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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE QUAKER OATS LABELING
LITIGATION

Case No. 5:10-cv-00502 RS
CLASS ACTION

~~[PROPOSED]~~ FINAL ORDER
APPROVING CLASS ACTION
SETTLEMENT

Judge: Hon. Richard Seeborg

1 This matter came on for hearing upon the joint application of the Parties for the
2 approval of the Settlement set forth in the Class Action Settlement Agreement, dated
3 December 20, 2013 (“Settlement Agreement”).

4 Due and adequate notice having been given to the Class, and the Court having
5 considered the Settlement Agreement, all papers filed and proceedings had herein, and
6 having reviewed the record in this Litigation, and good cause appearing,

7 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

8 1. Approval of Settlement Agreement. The Settlement Agreement is
9 approved. As described in further detail below, the Settlement Agreement and the
10 Settlement it incorporates are fair, reasonable, and adequate, with terms that are within
11 the range of reasonableness. The Settlement Agreement was entered into at arms’-
12 length by experienced counsel and after extensive negotiations spanning months. The
13 Settlement Agreement is not the result of collusion.

14 2. Defined Terms. The Court, for purposes of this Final Order, adopts all
15 defined terms as set forth in the Settlement Agreement.

16 3. Jurisdiction. For purposes of the settlement of the Litigation, the Court has
17 subject matter and personal jurisdiction over the Parties, including all Class members,
18 and venue is proper.

19 4. Class Certification for Settlement Purposes Only. The Court finds and
20 concludes that, for the purposes of approving this Settlement only and for no other
21 purpose and with no other effect on the Litigation should the proposed Settlement
22 Agreement not ultimately be approved or should the Effective Date not occur, the
23 proposed Rule 23(b)(2) Settlement Class meets the requirements for certification under
24 Rule 23 of the Federal Rules of Civil Procedure: (a) the Class is so numerous that
25 joinder of all members is impracticable; (b) there are questions of law or fact common
26 to the Class; (c) the claims or defenses of the Representative Plaintiffs are typical of the
27 claims or defenses of the Class; (d) the Representative Plaintiffs and Class Counsel will
28 fairly and adequately protect the interests of the Class; and (e) the Defendant has acted

1 on grounds that apply generally to the Class, so that final injunctive relief is appropriate
2 respecting the Class as a whole.

3 5. The Court finds that approval of a Rule 23(b)(3) damages class would be
4 inappropriate given the likely difficulty in certifying and, if certified, maintaining a
5 damages class under Rule 23(b)(3). Were the Plaintiffs to seek certification of a Rule
6 23(b)(3) damages class, they would face challenges that include, but are not limited to,
7 the difficulties caused by the fact that the packaging claims evolved over the course of
8 the Class Period and changed at different times for different Class members, several of
9 the challenged labeling statements are not actionable due to federal preemption, and the
10 Class members did not pay a uniform price for the Products.

11 6. The Court certifies, for settlement purposes only, a Class consisting of all
12 persons and entities who purchased one or more of the Products, identified in Exhibit D
13 to the Settlement Agreement, a copy of which is attached to this order as Exhibit A, in
14 the United States during the period February 3, 2006 through the Opt-Out Date.
15 Excluded from the Class are: (a) persons or entities who purchased the Products for the
16 purpose of resale or distribution; (b) persons who are employees, directors, officers, and
17 agents of Defendant or its parent or subsidiary companies; (c) governmental entities; (d)
18 persons who timely and properly exclude themselves from the Class as provided in the
19 Settlement Agreement; and (e) any judicial officer hearing this Litigation, as well as
20 their immediate family members and employees.

21 7. Adequacy of Representation. The Court reaffirms the appointment of
22 plaintiffs Victor Guttman, Sonya Yrene, and Rebecca Yumul as Class Representatives,
23 and finds that these Plaintiffs have adequately represented the Class for purposes of
24 entering into and implementing the Settlement Agreement. The Court reaffirms the
25 appointment of Gregory Weston and Jack Fitzgerald of the Weston Firm PC and Ronald
26 Marron of the Law Offices of Ronald A. Marron, APLC as Class Counsel and finds that
27 Class Counsel has adequately represented the Class for purposes of entering into and
28 implementing the Settlement Agreement.

1 8. Class Notice. The Court finds that the dissemination of the Notice to Class
2 Members in accordance with the terms of the Settlement Agreement and this Court's
3 Preliminary Approval Order constituted the best notice practicable under the
4 circumstances and fully met the requirements of Due Process. The Class Members
5 have received proper notice of: (i) the pendency of this class action; (ii) the terms of the
6 proposed Settlement, including the Release; (iii) their rights under the proposed
7 Settlement; (iv) their right to exclude themselves from the Class and the proposed
8 Settlement; (v) their right to object to any aspect of the proposed Settlement; (vi) their
9 right to appear at the Fairness Hearing; (vii) information concerning attorneys' fees and
10 costs and incentive awards that would be applied for at the Fairness Hearing, including
11 how to review those applications in advance of the Opt-Out Deadline; and (viii) the
12 binding effect of the Final Judgment and Order in this Litigation.

