

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

Victoria Radaviciute,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 10-cv-8090
	)	
Christian Audigier, Inc., Audigier	)	Hon. Nan R. Nolan
Media, Inc., Audigier Brand	)	
Management Group, LLC and	)	
Nervous Tattoo, Inc.	)	
	)	
Defendants.	)	

**NOTICE OF  
CERTIFIED CLASS ACTION SETTLEMENT**

**TO:** All persons who received an electronically printed receipt from any Ed Hardy or Christian Audigier store in the United States at the point of sale or transaction or via any internet purchase from an Ed Hardy or Christian Audigier website occurring after June 3, 2008, which receipt displays the person’s credit card or debit card expiration date -- **YOU ARE ELIGIBLE TO RECEIVE A 25% DISCOUNT OFF YOUR TOTAL PRE-TAX PURCHASE PRICE FROM ANY ED HARDY OR CHRISTIAN AUDIGIER STORE AND/OR THROUGH THE ED HARDY AND CHRISTIAN AUDIGIER WEBSITES ON “CUSTOMER APPRECIATION DAYS,” WHICH WILL BE HELD ON 24 (TWENTY-FOUR) SEPARATE DATES OVER THE COURSE OF 12 (TWELVE) WEEKS, WITH TWO “CUSTOMER APPRECIATION DAYS” TAKING PLACE EACH WEEK OVER THE 12 (TWELVE) WEEK PERIOD. THIS DISCOUNT CANNOT BE APPLIED TO ANY ITEM ALREADY ON SALE AND THE MAXIMUM DISCOUNT PER TRANSACTION IS \$100 (ONE HUNDRED DOLLARS). ALL PERSONS, REGARDLESS OF WHETHER OR NOT THEY ARE MEMBERS OF THE CLASS, SHALL BE ENTITLED TO RECEIVE THE AUTOMATIC DISCOUNT ON THESE CUSTOMER APPRECIATE DAYS.**

**YOU HAVE NOT BEEN SUED. THIS NOTICE IS INTENDED TO INFORM YOU ABOUT LITIGATION THAT MAY AFFECT YOUR LEGAL RIGHTS. PLEASE READ IT CAREFULLY.**

On behalf of the named plaintiff and all members of the class, the United States District Court for the Northern District of Illinois (the “Court”) has preliminarily approved a settlement. This notice is not to be construed as an expression of any opinion by the Court with respect to the merits of the respective claims or defenses of the parties. Rather, this notice is sent merely to inform you of legal rights you may have with respect to the settlement.

## **I. BACKGROUND OF THE LITIGATION.**

Victoria Radaviciute (“Plaintiff”), on behalf of all members of the class, has alleged that Christian Audigier, Inc., Audigier Media, Inc., Audigier Brand Management Group LLC and Nervous Tattoo, Inc. (“Defendants”) violated certain requirements imposed by the Fair and Accurate Credit Transactions Act (“FACTA”). Specifically, Plaintiff claims that Defendants printed the expiration dates of its customers’ credit or debit cards on customer receipts presented to them at Ed Hardy and Christian Audigier store locations in violation of FACTA, as specifically set forth in the Complaint on file and available at the Court at the Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois 60604. NEITHER PLAINTIFF NOR ANY CLASS MEMBER HAS SUSTAINED ANY ACTUAL MONETARY INJURY AS A RESULT OF THE ISSUES IN DISPUTE IN THIS LITIGATION. HOWEVER, THE SETTLING PARTIES AGREE THAT FACTA PROHIBITS THE DISPLAY OF CREDIT OR DEBIT CARD EXPIRATION DATES ON CREDIT AND DEBIT CARD RECEIPTS PRESENTED TO CUSTOMERS AT THE POINT OF SALE.

## **II. CURRENT STATUS.**

On July 12, 2011, the Court preliminarily approved the settlement for the class as fair, adequate, and reasonable. If finally approved, the settlement will certify a class that will bind the named plaintiffs and all absent class members who do not exclude themselves from the class.

Under the terms of the settlement, class members and any other members of the public making a purchase transaction at or from the listed Ed Hardy and Christian Audigier store locations or websites shall receive an automatic discount of twenty-five percent (25%) off the total pre-tax purchase price subject to the above-limitations, at or from Ed Hardy and Christian Audigier store locations and websites during any or all of the twenty-four (24) Customer Appreciation Days to be held over the course of 12 (twelve) weeks. The Ed Hardy and Christian Audigier store locations and websites are listed at the end of this notice.

The amount paid in this settlement reflects an evaluation of the claims and potential recovery, considering the facts as known to counsel after discovery and careful investigation, the likelihood of prevailing at trial, and the likelihood that this litigation, if not settled now, would be further protracted and involve complex issues of fact and law. The amount is also based upon an evaluation of the potential recovery available under FACTA.

Class counsel believes that the settlement is fair and reasonable and that the class members should accept this settlement. In light of the risks and expenses of litigation and Defendants’ potential defenses, class counsel believes it is in the best interests of the class that the case be settled and that the settlement terms are fair and reasonable.

