

FILED
JUN 30 2005
LAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT**

IN RE SULFURIC ACID
ANTITRUST LITIGATION

MDL Docket No. 1536
Case No. 03 C 4576

This Document Relates To:

Honorable Judge David H. Coar
Magistrate Judge Jeffrey Cole

ALL RELATED ACTIONS

**MARSULEX, INC. AND CHEMTRADE LOGISTICS (U.S.), INC.'S
AGREED MOTION FOR A FINDING OF "SATISFACTORY COOPERATION" AND
LIMITATION OF DAMAGES PURSUANT TO THE ANTITRUST CRIMINAL
PENALTY ENHANCEMENT AND REFORM ACT OF 2004**

Defendants Marsulex, Inc. ("Marsulex") and ChemTrade Logistics (U.S.), Inc. ("ChemTrade"), by their attorneys, jointly move pursuant to the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 ("the Act") for a finding of "satisfactory cooperation" and for a limitation of damages as set forth in Sections 213 (a) and (b) of the Act. Plaintiffs' Co-Lead Counsel join this Motion. In support of their motion, Marsulex and ChemTrade state as follows:

1. As described more fully in the accompanying Memorandum of Law, the Act provides that where an "antitrust leniency applicant" (i.e. one who has entered into an "antitrust leniency agreement" with the U.S. Department of Justice) provides "satisfactory cooperation" to civil antitrust plaintiffs, the damages recoverable against such applicant shall be limited to actual damages attributable to the applicant's alleged wrongful conduct (i.e. no treble damages and no joint and several liability).

2. As described more fully in the accompanying Memorandum of Law, Marsulex and ChemTrade have met all of the conditions and requirements of the Act, and thus are entitled to a finding of satisfactory cooperation and a limitation of damages in this action.

3. Plaintiffs join in this motion because (a) Marsulex and ChemTrade have thus far provided satisfactory cooperation to Plaintiffs under the Act, and (b) Marsulex and ChemTrade have agreed to continue to provide satisfactory cooperation to Plaintiffs through the remainder of this litigation.

WHEREFORE, Marsulex and ChemTrade respectfully request that this Court enter an Order, in the form attached hereto as Exhibit A: (i) finding that Marsulex and ChemTrade have provided Plaintiffs with "satisfactory cooperation" under Section 213(b) of the Act, and (ii) pursuant to Section 213(a) of the Act, limiting the damages recoverable by Plaintiffs against Marsulex and ChemTrade in this action to the "actual damages sustained" by Plaintiffs, if any, "attributable to" Marsulex's and ChemTrade's alleged wrongful conduct, so that Marsulex and ChemTrade are not subject to treble damages or joint and several liability.

Dated: June 30, 2005

Respectfully Submitted,



R. Mark McCareins

Todd J. Ehlman

Andrew D. Shapiro

William C. O'Neil

WINSTON & STRAWN LLP

35 West Wacker Drive

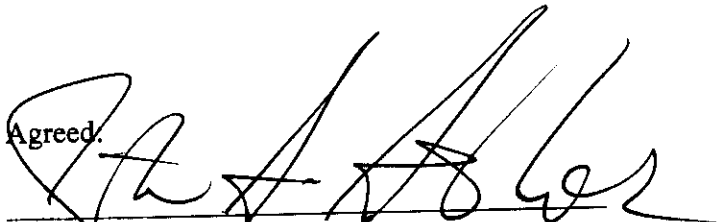
Chicago, Illinois 60601

Telephone: (312) 558-5600

Facsimile: (312) 558-5700

*Attorneys for Marsulex, Inc. and
ChemTrade Logistics (U.S.), Inc.*

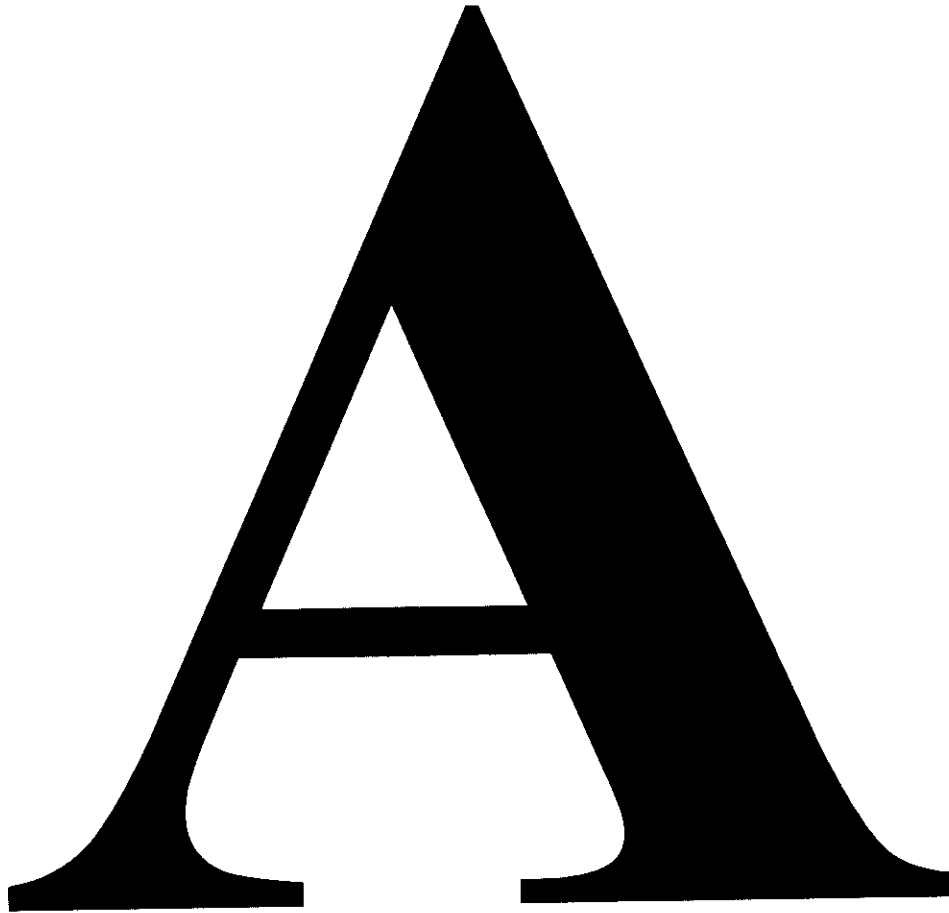
Agreed.



