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Re: Lawsuit Against ABBA

As you may know, earlier this year the ABBA was sued by Michael England, Josefina Lecuna Muskus, Michael West, Terry Novak, O.W. Schneider, and John Carey Clay. The details and filings can be found at *Brazos County District Court Cause No. 25-000869-CV-85*.

Across a 167-page petition, the Plaintiffs sought the following relief, which in the estimation of the Executive Committee and ABBA staff would have significantly harmed the ABBA from both an operational and financial perspective—potentially damaging the ABBA to the tune of a quarter-million dollars or more per year:

- a) Prohibiting the President (David Miller), Vice President (Catherine Neumayr) and Secretary-Treasurer (Carolyn Falgout) and the remaining members of the March 5, 2025 Executive Committee Panel appointed at the March 5, 2025 Meeting from taking any additional actions in those roles on behalf of the ABBA, except as necessary to effectuate this injunctive relief;
- b) Requiring that any future votes or actions taken at any ABBA Meeting for election of officers be done in comport with the ABBA constitution and that a full and proper panel of directors be allowed to vote;
- c) That the ABBA's herdbook be frozen and remain unaltered by any office staff or members or officers of the ABBA pending a final investigation into the Violative Conduct and subsequent investigation for the 1000s of alleged improper changes brought to light by ABBA's outside counsel, Frank Carroll; and
- d) Attorney's fees and costs.

The ABBA alleged in response that the Plaintiff's made scores of unsubstantiated allegations—allegations that required ABBA resources to respond to. A summary of the ABBA's response is contained in the public filings at paragraphs 2 and 3:

2. Rather than avail themselves of the numerous mechanisms available to all ABBA members to challenge that election or properly address the claims alleged in their suit (which are demonstrably false and were notably never raised prior to the election results being announced), they instead decided to file a petition riddled with misstatements, half-truths, and outright falsehoods—some of which were offered under oath—in an attempt to impugn the credibility of their fellow members and the ABBA itself.²

3. Were that not enough, they sought to bolster these falsehoods with the affidavit of a former employee who they conveniently failed to mention was fired—not for uncovering some vast conspiracy—but because of a lengthy and well-documented history of absenteeism, attempted self-dealing, unprofessionalism, and discriminatory behavior which he refused, after multiple warnings, to correct.³

In addition to this summary, the ABBA provided the court with the following timeline of facts:

- 1) March 2023, AJ Knowles is hired as Director of Breed Improvement. ABBA staff already includes a DNA Coordinator, Megan Mullins.
- 2) December 2023, AJ Knowles is asked to assist DNA Coordinator Megan Mullins with beginning a DNA audit which is part of the ABBA 5-year DNA implementation plan. Pursuant to such plan and applicable ABBA rules in place at that time, animals born prior to 2024 were not required to have DNA on file prior to registration.
- 3) March 5, 2024, AJ Knowles berates and threatens a female ABBA student worker, which results in formal complaints being filed against him by three separate ABBA staff members. An investigation is opened into AJ Knowles' conduct.
- 4) March 19, 2024, AJ Knowles submits bids for the sale of an ABBA owned vehicle claiming that the high bid was \$5,400. AJ Knowles reiterates a desire to purchase the vehicle personally from the ABBA for the high bid price, a request which had previously been denied in order to ensure transparency and negate allegations of self-dealing.
- 5) March 27, 2024, ABBA discovers that the actual high bid for the purchase of the ABBA vehicle was \$7,400.
- 6) June 5, 2024, Brahman USA, a direct competitor of the ABBA, is formed with Plaintiff Josefina Lecuna Muskus as a board member.

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- 7) June 2024, a violative conduct complaint was filed regarding an allegation that registrations for 48 calves had been improperly modified. Because of the close involvement of AJ Knowles to the allegations in the complaint, the ongoing investigation into his conduct is suspended until after the violative conduct proceedings.
- 8) August 16, 2024, a violative conduct hearing is held regarding this complaint. At that hearing, Member Kelvin Moreno volunteered to provide DNA results for the implicated calves to the extent DNA was available for animals that had not already been exported. Despite the violative conduct proceedings being concluded without a finding of guilt, an agreement is nevertheless reached to voluntarily remove all calves subject to the complaint without DNA verification from the herd book pending DNA confirmation in early March of 2025 (before the election), and the removals were completed by the end of March (and remain removed to this day).
- 9) August 26, 2024, with the violative conduct proceedings concluded, AJ Knowles is provided with an employee performance improvement plan which obligates him to, amongst other requirements: arrive in a timely manner and remain available during working hours; communicate regarding absences from the office and refrain from unapproved and unplanned absences; obtain approval for all work related travel expenses; include the DNA coordinator on all DNA related matters/communications; submit any changes or updates to the DNA Committee for approval; comply with all data security guidelines; demonstrate mutual respect and professionalism towards all members, non-members, and fellow staff; and demonstrate honesty and integrity in all of his actions and communications.
- 10) September 16, 2024, DNA Coordinator Megan Mullins submits her resignation and states that it was due to the hostile work environment created by AJ Knowles.
- 11) September 20, 2024, AJ Knowles is terminated.
- 12) September 26, 2024, DNA samples for 9 of the animals which were the subject of the violative conduct complaint are received and the results confirm that the changes for all 9 animals were valid and correct. Those animals are added back to the herd book, all other animals remain removed.
- 13) January 31, 2025, members submit their ballots for the board election to the ABBA's third-party accounting firm which is responsible for counting the votes.
- 14) February 14, 2025, the board election results are received.
- 15) March 5, 2025, the Executive Committee election is held.
- 16) April 8, 2025, Plaintiff Terry Novak and third-party AJ Knowles sign affidavits in support of Plaintiffs' Application for TRO. Plaintiffs' counsel does not ever attempt to contact ABBA's general counsel.
- 17) April 10, 2025, Plaintiffs wait two days to file their application for TRO and then claim that "there is not enough time to serve notice on Defendant" because an Executive Committee meeting is scheduled for April 11th. Over a month has passed since the March 5th election.

