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September 18, 2008

Mr. Jay Vogelsson, Esquire
Stutzman, Bromberg, Esserman & Plifka
2323 Bryan Street
Suite 2200
Dallas, Texas 75202

Re: Cause Number 92,765-B Smart Little Lena Syndicate v. Bill Freeman, et al.

Dear Mr. Vogelsson:

At your request I provide my opinion of the Expert Report and Supplemental report prepared by Mr. Dan Jackson, Alix Partners. I have also made inquiries and requested certain documents to evaluate the sales, breeding and the fiduciary duties of the co-manager Mr. Hanes Chatham, stallion manager / co-manager Mr. Tommy Manion and certain shareholders. To date documents requested from Mr. Manion have not been produced. Accordingly, I have not been able to complete my analysis. I reserve the right to amend this report upon the receipt of this information and other reports that may be provided by other experts.

I. BACKGROUND

I was retained to evaluate and assess the findings of the Daniel Jackson expert report and supplemental report which concludes that Mr. Freeman, in his capacity as Co-Manager of the Smart Little Lena Syndicate (the Syndicate) used at least \$223,759 of Syndicate funds for his personal benefit. Mr. Jackson also concludes that at least \$1,414 in the Syndicate funds could not be accounted for as it relates to phone expenses.

Please refer to Attachment A for the documents that have been provided to me and considered in the formation of my opinions

II. OPINIONS

Based upon my analysis of Mr. Jackson's report and the documentation provided to me to date, I find no proof of misconduct on the part of Mr. Bill Freeman in his role as co-manager of the Syndicate as charged by Mr. Chatham. The report prepared by Mr. Jackson did not consider all the documents available in this matter as indicated in his deposition. I have addressed the alleged misconduct and personal benefit Mr. Jackson states Mr. Freeman gained in his role as

Co-Manager of the Syndicate and conclude that Mr. Freeman did not use Syndicate funds for his own personal benefit.

My findings are in contradiction to the defamatory remarks made by Mr. Hanes Chatham, Mr. Tommy Manion and some individual shareholders of the Syndicate including those mentioned in the Mr. Bill Freeman and BFI amended counter claim. I performed additional audit steps, interviews and research to address the findings of the Jackson and Hinkley Spitzer reports. Based upon my findings I conclude and present with this report, documentation that confirms that Mr. Freeman did not use Syndicate funds for his own personal benefit.

It is my understanding that there are additional claims against Mr. Hanes Chatham, Mr. Tommy Manion regarding their fiduciary duties. To date I have not been provided the information needed to determine the extent of the claims as asserted by Mr. Bill Freeman, Mrs. Jill Freeman and BFI. It is my understanding that this information has been requested but has not yet been submitted. Upon receipt of this information and updated reports authored by other experts hired in this matter, I will revise my report.

I reserve the right to amend this report upon the receipt of additional information.

III. QUALIFICATIONS

I am a Certified Public Accountant specializing in forensic accounting services. My Curriculum Vitae was previously produced. My opinions are based upon my experience and training as a Certified Public Accountant.

IV. PUBLICATIONS

No publications have been authored within the past ten years.

V. ANALYSIS

I have addressed the allegations made by Mr. Jackson in the same order as they exist in his expert and supplemental reports. I have separated my findings and provide the exhibits after each category for ease of the reader to examine the documentation that supports my findings, which is based upon the facts and information I obtained during my analysis. My analysis does not constitute an examination or audit of any financial statements or data in accordance with generally accepted auditing standards. Accordingly, I am not issuing any opinions based upon an audit or examination of any financial statements in accordance with generally accepted auditing standards.

