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**North Dakota
Court System**

Filing Accepted

Envelope Number: 3247015
Case Number: 35-2018-CV-00088
Case Style: Public Service Commission vs.
Hunter Hanson d/b/a NoDak Grain, et al.

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Filing Details	
Court	Pierce County - Northeast District
Case Number	35-2018-CV-00088
Case Style	Public Service Commission vs. Hunter Hanson d/b/a NoDak Grain, et al.
Date/Time Submitted	12/19/2018 4:52 PM CST
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Accepted Comments	
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Filing Description	Exhibit E - PSC Ex Parte Cease and Desist
Activity Requested	EFile
Filed By	Mitchell Armstrong
Filing Attorney	Mitchell Armstrong

Document Details	
Lead Document	Exhibit E.pdf
Lead Document Page Count	10
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STATE OF NORTH DAKOTA

35-2018-CV-00088

PUBLIC SERVICE COMMISSION

Public Service Commission
Hunter Hanson dba NoDak Grain
Ex Parte Cease & Desist

Case No. GE-18-391

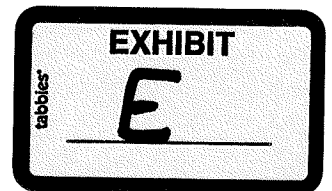
Public Service Commission
Midwest Grain Trading
Ex Parte Cease & Desist

Case No. GE-18-392

MOTION

November 21, 2018

I move the Commission issue an *Ex Parte* Cease and Desist Order and a corresponding Notice of Opportunity for Hearing in Public Service Commission, Hunter Hanson dba NoDak Grain, *Ex Parte* Cease & Desist, Case No. GE-18-391 and Public Service Commission, Midwest Grain Trading, *Ex Parte* Cease & Desist, Case No. GE-18-392.



2 **GE-18-392** Filed: 11/21/2018 Pages: 1
Commission Motion to issue Ex Parte Cease and
Desist Order and Notice

Public Service Commission

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Commission Motion to issue Ex Parte Cease and
Desist Order and Notice

Public Service Commission

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Hunter Hanson dba NoDak Grain
Ex Parte Cease & Desist**

Case No. GE-18-391

**Public Service Commission
Midwest Grain Trading
Ex Parte Cease & Desist**

Case No. GE-18-392

EX PARTE CEASE AND DESIST ORDER

November 21, 2018

Preliminary Statement

On November 21, 2018 the Director of the Public Service Commission Compliance Division (Staff) filed an Affidavit providing the Commission with information sufficient to support issuance of an *Ex Parte* Cease and Desist Order against Hunter Hanson owner of Midwest Grain Trading (Midwest Grain Trading) and Hunter Hanson dba NoDak Grain (NoDak Grain), as authorized by North Dakota Century Code §§ 60-02.1-39 and 60-02-42.

Discussion

Hunter Hanson dba NoDak Grain, licensed as a grain warehouse at Rohrville, North Dakota since September 11, 2018 and Tunbridge, North Dakota since June 25, 2018. As required by North Dakota Century Code § 60-02-09 and North Dakota Administrative Code § 69-07-02-02, NoDak Grain has a \$150,000 bond on file with the Public Service Commission.

Hunter Hanson owns Midwest Grain Trading, licensed as a roving grain buyer since May 16, 2017. Midwest Grain Trading has a \$400,000 bond on file with the Public Service Commission. As required by North Dakota Century Code § 60-02.1-08 and North Dakota Administrative Code § 69-07-02-02.1, Midwest Grain Trading should have a bond of \$405,000 based upon Midwest Grain Trading's purchases from August 1, 2018 thru September 30, 2018 as reported in the Commission's required Roving Grain Buyer Monthly Report.

The affidavit indicates that on November 14, 2018, the Commission 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

Midwest Grain Trading and delivered to the NoDak Grain public warehouse facility at the Tunbridge, North Dakota location.

The affidavit indicates that on November 20, 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.

The affidavit indicates that also on November 20, 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.

The affidavit indicates that also on November 20, 2018, the Commission received an email with attachments from Dan Mostad, General Manager for 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.

The affidavit indicates that since November 9, 2018, Commission Staff has 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 the Commission about this matter indicated that Midwest Grain Trading and NoDak Grain issued checks to pay for grain, and that the checks have been returned unpaid indicating nonsufficient funds (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.

