

NECCO CLASS ACTION

OFFICIAL COURT NOTICE OF PROPOSED SETTLEMENT

MAIN and D'AMELIO

v.

SWEETHEARTS CANDY CO., LLC and ROUND HILL INVESTMENTS LLC.

AP No. 18-01171 – MSH (U.S. Bankr. Ct., D. Mass.)

YOU MAY RECEIVE MONEY FROM THIS CLASS ACTION SETTLEMENT AND YOUR RIGHTS ARE AFFECTED BY THESE LEGAL PROCEEDINGS

1. Why did I get this notice?

This Notice of Proposed Class Action Settlement (“Class Notice”) is to inform you of a class action settlement in the case captioned *MAIN and D'AMELIO v. SWEETHEARTS CANDY CO., LLC and ROUND HILL INVESTMENTS LLC.*, AP No. 18-01171 (the “Action”), pending in the United States Bankruptcy Court for the District of Massachusetts (the “Court”).

In this Action, the named Plaintiffs, former employees of New England Confectionary Company, Inc. (“NECCO”), claim that Sweethearts Candy Co., LLC and Round Hill Investments LLC (“Defendants”) violated the federal “Worker Adjustment and Retraining Notification Act” by failing to provide sufficient advance notice of the shutdown of the NECCO plant in Revere, Massachusetts in July 2018. The Defendants deny Plaintiffs’ allegations in their entirety, including that they are the employer under this law, and continue to assert that they have at all times complied with all legal requirements.

After providing lengthy arguments to the Court and participating in a mediation with a sitting bankruptcy court judge, the Plaintiffs and the Defendants have reached a settlement of the Action (the “Settlement”). The Court has granted preliminary approval of the Settlement and has scheduled a Final Approval Hearing on April 22, 2020 at 11:00 a.m. in Courtroom 2, 12th Floor, 5 Post Office Square, Boston, MA 02109 to determine whether to grant final approval.

2. Who is affected by the proposed Settlement?

You are receiving this notice because you have been identified as a member of the proposed Class. The Class is defined as:

“All (i) non-exempt individuals employed by Round Hill Investments LLC, Sweethearts Candy Co. LLC or New England Confectionary Company (“NECCO”) at the NECCO facility in Revere Massachusetts at the time and within sixty 60 days prior to July 24, 2018, and whose employment was terminated by NECCO (as Debtor) on July 24, 2018 or within sixty (60) days before or after that date, including any such employees who were on an approved leave of absence as of July 24, 2018; (ii) exempt employees employed by Round Hill Investments LLC, Sweethearts Candy Co. LLC or NECCO at the NECCO facility in Revere Massachusetts at the time and within sixty 60 days prior to July 24, 2018, whose employment was terminated by NECCO (as Debtor) on July 24, 2018 or within sixty (60) days before or

after that date and who did not have a retention agreement or retention arrangement with NECCO as Debtor or who chose to leave NECCO voluntarily when they did leave; and (iii) full-time seasonal employees employed by Round Hill Investments LLC, Sweethearts Candy Co. LLC or NECCO at the NECCO facility in Revere Massachusetts and who were on the NECCO payroll in 2018.”

3. What are the terms of the proposed Settlement?

Under the terms of the Settlement, the Defendants will pay \$790,000.00 (the “Gross Settlement Amount”) to the Claims Administrator. The Claims Administrator will hold the settlement funds until the Court orders them to be distributed. This fund is designed to cover all payments to the Class members, certain taxes, Plaintiffs’ counsel’s attorneys’ fees and litigation costs, claims administration, and an incentive award to the two named Class members. The two named Class members who took the risk of bringing this litigation and assisting in its resolution will each receive an incentive payment of \$10,000.00. Class Counsel will request costs and fees equal to one third (1/3rd) of the Gross Settlement Amount.

The funds to Class members will be distributed “pro rata,” meaning the funds will be split among those who submit Claim Forms. No portion of the settlement amount will revert back to the Defendants.

Individual payments will be calculated based on each Class member’s regular rate of pay. For the Class members who were seasonal employees under section (iii) of the class definition above, their individual settlement amounts will be calculated based on 25% of their regular rate of pay. This difference is meant to reflect the more significant difficulties seasonal employees who were not employed at the time of the shutdown would have in litigating their claims.

The accompanying Claim Form provides the minimum dollar amount you are expected to receive if you submit the Claim Form. You will likely receive more than this amount depending on how many Class members participate in the Settlement.

4. What are my options?

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

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| Do Nothing | You get no payment. You give up your rights. | |
| Submit a Claim Form | This is the only way to get a payment from the Settlement. | The Claim Form, which is attached, must be completed, and received by the Claims Administrator by March 2, 2020. |
| Exclude Yourself | You get no payment under the Settlement. This is the only choice that will allow you to sue the Defendants on your own about the claims discussed in this notice. | An exclusion request must be in writing and sent to the Claims Administrator, so that it is received by March 2, 2020. |
| Object to the Settlement | You can write to the Court and object, setting forth why you do not agree with any aspect of the Settlement. | An objection must be in writing, and sent to the Court, the Claims Administrator, and counsel to the parties so that it is received by March 2, 2020. |
| Go to the Hearing | You can ask to speak to the Court about the “fairness” of the settlement. | If you wish to appear and speak to the Court, you must submit a notice of Intention to Appear in writing, and send it to the Court, the Claims Administrator, and counsel to the parties so that it is received by March 2, 2020. |

5. What happens if I choose to do nothing?

If you choose to do nothing, you will not receive any money from the Settlement. Upon Final Approval of the Settlement by the Court, you will be deemed by the Court to have fully and irrevocably released and waived certain legal claims you may have. You will be unable to bring any claims summarized in Section 10 of this Notice.

