward are not regulated 9:00-11-19-called ^{NO one} ^{will} ^{set up}



11-19-14
4289-

Sue SDS
Photo Commission

Daily records
the team plan
will meet
the team

11-19-8905 ✓ Jesse - Erickson & Associates
didn't measure as
perman

204-988-0303 ✓ Jack & Lemming - PPR Searches - A Caprice -
significant # of hits

763-650 ✓ Davis - County Blain - moving grain buyer -
Sovtemp - no updated - 50-50000 = 25000

11-24-14
355-4458 ✓ Hanna - ^{where} NW Ethanal 9:00 - 10:30
Conference - Blue & tint Strabala

355-4458 ✓ Jesse - 9-11 mtg - 10:00 mtg - Budget
powerpoint

769-2665 ✓ Tiffany - Wednesday - Central Plains - M&A Response

505-426-6882 ✓ Craig Arch Central -
Question regarding measurement - no
need to file but may want next year

11-25-14
78-7965 ✓ Curt - Grand Forks Bear - WSS Nelson -
3 loads 2014 69.1?? 71.???

275-7044 ✓ Chad Sartz - Hay Buyer
(license)

11-26-14
718-255-2021 ✓ Justin - Crown Appraisals -
Harlow Bin Dues

11-28-14
718-714-6565 ✓ Curt Anderson - © Price later contract -
WSS - 3 loads - price later 2013
no response
no contact

237-2245 ✓ Steve -

12-1-14

~~304-988-0383~~ Jack -

333-578-8223 Dean Chapla

12-2-14 ✓ Steven Weger left msg to call back
220-0114 - clayfarm@matrix.com *Rules processed*
✓ Dean Chapla - Bond

328-9865 ✓ Gen - Jon. Miller @ ndsu.edu
Rail info - *Call when answer & ready*

738-4619 ✓ Susie - Halliday - gr mount + Stg report
cleaning doctor on 4 airt 13-2014 7 grab in elevator

351-4715 ✓ Marc - Maddock - early spring - getting paid - Done Prairie
small contracts - delivered 45 days to convert

52-2567 ✓ Mary - Wisher - called returned
left msg no called returned *Rahr sign contract with Rahr to Done Prairie*

12-3-14
652-8277 ✓ Christi - Central Auction Auction
Corryton *Rahr custom Hosken - 9000 clean 2000 bush
Cleaning up - left pickup up from*

206-457-9881 ✓ Mohinder Shrivastava - Global Commodities
Dean Mandtberg - atty - 701-833-1985. Minn
Sept!! aty talked to Mohinder
prantavala @ SRT.com mayfairtrading @ AOL.com AOL.com atty mail approved

12-5-14 ✓ Jessica Cavaha Bean - 400 - 100,000 CWT -
265-8495 pas no beans

304-8827 ✓ Mike - Red River Farm Network - beans at CFB
40,000 CWT -

12-16-14

237-1245

Steve S. - Wg this p.m.

power
just - clms

488-2513

Luise - Bin Charts - emailed

218-281-1105

Bob. R. Strain - Burthold

- Barbara Swank - will file complaint with attachments

218-774

Steve Svenson - Bond

5200

4520-3100

Brent - Ridgeway - Grand Turke Beans - asked for beans back
Baldwin

12-18-14

20322-800

Bob.

870-0597

Julie F
Annis -

file 2500 Du Bin falling# - phoned via ADM falling# \$3900

Amber - 305 State Lab 363 F# 269
10,000 bushel wheat - F# 331

331 elevator - 4000 - Garretts

hailed 11 loads - 450 loads < 300

rest above 7300

two - Wed 5/30/00

48 hrs
Shawin

will not check for falling number
dock 404 if under 300

only complaint - how many farmers had along falling number

218-779-
1-288-202
Sent to assembly
20
Radams 8300 @ hotmail.com
Rene Yick
Nadamo 52 @ hotmail.com

330-340 Brent - put Monday at 9:00 - get contact
Baldwin @ folk.com assembly

331-335 Russ - Milland - Grandview - carried law firm

324 Witty - Arthur

701-599-2123 Chuck Nelson - Thompson
Grand View Bean - copy of contract + documents

741-4907 fat - 795 115+7E
Thru 58278

775-7564 Joel - Joel - Sears locked in warehouse. not going anywhere
wants to go
12-23-14
Monday a.m.

