

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

IN RE: SUNTERRA CORPORATION  
SECURITIES LITIGATION

X  
:  
:  
X

Case No. 6:00-cv-79-Orl-28B

**Consolidated Case Numbers:**

6:00-cv-97-Orl-28B  
6:00-cv-116-Orl-28B  
6:00-cv-128-Orl-28B  
6:00-cv-268-Orl-28B  
6:00-cv-286-Orl-28B

6:00-cv-112-Orl-28B  
6:00-cv-121-Orl-28B  
6:00-cv-169-Orl-28B  
6:00-cv-278-Orl-28B  
6:00-cv-321-Orl-28B

6:00-cv-115-Orl-28B  
6:00-cv-127-Orl-28B  
6:00-cv-210-Orl-28B  
6:00-cv-285-Orl-28B

**NOTICE OF PENDENCY AND SETTLEMENT OF  
CLASS ACTION, HEARING ON PROPOSED SETTLEMENT AND  
ATTORNEYS' FEE PETITION AND RIGHT TO SHARE IN SETTLEMENT FUND**

**TO: ALL PERSONS WHO PURCHASED OR ACQUIRED THE COMMON STOCK OF SUNTERRA COPRORATION (“SUNTERRA” OR THE “COMPANY”) DURING THE PERIOD OCTOBER 6, 1998 THROUGH AND INCLUDING JANUARY 19, 2000 (THE “CLASS”).**

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. YOUR RIGHTS MAY BE AFFECTED BY PROCEEDINGS IN THIS ACTION. PLEASE NOTE THAT IF YOU ARE A CLASS MEMBER, YOU MAY BE ENTITLED TO SHARE IN THE PROCEEDS OF THE SETTLEMENT DESCRIBED IN THIS NOTICE. TO CLAIM YOUR SHARE OF THIS FUND, YOU MUST SUBMIT A VALID PROOF OF CLAIM POSTMARKED ON OR BEFORE JULY 25, 2005.**

This Notice has been sent to you pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Middle District of Florida (the “Court”). The purpose of this Notice is to inform you of the proposed settlement of this class action litigation (the “Action”) and of the hearing to be held by the Court to consider the fairness, reasonableness, and adequacy of the proposed settlement (the “Settlement”). This Notice describes the rights you may have in connection with the Settlement and what steps you may take in relation to the Settlement and the Action.

The proposed Settlement creates a fund in the amount of \$4,450,000 in cash (the “Settlement Amount”) and will include interest that accrues on the fund prior to distribution. Based on Plaintiffs’ Lead Counsel’s estimate of the number of shares entitled to participate in the Settlement and the anticipated number of claims to be submitted by class members, the average distribution per share for common stock would be approximately \$.22, before deduction of Court-approved fees and expenses. However, your actual recovery from this fund may be greater or less depending on a number of variables including your actual loss based on the price of the Sunterra common stock you purchased or acquired during the Class Period, the number of shares you purchased or acquired, the timing of such purchases or acquisitions, whether you sold any of the Sunterra common stock you purchased or acquired during the Class Period, the price you received upon the sale of your Sunterra common stock, the number of claimants, and the expense of administering the claims process.

As discussed below, Plaintiffs allege that the price of Sunterra common stock was artificially inflated because Defendants caused the Company to issue materially false and misleading information to the market about its financial condition and results during the Class Period in a scheme to make Sunterra appear profitable to enable Defendants to sell the Company, as well as maintain the illusion of sequential growth in order to secure and maintain essential credit lines.

Plaintiffs and Defendants do not agree on the average amount of damages, if any, that would be recoverable if Plaintiffs were to have prevailed on each claim asserted. The issues on which the Parties disagree include: (1) the appropriate economic model for determining the amounts by which Sunterra common stock was allegedly artificially inflated (if at all) during the Class Period; (2) the effect of various market forces influencing the trading price of Sunterra common stock at various times during the Class Period; (3) the extent to which external factors, such as general market conditions, influenced the trading price of Sunterra common stock at various times during the Class Period; (4) the extent to which the various matters that Plaintiffs alleged were materially false or misleading influenced (if at all) the trading price of Sunterra common stock at various times during the Class Period; and (5) whether the statements made were false, material or otherwise actionable under the federal securities laws.

