

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF THE CASH  
STORE FINANCIAL SERVICES Inc., THE CASH STORE INC., TCS CASH STORE INC.,  
INSTALOANS INC., 7252331 CANADA INC., 5515433 MANITOBA INC., 1693926 ALBERTA  
LTD DOING BUSINESS AS "THE TITLE STORE"

APPLICANTS

Court File No.: 4171/14

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

TIMOTHY YEOMAN

Plaintiff

-and-

GORDON J. REYKDAL, MICHAEL J. L. THOMPSON, HALLDOR KRISTJANSSON, and  
EDWARD C. MCCLELLAND

Defendants

PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT*, 1992, S.O. 1992, c.6

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# MOTION RECORD

(Representation Order for *Timothy Yeoman v Gordon J. Reykdal et al.*)

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September 23, 2015

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

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ALBERTA LTD DOING BUSINESS AS "THE TITLE STORE"

APPLICANTS

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Stewart v. The Cash Store Financial Services Inc. et al, Supreme Court of British Columbia, Vancouver Reg. No. S126361;  
Tschritter et al. v. The Cash Store Financial Services Inc. et al, Alberta Court of Queen’s Bench, Calgary Reg. No. 0301-16243;  
Efthimiou v. The Cash Store Financial Services Inc. et al, Alberta Court of Queen’s Bench, Calgary Reg. No. 1201-11816;  
Meeking v. The Cash Store Inc. et al, Manitoba Court of Queen’s Bench, Winnipeg Reg. No. CI 10-01-66061;  
Rehill v. The Cash Store Financial Services Inc. et al, Manitoba Court of Queen’s Bench, Winnipeg Reg. No. CI 12-01-80578;  
Ironbow v. The Cash Store Financial Services Inc. et al, Saskatchewan Court of Queen’s Bench, Saskatoon Reg. No. 1452 of 2012;  
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<sup>3</sup> Essa Road & Mapleton Avenue Shopping Centre, Barrie, ON

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# Tab 1

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
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SUPERIOR COURT OF JUSTICE**

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Plaintiff

-and-

GORDON J. REYKDAL, MICHAEL J. L. THOMPSON, HALLDOR KRISTJANSSON, and  
EDWARD C. MCCLELLAND

Defendants

**PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT*, 1992, S.O. 1992, c.6**

## **NOTICE OF MOTION**

**THE PLAINTIFFS** will make a motion to the Court on September 30, 2015, at 3:30 p.m., or as soon after that time as the motion can be heard, before Regional Senior Justice Morawetz, at 393 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:**        this motion will be heard orally.

### **THE MOTION IS FOR:**

- 1) AN ORDER that the time for service of the Plaintiffs' Motion Record be and is hereby abridged and validated so that the motion is properly returnable today and service upon any interested party other than those parties served is hereby dispensed with;
- 2) AN ORDER that Timothy Yeoman, the proposed representative plaintiff, be appointed as representative of the class members ("Class Representative") for the class of "all persons who entered into 'payday loan' transactions (including 'Basic Lines of Credit') with Cash Store Financial (defined as The Cash Store Financial Services Inc., The Cash Store Inc., and Instaloans Inc.) in Ontario between September 1, 2011 and the date of judgment in the Class Action" (the "Class");
- 3) AN ORDER that Harrison Pensa LLP be appointed as representative counsel ("Representative Counsel") to the Class;
- 4) AN ORDER that Koskie Minsky LLP be appointed as Agent to Representative Counsel;
- 5) AN ORDER that Representative Counsel shall represent the interests of the Class in all aspects, without any obligation to consult or seek instructions from the Class, unless otherwise ordered by the court;

- 6) AN ORDER that the Class Representative and Representative Counsel shall not be liable for any act or omission as a result of their appointment or the fulfillment of their duties in carrying out the provisions of this order, save and except for claims based on gross negligence or wilful misconduct on their part, and that no action, application, or other proceedings shall be taken, made, or continued against the Class Representative or Representative Counsel without leave of this court first being obtained;
- 7) AN ORDER that Class Representative and Representative Counsel shall be given notice of all motions in the Proceedings and that they shall be entitled to represent the Class in all such Proceedings without impairing the right of any individual Class member to retain and instruct counsel in these proceedings on his or her own behalf and without impairing the ability of Representative Counsel to represent the Class; and
- 8) such further and other relief as counsel may advise and this Honourable Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

- 1) Representative Counsel and the Agent have executed a settlement agreement for the benefit of class members;
- 2) a representation order is necessary to give effect to the settlement agreement;
- 3) the within action is one of three separate but related actions, brought on behalf on the same proposed class of borrowers where all of the defendants are alleged to be liable to that Class:
  - a. *Timothy Yeoman v. The Cash Store Financial Services Inc., et al.* (Court File. No.

7908/12 CP)

- b. *Timothy Yeoman v. Gordon J. Reykdal, et al.* (Court File No.4171/14); and
- c. *Ronald Payne and Timothy Yeoman v. Trimor Annuity Focus Limited Partnership, et al.* (Court File No.4172/14) (collectively, the “Ontario Consumer Class Actions”);

- 4) settlement agreements have been reached in all of the Ontario Consumer Class Actions;
- 5) *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;
- 6) *Class Proceedings Act*, 1992, S.O., 1992 c.6;
- 7) *Rules of Civil Procedure*, R.R.O. 1990, Reg.194; and
- 8) such further and other grounds as counsel may advise and this Honourable Court permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:**

- 1) The affidavit of Timothy Yeoman, sworn September 23, 2015;
- 2) The affidavit of Sarah A. Bowden, sworn September 23, 2015; and
- 3) such further and other material as counsel may advise and the Honourable Court may permit.

September 23, 2015

**HARRISON PENZA** <sup>LLP</sup>  
450 Talbot Street  
London, ON N6A 4K3

**Jonathan J. Foreman (LSUC #45087H)**  
Tel: (519) 679-9660 / Fax: (519) 667-3362  
Email: [jforeman@harrisonpensa.com](mailto:jforeman@harrisonpensa.com)

Counsel for the Plaintiffs

**KOSKIE MINSKY <sup>LLP</sup>**  
20 Queen Street West, Suite 900  
Toronto, ON M5H 3R3

**Andrew J. Hatnay (LSUC #31885W)**  
Tel: (416) 595-2083 / Fax: (416) 204-2872  
Email: [ahatnay@kmlaw.ca](mailto:ahatnay@kmlaw.ca)

TIMOTHY YEOMAN  
RONALD PAYNE and TIMOTHY YEOMAN  
TIMOTHY YEOMAN

v. THE CASH STORE FINANCIAL SERVICES INC., et al.  
v. TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP et al.  
v. GORDON J. REYKDAL, MICHAEL J. L. THOMPSON et al.

Court File No. 7908/12 CP  
Court File No. 4172/14  
Court File No. 4171/14

Plaintiffs

Defendants

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT LONDON

**NOTICE OF MOTION**  
**(Representation Order for *Timothy Yeoman v*  
*Gordon J. Reykdal et al.*)**

**HARRISON PENZA LLP**  
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Genevieve Meisenheimer (LSUC #59191U)  
Tel: (519) 679-9660  
Fax: (519) 667-3362

Lawyers for the plaintiffs

# Tab 2

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF THE CASH  
STORE FINANCIAL SERVICES Inc., THE CASH STORE INC., TCS CASH STORE INC.,  
INSTALOANS INC., 7252331 CANADA INC., 5515433 MANITOBA INC., 1693926 ALBERTA  
LTD DOING BUSINESS AS "THE TITLE STORE"

APPLICANTS

Court File No.: 7908/12 CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

TIMOTHY YEOMAN

Plaintiffs

-and-

THE CASH STORE FINANCIAL SERVICES INC., THE CASH STORE INC., INSTALOANS  
INC., DIRECTCASH BANK, DIRECTCASH ATM PROCESSING PARTNERSHIP,  
DIRECTCASH ATM MANAGEMENT PARTNERSHIP, DIRECTCASH PAYMENTS INC.,  
DIRECTCASH MANAGEMENT INC., and DIRECTCASH CANADA LIMITED PARTNERSHIP

Defendants

**PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT*, 1992, S.O. 1992, c.6**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

RONALD PAYNE and TIMOTHY YEOMAN

Plaintiffs

-and-

TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP, TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #2, TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #3, TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #4, TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #5, TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #6, 1396309 ALBERTA LTD., 367463 ALBERTA LTD., 0678786 B.C. LTD. (formerly c.o.b. as MCCANN FAMILY HOLDING CORPORATION), L-GEN MANAGEMENT INC., OMNI VENTURES LTD., BRIDGEVIEW FINANCIAL CORP., INTER-PRO PROPERTY CORPORATION (U.S.A.) and FSC ABEL FINANCIAL INC.

Defendants

**PROCEEDING UNDER THE CLASS PROCEEDINGS ACT, 1992, S.O. 1992, c.6**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

TIMOTHY YEOMAN

Plaintiff

-and-

GORDON J. REYKDAL, MICHAEL J. L. THOMPSON, HALLDOR KRISTJANSSON, and EDWARD C. MCCLELLAND

Defendants

**PROCEEDING UNDER THE CLASS PROCEEDINGS ACT, 1992, S.O. 1992, c.6**

## AFFIDAVIT OF TIMOTHY YEOMAN

I, **TIMOTHY YEOMAN**, of the Town of Strathroy, in the County of Middlesex, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the class plaintiff in the above-noted class actions.
2. I have personal knowledge of the matters to which I depose, except for the statements I have indicated are based on information and belief. To the extent that my knowledge is based on information and belief, I identify the source of such information and believe that information to be true.
3. In 2012, I took a loan at a location of The Cash Store Inc. in Ontario in the amount of \$400.00, for which I was charged \$147.32 in interest, fees and charges.
4. Pursuant to the Order of Regional Senior Justice Morawetz, dated June 16, 2014, I am the Representative for the class members in the proceeding, *Timothy Yeoman v. The Cash Store Financial Services Inc., et al.* (Court File No. 7908/12 CP, “**The Cash Store Claim**”), under the *Companies’ Creditors Arrangement Act* R.S.C., 1985, c. C-36, as amended (“CCAA”). Attached hereto and respectively marked as **Exhibit “A”** and **Exhibit “B”** is a copy of the Amended Fresh as Amended Statement of Claim and the Order of Senior Regional Justice Morawetz, appointing me Representative for the class members.
5. I am also the proposed Representative Plaintiff in the following two (uncertified) class actions that also relate to Cash Store:
  - a. *Timothy Yeoman v. Gordon J. Reykdal et al.* (Court File No. 4171/14, “the Directors and Officers Claim”); and

- b. *Ronald Payne and Timothy Yeoman v. Trimor Annuity Focus Limited Partnership, et al.* (Court File No.4172/14, “the Third Party Lender Claim”).

Attached hereto and respectively marked as **Exhibit “C”** and **Exhibit “D”** is a copy of the Directors and Officers Claim, and a copy of the Third Party Lender Claim. Collectively, Exhibits “A”, “C”, and “D” shall be referred to as the “**Ontario Consumer Class Actions**”.

### **THE THREE ONTARIO CONSUMER CLASS ACTIONS**

6. All three of the Ontario Consumer Class Actions allege that the defendants to those actions are liable to the same class of borrowers for their roles in the conduct of a payday loan business operated by The Cash Store and related entities since September 1, 2011. The Ontario Consumer Class Actions allege that the defendants are required to return all amounts representing costs of borrowing to Canadians who entered into “payday loan” transactions (including “Basic Lines of Credit”) at a location of The Cash Store Inc., Instalozans Inc. or any of their Canadian affiliates (collectively “Cash Store”) in Ontario on or after September 1, 2011 (“the Class”).

### **SETTLEMENTS HAVE BEEN REACHED**

7. Settlements have been reached with a number of defendants in the Ontario Consumer Class Actions; namely, with the group of Cash Store defendants, their directors and officers, and the DirectCash parties (parties who provided the devices on which the “payday loan” transactions were advanced, and defined as “DirectCash Released Parties” in Cash Store’s CCAA Plan of Compromise), and some of the third-party lenders to Cash Store (“the Settling Defendants.”) Together, the Settling Defendants have agreed to pay more than \$10 million. Approximately \$1.4 million of that money will be paid provided the Ontario Registrar of payday loans provides its consent, as those amounts reflect sums that were collected by Cash Store and which were identified by the

Monitor as representing amounts which should not have been collected. In addition, in the settlement of the Cash Store Claim, a share of any future litigation recoveries by the estate in respect of certain claims made by it will be paid for the benefit of class members in the Ontario Consumer Class Actions. Attached hereto and respectively marked as **Exhibit “E”** and **Exhibit “F”** are copies of the principal settlement agreements in the Cash Store Claim and the Third-Party Lender Claim, in each case without exhibits. Certain of the terms of the settlement agreements are sensitive and have been redacted. An execution copy of the settlement agreement in the Directors and Officers Claim has been circulated and is currently being executed by all parties.

8. The settlements reached in each of the Ontario Consumer Class Actions have been explained to me by my counsel, Harrison Pensa, and I support the settlements reached. I believe that the settlements are preferable to continuing with on-going, contested litigation. I have instructed my counsel to request court approval of those settlements.

#### **TWO FURTHER REPRESENTATION ORDERS ARE REQUIRED**

9. On January 29, 2014, and February 24, 2015 I swore affidavits in support of motions to certify The Cash Store Claim as a class proceeding. On May 9, 2014, I swore an affidavit in support of appointing me Class Representative for the class members, Harrison Pensa LLP as Representative Counsel (“Representative Counsel”), and Koskie Minsky as Agent to Harrison Pensa LLP in Cash Store’s CCAA proceedings. I repeat and rely on the content of my previously-filed affidavits.
10. My counsel has explained that two more representation orders are required so that I can represent the class members described in all three Ontario Consumer Class Actions to facilitate the settlements.
11. I understand that class members will be afforded the opportunity to object to the

settlements, counsel fees, out-of-pocket expenses, and any applicable taxes, as part of the settlement approval process.

12. I seek to be appointed to represent the class members that are described in the other two Ontario Consumer Class Actions. I have instructed my counsel to bring motions requesting Representation Orders in the other two proceedings in which I am a proposed Representative Plaintiff (i.e. the Directors and Officers Claim and the Third Party Lender Claim) to facilitate court approval of all the settlements reached.

#### **THE NOTICE TO CLASS MEMBERS AND THE NOTICE DISTRIBUTION PLAN**

13. I have reviewed and approve the proposed Short-and Long-Form Notices (the “Notices”) to class members. Attached hereto and respectively marked as **Exhibit “G”** and **Exhibit “H”** are copies of the Notices.
14. I have also reviewed the Plan for Distributing the Notices (the “Notice Plan.”) I believe that it is an effective plan for distributing the Notices to class members. Attached hereto and marked as **Exhibit “I”** is a copy of the Notice Plan.
15. My counsel has advised that they are also working on a settlement distribution plan for class members in respect of the settlement recoveries to be paid for the benefit of them (the “Settlement Distribution Plan”). I am advised and understand that a copy of the Settlement Distribution Plan will be made available publicly to class members for their review and comment on the website of Representative Counsel through a link in the Notices.
16. I have been consulted by my counsel on the aspects of the Settlement Distribution Plan and the plan for issuing notices of the claims process, which I understand will be commenced in 2016. I understand that a third-party claims administrator, RicePoint, has been retained to work in concert with Representative Counsel to develop this Settlement

Distribution Plan and to administer the claims, if and when the settlements are approved by this court.

17. I make this affidavit in support of a motion for orders to appoint me as Class Representative, Harrison Pensa as Representative Counsel and Koskie Minsky as Agent in the Directors and Officers Claim and in the Third-Party Lender Claim; to approve the Short- and Long-Form Notices; to approve the Notice Plan; and for no other or improper purpose.

SWORN BEFORE ME in the Town of  
Strathroy, in the County of Middlesex,  
in the Province of Ontario, this  
23<sup>rd</sup> day of September, 2015.

  
\_\_\_\_\_  
Commissioner for taking affidavits, etc.

  
\_\_\_\_\_  
TIMOTHY YEOMAN

~~Jean Marc Metrailler,  
a Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires June 11, 2018.~~

~~Jean Marc Metrailler,  
a Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires June 11, 2018.~~

Jean Marc Metrailler,  
a Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires June 11, 2018.

**This is EXHIBIT “A” referred to in the**

**Affidavit of TIMOTHY YEOMAN**

**sworn before me, this 23<sup>rd</sup> day of September, 2015**



---

*A Commissioner, etc.*

Jean Marc Metrailler,  
a Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires June 11, 2018.

AMENDED THIS 21 DAY OF May 2015  
PURSUANT TO RULE 26.02(a)

[Signature]  
LOCAL REGISTRAR,  
SUPERIOR COURT OF JUSTICE

Court File No.: 7908/12 CP

MODIFIÉ CE \_\_\_\_\_ 200\_\_\_\_  
CONFORMÉMENT À LA REGLE \_\_\_\_\_

ONTARIO  
GREFFIER LOCAL SUPERIOR COURT OF JUSTICE  
COUR SUPÉRIEURE DE JUSTICE

BETWEEN:

TIMOTHY YEOMAN

Plaintiff

- and -

THE CASH STORE FINANCIAL SERVICES INC., THE CASH STORE INC.,  
INSTALOANS INC., DIRECTCASH BANK, DIRECTCASH ATM PROCESSING  
PARTNERSHIP, DIRECTCASH ATM MANAGEMENT PARTNERSHIP, DIRECTCASH  
PAYMENTS INC., DIRECTCASH MANAGEMENT INC., and  
DIRECTCASH CANADA LIMITED PARTNERSHIP

Defendants

PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT*, 1992, S.O. 1992, c.6

## **AMENDED FRESH AS AMENDED STATEMENT OF CLAIM**

TO THE DEFENDANT(S)

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the plaintiff.  
The claim made against you is set out in the following pages.

**IF YOU WISH TO DEFEND THIS PROCEEDING**, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

**IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.**

If you wish to defend this proceeding but are unable to pay legal fees, legal aid may be available to you by contacting a local legal aid office.

Date: August 1, 2012

Issued by: \_\_\_\_\_

80 Dundas Street  
London, Ontario  
N6A 6A3

**TO: THE CASH STORE FINANCIAL SERVICES INC.**  
40 King Street  
Suite 2100  
Toronto, ON M5H 3C2

**AND TO: THE CASH STORE INC.**  
10180 – 101 Street  
Suite 3200  
Edmonton, Alberta T5J 3W8

**AND TO: INSTALOANS INC.**  
10180 – 101 Street  
Suite 3200  
Edmonton, Alberta T5J 3W8

**AND TO: DIRECTCASH BANK**  
1420 - 28<sup>th</sup> Street North East  
Bay #6  
Calgary, Alberta T2A 7W6

- AND TO: DIRECTCASH ATM PROCESSING PARTNERSHIP**  
350 7<sup>th</sup> Avenue SW  
No. 1400  
Calgary, Alberta T2P 3N9
- AND TO: DIRECTCASH ATM MANAGEMENT PARTNERSHIP**  
350 7<sup>th</sup> Avenue SW  
No. 1400  
Calgary, Alberta T2P 3N9
- AND TO: DIRECTCASH PAYMENTS INC.**  
Bay #6, 1420 28<sup>th</sup> Street NE  
Calgary, Alberta T2A 7W6
- AND TO: DIRECTCASH MANAGEMENT INC.**  
Bay #6, 1420 28<sup>th</sup> Street N E  
Calgary, Alberta T2A 7W6
- AND TO: DIRECTCASH CANADA LIMITED PARTNERSHIP**  
Bay #6, 1420 28<sup>th</sup> Street N E  
Calgary, Alberta T2A 7W6

**CLAIM**

1. **THE PLAINTIFF CLAIMS** on behalf of himself and the Class:

- (a) An Order pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, C. 6 certifying this action as a class proceeding and appointing the Plaintiff as representative Plaintiff on behalf of the Class;
- (b) General damages calculated on an aggregate basis or otherwise for breach of the *Payday Loans Act* S.O, 2008, C. 9 ("*Payday Loans Act*"), and its regulations, O.Reg. 98/09 and O. Reg. 316/11 (the "Regulations"), the *Competition Act* RSC 1985, c C-34 ("*Competition Act*"), conspiracy, and unjust enrichment, in an amount sufficient to compensate the Plaintiff and the Class Members for the harm done to them as a result of the Defendants' unlawful conduct;
- (c) Punitive damages and exemplary damages in an amount to be determined at trial;
- (d) Relief from amounts alleged to be owed to the Defendants by the Class Members on account of the unlawful charges and business practices alleged herein;
- (e) An equitable rate of interest on all sums found due and owing to the Plaintiff and the Class Members or, in the alternative, pre- and post-judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, Chapter C.43;
- (f) An accounting, restitution, disgorgement and the creation of a constructive trust for breach of the *Payday Loans Act*, and its 2011 Regulations, the *Competition Act*, unjust enrichment, and the taking of inequitable profit by unlawful conduct and waiver of tort;

- (g) An Order compelling the creation of a litigation trust to hold and distribute the monetary relief awarded pursuant to a plan of administration and distribution under sections 25 and 26 of the *Class Proceedings Act*;
- (h) An Order for a permanent injunction restraining the Defendants from taking any further action in contravention of the *Payday Loans Act* and its Regulations, or the *Competition Act*;
- (i) An Order compelling the creation of a conspicuous notice program to Class Members pursuant to section 19 of the *Class Proceedings Act* in order to facilitate the plan of distribution claimed herein;
- (j) Costs of the investigation and prosecution of these proceedings pursuant to Section 36(1) of the *Competition Act*;
- (k) Costs of this action on a substantial indemnity basis including the costs associated with notice to Class Members and the plan of administration and distribution of relief, plus applicable taxes; and
- (l) Such further and other relief as this Honourable Court may deem just.

## THE PARTIES

### Plaintiff

2. The Plaintiff is an individual residing in Strathroy, Ontario. The Plaintiff engaged in a "payday loan" transaction with the Defendants on April 24, 2012. For a payday loan of \$400 and a loan duration of nine days, the Plaintiff was charged an additional \$68.60 in fees and service charges and paid \$78.72 in interest, for a total cost of borrowing of \$147.32.

**Defendants**

3. The Defendant, Cash Store Financial Services Inc., is an Ontario corporation that formally carried on business under the name Cash Store Financial with its principal place of business in Toronto, Ontario.
4. The Defendants, Cash Store Inc. and Instalozans Inc., are wholly owned subsidiaries of Cash Store Financial Services Inc. (collectively "Cash Store Financial" and "the Cash Store Defendants.")
5. Cash Store Financial Services Inc. had substantial business in Ontario and operated approximately one hundred and eighty-one "payday loan" branches across the province prior to its insolvency.
6. The Defendant, DirectCash Bank (also known as DC Bank,) is a Schedule I bank under the *Bank Act*, S.C. 1991 c. 46, which is registered with the Superintendent of Financial Institutions Canada in Calgary, Alberta. DC Bank describes itself as a "limited purpose bank." It provides products and services in connection with ATM accounts, prepaid debit cards, and prepaid Mastercards.
7. The Defendants, DirectCash ATM Processing Partnership and DirectCash ATM Management Partnership, are general partnerships registered in Alberta which carry out ATM and debit services throughout Canada.
8. The Defendant, DirectCash Payments Inc., is a corporation which has been amalgamated pursuant to the laws of Alberta. DirectCash Payments Inc. is the head

office of the DirectCash entities, which directs business carried out through its subsidiaries.

9. The Defendant, DirectCash Management Inc., is a corporation incorporated under the laws of Alberta, which is wholly owned by DirectCash Payments Inc., and is the general managing partner of DirectCash Canada Limited Partnership.
10. The Defendant, DirectCash Canada Limited Partnership, is a limited partnership that is registered under the *Partnership Act* in Alberta. DirectCash Payments Inc. owns 100% of the partnership units of DirectCash Canada Limited Partnership. DirectCash Canada Limited Partnership in turn directs the business of DirectCash ATM Processing Partnership and DirectCash ATM Management Partnership.
11. The DirectCash Defendants (collectively referred to as "DirectCash" and the "DirectCash Defendants") entered into an agency relationship with the Cash Store Defendants, and were integral to maintaining the Cash Store Defendants' revenue stream.
12. The DirectCash Defendants has repeatedly noted in its public financial filings the significance of its relationship Cash Store Financial during the Class Period.
13. The Defendants collectively engaged in a business known as "payday lending." It was Cash Store Financial's business to arrange for short-term cash advances and "lines of credit" to customers valued at between \$100 to \$5000. The maximum loan period for Cash Store Financial's payday loans was eighteen days, and for its lines of credit was four weeks.
14. The DirectCash Defendants have expressly and inextricably interwoven their offerings into Cash Store Financial's payday loan agreements with the Class Members. The

Plaintiff therefore pleads that the Defendants are each liable to the Class Members for the unlawful conduct alleged herein.

### **The Class**

15. The Plaintiff seeks to represent a class consisting of all persons in Canada who entered into "payday loan" transactions with Cash Store Financial in Ontario between September 1, 2011, and the date of judgment (the "Class Members.")

### **THE NATURE OF THE ACTION**

16. This action concerns the unlawful business models of the Defendants as operators in the "payday loan" industry subject to the Ontario *Payday Loans Act* and Regulations.
17. Since September 1, 2011, all payday lenders in Ontario are specifically required by legislation to provide borrowers with the option to take their payday loan in an immediate and liquid form. The effect of this requirement is to reduce the cost of borrowing and to prevent payday lenders from requiring borrowers to pay ancillary fees for "devices", a term defined in the Regulations meaning instruments offered by the lender in the delivery of the payday loan such as debit cards or credit cards.
18. From September 1, 2011 to April 14, 2014, the Defendants, as payday lenders, have by their business practices, violated the applicable statutory requirements of this province which were designed for the protection of the Class Members as borrowers.
19. Specifically, Cash Store Financial did not, as a universal and province-wide corporate policy, provide the Class Members with the option to take a payday loan in cash as explicitly required by the *Payday Loans Act* Regulations. Cash Store Financial also did not provide Class Members with the option to take loans by way of cheque until

February of 2013, and such option requires processing time of up to several days. Instead, Cash Store Financial's business model featured two primary options for the delivery of payday loans to Class Members since September 1, 2011:

- i. By way of ancillary products such as a pre-paid DirectCash debit or credit card, which products feature additional fees and interest; or
- ii. By way of a delayed bank transfer to the borrower's account, which take up to seven days to occur.

Both options failed to comply with the applicable legislation to the prejudice of Class Members.

20. The first option provided by the Defendants constituted approximately 99% of Cash Store Financial's payday lending business in 2011, according to information contained in their public financial filings. Throughout the class period, it continued to be the primary method by which borrowers obtained loans from the Defendants. The option violated multiple statutory requirements, and most notably, every such loan exceeded the prescribed maximum cost of borrowing. The second option, together with cheques as of February of 2013, constituted the remainder of Cash Store Financial's loan business and violated the strict requirement that payday loans be made "immediately accessible" to borrowers no later than the time at which the payday loan agreement is entered into; an important matter for loans of such short duration and high rates of interest.

21. The DirectCash Defendants were inextricably incorporated into the illegal conduct alleged herein. In the payday loan agreements at issue, Class Members were required to enter into agreements with the DirectCash Defendants and to remit funds to them. The funds were expressly added to the borrowed amount in the payday loan and had interest charged to them. Further, Cash Store Financial and the DirectCash Defendants

shared the revenue that was illegally charged to the Class Members in contravention of the applicable legislation and the common law.

