

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

**HAYNES PROPERTIES, LLC,
MITCH AND SCOTT HAYNES DBA
ALVIN HAYNES & SONS AND
S&GF MANAGEMENT, LLC
ON BEHALF OF THEMSELVES AND ALL
OTHERS SIMILARLY SITUATED**

PLAINTIFFS

v.

CORRECTED THIRD AMENDED COMPLAINT

**BURLEY TOBACCO GROWERS COOPERATIVE
ASSOCIATION**

DEFENDANTS

AND

**GREG CRADDOCK
ON BEHALF OF HIMSELF AND
ALL OTHERS SIMILARLY SITUATED**

** ** ** ** ** **

Come Named Plaintiffs, Haynes Properties, LLC, Mitch and Scott Haynes dba Alvin Haynes & Sons and S&GF Management, LLC (hereinafter collectively “Named Plaintiffs”), by counsel on behalf of themselves and all others similarly situated during the burley tobacco crop years 2015-2019, and for their Corrected Third Amended Complaint against Defendant, Burley Tobacco Growers Cooperative Association (“BTGCA”) and Defendant, Greg Craddock on behalf of himself and all others similarly situated during the burley tobacco crop years 2016-2020, state and allege as follows:

PARTIES, JURISDICTION AND VENUE

1. Named Plaintiffs have been and are engaged in the production of burley tobacco in counties of the Commonwealth of Kentucky and have been and are members in good standing of

BTGCA.

2. BTGCA is a non-profit, non-stock agricultural marketing cooperative organization organized under the 1922 Bingham Act, now codified in KRS Chapter 272. BTGCA maintains a principal place of business at 620 South Broadway, Lexington, Fayette County, Kentucky.

3. This Court has jurisdiction of the subject matter of this action pursuant to KRS 271B.14-300.

4. Pursuant to the provisions of KRS 452.450 and KRS 271B.14-310, venue is proper in this Court because Fayette County is BTGCA's principal place of business, and the principal place of BTGCA's past and continuing actions and inactions affecting the Named Plaintiffs and the other BTGCA members, which are illegal and contrary to applicable law and governing instruments.

5. Named Plaintiffs bring this class action on behalf of themselves and the other members of BTGCA at any time during the burley tobacco crop years 2015-2019 as the Asserted Plaintiffs' Class (as hereafter defined), against BTGCA and Defendant, Greg Craddock, on behalf of himself and the other members of BTGCA at any time and during the burley tobacco crop years 2016-2020 as the Asserted Defendants' Class (as hereafter defined) (1) seeking a declaration that the members of BTGCA whom at any time in its history, have any right, claim or interest in the net proceeds on dissolution of BTGCA or claims as against BTGCA and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and the present and former directors, officers, employees, agents, insurers, shareholders, attorneys, advisors, consultants, representatives, partners, joint venturers and independent contractors, and the predecessors, successors, and assigns of each of them, are those members of BTGCA in Kentucky, Indiana, Ohio, Missouri and West Virginia at any time during the burley tobacco crop

years 2015 to 2019, (2) to recover damages by reason of violations and breaches by BTGCA of statutory, contractual, and fiduciary duties to each and every member of BTGCA, including the Named Plaintiffs and the members of the Asserted Plaintiffs' Class, and (3) to judicially dissolve BTGCA without limitation because (i) BTGCA's continued existence is and will be illegal in that it no longer serves a purpose, (ii) BTGCA is illegally not functioning as a burley tobacco agricultural marketing cooperative, (iii) BTGCA's operations illegally have not and are not for the mutual benefit of all members, (iv) BTGCA's operations illegally are not co-operative in character, and (v) BTGCA is illegally failing to operate in accordance with its organizational documents and applicable law.

6. Defendant, Greg Craddock is a member of BTGCA, was/is a member of BTGCA during the burley tobacco crop years 2016-2020, and is among a group of fifty or more members of BTGCA sharing common legal counsel, whom (i) are seeking the dissolution of BTGCA and the distribution of the net proceeds to those members of BTGCA at any time during the burley tobacco crop years 2016-2020, as set forth in **Exhibit A**, Attached hereto and made a part hereof, and (ii) by letter dated April 13, 2020 (occurring after the initiation of this lawsuit by Named Plaintiffs on behalf of themselves and others similarly situated on January 27, 2020), made demand, by counsel, on BTGCA, by and through its directors, to take action to remedy and commence and investigation on claims previously made and asserted and encompassed within this action by Named Plaintiffs, on behalf of themselves similarly situated, a true copy of which is attached hereto and made a part hereof as **Exhibit B**. Defendant, Greg Craddock, on behalf of himself and all others similarly situated as the Asserted Defendants' Class is an indispensable party and are indispensable parties to this lawsuit pursuant to Kentucky Rule of Civil Procedure 19 without limitation by reason that members of BTGCA during the burley tobacco crop years 2016-

2020 will be affected by the relief requested in this action and the duplicative demands made as aforesaid.

ALLEGATIONS

7. The operations of BTGCA under its Articles of Incorporation are limited to activities arising out of the processing, drying, storing, shipping, warehousing, handling, manufacturing, and marketing of the tobacco and/or tobacco products of the Association and of its members; and all of BTGCA's operations are to be cooperative in nature and only for the mutual benefit of its members.

8. Since the distributions made by reason of *Congleton v. Burley Tobacco Growers Cooperative Association*, Fayette Circuit Court Civil Action No. 06-CI-00069, the last of which occurred in or around 2014, BTGCA has not made any distribution or patronage dividend to BTGCA members.

9. The burley tobacco market is in a continuing and a sharp state of decline. Similarly, the number of burley tobacco producers is declining.

10. The Kentucky Center for Agriculture and Rural Development and the Center for Cooperatives in the College of Food, Agricultural and Environmental Sciences at The Ohio State University conducted a 2018 Operational Review of BTGCA, a true copy of which is attached hereto and made a part hereof as **Exhibit C** ("2018 Operational Review"). The 2018 Operation Review concluded without limitation:

a. BTGCA purchased burley tobacco from less than 10% of the total burley tobacco growers;

b. 62% of the burley tobacco growers from whom it purchased burley tobacco are selling their burley tobacco production exclusively to BTGCA;

- c. BTGCA contract offering and paid price for burley tobacco is less than that offered and paid by other purchasers of burley tobacco;
 - d. The financial performance and health of BTGCA is declining; the net worth of BTGCA has declined by \$2.5 million dollars since 2014;
 - e. BTGCA has sold but a small fraction of the burley tobacco that it has purchased over the past five years resulting in an increase of BTGCA's inventory by some \$16 million dollars;
 - f. BTGCA's purchase and sale of burley tobacco has been at a net loss;
 - g. BTGCA is not acting as a cooperative without limitations by reason of (i) BTGCA failing to maintain any membership equity accounts and thus not allocating income to its members, (ii) BTGCA failing to have consistent, effective communication with its members, and (iii) BTGCA failing to have required elements in the BTGCA by-laws that are important for cooperatives, such as articles on operating at cost, apportionment of net proceeds, equity records, patronage refunds, reserves and dissolution procedures;
 - h. BTGCA is not effective; and
 - i. BTGCA spends about \$1 million annually to maintain its existing offices, staff, board and inventory of millions of dollars of unsold tobacco.
11. BTGCA acted to conceal the 2018 Operational Review from the members of BTGCA, failed and refused to provide the 2018 Operational Review to the members of BTGCA and has failed to act upon the 2018 Operational Review.
12. Under the BTGCA Articles of Incorporation and By-Laws, adherence to which is required by KRS Chapter 271B (which is made applicable to BTGCA by KRS 272.341) and applicable Kentucky common law, BTGCA is acting illegally as it is not acting as an agricultural

marketing cooperative for and of the burley tobacco of the BTGCA members by reason without limitation:

- a. BTGCA does not maintain any membership equity accounts and thus income has not been allocated to its members;
- b. BTGCA does not have consistent, effective communication with its members;
- c. BTGCA is more board-centered than member-centered;
- d. BTGCA's by-laws do not contain necessary and required elements, such as articles on operating at cost, apportionment of net proceeds, equity records, patronage refunds, reserves and dissolution procedures;
- e. BTGCA is serving less than 10% of the burley tobacco producers and only in part as to such 10%;
- f. BTGCA is wasting its assets;
- g. BTGCA has not made patronage dividends or distributions to BTGCA members since 2014 and has no records on which to do so;
- h. BTGCA is spending and using the equity of the members of BTGCA for the purchase of hemp and the processing of that hemp;
- i. BTGCA on February 5, 2020, having adopted the following plan (the "February 5, 2020 Plan"):

**EXECUTIVE COMMITTEE PROPOSAL TO MAKE DISTRIBUTION
TO MEMBERS (PRESENT AND WITHIN PAST FIVE YEARS)**

In response to direction from the Board, the Executive Committee has discussed a distribution of Association assets to Members and conferred with the Association's auditor, tax accountants and legal counsel. The Executive Committee recommends the following proposal for full Board consideration:

1. Reduce the current Reserve to facilitate a distribution and retain \$3,500,000 in assets for future operations.
2. Implement the orderly liquidation of most of the Association's assets in the following sequence and manner to fund distributions to all present and past Members (2015-2019) on a per capita basis:
 - (a) Meet immediately with Wells Fargo Bank, Nashville, Tennessee loan officer and investment advisors to plan for the orderly liquidation of the Association's investment portfolio at Wells Fargo (Jan. 31, 2020 approximate value \$26,403,547) and pay off line of credit of \$9,655,000. From the resulting net cash and existing bank accounts, prepare to distribute approximately \$15,000,000 by Dec. 31, 2020. See attached unaudited Balance Sheet Summary.
 - (b) Engage present auditor or tax accountants as necessary to calculate and assist in sending distributions to Members.
 - (c) Remaining cash to be for Operating Reserve.
 - (d) Board of Directors to determine sequence and timing of downsizing and reduction in operating expenses as feasible, including fair and reasonable severance pay.
 - (e) Commit net sale proceeds of all Tobacco inventory (currently approximately 4.1 million pounds, with book value of \$13,122,515) to be distributed to Members per capita at the end of each year as sold, not later than Dec. 31, 2023.
 - (f) Certain excluded assets are restricted and cannot be distributed: endowment for grants and scholarships of approximately \$417,112; Danny McKinney life insurance securing deferred compensation contractual liability; preferred stock in AWMA and investments in BCMC and USGTC.
 - (g) Not later than December 31, 2020, either contact University of Kentucky to negotiate possible sale, or engage realtor to list Headquarters building at 620 S. Broadway for sale and identify other office space for lease.
 - (h) Make any final distribution of "excess" assets above \$3,500,000 by Dec. 31, 2023.
 - (i) Amend Articles to modify the purposes of the Corporation to include, without limitation, advocacy for tobacco growers, support research, education, programs and services of benefit to tobacco growers directly and in aid of their transition to other types of

farming as the market for tobacco decreases; and to reduce the number of Directors to not less than 5 nor more than 15.

- (j) The Budget Committee should develop a forward-looking pro forma operating budget now for fiscal years October 1, 2020 - September 30, 2021 and 2022.

13. Under the BTGCA Articles of Incorporation and By-Laws, adherence to which is required by KRS Chapter 271B (which is made applicable to BTGCA by KRS 272.341) and applicable Kentucky common law, BTGCA is acting illegally in that it has failed and delayed to take actions on the petitions of more than 250 members calling for a special meeting of BTGCA to vote on the dissolution of BTGCA and the distribution of the assets of BTGCA to its members and instead adopted the February 5, 2020 Plan.

14. Named Plaintiffs bring this suit as an Asserted Plaintiffs' Class action against BTGCA and the Asserted Defendants' Class pursuant to Kentucky Rule of Civil Procedure (CR) 23.02, with Named Plaintiffs serving as the proposed representatives of all other similarly situated, unnamed, or as yet unknown plaintiff class members whom were and are members of BTGCA at any time during the burley tobacco crop years 2015 to 2019 (the "Asserted Plaintiffs' Class") and Defendant, Greg Craddock, serving as the proposed representative of all other similarly situated, unnamed, or as yet unknown defendant class members whom were and are members of BTGCA at any time during the burley tobacco crop years 2016-2020.

15. Named Plaintiffs propose to define the Asserted Plaintiffs' Class in this action as all members of BTGCA in Kentucky, Indiana, Ohio, Missouri and West Virginia at any time during the burley tobacco crop years 2015 to 2019.

16. Named Plaintiffs propose to define the Asserted Defendants' Class in this action as all members of BTGCA in Kentucky, Indiana, Ohio, Missouri and West Virginia at any time during the burley tobacco crop years 2016 to 2020.

17. KRS 272.325(3) and applicable law provide that the Asserted Plaintiff's Class are the only the members of BTGCA whom at any time in its history, have any right, claim or interest in the net proceeds on dissolution of BTGCA or claims as against BTGCA and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and the present and former directors, officers, employees, agents, insurers, shareholders, attorneys, advisors, consultants, representatives, partners, joint venturers and independent contractors, and the predecessors, successors, and assigns of each of them.

18. Neither the Named Plaintiffs herein, nor the members of the Asserted Plaintiffs' Class, have previously been compensated for their damages resulting from the conduct of BTGCA as alleged herein.

19. The Asserted Plaintiffs' Class action meets all prerequisites to the maintenance of such a representative action, and therefore satisfies all requirements of CR 23.01:

a. At present, the total number of members of the Asserted Plaintiffs' Class, are believed to be in excess of 400 persons and entities. The Asserted Plaintiffs' Class is therefore so numerous that joinder of all class members is impracticable;

b. There are questions of law and fact common to each member of the Asserted Plaintiffs' Class, as members and growers in BTGCA, including but not limited to:

i. Whether BTGCA has acted and continues to act illegally in contravention of BTGCA's enabling statute, its Articles of Incorporation, its By-Laws, and/or other applicable Kentucky statutes or common law;

ii. Whether BTGCA has breached and violated its duties and obligations and is otherwise acting illegally to BTGCA members; and

iii. Whether BTGCA should now be judicially dissolved by reason of BTGCA's illegal actions?

c. The claims of the Named Plaintiffs are typical of the Asserted Plaintiffs' Class, as a whole; and all members of the Asserted Plaintiffs' Class, including Named Plaintiffs, are entitled to the same treatment according to BTGCA's Articles of Incorporation, its By-Laws, and applicable law; and

d. The Named Plaintiffs have no interests adverse to those of other members of the Asserted Plaintiffs' Class and will fairly and adequately represent and protect the interests of the Asserted Plaintiffs' Class respectively. Moreover, the Named Plaintiffs have retained counsel experienced in class actions and complex litigation to assist and advise them in the prosecution of the claims asserted herein. The Named Plaintiffs are knowledgeable concerning the subject matter of this action and will assist counsel to vigorously prosecute this litigation. Finally, the Named Plaintiffs have or can acquire adequate financial resources to assure that the interests of the Asserted Plaintiffs' Class will not be harmed.

20. The Asserted Defendants' Class action meets all prerequisites to the maintenance of such a representative action, and therefore satisfies all requirements of CR 23.01:

a. At present, the total number of members of the Asserted Defendants' Class, respectively, are believed to be in excess of 400 persons and entities. The Asserted Defendants' Class is therefore so numerous that joinder of all class members is impracticable;

b. There are questions of law and fact common to each member of the Asserted Defendants' Class, as members and growers in BTGCA during the burley tobacco crop years 2016-2020.

c. Inconsistent or varying adjudications between BTGCA, the Asserted

Defendants' Class and the Asserted Plaintiffs' Class would be contrary to the interests of finality of Litigation.

d. Defendant, Greg Craddock is knowledgeable concerning the subject matter of this action and has engaged capable counsel familiar with and experienced with BTGCA.

21. This action is properly maintainable as a class action pursuant to CR 23.02(c), because the above-stated common questions of law and fact predominate over any individual legal or factual issues of the Named Plaintiffs and the members of the Asserted Plaintiffs' Class and the members of the Asserted Defendants' Class, and the individualized damages will be a simple mathematical calculation once liability is determined at trial or by the Court.

22. A class action is superior to other available methods for the fair and efficient adjudication of this controversy for reasons including but not limited to:

a. Given the substantive complexity of this litigation, the value of the individual class members' claims, and the limited resources of the class members, maintaining this case as a class action will result in the most orderly and expeditious administration of the class claims; will foster economies of judicial time, effort, and expense; and will insure uniformity of decisions;

b. Most individual members of the Asserted Plaintiffs' Class are unaware of their claims as alleged herein and are therefore unable to prosecute an individual action;

c. Most individual members of the Asserted Defendants' Class are unaware of their interests, if any, and are therefore unable to prosecute an individual action;

c. Maintaining this case as a class action will allow for a single determination of BTGCA's liability to the members of the Asserted Plaintiffs' Class and the Asserted Defendants' Class, and will facilitate an expeditious determination of the Asserted Plaintiffs' Class

members' damages and share of class-wide relief and the rights, if any of the Asserted Defendants; Class; and

d. Named Plaintiffs anticipate that this case will present no difficulties that would impede its management by the Court as a class action.

COUNT I
BREACH OF FIDUCIARY DUTY

23. BTGCA has a statutory and fiduciary duty to act in the best interests of all members of BTGCA.

24. BTGCA has acted and continues to act illegally and in a manner that is not in the best interests of all members of BTGCA as it is not acting as a cooperative by reason without limitation:

a. BTGCA does not maintain any membership equity accounts and thus income has not been allocated to its members;

b. BTGCA does not have consistent, effective communication with its members;

c. BTGCA's by-laws are deficient in that they do not contain sections on operating at cost, apportionment of net proceeds, equity records, patronage refunds and reserves, and dissolution procedures;

d. BTGCA is wasting its assets;

e. BTGCA has failed and continues to fail to make patronage dividends/distributions to BTGCA members;

f. BTGCA is not serving all of its members;

g. BTGCA serves no effective purpose;

h. BTGCA has adopted and proposes to implement the February 5, 2020 Plan,

which without limitation (i) terminates and divests BTGCA's members of a substantial portion (in excess of \$5,000,000.00) of their equity and property rights in BTGCA, (ii) converts BTGCA, from its current corporate purpose and function as a non-profit, non-stock agricultural (burley tobacco) marketing cooperative organization organized under the 1922 Bingham Act, now codified in KRS Chapter 272, to a corporate purpose and function not authorized under KRS Chapter 272, (iii) converts BTGCA, from its current corporate purpose and function based on burley tobacco to a corporate purpose and function not based on burley tobacco, (iv) utilizes equity and property rights of BTGCA's members in BTGCA without the approval and consent of the members of BTGCA, (v) continues the existence of BTGCA for a purpose other than as a non-stock agricultural (burley tobacco) marketing cooperative organization organized under the 1922 Bingham Act, now codified in KRS Chapter 272; and

i. BTGCA has failed and delayed taking actions on the petitions of more than 250 members calling for a special meeting of BTGCA to vote on the dissolution of BTGCA and the distribution of the assets of BTGCA to its members and instead adopted the February 5, 2020 Plan.

25. By reason of the breaches and failures of BTGCA set forth herein, BTGCA has violated and breached its statutory, contractual, and fiduciary duties to each and every member of BTGCA, including the Named Plaintiffs and the members of the Asserted Plaintiffs' Class.

26. As a result of the breaches of statutory fiduciary duties by BTGCA, the Named Plaintiffs and the members of the Asserted Plaintiffs' Class have been damaged in an amount to be determined at trial.

COUNT II

JUDICIAL DISSOLUTION

27. BTGCA has a statutory, contractual and fiduciary duty to act in the best interests

of all members of BTGCA.

28. BTGCA has acted and continues to act illegally and in a manner that is not in the best interests of all members of BTGCA as it is not acting as a cooperative by reason without limitation:

a. BTGCA does not maintain any membership equity accounts and thus income has not been allocated to its members;

b. BTGCA does not have consistent, effective communication with its members;

c. BTGCA's by-laws are deficient in that they do not contain sections on operating at cost, apportionment of net proceeds, equity records, patronage refunds, reserves and dissolution procedures;

d. BTGCA is wasting its assets;

e. BTGCA has failed and is failing to make patronage dividends/distributions to BTGCA members;

f. BTGCA is not serving all of its members;

g. BTGCA serves no effective purpose;

h. BTGCA has adopted and proposes to implement the February 5, 2020 Plan, which without limitation (i) terminates and divests BTGCA's members of a substantial portion (in excess of \$5,000,000.00) of their equity and property rights in BTGCA, (ii) converts BTGCA, from its current corporate purpose and function as a non-profit, non-stock agricultural (burley tobacco) marketing cooperative organization organized under the 1922 Bingham Act, now codified in KRS Chapter 272, to a corporate purpose and function not authorized under KRS Chapter 272, (iii) converts BTGCA, from its current corporate purpose and function based on

burley tobacco to a corporate purpose and function not based on burley tobacco, (iv) utilizes equity and property rights of BTGCA's members in BTGCA without the approval and consent of the members of BTGCA, (v) continues the existence of BTGCA for a purpose other than as a non-stock agricultural (burley tobacco) marketing cooperative organization organized under the 1922 Bingham Act, now codified in KRS Chapter 272; and

i. BTGCA has failed and delayed taking actions on the petitions of more than 250 members calling for a special meeting of BTGCA to vote on the dissolution of BTGCA and the distribution of the assets of BTGCA to its members and instead adopted the February 5, 2020 Plan.

29. By reason of the breaches and failures of BTGCA set forth herein BTGCA has violated and breached its statutory, contractual and fiduciary duties to each and every member of BTGCA, including the Named Plaintiffs and the members of the Asserted Plaintiffs' Class.

30. As a result of the breaches of statutory fiduciary duties by BTGCA, the Named Plaintiffs and the members of the Asserted Plaintiffs' Class, have been damaged in an amount to be determined at trial;

31. BTGCA, by and through those in control of BTGCA, has acted, is acting, and will continue to act in a manner that is illegal, fraudulent, and/or harmful in violation of its fiduciary duties to the members of BTGCA;

32. As a result of the above-identified actions by BTGCA, Named Plaintiffs and the members of the Asserted Plaintiffs' Class are entitled to judicial dissolution of BTGCA pursuant to KRS 271.14-300.

COUNT III
DECLARATORY JUDGMENT

33. Pursuant to KRS 418.040 and CR 57, and by reason of the failures and breaches of and by BTGCA to keep and maintain membership records and other records as to entitlement of members to patronage dividends/distributions and the moneys of BTGCA on liquidation, an actual and justiciable controversy exists between BTGCA and Named Plaintiffs and members of the Asserted Plaintiffs' Class and the Named Defendant, and members of the Asserted Defendants' Class as to their respective rights, duties, entitlements, and obligations.

34. In light of this controversy, Named Plaintiffs on behalf of themselves and members of the Asserted Plaintiffs' Class respectfully request that this Court issue a declaration of the rights, duties, entitlements, and obligations of the parties hereto and find and declare that the members of BTGCA whom at any time in its history, have any right, claim or interest in the net proceeds on dissolution of BTGCA or claims as against BTGCA and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and the present and former directors, officers, employees, agents, insurers, shareholders, attorneys, advisors, consultants, representatives, partners, joint venturers and independent contractors, and the predecessors, successors, and assigns of each of them are the members of the Asserted Plaintiff's Class.

COUNT IV
INJUNCTIVE RELIEF

35. The actions and conduct of BTGCA, as alleged herein is resulting and will result in immediate and irreparable injury to Named Plaintiffs and the members of the Asserted Plaintiffs' Class for which Named Plaintiffs and the members of the Asserted Plaintiffs' Class are without an adequate remedy at law.

36. The actions and conduct of BTGCA, as alleged herein will cause irreparable injury

to the interests and rights of the Named Plaintiffs and the members of the Asserted Plaintiffs' Class in the absence of preliminary and permanent injunctive relief.

37. Named Plaintiffs and the members of the Asserted Plaintiffs' Class are entitled to preliminary and permanent injunctive relief.