13 9. CAFA Notice. The Court finds that Defendant provided notice of the
14 proposed Settlement to the appropriate state and federal government officials pursuant
15 to 28 U.S.C. § 1715.

16 10. Requests for Exclusion. Attached hereto as Exhibit B is the list of persons
17 or entities who submitted timely and valid Requests for Exclusion from the Class. The
18 Court finds that only those persons and entities listed in Exhibit B are excluded from the
19 Class. All other Class Members are bound by the Settlement Agreement.

20 11. Final Settlement Approval. The terms and provisions of the Settlement
21 Agreement have been entered into in good faith and are hereby fully and finally
22 approved as fair, reasonable, and adequate as to, and in the best interests of, the
23 Plaintiffs and the Class Members, and in full compliance with all applicable
24 requirements of the Federal Rules of Civil Procedure, CAFA, the United States
25 Constitution (including the Due Process Clause), and any other applicable law. The
26 Court finds that the Settlement Agreement is fair, adequate and reasonable based on the
27 following factors, among other things:
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1 a. There is no fraud or collusion underlying this settlement, and it was
2 reached as a result of extensive arms'-length negotiations, occurring over the course of
3 several months, including in-person mediation sessions with a respected mediator,
4 Judge Leo S. Papas (Ret.), warranting a presumption in favor of approval.

5 b. The complexity, expense and likely duration of the litigation favor
6 settlement—which provides meaningful benefits on a much shorter time frame than
7 otherwise possible—on behalf of the Class.

8 c. The support of Class Counsel, who are highly skilled in class action
9 litigation such as this, and the Plaintiffs, who have participated in this litigation and
10 evaluated the Settlement Agreement, also favor final approval.

11 d. The Settlement provides meaningful injunctive relief to the Class
12 and falls within the range of possible recoveries by the Class.

13 The Settlement is approved and all objections to the Settlement are overruled as
14 without merit.

15 12. Binding Effect. The terms of the Settlement Agreement and of this Final
16 Order shall be forever binding on the Parties and all Class Members, as well the Class
17 Members' heirs, guardians, executors, administrators, representatives, agents, attorneys,
18 partners, successors, predecessors-in-interest, and assigns, and those terms shall have
19 *res judicata* and other preclusive effect in all pending and future claims, lawsuits or
20 other proceedings maintained by or on behalf of any such persons, to the extent those
21 claims, lawsuits or other proceedings involve matters that were or could have been
22 raised in the Litigation or are otherwise encompassed by the Release.

23 13. Settlement Consideration. Defendant will provide the Class with
24 injunctive relief by way of the modification of the ingredients for the Products as set
25 forth in Section 4 of the Settlement Agreement and hereby expressly incorporated into
26 this Final Order.

27 14. Release. In return for the Settlement Consideration set forth above,
28 Plaintiffs will provide Defendant with the Release set forth in Section 7 of the

1 Settlement Agreement and hereby expressly incorporated into this Final Order. By this
2 Final Judgment and Order, the Class Representatives shall release, relinquish, and
3 discharge, and each of the Class Members shall be deemed to have, and by operation of
4 the Final Judgment and Order shall have, fully, finally, and forever released,
5 relinquished, and discharged all Released Claims, which include:

6 With the exception of claims for Personal Injury that resulted
7 in actual bodily harm, any and all causes of action, claims,
8 suits, debts, damages, judgments, liabilities, demands and
9 controversies of every nature and description whatsoever—
10 whether now known or unknown, asserted or not asserted,
11 matured or unmatured, liquidated or unliquidated, at law or in
12 equity, for injunctive relief or damages, whether before a
13 local, state or federal court, or state or federal administrative
14 agency, commission, arbitrator(s) or otherwise—that the Class
15 Members now have or may have, and for all times up to and
16 including the Effective Date of the Settlement, for all claims
17 that were or could have been asserted relating to the Products.
18 Plaintiffs (on behalf of themselves and the Class Members)
19 also knowingly, expressly, and voluntarily waive all rights
20 under Section 1542 of the California Civil Code (or similar
21 laws of other States). This Release includes all claims that
22 any Representative Plaintiff and/or any Class Member (or
23 Plaintiffs' and/or Class Members' respective heirs, guardians,
24 executors, administrators, representatives, agents, attorneys,
25 partners, successors, predecessors-in-interest, and assigns) has
26 or may have against the Released Persons arising out of, in
27 connection with, or related in any way, directly or indirectly,
28 to Defendant's advertising, marketing, packaging, labeling,
promotion, manufacture, distribution, and/or sale of the
Products, that have been brought, or could have been brought,
in the Litigation against the Released Persons. The Released
Claims shall be construed as broadly as possible to effect
complete finality over this Litigation.

