

## **NOTICE OF CLASS ACTION SETTLEMENT**

**If you received a partial refund of the down payment you put on a unit in the Cosmopolitan Resort and Casino Las Vegas through a previous class action settlement, you could receive money from a related class action settlement.**

*A court authorized this notice. This is not a solicitation from a lawyer.*

- A settlement has been reached with two of the defendants in a class action lawsuit that affects your rights. The lawsuit will continue against the remaining defendants.
- The settlement resolves a class action lawsuit against King & Spalding LLP (“King & Spalding”) and Benjamin F. Easterlin IV, a partner in the firm (“Easterlin”) (together, the “K&S Defendants”) alleging that the K&S Defendants breached their fiduciary duties and committed malpractice in representing a class of individuals who put earnest money deposits toward the purchase of units in the Cosmopolitan Resort and Casino Las Vegas. This class of individuals received only a partial refund of their deposit through a class action lawsuit filed on their behalf by the remaining defendants Mark Obenstine, Terry Coffing, and Marquis & Aurbach P.C., against Nevada Property 1, entitled *Daniel Watt, et al. v. Nevada Property 1, LLC, et al.*, Nevada District Court, Case No. A582541. Plaintiffs contend the K&S Defendants acted as attorneys for the class in the *Watt* action. The K&S Defendants deny all of these allegations. The Court has not ruled on the allegations.
- The Court has not decided whether to finally approve the settlement. Payments will be made only after the Court approves the settlement and any appeals are resolved. Please be patient.
- The decision of whether to participate in, request to be excluded from, or object to the settlement is entirely yours.

<b>YOUR RIGHTS AND OPTIONS REGARDING THE SETTLEMENT</b>	
<b>DO NOTHING AND BE SENT A CHECK FOR YOUR SHARE OF THE SETTLEMENT AWARD</b>	Do nothing. Automatically be sent your settlement award. Release your claims against the K&S Defendants. See Sections 21-22 below for more information about your settlement award. See Section 23 below for more information about the release.
<b>REQUEST TO BE EXCLUDED FROM THE SETTLEMENT</b>	Ask to be excluded. Get no payment from the settlement. Retain the right to file your own lawsuit for the same claims. See Section 11 below.
<b>OBJECT TO THE TERMS OF THE SETTLEMENT</b>	File an objection that the settlement is unfair or inadequate. See Section 12 below.

**Please read this Notice carefully. It describes your rights, and the steps you have to take, if any, to receive money from the settlement or to exclude yourself from the settlement.**

## BASIC INFORMATION

### 1. Why did I receive this Notice?

Records show that you received a partial refund of the earnest money deposit you placed on a unit in the Cosmopolitan Resort and Casino Las Vegas (“Cosmopolitan”) through a settlement of the class action entitled *Daniel Watt, et al. v. Nevada Property 1, LLC, et al.*, Nevada District Court, Case No. A582541 (the “Watt” litigation). A partial settlement has been reached in a subsequent class action lawsuit against Benjamin F. Easterlin IV (“Easterlin”) and King and Spalding LLP (together, the “K&S Defendants”) and Mark Obenstine, Terry Coffing, and Marquis & Aurbach P.C. (collectively the “Defendants”) that affects your rights. The Honorable Fernando M. Olguin of the United States District Court for the Central District of California, who is overseeing this class action, ordered that you be sent this notice.

### 2. What is this class action about?

This class action, known as *James Estakhrian et al. v. Mark Obenstine, et al.*, Case No. CV11-3480-FMO (CWx), alleges that the Defendants breached their fiduciary duties and committed malpractice, and otherwise engaged in unlawful conduct, in representing you and a class of individuals who put earnest money deposits toward the purchase of units in the Cosmopolitan but only received a partial refund of their deposit through the *Watt* litigation. Plaintiffs contend that the K&S Defendants acted as attorneys for the class in the *Watt* action.

### 3. How do the K&S Defendants respond?

The K&S Defendants have denied and continue to deny all of the allegations of wrongdoing in the lawsuit. The K&S Defendants contend that this lawsuit could not be maintained as a class action if it were litigated, that the settlement of the *Watt* case was approved by a judge and accordingly was fair to the *Watt* class, that the K&S Defendants did not represent the class in the *Watt* action, and that the K&S Defendants did not breach any fiduciary duties or otherwise engage in unlawful conduct.

