

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

TRAVEL 100 GROUP, INC., on behalf of itself)
and all others similarly situated,)
)
Plaintiff,)
)
v.)
)
SHELBORNE ASSOCIATES,)
a Florida General Partnership,)
)
Defendant.)

No. 03 CH 12537

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

TO: All Individuals who received an unsolicited advertising fax by or on behalf of The Shelborne Hotel during the period July 29, 1999 through July 29, 2003.

You are receiving this Notice because you appear to be a member of the Class as defined above. Your fax number was included on a list of fax numbers to which the subject advertising fax may have been transmitted.

Please read this notice carefully. This is *not* a notice of a lawsuit against you. Rather, this notice relates to a class action settlement which may benefit you. If you wish to receive a portion of any class settlement proceeds, you *must* return the claim form at the end of this notice.

WHAT THIS LAWSUIT IS ABOUT

Plaintiff filed this action in the Circuit Court of Cook County, Illinois. On behalf of a putative class, plaintiff alleged that the defendants violated the Telephone Consumer Protection Act, 47 U.S.C. §227 ("TCPA"), and Illinois common law by sending unsolicited facsimile advertisements.

The defendants deny plaintiff's allegations, and have raised defenses to plaintiff's claims.

Judge Mikva granted preliminary approval of the settlement, subject to a fairness hearing which will take place on **September 26, 2011 at 10:30 a.m.**, in Room 2508 of the Circuit Court of Cook County, Illinois, Richard J. Daley Center, 50 West Washington, Chicago, Illinois, 60602.

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.

In order to obtain any monetary benefits from this settlement, you must fill out and return the

claim form at the end of this notice.

NO ADMISSION OF LIABILITY

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

THE PROPOSED SETTLEMENT

Plaintiff and defendant have agreed to the settlement described below. If this settlement is approved, and not appealed, and you are a member of Class I you will receive a check shortly after September 15, 2011. **If you wish to receive a portion of the settlement proceeds, you must return the claim form at the end of this notice by email, fax or U.S. sent (postmarked for U.S. mail) by September 15, 2011. If you do not wish to be part of the settlement, you must opt-out. If you return your claim form and the settlement is finally approved, you will be sent a check for your portion of the settlement.**

Recovery to Class Members. The proposed settlement provides for two tiers of recovery for

class members. Those class members who have a copy of a fax sent to them on behalf of the Shelborne Hotel during the class period (from July 23, 1999 through July 23, 2003) are in "Group A" and class members who do not have a copy of the fax, but can show that they owned or leased the telephone (fax) number identified in their claim form during the class period are in "Group B"

Group A Recovery. Class members who submit a claim form with a copy of the fax sent on behalf of the Shelborne Hotel during the class period will receive \$150 per fax, up to a total of \$300.

Group B Recovery. Class members who submit a phone bill, or other documentation, showing that they owned or leased the telephone (fax) line identified in their claim form will receive \$75 regardless of the number of faxes they received, as long as that telephone (fax) number is in the database that was maintained by Shelborne.

Attorney's Fees. Plaintiffs counsel will request approval of the Court for attorneys' fees and expenses in an amount not to exceed \$200,000. Any fees and expenses awarded by the Court, up to \$200,000 will be paid by Defendant or its insurer, in addition to the payments made to the class members. This amount is less than the time and expenses incurred by counsel representing the class in connection with the claims at issue in this case. However, the parties have agreed to these limits.

General Release. If the settlement is approved, Plaintiff and the members of the class who did not opt-out of will release Defendant and its Insurers from all claims that they may have asserted arising from the facts alleged in the this case. This is only a summary of the release. The specific language is set forth in Paragraph 7 of the Settlement Agreement which is available on-line at www.strategicclaims.net/travel100settlement.

LEAD COUNSEL'S OPINION OF THE VALUE OF THE SETTLEMENT

In an individual action, a prevailing plaintiff may be able to recover \$500 in statutory damages under the TCPA (\$1500 if a willful violation is shown) and compensatory and punitive damages under the common law. Of course if an individual does not prevail, he will receive no payment. Also, if Plaintiffs proved a willful violation or punitive damages such a finding result in a determination that Shelborne's insurance carrier is not required to pay the judgement.. Further, there is no assurance that the Court would have certified this case as a

class action, in the absence of this settlement, in which case the proposed class members would not receive any benefits. Class counsel believes that the settlement is fair and reasonable and that the class members should accept this settlement.

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 attorney's fees. The hearing will take place on September 26, 2011 at 10:30 a.m. before Judge Mikva in Room 2508 of the Richard J. Daley Center, 50 W. Washington. Chicago. Illinois, 60602. **You are not obligated, nor need you, attend this hearing unless you plan to object to the settlement.**

YOUR OPTIONS

1. **Send a claim form.** If you wish to participate in the settlement and receive a portion of any settlement proceeds, you must complete and timely submit a claim form and IRS W-9 at the end of this Notice indicating that you wish to participate in the settlement. **The claim form must be emailed, faxed, or postmarked on or before September 15, 2011. Send the form to:**

Email: info@strategicclaims.net

Fax: (610) 565-7985

**U.S. Mail: Travel 100 v. Shelborne Settlement
c/o Strategic Claims Services
600 N. Jackson Street, Suite 3
Media, PA 19063**

You will be represented by the attorneys for plaintiff and the class without additional charge. Or, if you prefer, you may enter your own appearance or ask the Court to allow you to participate in the settlement through your own attorney. If you wish to participate on your own or through your own attorney, an appearance must be filed with the Court and served on counsel for the settling parties by September 1, 2011. If you participate through your own attorney, it will be at your expense. Any party who returns a claim form or otherwise does not exclude his or herself from the settlement, as described below, will be bound by the settlement agreement and release of claims against the defendants, as approved by the Court.