22. Cash Store Financial's payday loans changed in their outward form on February 1, 2013, when the company made the strategic decision to declare it was discontinuing to offer "payday loans" and would instead offer "lines of credit." In reality, Cash Store Financial continued to offer payday loans under a different name, in an attempt to circumvent the applicable payday lending legislation and applicable regulations.
23. On February 4, 2013, the Registrar for the *Payday Loans Act* issued a proposal to revoke the payday lending licenses of The Cash Store Inc. and Installoys Inc. On July 3, 2013, Cash Store Financial issued a public statement indicating that The Cash Store Inc. and Installoys Inc. intended to allow their respective payday loan licenses in Ontario to expire, and that they would instead continue to offer lines of credit.
24. The Plaintiff pleads that the lines of credit currently offered by Cash Store Financial are in fact payday loans, which are subject to the *Payday Loans Act* and its Regulations. The Plaintiff relies on section 4 of the *Payday Loans Act* in this regard, which states that the court shall consider the real substance of the agreement or transaction, and in so doing may disregard the outward form of the agreement or transaction.
25. On February 12, 2014, the Ontario Superior Court of Justice released the decision of the Honourable Justice Morgan, which found that Cash Store Financial's line of credit constituted a payday loan under subsection (1) of the *Payday Loans Act*.
26. The following day, Cash Store Financial announced that it would no longer be offering any of its line of credit products in Ontario as it was not permitted to sell any payday loan products in Ontario.

27. On April 14, 2014, Cash Store Financial and its related companies filed for creditor protection under the *Companies' Creditors Arrangement Act* (R.S.C. 1985, c. C-36) ("CCAA.")
28. The DirectCash Defendants maintained full knowledge of and participation in the illegal payday loan transactions with Class Members, which were improperly characterized as "lines of credit". Further, the Plaintiff pleads that the DirectCash Defendants have at all material times been aware of the regulatory requirements imposed on actors in the payday lending industry and Cash Store Financial's deficiencies in that regard.
29. The Class Members claim specific relief from the Defendants as provided for under the Ontario *Payday Loans Act* and Regulations and the *Competition Act* for the breaches alleged herein as well as common law and equitable remedies.

## **BACKGROUND**

30. Since 2008, Cash Store Financial and all other payday loan companies operating in Ontario have been governed by the *Payday Loans Act*. The *Act* and its Regulations, which were passed by the Ontario government in June of 2008, were created by the province in order to ensure the regulation of the payday lending industry in Ontario was compliant with the new requirements of the *Criminal Code* with respect to criminal interest rates. At that time, the Ontario government also commissioned the Maximum Total Cost of Borrowing Advisory Board for the Ontario Payday Lending Industry (the "Advisory Board.")
31. The Advisory Board delivered its report in February of 2009, and recommended that the Ontario government set the maximum total cost of borrowing for payday loans in Ontario at \$21 per \$100 borrowed. This recommendation was implemented in 2009.

32. Ontario Regulation 98/09 set out requirements for the content of a payday loan agreement, including the following key elements:
- a) The borrower must only be required to pay a maximum cost of \$21 per \$100 borrowed; and
  - b) The maximum cost of borrowing must be stated in the loan agreement as well as in the lender's business advertisements.
33. Since that regulation was enacted in 2009, there were persistent complaints and media reports across Canada of payday lenders requiring the payment of additional fees in lieu of the higher interest rates they had previously been able to charge to borrowers.
34. In response to those complaints, an amendment to the Regulation was enacted and brought into force in September of 2011. Ontario Regulation 316/11 (the "2011 Regulation") adds the following key obligations on payday lenders:
- a) Third party fees and charges are to be included in the cost of borrowing (section 17);
  - b) Borrowers must be able to receive their loan in cash (section 22); and
  - c) Optional goods and services are prohibited from being sold by a payday loan company (section 27.)
35. The purpose of these amendments is to reduce the cost of borrowing for payday loans and to confirm the required immediacy in the delivery of loan principal in liquid form for the benefit of borrowers.

36. On August 31, 2011, the day before the 2011 Regulation came into force, Cash Store Financial filed an application for Judicial Review of the new regulation.
37. In its application for Judicial Review, Cash Store Financial requested relief including, but not limited to:
  - (a) Orders stating that amendments cited in the new regulation relating to additional charges and the requirement to offer cash were *ultra vires* and of no force and effect;
  - (b) A declaration that the provisions of the new regulation discriminates against Cash Store Financial are *ultra vires* and of no force and effect;
  - (c) A declaration that debit cards and pre-paid cards are not considered a “device” within the meaning of the *Payday Loans Act*; and
  - (d) An order for an interim or interlocutory injunction or a declaration staying the force and effect of the new regulations.
38. In its application, Cash Store Financial submitted that “These amendments contain broad changes to the payday lending regulations that specifically affect the business of Cash Store Financial.”
39. Further, Cash Store Financial argued that the 2011 Regulations “appear to improperly target Cash Store Financial specifically, to the exclusion of other licensees, and therefore amount to a form of regulatory discrimination.”
40. Cash Store Financial conceded that in order to comply with the new regulations it would “be required to effect significant changes to [its] operations.”

41. Cash Store Financial did not make any such changes to its operations. Rather, Cash Store Financial continued to refuse to make cash payments available to borrowers and instead continued to compel borrowers to pay additional fees in order to facilitate loan payments through various non-cash mechanisms provided by DirectCash.
42. Until February 1, 2013, Cash Store Financial added those fees to the "borrowed" principal amount of the loan and the maximum rate of interest under the *Payday Loans Act* was charged on those additional fees, as well as the principal amount. Between February 1, 2013 and February 13, 2014, Cash Store Financial charged interest in excess of the maximum rate prescribed for payday loans in Ontario, and has continued to charge interest on the additional fees and principal amounts. All of these charges and the interest charged on them resulted in loan terms which were well in excess of the prescribed maximum cost of borrowing.

### ***The DC Fee Schedule***

43. At the core of this action are the fees charged by DirectCash pursuant to a schedule of fees created and published by DirectCash. The DirectCash fees were embedded into the borrowed amount in the Class Members' loan transactions. The fees were required to be paid by Class Members in order to obtain immediate access to their payday loans.
44. The proceeds paid by Class Members during the class period pursuant to the DC fee schedule were shared between the DirectCash and the Cash Store Defendants in accordance with agreements reached between them.

45. The following chart details a non-exhaustive list of the ancillary fees that Cash Store Financial has required borrowers to pay to DirectCash in order to obtain a payday loan on a pre-paid debit or credit card:

Pre-Paid Mastercard (purchase)	\$17.95
Monthly Mastercard fee	\$29.95 - \$37.95
Mastercard loading fee	\$3.50
Mastercard service fee (each use)	\$2.95
Credit card insurance (on \$500)	\$1.95/-day
Debit card (purchase)	\$17.95
Debit card activation fee	\$8.00
Monthly debit card fee	\$17.90 - \$29.95
Debit card service fee (each use)	\$2.25 - \$2.95

46. A DirectCash fee schedule was contained in agreements entered into by every Class Member who took their loans by way of a device. Those agreements are entitled "wallet agreements."
47. In the example of a loan transaction where the funds were provided on a Mastercard, the borrower could be charged a fee of \$17.95 for purchasing a MasterCard credit card in order to obtain the payday loan, as well as monthly fees ranging between \$29.95 and \$37.95 per month. There were also additional "loading fees" and service fees for each

use of the credit card. If the loan was not withdrawn from an ATM all at once, each additional ATM transaction would result in another fee.

48. The amount of the additional fees charged by DirectCash were added to the principal of the borrower's loan at the time the payday loan was taken out, and interest was charged on those fees as well as on the principal loan amount. DirectCash collected their fees after the pre-paid debit or credit card was issued. As a result, a borrower who wished to take out a loan of \$100 would in fact be required to "borrow" \$100 plus \$17.95 for a debit card, up to \$29.95 for the first monthly fee, and an \$8.00 activation fee. The total amount borrowed would become a minimum of \$155.90 and interest would be charged on that amount. Additional transaction fees would be subsequently charged as the loan amount was expended.
49. Cash Store Financial also offered "optional" insurance for their credit cards and debit cards, which was provided through DirectCash at a cost of approximately \$1.95 per day. It is alleged that the "optional" insurance was in fact applied to all or virtually all of the Class Members' transactions with the Defendants during the relevant timeframe automatically as a default. "Bank accounts" are also required for use of the debit card, which involves additional fees.
50. Contrary to the requirements of the 2011 Regulation, Cash Store Financial had a corporate policy of not providing cash to borrowers during the class period, a fact which required every Class Member to obtain his or her payday loan through a device, which required the payment of additional charges to DirectCash if he or she were to obtain their loan on an immediate basis.

51. The only alternative for borrowers was to take their loan by way of electronic transfer of funds to a bank account. However, this option involved a significant delay in receipt of funds. Loans took up to seven days to transfer, which is both in contravention of the *Payday Loans Act* and Regulations, as well as impractical for persons who need to obtain funds on a short-term basis. The delay was prejudicial to borrowers for whom the loan duration is up to a maximum of four weeks and at a high rate of interest.
52. As a result of the above-noted business practices, the Plaintiff pleads that the Defendants were engaged in a civil conspiracy; that they have been unjustly enriched; and that they were in breach of the *Payday Loans Act* and its 2011 Regulation, as well as the *Competition Act*.

#### **THE DIRECTCASH DEFENDANTS**

53. Cash Store Financial and DirectCash operated pursuant to an agency agreement whereby Cash Store Financial was the agent of DirectCash in its dealing with the Class Members. Further, Class Members were required to enter into agreements with the DirectCash Defendants and to pay amounts to them pursuant to the Cash Store Financial Payday Loan Agreements.
54. Together, the Defendants collectively engaged in illegal payday loan transactions with Class Members and they shared the revenues, including interest revenue on the Payday Loans which were collected illegally pursuant to those transactions.
55. On account of this relationship, the Defendants are each liable for the acts and omissions of the other in violation of applicable law.

**PAYDAY LOANS ACT AND REGULATIONS**

56. Cash Store Financial stated in its application for Judicial Review that “Cash Store Financial’s business is distinguishable from its competitors in the marketplace in that it specifically does not provide advances in cash, but rather provides advances by way of cheque or other optional electronic funds transfer mechanisms.”
57. As a matter of fact, the Cash Store Financial only began to offer cheques as a form of payment of advances well into the class period, and as previously indicated, neither the cheques nor the electronic bank transfers were immediate. The provision of payday loans through account transfers which took up to seven days was unlawful, as section 29(2) of the *Act* states that lenders must ensure that the advance is delivered no later than upon entering into the loan agreement. Furthermore, Section 21(1) of the Regulation states that it is deemed that a lender under a payday loan agreement has not delivered the advance to the borrower upon entering into the agreement unless the advance is immediately accessible by the borrower at that time.
58. Section 22(0.1) and (1) of the 2011 Regulation state in combination that borrowers are entitled to receive the whole of their advances by way of cash, and that borrowers must be informed of that right.
59. Cash Store Financial’s business model whereby it refused to provide cash to borrowers is in direct contravention of section 22 of the 2011 Regulation. Further, it contradicted the overarching policy purpose of payday loans in Ontario, which is to provide liquid short-term lending to borrowers. The DirectCash Defendants were engaged in this contravention as well, by virtue of their role in offering payday loans in conjunction with Cash Store Financial.

60. By failing to adhere to the requirements prescribed by the 2011 Regulations, Cash Store Financial and DirectCash also contravened section 29(1) of the *Payday Loans Act*. Section 29(4) of the *Act* states that if the parties enter into a loan agreement which breaches section 29(1) or (2) of the *Act*, “the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing.” The Plaintiff pleads and relies on this section of the *Act*.
61. As stated above, Cash Store Financial required borrowers to obtain their loans through the use of debit cards and credit cards, which had additional fees attached to them. Section 27(2) of the *Paydays Loans Act Regulations* states that “A lender shall not require a borrower to transact in any good or service, other than a payday loan, as a condition of entering into a loan agreement.” Cash Store Financial and DirectCash were in contravention of section 27(2) of the 2011 Regulation as they required borrowers to purchase a device from DirectCash in order to obtain immediate access to their loans.
62. Section 27(3) of the 2011 Regulation further states that:
- “A licensee, acting on the licensee’s own behalf or on behalf of any other person, shall not offer to provide or provide any good or service in connection with a payday loan agreement, other than the payday loan, whether or not it is provided for consideration.”
- Cash Store Financial was in clear breach of this section of the Regulations as it systematically offered and required that certain goods and services be purchased by its borrowers from DirectCash in order to obtain immediate access to their loans.
63. Section 27(5) of the 2011 Regulation provides that if subsections (2) and (3) of section 27 are breached, “the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing.”

64. Furthermore, Cash Store Financial and DirectCash are both liable for offering payday loans without a license to do so. Cash Store Financial did not obtain loan broker licenses which permitted it to provide the "lines of credit" which it offered; nor did DirectCash ever obtain payday lender or loan broker licenses which would allow it to engage in the payday loans business. Offering loans without a licence is contrary to sections 6(1) and 6(2) of the *Payday Loans Act*, and pursuant to section 6(3), carries a consequence of requiring that the borrower only repay the advance to the lender, and not the cost of borrowing.
65. Section 17(1) of the 2011 Regulation states that the following amounts are prescribed as included in the cost of borrowing with respect to a payday loan agreement:
1. Any amount payable by the borrower, upon entering into the agreement, to process a payment provided by the borrower under the agreement.
  2. Any other amount that is connected directly or indirectly to the payday loan agreement and,
    - i. that the borrower has paid upon entering into the agreement, or
    - ii. for which the borrower's obligation to pay exists upon entering into the agreement."

The Plaintiff pleads that the amounts charged by the Defendants in the form of additional loan amounts to pay for devices are direct and indirect costs that are referred to in section 17(1). Section 17(2) specifically states that these amounts include any amounts in relation to a device.

66. By charging its borrowers for devices which are deemed to be included in the cost of borrowing, the Defendants have contravened section 32(2) of the *Payday Loans Act*, which states that "the lender under a payday loan agreement shall ensure that the cost of borrowing under the agreement does not exceed the prescribed limits." Section 32(3) of the *Act* states that "No loan broker shall facilitate a contravention of subsection (2.)"

67. Section 32(4) of the *Payday Loans Act* offers the same remedy to the borrower as sections 29(4) of the *Act* and 27(5) of the Regulation if the cost of the payday loan agreement exceeds the prescribed limits: “the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing.”
68. Section 23 of the Regulations states that the prescribed limit on the cost of borrowing under a payday loan agreement for the purposes of subsection 32(2) of the *Act* is \$21 per \$100 advanced under the agreement. Until February 1, 2013, Cash Store Financial charged this prescribed maximum rate on the loan amount the borrower requested, as well as the loan amount for additional services purchased in connection with the loan. After February 1, 2013, it charged a rate in excess of the prescribed maximum on the loans themselves, as well as the fees. Cash Store Financial was therefore in breach of this requirement as the additional fees must be included in the cost of borrowing, which would result in the total cost exceeding the prescribed maximum.
69. Further, Section 31(1) of the *Payday Loans Act* states that the lender may not make any deductions from the advance provided to the borrower. Section 31(3) states that if the parties enter a payday loan agreement that results in contravention of subsection (1), the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing.
70. The Plaintiff pleads section 4 of the *Payday Loans Act* relating to anti-avoidance applies to all representations, agreements, and transactions as between the Defendants and the Class Members. The Plaintiff specifically pleads that the DirectCash Defendants acted as a payday lender and/or loan broker and are liable to the Class Members for the breaches pleaded herein.

## MISREPRESENTATIONS

71. Section 26 of the *Payday Loans Act* provides as follows:

### Representations

26. (1) No licensee shall make or shall facilitate the making of false, misleading or deceptive statements relating to a payday loan or a payday loan agreement in any advertisement, circular, pamphlet or material published by any means.

### Requirements

(2) No licensee shall make or shall facilitate the making of representations or cause representations to be made relating to a payday loan or a payday loan agreement, whether orally, in writing or in any other form, unless the representations comply with the prescribed requirements, if any.

72. In the conduct of their business, Cash Store Financial made at least two consistent misrepresentations to Class Members:

- i. They misstated the total cost of borrowing in their loan agreements; and
- ii. They misrepresented the total cost of borrowing in a poster which was required to be published and posted at point of sale for the benefit of borrowers pursuant to section 14 of the Regulations.

73. For all Class Members whose payday loans involved an additional service or a device, Cash Store Financial uniformly misrepresented the total cost of borrowing within a table, which is required by section 18(1) of the Regulations to express each borrower's total cost of borrowing for their loan transaction. Cash Store Financial failed to include the cost of additional services and devices in its description of the total cost of borrowing. As pleaded herein, such charges are mandated to be included in the total cost of borrowing. If properly constituted, such tables would show that every such loan transaction grossly exceeded the prescribed maximum cost of borrowing in Ontario.

74. Furthermore, Cash Store Financial violated section 15(2) of the Regulations by misrepresenting the actual cost of borrowing per each \$100 advanced under the payday loan agreement.
75. As indicated, Cash Store Financial's poster required by section 14 also failed to incorporate the cost of devices into the total cost of borrowing.
76. As detailed above, Cash Store Financial's entire business model was promulgated and executed in a manner which falsely denied the Class Members their fundamental rights under the *Payday Loans Act* and the Regulations.
77. The Plaintiff relies on the *Payday Loans Act* including but not limited to sections 38, 39, and 40 of the *Payday Loans Act*, which state that the Plaintiff and the Class have the right to pursue any remedies they may have in law, including by way of a Class Action.
78. The Plaintiff also specifically pleads and relies on section 41 of the *Payday Loans Act* which states that any ambiguity in the interpretation of a payday loan agreement shall be interpreted to the benefit of the borrower.

## **COMPETITION ACT**

79. Section 52 of the *Competition Act* prohibits making misleading representations in order to promote a business interest.  

52. (1) No person shall, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, knowingly or recklessly make a representation to the public that is false or misleading in a material respect.
80. Section 52(1.1) of the *Competition Act* states:

(1.1) For greater certainty, in establishing that subsection (1) was contravened, it is not necessary to prove that;

(a) any person was deceived or misled.

81. Cash Store Financial promulgated and executed their entire business model in a manner which denied the Class Members their fundamental rights as borrowers under the *Payday Loans Act*. Cash Store Financial's conduct was, in its entirety, the false promotion of their business interests in contravention of section 52 of the *Competition Act*.
82. In addition to all other remedies available at law, the Plaintiff pleads entitlement to damages and costs of investigation and prosecution pursuant to section 36 of the *Competition Act*. Without limitation, the Plaintiff pleads that Cash Store Financial obtained unlawful revenues due to the promulgation and execution of its false and unlawful business model, which actions were in violation of the *Payday Loans Act* and its regulations between September 1, 2011, and the present.

## **CONSPIRACY**

83. The Plaintiff pleads that the Defendants wrongfully, unlawfully, maliciously and lacking *bona fide*, conspired and agreed together and with persons known to, among other things, extract illegal revenue from the Class Members in the form of fees and charges relating to "devices" used by Class Members in order to obtain payday loans.
84. The Plaintiff pleads that DirectCash entered into a business relationship with Cash Store Financial whereby it delivered or provided access to payday loans, and collected or charged amounts from borrowers which were payable either upon entering into a loan agreement or were payable as a result of entering into a loan agreement.

85. The Plaintiff pleads that DirectCash entered into an arrangement with Cash Store Financial where the revenue received on account of illegal fees charged to the Class Members was shared amongst the Defendants. Under this arrangement, DirectCash delivered and provided access to the Class Members' payday loans through debit and credit cards. Cash Store Financial maintained its business model as "cashless" with respect to the provision of loans.
86. The Plaintiff pleads that DirectCash and Cash Store Financial monitored, managed, and tracked the information gathered through payday loan transactions which related to Class Members and the fees they were charged. Further, they maintained records relating to the agreement they were carrying out.
87. In furtherance of the conspiracy, the Defendants, among other overt acts, have promulgated a business practice which is contrary to the *Payday Loans Act* and its Regulations. The conspiracy was unlawful because the conspirators knowingly and intentionally committed the forgoing acts which they knew to be in violation of the *Payday Loans Act* and its Regulations, as well as the *Competition Act*.
88. The Plaintiff pleads that the DirectCash Defendants have at all material times been aware of the regulatory requirements imposed on actors in the payday lending industry and Cash Store Financial's deficiencies in that regard.
89. The conspiracy was directed towards the Plaintiff and the other Class Members. The Defendants knew or ought to have known in the circumstances that the conspiracy would, and did, cause loss to the Plaintiff and the Class Members. At the same time, it increased revenues for the Defendants.

## UNJUST ENRICHMENT

90. The Defendants have been unjustly enriched to the extent that they have charged and retained unlawful fees, interest and other amounts in respect of payday loans and the associated debit card and credit card credit cards used to take those loans made to Class Members since the inception of the 2011 Regulation.
91. The Defendants' enrichment represents a corresponding deprivation to the Class Members as a whole.
92. The enrichment of the Defendants arises solely by the contravention of applicable law. There is therefore no juristic reason for the Defendants' enrichment.

## WAIVER OF TORT

93. The Plaintiff pleads and relies on the doctrine of waiver of tort and states that the Defendants' conduct, including their conspiracy and the alleged breaches of the *Payday Loans Act* and its regulations, and the *Competition Act*, constitutes conduct which can be waived in favour of an election to receive restitutionary or other equitable remedies.

## REMEDIES

### Damages

94. As a result of the acts and omissions of the Defendants as particularized above, the Plaintiff and the Class Members have suffered losses and damages.
95. The Class Members are owed damages amounting to those sums collected by the

Defendants pursuant to the illegal fees, interest and other amounts that the Defendants charged to the Class Members.

96. Further, as the payday loan practices of the Defendants did not comply with the prescribed requirements during the class period, the Plaintiff pleads and relies on the remedies provided for pursuant to section 29(4) of the *Payday Loans Act*, which, entitles the Class Members to refunds of or relief from liability of all fees and interest charged to them in respect of their payday loans.
97. Further, the Class Members claim any gains earned on these amounts and an equitable rate of interest thereon.
98. All amounts payable to the class on account of damages and disgorgement should be calculated on an aggregate basis pursuant to section 24 of the *Class Proceedings Act*, or otherwise.

### **Punitive Damages**

99. By virtue of the high-handed conduct of the Defendants and their disregard for the rights of Class Members, the Plaintiff requests this Court to award against the Defendants or any of them, punitive damages in an amount deemed appropriate by this Court at trial.
100. The Plaintiff pleads and relies on section 45(3) of the *Payday Loans Act* which states that in the event a borrower brings an action in the Superior Court of Justice and is successful, the court “may order exemplary or punitive damages or other relief that the court considers proper.”

**Relief of Debt**

101. The Plaintiff requests forgiveness of all outstanding amounts alleged to be owing on account of the unlawful amounts charged by the Defendants. The illegal business practices of the Defendants have resulted in improper charges and rates of interest to the borrowers which are prohibited by law and therefore must be cancelled.

**An Equitable Accounting**

102. The Plaintiff requests an accounting for all of the unlawful fees, interest, and other amounts collected, as well as any interest earned thereon and debt which must be forgiven by the Defendants on account of the Class Members during the class period.

**Constructive Trust**

103. The Plaintiff claims a constructive trust in respect of the illegal fees, interest and other amounts paid by the Class Members. The Plaintiff states that good conscience requires the Defendants to hold all the illegal fees, interest, and other amounts paid and interest earned thereon, in trust for the Plaintiff and Class Members.

104. The Plaintiff states that the Defendants are constructive trustees in favour of the Plaintiff and the Class Members in respect of the illegal fees, interest, and other amounts paid because:

- a) The Defendants may not, in good conscience, retain these illegal fees, interest and other amounts;
- b) The imposition of a constructive trust is required by justice and good conscience;
- c) The integrity of the intentions of *Payday Loans Act* and its related regulations

would be undermined if the Court did not impose a constructive trust; and

- d) There are no factors which render the imposition of a constructive trust unjust.

### **Plan of Distribution**

105. Such damages ought to be held in a litigation trust and distributed pursuant to a plan of distribution under sections 25 and 26 of the *Class Proceedings Act*.
106. Alternatively, if so elected, the unpaid remuneration and any gains made thereon should be calculated on an aggregate basis or otherwise should be held in a litigation trust and distributed pursuant to a plan of distribution under sections 25 and 26 of the *Class Proceedings Act*.

### **Injunction**

107. The Plaintiff claims that the Defendants be permanently enjoined from carrying on business in contravention of the applicable laws.

### **Conspicuous Notice Plan**

108. The Plaintiff requests the creation of a conspicuous and comprehensive notice program affording notice to the Class Members of the illegality of the fees, interest, and other amounts paid by them and the amounts owing to them by the Defendants pursuant to section 19 of the *Class Proceedings Act*.

### STATUTES RELIED UPON

109. The Plaintiff relies upon the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, the *Payday Loans Act, 2008*, S.O. 2008, c. 9 and its regulations, O.Reg. 98/09 and O. Reg. 316/11, the *Competition Act*, RSC 1985, c C-34, and the *Courts of Justice Act*, R.S.O. 1990, c.C.43.

### SERVICE OUTSIDE OF ONTARIO

110. This originating process may be served without Court Order outside of Ontario in that the claim is:

- a. in respect of a contract made in Ontario (Rule 17.02(f));
- b. in respect of a tort committed in Ontario (Rule 17.02 (g));
- c. in respect of damages sustained in Ontario arising from a tort or a breach of contract wherever committed (Rule 17.02 (h)), and;
- d. against a person carrying on business in Ontario (Rule 17.02 (p)).

### PLACE OF TRIAL

111. The Plaintiff proposes that this action be tried in London, Ontario.

**HARRISON PENSA LLP**

450 Talbot Street  
London, ON N6A 4K3

**Jonathan J. Foreman** (LSUC#: 45087H)

Tel: (519) 679-9660  
Fax: (519) 667-3362

Counsel for the Plaintiff

**This is EXHIBIT “B” referred to in the  
Affidavit of TIMOTHY YEOMAN  
sworn before me, this 23<sup>rd</sup> day of September, 2015**

  
A Commissioner, etc.

Jean Marc Metrailler,  
a Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires June 11, 2018.



LP #5, McCann Family Holding Corporation, no other party appearing although duly served as appears from the affidavit of service of Veronica de Leoz sworn May 12, 2014,

1) **THIS COURT ORDERS** that Timothy Yeoman is appointed as Class Representative in these proceedings for all class members in the Class Action comprised of all persons who entered into “payday loan” transactions (including “Basic Lines of Credit”) with Cash Store Financial (defined as The Cash Store Financial Services Inc., The Cash Store Inc., and Instalozans Inc.) in Ontario between September 1, 2011 and the date of judgment in the Class Action (the “Class”).

2) **THIS COURT ORDERS** that Harrison Pensa LLP is appointed as Representative Counsel to the Class Members in these proceedings, and Koskie Minsky LLP as agent to Harrison Pensa LLP (“**Representative Counsel**”).

3) **THIS COURT ORDERS** that Representative Counsel shall represent the interests of the Class in all aspects of these proceedings or any subsequent receivership or bankruptcy of the Applicants, without any obligation to consult or seek instructions from the Class, unless otherwise ordered by the Court.

4) **THIS COURT ORDERS** that the Class Representative and Representative Counsel shall not be liable for any act or omission as a result of their appointment or the fulfillment of their duties in carrying out the provisions of this order, save and except for claims based on gross negligence or wilful misconduct on their part, and that no action, application or other proceeding shall be taken, made, or continued against the Class Representative or Representative Counsel without leave of this Court first being obtained.

5) **THIS COURT ORDERS** that the Class Representative and Representative Counsel may seek the advice or direction of this Court at any time in connection with their appointment hereunder, upon notice to the Applicants and the Service List unless otherwise ordered by the Court.

6) **THIS COURT ORDERS** that the Class Representative and Representative Counsel may file a proof of claim on behalf of the Class in any claims process or other applicable process in these proceedings or any subsequent receivership or bankruptcy proceeding of the Applicants.

