

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**TROY KING, on behalf of himself and  
other past and present employees  
similarly situated,**

**Plaintiffs,**

**vs.**

**ASSET APPRAISAL SERVICES,  
INC. and MICHAEL COX,**

**Defendants.**

**8:05CV27**

**ORDER**

Plaintiff has submitted revised Notice of Collective Action and a Consent Form for the court's approval, in accordance with the November 21, 2005 order. Defense counsel advised chambers that there are no further objections to these forms.

**IT IS ORDERED** that the revised notice and consent forms submitted by the plaintiff, attached to this order as Exhibits A and B, are hereby approved and issued by the court and may be distributed to the to the seventeen (17) individuals previously identified.

**DATED December 2, 2005.**

**BY THE COURT:**

**s/ F.A. Gossett  
United States Magistrate Judge**

**EXHIBIT "A"**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

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TROY KING, on behalf of himself  
and other past and present employees  
similarly situated,

\*

NO. 8:05cv27

\*

Plaintiffs,

\*

v.

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**NOTICE OF COLLECTIVE ACTION**

MICHAEL COX AND ASSET  
APPRAISAL SERVICES, INC.,

\*

\*

Defendants.

\*

\* \* \* \* \*

**NOTICE OF COLLECTIVE ACTION**

**TO:**

**THIS NOTICE MAY AFFECT YOUR RIGHTS:  
PLEASE READ IT CAREFULLY**

**A COLLECTIVE ACTION HAS BEEN FILED IN THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF NEBRASKA FOR THE ALLEGED FAILURE BY DEFENDANTS TO PAY  
OVERTIME – TO MAKE A CLAIM FOR OVERTIME PAY, THE PROCEDURES AND TIME LIMITS  
DESCRIBED IN THIS NOTICE MUST BE FOLLOWED.**

***PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE.***

The purpose of this notice is to advise you that a collective action has been filed in the United States District Court for Nebraska, titled *Troy King v. Michael Cox and Asset Appraisal Services, Inc.*, Case No. 8:05cv27 (the “Action”). This is not a lawsuit against you. You have not been sued.

A collective action lawsuit is an action in which one or more persons sue on behalf of themselves and others “similarly situated” who may have similar claims. The person, or plaintiff, who brought this Action is Troy King. Mr. King claims that Michael Cox and/or Asset Appraisal Services, Inc. (AAS) improperly classified the position of asset appraiser/inspector as exempt from overtime pay and, therefore, he and others were not paid overtime allegedly due to them under federal law.

This Notice is being sent to you based on information that you may meet the requirements to qualify as a collective action plaintiff, which would entitle you to “opt-in” to the collective action. This Notice is provided to you by the United States District Court for Nebraska. In providing this Notice, the court expresses no opinion as to the merits of Mr. King’s claims. This Notice contains the following information: (A) a brief description of the lawsuit; (B) an explanation of the purpose of this Notice; (C) an explanation of your options with respect to this lawsuit, including a description of the procedure that you must follow if you wish to make a claim for unpaid overtime; and (D) notice of how you can obtain additional information related to the Action.

#### **A. DESCRIPTION OF THE LAWSUIT**

Mr. King’s lawsuit was filed on January 21, 2005, and alleges that AAS violated the Fair Labor Standards Act, as amended (“FLSA”), 29 U.S.C. §216(b), by mis-classifying its asset appraisers/inspectors as exempt employees and failing to pay them overtime pay. The relief sought by Mr. King includes, but is not limited to, monetary damages, liquidated damages, interest, attorney’s fees and the costs of this lawsuit.

AAS denies liability for all such claims, and are defending itself against all of Mr. King’s claims. AAS contends that asset appraisers/inspectors are exempt under the governing law, and therefore, are not entitled to overtime pay under the FLSA.

On November 21, 2005, the Court approved the sending of this Notice and the enclosed Consent Form to all asset appraisers/inspectors employed by AAS within the last three years.

#### **B. PURPOSE OF NOTICE**

The purpose of this Notice is to advise you that this Action has been filed with the United States District Court for Nebraska, and to describe important legal rights that you

may have, so that you can make an informed decision relative to any participation by you in the Action. The Court has not ruled on the merits of the claims or defenses asserted by either side in this litigation.