## **III. EFFECT OF SETTLEMENT ON CLASS MEMBERS.**

If you elect to be excluded from the class, you will not be bound by the terms and releases of the settlement or judgment of dismissal and orders in the above-captioned action. Any class member who does not request to be excluded will automatically be included in this action as a member of

the class represented by the named plaintiff, will be subject to and deemed to consent to the jurisdiction of the Court and its orders, and will be deemed to have released and thereafter be forever barred from asserting any claims against the released parties with respect to any credit or debit account information that was printed on a receipt presented to such class member at the point of sale after June 3, 2008. A complete description of the released claims is available in the Court file maintained at the Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois 60604.

#### **IV. EXCLUSION FROM THE CLASS.**

If you do not wish to participate in this settlement, you must notify Class Counsel in writing of your intention to be excluded. Your election to opt-out must be signed by the class member opting-out and must contain the following information: (1) the name of the class member, (2) the current address of the class member, (3) the date signed, and (4) a copy of the customer's receipt. No class member may opt-out through an actual or purported agent or attorney acting on behalf of the class member unless a fully lawful power of attorney, letters testamentary or other comparable documentation or court order accompanies the request. Further, the letter must be postmarked on or before **September 9, 2011**, and must be addressed to the following: Thomas A. Zimmerman, Jr., ZIMMERMAN LAW OFFICES, P.C., 77 West Washington Street, Suite 1220, Chicago, IL 60602. Failure to opt-out by the deadline, or to follow the above procedures, will result in a class member being bound by any judgments and orders in this case.

#### **V. OBJECTIONS TO THE SETTLEMENT AND RIGHT TO INTERVENE.**

Only class members may object to the settlement, and persons who opt-out of the class may not object to the settlement agreement. If you wish, you may enter an appearance in the action personally or through your own attorney at your own expense. You may also seek to intervene if at any time you believe your interests are not being fairly and adequately represented by the class representative and class counsel.

Any class member who wishes to be heard orally at the Fairness Hearing, or who wishes for any objection to be considered, must file a written notice of objection by **September 9, 2011**, and include the following information with the objection: (1) a statement of the desire to be heard at the Fairness Hearing and/or a statement of each objection asserted, (2) a detailed description of the facts underlying each objection (if any); and (3) a copy of any documents which the objector may offer during the Fairness Hearing, including a copy of the receipt giving rise to your claims.

On or before **September 9, 2011**, the objector must file the above documents with the Clerk of the Court at the Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois 60604, and serve notice of the objection to plaintiffs' class counsel and defense counsel at the following addresses:

Thomas A. Zimmerman, Jr.  
ZIMMERMAN LAW OFFICES, P.C.  
77 West Washington Street

Suite 1220  
Chicago, IL 60602

James W. Davidson  
O'Hagan Spencer LLC  
One East Wacker Drive  
Suite 3400  
Chicago, IL 60602

Objectors who fail to properly or timely file their objections with the Court, or to serve them as provided above, shall not be heard during the Fairness Hearing, nor shall their objections be considered by the Court.

#### **VI. FINAL FAIRNESS HEARING.**

The District Court will hold a hearing to decide whether to approve the settlement. You may attend and you may be able to speak, but it is not required. The Fairness Hearing will be held at **11:00 a.m. on October 19, 2011** at the Court at the Dirksen Federal Building, 219 South Dearborn Street, Room No. 1812, Chicago, Illinois 60604. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections or requests to be heard, the Court may consider them at the hearing. Defendant has agreed to pay class counsel fees and costs in the amount of \$270,000.00. The Court must approve this amount.

### **QUESTIONS AND ANSWERS**

#### **1. WHAT DO I NEED TO DO TO PARTICIPATE IN THE SETTLEMENT?**

If you believe you are a member of the class and desire to participate in the settlement, you need only make a purchase or multiple purchases from any of the listed Ed Hardy or Christian Audigier store locations or websites on any or all of the 24 Customer Appreciation Days which will be advertised on the Ed Hardy and Christian Audigier websites and at the store locations.

#### **2. WHO REPRESENTS THE CLASS?**

- (a) **Class Representative:** The named plaintiff is the class representative and she alleges that she received a receipt from Defendants at the point of sale that displayed the expiration date of her credit card.
- (b) The class representative has assisted class counsel in coordinating the prosecution of this action and in providing information needed to pursue the claims of all class members. The class representative will be applying for an incentive award of \$5,000.00, which the Defendants have agreed to pay separately, and not from amounts available for class members.
- (c) **Class Counsel:** In its order granting preliminary approval of the settlement and certifying the class for settlement, the District Court appointed Thomas A. Zimmerman,

Jr., as class counsel to represent the named plaintiff and to represent the interests of the absent class members.

### **3. WHERE DO I GET ADDITIONAL INFORMATION?**

The foregoing is only a summary of the circumstances surrounding the litigation, the claims asserted, the class, the settlement, and related matters. You may seek the advice and guidance of your own private attorney, at your own expense, if you desire. For more detailed information, you may review the pleadings, records, and other papers on file in this litigation, which may be inspected during regular business hours at the Court at the Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois 60604. If you wish to communicate with class counsel identified above, you may do so by writing to Thomas A. Zimmerman, Jr., ZIMMERMAN LAW OFFICES, P.C., 77 West Washington Street, Suite 1220, Chicago, IL 60602; alternatively, you may call the offices of the firm at (312) 440-0020.

