

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

TIM WALSH, JULIE WALSH, )  
GREGORY KETCHUM, PATRICIA )  
KETCHUM, PETER MURPHY, SAM )  
PETERSON, and FRANK BACA, on )  
Behalf of Themselves and All Others )  
Similarly Situated, )

Case No.: 0:19-cv-01856-JWB-DTS

**EXHIBIT A-1**

Plaintiffs, )

v. )

CLIFFORD M. BUCHHOLZ, MICHAEL J. )  
HEROLD, RYAN A. MARTORANO, )  
MICK A. OCCHIATO, FRANK R. )  
RAMIREZ, BRENT M. T. KEELE, )  
STEPHEN D. TEBO, JERRY )  
MORGENSEN, JAMES L. PARKE, )  
JOSEPH D. SCHOFIELD, III, ST. )  
RENATUS, LLC, and SR MERGER SUB, )  
LLC, )

Defendants. )

\_\_\_\_\_ )

**NOTICE OF PROPOSED SETTLEMENT  
OF CLASS ACTION AND SETTLEMENT HEARING**

**NOTICE OF CLASS ACTION SETTLEMENT AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA**

*A court authorized this Notice. This is not a lawyer solicitation. You are not being sued.*

**TO: ALL PERSONS OR ENTITIES HOLDING APOLLONIA, LLC ("APOLLONIA") UNITS AS OF THE APRIL 16, 2019 ACQUISITION OF APOLLONIA BY ST. RENATUS, LLC ("ST. RENATUS").**

**NOTICE OF SETTLEMENT:** Please be advised that class representatives Frank Baca and Sam Peterson ("Class Representatives"), on behalf of themselves and the Class (defined in paragraph 4 below) and defendants Clifford M. Buchholz, Michael J. Herold, Ryan A. Martorano, and Mick A. Occhiato (the "Apollonia Defendants"), Frank R. Ramirez, Brent M. T. Keele, Stephen D. Tebo, Jerry Morgensen, James L. Parke, Joseph D. Schofield, III, and St. Renatus (the "St. Renatus Defendants") (the Apollonia Defendants and St. Renatus Defendants are, collectively, the "Defendants") have reached a proposed settlement ("Settlement") for \$11,600,000 in cash (the "Settlement Fund").<sup>1</sup> The proposed Settlement, if approved, will resolve all of the claims asserted in the above-captioned class action lawsuit against the Defendants.

- The Settlement provides significant monetary payments to persons and entities who held Apollonia units as of the April 16, 2019 acquisition of Apollonia by St. Renatus (the "Merger"), pursuant to which unitholders' ownership interests in Apollonia were terminated.
- The Settlement resolves the Action and avoids the risks of continuing the lawsuit, including the risk that no money would ever be paid to Class Members.
- Your legal rights are affected whether you act, or do not act. To receive a monetary payment from the Settlement Fund, you must submit a Proof of Claim form.

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. This Notice summarizes the Settlement and how Class Members will be affected by the Settlement.** For the precise terms of the settlement, please see the Stipulation available at [www.ApolloniaClassAction.com](http://www.ApolloniaClassAction.com), by contacting class counsel at [www.Robbinsllp.com/category/notices](http://www.Robbinsllp.com/category/notices), by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records ("PACER") system at <https://ecf.mnd.uscourts.gov>, or by visiting the office of the Clerk of the Court for the

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<sup>1</sup> All capitalized terms used in this Notice that are not otherwise defined herein shall have the meanings provided in the Stipulation of Settlement dated November 1, 2024 (the "Stipulation"), which are available on the websites [www.ApolloniaClassAction.com](http://www.ApolloniaClassAction.com) and [www.robbinsllp.com/category/notices](http://www.robbinsllp.com/category/notices).

United States District Court for the District of Minnesota between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

The following table provides a brief summary of YOUR rights and the relevant deadlines:

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIM FORM.</b>	The only way to get a cash payment from the Settlement Fund. <b>Proof of Claim forms must be postmarked or submitted via email or online (at <a href="http://www.ApolloniaClassAction.com">www.ApolloniaClassAction.com</a>) on or before _____, 20__.</b>
<b>OBJECT.</b>	Write to the Court about why you do not like the Settlement, by _____, 20__.
<b>GO TO THE SETTLEMENT HEARING ON _____, 20__.</b>	Ask to speak in Court about the fairness of the settlement. Requests to speak must be received by the Court and counsel for the parties in the lawsuit by _____, 20__.
<b>DO NOTHING.</b>	Get no payment from the Settlement Fund. Give up your rights.

## **SUMMARY OF IMPORTANT INFORMATION**

### **The Litigation Statement of Class Recovery**

The Class Representatives brought this class action alleging, among other things, that the Merger (as described further in paragraph 2 below) undervalued Apollonia and was the product of an unfair sales process, the Apollonia Defendants breached their fiduciary duties by agreeing to the Merger, and the St. Renatus Defendants aided and abetted those breaches.