Payment of BFI Wages from Syndicate Funds and Overpayment of Syndicate Secretary Salaries

Payroll expenses paid to Penny Wilson and Jill Freeman for services rendered to the Syndicate have been challenged by Mr. Jackson as overpayments of the Syndicate secretary salaries. Mr. Jackson uses the 1983 salary paid to Karen Freeman, past secretary of the Syndicate, of \$1,000 per month as the basis of salary that should have been paid to all secretaries employed by the Syndicate subsequent to her termination on June 22, 1999 (Refer to Exhibit Payroll 1 - Hayne Chatham Affidavit July 8, 1999). During my conversations with Mr. Bill Freeman regarding the duties performed by Karen Freeman he explained to me that he used employees from BFI to assist in the day to day operations of the Syndicate as Karen Freeman did not perform all the duties needed by the Syndicate. I was provided with samples of the documents Ms. Sherri Jo Brown prepared on behalf of the Syndicate in 1984 while she was an employee / subcontractor to BFI. During my meeting with Sherri Jo Brown she confirmed that she prepared the financial statements and tax information for the Syndicate and that she performed substantial work for the Syndicate while she was employed and paid by BFI (Exhibit Payroll 2). Sherri Jo Brown also stated that other employees (Diane Russell) of BFI performed services on behalf of the Syndicate and were paid from BFI funds. The duties included accounting, billing, answering the phones, manning the Syndicate booths at horse shows and paying operating expenses. Accordingly, the salary paid to Karen Freeman of \$1,000 was not inclusive of all the duties performed by other employees of BFI in the duty of secretary for the Syndicate. The Syndicate received the benefit of using BFI employees, and BFI did not receive reimbursement for the use of those employees while Karen Freeman was secretary. The appropriate salary that should be considered for the work performed for the Syndicate as secretary should include the \$1,000 paid to Karen Freeman and the value of the work performed by other BFI employees who concurrently performed functions on behalf of the Syndicate.

Following the termination of Karen Freeman and according to the letter to the Syndicate Members (Exhibit Payroll 3 - Bill Freeman letter to Syndicate Members), Simon, Warner & Doby, L.L.P. (SWD) coordinated with the bank used by the Syndicate so that all future bank statements would flow through the law firm and that all withdrawals from the Syndicate accounts must be authorized in writing by either Mr. Chatham or Mr. Freeman (Exhibit Payroll 4). SWD was also reviewing certain historical transactions involving the Syndicate bank accounts to determine that such transactions were made in accordance with the Syndicate Agreement. As evidenced by the address of the bank statements, SWD received the Syndicate Bank Statements for the months of June, July, August and September 1999 (Previously produced bank statements numbers FR-AM 1999 through 2035 & FR-AM 1841 through 1862). Upon the removal of Karen Freeman as Secretary of the Syndicate by Hanes Chatham and while SWD was receiving the bank statements, Sherri Jo Brown and Penny Wilson acted as the Syndicate secretary, as evidenced by a letter from SWD to the bank dated October 13, 1999 (Exhibit Payroll 4). Signature cards for the Syndicate dated November 12, 1999 show that both Sherri Jo Brown and Penny Wilson were listed as secretary (Exhibit Payroll 5.) Sherri Jo Brown and Penny Wilson provided secretarial services to the Syndicate concurrently in August 1999 and were paid \$1,700 and \$1,000 respectively (Exhibit Payroll 6 and 7 check numbers 1947 and 1952).

Based upon Penny Wilson's Sworn Statement- Exhibit A, her BFI salary was paid bi-monthly in the amount of \$889 or net of taxes of \$744. The last entry in the third quarter of 1999 is July 31, 1999, although two entries are crossed out for August 15 and 31, 1999 and no evidence of subsequent payment has been located for payment from BFI in 1999 (Exhibit Payroll 8). On Exhibit B of Penny Wilson's Sworn Statement (Exhibit Payroll 9) Penny Wilson records her salary for services rendered on behalf of the Syndicate. The first entry is recorded as July 1999 in the amount of \$1,000 with a net amount of \$919.50. The first check received by Penny Wilson from the Syndicate of \$1,839 (check 1947 dated 8/31/99). This amount would be for the recorded amounts for services rendered in July and August 1999 of \$1,000 each. Payments recorded subsequent to Penny Wilson are for \$1,504 gross or \$1,236 net (Exhibit Payroll 10). On October 7, 1999 Bill Freeman sent a letter to Hanes Chatham stating that Penny Wilson has agreed to take the position of the Syndicate secretary at \$3,000 per month (Exhibit Payroll 11). The letter further states that Sherri Jo Brown is assisting during the transition, but is not interested in a full time position at this time. The amounts paid to Penny Wilson and Sherri Jo Brown in August 1999 of \$1,000 and \$1,700 respectively were added together to determine the rate of pay offered originally by Bill Freeman to Sherri Jo Brown of \$3,000. This was confirmed in my conversation with Sherri Jo Brown. The total amount of \$2,700 was rounded up to \$3,000, as indicated to Hanes Chatham in the Freeman letter. Hanes Chatham was aware of the amount to be paid to Penny Wilson and had the authority to veto the salary payments, but did not.