775-5595 Russ Milland - represents all farmers
rmilland @ camrus law.com

775-599-2123 Chuck Nelson - work # 218-779-7862
PSC
e-mailed on Dec 24

599-2123 Chuck Nelson -

12-24-14 11:57 a.m. Curt Amundson - do we have
18779-6565 to send individual items

12-24-14 Jim McLaughlin
361-1847 - all app email - Shelby handled

12-31-14
8-281-1705

✓ R/S Brain - payment 1st week in January 2016
impair 2/15/16

218-779
5202

✓ Steve Johnson - having grain judgement - drop off on Monday

263-6147

✓ Travis - Country Brain / MOA responses
Dacia

✓ John - Sheyore Equity - original in the mail
Bond

151-2699
1-5-15

✓ Sue Mathern
Uniform Center - 255-4111

410-8611

✓ Bob Penfield - AU

✓ Dave

03-338
1-15-15

✓ Michael

524-150

✓ Nancy Peterson - Vinlyp - response to

10-498
2/14
Sawstak

037-6483

✓ ~~Jim~~ Braike - contacted by PSC
Curt Amundson & Brad Nelson
Estate

10-1-15
Sawstak
Baker
Sawstak

18-779-5202

✓ Steve Hutton - Power

341-4649

✓ Sue Mathern - Uniform - navy damaged

Diane Wilentz

4-258-28

✓ Barbara Swanson - Complaint day Buyer

✓

✓ Dan Saustad - Russ Melland

Retired on Monday
PSC 2277

1-9-15

756-3487 Jason - Occults Big Bear

1-12-15
430-9540

Rick - SRS - writings for paperwork to finish sale

1-12-15
Yvonne
W. J. J.

Jesse ^{moving to} ~~Appt.~~ Durum ^{Dever} ~~Gravies~~ - ~~Jan 28~~
5:30 - 8:00 - call into mtg - ~~Monet~~ -
6:00 - Rules - ~~Ag coalition~~ - ~~I Center~~

Katerina - MOA - CNF Foods Inc.

1-13-15

Mara Lisa - Ranke Jong - Lamy ~~Davidson~~ -
Davidson ~~train LLC~~ - ~~Davidson~~ ~~Davidson LLC~~ - ~~Davidson~~ ~~Davidson~~

OT - Souie River Camp ~~Acquid~~ ~~Davidson~~ ~~Davidson~~
on miami report

24-500

Mike Bratton
April Contract - April Delivery - 2015

1-14-15
37-6983

Jon - Bruner Bank - attyp
attyp representing the bank
prioritize getting beans marketed
Central Valley Bean & American Bean -
propose cons of selling beans - sale
doesn't affect anyone's rights -
have more details later in the day

1:30

money -
in ~~the~~ ~~news~~ -
who.

18-979
2202

Steve Stevenson -
stev@invisinal.com

891-4119

Jim - nut rep - want to see sample

240-8748

Blake Stmann -

898-0207 ✓ Jessica Jim Grain

-15-15 ✓ Steve Johnson

226- ✓ Kent Aldrin - Truena
0417 ✓ @yaho haul screenings - wheat with mom

1-10-15 ✓ Eric Larson - James Valley Grain - construction
7425200 issue - car

640-3434 ✓ Bill Mauch

1-17-15 Nicole - Uniform Center - \$36 for emb

1-20-15 Steve Johnson -

218-179-5202

245
331-6983

John - Tracy had a
what kind of process the CSC indicates
CSC Beans - what we have to go through - to make the ^{terminate} _{the} _{hospital}

C/O Brother - start left - AB

26-123280

CNR Foods - ~~Wheat~~

679-2400 ✓ Rick - May groundstop

371-5658 ✓ Alan Phelps - software to purchase edible beans - sue to the company that you operate a new station for

