

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

GREGORY GODFREY, et al.,

Plaintiffs,

v.

**GREATBANC TRUST COMPANY, et
al.,**

Defendants.

Case No. 1:18-cv-07918

Judge Matthew F. Kennelly

Magistrate Judge Michael T. Mason

**NOTICE OF CLASS ACTION FOR PARTICIPANTS AND BENEFICIARIES OF
THE McBRIDE & SON EMPLOYEE STOCK OWNERSHIP PLAN**

If you were a participant in or a beneficiary of the McBride & Son Employee Stock Ownership Plan (the “ESOP”) at any time between December 31, 2013 through December 15, 2017 (the “Class Period”), this class action lawsuit may affect your rights.

The United States District Court for the Northern District of Illinois has authorized this Notice to be sent to you.

A federal lawsuit by certain former participants in the ESOP, Gregory Godfrey, Jeffrey Sheldon, and Debra Ann Kopinski (collectively the “Plaintiffs”), alleges violations of the Employee Retirement Income Security Act (“ERISA”). The Defendants are the former trustee of the ESOP, GreatBanc Trust Company, as well as McBride & Son Capital, Inc. (“MS Capital, Inc.”), McBride & Son Management Company, LLC (“MS Management Co.”), John F. Eilermann Jr. (“Eilermann”), and Michael D. Arri (“Arri”) (collectively the “Defendants”). The Plaintiffs claim that the Defendants were fiduciaries of the ESOP and breached their fiduciary duties owed under ERISA to the ESOP.

The Court has allowed the lawsuit to proceed as a class action on behalf of all participants and beneficiaries of the ESOP during the Class Period.

Questions? Contact Class Counsel by calling the law firm Bailey Glasser, at 1-877-852-0342 or visiting the website www.baileyglasser.com/mcbride-esop

At this stage, the Court has not found that the Defendants did anything wrong or that the Class has suffered any damages, and Defendants deny all allegations of wrongdoing and deny any alleged harm to the Class.

BASIC INFORMATION

1. Why did I get this notice?

The ESOP's records show that you were either a participant in, or a beneficiary of, the ESOP during the Class Period. This notice explains that the Court has allowed, or "certified", a class action lawsuit that may affect you. Judge Matthew Kennelly of the United States District Court for the Northern District of Illinois is presiding over this class action. The lawsuit is known as *Godfrey, et al. v. GreatBanc Trust Company, et al*, Civil Action No. 1:18-cv-7918.

2. What is a class action and who is involved?

In a class action lawsuit, one or more individuals called "Class Representatives" sue on behalf of other people who have similar claims. The people together are a "Class" and individually "Class Members". The Class Representatives, Gregory Godfrey, Jeffrey Sheldon, and Debra Ann Kopinski, sued on behalf of all participants and beneficiaries in the ESOP during the Class Period. The single lawsuit will resolve the claims made by the Plaintiffs against the Defendants for everyone in the Class.

3. Why is this lawsuit a class action?

The Court decided that this lawsuit can be maintained as a class action because it meets the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal courts. Specifically, the Court found that:

- The Class of individuals impacted by the claims stated by the Plaintiffs is sufficiently numerous that joinder of all members is impracticable;
- There are questions of law and fact that are common to the Class;
- The Class Representatives' claims are typical of the claims of the rest of the Class;
- The Class Representatives and their counsel will fairly and adequately protect the interests of the Class; and
- A class is proper because individual actions would either create a risk of establishing incompatible standards of conduct for the Defendants, or would be dispositive of or would substantially impair the interests of other Class Members.

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The Court also determined that a Class is proper because Defendants are alleged to have acted or refused to act on grounds that apply generally to the Class, so that final injunctive relief or corresponding declaratory relief, if ordered, would be appropriate with respect to the class as a whole.

More information about why the Court is allowing this lawsuit to proceed as a class action is set forth in the Court's Order Certifying the Class, which is available at www.baileyglasser.com/mcbride-esop.

