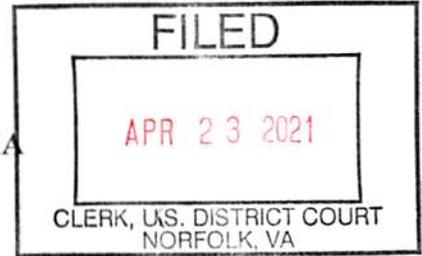


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



IN RE PEANUT FARMERS ANTITRUST
LITIGATION

Case No. 2:19-cv-00463

Honorable Raymond A. Jackson
Honorable Lawrence R. Leonard

**ORDER GRANTING PRELIMINARY APPROVAL OF SETTLEMENT WITH
GOLDEN PEANUT, AUTHORIZING DISSEMINATION OF NOTICE TO CLASS, AND
SETTING DATE FOR FAIRNESS HEARING**

THIS CAUSE came before the Court on Plaintiffs’ Motion to Preliminarily Approve Settlement with Defendant Golden Peanut and Authorize Dissemination of Notice to the Class Inc. Plaintiffs have reached a proposed settlement of their claims with Defendant Golden Peanut Company, LLC (“Golden Peanut”). The Court, having reviewed the Motion, its accompanying memorandum, and the exhibits thereto, the Settlement Agreement, and having held a hearing on the matter, hereby:

ORDER AND ADJUDGES:

1. This Court has jurisdiction over this action and each of the parties to the Settlement Agreement.

Preliminary Approval of Settlement

2. Upon review of the record the Court concludes that the terms of the Settlement Agreement are fair, reasonable, and adequate, and the Settlement meets all the requirements of Federal Rule of Civil Procedure 23(e)(2) and will likely be granted final approval by the Court,

subject to further consideration at the Court's Fairness Hearing. In reaching this conclusion, the Court makes the following findings:

- a. Rule 23(e)(2)(A) is satisfied because the Class Representatives and Class Counsel have adequately represented the Class;
- b. Rule 23(e)(2)(B) is satisfied because the Settlement Agreement was entered into at arms' length by experienced counsel and is sufficiently within the range of reasonableness such that notice of the Settlement should be given to members of the Class pursuant to Rule 23(c)(2);
- c. Rule 23(e)(2)(C) is satisfied and the relief provided for the Class is adequate because (i) the Settlement Agreement provides for a substantial payment to the Class and eliminates the risks, expense, and delay of a trial and potential appeal; (ii) the case does not present any difficulties in identifying claimants or distributing settlement proceeds; (iii) the parties did not discuss the amount of attorneys' fees during the negotiation of the Settlement Agreement and final approval of the settlement is not contingent on the outcome of any petition for attorneys' fees; and (iv) there are no separate agreements that would affect the settlement amount, the eligibility of Class members to participate in the settlement or the treatment of Class members' claims; and
- d. Rule 23(e)(2)(D) is satisfied because the Settlement Agreement treats members of the Class equitably, relative to each other.

3. The Settlement is in the best interests of the Class, raises no obvious reasons to doubt its fairness, and raises a reasonable basis for presuming that the Settlement and its terms

satisfy the requirement of Rule 23(c)(2) and 23(e) and due process so that Notice of the Settlement should be given to the Class and a Fairness Hearing held to determine whether final approval of the Settlement is appropriate.

Fairness Hearing

4. The Court will hold a Fairness Hearing on July 26, 2021, at 2:30 pm at the Walter E. Hoffman United States Courthouse, 600 Granby Street, Norfolk, VA 23510, Courtroom 4 (or such other courtroom as may be assigned for the hearing), to determine whether to approve: (1) the proposed Settlement and (2) Class Counsel's motion for attorneys' fees, unreimbursed litigation costs and expenses, and service awards for the Class Representatives.

