

Crockford, Konrad S.

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Subject: Filing Accepted for Case: 35-2018-CV-00088; Public Service Commission vs. Hunter Hanson d/b/a NoDak Grain, et al.; Envelope Number: 3608004



**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.

The filing below was reviewed and has been accepted by the clerk's office. You may access the file stamped copy of the document filed by clicking on the below link.

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	16 - Bobby Kubas
Activity Requested	EFileAndServe
Filed By	Mitchell Armstrong
Filing Attorney	Mitchell Armstrong

Document Details	
Lead Document	Exhibit 16 to Aff of AJS.pdf
Lead Document Page Count	4
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North Dakota Court's Information Technology Department 701-328-4218
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Claimant Name & Address
Bobby Kubas 12549 31st Street SW Bellevue, ND 58622 701-590-9814 bekubas11@gmail.com Attorney: Christina M. Wenko Mackoff Kellogg Law Firm 701-456-3210

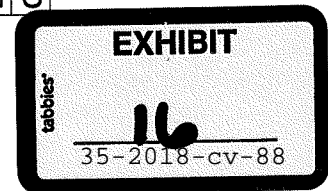
Date Claim Filed	March 7, 2019
Date Payment Demand Made	November 16, 2019

PSC Calculated value total	\$	89,820.08
Less other payments		

\$ 89,820.08 **Total cash claim**

Settlement #	Date	date	Date	date
35	10/17/2018	35	250	11/1/2018
ECGM Trade Confirmation #	21320	21918	21825	9/13/2018
Seller Contract #	-	NA	NA	
Midwest Contract #	187276	NA	NA	

Claim applied against:	Cash		Cash		Cash	
	Durum	Durum	Durum	Durum	Spring Wheat	
Contracted Price Per Bushel	\$	6.55	\$	4.85	\$	5.135
Contracted Bushels		10,000.00		4,000.00		3,000.00
Delivered bushels*		10,000.00		1,363.90		3,483.61
Gross Amount Due*	\$	65,500.01	\$	6,464.89	\$	18,077.89
Less Total Fees & assessments*	\$	150.00	\$	20.46	\$	52.25
PSC calculated value*	\$	65,350.01	\$	6,444.43	\$	18,025.64
Estimated Value per Midwest	\$		\$	74,457.02	\$	18,033.38
Claimant calculated claim	\$	65,500.00	\$	8,151.20	\$	14,239.58



Comments:

Differences in total values explained:

1. For all contracts:
 - a. Neither the claimant nor Midwest/NoDak correctly calculated or included the checkoff fee that would have been deducted prior to final settlement per standard grain settlement practices.
 - b. For the calculation of the total durum bushels delivered the claimant used the bushel amounts from freight invoices to Midwest from the company that hauled the grain. Those invoices reflected the GROSS BU. instead of the NET BU. that ultimately the claimant would have been paid for in a normal transaction.
2. For ECGM Trade Confirmation #21918:
 - a. Contract price was \$4.85 per bushel.
 - b. Contract stated that "viterra scale of discounts" was to be used. The claimant did not take into account the discounts that applied to bushels of durum applied to ECGM #21918.
3. For ECGM Trade Confirmation #21825:
 - a. Contract price used by claimant to calculate price/bu. was \$5.105 (\$5.825-\$0.72). The claimant calculated the price based on the "sellers net" which was \$0.72 under DEC2018 futures price, however the price paid to the seller according to the ECGM contract is \$0.69 under with the seller having to pay an additional \$0.03 to ECGM upon contract fulfillment. The DEC2018 futures price was established at \$5.825/bu. That is supported by both the claimant's written statement in the claim and in the notes made by MGT staff on documents obtained by the PSC on 11-15-18. Price established as follows: \$5.825-\$0.69=\$5.135.
 - b. Claimant included two scale tickets as part of the original claim. Those two scale tickets were included in Midwest Grain Trading Estimate #182 for \$171,511.36 that was paid by check #1624 on 9-28-18, successfully.
 - c. There were three other scale tickets that were in the claimant's file from other documents obtained by the PSC, and a freight invoice was received to substantiate that those three scale tickets are for grain belonging to the claimant that was not paid for.

Summary table of how value of each load of durum calculated:

Destination Information - inbound				Pricing					Contracts				
Elevator	Scale Ticket #	Delivery Date	Net Bu	Base Price per Bushel	Total Prem. & Disc. per bu	Net Price per Bu	Gross Amount Due	Checkoff	NET Amount Due	Estimate #	ECGM #	Seller Contract	Midwest Contract
Nodak Grain - Rohrville	180	10/11/2018	352.03	\$ 6.55	-	\$ 6.55	\$ 2,305.80	\$ 5.28	\$ 2,300.52	35	21320	-	187276
Nodak Grain - Rohrville	175	10/10/2018	1,292.31	\$ 6.55	-	\$ 6.55	\$ 8,464.63	\$ 19.38	\$ 8,445.25	35	21320	-	187276
Osnabrock FCE - Osnabrock	64818	10/11/2018	926.39	\$ 6.55	-	\$ 6.55	\$ 6,067.85	\$ 13.90	\$ 6,053.95	35	21320	-	187276
Osnabrock FCE - Osnabrock	64819	10/12/2018	1,312.54	\$ 6.55	-	\$ 6.55	\$ 8,597.14	\$ 19.69	\$ 8,577.45	35	21320	-	187276
Osnabrock FCE - Osnabrock	64829	10/16/2018	1,239.67	\$ 6.55	-	\$ 6.55	\$ 8,119.84	\$ 18.60	\$ 8,101.24	35	21320	-	187276
Osnabrock FCE - Osnabrock	64842	10/17/2018	1,255.83	\$ 6.55	-	\$ 6.55	\$ 8,225.69	\$ 18.84	\$ 8,206.85	35	21320	-	187276
Osnabrock FCE - Osnabrock	64868	10/18/2018	1,249.65	\$ 6.55	-	\$ 6.55	\$ 8,185.21	\$ 18.74	\$ 8,166.47	35	21320	-	187276
Osnabrock FCE - Osnabrock	64900	10/19/2018	1,250.30	\$ 6.55	-	\$ 6.55	\$ 8,189.47	\$ 18.75	\$ 8,170.72	35	21320	-	187276
Osnabrock FCE - Osnabrock	64967	10/23/2018	1,121.28	\$ 6.55	-	\$ 6.55	\$ 7,344.38	\$ 16.82	\$ 7,327.56	35	21320	-	187276
Osnabrock FCE - Osnabrock	64967	10/23/2018	105.51	\$ 4.85	(0.11)	\$ 4.74	\$ 500.12	\$ 1.58	\$ 498.54	35	21918	NA	NA
Osnabrock FCE - Osnabrock	64972	10/24/2018	1,258.39	\$ 4.85	(0.11)	\$ 4.74	\$ 5,964.77	\$ 18.88	\$ 5,945.89	35	21918	NA	NA

Summary table of how net price per bushel of durum calculated:

Destination Information - inbound				Pricing					Contracts							
Elevator	Scale Ticket #	Delivery Date	Net Bu	Base Price per Bushel	Total Prem. & Disc. per bu	Viterra Discounts		Net Price per Bu	Scale ticket Grade Factors			Estimate #	ECGM #	Seller Contract	Midwest Contract	
						TW	Dock		TW	MST	Dock					Protein
Nodak Grain - Rohrville	180	10/11/2018	352.03	\$ 6.55	-			\$ 6.55	57.9	12.5	1.3	15.8	35	21320	-	187276
Nodak Grain - Rohrville	175	10/10/2018	1,292.31	\$ 6.55	-			\$ 6.55	58.2	12.5	1.3	15.7	35	21320	-	187276
Osnabrock FCE - Osnabrock	64818	10/11/2018	926.39	\$ 6.55	-			\$ 6.55	57.9	12.7	3.3	15.4	35	21320	-	187276
Osnabrock FCE - Osnabrock	64819	10/12/2018	1,312.54	\$ 6.55	-			\$ 6.55	58.2	12.4	3.3	15.8	35	21320	-	187276
Osnabrock FCE - Osnabrock	64829	10/16/2018	1,239.67	\$ 6.55	-			\$ 6.55	58.3	12.3	3.1	15.7	35	21320	-	187276
Osnabrock FCE - Osnabrock	64842	10/17/2018	1,255.83	\$ 6.55	-			\$ 6.55	58.0	12.0	3.0	15.6	35	21320	-	187276
Osnabrock FCE - Osnabrock	64868	10/18/2018	1,249.65	\$ 6.55	-			\$ 6.55	58.3	11.4	2.7	15.6	35	21320	-	187276
Osnabrock FCE - Osnabrock	64900	10/19/2018	1,250.30	\$ 6.55	-			\$ 6.55	59.0	10.5	2.7	15.5	35	21320	-	187276
Osnabrock FCE - Osnabrock	64967	10/23/2018	1,121.28	\$ 6.55	-			\$ 6.55	59.3	10.5	2.3	15.6	35	21320	-	187276
Osnabrock FCE - Osnabrock	64967	10/23/2018	105.51	\$ 4.85	(0.11)	(0.05)	(0.06)	\$ 4.74	59.3	10.5	2.3	15.6	35	21918	NA	NA
Osnabrock FCE - Osnabrock	64972	10/24/2018	1,258.39	\$ 4.85	(0.11)	(0.05)	(0.06)	\$ 4.74	59.1	11.5	3.3	15.4	35	21918	NA	NA

Summary table of how value of each load of spring wheat calculated:

Destination Information - inbound				Pricing							Scale ticket Grade Factors				Contracts		
Elevator	Scale Ticket #	Delivery Date	Net Bu	Base Price per Bushel	Total Prem. & Disc. per bu	Net Price per Bu	Gross Amount Due	Checkoff	NET Amount Due	TW	MST	Dock	Protein	Estimate #	ECGM #	Seller Contract	Midwest Contract
ADM - Hebron	61556	9/6/2018	1,173.54	\$ 5.135	\$ 0.08	\$ 5.215	\$ 6,120.01	\$ 17.60	\$ 6,102.41	62.2	10.5	0.8	14.4	250	21825	NA	NA
ADM - Hebron	61587	9/6/2018	1,195.87	\$ 5.135	\$ 0.08	\$ 5.215	\$ 6,236.46	\$ 17.94	\$ 6,218.52	62.7	10.6	0.4	14.4	250	21825	NA	NA
ADM - Hebron	61613	9/6/2018	1,114.20	\$ 5.135	\$ -	\$ 5.135	\$ 5,771.42	\$ 16.71	\$ 5,704.71	63.0	11.8	0.4	14.0	250	21825	NA	NA