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Superior Court of California
County of Fresno
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16 **IN THE SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
17 **IN AND FOR THE COUNTY OF FRESNO**

18 MANMOHAN DHILLON, dba RANCHOS
19 VALERO, SATNAM PABLA, dba GMG
20 FOOD STORE 101 and MADERA AVE.
21 MARKET, SERGE HAITAYAN, dba 7-11
22 NUMBER 17906b, DALJIT SINGH, dba
23 LIQUOR MAX, and PAR VENTURES, LLC,
24 dba, QUICK PICK, on Their Own Behalves
25 and on Behalf of All Others Similarly Situated
26 and on Behalf of the General Public,

27 Plaintiffs,

28 v.

ANHEUSER-BUSCH, LLC, DONAGHY
SALES, LLC, a California Corporation;
ANHEUSER-BUSCH DOES 1-5 and DOES
6 through 50, inclusive,

Defendants.

CASE NO. 14CECG03039 JMS

**SUPPLEMENTAL DECLARATION OF
PETER CRUDO IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

JUDGE: Honorable Jon M. Skiles

DATE: May 21, 2024

TIME: 3:30PM

DEPT: 403

1 I, Peter Crudo, declare as follows:

2 1. I am the Executive Vice President of Class Action Services at Gilardi & Co., LLC,
3 (“Gilardi & Co.”). Gilardi & Co. was selected by Plaintiffs, subject to Court approval, to act as the
4 Settlement Administrator in this matter and complete the Court-approved notice plan and claims
5 process. I previously submitted my Declaration of Peter Crudo in Support of Plaintiffs’ Motion for
6 Preliminary Approval of Class Action Settlement, which was filed on November 14, 2023 (“Crudo
7 Decl. 11/14/2023”). I submit this Supplemental Declaration to further address issues raised by the
8 Court in its Ruling dated March 24, 2024 (“03/24/2024 Ruling”), in particular, those addressed at
9 pages 10-12 of that Ruling. I have personal knowledge of the matters set forth in this Declaration,
10 and if called as a witness, could and would testify competently thereto.

11 2. At page 10 of the 03/24/2024 Ruling, the Court requested that plaintiffs provide
12 more information on the Class Administrator’s proposed compensation. Our services will be
13 provided on the following basis: Total costs of notice and administration will be \$40,000 or
14 \$42,000 depending on whether the initial mailing is a postcard notice or a long form notice. (See
15 Paragraph 9, below). This price comprehends the usual services and expenses in a case like this
16 for data setup, postcard (or long form notice) printing and postage, live phone service for class
17 member calls, email handling, set up of website and for handling of electronic filed claims,
18 processing claims, case management, distribution costs and published notice. The price represents
19 a discount of \$5,000 off our usual price for this suite of services which was negotiated by counsel
20 for the Class.

21 **NOTICE PLAN**

22 3. The Court also raised questions about the form and manner of distribution of notice
23 and the filing of claims.

24 4. To review, the notice plan, as proposed, is organized in parts. A website devoted to
25 the settlement and case would be created and maintained. This website would be referenced on all
26 notice documents.

27 5. In the first instance, a short form notice (Exhibit 2 to Crudo Decl. 11/14/2023)
28 would be mailed to persons believed to be class members based on a class period customer

1 database supplied by Defendant Donaghy Sales, LLC, (“Donaghy”) updated if possible. The short
2 form notice would provide all necessary information in summary form and reference and direct
3 class members to the case website where the materials described in Paragraph 7 herein would be
4 housed.

5 6. A Long Form Notice (Exhibit 3 to Crudo Decl. 11/14/2023) would also be prepared.
6 The Long Form Notice elaborates on the content of the proposed short form notice. In addition to
7 being posted on the website, the notice may be obtained by calling (on a toll-free number) or
8 mailing or emailing the Administrator.

9 7. As proposed, the website would make available to class members both the Long
10 Form Notice and documents of potential relevance to Class Members such as the Complaint, the
11 Settlement Agreement, and the Plaintiffs’ filings in connection with their motions for Settlement
12 Approval and the applications for attorneys’ fees, reimbursement of expenses, and service awards.

13 8. Notice in the form of Exhibit 4 to Crudo Decl. 11/14/2023, is also proposed to be
14 published in the Fresno Bee.

15 9. An alternative process would be to mail the Long Form Notice to persons believed
16 to be members of the class in lieu of the postcard. This would increase both printing and postage
17 costs. If, instead, a Long Form Notice (in the form of Exhibit 3 to Crudo Decl. 11/14/2023) were
18 mailed to those same members, the mailed notice costs (printing and postage) would increase by
19 approximately \$2,000 for an estimated total of \$3,600 as compared to the costs of printing and
20 mailing the short form postcard notice of \$1,600.

