

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

_____)	
In re:)	Chapter 7
NEW ENGLAND CONFECTIONARY)	Case No. 18-11217-MSH
COMPANY, INC.,)	
Debtor)	
_____)	
DEXTER MAIN and FRANCESCO)	
D'AMELIO, individually and on behalf)	
of those similarly situated,)	
Plaintiffs,)	
v.)	AP No. 18-01171-MSH
SWEETHEARTS CANDY CO. LLC and)	
ROUND HILL INVESTMENTS LLC,)	
Defendants.)	
_____)	

**PLAINTIFFS' ASSENTED-TO MOTION FOR
PRELIMINARY APPROVAL OF CLASS AND OF CLASS ACTION SETTLEMENT**

Pursuant to Fed. R. Civ. P. 23, plaintiffs Dexter Main and Francesco D'Amelio ("Plaintiffs") submit this Assented-To Motion for Preliminary Approval of Class and of Class Action Settlement ("Motion"). This is a prototypical class case – a claim by workers concerning a uniform company policy. Plaintiffs allege Defendants Sweethearts Candy Co. LLC (now named SCC Services LLC) and Round Hill Investments LLC ("Defendants") failed to provide proper notice of a plant closing pursuant to the Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2101.

After extensive motion practice and settlement negotiations, Plaintiffs and Defendants participated in a mediation before a sitting judge of the United States Bankruptcy Court for the

District of Massachusetts – The Honorable Christopher J. Panos. The mediation resulted in a settlement (the “Settlement”).

A copy of the Settlement is attached hereto at Exhibit A.

The Class is defined as follows:

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.

Only those listed on Schedule A to the Settlement are Class members for purposes of this Settlement

The Settlement is fair. The Settlement provides for a common fund of Seven Hundred Ninety Thousand Dollars and No Cents (\$790,000.00). Plaintiffs’ case had significant challenges, but the Settlement is expected to provide substantial relief to the Class. Notably, the Settlement is non-reversionary. Funds will be distributed pro rata to those who submit claim forms, with no funds reverting back to Defendants.

Upon preliminary approval of the Class and of the Settlement by the Court, the Class Notice and Claim Form can be issued by the third-party claims administrator. Those forms are

attached hereto at Exhibit B and Exhibit C, respectively.¹

Finally, Plaintiffs request the Court schedule a final approval hearing. At that hearing, Plaintiffs will report on the notice process, including the number of claims submitted, whether any Class members object to the Settlement, and whether any Class members have opted out of the Class and the Settlement. Plaintiffs will then ask for final approval of the Class and of the Settlement, after which the funds can be distributed.

In support of this Motion, Plaintiffs rely on the accompanying Memorandum in Support of Plaintiffs' Assented-To Motion for Preliminary Approval of Class and of Class Action Settlement.

WHEREFORE, Plaintiffs respectfully request the Court enter the proposed order attached hereto as Exhibit E.

PLAINTIFFS,
By their attorneys,

/s/ Nicholas J. Rosenberg
Nicholas J. Rosenberg (BBO No. 657887)
Josh Gardner (BBO No. 657347)
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Dated: November 4, 2019

CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on November 4, 2019.

/s/ Nicholas J. Rosenberg

¹ An affidavit of Josh Gardner is attached as Exhibit D.