*/s/ The Honorable Nan R. Nolan*  
United States Magistrate Judge

IF YOU HAVE ANY QUESTIONS OR CONCERNS, ADDRESS ALL INQUIRIES TO CLASS COUNSEL IN THE MANNER SET FORTH ABOVE. THE COURT AND THE CLERK WILL NOT ANSWER LEGAL QUESTIONS FROM INDIVIDUAL CLAIMANTS. BY ISSUING THIS NOTICE, THE COURT EXPRESSES NO OPINION AS TO THE MERITS OF ANY CLAIMS OR DEFENSES ASSERTED IN THIS CIVIL ACTION. **PLEASE DO NOT CONTACT THE COURT.**

#### **Arizona**

Scottsdale Fashion Square  
7014-590 East Camelback  
Road. Space 1453  
Scottsdale, AZ 85251

#### **California**

7829 Melrose Avenue.  
Los Angeles, Ca 90046

8335 Melrose Avenue.  
Los Angeles, Ca 90046

8500 Beverly Blvd. #675  
Los Angeles, CA 90048

8680 Hayden Place  
Culver City, CA 90232

#### **Florida**

The Mall of Millenia  
4200 Conroy Road. Space  
M233  
Orlando, FL 32839

Prime Outlets  
4959 International Dr.  
Suite 1F18  
Orlando FL 32819

International Plaza  
2223 N. West Shore Blvd  
Space 227  
Tampa, FL 33607

12801 W Sunrise Blvd  
#1045  
Sunrise, FL 33323

#### **Maryland**

Towson Town Center  
825 Dulaney Valley Road.  
Space 2110  
Towson, MD 21204

#### **Massachusetts**

328 Newbury Street  
Boston, MA 02115  
Phone: (617) 236-1633

1 Premium Outlet Blvd  
#690  
Wrentham, MA 02093

**Minnesota** Mall of  
America

49 Mercer Street  
New York, NY 10012

425 West 13th Street  
New York, NY 10014

286 Lafayette  
New York, NY 10012

#### **Texas**

NorthPark Center  
8687 N. Central  
Expressway #2248  
Dallas, TX 75225

Galleria Mall  
5085 Westheimer Rd. Suite  
B3587

100 Citadel Dr #537  
Commerce, CA 90040

2855 Stevens Creek Blvd  
Space 1051  
Santa Clara, CA 95050

Americana at Brand  
728 Americana Way  
Glendale, CA 91210

690 E. Ventura Blvd.  
#130  
Camarillo, CA 93010

395 Santa Monica Place  
#122  
Santa Monica, CA 90401

60 Grant Avenue  
San Francisco, CA 94108

Las Americas Premium  
Outlet  
4211 Camino De La Plaza  
Suite 200  
San Diego, CA 92173

Desert Hills Premium  
Outlet  
48400 Seminole Drive  
#430  
Cabazon, CA 92230

442 Lincoln Road  
Miami Beach, FL  
33139**Georgia**  
Lenox Square3393  
Peachtree Rd. Suite 2032  
Atlanta, GA 30326

800 HIGHWAY 400  
SOUTH Ste 380  
Dawsonville, GA 30534

#### **Nevada**

Premium Outlets  
755 Grand Central Way  
Pwy. #1471  
Las Vegas, NV 89106

Fashion Show Mall  
3200 Las Vegas Blvd.  
#1155  
Las Vegas, NV 89109

The Forum Shops at  
Caesars  
3500 Las Vegas Blvd.  
South  
Las Vegas, NV 89109

60 East Broadway. Space  
S108  
Bloomington, MN 55425

#### **New Jersey**

Westfield Garden State  
Plaza  
1 Garden State Plaza.  
Space 2134  
Paramus, NJ 07652

Jersey Shore Premium  
Outlet  
One Premium Outlets  
Blvd. Space 773  
Tinton Falls, NJ 07753

#### **New York**

Roosevelt Field  
630 Old Country Road.  
Suite 2097  
Garden City, NY 11530

328 Red Apple Court  
Central Valley, NY 10917

Tanger Factory Outlets  
1770 West Main Street.  
Space #914  
Riverhead, NY 11901

Houston, TX 77056

Prime Outlets  
3939 I-35 South Space 230  
San Marcos, TX 78666

29300 Hempstead Rd  
#1107  
Cypress, TX 77429

5001 E Expy 83 #943  
Mercedes, TX 78570

#### **Virginia**

Tyson's Center  
1961 Chain Bridge Road.  
Space K1AL  
McLean, VA 22102  
Phone: (703) 442-4803

#### **WEBSITES**

<http://edhardyshop.com/>  
<http://christianaudigier.com/>  
<http://shopcrystalrock.com/>  
<http://pacochicano.com/>  
<http://thesameguy.net>

**NOTE:** The website for Ed Hardy is in the process of being separated and the remaining websites will be consolidated. However, if the consolidation occurs soon, a consumer will be redirected by using the current addresses.