WHEREFORE, Named Plaintiffs, Haynes Properties, LLC, Mitch and Scott Haynes dba Alvin Haynes & Sons and S&GF Management, LLC, on behalf of themselves and all others similarly situated as members of the Asserted Plaintiffs' Class herein, demand the following relief:

1. Certification of the asserted plaintiff class pursuant to CR 23.02(c), with the costs of notice to the Asserted Plaintiffs' Class to be taxed to Defendant, Burley Tobacco Growers Cooperative Association;

2. Judgment in favor of Named Plaintiffs, Haynes Properties, LLC, Mitch and Scott Haynes dba Alvin Haynes & Sons and S&GF Management, LLC on behalf of themselves and all others similarly situated as members of the Asserted Plaintiffs' Class herein and against Defendant Burley Tobacco Growers Cooperative Association for compensatory damages, including pre- and post-judgment interest, in amount to be determined at trial;

3. Judgment in favor of Named Plaintiffs, Haynes Properties, LLC, Mitch and Scott Haynes dba Alvin Haynes & Sons and S&GF Management, LLC on behalf of themselves and all others similarly situated as members of the Asserted Plaintiffs' Class herein and against Defendant, Burley Tobacco Growers Cooperative Association for judicial dissolution;

4. Declaratory Judgement in favor of Named Plaintiffs, Haynes Properties, LLC, Mitch and Scott Haynes dba Alvin Haynes & Sons and S&GF Management, LLC on behalf of themselves and all others similarly situated as members of the Asserted Plaintiffs' Class herein and against Defendant, Burley Tobacco Growers Cooperative Association and the members of the

Asserted Defendant's Class that the members of Defendant, Burley Tobacco Growers Cooperative Association whom at any time in its history, have any right, claim or interest in the net proceeds on dissolution of the Defendant, Burley Tobacco Growers Cooperative Association or claims as against Defendant, Burley Tobacco Growers Cooperative Association and each of its present and former parents, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and the present and former directors, officers, employees, agents, insurers, shareholders, attorneys, advisors, consultants, representatives, partners, joint venturers and independent contractors, and the predecessors, successors, and assigns of each of them.

5. Pursuant to KRS 418.040 and CR 57 and by reason of the failures and breaches of and by Defendant, Burley Tobacco Growers Cooperative Association to keep and maintain membership records and other records as to entitlement of members to patronage dividends/distributions and the moneys of Defendant, Burley Tobacco Growers Cooperative Association on liquidation, for a declaration of the rights, duties, entitlement of and between the Defendant, Burley Tobacco Growers Cooperative Association and Named Plaintiffs and members of the Asserted Plaintiffs' Class;

6. For the entry of temporary and permanent injunctive relief against Defendant, Burley Tobacco Growers Cooperative Association barring Defendant, Burley Tobacco Growers Cooperative Association from acting and continuing to act illegally, in a manner that is not in the best interests of all members of Defendant, Burley Tobacco Growers Cooperative Association and in a manner that is not as an agricultural cooperative;

7. For trial by jury on all issues so triable;

8. For recovery of all costs expended including, but not limited to, attorney's fees and other costs; and

9. For any and all other legal and/or equitable relief to which Named Plaintiffs and the members of the Asserted Plaintiffs' Class are or may appear to be entitled.

Respectfully submitted,

/s/ Robert E. Maclin, III

Robert E. Maclin, III, Esq.

Jaron P. Blandford, Esq.

Jason R. Hollon, Esq.

McBrayer PLLC

201 E. Main Street, Suite 900

Lexington, KY 40507-1361

(859) 231-8780

remaclin@mcbrayerfirm.com

jblandford@mcbrayerfirm.com

jhollon@mcbrayerfirm.com

Counsel for Named Plaintiffs, Haynes Properties, LLC, Mitch and Scott Haynes dba Alvin Haynes & Sons and S&GF Management, LLC on behalf of themselves and all others similarly situated

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this pleading was served this 5th day of May, 2020 electronically via the KYeCourts e-filing system, and via electronic mail upon the following:

Kevin G. Henry, Esq.

Charles D. Cole, Esq.

Sturgill, Turner, Barker & Maloney PLLC

333 W. Vine Street, Suite 1500

Lexington, KY 40507

khenry@sturgillturner.com

ccole@sturgillturner.com

Counsel for Defendant, Burley Tobacco Growers Cooperative

Jeremy S. Rogers, Esq.

Dinsmore & Shohl LLP

101 South Fifth Street, Suite 2500

Louisville, Kentucky 40202

jeremy.rogers@dinsmore.com

Counsel for Defendant, Burley

Tobacco Growers Cooperative Association

Via U.S. Mail Only To:

Greg Craddock

4677 Iron Mountain Rd

Center, Metcalfe County, Kentucky 42214

/s/ Robert E. Maclin, III

ATTORNEY FOR NAMED PLAINTIFFS

BILLINGS LAW FIRM^{PLLC}
COUNSELORS-AT-LAW

CHRISTOPHER L. THACKER, ESQ.
cthacker@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

January 30, 2020

VIA HAND-DELIVERY & EMAIL

Mr. Robert Reed Bush, Sr.
Secretary
Burley Tobacco Growers Co-Operative Association
c/o Kevin G. Henry, Esq.
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street, Suite 1500
Lexington, KY 40507

Re: Burley Tobacco Growers Co-Operative Association

Dear Mr. Bush:

Pursuant to KRS 272.161 and Article IX of the By-Laws of the Burley Tobacco Growers Co-Operative Association (the "Association"), the Board of Directors is required to call a special meeting of the Grower Members (the "Members") when ten percent (10%) of the Members file with the Secretary a petition demanding a Special Meeting and specifying the business to be considered at such meeting. Enclosed are calls for the Special Meeting executed by 106 Members, which is in excess of ten percent (10%) of the total membership, as represented by the Association.

Accordingly, the Board is hereby required to call the Special Meeting of the Members to be held in Lexington, Kentucky on April 8, 2020 at 10:00 a.m. The Special Meeting's purpose shall be limited to voting to adopt that particular Resolution and Plan of Distribution found at www.blfky.com/burley which shall:

- Amend the Association's Bylaws to provide for the Association's dissolution;
- Voluntarily dissolve the Association;
- Adopt the Plan of Distribution; and
- Designate the Dissolution Committee to carry out the Plan of Distribution.

The voting shall be conducted using the Paper Ballot and Proxy Ballot found at www.blfky.com/burley. All Grower Members of record at the close of business the day before the Notice of Special Meeting is sent shall be entitled to vote at the Special Meeting.

EXHIBIT A

Billings Law Firm, PLLC

Mr. Robert Reed Bush, Sr.

Page 2

Pursuant to the Petition, no later than February 26, 2020, the Board shall notify the Members and include, with that notification, copies of the Notice of Special Meeting, Proxy Ballot, and the Resolution and Plan of Distribution found at www.blfky.com/burley.

Please confirm no later than February 6, 2020, that the Association will mail the above identified Notice, Proxy Ballot, and Resolution and Plan to all voting Members on or before February 26, 2020 as directed by the Petition. If the Association does not confirm that it will mail the notification in that form to the Members, the petitioners reserve the right to do so and to seek reimbursement from the Board for all expenses incurred and/or to seek any other appropriate relief.

Enclosed with this letter are the above-specified Notice of Special Meeting, Paper Ballot, Proxy Ballot, and the Resolution and Plan of Distribution Resolution to be voted upon at the Special Meeting. We appreciate your cooperation.

Sincerely,

BILLINGS LAW FIRM, PLLC



Christopher L. Thacker

Encls. Notice of Special Meeting
 Paper Ballot
 Proxy Ballot
 Resolution and Plan of Distribution



NOTICE OF SPECIAL MEETING

APRIL 8, 2020

DATE: APRIL 8, 2020

TIME: 10:00 A.M. EASTERN STANDARD TIME

PLACE: BURLEY TOBACCO GROWERS CO-OPERATIVE ASSOCIATION
620 SOUTH BROADWAY
LEXINGTON, KENTUCKY 40508

TO ALL GROWER MEMBERS:

There will be a Special Meeting of the Grower Members of the Burley Tobacco Growers Co-Operative Association held on April 8, 2020 at 10:00 a.m. Eastern Standard Time at the Association's office at 620 S. Broadway, Lexington, Kentucky 40508. All Grower Members of record at the close of business on February 25, 2020 are entitled to vote at the meeting.

The Meeting's purpose shall be limited to voting to adopt the Resolution and Plan of Distribution (which is attached to this Notice), which shall:

- Amend the Association's Bylaws to provide for the Association's dissolution;
- Voluntarily dissolve the Association;
- Adopt the Plan of Distribution; and
- Designate the Dissolution Committee to carry out the Plan of Distribution.

A VOTE SHALL BE HELD AT THIS MEETING TO DISSOLVE THE ASSOCIATION AND TO DISTRIBUTE ITS ASSETS. FOR THIS VOTE TO PASS, 2/3 OF THE MEMBERS MUST VOTE TO APPROVE. YOU ARE ENCOURAGED TO ATTEND OR CAST YOUR VOTE BY PROXY BALLOT.

YOU CAN VOTE IN PERSON AT THE MEETING OR BY MAILING YOUR PROXY BALLOT (which is enclosed with this Notice), as follow: print your name, sign, date and return the Proxy Ballot by **NO LATER THAN APRIL 3, 2020** (to allow time for delivery) to: Cloyd and Associates C/O Emma Underwood, 2410 Greatstone Point, Lexington, KY 40504.

FREQUENTLY ASKED QUESTIONS

Q: When is the special meeting and where will it be held?

A: The special meeting will be held on April 8, 2020 at 10:00 a.m. Eastern Standard Time at the Association's office located 620 South Broadway, Lexington, Kentucky 40508.

Q: Why has the special meeting being held?

A: There has been a request to the Board to call a special meeting of the Grower Members. The purpose is to vote to adopt the proposed Resolution formally dissolving the Association. A copy can be found out www.blfky.com/burley.

Q: Who is entitled to vote at the special meeting?

A: "Grower Members" are entitled to vote. The Association's Bylaws define "Grower Members" as "[a]ny person that joins the Association and so certifies to the Association that he or she is a producer (land owner, operator, landlord, tenant or sharecropper) currently sharing in the risk of producing and marketing Burley tobacco in the states of Indiana, Kentucky, Missouri, Ohio and West Virginia and certifies to the Association that he or she is actively producing Burley tobacco during the current crop year."

Q: How do I "certify" that information to the Association?

A: The Bylaws state: "To certify to the Association that a person is actively producing and marketing Burley tobacco during the current crop year, such person must submit to the Association a signed contract, bill of sale, check stub or bank deposit from a receiving station, Federal Crop Insurance Claim Form, or Farm Service Agency Form 578 during the current crop year. A person must make this certification annually, for each crop year, in order to retain membership in the Association. This annual certification requirement applies to all potential Association members, including those who request membership in the Association prior to the adoption of this [section]."

Q: What is a "proxy?"

A: A proxy is a person who votes on another person's behalf. When you return the Proxy Card, you are giving permission for your proxies to vote on your behalf at the special meeting. Your proxies will vote as you instruct them, unless you return the Proxy Card and give no instructions. If you return the Proxy Card with no instructions, your proxies will vote FOR the proposed Resolution and FOR the proposal to adjourn the special meeting to obtain additional votes if needed. Your proxies will not vote on your behalf if you do not return the Proxy Card.

Q: What is a "dissolution?" What does it mean to "dissolve" the Association?

A: Dissolution is the legal process of ending an association's existence. It can be "voluntary," which means the Members have voted to end the association and distribute its assets after payment of debts and other liabilities. The Resolution being proposed here would be a "voluntary" dissolution. Dissolution can also be "involuntary" when it is court ordered.

Q: What is a "Plan of Distribution?"

A: When an association dissolves, its members must approve a plan of action for liquidating the association's assets, paying or discharging claims against the association, and then distributing the remaining assets. By law, the members must also appoint a "dissolution committee" to implement the plan. A copy of the proposed plan is at www.blfky.com/burley.

Q: Will I receive any money?

A: The proposed plan would distribute the association's assets remaining after payment, satisfaction, or discharge of debts and other liabilities to those Grower Members who are listed in the Association's records as Grower Members of the Association at any time during calendar years 2016, 2017, 2018, 2019 and 2020. It is possible that the proposed plan may require court approval and that the court may rule that the assets must be distributed differently.

Q: Was I Grower Member during calendar years 2016, 2017, 2018, 2019 and 2020?

A: We encourage you to call the Association at (859) 252-3561 to confirm whether you are or were a Grower Member.

BURLEY TOBACCO GROWERS CO-OPERATIVE ASSOCIATION

PAPER BALLOT

FOR THE SPECIAL MEETING OF THE MEMBERS ON APRIL 8, 2020

- To adopt the Resolution and Plan of Distribution found at www.blfky.com/burley which shall:
 - Amend the Association's Bylaws to provide for the Association's dissolution;
 - Voluntarily dissolve the Association;
 - Adopt the Plan of Distribution; and
 - Designate the Dissolution Committee to carry out the Plan of Distribution.
- To permit the Special Meeting to adjourn, if necessary, in order to obtain additional votes in favor of the Resolution and Plan of Distribution if there are not sufficient votes for the Resolution and Plan of Distribution.

I VOTE FOR ☐ AGAINST ☐ (CHOOSE ONE)

Signature

Mailing Address

Print Name

City, State, Zip

Name of company/partnership/LLC (if any)

Email (Optional)

BURLEY TOBACCO GROWERS CO-OPERATIVE ASSOCIATION

PAPER BALLOT

FOR THE SPECIAL MEETING OF THE MEMBERS ON APRIL 8, 2020

- To adopt the Resolution and Plan of Distribution found at www.blfky.com/burley which shall:
 - Amend the Association's Bylaws to provide for the Association's dissolution;
 - Voluntarily dissolve the Association;
 - Adopt the Plan of Distribution; and
 - Designate the Dissolution Committee to carry out the Plan of Distribution.
- To permit the Special Meeting to adjourn, if necessary, in order to obtain additional votes in favor of the Resolution and Plan of Distribution if there are not sufficient votes for the Resolution and Plan of Distribution.

I VOTE FOR ☐ AGAINST ☐ (CHOOSE ONE)

Signature

Mailing Address

Print Name

City, State, Zip

Name of company/partnership/LLC (if any)

Email (Optional)

BURLEY TOBACCO GROWERS CO-OPERATIVE ASSOCIATION

PROXY BALLOT

FOR THE SPECIAL MEETING OF THE MEMBERS ON APRIL 8, 2020

By signing below, I appoint Roger Quarles, Eddie Gilkison, and Harry Rankin or either one of them, as proxies, each with the power to appoint his substitute, and to vote on my behalf at the Special Meeting of the Grower Members (the "Members") of the Burley Tobacco Growers Co-Operative Association ("Association") scheduled for April 8, 2020 at 10:00 a.m. EST at 620 S. Broadway, Lexington, Kentucky 40508, and at any adjournment thereof. MY PROXIES WILL VOTE AS MARKED BELOW:

- To adopt the Resolution and Plan of Distribution found at www.blfky.com/burley which shall:
 - Amend the Association's Bylaws to provide for the Association's dissolution;
 - Voluntarily dissolve the Association;
 - Adopt the Plan of Distribution; and
 - Designate the Dissolution Committee to carry out the Plan of Distribution.
- To permit the Special Meeting to adjourn, if necessary, in order to obtain additional votes in favor of the Resolution and Plan of Distribution if there are not sufficient votes for the Resolution and Plan of Distribution.

I VOTE FOR ☐ AGAINST ☐

Please print your name, sign, date and return this card by **APRIL 3, 2020** to:
Cloyd and Associates C/O Emma Underwood, 2410 Greatstone Point, Lexington, KY 40504

Signature

Mailing Address

Print Name

City, State, Zip

Name of company/partnership/LLC (if any)

Email (Optional)

BURLEY TOBACCO GROWERS CO-OPERATIVE ASSOCIATION

PROXY BALLOT

FOR THE SPECIAL MEETING OF THE MEMBERS ON APRIL 8, 2020

By signing below, I appoint Roger Quarles, Eddie Gilkison, and Harry Rankin, or either one of them, as proxies, each with the power to appoint his substitute, and to vote on my behalf at the Special Meeting of the Grower Members (the "Members") of the Burley Tobacco Growers Co-Operative Association ("Association") scheduled for April 8, 2020 at 10:00 a.m. EST at 620 S. Broadway, Lexington, Kentucky 40508, and at any adjournment thereof. MY PROXIES WILL VOTE AS MARKED BELOW:

- To adopt the Resolution and Plan of Distribution found at www.blfky.com/burley which shall:
 - Amend the Association's Bylaws to provide for the Association's dissolution;
 - Voluntarily dissolve the Association;
 - Adopt the Plan of Distribution; and
 - Designate the Dissolution Committee to carry out the Plan of Distribution.
- To permit the Special Meeting to adjourn, if necessary, in order to obtain additional votes in favor of the Resolution and Plan of Distribution if there are not sufficient votes for the Resolution and Plan of Distribution.

I VOTE FOR ☐ AGAINST ☐

Please print your name, sign, date and return this card by **APRIL 3, 2020** to:
Cloyd and Associates C/O Emma Underwood, 2410 Greatstone Point, Lexington, KY 40504

Signature

Mailing Address

Print Name

City, State, Zip

Name of company/partnership/LLC (if any)

Email (Optional)

Place
First Class
Stamp
Here

**CLOYD & ASSOCIATES
C/O Emma Underwood
2410 Greatstone Point
Lexington, KY 40504**

PLEASE PRINT YOUR NAME, SIGN, DATE AND RETURN THIS CARD BY APRIL 3, 2020

Place
First Class
Stamp
Here

**CLOYD & ASSOCIATES
C/O Emma Underwood
2410 Greatstone Point
Lexington, KY 40504**

PLEASE PRINT YOUR NAME, SIGN, DATE AND RETURN THIS CARD BY APRIL 3, 2020

**RESOLUTION
OF THE GROWER MEMBERS OF
THE BURLEY TOBACCO GROWERS CO-OPERATIVE ASSOCIATION**

We, the duly-certified Grower Members (the “Members”) of the Burley Tobacco Growers Co-Operative Association (the “Association”), hereby adopt, approve, and assent to the following:

RESOLVED, that the Bylaws of the Association are amended to add a new Article XVIII:

**Article XVIII
Dissolution of the Association**

Section 1. Upon the affirmative vote of two-thirds, or more, of the votes entitled to be cast by the Grower Members present in person or by proxy, in accordance with KRS § 272.325(1), the Association shall discontinue its operations, settle its affairs, and voluntarily dissolve.

Section 2. In the event of such dissolution, the Association shall not engage in any business activities except as reasonably necessary to wind up and settle its affairs, in accordance with KRS § 272.325(2) and any resolution or plan of dissolution duly adopted or approved by the Grower Members in connection with such dissolution.

Section 3. In the event of dissolution, the net assets of the Association remaining after payment, satisfaction, or discharge of all taxes, debts, expenses, obligations, claims, or other liabilities of the Association shall be distributed in accordance with any resolution or plan of dissolution, liquidation, or distribution duly adopted or approved by the Grower Members in connection with such dissolution; provided, however, that if no such resolution or plan of dissolution, liquidation, or distribution is adopted or approved, the net assets of the Association shall instead be distributed on a pro rata basis to those persons certified as Grower Members under Article I of these Bylaws and of record immediately preceding such dissolution.

RESOLVED, that the Association is dissolved.

RESOLVED, that Roger Quarles, Eddie Gilkison, and Harry Rankin are designated as the Dissolution Committee.

RESOLVED, that the attached Plan of Distribution is approved and will be completed by April 30, 2022 or as reasonably extended by notice to the Grower Members in accordance with the Bylaws of the Association.

IN WITNESS THEREOF, I certify that I am the duly appointed Secretary of the Burley Tobacco Growers Co-Operative Association; a special meeting of the Members of the Association was held on Tuesday, April 8, 2020 at 10:00 a.m. at the Association’s office at 620 South Broadway, Lexington,

Kentucky, to vote on whether to amend the Bylaws and dissolve the Association; notice of the special meeting was given pursuant to KRS Chapter 272 and the Association's governing documents; there being a quorum, the above Resolution was adopted by the affirmative vote of not less than two-thirds (2/3) of the votes entitled to be cast by the Members present in person or by proxy pursuant to KRS Chapter 272 and the Association's governing documents; and such Resolution has been duly recorded in the minutes of the Association and is in full force and effect.

SECRETARY

DATE

**PLAN OF DISTRIBUTION
OF THE BURLEY TOBACCO GROWERS CO-OPERATIVE ASSOCIATION**

This Plan of Distribution (the “Plan”) is intended to implement the Resolution of the Grower Members (“Members”) of the Burley Tobacco Growers Co-Operative Association (the “Association”), which was adopted at a Special Meeting of the Members on Tuesday, April 8, 2020 at 10:00 a.m.

- **Winding Up.** The Dissolution Committee (the “Committee”) is authorized to take such action, for the benefit of the Association, as reasonably necessary to:
 - **Marshal assets** of the Association (or make provision to do so) including but not limited to collecting, settling, or compromising contracts, accounts receivable, debts, and obligations to the Association and claims belonging to it, prosecuting lawsuits by the Association, as well as abandoning or rejecting assets of insufficient value to justify collection or distribution.
 - **Preserve its assets** pending liquidation and distribution, including but not limited to managing, maintaining, and insuring property against damage or loss, depositing cash into bank accounts, and, if not needed to meet debts and expenses currently payable and not immediately distributable, investing assets in investments that would be reasonable for trustees generally.
 - **Liquidate its assets**, including, but not limited to, selling, exchanging, or disposing, and converting non-cash property into cash or cash equivalents, in one or more sales or transactions, private or public, to one or more persons on terms and conditions as the Committee deems reasonably expedient in the interest of the Association.
 - **Reach fair and reasonable severance agreements** with the Association’s employees.
 - **Hire employees and independent contractors**, including but not limited to accountants, investment advisors, consultants, and attorneys, to advise and assist the Committee in implementing this Plan; act without independent investigation upon their recommendations; and instead of acting personally to employ them to perform any act of the Committee.
 - **Compensate the members of the Committee** in the same manner and rates as the Directors of the Association, or such reasonable amount as approved by a Court, in recognition of the extraordinary efforts they will be required to undertake, or actually undertake, in connection with the implementation of this Plan.
 - **Notify tax authorities and creditors of the dissolution**, including but not limited to following the notice procedures in KRS Chapter 271B for known and unknown claims.
 - **Discharge Association liabilities** (or make provision for discharge) including but not limited to paying, satisfying, settling, or compromising taxes, debts, expenses, liabilities, and obligations of the Association and contingent, conditional or unmatured contractual claims against the Association, and defending lawsuits against the Association.

- **Distribution of Net Assets.** The Association's assets remaining after payment, satisfaction, or discharge of all taxes, debts, expenses, obligations, claims, or other liabilities (the "Net Assets") will be distributed as follows:
 - **Identifying the Distributees.** The Distributees shall be those Members who are listed in the Association's records as Members of the Association at any time during calendar years 2016, 2017, 2018, 2019 and 2020. The Dissolution Committee is authorized, for the purpose of determining the identifies of Distributees, to retroactively accept from any producer such certifications for Membership in the Association for any of the calendar years 2016, 2017, 2018, 2019, or 2020 as set forth in Article I of the Association's Bylaws.
 - **Determining the division of Net Assets.** The Net Assets shall be distributed on a pro rata basis to the Distributees (one distribution share per Distributee, regardless of number of years as a Member). If deemed necessary, the Committee shall also have authority to commence a civil action, in the Association's name, to approve the proposed final settlement of the Dissolution Committee and division of the Net Assets, to determine the Distributees, to declare the rights of persons to receive their fair share of any Association assets, or otherwise to seek approval of the Committee's actions or proposed actions under this Plan (the "Approval Action").
 - **Set aside a Contingency Reserve or Liquidating Trust.** The Committee may make reasonable provisions to satisfy any obligations or claims against the Association that are the subject of pending lawsuits, that have not yet accrued but based upon facts known to the Association are likely to accrue following the dissolution, and potential unknown claims. This may include but is not limited to depositing with an escrow agent a reasonable amount of assets as a contingency reserve (the "Contingency Reserve") and/or with a trustee in trust for the Association's benefit (the "Liquidating Trust") to satisfy such claims and related expenses.
 - **Make an initial distribution** to the Distributees of all Net Assets, less any assets set aside as a Contingency Reserve, set aside as a Liquidating Trust, and payment of attorney fees or other amounts that are required to be paid out of the Net Assets before distribution.
 - **Submit a final settlement** to the Association providing an accounting of all transactions in implementing this Plan and file a report with the Kentucky Secretary of State, the Dean of UK College of Agriculture, and the Kentucky Commissioner of Agriculture.
 - **The escrow agent or trustee shall make a final distribution** to the Distributees of any assets remaining in the Contingency Reserve or Liquidating Trust after the satisfaction of claims against the Association, if any.
- **Actual Authority of the Dissolution Committee.** The Committee is authorized, without further action by the Association, its Board of Directors, or Grower Members:
 - To do and perform, or cause the Officers of the Association to do and perform, any and all acts, and to make, execute, deliver any and all agreements or other instruments of

every kind (which shall be binding on the Association) that are reasonably necessary in the interest of the Association to implement this Plan and the transactions contemplated under this Plan, including all filings or acts required by any state or federal law to wind up its affairs. Adoption of this Plan shall constitute approval of any such acts by the Association, its Board of Directors, or Grower Members.

