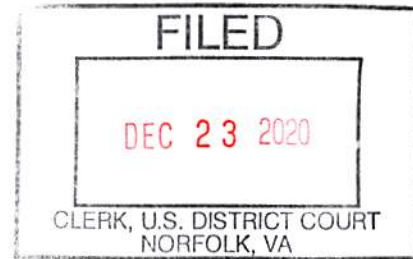


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



IN RE PEANUT FARMERS ANTITRUST
LITIGATION

Case No. 2:19-cv-00463

Honorable Raymond A. Jackson
Honorable Lawrence R. Leonard

ORDER APPROVING NOTICE PROGRAM AND AUTHORIZING DISSEMINATION
OF NOTICE TO THE CLASS

THIS CAUSE came before the Court on Plaintiffs' Motion to Approve Notice Program and to Authorize Dissemination of Notice to the Class. The Court, having reviewed all the pleadings relating to the Motion, the exhibits thereto, and having held a hearing on the matter, hereby:

ORDERS AND ADJUDGES:

1. For the reasons set forth below, Plaintiffs' proposed Notice Program satisfies the requirements of Rule 23(c)(2).
2. On December 2, 2020, this Court entered an Amended Memorandum Opinion and Order ("Certification Order") finding that this case should proceed as a class action under Rule 23(b)(3) of the Federal Rules of Civil Procedure and certified the following Class:

All persons or entities in the United States who sold raw, harvested runner peanuts to any of the Defendants, their subsidiaries or joint-ventures, from January 1, 2014 through December 31, 2019 (the "Class Period"). Specifically excluded from this Class are the Defendants; the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any Defendant.

Certification Order at 18 (ECF No. 496).

3. In addition to certifying the Class, the Court ordered Plaintiffs' counsel to notify the Class of the Certification Order once the Court has approved the proposed form of notice. *Id.* at 19.

4. Pursuant to Rule 23(c)(2), and consistent with the Court's directive, Plaintiffs have moved the Court to enter an order approving Plaintiff's proposed Notice Program and authorizing dissemination of notice to the Class.

Notice Requirements

5. When a court certifies a class under Rule 23(b)(3), it "must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." *Amchem Prods. V. Windsor*, 521 U.S. 591, 617 (1997), *quoting* Fed. R. Civ. P. 23(c)(2). The notice may be provided by "United States mail, electronic means, or other appropriate means."

6. Pursuant to Rule 23(c)(2)(B):

The notice must clearly and concisely state in plain, easily understood language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3).

Fed. R. Civ. P. 23(c)(2)(B). The form of notice is "adequate if it may be understood by the average class member." 4 *Newberg on Class Actions* § 11.53 (4th ed. 2002).

Plaintiffs' Notice Program Constitutes the Best Notice Practicable

7. Plaintiffs have retained Angeion, a company with substantial expertise in designing notice programs, to assist with providing notice to the Class. Angeion has designed a comprehensive Notice Program in this case that consists of multiple platforms for providing notice

to the Class, including mailed notice (“Notice”), email and publication notice (“Summary Notice”), an informational press release (“Press Release”), internet banner ads (“Programmatic Display Advertising”), and Social Media Notice. While the Notice Program relies predominantly on direct mail and email “to all members who can be identified through reasonable effort,” *Amchem Prods.*, 521 U.S. at 617 (quoting Fed. R. Civ. P. 23(c)(2)), Plaintiffs will supplement the direct mail and email notice via digital publication notice, as well a custom social media campaign, print publication, and a press release.

8. In full compliance with Rule 23(c)(2)(B), the various forms of notices called for under the Notice Program describe the following in a way that can be easily understood by Class members:

- a. the nature of the action;
- b. the Certification Order, including the Class definition;
- c. the claims, issues, and defenses of the parties;
- d. the rights of Class members to enter an appearance through their own attorney;
- e. the rights of Class members to exclude themselves from the Class and the Settlement Classes as defined below and the process for doing so;
- f. the binding effect of remaining in the Class;
- g. the Court’s orders preliminarily approving Plaintiffs’ settlements with the Olam and Birdsong Defendants (“Settlements”) and certifying an Olam Settlement Class and a Birdsong Settlement Class (collectively, “Settlement Classes”);

- h. the rights of Settlement Class members to exclude themselves from either or both Settlement Class(es) and the process for doing so;
- i. the binding effect of remaining in either or both Settlement Class(es)
- j. the date, time, and location of the Fairness Hearing that the Court has scheduled to determine whether to finally approve the Settlements and whether to approve Class Counsel's request for an award of litigation costs and expenses;
- k. the rights of Settlement Class members who remain in either or both Settlement Class(es) to object to the Settlements or to Class Counsel's request for an award of litigation costs and expenses and the procedure for asserting such objections;
- l. the website devoted to this litigation, which will allow Class members to have access to case-related documents and will provide other important information regarding this action, including any significant case developments.

Notice to Class Members

- 9. The Class shall receive notice in accordance with the terms of this Order.
- 10. The Court approves the forms of notice that comprise the Notice Program.
- 11. The Court finds that the Notice Program consisting of Notice (mailed) (Exhibit 1 hereto), Summary Notice (by email and publication) (Exhibit 2 hereto), Press Release (Exhibit 3 hereto), Programmatic Display Advertising (Exhibit 4 hereto), and Social Media Notice (Exhibit 5 hereto) constitutes the best notice that is practicable under the circumstances and is valid, due

and sufficient notice to all persons entitled thereto and complies fully with the requirements of Rule 23(c)(2) and the due process requirements of the Constitution of the United States.

12. Plaintiffs are authorized to disseminate notice to the Class consistent with the approved Notice Program.

13. Within twenty (20) days of the date of entry of this Order (“Notice Order”), the Notice shall be mailed by first class mail, postage prepaid, to all potential class members, and shall be posted on the Internet at www.PeanutFarmersAntitrustLitigation.com, the website dedicated to this litigation.

14. Within twenty-eight (28) days of the date of entry of the Notice Order, the Summary Notice shall be emailed to all Class member for whom email addresses are available.

15. Within twenty-eight (28) days of the date of entry of the Notice Order, or as soon thereafter as such publications’ deadlines allow, the Summary Notice shall be published in various publications targeting both the likely locations of class members and the Peanut industry.

16. Within twenty-eight (28) days of the date of entry of the Notice Order, the Press Release regarding the Certification Order and Olam and Birdsong settlements shall be issued.


17. All requests for exclusion from the Class for either or both Settlement Class(es) must be submitted in writing, **postmarked no later than sixty (60) days after the Notice is mailed to the Class**, and must otherwise comply with the requirements set forth in the Notice.

18. All objections by any member of the Class to the Settlements or to Class Counsel’s request for an award of litigation costs and expenses, must be submitted in writing, must be filed with the Clerk of Court, must be **postmarked no later than sixty (60) days after the Notice is mailed to the Class**, and must otherwise comply with the requirements set forth in the Notice.

19. At least ten (10) days before the date fixed by the 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 Notice was provided to the Class in accordance with the Notice Order.

IT IS SO ORDERED.

Dated: December 23, 2020



Honorable Raymond A. Jackson
U.S. District Judge