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- 18) April 10, 2025, Plaintiffs' ex parte TRO is granted and Plaintiffs' counsel immediately emails ABBA's general counsel and demands that he turn over all attorney client emails by and between the general counsel and the executive committee.

In further response to the suit, the ABBA alleged that "Plaintiffs entire suit is based on the false premise that the Executive Committee election was invalid because two panel members were not entitled to serve as they had not registered ten head of cattle and three board members were not eligible to vote as they did not comply with the "50% attendance rule in effect."

The ABBA demonstrated to the court the following:

"As shown by the attached evidence and declarations, Plaintiffs' claims are demonstrably false and, given their access to publicly posted meeting minutes and records demonstrating that fact, the Court should request that Plaintiffs show cause why they should not be sanctioned for seeking and obtaining a TRO based on false sworn statements.

Specifically, the two panel members did register ten head of cattle in the previous year. Plaintiffs' evidence to the contrary misleadingly only counts the number of cattle born in 2024 that were registered, not the total number of cattle registered in 2024 and also fails to account for cattle registered by members under their control as expressly allowed under the Rules.

Section 4.

QUALIFICATIONS

- (a) WHO MAY SERVE: Any person over the age of 18 years of age who is an Active Voting Member or any person who is a Designated Representative over the age of 18 years of age of an Active Member of the Association and who is entitled to vote on behalf of the Active Member at meetings of the membership shall be eligible to be a Director of the Association. For a person to be elected and serve their term as a Director they or the membership they represent must submit performance information (BHIR) and they or the Active Membership they represent must register with the Association a minimum of 10 animals each year beginning with the calendar year prior to their nomination and the calendar year prior to the beginning of the second year of their term of office. No person may run for director in more than one area.

Plaintiffs also swear, falsely, that three board members voted who were not eligible because they did not attend 50% of meetings. Plaintiffs' claim is, once again, intentionally misleading as they omit from that statement that the 50% rule requires that a board member attend 50% of meetings during their two-year term, not in the previous year, which is the only evidence which Plaintiffs provided to the Court.

RULE II

BOARD OF DIRECTOR QUALIFICATIONS

- Section 1. A person shall not be eligible to serve a succeeding two year term as a Director of the Association unless he has attended at least fifty (50) percent of the regularly called meetings of the Board during his previous two year term and unless he continues to meet the qualifications set forth in Article V, Section 4, of the Constitution.

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As a previous secretary of the ABBA, Terry Novak is presumably aware of what the rules actually say but, for some reason, instead elected to provide a perjurious affidavit notwithstanding the fact that the meeting minutes demonstrating that the purportedly “ineligible” board members did, in fact, attend at least 50% of the meetings during their two-year term(s), are posted publicly on the ABBA webpage—as evidenced by meeting minutes that Terry Novak himself approved.

Accordingly, not only have Plaintiffs failed to show a likelihood of success on the merits, the attached evidence conclusively establishes that their claims have no merit, and the Court need look no farther to determine that injunctive relief should be denied.”

After an 8-hour hearing in which more than a half-dozen witnesses were called, the court ruled in favor of the ABBA—a ruling that under the law acknowledges that Plaintiffs failed to show a likelihood of success on the merits or irreparable harm.

In response to the ruling, the Plaintiffs non-suited the entire case the very next day—leaving the ABBA to incur more than \$70,000 in legal fees. While this prevented the severe injury to the ABBA that would have occurred had the herd book been frozen as demanded by the Plaintiffs, the fees have put a financial strain on the ABBA and do require either to take money out of reserves or forego other events/services.

As a direct result of these actions, the ABBA is seeking amendments to the rules to allow for recover of attorney’s fees against those who sue the ABBA so that this cannot occur again.