

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

IN RE: FRAGRANCE END-USER  
PLAINTIFF ANTITRUST LITIGATION

Case No. 23-cv-16127

**ORDER**

**WILLIAM J. MARTINI, U.S.D.J.:**

Before the Court is End-User Plaintiffs' ("EUPs") "Motion for Preliminary Approval of Settlement with Defendant International Flavors and Fragrances, Inc. ("IFF"), Certification of Proposed Settlement Class, and Related Relief" (the "Motion"), ECF No. 200.

WHEREAS, the EUPs and IFF reached a settlement agreement (the "Settlement Agreement") for a monetary payment of \$11,000,000 and full and timely cooperation to implement the terms of the Settlement Agreement and supply information, documents, and testimony (the "Proposed Settlement") that will help EUPs prosecute their claims against Givaudan S.A., Givaudan Fragrances Corporation, Ungerer & Company, Inc., Custom Essence LLC, DSM-Firmenich AG, Firmenich International S.A., Firmenich SA, Firmenich Inc., Agilix Flavors & Fragrances, Inc., Symrise AG, Symrise Inc., and Symrise US LLC (the "Non-Settling Defendants") in the above-captioned consolidated action (the "Consolidated Action"), ECF Nos. 200-1, 200-3. Having reviewed the Motion, the Settlement Agreement, accompanying declaration of counsel, and all prior proceedings herein, and for other good cause shown,

**IT IS HEREBY ORDERED** that the Motion is **GRANTED** as set forth herein.

**I. JURISDICTION**

The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d), and personal jurisdiction over EUPs and IFF (collectively, the "Parties") for the purposes of the Settlement Agreement. Additionally, venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1).

**II. CLASS CERTIFICATION FOR SETTLEMENT PURPOSES ONLY**

For settlement purposes only and pursuant to Fed. R. Civ. P. 23(a), (b)(3), and (3), the Court provisionally certifies a class in this matter (the "EUP Settlement Class") as follows:

All Persons who, during the Class Period, purchased in the United States consumer products or household goods, not for resale, which contained Fragrance Products that were manufactured or sold by Defendants or their subsidiaries or affiliates, INCLUDING Plaintiffs, but specifically EXCLUDING: purchasers that purchased Fragrance Products directly from Defendants, purchasers that purchased Fragrance Products manufactured by Defendants other than directly from Defendants for incorporation in finished consumer products or household goods, Defendants, IFF Released Parties, conspirators, the officers, directors, or employees of any Defendant or conspirator, any entity in which any Defendant or conspirator has a controlling interest; any affiliate, legal representative, heir, or assign of any Defendant or coconspirator, and any Person acting on their behalf. Also

excluded from the Class are any judicial officer presiding over the Consolidated Action and the members of his/her immediate family and judicial staff, and any juror assigned to the Consolidated Action, as well as any Person who or which submits a valid and timely request for exclusion in accordance with the requirements set forth in the Class Notice and whose request is accepted by the Court. For the avoidance of doubt, the Settlement Class includes Persons who purchased in the United States consumer products or household goods that contained Fragrance Products manufactured or sold by Defendants or their subsidiaries or affiliates (i) from a seller located outside the United States, or (ii) from a seller in the United States that acquired Fragrance Products manufactured or sold by Defendants outside the United States from that seller's foreign affiliate, or from Defendants or their subsidiaries or affiliates.

The Court provisionally finds, for settlement purposes only, that (a) the EUP Settlement Class is so numerous and geographically dispersed that their joinder before the Court would be impracticable; (b) there are one or more questions of fact and/or law common to the EUP Settlement Class; (c) EUPs' claims are typical of the claims of the EUP Settlement Class, in that these claims arise from the same common course of alleged illegal anticompetitive conduct by Defendants; (d) EUPs will fairly and adequately protect the interests of the EUP Settlement Class; (e) common questions of law and fact predominate over questions affecting only individual members; and (f) a class action is superior to other available methods for the fair and efficient adjudication of this Consolidated Action.

### **III. SETTLEMENT CLASS REPRESENTATIVES AND SETTLEMENT CLASS COUNSEL**

In accordance with Rule 23(a), the Court appoints the following named EUPs as representatives of the EUP Settlement Class: Alethea Andrews, Charlette Atencio, Maria Barron, Apostle Cynthia Bolden, Douglas Borowski, Terry Brown, Mandy Bryant, Liridon Camaj, Scott Carpenter, Casey Christensen, Joseph Collins, Sophia Dashab, Matthew DeNapoles, Brian Depperschmidt, Letia Dickerson, Paula DiCianno, Mirlinda Elmazi, Jodie Elmore, Dana Evans, Alex Greenzweig, Shan Greer, Andrea Hogan, Jessica Howe, Suzen Isai, Phyllis Jackson, Samuel Johnson, Jasmine Judy, Tiffnie Kitchens, Sandra Kluessendorf, Nancy Koepke, Arlinda Kongoli, Isaac Landreth, Nicole Langlo, Brandy Littrell, Monica Lord, Kionna Love, Stephen Mack, Alana Manuia, Leslee Martin, Michele Matheny, Jennifer McGehee, Milan Montano, Havva Murtishi, Daniel Nabavian, Frank Novak, Nicole Padilla, Carmen Pelliteri, Yvonne Peychal, Eleanor Pressler, Mary Peterson, Cynthia Reese, Christine Schorr, Masees Skenderian, Berniece Van Der Berg, Elli Ward, Kimberly Webb, Tonia West, and Charlotte Williams. The Court provisionally finds that the Class Representatives are similarly situated to the absent EUP Settlement Class Members, and therefore typical of the Class, and that they will be adequate Class Representatives.