- To engage Billings Law Firm, PLLC (the “Firm”) as attorneys for the Association and Committee to handle legal work and representation in implementing and completing the Plan (but excluding litigation), and the Association and Committee (i) shall pay the Firm a fee equal to seven and one-half percent (7½%) of the Net Assets (as defined above) before distribution to the Distributees (as defined above) (the “Base Legal Fee”), but which Base Legal Fee shall be a minimum of \$1,000,000.00, and (ii) shall reimburse the Firm for all reasonable costs and expenses incurred, to be reimbursed on a monthly basis. However, in the event of an Approval Action (as defined above), or any person or entity (other than the Committee or the firm) commences a lawsuit or asserts any claim, or in the event any person or entity asserts any claims in an Approval Action or any other civil action for the purpose of contesting this Plan, or the dissolution of the Association, or the distribution of assets under this Plan or a similar related claim (a “Contest Action”), in addition to the Base Legal Fee, the Firm shall be entitled to an award of attorney’s fees of seventeen and one-half percent (17½%) of the Net Assets, or such other amount as the Court may order or approve.
- To obtain and maintain insurance as may be necessary to cover the Association’s indemnification obligations. In addition, the Association shall continue to indemnify its officers, directors, employees, agents, the members of the Dissolution Committee, the escrow agent of the Contingency Reserve, and the trustee of the Liquidating Trust in accordance with the documents governing the Association, the Association’s existing directors’ and officers’ liability insurance policy and applicable law, and such indemnification shall apply to acts or omissions of such persons in connection with the implementation of this Plan and the winding up of the affairs of the Association.

BILLINGS LAW FIRM PLLC
COUNSELORS-AT-LAW

JOHN N. BILLINGS, ESQ.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

TOM INGRAM

██████████
SHELBYVILLE, KY 40065

Re: Written Demand to Obtain Board Action

Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. **By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.**

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,


John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM^{PLLC}
COUNSELORS-AT-LAW

JOHN N. BILLINGS, ESQ.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

EDDIE MARTIN

GRAYSON, KY 41143

Re: Written Demand to Obtain Board Action

Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,



John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM PLLC
COUNSELORS-AT-LAW

JOHN N. BILLINGS, ESQ.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

GUY HEITKEMPER

LANESVILLE, IN 47136

Re: Written Demand to Obtain Board Action

Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Cooperative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,


John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM PLLC
COUNSELORS-AT-LAW

JOHN N. BILLINGS, ESQ.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

LARRY GOMER

FRANKLIN, KY 42134

Re: Written Demand to Obtain Board Action

Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,

John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM PLLC
COUNSELORS-AT-LAW

JOHN N. BILLINGS, ESQ.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

AL PEDIGO

SCOTTSVILLE, KY 42164

Re: Written Demand to Obtain Board Action

Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,

John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM ^{PLLC}
COUNSELORS-AT-LAW

JOHN N. BILLINGS, ESQ.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

JAMES DALE SEAY

██████████
CROFTON, KY 42217

Re: Written Demand to Obtain Board Action

Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,


John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM PLLC
COUNSELORS-AT-LAW

JOHN N. BILLINGS, ESQ.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

DONALD MITCHELL

██████████ R ██████████
MIDWAY, KY 40347

Re: Written Demand to Obtain Board Action

Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,


John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM PLLC
COUNSELORS-AT-LAW

JOHN N. BILLINGS, Esq.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

DAVID CHAPPELL

OWENTON, KY 41359

Re: Written Demand to Obtain Board Action

Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,

John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM PLLC
COUNSELORS-AT-LAW

JOHN N. BILLINGS, ESQ.
nbillings@bllfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

ROBERT REED BUSH SR

CAMPBELLSBURG, KY 40011

Re: Written Demand to Obtain Board Action

Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,

John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM^{PLLC}
COUNSELORS-AT-LAW

JOHN N. BILLINGS, ESQ.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

PAUL TUCKER

██████████
SADIEVILLE, KY 40370

Re: Written Demand to Obtain Board Action

Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,


John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM PLLC
COUNSELORS-AT-LAW

JOHN N. BILLINGS, ESQ.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

TROY MARTIN

MT. OLIVET, KY 41064

Re: Written Demand to Obtain Board Action

Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,


John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM PLLC
COUNSELORS-AT-LAW

JOHN N. BILLINGS, ESQ.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

TIMOTHY K TARTER

██████████
NANCY, KY 42542

Re: Written Demand to Obtain Board Action

Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,


John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM PLLC
COUNSELORS-AT-LAW

JOHN N. BILLINGS, ESQ.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

EDDIE WARREN

██████████
RICHMOND, KY 0

Re: Written Demand to Obtain Board Action

Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,


John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM ^{PLLC}
COUNSELORS-AT-LAW

JOHN N. BILLINGS, Esq.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

JOE LUCKETT

LEBANON, KY 40033

Re: Written Demand to Obtain Board Action

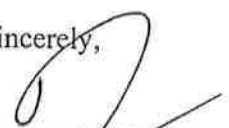
Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,


John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM PLLC
COUNSELORS-AT-LAW

JOHN N. BILLINGS, ESQ.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

HALLECK ADKINS

██████████
SALT ROCK, WV 25559

Re: Written Demand to Obtain Board Action

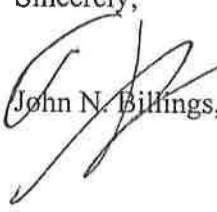
Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,


John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM PLLC
COUNSELORS-AT-LAW

JOHN N. BILLINGS, ESQ.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 14, 2020

VIA FIRST CLASS MAIL

KEVIN RAWLINGS

DEARBORN, MO 64439

Re: Written Demand to Obtain Board Action

Good Afternoon:

On behalf of our client Greg Craddock, a Member of the Association, I am writing to you in your individual capacity as an officer and/or director of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). Based on communications with the Association's legal counsel, it is our understanding that his representation is limited to only representing the Association and not its directors or officers individually.

Therefore, please find enclosed a copy of a letter addressed to the Association, which serves as written demand that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the issues set forth therein, pursuant to KRS 271B.7-400, which governs the Association, and all applicable laws. By this letter, you are requested to report this claim to your individual, personal insurance carriers, regardless of whether you may believe that such policies do not cover this claim, and to immediately provide us with copies of all insurance policies that provide or potentially provide coverage to you for such claims.

Finally, this letter serves as a formal request that you immediately take all steps to retain and preserve and not delete nor destroy any and all Electronically Stored Information (ESI), including without limitation, files, photographs, video recordings, recorded audio or computer media, documents, records, materials, and all other evidence and things, whether paper, electronic or otherwise stored, relating in any way to the subject matter of the enclosed letter or the business of the Association generally, and which is in your possession, custody, or control. This specifically includes all emails, text messaging, and other such applications that you may maintain privately, but which you have used at any time and for any purpose in connection with being an officer, director, or member of the Association. Please retain all of this evidence. A number of court decisions have permitted courts to sanction persons for the destruction or spoliation of evidence.

Sincerely,


John N. Billings, Esq.

Encl.

BILLINGS LAW FIRM^{PLLC}
COUNSELORS-AT-LAW

JOHN N. BILLINGS, ESQ.
nbillings@blfky.com

145 Constitution Street
Lexington, Kentucky 40507
(o) (859) 225-5240
(f) (859) 225-5241

April 13, 2020

**VIA REGISTERED MAIL (RETURN
RECEIPT REQUESTED) & E-MAIL**

Mr. Al Pedigo, President
BURLEY TOBACCO GROWERS
CO-OPERATIVE ASSOCIATION, INC.
c/o Kevin G. Henry, Esq., Registered Agent
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street, Suite 1500
Lexington, KY 40507
KHenry@sturgillturner.com

Re: Written Demand to Obtain Board Action

Dear President Pedigo:

As you know, this firm represents Greg Craddock in his capacity as a certified Grower Member (the "Member") of the Burley Tobacco Growers Co-Operative Association, Inc. (the "Association"). The Association, acting by and through its Board of Directors, officers, and employees have breached their fiduciary duties and acted *ultra vires* in violation of the Kentucky statutes governing the cooperatives, as well as the Association's governing documents. Such conduct is not protected by the limited liability sometimes afforded for mere acts of negligence. Nor are directors and officers entitled to indemnification for such acts, either under the Association's Bylaws or insurance policy.

By this letter, it is hereby demanded that the Association's board of directors and officers immediately take action to remedy and commence an investigation of the following issues, pursuant to KRS 271B.7-400, which governs the Association by operation of KRS 272.341 of the Bingham Act, and all applicable laws.

Billings Law Firm,^{PLC}

Mr. Al Pedigo, President
April 13, 2020
Page 2

A. Failure or refusal to act for the benefit of the Association and its Members.

(1) The Association no longer serves any legitimate purpose.

Each of the directors and officers, as fiduciaries, owe a duty to act only for the benefit and in the best interest of the Association and its Members. As such, they are prohibited from acting in the interests of other persons.

In this regard, KRS 272.111 provides that an agricultural cooperative association may be organized to engage in any activity in connection with the production, harvesting, marketing, selling, drying, processing, packing, grading, storing, handling, and shipping of the agricultural products owned, leased, handled or marketed by its members and other farmers.

In turn, the Association's Articles of Incorporation state that the Association's purpose is to "promote, foster and encourage the business of marketing tobacco co-operatively," as well as to "purchase and sell any tobacco or tobacco products of its members." (*Id.*, p.1)

[The Association] shall make no profits for itself from any of its activities; **but all of its operations shall be for the mutual benefit of its members only and shall be co-operative in character. The operations and activities of this Association shall be limited to** activities arising out of the processing, drying, grading, shipping, storing, warehousing, handling, manufacturing, and marketing of the **tobacco products** of the Association and of its members only and to the financing of any of the said operations or of its members.

(*Id.*, p.2, emphasis added.) The Fayette Circuit Court in *Congleton v. Burley Tobacco Growers Coop. Assn.*, 06-CI-69, held that with the inception of the federal tobacco price support program in 1940s, the Association's principal purpose had become the administration of the program for the benefit of its Members. (Op. & Judgment of 3/15/07.)

The Association, however, no longer serves these purposes. In 2004, the Association ceased administering the price support program as a result of the Fair and Equitable Tobacco Reform Act (FETRA).

The Association has also quit acting as a cooperative. That is one of the findings in the operational review prepared (at the Association's request) by the Kentucky Center for Agriculture and Rural Development and the Ohio State University's Center for Cooperatives in the College of Food, Agricultural, and Environmental Sciences (the "KCARD Report," attached as **Tab A**).

The report's authors posed this question: "[W]ho does the Burley Co-Op exist to serve and how is that group of producers represented in the Burley Co-Op's membership?" The report

Billings Law Firm,^{PLLC}

Mr. Al Pedigo, President
April 13, 2020
Page 3

concludes: “Without resolution of this fundamental issue, **the Burley Co-Op cannot effectively serve a meaningful role in the industry for burley tobacco producers.**”

The KCARD Report also concludes that the Association is not making money marketing tobacco and is not projected to do so in the future. The tobacco purchase contract program has been a failure, with years of net losses, unsold inventory valued at \$16 million, and sales at excessive discounts. Only about 10% of Members received any proceeds. No surprise then that the Association has publicly announced it is now ending that program.

Given the complete elimination of the Association’s purposes, the Board adopted a plan in February 2020 that contemplates changing the Association’s purpose to “advocacy for tobacco growers, support research, education, programs and services of benefit to tobacco growers directly and in aid of their transition to other types of farming as the market for tobacco decreases...” (the “Board’s Plan,” attached as **Tab B.**)

Despite repeated requests, the Association has failed to provide any records showing any advocacy being performed in at least the last five (5) years. KRS 247.710 *et seq.* gives the Council for Burley Tobacco the authority to assess check-off fees, which are to be used for a program of research, market development, and education related to burley tobacco. KRS 247.725.

The Council, in turn, has entered into a contract with the Association, where a portion of those fees are disbursed to the Association. In exchange, the Association must provide an annual report setting forth or listing the uses to be made of the money received. There is no evidence that the Association complied with the contract, provided the required reports, or used the check-off fees for purposes prescribed by statute.

The record also shows that management have made little or no effort to lobby on Members’ behalf. In 2018, the Association appears to have done nothing to oppose a bill that increased the cigarette tax. In 2019, the general manager went on the record as not opposing a bill to raise the tobacco use age. And just last month, the governor called for yet another tax hike on tobacco. There is no evidence that the directors or officers have taken any affirmative steps to oppose that agenda, which will do nothing but hurt the tobacco industry in this region. In short, the Association no longer serves any of the purposes for which it was founded.

(2) The Board’s Plan is *ultra vires* and does not benefit the certified Members.

The Board’s Plan is also inconsistent with the express purposes in KRS 272.111 and the Articles. If carried out, it would effectively result in a change of corporate form, transforming it from an agricultural marketing cooperative (benefiting tobacco growers) into a non-profit corporation (benefiting tobacco growers ***and*** non-tobacco growers). The Board thus acted *ultra vires* in adopting a plan that ignores the Association’s existence as a cooperative marketing

Billings Law Firm,^{PLC}

Mr. Al Pedigo, President
April 13, 2020
Page 4

association, does not serve its lawful purposes, and benefits persons other than Members who are currently producing, marketing, and sharing in the risk of burley tobacco.

The change in form contemplated by the Board's Plan would also run afoul of the special tax treatment that has been afforded the Association, including the tax requirements for making distributions upon dissolution to Members who have contributed to the cooperative. *See Fertile Co-Op Dairy Assn. v. Huston*, 119 F.2d 274 (8th Cir. 1941). Whether the Board sought any tax or business advice on the consequences of its plan before voting is unknown.

The Board's plan also disregards interests that are (or may be) claimed by past Members. The KCARD Report found that the Association does not maintain membership equity accounts, does not allocate income to Members, and lacks rules for equity records, apportionment of net proceeds, patronage refunds, and reserves. According to the report, these are not only important for running cooperatives—they are required to comply with the tax code.

According to the Fayette Circuit Court in *Congleton*, the Association actually ceased issuing participation certificates and ledger records back in 1988. The failure to keep adequate member and patron records violates the duty to keep and maintain such records, which is also mandated by KRS 272.341 and KRS 271B.16-010, *et seq.*

But the Association has made it worse by repeatedly changing the membership rules since 2015. This has included *inter alia* the Board in 2017 attempting to amend the Bylaws by eliminating an entire class of members (Associate Members) going back to 2002 and who, according to the express language of the Bylaws, had "property rights" in the Association.

Even then, the Association has applied its rules inconsistently, as you yourself have acknowledged in public statements. By way of example, some land owners and landlords are being told they cannot certify as Members, despite the Bylaws specifying that a "land owner, operator, landlord, tenant or sharecropper" is eligible.

Some farmers who are related to (or in business with) other farmers have also been told they cannot both be Members, despite being on the same FSA 578 report or having separate proofs that they are both producers. By contrast, we are informed and believe that multiple directors (apparently including you) have put their spouse's names on contracts and certified them as Members, which is clearly improper.

We have also repeatedly asked to inspect the lists of certified Members between 2015 and 2019 and have received conflicting records, with shifting explanations from you, the general manager, and the Association's counsel. This is not acceptable for a multimillion-dollar agricultural cooperative responsible for the contributions of a now-unknown number of participants.

Billings Law Firm,^{PLLC}

Mr. Al Pedigo, President
April 13, 2020
Page 5

These property right claims were one of the issues in the *Congleton* case (before Judge Goodwine) and again in the pending *Haynes* case (before Judge Goodman). Consequently, the directors and officers have failed to maintain proper Member and patron accounts and improperly amended the Bylaws to purge and divest Members of property rights arguably vested by both their monetary contributions into the Association and the express terms of the Bylaws.

It is possible to address any such property rights claims by (for example) adopting rules for distribution in a dissolution under KRS 272.325(3), as suggested by the KCARD Report. Our clients have done just that in proposing the Resolution and Plan of Dissolution (the "Farmers Plan"), which would amend the Bylaws in this way.

However, the same is not true for the Board's Plan, which distributes assets to an arbitrary class without statutory authority, disregards past contributions of or purchases from Members and patrons, and undermines the Association in the *Haynes* case.

In addition, KRS 272.241 expressly conditions any sale or exchange of all (or substantially all) of the Association's assets on there being both notice and a vote by the Members. The Board's Plan provides for the liquidation and sale of a majority of assets, but was adopted unilaterally by directors without seeking the vote required by statute. The Board is thus acting *ultra vires* in adopting the Plan without the requisite assent of the Members required by KRS 272.241.

Records further show that the Association has improperly certified persons from other states who are not eligible to be members, including residents of Florida, Texas, Wisconsin, Tennessee, and Michigan. Article 1 of the Bylaws expressly limits Members to residents of Kentucky, Indiana, Missouri, Ohio, and West Virginia. As such, the Board is acting *ultra vires* in violation of the Bylaws by certifying persons who are *not* eligible for Membership and adopting a plan that would benefit them.

(3) The Association's programs continue to benefit persons who are not certified Members or burley tobacco growers.

The Association has also operated for the benefit of non-tobacco growers. On or about June 27, 2019, the Association's general manager improperly executed a hemp purchase and marketing agreement with Genamera L.L.C., a Tennessee-based hemp dealer (the "Hemp Agreement," attached as **Tab C**). Records show that the Association has committed or spent upwards of \$1 million in connection with this Hemp Agreement.

According to its terms, the purpose of the Hemp Agreement was to "**expand opportunities for Kentucky-based growers of hemp biomass.**" Again, the Articles expressly limit the Association's activities to promoting tobacco and tobacco products grown and marketed by its Members. Hemp is a type of cannabis, not tobacco. Even if it was otherwise, the Association cannot act for the benefit of non-Members who grow hemp. Nor can the Association act for the

Billings Law Firm,^{PLLC}

Mr. Al Pedigo, President
April 13, 2020
Page 6

sole benefit of Kentucky growers to the exclusion of those in Indiana, Missouri, Ohio, and West Virginia, who are eligible to be Members under Article 1 of the Bylaws.¹

As such, the directors and officers acted *ultra vires* in allowing the Hemp Agreement to be made, which is inconsistent with the express purposes in KRS 272.111 and the Articles. They are also continuing to act improperly by misusing, misapplying, and misappropriating assets for hemp, to the detriment of growers producing, marketing, and sharing in the risk of tobacco.

Concerns have also been raised regarding the propriety of the Hemp Agreement.² Daniel Green, Genamera's CEO, is a former officer and employee of the Association, the CEO of the Burley Stabilization Corporation (a competing cooperative in Tennessee), and apparently has a listing agreement with the Association to sell its tobacco.

Moreover, the Hemp Contract was redacted in such a way as to prevent and precluded Members from reading, much less discerning, the material terms of that agreement. And, it required GenAmera to present to the Association "invoices reflecting [GenAmera's] purchasers of hemp biomass from Kentucky-based growers for hemp grown during the 2019 growing season." Yet, the Association required no such invoices, and instead, accepted a single invoice from GenAmera to the Association, and not the invoices reflecting GenAmera's purchasers, as require by the agreement.

We have reason to believe that your son, John Pedigo, has one of the hemp contracts with Genamera, which has not been disclosed to Members. It is possible that other directors, officers,

¹ It should be noted that the Association filed *purported* Articles of Amendment in August 2014, which attempted to amend the Articles to provide in relevant part:

The Association shall not be required to limit its business activities to those with or on behalf of its members. However, if the Association buys or handles tobacco from or otherwise transacts business with any non-member of the Association or the open market, such business activities shall not exceed in amount the total business transacted by the Association with and for its members.

However, records show that the affirmative votes of the Members were not sufficient to adopt the purported amendment pursuant to KRS 272.141, which means it is void. Moreover, the purported amendment does not change other provisions of the Articles limiting the Association's purpose of serving producers of tobacco. Hence, it does not authorize transactions with non-tobacco products.

² This is exacerbated by the Association's refusal to provide us with communications with Genamera and other records concerning the hemp transactions. The Association's position is that records and information do not exist, which is doubtful given the requirements in the Hemp Agreement or confidential under a confidentiality provision in it. However, the directors and officers owe duties of accounting and full disclosure. Even assuming the confidentiality provision was enforceable, which we expressly deny, agreeing to such a term was improper.

Billings Law Firm,^{PLLC}

Mr. Al Pedigo, President
April 13, 2020
Page 7

or their families have benefited financially from the Association's Hemp Agreement or have other dealings with Mr. Green or Genamera—without full disclosure to the Members.

More troubling, we understand that the Board recently voted to enter into a joint venture with Mr. Green whereby company, the Burley Stabilization Corporation, would offer contracts to burley tobacco growers in Kentucky, with the Association bearing a 50% risk. Such a transaction is not only missing from the Board's Plan, but a fraudulent conveyance and gross diversion of Association assets ahead of the special meeting called by my clients.

The venture also improperly benefits Kentucky farmers at the expense of farmers in other states who are eligible to become Members. Judge Goodman has thus issued an injunction stopping this deal with Mr. Green.

The KCARD Report also evaluated the Association's tobacco purchase contract program. Again, only around 10% of farmers in this region have had contracts with the Association. Of those, most of the producers were located in Kentucky according to the KCARD Report and primarily clustered in north central Kentucky and mainly north of Lexington.

This is disturbing given the geographic distribution of active farmers outside of that region. Some farmers have reported the Association arbitrarily refusing to award or renew contracts with them, evidencing disproportional (if not preferential) treatment of some growers, to the detriment of others. Some farmers also hold the belief that contracts may have been disproportionately given to persons affiliated with the directors and officers.

Given these circumstances, the Board has an obligation to investigate whether any directors, officers, or employees, or their family members, have been unfairly benefiting from both the hemp and tobacco purchases by the Association, and whether any contracts (including those from Mr. Green and the Burley Stabilization Corporation) have been offered in connection with the directors' solicitation of votes against the Farmers Plan.

Questions have further been raised regarding the misuse of scholarship funds. As you know, the court in *Congleton* allowed the Association to retain \$544,000.00 funds in a restricted fund for educational, charitable and scholarship purposes. In January 2020, the Board voted to allocate \$20,000.00 per director (or \$380,000.00) for making scholarships, research, and program grants.

No mechanism is in place for holding directors accountable for these funds. We have been informed that at least one director, Tim Tarter, has offered to donate the \$20,000.00 allocated to him to a black hereford cattle association. The donation is to be made in his name and, in the event the group ends, then the money is to be returned to Mr. Tarter personally. I am told there is a recording of Mr. Tarter making this donation.

Billings Law Firm,^{PLLC}

Mr. Al Pedigo, President
April 13, 2020
Page 8

Obviously, neither the Articles nor the settlement agreement in *Congleton* permit the Association from misappropriating the segregated funds for the benefit of non-tobacco farmers. Consequently, the Association has a duty to investigate the allocation and distribution and seek reimbursement from any directors and officers who have misused them.

B. Failure to exercise due care in managing the Association

The directors and officers also owe a duty of care, as fiduciaries, not to make decisions that injure the Association, as well as in monitoring the Association's activities, officers, and employees. Based on a review of the records, it has become apparent that the Association has been managed with gross negligence for at least the past last five (5) years.

This has included but is not necessarily limited to failing to operate the Association as an agricultural cooperative for the benefit of Members, as discussed above. The KCARD Report made recommendations, including establishing rules and procedures for equity accounts, patronage refunds, reserves, and dissolution procedures. The minutes show that none of the recommendations have been considered—let alone acted on—since the report was issued, which is also negligence on the part of the directors and officers.

Management has also been grossly negligent in purchasing and selling tobacco, as discussed above. This has resulted in six-figure losses each year, forced a devaluation of inventory on the books, and wasted Association assets. Options discussed in the KCARD Report, such as setting a floor price or making it comparable to competitor's prices, have been ignored.

The Board has also not paid any dividends or patronage refunds since 2014. The excuse has been the Association's lack of profitability. But the Association is not profitable due in part to its negligent purchases, as well as salaries, travel for directors and officers, and other excessive operating expenses. The KCARD Report discussed these issues, noting that the Association has become "board centric" and that directors have made decisions to "protect the status quo and their positions on the Board."