Subject to Court approval, Class Representatives, on behalf of themselves and the Class, have agreed to settle the Action in exchange for the Settlement Fund, comprised of \$11,600,000 in cash paid by Defendants' insurers, which has been deposited into an interest-bearing escrow account. The "Net Settlement Fund" (*i.e.*, the Settlement Fund less attorneys' fees, expenses, service awards, and other costs awarded by the Court) will be distributed to Class Members in accordance with a plan of allocation (the "Plan of Allocation") that is approved by the Court. The Plan of Allocation will determine how the Net Settlement Fund shall be allocated among Class Members (discussed in paragraph 19 below). If the Court approves the proposed Settlement and Stipulation, the Action will be dismissed and members of the Class will settle and release all Released Claims (defined in paragraph 10 below).

### **Estimate of Average Amount of Class Member Recovery:**

Consistent with the Plan of Allocation and assuming that all Class Members elect to receive a portion of the Settlement Fund, Class Members are estimated to recover 76.66% of their unreturned cash invested in Apollonia as of April 16, 2019 (after the deduction of attorneys' fees, expenses, and other Court-approved costs as described herein). For example, if a Class Member had \$10,000 in outstanding cash investment in Apollonia at the time of the Merger on April 16, 2019, then they would receive approximately \$7,666.00 as a result of the Settlement. **This is only an estimate.** Class Members may recover more or less than the estimated amount depending on, among other factors, the total number of valid Claim forms, the value of valid Claim forms submitted, and whether the Court approves the Plan of Allocation (as discussed in paragraph 19 below).

### **Statement of Potential Outcome of Case and Estimated Damages**

The Settling Parties disagree on both liability and damages and do not agree on the amount of damages that would be recoverable, if any, if the Class prevailed at trial on each claim alleged. The Defendants deny that they are liable to the Class and deny that the Class has suffered any damages at all. The issues on which the parties disagree are many, but include: (1) whether Defendants engaged in conduct that would give rise to any liability to the Class under applicable state law; (2) whether Defendants have valid defenses to any such claims of liability; and (3) the amount of damages (if any) to which Class Representatives and the Class are entitled. Nevertheless, Class Representatives' best

estimate is that, if they had prevailed on all claims asserted in this Action at trial, they would have recovered between approximately \$14.9 million and \$46.7 million on behalf of the Class. Thus, the Settlement Fund represents between approximately 77.8% and 24.8% of these recovery estimates. These estimates are based on Class Representatives' experts' calculations of the estimated value of Apollonia at the time of the Merger. Defendants dispute these estimates and dispute that the Class would be entitled to any recovery at all.

### **Statement of Attorneys' Fees and Expenses Sought**

Class Counsel have prosecuted the Action on a wholly contingent basis, have not yet received any payment of attorneys' fees, and have advanced all of the expenses incurred to prosecute the claims against Defendants. Lead Class Counsel will apply to the Court for an award of attorneys' fees not to exceed one-third (33.3%) of the Settlement Fund, or approximately \$3.86 million, plus approximately \$570,443 in litigation expenses, plus interest earned on both amounts at the same rate as earned by the Settlement Fund. In addition, Class Representatives and Named Plaintiffs intend to petition the Court for Service Awards up to \$150,000 (up to \$25,000 for each of the two Class Representatives and \$20,000 for each of the five Named Plaintiffs) in the aggregate to reflect the time and effort they have expended on behalf of the Class. Any fees and expenses awarded by the Court will be paid from the Settlement Fund. Class Members are not personally liable for any such fees or expenses.

### **Further Information**

For further information regarding the Action, this Notice, how to submit a Proof of Claim form, or to review the Stipulation, please contact the Claims Administrator toll-free at (866) 828-2555, or visit the website at [www.ApolloniaClassAction.com](http://www.ApolloniaClassAction.com).

You may also contact representatives of counsel for the Class: Stephen J. Oddo, Esq., Robbins LLP, 5060 Shoreham Place, Suite 300, San Diego, CA 92122, Telephone: 619-525-3990, [www.robbinsllp.com](http://www.robbinsllp.com).

**PLEASE DO NOT CALL THE COURT OR DEFENDANTS WITH QUESTIONS ABOUT THE SETTLEMENT.**

### **Reasons for the Settlement**

Class Representatives' principal reason for entering into the Settlement is that the Settlement provides an immediate cash benefit to the Class now, without any further risk or the delays inherent in continued litigation. The cash benefit under the Settlement must be considered against the significant risk that a smaller recovery—or, no recovery at all—might be achieved after contested motions, trial, and likely appeals, a process that could last several years into the future. For Defendants, who have denied and continue to deny all allegations of liability, fault, or wrongdoing whatsoever, the principal reason for

entering into the Settlement is to eliminate the uncertainty, risk, costs, and burdens inherent in any litigation, especially in complex cases such as this Action.

## **BASIC INFORMATION**

### **1. Why did I get this Notice?**

This Notice was sent to you pursuant to an Order of a U.S. District Judge for the District of Minnesota because you or someone in your family or an investment account for which you serve as custodian may have owned Apollonia units as of the April 16, 2019 acquisition of Apollonia by St. Renatus. This Notice explains the class action lawsuit arising out of that Merger, the Settlement, Class Members' legal rights in connection with the Settlement, what benefits are available, who is eligible for them, and how to get them.