7) **THIS COURT ORDERS** that Representative Counsel shall be given notice of all motions in these proceedings, and that they shall be entitled to represent the Class in these proceedings without impairing the right of any individual Class member to retain and instruct counsel on his or her own behalf and without impairing the ability of Harrison Pensa as counsel to the Class to continue to act for the Class in the Class Action against any other non-Applicant defendants, including the continuation of proceedings to certify the Class Action against non-Applicant defendants.

8) **THIS COURT ORDERS** that the request for payment of the costs of the Class Representative and Representative Counsel in paragraph 4 of the Notice of Motion is adjourned to a date to be set by the Commercial List office on prior notice to the Service List.

ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

APR 1 3 2015

  
MORAWETZ, R.S.J.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF THE CASH STORE  
FINANCIAL SERVICES Inc., THE CASH STORE INC., TCS CASH STORE INC., INSTALOANS INC.,  
7252331 CANADA INC., 5515433 MANITOBA INC., 1693926 ALBERTA LTD DOING BUSINESS AS "THE  
TITLE STORE"

Applicants

Court File No. CV-14-10518-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
Proceeding commenced at TORONTO

**ORDER**

**KOSKIE MINSKY LLP**  
20 Queen Street West, Suite 900  
Toronto, ON M5H 3R3

**Andrew J. Hatnay – LSUC No. 31885W**  
Tel: 416-595-2083 / Fax: 416-204-2872  
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**James Harnum – LSUC No. 60459F**  
Tel: 416-542-6285/Fax: 416-204-2819  
Email: jharnum@kmlaw.ca

Agent for Harrison Pensa LLP, counsel to  
Timothy Yeoman (class plaintiff)

**This is EXHIBIT “C” referred to in the  
Affidavit of TIMOTHY YEOMAN  
sworn before me, this 23<sup>rd</sup> day of September, 2015**

  
\_\_\_\_\_  
*A Commissioner, etc.*

Jean Marc Metrailler,  
a Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires June 11, 2018.

Court File No.:

4171/14

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:



TIMOTHY YEOMAN

Plaintiff

- and -

GORDON, REYKDAL, MICHAEL J. L. THOMPSON, HALLDOR KRISTJANSSON,  
and EDWARD C. MCCLELLAND

Defendants

PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT*, 1992, S.O. 1992, c.6

**STATEMENT OF CLAIM**

**TO THE DEFENDANT(S)**

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the plaintiff. The claim made against you is set out in the following pages.

**IF YOU WISH TO DEFEND THIS PROCEEDING**, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

**IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.**

If you wish to defend this proceeding but are unable to pay legal fees, legal aid may be available to you by contacting a local legal aid office.

Date: **OCT 01 2014**

Issued by:  \_\_\_\_\_

80 Dundas Street  
London, Ontario  
N6A 6A3

**TO: GORDON J. REYKDAL**  
205 – 10230142<sup>nd</sup> Street NW  
Edmonton, Alberta T5N 3Y6

**AND TO: MICHAEL J.L. THOMPSON**  
9807 143<sup>rd</sup> Street  
Edmonton, Alberta T5N 2R4

**AND TO: HALLDOR KRISTJANSSON**  
15511 – 123<sup>rd</sup> Avenue  
Edmonton, Alberta T5V 0C3

**AND TO: EDWARD C. MCCLELLAND**  
306 Hart Avenue  
Burlington, Ontario L7N 1P6

1. **THE PLAINTIFF CLAIMS** on behalf of himself and the Class:

- (a) An Order pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, C. 6 certifying this action as a class proceeding and appointing the Plaintiff as representative Plaintiff on behalf of the Class;
- (b) General damages calculated on an aggregate basis or otherwise for breach of the *Payday Loans Act* S.O, 2008, C. 9 ("*Payday Loans Act*"), and its regulations, O.Reg. 98/09 and O. Reg. 316/11 (the "Regulations"), negligence, conspiracy, oppression, and unjust enrichment, in an amount sufficient to compensate the Plaintiff and the Class Members for the harm done to them as a result of the Defendants' unlawful conduct;
- (c) An accounting, restitution, and disgorgement for breach of the *Payday Loans Act*, and its 2011 Regulations, unjust enrichment, and the taking of inequitable profit by unlawful conduct;
- (d) An equitable rate of interest on all sums found due and owing to the Plaintiff and the Class Members or, in the alternative, pre- and post-judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, Chapter C.43;
- (e) An Order compelling the creation of a litigation trust to hold and distribute the monetary relief awarded pursuant to a plan of administration and distribution under sections 25 and 26 of the *Class Proceedings Act*;
- (f) An Order compelling the creation of a conspicuous notice program to class members pursuant to section 19 of the *Class Proceedings Act* in order to facilitate the plan of distribution claimed herein;

- (g) Costs of this action on a substantial indemnity basis including the costs associated with notice to class members and the plan of administration and distribution of relief, plus applicable taxes; and
- (h) such further and other relief as this Honourable Court may deem just.

## **THE PARTIES**

### **Plaintiff**

2. The Plaintiff is an individual residing in Strathroy, Ontario. The Plaintiff engaged in a “payday loan” transaction with The Cash Store Inc. on April 24, 2012. For a payday loan of \$400 and a loan duration of 9 days, the Plaintiff was charged an additional \$68.60 in fees and service charges, and paid \$78.72 in interest for a total cost of borrowing of \$147.32.

### **Defendants**

3. The defendant Gordon J. Reykdal was at all material times the Chairman of the Board of Directors and the Chief Executive Officer of The Cash Store Financial Services Inc. and its subsidiaries, including but not limited to the wholly owned subsidiaries The Cash Store Inc. and Instalozans Inc. (collectively referred to as the “Cash Store”), during the class period. Mr. Reykdal founded the Cash Store in 2001 and has been a member of its Board of Directors since that time. Mr. Reykdal was a significant personal shareholder of the Cash Store and related entities during the class period.
4. The defendant Michael J.L. Thompson was at all material times the Senior Vice President of Corporate Affairs of the Cash Store.

5. The defendant Halldor Kristjansson was at all material times the Senior Executive Vice President of Banking and Credit at the Cash Store. Halldor Kristjansson continues to be employed by the Cash Store.
  
6. The defendant Edward C. McClelland was at all material times a Director of the Board of the Cash Store and related parties. Mr. McClelland served as Director of the Compensation Committee, Corporate Governance, and the Nominating Committee. Mr. McClelland joined the Board of Directors in 2005 and was appointed Chief Executive Officer of the Cash Store in Australia in January of 2008.

#### **The Class**

7. The Plaintiff seeks to represent a class consisting of all persons in Canada who entered into "payday loan" transactions with the Cash Store in Ontario between September 1, 2011 and the date of judgment (the "Class Members").

#### **NATURE OF THE ACTION**

8. This action concerns the conduct of the Defendants respecting the creation, direction and implementation of an unlawful business model by the Cash Store in respect of its dealings with the proposed Class Members. The Defendants were officers and directors of the Cash Store during the class period. They negligently created a business plan and expressly directed that it be carried out by the company. That business strategy was a wrongful act as it offended the Ontario payday loans legislation. The business model

directed by the Defendants has been proven to be improper, and contrary to Regulation.

The Class Members have suffered damages through the payment of illegal fees to the Cash Store and its affiliated entities pursuant to the unlawful business model created and implemented by the Defendants.

9. The Defendants conspired among themselves and with DirectCash Bank, among others, to enter into agreements which resulted in the illegal business model. The Defendants benefited from the unlawful business model as it resulted in revenue and profit to the Cash Store, and in turn, to them personally, on account of illegal loans which exceeded the total maximum allowable limits permitted under the Regulation. The revenue and profit were generated by the illegal fees, which were charged to and paid by the Class Members.

## **BACKGROUND**

10. Since 2008, the Cash Store and all other payday loan companies operating in Ontario have been governed by the *Payday Loans Act*. The Act and its Regulation were created by the province in order to ensure the regulation of the payday lending industry in Ontario was compliant with criminal interest rates. Following consultation with an advisory board on the maximum total cost of borrowing a payday loan, the Ontario government set the maximum at \$21 per \$100 borrowed in the 2009 Regulation.
11. An amendment to the Regulation (Regulation 316/11) was enacted and brought into force in September of 2011, and added the following key obligations on payday lenders:

- a) Third party fees and charges are to be included in the cost of borrowing (s. 17);
- b) Borrowers must be able to receive their loans in cash (s.22); and
- c) Optional goods and services are prohibited from being sold by a payday loan company (s. 27).

12. The Cash Store, at the direction of the Defendants, implemented a business plan that failed to comply with this Regulation. Rather, the Defendants disputed and contravened the *Payday Loans Act* and its Regulation as follows:

- a) On August 31, 2011, the day before the 2011 Regulation came into force, the Cash Store filed an application for Judicial Review of the new Regulation, requesting the following relief:
  - i. Orders stating that amendments cited in the new regulation relating to additional charges and the requirement to offer cash were *ultra vires* and of no force and effect;
  - ii. A declaration that the provisions of the new regulation discriminates against the Cash Store are *ultra vires* and of no force and effect;
  - iii. A declaration that debit cards and pre-paid cards are not considered a "device" within the meaning of the *Payday Loans Act*; and
  - iv. An order for an interim or interlocutory injunction or a declaration staying the force and effect of the new regulations;
- b) From September 1, 2011 onward, the Cash Store refused to make cash payments to borrowers and instead continued to compel borrowers to pay

additional fees in order to facilitate loan payments through various non-cash mechanisms provided by DirectCash Bank;

- c) Until February 1, 2013, the Cash Store added those fees to the “borrowed” principal amount of the loan and the maximum rate of interest under the *Payday Loans Act* was charged on those additional fees as well as the principal amount. After February 1, 2013, the Cash Store charged interest in excess of the maximum rate prescribed for payday loans in Ontario on payday loans it referred to as “lines of credit”, and continued to charge interest on the additional fees and principal amounts. All of these charges and the interest charged on them resulted in loan terms which were well in excess of the prescribed maximum cost of borrowing;
- d) On February 12, 2014 the Ontario Superior Court of Justice issued a decision that the Cash Store “line of credit” were in fact not lines of credit, but were payday loans that were subject to the *Payday Loans Act* and Regulation. Cash Store was prohibited from providing any further lines of credit;
- e) On February 13, 2014, The Ministry of Consumer Services released a news bulletin indicating that Ontario’s Registrar of Payday Loans had issued a proposal to refuse applications made by the Cash Store for payday lender licenses in Ontario. It cited that the Registrar’s reasons for refusing licenses were that Cash Store’s past conduct afforded “reasonable grounds for belief that the applicant will not carry on business in accordance with law and with integrity and honesty.” Specifically, the Registrar cited November 2014 convictions for operating as unlicensed payday lenders, charging more than

the Ontario maximum of \$21 per \$100 borrowed, and not providing consumers with their payday loans immediately; and

- f) On February 13, 2014, the Cash Store issued a press release indicating that it was no longer permitted to sell payday loan products in Ontario, and that it would not be offering any line of credit products either.

13. Following the Defendants' conduct, the Cash Store foundered and declared insolvency on April 14, 2014, after which the company sought creditor protection under the *Companies' Creditors Arrangement Act* (CCAA).

14. The Defendants' conduct rendered the Cash Store an legally non-compliant business entity to the prejudice of the Class Members. The Plaintiff pleads that the regulatory and other difficulties arising from the non-compliance caused the insolvency of the Cash Store.

## **FACTS**

15. The Defendants named in this action are directors and officers of the Cash Store during the class period. The Plaintiff pleads that the Defendants have personal liability for the illegal business plan that they negligently created and expressly directed to be carried out during the class period.

16. The Plaintiff alleges that the Defendants made business decisions and executed a business strategy that failed to comply with the *Payday Loans Act* and its Regulation. As a result of doing so, they violated the rights of the Class Members and caused the Class Members to pay or owe illegal fees.

17. Further, the Plaintiff alleges that the Defendants personally benefited from the excessive and unlawful revenues collected from Class Members pursuant to non-compliance payday loan agreements.

### **Reykdal**

18. Gordon J. Reykdal is the founder of the Cash Store. He has been the Chairman of the Board of Directors and the Chief Executive Officer since 2001. During the course of his tenure with the Cash Store, Reykdal has been a key decision maker in the business. He has been instrumental in the creation of Cash Store policies and procedures, and has worked in conjunction with other entities, including DirectCash Bank, to create and execute the business model of the Cash Store payday lending business.

19. Reykdal entered into and signed agreements with DirectCash Bank and other entities to jointly implement a business plan and to charge fees and interest to Class Members contrary to the *Payday Loans Act and Regulation*.

20. During the class period, Reykdal together with his spouse, owned over 20% of Cash Store Financial's shares.

### **Thompson**

21. Michael Thompson was the Senior Vice President of Corporate Affairs during class period. He was instrumental in decision-making relating to the payday loan business of the Cash Store, including the maintenance of relationships with other participants in the Cash Store business model, including but not limited to DirectCash Bank.

22. Thompson was highly involved in regulatory matters affecting the Cash Store, and corresponded with the Ontario *Payday Loans Act* regulator on Cash Store's behalf. He also was instrumental in the Judicial Review application and other legal proceedings involving Cash Store's illegal business model. Thompson was a strategy setter and decision maker in the business planning of the Cash Store and its affiliated entities.

### **Kristjansson**

23. Halldor Kristjansson was Senior Executive Vice President of Banking and Credit during class period. He was instrumental in all facets of Cash Store's financial practices, including but not limited to its dealings with DirectCash Bank.

24. Kristjansson in his role of Vice President of Banking and Credit was or ought to have been aware of the changes made to the *Payday Loans Act* Regulation in 2011 relating to devices, but did not make any changes to Cash Store's payday lending practices. On the contrary, he continued to direct the company to make the purchase of DirectCash debit and credit cards a condition of obtaining a Cash Store payday loan.

25. Kristjansson either was or ought to have been aware of the complaints of the Ontario *Payday Loans Act* regulator, as well as other provincial regulators, relating to the business practices of the Cash Store. Despite this, he made no changes to Cash Store's lending practices and instead continued to promote Cash Store's illegal business model.

26. Kristjansson continues to be employed by the Cash Store during its restructuring.

## **McClelland**

27. Edward C. McClelland was a Director of the Cash Store Financial Board since 2005 who held various roles during the Class Period, including directing the Compensation Committee, Corporate Governance, and Nominating Committee.
28. In his role as director, McClelland was instrumental in directing the business initiatives of the Cash Store, including the illegal business model of Cash Store in relation to its payday lending practices.
29. McClelland has been the subject of administrative penalties imposed by provincial regulators. Despite this fact, McClelland continued to promote the same payday lending practices and facilitate the collection of illegal revenues from Class Members.
30. McClelland personally owned a significant portion of shares in Cash Store Financial during the class period.

## **CAUSES OF ACTION**

### ***Payday Loans Act and Regulation***

31. The Defendants were directing minds of the Cash Store during the class period. The Cash Store was required to comply at all material times with the *Payday Loans Act* and Regulation in its business with the Class Members. The Defendants made business decisions which resulted in non-compliance with the *Payday Loans Act* and Regulation.
32. The Defendants are specifically and personally responsible for the negligent creation of the business model of the Cash Store, which business model failed to comply in several material respects with the *Payday Loans Act* and Regulation. More specifically the following provisions of the *Payday Loans Act* and Regulation were violated by the business model of the Cash Store, without limitation:

- i. the form of the loan agreements entered into with Class Members failed to comply with the prescribed requirements under the *Payday Loans Act* and Regulation contrary to Section 29 of the *Act*;
- ii. the required mandatory disclosures made to Class Members misrepresented the cost of borrowing and the principal amount borrowed under the loan on a systematic basis, such that the total cost of borrowing was understated and misrepresented to Class Members;
- iii. the total cost of borrowing charged to Class Members violated the statutory maximum established at the *Payday Loans Act* and Regulation. More specifically, the Cash Store in consort with Direct Cash added the charges associated with devices and other goods and services sold to Class Members in consort with the payday loan into the borrowed amount and interest was charged on that total amount; and
- iv. the Cash Store failed to provide its payday loans to Class Members in cash as specifically mandated by the *Payday Loans Act* and Regulation and instead caused Class Members to purchase devices and additional goods and services as defined in the legislation at greater expense to the Class Members and in violation of the governing legislation.

33. The Plaintiff pleads that the Defendants are individuals whose responsibility it was to ensure that their decision making complied with the *Payday Loans Act* and Regulation. In particular, the Plaintiff pleads that the Defendants were individuals specifically regulated by the *Payday Loans Act* and Regulation.

34. Section 55 of the *Payday Loans Act* states as follows:

55. (1) A person or entity is guilty of an offence who,

(a) furnishes false information in any application under this Act or in any statement or return required under this Act;

(b) fails to comply with any order under this Act;

(c) contravenes or fails to comply with any section of this Act or the regulations;  
or

(d) attempts to commit any offence mentioned in clause (a), (b) or (c). 2008, c. 9, s. 55 (1).

Corporations

...

(2) An officer or director of a corporation who fails to take reasonable care to prevent the corporation from committing an offence mentioned in subsection (1) is guilty of the offence. 2008, c. 9, s. 55 (2).

### **Negligence**

35. The Plaintiff pleads that by virtue of their position of authority and responsibility, the Defendants owed a duty to the Plaintiff and the Class Members to ensure that their loans complied with the applicable governing legislation.

36. The Plaintiff pleads that standard of care applicable to the Defendants was to exercise the care, diligence, and skill that a reasonably prudent person would exercise in comparable circumstances.

37. The Plaintiff pleads that the Defendants failed to meet the standard of care and breached the duty of care by creating and implementing the illegal business practices of the Cash Store during the class period.

38. The Defendants knew or ought reasonably to have known that the Cash Store payday lending business model described herein was illegal and in violation of the Defendants' duties to the Plaintiff and to Class Members.

39. As such, the Defendants knew or ought reasonably to have known that the Cash Store business model would cause the Plaintiff and Class Members to pay or owe illegal fees, and thus would cause damage to persons who borrowed payday loans from the Cash Store.
40. The negligence of the Defendants resulted in economic losses for the Plaintiff and the Class Members in the form of illegal fees charged in relation to their payday loans.

### **Conspiracy**

41. The Plaintiff pleads that the Defendants wrongfully and unlawfully conspired and agreed together with DirectCash and other persons unknown to implement a business model which failed to comply with the *Payday Loans Act* and Regulation.
42. The Defendants entered into agreements with DirectCash and other persons unknown to extract illegal revenue from the Plaintiff and the Class Members through fees and charges relating to "devices", insurance products, and other items that were required to be purchased by the Plaintiff and the Class Members in order to obtain their payday loans.
43. During the class period and continuing to the present, the defendants and/or their servants and agents, took active steps to, and did, conceal the unlawful conspiracy from the class members.
44. The conspiracy amongst the Defendants, DirectCash, and other persons unknown was directed at the Plaintiff and the Class Members. The Defendants were aware that, in the circumstances, injury to the Plaintiff and the Class Members would result.

45. The Class Members suffered injuries including but not limited to the payment of illegal fees to the Cash Store and the Defendants.

### **Oppression**

46. The Plaintiff pleads that he and the Class Members had a reasonable and legitimate expectation that the Defendants would use their powers to direct the company for Cash Store's best interests, in a legally compliant manner. More specifically, the Plaintiff and Class Members had a reasonable expectation that:

- a) The Defendants and Cash Store would comply with the *Payday Loans Act* and its Regulations;
- b) The Defendants would follow the warnings, direction and advice of the Regulator for the *Payday Loans Act*;
- c) The Defendants would take reasonable steps to ensure that the payday loan agreements entered into by Class Members with the Cash Store would accurately state the Cost of Borrowing; and
- d) The Defendants would not charge Class Members illegal fees.

47. Such reasonable expectations were not met as:

- a) The Defendants and the Cash Store did not comply with the *Payday Loans Act* and its Regulation in several material respects;
- b) The Defendants ignored the warnings, direction and advice of the Regulator for the *Payday Loans Act*;

- c) The Defendants did not ensure that the payday loan agreements entered into by the Class Members with the Cash Store accurately stated the Cost of Borrowing; and
- d) The Defendants charged Class Members illegal fees on a universal basis.

48. The Defendants' conduct was oppressive and unfairly prejudicial to the Plaintiff and the Class Members, and unfairly disregarded their interests. These Defendants were charged with the operation of the Cash Store for the benefit of the company, which necessarily includes adhering to the laws that govern its relationship with its customers. The customers' statutory and other rights were violated resulting in financial losses to them, all of which were caused by the Defendants' oppressive conduct. The customers are therefore creditors of the Cash Store.

49. The losses of the Class Members were in the form of illegal fees which ought not to have ever been paid to the Cash Store, and would not have been had the Defendants conducted the Cash Store's business in a legally compliant manner. But for the Defendant's conduct, the Plaintiff and Class Members would not have suffered the damages alleged herein.

50. The Plaintiff and the Class Members rely on section 248 of the Ontario *Business Corporations Act* and plead that they are entitled to remedies pursuant to it.

**Unjust Enrichment**

51. The Defendants have been unjustly enriched to the extent that they benefited directly from the non-compliant payday loan structures which they implemented on a universal basis.
52. The Defendants' enrichment represents a corresponding deprivation to the Plaintiff and the Class Members.
53. The enrichment of the Defendants arises solely by the contravention of applicable law. There is therefore no juristic reason for the Defendants' enrichment.

**Piercing the Corporate Veil**

54. The Plaintiff pleads that this is an appropriate case for piercing the corporate veil of the Cash Store, as the Defendants, who were in control of the Cash Store, expressly directed wrongful acts to be done by the corporation and the Class Members suffered injuries as a result of those wrongful acts.

**REMEDIES****Damages**

55. As a result of the acts and omissions of the Defendants as particularized herein, the Plaintiff and Class Members have suffered losses and damages.
56. The Class Members are owed damages amounting to those sums collected by the Cash Store pursuant to the non-legally compliant fees, interest and other amounts charged to them as a result of the Defendants' conduct.

57. Further, as the payday loan practices designed and implemented by the defendants did not comply with the prescribed legislative requirements during the class period, the Plaintiff pleads and relies on the remedies provided pursuant to section 29(4) of the *Payday Loans Act*, which entitles the Class Members to refunds of or relief from liability of all fees and interest charged to them in respect of their payday loans, as well as remedies provided pursuant to section 248 of the Ontario *Business Corporations Act*. The Class Members also claim any gains earned on these amounts and an equitable rate of interest thereon.

58. All amounts payable to the class on account of damages and disgorgement should be calculated on an aggregate basis pursuant to s. 24 of the *Class Proceedings Act*, or otherwise.

#### **PLAN FOR DISTRIBUTION**

59. Such damages ought to be held in a litigation trust and distributed pursuant to a plan of distribution under sections 25 and 26 of the *Class Proceedings Act*.

60. Alternatively, if so elected, the unpaid remuneration and any gains made thereon should be calculated on an aggregate basis or otherwise should be held in a litigation trust and distributed pursuant to a plan of distribution under sections 25 and 26 of the *Class Proceedings Act*.

#### **STATUTES RELIED UPON**

61. The Plaintiff relies upon the *Class Proceedings Act*, 1992, S.O. 1992, c. 6, the *Payday Loans Act*, 2008, S.O. 2008, c. 9 and its regulations, O.Reg. 98/09 and O. Reg. 316/11, the *Negligence Act*, R.S.O. 1990, CHAPTER N.1, the Ontario *Business Corporations Act*, RSO 1990, c B. 16 and the *Courts of Justice Act*, R.S.O. 1990, c.C.43.

**SERVICE OUTSIDE OF ONTARIO**

62. This originating process may be served without Court Order outside of Ontario in that the claim is:

- a. in respect of a tort committed in Ontario (Rule 17.02 (g)); and
- b. against a person carrying on business in Ontario (Rule 17.02 (p)).

**PLACE OF TRIAL**

63. The Plaintiff proposes that this action be tried in London, Ontario.

OCT 01 2014

**HARRISON PENSA LLP**  
450 Talbot Street  
London, ON N6A 4K3

**Jonathan J. Foreman**  
LSUC#: 45087H

Tel: (519) 679-9660  
Fax: (519) 667-3362

Counsel for the Plaintiff

Timothy Yeoman v. Gordon J. Reykdal, Michael J.L. Thompson,  
Haaldor Kristjansson and Edward C. McClelland  
Plaintiff Defendants

Court File No:  
4171/14

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

**STATEMENT OF CLAIM**

**Harrison Pensa** <sup>LLP</sup>  
Barristers and Solicitors  
450 Talbot Street, P.O. Box 3237  
London, ON N6A 4K3

**Jonathan J. Foreman (LSUC# 45087H)**  
Tel: 519.679.9660  
Fax: 519.667.3362

Lawyers for the Plaintiff

**This is EXHIBIT “D” referred to in the  
Affidavit of TIMOTHY YEOMAN  
sworn before me, this 23<sup>rd</sup> day of September, 2015**



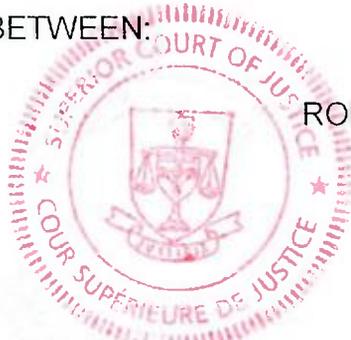
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*A Commissioner, etc.*

Jean Marc Mettraller,  
a Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires June 11, 2018.

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:



RONALD PAYNE and TIMOTHY YEOMAN

Plaintiffs

- and -

TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP, TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #2, TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #3, TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #4, TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #5, TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #6, 1396309 ALBERTA LTD., 367463 ALBERTA LTD., 0678786 B.C. LTD. (formerly c.o.b. as MCCANN FAMILY HOLDING CORPORATION), L-GEN MANAGEMENT INC., OMNI VENTURES LTD., BRIDGEVIEW FINANCIAL CORP., INTER-PRO PROPERTY CORPORATION (U.S.A.) and FSC ABEL FINANCIAL INC.

Defendants

PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT*, 1992, S.O. 1992, c.6

## STATEMENT OF CLAIM

### TO THE DEFENDANT(S)

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Date: **OCT 01 2014**

Issued by: \_\_\_\_\_



80 Dundas Street  
London, Ontario  
N6A 6A3

- TO: TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP**  
c/o Michael Disney, Davies Ward Phillips & Vineberg LLP  
155 Wellington Street West – 40<sup>th</sup> floor  
Toronto ON M5V 3J7
- And To: TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #2**  
c/o Michael Disney, Davies Ward Phillips & Vineberg LLP  
155 Wellington Street West – 40<sup>th</sup> floor  
Toronto ON M5V 3J7
- And To: TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #3**  
30-360 Main Street  
Winnipeg MB R3C 4G1
- And To: TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #4**  
1400-350 7<sup>th</sup> Ave. SW  
Calgary AB T2P 3N9
- And To: TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #5**  
c/o Michael Disney, Davies Ward Phillips & Vineberg LLP  
155 Wellington Street West – 40<sup>th</sup> floor  
Toronto ON M5V 3J7
- And To: TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #6**  
c/o Michael Disney, Davies Ward Phillips & Vineberg LLP

155 Wellington Street West – 40<sup>th</sup> floor  
Toronto ON M5V 3J7

**And To: OMNI VENTURES LTD.**  
500, 10150-100 Street  
Edmonton AB T5J 0P6

**And To: L-GEN MANAGEMENT INC.**  
132 Neville Park Blvd  
Toronto ON M4E 3P8

**And To: 0678786 B.C. LTD.**  
Suite 1130, 396-11<sup>th</sup> Avenue SW  
Calgary, AB T2R 0C5

**And To: 1396309 ALBERTA LTD.**  
11719-170 Street NW  
Edmonton AB T5M 3W7

**And To: 367463 ALBERTA LTD.**  
800 - 515 Legget Drive  
Kanata ON K2K 3G4

**And To: BRIDGEVIEW FINANCIAL CORP.**  
202, 4825 – 47 Street  
Red Deer, AB T4N 1R3

**And To: INTER-PRO PROPERTY CORPORATION (U.S.A.)**  
Suite 140 – North Scottsdale Rd.  
Scottsdale, Arizona 85250

**And To: FSC ABEL FINANCIAL INC.**  
2100 – 40 King Street West  
Toronto, ON M5H 3C2

1. **THE PLAINTIFFS CLAIM** on behalf of themselves and the Class:

- (a) An Order pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, C. 6 certifying this action as a class proceeding and appointing the Plaintiffs as representative Plaintiffs on behalf of the Class;
- (b) General damages calculated on an aggregate basis or otherwise for breach of the *Payday Loans Act* S.O, 2008, C. 9 ("*Payday Loans Act*"), and its regulations, O.Reg. 98/09, O. Reg. 316/1, and O. Reg 351/13 (the "Regulations"), the *Competition Act* RSC 1985, c C-34 ("*Competition Act*"), conspiracy, and unjust enrichment, in an amount sufficient to compensate the Plaintiffs and the Class Members for the harm done to them as a result of the Defendants' unlawful conduct;
- (c) An accounting, restitution, and disgorgement for breach of the *Payday Loans Act* and its Regulations, unjust enrichment, and the taking of inequitable profit by unlawful conduct and waiver of tort;
- (d) An equitable rate of interest on all sums found due and owing to the Plaintiffs and the Class Members or, in the alternative, pre- and post-judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, Chapter C.43;
- (e) An Order compelling the creation of a litigation trust to hold and distribute the monetary relief awarded pursuant to a plan of administration and distribution under sections 25 and 26 of the *Class Proceedings Act*;
- (f) An Order compelling the creation of a conspicuous notice program to class members pursuant to section 19 of the *Class Proceedings Act* in order to facilitate the plan of distribution claimed herein;

- (g) Costs of the investigation and prosecution of these proceedings pursuant to Section 36(1) of the *Competition Act*;
- (h) Costs of this action on a substantial indemnity basis including the costs associated with notice to class members and the plan of administration and distribution of relief, plus applicable taxes; and
- (i) such further and other relief as this Honourable Court may deem just.