### 4. What is a class action and who is involved?

In a class action lawsuit, one or more people called “Class Representatives” sue on behalf of other people who have similar claims. The Class Representatives in this case are James Estakhrian and Abdi Naziri. The individuals they seek to represent are the “Class” or “Class Members.” The Class Representatives are called the “Plaintiffs.”

### 5. Why is this lawsuit being partially settled?

After settlement negotiations and the exchange of information and documents, the Class Representatives and the K&S Defendants have agreed to settle this case rather than go to trial. The settlement represents a compromise of disputed claims and is not an admission that the K&S Defendants violated the law. The Class Representatives and class counsel believe the settlement is in the best interests of the class given the risks and expense of going to trial. The remaining Defendants have not settled and the case against them is ongoing.

## 6. Has the Court decided who is right?

No. The Court has not ruled on the merits, and has decided only that you should get a copy of this notice so that you can review the settlement and determine whether you want to participate in the settlement, object to it, or exclude yourself from the settlement.

## 7. Who is the Settlement Administrator?

The settlement administrator is a third party appointed by the Court to send this notice, calculate and issue settlement checks, and otherwise administer the settlement. You may contact the settlement administrator to update your contact information or ask questions regarding the processing of settlement awards. You may contact the settlement administrator at:

Estakhrian Litigation Settlement  
c/o A.B. Data, Inc.  
P.O. Box 170500  
Milwaukee, WI 53217  
1-866-778-6568

## YOUR RIGHTS AND OPTIONS

## 8. Am I part of this Class?

In preliminarily approving the settlement, the Court defined the Class for purposes of this settlement only to include all class members (*i.e.*, those individuals who did not opt out) in *Daniel Watt, et al. v. Nevada Property 1, LLC, et al.*, Nevada District Court, Case No. A582541.

## 9. What does the settlement provide?

The K&S Defendants have agreed to establish a fund from which you and other members of the Class would be compensated, in part, for the losses you allegedly incurred in participating in the settlement of the *Watt* litigation, as discussed in Sections 17-22 below. In return, you and the other members of the Class who do not timely request to be excluded from this settlement will release any claims you and they might have against the K&S Defendants that were or could have been raised in the lawsuit, based on the allegations in the lawsuit, all as more particularly set forth below. For more information about your estimated payment out of the settlement fund and the way it was calculated, see Sections 21-22 below. For more information about the claims being released as part of the settlement, see Section 23 below.

## 10. How do I participate in the settlement?

**You do not need to do anything to participate.** Upon final approval you will automatically be sent a check with your share of the settlement funds and your claims against the K&S Defendants will be released unless you request to be excluded from the settlement.

## 11. How do I request to be excluded from the settlement?

If you wish to be excluded from the settlement, you must complete the attached Opt-Out Form and send it to the Settlement Administrator at the address specified above in Section 7.

**To be effective, your request must be filled out completely and postmarked no later than April 15, 2016.**

If you do not complete and timely mail a valid Opt-Out Form, you will be bound by all terms and conditions of the settlement, including its release of claims. If you do submit a timely and valid Opt-Out Form, you will not receive any money from the settlement, but you will remain as a potential class member in the case against the other Defendants and will retain the right to sue the K&S Defendants separately about the same legal claims in this lawsuit.

In the event that the total value of the claims of the class members who elect to opt out exceeds the amount set forth in a separate, Confidential Supplemental Agreement between the parties, the K&S Defendants have the option to withdraw from the settlement. If that occurs, the settlement will not go forward and the litigation will either continue, or the parties may attempt to negotiate a different settlement.

## 12. May I object to the settlement?

If you believe the settlement is unfair or inadequate, you may object, personally or through an attorney, by filing your objection with the Court at the address below. Your objection must include: (1) your name, (2) the reason why you object to the settlement, (3) your unit number in the Cosmopolitan, (4) a statement of whether you intend to appear at the final approval hearing, and (5) your dated signature. If you wish, you may also but are not required to include a list of any documents or witnesses you contend support your objection. **To be effective, your objection must be postmarked no later than April 15, 2016. Do not telephone the Court or counsel for the K&S Defendants.**

Your objection should be mailed to the Clerk of Court for filing at the following address:

United States District Court for the Central District of California  
*Re: Estakhrian v. Obenstine, et al.*, Case No. 11-3480 FMO  
312 North Spring Street  
Los Angeles, CA 90012

If the Court approves the settlement you will be bound by its terms and conditions, notwithstanding your objection.

