

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: VITAMIN C ANTITRUST
LITIGATION

MASTER FILE 06-MD-1738 (BMC) (JO)

This Document Relates To:

**ANIMAL SCIENCE PRODUCTS, INC.,
et al.**

Plaintiffs,

CV-05-453

v.

**HEBEI WELCOME
PHARMACEUTICAL CO. LTD., et al.**

Defendants.

**DIRECT PURCHASER PLAINTIFFS' NOTICE OF MOTION TO AUTHORIZE
DISTRIBUTION OF THE REMAINING ALAND AND WEISHENG
DIRECT PURCHASER SETTLEMENT FUNDS AND
TO PAY COSTS OF CLAIMS ADMINISTRATION**

PLEASE TAKE NOTICE THAT, upon the accompanying Memorandum in Support of Plaintiffs' Motion to Authorize Distribution of the Remaining Aland and Weisheng Direct Purchaser Settlement Funds and to Pay Costs of Claims Administration, and the Declaration of Rebecca Blake dated August 4, 2015, and all other papers and proceedings herein, Plaintiffs move this Court for an Order authorizing distribution of the remaining Aland and Weisheng Direct Purchaser Settlement Funds to class members, and authorizing payment of claims administration costs to Rust Consulting, Inc.

Dated: August 4, 2015

Respectfully submitted,

/s/ Michael D. Hausfeld

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Co-Lead Counsel for the Certified Direct Purchaser Damages Class

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: VITAMIN C ANTITRUST
LITIGATION

MASTER FILE 06-MD-1738 (BMC) (JO)

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**ANIMAL SCIENCE PRODUCTS, INC.,
et al.**

CV-05-453

Plaintiffs,

v.

**HEBEI WELCOME
PHARMACEUTICAL CO. LTD., et al.**

Defendants.

**MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO AUTHORIZE
DISTRIBUTION OF THE REMAINING ALAND AND WEISHENG DIRECT
PURCHASER SETTLEMENT FUNDS AND TO PAY COSTS OF
CLAIMS ADMINISTRATION**

Plaintiffs respectfully submit this memorandum in support of their motion to authorize Distribution of the Remaining Aland and Weisheng Direct Purchaser Settlement Funds from their settlements with Aland (Jiangsu) Nutraceutical Co., Ltd. ("Aland"), Weisheng Pharmaceutical Company, Ltd. ("Weisheng") and China Pharmaceutical Group, Ltd. ("CPG").

I. FACTUAL BACKGROUND

The Court granted final approval of the settlements with Aland in October 2012 (Memorandum Decision and Order, ECF No. 560) and with Weisheng and CPG in October 2013 (Minute Entry and Order, Oct. 2, 2013). The funds from those settlements have been distributed to class members in accordance with the Court's orders of September 12, 2013 (first distribution

of Aland settlement funds to class), April 22, 2014 (first distribution of Weisheng settlement funds to the class), and December 15, 2014 (second distribution of Weisheng settlement funds to the class, after having received Weisheng's second and final settlement payment) (ECF Nos. 792, 872, and 918, respectively).

Rust Consulting, Inc. ("Rust") has served as the Court-approved Claims Administrator. It has tracked distribution checks that remained uncashed from members of the class, as well as mail returned due to a bad address. *See* Declaration of Rebecca A. Blake re: Distribution of Remaining Aland and Weisheng Direct Purchaser Settlement Funds (August 4, 2015) ("Blake Declaration"). Rust has taken steps to locate these class members and reissued a number of checks. *See* Blake Declaration at ¶ 5. At this point in time, \$61,873.44 remains in the Aland settlement fund, and \$10,755.04 remains in the Weisheng settlement fund. *See* Blake Declaration ¶ 6.

II. PROPOSED DISTRIBUTION

At this time, Class Counsel (in consultation with Rust) recommend an additional distribution to the class. Class Counsel recommend that checks not be mailed to class members that did not cash their last distribution check or to class members that are entitled to less than \$10.00 from either settlement under the approved Plan of Allocation.

Rust will charge \$12,500 to process this final distribution to class members (Blake Declaration, Exhibit A), and with the Court's approval, will be paid from the remaining funds: \$6,250 from the Aland settlement fund, and \$6,250 from the Weisheng settlement fund. Following these adjustments and including interest earned, the total Aland settlement funds available for distribution are \$55,623.77 and the total Weisheng settlement funds available for distribution are \$4,505.04 (collectively, "Net Settlement Funds"). *See* Blake Declaration at ¶ 8.

