

star-news public notices

IN THE DISTRICT COURT OF SCOTT COUNTY, KANSAS

PREMIER PORK INC., on behalf of itself, And all others similarly situated,

Plaintiff,

v.

RHONE-POULENC S.A., RHONE-POULENC AG COMPANY, INC., RHONE-POULENCANIMAL NUTRITION, INC., DEGUSSA-HULS AG, DEGUSSA-HULS CORPORATION, MITSUI & CO. U.S.A., INC., MITSUI & CO. LTD., NIPPON SODA COMPANY, LTD., and NOVUS INTERNATIONAL, INC.

Defendants.

Case No. CV2000-3

NOTICE OF CLASS ACTION SETTLEMENT

TO: INDIRECT PURCHASERS OF METHIONINE CONTAINING PRODUCTS FOR LIVESTOCK IN KANSAS FROM JANUARY 1, 1985-December 31, 2002.

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED. THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF ANY OF THE CLAIMS OR DEFENSES ASSERTED BY EITHER SIDE IN THIS LITIGATION. THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM YOU OF THE LAWSUIT AND SETTLEMENT SO THAT YOU CAN MAKE AN INFORMED DECISION AS TO WHETHER YOU SHOULD REMAIN IN OR OPT OUT OF THIS CLASS ACTION.

BACKGROUND OF THE CASE

The Plaintiff, who is a Kansas livestock owner, alleges that from January 1, 1985-December 31, 2002, Defendants violated the Kansas antitrust laws by conspiring or combining to fix the price and control the market for methionine. Methionine is an animal feed amino acid added to feed rations for poultry, dairy and beef cattle, turkeys and swine, and can be purchased either as pure methionine or incorporated into feed rations (hereinafter collectively referred to as "Methionine"). The Plaintiff alleges that as a result of the Defendants unlawful conduct, the price of Methionine was substantially higher than it would have been otherwise in a competitive market. Consequently, Class Members paid substantially higher prices for Methionine than they should have during the time period January 1, 1985 to the end of 2002. The Defendants deny these claims and charges.

CLASS ACTION RULING

On May 1, 2004, the Court ruled, over Defendants' objections, that this lawsuit may be maintained as a class action for: All persons and entities (excluding all government entities, defendants, and other manufacturers of Methionine and their respective subsidiaries, affiliates, officers and directors) who purchased Methionine in the State of Kansas for end use as an animal feed additive (excluding pet feed for dogs, cats, birds and fish) indirectly from any of the Defendants at any time during the period January 1, 1985 through the end of 1998.

THE SETTLEMENT

All Defendants continue to contest the class action ruling and dispute that they have any liability in this case, but after substantial discovery on the merits of Plaintiff's allegations, the Defendants agreed to settle in order to avoid the further expense and inconvenience of protracted litigation and the uncertain risks inherent in litigation. Certain Defendants also agreed to expand the class for settlement purposes to include middlemen purchasers of Methionine.

The Settlement Class is: All persons and entities who purchased Methionine for livestock in the State of Kansas from anyone other than directly from one of the Defendants from January 1, 1985-December 31, 2002. However, the Settlement Class is broken down into two separate classes as there were separate settlements for end users and the middlemen who sold to end users.

A. THE SETTLEMENT END-USER SUBCLASS

YOU ARE AN END-USER SETTLEMENT CLASS MEMBER if you purchased Methionine in Kansas for end use in livestock but not for resale between January 1, 1985-December 31, 2002. ("Settlement End-User Settlement Subclass Member"). **YOU ARE NOT A SETTLEMENT END-USER SUBCLASS MEMBER** if you purchased Methionine: (1) directly from one of the Defendants, (2) for resale, (3) outside Kansas, (4) for pets or human consumption, or (5) for the government.

Under the terms of the Settlement Agreement, the Defendants have agreed to pay a total of \$1,600,000 to the Settlement End-User Subclass into an interest-bearing account if and when the settlement becomes final. If the settlement is finally approved by the Court and becomes effective, certain of these funds will be used to pay Court-approved administrative expenses, litigation costs, including attorneys' fees up to 33% of the total settlement amount. The Named Plaintiff, Premier Pork, Inc. and its principal who testified in this case, which enabled the case to proceed on behalf of the class, will each request an incentive award of \$7,500.