Steven A. Asher

WEINSTEIN KITCHENOFF & ASHER LLC
1845 Walnut Street, Suite 1100
Philadelphia, PA 19103

On Behalf of Plaintiffs' Lead Counsel



**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE SULFURIC ACID	:	MDL Docket No. 1536
ANTITRUST LITIGATION	:	Case No. 03 C 4576
	:	
	:	
	:	
	:	
	:	
This Document Relates To:	:	Honorable Judge David H. Coar
	:	Magistrate Judge Jeffrey Cole
	:	
	:	
ALL RELATED ACTIONS	:	
	:	

PROPOSED ORDER

This cause coming to be heard on Marsulex, Inc. and ChemTrade Logistics (U.S.), Inc.'s Agreed Motion for a Finding of "Satisfactory Cooperation" and Limitation of Damages Pursuant to the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 and this Court being fully advised in the premises:

IT IS HEREBY ORDERED THAT:

1. Marsulex and ChemTrade have thus far provided Plaintiffs with "satisfactory cooperation" pursuant to Section 213(b) of the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 ("the Act").
2. Pursuant to Section 213(a) of the Act, Marsulex and ChemTrade's damages are hereby limited to "actual damages sustained" by Plaintiffs, if any, "attributable to" Marsulex's and ChemTrade's alleged wrongful conduct. Marsulex and ChemTrade are not subject to treble damages, joint and several liability, or an award of attorneys' fees.
3. If at any time prior to the conclusion of this litigation, Plaintiffs reasonably determine that Marsulex and/or ChemTrade have failed to provide Plaintiffs with "satisfactory

cooperation" under the Act through the remainder of this litigation, they may move to vacate this Order.

Dated: _____, 2005

The Honorable David H. Coar
UNITED STATES DISTRICT COURT

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of June, 2005, I caused to be served a copy of **MARSULEX, INC. AND CHEMTRADE LOGISTICS (U.S.) INC.'S AGREED MOTION FOR A FINDING OF "SATISFACTORY COOPERATION" AND LIMITATION OF DAMAGES PURSUANT TO THE ANTITRUST CRIMINAL PENALTY ENHANCEMENT AND REFORM ACT OF 2004** to be served on counsel of record by facsimile and U.S. Mail:

Mary Jane Edelstein Fait
**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLC**
656 West Randolph Street, Suite 500 West
Chicago, Illinois 60661
Plaintiffs' Co Lead Counsel

Karen D. Fineran
GOLD BENNETT CERA & SIDENER LLP
595 Market Street, Suite 2300
San Francisco, CA 94105-2835
Plaintiffs' Co Lead Counsel

Robert J. LaRocca
KOHN, SWIFT & GRAF, P.C.
One South Broad Street, Suite 2100
Philadelphia, PA 19107
Plaintiffs' Co Lead Counsel

Steven A. Asher
**WEINSTEIN KITCHENOFF & ASHER
LLC**
1845 Walnut Street
Suite 1100
Philadelphia, PA 19103
Plaintiffs' Co Lead Counsel

Hugo Chaviano
SANCHEZ & DANIELS
333 West Wacker Drive, Suite 500
Chicago, IL 60606
*Counsel for Defendant E.I. du Pont de
Nemours & Co.*

Eric W. Sitarchuk
**BALLARD SPAHR ANDREWS &
INGERSOLL LLP**
1735 Market Street, 51st Floor
Philadelphia, PA 19103
*Counsel for Defendant E.I. du Pont de Nemours
& Co.*

Todd McLawhorn
**HOWERY SIMON ARNOLD & WHITE
LLP**
321 N. Clark Street, St. 3400
Chicago, IL 60604
Counsel for Koch Industries Inc.

Jamie Kilbreth
VERRILL & DANA LLP
One Portland Square
Portland, ME 04112-0586
Counsel for GAC Chemical Corp.

Edward Pappas
DICKINSON WRIGHT PLLC
38525 Wood Avenue, Suite 2000
Bloomfield Hills, MI 48304
Counsel for Pressure Vessel Services, Inc.

William Edward Snyder
**CONNELY, ROBERTS & MCGIVNEY
LLC**
One North Franklin, Suite 1200
Chicago, IL 60606
Counsel for Intertrade Holdings, Inc.

James P. Denvir
BOIES, SCHILLER & FLEXNER LLP
5301 Wisconsin Avenue, NW Suite 800
Washington, D.C. 20015
*Counsel for Defendant E.I. du Pont de
Nemours & Co.*

David C. Gustman
FREEBORN & PETERS
311 S. Wacker Drive, Suite 3000
Chicago, IL 60606
*Counsel for Noranda, Inc., Falconbridge Ltd.,
and Norfalco LLC*