



ACTION NO. S1914497  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

JAMES DOUGLAS RUCKMAN

PLAINTIFF

AND:

BIOTRADE CANADA LTD., LONDON DRUGS LIMITED,  
REXALL PHARMACY GROUP LTD., REXALL/PHARMA PLUS PHARMACIES LTD.,  
PHARMASAVE DRUGS LTD., WHOLE FOODS MARKET, AND  
WHOLE FOODS MARKET CANADA INC. AND PNP PHARMACEUTICALS INC.

DEFENDANTS

AND:

BIOTRADE CANADA LTD.,  
HEALTHY LIFE AND FOODS COMPANY LTD., HERBAMEDICA S.A. DE C.V., AND  
BAOJI EARAY BIO-TECH CO. LTD.

THIRD PARTIES

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

**ORDER MADE AFTER APPLICATION**

BEFORE ) THE HONOURABLE JUSTICE BRANCH ) OCTOBER 1 ~~and 2~~, 2024  
) )

ON THE APPLICATION of the plaintiff, James Douglas Ruckman, coming on for hearing in person at the Courthouse at 800 Smithe Street Vancouver, BC on August 2, 2024 and continued on October 1 ~~and 2~~, 2024; and on hearing Anthony Leoni and Kendal Paul for the Plaintiff; and Nicole Chang for the Defendant Biotrade Canada Ltd (~~attending by MS Teams~~); Denny Chung for the Defendant Whole Foods Market and Whole Foods Market Canada Inc.; Erica Grant, and Randy Sutton for the Defendant London Drugs Limited. (the latter attending by MS Teams); Emily Kirkpatrick for the Defendants Rexall/Pharma Plus Pharmacies Ltd and Rexall Pharmacy Group Ltd; and; Jill Shore for the Defendant PNP Pharmaceuticals Inc.

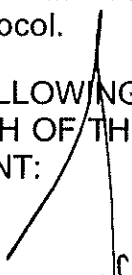
**AND ON READING** all materials filed and on hearing the submissions of counsel;

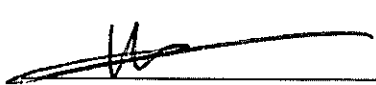
**AND ON BEING ADVISED** that the defendants take no position;


**THIS COURT ORDERS** that:

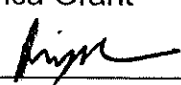
1. the terms of the claims administration and distribution protocol dated January 31, 2024 and attached to his order as **Schedule "A"** (the "**Distribution Protocol**") are hereby approved; and
2. Verita Global LLC, formerly known as RicePoint Administration Inc. is hereby named the Claims Administrator of the proposed settlement agreement and Distribution Protocol.


THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

  
\_\_\_\_\_  
Signature of Class Counsel  
Anthony Leoni

  
\_\_\_\_\_  
Signature of Lawyer for the Defendant,  
Biotrade Canada Ltd.  
Nicole Chang

  
\_\_\_\_\_  
Signature of Lawyer for the Defendant,  
London Drugs Limited  
Erica Grant

  
\_\_\_\_\_  
Signature of Lawyer for the Defendant,  
Rexall Pharmacy Group Ltd.,  
Rexall/Pharma Plus Pharmacies Ltd.  
for Emily Kirkpatrick      Arizana Dhawan

  
\_\_\_\_\_  
Signature of Lawyer for the Defendant,  
Whole Foods Market, And Whole  
Foods Market Canada Inc  
Denny Chung

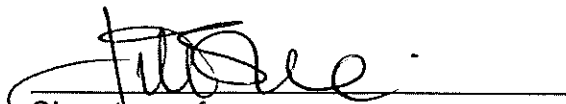
  
BY THE COURT

  
\_\_\_\_\_  
REGISTRAR



ENDORSEMENTS ATTACHED

VANCOUVER

  
Signature of  
Lawyer for the Defendant PNP  
Pharmaceuticals Inc  
Jill Shore

By the Court  
  
Registrar

ACTION NO. S1914497  
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IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

JAMES DOUGLAS RUCKMAN

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AND

BIOTRADE CANADA LTD., LONDON DRUGS LIMITED,  
REXALL PHARMACY GROUP LTD., REXALL/PHARMA PLUS

PHARMACIES LTD., PHARMASAVE DRUGS LTD., WHOLE FOODS  
MARKET, WHOLE FOODS MARKET CANADA INC., AND  
PNP PHARMACEUTICALS INC.

