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Superior Court of California
County of Los Angeles

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Sherri R. Carter, Executive Officer/Clerk
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**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

DONNA PERRY, et al., on behalf of themselves,
all others similarly situated and the general
public,

Plaintiffs,

v.

TRUONG GIANG, CORP., DOES 1-20,
Inclusive,

Defendants.

CASE NO. BC539568
CLASS ACTION
Filed: 3/17/2014

**ORDER PRELIMINARILY
APPROVING CLASS ACTION
SETTLEMENT, CERTIFYING THE
CLASS, APPOINTING CLASS
REPRESENTATIVES AND CLASS
COUNSEL, APPROVING NOTICE
PLAN, AND SETTING FINAL
APPROVAL HEARING**

Judge: Hon. Kenneth Freeman
Dept.: 310

1 Plaintiffs and Defendant Truong Giang Corp. ("TGC"), after arms-length settlement
2 discussions have entered into a Settlement Agreement ("Agreement") dated December 11, 2014,
3 which, if approved, would resolve this putative class action.

4 The capitalized terms used in this Preliminary Approval Order shall have the meanings and/or
5 definitions given to them in the Agreement, or if not defined therein, the meanings and/or definitions
6 given to them in this Preliminary Approval Order.

7 For a number of months before, and during the pendency of, the Litigation, Class Counsel
8 conducted an extensive examination and evaluation of the relevant facts and law to assess the merits
9 of the named Plaintiffs' and Class' claims to determine how best to serve the interests of Plaintiffs and
10 the Class. In the course of this extensive examination, Class Counsel reviewed numerous documents,
11 which consisted of marketing data, label and package mechanicals, sales figures, unit sales,
12 promotional materials, package materials, and detailed financial information produced by Defendant.
13 Class Counsel has conducted thorough review of the federal Food, Drug and Cosmetic Act ("FDCA"),
14 its numerous changes over the years, and the FDCA's implementing regulations with respect to dietary
15 supplements. Class Counsel propounded interrogatories, requests for admission, and requests for
16 production of documents on Defendants, to which Defendant responded. Class Counsel also took the
17 deposition of Defendant's Person Most Knowledge, Pauline Ly. Class Counsel has carefully
18 considered the merits of Plaintiffs' claims, and the defenses raised by Defendant.

19 The proposed settlement was reached only after this extensive investigation and discovery in
20 the Litigation, and was the result of protracted negotiations conducted by the Parties with the assistance
21 of Judge Leo S. Papas (Ret.) of Judicate West. The Parties engaged in numerous joint and individual
22 mediations sessions with Judge Papas in order to reach the terms of the Agreement, over the course of
23 several months. Based on the negotiations between counsel for the Parties, the Parties fully understood
24 the nature, strength, and weaknesses of each other's claims and defenses.

25 Plaintiffs and Class Counsel maintain that the Litigation and the claims asserted therein are
26 meritorious and that Plaintiffs and the Class would have prevailed at trial. Notwithstanding, Plaintiffs
27 and Class Counsel have agreed to settle the Litigation pursuant to the provisions of the Agreement,
28 after considering, among other things: (i) the substantial benefits to Plaintiffs and the Class under the

1 terms of this Agreement; (ii) the uncertainty of being able to prevail at trial; (iii) the uncertainty relating
2 to Defendant's defenses and the expense of additional motion practice in connection therewith; (iv) the
3 issues relating to proving damages on an individual Class Member basis; (v) the attendant risks of
4 litigation, especially in complex actions such as this, as well as the difficulties and delays inherent in
5 such litigation; and (vi) the desirability of consummating this Settlement promptly in order to provide
6 effective relief to Plaintiffs and the Class.

7 Plaintiffs and Class Counsel agree that this Agreement is fair, reasonable and adequate because
8 it provides substantial benefit to the Class, is in the best interests of the Class, and fairly resolves the
9 claims alleged in this Litigation.

