

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

JERRY GUSTIN, ELDA GARCIA, and  
WESLEY WELLING, individually and in their  
representative capacity for all those similarly situated,

Plaintiffs,

CASE NO. 6:08-CV-57-ORL-22-DAB

v.

PAUL A. HOFFMAN, and  
EDWARD S. DIGGES, JR.,

Defendants.

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**NOTICE OF PROPOSED CLASS ACTION  
SETTLEMENT, FAIRNESS HEARING, AND RIGHT TO APPEAR**

**TO: All Persons who are a member of the following Class:**

All persons who purchased, sold, held, and/or retained investments in Nexstar Communications, LLC (“Nexstar”), TMT Equipment Company, LLC; TMT Management Group, LLC (“TMT Management”); POSA, LLC (“POSA”), POSA TMT, LLC (“POSA TMT”); Camtucket LLC; Televest Communications, LLC; TMT International, LLC, Televest Group, LLC; KBK Partnership LLP; Chilham LLC; and Spin Drift, LLC between April 1, 2003 and February 28, 2006. Excluded from the Settlement Class are Defendants and all of their respective employees, agents (e.g., brokers), family members, legal representatives, heirs, subsidiaries, affiliates, successors, and assigns.

If you are a member of the Class, you may be eligible to receive money in this class action settlement.

**PLEASE READ THIS NOTICE CAREFULLY. THIS IS A CLASS ACTION SETTLEMENT UNDER FEDERAL RULE CIVIL PROCEDURE 23. IF YOU ARE A MEMBER OF THE CLASS DEFINED BELOW, YOU WILL BE BOUND BY THIS SETTLEMENT UNLESS YOU OPT OUT AS EXPLAINED BELOW, AND YOUR RIGHTS WILL BE AFFECTED BY LEGAL PROCEEDINGS IN THIS LITIGATION. YOU MAY BE ENTITLED TO CASH PROCEEDS PURSUANT TO THE PROPOSED SETTLEMENT DESCRIBED BELOW. TO RECOVER, YOU MAY BE REQUIRED TO SUBMIT AN OFFICIAL CLAIM FORM BY THE CLAIMS DEADLINE.**

**CLAIMS DEADLINE**  
**OBJECTIONS AND OPT OUT DEADLINE**  
**FAIRNESS HEARING DATE**

**October 23, 2009**  
**October 23, 2009**  
**November 20, 2009**

The purpose of this Notice is to inform you of: (1) the proposed settlement of this class action litigation; and (2) of the hearing to be held by the U.S. District Court for the Middle District Florida (the "Court") to consider the fairness, reasonableness, and adequacy of the proposed amended settlement with Defendant Paul A. Hoffman (the "Fairness Hearing"). The purpose of this Notice is also to enclose an Official Claim Form that you must use if you wish to make a claim for money and you have not previously had a claim approved by the Receiver in the related matter styled *Commission v. Digges*, Case No. 6:06-cv-137-Orl-19KRS. An Official Claim Form is enclosed herewith.

The proposed settlement, the terms of which are only summarized in this Notice, is embodied in the Settlement Agreement dated May 18, 2009 (the "Settlement Agreement"), which has been filed with the Court. The Fairness Hearing will be held before the Honorable Gregory A. Presnell, United States District Judge on November 20, 2009 at 9:30 a.m. in **Courtroom #5A**, Fifth Floor, George C. Young United States Courthouse and Federal Building, 401 West Central Boulevard, Orlando, Florida 32801-0120.

### **THE LITIGATION**

The above-captioned Plaintiffs have filed a lawsuit in the United States District Court for the Middle District of Florida against Paul A Hoffman and Edward S. Digges, Jr. (collectively, "Defendants") for, among other things, an alleged fraudulent securities scheme perpetrated by Defendants by which hundreds of investors were defrauded out of millions of dollars through investments in a group of corporate entities that Defendants owned or controlled for each person covered by the Certified Class definition below. Mr. Hoffman denies the foregoing allegations and denies that he acted improperly, but, without admitting liability, has concluded that it is in his best interests to settle this lawsuit. You may be eligible to recover if you meet the criteria for recovery.

