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Tobacco farmers file lawsuit against co-op

Class action wants share of Stabilization's money

By David Rice - WINSTON SALEM JOURNAL

More tobacco farmers from North Carolina and South Carolina sued their grower cooperative yesterday, saying that the co-op defrauded members and used part of their assets to buy a cigarette plant last year.

The lawsuit is the second class action filed in Wake County by angry farmers who say they deserve a share of more than \$240 million that the Flue-Cured Tobacco Cooperative Stabilization Corp. has accumulated while running the federal tobacco price-support program for the past 58 years.

"Stabilization has, in our view, a lot of money that was produced from the farmers' tobacco that needs to be returned to the farmers," said Alan Runyan, an attorney for the farmers in Hampton, S.C.

The co-op represents flue-cured tobacco growers from Virginia to Florida. For years, the co-op bought surplus leaf that did not fetch the government support price at auction.

Though the price-support program will end with a federal buyout of tobacco quotas, Stabilization officials - who spent \$26 million last year to buy a cigarette plant near Roxboro - have told farmers they are entitled only to the \$5 they each originally paid to join the co-op.

"The purpose of this scheme was to manufacture a justification for the Stabilization Corporation's continued existence after the end of the federal tobacco price-support program," says the lawsuit filed by Kay Fisher, a farmer in Nash County, and seven other growers.

In addition to Runyan, Eugene Boyce of Raleigh, who is no stranger to class-action suits, will represent the farmers. Boyce won more than \$1.4 billion in refunds of illegal taxes in lawsuits against the state in the 1990s. The plaintiffs include Dale Bone, a major tobacco grower in Nash County; Richard Renegar of Iredell County, a former president of the Tobacco Growers Association of North Carolina; and Kendall Hill, a Lenoir County farmer whose brother, Jimmy, is one of the directors of Stabilization.

The lawsuit asks for distribution to members of the co-op's profits and for the return of millions in "no-net-cost" fees to run the tobacco program that the cooperative collected from members through the years.

It asks for a judge to appoint an independent auditor to examine Stabilization's books. Attorneys for the farmers say that the cooperative's last distribution of profits to farmers was for the 1967 tobacco crop.

The suit also charges that cooperative officials illegally arranged the election of board member Bruce Flye at a 2002 meeting in Tarboro by denying other members a chance to run for a board position or vote as shareholders.

So the board's repeated 6-5 votes with Flye in the majority are illegal actions, the lawsuit contends, including the purchase of the cigarette plant in

Timberlake last year. "We believe the Timberlake acquisition was without a properly elected majority of the board and without approval of the membership," Runyan said yesterday.

Though farmers were guaranteed a lifetime membership in the cooperative when they joined, the suit says, Stabilization officials falsely told members that:

- Growers who signed contracts with other buyers were not eligible to vote or hold office as directors of the co-op.
- They would forfeit ownership of the co-op's reserves if they did not sign contracts with Stabilization for 2005.
- The "no-net-cost" assessments that growers paid were transferred to the U.S. Department of Agriculture and were not assets of the cooperative.
- They had no ownership in profits from sales of their tobacco.

"They tell you, 'You want your stock? Here's five dollars,'" Fisher said in an interview. "I don't think so."

The falsehoods deceived farmers and induced them to sign "collusive" marketing agreements with the Stabilization co-op, the suit says.

Unlike the lawsuit filed last month by growers in southeastern North Carolina, though, the suit filed yesterday does not ask for the cooperative to be dissolved.

Fisher said that the six directors who control Stabilization's 11-member board have ignored farmers for too long.

"We need some answers, and we don't get it," she said. "The main thing is we need to know where they're headed before we read it in the newspaper.

"That's a whole lot of money, and basically six people are deciding what to do with it," she said. "Should it be controlled by six people, or should the direction that it's going to be decided by the farmers that own the stock?"

But the cooperative needs to remain so that farmers - especially those who don't have contracts with cigarette-makers and leaf dealers - still have a buyer of last resort for their leaf, Fisher said.

"It is not our intent to put the farmer who does not have a contract out of business," she said. "The times have changed. I think there's a need for it. But I think the industry has to decide what is the role that Stabilization's going to play," Fisher said. "I just don't think six people should decide that."

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