

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

IN RE PEANUT FARMERS
ANTITRUST LITIGATION

No. 2:19-cv-00463-RAJ-LRL

**PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION FOR AN
ORDER AUTHORIZING DISTRIBUTION OF THE SETTLEMENT FUND**

The Court has granted final approval to settlements in this litigation between the Plaintiffs and Olam Peanut Shelling Company, Inc., Birdsong Corporation, and Golden Peanut Company LLC. (ECF Nos. 590 and 606) totaling \$102,750,000 (hereinafter “the Settlement Fund”). Consistent with the Court’s Order approving the Plaintiffs’ plan for distribution of the Settlement Fund (ECF No. 606), Settlement Class Counsel recommend distribution of the Settlement Fund to Approved Claimants as described below, and reflected in the proposed Distribution Order:

Description of the Claims Administration Process

1. Pursuant to the Court’s Order dated April 23, 2021, (ECF No. 595), on May 14, 2021, copies of the Notice of the proposed settlement with Golden Peanut and Claim Form (the “Notice”) were mailed to potential Settlement Class members by Angeion Group (“Angeion”), the Claims Administrator retained by Settlement Class Counsel. ECF No. 604. Angeion received and processed 10,120 claims. Declaration of Markham Sherwood Regarding Claims Administration, ¶ 8. (“Sherwood Declaration”) (attached as Exhibit 1). The total amount of sales claimed is \$3,256,566,338.56. Sherwood Declaration, ¶¶ 15-16.

2. Angeion, with Settlement Class Counsel’s assistance, reviewed each of the claims submitted; responded to claimants’ written and telephone inquiries; requested supporting documentation to audit certain claims; and advised claimants of proposed disallowances of

purchases. *See* Sherwood Declaration, ¶¶ 10-16 (describing claims administration process and results in more detail).

3. Settlement Class Counsel's recommendations as to allowance and disallowance of claims are as follows:

- a. Settlement Class Counsel recommend the approval of 5,121 claims with Total Sales in the aggregate amount of \$2,909,143,815.45. Sherwood Declaration, ¶ 15. (A list of all claimants showing their Total Sales and whether their claims have been recommended for approval, are set forth in Exhibit A to the Sherwood Declaration.); and
 - b. Settlement Class Counsel support Angeion's recommendation that 4,999 claims with Total Sales in the aggregate amount of \$347,422,523.11 be disallowed in their entirety. Sherwood Declaration, ¶ 16. Angeion has recommended that these claims be disallowed because: (1) the claimant failed to provide required information or documentation in support of the sales; (2) the sales were made to non-Defendants; (3) the sales were of non-eligible products; (4) the claimant withdrew its claim; and (5) the claim was a duplicate. Sherwood Declaration, ¶ 16. Each Claimant with whose claim was denied was notified that Settlement Class Counsel would recommend that its claim be disallowed based upon Angeion's determinations. No claimant has contested Angeion's determinations. *See* Sherwood Declaration, ¶¶ 10-11.
4. The Settlement Fund was established in 2020. To date, Settlement Class Counsel, with accounting assistance, have timely filed the Settlement Fund's Federal income tax returns

and made any required payments related thereto. Settlement Class Counsel will continue to file the required Federal income tax returns and make any required payments.

5. Angeion has performed extensive settlement and claims administration services since 2020.¹ Angeion has previously submitted invoices to Settlement Class Counsel and been paid a total of \$162,059.67 for Settlement and Claims Administration services provided and costs incurred through September 30, 2021. Sherwood Declaration, ¶ 19. Since that date, Angeion has continued to work with Settlement Class Counsel, to correspond with claimants, and has prepared the Sherwood Declaration. Angeion will continue to submit invoices to Settlement Class Counsel for services provided and costs incurred in the future on a periodic basis until the Settlement Administration is concluded.

6. Settlement Class Counsel request that a reserve fund be established in the amount of \$100,000. The reserve fund may be used for: payment of taxes due on interest earned by the Settlement Fund and tax return preparation costs; payments because of any unforeseen issues involving previously submitted claims; possible payment of additional late claims; payments for additional services and costs related to settlement and claims administration and bank fees and costs; and payments for any unforeseen contingencies relating to the litigation.

7. As of November 3, 2021, the balance of the Settlement Fund available for distribution was \$66,230,465.73. This amount represents \$102,750,000 in settlement proceeds plus interest, less authorized disbursements in the aggregate amount of \$36,519,534.27 (i.e., attorneys' fees and litigation costs and expenses; service awards to the Class Representatives; tax payments; and payments to Angeion for services rendered and costs incurred for settlement and claims

¹ These services are described above and in the Sherwood Declaration.

administration, including costs of notice, tax preparation charges, and bank charges). Settlement Class Counsel request authorization to distribute the balance of the Settlement Fund, less the \$100,000 reserve fund requested above, if approved, to the 5,121 claimants with approved claims, *pro rata*, based on their Total Sales.

Settlement Class Counsel respectfully request that this Court order the distribution of the Settlement Fund in conformity with the form of Order that will be submitted via the ECF Utility.

Dated: November 5, 2021

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CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically email notification of such filing to all counsel of record.

To the best of my knowledge, there are no other attorneys or parties who require service by U.S. Mail.

Dated: November 5, 2021

/s/ Kevin J. Funk

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