

Crockford, Konrad S.

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**North Dakota
Court System**

Filing Accepted

Envelope Number: 3608004
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	11/1/2019 9:03 AM CST
Date/Time Accepted	11/1/2019 9:55 AM CST
Accepted Comments	
Filing Type	Exhibit
Filing Description	9 - Wade and Breann Fischer
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Filing Attorney	Mitchell Armstrong

Document Details	
Lead Document	Exhibit 9 to Aff of AJS.pdf
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North Dakota Court's Information Technology Department 701-328-4218
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Claimant Name & Address
 Wade and Breann Fischer
 8046 151st Ave NW
 Grenora, ND 58845
 701-570-9880
wade.breann@gmail.com

Date Claim Filed	April 1, 2019
Date Payment Demand Made	None

PSC Calculated value total	\$	142,313.88
Less other payments		

\$ 142,313.88 **Total cash claim**

	Settlement #	Date	date	Date	date
	na				
ECGM Trade Confirmation #	21408	6/13/2018	21462	6/21/2018	
Seller Contract #	na		na		
Midwest Contract #	187241	7/17/2018	na		

Claim applied against:	Cash	Cash
Commodity	Durum	Durum
Contracted Price Per Bushel	\$ 6.45	\$ 6.45
Contracted Bushels	20,000.00	20,000.00
Delivered bushels*	20,000.00	2,342.12
Gross Amount Due*	\$ 127,799.98	\$ 14,849.05
Less Total Fees & assessments*	\$ 300.02	\$ 35.13
PSC calculated value*	\$ 127,499.96	\$ 14,813.92
Estimated Value per Midwest		
Claimant calculated claim	\$144,106.48	



Comments:

1. Summary:

- a. Claim was received by the PSC on April 1, 2019
- b. Claimant stated he made a contract with Midwest Grain Trading through EGM. Midwest was late on taking delivery of the contract grain. After some grain was hauled Wade asked for payment of what had been delivered however Midwest staff (Chris) informed the claimant that payment would not be made until contract was filled.
- c. Claimant included a summary table of loads delivered and a table of where the scale tickets included in the claim were received from.
- d. Claimant also included copies of freight invoices from Leer Trucking
 - i. Claimant states that there were some discrepancies between the invoices and what the claimant's records.
 - ii. Claimant made note on the invoices where he believes a mistake had occurred.

2. Discrepancies between scale tickets claimed, explained:

- a. For NoDak Grain scale ticket #066
 - i. Claimant did not list this scale ticket in the claim submission.
 - ii. It is included on NoDak Estimate #27, for Wade Fischer.
 - iii. The scale ticket lists Wade Fischer as the Customer.
 - 1. Claimant did not have a copy of this scale ticket in their submitted claim.
 - iv. Wade states on a Leer Trucking invoice, which was submitted as part of the claim, this scale ticket does not belong to him.
 - v. PSC Calculations do not include this scale ticket as the claimant stated it was not their load of grain.
- b. For Dakota Growers scale ticket #25042.
 - i. Midwest included this scale ticket on Estimate #224.
 - ii. Leer trucking delivered this load.
 - iii. Claimant noted on the Leer Trucking invoice (to Midwest) that this was not their load of grain.
 - 1. Document was submitted in Fischer's claim submission.
 - iv. Title to the grain passed in the following manner for the loads delivered to Dakota Growers:
 - 1.

Origin	➔	Midwest	➔	JGL Commodities	➔	Dakota Growers
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- v. Per the supplemental information received from JGL there is no documentation that links this scale ticket to the claimant other than the Leer Trucking freight invoice.

vi. Based on the above this load was not included in the PSC's calculations.

3. Differences in claim calculations explained:

- a. Claimant made a typo when calculating total bushels in the table submitted.
 - i. Scale ticket #64648 (Osnabrock) was listed at 1,131.66 bu. by the claimant.
 - 1. Scale ticket lists 1,131.69 bu.
 - ii. Note – Table bushel calculations and Claim Form listed bushels are different by 1 bu.
- b. Neither the claimant nor Midwest/NoDak applied bushels to the contracts using the industry standard practice of filling the oldest contract with the earliest delivery date first and applying any average to the next contract to be filled.
 - i. Midwest Estimate #224 had the incorrect price listed (\$5.05/bu)
 - 1. That's the price for the fourth of the four contracts to be filled, not enough grain was delivered to even fully fill the first two agreements.
 - ii. NoDak Estimate #27 did not have a price listed
- c. Neither the Claimant nor Midwest/NoDak accurately accounted for the commodity checkoff deduction.
- d. Neither the claimant nor Midwest/NoDak accounted for the discounts to be applied per the ECGM Trade Confirmations
 - i. ECGM Trade Confirmation #21408 states "Viterra Scale of Discounts"
 - 1. Grades were averaged on the entirety of the contract per trade confirmation.
 - ii. ECGM Trade Confirmation #21462 states "Viterra Scale of Discounts"
 - 1. Grades were averaged on the portion applied to contract per trade confirmation.