Plaintiffs’ Lead Counsel believe that the proposed Settlement is a good recovery and is in the best interests of the Class. Because of the risks associated with continuing to litigate and proceeding to trial, there was a danger that Plaintiffs would not have prevailed on any of their claims, in which case the Class would receive nothing. For example,

Plaintiffs faced the possibility that all or many of the claims in this case could have been dismissed upon a motion for summary judgment, after trial, or appeal. In addition, the amount of damages recoverable by the Class was and is challenged by Defendants. Recoverable damages in this case are limited to losses caused by conduct actionable under applicable law and, had the Action gone to trial, Defendants could have asserted that all or most of the losses of Class Members were caused by non-actionable market factors.

Plaintiffs' Lead Counsel have not received any payment for their services in prosecuting the Action on behalf of Plaintiffs and the members of the Class, nor have they been reimbursed for their out-of-pocket expenditures. If the Settlement is approved by the Court, Plaintiffs' Lead Counsel will apply to the Court for attorneys' fees not to exceed 33% of the Settlement Amount, or up to \$1,468,500, and reimbursement of out-of-pocket expenses not to exceed \$450,000, to be paid from the Settlement Amount with applicable interest. If the amount requested is approved by the Court, the average cost per common stock share would be approximately \$.10. The average cost per share could vary depending on the number of shares for which claims are filed.

This Notice is not an expression of any opinion by the Court about the merits of any of the claims or defenses asserted by any party in this Action or the fairness or adequacy of the proposed Settlement.

For further information regarding this settlement you may contact: Timothy J. MacFall, Esq., Bernstein Liebhard & Lifshitz, LLP, 10 East 40th Street, 22nd Fl. New York, New York 10016, Telephone: (212) 779-1414. Please do not call Sunterra Corporation or any representative of Sunterra Corporation.

#### **NOTICE OF HEARING ON PROPOSED SETTLEMENT**

A settlement hearing will be held on April 26, 2005 at 9:00 a.m., before the Honorable John Antoon II, United States District Judge, at the George C. Young United States Courthouse & Federal Building, 80 North Hughey Avenue, Orlando, Florida 32801 (the "Settlement Hearing"). The purpose of the Settlement Hearing will be to determine: (1) whether the settlement consisting of \$4,450,000 in cash, plus accrued interest should be approved as fair, just, reasonable and adequate to each of the Parties; (2) whether the proposed plan to distribute the Net Settlement Fund (the "Plan of Allocation") is fair, just, reasonable, and adequate; (3) whether Lead Plaintiffs and Plaintiffs' Lead Counsel have adequately represented the Class; (4) whether the application by Plaintiffs' Lead Counsel for an award of attorneys' fees and expenses should be approved; and (5) whether the Action should be dismissed with prejudice. The Court may adjourn or continue the Settlement Hearing without further notice to the Class.

#### **THE ACTION**

In or about January 2000, fourteen class action complaints were filed against Sunterra, various officers and directors of Sunterra, and Andersen. By Order dated March 28, 2000, Magistrate Judge David A. Baker consolidated the cases under the caption above (hereinafter referred to as the "Action") and, by Order, dated May 24, 2000, appointed Bulldog Capital Management, LP ("Bulldog"), and Arnold and Marion Bowles ("the Bowles") as lead plaintiffs. In an Order dated October 17, 2000, Magistrate Judge Baker approved Lead Plaintiffs' selection of the lead counsel.

The Third Consolidated Amended Class Action Complaint, which Lead Plaintiffs filed on or about July 3, 2002 (the "Complaint"), generally alleges, among other things, that Defendants issued false and misleading public filings, press releases, and other statements regarding the Company's financial condition during the Class Period - October 6, 1998 through and, including, January 19, 2000. The Complaint further alleges that Lead Plaintiffs and other Class members purchased or acquired Sunterra's common stock during the Class Period at prices artificially inflated as a result of Defendants' dissemination of materially false and misleading statements regarding the Company, in violation of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, and Rule 10b-5 promulgated under Section 10(b).

Plaintiffs' Lead Counsel have conducted an extensive investigation relating to the claims and the underlying events and transactions alleged in the Complaint and have researched the applicable law with respect to the claims and the potential defenses.

Lead Plaintiffs, by their counsel, also participated in three (3) days of mediation with counsel for Defendants and their insurance carriers before the Hon. Nicholas H. Politan (U.S.D.J. Ret.) with respect to settlement of the Action.

