

Jeffcoat-Sacco, Illona

From: Supreme Court Clerk's Office - Cota, Terra <TCota@ndcourts.gov>
Sent: Tuesday, September 20, 2016 9:01 AM
To: 'jbrakke@vogellaw.com'; Jeffcoat-Sacco, Illona; 'marmstrong@smithbakke.com';
'bschmidt@smithbakke.com'
Cc: 'mmorley@morleylawfirm.com'; 'jfamoose@gra.midco.net'; 'rmelland@camrudlaw.com';
'dan@grandforkslaw.com'; 'tracykennedy@northdakotalaw.net';
'sknudsvig@pringlend.com'; 'marmstrong@smithbakke.com';
'jschroeder@northdakotalaw.net'; Johnson, Scott K.; Adams, Marie
Subject: Notices of Appeal - Public Service Commission v. Grand Forks Bean Company, Inc., et al.,
Supreme Court No. 20160303

*SUPREME COURT OF NORTH DAKOTA
OFFICE OF THE CLERK
600 E Boulevard Avenue
Bismarck, ND 58505-0530
(701) 328-2221 (voice) (701) 328-4480 (fax)
1-800-366-6888 (TTY)
supclerkofcourt@ndcourts.gov*

September 20, 2016

Jon R. Brakke
218 NP Ave.
P.O. Box 1389
Fargo, ND 58107-1389

Illona A. Jeffcoat-Sacco
Public Service Commission
600 E. Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480

Mitchell D. Armstrong
Brian D. Schmidt
122 E. Broadway Ave.
P.O. Box 460
Bismarck, ND 58502-0460

RE: Public Service Commission v. Grand Forks Bean Company, Inc., et al.
Supreme Court No. 20160303
Grand Forks Co. No. 2015-CV-00240

It is the Court's understanding that the District Court has disposed of the matters for which this case was remanded.

431 GE-15-36 Filed: 9/20/2016 Pages: 13
**SC APPEAL – ACKGT of receipt of Notice of Appeal
filings and request for proposed briefing schedule**

This will acknowledge receipt of copies of the Notice of Appeal and Cross-Appeal filed on behalf of the Public Service Commission, and Notice of Appeal filed on behalf of Curt Amundson and Beth Nelson in the above matter. These were filed in my office September 15, 2016.

This letter, along with the attached copies of the Notices of Appeal, will serve as the required notice under N.D.R.App.P. 3(d). This letter, the notices of appeal and the enclosed affidavit of service will be filed in Odyssey.

In light of the multiple notices of appeal, and complicated nature of the issues, the parties are requested to propose a briefing schedule. The schedule must have the first brief due 40 days after filing of the TRA and not unduly delay the matter. **The schedule is due September 30, 2016.**

As stated in the letter from our office dated September 16, 2016, the transcripts are due to be filed November 14, 2016.

Sincerely yours,

/s/ Terra Cota
Deputy Clerk
North Dakota Supreme Court

pc: Tracy A. Kennedy
Joel F. Arnason
Russell J. Melland
Daniel L. Gaustad
Michael J. Morley
Scott Knudsvig
Marie Adams, Court Recorder
Scott Johnson, Court Administrator
Clerk of District Court copied via filing in Odyssey

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IN THE SUPREME COURT
STATE OF NORTH DAKOTA

Public Service Commission,)	
)	Supreme Court No. 20160303
Petitioner,)	
)	Civil No. 18-2015-CV-00240
vs.)	
)	
Grand Forks Bean Company, Inc., and)	
Auto-Owners Insurance Company)	
)	
Respondents.)	

