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December 2, 1999

Richard Slowes
Commissioner
Minnesota Supreme Court
Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155

OFFICE OF
APPELLATE COURTS

DEC 6 - 1999

FILED

Re: Vitamin Price-Fixing Antitrust Actions

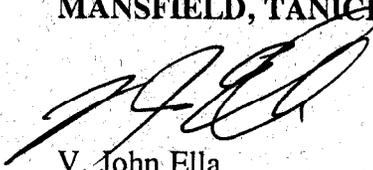
Dear Commissioner Slowes:

I am writing to follow up on your telephone conversation with Seymour J. Mansfield of December 1, 1999, regarding the action we filed in McLeod County entitled FORM-A-FEED, Inc., et al. v. Akzo Nobel, Inc., et al., Case No. 43-C0-99-000856. I have enclosed for your convenience a copy of the Complaint in this matter, as well as a copy of the Notice of Case Filing. The case has been assigned to Judge Thomas G. McCarthy, who has his chambers in Sibley County.

Please note that we wish to be advised of any hearing regarding possible consolidation of these matters, and we would appreciate the opportunity to submit a brief letter outlining our position on this issue. We will, of course, do everything we can to cooperate with the court system in establishing an efficient means of administering these actions. If you have any questions, please do not hesitate to call me or Seymour J. Mansfield.

Very truly yours,

MANSFIELD, TANICK & COHEN, P.A.


V. John Ella

cc: Phillip A. Cole
Dan Gustafson
Wood R. Foster, Jr.
Michael Unger
William L. Sippel

217454

OFFICE OF
APPELLATE COURTS

STATE OF MINNESOTA

DEC 6 - 1999

DISTRICT COURT

COUNTY OF MCLEOD

FIRST JUDICIAL DISTRICT

FILED

Case type: Antitrust

FORM-A-FEED, Inc., a Minnesota corporation; Sparboe Agricultural Corp., a Minnesota corporation; Alice and Walter Field; Bombay Elevator, Inc., a Minnesota corporation; Delbert and Donna Mandelko; Nancy Kallio; Mary Denison; Cayol Natural Foods, Inc., a Minnesota corporation; and Heart Foods Company, Inc., a Minnesota corporation; on behalf of themselves and all others similarly situated,

Court File No. _____

Plaintiffs,

vs.

COMPLAINT
(Class Action)

Akzo Nobel, Inc.; Akzo Nobel NV; BASF A.G.; BASF Corporation; Bioproducts, Inc.; Chinook Group, Ltd.; Chinook Group, Inc.; Conagra, Inc.; Daiichi Pharmaceuticals Co., Ltd; Daiichi Fine Chemicals, Inc.; Daiichi Pharmaceuticals Corporation; DCV, Inc.; Degussa A.G.; Degussa, Inc.; Ducoa; Ducoa, L.P.; E.I. Dupont De Nemours and Company; Eisai Co. Ltd.; Eisai Inc.; F. Hoffmann-La Roche, Ltd.; F. Hoffmann-La Roche, Inc.; Lonza A.G.; Lonza, Inc.; Mitsui & Co. Ltd.; Mitsui & Co., Inc.; Reilly Industries, Inc.; Reilly Chemicals, SA; Rhone-Poulenc SA; Rhone-Poulenc Animal Nutrition, Inc.; Takeda Chemical Industries, Ltd.; Takeda Vitamin & Food U.S.A., Inc.; Takeda U.S.A., Inc.; UCB, SA; UCB, Inc.; and DOES 1-50,

Trial by Jury
Demanded

Defendants.

Plaintiffs bring this action on behalf of themselves and all others similarly situated for treble damages and injunctive relief under the laws of Minnesota, against the above-named Defendants, demanding a trial by jury. For their Complaint against Defendants, Plaintiffs, upon personal knowledge as to their own acts and status, and upon information and belief as to all

other matters, allege the following:

I. NATURE OF THIS ACTION

1. This case arises out of a massive and long-running international conspiracy beginning no later than 1989, and continuing until at least September, 1998, among the Defendants and their co-conspirators with the purpose and effect of fixing prices, allocating market share, predetermining vitamin sales volume and limiting supply, eliminating competition from non-co-conspirators, and committing other unlawful practices designed to inflate the prices of vitamins, vitamin premixes, bulk vitamins, and other vitamin products sold to Plaintiffs and other purchasers in Minnesota, throughout the United States, and elsewhere.

II. JURISDICTION AND VENUE

2. Plaintiffs bring this action pursuant to the Minnesota Antitrust Law of 1971, Minn. Stat. §§ 325D.51, 325D.53, 325D.57, and 325D.58, to obtain injunctive relief and to recover treble damages and the costs of suit, including reasonable attorneys' fees, from Defendants for the injuries sustained by Plaintiffs and the Classes (as defined herein) by reason of Defendants' and their co-conspirators' violations of Minnesota law.

3. Defendants transact business in the State of Minnesota. Without limiting the generality of the foregoing, the wrongs alleged herein were committed and the damages and losses alleged herein were suffered within the jurisdiction of this Court; such damages and losses were suffered in this jurisdiction; the rights of the Plaintiffs and the Plaintiff Classes were impaired in this jurisdiction; and the Defendants' wrongful activities were directed by or on their behalf into this jurisdiction, all as more particularly described herein.

4. Without limiting the generality of the foregoing, the Defendants (directly or

through agents who were at the time acting with actual and/or apparent authority and within the scope of such authority) have:

- a. Transacted business in this State and in this judicial district;
- b. Contracted to supply or obtain services or goods in this State and in this judicial district;
- c. Intentionally availed themselves of the benefits of doing business in this State and in this judicial district;
- d. Produced, promoted, sold, marketed and/or distributed their products or services in this State and in this county and, thereby, have purposefully profited from their access to this State's markets within this judicial district;
- e. Caused tortious damage by act or omission in this State and judicial district;
- f. Caused tortious damage in this State and county by act or omission committed outside this State while (i) regularly doing or soliciting business in this State, and/or (ii) engaging in other persistent courses of conduct within this State and/or (iii) deriving substantial revenue from goods used or consumed or services rendered in this State and this judicial district;
- g. Committed acts and omissions which Defendants knew or should have known would cause damage (and, in fact, did cause damage) in this State to the Plaintiffs and members of the Plaintiff Class while (i) regularly doing or soliciting business in this State, and/or (ii) engaging in other persistent courses of conduct within this State and/or (iii) deriving substantial revenue from goods used or consumed or services rendered in

this State and this judicial district; and/or

h. Otherwise had the requisite minimum contacts with this State and this judicial district, such that under the circumstances, it is fair and reasonable to require the Defendants to come to this Court to defend this action.

5. Plaintiffs and the Plaintiff Class seek relief in the form of injunctive and monetary relief as provided by Minnesota Antitrust Law, Minn. Stat. §§ 325D.57 and 325D.58. Plaintiffs State, and intend to State, causes of action solely under the laws of Minnesota and specifically disclaim any attempt to State a cause of action under the laws of the United States of America, including, without limitation, the Sherman Act, 15 U.S.C. § 1.

III. PARTIES

A. Plaintiffs

6. Plaintiffs are individuals with residences in Minnesota. During the years 1989 through 1998, each of the Plaintiffs was an indirect purchaser of vitamins and/or vitamin premixes manufactured, sold or distributed by one or more of the Defendants. During the same time period, Plaintiffs FORM-A-FEED, Inc. and Sparboe Agricultural Corp. also made direct purchases of vitamins and/or vitamin premixes manufactured, sold or distributed by one or more of the Defendants.