102-343- ✓ ~~William~~ Brugman - Hoco - conversion -

3870 Hoco changed hands - Healthy Foods

214-3203

Cindi - Durum Drawers - Solberg

office ^{drawers} ^{groceries} Jan 28

515

Dennis Hawkey Commodities - split grain
Pears - Market

1-22-15

Rick - SRS - Bid -

430-9540

306-7592
2535

Margaret - Murray & Aulston

EHM
check

541-3591

Mark - Y esender Coop - USDA stop

852-0381

Scott - Hudson - Y esender - Grand
Charles Bean - Contracts to see beans
Wainwright pressure rights - unproven water

715-2512

Emily Arroyo WDAZ - GF
- gave to ~~Scott~~ Randy who returns call

237-1983

Jan Brakke - Stipulation - Run's e-mail

Seneca - PSC two ^{mtg} ^{interview}

1-26-14

Tracy - Central Valley -

626-123230

Reports -
Chudi

704-749-8974

Shathan ^{Att} Wells Fargo - Considering 60-071
financing for Commercial Lynks -
line questions - referred him to GE 11-51
and the MN Case

1-27-15
8520381 Scott - Brian Fox Darryl

1-28-15 ✓ Kenny Richter - AC license

503
224
8124 ✓ Bob Columbi Brain -
200

1/12-811B Tracy A+B-Options ~~planned~~ anyone as finally determine in

549-
3921 ✓ Daryl Berg - Walball Bear
Reg to kids Bus

1/12-0864/402 ✓ Carl Arnason - willing to sign slip
such sale to potential with proceeds going
no wish or desire to impede into Escrow at BMD - in principle
The Insolver proceeds determined by the Court

1-29-15
105-3317 ✓ John - Walball Bear

221-8785 ✓ Steve Hubbard

341 2622 ✓ Day 1/30-1920

✓ Bob Weigel - Contractors license - Sent to SOS

2-2-15 ✓ Gary - Central Valley Bear #9100 - 5000 Paq - Wine State

1/12-
Darryl

39-1920

231-6983 Jan Bracke - no problem
Eric Changing the Strip

2-3-15 ✓ Gary - deuter ~~seed~~ ^{hackle} - Jamestown area -
485-3422 grain price for oats

740-7493 Jen - Lakota pry Bear - records
1220-1898 Ted - Dakota Midland

2-4-15 ✓ Eric Mack - check off - Canada

✓ Sammy - St. Hain Seed - RPT

405 Steve - Kevin, May part - ACORD
BURGESS@HOWARTHMCOWELL.COM

328-5540 Jim & BCF

341-7596
2-5-15 Jim - Edmann

655-3551 Dave - Bracket

2-6-15 ✓ Steve - current legislation
231-2245

330-6037 ✓ Mitch - American Bear - Reports

306-569-
6600

Nathan Vitara - CF Bean - referred to Paul Keefe of State Bank

360-816-
1944

Marc - United Grain - payment contract - company wide interest

523-
6906

Quinton Seaman - on line real estate

2-2415
652-
4224

Stacy - Dakota Parks - Contract

372-
3721

Paul - Coe fax elevator. Stg.

262-33-
8864

Brian - list of grain elevators

Anne & Amanda - Sky Car

413-858-
5603

Roson Muhammed?? left msg to call back

465-3682

David Blumhagen - gm Grain in Garrison delivered - 45 days

2-26-15
66-644-6839

Reno Babcock - AU license - go to auction in ND + rep - cry - need

8175-
152

Christopher Paul Rose - AU license

Jack Olinings - form of engagement - questions re: taxes-supplies

2-27-15

Bruce - Shelly is she okay

824-2235
563-7150

Russ Jordan - Matt trucker - falling number

3-2-15 Myron Blumhagen - ~~refugee~~
120-4809 Grain

235-4184 Stu - CO

605-225-1828 Nancy Jare - All Bond - original

215-8100 Sue - Scranton Equity - Bureau car shipment
Barley - January 2015 Report

447- ✓ Dave - Blue & tint - app - electronic -

✓ Jim / Normie / Ed Warkham - ~~Surviv~~

130-2230 mailing list of grain elevators - mailings - see
Teresa 4 seed @ gmail.com / list of elevators