## 13. When will I receive my payment?

The K&S Defendants will fund the settlement within 14 days of the date the settlement becomes effective. If any objection is filed pertaining to the merits of the settlement, then the effective date will be delayed until the time to appeal from any ruling on those appeals has expired. If any appeal is filed relating to the merits of the settlement, payments will be delayed until any appeals are finally resolved in favor of the settlement. Please be patient.

## THE LAWYERS REPRESENTING YOU

## 14. Do I have a lawyer in this case?

The Court has determined that the law firms of Mehri & Skalet PLLC, Fay Law Group PLLC, Irvine Law Group LLP, and Chavez & Gertler LLP are qualified to represent you and all members of the Class. Lawyers for these firms are called "Class Counsel." They are experienced in handling similar cases. Their contact information is at the end of this Notice.

### **15. May I get my own lawyer?**

You do not need to hire your own lawyer because Class Counsel is working on your behalf. Nonetheless, you may hire your own lawyer if you wish. If you hire your own lawyer, you are responsible for paying for that lawyer.

### **16. How will Class Counsel be paid?**

You do not have to pay Class Counsel's fees and costs. The fees and expenses that the Court approves for Class Counsel will be paid out of the settlement fund established by the K&S Defendants. More information about the attorneys' fees and costs is contained in Section 19 below.

## **TERMS OF THE SETTLEMENT**

### **17. What have the K&S Defendants agreed to do?**

The K&S Defendants have agreed to pay a total of \$4,625,000, which includes a non-refundable advance of up to \$75,000 for the costs of notice. Attorneys' fees, Class Representative Service Awards, and other costs will be taken from the \$4,625,000 to the extent awarded by the Court. These payments are discussed in Sections 18-20 below.

### **18. What is a "Class Representative Service Award"?**

In class actions such as this one, a court may provide the Class Representative a service award in recognition of the time, effort, and risks the Class Representative took to prosecute the class action. In the present case, Plaintiffs have requested that the Court award each of them such an award in an amount up to \$7,500 (Mr. Estakhrian) and \$2,500 (Mr. Naziri). If the Court awards less than these amounts, the difference will be made available for distribution to Class Members as part of the settlement fund.

### **19. How much will the attorneys be paid?**

Plaintiffs have reserved the right to request that the Court award them their attorneys' fees in connection with their work in this case in an amount up to one-quarter (25%) of the settlement fund, and to reimburse their litigation costs in an amount not to exceed \$136,205. Class Members are not personally liable for any fees or costs. If the Court awards less than this amount, the difference will be made available for distribution to Class Members as part of the settlement fund.

### **20. How much will it cost to administer the settlement?**

It is estimated that it will cost approximately \$28,000 for the Settlement Administrator to fully administer the settlement. Any costs are subject to review and approval by the Court.

### **21. How will the settlement fund be distributed to Class Members?**

The settlement fund, described above, will be distributed to all participating Class Members in proportion to each Class Member's total alleged damages – the amount of the unrefunded deposits they paid for their units in the Cosmopolitan – as estimated by Plaintiffs. These estimates will be based on the earnest money deposits placed on units in the Cosmopolitan and the refunds received through the *Watt* litigation.

Any money remaining in the settlement fund after all payments are made under the settlement (for example, if any settlement checks are not cashed within one hundred twenty (120) days after mailing) will be paid to the National Consumer Law Center, subject to the Court's approval, as the designated "cy pres" beneficiary of the settlement.

## **22. How will my share of the settlement be calculated?**

Your share of the settlement will be calculated pro-rata based on your own personal alleged damages as estimated by Plaintiffs based on the earnest money deposits placed on units in the Cosmopolitan and the refunds received through the *Watt* litigation. The *average* award after the payments set forth in Sections 18-20 are made is estimated to be about \$2,000 but the actual amount that you will receive will be based on the actual costs of administration, fees awarded, and amount of the deposit and the amount received in the *Watt* settlement as well as the number of class members who request to be excluded from the settlement.

