

MEDICAL MARIJUANA CLASS ACTION – CHRISTIANSEN v METTRUM LTD.

NOTICE OF CERTIFICATION & SETTLEMENT APPROVAL

- ***THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS – PLEASE READ IT CAREFULLY***

You are receiving this notice because a review of the records of the Defendant, Mettrum Ltd. ("Mettrum" or the "Defendant"), indicates that you are a Class Member in this medical marijuana class action lawsuit. This notice summarizes the approved settlement and describes how Class Members may participate in, or exclude themselves from, this class proceeding.

1. Summary

In reasons for decision release on January 22, 2021 the Settlement in this proceeding was approved by the Ontario Superior Court of Justice as being fair, reasonable and in the best interests of the Class Members and this action was certified as a class proceeding.

As set out below, **do nothing** if you wish to receive compensation in this action. As set out below, Class Members entitled to compensation greater than \$25 will receive a cheque following the close of the opt-period discussed in section 5 of this notice. Follow the instructions under section 5 below only if you wish to exclude yourself from this proceeding.

For more information about this class action and the approved settlement please visit: www.mettrumclassaction.ca.

2. What the Lawsuit is About

The lawsuit alleges that Mettrum used unauthorized pest control products in the cultivation of some of its medical marijuana products between September 2014 and November 2016. In or around November 2016, Mettrum began a recall (the "Recall") relating to various lots or batches of medical marijuana products including both dried marijuana and cannabis oil (the "Recalled Products") after it found that some of its plants or products may have contained or may have been exposed to pest control products, which were not approved for use on medical marijuana plants by Health Canada. The Recall proceeded in four waves (the "Waves"):

- (1) Wave 1 of the Recall related to the use of a foliar spray containing pyrethrins, natural pest control product derived from chrysanthemum flowers, which is approved for use on conventional (non-marijuana) crops, on certain plants during the cultivation process. Please note: although the Wave 1 Recalled Products were exposed to pyrethrins, the Wave 1 Recalled Products **did not** contain any traces of pyrethrins when tested;
- (2) Waves 2 and 3 of the Recall related to trace amounts of myclobutanil, a fungicide approved for use on food crops, but which was not authorized for use on marijuana as it produced very small amounts of hydrogen cyanide when combusted, found in specific lots or batches of products;
- (3) Wave 4 of the Recall related to certain lots or batches of products sold over a general period of time and was initiated by the Defendant because it was possible that some

of the plants may have been exposed to myclobutanil during the cultivation process – no testing was actually conducted on the Wave 4 Recalled Products to ascertain if any of them contained trace amounts of myclobutanil.

IMPORTANT! Each of the Waves of the Recall was designated by Health Canada as a Level III recall, which is classified by Health Canada (the government regulator with oversight of the medical marijuana industry) as a situation in which use of, or exposure to, a product is **unlikely** to cause adverse health consequences. Health Canada subsequently issued a clarification which indicated that, among other things, the level of cyanide from the burning of myclobutanil found on the marijuana samples is more than 1000 times less than the cyanide in marijuana smoke alone, and is 500 times below the acceptable level established by the U.S. National Institute for Occupational Safety and Health.

Please note that the common issues in this action do not relate to any alleged negative health effects from the use of the Recalled Products. Any such health effects were not the focus of this Class Action. If any Class Member feels that they have suffered any compensable adverse health effects, they are free to opt-out of this settlement (as described further below) and thereby preserve the possibility of seeking a remedy for any alleged or perceived negative health effects.

3. What Settlement has been Reached & How Will Compensation be Paid?

Mettrum and the Representative Plaintiff agreed to settle the class action for a total all-inclusive payment of \$6.95 million (the "Settlement Fund"). The settlement was reached following extensive negotiations between the parties.

Mettrum does not admit any liability, wrongdoing or fault in this matter, and none of the allegations against Mettrum have been proven. The agreement to settle this matter does not imply any such liability, wrongdoing or fault on the part of Mettrum, and Mettrum expressly denies all such liability, wrongdoing and fault.

The \$6.95 million Settlement Fund covers all compensation to the Class Members for all damages arising from their purchase of the Recalled Products and use of such products, legal fees and related disbursements (including taxes), the costs of administration and distribution of money to Class Members, and a 10% statutory levy (as discussed further below). In exchange for its \$6.95 million payment, Mettrum will receive a full and final release of all claims and potential claims that Class Members may have against Mettrum for any sort of alleged or perceived damages.

Class Members do not have to make an application to receive compensation. Compensation payments will be calculated based on a review of Mettrum's records. Class Members who do not exclude themselves (opt-out) from this proceeding will receive a letter or letters explaining the calculation of their entitlement to compensation for each stage and a corresponding cheque. Payments will be made following the close of the opt-out period described in section 5 below.