Penny Wilson's role as an employee of BFI was significantly reduced beginning in August 1999 as the following new hires were added in the third quarter; Amber Simon, Casey Watts, Sy Bellamy and Merritt Wilson (Payroll Exhibit 12). These employees along with Sherri Jo Brown shared the duties previously performed by Penny Wilson and others which included the tending to animals, ranch duties, office duties, billing, loping and paying bills. The overall payroll expenses of BFI did not decrease as a result of Penny Wilson taking the position with the Syndicate due to the addition of new hires. Bill Freeman told me that he no longer had Penny Wilson for loping as he wanted lighter riders on his horses. This is further evidence that Penny Wilson's duties at BFI were being diminished prior to accepting the position with the Syndicate. Penny Wilson also was allowed to continue boarding her horses and horses owned by family members at BFI. This is a form of compensation that she earned for the work she performed at BFI (Exhibit Payroll 13).

In May 1999 Sherri Jo Brown took over the billing for BFI which was previously performed by Penny Wilson. This is evidenced by the handwriting in the ledger changing in April 1999 and confirmed by Sherri Jo Brown during my conversations with her (Exhibit Payroll 14). In 1999 BFI installed computers to lessen the amount of record keeping including but not limited to billings, check writing and reconciling the bank accounts. The installation of the computerized record keeping reduced the amount of time to complete the tasks previously performed by employees by hand.

Based upon the above facts it is my opinion and documented by the records attached to this report that Penny Wilson and Jill Freeman were not overpaid and the amounts paid to the Syndicate secretaries did not result in any benefit to BFI or Bill Freeman.

Misuse of Linda Werner Funds

The original contract of Linda Werner began with breeding contract 276, in which BFI sold contract 276 to Linda Kenney in 2002 for \$16,500 (Exhibit Werner 1), Linda Kenney wanted a refund, which BFI obliged her with check number 1034 dated April 23, 2002 for \$16,500 (Exhibit Werner 2). Contract 276 was marked void after the sale was cancelled. This contract (276) was not used in 2002 and was reissued in 2002 as rebreed contract 402 for the 2003 breeding season (Exhibit Werner 3). Contract 402 was prepared on August 8, 2002 right after receiving the July 2002 checks for \$12,000, two checks \$11,000 and \$1,000 (Exhibit Werner 4 and 5, respectively). This contract (402) contained the identification that it was a rebreed for contract #276 and sold to Linda Werner. In mid December 2002 the 2003 stallion service contracts were modified, as changes were made to paragraphs One and Four. BFI was going to give the \$12,000 to the Syndicate since they needed money and prepared contract 476 (Exhibit Werner 6) so that the money could be given to the Syndicate as Special Allocation Rebreed (SA). Before receiving the contract back from Linda Werner and unbeknownst to Jill Freeman, Bill Freeman was able to sell three Special Allocated Rebreed contracts (SA); Sycamore Farms, Bradford and Chambliss for \$13,500 each. These Special Allocated Rebreed contracts were deposited into the Syndicate funds (Exhibit Werner 7).

BFI could have given the \$12,000 to the Syndicate and then sold the rebreed to one of the three purchases of the special allocated rebreeds of \$13,500. Instead, upon receiving the original contract sold to Linda Werner, which was BFI's all along, contract 476 was changed to an original rebreed contract (RB) instead of a special allocated rebreed (SA). The Syndicate received the full \$13,500 for each of the three allocated rebreeds in 2003 and BFI retained the lower amount of \$12,000. I obtained Robin Levison's final conception report for 2003 that confirms that contract 476 was changed to a rebreed (R) and not a special allocated rebreed (SA) (Exhibit Werner 8 - Levison Exhibit 96). Also attached is Robin Levison's Exhibit 94 (Exhibit Werner 9) which contains a voided contract 476 and indicates that this contract was initially considered a Special Allocation. Levison Exhibits 96, 97 and 98 all state that she recorded contract 476 as a rebreed and not a Special Allocation. Accordingly, this contract was properly handled by BFI, Jill Freeman and Bill Freeman. The funds received totaling \$12,000 belonged to BFI. The above listed information was also contained in correspondence between Mr. Jay Vogelsson and Mr. Charles Arnold dated February 7, 2007.