NoDak Grain has violated North Dakota Century Code § 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 § 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.

Midwest Grain Trading has violated North Dakota Century Code § 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 § 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.

The affidavit indicates that Staff is preparing documents for filing with District Court, asking that Midwest Grain Trading and NoDak Grain be declared insolvent, the

Commission be appointed trustee, and the sureties be joined as a party to the insolvency proceedings.

North Dakota Century Code §§ 60-02-42 and 60-02.1-39 provide the Commission with authority to issue a cease and desist order on its own motion without complaint, with or without hearing, against an entity that engages in an activity or practice that is contrary to the provisions of North Dakota Century Code Chapters 60-02, 60-02.1, or related rules. A cease and desist order must be accompanied by a notice of opportunity to be heard on the order within fifteen days of the issuance of the order.

The Commission has considered the information provided by Staff and finds that unless an *Ex Parte* Cease and Desist Order is issued, claimants and grain sellers are at risk to suffer immediate damage or injury as a result of the actions of Hunter Hanson, NoDak Grain, and Midwest Grain Trading.

Therefore, the Commission issues the following:

Order

The Commission orders:

1. 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.
2. Hunter Hanson, owner of Midwest Grain Trading, to Cease and Desist all roving grain buying activities in North Dakota, including the purchase, sale, receipt and delivery of grain.
3. Contemporaneously with this Order, the Commission is issuing to Hunter Hanson, owner of Midwest Grain Trading and Hunter Hanson dba NoDak Grain a Notice of Opportunity to be Heard within fifteen days of the issuance of this Order.

PUBLIC SERVICE COMMISSION



Brian Kroshus
Commissioner



Randy Christmann
Chairman



Julie Fedorchak
Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Hunter Hanson dba NoDak Grain
Ex Parte Cease & Desist**

Case No. GE-18-391

**Public Service Commission
Midwest Grain Trading
Ex Parte Cease & Desist**

Case No. GE-18-392

NOTICE OF OPPORTUNITY FOR HEARING

November 21, 2018

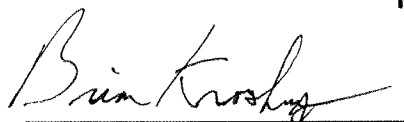
On November 21, 2018, the Commission issued an *Ex Parte* Cease and Desist Order against Hunter Hanson owner of Midwest Grain Trading and Hunter Hanson dba NoDak Grain, ordering that Hunter Hanson, Midwest Grain Trading, and NoDak Grain Cease and Desist all roving grain buying and grain warehouse activities in North Dakota, including the purchase, sale, receipt, and delivery of grain.

You are hereby notified that you have the opportunity to request a hearing on this matter. A request for hearing must be made in writing and filed with the Commission within fifteen days of issuance of the *Ex Parte* Cease and Desist Order.

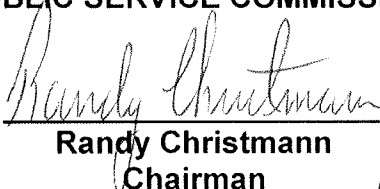
The issue to be considered in the hearing is whether a Cease and Desist Order is appropriate.

For more information contact the Public Service Commission, State Capitol, Bismarck, North Dakota 58505, 701-328-2400; or Relay North Dakota 1-800-366-6888 TTY. If you require any auxiliary aids or services, such as readers, signers, or Braille materials, please notify the Commission 24 hours in advance.

PUBLIC SERVICE COMMISSION



**Brian Kroshus
Commissioner**



**Randy Christmann
Chairman**



**Julie Fedorchak
Commissioner**

Midwest Grain Trading and delivered to the public grain warehouse licensed by Hunter Hanson dba NoDak Grain at the Rohrville, North Dakota location.

That on November 20, 2018, the Commission received an email with attachments from Art Stacey, the 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 public grain warehouse licensed by Hunter Hanson dba NoDak Grain at the Rohrville, North Dakota location.

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.

That since November 9, 2018, Commission Staff has 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 the Commission about this matter indicated that Midwest Grain Trading and NoDak Grain issued checks to pay for grain, and that the checks have been returned unpaid indicating nonsufficient funds (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.

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. Midwest Grain Trading, operates as a roving grain buyer in North Dakota under license number 3232 since May 16, 2017.

