

Crockford, Konrad S.

From: efil@mail@tylerhost.net
Sent: Thursday, December 20, 2018 08:29
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Subject: Filing Accepted for Case: 08-2018-CV-03299; Public Service Commission vs. Hunter Hanson d/b/a Midwest Grain Trading, et al.; Envelope Number: 3246897



**North Dakota
Court System**

Filing Accepted

Envelope Number: 3246897
Case Number: 08-2018-CV-03299
Case Style: Public Service Commission vs.
Hunter Hanson d/b/a Midwest Grain Trading, et
al.

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Filing Details	
Court	Burleigh County - South Central District
Case Number	08-2018-CV-03299
Case Style	Public Service Commission vs. Hunter Hanson d/b/a Midwest Grain Trading, et al.
Date/Time Submitted	12/19/2018 4:31 PM CST
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Accepted Comments	
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Filing Description	Affidavit of Konrad S. Crockford in Support of Application
Activity Requested	EFile
Filed By	Mitchell Armstrong
Filing Attorney	Mitchell Armstrong

Document Details	
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North Dakota Court's Information Technology Department 701-328-4218
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3. That Hunter Hanson, owner of Midwest Grain Trading, PO Box 746, Devils Lake, North Dakota 58301, operates as a roving grain buyer in North Dakota under North Dakota Century Code chapter 60-02.1.
4. That Midwest Grain Trading, operates as a roving grain buyer in North Dakota under license number 3232 since May 16, 2017.
5. As part of the licensing process, Midwest Grain Trading filed a surety bond with the Commission as required by North Dakota Century Code section 60-02.1-08 and North Dakota Administrative Code section 69-07-02-02.1, in the amount of \$400,000 and identified as number 94 BR 1389 5 with State Farm Fire and Casualty Company, One State Farm Plaza, Bloomington, Illinois 61710-0001, as surety.
6. That Hunter Hanson d/b/a NoDak Grain (NoDak Grain), license address of 2373 65 1/2 Street Northeast, Rugby, North Dakota 58368, operates licensed grain warehouses at Tunbridge and Rohrville, North Dakota, under North Dakota Century Code chapters 60-02 and 60-04.
7. That NoDak Grain operates the grain warehouse at Tunbridge, North Dakota under license number 1345 since June 25, 2018 and operates the grain warehouse at Rohrville, North Dakota under license number 1349 since September 11, 2018.
8. That, as part of the licensing process, NoDak Grain filed a surety bond with the Commission as required by North Dakota Century Code section 60-02-09 and North Dakota Administrative Code section 69-07-02-02, in the amount of \$165,000 and identified as number PB11511002782 with Philadelphia Indemnity Insurance

Company, One Bala Plaza #100, Bala Cynwyd, Pennsylvania 19004, as surety. On August 24, 2018, NoDak Grain filed a surety bond with the Commission in the amount of \$150,000 and identified as number 657072C with CorePointe Insurance Company, 251 Little Falls Drive, Wilmington, Delaware 19808, as surety. On October 16, 2018, the Commission received a Cancellation Notice from Philadelphia Insurance Company via certified mail for bond number PB11511002782. On November 23, 2018, the Commission received a Notice of Cancellation from Corepointe Insurance Company via certified mail for bond number 657072C. North Dakota Century Code section 60-02-09.1 provides that a surety on a bond is released from all future liability accruing on the bond after the expiration of ninety days from the date of receipt by the Commission. The surety of a bond is not relieved, released, or discharged from any liability already accrued or which accrues before the expiration of the ninety-day period.

9. That East Central Grain Marketing, Inc. (East Central Grain Marketing), 13033 Ridgedale Dr. PMB 165, Minnetonka, Minnesota 55305, a Minnesota business corporation authorized to do business in North Dakota, operates as a roving grain buyer in North Dakota under North Dakota Century Code chapter 60-02.1.
10. That East Central Grain Marketing operates as a roving grain buyer in North Dakota under license number 3226 since January 4, 2017.
11. That as part of the licensing process, East Central Grain Marketing filed a surety bond with the Commission as required by North Dakota Century Code section 60-02.1-08 and North Dakota Administrative Code section 69-07-02-02.1, in the amount of \$50,000 and identified as number BD 7900689456 with Nationwide

Mutual Insurance Company, 1100 Locust Street, Department 2006, Des Moines, Iowa 50391-2006, as surety.