Based upon their investigation, the discovery taken in the Action, the three (3) days of mediation before Judge Politan, the prior bankruptcy of Sunterra and the limited or disputed insurance resources available to the Defendants, Plaintiffs' Lead Counsel have concluded that the terms and conditions of the Settlement are fair, reasonable, and adequate to Plaintiffs and the Class. Lead Plaintiffs have agreed to settle the claims asserted in the Action, after considering (a) the substantial benefits that the Class will receive from settlement of the Action, (b) the attendant risks of litigation, and (c) the desirability of permitting the Settlement to be consummated.

#### **DEFENDANTS' DENIAL OF LIABILITY**

Defendants deny liability in the Action arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Action. Defendants also deny, *inter alia*, the allegations that the Plaintiffs or the Class members have suffered damages, that the price of Sunterra common stock was artificially inflated by the

alleged misrepresentations, non-disclosures or otherwise, or that the Plaintiffs or the Class members were harmed by the conduct alleged in the Action.

Nonetheless, Defendants have concluded that further litigation of the Action would be protracted and expensive, and that it is desirable that the Action be fully and finally settled. Defendants also have taken into account the uncertainty and risks inherent in any litigation, especially in complex cases like the Action. Defendants have, therefore, determined that it is desirable and beneficial that the Action be settled in the manner and upon the terms and conditions set forth in the Stipulation.

#### **TERMS OF THE PROPOSED SETTLEMENT**

The principal amount of \$4,450,000 (plus any accrued interest as provided below) shall constitute the Settlement Amount. The parties have agreed that one hundred thousand dollars (\$100,000) in cash is to be made available to Plaintiffs' Lead Counsel from the Settlement Amount to be used to provide notice to the Class. All claims of the Class, all fees and expenses of counsel, and experts, consultants, and agents, and all administrative or other expenses of the Settlement, including taxes, if any, shall be paid from the Settlement Amount. Class members shall look solely to the Settlement Amount for settlement and satisfaction of any and all claims against the Defendants and Released Parties that are released under the Settlement. Except as expressly provided in the Stipulation or by Order of the Court, no Class member shall have any interest in the Settlement Amount or any portions thereof.

#### **PLAN OF ALLOCATION**

After deducting notice and administration expenses, attorneys' fees and expenses awarded by the Court, and other costs, the balance of the Settlement Amount (the "Net Settlement Fund") will be distributed according to the Plan of Allocation described below to Class Members who submit valid and timely Proofs of Claim.

To the extent there are sufficient funds in the Net Settlement Fund, each Authorized Claimant will receive an amount equal to the Authorized Claimant's claim, as defined below. If, however, the amount in the Net Settlement Fund is not sufficient to permit payment of the total claim of each Authorized Claimant, then each Authorized Claimant shall be paid the percentage of the Net Settlement Fund that each Authorized Claimant's claim bears to the total of the claims of all Authorized Claimants. Payment in this manner shall be deemed conclusive against all Authorized Claimants.

The date of purchase or sale is the "contract" or "trade" date as distinguished from the "settlement" date. The receipt or grant by gift, devise or operation of law of Sunterra common stock during the Class Period shall not be deemed a purchase or sale of Sunterra common stock for the calculation of an Authorized Claimant's Recognized Loss nor shall it be deemed an assignment of any claim relating to the purchase of such shares unless specifically provided in the instrument of gift or assignment.

For Class members who made multiple purchases during the Class Period, the earliest subsequent sale shall be matched with the earliest purchase and chronologically thereafter for purposes of the claim calculations.

The Claims Administrator shall determine each Authorized Claimant's pro rata share of the Net Settlement Fund based upon each Authorized Claimant's "Recognized Loss."

**"Recognized Loss" will be calculated for purposes of the Settlement as follows:**

**For shares of Sunterra common stock purchased during the period October 6, 1998 through and including January 19, 2000; and**

**(a) Sold at a loss during the period December 7, 1999 through the close of trading on January 19, 2000, an Authorized Claimant's "Recognized Loss" shall be 25% of the difference between the amount paid by the Authorized Claimant for his, her or its Sunterra common stock, including commissions, less the amount received after commissions from the sale of such stock;**

**(b) Sold at a loss on January 20, 2000, an Authorized Claimant's "Recognized Loss" shall be the difference between the amount paid by the Authorized Claimant for his, her or its Sunterra common stock, including commissions, less the amount received after commissions from the sale of such stock on January 20, 2000;**

**(c) Held at the close of trading on January 20, 2000, an Authorized Claimant's "Recognized Loss" shall be the difference between the amount paid by the Authorized Claimant for his, her or its Sunterra common stock, including commissions, and \$2.65 per share, the 90 day average closing price of Sunterra's common stock after the Class Period.**

Class members who did not suffer a Recognized Loss, as calculated above, will not be entitled to participate in the Net Settlement Fund. In the event a Class member has more than one purchase or sale of Sunterra common stock, all purchases and sales of Sunterra common stock shall be matched on a First In First Out ("FIFO") basis, including shares held as of the beginning of the Class Period. Any transactions resulting in a gain shall be netted against Recognized Losses. The covering purchase of a short sale is not an eligible purchase.