7. Plaintiff FORM-A-FEED, Inc. ("FORM-A-FEED") is a Minnesota corporation, with its principal place of business in the city of Stewart, McLeod County, Minnesota. FORM-A-FEED is engaged in the formulation, distribution and sale of animal feed products, including, principally, vitamin premix products for poultry and livestock consumption.

8. Plaintiff Sparboe Agricultural Corp. ("Sparboe") is a Minnesota corporation with

its principal place of business in Litchfield, Minnesota, Meeker County. Sparboe is engaged in the formulation, distribution and sale of animal feed premixes for poultry consumption.

9. Plaintiffs Alice and Walter Field, doing business as Sweet Meadow Farm, own and operate a sheep farm in Zumbrota, Goodhue County, Minnesota. They sell natural-raised lamb meat throughout the Midwest.

10. Plaintiff Bombay Elevator, Inc., a Minnesota corporation, is located in Kenyon, Goodhue County, Minnesota, with a business of, *inter alia*, selling livestock feed mixes and vitamins to farmers.

11. Plaintiffs Delbert and Donna Mandelko, in partnership with Steven and Susan Mandelko, own and operate a dairy farm with 135 milk cows in Preston, Fillmore County, Minnesota. Delbert Mandelko is the current President of the Minnesota Milk Producers Association, with approximately 4,800 dairy farmer members throughout the State.

12. Plaintiff Nancy Kallio is an individual living in Minneapolis, Hennepin County, Minnesota.

13. Plaintiff Mary Denison is an individual residing in Minneapolis, Hennepin County, Minnesota.

14. Plaintiff Cayol Natural Foods, Inc., a Minnesota corporation, is located in Minneapolis, Hennepin County, Minnesota, with a business of retail sales of vitamins, herbal products, and natural foods.

15. Heart Foods Company, Inc., a Minnesota corporation, is located in Minneapolis, Hennepin County, Minnesota, with a business of, among other things, the retail sales of vitamins, herbal supplements, and other health food products.

B. Defendants

16. Defendant Akzo Nobel NV ("Akzo NV") is a business entity duly formed and existing under the laws of the Netherlands. Defendant Akzo Nobel, Inc. ("Akzo Nobel") is a Delaware corporation and a wholly owned subsidiary of Akzo NV. Akzo NV and Akzo Nobel are hereinafter collectively referred to "Akzo." Upon information and belief, Akzo Nobel's principal place of business is Chicago, Illinois. Upon further information and belief, Akzo Nobel was known until 1994 as Akzo America, Inc. During the period alleged in this Complaint, Defendant Akzo sold Vitamin B-4 ("Choline") in the United States and elsewhere.

17. Defendant BASF A.G. ("BASF A.G.") is a business entity duly formed and existing under the laws of Germany, with its principal place of business in Ludwigshafen, Germany, and with operations in the United States. Defendant BASF Corporation ("BASF Corp.") is a Delaware corporation with its principal place of business in Mount Olive, New Jersey. BASF Corp. is a wholly-owned affiliate of BASF A.G. and is, among other things, BASF A.G.'s agent for service of process. BASF A.G. and BASF Corp. are hereinafter collectively referred to as "BASF." During the period alleged in this Complaint, BASF manufactured, distributed, and sold vitamins and vitamin products in the United States and elsewhere, including Vitamin B; Beta Carotene; Vitamin B-2 (also known as Riboflavin); Choline; Vitamin B-5 (also known as CalPan and Pantothenic Acid); Vitamin C; Vitamin E; and Vitamin premixes.

18. Defendant Bioproducts, Inc. ("Bioproducts") is a Delaware corporation with its principal place of business in Akron, Ohio. From in or about 1986 through 1989, Bioproducts also operated under the name Nutrius. During the period alleged in this Complaint, Bioproducts

manufactured, distributed and sold Choline throughout the United States and elsewhere.

19. Defendant Chinook Group, Ltd. ("Chinook, Ltd.") is a Canadian Limited Partnership with its headquarters in Toronto, Canada, and is organized under the laws of Ontario, Canada. Defendant Chinook Group, Inc. ("Chinook, Inc.") is a Minnesota corporation; a wholly-owned United States subsidiary of Chinook, Ltd., and has its principal place of business in White Bear Lake, Minnesota. Chinook, Ltd. and Chinook, Inc. are hereinafter collectively referred to as "Chinook." During the period alleged in this Complaint, Chinook manufactured, distributed and sold Choline throughout the United States and elsewhere.

20. Defendant ConAgra, Inc. ("ConAgra") is a Nebraska corporation with its principal place of business in Omaha, Nebraska. On information and belief, during the period alleged in this Complaint, ConAgra owned and controlled, in part, DuCoa. On further information and belief, ConAgra actively participated in, and furthered, the conspiracy alleged in this Complaint.

21. Daiichi Pharmaceuticals Co., Ltd. ("Daiichi Ltd.") is a business entity duly formed and existing under the laws of Japan with its principal place of business in Tokyo, Japan. Daiichi Fine Chemicals, Inc. ("Daiichi Inc.") is a New Jersey corporation with its principal place of business in Lincolnshire, Illinois. In or about 1991, Daiichi Ltd. created Daiichi Inc. to sell and distribute Daiichi Ltd.'s products, including Niacin. Daiichi Inc. is a wholly owned subsidiary of Daiichi Pharmaceuticals Corporation, Inc. ("Daiichi Pharmaceuticals"), a New Jersey corporation with its principal place of business in Montvale, New Jersey. Daiichi Ltd. wholly owns Daiichi Pharmaceuticals and controls Daiichi Inc. Daiichi Pharmaceuticals, Ltd., Daiichi Fine Chemicals, Inc., and Daiichi Pharmaceuticals Corporation, Inc. are hereinafter collectively referred to as "Daiichi." During the period alleged in this Complaint, Daiichi

manufactured, produced, and distributed vitamins and vitamin products, including vitamins B-5 and C.

22. Defendant DCV, Inc. ("DCV") is a Delaware corporation with its principal place of business in Wilmington, Delaware. During the period alleged in this Complaint, DCV, by and through its affiliate DuCoa, manufactured, distributed and sold Choline throughout the United States. DuCoa, DuCoa L.P., and DCV are hereinafter collectively referred to as "DuCoa."

23. Defendant Degussa A.G. is a business entity duly formed and existing under the laws of Germany. Defendant Degussa Inc. is an Alabama corporation with its principal place of business in Ridgefield Park, New Jersey. During the period alleged in this Complaint, Degussa A.G. wholly owned Degussa Inc. Degussa A.G. and Degussa Inc. are hereinafter collectively referred to as "Degussa." During the period alleged in this Complaint, Degussa manufactured, distributed, and sold vitamins and vitamin products, including Vitamin B3 ("Niacin").

24. From 1987 through at least 1992, Defendant DuCoa was a general partnership operated by Dupont and ConAgra. DuCoa, L.P. was formed in or about 1992 and is an Illinois limited partnership with its principal place of business in Highland, Illinois. During the period alleged in this Complaint, DuCoa manufactured, distributed and sold Choline throughout the United States.