## **THE PARTIES**

### **Plaintiffs**

2. The Plaintiff, Ronald Payne, is an individual residing in Ottawa, Ontario. Mr. Payne engaged in a payday loan transaction on December 31, 2011 where Instaloans Inc. was the payday loan broker, and Trimor Annuity Focus Ltd. Partnership was the payday loan lender. Mr. Payne paid additional fees and service charges in order to obtain his loan, which fees and service charges were contrary to *Payday Loans Act* and Regulation.
3. The Plaintiff, Timothy Yeoman, is an individual residing in Strathroy, Ontario. Mr. Yeoman engaged in a payday loan transaction on April 24, 2012 where The Cash Store, Inc. was the payday loan lender. Mr. Yeoman paid additional fees and service charges in order to obtain his loan, which fees and service charges were contrary to *Payday Loans Act* and Regulation

### **Defendants**

4. The Defendant, Trimor Annuity Focus Limited Partnership ("Trimor LP") is a limited partnership formed pursuant to the laws of Alberta with its principal place of business in Calgary, Alberta. Trimor LP became registered in Alberta on April 27, 2006 and was

dissolved on March 2, 2012. Trimor LP is extra-provincially registered in Ontario, Manitoba, and Saskatchewan. Trimor LP became registered in Ontario on June 19, 2009 and dissolved on July 16, 2012. Trimor LP became registered in Manitoba on March 9, 2009 and dissolved on July 10, 2012. Trimor LP became registered in Saskatchewan on May 11, 2011 and dissolved on June 1, 2012.

5. The Defendant, Trimor Annuity Focus Limited Partnership #2 ("Trimor LP #2") is a limited partnership formed pursuant to the laws of Alberta with its primary place of business in Calgary, Alberta. Trimor LP #2 became registered in Alberta on August 16, 2006 and dissolved on March 2, 2012. Trimor LP #2 is extra-provincially registered in Ontario and Saskatchewan. Trimor LP #2 became registered in Ontario on June 19, 2009 and dissolved on July 16, 2012. Trimor LP #2 became registered in Saskatchewan on September 21, 2006 and dissolved on June 1, 2012.
6. The Defendant, Trimor Annuity Focus Limited Partnership #3 ("Trimor LP #3") is a limited partnership formed pursuant to the laws of Alberta with its principal place of business in Calgary, Alberta. Trimor LP #3 became registered in Alberta on November 6, 2006 and dissolved on March 2, 2012. Trimor LP #3 is extra-provincially registered in Manitoba and Saskatchewan. Trimor LP #3 became registered in Manitoba on March 3, 2011 and dissolved on July 10, 2012. Trimor LP #3 became registered in Saskatchewan on May 11, 2011 and dissolved on June 1, 2012.
7. The Defendant, Trimor Annuity Focus Limited Partnership #4 ("Trimor LP #4") is a limited partnership formed pursuant to the laws of Alberta with its principal place of business in Calgary Alberta. Trimor LP #4 became registered in Alberta on June 3, 2008

and dissolved on March 2, 2012. Trimor LP #4 is extra-provincially registered in Saskatchewan. Trimor LP #4 became registered in Saskatchewan on May 11, 2011 and dissolved on June 1, 2012.

8. The Defendant, Trimor Annuity Focus Limited Partnership #5 ("Trimor LP #5") is a limited partnership formed pursuant to the laws of Alberta with its primary place of business in Calgary, Alberta. Trimor LP #5 became registered in Alberta on April 9, 2010 and remains active. Trimor LP #5 is extra-provincially registered in Ontario and British Columbia. Trimor LP #5 became registered in Ontario on February 11, 2014 and remains active. Trimor LP #5 became registered in British Columbia on June 22, 2011 and remains active.
9. The Defendant, Trimor Annuity Focus Limited Partnership #6 ("Trimor LP #6") is a limited partnership formed pursuant to the laws of Alberta with its primary place of business in Calgary, Alberta. Trimor LP #6 became registered in Alberta on March 10, 2011 and dissolved on March 2, 2012.
10. The Defendant, Omni Ventures Ltd. is a corporation formed pursuant to the laws of Alberta with its primary place of business in Edmonton, Alberta.
11. The Defendant, L-Gen Management Inc. is a corporation formed pursuant to the laws of Alberta with its primary place of business in Calgary, Alberta. L-Gen Management Inc. is extra-provincially registered in Ontario.

12. The Defendant 0678786 B.C. Ltd, previously carrying on business as McCann Family Holding Corporation ("McCann"), is a corporation formed pursuant to the laws of British Columbia with its primary place of business in Vancouver, British Columbia. McCann is extra-provincially registered in Alberta.
13. The Defendant, 1396309 Alberta Ltd. is a corporation formed pursuant to the laws of Alberta with its primary place of business in Edmonton, Alberta.
14. The Defendant, 367463 Alberta Ltd. is a corporation formed pursuant to the laws of Alberta with its primary place of business in Calgary, Alberta. 367463 Alberta Ltd. is extra-provincially registered in Ontario and Newfoundland.
15. The Defendant Bridgeview Financial Corp. is a corporation formed pursuant to the laws of Alberta with its primary place of business in Red Deer, Alberta.
16. The Defendant Inter-Pro Property Corporation (U.S.A.) is a corporation formed pursuant to the laws of Arizona, with its primary place of business in Scottsdale, Arizona. Inter-Pro Property Corporation (USA) is extra-provincially registered in Alberta.
17. The Defendant FSC Abel Financial Inc. is a corporation formed pursuant to the laws of Ontario with its primary place of business in Toronto, Ontario.
18. Each defendant was a Third Party Lender ("TPL") who loaned funds in the form of "payday loans" to the class members during the class period. For these loans, the companies related to The Cash Store Financial Services Inc., including Instaloes Inc.,

The Cash Store Inc., and 1693926 Alberta Ltd (hereafter collectively referred to as "Cash Store") were the brokers, and the TPLs were lenders, as defined under the *Payday Loans Act* and Regulations.

19. The Plaintiffs plead that the Defendants concealed the true nature of their involvement in the Cash Store business model from the class members. The Defendants' participation in that business model was undertaken in a manner that was deliberately opaque. Particulars of the Defendants' role in the Cash Store's business model have not been publically disclosed, and are in the knowledge of the Defendants.

#### **The Class**

20. The Plaintiffs seek to represent a class consisting of all persons in Canada who entered into "payday loan transactions" with the Cash Store in Ontario, between September 1, 2011 and the date of judgment (the "Class Members"). For the greater certainty, "payday loan transactions" include loans where the Cash Store is lender or a TPL is lender and Cash Store is broker.

#### **THE NATURE OF THE ACTION**

21. This action concerns the unlawful lending practices of the Defendants as operators in the "payday loan" industry subject to the Ontario *Payday Loans Act* and Regulations.
22. Since September 1, 2011, all payday lenders in Ontario have been specifically required by legislation to provide borrowers with the option to take their payday loan in an

immediate and liquid form. The effect of this requirement is to reduce the cost of borrowing and to prevent payday lenders from requiring borrowers to pay ancillary fees for "devices", a term defined in the Regulations meaning instruments offered by the lender in the delivery of the payday loan such as debit cards or credit cards.

23. Since September 1, 2011, the Defendants as payday lenders have by their business practices violated the applicable statutory requirements of this province, which requirements were designed for the protection of the Class Members as borrowers.

24. Specifically, the TPLs did not ensure that the Class members were provided with the option to take payday loans in the form of cash, as explicitly required by the *Payday Loans Act* regulations. Instead, loans provided by the TPLs were offered through the two following methods:

- i. By way of ancillary products such as a pre-paid DirectCash debit or credit card, which products feature additional fees and interest; or
- ii. By way of a delayed bank transfer to the borrower's account, which transfers take up to 7 days to occur.

Both options fail to comply with the applicable legislation to the prejudice of Class Members.

25. The Defendants also engaged in several other violations of the *Payday Loans Act* and Regulations on account of their lending practices, the details of which are particularized below.

26. The Class Members claim specific relief provided for under the Ontario *Payday Loans Act* and Regulations for the breaches alleged herein as well as common law and equitable remedies.

## **BACKGROUND**

### **The Business Model**

27. The Cash Store payday loan business model during the class period permitted the Cash Store to act as a lender of its own funds, as well as a broker where the TPLs were lenders of their own funds. There was no distinction between the two approaches from the borrower's perspective, and all loan documentation was identical in its presentation.

The Cash Store was the sole storefront by which the Defendants facilitated their participation in the Cash Store's business.

28. Borrowers who received their loans through the brokerage model signed the same loan documents as borrowers who received their loans directly from the Cash Store. However, for borrowers receiving loans through the brokerage model (the Class Members), the document entitled "Promissory Note and Disclosure of All Costs" incorporated the TPL as the lender.

29. The Class Members entered into contracts directly with Cash Store and the TPL's, which stated, among other things, the amount of funds loaned, the term of the agreement, to whom the loan would be repaid, and the total cost of borrowing.

30. The TPLs advanced funds to the borrowers via the Cash Store payday loans framework, where loans were made available via DirectCash banking products as a general rule.

31. The Cash Store offered brokered loans pursuant to agreements with the TPLs (the "Broker Agreements"). Those agreements allowed the TPLs to earn returns on the loans through interest payments of 59% per annum on loans collected, net of loan losses.

### **The Regulation of Payday Loans in Ontario**

32. Since 2008, all payday lenders and brokers in Ontario have been governed by the *Payday Loans Act*. The *Act* and its Regulations were created by the province in order to ensure the regulation of the payday lending industry in Ontario was compliant with criminal interest rates. Following consultation with an advisory board on the maximum total cost of borrowing a payday loan, the Ontario government set the maximum at \$21 per \$100 borrowed in the 2009 Regulation.

33. An amendment to the Regulation (Regulation 316/11) was enacted and brought into force in September of 2011, and added the following key obligations on payday lenders:

- a) Third party fees and charges are to be included in the cost of borrowing (s. 17);
- b) Borrowers must be able to receive their loans in cash (s.22); and
- c) Optional goods and services are prohibited from being sold by a payday loan company (s. 27).

34. The Cash Store payday loans framework, both for the purposes of brokered loans and direct lending, failed to comply with this Regulation. The Defendants actively

participated in this framework, entering into payday loan agreements with Class Members which were in violation of the *Payday Loans Act* and Regulations in several material respects.

### **The Defendants' Loans**

35. The Defendants entered into Broker Agreements with the Cash Store during the relevant period which set out the relationship between the parties. In the Broker Agreements, the Defendants agreed to have Cash Store offer the Defendants' loans under the Cash Store brand, with the Defendants as "financiers".
36. The loans were short-term cash advances valued between \$100 and \$1,500, representing up to 50% of the borrower's take-home pay. Loans were due on the date of the borrower's next pay day. Cash Store was the face of these loans, as storefront and brand provided means through which borrowers came to engage in the Defendants' loans.
37. The Defendants agreed to participate in the Cash Store payday loans framework, which failed to comply with the applicable legislation. The most obvious problem with the Cash Store model, through which the Defendants offered loans, was that the Cash Store (and accordingly the Defendants) refused to provide loans in the form of cash as required. The fact that the Cash Store refused to offer cash renders every loan non-compliant with governing legislation. The Cash Store and the Defendants provided their loans via Directcash debit or credit cards.
38. The Directcash debit and credit cards, as well as their insurance and other products, were subject to additional fees that were paid by the borrower. The Cash Store, on

behalf of the lenders, added those fees to the "borrowed" principal amount of the loan and the maximum rate of interest was charged on those additional fees as well as the principal amount. All of these charges and the interest charged on them result in loan terms which are well in excess of the prescribed maximum cost of borrowing.

39. The following chart details a non-exhaustive list of the ancillary fees that the Defendants have required borrowers to pay in order to obtain a payday loan on a Directcash debit or credit card:

Pre-Paid Mastercard (purchase)	\$17.95
Monthly Mastercard fee	\$19.95 - \$29.95
Mastercard loading fee	\$3.50
Credit card insurance (on \$500)	\$1.95 / day
Debit card (purchase)	\$17.95
Monthly debit card fee	\$17.90 - \$39.95
Debit card service fee (each use)	\$2.25 - \$2.95

40. In the example of a loan transaction where the funds were provided on a Mastercard, the borrower could be charged a fee of \$17.95 for purchasing a MasterCard credit card in order to obtain the payday loan, as well as monthly fees ranging between \$19.95 and \$29.95 per month. There were also additional "loading fees" and service fees for each use of the credit card. If the loan is not withdrawn from an ATM all at once, each additional ATM transaction will result in another fee.

41. The Cash Store, as broker for the Defendants, also offered optional insurance for the payday loans, which cost approximately \$1.95 per day. "Bank accounts" were also required for use of the debit card which involved additional fees. The Defendants charged these fees to the Class Members as part of their loans and collected interest on these amounts as well.

42. As a result of the above-noted business practices, the Plaintiffs plead that the Defendants have been unjustly enriched and are in breach of the *Payday Loans Act* and its 2011 Regulation, as well as the *Competition Act*.

#### **PAYDAY LOANS ACT AND REGULATIONS**

43. As lenders, the Defendants are required to comply with the *Payday Loans Act* and Regulations.

44. Key duties of lenders under the *Payday Loans Act* and Regulations include:

- a) Obtaining a license to offer payday loans in Ontario (sec.6(2) of the *Payday Loans Act*);
- b) Ensuring that all payments to be made under a loan agreement are paid to the lender, and not any other person or entity (sec. 28(2) of the *Payday Loans Act*);
- c) Ensuring that the cost of borrowing under a loan agreement does not exceed the prescribed limits (sec. 28(2) of the *Payday Loans Act*); and

d) Ensuring that the payday loan applications and documentation are not used in connection with any other good or service (sec. 27(1) and (2) of the Regulation).

45. The Plaintiffs plead, on behalf of themselves and the Class Members that the Defendants' business model breached the applicable legislation, including but not limited to the sections of the *Payday Loans Act* and Regulations that follow.

46. One of the most basic requirements of the *Payday Loans Act* is the requirement to be licensed in order to act as a payday lender or a broker. The role of the TPLs is so opaque that it is unclear whether some companies have obtained licenses to act as lenders. If the TPLs made loans available through Cash Store, they were required to have licenses pursuant to sec. 6(2) of the *Payday Loans Act*. The TPLs have defined themselves as lenders in the recent Cash Store CCAA proceedings.

47. Under section 7(1) of the *Act*, there is also a requirement that lenders must deal with or through brokers who are licensed. As a matter of fact, Cash Store was not licensed as of July 4, 2013. The Defendants either knew or ought to have known this fact as Cash Store publically declared on July 3, 2013 that it would allow its licenses to expire on that date. Nonetheless, the Defendants continued to offer loans through the Cash Store illegally.

48. The Defendants were also required to ensure that the loans entered into between themselves and borrowers were compliant with the applicable legislation.
49. Once the loan has been entered into, a key section of the legislation is section 26(2) of the *Act*, which states that no licensee shall make or shall facilitate the making of any representations that do not comply with the prescribed requirements.
50. The Defendants' loan documents contain several misrepresentations, including but not limited to representations relating to the cost of borrowing. The Defendants' loan documents misstate the "Amount Borrowed" and the "Total Cost of Borrowing". The Defendants and the Cash Store populate these sections of the loan agreements so as to conceal the unlawful approach taken in entering payday loans with the class members.
51. The Defendants loans universally offend the maximum total cost of borrowing as prescribed. Section 23 of the Regulation confirms that this maximum is to be applied in section 32(2) of the *Act*, which states that a lender under a payday loan agreement shall ensure that the cost of borrowing under the agreement does not exceed the prescribed limits. The Defendants accordingly breached section 32(2) of the *Act* through their lending practices, which categorically involve the sale of devices and other products such as insurance that attract additional fees that are added to the loan principal rather than the cost of borrowing, as prescribed.

52. In addition, by misstating the cost of borrowing, the Defendants have breached section 18 of the Regulation, which sets out the required content for the first page of the agreement.
53. The Defendants have also breached sections 28 and 31(1) of the *Payday Loans Act*, as they have demanded payments from borrowers for assisting the borrower in obtaining a payday loan before the end of the term of the agreement. Specifically, the Defendants have demanded payment for devices in the form of DirectCash debit and credit cards, as well as insurance – amounts which were collected by the Cash Store at the time of the loan transaction. In doing so, they have also demanded payment of a portion of the cost of borrowing on an immediate basis. This practice contravenes sections 28(1),(2),(3), and 31(1) of the *Act*.
54. The provision of other goods and services for payment also violates section 27 of the Regulation. Section 27(1) states that the lender must ensure that the payday loan applications and documentation will only be used for the purposes of the agreement itself, and not in connection with any other goods and services. Further, section 27(2) states that the lender shall not require a borrower to transact any good or service other than a payday loan as a condition of entering into a payday loan agreement. The Defendants have violated these sections by requiring their borrowers to purchase Directcash debit and credit cards as a condition of obtaining their loans.

55. In the event that a borrower was able to obtain an electronic funds transfer at his or her own request, the provision of payday loans through account transfers which take up to 7 days is unlawful as section 29(2) of the Act states that lenders must ensure that the advance is delivered no later than upon entering into the loan agreement. Furthermore, Section 21(1) of the Regulation states that it is deemed that a lender under a payday loan agreement has not delivered the advance to the borrower upon entering into the agreement unless the advance is immediately accessible by the borrower at that time.
56. Section 22(0.1) and (1) of the 2011 Regulation state in combination that borrowers are entitled to receive the whole of their advances by way of cash, and that borrowers must be informed of that right. The Defendants knowingly violated these sections by agreeing to have their loans made via electronic transfer and Directcash debit and credit cards.
57. The *Payday Loans Act* and Regulations provide a specific remedy for violation of several of the sections noted above. Specifically, as stated in sections 28(4), 29(4), 31(3), 32(4) of the *Act* and 22(5), and 27(5) of the Regulation, "the borrower is only required to repay the advance to the lender and is not liable to pay the cost of borrowing." The Plaintiffs plead that they and the Class Members are accordingly entitled to refunds for all amounts paid to the Defendants and to Cash Store that were above and beyond the advances they borrowed.
58. The Plaintiffs rely on the *Payday Loans Act* including but not limited to sections 38, 39, and 40 of the *Payday Loans Act*, which state that the Plaintiffs and the Class have the right to pursue any remedies they may have in law, including by way of a Class Action.

59. The Plaintiffs also specifically plead and rely on section 41 of the *Payday Loans Act* which states that any ambiguity in the interpretation of a payday loan agreement shall be interpreted to the benefit of the borrower.

## COMPETITION ACT

60. Section 52 of the *Competition Act* prohibits making misleading representations in order to promote a business interest.

52. (1) No person shall, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, knowingly or recklessly make a representation to the public that is false or misleading in a material respect.

61. Section 52(1.1) of the *Competition Act* states:

(1.1) For greater certainty, in establishing that subsection (1) was contravened, it is not necessary to prove that

(a) any person was deceived or misled

62. The Defendants carried out their loan business in a manner which denied the class members their fundamental rights as borrowers under the *Payday Loans Act*. Specifically, the Defendants misstated the cost of borrowing in all of the Class Members' loan documents. In doing so, the Defendants not only violated the *Payday Loans Act* and Regulations, they also engaged in the false promotion of their business interests in contravention of s. 52 of the *Competition Act*.

63. In addition to all other remedies available at law, the Plaintiffs plead entitlement to damages and costs of investigation and prosecution pursuant to s. 36 of the *Competition*

*Act.* Without limitation, the Plaintiffs plead that the Defendants obtained unlawful revenues due to the execution of its false and unlawful business model, which actions were in violation of the *Payday Loans Act* and its Regulations between September 1, 2011 and the present.

## **CONSPIRACY**

64. The Plaintiffs plead that the Defendants wrongfully, unlawfully, maliciously and lacking bona fides, conspired and agreed with Cash Store and with persons unknown to, among other things, extract illegal revenue from the Class Members in the form of fees and charges relating to “devices” used by Class Members in order to obtain payday loans.

65. Cash Store and the Defendants entered into arrangements where the fees for the devices were added to the Class Members’ desired loan amounts, and the interest charged thereon was shared amongst them.

66. In furtherance of the conspiracy, the Defendants, among other overt acts, have promulgated a business practice which is contrary to the *Payday Loans Act* and its Regulations. The conspiracy was unlawful because the conspirators knowingly and intentionally committed the foregoing acts which they knew to be in violation of the *Payday Loans Act* and its Regulations, as well as the *Competition Act*.

67. The conspiracy was directed towards the Plaintiffs and the other Class Members. The Defendants knew or ought to have known in the circumstances that the conspiracy would, and did, cause losses to the Plaintiffs and the Class Members.

## **CONCEALMENT**

68. The Defendants have structured their business and affairs in such a manner as to

purposely obscure, conceal, and minimize public knowledge and information regarding their role in Cash Store's business. The Defendants have done so in order to avoid civil and regulatory complaints and scrutiny from Class Members and others.

69. The Defendants utilized Cash Store as the storefront for their interactions with Class Members. The Defendants themselves had no direct communication with Class Members.

70. In the public financial reporting by the Cash Store, references to the involvement of the Defendants in its business are minimized and/or omitted entirely so as to be devoid of pertinent details.

71. As a result, the Plaintiffs and the Class Members did not discover and could not discover through the exercise of reasonable diligence, the existence of the claims advanced herein until the Defendants made their position and role within the Cash Store's business publically known through statements and filings made in public CCAA proceedings initiated by the Cash Store in April of 2014. In those proceedings, the Defendants have aggressively asserted that they were lenders during the relevant time period, for the purposes of claiming funds under the CCAA restructuring.

72. The Plaintiffs plead that the Defendants continue to represent their lending business in an opaque manner.

### **UNJUST ENRICHMENT**

73. The Defendants have been unjustly enriched to the extent that they have charged and retained unlawful funds, including interest and other amounts in respect of payday loans made to the Class Members since the inception of the 2011 Regulation.

74. The Defendants' enrichment represents a corresponding deprivation to the Class Members as a whole.

75. The enrichment of the Defendants arises solely by the contravention of applicable law. There is therefore no juristic reason for the Defendants' enrichment.

## **WAIVER OF TORT**

76. The Plaintiffs plead and rely on the doctrine of waiver of tort and state that the Defendants' conduct, including the alleged breaches of the *Payday Loans Act* and its Regulations and the *Competition Act* constitutes conduct which can be waived in favour of an election to receive restitutionary or other equitable remedies.

## **REMEDIES**

### **Damages**

77. As a result of the acts and omissions of the Defendants as particularized herein, the Plaintiffs and Class Members have suffered losses and damages.

78. The Class Members are owed damages amounting to those sums collected by the Defendants and the Cash Store pursuant to the non-legally compliant fees, interest and other amounts charged to them as a result of the Defendants' conduct.

79. Further, as the payday loan practices designed and implemented by the Defendants did not comply with the prescribed legislative requirements during the class period, the Plaintiffs plead and rely on the remedies provided pursuant to sections 28(4), 29(4), 31(3), 32(4) of the *Act* and 22(5), and 27(5) of the Regulation, which entitle the Class Members to refunds of or relief from liability of all fees and interest charged to them in

respect of their payday loans. The Class Members also claim any gains earned on these amounts and an equitable rate of interest thereon.

80. All amounts payable to the class on account of damages and disgorgement should be calculated on an aggregate basis pursuant to s. 24 of the *Class Proceedings Act*, or otherwise.

#### **PLAN FOR DISTRIBUTION**

81. Such damages ought to be held in a litigation trust and distributed pursuant to a plan of distribution under sections 25 and 26 of the *Class Proceedings Act*.

82. Alternatively, if so elected, the unpaid remuneration and any gains made thereon should be calculated on an aggregate basis or otherwise should be held in a litigation trust and distributed pursuant to a plan of distribution under sections 25 and 26 of the *Class Proceedings Act*.

#### **STATUTES RELIED UPON**

83. The Plaintiffs rely upon the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, the *Payday Loans Act, 2008*, S.O. 2008, c. 9 and its Regulations, O.Reg. 98/09, O. Reg. 316/11 and O. Reg 351/13, the *Competition Act* RSC 1985, c C-34 and the *Courts of Justice Act*, R.S.O. 1990, c.C.43.

#### **SERVICE OUTSIDE OF ONTARIO**

84. This originating process may be served without Court Order outside of Ontario in that the claim is:

- a. in respect of a tort committed in Ontario (Rule 17.02 (g)); and
- b. against a person carrying on business in Ontario (Rule 17.02 (p)).

**PLACE OF TRIAL**

85. The Plaintiffs propose that this action be tried in London, Ontario.

OCT 01 2014

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Counsel for the Plaintiffs

Ronald Payne and Timothy Yeoman v. Trimor Annuity Focus  
Limited Partnership et al  
Plaintiffs Defendants

Court File No:  
*4172/14*

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

**STATEMENT OF CLAIM**

**Harrison Pensa LLP**  
Barristers and Solicitors  
450 Talbot Street, P.O. Box 3237  
London, ON N6A 4K3

**Jonathan J. Foreman (LSUC# 45087H)**  
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Lawyers for the Plaintiff

**This is EXHIBIT “E” referred to in the  
Affidavit of TIMOTHY YEOMAN  
sworn before me, this 23<sup>rd</sup> day of September, 2015**

  
A Commissioner, etc.

Jean Marc Metrailler,  
a Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires June 11, 2018.

