

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..

Date Submitted: 5/13/2016 1:46:00 PM CDT
Filing Code: Affidavit
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STATE OF NORTH DAKOTA
COUNTY OF GRAND FORKS

IN DISTRICT COURT
NORTHEAST JUDICIAL DISTRICT

CIVIL NO. 18-2015-cv-00240

Public Service Commission,)
)
Petitioner,)
)
vs.)
)
Grand Forks Bean Company, Inc., and)
Auto-Owners Insurance Company)
)
Respondents.)

**AFFIDAVIT OF MITCHELL D.
ARMSTRONG**

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

Being duly sworn, Mitchell D. Armstrong, testifies:

1. I am an attorney duly licensed to practice law in the State of North Dakota, and am admitted to practice before this Court. I am submitting this affidavit in accordance with the Court's May 3, 2016, *Order Modifying Trustee's Report and Recommendations*.
2. I am a member of the firm of Smith Bakke Porsborg Schweigert & Armstrong, and along with attorney Brian D. Schmidt, we are appointed as special assistant attorneys general to represent the Public Service Commission in this action.
3. I have reviewed our firm's invoices for work performed in this matter. Pursuant to our special assistant appointment, invoices were submitted on a monthly basis. A true and correct copy of all of the invoices to date (including any applicable receipts) are attached hereto as Exhibit A and bated stamped. The attached invoices have all been paid.

4. Attached as Exhibit B is a true and correct copy of a draft invoice from our timekeeper system for the period of May 1 through May 12, 2016. The final May invoice will be submitted in early June 2016.

5. The total amount of attorneys' fees and other expenses paid by the Public Service Commission to our office on this matter through April 30, 2016, is \$50,237.70. Ex. A, p. 1. The amount payable from May 1 to May 12, 2016, is \$3,553.00.

6. The work that I provided on the case was billed at \$190 per hour and the work Mr. Schmidt provided on the case was billed at \$150 per hour plus expenses. Black and white copies were charged at \$00.20 per copy and color copies at \$1.00 per copy.

7. In reviewing the invoices, I noted an error on the September 2, 2015 invoice on Exhibit A (p. 7). The time entry for 08/14/15 includes an entry stating "draft letter to Levinson." This entry does not pertain to this case, and was entered incorrectly as I was also working on another case prior to an e-mail from and then a discussion with Bremer's counsel that morning. While this entry was entered incorrectly, the time is correct. The entry should have indicated "draft email to Illona Jeffcoat-Sacco" instead of "draft letter to Levinson." Therefore, the time entry of .7 is correct, but the description of the work performed is incorrect.

8. On the February 3, 2016, invoice (Ex. A, p. 20), another correction is necessary. The travel expenses indicate it was to attend a "hearing." These expenses were for attending the growers' depositions in Grand Forks, not a hearing.

9. On the February 3 and April 4, 2016, invoices, there are costs associated with Tim Erdmann at pp. 20 and 42. As he testified at the hearing, Mr. Erdmann retired from the PSC at the end of December 2015. As he was a necessary witness and provided continued work on this matter, including opinion testimony, an agreement was reached with my office to retain Mr.

Erdmann for his services on this case. He was paid an hourly rate of \$70 per hour for work performed on this case plus expenses as reflected in the invoices submitted for payment, which are also included within Exhibit A at pages 22.

10. The conference call charges included within the March 7, 2016, invoice were for out-of-town attorneys to attend the depositions of Sue Richter and Tim Erdmann via phone through arrangements with counsel. Ex. A, pp. 27, 37.

11. Attached hereto as Exhibit C is a true and correct copy of the Travel Expense Voucher for Sue Richter to attend the hearing in March 2016 in the amount of \$263.70.

12. Attached hereto as Exhibit D is a true and correct copy of the Travel Expense Voucher for Illona Jeffcoat-Sacco to attend the hearing in March 2016 in the amount of \$460.17.

13. Attached as Exhibit E hereto is a true and correct copy of a summary of the project expenses for this matter maintained by the PSC, which includes the receipts and other items from Exhibit 4 of Ms. Richter's affidavit for the expenses prior to May 2015, which are \$1,897.53. See also Supplemental Affidavit of Susan K. Richter. (Doc ID # 157, 161). I have added hand-written notes on the second page of the exhibit to show where the Court and parties can see the supporting documentation for each entry.

14. It is my belief that the invoices reflect reasonable and necessary work performed and expenses incurred in this matter.