12. That on November 8, 2018, the Commission's Compliance Division staff (Staff) received a phone call from Dan Stommes, President of East Central Grain Marketing, informing Staff that East Central Grain Marketing had brokered grain purchase contracts between Midwest Grain Trading and producers and elevators. East Central Grain Marketing stated they had received phone calls from customers and were reporting multiple checks written by NoDak Grain that were returned by the bank indicating nonsufficient funds (NSF).
13. That on November 9, 2018, Staff contacted Shawna Thronsedt, with Midwest Grain Trading, to discuss the NoDak Grain NSF checks reported by East Central Grain Marketing on behalf of East Central Grain Marketing's clients. Ms. Thronsedt stated that the NoDak Grain checks in question were written from the incorrect account and should have been written from the Midwest Grain Trading account. When asked when the correct checks would be issued, Ms. Thronsedt stated that she was working on reissuing the checks from the correct account.
14. That on November 14, 2018, Staff received an email with attachments from Jan Leishman with Shafer Commodities, Inc. of Morden, Manitoba, alleging Shafer Commodities, Inc. has not been paid for yellow peas sold to Hunter Hanson, owner of Midwest Grain Trading and delivered to the public warehouse facilities licensed by Hunter Hanson d/b/a NoDak Grain at the Tunbridge and Rohrville, North Dakota locations. A true and correct copy of the documents received from Shafer Commodities, Inc. is attached as Exhibit A.

15. That on November 14, 2018, Commission Compliance Division Grain Warehouse Inspectors visited NoDak Grain at both the Rohrville and Tunbridge locations and measured the grain inventory. The inspectors concluded that the inventory at Rohrville consisted of approximately 2,900 bushels of amber durum, 3,300 bushels of barley, 1,100 hundredweight of canola, and 37,190 hundredweight of yellow peas. The inspectors could not determine the condition of the commodities at the time of measurement. The inspectors concluded that the inventory at Tunbridge consisted of approximately 27,900 hundredweight of yellow peas. The inspectors could not determine the condition of the yellow peas at the time of measurement.
16. That on November 14 and 15, 2018, Commission Compliance Division Grain Warehouse Inspectors visited the Midwest Grain Trading Offices in Devils Lake, North Dakota. During this visit, inspectors copied Midwest Grain Trading and NoDak Grain unsettled customer files, but were not able to gather additional records for either Midwest Grain Trading or NoDak Grain.
17. That on November 15, 2018, in response to communications with Hunter Hanson and his attorney, Staff contacted Hunter Hanson and his attorney, Kelly Swenseth, Swenseth Law Office, PLLC in Devils Lake, North Dakota to discuss the alleged NSF checks and potential unpaid grain claims. Mr. Hanson informed Staff that the checks should not have been sent and that there was a misunderstanding with Midwest Grain Trading staff who sent the checks earlier than they were supposed to. He also indicated the checks were issued from the wrong account. Staff asked why this situation had not been remedied. Mr. Hanson stated that while on vacation some of the grain should have been sold two weeks earlier and, due to

an employee mistake at the Rohrville location, some of the peas, barley, and canola suffered water damage. Mr. Hanson added that he contacted a representative of the insurance company to file a claim with the insurance company that provides insurance on the grain at the two NoDak Grain facilities. Staff then asked Mr. Hanson if he has the ability to pay these claims. Mr. Hanson stated that he did not have the ability to pay claimants that day. Staff and Mr. Hanson discussed the possibility of entering into a stipulation to protect potential trust assets, which never materialized. Additionally, Staff requested the additional records for Midwest Grain Trading and NoDak Grain which Mr. Hanson agreed to provide, but have not been provided to date.

18. That on November 17, 2018, the Commission received an email with attachments from Shawn Madsen, Operations Manager for Southland Pulse, Inc. of Estevan, Saskatchewan, alleging Southland Pulse, Inc. has not been paid for yellow peas sold to Midwest Grain Trading and delivered to the NoDak Grain public grain warehouse at the Rohrville, North Dakota location. Mr. Madsen provided further information to Staff on November 19, 2018. Staff requested Mr. Madsen provide a cover letter and combine his claim documentation into one document, to ensure all information was accounted for. Mr. Madsen submitted this information on November 20, 2018. A true and correct copy of the documents received from Southland Pulse, Inc. is attached as Exhibit B.
19. That on November 19, 2018, the Commission received an email with attachments from Art Stacey, an attorney acting for Delmar Commodities Ltd. of Winkler, Manitoba, alleging a check written by Midwest Grain Trading to Delmar

Commodities Ltd. to pay for yellow peas was returned unpaid, and that Delmar Commodities Ltd. has not been paid for additional yellow peas sold to Midwest Grain Trading and delivered to the NoDak Grain public grain warehouse at the Rohrville, North Dakota location. Staff requested further documentation to review the claim filed by Delmar Commodities Ltd. Additional documentation was provided by Keith Friesen of Delmar Commodities Ltd. on November 20, 2018. Mr. Friesen stated that some of the documents were partially illegible and resubmitted these documents on November 21, 2018. A true and correct copy the documents received from Delmar Commodities Ltd. is attached as Exhibit C.