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

SEP 15 2016

STATE OF NORTH DAKOTA

**APPEAL FROM ORDER MODIFYING TRUSTEE'S REPORT AND
RECOMMENDATION, DATED MAY 3, 2016, ORDER CORRECTING CLERICAL
MISTAKE/OVERSIGHT, DATED MAY 5, 2016, ORDER RESOLVING POST-
HEARING ISSUES, DATED JULY 5, 2016, ORDER FOR JUDGMENT, DATED JULY
22, 2016, AND JUDGMENT, DATED JULY 22, 2016**

**THE DISTRICT COURT OF GRAND FORKS COUNTY, NORTH DAKOTA
NORTHEAST CENTRAL JUDICIAL DISCTRIC
THE HONORABLE JON J. JENSEN, PRESIDING**

NOTICE OF APPEAL AND CROSS-APPEAL

TO: THE ABOVE-NAMED PARTIES, ALL CLAIMANTS HEREIN, AND THEIR ATTORNEYS, AND CLERK OF SUPREME COURT:

[¶] PLEASE TAKE NOTICE that the Public Service Commission hereby appeals and cross appeals to the North Dakota Supreme Court from the Judgment entered by the District Court for Grand Forks County on July 22, 2016. The Notice of Entry of Judgment was served July 25, 2016. The Judgment was entered pursuant to an *Order Modifying Trustee's Report and Recommendation* dated May 3, 2016; an *Order Correcting Clerical Mistake/Oversight* dated May 5, 2016; an *Order Resolving Post-hearing Issues* dated July 5, 2016, and an *Order for Judgment*

dated July 22, 2016. Bremer Bank, National Association filed its *Notice of Appeal* on September 2, 2016.

[¶2] Through its appeal and cross-appeal, the preliminary statement of issues that the Public Service Commission intends to take exception to the District Court's underlying orders are:

1. Whether the District Court erred in modifying the PSC's Report and Recommendations;
2. Whether the District Court erred in determining the insolvency date of Grand Forks Bean Company, Inc.;
3. Whether the District Court erred in determining the amount payable to the grower-claimants;
4. Whether the District Court erred by not determining the amount owing for Curt Amundson's claim; and
5. If Curt Amundson is a credit sale claimant, whether interest is awardable on his credit sale claim.

[¶3] The PSC anticipates it opposes Bremer Bank's position with regard to the issues specified in ¶¶ 9, 12, 13, and 14 of Bremer Bank's *Notice of Appeal*. The PSC may also oppose certain aspects of Bremer Bank's position with respect to the remaining issues identified in Bremer Bank's *Notice of Appeal*, which is dependent on the position taken by Bremer Bank on appeal.

Dated this 15th day of September, 2016.

By /s/ Mitchell D. Armstrong
Mitchell D. Armstrong (ND ID No: 05892)
marmstrong@smithbakke.com
Brian D. Schmidt (ND ID No: 07498)
bschmidt@smithbakke.com
Special Assistant Attorneys General
122 East Broadway Avenue
P.O. Box 460
Bismarck, ND 58502-0460
(701) 258-0630

and

Illona A. Jeffcoat-Sacco (ND ID No: 03315)
ijs@nd.gov
Special Assistant Attorney General
State Capitol – 12th Floor
600 East Boulevard Ave – Dept. 408
Bismarck, ND 58505-0480
(701) 328-2400

Attorneys for Petitioner, Public Service
Commission

Daniel L. Gaustad
dan@grandforkslaw.com
Attorney for Brent Baldwin/Baldwin Farms
& Duane Altendorf

Tracy A. Kennedy
tracykennedy@northdakotalaw.net
Attorney for Bremer Bank

John D. Schroeder
jschroeder@northdakotalaw.net
Attorney for Bremer Bank

Jon R. Brakke
jbrakke@vogellaw.com
Attorney for Curt Amundson &
The Estate of Brad Nelson

Joel Arnason
jfamoose@gra.midco.net
Attorney for Grand Forks Bean Company, Inc.

