

1 the initial distribution in June 2004 pursuant to this Court's Order of April 12, 2004. The
2 amounts of each individual distribution to these claimants is listed on Attachment A to this Order.

3 As it was at the time of the previous distribution, the claim of Defendant DuCoa
4 has not been paid because DuCoa is a named defendant—and an alleged co-conspirator—in this
5 litigation. The DuCoa claim (which the Settlement Administrator calculates as being worth
6 approximately \$166,025.54) is part of the future anticipated charges to the account that total
7 \$341,373.44. The amount of DuCoa's claim shall be held in the account until the litigation
8 against DuCoa in this action is completed. At that time, the Court will determine the disposition
9 of DuCoa's settlement claim.

10 **II. Consumer Class *Cy Pres* Settlement Fund Distribution**

11 Plaintiffs have requested a third distribution from the Consumer *Cy Pres*
12 Settlement Fund. The Court previously approved two rounds of distribution of *cy pres* funds.
13 The first round focused on state-wide food delivery to the needy and anti-trust enforcement and
14 public policy; the second round focused on nutritional and health outreach, professional
15 education, and food safety and quality. Round Three involved scientific proposals for funding
16 nutritional and health research. Based on the work of health and nutrition experts Professor
17 Marion Nestle and Professor Malden Nesheim, as well as the recommendation of *Cy Pres*
18 Administrator Harry Snyder, the Court grants the motion of Plaintiffs that Round Three *Cy Pres*
19 Funds be distributed to the following applicants in the following amounts:

20	University California, Davis, Department of Nutrition to	
21	Establish a Center for Health and Nutrition (Proposal 15)	\$5,006,903
22	Loma Linda University, Department of Nutrition:	
23	(1) research regarding effects of almonds on cardiovascular	
24	disease (Proposal 8); and	(1) \$71,467 ¹
25	(2) research regarding effects of walnuts and fish on coronary	
26	artery disease (Proposal 9)	(2) \$809,004
26	University of California, Davis, study of metabolic, and genetic	\$569,168

27 ¹ As indicated above, in PCC's motion and Mr. Snyder's recommendation, Proposals 8, 9, and 14
28 will be merged with and conducted under the auspices of the new Center for Health and Nutrition
to be established under Proposal 15.

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1 consequences of flavanoid-rich diets during pregnancy (Proposal
2 14)

3 University of California, San Diego, School of Medicine: study of
4 how vitamins A and D relate to cancer therapy (Proposal 23) ... \$ 708,750

5 The total amount of these distributions is \$7,165,292. Further information concerning these
6 projects is contained in the Declaration of Harry M. Snyder, Fund Administrator, the Declaration
7 of Professors Nestle and Nesheim, and the exhibits attached thereto, filed with the Court on
8 October 21, 2005.

9 **III. Request for Payment to Settlement Administrator**

10 The Court has reviewed the request to pay fees and costs to Settlement
11 Administrator Gilardi & Company for the work it has performed to date administering the
12 Commercial and Consumer Class Settlements in this action. The Court has reviewed the
13 declaration of Dennis A. Gilardi, Jr., with regard to these fees and costs and finds that it is
14 appropriate. The Court hereby authorizes the following payments to Gilardi & Company out of
15 the following funds: \$67,044 in fees and \$75,084 in costs from the Commercial Class Fund and
16 \$6,395 in costs from the Consumer Class Fund.

17 **IV. A Process Whereby Proposed Recipients for a Further Distribution of *Cy Pres* Funds
18 Will be Chosen**

19 After the Round Three distributions (totaling \$7,165,292) are made, approximately
20 \$10.4 million of the Consumer *Cy Pres* Fund will remain to be distributed. The original plan for
21 *cy pres* distribution anticipated only three rounds of distribution. Because a substantial amount of
22 money remains in the *cy pres* fund, however, a process to choose proposed recipients for these
23 funds for the benefit of the consumer class must take place. Plaintiffs seek leave to engage
24 Mr. Snyder to conduct a process whereby such proposed *cy pres* recipients will be chosen and
25 recommended to the Court. The Court has reviewed Mr. Snyder's proposal regarding such a
26 process. Mr. Snyder proposes a total budget of \$257,526 for the process whereby the proposed
27 recipients will be chosen, recommended to the Court, and (if a *cy pres* distribution is made)
28 monitored thereafter. This amount, which is equal to approximately 2.5% of the amount to be
distributed, appears to be reasonable in light of the amounts ranging from 5 to 10% of the total

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