25. Defendant E.I. Dupont de Nemours and Company, Inc. ("Dupont") is a Delaware corporation with its principal place of business in Wilmington, Delaware. Upon information and belief during the period alleged in this Complaint, Dupont owned and controlled, in part, DuCoa. Upon further information and belief, Dupont actively participated in, and furthered, the conspiracy alleged in this Complaint.

26. Defendant Eisai Co. Ltd. ("Eisai Ltd.") is a business entity duly formed and existing under the laws of Japan with its headquarters in Tokyo, Japan. Defendant Eisai Inc. is a Delaware corporation with its principal place of business in Teaneck, New Jersey. During the period alleged in this Complaint, Eisai Ltd. wholly owned Eisai Inc. Eisai Ltd. and Eisai Inc. are hereinafter collectively referred to as "Eisai." During the period alleged in this Complaint, Eisai manufactured, produced, and distributed vitamins and vitamin products, including Vitamin E.

27. Defendant F. Hoffman-La Roche, Ltd. ("Roche Ltd.") is a business entity duly formed and existing under the laws of Switzerland. Hoffmann-La Roche Inc. ("Roche Inc.") is a New Jersey corporation with its principal place of business in Nutley, New Jersey. Roche Inc. is an affiliate of Roche Ltd. Roche Ltd. and Roche Inc. are collectively referred to, hereinafter, as "Roche." During the period alleged in this Complaint, Roche manufactured, distributed, and sold vitamins and vitamin products, including Vitamin A, Beta Carotene, Vitamin B-2, Vitamin B-5, Vitamin B-12, Vitamin C, Vitamin D, Vitamin E, Premix, and Biotin, in the United States and elsewhere.

28. Defendant Lonza A.G. is a business entity duly formed and existing under the laws of Germany. Defendant Lonza Inc. is a New York corporation with its principal place of business in Fairlawn, New Jersey. During the period alleged in this Complaint, Lonza A.G. owned and/or controlled Lonza Inc. Lonza A.G. and Lonza Inc. are hereinafter collectively referred to as "Lonza." During the period alleged in this Complaint, Lonza manufactured, distributed, and sold vitamins and vitamin products, including Niacin, Biotin, and the intermediates necessary to chemically synthesize Biotin.

29. Defendant Mitsui & Co., Ltd. ("Mitsui Ltd.") is a business entity duly formed and existing under the laws of Japan. Mitsui Ltd. wholly owns Defendant Mitsui & Co., Inc. ("Mitsui Inc."), a New York corporation. Mitsui Ltd. and Mitsui Inc. are hereinafter collectively referred to as "Mitsui." Upon information and belief, Mitsui wholly owned Defendant Bioproducts during the period alleged in this Complaint. Upon further information and belief, Mitsui actively participated in and furthered the conspiracy alleged in this Complaint.

30. Defendant Reilly Industries, Inc. ("Reilly Industries") is an Indiana corporation with its principal place of business in Indianapolis, Indiana. Reilly Industries manufactures, produces, and distributes vitamins and vitamin products, including Niacin. Defendant Reilly Chemicals, S.A. ("Reilly Chemicals") is a business entity duly formed and existing under the laws of Belgium. Reilly Industries wholly owns and controls Reilly Chemicals. Reilly Industries and Reilly Chemicals are hereinafter collectively referred to as "Reilly." From in or about 1982, Degussa and Reilly have produced Niacin in Indianapolis, Indiana, through a joint venture named Vitachem. On information and belief, Degussa used Vitachem to further the conspiracy alleged herein.

31. Defendant Rhone-Poulenc SA ("RPSA") is a business entity duly formed and existing under the laws of France. Rhone-Poulenc Animal Nutrition, Inc. ("RPAN") is a Delaware corporation with its principal place of business in Atlanta, Georgia. RPSA and RPAN are collectively referred to, hereinafter, as "Rhone-Poulenc." During the period alleged in this Complaint, Rhone-Poulenc manufactured, distributed, and sold in the United States and elsewhere vitamins and vitamin products, including Vitamin A, Beta Carotene, Vitamin B-2, Vitamin C, and premixes.

32. Defendant Takeda Chemical Industries, Ltd. ("Takeda Ltd.") is a business entity duly formed and existing under the laws of Japan. Takeda Ltd. wholly owns and controls Defendant Takeda Vitamin & Food U.S.A. ("Takeda Vitamin"), a North Carolina corporation with its principal place of business in Wilmington, North Carolina. Takeda Vitamin is the successor entity to Defendant Takeda U.S.A., Inc. ("Takeda USA"). Takeda Ltd., Takeda Vitamin, and Takeda USA are hereinafter collectively referred to as "Takeda." During the period alleged in this Complaint, Takeda manufactured, distributed, and sold vitamins and vitamin products, including Vitamins B1, B-2, and C.

33. Defendant UCB SA is a business entity duly formed and existing under the laws of Belgium. Upon information and belief, during the period alleged in this Complaint, UCB SA wholly owned Defendant UCB, Inc. On information and belief, UCB, Inc. is a Delaware corporation with its principal place of business in Atlanta, Georgia. UCB SA and UCB Inc. are hereinafter collectively referred to as "UCB." During the period alleged in this Complaint, UCB sold Choline in Europe and elsewhere.

34. The acts alleged in this Complaint as having been done by Defendants were authorized, ordered, or done by their officers, agents, employees, or representatives, while actively engaged in the management of Defendants' business or affairs and acting within the scope of their authority.

35. Various other persons, companies and corporations, sued herein as DOES 1-50, the identities of which are presently unknown, have participated as co-conspirators with Defendants in the violations alleged herein and have performed acts and made Statements in Minnesota and elsewhere in furtherance thereof. Plaintiffs are unaware of the true names and

capacities of Defendants sued herein as DOES 1-50, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiffs will amend this complaint or allege their true names and capacities when ascertained.

IV. CLASS ACTION ALLEGATIONS

36. Plaintiffs bring this action on behalf of themselves and pursuant to Rule 23 of the Minnesota Rules of civil Procedures, as representatives of the following two classes (the "Classes" or "Plaintiff Classes"):

CLASS I (Agricultural):

All persons or entities who indirectly purchased vitamins, vitamin premixes, and/or other vitamin products intended for ultimate agricultural uses or animal livestock consumption from any of the Defendants or their co-conspirators from January 1, 1989, to the present, for use within the State of Minnesota. Excluded from the class are all governmental entities, defendants, other manufacturers of vitamins, vitamin premixes and other vitamin products, and their respective subsidiaries and affiliates.

Plaintiffs/Class Representatives for Class I are FORM-A-FEED, Sparboe, Alice and Walter Field, Bombay Elevator, Inc. and Delbert and Donna Mandelko .

CLASS II (Human Uses):

All persons or entities who indirectly purchased vitamins, vitamin premixes, and/or other vitamin products intended for ultimate human uses or consumption from any of the Defendants or their co-conspirators from January 1, 1989 to the present, within the State of Minnesota. Excluded from the class are all governmental entities, defendants, other manufacturers of vitamins, vitamin premixes and other vitamin products, and their respective subsidiaries and affiliates.

Plaintiffs/Class Representatives for Class II are Nancy Kallio, Kim McNair, Mary Denison, Cayol Natural Foods, Inc., and Heart Food Company, Inc.