## **RELEASE OF CLAIMS**

## **23. What claims are being released as part of the settlement?**

Upon final approval of the settlement by the Court, and except as to such rights or claims as may be created by the settlement agreement, all Class Members, on behalf of themselves and their respective past and present parents, subsidiaries, and affiliates, as well as the past and present general and limited partners, officers, directors, employees, agents, attorneys, servants, predecessors, successors, heirs, executors, administrators, and representatives of all Class Members, and all others claiming now or in the future through or on behalf of any of the foregoing, (collectively, the "Releasers"), will release and forever discharge, and covenant not to sue King & Spalding and Easterlin, as well as the past and present subsidiaries, affiliates, general partners, limited partners, officers, directors, employees, agents, insurers, attorneys, servants, predecessors, successors, heirs, executors, administrators, and representatives of each of the foregoing (the "Releasees"), with respect to, in connection with, or relating to any and all past, present, or future liabilities, claims, demands, obligations, suits, damages, levies, executions, judgments, debts, charges, actions, or causes of action, at law or in equity, whether class, individual, or otherwise in nature, and whether accrued or unaccrued, known or unknown, (a) arising out of or relating to any conduct, events, or transactions alleged, or that could have been alleged in connection with the claims made in the Action, (b) relating to any conduct, events, or transactions in, or otherwise concerning or arising out of, the *Watt* and/or *Stone* Litigation or the alleged representation of any plaintiff or class member in the *Watt* and/or *Stone* Litigation, or (c) for the K&S Defendants' acting in accordance with Paragraph 14 of the Settlement Agreement (collectively, the "Released Claims"). These releases are specific releases and do not constitute general releases.

The K&S Defendants will also ask the Court to issue an order determining that the settlement is a "good faith settlement" and that the other defendants in the case are therefore barred from seeking indemnity or contribution from the K&S Defendants for all or any part of any damages those other defendants may be required to pay in connection with the Action.

## **FINAL SETTLEMENT APPROVAL HEARING**

## **24. When will the Court consider whether to finally approve the settlement?**

The Court will hold a hearing in Courtroom 22 of the United States District Court for the Central District of California, located at 312 North Spring Street, Los Angeles, CA 90012, on **June 14, 2016** at 10:00 a.m, to decide whether to finally approve the settlement. At that time, the Court will also decide whether to approve Class Counsel's request for attorneys' fees and reimbursement of costs and the Class Representative Service Awards.

**It is not necessary for you to appear at this hearing.** If you have timely submitted an objection to the settlement and a notice of intent to appear, you may appear at the hearing to argue your objection to the Court. Any attorney who will represent you must file a notice of appearance with the Court on or before **June 7, 2016**. You will be solely responsible for the fees and costs of your own attorney.

The hearing may be postponed without further notice to the Class. If the settlement is not approved, the lawsuit will continue to be prepared for trial or other judicial resolution.

## FURTHER INFORMATION

### 25. How do I get more information?

This notice provides a summary of the basic terms of the settlement. The complete terms and conditions of the settlement agreement plus the amended complaint and other information relating to the case and settlement and be found on the website established for this settlement at [www.Cosmo2016Settlement.com](http://www.Cosmo2016Settlement.com). You can also visit the website for the United States District Court for the Central District of California, or by visiting the clerk of the court located at 312 North Spring Street, Los Angeles, CA 90012.

If you have more questions about this notice or this lawsuit, you can contact the Settlement Administrator (see contact information in Section 7) or Class Counsel at:

#### IRVINE LAW GROUP, LLP

S. Ron Alikani  
7700 Irvine Center Drive, Suite 800  
Irvine, California 92618  
Telephone: (949) 653-6153  
Facsimile: (949) 653-1277  
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**PLEASE DO NOT TELEPHONE OR WRITE THE COURT, THE OFFICE OF THE CLERK, THE K&S DEFENDANTS, OR COUNSEL FOR THE K&S DEFENDANTS FOR INFORMATION REGARDING THIS SETTLEMENT.**