

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

TERI PAUL, TERRI CARL, and MARYBETH GLASIER, on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

HCI DIRECT, INC., a Delaware Corporation, and DOES 1-50,

Defendants.

Case No. RG03091369

**NOTICE OF PENDENCY AND
PROPOSED SETTLEMENT OF CLASS
ACTION**

If at any time on or after April 11, 1999, you received a bill or collection letter for “Silkies”-brand hosiery that you did not order:

PLEASE READ THIS NOTICE CAREFULLY. IT MAY AFFECT YOUR LEGAL RIGHTS.

A. DESCRIPTION OF THE LAWSUIT

The above-captioned Class Action lawsuit (“Litigation”) is pending before the Superior Court of California for the County of Alameda. In the Litigation, Plaintiffs Teri Paul, Terri Carl and MaryBeth Glasier, on behalf of themselves and all other persons similarly situated, allege that Defendant HCI Direct, Inc. (“HCI”) failed to disclose adequately the terms and conditions of its continuity sales program for Silkies-brand hosiery and billed consumers for hosiery that they did not order. Plaintiffs further allege that in some instances, HCI has collected money from customers for hosiery that they did not order. Defendant HCI denies all of Plaintiffs’ legal and factual contentions and believes that they are incorrect. HCI has denied all of the allegations made by Plaintiffs in the Litigation and has asserted various affirmative defenses. This Notice does not imply that there has been any finding of any violation of the law by HCI or that recovery could be had in any amount. Although the Court has authorized Notice to be given of the proposed Settlement, this Notice does not express the opinion of the Court on the merits of the claims or defenses asserted by either side.

For purposes of this Settlement only, the Court has conditionally ruled that the Litigation may be maintained on behalf of the following Class:

All Former Customers of HCI Direct, Inc., residing in the United States who, on or after April 11, 1999, received a bill or collection letter from HCI Direct, Inc., or its agents and representatives, for Silkies-brand hosiery that they did not order.

“Former Customers” means any Person who, as of September 12, 2006, is no longer eligible to receive future shipments of hosiery from Defendant pursuant to Defendant’s Continuity Sales Plan and who is no longer receiving billing correspondence from Defendant. Excluded from the Class are HCI; HCI’s directors, officers, and employees; HCI’s legal representatives, successors, and assigns; any entity in which HCI has a controlling interest; any Judge to whom the Litigation is assigned and all members of his or her immediate family; and all persons and entities who timely and validly request exclusion from the Class in compliance with the requirements set forth in this Notice.

B. PURPOSE OF THIS NOTICE

The purpose of this Notice is to inform Class Members of: (1) the existence of the Litigation; (2) a proposed Settlement of the Litigation, described below; (3) your rights with respect to the proposed Settlement; and (4) that you may be eligible to receive certain benefits pursuant to the settlement of the Litigation. This Notice also advises you of the date, time and place of a hearing to be held by this Court to decide whether the Court will give final approval to the

Settlement. The Court will exclude those members of the Class who request exclusion by **October 17, 2006** pursuant to the procedure set forth below. If the Settlement is approved, all Class Members who do not exclude themselves from the Settlement on a timely basis (pursuant to the procedure described below) will be entitled to the benefits set forth in section C below and will be bound by the orders issued by the Court regarding the Settlement and their rights, including specifically the Release of Claims described in section E, below. This Notice is given to you pursuant to an Order of the Superior Court of California, County of Alameda.

C. THE PROPOSED SETTLEMENT BENEFITS

Representative Plaintiffs and the members of the Class are represented by Girard Gibbs LLP (“Class Counsel”). Class Counsel have investigated and evaluated the claims asserted in the Litigation, and have determined that the proposed Settlement is fair, reasonable, and adequate for the Class as a whole, in light of the benefits of the Settlement and the disadvantages of continuing the Litigation through trial and, potentially, through appeal. The parties have engaged in extensive negotiations, including formal mediation before the Honorable Fern N. Smith (Ret.) of the United States District Court, Northern District of California. The proposed Settlement is a compromise of disputed claims, and both sides agree that by settling, HCI is not admitting any liability or that it did anything wrong, but both sides want to avoid the uncertainties and high cost in time and money of litigation of this type.

