

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
COLUMBIA DIVISION**

**DUSTIN J. KITTLE,**

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**Plaintiff,**

)

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v.

)

**Civil Action No.:**

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**JOSEPH R. BIDEN, JR.,** in his official  
capacity as President of the United States  
of America,

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**Defendant.**

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**COMPLAINT**

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Plaintiff Dustin J. Kittle, by and through undersigned counsel, hereby brings this action for prospective declaratory and injunctive relief, and for the issuance of a writ of mandamus, against President Joseph R. Biden, Jr., in his official capacity.

This is an action for relief requiring President Joe Biden to perform his statutory obligation under the Farm Credit Act of 1971 to provide the Farm Credit Administration with a three-member Board. 12 U.S.C. § 2242. The legislature has uniquely imposed upon the President this obligation. Two of the three Members are in holdover status, and have been for years, due to the President’s failure to perform his executive duty. The Farm Credit System and its borrowers are being harmed.

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## INTRODUCTION

“It is imperative that [the Farm Credit Administration] continues to have a fully-functional board, and we urge the Biden Administration to quickly bring forward nominees for the two expired FCA Board positions”.<sup>1</sup> “It is long overdue that we fill this Board seat, which has been vacant for several years, and I will also note that, while I appreciate the continued service of the two current Board Members, both of their terms have expired, and we urge the White House to quickly nominate people to fill those positions.” *Hearing to Consider the Nomination of Jose Emilio Esteban, Vincent Logan and Alexis Taylor Before the Sen. Agriculture, Nutrition, and Forestry Comm.*, 117<sup>th</sup> Cong. (Sept. 22, 2022) (statement of Sen. Stabenow).

The President is uniquely obligated to provide a fully-functional Farm Credit Administration Board to ensure the safety and soundness of the Farm Credit System, which holds nearly \$400 billion, or more than 40% of the country’s agricultural debt, and has 640,000 stockholders (primarily farmers and ranchers). Because of the President’s failure to do so, a private law firm was able to hijack a Farm Credit System institution, violate federal law, and engage in the extortion of System borrowers. Exhibit A and Exhibit B (Report to the Alabama State Bar Disciplinary Commission re: Alabama Farm Credit, ACA’s Attorneys’ misconduct).

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<sup>1</sup> Farm Credit Council, *Farm Credit Urges Swift Approval of Board Nominee* (Sept. 22, 2022) (statement of President and CEO Todd Van Hoose). Available at <https://farmcredit.com/press-release/farm-credit-urges-swift-approval-board-nominee>.

## **JURISDICTION AND VENUE**

1. This action arises under the United States Constitution and the Farm Credit Act of 1971 (“Act”).
2. The Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337 and 1361. *See Minnesota Chippewa Tribe v. Carlucci*, 358 F. Supp. 973, 975-76 (D.C. Cir. 1973); *see also National Treasury Employees Union v. Nixon*, 492 F.2d 587 (D.C. Cir. 1974).
3. Venue is proper in this Court under 28 U.S.C. § 1391(e)(1)(C) because this is an action against an officer of the United States in his official capacity, the Plaintiff resides in this judicial district, and the action does not involve real property.

## **PARTIES**

4. Plaintiff Dustin Kittle is an adult citizen of Maury County, Tennessee.
5. Mr. Kittle is a rancher and a former borrower of Alabama Farm Credit, ACA – a System institution – who was wrongfully divested of his Class A Voting Stock by operation of law.
6. Mr. Kittle is an intended beneficiary of the Farm Credit Act of 1971.
7. Defendant Joseph R. Biden, Jr. is President of the United States of America and is sued in his official capacity.
8. Only President Biden is given the power to carry out the relief sought in this Complaint.

## LEGAL BACKGROUND

In 1909, President Theodore Roosevelt called upon the nation to preserve and protect the future of agriculture:

I warn my countrymen that the great recent progress made in city life is not a full measure of our civilization; for our civilization rests at bottom on the wholesomeness, the attractiveness, and the completeness, as well as the prosperity, of life in the country. The men and women on the farms stand for what is fundamentally best and most needed in our American life. Upon the development of country life rests ultimately our ability, by methods of farming requiring the highest intelligence, to continue to feed and clothe the hungry nations; to supply the city with fresh blood, clean bodies, and clear brains that can endure the terrific strain of modern life; we need the development of men in the open country, who will be in the future, as in the past, the stay and strength of the nation in time of war, and its guiding and controlling spirit in time of peace.

*Report of the Country Life Commission and special message from the President of the United States to the Senate and House of Representatives.* (Feb. 9, 1909)  
(statement of President Theodore Roosevelt).

### **I. Organization of the United States Farm Credit System.**

Recognizing the need for a reliable source of funding to the disadvantaged class of American farmers and ranchers, the concept of a government-supervised agricultural credit system began as early as 1912. The Taft administration emphasized the “most essential point” was the system’s need to be “surrounded and guarded by strict supervision” to ensure “honestly conducted institutions”, saying:

Again, the interest rate paid by the American farmer is considerably higher than that paid by our industrial corporations, railroads, or

municipalities. Yet, I think, it will be admitted that the security offered by the farmer in his farm lands is quite as sound as that offered by industrial corporations. Why, then, will not the investor furnish the farmer with money at as advantageous rates as he is willing to supply it to the industrial corporations?... As a later step it may prove advisable to urge the enactment by Congress of laws permitting the creation of national land-mortgage banks similar to those of Germany and France, with limited privileges, and surrounded and guarded by strict supervision... The most essential point to bear in mind is in the need for the assumption by the Federal and State Government of the responsibility for economically and honestly conducted institutions. Such assumption is the essential precedent for obtaining the confidence of the American as well as the European investing public. In this field, as in all others, there is room for harmful exploitation for personal gain. That must be guarded against... I now extend to you, with the governors of the other States, a cordial invitation to confer with me in Washington on the occasion of the next annual conference of governors, in order to consider means for the adoption of an agricultural credit system as a benefit to the American farmer[.]

*Preliminary report on land and agricultural credit in Europe.* (Oct. 11, 1912)

(statement of President William H. Taft).

The Farm Credit System (“System”) we know today began in 1916 as a government-sponsored enterprise (“GSE”) with a statutory mandate – and limitation – to serve agriculture. It is the oldest GSE and the only direct lender among the GSEs.

The System is a nationwide network of financial institutions that provide credit to farmers, ranchers, residents of rural communities, agricultural and rural utility cooperatives, and other eligible borrowers. These System institutions are owned by their borrowers, who are required to purchase stock as part of their loans.

The System’s sole regulator is the Farm Credit Administration (“FCA” or “Administration”) – an independent agency in the executive branch. The FCA is responsible for chartering, examining, and supervising its institutions. It is the only financial regulator responsible for ensuring the safety and soundness of the System and its institutions. 12 U.S.C. § 2241 et seq.; *see also* 12 C.F.R. 600 et seq. The responsibility of managing the FCA is vested in the three-person Board appointed by the President, serving staggered 6-year terms. The President also designates a Board Chairman, who serves as the Chief Executive Officer of the FCA in this role.

## **II. Regulation (or Lack Thereof) of the Farm Credit System.**

The System, System institutions, and FCA are largely unconstrained by *any* of the three branches of the federal government. Because the FCA is an independent agency, the Board Chairman does not report to the President. The FCA’s administrative expenses come from funds assessed and collected annually from the institutions it regulates and examines. It receives tax benefits but operates without direct federal appropriations. And by statute, judicial review is unavailable when the FCA makes decisions as the regulator and enforcer of the System. The judiciary is also without power to require the FCA to act under 15 U.S.C. § 1607(a)(6).

The Act intimates that the specific entities it creates – the associations and banks – are to be operated much like other private lending institutions. The extensive anti-money-laundering laws Congress has enacted over the years are intended to

prevent private banking institutions from being used as vehicles to legitimize, or launder, the proceeds of illicit activities, such as drug-dealing, gambling, corruption, extortion, and kidnapping. Yet, FCA-regulated entities do not have to comply with these same anti-money-laundering laws or bank secrecy regulations now applicable to banks, thrifts, credit unions, and the like. For example, consider the following statements during a Hearing to review the Farm Credit System before the House Committee on Agriculture:

Rep. SCOTT: When you look through your annual report, cows, chickens, everything in your annual report is farm-oriented. There is not a picture of a Verizon shop in there [referring to CoBank's \$725 Million loan to Verizon to purchase European cell phone company Vodafone]. I want to be maybe a little more blunt than some of my other colleagues have. You are the regulator. I think the Farm Credit System is extremely important to the parts of the country that I represent. Certain people getting outside of the parameters of what the Farm Credit System was set up for, I believe, are putting the whole System at risk. As the regulator, I do think when you have an organization who is putting the System at risk, you do have the ability then to step in and stop that.

And while what they are doing might be technically legal, it is certainly, in my opinion and apparently in the opinion of the majority of the Members of this Committee, who are your greatest advocates in Congress, that it is outside the scope and the intent of the Farm Credit System. I will just be honest with you. I don't think CoBank is going to stop until someone stops them. And I hope that you, as regulators, will work to get them back into what the scope of the Farm Credit System was set up for.

Mr. Rawls, you have been with the Farm Credit System for a long time. Is that correct?

Mr. RAWLS. I have been with FCA a little over 12 years.



Rep. SCOTT. And you are one of the ethics officers?

Mr. RAWLS. There is a Chief Ethics Official that is within my office. And I function as essentially an alternate or Deputy Ethics Official.

Rep. SCOTT. Are you aware of one of your institutions accessing confidential and proprietary information from a password-protected extranet of its competitor?

Mr. RAWLS. I am aware a number of years ago of probably the incident that you are referring to, yes.

Rep. SCOTT. If that happened to a private-sector institution, what do you think the consequences for the executives of that institution would be?

Mr. RAWLS. I really couldn't say. It depends so much on the facts and circumstances of any particular incident like that. I would say the agency in this case did follow up with our supervisory activities that we found appropriate at that time.

Rep. SCOTT. I think that bank would probably be shut down in the private-sector. What was the monetary payment for that conduct?

Mr. RAWLS. I would have to get the details on that and get back with you. I just don't recall.

Rep. SCOTT. I would appreciate it very much if you could get back to me with the details of the whole event and whether or not the people, the individuals whose information was accessed, were notified properly that their information had effectively been taken without authorization. And, again, the Farm Credit System is extremely important. I think that, I hope that you guys, as regulators—and I mean this with all sincerity—can keep within the scope of the original intent of the Act that was written. If not, I worry that the System may not exist in the future. And it is important to me and my community that it does exist and that it function as it was originally intended to.

*Hearing to Review the Farm Credit System Before the House Comm. on Agriculture, 114<sup>th</sup> Cong. (Dec. 2, 2015) (statements of Rep. Scott and testimony of Hon. Charles Rawls, General Counsel, FCA).*

The System is self-insured through the Farm Credit Service Insurance Corporation (“FCSIC”). All institutions are jointly and severally liable for the debts of the System. As such, regardless of where within the System insolvency may arise, the whole System is likely to fail if any single institution within the System fails. Every System institution is charged the same premium by the FCSIC per dollar of outstanding debt, regardless of the likelihood that a bank or association will become insolvent due to loan and investment losses or the rate at which it is growing. To put this succinctly, the stability of this System holding more than 40% of our nation’s agricultural debt is self-governed, self-regulated, and self-determined by an FCA staff of around 300 employees, only 150 or so of whom are evaluating the soundness of the System. And given the System’s joint-and-several liability, that stability could be dependent on such isolated factors as the price of wheat in Kansas that year if the FCA’s soundness evaluation is inadequate or erroneous.

### **III. The Farm Credit System’s Failure to Provide Protections for its Farmer and Rancher Borrowers.**

System institutions are not subject to the same regulations and laws protecting borrowers’ rights that are applicable to other lending institutions. The Truth-in-Lending Act (“TILA”) exempts “credit transactions involving extensions of credit

primarily for business, commercial, or agricultural purposes...” 15 U.S.C. § 1603(1). As long as the extension of credit is primarily for business, commercial or agricultural purposes, this exemption will apply even if the extension of credit is secured by the borrower’s residence or real property or if the transaction involves real property that includes a dwelling. *See* 12 C.F.R. § 226 supp. I, subpt. A, cmts. 3(a)-3(ii)(A) and 3(a)-8 (Regulation Z, which implements TILA). The Home Ownership and Equity Protection Act, implemented in 12 C.F.R. § 1026.3, Regulation Z, exempts transactions which involve “(a) business, commercial, agricultural, or organizational credit. (1) An extension of credit primarily for a business, commercial or agricultural purpose.”

The Real Estate Settlement Procedures Act was enacted for the purpose of providing real estate consumers with greater and timely information concerning the nature and costs of the settlement process. 12 U.S.C. § 2601(a). The law applies to all “federally related mortgage loans”, but 12 U.S.C. § 2606 specifically provides that RESPA “does not apply to credit transactions involving extensions of credit – (1) primarily for business, commercial, or agricultural purposes”. Additionally, Section 3500.5 of Regulation X exempts from RESPA loans secured by property of 25 acres or more. 24 C.F.R. § 3500.5(b) (setting forth the exemptions from RESPA). The Fair Debt Collection Practices Act, 15 U.S.C.S. § 1692 et seq. is inapplicable where the debt is not incurred for personal, family or household purposes.

Essentially all transactions of System institutions are pursued for agricultural or business-related purposes and thus are exempted from the TILA, HOEPA, RESPA, and the FDCPA.

A. Congress's Passage of the Agricultural Credit Act of 1987 to Combat System Institutions' Free Rein to Abuse Borrowers.

In response to the mistreatment of System borrowers by System institutions during the farm crisis of the 1980s, the legislature introduced H.R. 3030, which would eventually become the Agricultural Credit Act of 1987.

I am particularly proud to be the sponsor of legislation that spells out a borrowers bill of rights. The borrowers in this system have been abused, misled, coerced by Farm Credit Administration banks and officials who have sought to remake this system along new lines, but to the detriment of local control and cooperative principles. To protect against such abuses in the future, the bill provides borrowers with specific rights, including the following... Borrowers have the right to sue in Federal court any institution of the Farm Credit System for violating duties owed to the borrower...

S. 1156, 100th Cong., 1st Sess., 133 Cong. Rec. 6109 (May 6, 1987) (statement by Sen. Fowler). When introducing one of the Senate bills, Senator Pryor explained:

The Farm Credit System was established to ensure the existence of a viable source of credit on reasonable terms for farmers at times when the market will not provide such credit. The Farm Credit System's historical mission has been to strengthen participation in agriculture, by broadening the availability of credit to borrowers. . . Unfortunately, during the crises of the past few years the managers of the Farm Credit System seem to have forgotten whom their cooperative was established to serve. In many parts of the country the Farm Credit System looked to foreclosure as a first resort rather than a last resort. . . The bill that we introduce today is aimed at reestablishing Farm Credit System

policies that will help farmers in need of help and at preserving local control of the Farm Credit System.

S. 1156, 100th Cong., 1st Sess., 133 Cong. Rec. 6102-03 (May 6, 1987). Senator Melcher, upon introduction of the second Senate bill, stated:

Before this crisis becomes a disaster, Mr. President, we must do something to lift this crushing burden from the back of rural America. We must get system interest rates down and stop the wholesale foreclosure and forced liquidation of family farms and ranches.

S. 1665, 100th Cong. 1st Sess., 133 Cong. Rec. 11725 (Aug. 7, 1987). In discussing the testimony of the various witnesses to appear before the House committee, the Report states:

Dozens of witnesses representing farmer and commodity groups testified before the Committee as to two basic weaknesses in the way many System institutions have dealt with its problems. First, System lenders have been exceedingly reluctant to restructure individual loans on a case-by-case basis; and, second, the tensions and pressures on both borrowers and lenders, brought on by financial distress, have caused collapse of the traditional sense of comity and good will between the System and its borrower/owners.

H.R. Rep. No. 295(1), 100th Cong., 1st Sess. 62, *reprinted in* 1988 U.S. Code Cong. & Admin. News 2723, 2733. The Report went on to state:

Complaints about the rights of System borrowers being abused at both the association and district levels have been like a constant drumbeat in the offices of some Members of Congress for several years. The package of borrower rights adopted in H.R. 3030 reflect a common sense approach which should have been standard operating procedures in a cooperative, borrower-owned lending system.

*Id.* at 64, *reprinted in* 1988 U.S. Code Cong. & Admin. News at 2735.

The rights established for System borrowers by the Agricultural Credit Act of 1987 remain today. 12 U.S.C. §§ 2199-2202e. However, contrary to the testimony of the Congressional record, the Act does not provide borrowers an express private cause of action for violations of the Act, even when borrower rights under the Act have been unequivocally violated. Federal courts have refused to imply such a right, notwithstanding that the legislative history of the Farm Credit Amendments clearly shows the desire to create a private cause of action for borrowers.

B. The Congressional Record Clearly Evidences the Intention to Provide Borrowers a Private Cause of Action.

Discussion in the House of Representatives centered on providing relief to System borrowers. The House Report found that:

Additionally, the bill provides legal protection for borrowers that is needed to ensure that they receive fair treatment and due process, and that they are given every realistic opportunity to avoid liquidation and stay in business... The bill is designed to reduce those tensions by bolstering confidence in the System's financial stability and mandating fair and equitable treatment of the borrowers.

H.R. Rep. No. 425, 99<sup>th</sup> Cong., 1<sup>st</sup> Sess. 44, *reprinted in* 1985 U.S. Code Cong. & Admin. News 2587, 2597-98.

Individual legislators also made statements confirming that the new borrowers' rights included legal relief. For example, consider the following discussion between Representatives Penny and de la Garza, chairman of the House Committee on Agriculture and sponsor of the bill.

Rep. PENNY: ... I know you share with me the belief that applicants and member-borrowers need assurances throughout the process that they are being treated fairly. In addition to such guidelines and regulations, will this legislation provide [them] the option of utilizing the court system to ensure they are properly enforced?

Rep. DE LA GARZA: Yes, Mr. Penny, as you indicate, a major section of this bill does establish a set of borrowers' rights, and it would be my understanding that the rights of applicants and member-borrowers as set forth in this Act and in the regulations of the Farm Credit Administration shall be enforceable in courts of law.

131 Cong. Rec. H11518-19 (daily ed. Dec. 10, 1985).

When H.R. 3030 reached the floor of the Senate after committee hearings, Senator Burdick<sup>2</sup> offered an amendment on the Senate floor to expressly provide that any person would have a right to sue under the Act. His concern was that the House bill, as written, eliminated the right to sue of persons who were not yet borrowers or who were former borrowers. He stated:

Currently, any person has the right to sue these two entities. However, the House provision arguably limits this right to borrowers of the System. This restricts rights of persons who are not yet borrowers, or who are farmer-borrowers, to sue.

My amendment simply cleans up this problem and restores the rights to all persons, whether borrowers or not.

133 Cong. Rec. S16995 (Dec. 7, 1987).

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<sup>2</sup> Senator Quentin Burdick, a tireless fighter for rural America, began his career as a lawyer in private practice advising farmers who were threatened with foreclosure during the Great Depression. An opponent of the Eisenhower administration's farm policies, in his maiden speech on the House floor, Burdick called for the resignation of U.S. Secretary of Agriculture Ezra Taft Benson, who sought to remove government price supports and aid to farmers. The Quentin Burdick Center for Cooperatives was founded in his honor.

Senator Boren, chairman of the Senate Subcommittee on Agricultural Credit and floor manager for the bill, responded as follows:

I am told that the House has unduly restricted the right of the borrower to bring suit and that this is the proposal in the House bill. It would be my thought . . . that we would oppose that House provision in the conference committee. That would have much the same effect as the adoption of the Burdick amendment would have without our attempting to write the actual language of the amendment here on the floor at this time.

Senator Lugar, ranking minority member of the Senate Agriculture Committee, stated:

I would confirm the understanding that the distinguished Senator from Oklahoma and I have with the distinguished author of this amendment. We will in fact oppose the House amendment in conference. We understand the problem, and we would appreciate the Senator's not pursuing this amendment on this occasion with that assurance.

*Id.* On the basis of these assurances, Senator Burdick withdrew his amendment and the bill passed. This is both the best and only explicit explanation of why the private cause of action provision was eliminated at Conference. *See Zajac v. Fed. Land Bank*, 909 F.2d 1181, 1192 (8<sup>th</sup> Cir. 1990).

Notwithstanding the Congressional record, System institutions and the FCA have consistently and continually argued in federal courts that no express or implied private right of action exists for their violations of borrowers' rights under the Act and have won. *See e.g., Bowling v. Block*, 785 F.2d 556, 557 (6<sup>th</sup> Cir. 1986) ("We agree with the district court that the Farm Credit Act 'does not create enforceable



rights which would necessitate the existence of a private right of action,' ... and that there is no support for the conclusion that Congress intended to create a private right of action under the Farm Credit Act in favor of these appellants.'") (internal citations omitted). While some Federal Courts have recognized this precedent is in error, it remains binding present in every federal circuit.

We are always hesitant to create a conflict between circuits on important issues of the law. This is one instance, however, in which we should not hesitate to set forth our own view on the question of whether farm borrowers have a private right of action to enforce the borrowers' rights provisions of the Agricultural Credit Act of 1987. In my view, *Harper* was wrongly decided. *Harper* ignored the plain and mandatory language of the Act, wrongly decided that the major objective of the Act was to preserve the financial viability of the Farm Credit System and neglected the equally important objective of empowering farm borrowers with certain prescribed rights. *Harper* also refused to give weight to the clear statements of the managers of the bill on the floor of the Senate regarding the intent of Congress with respect to borrowers' rights. Finally, *Harper* wrongly concluded that Congress intended administrative review to be the exclusive remedy when, in fact, the Farm Credit Administration has neither entertained an action to enforce borrowers' rights nor possessed the power to do so. In sum, the failure to imply a private right of action contradicts the intent of Congress.

*Zajac v. Fed. Land Bank*, 909 F.2d 1181, 1184 (8<sup>th</sup> Cir. 1990) (Heaney, G., Senior Circuit Judge, dissenting, joined by Lay, D., Chief Judge) (rejecting *Harper v. Fed. Land Bank*, 878 F.2d 1172 (9<sup>th</sup> Cir. 1989)).

To this day, Congress has failed to correct this egregious error; and Federal Courts insist they cannot rewrite the law to reflect Congress's intentions. By woeful

default then, administrative review by the FCA remains the exclusive remedy for violations of borrowers' rights under the Act.

C. Administrative Review by the FCA as the Exclusive Remedy for Violations of Borrowers' Rights by System Institutions.

Contrary to Congressional understanding or aim, System borrowers are left with administrative review by the FCA as their sole recourse for violations of their rights under the Act.

The plain fact, however, is that the FCA is in no position to effectively enforce the borrowers' rights provisions of the 1987 Act. There is no procedure for filing charges or complaints... Moreover, this record does not support the view that the FCA has either the ability or willingness to enforce the borrowers' rights provisions. The FCA has viewed its primary responsibility as one of examining the institutions in the System for financial condition, quality of management, soundness, and compliance with laws and regulations. During 1987, the FCA took only 24 enforcement actions, none of which sought compliance with the borrowers' rights provisions of the 1987 Act.

Finally, even if the FCA with its limited resources wanted to enforce the borrowers' rights provisions of the Act, its authority to issue temporary cease-and-desist orders is unavailable because such orders can be issued only if the lender's violation is likely to cause insolvency or substantial dissipation of assets or earnings of the institution or otherwise seriously prejudice the interests of the investors in Farm Credit System obligations or shareholders in the institution. 12 U.S.C. § 2262(a). Similarly, its authority to suspend or remove officers extends only to those situations involving substantial financial loss, impairment of shareholder interests, or personal dishonesty. 12 U.S.C. § 2264(a).

In sum, borrowers are, as a practical matter, unable to enforce their rights through administrative avenues.

*Zajac* 909 F.2d at 1193-95.

Administrative review is conducted by the FCA's Office of Congressional and Public Affairs ("OCA"). Notably, the OCA's Mission Statement<sup>3</sup> makes no mention whatsoever of its role in addressing System borrowers' complaints for violations of their rights under the Act. And in a letter from the OCA dated June 12, 2023 to the Plaintiff in this case, the OCA said:

As the regulator for the System, FCA ensures that these institutions operate in a safe and sound manner and in compliance with applicable laws and regulations. FCA also looks into borrowers' or other interested parties' allegations of wrongdoing by System institutions. If we find that System institutions have violated applicable laws or regulations, FCA has several enforcement options to bring about corrective actions, including requiring management to address weakness in internal processes that led to those violations. However, FCA's authority does not include providing monetary or personal relief to an applicant or borrower. As an arm's length regulator, FCA cannot intervene in the business decisions made by System institutions unless those decisions violate applicable laws or regulations. Additionally, FCA does not mediate or adjudicate disputes between System institutions and borrowers.

This means that a System borrower whose rights under the Act have been, or are presently being violated, completely lacks the ability to have those rights either judicially enforced or administratively adjudicated by the FCA. To reiterate, a System institution can **outright** violate a borrower's rights under the Act without

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<sup>3</sup> The OCA's Mission Statement is: "The mission of the Office of Congressional and Public Affairs is 'to direct all agency congressional activities; to manage the coordination and production of all Agency public information and Agencywide internal communications; and to build awareness, support, and understanding of the important role the Farm Credit Administration plays in ensuring the prosperity of agriculture and rural America.'" *Accessible at* <https://www.fca.gov/template-fca/about/OIGInspectionFCAExternalCommunicationProcess.pdf>.

any liability or accountability for doing so. The borrower's only hope when faced with violations of their rights under the Act, such as being threatened with a wrongful foreclosure, is to plead for the FCA to exercise its discretionary enforcement powers and direct the System institution's management to stop the legal and/or regulatory violations in time to prevent the borrower's harm.

D. Administrative Review by the FCA is Futile for System Borrowers.

With so much at stake for System borrowers during the FCA's administrative review of complaints, a fully-functional FCA Board to oversee and ensure effectiveness and adequacy of the FCA's administrative review process is **absolutely imperative**. President Biden's failure to appoint Board Members to the vacancies has resulted in both an interference with the staggered-term plan of the statute and a de facto extension of the incumbents' terms of office. This has proven not only to be a handicap to the FCA but to deprive the System's borrowers of the benefit of the services incumbent upon the FCA to provide them.

Board Member Hall has now served essentially two terms on the Board.<sup>4</sup> Board Member Smith has been in an expired term for nearly two years. The Office of Inspector General ("OIG") has repeatedly found the Board has failed to provide adequate or effective oversight of the FCA during the time period where President Biden has failed to abide by the law mandating he appoint Board Members.

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<sup>4</sup> Notwithstanding the fact that Board Members may not succeed themselves. 12 U.S.C. § 2242(b).

Implementation of the Act may be impossible, and is certainly impracticable, unless and until a fully-functional Board is appointed by the President. Although the President clearly has discretion to choose whom to appoint to the Board, he has no discretion to decide if a functional Board should or should not be constituted. The Farm Credit Act at § 2242(a) provides that “Members of the Board *shall* be appointed by the President”. *See also McQueary v. Laird*, 449 F.2d 608, 611 (10<sup>th</sup> Cir. 1971) (mandamus will issue to require the exercise of permissible discretion, or to compel performance of ministerial duties).

No other federal agency, GSE, or private lender in this country enjoys the combination of near total insulation from oversight by *all three* branches of government and immunity from legal liability or recourse for outright violations of borrowers’ rights. The potential for continued abuse of farmers and ranchers is exponential if the System is to police itself in enforcing borrowers’ rights while the President refuses to provide its enforcer, the FCA, a fully-functional Board.

These appointments are absolutely imperative when it is the fox who is the sole guardian of the chicken coop.

## **FACTUAL ALLEGATIONS**

### **I. Presidential Appointment of the FCA Board.**

9. The Farm Credit Act of 1971 (“Act”), as amended, vests responsibility for managing the FCA in the FCA Board.

10. The FCA Board is tasked with approving the policies, regulations, charters, and enforcement activities that ensure a strong Farm Credit System.

11. The FCA Board also is to provide for the examination and supervision of the Farm Credit System and its institutions.

12. The Board is to consist of three Presidentially Appointed, Senate-confirmed members who are broadly representative of the public interest, with no more than two being members of the same political party. 12 U.S.C. § 2242(a).<sup>5</sup>

13. Board members serve in six-year terms, which are staggered and fixed so that a term expires every two years regardless of when the member was appointed. 12 U.S.C. § 2242(b).

14. The Act provides for Board members to continue serving after expiration of their term until a successor is appointed and confirmed. *Id.*

15. However, Board Members may not succeed themselves. 12 U.S.C. § 2242(b).

16. The above notwithstanding, the FCA Board operated as a two-member body following the death of the Honorable Board Chairman Dallas P. Tonsager in May 2019 until October 3, 2022.

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<sup>5</sup> As such, President Biden is required to appoint at least one Member who is not a member of the Democratic Party.

17. The resulting vacancy, which lasted over three years, was the longest since the current structure of the Board was established by the Farm Credit Amendments Act of 1985.
18. The Honorable Chairman Vincent G. Logan was appointed to the FCA Board by President Joe Biden on October 3, 2022.
19. On October 21, 2022, President Biden designated Chairman Logan as the Board Chairman and CEO.
20. Chairman Logan's term expires on May 21, 2026.
21. Chairman Logan is the only Board Member serving in an unexpired term.
22. The Honorable Jeffery S. Hall was appointed to the FCA Board by President Barack Obama on March 17, 2015.
23. Board Member Hall's term expired on October 13, 2018.
24. Board Member Hall has served for six years in an expired term and will continue to do so until the President names his successor.
25. The six-year continuation of Board Member Hall's service after the end of his term in 2018 is the longest in FCA history.
26. The Honorable Glen R. Smith was appointed to the FCA Board by President Donald Trump on December 8, 2017.
27. Board Member Smith formerly served as the Board Chairman and CEO when he was designated as such by President Donald Trump on July 17, 2019.

28. Board Member Smith's term expired on May 21, 2022.

29. Board Member Smith has served for nearly two years in an expired term and will continue to do so until the President names his successor.

## **II. The Problems Created by Board Members in Holdover Status.**

30. The continued service of Board Members Smith and Hall – both of whose terms have expired – is inadequate and ineffective, harming the FCA and System.

31. Board Members in such a 'holdover' status may face uncertainty as to the length of their continued service, which is dependent upon appointment of their successor by the President.

32. This uncertainty – which Board policy has attempted to mitigate in part by allowing certain holdover Members to perform their official duties outside the Washington, D.C. area – makes the guarantee of a quorum even more tenuous.

33. Without a quorum, a single-member Board is unable to establish general policy or promulgate rules and regulations, leaving the FCA unable to carry out its proscribed statutory obligations and duties.

34. Moreover, extended holdover positions have the potential to undermine the independent status of the FCA, as a Board Member without a fixed term is, quite obviously, more vulnerable to the vagaries of politics.



35. A Board Member in holdover status may change his or her duty station from FCA headquarters, with the Board Member being reimbursed for regularly scheduled official travel to headquarters. FCA-PS-64.

36. Additionally, holdover Board Members who change their duty station will be reimbursed by the FCA for travel and transportation expenses incurred in connection with relocation to their new duty station. *Id.*

37. While the FCA will not ordinarily reimburse Board Members for lodging in the metropolitan Washington, D.C. area, it will do so if they have relocated outside the area in a holdover status. *Id.*

38. In addition to the logistical nightmare arising from Board Members in a holdover status changing his or her duty station, this results in increased reimbursed travel expenses for the FCA.

39. It also results in the inability of the Board to effectively execute its oversight.

40. According to a representative of Board Member Smith's company, Smith Land Service Co., Board Member Smith has exercised his option to relocate to Iowa while in holdover status.

41. Upon information and belief, Board Member Hall has exercised his option to relocate to Kentucky and/or Indiana while in holdover status.

42. Travel and transportation expenses increased by 80.6%, or from \$2,441,070 to \$3,029,833 from FY 2017 to FY 2018.

43. Travel and transportation expenses increased by 94.4%, or from \$1,227,308 to \$2,386,317 from FY 2022 to FY 2023.

**III. An Absent, Partial Board Cannot Effectively or Adequately Oversee the FCA.**

44. In October 2022, the FCA’s Office of Inspector General (“OIG”) said one of the most serious management and performance challenges facing the FCA is “Operating with Less than an Ideal Board Member Composition.”

45. In the OIG’s Management Challenges Report from October 2022, it also said the “FCA faces another challenge in operating for an extended period of time with less than a full complement of the Board in non-expired terms”.

46. The OIG acknowledged that this challenge is outside the FCA’s power to address, as Board Members are uniquely subject to Presidential appointment and Senate confirmation.

47. The Board is responsible for overseeing and ensuring the efficiency and adequacy of all offices within the FCA.

**A. Office of Examination Audit**

48. The Office of Examination (“OE”) is responsible for examining and supervising System institutions in accordance with the Farm Credit Act of 1971, as amended, and applicable regulations.

49. The OE has oversight responsibility for the System’s 58 agricultural credit associations, 4 banks, 1 federal land credit association, and 6 service corporations.<sup>6</sup>

50. The Office of Congressional and Public Affairs (“OCPA”), which handles complaints from borrowers, is within the OE.

51. The OCPA internal procedures manual, including internal procedures for borrower complaints, remains in draft format. FCA OIG Inspection Report I-22-01: Farm Credit Administration’s External Communication Process (Aug. 2, 2022).

52. Nonetheless, the FCA published Examination Manual EM-33.2 in 2017 to provide OE examiners guidance regarding examination of a System institution’s compliance with borrower rights-related regulations and laws.

53. EM-33.2 says “Institutions that do not appropriately provide borrower rights may be exposed to paying fines and damages, receiving a distressed loan restructuring directive, voiding of contracts, and incurring reputations risks. As such, effective internal controls are important to ensure compliance with borrower rights regulations.”

54. It further directs examiners to determine whether institutions have sufficient processes and internal controls in place to enable its directors, employees, and agents to understand and comply with requirements on borrowers’ rights.

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<sup>6</sup> As of July 1, 2023.

55. As noted in FCA's Board Policy Statement 53, *Examination Philosophy*, the OE must maintain staff resources to fulfill the FCA's mission.<sup>7</sup>
56. Because examiners are an essential link with System institutions through examination and oversight, it is imperative for the FCA to have a trained and developed examination talent pool to perform the work.
57. The OE hires more new staff each year than any other office at FCA.
58. The OE has a high rate of attrition.
59. The OE primarily uses its existing examiner staff to recruit for new examiner positions.
60. The OE generally sends 2 to 3 people to recruit at each location for campus recruiting.
61. The OE attends about 20 events each year.
62. The OE allocates important staff time and financial resources to recruiting activities, taking resources away from its more critical task of ensuring compliance of System institutions with applicable laws and regulations.
63. The OE's summaries show that for FY 2019 recruiting efforts, 242 staff days were used, with travel expenses totaling \$31,370.

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<sup>7</sup> FCA's mission "is to ensure that Farm Credit System institutions and Farmer Mac are safe, sound, and dependable sources of credit and related services for all creditworthy and eligible persons in agriculture and rural America."

64. The OE's summaries show that for FY 2020 recruiting efforts, 248 staff days were used, with travel expenses totaling \$30,095.

65. The OE's summaries show that for FY 2021 recruiting efforts, 164 staff days were used with \$0 in travel expenses.<sup>8</sup>

66. The OIG found that while the OE plans for and allocates substantial resources to examiner recruiting efforts, there is a lack of a cost / benefit analysis on whether the efforts and strategies are effective.

67. The OIG found that, notwithstanding the significant amount of OE staff time and financial resources devoted to recruiting efforts, the OE still has significant staffing needs, especially for examiner and specialist positions.

68. In 2019, the Office of Information Technology ("OIT") developed software for the OE to provide real-time information about staffing availability.

69. The OE is directed to prioritize examination activities based on statutory compliance dates and institution risk when scheduling staff.

70. Although the OE developed a scheduling process, it is not even fully documented. FCA OIG Inspection Report A-22-03: Farm Credit Administration's Examiner Staffing Program (Jan. 30, 2023).

71. OE Directive 48, *Scheduling*, documents guidance on scheduling examinations and projects.

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<sup>8</sup> Presumably, due to COVID-19 travel restrictions.

72. However, OE Directive 48 does not even reference the web-based scheduling tool and includes outdated roles and responsibilities for division schedulers.

73. The OIG found that, because OE Directive 48 had not been updated in ten years, the directive also did not fully address the OE's current scheduling processes.

74. The OIG found that scheduling practices and staffing data are essential to maintaining an effective oversight program.

#### B. Office of Examination and Office of General Counsel Audit

75. The OE and Office of General Counsel ("OGC") are responsible for responding to reports of suspected criminal activity.

76. The OIG said: "Because of FCA's role as a regulator, it is important that strong practices are initiated to protect data and educate and aid institutions in responding to criminal activity that jeopardizes the safety and soundness of the System."

77. The OIG found that the "FCA needs to improve the internal handling and storage of criminal referrals. System institutions must file criminal referrals with law enforcement agencies and FCA when there is known or suspected criminal activity. However, there is limited documentation on FCA's handling of the information once received. The OE and OGC need to clarify handling on criminal procedures in documented procedures." FCA OIG Audit Report A-19-03: Farm Credit Administration's Criminal Referral Process (Mar. 12, 2020).

78. The OIG also found the OGC's internal policies and procedures have not been updated to account for substantial changes made to the criminal referral process.

79. The OIG found: "For example, the EDGe system and the electronic portal are not addressed in the OGC policies. The current policies state that the administrative assistant hand delivers criminal referrals to the responsible attorney to maintain confidentiality. The policies then state the attorney logs the criminal referral in, maintains the FCA criminal referral forms, reviews them for trends, and forwards them to OE and the Inspector General. These policies are currently not followed. At this time, the forms are not hand delivered, the criminal referral forms are maintained in SharePoint since 2014, and the forms are not forwarded to the Inspector General. OGC policies do not address the portal or current processes such as moving certain criminal referrals to a more restricted area in EDGe if the form contains certain sensitive information."

80. The OIG further found: "In OE, there are several individuals performing certain tasks relating to criminal referrals, but those processes are not documented. For example, there are individuals in RSD that review criminal referrals for concerns to an individual institution, systemic information that could affect the overall safety and soundness of the System, and items that may warrant supervisory or enforcement actions. The process was initiated about two years ago, but there are no procedures documenting the RSD review or how the process works. OE also has a

financial analyst that maintains a log of criminal referrals. The analyst reviews certain referral information and creates a log by fiscal year (FY). This individual stated a quarterly report is given to the Chief Examiner and a limited group of OE managers; however, this process is also not documented. It is important for OE to document what types of reviews are done relating to the criminal referrals and who is responsible for specific tasks.”

81. In addition, the OIG found the FCA has issued limited formal guidance to the System on criminal referrals.

82. From 2015-2020, the FCA worked on clarification guidance for the criminal referral regulations.

83. As of the OIG’s 2020 Audit, that draft guidance was formatted as a frequently asked questions document clarifying the FCA’s process and expectations regarding criminal referrals.

84. However, the OIG found that, as of the 2020 Audit, the document remained in draft form and had not yet been approved for release.

### C. Office of Data Analytics and Economics Audit

85. On November 19, 2019, the FCA Board approved the creation of the Office of Data Analytics and Economics (“ODAE”).



86. The FCA Board then named a Chief Data Officer (“CDO”) to serve as a steward for FCA data and as a provider of information for objective, evidence-based decision making across the FCA.

87. From 2020 to 2024, the ODAE’s staff has more than doubled, and its budget has increased by nearly 60%.

88. The ODAE has an annual budget of around \$3 million.

89. Salaries and expenses are the largest expense in the ODAE’s budget.

90. In 2022, the ODAE spent \$2,111,519 of \$2,350,470 (or 89.8%) of its expenditures on Salaries and Benefits.

91. The OIG completed an audit of the ODAE in 2023. FCA OIG Audit Report A-23-01: Farm Credit Administration’s Office of Data Analytics and Economics (June 14, 2013).

