

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SUMMARY NOTICE OF PENDENCY OF CLASS ACTION, PROPOSED PARTIAL SETTLEMENT AND HEARING REGARDING SETTLEMENT

TO: All persons and entities in the non-Western United States who purchased FRESH AGARICUS MUSHROOMS directly from an Eastern Mushroom Marketing Cooperative (EMMC) member or one of its co-conspirators or its owned or controlled affiliates, agents, or subsidiaries at any time between February 4, 2001 and August 8, 2005, YOUR RIGHTS COULD BE AFFECTED BY A CLASS ACTION LAWSUIT.

Direct Purchasers of fresh agaricus mushrooms have filed a lawsuit against the Eastern Mushroom Marketing Cooperative (EMMC); Robert A. Ferranto trading as Bella Mushroom Farms¹; Brownstone Mushroom Farms; To-Jo Fresh Mushrooms, Inc.; Cardile Mushrooms, Inc.; Cardile Brothers Mushroom Packaging, Inc.; Country Fresh Mushroom Co.; Forest Mushroom Inc.; Franklin Farms, Inc.; Gino Gaspari & Sons, Inc.; Giorgi Mushroom Company; Giorgio Foods, Inc.; Kaolin Mushroom Farms, Inc.; South Mill Mushroom Sales, Inc.; Leone Pizzini and Son, Inc.; LRP-M Mushrooms LLC²; Modern Mushroom Farms; Sher-Rockee Mushroom Farm; C&C Carriage Mushroom Co.; Oakshire Mushroom Farm, Inc.; Phillips Mushroom Farms, Inc.; Harvest Fresh Farms, Inc.; Louis M. Marson, Jr. Inc.; Mario Cutone Mushroom Co., Inc.; M.D. Basciani & Sons, Inc.³; Monterey Mushrooms, Inc.; Masha & Toto, Inc., trading as M & T Mushrooms⁴; W & P Mushroom, Inc.; Mushroom Alliance, Inc.; Creekside Mushrooms Ltd.; Kitchen Pride Mushroom Farms, Inc.; J-M Farms, Inc.; United Mushroom Farms Cooperative, Inc.; and John Pia (collectively, the “Defendants”)⁵ alleging that they violated the antitrust laws by fixing the prices, and restricting the supply, of fresh agaricus mushrooms. The lawsuit has been certified as a class action by Judge Thomas N. O’Neill of the United States District Court for the Eastern District of Pennsylvania and is known as *In re Mushroom Direct Purchaser Antitrust Litigation*, No. 06-620. Defendants deny that they were subject to and violated the antitrust laws. Defendants also deny that the Class was impacted or suffered any compensable losses as a result of the EMMC’s policies at issue in this case. The Court has not decided whether Defendants did anything wrong. These issues will ultimately be resolved in this case.

The Class certified is: All persons or entities in the non-Western United States who purchased fresh agaricus mushrooms directly from an Eastern Mushroom Marketing Cooperative (EMMC) member or one of its co-conspirators or its owned or controlled affiliates, agents, or subsidiaries at any time between February 4, 2001 and August 8, 2005 (the “Class Period”). For group buying organizations and their members, direct purchasers are either: (1) members who have a significant ownership interest in or functional control over their organizations; or (2) if no member has such interest or control, the organizations themselves. The Class excludes the EMMC, its members and their parents, subsidiaries and affiliates. The non-Western United States refers to the following states which were in the six regions of the country which plaintiffs claim were subject to the EMMC’s pricing policies: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Wisconsin, Minnesota, Iowa, Kansas, Nebraska, Colorado, Oklahoma, Texas, Ohio, Missouri, Michigan, Indiana, Kentucky, West Virginia, Illinois, and the District of Columbia.⁶ If you do not meet these requirements or are not a member of the Giorgi Settlement Class, this Notice does not apply to you.

Common Class Wide Claims and Issues identified by the Court include: whether there has been a violation of the antitrust laws; whether Class members suffered an injury from the claimed antitrust violations; and aggregate damages suffered by the Class as a result of Defendants’ conduct.

Proposed Partial Settlement. Plaintiffs have reached settlements with the following Defendants: Giorgi Mushroom Company and Giorgi Foods, Inc. (collectively “Giorgi”), Creekside Mushroom Ltd. (“Creekside”) and Kitchen Pride Mushroom Farms, Inc. (“Kitchen Pride”). The settlements are contingent upon the Court’s preliminary and final approval of class certification under Rule 23 of the Federal Rules of Civil Procedure.

Subject to the terms and conditions of the settlement agreement with Giorgi, dated April 27, 2011 which is on file with the Court as Exhibit 1 to Class Plaintiffs’ January 29, 2018 Motion for Preliminary Approval, a copy of which is also available at www.garwingerstein.com, Giorgi has paid \$11.5 million in cash into an escrow account for the benefit of Class. The settlement with Giorgi includes a “most favored nation” provision whereby (subject to specified exceptions) future settlements with certain other defendants that have not yet settled might lead to a reduction in the settlement amount paid by Giorgi. The proposed settlement with Giorgi is a compromise of disputed claims and does not mean that it or any other defendant in this action has been found liable for the claims made by the Class Plaintiffs. Giorgi does not admit any wrongdoing or liability on its part.

Subject to the terms and conditions of the settlement agreement with Kitchen Pride, dated June 26, 2015 which is on file with the Court as Exhibit 2 to Class Plaintiffs’

¹ Buona Foods, Inc., not a defendant in this litigation, is its affiliated distributor.

² Manfredini Enterprises, Inc., not a defendant in this litigation, is its affiliated distributor.

³ Basciani Foods, Inc., not a defendant in this litigation, is its affiliated distributor.

⁴ Robert Masha Sales, Inc., not a defendant in this litigation, is its affiliated distributor.

