

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi

ISLAND FARMS LLC, et al.

Plaintiff

v.

UMB BANK, N.A.

Defendant

Civil Action No. 3:21-CV-00721-HTW-LGI

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: eGrain, Inc., c/o N. Richard King, CEO
3 North Old State Capital Plaza, Springfield, Illinois 62701

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Exhibit A attached hereto.

Place: <u>saldridge@barrettlawgroup.com or Barrett Law Group, PA, 404 Court Square North, Post Office Drawer 927, Lexington, Mississippi 39095</u>	Date and Time: <u>07/15/2022 5:00 pm</u>
--	--

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 05/10/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

*/s/ Sterling Aldridge
Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Plaintiffs
Island Farms LLC, Porter Planting Co. P'ship, & Wyatt Farms P'ship, who issues or requests this subpoena, are:
Sterling Aldridge, Barrett Law Group, P.A., 404 Court Square North, PO Box 927, Lexington, MS 39095; 662-834-2488;

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 3:21-CV-00721-HTW-LGI

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day’s attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server’s signature

Printed name and title

Server’s address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

ISLAND FARMS, LLC, PORTER
PLANTING COMPANY PARTNERSHIP,
and WYATT FARM PARTNERSHIP, on
behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

UMB BANK, N.A.,

Defendant.

Case No. 3:21-CV-721-HTW-LGI

**EXHIBIT A TO THIRD PARTY SUBPOENA DUCES TECUM TO
eGRAIN, INC**

Documents Requested:

1. All materials that reference Express Grain Terminals, Inc. ("EGT"), its affiliates, subsidiaries, or its principals John Coleman and Michael Coleman, including, but not limited to:
 - a. all communications with EGT and/or its representatives from January 1, 2013 to the present;
 - b. all records reflecting the establishment, maintenance, or access of EGT to eGrain systems or accounts.
 - c. all communications with UMB Bank, NA, StoneX Commodity Solutions, f/k/a Stone Merchant Services LLC, Macquarie Commodities (USA) Inc., or Macquarie Bank Limited, and/or their representatives regarding EGT from January 1, 2013 to the present;
 - d. the issuance, transfer and cancellation of electronic warehouse receipts ("EWRs") or Price Later/Credit Sales contracts from or to EGT from 2013 to the present; and
 - e. all records with corresponding metadata reflecting any and all persons or entities that had access to EGT account information from January 1, 2013 to the present.

Dated: May 10, 2022

/s/ Richard R. Barrett

Richard R. Barrett, (MSB 99108)

Law Offices of Richard R. Barrett, PLLC

2086 Old Taylor Rd, suite 1011

Oxford, MS 38655
Telephone: (662) 380-5018
rrb@rrblawfirm.net

John W. ("Don") Barrett (MSB #2063)
Katherine Barrett Riley (MSB #99109)
Sterling Aldridge (MSB #104277)
David McMullan, Jr. (MSB #8494)
BARRETT LAW GROUP, P.A.
P.O. Box 927
404 Court Square North
Lexington, Mississippi 39095
Telephone: (662) 834-2488
donbarrettpa@gmail.com
kbriley@barrettlawgroup.com
saldridge@barrettlawgroup.com
dcmullan@barrettlawgroup.com

Jonathan W. Cuneo
Monica Miller
Jennifer E. Kelly
CUNEO GILBERT & LADUCA, LLP
4725 Wisconsin Avenue, NW, Suite 200
Washington, DC 20016
Telephone: (202) 789-3960
jonc@cuneolaw.com
monica@cuneolaw.com
jkelly@cuneolaw.com

Charlie Merkel (MSB #2884)
John Cocke
Ted Connell (MSB #1647)
Chris Winter (MSB #10300)
MERKEL AND COCKE
P O Box 1388
Clarksdale, MS 38614
662 627 9641
cmerkel@merkel-cocke.com
jcocke@merkel-cocke.com
tconnell@merkel-cocke.com
cwinter@merkel-cocke.com

Michael T. Lewis, Sr (MSB #1238)
Pauline Shuler Lewis (MSB #1239)
LEWIS AND LEWIS ATTORNEYS
P O Box 2430

Oxford, MS 38655
662 832 8569
mike@lewisattorneys.com
pauline@lewisattorneys.com

Gerald M. Abdalla (MSB # 101213)
ABDALLA LAW, PLLC
602 Steed Road, Suite 200
Ridgeland, Mississippi 39157
(601) 278-6055 t
(601) 487-4595 f
jerry@abdalla-law.com

E. Carlos Tanner, III (MSB# 102703)
TANNER & ASSOCIATES, LLC
263 E. Pearl Street
Jackson, Mississippi 39201
carlos.tanner@thetannerlawfirm.com
601.460.1745 (Telephone)
662.796.3509 (Facsimile)