

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

LINDA HOPPE and JERRY BROWN,	)	
individually and on behalf of all others	)	
similarly situated,	)	
	)	
Plaintiffs,	)	
	)	06 C 3026
v.	)	
	)	Magistrate Judge Cole
GREAT WESTERN BUSINESS	)	
SERVICES, LLC, doing business as GWBS,	)	
GENERATIONAL EQUITY, LLC f/k/a	)	
GW EQUITY, LLC and JOHN DOES 1-10,	)	
	)	
Defendants.	)	

**NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT**

**TO: *TCPA Class:*** All persons and entities with facsimile numbers, who, on or after May 3, 2002, were sent faxes by or on behalf of defendants GWBS and/or GWE promoting its goods or services for sale, and who were not provided an “opt out” notice as described in 47 U.S.C. § 227.

*Illinois Class:* All persons and entities with Illinois facsimile numbers, who, on or after May 3, 2003, were sent faxes by or on behalf of defendants GWBS and/or GWE promoting its goods or services for sale, and who were not provided an “opt out” notice as described in 47 U.S.C. § 227.

***PLEASE READ THIS NOTICE CAREFULLY.  
THIS IS NOT A NOTICE OF A LAWSUIT AGAINST YOU.***

***IF YOU WISH TO RECEIVE A PORTION OF THE BENEFIT DESCRIBED BELOW  
 (“FUND”), YOU MUST COMPLETE AND RETURN THE CLAIM FORM BY  
DECEMBER 1, 2009.***

**1. WHY DID YOU GET THIS NOTICE?**

You received this Notice and Claim Form because it has been determined that you may be a member of the Class(es), defined above. The purpose of this Notice is to advise you of the benefits you could receive from a class action lawsuit against defendants Great Western Business Services, LLC d/b/a GWBS (“GWBS”) and Generational Equity, LLC f/k/a GW Equity, LLC

("GWE") and of a hearing to consider whether to approve the distribution of the funds available to the classes and enter judgment against GWBS, to be held on **January 5, 2010 at 9:00 a.m.** before Judge Cole, Room 1838 of the United States District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, Illinois 60604 ("Fairness Hearing").

GWBS offered to have judgment entered in favor of plaintiffs and the class in the amount of \$500,000 ("Fund"). Plaintiffs accepted GWBS's offer, subject to Court approval.

Subsequently, GWE and Plaintiffs and the Class reached a settlement in the amount of \$112,500 ("Fund"), subject to Court approval.

The Fund offered by GWBS in the amount of \$500,000 and the Fund offered by GWE in the amount of \$112,500, will be combined to create a Fund in the amount of \$612,500. This amount will also be distributed to the Class Members in each of the class(es), and this Notice tells you what you can do to receive your portion of the recovery.

## **2. WHAT IS THIS LAWSUIT ABOUT?**

Plaintiffs, Linda Hoppe and Jerry Brown, filed this action in the Circuit Court of Cook County, Illinois. Defendant GWBS removed this case to the United States District Court for the Northern District of Illinois, Eastern Division, where it is pending. On behalf of a putative class, Plaintiffs alleged that the Defendants GWBS and GWE violated the Telephone Consumer Protection Act, 47 U.S.C. §227 ("TCPA"), the Illinois Consumer Fraud Act, 815 ILCS 505/2 ("ICFA") and Illinois common law (conversion) by sending unsolicited facsimile advertisements.

Without admitting liability, GWBS has extended an offer of judgment to Plaintiffs and the class to avoid the costs and uncertainties of litigation. GWE denies the Plaintiffs' allegations but has agreed to settle to avoid the costs and uncertainties of litigation. Counsel for Plaintiffs has conducted an extensive investigation into the relevant facts and law underlying Plaintiffs' claims, and has concluded that the outcome of the lawsuit is uncertain and that accepting the offer of judgment from GWBS and the settlement offer from GWE is in the best interests of Plaintiffs and the Class.

GWE denies that it acted unlawfully, denies liability to Plaintiffs and the Settlement Class, and denies that class certification is required or appropriate if there was not a Settlement.

This Notice should not be understood as an expression of any opinion by the Court as to the merits of any of the claims asserted by Plaintiffs or any of the defenses asserted by GWBS or GWE.

## **3. THE JUDGMENT AND SETTLEMENT BENEFITS - WHAT YOU GET**

A Fund will be established by GWBS and GWE in the aggregate amount of \$612,500. After deducting attorney's fees and costs (up to 30% of the fund), plus costs of notice and

administration to the class, and a payment to the Plaintiffs and class representatives of \$6,000, the net fund remaining will be distributed as described below by check to Class Members. Your share of the Fund depends on the number of Class Members who submit valid claim forms and the number of Class Members who opt-out.

