

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

_____ X
IN RE SWISHER HYGIENE,
INC. SECURITIES AND
DERIVATIVE LITIGATION
_____ X

MDL DOCKET NO: 3:12-MD-2384-GCM
ALL MEMBER CASES

PROOF OF CLAIM AND RELEASE

I. GENERAL INSTRUCTIONS

1. This Proof of Claim and Release form incorporates by reference the definitions in the Notice of Pendency of Consolidated Class Action, Proposed Settlement, Settlement Hearing And Right to Appear (the “Notice”) and, unless defined herein, capitalized words and terms shall have the same meanings as they have in the Notice.
2. To recover as a member of the Class based on your claims in the above-captioned consolidated class action (the “Consolidated Class Action”), you must complete this Proof of Claim and Release form. If you fail to file a properly addressed (as set forth in Paragraph 4 below) Proof of Claim and Release, your claim may be rejected and you may be precluded from any recovery from the Settlement Fund created in connection with the proposed Settlement (defined below) of the Consolidated Class Action.
3. Submission of this Proof of Claim and Release, however, does not ensure that you will share in the proceeds of the Settlement (defined below) in the Consolidated Class Action.
4. YOU MUST SUBMIT YOUR COMPLETED AND SIGNED PROOF OF CLAIM AND RELEASE BY AUGUST 1, 2014, ADDRESSED AS FOLLOWS:

**SWISHER SECURITIES SETTLEMENT
CLAIMS ADMINISTRATOR
c/o A.B. DATA, LTD.
PO BOX 170500
MILWAUKEE, WI 53217-8091**

A Proof of Claim and Release form shall be deemed to have been submitted when postmarked, if mailed by First-Class, or registered or certified mail, postage prepaid. All other Proofs of Claim and Release forms shall be deemed to have been submitted at the time they are actually received by the Claims Administrator. If you are NOT a member of the Class, as defined in the Notice, DO NOT submit a Proof of Claim and Release form.

5. If you are a member of the Class, you are bound by the terms of any Order and Final Judgment entered in the Consolidated Class Action, WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM AND RELEASE FORM.

II. CLAIMANT IDENTIFICATION

1. If you purchased common stock of Swisher Hygiene, Inc. (“Swisher”) on the NASDAQ stock exchange, or otherwise acquired Swisher common stock in a transaction that took place within the United States or its territories at any time between and including March 1, 2011 and March 28, 2012, and held (or hold) the stock certificate(s) in your name, you are the beneficial owner as well as the record owner. If, however, the stock certificate(s) were or are registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial owner and the third party is the record owner.
2. Use Part I of this form entitled “Claimant Identification” to identify each owner of record (“Nominee”), if different from the beneficial owner of Swisher common stock who forms the basis of this claim. **THIS CLAIM MUST BE MADE BY THE ACTUAL BENEFICIAL OWNER OR OWNERS, OR THE LEGAL REPRESENTATIVE(S) OF SUCH OWNER OR OWNERS, OF THE SWISHER COMMON STOCK UPON WHICH THIS CLAIM IS BASED.**
3. All joint beneficial purchasers must sign this claim. Executors, administrators, guardians, conservators and trustees must complete and sign this claim on behalf of persons and/or entities represented by them, and their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or taxpayer identification) number and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

III. IDENTIFICATION OF TRANSACTION(S)

1. Use Part II of this form entitled “Schedule of Transactions in Swisher Common Stock” to supply all required details of your transaction(s) in Swisher common stock. If you need more space, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.
2. Please provide all of the requested information with respect to **all** of your purchases, acquisitions, and sales of Swisher common stock which took place at any time between and including March 1, 2011 and March 28, 2012 (the “Class Period”), whether such transactions resulted in a profit or a loss. Failure to report all such transactions may result in the rejection of your claim.
3. List each transaction in the Class Period separately and in chronological order, by trade date, beginning with the earliest. You must accurately provide the month, day and year of each transaction you list.
4. You must submit documentation for your trading history. Acceptable documentation may include: (a) monthly stock brokerage or other investment account statements; (b) trade confirmation slips; (c) a signed letter from your broker on firm letterhead verifying the information you are providing; or (d) other equivalent proof of your transactions. **DO NOT SEND ORIGINALS.** Broker confirmations or other documentation of your transactions in Swisher common stock should be attached to your claim. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim.
5. The requests are designed to provide the minimum amount of information necessary to process the simplest claims. The Claims Administrator may request additional information as required to efficiently and reliably calculate your losses. In cases where the Claims Administrator cannot perform the calculation accurately or at a reasonable cost to the Class with the information provided, the Claims Administrator may condition acceptance of the claim upon the production of additional information and/or the hiring of an accounting expert at the Claimant’s cost.