DEFENDANTS

BIOTRADE CANADA LTD.,  
HEALTHY LIFE AND FOODS COMPANY LTD., HERBAMEDICA S.A.  
de C.V., and BAOJI EARAY BIO-TECH CO. LTD.

THIRD PARTIES

**CLAIMS ADMINISTRATION PROCEDURE AND DISTRIBUTION PROTOCOL**

A class action settlement has been reached in *Ruckman v. Biotrade Canada Ltd. et al.*, S.C.B.C. No. VLC S-1914497. The proposed settlement, legal fees, and claims administration procedure and distribution protocol (the "**Distribution Protocol**") must be approved by the Court to become binding.

This document sets out the proposed Distribution Protocol that Class Counsel will seek to have approved by the Court under section 33 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50.

**SECTION 1 – DEFINITIONS**

1. The definitions set out in the settlement agreement dated January 31, 2024 ("**Settlement Agreement**"), apply to, and are incorporated in, the Distribution Protocol.
2. Further terms used in the Distribution Protocol and not defined in the Settlement Agreement, have the following definitions:
  - (a) **Acknowledgement Letter** means a letter of the Claims Administrator to a Claimant, acknowledging receipt of the Claimant's Claim Package. The Acknowledgement Letter is to be sent within seven (7) days of receipt of the Claimant's Claim Package.

- (b) **Approved Claim** means a Claimant's Claim for a Compensatory Payment approved by the Claims Administrator.
- (c) **Claimant** means any Class Member who follows the Claim Administration Procedure to request a Compensatory Payment. For greater certainty, Claimant includes Class Members who are living parents, spouses or children entitled to maintain a claim against the Defendants pursuant to the *Family Compensation Act*, R.S.B.C. 1996, s. 126, and Persons entitled to bring similar claims in other provinces and territories.
- (d) **Claim Determination Decision** means a written decision of the Claims Administrator pronouncing a Claimant's eligibility for Compensatory Payments under the Settlement Agreement.
- (e) **Claim Package** means a package provided by the Claims Administrator, to be submitted by a Claimant pursuant to the Claims Administration Procedure.
- (f) **Deficiency Letter** means a letter of the Claims Administrator advising the Claimant of any deficiencies in their Claim Package. The Deficiency Letter is to be sent within 30 days of receipt of the Claimant's Claim Package.

## **SECTION 2 – CLAIMS ADMINISTRATION PROCEDURE**

### **Appointment and Role of the Claims Administrator**

- 3. The Court shall approve the appointment of the Claims Administrator.
- 4. The Claims Administrator shall be responsible for:
  - (a) receiving, reviewing, and creating and storing electronic copies of every submitted Claim Package;
  - (b) administering the Settlement Agreement and distributing the Settlement Funds and related documentation in keeping with the Settlement Agreement and the Distribution Protocol;
  - (c) establishing a dedicated e-mail account whereby Class Members can direct inquiries about the Claims Administration Procedure;
  - (d) periodically preparing a report for Class Counsel and Counsel for the Defendants summarizing the number of Claim Packages received on an anonymous basis;
  - (e) providing notices of Claim and other matters required by the Settlement Agreement to Public Health Insurers;
  - (f) preparing and sending Acknowledgement Letters, Deficiency Letters, Claim Determination Decisions, lists of each Claimant with an Approved Claim

authorized for a Compensatory Payment, and any other necessary correspondence or communications to, from, or between Claimants, Class Counsel, Public Health Insurers, and Counsel for the Defendants, as required by, or incidental to, the administration of the Settlement Agreement, reporting to Counsel for the Defendants the total number of Claims received by category, calculating any necessary *pro rata* adjustments, and the total amounts payable by category and allocating the Settlement Funds to pay Compensatory Payments, Public Health Insurer Payments, and any other amounts under the Settlement Agreement;