Upon consideration of the factors set forth in Rule 23(g)(1)(A), the Court provisionally appoints Kellie Lerner and Kimberly A. Justice as the EUP Settlement Class Counsel.

### **IV. PRELIMINARY SETTLEMENT APPROVAL**

Upon preliminary review, the Court concludes that the Proposed Settlement is fair, reasonable, and adequate and is preliminarily approved, subject to further consideration at the Fairness Hearing (as defined in Paragraph VIII) to be conducted as described below. Pursuant to

Rule 23(e)(1), EUPs have shown that the Court will likely be able to approve the proposal under the criteria set forth in Rule 23(e)(2), which requires the Court to consider the following factors in determining whether a proposed settlement is fair, reasonable, and adequate:

- (a) Have the class representatives and class counsel adequately represented the class;
- (b) Was the proposal negotiated at arm's length;
- (c) Is the relief provided for the class adequate, taking into account:
  - i. The costs, risks, and delay of trial and appeal;
  - ii. The effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
  - iii. The terms of any proposed award of attorneys' fees, including timing of payment; and
  - iv. Any agreement required to be identified under Rule 23(e)(3); and
- (d) Does the proposal treat class members equitable relative to each other.

For the purposes of preliminary approval, the Court finds (a) EUPs and EUP Settlement Class Counsel have adequately represented the class; (b) the Settlement Agreement is the product of arm's length negotiations conducted under the guidance and oversight of non-party mediator Hon. Layn R. Phillips (Ret.); (c) the relief provided is adequate when considering (i) the substantial costs, risks, and delay of continued litigation; (ii) the proposed method for processing EUP Settlement Class Members' claims and distributing relief to eligible claimants is widely accepted in antitrust class action settlements and has been found to be effective in these types of settlements; and (iii) the conditions under which the Parties may terminate the settlement are standard and have no negative impact on the fairness of the settlement; and (d) the Proposed Settlement treats EUP Settlement Class Members equitable relative to one another.

#### **V. APPOINTMENT OF ESCROW AGENT**

The Court approves the establishment of an escrow account, as set forth in the Settlement Agreement, as a "Qualified Settlement Fund" pursuant to Treas. Reg. § 1.468B-1. The Court appoints The Huntington National Bank as the Escrow Agent for the purpose of administering the escrow account holding the Settlement Fund, as defined in the Settlement Agreement. All expenses incurred by the Escrow Agent must be reasonable, are subject to Court approval, and shall be payable solely from the Settlement Fund.

#### **VI. STAY OF CONSOLIDATED ACTION AS AGAINST IFF**

All proceedings in the Consolidated Action with respect to IFF Released Parties (as defined in the Settlement Agreement) are stayed until further order of the Court, except as may be necessary to implement the Proposed Settlement as set forth in the Settlement Agreement or comply with the terms thereof. Pending final determination of whether the Proposed Settlement set forth in the Settlement Agreement should be approved, each EUP and EUP Settlement Class member, either directly, representatively, or in any other capacity, is enjoined from prosecuting in any forum any Settlement Released Claims (as defined in the Settlement Agreement) or assisting any third party in commencing or maintaining any suit against any IFF Released Parties related in any way to any Settlement Class Released Claims.

## **VII. APPROVAL OF EUP SETTLEMENT CLASS NOTICE PLAN AND APPOINTMENT OF CLAIMS ADMINISTRATOR**

The Court approves the Notice Plan and the form and content of the notices to be provided to the EUP Settlement Class, substantially in the form appended as Exhibits D and E to the Declaration of Kimberly A. Justice in support of the End-User Plaintiffs' Motion for Preliminary Approval of Settlement. The Notice Plan is reasonably calculated under the circumstances to apprise the Class of the pendency of the Action, class certification for settlement purposes only, the terms of the Settlement, and their rights to opt-out of the Class and object to the Settlement or Class Counsel's Fee Application. The notices and Notice Plan constitute sufficient notice to all persons and entities entitled to notice. The notices and Notice Plan satisfy all applicable requirements of law, including but not limited to, Rule 23 and the constitutional requirements of due process. The Court finds that the form of notice is written in simple terminology, is readily understandable by Settlement Class members and complies with the Federal Judicial Center's illustrative class action notices. The Court orders that notice be disseminated to the Class as per the Notice Plan. The Court appoints Epiq as the Claims Administrator for the purpose of administering the Notice Plan.