37. Both Classes are so numerous that joinder of each of the members of the Classes would be impracticable.

38. Plaintiffs' claims are typical of the members of the Classes. Plaintiffs and all members of the Plaintiff Classes were damaged by the same wrongful conduct by Defendants.

39. Plaintiffs will fairly and adequately protect and represent the interests of the Plaintiff Classes. The interests of Plaintiffs are coincident with, and not antagonistic to, those of the Classes.

40. Plaintiffs are represented by counsel who are experienced and competent in the prosecution of complex class action and antitrust litigation.

41. There are questions of law and fact which are common to the claims of Plaintiffs and the Classes. These common questions include, but are not limited to:

a. Whether defendants combined, agreed, and conspired among themselves to fix, raise, maintain, or stabilize the prices for vitamins, vitamin premixes and other vitamin products sold or distributed in Minnesota;

b. Whether the acts and omissions alleged herein constitute an unlawful trust under the laws of Minnesota;

c. The existence and duration of the horizontal agreements alleged in this Complaint to fix, raise, maintain, or stabilize the prices for vitamins, vitamin premixes and other vitamin products sold in Minnesota;

d. Which Defendants were members of, or participants in, the contract, combination and/or conspiracy alleged in this Complaint.

e. Whether Defendants took steps to conceal their conspiracy from Plaintiff and the members of the Classes;

f. Whether, and to what extent, the conduct of Defendants caused injury to

the business or property of Plaintiffs and members of the Classes; and, if so, the appropriate measure of damages;

g. Whether Plaintiffs and members of the Classes are entitled to declaratory and/or injunctive relief;

h. Whether Defendants' agents, officers, employees, or representatives participated in telephone calls and meetings in furtherance of the illegal conspiracy alleged herein; and if so, whether such agents, officers, employees, or representatives were acting within the scope of their authority and in furtherance of Defendants' business interests;

i. Whether Defendants are properly within the scope of this Court's jurisdiction;

j. Whether Plaintiffs and the Plaintiff Classes have standing under the antitrust laws of Minnesota to bring this action as indirect purchasers of the products sold or distributed by Defendants;

k. Whether the purpose and/or effect of the acts and omissions alleged herein was to affect, fix, control and/or maintain, the prices for vitamins, vitamin premixes, and other vitamin products sold or distributed in Minnesota;

l. Whether the unlawful combination and conspiracy alleged herein included the allocation or division of customers or markets among the Defendants; and

m. Whether the unlawful combination and conspiracy alleged herein involved some or all of the vitamins described in this Complaint; and if so, which ones.

42. The questions of law and fact which are common to the claims of the Plaintiffs and the Plaintiff Classes predominate over questions, if any, that may affect only individual members of the Classes because, among other reasons, Defendants have acted on grounds generally applicable to the entire class.

43. Class action treatment is the superior, if not the only, method for the fair and efficient adjudication of this controversy because, among other reasons, such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of evidence, effort, and expense that numerous individual actions would engender. The benefits of proceeding through the class mechanism, including providing injured persons or entities with a method for obtaining redress on claims that it might not be practicable to pursue individually, substantially outweigh the difficulties, if any, that may arise in the management of this case as a class action.

V. TRADE AND COMMERCE

A. The Bulk Vitamin Market

44. Vitamins are organic chemical compounds that are essential for growth and the regulation of metabolic functions in animals. For most higher-order animals and all mammals, vitamins must be obtained from nutrients. In most cases, the absence of a vitamin in a diet will lead to the development of a deficiency disease.

45. Global sales of vitamins exceed \$3.5 billion per year. Vitamins are marketed through at least four distinct channels of distribution: feeds; food fortification; pharmaceuticals; and cosmetics. Vitamins sold for use as ingredients in animal or pet foods account for more than half of the vitamin market.

46. Defendants are manufacturers, marketers, and distributors of vitamins (synthetic and natural, and in dry and oil form), vitamin premixes, and other vitamin products for sale to customers in Minnesota and elsewhere. Defendants are engaged in the sale, marketing, and distribution of vitamins, vitamin premixes, and other vitamin products to manufacturers and users of animal feed and nutrition products. The vitamin premixes and other vitamin products manufactured by Defendants are commonly used in the Minnesota agricultural industry as an ingredient in animal nutrition products and animal feed mixes.

47. Defendants are also engaged in the sale, marketing, and distribution of vitamins, vitamin premixes, and other vitamin products to manufacturers and distributors of vitamin products designed for human consumption. Such vitamin products are purchased and consumed by millions of Minnesota consumers each year.

48. The manufacture of vitamins, vitamin premixes and other vitamin products is a multi-billion dollar a year industry worldwide. The North American market for animal nutrition alone is an over \$500 million industry. Minnesota comprises a significant portion of that market.

49. During the period described in the Complaint, the world markets for vitamins, vitamin premixes and other vitamin products were dominated by three companies: Roche, Rhone-Poulenc and BASF. These three defendants control over 60 percent of the world vitamin market and approximately 80 percent of the vitamin markets for animal nutrition. According to published reports, Roche is the world's largest provider of vitamins with a 40 percent share of the worldwide market.

B. The Vitamins

50. Vitamin A is a fat-soluble vitamin that is essential for vision and growth. The largest market for Vitamin A is as a livestock and poultry feed additive, accounting for more than 80 percent of consumption worldwide. Vitamin A occurs naturally in certain vegetables and is produced synthetically in a highly complex process that effectively limits the number of companies that can participate in the market. Naturally occurring Vitamin A is particularly unstable and prone to deterioration. Synthetic Vitamin A, by contrast, is stable and capable of withstanding feed processing and long-term storage. During the period alleged in this Complaint, BASF, Roche, and Rhone-Poulenc dominated and controlled the Vitamin A market with as much as a 95 percent share of sales worldwide.

51. Beta Carotene is a vegetable-based precursor to Vitamin A. It enhances immunity, may heal gastrointestinal ulcers, protects against cancer formation, and is needed for epithelial tissue maintenance and repair. It is important in the formation of bones and teeth, aids in fat storage, and protects against colds, influenza, and infections. One of its primary commercial uses is as a natural food coloring. Unlike Vitamin A, it is not toxic in high doses.

52. Vitamin B-2, more commonly known as riboflavin, is a naturally occurring water-soluble vitamin that is essential for proper growth in livestock and poultry. It works with other B-complex vitamins to improve their efficiency and enhances fertility in sows and poultry.

53. Niacin refers to both nicotinic acid and nicotinamide. It is essential for growth and is involved in the synthesis of hormones. Animals that derive the majority of their diet from corn, corn products, or other cereal grains are more likely to become deficient in Niacin.

54. Vitamin B-5 is necessary for growth, digestion, and overall health. It is often sold as calcium d-pantothenate, also known as "CalPan." It plays a vital role in maintaining the overall health of animals. Because animal feeds generally do not contain sufficient amounts of Vitamin B-5 naturally, it is regularly added as a dietary supplement.

55. Vitamin C is a water-soluble vitamin necessary for growth and development. Vitamin C promotes healthy teeth and gums, helps in the absorption of iron, aids in the maintenance of normal connective tissue, promotes wound healing, and assists the immune system.

