

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

KAVU, INC. on behalf of itself and all others)) CLASS ACTION											
similarly situated,) No. 06-2-12997-1 SEA										
) NOTICE OF CLASS ACTION									
Plaintiff,) SETTLEMENT and								
v.) CLAIM FORM							
BUSINESS PAYMENT SYSTEMS, L.L.C.,) Defendant.						
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READ THIS CAREFULLY -- YOU MAY BE ENTITLED TO A RECOVERY UNDER THE TERMS OF THIS PROPOSED SETTLEMENT

IF SO, YOU WILL BE REQUIRED TO RETURN A CLAIM FORM AS DESCRIBED BELOW

TO: All persons and entities in the United States or its Territories to whom an unsolicited fax was sent by or on behalf of Business Payment Systems or any of the Released Parties (defined in the Settlement Agreement at ¶7), including but not limited to Action A Trading Ltd., Business Payment Systems, LLC, L'Chaim Merchant Services, Corp., Outside Ventures, LLC, Tribul Merchant Services, LLC, Tribul Cash, LLC, Tribul, LLC, Merchant Processing Services, Corp., Second Source Funding, LLC, Final Funding Source, Final Source Funding, Simon Says Yes, LLC and Trinity Merchant Services, LLC, during the period April 17, 2001 to the date of settlement, who have not previously compromised or settled with any of the Released Parties any claims against the Released Parties arising from or related to the transmission of unsolicited facsimiles (the "Settlement Class").

1. WHY SHOULD I READ THIS NOTICE?

The purpose of this Notice is to inform you that there has been a proposed Settlement of claims asserted in this action with respect to alleged unsolicited facsimile advertisements sent by or on behalf of Business Payment Systems or any of the Released Parties between April 17, 2001 and February 27, 2008. This Notice summarizes the Settlement and your potential rights under it.

2. WHAT IS THIS LAWSUIT ABOUT?

The plaintiff filed this lawsuit on April 17, 2006, alleging that Business Payment Systems improperly sent unsolicited advertisements via facsimile between a period beginning five years earlier and the filing of the complaint. Business Payment Systems has denied all allegations of wrongdoing and liability. Among other things, Business Payment Systems denies that the advertisement it sent was unsolicited and denies that many of the defined class members ever received the facsimile.

3. WHAT CLAIMS DOES THE SETTLEMENT COVER?

The Settlement resolves all claims asserted in the lawsuit, including all claims relating to unsolicited facsimile advertisements sent by or on behalf of Business Payment Systems or Released Parties between April 17, 2001 and February 27, 2008.

4. WHO IS COVERED BY THIS SETTLEMENT?

All persons in the Settlement Class, as defined above. If you received this notice, it means that Business Payment Systems records indicate that you may be part of the Settlement Class.

5. WHAT ARE THE TERMS OF THE SETTLEMENT?

(a) The Settlement provides for the establishment of a Settlement Fund in the amount of \$2,500,000.00. From that Settlement Fund, each class member who returns a properly completed claim form affirming that they received an unsolicited fax advertisement from or on behalf of Business Payment Systems or any Released Party between April 17, 2001 and February 27, 2008 will be paid \$1,500.00 or a pro rata share of the Settlement Fund, depending upon the number of class members who file claims. This notice is being sent to 75,000 persons who may have received an unsolicited fax advertisement from or on behalf of Business Payment Systems or any Released Party during the relevant time period. Only the person who owned the fax machine (or a predecessor in interest) may submit a claim for an unsolicited facsimile advertisement received on a particular fax machine. A Claim Form is enclosed with this notice. In the event the amount available for payments to claimants is not sufficient for payment of \$1,500.00 to each claimant, then each claimant will receive a pro rata share of the amount that is available.

(b) Subject to approval by the Court, Business Payment Systems' Insurer has agreed to pay \$5,000.00 to the Class Representative and \$5,000.00 to Candida Corporation, another entity that filed a class action lawsuit. These payments will compensate the Class Representatives for their time, effort, and the risk it undertook to serve as class representative in pursuing this class action and for any individual claims it has against Business Payment Systems arising from or relating to the matters that are the subject of this Settlement.

(c) In exchange for the benefits under the Settlement, Class Members will release Business Payment Systems and the Released Parties (defined in the Settlement Agreement at ¶7) from any and all liability with respect to all claims arising out of or relating to unsolicited facsimile advertisements.

(d) Plaintiff's counsel will ask the Court to approve an award of attorneys' fees and expenses in an amount not to exceed 25% of the Settlement Fund. If any portion of the Settlement Fund remains after the payments to class members, as provided in subparagraphs (a) and (b) of this paragraph 5, and payment of attorneys' fees and expenses, as approved by the Court, such remaining portion of the Settlement Fund will be distributed to the Legal Aid for Washington Fund, which promotes access to the civil justice system for low income persons.

6. DO I NEED TO DO ANYTHING IN ORDER TO REMAIN A MEMBER OF THE CLASS?

If you fit within the description of the Class set forth above, you will automatically remain a member of the Class, unless you take steps to exclude yourself, described below. You may also appear by your own attorney, at your own expense.

7. WHO REPRESENTS THE SETTLEMENT CLASS?

(a) KAVU, Inc. received an unsolicited facsimile advertisement from Business Payment Systems in 2005, and has been designated by the Court as Class Representative.