For Official Use Only



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA, CHARLOTTE DIVISION

In re Swisher Hygiene, Inc. Securities and Derivative Litigation

MDL Docket No: 3:12-MD-2384-GCM

PLEASE TYPE OR PRINT

PROOF OF CLAIM AND RELEASE

MUST BE POSTMARKED BY

AUGUST 1, 2014

PART I. CLAIMANT IDENTIFICATION

Beneficial Owner's Name (First, Middle, Last) or Name of Entity (i.e. corporation, trustee, estate, etc.)

Joint Beneficial Owner's Name (First, Middle, Last)

Address Line 1

Address Line 2 (If Applicable)

City

State

Zip Code

Foreign Province

Foreign Postal Code

Foreign Country

Social Security Number

Taxpayer Identification Number

OR

Check Appropriate box:

- Individual or Sole Proprietor
- Corporation
- IRA
- Partnership
- Pension Plan
- Trust
- Other _____ (please specify)

Telephone Number (Daytime)

() -

Telephone Number (Evening)

() -

Email Address

**WERE YOUR SHARES HELD IN "STREET NAME" (I.E., IN THE NAME OF A STOCK BROKER OR OTHER NOMINEE)?
IF SO, THAT BROKER OR NOMINEE IS THE RECORD OWNER. PLEASE FILL IN THE FOLLOWING LINE.**

Record Owner's Name (if different from beneficial owner listed above); e.g., brokerage firm, bank, nominee, etc.

PART II. SCHEDULE OF TRANSACTIONS IN SWISHER COMMON STOCK

| | |
|--|---|
| A. INITIAL SWISHER COMMON STOCK HOLDINGS: STATE THE NUMBER OF SHARES OF SWISHER COMMON STOCK OWNED AT THE CLOSE OF BUSINESS ON FEBRUARY 28, 2011. (IF NONE, WRITE “ZERO” OR “0”; IF OTHER THAN ZERO, BE SURE TO ATTACH THE REQUIRED DOCUMENTATION.) | Proof enclosed <input type="radio"/> Y <input type="radio"/> N |
|--|---|

| B. LIST EACH INDIVIDUAL PURCHASE OR ACQUISITION OF SWISHER COMMON STOCK BETWEEN AND INCLUDING MARCH 1, 2011 AND MARCH 28, 2012, AS FOLLOWS: | | | | |
|--|--|---|--|---|
| Trade Date(s) (List Chronologically) | Number of Shares of Common Stock Purchased/Acquired | Purchase Price Per Share of Common Stock | Aggregate Cost (excluding commissions, taxes, and fees) | Proof enclosed |
| MM DD YY | | | | |
| <input type="text"/> / <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> / <input type="text"/> | <input type="text"/> | \$ <input type="text"/> | \$ <input type="text"/> | <input type="radio"/> Y <input type="radio"/> N |
| <input type="text"/> / <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> / <input type="text"/> | <input type="text"/> | \$ <input type="text"/> | \$ <input type="text"/> | <input type="radio"/> Y <input type="radio"/> N |
| <input type="text"/> / <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> / <input type="text"/> | <input type="text"/> | \$ <input type="text"/> | \$ <input type="text"/> | <input type="radio"/> Y <input type="radio"/> N |
| <input type="text"/> / <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> / <input type="text"/> | <input type="text"/> | \$ <input type="text"/> | \$ <input type="text"/> | <input type="radio"/> Y <input type="radio"/> N |