92. The OIG found that: a) “Although the Agency has devoted resources to the new office, ODAE has not established important control mechanisms to improve the effectiveness of the office”; b) “the Agency does not have overarching policies and procedures on ODAE’s roles and responsibilities, reporting requirements, and coordination with other FCA offices”; c) “ODAE also focused on other priorities, including... tasks assigned by senior leadership and the FCA Board”; and d) “While ODAE has several written policies and procedures that explain technical aspects of

its work, these documents were generally in draft form and were not completed in a specific, detailed, and consistent manner”.

93. The OIG also said “ODAE officials explained that prior to the start of the current FCA Chairman’s term, ODAE met with the FCA Board Members and the FCA Chief Operating Officer (“COO”) on a monthly basis. At these meetings, ODAE would provide updates on its current projects, receive input on future projects, and discuss Board priorities. . . the office lacks overarching policy direction, such as the type of direction that would be included in an FCA Board policy statement or an Agency-wide policy or procedure.”

94. The OIG found that the monthly meetings of ODAE leadership, the COO, and the FCA Board no longer occur.

95. The OIG further said, “As previously noted, ODAE has a number of recurring projects that are required by law or by FCA leadership. These projects include the Evidence Act report, quarterly economic briefings to the FCA Board, and YBS reporting. While ODAE’s main functions are acknowledged in FCA Regulation 600 (subpart A), there are currently no Agency-wide policies outlining the office’s reporting requirement to the Board or senior leadership, or how ODAE will coordinate with other FCA offices.”

96. The OIG also further said, “Since the creation of the ODAE in late 2019, FCA has invested significant resources in its operations. Over the three plus years of its

existence, ODAE's budget and staff both have significantly increased. Thus, it is vital that the Agency further define ODAE's responsibilities so that the office operates in an effective and efficient manner. By not updating policies and procedures to explain the responsibilities of ODAE and how it can best work with other FCA offices, important requirements and milestones are at risk of not being met and other FCA offices are at risk of having to undertake or duplicate ODAE's responsibilities."

97. In his response to the OIG's report on June 6, 2023, Chairman Logan said "a strong framework of internal controls remains critical" and the "FCA leadership agrees to take corrective actions to address recommendations 1 and 2 identified by the OIG in this audit".

98. Recommendation 1 included the FCA developing policies and procedures for the ODAE, including the office's roles and responsibilities, reporting requirements, and coordination with other FCA offices.

99. The FCA established the Data Advisory Group ("DAG") to be the principal internal forum for addressing data management standards, priorities, policies, and practices.

100. The DAG charter states that membership includes: 1) Chief Data Officer, who serves as Chair, from ODAE; 2) Chief Information Officer or designee; 3) Senior Agency Official for Privacy or designee; 4) Senior Agency Official for Records

Management or designee; 5) Representative from Office of Examination; 6) Representative from Office of Regulatory Policy; 7) Representative from Office of General Counsel; 8) Representative from Office of the Chief Financial Officer; 9) Representative from Office of Agency Services; 10) Representative from Office of Congressional and Public Affairs; and 11) Representative from Office of Secondary Market Oversight.

101. In its 2023 audit, the OIG found there was Agency uncertainty regarding the participation in, and function of, the DAG among FCA offices. FCA OIG Audit Report A-23-01: Farm Credit Administration's Office of Data Analytics and Economics (June 14, 2023).

102. For example, the OIG said FCA officials stated they were unaware their office had a position on the DAG, even though it was clearly identified in the charter.

103. The OIG also found that neither the DAG nor the four subcommittees (the Call Report Data Group, the Technical Capabilities and Platform Group, the Data Governance and Management Group, and the Loans Data Group) had written procedures on how to exercise and document decision-making and recommendation authorities, such as voting procedures and meeting note requirements.

104. During testing, the OIG found that meeting records from DAG meetings did not contain evidence of what occurred at DAG meetings or properly memorialize DAG decisions.

105. The FCA’s Office of Management and Budget (“OMB”) requires a major rule analysis for every proposed rule the FCA issues.

106. In accordance with the requirements set forth in the Congressional Review Act, OMB Memorandum M-19-14, OMC Circular A-4 and additional federal guidance and authorities, a rule is considered a “major rule” based on the concept that the rule has resulted in or is likely to result in:

(A) an annual effect on the economy of \$100,000,000 or more;

(B) a major increase in costs or prices for consumer, individual industries, federal, state, or local government agencies, or geographic regions; or

(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

107. The OIG found the FCA only conducted one analysis from November 2019 through September 2022.

108. At the time of the OIG’s audit, the FCA’s Office of Regulatory Policy was no longer staffed with economists and instead relied on the ODAE to support its rulemaking responsibilities and to perform analyses on proposed rules.

109. An ODAE official informed the OIG during the audit that, based on the Fall 2022 Unified Agenda, the office planned to participate in the analysis on eight rules, four in FY 2023 and four in FY 2024.

110. However, as of February 2023, or five months into the fiscal year, the ODAE had not conducted an economic impact analysis on any of the four proposed rules scheduled for FY 2023.

111. The OIG found the ODAE's internal procedures are silent on what factors it uses to decide whether or not an analysis will be conducted or what justifications are required for reaching the decision.

112. ODAE and ORP officials also stated the CDO and ORP leadership meet periodically to discuss the FCA Board's Unified Agenda, but it is solely up to the ODAE whether they conduct a regulatory economic impact analysis, with no justification provided for reaching its determination.

113. The OIG said one of the root causes is the "lack of a defined overarching [FCA] policy outlining ODAE's responsibilities and requirements" and the fact that the "ODAE's internal procedures, many of which remain in draft, lack detail and consistency, and were not prioritized."

114. The OIG found there were currently no office wide policies outlining the ODAE's reporting requirements to the Board or senior leadership, or how ODAE will coordinate with other FCA offices.

115. The FCA Board has failed to provide effective, or even adequate, oversight of the offices of the Farm Credit Administration.

116. This is due to not having a functional Board.

117. This is also because the majority of the Board is in holdover status due to President Biden's refusal to appoint Board Members to replace those serving in expired terms.

**IV. The Board's Inability to Effectively or Adequately Oversee the Administration Allowed a System Institution to Go Rogue.**

118. In July 2020, Mr. Kittle became a borrower and stockholder in Alabama Farm Credit, ACA ("AFC").

119. AFC is a System institution within the Farm Credit System under Charter No. 8084, issued by the Administration on January 4, 2010.

120. In July 2021, while working towards a refinance with AFC, Mr. Kittle discovered inconsistencies which raised concerns over AFC's handling of his initial loans, as well as the pending refinance.

121. Upon raising those concerns to his branch manager, Amanda Simpson, she said: "Your payment history and account is in excellent standing with AFC and we look forward to working to meet your credit needs. I am sorry for the misunderstanding".

122. On July 23, 2021, Mr. Kittle requested copies of his loan file with AFC.

123. AFC subsequently placed its Chief Risk Officer, Jody Campbell, over Mr. Kittle's account before providing Mr. Kittle his loan documents on July 28, 2021.

124. On July 30, 2021 AFC asked whether Mr. Kittle would be available for a call with its attorney, Chris Glenos (“Mr. Glenos”) of the Bradley Arant Boult Cummings, LLP law firm (“Bradley”).<sup>9</sup>

125. “AFC retained Bradley [and Mr. Glenos] to represent it on or about July 26, 2021, after [Mr. Kittle] began challenging AFC’s handling of [his] request to modify certain loans, and threatening legal action.” Exhibit A.

126. After Mr. Glenos became involved, Mr. Kittle was precluded from ever speaking with AFC again.

127. In order to conduct routine banking matters, such as balance inquiries, payment history, requesting pay-off letters, submitting credit requests, or accessing his online banking account, Mr. Kittle had to speak exclusively to Mr. Glenos.

128. Mr. Glenos subsequently began an egregious campaign of retaliation against Mr. Kittle and caused AFC to violate federal laws and regulations, including the Farm Credit Act and the Equal Credit Opportunity Act.

**V. A System Institution’s Private Attorney Retaliates Against a Borrower for Complaining of Violations of His Rights as a Borrower.**

129. For example, on August 12, 2021, Mr. Glenos caused AFC to violate the Act by refusing to provide Mr. Kittle appraisals of his property, saying “[a]ppraisals ordered and paid for by AFC are the property of AFC.” Exhibit C.

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<sup>9</sup> Bradley is a national law firm based in Birmingham, Alabama. It has 13 offices in 8 states with more than 650 lawyers. It is one of the nation’s 250 largest law firms.



130. On August 16, 2021, Mr. Glenos caused AFC to violate the Act by informing Mr. Kittle that AFC had no obligation to provide Mr. Kittle with a) AFC's Articles of Incorporation; b) AFC's Bylaws; or c) appraisals for Mr. Kittle's collateral unless Mr. Kittle would sign a release of legal claims. Exhibit C.

131. In addition to this being a violation of numerous other regulations and laws under the Act, pursuant to 12 C.F.R. § 617.7010, "[a Farm Credit System] lender may not obtain a waiver of borrower rights".

132. On August 20, 2021, Mr. Glenos caused AFC to violate the Act by saying, "I have advised AFC not to accept any new credit applications from [the Kittle Borrowers] while they are threatening or pursuing litigation claims against AFC." Exhibit C.

133. On October 6, 2021, Mr. Glenos caused AFC to violate the Act by saying, "[a]s explained previously, AFC is not in a position to accept any new loan applications for the Kittle Borrowers at this time. This is due, without limitation, to the unresolved legal claims the Kittle Borrowers have asserted and continue to assert against AFC". Exhibit C.

134. On October 26, 2021, Mr. Glenos caused AFC to violate the Act, saying "For reasons previously communicated, AFC is unwilling to entertain any such proposal to deviate from the parties existing agreements that does not include a release of the borrowers' disputed claims against AFC and its employees". Exhibit C.

135. Mr. Glenos then proceeded to say, “here are the non binding terms that AFC would be willing to consider agreeing to pursuant to a restructure agreement 1) All Kittle parties execute a full release and covenant not to sue i[n] favor of AFC and AFC’s officers, directors, employees and counsel... 7. Upon repayment, Dustin Kittle’s \$1,000 stock in the cooperative will be refunded and he will no longer be an AFC customer/stockholder. 8. Kittle parties acknowledge that no further renewals, advances, extensions or credit of any kind will be granted by AFC to the Kittle parties.” Exhibit C.

136. On October 29, 2021, Mr. Glenos caused AFC to violate the Act by saying, “[a]s explained in my letter of August 20, 2021, AFC is unwilling to accept any new applications from the Kittle borrowers at this time due to the unresolved and disputed claims being threatened by the Kittle borrowers.”<sup>10</sup> Exhibit C.

137. On November 8, 2021, Mr. Kittle forwarded AFC’s Officers and Directors correspondence reporting Mr. Glenos to the Tennessee Board of Professional Responsibility for his professional misconduct while representing AFC.

138. Also on November 8, 2021, Mr. Glenos, caused AFC to violate the Act by saying, in a recorded call, AFC would not accept any credit applications or provide loan servicing with respect to Mr. Kittle loans with AFC unless Mr. Kittle would

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<sup>10</sup> It should be noted that Mr. Kittle has never filed a lawsuit against AFC; in fact, this is the first Complaint he has ever filed as a named party.

sign a release of legal claims in favor of AFC, its Officers, its Directors, its employees, Mr. Glenos, and the Bradley law firm.

139. In that same call, Mr. Kittle informed Mr. Glenos that a) the distressed notice would be improper; b) he had sufficient capital to meet his loan obligations; b) he had never missed or so much as been late on a loan payment; c) Mr. Glenos was engaging in criminal extortion; and d) the call was being recorded.

140. Hours later, Mr. Glenos, on behalf of AFC, placed Mr. Kittle's loans in distress with the potential of foreclosure within 45 days despite Mr. Kittle never having missed a single payment in the history of his loans with AFC.

141. Also on that same day, November 8, 2021, a partner at Bradley informed AFC that a conflict of interest between the firm and AFC had arisen and requested AFC provide its consent to the conflict. Exhibit D.<sup>11 12</sup>

142. Specifically, Bradley told AFC that the "firm's further work on an existing matter, including, without limitation, potentially litigating issues arising from that firm's prior legal work, may generate a conflict of interest under the rule when there is a plausible claim that the prior work was deficient, especially if there are

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<sup>11</sup> Exhibit D includes Mr. Kittle's and his attorney's Motion to Disqualify AFC's counsel in a separate action, including the conflict consent. As evidenced in this Exhibit, Bradley had AFC CEO Mel Koller consent to the conflict on behalf of AFC. Mr. Koller is, or was, also represented by Bradley in his individual capacity and in his official capacity as AFC CEO.

<sup>12</sup> Filed under seal in the separate action as parts contain discussions regarding AFC's Counsel's professional misconduct, which AFC's Counsel claims are subject to confidentiality... Portions containing information purportedly covered by AFC's right to confidentiality are redacted in an abundance of caution.

alternative strategies for handling the matter, and one is better for the law firm and another is better for the client.” Exhibit D.

143. Bradley explained that “[i]n such an instance, the potential exists that the law firm will pursue the strategy that is better for the firm so as to protect its prior work from blame” and that “[i]n this situation, **it could be argued that the allegations made by Dustin Kittle regarding the legal services provided by our firm may result in us pursuing a settlement that would reduce the likelihood of Mr. Kittle pursuing some type of claim against the firm.**” Exhibit D (emphasis added).

144. Bradley continued to say, “For example, **the firm could focus the new matter on a way to resolve the entire dispute and obtain from Mr. Kittle and Kittle Farms, LLC a release that benefits the firm and avoids criticism of the firm’s interactions with Mr. Kittle.**” Exhibit D (emphasis added).

145. To avoid his farm and home being wrongfully foreclosed on for his refusal to sign a release of legal claims in favor of AFC, its Officers, its Directors, its employees, Mr. Glenos, and the Bradley law firm in order to receive loan servicing guaranteed him under federal law, including the Act, Mr. Kittle was forced to pay off his loans 20 years early.

146. In order to do so, Mr. Kittle had to liquidate his assets (including livestock, equipment, retirement accounts, etc.), obtain personal loans from friends and family,

sell a historic 100-acre farm he had purchased just months before, and obtain financing (on significantly less favorable terms) through a non-Farm Credit lender.

147. Mr. Kittle was ultimately forced to sell his family's home.

**VI. The FCA Patently Failed at its Job to Regulate or Correct its System Institution's Violations of Rights.**

148. After the retaliation by Mr. Glenos and AFC began, Mr. Kittle had submitted a complaint to the FCA for violations of his rights as a borrower under the Act.

149. This complaint was submitted early on – August 24, 2021. Exhibit E.

150. The FCA began its investigation of AFC on August 26, 2021. Exhibit E.

151. The FCA informed Mr. Kittle that it would “strive to provide a response within 60 days” and that if it were unable to finish its review in 60 days, it would notify him of the same and provide him with information on the status of its review. Exhibit E.

152. The FCA further informed Mr. Kittle that, while “the law does not allow [it] to function as a consumer advocacy bureau” and it does not “adjudicate disputes between System institutions and borrowers” and it has “no authority to provide monetary relief”, if it finds that a violation has occurred, “[it would] use [its] examination and enforcement authorities to require corrective action.” Exhibit E.

153. On October 26, 2021, the OCPA sent Mr. Kittle a letter saying it was “still reviewing [his] concerns”, its “goal was to complete [its] review within 60 days of

receiving [his] complaint, but the complexities of the matters raised in [his] complaint require additional time.” Exhibit E.

154. Mr. Kittle responded to the OCPA that same day, saying “things have taken a turn for the worse”, “[AFC is] attempting to coerce me into signing a release of claims against them”, “I don’t want to do it but they have blocked all my requests for credit outright”, and **“It’s retaliation, it’s fraud, and it’s coercion – and I really need your help.”** Exhibit E (emphasis added).

155. On October 30, 2021, Mr. Kittle explained, “Mr. Glenos recently sent us a letter stating that he unilaterally ordered our farm credit lending institution to not consider any attempts at credit, now or in the future, unless we sign a full release of claims. **That is a blatant violation of the Farm Credit Act and almost every equal lending statute in the country.**” Exhibit E (emphasis added).

156. Mr. Kittle further explained that, “A private lawyer has no authority to deny credit allowed to us under the Farm Credit Act... we have suffered significant financial harm and distress in having to conduct our banking under the U.S. Farm Credit Act with a law firm who is intent on pushing us out of the U.S. Farm Credit System. We have dealt with this since July”. Exhibit E.

157. On November 3, 2021, Mr. Kittle forwarded to the OCPA additional documentation demonstrating obvious violations of the Act that had occurred since his initial complaint in August. Exhibit E.

158. That same day, Mr. Kittle also provided the OCPA with documentation that AFC's CEO had been notified of the violations and failed to act. Exhibit E.

159. On November 5, 2021, Mr. Kittle forwarded the OCPA a recorded call of Mr. Glenos saying AFC would do "anything reasonable" on Mr. Kittle's loans if he would just sign a release of legal claims in favor of AFC, and the Bradley law firm. Exhibit E.

160. In that same correspondence, Mr. Kittle said: **"The United States Farm Credit Administration is currently on notice of and has been for more than 60 days now [of] an active effort to extort a borrower into signing a full release of their federal rights under the US Farm Credit Act just so that lending institution and its attorneys can have their wrongful acts protected – and the payoff for that borrower is to be able to obtain credit again through the US Farm Credit System. This agency is currently allowing this to happen, as they have been placed on notice of same and have failed to take any corrective action whatsoever."** Exhibit E (emphasis added).

161. Also in that same correspondence, Mr. Kittle requested the recording and email be forwarded to the FCA's Director and General Counsel. Exhibit E.

162. Also in that same correspondence, Mr. Kittle informed the OCPA that "this private attorney has place[d] the subject loans in distressed status and provided notice of same despite the fact the borrowers have never missed or even been late on

a payment – and despite the fact they have a current loan to value at or near 50% with more than \$4 million in appraised real property equity and livestock assets they own free and clear... These borrowers have had their ability to obtain credit frozen by a private attorney as well as their lending institution... for the past 100 days.” Exhibit E.

163. On November 8, 2021, Mr. Kittle forwarded the OCPA correspondence reporting Mr. Glenos to the Tennessee Board of Professional Responsibility for “hijack[ing] our borrower-lender relationship for the past 100 days.”

164. Later that night, Mr. Kittle forwarded to the OCPA Mr. Glenos’s correspondence placing Mr. Kittle’s loans in distress with the threat of foreclosure, explaining that “[his] loans were just placed in distress by this rogue attorney trying to commit extortion – he emailed us the letter from Alabama Farm Credit letterhead. **Someone up there needs to wake up and help us – and quickly – this is serious.**”

Exhibit E (emphasis added).

165. Also that night, Mr. Kittle requested the OCPA “assist [him] in being able to conduct [his] business with [its] lending institution” and explained “**I need help in just being able to talk with my bank, which I have had no communication with since on or about July 30<sup>th</sup>... These institutions are clearly violating the Farm Credit Act and are causing me financial harm... please help me get this finalized or some relief soon.**” Exhibit E (emphasis added).



166. On November 10, 2021, after receiving no response to his pleas for help, Mr. Kittle asked the OCPA for an update. Exhibit E.

167. Also on November 10, 2021, Mr. Kittle informed the OCPA that he spoke with AFC's Chairman of the Board of Directors who said he was powerless to stop it and that he had been told to answer to two people, the CEO Mel Koller and CRO Jody Campbell. Exhibit E.

168. In this same correspondence, Mr. Kittle told the OCPA to “**do your job and do it now** – you are allowing innocent borrowers to be extorted and to have their properties foreclosed on when they have never missed a payment. **You have had notice of this for months and you have done nothing to stop it** – please accept this correspondence as notice that **the US Farm Credit Administration has caused harm in their lack of response to violations by a lending institution under its watch. There is additional harm being allowed to occur now that could be stopped if this Administration would simply direct this institution to comply with the Farm Credit Act** by allowing borrowers to conduct their banking business and to communicate with their bank without the impediment of contacting a private law firm in Birmingham, Alabama to even check the balance of their account. The delay in a response by the FCA has resulted in a wrongful foreclosure being initiated against borrowers – by a private law firm – and the exercise of rights afforded under the US. Farm Credit Act have been conditioned on the release of legal claims for

retaliation in reporting violating of that same Act. It is time for this Director to take action – your borrowers are being extorted and you are meeting about it once a week every Tuesday like you had someone report that they didn't get correct change back... History will not look kindly on this Administration's delay and inaction on a file they received months ago and refused to even enter into a 3-way call on to tell the lending institution to communicate with the borrowers. Please also forward this to legal. If there is any other independent or governmental body who can [step] in to stop this corruption, send it to them as well." Exhibit E (emphasis added).

169. The following day, the OCPA responded to Mr. Kittle's email thanking him for the update, explained they were reviewing his concerns, that "[they] understand the seriousness of the situation and are making every effort to thoroughly investigate the matters". Exhibit E.

170. The OCPA proceeded to explain: "[they] do ensure that System institutions operate in a safe and sound manner and that they do comply with applicable laws and regulations", that "the law does not allow [them] to mediate disputes between System institutions and borrowers", but "[i]f an institution has violated a law or regulation, [they] will use [their] enforcement authorities to require the institution to take correction actions. [They] appreciate [him] keeping [them] informed and will provide periodic updates on the status of [their] review." Exhibit E.

171. Mr. Kittle responded that he was considering signing the release, as “[he is] at the end of [his] rope and [doesn’t] want to risk losing [his] farm to a wrongful foreclosure with no end to this in sight”. Exhibit E.

172. On November 12, 2021, the OCPA informed Mr. Kittle it “cannot provide advice on the matters raised in [his] complaint” and “[w]hether [he] sign[s] a release of claims is [his] decision.” Exhibit E.

173. Mr. Kittle responded saying if he signed a release, he would be precluded from speaking with the OCPA about his complaint “**but, based on the fact we are 90 days in with no effort to have your lending institution correct the violations, I have a strong feeling that is exactly what the FCA wants... The effort by this office is a disservice to the agricultural borrowers who depend on this Administration.**” Exhibit E (emphasis added).

174. Due to the FCA’s complete and utter failure to use its examination and enforcement authorities to require corrective action, Mr. Kittle was forced to pay off his loans with AFC on December 1, 2021 to avoid the wrongful foreclosure.

175. On January 6, 2022, the OCPA sent Mr. Kittle a letter saying it was “still reviewing [his] concerns”, that its “goal was to complete [its] review within 60 days of receiving [his] complaint, but the complexities of the matters raised in [his] complaint require additional time.” Exhibit E.

176. On March 7, 2022, the OCPA sent Mr. Kittle a letter saying it was “still reviewing [his] concerns”, that its “goal was to complete [its] review within 60 days of receiving [his] complaint, but the complexities of the matters raised in [his] complaint require additional time.” Exhibit E.

177. On July 26, 2022, Mr. Kittle emailed the OCPA asking for an update on the investigation. Exhibit E.

178. On July 28, 2022, the OCPA responded saying it was “still reviewing [his] concerns”, that its “goal was to complete [its] review within 60 days of receiving [his] complaint, but the complexities of the matters raised in [his] complaint require additional time.” Exhibit E.

179. On September 28, 2022, the OCPA sent Mr. Kittle a letter saying it was “still reviewing [his] concerns”, that its “goal was to complete [its] review within 60 days of receiving [his] complaint, but the complexities of the matters raised in [his] complaint require additional time.” Exhibit E.

180. On December 1, 2022, the OCPA sent Mr. Kittle a letter saying it was “still reviewing [his] concerns”, that its “goal was to complete [its] review within 60 days of receiving [his] complaint, but the complexities of the matters raised in [his] complaint require additional time.” Exhibit E.

181. On January 26, 2023, Mr. Kittle submitted a request to the FCA OIG for review of his complaint with the OCPA. Exhibit E.

182. In his request, he explained, “In August 2021... [o]ur claim was assigned to Investigator Russell Middleton, who participated in an hour plus long telephone call with me days after the complaint was made. Since that time, I have reported and provided documented evidence of [numerous violations] to Investigator Middleton and the FCA... The Farm Credit Administration was informed of the time-sensitive nature of my complaint and the potential for irreparable harm but, remarkably, failed to take any action whatsoever. Instead, even now 18 months after the complaint was first made, I continue to receive boiler-plate correspondence from Investigator Middleton every few months informing me that, due to the complexities of our complaint, the investigation has not yet concluded. **In short, my family lost our home because the Farm Credit Administration failed us.** We provided concrete and documented evidence showing that the Farm Credit Lender was engaging in illegal acts under the Farm Credit Act, and potentially even criminal law, but could not get so much as a response to that complaint that allowed us to evaluate our other options. **I am seeking answers as to how this happened.**” Exhibit E (emphasis added).

183. On February 3, 2023, the OCPA sent Mr. Kittle a letter saying it was “still reviewing [his] concerns”, that its “goal was to complete [its] review within 60 days of receiving [his] complaint, but the complexities of the matters raised in [his] complaint require additional time.” Exhibit E.

184. Mr. Kittle forwarded this correspondence to the FCA OIG, who responded for the first time, acknowledging his January 26<sup>th</sup> request and saying it was “in the process of reviewing the details of [Mr Kittle’s] complaint and FCA’s actions in response to [his] August 2021 complaint.” Exhibit E.

185. On February 6, 2023, Mr. Kittle submitted a request for the records of the FCA’s investigation into his August 2021 complaint pursuant to the Freedom of Information Act, pre-approving charges up to \$500.00. Exhibit E.

186. On February 14, 2023, FCA FOIA Public Liaison Jacqueline Baker responded to the request, saying that a) the FCA would charge for manual searches for records and review, as well as the pro-rated cost of the salary of the employees doing the work; b) the FCA found 170 potentially responsive documents that would require manual review and processing; c) the FCA anticipates this taking approximately 14.5 hours; d) the FCA anticipates the cost of processing these documents to be \$1,345; e) Mr. Kittle would need to pay the \$1,345 estimated fees in advance since he has no prior history of paying FOIA fees; and f) “since [they] are requiring advanced payment, [they] will not consider [his] request to be received and will not respond to it until [he] meets this requirement.” Exhibit E.

187. The FCA FOIA Liaison proceeded to say that “a number of the 170 potentially responsive documents will be subject to multiple FOIA exemptions” and “will most

likely be exempt from mandatory disclosure in their entirety under the bank examination privilege.” Exhibit E.

188. On April 3, 2023, the OCPA sent Mr. Kittle a letter saying it was “still reviewing [his] concerns”, that its “goal was to complete [its] review within 60 days of receiving [his] complaint, but the complexities of the matters raised in [his] complaint require additional time.” Exhibit E.

189. Mr. Kittle responded asking **“Can you advise as to whether one of these investigations has ever concluded? Or is it your practice to simply send out these letters indicating that more time is needed until it goes away? This involves an individual claim and a single financial institution – you are now going on two years without so much as one substantive update. This is a complete sham, and you all should be ashamed of what you have allowed to happen. I hope nothing like this ever befalls your own families.”** Exhibit E (emphasis added).

190. On April 6, 2023, Mr. Kittle requested an update from FCA OIG. Exhibit E.

191. On April 12, 2023, the FCA OIG responded to Mr. Kittle’s April 6<sup>th</sup> request saying they would “be sending a status update in the next day or so.” Exhibit E.

192. On April 13, 2023, the FCA OIG said they “[had] reviewed [the] January 26, 2023 complaint regarding the Agency’s review of [his] August 24, 2021 borrower complaint. We interviewed staff from the Office of Congressional and Public Affairs

(OCPA) and the Office of Examination tasked with undertaking the borrower complaint review. We independently reviewed written documentation to substantiate the process followed by the Agency. Multiple offices within FCA are involved in the review and analysis. Based on our review, we found that the agency is still in the process of reviewing your borrower complaint. **FCA policy establishes a general expectation that borrower complaints receive a final response within 60 days**, though notes that this timeframe is a goal, with response times depending on, among other things, the complexity of the complaint and the need to obtain additional information from the complainant or institution. If the agency's review cannot be completed within 60 days, OCPA will periodically send a standard status letter to the complainant until the review is completed and a final response letter is sent. Notwithstanding the boilerplate nature of the letters that you received from OCPA, the agency appears to be making progress on addressing your complaint. We will conduct periodic status reviews of your complaint and hold it open and pending until the Agency concludes its review." Exhibit E (emphasis added).

193. On June 12, 2023, the OCPA sent Mr. Kittle a letter with the FCA's findings from his August 2021 complaint. Exhibit F.

194. **It took 657 days for Mr. Kittle to receive any meaningful response from the OCPA or anyone at the FCA.**



195. The FCA ultimately found AFC, primarily through Mr. Glenos, had violated Mr. Kittle's rights under the Farm Credit Act and Equal Credit Opportunity Act, numerous times. Exhibit F.

196. Notwithstanding the numerous violations the FCA found, the OCPA's findings – 657 days after the fact – were now useless for Mr. Kittle.

197. There is no private cause of action available to Mr. Kittle for pursuing recourse for the numerous violations found by the FCA of his rights under the Act.

198. The OCPA is unable and unwilling to provide recourse, citing: "We are also aware that since you first wrote to us, you have paid off your loans with the association, thereby ending the lending relationship." Exhibit F.

199. Mr. Kittle's lending relationship ended because the OCPA took 657 days to do *anything*.

200. The OCPA found, at a minimum, the following violations:

- a. "[T]he association issued you a written adverse credit decision on August 20, 2021, citing both an incomplete application and a withdrawal of an application. However, the notice failed to specify whether it was issued in response to all three of your credit requests or only some of them... You exercised your [Credit Review Committee] rights and a meeting with the CRC was held on October 18, 2021... We confirmed the CRC considered the August 2021 line of credit application and the release of your mother's

property, but not the refinance request. The CRC written decision to uphold the association's denial of two of your credit requests was provided to you on October 27, 2021. A CRC decision on the refinance request was not made."<sup>13</sup>

- b. "[T]he association did not notify you in writing of the date the [requested financial] information was needed or include a written statement advising you if the information was not received by that date, no further consideration would be given to the applications as is required by 12 CFR 1002.9(c)(2)... The failure to provide the information could impact future credit and servicing decisions, but failure to provide updated financials alone cannot be the sole reason for putting a loan in default status or foreclosing on a loan."
- c. "You also objected to one appraisal referencing values as not being an arm's-length transaction. FCA regulation 614.4250(a)(1) requires associations to value collateral at the present market value. Further, FCA regulation 614.4200(b)(1) instructs institutions to base the LTV on the

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<sup>13</sup> As of the time of this filing, a decision by AFC still has not been made on Mr. Kittle's pending refinance from August 2021. The refinance was imminent in July 2021 and had been pending for weeks as part of Mr. Kittle and his branch manager's plan to consolidate multiple loans into a single loan, allow Mr. Kittle to access his current equity, and lock-in historically low interest rates.

- appraised value. Using the updated appraisals, your LTV would have been below the 75% LTV the association required.”
- d. “We further confirmed the association provided you the appraisals on the remaining real estate collateral at your request as required by FCA regulation 618.8325(b). Specifically, the association provided your attorney the appraisals on the New Highway 7 property and your mother’s property on August 3, 2021, and the appraisals of the two Santa Fe Pike properties on August 18, 2021. The association treated the request as being limited to new appraisals. However, we noted your request for the appraisals was not limited to new appraisals. Therefore, the association should have also sent you the existing appraisal on the 1800 Gravel Hill property. We have addressed this with the association... Whether or not an institution charges an applicant or borrower for the cost of obtaining an appraisal is a business decision. It is, however, a borrower’s right to a copy of those appraisals, a right not controlled by who pays for ordering any appraisal.”
- e. “You further informed us the association, through its legal counsel, conditioned certain credit transaction on obtaining a release of liability from you. Specifically, you asserted the association required you to release it from liability before considering your credit request to remove its lien

on your mother's property and before considering any restructuring request. The association acted improperly if it attempted to condition certain credit transactions on receipt of a liability waiver from you. This would be specifically prohibited if such a release were sought before providing statutory rights, such as loan servicing. We understand you did not sign a release of claims and in August 20, 2021, the association sent an adverse credit decision notice. Relatedly, you explained around the same time, the association said it would only consider your future credit requests if you released them from liability. Even without a current borrowing relationship, a lender may not refuse to accept a credit application. According to 12 CFR 1002.4(b), a creditor is prohibited from discouraging a person from making or pursuing a credit application.”

- f. “After you filed your complaint with us, the association identified your loan as distressed and, on November 8, 2021, sent you a distressed loan servicing (DLS) notice. On receipt of the DLS notice, you contacted us to express concern over your account being identified as distressed even though you had never missed a payment. You also objected to the association sending you a 45-day DLA notice warning you foreclosure would be pursued if you did not apply for servicing. The association identified your loans as “distressed” in accordance with FCA regulation

617.7000. The association determined you lacked the financial ability to repay your loans... After this determination, the association sent the DLS notice as required by FCA regulation 617.7410(a). However, FCA regulation 617.7410(a) indicates the non-foreclosure DLS notice would have been the appropriate notice to send instead of the 45-day notice since your account was current at the time.” Exhibit F.

## **VII. The FCA is Failing, and Has Failed, System Borrowers.**

201. After receiving the FCA’s determination, Mr. Kittle began sharing his experience and the failures of the System to protect borrowers on social media.<sup>14</sup>

202. Mr. Kittle learned other AFC borrowers and System borrowers across the country are being subjected to violations of their rights under the Act.

203. As a licensed attorney in Alabama and Tennessee, Mr. Kittle now represents multiple AFC stockholders whose rights have been violated.

204. Mr. Kittle called upon AFC’s Officers and Directors for a meeting of the stockholders to address the specific issues facing AFC’s borrowers.

205. For example, many of his clients are poultry farmers with concerns over AFC’s handling of their voluntary advance conditional payments. Exhibit G.

206. Upon him calling for a meeting of the stockholders, AFC sued Mr. Kittle in federal court, seeking to enjoin any meeting of AFC’s stockholders and, rather

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<sup>14</sup> See e.g., [facebook.com/profile.php?id=100092978197143](https://www.facebook.com/profile.php?id=100092978197143) and @dustinkittle on X.

ironically, saying Kittle fabricated the OCPA's investigation and there were "no findings of wrongdoing by AFC." Exhibit G.<sup>15</sup>

207. When Kittle requested leave of court to file the OCPA's June 12<sup>th</sup> findings under seal, AFC voluntarily dismissed the action.

208. AFC has apparently hired no less than four law firms and a Public Relations firm since he first spoke up about his rights being violated in July 2021.

209. Nonetheless, Mr. Kittle continues to call-out the abuses against AFC's borrowers by it and its arsenal of attorneys. Exhibit H.

210. AFC, AFC's Officers, AFC's Directors and AFC's attorneys continue to retaliate against Mr. Kittle and his client-borrowers, and to violate the Farm Credit Act, as well as other laws and regulations – daily. Exhibit H.

211. In fact, the husband of AFC Director and Audit Committee Member, Elizabeth Spruell, has gone so far as to post a public death threat against Mr. Kittle. Exhibit I.

212. The FCA is continuing to allow AFC, AFC's Officers, AFC's Directors and AFC's attorneys to be in violation of 12 CFR §§ 612.2135, 612.2145, 612.2150, 612.2280 and 612.2303, without corrective action. Exhibit H.

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<sup>15</sup> Filed under seal in the separate action as parts contain discussions regarding AFC's Counsel's professional misconduct, which AFC's Counsel claims are subject to confidentiality. Portions containing information purportedly covered by AFC's right to confidentiality are redacted in an abundance of caution.

213. These constant violations of the Act are permitted to continue due to President Biden's refusal to provide the FCA with a functional Board so that System institutions, including AFC and its attorneys, can be effectively regulated and the Act can be enforced.

## **CLAIM FOR RELIEF**

### **Count One (Violation of the U.S. Constitution, art. II, § 3)**

214. Plaintiff repeats and incorporates by reference each of the foregoing allegations as if fully set forth herein.

215. The U.S. Constitution imposes upon the President a duty to "take Care that the Laws will be faithfully executed and shall Commission all the Officers of the United States." U.S. Const. art. II, § 3.

216. The law says the President *shall* appoint the Members of the Farm Credit Administration Board, by and with the advice and consent of the Senate. 12 U.S.C. § 2242(a).

217. President Biden has violated U.S. Const. art II, §3 by failing to comply with 12 U.S.C. § 2242.

WHEREFORE, Plaintiff requests the following relief:

- a) A declaratory judgment pursuant to 28 U.S.C. § 2201 that President Biden is in violation of 12 U.S.C. § 2242;

- b) An injunction requiring President Biden, within 60 days of the order, to appoint two Members to the Farm Credit Administration Board;
- c) A writ of mandamus pursuant to 28 U.S.C. § 1651 directing President Biden, within 60 days of the order, to appoint two Members to the Farm Credit Administration Board;
- d) Awarding the Plaintiff's attorney's fees and costs pursuant to 28 U.S.C. § 2412; and
- e) For such other further relief as this Court may deem just and proper.

DATED: March 22, 2024.

Respectfully submitted,

/s/ Ashley M. Posey  
Ashley M. Posey (BPR 037411)  
Attorney for Plaintiff  
**HUMBLE LAW, LLC**  
2310 Santa Fe Pike  
Columbia, Tennessee 38401  
Telephone: (205) 358-3100  
Email: ashley@humble.law



**DEFENDANT TO BE SERVED VIA CERTIFIED MAIL:**

Henry C. Leventis  
United States Attorney  
719 Church Street, Suite 3300  
Nashville, Tennessee 37203

Merrick B. Garland  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington DC 20530-0001

**COURTESY COPY TO:**

United States Farm Credit Administration  
1501 Farm Credit Drive  
McLean, Virginia 22102-5090.

# Exhibit A

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**Fwd: FCA Directive to Lending Institutions on their Duties in light of Covid**

1 message

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**Dustin Kittle** <dustin@humble.law>  
To: dsharff@bradley.com

Fri, Oct 29, 2021 at 11:59 PM

Dawn,

First time in 16 years of practicing law I've had to do anything like this. It's ridiculous - and if someone doesn't tell him that he can't make credit decisions for a federally regulated lending program, he's going to get your law firm sued - because right now, Chris Glenos has, for some unexplained reason, made Bradley Arant my bank. I have in writing that HE has directed them not to offer me credit because I complained that they had violated a federal lending law / has he lost his damn mind?

My background is in federal employment law. Can you imagine if a disabled employee complained of discrimination to their employer and an outside lawyer stepped in and said that employee can't talk anymore with anybody in the company, even if it is about their job, despite the fact there is not even a lawsuit? If Chris Glenos were the attorney, he'd tell that disabled employee to stop harassing their boss by complaining so much of discrimination and that their pay was frozen until they either signed a release or left.

At the end of the day, I would like to know whether Bradley Arant sanctions Chris's actions, because as it stands, your attorney has demanded I pay your law firm's fees to effectuate a restructure of my loan that is mandated by the United States Farm Credit Administration. That's a pretty serious gaffe.

You can call me anytime to discuss or you can simply ignore - my cell is 256-996-5822. And to be clear, I'm not stupid enough to sue Bradley Arant - I don't want to sue anybody - I want this idiot to leave us the hell alone and let us conduct our banking business like everyone else in the world.

Dustin

----- Forwarded message -----

From: **Dustin Kittle** <dustin@humble.law>  
Date: Fri, Oct 29, 2021 at 11:09 PM  
Subject: Fwd: FCA Directive to Lending Institutions on their Duties in light of Covid  
To: Glenos, Chris <cglenos@bradley.com>

Chris,

We are done with your threats. We have done nothing wrong. And as you see, I'll report any more attempts you make to try to force us into signing a release. This is not a private lender you represent - they are a part of the federal farm credit system and an extension of our government's efforts to protect farmers. It's not for you to decide who gets credit within that system or the conditions under which a loan can be restructured.

You owe us an apology for trying to intimidate us and for trying to take advantage of a situation you did not and still do not understand. You are out of your depth and I'll keep proving that until you start treating us like borrowers who have rights. At that point, I'm glad to discuss a resolution - but it won't happen until then.