Under the proposed Settlement, HCI will provide the following benefits to eligible Class Members:

1. Settlement Consideration

If the Settlement is approved, HCI will cease collection efforts, forgive debt, and reverse any negative credit notations of Class Members who did not pay HCI for any unsolicited and unordered Silkies hosiery. Class Members who did pay HCI for unsolicited and unordered Silkies hosiery will be entitled to a cash payment in the amount of either \$8 or \$14, whichever most closely reflects the amount the Class Member paid (“Settlement Payment”). The procedure for obtaining a Settlement Payment is described below in C.2.

The Settlement Payments will be paid from a cash fund of \$5,000,000 U.S. dollars, which HCI will pay into an interest bearing account (“Settlement Fund”). The Settlement Fund will also be used to pay the cost of notice, settlement administration, taxes and expenses, court-approved incentive-payments to the Representative Plaintiffs, and court-approved attorneys’ fees and expenses to Class Counsel. In the event that funds remain in the Settlement Fund after all costs, expenses and settlement claims are paid, the remaining amount will be donated to charitable organization(s) pursuant to an order of the Court. In the event that the initial payment of \$5,000,000 is exhausted before all valid settlement claims are paid, then HCI will pay up to an additional four million dollars (\$4,000,000) in the amount necessary to satisfy all claims. If the amount of claims exceeds the additional \$4,000,000, then valid settlement claims will be paid from the Settlement Fund on a pro-rata basis.

2. Procedure for Obtaining Settlement Payment

As explained above, if the Settlement is approved and if you paid for Silkies hosiery that you did not order, you will be entitled to a Settlement Payment in the amount of either \$8 or \$14, whichever most closely reflects that amount that you paid. All claims for Settlement Payments are subject to verification by HCI. To receive payment, you must send, by first-class mail, a valid Claim Statement to the Claims Administrator at the following address:

**Silkies-Settlement Claims Administrator
c/o The Garden City Group, Inc.
PO Box 91055
Seattle, WA 98111-9155
Telephone: 1-888-374-9171**

All Claim Statements must be received by the Claims Administrator and postmarked no later than **November 11, 2006 (the “Claim Deadline”)**. The Claim Statement that must be used to submit a Claim is attached to this Notice. It is also available for download by logging onto www.girardgibbs.com or clicking on the customer service link at www.silkies.com.

3. Verification Process

The Claims Administrator will review and evaluate each Claim for timeliness and completeness. All Claims Statements are subject to verification from HCI's records to confirm that each claim submitted was from a Class Member who paid for a shipment of Silkies hosiery and the amount paid. If your Claim Statement is timely (postmarked on or before November 11, 2006), but is determined to be incomplete, the Claims Administrator has the discretion to give you notice of the deficiencies and you will have up to 15 days from the date of the notice to cure the deficiencies. If your claim is timely, but cannot be verified, your claim will be rejected. If you choose the \$14 payment option, but HCI's records disclose you paid less, you will receive \$8.

4. Allocation of Settlement Payments

After the Claim Deadline and after all deadlines for correcting deficiencies have passed, the Claims Administrator will create a list containing the names and addresses of each Class Member who submitted a valid Claim, and determine the total amount of settlement payments applied for by all claimants, combined ("Settlement Payment Total").

If the Settlement Payment Total does not exceed the sum of the amount of money on deposit in the Settlement Fund (after deductions for notice and settlement administration costs, taxes and tax expenses, court-approved incentive payments to the Representative Plaintiffs, and court-approved attorneys' fees and expenses to Class Counsel), plus the additional \$4,000,000 in funds reserved by HCI for settlement payments to Class Members, the Claims Administrator will send, by first-class mail, a check for either \$8 or \$14 to each eligible Claimant, after verification.

If, and only if, the Settlement Payment Total exceeds the sum of the amount of money on deposit in the Settlement Fund (after deductions for notice and settlement administration costs, taxes and tax expenses, court-approved incentive payments to the Representative Plaintiffs, and court-approved attorneys' fees and expenses to Class Counsel), plus the additional \$4,000,000 in funds reserved by HCI for settlement payments to Class Members, the Claims Administrator will reduce each Class Members' claim, on a pro rata basis, and will send, by first-class mail, a check to each eligible Claimant in the applicable pro rata amount.

D. ENTRY OF ORDER RE STIPULATED INJUNCTION

In addition to the above reimbursement amounts, HCI agrees to entry of an Order Re Stipulated Injunction, and to abide by the terms of that Order for a period of at least three years.

