

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

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Budd Engineering Corporation,	)	
	)	
Plaintiff,	)	Case No.: 1:07-cv-1463
	)	
vs.	)	Honorable Mark Filip
	)	
Builders Information Group, Inc.,	)	
d/b/a Bidclerk, and John Does 1-10,	)	
	)	
Defendants.	)	
	)	
	)	

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**NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT**

**TO:** All persons and entities with facsimile telephone numbers assigned to area codes within the State of Illinois who, on or after February 7, 2003, received a facsimile from Builders Information Group, Inc. (sometimes doing business as BidClerk, ConstructWorks, and/or Constructworks.com) promoting the commercial availability of its securities, goods, or services who did not consent to the sending of such facsimile(s) and did not have an existing business relationship with Builders Information Group, Inc. (the "Class")

**PLEASE READ THIS NOTICE CAREFULLY.  
THIS IS NOT A NOTICE OF A LAWSUIT AGAINST YOU. IF YOU WISH TO  
RECEIVE A PORTION OF THE SETTLEMENT PROCEEDS, YOU MUST SUBMIT A  
CLAIM FORM BY NOVEMBER 8, 2007.**

**WHAT THIS LAWSUIT IS ABOUT**

Plaintiff filed the above-captioned lawsuit in the Circuit Court of Cook County, Illinois, against defendant Builders Information Group, Inc. ("BidClerk"), alleging on behalf of the putative class violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 (TCPA), the Illinois Consumer Fraud Act, 815 ILCS 505/2 (ICFA), and the common law of conversion. Plaintiff alleged that BidClerk transmitted uninvited advertising facsimiles in violation of the TCPA and the ICFA and that the transmissions also constituted common-law conversion. BidClerk denies the Plaintiff's allegations and denies having committed any wrongdoing. BidClerk also removed the lawsuit to the United States District Court for the Northern District of Illinois (the "Court").

The Court granted preliminary approval of the settlement, subject to a fairness hearing which will take place on December 18, 2007, at 10:00 a.m. at the United States District Court for

the Northern District of Illinois, Everett McKinley Dirksen Building, 219 South Dearborn Street, Courtroom 1919, Chicago, Illinois 60604.

You are being sent this notice because you appear to be a member of the Class as defined above. This notice explains the nature of the lawsuit and the terms of the settlement and informs you of your legal rights and obligations.

**YOU WILL BE BOUND BY THIS SETTLEMENT IF YOU HAVE RECEIVED THIS NOTICE AND DO NOT EXCLUDE YOURSELF FROM THIS AGREEMENT BY NOVEMBER 8, 2007.**

NO ADMISSION OF LIABILITY

By settling this lawsuit, BidClerk is not admitting that it has done anything wrong. BidClerk expressly denies that it did anything wrong.

THE PROPOSED SETTLEMENT

Plaintiff and BidClerk have agreed to the settlement described below. If you do not wish to be part of the settlement, you must exclude yourself by November 8, 2007. If the settlement is finally approved and you do not exclude yourself, you will receive the benefits described below only if you submit a valid claim form by November 8, 2007.

Relief to Plaintiff Budd Engineering Corporation. BidClerk agrees to pay \$3,000 to Plaintiff Budd Engineering Corporation for its statutory damages and in recognition of its services as class representative.

Class Recovery. BidClerk agrees to pay \$60,000, less attorneys' fees (described below), to be divided equally among Class members who submit a valid claim form by November 8, 2007, and do not exclude themselves from the Class. The Class members who submit claims will be paid by check, which will be void 60 days after it is issued. The class defined above includes approximately 19,188 persons and entities in Illinois. Defendant estimates that approximately 60% of the Class (or 11,513 persons and entities) received one or more of the faxes at issue.

Submitting a Claim. To receive payment you will need to complete and the claim form at the end of this notice and send it by November 8, 2007, to:

Budd Settlement  
PO Box 56798  
Jacksonville, FL 32241-6798

You do not need to do anything further to remain in the Class. So long as you do not choose to exclude yourself from this case, you will remain a Class Member and will receive a payment if the Court finally approves the settlement and you timely file a completed claim form at the end of this notice. Delay in making a claim could result in denial of a claim.

Attorney's Fees. Plaintiff's counsel will receive attorneys' fees and costs not to exceed \$20,000 to be paid out of the \$60,000 payment mentioned above, subject to Court approval. BidClerk has agreed not to oppose a request for approval of attorneys' fees and costs of no more than \$20,000. Plaintiff's counsel will not request additional fees and costs from the Class members.

Costs. BidClerk will pay all costs associated with the notice and administration of the settlement.

Release. Unless you exclude yourself from the settlement, you will be part of the Class. By staying in the Class, all of the Court's orders will apply to you, and you will give BidClerk a "release." A release means you can't sue or be part of any other lawsuit against BidClerk about the claims or issues in this lawsuit ever again.

### CLASS COUNSEL'S OPINION OF THE VALUE OF THE SETTLEMENT

The TCPA provides that the recipient of an uninvited advertising facsimile transmission who does not have an existing business relationship with the sender of the facsimile can recover a maximum of \$500 for each facsimile received, or a maximum of \$1,500 for each facsimile that is sent with the intent to violate the TCPA. The ICFA provides that a plaintiff may recover his or her actual damages, injunctive relief, plus reasonable attorneys' fees. The common law of conversion provides that a plaintiff may recover his or her actual damages due to wrongdoing by a defendant.

