

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

HELEN FAKHRI and ADY AYLON

PLAINTIFFS

AND:

WILD OATS MARKETS CANADA, INC.  
carrying on business as CAPERS COMMUNITY MARKETS

DEFENDANT

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

**ORDER**

BEFORE	)	THE HONOURABLE MADAM	)	WEDNESDAY, THE 13 <sup>TH</sup>
	)		)	
	)	JUSTICE GEROW	)	DAY OF JULY, 2005
	)		)	
	)		)	

THE APPLICATION of the Representative Plaintiff for an order pursuant to section 35 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50, coming on for hearing at Vancouver, British Columbia, this day; and on hearing David A. Klein, counsel for the Representative Plaintiff, and Elaine J. Adair, counsel for the Defendant, and on reading:

- (a) the Affidavit of Mark L. Lyons, sworn June 29, 2005; and
- (b) the Affidavit of Ady Aylon, sworn July 6, 2005;

THIS COURT ORDERS that:

1. for the purposes of this Order, unless otherwise defined herein, the definitions set out in the Settlement Agreement, a copy of which is annexed as Appendix “A” to this Order, apply to and are incorporated herein;
2. the Settlement Agreement, including all Schedules, attached as Appendix A to this Order, is approved as fair and reasonable and in the best interest of the Class;
3. the Deadline for opting out of or into the Action, and for submitting a Claim Form, is set at October 28, 2005;
4. any member of the Resident Sub-Class who has not opted out of the Class by submitting a properly completed Opt Out Form to the Claims Administrator on or before the Deadline is bound by the terms of the Settlement Agreement;
5. any member of the Non-Resident Sub-Class who has opted in to the Class by submitting a Claim Form to the Claims Administrator on or before the Deadline is bound by the terms of the Settlement Agreement;
6. the Settlement Agreement, including all Schedules, is expressly incorporated by reference into this Order, and has the full force and effect of an Order of the Court;
7. the Class Counsel Fees as stipulated in the Settlement Agreement are approved;

8. the supplementary payment of \$5,000 to Ady Aylon, as compensation for his time and effort in the prosecution of this Action and as Representative Plaintiff, is approved;
9. Crawford Class Action Services is appointed as the Claims Administrator;
10. the Class shall be notified of certification of the Action and of approval by the Court of the Settlement and the Settlement Agreement by publication and distribution of the Notice of Certification and Settlement in the manner set out in the Notice Plan;
11. all claims in this Action are dismissed, without costs, except to the extent that a Resident Sub-Class Member timely submits an Opt Out Form in accordance with the Settlement Agreement, such dismissal to be of the same force and effect as if such Order had been pronounced following a trial of the Action on the merits;
12. as and from the Settlement Date, the Released Persons are released from any and all Settled Claims of the Settlement Class Members as stipulated in the Settlement Agreement;
13. each Settlement Class Member is enjoined from submitting a Claim Form which the Settlement Class Member knows contains a false statement of fact; and

14. notwithstanding the dismissal of this Action, this Court will have continuing exclusive jurisdiction over the Parties to the Settlement Agreement and the Settlement Class Members, to supervise, construe and enforce the Settlement Agreement in accordance with its terms, for the mutual benefit of all parties.

By the Court

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Registrar

APPROVED AS TO FORM:

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Counsel for the Plaintiffs

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Counsel for the Defendant

NO. L023298  
VANCOUVER REGISTRY

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**ORDER**  
**(July 13, 2005)**

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