**IN THE MATTER OF THE CASH STORE FINANCIAL SERVICES INC. et. al.**  
**Court File No. CV-14-10518-00CL**

**Settlement Term Sheet**

As a global settlement of (i) all claims that have been or could be advanced by (a) the putative class action plaintiffs represented by Harrison Pensa and Koskie Minsky under a representation order granted by the CCAA court (collectively “**Representative Counsel**”), including without limitation, in the priority motion filed by Representative Counsel in the CCAA proceedings (the “**Priority Motion**”) and (b) the class action and putative class action plaintiffs represented by Hordo Bennett Mounteer LLP ((a) and (b) together, the “**CCAGs**”), as against the Cash Store, the secured first lien lenders under the Credit Agreement (collectively, the “**First Lien Lenders**”), and/or the holders of the secured second lien notes issued by Cash Store under the Indenture (collectively, the “**Noteholders**”), (ii) all claims that have been or could be asserted by the CCAGs against any of J. Murray McCann, 0678786 B.C. Ltd., 8028702 Canada Inc. (“**802**”), or any of their affiliated entities (collectively, “**McCann Entities**”) as third party lenders to Cash Store, and (iii) all claims that have been or could be asserted by Cash Store or the Monitor against the McCann Entities as third party lenders to Cash Store ((i), (ii) and (iii) above being, collectively, the “**Settled Claims**”), the undersigned parties hereto (the “**Settlement Parties**”) agree as follows:

1. \$1.45MM of the recoveries that would otherwise be available to the First Lien Lenders (excluding 424) and the Noteholders from a distribution of the remaining assets of Cash Store to be made pursuant to the Distribution Motion to be filed (as discussed and defined below) will be re-allocated on approval of the Distribution Motion to the CCAGs in satisfaction, release and settlement of the Settled Claims. The \$1.45MM will be paid to Harrison Pensa in trust and funded from the distributions to be made to the First Lien Lenders (excluding 424) and the Noteholders as follows:
  - (a) \$250K from the distribution to Coliseum as a first lien lender;
  - (b) \$500K from the distribution to 802 as a first lien lender (which includes an allocation of \$250K on account of the Harrison Pensa CCAG claim filed against the McCann Entities); and
  - (c) \$700K from the distribution to the Noteholders.
2. Osler or Goodmans will promptly advise the CCAA Court on notice to the full service list that the Priority Motion has been settled and that the hearing dates currently reserved for July 28-29, 2015 (the “**July Hearing Dates**”) will now be used to hear a distribution motion to be filed by the Cash Store in advance of the July Hearing Dates, for hearing on the July Hearing Dates, which will distribute the available assets of Cash Store to its creditors, and incorporate and approve the settlement distributions set out herein (the “**Distribution Motion**”). The Settlement Parties will support, and will not directly or indirectly contest, oppose or seek to delay in any way the hearing of the Distribution Motion on the July Hearing Dates. For greater clarity, the Settlement Parties shall not directly or indirectly contest, oppose or seek to delay any distributions to the First Lien Lenders (other than 424) or the Noteholders at the Distribution Motion or otherwise of any

estate funds other than the amounts that are required to be paid to the CCAGs as contemplated herein.

3. The cash designated by the Monitor as “Ontario Restricted Cash” in the amount of approximately \$1,927,959.00 (the “**Segregated Cash**”) representing costs of borrowing that the Monitor reports was collected by Cash Store after February 12, 2014 shall be distributed to the CCAGs, provided however that:
  - (a) approximately \$1.4MM of the Segregated Cash (or such other amount to be confirmed by the Monitor relating to Ontario loans) will be distributed to Harrison Pensa, in trust for Ontario class members, subject to the approval of the Ontario payday lending regulator to the extent that such approval may be required;
  - (b) Cash Store and the Monitor shall make commercially reasonable efforts to obtain the approval of the Ontario payday lending regulator to the proposed distribution of the Segregated Cash, to the extent that such approval may be required, which efforts shall begin promptly after the execution hereof;
  - (c) approximately \$0.5MM of the Restricted Cash (or such other amount to be confirmed by the Monitor relating to non-Ontario loans) will be distributed to the non-Ontario CCAGs, subject to the approval of the Ontario payday lending regulator to the extent that such approval may be required;
  - (d) as soon as reasonably practicable following court approval of the Distribution Motion and subject to compliance with all applicable privacy and other legislation, Cash Store shall provide to the CCAGs all relevant particulars respecting the borrowers from whom the Segregated Cash was collected, including names, contact information and particulars of their payday loan transactions, in each case to the extent known or within the control of Cash Store;
  - (e) in the event that a response from the Ontario payday lending regulator for the matters contemplated in this paragraph is not obtained in advance of the July Hearing Dates, then:
    - (i) the Monitor shall continue to hold the Segregated Cash in escrow pending (A) receipt of approval or confirmation of non-opposition from the Ontario payday lending regulator or, (B) in the event that no response from the Ontario payday lending regulator is obtained prior to September 18, 2015, an order of the CCAA Court on notice to all of the Settlement Parties and the Ontario payday lending regulator regarding the distribution of the Segregated Cash obtained in accordance with paragraph 3(e)(ii);
    - (ii) Representative Counsel shall be entitled to bring a motion in the CCAA proceedings seeking entitlement to distribute the Segregated Cash as contemplated herein and the Settlement Parties will not seek to delay the hearing of that motion, which motion may be brought only after September 18, 2015 on notice to all the Settlement Parties and the Ontario payday lending regulator; and

- (f) in any event, the payment of all or any portion of the Segregated Cash to the CCAGs is not a condition precedent to any aspect of the settlement set forth herein.
4. As further consideration for the satisfaction, release and settlement of the Settled Claims, 10% of any net distributions to be made by Cash Store (or any successor thereto, or receiver appointed in respect thereof, or litigation trust established in respect thereof) in respect of the litigation commenced by Thornton Grout Finnigan on behalf of Cash Store against KPMG and Cassels Brock (the “**LT Eligible Claims**”) shall be paid to Harrison Pensa in trust for the CCAGs to be divided as agreed by them up to an aggregate amount of \$3MM, and 5% of any net distributions on the LT Eligible Claims thereafter.
  5. \$150K in costs shall be paid to Harrison Pensa in respect of the costs of advisors to Harrison Pensa in the CCAA proceedings, with the allocation of such \$150K to be determined among Coliseum, 802 and the Ad Hoc Committee from their respective distributions.
  6. As soon as practicable following court approval of the settlement that is subject to the Distribution Motion and subject to compliance with all applicable privacy and other legislation, Cash Store shall provide any relevant information or particulars concerning class members and their payday loan transactions to the CCAGs in order to assist in executing notice, settlement administration and settlement distribution programs by the CCAGs.
  7. The distribution of the CCAG settlements are subject to rules and requirements of applicable class proceedings legislation, provided that no such rule or requirement constitutes a pre-condition to the settlement of the Settled Claims reached herein among the Settlement Parties.
  8. Coliseum, the McCann Entities and the Noteholders shall receive a full release in respect of any and all claims that have been or could be brought against them by the CCAGs and Cash Store or on their behalf, as the case may be, and the settlement parties agree that no further action will be commenced by any settlement party against another settlement party. No other releases shall be granted to any director and/or officer of Cash Store or to any other Cash Store third party lender by this agreement and settlement of the Settled Claims.
  9. The McCann Entities stipulate that it is their understanding and assertion, consistent with the Monitor's understanding as outlined in subparagraph 37(e) of the Second Report of the Monitor dated April 27, 2014, that payday loan contracts in Ontario were not made in the name of any McCann Entity as lender during the class period stated in the Ontario class actions, but rather were made by another Third Party Lender and later transferred to a McCann Entity. Mr. McCann shall provide reasonable assistance to the Ontario plaintiffs in the Ontario class proceedings as against the other Cash Store Third Party Lenders conducting business in Ontario during the relevant time.
  10. 



11. The parties agree that DCPI shall not be offered a global release of claims against it where such release includes a release of the litigation commenced against DCPI by Hordo Bennett Mounteer LLP unless DCPI pays value to Hordo Bennett Mounteer LLP that is acceptable to Hordo Bennett Mounteer LLP.
12. In the event that a settlement with DCPI is not obtained before June 30, 2015 or such other date as may be agreed among the CCAGs, Cash Store and the Ad Hoc Committee, then (i) the cooperation referenced in paragraph 10 above and the allocation set out therein shall no longer apply, (ii) the Distribution Motion will proceed on the July Hearing Dates with no DCPI global settlement, and (iii) the parties will thereafter remain free to independently pursue their respective claims against DCPI and paragraphs 10 and 11 above shall cease to have any force or effect.
13. No aspect of this settlement is contingent on any settlement with DCPI being reached.
14. The parties agree that the Distribution Motion shall not provide any form of release for 424 in respect of any claims that any settlement party may have against 424. The settlement parties agree that the Distribution Motion shall seek to set aside and escrow all principal and interest due to 424 as a first lien lender, pending resolution of any claims any settlement party may have against 424. No aspect of this settlement is contingent on the CCAA Court agreeing to escrow any such amounts due to 424 as a first lien lender. Notwithstanding anything in this term sheet, all parties remain free to pursue any and all claims as against 424, including without limitation, the matters asserted in the Priority Motion as against 424.
15. The parties agree to reversion of any undistributed funds paid pursuant to this settlement agreement in settlement of the Priority Motion, as follows:
  - (a) The CCAGs agree to distribute all funds paid to them under this settlement agreement to their respective class members and putative class members pursuant to plans of distribution approved by the court, net of notice, agent and administrative costs and contingency or other legal fees (subject to court approval), disbursements, and applicable taxes payable to them in respect of same;

- (b) In the event that any funds paid pursuant to this settlement agreement in settlement of the priority motion that are to be distributed to class members and putative class members cannot be so distributed (due to distribution cheques remaining uncashed, inability to find eligible class members and putative class members or any other reason whatsoever) following the conclusion of the settlement distribution processes employed in the consumer class action cases, the parties agree to consult with one another in a good faith attempt to reach agreement as to how such undistributed funds are to be allocated and, if no agreement regarding such allocation can be reached within 30 days (or such later date as the parties may agree), then the parties shall seek direction from the CCAA court regarding how such funds are to be allocated and shall provide notice to all interested parties of such hearing;
  - (c) The decision of the CCAA court on the allocation of undistributed funds if any shall be final and binding on the parties;
  - (d) The foregoing matters shall be reflected in the order approving the Distribution Motion; and
  - (e) For clarity, except with respect to the foregoing matters, no party other than the CCAGs shall have standing in respect of the notice and distribution processes to be proposed by the courts for approval and to be implemented by the CCAGs or any administration firm acting on their behalf.
16. The CCAGs have agreed, or will agree, on the allocation between them of any amounts payable to the CCAGs under this settlement. No aspect of this settlement by the CCAGs with the other settlement parties is contingent on any aspect of any such allocation matters as between the CCAGs, both of whom irrevocably accept the settlement terms established hereunder with all of the other settlement parties.
17. These settlement terms will be reflected in definitive materials to be filed with the CCAA Court for the Distribution Motion and the July Hearing Dates, which materials shall be in form and substance reasonably acceptable to all of the Settlement Parties.
18. This agreement may be executed in any number of counterparts and may be delivered by means of facsimile or electronic transmission in portable document format, each of which shall be deemed to be an original, but all of which together will constitute one and the same instrument.
19. It is acknowledged by the Settlement Parties that the Chief Restructuring Officer of Cash Store shall have no personal liability whatsoever for the execution of this agreement, any matter contained in this agreement or any of the covenants or provisions contained herein; provided however that the Chief Restructuring Officer of Cash Store shall exercise the powers granted to the Chief Restructuring Officer under the Initial Order in Cash Store's CCAA proceedings to cause Cash Store to perform its obligations set out herein.
20. No admissions or liability or priority are made, and no defences are waived, as any part of this settlement.

21. Paragraph 10 of this term sheet is strictly confidential and shall not be disclosed by any of the Settlement Parties without the express prior written consent of all other Settlement Parties.

**[Remainder of page intentionally blank]**

Dated this 19<sup>th</sup> day of June, 2015.

**IN WITNESS OF WHICH** the parties have executed this Term Sheet.

**1511419 ONTARIO INC., on behalf of itself  
and its Canadian affiliates**

By: William E. Aziz  
Name: William E. Aziz  
Title: Chief Restructuring Officer

**HARRISON PENZA LLP**

By: \_\_\_\_\_  
Name: Jonathan Foreman  
Title: Partner

**HORDO BENNETT MOUNTEER LLP**

By: \_\_\_\_\_  
Name: Paul Bennett  
Title: Partner

**KOSKIE MINSKY LLP**

By: \_\_\_\_\_  
Name: Andrew Hatnay  
Title: Partner

**GOODMANS LLP, on behalf of Ad Hoc  
Committee of Noteholders**

By: \_\_\_\_\_  
Name: Brendan O'Neill  
Title: Partner

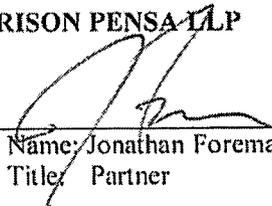
Dated this 19<sup>th</sup> day of June, 2015.

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**HARRISON PENSE LLP**

By:  \_\_\_\_\_  
Name: Jonathan Foreman  
Title: Partner

**HORDO BENNETT MOUNTEER LLP**

By:  \_\_\_\_\_  
Name: Paul Bennett  
Title: Partner

**KOSKIE MINSKY LLP**

By: \_\_\_\_\_  
Name: Andrew Hatnay  
Title: Partner

**GOODMANS LLP, on behalf of Ad Hoc  
Committee of Noteholders**

By: \_\_\_\_\_  
Name: Brendan O'Neill  
Title: Partner

Dated this 19<sup>th</sup> day of June, 2015.

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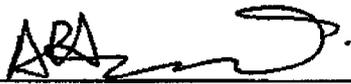
**HARRISON PENZA LLP**

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Title: Partner

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Name: Paul Bennett  
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**KOSKIE MINSKY LLP**

By:  \_\_\_\_\_  
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Name: Brendan O'Neill  
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Dated this 19<sup>th</sup> day of June, 2015.

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Title: Chief Restructuring Officer

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By: \_\_\_\_\_  
Name: Jonathan Foreman  
Title: Partner

**HORDO BENNETT MOUNTEER LLP**

By: \_\_\_\_\_  
Name: Paul Bennett  
Title: Partner

**KOSKIE MINSKY LLP**

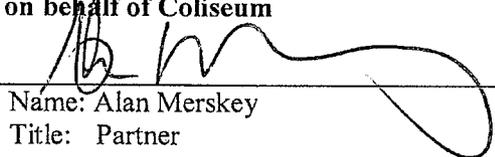
By: \_\_\_\_\_  
Name: Andrew Hatnay  
Title: Partner

**GOODMANS LLP, on behalf of Ad Hoc  
Committee of Noteholders**

By: \_\_\_\_\_  
Name: Brendan O'Neil  
Title: Partner

**NORTON ROSE FULBRIGHT CANADA  
LLP, on behalf of Coliseum**

By: \_\_\_\_\_

  
Name: Alan Merskey  
Title: Partner

**BENNETT JONES LLP, on behalf of all  
McCann entities**

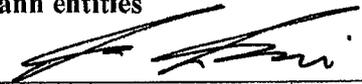
By: \_\_\_\_\_

Name: Jonathan Bell  
Title: Associate

**NORTON ROSE FULBRIGHT CANADA  
LLP, on behalf of Coliseum**

By: \_\_\_\_\_  
Name: Alan Merskey  
Title: Partner

**BENNETT JONES LLP, on behalf of all  
McCann entities**

By:  \_\_\_\_\_  
Name: Jonathan Bell / *Ilan Ishai*  
Title: Associate

**This is EXHIBIT “F” referred to in the  
Affidavit of TIMOTHY YEOMAN  
sworn before me, this 23<sup>rd</sup> day of September, 2015**

  
\_\_\_\_\_  
*A Commissioner, etc.*

Jean Marc Metraller,  
Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires June 11, 2018.

**SETTLEMENT AGREEMENT**

Among:

1511419 ONTARIO INC., formerly known as THE CASH STORE FINANCIAL SERVICES INC.  
1545688 ALBERTA INC., formerly known as THE CASH STORE INC.  
1152919 ALBERTA INC, formerly known as INSTALOANS INC.  
5515433 MANITOBA INC.  
986301 ALBERTA INC., formerly known as TCS CASH STORE INC.  
7252331 CANADA INC.  
1693926 ALBERTA INC., formerly doing business as “The Title Store”,  
(collectively, “Cash Store”)

-and-

DIRECTCASH PAYMENTS INC.  
DIRECTCASH MANAGEMENT INC. (in its own capacity and as general partner of the following  
three partnerships)  
DIRECTCASH ATM PROCESSING PARTNERSHIP  
DIRECTCASH ATM MANAGEMENT PARTNERSHIP  
DIRECTCASH CANADA LIMITED PARTNERSHIP  
DIRECTCASH BANK  
DIRECTCASH ACQUISITION CORP.  
DIRECTCASH MANAGEMENT UK LTD.  
DIRECTCASH MANAGEMENT AUSTRALIA PTY LTD.  
(collectively, “DirectCash”)

-and-

HARRISON PENZA LLP as counsel to the proposed representative plaintiff in *Yeoman v. The Cash Store Financial et. al.* (ONSCJ No. 7908/12 CP) (the “Ontario Class Action” and the “Ontario Class Action Plaintiffs”) and KOSKIE MINSKY LLP as agent for Harrison Pensa LLP

-and-

BENNETT MOUNTEER LLP and CUMING & GILLESPIE as co-counsel on behalf of the proposed representative plaintiffs in *Stewart v. DirectCash Payments Inc. et al.* (BCSC No. 154924), *Efthimiou v. The Cash Store et al.* (ABQB File No. 1201-118160), *Ironbow v. The Cash Store Financial Services Inc. et al.* (SKQB No. 1453), *Rehill v. The Cash Store et al.* (MBQB No. C112-01-80578) and on behalf of the representative plaintiff in *Meeking v. The Cash Store Inc. et al.* (MBQB No. C1110-01-66061) (collectively, the “Western Canada Class Actions” and the “Western Canada Class Action Plaintiffs”)

Dated September 20, 2015

**1. PURPOSE**

The purpose of this settlement agreement (the “Settlement Agreement”) is to set out the terms of a settlement and release, which release shall become effective as of the Effective Date (as defined below),

of (i) any claims that were made or that could be made by Cash Store, the Ontario Class Action Plaintiffs or the Western Canada Class Action Plaintiffs against DirectCash and (ii) any claims that were made or that could be made by DirectCash against Cash Store. For purposes of this Settlement Agreement, any references to Cash Store shall include all of its present and former directors, officers and agents (solely in their capacity as agents of Cash Store), and their successors and assigns, and any references to DirectCash shall include all of its present and former directors, officers and agents (solely in their capacity as agents of DirectCash), and their successors and assigns.

## 2. COURT APPROVAL

On April 14, 2014, Cash Store obtained protection from creditors pursuant to an initial order made by the Ontario Superior Court of Justice (Commercial List) (the "**Court**") pursuant to the CCAA, which initial order was amended and restated on April 15, 2014 (as amended and restated, the "**Initial Order**"). Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. (the "**Monitor**") as monitor in connection with the CCAA proceedings.

The terms of the Settlement Agreement are subject to the satisfaction of all of the following conditions precedent:

- (a) the approval of the Court of this Settlement Agreement (which may occur as part of the Plan of Compromise and Arrangement (the "**Plan**") to be approved under the Sanction Order (as defined below);
- (b) all conditions of the CCAA Plan being satisfied or waived, including (i) the approval of the Plan by the requisite majority of creditors, and (ii) the approval of the DirectCash Release (as defined below); and
- (c) the Sanction Order and the Class Action Approval Orders (as defined below) having been granted and being free of all appeals, and applications to vary or set aside,

whereupon, subject to such conditions precedent being satisfied or waived, the terms of the Settlement Agreement, the Plan, the Sanction Order and the Class Action Approval Orders shall be binding on Cash Store, DirectCash, the Ontario Consumer Class Action Plaintiffs and the Western Canada Class Action Plaintiffs (collectively, the "**Class Action Plaintiffs**") and their respective successors and assigns. Cash Store, DirectCash and the Class Action Plaintiffs shall govern themselves in accordance with this Settlement Agreement unless and until the Court orders that this Settlement Agreement is not approved.

The parties agree to work collaboratively to obtain as promptly as practicable Court approval of the Plan, which includes an approval of this Settlement Agreement and the settlements contemplated herein, the Settlement Payment (as defined below), the DirectCash Release and the Cash Store Release (as defined below) pursuant to a sanction order of the CCAA Court (the "**Sanction Order**"), including any additional approvals required from the class action courts overseeing the Ontario Class Action and the Western Canada Class Actions, as necessary (collectively, the "**Class Action Courts**" and the "**Class Action Approval Orders**"). The form and substance of the Plan, the Sanction Order and any Class Action Approval Orders to be submitted for court approval shall be satisfactory to each of the parties hereto (including relevant matters of notice and service of materials), acting reasonably and consistently with this Settlement Agreement, as and to the extent that the Plan, the Sanction Order and any Class Action Approval Orders concern the matters set forth in this Settlement Agreement and the settlements contemplated hereby.

### 3. NO ADMISSION OF LIABILITY

Cash Store, DirectCash and the Class Action Plaintiffs acknowledge and agree that neither Cash Store nor DirectCash are making any admission of liability or wrongdoing with respect to any conduct or matter, including any matters referenced in this Settlement Agreement or any conduct relating to the Agreements described herein. Any and all liability or wrongdoing is expressly denied.

### 4. PRE-EXISTING AGREEMENTS

Cash Store and Direct Cash are (or have been) parties to the following agreements:

- (a) Cash Card Merchant Agreement among The Cash Store Inc., DirectCash ATM Processing Partnership and DirectCash ATM Management Partnership (collectively, "**DC ATM**") dated April 28, 2005, as amended by amendment dated February 28, 2013;
- (b) ATM Agreement among Cash Store Financial Services Inc. ("**Cash Store Financial**"), DC ATM, and DirectCash Acquisition Corp. dated June 29, 2010, as amended by amendment dated November 22, 2013;
- (c) Debit Terminal and Prepaid Products Agreement among Rentcash Inc. (a predecessor of Cash Store Financial) ("**Rentcash**") and DC ATM dated July 21, 2005;
- (d) PAD Payment Management Agreement between Cash Store Financial (Instaloans Collection Centre) and DirectCash ATM Processing Partnership dated July 10, 2013;
- (e) PAD Payment Management Agreement between Cash Store Financial (Cash Store Collection Centre) and DirectCash ATM Processing Partnership dated July 10, 2013;
- (f) PAD Payment Management Agreement between The Title Store and DirectCash ATM Processing Partnership dated September 25, 2012;
- (g) PAD Payment Management Agreement between Cash Store Financial (NCC Manitoba-National Collection Company) and DirectCash ATM Processing Partnership dated November 30, 2011;
- (h) PAD Payment Management Agreement between Cash Store Financial (NCC Manitoba-National Collection Company; Loans Alberta login) and DirectCash ATM Processing Partnership dated December 20, 2011;
- (i) PAD Payment Management Agreement between Cash Store Financial (NCC Manitoba-National Collection Company; New NCC MB) and DirectCash ATM Processing Partnership dated December 20, 2011;
- (j) Agency Agreement among Cash Store Financial, The Cash Store Inc., TCS Cash Store Inc., Instaloans Inc., 5515433 Manitoba Inc., and DirectCash Bank dated September 1, 2009 as amended by amendment dated February 28, 2013;
- (k) The E-Transfer Agreement between DirectCash ATM, Cash Store Financial and The Cash Store Inc. dated August, 2013;

- (l) Any and all ongoing custom software development agreements, ATM enhancement agreements, interac functionality and e-transfer development agreements and any addenda thereto;
- (m) Any and all guarantees given to DirectCash by Cash Store;
- (n) Any and all incentive agreements or programs between DirectCash and Cash Store, including the incentive letter issued by DirectCash Payments Inc. to Cash Store Financial dated December 12, 2013;
- (o) Indemnity Agreement dated April 22, 2005 given by Rentcash in favour of Card Capital Inc., Teal Financial (2003) Corp., DirectCash ATM Processing Partnership, DirectCash ATM Management Partnership, DirectCash Limited Partnership and DirectCash Management Inc. and their directors and officers, and any similar, supplementary or additional such indemnities;
- (p) Sale of Assets letter agreement between Tembo Telecom Inc. and DirectCash Management Inc. dated August 31, 2009;
- (q) Any agreement pursuant to which DirectCash holds the payment protection plan funds payable to the Applicants by Echelon General Insurance Company or any of its affiliates;
- (r) Any other agreement pursuant to which DirectCash holds funds payable to the Applicants from any other person or entity; and
- (s) Any other letter agreement, email agreement, oral agreement, or other agreement between the Applicants or any of their affiliates and DirectCash or any of their affiliates relating to the Applicant's and their affiliates' businesses

(collectively, the "**Agreements**")

The parties agree that if the list of Agreements set out above is not exhaustive, this Settlement Agreement is intended to and shall address any agreements not specifically listed, including any agreements among any affiliates of Cash Store or any affiliates of DirectCash that are not party to this Settlement Agreement, and any such agreements shall be included in the defined term "Agreements" hereafter.

## **5. PAYMENT AND SETTLEMENT COMMITMENTS BY DIRECTCASH**

Subject to the terms and conditions hereof and the terms and conditions of the Plan, DirectCash shall pay \$14.5 million (the "**Settlement Amount**") to settle any and all claims of Cash Store and/or the Class Action Plaintiffs against DirectCash and to obtain the DirectCash Release (defined below), as follows:

- (a) Pursuant to the payment and distribution provisions of the Plan, DirectCash shall pay \$4.5 million to Cash Store to settle any and all claims of any nature whatsoever, howsoever or whenever arising, that Cash Store may have against the DirectCash Releasees, including, without limitation, in respect of the Agreements, in respect of any security deposits held by DirectCash, and in respect of certain amounts that DirectCash has set-off, deducted or otherwise withheld from payments due to Cash Store under the Agreements or otherwise in relation to amounts purportedly owing to DirectCash by Cash

Store or its foreign affiliates. It is further agreed that all claims that DirectCash may have against Cash Store in respect of the Agreements or otherwise have been considered in arriving at the Settlement Amount and that the Plan shall release Cash Store from and all such claims and any other claims, howsoever arising, which DirectCash has made or could make against Cash Store (the "**Cash Store Release**").

- (b) Pursuant to the payment and distribution provisions of the Plan, DirectCash shall pay \$6.15 million to Harrison Pensa LLP to settle any and all claims of any nature whatsoever, howsoever arising, against the DirectCash Releasees, that were raised or that could have been raised in or by the Ontario Class Action.
- (c) Pursuant to the payment and distribution provisions of the Plan, DirectCash shall pay \$3.85 million to Bennett Mounteer LLP to settle any and all claims of any nature whatsoever, howsoever arising, against the DirectCash Releasees, that were raised or that could have been raised in or by the Western Canada Class Actions.

The Settlement Amount shall be paid without defence, recoupment, set-off or counterclaim, free of any restriction or condition, and paid by wire transfer of immediately available funds to the Monitor on the following dates: (i) \$2 million shall be paid within two (2) Business Days of the date hereof; (ii) \$10 million shall be paid within two (2) Business days of the day that all applicable appeal periods related to the Sanction Order and any Class Action Approval Orders have expired and any appeal or motion for leave to appeal has been fully disposed of with no further right to appeal; and (iii) \$2.5 million shall be paid on or before May 1, 2016.

Notwithstanding the foregoing, the parties will agree, acting reasonably, to such protocols as are necessary to ensure that the closing of all transactions contemplated hereunder to occur on the Effective Date do occur on the Effective Date, including advancing the amount contemplated in item (ii) above in advance of the Effective Date.

All amounts paid by DirectCash in respect of the Settlement Amount shall be held in an interest bearing trust account maintained by the Monitor and distributed in accordance with the provisions of the Plan and any applicable plans of distributions approved under applicable Class Action Approval Orders, and only in the event that all conditions precedent hereunder and thereunder have been satisfied shall such amounts be distributed in accordance with the Plan. In all other events any amounts paid by DirectCash hereunder shall be returned to DirectCash. In all events any interest earned on these amounts shall be remitted to DirectCash.