----- Forwarded message -----

From: **Dustin Kittle** <dustin@humble.law>  
Date: Fri, Oct 29, 2021 at 8:57 PM  
Subject: FCA Directive to Lending Institutions on their Duties in light of Covid  
To: Info-Line <info-line@fca.gov>, Mel Koller <Mel.Koller@alabamafarmcredit.com>  
CC: Ashley Posey <ashley@humble.law>, Glenos, Chris <cglenos@bradley.com>, <dsharff@bradley.com>

To the Officers and Directors of Alabama Farm Credit and to the U.S. Farm Credit Administration:

Please find the enclosed link to the March 2020 Directive from the Farm Credit Administration regarding the duties owed to those borrowers who have been impacted by the coronavirus.

<https://www3.fca.gov/news/Lists/News%20Releases/Attachments/606/NR-20-04-03-17-20.pdf>

You are aware that your borrower, Dana Kittle, contracted Covid in late 2020 and has, in recent weeks and months, requested to have her farm removed from the cross-collateral pool. AFC has no note of mortgage with Ms. Kittle and is holding her property as additional collateral on a note that will retain, at a minimum, a 75% loan to value ratio. Ms. Kittle has made her request for modification, which was denied without proper notice under the Farm Credit Act, and without consideration of the FCA's directives, notwithstanding the fact she has asked for a release of her "over-secured" property so that she may sell a portion of her farm to supplement her lost income - as she was forced to take an early retirement after a 24 year career as a public school bus driver due to severe complications from Covid, which have left her on oxygen treatments almost a year later. She also is the caregiver for my 38 year old autistic sister, who has never been employed and draws a meager monthly disability check that does well to provide her basic needs.

Please reevaluate each and every request made by Ms. Kittle, including this one, under the guidelines imposed by the United States Farm Credit Administration. As Ms. Kittle has reported, through counsel, to you that she is in financial distress, I respectfully request that you act on it in as expeditious of a manner as if your own home depended on it, because hers does.

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Bainbridge Mims  
Rogers & Smith LLP

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ATTORNEYS AT LAW

October 7, 2022

**By Electronic Mail**

Mr. Dustin J. Kittle, Esq.  
3108 Blue Lake Dr., Ste. 100  
Birmingham, AL 35243  
[dustin@humble.law](mailto:dustin@humble.law)

*Re: Kittle/Bradley Arant Boulton Cummings, LLP*

Dear Mr. Kittle:

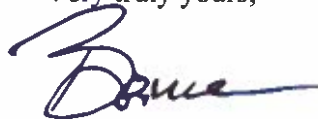
This firm represents Bradley Arant Boulton Cummings, LLP and Chris Glenos (collectively, “Bradley”) in connection with this matter. Please accept this letter in response to your correspondence of September 30, 2022, and direct any further communications to us as Bradley’s counsel. Your letter concludes with a request that we admit or dispute “the veracity of any of the factual statements” to avoid any assumption that we “do not dispute the truthfulness of the facts alleged.” You make numerous unsupported, untrue, and mischaracterized statements and claims in your lengthy letter. Bradley generally disputes the accuracy and characterization of the facts as alleged, and denies any wrongdoing or wrongful conduct.

You essentially accuse Bradley of doing its job: representing and defending its client, Alabama Farm Credit, against allegations and threatened litigation by you, your company, and your family. Specifically, AFC retained Bradley to represent it on or about July 26, 2021, after you began challenging AFC’s handling of your request to modify certain loans, and threatening legal action. Under both Alabama and Tennessee law, as well as the Restatement (Second) of Torts, Bradley’s actions are subject to and protected by the absolute litigation privilege. Specifically, the litigation privilege extends to all claims that arise from statements made in the course of, or in anticipation of, judicial proceedings, and are “absolutely privileged from civil liability.” See, e.g., *July v. Terminix International Company, Limited Partnership*, 387 F. Supp. 3d 1306 (S.D. Ala. 2019); *Borden v. Malone*, 327 So. 3d 1105 (Ala. 2020); *O’Barr v. Feist*, 296 So. 2d 152 (Ala. 1974); *Drees v. Turner*, 45 So. 3d 350 (Ala. Civ. App. 2010); *Unarco Material Handling, Inc. v. Liberato*, 317 S.W. 3d 227 (Ct. App. Tenn. 2010); *Restatement (Second) of Torts*, §586.

Bradley has done nothing wrong, and its actions in this matter are protected by the absolute litigation privilege. Rest assured, should you choose to pursue your baseless claims, Bradley will vigorously defend itself, including engaging in comprehensive discovery of your conduct, allegations and claimed damages.

Mr. Dustin J. Kittle, Esq.  
October 7, 2022  
Page 2

Very truly yours,



Bruce F. Rogers



Selva S. Blanton



**humble**  
— LAW, LLC —  
3108 Blue Lake Drive, Ste. 100  
Birmingham, AL 35243

Dustin J. Kittle, Esq.

E [dustin@humble.law](mailto:dustin@humble.law)  
O (205) 358-3100  
C (256) 996-5822  
**HUMBLE.LAW**

October 11, 2022

Bruce F. Rogers, Esq.  
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Bainbridge Mims Rogers & Smith LLP  
The SouthState Bank Building  
600 Luckie Drive, Suite 415  
Birmingham, Alabama 35223  
Email: [sblanton@bainbridgemims.com](mailto:sblanton@bainbridgemims.com)

**Re: Dustin Kittle, et al. / Bradley Arant Boult Cummings, LLP, et al.  
(Our File No. 901.31)**

Mr. Rogers and Ms. Blanton,

I am in receipt of and have reviewed your correspondence dated October 7, 2022. Please accept this letter as my reply to same as well as my notice to your client, Bradley Arant, to preserve all evidence, including text messages, emails, and any and all documents and/or other information which relates (in any way whatsoever) to the facts and claims asserted in my prior correspondence.

**The Absolute Litigation Privilege is Inapplicable.**

You have posited that Bradley Arant, through its Attorney Christopher Glenos and others, was simply representing its client, Alabama Farm Credit - and that even if there was misconduct, those acts would be protected by the law firm's defense of the absolute litigation privilege.

With respect to the privilege defense, it is designed to protect a lawyer's statements made, both written and verbal, during the course of litigation, and specifically with respect to a defamation claim. I do not intend to assert a claim that Bradley Arant made or published false statements related to me. I intend to show that Bradley Arant thrust itself into the middle of the United States Farm Credit System's



lending process and conditioned a borrower's exercise of federally-guaranteed rights on the signing of a release, not just as to their client, but also as to them. In both respects, that is extortion, and it is illegal.

### **A Private Law Firm Cannot Subvert the Federal Lending Process for its Own Gain.**

Bradley Arant was not simply representing the interests of its client, as it claims. Bradley Arant, who is a private law firm, hijacked the lending process of the United States Farm Credit System in an effort to force a borrower to sign a confidentiality agreement that would have protected its own conduct.

I have practiced extensively in employment law for more than 15 years, including as a defense attorney representing the Jefferson County, Alabama Personnel Board. It is difficult to even fathom this occurring, but here is an exact analogy of what occurred, but in the employment law context, which is relevant given the protected status of farmers under the United States Farm Credit Act:

An employee has been with a company for two years. The employee is in excellent standing with the company and has never had any issues. One day, the employee comes in and complains to their supervisor that they are being discriminated against in the workplace in violation of state and federal law.

This happens quite often, and the correct response is for the company to investigate the complaint while continuing to treat that employee like every other employee.

But what if, after making the complaint of discrimination, the employee is told that she must only communicate, going forward, with the company's lawyer — not just about her issues related to discrimination but as to even routine company matters, like when to clock in and out. There is no question that the act of isolating an employee in that manner is retaliation.

But also picture the company's lawyer makes it clear that the employee will not be treated like the other employees and that the employee will not be eligible to apply for other positions within the company, because she complained of discrimination. That is no longer straightforward retaliation, but it is coercion in an effort to get the employee to withdraw their complaint.

But when retaliation and coercion do not work, the lawyer then states that the employee will only go back to being treated like everyone else if she signs a release saying that the discrimination never happened. And that release would be in favor of the employer and their lawyer, so no one ever finds out about the retaliation, and the coercion, and the extortion.



humble

LAW, LLC

3108 Blue Lake Drive, Ste. 100  
Birmingham, AL 35243

Dustin J. Kittle, Esq.

E [dustin@humble.law](mailto:dustin@humble.law)

O (205) 358-3100

C (256) 996-5822

HUMBLE.LAW

But imagine that the employee refuses to sign the release, and instead records a telephone call with the lawyer where his extortion is laid out clearly and obviously. The employee tells the lawyer that she is reporting him for the attempted extortion. And the lawyer responds, in one final desperate and despicable attempt to obtain the signing of that release with confidentiality, by sending a letter, just hours after the phone call, giving notice that the process had started to terminate the employee.

The difference in this hypothetical and what was done to us is, the letter we received from Bradley Arant threatened foreclosure on four (4) residences (one occupied by me and my family, one occupied by my retired, widowed mother and disabled sister, and two occupied by farm workers), our law office, and more than two hundred and fifty (250) acres of farmland — without ever missing so much as a single payment.

The Bradley Arant law firm is made up of sophisticated, seasoned attorneys. Their efforts here were not a mistake or the result of bad lawyering; this was coercion, and extortion, and an intentional infliction of emotional distress to get not just what the client wanted, but what the law firm wanted — a release of claims with full confidentiality.

Before I spoke up that Alabama Farm Credit had botched our loan, our branch manager praised us, in writing, as an exemplary borrower and confirmed she was finalizing an agreed-upon \$1.3 million cash-out refinance. A few weeks later, Christopher Glenos was coercing us with threats of foreclosure, when we had never missed a payment — and he was doing so to obtain a release for Bradley Arant.

Christopher Glenos has zero business practicing law, lest he do this to someone who lacks the wherewithal to call this all what it is, which is bullshit. I would say the same for supervising attorneys who would stand down while these types of wrongs are being committed on innocent parties.

Bradley Arant can choose to resolve this matter or not, but I can assure you that it will not go away. And as to the threats over my own conduct, I stand by each and every statement made and every action taken.

Bradley Arant attempted to wrongfully coerce a person, for months, into signing a release, and finally forced them to lose their home. The general public will be appalled and I truly believe the legal community will be as well. I have never in my life tried to coerce an opposing party into signing a release, and especially not by fraudulent or illegal means - there is no question here that Bradley Arant did.





humble  
— LAW, LLC —  
3108 Blue Lake Drive, Ste. 100  
Birmingham, AL 35243

Dustin J. Kittle, Esq.

E [dustin@humble.law](mailto:dustin@humble.law)  
O (205) 358-3100  
C (256) 996-5822  
HUMBLE.LAW

This is not posturing. This matter will either be resolved or it will be litigated.

We are counsel for numerous farms and other agricultural ventures across the country. My goal will be to educate the American farmer, and the American public by extension, of the kinds of wrongful acts undertaken by these entities, specifically Farm Credit of Texas d/b/a Alabama Farm Credit and the law firm of Bradley Arant. It will scare the hell out of people to know they could be threatened with foreclosure when they have significant real estate equity and have never missed a single loan payment. I also believe it will surprise people to know that Bradley Arant would take that action against an attorney who was opposite them as counsel on a contentious \$5.9 million public settlement, just a few years ago.

The demand with full confidentiality is for Ten Million Dollars (\$10,000,000.00). If Bradley Arant is unwilling to resolve the matter, there is nothing else that needs to be discussed; but, confidentiality after this point will be meaningless because the entirety of this matter will be put out there for the public to judge the actions of all parties, including my own.

As a final note, I am aware that Bradley Arant may have concerns that, if it should resolve this matter, a subsequent lawsuit against Farm Credit of Texas d/b/a Alabama Farm Credit could and likely would still implicate them, nullifying the peace of mind they would have bargained for. I would respond that the primary target of this action is Bradley Arant, as they had the knowledge and the ability to stop the extortion but refused to do so; with that said, if there is a discussion on resolution, I am open to including in that discussion the release of additional parties, including Farm Credit.

I am not interested in volleying the respected positions back and forth. Bradley Arant will not change my position and, if it truly believes what you have espoused in your letter, I will not change their position. Bradley Arant can choose to accept the demand as presented, make a counter-offer, or express their intent to engage in a meaningful and serious discussion on resolution. I will consider any other response or non-response as a rejection of a final attempt to resolve this matter.

If there is interest in resolving this matter, I will need to hear from you on or before Friday, October 14, 2022. Otherwise, we will be moving forward in presenting our claims.

Sincerely,

*Dustin J. Kittle*

Dustin J. Kittle, Esq.

# Exhibit B

---

**Complaint Against Attorneys Chris Glenos, Gaynor St. John, et. al.**

1 message

---

**Ashley Posey** <ashley@humble.law>

Thu, Mar 14, 2024 at 3:39 PM

To: roman.shaul@alabar.org

Cc: stacey.moseley@alabar.org, julie.lee@alabar.org

Good afternoon,

Attached, please find Complaint Forms on the following attorneys:

- L. N. Christian Glenos (of Bradley, Arant, Boult, Cummings LLP)
- Gaynor St. John (of St. John & St. John, LLC)
- Anthony Cochran (of Smith, Gambrell, & Russell LLP)
- Daniel Zegura (of Smith, Gambrell, & Russell LLP)
- Ronald Barab (of Smith, Gambrell, & Russell LLP)

The cover letter and exhibits correlate to all of the above complaint forms.

These complaints are submitted pursuant to Rule 8.3(a) for the above attorneys' violations of multiple Rules of Professional Conduct. Attorneys Glenos and St. John are members of the Alabama State Bar. Attorneys Cochran and Zegura are members of the Georgia State Bar and were admitted *pro hac vice* in the Northern District of Alabama. Attorney Barab is also a member of the Georgia State Bar but was not admitted *pro hac vice*; however, he has arguably participated more in this matter and the violations of the Rules than any other attorney aside from Attorney Glenos.

I have spoken with the Georgia Bar's Office of General Counsel informally, and they have indicated that if you all were to determine you don't have jurisdiction over any of their attorneys, they would cooperate with you all in enforcing / regulating any violations that may be found.

Please do not hesitate to contact me should you have any questions or need anything further.

Thank you,

**Ashley M. Posey**

**Associate Attorney**

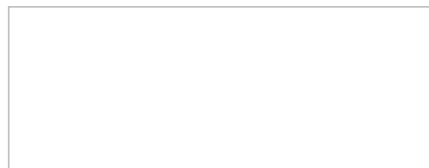
O: (205) 358-3100

C: (757) 570-5014

E: ashley@humble.law



Visit our website at [www.humble.law](http://www.humble.law).



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14 attachments





Ashley Posey, Esq.  
E ashley@humble.law  
O (205) 358-3100  
C (757) 570-5014  
HUMBLE.LAW

March 14, 2024

**Alabama State Bar**  
**ATTN: Disciplinary Commission**  
P.O. Box 671  
Montgomery, AL 36101-0671

***Re: Complaint against Gaynor St. John, Daniel Zegura, Anthony Cochran, Ron Barab, and Chris Glenos***  
***CONFIDENTIAL DOCUMENTS ENCLOSED***

Dear Commission,

I am opposing counsel in the matter of Alabama Farm Credit, ACA v. Dustin Kittle in the Northern District of Alabama (No. 5:23-cv-01739-CLM). Attorney St. John is local counsel in that matter and represents Alabama Farm Credit, ACA (hereinafter “AFC”). Attorney Daniel Zegura and Attorney Anthony Cochran of the Georgia State Bar were granted admission *pro hac vice* in this matter on December 28, 2023. (Exhibit 1). Attorneys Zegura and Cochran are out of the Atlanta office of the Smith, Gambrell, & Russell, LLP firm. Attorney Ron Barab of the same firm has been perhaps the most involved in this matter but did not seek admission *pro hac vice* for this case.

I represent Dustin Kittle. Mr. Kittle is an attorney licensed in Alabama and Tennessee. Mr. Kittle and I practice together in a firm that includes just the two of us. He is a former borrower and stockholder of AFC.

In 2021, Mr. Kittle reported concerns that his loans with AFC were being mishandled and that there had been violations of state and federal lending laws. AFC hired the Bradley Arant law firm, with Attorney Chris Glenos being the lead attorney handling Mr. Kittle’s loans from that point forward. In his representation of AFC, Mr. Glenos caused AFC to violate the Equal Credit Opportunity Act and the Farm Credit Act multiple times. (Exhibits 2 and 3).

On November 8, 2021, Mr. Kittle reported Mr. Glenos to the Tennessee Board of Professional Responsibility. (*See Ex. 7, infra, at Exhibit H*). Later that day, Mr. Kittle informed Mr. Glenos that he was on a recorded call engaging in what we believe amounted to extortion. (*See Ex. 2 at p. 8-9 and Exhibit J*). Also that same day, a partner at Mr. Glenos’s law firm sent AFC a Conflict Consent form, requesting AFC consent to a conflict under Rule 1.7. (*See Ex. 7, infra, at Exhibit I*). Presumably, that conflict was a) that Mr. Glenos had created liability for his client by directing it to violate federal law; and/or b) that Mr. Glenos had engaged in arguably criminal conduct in an attempt to obtain a release from Mr. Kittle in order to protect himself and his law firm for the violations of law he committed.

Later that night, AFC through Mr. Glenos identified Mr. Kittle's loans with AFC as "distressed" despite Mr. Kittle never missing or being late on a payment. (Exhibit 4; *see also* Ex. 2 at Exhibit L). The distress notice included the potential of Mr. Kittle being foreclosed on in 45 days if AFC (through Mr. Glenos) did not approve Mr. Kittle's restructure plan. The United States Farm Credit Administration ("FCA") found on June 12, 2023 that Mr. Glenos violated federal law by sending Mr. Kittle the distress notice with the potential of foreclosure given Mr. Kittle's loans with AFC were current at the time. (Ex. 3).

In December 2023, AFC sued Mr. Kittle for attempting to call a meeting of the stockholders of AFC. They sought declaratory and injunctive relief. They included claims for defamation and intentional interference with business relations, apparently in order to satisfy the amount in controversy requirement to access federal jurisdiction. They included patently false allegations in the Complaint. AFC's counsel in this matter are Attorneys St. John, Zegura, Cochran, and Barab (collectively, "AFC's Counsel").

Upon Ms. Posey requesting AFC's position as to whether it opposed her filing the FCA's findings under seal with the court, AFC dismissed its Complaint instead. (*See* Exhibit 5). Mr. Kittle subsequently would seek sanctions for AFC's and AFC's Counsel's false statements included in the Complaint.

AFC and Mr. Kittle participated in a private mediation beginning January 11, 2024. During this mediation, AFC's Counsel violated multiple Rules of Professional Conduct. It initially proposed a direct practice restriction before eventually conditioning effectuating settlement on an indirect practice restriction through a "consulting" agreement whereby Mr. Kittle would receive 1/3<sup>rd</sup> of the settlement money paid out over a 5-year period as "wages" to serve as retained counsel for AFC. Attorney Barab informed the mediator that Mr. Kittle would not need to perform any work, however.

Attorney Barab also requested the mediator obtain from Mr. Kittle information regarding claims of his current clients and had the mediator inform Mr. Kittle that, if Mr. Kittle intended to continue representing his current clients in claims against AFC, it would be a barrier to settlement being effectuated.

Mr. Kittle proceeded to provide *extensive* legal authority and bar opinions to AFC's Counsel to explain that the terms they were conditioning settlement upon were unethical for him to agree to. It was a violation of the Rules for AFC's Counsel to propose these terms in the first place. Nonetheless, AFC refused to remove or revise the unethical terms or even address the ethical issues.

The misconduct is extensively documented in our Motion to Enforce Settlement, attached hereto as Exhibit 6. I have redacted the settlement amount in light of the confidentiality of mediation.



Ashley Posey, Esq.

E [ashley@humble.law](mailto:ashley@humble.law)

O (205) 358-3100

C (757) 570-5014

**HUMBLE.LAW**

We proceeded to file a Motion to Disqualify AFC's Counsel (attached hereto as Exhibit 7), as we contend their unethical conduct has created additional financial liability for their client. It is also our opinion that these parties created a conflict through their own actions that cannot be consented to by their client, AFC (the organization and its stockholders). These attorneys purport to represent AFC (the organization and its stockholders), AFC's Officers and AFC's Directors (in their individual and official capacities), and AFC's current and former employees, while negotiating for releases on behalf of themselves and their law firms for the misconduct they have committed.

Please do not hesitate to contact me should you need any additional information.

Sincerely,

A handwritten signature in black ink that reads 'Ashley Posey' in a cursive script.

Ashley M. Posey, Esq.

# Exhibit C

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**FW: Alabama Farm Credit/Kittle Farms - Please see attached letter with enclosure to Ashley Posey from Chris Glenos dated August 10, 2021**

1 message

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**Glenos, Chris** <cglenos@bradley.com>  
To: Ashley Posey <ashley@humble.law>  
Cc: Dustin Kittle <dustin@humble.law>, Jody Campbell <Jody.Campbell@alabamafarmcredit.com>

Thu, Aug 12, 2021 at 8:31 PM

Good Evening Ashley,

Here are responses to the questions/requests in your latest email:

1. All communication need to remain between counsel given that your clients are asserting litigation claims and Mr. Kittle is himself an attorney. Please kindly continue to direct all communications regarding your clients' loans, including routine banking matters, to my attention.
2. Your clients have not been and will not be charged for any appraisals because they withdrew their request for modification of the loan documents. Any payments received will be returned. Appraisals ordered and paid for by AFC are the property of AFC.
3. The payoff amount for loan number 5708720 (#5) is \$118,654.33 as of today, August 10, and the interest per diem is \$10.08. If you need a formal payoff letter please let me know and I will be happy to send one. A copy of the duly recorded First Amendment to the Cross-Collateralization and Cross-Default Agreement that you notarized but your clients are now contesting as void is attached hereto.

I do not intend to respond to all of the false allegations contained in your frequent emails. It simply would not be productive. Suffice it to say AFC denies it has any liability to your clients, denies any wrongdoing, and reserves all defenses, rights and remedies. Mr. Kittle is a sophisticated businessman and attorney who signed written loan agreements to obtain millions of dollars in loans from AFC. Those written loan agreements are valid and enforceable, and govern the parties' rights, obligations and remedies.

Regards,

**Chris Glenos**  
Partner | Bradley  
cglenos@bradley.com  
205.521.8721(d)



---

**Re: Alabama Farm Credit / Kittle Farms**

1 message

**Ashley Posey** <ashley@humble.law>

Mon, Aug 16, 2021 at 7:37 PM

To: "Glenos, Chris" &lt;cglenos@bradley.com&gt;

Cc: Dustin Kittle &lt;dustin@humble.law&gt;, Jody Campbell &lt;jody.campbell@alabamafarmcredit.com&gt;, "Shaver, Andrew" &lt;ashaver@bradley.com&gt;

Chris,

During our conversation, you advised me that AFC does not intend to provide the Kittles with the appraisals received earlier this month by AFC for the Kittles' properties. You likewise advised me that AFC will not provide the Kittles with a copy of the Articles of Incorporation, By-laws, etc. Your statements will be admissible for the exact purpose with which they were made - confirmation that AFC will not comply with its ongoing obligations under the law (e.g., to provide the appraisals it has for these properties, claiming these are AFC's property) absent additional conditions (e.g., a Release). And whether you seek to protect it under a rule of evidence or not, I do not believe a court would look kindly on a financial institution attempting to coerce a borrower into releasing the claims it may have against it in exchange for information, documents (e.g., appraisals on the assets), and actions they are owed (e.g., a would-be contingency on the removal of the Geraldine farm as collateral) under the law.

With respect to your statement that you will review the authority and follow up (but not by the prior deadline given), the Kittle borrowers have no responsibility whatsoever to educate AFC (or its counsel for that matter) on their duties under the law. As it stands, you have advised your clients to withhold appraisals from the Kittle borrowers, placing them in the position of knowing the current valuation of the collateral held while refusing to provide that same information to the borrower.

Plain and simple, AFC has defrauded my clients in the followings ways: 1) AFC induced the borrower to include collateral that it falsely represented would be released; 2) AFC falsely represented that its appraisal of 2279 Santa Fe Pike returned a valuation of an arms length transaction; 3) AFC represented that it could not utilize the 2020 appraisals due to them being more than a year old (when that was not accurate); 4) AFC denied a request for modification of a loan on false pretenses and failed to advise my clients of their right under the Farm Credit Act to an appeal outside of the consideration of the decision maker, Jody Campbell; 5) AFC has refused to provide its incorporating documents and by-laws in violation of both the Farm Credit Act and its duties and obligations to a stockholder; 6) AFC advised the borrower that new appraisals were needed but failed to timely order appraisals when requested (likely knowing that its basis for denial, the need for new appraisals, would not be accurate until at least one year passed from the initial appraisal of each property); 7) AFC wrongfully included the Kittles' personal residence as collateral without notice or disclosure of same; 8) AFC unilaterally cancelled appraisals the borrowers had requested and had waited on for two months (but not before receiving those appraisals and learning the new valuation of the subject property); and 9) AFC represented it had a formal appraisal performed on the borrowers' Alabama property, when, in fact, a collateral evaluation was performed by an AFC employee whose spouse has indicated, in writing, he and his wife's intent to purchase the subject property. While this list is not all-inclusive, it suffices to say that AFC has violated the law for the past year and is continuing to violate the law at your direction.

My clients will not execute a release of liability against AFC to either obtain a copy of the appraisal of their assets or removal of the Geraldine farm as collateral, as they will not negotiate for the right to have AFC fulfill its obligations and duties under federal and state law. While the time may come to litigate the above issues and more, at this time, the Kittle borrowers simply demand that it be treated like every other borrower and stockholder, without limitation or retaliation.

In the event AFC wishes to have a candid discussion on the issues, where they acknowledge that there have been discrepancies and mistakes, my clients are willing to have that conversation. Until then, we expect this account to be handled like every other account under AFC's care - and AFC should be well aware that any threats or requests for information on a borrower who has never so much as been late on a payment to AFC is both compelling evidence of retaliation and a violation of the Farm Credit Act.

We anticipate submitting additional requests of AFC in the coming days. If the information requested under applicable law, including the Farm Credit Act, cannot be or will not be provided in a timely manner, please advise so that my clients may seek judicial intervention to compel the production.

**Ashley M. Posey****Associate Attorney**

O: (205) 358-3100

C: (757) 570-5014

E: ashley@humble.law

Visit our website at [www.humble.law](http://www.humble.law).

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On Mon, Aug 16, 2021 at 5:27 PM Glenos, Chris <[cglenos@bradley.com](mailto:cglenos@bradley.com)> wrote:

Ashley,

Your email does not accurately memorialize what was said on our call, which was subject to Rule of Evidence 408.

I will review the authority you have cited and get back to you. But that obviously is not going to happen by the COB today.

**Chris Glenos**

Partner | [Bradley](#)  
[cglenos@bradley.com](mailto:cglenos@bradley.com)  
205.521.8721(d)

---

**From:** Ashley Posey <[ashley@humble.law](mailto:ashley@humble.law)>  
**Sent:** Monday, August 16, 2021 3:42 PM  
**To:** Glenos, Chris <[cglenos@bradley.com](mailto:cglenos@bradley.com)>  
**Cc:** Dustin Kittle <[dustin@humble.law](mailto:dustin@humble.law)>; Jody Campbell <[jody.campbell@alabamafarmcredit.com](mailto:jody.campbell@alabamafarmcredit.com)>  
**Subject:** Alabama Farm Credit / Kittle Farms

**CAUTION – EXTERNAL  
EMAIL**

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Chris,

In our call earlier today, you advised of the following:

- 1) That AFC had no obligation to provide the requested Articles of Incorporation and/or Bylaws to its borrowers; and
- 2) That AFC would consider providing the appraisals in its possession if the Kittle borrowers agree to execute a release of liability as to AFC.

Both of those positions are a direct violation of the Farm Credit Act, specifically, U.S.C. 2200, Section 4.13A. As these documents were previously requested, our expectation is that those documents will be provided by close of business today.

Thank you,

# Ashley M. Posey

**Associate Attorney**

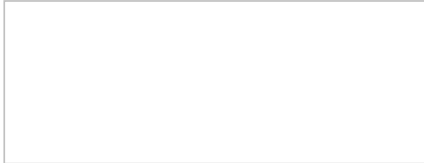
**O:** (205) 358-3100

**C:** (757) 570-5014

**E:** ashley@humble.law



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**humble**  
— LAW, L.L.C —

image001.png  
15K



N. Christian Glenos  
Partner  
cglenos@bradley.com  
205.521.8721 direct

August 18, 2021

**Via Email**

Ashley Posey  
Humble Law, LLC  
[ashley@humble.law](mailto:ashley@humble.law)

Re: Alabama Farm Credit/Dustin Kittle and Kittle Farms, LLC

Dear Ashley:

Attached are AFC's Charter, Articles of Incorporation and Bylaws, and the recent appraisals that you requested on behalf of your clients.

With respect to the appraisal reports, AFC disputes that it is required to deliver them because they were not made or used by AFC and because the borrowers withdrew their associated credit applications. However, AFC is agreeable to producing them. These appraisals were prepared by a third party for a limited purpose, as set forth in the reports, and should not be relied upon by any non-party. The statements, assumptions, representations, conclusions and opinions contained in the reports are those of the appraiser and not AFC. AFC disclaims any and all liability for the unauthorized distribution or misuse of the enclosed reports by the borrowers or any other unintended user.

AFC denies the allegations in your emails.

Sincerely,

*/s/ N. Chris Glenos*

N. Chris Glenos

Enclosure  
NCG/sw



**N. Christian Glenos**  
Partner  
cglenos@bradley.com  
205.521.8721 direct

August 20, 2021

**VIA EMAIL AND CERTIFIED MAIL**

Dustin Kittle, Kittle Farms LLC, Marian Michelle  
Kittle, Dana Kittle and Columbia Springs, LLC  
c/o Ashley Posey  
Humble Law, LLC  
3112 Blue Lake Drive  
Birmingham, AL 35243  
ashley@humble.law

Re: Dustin Kittle, Kittle Farms LLC, Marian Michelle Kittle, Dana Kittle and Columbia  
Springs LLC (the "Kittle Farms Group")

Dear Ashley:

Alabama Farm Credit ("AFC") considers all credit applications from your clients, the Kittle Farms Group, to be closed based upon your correspondence to me of August 6, 2021, in which you advised us "to be clear, the Kittle borrowers withdraw any and all pending requests for release or funds." I have advised AFC not to accept any new credit applications from your clients while they are threatening or pursuing litigation claims against AFC. To the extent you contend an adverse credit decision by AFC has occurred with respect to the Kittle Farms Group, please see the attached notices which explain their appeal rights.

Sincerely,

N. Chris Glenos

NCG/sw  
Enclosure

4839-8512-4854.1

---

**Fwd: 1800 Gravel Hill Road Property - Purchase Contract**

1 message

---

**Dustin Kittle** <dustin@humble.law>  
To: Ashley Posey <ashley@humble.law>

Wed, Nov 3, 2021 at 5:07 PM

----- Forwarded message -----

From: **Glenos, Chris** <cglenos@bradley.com>  
Date: Wed, Oct 6, 2021 at 7:07 PM  
Subject: RE: 1800 Gravel Hill Road Property - Purchase Contract  
To: Dustin Kittle <dustin@humble.law>  
CC: Ashley Posey <ashley@humble.law>, Jody Campbell <jody.campbell@alabamafarmcredit.com>, Shaver, Andrew <ashaver@bradley.com>

Mr. Kittle,

As explained previously, AFC is not in a position to accept any new loan applications from the Kittle Borrowers at this time. This is due, without limitation, to the unresolved legal claims the Kittle Borrowers have asserted and continue to assert against AFC and its employees (which are denied). AFC has honored and will continue honoring the terms of its existing loan agreements with the Kittle Borrowers, but it will not enter into any new loan agreements or modifications with them at present. If this is not acceptable then the Kittle Borrowers certainly have the right to transfer their business to another lender as you and Ms. Posey have repeatedly threatened they will do. Based on your and Ms. Posey's representations that the Kittle Borrowers are not in financial distress, they should have no difficulty obtaining refinancing from another lender. As we've made clear, AFC will provide collateral release prices for any proposed sale or refinance transaction that the Kittle Borrowers wish to consider.

**Chris Glenos**  
Partner | **Bradley**  
cglenos@bradley.com  
205.521.8721(d)

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**From:** Dustin Kittle <dustin@humble.law>  
**Sent:** Tuesday, September 28, 2021 1:28 PM  
**To:** Glenos, Chris <cglenos@bradley.com>  
**Cc:** Ashley Posey <ashley@humble.law>; Jody Campbell <jody.campbell@alabamafarmcredit.com>; Shaver, Andrew <ashaver@bradley.com>  
**Subject:** Re: 1800 Gravel Hill Road Property - Purchase Contract

**CAUTION – EXTERNAL  
EMAIL**

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Chris,

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**FW: Kittle Borrowers' / AFC - Revolving LOC Collateral**

1 message

Glenos, Chris <cglenos@bradley.com>  
To: Ashley Posey <ashley@humble.law>

Tue, Oct 26, 2021 at 4:29 PM

Ashley,

This email is in response to your attached email to me of October 25 requesting that AFC agree to release the majority of its collateral, permit the Kittle borrowers to retain an undisclosed portion of the proceeds of AFC's collateral, and restructure the RLOC that the borrowers do not wish to refinance. AFC respectfully disagrees with the suggestions in your email that AFC is guilty of any wrongdoing. I also note your email does not provide any of the information and disclosures requested by AFC in my below email in support of your clients' requests that AFC agree to deviate from the terms in the parties' written agreements and go along with the various releases and restructurings your clients are proposing.

The Kittle Borrowers are requesting AFC to (i) excuse the Kittle Borrowers from the obligations they agreed to in the parties' written loan agreements, and (ii) release the rights and remedies that the Kittle Borrowers agreed AFC would have under the parties' loan agreements. For reasons previously communicated, AFC is unwilling to entertain any such proposal to deviate from the parties existing agreements that does not include a release of the borrowers' disputed claims against AFC and its employees (which we believe lack merit) and full transparency concerning the contemplated transaction they want AFC to go along with (including answering the questions posed in my below email of Oct 22). If these reasonable and customary concepts are not acceptable to your clients, then they will simply have to continue to be bound by the terms they agreed to in the loan documents. However, to the extent your clients are agreeable to a release and full disclosure, then here are non-binding terms that AFC would be willing to consider agreeing to pursuant to a restructuring agreement:

1. All Kittle parties execute a full release and covenant not to sue in favor of AFC and AFC's officers, directors, employees and counsel.
2. Borrowers payoff all loans except Gravel Hill and RLOC via refinance with new lender.
3. AFC retains the following collateral subject to the CC&CDA (per your suggestion):
  - a. Geraldine, AL
  - b. Gravel Hill –including a new second mortgage/DOT to be executed securing the RLOC
4. Borrowers pay down the RLOC by \$300,000 at closing of the refi and agree that no further advances will be made under the RLOC.
5. Borrowers will continue to actively market the Gravel Hill property for sale and apply all net sale proceeds to the AFC loans.
6. Borrowers acknowledge that the RLOC will not be renewed at maturity, and all remaining loans must be paid in full no later than 1/1/23.
7. Upon repayment Dustin Kittle's \$1,000 stock in the cooperative will be refunded and he will no longer be an AFC customer/stockholder.
8. Kittle parties acknowledge that no further renewals, advances, extensions or credit of any kind will be granted by AFC to the Kittle parties.
9. Kittle parties acknowledge the fact and amount of indebtedness to AFC, no payment defenses and validity of AFC's liens.

10. Borrowers pay AFC's legal fees to negotiate, draft and record loan mod/restructuring documents, including recording costs.
11. Mr. Kittle will refrain from future harassment and disparagement of AFC and its personnel. All communications will be through the parties' counsel.
12. All Kittle parties to sign the agreement.
13. Subject to final approval by AFC management and execution of a written restructuring/modification agreement acceptable to AFC in its sole discretion.

Please let me know your clients have any interest in proceeding along these lines.

Thank you,

**Chris Glenos**

Partner | Bradley  
cglenos@bradley.com  
205.521.8721(d)

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**From:** Glenos, Chris  
**Sent:** Friday, October 22, 2021 10:52 AM  
**To:** 'Ashley Posey' <ashley@humble.law>  
**Subject:** RE: Kittle Borrowers' / AFC - Revolving LOC Collateral

Ashley,

AFC is pleased to hear that the borrowers believe their refi efforts are moving in a positive direction. However, I have discussed the below tentative proposal with AFC and there are some problems with it that make it unacceptable to AFC as presently structured. (I refer to it as tentative because it is not based on a written, binding loan commitment from another lender). Here are some of AFC's comments/questions:

1. The borrowers agreed in the loan documents that the RLOC (which is payable on demand, or if not demanded earlier then on 1/1/23) would be secured by certain specified real properties. It appears from your below emails that borrowers are proposing (1) to give all of AFC's real estate collateral for the RLOC to another lender without paying off (or even paying down) the RLOC and (2) to substitute livestock for the real property and improvements that the parties agreed would secure the RLOC. AFC is not obligated under the loan documents to accept such a substitution of collateral and declines to do so. If the borrowers elect not to repay the RLOC as part of their refi transaction then it will need to remain secured by real estate satisfactory to AFC from the existing AFC collateral pool as previously underwritten and approved by AFC and agreed by the parties in the loan agreements. If the borrowers are willing to pledge their livestock to a lender then why not include them in the collateral package being offered to the other lender so that the AFC RLOC can be paid off?





**N. Christian Glenos**  
Partner  
cglenos@bradley.com  
205.521.8721 direct

October 29, 2021

**Via Email**

Ashley Posey  
Humble Law, LLC  
[ashley@humble.law](mailto:ashley@humble.law)

**Re: Dustin Kittle et al vs. Alabama Farm Credit**

Dear Ashley:

This letter responds to the multiple requests and demands made by you and Mr. Kittle in your numerous emails during the week of October 25th.

First, the borrowers remain free to pay off any loan with AFC that they'd like to pay off. As has been communicated previously on multiple occasions, AFC is willing to consider granting a partial release of any collateral the borrowers wish to sell or refinance. The loan agreements require that the proceeds of any such refinance or sale be paid to AFC unless AFC agrees otherwise in writing. Please direct any requests for payoffs or partial releases of collateral to my attention. AFC declines Mr. Kittle's requests to release AFC's mortgage on the Geraldine property for no consideration and to terminate the parties' Cross-Collateralization and Cross-Default Agreement. Please refer to my prior correspondence concerning these topics.

Second, in his email today to Mel Koller at 5:51 a.m., Mr. Kittle requested "my notice letter for the July 23<sup>rd</sup> denial" of his request to increase the line of credit by \$250,000. The July 23-27 email exchange clearly reflects that what Mr. Kittle was told at that time was that new appraisals would be required to process his request for \$250,000 of additional credit. In any event, this is one of the credit requests that was voluntarily withdrawn by the Kittle borrowers on August 6, 2021 and that the CRC reviewed on October 18, 2021. The decision of the CRC is final. AFC has not accepted any credit applications from the Kittle borrowers since they withdrew all pending requests on August 6, 2021. Consequently, there are no open credit requests to be appealed to the CRC. As explained in my letter of August 20, 2021, AFC is unwilling to accept any new applications from the Kittle borrowers at this time due to the unresolved and disputed claims being threatened by the Kittle borrowers.

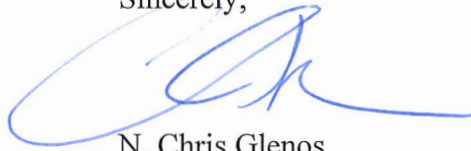
Third, you requested yesterday that we resend AFC's Charter, By-laws and Articles of Incorporation to you because you failed to save them when they were transmitted to you on August 18, 2021. They are attached.

Ashley Posey  
October 29, 2021  
Page 2

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With respect to all of the other requests please refer to my prior correspondence to you setting forth AFC's positions.