Summary table of how value of each load calculated:

Destination Information - inbound					Pricing					Contracts			
Elevator	Scale Ticket #	Delivery Date	Net Bu	Base Price per Bushel	Prem. & Disc. per bu	Net Price per Bu	Gross Amount Due	Checkoff	NET Amount Due	Estimate #	ECGM Trade	Seller Contract	Midwest Contract
NoDak Grain - Rohrville	13	9/6/2018	1,101.29	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 7,037.24	\$ 16.52	\$ 7,020.72	na	21408	na	187241
NoDak Grain - Rohrville	21	9/7/2018	1,057.74	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 6,758.96	\$ 15.87	\$ 6,743.09	na	21408	na	187241
NoDak Grain - Rohrville	24	9/10/2018	1,076.49	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 6,878.77	\$ 16.15	\$ 6,862.62	na	21408	na	187241
NoDak Grain - Rohrville	41	9/11/2018	1,128.14	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 7,208.81	\$ 16.92	\$ 7,191.89	na	21408	na	187241
Osnabrock FE - Osnabrock	64632	9/24/2018	1,087.21	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 6,947.27	\$ 16.31	\$ 6,930.96	na	21408	na	187241
Osnabrock FE - Osnabrock	64648	9/25/2018	1,131.69	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 7,231.50	\$ 16.98	\$ 7,214.52	na	21408	na	187241
Osnabrock FE - Osnabrock	64674	9/26/2018	1,163.79	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 7,436.62	\$ 17.46	\$ 7,419.16	na	21408	na	187241
Osnabrock FE - Osnabrock	64700	9/27/2018	1,164.69	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 7,442.37	\$ 17.47	\$ 7,424.90	na	21408	na	187241
Osnabrock FE - Osnabrock	64684	9/28/2018	1,167.39	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 7,459.62	\$ 17.51	\$ 7,442.11	na	21408	na	187241
Dakota Growers	25005	10/5/2018	1,152.70	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 7,365.75	\$ 17.29	\$ 7,348.46	na	21408	na	187241
Dakota Growers	25019	10/5/2018	1,140.42	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 7,287.28	\$ 17.11	\$ 7,270.17	na	21408	na	187241
Dakota Growers	25027	10/5/2018	1,157.34	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 7,395.40	\$ 17.36	\$ 7,378.04	na	21408	na	187241
Dakota Growers	25079	10/10/2018	1,123.08	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 7,176.48	\$ 16.85	\$ 7,159.63	na	21408	na	187241
Osnabrock FE - Osnabrock	65031	10/31/2018	1,116.63	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 7,135.27	\$ 16.75	\$ 7,118.52	na	21408	na	187241
Osnabrock FE - Osnabrock	65040	11/1/2018	1,088.19	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 6,953.53	\$ 16.32	\$ 6,937.21	na	21408	na	187241
Osnabrock FE - Osnabrock	65050	11/2/2018	1,117.98	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 7,143.89	\$ 16.77	\$ 7,127.12	na	21408	na	187241
Osnabrock FE - Osnabrock	65066	11/6/2018	1,086.58	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 6,943.25	\$ 16.30	\$ 6,926.95	na	21408	na	187241
Osnabrock FE - Osnabrock	65083	11/8/2018	938.65	\$ 6.45	\$ (0.06)	\$ 6.39	\$ 5,997.97	\$ 14.08	\$ 5,983.89	na	21408	na	187241
Osnabrock FE - Osnabrock	65083	11/8/2018	139.43	\$ 6.45	\$ (0.11)	\$ 6.34	\$ 883.99	\$ 2.09	\$ 881.90	na	21462	na	na
Osnabrock FE - Osnabrock	65101	11/9/2018	1,103.17	\$ 6.45	\$ (0.11)	\$ 6.34	\$ 6,994.10	\$ 16.55	\$ 6,977.55	na	21462	na	na
Osnabrock FE - Osnabrock	65140	11/12/2018	1,099.52	\$ 6.45	\$ (0.11)	\$ 6.34	\$ 6,970.96	\$ 16.49	\$ 6,954.47	na	21462	na	na

Summary table of how average grade factors and discounts calculated:

Destination Information - inbound				Pricing		Destination Scale ticket Grade Factors								Contracts		
Elevator	Scale Ticket #	Delivery Date	Net Bu	Prem. & Disc. per bu	TW	MST	FM	HVAC	Dmg S & B	CCL	Protein	Dock	Estimate #	ECGM Trade	Seller Contract	Midwest Contract
NoDak Grain - Rohrville	13	9/6/2018	1,101.29	\$ (0.06)	63.5	13.2	-	-	-	-	12.5	1.2	na	21408	na	187241
NoDak Grain - Rohrville	21	9/7/2018	1,057.74	\$ (0.06)	62.1	12.3	-	-	-	-	12.8	1.3	na	21408	na	187241
NoDak Grain - Rohrville	24	9/10/2018	1,076.49	\$ (0.06)	62.6	12.3	-	-	-	-	13.5	1.3	na	21408	na	187241
NoDak Grain - Rohrville	41	9/11/2018	1,128.14	\$ (0.06)	62.4	11.0	-	-	-	-	14.2	1.3	na	21408	na	187241
Osnabrock FE - Osnabrock	64632	9/24/2018	1,087.21	\$ (0.06)	62.0	12.1	-	-	-	-	14.1	2.2	na	21408	na	187241
Osnabrock FE - Osnabrock	64648	9/25/2018	1,131.69	\$ (0.06)	63.3	12.1	-	-	-	-	12.3	2.3	na	21408	na	187241
Osnabrock FE - Osnabrock	64674	9/26/2018	1,163.79	\$ (0.06)	63.4	12.2	-	-	-	-	12.5	1.9	na	21408	na	187241
Osnabrock FE - Osnabrock	64700	9/27/2018	1,164.69	\$ (0.06)	62.4	13.0	-	-	-	-	12.5	2.1	na	21408	na	187241
Osnabrock FE - Osnabrock	64684	9/28/2018	1,167.39	\$ (0.06)	62.9	12.3	-	-	-	-	12.9	1.9	na	21408	na	187241
Dakota Growers	25005	10/5/2018	1,152.70	\$ (0.06)	58.4	10.2	-	88	0.3	1.2	0.6	0.4	na	21408	na	187241
Dakota Growers	25019	10/5/2018	1,140.42	\$ (0.06)	58.3	9.9	-	87	0.4	0.2	0.5	0.4	na	21408	na	187241
Dakota Growers	25027	10/5/2018	1,157.34	\$ (0.06)	59.8	9.7	0.1	87	0.4	1.3	1	0.6	na	21408	na	187241
Dakota Growers	25079	10/10/2018	1,123.08	\$ (0.06)	60.6	9.6	-	87	1.8	0.1	0.5	0.7	na	21408	na	187241
Osnabrock FE - Osnabrock	65031	10/31/2018	1,116.63	\$ (0.06)	60.3	10.1	-	-	-	-	14.6	3.6	na	21408	na	187241
Osnabrock FE - Osnabrock	65040	11/1/2018	1,088.19	\$ (0.06)	60.5	10.0	-	-	-	-	14.3	3.7	na	21408	na	187241
Osnabrock FE - Osnabrock	65050	11/2/2018	1,117.98	\$ (0.06)	60.6	10.1	-	-	-	-	14.5	3.4	na	21408	na	187241
Osnabrock FE - Osnabrock	65066	11/6/2018	1,086.58	\$ (0.06)	60.0	10.4	-	-	-	-	14.7	3.7	na	21408	na	187241
Osnabrock FE - Osnabrock	65083	11/8/2018	938.65	\$ (0.06)	59.9	10.2	-	-	-	-	14.9	3.8	na	21408	na	187241
					64.3	11.7	0.006	87.3	0.7	0.7	0.7	2.0	Average Grade Factors (Weighted)			
Osnabrock FE - Osnabrock	65083	11/8/2018	139.43	\$ (0.11)	59.9	10.2	-	-	-	-	14.9	3.8	na	21462	na	na
Osnabrock FE - Osnabrock	65101	11/9/2018	1,103.17	\$ (0.11)	60.0	10.3	-	-	-	-	14.9	3.4	na	21462	na	na
Osnabrock FE - Osnabrock	65140	11/12/2018	1,099.52	\$ (0.11)	59.8	11.4	-	-	-	-	14.7	4.0	na	21462	na	na
					59.9	10.8	na	Average Grade Factors (Weighted)				14.8	3.7			

How grain was applied to the various agreements:

Midwest Contract #	ECGM trade confirmation with Midwest			Estimate information								
	#	dated	bushels	start delivery	#	Name on Estimate	Grain	Estimate bu.	PSC Bu.	Estimate \$	PSC \$	Dated
187241	21408	6/13/2018	20,000	8/1/2018	27	NoDak	Durum	5,452.32	4,363.66	\$ -	\$ 27,818.32	10/9/2018
	21462	6/21/2018	20,000	9/1/2018	224	Midwest		14,767.14	13,611.11	\$ 74,562.86	\$ 86,770.80	10/4/2018
na	21605	7/17/2018	20,000	11/1/2018		na	Durum	na	2,025.23	na	\$ 12,910.84	na
	21833	9/18/2018	25,000	11/1/2018		na	Durum	na	2,342.12	na	\$ 14,813.92	na
	No grain delivered against these contracts.											