Within fourteen days after the Effective Date, and subject to appropriate arrangements between Harrison Pensa LLP, Bennett Mounteer LLP, and Cuming & Gillespie LLP and DirectCash to address any applicable confidentiality and privacy issues, DirectCash shall provide the Information to Harrison Pensa LLP, and Bennett Mounteer LLP, or Cuming & Gillespie LLP and their distribution agent(s) as provided for below. In this regard:

- (a) "**Information**" shall mean, with respect to any person of which Direct Cash is aware that had a card funded, or deposit made, through the Cash Store and Loansalberta Inc. during the period of time described in the Class Actions: (i) the names, addresses, phone numbers and email addresses of such persons (the "**Contact Information**"), and (ii) the first day a card was loaded, the last day it was active or was reduced to a nil balance, the total value loaded in respect of a card, and the number of loads made to that card (the "**Transaction Data**");

(b) the Information provided: (i) shall be solely for the purpose of assisting in executing notice, settlement administration and settlement distribution programs for the benefit of class members and for no other purpose; (ii) shall be provided in excel or other format to be agreed upon with a supporting explanation respecting the manner in which the data is organized; (iii) related to the Contact Information - but not the Transaction Data - shall be provided to Harrison Pensa LLP, Bennett Mounteer LLP, or Cuming & Gillespie LLP; (iv) only the respective distribution agents of Harrison Pensa LLP and Bennett Mounteer LLP, or Cuming & Gillespie LLP shall receive both of the Contact Information and the Transaction Data. Harrison Pensa LLP and Bennett Mounteer LLP, or Cuming & Gillespie LLP may only review the Transaction Data in order to advise or assist the distribution agent with the claims process; (v) shall be categorized according to the province where the person's address indicates they were located or where a transaction was entered into; (vi) shall be provided in one package with no further or other deliveries subject only to a right by Harrison Pensa LLP or Bennett Mounteer LLP and Cuming Gillespie LLP or the duly appointed distribution agent(s) of them to seek and obtain reasonable explanation in respect of the Information; (vii) shall be compiled and provided in good faith respecting accuracy and completeness but without any representation or warranty as to the same; and (viii) shall be destroyed when the purposes set forth in item (i), above, are completed (with the relevant distribution agent providing a certificate to this effect to DirectCash);

(c) communications issued by the distribution agents shall only be for the purposes outlined above and shall: (i) not mention DirectCash unless legally required; and (ii) otherwise be acceptable to DirectCash, acting reasonably; and

(d) any distribution agents retained by Harrison Pensa LLP, Bennett Mounteer LLP, or Cuming Gillespie LLP shall provide a written acknowledgement to DirectCash that they are bound by the provisions set forth in this paragraph.

## **6. TERMINATION OF AGREEMENTS**

The Parties acknowledge and agree that the Agreements have been terminated effective July 28, 2015 for the sole purpose of calculating damages owing by Cash Store in favour of DirectCash, all of which amounts are included in the consideration exchanged hereunder.

Other than the Settlement Amount, no payments shall be made by any party in respect of the termination of the Agreements.

## **7. PLAN OF ARRANGEMENT**

### **(a) DirectCash Release**

In consideration of the payment of the Settlement Amount, Cash Store will obtain Court and stakeholder approval of a Plan that provides for a release in favour of DirectCash, pursuant to the Plan and the Sanction Order, in substantially the following form:

At the Effective Time, (i) all DirectCash Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled, barred and deemed satisfied and extinguished against each of the DirectCash Releasees, (ii) section [●] [which shall be the Injunction described below] shall apply to the DirectCash Releasees, and (iii) each of the Class Action Plaintiffs and Cash Store shall also release the DirectCash Releasees from any DirectCash Claims that has been

or could be asserted by any of them (such releases and injunctions as they apply to the DirectCash Releasees, the “**DirectCash Release**”);

The Plan shall, for the purposes of the DirectCash Release, contain definitions in substantially the following form:

“**DirectCash Releasees**” means DirectCash and all of its present and former shareholders, parents, partners, partnerships, subsidiaries, affiliates and predecessors and each of their present and former directors, officers, servants, agents, employees, insurers, contractors, consultants and each of the successors and assigns of any of the foregoing.

“**DirectCash Claims**” means any right or claim of any person (including, without limitation, the Class Action Plaintiffs, Cash Store and any claims that could be brought on behalf of Cash Store by the Monitor, the Chief Restructuring Officer or any other representative of Cash Store, and affiliates of Cash Store (including, without limitation, The Cash Store Financial Limited (06773351), CSF Insurance Services Limited, The Cash Store Limited (06773354), The Cash Store Financial Corporation, The Cash Store Australia Holdings Inc. and The Cash Store Pty Ltd. (Acn107205612)), that may be asserted or made in whole or in part against any DirectCash Releasee, in any way relating to that person’s relationship, business, affairs or dealings with Cash Store or DirectCash in respect of Cash Store, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, whether at law or in equity, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including, any legal, statutory, equitable or fiduciary duty) or by reason of any equity interest, right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and together with any security enforcement costs or legal costs associated with any such claim, and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, by guarantee, indemnity, warranty, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature including any claim arising from or caused by the breach, termination, disclaimer, rescission, assignment or repudiation of any contract, lease, cardholder agreement, service agreement, account agreement, or other agreement with Cash Store and/or its customers, whether written or oral, any claim made or asserted through any affiliate, subsidiary, associated or related person, or any right or ability of any person to advance a claim for an accounting, reconciliation, contribution, indemnity, restitution or otherwise with respect to any matter, grievance, action (including the Ontario Class Action, the Western Canada Class Actions and any other class action or any proceeding before an administrative tribunal), cause or chose in action, whether existing at present or commenced in the future, including any security interest, charge, mortgage, deemed trust, constructive trust or other encumbrance in connection with any of the foregoing, provided however that, notwithstanding anything else in the Plan, none of the DirectCash Releasees shall be released pursuant to the Plan and/or the Sanction Order in respect of any claim by any person that is commenced with leave of the Court and based on a final judgment that a plaintiff suffered damages as a direct result and solely as a result of such plaintiff’s reliance on an express fraudulent misrepresentation made by a DirectCash director, officer or employee when such director, officer, or employee had actual knowledge that the misrepresentation was false (any such claim being a “**Non-Released Claim**”).

With respect to the reference to the Injunction in paragraph (a) above:

“**Injunction**” means the provision of the Plan that provides substantially as follows:

All persons are permanently and forever barred, stopped, stayed and enjoined, on and after the Effective Time, with respect to any and all DirectCash Claims by any such persons, from (i) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever (including, without limitation, any

judicial, arbitral, administrative or other forum) against the DirectCash Releasees; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against the DirectCash Releasees or their property; (iii) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits or demands, including without limitation, by way of contribution or indemnity or other relief, in common law, or in equity, breach of trust or fiduciary duty or under the provisions of any statute or regulation, or any proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in any judicial, arbitral, administrative or other forum) against any person who makes such a claim or might reasonably be expected to make such a claim, in any manner or forum, against the DirectCash Releasees or their property; or (iv) taking any action to interfere with the implementation or consummation of this Plan; provided, however, that the foregoing shall not apply to the enforcement of any obligations under this Plan or any obligations that are contemplated as surviving the Effective Date of this Plan.

With respect to the reference to "Effective Date" and "Effective Time" in the foregoing, these terms shall mean the date and time on which the Plan becomes effective.

With respect to the reference to "Class Actions" in the foregoing, this term shall be broadly defined to include the Ontario Class Action, the Western Canada Class Actions and any other class action that: (i) has already been commenced in respect of Cash Store naming DirectCash, (ii) has already been commenced in respect of DirectCash and not naming Cash Store in relation to the business of Cash Store and/or the DirectCash products offered by Cash Store or DirectCash in respect of Cash Store, and (iii) involves any future class action that may be (or may be purported to be) commenced in respect of the foregoing but such definition shall not include any claims made in the Ontario Class Action, the Western Canada Class Actions or any other class action in respect of Cash Store (except to the extent of any claims against the DirectCash Releasees in any such actions) unless otherwise agreed among Cash Store and the Class Action Plaintiffs.

Notwithstanding that the Plan and/or the Sanction Order will not provide a release of any Non-Released Claims, each of the Cash Store and the Class Action Plaintiffs hereby agrees that, subject to and as of the Effective Date, each of the Cash Store and the Class Action Plaintiffs shall have, and shall be deemed to have, hereby released all of the DirectCash Releasees of and from any and all Non-Released Claims and that, following the Effective Date, none of the Cash Store or any of the Class Action Plaintiffs shall have any ability to pursue a Non-Released Claim against any of the DirectCash Releasees.

**(b) Cash Store Release**

The Plan shall also provide that, from and after the Effective Time of the Plan, Cash Store and all of its present and former shareholders, parents, partners, partnerships, subsidiaries, affiliates and predecessors and each of their present and former directors, officers, servants, agents, employees, insurers, contractors, consultants and each of the successors and assigns of any of the foregoing shall be released from any and all claims that DirectCash has asserted or could assert against any of the foregoing, and that Direct Cash all of its present and former shareholders, parents, partners, partnerships, subsidiaries, affiliates and predecessors and each of their present and former directors, officers, servants, agents, employees, insurers, contractors, consultants and each of the successors and assigns of any of the foregoing, shall be enjoined from pursuing any such claims from and after the Effective Time of the Plan.

## **8. SUPPORT FOR THE PLAN**

The Parties hereto all covenant and agree to:

- (a) support Cash Store in obtaining as promptly as practicable Court approval of this Settlement Agreement, the Plan and the Sanction Order, and any Class Action Approval Orders, as and to the extent that the Plan, the Sanction Order and any Class Action Approval Orders concern the matters set forth in this Settlement Agreement and the settlements contemplated hereby;
- (b) execute any and all documents and perform any and all acts required by this Settlement Agreement and the settlement contemplated herein, including any consent, approval or waiver requested by Cash Store, acting reasonably;
- (c) oppose any action by any party that could interfere with, delay or impede the implementation of this Settlement Agreement, the Plan, or the granting and implementation of the Sanction Order or any other Class Action Approval Orders, as and to the extent that any such actions concern matters set forth in this Settlement Agreement and the settlements contemplated hereby; and
- (d) not take any actions or fail to take any actions that would be, in either case, inconsistent with this Settlement Agreement or the settlement contemplated herein or which would or be reasonably expected to interfere with, delay or impede (i) the implementation of this Settlement Agreement or the Plan, or (ii) the granting and implementation of the Sanction Order or any other Class Action Approval Orders, as and to the extent that any such actions concern matters set forth in this Settlement Agreement and the settlements contemplated hereby.

## **9. FURTHER ASSURANCES**

The parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the settlement and transactions contemplated by this Settlement Agreement and each party shall provide such further documents or instruments required by any other party as may be reasonably necessary or desirable to effect the purpose of this Settlement Agreement and carry out its provisions.

## **10. MISCELLANEOUS**

- (a) Currency - All dollar amounts expressed herein are in Canadian dollars except as specifically noted otherwise.
- (b) Headings – Headings of sections are inserted for convenience of reference only and do not affect the construction or interpretation of this Settlement Agreement.
- (c) Including – Where the word “including” or “includes” is used in this Settlement Agreement, it means “including (or includes) without limitation”
- (d) Number and Gender – Unless the context requires, words importing the singular include the plural and vice versa and words importing gender include all genders.

- (e) Severability – If, in any jurisdiction, any provision of this Settlement Agreement or its application to any party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions of this Settlement Agreement and without affecting the validity of enforceability of such provision in any other jurisdiction or without affecting its application to any other party or circumstance;
- (f) Time – Time is of the essence in the performance of the parties' respective obligations.

#### **11. COUNTERPARTS**

This Settlement Agreement may be executed in counterparts, each of which shall be deemed to be an original and which together shall constitute one and the same agreement. Delivery of an executed original counterpart of a signature page of this Settlement Agreement by facsimile or electronic transmission shall be as effective as delivery of a manually executed original counterpart of this Settlement Agreement.

#### **12. ENTIRE AGREEMENT**

This Settlement Agreement constitutes the entire agreement between the parties with respect to the matter herein. The execution of this Settlement Agreement has not been induced by, nor do any of the parties rely upon or regard as material, any representations, promises, agreements or statements whatsoever not incorporated herein and made a part hereof.

#### **13. GOVERNING LAW**

This Settlement Agreement shall be governed by, and will be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in the Province of Ontario. The parties hereby attorn to the jurisdiction of the Superior Court of Justice in the Province of Ontario, in the CCAA proceeding, in respect of any dispute arising from this Settlement Agreement.

#### **14. AMENDMENT**

No amendment, supplement, modification or waiver or termination of this Settlement Agreement and, unless otherwise specified, no consent or approval by any Party, is binding unless executed in writing by the party to be bound thereby.

#### **15. EXPENSES**

Each of the parties shall pay their respective legal, accounting, and other professional advisory fees, costs and expenses incurred in connection with this Settlement Agreement and its implementation.

#### **16. CHIEF RESTRUCTURING OFFICER**

It is acknowledged by DirectCash that the Chief Restructuring Officer shall have no personal liability whatsoever for the execution of this Settlement Agreement, any matter contained in this Settlement Agreement or any of the covenants or provisions contained herein; provided however that the Chief Restructuring Officer shall exercise the powers granted to the Chief Restructuring Officer under the Initial

Order to cause Cash Store to perform Cash Store's obligations under this Settlement Agreement and the Chief Restructuring Officer shall be bound by the DirectCash Release at the Effective Time of the Plan.

**17. MONITOR'S CAPACITY**

The parties acknowledge and agree that the Monitor, acting in its capacity as the Monitor of Cash Store in the CCAA Proceedings, will have no liability in connection with this Settlement Agreement (including in relation to any information or data provided by the Monitor in connection with this Settlement Agreement) whatsoever in its capacity as Monitor, in its personal capacity or otherwise; provided however that the Monitor shall exercise the powers granted to the Monitor under the Initial Order to perform the Monitor's obligations in respect of this Settlement Agreement and the Monitor shall be bound by the DirectCash Release at the Effective Time of the Plan.

***[Remainder of Page Intentionally Left Blank]***

IN WITNESS OF WHICH the parties have executed this Settlement Agreement.

1511419 ONTARIO INC., formerly known as  
THE CASH STORE FINANCIAL SERVICE INC.

By: William E. Aziz

Name: William E. Aziz

Title: Chief Restructuring Officer

1545688 ALBERTA INC., formerly known as  
THE CASH STORE INC.

By: William E. Aziz

Name: William E. Aziz

Title: Chief Restructuring Officer

1152919 ALBERTA INC, formerly known as  
INSTALOANS INC.

By: William E. Aziz

Name: William E. Aziz

Title: Chief Restructuring Officer

5515433 MANITOBA INC.

By: William E. Aziz

Name: William E. Aziz

Title: Chief Restructuring Officer

986301 ALBERTA INC., formerly known as TCS  
CASH STORE INC.

By: William E. Aziz

Name: William E. Aziz

Title: Chief Restructuring Officer

7252331 CANADA INC.

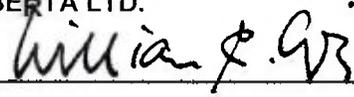
By: William E. Aziz

Name: William E. Aziz

Title: Chief Restructuring Officer

1693926 ALBERTA LTD.

By:



Name: William E. Aziz

Title: Chief Restructuring Officer

**DIRECTCASH PAYMENTS INC.**

By: 

Name: Jeffrey Smith  
Title: President & CEO

**DIRECTCASH MANAGEMENT INC. (in its own capacity and as general partner of the following three partnerships)**

By: 

Name: Jeffrey Smith  
Title: President & CEO

**DIRECTCASH ATM PROCESSING PARTNERSHIP by its general managing partner DIRECTCASH MANAGEMENT INC.**

By: 

Name: Jeffrey Smith  
Title: President & CEO

**DIRECTCASH ATM MANAGEMENT PARTNERSHIP by its general managing partner DIRECTCASH MANAGEMENT INC.**

By: 

Name: Jeffrey Smith  
Title: President & CEO

**DIRECTCASH CANADA LIMITED PARTNERSHIP by its general managing partner DIRECTCASH MANAGEMENT INC.**

By: 

Name: Jeffrey Smith  
Title: President & CEO

**DIRECTCASH BANK**

By: 

Name: Jeffrey Smith  
Title: CEO

**DIRECTCASH ACQUISITION CORP.**

By: 

Name: Jeffrey Smith  
Title: President & CEO

**DIRECTCASH MANAGEMENT UK LTD.**

By: 

Name: Jeffrey Smith  
Title: President & CEO

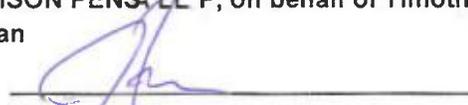
**DIRECTCASH MANAGEMENT AUSTRALIA PTY LTD.**

By: 

Name: Jeffrey Smith  
Title: President & CEO

HARRISON PENS ~~LL~~ P, on behalf of Timothy  
Yeoman

By:

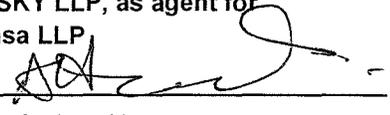


Name: Jonathan Foreman

Title: Partner

**KOSKIE MINSKY LLP, as agent for  
Harrison Pensa LLP**

By: \_\_\_\_\_



Name: Andrew Hatnay  
Title: Partner

**BENNETT MOUNTEER LLP, on behalf of**  
Roberta Stewart, Kostas Efthimiou, John Ironbow  
and Scott Meeking and Sheri Rehl

By: \_\_\_\_\_

Name: Mark Munteer

Title: Partner

**CUMING & GILLESPIE, as co-counsel to  
Bennett Mounteer LLP**

By: \_\_\_\_\_

Name: Craig Gillespie  
Title: Partner

**This is EXHIBIT “G” referred to in the**

**Affidavit of TIMOTHY YEOMAN**

**sworn before me, this 23<sup>rd</sup> day of September, 2015**



*A Commissioner, etc.*

Jean Marc Metrailler,  
a Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires June 11, 2018.

**DID YOU TAKE A PAYDAY LOAN FROM  
THE CASH STORE OR INSTALOANS IN  
ONTARIO ON OR AFTER SEPTEMBER 1, 2011?**

**If so, read this notice.**

**Class Action Settlements have been Reached for  
Borrowers from Ontario locations of The Cash Store  
and Instaloes**

**A hearing will be held on November 19, 2015** where lawyers for Borrowers will seek a court Order approving the settlements reached on behalf of Ontario borrowers ("Ontario Settlements"), the method of distributing the settlement funds to borrowers ("Settlement Distribution Plan,") and the fees and expenses to be paid to lawyers ("Counsel Fees.")

**IMPORTANT DEADLINE**

**You have a right to object** if you do not agree with the proposed Ontario Settlements, Settlement Distribution Plan, or request for Counsel Fees. If you wish to object, you must file an objection by November 9, 2015.

**FOR DETAILED INFORMATION**

visit [www.ontariocashstoresettlement.com](http://www.ontariocashstoresettlement.com)

**OR CALL 1-800-263-0489, ext. 759**

**This is EXHIBIT “H” referred to in the**

**Affidavit of TIMOTHY YEOMAN**

**sworn before me, this 23<sup>rd</sup> day of September, 2015**



---

*A Commissioner, etc.*

Jean Marc Metraller,  
a Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires June 11, 2018.

# DID YOU TAKE A PAYDAY LOAN FROM THE CASH STORE OR INSTALOANS IN ONTARIO ON OR AFTER SEPTEMBER 1, 2011?

**Ontario Class Action Settlements have been reached. Please read this notice.**

## **CLASS ACTION LAWSUITS WERE FILED**

Class action lawsuits were filed in connection with “payday loans” offered by The Cash Store and Instalozans (collectively “The Cash Store”) in Ontario for loans made on or after September 1, 2011 (collectively “Ontario Class Actions.”) These lawsuits were filed against The Cash Store, their directors and officers, parties known as third party lenders, and a group of companies owned by or affiliated with DirectCash Payments Inc. (“DirectCash”) which provided a series of products and services in connection with the payday loans.

The lawsuits were filed on behalf of all Canadians who entered into payday loans in Ontario with The Cash Store from September 1, 2011 onward (the “Borrowers.”)

The Ontario Class Actions claim that the defendants’ payday loans had an unlawful structure and that Borrowers were charged too much money for interest on their payday loans and for other fees on credit cards, debit cards, insurance policies, bank accounts, and for other items. Among other things, the Ontario Class Actions asked the Court to order the improper fees and interest be returned to Borrowers.

## **CASH STORE OBTAINS CCAA PROTECTION**

On April 14, 2014, The Cash Store became insolvent and obtained protection from its creditors under the *Companies’ Creditors Arrangement Act* (“CCAA”) by order of the Ontario Superior Court of Justice (Commercial List) in Toronto, Ontario (the “Court.”) The CCAA protection extends to the directors and officers of The Cash Store. The Cash Store no longer operates and all of its assets were sold while it was under CCAA protection. Claims against it are now being managed by the Court under Canadian insolvency law.

## **SETTLEMENTS HAVE BEEN REACHED**

Lawyers for Borrowers (“Class Counsel”) in the Ontario Class Actions have created settlements with The Cash Store, and its directors and officers, within the CCAA Proceedings. Settlements have also been reached with a number of other defendants; namely, the DirectCash parties and some of the third-party lenders of The Cash Store (collectively, “the Settling Defendants.”)

The Settling Defendants together have agreed to pay over \$10 million, plus a share of any future litigation recoveries by The Cash Store, to settle the Ontario Class Actions. In exchange, the litigation against them will end and they will be provided with a full release for all legal claims made against them (the “Ontario Settlements.”)

The Ontario Settlements will be presented to the creditors of The Cash Store in its CCAA proceedings at a creditors’ meeting on [date]. If the creditors approve the Ontario Settlements, they will be built into a CCAA Plan of Compromise and Arrangement to be put before the Court for approval. A plan to distribute the Ontario Settlements to Ontario Borrowers will also be brought before the Court for approval (the “Settlement Distribution Plan.”) The objective of the Settlement Distribution Plan is to distribute the monetary recoveries in the Ontario Settlements to Borrowers for the costs of borrowing charged to them. To see a copy of the

proposed Settlement Distribution Plan, visit:  
[www.ontariocashstoresettlement.com](http://www.ontariocashstoresettlement.com).

The Court must also approve the fees of the Class Counsel. The actions have been underway since 2012. These lawyers act on a contingent fee basis: this means that they have taken the risk that they would not be paid for their legal work or reimbursed for the out-of-pocket expenses they have paid in connection with the case if the Ontario Class Actions were unsuccessful. As such, the lawyers will request that legal fees of 25% of the Ontario Settlements, plus out-of-pocket expenses and applicable taxes, be paid.

## **COURT APPROVALS**

Motions will be brought before the Court for: a) approval of the Plan of Compromise and Arrangement containing the Ontario Settlements, including approval of the releases; b) approval of the Settlement Distribution Plan; and c) approval of Class Counsel fees, out-of-pocket expenses, and applicable taxes.

If the Court approvals are granted, Ontario Borrowers who took a loan at an Ontario location of The Cash Store, Instalozans, or one of their affiliated companies any time on or after September 1, 2011 will automatically be eligible to make a claim for compensation under the Settlement Distribution Plan.

If you wish to object to the approvals to be sought in the Ontario Class Actions, please send your written objection to Class Counsel at the contact particulars below by November 9, 2015. The lawyers will make your objection known at the creditors’ meeting and at the settlement approval motion scheduled for November 19, 2015 at 3:30pm at 361 University Ave, Toronto. **Please do not contact the Courts with an objection—they cannot process it.**

**If you do not wish to object, you do not need to take any action at this time.**

## **IF THE COURT APPROVALS ARE GRANTED**

Public notices to Borrowers will be made to announce the opening of the claims process under the Settlement Distribution Plan in the near future so that Borrowers can claim settlement money.

**All Borrowers are encouraged to find and keep any documents they may have relating to any loan from The Cash Store in Ontario on or after September 1, 2011. Those documents will help Borrowers to claim their settlement money.**

## **CLASS COUNSEL**

If you have an objection or have any questions, contact Class Counsel or visit the settlement website:

Harrison Pensa LLP, Attn: Jonathan J. Foreman  
450 Talbot Street  
London, ON N6A 4K3  
Tel: 1.800.263.0489 ext. 759  
Fax: 1.519.667.3362  
[cashstore@harrisonpensa.com](mailto:cashstore@harrisonpensa.com)  
[www.ontariocashstoresettlement.com](http://www.ontariocashstoresettlement.com)

**This is EXHIBIT “I” referred to in the  
Affidavit of TIMOTHY YEOMAN  
sworn before me, this 23<sup>rd</sup> day of September, 2015**

  
A Commissioner, etc.

Jean Marc Metraller,  
a Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires June 11, 2018.

The Cash Store Class Action  
Notice Plan

The Short- and Long-Form Notices of Settlement Approval Hearing will be distributed to Class Members as follows:

- 1) by distribution to major news and broadcast outlets across Canada, in English and French, through a Press Release on Canada Newswire which includes a social media feed to facilitate recirculation of the Press Release;
- 2) through a social media campaign utilizing Facebook and Twitter, which will specifically target special-interest groups who are likely to be interested in the matter such as those who have accessed payday loan and credit counselling agency websites online;
- 3) by direct mail, fax, and/or e-mail to:
  - a) all persons who have contacted plaintiffs' counsel about the litigation
  - b) all persons or organizations who request a copy of the Notice, and
  - c) any other potentially interested parties identified by plaintiffs' counsel; and
- 4) by posting the notice on a dedicated settlement website at [www.ontariocashstoresettlement.com](http://www.ontariocashstoresettlement.com) and [www.ontariocashstoresettlement.ca](http://www.ontariocashstoresettlement.ca), as well as on the website of plaintiffs' counsel at [www.harrisonpensa.com](http://www.harrisonpensa.com).

**Short-Form Notice**

The Short-Form Notice of Settlement Approval Hearing will be distributed to Class Members as follows:

- 5) by publication (one time) in a weekday edition of the following newspapers:
  - a) in the "Life" section of The National Post; and
  - b) in the "Life" section of The Toronto Star;
- 6) by publication (one time) in the Metroland family of newspapers, distributed in the geographical areas in Ontario where The Cash Store and Instalozans branches were formally located;

### **Long-Form Notice**

The Long-Form Notice Settlement Approval Hearing will be distributed to Class Members as follows:

- 7) the Consumers' Council of Canada by
  - a) posting a website link to the Notice on the Council's Homepage of its website,
  - b) posting the Notice under the "Class Action Notices" section of the "Council News" page of their website,
  - c) posting a website link to the Notice on the Council's Facebook page, and
  - d) posting a link to the Notice on the Council's Twitter feed;
  
- 8) to ACORN (Association of Community Organizations for Reform Now), an independent, national organization of low- and moderate-income families comprised of approximately 70,000 members, by:
  - a) posting the Notice under the "Campaigns – Fair Fees" section of their website, and
  - b) posting the Notice on its Facebook page.

TIMOTHY YEOMAN  
IN THE MATTER OF THE COMPANIES'  
CREDITORS ARRANGEMENT ACT, R.S.C. 1985,  
c. C-36 AS AMENDED

v. GORDON J. REYKDAL, MICHAEL J. L. THOMPSON et al.