B. THE MIDDLEMAN SETTLEMENT CLASS

YOU ARE A MIDDLEMAN SETTLEMENT CLASS MEMBER if you purchased Methionine in Kansas for resale between January 1, 1985-December 31, 2002. ("Middleman Settlement Class Member"). **YOU ARE NOT A MIDDLEMAN SETTLEMENT CLASS MEMBER** if you purchased Methionine: (1) directly from one of the Defendants, (2) outside Kansas, (3) for pets or human consumption, or (4) for the government.

Under the terms of the Settlement Agreement, certain Defendants have agreed to pay a total of \$75,000 to the Middleman Settlement Class into an interest-bearing account if and when the settlement becomes final. If the settlement is finally approved by the Court and becomes effective, certain of these funds will be used to pay Court-approved administrative expenses, litigation costs, including attorneys' fees up to 33% of the total settlement amount. The Named Plaintiff, Premier Pork, Inc. and its principal who testified in this case, which enabled the case to proceed on behalf of the class, will each request an incentive award of \$7,500.

C. SETTLEMENT PROCEEDS DISTRIBUTION

After payment of Court approved costs, fees, and incentive awards to the Named Plaintiff and its principal, the remainder of the Settlement proceeds for the two settlement classes will be distributed as follows:

1. *Cy Pres* distributions to universities and community colleges which function in mainly rural, livestock producing areas of the state in the amounts set forth below for scholarships to be presented annually in the amount of \$5,000 to an entering student interested in agriculture, economics, or teaching:
 - a) Emporia State University \$30,000
 - b) Pittsburg State University \$30,000
 - c) Fort Hays State University \$30,000

- d) Garden City Community College \$20,000
- e) Seward County Community College \$20,000
- f) Dodge City Community College \$20,000

2. Remaining funds after the *cy pres* distribution shall be distributed as follows:

a) Settlement End-User Subclass will be distributed based on the proportion of Methionine each claimant has to the total Methionine of all claimants, who have not participated in previous methionine settlements. The Claims Administrator shall be provided with a list of the percentage of Methionine contained in various animal feeds for guidance from Plaintiffs and Defendants based on known feeding formulas requirements set forth in animal nutrition guidelines. Although the number of claimants or the size of each claim cannot be known at this time, no claimant will receive more than 200% of the approved Methionine claim. Remaining funds, if any, after distribution to the Settlement End-User Subclass will be distributed pro rata to the annual university and community college scholarship funds set forth above.

b) Middleman Settlement Class will be distributed based on the proportion of Methionine each claimant has purchased to the total Methionine purchases of all claimants, who have not participated in previous methionine settlements. Although the number of claimants or the size of each claim cannot be known at this time, no claimant will receive more than 200% of the approved Methionine claim. Remaining funds, if any, after distribution to the Middleman Settlement Class will be distributed pro rata to the annual university and community college scholarship funds set forth above.

ELECTION BY SETTLEMENT CLASS MEMBERS

If you fit the above description of a Settlement End-User Subclass Member or a Middleman Settlement Class Member, you have a choice whether or not to remain in the particular Subclass on whose behalf this lawsuit is being maintained and has been settled. You should understand the consequences of this choice in making your decision.

1. **If you want to remain a member of the particular Settlement Subclass**, you do not have to do anything at this time. By remaining a Settlement Class Member, any claims you have against the Defendants for damages under the Kansas antitrust laws arising from the Defendants' conduct as alleged by the Named Plaintiff will be settled as set forth above, you will share in that settlement as set forth above, and your claims against the Defendants will be released. As a member of the Settlement Class, you will be represented by Lead Class Counsel, Rex A. Sharp and Isaac L. Diel, but you will not be personally responsible for their fees or expenses since they will be paid out of the settlement proceeds. You may, of course, hire your own counsel to represent you in the settlement at your own expense. You also have the right to object to the settlement. If you have questions, you may write to the Claims Administrator, Hay, Rice & Associates at P.O. Box 668, Liberal, KS 67905, or review additional materials at www.ksmethioninesettlement.com.