Unauthorized Shareholder Breeding Contracts

Mr. Jackson says that Bill Freeman used either two or three unauthorized contracts in 2002 at a value of \$15,000 each. Mr. Jackson says that Bill Freeman was only entitled to nine (9) contracts but received twelve (12) contracts. In 2002 Bill Freeman received the nine contracts to which he was entitled. He also purchased or received two other contracts, which would bring the total number of 2002 contracts to 11. One contract was purchased by Bill Freeman from James Bankston and the other was owned by Jack Waggoner and used by Bill Freeman with Jack Waggoner's consent.

In order to illustrate the transactions one would need to start with contract number 325 which is shown as a blank (no number applied, but 325 was the next number in sequence) on the Hinkley Spitzer report 2002 workpapers (Exhibit USBC 1). Contract 325 was owned by Jack Waggoner and was reissued as contract 385. Jack Waggoner gave his consent to Bill Freeman to use his 2002 breeding contract. This consent is evidenced by the attached letter that shows Mr. Waggoner gave his consent to Bill Freeman (Exhibit USBC 2). This was also confirmed by Hinkley Spitzer in their workpapers dated July 20, 2006 (Exhibit USBC 3).

The next contract in question was issued to James Bankston (James Bankston 142 original contract as listed on 2002 and Bill bought it for \$8,000 from James Bankston on Feb 6, 2002). As shown on Exhibit USBC 4 \$35,000 was deposited into the Syndicate account to purchase four breedings - James Bankston (1) rebreed for \$8,500, Stace Sewell \$16,000 (2) two rebreeds, Peter Freidell \$7,000 (1) rebreed and Bill Freeman \$3,500 refunds after rebreeds, all checks are shown as exhibit USBC 5. In 2001 contract 142 was an unused breeding owned by (Exhibit USBC 6) James Bankston and was sold to Bill Freeman as a rebreed (386), according to Penny Wilson's records. The Hinkley Spitzer report workpapers for 2001 has no 142 on it and a blank with James Bankston name on it, as shown on Exhibit USBC 6. Bill Freeman sold 386 to Diamond RB and provided his personal guarantee on that breeding as shown on Exhibit USBC 7.

The last contract trail to follow is contract 277 that Mr. Jackson says was given to Dr. Mc Carroll as part of vet fees owed by BFI in 2001. This contract was voided and reissued to Carroll Baggett as contract 374 (Exhibit USBC 8 and USBC 9). Penny Wilson has testified that she voided contract 277 at the request of Dr. Mc Carroll. Page 260 of Penny Wilson's deposition:

Q. Would John Mc Carrol have been the person who would have to tell you to reissue that contract 277?

A. Yes.

Also on Exhibit D of Penny Wilson's sworn statement, the 2002 breeding season contracts are listed (Exhibit USBC 10). Next to contract 277 it says in her handwriting (as she testified) "reissue 374". Thus, breeding contract 277 should not have been used as it was voided. Mr. Jackson is counting 277 and 374 as two contracts they should only be counted as one.

In Mr. Jackson's deposition he acknowledges he had not been provided the Waggoner consent letter, the purchase of James Bankston's contract and had not been furnished Penny Wilson's deposition. These are pertinent and relevant documents to this issue.

