

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE CHINA AGRITECH, INC.
SHAREHOLDER DERIVATIVE
LITIGATION

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Cons. C.A. No. 7163-VCL

~~PROPOSED~~ FINAL ORDER AND JUDGMENT

This Court, having considered the Stipulation and Agreement of Compromise, Settlement, and Release dated as of November 12, 2014, including all exhibits thereto (the “Stipulation”), between (i) plaintiff Thang D. Nguyen (“Plaintiff”), on behalf of himself, derivatively on behalf of China Agritech, Inc. (“China Ag” or the “Company”), and on behalf of the Settlement Class (as defined below); (ii) the Individual Defendants (as defined in the Stipulation); and (iii) nominal defendant China Ag, and having held a hearing on February 13, 2015; and having considered all of the submissions and arguments with respect thereto, including any objections to the Settlement, and for the reasons stated on the record:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. This Final Order and Judgment (“Judgment”) incorporates herein and makes a part hereof, the Stipulation, including the exhibits thereto. Unless otherwise defined herein, all capitalized terms used herein shall have the same meanings as set forth in the Stipulation.

2. This Court has jurisdiction over the subject matter of the Action, including all matters necessary to effectuate the Settlement, and over all Settling Parties, including all Settlement Class Members, in the context of this Action.

3. The record shows that Notice has been given to Current China Ag Stockholders and Settlement Class Members in the manner approved by the Court in its Scheduling Order dated November 14, 2014. The Court finds that such Notice: (i) constitutes reasonable and the best notice practicable under the circumstances; (ii) constitutes notice that was reasonably calculated, under the circumstances, to apprise all Current China Ag Stockholders and Settlement Class Members who could reasonably be identified of the pendency of the Action, the terms of the Settlement, and Current China Ag Stockholders' and Settlement Class Members' right to object to and to appear at the settlement hearing held on February 13, 2015 (the "Settlement Hearing"); (iii) constitutes due, adequate, and sufficient notice to all persons or entities entitled to receive notice in accordance with Court of Chancery Rules 23(e) and 23.1(c); and (iv) meets the requirements of due process.

4. The Court hereby finds, pursuant to Court of Chancery Rules 23(a), 23(b)(1) and (b)(2) as follows:

(a) that (i) the Settlement Class (defined below) is so numerous that joinder of all Settlement Class members in the Action is impracticable;

(ii) there are questions of law and fact common to the Settlement Class which predominate over any individual questions; (iii) the claims of the Plaintiff are typical of the claims of the Settlement Class; (iv) Plaintiff and his counsel have fairly and adequately represented and protected the interests of all of the Settlement Class Members; (v) the prosecution of separate actions by individual Settlement Class Members would create a risk of inconsistent or varying adjudications with respect to individual Settlement Class Members which would establish incompatible standards of conduct for Defendants, and as a practical matter, the disposition of this Action will influence the disposition of any pending or future identical cases brought by other Settlement Class Members; and (vi) there were allegations that Defendants acted or refused to act on grounds generally applicable to the Settlement Class;

(b) that the requirements of Court of Chancery Rules 23(a) and 23(b)(1) and (b)(2) have been satisfied;

(c) that the Action is hereby certified as a class action for the purposes of the settlement only on behalf of a class consisting of any and all beneficial stockholders and stockholders of record of China Ag's common stock as of October 17, 2012, including any and all of their respective successors in interest, predecessors, representatives, trustees, executors, administrators, heirs, assigns, or transferees, immediate and remote, and any Person acting for or on behalf of, or

claiming under, any of them, and each of them (the “Settlement Class”), and that such stockholders shall not have the right to opt out of the Settlement Class. Excluded from the Settlement Class are Defendants, all current and former officers and directors of China Ag and any person, firm, trust, corporation, or other entity related to, or affiliated with the current and former directors and officers of China Ag. Notwithstanding the foregoing, the Settlement Class shall include The Carlyle Group, Carlyle Asia Growth Partners IV, L.P., CAGP IV Co-Investment, L.P., Carlyle Group Management L.L.C., Carlyle Group L.P., Carlyle Holdings II GP L.L.C., Carlyle Holdings II L.P. and TC Group Cayman Investment Holdings Sub L.P., and all of their predecessors and successors, and all present and former parents, subsidiaries, divisions, and related or affiliated entities; and

(d) that Plaintiff Thang D. Nguyen is hereby certified as class representative and the law firms of Prickett, Jones & Elliott, P.A. and Kessler Topaz Meltzer & Check, LLP (“Plaintiff’s Counsel”) are hereby certified as class counsel.

5. The Court hereby fully and finally approves the Settlement, as set forth in the Stipulation in all respects, pursuant to Court of Chancery Rules 23(e) and 23.1(c) and finds that the Settlement is, in all respects, fair, reasonable, and adequate, and in the best interests of the Settlement Class, China Ag and its

stockholders. The Court has considered any submitted objections to the Settlement and hereby overrules them.

6. The Settling Parties are hereby directed to implement and consummate the Settlement according to the terms and provisions of the Stipulation.

7. The Action is hereby dismissed in its entirety as to the Defendants, with prejudice, and without costs to any party to the Action, except as otherwise provided in the Stipulation. The parties to the Action are to bear their own costs, except as otherwise provided in the Stipulation.