| C. LIST EACH INDIVIDUAL SALE OF SWISHER COMMON STOCK BETWEEN AND INCLUDING MARCH 1, 2011 AND MARCH 28, 2012, AS FOLLOWS: | | | | |
|--|--|---|---|---|
| Date(s) of Sale (List Chronologically) | Number of Shares of Common Stock Sold | Sale Price Per Share of Common Stock | Amount Received (excluding commissions, taxes, and fees) | Proof enclosed |
| MM DD YY | | | | |
| <input type="text"/> / <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> / <input type="text"/> | <input type="text"/> | \$ <input type="text"/> | \$ <input type="text"/> | <input type="radio"/> Y <input type="radio"/> N |
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| <input type="text"/> / <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> / <input type="text"/> | <input type="text"/> | \$ <input type="text"/> | \$ <input type="text"/> | <input type="radio"/> Y <input type="radio"/> N |

| | |
|---|---|
| D. NUMBER OF SHARES OF SWISHER COMMON STOCK HELD AS OF THE CLOSE OF BUSINESS MARCH 28, 2012. (IF NONE, WRITE “ZERO” OR “0”; IF OTHER THAN ZERO, MUST BE DOCUMENTED.) | Proof enclosed <input type="radio"/> Y <input type="radio"/> N |
|---|---|

IV. SUBMISSION TO JURISDICTION OF COURT, ACKNOWLEDGMENTS AND RELEASES

1. Please review the following submission to jurisdiction and sign below on Page 6.

I submit this Proof of Claim and Release under the terms of the Stipulation of Settlement dated as of February 5, 2014 (“Stipulation”), and in connection with the settlement (the “Settlement”) of the claims against Swisher, Steven R. Berrard and Michael J. Kipp (collectively, “Defendants”) contemplated therein. I also submit to the jurisdiction of the United States District Court for the Western District of North Carolina, with respect to my claim as a Class Member and for purposes of enforcing the release set forth herein. I further acknowledge that I am bound by and subject to the terms of any Order and Final Judgment (defined below) that may be entered in the Consolidated Class Action. I agree to furnish additional information to Lead Counsel and/or the Claims Administrator to support this claim if required to do so. I have not submitted any other claim covering the same purchases, acquisitions and sales of Swisher common stock during the Class Period and know of no other person or entity having done so on my behalf.

2. Please review the following release for claims against Defendants and sign below on Page 6.

I hereby acknowledge full and complete satisfaction of, and do hereby fully, finally and forever settle, release, relinquish and discharge all of the Plaintiffs’ Settled Claims (defined below) against each and all of the Defendants and the Defendant Released Persons (defined below) as contemplated in the Stipulation.

The Stipulation contemplates the issuance of an order and final judgment (the “Order and Final Judgment”), which shall dismiss the Consolidated Class Action and related Putative Securities Actions contained therein with prejudice and bar, among other things, any and all claims, demands, rights, actions, causes of action, liabilities, damages, losses, obligations, judgments, duties, suits, costs, expenses, matters, and issues known or unknown, contingent or absolute, suspected or unsuspected, disclosed or undisclosed, liquidated or unliquidated, matured or unmatured, accrued or unaccrued, apparent or unapparent, that have been or could have been, asserted in any court, tribunal or proceeding (including, but not limited to any claims arising under federal, state, foreign, or common law, including the federal securities laws and any state disclosure law), by or on behalf of Lead Plaintiffs or any Class Member, whether individual, direct, class, derivative, representative, legal, equitable, or any other type or in any other capacity (collectively, the “Plaintiff Releasing Persons”) against the Defendants or any of their families, parent entities, controlling persons, associates, affiliates or subsidiaries and each and all of their respective past or present officers, directors, stockholders, principals, representatives, employees, attorneys, financial or investment advisors, consultants, accountants, investment bankers, commercial bankers, entities providing fairness opinions, advisors, insurers, reinsurers, agents, heirs, executors, trustees, general or limited partners or partnerships, limited liability companies, members, joint ventures, personal or legal representatives, estates, administrators, predecessors, successors or assigns (the “Defendant Released Persons”) which the Plaintiff Releasing Persons ever had, now have or may have had by reason of, arising out of, relating to or in connection with the acts, events, facts, matters, transactions, occurrences, statements or representations, or any other matter whatsoever set forth in or otherwise related, directly or indirectly, to the allegations in the Consolidated Class Action and related Putative Securities Actions consolidated therein, the allegations in the Class Action Complaint including, without limitation, all of Swisher’s public filings cited therein, the allegations in the complaints filed in the Putative Securities Actions, Swisher’s first, second and third quarter 2011 financial results, Swisher’s acquisitions in 2011, Swisher’s internal controls, the Internal Review and/or the Restatement (including the adequacy and completeness of such disclosures) (the “Plaintiffs’ Settled Claims”); *provided, however*, that the Plaintiffs’ Settled Claims shall not release any claims to enforce the Settlement.