56. Vitamin E is a fat-soluble vitamin used mostly for its antioxidant properties and serves other crucial functions that cannot be fulfilled through other nutrients. The biggest market for Vitamin E is as a feed additive, accounting for more than 60 percent of consumption worldwide. Vitamin E is naturally occurring and is also produced synthetically in a complex process that effectively limits the number of companies that can participate in the market. Naturally occurring Vitamin E is unable to withstand the curing and manufacturing process for feeds and is incapable of withstanding long-term storage, whereas synthetic Vitamin E is stable and can weather feed processing. During the period alleged in this Complaint, BASF, Roche, and Rhone-Poulenc dominated and controlled the Vitamin E market.

57. Biotin is essential to poultry to prevent perosis, fatty liver and kidney syndrome. Animals with diets high in wheat or barley rather than corn are more likely to require Biotin supplements in their diet.

58. Choline is a water-soluble vitamin necessary for growth and development, particularly for poultry. It is traditionally sold as choline chloride, either as a liquid or on a dry

base.

59. Premix is a blend of vitamins, the specific ingredients of which vary according to a variety of factors, such as the requirements of the buyer and the needs of the intended user of the vitamins. In general, vitamins A, B-2, B-5, E, Biotin, and Niacin, make up the majority of the cost of premix.

C. The Indictments, Guilty Pleas, and Government Cooperation

60. On March 2, 1999, the Department of Justice ("DOJ") announced that Lonza and several executives of Chinook and DuCoa had agreed to plead guilty to a criminal violation of Section 1 of the Sherman Act for engaging in the conduct described herein.

61. On May 22, 1999, BASF A.G. and Roche Ltd. agreed to plead guilty to a criminal violation of Section 1 of the Sherman Act for, *inter alia*, entering into illegal agreements to set the price and restrain trade in the market for vitamins A, B-2, B-5, C, E, Beta Carotene, and premix. Roche Ltd. agreed to pay a \$500 million fine, and BASF A.G. agreed to pay a \$225 million fine. Rhone-Poulenc avoided criminal charge by cooperating with the DOJ and providing information that inculpated other co-conspirators. In a Statement issued May 20, 1999, Rhone-Poulenc admitted that its "global business practices did not meet U.S. legal standards."

62. In pleading guilty to the criminal charges, BASF A.G. and Roche Ltd. admitted that they participated in a conspiracy that fixed the price of, and allocated the volume of, vitamins and premix sold in the United States. BASF A.G. and Roche Ltd. further admitted that they manufactured and sold vitamins and premix in the United States, and that the conspiracy was carried out, in part, in the United States.

63. Also on May 22, 1999, the DOJ announced that it had reached an agreement with Roche Ltd.'s head of worldwide marketing, Dr. Kuno Sommer, under which he would agree to plead guilty to a criminal violation of Section 1 of the Sherman Act and the DOJ would recommend that Sommer serve a four-month prison term.

64. During the period of this complaint, the conduct of Defendants and their co-conspirators has taken place in and/or affected the trade and commerce of Minnesota.

65. The vitamins, vitamin premixes, bulk vitamins, and other vitamin products of Defendants are sold in commerce in this State as well as throughout the United States. Roche sells in intraState commerce vitamins such as vitamin A (acetate and palmatate), vitamin B, vitamin C, vitamin D, vitamin E (D-Alpha and DL-Alpha), pantothenic acid, folic acid, riboflavin, beta carotene and biotin. BASF sells vitamins in intraState commerce, such as vitamin A (acetate and palmatate), vitamin C, vitamin E (D-Alpha and DL-Alpha), Vitamin B-2, folic acid, riboflavin, and beta carotene. Rhone-Poulenc sells, among others, Vitamin A (acetate and palmatate), vitamin B-12, vitamin D-3, and vitamin E (D-Alpha and DL-Alpha). Roche, BASF and Rhone-Poulenc together control over 95 percent of the worldwide markets for vitamins A and E. Defendant Lonza sells in intraState commerce vitamins such as vitamin B-3 (niacin and niacinamide). Defendant DuCoa sells in intraState commerce vitamins such as vitamin B-4 (choline chloride). Defendant Chinook sells in intraState commerce vitamins such as vitamin B-4 (choline chloride).

VI. FACTUAL BACKGROUND

66. Defendants' conspiracy has involved an array of illegal conduct by an international cartel that has deliberately targeted, and severely burdened, consumers in

Minnesota. The conspiracy has existed at least during the period from 1989 to September 1998, and has affected billions of dollars of commerce in products found in nearly every household in this State. The conspiracy has included communications and meetings in which Defendants agreed expressly and repeatedly to eliminate competition, injure and destroy businesses which would have reduced Defendants' illegal market control, and fix the prices and allocate markets for vitamins A, B, D, E, H, vitamin premises, bulk vitamins, and other vitamin products.

67. The combination and conspiracy of Defendants consisted of a continuing agreement, understanding, and concert of action among Defendants and their co-conspirators, the substantial terms of which were:

a. To fix, stabilize, and maintain prices, and to coordinate price increases, for the sale of vitamins, vitamin premixes, bulk vitamins, and other vitamin products, both in Minnesota and elsewhere:

b. To allocate among the corporate Defendants and their co-conspirators the volume of sales of vitamins, vitamin premixes, bulk vitamins, and other vitamin products, both in Minnesota and elsewhere;

c. To allocate among the corporate Defendants and their co-conspirators all or part of certain contracts to supply vitamins, vitamin premixes, bulk vitamins, and other vitamin products to various customers located in Minnesota and throughout the United States;

d. To refrain from submitting bids, or to submit collusive, non-competitive, and rigged bids to supply vitamins, vitamin premixes, bulk vitamins, and other vitamin products to various customers located in Minnesota and throughout the United States; and

e. To supply vitamins, vitamin premixes, bulk vitamins, and other vitamin products to various customers located in Minnesota and throughout the United States at non-competitive prices and receive compensation therefrom.

68. The acts in furtherance of the conspiracy by Defendants have included the following wrongful conduct and horizontal agreements:

a. Participating in meetings and conversations in the United States and elsewhere, in which Defendants and their co-conspirators discussed and agreed on issues concerning the prices, volume of sales, and markets for vitamins and vitamin premixes, including for vitamins B-3 (niacin and niacinamide) and B-4 (choline chloride).

Executives participating in the illegal meetings and discussions concerning vitamins B-3 and B-4 include John Kennedy and Robert Samuelson of Chinook; and Lindell Hilling, J.L. "Pete" Fisher, and Antonio Felix, all of DuCoa;

b. Agreeing, during those meetings and conversations, to charge prices at specified levels and otherwise increase and/or maintain prices of vitamins B-3 (niacin and niacinamide) and B-4 (choline chloride) sold in Minnesota, the United States and elsewhere;

c. Agreeing, during those meetings and conversations, to allocate among the Defendants and their co-conspirators the approximate volume of B-3 (niacin and niacinamide) and B-4 (choline chloride) to be sold by each corporate conspirator in Minnesota, the United States and elsewhere;

d. Agreeing, during those meetings and conversations, to allocate among the Defendants and their co-conspirators customers of B-3 (niacin and niacinamide) and B-4

(choline chloride) in Minnesota, the United States and elsewhere;

e. Agreeing, during those meetings and conversations, to restrict B-3 (niacin and niacinamide) and B-4 (choline chloride) producing capacities among the Defendants and co-conspirators;

f. Exchanging sales and customer information for the purpose of monitoring and enforcing adherence to the above-described agreements;

g. Issuing price announcements and price quotations in accordance with the agreements reached:

h. Discussing among Defendants and co-conspirators of the submission of prospective bids to supply B-3 (niacin and niacinamide) and B-4 (choline chloride) to customers located throughout Minnesota and the United States;

i. Designating which corporate conspirator would be the designated low bidder for contracts to supply B-3 (niacin and niacinamide) and B-4 (choline chloride) to customers located throughout Minnesota and the United States;

j. Discussing and agreeing upon prices to be contained within the bids for contracts to supply B-3 (niacin and niacinamide) and B-4 (choline chloride) to customers in Minnesota and the United States;

k. Refraining from bidding or submitting intentionally high, complementary bids for the contracts to supply B-3 (niacin and niacinamide) and B-4 (choline chloride) to customers in Minnesota and the United States;

l. Supplying B-3 (niacin and niacinamide) and B-4 (choline chloride) to various customers in Minnesota and the United States at non-competitive prices and

receiving compensation therefrom.

