

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
FOURTH DIVISION

Civil Action No. 20-CI-00332

filed electronically

HAYNES PROPERTIES, LLC, *et al.*

PLAINTIFFS

v.

BURLEY TOBACCO GROWERS COOPERATIVE
ASSOCIATION, *et al.*

DEFENDANTS

Settlement Class Counsel's proposed provisions
for Order re Fund Disposition

Settlement Class Counsel, Katherine K. Yunker and Jason R. Hollon, attach hereto their proposed provisions for an Order that would entirely disburse over the next 5-6 months the \$1.325 million amount remaining from the Fund that is the subject of ¶¶ 22-36 (pp. 15-23) and Ordering ¶ 2 (p.23) of the Amended Opinion and Order Approving Partial Settlement entered July 28, 2021. The parties' work toward a collaborative Order indicates general concurrence as to the source for payments or disbursements provided in proposed provisions 1 and 6 (first sentence) and the division percentages in proposed provision 2.

Respectfully submitted,

/s/ Katherine K. Yunker

Katherine K. Yunker (KBA # 79592)

/s/ Jason R. Hollon

Jason R. Hollon (KBA # 96148)

MCBRAYER PLLC
201 E. Main Street, Suite 900
Lexington, KY 40507-1361
(859) 231-8780

Settlement Class Counsel

Kevin G. Henry
Charles D. Cole
STURGILL, TURNER, BARKER & MALONEY PLLC
333 West Vine Street, Suite 1500
Lexington, KY 40507
khenry@sturgillturner.com
ccole@sturgillturner.com

W. Henry Graddy, IV
Dorothy T. Rush
W.H. GRADDY & ASSOCIATES
137 N. Main Street
Versailles, KY 40383
hgraddy@graddylaw.com
dtrush2@gmail.com

Courtesy Copy (emailed):
Hon. Julie Muth Goodman
c/o Steve Robinson
steverobinson@kycourts.net

J.B. Amburgey
P. O. Box 47
Means, KY 40346

George M. Darnell
1593 Grays Run Pike
Cynthiana, KY 41031

Berkley Marks
5399 Paris Pike
Mt. Sterling KY 40353

David Barnes
768 Bowman Mill Road
Berry, KY 41003

Jennifer Darnell
248 Gray Lane
Cynthiana, KY 41031

Bruce Quarles, Steven
Quarles, Travis Quarles
10570 Owenton Road
Frankfort, KY 40601

Jacob Barnes
1088 Bowman Mill Road
Berry, KY 41003

Brent Dunaway
1547 KY Highway 1054 N
Berry KY 41003

Jerry Rankin
4540 Perryville Road
Danville, KY 40422

Robert E. Barton
Barton Bros. Farm
4095 Huffman Mill Pike
Lexington, KY 40511

William David Furnish
1320 Highway 982
Cynthiana, KY 41031

Richard Sparks
1499 Thatchers Mill
Paris, KY 40361

Ben Clifford
2459 Ky. Hwy. 1284 E
Cynthiana, KY 41031

Leonard E. Gilkison
345 Calloway White Road
Winchester, KY 40391

Jarrold Stephens
504 Commonwealth Lane
Cynthiana KY 41031

Lincoln Clifford
Ky Hwy 1284 E
Cynthiana KY 41031

Bill G. Hall
P. O. Box 117
Means, KY 40346

Addison Thomson
2224 Mt. Vernon Park
Cynthiana, KY 41031

Wayne Cropper
5350 Raymond Road
Mayslick, KY 41055

Dudley Wayne Hatcher
648 Hood Rd.
Morgantown, KY 42261

William A. Thomson
1809 Mt. Vernon Pike
Cynthiana, KY 41031

Josh Curtis
1402 KY Hwy 1940
Cynthiana, KY 41031

Steve Lang
703 Gray Lane
Cynthiana, KY 41031

Danny Townsend
Judy Townsend
11620 Main St.
Jeffersonville, KY 40337

Class Counsel propose that the \$1.325 million amount remaining from the Fund that is the subject of ¶¶ 22-36 (pp. 15-23) and Ordering ¶ 2 (p.23) of the Amended Opinion and Order Approving Partial Settlement entered July 28, 2021 (“7/28/21 Order”), be entirely disbursed as follows:

1. The Court’s award on Class Counsel’s Motion re Fees and Costs for past efforts in implementing the postcard process be paid from the Fund as a whole, disbursed by the Co-op. For simplicity, the remainder of these proposed provisions assumes that Class Counsel’s Motion re Fees and Costs is granted and that Class Counsel is awarded the requested amount of \$84,906.26 in fees and costs.