Sincerely,



N. Chris Glenos

NCG/sw

Enclosure

# Exhibit D

C. Meade Hartfield  
Partner  
mhartfield@bradley.com  
205.521.8196 direct  
205.488.6196 fax



VIA EMAIL

November 8, 2021

Mel Koller  
President, Chief Executive Officer  
Alabama Farm Credit ACA

**Re: Conflict Consent  
Alabama Farm Credit loans to Dustin Kittle and Kittle Farms LLC**

Dear Mel:

Alabama Farm Credit, ACA, for itself and as agent/nominee for Alabama Farm Credit, FLCA and/or Alabama Farm Credit, PCA (the "Company" or "you") has asked our firm to continue to represent it in connection with the Alabama Farm Credit loans to Dustin Kittle and Kittle Farms LLC. As we discussed, under Alabama's rules of professional conduct, we are required to advise a client if a representation involves a conflict of interest between our firm and the client, so that the client can decide whether to proceed with the representation. This letter explains our firm's potential conflict in continuing to handle this matter and seeks the Company's informed consent to the conflict.

Under Rule 1.7 of Alabama's rules of professional conduct, a lawyer shall not represent a client if there is a significant risk that the representation will be materially limited by a personal interest of the lawyer unless the client gives informed consent, confirmed in writing. In this case, the proposed continued representation creates a potential conflict under Rule 1.7, because it involves prior work of our law firm, namely advising Alabama Farm Credit with regard to its loans to Dustin Kittle and Kittle Farms LLC. A firm's further work on an existing matter, including, without limitation, potentially litigating issues arising from that firm's prior legal work, may generate a conflict of interest under the rule when there is a plausible claim that the prior work was deficient, especially if there are alternative strategies for handling the matter, and one is better for the law firm and another is better for the client. In such an instance, the potential exists that the law firm will pursue the strategy that is better for the firm so as to protect its prior work from blame.

In this situation, it could be argued that the allegations made by Dustin Kittle regarding the legal services provided by our firm to you may result in us pursuing a settlement that would reduce the likelihood of Mr. Kittle pursuing some type of claim against the firm. Theoretically, the firm could handle this matter so as to minimize that issue. For example, the firm could focus the new matter on a way to resolve the entire dispute and obtain from Mr. Kittle and Kittle Farms LLC a release that benefits the firm and avoid criticism of the firm's interactions with Mr. Kittle.

November 8, 2021

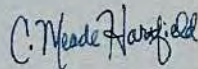
The most likely alternative to the Company's consent to our representation of it in the proposed matter is that it will need to identify and engage other lawyers to handle the matter.

Although the firm's handling of this matter creates a potential conflict, as described above, we do not believe that our commitment, dedication, and ability to effectively represent the Company's interests will be adversely affected by our own interests, and we believe that we will be able to provide the Company with competent and diligent representation. Nevertheless, in deciding whether to consent to the conflict, the Company should consider carefully how our prior work for it and our desire to protect our firm's interests may affect it.

Although there is no requirement that it do so, because this is an important decision, the Company may want to consult independent counsel before deciding whether to consent.

Please review this matter carefully. If the Company has any questions that it would like me to answer prior to reaching a decision on this issue, please let me know. After appropriate review, if the Company is willing to consent to our continued representation of it in this matter, please sign the enclosed copy of this letter in the space provided and return it to me.

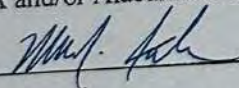
Very truly yours,



C. Meade Hartfield

Alabama Farm Credit understands the risks described above and consents to the representation set forth above.

Alabama Farm Credit ACA, for itself and  
as agent/nominee for Alabama Farm Credit,  
FLCA and/or Alabama Farm Credit, PCA,

By: 

Title: President and Chief Executive Officer

Date: 11/9/2021

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Sela,

Have you received a copy of the Report and Findings by the U.S. Farm Credit Administration? They have identified numerous violations of federal law and have stated, very clearly, that AFC / Bradley Arant was in violation of the law in attempting to condition the exercise of federal rights on the signing of a release of claims. Yet, according to him, Chris Glenos is continuing to act as counsel for AFC.

I know that your law firm represented Bradley Arant the last time that Attorney Glenos attempted to retaliate against a fellow lawyer and I know you obtained a favorable ruling for their firm with the finding that Glenos' conduct, under those facts, fell under the litigation privilege. That will not be the case here, as the litigation privilege does not extend to acts that are in violation of federal law (ie, conditioning the availability of credit on the signing of a release or illegally threatening a borrower they will be faced with foreclosure), and moreover, in our case, Bradley Arant and Chris Glenos were also attempting to negotiate a release with confidentiality for themselves.

As it stands, Bradley Arant's continued involvement in this matter is for one reason - so that another attorney who evaluates the case for AFC doesn't throw them under the bus for their fraudulent and illegal conduct. I would strongly request that you reevaluate your client's position in that regard. I have three different audio recordings of Chris Glenos threatening to deny credit to us unless we signed a release of claims - and the Farm Credit Administration has informed you, or either I will through their report, that such conduct by your client was a violation of federal law.

Thank you,

**Dustin J. Kittle**

**Managing Partner**

**O: (205) 358-3100**

**C: (256) 996-5822**

**E: [dustin@humble.law](mailto:dustin@humble.law)**

On Thu, Dec 29, 2022 at 10:39AM Sela Blanton <[sblanton@bainbridgemims.com](mailto:sblanton@bainbridgemims.com)> wrote:

Dustin,

Thank you for your email

Bradley's actions were at all times appropriate and lawful, and were protected by the absolute litigation privilege we referenced in our earlier correspondence.

Thank you,

Sela

**Stewart M. Cox**

scox@bradley.com  
205.521.8276 direct  
205.488.6276 fax



August 11, 2023

**Via Email**

Dustin Kittle, Esq.  
Humble Law  
[dustin@humble.law](mailto:dustin@humble.law)

**Re: Alabama Farm Credit**

Dear Mr. Kittle:

Our firm continues to represent Alabama Farm Credit (“AFC”). This letter responds to your recent emails.

We are well aware of your complaints against our clients. We have fully reviewed them and believe they are without justification. Recently retained separate counsel for AFC concurs.

Given your course of conduct in this matter, we do not believe it is constructive to continue exchanging emails with you. You have always been free to pursue whatever legal process that is properly available to you, and that remains true today. However, we ask that you and any attorney under your direction in this matter revisit whether the claims you have threatened are substantially justified before commencing litigation. Aside from the fact that your claims are unsupported factually, you should know as an attorney there are clear legal concerns including: the Farm Credit Act confers no private right of action, lack of shareholder standing, the statute of limitations, the statute of frauds, using shareholder derivative allegations to redress what is actually a claim specific to your past borrower relationship, and other legal preclusions.

Regardless, we reiterate that your continued attempts to have direct contact with our client, including its Board members and management, concerning your legal grievances is improper. Any correspondence or legal filings going forward, concerning any claim against AFC including its Board of Directors, management and Amanda Simpson, may be directed to me, as Mr. Glenos’ co-counsel to AFC. As referenced above, however, you clearly lack standing to tender a shareholder derivative demand on the Board given that you are not a stockholder of AFC.

Dustin J. Kittle, Esq.

August 11, 2023

Page 2

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Sincerely,



Stewart M. Cox

SMC/tlr

cc: Ashley Posey, Esq.  
N. Chris Glenos, Esq.



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**Bradley Arant (Alabama Farm Credit)**

1 message

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Dustin Kittle <dustin@humble.law>

Mon, Dec 18, 2023 at 10:57 AM

To: "Bruce F. Rogers" <brogers@bainbridgemims.com>, Sela Blanton <sblanton@bainbridgemims.com>

Cc: Ashley Posey <ashley@humble.law>, Emily Jo Davis <emily@humble.law>

Bruce and Sela.

Please be advised that, on December 15, 2023, I was notified by Smith Gambrel Russell that they are now acting as counsel for Alabama Farm Credit.

As in our last communication in August 2023, you advised that your law firm continued to represent Bradley Arant and Chris Glenos, I am writing to ask whether Bradley Arant and/or Chris Glenos are continuing to represent any parties in this matter. And if they are, please identify those parties.

Further, please advise as to whether your firm continues to represent Bradley Arant, Chris Glenos, and/or the Board of Directors of Bradley Arant.

Thank you,

Dustin J. Kittle

Managing Partner

O: (205) 358-3100

C: (256) 996-5822

E: dustin@humble.law

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION**

<b>ALABAMA FARM CREDIT, ACA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
v.	)	CIVIL ACTION NO:
	)	<b>5:23-cv-1739-CLM</b>
<b>DUSTIN KITTLE,</b>	)	
	)	<b>Opposed<sup>1</sup>   Filed Under Seal</b>
<b>Defendant.</b>	)	

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**MOTION TO DISQUALIFY**

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COMES NOW, Dustin Kittle (“Kittle”), by and through undersigned counsel, respectfully moves this Court to disqualify Gaynor L. St. John, Daniel D. Zegura, Anthony L. Cochran, Ronald E. Barab, and their law firms (collectively, “AFC’s Counsel”) as counsel for AFC pursuant, but not limited to, Rules 1.7, 1.13, 3.1, 3.3, 5.6 and 8.4 of the Alabama Rules of Professional Conduct.

Kittle, as an attorney, and undersigned counsel (“Posey”) are obligated to bring the contents of this Motion to the Court’s attention.<sup>2</sup> However, Kittle and Posey

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<sup>1</sup> Kittle’s counsel presumes this Motion is opposed given its nature; however, AFC’s Counsel has failed to respond as to whether it is opposed.

<sup>2</sup> Binding authority says, whenever “an attorney discovers a possible ethical violation concerning a matter before a court, he is not only authorized but is in fact obligated to bring the problem to that court’s attention.” *United States v. Gopman*, 531 F.2d 262, 265-66 (5th Cir. 1976) (internal citations omitted). *See also Musicus v. Westinghouse Electric Corp.*, 621 F.2d 742, 744 (5th Cir. 1980) (“A district court is obliged to take measures against unethical conduct occurring in

are cognizant of the fact that at the time of filing this Motion, the only pending Motions are the Motion for Sanctions [Doc. 17] against AFC and AFC's Counsel and the Motion to Enforce Settlement Agreement [Doc. 29]. Nonetheless, AFC's Counsel is due to be disqualified based on the following grounds:

1. Motions to Disqualify are governed in this Circuit by the Local Rules of the Court and federal common law. *See Hermann v. Gutterguard, Inc.*, 199 Fed. Appx. 745, 752 (11<sup>th</sup> Cir. 2006). In this Court, attorneys' conduct is governed by the Alabama Rules of Professional Conduct and the Model Rules of Professional Conduct (collectively, "Rule" or "Rules"). N.D. Ala. L.R. 83.1(f).

2. "AFC retained Bradley [and N. Christian Glenos ("Glenos")] to represent it on or about July 26, 2021, after [Kittle] began challenging AFC's handling of [his] request to modify certain loans, and threatening legal action." (Exhibit A - Bainbridge Letter to Kittle 10/7/22.) Glenos, as counsel for AFC, has caused AFC to violate the Farm Credit Act, the Equal Credit Opportunity Act, federal statutes, and federal regulations multiple times. [Doc. 17-1 ¶¶ 12-13; Doc. 17 Sealed Attachment 4; Doc. 17-6; Doc. 17-7; Doc. 17-8; Doc. 17-9; Doc. 17-10; Doc. 17-11; Doc. 17-12; Doc. 17-13; and Doc. 13-2 at p. 5.] AFC faces potential liability to Kittle, the FCA, and others for the violations caused by Glenos and

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connection with any proceeding before it . . . A motion to disqualify counsel is the proper method for a party-litigant to bring the issues of conflict of interest or breach of ethical duties to the attention of the court." (internal citations omitted).

Bradley. 12 U.S.C. § 2268(a). Glenos, Bradley, AFC's Officers, AFC's Directors, and AFC's Counsel have been notified by the FCA and/or Kittle numerous times of the liability Glenos has exposed AFC to by attempting to condition loan servicing for AFC borrowers upon a release of claims in favor of AFC, its Officers, Directors, employees, and Bradley, and engaging in retaliation against borrowers who refuse to execute such a release. [Doc. 1-7; Doc. 13 at p. 4; Doc. 13-7 at p. 2; and Doc. 17-5.] (*See also* Ex. A; Exhibit B - Kittle Email to Bradley 10/29/21; Exhibit C - Kittle Email to Glenos, AFC's Officers and Directors 12/2/2021; Exhibit D - Kittle Letter to Bainbridge 10/11/22; Exhibit E - Kittle Email to Bainbridge 8/1/23; Exhibit F - Kittle & Bainbridge Emails from 2022 – June 2023; Exhibit G - Kittle & Glenos Emails June & July 2023; Exhibit H - Kittle Letter to Board of Directors 11/8/2021).<sup>3</sup>

3. AFC has legal claims it could (and should) bring against Glenos and Bradley in connection with their representation of AFC. On November 8, 2021 (the same day Kittle reported Glenos's misconduct to the Bar Association and notified AFC's Officers and Directors of the same (*see* Ex. H)), C. Meade Hartfield, a Partner at Bradley, sent Mel Koller, a Conflict Consent requesting he consent, on behalf of AFC, to the conflict between Bradley and its representation of AFC. (Exhibit I - Koller & Bradley Conflict Consent 11/8/2021).

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<sup>3</sup> Upon information and belief, Bradley has been demanding other stockholder-borrowers sign releases of claims, requiring confidentiality, as well as those borrowers being prompted to provide a deed in lieu of foreclosure to AFC by Bradley.

4. Bradley apparently continues to represent AFC, including its Officers, Directors, employees, and former employees despite its conflict of interest. [Doc. 1 at n. 6 and Doc. 1-5 (letter from Stewart M. Cox).] Additionally, Bradley’s attorneys continue to monitor and frivolously report Kittle’s social media posts regarding AFC, and Kittle’s “sharing” of AFC’s posts directly, as “copyright infringement.” AFC has no registered copyright or trademark on file for the reported materials. [Doc. 13 at p. 4 and Doc. 1-5.] (See also, Ex. G; Exhibit J – Bradley’s Reporting of Kittle’s Social Media).

5. Smith Gambrell Russell, LLP also represents Alabama Farm Credit, ACA. [Doc. 1-9.] Three days after Kittle requested a list of stockholders on behalf of his client, Carl Dwight Brooks (“Mr. Brooks”), AFC sued Kittle through Smith Gambrell Russell, LLP and St. John & St. John, LLC. [Doc. 1. And Doc. 28-4.] In filing the Complaint, AFC’s Counsel violated Rules 3.1<sup>4</sup> and 3.3.<sup>5</sup> [ Doc. 17 at p. 11; Doc. 17-1 at ¶¶ 14-15; and Declaration to Motion to Enforce at ¶¶ 11-14.] (See also, Exhibit K - Kittle Email to Bainbridge 12/18/23).

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<sup>4</sup> Rule 3.1 says a lawyer shall not file a suit, assert a position, conduct a defense, or take other action on behalf of its client when the lawyer knows or when it is obvious that such action would serve merely to harass or injure another. The lawyer has “a duty not to abuse legal procedure.” Ala. R. Prof. Conduct 3.1 cmt.

<sup>5</sup> Rule 3.3 says a lawyer shall not knowingly make a false statement of material fact or law to a tribunal. “An advocate is responsible for pleadings and other documents prepared for litigation”. Ala. R. Prof. Conduct 3.3 cmt.

9. AFC's Counsel is in violation of Rule 1.7<sup>8</sup> and Rule 1.13, as its representation of AFC (the organization and its stockholders) is and/or will be materially limited by their responsibilities to their other clients (AFC's Officers, AFC's Directors, whether in their official or individual capacities, AFC's employees, Glenos, and Bradley), and/or by their own interests for committing professional misconduct during mediation. Rule 1.7(b).<sup>9</sup>

10. AFC's borrowers are stockholders in AFC. [Doc. 4-5 at ¶ 5.] Rule 1.13 says "[a] lawyer employed or retained by an organization represents the organization". It further says, "[i]n dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when it is apparent that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing." Rule 1.13(d). **A lawyer may only jointly represent an organization and its directors, officers, employees, members, or shareholders, absent a conflict under Rule 1.7 or with**

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<sup>8</sup> Rule 1.7 prohibits a lawyer from representing a client if that representation is directly adverse to another client or that representation may be materially limited by the lawyer's responsibilities to another client, a third person, or the lawyer's own interests unless the lawyer reasonably believes the representation will not be adversely affected and obtains client consent after consultation.; *see also Southern Visions* ("Rule 1.10(a) requires a law firm to be treated as a single attorney.").

<sup>9</sup> A violation occurs if AFC's Counsel's loyalty to any of these parties is and/or will be impaired because counsel "cannot consider, recommend or carry out an appropriate course of action for [one] client" due to their responsibilities to the other client. Ala. R. Prof'l Conduct 1.7 cmt. A critical question is whether the conflict interferes with AFC's Counsel's independent professional judgment in considering alternatives or foreclose courses of action that reasonably should be pursued on behalf of any of the represented parties. *United States v. Jefferson County*, No. CV-75-S-666-S, 2008 U.S. Dist. LEXIS 129748 at \*36-37 (N.D. Ala. January 16, 2008).

**the consent of either an appropriate official of the organization other than the individual's represented, or the shareholders. Rule 1.13(e). “[A] conflict may arise between the lawyer's duty to the organization and the lawyer's relationship with the board.** Ala. Rules of Prof'l Conduct, Rule 1.13 cmt. (emphasis added). Koller cannot consent to the conflict on behalf of the 3,339 voting stockholders of AFC. Id. *See also United States v. Jefferson* at \*86-89.

11. AFC's Code of Ethics (“COE”) requires all directors, officers, employees, and agents (including its attorneys) to maintain high ethical standards; act in the best interests of the institution; refrain from participating in official action or discussion on any matter if the director, officer, employee, or agent has an actual or perceived conflict of interest; comply with all applicable laws, rules, and regulations; and promptly report any possible illegal or unethical activity. (Exhibit L - AFC Code of Ethics).

12. Every AFC Officer or Director must fulfill his or her fiduciary duties to the institution and its stockholders. 12 U.S.C. § 612.2135. They must report any known or suspected activity by a person affiliated with the institution that they suspect is illegal, unethical, or a violation of the institution's standard of conduct and Code of Ethics. 12 U.S.C. § 612.2145.

13. AFC's attorneys are required to maintain high standards of honesty, integrity, and impartiality in order to ensure the proper performance of AFC business

and continued public confidence in the Farm Credit System and all its institutions. 12 U.S.C. § 612.2280. **“The avoidance of misconduct and conflicts of interest is indispensable to the maintenance of these standards.”** Id.

14. AFC is subject to financial civil penalties if any of its officers, directors, employees, or agents (including attorneys) violates the Farm Credit Act (“the Act”) or any Farm Credit regulation. 12 U.S.C. § 2268(a). It also must ensure compliance by its directors, officer, employees, and agents with conflicts of interest<sup>10</sup> requirements and act promptly to preserve the integrity of and public confidence in AFC in any matter involving a conflict of interest. 12 U.S.C. § 612.2160.

15. In representing all of these parties, advocating for positions on behalf of one client requires AFC’s Counsel to abandon an argument on behalf of other clients or themselves. This is especially true in light of the independent duties these parties owe AFC in their respective roles as set forth in Paragraphs 10-14, and the liability to the organization each of these clients may face for violations of these duties or violations of the Farm Credit Act and regulations. This materially limits AFC’s Counsel’s ability to represent AFC. That is exactly the type of situation Rule

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<sup>10</sup> A “conflict of interest” or the appearance thereof exists when a person has a financial interest in a transaction, relationship, or activity that actually effects or has the appearance of affecting the person’s ability to perform official duties and responsibilities in a totally impartial manner and in the best interest of the institution when viewed from the perspective of a reasonable person with knowledge of the relevant facts. 12 U.S.C. § 612.2130.



1.7 was designed to prevent. [Doc. 29, Ex. A.] *See also United States v. Jefferson County* at \*75.

16. Even if AFC consented to the conflict, such consent is ineffectual; “when a disinterested lawyer would conclude that the client should not agree to the representation under the circumstances, the lawyer involved cannot properly ask for such agreement or provide representation on the basis of the client’s consent.” Ala. R. Prof’l Conduct 1.7 cmt. *See also, United States v. Jefferson County* at \*75. A disinterested lawyer would advise AFC not to permit its counsel to simultaneously represent it in matters whereby its Officers, Directors, employees, and counsel’s own actions, omissions, violations of law, and violations of the Rules of Professional Conduct likely will subject the organization and its stockholders to legal and financial liability for which AFC could seek indemnity or assert affirmative defenses. *See Southern Visions, LLP v. Red Diamond, Inc.*, 370 F.Supp. 3d 1314, 1327-28 (N.D. Ala. 2019).<sup>11</sup> Such advice would run directly contrary to the duty of undivided client loyalty that forms the basis of Rule 1.7. *See* Ala. Rules Prof’l Conduct 1.7, cmt (“Loyalty is an essential element in the lawyer’s relationship to a client.”).

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<sup>11</sup> *Southern Visions* involved a similar attempt by Bradley to use a conflict consent to avoid a violation of Rule 1.7, albeit unsuccessfully. This Court disqualified the firm, including some of the same attorneys involved here (e.g., Stewart Cox), saying the client consent was ineffectual.

17. As the Alabama State Bar’s General Counsel (quoting Rule 1.7) stated in *United States v. Jefferson County*, “[i]f the parties’ positions become adverse for any reason, continued representation of either party would be prohibited, regardless of whether the clients are willing to waive any conflict of interest.” *Id* at 80.

18. Even if a consent encompasses “matters . . . directly adverse” to AFC’s interests, it would be ineffective. *See Southern Visions* at 1319. This is especially true, when the conflict is one created by the law firm itself. *Id* at 1329-33. As this Court explained in that case:

[W]here a law firm has a Rule 1.7(a) conflict involuntarily thrust upon it, the law firm “may avoid disqualification by moving swiftly to withdraw from its representation of a client, so as to minimize the prejudice to each client concerned, *provided that the law firm did not play a role originally in creating the conflict of interest.*” *Id.* (emphasis added). “[T]his approach,” adopted by the Alabama Supreme Court in *AmSouth*, was “consistent with the ‘common sense’ approach” the court had long used in “resolving questions under the Rules of Professional Conduct.” *Id.*

In undertaking the Southern Visions representation, Bradley did precisely what the *AmSouth* court refused to condone—it “abandon[ed] its absolute duty of loyalty to [Red Diamond] so that it [could] benefit from a conflict of interest” it created by its own actions. *Id.* at 721. The court has adopted the Alabama Rules of Professional Conduct but is not bound to follow the Alabama Supreme Court’s interpretation of those Rules. *See Clark*, 2001 U.S. Dist. LEXIS 25684, 2001 WL 34394281, at \*5 n.1. Nevertheless, this court fully understands the *AmSouth* court’s observation that the Rules of Professional Conduct are “rules of reason” that must be given a “common sense” construction. *AmSouth*, 589 So. 2d at 719. But that does not mean giving them a construction that would permit Bradley to avoid a clear Rule 1.7(a) violation in this case. Such a construction of the

Rules would be manifestly *unreasonable*. It would be contrary to the plain text of the Rules (as well as the Comments to the Rules) and relevant state authority (like *AmSouth*). And it would contravene the common-sense principle that a law firm, particularly a large, sophisticated one like Bradley, should not be excused -- even for three days -- from violating the most basic conflict-of-interest commandment: Thou shalt not sue one current client on behalf of another. That is all the more true given that Bradley could very easily have avoided creating this conflict of interest in the first place. . .

In short, Eleventh Circuit case law imposes a straight-forward standard for evaluating motions to disqualify like Red Diamond's: disqualification is appropriate if the district court finds a violation of a specific rule of professional conduct, of which counsel had notice. *Schlumberger*, 113 F.3d at 1561. . .

**The court finds the rationale supporting a per se rule of disqualification for violations of Rule 1.7(a) persuasive, particularly in cases (like this one) where the law firm created the conflict by its own actions and could easily have avoided the conflict.**

*Id* (emphasis added).

Wherefore, based on the above, Kittle and Posey respectfully move this Court to disqualify AFC's Counsel from representing AFC in any remaining matters before this Court based on violations of multiple Rules.

DATED: March 12, 2024.

Respectfully submitted,

/s/ Ashley M. Posey  
Ashley M. Posey  
ASB-4176-I61D  
Attorney for Defendant  
**HUMBLE LAW, LLC**

# Exhibit E

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**Borrower's Rights under the FCA (Time Sensitive / Urgent)**

1 message

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Dustin Kittle <dustin@humble.law>  
To: "info-line@fca.gov" <info-line@fca.gov>  
Cc: Ashley Posey <ashley@humble.law>

Tue, Aug 24, 2021 at 4:16 PM

To whom it may concern:

My name is Dustin Kittle and I am currently a resident of Tennessee, where I have resided since mid-2020. At that time, I purchased multiple agricultural properties in Tennessee with cash and then financed those properties with Alabama Farm Credit. In addition to having a registered cattle, sheep, and Clydesdale horse farm, I am also an attorney and provide counsel on agricultural issues to a number of clients. I have never in my life filed any lawsuit on my behalf and have never been a party to any litigation.

Over the course of the past year, I, almost inadvertently, discovered various discrepancies in Alabama Farm Credit's servicing of my loans. As just a few examples, I learned that Alabama Farm Credit limited my collateral on one of the properties to \$490,000 when it had, in fact, appraised the property for \$1.2 million dollars; that Alabama Farm Credit had its own employee perform an undervalued collateral evaluation of a property I own in Alabama with that same employee's spouse contacting me in an effort to purchase the property; in recent months, Alabama Farm Credit cross-collateralized my personal residence and my mother's personal residence without disclosure; and Alabama Farm Credit denied an increase of my revolving credit line due to my loan to value not meeting its threshold (despite the fact my loan to value was considerably under every threshold I had been provided up until that time).

Once the credit line increase was denied in early June, I requested that Alabama Farm Credit evaluate my loans for the potential of a re-finance (as I had properties cross-collateralized at amounts that were 1/3 of their true appraisal value). After almost six weeks had passed, I contacted the appraiser directly who Alabama Farm Credit had indicated would be assigned to my properties - and I learned that he had still not been engaged by Alabama Farm Credit to perform any appraisals and that he was now 4-6 weeks out in performing any new appraisals.

Given that we had loans on a variable interest rate with equity approaching \$1.5 million, I put in writing my concerns with the servicing of my account. I sent those concerns in an email directly to the Branch Manager expressing my disappointment with the manner in which my account was handled. The following day, I was informed that the Albertville, Alabama Branch Manager would no longer be handling my account and that I should direct any inquiries on my account to the Chief Risk Officer based out of Alabama Farm Credit's Cullman location.

The Chief Risk Officer, Jody Campbell, informed me that he would like to have a telephone conference with me and stated we would be joined on the call by Alabama Farm Credit's legal counsel. I replied by email that, in light of their desire to include counsel in the communication, I would have an attorney from my office, Ashley Posey, on the line.

In the conference call that followed, Jody Campbell, as Chief Risk Officer, blatantly misrepresented the history of my account and the status of the collateral held by Alabama Farm Credit. As just one example, Mr. Campbell stated that I had entered into an arms length transaction for the \$1.2 million appraised property within the past year, and thus, it could not be utilized as collateral for more than the \$490,000 purchase price; however, he stated he would reconsider a credit line increase upon our producing additional information on how the funds would be spent.

Following the call, I learned that the appraiser in question on that property had advised Alabama Farm Credit more than a year ago, in writing, that the purchase of the property was not an arms-length transaction, as it was the result of a volume property sale involving an estate. That false representation by Alabama Farm Credit had been perpetuated for more than a year and cost me a substantial amount of money and a loss of credit rating in having to seek additional financing to cover their artificial deficit.

In the aforementioned conference call with Alabama Farm Credit, I informed Mr. Campbell and counsel that my rights as a borrower and stockholder in Alabama Farm Credit had been violated. As a result, I was instructed by Alabama Farm Credit's counsel to not communicate further on this matter with Alabama Farm Credit and to only communicate with his office.

During the call, Alabama Farm Credit informed me that I would be charged (more than \$4,000) for the appraisals and that payment must be issued within a matter of days or the appraisals would be cancelled. My wife, Marian Michelle Kittle, who is also a borrower on our primary residence, contacted the branch on multiple occasions attempting to determine whether we could pay the amount with a card by phone, so as not to risk the appraisals being cancelled due to the delays of mail. Repeatedly, she was informed that there was no one available to answer questions on our account; as such, she placed the payment in the mail.

Contemporaneously, Attorney Ashley Posey, on my behalf, emailed opposing counsel explaining Alabama Farm Credit's inaccurate evaluation of the loan to value number and requested that my credit line be increased in line with the correct loan to value threshold within 48 hours, as Alabama Farm Credit had suppressed information and the prior denial had been made in error. Alternatively, she requested that Alabama Farm Credit release my widowed mother's primary residence as collateral, as it was not needed any longer for the loan to value threshold, and Alabama Farm Credit had represented, in writing, that the property would be released as security within one year of it being taken as collateral on my loans.

Attorney Chris Glenos, on behalf of Alabama Farm Credit, responded by stating that no credit lines would be increased and no property would be released unless I was willing to sign a release of liability against Alabama Farm Credit. To be clear, Alabama Farm Credit attempted to condition my obtaining financing and servicing (I was legally obligated to receive) on my releasing their institution from liability for its past acts. And despite having a perfect payment history with Alabama Farm Credit, a fact they acknowledged in writing, Attorney Glenos stated I was simply "out of cash" and was making frivolous claims in order to obtain funds.

On my behalf, Attorney Ashley Posey responded by email that I was not willing to release Alabama Farm Credit from liability and that Alabama Farm Credit should consider those requests (for a credit line increase and/or the release of my mother's property) to be withdrawn. At no time, however, did I or any representative on my behalf state that I wished to withdraw my request for refinancing of my loan - that was a fact that seemed apparent

given my mailing of the check for the appraisals that Alabama Farm Credit demanded and that I was told were necessary to complete the refinancing.

Soon thereafter, my wife contacted me and let me know that Alabama Farm Credit had returned our check for the appraisals. Correspondence from Attorney Glenos soon followed that all appraisals connected to my refinancing had been canceled - when Attorney Ashley Posey, on my behalf, called him to ask why, he stated I had requested those appraisals to be cancelled when I withdrew the prior requests. He also stated that, despite the fact I continue to have loans with Alabama Farm Credit, they had no desire to continue working with me and encouraged me to seek financing elsewhere.

As Alabama Farm Credit had retained the same appraiser who had performed the 2020 appraisals for the properties, I contacted him and learned that, at the time Alabama Farm Credit allegedly cancelled the appraisals, the appraisals had already been performed and had actually been provided to Alabama Farm Credit - so they were aware of what our properties were truly valued.

Although I have never pursued any claims under the Farm Credit Act, and must admit I was not even familiar with the Act, I studied it and learned that Alabama Farm Credit could not withhold information it possessed related to the value of my assets. Attorney Ashley Posey, on my behalf, emailed Attorney Glenos and requested a copy of the appraisals pursuant to Alabama Farm Credit's obligations under the Act. Attorney Glenos responded with appraisals for only two (2) of the properties - refusing to provide the appraisal for my personal residence.

Alabama Farm Credit withheld the appraisal on my personal residence, despite our informing them we have a prospective purchaser who is seeking a price on my home so they can make a decision as to whether to buy the property. Moreover, my decision to sell my home is influenced largely by my inability to obtain refinancing since early June from Alabama Farm Credit, as I have utilized a significant portion of funds to improve the properties they now hold (with the two (2) appraisals I have received confirming I have increased the value of those assets, just since the time of financing, by more than \$375,000).

Despite seeking clarification and explanation from Alabama Farm Credit on the discrepancies in their servicing of my loans and making clear my intent to seek refinancing, Alabama Farm Credit's counsel, Chris Glenos, informed me in writing this past week that he had instructed Alabama Farm Credit to not accept any credit applications submitted by me so long as I am threatening or pursuing litigation against them. I am attaching a copy of the correspondence to this email for your review.

And despite the fact I have never so much as missed a payment and Alabama Farm Credit holds collateral of almost \$2 million in excess of my loan amount, it has demanded, under the terms of my loan, for me to now provide them with a list of financials for myself and all of the entities I own and operate. Alabama Farm Credit has demanded those documents by tomorrow, August 25, 2021, and has threatened that, if they are not provided the information, they reserve the right to pursue their rights and remedies against me.

I am writing because of the demand and Alabama Farm Credit's threats to pursue rights and remedies against me. It is my understanding that the Farm Credit Act, and the Farm Credit Administration by extension, is designed to protect the rights of borrowers like me who hold sufficient assets, have made timely payments, and simply want the financial institution to uphold its duties to me as a borrower and as a stockholder. A financial institution should not be allowed to retaliate, as Alabama Farm Credit has done against me, for pointing out the litany of violations they have committed in servicing my account.

I am requesting assistance from the Farm Credit Administration to act as an advocate on my behalf. I am also asking for clarification on my rights as a borrower for a loan issued under the Farm Credit Act.

I will make myself available at any time in person or by phone at 256-996-5822. I am copying Ashley Posey from my office, as she is also familiar with the facts. We can provide any and all documentation that has been referenced in my narrative above.

Thank you,

Dustin Kittle

# Bradley

N. Christian Glenos  
Partner  
cglenos@bradley.com  
205.521.8721 direct

August 20, 2021

**VIA EMAIL AND CERTIFIED MAIL**

Dustin Kittle, Kittle Farms LLC, Marian Michelle  
Kittle, Dana Kittle and Columbia Springs, LLC  
c/o Ashley Posey  
Humble Law, LLC  
3112 Blue Lake Drive  
Birmingham, AL 35243  
[ashley@humble.law](mailto:ashley@humble.law)

Re: Dustin Kittle, Kittle Farms LLC, Marian Michelle Kittle, Dana Kittle and Columbia  
Springs LLC (the "Kittle Farms Group")

Dear Ashley:

Alabama Farm Credit ("AFC") considers all credit applications from your clients, the Kittle Farms Group, to be closed based upon your correspondence to me of August 6, 2021, in which you advised us "to be clear, the Kittle borrowers withdraw any and all pending requests for release or funds." I have advised AFC not to accept any new credit applications from your clients while they are threatening or pursuing litigation claims against AFC. To the extent you contend an adverse credit decision by AFC has occurred with respect to the Kittle Farms Group, please see the attached notices which explain their appeal rights.

Sincerely,



N. Chris Glenos

NCG/sw  
Enclosure

4839-8512-4854.1

Bradley Arant Boult Cummings LLP | One Federal Place | 1819 Fifth Avenue North | Birmingham, AL 35203-2119 | 205.521.8000 | bradley.com



August 26, 2021

Dustin Kittle

[dustin@humble.law](mailto:dustin@humble.law)

RE: Document No. 13824

Dear Mr. Kittle:

Thank you for your email on August 24, 2021, regarding your concerns about the operations of Alabama Farm Credit, ACA, (association), a member of the Farm Credit System (System). We review each complaint carefully to determine whether the association complied with applicable laws and regulations in the matters raised. The complexity of the issues raised affects how long our review takes, but we strive to provide a response within 60 days. If we do not finish our review in 60 days, we will notify you and provide information on the status of our review.

As part of our review, we will contact the association to obtain more information about the issues you have raised. Although we will not share your correspondence with the association, we may need to reveal your name and certain details to resolve your complaint.

FCA is an independent federal agency that regulates and examines System institutions. We ensure that System institutions operate in a safe and sound manner and in compliance with applicable laws and regulations. As a loan applicant or borrower of a System institution, you are entitled by law to the following rights:

- To know the current effective rate of interest on your loan by the date it closes
- To be informed that you are required to purchase at-risk stock in your System institution
- To receive copies of all the documents you have signed by the time the loan closes
- To be informed promptly as to whether your loan application has been accepted, reduced, or denied
- To be informed of your right to request restructuring for your loan if you cannot meet current payments
- To obtain a credit committee review of a denial or reduction of a loan request and a denial of a restructuring request
- To have first refusal when a System institution decides to sell agricultural property it has acquired from you



Dustin Kittle  
August 26, 2021  
Page 2

Please understand that we cannot offer you any specific advice on the matters raised in your complaint. The law does not allow us to function as a consumer advocacy bureau. We do not adjudicate disputes between System institutions and borrowers, and we cannot provide legal advice. We also have no authority to provide monetary relief.

However, as an arm's length regulator, we can interact directly with System institutions when there is a concern that they have violated a law or regulation. If we find that a violation has occurred, we will use our examination and enforcement authorities to require corrective action. Our findings are confidential and protected from general release under 12 CFR 602.2 and 5 U.S.C. 552(b)(8).

If you have any questions, please call us at 703-883-4056. Please include your document number (provided above) on any correspondence you send us.

Sincerely,



Russell Middleton

Office of Congressional and Public Affairs



October 26, 2021

Dustin Kittle

[dustin@humble.law](mailto:dustin@humble.law)

RE: Document No. 13824

Dear Mr. Kittle:

We are writing to let you know that we are still reviewing your concerns regarding the operations of Alabama Farm Credit, ACA. Our goal was to complete our review within 60 days of receiving your complaint, but the complexities of the matters raised in your complaint require additional time. We want to ensure that our review is thorough. We will send you our response as soon as our work is complete.

Sincerely,

A handwritten signature in blue ink that reads 'Russell Middleton' with a stylized flourish at the end.

Russell Middleton

Office of Congressional and Public Affairs

**Re: CTS 13824**

1 message

Dustin Kittle <dustin@humble.law>

Tue, Oct 26, 2021 at 10:35 PM

To: Info-Line <Info-Line@fca.gov>

Cc: Info-Line <Info-Line@fca.gov>

Thank you Mr. Middleton. Honestly, things have take a turn for the worse. I can't even speak with anyone with my lender (Alabama Farm Credit) - I don't have a lawsuit pending or drafted even but I have had to conduct my banking through an outside attorney in Birmingham, Alabama. They are attempting to coerce me into signing a release of claims against them.

I don't want to do it but they have blocked all my requests for credit outright and are even using my widowed mother's property (which she owned free and clear before all of this) and saying they won't release her property, which they have no legal claim to whatsoever, unless I agree not to release them from any and all liability.

It's retaliation, it's fraud, and it's coercion - and I really need your help.

Thank you,

Dustin Kittle  
Cell: 256-996-5822

On Tue, Oct 26, 2021 at 3:59 PM Info-Line <Info-Line@fca.gov> wrote:

Dear Mr. Kittle,

Please find attached a letter regarding the status of our review of your concerns about the operations of Alabama Farm Credit, ACA.

Thank you,

*Russell Middleton*

*Office of Congressional and Public Affairs*

*Farm Credit Administration*

*1501 Farm Credit Drive*

*McLean, VA 22102*

*703 883-4056*

**CONFIDENTIALITY NOTICE:** The above communication and attached documents are non-public, confidential information that is part of the supervision and regulation of a Farm Credit System institution. **This communication and any attachments are for the exclusive use of the intended recipient.** This communication is excluded from general release by 12 C.F.R. § 602.2 and 5 U.S.C. § 552(b)(8). Inadvertent receipt of the above communication and its attachments is not a waiver by FCA of any privilege nor a grant of approval to use the information. Any unauthorized person or entity in possession of such material may not disclose this information or use it for personal or professional gain. Such unauthorized use may be considered a violation of Federal criminal statutes 18 U.S.C. §§ 641 and 2071. If you are not the intended recipient or have received this communication in error, please notify the sender of this message immediately by reply e-mail and delete this communication and any attached documents from your files.

--  
Dustin J. Kittle

Managing Partner

O: (205) 358-3100

C: (256) 996-5822

E: dustin@humble.law

Visit our website at [www.humble.law](http://www.humble.law)

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**Fwd: FCA Directive to Lending Institutions on their Duties in light of Covid**

1 message

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**Dustin Kittle** <dustin@humble.law>

Sat, Oct 30, 2021 at 7:54 AM

To: Info-Line &lt;info-line@fca.gov&gt;

Cc: "Glenos, Chris" &lt;cglenos@bradley.com&gt;, Mel Koller &lt;Mel.Koller@alabamafarmcredit.com&gt;, dsharff@bradley.com

To the Director of the U.S. Farm Credit Administration:

In conjunction with the email correspondence below, please note that our ability to communicate with our financial lending institution, a member of the U.S. Farm Credit System, has been taken away by a private attorney from the Bradley Arant law firm in Birmingham, Alabama. I have copied that attorney, Chris Glenos, to this correspondence. Mr. Glenos is an attorney licensed in the States of Alabama and Texas who holds himself out as a specialist in the area of creditors' rights, and specifically bankruptcy, which is the arena he seems intent on pushing us into.