The Court has reserved jurisdiction to allow, disallow, or adjust the claim of any Class member on equitable grounds.

## **ORDER CERTIFYING A CLASS FOR PURPOSES OF SETTLEMENT**

On February 11, 2005, the Court certified a Class, for settlement purposes only. The Class is defined above.

### **PARTICIPATION IN THE CLASS**

If you fall within the definition of the Class, you will remain a Class member unless you elect to be excluded from the Class. If you do not request to be excluded from the Class, you will be bound by any judgment entered with respect to the Settlement in the Action whether or not you file a Proof of Claim.

If you wish to remain a member of the Class, you need to do nothing (other than timely file a Proof of Claim if you wish to participate in the distribution of the Net Settlement Fund). Your interests will be represented by Plaintiffs' Lead Counsel. If you choose, you may enter an appearance individually or through your own counsel at your own expense.

**TO PARTICIPATE IN THE DISTRIBUTION OF THE NET SETTLEMENT FUND, YOU MUST TIMELY COMPLETE AND RETURN THE PROOF OF CLAIM FORM THAT ACCOMPANIES THIS NOTICE.** The Proof of Claim must be post-marked on or before July 25, 2005, and delivered to the Claims Administrator at the address below. Unless the Court orders otherwise, if you do not timely submit a valid Proof of Claim, you will be barred from receiving any payments from the Net Settlement Fund, but will in all other respects be bound by the provisions of the Stipulation and the Judgment.

### **EXCLUSION FROM THE CLASS**

You may request to be excluded from the Class. To do so, you must mail a written request stating that you wish to be excluded from the Class to:

Sunterra Corporation Securities Litigation  
c/o Strategic Claims Services  
2710 Concord Road, Suite 5  
Aston, PA 19014

The request for exclusion must state: (1) your name, address, and telephone number; and (2) all purchases of Sunterra common stock during the Class Period, including the dates of purchase or sale, the number of shares purchased or sold and the price paid or received per share. **YOUR EXCLUSION REQUEST MUST BE POSTMARKED ON OR BEFORE APRIL 5, 2005.** If you submit a valid and timely request for exclusion, you shall have no rights under the Settlement, shall not share in the distribution of the Net Settlement Fund, and shall not be bound by the Stipulation or the Judgment.

### **DISMISSAL AND RELEASES**

The following definitions govern the scope and extent of the release by Lead Plaintiffs and the Class:

"Andersen" means Arthur Andersen LLP, AWSC Societe Cooperative ("AWSC"), en liquidation, and all of their past and present member firms, and all of their respective current and former partners, members, principals, managing or other agents, management personnel, officers, directors, shareholders, administrators, servants, employees, consultants, advisors, insurers, reinsurers, attorneys, accountants, representatives, parent companies, subsidiaries, related entities, divisions, affiliates, predecessors, successors and assigns, along with the heirs, spouses, executors, administrators, insurers, reinsurers, representatives, estates, successors and assigns of any such person or entities.

"Defendants" means Steven C. Kenninger ("Kenninger"), L. Steven Miller ("Miller"), Richard A. Goodman ("Goodman"), Ann Cohen ("Cohen"), Charles C. Frey ("Frey"), and Andersen.

"Released Claims" means any and all claims, rights, demands, causes of actions, suits, matters, and issues, whether known or unknown, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, including Unknown Claims (defined below), that have been, might have been, or could be asserted at any time against any of the Released Parties by any member of the Class, in any capacity, in the Action or in any court of competent jurisdiction, which arise out of or relate in any way to any of the following: (a) the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, referred to or that could have been asserted in the Complaint; (b) any alleged misrepresentation or omission concerning or relating to the financial condition, results of operations, financial statements, press releases, public filings, or other public financial disclosures of Sunterra; (c) any purchase, sale or other disposition of ownership of Sunterra common stock by defendants and/or (d) the conduct of the business of Sunterra with regard to any of the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, referred to or that could have been asserted in the Complaint; provided, however, Released Claims shall not include any claim arising out of the violation or breach of the Stipulation.