THE CLAIMS IN THE LAWSUIT

4. What does the lawsuit complain about?

In summary:

- (1) Plaintiffs allege that, on December 31, 2013, Defendants GreatBanc, MS Management Co., Eilermann, and Arri caused the ESOP to engage in a corporate reorganization for the benefit of certain corporate executives. The result was that the ESOP would no longer hold shares of McBride & Son Companies, Inc. ("MS Companies, Inc."). Plaintiffs allege MS Companies Inc. had previously owned all of the subsidiaries and assets of the McBride & Sons Homes group of interrelated companies (collectively the "McBride Enterprise"), while certain executives held the equivalent of 30% of the economic interest of the McBride Enterprise. After the reorganization, the ESOP would own the stock of a holding company, McBride & Son Capital, Inc. ("MS Capital, Inc."), which would in turn own the newly-issued Class A Units of MS Companies, Inc. after it was converted to a limited liability company, McBride & Sons Companies, LLC ("MS Companies, LLC"). Plaintiffs allege that as a consequence of the reorganization, the ESOP was no longer the sole owner of the McBride Enterprise, as the economic interests in the McBride Enterprise held by Defendants Arri and Eilermann and other executives were converted to Class B and Class C Units of MS Companies, LLC.
- (2) Plaintiffs allege that, from 2013 to 2017, Defendants Eilermann and Arri, and other corporate executives, received excessive compensation in various forms in addition to awarding themselves further equity in the McBride Enterprise in the form of Class B Units and Class C Units of MS Companies, LLC. Plaintiffs allege this had the effect of diluting the ESOP's ownership of the McBride Enterprise and suppressing the stock price of MS Capital. Plaintiffs also allege the corporate executives who owned Class B and Class C Units received more favorable distributions than the ESOP, which owned Class A Units.

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Plaintiffs allege that Defendants GreatBanc, MS Capital, Eilermann, and Arri breached their fiduciary duties under ERISA when the ESOP was harmed by the excessive payment of compensation and received no consideration for the dilution of its ownership of the McBride Enterprise, and ESOP participants were never informed about the excessive payment of compensation nor the dilution of their ownership of the McBride Enterprise.

- (3) Plaintiffs allege that, on November 30, 2017, Defendants GreatBanc and MS Capital caused the ESOP to sell the shares of MS Capital stock held by the ESOP for below fair market value, thereby depriving the ESOP participants of retirement benefits. Plaintiffs further allege that Defendants Eilermann and Arri knowingly participated in these breaches of ERISA. Plaintiffs allege the sale was done for the benefit of Defendants Eilermann and Arri and other executives, who would become the owners of the McBride Enterprise after the ESOP was terminated.
- (4) Plaintiffs allege that Defendants MS Management Co., MS Capital, Eilermann, and Arri failed to properly monitor and remove GreatBanc as trustee to the ESOP.

Plaintiffs' allegations are detailed in Plaintiffs' Second Amended Complaint and Defendants' responses are detailed in their Answers to Plaintiffs' Second Amended Complaint. The Complaint and Answers are available at www.baileyglasser.com/mcbride-esop, as is the Court's Order on Defendants' Motions to Dismiss the Second Amended Complaint and granting Plaintiffs' Motion for Class Certification. Future Orders may also be posted to that website.

5. How do the Defendants answer these allegations?

Defendants deny that they violated any law or duty owed to the ESOP or its participants. Specifically, Defendants maintain that the fiduciaries of the ESOP at all times acted prudently and loyally and in the best interest of ESOP participants. Among various other defenses, Defendants argue that the referenced LLC units were purchased by McBride executives, not awarded, and that the amount paid for the ESOP's stock was not less than fair market value, and that all the alleged actions of the Defendants benefited, and did not harm, the ESOP and its participants.

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6. Has the Court decided who is right?

No. The Court has not heard any evidence or decided whether the Plaintiffs or the Defendants are correct. By establishing the Class and issuing this Notice, the Court is not suggesting that the Plaintiffs and the Class will win or lose the case. The Plaintiffs must prove their claims at trial.

7. What are the Plaintiffs asking for?

The Plaintiffs have asked the Court to declare that the Defendants breached their fiduciary duties under ERISA to the ESOP's participants and beneficiaries. In addition, the Plaintiffs seek monetary damages for the ESOP to be allocated among the Class Members. This could include the difference between the price paid for their shares in the ESOP during the Class Period and the fair market value that would have been paid but for Defendants' alleged breaches during the same period. Plaintiffs also seek certain declaratory relief.

8. Is there any money or declaratory relief available now?

No. There is no money or declaratory relief available now because the Court has not yet decided whether the Defendants violated the law or whether the Plaintiffs are entitled to the relief they seek, and because there has been no settlement. There is no guarantee that either declaratory relief or money damages will ever be obtained. If relief is obtained, you will be notified, including information about how any money damages will be allocated.

