### Ernest Howard v. Sage Software Inc., Los Angeles Superior Court, Case No. BC 487140 NOTICE OF CLASS ACTION SETTLEMENT

A court approved this Notice. This is not an advertisement.

# READ THIS DOCUMENT CAREFULLY— YOU MAY BE ENTITLED TO COLLECT MONEY FROM THIS SETTLEMENT

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TO: Certain purchasers of software delivered from Sage Software, Inc. by electronic download.

#### Why You Should Read This Notice

You should read this notice because you may be entitled to receive money from a class action settlement. You have been identified as a member of the Class as defined below:

All persons (i) who purchased Sage software directly from Sage between June 28, 2008 and April 30, 2013, (ii) who received delivery of the Sage software by electronic download with no accompanying tangible property, (iii) who were charged sales tax by Sage (and who actually paid sales tax to Sage), (iv) who at the time resided in Arkansas, California, Colorado, Georgia, Kentucky, Iowa, Maryland, Massachusetts, Missouri, Nevada, North Carolina, Oklahoma, Rhode Island, South Carolina, or Virginia, and (v) who have not previously obtained a refund or credit of such sales tax from Sage or from the state to which Sage remitted the sales tax.

#### What is the Case About?

On June 28, 2012 a Class Action was filed by Plaintiff Ernest Howard in the Los Angeles County Superior Court, Case No. BC487140. The Action is based on Defendant allegedly charging sales tax on sales of software with no accompanying tangible property in states where such sales are not taxable.

# The Proposed Settlement

Defendant has agreed to pay Class Members 115% of the amount collected for sales tax on downloaded software in non-taxable transactions in the states subject to this Settlement. Defendant also has agreed to pay Class Counsel for fees and costs of up to \$500,000.00 and service award to Class Representatives R. Stephen Staley and Ernest Howard of up to \$1,000.00 each. Class Counsel's attorney fees and Class Representatives' service awards are subject to Court approval.

### What Do I Need To Do To Collect Money

The Claims Administrator will mail you a check if the Settlement is approved. There is no need to take any action.

## If You Are A Class Member and Wish to be Excluded From or Object to the Settlement:

If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the class administrator at the address listed below postmarked by no later than February 7, 2014. The written request for exclusion must (a) acknowledge receipt of the Notice of Class Action Settlement; (b) include your name, address and telephone number; and (c) be signed. If you wish to object to the Settlement, either personally or through an attorney of your own selection and at your own expense, objections to the Settlement must be filed with Department 322 of the Los Angeles Court located at 600 South Commonwealth Avenue, Los Angeles, CA 90005 in writing no later than February 7, 2014. Failure to file and serve objections as set forth herein shall waive your right to present such objections. All written objections must specify and explain your reasons for objecting to the Settlement and must contain your name, address, telephone number, the name of the case (*Howard v. Sage Software, Inc.*), and the case number (BC 487140). In addition to filing your objections with the Court, you must mail a copy of your objections to the class administrator at:

Howard v. Sage Software Inc. c/o Simpluris PO Box 26170 Santa Ana, CA 92799 If you file an objection with the Court and state your desire to appear at the Final Approval Hearing, you may present your objection at that hearing, either personally or through an attorney of your choosing at your expense. If the Settlement is approved notwithstanding your objection, you will be fully bound by the Settlement, including the release of claims described above.

IF YOU HAVE ANY QUESTIONS, YOU SHOULD IMMEDIATELY CONTACT CLASS COUNSEL WHOSE CONTACT INFORMATION IS SET FORTH BELOW, DEFENDANT'S COUNSEL (WHOSE CONTACT INFORMATION IS RALPH H. BLAKENEY, GORDEE, NOWICKI & AUGUSTINI LLP, 8105 IRVINE CENTER DRIVE, SUITE 870, IRVINE, CA 92618, TELEPHONE (949) 567-9923), OR LEGAL COUNSEL OR ANOTHER ADVISOR OF YOUR OWN CHOICE.

# What Happens If I Exclude Myself From The Settlement?

You will not receive any payment from the Settlement. You will retain any rights you may have to sue Sage over the matters released in the Settlement.

# What Happens If I Remain In The Settlement?

If the Settlement is approved you will receive the payment described above in the amount of 115% of the amount charged in sales tax. You will lose any right to sue Sage over the matters released in the Settlement.

## Date and Location of Final Approval Hearing

The Final Approval hearing will be held on March 14, 2014, at 11:00 a.m. in Department 322 of the Los Angeles County Superior Court Honorable Lee S. Edmon, Judge presiding, located at 600 South Commonwealth Avenue, Los Angeles, CA 90005.

# <u>CLASS COUNSEL:</u> YOUR LEGAL REPRESENTATION IF YOUR PARTICIPATE IN THIS ACTION

You are a member of the Class described above. The Court has already appointed as Class Counsel the attorneys and law firm listed above. If you remain in the Class, your attorneys in this action will be:

Taras P. Kick, Esq. Brian S. Kabateck, Esq. Thomas A. Segal, Esq. Joshua Haffner, Esq. Evan Zucker, Esq.

201 Wilshire Blvd. Suite 350 KABATECK BROWN KELLNER LLP

Santa Monica, CA 90401 644 South Figueroa Street Telephone: (310) 395-2988 Los Angeles, CA 90017

Facsimile: (310) 395-2088 Telephone: (213) 217-5000 Facsimile: (213) 217-5010

## EXAMINATION OF PAPERS FILED IN THIS ACTION AND QUESTIONS ABOUT THE SETTLEMENT

This Notice is intended solely to summarize the Settlement and certain other pertinent information at this time. It does not fully describe the Action or all details of the Settlement. Full details of the Settlement are stated in the Agreement. A full copy of the Agreement and other related documents filed in this Action are available for review and may be obtained from the Claims Administrator's office: PO Box 26170, Santa Ana, CA 92799

If you have any questions about this Notice or the Settlement, or if you wish to obtain a copy of the Agreement or other papers in the Action, you may contact an attorney of your choice at your expense or the Claims Administrator at (888) 511-9972 or Class Counsel at no expense to you. Class Counsel's contact information is set forth above.

### **CORRECTION TO NAME OR ADDRESS**

If your name, home address, or email address changes after you receive this notice, or is different from the name, home address, or email address on the mailing of this Notice, and if you wish to participate in the Settlement, you should immediately inform the Claims Administrator of your correct contact information by writing to the Claims Administrator at the address listed above. It is very important that your name, home address, and email address be correct because inaccurate contact information can affect your receipt of important notices from the Court and payment, if any, if this Settlement receives final approval.

PLEASE DO NOT PHONE OR WRITE THE COURT OR THE CLERK OF THE COURT WITH QUESTIONS REGARDING THIS ACTION.