“Released Parties” means Defendants, Sunterra, and their respective present and former parents, subsidiaries and affiliates, and Sunterra’s and Defendants’ present and former officers, directors, employees, agents, representatives, attorneys, advisors, investment bankers, auditors and accountants, and the predecessors, heirs, successors, executors, administrators, beneficiaries, and assigns of any of them, and any person or entity in which any of the foregoing has or had a controlling interest or which is or was related to or affiliated with any of the foregoing (including, without limitation, Andrew J. Gessow (“Gessow”), Osamu Kaneko (“Kaneko”), Joshua S. Friedman (“Friedman”), Adam Aron (“Aron”), J. Taylor Crandall (“Crandall”), Genevieve Giannoni (“Giannoni”)), and the insurers of the foregoing, including Genesis Insurance Company and Twin City Fire Insurance Company.

“Settled Defendants’ Claims” means all claims of every nature and description, known or unknown, that have been or could have been asserted in the Action or any forum by the Defendants or any of them or the successors and assigns of any of them against any of the Plaintiffs, Lead Plaintiff, Lead Plaintiffs’ Counsel, Class members and their legal representatives, heirs, successors or assigns, and/or their attorneys, which arise out of or relate in any way to the institution, prosecution, or settlement of the Action; provided, however, Settled Defendants’ Claims shall not include any claim arising out of the violation or breach of the Stipulation.

“Unknown Claims” means any and all Released Claims that any Plaintiff or Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Parties, and any Settled Defendants’ Claims that any Settling Defendant does not know or suspect to exist in his, her or its favor, which if known by him, her or it, might have affected his, her or its decision(s) with respect to the Settlement. With respect to any and all Released Claims and Settled Defendants’ Claims, the parties stipulate and agree that upon the Effective Date, Plaintiffs and Defendants shall expressly, and each Class Member 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 Cal. Civ. Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

Plaintiffs and Defendants acknowledge, and Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Released Claims and Settled Defendants’ Claims was separately bargained for and was a key element of the Settlement.

If the proposed Settlement is approved, the Court will enter an Order and Final Judgment (the “Judgment”). The Judgment will dismiss the Released Claims with prejudice as to all Defendants. Thereafter, the Action will be dismissed.

The Judgment will provide that all Class members who do not validly and timely request to be excluded from the Class shall be deemed to have released and forever discharged all Released Claims (to the extent members of the Class have such claims) against all Released Parties, and the Defendants shall be deemed to have released and forever discharged all Settled Defendants’ Claims.

#### **APPLICATION FOR FEES, EXPENSES AND AWARDS**

At the Settlement Hearing, Plaintiffs’ Lead Counsel will request the Court to award attorneys’ fees of up to 33% of the Settlement Amount, \$1,468,500, plus reimbursement of the expenses that were advanced in connection with the Action of up to \$450,000, plus interest thereon.

To date, Plaintiffs’ Lead Counsel have not received any payment for their services in conducting this Action on behalf of Lead Plaintiffs and the Class, nor have counsel been reimbursed for their out-of-pocket expenses. The fees requested by Plaintiffs’ Lead Counsel would compensate counsel for their efforts in achieving the Settlement Amount for the benefit of the Class, and for their risk in undertaking this representation on a contingency basis.

#### **CONDITIONS FOR SETTLEMENT**

The Settlement is conditioned upon the occurrence of certain events described in the Stipulation. Those events include, among others: (1) entry of the Judgment by the Court, as provided for in the Stipulation; (2) expiration of the time to appeal from or alter or amend the Judgment; (3) consummation of settlements in certain related litigation; and (4) the absence of exclusions that cause Defendants to trigger their option to terminate the Settlement. If, for any reason, any one of the conditions described in the Stipulation is not met, the Stipulation might be terminated and, if terminated, will become null and void, and the parties to the Stipulation will be restored to their respective positions as of September 13, 2004.

