

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Complaint)	Docket No. GDC-443
of John A. Fecht, Director of)	
the Nebraska Public Service)	
Commission Grain Warehouse)	
Department,)	
)	
COMPLAINANT,)	PETITION FOR ORDER TO CEASE
)	AND DESIST AND SEEKING
vs.)	ADMINISTRATIVE FINES
)	
Roberts Seed, Inc., Axtell,)	
Nebraska,)	
)	
RESPONDENT.)	ENTERED: May 15, 2018

The Grain Warehouse Department of the Nebraska Public Service Commission (Commission), by and through its Director, John A. Fecht, states and alleges as follows:

1. Complainant is the Director of the Grain Warehouse Department of the Nebraska Public Service Commission.
2. Respondent is an Applicant for a Grain Dealer's license with the Nebraska Public Service Commission.
3. On April 21, 2017, Respondent filed an application for a Grain Dealer's license (Application No. 2773). However, Respondent failed to file a bond with the Commission;¹ failed to submit a year-end financial statement prepared by a Certified Public Accountant;² failed to file a copy of the grain purchase contract including the required warning to seller language;³ and failed to complete the required background check within 90 days of the application.⁴ Respondent did not maintain contact with the Department despite multiple attempts to reach them throughout the year.
4. In October 2017, Respondent indicated they would provide additional financial information. They did not provide the necessary Financial Statement. On February 5, 2018, Respondent indicated the Financial

¹ Neb. Rev. Stat §75-903 (2); Neb. Admin. Code §291 ch. 8 §003.04

² Neb. Rev. Stat §75-903 (3); Neb. Admin. Code §291 ch. 8 §003.03

³ Neb. Admin. Code §291 ch. 8 §003.05(A) (1-8)

⁴ Neb. Rev. Stat §75-903.02; Neb. Admin. Code §291 ch. 8 §003.02(C)

Statement would be completed by February 16, 2018. No statement was submitted to the Grain Department.

5. On February 27, 2018, Wally Driewer, a Grain Department examiner visited the Respondent in Axtell to complete a soybean checkoff audit. Based upon conversation with Respondent's staff, the Department became concerned Respondent was operating without a Grain Dealer License.
6. On March 16, 2018, the Grain Department sent a certified letter to the Respondent stating they must cease and desist any Grain Dealer Operations until they complete the application process and could be granted a license. A deadline for action was provided.
7. On April 27, 2018, Respondent contacted the Grain Department, indicating they would provide information about their operation and the bond they obtained.
8. On May 1, 2018, an Order of Pending Dismissal was issued informing Respondent the Application would be dismissed if no action was taken by May 21, 2018.
9. On May 2, 2018, Respondent provided bond paperwork, however, no additional information was provided. The Grain Department informed the Respondent that additional information must be provided by May 4, 2018.
10. On May 4, 2018, Respondent notified the Department that they are working to obtain additional credit at this time. However, they are unable to meet the requirements for a license presently. Respondent is currently involved in a Chapter 11 Bankruptcy.
11. In Discussion with Department Director Fecht, Respondent indicated they were operating as a Grain Dealer and currently had approximately ten (10) outstanding contracts. Department Director Fecht informed Respondent those contracts would need to be cancelled. Respondent indicated they did not wish to cancel the contracts.
12. On May 10, 2018, Grain Department Examiners visited Respondent and reviewed company records and settlement

documents for purchases of grain respondent made without a Grain Dealer License.

13. Respondent has operated and continues to operate without a Grain Dealer License.

WHEREFORE, Complainant prays that this Commission enter an Order To Cease and Desist and convenes a hearing on the foregoing petition to provide the Respondent an opportunity to show cause as to why the Commission should not assess Civil Penalties for operating without a Grain Dealer License and for failure to comply with the provisions of Neb. Rev. Stat. section 75-903, as well as the Rules and Regulations of the Commission promulgated thereunder.

DATED this day of 15th Day of May 2018.



JOHN A. FECHT, Director
Grain Warehouse Department

VERIFICATION

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

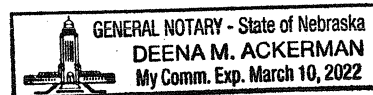
John A. Fecht, being first duly sworn, deposes and says that he is Director of the Nebraska Public Service Commission Grain Warehouse Department; that he has read the allegations contained herein and understands them to be true to the best of his knowledge and belief.



John A. Fecht, Director
Grain Warehouse Department

SUBSCRIBED AND SWORN to before me this 1st day of May,
2018.


Notary Public



CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above Complaint was sent by Certified United States Mail postage prepaid on May 15, 2018, to the following:

Roberts Seed, Inc.
982 22 Rd.
Axtell, Nebraska 68924


Danielle M. Rohr, 25549

NOTICE

1. Pursuant to Neb. Admin. R. & Regs., Title 291, Chapter 1, Section 005.09, the Respondent(s) is hereby notified that an answer to this complaint shall be filed and shall admit or deny each material allegation of the complaint. The answer shall assert any affirmative defenses which the Respondent may assert. The answer shall be filed with the Commission within twenty (20) days after service of the complaint. Except for good cause shown, failure to answer will be construed as an admission of the allegations in the complaint. Failure to file an answer or to appear at the hearing allows the Commission to (a) immediately enter an order revoking, suspending, or modifying a certificate of public convenience and necessity and/or assessing a civil penalty as provided by law; or (b) to proceed with the hearing and receive evidence of the alleged violation and to revoke, suspend, or modify a certificate of public convenience and necessity and/or assess a civil penalty as provided by law.
2. Pursuant to Neb. Rev. Stat. Section 75-133, the Commission, after hearing, shall make any order as it deems just and reasonable, including but not limited to, an order revoking, suspending, or modifying the certificate of public convenience and necessity granted by the Commission or a cease and desist order.
3. Pursuant to Neb. Rev. Stat. Section 75-156, the Commission may impose a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation per day up to two million dollars (\$2,000,000) per violation per year.