Unknown Claims are expressly included in the definition of Plaintiffs’ Settled Claims, and that such inclusion was expressly bargained for and was a key element of the Settlement and was relied upon by each and all of the Defendants in entering into the Stipulation. “Unknown Claims” include any claim that Lead Plaintiffs or any member of the Class does not know or suspect exists in his, her or its favor at the time of the release of the Plaintiffs’ Settled Claims as against the Defendant Released Persons, including without limitation those which, if known, might have affected the decision to enter into the Settlement.

The Settlement is intended to extinguish all of the Plaintiffs’ Settled Claims and, consistent with such intention, by operation of the Order and Final Judgment, the Plaintiff Releasing Persons shall waive and relinquish, to the fullest extent permitted by law, the provisions, rights and benefits of any state, federal or foreign law or principle of common law, which may have the effect of limiting the releases set forth above. **This shall include a waiver by the Plaintiff Releasing Persons of any rights pursuant to Section 1542 of the California Civil Code (or any similar, comparable or equivalent provision of any federal, state or foreign law, or principle of common law), which provides:**

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

The foregoing waiver was separately bargained for, is an integral element of the Settlement and was relied upon by each and all of the Defendants in entering into the Settlement.

This release shall be of no force or effect unless and until the Court approves the Stipulation and it becomes effective on the Effective Date.

3. Please review the following representations and sign below.

I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.

I (We) hereby warrant and represent that I (we) have included information about all of my (our) purchases or acquisitions of Swisher common stock that occurred during the Class Period, all of my (our) sales of that Swisher common stock between and including March 1, 2011 and March 28, 2012, and the number of shares of Swisher common stock held by me (us) at the close of business on March 1, 2011, and the number of shares of Swisher common stock held by me (us) on March 28, 2012.

I (We) hereby warrant that I am (we are) not subject to backup withholding under the provisions of Section 3406(a)(1)(c) of the Internal Revenue Code. If you have been notified by the IRS that you are subject to backup withholding, strike out the previous sentence.

I (We) declare under penalty of perjury under the laws of the United States of America that the foregoing information supplied by the undersigned is true and correct.

Executed this _____ of _____ in _____, _____.
(Day) (Month/Year) (City) (State/Country)

(Type or print name of Claimant) (Signature of Claimant) (Date)

(Type or print name of Joint Claimant (if any)) (Signature of Joint Claimant (if any)) (Date)

IF CLAIMANT IS OTHER THAN AN INDIVIDUAL, OR IS NOT THE PERSON COMPLETING THIS FORM, THE FOLLOWING MUST ALSO BE PROVIDED:

(Type or print name of person completing form) (Signature of person completing form) (Date)

(Capacity of person signing above, e.g., Beneficial Purchaser(s), Administrator, Executor, Trustee, Custodian, Power of Attorney, etc.)

Proof of Authority to File Enclosed? Yes _____ No _____ (See Section II)

REMINDER CHECKLIST:

- ❖ Please sign the Certification section of the Proof of Claim and Release on Page 6.
- ❖ If this claim is being made on behalf of joint beneficial claimants, both must sign.
- ❖ Remember to attach supporting documentation.
- ❖ Do not send original stock certificates.
- ❖ Keep a copy of your Proof of Claim and Release form and all documents submitted for your records.
- ❖ If you desire an acknowledgment of receipt of your claim form, please send it Certified Mail, Return Receipt Requested.
- ❖ If you move, please send the Claims Administrator your new address.

**THESE FORMS AND YOUR SUPPORTING DOCUMENTATION MUST BE SUBMITTED BY NO LATER THAN AUGUST 1, 2014.
ACCURATE CLAIMS PROCESSING TAKES A SIGNIFICANT AMOUNT OF TIME. THANK YOU FOR YOUR PATIENCE.**