2. **Opt out of the settlement.** You have the right to exclude yourself from both the class action and the settlement by filing a written request for exclusion with the Clerk of the Circuit Court of Cook County, Illinois, Richard J. Daley Center, 50 West Washington, Chicago, Illinois, 60602. **The request for exclusion must be received by the Clerk of the Circuit Court on or before September 1, 2011**, and must list your name, address, and the name and number of the case. You must also serve copies of the request for exclusion on each of the attorneys for the plaintiff and for the defendants, at the following addresses by the same date:

Defendants' Counsel
Kevin D. Finger
Greenberg Traurig
77 Wacker Dr. #2500
Chicago, IL 60601

Plaintiff's Counsel
Robert J. Stein III
Alvarado Smith, APC
1 MacArthur Pl. #200
Santa Ana, CA 92707

3. **Object to the Settlement.** If you object to the settlement and wish to submit an objection rather than simply exclude yourself from the class action settlement, you must submit your objection in writing with the Clerk of the Circuit Court of Cook County, Illinois, Richard J. Daley Center, 50 West Washington, Chicago, Illinois, 60602. **The objection must be received by the Clerk of the Circuit Court on or before September 1, 2011**, and must list the name and number of the case. You must also serve copies of your objection on each of the attorneys for the plaintiff and for the defendants listed above by the same date. Any objection must include your name and address, the fax number from which you received this Notice, 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 must also appear at the hearing before Judge Mikva on September 26, 2011 at 10:30 a.m. **You are not required to attend this hearing unless you plan to object to the settlement.** Please note that it is not sufficient to simply state that you object. You must state reasons why the settlement should not be approved.

IMPORTANT: THE COURT REQUIRES THAT ANY REQUESTS FOR EXCLUSION OR OBJECTIONS BE RECEIVED BY THE CLERK BY SEPTEMBER 1, 2011. IF YOU MAIL A REQUEST FOR EXCLUSION OR

OBJECTION, YOU BEAR THE RISK OF THE REQUEST FOR EXCLUSION OR OBJECTION NOT BEING RECEIVED BY THE CLERK BY THE DEADLINE.

If you choose to exclude yourself from the class action and settlement you will not receive any payment that may be available under this agreement. If you remain in the class action but do not fax or mail a claim form by September 15, 2011, you will be bound by the settlement agreement and release but will not receive any payment that may be available under this agreement. **Only those class members who complete and return a valid claim form post-marked or faxed on or before September 15, 2011 will receive any payment under this agreement.**

If the settlement is not approved by the Court, 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 settlement is a summary general and does not identify all of the details of the Settlement Agreement. In the event there is any conflict between the summary in this Notice and the terms of the Settlement Agreement, the terms of the Settlement Agreement will govern. The Settlement Agreement is available online at www.strategicclaims.net/travel100settlement. To see the complete Court file in this case, you should visit the office of the Clerk of the Circuit Court of Cook County, Illinois, Richard J. Daley Center, 50 West Washington, Chicago, Illinois, 60602. 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 has concerning this Notice should be directed to Robert J. Stein III at the address listed above. Please include the case name, your name and your current return address on any letters, not just the envelope. Please do not contact the Clerk of the Court or Defendant's attorneys, as they are not in a position to give you any advice about this settlement.

CLAIM FORM

RE: TRAVEL 100 GROUP, INC. v. SHELBORNE ASSOCIATES, No. 03 CH 12537

IMPORTANT: THIS CLAIM FORM MUST BE COMPLETED AND EMAILED, POSTMARKED OR FAXED ON OR BEFORE SEPTEMBER 15, 2011 TO RECEIVE YOUR SHARE OF ANY RECOVERY FROM THE SETTLEMENT.

EMAIL, FAX OR MAIL THIS CLAIM FORM TO:

Email: info@strategicclaims.net

Fax: (610) 565-7985

Mail: Travel 100 v. Shelborne Settlement
c/o Strategic Claims Services
600 N. Jackson Street, Suite 3
Media, PA 19063

Please clearly print the following information:

FAX NUMBER: _____

NAME: _____

ADDRESS: _____

CITY/STATE: _____

ZIP CODE: _____

PLEASE INDICATE WITH A CHECK MARK WHETHER YOU ARE IN GROUP A OR GROUP B:

Group A _____

Group B _____

IF YOU ARE IN GROUP A, PLEASE ATTACH A COPY OF THE FAX YOU RECEIVED FROM THE SHELBORNE HOTEL BETWEEN JULY 29, 1999 AND JULY 29, 2003 AND THE IRS W-9 FORM PROVIDED BELOW.

IF YOU ARE IN GROUP B, PLEASE ATTACH A COPY OF A DOCUMENT SUCH AS A PHONE BILL SHOWING THAT YOU OWNED OR LEASED THE TELEPHONE/FAX NUMBER YOU IDENTIFIED ABOVE AT SOME TIME BETWEEN JULY 29, 1999 AND JULY 29, 2003 AND THE IRS W-9 FORM PROVIDED BELOW.

IRS W-9 FORM

Request for Taxpayer Identification Number and Certification

NAME: _____

Check appropriate box for federal tax classification:

- Individual/Sole Proprietor C Corporation S Corporation Partnership Trust/estate
- Limited liability company (Enter tax classification) (C = C corporation, S = S corporation, P = partnership) _____
- Other: _____
- Exempt Payee (If you are exempt from backup withholding check this box.)**

Enter TIN below. For individuals, this is your Social Security Number (“SSN”). For sole proprietors, you must show your individual name, but you may also enter your business or “doing business as” name. You may enter either your SSN or your Employer Identification Number (“EIN”). For other entities, it is your EIN.

____ - ____ - _____
Social Security Number

OR

____ - _____
Employer Identification Number