BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF LW SALES/LW SEED'S	)	
FAILURE TO OBTAIN NECESSARY	)	
LICENSURE PRIOR TO OPERATON AS A	)	**GD07-001**
GRAIN DEALER IN THE STATE OF SOUTH	)	**AFFIDAVIT**
DAKOTA	)	

STATE OF SOUTH DAKOTA)
:ss
COUNTY OF BROWN)

I, Kari A. Bartling, the attorney for LW Sales and hereby state and allege as follows:

1. I am the attorney for LW Sales, in the above-referenced matter.

2. I had previously filed a brief in response to the PUC's Motion for Summary Judgment in the above matter.

3. I was contacted by Kara Semmler, attorney for the Public Utilities Commission, and was asked if a hearing date of August 28, 2007 would be agreeable with my calendar.

4. At the time that I was contacted by Ms. Semmler, I informed her that I was scheduled for trial on that date.

5. I was unaware that a hearing was scheduled for that date anyway, and the first time that I became aware that any such hearing occurred was when I read an article in the Aberdeen American News, indicating my client had been fined.

6. I was particularly disappointed that nobody from the Public Utilities Commission contacted me earlier to inquire as to why I was not present.

7. When I contacted Ms. Semmler, she indicated that she had provided notice of the hearing to me via email.

8. I informed Ms. Semmler that I have had a difficult time with my email as of late, and that I was "spammed" and received over 5,200 messages. As a result of this, I deleted all of the messages because it was impossible for me to review all of them.

9. I have also informed Ms. Semmler that she is to take my email address off of her system and that she is to provide me written notice of any hearings in this matter via US Mail.

10. Based on the fact that neither myself nor my client was aware that there was any such hearing to be held in front of the Public Utilities Commission on August 28, 2007, neither of us appeared to defend his position. We feel that the fines that were assessed against the

respondent were assessed without my client being given due notice and an opportunity to be heard in violation of his constitutional rights.

11. The affiant respectfully requests that the Public Utilities Commission reset this matter for a hearing and provide notice to myself and my client in writing, mailed via United States Postal Service postage prepaid to the address listed in affiant's motion.

Dated this _____ day of September, 2007.

_____
Kari A. Bartling

STATE OF SOUTH DAKOTA)
: ss.
COUNTY OF BROWN)

On this _____ day of September, 2007, before me the undersigned officer, personally appeared Kari A. Bartling, attorney for respondent, known to me or satisfactorily proven to me to be the person whose name is subscribed to the within instrument and who acknowledged to me that she executed the same for the purposes therein contained.

In witness whereof I have hereunto set my hand and official seal.

_____
Notary Public

My commission expires: