

**NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT**  
**("MEFA SETTLEMENT NOTICE")**

**TO:** All natural persons who reside in the United States of America: (a) who were sent a letter or letters from Zwicker & Associates, P.C. between July 17, 2000 through \_\_\_\_\_, 2007, in connection with an alleged debt owed to the Massachusetts Educational Financing Authority ("MEFA") and who, prior to litigation being commenced on said alleged debt, paid 100% of principal, accrued interest, and attorney's fees and/or collection costs allegedly owed as of the date final payment was made without receiving any itemization of that amount that included principal, interest, and costs (including attorney's fees, if applicable) before such payment.

***PLEASE READ THIS NOTICE CAREFULLY.***

***THIS IS NOT AN ATTEMPT TO COLLECT MONEY FROM YOU.***  
***THIS IS NOT A NOTICE OF A LAWSUIT AGAINST YOU.***  
***YOU MAY BENEFIT FROM READING THIS NOTICE.***

**WHY YOU ARE BEING SENT THIS NOTICE**

There is now pending in the United States District Court for the District of Massachusetts a class action lawsuit entitled Feuerstein v. Zwicker & Associates, P.C., et al., Case No. 04-11593-WGY (the "Litigation"). This Notice explains the nature of the Litigation, general terms of a proposed settlement, and informs you of your legal rights and obligations.

Judge William G. Young of the United States District Court for the Eastern Division of Massachusetts has granted preliminary approval of a settlement agreement in the above-entitled action, subject to a hearing on the fairness of the settlement which will take place on \_\_\_\_\_, 2007 at \_\_\_\_\_ in Room 18 of the John Joseph Moakley United States Courthouse, 1 Courthouse Way, Suite 2300, Boston, MA 02210.

You are being sent this notice because you appear to be a member of the class defined above. This notice explains the nature of the lawsuit, the terms of the settlement, describes how you may benefit from the settlement and informs you of your legal rights, options, and obligations.

**WHAT THIS LAWSUIT IS ABOUT**

This lawsuit contends that Zwicker & Associates, P.C. ("Defendant") violated the Fair Debt Collection Practices Act ("FDCPA"). Plaintiff alleged that Defendant sent Plaintiff and class members debt collection letters that failed to properly itemize the amount of the debt which was or is allegedly owed to MEFA, including collection costs and/or attorney's fees that were added on to the original debt. As a result, Plaintiff alleges that class members paid collection costs and/or attorney's fees of which they were not aware.

## **NO ADMISSION OF LIABILITY BY DEFENDANT**

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

## **THE PROPOSED SETTLEMENT**

Plaintiff and Defendant have agreed to the settlement described below.

### **Class Recovery, Attorney's Fees and Relief to Plaintiffs.**

1. Each Class Member who does not opt-out shall receive monies equivalent to 85% of the collection costs and/or attorney's fees (s)he paid to Defendant.
2. Plaintiff's counsel will petition the Court for an award of fees and costs not to exceed \$65,000. Defendant has agreed that such amount is reasonable and will not oppose same.
3. Plaintiff will petition the Court to receive \$5,000 as an incentive award for services provided and efforts expended on behalf of the class. Defendant has agreed that such amount is reasonable and will not oppose same.

**Costs.** Defendant will pay the costs associated with class notice and administration of this agreement.

**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 the Defendant a "release." A release means you cannot ever again sue or be a class member in any other lawsuit against Zwicker & Associates, P.C. or any other defendant in this lawsuit with respect to the claim being settled.

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

The claims asserted on behalf of the class against Defendant are brought under the FDCPA. The FDCPA is a federal statute which provides for both individual and class actions.

Under the FDCPA, a claimant is entitled to recover any actual damages which resulted from the allegedly unlawful conduct of a debt collector. Based on information provided by Defendant, there are 45 Class Members. The total value of the settlement to this class is approximately \$81,888.98, representing 85% of what the class could recover if it were successful in proving actual damages.

Under the FDCPA, in either an individual or class action, the person bringing the suit can also recover attorney's fees and the expenses of prosecuting the suit, if he or she is successful. In a class action the court can also award statutory damages in its discretion. In this case, it has

been determined that the maximum amount which the Court could award in statutory damages is approximately \$15,000.

While Class Counsel believes that plaintiffs would ultimately prevail at trial, there is no guarantee of success. Therefore, in view of the defenses which have been raised to Plaintiff's claims, and the costs, risks, and protracted nature of continued litigation, it is counsel's belief that this settlement is fair and reasonable and that the class members should accept this settlement.

**WHO REPRESENTS THE CLASS?**

The following attorney represents Plaintiff and all the members of the class described above ("Class Counsel"):

Kenneth D. Quat, Esq.  
QUAT LAW OFFICES  
9 Damonmill Square, Suite 4A-4  
Concord, MA 01742

**WHO REPRESENTS THE DEFENDANT?**

Defendant is represented by:

Mark R. Freitas, Esq.  
Wilson Elser Moskowitz Edelman & Dicker  
155 Federal Street  
Boston MA 02110

**YOUR CORRECT ADDRESS**

If this notice was forwarded by the Postal Service, or if it was otherwise sent to you at an address which is not current, you should immediately send a letter or email to the address listed below stating your past and current addresses plus the case name (Feuerstein v. Zwicker & Associates, P.C., et al., Case No. 04-11593-WGY).

Kenneth D. Quat, Esq.  
QUAT LAW OFFICES  
9 Damonmill Square, Suite 4A-4  
Concord, MA 01742  
ken@quatlaw.com

If any of the persons to whom this notice is sent have divorced, you should send a letter to the same address explaining who is entitled to this claim. Include any supporting documentation (such as a divorce decree) with your communication.

## THE 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 for costs and attorney's fees and Plaintiff's requested incentive award. The hearing will take place before Judge Young on \_\_\_\_\_, 2007 at \_\_\_\_ in Room 18 of the John Joseph Moakley United States Courthouse, 1 Courthouse Way, Suite 2300, Boston, MA 02210. **YOU ARE NOT OBLIGATED TO ATTEND THIS HEARING.**

## YOUR OPTIONS

1. **You have the right to exclude yourself from both the class action and the settlement by filing a written request for exclusion.** The request for exclusion must be signed by you and delivered to Class Counsel at the above address, postmarked no later than \_\_\_\_\_, 2007. **If you choose to exclude yourself from the class action and settlement you will not receive payment under this agreement.**

2. **You may participate in the settlement.** If you wish to receive your portion of the settlement proceeds, you need not take any action. You will be represented by Class Counsel without additional charge, and any settlement funds which are due to you will be sent after the Court's judgment has become final. 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 by \_\_\_\_\_, 2007. If you participate through your own attorney, it will be at your expense. The settlement does not obligate Defendant to pay the fees of any attorney other than Class Counsel.

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

3. **You may object to the settlement.** If you wish to submit an objection rather than exclude yourself from the class action, you may submit your objection in writing to the Clerk of the United States District Court for the Eastern Division of Massachusetts, John Joseph Moakley United States Courthouse, 1 Courthouse Way, Suite 2300, Boston, MA 02210. The objection must be received by the Clerk of the Court on or before \_\_\_\_\_, 2007 and must refer to the name and number of the case. Copies must also be served on Class Counsel and Defendant's Counsel.

Any written objection must include your name and address, the name and number of the case, and contain: (i) a statement of each objection being made; (ii) a detailed description of the facts underlying each objection; (iii) a description of legal authorities for each objection; (iv) a statement of whether the objector intends to appear at the Fairness Hearing; (v) a list of

witnesses the objector wishes to call at the hearing; (vi) a list of any documents or exhibits which the objector wishes to introduce or discuss at the hearing. Copies of all objections and related documents must also be concurrently served on both Class Counsel and Defendant's Counsel.

**If you do file an objection, you may choose to appear at the hearing before Judge Young on \_\_\_\_\_, 2007 at \_\_\_\_ . YOU ARE NOT REQUIRED TO ATTEND THIS HEARING.** If you intend to object in person at the hearing, you must notify the Clerk of the Court of your intention to do so by \_\_\_\_\_, 2007. Please note that it is not sufficient to simply state that you object. You must comply with the above-stated requirements.

If this 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.

### **AVAILABILITY OF FILED PLEADINGS**

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 may visit the office of the Clerk of the United States District Court for the Eastern Division of Massachusetts, John Joseph Moakley United States Courthouse, 1 Courthouse Way, Suite 2300, Boston, MA 02210. 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 attorneys have concerning this notice should be directed to:

Kenneth D. Quat, Esq.  
QUAT LAW OFFICES  
9 Damonmill Square, Suite 4A-4  
Concord, MA 01742  
[ken@quatlaw.com](mailto:ken@quatlaw.com)

All inquiries to counsel should be by first class mail or e-mail. Please include the case name and number, your name and your current return address on any letters, not just the envelopes.

**DO NOT CONTACT THE COURT REGARDING THIS NOTICE.**