This Action is pending in the U.S. District Court for the District of Minnesota and the case is known as *Walsh, et al. v. Buchholz, et al.*, Case No. 0:19-cv-01856-JWB-DTS. The case has been assigned to the Honorable Jerry W. Blackwell. The individuals representing the Class are the Class Representatives, and the individuals they sued and who have now settled are called the Defendants.

### **2. What is this lawsuit about?**

On April 16, 2019, Apollonia was acquired by St. Renatus in a unit-for-unit Merger transaction, pursuant to which Apollonia's former unitholders received 200,000 St. Renatus common units (representing approximately 10% of the combined-company) in exchange for their Apollonia units. Prior to the Merger, Apollonia existed as a holding company to receive and distribute to investors the royalty payments owed to Apollonia and its investors from sales of Kovanaze®, a nasally-administered dental anesthetic that relied on certain intellectual property rights assigned by Apollonia. The Merger terminated the rights of Apollonia and its investors to receive royalty payments based on St. Renatus' sales of Kovanaze®.

On June 3, 2019, the Action was commenced in the District Court of Hennepin County, Fourth Judicial District, State of Minnesota. On July 15, 2019, the Action was removed to federal court by the St. Renatus Defendants.

On November 26, 2019, plaintiffs Tim Walsh, Julie Walsh, Gregory Ketchum, Patricia Ketchum, Peter Murphy, Sam Peterson, and Frank Baca filed the operative Amended Complaint Based Upon Self-Dealing and Breach of Fiduciary Duty (the "Amended Complaint"). The Amended Complaint alleges, among other things, that: the Merger undervalued Apollonia; the Merger did not reflect the value of Apollonia's claims to the intellectual property on which Kovanaze® relied; the process leading up to the merger was flawed and not reasonably designed to maximize value; the merger solicitation documents contained materially false and misleading statements and omissions; the Apollonia Defendants breached their fiduciary duties to Apollonia's unitholders by

agreeing to the Merger; and, the St. Renatus Defendants aided and abetted the Apollonia Defendants' breaches of duty.

On December 10, 2019, the Apollonia Defendants filed their Answer to the Amended Complaint and Affirmative Defenses. On December 16, 2019, the St. Renatus Defendants filed their Answer to the Amended Complaint.

On February 3, 2020, plaintiffs moved for class certification. After full briefing by the parties, the Court certified this action as a class action lawsuit, appointed plaintiffs Sam Peterson and Frank Baca as Class Representatives, appointed Robbins LLP as Lead Class Counsel, and certified the Class (described in paragraph 4).

On September 30, 2022, Class Representatives, on behalf of the Class, filed a motion seeking approval of the class notice plan and the appointment of the notice administrator. On October 11, 2022, the Court granted Plaintiffs' motion, approved the proposed class notice and notice plan, appointed A.B. Data, Ltd. as the notice administrator, and set December 22, 2022 as the date for Class Members to request exclusion (*i.e.*, "opt-out") from the certified Class.

The parties have undertaken extensive fact and expert discovery relating to the claims at issue in this Action. Specifically, Lead Class Counsel has reviewed tens of thousands of pages of documents and other materials produced by the Apollonia Defendants and the St. Renatus Defendants in response to numerous discovery requests, including e-mail communications, board materials, financial data, analyst reports, and regulatory filings and clinical data. Lead Class Counsel has also reviewed documents and other materials produced in response to subpoenas issued to twelve third-parties.

From December 2020 to July 2021, Lead Class Counsel deposed nineteen party and third-party witnesses that played a role in the Merger, the management of Apollonia and/or St. Renatus, and/or the efforts to sell both companies.

Additionally, Class Representatives and the Named Plaintiffs responded to discovery propounded by the Apollonia Defendants and the St. Renatus Defendants, including requests for production and interrogatories. Class Representatives and several Named Plaintiffs sat for depositions, where they were questioned by counsel for the Apollonia Defendants and counsel for the St. Renatus Defendants over the course of several hours.

Extensive expert discovery was undertaken by the parties. Class Representatives, on behalf of the Class, retained three expert witnesses who prepared expert reports opining on issues relating to, among other things, the damages suffered by the Class as a result of the alleged wrongdoing, Apollonia's ownership of intellectual property and intellectual property rights, and the conduct of the St. Renatus Defendants in connection with the Merger. The Apollonia Defendants and the St. Renatus Defendants retained a total of four



expert witnesses to rebut and respond to the opinions and/or conclusions of Class Representatives' experts. All of the expert witnesses were deposed by counsel.

After the conclusion of fact and expert discovery, the parties filed summary judgment motions. On July 26, 2022, Lead Class Counsel moved for partial summary judgment, asking the Court to determine the standard that would govern Class Representatives' claims at trial. On the same day, the Apollonia Defendants and the St. Renus Defendants separately moved for summary judgment seeking to dismiss the claims asserted against them in the Action. The Apollonia Defendants and the St. Renus Defendants also filed separate motions seeking to exclude the testimony of Class Representatives' expert witnesses.