370-8866 Mare Anderson - Prairie Premium Oil
30 days not filled contract
January 21 - payment in 30 days / \$37,38,000
shut down right now - mid Jan maintenance & repair
90 over number max check in

582-6199 board is meeting today - crushed inventory on hand
making payments as far as Jim - ~~delinquent~~ had been paying -
Bob - ~~seal off~~ judgment of contract - 1-30 day aging column
seed trackings -

~~231-6983~~ AP - grain
list of receivables
copy checks for payment
June 25
Sept 9
paid
called Sept
New -
re-issued
necessaries & operating time
Schle tickets
another were made

231-6983 son Broker - CF Bear - Russ Melland, Dan Saustad,
revise draft - use later date, look at 2014 transactions -
dec date accrued - upon ability -
Yellow thought but ~~what~~ pricing interest
concern -
Moore looked at 2014 transactions

4-15

503-224-
6604

Annalise Marie - Bachel

~~XXXXXXXXXX~~ - Columbia Grain

put through
Savitar we
Went to
Jalilip

not taking over - Bavelon Grain -

775-3317

John Walhalla - dis his request -

4-15

0549-3721

Susan Walhalla Bean

4-20 thru 24

237-1983

Jon Brake - C/F Bean - Complete Analysis
script holder & credit sale

370-9013

Darren - 85% - 15% findings

678-4621

Curwood - LaMaure

615-786-
0781

Alicia - Eco Energy - Natural Gas -
email - went to Pat

240-5010

Scott - Ross - Pure Prairie

435-2451

Chris Kincaid - Elwater

250-7050

Bary Schumacher - Laup

oil to sell - must wait for
Purina (30 days)

691-5140

Kent - waiting to hear from Purina - no response yet -
(end of May) - don't want to May 15, deadline to disengage busin
add more money

4-29-15

832-482-
4732

Roslyn - CBS - Bonds in word documents

281-898-0013

370-1208

Sean - Langdon - Prairie Plumbe

Chad. Rudolph
agencing.com

4-30-15

Mike B - measurements -

Chad-R. 252-5248

231-6983

Jan Bracke - Brad Nelson Estate -
logic - since need a court proceeding
only way to file Under Rule 5 /

Jed - OK Steg - Dakota Midland 11¹² on due am
May or due am at Shust 4

Jim - May 13-out, May 12-PM out

5-1-2015
528-7389

Mike M.

235-3500

Mike Dost - GFBear

744-6200

monthly report

5-4-15

Agnes CHS - conversion policy template

651-355-6386

235-3300

Mike Dost - GFB - atty questions re: possible retaining

437-2400

Kith - PCA - reduced bond for
Shetha conversion period

746-7493

Chuck Dakota Dry Bean - change - outped 10000

120-242
8886

Michael Maichele - lump sum payment

5-5-15

847-2622

Andreas - Central Valley Bean

235-3300

Mike Best

Brad Simlar - Comm Agr

Kip Kaler - Farm

715-44688
management

Tracy

Sale scheduled week

Dennis Bilick in June - 2nd week
will know the deficiency - Anticipate -

Approach: everyone to gain
understanding - look and risk
of loss - Bank & PSC - (CSC-I-
farmers - present - where asset
risk loss - want to accurately identify -
everyone can then determine how far
they want to go to compromise
claims - fund risk into pat -
Strength & weaknesses - well value 90%

hope no one puts a position in
writing - eg. Report - may be
harder to back out. Suggest
hurdle - manage farmer up &
risk of loss - below 80% - may
be and still explain later -
Tracy believe farmer may not like
Brenner Bank will compromise

Tracy will
send me
I - mail

Stand to
substantially

one
base
PSC
CSC-I-
farm

Alumni Center

5-6-15

86-7493 ✓ Chuck - Nakata
Buy Beer

231.6802

Jim Nady
August

Grand News
Headquarters
of all
documents
available
here

581-6215 ✓ Jim - Prairie Premium Oil -

38-2491 ✓ Eric Mack - Contacts - New Systems
Compaq

56-2447 ✓ Kevin - Downs - Jan 1 - Dec 30 - 50¢
April - March 31 - Aug 1
July

28757 ✓ Liptaler - conflict

37-3004 ✓ Guy - Erdlin - regarding Daybear Creek

5-508-3422 ✓ Janie

5-7-15 ✓ Tracy - Comm Lynks - letter re' bus
23-751-6200 Sent e-mail
tracy of
conlyne
com