Despite the Fayette Circuit Court allowing the Association in *Congleton* to retain millions in farmer monies (more than \$44 million in gross assets as of 9/30/14), the Board has let the Association incur millions more in debt, resulting in needless debt service and sinking its equity position. Nor is there any interest within management in controlling these runaway costs, with the annual budget at \$975,000 in 2019.

As a result, the Association has lost approximately \$5 million in equity over the past five (5) years, a gross waste of Association assets. Its inability to make distributions to Members is not due to market forces, but reckless decisions made by the Board since 2014. This has resulted in a steep financial decline, for which action must now be taken.

Billings Law Firm,^{PLLC}

Mr. Al Pedigo, President
April 13, 2020
Page 9

C. Failure or refusal to account and make full disclosure.

As fiduciaries, the directors and officers also owe a duty to account and fully disclose material facts necessary for Members to protect their interests. The KCARD Report found that the Association does not have consistent, effective communications with Members. It does not send any reports to Members and when it does communicate, the Association fails to disclose facts and even conceals information from them.

There is no evidence, for example, that management have provided financial statements or summaries of the serious financial issues facing the Co-Op. The Board made the conscious decision not to disclose the KCARD report. When word of it got out, the Association admitted in its 2019 newsletter that “Evidently, this independent study that was presented only to the board was released without permission before the Co-Op has a chance to carry out some of the recommendation.”

The newsletter then proceeded to cherry pick one favorable survey, while staying silent about the Report’s troubling conclusions. Nor did the Association ever carry out any of the recommendations nor released the report to Members, contrary to the newsletter’s assurance. The undersigned actually had to obtain a copy from KCARD itself.

More recently, in an effort to oppose the Farmers Plan, the Board rushed out its own plan of partial distribution. However, directors and officers have not been candid about this. The Board’s Plan was not sent to the entire membership. At least one director has informed farmers that the Board’s Plan would dissolve the Association, which is patently false.

Directors have also represented, both in print and discussions with farmers, that all but \$3.5 million will be distributed to farmers. However, management has willfully failed to inform growers that the Board’s Plan also includes, on its face, more than \$2.14 million in expenses, and, under a more realistic assessment, approximately \$3.7 million in expenses—either of which is far more than the estimated cost of the Farmers Plan. The cost of the Board’s Plan is a material fact, which the directors and officers have a legal obligation to honestly share with Members. Further, the Board’s plan is not binding, and can be changed at any time; yet, the Board has failed and refused to acknowledge this fact or to inform members of this fact.

Despite our requests, we have seen no record that Members have been told that the Association has ceased keeping equity or patron accounts or that the Bylaws have been repeatedly amended to purge and divest any property rights they might possess, as discussed above. Worse, the Association has left non-members on its mailing list, and otherwise removed otherwise-eligible farmers from the membership list. In fact, from the records produced, it does not appear that the Association has even keep accurate membership lists every year, that is until we demanded to inspect the 2019 Crop Year Membership List. And, since then, the Board, officers and staff have intentionally and in contravention to the bylaws and Kentucky law, have removed farmers who

Billings Law Firm,^{PLLC}

Mr. Al Pedigo, President
April 13, 2020
Page 10

should be members, or otherwise added members after the purported March 1st deadline. In fact, we have spoken to dozens of farmers who are surprised and angry to learn they are not listed on the Association's rolls, including those who have been members, have farmed for years, and/or continue to farm, but are not listed on the Association's rolls and have been refused to be admitted to the membership rolls. The bottom line is that the Board is unable to tell us how many members the Coop had for any given Crop Year due to its failures and breaches in this regard.

Moreover, the Board during a closed and confidential meeting on December 11, 2019 voted to "close the membership of the Association as of March 1, 2020" according to the minutes. However, the Board cannot "close" and prohibit future membership without at least amending the Bylaws, which do not provide for "closing" the membership. Instead, it provides that producers need only be sharing in the risk and actively producing and marketing burley tobacco during the crop year. If a farmer was growing in the most recent crop year, then they are eligible for membership and to vote in future meetings.

Even if the Board could "close" the Membership, the motion also specified that the Association "provide documentation for certification as noted in Section 2 of the Bylaws," i.e., management was to inform farmers that they needed to certify by March 1, 2020. The Association has acknowledged that this was never done. Its counsel has noted that the undersigned's firm has communicated with Members regarding this alleged March 1st deadline. Obviously, what my firm has done to help out farmers does **not** relieve the directors or officers of their obligation to do so.

This is serious because this "deadline" affects the voting rights and property right of many tobacco farmers who are eligible to and should be Members. We know there are hundreds of farmers who reasonably believe they are still members based on mailings they receive from the Association. Yet, the Association has improperly taken the position that these farmers have no right to vote on the Farmers Plan, and these farmers apparently would not be entitled to a distribution under the Board's plan.

It is also not clear whether those same farmers will receive a disbursement under the Board's Plan. This uncertainty is contrary, by the way, to representations you made during the recent meeting in Breckinridge County, where you inaccurately suggested that the farmers' "property rights" would not be affected by their lack of certification. We have already heard from one attorney who is considering filing a lawsuit on behalf of farmers who have been wrongfully disenfranchised.

The Association's failure to disclose has harmed and injured tobacco farmers and the Association's Members in other ways. For example, the Association could have passed through any earned income to Members, thereby allowing them to take advantage of the new Section 199A deduction under the Tax Cuts and Job Acts of 2017.

Billings Law Firm,^{PLLC}

Mr. Al Pedigo, President
April 13, 2020
Page 11

Similarly, the Association has sustained losses on its tax returns, but failed to pass those losses through to Members, thereby preventing them from taking a deduction. The Association, presumably preferring not to advertise its chronic losses, never gave farmers the chance to benefit from those deductions. The price being paid by farmers for the Association's silence is real.

D. Failure to act in good faith and deal fairly in representing the Association.

Directors and officers owe a duty not to act oppressively toward Members, including acting in bad faith, dealing unfairly, and frustrating farmers' reasonable expectations in becoming Members. Management has persistently violated that duty since our clients began taking steps to voluntarily dissolve the Association in November 2019.

As discussed above, the Board held a closed and confidential meeting on December 11, 2019 during which they improperly attempted to "close" the Membership as of March 1, 2020 and then completely failed to inform the Members of that fact. When our clients notified farmers of our intent to submit a lawful petition during the Board meeting scheduled for February 11th, the Board intentionally re-scheduled the meeting for February 5th.

After discovering the change, we managed to attend the meeting, where we submitted, on behalf of our clients, a motion to carry out the petition, which was signed by five-times the number needed under KRS 272.161. That statute states that, upon receipt of the petition, a board has an express duty to call a special meeting of the Members and to send notice. The Board willfully refused to take action on the petition, violating KRS 272.161 and their fiduciary duties.

Instead, certain directors and officers have acted improperly in opposing the Farmers Plan and committing direct vote tampering, which includes but is not necessarily limited to:

- Intentionally misleading Members as to the terms and conditions of the Board's Plan by (i) failing and refusing to mail a copy of the entire plan and balance sheet to the Members and (ii) when posting the plan on the Association website, intentionally omitting page 4 of the plan (the Balance Sheet);
- Failing to disclose all of and attempting to hide Association's assets on the page 4 of the Board's Plan (the Balance Sheet);
- Adopting a motion authorizing the Association to oppose the Farmers Plan, including spending Association assets to do so;
- Hand-selecting farmers to certify their membership on or before March 1st and soliciting their votes against the Farmers Plan (in at least one case promising that they would receive \$3,750.00 under the Board's Plan), while failing to inform other farmers in their district and the entire mailing list/eligible farmers of that purported deadline;

Billings Law Firm,^{PLLC}

Mr. Al Pedigo, President
April 13, 2020
Page 12

- Willfully refusing to send out the Notice of Special Meeting and other materials specified in the petition, although they were purposely written in a neutral manner so as not to favor any side;
- Sending out a different Notice of Special Meeting containing a self-serving statement of the Board's position and misinformation about the Farmers' Plan;
- Spending Association assets to send communications to Members containing misinformation regarding the contents and proponents of the Farmers Plan, the cost of dissolution under it, the provisions of the Board's Plan, or the consequence of the vote scheduled for April 8, 2020;
- Spending Association assets to hire a marketing firm to perpetuate such misinformation in newspapers and radio;
- Sending directors and employees to sponsor and attend public meetings to oppose the Farmers Plan, during which they misinformed attendees about the contents and costs of dissolution under the Farmers Plan versus the Board's Plan;
- Spending Association assets to reproduce and disseminate proxy ballots mischaracterizing the contents and costs under the Farmers Plan;
- Failing to inform Members of the *Haynes* lawsuit and its potential effect on both the Farmers Plan and the Board's Plan, including your misrepresentation to over a hundred farmers that no lawsuit had been filed;
- Refusing to provide inspection of proxy ballots in the possession of the Association and/or directors, claiming that they are either not "books and records" of the Association or that they are "not final", while yet, claiming in the *Haynes* lawsuit, in the recent motion to stay, that other documents and records sought by the plaintiffs in that lawsuit by subpoena and served on the directors are, in fact, Association records; and,
- Willfully refusing to accept February 9, 2010 as the record date for the Special Meeting, despite the statutory requirements set forth in KRS 271B.7-050(4) and KRS 272.341.

The Association, in correspondence, has sought to distance itself from these acts, claiming they are only being done by certain directors and that individual directors, as Members, are free to oppose the Farmers Plan and solicit votes. But your fiduciary duties prevent you and the other directors from communicating with members in a way that is incomplete, slanted, misleading, or

Billings Law Firm,^{PLC}

Mr. Al Pedigo, President
April 13, 2020
Page 13

fails to disclose management's motive in taking your position. This constitutes further breaches that must be immediately addressed.

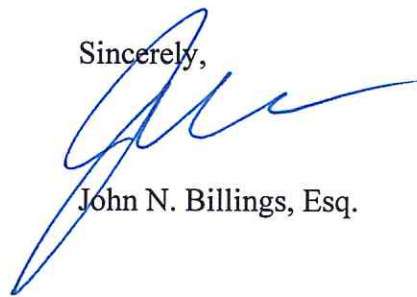
E. Failing to re-schedule the special meeting.

Finally, the petition called for a special meeting on April 8, 2020 to vote on dissolution. Given the spread of the coronavirus, the decision was made to postpone the meeting. However, the Board has failed and refused to re-schedule the special meeting for a suitable date, which it has no right to do under Kentucky law.

After speaking with the Association's counsel, it has become apparent that the Board is attempting to use public health concerns to put off a vote indefinitely, while at the same time wasting Association assets soliciting votes against the Farmers Plan, carrying out the Board's Plan (despite the Court's ruling), and litigating in a vein effort to dismiss the *Haynes* case. But KRS 272.161 states that the Board has a duty to schedule the special meeting and every day its directors fail to do so is another breach of fiduciary, which must now be remedied.

In the interest of time, we request that the Association respond to this letter, in writing, and confirm its intent to investigate and pursue these claims against the directors and officer by close of business on May 1, 2020. We further request that the Association report this letter to its carrier and provide it directly to the directors and officers as well. We further request that the directors and officers be instructed to report this claim to their individual, personal insurance carriers, and to preserve all records in their possession related in any way to the Association and their offices. We appreciate your cooperation.

Sincerely,



John N. Billings, Esq.

Encl.

Cc: Jaron P. Blandford, Esq.
Robert E. Maclin, III, Esq.

000062 of 000132
E34F2112B4F2A8C44C E6A9A06E77A73E0H3ARA : 000062 of 000132

Vincent Riggs, Fayette Circuit Clerk

05/05/2020

20-CI-00332

Filed

AMC : 000062 of 000129

TAB A HAS BEEN INTENTIONALLY REMOVED AND RE-ATTACHED AS EXHIBIT C
TO THE THIRD AMENDED COMPLAINT TO ELIMINATE DUPLICATIVE EXHIBITS.

BURLEY TOBACCO GROWERS CO-OPERATIVE ASSOCIATION
EXECUTIVE COMMITTEE PROPOSAL TO MAKE DISTRIBUTION TO MEMBERS
(PRESENT AND WITHIN PAST FIVE YEARS)

In response to direction from the Board, the Executive Committee has discussed a distribution of Association assets to Members and conferred with the Association's auditor, tax accountants and legal counsel. The Executive Committee recommends the following proposal for full Board consideration:

1. Reduce the current Reserve to facilitate a distribution and retain \$3,500,000 in assets for future operations.
2. Implement the orderly liquidation of most of the Association's assets in the following sequence and manner to fund distributions to all present and past Members (2015-2019) on a per capita basis:
 - (a) Meet immediately with Wells Fargo Bank, Nashville, Tennessee loan officer and investment advisors to plan for the orderly liquidation of the Association's investment portfolio at Wells Fargo (Jan. 31, 2020 approximate value \$26,403,547) and pay off line of credit of \$9,655,000. From the resulting net cash and existing bank accounts, prepare to distribute approximately \$15,000,000 by Dec. 31, 2020. See attached unaudited Balance Sheet Summary.
 - (b) Engage present auditor or tax accountants as necessary to calculate and assist in sending distributions to Members.



- (c) Remaining cash to be held for Operating Reserve.
- (d) Board of Directors to determine sequence and timing of downsizing and reduction in operating expenses as feasible, including fair and reasonable severance pay.
- (e) Commit net sale proceeds of all Tobacco inventory (currently approximately 4.1 million pounds, with book value of \$13,122,515) to be distributed to Members per capita at the end of each year as sold, not later than Dec. 31, 2023.
- (f) Certain excluded assets are restricted and cannot be distributed: endowment for grants and scholarships of approximately \$417,112; Danny McKinney life insurance securing deferred compensation contractual liability; preferred stock in AWMA and investments in BCMC and USGTC.
- (g) Not later than December 31, 2020, either contact University of Kentucky to negotiate possible sale, or engage realtor to list Headquarters building at 620 S. Broadway for sale and identify other office space for lease.
- (h) Make any final distribution of "excess" assets above \$3,500,000 by Dec. 31, 2023.
- (i) Amend Articles to modify the purposes of the Corporation to include, without limitation, advocacy for tobacco growers, support research,

education, programs and services of benefit to tobacco growers directly and in aid of their transition to other types of farming as the market for tobacco decreases; and to reduce the number of Directors to not less than 5 nor more than 15.

- (j) The Budget Committee should develop a forward-looking pro forma operating budget now for fiscal years October 1, 2020 – September 30, 2021 and 2022.

BTGCA
Unaudited Balance Sheet Summary
as of Jan. 31, 2020 YTD

Current Assets:

Bank accounts \$1,136,545

Short Term Investments 26,403,547

27,543,092

Less: Liabilities

Current Liabilities (9,980,136)

Restricted Endowment (417,112)

(10,397,248)

Net Current Assets 17,145,844

Less: Operating Capital (2 years minimum)) (1,573,420)

15,572,424

Less: Reserve for Legal and Professional Fees, (572,424)

Severance pay and other non-recurring
Expenses.

Available for Distribution to Members:

1) Cash Distribution to Members by Dec. 31, 2020 15,000,000
(No guarantee of Investment liquidation values)

2) Tobacco Inventory Sales Proceeds 13,122,515
(Book value) payable to Members each Dec. 31, 2020-23

3) Additional Final Distribution (net above \$3.5 million) ?
by Dec. 31 of the year after all Tobacco and Building are
sold



GENAMERA
industrial hemp

2019 HEMP PURCHASE & MARKETING AGREEMENT

This HEMP PURCHASE & MARKETING AGREEMENT ("Agreement") is made and entered into between GENAMERA L.L.C., a Tennessee limited liability company having its principal place of business at 835 Bill Jones Industrial Drive, Springfield, Tennessee 37172 (the "Company"), and BURLEY TOBACCO GROWERS COOPERATIVE ASSOCIATION, a Kentucky agricultural cooperative having its principal place of business at 620 South Broadway, Lexington, Kentucky 40508 ("BTGCA") (collectively, the "Parties"). This Agreement shall be effective as of the latest date on which a party hereto executes said Agreement (the "Effective Date").

RECITALS

WHEREAS, the Company and its affiliates are licensed by the State of Tennessee to engage in growing and processing industrial hemp for commercial purposes; and

WHEREAS, BTGCA desires to expand opportunities for Kentucky-based growers of hemp biomass to participate in the commercial market for industrial hemp products and byproducts and has set aside and committed [REDACTED] of its cash reserves for that purpose and the performance of this Agreement.

NOW, THEREFORE, the Company and BTGCA agree as follows:

1. **Term of the Agreement.** This Agreement shall remain in full force and effect until June 30, 2020 or until all hemp biomass not purchased from BTGCA by the Company pursuant to Paragraph 7 is processed and sold and the proceeds are distributed pursuant to Paragraph 8, whichever occurs last, unless terminated earlier via an agreement in writing to that effect signed by both Parties.

2. **Funding Obligations by BTGCA.** For purposes of this Agreement and to facilitate the purchase of [REDACTED] pounds of hemp biomass from Kentucky-based growers by the Company for hemp grown during the 2019 growing season, BTGCA will set aside and commit up to [REDACTED] of its cash reserves.

3. **Payment Obligations by BTGCA.** Within ten (10) business days of presentment by the Company to BTGCA of invoices reflecting the Company's purchases of hemp biomass from Kentucky-based growers for hemp grown during the 2019 growing season, BTGCA shall pay the Company [REDACTED] for each pound of such hemp biomass, up to [REDACTED] pounds.

4. **Purchase Obligations of the Company.** For purposes of this Agreement and to facilitate the purchase of [REDACTED] pounds of hemp biomass from Kentucky-based growers by the Company during the 2019 growing season, the Company will separately contract with Kentucky-based growers to produce industrial hemp in a manner that fully complies with applicable state and federal laws pursuant to contracts substantially in the form of Exhibit A attached hereto and incorporated

Page 1 of 4

EXHIBIT

TAB C

herein by reference. The Company shall assist such growers with their industrial hemp-related production efforts, and such assistance shall include supplying the growers with female clone hemp plants and other related production support. The Parties agree that purchase of any hemp biomass from Kentucky-based growers in connection with this Agreement shall be at the Company's sole discretion. The Parties agree that purchase of any hemp biomass from Kentucky-based growers by the Company in connection with this Agreement shall be on terms and conditions to be set by the Company in its sole discretion.

5. **Storage Obligations of the Company.** Hemp biomass purchased from Kentucky-based growers by the Company in connection with this Agreement shall be stored in a secure and insured warehouse owned or operated by the Company or its corporate affiliates. Costs of such storage and any related insurance shall be the sole responsibility of the Company. While storing such hemp biomass, the Company shall use commercially reasonable efforts to protect the hemp biomass against risk of loss. In the event of an uninsured loss of such hemp biomass, BTGCA shall bear the cost of such loss over [REDACTED] unless such loss is caused by the negligence or willful misconduct of the Company, in which case the Company shall bear the entire cost of such loss.

6. **Ownership of Hemp Biomass.** The Company's ownership and title to hemp biomass purchased from Kentucky-based growers in connection with this Agreement shall be as provided for in the Company's separate contract(s) with such growers. Ownership and title to such hemp biomass shall pass to BTGCA immediately upon receipt of payment by the Company for such hemp biomass as provided for in Paragraph 2 above. Hemp biomass purchased by BTGCA pursuant to Paragraph 2 above shall be clearly identified by the Company as belonging to BTGCA and stored separately from other hemp biomass owned or stored by the Company. In the event of an uninsured loss of hemp biomass owned by BTGCA, BTGCA shall bear the cost of such loss over [REDACTED] unless such loss is caused by the negligence or willful misconduct of the Company, in which case the Company shall bear the entire cost of such loss. To secure BTGCA's ownership and title to hemp biomass stored by the Company, the Company hereby grants to BTGCA a security interest in such hemp biomass and all farm products and proceeds thereof, and authorizes BTGCA to file a UCC-1 financing statement and take other reasonable actions to perfect such security interest.

7. **Right of First Refusal.** From the Effective Date through and including March 31, 2020, BTGCA grants to the Company an unconditional and irrevocable Right of First Refusal ("ROFR") to purchase at a rate of [REDACTED] per pound all or any portion of hemp biomass acquired by BTGCA in connection with this Agreement. At any time and from time to time from the Effective Date through and including March 31, 2020, the Company may exercise the ROFR by timely sending BTGCA (a) written notice of the Company's intention to exercise the ROFR, which notice shall include the amount of hemp biomass being purchased by the Company, and (b) payment for such hemp biomass. Ownership and title to such hemp biomass purchased by the Company pursuant to this Paragraph 7 shall pass to the Company immediately upon BTGCA's receipt of such notice and payment.

8. **Additional Processing.** The Parties agree that any hemp biomass not purchased from BTGCA by the Company pursuant to Paragraph 7 shall be placed with Genamera Extracts, L.L.C., a Tennessee limited liability company with its principal place of business at 835 Bill Jones Industrial Drive, Springfield, Tennessee 37172 (the "Extractor") for additional processing. The Company will be responsible for all costs related to such additional processing by the Extractor. The Parties further agree that the proceeds net of costs (excluding costs related to such additional processing) from the sale of any extracts derived from such additional processing by the Extractor will be shared equally.

9. **Exclusivity.** In exchange for the other covenants and promises herein, valuable consideration for which is hereby acknowledged, BTGCA agrees that for a period from the date hereof through December 31, 2019, it will not directly or indirectly solicit or initiate any negotiations or discussions or enter into any arrangement, transaction or commitment with a third-party (whether binding or not) that is in conflict with the arrangement contemplated in this Agreement.

10. **Confidentiality.** All documents and information obtained by the Parties in connection with this Agreement shall be kept confidential between the Parties. The Parties further understand and agree that this confidentiality provision is a material consideration and moving inducement to their decisions, respectively, to enter into this Agreement, and they agree that any failure to abide by this confidentiality provision constitutes a breach of this Agreement for which a party may take appropriate legal action. The Parties agree that injunctive relief may be the only adequate remedy for a breach of this confidentiality provision. Notwithstanding the foregoing, however, the Parties may: (a) disclose documents and information obtained in connection with the this Agreement to their respective attorney(s), accountant(s) or other professional financial advisor(s) as is reasonably necessary for the conduct of their business and/or financial affairs; and (b) disclose the terms of this Agreement to the extent they are required to do so by law.

In circumstances where information relating to the terms of this Agreement is requested by legal process, the party who is in receipt of the request shall notify the other party of the request within a sufficient time as is practicable so as to allow for objections to its disclosure, and each shall cooperate with the other party in taking reasonable measures to protect the requested information from disclosure and/or to limit the manner and extent to which the information is disclosed.

The Parties agree that the obligations contained in this Paragraph 10 shall survive the expiration or termination of this Agreement.

11. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, but all of which together will constitute one instrument.

12. **Capacity & Authority.** Each signatory to this Agreement represents and warrants that he or she has the full right, power, authority and capacity to enter into this Agreement, and that this Agreement constitutes a legal and binding contract that is enforceable in accordance with its terms.

13. **Independent Contractors.** The relationship of the Parties is that of independent contractors, and neither Party will incur any debts or make any commitments for the other party. Nothing in this Agreement is intended to create or will be alleged or construed as creating between the Parties the relationship of joint venturers, co-partners, employer and employee or principal and agent.

13. **Successors & Assigns.** This Agreement shall be binding on the Parties and their respective successors and assigns.

14. **Governing Law & Dispute Resolution.** This Agreement shall be governed by the laws of the State of Tennessee without regard to the conflicts of laws principles. In the event of any breach, dispute, claim, or disagreement arising from or relating to this Agreement, the Parties have agreed to use their best efforts to settle the dispute, claim or disagreement; they will consult and negotiate with one another in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If the Parties are unable to reach a mutually agreeable resolution within sixty (60) days, then, with notice by either Party to the other, the dispute, claim or disagreement will be finally settled by arbitration in Nashville, Tennessee, and administered by the American Arbitration Association in accordance with the provisions of its Commercial

Page 3 of 4

Vincent Riggs, Fayette Circuit Clerk

05/05/2020

20-CI-00332

Filed

AMC : 000069 of 000129

EB47312NBA7287C-44C7E0A9406E77A733E0E134A : 000069 of 000132

Arbitration Rules.

15. **Waiver.** No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent shall be in writing, expressly stating that the writing is a "waiver" or "consent", and signed by the other party claimed to have waived or consented. No previous waiver shall be construed to be a waiver of any right or obligation unless expressly so stated in writing.

