

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

RONALD ROBBINS,)
14471 County Route 145)
Sackets Harbor, NY 13685)
And)
JAMES CZUB)
141 Verbeck Avenue)
Schaghticoke, NY 12154)
Plaintiffs)
))
v.)
))
NEW YORK CORN & SOYBEAN)
GROWERS ASSOCIATION, INC.)
PO Box 653)
Canandaigua, NY 14424)
Defendant)

DOCKET NO.: 7:15-CV-973 (GLS/ATB)

COMPLAINT FOR DECLARATORY RELIEF

This is an action for declaratory relief and to permanently enjoin violations of the Soybean Promotion, Research and Consumer Information Act (7 U.S.C §6301) by the Defendant New York Corn and Soybean Growers Association, Inc. (NYCSGA). These statutes govern the national "Soybean Checkoff," which generates tens of millions of dollars from soybean producers annually to be used for the promotion of soybeans. Because the NYCSGA receives soybean checkoff monies, it is subject to the Federal Freedom of Information Act. Further, the Defendant must follow

its own by-laws which it has failed to do regarding the election of directors.

For this reason, Plaintiffs respectfully ask the Court to permanently enjoin Defendant from not following Defendant's by-laws, in failing to properly elect directors, failing to provide proper noticed board meetings and failing to respond to FOIA requests.

PARTIES

1. Plaintiff Ronald Robbins, a U.S. Citizen and resident of 14471 County Route 145, Sackets Harbor, New York 13685, is an individual who has farmed since 1980 and grows corn and soybeans on his family's 7,000 acre farm near Watertown, New York. As a New York grain farmer, he has paid the Soybean Checkoffs since it became required under the Act and continues to pay the assessments mandated by the Act. He is a member of NYCSGA and past director and vice-president.
2. Plaintiff James Czub, a U.S. Citizen and resident of 141 Verbeck Avenue, Schaghticoke, New York 12154, is an individual who farms and grows corn and soybeans on 2,100 acres of land in New York. As a New York grain farmer, he has paid the Soybean Checkoffs since it became

required under the Act and continues to pay the assessments mandated by the Act. He is a member of NYCSGA.

3. Defendant NYCSGA is a non-profit corporation authorized and created pursuant to the Soybean Act, 7 U.S.C. §6301, with offices located at PO Box 653, Canandaigua, New York 14424. The Organization claims to act in the interest of corn and soybean farmers in the State of New York.

JURISDICTION

4. This Court has jurisdiction pursuant to 28 U.S.C §§ 1331 and 1361, 7 U.S.C §6301, 5 U.S.C. §702 and 5 U.S.C. 552(4)(B) (FOIA).
5. Venue is proper in this judicial district under 28 U.S.C. §1391(e). Defendant resides in this district, and a substantial part of the events or omissions giving rise to this action occurred in this district.

ASSOCIATION BY-LAWS

6. The Association By-Laws were enacted on December 20, 2013.
7. Specific sections address matters relevant to this case including Article VI.

8. At Section I of Article VI, it states there shall be an annual meeting and the purpose of the annual meeting shall be "for the purpose of electing directors and for the transaction of such other business as may come before the meeting."
9. Article VII provides that for the Board of Directors, notice of any special meeting shall be given at least five (5) days previous to the meeting by written notice delivered to the Directors. All board meetings must be publicly announced as well.
10. Article VII also provides that a majority of the Board of Directors shall constitute a quorum.
11. The con-current By-Laws also provide at Section 3 that no director may hold the same office for more than three terms.

STATUTORY AND REGULATORY STRUCTURE

12. The Soybean Promotion, Research and Consumer Information Act, 7 U.S.C. §§6301, et seq., is intended to strengthen the soybean industry's position in the marketplace through a coordinated program of promotion and research.
13. The Soybean Checkoffs are funded by mandatory producer contributions known as "Checkoffs." Currently, there are

eighteen other producer-funded promotion and research "checkoff" programs for various agricultural commodities, such as pork and beef, similar in many of their functional respects to the Soybean Checkoffs. There has been extensive litigation over the checkoff programs.

14. The Freedom of Information Act (FOIA) requires agencies of the government, upon request, to "promptly" make records available to the public. 5 U.S.C. §552(a)(3)(A); 5 U.S.C. §552(a)(6)(C)(i).
15. Upon receiving a FOIA request, an agency has twenty (20) working days to respond to the request. 5 U.S.C. §552(a)(6)(A)(i). A requestor may file an administrative appeal of an agency's failure to disclose requested records. *Id.* At §552(a)(6)(A)(ii).
16. An agency must make a determination on any such appeal within twenty (20) working days. *Id.* However, a requestor is deemed to have exhausted its administrative remedies, and may seek immediate judicial review of the matter, if the agency fails to comply with either of these time limits. *Id.* at §552(a)(6)(C).