While we have no lawsuit pending, Mr. Glenos has issued a written cease and desist letter indicating that we, as shareholders and borrowers in the farm credit system, may have no communication whatsoever with our lending institution, Alabama Farm Credit. He has further threatened that continued harassment, which has consisted of us attempting to explain to the officers and directors of AFC that an attorney cannot threaten and intimidate borrowers (and particularly when no lawsuit has been filed), will result in legal action being taken against us, the borrowers (for apparently exercising our federal rights).

Mr. Glenos recently sent us a letter stating that he unilaterally ordered our farm credit lending institution to not consider any attempts at credit, now or in the future, unless we sign a full release of claims. This is a blatant violation of the Farm Credit Act and almost every equal lending statute in the country.

Where we have drawn a line, however, is we have good credit, ample collateral, and significant equity - but are not even being allowed to pay our notes off or to attempt to restructure our debt, as is allowed by the Farm Credit Act and Covid relief guidelines, without paying Chris Glenos' law firm, Bradley Arant, to do it. We do not need an attorney to assist us in restructuring a loan, and it certainly appears that this attorney is preying on innocent borrowers by freezing their credit until they are forced to pay his law firm money, which surely cannot be legal.

Mr. Glenos has threatened that we are not to disclose our communications with him to anyone, including our lender, as he says they are inadmissible as evidence. While we have attempted to either direct our correspondence to or at least copy the Alabama Farm Credit CEO, as is our right as shareholders and borrowers, the cease and desist letter we received yesterday states that steps have been taken to block our ability to communicate with AFC's officers and directors - and I believe that to be true, as a recent email to our CEO was returned with an auto-reply that all inquiries go through their attorney. And to be perfectly clear, we have no desire to deal directly with the CEO of the lending institution, but our ability to communicate with our local branch manager or even office staff has been taken away as well.

Alabama Farm Credit has put a roadblock up in our ability to obtain financing or even to make payments, without going through a private law firm in Birmingham, Alabama. While I genuinely hope we are the exception, as I wouldn't wish this on anyone, I suspect it may be happening to other borrowers. And lest anyone question just how aggressive these demands are from the Bradley Arant firm, I am copying and pasting text from an email we received from Attorney Glenos on October 26th in response to a straightforward request for Alabama Farm Credit to evaluate a restructure in accordance with the Farm Credit Act:

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"For reasons previously communicated, AFC is unwilling to entertain any such proposal to deviate from the parties existing agreements that does not include a release of the borrowers' disputed claims against AFC and its employees (which we believe lack merit) and full transparency concerning the contemplated transaction they want AFC to go along with (including answering the questions posed in my below email of Oct 22). If these reasonable and customary concepts are not acceptable to your clients, then they will simply have to continue to be bound by the terms they agreed to in the loan documents. However, to the extent your clients are agreeable to a release and full disclosure, then here are non-binding terms that AFC would be willing to consider agreeing to pursuant to a restructuring agreement:

1. All Kittle parties execute a full release and covenant not to sue in favor of AFC and AFC's officers, directors, employees and counsel.
2. Borrowers payoff all loans except Gravel Hill and RLOC via refinance with new lender.
3. AFC retains the following collateral subject to the CC&CDA (per your suggestion):
  - Geraldine, AL
  - Gravel Hill -including a new second mortgage/DOT to be executed securing the RLOC
4. Borrowers pay down the RLOC by \$300,000 at closing of the refi and agree that no further advances will be made under the RLOC.
5. Borrowers will continue to actively market the Gravel Hill property for sale and apply all net sale proceeds to the AFC loans.

6. Borrowers acknowledge that the RLOC will not be renewed at maturity, and all remaining loans must be paid in full no later than 1/1/23.
7. Upon repayment Dustin Kittle's \$1,000 stock in the cooperative will be refunded and he will no longer be an AFC customer/stockholder.
8. Kittle parties acknowledge that no further renewals, advances, extensions or credit of any kind will be granted by AFC to the Kittle parties.
9. Kittle parties acknowledge the fact and amount of indebtedness to AFC, no payment defenses and validity of AFC's liens.
10. Borrowers pay AFC's legal fees to negotiate, draft and record loan mod/restructuring documents, including recording costs.
11. Mr. Kittle will refrain from future harassment and disparagement of AFC and it's personnel. All communications will be through the parties' counsel.
12. All Kittle parties to sign the agreement.
13. Subject to final approval by AFC management and execution of a written restructuring/modification agreement acceptable to AFC in its sole discretion.

Please let me know your clients have any interest in proceeding along these lines.”

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A private lawyer has no authority to deny credit allowed to us under the Farm Credit Act. And certainly, this law firm can't profit off distressed agricultural borrowers in charging them to negotiate, on the lending institution's behalf, a federally mandated restructure, or at least the fair opportunity to evaluate a restructure.

Alabama Farm Credit, which is a division of Texas Farm Credit, is not abiding by the charter granted to them by this Administration - and as a shareholder, that concerns me greatly. This matter can be resolved, but we have suffered significant financial harm and distress in having had to conduct our banking under the U.S. Farm Credit Act with a law firm who is intent on pushing us out of the U.S. farm credit system. We have dealt with this since July of this year and, quite frankly, we refuse to do it anymore.

I appreciate your attention to this important matter. I have copied the CEO of Alabama Farm Credit, Mel Koller, as well as the Managing Partner of the Bradley Arant firm, Dawn Helms Sharff.

Dustin Kittle  
Borrower and Shareholder in the Farm Credit System

----- Forwarded message -----

From: **Dustin Kittle** <dustin@humble.law>

Date: Fri, Oct 29, 2021 at 8:57 PM

Subject: FCA Directive to Lending Institutions on their Duties in light of Covid

To: Info-Line <info-line@fca.gov>, Mel Koller <Mel.Koller@alabamafarmcredit.com>

CC: Ashley Posey <ashley@humble.law>, Glenos, Chris <cglenos@bradley.com>, <dsharff@bradley.com>

To the Officers and Directors of Alabama Farm Credit and to the U.S. Farm Credit Administration:

Please find the enclosed link to the March 2020 Directive from the Farm Credit Administration regarding the duties owed to those borrowers who have been impacted by the coronavirus.

<https://www3.fca.gov/news/Lists/News%20Releases/Attachments/606/NR-20-04-03-17-20.pdf>

You are aware that your borrower, Dana Kittle, contracted Covid in late 2020 and has, in recent weeks and months, requested to have her farm removed from the cross-collateral pool. AFC has no note of mortgage with Ms. Kittle and is holding her property as additional collateral on a note that will retain, at a minimum, a 75% loan to value ratio. Ms. Kittle has made her request for modification, which was denied without proper notice under the Farm Credit Act, and without consideration of the FCA's directives, notwithstanding the fact she has asked for a release of her "over-secured" property so that she may sell a portion of her farm to supplement her lost income - as she was forced to take an early retirement after a 24 year career as a public school bus driver due to severe complications from Covid, which have left her on oxygen treatments almost a year later. She also is the caregiver for my 38 year old autistic sister, who has never been employed and draws a meager monthly disability check that does well to provide her basic needs.

Please reevaluate each and every request made by Ms. Kittle, including this one, under the guidelines imposed by the United States Farm Credit Administration. As Ms. Kittle has reported, through counsel, to you that she is in financial distress, I respectfully request that you act on it in as expeditious of a manner as if your own home depended on it, because hers does.

As you are aware, Dana Kittle is my mother and provided the collateral in support of approximately \$2.5 million in notes you have issued on my properties located in Maury County, Tennessee. Those properties, collectively, have a current appraised value of more than \$4.5 million, based upon appraisals authorized or ordered by your farm credit lending institution, Alabama Farm Credit, a division of Texas Farm Credit.

Like my mother, on behalf of myself, I have requested modification of those same loans, just so that a cross-collateral agreement does not prevent us from obtaining the equity we have earned on the properties. While you have chastised us as cash poor and broke, even in written communications, you forget that we followed the protocols issued by the United States Government to, now twice, postpone our annual registered livestock sales, which were conducted with great success in 2018 and 2019.

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**Fwd: 1800 Gravel Hill Road Property - Purchase Contract**

1 message

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**Dustin Kittle** <dustin@humble.law>  
To: Info-Line <info-line@fca.gov>  
Cc: Ashley Posey <ashley@humble.law>

Wed, Nov 3, 2021 at 6:42 PM

Re: Dustin Kittle (Alabama Farm Credit)

Mr. Middleton, et al.,

Please find the email string below which began in September with our putting in writing to Attorney Glenos that the illegal position taken by he and Alabama Farm Credit was forcing us to sell our home - by grace, the buyer could not close timely and we are no longer under contract to sell it and refuse to list it for sale when we hold more than \$400,000 in equity and have timely paid all obligations owed to AFC.

I also forward this string because, on October 6th, Attorney Glenos makes perfectly clear in writing that we are somehow no longer even eligible to obtain credit with Alabama Farm Credit. He states it is due to unresolved legal claims; however, to be very clear, no lawsuit has been filed - this investigation I requested to be conducted by the Farm Credit Administration is the only legal issue that had been acted on, which is still the case currently.

And then he basically mocks us that if we have the money, we should just re-finance it with another lender, as if the re-finance of multi-million dollar notes on multi-million dollar properties is as easy as saying that is what we wanted to do. Also, because we were not clear of the relationship between other farm credit institutions, such as Mid-America Farm Credit in Tennessee, and Texas Farm Credit / Alabama Farm Credit, we have been now hesitant, with good reason, to share our efforts with any institution who might, even unknowingly, share our information back with Alabama Farm Credit for fear that they would use it against us. Even now, a refinance with an outside lender will take months - and our relationship within the farm credit institution, a lending opportunity that was authorized by federal law to help farmers like us who have difficulty in effectuating a refinance with a traditional lender, was terminated by a private attorney acting as an authorized officer to administer banking policy that is regulated by federal law.

And my next email will show you the letter which unequivocally states that he, Chris Glenos, a private attorney who holds no authority to enforce or interpret the regulations of federal banking law against innocent borrowers, actually made the decision to deny us credit, for now months.

Thank you,

Dustin Kittle

----- Forwarded message -----

From: **Glenos, Chris** <cglenos@bradley.com>  
Date: Wed, Oct 6, 2021 at 7:07 PM  
Subject: RE: 1800 Gravel Hill Road Property - Purchase Contract  
To: Dustin Kittle <dustin@humble.law>  
CC: Ashley Posey <ashley@humble.law>, Jody Campbell <jody.campbell@alabamafarmcredit.com>, Shaver, Andrew <ashaver@bradley.com>

Mr. Kittle,

As explained previously, AFC is not in a position to accept any new loan applications from the Kittle Borrowers at this time. This is due, without limitation, to the unresolved legal claims the Kittle Borrowers have asserted and continue to assert against AFC and its employees (which are denied). AFC has honored and will continue honoring the terms of its existing loan agreements with the Kittle Borrowers, but it will not enter into any new loan agreements or modifications with them at present. If this is not acceptable then the Kittle Borrowers certainly have the right to transfer their business to another lender as you and Ms. Posey have repeatedly threatened they will do. Based on your and Ms. Posey's representations that the Kittle Borrowers are not in financial distress, they should have no difficulty obtaining refinancing from another lender. As we've made clear, AFC will provide collateral release prices for any proposed sale or refinance transaction that the Kittle Borrowers wish to consider.



Ashley Posey <ashley@humble.law>

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**Correspondence by Private Attorney Admitting He is Ordering the Denial of Credit for FCA borrowers**

1 message

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**Dustin Kittle** <dustin@humble.law>  
To: Info-Line <info-line@fca.gov>  
Cc: Ashley Posey <ashley@humble.law>

Wed, Nov 3, 2021 at 7:06 PM

# Bradley

N. Christian Glenos  
Partner  
cglenos@bradley.com  
205.521.8721 direct

August 20, 2021

**VIA EMAIL AND CERTIFIED MAIL**

Dustin Kittle, Kittle Farms LLC, Marian Michelle  
Kittle, Dana Kittle and Columbia Springs, LLC  
c/o Ashley Posey  
Humble Law, LLC  
3112 Blue Lake Drive  
Birmingham, AL 35243  
[ashley@humble.law](mailto:ashley@humble.law)

Re: Dustin Kittle, Kittle Farms LLC, Marian Michelle Kittle, Dana Kittle and Columbia  
Springs LLC (the "Kittle Farms Group")

Dear Ashley:

Alabama Farm Credit ("AFC") considers all credit applications from your clients, the Kittle Farms Group, to be closed based upon your correspondence to me of August 6, 2021, in which you advised us "to be clear, the Kittle borrowers withdraw any and all pending requests for release or funds." I have advised AFC not to accept any new credit applications from your clients while they are threatening or pursuing litigation claims against AFC. To the extent you contend an adverse credit decision by AFC has occurred with respect to the Kittle Farms Group, please see the attached notices which explain their appeal rights.

Sincerely,



N. Chris Glenos

NCG/sw  
Enclosure

4839-8512-4854.1

Bradley Arant Boult Cummings LLP | One Federal Place | 1819 Fifth Avenue North | Birmingham, AL 35203-2119 | 205.521.8000 | [bradley.com](http://bradley.com)

Re: Dustin Kittle (Alabama Farm Credit)

Mr. Middleton, et al.



Direct written quote from Private Attorney Chris Glenos to my law partner, Ashley Posey, who had to begin communicating him when he refused to communicate with me, notwithstanding the fact he had take on the role of a lending institution authorized and regulated by federal law:

"I have advised AFC not to accept any new credit applications from your clients ..."

Attorney Glenos also references a notice to appeal - note that this was weeks after more than a month had passed since the initial denial of an increase in the credit line, but AFC ultimately limited my ability to appeal to only those credit requests submitted to Attorney Chris Glenos and restricted the ability to appeal the actual denial of credit at issue by Alabama Farm Credit, which occurred a month prior.

Dustin Kittle

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**Dustin J. Kittle**

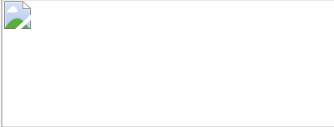
**Managing Partner**

**O: (205) 358-3100**

**C: (256) 996-5822**

**E: [dustin@humble.law](mailto:dustin@humble.law)**

Visit our website at [www.humble.law](http://www.humble.law)



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**Fwd: Credit Review Committee**

1 message

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**Dustin Kittle** <dustin@humble.law>  
To: Info-Line <info-line@fca.gov>  
Cc: Ashley Posey <ashley@humble.law>

Wed, Nov 3, 2021 at 7:09 PM

Notice provided of violations to Alabama Farm Credit CEO six days ago. See email string below.

----- Forwarded message -----

From: **Dustin Kittle** <dustin@humble.law>  
Date: Thu, Oct 28, 2021 at 4:51 PM  
Subject: Re: Credit Review Committee  
To: <Mel.Koller@alabamafarmcredit.com>  
CC: Ashley Posey <ashley@humble.law>, Glenos, Chris <cglenos@bradley.com>

Mr. Koller,

I am in receipt of the credit review committee's determination. Please note that my requests below remain pending, including the request for the minutes taken at the appeal hearing.

From here on out, I will continue directing each and every one of my inquiries and requests to you, so that nothing gets lost in the translation with your counsel. I submit these concerns in my individual capacity as a borrower and shareholder, and not as an attorney licensed in Alabama and Tennessee.

Alabama Farm Credit still has an opportunity to resolve the issues - but we aren't going to release anything until we have all of the facts out on the table. And to be honest, I get way more satisfaction in making your \$450 per hour attorney look bad than I would in filing suit. But I will not be intimidated into signing a release and I shouldn't have to, when I have fulfilled every single obligation owed to AFC - and questions remain as to whether that was reciprocated.

Synovus abruptly revoked all offers to finance, earlier this week. So there will not be a refinance of the whole, at least not right now; and I can tell you directly or indirectly that the inability of AFC to consider a restructuring, without me signing a release of claims, was a factor. I have one lender remaining but it's a small lender so it is impossible, at this juncture, to do a full refinance and I wouldn't even attempt one given the current posture of AFC.

You have an opportunity right now to make a first good faith effort. I have not spoken with the lender in question today, as I do not want to propose something until I know that Alabama Farm Credit intends to abide by the law. But if Alabama Farm Credit is serious about resolving this, they need to start somewhere in doing things legally and to stop trying to get a windfall for violating every aspect of the fiduciary duty they owe me as a borrower and as a shareholder.

But this is where it needs to start and I want a response back by noon central time tomorrow, as there should not be much deliberation when it comes to a CEO and a Board of Directors making the decision to follow the law. If I was any other borrower, for example one who did not have a letter accidentally sent to them showing their asset value was misrepresented by almost a million dollars over the past year or a borrower who did not have their personal home cross-collateralized without any of the required notices under federal law, there is no question that I would be allowed to do the following:

In a cross-collateralized pool with appraised assets totaling over \$4 million, a borrower should have the ability to pay off an individual note from that pool and own that property free and clear so long as the secured properties which remain will fulfill the 75 percent loan to value threshold. That is a proposition which wouldn't even be questioned otherwise and certainly is not one for which Alabama Farm Credit would sick counsel on to leverage a windfall release.

So that is exactly what I want - I want the ability to pay off any of those properties or all of them, like any other borrower would, so that I can conduct business like each and every other person who banks with Alabama Farm Credit. I don't want special treatment, I just want fair treatment, and I'm entitled to it.

Given the approach taken so far, I imagine Chris is telling you he can break me - I'll go ahead and let you know he can't. And while Chris has treated me like a pauper, someone forgot to tell him I brought every single property to Alabama Farm Credit for financing with them being owned at that time free and clear. Those properties are now being held captive by Alabama Farm Credit, despite the fact they hold an appraised value of more than \$5 million.

With that said, what I presume Chris is not telling you and every other Director is this - you are walking a very dangerous line right now when it comes to how you are handling this matter. Chris asked us yesterday to find our own outside counsel who understands banking law, I assume to educate me on things like a credit appeal review committee cannot make a decision and hold it, without immediately informing the borrower of that decision. Chris is looking for an attorney who will "play ball" and not be so hard on him; just litigate the case and not take it personal that a bank is holding treating his mother's home like a pawn that can be manipulated to get what he wants.

If I felt like Alabama Farm Credit had committed a crime, I would report it. And at the point they do, I will. But you as the CEO of Alabama Farm Credit and the entire Board of Directors making the calls on this need to be certain you understand there are criminal provisions in federal banking law with regulations that prohibit banking representatives from intimidating a borrower into giving them something they want of value, that otherwise under the law, they may not be entitled to - I do not practice criminal law but I'd bet that demanding a release of claims in exchange for a borrower simply having the ability to conduct their routine banking business is getting close to that mark.

That is why Chris hates me. I will not play ball - what is right is right and what is wrong is wrong.

I'm licensed as an attorney but you will never hear me call myself an attorney, because I despise them. I grew up on a cattle farm and the only reason I ever went to law school is I was tired of people taking advantage of people like my Dad, who was a farmer. You are the CEO of Alabama Farm Credit, an institution supported by the federal government to help farmers and not to threaten them with high-priced lawyers - and quite honestly, you and the Directors should be ashamed of how this has been handled. You just happened to pick this fight against one of your only borrowers who had the wherewithal and the resources to call bullshit.

So as the chief officer of a company I still own a very small piece of, I am requesting that you stop listening to an attorney who does not have the best interests of our company in mind. You need to become familiar with the provisions of the Farm Credit Act, the Fair Housing Act, both states' equal lending acts, and the relevant consumer protection statutes. If you do not, I feel confident that Chris Glenos will send this matter right into an investigation that will damage the financial interests of every borrower and shareholder of this entity you purport to represent - and now that you and the rest of the Board are on notice of that fact, it will not suffice for any of you to say that your attorney told you to do it.

Stop trying to intimidate me, follow the law, and treat me like the rest of the borrowers - and to the extent you are, this institution has bigger problems than me.

Dustin Kittle  
Shareholder / Alabama Farm Credit

On Wed, Oct 27, 2021 at 10:51 PM Dustin Kittle <dustin@humble.law> wrote:  
Mr. Koller,

I am directing the following questions to you as the CEO of Alabama Farm Credit, the entity to which I am a shareholder and a borrower, with rights protected by federal statutes (including the Farm Credit Act). I request a copy of this correspondence and your response to same be provided to AFC's Directors for purposes of ensuring notice to all.

- 1) In accordance with the Farm Credit Act, please identify who the farmer-elected board member was in the October 18th appeal hearing. Please additionally identify which, if any, board members are classified as farmers under the definition of the Farm Credit Act.
- 2) Please advise as to whether a decision has been reached by the Credit Review Committee. Based upon your instruction at the appeal hearing, there appears to be a mistaken belief that the committee may "sit" or deliberate on a decision for 30 days, prior to providing notification to a borrower. That is not correct.

The Farm Credit Act does not allow for a blanket 30 day review period. To the contrary, the Farm Credit Act requires that the credit review committee "make every reasonable effort to conduct reviews and render decisions in as expeditious a manner as possible." And once the decision has been made, the borrower must be "promptly notified."

Tomorrow, October 28th, will be ten (10) days since the credit review committee met and there have been no additional questions or requests for information to the borrower - and no decision on the appeal was conveyed. Please be aware that, if a vote was taken and/or a decision was reached, and that decision was not provided promptly to the borrower, the members of the committee have violated the Farm Credit Act. To that end, as a shareholder and borrower, I am requesting a copy of the minutes of the credit review committee meeting that occurred on October 18th.

Further, given that ten (10) days have lapsed and AFC has imposed a credit freeze on the borrower during the pendency of that period, any delay by the credit review committee should serve as temporal evidence, at the least, as to AFC's ongoing efforts to coerce its borrower and shareholder into signing a release of claims. Please provide assurance, in writing, and promptly (ie, by tomorrow) that the directors have been made aware of their duties and obligations under the Farm Credit Act.

3) Last, in early October, AFC's counsel Chris Glenos advised, in writing, that our most recent request for credit had been denied, outright and without consideration, due to the fact that I had notified AFC of violations with respect to state and federal law. I requested, on October 6th, to appeal that denial of credit and to appear before the credit review committee. To date, I have not received a formal notice of denial with a supporting explanation, as is required under the Farm Credit Act, and AFC has failed to provide me with any opportunity to appeal what was a new, unrelated request for credit (not addressed at the October 16th hearing, per your instruction).

Please provide a compliant notice of denial for each and every denial of credit that has been initiated by you and/or your counsel. Additionally, as a shareholder, please confirm that proper and compliant notices of denial are being provided by AFC to all potential borrowers.

As a shareholder in AFC, I am requesting the aforementioned information to be certain that this lending institution is actively complying with all federal regulations, as to do otherwise, could result in the Farm Credit Administration intervening and/or sanctioning the institution. On behalf of every shareholder who would be harmed by such an occurrence, I am requesting that the CEO and the Board ensure that the officers and agents of AFC are in full compliance with state and federal law, including, but not limited to, the Farm Credit Act.

Thank you,

Dustin Kittle

--

**Dustin J. Kittle**

Managing Partner

O: (205) 358-3100

C: (256) 996-5822

**Re: URGENT: Fwd: FW: Your Borrowers: Dustin Kittle, Dana Kittle, and/or Kittle Farms, LLC (through Alabama Farm Credit)**

1 message

Dustin Kittle <dustin@humble.law>  
To: Info-Line <info-line@fca.gov>  
Cc: Ashley Posey <ashley@humble.law>

Fri, Nov 5, 2021 at 11:37 AM

Attorney Chris Glenos on a recording call stating they will do "anything reasonable" on our farm credit loans (which very clearly articulates they are not acting reasonable or in compliance with federal law now) but that the borrower must sign a release of their claims as to any federal rights violated thus far in favor of Texas Farm Credit, Alabama Farm Credit, and the law firm of Bradley Arant.

The United States Farm Credit Administration is currently on notice of and has been for more than 60 days now an active effort to extort a borrower into signing a full release of their federal rights under the US Farm Credit Act just so that lending institution and its attorneys can have their wrongful acts protected - and the payoff for that borrower is to be able to obtain credit again through the US farm credit system. This agency is currently allowing this to happen, as they have been placed on notice of same and have failed to take any corrective action whatsoever.

Please forward this recording and this correspondence to the Administration Director and also to the in-house counsel for the FCA. We will be receiving a draft release before day's end from Attorney Glenos with a list in writing of the rights he demands your borrowers, by extension, give up in order to conduct business again with the US Farm Credit system

Once the draft release is provided, please advise whether you wish for it to be forwarded to your attention. Also please note that this private attorney has place the subject loans in distressed status and provided notice of same despite the fact the borrowers have never missed or even been late on a payment - and despite the fact they have a current loan to value at or near 50% with more than \$4 million in appraised real property equity and livestock assets they own free and clear.

It should also be noted that the properties in question hold a current appraised value, through appraisals order on behalf of the farm credit lender within the past 90 days, of over \$5 million. These borrowers have had their ability to obtain credit frozen by a private attorney as well as their lending institution, Alabama Farm Credit, a division of Texas Farm Credit, for the past 100 days.

Thank you,

Dustin Kittle  
A Borrower and a Shareholder in the US Farm Credit System

On Fri, Nov 5, 2021 at 11:22 AM Dustin Kittle &lt;dustin@humble.law&gt; wrote:

On Thu, Nov 4, 2021 at 12:57 PM Dustin Kittle <dustin@humble.law> wrote:  
urgent - attention Russell Middleton (prior to his meeting at 2:00) - please print for him, as our loan is being placed in a distressed status.

-----  
This email was just received from Attorney Glenos. He is placing our loan in distressed status - see below.

Please help if at all possible. This could be resolved I believe with the following:

A 3-way call between myself, any FCA representative, and the Alabama Farm Credit CEO Mel Koller (as he could not just push the FCA on his private attorney, as he is doing to us as a borrower), and we simply want the FCA to advise that a borrower had contacted them regarding a request to speak with their Bank and that they had been unable to do so. And I would ask if he could listen to the borrower's request.

I, as the borrower, would then request the following and could even read it from a statement:

"Mr. Koller, I am a borrower in the farm credit system and, given that we have been notified that our loan will be placed in distressed status, I am requesting the opportunity to communicate directly with my branch manager, Amanda Simpson, for at least 7 days. Ms. Simpson best knows my account and was working with us on a refinance in July that we have never been given any notice of denial on. So, I am requesting to finalize that refinance so that we may obtain the funding we need. And I am asking that it all be done in accordance with the US Farm Credit Act, the same as for any other borrower. And I will promise to provide updates to the Farm Credit Administration during that time so they are notified of our progress. Thank you."

----- Forwarded message -----

From: **Glenos, Chris** <cglenos@bradley.com>  
Date: Thu, Nov 4, 2021 at 12:42 PM  
Subject: FW: Your Borrowers: Dustin Kittle, Dana Kittle, and/or Kittle Farms, LLC (through Alabama Farm Credit)  
To: Ashley Posey <ashley@humble.law>  
CC: Dustin Kittle <dustin@humble.law>

Dear Ashley,

**Re: AFC/Kittle**

1 message

Dustin Kittle <dustin@humble.law>  
To: Info-Line <info-line@fca.gov>

Mon, Nov 8, 2021 at 8:38 PM

Please accept this as my request that you come to the State of Alabama or Tennessee and assist me in being able to conduct my business with your lending institution - or otherwise, forgive and/or remove my loans with the farm credit system so that my credit is not damaged further by your institution - I need help in just being able to talk with my bank, which I have had no communication with since on or about July 30th.

I had a refinance that was due to be closed in August 2021 that has not been denied and has not been allowed to close. All information and documents, including updated appraisals, are available to effectuate that refinance.

As I cannot conduct routine banking business, I am demanding that my loans be taken out of the Texas Farm Credit / Alabama Farm Credit system. These institutions are clearly violating the Farm Credit Act and are causing me financial harm - my refinance was set up to allow me to recoup the funds I put into the property over the past year, and would have provided me a cash out of more than a million dollars - please help me get this finalized or some relief and soon.

Dustin Kittle

On Mon, Nov 8, 2021 at 7:57 PM Dustin Kittle <dustin@humble.law> wrote:

Our loans were just placed in distress by this rogue attorney trying to commit extortion - he emailed us the letter from Alabama Farm Credit letterhead. Someone up there needs to wake up and help us - and quickly - this is serious.

----- Forwarded message -----

From: **Glenos, Chris** <cglenos@bradley.com>  
Date: Mon, Nov 8, 2021 at 7:20 PM  
Subject: AFC/Kittle  
To: Ashley Posey <ashley@humble.law>, Dustin Kittle <dustin@humble.law>



**Chris Glenos**  
Partner  
e: cglenos@bradley.com w: bradley.com  
d: 205.521.8721 f: 205.488.6721  
Bradley Arant Boulton Cummings LLP

One Federal Place, 1819 Fifth Avenue North  
Birmingham, AL 35203-2119

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**Dustin J. Kittle**  
Managing Partner  
O: (205) 358-3100  
C: (256) 996-5822  
E: dustin@humble.law  
Visit our website at [www.humble.law](http://www.humble.law)



--  
Dustin J. Kittle

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**Re: CTS 13824**

1 message

**Dustin Kittle** <dustin@humble.law>

Fri, Nov 12, 2021 at 6:11 PM

To: Info-Line &lt;info-line@fca.gov&gt;

Cc: Ashley Posey &lt;ashley@humble.law&gt;, Info-Line &lt;info-line@fca.gov&gt;

It does impact your review - once that release is signed, you can never talk to me about it again because there will be confidentially - but, based on the fact we are 90 days in with no effort to have your lending institution correct the violations, I have a strong feeling that is exactly what the FCA wants. We intend to file our legal action next week and the FCA will be named as a party - I am copying my attorney, Ashley Posey, who you can communicate with from this point forward.

The effort by this office is a disservice to the agricultural borrowers who depend on this Administration. I hope the embarrassment you will receive from this leads to changes going forward.

Dustin Kittle

On Fri, Nov 12, 2021 at 2:08 PM Info-Line &lt;Info-Line@fca.gov&gt; wrote:

Dear Mr. Kittle,

In response to your question, as we said in our August 26, 2021 letter, we cannot provide advice on the matters raised in your complaint. Whether you sign the release of claims is your decision, and we would encourage you to consult with your legal counsel. However, please know it will not impact our review of the matters you have raised. FCA's investigation of your complaint is active, and the concerns you raised are being, and will continue to be, investigated thoroughly.

Sincerely,

*Russell Middleton**Office of Congressional and Public Affairs**Farm Credit Administration**1501 Farm Credit Drive**McLean, VA 22102**703 883-4056*

**CONFIDENTIALITY NOTICE:** The above communication and attached documents are non-public, confidential information that is part of the supervision and regulation of a Farm Credit System institution. **This communication and any attachments are for the exclusive use of the intended recipient.** This communication is excluded from general release by 12 C.F.R. § 602.2 and 5 U.S.C. § 552(b)(8). Inadvertent receipt of the above communication and its attachments is not a waiver by FCA of any privilege nor a grant of approval to use the information. Any unauthorized person or entity in possession of such material may not disclose this information or use it for personal or professional gain. Such unauthorized use may be considered a violation of Federal criminal statutes 18 U.S.C. §§ 641 and 2071. If you are not the intended recipient or have received this communication in error, please notify the sender of this message immediately by reply e-mail and delete this communication and any attached documents from your files.

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**From:** Dustin Kittle <dustin@humble.law>**Sent:** Friday, November 12, 2021 8:22 AM**To:** Info-Line <Info-Line@fca.gov>**Subject:** Re: CTS 13824**External Source – Proceed Cautiously**

Please advise at your earliest opportunity. Thank you

On Thu, Nov 11, 2021 at 11:20 AM Dustin Kittle <dustin@humble.law> wrote:

Would the Farm Credit Administration have any objection to our signing the release of claims with confidentiality as to the law firm and the lender?

Honestly, we are at the end of our rope and we don't want to risk losing our farm to a wrongful foreclosure with no end to this in sight, but I wanted to see if there was any objection from the FCA before we did it.

Thank you,

Dustin

On Thu, Nov 11, 2021 at 11:08 AM Info-Line <Info-Line@fca.gov> wrote:

Dear Mr. Kittle,

Thank you for your email yesterday asking for an update. Please know that we are actively reviewing your concerns. We are reviewing both the concerns you made in your initial complaint as well as the concerns you've discussed in your subsequent emails and our recent phone calls with you. We understand the seriousness of the situation and are making every effort to thoroughly investigate the matters you have raised. As we stated in our letter dated August 26, 2021, we do ensure that System institutions operate in a safe and sound manner and that they comply with applicable laws and regulations. However, the law does not allow us to mediate disputes between System institutions and borrowers. If an institution has violated a law or regulation, we will use our enforcement authorities to require the institution to take corrective actions. We appreciate you keeping us informed and will provide periodic updates on the status of our review.

Sincerely,

*Russell Middleton*

*Office of Congressional and Public Affairs*

*Farm Credit Administration*

*1501 Farm Credit Drive*

*McLean, VA 22102*

*703 883-4056*

**CONFIDENTIALITY NOTICE:** The above communication and attached documents are non-public, confidential information that is part of the supervision and regulation of a Farm Credit System institution. **This communication and any attachments are for the exclusive use of the intended recipient.** This communication is excluded from general release by 12 C.F.R. § 602.2 and 5 U.S.C. § 552(b)(8). Inadvertent receipt of the above communication and its attachments is not a waiver by FCA of any privilege nor a grant of approval to use the information. Any unauthorized person or entity in possession of such material may not disclose this information or use it for personal or professional gain. Such unauthorized use may be considered a violation of Federal criminal statutes 18 U.S.C. §§ 641 and 2071. If you are not the intended recipient or have received this communication in error, please notify the sender of this message immediately by reply e-mail and delete this communication and any attached documents from your files.

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**From:** Dustin Kittle <dustin@humble.law>  
**Sent:** Wednesday, November 10, 2021 9:17 AM  
**To:** Info-Line <Info-Line@fca.gov>  
**Subject:** Kittle / Alabama Farm Credit

**External Source – Proceed Cautiously**



January 6, 2022

Dustin Kittle

[dustin@humble.law](mailto:dustin@humble.law)

RE: Document No. 13824

Dear Mr. Kittle:

We are writing to let you know that we are still reviewing your concerns regarding the operations of Alabama Farm Credit, ACA. Our goal was to complete our review within 60 days of receiving your complaint, but the complexities of the matters raised in your complaint require additional time. We want to ensure that our review is thorough. We will send you our response as soon as our work is complete.

Sincerely,

A handwritten signature in blue ink, which appears to read 'Russell Middleton', is written over the typed name.

Russell Middleton

Office of Congressional and Public Affairs



## Farm Credit Administration

1501 Farm Credit Drive  
McLean, VA 22102-5090  
(703) 883-4000

---



March 7, 2022

Dustin Kittle

[dustin@humble.law](mailto:dustin@humble.law)

RE: Document No. 13824

Dear Mr. Kittle:

We are writing to let you know that we are still reviewing your concerns regarding the operations of Alabama Farm Credit, ACA. Our goal was to complete our review within 60 days of receiving your complaint, but the complexities of the matters raised in your complaint require additional time. We want to ensure that our review is thorough. We will send you our response as soon as our work is complete.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Russell Middleton', is written over a light blue horizontal line.

Russell Middleton

Office of Congressional and Public Affairs

---

**FW: CTS 13824**

1 message

---

Info-Line <Info-Line@fca.gov>  
To: "dustin@humble.law" <dustin@humble.law>  
Cc: Info-Line <Info-Line@fca.gov>

Thu, Jul 28, 2022 at 11:26 AM

Mr. Kittle,

We are still reviewing your concerns regarding the operations of Alabama Farm Credit, ACA. Our goal was to complete our review within 60 days of receiving your complaint, but the complexities of the matters raised in your complaint require additional time. We want to ensure that our review is thorough. We will send you our response as soon as our work is complete.

Thank you,

*Russell Middleton**Office of Congressional and Public Affairs**Farm Credit Administration**1501 Farm Credit Drive**McLean, VA 22102**703 883-4056*

**CONFIDENTIALITY NOTICE:** The above communication and attached documents are non-public, confidential information that is part of the supervision and regulation of a Farm Credit System institution. **This communication and any attachments are for the exclusive use of the intended recipient.** This communication is excluded from general release by 12 C.F.R. § 602.2 and 5 U.S.C. § 552(b)(8). Inadvertent receipt of the above communication and its attachments is not a waiver by FCA of any privilege nor a grant of approval to use the information. Any unauthorized person or entity in possession of such material may not disclose this information or use it for personal or professional gain. Such unauthorized use may be considered a violation of Federal criminal statutes 18 U.S.C. §§ 641 and 2071. If you are not the intended recipient or have received this communication in error, please notify the sender of this message immediately by reply e-mail and delete this communication and any attached documents from your files.

---

**From:** Dustin Kittle <dustin@humble.law>  
**Sent:** Tuesday, July 26, 2022 3:42 PM  
**To:** Info-Line <Info-Line@fca.gov>  
**Subject:** Re: CTS 13824

**External Source – Proceed Cautiously**

Mr. Middleton,

Can you please advise as to the status of your investigation?

Thank you,

Dustin J. Kittle

Managing Partner

O: (205) 358-3100

C: (256) 996-5822

E: [dustin@humble.law](mailto:dustin@humble.law)

Visit our website at [www.humble.law](http://www.humble.law)



On Mon, Mar 7, 2022 at 11:40 AM Info-Line <[Info-Line@fca.gov](mailto:Info-Line@fca.gov)> wrote:

Dear Mr. Kittle:

Please find attached a letter regarding the status of our review of your concerns regarding the operations of Alabama Farm Credit, ACA.

Thank you,

*Russell Middleton*

*Office of Congressional and Public Affairs*

*Farm Credit Administration*

*1501 Farm Credit Drive*

*McLean, VA 22102*

*703 883-4056*

**CONFIDENTIALITY NOTICE:** The above communication and attached documents are non-public, confidential information that is part of the supervision and regulation of a Farm Credit System institution. **This communication and any attachments are for the exclusive use of the intended recipient.** This communication is excluded from general release by 12 C.F.R. § 602.2 and 5 U.S.C. § 552(b)(8). Inadvertent receipt of the above communication and its attachments is not a waiver by FCA of any privilege nor a grant of approval to use the information. Any unauthorized person or entity in possession of such material may not disclose this information or use it for personal or professional gain. Such unauthorized use may be considered a violation of Federal criminal statutes 18 U.S.C. §§ 641 and 2071. If you are not the intended recipient or have received this communication in error, please notify the sender of this message immediately by reply e-mail and delete this communication and any attached documents from your files.



September 28, 2022

Dustin Kittle

[dustin@humble.law](mailto:dustin@humble.law)

RE: Document No. 13824

Dear Mr. Kittle:

We are writing to let you know that we are still reviewing your concerns regarding the operations of Alabama Farm Credit, ACA. Our goal was to complete our review within 60 days of receiving your complaint, but the complexities of the matters raised in your complaint require additional time. We want to ensure that our review is thorough. We will send you our response as soon as our work is complete.

Sincerely,

A handwritten signature in blue ink that reads 'Russell Middleton'.

Russell Middleton

Office of Congressional and Public Affairs

## Farm Credit Administration

1501 Farm Credit Drive  
McLean, VA 22102-5090  
(703) 883-4000

---



December 1, 2022

Dustin Kittle

[dustin@humble.law](mailto:dustin@humble.law)

RE: Document No. 13824

Dear Mr. Kittle:

We are writing to let you know that we are still reviewing your concerns regarding the operations of Alabama Farm Credit, ACA. Our goal was to complete our review within 60 days of receiving your complaint, but the complexities of the matters raised in your complaint require additional time. We want to ensure that our review is thorough. We will send you our response as soon as our work is complete.

Sincerely,

A handwritten signature in blue ink that reads 'Russell Middleton'.

Russell Middleton

Office of Congressional and Public Affairs

**Kittle Borrowers / Alabama Farm Credit, et al. (CTS 13824)**

1 message

Dustin Kittle <dustin@humble.law>  
To: fca-ig-hotline@rcn.com

Thu, Jan 26, 2023 at 4:49 PM

I am writing to request review of the FCA's inaction on the above-styled matter.