Misuse of Funds Related to the Experimental Breeding Performed at Colorado State University

Original Contract was 157 owned by Bill Freeman and used as a partnership with Lach Perks for the 2001 breeding season (Exhibit CSU 1). A letter dated April 25, 2001 states that Bill and Lach Perks would be partners 50/50 in this venture (Exhibit CSU 2). Mare Stella Starlight, failed to get in foal, as result, re-breeding contract 367 was prepared - rebreed contract is dated January 30, 2002 (Exhibit CSU 3). Stella Starlight did not get it foal again, however there was still time in the breeding season to substitute another mare to use that rebreed contract (367). According to Bill Freeman, Tommy Manion contacted him and told him that he was able to get a baby out of She's Pretty Smooth at CSU and wanted to use the Stella Starlight contract for the foal and partner with Bill Freeman on the eventual colt. According to Bill Freeman he agreed to partner up with Tommy Manion and wanted \$10,000 for Tommy Manion's share of the contract and half interest in the eventual colt "Call For Honor". Bill Freeman indicated that Manion agreed to the terms and paid Bill \$6,271.19 per check number 12357 dated October 2, 2002 and credits the rest on account \$3,728.09, zero balance due, based upon the October 31, 2002 statement from Tommy Manion Ranch. The documentation for this transaction shows that the agreement was between Manion and Bill Freeman. The check from Manion is paid to BFI and not to the Syndicate and the check indicates the net amount is less monies owed to Manion Ranch (Exhibit CSU 4). Further indication that this is a partnership between Tommy Manion and Bill Freeman is that Manion Ranch issued 27 monthly statements that confirms that Bill Freeman was charged for half of the expenses for She's Pretty Smooth (Exhibit CSU 5). Tommy Manion produced a marked up copy of 367 that shows that the mares name was changed to She's Pretty Smooth and his name was added as co owner. Bill Freeman's name also remains on 367 as co-owner (Exhibit CSU 6).

Tommy Manion Ranch's invoice provides for the sales proceeds (Exhibit CSU 7) Call For Honor (Foal from She's Pretty Smooth), 2003 She's Pretty Smooth/SLL Colt sale proceeds. This invoice shows amount to be paid to Bill Freeman for his share. This invoice does not mention the Syndicate. The check Manion Ranch check was made payable to Bill Freeman and not the Syndicate (Exhibit CSU 8) The attached copy of the check stub from Manion Ranch states that the sale of the horse Call For Honor for half of sales proceeds less expenses (Exhibit CSU 8) was payable to the "Bill Freeman partnership".

Sale of Excess Special Allocation Contracts

Mr. Jackson states that the revised syndicate agreement allows for up to 10 Special Allocations breedings to be sold in any one year. Mr. Jackson's report alleges that 12 Special Allocations breedings were issued in 2002 (Table 1) and that Bill Freeman was the only one who had access to the Special Allocations breeding contracts. Mr. Jackson was unable to determine if funds related to unauthorized Special Allocation breeding contracts were deposited into the Syndicate accounts or misused by Freeman. Mr. Jackson's report indicates that Exhibit 6 (Exhibit SA 1) contains the names of the Special Allocations contracts bred upon in 2002, but Mr. Jackson does not identify which of the contracts were unauthorized.

As shown below in Table 1 and confirmed by the conception report prepared by Robin Levison (Exhibit SA 2 -Levison exhibit 117) none of the Special Allocations breeding were purchased by Bill Freeman. Based upon the conception report prepared by Levison contract 376 (bred to Rappatap)(Exhibit SA 3) does not appear on the AQHA Stallion Breeding Report (Exhibit SA 4 - Levison Exhibit 108). The 2002 Conception report (Exhibit SA 2 -Levison exhibit 117) also states that Rappatap did not conceive. I traced the transaction involving the Rapp purchases and conclude that contract 376 was not paid for. I was able to trace the other Rapp purchases of Special Allocation breeding contracts 338 and 339 for \$15,000 each (Exhibit SA 5 and 6). On March 4, 2002 a deposit was made into the Syndicate account 0556688 in the amount of \$30,000. On February 15, 2002 Rapp paid the Syndicate \$8,000 for the rebreed contract 361 from Poff (Exhibit 7). The Special Allocation breeding contracts 338 and 339 were issued on the same day as rebreed contract 361. The Hinkley Spitzer report did not correctly identify the sale by Howard Poff as they recorded the purchase price of R361 as \$9,000 instead of \$8,000 and they recorded the second part of that transaction for the sale of Poff contract 306 to Falcon Seabord CK 1250 as \$15,000 instead of \$16,000. I have not been provided any documentation to show that contract 376 was paid for by Rapp. It should be noted that no canceled check has been produced to confirm that Phil Rapp purchased a Special Allocation breeding to use on Rappatap, and Rappatap did not conceive.