69. As a result of their illegal activities, Defendant Lonza A.G., John Kennedy, Robert Samuelson, Lindell Hilling, J.L. "Pete" Fischer, and Antonio Felix have pleaded guilty to violating Section 1 of the Sherman Act, 15 U.S.C. § 1, by participating in a conspiracy to fix prices and allocate the volume of sales of vitamins B-3 (niacin and niacinamide) and B-4 (choline chloride) in the United States.

70. For purpose of forming and carrying out the charged combination and conspiracy. Defendants and their co-conspirators, including executives from both United States and European affiliates of Defendants, have also participated in numerous other meetings and conversations in Europe and the United States, including:

a. Secret meetings in the Black Forest in Germany in the 1990's, at which it was agreed to allocate among the corporate conspirators the volumes of sales of, and markets for, vitamins, vitamin premixes, bulk vitamins and other vitamin products to be sold by each corporate conspirator in the United States and elsewhere. Defendants and their co-conspirators divided and allocated such markets both by region and by vitamin. The conspiracy was implemented by United States marketing managers acting under instructions from their European supervisors. Executives participating in these meetings and discussions include Wilhelm Tell, Edmund McDonald, Kuno Sommers and Oscar Mendoza of Roche Vitamins and Fine Chemicals Division; and Lloyd Curtis, Vernon Schaefer and Peter Haag of BASF, and others.

b. A 1997 meeting in Atlanta, Georgia, between a premix blender and European executives of BASF, at which the BASF executives told the blender that it was

competing in BASF markets and should get out of the markets;

c. At least two meetings in 1995 and 1996 in Ludwigshafen, Germany, at which BASF executives instructed various brokers and distributors not to sell vitamin A in the United States or they would be denied access to the raw materials necessary to manufacture vitamin A;

d. Secret meetings and discussions between executives of Defendants Roche, BASF and Lonza in 1995 and 1996, wherein it was agreed that Lonza would control the market for vitamin B-3/niacin with Roche as a customer and Lonza would stop selling biotin/vitamin H;

e. Meetings and discussions in which salespersons and executives of Roche and Rhone-Poulenc told customers in the United States that they would bid on only a percentage of a customer's business and that their products were not to be resold to poultry producers;

f. Meetings and discussions in which BASF executives in Europe instructed brokers and distributors not to sell choline chloride or face the prospect of being driven out of business.

71. In furtherance of this illegal combination and conspiracy, Defendants also engaged in numerous other acts, practices, and courses of conduct, including:

a. Jointly agreeing to engage in "denied access marketing" by setting the prices of vitamin components of vitamin premixes collectively higher than the price of premixes as a means to implement and protect the horizontal conspiracy. Through this strategy, the conspiracy has used its control over the inputs and vitamin components to

drive premixers and blenders out of business who might threaten the conspiracy's power to control outputs and supply in the premix markets. For example, a secret 1991 BASF business report expressly describes the pricing of "straights in premixes" to be offered to implement this denied access marketing strategy. This denied access marketing strategy was implemented by, among others, United States executives for BASF acting at the direction of BASF officials in Germany. The purpose of this marketing strategy is to eliminate the market for component vitamin purchases of premixes, with the result that the horizontal conspiracy would control over 90 percent of the markets for vitamin premixes, markets which are allocated among the members of the conspiracy. Indeed, a BASF business plan from 1993 or 1994, for example, States the conspiracy's intent to end competition by small premix blenders, leaving the conspiracy with control of over 90% of the vitamin premix market.

b. Roche and BASF reallocated business from Roche to BASF after one or more customers gave their exclusive business to Roche;

c. A BASF business plan from 1993 or 1994 sets forth the conspiracy's intent to end competition by small premix blenders, leaving the conspiracy with control of over 90% of the vitamin premix market;

d. Purchasing manufacturing plants and facilities and forming joint ventures throughout the world to control the supply and markets for vitamins, including a 1997 joint venture involving Roche Taishan (Shanghai) Vitamin Products and two 1997 joint ventures in Kinghuo, China, for the production of vitamins E and A. Roche has also purchased and shut down vitamin A and vitamin E facilities in Shanghai to control the

output of these vitamins pursuant to the terms of the conspiracy.

e. Issuing price announcements in publications and coordinating price quotations to customers in accordance with the agreements reached.

72. Beginning no later than 1989, Defendants and their co-conspirators entered into and engaged in a combination and conspiracy to suppress competition by fixing the price and allocating the markets and sales volumes of vitamins, vitamin premixes, bulk vitamins, and other vitamin products offered for sale to customers in this State and elsewhere. The combination and conspiracy, engaged in by the Defendants and their co-conspirators, was an unreasonable restraint of interState trade and commerce in violation of the Minnesota Antitrust Act. Minn. Stat. Ann. §§ 325D.51 and 325.53.

73. The acts committed by Defendants as alleged herein violate the Minnesota Antitrust Act, in that Defendants illegally:

a. Created or carried out restrictions in trade or commerce by, e.g., setting by agreement the prices which the Defendants charged for vitamins, vitamin premixes, and other vitamin products sold in Minnesota;

b. Limited or reduced the production of vitamins, vitamin premixes, and other vitamin products sold in Minnesota by, e.g., allocating sales volumes among defendants pursuant to an agreement as alleged herein;

c. Prevented competition in the manufacture or sale of vitamins, vitamin premixes, and other vitamin products sold in Minnesota by, e.g. agreeing among themselves not to compete over sales volumes and prices;

d. Fixed the price of vitamins, vitamin premixes, and other vitamin products in such a way as to control or establish, at least in part, the prices paid by consumers and the public;

e. Entered into, executed, and carried out contracts, obligations, and agreements in which they (i) bound themselves not to sell vitamins, vitamin premixes, and other vitamin products below a fixed price; (ii) agreed to keep the prices of vitamins, vitamin premixes, and other vitamin products at a fixed price; and (iii) established and settled the price of vitamins, vitamin premixes, and other vitamin products so as to directly or indirectly preclude a free and unrestricted competition among themselves.

73. Each of the above acts constitutes an unlawful trade practice and is a distinct and independent violation of Minnesota law.

74. The combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the conspirators, the substantial terms of which were:

a. To fix, stabilize, and maintain prices and/or to coordinate price increases for the sale of vitamins, vitamin premixes, bulk vitamins, and other vitamin products in this State and elsewhere; and

b. To allocate the volumes of sales of, and markets for, vitamins, vitamin premixes, bulk vitamins, and other vitamin products among the corporate conspirators in this State and elsewhere;

c. To control the markets for vitamin premixes, for example, by agreeing to price premixes at levels in excess of the prices offered for the component vitamin

ingredients.