- (g) distributing the Settlement Funds to pay Compensatory Payments to Claimants with an Approved Claim and any other amounts under the Settlement Agreement,
- (h) distributing the Settlement Funds to pay the Public Health Insurer Payments to the Public Health Insurers, and
- (i) anything that is required by, or incidental to, the duties of the Claims Administrator, described in the Settlement Agreement.

5. Any information provided by or regarding Class Members, or otherwise obtained pursuant to the Settlement Agreement, shall be kept strictly confidential and shall not be disclosed except to appropriate persons, and only to the extent necessary to process a Claim or to provide benefits under the Settlement Agreement, as otherwise expressly provided for in the Settlement Agreement, or as contingent upon either the presentation or Court's approval of a Claims Administration Procedure.

6. The Claims Administrator shall institute and maintain strict internal procedures to reasonably protect the identity of all Claimants and all information regarding their Claim. In particular, Claim Packages shall be kept strictly confidential and shall not be provided to any person or entity unless provided for in the Settlement Agreement or as required by law.

7. Class Counsel shall have access to all information maintained by the Claims Administrator regarding each Claimant and the processing and payment of a Claim.

8. All written communications with each Claimant shall be conducted by e-mail or by regular mail to the last known address provided by the Claimant. Each Claimant shall keep the Claims Administrator apprised of their current contact information.

9. If, for any reason, the Claims Administrator becomes unable or unwilling to continue to act in this role, the Parties may choose an alternate claims administrator, subject to the approval of the Court.

### **Claims Administration Procedure**

10. Upon the Effective Date, the Claims Administrator shall issue the Notice described in the Settlement Agreement advising of the process for applying to receive settlement benefits and setting out the Distribution Protocol.

11. All Class Members will be required to submit a completed Claim form on a dedicated claims portal (the "Portal"), a site map of which is enclosed as **Schedule A** to this Distribution Protocol, to the Claims Administrator before the end of the Claim Period to be entitled to receive any benefits under the settlement. Alternatively, Class Members may submit a Claim form in paper form, upon request to the Claims Administrator.

12. All Claims with supporting documents must be received by the Claims Administrator before the end of the Claim Period. The Claims Administrator shall deny any Claim received or completed after that date and time. The Claims Administrator shall issue an Acknowledgement Letter to the Claimant within seven (7) days of receipt of the Claimant's Claim Package.

13. The Claims Administrator will review the Claim Package submitted by the Claimant to determine eligibility.

14. The Claims Administrator shall send a Deficiency Letter within 30 days of receipt of the Claimant's Claim Package to the Claimant, and shall grant the Claimant forty-five (45) days to amend or supplement it, or permit the Claimant to advance a different type of Claim, where the Class Member making a Claim:

- (a) does not properly complete the Claim Package;
- (b) does not submit some or all the required documents; and/or
- (c) provides a Claim Package and/or Claim Form which is deficient or discrepant.

15. Once the Claim Package is complete, the Claims Administrator shall assess the Claim for eligibility for a Compensatory Payment and shall prepare and send a Claim Determination Decision to the Claimant.

16. The Claims Administrator will be at liberty to determine the Compensatory Payment to Class Members in accordance with paragraphs 26(e) of the Distribution Protocol and shall use the best available evidence in making their final determination.