Court File No. 4171/14  
Court File No. CV-14-10518-00CL

Plaintiffs

Defendants

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT LONDON

**AFFIDAVIT OF TIMOTHY YEOMAN**

**HARRISON PENZA LLP**  
Barristers & Solicitors  
450 Talbot Street  
London, ON N6A 4K3

Jonathan J. Foreman (LSUC #45087H)  
Tel: (519) 679-9660  
Fax: (519) 667-3362

Lawyers for the plaintiffs

# Tab 3

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36 AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF THE CASH  
STORE FINANCIAL SERVICES Inc., THE CASH STORE INC., TCS CASH STORE INC.,  
INSTALOANS INC., 7252331 CANADA INC., 5515433 MANITOBA INC., 1693926 ALBERTA  
LTD DOING BUSINESS AS "THE TITLE STORE"

APPLICANTS

Court File No.: 7908/12 CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

TIMOTHY YEOMAN

Plaintiffs

-and-

THE CASH STORE FINANCIAL SERVICES INC., THE CASH STORE INC., INSTALOANS  
INC., DIRECTCASH BANK, DIRECTCASH ATM PROCESSING PARTNERSHIP,  
DIRECTCASH ATM MANAGEMENT PARTNERSHIP, DIRECTCASH PAYMENTS INC.,  
DIRECTCASH MANAGEMENT INC., and DIRECTCASH CANADA LIMITED PARTNERSHIP

Defendants

**PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT*, 1992, S.O. 1992, c.6**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

RONALD PAYNE and TIMOTHY YEOMAN

Plaintiffs

-and-

TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP, TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #2, TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #3, TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #4, TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #5, TRIMOR ANNUITY FOCUS LIMITED PARTNERSHIP #6, 1396309 ALBERTA LTD., 367463 ALBERTA LTD., 0678786 B.C. LTD. (formerly c.o.b. as MCCANN FAMILY HOLDING CORPORATION), L-GEN MANAGEMENT INC., OMNI VENTURES LTD., BRIDGEVIEW FINANCIAL CORP., INTER-PRO PROPERTY CORPORATION (U.S.A.) and FSC ABEL FINANCIAL INC.

Defendants

**PROCEEDING UNDER THE CLASS PROCEEDINGS ACT, 1992, S.O. 1992, c.6**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

TIMOTHY YEOMAN

Plaintiff

-and-

GORDON J. REYKDAL, MICHAEL J. L. THOMPSON, HALLDOR KRISTJANSSON, and EDWARD C. MCCLELLAND

Defendants

**PROCEEDING UNDER THE CLASS PROCEEDINGS ACT, 1992, S.O. 1992, c.6**

## AFFIDAVIT OF SARAH A. BOWDEN

I, **SARAH A. BOWDEN**, of the City of London, in the County of Middlesex, **MAKE OATH AND SAY:**

1. I am a lawyer in the class actions group at Harrison Pensa LLP, which is counsel for the plaintiffs in the following class proceedings:
  - a) *Timothy Yeoman v. The Cash Store Financial Services Inc., et al.* (Court File No. 7908/12 CP, "**The Cash Store Claim**");
  - b) *Timothy Yeoman v. Gordon J. Reykdal, et al.* (Court File No. 4171/14, "the **Directors and Officers Claim**"); and
  - c) *Ronald Payne and Timothy Yeoman v. Trimor Annuity Focus Limited Partnership, et al.* (Court File No.4172/14, "the **Third Party Lender Claim.**")  
Attached to the affidavit of Timothy Yeoman and respectively marked as Exhibit "A", "C", and "D" are copies of the three consumer class actions filed in Ontario (collectively, the "**Ontario Consumer Class Actions.**")

I have personal knowledge of the matters to which I depose, except for the statements I have indicated are based on information or belief. To the extent that my knowledge is based on information and belief, I identify the source of such information and believe that information to be true.

### THE THREE ONTARIO CONSUMER CLASS ACTIONS

2. All three of the Ontario Consumer Class Actions allege that the defendants to those actions are liable to the same class of borrowers for their roles in the conduct of a payday loan business operated by The Cash Store and related entities since September 1, 2011. The Ontario Consumer Class Actions allege that the defendants

are required to return all amounts representing costs of borrowing to Canadians who entered into "payday loan" transactions (including "Basic Lines of Credit") at a location of The Cash Store Inc., Instalozans Inc. or any of their Canadian affiliates (collectively "Cash Store") in Ontario on or after September 1, 2011 ("the Class").

## **TWO FURTHER REPRESENTATION ORDERS ARE REQUIRED**

3. On April 14, 2014, Cash Store obtained protection from its creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended ("CCAA.") The Honourable Regional Senior Justice Morawetz has overseen the CCAA proceedings since they commenced. In his order issued April 14, 2014 ("Initial Order"), His Honour ordered that an initial stay period of one month would be accorded to the company. Since the date of the Initial Order, the stay period has been extended several times. As of the date of swearing this affidavit, the stay is currently extended to November 20, 2015.
4. On June 16, 2014, Regional Senior Justice Morawetz granted an Order as requested, which appointed Timothy Yeoman as the Class Representative in the CCAA Proceeding, Harrison Pensa LLP as Representative Counsel ("Representative Counsel"), and Koskie Minsky as Agent to Representative Counsel ("Representation Order.") Attached hereto and marked as **Exhibit "A"** is a copy of the Representation Order of Regional Senior Justice Morawetz.

## **SETTLEMENTS REACHED**

5. Settlements have been reached with a number of defendants in the Ontario Consumer Class Actions; namely, with the group of Cash Store defendants, their directors and officers, and the DirectCash parties (parties who provided the devices on which the "payday loan" transactions were advanced, and defined as "DirectCash Released

Parties” in Cash Store’s CCAA Plan of Compromise), and some of the third-party lenders to Cash Store (“the Settling Defendants.”)

6. Together, the Settling Defendants have agreed to pay more than \$10 million. Approximately \$1.4 million of that money will be paid provided the Ontario Registrar of payday loans provides its consent, as those amounts reflect sums that were collected by Cash Store and which were identified by the Monitor as representing amounts which should not have been collected. In addition, in the settlement of the Cash Store Claim, a share of any future litigation recoveries by the estate in respect of certain claims made by it will be paid for the benefit of class members in the Ontario Consumer Class Actions. Attached hereto and respectively marked as **Exhibit “B”**, **Exhibit “C”** and **Exhibit “D”** are copies of the principal settlement agreements in the Ontario Consumer Class Actions, in each case without exhibits. Certain of the terms of the settlement agreements are sensitive and have been redacted.
7. Class members will be afforded the opportunity to object to the settlements, the request for counsel fees, out-of-pocket expenses, and any applicable taxes, on November 19, 2015.
8. Counsel for the plaintiffs are instructed to seek the court’s approval of these settlements, which will be incorporated into Cash Store’s CCAA Plan of Compromise and Arrangement.

#### **PLAN OF DISTRIBUTION**

9. On November 19, 2015 and contemporaneous with the request to approve the settlement agreements and Cash Store’s CCAA Plan of Compromise, the court will also be asked to approve a Settlement Distribution Plan for the benefit of the Class. Representative Counsel are currently developing the Settlement Distribution Plan. That

work has included consultation with an expert settlement administration firm, a sampling of class members, and other interested stakeholder groups, among other things. A copy of the Settlement Distribution Plan will be made publicly available for the benefit of the Class Members for comment through the plan for distributing the Notices, for which approval is sought.

#### **NOTICE APPROVAL**

10. Attached hereto and respectively marked as **Exhibit “E”** and **Exhibit “F”** are copies of the proposed Short- and Long-Form Notices (“the Notices”).

#### **NOTICE PLAN APPROVAL**

11. Attached hereto and marked as **Exhibit “G”** is a copy of the proposed Notice Plan (“the Notice Plan”).
12. Both the Short- and Long-Form Notices will be distributed by a News Release on Canada Newswire in both English and French (“CNW.”) CNW distributes to more than 200,000 media points, more than 8,000 websites, and has over 71,000 social media contacts. The News Release will include a social media component which helps to facilitate recirculation of the News Release, also in English and French. According to CNW’s website, the social media feed helps to:
  - a) garner top search results on search engines;
  - b) drive more viewers to the news release; and
  - c) boost reader engagement.

Attached hereto and marked collectively as **Exhibit “H”** is a copy of CNW’s homepage, as well as its webpage on the social media aspects of its new releases.

13. The Notice Plan contemplates a digital notice campaign which will utilize social media platforms including Facebook and Twitter for both the Short- and Long-Form Notices. The social media campaign will be targeted towards specific special-interest groups who are likely to be interested in the matter, such as those who have accessed payday loan and credit counselling agency websites online.
14. Both the Short- and Long-Form Notices will be distributed by e-mail or direct mail, to all persons who have contacted plaintiffs' counsel about the litigation, as well as other potentially interested parties as identified by Representative Counsel.
15. Finally, the Short- and Long-Form Notices will also be posted on a dedicated settlement website which has been created at [www.ontariocashstoresettlement.com](http://www.ontariocashstoresettlement.com) and [www.ontariocashstoresettlement.ca](http://www.ontariocashstoresettlement.ca), as well as on the website of Representative counsel at [www.harrisonpensa.com](http://www.harrisonpensa.com).

***Short-Form Notice***

16. The Notice Plan provides that the Short-Form Notice will be published in the "Life" section of a weekday edition of The Toronto Star and the National Post (National Edition.)
17. The Short-Form Notice will also be published in various Metroland Media newspapers and distributed in the geographical areas in Ontario where The Cash Store and Instaloans branches were formally located. Attached hereto and marked as **Exhibit "I"** is a copy of the "About Us" page from Metroland Media's website.
18. More specifically, the Short-Form Notice will be published in more than 20 towns and cities across Ontario where Metroland Media newspapers are distributed. It will be published under its own heading "Ontario Cash Store/Instaloans Payday Loan

Settlement” and will appear in various sections of the Metroland Media newspapers, depending on the edition. I believe that by publishing in select Metroland Media newspapers whose geographical areas correspond with the former locations of The Cash Store and Instalogs, the Short-Form Notice will have strong exposure in a medium which is well-suited and targeted to the population of affected borrowers in Ontario.

***Long-Form Notice***

19. The Long-Form Notice will be distributed by the Consumer Council of Canada, which is a national, not-for-profit organization. The Consumer Council of Canada works collaboratively with consumers, business, and government in support of consumers' rights and responsibilities, seeking an efficient, equitable, effective, and safe marketplace for consumers (the “Council”). The Council’s website receives more than 12,000 visits each year. Attached as **Exhibit “J”** is a copy of the “About Us” page from the Consumer Council of Canada’s website.
  
20. I am advised by Lindsay Merrifield, associate lawyer at Harrison Pensa, that on August 31, 2015, she spoke to Mr. Ken Whitehurst, Executive Director of the Council, who advised her that the Council will distribute the Long-Form Notice by:
  - a) posting a website link to the Notice on the Council’s Homepage;
  - b) posting the Notice under the “Class Action Notices” section of the “Council News” page of their website;
  - c) posting a website link to the Notice on the Council’s Facebook page; and
  - d) posting a website link to the Notice on the Council’s Twitter feed.

21. By posting a link to the Long-Form Notice on the various social media vehicles of the Council as described above, other Canadian consumer groups who “follow” the Consumers’ Council of Canada will also receive the Long-Form Notice.
22. The Long-Form Notice will be distributed by ACORN (Association of Community Organizations for Reform Now) Canada. ACORN Canada is an independent, national organization of low- and moderate-income families comprised of approximately 70,000 members. Attached hereto and marked as **Exhibit “K”** is a copy of the “About Us” page from ACORN Canada’s website.
23. Ms. Merrifield advises that on September 14, 2015, she received an email from Ms. Judy Duncan, National Director for ACORN Canada, who confirmed that the Long-Form Notice will be distributed by:
  - a) posting the Long-Form Notice under the “Campaigns – Fair Fees” section of their website; and
  - b) posting the Long-Form Notice on its Facebook page.
24. The Settlement Agreements provide that the costs of disseminating the Notices shall be paid from the settlement amount.
25. I believe that the Short- and Long-Form Notices, which are proposed to be published for the benefit of settlement class members, are fairly and reasonably constructed and ought to be approved.
26. I believe that the proposed Notice Plan, which utilizes print media including a press release, direct mailings, consumer organizations, social media and online websites, is fairly and reasonably constructed with a balance across various forms of media and has been constructed with the goal of reaching as many class members as possible. I believe Counsel expects the Short- and Long-Form Notices to achieve a fair and

reasonable level of exposure under the Notice Plan.

27. I make this affidavit in support of a motion to appoint Timothy Yeoman as Class Representative to the Class in the Directors and Officers Claim and in the Third-Party Lender Claim; to approve the Short- and Long-Form Notices; to approve the Notice Plan; and for no other or improper purpose.

**SWORN** before me at the City )  
of London, in the Province of )  
Ontario, this 23<sup>rd</sup> day of )  
September, 2015. )

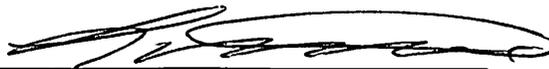


*A Commissioner, etc.*



**SARAH A. BOWDEN**

**This is EXHIBIT "A" referred to in the  
Affidavit of SARAH A. BOWDEN  
sworn before me, this 23<sup>rd</sup> day of September, 2015**



***A Commissioner, etc.***



LP #5, McCann Family Holding Corporation, no other party appearing although duly served as appears from the affidavit of service of Veronica de Leoz sworn May 12, 2014,

1) **THIS COURT ORDERS** that Timothy Yeoman is appointed as Class Representative in these proceedings for all class members in the Class Action comprised of all persons who entered into “payday loan” transactions (including “Basic Lines of Credit”) with Cash Store Financial (defined as The Cash Store Financial Services Inc., The Cash Store Inc., and Instalogs Inc.) in Ontario between September 1, 2011 and the date of judgment in the Class Action (the “Class”).

2) **THIS COURT ORDERS** that Harrison Pensa LLP is appointed as Representative Counsel to the Class Members in these proceedings, and Koskie Minsky LLP as agent to Harrison Pensa LLP (“**Representative Counsel**”).

3) **THIS COURT ORDERS** that Representative Counsel shall represent the interests of the Class in all aspects of these proceedings or any subsequent receivership or bankruptcy of the Applicants, without any obligation to consult or seek instructions from the Class, unless otherwise ordered by the Court.

4) **THIS COURT ORDERS** that the Class Representative and Representative Counsel shall not be liable for any act or omission as a result of their appointment or the fulfillment of their duties in carrying out the provisions of this order, save and except for claims based on gross negligence or wilful misconduct on their part, and that no action, application or other proceeding shall be taken, made, or continued against the Class Representative or Representative Counsel without leave of this Court first being obtained.

5) **THIS COURT ORDERS** that the Class Representative and Representative Counsel may seek the advice or direction of this Court at any time in connection with their appointment hereunder, upon notice to the Applicants and the Service List unless otherwise ordered by the Court.

6) **THIS COURT ORDERS** that the Class Representative and Representative Counsel may file a proof of claim on behalf of the Class in any claims process or other applicable process in these proceedings or any subsequent receivership or bankruptcy proceeding of the Applicants.

7) **THIS COURT ORDERS** that Representative Counsel shall be given notice of all motions in these proceedings, and that they shall be entitled to represent the Class in these proceedings without impairing the right of any individual Class member to retain and instruct counsel on his or her own behalf and without impairing the ability of Harrison Pensa as counsel to the Class to continue to act for the Class in the Class Action against any other non-Applicant defendants, including the continuation of proceedings to certify the Class Action against non-Applicant defendants.

8) **THIS COURT ORDERS** that the request for payment of the costs of the Class Representative and Representative Counsel in paragraph 4 of the Notice of Motion is adjourned to a date to be set by the Commercial List office on prior notice to the Service List.

ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

APR 1 3 2015

  
MORAWETZ, R.S.J.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36 AS AMENDED

Court File No. CV-14-10518-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF THE CASH STORE  
FINANCIAL SERVICES Inc., THE CASH STORE INC., TCS CASH STORE INC., INSTALOANS INC.,  
7252331 CANADA INC., 5515433 MANITOBA INC., 1693926 ALBERTA LTD DOING BUSINESS AS "THE  
TITLE STORE"

Applicants

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
Proceeding commenced at TORONTO

**ORDER**

**KOSKIE MINSKY LLP**  
20 Queen Street West, Suite 900  
Toronto, ON M5H 3R3

**Andrew J. Hatnay – LSUC No. 31885W**  
Tel: 416-595-2083 / Fax: 416-204-2872  
Email: ahatayn@kmlaw.ca

**James Harnum – LSUC No. 60459F**  
Tel: 416-542-6285/Fax: 416-204-2819  
Email: jharnum@kmlaw.ca

Agent for Harrison Pensa LLP, counsel to  
Timothy Yeoman (class plaintiff)

**This is EXHIBIT “B” referred to in the**

**Affidavit of SARAH A. BOWDEN**

**sworn before me, this 23<sup>rd</sup> day of September, 2015**

A handwritten signature in black ink, appearing to be "A. Bowden", written over a horizontal line.

*A Commissioner, etc.*

**IN THE MATTER OF THE CASH STORE FINANCIAL SERVICES INC. et. al.**  
**Court File No. CV-14-10518-00CL**

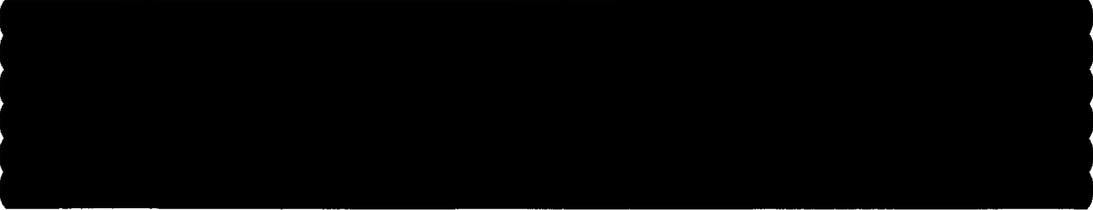
**Settlement Term Sheet**

As a global settlement of (i) all claims that have been or could be advanced by (a) the putative class action plaintiffs represented by Harrison Pensa and Koskie Minsky under a representation order granted by the CCAA court (collectively “**Representative Counsel**”), including without limitation, in the priority motion filed by Representative Counsel in the CCAA proceedings (the “**Priority Motion**”) and (b) the class action and putative class action plaintiffs represented by Hordo Bennett Mounteer LLP ((a) and (b) together, the “**CCAGs**”), as against the Cash Store, the secured first lien lenders under the Credit Agreement (collectively, the “**First Lien Lenders**”), and/or the holders of the secured second lien notes issued by Cash Store under the Indenture (collectively, the “**Noteholders**”), (ii) all claims that have been or could be asserted by the CCAGs against any of J. Murray McCann, 0678786 B.C. Ltd., 8028702 Canada Inc. (“**802**”), or any of their affiliated entities (collectively, “**McCann Entities**”) as third party lenders to Cash Store, and (iii) all claims that have been or could be asserted by Cash Store or the Monitor against the McCann Entities as third party lenders to Cash Store ((i), (ii) and (iii) above being, collectively, the “**Settled Claims**”), the undersigned parties hereto (the “**Settlement Parties**”) agree as follows:

1. \$1.45MM of the recoveries that would otherwise be available to the First Lien Lenders (excluding 424) and the Noteholders from a distribution of the remaining assets of Cash Store to be made pursuant to the Distribution Motion to be filed (as discussed and defined below) will be re-allocated on approval of the Distribution Motion to the CCAGs in satisfaction, release and settlement of the Settled Claims. The \$1.45MM will be paid to Harrison Pensa in trust and funded from the distributions to be made to the First Lien Lenders (excluding 424) and the Noteholders as follows:
  - (a) \$250K from the distribution to Coliseum as a first lien lender;
  - (b) \$500K from the distribution to 802 as a first lien lender (which includes an allocation of \$250K on account of the Harrison Pensa CCAG claim filed against the McCann Entities); and
  - (c) \$700K from the distribution to the Noteholders.
2. Osler or Goodmans will promptly advise the CCAA Court on notice to the full service list that the Priority Motion has been settled and that the hearing dates currently reserved for July 28-29, 2015 (the “**July Hearing Dates**”) will now be used to hear a distribution motion to be filed by the Cash Store in advance of the July Hearing Dates, for hearing on the July Hearing Dates, which will distribute the available assets of Cash Store to its creditors, and incorporate and approve the settlement distributions set out herein (the “**Distribution Motion**”). The Settlement Parties will support, and will not directly or indirectly contest, oppose or seek to delay in any way the hearing of the Distribution Motion on the July Hearing Dates. For greater clarity, the Settlement Parties shall not directly or indirectly contest, oppose or seek to delay any distributions to the First Lien Lenders (other than 424) or the Noteholders at the Distribution Motion or otherwise of any

estate funds other than the amounts that are required to be paid to the CCAGs as contemplated herein.

3. The cash designated by the Monitor as “Ontario Restricted Cash” in the amount of approximately \$1,927,959.00 (the “**Segregated Cash**”) representing costs of borrowing that the Monitor reports was collected by Cash Store after February 12, 2014 shall be distributed to the CCAGs, provided however that:
  - (a) approximately \$1.4MM of the Segregated Cash (or such other amount to be confirmed by the Monitor relating to Ontario loans) will be distributed to Harrison Pensa, in trust for Ontario class members, subject to the approval of the Ontario payday lending regulator to the extent that such approval may be required;
  - (b) Cash Store and the Monitor shall make commercially reasonable efforts to obtain the approval of the Ontario payday lending regulator to the proposed distribution of the Segregated Cash, to the extent that such approval may be required, which efforts shall begin promptly after the execution hereof;
  - (c) approximately \$0.5MM of the Restricted Cash (or such other amount to be confirmed by the Monitor relating to non-Ontario loans) will be distributed to the non-Ontario CCAGs, subject to the approval of the Ontario payday lending regulator to the extent that such approval may be required;
  - (d) as soon as reasonably practicable following court approval of the Distribution Motion and subject to compliance with all applicable privacy and other legislation, Cash Store shall provide to the CCAGs all relevant particulars respecting the borrowers from whom the Segregated Cash was collected, including names, contact information and particulars of their payday loan transactions, in each case to the extent known or within the control of Cash Store;
  - (e) in the event that a response from the Ontario payday lending regulator for the matters contemplated in this paragraph is not obtained in advance of the July Hearing Dates, then:
    - (i) the Monitor shall continue to hold the Segregated Cash in escrow pending (A) receipt of approval or confirmation of non-opposition from the Ontario payday lending regulator or, (B) in the event that no response from the Ontario payday lending regulator is obtained prior to September 18, 2015, an order of the CCAA Court on notice to all of the Settlement Parties and the Ontario payday lending regulator regarding the distribution of the Segregated Cash obtained in accordance with paragraph 3(e)(ii);
    - (ii) Representative Counsel shall be entitled to bring a motion in the CCAA proceedings seeking entitlement to distribute the Segregated Cash as contemplated herein and the Settlement Parties will not seek to delay the hearing of that motion, which motion may be brought only after September 18, 2015 on notice to all the Settlement Parties and the Ontario payday lending regulator; and

- (f) in any event, the payment of all or any portion of the Segregated Cash to the CCAGs is not a condition precedent to any aspect of the settlement set forth herein.
4. As further consideration for the satisfaction, release and settlement of the Settled Claims, 10% of any net distributions to be made by Cash Store (or any successor thereto, or receiver appointed in respect thereof, or litigation trust established in respect thereof) in respect of the litigation commenced by Thornton Grout Finnigan on behalf of Cash Store against KPMG and Cassels Brock (the “**LT Eligible Claims**”) shall be paid to Harrison Pensa in trust for the CCAGs to be divided as agreed by them up to an aggregate amount of \$3MM, and 5% of any net distributions on the LT Eligible Claims thereafter.
  5. \$150K in costs shall be paid to Harrison Pensa in respect of the costs of advisors to Harrison Pensa in the CCAA proceedings, with the allocation of such \$150K to be determined among Coliseum, 802 and the Ad Hoc Committee from their respective distributions.
  6. As soon as practicable following court approval of the settlement that is subject to the Distribution Motion and subject to compliance with all applicable privacy and other legislation, Cash Store shall provide any relevant information or particulars concerning class members and their payday loan transactions to the CCAGs in order to assist in executing notice, settlement administration and settlement distribution programs by the CCAGs.
  7. The distribution of the CCAG settlements are subject to rules and requirements of applicable class proceedings legislation, provided that no such rule or requirement constitutes a pre-condition to the settlement of the Settled Claims reached herein among the Settlement Parties.
  8. Coliseum, the McCann Entities and the Noteholders shall receive a full release in respect of any and all claims that have been or could be brought against them by the CCAGs and Cash Store or on their behalf, as the case may be, and the settlement parties agree that no further action will be commenced by any settlement party against another settlement party. No other releases shall be granted to any director and/or officer of Cash Store or to any other Cash Store third party lender by this agreement and settlement of the Settled Claims.
  9. The McCann Entities stipulate that it is their understanding and assertion, consistent with the Monitor's understanding as outlined in subparagraph 37(e) of the Second Report of the Monitor dated April 27, 2014, that payday loan contracts in Ontario were not made in the name of any McCann Entity as lender during the class period stated in the Ontario class actions, but rather were made by another Third Party Lender and later transferred to a McCann Entity. Mr. McCann shall provide reasonable assistance to the Ontario plaintiffs in the Ontario class proceedings as against the other Cash Store Third Party Lenders conducting business in Ontario during the relevant time.
  10. 



11. The parties agree that DCPI shall not be offered a global release of claims against it where such release includes a release of the litigation commenced against DCPI by Hordo Bennett Mounteer LLP unless DCPI pays value to Hordo Bennett Mounteer LLP that is acceptable to Hordo Bennett Mounteer LLP.
12. In the event that a settlement with DCPI is not obtained before June 30, 2015 or such other date as may be agreed among the CCAGs, Cash Store and the Ad Hoc Committee, then (i) the cooperation referenced in paragraph 10 above and the allocation set out therein shall no longer apply, (ii) the Distribution Motion will proceed on the July Hearing Dates with no DCPI global settlement, and (iii) the parties will thereafter remain free to independently pursue their respective claims against DCPI and paragraphs 10 and 11 above shall cease to have any force or effect.
13. No aspect of this settlement is contingent on any settlement with DCPI being reached.
14. The parties agree that the Distribution Motion shall not provide any form of release for 424 in respect of any claims that any settlement party may have against 424. The settlement parties agree that the Distribution Motion shall seek to set aside and escrow all principal and interest due to 424 as a first lien lender, pending resolution of any claims any settlement party may have against 424. No aspect of this settlement is contingent on the CCAA Court agreeing to escrow any such amounts due to 424 as a first lien lender. Notwithstanding anything in this term sheet, all parties remain free to pursue any and all claims as against 424, including without limitation, the matters asserted in the Priority Motion as against 424.
15. The parties agree to reversion of any undistributed funds paid pursuant to this settlement agreement in settlement of the Priority Motion, as follows:
  - (a) The CCAGs agree to distribute all funds paid to them under this settlement agreement to their respective class members and putative class members pursuant to plans of distribution approved by the court, net of notice, agent and administrative costs and contingency or other legal fees (subject to court approval), disbursements, and applicable taxes payable to them in respect of same;

- (b) In the event that any funds paid pursuant to this settlement agreement in settlement of the priority motion that are to be distributed to class members and putative class members cannot be so distributed (due to distribution cheques remaining uncashed, inability to find eligible class members and putative class members or any other reason whatsoever) following the conclusion of the settlement distribution processes employed in the consumer class action cases, the parties agree to consult with one another in a good faith attempt to reach agreement as to how such undistributed funds are to be allocated and, if no agreement regarding such allocation can be reached within 30 days (or such later date as the parties may agree), then the parties shall seek direction from the CCAA court regarding how such funds are to be allocated and shall provide notice to all interested parties of such hearing;
  - (c) The decision of the CCAA court on the allocation of undistributed funds if any shall be final and binding on the parties;
  - (d) The foregoing matters shall be reflected in the order approving the Distribution Motion; and
  - (e) For clarity, except with respect to the foregoing matters, no party other than the CCAGs shall have standing in respect of the notice and distribution processes to be proposed by the courts for approval and to be implemented by the CCAGs or any administration firm acting on their behalf.
16. The CCAGs have agreed, or will agree, on the allocation between them of any amounts payable to the CCAGs under this settlement. No aspect of this settlement by the CCAGs with the other settlement parties is contingent on any aspect of any such allocation matters as between the CCAGs, both of whom irrevocably accept the settlement terms established hereunder with all of the other settlement parties.
17. These settlement terms will be reflected in definitive materials to be filed with the CCAA Court for the Distribution Motion and the July Hearing Dates, which materials shall be in form and substance reasonably acceptable to all of the Settlement Parties.
18. This agreement may be executed in any number of counterparts and may be delivered by means of facsimile or electronic transmission in portable document format, each of which shall be deemed to be an original, but all of which together will constitute one and the same instrument.
19. It is acknowledged by the Settlement Parties that the Chief Restructuring Officer of Cash Store shall have no personal liability whatsoever for the execution of this agreement, any matter contained in this agreement or any of the covenants or provisions contained herein; provided however that the Chief Restructuring Officer of Cash Store shall exercise the powers granted to the Chief Restructuring Officer under the Initial Order in Cash Store's CCAA proceedings to cause Cash Store to perform its obligations set out herein.
20. No admissions or liability or priority are made, and no defences are waived, as any part of this settlement.