8. Upon the Effective Date, Plaintiff and the Settlement Class shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished and discharged the Released Class Claims against the Released Persons and any and all claims (including Unknown Claims) arising out of, relating to, or in connection with, the defense, settlement or resolution of the Action against the Released Persons, whether or not such Settlement Class Members execute and deliver a Claim Form or object to this Settlement. Plaintiff and the Settlement Class shall be deemed to have, and by operation of the Judgment shall have, covenanted not to sue any Released Person with respect to such Released Class Claims, and shall be permanently barred and enjoined from instituting, commencing or prosecuting the Released Class Claims against the

Released Persons except to enforce the releases and other terms and conditions contained in the Stipulation and/or Judgment entered pursuant thereto. Upon the Effective Date, each of the Released Persons shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished and discharged each and all of Plaintiff, Plaintiff's Related Persons, the Settlement Class Members, and Plaintiff's Counsel from all claims (including Unknown Claims) arising out of, relating to, or in connection with, the institution, prosecution, assertion, settlement or resolution of the Action or the Released Class Claims.

9. Upon the Effective Date, China Ag, Plaintiff (acting on his own behalf and derivatively on behalf of China Ag), and each of China Ag's stockholders (solely in their capacity as China Ag stockholders) shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished and discharged the Released Derivative Claims against the Released Persons and any and all claims (including Unknown Claims) arising out of, relating to, or in connection with, the defense, settlement or resolution of the Action against the Released Persons. China Ag, Plaintiff (acting on his own behalf and derivatively on behalf of China Ag) and each of China Ag's stockholders (solely in their capacity as China Ag's stockholders) shall be deemed to have, and by operation of the Judgment shall have, covenanted not to sue any Released

Person with respect to such Released Derivative Claims, and shall be permanently barred and enjoined from instituting, commencing or prosecuting the Released Derivative Claims against the Released Persons except to enforce the releases and other terms and conditions contained in the Stipulation and/or Judgment entered pursuant thereto. Upon the Effective Date, each of the Released Persons shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished and discharged each and all of China Ag, Plaintiff, Plaintiff's Related Persons and Plaintiff's Counsel from all claims (including Unknown Claims) arising out of, relating to, or in connection with, the institution, prosecution, assertion, settlement or resolution of the Action or the Released Derivative Claims.

10. Neither the Stipulation, nor any act performed or document executed pursuant to or in furtherance of the Stipulation: (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Class Claim or Released Derivative Claim or of any wrongdoing or liability of Defendants; or (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any Defendant in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal, other than in such proceedings as may be necessary to consummate or enforce the Stipulation or this Judgment, except that Defendants may file the Stipulation and

this Judgment: (a) in any action that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim; or (b) to challenge on the basis of double recovery the ability of any member(s) of the Settlement Class to recover damages or any form of settlement in any subsequent action, including but not limited to the action captioned *Resh v. China Agritech, Inc., et al.*, No. 2:14-cv-05083 (C.D. Cal).

11. Plaintiff's Counsel are hereby awarded fees and expenses of \$ 750,000 in the aggregate, to be paid from the Gross Settlement Fund, which the Court finds to be fair and reasonable.

12. After the Effective Date, the Defendants and their Related Persons shall have no responsibility for, interest in, or liability whatsoever with respect to the investment or distribution of the Net Settlement Fund, the Plan of Distribution, the determination, administration, calculation, or payment of claims, the payment or withholding of taxes, tax expenses or any losses incurred in connection therewith.

13. No Person shall have any claim against Plaintiff's Counsel, the Claims Administrator or other agent designated by Plaintiff's Counsel based on distributions made substantially in accordance with the Stipulation and the

Settlement contained herein, the Plan of Distribution, or further orders of the Court.

14. Any order approving or modifying the Plan of Distribution set forth in the Notice or Plaintiff's Counsel's Fee and Expense Award shall not disturb or affect the finality of this Judgment, the Stipulation or the Settlement contained therein.

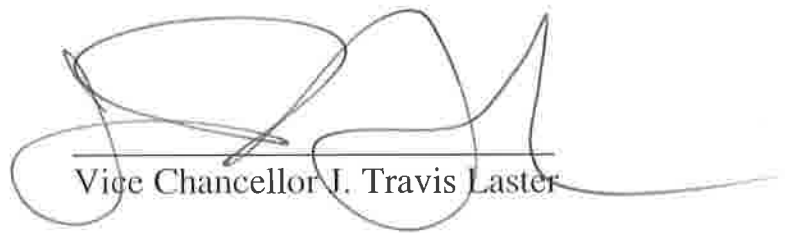
15. Without affecting the finality of this Judgment, the Court retains continuing and exclusive jurisdiction over all matters relating to administration, consummation, enforcement and interpretation of the Stipulation, the Settlement, and of this Judgment, to protect and effectuate this Judgment, and for any other necessary purpose. Plaintiff, Defendants, each Settlement Class Member and each Current China Ag Stockholder are hereby deemed to have irrevocably submitted to the exclusive jurisdiction of this Court, for the purpose of any suit, action, proceeding or dispute arising out of or relating to the Settlement or the Stipulation, including the exhibits thereto, and only for such purposes. Without limiting the generality of the foregoing, and without affecting the finality of this Judgment, the Court retains exclusive jurisdiction over any such suit, action or proceeding. Solely for purposes of such suit, action or proceeding, to the fullest extent they may effectively do so under applicable law, Plaintiff, Defendants, each Settlement Class Member and each Current China Ag Stockholder are hereby deemed to have

irrevocably waived and agreed not to assert, by way of motion, as a defense or otherwise, any claim or objection that they are not subject to the jurisdiction of this Court, or that this Court is, in any way, an improper venue or an inconvenient forum.

16. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the stipulation.

IT IS SO ORDERED.

DATED: February 13, 2015



Vice Chancellor J. Travis Laster