The Net Settlement Funds will be allocated in accordance with the Plan of Allocation approved by the Court. (ECF No. 560). Under the Plan of Allocation, class members' direct purchases for each year are multiplied by the percentage overcharge for that year, as calculated by Plaintiffs' expert economist, Dr. Bernheim, to determine each class members' total claimed damages.¹

Upon court approval, the distribution will be made pursuant to the charts attached to the Blake Declaration as Exhibit B (Aland claimants) and Exhibit C (Weisheng claimants).² The exhibits identify eligible claimants (by number rather than by name, for confidentiality) and provides the claimant's recognized loss amount (total purchases weighted by year as required under the Plan of Allocation) and recommended award amount.

III. CONCLUSION

Plaintiffs respectfully request that the Court authorize: (1) payment of \$12,500 to Rust in claims administration costs from this distribution of the Aland and Weisheng settlement funds as described above and (2) distribution of the Net Settlement Funds to Direct Purchaser Class members as set forth above and in Exhibits B and C.

¹ Dr. Bernheim calculated damages by year for sales without arbitration clauses using the SARS-adjusted but-for price, as evidenced in Figure 78 of his Expert Report, dated November 14, 2008. He revised his calculations in his Rebuttal Expert Report, dated August 31, 2012 (Figure 53), in response to amended sales numbers from Weisheng. After Mr. Innes identified additional contracts with arbitration clauses in his Expert Report, dated August 30, 2012, Dr. Bernheim updated his calculations, as shown in the chart attached to the Declaration of Charlene Young (ECF No. 868-2) as Exhibit E. Rust weighted claimants' purchases by year, as shown in the third column ("Sales using the SARS-adjusted but-for price, Net of Arbitration Clauses"). Dr. Bernheim testified at trial regarding his approach to calculating damages, and the jury found that Plaintiffs had proven the damages estimated by Dr. Bernheim.

² In addition, the amount due to the former Great Earth Chemical, LLC will be paid to North American World Trade Group and QualChem LLC in the proportion stipulated to at ECF No. 906, and ordered by Magistrate Judge Orenstein on June 26, 2014. For ease of reference, this claim is shown as Claimant #15 on Exhibit A and Claimant #29 on Exhibit B to the Blake Declaration.

Dated: August 4, 2015

Respectfully submitted,

/s/ Michael D. Hausfeld

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Co-Lead Counsel for the Certified Direct Purchaser Damages Class and Injunction Class

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE VITAMIN C ANTITRUST
LITIGATION

1:06-MD-1738 (BMC) (JO)

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ANIMAL SCIENCE PRODUCTS, INC.,
et al.,

Plaintiffs

CV-05-453

v.

HEBEI WELCOME PHARMACEUTICAL
CO. LTD., et al.,

Defendants.

**DECLARATION OF REBECCA A. BLAKE RE: DISTRIBUTION OF REMAINING ALAND
AND WEISHENG DIRECT PURCHASER SETTLEMENT FUNDS**

I, Rebecca Blake, declare and state that:

1) I submit this declaration to provide the Court and the parties to the above-captioned litigation with information regarding the distribution of the remaining Aland and Weisheng Direct Purchaser Settlement Funds. I am over 21 years of age and am not a party to this action. I am a Program Manager for Rust and have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

2) Rust Consulting, Inc. ("Rust") was retained to administer the notice procedures, process Claim Forms submitted by Class Members, audit Claim Forms, calculate Class Members' qualifying direct purchases as defined in the Plan of Allocation, determine the validity and amount of the Class Member claims and distribute the Net Settlement Fund to Class Members who submitted valid claims. The details of the administration are discussed in earlier Affidavits filed with this Court dated August 20, 2013, April 4, 2014 and November 13, 2014.

3) Rust has distributed the settlement funds pursuant to the Court's orders of September 12, 2013 (first distribution of Aland settlement funds to class), April 22, 2014 (first distribution of Weisheng settlement funds to class), and December 15, 2014 (second distribution of Weisheng settlement funds to the class).

4) Rust has tracked the checks that remain uncashed by members of the settlement class as well as checks returned as undeliverable.