Mr. Jackson is also incorrect in his conclusion with regard to Special Allocation contract 337 (Exhibit SA 8). Mowery paid a total \$25,000 for rebreed contracts 352 and Special Allocation contract 337. \$10,000 was for Rebreed 352 (Exhibit SA 9) which was used by Manion to breed Some Kind Playgirl and confirmed in Exhibit SA 1 -Levison exhibit 117. According to contract 352 Shelly Mowery purchased 352 from Arrowhead Ranch and sold contract 352 it to Manion. Jackson indicates in his report that contract 337 was used for Some Kind Playgirl. Although contract 337 (Exhibit SA 8) is typed out to indicates that it was used for Some Kinda Playgirl, it was not, contract 352 was used, which was not a Special Allocation contract, it is a rebreed contract. The conception report prepared by Robin Levinson confirms that Some Kinda Playgirl was bred on contract 352 (Exhibit SA 1 -Levison exhibit 117).

Robin Levison's records states that 337 was used by Tommy Manion to breed SPL Altisimo. Tommy Manion acquired contract 337 from Shelly Mowery, check 11384, \$15,000 paid on May 7, 2002 (Exhibit SA 10). Handwriting on the conception report prepared by Robin Levison (Exhibit SA 2 -Levison exhibit 117) states that SPL Altisimo was not bred on 337 rather it was

bred on 354, which was a rebreed from contract on 165. Attached are contracts 354, a rebreed contract that has written under the contract number "2001 cont. 165" (Exhibit SA 11). Robin Levisons' statement was further scrutinized by Marguerette (Hinkley Spitzer). In an e-mail dated 3/28/2006 (Exhibit SA 12) Robin Levison responded that SPL Altisimo was bred on the NRHA donated contract (165) which was never issued. Ms. Levison further states (that the SPL Altisimo) contract (165 from 2001) was paid for by Check Number 6989 on 7/19/2000. Based upon the deposition exhibit 93 (Exhibit SA 13), Karen Freeman owned contract 165, therefore this was not a Special Allocation breeding contract. As shown on Exhibit SA 14 the Hinkley Spitzer workpapers do not list a contract 165, a blank exists after 164 Karen Freeman. If 165 was the next contract it shows that it would belong to Karen Freeman and it was an unused breeding. Additionally, the Hinkley Spitzer workpapers states that they could not locate a contract for SPL Altisimo in 2001, Exhibit SA 15. I located a check that indicates that contract 354 was a rebreed purchased by Tommy Manion from Karen Freeman on 2/9/02, check 10740 for \$8,750 (Exhibit SA 16).

Based upon Robin Levisons' records Delta Zulena was bred from Moore rebreed on contract 399 (Exhibit SA 17), which was a rebreed issue from 337(Exhibit SA 1 -Levison exhibit 117). This confirms that 337 was not bred on.

Based upon the above information I conclude that two (2) of the alleged additional Special Allocation breeding(s) were not issued and paid for in 2002. Thus only 10 Special Allocations were issued and paid for in 2002.

Table 1

- 338 Bill Rapp - 11/2/01 issue - Levison approved
- 339 Bill Rapp - 11/2/01 issue - Ball approved
- 376 Bill Rapp - Not Paid 2/14/02 issue - Ball approved (this not paid and not on conception report)**
- 337 Shelly Mowery - 11/2/01 issue - Wilson approved
- 399 Reissue of 337 from Floyd Moore to Manion - 5/16/02 - Cassidy approved**
- 401 Greg Colson - 6/13/02 - Levison approved

- 384 Hope Justice - 3/14/02 issue - Ball approved
- 397 Randy Olsen - 5/15/02 issue - Levison approved
- 398 Paxton - 5/16/02 issue - Cassidy approved

- 382 - Cindy Smith 3/0/02 issue - Levison approved
- 379 - Rodreque 2/21/02 issue - Ball approved
- 336 - Sanders Ranch 11/2/01 - Wilson approved

