

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

IN RE PET FOODS PRODUCTS  
LIABILITY LITIGATION

MDL DOCKET NO. 1850  
Case No. 07-2867 (NLH)  
Judge Noel L. Hillman

STIPULATION AND [PROPOSED]  
CONSENT ORDER TO DESTROY  
CHEMNUTRA'S RETAINED  
WHEAT GLUTEN STORED IN  
THE BLOOMSBURG,  
PENNSYLVANIA WAREHOUSE

**WHEREAS**, defendant ChemNutra, Inc. ("ChemNutra") brought this matter before the Court in ChemNutra's Motion to Destroy Retained Wheat Gluten (Sept. 11, 2008)(Dkt. No. 203)("Motion");

**WHEREAS**, in the Motion and related submissions, ChemNutra represented to the Court and to interested parties that among the wheat gluten it has retained is wheat gluten stored at the Steven Shannon Warehouse in Bloomsburg, Pennsylvania and that all of the wheat gluten at this location comes from the XuZhou Anying Biologic Technology Development Co. Ltd. Batch Number 20070106, Motion at 8;

**WHEREAS**, in the Motion and related submissions, ChemNutra further represented to the Court and to interested parties that ChemNutra did not sell, distribute or supply any portion of the wheat gluten from Batch Number 20070106 to any person

or entity and that, therefore, no pets would have been exposed to food containing ChemNutra supplied wheat gluten from this batch number, Motion at 8-9;

**WHEREAS**, the Court held a telephonic hearing with the parties on October 16, 2008 and ChemNutra has confirmed the representations made in its Motion;

**IT IS HEREBY STIPULATED** by the Settlement Class, by and through Plaintiffs' co-lead counsel and ChemNutra, by and through its counsel of record, that ChemNutra may immediately destroy all retained wheat gluten from Batch Number 20070106 stored at the Steven Shannon Warehouse located at 920 Millville Road, Bloomsburg, Pennsylvania 17815 upon entry by the Court of this Consent Order.

**IT IS FURTHER STIPULATED** that the destruction of this wheat gluten shall be take place in accordance with and under the supervision of the FDA.

DATED: October ~~16~~<sup>22<sup>nd</sup></sup>, 2008

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Co - Lead Counsel For Settlement Class

DATED: October 22, 2008

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Counsel for Defendant CHEMNUTRA INC.

And as APPROVED by the U.S. Dept. of Justice, Western District of Missouri; see attached letter dated October 23, 2008;

SO ORDERED:

Dated: October 27, 2008

  
UNITED STATES DISTRICT JUDGE  
HONORABLE JUDGE NOEL LAWRENCE  
HILLMAN

At Camden, New Jersey



U.S. Department of Justice

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United States Attorney  
Western District of Missouri

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October 23, 2008

RECEIVED

OCT 27 2008

NOEL L. HILLMAN  
U.S. DISTRICT JUDGE

Mr. Lance Sandage  
The Sandage Law Firm, P.C.  
4700 Belleview Avenue, Suite 404  
Kansas City, Missouri 64112

Re: In Re Pet Food Recall Litigation, MDL 1850  
Chem Nutra's Motion for an Order Allowing it to Destroy Stored Wheat Gluten

Dear Mr. Sandage:

This letter confirms that this office does not object to the destruction of Xuzhou Anying wheat gluten being stored by Chem Nutra, *provided that*: (1) Chem Nutra gives the Food and Drug Administration written notice of the destruction sufficiently in advance of it occurring; and, (2) the actual destruction is conducted in strict conformity with any and all destruction procedures specified by the Food and Drug Administration. Please feel free to contact me if you have any questions about the content of this letter.

Very truly yours,

Gene Porter  
Chief, Fraud and Corruption Unit

✓ cc: Hon. Noel L. Hillman  
United States District Court Judge  
District of New Jersey  
Mitchell H. Cohen Building  
4th & Cooper Streets, Room 1050  
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