BidClerk has agreed to pay \$60,000 to settle the Class members' claims and to pay the attorneys' fees of Class counsel. Class Counsel believes that Plaintiff had a good chance of prevailing in this case had it gone to trial. BidClerk has disputed Plaintiff's claims and believes that it has complete defenses to Plaintiff's claims and also defenses to claims that the Class members might assert. BidClerk has raised and reserved its defenses. There are risks to all parties associated with further litigation.

If you excluded yourself from the Class, filed your own lawsuit, and successfully proved Defendant's liability under the TCPA, you could receive between \$500 and (if the violation was willful) \$1,500 in statutory damages; if you successfully proved Defendant's liability under the ICFA, you could recover (a) any actual damages, if you can prove you actually suffered them, (b) injunctive relief, and (c) attorneys' fees; if you successfully proved Defendant's liability under the common law of conversion, you could recover any actual damages, if you can prove you actually suffered them.

When deciding whether to participate in the settlement or to exclude yourself, you should balance the certainty of receiving a benefit through this settlement against the potential of receiving more and the potential of receiving nothing at all if you were to opt out and pursue your own individual claim against BidClerk.

Because the settlement provides Class members with a certain and fair recovery without the further expense and risk of litigation, Plaintiff and Class Counsel have concluded that this settlement is fair, reasonable, and prudent.

## FAIRNESS HEARING

A hearing will be held on the fairness of the proposed settlement. At the hearing, the Court will be available to hear any objections and arguments concerning the fairness of the proposed settlement, including the amount of the award to Plaintiff's counsel of costs and attorneys' fees. The hearing will take place on December 18, 2007, at 10:00 a.m. before the Honorable Mark Filip at the United States District Court for the Northern District of Illinois, Everett McKinley Dirksen Building, 219 South Dearborn Street, courtroom 1919, Chicago, Illinois 60604. YOU ARE NOT OBLIGATED TO ATTEND THIS HEARING.

### YOUR OPTIONS

1. If you wish to receive a share of the class recovery, you must complete and send in the claim form at the end of this notice by November 8, 2007. Submitting a claim form is the only way to get a share of the money that is being paid to the class. If you do not submit a claim form and do not exclude yourself from the class action and the settlement (as described below), you will not get any of the money that will be distributed, and your claims against BidClerk will be released. You must send your claim form, postmarked by November 8, 2007, to:

Budd Settlement  
PO Box 56798  
Jacksonville, FL 32241-6798

2. You have the right to exclude yourself from both the class action and the settlement by sending a written request for exclusion to the following:

Daniel A. Edelman (18425)  
Heather Kolbus  
EDELMAN, COMBS, LATTURNER & GOODWIN, LLC  
120 S. LaSalle Street, Suite 1800  
Chicago, IL 60603

Charles F. Webber  
FAEGRE & BENSON LLP  
90 South Seventh Street, Suite 2200  
Minneapolis, MN 55402-3901

(Counsel for Plaintiff and the Class)

(Counsel for Defendant)

Any request for exclusion must be **received** by the above people on or before November 8, 2007, and must refer to your name, address, and the name and number of the case, which are at the top of this form.

3. If you object to the settlement, and wish to submit an objection rather than simply exclude yourself from the class action, you may submit your objection in writing to the Clerk of the United States District Court for the Northern District of Illinois, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604. The objection must be received by the Clerk of the Court on or before November 8, 2007, and must refer to the name and number of the case, which is at the top of this form. You must also serve copies of your objection on each of the attorneys for Plaintiff and for Defendant listed in the last paragraph by the same date. Any objection must include your name and address, the name and number of the case, and a statement of the reasons why you believe that the Court should find that the proposed settlement is not in the best interests of the Class. If you do file an objection and wish it to be

considered, you may also appear at the hearing before Judge Filip on December 18, 2007. YOU ARE NOT REQUIRED TO ATTEND THIS HEARING. Please note that it is not sufficient to simply state that you object. You must state reasons why the settlement should not be approved.

You may attend the hearing before the Court or have a lawyer appear on your behalf, but if you wish to do either of those things, you must file an appearance with the Court by November 8, 2007. If you wish to have a lawyer appear on your behalf, it will be at your expense.

Any party who otherwise does not exclude himself or herself from the settlement, as described above, will be bound by the settlement agreement and release of claims against BidClerk, as approved by the Court.

If you choose to exclude yourself from the class action and settlement you will not receive a benefit under this agreement. Otherwise you will be bound by the settlement agreement and release. If the settlement is not approved, the case will proceed as if no settlement had been attempted. There can be no assurance that if the settlement is not approved, the class will recover more than is provided in the settlement, or indeed, anything.

This description of the case is general and does not cover all of the issues and proceedings thus far. In order to see the complete file, including a copy of the settlement agreement, you should visit the office of the Clerk of the United States District Court for the Northern District of Illinois, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604. The Clerk will make the files relating to this lawsuit available to you for inspection and copying at your own expense.

#### INQUIRIES

Any questions you or your attorney have concerning this notice should be directed to:

EDELMAN, COMBS, LATTURNER & GOODWIN, LLC (18425)  
120 S. LaSalle Street, Suite 1800  
Chicago, IL 60603  
312-739-4200  
312-419-0379 (fax)  
[info@edcombs.com](mailto:info@edcombs.com)  
<http://www.edcombs.com>

Please include the case name and number, your name and your current return address on any letters, not just the envelopes.



**NOTE: THIS CLAIM FORM WILL NOT BE VALID WITHOUT ALL INFORMATION COMPLETE AND MAILED TO: Budd Settlement, PO Box 56798, Jacksonville, FL 32241-6798, POSTMARKED BY NOVEMBER 8, 2007.**