8-
2491 ✓ Eric & Angie - separate consec numbers -
own number series

35-3300 ✓ Mike - Russ Molland - doesn't see a conflict
5-8-17
7-891- ✓ Judy - The Andersons
6513
5-11-15
Ron & Neva
Adams
would
obtain
a waiver
to this effect
from clients

Michael &owitzky - Russ

778 ✓ Seal ticket excursion - letter -
5-12-15

1-5825 ✓ Russ Molland - filing deadline

7

5-12-15

175-0521 ✓ Dan Laustad - papawade from farmers -
price later

342-4465 Alex Richard - Maple River

21 min

341-0203 Mike Thompson - Harley - Sunflower
contract

338-2491 Eric Mac - ADM - CSC

17 min

146-9493 ✓ Chuck - Dakota Dry Bean -
18 min new bonds

146-9335 ✓ Mike Gutierrez -

235-330 ✓ Mike Gust - don't

05-~~89~~-
1065 Lewis River - 1023

5-13-15

112-9396 Darren - Minn Oakes Brewers

415-956 ✓ Zuko - Oils seeds contract -

7521

832-482 ✓ Karilyn H - CHS - 2012 - Noodles by Leonards
4132 can't help with abuse issue

83-224-864 ✓ Bob - West Dakota

112-8111 Tracy - June 4 - sale date - client willing to
be reasonable

356-6376 ✓ Steve Thompson -

✓ Bob Columbia Main

5-14-15
218-173-8834 Jim Thompson -
Bob Columbia Blues

Aracy 328-4145
reference
garments
conversion
July
50,000
Sec 100
R.S.

5-15-15
Nicole Matthews - Natural Gas

5-16-15
711-6200 K/M Main, David - Business Situation
re conversion

712-5511 Art Kingham - Marcus Besson
All4AC - Benefit - for hire
Benefit
renewed
patent
tax
per

5-19-15
884-2042 Ken Richter - Oracle

702-887-5335 Brett - Nebraska Beer - growers in Grand Dunes
Beer

328-4145 Aracy - SOS filings

212-6179 Cam - Sauris River - Board mtg - Bond reduction
Doesn't apply

5-21-15
712-3343 Cindy - Hurdspeld - Bond

605-426-6882 Craig - North Central

515-986-4111 Melissa - HawkEye Comm - Annual

401-5284 Jimmy - Milner - ?? Bond Reduction

651-355-6849 Jeanne Went Ware

Mitchell Adams # 2
and Nathan Parsons
Vallet + the

306-622-4418 Mike Adams - JCL - ^{July 2015}
July 2016

93-9413 Mary Klobeg

~~5-26-15~~
218-695-1348 Mitch - American Beans - ^{final} conversion item

Simon Beck - DOT

06-624-2470 Mike Adams - Cert of

30-354-1140 Mike W. Sub Crop ^{80% Canadian} ~~Produce Agri Business~~ ~~Right~~ ~~Work~~

341-4119 Sim - Mitch - DOT - Same & risk certify

12-8113 Tracy - file whatever documents you'd like to support your claim. If we need anything we'll let you know - when reviewing claims - Same as every other claimant

~~5-27-15~~
2-367-8220 Sunanco - Bend - ^{200,000} Bushels - ^{500,000} 500 Bushels
200,000 - 204

~~5-28-15~~
152-460-7491 Jon & Antt - Vitana - PCB license

235-4184 Stu - 199-01410 - ~~Bono chinto~~

10-543-3299 Lari - Purdue - ~~Rubbing~~ ~~Butter~~ ~~Bump~~

3-14-595

6-15-15

328-4075 ✓ Paul - login

John Villiard - Sales Service
test questions - referral to Sat Dec

843-8744 ✓ Charu

651-355- ✓ Anne - CHS - roof by tie
6471

6-16-15 ✓ Travis - ADM - Rogus - left msg

515-273 ✓ Nancy - F.C. Store - grain license - Gate Brokers
4046 \$50000 - \$65000 -

