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DISTRICT OF IDAHO
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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH, MICHAEL B. HINCKLEY, JACQUELINE T. HLADUN, MARILYN J. CRAIG, JEFFERY P. CLEVENGER, and TIMOTHY C. KAUFMANN, individually and on behalf of those similarly situated, Plaintiffs, vs. MICRON ELECTRONICS, INC., a Minnesota corporation, Defendant.	Case No. CIV 01-0244-S **STIPULATION RE: PROVISION OF NOTICE**

160

The Parties, by and through their undersigned counsel of record, in accordance with the Court's Order of September 27, 2002 ("the Court's Order"), hereby stipulate and agree as follows:

1. A "Notice of Right to Join Collective Action" in the form attached hereto as Exhibit A may issue to the putative class as defined in the Court's Order. The Parties submit that they have conferred upon the form of this Notice and, after exchanging many drafts and revisions, have agreed that the form set forth as Exhibit A is neutral, accurate and informative. *See, e.g., Hoffman-La Roche, Inc.*, 493 U.S. at 172, 110 S.Ct. at 487 (by overseeing notice, court can ensure that it is timely, accurate, and informative).

2. The Notice sets forth a thirty (30) day deadline for class members to postmark the return of their Consent forms, which the Parties agree and urge is an adequate amount of time for class members to make an informed decision on whether or not to participate in this action. *See, e.g., Vivone v. Acme Markets*, 687 F.Supp. 168, 169 (E.D. Pa. 1988) (written consents due within 30 days after notice was mailed to potential opt-in class members). In order to verify the timeliness of consents received, Plaintiffs will file original consent forms with the Court, but will maintain a copy of each consent form attached to the original envelope setting forth the postmark date, so that Defendant may confirm the timeliness of any class member's consent.

3. In addition, while Defendant does not concede that such is necessary, the Parties have agreed to a form of cover letter set forth at Exhibit B. The cover letter is simply designed to acquaint potential class members with the subject of the mailing and to enable them to distinguish this mailing with other official-looking junk mail. Plaintiffs submit that such a cover letter will make it less likely that any potential class member will mistakenly ignore the content

of the Notice, thus diminishing the number and seriousness of any later objections to the notice campaign. This District has previously approved of the concept of a cover letter accompanying the Notice. *See, Bristow v. Fleetwood*, CV 00-0082-S-EJL, *Order* of July 6, 2001 (Dkt. # 140).

4. Attached as Exhibit C is an agreed form of "Consent to Join Collective Action." This consent form calls for class members to sign the document and thereby consent to join this action, as well as to provide useful information for the purposes of the litigation. Attached as Exhibit D is the agreed form of envelope for the notice package.

5. Attached as Exhibit D is a copy of an agreed form of envelope with return address that will be used for the mailing of the notice packages, and a copy of the form of return envelope that will be enclosed with the notice package. The Parties agree that Plaintiffs' counsel will mail the notice packages by regular U. S. Mail, and will otherwise administer any mailings in accordance with the requirements of this Stipulation and Court Order.

6. On October 28, 2002, Defendant provided Plaintiffs in hard copy and electronic form with a mailing and information list for the subject former inside sales representatives for the period June 1, 1998 to May 31, 2001. Defendant maintains that it used its best efforts in obtaining and compiling the last known information for such individuals from a variety of sources. Nevertheless, based on experiences in other cases, Plaintiffs anticipate that, due to the age of many of the addresses, a significant number of initial notice packages may be returned, and possibly with no forwarding information. Accordingly, the Parties agree that a period of approximately forty-five (45) days following the initial mailing, or until January 31, 2003, will be set for the return of any initial notice packages by the Defendant of the number of any notice packages returned, the identity of all such addressees and Plaintiffs' efforts to determine the

correct addresses for these individuals, such as utilizing National Change of Address services. The parties will thereafter meet and confer to determine a date for a second group mailing of notice packages to such individuals and set another deadline, subject to approval and order of the Court, so as to allow this group of individuals to have a similar thirty (30) day period in which to postmark the return of their consent forms.

7. Plaintiffs' counsel shall prepare and retain an accurate log of the initial and any second mailings of notice packages, including names of the addressees, addresses used and dates of mailing. Plaintiffs' counsel also shall keep on file and in trust for inspection at any time upon request of the Court, Defendant or their designees during the pendency of this action complete copies of all notice packages as mailed, any returned consent forms with original envelopes setting forth the postmark date, and any notice packages that are returned (including the original envelope and any forwarding or other U. S. Mail delivery information received, if any).

8. The Parties agree that nothing in this Stipulation or in the form of the agreed Notice (whether as originally proposed, as revised in negotiations, or as finally approved) or any attachment, or in the timing or issuance of the mailing of the notice packages, shall constitute a waiver of any allegation or defense or an admission of any point or issue of fact or law.