16. **Severability / Survival.** Any invalidity of provisions of this Agreement shall not affect the validity of any other of its provisions. The provisions of any other term or provision that by its nature survives the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement and continue to be binding.

17. **Entire Agreement.** This Agreement represents the full and complete agreement of the Parties with regard to the matters discussed herein, and neither Party is relying on any other representation, agreement or understanding not stated in this Agreement, and all such other representations, agreements or understandings, if any, are superseded by this Agreement. No modification of this Agreement shall be effective unless in writing and signed by both Parties.

18. **No Construction Against Drafter.** The Parties acknowledge that they have each had the opportunity to participate in negotiating the terms of this Agreement and the language incorporating those terms into this Agreement. In the event that an ambiguity or question of intent, construction or interpretation of this Agreement arises, this Agreement shall be deemed to have been drafted jointly by the Parties, and any rule or presumption of proof that a document shall be interpreted against the drafter shall not apply.

IN WITNESS WHEREOF, the Parties have entered into this Agreement on the date(s) indicated below.

GENAMERA, L.L.C.

By: Title: CEODate: 6/27/19BURLEY TOBACCO GROWERS
COOPERATIVE ASSOCIATIONBy: Title: General ManagerDate: 6.27.190141310.0716745 4837-1272-6167v2
26589824.1

Burley Tobacco Growers Cooperative Association

2018 Operational Review



Conducted by:
The Kentucky Center for Agriculture and Rural Development



and
The Center for Cooperatives in the College of Food, Agricultural,
and Environmental Sciences at The Ohio State University

EXHIBIT C



Table of Contents

Executive Summary	1
Methodology	3
Burley Tobacco Market Analysis	5
Burley Tobacco Producer Survey	7
Interview Summaries	15
Review of the Bylaws	17
Burley Stabilization Corporation	21
Financial Analysis	23
Review of Key Findings	24
SWOT Analysis	29
Next Steps to Consider	31
Appendix A: References	33
Appendix B: Financial Statements	35
Appendix C: Burley Tobacco Producer Survey with Tabulated Results	39
Appendix D: Map of Burley Tobacco Producers by County	55



List of Figures:

Figure 1: US Burley Production vs Disappearance	5
Figure 2: Location of Burley Co-op Contract Producers	7
Figure 3: Age Group for Non-contract Producers	8
Figure 4: Age Group for Contract Producers	8
Figure 5: Do you have a Burley Tobacco marketing contract with a tobacco company other than the Burley Co-op? (Contract Producers)	10
Figure 6: What is your overall impression of the Burley Co-op?	11
Figure 7: How well is the Burley Co-op serving your needs as a Burley tobacco producer?	11
Figure 8: Please indicate the services that would be beneficial for your farm if the Burley Co-op offered them	12
Figure 9: Burley Co-op's Total Equity (2013-2018)	23
Figure 10: Inventory and Operating Loan Amounts (2013-2018)	24
Figure 11: Tobacco Inventory Measures	25
Figure 12: Debt Ratios (2013 - 2018)	26
Figure D.1: Number of Burley Tobacco Producers Who Reported Tobacco Production to the Farm Services Agency (FSA) by County	55

List of Tables:

Table 1: Number of Acres of Burley Tobacco Grown in 2018	9
Table 2: Respondents who Plan to Increase Burley Production in the Next 3-5 Years	9
Table 3: Average Tobacco Sales and Expenses (2014-2018)	24
Table 4: SWOT Analysis Summary	29
Table B.1: Balance Sheets for Burley Co-Op (2013-2018)	35
Table B.2: Income Statements for Burley Co-Op (2014-2018)	36
Table B.3: Financial Measures	37



Executive Summary

The Burley Tobacco Growers Cooperative Association provides marketing support for burley tobacco grower-members in five states. Founded in 1921, the organization has withstood significant change within the sector as the quota system declined, the tobacco buy-out passed, and tobacco companies contracted production directly with farmers and transitioned some of their purchases to overseas producers. While the cooperative's operations have changed over the years in response to the changes in the industry, it continues to consider whether its current positioning is best for its farmer-members and is seeking guidance on this question.

In the summer of 2018, the Burley Co-op asked the Kentucky Center for Agriculture and Rural Development (KCARD) to analyze the cooperative's organization and financial health along with investigating how it can best serve its members going forward. With collaboration from the Center for Cooperatives at The Ohio State University, KCARD agreed to investigate the following key questions:

- 1) What do the cooperative's producer-members need from the cooperative?
- 2) How does the board and its producer-members view the cooperative's functions?
- 3) What is going on in the industry that affects the cooperative's future?
- 4) How is the cooperative's financial health?
- 5) How are other similarly situated organizations handling the change in the industry?
- 6) What is a path forward for the organization and the board?

Through its analysis, the project team from KCARD and the Center for Cooperatives at Ohio State University identified several key findings that the co-op's board of directors need to consider as it moves forward:

- Misconceptions with regards to the members contracting with the Burley Co-op and the role of the board need to be addressed. One misconception is that the majority of the producers with a contract with the Burley Co-op cannot get a contract with another tobacco company. The results of the producer survey show that over 62% of the producers with a contract with the co-op have at least one other contract with another tobacco company. Second, many board members indicated to the project team that they do not have a contract with the co-op because they feel it is a conflict of interest. This is not a conflict of interest. In fact, one of the widely agreed upon responsibilities of a co-op board member is to patronize the co-op (Zeuli, 2004).
- Financial performance and health of the co-op has declined in recent years. The co-op's inventory measures show that it has only sold a small fraction of the tobacco that it has purchased over the last five years. As a result, the value of the co-op's inventory has increased by approximately \$16 million since 2013, and the amount of operating loans has increased by almost \$14 million in that same time. Finally, the net worth of the co-op has declined by approximately \$2.5 million since 2014.



- Labor issues are the key challenge facing the burley tobacco producer. Many producers indicated that H2A labor is the only reliable source of labor. They also indicated that the costs of the H2A program continue to increase, and these increasing costs have reduced the profitability of burley tobacco production.
- No organization is effectively taking the lead on addressing issues facing the burley tobacco grower. The Burley Co-op used to serve in this capacity, but the co-op has not filled this role since the buy-out.
- The Burley Co-op Board faces several issues that are hindering its ability to be effective:
 - o Size of the board
 - o Lack of effective communication
 - o Lack of board training
 - o No unified purpose and sense of identity
 - o Fear of lawsuits
- Finally, the Burley Co-op is not acting as a cooperative in many aspects. The project team found that the co-op does not maintain any membership equity accounts and thus income has not been allocated to its members. The co-op does not have consistent, effective communication with its members. The Burley Co-op appears to be more board-centered than member-focused based on its lack of communication between itself and members and its decisions to protect the status quo and their positions on the board. Finally, there are missing elements from the bylaws that are important for cooperatives, such as articles on operating at cost, apportionment of net proceeds, equity records, patronage refunds and reserves, and dissolution procedures.

Part of the rationale for the Burley Co-op undertaking this project was to determine what other activities the organization should be performing on behalf of its members. While this project explored that question and provides input on that question from tobacco producers, ultimately, the Burley Co-op cannot answer questions about what path it needs to take going forward without addressing a core question: In 2019 and beyond, who does the Burley Co-op exist to serve and how is that group of producers represented in the Burley Co-op's membership?

While this question appears to have been discussed many times prior, the results of this project suggest that it has never been resolved by the board. Without resolution of this fundamental issue, the Burley Co-op cannot effectively serve a meaningful role in the industry for burley tobacco producers.



Methodology

The Kentucky Center for Agriculture and Rural Development (KCARD) and the Center for Cooperatives in the College of Food, Agricultural, and Environmental Sciences at The Ohio State University worked together to conduct a review and analysis of the Burley Tobacco Growers Cooperative Association.

The project team surveyed burley tobacco producers in Kentucky, Ohio, Indiana, Missouri, and West Virginia. Surveys were mailed to 250 burley tobacco producers who currently have a contract with the Burley Co-op, and surveys were mailed to 250 burley tobacco producers who were randomly selected from the USDA Farm Service Agency (FSA) list of active burley tobacco producers that the Burley Co-op provided the project team.

The project team used the tobacco producer contact data provided by the Burley Co-op to create two maps. One map shows the location of each producer who has a contract with the Burley Co-op. The second map, which can be found in the Appendix, uses the FSA list to show the number of burley tobacco producers by county. NOTE: The data on producers obtained from the Farm Service Agency (FSA) appears to have significant gaps/errors. The Burley Co-op receives this data from FSA by requesting a list of all burley tobacco producers who indicated burley production on their Form 578. However, producers who are not participating in other government programs or purchasing crop insurance may not fill out this form, resulting in underreporting. Additionally, the list appears to be missing several individuals who are raising burley tobacco and would have likely filled out this form.

The project team conducted over 40 interviews either in person or over the phone to gain insights into the Burley Co-op, trends in the tobacco industry, and challenges faced by tobacco producers. The project team interviewed representatives from other tobacco organizations, University of Kentucky, and Kentucky Farm Bureau Federation, 10 Burley Co-op board members, 22 burley tobacco producers, and employees for the Burley Co-op.

The project team reviewed organizational documents for the Burley Co-op, including the articles of incorporation and bylaws, and identified areas in the bylaws that need to be addressed. The project team reviewed and analyzed financial records for the Burley Co-op for the last 5 years and highlighted key findings and areas of concern.

From its analysis, the project team developed a summary of the strengths, weaknesses, opportunities, and threats for the Burley Co-op. Finally, the team developed possible actions for the board to consider in addressing the key issues identified facing the co-op.



E34H2112B4F28C-44C E6A9406H77A33CE0H3RA : 000079 of 000132

AMC : 000079 of 000129



Burley Tobacco Market Analysis

The current tobacco market is shaped by three major factors: burley use trends, burley production trends, and new smoking alternatives and their nicotine sources.

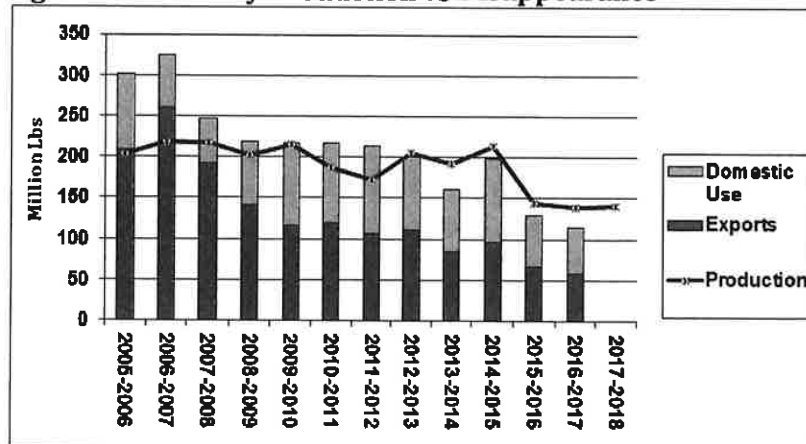
Burley Use Trends

Cigarette use is decreasing in the United States. As a result, US cigarette production decreased 9.1% in 2017, the largest single year decline since 2009. In 2004, the US produced just over 500 billion cigarettes, of which about 390 billion were for domestic consumption and the remainder were exported. In 2017, around 260 billion pieces were produced with around 250 billion for domestic consumption. As cigarette numbers are decreasing, over 60% of US cigarettes are made with imported burley tobacco (Snell, 2018).

With cigarette exports decreasing over the last 13 years, so have loose leaf exports. In 2017, leaf exports were down 19.2% from the previous year (Snell, 2018). The global consumption of American Blended cigarettes is decreasing (Pearce, 2018), but at a slower rate than US leaf exports, going from 1.6 trillion in 2011 to 1.45 trillion in 2015 (Snell, 2018).

US burley demand includes both domestic use and exports. For 2018, approximately 50 million pounds are forecast for domestic use and 60 million pounds for export, bringing total US burley demand to 110 million pounds. There are currently 3,000 plus burley producers in the US, with an average size of 25 acres. The current US burley needs could easily be met with 1,000 50-acre growers or 2,000 25-acre growers. Figure 1 below gives a quick reference to the relationship between burley demand and production (Snell, 2018).

Figure 1: US Burley Production vs Disappearance



Source: NASS/ERS/AMS, UK estimate for 2016-2017



Burley Production Trends

Burley contract volume decreased 15% for the 2018 growing season, due to the decline in US cigarette production, slumping leaf exports, and increased use of imported leaf. A 15% drop in US burley acres would yield 140 million pounds of tobacco, based on historic yields, in 2018. This would still be more than the 110-million-pound demand forecasted (Burdine, 2018). However, extreme weather conditions that many burley producers endured this fall will likely lead to significantly less total production in 2018.

The average US burley price was \$1.92 per pound in 2016 and up to \$1.99 per pound in 2018, but still below the \$2.00 per pound pre-buyout price. While the price has increased since the first year after the 2004 buyout, yield has been on a slow, steady decline. The expenses to grow a crop have also gone up. Assuming tobacco labor is provided by H2A workers, labor rates have increased from \$7.63 per hour in 2004 to currently \$11.19 per hour in 2018. Fertilizer prices have increased 58% since 2004 and chemical costs have increased 44% in the same time frame (Snell, 2018).

The remaining manufacturers offering contracts to US burley growers are: Altria (Philip Morris USA), Philip Morris International (PMI) and Universal Leaf (buying agent), Japan Tobacco International (JTI), and RJ Reynolds/British American Tobacco. There are still three tobacco auction markets left in Kentucky and there are still a few private buyers, but handle minimal amounts.

Alternatives to Smoking

In recent years, several alternatives to smoking have been introduced into the marketplace. Alternatives include e-cigarettes, vapors, and other reduced risk products. In 2017, the combined e-cigarette and vapor market was worth \$4.4 billion in the US. E-cigarettes comprised \$1.4 billion of that market, being sold in equal amounts via convenience, food, and drug stores and online retailers. Vapors are a \$3.0 billion market and are primarily sold in vape shops, with online retailers and convenience, food, and drug stores following behind (Herzog, 2018).

Tobacco companies, such as Philip Morris, are releasing heat not burn tobacco products. The products come with claims that the devices will save lives, as smoking releases carcinogens, but heat not burn only deals with nicotine. Until recently, e-cigarettes were not governed by the FDA. With recent studies indicating sharp increases in teen use of reduced risk products, alternatives are coming under greater scrutiny (Belluz, 2018).



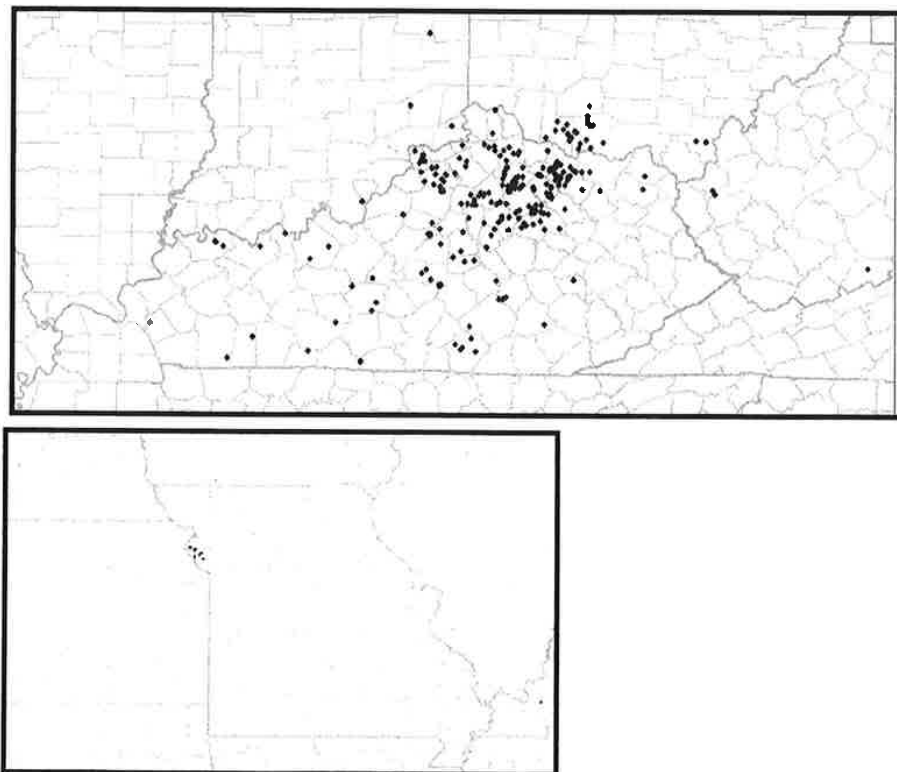
Burley Tobacco Producer Survey

The project team from KCARD and the Center for Cooperatives at Ohio State University surveyed burley tobacco producers from Kentucky, Ohio, Indiana, Missouri, and West Virginia (A copy of the survey with tabulated results can be found in Appendix C). The project team mailed surveys to all the tobacco producers who currently have a contract with the Burley Co-op, and the project team mailed surveys to 250 burley tobacco producers who were randomly selected from the Farm Service Agency's (FSA) list of active burley tobacco producers that the Burley Co-op provided to the project team.

NOTE: While discussing the results of the survey, the term "Contract Producers" will refer to those who have a contract with the Burley Co-op, and the term "Non-contract Producers" will refer to those producers who do not have a contract with the Burley Co-op.

The maps in Figure 2 show where the producers with contracts with Burley Co-op are located. The map shows that most of the producers are located in Kentucky, and they are primarily clustered in north central Kentucky, mainly north of Lexington.

Figure 2: Location of Burley Co-op Contract Producers



The project team received responses from 139 producers: 81 contract producers and 58 non-contract producers. As relates to geographic representation, responses were received from 124 producers from Kentucky located in 51 different counties across the state. In addition, 8 Ohio producers, 4 Indiana producers, and 3 Missouri producers completed the survey.



The majority of both the contract and non-contract growers who responded are over the age of 50 with 27 producers over the age of 70. However, there were more survey respondents under the age of 39 in the contract producer group than non-contract producers. In fact, all of the respondents under the age of 30 were contract producers as shown in Figures 3 and 4 below.

Figure 3: Age Group for Non-contract Producers

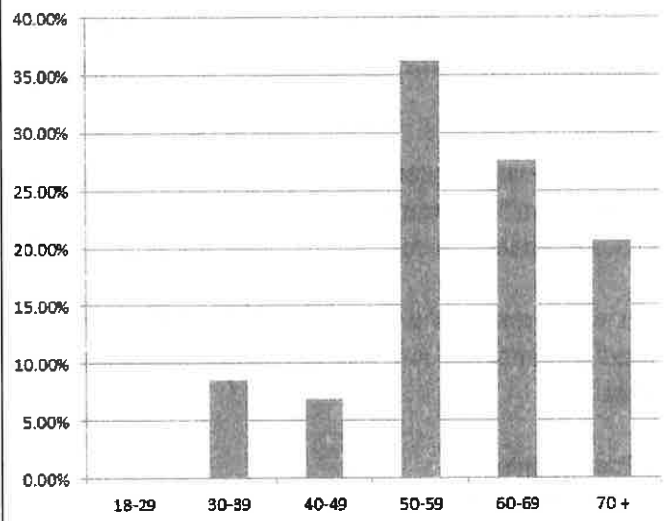
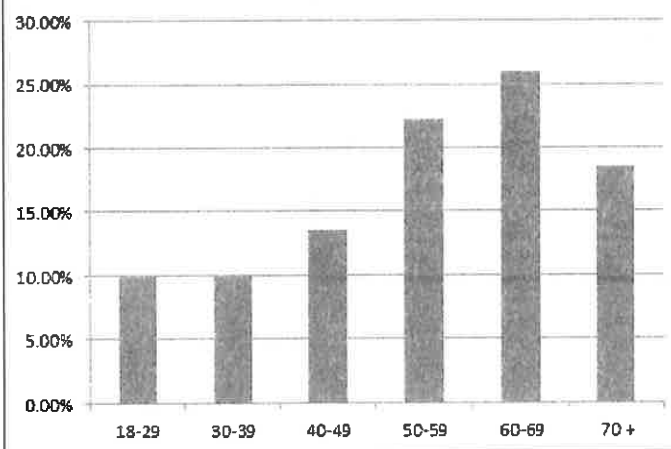


Figure 4: Age Group for Contract Producers



Over 94% of the respondents grew burley tobacco in 2018. As shown in Table 1, over half (58%) of the growers raised 20 acres or less in 2018. The survey results show that the average size of the non-contract producer is larger than the contract producer with an average of 38.7 acres compared to 20.1 for contract producers. The survey showed that most tobacco producers have been raising tobacco for a number of years. Over half, or 58%, of both contract and non-contract growers indicated that they had been raising burley tobacco for over 30 years.

**Table 1: Number of Acres of Burley Tobacco Grown in 2018**

Acres	Total # of Producers	Contract Producers	Non-contract Producers
1-4.9	29	22	7
5-9	20	10	10
10-14	20	12	8
15-19	12	7	5
20-29	17	14	3
30-39	10	5	5
40-49	6	2	4
50-99	10	5	5
100-249	5	2	3
250+	1	0	1
<i>Average</i>	<i>27.4</i>	<i>20.1</i>	<i>38.7</i>

Respondents also reported that they raised other crops and livestock in 2018 other than burley tobacco. Almost three-fourths (73%) of contract and non-contract of growers reported having beef cattle in 2018 with 47% of respondents also raising corn. Forty percent of the respondents reported raising soybeans, and 20% of respondents indicated that they raised wheat in 2018. Only 10 respondents, or 7%, said they raised dark tobacco in 2018, and 8 of these producers were non-contract producers.

When asked if they plan to increase the number of acres of burley tobacco raised in the next 3-5 years, 80% of respondents said "no." However, a higher percentage of contract producers (22%) indicated that they plan to increase burley tobacco production than non-contract growers (7%). The project team cross-tabulated the producers who indicated that they plan to increase production with their indicated age group to see if younger producers were the ones who are planning to increase production. But as shown in Table 2, the producers who plan to increase production are relatively evenly spread out amongst each age group.

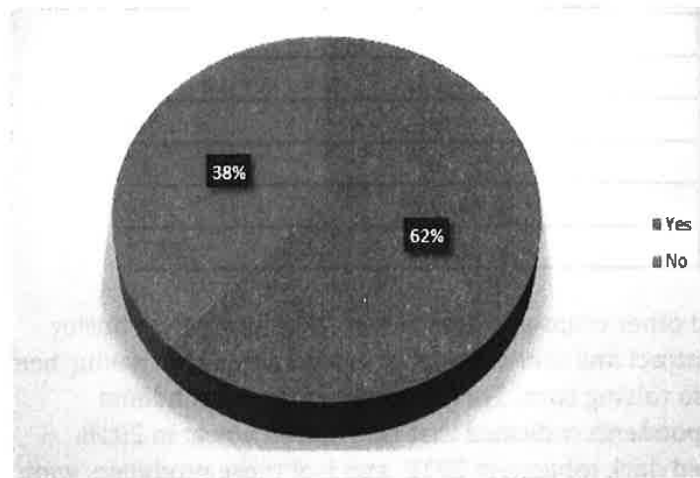
Table 2: Respondents who Plan to Increase Burley Production in the Next 3-5 Years

Age Group	Total Producers	Contract Producers	Non-Contract Producers
18-29	3	3	0
30-39	3	2	1
40-49	2	2	0
50-59	5	4	1
60-69	4	3	1
70 +	3	2	1



Over a majority of both contract producers (62%) and non-contract producers (82%) indicated that they have contracts with tobacco companies other than the Burley Co-op. The top four companies other than the Burley Co-op that respondents indicated that they had contracts with were Universal, Phillip Morris, JTI, and RJ Reynolds. Universal was listed most often by contract producers (22 responses), and Phillip Morris was indicated most often by non-contract producers (19 responses).