Russ J. Melland
rmelland@camrudlaw.com
Attorney for Ronald Adams, Nickolas Adams,
Chuck B. Nelson and Steve & Jon Nelson

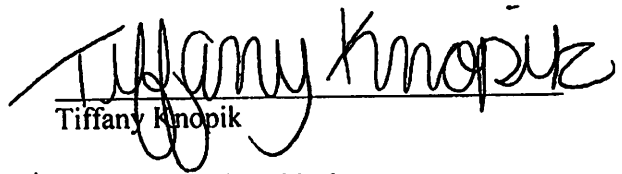
Illona Jeffcoat-Sacco
ijs@nd.gov
Attorney for Public Service Commission

Scott M. Knudsvig
sknudsvig@pringlend.com
Attorney for Fessenden Cooperative Assn.

Michael J. Morley
mmorley@morleylawfirm.com
Attorney for Auto-Owners Insurance Company


And via U.S. Mail to the following:

Tad McGurk
Registered Agent for Grand Forks Bean Company, Inc.
630 Schroeder Dr.
Grand Forks, ND 58201


Tiffany Knopik

Subscribed and sworn to before me this 15th day of September, 2016.

ANNA HEINEN
Notary Public
State of North Dakota
My Commission Expires June 12, 2019


Notary Public
Burleigh County, North Dakota

RECEIVED BY CLERK
SUPREME COURT

SEP 15 2016

20160303

**IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

Public Service Commission,

Petitioner,

vs.

Grand Forks Bean Company, Inc.,
Auto-Owners Insurance Company,

Respondents.

SUPREME COURT NO. 20160303

Civil No. 18-2015-CV-00240

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

SEP 15 2016

STATE OF NORTH DAKOTA

PSC Case No. GE-15-36

NOTICE OF APPEAL

APPEAL FROM ORDER MODIFYING TRUSTEE'S REPORT AND
RECOMMENDATION, DATED MAY 3, 2016, ORDER CORRECTING
CLERICAL MISTAKE/OVERSIGHT, DATED MAY 5, 2016, ORDER
RESOLVING POST-HEARING ISSUES, DATED JULY 5, 2016, ORDER
FOR JUDGMENT, DATED JULY 22, 2016, AND JUDGMENT, DATED
JULY 22, 2016

THE DISTRICT COURT OF GRAND FORKS COUNTY, NORTH DAKOTA,
NORTHEAST CENTRAL JUDICIAL DISTRICT
THE HONORABLE JON J. JENSEN, PRESIDING

**TO: THE ABOVE-NMED PARTIES, ALL CLAIMANTS HEREIN, AND
THEIR ATTORNEYS, AND**

CLERK OF THE SUPREME COURT, supclerkofcourt@ndcourts.gov

¶ 1 PLEASE TAKE NOTICE that the Claimants Beth Nelson, as Assignee of the Estate of Brad Nelson, and Curt Amundson hereby appeal from the Grand Forks County District Court, Northeast Central Judicial District, to the Supreme Court of North Dakota from the following orders and judgment entered by the District Court for the County of Grand Forks, State of North Dakota:

428 GE-15-36 Filed: 9/15/2016 Pages: 5
SC APPEAL – Notice of Appeal

¶ 2 ORDER MODIFYING TRUSTEE'S REPORT AND RECOMMENDATIONS,
DATED MAY 3, 2016,

¶ 3 ORDER CORRECTING CLERICAL MISTAKE/OVERSIGHT, DATED MAY
5, 2016,

¶ 4 ORDER RESOLVING POST-HEARING ISSUES, DATED JULY 5, 2016,

¶ 5 ORDER FOR JUDGMENT, DATED JULY 22, 2016, AND

¶ 6 JUDGMENT, DATED JULY 22, 2016.

¶ 7 Appellant's preliminary statement of the issues is as follows:

¶ 8 Whether the District Court erred in determining that Curt Amundson was a credit
sale seller rather than a receipt holder.

¶ 9 Whether the District Court erred in determining that the amounts of certain claims
were calculated using a commodity market value different than existed as of the
insolvency date determined by the District Court.

Respectfully submitted t his 15th day of September, 2016.