WHO IS IN THE CLASS?

9. Am I a part of the Class?

The Court decided that the following persons are in the Class. If you fit this description, then you are a Class Member. You are receiving this Notice based on records indicating that you are likely a Class Member.

All participants in the McBride & Son Employee Stock Ownership Plan, and the beneficiaries of such participants, at any time between December 31, 2013 and December 15, 2017. Excluded from the proposed Class are (1) Defendants Eilermann and Arri, their immediate families, and their legal representatives, successors, and assigns, and (2) any owners of Class B and Class C Units of McBride & Son Companies, LLC ("MS Companies, LLC") during the class period including Jeffrey Berger, Jeffrey Schindler, and Jeffrey Todt.

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THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in this case?

The Court has decided that the lawyers representing the Plaintiffs are qualified to represent you and all the Class Members. The lawyers are called “Class Counsel” and include Mark G. Boyko, Patrick O. Muench, Ryan T. Jenny, and Thomas E. Clark Jr. You can reach them through the contact information below:

<p>Mark G. Boyko Bailey Glasser LLP 34 N. Gore, Suite 102 Webster Groves, MO 63119</p> <p>(202) 463-2101 mboyko@baileyglasser.com</p>	<p>Thomas E. Clark Jr. The Wagner Law Group, P.C. 1099 Milwaukee St., Suite 140 Kirkwood, MO 63122</p> <p>(314) 236-0065 tclark@wagnerlawgroup.com</p>
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11. Should I get my own attorney?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. If you want to hire your own lawyer, you can, but you will have to pay for that lawyer. For example, you can ask your own lawyer to appear in Court for you if you want someone other than Class Counsel to speak for you, but Class Counsel is obligated to represent your interests as part of the Class regardless of whether you retain your own separate lawyer.

12. How will Class Counsel be paid?

If Class Counsel obtains declaratory relief or money damages for the benefit of the Class, they will be permitted to ask the Court to award them their fees and expenses. You won't have to pay these fees or expenses. If the Court grants this request, the fees and expenses could either be deducted from any money damages obtained, or be paid separately by the Defendants.

FURTHER CASE PROCEEDINGS

13. How and when will the Court decide who is right?

The parties will complete discovery on the claims and defenses in the lawsuit on June 18, 2021. Thereafter, the parties may file motions for summary judgment no later than July 23, 2021. A motion for summary judgment may resolve some or all the parties' claims and defenses before trial. If the lawsuit is not resolved by a court-approved settlement or other ruling by the Court before trial, the trial will

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commence. No date for a trial has been set. If a date is set, the date will be posted on the website, www.baileyglasser.com/mcbride-esop . Plaintiffs will have to prove their claims at trial. The outcome of a trial is uncertain. During the trial, the Court will hear all the evidence necessary to reach a decision about whether the Plaintiff or Defendants are right about the claims in the lawsuit.

14. Do I have to come to a trial?

You will not need to attend a trial of this case. Class Counsel will present the case for the Plaintiffs, and the Defendants will present their defenses. You, or your own lawyer, are welcome to attend the trial at your own expense.

15. Will I get money after the trial?

If the Plaintiffs obtain money damages for the Class as a result of a trial, a settlement, or a ruling by the judge, you will be notified about how to receive the portion to which you are entitled. We do not know how long this will take.

GETTING MORE INFORMATION

You can find Plaintiffs' Complaint, Defendants' Answers, and the Court's Order Certifying the Class at www.baileyglasser.com/mcbride-esop. You also may contact Class Counsel, who have been appointed to represent you, at the contact information in this notice or by calling toll-free 1-877-852-0342.

In addition, the entire public case file can be viewed at the Office of the Clerk of the United States District Court for the Northern District of Illinois, or on the Court's electronic filing website, called Pacer. That website may be found at <http://pacer.psc.uscourts.gov>. To use Pacer, you must first set up an account and may be required to pay an amount per page for downloading court documents.

PLEASE DO NOT CALL OR CONTACT THE COURT OR THE OFFICE OF THE CLERK OF COURT WITH QUESTIONS REGARDING THIS NOTICE. THEY WILL NOT ANSWER SUCH QUESTIONS.

IF YOU HAVE QUESTIONS, PLEASE DIRECT THEM TO CLASS COUNSEL.

Dated: March 26, 2021

Approved by the Honorable Matthew F. Kennelly
United States District Judge

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