17. As a condition precedent to the receipt of a Compensatory Payment under paragraph 26(e)(i) of the Distribution Protocol, a Claimant must:

- (a) swear or affirm a statement that to the best of their knowledge, they ingested U-Dream purchased in Canada during the Class Period;
- (b) provide proof that they suffered heart attack, cardiac arrest, stroke, or other cardiac injury during the Class Period;

- (c) provide an authorization for disclosure of records from a health care provider to permit the assessment of the injury claimed, in the discretion of the Claims Administrator; and
- (d) provide their name, address, name of applicable PHI(s), and public health insurance numbers to the Claims Administrator, together with a written consent to permit the Claims Administrator to forward that information to their PHI(s) and to obtain health cost information from the PHI(s) pertaining to their care and treatment.

18. As a condition precedent to the receipt of a Compensatory Payment under paragraph 26(e)(ii) of the Distribution Protocol, a Claimant must:

- (a) swear or affirm a statement that to the best of their knowledge, they ingested U-Dream purchased in Canada during the Class Period;
- (b) provide proof of the occurrence of a motor vehicle accident or other incident during the Class Period;
- (c) provide an authorization for disclosure of records from a health care provider to permit the assessment of the injury claimed, in the discretion of the Claims Administrator;
- (d) provide their name, address, name of their PHI(s), and public health insurance numbers to the Claims Administrator, together with a written consent to permit the Claims Administrator to forward that information to their PHI(s) and to obtain health cost information from the PHI(s) pertaining to their care and treatment.

19. As a condition precedent to the receipt of a Compensatory Payment under paragraph 26(e)(iii) of the Distribution Protocol, a Claimant must:

- (a) swear or affirm a statement that to the best of their knowledge, they ingested U-Dream purchased in Canada during the Class Period;
- (b) provide proof, or alternatively swear or affirm a statement that they suffered psychological stress or psychological injury, including addiction and/or withdrawal ("Psychological Injury"), during the Class Period; and
- (c) provide their name, address, name of their PHI(s), and public health insurance numbers to the Claims Administrator, together with a written consent to permit the Claims Administrator to forward that information to their PHI(s) and to obtain health cost information from the PHI(s) pertaining to their care and treatment.



20. As a condition precedent to the receipt of a Compensatory Payment under paragraph 26(e)(iv) of the Distribution Protocol, a Claimant must:

- (a) swear or affirm a statement that to the best of their knowledge, their deceased child, spouse, or parent ingested U-Dream purchased in Canada during the Class Period;
- (b) produce proof that their deceased child, spouse, or parent died during the Class Period; and
- (c) produce proof of their relationship with deceased child, spouse or parent, in the form of an official government document including but not limited to a death certificate, birth certificate, or marriage license.

21. A Claimant can make a claim for, and be awarded a Compensatory Payment for, only one category of injury or death set out paragraph 26. If a claim for any category of injury or death is denied, the Claims Administrator will permit a Claimant to advance a claim for another type of injury or for refund.

22. A Claimant awarded a Compensatory Payment for refund under paragraph 26(f) will not be eligible to receive compensation from any other paragraphs of the Distribution Protocol.

23. The Claims Administrator will be at liberty to apply to the Court for directions if any problem arises in the claims administration process, which they are unable to resolve.

24. All Claims with supporting documents must be received by the Claims Administrator by 5:00pm Pacific Standard Time ("PST") on the last day of the Claim Period. The Claims Administrator shall deny any Claim received or completed after that date and time.

### **SECTION 3 – SETTLEMENT BENEFITS**

#### **Applicable Currency**

25. All dollar amounts set forth in this Distribution Protocol are expressed in Canadian currency.

#### **Distribution of the Settlement Funds**

26. Pursuant to the terms and conditions of the Settlement Agreement and of the Distribution Protocol, the Claims Administrator shall pay the following from the Settlement Funds:

- (a) Class Counsel Disbursements to be paid as a first charge on the Settlement Funds after the Effective Date.
- (b) Claims Administration Costs to be paid out of the Trust Account, as incurred and payable and approved by Class Counsel.