338-2491 ✓ Eric - Uelva - ADM - CN Commission - we had them
CS - assessments my 7/19/15
Bridg
Tiff

646-6000 ✓ Travis - ADM - tow down old wood elevator
2-23000
2-85000
6603

256-2447 ✓ Kevin - Deans Brokerage - new bond -

204 ✓ Stan Stewin - CN Grain Comm - Canadian
Check 086

258-0630 ✓ Mitch - stg. fee - Grand Forks Beef
6715

303-200 ✓ Chris - Trinidad - Bonds a handle
M00

883-6005 ✓ Open - Larson Grain - farmus etc - job
No Bus + Lic of
Wisc

328-5113 ✓ Jim P. - N10 What Comm - Check 086 any
Canadian Stock

615-2847 ✓ Bill - Northern Plains - gr whole bond
0982

80-511- ✓ Dine - James Murphy & Associates - RCB Bond
07150
515-223-6987

From: Richter, Susan K.
Sent: Monday, December 22, 2014 6:18 PM
To: Christmann, Randel D.
Subject: RE: Re: Grand Forks Bean

See responses below.

Sue Richter

Licensing Division
ND Public Service Commission
Bismarck, ND 58505-0480
701-328-4097
srichter@nd.gov

From: Christmann, Randel D.
Sent: Friday, December 19, 2014 5:22 PM
To: Richter, Susan K.
Subject: Re: Grand Forks Bean

When was Grand Forks Bean licensed? Grand Forks Bean Company, Inc. (GFB) was issued a license in October 2005.

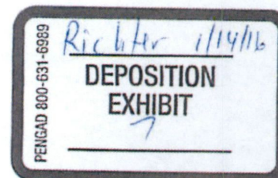
When has Grand Forks Bean been inspected since being licensed, and by whom?

- 4/19/2006 - Tim Erdmann - 1 condition - unsigned credit-sale contracts
- 2/28/2007 - Tim Erdmann - no conditions
- 4/16/2008 - Tim Erdmann - no conditions
- 8/18/2009 - Tim Erdmann - no conditions
- 8/17/2011 - Tim Erdmann - no MOA issued
- 2/21/2013 - Tim Erdmann - no MOA issued
- 2/26/2014 - Tim Erdmann - no conditions noted

Which of those inspections included an inspection of the books, and which did not?

- 4/19/2006 - information not available because of change in exam program
- 2/28/2007 - information not available because of change in exam program
- 4/16/2008 - completed measure-up and records review
- 8/18/2009 - completed measure-up and records review
- 8/17/2011 - completed measure-up, planned to meet with owner next day, due to medical problems owner not available and records review not completed
- 2/21/2013 - completed measure-up, planned to meet with owner next day, due to legal matters owner not available and records review not completed
- 2/26/2014 - completed measure-up and records review

When was the acceptable sample of a Credit Sale Contract sent to the PSC?
Filed in 2006



When did an Inspector notice that GFB was using a contract that is significantly different than the sample on file?

A copy of the "unacceptable" contract was faxed to me by a producer on November 19, 2014. I didn't recognize the contract and provided Tim with a copy. Tim said he looked at the price later marketing agreements during his review of records for the February 2014 examination. Tim verified each contract was properly executed and he said not noticing the missing language was an oversight. Tim will closer review documents during future examinations.

When did the Inspector make that known to the Director?

I don't recall the exact day that I made this known to the Inspector. I will check with Tim (he's on his way home and I can't ask at the moment.)

Dates and names of producers' inquiries, in any way, to PSC personnel about Grand Forks Bean.

11-18-2014 - Curt Amundson called - inquired whether he's entitled to gross or net return of beans if Grand Forks Bean makes redelivery.

11-25 & 26 -2014 - call from Curt - inquired if GFB has sufficient inventory and questions on use of price later marketing agreement. Informed Curt an inspector will visit the facility to verify bean inventory.