Figure 5: Do you have a Burley Tobacco marketing contract with a tobacco company other than the Burley Co-op? (Contract Producers)



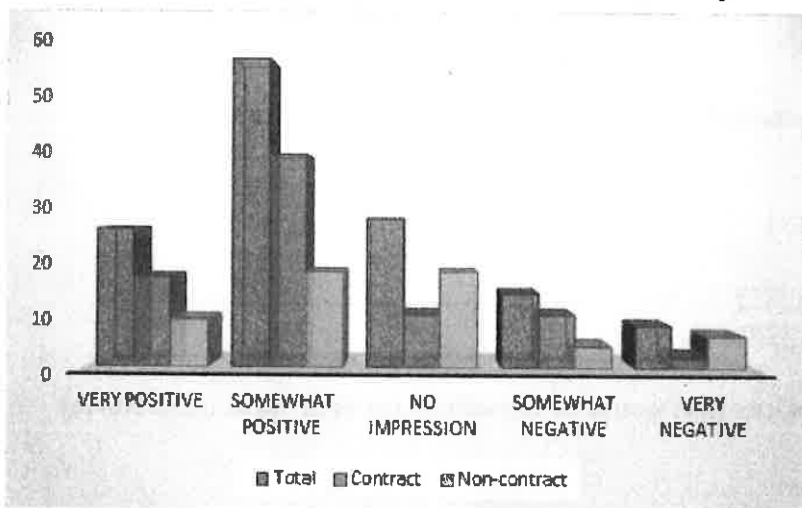
When the non-contract producers were asked why they did not have a contract with the Burley Co-op, the responses most often given were:

- Never offered a contract (15 responses).
- Have enough contracts with other companies (7 responses).
- Price is too low (6 responses).
- Distance to receiving station is too far (5 responses).



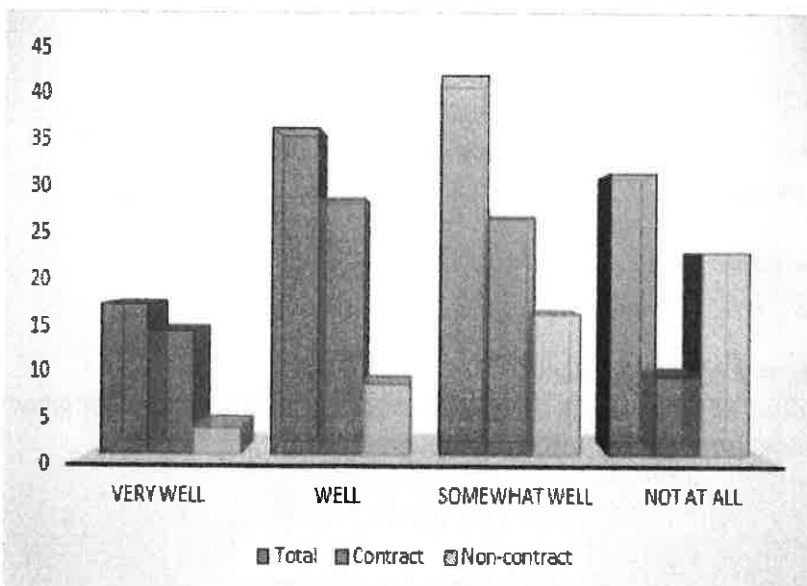
Overall, the survey respondents have a positive view of the Burley Co-op with 84 producers (60%) indicating that have either a Somewhat Positive or Very Positive view of the co-op, as shown in Figure 6. The results also show that a larger percentage of contract producers (70%) have a Somewhat or Very Positive View of the Burley Co-op than non-contract producers (47%).

Figure 6: What is your overall impression of the Burley Co-op?



When asked how well the Burley Co-op was serving their needs as a burley tobacco producer, contract producers were more positive than non-contract producers. Over a majority of the contract producers (53%) indicated the Burley Co-op served their needs Well or Very Well compared to only 18% of the non-contract producers indicating the same. Twenty-three (28%) of the non-contract producers indicated "Not at All" when asked how well the Burley Co-op serves their needs as a tobacco producer.

Figure 7: How well is the Burley Co-op serving your needs as a Burley tobacco producer?





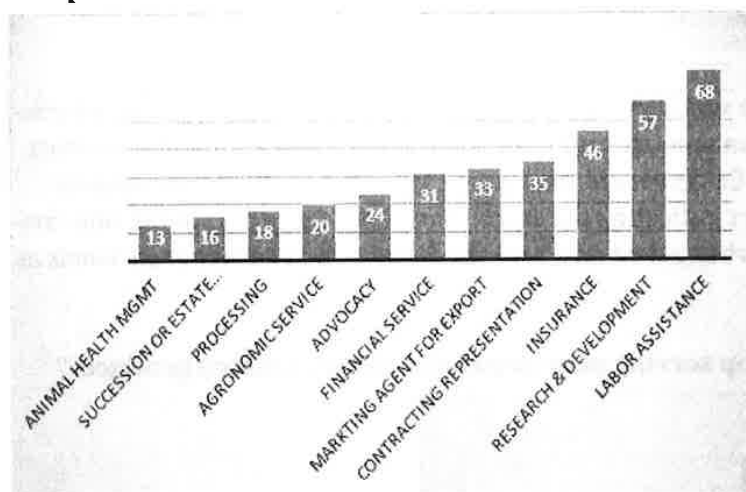
Producers in the survey indicated that the primary challenges that they face as tobacco producers include:

- Labor (H2A cost and availability)
- Low tobacco prices and marginal profitability
- Getting a contract or large enough contract
- Lack of markets and falling demand
- Uncertainty in the marketplace
- GAP and regulations

As shown in Figure 8, the five services indicated the most by the respondents that would be beneficial to their farm are:

- Labor Assistance (68)
- Research & Development (57)
- Insurance (46)
- Contracting Representation (35)
- Marketing Agent for Export (33)

Figure 8: Please indicate the services that would be beneficial for your farm if the Burley Co-op offered them.



Respondents also provided comments about services that would be beneficial to their farm. Common responses by producers include:

- **Better price support; raise price paid**
 - o Get me a minimum of \$2.25 a pound
 - o More money
 - o Be more in line with price of good tobacco
 - o Floor under every pound of tobacco, sell the stored tobacco; small farmers that grow with integrity are being dropped by contract companies



- **Help with H2A and other labor concerns:** Labor is a main concern of growers and an area that growers would like to see the Burley Co-op offer help in. First, help with H2A and "other labor concerns" are wanted. Then, advocacy is desired for change in H2A legislation for looser regulations and lower cost.
- **Be more of an advocacy group and focus on the real issues facing growers**
 - o Legislation to change rules for H2A
 - o Negotiate for looser regulations and cost of H2A
 - o Make efforts to simplify the program
 - o Help get insurance that we had before 2018
 - o Get Trump to put tariffs on foreign tobacco
- **Contract more pounds, better markets, and increased demand**
 - o Offer more contracts
 - o Continue contracts
 - o Offer no limit of pounds to grow
- **Offer loans to tobacco producers**
 - o Barn loans
 - o Crop loans
 - o Low cost loan for farmland purchases





Interview Summaries

The project team from KCARD and the Center for Cooperatives at Ohio State University interviewed 10 Burley Co-op board members and 26 stakeholders in the burley industry and asked questions related to the following:

- 1) What are the key challenges facing the burley producer?
- 2) Who is providing leadership for the industry?
- 3) What is the perception of the Burley Co-op and its marketing of tobacco?
- 4) How effective is the Burley Co-op's board of directors?

1) Key challenges facing the producer

Similar to the results of the producer survey, board members and stakeholders identified profitability of burley production as a major issue. Prices of burley remain stagnant much like prices of other agricultural commodities. However, with burley yields flat for the past 20 years, growers of burley have not seen the production gains per acre experienced by grain producers. Meanwhile, input costs have increased, squeezing producers.

In particular, labor remains an issue for the burley tobacco producer. The costs of using H2A workers and the availability of domestic workers are both major concerns facing burley growers looking to expand.

2) Leadership for the industry

Most board members and stakeholders do not feel the cooperative is taking a lead on grower issues in the industry. The loss of the federal tobacco program resulted in the loss of the major driver of tobacco markets. The cooperative used to be the voice of the grower, but now some stakeholders feel that the "co-op has isolated itself from the rest of the Kentucky agriculture."

The Council for Burley Tobacco is another voice for burley producers, but it is undergoing a similar challenge with regard to defining the most productive role for the organization in this post-post-buyout world. It has less financial resources than the cooperative and has many of the same internal divisions with regard to the best path forward.

An opportunity exists for the cooperative to serve a greater role in representing producer interests, but first the cooperative will have to define what this role looks like in practice.

3) Perception of the Burley Co-op

Within the industry, the Burley Co-op is regarded as the low-price leaf dealer. Through its interviews, the project team learned that the Burley Co-op offers the lowest contract price amongst the companies offering contracts, and the contract with the Burley Co-op is limited to 9,000 pounds. Within the board and the stakeholders, the perception is that Burley Co-op exists to serve burley producers who cannot secure marketing contracts elsewhere, typically smaller producers.



The project team learned that the current practice of the Burley Co-op is to only offer contracts to those producers who already have a contract with the Burley Co-op, but the Burley Co-op has made an effort to offer new contracts to young farmers.

However, there is concern over the cooperative's ability to market the tobacco it purchases. Many board members are concerned about contracting tobacco because the market is declining, and the cooperative owns inventory of tobacco dating back to the 2014 growing season. (NOTE: Some or all of this 2014 tobacco may have been part of a sale of tobacco that occurred during the study period, a sale that was approved by the board at a steep discount.)

However, some board members strongly believe that this is the only way that the cooperative can help farmers, and that the cooperative should not turn its back on small farmers.

Another issue that arose during the interviews was the perception that it was a conflict of interest for a board member to contract tobacco through the cooperative since the board is involved in setting the annual contract price. Aside from the conflict of interest, some board members do not contract with the cooperative because they are concerned about "taking a contract away from another producer."

4) Effectiveness of the board of directors

Several board members raised questions with regard to the size of the board and the number of meetings that the board holds every year. While board attendance is consistently high, several board members expressed concern about board members being sufficiently engaged in the discussion and indicated that there was a fair amount of apathy among board members. Additionally, some raised the issue that strong personalities on the board result in ideas being shot down and a lack of respect among board members for divergence of opinion.

Communication with members on the board's activities is an area of concern for several board members as well.

Board members as a whole raise the risk of a lawsuit more than one might expect. This could be due to the past court cases associated with the cooperative, but it does seem that this risk has been emphasized in board operations to a detrimental level. This may be detrimental since the board may not recognize that the risk of doing nothing on an issue may actually be riskier. Additionally, it appears that the board may be reluctant to seek out legal counsel to reduce this risk.



Review of the Bylaws

A cooperative's bylaws outline the structure and operating details for the business. Bylaws should include provisions regarding "broad issues of long-term significance to members" as documents that define the legal relationships between the cooperative and members as well as the cooperative and third parties (Frederick, 1995). The recent Sample Bylaws Project by the National Council of Farmer Cooperatives cites four foundational areas that a co-op's organizing documents, including bylaws, can impact:

- (1) "The cooperative's ability to claim limited immunity from antitrust laws under the Capper-Volstead Act,
- (2) The tax treatment of the cooperative's earnings under the Internal Revenue Code ... and applicable state law,
- (3) The property rights of members (and their voluntary and involuntary assignees), and
- (4) The internal governance of the cooperative" (National Council of Farmer Cooperatives, 2017).

Within this background, the project team reviewed the current bylaws of the Burley Tobacco Growers Cooperative Association with an eye toward issues that may require attention by the cooperative's directors. Please note that this information does not constitute legal advice and should not, on its own, act as the basis for decision-making for the directors, but is more appropriately used as a starting point for engaging a cooperative attorney or other legal or accounting professionals.

Membership in the Cooperative

A cooperative's membership bylaw has various implications for the cooperative, including implications under federal and state antitrust laws and state cooperative laws that define the purposes of and membership eligibility for cooperatives organized in their state (National Council of Farmer Cooperatives, 2017). Kentucky Revised Statute 272.191 describes who may become members of a Kentucky agricultural cooperative.

The Burley Co-op's bylaws currently indicate that membership in the cooperative is renewed annually through an affirmative action taken by tobacco producers – production certification to the board. The management of the co-op indicated to the project team that membership is renewed through executing a marketing contract with the co-op; notifying the cooperative via phone, email, or mail that they are actively growing burley this year; or checking a box on a ballot when they vote for directors that states they are actively growing tobacco. But the co-op never indicated whether or not the board is presented with this information.

Complicating this method of determining membership is that only certain board seats are up for election in a given year, so only tobacco producers in certain areas in any given year receive ballots and thereby have an opportunity to "check the box" of membership. Therefore, a current 2018 membership role would be overrepresented by tobacco producers in the districts where board elections occurred this year. Then, in 2019, those same individuals would likely not be part of the



membership since few people notify the co-op proactively. The project team would recommend that the co-op review all membership provisions in the bylaws and their process for maintaining active membership records. Additionally, various concepts related to membership in the cooperative are not addressed in the Burley Co-op's current bylaws.

- There is not an acceptance procedure outlined for accepting new members into the cooperative, such as board approval.
- There is not a provision detailing whether membership in the cooperative is transferable and, if so, through what process.
- There is not a provision outlining how a member can voluntarily withdraw from the cooperative.
- While Article X discusses the termination of membership in the cooperative, the bylaws give no indication of the reasons a membership can be terminated. Further, there is no separate membership agreement that would detail these reasons, as is found in other agricultural cooperatives, or any process for contesting a termination by a member. Further, existing provisions regarding membership in the Burley Co-op's bylaws are disjointed.
- In the current version of the cooperative's bylaws, provisions regarding membership are included in Article I, Article IX, and Article XI rather than in a single Article. Further, while Article X includes provisions about membership, it is also largely dedicated to the process for holding cooperative elections.
- Article XI and Article X §3(A)(6) seem to contradict one another regarding the permissibility of voting by proxy.

Considerations Not Addressed by the Burley Co-op's Bylaws

The Burley Co-op's current bylaws do not address various considerations that are typical for agricultural cooperatives and that are recommended by cooperative specialists.

Cooperatives are a unique business model, particularly in terms of their financial structure and operation. Cooperative principles, including operation at cost, are at the heart of a cooperative's financial structure and motivate the implementation of practices like patronage refunds and equity redemption. Margaret Bau, a cooperative specialist with USDA, has cited the following financial concepts as important to include in a cooperative's bylaws:

- a) "Apportionment of net proceeds (both net margins and losses).
- b) Distribution of proceeds.
- c) General policies for patronage refunds and reserves.
- d) Equity records – take this from the IRS code. Be sure to cover equity redemption for terminating members, deceased members, and unclaimed equity.
- e) Consent to patronage distributions. This phrase is critical for a co-op to remain in compliance with the IRS. . ." (Bau, n.d.).

The National Council of Farmer Cooperatives' Sample Bylaws Project includes a detailed discussion of the financial aspects of a cooperative's bylaws. The Sample Bylaws Project commentary states, "[t]he financial provisions of cooperative bylaws provide the significant



components of the contract with the members, which, in turn, provide the necessary framework supporting the calculation, payment and deduction of the patronage distribution and per-unit retain allocations" (National Council of Farmer Cooperatives, 2017).

Currently, the Burley Co-op's bylaws do not include any provisions regarding the financial structure and operation of the cooperative, including "operation on a cooperative basis," the federal income tax concept that governs Subchapter T of the Internal Revenue Service Code, which is applicable to cooperatives. Further, the bylaws do not contain related provisions such as consent to patronage distributions or the identification of the cooperative's fiscal year.

"[M]ost cooperatives feel that it is vital to the strength of the cooperative to provide indemnification to its directors, officers, employees, and agents," in order to ensure that the cooperative can engage qualified individuals (National Council of Farmer Cooperatives, 2017). Bylaws allowing for the indemnification of cooperative directors, officers, and employees address this concern. Currently, the Burley Co-op's bylaws do not address indemnification.

Provisions regarding the dissolution of the business, or the method of distributing the co-op's assets and liabilities are generally recommended by cooperative development specialists to be included in a co-op's bylaws (Bau, n.d.). Kentucky Revised State 272.325 details the dissolution procedure for Kentucky cooperatives. Currently, the Burley Co-op's bylaws do not address a dissolution procedure for the cooperative.

Miscellaneous Considerations

Article II of the Burley Co-op's current bylaws detail the governance districts for the cooperative. Given this project's review of the geographic dispersal of tobacco producers with whom the co-op contracts to market tobacco, the board may wish to re-evaluate these districts.

Article III of the Burley Co-op's current bylaws outline the powers of the board of directors. The board should check with an attorney about the limitations on their powers imposed by the purposes of the cooperative detailed in the articles of incorporation, which are all tobacco related. If the board is interested in expanding the cooperative's activities beyond tobacco related activities, they may need to explore whether the stated purposes of the Burley Co-op present issues with the expansion.

Article VI of the Burley Co-op's current bylaws provide for an Executive Committee and an Auditing Committee. Throughout the bylaws, references are made to other committees, including an Election Committee and a Credentials Committee. The board should consider whether the make-up and duties of these committees should also be discussed in the bylaws.



Resources for Cooperative Bylaws

The following resources may be helpful to cooperative officers, directors, and employees who wish to learn more about cooperative bylaws.

- [Kentucky Revised Statute Chapter 272](#) - Kentucky's statute regarding cooperatives
- [Sample Bylaws Project](#) of the National Council of Farmer Cooperatives
- [Sample Legal Documents for Cooperatives](#) by the U.S. Department of Agriculture's Rural Business Cooperative Service



Burley Stabilization Corporation

The project team reviewed the operations of the Burley Stabilization Corporation (BSC) located in Springfield, Tennessee. Established in 1953, the BSC was initially structured as a producer cooperative serving growers in Tennessee, expanding in later decades to include growers in North Carolina and Virginia. The entity currently receives and markets tobacco from 650 producers primarily located in Tennessee and Kentucky, down from 1100 growers at one point. An estimated 65% of their growers are in Kentucky.

In 2016, BSC changed its status as a producer cooperative to a nonprofit public benefit corporation under Tennessee law. Over 400 BSC members attended the meeting at which a vote was taken to execute this conversion.

BSC's mission of developing market opportunities for growers stayed the same, and oversight of its operations is still retained within a governing board of directors who employs a general manager to run the corporation. However, this change means that producers selling to the cooperative are no longer the owners of the entity and therefore are not eligible for a stake in any net proceeds resulting from the profits of the corporation. Additionally, should the entity decide to dissolve itself, it would be able to do so with a vote of the board of directors and the net assets of the corporation would be required to be provided to another nonprofit entity. In this case, it appears that BSC has designated a land-grant research university as the beneficiary of any net proceeds upon dissolution.

BSC has purchased tobacco from the Burley Co-op, and BSC's Chief Executive Officer Daniel Green previously worked for the Burley Co-op. However, BSC's presence in this study came through multiple questions posed by producers, board members, and stakeholders. Questions raised included the following:

- 1) Do both BSC and the Burley Tobacco Growers Cooperative need to exist? Would producers be better served if a merger of the entities occurred?
- 2) How does BSC market tobacco compared to the Burley Co-op?
- 3) What does the new structure of BSC mean for burley producers and the Burley Co-op?

On Question 1, many producers pointed out the need to consider merging the two burley organizations to gain efficiencies given that the challenges facing independent leaf-buyers in the marketplace.

Unfortunately, BSC does not seem to be interested in such a merger based both on comments provided by BSC and by what was reported to be BSC's historic reluctance to discuss further this option. For such a merger to come to fruition, both parties would need to feel that it was in their best interest to pool their limited resources and that such pooling would benefit the remaining burley producers in the state. Additionally, the new legal structure of BSC would likely complicate such a transaction.



On Question 2, BSC and the Burley Co-op are both small, independent leaf-dealers competing in a marketplace with buyers who are contracting directly with manufacturers. BSC currently averages receiving about 4.5 million pounds annually, though it used to be much higher – 14-15 million pounds. BSC indicates similar issues with regard to the industry: 1) continued declines in demand resulting from movement to smokefree products and 2) growers lack any certainty.

On Question 3, while the new structure of BSC may not have dramatically changed operations as seen by burley producers selling it tobacco, it did change those producers' stake in those operations. While it reduced any stake those producer-owners had in the assets or profits of the entity, it could allow BSC to operate with a wider range of operations available to it, provided that any activities are consistent with their stated mission. This may reduce the risk of future legal challenges that could be similar to those faced in the past by both BSC and the Burley Co-op related to operational decisions and whether those decisions were made with the producer interest in the cooperative in mind.

Ultimately, BSC's presence as a leaf-dealer in the same market as the Burley Co-op means it is a key competitor. The consolidation in the industry as a whole and the costs of operating two similar producer-oriented organizations raise interest in merging the organizations. However, the momentum for such a change does not appear to be high in either organization, and the change in BSC's structure raises additional questions about how such a merger could be executed, though consultation with legal experts could help resolve that should interest be there.



Financial Analysis

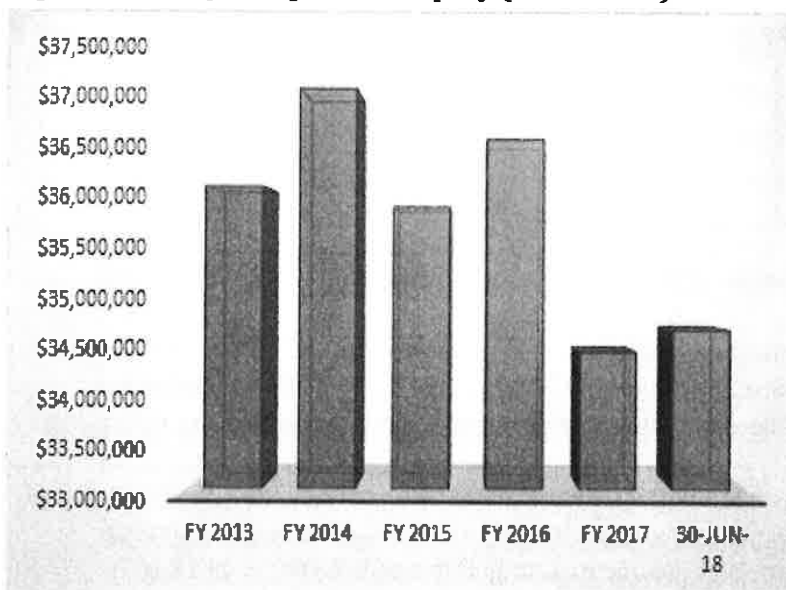
The project team from KCARD and the Center for Cooperatives at Ohio State University reviewed financial statements for the Burley Tobacco Growers Cooperative Association from fiscal years ending September 2013 through year-to-date financials as of June 2018. The information is derived from the financial reports compiled by the staff of the Burley Co-op and then provided to KCARD as requested.

Financial Statements

Accurate financial statements are critical to business owners, directors, and managers so they can make informed decisions about their business. An accurate balance sheet is important to cooperative directors and managers because it shows the financial health of a cooperative at a certain point of time by showing what the cooperative owns and owes and its net worth. It is important to periodically monitor a company's balance sheet to see how its financial health has improved or declined. Income statements, which are often referred to as operating statements or profit & loss statements, provide information on the financial performance of a cooperative over a given period. Tables B.1. and B.2. in the Appendix presents the balance sheets and income statements for the Burley Co-op from 2013 to June 2018.

Examining the financial statements for the Burley Co-op reveals that the financial health of the Burley Co-op is relatively strong, but it also shows that its financial performance and health have declined in recent years. The balance sheets show that the co-op as of June 30, 2018 had a total equity, or net worth of over \$34.6 million. But they also reveal that the co-op's equity has declined by approximately \$2.5 million since 2014, which is shown in Figure 9.

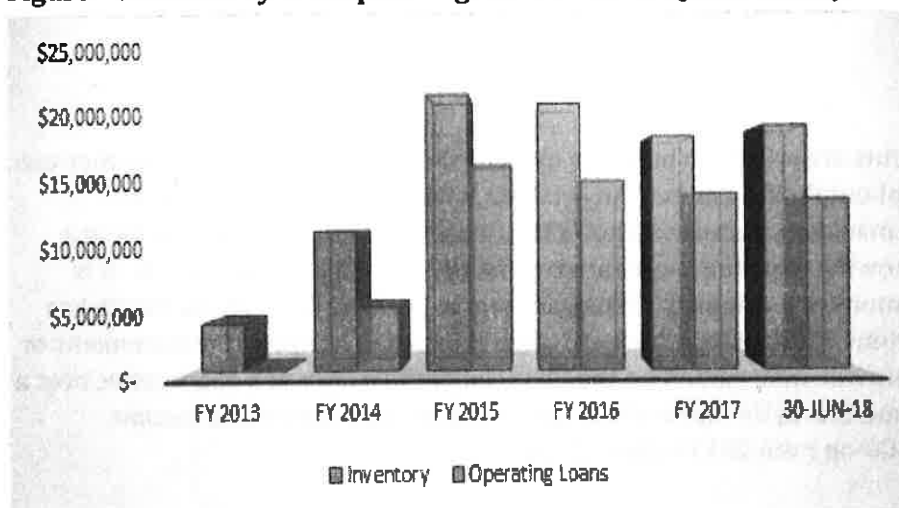
Figure 9: Burley Co-op's Total Equity (2013-2018)





Both inventory levels and operating loan amounts have increased tremendously for the Burley Co-op, as shown in Figure 10. The co-op's inventory has increased from \$3.8 million in 2013 to \$19.5 million in 2018, and the amount of operating loans for the co-op have risen from \$0 in 2013 to \$13.5 million in 2018. By June 2018, inventory accounted for over 40% of Burley Co-op's total assets.