- (c) The Honorarium, in the amount of \$5,000 or as otherwise approved by the Court to be paid as a first charge on the Settlement Funds after the Effective Date.
- (d) Class Counsel Fees of 30% plus PST and GST (12%) on Compensatory Payments to Plaintiff and Class Members; and Class Counsel Fees of 15% plus GST and PST (12%) on Public Health Insurer Payments, 75% of which is to be paid as a first charge on the Settlement Funds after the Effective Date, and the balance, subject to approval of the Court, following delivery of the Final Report by the Claims Administrator.
- (e) Compensatory Payments for injury or death in accordance with the Claims Administration Procedure pursuant to one of the following categories, which are assigned the following base values:
  - (i) Respecting a Claimant who sustained heart attack, cardiac arrest, stroke, or other cardiac injury the sum of \$40,000.
  - (ii) Respecting a Claimant who was injured as a result of a motor vehicle accident or other incident the sum of \$20,000.
  - (iii) Respecting a Claimant who ingested U-Dream and:
    - (A) sustained Psychological Injury during the Class Period of greater than twelve (12) months' duration, the sum of \$15,000; or
    - (B) sustained Psychological Injury during the Class Period of less than twelve (12) months' duration, the sum of \$5,000 (with documentary evidence of injury) or \$1,000 (without documentary evidence of injury).
  - (iv) Respecting a Claimant whose parent, spouse or child who ingested U-Dream and died during the Class Period:
    - (A) For each Claimant who is a parent of the deceased person, the sum of \$40,000;
    - (B) For each Claimant who is a child of the deceased person, the sum of \$40,000; and
    - (C) For a Claimant who is the spouse of the deceased person, the sum of \$80,000; and
  - (v) The aggregate amount payable under this paragraph shall be a maximum of \$1,000,000 before Class Counsel Fees, which are set

out in paragraph 26(d). If the total quantum of allowed claims under this paragraph exceeds \$1,000,000, then each individual award shall be reduced on a *pro rata* basis such that the total payable by the Defendants in respect of such claims shall not exceed \$1,000,000. If the full amount of \$1,000,000 is not awarded, the remainder shall be distributed by the Claims Administrator, as follows:

- (a) First, to satisfy any shortfall in the compensatory payments for refunds under paragraph 26(f), until such claims are paid in full;
  - (b) Second, *pro rata* to Class Members who qualify for injury under paragraph 26(e).
- (f) Compensatory Payments for refunds, as follows:
- (i) Respecting a Claimant without proof of purchase, the sum of \$15.
  - (ii) Respecting a Claimant with proof of purchase, the amount as proven.
  - (iii) The aggregate amount payable under this paragraph shall be a maximum of \$200,000, before Class Counsel Fees, which are set out in paragraph 26(d). If the total quantum of allowed claims under this paragraph exceeds \$200,000 then each individual award shall be reduced on a *pro rata* basis such that the total payable by the Defendants in respect of such claims shall not exceed \$200,000. If the full amount of \$200,000 is not awarded, the remainder shall be distributed by the Claims Administrator, *pro rata* to Class Members who qualify for Compensatory Payments under paragraph 26(e).
- (g) Public Health Insurer Payments pursuant to one of the following categories:
- (i) In respect of each Claimant with an Approved Claim who sustained heart attack, cardiac arrest, stroke or other cardiac injury, the Defendants will pay the PHIs the sum of \$15,750.
  - (ii) In respect of each Claimant with an Approved Claim who sustained Psychological Injury of more than six (6) months' duration while taking U-Dream the sum of \$3,000.
  - (iii) In respect of each Claimant with an Approved Claim who sustained Psychological Injury of less than (6) months' duration but requiring consultation with a health care practitioner, the Defendants will pay the PHIs the sum of \$1,000.
  - (iv) In respect of each Claimant with an Approved Claim who was involved in a motor vehicle accident or other incident the sum of \$2,200.
  - (v) The aggregate amount payable under this paragraph shall be a maximum of \$475,101, before Class Counsel Fees, which are set

out in paragraph 26(d). If the total quantum of allowed claims under this paragraph exceeds \$475,101, then the sum paid to each PHI will be reduced on a *pro rata* basis such that the total payable by the Defendants to the PHIs in respect of such claims shall not exceed 475,101.