The TCPA Class consists of approximately 44,846 persons and entities nationwide. The Illinois Class consists of approximately 6,400 Illinois persons and entities. All members of the Illinois Class are members of the TCPA Class. Members of the Illinois Class will recover 100.1% of the amount paid to persons who are only members of the TCPA Class. Members of the TCPA Class may recover a maximum of \$500 per claim. Members of both the Illinois Class and the TCPA Class may recover a maximum of \$505 per claim.

Plaintiffs' counsel estimates that: if 10% of the TCPA Class members submit a claim form, you may receive \$89.80; and if 25% of the TCPA Class members submit a claim form, you may receive \$35.92. Plaintiffs' counsel estimates that: if 10% of the Illinois Class members submit a claim form, you may receive \$90.70; and if 25% of the Illinois Class members submit a claim form, you may receive \$36.28. Any unclaimed settlement funds, which include any checks that are not cashed by class members, will be paid to charities.

#### **4. WHAT AM I GIVING UP IF I DON'T WANT TO RECEIVE THE BENEFITS OF THE LAWSUIT OR SETTLEMENT?**

If the proposed judgment is approved and becomes final, you will not be able to sue or be part of any other lawsuit against GWBS about the claims or issues in this lawsuit. By staying in the class(es), all of the Court's orders will apply to you. You may speak with Class Counsel or your own lawyer if you have questions about the case.

If the Settlement becomes final, you will be releasing GWE, its officers, directors and employees of any claims that were brought or could have been brought against GWE in this lawsuit relating in any way to its sending of any unsolicited facsimile advertisements. This release is more fully explained in paragraph 7 of the Settlement Agreement. The Settlement Agreement is available at the Clerk's Office, United States District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, Illinois 60604 during regular business hours. The Settlement Agreement specifically describes the release claims in necessarily legal terminology. You may speak with Class Counsel or your own lawyer if you have questions about the release

#### **5. HOW DO I GET A PAYMENT?**

To receive a payment from the Fund, you must complete and return the attached Claim Form by facsimile to (651) 855-5532 or by U.S. Mail to First Class, Inc., #J10400, 5410 W. Roosevelt Rd., Unit 222, Chicago, IL 60644-1570. The deadline for Claim Forms is **December 1, 2009**; Claim forms **MUST BE** faxed or postmarked by **December 1, 2009**.

**6. WHEN WOULD I GET MY PAYMENT?**

Payments will be mailed to Class Members after: (i) the Court approves the distribution of the amount offered by GWBS to plaintiffs and the Class Members and enters judgment against GWBS; and (ii) the Court grants “final approval” of the Settlement offered by GWE and any appeals are resolved. The deadline for Claim Forms is **December 1, 2009**; Claim forms **MUST BE** faxed or postmarked by **December 1, 2009**. The Court is scheduled to consider final approval at a hearing on **January 5, 2010 at 9:00 a.m.**

**7. EXCLUDING YOURSELF FROM THE JUDGMENT OR SETTLEMENT**

You will be a member of the class(es) unless you exclude yourself. You need not take any action to remain in the class(es). You need to submit a Claim Form to receive a payment from the Fund.

If you want to keep the right to sue GWBS or GWE, over the legal issues in this case, then you must take steps to get out of the lawsuit or Settlement. This is called asking to be excluded from - or sometimes called “opting out” of - the class. If you opt out, you will not receive any payment from the Fund, you cannot object to the settlement offered by GWE or judgment or distribution of the amounts offered by GWBS to plaintiffs and the Class Members and you will not be bound by anything that happens in this lawsuit. You must exclude yourself to start or continue your own lawsuit against GWBS or GWE.

To opt out, you must complete and mail or fax a notice of intention to opt-out (“Opt-Out”), which contains the following: (a) your full legal name or business name if the facsimile number was one owned or controlled by a business, address, and telephone number; (b) the telephone number for the facsimile machine on which you were sent the Fax; (c) your signature or that of the Class Member’s representative (such as a business’ officer or manager); and (d) a statement that expressly states an intent of the Class Member not to participate in the lawsuit and to waive all rights to the benefits described in this Notice. In addition, for your Opt-Out to be valid, it must be faxed to (651) 855-5532 by **December 1, 2009** or mailed to the following address postmarked no later than **December 1, 2009**:

**FIRST CLASS, INC. #J10400  
5410 W. Roosevelt Rd., Unit 222  
Chicago, IL 60644-1570  
(651) 855-5532 (FAX)**

**8. WHO ARE COUNSEL FOR PLAINTIFFS AND CLASS COUNSEL?**

The Court has appointed the following attorneys to represent you and other members of the Class in this lawsuit:

Daniel A. Edelman (16547)  
Heather Kolbus  
Edelman, Combs, Lattuner & Goodwin, LLC  
120 S. LaSalle Street, 18<sup>th</sup> Floor  
Chicago, IL 60603  
(312) 739-4200  
[www.edcombs.com](http://www.edcombs.com)

These attorneys represent your interests in this lawsuit. You may contact them with any questions that you have about the lawsuit. You may also hire your own attorney at your own cost to advise you in this matter.

