

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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FREDRIC ELLIOTT, Individually and on)
Behalf of All Others Similarly Situated,)
)
Plaintiff,)
)
vs.)
)
CHINA GREEN AGRICULTURE, INC., *et*)
al.,)
)
Defendants.)

Case No. 3:10-cv-00648-LRH-WGC
CLASS ACTION
**ORDER APPROVING
DISTRIBUTION OF NET SETTLEMENT
FUND**

1 WHEREAS, in the above-captioned litigation, the Claims Administrator has completed the
2 administration of the Settlement Fund, including the processing of all submitted Proofs of Claim,
3 and is now prepared, with the approval of the Court, to distribute the proceeds of the Settlement;

4 WHEREAS, on August 12, 2014, the Court entered an Order and Final Judgment of
5 Dismissal with Prejudice (Dkt. No. 166), which, *inter alia*, approved the Plan of Allocation of
6 Settlement proceeds and retained jurisdiction over the litigation for all matters relating to the
7 consummation of the Settlement;

8 WHEREAS, as set forth in the Order Preliminarily Approving Settlement, Certifying
9 Settlement Class and Providing for Notice of Settlement (Dkt. No. 160), the deadline for Class
10 Members to submit claims to participate in a distribution from the Net Settlement Fund was July 9,
11 2014;

12 WHEREAS, as reflected in the Declaration of Stephanie A. Thurin in Support of Lead
13 Plaintiffs' Motion for Approval of Distribution Plan (the "Thurin Declaration"), the Claims
14 Administrator has completed the process of reviewing all submitted claims and has made a
15 recommendation as to the eligibility of each submitted claim;

16 WHEREAS, Lead Plaintiffs Thomas Johnston, Giuliano Lazzeretti, Thuan Ly, Christina
17 Galbraith, and Charles White (collectively, "Plaintiffs" or "Lead Plaintiffs") and the Claims
18 Administrator now seek authorization to distribute the Net Settlement Fund to Authorized
19 Claimants; and

20 WHEREAS, after reviewing Lead Plaintiffs' Unopposed Motion for Approval of Distribution
21 of Net Settlement Fund and Incorporated Memorandum of Law, the Thurin Declaration, and all
22 other exhibits and papers submitted in support thereof, the Court has determined that good cause
23 exists for the relief requested.

24 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:
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1 1. This Order incorporates by reference the definitions in the Stipulation of Settlement
2 dated March 7, 2014 (“Stipulation”) and in the Thurin Declaration and all capitalized terms used
3 herein shall have the same meanings as set forth in the Stipulation or in the Thurin Declaration.

4 2. This Court has jurisdiction over the subject matter of the Litigation and over all
5 parties to the Litigation, including all Class Members.

6 3. The claims set forth in Exhibits C-1 (“Timely Eligible Claims”) and C-2 (“Late But
7 Otherwise Eligible Claims”) to the Thurin Declaration are APPROVED, and the distribution of the
8 Net Settlement Fund to the Authorized Claimants is AUTHORIZED.

9 4. Wholly ineligible or otherwise deficient claims, as set forth in Exhibit C-3 to the
10 Thurin Declaration are REJECTED.

11 5. The six (6) Disputed Claims, as set forth in Exhibit B to the Thurin Declaration are
12 REJECTED, as the Disputed Claims did not have a Recognized Loss under the Plan of Allocation.

13 6. Epiq Class Action & Claims Solutions, Inc. (“Epiq”) is to conduct an initial
14 distribution, after deducting \$40,712.32 in remaining fees to itself, and after payment of any
15 estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees as follows:

16 a. Epiq shall calculate award amounts to all Authorized Claimants by calculating
17 their *pro rata* share of the fund in accordance with the Plan of Allocation;

18 b. Pursuant to the terms of the Plan of Allocation, Epiq shall eliminate any
19 Authorized Claimant whose award amount calculates to less than \$10.00. Such Claimants
20 shall not receive any distribution from the Net Settlement Fund and Epiq shall send letters to
21 those Authorized Claimants advising them of that fact;

22 c. After eliminating Claimants who would have received less than \$10.00, Epiq
23 will calculate the *pro rata* distribution payments for Authorized Claimants who would have
24 received \$10.00 or more pursuant to the calculations (“Distribution Amounts”);

25 d. Epiq shall then prepare checks for the distribution and registers of such
26 distributions, and send the payments by prepaid first class mail, after the list of Authorized
27 Claimants is compared to Epiq’s internal list of claimants who have been identified as
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1 potentially fraudulent filers. Finally, Epiq will issue replacement payments for distributions
2 upon request by payee, and will respond to inquiries about distribution amounts and
3 Recognized Loss Amount calculations;

4 e. All Initial Distribution checks shall bear the following notation: “DEPOSIT
5 PROMPTLY, VOID AND SUBJECT TO RE-DISTRIBUTION IF NOT NEGOTIATED
6 WITHIN 90 DAYS OF DISTRIBUTION”;