75. For purposes of forming and carrying out the charged combination and conspiracy, Defendants and their co-conspirators, including executives from both United States and European affiliates of Defendants, participated in covert meetings and conversations in which the prices, volume of sales, and markets for vitamins and vitamin premixes were discussed and agreed. Further, for purposes of carrying out the charged combination and conspiracy, Defendants and their co-conspirators have issued price announcements in publications and have coordinated price quotations to customers in accordance with the agreements reached.

76. In the above-described meetings and discussions during the period of the conspiracy:

- a. The prices and volumes of vitamins and vitamin premixes were discussed;
 - b. It was agreed to increase and maintain those prices;
 - c. It was agreed to allocate markets for premixes and vitamin ingredients for such premixes; and
- a. Methods to conceal the agreements were discussed.

77. For purposes of forming and carrying out the charged combination and conspiracy, Defendants and their co-conspirators, including executives from both United States and European affiliates of Defendants, have participated in meetings and conversations in which it was agreed to allocate sales of vitamins among the corporate conspirators in the United States and elsewhere. The conspiracy divided and allocated such markets by region and by vitamin and was implemented by Defendants' and their co-conspirators' executives and United States marketing managers acting under instructions from European executives.

78. For example, for purposes of carrying out the charged international combination and conspiracy, co-conspirator Roche and Defendant Lonza agreed that Lonza would control the markets for vitamin B-3/niacin with Roche as a customer, and Lonza would withdraw from selling biotin/vitamin H in 1995 or 1996. In addition, Defendants and their co-conspirators have allocated the United States markets for B-4/choline chloride to sellers other than their co-conspirator BASF, and the B-4/choline chloride markets in Europe have been allocated to their co-conspirator BASF.

79. Defendants have issued price announcements in accordance with the agreements, and have participated in meetings and conversations to monitor and enforce adherence to the agreed-upon prices and sales volumes.

Additional Facilitating Practices and Agreements

80. For purposes of carrying out the charged combination and conspiracy, Defendants and their co-conspirators have rigged bids for contracts to supply vitamins, vitamin premixes, bulk vitamins, and other vitamin products.

81. For purposes of forming and carrying out the charged combination and conspiracy, Defendants and their co-conspirators have exchanged information on the volumes of sales of vitamins, vitamin premixes, bulk vitamins, and other vitamin products and chemicals necessary for the production of vitamins in the United States and elsewhere, for the purpose of monitoring and enforcing adherence to the agreed-upon prices, sales volumes and market allocations.

The Impermissible Effect on Relevant Markets

82. Prior to the late 1980's, the markets for vitamins and vitamin premixes were characterized by low prices and competition. Since then, the markets for several vitamins sold by Defendants, such as vitamins A, B-12 and E and vitamin premixes, have been characterized by stability and steady price increases. Due to Defendants' price fixing and market allocation activity, steady price increases have taken place in these products despite fluctuations in the cost of production. As a result of Defendants' conduct, prices have been maintained at all time high levels since the beginning of the decade.

83. For many years, vitamin prices have not followed the laws of supply and demand existing in a competitive market. Price reductions, for example, have not followed increases in supply. For example, due to Defendants' price fixing, market allocation, and other anti-competitive conduct, prices increased even as new supply and production came on the market.

84. The foregoing conduct has continued until at least 1998. Executives of Roche, BASF, and Rhone-Poulenc continued until at least then to discuss price fixing and market allocation, both by telephone, wireline and cellular, and in person. The purpose of these communications has been to anticompetitively manage the markets for bulk vitamins.

85. During the period covered by the Complaint, Plaintiff and members of the Classes indirectly purchased vitamins, vitamin premixes, and other vitamin products manufactured by Defendants. By reason of the violations of Minnesota law as alleged herein, Plaintiff and the Classes paid more for vitamins, vitamin premixes and other vitamin products and substitute products than they would have paid in the absence of the illegal combination and conspiracy and, as a result, they have been injured in their business and property and have suffered damages in an

amount presently undetermined.

Fraudulent Concealment

86. Plaintiffs did not discover, and could not discover through the exercise of reasonable diligence, the existence of the claims sued upon until recently because Defendants and their co-conspirators actively, intentionally, and fraudulently concealed the existence of the combination and conspiracy from Plaintiffs by one or more of the following affirmative acts, including acts in furtherance of the conspiracy:

- a. Covert meetings in the depths of the Black Forest in Germany and elsewhere in which the prices, volumes of sales and markets for vitamins and vitamin premixes were discussed and agreed;
- b. Allocating secretly among themselves either customers, or contracts for the sale of vitamins, vitamin premixes and vitamin products as compensation for losing customers or markets;
- c. Intentionally bidding with inflated bids for customer business to make other bids appear legitimate;
- d. Intentionally bidding on a purportedly competitive basis, when such bid was the result of collusion;
- e. Offering improper payments to witnesses who have knowledge of the existence of the conspiracy to keep them silent, including a rejected offer of increased orders by telephone in 1997 to an individual in Arkansas by a BASF buyer in exchange for his silence about the conspiracy;

- f. Instructing members of the conspiracy at the above described meetings not to divulge the existence of the conspiracy to others not in the conspiracy;
- g. Confining details of the anticompetitive, unlawful plan to a small number of people and key officials at each Defendant company;
- h. Conducting covert, secret conspiratorial telephone calls, and meetings in hotels and other places in the United States and Europe; and
- i. Avoiding either references in documents, or the creation of documents, which otherwise would be created in the ordinary course of Defendants' businesses, regarding conduct which would constitute an antitrust violation or anticompetitive act.

VII. FIRST CAUSE OF ACTION

(Unreasonable Restraint of Trade)

87. Plaintiffs incorporate by reference the preceding paragraphs as if fully set forth herein.
88. Defendants agreed to, and did in fact, affect, fix, control and/or maintain, at artificial and non-competitive levels, the prices at which vitamins, vitamin premixes, and other vitamin products were sold, bartered, or used in Minnesota.
89. Defendants agreed to, and did in fact, allocate among themselves the sales volumes, customers or markets, for vitamins, vitamin premixes, and other vitamin products sold, bartered, or used in Minnesota.
90. The acts committed by Defendants as alleged herein are unlawful combinations and against public policy pursuant to the Minnesota Antitrust law, Minn. Stat. §§ 325D.51 and 325D.53. Specifically, Defendants illegally combined the acts of two or more persons for the

purposes of:

a. Creating or carrying out unreasonable restraints of trade or commerce by, e.g., setting by agreement the prices which the defendants charged for vitamins, vitamin premixes, and other vitamin products sold in Minnesota;

b. Limiting or reducing the production of vitamins, vitamin premixes, and other vitamin products sold in Minnesota by, e.g., allocating sales volumes among Defendants pursuant to an agreement as alleged herein;

c. Preventing competition in the manufacture or sale of vitamins, vitamin premixes, and other vitamin products sold in Minnesota by, e.g., agreeing among themselves not to compete over sales volumes and prices;

d. Fixing the price of vitamins, vitamin premixes, and other vitamin products in such a way as to control or establish, at least in part, the prices paid by consumers and the public;

e. Entering into, executing, and carrying out contracts, obligations, and agreements in which Defendants: (i) bound themselves not to sell vitamins, vitamin premixes, and other vitamin products below a fixed price; (ii) agreed to keep the prices of vitamins, vitamin premixes, and other vitamin products at a fixed price; and (iii) established and settled the price of vitamins, vitamin premixes, and other vitamin products so as to directly or indirectly preclude a free and unrestricted competition among themselves.

