

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**IN RE VITAMINS ANTITRUST LITIGATION**

**Misc. No. 99-0197 (TFH)  
MDL No. 1285**

**This filing relates to:**

**Animal Science Products, Inc., et al.,**

**Plaintiffs,**

**v.**

**Chinook Group, Ltd., et al.,**

**Defendants.**

**Order Preliminarily Approving Settlement with DCV, Inc. and DuCoa L.P.**

The Court grants Class Plaintiffs' Motion for Preliminary Approval of the proposed settlement between the Choline Chloride Class Plaintiffs and Defendants DCV, Inc. and DuCoa L.P. The Court orders as follows:

1. The Court preliminarily approves the Settlement Agreement dated October 16, 2008, subject to further consideration at the Fairness Hearing scheduled in Paragraph 5. The Court finds that the Proposed Settlement is sufficiently within the range of possible approval such that notice should be given as provided in Paragraph 2.

2. Within twenty days after the date this Order is entered, Class Plaintiffs' Co-Lead Counsel must cause the notice in the form of Exhibit A to be mailed to all Choline Chloride Class Members who received mailed notice of an earlier settlement in this litigation or who submitted a claim form in one of those settlements.

3. Prior to the Fairness Hearing, Class Plaintiffs' Co-Lead Counsel must file a declaration certifying that they complied with the provisions of Paragraph 2.

4. The Court finds the notice to be provided as set forth in Paragraph 2 to be the best means of providing notice practicable under the circumstances and, once completed, to constitute due and sufficient notice of the Proposed Settlement and the Fairness Hearing, in full compliance with the requirements of Federal Rule of Civil Procedure 23.

5. A Fairness Hearing on final settlement approval is scheduled for Monday, May 4, 2009, at 10:00 A.M. in Courtroom 25A at the E. Barrett Prettyman Federal Courthouse, 333 Constitution Avenue, N.W., Washington, D.C. At the Fairness Hearing, the Court will consider the fairness, reasonableness, and adequacy of the Proposed Settlement.

6. The date and time of the Fairness Hearing must be set forth in the notice to class members, but may be adjourned by the Court without further notice to class members other than that which may be posted at the Court and on the Court's website.

7. Any member of the Choline Chloride Class may appear at the Fairness Hearing in person or by counsel and may be heard, to the extent allowed by the Court, in support of or in opposition to the fairness, reasonableness, or adequacy of the proposed Settlement. In order to be heard at the Fairness Hearing, a class member must file with the Clerk of Court, no later than Thursday, April 2, 2009, a notice of intention to appear as well as a statement of the position the class member intends to take on the Proposed Settlement and the reasons for that position, and must serve copies of these documents on Class Plaintiffs' Co-Lead Counsel and counsel for Defendants, postmarked by Thursday, April 2, 2009.

8. In addition, any member of the Choline Chloride Class may object in writing to the Proposed Settlement by filing objections with the Clerk of Court, no later than Thursday, April



# **EXHIBIT A**

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

**If You Purchased Choline Chloride Between 1988 and 1998, You could be Affected by a Proposed Class Action Settlement.**

*A Federal Court authorized this notice. This is not a solicitation from a lawyer.*

- There is a Proposed Settlement in a class action lawsuit about Choline Chloride. The lawsuit is called *In re Vitamins Antitrust Litigation*. The lawsuit is pending in the United States District Court for District of Columbia.
- Under the Proposed Settlement, DCV, Inc. and DuCoa L.P. will transfer essentially all of their assets to purchasers of Choline Chloride. The main assets are money owed to DCV by another company, Arkion Life Sciences, LLC, and a portion of Arkion owned by DCV. If the Proposed Settlement is approved, lawyers for the Class will attempt to recover money from these assets and distribute money to Class Members. **No money is available to you at this time.**
- You may be affected by this Proposed Settlement if you directly purchased choline chloride for delivery in the United States from January 1, 1988 through September 30, 1998 and have not excluded yourself from the Class.
- Your legal rights are affected whether you act or don't act. Read this notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS PROPOSED SETTLEMENT:</b>		
<b>YOU MAY:</b>		<b>DUE DATE:</b>
<b>OBJECT</b>	Write to the Court about why you don't like the Proposed Settlement.	Received by [date]
<b>GO TO A HEARING</b>	Ask to speak to the Court about the fairness of the Proposed Settlement.	Received by [date]
<b>DO NOTHING</b>	Take no position on the Proposed Settlement and wait for more information.	