On August 18, 2022, Lead Class Counsel opposed the Apollonia Defendants' and the St. Renus Defendants' respective motions. The same day, the Apollonia Defendants opposed Class Representatives' motion for partial summary judgment. On August 24, 2022, Class Representatives, the Apollonia Defendants, and the St. Renus Defendants filed reply briefs in further support of their respective motions.

On December 13, 2022, Judge David S. Doty held oral argument on the parties' respective summary judgment motions and motions to exclude the testimony of Class Representatives' expert witnesses. The Court took the issues under submission.

On May 11, 2023, Judge Doty denied on all grounds the Apollonia Defendants' and the St. Renus Defendants' respective summary judgment motions and motions to exclude the testimony of Class Representatives' expert witnesses. At the same time, Judge Doty granted in part Class Representatives' motion for partial summary judgment.

On February 16, 2024, the Action was reassigned to Judge Jerry W. Blackwell. On May 8, 2024, Judge Blackwell issued an order setting this matter for trial on August 12, 2024. On May 31, 2024, Judge Blackwell issued a second amended order setting this matter for trial on November 12, 2024. On August 5, 2024, Judge Blackwell issued a third amended order moving the trial date to November 15, 2024.

### **The Settlement Negotiations**

For several years, the parties explored the possibility of a settlement. On January 12, 2021, Lead Class Counsel and Defendants' Counsel participated in a virtual mediation with Robert A. Meyer, Esq. of JAMS ADR. The mediation was unsuccessful.

On November 30, 2021, following the close of fact discovery and the exchange of expert reports, a second mediation was held with Mr. Meyer in-person in Los Angeles. The mediation was unsuccessful.

After the summary judgment hearing, the Court ordered the parties to participate in a settlement conference with Magistrate Judge David M. Schultz, which took place on February 13, 2023. The settlement conference was unsuccessful.



Faced with the prospect of trial in the fall of 2024, the parties revisited settlement discussions in the summer of 2024. On July 8, 2024, the parties engaged in a full-day in-person mediation session with Jed. D. Melnick of JAMS ADR in New York.

At the mediation, a global resolution of all the claims asserted in the Action remained elusive. Under the direction of Mr. Melnick, the parties explored the feasibility of a partial settlement. Through these efforts, Class Representatives (on behalf of the Class) and the Apollonia Defendants were able to reach a settlement to resolve the claims asserted against the Apollonia Defendants (the "Partial Settlement"). The Partial Settlement required the Apollonia Defendants' insurer to contribute \$2,500,000 toward the Settlement Fund and to agree to certain terms of cooperation to aid in the further prosecution of the Action against the St. Renatus Defendants.

Following the mediation, Mr. Melnick continued to engage with the St. Renatus Defendants' counsel and insurers to explore whether a global settlement could be reached.

Over the course of August 19-22, 2024, Lead Class Counsel conducted in-person interviews with each of the Apollonia Defendants pursuant to cooperation terms required by the Partial Settlement.

After the cooperation interviews concluded, Mr. Melnick conducted further discussions with Lead Class Counsel and the St. Renatus Defendants' counsel and insurers. Following these discussions, on September 6, 2024, Mr. Melnick made a mediator's proposal that would require the St. Renatus Defendants to settle the Action for monetary consideration of \$9,100,000.

On September 12, 2024, Mr. Melnick informed both sides that the proposal had been accepted.

On September 16, 2024, the Settling Parties informed the Court that they reached an agreement-in-principle to settle the Action.

On November 1, 2024, the Settling Parties executed the Stipulation setting forth the terms of the Settlement.

On [DATE], the Court granted preliminary approval of the Settlement and ordered that notice of the settlement be sent to Class Members.

### **3. Why is there a Settlement?**

The Court has not decided in favor of the Defendants or Class Representatives. Instead, both sides agreed to the Settlement to avoid the distraction, costs, and risks of further litigation, and Class Representatives agreed to the Settlement in order to ensure that Class Members will receive monetary compensation.

## WHO IS IN THE SETTLEMENT

### **4. How do I know if I am affected by the Settlement? Who is included in the Class?**

The Class consists of:

**All holders of Apollonia, LLC units at the time of the April 16, 2019 acquisition of Apollonia, LLC by St. Renatus, LLC.**

Excluded from the Class by order of the Court are: (a) Defendants; (b) members of the immediate family of each individually named Defendant; (c) any person who was an officer or director of St. Renatus, LLC or Apollonia, LLC at the time of the merger of those two entities; (d) any firm, trust, corporation, officer, or other entity in which any defendant has or had a controlling interest; (e) any person who participated in the wrongdoing alleged in the Amended Complaint; and (f) the legal representatives, agents, affiliates, heirs, beneficiaries, successors in interest, or assigns of any such person or entity. Also excluded from the Class is any Class Member who requested exclusion (*i.e.*, chose to "opt-out") from the Class on or before the December 22, 2022 exclusion date previously ordered by the Court.

**Please Note:** If you are a Class Member and you wish to be eligible to receive a cash payment from the proceeds in the Net Settlement Fund, you are required to submit the Proof of Claim form and the required supporting documentation as set forth therein postmarked or submitted online on or before \_\_\_\_\_, 20\_\_.

