

Kelly v. Business Information Group, Inc.

**Notice of Class Action Settlement
AUTOMATIC PAYMENT CLASS**

Civil Action No. 2:15-cv-6668

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

You have received this notice because records indicate that you were the subject of a consumer report prepared by Business Information Group, Inc. (BIG), provided to a third-party between December 17, 2013 to June 27, 2016, and that contained at least one public record sourced from Trans Union, and BIG's records reflect that you filed a dispute with BIG about that report.

Your legal rights will be affected by the Settlement of this Lawsuit. Please read this notice carefully. It explains the Lawsuit, the Settlement, and your legal rights, including the process for receiving a settlement check, excluding yourself from the Settlement, or objecting to the Settlement.

You will automatically receive a cash payment.

If you return a Claim Form or documentation of damages, you will receive a higher cash payment.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

DO NOTHING	If the Court approves the Settlement and you do nothing, you will receive cash payment in an amount to be determined following final approval of the Settlement. You will not be able to sue BIG for any claims under the Fair Credit Reporting Act.
SUBMIT A CLAIM	If you submit a claim, you will receive a greater share of the settlement fund. If you submit a claim and evidence of the damages you suffered, you will receive an even greater share.
ASK TO BE EXCLUDED FROM THE SETTLEMENT	You may write to the Court and tell it that you do not want to be included in the Settlement as an Automatic Payment Settlement Class Member. You will receive no payment from the Settlement. No attorney will represent you unless you hire your own attorney.
IF YOU OBJECT	You may write to the Court and tell it what you don't like about the Settlement. You will remain a part of the Class and will share in the Settlement. The Court will consider your views when deciding whether the Settlement is fair.

ADDITIONAL INFORMATION ABOUT THE LAWSUIT, THE SETTLEMENT, AND YOUR RIGHTS IS ON THE SETTLEMENT WEBSITE

www.kellyvbigsettlement.com

You can call (800) 687-0139, or write to the Class Counsel, **James A. Francis**, Francis & Mailman, P.C., 100 S. Broad Street, Suite 1902, Philadelphia, PA 19110 or by e-mail at info@consumerlawfirm.com.

PLEASE, DO NOT CALL THE COURT OR BIG'S COUNSEL REGARDING THIS SETTLEMENT.

1. WHY DID I RECEIVE THIS NOTICE?

You are a member of the Automatic Payment Settlement Class and are affected by the Settlement because BIG's records indicate that you were the subject of a consumer report prepared by BIG and that contained public record information that was sourced from Trans Union that was sold to a third party between December 17, 2013 and June 27, 2016. A public record is a civil judgment, tax lien or bankruptcy. Thereafter, BIG's records reflect that you disputed information contained in your report.

Specifically, for the purposes of settlement only, the Court has provisionally certified the Automatic Payment Settlement Class defined as follows:

All natural persons residing in the United States (including territories and other political subdivisions of the United States) (i) who were subject to at least one BIG consumer report dated December 17, 2013 to June 27, 2016, (ii) where the consumer report contained a public record sourced from Trans Union (iii) where BIG's records reflect that the Settlement Class Member filed a dispute with BIG with respect to the above-report.

If you fall within the foregoing definition, you will be an Automatic Payment Settlement Class Member unless you exclude yourself from the Settlement Class.

A Court authorized the notice because you have a right to know about a proposed settlement of this class action lawsuit and about all of your options before the Court decides whether to give "final approval" to the settlement.

2. WHAT IS THIS LAWSUIT ABOUT?

Plaintiff Michael Kelly alleged that he was required by his prospective employers to submit to a background check as a condition of employment. BIG obtained information from Trans Union, a third-party, and prepared a consumer report for the employer. Plaintiff claimed that the consumer report prepared about him contained inaccurate or incomplete public record information, here an inaccurate civil judgment.

Plaintiff sued BIG because he believes that BIG violated the Fair Credit Reporting Act (FCRA), a federal law. The FCRA requires BIG to provide notice to a consumer when it furnishes a report to an employer that contains a public record item, or otherwise maintain strict procedures to ensure its reports are complete and up to date. 15 U.S.C. § 1681k(a).