The Order will be filed with the Court. In summary, the Order requires, among other things, that HCI do the following: (1) institute a new customer service policy pursuant to which HCI will forgive alleged debt and reverse adverse credit notations, if any, imposed on customers who received hosiery that they did not order and who contact HCI by email or by calling the toll-free number included on their payment reminder and informing HCI that they have received hosiery that they did not order; (2) provide clear and conspicuous disclosures, in all initial solicitations and all merchandise shipments, of all material terms, conditions and obligations associated with any offer of merchandise by HCI, including the actual cost to consumers of participation in any continuity sales plan operated by HCI, a plain statement of consumers' right to cancel, and the method and time period in which the consumer must exercise his or her right to cancel; (3) implement streamlined cancellation and refund procedures by including a toll-free customer service number with billing correspondence; and (4) establish and maintain a toll-free number, website, and business mailing address to enable consumers to contact HCI, exercise their right to cancel, and/or request a refund or other appropriate remediation.

E. LEGAL EFFECT OF SETTLEMENT; DISMISSAL OF LITIGATION AND THE RELATED ACTION, ENTRY OF JUDGMENT, AND RELEASE OF CLAIMS

If the Settlement is approved, the Court will enter a judgment dismissing the Litigation with prejudice as to all Class Members, except those Class Members who request to be excluded from the Settlement. Additionally, if the Court enters the judgment, a related action, Glasier v. HCI Direct, Inc., Case No. 06-cv-00578, which is currently pending in the United States District Court for the Eastern District of Pennsylvania, and which asserts claims against HCI similar to those asserted in the Litigation, will be dismissed by the named plaintiff in that lawsuit.

Upon the Court's approval of the settlement, all Class Members who meet the Class definition and who do not

validly and timely request exclusion from the Class will be bound by the final judgment entered by this Court, regardless of whether or not a claim for settlement benefits is filed, and will be forever barred from prosecuting their own lawsuits, and they and their heirs, executors, administrators, representatives, agents, partners, successors, and assigns shall be deemed to have fully released and forever discharged HCI Direct, Inc., and its past or present members, directors, officers, employees, agents, attorneys, predecessors, successors, affiliates, subsidiaries, divisions, and assigns, the Released Persons (defined below) from all Released Claims (also defined below).

“Released Persons” means HCI Direct, Inc., and its past or present members, directors, officers, employees, agents, attorneys, predecessors, successors, affiliates, subsidiaries, divisions, and assigns, but does not include Retrieval Masters Creditors Bureau, Inc.

“Released Claims” means any and all liabilities, claims, rights, suits, and causes of action, of any kind whatsoever, that the Releasing Persons (namely, the Representative Plaintiffs, on behalf of themselves and all Class Members; each of the Class Members and their respective heirs, administrators, representatives, agents, partners, successors and assigns) may have or may have had, whether in arbitration, administrative, or judicial proceedings, whether as individual claims or as claims asserted on a class basis or on behalf of the general public, whether known or unknown, suspected or unsuspected, threatened, asserted, or unasserted, actual or contingent, liquidated or unliquidated, that arise out of or relate to the allegations of the Action or Related Action or that were alleged or could have been alleged in the Action or Related Action. Released Claims shall not include any claims for personal injury, or the right of any Representative Plaintiff, Class Counsel, Class Member, or Releasing Person to enforce the provisions of this Agreement, or the Order Re Stipulated Injunction described above.

By operation of the judgment, all Class Members shall also be deemed to have waived any and all provisions, rights and benefits conferred by section 1542 of the California Civil Code or any comparable statutory or common law provision of any other jurisdiction. Section 1542 reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Although the releases granted under the proposed Settlement are not general releases, all Class Members nonetheless expressly acknowledge that they are waiving the protections of California Civil Code section 1542 and of any comparable statutory or common law provision of any other jurisdiction.

F. ATTORNEYS’ FEES, LITIGATION EXPENSES, AND INCENTIVE PAYMENTS

From the filing of the Litigation in May 2003 to the present, Class Counsel have not received any payment for their services in prosecuting the case, nor have they been reimbursed for any out-of-pocket litigation expenses. If the Court approves the proposed Settlement, Class Counsel will make an application to the Court for payment of attorneys’ fees and reimbursable expenses, and in that application will not seek in excess of \$3,715,000 U.S. dollars. Class Counsel will also apply to the Court for an incentive award not to exceed \$10,000 U.S. dollars for each of the three Representative Plaintiffs for their initiative and effort in pursuing this litigation for the benefit of the Class and other Current and Former HCI customers. Any award of attorneys’ fees and litigation expenses to Class Counsel and any incentive awards to the Representative Plaintiffs will be paid from the Settlement Consideration, described in Section C.1., above.