That a surety bond for Midwest Grain Trading is on file with the Commission as required by North Dakota Century Code § 60-02.1-08 and North Dakota Administrative Code § 69-07-02-02.1. The surety bond is for \$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. As required by North Dakota Century Code § 60-02.1-08 and North Dakota Administrative Code § 69-07-02-02.1, Midwest Grain Trading should have a bond of \$405,000 based upon Midwest Grain Trading's purchases from August 1, 2018 thru September 30, 2018 as reported in the Commission's required Roving Grain Buyer Monthly Report.

That Hunter Hanson dba NoDak Grain operates licensed grain warehouses at Rohrville and Tunbridge, North Dakota, under North Dakota Century Code Chapters 60-02 and 60-04. That NoDak Grain operates the grain warehouse at Rohrville, under license number 1349 and the grain warehouse at Tunbridge, North Dakota under license number 1345.

That a surety bond for both of the NoDak Grain locations is on file with the Commission as required by North Dakota Century Code § 60-02-09 and North Dakota Administrative Code § 69-07-02-02. The surety bond is for \$150,000 and identified as number 657072C with Corepointe Insurance Company, 251 Little Falls Drive, Wilmington, Delaware 19808.

That Hunter Hanson, owner of Midwest Grain Trading and dba NoDak Grain has verbally stated to staff that he is unable to make payments on monies owed to claimants.

That the Compliance Division is preparing documents for filing with District Court, asking that Midwest Grain Trading and NoDak Grain be declared insolvent, the Commission be appointed trustee, and the sureties be joined as a party to the insolvency proceedings.

That it appears the bonds on file with the Public Service Commission will not be sufficient to cover the total amount owed to producers for grain purchased or received by Midwest Grain Trading and NoDak Grain.

That North Dakota Century Code §§ 60-02-42 and 60-02.1-39 provides the Commission with authority to issue a cease and desist order without prior notice against an entity that engages in an activity or practice that is contrary to the provisions of Chapters 60-02, 60-02.1, or related rules.

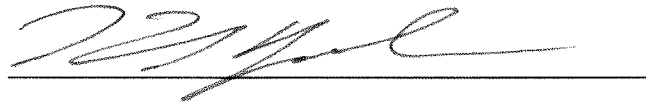
That Midwest Grain Trading has violated North Dakota Century Code § 60-02.1-08(4)(a) by failing to faithfully perform the licensee's duties as a roving grain buyer and is insolvent under North Dakota Century Code § 60-02.1-28 by refusing, neglecting, or being unable upon proper written demand to make payment for grain purchased or marketed by the licensee or make redelivery.

That NoDak Grain has violated North Dakota Century Code § 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 § 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.

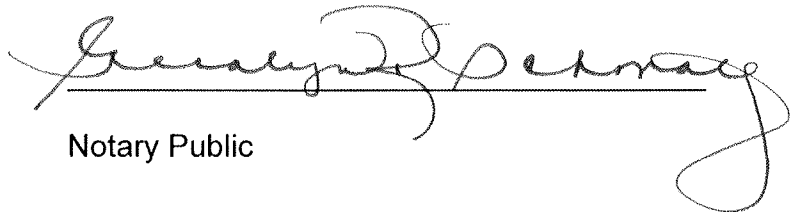
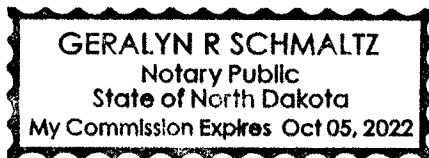
Affiant believes that good cause exists requiring *ex parte* action by the Commission because additional sellers of grain may suffer immediate economic loss, damage or injury, and claimants may suffer additional injury, if Midwest Grain Trading continues

purchasing; or selling grain as a licensed roving grain buyer in North Dakota and NoDak Grain continues receiving, purchasing, or selling grain as a licensed public warehouse in North Dakota.

Affiant requests that the Commission issue an *Ex Parte* Cease and Desist Order against Hunter Hanson, Midwest Grain Trading, and NoDak Grain operating under license numbers 3232, 1349 and 1345 as authorized by North Dakota Century Code §§ 60-02-42 and 60-02.1-39, ordering that Hunter Hanson, Midwest Grain Trading, and NoDak Grain cease and desist from purchasing, selling, receiving, and delivering grain in North Dakota, and cease and desist from all roving grain buyer and public grain warehouse activities in North Dakota.



Subscribed and sworn to before me this 21th day of November, 2018.



Notary Public