12-4-2014 - staff initiated call to Curt - and not able to give legal advice to some of the questions/concerns expressed by producers and suggested they seek legal guidance regarding the contracts

12-5-14 - call from Curt

12-16-14 - call from Brent Baldwin - questions/concerns redelivery, contract, sale of beans

12-1-2014 - call from Curt with Ron Adams and Nick Adams on same phone call - questions/concerns

12-19-14 - Chuck Nelson - same questions/concerns

Curt also initiated a call with most other producers on phone, don't recall specific date. Questions on contract, whether it valid credit-sale.

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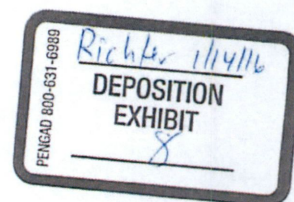
Richter, Susan K.

From: Richter, Susan K.
Sent: Tuesday, January 06, 2015 10:49 AM
To: rmelland@camrudlaw.com
Subject: Judge's Oder in Grabanski Grain Insolvency
Attachments: 116-010.pdf

Russ - attached is the Judge's Order in the Grabanski Grain insolvency.
Talk to you later this afternoon.

Sue Richter

Licensing Division
ND Public Service Commission
600 East Boulevard Ave, Dept. 408
Bismarck, ND 58505-0480
701-328-4097
srichter@nd.gov



Richter, Susan K.

From: Jon R. Brakke <jbrakke@vogellaw.com>
Sent: Thursday, January 08, 2015 2:57 PM
To: Richter, Susan K.
Subject: January 8, 2015 - Grand Forks Bean Co.
Attachments: Susan Richter email.pdf

Sent by Lori Thrall

January 8, 2015

Susan K. Richter
Licensing Division
N.D. Public Service Commission
Bismarck, ND 58505-0480

E-mail: srichter@nd.gov

Re: Grand Forks Bean Company, Inc.
Our File No.: 020787.00000

Dear Sue:

Thank you for discussing the Grand Forks Bean situation with me today. I have been retained by Curt Amundson and the Nelson Estate to represent their interests with respect to Grand Forks Bean. As a consequence, in the future, it would be appreciated if you could include me in all discussions.

At your convenience please send me a copy of the stipulation signed by Grand Forks Bean that, in part, provides Grand Forks Bean will not dispose of bean inventory it presently has on hand. If you could also send me a copy of the most recent decision obtained by the PSC on credit sale contracts – Grabanski Grain - that would be appreciated.

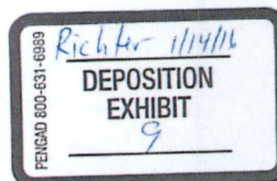
Very truly yours,



Jon R. Brakke

JRB:ldt
2127092.1

This message has been scanned for malware by Websense. www.websense.com



Richter, Susan K.

From: Dan Gaustad <Dan@grandforkslaw.com>
Sent: Thursday, January 08, 2015 1:55 PM
To: Richter, Susan K.
Cc: baldwin@polarcomm.com; Sharon Kouba
Subject: Grand Forks Bean

Hi Sue:

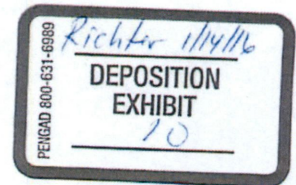
Thank you so much for taking time to speak to me today. As I indicated, I have been retained by Duane Altendorf, Brent Baldwin and Baldwin Farms, Inc. regarding the matter involving Grand Forks Bean.

As stated during our conversation today, if you could send me the documents you have received from the various growers, including my clients, regarding Grand Forks Bean facility as well as the documents have obtained from Grand Forks bean it would be appreciated. Also, you had mentioned a decision in the Grabanski Grain matter that you have – if you could send that along, it would be appreciated.

Again, thanks much for your assistance and if you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Daniel L. Gaustad
Pearson, Christensen & Clapp, PLLP
24 North 4th Street
P.O. Box 5758
Grand Forks, ND 58206-5758
Phone: (701) 775-0521
Facsimile: (701) 775-0524
E-mail: dan@grandforkslaw.com



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