2. The net distributable Fund remaining (estimated here to be \$1,240,093.74) then be divided between a Pay-Me Fund (allocated to cover the individual payments to Class members who elected therefor and associated costs and expenses) and a grant to the Burley and Dark Tobacco Producer Association, Inc. (“BDTPA), in accordance with ¶¶ 32-33 of the 7/28/21 Order and the results of the postcard process reported in ¶¶ 5-7 of the Settlement Class Counsel’s Report relating to Fund Elections, Class Counsel Costs, and Other Matters filed July 27, 2023 (“7/27/23 Report”):
 - a. 72.26% (= 1881/2603) as a Pay-Me Fund, or \$896,091.74 (est.); and
 - b. 27.74% (= 722/2603) as a grant to the BDTPA, or \$344,002.00 (est.).

3. The \$344,002.00 (est.) grant be disbursed by the Co-op to the BDTPA.

4. From the \$896,091.74 (est.) Pay-Me Fund amount, the following disbursements be made (subject to refund) before calculation and disbursement of the individual payments to Class members who elected therefor. These disbursements total \$53,131.00 (est.) as follows:
- a. The Co-op disburse to the Settlement Administrator the \$9,631.00 amount of its proposal for issuing the checks for the individual payments to electing Class members and follow-up thereto. (See 7/27/23 Report ¶ 8.) If any refundable amount is left over, it shall be added to the amounts from uncashed checks, etc., and paid in accordance with the provision in ¶ 8 below.
 - b. The Co-op disburse to the law firm for Class Counsel, McBrayer PLLC, the amount of \$13,500.00, to cover the Class Counsel team's work relating to the distribution to the Pay-Me Class Members. (See 7/27/23 Report ¶ 11; \$ total multiplies the projected 20 attorney hours and 50 paralegal hours by hourly rates of \$300 and \$150, respectively.) McBrayer PLLC is to account to the Court for this amount within 30 days after the voiding of checks provided in ¶ 7 below or the exhaustion of the \$13,500 amount, whichever occurs first. If the awarded amount is not entirely earned, any refundable amount shall be added to the amounts from uncashed checks, etc. held by the Settlement Administrator, and paid in accordance with the provision in in ¶ 8 below.
 - c. The Co-op disburse to McBrayer PLLC the amount of \$30,000.00 to be held by the firm in escrow for payment of Class Counsel fees and expenses as earned and accrued in connection with the appeal taken by Objectors Roger Quarles *et al.* ("the Fee Ap-

peal”). McBrayer PLLC is to account to the Court for amounts taken out of escrow for earned and accrued fees and expenses at the conclusion of the Fee Appeal and an remand therefrom or the exhaustion of the \$30,000 amount, whichever occurs first. If the escrowed amount is not entirely earned, any refundable amount shall be paid in accordance with the provision in ¶ 8 below at the conclusion of the Fee Appeal and any remand therefrom.

5. The remainder of the Pay-Me Fund — \$842,960.74 (est.) — be disbursed by the Co-op to the Settlement Administrator for distribution to the Class members so electing. Rounded down to the nearest whole penny, the proportionate amount for each such Class member is \$448.14 (est.).
6. To the extent that the Co-op has had or will have any costs (including for attorney fees or the Dissolution Committee) relating to the postcard process, disbursement of Fund amounts, or the Fee Appeal, payment of those costs will be from net dissolution proceeds and not the Fund. No costs for others, including Objector-Appellants Roger Quarles *et al.* or counsel therefor, or the W.H. Graddy and Associates firm or its lawyers, will be paid from the Fund or the net dissolution proceeds.
7. In accordance with Ordering ¶¶ 2 and 8 of the 7/28/21 Order, amounts from the Pay-Me Fund distribution unclaimed after 90 days will revert to the Fund. When 90 days have passed from issuance of the individual checks to Pay-Me Class members, the Settlement Administrator shall cause any checks uncashed at that time to be voided and then report to Class Counsel the attempted payees and amount of residual funds left over.

8. Residual amounts (i) after distribution, including left-over amounts from uncashed checks or administrative costs being less than proposed or estimated, or (ii) amounts still held in escrow by McBrayer PLLC after the conclusion of the Fee Appeal and any remand therefrom are to be paid by the holder (the Settlement Administrator or McBrayer firm, as applicable) in the following proportions:

- a. 25% to the Civil Rule 23 Account maintained by the Kentucky IOLTA Fund Board of Trustees pursuant to Supreme Court Rule 3.830(20), in accordance with the minimum mandate of CR 23.05(6)(b); and
- b. 75% to the College of Agriculture, Food, and Environment (f/k/a the College of Agriculture) of the University of Kentucky, as allowed in KRS 272.321(3).