10 Defendant expressly denies any wrongdoing alleged in the pleadings in the Litigation, and does
11 not admit or concede any actual or potential fault, wrongdoing, or liability in connection with any facts
12 or claims which have been or could have been alleged against it in the Litigation. Defendant
13 nonetheless considers it desirable for the Litigation to be settled and dismissed, because the proposed
14 settlement will: (i) avoid further expense and disruption of the management and operation of
15 Defendant's business due to the pendency and defense of the Litigation; (ii) finally put Plaintiffs' and
16 the Class' claims and the underlying matters to rest; and (iii) avoid the substantial expense, burdens,
17 and uncertainties associated with a potential finding of liability and damages for Plaintiffs and the
18 Class on the claims alleged in the Complaint in the Litigation.

19 The court has read and considered the Agreement and all exhibits thereto, including the
20 proposed notices and claim form, and finds there is sufficient basis for: (1) granting preliminary
21 approval of the Agreement; (2) certifying a class for settlement purposes; (3) appointing Plaintiffs as
22 Class Representatives and their counsel as Class Counsel; (4) directing that Notice be
23 disseminated/published to the Class; and (5) setting a hearing at which the Court will consider whether
24 to grant final approval of the Agreement.

25 The Court now GRANTS the motion for preliminary approval and makes the following findings and
26 orders:

27 1. Pursuant to California Code of Civil Procedure § 382, the Court hereby certifies this
28 Litigation as a class action on behalf of the following certified Class:

1
2 All U.S. consumers who purchased the Products (listed in Exhibit A to the Agreement) for
3 household or personal use during the Class Period (March 17, 2010 to the Objection Deadline,
4 as set by the Court) are included. Excluded from the Class are: TGC; persons who during or
5 after the Class Period were officers or directors of TGC, or any corporation, trust or other entity
6 in which TGC has a controlling interest; TGC employees; the members of the immediate
7 families of TGC employees or their successors, heirs, assigns and legal representatives; and
8 any judicial officer hearing this Litigation, as well as their immediate family members and
9 employees.

10
11 2. The Court finds that the Class meets the requirements of Code of Civil Procedure § 382.
12 Joinder of all Class Members in a single proceeding would be impracticable, if not impossible, because
13 of their numbers and dispersion. Common issues exist among Class Members and predominate over
14 questions affecting individual Class Members only. In particular, each Class Member's claim depends
15 on whether the representations made by Defendant on the packaging, labeling and marketing of the
16 Products, which were uniform throughout the United States, were misleading to a reasonable
17 consumer. The Plaintiffs' claims are typical of, indeed identical, to those of the Class, as Plaintiffs
18 were exposed to Defendant's diet and health-related claims and purchased the Products in reliance on
19 those claims. The Plaintiffs and their counsel will fairly and adequately protect the interests of the
20 Class, as Plaintiffs have no interests antagonistic to the Class, and have retained counsel who are
21 experienced and competent to prosecute this matter on behalf of the Class. Finally, a class settlement
22 is superior to other methods available for a fair resolution of the controversy.

23
24 3. The Court approves Plaintiffs Donna Perry and Jaqueline Johnson as Class
25 Representatives.

26
27 4. The Court appoints Plaintiffs' counsel, the Law Offices of Ronald A. Marron, APLC to
28 serve as Class Counsel.

5. The Court preliminarily approves the Agreement, finding that its terms appear
sufficient, fair, reasonable and adequate to warrant dissemination/publication of Notice of the proposed
settlement to the Class. The Agreement contains no obvious deficiencies and the parties have entered
into the Agreement in good faith, following arms-length negotiation between their respective counsel.
The Court's approval of this Agreement is made subject to further consideration at the Final Approval
Hearing Date.

1 6. The Court will hold a final approval hearing (the “Final Approval Hearing Date”) on
2 August 6, 2015 at 10:00 a.m., in the Courtroom of the Honorable Kenneth Freeman, Superior Court
3 for the County of Los Angeles, for the following purposes:

- 4 a. finally determining whether the Class meets all applicable requirements of Code of
5 Civil Procedure § 382, and, thus, the Class’ claims should be certified for purposes of
6 effectuating the Settlement;
7 b. determining whether the proposed Settlement of the Litigation on the terms and
8 conditions provided for in the Agreement is fair, reasonable, and adequate and should
9 be approved by the Court;
10 c. considering the application of Class Counsel for an award of attorneys’ fees and costs,
11 as provided for in the Agreement;
12 d. considering the application of the named Plaintiffs for class representative incentive
13 awards, as provided for in the Agreement;
14 e. considering whether the Court should enter the [Proposed] Judgment, Final Order and
15 Decree;
16 f. considering whether the release by the Class Members of the Released Claims as set
17 forth in the Agreement should be provided; and
18 g. ruling upon such matters as the Court may deem just and appropriate.