In July of 2021, I informed my lender in the U.S. Farm Credit System, Alabama Farm Credit, that I had discovered violations of federal lending law, including the U.S. Farm Credit Act. Those violations included the wrongful withholding of information from an appraisal that allowed our lender to undervalue and misrepresent the true value of our collateral by more than \$700,000.

Although I remained an active borrower in the U.S. Farm Credit System and despite the fact that my lender and I were finalizing a refinance, Alabama Farm Credit then turned me over to an outside litigation attorney who banned me from communicating with the Farm Credit lender and required all lender-borrower communications to be made to his law firm directly.

In August 2021, I reported this misconduct and our inability to communicate with our lender to the U.S. Farm Credit Administration. Our claim was assigned to Investigator Russell Middleton, who participated in an hour plus long telephone call with me days after the complaint was made.

Since that time, I have reported and provided documented evidence of the following to Investigator Middleton and the FCA:

- 1) That my ability to seek credit through the U.S. Farm Credit System was being conditioned on my signing a release of claims with confidentiality in favor of my Farm Credit lender, which is tantamount to extortion against a borrower;
- 2) That, in a recorded telephone call, the lender's attorney admitted he was conditioning our ability to obtain financing through the U.S. Farm Credit System on our signing a release of claims with confidentiality against both the Farm Credit lender and the attorney's law firm;
- 3) That, in November 2021, hours after the lender's attorney was informed we had recorded the call in which he detailed the extortionate scheme, the lender's attorney notified us that he was placing our loans in distress, despite the fact that we had never missed or even been late on a payment and possessed more than \$2 million in appraised equity on our loans;
- 4) That, because of the FCA's inaction to protect an innocent borrower, my family was forced to sell our personal home, to avoid an unscrupulous Farm Credit lender and its attorney from instituting wrongful foreclosure proceedings, following the issuance of the notice of distress; and
- 5) That other properties we had financed with Alabama Farm Credit had to be paid off or financed on less favorable terms due to the FCA's inaction and the Farm Credit lender's retaliatory actions for reporting violations of state and federal lending law.

The Farm Credit Administration was informed of the time-sensitive nature of my complaint and the potential for irreparable harm but, remarkably, failed to take any action whatsoever. Instead, even now 18 months after the complaint was first made, I continue to receive boiler-plate correspondence from Investigator Middleton every few months informing me that, due to the complexities of our complaint, the investigation has not yet concluded.

In short, my family lost our home because the Farm Credit Administration failed us. We provided concrete and documented evidence showing that the Farm Credit lender was engaging in illegal acts under the Farm Credit Act, and potentially even criminal law, but could not get so much as a response to that complaint that allowed us to evaluate our other options.

I am seeking answers as to how this happened. I would welcome the opportunity to speak with the FCA Office of Inspector General in person or by phone at 256-996-5822.

Thank you,

Dustin J. Kittle  
Managing Partner  
O: (205) 358-3100  
C: (256) 996-5822  
E: dustin@humble.law

## Farm Credit Administration

1501 Farm Credit Drive  
McLean, VA 22102-5090  
(703) 883-4000

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February 3, 2023

Dustin Kittle

[dustin@humble.law](mailto:dustin@humble.law)

RE: Document No. 13824

Dear Mr. Kittle:

We are writing to let you know that we are still reviewing your concerns regarding the operations of Alabama Farm Credit, ACA. Our goal was to complete our review within 60 days of receiving your complaint, but the complexities of the matters raised in your complaint require additional time. We want to ensure that our review is thorough. We will send you our response as soon as our work is complete.

Sincerely,

A handwritten signature in blue ink that reads 'Russell Middleton'.

Russell Middleton

Office of Congressional and Public Affairs

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**Re: CTS 13824**

1 message

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**fca-ig-hotline@rcn.com** <fca-ig-hotline@rcn.com>  
To: Dustin Kittle <dustin@humble.law>

Fri, Feb 3, 2023 at 4:02 PM

Mr. Kittle,

This is to acknowledge your email below and attachment. Thank you for the information that you provided to the Farm Credit Administration (FCA) Office of Inspector General (OIG) on January 26, 2023. The OIG is in the process of reviewing the details of your complaint and FCA's actions in response to your August 2021 complaint. We may contact you for additional information. In the meantime, if there is anything that comes to mind regarding your complaint that we should be aware of, please do not hesitate to contact us.

Ava Bell  
Investigator  
Office of Inspector General  
Farm Credit Administration

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**From:** "Dustin Kittle" <dustin@humble.law>  
**To:** [fca-ig-hotline@rcn.com](mailto:fca-ig-hotline@rcn.com)  
**Sent:** Friday, February 3, 2023 3:35:09 PM  
**Subject:** Fwd: CTS 13824

Please note the correspondence received today from Russell Middleton of the FCA's Office of Congressional and Public Affairs stating that additional time is required to investigate my complaint. To be clear, my complaint was made in August of 2021 and there has been no action taken with respect to my complaint over a period of what has now been 18 months.

During that time, the following has occurred:

- 1) All communication with our Farm Credit lender has been cut-off since we reported violations of federal lending law in July of 2021;
- 2) When we refused to sign a settlement agreement and release with confidentiality in favor of our Farm Credit lender, our loans were placed in distress in November 2021 with demands to produce our personal and corporate bank statements and financial records, despite the fact that we had never missed or had even been late on a payment;
- 3) Due to the inaction of the Farm Credit Administration, we were forced to refinance our agricultural properties in December 2021, on much less favorable terms, to prevent a wrongful foreclosure action from taking place; and
- 4) In early 2022, we were forced to sell our personal home, as it was financed with our Farm Credit lender and all access to communications with our lender continued to be blocked by an outside litigation attorney, who instructed our Farm Credit lender to deny all applications for credit outright unless and until we signed a full release of claims with confidentiality.

In January 2023, I made a written complaint to the Inspector General's Office for the Farm Credit Administration.

I can be reached at 256-996-5822.

Thank you,

Dustin J. Kittle  
Managing Partner  
O: (205) 358-3100  
C: (256) 996-5822  
E: [dustin@humble.law](mailto:dustin@humble.law)

----- Forwarded message -----

From: **Info-Line** <[Info-Line@fca.gov](mailto:Info-Line@fca.gov)>  
Date: Fri, Feb 3, 2023 at 2:17 PM



Subject: CTS 13824  
To: Dustin Kittle <dustin@humble.law>  
Cc: Info-Line <[Info-Line@fca.gov](mailto:Info-Line@fca.gov)>

Mr. Kittle:

Please find attached a letter regarding the status of our review of your concerns about the operations of Alabama Farm Credit, ACA.

Thank you,

*Russell Middleton*

*Office of Congressional and Public Affairs*

*Farm Credit Administration*

*1501 Farm Credit Drive*

*McLean, VA 22102*

*703 883-4056*

**CONFIDENTIALITY NOTICE:** The above communication and attached documents are non-public, confidential information that is part of the supervision and regulation of a Farm Credit System institution. **This communication and any attachments are for the exclusive use of the intended recipient.** This communication is excluded from general release by 12 C.F.R. § 602.2 and 5 U.S.C. § 552(b)(8). Inadvertent receipt of the above communication and its attachments is not a waiver by FCA of any privilege nor a grant of approval to use the information. Any unauthorized person or entity in possession of such material may not disclose this information or use it for personal or professional gain. Such unauthorized use may be considered a violation of Federal criminal statutes 18 U.S.C. §§ 641 and 2071. If you are not the intended recipient or have received this communication in error, please notify the sender of this message immediately by reply e-mail and delete this communication and any attached documents from your files.

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## Freedom of Information Act Request to FCA re: CTS-13824

1 message

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Dustin Kittle <dustin@humble.law>  
To: foiaofficer@fca.gov  
Bcc: Ashley Posey <ashley@humble.law>

Mon, Feb 6, 2023 at 10:12 AM

To whom it may concern,

Please accept this email as a request to the U.S. Farm Credit Administration pursuant to the Freedom of Information Act:

This request seeks any and all documents, records, and/or other information relating or referring to the investigation of the complaint by Dustin Kittle, a borrower, regarding the lender, Alabama Farm Credit, and the lender's officers, directors, and agents. The complaint was submitted in August 2021 and has been assigned File No. CTS-13824.

This email further acknowledges that the requesting party will reimburse the Farm Credit Administration for the production and authorizes and approves charges to be reimbursed up to Five Hundred Dollars (\$500.00). In the event the production exceeds the authorized amount, please contact the requesting party directly by reply to this email or by phone at 256-996-5822.

Thank you and please do not hesitate to contact me if you should have any questions.

Dustin J. Kittle  
Managing Partner  
O: (205) 358-3100  
C: (256) 996-5822  
E: dustin@humble.law

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**FOIA Request - FCA-23-014**

1 message

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**FCA\_FOIAOfficer** <FCA\_FOIAOfficer@fca.gov>  
To: Dustin Kittle <dustin@humble.law>

Tue, Feb 14, 2023 at 7:59 AM

Dear Mr. Kittle –

This email is in response to your Freedom Information Act, 5 U.S.C. § 552 (FOIA), request received by the Farm Credit Administration (FCA or Agency) on February 6, 2023. We acknowledged your request on that same day and assigned it FOIA tracking number FCA-23-014. Your FOIA request seeks any and all documents, records, and/or other information relating or referring to the investigation of the complaint by Dustin Kittle, a borrower, regarding the lender, Alabama ACA, and the lender's officers, directors, and agents relating to File No. CTS-13824. In your request you stated “this email further acknowledges that the requesting party will reimburse the Farm Credit Administration for the production and authorizes and approves charges to be reimbursed up to Five Hundred Dollars (\$500.00). In the event the production exceeds the authorized amount, please contact the requesting party.”

A search was initiated for documents responsive to your request. Please note that documents have been located. However, the processing of these documents will exceed \$500. Under 12 C.F.R. § 602.12, FCA may charge for manual searches for records and review, as well as the pro-rated cost of the salary of the employees doing the work. FCA has located approximately 170 potentially responsive documents that will require manual review and processing. FCA has estimated the processing of these documents will take approximately 14.5 hours. FCA expects the cost of processing these documents to be \$1345.00. Thus, the fee estimate will exceed your \$500 agreement stated in your request letter. Under FCA FOIA regulation FCA can require a FOIA requester to pay in advance if the estimated fees exceed \$250 and you have no history of paying FOIA fees. 12 C.F.R. § 602.14(c). Therefore, since we are requiring advanced payment, we will not consider your request to be received and will not respond to it until you meet this requirement. 12 C.F.R. § 602.14(c).

Additionally, please note that the documents you are requesting relate to an open investigation and contain information in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions. Some of the documents also include deliberative material. A number of the 170 potentially responsive documents will be subject to multiple FOIA exemptions. See 5 U.S.C. § 552(b)(5),(b)(7), and (b)(8). Therefore, to help lower your fee estimate we are willing to work with you to limit the scope of your request. For example, as a number of the records consist of documents between FCA and Alabama ACA, they will most likely be exempt from mandatory disclosure in their entirety under the bank examination privilege. See 5 U.S.C. § 552(b)(8). To save fees, you could amend your request and remove these documents from our review. Please let us know if you would like us to limit the scope of your request.

This request will remain tolled until we hear back from you regarding how you would like to proceed.

The FOIA Public Liaison is responsible for increasing transparency, understanding the status of requests, and resolving disputes between you and the Agency. If you need assistance in any of these matters, please send an email to FCA's FOIA Public Liaison at [FOIAPublicLiaison@fca.gov](mailto:FOIAPublicLiaison@fca.gov).

If you need further assistance or would like to discuss any aspect of your request, please do not hesitate to contact me at [FCA\\_FOIAOfficer@fca.gov](mailto:FCA_FOIAOfficer@fca.gov).

Thanks,

Jacqueline Baker  
Attorney Advisor  
FOIA Officer  
Farm Credit Administration  
1501 Farm Credit Drive  
McLean, VA 22102  
Office: (703) 883-4148

---

**From:** Brown, Antonya E.  
**Sent:** Monday, February 6, 2023 2:52 PM  
**To:** Dustin Kittle <[dustin@humble.law](mailto:dustin@humble.law)>  
**Cc:** Baker, Jacqueline <[BakerJ@fca.gov](mailto:BakerJ@fca.gov)>; Virga, Jane M. <[VirgaJ@FCA.GOV](mailto:VirgaJ@FCA.GOV)>  
**Subject:** FOIA Request - FCA

Mr. Kittle –

We have received your FOIA request pertaining CTS: 13824 on records and/or other information relating to an investigation of the complaint by Dustin Kittle. Your tracking number is 23-FCA-014.



April 3, 2023

Dustin Kittle

[dustin@humble.law](mailto:dustin@humble.law)

RE: Document No. 13824

Dear Mr. Kittle:

We are writing to let you know that we are still reviewing your concerns regarding the operations of Alabama Farm Credit, ACA. Our goal was to complete our review within 60 days of receiving your complaint, but the complexities of the matters raised in your complaint require additional time. We want to ensure that our review is thorough. We will send you our response as soon as our work is complete.

Sincerely,

A handwritten signature in blue ink, which appears to read 'Russell Middleton', is positioned above the printed name.

Russell Middleton

Office of Congressional and Public Affairs

**Re: CTS 13824**

1 message

Dustin Kittle <dustin@humble.law>

Mon, Apr 3, 2023 at 1:26 PM

To: Info-Line <Info-Line@fca.gov>

Cc: Info-Line <Info-Line@fca.gov>

Investigator Middleton and/or Others:

Can you advise as to whether one of these investigations has ever concluded? Or is it your practice to simply send out these letters indicating that more time is needed until it goes away?

This involves an individual claim and a single financial institution - you are now going on two years without so much as one substantive update. This is a complete sham, and you all should be ashamed of what you have allowed to happen. I hope nothing like this ever befalls your own families.

Dustin J. Kittle

Managing Partner

O: (205) 358-3100

C: (256) 996-5822

E: dustin@humble.law

On Mon, Apr 3, 2023 at 12:52PM Info-Line <Info-Line@fca.gov> wrote:

Mr. Kittle:

Attached, please find a letter regarding the status of our review of your concerns about the operations of Alabama Farm Credit, ACA.

Thank you,

*Russell Middleton*

*Office of Congressional and Public Affairs*

*Farm Credit Administration*

*1501 Farm Credit Drive*

*McLean, VA 22102*

*703 883-4056*

**CONFIDENTIALITY NOTICE:** The above communication and attached documents are non-public, confidential information that is part of the supervision and regulation of a Farm Credit System institution. **This communication and any attachments are for the exclusive use of the intended recipient.** This communication is excluded from general release by 12 C.F.R. § 602.2 and 5 U.S.C. § 552(b)(8). Inadvertent receipt of the above communication and its attachments is not a waiver by FCA of any privilege nor a grant of approval to use the information. Any unauthorized person or entity in possession of such material may not disclose this information or use it for personal or professional gain. Such unauthorized use may be considered a violation of Federal criminal statutes 18 U.S.C. §§ 641 and 2071. If you are not the intended recipient or have received this communication in error, please notify the sender of this message immediately by reply e-mail and delete this communication and any attached documents from your files.

---

**Re: CTS 13824**

1 message

---

**fca-ig-hotline@rcn.com** <fca-ig-hotline@rcn.com>  
To: Dustin Kittle <dustin@humble.law>

Wed, Apr 12, 2023 at 12:05 PM

Mr. Kittle,  
We will be sending you a status update in the next day or so.

Ava Bell

---

**From:** "Dustin Kittle" <dustin@humble.law>  
**To:** [fca-ig-hotline@rcn.com](mailto:fca-ig-hotline@rcn.com)  
**Sent:** Thursday, April 6, 2023 10:37:12 AM  
**Subject:** Re: CTS 13824

Hi Ava,  
I wanted to check the status of this investigation - thank you.

Dustin J. Kittle  
Managing Partner  
O: (205) 358-3100  
C: (256) 996-5822  
E: [dustin@humble.law](mailto:dustin@humble.law)

On Mon, Feb 6, 2023 at 9:45AM Dustin Kittle <dustin@humble.law> wrote:

Thank you Ava - please note that all documents referenced in the original request for investigation can be provided for your review.

Dustin J. Kittle  
Managing Partner  
O: (205) 358-3100  
C: (256) 996-5822  
E: [dustin@humble.law](mailto:dustin@humble.law)

On Fri, Feb 3, 2023 at 4:02 PM <[fca-ig-hotline@rcn.com](mailto:fca-ig-hotline@rcn.com)> wrote:

Mr. Kittle,  
This is to acknowledge your email below and attachment. Thank you for the information that you provided to the Farm Credit Administration (FCA) Office of Inspector General (OIG) on January 26, 2023. The OIG is in the process of reviewing the details of your complaint and FCA's actions in response to your August 2021 complaint. We may contact you for additional information. In the meantime, if there is anything that comes to mind regarding your complaint that we should be aware of, please do not hesitate to contact us.

Ava Bell  
Investigator  
Office of Inspector General  
Farm Credit Administration

---

**From:** "Dustin Kittle" <dustin@humble.law>  
**To:** [fca-ig-hotline@rcn.com](mailto:fca-ig-hotline@rcn.com)  
**Sent:** Friday, February 3, 2023 3:35:09 PM  
**Subject:** Fwd: CTS 13824

Please note the correspondence received today from Russell Middleton of the FCA's Office of Congressional and Public Affairs stating that additional time is required to investigate my complaint. To be clear, my complaint was made in August of 2021 and there has been no action taken with respect to my complaint over a period of what has now been 18 months.

During that time, the following has occurred:

[Case 3:24-mc-09999](#) [Document 264-8](#) [Filed 03/22/24](#) [Page 36 of 37](#) [PageID #: 9115](#)

---

**Re: CTS 13824**

1 message

---

**fca-ig-hotline@rcn.com** <fca-ig-hotline@rcn.com>  
To: Dustin Kittle <dustin@humble.law>

Thu, Apr 13, 2023 at 2:12 PM

Mr. Kittle,

The Farm Credit Administration (FCA or Agency) Office of Inspector General (OIG) has reviewed your January 26, 2023 complaint regarding the Agency's review of your August 24, 2021, borrower complaint.

We interviewed staff from the Office of Congressional and Public Affairs (OCPA) and the Office of Examination tasked with undertaking the borrower complaint review. We independently reviewed written documentation to substantiate the process followed by the Agency. Multiple offices within FCA are involved in the review and analysis. Based on our review, we found that the agency is still in the process of reviewing your borrower complaint.

FCA policy establishes a general expectation that borrower complaints receive a final response within 60 days, though notes that this timeframe is a goal, with response times depending on, among other things, the complexity of the complaint and the need to obtain additional information from the complainant or institution. If the agency's review cannot be completed within 60 days, OCPA will periodically send a standard status letter to the complainant until the review is completed and a final response letter is sent. Notwithstanding the boilerplate nature of the letters that you received from OCPA, the agency appears to be making progress on addressing your complaint.

We will conduct periodic status reviews of your complaint and hold it open and pending until the Agency concludes its review.

Sincerely,  
Ava Bell  
Investigator  
Office of Inspector General  
Farm Credit Administration

---

**From:** "Dustin Kittle" <dustin@humble.law>  
**To:** [fca-ig-hotline@rcn.com](mailto:fca-ig-hotline@rcn.com)  
**Sent:** Thursday, April 6, 2023 10:37:12 AM  
**Subject:** Re: CTS 13824

Hi Ava,  
I wanted to check the status of this investigation - thank you.

Dustin J. Kittle  
Managing Partner  
O: (205) 358-3100  
C: (256) 996-5822  
E: [dustin@humble.law](mailto:dustin@humble.law)

On Mon, Feb 6, 2023 at 9:45AM Dustin Kittle <dustin@humble.law> wrote:

Thank you Ava - please note that all documents referenced in the original request for investigation can be provided for your review.

Dustin J. Kittle  
Managing Partner  
O: (205) 358-3100  
C: (256) 996-5822  
E: [dustin@humble.law](mailto:dustin@humble.law)

On Fri, Feb 3, 2023 at 4:02 PM <[fca-ig-hotline@rcn.com](mailto:fca-ig-hotline@rcn.com)> wrote:

Mr. Kittle,

This is to acknowledge your email below and attachment. Thank you for the information that you provided to the Farm Credit Administration (FCA) Office of Inspector General (OIG) on January 26, 2023. The OIG is in the process of reviewing the details

[Case 3:24-mc-09999](#) [Document 264-8](#) [Filed 03/22/24](#) [Page 37 of 37](#) [PageID #: 9116](#)



# Exhibit F

## Farm Credit Administration

1501 Farm Credit Drive  
McLean, VA 22102-5090  
(703) 883-4000



June 12, 2023

Dustin Kittle

[dustin@humble.law](mailto:dustin@humble.law)

RE: Document No. 13824

Dear Mr. Kittle:

This is in response to your August 24, 2021, email and subsequent communications with the Farm Credit Administration (FCA, we) regarding your concerns with the operations of Alabama Farm Credit, ACA (association). You identified several instances wherein you question the association's treatment of your account. We have conducted an extensive review of the concerns you expressed in your correspondence, which we discuss below. We are also aware that since you first wrote to us you have paid off your loans with the association, thereby ending the lending relationship.

Before discussing your complaint, let me explain who we are. FCA is an independent federal agency responsible for the regulation and examination of Farm Credit System (System) Institutions. As the regulator for the System, FCA ensures that these institutions operate in a safe and sound manner and in compliance with applicable laws and regulations. FCA also looks into borrowers' or other interested parties' allegations of wrongdoing by System institutions. If we find that System institutions have violated applicable laws or regulations, FCA has several enforcement options to bring about corrective actions, including requiring management to address weakness in internal processes that led to those violations. However, FCA's authority does not include providing monetary or personal relief to an applicant or borrower. As an arm's length regulator, FCA cannot intervene in the business decisions made by System institutions unless those decisions violate applicable laws or regulations. Additionally, FCA does not mediate or adjudicate disputes between System institutions and borrowers.

You expressed concerns with how the association responded to your various 2021 credit requests. Specifically, you believe you were denied a line of credit increase without a written explanation of the reasons for the denial or your credit review rights. In the summer of 2021, you requested a line of credit increase as well as a request for refinancing existing debt. You also asked that the association's lien on your mother's property be released in connection with these credit requests. When initially processing your requests, the association informed you additional financial information was needed but existing appraised

values of collateral could be used. Soon thereafter, the association advised you updated appraisals would be required. In particular, the association required current values for real estate security to establish the loan-to-value (LTV) ratio for your applications. FCA regulation 614.4200(b) limits long-term mortgage lending to no more than 85% LTV, using current appraised values. Institutions, through their policies and procedures, may require lower LTVs based on risk assessments.

While awaiting updated appraised values and the requested financial information, the association understood you to have withdrawn your applications on August 6, 2021. You explained to us the association treated your instruction to withdraw your request for a line of credit increase and your request to release the association's lien on your mother's property as a request to also withdraw your refinance request. At the time, the association had not yet made its final decision on any of your requests, which meant the association was still processing the line of credit increase, refinancing, and the request to release your mother's property. Because no decision had been made at the time, the association simply stopped processing your requests. Our review found this was the result of a misunderstanding, one which your attorney clarified with the association on August 13, 2021. Thereafter, the association issued you a written adverse credit decision on August 20, 2021, citing both an incomplete application and a withdrawal of an application. However, the notice failed to specify whether it was issued in response to all three of your credit requests or only some of them. This notice did provide information on your rights to pursue a Credit Review Committee (CRC) review of the decision. You exercised your CRC rights and a meeting with the CRC was held October 18, 2021. The CRC is limited by FCA Regulation 617.7310(c) to considering only information related to the reasons stated in the adverse credit decision letter, so the CRC could not consider other information presented at the meeting. We confirmed the CRC considered the August 2021 line of credit application and the release of your mother's property, but not the refinance request. The CRC written decision to uphold the association's denial of two of your credit requests was provided to you on October 27, 2021. A CRC decision on the refinance request was not made.

In the processing of your credit requests, you asserted the association provided insufficient time for you to provide financial information on yourself and your business entities. You said the association told you if the information was not provided by the deadline, the association reserved the right to pursue their legal rights and remedies. We noted the association requested financial information on June 17, July 23, August 5, and August 10, 2021. However, the association did not notify you in writing of the date the information was needed or include a written statement advising you if the information was not received by that date, no further consideration would be given to the applications as is required by 12 CFR 1002.9(c)(2). As to the association asserting its rights should you fail to provide the requested financials, an association is required under FCA regulation 614.4150(a) to obtain updated financials information on its borrowers as part of its credit monitoring. The failure to provide the information could impact future credit and servicing decisions, but failure to provide updated financials alone cannot be the sole reason for putting a loan in default status or foreclosing on a loan. You also contend the way the association processed your application led to a drop in your credit score rating. You explained the association used a FACTA credit score of 653 when making its credit decisions. You asserted association staff made representations to the credit reporting agencies designed to lower your score. We

found nothing to indicate the association behaved improperly when obtaining your credit score, and the association does not report payment performance or any debt balances to the credit bureau agencies. You expressed concern the association said you would need to pay legal fees for negotiating any note modification and for drafting related documents in an attempt to prevent you from modifying your loans. We did not identify any legal fees charged to your account for the loan modification negotiations.

You alleged the association would not release its lien on your mother's property though the association previously represented it would do so should the property be no longer needed for the LTV threshold. Our review revealed what may be a point of confusion. The association did advise you on June 29, 2020, that in a year's time it would consider a request to release its lien on your mother's property if the remaining collateral satisfied the LTV threshold. In September 2020, the lien on the property was released, but a new loan numbered #5682170 made on January 12, 2021, resulted in a new lien on the property through a cross-collateralization agreement. In response to your request of July 23, 2021, to again have the association release its lien on your mother's property, the association explained it would consider the request but new appraisals would be needed on all the collateral to determine the LTV.

You stated to us your personal residence and your mother's residence were cross collateralized without disclosure. The January 12, 2021, cross-collateralization agreement listed both properties and contains your notarized signature. We noted on March 18, 2021, the association amended the cross-collateralization agreement in conjunction with a new loan. The March 2021 amended agreement was signed by you, your wife, and your mother under a notary. FCA Regulation 618.8325(b) requires lenders to provide a copy of all loan documents to the borrower or the borrower's legal representative at the execution of the loan. The association provided you a copy of these signed agreements at the respective loan closings.

In processing your credit requests from the summer of 2021, the association ordered updated appraisals, which you stated undervalued your mother's property. You also objected to one appraisal referencing values as not being an arm's-length transaction. FCA regulation 614.4250(a)(1) requires associations to value collateral at the present market value. Further, FCA regulation 614.4200(b)(1) instructs institutions to base the LTV on the appraised value. Using the updated appraisals, your LTV would have been below the 75% LTV the association required. You also expressed concern with the association's timeliness in ordering and acquiring appraisals for your credit requests, as well as its refusal to provide you the appraisal for your personal residence. You further shared your frustrations over the association's handling of your payment for the appraisals. On June 28, 2021, the association told you it would take 6 weeks to obtain the appraisals, which would be the week of August 9, 2021. While there was a delay by the association in ordering the appraisals, we confirmed the appraisals arrived within, or reasonably close to, the promised time: on August 11 and 15. Regarding receipt of the appraisal on your personal residence (1800 Gravel Hill), we identified the association originally ordered a new appraisal on your personal residence, but later cancelled the request. The association cancelled the request after verifying its lien on the property was not covered by the cross-collateralization agreement. We further confirmed the association provided you the appraisals on the remaining real estate collateral

at your request as required by FCA regulation 618.8325(b). Specifically, the association provided your attorney the appraisals on the New Highway 7 property and your mother's property on August 3, 2021, and the appraisals on the two Santa Fe Pike properties on August 18, 2021. The association treated the request as being limited to new appraisals. However, we noted your request for the appraisals was not limited to the new appraisals. Therefore, the association should have also sent you the existing appraisal on the 1800 Gravel Hill property. We have addressed this with the association. Regarding payment for the new appraisals, we found that you sent a check of \$4,700 to the association, but the association refused payment. The association initially refused to accept payment for the appraisals under the belief you had withdrawn your credit requests and later simply declined to charge you for the appraisals. Whether or not an institution charges an applicant or borrower for the cost of obtaining an appraisal is a business decision. It is, however, a borrower's right to a copy of those appraisals, a right not controlled by who pays for ordering any appraisal.

During these business transactions with the association, you claim the association instructed you to conduct all communications with the association through the association's attorney. Requiring communications to occur through its legal counsel for issues specific to your account is a business decision of the association. You further informed us the association, through its legal counsel, conditioned certain credit transactions on obtaining a release of liability from you. Specifically, you asserted the association required you to release it from liability before considering your credit request to remove its lien on your mother's property and before considering any restructuring request. The association acted improperly if it attempted to condition certain credit actions on receipt of a liability waiver from you. This would be specifically prohibited if such a release were sought before providing statutory rights, such as loan servicing. We understand you did not sign a release of claims and in response, on August 20, 2021, the association sent an adverse credit decision notice. Relatedly, you explained around the same time, the association said it would only consider your future credit requests if you released them from liability. Even without a current borrowing relationship, a lender may not refuse to accept a credit application. According to 12 CFR 1002.4(b), a creditor is prohibited from discouraging a person from making or pursuing a credit application.

After you filed your complaint with us, the association identified your loan as distressed and, on November 8, 2021, sent you a distressed loan servicing (DLS) notice. On receipt of the DLS notice, you contacted us to express concern over your account being identified as distressed even though you had never missed a payment. You also objected to the association sending you a 45-day DLS notice warning you foreclosure would be pursued if you did not apply for servicing. The association identified your loans as "distressed" in accordance with FCA regulation 617.7000. The association determined you lacked the financial ability to repay your loans based on your emails of October 31 and November 1, 2021, stating you had maximized your available credit on all your credit cards and may not have sufficient capital to cover debts. After this determination, the association sent the DLS notice as required by FCA regulation 617.7410(a). However, FCA regulation 617.7410(a) indicates the non-foreclosure DLS notice would have been the appropriate notice to send instead of the 45-day notice since your account was current at the time.

Dustin Kittle  
June 12, 2023  
Page 5

Lastly, you raised concerns regarding an association employee potentially having a conflict of interest because the employee's spouse offered to purchase your mother's property. FCA Standards of Conduct regulations at 12 CFR part 612 require directors, officers, and employees of the Farm Credit System to maintain high standards in their conduct. While we are unable to share information on our examination activities with you, our examiners are actively addressing this allegation and we assure you if the institution did not comply with our regulations in this matter, we have several enforcement options to bring about corrective action.

It is the policy of FCA to review and research every complaint filed against System institutions for compliance with the relevant laws and regulations for which FCA has enforcement authority. We assure you we addressed, through our general examination authority, those matters raised by you which fall under our oversight authorities. However, our complaint process does not always allow us to share our findings with those making the complaint. This is because much of the information we obtain in researching a complaint is obtained using our examination authorities, meaning it is protected from further disclosure under 12 CFR 602.2 and 5 U.S.C. 552(b)(8). In this letter, we have discussed elements of your complaint in a manner that does not impair our examination privilege and cannot elaborate further upon them.

Thank you for sharing your concerns with us. We appreciate your patience during our review of the many issues you raised in your communications to us. If you have further concerns, we can be reached at (703) 883-4056.

Sincerely,



Russell Middleton  
Office of Congressional and Public Affairs

# Exhibit G

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION**

<b>ALABAMA FARM CREDIT, ACA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
v.	)	CIVIL ACTION NO:
	)	<b>5:23-cv-1739-CLM</b>
<b>DUSTIN KITTLE,</b>	)	
	)	
<b>Defendant.</b>	)	<b>Filed Under Seal</b>

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**DEFENDANT’S REPLY TO PLAINTIFF’S RESPONSE IN OPPOSITION  
TO MOTION FOR SANCTIONS AND ATTORNEY’S FEES**

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COMES NOW Defendant, Dustin Kittle, by and through undersigned counsel, hereby files this Reply to Plaintiff’s Response in Opposition to Kittle’s Motions for Sanctions and Attorney’s Fees (“Response”).<sup>1</sup>

AFC and AFC’s Counsel take the position that it was just a “small... technical deficienc[y]” to condition Kittle’s federally-mandated borrower rights and loan servicing on him signing a release in favor of AFC, its Officers, its Directors, and its

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<sup>1</sup> The entire premise of this action was fraudulent. It was an effort by AFC’s management and lawyers to keep from being fired, and then sued. Upon information and belief, AFC has absconded more than \$50 Million Dollars of its own borrowers’ funds. Kittle represents current borrowers, and since 2021, has suffered vicious retaliation. Without relitigating it, as to the December 29, 2023 meeting, AFC lied to this Court; to force the borrowers opposing them to identify themselves, when they were entitled to confidentiality. Kittle was sued for exposing and trying to stop a massive fraud. *See* <https://www.govinfo.gov/content/pkg/CFR-2014-title12-vol7/pdf/CFR-2014-title12-vol7-sec611-350.pdf>



lawyers. Response, p. 17. Kittle’s counsel is unable to find any legal or regulatory authority classifying numerous instances of discrimination and retaliation against a borrower for exercising his rights under the Equal Credit Opportunity Act and the Farm Credit Act of 1971 as merely a “technical violation.”<sup>2</sup>

In the Complaint, AFC and AFC’s Counsel say Kittle “improperly engaged in a campaign of making false and misleading communications” (¶ 2), “concocted a scheme to gain notoriety” (¶ 13), “fabricated a story that he could foist on [others]” (¶ 14), “made numerous false statements with malicious intent ... in an effort to defame and harass” (¶ 15), “threatened baseless legal claims” (¶ 17), “repeat[ed] the many lies and distortions he published on the internet” (¶ 23), “continued to make false statements” (¶ 36), and “continued to spread more lies” (¶40). (Doc. 1).

If a disinterested party, future client, or legal adversary were to read AFC’s Complaint against Kittle, it would walk away with a very specific conclusion: Dustin Kittle is a liar. Yet, in going on now three (3) years, no one at AFC has articulated a single lie that Kittle has told; only uncomfortable truths.

### **A. Safe Harbor Compliance**

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<sup>2</sup> Technical violations of federal borrowers’ rights statutes are things such as failure to use 10 pt type on disclosures (*Owens v. Magee Fin. Serv.*, 476 F. Supp. 758 (E.D. La. 1979)) or incorrectly using bold face type. (*Dixey v. Idaho First Nat’l Bank*, 505 F. Supp. 846 (D. Idaho 1981)).

AFC's and AFC's Counsel's argument that Rule 11's safe harbor provision bars sanctions because the Complaint was dismissed two weeks before Kittle served the Motion for Sanctions fails logic. Courts have considered post-dismissal Rule 11 motions for sanctions upon "countervailing considerations" explaining the timing of filing where information was learned after dismissal regarding potential pre-filing misconduct concerning subject matter jurisdiction. *Patel v. Smith*, No. 10-4165, 2012 U.S. Dist. LEXIS 42765 at \*10-11 (E.D. Pa. March 26, 2012). AFC's Counsel was given the benefit of the doubt until it overtly informed Kittle and Kittle's counsel

. Once AFC got what it wanted, it dismissed the action. It could have just as easily achieved the same result in state court and would not have had to defame Kittle in its Complaint in order to do so.

Notwithstanding the fact that AFC and its lawyers were provided the FCA's findings in August 2023 *before* filing its Complaint (Doc. 17-5), Kittle notified AFC's Counsel on December 26<sup>th</sup> – just six days after this action was filed against him – of his intent to seek sanctions:

I vehemently dispute and have direct documented evidence which contradicts the allegations set forth against me. In particular, I take exception to the assertion that I have somehow fabricated a story that Alabama Farm Credit was investigated by a Federal Agency ... In further support of that position and the identification of the same, I am attaching screenshots of two (2) emails sent to me by Investigator Russell Middleton of the United States Farm Credit Administration ... Unless you contend that I have somehow fabricated the evidence itself,

then those two (2) emails alone prove that the entire basis of the Federal Complaint filed against me is based on a lie...

Please find the attached screenshots referenced in the prior correspondence alongside one of many false allegations made against me in your December 20, 2023 Complaint. As to any fees and expenses incurred in defending against this frivolous action and the accompanying injunction will be pursued in the form of sanctions as to the law firms who have filed this Complaint without first conducting a proper investigation [into] the truth of the assertions made – as well as the Officers and Directors who have authorized, endorsed, and/or acquiesced in the decision to sue me in federal court, without cause ... Because when you do so little investigation into the allegations you set forth against a fellow member of the Bar, who has a 17 year career in state and federal litigation practice, there are consequences to the harm that will inevitably be caused to my professional and personal reputation to be called a liar – when every single word that I have said is true.

Exhibit A – Kittle Emails to AFC’s Counsel on 12/26/2023.

It is telling that AFC and AFC’s Counsel maintain the position that they have not overtly lied to this Court in saying there were “no findings of wrongdoing by AFC.” (Doc. 1, ¶ 43). The findings speak for themselves; Kittle nor Kittle’s counsel will waste this Court’s time arguing over semantics.

Even giving AFC’s Counsel the benefit of the doubt that their client misled them or concealed the investigation before filing the Complaint, it should have corrected the offending pleading within a reasonable time of being notified the violation on December 26<sup>th</sup>.<sup>3</sup>

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<sup>3</sup> In full transparency, it was Kittle and Kittle’s counsel’s initial position these December 26<sup>th</sup> communications started the 21-day safe harbor. When the Motion for Sanctions was served on

Regardless, the offending pleading has still not been withdrawn or corrected. *See Hedges v. Yonkers Racing Corp.*, 48 F.3d 1320, 1327-28 (2d Cir. 1995) (explaining that Rule 11(c) gives a party facing sanctions “21 days during which factual or legal contentions may be withdrawn or appropriately corrected in order to avoid sanction”). While AFC filed a Notice of Voluntary Dismissal, it was made without prejudice and “specifically reserve[d] the rights with regards to Kittle and anyone acting in concert with him.” Moreover, it cites as the reason for the voluntary dismissal that “[t]he declaratory relief and request for permanent injunction sought by AFC with respect to Kittle’s invalid December 29, 2023 meeting are now essentially moot.” It completely fails to mention the claims for defamation or intentional interference with business relations.<sup>4</sup> This is not the sort of “withdrawal” or “correction” contemplated by the safe harbor protection of Rule 11.

Under the 1993 amendment to Rule 11,

[A] litigant’s obligations with respect to the contents of these papers are not measured solely as of the time they are filed with or submitted to

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AFC’s Counsel on January 15<sup>th</sup>, it was our position that the safe harbor period had been met as this was the 21<sup>st</sup> day. We intended to file the Motion the following day. AFC’s Counsel responded saying the Motion did not comply with Rule 11(c)(2). Upon further research, concerns arose that AFC’s Counsel was correct. As such, having served the Motion for Sanctions on AFC’s Counsel on January 15<sup>th</sup>, another 21-day safe harbor period had conclusively been met before filing the Motion with the Court. (Response, p. 5; Response, Exhibits 1-2).

<sup>4</sup> That AFC was so quick to abandon the claims for defamation and intentional interference with business relations and did not so much as mention them in its two pages of discussion in its dismissal speaks to why these claims were really included – to satisfy the amount in controversy requirement for jurisdiction, with no factual basis to support that amount of damages, improperly invoking this Court’s jurisdiction. AFC admits to as much by saying it “filed this action to address the immediate need to obtain a declaration that [Kittle] was not authorized to call a meeting of AFC’s stockholders.” Doc. 14, p. 1.

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**Re: Alabama Farm Credit**

1 message

**Dustin Kittle** <dustin@humble.law>

Tue, Dec 26, 2023 at 1:11 PM

To: "Cochran, Anthony" &lt;acochran@sgrlaw.com&gt;, "Zegura, Daniel" &lt;dzegura@sgrlaw.com&gt;, "gaynor stjohfirm.com" &lt;gaynor@stjohfirm.com&gt;

Cc: "ashley@humble.law" &lt;ashley@humble.law&gt;

Gentlemen,

Please find the attached screenshots referenced in the prior correspondence alongside one of many false allegations made against me in your December 20, 2023 Complaint. As to any fees and expenses incurred in defending against this frivolous action and the accompanying injunction will be pursued in the form of sanctions as to the law firms who have filed this Complaint without first conducting a proper investigation the truth of the assertions made — as well as the Officers and Directors who have authorized, endorsed, and/or acquiesced in the decision to sue me in federal court, without cause.

