

MTB INVESTMENT PARTNERS, LP, on) Case No. 2:12-cv-00340-SDW-MCA
behalf of itself and all others similarly situated,)
)
Plaintiff,)
)
v.)
)
SIEMENS HEARING INSTRUMENTS, INC.,)
)
Defendant.)

I. GENERAL INSTRUCTIONS

2. Submission of this Proof of Claim and Release form, however, does not assure that you will share in the proceeds of the settlement of this action.

HearUSA Securities Litigation
Claims Administrator
c/o Heffler Claims Group
P.O. Box 58818
Philadelphia, PA 19102-8818

4. If you are a member of the Class and you do not timely request exclusion in connection with the proposed settlement, you will be bound by the terms of any judgment entered in the action, including the releases provided therein, **WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM AND RELEASE FORM.**

- 13 -

II. CLAIMANT IDENTIFICATION

If you sold publicly traded common stock of HearUSA, Inc. (“HearUSA Common Stock”) and the HearUSA Common Stock was held in your name, you were the beneficial owner at the time the stock was sold as well as the seller of record. If, however, you sold HearUSA Common Stock and it was registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial owner and the third party is the seller of record.

Use Section A of this form entitled “Claimant Identification”, Part 1 or Part 2 to identify each seller of record (“nominee”), if different from the beneficial owner of the HearUSA Common Stock that forms the basis of this claim. **THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL OWNER(S)/SELLER(S) OR THE LEGAL REPRESENTATIVE OF SUCH SELLER(S), OF THE HEARUSA COMMON STOCK UPON WHICH THIS CLAIM IS BASED.**

All joint sellers must sign this claim. Executors, administrators, guardians, conservators and trustees must complete and sign this claim on behalf of persons represented by them and their authority must accompany this claim and their titles or capacities must be stated. The Social Security (or taxpayer identification) number and telephone number of the beneficial owner may be used in verifying the claim. Failure to provide the foregoing information could delay verification of your claim or result in rejection of the claim.

If you are acting in a representative capacity on behalf of a Class Member (for example, as an executor, administrator, trustee, or other representative), you must submit evidence of your current authority to act on behalf of that Class Member. Such evidence would include, for example, letters testamentary, letters of administration, or a copy of the trust documents.

NOTICE REGARDING ELECTRONIC FILES: Certain claimants with large numbers of sales may request to, or may be requested to, submit information regarding their sales in electronic files. All claimants **MUST** submit a manually signed paper Proof of Claim and Release form listing all their sales whether or not they also submit electronic copies. If you wish to file your claim electronically, you must visit the Claims Administrator’s website at www.hearusasecuritieslitigation.com to obtain the required file layout. No electronic files will be considered to have been properly submitted unless the Claims Administrator issues to the claimant a written acknowledgement of receipt and acceptance of electronically submitted data.

III. CLAIM FORM

Use Section B of this form entitled “Schedule of Sales of HearUSA Common Stock” to supply all required details of your holdings, purchases and sales of HearUSA Common Stock. If you need more space or additional schedules, attach separate sheets giving all of the required information in substantially the same form. Sign and print or type your name on each additional sheet.

On the schedules, provide all of the requested information with respect to ***all*** of your sales of HearUSA Common Stock which took place at any time between January 18, 2011 and July 31, 2011, inclusive (the “Class Period”), whether such sales resulted in a profit or a loss.

List each sale in the Class Period separately and in chronological order, by trade date, beginning with the earliest. You must accurately provide the month, day and year of each sale you list.

Copies of stockbroker confirmation slips, stockbroker statements, or other documents evidencing your sales of HearUSA Common Stock should be attached to your claim. If any such documents are not in your possession, please obtain a copy or equivalent documents from your broker because these documents are necessary to prove and process your claim. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

**MUST BE POSTMARKED
NO LATER THAN
OCTOBER 27, 2014**

*MTB Investment Partners, LP v. Siemens
Hearing Instruments, Inc.*
Case No. 2:12-cv-00340-SDW-MCA
PROOF OF CLAIM AND RELEASE

For Official Use Only

SECTION A – CLAIMANT IDENTIFICATION

Complete either Part 1 or 2 and then proceed to Part 3.