### **5. What if I am still not sure if I am included?**

If you are still not sure whether you are included, you can ask for free help. You can contact the Claims Administrator toll-free at (866) 828-2555 or you can fill out and return or submit online the Proof of Claim form, to see if you qualify.

## THE SETTLEMENT BENEFITS – WHAT YOU GET

### **6. What does the Settlement provide?**

**CASH CONSIDERATION:** The Settlement provides that, in exchange for the release of the Released Claims (defined in paragraph 10 below) and dismissal of the Action with prejudice, Defendants have agreed to instruct their respective insurers to provide the Settlement Fund totaling \$11,600,000 in cash. After the deduction of attorneys' fees, expenses, and other costs approved by the Court, the remaining Settlement Fund proceeds will be distributed according to the Plan of Allocation (*see* paragraph 19 – How will the Settlement Fund be Allocated?).

**7. How much will my monetary payment be?**

At this point, it is not possible to make a definitive determination as to how much money any individual Class Member may receive from the Settlement Fund.

Your share of the Settlement Fund will depend on several things, including the total number of valid Proof of Claim forms submitted by Class Members, and the amount of unreturned cash that you and other Class Members who submit valid Proof of Claim forms had invested in Apollonia at the time of the Merger.

Consistent with the Plan of Allocation and assuming that all Class Members elect to receive a payment from the Settlement Fund, Class Members are estimated to recover 76.66% of their outstanding cash invested in Apollonia as of April 16, 2019 (after the deduction of attorneys' fees, expenses, and other courts approved by the Court as described herein). Thus, if a Class Member had \$10,000 in outstanding cash invested in Apollonia at the time of the Merger on April 16, 2019, it is estimated that they would receive approximately \$7,666.00 as a result of the Settlement. **This is only an estimate.**

**HOW YOU GET A PAYMENT – SUBMITTING A CLAIM FORM**

**8. How can I get a monetary payment?**

To be eligible for a monetary payment from the Settlement Fund, you **MUST** submit a Proof of Claim form. A Proof of Claim form is enclosed with this Notice and may be downloaded at [www.ApolloniaClassAction.com](http://www.ApolloniaClassAction.com). Read the instructions carefully, fill out the Proof of Claim, include all the documents the form asks for, sign it, and **mail it so that it is postmarked no later than \_\_\_\_\_, 20\_\_**. The Proof of Claim form may be submitted online at [www.ApolloniaClassAction.com](http://www.ApolloniaClassAction.com) or via e-mail at [info@ApolloniaClassAction.com](mailto:info@ApolloniaClassAction.com). If you have any questions about how to submit a Proof of Claim form, please contact the Class Administrator or Lead Class Counsel.

**9. When would I get my payment(s)?**

**The Court will hold a hearing on \_\_\_\_\_, 20\_\_, at \_\_.m. (the "Settlement Hearing"),** to decide whether to approve the Settlement. If the Court approves the Settlement, there might be appeals. It is always uncertain whether appeals can be resolved, and if so, how long it would take to resolve them. It also takes time for all the Proof of Claim form to be processed by the Claims Administrator. Please be patient. The Stipulation calls for the Settlement Fund to be distributed to eligible Class Members after the Court's order approving the Settlement becomes a "Final" and is no longer subject to appeal, and after the Claims Administrator processes the Proof of Claim forms.

<p><b>10. What am I giving up if the Settlement is approved?</b></p>
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If the Settlement is approved, that will mean that you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or the Released Parties about the Released Claims. If the Settlement is approved and if you are a Class Member and did not timely and validly request exclusion (*i.e.*, "opted out") from the Class, you will give up all "Released Claims," including "Unknown Claims" (as defined below) that you may have against the "Released Parties" (as defined below):

- "Released Claims" means all Released Defendants' Claims and all Released Plaintiffs' Claims.
- "Released Defendant Party" or "Released Defendant Parties" means each and all of the following: (a) each and every Defendant; (b) any and all of Defendants' respective past, present, or future parents, affiliates, associates, subsidiaries, divisions, related entities and affiliates, professional corporations, general or limited partnerships, limited liability corporations, limited liability companies, joint ventures, associations, joint stock companies, personal or legal representatives, unincorporated associations, any other business or legal entities, controlling persons, directors, officers, shareholders, partners, principals, Immediate Family Members, heirs, estates, estate managers, trustees, trusts, executors, administrators, predecessors, successors, successors in interest, assigns, assignees, members, agents, employees, managers, representatives, indemnifiers, insurers, co-insurers, reinsurers, advisors (including financial or investment advisors), bankers, consultants, attorneys, accountants, auditors, underwriters, and entities providing fairness opinions; (c) any entity in which a Defendant has or had a controlling interest; and (d) Defendants' Counsel.
- "Released Defendants' Claims" means any and all claims, rights, causes of action, or liabilities of every nature and description whatsoever, whether known claims or Unknown Claims, whether asserted or unasserted, whether arising under federal, state, common, or foreign law, against a Releasing Plaintiff Party that are based upon, arise out of, concern, or relate in any way to the institution, prosecution, or settlement of the Action against Defendants. Released Defendants' Claims do not include, settle, or release any claims relating to the enforcement of this Stipulation or the Settlement.
- "Releasing Plaintiff Party" or "Releasing Plaintiff Parties" means each and all of the following: (a) Class Representatives; (b) Named Plaintiffs; (c) Class Counsel; (c) each and every Class Member; and (d) any and all of Class Representatives' and each Class Member's respective past, present, or future respective parents, affiliates, associates, subsidiaries, divisions, related entities and affiliates, professional corporations, general or limited