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.

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## **BASIC INFORMATION**

### **1. Why did I get this notice package?**

You or your company may have directly purchased Choline Chloride for delivery in the United States from any of the Defendants or their co-conspirators from January 1, 1988 through September 30, 1998.

The Court sent you this Notice because you have a right to know about a Proposed Settlement of a class action lawsuit, and about all of your options, before the Court decides whether to approve the Proposed Settlement. You will be informed of the progress of the Proposed Settlement.

This package explains the lawsuit, the Proposed Settlement, and your legal rights.

The Court in charge of the case is the United States District Court for the District of Columbia, and the case is known as *In re Vitamins Antitrust Litigation*, Misc. No. 99-197 (TFH). The people who sued are called the Plaintiffs, and the companies they sued are called the Defendants.

### **2. What is this lawsuit about?**

The lawsuit claims that the Defendants unlawfully agreed to fix, raise, maintain, and stabilize the prices of Choline Chloride. The lawsuit claims that as a result, purchasers paid more for Choline Chloride than they otherwise would have paid.

After a trial in 2003, a jury found that DCV, Inc. and DuCoa L.P., as well as Mitsui & Co., Ltd. and Mitsui & Co. (U.S.A.), knowingly participated in an illegal conspiracy. The jury awarded damages of \$49,539,234, which were tripled to \$148,647,702. After the trial, Mitsui and its subsidiary Bioproducts Inc. paid money in a settlement. All of the other Defendants—BASF, Akzo Nobel, UCB, and Chinook—also settled with the Class.

The Court subtracted the settlement amounts paid by the other Defendants as well as \$236,816.08 paid by DCV and DuCoa and ordered DCV and DuCoa to pay the remaining amount of \$70,910,886.92, plus interest from June 20, 2003.

### 3. Why is this a class action?

In a class action, one or more people called Class Representatives sue on behalf of people who have similar claims. All these people are a Class or Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the class. U.S. District Judge Thomas F. Hogan is in charge of this class action.

### 4. Why is there a Proposed Settlement?

DCV and DuCoa cannot afford to pay the total amount they owe. They have agreed to transfer essentially all of their assets to the Class and will go out of business. The Class Representatives and the attorneys think the Proposed Settlement is best for all Class Members.

## **WHO IS AFFECTED BY THE PROPOSED SETTLEMENT?**

To see if you are affected by this Proposed Settlement, you first have to decide if you are a Class Member.

### 5. How do I know if I am part of the Proposed Settlement?

Judge Hogan decided that everyone who fits this description is a Class Member: *All persons and entities who directly purchased choline chloride for delivery in the United States from any of the defendants or their co-conspirators from January 1, 1988 through September 30, 1998. Excluded from the class are all governmental entities, defendants, and other manufacturers of vitamins, vitamin premixes and bulk vitamin products, and their respective subsidiaries and affiliates.*

The Defendants are DCV, Inc.; DuCoa L.P.; Akzo Nobel, Inc.; Akzo Nobel N.V.; BASF Corp.; BASF AG; Bioproducts, Inc.; Chinook Group Ltd.; Chinook Group Inc.; Mitsui & Co., Ltd.; Mitsui & Co. (U.S.A.), Inc.; UCB, Inc.; and UCB, S.A.

### 6. Are there exceptions to being included?

Governmental entities, defendants, and other manufacturers of vitamins, vitamin premixes, and bulk vitamin products, and their respective subsidiaries and affiliates, are not Class Members. In addition, persons and entities who excluded themselves from the Class are not Class Members.

**7. I'm still not sure if I am included.**

If you are still not sure whether you are included, you can ask for free help. See Question 18 below.

**THE PROPOSED SETTLEMENT BENEFITS**

**8. What does the Proposed Settlement provide?**

DCV and DuCoa have agreed to transfer essentially all of their assets to Class Members. These assets include a promissory note from Arkion Life Sciences LLC for \$4,419,395.86, and a 21.334 percent interest in Arkion. A complete list of assets is contained in the Settlement Agreement.

**9. Will I receive a payment?**

No money is available to you at this time. Lawyers for the class will attempt to recover money from Arkion. If they are successful, you will receive additional information about how much money is available to you and how to make a claim.