Class Counsel will ask the Court for attorney's fees and costs of an amount not to exceed 30% of the Fund or \$183,750, in addition to requesting reimbursement for the costs incurred to give notice to the class(es) and to administer the Fund. Class Counsel will also ask for an additional payment of \$6,000 for Linda Hoppe and Jerry Brown, the Class Representatives, who helped the lawyers on behalf of the whole class.

## **9. OBJECTING TO THE ENTRY OF JUDGMENT OR SETTLEMENT**

You can tell the Court that you don't agree with the Settlement or entry of judgment or some part of the proposed distribution. You must give reasons why you think the Court should not approve the settlement with GWE or distribution of funds and entry of judgment against GWBS. The Court will consider your views if you properly submitted an objection on time.

Objecting is simply telling the Court that you don't like something about the Settlement or entry of judgment or distribution plan. You can object **ONLY** if you stay in the class. Excluding yourself is telling the Court that you don't want to be part of the class. If you exclude yourself, you have no basis to object because the case no longer affects you.

If you wish to object to the settlement with GWE or entry of judgment against GWBS and distribution of the funds or to any awards to Plaintiffs or class counsel, then you must mail or fax a written objection ("Objection") to class counsel and counsel for GWBS and counsel for GWE at the addresses set forth below sent by fax or postmarked no later than **December 1, 2009**, and contemporaneously file the objection with the Clerk's Office, United States District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, Illinois 60604:

### **Class Counsel**

Daniel A. Edelman  
Heather Kolbus  
Edelman, Combs, Lattuner & Goodwin, LLC

### **GWBS's Counsel**

A. Colin Wexler  
Goldberg Kohn Bell Black  
Rosenbloom & Moritz, Ltd.

120 S. LaSalle Street, 18<sup>th</sup> Floor  
Chicago, Illinois 60603  
(312) 419-0379 (FAX)

55 E. Monroe Street  
Suite 3300  
Chicago, Illinois 60603  
(312) 332-2196 (FAX)

**GWE's Counsel**

Mitchell L. Marinello  
Stephen J. Siegel  
Christopher Dean  
Novack and Macey LLP  
100 North Riverside Plaza  
Chicago, Illinois 60606-1501  
(312) 419-6928 (FAX)

Each objection must (a) set forth the objector's full legal name or business name, if the objector is an entity, address and telephone number; (b) set forth the telephone number for the facsimile machine on which the Class Member was sent the fax; (c) state the Objection to the settlement with GWE or distribution of funds and entry of judgment against GWBS; (d) set forth a statement of the legal and factual basis for the Objection; and (e) provide copies of any documents in support of the Objection. If you do not submit a timely Objection in accordance with the requirements set forth above, you will not be treated as having filed a valid Objection to the Judgment or Settlement.

If you do file an objection and wish it to be considered, you may also appear at the hearing before Judge Cole on **January 5, 2010 at 9:00 a.m.** 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 or judgment should not be approved.

**10. THE COURT'S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the settlement with GWE and GWBS's offer of judgment and the distribution of the amounts offered by GWBS to the Class Members in the United States District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, Illinois 60604, Courtroom 1838 on **January 5, 2010 at 9:00 a.m.** to determine, among other things, (i) whether it will be approved as fair, adequate and reasonable; (ii) what amount, if any, to award class counsel for attorney's fees and costs in the Action; and (iii) what amount, if any, to award Plaintiffs for their services as class representatives. YOU ARE NOT REQUIRED TO ATTEND THIS HEARING. The hearing may be continued by the Court without further notice to Class Members.

**11. WHERE CAN I OBTAIN ADDITIONAL INFORMATION ABOUT THE LAWSUIT AND/OR THE SETTLEMENT OR JUDGMENT?**

The description of the lawsuit, the settlement with GWE and GWBS's offer of judgment and the benefit to the class(es) that is contained in this Notice is only general in nature. All papers filed in this case, are available for you to inspect and copy (at your expense) at the Clerk's Office, United States District Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, Illinois 60604, during regular business hours. You must bring the name of the case and case number with you, since the Clerk will need to know this information in order to obtain the court file for you to inspect. If you or your attorney need additional information, you should write or call class counsel at the addresses and telephone numbers listed above in paragraph 9 during regular business hours. Please include the case name and number, your name and your current return address on any letters, not just the envelopes. Please do not contact the Defendant's attorneys; they are not in a position to give you any advice about this case.

PLEASE DO NOT CONTACT THE COURT OR DEFENDANTS' COUNSEL FOR INFORMATION.

Dated: September 2, 2009

BY ORDER OF THE UNITED STATES DISTRICT  
COURT FOR THE NORTHERN DISTRICT OF  
ILLINOIS, EASTERN DIVISION