

# Notice of Certification and Settlement Agreement Approval

## IN THE MATTER OF LYSINE CLASS ACTION LITIGATION

### PLEASE READ THIS NOTICE CAREFULLY. IT MAY AFFECT YOUR LEGAL RIGHTS.

TO: All persons in or from Canada who purchased lysine in any form and for any use, including, feed-grade lysine (whether in unmixed form, as part of a feed mix, or otherwise), or any other grade or form of lysine, whether intended for resale or otherwise (hereafter referred to as "Lysine"), and products containing or derived from Lysine, or products derived from animals that consumed Lysine, between June 1, 1992 and June 27, 1995

#### 1. Purpose of this Notice

Class Proceeding lawsuits have been initiated in Ontario, British Columbia, and Quebec in which it is alleged that the Defendants conspired to fix prices and allocate markets for Lysine in Canada.

A Settlement Agreement has been reached between the Plaintiffs (the parties who brought the lawsuit) and some of the Defendants, Archer Daniels Midland Company, Ajinomoto Heartland Inc., Kyowa Hakko Kogyo Company Ltd., and Biokiyowa Inc. (the "Main Agreement"). Under the terms of the Main Agreement, the Defendants will pay \$5,250,000 in benefits. The proceeding was certified and the Settlement Agreement approved by the Courts in Ontario on February 28, 2003, in British Columbia on May 9, 2003, and in Quebec on May 8, 2003.

A separate Settlement Agreement was reached with Sewon America Inc., and approved by the Courts on dates referenced above (the "Sewon Agreement"). Under the terms of the Sewon Agreement, Sewon cooperated with the plaintiffs, providing information and documents. No monetary benefits will be paid.

The Defendants, Sewon America Inc., Archer Daniels Midland Company, Ajinomoto Heartland Inc., Kyowa Hakko Kogyo Company Ltd., and Biokiyowa Inc. are collectively referred to in this Notice as the "Settling Defendants".

This Notice is to advise you of the Settlement Agreements and to inform you of your rights as a Class Member under the Agreements.

#### 2. Class Member Categories

If you purchased Lysine or products containing or derived from Lysine or products derived from animals that consumed Lysine in or from Canada between June 1, 1992 and June 27, 1995 you are a Class Member. Class Members fall into 8 categories:

1. Distributors
2. Feed Mills
3. Hog Farmers
4. Chicken Farmers
5. Turkey Farmers
6. Other Farmers
7. Consumers
8. Intermediaries

#### 3. Claim Program - Distributors, Feed Mills, and Farmers

Distributors, Feed Mills, and Farmers will be eligible to receive direct compensation under the Main Agreement. The maximum amount of compensation available to all Distributors, Feed Mills, and Farmers, is \$4,725,000 plus accrued interest.

Compensation will be paid out to eligible Distributors and Feed Mills based on the dollar value of Lysine purchases made between June 1, 1992 and June 27, 1995. A maximum of \$185,000 is available to compensate Distributors. A maximum of \$1,184,000 is available to compensate Feed Mills.

Compensation will be paid out to eligible Farmers based on the dollar value of feed purchased between June 1, 1992 and June 27, 1995, multiplied by a fixed percentage for each of hog feed, chicken feed, turkey feed, and other feed (collectively "feed"). Farmers must establish that the feed purchased contained Lysine.

Hog Farmers will receive a minimum of \$1,200,000 and a maximum of \$1,563,000 in compensation. If the minimum level of compensation is not required to pay all eligible claims of Hog Farmers, the Canadian Pork Council will receive a payment equal to \$1,200,000 less the value of Hog Farmers' eligible claims.

Chicken Farmers will receive a minimum of \$600,000 and a maximum of \$857,000 in compensation. If the minimum level of compensation is not required to pay all eligible claims of Chicken Farmers, the Poultry Institute of Canada will receive a payment equal to \$600,000 less the value of Chicken Farmers' eligible claims.

The compensation paid to Distributors, Feed Mills, and Farmers will depend, in part, on the number of claims that are made.

Distributors, Feed Mills, and Farmers must complete a Claim Form, and submit certain required supporting documentation outlined in the Claim Form. To be eligible for compensation, the Claim Form together

with the required supporting documentation must be submitted to the Claims Administrator by September 6, 2003. Claim Forms are available by telephoning the Claims Administrator at 1-866-432-5534.

#### 4. Compensation Plan - Consumers and Intermediaries

Under the Main Agreement, a Settlement Fund of at least \$525,000 plus accrued interest, shall be available to compensate Consumers and Intermediaries.

Recognizing the difficulty of determining the damage suffered by any given Consumer or Intermediary, and recognizing the related difficulties in directly compensating Consumers and Intermediaries, it has been determined that compensation will be paid to the following organizations for the general benefit of Consumers and Intermediaries:

- a. Options Consommateurs - \$45,000
- b. Quebec Fonds d'Aide - \$65,000
- c. Boys and Girls Clubs of Canada - 50% of the Remaining Funds
- d. Santropol Roulant - 8.33% of the Remaining Funds
- e. Le Regroupement des magasins Partage de l'Île de Montréal - 8.33% of the Remaining Funds
- f. Moisson Montréal - 8.33% of the Remaining Funds
- g. Breakfast for Learning - 25% of the Remaining Funds

#### 5. Release of claims and the effect on other proceedings

You will be bound by the terms of the Settlement Agreements, unless you "opt out", a process that is described in the next section.

This means that you will not be able to bring or maintain any other claim or legal proceeding against any of the Settling Defendants in connection with Lysine or products containing or derived from Lysine or products derived from animals that consumed Lysine unless you "opt out".

#### 6. Opting out of the Settlement Agreements

If you would like to exclude yourself from the Main Agreement, you can opt out by obtaining an "Opt Out Form" (available from the Claims Administrator), and filing it with the Claims Administrator no later than July 8, 2003. If you wish to opt-out of the Sewon Agreement, you must file an Opt Out Form with the Claims Administrator no later than July 23, 2003.

If you opt out you will not be eligible for any of the benefits of the Settlement Agreement.

#### 7. Class Counsel

The law firms of Siskind, Cromarty, Ivey & Dowler LLP, and Oatley, Vigmond represent the Class in Ontario, along with all class members in provinces other than British Columbia and Quebec, and Quebec corporations. Ontario Class Counsel can be reached toll-free at 1-800-461-6166 ext. 455.

The law firm of Poyner, Baxter represent the Class in British Columbia. Poyner Baxter can be reached at 604-988-6321.

The law firms of Sylvestre, Charbonneau, Fafard and Unterberg, Labelle, Lebeau represent the Quebec consumers. Quebec Class Counsel can be reached at 514-934-0841.

#### 8. Legal Fees

Class Counsel in all jurisdictions will seek legal fees from their respective courts in an amount not to exceed 25% of the settlement benefits attributable to their jurisdiction, plus disbursements and taxes.

#### 9. Questions About the Settlement Agreements

If you would like a copy of either of the Settlement Agreements or have questions, you can call the Claims Administrator's Information Line at 1-866-432-5534. Copies of the Settlement Agreements can be sent to you at a cost of \$20.00 each, which amount represents the cost of photocopying and mailing each Settlement Agreement.

#### 10. Interpretation

If there is a conflict between the provisions of this Notice and the Settlement Agreements and any of their appendices, the terms of the Settlement Agreements shall prevail.