### **C. YOUR OPTIONS AND CLAIM PROCEDURES.**

If you qualify as a collective action plaintiff, you have certain choices to make, or you may choose to do nothing. Any choice you make, including the decision to do nothing, will have consequences that you should understand before making your decision.

1. If you were employed as an asset appraiser/inspector by MICHAEL COX AND/OR ASSET APPRAISAL SERVICES, INC., in Nebraska or any other State in the United States within the last three years, you must sign and submit a Consent Form if you wish to participate and be bound by a judgment in the Action, or you may decide not to make a claim. If you choose to participate and be bound by a judgment in the Action, you must:
  - a. Complete in full the enclosed, pre-printed Consent Form;
  - b. Sign and date the Consent Form; and
  - c. Return the Consent Form via First Class Mail, postage prepaid, or Certified or Registered Mail, Return Receipt Requested, to the Clerk of Court for the United States District Court for the District of Nebraska postmarked no later than December 30, 2005.
  - d. The address of the Clerk of Court to whom you must send the Consent Form is:

Office of the Clerk of the Court  
United States District Court for Nebraska  
111 South 18<sup>th</sup> Plaza, Suite 1152  
Omaha, NE 68102

If you submit a Consent Form you will be bound by a judgment in the Action. You may be obligated to pay costs, fees or advances in conjunction with this litigation. Moreover, the statute of limitations for filing an action for unpaid overtime pay will be tolled. You are free to select your own legal counsel to represent you in the Action, or you can contact the Collective Action Counsel at the address set forth below in section D.

If you do not submit a Consent Form you will not be entitled to participate and be bound by a judgment in the Action. By choosing not to submit a Consent Form, you will not

be foreclosed from filing a separate action to recover unpaid overtime pay. However, the statute of limitations for filing an action for unpaid overtime pay will not be tolled and you must timely file an action or be forever barred.

**D. ADDITIONAL INFORMATION**

This Notice does not fully describe the lawsuit. You may review the details of the lawsuit by inspecting the Court files at the Office of the Clerk of the Court, United States District Court for Nebraska, 111 South 18<sup>th</sup> Plaza, Suite 1152, Omaha, Nebraska, 68102 during the Court's business hours. Any questions regarding this lawsuit, this Notice, or the alternatives available to you under this Notice should be directed to Collective Action Counsel, Bruce B. Green, 421 West Broadway, Suite 200, P.O. Box 2029, Council Bluffs, IA 51502; (712) 322-6000. Alternatively, you may contact your own attorney, at your own expense, to advise you.

If your address changes, or is different from the address on the envelope enclosing this Notice, please promptly notify Collective Action Counsel, Bruce B. Green.

***PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS MATTER.***

**EXHIBIT "B"**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

\* \* \* \* \*

TROY KING, on behalf of himself  
and other past and present employees  
similarly situated,

\*

NO. 8:05cv27

\*

Plaintiffs,

\*

v.

\*

CONSENT

MICHAEL COX AND ASSET  
APPRAISAL SERVICES, INC.,

\*

\*

Defendants.

\*

\* \* \* \* \*

**CONSENT FORM**

I was or am employed as an asset appraiser/inspector by MICHAEL COX AND/OR ASSET APPRAISAL SERVICES, INC., in Nebraska or another State in the United States within the last three years. I have worked more than 40 hours in any given week without receiving overtime pay.

I hereby consent to be included as a plaintiff on behalf of myself and all other employees similarly situated in the above-entitled Action against my employer or past employer, MICHAEL COX AND/OR ASSET APPRAISAL SERVICES, INC., alleging violations of the Fair Labor Standards Act's overtime pay requirements.

By so consenting, I fully understand that I will be bound by a judgment in the Action. Moreover, I fully understand that I am free to select my own legal counsel to represent me in the Action, or I can contact Collective Action Class Counsel, Bruce B. Green, Willson & Pechacek, P.L.C., at 421 West Broadway, Suite 200, P.O. Box 2029, Council Bluffs, Iowa 51502; Phone: (712) 322-6000; Facsimile: (712) 322-6200.

Dated: \_\_\_\_\_, 2005.

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SIGNATURE OF PLAINTIFF/EMPLOYEE