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Frost Brown Todd Obtains Gross Judgment in Excess of \$128 million

Client: Burley Tobacco Growers Cooperative Association

Date: 11/8/10 Plaintiffs filed a Motion for Entry of Final Judgment Ordering Distributions of Funds on June 16, 2011 and for the Amendment and Extension of the Court's Rulings of November 4, 2010

Matter number: 0516720

Case citation: 2003:CI-00923

Monetary value: Excess of \$128 Million

Jury trial: None

James Wade, et al. v. Burley Tobacco Growers Cooperative Association ("BTGCA")

In 2003, FBT lawyers Lambert Farmer and Paul Sullivan (along with co-counsel) filed suit in Fayette County, Kentucky on behalf of eight members of the Burley Tobacco Growers Cooperative Association (BTGCA). The BTGCA is a non-profit, tobacco marketing cooperative located in Lexington that for over 80 years administered the federal burley tobacco price support system for farmers in Kentucky, Indiana, Ohio, Missouri and West Virginia. In an unprecedented lawsuit believed to be the first of its kind in the nation, FBT's clients alleged the BTGCA had withheld over \$100 million due and owing to its members.

Outcome

After nearly five years of hard-fought litigation involving novel theories of recovery and very little, if any, legal precedent, FBT lawyers obtained a gross judgment in excess of \$128 million. FBT successfully argued that the court should establish a common fund for the benefit of approximately 198,000 BTGCA members, and that FBT's clients who filed the suit should receive incentive payments for their active and extensive participation in the litigation.

The gross judgment ranks among the largest verdicts ever obtained in the history of Kentucky. Under the terms of a settlement agreement reached between FBT's clients and the BTGCA, the judgment will not be appealed. Frost Brown Todd is still in the process of trying to collect a tax refund from the IRS in the approximate amount of \$38 million which is what the BTGCA paid when it sold the tobacco in 2006 for approximately \$128,000,000. This was the amount of the judgment. The BTGCA claimed it had ownership which the Court eventually ruled that FBT's clients were the owners in 2007. Marty Mooney and Lambert Farmer are presently dealing with the IRS regarding the refund. The members of BTGCA received their initial settlement distribution in 2008 and will receive another distribution once we receive the tax refund. Also, FBT is still working on similar cases in North Carolina and Tennessee.

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