BIG has denied all claims and allegations of wrongdoing asserted in the Lawsuit and contends that it acted lawfully and in compliance with the FCRA. Notwithstanding that BIG denies liability and any alleged unlawful conduct, BIG has decided it is in its best interest to settle the Lawsuit to avoid the burden, expense, risk and uncertainty of continuing the Lawsuit.

3. WHAT IS A CLASS ACTION AND WHO IS INVOLVED?

In a class action lawsuit, a person who is called a "Class Representative" (in this case, Michael Kelly) sues on behalf of other people who have similar claims. The people together are a "Class" or "Class Members." The person who sued – Mr. Kelly – is called the Plaintiff or the Named Plaintiff. The company they sued (BIG) is called the Defendant. One court resolves the issues for everyone in the Class – except for those people who choose to remove themselves from the Class.

4. WHAT DOES THE SETTLEMENT PROVIDE?

An Automatic Settlement Payment. You are entitled to an automatic cash payment if you do not exclude yourself from the Settlement. BIG has agreed to create a settlement fund of \$1,500,000 that will be divided among Automatic Payment Settlement Class Members, as described below.

New Notice Requirements. As part of the Settlement, BIG has agreed to provide contemporaneous notice for all consumer reports with public records sourced from Trans Union for five (5) years.

5. HOW MUCH MONEY WILL I RECEIVE?

The amount of money paid to each Automatic Payment Settlement Class Member will be based upon the number of points each class member receives, as outlined in this section. The amount of money you will receive depends upon whether you submit a Claim Form and/or additional records, how many class members can be found, how many exclude themselves, and whether other class members submit Claim Forms and/or additional records. The Settlement Fund will be distributed on a *pro rata* (equal) basis by point, without

any cap on the payment. Your payment will first be reduced by the Court-approved attorneys' fees and expenses to Class Counsel, any necessary administrative fees, and Service Award for Mr. Kelly.

- You will receive 1 point automatically, if you do not exclude yourself, because you are a member of the Class.
- You will receive 9 additional points, but only if you return a Claim Form that 1) identifies the public record or records included on your BIG consumer report and 2) you attest to the inaccuracy of those records.
- You will receive 10 additional points, but only if you submit documentary evidence demonstrating that you have suffered damages as a result of the publication of the public record.

Depending on the number of claims made, the parties anticipate that the minimum payment will be approximately \$500.

6. WHAT AM I GIVING UP TO GET A BENEFIT OR STAY IN THE SETTLEMENT CLASS?

If you do not exclude yourself from the Settlement and if the Settlement is approved, you will not be allowed to sue BIG or any other Released Person as defined by the Settlement Agreement on any of the claims that are settled. You will release all claims you may or could base on violation of the FCRA or any other federal, state or local law, statute, regulation or common law, that involve a consumer report prepared by BIG or a Released Person.

The formal release language and description of the Released Persons are included in the formal Settlement Agreement, which is available on the Settlement website.

7. HOW DO I EXCLUDE MYSELF FROM THE SETTLEMENT?

To exclude yourself from the Automatic Payment Settlement Class, you must send a letter by mail saying that you want to be excluded from the Automatic Payment Settlement Class in *Kelly v. Business Information Group, Inc.*, Civil Action No. 2:15-cv-6668. Be sure to include your name, address, telephone number and your original signature. You must mail your exclusion request postmarked no later than October 9, 2018 to:

Kelly v. BIG Settlement
PO Box 23678
Jacksonville, FL 32241-3678
800-687-0139

If you exclude yourself, you will not receive any payment as a result of this Settlement. If you exclude yourself, you should promptly consult your own attorney about your rights, as the time to file an individual lawsuit is limited. If you exclude yourself, you will not receive any monetary payments from the settlement. If you exclude yourself from the Automatic Payment Settlement Class, you will still be a member of the Injunctive Relief Settlement Class (a "Settlement Class Member"), you will still receive the relief detailed under "New Notice Requirements" in Section 4 above, and you will still release the right or ability to bring or participate in a class action, mass action, representative or other similar joint or collective claims against BIG and the other Released Persons under the FCRA and/or similar state and local laws (the "Settlement Class Member Release"). You will not release claims brought by yourself individually and alone, for actual, statutory or punitive damages and attorneys' fees and costs.