You are the third and fourth law firms to be hired by these Officers and Directors, with all of you currently charging your bills to the member borrowers. It has also recently come to light that the Officers and Directors have hired a Crisis PR Firm, at who knows what cost to the borrowers, all to attempt to escape their own responsibility in this.

Finally, I will remind you that your law firms are pursuing a legal action that directly conflict with the stated intentions of 185 petitioning stockholders. If those stockholders held the right to call the December 29, 2023 meeting, and your counsel in that regard as been flawed and has resulted in a detriment to the stockholders as a whole, through unnecessary fees, costs, and damage to the reputation of the Association they own, then it is malpractice. And your law firms will be subject to a shareholder derivative action and/or potentially a Federal RICO action for your role in obscuring the truth in all of this.

If you all are willing to continue down this path to protect wrongdoers with falsities, while pretending their was no federal investigation with specific findings revealing violations of law, I will treat you no different than the wrongdoers themselves. Because when you do so little investigation into the allegations you set forth against a fellow member of the Bar, who has a 17 year career in state and federal litigation practice, there are consequences to the harm that will inevitably be caused to my professional and personal reputation to be called a liar — when every single word that I have said is true.

When considering nothing more than Paragraph No. 43 of the Federal Complaint, every billable minute charged to the stockholders in saying I was lying, and there was was no “investigation” or “findings,” is time that was billed fraudulently; taking into account that the U.S. Farm Credit Administration itself referred to it as an “investigation” and to the June 12, 2023 letter as “findings” from that 655 day investigation into the operations of Alabama Farm Credit.

At some point, this all has to stop. And the truth has to be told, to the stockholders and everyone else. I would encourage you as counsel for the Association and its members, and not as counsel for these individual Officers and Directors, to protect their interests, even if those interests are to the detriment of the Officers and Directors who hired you. I will continue making every aspect of this public — while doing nothing more than stating the undisputed and documented truth — to keep everyone honest, with the entire world watching to see what is happening here.

This case has ramifications beyond the current stockholders. It is of consequence to every citizen who has the right to speak up when they are being mistreated by a company and to do so without losing their home over it, when that company sends a wrongful foreclosure notice to the complainant — and then threatening to take the complainant’s widowed mother’s farm as well - when not a single loan payment had ever been missed.

This was all the product of retaliation, coercion, and extortion that has no place in a civilized society. While those responsible for it are entitled to counsel and a defense, you do not represent them — you represent the member borrowers; and you have filed a federal court action to prohibit your own clients, which includes those 185 petitioning stockholders, from being able to call a meeting and hold a vote to remove the Officers and Directors of Alabama Farm Credit.

Now for my part on it, I thank you — because you have added an additional two pockets from which the rest of us can collect from.

In my role as counsel for a current stockholder, whose identity has been disclosed to you, please accept this notice that the Complaint filed against Dustin Kittle is in breach of your duties as agents of this government-sponsored enterprise, and the member borrowers who own the Association, as it contains false statements which are contradicted by direct evidence.

Please provide a copy of the Federal Complaint you have filed against me as well as a copy of the U.S. Farm Credit Administration's June 12, 2023 Report of Findings to the Managing Partners of your law firms as well as to your professional malpractice carriers. Also provide a copy of the Press Release issued by Red Banyan, the Crisis Firm hired by the Officers and Directors, to your firm's owners and your carrier.

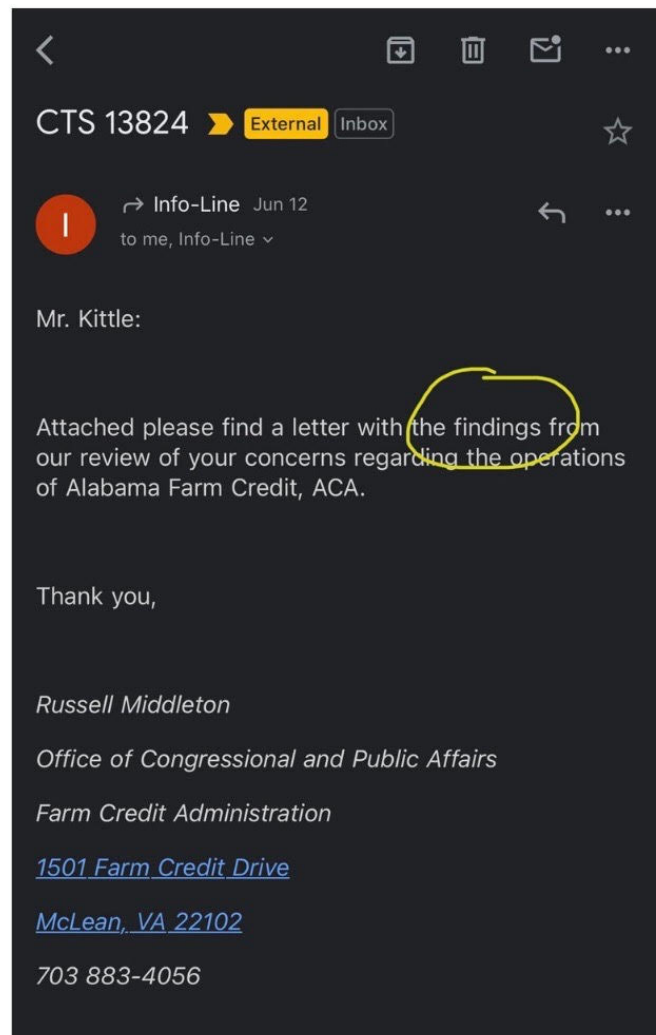
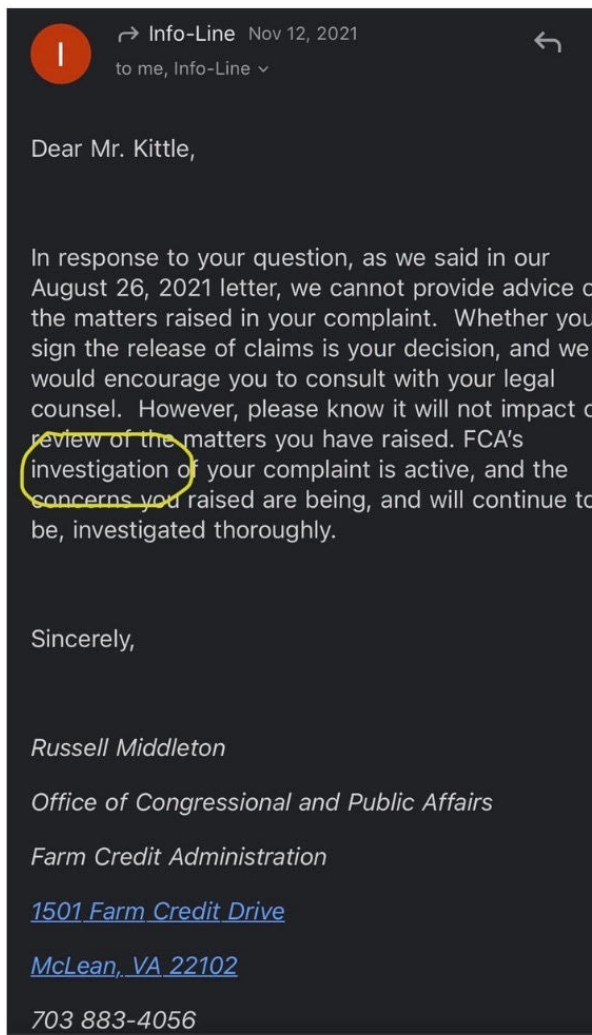
The best advice I can give to all of you is to instruct the Officers and Directors to resign, in accordance with the mandate in the By-Laws which requires compliance with the United States Farm Credit Act and the Regulations and Directives of the United States Farm Credit Administration. If you believe you lack the authority to take action to remove them and/or cannot prevent them from causing further harm to the Association and its member borrowers, your ethical duties as a licensed attorney require you to withdraw.

This is a losing battle for every person on the other side of this who is attempting to hide the truth.

Dustin

43. On December 12, 2023, spreading more lies in a further effort to garner support for his improper meeting, Kittle conducted a “Facebook live” event wherein he read selected passages from a June 12, 2023 letter he had received from the FCA in response to a 2021 complaint he made against AFC. Among other false statements:

- a. Kittle referred to the letter as a “report of findings and conclusions” and the result of a “federal investigation,” and accused AFC of “concealing” this “federal investigation” from its stockholders, when, in truth, it was a routine response to a consumer complaint that contained no findings of wrongdoing by AFC.



**Dustin J. Kittle**  
Managing Partner  
O: (205) 358-3100  
C: (256) 996-5822  
E: [dustin@humble.law](mailto:dustin@humble.law)

On Tue, Dec 26, 2023 at 12:17 PM Dustin Kittle <dustin@humble.law> wrote:

Mr. Cochran,

I have now reviewed the Complaint and the Motion for Preliminary Injunction which has been filed against me by Alabama Farm Credit, on behalf of its member borrowers. I vehemently dispute and have direct documented evidence which contradicts the allegations set forth against me.

In particular, I take exception to the assertion that I have somehow fabricated a story that Alabama Farm Credit was investigated by a Federal Agency beginning on August 26, 2021 and continuing until the Federal Agency released findings from that investigation, to both myself and to Alabama Farm Credit, on June 12, 2023. In further support of that position and the identification of same, I am attaching screenshots of two (2) emails sent to me by Investigator Russell Middleton of the United States Farm Credit Administration. In the November 12, 2021 email, four (4) days after I had received a notice threatening the potential of foreclosure on my farm, Investigator Middleton stated: "FCA's investigation of your complaint is active, and the concerns you raised are being, and will continue to be, investigated thoroughly." Then, 577 days later, Investigator Middleton sent an email on June 12, 2023, which stated: "Attached please find a letter with the findings from our review of your concerns regarding the operations of Alabama Farm Credit, ACA."

Unless you contend that I have somehow fabricated the evidence itself, then those two (2) emails alone prove that the entire basis of the Federal Complaint filed against me is based on a lie. And moreover, that your law firm has become an active participant in this scheme engaged in by the Officers and Directors of Alabama Farm Credit to defraud their own stockholders, in an effort to cover their own asses, and to do whatever it takes and more, to prevent their ouster and the massive amount of litigation against them that will soon follow. Just ten (10) individuals, the CEO, the Vice President, and the eight (8) Directors - along with their legal and public relations crisis counsel - have held more than 3,000 stockholders hostage from knowing the truth; which is that a federal investigation occurred from August 26, 2021 until June 12, 2023, and findings were issued by a federal agency, and those findings identified violations of federal law and regulations.

Now as to why that investigation was hidden, and more importantly, why the findings were never reported to the stockholders; I believe the investigation was hidden and the findings were withheld because the CEO, the Vice President, the Directors, and their counsel all know what is coming once that secret is revealed: There will be a massive wave of litigation against every one of them by the current and former borrowers, who will see those violations and recognize them as the exact same type of tactics that have been used against them; and by the same people no less. To go a step further, those damaged the most in the suppression of what was a very real federal investigation, with specific findings from that investigation, are those who may have lost their farms at any juncture between when the investigation was opened on August 26, 2021 until now, as these Officers and Directors still will not let them know that the distressed loan and/or foreclosure actions against them might be precluded by the federal agency's findings into my matter.

With the above said, the filing of the Federal Complaint against me, alone, is grounds for removing the Directors, as it is a waste of the member borrower's resources (i.e., money), it seeks to silence someone and prohibit them from assembling in violation of the First Amendment, and it infringes upon the Regulations and Directives provided by the Farm Credit Administration which preclude a Director or the institution from, using stockholder funds or otherwise, to "influence" a vote by the stockholders. In short, everyone can see exactly what is going on here.

However, notwithstanding the above, you have asked that I respond to you today to advise whether I will consent to a preliminary injunction being issued against me which will prohibit me from "conducting, hosting, participating in, or holding a meeting of AFC stockholders on December 29, 2023." You have advised that, if I do not consent, you will seek an emergency hearing on the matter before the Federal Judge assigned to my case.

Before I respond, I first want to address the merits of your Motion. It is my contention that your Motion fails for three (3) reasons: 1) it seeks legal relief in violation of the First Amendment's guarantee to free assembly; 2) any determination as to the legality of actions taken by the stockholders at a presumptive December 29, 2023 meeting are not yep ripe for adjudication; and 3) the "unclean hands" of the Association's Management preclude any such relief, as it was CEO Mel Koller and Board Chairman Matthew Christjohn who failed to comply with the Association's By-Laws, by ignoring letters from me dated December 1, 2023; December 12, 2023; and December 14, 2023 reminding them of their legal obligations and duties under the By-Laws to mail out notice of the stockholder meeting before the notice period expired at the close of business on December 14, 2023. Rather than to so much as respond to me, and my petition on behalf of the 185 stockholders we represent, Mr. Koller and Mr. Christjohn allowed the notice period to expire, and then, on the very next day, December 15, 2023, mailed their own letter to the voting stockholders saying that the December 29, 2023



meeting of the stockholders would not occur, in part because proper notice had not been mailed out to the stockholders.

So, the CEO and the Board Chairman, rather than simply communicate on this or do their job, have chosen instead a path to refuse to adhere to their legal duties at whatever cost. And that includes suing me in Federal Court in a frivolous action that is nothing more than a continuation of their scheme to threaten and intimidate me from going forward.

But on one point as to all of this, I do agree. While it is quite obvious as to why, the stockholders did not receive the proper notice of this meeting as is required by the By-Laws. Now while the Officers and Directors have no standing to seek relief for a prejudice that they caused; at some point, a stockholder might. A stockholder who may be a friend or family member of the current Directors could come forward, and go before a legal body, and proclaim they did not receive proper notice to have their voice heard, in whatever direction, on December 29, 2023. While that is incredibly prejudicial to the 185 petitioning stockholders who I represent, such a future action will prolong litigation that will result in nothing more than additional corporate waste inflicted upon the stockholders.

I am the only party throughout this who has actually looked out for the interests of those stockholders that the Directors are being paid to protect. And my goal is to get to the point of this matter; so while clearly recognizing the why as to how it happened, the last thing I want to be known for in this is having prejudiced any stockholder. Whether they agree with my position or not, every member borrower should be entitled to have the proper notice necessary so that their voice may be heard in a called meeting of the stockholders.

As such, in the good faith interest of there being no doubt whatsoever that my efforts here are honest, ethical, and in compliance with all legal standards, I am agreeable to executing a letter agreement as to this matter providing my consent, conditioned upon Alabama Farm Credit providing its mutual consent to do nothing more than adhere to its obligations and duties with respect to the prior requests that I have made. The letter agreement would state as follows and be signed by myself, Mel Koller, as the CEO of Alabama Farm Credit, and Matthew Christjohn as the Board Chairman:

Re: Mutual Consent as to the Terms and Conditions as it Relates to the Preliminary Injunction sought against Dustin Kittle with respect to the purported December 29, 2023 Stockholders' Meeting.

I, Dustin Kittle, will agree that I will not conduct, host, participate in, or hold a meeting of the AFC stockholders on December 29, 2023. Moreover, I agree to not enter the State of Alabama from Sunrise on Friday, December 29, 2023 until Sunset on Friday, December 29, 2023.

In consideration for my consenting to same, Alabama Farm Credit, through its Chief Executive Officer, Mel Koller, and its Board Chairman, Matthew Christjohn, agree to adhere to any and all legal duties imposed upon them by virtue of their positions with Alabama Farm Credit, to include the production of a complete list of the voting stockholders, in an Excel and/or PDF file, which has been exported directly from a digital copy. In plain language, pursuant to the criteria set forth by the Farm Credit Administration, the Association's list should be submitted in the same format that has allowed the Association to mail multiple letters to the stockholders from Mr. Koller and Mr. Christjohn, over the past 30 days.

As a condition to producing the list pursuant to my prior December 18, 2023 request, Alabama Farm Credit has demanded that the current borrower I represent sign a letter stating that the list will not be used for any impermissible purposes, outside of those set forth as permissible under federal law and regulations. Please note that those "permissible purposes," per Section 618.8310, include "matters related to the business operations of the institutions[;] and [t]his includes matters relating to the effectiveness of management, the use of institution assets, ... and the performance of directors and officers." As such, the current stockholder has no issue with acknowledging same, in writing, and I will provide you with their executed acknowledgement by close of business on Tuesday, December 26, 2023. Given that stockholder lists are to be maintain, made readily available, and the requests has been pending for more than seven (7) calendar days (the statutory deadline for production of same), Alabama Farm Credit agrees to provide the record stockholder list to me, as the representative of the current borrower, within 24 hours of its receipt of the current borrower's executed acknowledgment.

-----  
Please let me know if the above-referenced terms and conditions are agreeable. If you wish to discuss the matter, please do not hesitate to call me at 256-996-5822.

Thank you,

# Exhibit H

---

**Re: Alabama Farm Credit**

1 message

**Dustin Kittle** <dustin@humble.law>

Tue, Jan 2, 2024 at 4:51 PM

To: "Barab, Ron" &lt;RBARAB@sgrlaw.com&gt;

Cc: "Cochran, Anthony" &lt;acochran@sgrlaw.com&gt;, Emily Jo Davis &lt;emily@humble.law&gt;, "Zegura, Daniel" &lt;dzegura@sgrlaw.com&gt;, "ashley@humble.law" &lt;ashley@humble.law&gt;, "gaynor stjohfirm.com" &lt;gaynor@stjohfirm.com&gt;

Mr. Barab,

Your law firm is continuing to subvert the federal process, including the list of stockholders you have provided, which does not comply with the directives of the U.S. Farm Credit Administration. As I have stated previously to the attorneys of Smith Gambrell Russell and the St. John law firm, please be certain that you have placed your carriers on notice, as to claims asserted by me, pursuant to the actions you have taken to date, as well as claims asserted by Mr. Brooks, in his role as a current stockholder of Alabama Farm Credit.

The Complaint filed against me, the Motion for Injunction, and the Voluntary Dismissal are all littered with blatant misrepresentations. We will be taking legal action against all of you for being active participants in this ongoing scheme and would strongly recommend you begin following the law and protecting the stockholders you purport to represent.

Thank you,

**Dustin J. Kittle****Managing Partner****O: (205) 358-3100****C: (256) 996-5822****E: dustin@humble.law**

On Tue, Jan 2, 2024 at 3:57 PM Barab, Ron &lt;RBARAB@sgrlaw.com&gt; wrote:

Dear Mr. Kittle:

With regard to the request you, as counsel to Mr. Carl Dwight Brooks, made that our client Alabama Farm Credit, ACA ("AFC") produce for you, as Mr. Brooks' counsel, copies of minutes of meetings of AFC's board of directors, please be advised that AFC has no obligation to provide to Mr. Brooks (or you, as his counsel), and will not be providing to Mr. Brooks (or you, as his counsel), copies of the minutes of any meetings of the board of directors of AFC in response to your request.

Yours truly,

Ronald E. Barab

**Ronald E. Barab***Attorney at Law*

**RE: Alabama Farm Credit**

1 message

**Barab, Ron** <RBARAB@sgrlaw.com>  
To: Dustin Kittle <dustin@humble.law>  
Cc: "Cochran, Anthony" <acochran@sgrlaw.com>, "Zegura, Daniel" <dzegura@sgrlaw.com>

Fri, Dec 29, 2023 at 3:27 P

Dear Mr. Kittle:

As you may know, your client Carl Dwight Brooks visited our client Alabama Farm Credit, ACA's office in Cullen, Alabama, today, and personally authenticated the agreement and certification that Ms. Davis sent us with her email below. Accordingly, our client will require no further verification of his signature on the document, and, on behalf of Alabama Farm Credit, ACA, we are providing to you, in your capacity as Mr. Brooks' attorney, for only the permissible purposes, and subject to the nondisclosure requirements, set forth in the agreement and certification, the attached current stockholder list of Alabama Farm Credit, ACA.

Yours truly,

Ronald E. Barab

Ronald E. Barab  
Attorney at Law

p | 404-815-3573  
f | 404-685-6873  
e | RBARAB@sgrlaw.com  
1105 W. Peachtree St. NE | Suite 1000 | Atlanta, GA 30309  
www.sgrlaw.com | My Bio | vCard



**From:** Emily Jo Davis <emily@humble.law>  
**Sent:** Wednesday, December 27, 2023 4:57 PM  
**To:** Barab, Ron <RBARAB@sgrlaw.com>  
**Cc:** Dustin Kittle <dustin@humble.law>; Cochran, Anthony <acochran@sgrlaw.com>; Zegura, Daniel <dzegura@sgrlaw.com>; ashley@humble.law; gaynor stjohfirm.com <gaynor@stjohfirm.com>  
**Subject:** Re: Alabama Farm Credit

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon Mr. Barab,

Please find attached the executed agreement and certification.

Thank you,

Emily Jo Davis

Paralegal

O: (205) 358-3100

F: (205) 358-3033

Visit our website at [www.humble.law](http://www.humble.law)



On Wed, Dec 27, 2023 at 11:34 AM Barab, Ron <RBARAB@sgrlaw.com> wrote:

Mr. Kittle:

Our client Alabama Farm Credit, ACA ("AFC") considers the request you made on December 18, 2023, to have become valid only yesterday evening, December 26, 2023, upon my receipt of the acknowledgement, signed by Carl Dwight Brooks, that you had made the earlier request on his behalf as his attorney. Nevertheless, AFC remains willing, as I have stated in my earlier emails to you, to provide the stockholders list to Mr. Brooks promptly after receipt of the agreement and certification described in my emails. If we receive the signed agreement and certification this afternoon, we expect that the list could be available as early as later today or early tomorrow.

Yours truly,

Ronald E. Barab

Ronald E. Barab

Attorney at Law

**RE: Alabama Farm Credit**

1 message

**Barab, Ron** <RBARAB@sgrlaw.com>

Thu, Dec 28, 2023 at 10:30 A

To: Dustin Kittle <dustin@humble.law>

Cc: "Zegura, Daniel" <dzegura@sgrlaw.com>, "ashley@humble.law" <ashley@humble.law>, "gaynor stjohfirm.com" <gaynor@stjohfirm.com>, Emily Jo Davis <emily@humble.law>

Dear Mr. Kittle:

We received yesterday afternoon the agreement and certification attached to Emily Jo Davis's email below, which she indicated had been executed. While our client Alabama Farm Credit, ACA ("AFC") is fully prepared to provide a stockholders list to your client Carl Dwight Brooks upon its receipt of the signed agreement and certification in the form Ms. Davis presented to us, AFC and we have reason to question the authenticity of the signature that appears on the document we received from Ms. Davis.

We have compared the signature on the December 27th document to the signatures on the "acknowledgement" that you furnished to us on December 26, 2023, on several loan documents held by AFC, and on a copy of Mr. Brooks' driver's license in AFC's records. The signatures on all the loan documents are quite similar to one another, but vary significantly from the signature on the December 27th agreement and certification. The signature on the driver's license also varies significantly from the signature on the agreement and certification. At the same time, the signature on the December 27th agreement and certification is identical to the signature on the December 26th "acknowledgement" (i.e., it appears to have been copied or cut and pasted).

For these reasons, AFC must insist that Mr. Brooks' signature on the agreement and certification be verified to its satisfaction. If Mr. Brooks will sign the document before a notary public and submit to us, as AFC's attorneys, the notarized document, AFC will accept as authentic the agreement and certification with his notarized signature and will promptly provide a stockholders list to Mr. Brooks.

Yours truly,

Ronald E. Barab

Ronald E. Barab  
Attorney at Law

p | 404-815-3573  
f | 404-685-6873  
e | RBARAB@sgrlaw.com  
1105 W. Peachtree St. NE | Suite 1000 | Atlanta, GA 30309  
www.sgrlaw.com | My Bio | vCard



**From:** Emily Jo Davis <emily@humble.law>  
**Sent:** Wednesday, December 27, 2023 4:57 PM  
**To:** Barab, Ron <RBARAB@sgrlaw.com>  
**Cc:** Dustin Kittle <dustin@humble.law>; Cochran, Anthony <acochran@sgrlaw.com>; Zegura, Daniel <dzegura@sgrlaw.com>; ashley@humble.law; gaynor stjohfirm.com <gaynor@stjohfirm.com>  
**Subject:** Re: Alabama Farm Credit

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Good Afternoon Mr. Barab,

Please find attached the executed agreement and certification.

Thank you,

Emily Jo Davis

**Paralegal**

**O:** (205) 358-3100

**F:** (205) 358-3033

Visit our website at [www.humble.law](http://www.humble.law)



On Wed, Dec 27, 2023 at 11:34AM Barab, Ron <RBARAB@sgrlaw.com> wrote:

Mr. Kittle:

Our client Alabama Farm Credit, ACA ("AFC") considers the request you made on December 18, 2023, to have become valid only yesterday evening, December 26, 2023, upon my receipt of the acknowledgement, signed by Carl Dwight Brooks, that you had made the earlier request on his behalf as his attorney. Nevertheless, AFC remains willing, as I have stated in my earlier emails to you, to provide the stockholders list to Mr. Brooks promptly after receipt of the agreement and certification described in my emails. If we receive the signed agreement and certification this afternoon, we expect that the list could be available as early as later today or early tomorrow.

Yours truly,

Ronald E. Barab

Ronald E. Barab

Attorney at Law

p | 404-815-3573

f | 404-685-6873

e | RBARAB@sgrlaw.com



1105 W. Peachtree St. NE | Suite 1000 | Atlanta, GA 30309

www.sgrlaw.com | My Bio | vCard

**From:** Dustin Kittle <dustin@humble.law>  
**Sent:** Wednesday, December 27, 2023 11:42 AM  
**To:** Barab, Ron <RBARAB@sgrlaw.com>  
**Cc:** Cochran, Anthony <acochran@sgrlaw.com>; Emily Jo Davis <emily@humble.law>; Zegura, Daniel <dzegura@sgrlaw.com>; ashley@humble.law; gaynor stjohfirm.com <gaynor@stjohfirm.com>  
**Subject:** Re: Alabama Farm Credit

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Mr. Barab:

Given that Alabama Farm Credit has now had more than seven (7) calendar days to comply, can you advise as to whether the stockholder list will be made available by the close of business today presuming my client is willing to sign the attached certification and acknowledgement and it is returned to you?

Thank you,

Dustin J. Kittle

Managing Partner

O: (205) 358-3100

C: (256) 996-5822

E: [dustin@humble.law](mailto:dustin@humble.law)

Visit our website at [www.humble.law](http://www.humble.law)

On Wed, Dec 27, 2023 at 10:24AM Barab, Ron <RBARAB@sgrlaw.com> wrote:

Dear Mr. Kittle:

We have received your email below, including the acknowledgement of Carl Dwight Brooks that the request you made for the stockholders list of Alabama Farm Credit ("AFC") on or about December 18, 2023, was made on his behalf and his acknowledgement in regard to the limitations on his use of the list so requested. Please be advised that our client AFC recognizes the request, as now affirmed by Mr. Brooks, as a valid request for the stockholders list, but cannot accept the mere "acknowledgement" of the limitations on his use of the list as having satisfied the condition I set out in my email to you dated December 21, 2023 (as authorized by 12 C.F.R. § 618.8310(b)(1)), that Mr. Brooks "agree and certify in a signed writing" the limitations on his use of the stockholders list. Furthermore, the definition of the term "permissible purposes," as stated in Mr. Brooks' acknowledgement, was incomplete, and it is important to our client, and we would expect to Mr. Brooks and you, that there be no misunderstanding in regard to the meaning of that term, as used in 12 C.F.R. § 618.8310(b)(1) and Mr. Brooks' agreement and certification.

Accordingly, AFC has authorized us to reiterate to you the advice I gave you in my December 21, 2023 email, that AFC will promptly respond, as required by FCA regulations, to the written request, signed by Mr. Brooks, requesting a list of AFC's stockholders (which AFC has now received), but will require, as a condition to providing the list, that Mr. Brooks **agree and certify in a signed writing** that he will:

- (i) utilize the list exclusively for communicating with stockholders for permissible purposes (as defined below); and
- (ii) not make the list available to any person, other than his attorney or accountant, without first obtaining the written consent of AFC.

And that, as used in the signed writing referred to above, "permissible purposes" has the meaning set forth in 12 C.F.R. § 618.8310(b)(3).

In order to avoid any confusion as to either Mr. Brooks' satisfaction of the condition for AFC to provide the requested stockholders list or the limitations on Mr. Brooks' use of the list, once produced, we have prepared, and have attached hereto, a form of agreement and certification that, when signed and delivered to AFC, will be accepted by AFC as satisfaction of the condition set forth above.

Yours truly,

Ronald E. Barab

Ronald E. Barab

Attorney at Law

---

p | 404-815-3573

f | 404-685-6873

e | RBARAB@sgrlaw.com



1105 W. Peachtree St. NE | Suite 1000 | Atlanta, GA 30309

[www.sgrlaw.com](http://www.sgrlaw.com) | [My Bio](#) | [vCard](#)

---

**From:** Dustin Kittle <[dustin@humble.law](mailto:dustin@humble.law)>

**Sent:** Tuesday, December 26, 2023 7:45 PM

**To:** Cochran, Anthony <[acochran@sgrlaw.com](mailto:acochran@sgrlaw.com)>

**Cc:** Barab, Ron <[RBARAB@sgrlaw.com](mailto:RBARAB@sgrlaw.com)>; Emily Jo Davis <[emily@humble.law](mailto:emily@humble.law)>; Zegura, Daniel <[dzegura@sgrlaw.com](mailto:dzegura@sgrlaw.com)>; [ashley@humble.law](mailto:ashley@humble.law); [gaynor@stjohnfirm.com](mailto:gaynor@stjohnfirm.com) <[gaynor@stjohnfirm.com](mailto:gaynor@stjohnfirm.com)>

**Subject:** Re: Alabama Farm Credit

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Gentlemen:

Please find attached the executed acknowledgement by the current stockholder. Let me know when you intend to produce the stockholder list pursuant to the December 18, 2023 request from my client.

December 26, 2023

***Re: The December 18, 2023 Written Request for Alabama Farm Credit's  
Stockholder List***

To Whom It May Concern:

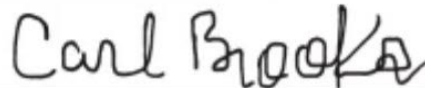
My name is Carl Dwight Brooks, and I am a current stockholder of Alabama Farm Credit who resides in DeKalb County, Alabama. I have specifically retained Dustin Kittle to represent me and am aware he made a request for the production of Alabama Farm Credit's current stockholder list on or about December 18, 2023.

Pursuant to Alabama Farm Credit's demand, please accept this acknowledgement that Dustin Kittle represents me and speaks for me in this, and any other requests submitted on my behalf. Further, I acknowledge that, pursuant to 12 CFR Section 618.8310(b)(3), I will:

1. Utilize the list exclusively for communicating with stockholders for permissible purposes; and
2. Not make the list available to any person, other than the stockholder's attorney or accountant, without first obtaining the written consent of AFC.

"Permissible purposes" is defined by the aforementioned statute as follows:

"Matters relating to the business operations of the institutions. This includes matters relating to the effectiveness of management, the use of institution assets, the distribution by stockholder candidates of campaign material for election to the institution board or board committees, and the performance of directors and officers."



Carl Dwight Brooks  
Stockholder, Alabama Farm Credit

Thank you,

Dustin J. Kittle  
Managing Partner

O: (202) 358-3100



**Re: AFC - Notice of Inspection of Records**

1 message

Ashley Posey &lt;ashley@humble.law&gt;

Thu, Feb 29, 2024 at 2:16 PM

To: "Barab, Ron" &lt;RBARAB@sgrlaw.com&gt;

Cc: "gaynor stjohnfirm.com" &lt;gaynor@stjohnfirm.com&gt;, "Zegura, Daniel" &lt;dzegura@sgrlaw.com&gt;, Dustin Kittle &lt;dustin@humble.law&gt;, Emily Jo Davis &lt;emily@humble.law&gt;

Mr. Barab,

Based upon your response below, the attorneys copied to this email have either defrauded the Court, its own stockholders, or both. In the Motion for Preliminary Injunction, you and/or your co-counsel represented to the U.S. District Court for the Northern District of Alabama that the December 29, 2023 Stockholders' Meeting was not properly called, as the stockholders were required to comport to the cited statute for Alabama domestic corporations. In fact, the Court accepted that position at face value and found that the meeting would not be properly called.

In the next 24 hours, our expectation is that you will either correct your fraudulent representation to the Court or correct your fraudulent position to us, as the representative of a current stockholder of Alabama Farm Credit. If you do not, we will again take legal action against you and the Directors of Alabama Farm Credit.

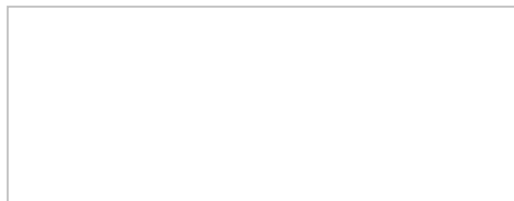
Thank you,

**Ashley M. Posey****Associate Attorney**

O: (205) 358-3100

C: (757) 570-5014

E: ashley@humble.law

Visit our website at [www.humble.law](http://www.humble.law).

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On Mon, Feb 26, 2024 at 3:30 PM Barab, Ron &lt;RBARAB@sgrlaw.com&gt; wrote:

Ms. Posey,

Case 3:24-mc-09999 Document 264-11 Filed 03/22/24 Page 8 of 31 PageID #: 9141

This is to acknowledge receipt of, and to respond on behalf of our client Alabama Farm Credit, ACA (“AFC”) to, your email below, dated February 23, 2024, and the Notice of Inspection of Records of your client Carl Dwight Brooks attached thereto.

Please note that Ala. Code § 10A-2A-16.02, to which your email and the Notice of Inspection referred, applies to only Alabama domestic corporations and, specifically, does not apply to AFC, which is an instrumentality of the United States, chartered under the provisions of the Farm Credit Act of 1971, as amended, and not an Alabama domestic corporation.

Accordingly, please be advised that your assumption that AFC agrees that Mr. Brooks’ demand complies with the requirements of said statute is incorrect, and that, furthermore, AFC will not permit either Mr. Brooks or Humble Law, LLC or its attorneys and other employees, or any other representative of Mr. Brooks, to conduct the inspection that he has requested, whether on March 1, 2024 (or on any other date), or at AFC’s principal office (or at any other location), on account of your email or Mr. Brooks’ Notice of Inspection.

Yours truly,

**Ronald E. Barab**  
*Attorney at Law*

---

p | 404-815-3573  
f | 404-685-6873  
e | RBARAB@sgrlaw.com  
1105 W. Peachtree St. NE | Suite 1000 | Atlanta, GA 30309  
www.sgrlaw.com | My Bio | vCard



---

**From:** Ashley Posey <ashley@humble.law>  
**Sent:** Friday, February 23, 2024 4:46 PM  
**To:** Barab, Ron <RBARAB@sgrlaw.com>  
**Cc:** gaynor <stjohnfirm.com> <gaynor@stjohnfirm.com>; Zegura, Daniel <dzegura@sgrlaw.com>; Dustin Kittle <dustin@humble.law>; Emily Jo Davis <emily@humble.law>  
**Subject:** AFC - Notice of Inspection of Records

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Mr. Barab,

Attached please find Mr. Brooks' Notice of Inspection of AFC's Records as a stockholder of Alabama Farm Credit pursuant to Ala. Code Section 10A-2A-16.02. I have included the audit trail so that there are no concerns over the authenticity of Mr. Brooks' execution of this document.

Sincerely,

**Ashley M. Posey**

**Associate Attorney**

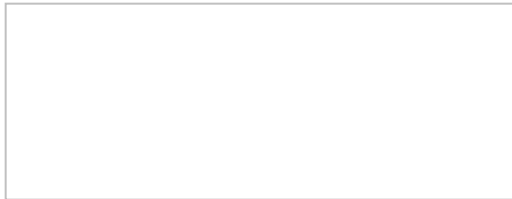
**O:** (205) 358-3100

**C:** (757) 570-5014

**E:** ashley@humble.law



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**humble**  
— LAW, LLC —

image001.png  
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## NOTICE OF INSPECTION OF RECORDS

I hereby provide you notice that, pursuant to Ala. Code § 10A-2A-16.02(b), I intend to conduct an inspection of AFC's financial statements, papers, records, minutes, and record list of stockholders during regular business hours, on Friday, March 1, 2024, at Alabama Farm Credit's principal office, including, the following:

- a) The minutes of all AFC stockholders' meetings, and records of all actions taken by stockholders without a meeting, for the past three years;
- b) All written communications to stockholders generally within the past three years;
- c) A summary of the material terms of any transactions by AFC with any related parties (including employees, directors, or officers, or entities controlled by any of them) or affiliates for the last three years. This specifically includes, but is not limited to, AFC's purchase of Steve Tate Crop Insurance Agency;
- d) All appraisals or reviews by AFC relating to the value of real property or assets owned by AFC, giving the most recent appraisal or review for each property that is currently owned;
- e) A schedule showing compensation (including the components thereof) and any expense reimbursements paid by AFC to each of its directors and officers, as well as any family members of such directors and officers, for the last three years;
- f) The record list of stockholders maintained pursuant to Ala. Code § 10A-2A-16.01 and in compliance with this section;
- g) Excerpts of minutes (final versions or the most recent drafts to the extent that final versions are not available) of meetings of the AFC Board of Directors (the "Board") and all committees thereof, related to the above-requested records. This request specifically includes, but is not limited to, excerpts from minutes of any Board meetings discussing AFC's purchase of Steve Tate Crop Insurance Agency and AFC's policies and procedures in relations to Voluntary Advance Conditional Payments (aka "Funds Held" accounts / poultry assignments); and
- h) Copies of all materials provided to the Board and all committees thereof in connection with the meetings identified in the previous paragraph (g).

The purposes of the inspection are as follows:

- Determining the validity of the December 29, 2023 Special Meeting;
- Independently assessing and verifying AFC's officers, directors, employees, and agents' compliance with AFC's bylaws and policies, as well as applicable laws and regulations, governing their conduct and conflicts of interest;
- Determining whether AFC's business is being properly conducted;
- Determining whether AFC's officers and/or directors have engaged in tortious conduct such as stockholder oppression, nepotism, waste, usurpation of corporate opportunities, or breaches of fiduciary duty;
- Communicating with AFC's stockholders regarding matters of corporate governance;
- Determining whether the corporation has engaged in defective corporate actions; and
- Determining the eligibility of the current officers and/or directors to serve in those positions.

In addition to myself as a stockholder, I designate and authorize Humble Law, LLC and its attorneys and other employees, acting alone or in any combination, to conduct the inspection and copying requested by this letter pursuant to Ala. Code § 10A-2A-16.03.

In absence of prompt notice to the contrary, I will assume that AFC agrees that this demand complies in all respects with the requirements of Ala. Code § 10A-2A-16.02. I reserve all rights to withdraw or modify this request at any time.

If AFC does not respond to this request or fails to permit inspection and copying of the demanded materials as is required by Ala. Code § 10A-2A-16.02, I will seek appropriate relief to the fullest extent permitted under law. Please note, a corporation that denies a stockholder the right to inspect its records is liable to the stockholder for a penalty of up to ten percent of the value of the stockholder's stock, in addition to any other damages or remedy afforded by law. Ala. Code § 10A-2A-16.02(d)(2).

Signed this 23<sup>rd</sup> day of February 2024.



02 / 23 / 2024

---




Carl Dwight Brooks  
Stockholder, Alabama Farm Credit, ACA

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Title	AFC - Inspection of Records
File name	Brooks - Notice of Inspection.pdf
Document ID	9211013de8ad2ef27fbe9df7590e79029ac9e8b3
Audit trail date format	MM / DD / YYYY
Status	● Signed

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### Document History

 SENT	<b>02 / 23 / 2024</b> 20:22:05 UTC	Sent for signature to Carl Dwight Brooks (dwi @gmail.com) from ashley@humble.law IP:
 VIEWED	<b>02 / 23 / 2024</b> 20:24:13 UTC	Viewed by Carl Dwight Brooks (dwi @gmail.com) IP: 1
 SIGNED	<b>02 / 23 / 2024</b> 20:25:13 UTC	Signed by Carl Dwight Brooks (dw @gmail.com) IP: 1 0
 COMPLETED	<b>02 / 23 / 2024</b> 20:25:13 UTC	The document has been completed.