7 f. Authorized Claimants who do not negotiate their Initial Distribution checks in
8 accordance with the Plan of Allocation shall irrevocably forfeit all recovery from the
9 Settlement. The funds allocated to all such stale-dated checks will be available to be re-
10 distributed to other Authorized Claimants in the Second Distribution described below.
11 Similarly, Authorized Claimants who do not negotiate subsequent distributions within the
12 time allotted or on the conditions set forth in the Plan of Allocation will irrevocably forfeit
13 any further recovery from the Net Settlement Fund; and

14 g. After Epiq has made reasonable and diligent efforts to have Authorized
15 Claimants negotiate their Initial Distribution checks, which efforts shall consist of the
16 follow-up efforts described in the Thurin Declaration, but no earlier than six (6) months after
17 the Initial Distribution, Epiq will conduct a second distribution of the Net Settlement Fund
18 (the “Second Distribution”), pursuant to which any amounts remaining in the Net Settlement
19 Fund after the Initial Distribution, after deducting Epiq’s fees and expenses incurred in
20 connection with administering the Settlement for which it has not yet been paid (including
21 the estimated costs of such Second Distribution), and after the payment of any estimated
22 taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be distributed
23 to all Authorized Claimants in the Initial Distribution who (1) cashed their distribution
24 payment and (2) are entitled to at least \$10.00 from the re-distribution based on their *pro*
25 *rata* share of the remaining funds.

26 7. In order to allow a final distribution of any balance that may remain in the Settlement
27 Fund after the distribution, whether by reason of returned funds, tax refunds, interest, uncashed
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1 drafts, or otherwise, the following plan is ordered:

2 a. If cost effective, not less than six (6) months after the Second Distribution is
3 conducted, Epiq will conduct a further distribution of the Net Settlement Fund, pursuant to
4 which all funds remaining in the Net Settlement Fund, after deducting Epiq's unpaid fees
5 and expenses incurred or to be incurred in connection with administering the Net Settlement
6 Fund (including the estimated costs of such distribution), and after the payment of any
7 estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, will be
8 distributed to Authorized Claimants who cashed their Second Distribution checks and who
9 would receive at least \$10.00 in such further distribution. Additional re-distributions, after
10 deduction of costs and expenses as described above and subject to the same conditions, may
11 occur thereafter in six-month intervals until Lead Plaintiffs' Counsel, in consultation with
12 Epiq, determine that further re-distribution is not cost-effective; and

13 b. At such time as Lead Plaintiffs' Counsel, in consultation with Epiq, determine
14 that further re-distribution of the funds remaining in the Net Settlement Fund is not cost-
15 effective, the remaining balance of the Net Settlement Fund, after payment of any unpaid
16 fees or expenses incurred in connection with administering the Net Settlement Fund and after
17 the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any
18 escrow fees, shall be contributed to non-sectarian, not-for-profit 501(c)(3) organization(s), to
19 be recommended by Lead Plaintiffs' Counsel.

20 8. In order to allow the full and final distribution of the Net Settlement Fund, it is
21 necessary to bar any further claims received after October 12, 2015, from eligibility in the
22 distribution of the Net Settlement Fund beyond the amount allocated to Authorized Claimants.

23 9. The administration of the Settlement and the proposed distribution of the Net
24 Settlement Fund comply with the terms of the Stipulation and the Plan of Allocation and, therefore,
25 all persons involved in the review, verification, calculation, tabulation, or any other aspect of the
26 processing of the claims submitted herein, or otherwise involved in the administration or taxation of
27 the Settlement Fund or the Net Settlement Fund, are released and discharged from any and all claims

1 arising out of such involvement, and all Class Members, whether or not they have claimed against,
2 they received, or they are to receive payment from the Net Settlement Fund, are barred from making
3 any further claims against the Net Settlement Fund or Lead Plaintiffs, Counsel for Lead Plaintiffs,
4 the Claims Administrator, the escrow agent or any other agent retained by Lead Plaintiffs or Lead
5 Plaintiffs' Counsel, and are bound by all of the terms of the Stipulation, including the terms of the
6 Final Judgment, and will be barred from bringing any action against the Released Parties concerning
7 the Released Claims or in connection with the administration of the Settlement, or to claim against
8 the Net Settlement Fund for any amount greater than that allocated to such Class Member as a result
9 of its submission of a valid proof of claim.


10 10. Epiq shall be paid the outstanding balance of its fees and expenses in connection with
11 the services performed and to be performed in administering the Proofs of Claim and distributing the
12 Net Settlement Fund in the total amount of \$40,712.32.

13 11. Epiq is authorized to destroy the paper copies of the Proof of Claim forms one (1)
14 year after the distribution of the Net Settlement Fund, and to destroy electronic copies of claim
15 records three (3) years after the distribution of the Net Settlement Fund.

16 12. This Court retains jurisdiction to consider any further applications concerning the
17 administration of the Settlement, and such other and further relief as this Court deems appropriate.

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19 IT IS SO ORDERED.

20 DATED this 7th day of January, 2016.

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23 THE HONORABLE LARRY R. HICKS
24 UNITED STATES DISTRICT JUDGE
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