

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF ENGELMAN)	COMPLAINT AND REQUEST
COMMERCIAL GROUP, LLC DBA BC)	FOR INJUNCTION
TRADING CORP.)	
)	GW20-001

COMES NOW, the Staff of the South Dakota Public Utilities Commission (Staff), pursuant to SDCL 49-45-1, and hereby requests the Commission issue an Order finding Engelman Commercial Group, LLC dba BC Trading Corp. (BC Trading) to be in violation of SDCL 49-45-1 and to pursue an injunction to enjoin BC Trading from continuing to buy grain in the state of South Dakota without a grain buyers license, and to issue a fine for the violations. In support of its Petition, Staff asserts as follows:

1. BC Trading is a grain buyer located in Georgia and not licensed to operate as a grain buyer in South Dakota.
2. BC Trading has never been licensed as a grain buyer in South Dakota.
3. On or about October 15, 2019, the Commission’s Grain Warehouse Division became aware that BC Trading was purchasing grain in this state for resale without a license. See Affidavit of Paul Kenefick-Aschoff.
4. Staff contacted BC Trading officials on October 28, 2019 to inform BC Trading that it needed to obtain a grain buyer license to purchase grain for resale in this State. See Affidavit of Cody Chambliss.
5. On November 1, 2019, Staff issued a memorandum of Adjustment to BC Trading providing BC Trading with the legal authority requiring BC Trading to obtain a grain buyer license and followed up this contact several more times. The Memorandum was sent via first class mail and via email. See Affidavit of Cody Chambliss.
6. On or about December 13, 2019, Staff received from BC Trading a draft copy of BC Trading Corps’ license application for a Class B grain buyer’s license. This document was incomplete and unsigned. Staff also received a copy of a bond document via email from BC Trading. The bond document failed to comply with South Dakota requirements. See Affidavit of Cody Chambliss.
7. On or about December 20, 2019, Staff received from BC Trading an original and valid bond, the licensing fee and financial statements in support of BC Trading Corps’ license application for a Class B license. See Affidavit of Cody Chambliss.
8. On or about December 31, 2019, Staff received from BC Trading a completed application for a Class B Grain buyer’s license. See Affidavit of Cody Chambliss.
9. Upon review of BC Trading’s application and supporting financial information, Staff determined that BC Trading did not meet the minimum qualifications for a Class B Grain Buyer’s License. See Affidavit of Cody Chambliss.

10. Through its investigation of BC Trading, Staff learned that since 2014, BC Trading has made more than 100 purchased of grain without a license. Specifically, BC Trading made the following purchases:
- a. 2014- BC Trading made 12 purchases in South Dakota.
 - b. 2015- BC Trading made 15 purchases in South Dakota.
 - c. 2016- BC Trading made 6 purchases in South Dakota.
 - d. 2017- BC Trading made 27 purchases in South Dakota.
 - e. 2018- BC Trading made 24 purchases in South Dakota.
 - f. 2019-BC Trading made a total of 31 purchases in South Dakota as of November 14, 2019:
 - i. 27 of those purchases were made prior to October 28, 2019.
 - ii. 4 of those purchases were made after October 28, 2019, specifically:
 1. 1 purchase on October 31, 2019
 2. 1 purchase on November 2, 2019.
 3. 2 purchases on November 14, 2019.

Legal Authority

SDCL 49-45-1 provides:

Grain buyer's license required—Violation as misdemeanor—Injunction—Civil fine. Before transacting the business of a grain buyer in this state, a person shall obtain a grain buyer license from the commission. A violation of this section is a Class 1 misdemeanor. Each purchase of grain without a license is a separate offense.

Operation as a grain buyer without a license may be enjoined upon complaint of the commission. In addition, the commission may assess a civil fine against an unlicensed grain buyer in the amount of one thousand dollars for each purchase of grain up to a maximum fine of twenty thousand dollars.

SDCL 49-45-1.1(3) defines a grain buyer as “any person who purchases grain for the purpose of reselling the unprocessed grain or who purchased three hundred thousand dollars worth or more of grain directly from producers in a calendar year.”

BC Trading Corp is a grain broker that purchased unprocessed grain in South Dakota for the purpose of reselling the unprocessed grain. Based on this conduct, BC Trading acted as a grain buyer in South Dakota and is required to have a license. Therefore, each time BC Trading purchased grain without a license, BC Trading committed a separate violation, the penalty for

which is one thousand dollars up to a maximum fine of twenty thousand dollars. Additionally, BC Trading continued to purchase grain for resale without a license after Staff issued a memorandum of adjustment on November 1, 2019.

Because BC Trading has continued to purchase grain, even after Staff specifically informed BC Trading of the licensing requirements Staff believes it is necessary to take formal action against BC Trading. Based on the number of times BC Trading has purchased grain, BC Trading has certainly accumulated enough violations to meet the maximum penalty available under SDCL 49-45-1. Staff is also concerned that BC Trading is without incentive to comply with the South Dakota grain laws in the future, making it necessary to seek an injunction to prohibit BC Trading from continuing to purchase grain for resale without a valid grain buyer's license.

Conclusion

WHEREFORE, the Staff respectfully requests the Commission find BC Trading to have committed a violation of SDCL 49-45-1 for each instance BC Trading purchased grain in South Dakota without a license and issue a fine of up to \$20,000 for the violations. In addition, Staff also requests the Commission apply to the circuit court for an injunction pursuant to SDCL 49-45-1.

Dated this 7th day of January 2019.



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