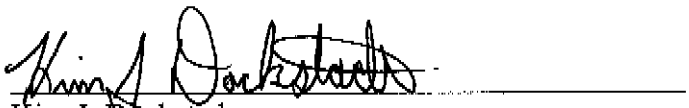
DATED this ____ day of December, 2002.

HUNTLEY PARK, LLP

Daniel E. Williams
Attorneys for Plaintiffs

DATED this 6th day of December, 2002.

STOEL RIVES LLP



Kim J. Dockstader
Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH, MICHAEL B. HINCKLEY, JACQUELINE T. HLADUN, MARILYN J. CRAIG, JEFFERY P. CLEVENGER, and TIMOTHY C. KAUFMANN, individually and on behalf of those similarly situated, Plaintiffs, vs. MICRON ELECTRONICS, INC., a Minnesota corporation, Defendant.	Case No. CIV 01-0244-S-BLW **NOTICE OF RIGHT TO JOIN COLLECTIVE ACTION**

TO: Former employees of Micron Electronics, Inc. ("Micron Electronics") or its subsidiaries, including MicronPC, Inc., Micron Commercial Computer Systems, Inc., and Micron Government Computer Systems, Inc., who worked as inside sales representatives between June 1, 1998, and May 31, 2001.

FROM: William H. Thomas, Daniel E. Williams and Christopher F. Huntley of Huntley Park, LLP, P.O. Box 2188, Boise, ID 83701 (208-345-7800); (800-862-4879).

RE: Fair Labor Standards Act Lawsuit Filed Against Micron Electronics

(1) **INTRODUCTION.** The purpose of this Notice is to inform you of the existence of a lawsuit in which you may be a member of the potential class of plaintiffs and eligible to participate, to advise you of how your rights may be affected by this lawsuit, and to instruct you on procedures for participating in this lawsuit if you choose to do so.

(2) **DESCRIPTION OF THE LAWSUIT.** The named Plaintiffs have brought this lawsuit against Micron Electronics in the United States District Court for the District of Idaho, Case No. CIV 01-0244. Plaintiffs allege that Micron Electronics violated the federal Fair Labor Standards Act ("FLSA") by failing to pay the Plaintiffs, as well as other former inside sales representatives of Micron Electronics' personal computer ("PC") business, for uncompensated work performed before and after shifts, or during lunch and other breaks ("off-the-clock work"). Plaintiffs also allege that Micron Electronics violated applicable wage and hour laws by altering time records and miscalculating the premium rate applicable to overtime hours. Plaintiffs seek

EXHIBIT A

an award for unpaid wages and overtime, liquidated damages, attorney fees and costs.

Micron Electronics denies any liability with respect to the Plaintiffs' claims in this lawsuit, and further denies that it violated the FLSA or any applicable wage and hour laws. Micron Electronics seeks a judgment dismissing the lawsuit, other relief as may be appropriate under the circumstances, and an award of its attorney fees and costs.

(3) STATUS OF THE CASE AND COMPOSITION OF THE CLASS. The six named-Plaintiffs seek to sue on behalf of themselves and also on behalf of other employees whom they allege are similarly situated. By an order dated September 27, 2002, the Court granted class certification on a conditional basis, and directed that written notice be sent to all employees who, at any time between June 1, 1998 to May 31, 2001:

(a) Were inside sales representatives paid compensation based on hourly wages (plus commissions) while working in the PC business for Micron Electronics, Inc., MicronPC, Inc., Micron Commercial Computer Systems, Inc. or Micron Government Computer Systems, Inc.; and

(b) Performed off-the-clock work, or were subjected to an inaccurate calculation of overtime pay.

The Court's order granting conditional certification is preliminary and subject to a determination of "final" certification at a later date.

This Notice is solely for the purpose of advising you that this lawsuit is pending and giving you the opportunity to join in the lawsuit if you so choose. There has not yet been any trial on the merits of Plaintiffs' claims, nor has there been any determination that Micron Electronics violated the law or that Plaintiffs or the putative class are entitled to any damages.

(4) YOUR RIGHT TO CHOOSE TO PARTICIPATE. If you are within the putative class as defined above, you may choose to join this lawsuit (that is, you may "opt-in") by mailing a "Consent to Join" to Plaintiffs' counsel in the immediate future. The form of a "Consent to Join" is enclosed. If you choose to opt-in this lawsuit, you must complete, sign and mail the enclosed form to the Plaintiffs' attorneys' address shown below **so that it is *postmarked* no later than January 15, 2003.** If you fail to return a complete and signed "Consent to Join" form by this deadline, you will not be able to participate in this lawsuit. You may use the enclosed business reply envelope to return your "Consent to Join" form.

You may file a consent to join in this lawsuit whether or not you have signed any waiver of rights under the FLSA. Ultimately, the Court will determine whether you may actually join in the lawsuit. It is entirely your own decision whether or not to file a consent to join in this lawsuit. You are not required to take any action to join in this lawsuit, unless you choose to do so. It is completely voluntary.

(5) **EFFECT OF JOINING THIS LAWSUIT.** If you choose to join or opt-in this lawsuit, you will be bound by any judgment, whether it is favorable or unfavorable. While the lawsuit is proceeding, you may be required to provide information or otherwise be involved.

If you choose not to join this lawsuit, you will not be affected by any judgment, whether it is favorable or unfavorable. If you choose not to join this lawsuit, you may file your own lawsuit, if you so desire.

(6) **YOUR OPTIONS AS TO LEGAL REPRESENTATION.** If you choose to join this lawsuit, unless you decide otherwise, your interest will be represented by the named Plaintiffs through their attorneys, as counsel for the class. The attorneys and firm are:

William H. Thomas
Daniel E. Williams
Christopher F. Huntley
HUNTLEY PARK, LLP
P.O. Box 2188
Boise, ID 83701
(208-345-7800) (800-862-4879)

If you elect to participate in this case through the named-Plaintiffs and be represented by their attorneys, you will be bound by the terms of the contingent fee agreement with the attorneys signed by each of the named-Plaintiffs. More information, including a copy of the contingent fee agreement, is available on request from the Plaintiffs' attorneys.

It is entirely your own decision as to whether you prefer to be represented by the Plaintiffs' attorneys or by an attorney of your own choosing. If you elect to hire your own attorney, you are responsible for making your own arrangements to engage that attorney.

(7) **FURTHER INFORMATION.** You may obtain further information regarding the deadline for filing a Consent to Join and the availability of Consent to Join forms by contacting the Plaintiffs' attorneys.

(8) **COUNSEL FOR MICRON ELECTRONICS, INC.** The firm representing Micron Electronics in this lawsuit is:

Kim J Dockstader
Gregory C. Tollefson
Teresa A. Hill
STOEL RIVES, LLP
101 S. Capitol Boulevard, Suite 1900
Boise, ID 83702

(9) **NO RETALIATION.** The FLSA prohibits any persons from discriminating against you or retaliating against you in any way based on your participation in this lawsuit, including the filing of a Consent to Join.

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE UNITED STATES DISTRICT JUDGE, HONORABLE B. LYNN WINMILL, DISTRICT JUDGE. THE COURT HAS TAKEN NO POSITION REGARDING THE MERITS OF THE PLAINTIFFS' CLAIMS OR MICRON ELECTRONICS, INC.'S DEFENSES.

OFFICIAL COURT-APPROVED NOTICE ENCLOSED
PLEASE READ CAREFULLY

Dear former employee of Micron Electronics, Inc., or its subsidiaries:

RE: Your employment with Micron Electronics, Inc., or its subsidiaries

You are receiving the enclosed document called "Notice of Right to Join Collective Action" because you worked for Micron Electronics or one of its subsidiaries as an inside sales representative in its PC business between June 1, 1998, and May 31, 2001. The enclosed Notice tells you about your right to join a lawsuit against Micron Electronics.

It is important that you read and understand the **entire** Notice. It provides important details about the case and your legal rights. If necessary, you should seek help from other so that you understand the Notice. If you have questions about the Notice, please call 1-800-862-4879.

Sincerely,

Dan Williams
Huntley Park, LLP
Attorneys for Plaintiffs

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH, et al.	)	
	)	
Plaintiff,	)	**Case No. CIV 01-0244-S-BLW**
vs.	)	
	)	
MICRON ELECTRONICS, INC., a Minnesota corporation,	)	**CONSENT TO JOIN COLLECTIVE ACTION**
	)	
Defendant.	)	
	)	

By my signature below, I represent to the Court that I was employed by Micron Electronics, Inc., or one of its subsidiaries, as an inside sales representative between June 1, 1998 and May 31, 2001, and I hereby give my consent to the filing and prosecution of an action under the Fair Labor Standards Act in my name and on my behalf by the above-named Plaintiffs and designate the named Plaintiffs as my agents to make decisions on my behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with counsel for the named Plaintiffs concerning attorney fees and costs, and all other matters pertaining to this lawsuit.

YOU MUST SIGN YOUR NAME HERE	Date
Print your name	Location where you worked
Street address	Job Title(s) after June 1, 1998
City, State, Zip	Dates of Employment with Micron
Telephone number	Alternate telephone contact number

EXHIBIT C

Hartley Park
Uncommon Law

250 So. Fifth Street, Suite 660
P.O. Box 2188
Boise, Idaho 83701

Important. Court-Approved Notice Enclosed.

EXHIBIT D