91. Each of the above acts constitutes an unlawful trust under Minnesota Antitrust law, Minn. Stat. §§ 325D.51 and 325D.53, and is a distinct and independent violation of

Minnesota law.

92. Plaintiffs and the Plaintiff Classes were injured in their trade or business by reason of unlawful acts of Defendants as alleged herein. Plaintiffs and the Plaintiff Classes were forced to pay higher prices for the vitamin products they purchased than they would have had to pay if the prices charged by Defendants to their customers were the product of fair and open competition and not of an illegal price-fixing agreement. Pursuant to the Minnesota Antitrust Law, Minn. Stat. §§ 325D.57 and 325D.58, as persons injured directly or indirectly by Defendants unlawful conduct, Plaintiffs and the Plaintiff Classes are entitled to recover three times the damages sustained by them, permanent injunctive relief, attorneys' fees, and the cost of suit.

SECOND CAUSE OF ACTION

DECEPTIVE TRADE PRACTICES

93. Plaintiffs incorporate by reference the preceding paragraphs as if fully set forth herein.

94. The acts of the Defendants, as set forth above, constitute deceptive trade practices within the meaning of Minn. Stat. §§ 325D.44 and 325F.69, in that the conduct of the Defendants constitutes advertising for sale goods with the intent not to supply reasonably expectable public demand, misrepresenting the fair market value of goods sold, making false or misleading Statements of fact concerning the existence or amounts of price reductions, or other conduct which similarly creates a likelihood of confusion or misunderstanding.

95. As a result of the foregoing violations of law, the Plaintiffs and members of the Plaintiff Classes are entitled to injunctive relief pursuant to Minn. Stat. § 325D.45.

96. As a result of the violations of law described above, the Plaintiffs and members of the Plaintiff Classes are entitled to recover their actual damages, appropriate equitable relief, and an award of costs and attorneys' fees, pursuant to Minn. Stat. § 8.31, subd. 3a.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays:

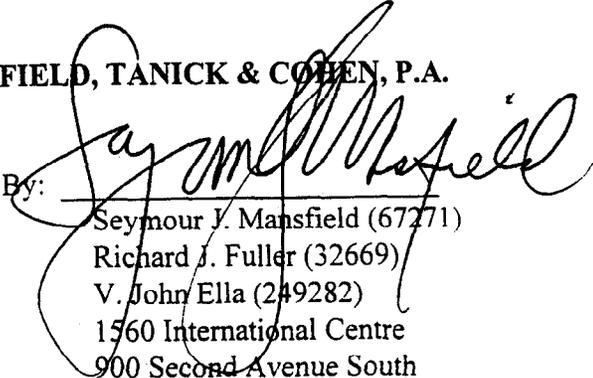
- A. That the Court determine that this action may be maintained as a class action for Class I and Class II pursuant to Rule 23 of the Minnesota Rules of Civil Procedure.
- B. That the combination and conspiracy alleged herein be declared to be an unlawful restraint of trade pursuant to Minnesota Antitrust Law, Minn. Stat. §§ 325D.51 and 325.53.
- C. That Plaintiffs and the Plaintiff Classes be awarded three times the reasonable damages sustained by them pursuant to Minnesota Antitrust Law, Minn. Stat. § 325D.57.
- D. That Plaintiffs and the Plaintiff Classes be awarded reasonable attorneys' fees and costs of suit pursuant to Minnesota Antitrust Law, Minn. Stat. § 325D.57.
- E. That the Court enter joint and several judgments in favor of Plaintiffs and the Plaintiff Classes against the Defendants, and each of them, in accordance with A-D above.
- F. That Defendants be enjoined from continuing the unlawful combination and conspiracy alleged herein, pursuant to Minnesota Antitrust Law, Minn. Stat. § 325D.58.
- G. That the Court enter joint and several judgments in favor of Plaintiffs and the Plaintiff Classes against the Defendants, finding the Defendants to have engaged in unlawful and deceptive trade practices within the meaning of Minn. Stat. §§ 325D.44 and 325F.69, enter an order enjoining such conduct in the future, and enter judgment in favor of the Plaintiffs and the Plaintiff Classes for their actual damages, costs of attorneys' fees, pursuant to Minn. Stat. §

8.31, subd. 3a.

H. That the Plaintiff and the Plaintiff Classes be granted such other, further and different relief as may be deemed just and proper by this Court.

Dated: November 15, 1999

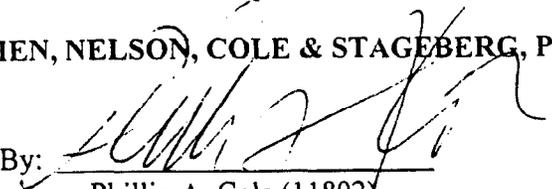
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Dated: November 15, 1999

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By: 

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THE PLAINTIFF CLASS**

OF COUNSEL:

FARMERS LEGAL ACTION GROUP, INC.

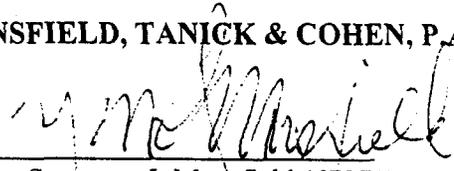
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ACKNOWLEDGMENT

As required by Minn.Stat. § 549.211, the undersigned hereby acknowledges that sanctions may be imposed under said statute.

Dated: November 15, 1999

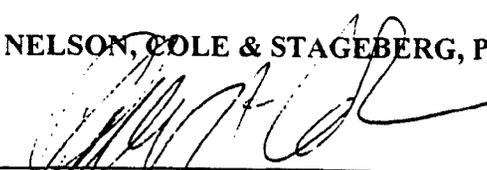
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STATE OF MINNESOTA
COUNTY OF MCLEOD

FIRST JUDICIAL DISTRICT
Glencoe, MN

STP
file

Case Number: 43-C0-99-000856

NOTICE OF CASE FILING

Case Title: FORM-A-FEED, INC., A MINNESOTA CORPORATION; ET AL.
VS. AKZO NOBEL, INC; ET AL.

SEYMOUR J MANSFIELD
1560 INTERNATIONAL CENTRE
900 SECOND AVENUE SO
MPLS MN 55402-3383

NOV 19 1999

You are notified that the above case number has been assigned to this matter. Please include this number on all subsequent filings, including correspondence, to this office. Also, please include your attorney registration license number.

If you have not filed your Certificate of Representation and Parties please refer to Rule 104. Your Informational Statement is due within 60 days of the filing of the action (Rule 111.02 non-family or Rule 304.02 for family court matters).

Date of filing action - NOVEMBER 16, 1999

By: JACQUELINE DIEPOLD, DEPUTY
Court Administrator
McLeod County

IF THIS CASE APPLIES TO ADR, A LIST OF NEUTRALS IS AVAILABLE AT ANY COURT FACILITY.

Dated: 11/17/1999