Part 1 Complete this Section ONLY if the Investor is an individual, joint, UGMA, UTMA or IRA account. Otherwise, proceed to Part 2.

Last Name (Investor)	MI	First Name (Investor)
Last Name (Joint Beneficial Owner, if applicable)	MI	First Name (Joint Beneficial Owner)
Name of Custodian, if applicable		
If this account is an UGMA, UTMA or IRA, please include "UGMA", "UTMA", or "IRA" in the "Last Name" box above (e.g., Jones IRA).		

Part 2 - Complete this Section ONLY if the Investor is an entity; i.e., corporation, trust, estate, etc. Then, proceed to Part 3.

Entity Name
Name of Representative (Executor, administrator, trustee, corporate officer, etc.)

Part 3 – Account/Mailing Information:

Street Address:	
City:	State: Zip Code: -
Foreign Province:	Foreign Postal Code:
Foreign Country:	
- -	- -
Area Code Telephone No. (day)	Area Code Telephone No. (evening)
Email:	
Check Appropriate Box: ☐ Individual ☐ Corporation ☐ Joint Owners ☐ IRA ☐ Trust ☐ Other _____	
- -	OR -
Social Security Number (for individuals)	Employer Identification Number (for estates, trusts, corps, etc)



30705



CLAIM



Page 1 of 4

SECTION B – SCHEDULE OF SALES OF HEARUSA COMMON STOCK

A. Number of shares of HearUSA common stock owned as of the close of trading on January 17, 2011:

B. Number of shares of HearUSA common stock purchased during the period from January 18, 2011 through July 31, 2011, inclusive:

C. (i.) Sales of HearUSA Common Stock made during the time period January 18, 2011 through July 31, 2011, inclusive:

	<u>Trade Date</u> <u>Month/Day/Year</u>	<u>Amount of HearUSA</u> <u>Common Stock Sold</u>	<u>Sale Price</u> <u>Per Share</u>	<u>Total Sale Price</u> <u>(excluding commissions)</u>
1.)	/ /		\$.	\$
2.)	/ /		\$.	\$
3.)	/ /		\$.	\$
4.)	/ /		\$.	\$
5.)	/ /		\$.	\$
6.)	/ /		\$.	\$
7.)	/ /		\$.	\$
8.)	/ /		\$.	\$

(ii.) Total number of shares of HearUSA common stock sold during the period from January 18, 2011 through July 31, 2011, inclusive:

D. Number of shares of HearUSA common stock owned as of the close of trading on July 31, 2011: (A+B-C(ii))

If you require additional space, attach extra schedules in the same format as above. Sign and print your name on each additional page.

**YOUR SIGNATURE ON PAGE 4 WILL CONSTITUTE YOUR
ACKNOWLEDGMENT OF THE RELEASE.**



30705



CLAIM



Page 2 of 4

IV. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS

I (We) submit this Proof of Claim and Release form under the terms of the Stipulation of Settlement described in the Notice. I (We) also submit to the jurisdiction of the United States District Court for the District of New Jersey with respect to my (our) claim as a Class Member and for purposes of enforcing the release set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in the action. I (We) agree to furnish additional information to the Claims Administrator to support this claim if requested to do so. I (We) have not submitted any other claim covering the same sales of HearUSA Common Stock during the Class Period and know of no other person having done so on my (our) behalf.

V. RELEASE

1. I/We hereby acknowledge full and complete satisfaction of, and do hereby fully, finally, and forever release, relinquish and discharge (i) all Released Claims (as defined below) against the Released Persons (as defined below); and (ii) against each and all of the Released Persons all claims arising out of, relating to, or in connection with, the defense, settlement or resolution of the action or Released Claims, and that I/we shall forever be barred and enjoined from instituting or prosecuting any other action asserting any Released Claim in any court against the Released Persons.

