

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

PUBLIC EMPLOYEES' RETIREMENT
SYSTEM OF MISSISSIPPI, Individually and
On Behalf of All Others Similarly Situated,

Plaintiff,

v.

TREEHOUSE FOODS, INC., SAM K.
REED, DENNIS F. RIORDAN and
CHRISTOPHER D. SLIVA,

Defendants.

Case No.: 16-CV-10632

STIPULATION OF SETTLEMENT

This Stipulation of Settlement, dated as of July 13, 2021 (the “Stipulation”), is made and entered into by and among: (i) Lead Plaintiff, The Public Employees’ Retirement System of Mississippi (“Lead Plaintiff”) (on behalf of itself and each of the Class Members),¹ by and through its counsel of record in the Litigation; and (ii) TreeHouse Foods, Inc. (“TreeHouse” or the “Company”), Sam K. Reed, Dennis F. Riordan, and Christopher D. Sliva (together, “Defendants”). Lead Plaintiff, the Class, and Defendants are collectively referred to herein as the “Parties” or the “Settling Parties.” This Stipulation is intended to fully, finally, and forever resolve, discharge, and settle the Released Claims, subject to the approval of the Court and the terms and conditions set forth in this Stipulation.

¹ All undefined terms with initial caps are defined below in Section IV(1).

I. THE LITIGATION

This Litigation is pending in the United States District Court for the Northern District of Illinois (the “Court”). The initial complaint in this action was filed on November 16, 2016. Dkt No. 1. On January 25, 2017, the Court appointed Lead Plaintiff and Lead Counsel. Dkt. No. 42. On March 24, 2017, Lead Plaintiff filed an Amended Consolidated Complaint. Dkt. No. 45.

Lead Plaintiff brought this securities fraud class action on behalf of all persons and entities who purchased TreeHouse common stock on the open market between January 20, 2016, and November 2, 2016, inclusive, and who were damaged thereby. Plaintiff alleges that Defendants violated Sections 10(b) and 20(a) of the Exchange Act, 15 U.S.C. §§78j(b) and 78t(a), and Securities and Exchange Commission (“SEC”) Rule 10b-5 promulgated thereunder, 17 C.F.R. §240.10b-5 (“Rule 10b-5”).

Defendant TreeHouse manufactures private label or “store brand” food products for grocery stores, warehouse chains, and other retailers. TreeHouse’s strategy for market growth turned in part on acquiring and integrating other private label food companies, and TreeHouse had purchased twelve companies between 2006 and 2015. In 2014, TreeHouse purchased Flagstone Foods for more than \$850 million in its then-largest acquisition to date. Lead Plaintiff alleges that Defendants misrepresented to investors and analysts that Flagstone was being smoothly integrated into TreeHouse.

In 2015, TreeHouse purchased the “Private Brands” business from ConAgra Foods, Inc. for more than \$2.7 billion. TreeHouse’s acquisitions of Flagstone and Private Brands nearly tripled its size. Lead Plaintiff alleges that TreeHouse continued to misrepresent to the market that its recent large acquisitions were successful.

Lead Plaintiff contends that TreeHouse's stock traded at an inflated level because of Defendants' alleged wrongful acts and omissions. On November 3, 2016, TreeHouse disclosed that third quarter earnings would be below expectations, and Company shares fell roughly 20%. It is alleged that the Company's November 3, 2016 public statements constituted corrective disclosures about TreeHouse's integration of Flagstone and Private Brands, resulting in Lead Plaintiff and the other Class Members suffering loss and damages.

Defendants have denied and continue to deny all of Plaintiffs' allegations. Defendants have denied and continue to deny any wrongdoing whatsoever or that they have committed any act or omission giving rise to any liability or violation of law, including the U.S. securities laws. Defendants have denied and continue to deny each and every one of the claims that was alleged or could have been alleged in the Litigation, including all claims in the Complaint, as well as any allegations that Lead Plaintiff or any member of the Class has suffered damages or was otherwise harmed by the conduct alleged in the Litigation. Defendants believe that the claims asserted against them in the Litigation are without merit.