8. DO I HAVE A LAWYER IN THIS CASE AND HOW WILL THE LAWYERS BE PAID?

The Class Representative retained **Leonard A. Bennett and Matthew J. Erausquin**, Consumer Litigation Associates, P.C., 763 J. Clyde Morris Blvd., Suite 1-A, Newport News, VA 23601; **Kristi Kelly**, Kelly & Crandall, PLC, 4084 University Dr. #202a, Fairfax, VA 22030; **James A. Francis**, Francis & Mailman, P.C., 100 South Broad Street, Suite 1902, Philadelphia, PA 19110, to represent them. In connection with the preliminary approval of the Settlement, the Court appointed these attorneys to represent you and other Class Members. Together, the lawyers are called Class Counsel. You will not be separately charged by these lawyers for their work on the case. If you want to be represented by your own lawyer, you may hire one at your own expense.

Class Counsel will ask the Court for an award of attorneys' fees and costs of an amount not to exceed 33% of the Settlement Fund to be paid by BIG, which BIG has agreed not to oppose. However, the Court may ultimately award less than the amount requested. The costs of this notice to you and the costs of administering the settlement are paid by BIG and will be paid from the Settlement Fund. Additionally, the Class Representatives will ask the Court to approve a payment to Michael Kelly in an amount not to exceed \$15,000.00, as a service award for his effort and time expended in prosecuting this case. However, the Court may ultimately award less than this amount or nothing at all.

9. HOW DO I TELL THE COURT THAT I DO NOT LIKE THE SETTLEMENT?

If you are a Settlement Class Member and do not exclude yourself from the Settlement, you can object if you think any part of the Settlement is unfair, unreasonable, and/or inadequate. If you choose to object, you can and should explain the detailed reasons why you think the Court should not approve the Settlement. The Court and Class Counsel will consider your views carefully. To object, you must send a letter by mail stating that you object to the Settlement in the *Kelly v. Business Information Group, Inc.* case. Be sure to include (1) the name of this Lawsuit, *Kelly v. Business Information Group, Inc.*; (2) the fact that you are a member of the Automatic Payment Class; (3) your full name, current address and telephone number; (4) a sentence stating that to the best of your knowledge, you are a member of the settlement class; and (5) the factual basis and legal grounds for the objection to the Settlement. Mail this Objection to the Court at the address below so that it is postmarked no later than October 9, 2018. Objections to the Class Counsel’s attorneys’ fees or the requested service award may be supplemented up to seven (7) days after the filing of a motion for such fees or awards to address additional information or materials in that motion.

There are additional requirements necessary for your attorney if you retain one. These requirements are stated in the Settlement Agreement and Preliminary Approval Order available at the Settlement website.

COURT	CLASS COUNSEL	DEFENSE COUNSEL
United States District Court Eastern District of Pennsylvania U.S. Court House 601 Market Street Philadelphia, PA 19106	James A. Francis Francis & Mailman, P.C. 100 S. Broad Street, Suite 1902 Philadelphia, PA 19110	Rod M. Fliegel William J. Simmons LITTLER MENDELSON, P.C. Three Parkway 1601 Cherry Street, Suite 1400 Philadelphia, PA 19102-1321

10. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Court will hold a Final Approval Hearing at 10:00 a.m. on November 1, 2018, in Courtroom 3-H, Third Floor, United States District Court, 601 Market Street, Philadelphia, PA 19106.

At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate and whether the requested payments to Class Counsel and Class Representatives are proper. If there are objections, the Court will consider them. The Court will also listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

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