2. "Released Claims" means all claims (including Unknown Claims), that were asserted or could have been asserted in this action by Lead Plaintiff or members of the Class, against the Released Persons based upon, arising out of, or relating to either: (i) the claims or facts and circumstances asserted in this action, and (ii) the sale of HearUSA Common Stock during the Class Period by Class Members.

3. "Released Persons" means Defendant Siemens Hearing Instruments, Inc. and each and all of its present or former related entities, including but not limited to all parents, subsidiaries, affiliates (as defined in 17 C.F.R. §210.1-02(b)), successors and assigns, and each and all of its present or former officers, directors, employees, employers, attorneys, accountants, financial advisors, commercial bank lenders, insurers, investment bankers, representatives, general and limited partners and partnerships, heirs, executors, administrators, successors, affiliates, and assigns of each of them.

4. "Unknown Claims" means any claims which Lead Plaintiff or any Class Members do not know or suspect to exist in his, her or its favor at the time of the release of the Released Persons which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Persons, or might have affected his, her or its decision not to object to this settlement. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, to the fullest extent permitted by law, Lead Plaintiff shall expressly waive, and each of the Class Members shall be deemed to have, and by operation of the Judgment shall have, expressly waived the provisions, rights, and benefits of California Civil Code §1542, which provides:

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.

Lead Plaintiff shall expressly and each of the Class Members shall be deemed to have, and by operation of the Judgment shall have, expressly waived any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code §1542. Lead Plaintiff and Class Members may hereafter discover facts in addition to or different from those which he, she or it now knows or believes or suspects to be true with respect to the subject matter of the Released Claims, but Lead Plaintiff shall expressly, and each Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed,



upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiff acknowledges, and the Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the settlement of which this release is a part.

5. This release shall be of no force or effect unless and until the Court approves the Stipulation and the settlement becomes effective on the Effective Date.

6. I (We) hereby warrant and represent that I (we) have not assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any matter released pursuant to this release or any other part or portion thereof.

7. I (We) hereby warrant and represent that I (we) have included information about all of my (our) sales of HearUSA Common Stock which occurred during the Class Period.

8. Substitute Form W-9. The claimant is NOT subject to backup withholding under the provisions of Section 3406(a)(1)(C) of the Internal Revenue Code because (a) the claimant is exempt from backup withholding or (b) the claimant has not been notified by the IRS that he/she/it is subject to backup withholding as a result of failure to report all interest or dividends or (c) the IRS has notified the claimant that he/she/it is no longer subject to backup withholding. **If the IRS has notified the claimant that he/she/it is subject to backup withholding, please strike out the word NOT in the preceding sentence indicating that the claim is not subject to backup withholding.** I declare under penalty of perjury under the laws of the United States of America that the foregoing information supplied by the undersigned is true and correct.

Executed this _____ day of _____,
(Month/Year)

in _____
(City) (State/Country)

(Sign your name here)

(Type or print your name here)

(Joint Claimant, if any, sign your name here)

(Type or print your name here)

(Capacity of person(s) signing,
e.g., Beneficial Owner,
Executor or Administrator)



30705



CLAIM



Page 4 of 4

**ACCURATE CLAIMS PROCESSING TAKES A
SIGNIFICANT AMOUNT OF TIME.
THANK YOU FOR YOUR PATIENCE.**

Reminder Checklist:

1. Please sign the above release and declaration.
2. Remember to attach copies of supporting documentation, if available.
3. Do not send original stock certificates.
4. Keep a copy of your claim form for your records.
5. If you desire an acknowledgment of receipt of your claim form, please send it Certified Mail, Return Receipt Requested.
6. If you move, please send us your new address.

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