## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

IN RE: URETHANE ANTITRUST LITIGATION	) ) )	MDL 1616 Civil No. 04-md-01616-JWL
	)	
	)	
This Document Relates To:	)	
The Polyether Polyol Cases	)	
	)	

## ORDER AND JUDGMENT APPROVING SETTLEMENT AND DISMISSING WITH PREJUDICE THE DOW CHEMICAL COMPANY

Plaintiffs Seegott Holdings, Inc., Quabaug Corporation, and Industrial Polymers, Inc., on behalf of themselves and a Class of direct purchasers of the Products (collectively, "Plaintiffs"), and defendant The Dow Chemical Company ("Dow"), entered into a settlement agreement to fully and finally resolve Plaintiffs' claims against Dow (Dkt. No. 3238-1). On April 27, 2016, this Court entered orders preliminarily approving the settlement agreement (Dkt. No. 3242) and authorizing dissemination of notice to the Class (Dkt. No. 3243). After Plaintiffs gave notice to the Class, this Court held a fairness hearing on July 27, 2016. This matter is now before the Court on Plaintiffs' Motion for Final Approval of Settlement with The Dow Chemical Company (Dkt. No. 3246). Having considered the memorandum in support of the motion, the oral argument presented during the fairness hearing, and the complete record and files in this matter,

## THE COURT HEREBY FINDS:

- 1. The Court has jurisdiction over the subject matter of this litigation.
- 2. Terms capitalized in this Order have the same meanings as those used in the Settlement Agreement (Dkt. No. 3238-1).

- 3. The order authorizing dissemination of notice to the Class outlined the form and manner by which Plaintiffs were to provide the Class with notice of the settlement, the fairness hearing, and related matters. The notice program included individual notice to members of the Class who could be identified through reasonable effort. Proof that the mailing conformed with the preliminary approval order has been filed with the Court (Dkt. No. 3270). The Court finds that this notice program fully complied with Federal Rule of Civil Procedure 23 and the requirements of due process, providing to the Class the best notice practicable under the circumstances.
- 4. The Court hereby grants final approval of the settlement on the basis that the settlement is fair, reasonable, and adequate to the Class. *See* Fed. R. Civ. P. 23(e). In reaching this conclusion, the Court is satisfied that the settlement was fairly and honestly negotiated inasmuch as it was the result of vigorous arm's length negotiations which were undertaken in good faith by counsel with significant experience litigating antitrust class actions, and that serious questions of law and fact exist such that the value of an immediate recovery of nearly 80% of the \$1.06 billion judgment and more than double the damages found by the jury outweighs the mere possibility of additional, future monetary relief. The Court gives weight to the parties' judgment that the settlement is fair and reasonable, as well as to the Class's reaction to the settlement. The Court also gives weight to the fact that no Class member has objected to approval of the settlement.

## IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

5. The escrow account established by the parties, into which The Dow Chemical Company already has deposited \$835,000,000.00, is approved as a Qualified Settlement Fund pursuant to Internal Revenue Code Section 468B and Treasury Regulations promulgated

Case 2:04-md-01616-JWL Document 3274 Filed 07/29/16 Page 3 of 3

thereunder.

6. All Released Claims are hereby dismissed with prejudice and without costs as to

the Releasees. The Releasors are barred from instituting or prosecuting, in any capacity, an

action or proceeding that asserts a Released Claim against any Releasee.

7. This Order does not settle or compromise any claims by Plaintiffs or the Class

against persons or entities other than the Releasees or for any claims other than the Released

Claims, and all rights against any other person or entity or respecting other claims are

specifically reserved.

8. Neither the Settlement Agreement, nor any act performed or document executed

pursuant to the Settlement Agreement, may be deemed or used as an admission of wrongdoing in

any civil, criminal, or administrative proceeding.

9. Without affecting the finality of this Order, the Court retains exclusive

jurisdiction over: (a) the enforcement of this Order; (b) the administration and enforcement of the

Settlement Agreement; and (c) the administration and distribution of settlement funds and any

disputes related thereto.

10. Pursuant to Federal Rule of Civil Procedure 54(b), the Court finds that there is no

just reason for delay and hereby directs that the claims in this litigation against defendant Dow

be dismissed with prejudice.

ENTERED THIS 29<sup>th</sup> day of July, 2016.

s/ John W. Lungstrum

Honorable John W. Lungstrum

United States District Judge

3