partnerships, limited liability corporations, limited liability companies, joint ventures, associations, joint stock companies, personal or legal representatives, unincorporated associations, any other business or legal entities, controlling persons, directors, officers, shareholders, partners, principals, Immediate Family Members, heirs, estates, estate managers, trustees, trusts, executors, administrators, predecessors, successors, successors in interest, assigns, assignees, members, agents, employees, managers, representatives, indemnifiers, insurers, co-insurers, reinsurers, advisors (including financial or investment advisors), bankers, consultants, attorneys, accountants, auditors, underwriters, and entities providing fairness opinions.

- "Released Plaintiffs' Claims" means any and all claims, causes of action, demands, losses, rights, or liabilities of every nature and description whatsoever against the Released Defendant Parties, whether known claims or Unknown Claims (as defined below), whether asserted or unasserted, whether arising under federal, state, common, or foreign law, whether class or individual in nature, that (a) were asserted, alleged, or set forth in the Amended Complaint or any prior complaint filed in the Action, (b) were asserted or alleged in the Action, (c) could have been asserted, alleged, or set forth in the Amended Complaint or the Action or could in the future be asserted or alleged in any other action or in any other forum (including, without limitation, any federal or state court, or in any other court, arbitration proceeding, administrative agency, or other forum, in the U.S. or elsewhere) by Class Representatives, any Class Member, or any other Releasing Plaintiff Party arising out of, based upon, concerning, or relating in any way to both (i) the Merger of Apollonia with and into St. Renatus, and (ii) the facts, allegations, assertions, matters, events, transactions, acts, occurrences, statements, representations, misrepresentations, omissions, claims, and/or legal theories that were or could have been alleged, set forth, referred to, or involved in this Action, the Amended Complaint, or any prior complaint filed in this Action.
- "Unknown Claims" means (a) any and all Released Plaintiffs' Claims that any of the Releasing Plaintiff Parties do not know or suspect to exist in his, her, their, or its favor at the time of the release of the Released Defendant Parties, which, if known by him, her, them, or it, might have affected his, her, their, or its release of the Released Defendant Parties or decision(s) with respect to the Settlement, and (b) any and all Released Defendants' Claims that any of the Released Defendant Parties do not know or suspect to exist in his, her, their, or its favor at the time of the release of the Releasing Plaintiff Parties, which, if known by him, her, them, or it, might have affected his, her, their, or its release of the Releasing Plaintiff Parties. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon

the Effective Date of the Settlement, the Settling Parties shall expressly waive, and each Releasing Plaintiff Party and Released Defendant Party shall, by operation of the Judgment or the Alternate Judgment, be deemed to have expressly waived, any and all provisions, rights, and benefits conferred by California Civil Code §1542 and any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code §1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Class Representatives acknowledge, and the Class Members by operation of law shall be deemed to have acknowledged, that they may discover facts in addition to or different from those now known or believed to be true with respect to the Released Claims, but that it is the intention of Class Representative, and by operation of law the Class Members, to completely, fully, finally, and forever extinguish any and all Released Claims, known or unknown, suspected or unsuspected, which now exist, or heretofore existed, or may hereafter exist, and without regard to the subsequent discovery of additional or different facts. Class Representatives acknowledge, and the Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of "Released Claims" was separately bargained for and was a material element of the Settlement and was relied upon by each and all of Defendants in entering into the Stipulation.

### **THE LAWYERS REPRESENTING YOU**

#### **11. Do I have a lawyer in this case?**

The Court ordered that the law firm of Robbins LLP represents the Class Members, including you. These lawyers are called Lead Class Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

#### **12. How will the lawyers be paid?**

Class Counsel will apply to the Court for an award of attorneys' fees not to exceed one-third (33.3%) of the Settlement Fund, or approximately \$3.86 million, and approximately \$570,443 in reimbursement of litigation expenses incurred in connection with the prosecution of the Action, plus interest on such fees and expenses at the same rate as earned by the Settlement Fund. In addition, Class Representatives and Named Plaintiffs may seek Service Awards of up to \$150,000 in the aggregate for the time and effort they



have expended on behalf of the Class. Such sums as may be approved by the Court will be paid from the Settlement Fund.

### **OBJECTING TO THE SETTLEMENT**

You can tell the Court that you do not agree with the Settlement or any part of it.

