



No. L002690
Vancouver Registry

In the Supreme Court of British Columbia

Between:

Ritchie-Smith Feeds, Inc.
Wendy Weberg

Plaintiffs

and:

BASF Aktiengesellschaft, BASF Corporation,
BASF Canada Inc., Chinook Group, Ltd., Chinook Group, Inc.
DCV, Inc., Ducoa L.P., Akzo Nobel NV, Bioproducts, Inc.,
Russell Cosburn, John Kennedy, Robert Samuelson,
Lindell Hilling, John L. "Pete" Fischer, Antonio Felix and
Akzo Nobel Chemicals BV

Defendants

BROUGHT UNDER THE *CLASS PROCEEDINGS ACT*, R.S.B.C. 1996

ORDER

BEFORE THE HONOURABLE
MR. JUSTICE MACZKO

) FRIDAY THE 8th DAY OF
)
) APRIL, 2005

THE APPLICATION of the plaintiffs coming on for hearing on April 6, 2005, for an order pursuant to section 35 of the *Class Proceedings Act*, R.S.B.C. 1996, c.50 (the "Act") (the "BC Approval Hearing") and on hearing J.J. Camp, Q.C., counsel for the plaintiffs Ritchie Smith Feeds, Inc. and Wendy Weberg; counsel for the defendants; Andrew Epstein, the friend of the Court; and the objector Bayne Boyles,

AND ON READING:

1. the Akzo Settlement Agreement and the Amended Settlement Agreement, filed;
2. the Reasons for Judgment and Judgment of Mr. Justice Cumming of the Ontario Superior Court of Justice dated March 23, 2005;

3. the letter from the counsel to the Public Guardian and Trustee, filed;
4. the written objections; and
5. the affidavits of:
 - (a) Jane Tielker #3 sworn March 30, 2005,
 - (b) Jane Tielker #4 sworn March 31, 2005;
 - (c) Jane Tielker #5 sworn April 4, 2005;
 - (d) Charles Poelman, sworn March 3, 2005;
 - (e) Wendy Weberg, sworn March 2, 2005;
 - (f) Robert Davison, sworn March 2, 2005;
 - (g) Richard Reimer, sworn March 3, 2005 and
 - (h) Andrew Epstein, sworn March 17, 2005.

AND WITHOUT any admission of liability on the part of Akzo, Akzo having denied liability,

THIS COURT ORDERS THAT:

1. for the purposes of this Order, the definitions set out in the Akzo Settlement Agreement apply to and are incorporated into this Order and, in addition, the following definitions also apply:
 - (a) "**Administrator**" means the administrator appointed under the Amended Settlement Agreement;
 - (b) "**Akzo**" means Akzo Nobel Chemicals BV;
 - (c) "**Akzo Settlement Agreement**" means the settlement agreement between the plaintiffs in the Choline Chloride Actions and Akzo made as of the 6th day of January, 2005;
 - (d) "**Amended Settlement Agreement**" means the settlement agreement made in the Choline Chloride Actions and other actions as of the 1st day of November, 2004

as amended by an agreement made as of the 6th day of January, 2005 which is annexed as Schedule 1 to the Akzo Settlement Agreement;

- (e) "**BC Actions**" means the following actions in the British Columbia Supreme Court: the BC Choline Chloride Action; the BC Biotin Action, Vancouver Registry, No. L003307; the BC Bulk Vitamins Action, Vancouver Registry, No. L003292; the BC Methionine Action, Vancouver Registry, No. L003124; and the BC Niacin Action, Vancouver Registry, No. L003045;
 - (f) "**BC Choline Chloride Action**" means this action, Vancouver Registry, No. L002690;
 - (g) "**BC Choline Chloride Settlement Class**" means: All persons resident in British Columbia who purchased in Canada choline chloride (Vitamin B4) and products that directly or indirectly contain or are derived from choline chloride (Vitamin B4) or from animals which had consumed choline chloride (Vitamin B4), from January 1, 1988 to December 31, 1998, except the Excluded Persons;
 - (h) "**BC Covenantors**" means, jointly and severally, the plaintiffs herein and the members of the BC Choline Chloride Settlement Class;
 - (i) "**Courts**" means the Supreme Court of British Columbia, the Ontario Superior Court of Justice and the Quebec Superior Court;
 - (j) "**SCSD**" means Sutts, Strosberg LLP, Camp Fiorante Matthews, Siskind Cromarty Ivey & Dowler LLP and Siskins, Desmeules;
2. pursuant to s. 35 of the *Act*, the court shall consider the fairness of the Akzo Settlement Agreement and no further notice to the classes is necessary because of the notice of the fairness hearing given to the classes relating to the Amended Settlement Agreement;
3. (a) this action is hereby certified against Akzo;
- (b) the BC Choline Chloride Settlement Class is defined as:
All persons resident in British Columbia who purchased in Canada choline chloride (Vitamin B4) and products that directly or indirectly contain or are derived from choline chloride (Vitamin B4) or from animals which had consumed choline chloride (Vitamin B4), from January 1, 1988 to December 31, 1998, except the Excluded Persons;
- (c) Ritchie Smith Feeds, Inc. and Wendy Weberg are hereby appointed as the representative plaintiffs; and
- (d) the common issue is:

