

**Richter, Susan K.**

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**Sent:** Thursday, May 26, 2016 3:55 PM  
**To:** Richter, Susan K.  
**Subject:** Notification of Service for Case No. 18-2015-CV-00240 ( Public Service Commission, et al. vs. Grand Forks Bean Company, Inc. )

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: 5/26/2016 3:52:12 PM CDT

Filing Code: Affidavit

Filing Desc: Affidavit of Susan Richter

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**E-file to Court – Affidavit of Susan K. Richter**

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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-Owner Insurance Company )  
)  
Respondents. )  
)  
PSC Case No. GE-15-36 )

**AFFIDAVIT OF  
SUSAN K. RICHTER**

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STATE OF NORTH DAKOTA )  
)SS  
COUNTY OF BURLEIGH )

Susan K. Richter, being first duly sworn, deposes and states as follows:

1. I am a citizen of the United States of America, of legal age, residing at Bismarck, North Dakota.

2. I was involved in securing counsel to represent the PSC in this matter. Initially, we contacted the Attorney General's office for representation. The Special Assistant Attorney General who has assisted the PSC in past insolvencies, Doug Anderson, was not able to represent us throughout this insolvency due to other pending litigation that resulted in time constraints that would not allow him to undertake representation of the PSC. He did provide some early assistance, which is documented in the exhibits already on file with the Court.

3. As a result, we searched for outside counsel, including contacts with at least five

law firms in either Grand Forks or Fargo for representation. The initial contacts are outlined in my notes admitted at the hearing as PSC Exhibit 6. In those contacts, we learned the hourly rates for legal services all were over \$200 per hour. In addition, only one of those contacts did not have a conflict. The attorney without a conflict quoted a rate of \$250 per hour for his time and \$185 per hour for his associate.

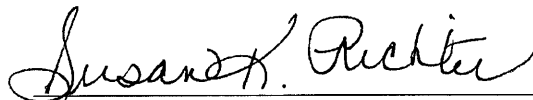
4. I also contacted Mitch Armstrong who has performed work for the PSC in past litigation and in siting cases. Mr. Armstrong did not have a conflict and indicated he would charge the same rate as he had in the past—\$190 per hour for his time and \$150 per hour for associate time. We viewed these rates as reasonable and, given our familiarity with Mr. Armstrong and his familiarity with Commission practice, we retained his firm to represent the PSC.

5. We viewed this case as a complex insolvency. At the time of retaining outside counsel, May 2015, we were aware of the issues the Court ultimately decided in this case and that the issues would be contested on several grounds. For instance, Bremer had already asserted in its claim that it had first priority to the grain inventory at that time. Therefore, we expected Bremer was going to strongly contest the status of the growers' claims. Further, the growers had filed a conditional objection challenging the insolvency date, which to my knowledge, had never been litigated before. As the Court is now aware, these issues all had a significant impact on the ultimate resolution of this case. Therefore, we felt we needed outside counsel dedicated to the case to follow and respond to these anticipated issues.

6. We anticipated this case would likely involve more discovery and motions than the usual insolvency given the issues raised, as well as the number of attorneys involved. This actually did occur as the PSC produced approximately 2,500 pages of requested documents,

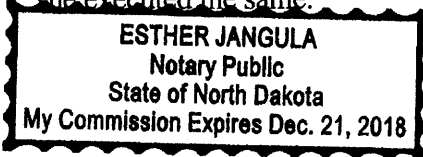
responded to written discovery, and attended several depositions. This is not the “norm” for insolvency proceedings. Given the circumstances, it was our opinion that outside counsel who more regularly practices litigation was necessary.

Dated this 24 day of May, 2016.

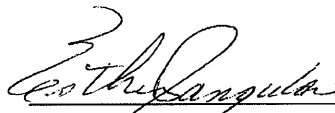


Susan K. Richter

On this 24<sup>th</sup> day of May, 2016, before me personally appeared Susan K. Richter, known to me to be the person described in the within and foregoing instrument and acknowledged to me that she executed the same.



( S E A L )



Notary Public

Deuel County, North Dakota

My Commission Expires: 12-21-18