2. **If you want to be excluded from either Settlement Subclass**, you must notify the Claims Administrator, Hay, Rice & Associates at P.O. Box 668, Liberal, KS 67905 of your desire to be excluded by: (1) writing (not email or telephone), (2) stating your name, address, and telephone number (and that of attorney representing you, if any), (3) the amount of Methionine you purchased from January 1, 1985-December 31, 2002 or a good faith estimate of the amount of such purchases, and (4) mail the written exclusion so that it is *received no later than January 2, 2006*. By making this election to be excluded: (a) you will not share in any settlement that might be paid to Settlement Class member as a result of the settlement of this lawsuit; (b) you will not be bound by any decision in this lawsuit favorable to the Defendants and will not benefit from any decisions in this lawsuit favorable to the Named Plaintiff; and (c) you may present any claims you may have against the Defendants by filing your own lawsuit at your own expense. The filing of any objection to the settlement will not extend this exclusion deadline. If you are excluded, you have no right to object to the settlement.

HOW TO SHARE IN THE CASH SETTLEMENT

To share in the settlement proceeds of either Settlement Subclass set forth above, you **must** submit by mail a completed and signed Proof of Claim and Release *no later than January 2, 2006* to the Claims Administrator. The Proof of Claim and Release can be obtained by written request to the Claims Administrator using the tear off form below and also can be obtained at www.ksmethioninesettlement.com.

FURTHER PROCEEDINGS

The Court has scheduled a hearing on January 31, 2006 at 1:30 PM in the Scott County Courthouse, 303 Court Street, Scott City, Kansas, 67871, for the purposes of determining whether (1) the Settlement Agreement is fair, adequate and reasonable and should be given final approval, (2) whether the Named Plaintiff

and its principal should receive an incentive award and how much, (3) the amount of attorneys' fees and costs that should be awarded to Lead Class Counsel, and (4) interim payment of expenses to the Claims Administrator. Although you may attend this hearing, you are not required to do so to participate in the settlement. If you are a member of either Settlement Subclass and wish to support or object to the Settlement Agreement in writing or be heard at the hearing, you must file a *sworn* statement with the Clerk of the District Court of Scott County, 303 Court Street, Scott City, Kansas, 67871, which must include: (1) the class member's complete name and either business or residential address (and the lawyer representing you, if any), (2) a statement that you are either a Settlement End-User Subclass Member or Middleman Settlement Subclass Member based on the criteria set forth above, (3) each reason for support or objection to the settlement along with any supporting papers you wish the Court to consider, (4) the statement must be received by the Clerk on or before January 2, 2006. The date of the hearing may be changed by court order without further notice to the class. You may learn of any such change by checking the court record or consulting the website identified above.

ADDITIONAL INFORMATION

Any questions you have concerning the matters contained in this notice should not be directed to the Court but should be directed in writing to the Claims Administrator at Hay, Rice & Associates, P.O. Box 668, Liberal, KS 67905 or by referring to the website at www.ksmethioninesettlement.com.

The pleadings and other records in this litigation may be examined at any time during regular office hours at the Office of the Clerk, Scott County Courthouse, Scott City, Kansas.

DO NOT CALL THE COURT OR THE CLERK OF THE COURT.

Signed:
"/s/ Robert J. Friedrichs"
Robert J. Frederick
District Court Judge

REQUEST FOR CLAIM FORM

Name (print): _____

Business Name (print): _____

Address: _____

City: _____

KS Zip Code: _____

Telephone No. _____

Fax No. _____

Published in The Goodland Star-News on Tuesday, October 18 and Friday, October 21, 2005.

Pins on sale!



Special color souvenir pins featuring the giant Vincent van Gogh sunflower painting on the big easel in Goodland are now on sale.

The pins are **\$3⁴⁹** each and are available at *The Goodland Star-News* office, 1205 Main. They can be purchased wholesale through the Sherman County Convention and Visitors Bureau office at 890-3515 or 888-824-4222.

Pins are on sale at both Sinclair stations, Knott Just Books, Goodland Regional Medical Center Hospital Auxiliary gift shop, KOA Kampground, Bowmans Heating and Air Conditioning and at The Total Look beauty shop.

The Goodland Star-News

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