Under no circumstances will Class Members be personally liable for any attorneys’ fees or expenses of Class Counsel or incentive payments to the Representative Plaintiffs.

G. RIGHTS AND OPTIONS OF CLASS MEMBERS

If you fall within the Class definition set forth at the start of this Notice, you have the following rights and options:

1. Remain A Class Member

(i) If you do not request exclusion from the Settlement, you will remain a Class Member. You may enter an appearance through counsel of your choosing or you can choose to be represented by Class Counsel. You will not be charged for the services of Class Counsel.

(ii) If the Settlement is approved by the Court, you remain a Class Member, and you paid for Silkies hosiery that you did not order, you may be entitled to make a claim for a Settlement Payment, as described in section C.2. above.

(iii) As a Class Member, you will be bound by any judgment or other disposition of this Litigation, even if you do not submit a claim for a Settlement Payment or take advantage of any of the benefits of the Settlement. Furthermore, your heirs, executors, administrators, representatives, agents, partners, successors, and assigns will be deemed to have agreed to the terms of the release described in section E, above.

2. Comment in Support or Object to Settlement

You have the right to comment in support of, or object to, the proposed Settlement, the proposed payment of incentive payments to the Representative Plaintiffs, and the proposed award of attorneys' fees and litigation expenses to Class Counsel. The procedure for doing so is explained in section H.2., below.

3. Request Exclusion From the Class And Settlement

You have the right to request exclusion from the Settlement and the Class. If you request exclusion, you will not be bound by any judgment or settlement of the Litigation, you will not receive the benefits of the Settlement, you will not be entitled to make a claim for Settlement Payments under the Settlement, and you will not be entitled to comment on or object to the proposed Settlement or submit argument, appear, or be heard at the Fairness Hearing described in section H.1., below.

If you wish to be excluded from the Settlement and the Class, you must submit a written, signed request for exclusion, by first-class mail, stating: (1) your name, address, and telephone number; (2) the reference Paul v. HCI Direct, Inc., Case No. RG03091369; and (3) that you wish to be excluded from the Settlement and the Class. Requests for exclusion must postmarked no later than **October 17, 2006** and mailed to:

**Silkies-Settlement Claims Administrator
c/o The Garden City Group, Inc.
P.O. Box 91055
Seattle, WA 98111-9155
Telephone: 1-888-374-9171**

If you submit a request for exclusion that does not comply with these requirements, your request will be deemed invalid, and you will not be excluded from the Settlement or the Class.

H. FAIRNESS HEARING

1. Time, Place and Purpose of Fairness Hearing

A Fairness Hearing will be held on October 30, 2006, at 2:00 p.m., before the Honorable Robert B. Freedman, Judge of the Superior Court, in Department 20 of the Superior Court of the State of California for the County of Alameda, County Administration Building, 1221 Oak Street, Oakland, California 94612, to determine: (a) whether the Settlement should be approved as fair, reasonable, and adequate for the Class and should be granted final approval; (b) whether certification of the Class should be made final; (c) whether the Court should enter the proposed Judgment dismissing the Litigation with prejudice; (d) whether the Court should grant the request for incentive awards to the Representative Plaintiffs and, if so, in what amount; and (e) whether the Court should grant the application of Class Counsel for attorneys' fees and reimbursable expenses and, if so, in what amount. Class Members need not attend the Fairness Hearing.

2. Procedure for Commenting on or Objecting to Settlement

If you do not request exclusion from the Class, you have the right to submit written objections or comments in support of the proposed Settlement, the proposed payment of incentive awards to the Representative Plaintiffs, or the proposed payment of attorneys' fees and expenses to Class Counsel. To do so, you must submit a written statement: (1) setting forth your name, address and telephone number; (2) containing the reference Paul v. HCI Direct, Inc., Case No. RG03091369; (3) affirming, under penalty of perjury, that you reside in the United States and that, on a specified or estimated date on or after April 11, 1999, you received a bill and/or collection

letter from HCI or its agents or representatives for Silkies-brand hosiery; and (4) stating your objections, comments or any supporting arguments, to:

**Clerk of the Court
Superior Court of the State of California for the County of Alameda
René C. Davidson Courthouse, Room 100
1225 Fallon Street
Oakland, California 94612**

You must also serve copies of your entire written submission to Class Counsel and to HCI's counsel at the following addresses:

Class Counsel
Eric H. Gibbs
Girard Gibbs LLP
601 California Street, 14th Floor
San Francisco, California 94108

Counsel for HCI Direct, Inc.
Michele Floyd
Reed Smith LLP
Two Embarcadero Center, Suite 200
San Francisco, California 94111

To be considered by the Court, your objections or supporting comments must be actually received by the Clerk of the Court, Class Counsel, and HCI's counsel, and not merely postmarked, on or before **October 17, 2006**. You cannot both request exclusion and make an objection. Only those who remain in the Class may submit objections.

If you wish to speak at the Fairness Hearing, either personally or through an attorney retained by you at your own expense, you must submit your objections or comments in writing in compliance with the procedures specified above and include in your comments a statement: (a) that you intend to appear and wish to be heard at the Fairness Hearing; (b) setting forth the position you intend to present and your supporting arguments; and (c) a list of all witnesses or experts you intend to call to testify, if any.

If you do not comply with the above procedures and deadlines, the Court will not consider any objection you may have to the Settlement, the payment of incentive awards to the Representative Plaintiffs, or the payment of attorneys' fees and costs to Class Counsel; you will not be entitled to speak at the Fairness Hearing; and you will not be entitled to appeal from any order or judgment of the Court approving the Settlement.

I. IF THE SETTLEMENT IS NOT APPROVED

If the Settlement is not granted final approval, or if the Settlement is granted final approval but the judgment does not become final, the certification of the Class will be vacated, and the Litigation will proceed as if the proposed Settlement had not been reached and this Notice had not been given to the Class.

J. ADDITIONAL INFORMATION

This Notice contains a summary description of the proposed Settlement. For a more detailed statement of the matter involved in the Lawsuit or the Settlement, you may refer to the papers filed in the Litigation during regular business hours at the office of the Clerk of the Court, Superior Court of California, County of Alameda, René C. Davidson Alameda County Courthouse, Room 100, 1225 Fallon Street, Oakland, California 94612. All questions about this Notice, the class action or the Settlement should be directed in writing to Class Counsel at the address listed in section H.2., above. You may also send questions by email to Class Counsel at Silkies-Settlement@girardgibbs.com. You may also view the Settlement Agreement, and obtain additional information about the proposed Settlement, the Litigation, and the Related Action, by visiting www.girardgibbs.com and clicking on the Silkies Settlement link.

PLEASE DO NOT CONTACT THE COURT.

DATED: JULY 17, 2006

**BY ORDER OF THE SUPERIOR COURT OF THE
STATE OF CALIFORNIA IN AND FOR THE
COUNTY OF ALAMEDA**

YOUR CLAIM MUST BE RECEIVED AND POSTMARKED NO LATER THAN NOVEMBER 11, 2006.

Silkies-Settlement Claims Administrator
c/o The Garden City Group, Inc.
P. O. Box 91055
Seattle, WA 98111-9155
Toll Free: 1-888-374-9171
CLAIM STATEMENT



Claim Number:

Control Number:

REQUIRED ADDRESS INFORMATION

YOU MUST provide your current name and mailing address here:

Name:

Address:

City/State/Zip:

I have read the Notice of Pendency and Proposed Class Action Settlement, and believe that I am eligible to receive a settlement payment. On or about _____ (approximate date) I paid for Silkies hosiery that I did not order. By placing a check next to one of the dollar amounts set forth below, I am representing that the amount I selected most closely reflects the amount I paid.

- (check the box that applies):** \$8.00
 \$14.00

Telephone Number: () -

Email Address:

(Your email address is not required, but if you provide it you authorize the Claims Administrator to use it in providing you information relevant to your claim.)

Your Address at the time you paid for Silkies that you did not order:

Street

City State Zip Code

Reminder: Your Claim Statement is subject to verification by the Claims Administrator and HCI, and must be sent by regular, first-class mail and postmarked by **November 11, 2006** to be eligible for payment under the Settlement.

I declare under the penalty of perjury under the laws of my state of residence and the laws of the state of California that the foregoing is true and correct. Executed this ____ day of _____, 2006 at _____(city), _____(state).

Your Signature

Please Print Your Name