5. Any Class member who follows the procedure set forth in the Notice authorized by the Court may appear and be heard at such hearing regarding approval of the Settlement, Class Counsel's motion for attorneys' fees, unreimbursed litigation costs and expenses, and service awards for the Class Representatives, and the plan of distribution

6. Any Class member who wishes to object to the Settlement or Class Counsel's motion for attorneys' fees, unreimbursed litigation costs and expenses, and service awards for the Class Representatives or the plan of distribution must submit a valid and timely written statement of the grounds for objection and otherwise comply with the procedure set forth in the Notice regarding objections. Within forty-five (45) days of the entry of this Preliminary Approval and Notice Order, Plaintiffs shall file their motion or motions seeking final approval of the Settlement Agreement and attorneys' fees, unreimbursed litigation costs and expenses, and service awards for the Class Representatives.

7. If the Court believes it is appropriate, the Fairness Hearing may be conducted remotely by telephone or other electronic means. If the Court determines to hold the Fairness

Hearing remotely, Class Counsel shall post that information on the website devoted to this litigation and provide any Class member that has informed the Court that it intends to participate the information required to remotely participate. The Fairness Hearing may be rescheduled, adjourned, or continued, and the courtroom assigned for the hearing may be changed, without further notice to the Class.

8. At least ten (10) days before the date fixed by this Court for the Fairness Hearing, Class Counsel shall file with the Court an affidavit or declaration of the person(s) responsible for directing the Notice Program approved by the Court, showing that the Notice was provided to the Class in accordance with this Preliminary Approval and Notice Order.

Notice

9. Within twenty-eight (28) days of the date of entry of this Preliminary Approval and Notice Order, Notice shall be mailed by first class mail, postage prepaid, to all Class members, and shall be posted on the website dedicated to this litigation (www.PeanutFarmersAntitrustLitigation.com).

10. Within thirty-five (35) days of the date of entry of the Preliminary Approval and Notice Order, the Summary Notice shall be emailed to all Class members for whom email addresses are available.

11. Within thirty-five (35) days of the date of entry of the Preliminary Approval and Notice Order, or as soon thereafter as such publications' deadlines allow, the Summary Notice shall be published in various publications likely to be viewed by Class members and the Peanut industry.

12. Within thirty-five (35) days of the date of entry of the Preliminary Approval and Notice Order, a press release regarding the Golden Peanut Settlement Agreement shall be issued.

Other Provisions

13. The Court appoints D&M Farms, Mark Hasty, Dustin Land, Lonnie Gilbert, Daniel Howell and Rocky Creek Farms as representatives of the Class.

14. The Court appoints Brian D. Clark of Lockridge Grindal Nauen P.L.L.P. and Kimberly A. Justice of Freed Kanner London & Millen LLC as Co-Lead Counsel for the Class.

15. The Court appoints Wyatt B. Durette, Jr. of Durette, Arkema, Gerson & Gill PC as Liaison Counsel for the Class.

16. The Court approves the escrow account referenced in the Settlement Agreement as a qualified settlement fund (“QSF”) pursuant to Treasury Regulation Section 1.468B-1 and retains continuing jurisdiction as to any issue that may arise in connection with the formation or administration of the QSF. Class Counsel are authorized to use funds from the QSF in accordance with the Settlement Agreement, including to pay costs of notice, taxes, tax expenses, and settlement administration costs.

17. Terms used in this Order that are defined in the Settlement Agreement are, unless otherwise defined herein, used as defined in the Settlement Agreement.

18. In aid of the Court’s jurisdiction to implement and enforce the proposed Settlement, as of the date of entry of this Order, Plaintiffs and all members of the Class shall be preliminarily enjoined from commencing or prosecuting any action or other proceeding against Golden Peanut asserting any of the Claims released in Section II(B) of the Settlement Agreement, pending final approval of the Settlement Agreement or until such time as this Court lifts such injunction by subsequent order.

19. If the Settlement Agreement is terminated or ultimately not approved, the Court will modify any existing scheduling orders as necessary to ensure that Plaintiffs and Golden Peanut will have sufficient time to prepare for the resumption of litigation.

IT IS SO ORDERED.

Dated: April 23, 2021


Honorable Raymond A. Jackson
U.S. District Judge