



Notice of Litigation against the CPS Association

To All CPS Members:

All members are hereby informed that Certified Pedigreed Swine, its Board of Directors and Chief Executive Officer, the Poland China Record Association, its Board of Directors, and the Chester White Swine Record Association are currently named defendants in two pending lawsuits.

1. Cause No. 70D01-2109-CT-253, *Laird Premium Blend Genetics, Inc., v. Certified Pedigreed Swine, Poland China Record Association, Inc., Jack Wall, Jerry Masters, Dennis Croy, Wes Biddle, John Rinker, Mike Ingram, Tony Nye, Derrick Mikesell, Raymond Rice, Ray Michou, Dale Miller, Roy Flach, Chris Lanham, Greg Norman, and Greg Hartman; In the Rush County Superior Court of Indiana.*

This dispute arises from an investigation initiated by the Poland China Record Association Board of Directors into two litters of Poland Chinas recorded twice by Foote Farms, with each recording carrying different information for sire, dam, farrowing date, number of pigs born alive, and number of boars versus gilts.

On November 17, 2020, Foote Farms recorded Litter 84 and Litter 100 with the following information:

Litter 84:

Farrowing Date: 8/24/2020
Sire: 9 Gang Signs 38-6
Dam: Foot9 Miss Taloga 10-6
Boars in litter: 3
Gilts in litter: 7

Litter 100:

Farrowing Date: 9/1/2020
Sire: Shag Carpet 12-1
Dam: Foot9 F 12-8
Boars in litter: 3
Gilts in litter: 6

Foote Farms then transferred 84-4 as of October 1, 2020. Then, on May 11, 2021, Foote Farms re-recorded Litter 84 and Litter 100 with the following information:

Litter 84:

Farrowing Date: 8/12/2020
Sire: 9 Gang Signs 38-6
Dam: Foot9 Miss Taloga 10-4
Boars in litter: 2
Gilts in litter: 6

Litter 100:

Farrowing Date: 8/16/2020
Sire: 9 Gang Signs 38-6
Dam: Foot9 12-3
Boars in litter: 1
Gilts in litter: 7

From these recordings, Foote Farms transferred 100-1 (All Due Respect) and 84-2 (Cobra) to Laird Premium Blend Genetics, Inc. (“Premium Blend”) as of April 27, 2021.

The PCRA Board of Directors, pursuant to its authority under the PCRA Bylaws, directed the Chief Executive Officer to initiate an investigation into these inconsistencies and determine which of the two recordings was correct and which pedigree should be retained. As part of that investigation, the PCRA Board sought to perform DNA parentage tests to identify the correct sire and dam of each boar.

On September 7, 2021, Premium Blend filed suit in Rush County, Indiana, against CPS, PCRA and Jack Wall, Jerry Masters, Dennis Croy, Wes Biddle, John Rinker, Mike Ingram, Tony Nye, Derrick Mikesell, Raymond Rice, Ray Michou, Dale Miller, Roy Flach, Chris Lanham, Greg Norman, and Greg Hartman, alleging causes of action for breach of fiduciary duty, tortious interference with contract, tortious interference with prospective business relations, conspiracy and concert of action, and seeking injunctive relief, economic damages and attorneys’ fees. Premium Blend alleged that CPS and PCRA “publicly question[ed] the lineage of” All Due Respect and Cobra and “willfully and intentionally interfered with the contract between Premium Blend Genetics and its customers.” Premium Blend further alleged that PCRA’s and CPS’s enforcement of its DNA parentage testing is “arbitrary and capricious.” By its lawsuit, Premium Blend sought to prevent further DNA parentage testing of All Due Respect 100-1 and Cobra 84-2.

At Premium Blend’s request, and before allowing PCRA or CPS to be heard, the Court entered a Temporary Restraining Order (“TRO”) on September 15, 2021. The TRO ordered the Defendants to:

- (a) Suspend any parentage testing of Poland China hogs.
- (b) Suspend any further testing of All Due Respect and Cobra.
- (c) Suspend implementation of the Amendment to the Bylaws (that was previously scheduled to be effective September 1, 2021) requiring all Poland China boars used for sires to pass parentage test.
- (d) Not disclose the results of any DNA parentage test results of All Due Respect and Cobra.
- (e) Not discipline any member of the Poland China Records Association, Inc., based on the results from any DNA test conducted after January 1, 2021.

The Court held a preliminary injunction hearing on September 23, 2021. After a full-day hearing, during which the Court heard testimony from Jack Wall, Jerry

Masters, Ted Laird, Jacob Laird, and Jeff Morris, the Court denied Premium Blend's request for a preliminary injunction, which would have extended the terms of the TRO, and, rather, granted PCRA's and CPS's motion to dissolve the TRO.