VOGEL LAW FIRM

By: /s/ Jon R. Brakke

JON R. BRAKKE, ND ID #03554

218 NP Avenue

PO Box 1389

Fargo, ND 58107-1389

Telephone: 701.237.6983

jbrakke@vogellaw.com

ATTORNEYS FOR CURT AMUNDSON AND
BETH NELSON, AS ASSIGNEE OF THE
ESTATE OF BRAD NELSON

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

Public Service Commission, Petitioner, vs. Grand Forks Bean Company, Inc., Auto-Owners Insurance Company, Respondents.	SUPREME COURT NO. 20160303 Civil No. 18-2015-CV-00240
PSC Case No. GE-15-36	

AFFIDAVIT OF SERVICE BY E-MAIL

APPEAL FROM ORDER MODIFYING TRUSTEE'S REPORT AND
RECOMMENDATION, DATED MAY 3, 2016, ORDER CORRECTING
CLERICAL MISTAKE/OVERSIGHT, DATED MAY 5, 2016, ORDER
RESOLVING POST-HEARING ISSUES, DATED JULY 5, 2016, ORDER
FOR JUDGMENT, DATED JULY 22, 2016, AND JUDGMENT, DATED
JULY 22, 2016

THE DISTRICT COURT OF GRAND FORKS COUNTY, NORTH DAKOTA,
NORTHEAST CENTRAL JUDICIAL DISTRICT
THE HONORABLE JON J. JENSEN, PRESIDING

STATE OF NORTH DAKOTA)
) ss:
COUNTY OF CASS)

Lori Thrall, being first duly sworn on oath, deposes and states that she is a secretary in the office of the Vogel Law Firm, 218 NP Avenue, P. O. Box 1389, Fargo, ND 58107-1389 and that on the 15th day of September, 2016, she served:

NOTICE OF APPEAL (of Claimants Curt Amundson and Beth Nelson, as Assignee of the Estate of Brad Nelson)

by having it electronically served to the individual(s) listed below at their e-mail address as noted:

Joel Arnason
Rosenquist & Arnason, PLLP
301 N. Third St., Suite 300
Grand Forks, ND 58201
jfamoose@gra.midco.net
Attorney for Grand Forks Bean Company, Inc.


Daniel L. Gaustad
Pearson Christensen, PLLP
24 N. Fourth Street
P. O. Box 5758
Grand Forks, ND 58206-5758
dan@grandforkslaw.com
Attorney for Brent Baldwin, Baldwin Farms & Duane Altendorf

Tracy Kennedy
John Schroeder
Attorneys at Law
3100 S. Columbia Road, Suite 200
Grand Forks, ND 58201-6062
tracykennedy@northdakotalaw.net
jschroeder@northdakotalaw.net
Attorneys for Bremer Bank National Association

Russ J. Melland
Camrud, Maddock, et. al.
401 DeMers Ave., Suite 500
P. O. Box 5849
Grand Forks, ND 58206-5849
rmelland@camrudlaw.com
Attorney for Ronald Adams, Nickolas Adams, Chuck B. Nelson & WSJ Nelson

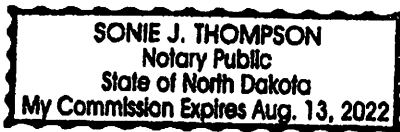
Mitchell D. Armstrong
Brian D. Schmidt
Smith Bakke Porsborg, et al.
122 E. Broadway Avenue
P. O. Box 460
Bismarck, ND 58502-0460
marmstrong@smithbakke.com
bschmidt@smithbakke.com
Attorneys for PSC

Michael J. Morley
Morley Law Firm, Ltd.
4000 Garden View Dr., Suite 100
P. O. Box 14519
Grand Forks, ND 58208-4519
mmorley@morleylawfirm.com
Attorney for Auto-Owners Insurance Company



Lori Thrall

Subscribed and sworn to before me this 15th day of September, 2016.





Notary Public, Cass County, ND

(SEAL)
2672506.1