⁵ Defendants dispute that purchases made from the identified non-defendant affiliated distributors (Buona Foods, Inc., Manfredini Enterprises, Inc., Basciani Foods, Inc., Robert Masha Sales, Inc.) as well as other mushroom distributors who are also not defendants in this case may be included in this case. That issue will ultimately be resolved in this case.

⁶ The Giorgi settlement referenced below is on behalf of a class that is defined as follows:

All persons or entities who purchased Agaricus mushrooms directly from an EMMC member or one of its co-conspirators or its owned or controlled affiliates, agents or subsidiaries at any times during the period January 1, 2001 through December 31, 2008. The term “Agaricus mushrooms” shall mean all varieties and strains of the species *Agaricus bisporus*, including, among others, both brown and white varieties. The Direct Purchaser Class excludes the EMMC, its members and their parents, subsidiaries and affiliates. The Class also excludes Giant Eagle and Publix Super Markets, Inc. and their parents, subsidiaries and affiliates (the “Giorgi Settlement Class”).

January 29, 2018 Motion for Preliminary Approval, a copy of which is also available at www.garwingerstein.com,

Kitchen Pride has agreed to pay \$125,000 in cash for the benefit of the Class upon final Court approval of the settlement. Kitchen Pride has also agreed to cooperate with the Class in its continuing litigation against the non-settling defendants, to the extent that such cooperation does not conflict with attorney-client or work product privilege. Kitchen Pride does not admit any wrongdoing or liability on its part.

Subject to the terms and conditions of the settlement agreement with Creekside, dated April 19, 2017 which is on file with the Court as Exhibit 3 to Class Plaintiffs’ January 29, 2018 Motion for Preliminary Approval, a copy of which is also available at www.garwingerstein.com, Creekside has paid \$250,000 in cash into an escrow account for the benefit of the Class. Creekside has also agreed to cooperate with the Class in its continuing litigation against the non-settling defendants, to the extent that such cooperation does not conflict with attorney-client or work product privilege or disclose any information learned exclusively through efforts or communications subject to the joint defense or common interest privilege. Creekside does not admit any wrongdoing or liability on its part.

If the Settlements are approved by the Court, Giorgi, Kitchen Pride and Creekside, and their respective present and former parents, subsidiaries, divisions, affiliates, stockholders, officers, directors, employees, agents and any of their legal representatives (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing) (the “Released Parties”) shall be released and forever discharged from liability for all claims that were or could have been brought by Class Plaintiffs and members of the Class in this case (the “Released Claims”). Notwithstanding the Class Definition certified by the Court and referenced above, Giorgi shall be released and forever discharged from liability for all claims that were or could have been brought against Giorgi as defined in the settlement agreement with Giorgi, dated April 27, 2011. Each member of the Class who does not opt-out covenants and agrees that it shall not seek to establish liability against any Released Party based, in whole or in part, upon any of the Released Claims. Any disputes arising under or relating to the Settlement Agreements, including, but not limited to, the releases in the Settlement Agreements, will be resolved in the U.S. District Court for the Eastern District of Pennsylvania.

Mailed Notice. If you believe you are a member of the Class but have not yet received the more detailed Notice of Pendency of Class Action (“Mailed Notice”), you may obtain a copy of the Mailed Notice (that includes additional information regarding objections to the settlements or the certification of the Class as well as deadlines for asserting those objections if any), by contacting the Notice Administrator at:

Mushrooms Direct Notice Administrator
c/o Rust Consulting, Inc. - 6057
P.O. Box 44
Minneapolis, MN 55440-0044

Excluding Yourself From The Class. To exclude yourself from the Class (“opt out”), **you must send a letter to the Notice Administrator at the above address by U.S. First Class Mail, postmarked on or before July 28, 2018**, requesting exclusion and following the detailed instructions in the Mailed Notice. **You cannot exclude yourself by telephone or e-mail.** If you exclude yourself, you will not be bound by any judgment that may be made in the case, and you will not share in recovery from the Giorgi, Kitchen Pride or Creekside settlements, or any recovery that may be obtained as the result of a trial or other, future settlements. You will keep any right to sue Defendants on your own about the legal issues in this case. The Court will exclude from the Class any member who requests exclusion.

Staying in the Lawsuit But Objecting to the Settlements. If you object to all or any part of the proposed settlements, write to the Court about why you do not like the proposed settlements. Any Notice of Intention to Appear and Summary Statement of Objections to the proposed Giorgi, Kitchen Pride and/or Creekside settlements filed by a Class member must be postmarked no later than **Saturday, August 25, 2018**, 30 days prior to the Fairness Hearing, which will be held on **Monday, September 24, 2018 at 9:30 a.m.**, before The Honorable Berle M. Schiller, United States District Judge of the U.S. District Court of the Eastern District of Pennsylvania, in Courtroom 13B at United States Courthouse, 601 Market Street, Philadelphia, PA 19106.

If You Do Nothing. If you do nothing, you remain in the Class. You will be bound by any judgment reached in this case. You will share in recovery from the Giorgi, Kitchen Pride or Creekside settlements and, to the extent there is any further recovery through trial or settlement, you will keep your right to share in it.

Although not required, you may also hire your own attorney at your own expense and enter an appearance in the case through your own lawyer, if you so desire.

Getting More Information. If you have questions, need additional information, or want to receive the Mailed Notice, please contact the Notice Administrator Rust Consulting, Inc. as set forth above. You may also get additional information by visiting www.garwingerstein.com.

PLEASE DO NOT WRITE OR CALL THE COURT OR THE CLERK’S OFFICE FOR INFORMATION.

DATE: March 22, 2018, BY THE COURT
Honorable Berle M. Schiller, United States District Judge