On May 26, 2017, Defendants filed a motion to dismiss. Dkt. No. 58. In a Memorandum Opinion and Order entered on February 12, 2018, the Court denied Defendants' motion to dismiss. Dkt. No. 75.

The Parties served initial disclosures on May 25, 2018. Starting on June 1, 2018, the Parties began serving document requests and interrogatories. After serving objections and responses to the various discovery requests, the Parties began producing documents after meeting and conferring multiple times and agreeing upon search terms. Defendants eventually produced more than 50,000 documents, comprising over 200,000 pages.

Lead Plaintiff also served 14 third party subpoenas. Lead Plaintiff's counsel had multiple meet and confer conferences with each of these subpoenaed third parties to define and narrow the scope of their respective productions of documents. Approximately 4,000 documents were produced by these third parties.

During the course of discovery, Defendants deposed two representatives of Lead Plaintiff: Special Assistant Attorney General George Neville and Lorrie Tingle. Defendants also deposed Lead Plaintiff's class certification expert, Chad W. Coffman of Global Economics Group. Lead Plaintiff deposed Defendants' class certification expert, Dr. Paul Zurek of Cornerstone.

On July 13, 2018, Lead Plaintiff moved to certify a class consisting of all persons and entities who purchased TreeHouse common stock on the open market between January 20, 2016, and November 2, 2016, inclusive, and who were damaged thereby. Dkt. No. 93. After Lead Plaintiff filed its opening class certification brief, and Defendants filed their opposition to the class certification motion on October 8, 2018 (Dkt. No. 106), the Parties agreed to attempt to resolve the Litigation through mediation and stayed the Litigation. Dkt. No. 108. On March 19, 2019, the Parties participated in a full-day mediation before Michelle Yoshida of Phillips ADR, which proved unsuccessful.

After the mediation, the Parties completed class certification discovery and briefing. On February 26, 2020, the Court issued an order granting the class certification motion and certifying Lead Plaintiff as class representative. Dkt. No. 152. On March 11, 2020, Defendants filed a Rule 23(f) interlocutory appeal petition with the Seventh Circuit Court of Appeals with respect to the class certification order. On May 4, 2020, after full briefing requested by the Seventh Circuit, the petition was denied.

On March 10, 2020, the Court again stayed proceedings to allow the Parties to recommence mediation proceedings before a different mediator. *See* Dkt. 153. The Parties engaged the services of Gregory P. Lindstrom of Phillips ADR, a nationally recognized mediator (the “Mediator”). Because of the restrictions on travel and in-person gatherings imposed by COVID-19, the Parties conducted the mediation process entirely remotely. The Parties engaged with the Mediator on Zoom and telephonic meetings, exchanged mediation statements and reply mediation statements, and provided additional memoranda and other documents as requested by the Mediator. On February 4, 2021, after an extended mediation process that spanned nearly 11 months, the Parties mutually agreed in principle to accept the Mediator’s written proposal to settle the Litigation, subject to various conditions, definitive documentation and Court approval. The agreement included, among other things, the Settling Parties’ agreement to settle and release all claims that were or could have been asserted in the Litigation in return for a cash payment of \$27,000,000, for the benefit of the Class, subject to various conditions including the negotiation of the terms of a Stipulation of Settlement and approval by the Court. This Stipulation (together with the Exhibits hereto) reflects the final and binding agreement among the Settling Parties.

II. DEFENDANTS’ DENIALS OF WRONGDOING, LIABILITY & THE MERITS OF PLAINTIFF’S CLAIMS

Throughout this Litigation, Defendants have denied, and continue to deny, any and all allegations of fault, liability, wrongdoing, or damages whatsoever. Defendants expressly have denied, and continue to deny, that they have committed any act or omission giving rise to any liability under Sections 10(b) or 20(a) of the Securities Exchange Act of 1934 or Rule 10b-5 or otherwise.

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