#### **13. How do I tell the Court that I object to the proposed Settlement?**

If you are a Class Member, you can comment or object to the proposed Settlement and/or Lead Class Counsel's fee and expense application and the proposed Service Awards for Class Representatives and/or Named Plaintiffs. You can write to the Court setting out your comment or objection. You cannot ask the Court to order a different Settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no cash payments will be sent out, and the lawsuit will continue. If that is what you want to happen, you should object. The Court will consider your views.

Any objection to the Settlement must be in writing. Written objections should: (i) identify the case name, state the name, address, and telephone number of the Person objecting and must be signed by the objector, even if the objector is represented by counsel; (ii) contain a statement of the Class Member's objection or objections, and the specific reasons for each objection, including any legal and evidentiary support the Class Member wishes to bring to the Court's attention and whether the objection applies only to the objector, a specific subset of the Class, or to the entire Class; (iii) include documents sufficient to prove membership in the Class, including the objecting Class Member's ownership of Apollonia units at the time of the Merger; and (iv) identify all other class action settlements in the prior two years in which the objector and his, her, its, or their counsel has previously objected.

If you file a timely written objection, you may, but are not required to, appear at the Settlement Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

All written objections and supporting papers must (a) clearly identify the case name and number, (b) be submitted to the Court either by filing them electronically or in person at any location of the United States District Court for the District of Minnesota or by mailing them to the Court Clerk, United States District Court for the District of Minnesota, 316 N. Robert Street, Suite 100, St. Paul, MN 55101, and (c) be filed or postmarked on or before \_\_\_\_\_, 20\_\_.

### **THE COURT'S SETTLEMENT HEARING**

The Court will hold a hearing to decide whether to approve the proposed Settlement. You may attend and you may ask to speak, but you do not have to.



**14. When and where will the Court decide whether to approve the proposed Settlement?**

The Court will hold the Settlement Hearing at .m., on \_\_\_\_\_, 20\_\_, in the Courtroom of the Honorable Jerry W. Blackwell, U.S. District Judge, at the U.S. District Court in and for the District of Minnesota, Warren E. Burger Federal Building and U.S. Courthouse, 316 North Robert Street, Courtroom 3B, St. Paul, MN 55101.

At the hearing, the Court will consider whether the Settlement and requested fees and expenses are fair, reasonable, and adequate. If there are comments or objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. After the Settlement Hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take. You should be aware that the Court may change the date and time of the Settlement Hearing without another notice being sent to Class Members. If you want to attend the hearing, you should check with Lead Class Counsel or the Settlement website [www.ApolloniaClassAction.com](http://www.ApolloniaClassAction.com) beforehand to be sure that the date and/or time has not changed.

**15. Do I have to come to the Settlement Hearing?**

No. Class Members do not need to attend the Settlement Hearing. Lead Class Counsel will address any questions the Court may have. While not required to attend, you are welcome to do so at your own expense. If you send an objection, you do not have to come to Court to talk about it. The Court will consider any objection made in accordance with the requirements in paragraph 13 above. You may also pay your own lawyer to attend, but it is not necessary. Class Members do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

**16. May I speak at the hearing?**

If you object to the Settlement or the amount of fees and expenses requested, you may ask the Court for permission to speak at the Settlement Hearing. To do so, you must file an objection with the Court prior to the objection deadline (*see* paragraph 13 above).

**IF YOU DO NOTHING**

**17. What happens if I do nothing?**

If you do nothing, you will not receive any monetary payment from the Settlement Fund.

## GETTING MORE INFORMATION

### **18. How do I get more information?**

For even more detailed information concerning the matters involved in this Action, you can obtain answers to common questions regarding the proposed Settlement by contacting the Claims Administrator toll-free at 1-866-828-2555. Reference is also made to the Stipulation, to the pleadings in support of the Settlement, to the Orders entered by the Court and to the other settlement-related papers filed in the Action, which are posted on the Settlement website at [www.ApolloniaClassAction.com](http://www.ApolloniaClassAction.com), and which may be inspected at the Office of the Clerk of the U.S. District Court in and for the District of Minnesota, Warren E. Burger Federal Building and U.S. Courthouse, 316 North Robert Street, Suite 100, St. Paul, MN 55101, during regular business hours. For a fee, all papers filed in this Action are available at [www.pacer.gov](http://www.pacer.gov).

## **PLAN OF ALLOCATION OF NET SETTLEMENT AMOUNT AMONG CLASS MEMBERS**

### **19. How will the Net Settlement Fund be allocated?**

#### **Plan of Allocation for the Net Settlement Fund:**

The Net Settlement Fund (*i.e.*, the Settlement Fund less fees, expenses, and other Court-approved costs) shall be distributed to Class Members who submit timely and valid Proof of Claim forms to the Claims Administrator ("Authorized Claimants"). The Net Settlement Fund will be disbursed by the Claims Administrator to each Authorized Claimant as soon as reasonably practicable and in the manner set forth herein.