5) To date, 32 checks remain uncashed or have been returned undeliverable. Rust was able to locate a better address for six (6) class members and reissued these checks accordingly.

6) As of July 22, 2015, there is \$61,873.77 remaining in the Aland settlement fund and \$10,755.00 remaining in the Weisheng settlement fund.

7) Attached hereto as Exhibit A is Rust's invoice for outstanding administration fees and costs that will be incurred to complete this distribution of checks, file the necessary tax returns, and respond to claimants inquiries, in the amount of \$12,500. These expenses are allocated pro rata (with \$6,250 owed from the Aland settlement fund, and \$6,250 owed from the Weisheng settlement fund).

8) Following these adjustments and including interest earned, the total Aland settlement funds available for distribution are \$55,623.77 and the total Weisheng settlement funds available for distribution are \$4,505.00 (collectively, "Net Settlement Funds").

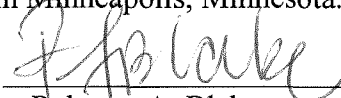
9) Based on determinations by Rust after their review, audit, and processing of claim forms, and after correspondence with Class Members, attached as Exhibits B and C is a breakdown of the claims submitted by Class Members that will be paid from the Aland and Weisheng Net Settlement Funds, respectively, following approval by the Court. These are the same Class members as approved by the Court for the prior Aland and Weisheng distributions (except that Rust recommends that checks not be mailed to Class members that did not cash their last distribution check or to class members that are entitled to less than \$10.00 from either

settlement), based on the same allocation formula as previously approved.

10) Upon entry by the Court of a Distribution Order, Rust will mail the Class Members their portion of the Net Settlement Funds. The checks will have a stale date of 90 days to encourage Class Members to promptly cash their distribution checks and to avoid or reduce future expenses relating to unpaid distributions. For any checks returned as undeliverable, an attempt will be made to find new addresses through a trace processing service Rust subscribes to. Payments to Class Members that are returned as undeliverable after reasonable efforts to locate the Class Members, or checks not cashed after 90 days from issue, will revert to the respective Settlement Fund.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 4th day of August, 2015 in Minneapolis, Minnesota.



Rebecca A. Blake

Exhibit A



Exhibit A

625 MARQUETTE AVENUE, SUITE 880
 MINNEAPOLIS, MN 55402
 P 612.359.2000 | F 612.359.2050
 WWW.RUSTCONSULTING.COM
 FEDERAL ID #: 41-1813634

DATE: 7/31/2015
 MATTER #: 3339 & 3890

TO: Melinda R. Coolidge
 Hausfeld LLP
 1700 K Street, NW Ste 650
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PROJECT	
<i>In re Vitamin C</i>	
<i>Professional Fees and Expenses - Vitamin C - Aland & Wiesheng Redistribution</i>	
Final Reporting	\$500.00
Hotline	\$1,500.00
Distribution	\$750.00
Fees	\$3,000.00
Expenses	\$500.00
Subtotal Aland	\$6,250.00
Final Reporting	\$500.00
Hotline	\$1,500.00
Distribution	\$750.00
Fees	\$3,000.00
Expenses	\$500.00
Subtotal Weisheng	\$6,250.00
Total Due	<u><u>\$12,500.00</u></u>

Exhibit B

Aland - Eligible Claims

Claim No.	Recognized Loss Amount	Fraction of Fund	Award Amount
20	5529193.28	0.148157637	8241.09
22	5156335.4	0.138166714	7685.35
15	4500264.39	0.120586947	6707.5
5	4030814.88	0.108007801	6007.8
19	3270953	0.087646903	4875.25
36	1923652.1	0.051545268	2867.14
24	1831950	0.049088062	2730.46
25	1486462.28	0.039830537	2215.52
4	1484453	0.039776697	2212.53
41	1140348.5	0.030556237	1699.65
58	1037696.39	0.02780562	1546.65
57	923069.36	0.024734128	1375.81
54	817776.32	0.021912746	1218.87
49	800505.57	0.021449967	1193.13
55	453139.2	0.012142103	675.39
8	444214.6	0.011902963	662.09
50	422287.16	0.011315406	629.41
46	394920.55	0.010582103	588.62
44	308816.4	0.008274898	460.28
53	246977.13	0.006617882	368.11
37	204203.35	0.005471736	304.36
52	180574.2	0.00483858	269.14
1	136578	0.003659679	203.57
21	123015.39	0.003296262	183.35
3	119466.86	0.003201177	178.06
34	82847	0.002219929	123.48
23	79577.63	0.002132324	118.61
7	63404.2	0.001698949	94.5
56	47096.1	0.001261965	70.2
45	25250.4	0.000676598	37.63
47	22315.01	0.000597942	33.26
40	20831.4	0.000558188	31.05
6	10675.32	0.000286051	15.91
Totals:	\$37,319,664.37	1.00000000	\$55,623.77