19 7. Any application for an award of attorneys’ fees and costs and class representative
20 incentive award must be filed with the Court by June 22, 2015 (approximately two weeks prior to the
21 deadline for Class members to object), to give objectors a fair opportunity to review and comment
22 upon them. After filing, the application for fees and costs, and incentive awards shall be posted on the
23 Settlement Website for review by Class Members.

24 8. All papers in support of the Agreement must be filed with the Court and served by July
25 6, 2015. Any response to an objection must be filed and served by July 23, 2015 (two weeks prior to
26 the Final Approval Hearing date).

27 9. Class Members must file and serve any objections to the proposed settlement and to
28 Class Counsel’s request for attorney’s fees, costs, and the Representative Plaintiffs’ incentive awards

1 no later than July 6, 2015, including any memoranda and/or submissions in support of the objections,
2 which deadline will be set forth in the Class Notice. Class members who wish to opt out must do so
3 in writing, as provided in the Settlement Agreement, no later than July 6, 2015 (“Opt Out and Objection
4 Deadline”).

5 11. A final accounting shall be provided to the Court within sixty (60) days of entry of a
6 final approval order, providing there are no appeals, or sixty (60) days after resolution of all appeals if
7 an appeal is filed. The parties shall also post the final judgment on the settlement website after it is
8 issued.

9 12. The Court approves the form and procedure for disseminating/publishing Notice of the
10 proposed Settlement to the Class as set forth in the Agreement. This Litigation concerns retail products
11 for which the Parties do not have direct notice information for class members. Accordingly, the Notice
12 Plan provides for notice to the Class by publication. The Court finds that the Notice Plan submitted
13 by the Parties constitutes the best notice practicable under the circumstances, and constitutes valid and
14 sufficient notice to the Class in full compliance with the requirements of applicable law, including Cal.
15 Rules of Court, rules 3.766, 3.769, Cal. Civ. Code § 1781, and the Due Process Clauses of the United
16 States and California Constitutions.

17 13. Within thirty (30) days after the date of entry of this Order, the Defendants shall
18 disseminate the Class Notice in the forms filed with the Court with supplemental briefing on February
19 25, 2015. The manner and form of such dissemination shall be as set forth in the Notice Plan attached
20 as Exhibit D to the Agreement.

21 14. The Court approves the designation of CAA to serve as the Court-Appointed Class
22 Action Administrator for the settlement. The Class Action Administrator shall disseminate Class
23 Notice and supervise and carry out the Notice Plan, and other administrative functions, and shall
24 respond to Class Member inquiries under the direction and supervision of the Court.

25 15. The Court directs the Class Action Administrator to establish a Class Settlement
26 Website, making available copies of this Order, Class Notice, the Settlement Agreement and all
27 exhibits thereto, and such other information as may be of assistance to Class Members or required
28 under the Agreement. The Class Settlement Website shall be made available to Class Members no

1 later than fifteen (15) calendar days after the date of this Order, and continuously thereafter until thirty
2 (30) days after the Final Approval Hearing (defined above).

3 14. As set forth in the Agreement, within ten (10) business days of the date of this Order,
4 TGC shall pay the invoice/estimate of the Class Action Administrator, in U.S. funds for the purpose of
5 providing notice to the Class, including all costs and expenses associated with the Class Notice,
6 creating and maintaining the Class Settlement Website, and all other Class Action Administrator and
7 Class Notice expenses. Defendant shall retain the services of CAA as their Class Action Administrator.
8 Defendant is responsible for paying all costs of notice as ordered by the Court. Defendant shall not be
9 entitled to recoup the cost of notice if the Settlement Agreement is not finally approved.