Other Items Noted Upon Review of Bank Records

MBNA

Mr. Jackson has questioned a Syndicate check paid to MBNA totaling \$5,300. It was his understanding that this was paid to Mr. Freeman's MBNA credit card and that Mr. Freeman maintains that it was to reimburse him for Syndicate expenses paid for on his personal MBNA credit card. Mr. Jackson does not provide any information as to how he came to this conclusion as the MBNA credit card belonged to the Syndicate and the Syndicate check was used to pay for a cash advance issued against the credit card and deposited into the Syndicate account. Based upon my conversations with Jill Freeman I understand that the Syndicate was in need of funds so a \$10,000 cash advance was taken against the Syndicate MBNA credit card (account 5474150200150935) on 10/10/2005 (Exhibit MBNA 1). On 10/13/2005 a deposit of \$10,000 was made into the Syndicate checking account 0556688(Exhibit MBNA 2). Payment to MBNA on December 14, 2005, Syndicate check 1158 for \$5,300 (Exhibit MBNA 3) was credited against the cash advance as shown on the credit card statement (Exhibit MBNA 4). Subsequent payments against the cash advance are also shown on the monthly MBNA statements (Exhibit MBNA 5). As shown in the attached exhibits the payment in question of \$5,300 was to the Syndicate account and not a card owned by Bill Freeman.

Personal Guarantee

Mr. Jackson questions the deposit of \$85,000 into the Syndicate account on February 5 and February 9, 2004 and whether the contracts were sold for amounts higher than the amounts paid out by the Syndicate, resulting in additional authorized profits to Mr. Freeman. As previously explained by Mr. Jay Vogelsson in a letter to Charles Arnold on May 2, 2007 the Syndicate's 2004 breeding contract did not contain any guarantees and therefore the Syndicate did not guarantee a refund to the purchaser of a breeding contract if Smart Little Lena died or became incapable of breeding or any other breeding impediment occurred. Bill Freeman on the other hand would provide his personal guarantee. Bill Freeman purchased breeding contracts from some Syndicate members who were unwilling to provide a guarantee and resold those breeding contracts to his customers with his personal guarantee. Bill Freeman did charge a premium to the breeding contract purchaser for his personal guarantee.

With regard to the five 2004 breeding contracts purchased by Freeman totaling \$85,000, Bill Freeman sold three breeding contracts which contained his personal guarantee for \$58,000. He later sold two more breedings with separate mark ups. Mr. Freeman made a profit for his guarantee.

Phone Bills

In Mr. Jackson's supplemental report dated August 19, 2008, he states that payments written to phone companies are in excess of the phone charges incurred for the Syndicate in the amount of \$1,414.20. Mr. Jackson confirms that he received phone invoices for 12 months in 2003, 11 months in 2004, and 8 months in 2005. Mr. Jackson only looked at the main phone line and did not consider the fax line or the cost of the Syndicate web site host. Accordingly, Mr. Jackson did not consider all the phone charges incurred and paid for by the Freemans. Attached are the phone bills (Exhibit Phone 1) for the main line, fax line (Exhibit Phone 2) and web site host server (Exhibit Phone 3). As shown on the attached spreadsheet, the cost of the Syndicate main phone line, fax line and web site host server are greater than the check amounts listed in Mr. Jackson's report (Exhibit Phone 4). Also attached are the check made payable to Nortex that were provided in Mr. Jackson report (Exhibit Phone 5). I undertook the steps to match the check amounts to the main phone line. The amounts of the check payments do not match the payment indicated on the main phone line invoice. This would indicate that Nortex applied a portion of the bill to the main phone line and the remainder to the web site host server charge. Additionally, the Syndicate used the BFI fax number on their web site and literature. An allocation was made by BFI for the use of the fax line to account for some portion (approximately 30%) of the Syndicate business.

Conclusion

Based upon my analysis of Mr. Jackson's report and the documentation provided to me to date, I find no proof of gross misconduct on the part of Mr. Bill Freeman in his role as co-manager of The Smart Little Lena Syndicate. The report prepared by Mr. Jackson did not consider all the relevant documents available in this matter as indicated in his deposition. I have addressed the alleged misconduct and personal benefit Mr. Jackson states Mr. Freeman gained in his role as Co-Manager of the Smart Little Lena Syndicate and conclude that Mr. Freeman did not use Syndicate funds for his own personal benefit. I trust the above report and attached exhibits are clear, however, should you require any clarification please contact my office.

Kurt E. Harms