After the preliminary injunction hearing, the PCRA ordered further testing of All Due Respect (Cobra's parentage was verified to Gang Signs and Miss Taloga 10-4 on September 7, 2021), using blood samples originally submitted to CPS by Foote Farms. Further, PCRA agreed to allow Premium Blend to send blood samples directly to Neogen for testing. Further testing on these blood samples concluded that All Due Respect was the probable progeny of a mating of 9 Gang Signs 38-6 and Foot9 12-3, and therefore the May 11, 2021, recording was the correct pedigree. PCRA continued to issue AI Certificates and allowed litters to be recorded during the investigation. On November 17, 2021, PCRA confirmed the correct pedigree on All Due Respect.

On December 22, 2021, Premium Blend filed a motion to amend its complaint, adding additional claims against all Defendants, including claims for defamation, business disparagement, and a claim under Illinois State Statute 805 Ill. Comp. Stat. Ann. 105/112.50 and 112.55, asking the Court "to appoint a custodian to take possession of the PCRA and CPS's assets and establish a new board of directors for each."

CPS and PCRA and their respective board members deny that they are in any way liable to Premium Blend. PCRA acted properly and pursuant to its authority in using DNA parentage testing to determine the accurate pedigree information. CPS and PCRA and their respective board members intend to aggressively defend this lawsuit.

2. Case No. 5:21-cv-00274-M-BQ, *Chad Hill and Misty Hill v. Chester White Record Association and Certified Pedigreed Swine*; In the United States District Court for the Northern Division of Texas, Lubbock Division.

This dispute is about the Chester White Swine Record Association's ("CWRA") rule against the use of stress carriers as sires. On January 19, 2002, the CWRA Board of Directors voted to make the Chester White Breed stress free by October 1, 2004. The Board voted to direct that "stress carrier sires, dams or progeny are not accepted for usage in the Chester White herd books nor will any hogs be grandfathered in after this date." Since October 1, 2004, hogs identified as stress carriers have been excluded from the breed. This longstanding rule was incorporated into an amendment to the CWRA bylaws, which was passed by a majority vote of the full CWRA membership at its September 2020 annual meeting.

Chad and Misty Hill claim to have been unaware of this rule at the time they recorded 0 Big Hit 8-5 and sold semen and bred sows to him. The Hills raised Big Hit 8-5 and recorded him as having been farrowed on January 10, 2020 and sired by a stress negative boar. A September 23, 2021, stress test confirmed that Big Hit 8-5 is a stress carrier. Consequently, CPS and CWRA informed the Hills that the CPS would not issue AI Certificates for Big Hit 8-5 or pedigrees to any of Big Hit 8-5's progeny.

On November 5, 2021, Chad and Misty Hill filed suit against the Chester White Record Association and Certified Pedigreed Swine in the 237th Judicial District Court of Lubbock County, Texas, alleging causes of action for negligence, and seeking a declaratory judgment and injunctive relief. The Hills alleged that CPS and CWRA failed to "use ordinary or reasonable care to inform or make available to [them], as members of CWRA, the rules and regulations of the registry contained in the Constitution and Bylaws." Specifically, the Hills complained that CWRA and CPS denied issuance of breeding certificates for their boar Big Hit 8-5 and refused to record litters sired by Big Hit 8-5 because he is a stress carrier, that they did not have notice of the CWRA's rule that litters from stress carrier boars could not be recorded in the registry, and that CWRA and CPS had not consistently enforced such a rule. The Hills alleged in their state-court petition that they sought monetary relief of over \$250,000 but not more than \$1,000,000.

On the same day the lawsuit was filed, the state district judge entered a temporary restraining order ("TRO"), without notice to CPS or CWRA and without an opportunity for CPS or CWRA to be heard on the issue. The TRO enjoined CPS and CWRA from:

- (a) Denying the issuance of Artificial Insemination Certificates for Chester White boar 0 Big Hit 8-5 (Reg. No. 156487005) based on that boar being a carrier of the porcine stress gene; and
- (b) Denying the issuance of registration papers for pigs and/or litters sired by 0 Big Hit 8-5 (Reg. No. 156487005) based on that boar being a carrier of porcine stress gene.

CPS and CWRA first became aware of the temporary restraining order on November 9, 2021, when it was served on CPS's counsel.

On November 12, 2021, CPS and CWRA removed the case to the United States District Court for the Northern District of Texas, Lubbock Division, and immediately filed a motion to dissolve the TRO. The Hills filed a motion to extend the TRO and a motion to remand the case back to state court. A hearing was held in

federal court on November 18, 2021. The following day, United States Magistrate Judge D. Gordon Bryant, Jr., recommended that the state court TRO be dissolved, finding that: (1) the TRO was invalid on its face because it did not comply with Texas law in that it did not explain why it had to be issued *ex parte*; (2) the Hills had not shown irreparable harm, a necessary element of injunctive relief; and (3) the Hills did not show that any threatened injury to them outweighed the harm that injunctive relief posed to CPS and CWRA. On November 22, 2021, United States Chief District Judge Barbara Lynn adopted Judge Bryant's recommendations and dissolved the TRO. Furthermore, on November 30, 2021, Judge Lynn denied the Hill's motion to remand to state court. Consequently, the case remains pending in federal court.

CPS and CWRA deny that they are in any way liable to Chad and Misty Hill. The Boards of Directors for CPS and CWRA intend to aggressively defend this lawsuit.