

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Complaint)	Application No. GW-2192/GWC-442
of John Fecht, Director of the)	
Nebraska Public Service)	
Commission Grain Warehouse)	
Department,)	
)	
Complainant,)	ORDER APPROVING STIPULATED
vs.)	AGREEMENT
)	
Wellington Technologies, LLC)	
d/b/a Booth Feeds,)	
)	
Respondent)	Entered: May 10, 2016

APPEARANCES:

For the Respondent:

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For the Commission:

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BY THE COMMISSION:

On February 22, 2016, the Grain Warehouse Department (Department) of the Nebraska Public Service Commission (Commission) filed a Complaint seeking an order assessing civil penalties and revoking the operating warehouse license of Wellington Technologies, LLC d/b/a Booth Feeds, Beatrice, Nebraska, (Respondent), alleging that said warehouse licensee violated provision of the Grain Warehouse Act, Neb. Rev. Stat. §§ 88-525, et seq. (Reissue of 2014) and Neb. Admin. Code Title 291, Ch. 8 of the Commission's Rules and Regulations.

On February 23, 2016, the Commission entered an Order to Show Cause and scheduled a hearing on the complaint for March 29, 2016. Notice of the complaint and a copy of the Show Cause Order were mailed to the Respondent via certified mail. The Respondent timely filed an Answer to the Complaint.

The hearing was later continued by a Hearing Officer Order. A hearing on this matter was held on April 19, 2016, in the Commission Hearing Room with appearances listed above.

On April 19, 2016, the Respondent and the Department entered into a Stipulated Agreement (Agreement) and recommended at the hearing that the Commission enter an order approving the Agreement and keep the above-captioned proceeding open for a period consistent with the terms of the Agreement.

FINDINGS AND OPINION

Grain warehouses are generally regulated by the Commission pursuant to the Grain Warehouse Act, Neb. Rev. Stat. §§ 88-525, et seq. (Reissue of 2014) (Act) and Neb. Admin. Code Title 291, Ch. 8 of the Commission's Rules and Regulations.

Pursuant to § 88-543, warehouse licensee are prohibited from operating with less grain in the warehouse than outstanding receipts issued for grain stored by valid owners, depositors, or storers of grain in the licensed warehouse. Violation of such requirement is grounds for implementation of fines and/or revocation of the warehouse license to do business as a warehouse in Nebraska.

Grain warehouse exams were conducted by Department staff of Respondent's warehouse on June 3, 2014, February 3, 2015, March 30, 2015, and February 4, 2016. The exams all showed continued violation of the Act prohibiting warehouse licensees from operating with less grain in the warehouse than outstanding receipts issued for grain stored by valid owners. Exam results also showed Respondent's continued disregard of previous violation reports, advisory and explanatory efforts by the Department, and directives from Department staff on proper practice and procedure.

Terms of the Stipulated Agreement

On April 19, 2016, the Respondent and the Department entered into a Stipulated Agreement recommending that the Commission enter an order approving the Agreement terms. The terms of the Agreement are as follows: the Respondent shall pay an agreed upon civil penalty, change managing partners, and immediately subject the new managing partner to a criminal background check in accordance with

291 NAC 8, § 002.03B. Further, the Respondent shall be on probation for six months from the date of the Agreement or until November 19, 2016. During the probationary period, the Respondent shall, on the final business day of each month beginning April 28, file a verified daily position report with the Department, and be subject to three additional, unannounced grain exams by the Department. Additionally, the above-captioned complaint will remain open during the probationary period, and if any violations of the Act, Commission Rules, or the Agreement occur, the Respondent's grain warehouse license, GW-2192, shall be immediately suspended and the Respondent cease all grain warehouse operations, and either, upon review of the findings of violation, voluntarily surrender its license or request a hearing to address the further findings of violations. Furthermore, the Respondent agreed to submit to the Department an audited financial statement for 2016 for review by the Department in 2017.

Therefore, the Commission finds that the Agreement between the Department and the Respondent should be approved and the above-captioned proceeding shall remain open until the satisfactory completion of the probationary period pursuant to the terms and conditions contained in the Agreement.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Stipulated Agreement between the Grain Warehouse Department of the Nebraska Public Service Commission and Wellington Technologies, LLC d/b/a Booth Feeds be, and is hereby, approved as described herein.

IT IS FURTHER ORDERED that this proceeding shall remain open until the satisfactory completion of the probationary period pursuant to the terms and conditions contained in the Stipulated Agreement.

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ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 10th
day of May, 2016.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

//s//Frank E. Landis
//s//Tim Schram



Chairman

ATTEST:



Executive Director

COMMISSIONERS DISSENTING:

//s// Crystal Rhoades