Figure 10: Inventory and Operating Loan Amounts (2013-2018)



Examining the Burley Co-op's income statements also reveals that marketing tobacco does not appear to be profitable for the co-op. Table 3 shows that Tobacco Sales for the co-op have averaged \$2.69 million over the last 5 years and that the Cost of Tobacco Sold and Tobacco Operating Costs averaged \$2.39 million and \$732,000, respectively, over the last 5 years. Thus, the average margin for burley tobacco sales for the co-op was (\$436,000).

Table 3: Average Tobacco Sales and Expenses (2014-2018)

Tobacco Sales	\$2,690,000
Cost of Tobacco Sold	\$2,390,000
Tobacco Operating Costs	\$732,000
Net Margin	(\$436,000)

Other key findings from the examination of the Burley Co-op's financial statements include:

- The TAGS program has become a significant source of income for the Burley Co-op, with revenue totaling approximately \$682,000 and \$792,000 in 2017 and 2018, respectively.
- Payroll & Benefits, Directors Fees & Travel, and Tobacco Costs are the primary operating expenses for the Burley Co-op.
- Profitability for the co-op has been volatile over the last five years due to the writing off of inventory and bad debts and impairment losses on equipment related due to a cigarette manufacturing deal that went bad. Net income has ranged from \$978,000 in 2014 to (\$2,790,00) in 2017.



- The co-op's balance sheet includes a Board Designated account of \$25 million under Equity. This is the amount that the co-op's board of directors designated to prevent any potential lawsuits from interrupting the co-op's operations. The co-op's board of directors did this based upon legal advice over 10 years ago.
- The co-op's balance sheet does not include any member equity accounts. Balance sheets for cooperatives generally include member equity accounts where the cooperative allocates members their share of the profits based upon their patronage of the cooperative. The lack of member equity accounts means that profits from the Burley Co-op have never been allocated to members. This makes it very difficult for the co-op to distribute its equity to its members, and it also makes it harder for members to understand their ownership in the cooperative.

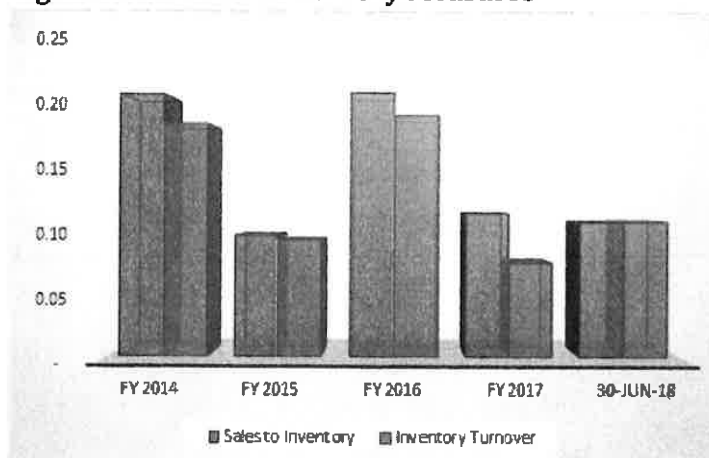
Financial Measures

Effective financial management includes the use of financial performance measures to provide insight into how the business is performing and provide answers into why the business is achieving the desired level of profitability. It is critical for cooperative management to monitor these measures to make decisions to improve cooperative business operations. Table C.3. in the Appendix presents a sample of suggested financial performance measures for the Burley Co-op.

Examining these financial measures raises additional concerns about the co-op's inventory. Tobacco sales to inventory is calculated by dividing tobacco sales by inventory. Tobacco sales to inventory have ranged from 21% in 2014 to 11% in 2018, which shows that the co-op has been able to only market a fraction of the tobacco that it has purchased. Inventory turnover is calculated by dividing the cost of tobacco sold by tobacco inventory. The inventory turnover for the co-op has ranged from 0.19 in 2014 to 0.08 in 2017 as shown in Figure 11. This shows that the co-op is turning its inventory significantly less than one time a year, almost zero times a year.

The Burley Co-op indicated to the project team that it has discounted its inventory amount in the past, and given its struggles in marketing tobacco, there is reason to believe that its inventory values could still be inflated. If the actual value of its inventory is less than the listed amount, then this will further lower the co-op's declining equity position.

Figure 11: Tobacco Inventory Measures

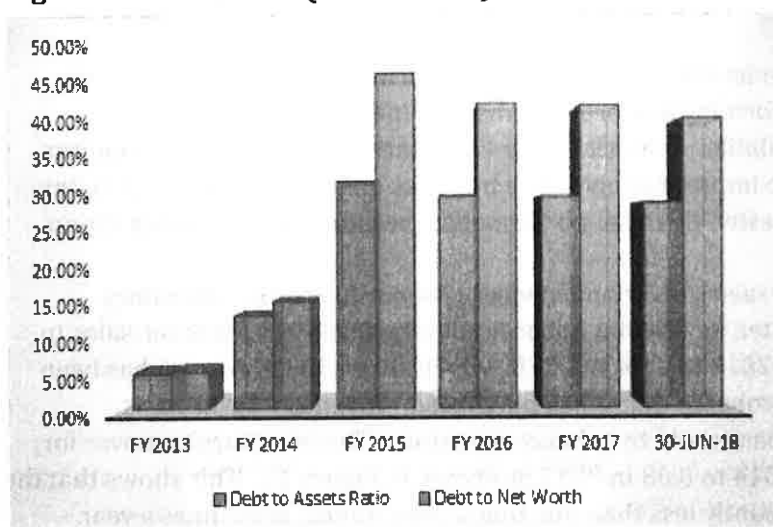




The financial measures for the co-op show that the Burley Co-op's liquidity and solvency are healthy but declining. Current ratio is a measure of a business' liquidity, and it is calculated by dividing current assets by current liabilities. The target for current ratio is greater than 2. The current ratio for the Burley Co-op has declined from 23.29 in 2013 to 3.38 in 2018.

Two measures of solvency are the debt-to-asset ratio and debt-to-net worth ratio. Debt-to-asset ratio is calculated by dividing total assets by total liabilities. Debt-to-net worth ratio is calculated by dividing total equity by total liabilities. The co-op's debt-to-asset ratio has increased from 5% in 2013 to 29% in 2018, which shows that its creditors now own 29% of its assets. The co-op's debt-to-worth ratio has increased from 5% in 2013 to 40% in 2018, as shown in Figure 12.

Figure 12: Debt Ratios (2013 - 2018)





Review of Key Findings

Through its analysis for the Burley Co-op, the project team from KCARD and the Center for Cooperatives at Ohio State University identified several key findings that the co-op's board of directors need to consider as it moves forward. First, there are two misconceptions that several board members and co-op staff have that need to be addressed. One is that the majority of producers with a contract with the Burley Co-op cannot get a contract with another tobacco company. The results of the producer survey show that 62% of the producers with a contract with the co-op have at least one other contract with another tobacco company. Multiple producers with a contract with the co-op indicated to members of the project team that they had other contracts and the reason that they had a contract with the co-op was to have a market for their excess pounds.

Second, many board members indicated to the project team that they do not have a contract with the co-op because they feel it is a conflict of interest. Let's be blunt here—it is NOT a conflict of interest for a board member to have a contract with or patronize his or her co-op. In fact, one of the widely agreed upon responsibilities of a co-op board member is to patronize the co-op (Zeuli, 2004.)

The next key finding is that the financial performance and health of the co-op has declined in recent years. The co-op's inventory measures show that it has only sold a small fraction of the tobacco that it has purchased over the last five years. As a result, the value of the co-op's inventory has increased by approximately \$16 million since 2013, and the amount of operating loans has increased by almost \$14 million in that same time. Additionally, based upon the income statements, the co-op appears to have lost on average \$436,000 each year over the last five years on its sales of tobacco. Finally, the net worth of the co-op has declined by approximately \$2.5 million since 2014, and if the co-op is not able to market its tobacco inventory at full value, then the net worth of the co-op could further decline.

Through the interviews and the surveys, the project team learned that labor issues are the key challenge facing the burley tobacco producer. Many producers indicated that H2A labor is the only reliable source of labor. They also indicated that the costs of the H2A program continue to increase, and these increasing costs have reduced the profitability of burley tobacco production.

Through its interviews, the project team learned that no organization is currently effectively taking the lead on addressing issues facing the burley tobacco grower. The Burley Co-op used to serve in this capacity, but co-op has not filled this role since the buy-out. There is a desire by many producers for the Burley Co-op, or some other organization, to step up and begin advocating for issues facing the grower, such as labor and GAP.



The project team identified the following issues with the Burley Co-op's board that hinders its ability to be effective:

- The size of the board makes it very difficult for to be effective and timely in its decision-making.
- Effective communication is missing. There is little to no communication between the co-op's board and its members. The communication between co-op staff and the board is inconsistent.
- Board members have not received any training on cooperatives, board member responsibilities, and the powers of a board of directors.
- The co-op's board lacks a unified purpose and sense of identity.
- The co-op's board has a fear of lawsuits, and this fear seems to prevent many board members from wanting to take any action.

Finally, the Burley Co-op is not acting as a cooperative in many aspects. The project team found that the co-op does not maintain any membership equity accounts and thus income has not been allocated to its members. The co-op does not have consistent, effective communication with its members. The Burley Co-op appears to be more board-centered than member-focused based on its lack of communication between itself and members and its decisions to protect the status quo and their positions on the board. Finally, there are missing elements from the bylaws that are important for cooperatives, such as articles on operating at costs, apportionment of net proceeds, equity records, patronage refunds and reserves, and dissolution procedures.



SWOT Analysis

The project team from KCARD and the Center for Cooperative at Ohio State University developed a summary of the strengths, weaknesses, opportunities, and threats associated with the cooperative and its operations based on the survey results, interviews, and analysis of the documents provided by the cooperative. This information is summarized in Table 4 with a description of each item provided.

Table 4: SWOT Analysis Summary

Strengths	Weaknesses
History and longevity of the cooperative: The cooperative has a long history of marketing tobacco and serving producers in the region.	Board-centric focus: A producer cooperative should be focused on serving its producer-members, and the board should be focused on how to improve the cooperative's ability to do that. The board of directors appears to be more focused on how board members act and react and board politics.
Producer cooperative: Its status as a producer-owned entity is valuable since it should confer some benefit in the minds of producers looking to sell their product.	Membership question: Membership in the cooperative changes annually based not on tobacco production by the members, but by a decision to allow people to be "members" through a self-selected ballot that only goes to regions where directors are up for re-election. This action means that the membership rolls change dramatically from year to year, making maintaining membership accounts next to impossible and reducing consistent producer connection to the cooperative.
Valuable assets: The cooperative possesses \$48 million in assets.	Contracting and marketing tobacco is not profitable: The cooperative does not make money marketing tobacco and is not projected to do so in the future.
	Lack of communications between board and staff and between board and membership: Given the above membership issue, the question of how the board can communicate with its members is still open since the definition of "member" poses significant challenges.



Opportunities	Threats
Need for cooperative's services among selected producers: The cooperative does serve appear to serve younger producers with smaller amounts of production than is the industry norm. This group needs an outlet for tobacco and is unlikely to be able to secure contracts with major buyers.	Leadership vacuum in grower representation in the industry: Multiple people and organizations are asking who the voice of burley growers is. If the Burley Co-op does not step into that role, and the Council for Burley Tobacco does not have the ability to do so, the resulting vacuum leaves producers without a voice.
	Legal uncertainty: Multiple questions exist with regards to the definition of membership, the firewalled equity account, and bylaw wording.
	Shrinking market demand: Demand for the product that the cooperative is selling is shrinking.
	Board factions: The board is divided, and the factions appear to be challenged to find any common ground to address some of the issues facing the cooperative.
	The cooperative is not operating as a cooperative: In numerous ways, the cooperative does not appear to be operating as a cooperative. The risk of this is that the board may not be fulfilling its fiduciary role to operate the cooperative to the benefit of its producer-members.



Next Steps to Consider

The Burley Growers Tobacco Cooperative Association is at yet another crossroads, which is to be expected since the burley industry as a whole is at a crossroads as well. As consumption declines, imports increase, and alternative products are introduced, the industry is facing another contraction that will likely result in further consolidation of production.

As it faces this significant challenge, the Burley Co-op has an opportunity to decide if it wants to use its existing resources in terms of human capital and financial assets to assist burley tobacco producers in a way that makes a meaningful difference. The way that the Burley Co-op is operating currently provides some assistance to a small subset of burley tobacco producers, but the impact is minimal. With contract size limited to 9,000 pounds and the Burley Co-op typically offering a lower price than all other competitors, the gross impact assuming \$1.80/lb. price is \$16,200 per producer. The Burley Co-op is purchasing tobacco from less than 10% of total burley growers, and 62% of the growers from whom it purchases are selling tobacco through other contracts as well.

If the Burley Co-op wants to have a broader impact on the industry, it should consider the following:

- 1) Decide who the Burley Co-op is going to serve in the next five years. Until the Burley Co-op clearly defines its membership, all the work on a strategic plan will not hit the mark at which the Burley Co-op's board is aiming. Flowing from that one question is the following:
 - a. **Decide whether or not the Burley Co-op will contract tobacco.** The Burley Co-op loses money by contracting tobacco. However, it is arguably the one activity most related to its mission of serving burley tobacco producers. Given the structure of the industry, it is hard to see how the Burley Co-op becomes more efficient at marketing tobacco such that it will make a profit on it.
 - b. **Consider changing the methods by which producers receive contracts.** Currently, the Burley Co-op grandfathers past contract recipients in without an open and transparent process for new entrants. This creates a closed club and reduces the ability of new producers to enter the system.
 - c. **Consider changing the contract terms to benefit producers using the cooperative.** To be clear, the cooperative loses money on marketing tobacco, so a suggestion to increase the offer price sounds ridiculous. However, if the Burley Co-op decides to continue to contract tobacco regardless of losing money on it, then it should at least use its resources to benefit those producers needing those contracts.
 - d. **Revise organizational footprint to match who you will serve.** Both the real estate and the staffing of the Burley Co-op are a better match for the pre-buyout burley industry. The decrease in producers and in contracted poundage suggest a decrease in footprint to match the current operations of the Burley Co-op.



- 2) Consult with a good cooperative attorney on the issues relating to membership. Even if the board decides that it does not want to tackle the broader question of who it serves, the current bylaws and the current practices with regard to membership raise serious questions that need to be addressed. Designate a committee of the board for this issue.
- 3) Develop communications plan for board members to provide feedback to staff and Co-op board to communicate with its members.
- 4) Revise the Burley Co-op's board representation by reducing the number of board members and realigning the geographic location of directors by considering the current location of burley tobacco producers or the location of the Burley Co-op's contract producers (using the maps provided).
- 5) Develop advocacy plan in concert with the Council for Burley Tobacco to advocate for producer issues and provide a copy of that plan to burley growers.



Appendix

Appendix A: References

Resources

Bau, M. (n.d.) "Guidelines for Cooperative Bylaws." Retrieved from https://institute.coop/sites/default/files/resources/373%20Bau_Guideline%20for%20cooperative%20bylaws.pdf

Belluz, Julia. 2018. "An FDA panel is ruling on a new Philip Morris product that could upend the cigarette market." Vox. <https://www.vox.com/science-and-health/2018/1/25/16925652/iqos-philip-morris-health-fda>.

Burdine, Kenny, Todd Davis, Jerry Pierce, Will Snell, Tim Woods, and Jeff Stringer. 2018. "2018 – 2019 Kentucky Agricultural Economic Situation and Outlook." University of Kentucky. http://www.uky.edu/Ag/AgriculturalEconomics/pubs/ext2018-19_Outlook32.pdf

Burdine, Kenny, Todd Davis, Jerry Pierce, Will Snell, Tim Woods, and Jeff Stringer. 2017. "2017 – 2018 Kentucky Agricultural Economic Situation and Outlook." University of Kentucky. <http://www.uky.edu/Ag/AgriculturalEconomics/pubs/extoutlook17-18.pdf>

Frederick, D. 1995. "Sample Legal Documents for Cooperatives." U.S. Department of Agriculture Rural Business Cooperative Service. Cooperative Information Report 40. Retrieved <https://www.rd.usda.gov/files/cir40.pdf>

Herzog, Bonnie. 2018. "Other Retail Channels include tobacco-only outlets and other e-cig retail locations." Nelson C Store Database, Wells Fargo Securities, LLC

National Council of Farmer Cooperatives. 2017. Sample Bylaws Project. Volume 1, p. iv. Retrieved from http://ncfc.org/wp-content/uploads/2018/01/NCFC_SampleBylawsProject.pdf

National Council of Farmer Cooperatives. 2004. Sample Bylaws Project. Retrieved from http://ncfc.org/wp-content/uploads/2018/01/NCFC_SampleBylawsProject.pdf

Pearce, Bob. 2017. "2017 Tobacco Gap Update." University of Kentucky. <https://slideplayer.com/slide/13276220/>

Snell, Will. 2018. "Burley and Dark Tobacco Situation and Outlook." University of Kentucky. https://www.coresta.org/sites/default/files/abstracts/2018_TWC02_Snell.pdf

Wall Street Journal. 2018. "Marlboro Sales Drop Sharply in a Shrinking Market." <https://www.wsj.com/articles/cigarette-maker-altrias-share-declines-in-shrinking-market-1532608225?mod=searchresults&page=4&pos=9>

Zeuli, Kimberly and Robert Cropp. 2004. Cooperatives: Principles and Practices in the 21st Century. University of Wisconsin Extension. <http://learningstore.uwex.edu/Assets/pdfs/A1457.pdf>

**List of Interviews Conducted for the Study**

1. Steve Pratt, Burley Tobacco Growers Cooperative, September 25, 2018
2. Will Snell, University of Kentucky, September 19, 2018
3. Daniel Green, Burley Stabilization Corporation, October 15, 2018
4. Darrell Varner, Council for Burly Tobacco, October 16, 2018
5. Jeff Vice, Burley Tobacco Growers Cooperative, November 9, 2018
6. David Dugan, Ohio Extension Agent, October 26, 2018
7. Donna Shields, Burley Tobacco Growers Cooperative, October 30, 2018
8. Mark Haney, Kentucky Farm Bureau, October 24, 2018
9. Interviewed 10 Burley Tobacco Growers Cooperative Board members between October 9 and November 10, 2018 (names redacted to respect privacy)
10. Interviewed 22 burley tobacco producers between October 9 and November 13, 2018 (producer names redacted to respect privacy)



Appendix B: Financial Statements

Table B. 1. Balance Sheets for Burley Co-op (2013-2018)

Assets	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	30-Jun-18
Tobacco Account	\$ 700,002	\$ 2,808	\$ 728	\$ 329	\$ 1,536	\$ 531
Wells Fargo Accounts (6)	\$ 1,285,984	\$ 1,499,150	\$ 573,645	\$ 617,200	\$ 869,450	\$ 742,161
Total Accounts Receivable	\$ 1,293,862	\$ 18,536	\$ 1,414,805	\$ 1,579,586	\$ 381,621	\$ 102,630
Short-term Investments	\$ 25,829,788	\$ 26,343,406	\$ 25,685,127	\$ 25,823,722	\$ 26,245,750	\$ 26,112,162
Allowance for A/R	\$ (2,400,000)	\$ (2,400,000)	\$ -	\$ -	\$ -	\$ -
Inventory	\$ 3,824,973	\$ 11,209,988	\$ 22,142,904	\$ 21,378,947	\$ 18,717,299	\$ 19,582,236
Boss Burley Notes Receivable	\$ 2,666,119	\$ 2,666,119	\$ -	\$ -	\$ -	\$ -
Other Current Assets	\$ 1,565,278	\$ 195,498	\$ 179,940	\$ 178,537	\$ 185,414	\$ 172,458
Total Current Assets	\$ 34,766,006	\$ 39,535,506	\$ 49,997,148	\$ 49,578,321	\$ 46,401,070	\$ 46,712,178
Total Fixed Assets	\$ 1,394,895	\$ 1,428,721	\$ 1,120,136	\$ 1,072,176	\$ 1,055,634	\$ 432,313
Other Assets	\$ 1,893,821	\$ 1,869,007	\$ 1,836,053	\$ 1,810,207	\$ 1,717,886	\$ 1,717,886
Total Assets	\$ 38,054,722	\$ 42,833,233	\$ 52,953,337	\$ 52,460,704	\$ 49,174,589	\$ 48,862,377
Liabilities						
Operating Loans	\$ -	\$ 5,125,000	\$ 16,473,000	\$ 15,237,000	\$ 14,185,000	\$ 13,714,000
Other Current Liabilities	\$ 1,492,440	\$ 91,637	\$ 104,048	\$ 135,222	\$ 184,668	\$ 109,863
Total Current Liabilities	\$ 1,492,440	\$ 5,216,637	\$ 16,577,048	\$ 15,372,222	\$ 14,369,668	\$ 13,823,863
Long-Term Liabilities	\$ 397,360	\$ 425,541	\$ 424,970	\$ 425,558	\$ 363,203	\$ 363,203
Total Liabilities	\$ 1,889,800	\$ 5,642,178	\$ 17,002,018	\$ 15,797,780	\$ 14,732,871	\$ 14,187,066
Equity						
Board Designated	\$ 25,000,000	\$ 25,000,000	\$ 25,000,000	\$ 25,000,000	\$ 25,000,000	\$ 25,000,000
Unrestricted Fund Balance	\$ 12,836,992	\$ 11,115,197	\$ 12,139,664	\$ 10,914,443	\$ 11,558,201	\$ 9,441,718
Net Income	\$ (1,672,070)	\$ 1,075,858	\$ (1,188,345)	\$ 748,481	\$ (2,116,483)	\$ 233,593
Total Equity	\$ 36,164,922	\$ 37,191,055	\$ 35,951,319	\$ 36,662,924	\$ 34,441,718	\$ 34,675,311
Total Liabilities & Equity	\$ 38,054,722	\$ 42,833,233	\$ 52,953,337	\$ 52,460,704	\$ 49,174,589	\$ 48,862,377

Table B. 2. Income Statements for Burley Co-op (2014-2018)

	FY 2014	FY 2015	FY 2016	FY 2017	30-Jun-18
Project Revenue	\$ 34,146	\$ 258,382	\$ 607,856	\$ 682,400	\$ 792,075
Rent	\$ 45,250	\$ 58,810	\$ 63,842	\$ 70,577	\$ 49,184
Tobacco Crop Sales	\$ 2,377,865	\$ 2,181,938	\$ 4,567,652	\$ 2,182,331	\$ 2,153,094
Interest Income	\$ 981,262	\$ 917,671	\$ 879,628	\$ 822,476	\$ 600,487
Other Income	\$ 1,176,683	\$ 59,870	\$ 48,958	\$ 4,584	\$ 6,009
Total Income	\$ 4,615,207	\$ 3,476,671	\$ 6,167,936	\$ 3,762,368	\$ 3,600,848
Cost of Projects	\$ 27,562	\$ (14,515)	\$ 7,905	\$ 12,788	\$ 6,875
Cost of Tobacco Sold	\$ 2,113,376	\$ 2,102,827	\$ 4,172,228	\$ 1,436,269	\$ 2,159,162
Cost of Sales	\$ 21,466	\$ -	\$ -	\$ -	\$ -
Total COGS	\$ 2,162,404	\$ 2,088,312	\$ 4,180,133	\$ 1,449,057	\$ 2,166,037
Gross Profit	\$ 2,452,803	\$ 1,388,359	\$ 1,987,802	\$ 2,313,312	\$ 1,434,811
Payroll	\$ 318,915	\$ 328,509	\$ 346,010	\$ 271,491	\$ 272,065
Employee Benefits	\$ 22,090	\$ 31,881	\$ 27,792	\$ 25,229	\$ 30,393
Directors Fees & Travel	\$ 130,038	\$ 128,682	\$ 118,861	\$ 116,748	\$ 74,607
Tobacco Costs	\$ 512,162	\$ 1,065,489	\$ 780,024	\$ 631,798	\$ 670,726
Impairment Loss on Asset	\$ -	\$ 264,194	\$ -	\$ 3,578,060	\$ -
Other Expenses	\$ 444,483	\$ 369,216	\$ 377,249	\$ 440,153	\$ 333,365
Depreciation	\$ 46,859	\$ 46,736	\$ 47,960	\$ 43,271	\$ -
Total Expenses	\$ 1,474,547	\$ 2,234,707	\$ 1,697,896	\$ 5,106,751	\$ 1,381,156
Net Ordinary Income	\$ 978,256	\$ (846,348)	\$ 289,907	\$ (2,793,440)	\$ 53,655
Other Income	\$ 367,940	\$ (659,142)	\$ 497,719	\$ 727,271	\$ 159,473
Restricted Contributions	\$ 540,125	\$ (14,650)	\$ (27,594)	\$ (35,693)	\$ (12,442)
Total Other Income	\$ 908,764	\$ (673,148)	\$ 470,939	\$ 692,248	\$ 147,538
Total Other Expenses	\$ 811,162	\$ (331,150)	\$ 12,365	\$ 15,292	\$ 6,884
Net Income	\$ 1,075,858	\$ (1,188,345)	\$ 748,481	\$ (2,116,483)	\$ 194,308