## **VIII. FAIRNESS HEARING**

The Court hereby sets a Fairness Hearing for **TUESDAY, SEPTEMBER 15, AT 10:00 AM** at the Martin Luther King Building & U.S. Courthouse, 50 Walnut Street, Newark, New Jersey 07102, Court Room 4B (the "Fairness Hearing"), to assist the Court in reaching its final determination of whether, *inter alia*, the Proposed Settlement is fair, reasonable, and adequate, and whether final judgment should be entered, terminating the litigation between EUPs and IFF.

The Court may adjourn the Fairness Hearing without further notice to the EUP Settlement Class Members and may approve the Proposed Settlement with such modifications as the Parties may agree to, if appropriate, without further notice to the EUP Settlement Class Members.

## **IX. OBJECTIONS TO SETTLEMENT**

Members of the EUP Settlement Class who wish to exclude themselves from the EUP Settlement Class will be required to submit an appropriate and timely request for exclusion, and members of the EUP Settlement Class who wish to object to the Settlement Agreement will be required to submit an appropriate and timely written statement of the grounds for objection, as directed by the notice. Members of the EUP Settlement Class who wish to appear in person to object to the Settlement Agreement may do so at the Fairness Hearing pursuant to directions by the Court.

## **X. TIMELINE FOR NOTICE AND FINAL APPROVAL**

The Court adopts the following schedule for Notice and Final Approval:

- (a) Within thirty (30) days after the Court's entry of the Preliminary Approval Order, Epiq shall commence the proposed Notice Plan;
- (b) Within forty-five (45) days after the Court's entry of the Preliminary Approval Order, Plaintiffs shall file their motions and supporting memoranda seeking final approval of the Proposed Settlement and approval of any request by Class Counsel for reimbursement of costs and expenses,

a set aside for future litigation costs and expenses, or an award of attorneys' fees;

- (c) Within sixty (60) days after the Court's entry of the Preliminary Approval Order, Plaintiff shall file a report prepared by Epiq confirming that the Notice Plan was carried out and that the EUP Settlement Class was provided notice in the manner directed by the Court;
- (d) Within (90) days after the Court's entry of the Preliminary Approval Order, any EUP Settlement Class member wishing to exclude themselves from the Class must file a Request for Exclusion;

A Request for Exclusion must be: (i) in writing; (ii) signed by the Person; (iii) state the name, address, and phone number of that person; and (iv) include: (1) proof of membership in the EUP Settlement Class, including a declaration or documentation evidencing the purchase in the United States during the Class Period of consumer products or household goods, not for resale, which contained Fragrance Products that were manufactured or sold by Defendants; and (2) a signed statement that "I hereby request that I be excluded from the EUP Settlement Class in the *In re: Fragrance End-User Plaintiff Antitrust Litigation.*"

- (e) Any EUP Settlement Class member wishing to object to the Proposed Settlement or to any request by Class Counsel for reimbursement of costs and expenses, a set aside for future litigation costs and expenses, or an award of attorneys' fees must file a written objection with the Court and mail such objection to the Settlement Class Counsel and IFF's Counsel (at the addresses provided in the Notice and postmarked) no later than thirty (30) days prior to the date set for the Fairness Hearing, and otherwise comply with the requirements set forth in the Notice. The Written objection must include:

(i) the Person's full name, mailing address, and telephone number; (ii) a notice of intention to appear for those Persons who wish to speak at the Fairness Hearing; (iii) proof of membership in the Settlement Class, including a declaration or documentation evidencing the purchase of consumer products or household goods containing Fragrance Products during the Class Period; (iv) the specific grounds for the objection and any reasons why such Person desires to appear and be heard, as well as all documents or writings that such Person desires the Court to consider; (v) a statement of whether the

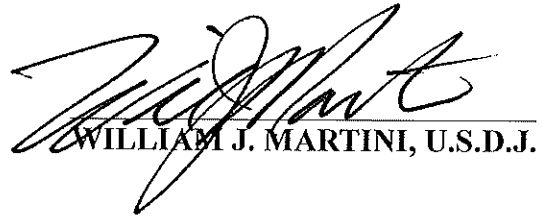
objection is to the Settlement in part or in whole; (vi) a statement of whether the objection applies only to the objector, a subset of the Settlement Class, or the entire Settlement Class; (vii) a list of all cases in which they have acted as an objector or counsel for an objector in the last five years; and (viii) the signature of the Person who is objecting.

- (f) At least one hundred and fifty (150) days after the Court's entry of the Preliminary Approval Order, the Court will schedule a final approval Fairness Hearing; and
- (g) No later than ten (10) days before the date set by the Court for the Fairness Hearing, any replies and supporting papers that respond to any objections to the Settlement or to any request by Class Counsel for reimbursement of costs and expenses, a set aside for future litigation costs and expenses or an award of attorneys' fees shall be filed with the Court.

#### **XI. TERMINATION OF SETTLEMENT**

If the final approval of the Proposed Settlement is not granted or if the Proposed Settlement is otherwise terminated pursuant to the Settlement Agreement, this Order shall become null and void, and shall be without prejudice to the rights of the Settling Parties, all of whom shall be restored to their respective positions existing immediately prior to the Execution Date of the Settlement Agreement.

Date: April 28, 2026

  
WILLIAM J. MARTINI, U.S.D.J.