(b) The Court has appointed Keller Rohrbach L.L.P., Williamson & Williams, and Edelman Combs Latturmer & Goodwin, LLC as Class Counsel. These attorneys ("Class Counsel") represent your interests and those of the Class.

8. HOW DO I GO ABOUT FILING A CLAIM?

You are eligible to be paid under the Settlement only if you return the attached Claim Form, properly filled out. You must return your Claim Form to the address shown on the Claim Form, and it must be postmarked no later than June 3, 2008.

9. HOW CAN I EXCLUDE MYSELF FROM THE SETTLEMENT?

If you do not want to remain a Class Member and participate in the Settlement, then you must sign and return an exclusion request to CLAIMS ADMINISTRATOR, Attention Business Payment Systems Class Action, P.O. Box 3170, Portland, OR 97208-3170, postmarked no later than June 3, 2008. The exclusion request must include the following statement: "I want to be excluded from the Business Payment Systems Class Action."

By electing to be excluded from the Plaintiff Settlement Class, (1) you will not share in any recovery if the Settlement is approved; (2) you will not be bound by any further orders or judgments entered for or against the Class; (3) you will not be entitled to comment on or object to any proposed settlement; and (4) you may present any claims you have against Business Payment Systems by filing your own lawsuit at your own expense, or by seeking to intervene in this lawsuit as an individual plaintiff at your own expense.

10. WHAT IS THE SETTLEMENT APPROVAL PROCEDURE?

The Court will hold a Hearing on June 23, 2008, at 9:00 AM, in the Courtroom of the Honorable Harry J. McCarthy, King County Courthouse, Seattle, Washington, to consider whether the Settlement should be approved, as well as to consider Class Counsel's request for fees and costs and the proposed payment to the Class Representative.

If you exclude yourself from the Class, you are not entitled to comment on or object to the Settlement or the fee request, or be heard at the Hearing. If you decide to remain in the Class and you wish to comment on or object to the Settlement, you may submit your comments in writing to the CLAIMS ADMINISTRATOR Business Payment Systems Class Action, P.O. Box 3170, Portland, OR 97208-3170, postmarked no later than June 3, 2008. The Claims Administrator will forward copies to the Court and to counsel for Business Payment Systems Class Counsel.

If you wish to address the Court at the Hearing, you must indicate your intent to do so in writing to the CLAIMS ADMINISTRATOR postmarked no later than June 3, 2008, who will forward copies to the Court and to counsel for Business Payment Systems and Class Counsel.

If you do not comply with these procedures, you will not be entitled to be heard at the Hearing or otherwise to contest the approval of the Settlement or Fee Amount, or appeal from any orders or judgments of the Court.

If the Court approves the Settlement, the approval will bind all members of the Class, except those who exclude themselves, and the judgment will release and dismiss all Class Members' settled claims.

11. WHEN WILL THE PAYMENT PROCESS START?

If the Court approves the Settlement, checks to claimants who submitted timely and proper claims will be mailed approximately 30 days after approval becomes final.

12. WHERE DO I GET ADDITIONAL INFORMATION?

If you want further information, or would like copies of the Complaint, the Settlement Agreement, or the papers filed in support of the proposed Settlement, you may write to Mark A. Griffin at Keller Rohrback L.L.P., 1201 Third Avenue, Suite 3200, Seattle, Washington 98101. You may also obtain more information by e-mailing Mark A. Griffin at mgriffin@kellerrohrback.com. In addition, further information is available at the following websites: <http://www.BusinessPaymentSystemsSettlement.com> and <http://www.edcombs.com>.

PLEASE DO NOT CONTACT THE COURT.

The foregoing is only a summary of the Action and the proposed Settlement. You may seek the advice of your own attorney, at your expense, if you so desire. For more detailed information, you may review the papers on file in the lawsuit, which may be inspected during regular business hours at the Clerk's Office, King County Superior Court, Seattle, Washington.

Dated: February 27, 2008

The Honorable Harry J. McCarthy
Superior Court Judge

BUSINESS PAYMENT SYSTEMS CLASS ACTION CLAIM FORM

You must provide all of the following information for your claim to be accepted.

1. Your name or business name and the probable fax number associated with the fax machine that received the fax advertisement from Business Payment Systems.

Name: _____

Fax No: _____

2. Current mailing address:

3. Taxpayer Identification No: _____

You must also confirm the following as a condition to payment:

I hereby confirm that I (or my predecessor in interest) received an unsolicited facsimile advertisement from or on behalf of Business Payment Systems or any of the Released Parties.

I certify that I am the owner of the fax machine that received the subject fax advertisement and that I am therefore the only person entitled to receive payment for the fax sent to the above fax number.

I understand that by participating in this Settlement, I am providing a release to the Defendant and its affiliated entities and their officers, directors, employees and agents.

I declare under penalty of perjury under the laws of the State of Washington that, to the best of my knowledge and belief, the foregoing statements are true and correct.

Signed this ___ day of _____, 2008, at _____.

[City & State]

Claimant Signature

Return form to:

Business Payment Systems Claims Administrator
P.O. Box 3170
Portland, OR 97208-3170