**THE COURT HAS EXPRESSED NO OPINION AS TO THE MERITS OF PLAINTIFFS' CLAIMS.**

### **THE SETTLEMENT**

Under the terms of the Settlement Agreement, and subject to changes in the applicable law, Mr. Hoffman has agreed as follows:

The Settlement Class includes all persons who purchased, sold, held, and/or retained investments in Nexstar Communications, LLC ("Nexstar"), TMT Equipment Company, LLC; TMT Management Group, LLC ("TMT Management"); POSA, LLC ("POSA"), POSA TMT, LLC ("POSA TMT"); Camtucket LLC; Televest Communications, LLC; TMT International, LLC, Televest Group, LLC; KBK Partnership LLP; Chilham LLC; and Spin Drift, LLC

between April 1, 2003 and February 28, 2006. Excluded from the Settlement Class are Defendants and all of their respective employees, agents (*e.g.*, brokers), family members, legal representatives, heirs, subsidiaries, affiliates, successors, and assigns.

Settlement Payment: Mr. Hoffman agrees to make the following Settlement Payment to Class Members: seven hundred thousand dollars (\$700,000) within ten (10) days of final approval of this settlement by the Court, made by means of wire transfer to the Trust Account of Damian & Valori, LLP.

Mr. Hoffman shall bear one-half of the costs, up to a cap of \$10,000, of serving notice of this Agreement and administering payments to Class Members following preliminary approval. The Class shall bear the balance of such costs.

Plaintiffs will apply to the Court for an incentive payment to Jerry Gustin in the amount of \$5,000.00, and for incentive payments to Elda Garcia and Wesley Welling in the amount of \$2,500 each, and Mr. Hoffman will not oppose this Motion.

Mr. Hoffman agrees that he shall not object to Class Counsel's application for attorneys' fees and costs claims for any amount up to Plaintiffs' counsels' actual fee lodestar in connection with the Action. As detailed herein, Plaintiffs' Counsel have applied for \$233,333 (*i.e.*, 1/3 of the total settlement amount of \$700,000) plus costs in the current amount of \$17,729.55 for the legal services rendered in connection with this litigation, which is less than the Plaintiffs' Counsel's reported fee lodestar in the case to date.

Mr. Hoffman will pay the mediator's total fee of \$3,000.00.

The above requirements are described more specifically in, and are subject to the terms of, the Settlement Agreement and Federal law. These requirements are also subject to revision pursuant to further order of this Court, statutory changes, or pronouncements by administrative agencies, the Supreme Court, or the Circuit Courts of Appeal.

### **PLAN OF ALLOCATION**

If the Court approves the Settlement Agreement at the Fairness Hearing, each eligible Class Member who: (a) previously filed a claim in the related receivership proceeding (styled *Commission v. Digges*, Case No. 6:06-cv-137-Orl-19KRS) (the "Receivership Action") brought by Receiver James Silver (the "Receiver") and whose claim was approved and who did not object to the claim amount approved in the Receivership Action; or (b) did not previously file a claim in the Receivership Action, but instead filed a timely, complete, and fully documented Official Claim Form demonstrating entitlement to recovery, and who otherwise meets the requirements of the Settlement Agreement, shall be entitled to receive payment in accordance with the following formula: Approved Class Members shall receive a proportional percentage of the available proceeds from the Settlement Payment net of any named Plaintiffs' incentive fees and the total attorneys' fees and costs determined by the Court necessary to compensate Class Counsel, with the proportional percentage calculated by dividing a Class Member's approved

claim amount by the total amount of approved claims.

Each class member who has not previously submitted a claim with the Receiver will have to execute the Official Claim Form in which he/she swears that he/she qualifies for payment.

### **YOUR RIGHT TO OPT OUT OF THE SETTLEMENT AGREEMENT**

If you are a Class member and decide that you do not wish to become part of this settlement, and would rather pursue a claim on your own, you may elect to opt out of this settlement. If you decide to opt out of this settlement you will not receive any proceeds from this settlement and you would be forced to file an individual lawsuit on your own behalf against Defendants in order to attempt to recover any money which may or may not be owed to you. If you decide to opt out you must prepare a document reflecting your desire to opt out and setting forth the style of the case as set forth above.