#### **THE RIGHT TO BE HEARD AT THE HEARING**

Any Class member who has not validly and timely requested to be excluded from the Class, and who objects to any aspect of the Settlement, the Plan of Allocation, the adequacy of representation by Plaintiffs’ Lead Counsel, or

the application for attorneys' fees, costs and expenses, may appear and be heard at the Settlement Hearing. Any such person must submit a written notice of objection. Such objection must be served and filed so that it is received on or before April 12, 2005 by each of the following:

BERNSTEIN LIEBHARD & LIFSHITZ, LLP  
ROBERT J. BERG  
10 East 40th Street  
22nd Floor,  
New York, New York 10016

DONOVAN SEARLES, LLC  
MICHAEL D. DONOVAN  
1845 Walnut Street  
Suite 1100  
Philadelphia, PA 19103

*Lead Counsel for Lead Plaintiffs and the Class*  
CLERK OF THE COURT UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION  
80 North Hughey Avenue  
Orlando, Florida 32801

The notice of objection must demonstrate the objecting person's membership in the Class, including the number of Sunterra shares purchased and sold during the Class Period, and contain a statement of the reasons for objection. Only members of the Class who have submitted written notices of objection in this manner will be entitled to be heard at the Settlement Hearing, unless the Court orders otherwise.

**SPECIAL NOTICE TO NOMINEES**

If you purchased or acquired any Sunterra common stock during the Class Period as nominee for a beneficial owner, then, within five (5) business days after you receive this Notice, you must either: (1) send a copy of this Notice and the Proof of Claim by first class mail to all such Persons; or (2) provide a list of the names and addresses of such persons to the Claims Administrator, preferably in an electronic format:

Sunterra Corporation Securities Litigation  
c/o Strategic Claims Services  
2710 Concord Road, Suite 5  
Aston, PA 19014

If you choose to mail the Notice and Proof of Claim yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing.

Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for or advancement of reasonable administrative costs actually incurred or expected to be incurred in connection with forwarding the Notice and Proof of Claim and which would not have been incurred but for the obligation to forward the Notice and Proof of Claim, upon submission of appropriate documentation to the Claims Administrator.

**EXAMINATION OF PAPERS**

This Notice is a summary and does not describe all of the details of the Stipulation. For full details of the matters discussed in this Notice, you may review the Stipulation, with exhibits, in the Office of the Clerk of Court, United States District Court, 80 North Hughey Avenue, Orlando, Florida 32801. If you have any questions about the Settlement of the Action, you may contact Co-Lead Counsel by writing:

BERNSTEIN LIEBHARD & LIFSHITZ, LLP  
TIMOTHY J. MACFALL  
10 East 40th Street  
22nd Floor,  
New York, New York 10016

DONOVAN SEARLES, LLC  
MICHAEL D. DONOVAN  
1845 Walnut Street  
Suite 1100  
Philadelphia, PA 19103

**DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE.**

DATED: February 11, 2005

BY ORDER OF THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

IN RE: SUNTERRA CORPORATION  
SECURITIES LITIGATION

X  
: Case No. 6:00-cv-79-Orl-28B  
: (The Honorable John Antoon, II)  
X

**Consolidated Case Numbers:**

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**PROOF OF CLAIM AND RELEASE**

**I. GENERAL INSTRUCTIONS**

1. To recover as a member of the Class based on your claims in the action entitled In re Sunterra Corporation Securities Litigation, Case No. 6:00-cv-79-Orl-28B (the "Action"), you must complete and sign this Proof of Claim and Release. If you fail to file a properly addressed (as set forth in paragraph 3 below) Proof of Claim and Release, your claim may be rejected and you may be precluded from any recovery from the Settlement Fund created in connection with the proposed Settlement of the Action and Stipulation filed in connection therewith ("Stipulation").

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

3. YOU MUST MAIL YOUR COMPLETED AND SIGNED PROOF OF CLAIM AND RELEASE POSTMARKED ON OR BEFORE JULY 25, 2005 ADDRESSED AS FOLLOWS: Sunterra Corporation Securities Litigation. c/o Strategic Claims Services, 2710 Concord Road, Suite 5, Aston, PA 19014, Telephone: (866) 274-4004, Fax: (610) 364-2698, Website: [www.strategicclaims.net](http://www.strategicclaims.net)

If you are NOT a member of the Class (as defined in the Notice of Pendency and Proposed Settlement of Class Action) DO NOT submit a Proof of Claim and Release.

4. If you are a member of the Class and you do not timely request exclusion, you are bound by the terms of any judgment entered in the Action, WHETHER OR NOT YOU SUBMIT A PROOF OF CLAIM AND RELEASE.