10 15. No later than fourteen (14) days prior to the Final Approval Hearing Date, Defendant,
11 through the Class Action Administrator, shall file an affidavit and serve a copy on Class Counsel,
12 attesting that notice was disseminated as required by the terms of the Notice Plan or as ordered by the
13 Court. Defendant shall also notify Class Counsel of the costs of attaining the labeling changes per the
14 injunctive relief set forth in the Agreement.

15 16. All Class Members shall be bound by all determinations and judgments in the Litigation
16 concerning the settlement, whether favorable or unfavorable to the Class.

17 17. Any person falling within the definition of the Class may, upon his or her request, be
18 excluded from the Class. Any such person must submit a completed request for exclusion to the Clerk
19 of the Court postmarked or delivered no later than thirty one (31) calendar days before the Final
20 Approval Hearing date (“Opt-Out and Objection Deadline”), as set forth in the Class Notice. Requests
21 for exclusion purportedly filed on behalf of groups of persons are prohibited and will be deemed void.

22 18. Any Class Member who does not send a completed, signed request for exclusion to the
23 Clerk of the Court postmarked or delivered on or before the Opt-Out and Objection Deadline will be
24 deemed to be a Class Member for all purposes and will be bound by all further orders of the Court in
25 this Litigation and by the terms of the settlement, if finally approved by the Court. The written request
26 for exclusion must request exclusion from the Class, must be signed by the potential Class Member
27 and include a statement indicating that the person is a member of the Class. All persons who submit
28 valid and timely requests for exclusion shall not be bound by the Agreement or the Final Judgment and

1 Order.

2 19. Any person falling within the definition of the Class, except those who have excluded
3 themselves, may object to the Agreement. Objections purportedly filed on behalf of groups of persons
4 are prohibited and will be deemed void. To be considered, all objections must be timely, in writing,
5 signed and dated by the objector (or his or her attorney, if applicable), must reference the abbreviated
6 name and case number of the Litigation, and must contain the following information: (i) the objector's
7 name, address, and telephone number; (ii) the name, address, and telephone number of any attorney
8 for the objector with respect to the objection; (iii) the factual basis and legal grounds for the objection;
9 (iv) identification of the case name, case number, and court for any prior class action lawsuit in which
10 the objector has objected to a proposed class action settlement, the general nature of such prior
11 objection(s), and the outcome of said prior objection(s); (v) identification of the case name, case
12 number, and court for any prior class action lawsuit in which the objector and the objector's attorney
13 (if applicable) has objected to a proposed class action settlement, the general nature of such prior
14 objection(s), and the outcome of said prior objection(s); (vi) the payment terms of any fee agreement
15 between the objector and the objector's attorney with respect to the objection; and (vii) any attorneys'
16 fee sharing agreement or referral fee agreement between or among the objector, the objector's attorney,
17 and/or any third party, including any other attorney or law firm, with respect to the objection.

18 20. A request for exclusion or an objection that does not include all of the foregoing
19 information, that is sent to an address other than the one designated in the Class Notice, or that is not
20 received within the time specified, shall be invalid and the person serving such a request shall be
21 deemed a member of the Class, and shall be bound as a Class Member by the Agreement. The Class
22 Action Administrator shall promptly forward copies of all requests for exclusion and objections to
23 Class Counsel and counsel for Defendant.

24 21. If a Class Member hires an attorney to represent him or her in support of a timely and
25 properly submitted objection, and the attorney wishes to appear at the Final Approval Hearing, in
26 addition to the foregoing requirements, that attorney must (1) file both an entry of appearance and a
27 notice of intention to appear and participate at the Final Approval Hearing with the Clerk of the Court
28 no later than thirty (30) calendar days before the Final Approval Hearing, and (2) mail copies of the

1 entry of appearance and the notice of intention to appear and participate at the Final Approval Hearing
2 to Counsel for Defendant and Class Counsel, postmarked no later than thirty (30) calendar days before
3 the Final Approval Hearing.

4 22. A Class Member who appears at the Final Approval Hearing, either personally or
5 through counsel, will be permitted to argue only those matters that were set forth in the timely and
6 validly submitted written objection filed by such Class Member. No Class Member shall be permitted
7 to raise matters at the Final Approval Hearing that the Class Member could have raised in his/her
8 written objection, but failed to do so, and all objections to the Agreement that are not set forth in a
9 timely and validly submitted written objection are deemed waived.