Weisheng - Eligible Claims

Claim No.	Recognized Loss Amount	Fraction of Fund	Award Amount
45	6048294.87	0.128036169	576.81
10	5529193.28	0.117047323	527.3
12	5156335.4	0.109154306	491.74
29	4500264.39	0.095265959	429.18
5	4030814.88	0.085328197	384.41
9	3270953	0.069242704	311.94
16	1923652.1	0.040721732	183.45
42	1886025.1	0.039925207	179.86
14	1831950	0.038780493	174.71
15	1486462.28	0.031466874	141.76
4	1484453	0.03142434	141.57
18	1140348.5	0.024140002	108.75
47	1085852.36	0.022986375	103.55
36	1037696.39	0.021966963	98.96
50	971957.02	0.020575328	92.69
35	923069.36	0.019540427	88.03
32	817776.32	0.017311482	77.99
24	800505.57	0.016945878	76.34
33	453139.2	0.00959249	43.21
8	444214.6	0.009403565	42.36
25	422287.16	0.008939384	40.27
21	394920.55	0.008360061	37.66
19	308816.4	0.006537325	29.45
43	230423.55	0.004877829	21.97
17	204203.35	0.004322774	19.47
27	180574.2	0.00382257	17.22
39	153932.44	0.003258591	14.68
41	141780	0.003001336	13.52
1	136578	0.002891215	13.03
11	123015.39	0.002604109	11.73
3	119466.86	0.00252899	11.39
Totals:	\$47,238,955.52	1.00000000	\$4,505.00

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et al.**

Plaintiffs,

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v.

**HEBEI WELCOME
PHARMACEUTICAL CO. LTD., et al.**

Defendants.

**[PROPOSED] ORDER AUTHORIZING DISTRIBUTION OF THE REMAINING
ALAND AND WEISHENG DIRECT PURCHASER SETTLEMENT FUNDS**

WHEREAS, the Direct Purchaser Damages Class entered into a settlement agreement with Defendant Aland (Jiangsu) Nutraceutical Co., Ltd. (“Aland”);

WHEREAS, the Direct Purchaser Damages Class entered into a settlement agreement with Defendant Weisheng Pharmaceutical Company, Ltd. (“Weisheng”) and China Pharmaceutical Group, Ltd (“CPG”);

WHEREAS, following a fairness hearing, the Court granted final approval to both settlements, approved the plan of allocation, and awarded attorneys’ fees and expenses;

WHEREAS, Class Counsel recommended that \$6,250 be paid to Rust Consulting from the remaining Aland settlement funds, and \$6,250 be paid to Rust Consulting from the remaining

Weisheng settlement fund, to complete distribution of the remaining Aland and Weisheng settlement funds;

WHEREAS, the Net Settlement Fund to be distributed to class members is calculated after deduction of these expenses, any administrative expenses, and taxes and tax expenses relating to the income earned by the settlement fund;

WHEREAS, Class Counsel recommended that only class members who cashed their last check and are entitled to at least \$10.00 from either settlement under the Plan of Allocation be included in this distribution;

WHEREAS, Rust Consulting, as the Court-approved Claims Administrator, has evaluated and audited claims forms from potential claimants, and calculated the appropriate amount to be allocated to each qualified claimant;

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

Rust Consulting shall be paid \$6,250 from the Aland Direct Purchaser Settlement Fund, and \$6,250 from the Weisheng Direct Purchaser Settlement Fund; and

The Net Settlement Fund shall be distributed in the amounts that Rust Consulting recommends, as set forth in Exhibits B and C to the Declaration of Rebecca A. Blake, dated August 4, 2015.

IT IS SO ORDERED.

Dated: _____, 2015

HON. BRIAN M. COGAN
UNITED STATES DISTRICT JUDGE