**II. CLAIMANT IDENTIFICATION**

1. If you purchased or acquired common stock of Sunterra Corporation ("Sunterra") and held the certificate(s) in your name, you are the beneficial purchaser as well as the record purchaser. If, however, you purchased or acquired Sunterra stock and the certificate(s) were registered in the name of a third party, such as a nominee or brokerage firm, you are the beneficial purchaser and the third party is the record purchaser.

2. Use Part I of this form entitled "Claimant Identification" to identify each purchaser of record ("nominee"), if different from the beneficial purchaser of Sunterra stock which forms the basis of this claim. THIS CLAIM MUST BE FILED BY THE ACTUAL BENEFICIAL PURCHASER OR PURCHASERS, OR THE LEGAL REPRESENTATIVE OF SUCH PURCHASER OR PURCHASERS, OF THE SUNTERRA STOCK UPON WHICH THIS CLAIM IS BASED.

3. All joint purchasers 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.

**III. CLAIM FORM**

1. Use Part II of this form entitled "Schedule of Transactions in Sunterra Common Stock" to supply all required details of your transaction(s) in Sunterra 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.

2. On the schedules, provide all of the requested information with respect to all of your purchases or other acquisitions from October 6, 1998 through and including January 19, 2000 (the "Class Period"), and all of your sales of Sunterra stock that took place at any time beginning October 6, 1998 through and including January 20, 2000, whether such transactions resulted in a profit or a loss. Failure to report all such transactions may result in the rejection of your claim.

3. List each transaction 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 transaction you list.

4. The date of covering a "short sale" is deemed to be the date of purchase of Sunterra stock. The date of a "short sale" is deemed to be the date of sale of Sunterra stock.

5. Brokers' confirmations or other documentation of your transactions in Sunterra stock should be attached to your claim. Failure to provide this documentation could delay verification of your claim or result in rejection of your claim.

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

In re Sunterra Corporation Securities Litigation  
Case No. 6:00-cv-79-Orl-28B

**PROOF OF CLAIM AND RELEASE**  
Must be Postmarked No Later Than: July 25, 2005  
*Please Type or Print*

**PART I: CLAIMANT IDENTIFICATION**

Claimant's (Beneficial Owner's) Name \_\_\_\_\_

Claimant's Street Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

Foreign Province \_\_\_\_\_

Foreign Country \_\_\_\_\_

(\_\_\_\_\_) \_\_\_\_\_ (Work)  
Area Code Telephone Number

(\_\_\_\_\_) \_\_\_\_\_ (Home)  
Area Code Telephone Number

Type of Claimant: (Individual, Corporation, Trust, etc.) \_\_\_\_\_

Claimant's Social Security or Tax ID Number \_\_\_\_\_

Record Owner's Name if different from beneficial owner listed above. \_\_\_\_\_

**PART II: SCHEDULE OF TRANSACTIONS IN SUNTERRA COMMON STOCK SECURITIES**

A. Number of shares of Sunterra common stock held at the close of business on October 5, 1998: \_\_\_\_\_  
(write none or zero ("0"), if no shares were held on that date).

B. Purchases or acquisitions of Sunterra common stock during the period October 6, 1998 through and including January 19, 2000, inclusive:

Trade Date (List Chronologically) (Month/Day/Year)	Number of Shares Purchased or Acquired	Total Purchase Price
/ /		\$
/ /		\$
/ /		\$
/ /		\$

C. Sales of Sunterra common stock between October 6, 1998 through and including January 20, 2000:

Trade Date (List Chronologically) (Month/Day/Year)	Number of Shares Sold	Total Sales Price
/ /		\$
/ /		\$
/ /		\$
/ /		\$

D. Number of shares of Sunterra common stock held at the close of business on January 20, 2000: \_\_\_\_\_  
(write none or zero ("0") if no shares were held on that date).

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

**YOU MUST READ AND SIGN THE RELEASE IN SECTION V.**



#### **IV. SUBMISSION TO JURISDICTION OF COURT AND ACKNOWLEDGMENTS**

I submit this Proof of Claim and Release under the terms of the Stipulation of Settlement described in the Notice. I also submit to the jurisdiction of the United States District Court for the Middle District of Florida with respect to my claim as a Class member and for purposes of enforcing the release set forth herein. I further acknowledge that I am bound by and subject to the terms of any judgment that may be entered in the Action. I agree to furnish additional information to Plaintiffs' Lead Counsel to support this claim if required to do so. I have not submitted any other claim covering the same purchases or sales of Sunterra common stock during the Class Period and know of no other Person having done so on my behalf.