**THE LAWYERS REPRESENTING YOU**

**10. Do I have a lawyer in this case?**

The Court asked the law firms of Hausfeld LLP; Boies, Schiller & Flexner, LLP; and Susman Godfrey LLP to represent the Class. These lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

**11. Will the lawyers be paid?**

Class Counsel were awarded attorneys' fees from earlier settlements in this case. They are not seeking fees at this time. If they are successful in recovering money from Arkion and seek additional fees, you will receive notice and will have an opportunity to object.

## **OBJECTING TO THE PROPOSED SETTLEMENT**

You can tell the Court that you don't agree with the Proposed Settlement or some part of it.

### **12. How do I tell the Court that I don't like the Proposed Settlement?**

If you're a Class Member, you can object to the Proposed Settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter that includes the following:

- A statement saying that you object to the Proposed Settlement in *In re Vitamins Antitrust Litigation*,
- Your name, address, telephone number, and your signature, and
- The reasons you object to the Proposed Settlement.

You must file the objection with the Court at the following address, **received by Month 00, 0000**:

Clerk of Court  
United States District Court  
for the District of Columbia  
333 Constitution Avenue, N.W.  
Washington, DC 20001

You must also mail copies of the objection to the following attorneys, **postmarked by Month 00, 0000**:

Michael D. Hausfeld  
Hausfeld LLP  
1700 K Street, NW  
Suite 650  
Washington, DC 20036

Lawrence J. Kotler  
Duane Morris LLP  
30 South 17th Street  
Philadelphia, PA 19103-4196

## **THE COURT'S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the Proposed Settlement. You may attend and you may ask to speak, but you don't have to.

**13. When and where will the Court decide whether to approve the Proposed Settlement?**

The Court will hold a Fairness Hearing at [time] on [date], at the United States District Court for the District of Columbia, 333 Constitution Avenue, N.W., Washington, DC. At this hearing the Court will consider whether the Proposed Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Hogan will listen to people who have asked to speak at the hearing (see Question 15). At the hearing, the Court will decide whether to approve the Proposed Settlement.

The Court may change the time and date of the Fairness Hearing. Notice of any change will be posted at the courthouse or on the Court's website.

**14. Do I have to come to the hearing?**

No. Class Counsel will answer questions Judge Hogan may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

**15. May I speak at the hearing?**

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter stating the following:

- "Notice of Intention to Appear in *In re Vitamins Antitrust Litigation*",
- The position you will take on the Proposed Settlement and your reasons, and
- Your name, address, telephone number, and your signature.

Your Notice of Intention to Appear must be filed with the Court at the following address, **received by Month 00, 0000**:

Clerk of Court  
United States District Court  
for the District of Columbia  
333 Constitution Avenue, N.W.  
Washington, DC 20001

You must also mail copies of the Notice of Intention to Appear to the following attorneys, **postmarked by Month 00, 0000**:

Michael D. Hausfeld  
Hausfeld LLP  
1700 K Street, NW  
Suite 650  
Washington, DC 20036

Lawrence J. Kotler  
Duane Morris LLP  
30 South 17th Street  
Philadelphia, PA 19103-4196

## **IF YOU DO NOTHING**

### **16. What happens if I do nothing at all?**

You are not required to do anything at this time. If lawyers for the Class are successful in recovering money from Arkion, you will receive additional information about how to make a claim.

## **GETTING MORE INFORMATION**

### **17. Are there more details about the Proposed Settlement?**

This Notice summarizes the Proposed Settlement. More details are in a Settlement Agreement. You can get a copy of the Settlement Agreement by visiting <http://www.hrsclaimsadministration.com/cases/vit/> or writing to Class Counsel (see Question 18).

### **18. How do I get more information?**

If you have questions or want more information, you can visit <http://www.hrsclaimsadministration.com/cases/vit/> or write to Class Counsel at one of the addresses below:

Michael D. Hausfeld  
Hausfeld LLP  
1700 K Street, NW  
Suite 650  
Washington, DC 20006

William A. Isaacson  
Boies, Schiller & Flexner LLP  
5301 Wisconsin Avenue, NW  
Suite 800  
Washington, DC 20015

James T. Southwick  
Susman Godfrey LLP  
1000 Louisiana Street  
Suite 5100  
Houston, TX 77002