- (vi) If the full amount of \$475,101 is not awarded, the remainder shall be distributed by the Claims Administrator, once the claims are established and approved, to each PHI *pro rata* based on the value of approved claims within the jurisdiction of each provincial and territorial PHI.
- (h) the sum of \$789,383 (before Class Counsel Fees set out in paragraph 26(d)) to establish a Special Circumstances Compensation Fund, paid for by the Defendants for the purpose of being distributed to Claimants who qualify for Compensatory Payments for injury or death under paragraph 26(e) and who suffered pecuniary losses as a result of the injuries they sustained, or on account of the death of their parent, spouse or child, subject to;
  - (i) In the case of Claimant who suffered injury:
    - (A) evidence of employment during the Class Period and reduction in earnings thereafter; and/or
    - (B) evidence of receipts for out-of-pocket expenses.
  - (ii) In the case of a Claimant whose parent, spouse or child died evidence of receipts for any pecuniary losses, including but not limited to expenses related to funeral and disposal of deceased's remains.
- (j) The distribution of the Special Circumstances Compensation Fund will be based on evidence of actual losses sustained by each Class Member. If the total quantum of allowed claims under this paragraph exceeds \$789,383 then each individual award shall be reduced on a *pro rata* basis such that the total payable by the Defendants in respect of such claims shall not exceed \$789,383. If the full amount of \$789,383 is not awarded, the remainder shall be distributed by the Claims Administrator, as follows:
  - (i) First, to satisfy any shortfall in the compensatory payments for refunds under paragraph 26(f), until such claims are paid in full;
  - (ii) Second, *pro rata* to Class Members who qualify for Special Circumstances Compensation under paragraph 26(h).

#### **Payments From Trust Account**

27. Payments to be made from the Trust Account shall be made in accordance with the following procedure

- (a) Within ten (10) days of the end of the Claim Period and resolution of all Deficiency Letters, the Claims Administrator will deliver a report to Class Counsel, and Counsel for the Defendants, setting out the total number of Claims received by category, and the total amounts payable by category, after accounting for court approved Class Counsel Fees;
- (b) The Claims Administrator shall issue the requisite Compensatory Payment by cheque to each Claimant with an Approved Claim, withholding applicable court approved Class Counsel Fees;
- (c) Within five (5) days of the issuance of the Compensatory Payments to Claimants with Approved Claims, the Claims Administrator shall provide the Public Health Insurers a list identifying each Claimant who has been awarded a Compensatory Payment in accordance with the Distribution Protocol, together with any information provided by each Claimant pursuant to paragraphs 16(d), 17(d), 18(d) and 19 (c) of this Distribution Protocol;
- (d) Within sixty (60) days of receipt of the list described in the paragraph above, a Public Health Insurer may submit a claim to the Claims Administrator for a Public Health Insurer Payment;
- (e) After all the claims from the Public Health Insurers are received, the Claims Administrator will deliver the Public Health Insurers Report to Class Counsel, and the Counsel for the Defendants, setting out the total number of claims received, and the total amounts payable by category, after accounting for court approved counsel fees; and
- (f) The Claims Administrator shall issue the requisite Public Health Insurer Payment by cheque to the Public Health Insurers, withholding applicable court approved counsel fees.

### **Final Report**

28. The procedure and timing of the Final Report of the Claims Administrator is found at paragraphs 18 to 22 of the Settlement Agreement.