BACKGROUND FACTS

17. Despite the requirement of an annual meeting to elect directors, the Board of Directors of NYCSGA failed to do so and instead appoints directors.
18. The President of the Board has served for more than three terms and must be disqualified. Such term exceeds the term limits of the By-Laws. The President is Steven Van Voorhis.
19. Ronald Robbins is former Vice-President of the organization and was a founder of the original organization. He resigned from the Board in December, 2014 at the request of the United Soybean Boards (USB) for concerns over conflicts of interests.
20. Ronald Robbbin's daughter, Julia Robbins, was the Executive Director of the organization. USB raised concerns because Ronald Robbins was on the Board and Julia was the Executive Director.
21. The USB and the NYCSGA had a dispute about interpretation and how money was to be spent. The concerns about conflicts of interest were not raised by USB until after the dispute.
22. Julia Robbins was the Executive Director and disagreed with the National Organization on an issue as directed by the New York Board of Directors.

23. On February 5, 2015, there was a special Board meeting. Not all Board members were given notice of this meeting in clear violation of the bylaws' quorum provision. At the February 5, 2015 meeting, Julia Robbins was terminated.
24. At the termination meeting, six out of eleven Board members voted to terminate. However, some of the Board members did not know about the February 5, 2015 meeting and some Board members had resigned even before the meeting had occurred so there was less than a quorum of eleven Board members.
25. There was a meeting on February 23, 2015, again without proper notices, in which Julia Roberts was informed of her termination.
26. On March 13, 2015, a Freedom of Information request was made to the Association. The Association refused to provide the requested information claiming that the Federal Freedom of Information Act (FOIA) does not apply to them.
27. Because the Defendant receives funding from the U.S. Soybean Check-off Program, it is subject to FOIA as a federal agency. There is extensive case law holding that the recipients of the check-off programs and the organizations running them are subject to FOIA.

FOIA REQUESTS

28. Plaintiffs made FOIA requests of the Defendant which Defendant has specifically refused to provide claiming it is not subject to FOIA.
29. Extensive federal litigation establishes that the Defendant, as a checkoff organization, is absolutely subject to FOIA.
30. Plaintiffs made the following FOIA requests on March 13, 2015:
- i) All emails and correspondence from the United Soybean Board from January 1, 2014 to the present;
 - ii) All minutes of all board meetings from January 1, 2014 to the present;
 - iii) All emails or other communications regarding Julia Robbins from January 1, 2014 to the present; and,
 - iv) All notices sent to Board Members regarding the board meeting of February 23, 2015.

COUNT I

PERMANENT INJUNCTION - FOIA

31. Plaintiffs reiterate and incorporate by reference the above paragraphs.

32. Plaintiffs have paid and continue to pay the Soybean Checkoff.
33. Defendant is considered a federal agency because it receives federal check off money and is therefore subject to FOIA.
34. FOIA expressly requires the use of Soybean Checkoff funds for the purpose of properly administering the organization by-laws and FOIA requests.
35. Defendant must provide all of the FOIA requests immediately as well as all further requests.

COUNT II

PERMANENT INJUNCTION - ELECTIONS

36. Plaintiffs reiterate and incorporate by reference the above paragraphs.
37. Defendant must comply with its By-Laws and elect directors.
38. Defendant has violated the by-laws and instead appoints fellow directors. This is a violation of the by-laws as it is required that all board members are to be elected.
39. All Board Members previously appointed must be removed and new members elected.

COUNT III

PERMENANT INJUNCTION - TERM LIMITS

40. Plaintiffs reiterate and incorporate by reference the above paragraphs.

41. The current President has exceeded his term limit and must be removed.

COUNT IV

PERMENANT INJUNCTION - BOARD ACTIONS

42. Plaintiffs reiterate and incorporate by reference the above paragraphs.

43. The current Board is improperly appointed as there have been no elections. Therefore, all actions taken by the Board in 2015 must be declared invalid.

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully asks the Court to enter an Order:

- A. immediately suspending all actions of the NYCSGA until a board is properly elected;
- B. requiring that NYCSGA respond to the FOIA request immediately;
- C. that the President be removed;

D. awarding Plaintiffs attorney's fees; and,
E. granting such other relief as the Court deems just
and equitable.

RESPECTFULLY SUBMITTED
Plaintiffs
By their Attorneys,
Cullenberg & Tensen, PLLC

Date: August 10, 2015

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