Prior to the Merger, the rights and entitlements of the holders of Apollonia units were set forth in Apollonia's Articles of Organization and Member Control and Operating Agreement (the "Operating Agreement"), as amended and restated. Under the Operating Agreement, investors that contributed cash to acquire their Apollonia units were entitled to preferential priority distribution rights (the "Priority Distribution Rights"). The Priority Distribution Rights required Apollonia to prioritize all future cash distributions toward investors with Priority Distribution Rights until all investors holding such rights received the full repayment of the cash amount(s) they invested to acquire their Apollonia units. The original amount of cash invested by each holder of Apollonia units with Priority Distribution Rights, as well as each such Apollonia unitholder's balance of unreturned invested cash as of the Merger (*i.e.*, the amount of invested cash not returned to investors via the Priority Distribution Rights as of April 16, 2019), is set forth in Apollonia's books and records.

Under the Operating Agreement, holders of Apollonia units without Priority Distribution Rights (*i.e.*, Apollonia unitholders who did not contribute cash to acquire their units) were eligible to receive cash distributions from the company on a pro rata basis only

after the full amount of invested cash had been returned to the holders of Apollonia units with Priority Distribution Rights.

The Net Settlement Fund will be distributed in a manner that gives effect to the Priority Distribution Rights of Apollonia unitholders. In the unlikely event there are sufficient funds in the Net Settlement Fund, each Authorized Claimant with Priority Distribution Rights will receive a cash payment equal to, but not exceeding, the amount of each Authorized Claimant's unreturned cash investment in Apollonia.

In the scenario where, after giving effect to the Priority Distribution Rights of Authorized Claimants, a portion of the Net Settlement Fund still remains, then Authorized Claimants will receive cash payments equal to the product of (i) the number of Apollonia units held by the Authorized Claimant, and (ii) the per-unit recovery, which will be determined by dividing the remaining amount of the Net Settlement Fund by the total number of Apollonia units held by all Authorized Claimants.

If, however, and as is more likely, the amount in the Net Settlement Fund is not sufficient to permit a full payment of cash to all Authorized Claimants with Priority Distribution Rights, then each Authorized Claimant shall receive a pro rata cash payment equal to the product of the (i) the Net Settlement Fund, and (ii) an Authorized Claimant's unreturned cash invested divided by the total amount of unreturned cash invested for all Authorized Claimants with Priority Distribution Rights.

Cash distributions will be made to Authorized Claimants after all claims have been processed and after the Court has finally approved the Settlement. If any funds remain in the Net Settlement Fund by reason of un-cashed distribution checks or otherwise, then, after the Claims Administrator has made reasonable and diligent efforts to have Class Members cash their distributions, any balance remaining in the Net Settlement Fund after at least one hundred and twenty (120) days after the initial distribution of such funds shall be used: (a) first, to pay any amounts mistakenly omitted from the initial disbursement; (b) second, to pay additional settlement administration fees, costs, and expenses, including those of Lead Class Counsel as may be approved by the Court; and (c) to make a second distribution to claimants who cashed their checks from the initial distribution and who would receive at least \$10.00 (after payment of the estimated costs, expenses, or fees to be incurred in administering the Net Settlement Fund and in making this second distribution), if such second distribution is economically feasible. These redistributions shall be repeated, if economically feasible, until the balance remaining in the Net Settlement Fund is *de minimis* and such remaining balance shall then be distributed to the Federal *Pro Se* Project, a partnership between the United States District Court for the District of Minnesota and the Minnesota Chapter of the Federal Bar Association, which seeks to increase access to the federal court system and address the unique challenges of *pro se* litigants.

Defendants, their respective counsel, and all other Released Parties will have no responsibility or liability whatsoever for the investment of the Settlement Fund, the distribution of the Net Settlement Fund, the Plan of Allocation, or the payment of any

claim. Class Representatives and Class Counsel, likewise, will have no liability for their reasonable efforts to execute, administer, and distribute the Settlement.

**SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES**

If you caused an individual or organization, for a beneficial interest other than yourself, to hold Apollonia units that were exchanged for St. Renatus common units on or about April 16, 2019 in connection with the close of the Merger, the Court has directed that, WITHIN TEN (10) CALENDAR DAYS OF YOUR RECEIPT OF THIS NOTICE, you either (a) provide to the Claims Administrator the name and last known address of each person or organization that held Apollonia units during such time period, or (b) request additional copies of this Notice and the Proof of Claim form, which will be provided to you free of charge, and within ten (10) calendar days mail the Notice and Proof of Claim form directly to the beneficial owners of the Apollonia units referred to herein. If you choose to follow alternative procedure (b), upon such mailing, you must send a statement to the Claims Administrator confirming that the mailing was made as directed and retain the names and addresses for any future mailings to Class Members. You are entitled to reimbursement from the Settlement Fund of your reasonable expenses actually incurred in connection with the foregoing, including reimbursement of postage expense and the cost of ascertaining the names and addresses of beneficial owners. Your reasonable expenses will be paid upon request and submission of appropriate supporting documentation. All communications concerning the foregoing should be addressed to the Claims Administrator:

*Apollonia Class Action*  
c/o A.B. Data, Ltd.  
P.O. Box 173099  
Milwaukee, WI 53217  
(866) 828-2555  
[www.ApolloniaClassAction.com](http://www.ApolloniaClassAction.com)

DATED: \_\_\_\_\_, 20\_\_

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

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