The compensation paid to Class Members will be paid from the amount of money remaining after deducting the Court-approved legal fees and disbursements (including taxes) as well as the costs of administering and distributing the money to Class Members, from the \$6.95 million Settlement

Fund. The money to be distributed to the Class Members will reimburse them for some or all of the purchase price paid for any Recalled Products they ordered. The distribution aims to return:

(a) 100% of the purchase price for any Recalled Products that tested positive for trace amounts of myclobutanil (Waves 2 and 3); and

(b) 20% (or possibly more – as discussed further below) of the purchase price for Recalled Products where the plants were exposed to pyrethrins but there were no detectable levels of pyrethrins in the products (Wave 1) and where some of the plants may have been exposed myclobutanil (Wave 4).

Compensation will be paid out to Class Members in two stages following the close of the opt-out period described in section 5 below. The first stage payments will be based (as set out above) on 100% of the purchase price paid by each Class Member for the Recalled Products involved in Waves 2 and 3, and 20% of the purchase price by each Class Member for Waves 1 and 4. If and to the extent that funds remain after the first stage after one year (e.g. if certain cheques from the first stage are not cashed by some Class Members), the remaining funds will be used to increase the payments for Waves 1 and 4 or, in other words, the remaining funds will be used to top-up the 20% payments for the purchase price paid for those products. The foregoing calculations will be reduced by any refunds already provided by Mettrum.

Given administration expenses, if any payment to a Settlement Class Member totals less than \$25.00, that payment will not be made to the Settlement Class Member and will instead remain in Trust with the Settlement Administrator. Any funds remaining after stages one and two above will be paid to a charity (namely: Centre for Addiction and Mental Health Foundation).

4. Who is Affected by the Settlement?

PLEASE NOTE: DO NOTHING IF YOU WISH TO BE A CLASS MEMBER IN THIS ACTION!

Under Ontario law, if you are a person falling within the Class definition, you will automatically be included in the Class unless you choose to be excluded from this proceeding. This includes Class Members who reside anywhere in Canada, not just in Ontario.

By order of the Ontario Superior Court of Justice dated December 16, 2020 anyone who purchased the Recalled Products, including dried marijuana and cannabis oil, between September 2014 and November 2016 are automatically included in this class action lawsuit.

Please refer to section 5 below if you wish to exclude yourself from this class action.

5. How to be Excluded from the Class Action

Class Members not wishing to participate in the Settlement, or who wish to bring their own lawsuit against Mettrum for any sort of alleged damages, will be required to exclude themselves from this proceeding. Without limiting the generality of the foregoing, if any Class Member

wishes to pursue a claim for any perceived health effects, they can opt-out of this Class Action and settlement (*please see further "IMPORTANT" comments below*).

Anyone deciding to exclude themselves from this class action must contact Class Counsel, **Roy O'Connor LLP**, by email, regular mail or fax at the addresses or fax number set out in section 8 below and provide them with your full legal name and mailing address. Class Counsel will confirm your decision to exclude yourself from this action in writing. The deadline for excluding yourself from this class action is July 12, 2021.

If you decide to exclude yourself from this class action, you will be excluded from the Settlement as approved by the Court and receive no compensation under the Settlement. Once you exclude yourself from this class action, you will receive no further communications regarding this action from Class Counsel.

IMPORTANT! Any limitation period stayed by the launch of this action will be restarted against anyone that chooses to exclude themselves from this proceeding. If you exclude yourself from this action, Class Counsel will not provide any legal advice about any possible limitation period(s) that may apply to an individual claim against Mettrum. Anyone considering an individual lawsuit against Mettrum should speak to a lawyer before excluding themselves from this action. Roy O'Connor LLP and Wagners LLP will not act for any former Class Member in any individual or other lawsuit against Mettrum.

6. Where can I ask More Questions?

For more information, please visit: mettrumclassaction.ca. If you have questions that are not answered online or by email, please contact Class Counsel as set out below.

7. Interpretation

This notice contains a summary of some of the terms of the Settlement Agreement. If there is a conflict between the provisions of this notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

8. More Information

For further information about the class proceeding lawsuit please see: mettrumclassaction.ca or contact Class Counsel at:

Roy O'Connor LLP
Attention: James Katsuras
1920 Yonge Street, Suite 300
Toronto, ON, M4S 3E2
Tel: 1-888-330-8815
Fax: 416-362-6204
Email: jk@royoconnor.ca

PLEASE DO NOT CALL OR CONTACT METTRUM, THE COURTHOUSE, OR THE REGISTRAR OF THE COURT ABOUT THIS ACTION. ALL QUESTIONS ABOUT THE LAWSUIT SHOULD BE DIRECTED TO CLASS COUNSEL.

This notice is published pursuant the provisions of the Ontario *Class Proceedings Act, 1992* and was approved by the Ontario Superior Court of Justice.