#### **V. RELEASE**

1. I hereby acknowledge full and complete satisfaction of, and do hereby fully, finally and forever settle, release and discharge from the Released Claims each and all of the "Released Parties," defined as Defendants (defined below), Sunterra, and their respective present and former parents, subsidiaries and affiliates, and its respective present and former officers, directors, employees, agents, representatives, attorneys, advisors, investment bankers, auditors and accountants, and the predecessors, heirs, successors, executors, administrators, beneficiaries, and assigns of any of them, and any person or entity in which any of the foregoing has or had a controlling interest or which is or was related to or affiliated with any of the foregoing (including, without limitation, Andrew J. Gessow ("Gessow"), Osamu Kaneko ("Kaneko"), Joshua S. Friedman ("Friedman"), Adam Aron ("Aron"), J. Taylor Crandall ("Crandall"), Genevieve Giannoni ("Giannoni")), and the insurers of the foregoing, including Genesis Insurance Company and Twin City Fire Insurance Company.

2. "Defendants" means Steven C. Kenninger ("Kenninger"), L. Steven Miller ("Miller"), Richard A. Goodman ("Goodman"), Ann Cohen ("Cohen"), Charles C. Frey ("Frey"), and Andersen.

3. "Andersen" means Arthur Andersen LLP, AWSC Societe Cooperative ("AWSC"), en liquidation, and all of their past and present member firms, and all of their respective current and former partners, members, principals, managing or other agents, management personnel, officers, directors, shareholders, administrators, servants, employees, consultants, advisors, insurers, reinsurers, attorneys, accountants, representatives, parent companies, subsidiaries, related entities, divisions, affiliates, predecessors, successors and assigns, along with the heirs, spouses, executors, administrators, insurers, reinsurers, representatives, estates, successors and assigns of any such person or entities.

4. "Released Claims" means any and all direct, derivative, and/or representative claims, rights, demands, causes of actions, suits, matters, and issues, whether known or unknown, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, including Unknown Claims (defined below), that have been, might have been, or could be asserted at any time against any of the Released Parties, including any Defendant (and any of Sunterra's former and present insurers, parents, subsidiaries, affiliates, shareholders, directors, officers, employees, agents, representatives, accountants, auditors, attorneys, insurers, investment bankers, heirs, executors, administrators, beneficiaries, predecessors, successors and assigns) by any Class member, in any capacity, in the Action or in any court of competent jurisdiction, which arise out of or relate in any way to any of the following: (i) the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, referred to or that could have been asserted in the Complaint; (ii) any alleged misrepresentation or omission concerning or relating to the financial condition, results of operations, financial statements, press releases, public filings, or other public financial disclosures of Sunterra; (iii) any purchase, sale or other disposition of ownership of Sunterra common stock by any defendant and/or (iv) the conduct of the business of Sunterra with regard to any of the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, referred to or that could have been asserted in the Complaint; provided, however, Released Claims shall not include any claim arising out of the violation or breach of the Stipulation.

5. "Unknown Claims" means any and all Released Claims that any Plaintiff or Class member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Parties, and any Settled Defendants' Claims (as defined in the Stipulation) that any Settling Defendant (as defined in the Stipulation) does not know or suspect to exist in his, her or its favor, which if known by him, her or it, might have affected his, her or its decision(s) with respect to the Settlement. With respect to any and all Released Claims and Settled Defendants' Claims, the parties stipulate and agree that upon the Effective Date, Plaintiffs and Defendants shall expressly, and each Class member 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 Cal. Civ. Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

Plaintiffs and Defendants acknowledge, and Class members by operation of law shall be deemed to have acknowledged, that the inclusion of "Unknown Claims" in the definition of Released Claims and Settled Defendants' Claims was separately bargained for and was a key element of the Settlement.

6. This release shall be of no force or effect unless and until the Court approves the Settlement, and the Settlement becomes effective on the Effective Date (as defined in the Stipulation).



**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 supporting documentation, if available.
3. Do not send original or copies of stock certificates.
4. Keep a copy of your claim form for your records.
5. If you desire an acknowledgement of receipt of your Proof of Claim, please send it via Certified Mail, Return Receipt Requested.
6. If you move, please send us your new address.

**Claims Administrator**  
**In Re: Sunterra Corporation Securities Litigation**  
**c/o Strategic Claims Services**  
**2710 Concord Road, Suite 5**  
**Aston, PA 19014**

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**PLEASE FORWARD—IMPORTANT LEGAL NOTICE**