

Heather Maxin, on behalf of herself and all others similarly situated

v.

RHG & Company, Inc.,
Case No.: 3:16-cv-02625-JLS-BLM (S.D. Cal)
United States District Court
Southern District of California
www.RHGsettlement.com

SUPPLEMENTAL NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION

1. **Introduction** - This notice supplements the information that you previously received concerns a proposed settlement (the "Settlement") of a lawsuit against RHG & Company, Inc. d/b/a Vital Nutrients ("Defendant"), which was preliminarily approved by the Court.

2. **Defendant's Denial** - The Court has not decided in favor of either side in the case. Defendant denies all of the allegations in the complaint and expressly denies any liability or wrongdoing. Defendant stands by its "Made in USA" labeling and marketing and denies that it did anything wrong.

3. **Definition of the Class** - A "Class Member" is any Person who purchased any Vital Nutrients' product in the United States between August 1, 2012 to February 27, 2017, that contained an unqualified "Made in USA" label or were otherwise represented as being "Made in USA," excluding: (1) RHG & Co., Inc., its officers, directors, employees, and their immediate family members, and (2) any judicial officer hearing this litigation, as well as their immediate family members and employees.

4. **The Proposed Settlement** - Defendant will create a Gross Settlement Fund of nine hundred thousand dollars (\$900,000) to be used to pay: (a) cash awards to Class Members, (b) an incentive award to Plaintiff, (c) fees and costs of Class Counsel, (d) costs of administering the notice, claims, and Settlement, and (e) taxes due in connection with the Gross Settlement Fund and Net Settlement Fund prior to distribution to the Class.

5. **Class Members May Review Class Counsel's Fee Motion** - Class Counsel has filed a motion for recovery of attorneys' fees and costs ("fee motion") seeking \$247,500, which is less than the amount indicated in the original notice that you received. You have the right to review the fee motion before deciding whether to: (1) opt-out of the settlement or (2) object to the fee motion or the settlement. The fee motion is available by clicking "Case Documents" at www.RHGsettlement.com or by contacting Class Counsel for a copy. You may object to the fee motion or the settlement by filing it with the Court and mailing to Class Counsel and Defendant's counsel a written objection with the caption *Maxin v. RHG & Co., Inc.*, that includes: (a) your full name and current address, (b) a signed statement under penalty of perjury that you believe yourself to be a class member, (c) the specific grounds for your objection, (d) all documents or legal authority that you desire the Court to consider, and (e) a notice of intent to appear, if applicable.

6. **Terms of Restitution to Class Members** - Class Members who submit a valid claim without adequate proof of purchase shall receive \$6.00 per product, up to a maximum of five (5) products per person. Class Members who have proof of having purchased more than five (5) products and submit a valid claim accompanied by adequate proof of purchase shall receive \$6.00 per product, up to a maximum of twenty-five (25) products per person. Adequate proof of purchase means a cash register receipt or similar documentation identifying the purchased product and date of purchase. This cash reward is available for Class Members who do not opt out and who return a valid claim form.

If the amount available in the Net Settlement Fund is less than the total amount of valid claims submitted, then the amount to each Class Member shall be reduced *pro rata* so that the Gross Settlement Fund payments shall not exceed \$900,000.

7. **How to Make a Claim** - The claims deadline has been extended to December 26, 2017. Only Class Members who submit a Claim Form postmarked no later than **December 26, 2017** will be eligible to participate in the Settlement. Claim Forms postmarked after **December 26, 2017** will not be considered. To obtain a Claim Form, you may go to www.RHGsettlement.com. Once completed, mail the claim form and any proof of purchase to:

RHG Co., Inc. Class Action
c/o KCC Class Action Services
P.O. Box 43034
Providence, RI 02940-3034

Claims Forms and any proof of purchase can also be submitted online. Approved claims will be honored after the "Final Approval Date," as defined in the Settlement Agreement.

8. **Request for Exclusion from the Class** - If you wish to be excluded from the Class, you must mail a letter so that it is postmarked no later than **December 26, 2017** to the address listed in paragraph 7 above. The letter must state your name, address, and include the following signed statement: "I/We hereby request to be excluded from the proposed Settlement Class in *Maxin v. RHG & Co., Inc.*" **If you exclude yourself from the Class, you will not be entitled to share in any cash award that the Class may obtain**, but you will be able to file a separate claim against Defendant based on the practices alleged in this action.

9. **Objection** - If you do not request exclusion, you may still object to the proposed Settlement or Class Counsel's fee motion. To be considered, a written objection must be filed with the Court and mailed to the counsel below no later than **December 26, 2017** at the following addresses:

United States District Court, Southern District of California
Hon. Janis L. Sammartino,
Courtroom 4A (4th Floor – Schwartz)
Suite 4135
221 West Broadway
San Diego, CA 92101

Counsel for the Class
Abbas Kazerounian
Matthew M. Loker
KAZEROUNI LAW GROUP, APC
245 Fischer Avenue, Unit D1
Costa Mesa, CA 92626

Counsel for Defendant:
Lee S. Brenner
KELLEY DRYE & WARREN LLP
10100 Santa Monica Blvd., 23rd Floor
Los Angeles, CA 90067

Counsel for the Class
Joshua B. Swigart
HYDE & SWIGART
2221 Camino Del Rio South, Ste. 101
San Diego, CA 92108

If you wish to object, the written objection must be captioned *Maxin v. RHG & Co., Inc.* and include: (a) your full name and current address, (b) a signed statement under the penalty of perjury that you believe to be a Class Member, (c) the specific grounds for the objection and any other reasons why you desire to be heard, (d) all documents or legal authority that you desire the Court to consider, and (e) a notice of intent to appear, if applicable. Only Class Members who have submitted a timely written objection will have their objections considered by the Court and/or be heard at the final hearing on approval of the Settlement.

10. **Hearing On Settlement, Class Counsel Fees, and Class Representative Incentive Award** - The Settlement has already been preliminarily approved by the Court. The Court will hold a final Fairness Hearing to consider: (a) whether the tentative Settlement summarized above is fair, reasonable, adequate, and in the best interests of the Class, (b) whether Plaintiff and her attorneys have fully, fairly and adequately represented the Class in this action and in negotiating the Settlement, and (c) whether to award attorneys' fees and costs to Class Counsel and whether to award class representative enhancement fee to Plaintiff. The Fairness Hearing and motion hearing is presently scheduled for **February 15, 2018 at 1:30 p.m.** in Courtroom 4A of the United States District Court for the Southern District of California, Edward J. Schwartz Courthouse, 221 West Broadway, San Diego, CA 92101. The time and date of the approval may be changed by the Court without further notice to the Class.

Any party, including a Class Member, who wishes to file an objection and/or oppose the Settlement and/or Plaintiff's motion for fees are instructed to do so in writing, as described above.

11. **More Information - Do not contact the Court regarding this Notice or the lawsuit.** If you wish additional information about this notice or the Settlement, you may examine the Court's file on the case at the address shown above. For more information, visit www.RHGsettlement.com, or call 1-855-581-1277.

The Court has not ruled in favor of or against the Plaintiff or Defendant on the merits of any of their claims, denials, or defenses in this case.