6. How can I get paid under the Settlement?

To receive a payment under the Settlement, you must submit a Claim Form. The Claim Form is included with this Notice. You must fill out the form completely, sign the document, and send it to the Claims Administrator so that it is received by March 2, 2020. Please read the instructions and carefully, and fill out the form completely.

7. How can I exclude myself from the settlement?

In order to exclude yourself from the Settlement, you must submit an exclusion request in writing and send it to the Claims Administrator so that it is received by March 2, 2020. The address of the Settlement Administrator is below. In order to be effective, your request for exclusion must include a) your name; b) your address; c) your telephone number; d) a statement that you wish to be excluded from the Class; e) your signature; and f) the case name and number.

If you request exclusion from the Class:

- You will not be eligible for payment under the proposed Settlement; and
- You will not be allowed to object to the terms of the proposed Settlement.

8. What happens if I choose to object to the Settlement?

You can object to the terms of the Settlement. However, if the Court approves the Settlement, you may still be bound by the terms of the Settlement. To object, you must submit a written objection identifying this case name and case number, along with any supporting briefs or materials, to the Court and counsel to the parties such that they are received by March 2, 2020. Any objection not properly and/or timely submitted in writing to the Court and served upon counsel for the parties will be deemed waived. If you seek to object and still want to participate in the Settlement, you need to take the actions summarized in Section 6 of this Notice. The address for the Court is United States Bankruptcy Court, John W. McCormack Post Office and Court House, 5 Post Office Square, Suite 1150, Boston, MA 02109. The address for counsel to the Defendants is: Jeffrey I. Kohn and Daniel Shamah, O'Melveny & Myers LLP, 7 Times Square, New York, NY 10046, and Paul S. Samson, Riemer & Braunstein LLP, One Center Plaza, Boston, MA 02108. The address for counsel to the Plaintiffs is below.

9. What is the difference between “objecting” and “excluding?”

Objecting is simply a way of telling the Court that you do not like something about the settlement. You can only object if you stay in the Class. If you object to the Settlement, you will still be a Class member and you will still be eligible to submit a Claim Form. Excluding yourself is telling the Court that you do not want to be a part of the Class. If you exclude yourself, you have no basis to object to the settlement and/or appear at the Fairness Hearing because the case no longer affects you.

10. What claims will I give up if I remain in the Class?

As part of the Settlement, Class members release and discharge Sweethearts Candy Co., LLC, Round Hill Investments LLC (together with all of their past and present employees, officers, directors, insurers, agents and attorneys), and New England Confectionary Company, Inc. (“NECCO”), NECCO’s bankruptcy estate, and Harold B. Murphy as the court-appointed trustee of NECCO’s bankruptcy estate (together with all of their past and present employees, officers, directors, insurers, agents and attorneys), of and from any and all claims, demands, and liabilities arising out of or concerning the allegations in the Action, including the Worker Adjustment and Retraining Notification Act claim.

11. Who represents the Parties?

The Court has designated the attorneys at the law firm Gardner & Rosenberg, P.C. to serve as Class Counsel to represent you and the other Class members in this lawsuit. You will not be charged for their services. No later than 14 days prior to March 2, 2020, the law firm will submit a request to the Court for payment of attorneys' fees and costs.

You may contact Class Counsel about this lawsuit and the Settlement. Class Counsel's contact information is:

Josh Gardner
Gardner & Rosenberg, P.C.
1 State Street, 4th Floor
Boston, MA 02109
617-390-7570
josh@gardnerrosenberg.com

You have the right to retain your own lawyer to represent you in this case, but you are not required to do so. If you do hire your own lawyer, you will have to pay his or her fees and expenses. You also have the right to represent yourself before the Court without a lawyer.

12. What will happen at the final approval hearing?

On April 22, 2020 at 11:00 a.m. in Courtroom 2, 12th Floor, 5 Post Office Square, Boston, MA 02109 to the Court will hold a Fairness Hearing. At the hearing, the Court will consider whether to grant final certification to the Class, whether to approve the proposed settlement, and whether to award attorney fees and costs, and incentive payments. You do not need to attend the hearing to participate in the Settlement.

If you (or your attorney) want to appear and speak at the Fairness Hearing, you (or your attorney) must have properly submitted an objection, and must file a Notice of Intention to Appear at the Fairness Hearing with the Court, and deliver that Notice to the attorneys for both sides such that the notices are received by March 2, 2020. The addresses are in Sections 8 and 11.

13. When will settlement checks be distributed?

If the Settlement is approved by the Court, and no appeal is filed, the Claims Administrator will send the settlement checks. This could take several months.

14. Who can answer questions regarding the Settlement?

This notice only summarizes the Action, the Settlement, and related matters. For more information about the Settlement or if you have any questions regarding the Settlement, you may contact the Claims Administrator at:

Claims Administrator:

Optime Administration, LLC

PO Box 3206

Brockton, MA 02304

Tel. (844) 625-7313

Fax (781) 287-0381

Email: NeccoSettlement@optimeadmin.com

Additional information concerning the Action and the Settlement may be found at the following website:

<https://maworker.com/necco>

Do not contact the Court directly about this matter. The Court cannot provide you with legal advice or any opinion regarding the Action or proposed Settlement.