Did Akzo agree to fix, raise, maintain or stabilize the prices of, or allocate markets and customers for choline chloride (Vitamin B4) in Canada from January 1, 1988 to December 31, 1998?

4. for greater certainty, a person may be a member of the BC Choline Chloride Settlement Class pursuant to this Order and may also be a member of the Settlement Class(es) defined in the Amended Settlement Agreement in one, some or all of the BC Actions;
5. the proposed settlement of this action against Azko as particularized in this Order and the Akzo Settlement Agreement is fair, reasonable, adequate, and in the best interests of the members of the BC Choline Chloride Settlement Class;
6. the Akzo Settlement Agreement, annexed as Appendix 1, is incorporated by reference into this Order and is hereby approved and shall be implemented in accordance with its terms;
7. the use of the term "Releasee" and "Releasees" in the Akzo Settlement Agreement does not constitute a release of claims by any of the BC Covenantors;
8. each BC Covenantor in these actions shall not commence or continue any action or take any proceeding relating in any way to the Settled BC Claims against any person or persons who will or could, in connection with any such action or proceeding, bring or commence or continue any claim, crossclaim, claim over or any claim for contribution, indemnity or any other relief against any one of the Akzo Releasees, provided that nothing in this Order affects the rights of a member of a BC Choline Chloride Settlement Class to claim or continue to claim against DCV Inc. and Ducoa L.P. in the BC Choline Chloride Action;
9. the members of the BC Choline Chloride Settlement Class in this action shall be given notice of this Order, by the publication of the notice substantially in the form of Appendix 2 to this Order and substantially in the manner set out in Schedule J of the Amended Settlement Agreement and any other notice is dispensed with;

10. each member of the BC Choline Chloride Settlement Class who elects to opt out of this action must do so in the manner provided in sections 14.1 and 14.2 of the Amended Settlement Agreement on or before August 5, 2005 at 5:00 p.m. eastern;
11. this Order, including the Akzo Settlement Agreement, is binding upon each member of the BC Choline Chloride Settlement Class who does not opt out of this action in accordance with the terms of this Order, including those persons who are minors or are mentally incapable and the requirements of Rule 6(14) of the Rules of Court are dispensed with in respect to the BC Choline Chloride Action. And, for greater certainty, this Order, including the Akzo Settlement Agreement, is binding upon each Direct Purchaser and each Distributor of choline chloride (Vitamin B4) who is a member of the BC Choline Chloride Settlement Class and who does not opt out in accordance with the terms of this Order;
12. each member of the BC Choline Chloride Settlement Class who is a Direct Purchaser or a Distributor of choline chloride (Vitamin B4) shall submit a claim to the Administrator, in accordance with the provisions of the Amended Settlement Agreement, on or before November 5, 2005 at 5:00 p.m. eastern, and, any Direct Purchaser or Distributor who fails to do so, shall not share in any distribution made in accordance with the Amended Settlement Agreement unless this court orders otherwise;
13. this Order does not affect any claims or causes of action that any member of the BC Choline Chloride Settlement Class has or may have against DCV, Inc. or Ducoa L.P. in this action;
14.
 - (a) \$37,500 for SCSD's fees relating to the Akzo Settlement Agreement is fair and reasonable;
 - (b) if the Courts issue the orders contemplated in s. 16.1 of the Amended Settlement Agreement, then, the Administrator shall forthwith pay to Sutts, Strosberg LLP, in trust, for SCSD these fees plus applicable taxes; and
 - (c) such payment be allocated as an equal charge to each of the Direct Purchaser Fund, Intermediate Purchaser Fund and Consumer Fund;

15. save as aforesaid, this action be and is hereby dismissed against Akzo without costs and with prejudice; and
16. the endorsement of this Order by counsel for the defendants be dispensed with.

J Macpherson

BY THE COURT



DEPUTY DISTRICT REGISTRAR

ENTERED

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VOL 51289 FOL 46