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MAR 18 2013

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

IN DISTRICT COURT

STATE OF SOUTH DAKOTA

COUNTY OF SPINK

FIFTH JUDICIAL CIRCUIT

Case No . 12-044

IN THE MATTER OF THE ANDERSON SEED
CO., INC. GRAIN BUYER BOND

**OBJECTION OF CHS, INC. D/B/A
MIDWEST COOPERATIVES TO
THE DECISION OF RECEIVER
AND PROPOSED FINDINGS OF
FACT, CONCLUSIONS OF LAW
AND DECISION OF RECEIVER**

CHS, Inc. d/b/a Midwest Cooperatives ("CHS") states the following objections to the February 11, 2013 Decision of Receiver, proposed Findings of Fact, Conclusions of Law, and Decision:

1. CHS initially submitted a claim in the amount of \$687,117.59. The Receiver, based supposedly on a review of the records of Anderson Seed Co. and documents annexed to the proof of claim of CHS, determined CHS's claim included amounts due on deliveries made outside the State of South Dakota and amounts for losses on contracts on which delivery had not been made. As a consequence, the Receiver recommended reduction of CHS's claim to \$319,684.44.

2. CHS objected to this determination and provided records documenting its original claim excluded amounts due on contracts on which deliveries had not been made and that the Receiver had over-estimated the debt related to out-of-state crop deliveries. Using proper adjustments, CHS established its claim amount should be \$443,867.19.

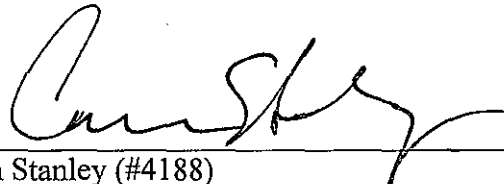
3. In refusing to consider CHS's objection, the Receiver stated there is "... no evidence upon which the Commission could reliably base a finding ..." that there were additional in-state deliveries by CHS. This ruling was not in accord with the weight of the evidence and was unreasonable given the evidence available to the Receiver.

4. In its February 11, 2013 Decision, the Receiver concluded the claim of Dakota Mill & Grain, Inc. should be reduced from \$672,275.76 to \$464,280.76. However, contrary to that determination, Exhibit A attached to the Receiver's Decision, proposed Findings of Fact, Conclusions of Law and Decision, uses a claim amount for Dakota Mill & Grain, Inc. of \$672,275.76.

5. If the correct amount of \$443,867.19 is utilized for the claim of CHS and the correct amount of \$464,280.76 is used for the claim of Dakota Mill & Grain, Inc., the percentage of claims held by CHS would be 20% and the amount owed to CHS on distribution of the bond proceeds would be \$20,033.35.

Dated this 14th day of March, 2013.

BY:



Caren Stanley (#4188)

VOGEL LAW FIRM

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Fargo, ND 58107-1389

Telephone: 701.237.6983

ATTORNEYS FOR CHS, INC. D/B/A

MIDWEST COOPERATIVES

1585630.1

**RE: In the Matter of the Anderson Seed Co., Inc. Grain Buyer Bond
CASE NO.: CIV 12-044**

STATE OF NORTH DAKOTA)
) SS **AFFIDAVIT OF SERVICE BY MAIL**
COUNTY OF CASS)

Sonie J Thompson, being first duly sworn, does depose and state that she is of legal age and not a party to the above-entitled matter.

On March 14, 2013, Affiant deposited in the United States Post Office at Fargo, ND, a true and correct copy of the following document:

**OBJECTION OF CHS, INC. D/B/A MIDWEST COOPERATIVES TO THE
DECISION OF RECEIVER AND PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DECISION OF RECEIVER**

A copy of the foregoing was securely enclosed in an envelope with postage duly prepaid and addressed as follows:

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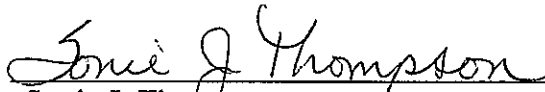
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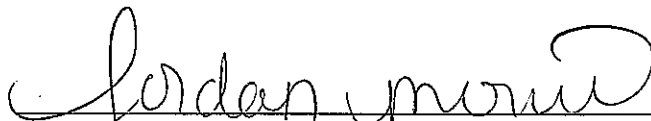
To the best of Affiant's knowledge, the address above given was the actual post office address of the party intended to be so served. The above document was duly mailed in accordance with the provisions of the Rules of Civil Procedure.



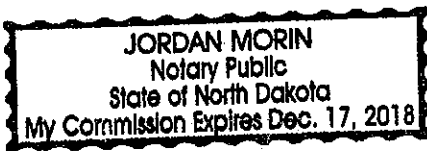
Sonie J. Thompson

Subscribed and sworn to before me this 14th day of March, 2013.

(SEAL)



Notary Public, Cass County, North Dakota



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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

RE: In the Matter of the Anderson Seed Co., Inc. Grain Buyer Bond
CASE NO.: 12-044

STATE OF NORTH DAKOTA)
) SS AFFIDAVIT OF SERVICE BY MAIL
COUNTY OF CASS)

Sonie J. Thompson, being first duly sworn, does depose and state that she is of legal age and not a party to the above-entitled matter.

On March 15, 2013, Affiant deposited in the United States Post Office at Fargo, North Dakota, a true and correct copy of the following document:

**OBJECTION OF CHS, INC. D/B/A MIDWEST COOPERATIVES TO THE
DECISION OF RECEIVER AND PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DECISION OF RECEIVER**

A copy of the foregoing was securely enclosed in an envelope with postage duly prepaid and addressed as follows:

Ms. Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
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Pierre, SD 57501

Mr. John Smith
Commission Counsel
South Dakota Public Utilities Commission
500 E. Capitol Avenue
Pierre, SD 57501

Mr. James Mehlhaff
Director, Warehouse Div.
South Dakota Public Utilities Commission
500 E Capitol Avenue
Pierre, SD 57501

To the best of Affiant's knowledge, the address above given was the actual post office address of the party intended to be so served. The above document was duly mailed in accordance with the provisions of the Rules of Civil Procedure.

Sonie J. Thompson
Sonie J. Thompson

Subscribed and sworn to before me this 15th day of March, 2013.

Lori Thrall

Notary Public, Cass County, North Dakota

(SEAL)