20. That on November 20, 2018, the Commission received an email with attachments from Dan Mostad, with Berthold Farmers Elevator, LLC of Berthold, North Dakota, alleging Berthold Farmers Elevator, LLC has not been paid for yellow peas sold to Midwest Grain Trading. A true and correct copy of the documents received from Berthold Farmers Elevator, LLC is attached as Exhibit D.
21. That between November 9 and November 27, 2018, Staff received over 50 calls from elevators and producers who have sold grain to Midwest Grain Trading, and had grain picked up by Midwest Grain Trading or delivered grain to NoDak Grain. The persons who have called about this matter indicated that Midwest Grain Trading or NoDak Grain, or both, issued checks to pay for grain, and that the checks have been returned unpaid indicating NSF, stop payment, or have been canceled, or that Midwest Grain Trading or NoDak Grain has otherwise not paid amounts Midwest Grain Trading or NoDak Grain owes for grain.

22. That Staff concluded that the matter could not be resolved outside an insolvency proceeding. As a result, on November 21, 2018, Staff recommended the Commission issue an *Ex Parte* Cease and Desist Order against Hunter Hanson, owner of Midwest Grain Trading, and Hunter Hanson d/b/a NoDak Grain, as Staff had good cause to conclude additional sellers of grain may suffer immediate economic loss, damage or injury, and claimants may suffer additional injury, if Hunter Hanson d/b/a/ Midwest Grain Trading and d/b/a NoDak Grain continues purchasing, selling, receiving or delivering grain.
23. That on November 21, 2018, the Commission issued an *Ex Parte* Cease and Desist Order against Hunter Hanson, owner of Midwest Grain Trading, and Hunter Hanson dba NoDak Grain, ordering Hunter Hanson, owner of Midwest Grain Trading to cease and desist all roving grain buyer activities in North Dakota, including the purchase, sale, receipt, and delivery of grain and Hunter Hanson dba NoDak Grain to cease and desist all grain warehouse activities in North Dakota, including the purchase, sale, receipt, and delivery of grain. A true and correct copy of the order is attached as Exhibit E.
24. Affiant asserts that Hunter Hanson d/b/a Midwest Grain Trading has violated North Dakota Century Code section 60-02.1-08(4)(a) by failing to faithfully perform the licensee's duties as a roving grain buyer and is insolvent under North Dakota Century Code section 60-02.1-28 by refusing, neglecting, or being unable upon proper written demand to make payment for grain purchased or marketed by the licensee or make redelivery.

25. Affiant asserts that Hunter Hanson d/b/a NoDak Grain has violated North Dakota Century Code section 60-02-09(4)(a) by failing to faithfully perform the licensee's duties as a public warehouseman and is insolvent under North Dakota Century Code section 60-04-02 by refusing, neglecting, or being unable upon proper written demand to make payment for grain purchased or marketed by the licensee or to make redelivery or payment for grain stored.
26. Affiant asserts it is in the best interest of the potential claimants that the Commission be appointed trustee in an insolvency proceeding under the provisions of North Dakota Century Code chapter 60-02.1.
27. Affiant asserts it is in the best interest of the potential claimants that the Commission be appointed trustee in an insolvency proceeding under the provisions of North Dakota Century Code chapter 60-04.
28. Affiant asserts bond proceeds will be needed to redeem outstanding receipts issued by Midwest Grain Trading.
29. Affiant asserts bond proceeds will be needed to redeem outstanding receipts issued by NoDak Grain.
30. Under North Dakota Century Code section 60-02.1-30, the assets of the trust fund in an insolvency proceeding include, but are not limited to, nonwarehouse receipt grain, certain proceeds, and accounts receivable.
31. Under North Dakota Century Code section 60-04-03.1, the assets of the trust fund in an insolvency proceeding include, but are not limited to, grain, certain proceeds, and accounts receivable.

32. Affiant asserts it is in the best interest of potential claimants that the Court issue *ex parte* a temporary order preserving and protecting any assets and potential assets of the trust under North Dakota Century Code chapter 60-02.1.
33. Affiant asserts it is in the best interest of potential claimants that the Court issue *ex parte* a temporary order preserving and protecting any assets and potential assets of the trust under North Dakota Century Code chapter 60-04.
34. That this affidavit is made for the purpose of securing the appointment of the North Dakota Public Service Commission as trustee of Hunter Hanson d/b/a Midwest Grain Trading and preserving any assets of the trust under North Dakota Century Code chapter 60-02.1.
35. That this affidavit is also made for the purpose of securing the appointment of the North Dakota Public Service Commission as trustee of Hunter Hanson d/b/a NoDak Grain and preserving any assets of the trust under North Dakota Century Code chapter 60-04.

Dated this 19 day of December 2018.



Konrad S. Crockford

Subscribed and sworn to before me
this 19 day of December 2018.



Notary Public

