

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

**IN THE MATTER OF THE PUC STAFF'S) AFFIDAVIT OF JEREMEY FROST
COMPLAINT AGAINST BANGHART) IN SUPPORT OF APPLICATION FOR
PROPERTIES, LLC, GETTYSBURG,) CLASS B GRAIN BUYER LICENSE
SOUTH DAKOTA)
)
)
) **GW23-001****

STATE OF SOUTH DAKOTA)
)SS
COUNTY OF HUGHES)

Comes now Jeremy Frost, being first duly sworn under oath, does depose and state as follows:

1. I am an independent contractor working for Banghart Properties, LLC (hereinafter referred to as “BP”), party to be above-captioned action.

2. On the afternoon of May 17, 2023, Jan Banghart, Rob Konrad, and I met with Cody Chambliss and Amanda Reiss to discuss a corrective plan that would allow PUC Staff to support BP obtaining a SD Class B grain buyer’s license.

3. Prior to the meeting Amanda had emailed Rob asking BP to bring “some sort of corrective plan to address some of the concerns raised along with the possible conditions to ensure there is compliance in the future. This does not need to be a formal plan at all, just ideas they are willing and feasible to to implement. We are certainly willing to cooperatively add to the plan and and suggest conditions to any potential license but proactively from Banghart would be much appreciated!”

4. During this meeting I felt that we had constructive conversations that helped narrow the communication gap between Cody and I. For instance we talked about the load of safflower that I got paid for. He admitted he knew about it prior, but he also explained why it concerned him. I understood after the conversation, and that allowed us to talk about how to form a better paper trail.

5. We discussed how we could utilize our bill of lading and back reference destination scale tickets. This would give BP sequential tickets, along with reports that cross referenced destination as well as origin.

6. We talked about breakdown on our balance sheets and adding more accounts to our chart of accounts. Cody indicated that he would send us a sample of what he would like to see. We told him we could expand our chart of accounts so that we have a breakdown of things

such as trucking, independent contractors, and other sub-categories that he would like to see. To date, Cody has not sent us the sample chart of accounts that meets his approval.

7. I asked Cody several times, “What do we need to do so that you will support us getting our license?”

8. We discussed contract language, and BP’s attorney provided some proposed language that Cody agreed would help clarify the title and bond concerns that the PUC has.

9. We talked about paper trail in relationship to contracts and scale tickets.

10. When we left the meeting we had the impression that Cody would be in support of BP getting a class B provided BP made the changes we discussed during the meeting.

11. A day or two after the meeting, it felt like, based on an email string with Amanda, that staff had back-tracked. We were not given any real explanation for this change of heart, even though we attempted to resolve this matter in good faith. Ever since BP has been in business we have attempted to ask the PUC anytime that we have had various questions regarding how they would like to see things done from us.

12. PUC staff inspector Sara McIntosh is the only one that has actually been to BP’s place of business. We have always done as she has asked, and she has given us suggestions to help streamline the inspection process. We have also asked her questions. We always provided her with any information she requested.

13. On March 17, 2022: I sent the following email to Cody Chambliss:

“ I have a producer from another state; he wishes to deliver to a SD destination that I have a bid into. He wants to know if the SD bond protects him.

The contract, BOL, and our website all mention that title is transferred to Banghart Properties at the time it is accepted and unloaded. Both the producer and myself are also in agreement that title transfers in SD when destination accepts load.

Can you please advise if SD bond protects him.

Thank you

Sent from my iPhone”

14. I received an email from Cody on 3-17-2022 where Cody says:

“ Jeremey,

I feel we have gone over this time and time again. If title passes in South Dakota there is bond coverage with your current license.

Thank You”

15. During the hearing for BP’s Class A license application, I mentioned I would do what is right for the farmer. I want to clarify that. First, my name is not on the checking account for BP. I don’t write checks nor is it my role to decide when to write checks. Secondly, I did have communication with producers in December of 2022 where I had a producer ask us to wait until he talked to his accountant, and that caused us to write a check two days later then required by law. I understand the law and have no intention to violate it, nor will I put myself in a role were my passion for doing what is right for farmers is not in accordance with the law.

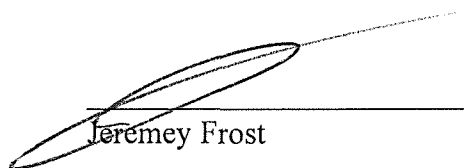
16. My intention is to help farmers continue to be the back bone of our society, while doing so under the same rules as any other grain buyer. I apologize for allowing my passion for farmers to lead the Commission to believe that I would put farmers in front of the law. I will fight for farmers, but I will do so while following the law.

17. I completely understand why Cody and I have had communication issues, and I take responsibility for that. If I was him I wouldn’t really care for me either as I have been very pushy towards him and have publicly told several farmers some of the mentioned communication issues we have had between each other.

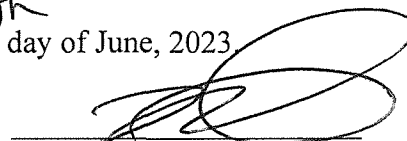
18. This affidavit is offered in support of Banghart’s pending application for Class B grain buyer license.

Further your affiant sayeth naught.

Dated this 5th day of June, 2023.


Jeremey Frost

Sworn and subscribed to before me this 5th day of June, 2023


South Dakota Notary Public

My commission expires: Oct 25, 2026



Certificate of Service

The undersigned counsel hereby certifies that a true and correct copy of the forgoing Affidavit of Jeremy Frost in Support of Application for Class B Grain Buyer License was served on the following parties in the following manner, on this the 5th day of June, 2023:

Ms. Patricia Van Green
Executive Director
South Dakota Public Utility Commission
500 E. Capitol Ave.
Pierre, SD 57501
patty.vangerpen@state.sd.us

VIA EMAIL,
AND ELECTRONIC FILING

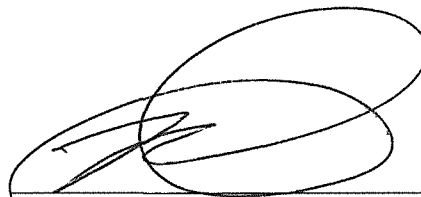
Mr. Cody Chambliss
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VIA EMAIL

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VIA EMAIL

Dated this 5th day of June, 2023.



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Attorney for Banghart Properties, LLC.