Your opt-out document must clearly state that you wish to opt out of this settlement, must be sent via certified mail return receipt requested and received by no later than October 23, 2009 by the Claims Administrator, addressed as follows:

Kapila & Company  
1000 South Federal Highway, Suite 200  
Fort Lauderdale, FL 33316  
Direct: (954) 712-3201

A copy of that opt-out document must be also sent via certified mail return receipt requested to: (1) Class Counsel Melanie Damian, Esq., Damian & Valori, LLP, 1000 Brickell Avenue, Suite 1020, Miami, Florida, 33131; and (2) Mr. Hoffman's counsel, Edward J. Boyle, Esq., Wilson Elser, 150 East 42nd Street, New York, NY 10017 with proof of service on the Claims Administrator to be received by no later than October 23, 2009. A copy of this opt-out document must be also sent via certified mail to Clerk of Court for the United States District Court for the Middle District of Florida 401 West Central Boulevard, Orlando, Florida 32801-0120 with proof of service on the Claims Administrator to be received by no later than October 23, 2009. Such opt-out document must affirmatively state your desire to opt out of the settlement and otherwise comply with the requirements of Federal law. Any potential Class Member who does not opt out in the time and manner provided above shall be deemed to have waived their right to opt out and shall be bound by the terms of the Settlement Agreement.

### **PERFECTING A CLAIM TO RECOVER**

If you previously filed a claim in the Receivership Action brought by the Receiver and your claim was approved and you do not object to the claim amount approved in the Receivership Action, then you are **NOT** required to file this Official Claim Form. You will receive a pro-rata distribution based upon the approved claim amount from the Receivership Action and by accepting that payment you will be deemed bound by the releases set forth on page 6 herein.

If you previously filed a claim with the Receiver but you do not agree with and do not wish to be bound by the Receiver's decision, then you **MAY** file this Official Claim Form for an independent determination by the Claims Administrator. Please note that the Claims Administrator may agree with the prior determination by the Receiver.

But if you have not previously filed a claim in the Receivership Action, then you **MUST** file this Official Claim Form to have your claim considered and processed. Accordingly, if you are a Class Member and wish to file a claim, you must complete and sign the enclosed Official Claim Form and send it by mail, to the Claims Administrator, addressed as follows:

Kapila & Company  
1000 South Federal Highway, Suite 200  
Fort Lauderdale, FL 33316  
Direct: (954) 712-3201

Note that if this notice was originally sent to an outdated or incorrect address, you must provide your current address where indicated on the Official Claim Form and return it to the Claims Administrator.

**IMPORTANT:** Official Claim Forms that are received later than October 23, 2009, shall be invalid, and thus barred from recovery under the Settlement Agreement. Under no circumstances will this deadline be extended without the express written consent of Mr. Hoffman. Moreover, if your Official Claim Form is incomplete, or does not have all of the required formalities, then you will be barred from recovery. This is an absolute deadline. All Class Members are subject to this deadline, including those Class Members who file objections or motions to intervene. The filing of objections, motions to intervene, or any other documents shall not toll or otherwise extend the deadline, and failing to fully or properly complete and ensure receipt of the Official Claim Form(s) and all necessary documentation by October 23, 2009, will constitute an absolute waiver of any right to recover.

### **THE FAIRNESS HEARING**

A hearing known as the Fairness Hearing will be held before the Honorable Gregory A. Presnell, United States District Judge on November 20, 2009 at 9:30 a.m. in **Courtroom #5A**, Fifth Floor, George C. Young United States Courthouse and Federal Building, 401 West Central Boulevard, Orlando, Florida 32801-0120, to determine the reasonableness, adequacy, and fairness of the proposed settlement. The Fairness Hearing may be continued or adjourned from time to time by the Court with or without further notice to Class Members.

Any Class Member may appear at the Fairness Hearing and show cause as to any reason why the proposed settlement contained in the Settlement Agreement should not be approved as fair, reasonable, and adequate. However, no Class Member or any other person shall be entitled to appear and show such cause or otherwise contest the approval of the terms and conditions of the proposed settlement in any respect, unless, no later than five (5) days before the hearing, that person: (1) has served written notice on the Claims Administrator; and (2) has further filed such notice with the Clerk of the United States District Court for the Middle District of Florida

Courthouse, 401 West Central Boulevard, Orlando, Florida 32801-0120, with proof of delivery to the above attorneys on or before October 23, 2009 at the following addresses: (a) Class Counsel Melanie Damian, Esq., Damian & Valori, LLP, 1000 Brickell Avenue, Suite 1020, Miami, Florida, 33131; and (b) Mr. Hoffman's counsel, Edward J. Boyle, Esq., Wilson Elser, 150 East 42nd Street, New York, NY 10017. Such notice shall set forth each objection and the basis for the objection, as follows:

Any such objections or any petition to intervene by a Class Member in the Action must be in writing, and must include: (1) sworn proof that the objector or intervenor is a Class Member as defined in this Notice and the Settlement Agreement; (2) a notice of intent to appear at the Fairness Hearing; (3) a statement of each objection being made and/or each ground for intervention; (4) a detailed description of the facts underlying each objection and/or ground(s) for intervention; (5) a detailed description of any legal authorities underlying each objection and/or ground for intervention; (6) a list of witnesses, including impeachment witnesses, who may be called to testify at the Fairness Hearing, either live or by deposition or by affidavit, and a summary of the testimony to be presented at the hearing; and (7) a list of exhibits, including impeachment exhibits, along with copies of the exhibits, that the objector and/or intervenor may offer during the Fairness Hearing.

All of those documents must be both filed with the Court and delivered to attorneys for Plaintiffs and attorneys for Defendants no later than five (5) days before the hearing. Any Class Member who does not make an objection in the time and manner provided shall be deemed to have waived such objection, shall be bound by the terms of the Settlement Agreement and Release contained therein, and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the proposed settlement as set forth in the Settlement Agreement.

You may also enter an appearance at the Fairness Hearing, through your own attorney at your own expense. This will not change, however, the amount you are entitled to recover, if anything, and in no event will you or your counsel be able to seek attorneys' fees from Defendants in this litigation or in connection with the Settlement Agreement. If you do not opt out, or you do not elect to be represented by your own attorney, or you do not object to the proposed settlement, you will be represented by counsel for the Settlement Class.

### **SETTLEMENT PAYMENTS**

You are not required to attend the Fairness Hearing in order to claim your recovery.

If you are a member of the Settlement Class and you have not previously submitted a claim to the Receiver: (1) you must properly complete and timely submit your Official Claim Form; (2) you must otherwise qualify to recovery under the Settlement Agreement, and (3) the Court must approve the settlement. If the Court approves the settlement, it is believed that checks and claim denial letters will be mailed to Class Members who have perfected claims within fourteen (14) days after entry of the approval of the settlement becomes final.

If you disagree with the resolution of your claim, you may request that Class Counsel

audit the determination of your claim. If Class Counsel and Mr. Hoffman's counsel disagree regarding the determination of the claim, Class Counsel shall petition the Court to review the determination of the claim.

**ATTORNEYS' FEES**

You are advised that Plaintiffs' counsel seek an award of attorneys' fees in the total amount of \$233,333 (1/3 of the total settlement amount of \$700,000) for the legal services rendered in connection with this litigation plus costs currently in the amount of \$17,729.55.

**DISMISSAL OF CLAIMS AGAINST EDWARD S. DIGGES, JR.**

You are advised that on October 23, 2009, the Court will dismiss without prejudice the claims against Edward S. Digges, Jr. Such claims are not subject or part of the Settlement Agreement, and members of the Class are free to pursue their own claims against Mr. Digges, subject to any limitations periods governing such claims. If you wish to pursue a claim against Mr. Digges, you should contact independent counsel as soon as possible in order to ensure that you comply with any pertinent limitations period.

**ADDITIONAL INFORMATION**

This notice provides a summary of the litigation and the proposed settlement. For a more detailed statement of the matters involved in the litigation, you may refer to the pleadings, the Settlement Agreement, the orders of the court, and to the other papers filed in the litigation. These papers are available for inspection at the office of the Clerk of the U.S. District Court for the Middle District of Florida 401 West Central Boulevard, Orlando, Florida 32801-0120 or online through the Court's website.

**INQUIRIES SHOULD NOT BE DIRECTED TO THE COURT**

If you wish to obtain additional information about the settlement, you may contact the Claims Administrator with your specific written request at the following address:

Kapila & Company  
1000 South Federal Highway, Suite 200  
Fort Lauderdale, FL 33316  
Direct: (954) 712-3201

You may also contact Class Counsel as follows:

Melanie Damian, Esq.  
Damian & Valori LLP  
1000 Brickell Avenue, Suite 1020  
Miami, Florida 33131

DATED August 28, 2009.