Class Action Suit Proves Profitable for Business Owners

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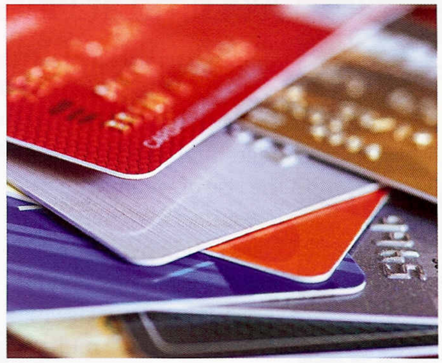

If your company or organization accepted MasterCard or Visa credit cards or debit cards as a form of payment between 2004 and 2012, you are eligible to recover funds from a recent class action suit settlement. The settlement was approved by the U.S. District Court, Eastern District of New York, on Dec. 13, 2013.

There has been an ongoing legal battle for the past nine years against MasterCard and Visa waged by businesses, merchants and organizations that accept credit cards as form of payment. In their lawsuit, the merchants alleged that MasterCard and Visa individually, and together with their respective member banks, violated antitrust laws by charging excessive Interchange processing fees and colluded to fix processing rates and fees. The legal battle between MasterCard and Visa and the merchants was originally filed as a lawsuit but was awarded class action status in 2005.

On Dec. 13, 2013, Judge John Gleeson approved a class action suit settlement between MasterCard and Visa and the merchants. The approved settlement of $7.3 billion consists of two funds, a $6.1 billion Interchange fee fund and a $1.2 billion cash settlement fund. Those in the class are entitled to share in the $6.1 billion settlement fund. All persons, businesses and other entities that, as of November 2012, or in the future, accept any Visa or MasterCard cards, are eligible to share in the $1.2 billion fund.

Gleeson has appointed a claims administrator to oversee distribution of the settlement funds to individuals, merchants, businesses and organizations that file valid claims. The court and the claims administrator have not finalized the formula for merchants' recovery, but they are likely to depend on transaction data provided by MasterCard and Visa for 2004 through 2012. However, it is possible that the claims data provided by MasterCard and Visa will be inaccurate or incomplete, thereby potentially denying businesses, merchants and organizations a full recovery.

The court and the claims administrator have not yet approved or distributed the claims form, as the court is still dealing with numerous appeals of the final approval of the settlement. Businesses and organizations can optimize their cash settlement awards by collecting data during this dead period when the court is resolving appeals. Once the court approves an official claims form, it will be mailed to all eligible businesses, organizations and individuals on file.

Claim forms will need to be completed and returned during the claims filing period established by the court, generally 60 to 90 days from the initial claims form mailing date. The claims form and claims filing period are established by the court and apply to all claimants. If a valid claim is not filed within the designated claims filing period, a business or organization will forfeit its rights to a cash settlement and will be awarded a zero dollar settlement. Once the claims administrator has reviewed all valid claims, he will establish a cash settlement amount for every valid claim using transaction data provided by MasterCard and Visa.

If a claimant is not satisfied with the claims administrator's cash settlement award, it can submit an appeal or challenge to the award. An appeal to the claims administrator would include transaction data such as Interchange fees paid, Visa and MasterCard sales, and/or other supporting data not available to the claims administrator.

If a business or organization does not perform due diligence on its MasterCard and Visa transactions for the 2004-12 time period prior to a settlement award arriving in the mail, it will have no data to validate if the cash settlement is accurate or understated. It is therefore advisable that businesses and organizations gather transaction data from their archives or request it from their merchant credit card processor before cash settlements are distributed. If a business' settlement award is understated, the data collected from internal archives or from your processor can be used to file an appeal. If a business or organization waits until settlement awards are distributed to collect data to validate the awarded settlement or file an appeal, it may not be able to meet the appeals filing deadline.

Organizations, businesses and other entities can file their own recovery claims but risk not receiving a full recovery. Ambiguities in the claims filing process, missed filing deadlines, missing records, notification errors and audits of claims will contribute to businesses not recovering the full value they are entitled to under the settlement.

In order to ensure that a merchant/business will receive a full recovery, it should consider engaging a third-party consultant that is well versed in the claims filing process.

For additional information on the class action settlement and recovery of funds, contact Brennan Schubert at (614) 361-3227 or Brennan@bmsventuresllc.com or Greg Schubert at (614) 361-1602 or Greg@bmsventuresllc.com at BMS Ventures LLC. For general information, email info@bmsventuresllc.com.