

STATE OF SOUTH DAKOTA)
) SS.
COUNTY OF HUGHES)

IN CIRCUIT COURT

SIXTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA, BY AND)
THROUGH ITS PUBLIC UTILITIES)
COMMISSION,)

32CIV25-

Plaintiff,)

COMPLAINT

vs.)

YIELD10 BIOSCIENCE, INC. OF)
WOBURN, MA)

Defendant.)

The State of South Dakota, by and through its Public Utilities Commission, Plaintiff in the above-entitled matter, for its Complaint states and alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff, State of South Dakota Public Utilities Commission ("PUC" or "Commission") is the state Commission responsible for issuing and reviewing compliance of grain buyer licenses in the State of South Dakota, pursuant to SDCL chapter 49-45.

2. The PUC has been granted authority by the South Dakota Legislature to administer and enforce the provisions of SDCL ch. 49-45.

3. SDCL § 49-45-25 subjects violators to a civil fine in an amount not to exceed one thousand dollars for each day the grain buyer has been out of compliance, up to a maximum of twenty thousand dollars per licensing period, as set forth in § 49-45-3.

4. SDCL § 49-45-26 subjects violators to a civil fine in an amount not to exceed one thousand dollars for each day requested materials are withheld, up to a maximum of twenty thousand dollars per licensing period, as set forth in § 49-45-3.

5. Yield10 Bioscience, INC. ("Yield10") is a corporation formed under Delaware law.

6. Oliver Peoples is the president, director, and chief executive officer of Yield10.

7. Charles Haaser is the chief accounting officer of Yield10.

8. The jurisdiction and venue for this matter lies in the Circuit Court for the Sixth Judicial Circuit in Hughes County, State of South Dakota.

FACTS

9. For the licensing year of July 1, 2023, through June 30, 2024, Yield10 held a Class A grain buyer license from the PUC.

10. Pursuant to SDCL § 49-45-13, grain buyers may be inspected by the PUC at such times as the PUC considers necessary.

11. Pursuant to SDCL § 49-45-22, Class A grain buyer licensees are required to submit quarterly balance sheets to the PUC for inspection.

12. Pursuant to administrative rules, the balance sheet of a Class A grain buyer licensee must show a positive net worth of at least \$250,000 and must show current assets greater than current liabilities. ARSD § 20:10:12:15.

13. On February 1, 2024, Yield10 submitted its quarterly balance sheet for the period ending November 2023.

14. PUC Staff ("Staff") reviewed this balance sheet on or about February 28, 2024, and discovered that Yield10 was operating with insufficient working capital and negative equity.

15. On February 28, 2024, Staff issued an inspector's request to Yield10 pursuant to SDCL § 49-45-26.

16. Pursuant to SDCL § 49-45-26, Yield10 was required to respond with the requested records within five working days, resulting in a response deadline of March 6, 2024.

17. Yield10 failed to provide the requested records within the time prescribed by SDCL § 49-45-26.

18. SDCL § 49-45-25 requires that if "a grain buyer becomes aware that the grain buyer is not in compliance with each financial standard, as set forth in the commission's rules, the grain buyer shall immediately notify the commission of the grain buyer's financial condition."

19. Staff considers Yield10's November 2023 quarterly balance sheet submission on February 1, 2024, to be Yield10's earliest notification to the PUC of its non-compliance with the PUC's financial standards.

20. As Yield10 is a publicly traded company, Yield10 submitted a Form 10-Q to the Securities and Exchange Commission ("SEC") on or about November 14, 2023.

21. This Form 10-Q showed that Yield10 was out of compliance with the PUC's financial standards at that time.

22. Yield10's Form 10-Q submission to the SEC establishes that Yield10 was aware of its non-compliant financial condition on or before November 14, 2023.

23. On April 4, 2024, Staff filed a Complaint before the PUC to immediately suspend Yield10's grain buyer license pursuant to SDCL § 49-45-16(4), to find Yield10 violated SDCL § 49-45-25 and § 49-45-26, and to impose civil penalties. Accordingly, docket GW24-001 was opened on the PUC's website.

24. Staff served its Complaint upon Yield10 electronically and by certified mail to Yield10's business address, which is 19 Presidential Way, Suite 201, Woburn, Massachusetts 01801.

25. On April 5, 2024, the Commission issued a Notice of Hearing and Answer Deadline.

26. Thereafter, Yield10 voluntarily surrendered its grain buyer license.

27. With the surrender, Staff withdrew the portion of its Complaint requesting a suspension of Yield10's grain buyer's license, while the remainder of Staff's Complaint was not withdrawn.

28. Yield10 failed to file an answer.

29. On July 3, 2024, the Commission issued an Order for and Notice of Evidentiary Hearing for July 19, 2024.

30. The hearing commenced on July 19, 2024, to determine whether Yield10 violated SDCL § 49-45-25, whether Yield10 violated SDCL § 49-45-26, and whether the Commission should assess civil penalties pursuant to SDCL § 49-45-25 and SDCL § 49-45-26.

31. Yield10 did not appear personally or through counsel.

32. Staff presented testimony and evidence at the hearing.

33. At the conclusion of the evidentiary hearing, the Commission found that Yield10 committed violations of SDCL § 49-45-25 and § 49-45-26. Exhibit A.

34. The Commission, in its discretion granted by SDCL § 49-45-25, ordered Yield10 to pay a civil fine of \$7,500 for its violation of this same statute.

35. The Commission, in its discretion granted by SDCL § 49-45-26, ordered Yield10 to pay a civil fine of \$7,500 for its violation of this same statute.

36. Per the Commission's Order, payment of the civil fines was to be made to the PUC within thirty days of July 23rd, 2024.

37. Charles Haaser and Oliver Peoples, as contacts listed on the service list of this docket, received the Commission's Final Order and Notice of Entry. Charles Haaser confirmed receipt via email. Exhibit B.

38. As of the date of this Complaint, Yield10 has not made payment of the civil fines to the PUC.

39. Yield10 did not petition the Commission for a rehearing or reconsideration of the Final Order within thirty days of issuance as allowed by ARSD § 20:10:01:30.1.

40. Yield10 did not appeal the Commission's decision to the circuit court within thirty days after the decision was rendered, as is required to make an appeal pursuant to SDCL § 1-26-31.

41. From August through December 2024, Staff has contacted Yield10 via email requesting payment of the civil fines.

42. On December 12, 2024, Staff sent a Final Notice Demanding Payment of Civil Fine via email and United States Postal Service. A copy of this Final Notice is provided as Exhibit C.

43. No payment has been received to date.

CLAIM FOR RELIEF – CIVIL PENALTIES

44. The State realleges and incorporates by this reference each of the facts contained in the preceding paragraphs as if fully alleged herein.

45. By Commission order, Yield10 has been found in violation of SDCL § 49-45-25 and has been ordered to pay a civil fine of \$7,500 as a result of this violation.

46. By Commission order, Yield10 has been found in violation of SDCL § 49-45-26 and has been ordered to pay a civil fine of \$7,500 as a result of this violation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the defendant as follows:

47. For a monetary judgment in the amount of Fifteen Thousand dollars (\$15,000) plus Plaintiff's costs, disbursements, and statutory interest to the extent allowed by law.

48. For such other and further relief as this Court may find just and proper.

Dated this 31st day of January, 2025.

/s/ Jennie L Fuerst

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