

[FILED ELECTRONICALLY]

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
FOURTH DIVISION
CIVIL ACTION NO. 20-CI-00332

HAYNES PROPERTIES, LLC, et al.

PLAINTIFFS

v.

**BTGCA’S POSITION ON PLAN FOR
DISPOSITION OF THE “GRANT FUND”**

BURLEY TOBACCO GROWERS COOPERATIVE
ASSOCIATION, et al.

DEFENDANTS

** ** * * * * *

The Burley Tobacco Growers Cooperative Association (“BTGCA”), by counsel, and its representatives on the Dissolution Committee respectfully request that the Court consider their following requests of provisions to be made in any order and plan for disposition of the \$1.325 million Fund intended to be allocated between and paid to (a) the group of Class Members who each claimed a proportionate share of the Fund, and (b) the intended Grant recipient, Burley and Dark Tobacco Producer Association, Inc. (“BDTPA”) of the remaining Fund balance.

1. Nothing that relates to disposition of this Fund shall affect, interfere with or delay the remaining distribution of the separate net assets of BTGCA held by Traditional Bank (exceeding \$1.4 million) from a timely transfer to the Angeion Qualified Settlement Fund Trust in September, so as to enable BTGCA to close its books and file its final corporate income tax return for the fiscal year ending September 30, 2023.

2. The Graddy law firm and/or its Objector clients should be required to post a supersedeas bond at their expense of not less than \$150,000 to cover the disputed legal fees being withheld from distribution and interest on that sum during appeal, plus legal fees of Class Counsel and the costs of a final distribution of remaining net proceeds of the Fund. In all other respects, the appeal concerning the Graddy law firm fee request shall not delay distribution of the bulk of the Fund.

3. All fees of Class Counsel that the Court may approve for their services regarding the Fund should be charged against the Fund as a whole, before its division and allocation, not against BTGCA net assets. Any lump-sum attorney's fee which the Court may approve to Class Counsel for defense of the Objectors' appeal on the legal fees sought by the Graddy law firm hereafter should be paid out of the "Pay-Me" share of the Fund, as the 1,881 opting-out Class Members who claimed a proportionate share are the group Graddy claims to have benefitted. This should be done before calculation of their individual proportionate shares of the net Fund. Expenses for Angeion and mailing the distribution to the "Pay-Me" Class Members should also be borne by their share of the Fund and deducted before calculating their individual proportionate share amounts, not allocated to reduce the net distribution to BDTPA.

Respectfully Submitted,

/s/ Kevin G. Henry

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CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2023, the foregoing document was electronically filed with the Clerk of this Court using their filing system and served electronically by the Clerk of this Court upon the following:

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