21 10. Postcard notices have become common in class action cases precisely because of
22 the lower cost and lack of evidence that response rates or participation vary depending on which
23 method is used. The effectiveness of the Notice Program should also be benefitted by the limited
24 geographical scope of the class and the “word of mouth” effect of the likely existence of a business
25 community of persons included in the proposed class. Of course, given the relatively modest size
26 of this class, the marginal increased cost of direct mailing a long form notice is not as dramatic as
27 it is in cases with much larger sized classes.

28 **CLAIMS PROCEDURES**

1 11. As proposed, there would be two methods for claiming; either through an on-line
2 electronic claim form which will reside on the website and can be completed online, or a paper
3 claim form could be either downloaded from the website or requested by mail or telephone on a
4 dedicated toll-free number and mailed or emailed by the Administrator.

5 12. The proposed settlement is non-reversionary and allocates recoveries among the
6 class on a pro rata basis based on the ratio of an allowed claimant's class member's purchases of
7 Anheuser Busch beer relative to the total amount to be distributed to all allowed claimants based
8 on their respective purchases. Class period purchase records for the class period were produced in
9 the case by Donaghy and will be made available to the Administrator for the purpose set forth in
10 the following paragraph.

11 13. Claimants whose purchase records appear in the Donaghy sales database will not
12 have to provide any purchase information to the Administrator. To facilitate the claims process,
13 such class members will be provided a claim id number and an individualized code in that
14 Claimant's notice which the class member can use to access, through the case website, the amount
15 of purchases reflected in Donaghy's sales records which will presumptively be used to value that
16 class member's claim. An identified class member who does not dispute the amount of purchases
17 shown in Donaghy's records then need only access the website with its claim id number and code,
18 affirm the address shown or insert any address change of the class member claimant and the
19 process is completed. If the class member disputes the amount of class period purchases attributed
20 to that class member, the method and evidence with which the class member can claim a different
21 amount of purchases is described on the website.

22 14. The Court in its 03/24/2024 Ruling questioned why the class member need
23 affirmatively make a claim rather than simply being mailed its portion of the settlement fund. The
24 reason is two-fold. First, because this is a pro rata settlement, with each class member receiving
25 its percentage share of the settlement proceeds based on that individual class members' purchases
26 relative to the total purchases of all allowed claimants, any individual class member's share of the
27 net settlement proceeds cannot be determined until all allowed claims are tallied. This is not a case
28

1 in which class members are receiving a defined set amount in recovery and would more readily
2 lend itself to such a process.

3 15. Second, the class period in this case extends from 2010 until 2014, ending nearly
4 10 years ago. The passage of time always raises concerns over the risk of recoveries being mailed
5 to addresses which are no longer the addresses of the rightful claimants, the operators of businesses
6 which purchased Anheuser Busch beer from Donaghy during the 2010-2014 class period. The
7 older the address information, the less reliable it tends to be and the more likely that checks might
8 be converted by non-class members or that an inordinate amount of money will go undistributed
9 to claimants. The claim form requires the claimant to attest under penalty of perjury that they are
10 the authorized representative of the retailer eligible to make and making the claim.

11 **OPT OUT PROCESS**

12 16. The Court also questions whether the Notice forms should include an opt out and/or
13 objection form. While not commonly done, an opt out form could be provided with a Long Form
14 Notice in which the class member could indicate a desire to opt out of the class. It would not likely
15 be practical to fit such an option on the postcard notice.

16 17. Given the desire to avoid unintended opt outs and the unintended forfeiture of all
17 benefits, administration schemes commonly require a handwritten and signed statement rather than
18 a physical or electronic check of a box. Experience has shown that no matter how explicit the
19 instructions are, it is frequently the case that where such forms have been used some number of
20 claimants mistakenly fills out everything on the form; both the claim and the opt out, necessitating
21 further inquiry by the administrator into the class member's true intentions (and further expense)
22 as they cannot both claim and opt out.

23 18. An opt out option as a matter of logistics could be offered on the website if desired
24 and programmed such that the class member can be warned not do both. If the Court deems it
25 desirable to include an opt out option in the mailing and/or on the website, this can be
26 accomplished.

27 **OBJECTION PROCESS**

1 19. Providing an objection form to class members, in our experience, is almost never
2 done. An objector needs to provide individualized information with the objection including
3 identifying the objector as a settlement class member, the identifying information of any counsel
4 representing the objector, all the reasons for the objection, and any basis or evidence in support of
5 the objection and whether the objector intends to appear at the Final Approval hearing. The nature
6 of the requirements does not lend themselves to a form provided with the Notice and thus there is
7 no increased benefit to offset the additional cost. It has not been our experience that persons who
8 wish to object to either the settlement or the applications for fees, costs or incentive awards are
9 deterred from making those objections and filing them with the Court in the absence of a form
10 being provided to them to do so.

11 **CONCLUSION**

12 20. We remain available to address any further questions the Court may have.

13
14 I declare under penalty of perjury that the foregoing is true and correct. Executed the 15th
15 day of April 2024 at San Rafael, California.

16
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18 

19 _____
20 PETER CRUDO