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**Re: Alabama Farm Credit, ACA**

1 message

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**Dustin Kittle** <dustin@humble.law>  
To: "Barab, Ron" <RBARAB@sgrlaw.com>  
Cc: "ashley@humble.law" <ashley@humble.law>

Mon, Dec 18, 2023 at 1:41 PM

Mr. Barab,

Please be advised that we are retained counsel for Carl Dwight Brooks ("Mr. Brooks"), a voting stockholder of Alabama Farm Credit who resides in DeKalb County, Alabama. You may consider the prior requests put forth in our correspondence to Mr. Koller and Mr. Christjohn, from December 1, 2023, December 12, 2023, and December 14, 2023, to all have been made in our capacity as retained counsel for Mr. Brooks. We expect that Mr. Brooks will experience no disruption in the servicing of his loan and will not be retaliated against in any way whatsoever for exercising the rights guaranteed to him by law.

As his retained counsel, Mr. Brooks requests that you timely produce the following to us in accordance with Farm Credit Administration regulations and applicable law:

- 1) A current list of the voting stockholders of Alabama Farm Credit; and
- 2) The minutes of all meetings held by Alabama Farm Credit from September 1, 2018 until now, including, but not limited to, the minutes of any and all Stockholders' Meetings, Special Meetings, and/or Meetings of the Board of Directors of Alabama Farm Credit;

It is our understanding that these documents are readily available to Alabama Farm Credit in electronic form. Mr. Brooks agrees to receive said documents in their unaltered electronic form at the following email address: dustin@humble.law.

If you should have any questions, please do not hesitate to contact me. I do caution that, in acting as counsel for the Association as a whole, you have duties and obligations owed to Mr. Brooks as well as the petitioning stockholders who have called for the December 29, 2023 Stockholders' Meeting to occur.

Thank you,

**Dustin J. Kittle**  
**Managing Partner**  
**O: (205) 358-3100**  
**C: (256) 996-5822**  
**E: dustin@humble.law**

On Fri, Dec 15, 2023 at 5:40 PM Barab, Ron <RBARAB@sgrlaw.com> wrote:

Dear Mr. Kittle:

We represent Alabama Farm Credit, ACA (the "association"), and attached is a letter to you regarding your December 1, 2023 letter to Mel Koller, Chief Executive Officer of the association, and Dr. Matthew Christjohn, Chairman of the Board of the association, re "Petition and Notice of Meeting of Stockholders to Occur on December 29, 2023" and emails to Mr. Koller and Dr. Christjohn, dated December 12 and 14, 2023, in the same regard.

Yours truly,

Ronald E. Barab

---

## Alabama Farm Credit

1 message

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**Cochran, Anthony** <acochran@sgrlaw.com>

Tue, Dec 26, 2023 at 1:09 PM

To: Dustin Kittle <dustin@humble.law>

Cc: "ashley@humble.law" <ashley@humble.law>, "gaynor stjohfirm.com" <gaynor@stjohfirm.com>, "Zegura, Daniel" <dzegura@sgrlaw.com>

Dear Mr. Kittle –

We read your email (below) sent after the deadline you set, that is, “at or before Noon Central on Tuesday, December 26, 2023.” Since you do not consent to the preliminary injunction, we are proceeding to schedule a hearing. We will litigate this case in Court, not by email or Facebook.

If you agree “that [you] will not conduct, host, participate in, or hold a meeting of the AFC stockholders on December 29, 2023,” as you indicated in your email (below), let us know if you agree and consent to the proposed Order, attached, that we will be submitting to the Court.

Respectfully,

Tony Cochran

---

**Anthony L. Cochran**  
*Partner*

p | 404-815-3799  
f | 404-685-7099  
e | [acochran@sgrlaw.com](mailto:acochran@sgrlaw.com)  
1105 W. Peachtree St. NE | Suite 1000 | Atlanta, GA 30309  
[www.sgrlaw.com](http://www.sgrlaw.com) | [My Bio](#)





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**RE: Carl Dwight Brooks / Alabama Farm Credit**

1 message

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**Barab, Ron** <RBARAB@sgrlaw.com>

Thu, Mar 14, 2024 at 9:10 AM

To: Dustin Kittle <dustin@humble.law>

Cc: Ashley Posey <ashley@humble.law>, Emily Jo Davis <emily@humble.law>, "Zegura, Daniel" <dzegura@sgrlaw.com>, "gaynor stjohfirm.com" <gaynor@stjohfirm.com>

Mr. Kittle,

This is to acknowledge receipt of, and to respond to, your email below in regard to inquiries you have made on behalf of your client Carl Dwight Brooks.

In regard to "what Alabama Farm Credit has done with his money," we and Alabama Farm Credit, ACA (AFC) have provided to you, in response to your previous inquiries, all information necessary for you and your client to know and understand the disposition of the collections AFC has received on account of the collateral assignment Mr. Brooks made in favor of AFC (including the information included in the emails copies of which are attached hereto), and we and AFC will not be providing additional information in response to those requests.

In regard to question number 2 in your email below, please advise Mr. Brooks that AFC will provide to Mr. Brooks and all other shareholders, and will publish on its Web site, its 2023 Annual Report as and when required by FCA regulations.

We will not be addressing in this email or otherwise your question numbers 1 or 3 in your email below.

Regards,

Ron

**Ronald E. Barab**  
*Attorney at Law*

---

p | 404-815-3573  
f | 404-685-6873  
e | RBARAB@sgrlaw.com  
1105 W. Peachtree St. NE | Suite 1000 | Atlanta, GA 30309  
www.sgrlaw.com | My Bio | vCard



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**From:** Dustin Kittle <dustin@humble.law>  
**Sent:** Wednesday, March 13, 2024 11:48 AM  
**To:** Barab, Ron <RBARAB@sgrlaw.com>  
**Cc:** Ashley Posey <ashley@humble.law>; Emily Jo Davis <emily@humble.law>; Zegura, Daniel <dzegura@sgrlaw.com>; gaynor stjohfirm.com <gaynor@stjohfirm.com>  
**Subject:** Re: Carl Dwight Brooks / Alabama Farm Credit

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Barab:

There has been ample time to respond to this. Please provide this information so this stockholder can find out what Alabama Farm Credit has done with his money.

There isn't anyone copied on this who really believes Alabama Farm Credit had the legal right to take those funds and pay them forward. But it's great proof as to how deep you all are in this enterprise, so please continue to espouse that nonsensical position.

As a stockholder, Mr. Brooks also inquires as to the following:

- 1) What was the purchase price of the Steve Tate Crop Insurance Agency and will the AFC stockholders receive a dividend from Farm Shield?;
- 2) Has the 2023 Annual Report been finalized? If so, please provide a copy of same; and
- 3) Does AFC contend that it is not bound by the Alabama Corporations Statute?

Thank you,

**Dustin J. Kittle**

**Managing Partner**

**O: (205) 358-3100**

**C: (256) 996-5822**

**E: [dustin@humble.law](mailto:dustin@humble.law)**

On Wed, Mar 6, 2024 at 8:38 AM Dustin Kittle <[dustin@humble.law](mailto:dustin@humble.law)> wrote:

Mr. Barab,

Given as how the impetus for the pre-payment is to benefit the borrowers, please provide a breakdown of the 2024 payments by principal and interest with a comparison to what Mr. Brooks would have paid under regular circumstances in 2024.

Also, does it appear that Mr. Brooks' account was pre-paid by mistake, given that his assignment is a collateral assignment agreement that serves only to secure the loan and given that the right to set-off does not materialize unless and until there is an event of default? If so, can I presume that Alabama Farm Credit would have no objection to returning any and all funds advanced beyond the upcoming April 2024 payment? If so, please provide me with what that returned amount would be to Mr. Brooks.

Mr. Brooks would like to have this information by close of business today if at all possible prior to meeting with his financial planner.

Thank you,

**Dustin J. Kittle**

**Managing Partner**

**O: (205) 358-3100**

**C: (256) 996-5822**

**E: [dustin@humble.law](mailto:dustin@humble.law)**

On Mon, Mar 4, 2024 at 9:48 AM Barab, Ron <[RBARAB@sgrlaw.com](mailto:RBARAB@sgrlaw.com)> wrote:

4) As a stockholder, Mr. Brooks inquires as to what financial benefit is obtained for the association by paying ahead those loans with assignments and forfeiting its interest return?

Thank you,

**Dustin J. Kittle**

**Managing Partner**

**O: (205) 358-3100**

**C: (256) 996-5822**

**E: [dustin@humble.law](mailto:dustin@humble.law)**

----- Forwarded message -----

From: "Barab, Ron" <[RBARAB@sgrlaw.com](mailto:RBARAB@sgrlaw.com)>

To: Dustin Kittle <[dustin@humble.law](mailto:dustin@humble.law)>

Cc: Ashley Posey <[ashley@humble.law](mailto:ashley@humble.law)>, Emily Jo Davis <[emily@humble.law](mailto:emily@humble.law)>, "Zegura, Daniel" <[dzegura@sgrlaw.com](mailto:dzegura@sgrlaw.com)>, "gaynor stjohfirm.com" <[gaynor@stjohfirm.com](mailto:gaynor@stjohfirm.com)>

Bcc:

Date: Fri, 1 Mar 2024 19:19:53 +0000

Subject: RE: Carl Dwight Brooks / Alabama Farm Credit

Mr. Kittle,

This is to acknowledge receipt of, and to respond on behalf of our client Alabama Farm Credit, ACA ("AFC") to, your emails below in regard to your client Carl Dwight Brooks:

1. Mr. Brooks needs only to submit to his loan officer at AFC his written request that his assignment be reduced to the percentage he designates in his request. AFC will then, in accordance with its customary practice, consider his request and, taking into account his payment history, a forecast of future installment payments on his loan, an estimate of future payments on account of the assignment, and other relevant factors, respond promptly to his request. Mr. Brooks may also discuss with his loan officer the release of a portion of funds AFC has received on account of his assignment, even if already applied to future installments due after 04/01/2024. Of course, the release of any such funds would require the reversal of such application and an increase in total interest charges due from Mr. Brooks, which would thereafter include interest accrued on the principal amounts of any such payments released, but AFC is open to considering a request in that regard also.
2. The total amount of Mr. Brooks' loan that has been prepaid is, as of today, \$60,640.60 (which includes the principal and interest payments due 04/01/2024 and 10/01/2024 and a portion of the principal amount of the payment due 04/01/2025).
3. AFC makes no contention in regard to the number or substance of all documents that it placed in the mail to Mr. Brooks in response to his loan requests or otherwise. AFC has produced certain documents in in regard to Mr. Brooks' denials, but has no obligation to provide to Mr. Brooks, in response to his most recent request, copies of any documents, including loan denials, that Mr. Brooks did not sign.
4. The association obtained no direct financial benefit from prepaying Mr. Brooks' loans. Rather, the association prepaid the loans as an accommodation to Mr. Brooks, i.e., to save him interest expense, as has been the association's common practice in the case of all member/borrowers similarly situated.

Yours truly,

**Ronald E. Barab**  
*Attorney at Law*

4) As a stockholder, Mr. Brooks inquires as to what financial benefit is obtained for the association by paying ahead those loans with assignments and forfeiting its interest return?

Thank you,

**Dustin J. Kittle**

**Managing Partner**

**O: (205) 358-3100**

**C: (256) 996-5822**

**E: [dustin@humble.law](mailto:dustin@humble.law)**

----- Forwarded message -----

From: "Barab, Ron" <[RBARAB@sgrlaw.com](mailto:RBARAB@sgrlaw.com)>

To: Dustin Kittle <[dustin@humble.law](mailto:dustin@humble.law)>

Cc: Ashley Posey <[ashley@humble.law](mailto:ashley@humble.law)>, Emily Jo Davis <[emily@humble.law](mailto:emily@humble.law)>, "Zegura, Daniel" <[dzegura@sgrlaw.com](mailto:dzegura@sgrlaw.com)>, "gaynor stjohfirm.com" <[gaynor@stjohfirm.com](mailto:gaynor@stjohfirm.com)>

Bcc:

Date: Fri, 8 Mar 2024 17:49:20 +0000

Subject: RE: Carl Dwight Brooks / Alabama Farm Credit

Mr. Kittle,

All collections our client Alabama Farm Credit, ACA (AFC) receives on account of the assignment agreement you refer to in your email below, which, as you observe, is a "collateral assignment ... to secure the loan [AFC made to your client Carl Dwight Brooks]," constitute collateral for that loan, and AFC is entitled under applicable law to hold it as collateral until the loan is paid in full or to apply it to costs and expenses of collection and the outstanding indebtedness under the loan. AFC is not under any circumstances required to release the collateral, in whole or in part, to Mr. Brooks until the indebtedness secured by the collateral is paid in full.

AFC has authorized me to advise you, as Mr. Brooks' attorney, that, in accordance with AFC's practice in connection with its other loans of this type, under present circumstances, including the continuing assignment of 40% of the poultry revenue subject to his assignment, AFC will, at Mr. Brooks' request, release to him up to \$20,000 of the collections AFC has received and either holds or has applied. Please understand, and please advise Mr. Brooks, that upon the reversal of the application of any collections previously applied to principal, interest will begin to accrue again on the principal amount so released.

If Mr. Brooks would like AFC to release up to \$20,000 of the collections received under his collateral assignment, he should contact directly the branch manager of the association branch handling his loan and make his request.

Best regards,

---

**From:** Dustin Kittle <[dustin@humble.law](mailto:dustin@humble.law)>

**Sent:** Wednesday, March 6, 2024 9:39 AM

**To:** Barab, Ron <[RBARAB@sgrlaw.com](mailto:RBARAB@sgrlaw.com)>

**Cc:** Ashley Posey <[ashley@humble.law](mailto:ashley@humble.law)>; Emily Jo Davis <[emily@humble.law](mailto:emily@humble.law)>; Zegura, Daniel <[dzegura@sgrlaw.com](mailto:dzegura@sgrlaw.com)>; gaynor stjohfirm.com <[gaynor@stjohfirm.com](mailto:gaynor@stjohfirm.com)>

**Subject:** Re: Carl Dwight Brooks / Alabama Farm Credit

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Case 3:24-mc-09999 Document 264-11 Filed 03/22/24 Page 19 of 31 PageID #: 9152

Mr. Barab,

Given as how the impetus for the pre-payment is to benefit the borrowers, please provide a breakdown of the 2024 payments by principal and interest with a comparison to what Mr. Brooks would have paid under regular circumstances in 2024.

Also, does it appear that Mr. Brooks' account was pre-paid by mistake, given that his assignment is a collateral assignment agreement that serves only to secure the loan and given that the right to set-off does not materialize unless and until there is an event of default? If so, can I presume that Alabama Farm Credit would have no objection to returning any and all funds advanced beyond the upcoming April 2024 payment? If so, please provide me with what that returned amount would be to Mr. Brooks.

Mr. Brooks would like to have this information by close of business today if at all possible prior to meeting with his financial planner.

Thank you,

**Dustin J. Kittle**

**Managing Partner**

**O: (205) 358-3100**

**C: (256) 996-5822**

**E: [dustin@humble.law](mailto:dustin@humble.law)**

On Mon, Mar 4, 2024 at 9:48 AM Barab, Ron <[RBARAB@sgrlaw.com](mailto:RBARAB@sgrlaw.com)> wrote:

Mr. Kittle,

This is to acknowledge receipt of, and to respond to, your email below inquiring as to the interest charges on your client Carl Dwight Brooks' account.

The interest that is prepaid is not interest on the prepaid principal amounts. It is interest that will continue accrue on the outstanding principal amount of Mr. Brooks' loan that remains unpaid after applying all principal payments.

Best regards,

**Ronald E. Barab**

*Attorney at Law*

---

p | 404-815-3573

f | 404-685-6873

e | [RBARAB@sgrlaw.com](mailto:RBARAB@sgrlaw.com)



---

**From:** Dustin Kittle <dustin@humble.law>  
**Sent:** Friday, March 1, 2024 3:07 PM  
**To:** Barab, Ron <RBARAB@sgrlaw.com>  
**Cc:** Ashley Posey <ashley@humble.law>; Emily Jo Davis <emily@humble.law>; Zegura, Daniel <dzegura@sgrlaw.com>; gaynor stjohnfirm.com <gaynor@stjohnfirm.com>  
**Subject:** Re: Carl Dwight Brooks / Alabama Farm Credit

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Mr. Barab,

The 2024 payments are not yet due. Based upon what you have advised, the purpose of pre-paying those amounts is to eliminate the interest charges to Mr. Brooks.

So why would Mr. Brooks have been charged interest on those payments when they were pre-paid?

Thank you,

**Dustin J. Kittle**

**Managing Partner**

**O: (205) 358-3100**

**C: (256) 996-5822**

**E: [dustin@humble.law](mailto:dustin@humble.law)**

On Fri, Mar 1, 2024 at 1:20 PM Barab, Ron <RBARAB@sgrlaw.com> wrote:

Mr. Kittle,

This is to acknowledge receipt of, and to respond on behalf of our client Alabama Farm Credit, ACA ("AFC") to, your emails below in regard to your client Carl Dwight Brooks:

1. Mr. Brooks needs only to submit to his loan officer at AFC his written request that his assignment be reduced to the percentage he designates in his request. AFC will then, in accordance with its customary practice, consider his request and, taking into account his payment history, a forecast of future installment payments on his loan, an estimate of future payments on account of the assignment, and other relevant factors, respond promptly to his request. Mr. Brooks may also discuss with his loan officer the release of a portion of funds AFC has received on account of his assignment, even if already applied to future installments due after 04/01/2024. Of course, the release of any such funds would require the reversal of such application and an increase in total interest charges due from Mr. Brooks, which would thereafter include interest accrued on the principal amounts of any such payments released, but AFC is open to considering a request in that regard also.

2. The total amount of Mr. Brooks' loan that has been prepaid is, as of today, \$60,640.60 (which includes the principal and interest payments due 04/01/2024 and 10/01/2024 and a portion of the principal amount of the payment due 04/01/2025).
  
3. AFC makes no contention in regard to the number or substance of all documents that it placed in the mail to Mr. Brooks in response to his loan requests or otherwise. AFC has produced certain documents in in regard to Mr. Brooks' denials, but has no obligation to provide to Mr. Brooks, in response to his most recent request, copies of any documents, including loan denials, that Mr. Brooks did not sign.
  
4. The association obtained no direct financial benefit from prepaying Mr. Brooks' loans. Rather, the association prepaid the loans as an accommodation to Mr. Brooks, i.e., to save him interest expense, as has been the association's common practice in the case of all member/borrowers similarly situated.

Yours truly,

**Ronald E. Barab**

*Attorney at Law*

---

p | 404-815-3573

f | 404-685-6873

e | RBARAB@sgrlaw.com



1105 W. Peachtree St. NE | Suite 1000 | Atlanta, GA 30309

www.sgrlaw.com | My Bio | vCard

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**From:** Dustin Kittle <dustin@humble.law>  
**Sent:** Friday, March 1, 2024 2:01 PM  
**To:** Barab, Ron <RBARAB@sgrlaw.com>  
**Cc:** Ashley Posey <ashley@humble.law>; Emily Jo Davis <emily@humble.law>; Zegura, Daniel <dzegura@sgrlaw.com>; gaynor stjohnfirm.com <gaynor@stjohnfirm.com>  
**Subject:** Re: Carl Dwight Brooks / Alabama Farm Credit

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Mr. Barab,

The email below with questions regarding Mr. Brooks' account was sent seven (7) days ago.

Please advise.

Thank you,

**Dustin J. Kittle**

**Managing Partner**

**O: (205) 358-3100**

**C: (256) 996-5822**

**E: [dustin@humble.law](mailto:dustin@humble.law)**

Visit our website at [www.humble.law](http://www.humble.law)

On Fri, Feb 23, 2024 at 2:19 PM Dustin Kittle <[dustin@humble.law](mailto:dustin@humble.law)> wrote:

Mr. Barab,

Please advise on the following:

- 1) What else do you need from Mr. Brooks related to reducing or eliminating his assignment?;
- 2) What was the total amount paid ahead for Mr. Brooks' 2024 loan payments?;
- 3) In the most recent production of the two pdf files attaching 2021 and 2023 loan denials, does AFC contend those files represent what it would have placed in the mail to Mr. Brooks in response to his loan requests?
- 4) As a stockholder, Mr. Brooks inquires as to what financial benefit is obtained for the association by paying ahead those loans with assignments and forfeiting its interest return?

Thank you,

**Dustin J. Kittle**

**Managing Partner**

**O: (205) 358-3100**

**C: (256) 996-5822**

**E: [dustin@humble.law](mailto:dustin@humble.law)**

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**2 attachments**

 **RE: Carl Dwight Brooks / Alabama Farm Credit.eml**  
75K

 **RE: Carl Dwight Brooks / Alabama Farm Credit.eml**  
122K



**Re: Stockholder: Carl Dwight Brooks (Alabama Farm Credit)**

1 message

Dustin Kittle &lt;dustin@humble.law&gt;

Wed, Jan 17, 2024 at 9:38 AM

To: "Barab, Ron" &lt;RBARAB@sgrlaw.com&gt;

Cc: Ashley Posey &lt;ashley@humble.law&gt;, Gail Ashworth &lt;gail@watlawgroup.com&gt;, "Zegura, Daniel" &lt;dzegura@sgrlaw.com&gt;, "gaynor stjohfirm.com" &lt;gaynor@stjohfirm.com&gt;

An additional note with respect to the permissible purposes of a stockholder list pursuant to 12 CFR Section 618.8310:

For purposes of [paragraph \(b\)](#) of this section "permissible purpose" is defined to mean matters relating to the business operations of the institutions. This includes matters relating to the **effectiveness of management**, the use of institution assets, the distribution by stockholder candidates of campaign material for election to the institution board or board committees, and **the performance of directors and officers**.

In the event the secret ballot vote results in a 75% approval as to all of the stockholders, no meeting need be called and the matter is considered approved by the Association, in accordance with the By-Laws.

Dustin J. Kittle

Managing Partner

O: (205) 358-3100

C: (256) 996-5822

E: dustin@humble.law

On Wed, Jan 17, 2024 at 9:25AM Dustin Kittle <dustin@humble.law> wrote:

Mr. Barab,

I will reserve any arguments for another day but suffice to say the following with respect to our opinion on these matters: 1) The stockholder list is not compliant with the FCA's Regulations and Directives; 2) Case law precedent allows a Rule 11 Motion for Sanctions to be filed even after a voluntary dismissal; and 3) We intend to ask Judge Maze to make a determination on the stockholder meeting and vote.

Thank you,

Dustin J. Kittle

Managing Partner

O: (205) 358-3100

C: (256) 996-5822

E: dustin@humble.law

On Wed, Jan 17, 2024 at 8:57AM Barab, Ron <RBARAB@sgrlaw.com> wrote:

Mr. Kittle,

This will acknowledge receipt of your email below and of the intentions of your client Carl Dwight Brooks in regard to the civil action referenced therein, which our client Alabama Farm Credit, ACA (AFC) voluntarily dismissed without prejudice. This will also respond to your earlier email dated January 12, 2024, in regard to the stockholders list we provided in PDF format to you, as attorney for Mr. Brooks, as an attachment to my email to you dated December 29, 2023.

Although I will not address separately each point in your email below, please understand that we do not intend, by declining to address any particular point, to indicate that we agree with either the statements made or the legal or other conclusions stated therein. Rather, we simply see no reason to argue by email with the various positions you and your client are taking in regard to a lawsuit that has been dismissed.

We do, however, wish to emphasize that regardless of the number of stockholders that may have appeared, whether personally, virtually, or by proxy at AFC's offices in Cullman, Alabama, on December 29, 2023, no stockholders meeting was called for that date or place in accordance with AFC's bylaws, and AFC does not recognize that any stockholders meeting occurred on that date or that any actions purportedly taken by one or more stockholders on that date had any legal force or effect.

With regard to the stockholders list we provided by email to you, as attorney for Mr. Brooks, on December 29, 2023, please be advised that AFC prepared and provided that list in accordance with FCA regulations and applicable law and will not be providing that list to or for Mr. Brooks, in response to the request he made and authenticated, by any other means or in any other format. We also wish to remind you and Mr. Brooks of his agreement to "utilize the list exclusively for permissible purposes," which do not include for "communications relating to the enforcement of a personal claim or the redress of a personal grievance" (whether the personal claim or personal grievance belongs to Mr. Brooks or to you).

Best regards,

Ron

**Ronald E. Barab**  
Attorney at Law

p | 404-815-3573  
f | 404-685-6873  
e | RBARAB@sgrlaw.com  
1105 W. Peachtree St. NE | Suite 1000 | Atlanta, GA 30309  
www.sgrlaw.com | My Bio | vCard



**From:** Dustin Kittle <dustin@humble.law>  
**Sent:** Tuesday, January 16, 2024 11:23 AM  
**To:** Barab, Ron <RBARAB@sgrlaw.com>; Zegura, Daniel <dzegura@sgrlaw.com>; gaynor stjohnfirm.com <gaynor@stjohnfirm.com>  
**Cc:** Ashley Posey <ashley@humble.law>; Gail Ashworth <gail@watlawgroup.com>  
**Subject:** Stockholder: Carl Dwight Brooks (Alabama Farm Credit)

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Barab, Mr. Zegura, and Ms. St. John,

As you are aware, my law firm represents Carl Dwight Brooks ("Mr. Brooks"), who is a current voting stockholder of Alabama Farm Credit ("AFC"). Mr. Brooks has reviewed the Notice of Voluntary Dismissal that was filed in the United States District Court for the Northern District of Alabama in Alabama Farm Credit v. Dustin Kittle (Civ. Action No. 5:23-CV-01739-CLM). Based upon his review of that filing, Mr. Brooks seeks to either have the record corrected in that matter, or he intends to intervene in order to set aside the Dismissal. As grounds therefore, Mr. Brooks states as follows:

- 1) On January 2, 2024, AFC filed a Notice of Voluntary Dismissal, which states: "AFC reports to the Court that Kittle did not attend the meeting he had purported to call for December 29, 2023, nor did he advise AFC, its stockholders, or the public that he would not attend the meeting, or that he was calling off his meeting."
- 2) Mr. Brooks can and will attest that AFC's representation to the Court in its January 2, 2024 Notice of Voluntary Dismissal is patently false.
- 3) As AFC's Officers and Directors are aware, Mr. Brooks was present at the AFC Headquarters in Cullman, Alabama on Friday, December 29, 2023; given that, on that same date, Mr. Brooks notified AFC's CEO Mel Koller, in person, that he was the signatory on the prior requests for the record list of stockholders.
- 4) Mr. Brooks was accompanied by his wife, a witness, and also present was Humble Law, LLC's Senior Paralegal Emily Jo Davis, who connected Mr. Brooks and Mr. Kittle, who appeared remotely / virtually in full accordance with FCA Regulations and Directives.
- 5) On Friday, December 29, 2023, Mr. Brooks called the Stockholders' Meeting to order and awaited AFC's production of the record list of stockholders so that a quorum could properly be verified.
- 6) The Stockholders' Meeting still remains open currently, as AFC has not produced a compliant record list of stockholders.
- 7) In addition to Mr. Brooks' presence at the Stockholders' Meeting and his calling the meeting to order, additional AFC stockholders appeared by proxy and await the secret ballot vote to be taken, in accordance with AFC's By-Laws and FCA Regulations.

8) In the event that a resolution is not reached in the above-referenced matter between Dustin Kittle and AFC, Mr. Brooks intends to file his Motion to Intervene on Thursday, January 18, 2024.

9) Given that a compliant record list of stockholders has not been produced, Mr. Brooks will ask the Court to certify the secret ballot votes through the list which AFC has provided and/or to determine that the "unclean hands" of AFC's Officers and Directors bars them from seeking protection from any such prejudice in certifying the vote.

10) Mr. Brooks and the members through appearance by proxy (in accordance with the list provided by AFC) will seek the Court to enter an Order confirming a majority vote as to the following: 1) That, in the advisory vote, the member-stockholders advise AFC to restrict future increases in the total compensation of AFC's Senior Management and Board of Directors to no more than the same percentage of increase to the patronage dividend return for members in the corresponding year (i.e., if the patronage dividend return is not increased, then Senior Management and Director compensation is not increased); and 2) That, by individual votes taken, the Board of Directors be removed from serving in said capacity.

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As you recall, in his Opinion on AFC's Motion for Injunction, Judge Maze confirmed that the more than 15% increase in total compensation to AFC's Senior Management triggered a stockholders' advisory vote. Judge Maze then accurately stated that, at that time (and not even yet addressing, for these purposes, the petition of stockholders), no evidence had been presented to justify why the stockholders' meeting would need to be held on December 29, 2023 and stating that no evidence had been presented suggesting that additional business other than the advisory vote could be taken up by the stockholders at that meeting.

To address those points more fully, in the FCA's prior guidance on advisory votes for senior management compensation, it states that, while advisory votes were initially contemplated to occur at Annual Meetings, they must occur within the 12-month fiscal period, leaving, upon information and belief, December 29, 2023 (the last business day of the fiscal period at issue) for the advisory vote to be taken. Moreover, it is apparent in reviewing AFC's recent annual reports that, on at least one other occasion, an advisory vote was triggered in a prior year and, upon information and belief, was never taken. With respect to the secondary point on taking up other business, the FCA regulations and the By-Laws contemplate that the advisory vote may be taken through a stockholders' meeting and there are no procedural limitations to the stockholders, thereafter, taking on new business, such as the removal of the Board of Directors.

When it comes to the vote, AFC will be hard-pressed to deny that any prejudice to the Directors removed from their positions would have been caused by their own failure to address Mr. Brooks' initial request in calling for the meeting and in calling for the record stockholder list. As was made clear in the December 1, 2023 letter to Mr. Koller and Mr. Christjohn, the FCA process, particularly in the removal of Directors, must be conducted by secret ballot, so there is no risk that the stockholders could be retaliated against in the future. Given that AFC refused to even address that the December 1, 2023 letter may be legitimate, it is further evidence that these Officers and Directors have been derelict in the performance of their duties.

The bottom line is this: We believe Judge Maze will be receptive to the points made above in certifying the vote to remove the Directors. With that said, even if the vote is disallowed, we will have been effective in bringing the matter to the attention of all of the stockholders so that a future vote can be properly noticed and held -- and we believe Judge Maze will maintain jurisdiction in order to ensure that the stockholders' rights are not infringed upon. As well all know, these stockholders are frustrated by the significant increases in pay to the CEO and Senior Management by, in some cases hundreds of thousands of dollars, when, on average, the patronage return to the stockholders since Mr. Koller accepted the CEO position in 2018 has been a paltry \$400 increase over that same time period.

Judge Maze allowing the stockholders the right to vote (with AFC then given the right to challenge after-the-fact) provides the 200+ stockholders we represent with a voice in AFC's future operations; and even if their initial vote is challenged by AFC, the figurative jig will be up in that all of the other stockholders will then know that these Directors can be voted out, even if another vote has to be taken to accomplish same.

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# 2023 Annual Report



**ALABAMA  
FARM  
CREDIT**

<u>Director</u>	<u>Board Meetings</u>	<u>Other Official Activities</u>	<u>2023 Total Compensation</u>
Matthew J. Christjohn, DVM	9	9	\$ 38,275
J. Stewart McGill	9	12	41,536
Elizabeth Spruell	9	9	37,123
Danny Baugh	9	7	31,996
Rickey Cornutt	9	8	33,517
John R. Adams, CPA	9	6	31,922
Hugh C. Harris	9	10	37,883
David Daily	9	10	36,380
			<u>\$ 288,632</u>

The aggregate compensation paid to directors in 2023, 2022 and 2021 was \$288,632, \$283,600, and \$261,450, respectively. Additionally, no director received noncash compensation exceeding \$5,000 in 2023, 2022, and 2021.

Additional detail regarding director compensation paid for committee service (which is included in the table above) is as follows for 2023:

<u>Director</u>	<u>Committee</u>	
	<u>Audit</u>	<u>Compensation</u>
Matthew J. Christjohn, DVM	\$ 2,400	\$ -
Liz Rhodes	2,580	-
J. Stewart McGill	2,580	-
Danny Baugh	-	1,350
Rickey Cornutt	-	1,350
John R. Adams, CPA	3,280	-
Hugh C. Harris	-	1,700
David Daily	-	1,350
	<u>\$ 10,840</u>	<u>\$ 5,750</u>

The aggregate amount of reimbursement for travel, subsistence and other related expenses paid to directors and on their behalf was \$107,098, \$115,907, and \$144,263 in 2023, 2022 and 2021, respectively.

## COMPENSATION OF SENIOR OFFICERS

Information regarding senior officer compensation is included in the Annual Meeting Information Statement (AMIS). The AMIS is available for public inspection at the association offices pursuant to §620.2(b).

## TRANSACTIONS WITH DIRECTORS AND SENIOR OFFICERS

The Association's policies on loans to and transactions with its officers and directors, required to be disclosed in this section, are incorporated herein by reference from Note 12 to the consolidated financial statements, "Related Party Transactions," included in this annual report.

## **DIRECTORS' AND SENIOR OFFICERS' INVOLVEMENT IN CERTAIN LEGAL PROCEEDINGS**

During the past five years, none of the Association's officers or directors have been involved in legal proceedings that are material to an evaluation of the ability or integrity of any person who served as a director or senior officer.

## **RELATIONSHIP WITH INDEPENDENT AUDITOR**

The Association's audit committee engaged the independent accounting firm of PricewaterhouseCoopers, LLC (PwC) to perform the annual audit of the Association's financial statements included in this annual report. The total fees paid per the 2023 audit engagement letter for professional services rendered for the Association by PwC were \$123,214.

## **RELATIONSHIP WITH UNINCORPORATED BUSINESS ENTITIES**

The Association had no relationships with unincorporated business entities at December 31, 2023.

## **FINANCIAL STATEMENTS**

The financial statements, together with the report thereon of PricewaterhouseCoopers, LLC dated March 8, 2024, and the report of management in this annual report to stockholders, are incorporated herein by reference.

## **MEMBER/SHAREHOLDER PRIVACY**

Members' nonpublic personal financial information is protected by Farm Credit Administration regulation. Our directors and employees are restricted from disclosing information not normally contained in published reports or press releases about the Association or its members.

This content is from the eCFR and is authoritative but unofficial.

**Title 12 – Banks and Banking**  
**Chapter VI – Farm Credit Administration**  
**Subchapter B – Farm Credit System**  
**Part 620 – Disclosure to Shareholders**  
**Subpart B – Annual Report to Shareholders**

**Authority:** Secs. 4.3, 4.3A, 4.19, 5.9, 5.17, 5.19 of the Farm Credit Act (12 U.S.C. 2154, 2154a, 2207, 2243, 2252, 2254); sec. 424, Pub. L. 100–233, 101 Stat. 1568, 1656 (12 U.S.C. 2252 note); sec. 514, Pub. L. 102–552, 106 Stat. 4102, 4134.

**§ 620.6 Disclosures in the annual report to shareholders relating to directors and senior officers.**

(a) **General.**

- (1) List the names of all directors and senior officers of the institution, indicating the position title and term of office of each director, and the position, title, and date each senior officer commenced employment in his or her current position.
- (2) Briefly describe the business experience during the past 5 years of each director and senior officer, including each person's principal occupation and employment during the past 5 years.
- (3) For each director and senior officer, list any other business interest where the director or senior officer serves on the board of directors or as a senior officer. Name the position held and state the principal business in which the business is engaged.

(b) **Compensation of directors.** Describe the arrangements under which directors of the institution are compensated for all services as a director (including total cash compensation and noncash compensation). Noncash compensation with an annual aggregate value of less than \$5,000 does not have to be reported. State the total cash and reportable noncash compensation paid to all directors as a group during the last fiscal year. For the purposes of this paragraph, disclosure of compensation paid to and days served by directors applies to any director who served in that capacity at any time during the reporting period. If applicable, describe any exceptional circumstances justifying the additional director compensation as authorized by § 611.400(c) of this chapter. For each director, state:

- (1) The number of days served at board meetings;
- (2) The total number of days served in other official activities, including any board committee(s);
- (3) Any additional compensation paid for service on a board committee, naming the committee; and
- (4) The total cash and noncash compensation paid to each director during the last fiscal year. Reportable compensation includes cash and the value of noncash items provided by a third party to a director for services rendered by the director on behalf of the reporting Farm Credit institution. Noncash compensation with an annual aggregate value of less than \$5,000 does not have to be reported.

(c) **Compensation of senior officers.** Disclose the information on senior officer compensation and compensation plans as required by this paragraph. The institution must disclose the total amount of compensation paid to senior officers in substantially the same manner as the tabular form specified in the Summary Compensation Table (Compensation Table), located in paragraph (c)(3) of this section.

- (1) For each of the last 3 completed fiscal years, report the total amount of compensation paid and the amount of each component of compensation paid to the institution's chief executive officer (CEO), naming the individual. If more than one person served in the capacity of CEO during any given fiscal year, individual compensation disclosures must be provided for each CEO.
- (2) For each of the last 3 completed fiscal years, report the aggregate amount of compensation paid, and the components of compensation paid, to all senior officers as a group, stating the number of officers in the group without naming them.
  - (i) If applicable, when any employee who is not a senior officer has annual compensation at a level that is among the five highest paid by the institution during the reporting period, include the highly compensated employee(s) in the aggregate number and amount of compensation reported in the Compensation Table. However, exclude any such employee from the Compensation Table if the employee would be considered highly compensated solely because of payments related to or change(s) in value of the employee's qualified pension plan provided that the plan was available to all similarly situated employees on the same basis at the time the employee joined the plan.
  - (ii) The report containing the aggregate compensation disclosure must include a statement that disclosure of information on the total compensation paid during the last fiscal year to any senior officer, or to any other employee included in the aggregate, is available and will be disclosed to shareholders of the institution and shareholders of related associations (if applicable) upon request. This statement must be located directly beneath the Compensation Table.
- (3) The institution must complete the Compensation Table, or something substantially similar, according to the following instructions:

**Summary Compensation Table**

<b>Annual</b>						
<b>Name of individual or number in group</b>	<b>Year</b>	<b>Salary</b>	<b>Bonus</b>	<b>Deferred/ perquisite</b>	<b>Other</b>	<b>Total</b>
(a)	(b)	(c)	(d)	(e)	(f)	(g)
CEO	20XX	\$	\$	\$	\$	\$
	20XX					
	20XX					
<i>Aggregate No. of Senior Officers (&amp; other highly compensated employees, if applicable):</i>						
(X)	20XX					
(X)	20XX					
(X)	20XX					

- (i) Amounts shown as "Salary" (column (c)) and "Bonus" (column (d)) must reflect the dollar value of salary and bonus earned by the senior officer during the fiscal year. Amounts contributed during the fiscal year by the senior officer pursuant to a plan established under section 401(k) of the Internal Revenue Code, or similar plan, must be included in the salary column or bonus



# Exhibit I

<  **Scott Pitt**  
2h · 

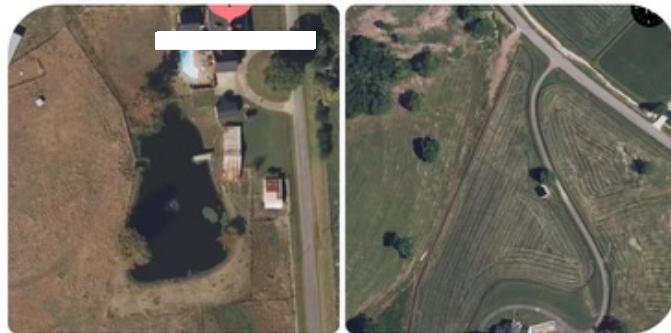



You are the only one that can stop this snowball from continuing to roll faster, further, and grow larger. Do what's right by your family and end this for them. You are the only one who can. I can promise if you hit back, they will render you unconscious. Because that's what's in the best interest for a growing association with at least 4 oversight entities.

<   **Scott Pitt**  
Active 4h ago



FEB 25 AT 4:11 AM



 You just let me know at which farm we need to meet.