15. Enforcement of Settlement. Nothing in this Final Order or in the
accompanying Final Judgment shall preclude any action to enforce the terms of the
Settlement Agreement.

1 16. Retention of Jurisdiction. The Court reserves exclusive and continuing
2 jurisdiction over the Litigation, the Class Representatives, the Class Members, and
3 Defendant for the purposes of supervising the implementation, enforcement,
4 construction, administration, and interpretation of the Settlement Agreement and Final
5 Judgment and Order and to resolve any and all disputes that may arise thereunder.

6 17. No Admissions. Neither this Final Order nor the Settlement Agreement,
7 nor any act performed or document executed pursuant to or in furtherance of the
8 Settlement Agreement or the Settlement is or may be deemed to be or may be used as
9 an admission of, or evidence of, the validity of any Released Claims, or of any
10 wrongdoing or liability of Defendant or any other Released Person; or is or may be
11 deemed to be or may be used as an admission of, or evidence of, any fault or omission
12 of Defendant or any other Released Person in any civil, criminal, or administrative
13 proceeding in any court, administrative agency or other tribunal. Any party to this
14 Litigation or any other Released Person may file this Settlement Agreement and/or the
15 Judgment in any action that may be brought against it in order to support any defense or
16 counterclaim, including without limitation those based on principles of *res judicata*,
17 collateral estoppel, release, good faith settlement, judgment bar or reduction, or any
18 other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

19 18. Dismissal of Litigation. The Litigation (including all individual and Class
20 claims presented therein) is hereby dismissed on the merits and with prejudice.

21 19. Attorneys' Fees and Expenses and Incentive Awards. The Court will issue
22 a separate Order with respect to attorneys' fees and expenses and incentive awards to
23 the Representative Plaintiffs.

24 20. In the event that the Effective Date does not occur, certification of the
25 Class shall be automatically vacated and this Final Order, the Final Order Approving
26 Attorneys' Fees and Expenses and Incentive Awards, and the accompanying Final
27 Judgment, and all other orders entered and releases delivered in connection herewith,
28 shall be vacated and shall become null and void.

IT IS SO ORDERED.

1 DATED: 7/29/14



2 The Honorable Richard Seeborg
3 UNITED STATES DISTRICT JUDGE
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Exhibit A – Products

1 The following varieties of Quaker Oatmeal to Go Bars:

- 2 • Apples & Cinnamon
- 3 • Banana Bread
- 4 • Brown Sugar & Cinnamon
- 5 • High Fiber Maple & Brown Sugar
- 6 • Oatmeal Raisin
- 7 • Raspberry Streusel

8 The following varieties of Instant Quaker Oatmeal:

- 9 • Peaches & Cream
- 10 • Strawberries & Cream
- 11 • Bananas & Cream
- 12 • Blueberries & Cream
- 13 • Reduced Sugar Strawberries & Cream
- 14 • Reduced Sugar Peaches & Cream
- 15 • Reduced Sugar Fruit & Cream Variety Pack
- 16 • Apples & Cinnamon
- 17 • Bakery Favorites – Banana Bread
- 18 • Chocolate Chip
- 19 • Cinnamon Roll
- 20 • Honey Bun
- 21 • Cinnamon & Spice
- 22 • Maple & Brown Sugar
- 23 • Maple & Brown Sugar (Organic)
- 24 • Original
- 25 • Raisin Date & Walnut
- 26 • Raisin & Spice
- 27 • Bakery Favorites – Cinnamon Roll
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- Low Sugar Maple & Brown Sugar
- Low Sugar Apples & Cinnamon
- Weight Control Maple & Brown Sugar
- Weight Control Banana Bread
- High Fiber Maple & Brown Sugar
- High Fiber Cinnamon

The following varieties of Quaker Chewy Bars:

- Chocolate Chip
- Peanut Butter Chocolate Chip
- S'mores
- Reduced Sugar Chocolate Chip
- Reduced Sugar Peanut Butter Chocolate Chip
- 90 Calorie Peanut Butter
- 90 Calorie Low Fat Chocolate Chunk
- Reduced Sugar Cookies & Cream
- Nestle Crunch
- Nestle Butterfinger
- Cookies & Milk Chocolate Mint
- Dark Chocolate Cherry
- Cookies & Milk
- Peanut Butter
- 90 Calorie Low Fat Honey Nut
- Low Fat Maple Brown Sugar
- Low Fat Cinnamon Sugar
- Low Fat Baked Apple
- Low Fat Oatmeal Raisin

Exhibit B – List of Persons Who Timely and Properly Requested Exclusion

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