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## North Dakota Court System

## Filing Accepted

Envelope Number: 3413008  
Case Number: 35-2019-CV-00019  
Case Style: Public Service Commission vs.  
Hunter Hanson d/b/a Midwest Grain Trading, et  
al.

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Filing Details	
<b>Court</b>	Pierce County - Northeast District
<b>Case Number</b>	35-2019-CV-00019
<b>Case Style</b>	Public Service Commission vs. Hunter Hanson d/b/a Midwest Grain Trading, et al.
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STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF PIERCE

NORTHEAST JUDICIAL DISTRICT

Public Service Commission )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 Hunter Hanson )  
 d/b/a NoDak Grain )  
 )  
 and )  
 )  
 CorePointe Insurance Company )  
 )  
 and )  
 )  
 Philadelphia Indemnity Insurance Company )  
 )  
 Respondents. )

CIVIL NOS.  
 35-2018-CV-00088  
 &  
 08-2018-CV-03299

**PETITIONER’S BRIEF IN  
 SUPPORT OF MOTION  
 TO CONSOLIDATE**

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Public Service Commission )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 Hunter Hanson )  
 d/b/a Midwest Grain Trading )  
 )  
 and )  
 )  
 State Farm Fire Casualty Company )  
 )  
 Respondents. )

**I. INTRODUCTION**

[¶1] The Public Service Commission (“PSC”) has been appointed trustee of Hunter Hanson d/b/a Midwest Grain Trading under N.D.C.C. ch. 60-02.1. Venue of the case relating to

Midwest Grain Trading has been changed to Pierce County. Case No. 08-2018-CV-03299 (Doc. ID # 55). In another related case in Pierce County, the PSC has been appointed trustee of Hunter Hanson d/b/a NoDak Grain under N.D.C.C. ch. 60-04 in Pierce County, ND. *Order Appointing Trustee, Public Service Commission v. Hunter Hanson d/b/a NoDak Grain, et al.*, Northeast Judicial District, Pierce County, ND Case No. 35-2018-CV-00088 (Doc. ID# 19).

[¶2] Numerous claims have been filed with the PSC, and some have also been filed directly with the Court. The cases involve common issues of law and fact, and consolidation is warranted to more efficiently proceed through the insolvency process, avoid the potential for inconsistent results, and decrease costs to the trust funds and claimants by eliminating duplicate efforts (two hearings, two PSC reports, etc.). Accordingly, the PSC requests Case Nos. 35-2018-CV-00088 and 08-2018-CV-03299 be consolidated.

## **II. APPLICABLE LAW AND ARGUMENT**

[¶3] A trial court may grant a motion for consolidation when the actions to be consolidated involve a common question of law or fact. N.D.R.Civ.P. 42(a). “The matter of consolidating pending actions lies within the discretion of the trial court under Rule 42(a).” Bagge v. Dardis, 389 N.W.2d 606, 608 (N.D. 1986).

[¶4] The PSC asserts consolidation is appropriate to efficiently administer the trusts in order to avoid unnecessary cost or delay as these cases involve common questions of law and fact. N.D.R.Civ.P. 42. In order to explain to the Court why consolidation is appropriate, the PSC is advising of the present status related to these insolvencies.

[¶5] Over the last months since being appointed trustee in these actions, the PSC has begun its initial evaluation of the claims submitted. There have been approximately sixty claims filed. The PSC is also in the process of selling grain in the NoDak Grain warehouses located in

Pierce and Ramsey County. The grain has not been fully sold at this point due to various operational problems associated with the warehouses. The PSC is also evaluating whether and to what extent there may be other trust assets as those terms are defined by the applicable law.

[¶6] Broadly speaking, once the PSC has marshalled all trust assets and reviewed all claims, it will have to file a report of its recommended distribution in each case. N.D.C.C. §§ 60-04-09; 60-02.1-37. The report will have to evaluate the claims, request any proposed reimbursement to the commission for expenses of administering the insolvency, etc. Id. After the report is filed, the court shall set a hearing. Id. Once the hearing is set, objections are to be filed twenty days before the hearing. Id. After the hearing, the court shall approve or modify the report and issue an order directing payment and distribution of the trust funds. Id.

[¶7] To provide just one example of why consolidation is necessary, the PSC directs the Court to the claims filed by Prairie Pines, Inc. and Ryan Spitzer. Case No. 08-2018-CV-03299 (Doc ID## 39-44); Case No. 35-2018-CV-00088 (Doc ID ## 30-35). As the Court will see, those claimants both allege: “Based upon information and belief, it appears Hunter Hanson d/b/a Midwest Grain Trading intermingled and interrelated its business operations with Hunter Hanson d/b/a NoDak Grain as a common and singular business enterprise. According, [Claimant] is submitting the same claim in the Hunter Hanson d/b/a NoDak Grain insolvency proceeding, being Pierce County, North Dakota District Court Case No. 35-2018-CV-0008.” Doc ID # 39 at ¶4; Doc ID # 42 at ¶4. Many of the other claims have interrelation between the entities of Midwest Grain Trading and NoDak Grain as well.

[¶8] Consolidation is appropriate as there are common issues of law and fact between Hanson’s insolvent entities, including common claimants and, for the most part, identical legal issues. Consolidation will allow these insolvencies to proceed more efficiently and reduce costs

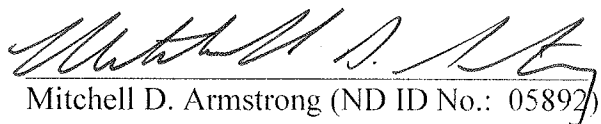
associated with administering the trust funds. If the cases are consolidated, the PSC's report will address its recommendation of how to handle claims such as Ryan Spitzer's and Prairie Pines, as well as any other claimant that has a claim related to both Midwest Grain Trading and NoDak Grain. Most importantly, consolidation will eliminate the possibility of inconsistent results. For instance, if the cases are not consolidated, claims such as Spitzer's and Prairie Pines' could result in an order that the claim should fall under the other insolvency. This scenario would create inconsistent results, protract litigation, and increase costs to the trust fund, claimants, and parties.

[¶9] Consolidation would also allow one hearing and one report, which would allow all parties and the Court to see the global picture versus having to evaluate the proceedings in two separate cases. If the PSC is required to submit two reports and the claimants and parties are required to attend two hearings, it would result in increased cost, create the potential for inconsistent results, and would delay resolution of these two cases. Given the above, the PSC requests these cases be consolidated to address the common issues of law and fact.

### III. CONCLUSION

[¶10] For the foregoing reasons, Petitioner requests that the Court enter an Order Consolidating Case No. 08-2018-CV-03299 and Case No. 35-2018-CV-00088.

Dated this 15th day of May, 2019.



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