Appendix B. 3. Financial Measures		FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	30-Jun-18
Current Ratio		23.29	7.58	3.02	3.23	3.23	3.38
Working Capital	\$	33,273,566	\$ 34,318,868	\$ 33,420,100	\$ 34,206,099	\$ 32,031,402	\$ 32,888,315
Debt to Assets Ratio		4.97%	13.17%	32.11%	30.11%	29.96%	29.03%
Debt to Net Worth		5.23%	15.17%	47.29%	43.09%	42.78%	40.91%
Profit Margin			23.31%	-34.18%	12.14%	-56.25%	5.40%
Return on Assets			2.51%	-2.24%	1.43%	-4.30%	0.40%
Return on Equity			2.89%	-3.31%	2.04%	-6.15%	0.56%
Labor to Operating Income			7.39%	10.37%	6.06%	7.89%	8.40%
Operating Expenses to Operating Income			32%	64%	28%	136%	38%
Total Assets to Total Operating Income			9.28	15.23	8.51	13.07	13.57
Sales to Inventory			0.21	0.10	0.21	0.12	0.11
Inventory Turnover			0.19	0.09	0.20	0.08	0.11





Appendix C: Burley Tobacco Producer Survey with Tabulated Results

1. Name: 139 respondents

2. Please list what state your farm is located in.

State	Total # of Producers	Contract Producers	Non-contract Producers
Indiana	4	3	1
Kentucky	124	68	56
Missouri	3	3	0
Ohio	8	7	1

3. Please list the county that your farm is located in.

County	Total # of Producers	Contract Producers	Non-contract Producers
<u>Ohio</u>			
Adams	5	4	1
Gallia	3	3	0
<u>Indiana</u>			
Brown	2	2	0
Ripley	1	0	1
Henry	1	1	0
<u>Missouri</u>			
Platte	3	3	0
<u>Kentucky</u>			
Allen	1	0	1
Barren	2	0	2
Bath	4	1	3
Boone	1	0	1
Bourbon	2	1	1
Boyle	1	1	0
Bracken	2	2	0
Breckinridge	4	0	4
Calloway	1	0	1
Carter	1	0	1
Christian	4	1	3
Clark	6	6	0
Clinton	1	0	1
Daviess	1	0	1
Fayette	2	2	0



Fleming	5	2	3
Franklin	3	3	0
Grant	4	3	1
Grayson	1	0	1
Green	1	0	1
Greenup	1	1	0
Hancock	2	1	1
Hardin	2	0	2
Harrison	11	11	0
Henderson	1	1	0
Henry	7	4	3
Jessamine	1	1	0
Lewis	1	1	0
Logan	1	0	1
Lyon	1	1	0
Marion	3	0	3
Mason	6	6	0
McLean	2	0	2
Meade	1	0	1
Metcalfe	2	0	2
Monroe	2	0	2
Montgomery	3	2	1
Morgan	1	0	1
Muhlenberg	1	0	1
Nelson	1	1	0
Nicholas	6	2	4
Ohio	2	1	1
Owen	1	1	0
Robertson	4	4	0
Scott	4	3	1
Simpson	1	1	0
Taylor	2	0	2
Todd	1	1	0
Trimble	1	1	0
Washington	1	1	0
Woodford	2	1	1



4. Please indicate your age group.

Age	Total # of Producers	Contract Producers	Non-contract Producers
18-29	8	8	0
30-39	13	8	5
40-49	15	11	4
50-59	39	18	21
60-69	37	21	16
70+	27	15	12

5. Are you growing burley tobacco in 2018?

Response	Total # of Producers	Contract Producers	Non-contract Producers
Yes	130	79	51
No	7	1	6

6. How many acres of burley tobacco are you growing in 2018?

Acres	Total # of Producers	Contract Producers	Non-contract Producers
1-4.9	29	22	7
5-9	20	10	10
10-14	20	12	8
15-19	12	7	5
20-29	17	14	3
30-39	10	5	5
40-49	6	2	4
50-99	10	5	5
100-249	5	2	3
250+	1	0	1
<i>Average</i>	27.4	20.1	38.7



7. Besides burley tobacco, can you please indicate all the crops and livestock that you are raising in 2018?

Other Crops	Total # of Producers	Contract Producers	Non-contract Producers
Dark Tobacco	10	2	8
Corn	66	36	30
Soybeans	58	30	28
Wheat	28	14	14
Beef Cattle	101	60	41
Dairy Cattle	7	5	2
Hogs	7	3	4
Poultry	7	7	0
Vegetables/Fruit	14	13	1
Other	19	14	5
Hay	10	5	5
Goats	1	1	0
Hemp	2	2	0
Horses	1	1	0
Donkeys	1	1	0
Sheep	1	1	0
Feeder Calves	2	2	0
Bees	1	1	0

8. Can you please indicate the amount of each that you are raising in 2018?
(Average Acreage of Responses listed)

Amount of Other Crops	Total	Contract Producers	Non-contract Producers
Dark Tobacco (acres)	37	7	45
Corn (acres)	181	162	203
Soybeans (acres)	255	217	295
Wheat (acres)	96	40	151
Beef Cattle (head)	118	109	130
Dairy Cattle (head)	100	70	175
Hogs (head)	690	48	1207
Poultry (birds)	110	110	0
Vegetables/Fruit (acres)	2	2	3



9. Do you market any of these commodities directly to the consumer?

Response	Total # of Producers	Contract Producers	Non-contract Producers
Yes	30	20	10
No	102	58	44

10. How many years have you raised burley tobacco?

# of Years	Total # of Producers	Contract Producers	Non-contract Producers
1-9	12	12	0
10-19	7	5	2
20-29	8	3	5
30-39	27	16	11
40-49	41	21	20
50+	40	23	17

11. What is the most burley tobacco that you have raised in one year (acres)?

# of Acres	Total # of Producers	Contract Producers	Non-contract Producers
1-4.9	7	5	2
5-9	9	5	4
10-14	8	4	4
15-19	15	8	7
20-29	21	13	8
30-39	11	5	6
40-49	9	3	6
50-99	34	23	11
100-249	15	9	6
250+	4	2	2

12. Do you plan to increase burley tobacco production in the next 3-5 years?

Response	Total # of Producers	Contract Growers	Non-contract Growers
Yes	20	16	4
No	111	58	53



13. How much do you plan to increase production?

Contract	Non-contract
2-3 acres (3 responses)	don't know
5 (4 responses)	10 acres
7	10,000 pounds
10	if burley co-op gives contract
15	don't know
Double	

14. Do you currently market tobacco through the Burley Co-op?

Response	Total # of Producers	Contract Producers	Non-contract Producers
Yes	80	75	5
No	54	5	49

15. Why do you not market your burley tobacco through the Burley Tobacco Growers Co-op?

Do not have a contract with Burley Co Op. Would like to have one.
Not enough money price differ
Co-op is too self-serving.
No contract
Never offered a contract
Have enough contracts
We are fortunate enough to market locally.
N/A
Price to cheap; no close receiving stations
They won't give me a contract. They have also moved their delivery point to far away that we cannot deliver tobacco to them.
Phillip Morris
Philip Morris Contract
No contract
No contract
?
No contract
No contract
To far to travel
No contract lbs given out, they haven't sold any that they've purchased in the last couple years.
They would never give me a contract, I guess I didn't know the right people.
Maigville



Have contract with other company
Not enough money for it
Contract with P. Morris
Don't have contract
US Tob on contract
Always had a contract with a tobacco company
Couldn't set contract
no contract lbs given out, they haven't sold any that they've purchased in the last couple years.
Burley Co-Op officer
Did not raise burley tobacco this year
Better price at Ph. Morris
No contract lbs given out, they haven't sold any that they've purchased in the last couple years.
Just never got a contract
All my burley is contracted
Too long to haul
Asked for contract but did not get one. I have been growing tobacco for 40 years. I don't know why I didn't get a contract. I would like to still grow.
To far to haul to market and been able to get more money at local auction or private sale.
Price isn't as good as JTI
Burley Co-op terminated my contract this year. They claim they found nested tobacco. I didn't see it so I don't know for sure
Prices to low, need a better buyer

16. Do you have a burley marketing contract with a tobacco company other than the Burley Co-op?

Response	Total # of Producers	Contract Producers	Non-contract Producers
Yes	94	49	45
No	40	30	10


17. Which companies do you have a contract with for burley tobacco?

Company	Total # of Producers	Contract Growers	Non-contract Growers
Universal	33	22	11
Philip Morris	23	4	19
JTI	13	8	5
Greenville Tobacco	1	0	1
RJ Reynolds	19	10	9
Bale	1	1	0
Hail & Cotton	3	0	3
Eastern KY Tobacco	2	1	1
US Tobacco	1	1	0
Burley Stabilization	1	0	1
Alliance	1	1	0

18. What is your overall impression of the Burley Co-op?

Response	Total # of Producers	Contract Growers	Non-contract Growers
Very Positive	26	17	9
Somewhat Positive	58	40	18
No Impression	28	10	18
Somewhat Negative	14	10	4
Very Negative	8	2	6

19. How well is the Burley Co-op serving your needs as a burley tobacco producer?

Response	Total # of Producers	Contract Growers	Non-contract Growers
Very Well	17	14	3
Well	37	29	8
Somewhat Well	43	27	16
Not at All	32	9	23



20. What are the challenges that you are currently facing as a burley tobacco producer?

Cannot get a large enough contract to pay for my 3 H2A workers and a year contract doesn't provide hope for the future.
Disease; weight loss; barn room; mother nature
No market, hard to get contract and impossible to get labor.
Falling demand
Marketing costs
Prices too low, for what it costs to raise, burley co-op has lowest price of all companies
Profit too low
lack of demand, finding labor, labor laws, GAP, high input costs
Labor, price, regulations
Labor price
Money we have to pay to get H2A work: house to live in, pay water and RECC bill
Labor availability; Selling price too low -- in relation to production costs
Too many regulations. Too many draws check, but won't work.
Labor and a reasonable profit
HELP!!
Weather and hired help; regulations!
More disease each year; labor; cost of production
Cheap contract prices
No place to sell tobacco at a fair price
to short of pounds on contract
Low prices and high labor costs
Finding labor to help me grow it
Need more money & larger contracts
Risk to great for profit
Price to low and not enough pounds and labor
Getting contract poundage
Getting a contract
Too much world supply, price, labor availability, shrinking, demand for our product, companies using to much foreign tobacco in their products
Labor
Trying to be as profitable as possible; expenses as a whole verses sales
Labor
Burley in KY is dead because of prices. Gotta have more money.
Labor and cost
No challenges
labor
low profit margin



Market; price; labor
Price of input up; Tob price stay the same
High cost of chemicals & labor (which increases yearly) as tobacco contracts continue to be stagnant with rate increase.
price
labor cost is increasing each year. Income decreasing
Rules + Regulation EPA FDA GAP program DOL
Crop price + cost of H2A program
Labor shortage and Burley Tobacco price to low!
Labor; Cost; Low prices
Prices per production cost. Long term contracts, only year to year. No certainty. Labor.
Not enough money price per pound to cheap
Labor + Marketing
No help
Lower pounds per acre; Higher inputs
getting market for tobacco
Need more pounds
Not enough money price per pound to cheap
Low yields; unstable market; Dealing with GAP
Labor; Getting Contract
The co-op buys substandard tobacco and floods the market with cheap prices.
Prices
Profit
Profit Decline
Cutting pounds
Weather, labor, no raise in price
Lack of labor; price of tobacco is not high enough to pay people more money to work in tobacco.
Labor + Price
Finding land and barns to grow it on. Keeping a contract big enough to justify the trouble.
Low tob. prices, which are about the same as 15 yrs ago. GAP regulations, labor laws which did not pertain to me, for the small amount I grow.
No way to sell crop
Help and prices with tobacco
Labor + weather + barns
Weather & labor
Labor, prices.
help/workers
GAP Requirements and Labor



Labor + Market + Rise in Cost
Demand for burley and low prices. All expenses have increased in the last 10yrs. Diesel, labor, fertilizer and equipment prices.
Smaller contracts and shrinking margins
High input prices and GAP certification
1. Selling Price 2. Labor Concern
Price selling, price of inputs increasing
Price- cost squeeze
Labor
Low prices + GAP too much paperwork
I can't afford to raise tobacco without a contract.
labor
High labor costs; low price; Indiana we pay 12.96 for H2A labor
Cost of labor; Reduced Contracts
labor
Labor
Long hauls for delivery. Uncertainty.
Expenses to high and no profit
Getting help in tobacco, and getting enough \$ out of tobacco
Not enough contract and falling prices
Overall expenses & prices
Cost of labor
Labor, Low prices, excessive regulation
GAP Regulations- crazy out of control
Labor
Labor price
GAP Completely out of control
Cost rising while prices go down
Labor price
Labor
Labor & Prices
Declining markets + prices, Production demands from companies
Labor and facilities to house tobacco
Cost of chemicals, fertilizers, fuel and labor all increase yearly but the price has remained the same
cutting into the bottom line causing it to be more difficult to make a living.
Labor and lack of contract
Labor & Markets
Profit



Labor for cutting and housing tobacco
Help/workers
Labor
Labor and declining demand for Burley due to foreign Tobacco
Labor
Quality Tobacco
Weather
Weather - Price
Can't find help to put the tobacco
Universal's pricing structure
Finding Markets
The Burley Co-op prices keep falling, hard to make a profit
Labor
Not being able to market a larger number of pounds.
Am I going to have a contract next year! H2A cost has got to be worked on. DelAi, Processing agent, workers need to shore in risk
Lack of demand
Prices that will cover expenses and turn a profit, worth the work + worry covered.
Weather-Rain, Labor, market that is competitive, more buyers for auction mkt
Help and good market
Low prices, old age
Price of labor, price of tobacco whether

21. Please indicate the services that would be beneficial for your farm if the Burley Co-op offered them?

Services	Total # of Producers	Contract Growers	Non-contract Growers
Animal Health Management	13	7	6
Succession or Estate Planning	16	8	8
Processing	18	12	6
Agronomic Service	20	13	7
Advocacy	24	16	8
Financial Service	31	20	11
Marketing Agent for Export	33	21	12
Contracting Representation	35	17	18
Insurance	46	26	20
Research & Development	57	36	21
Labor Assistance	68	39	29



22. What services could the Burley Tobacco Growers Co-op offer that would be beneficial to your farm?

Finding more contract pounds
Better price support & better markets
Increased demand
Raise our product. I think it is a conflict of interest when the buyer for the co grades your tobacco, they can give you whatever grade they want to.
Raise price paid to farmers
Improved marketing. Why can companies offer 1.90 to 2.00/pound and the coop be 1.60-1.70 and can't get rid of it. It would seem some of these companies would buy some tobacco at a cheaper price. This is same tobacco they buy.
That's a good question, too little too late
Help with H2A work
Labor for harvesting tobacco; Seek ways to foster increased selling price
Too late
Raise prices
Easier access to H2A workers
more profit
Get me a minimum of \$2.25 a lb.
Low cost loan fro farmland or refinance purchases. Start making a KY Co-op brand of Tobacco products + inly purchase US grown tobacco.
1. Offer no limit of pounds to grow 2. help with labor hire
Labor issues
Buying pounds at higher prices if possible
Crop loans
closer location to crop
Maybe some kind of harvest equipment
None
Labor; price
program for tobacco housing structure
more money
unsure
We need to find a way to directly market our product. Get rid of the middle man (Universal) and other dealers. Process our tobacco and get it sold.
Price per pound of tob go up
Help ensure contract increases match rate of increases in chemical, fuel and labor.
Be more of an advocacy group and focus on the real issues facing growers.
Increase competition from buyer to raise prices. Legislation to change rules for H2A program (too high + too much regs.)
Unknown.



Higher prices
Undecided
We need barns!
none
Help get Ins. that we had prior to 2018 put back in place get Trump to Tarrif to Foreign Tobacco
getting better market if you raise more
Dealing with GAP
Multi Year Contracts
quit buying tobacco
contract
Not sure!
more research
none
Don't know
any help at all would be nice
Contract would help. I like to grow tobacco.
More simple H2A program + less expensive
Labor assistance
get the burley prices to the 2018 level. We are selling at the 1983 prices still.
Continuing to purchase tobacco
?
Look for new markets to sale burley and increase the prices to producers.
Get rid of GAP Certification and its cost.
Make efforts to simplify the H2A labor program, it is extremely complicated and very expensive and loaded with red tape I know first hand.
Raise the price. Offer closer delivery for southern KY.
Don't know
Pay more per pound
No more tobacco than they are contracting they need to get out of tobacco business and return equity back to farmers that paid in to it.
New markets; Reduced labor expenses
more contracts
Show us how to get more profit
Pay more for tobacco, work to provide pool of help to work in tobacco
Better prices
Advocate for cheaper labor
Lobby Washington issue of labor, and regulation. Recruit directors that are more in touch with growers and not serving self interest.
Buy more tobacco



Higher prices
Barn Loans
Better prices
Labor & money
Move receiving station closer
Not sure!
Receiving station closure, help with labor costs, programs other H2A to get farm labor
If possible, develop more markets and purchase more leaf.
Negotiate for looser regulations and cost of H2A workers in Ohio which would enable me to increase acreage/production.
It would be nice to have discounts for fertilizer and sprays for co-op growers.
More money for Tobacco
Would love to see a monthly newsletter as well as a outreach (weather online or in newsletter) for farmers looking for help (equipment, etc) like a classified ad
Update growers, specify what type of tobacco you are looking for, what grades & how to grade it
None
Better buying price, and raise the contracts lbs
Sell some or more tobacco
More options on marketing
Increases in contracts.
Re-establishing a need for US burley tobacco and controlling imports
Better prices
Floor under every lb of tobacco, sell the stoned too. thats in the co-op, small farmers that grow too with integrity are being dropped by contract companies; many are left without a cash crop especially small families that could grow tobacco with family labor
Hire a grader that knows one grade from another!!!!
More money for tobacco
Be more in line with price of good tobacco, if the co-op wishes to buy + sell tobacco.



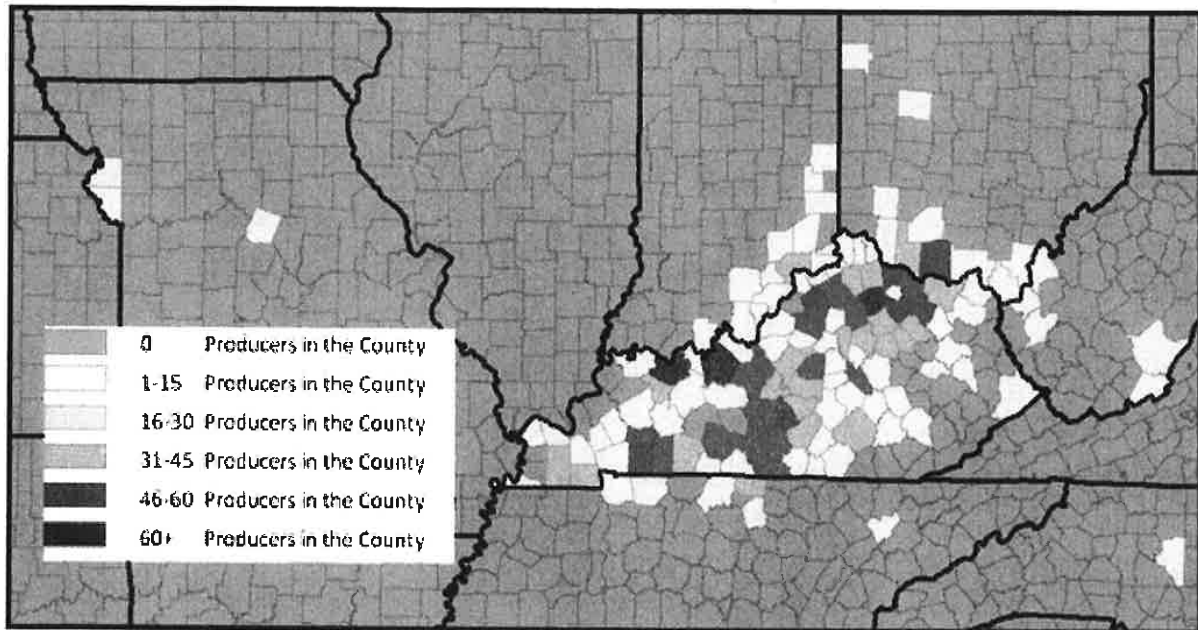
E34H2112NBA728C-44C E6A9406H77A33E00H3RA : 000129 of 000132

AMC : 000129 of 000129



Appendix D: Map of Burley Tobacco Producers by County

Figure D.1. Number of Burley Tobacco Producers Who Reported Tobacco Production to the Farm Services Agency (FSA) by County



NOTE: The data on producers obtained from the Farm Service Agency (FSA) appears to have significant gaps/errors. The Burley Co-op receives this data from FSA by requesting a list of all burley tobacco producers who indicated burley production on their Form 578. However, producers who are not participating in other government programs or purchasing crop insurance may not fill out this form, resulting in underreporting. Additionally, the list appears to be missing several individuals who are raising burley tobacco and would have likely filled out this form. While the project team would suggest that the data is not complete, it is the data that the Burley Co-op has been using to send ballots each year. Additionally, the map of those growers does still have value for seeing where dominant production areas are. As shown in the map, burley tobacco producers are clustered in north central Kentucky (north of Lexington), south central Kentucky (Glasgow-Bowling Green area), western Kentucky (around both Hopkinsville and Owensboro), central Kentucky (Elizabethtown area) and southern Ohio.



Case #: 20-CI-00332

Envelope #: 2412133

Received From: MACLIN, ROBERT EDWIN

Account Of: MACLIN, ROBERT EDWIN

Case Title: HAYNES PROPERTIES LLC, ET AL VS. BURLE' Confirmation Number: 107990902

TOBACCO GROWERS COOP
Filed On 4/28/2020 4:35:57PM

#	Item Description	Amount
1	Charges For Services(Jury Demand / 12)	\$70.00
TOTAL:		\$70.00

AOC-E-105
Rev. 9-14

Sum Code: CI

Commonwealth of Kentucky
Court of Justice Courts.ky.gov

CR 4.02; Cr Official Form 1

Case #: **20-CI-00332**Court: **CIRCUIT**County: **FAYETTE****CIVIL SUMMONS**Plaintiff, **HAYNES PROPERTIES LLC, ET AL VS. BURLEY TOBACCO GROWERS COOP**, Defendant

TO: **GREG CRADDOCK**
4677 IRON MOUNTAIN ROAD
CENTER, KY 42214

The Commonwealth of Kentucky to Defendant:

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

Fayette Circuit Clerk

Date: **4/28/2020****Proof of Service**

This Summons was:

☐ Served by delivering a true copy and the Complaint (or other initiating document)

To: _____

☐ Not Served because: _____

Date: _____, 20____

Served By _____

Title _____

Summons ID: @00000907372

CIRCUIT: 20-CI-00332 Return to Filer for Service

HAYNES PROPERTIES LLC, ET AL VS. BURLEY TOBACCO GROWERS COOP

