

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

**IN THE MATTER OF GREEN LEAF)
COMMODITIES, LLC'S FAILURE TO TIMELY)
RESPOND PURSUANT TO SDCL 49-45-26)
)
)
)**

**ORDER TO SHOW CAUSE;
NOTICE OF SHOW CAUSE
HEARING**

GW19-001

On February 15, 2019, the staff (Staff) of the South Dakota Public Utilities Commission (Commission) filed a Motion for an Order to Show Cause (Motion) with an attached Affidavit of Cody Chambliss, Grain Warehouse Manager of the Public Utilities Commission, (Affidavit) against Green Leaf Commodities, LLC (Green Leaf). The Affidavit alleges that multiple data requests were made to Green Leaf and no response was received from Green Leaf or its owner and registered agent Kent Anderson. The Affidavit also alleges that Mr. Chambliss has received complaints from producers and other South Dakota licensed grain buyers against Green Leaf. The Motion requests that the Commission issue an Order to Show Cause with respect to Green Leaf ordering that Green Leaf appear before the Commission and show cause as to why it should not be found in violation of SDCL 49-45-26.

On February 21, 2019, the Commission electronically transmitted notice of the filing to interested individuals and entities on the Commission's PUC Weekly Filings listserv. No petitions to intervene or comments were filed.

Pursuant to SDCL 49-45-26, a grain buyer, whether licensed or unlicensed, who purchases grain within the state shall provide all of the books, accounts, and electronic records relating to the transactions of the grain buyer, either within or without the state, upon the request of the Commission's inspector or within five working days of the request. Any requested materials shall be provided to the Commission's inspector at a licensed location within the state or at the offices of the Commission. A willful violation of this section is a Class 1 misdemeanor. In addition, the Commission may assess a civil fine in an amount not to exceed one thousand dollars for each day the requested materials are withheld, up to a maximum of twenty thousand dollars.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-1, and 49-45, specifically 1-26-20, 49-1-11, 49-45-26, 49-45-27, and ARSD Chapter 20:10:12. The Commission may rely upon any or all of these or other laws of this state in making its determination and may take any other enforcement actions against Green Leaf as allowed by law.

At its regularly scheduled meeting of March 1, 2019, the Commission considered this matter. The Commission reviewed Staff's Motion and supporting Affidavit. Having heard the arguments of Staff, the Commission voted unanimously to issue an Order to Show Cause requiring Green Leaf to show cause as to why it should not be found in violation of the requirement to respond to requests for information pursuant to SDCL 49-45-26.

Green Leaf shall appear on Tuesday, March 19, 2019, at 11:00 a.m., CDT, in Room 413 of the State Capitol Building, 500 E. Capitol Ave., Pierre, South Dakota, to show cause why action should not be taken against Green Leaf for failure to comply with SDCL 49-45-26.

At the hearing, each party will be permitted to present an opening statement summarizing the evidence that such party will offer into evidence and to briefly and concisely state the issue involved in the case.

The issue at the hearing is whether the Commission shall find that Green Leaf violated 49-45-26; assess a civil fine against Green Leaf; or take any other enforcement actions against Green Leaf as allowed by law.

The hearing will be a quasi-judicial adversarial proceeding conducted pursuant to SDCL Chapter 1-26. At such formal hearing, all parties will have the opportunity to appear, present evidence, and cross-examine the other parties' witnesses and exercise all other rights afforded by SDCL Chapters 1-26, 49-1, and 49-45 and ARSD Chapters 20:10:01 and 20:10:12, including rights of appeal to the courts. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights may be forfeited if not exercised at the hearing. All persons testifying will be subject to cross-examination. The Commission's final decision will be based solely on the testimony and evidence introduced and received into evidence at the hearing. If a party or its representative fails to appear at the time and place set for the hearing, a decision may be issued by default pursuant to SDCL 1-26-20. As a result of this hearing, the Commission will make a decision, including findings of fact and conclusions of law, on the issue set forth above. The Commission's final decision may be appealed by the parties to the Circuit Court and the Supreme Court as provided by law. It is therefore

ORDERED, that Green Leaf shall appear and show cause as to why it should not be found to be in violation of SDCL 49-45-26. It is further

ORDERED, that a hearing will be held by the Commission beginning at 11:00 a.m., CDT, Tuesday, March 19, 2019, in Room 413 of the Capitol Building, 500 E. Capitol Ave., Pierre, South Dakota.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 4th day of March 2019.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail.	
By:	<u>Karen E. Cremer</u>
Date:	<u>03/04/19</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Chairman

Chris Nelson
CHRIS NELSON, Commissioner

Kristie Fiegen
KRISTIE FIEGEN, Commissioner