10 23. If a Class Member wishes to present witnesses or evidence at the Final Approval
11 Hearing in support of a timely and validly submitted objection, all witnesses must be identified in the
12 objection, and true and correct copies of all supporting evidence must be appended to, or filed and
13 served with, the objection. Failure to identify witnesses or provide copies of supporting evidence in
14 this manner waives any right to introduce such testimony or evidence at the Final Approval Hearing.
15 While the declaration described above is prima facie evidence that the objector is a member of the
16 Class, Plaintiffs or Defendant or both may take discovery regarding the matter, subject to Court
17 approval.

18 24. Any Class Member who fails to comply with the applicable provisions of the preceding
19 paragraphs concerning their objection shall waive and forfeit any and all rights he or she may have to
20 object, appear, present witness testimony, and/or submit evidence, shall be barred from appearing,
21 speaking, or introducing any testimony or evidence at the Final Approval Hearing, and shall be bound
22 by all the terms of the Agreement and by all proceedings, orders and judgments in the Litigation.

23 25. All objections must be filed with the Clerk and served on the parties' counsel no later
24 than the Opt-Out and Objection Deadline. Objections received after the Opt-Out and Objection
25 Deadline will not be considered at the Final Approval Hearing. A Class Member's failure to submit a
26 written objection within the Opt-Out and Objection Deadline, in conformance with the procedures set
27 forth in the Class Notice, and above, waives any right the Class Member may have to object to the
28 settlement, the Agreement, attorneys' fees and costs, the Class Representative's incentive award, or to

1 appeal or seek other review of the Final Judgment and Order.

2 26. Class Members who do not oppose the settlement, the applications for attorneys' fees
3 and costs, or Class Representatives' incentive awards need not take any action to indicate their
4 approval.

5 27. Class Members are preliminarily enjoined from filing, commencing, prosecuting,
6 intervening in, participating in, maintaining as class members or otherwise, directly or indirectly
7 through a representative or otherwise, or receiving any benefits from, any lawsuit, arbitration,
8 government action, administrative or regulatory proceeding or order in any jurisdiction, forum or
9 tribunal asserting any Released Claims. In addition, all persons are preliminarily enjoined from filing,
10 commencing or prosecuting a lawsuit as a class action (including by seeking to amend a pending
11 complaint to include class allegations or by seeking class certification in a pending action in any
12 jurisdiction) on behalf of Class Members, or asserting any Released Claims. Nothing herein shall
13 require any Class Member to take any affirmative action with regard to other pending class action
14 litigation in which he or she may be an absent class member.

15 28. The Agreement and the proceedings and statements made pursuant to the Agreement or
16 papers filed relating to the approval of the Agreement, and this Order, are not and shall not in any event
17 be construed as, offered in evidence as, received in evidence as, and/or deemed to be evidence of a
18 presumption, concession, or an admission of any kind by any of the Parties of (i) the truth of any fact
19 alleged or the validity of any claim or defense that has been, could have been, or in the future might be
20 asserted in the Litigation, any other litigation, court of law or equity, proceeding, arbitration, tribunal,
21 investigation, government action, administrative proceeding, or other forum, or (ii) any liability,
22 responsibility, fault, wrongdoing, or otherwise of the Parties. Defendant has denied and continues to
23 deny the claims asserted by Plaintiffs. Nothing contained herein shall be construed to prevent a Party
24 from offering the Agreement into evidence for the purposes of enforcement of the Agreement.

25 29. The certification of the Class shall be binding only with respect to the settlement of this
26 Litigation. In the event that the Agreement is terminated pursuant to its terms or is not finally approved
27 by the Court, or such approval is reversed, vacated, or modified in any material respect by this or any
28 other Court, the certification of the Class shall be deemed vacated, the Litigation shall proceed as if the

1 Class had never been certified (including Defendant's right to oppose any subsequent motion for class
2 certification), and no reference to the Class, the Agreement, or any documents, communications, or
3 negotiations related in any way thereto shall be made for any purpose.

4 IT IS SO ORDERED.

5 DATED: MAR 30 2015

KENNETH R. FREEMAN

The Honorable Kenneth Freeman
JUDGE OF THE SUPERIOR COURT