21. Paragraph 10 of this term sheet is strictly confidential and shall not be disclosed by any of the Settlement Parties without the express prior written consent of all other Settlement Parties.

**[Remainder of page intentionally blank]**

Dated this 19<sup>th</sup> day of June, 2015.

**IN WITNESS OF WHICH** the parties have executed this Term Sheet.

**1511419 ONTARIO INC., on behalf of itself  
and its Canadian affiliates**

By: William E. Aziz  
Name: William E. Aziz  
Title: Chief Restructuring Officer

**HARRISON PENZA LLP**

By: \_\_\_\_\_  
Name: Jonathan Foreman  
Title: Partner

**HORDO BENNETT MOUNTEER LLP**

By: \_\_\_\_\_  
Name: Paul Bennett  
Title: Partner

**KOSKIE MINSKY LLP**

By: \_\_\_\_\_  
Name: Andrew Hatnay  
Title: Partner

**GOODMANS LLP, on behalf of Ad Hoc  
Committee of Noteholders**

By: \_\_\_\_\_  
Name: Brendan O'Neill  
Title: Partner

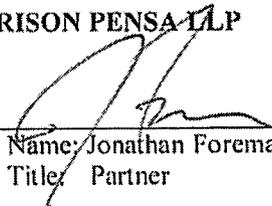
Dated this 19<sup>th</sup> day of June, 2015.

IN WITNESS OF WHICH the parties have executed this Term Sheet.

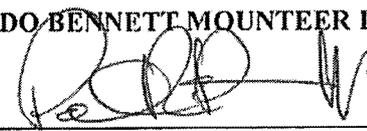
**1511419 ONTARIO INC., on behalf of itself  
and its Canadian affiliates**

By: \_\_\_\_\_  
Name: William E. Aziz  
Title: Chief Restructuring Officer

**HARRISON PENSE LLP**

By:  \_\_\_\_\_  
Name: Jonathan Foreman  
Title: Partner

**HORDO BENNETT MOUNTEER LLP**

By:  \_\_\_\_\_  
Name: Paul Bennett  
Title: Partner

**KOSKIE MINSKY LLP**

By: \_\_\_\_\_  
Name: Andrew Hatnay  
Title: Partner

**GOODMANS LLP, on behalf of Ad Hoc  
Committee of Noteholders**

By: \_\_\_\_\_  
Name: Brendan O'Neill  
Title: Partner

Dated this 19<sup>th</sup> day of June, 2015.

**IN WITNESS OF WHICH** the parties have executed this Term Sheet.

**1511419 ONTARIO INC., on behalf of itself  
and its Canadian affiliates**

By: \_\_\_\_\_  
Name: William E. Aziz  
Title: Chief Restructuring Officer

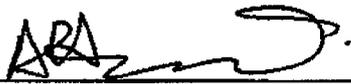
**HARRISON PENZA LLP**

By: \_\_\_\_\_  
Name: Jonathan Foreman  
Title: Partner

**HORDO BENNETT MOUNTEER LLP**

By: \_\_\_\_\_  
Name: Paul Bennett  
Title: Partner

**KOSKIE MINSKY LLP**

By:  \_\_\_\_\_  
Name: Andrew Hatnay  
Title: Partner

**GOODMANS LLP, on behalf of Ad Hoc  
Committee of Noteholders**

By: \_\_\_\_\_  
Name: Brendan O'Neill  
Title: Partner

Dated this 19<sup>th</sup> day of June, 2015.

IN WITNESS OF WHICH the parties have executed this Term Sheet.

**1511419 ONTARIO INC., on behalf of itself  
and its Canadian affiliates**

By: \_\_\_\_\_  
Name: William E. Aziz  
Title: Chief Restructuring Officer

**HARRISON PENZA LLP**

By: \_\_\_\_\_  
Name: Jonathan Foreman  
Title: Partner

**HORDO BENNETT MOUNTEER LLP**

By: \_\_\_\_\_  
Name: Paul Bennett  
Title: Partner

**KOSKIE MINSKY LLP**

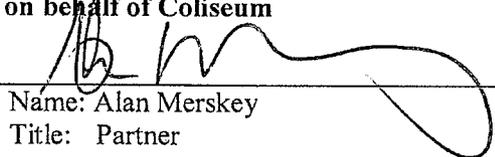
By: \_\_\_\_\_  
Name: Andrew Hatnay  
Title: Partner

**GOODMANS LLP, on behalf of Ad Hoc  
Committee of Noteholders**

By: \_\_\_\_\_  
Name: Brendan O'Neil  
Title: Partner

**NORTON ROSE FULBRIGHT CANADA  
LLP, on behalf of Coliseum**

By: \_\_\_\_\_

  
Name: Alan Merskey  
Title: Partner

**BENNETT JONES LLP, on behalf of all  
McCann entities**

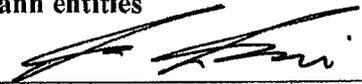
By: \_\_\_\_\_

Name: Jonathan Bell  
Title: Associate

**NORTON ROSE FULBRIGHT CANADA  
LLP, on behalf of Coliseum**

By: \_\_\_\_\_  
Name: Alan Merskey  
Title: Partner

**BENNETT JONES LLP, on behalf of all  
McCann entities**

By:  \_\_\_\_\_  
Name: Jonathan Bell / *Ilan Ishai*  
Title: Associate

**This is EXHIBIT "C" referred to in the**

**Affidavit of SARAH A. BOWDEN**

**sworn before me, this 23<sup>rd</sup> day of September, 2015**

A handwritten signature in black ink, appearing to be "A. Bowden", written over a horizontal line.

*A Commissioner, etc.*

**SETTLEMENT AGREEMENT**

Among:

1511419 ONTARIO INC., formerly known as THE CASH STORE FINANCIAL SERVICES INC.  
1545688 ALBERTA INC., formerly known as THE CASH STORE INC.  
1152919 ALBERTA INC, formerly known as INSTALOANS INC.  
5515433 MANITOBA INC.  
986301 ALBERTA INC., formerly known as TCS CASH STORE INC.  
7252331 CANADA INC.  
1693926 ALBERTA INC., formerly doing business as “The Title Store”,  
(collectively, “Cash Store”)

-and-

DIRECTCASH PAYMENTS INC.  
DIRECTCASH MANAGEMENT INC. (in its own capacity and as general partner of the following  
three partnerships)  
DIRECTCASH ATM PROCESSING PARTNERSHIP  
DIRECTCASH ATM MANAGEMENT PARTNERSHIP  
DIRECTCASH CANADA LIMITED PARTNERSHIP  
DIRECTCASH BANK  
DIRECTCASH ACQUISITION CORP.  
DIRECTCASH MANAGEMENT UK LTD.  
DIRECTCASH MANAGEMENT AUSTRALIA PTY LTD.  
(collectively, “DirectCash”)

-and-

HARRISON PENZA LLP as counsel to the proposed representative plaintiff in *Yeoman v. The Cash Store Financial et. al.* (ONSCJ No. 7908/12 CP) (the “Ontario Class Action” and the “Ontario Class Action Plaintiffs”) and KOSKIE MINSKY LLP as agent for Harrison Pensa LLP

-and-

BENNETT MOUNTEER LLP and CUMING & GILLESPIE as co-counsel on behalf of the proposed representative plaintiffs in *Stewart v. DirectCash Payments Inc. et al.* (BCSC No. 154924), *Efthimiou v. The Cash Store et al.* (ABQB File No. 1201-118160), *Ironbow v. The Cash Store Financial Services Inc. et al.* (SKQB No. 1453), *Rehill v. The Cash Store et al.* (MBQB No. C112-01-80578) and on behalf of the representative plaintiff in *Meeking v. The Cash Store Inc. et al.* (MBQB No. C1110-01-66061) (collectively, the “Western Canada Class Actions” and the “Western Canada Class Action Plaintiffs”)

Dated September 20, 2015

**1. PURPOSE**

The purpose of this settlement agreement (the “Settlement Agreement”) is to set out the terms of a settlement and release, which release shall become effective as of the Effective Date (as defined below),

of (i) any claims that were made or that could be made by Cash Store, the Ontario Class Action Plaintiffs or the Western Canada Class Action Plaintiffs against DirectCash and (ii) any claims that were made or that could be made by DirectCash against Cash Store. For purposes of this Settlement Agreement, any references to Cash Store shall include all of its present and former directors, officers and agents (solely in their capacity as agents of Cash Store), and their successors and assigns, and any references to DirectCash shall include all of its present and former directors, officers and agents (solely in their capacity as agents of DirectCash), and their successors and assigns.

## 2. COURT APPROVAL

On April 14, 2014, Cash Store obtained protection from creditors pursuant to an initial order made by the Ontario Superior Court of Justice (Commercial List) (the "**Court**") pursuant to the CCAA, which initial order was amended and restated on April 15, 2014 (as amended and restated, the "**Initial Order**"). Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. (the "**Monitor**") as monitor in connection with the CCAA proceedings.

The terms of the Settlement Agreement are subject to the satisfaction of all of the following conditions precedent:

- (a) the approval of the Court of this Settlement Agreement (which may occur as part of the Plan of Compromise and Arrangement (the "**Plan**") to be approved under the Sanction Order (as defined below);
- (b) all conditions of the CCAA Plan being satisfied or waived, including (i) the approval of the Plan by the requisite majority of creditors, and (ii) the approval of the DirectCash Release (as defined below); and
- (c) the Sanction Order and the Class Action Approval Orders (as defined below) having been granted and being free of all appeals, and applications to vary or set aside,

whereupon, subject to such conditions precedent being satisfied or waived, the terms of the Settlement Agreement, the Plan, the Sanction Order and the Class Action Approval Orders shall be binding on Cash Store, DirectCash, the Ontario Consumer Class Action Plaintiffs and the Western Canada Class Action Plaintiffs (collectively, the "**Class Action Plaintiffs**") and their respective successors and assigns. Cash Store, DirectCash and the Class Action Plaintiffs shall govern themselves in accordance with this Settlement Agreement unless and until the Court orders that this Settlement Agreement is not approved.

The parties agree to work collaboratively to obtain as promptly as practicable Court approval of the Plan, which includes an approval of this Settlement Agreement and the settlements contemplated herein, the Settlement Payment (as defined below), the DirectCash Release and the Cash Store Release (as defined below) pursuant to a sanction order of the CCAA Court (the "**Sanction Order**"), including any additional approvals required from the class action courts overseeing the Ontario Class Action and the Western Canada Class Actions, as necessary (collectively, the "**Class Action Courts**" and the "**Class Action Approval Orders**"). The form and substance of the Plan, the Sanction Order and any Class Action Approval Orders to be submitted for court approval shall be satisfactory to each of the parties hereto (including relevant matters of notice and service of materials), acting reasonably and consistently with this Settlement Agreement, as and to the extent that the Plan, the Sanction Order and any Class Action Approval Orders concern the matters set forth in this Settlement Agreement and the settlements contemplated hereby.

### 3. NO ADMISSION OF LIABILITY

Cash Store, DirectCash and the Class Action Plaintiffs acknowledge and agree that neither Cash Store nor DirectCash are making any admission of liability or wrongdoing with respect to any conduct or matter, including any matters referenced in this Settlement Agreement or any conduct relating to the Agreements described herein. Any and all liability or wrongdoing is expressly denied.

### 4. PRE-EXISTING AGREEMENTS

Cash Store and Direct Cash are (or have been) parties to the following agreements:

- (a) Cash Card Merchant Agreement among The Cash Store Inc., DirectCash ATM Processing Partnership and DirectCash ATM Management Partnership (collectively, "**DC ATM**") dated April 28, 2005, as amended by amendment dated February 28, 2013;
- (b) ATM Agreement among Cash Store Financial Services Inc. ("**Cash Store Financial**"), DC ATM, and DirectCash Acquisition Corp. dated June 29, 2010, as amended by amendment dated November 22, 2013;
- (c) Debit Terminal and Prepaid Products Agreement among Rentcash Inc. (a predecessor of Cash Store Financial) ("**Rentcash**") and DC ATM dated July 21, 2005;
- (d) PAD Payment Management Agreement between Cash Store Financial (Instaloans Collection Centre) and DirectCash ATM Processing Partnership dated July 10, 2013;
- (e) PAD Payment Management Agreement between Cash Store Financial (Cash Store Collection Centre) and DirectCash ATM Processing Partnership dated July 10, 2013;
- (f) PAD Payment Management Agreement between The Title Store and DirectCash ATM Processing Partnership dated September 25, 2012;
- (g) PAD Payment Management Agreement between Cash Store Financial (NCC Manitoba-National Collection Company) and DirectCash ATM Processing Partnership dated November 30, 2011;
- (h) PAD Payment Management Agreement between Cash Store Financial (NCC Manitoba-National Collection Company; Loans Alberta login) and DirectCash ATM Processing Partnership dated December 20, 2011;
- (i) PAD Payment Management Agreement between Cash Store Financial (NCC Manitoba-National Collection Company; New NCC MB) and DirectCash ATM Processing Partnership dated December 20, 2011;
- (j) Agency Agreement among Cash Store Financial, The Cash Store Inc., TCS Cash Store Inc., Instaloans Inc., 5515433 Manitoba Inc., and DirectCash Bank dated September 1, 2009 as amended by amendment dated February 28, 2013;
- (k) The E-Transfer Agreement between DirectCash ATM, Cash Store Financial and The Cash Store Inc. dated August, 2013;

- (l) Any and all ongoing custom software development agreements, ATM enhancement agreements, interac functionality and e-transfer development agreements and any addenda thereto;
- (m) Any and all guarantees given to DirectCash by Cash Store;
- (n) Any and all incentive agreements or programs between DirectCash and Cash Store, including the incentive letter issued by DirectCash Payments Inc. to Cash Store Financial dated December 12, 2013;
- (o) Indemnity Agreement dated April 22, 2005 given by Rentcash in favour of Card Capital Inc., Teal Financial (2003) Corp., DirectCash ATM Processing Partnership, DirectCash ATM Management Partnership, DirectCash Limited Partnership and DirectCash Management Inc. and their directors and officers, and any similar, supplementary or additional such indemnities;
- (p) Sale of Assets letter agreement between Tembo Telecom Inc. and DirectCash Management Inc. dated August 31, 2009;
- (q) Any agreement pursuant to which DirectCash holds the payment protection plan funds payable to the Applicants by Echelon General Insurance Company or any of its affiliates;
- (r) Any other agreement pursuant to which DirectCash holds funds payable to the Applicants from any other person or entity; and
- (s) Any other letter agreement, email agreement, oral agreement, or other agreement between the Applicants or any of their affiliates and DirectCash or any of their affiliates relating to the Applicant's and their affiliates' businesses

(collectively, the "**Agreements**")

The parties agree that if the list of Agreements set out above is not exhaustive, this Settlement Agreement is intended to and shall address any agreements not specifically listed, including any agreements among any affiliates of Cash Store or any affiliates of DirectCash that are not party to this Settlement Agreement, and any such agreements shall be included in the defined term "Agreements" hereafter.

## **5. PAYMENT AND SETTLEMENT COMMITMENTS BY DIRECTCASH**

Subject to the terms and conditions hereof and the terms and conditions of the Plan, DirectCash shall pay \$14.5 million (the "**Settlement Amount**") to settle any and all claims of Cash Store and/or the Class Action Plaintiffs against DirectCash and to obtain the DirectCash Release (defined below), as follows:

- (a) Pursuant to the payment and distribution provisions of the Plan, DirectCash shall pay \$4.5 million to Cash Store to settle any and all claims of any nature whatsoever, howsoever or whenever arising, that Cash Store may have against the DirectCash Releasees, including, without limitation, in respect of the Agreements, in respect of any security deposits held by DirectCash, and in respect of certain amounts that DirectCash has set-off, deducted or otherwise withheld from payments due to Cash Store under the Agreements or otherwise in relation to amounts purportedly owing to DirectCash by Cash

Store or its foreign affiliates. It is further agreed that all claims that DirectCash may have against Cash Store in respect of the Agreements or otherwise have been considered in arriving at the Settlement Amount and that the Plan shall release Cash Store from and all such claims and any other claims, howsoever arising, which DirectCash has made or could make against Cash Store (the "**Cash Store Release**").

- (b) Pursuant to the payment and distribution provisions of the Plan, DirectCash shall pay \$6.15 million to Harrison Pensa LLP to settle any and all claims of any nature whatsoever, howsoever arising, against the DirectCash Releasees, that were raised or that could have been raised in or by the Ontario Class Action.
- (c) Pursuant to the payment and distribution provisions of the Plan, DirectCash shall pay \$3.85 million to Bennett Mounteer LLP to settle any and all claims of any nature whatsoever, howsoever arising, against the DirectCash Releasees, that were raised or that could have been raised in or by the Western Canada Class Actions.

The Settlement Amount shall be paid without defence, recoupment, set-off or counterclaim, free of any restriction or condition, and paid by wire transfer of immediately available funds to the Monitor on the following dates: (i) \$2 million shall be paid within two (2) Business Days of the date hereof; (ii) \$10 million shall be paid within two (2) Business days of the day that all applicable appeal periods related to the Sanction Order and any Class Action Approval Orders have expired and any appeal or motion for leave to appeal has been fully disposed of with no further right to appeal; and (iii) \$2.5 million shall be paid on or before May 1, 2016.

Notwithstanding the foregoing, the parties will agree, acting reasonably, to such protocols as are necessary to ensure that the closing of all transactions contemplated hereunder to occur on the Effective Date do occur on the Effective Date, including advancing the amount contemplated in item (ii) above in advance of the Effective Date.

All amounts paid by DirectCash in respect of the Settlement Amount shall be held in an interest bearing trust account maintained by the Monitor and distributed in accordance with the provisions of the Plan and any applicable plans of distributions approved under applicable Class Action Approval Orders, and only in the event that all conditions precedent hereunder and thereunder have been satisfied shall such amounts be distributed in accordance with the Plan. In all other events any amounts paid by DirectCash hereunder shall be returned to DirectCash. In all events any interest earned on these amounts shall be remitted to DirectCash.

Within fourteen days after the Effective Date, and subject to appropriate arrangements between Harrison Pensa LLP, Bennett Mounteer LLP, and Cuming & Gillespie LLP and DirectCash to address any applicable confidentiality and privacy issues, DirectCash shall provide the Information to Harrison Pensa LLP, and Bennett Mounteer LLP, or Cuming & Gillespie LLP and their distribution agent(s) as provided for below. In this regard:

- (a) "**Information**" shall mean, with respect to any person of which Direct Cash is aware that had a card funded, or deposit made, through the Cash Store and Loansalberta Inc. during the period of time described in the Class Actions: (i) the names, addresses, phone numbers and email addresses of such persons (the "**Contact Information**"), and (ii) the first day a card was loaded, the last day it was active or was reduced to a nil balance, the total value loaded in respect of a card, and the number of loads made to that card (the "**Transaction Data**");

(b) the Information provided: (i) shall be solely for the purpose of assisting in executing notice, settlement administration and settlement distribution programs for the benefit of class members and for no other purpose; (ii) shall be provided in excel or other format to be agreed upon with a supporting explanation respecting the manner in which the data is organized; (iii) related to the Contact Information - but not the Transaction Data - shall be provided to Harrison Pensa LLP, Bennett Mounteer LLP, or Cuming & Gillespie LLP; (iv) only the respective distribution agents of Harrison Pensa LLP and Bennett Mounteer LLP, or Cuming & Gillespie LLP shall receive both of the Contact Information and the Transaction Data. Harrison Pensa LLP and Bennett Mounteer LLP, or Cuming & Gillespie LLP may only review the Transaction Data in order to advise or assist the distribution agent with the claims process; (v) shall be categorized according to the province where the person's address indicates they were located or where a transaction was entered into; (vi) shall be provided in one package with no further or other deliveries subject only to a right by Harrison Pensa LLP or Bennett Mounteer LLP and Cuming Gillespie LLP or the duly appointed distribution agent(s) of them to seek and obtain reasonable explanation in respect of the Information; (vii) shall be compiled and provided in good faith respecting accuracy and completeness but without any representation or warranty as to the same; and (viii) shall be destroyed when the purposes set forth in item (i), above, are completed (with the relevant distribution agent providing a certificate to this effect to DirectCash);

(c) communications issued by the distribution agents shall only be for the purposes outlined above and shall: (i) not mention DirectCash unless legally required; and (ii) otherwise be acceptable to DirectCash, acting reasonably; and

(d) any distribution agents retained by Harrison Pensa LLP, Bennett Mounteer LLP, or Cuming Gillespie LLP shall provide a written acknowledgement to DirectCash that they are bound by the provisions set forth in this paragraph.

## **6. TERMINATION OF AGREEMENTS**

The Parties acknowledge and agree that the Agreements have been terminated effective July 28, 2015 for the sole purpose of calculating damages owing by Cash Store in favour of DirectCash, all of which amounts are included in the consideration exchanged hereunder.

Other than the Settlement Amount, no payments shall be made by any party in respect of the termination of the Agreements.

## **7. PLAN OF ARRANGEMENT**

### **(a) DirectCash Release**

In consideration of the payment of the Settlement Amount, Cash Store will obtain Court and stakeholder approval of a Plan that provides for a release in favour of DirectCash, pursuant to the Plan and the Sanction Order, in substantially the following form:

At the Effective Time, (i) all DirectCash Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled, barred and deemed satisfied and extinguished against each of the DirectCash Releasees, (ii) section [●] [which shall be the Injunction described below] shall apply to the DirectCash Releasees, and (iii) each of the Class Action Plaintiffs and Cash Store shall also release the DirectCash Releasees from any DirectCash Claims that has been

or could be asserted by any of them (such releases and injunctions as they apply to the DirectCash Releasees, the “**DirectCash Release**”);

The Plan shall, for the purposes of the DirectCash Release, contain definitions in substantially the following form:

“**DirectCash Releasees**” means DirectCash and all of its present and former shareholders, parents, partners, partnerships, subsidiaries, affiliates and predecessors and each of their present and former directors, officers, servants, agents, employees, insurers, contractors, consultants and each of the successors and assigns of any of the foregoing.

“**DirectCash Claims**” means any right or claim of any person (including, without limitation, the Class Action Plaintiffs, Cash Store and any claims that could be brought on behalf of Cash Store by the Monitor, the Chief Restructuring Officer or any other representative of Cash Store, and affiliates of Cash Store (including, without limitation, The Cash Store Financial Limited (06773351), CSF Insurance Services Limited, The Cash Store Limited (06773354), The Cash Store Financial Corporation, The Cash Store Australia Holdings Inc. and The Cash Store Pty Ltd. (Acn107205612)), that may be asserted or made in whole or in part against any DirectCash Releasee, in any way relating to that person’s relationship, business, affairs or dealings with Cash Store or DirectCash in respect of Cash Store, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, whether at law or in equity, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including, any legal, statutory, equitable or fiduciary duty) or by reason of any equity interest, right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and together with any security enforcement costs or legal costs associated with any such claim, and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present or future, known or unknown, by guarantee, indemnity, warranty, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature including any claim arising from or caused by the breach, termination, disclaimer, resiliation, assignment or repudiation of any contract, lease, cardholder agreement, service agreement, account agreement, or other agreement with Cash Store and/or its customers, whether written or oral, any claim made or asserted through any affiliate, subsidiary, associated or related person, or any right or ability of any person to advance a claim for an accounting, reconciliation, contribution, indemnity, restitution or otherwise with respect to any matter, grievance, action (including the Ontario Class Action, the Western Canada Class Actions and any other class action or any proceeding before an administrative tribunal), cause or chose in action, whether existing at present or commenced in the future, including any security interest, charge, mortgage, deemed trust, constructive trust or other encumbrance in connection with any of the foregoing, provided however that, notwithstanding anything else in the Plan, none of the DirectCash Releasees shall be released pursuant to the Plan and/or the Sanction Order in respect of any claim by any person that is commenced with leave of the Court and based on a final judgment that a plaintiff suffered damages as a direct result and solely as a result of such plaintiff’s reliance on an express fraudulent misrepresentation made by a DirectCash director, officer or employee when such director, officer, or employee had actual knowledge that the misrepresentation was false (any such claim being a “**Non-Released Claim**”).

With respect to the reference to the Injunction in paragraph (a) above:

“**Injunction**” means the provision of the Plan that provides substantially as follows:

All persons are permanently and forever barred, stopped, stayed and enjoined, on and after the Effective Time, with respect to any and all DirectCash Claims by any such persons, from (i) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever (including, without limitation, any

judicial, arbitral, administrative or other forum) against the DirectCash Releasees; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against the DirectCash Releasees or their property; (iii) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits or demands, including without limitation, by way of contribution or indemnity or other relief, in common law, or in equity, breach of trust or fiduciary duty or under the provisions of any statute or regulation, or any proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in any judicial, arbitral, administrative or other forum) against any person who makes such a claim or might reasonably be expected to make such a claim, in any manner or forum, against the DirectCash Releasees or their property; or (iv) taking any action to interfere with the implementation or consummation of this Plan; provided, however, that the foregoing shall not apply to the enforcement of any obligations under this Plan or any obligations that are contemplated as surviving the Effective Date of this Plan.

With respect to the reference to “Effective Date” and “Effective Time” in the foregoing, these terms shall mean the date and time on which the Plan becomes effective.

With respect to the reference to “Class Actions” in the foregoing, this term shall be broadly defined to include the Ontario Class Action, the Western Canada Class Actions and any other class action that: (i) has already been commenced in respect of Cash Store naming DirectCash, (ii) has already been commenced in respect of DirectCash and not naming Cash Store in relation to the business of Cash Store and/or the DirectCash products offered by Cash Store or DirectCash in respect of Cash Store, and (iii) involves any future class action that may be (or may be purported to be) commenced in respect of the foregoing but such definition shall not include any claims made in the Ontario Class Action, the Western Canada Class Actions or any other class action in respect of Cash Store (except to the extent of any claims against the DirectCash Releasees in any such actions) unless otherwise agreed among Cash Store and the Class Action Plaintiffs.

Notwithstanding that the Plan and/or the Sanction Order will not provide a release of any Non-Released Claims, each of the Cash Store and the Class Action Plaintiffs hereby agrees that, subject to and as of the Effective Date, each of the Cash Store and the Class Action Plaintiffs shall have, and shall be deemed to have, hereby released all of the DirectCash Releasees of and from any and all Non-Released Claims and that, following the Effective Date, none of the Cash Store or any of the Class Action Plaintiffs shall have any ability to pursue a Non-Released Claim against any of the DirectCash Releasees.

**(b) Cash Store Release**

The Plan shall also provide that, from and after the Effective Time of the Plan, Cash Store and all of its present and former shareholders, parents, partners, partnerships, subsidiaries, affiliates and predecessors and each of their present and former directors, officers, servants, agents, employees, insurers, contractors, consultants and each of the successors and assigns of any of the foregoing shall be released from any and all claims that DirectCash has asserted or could assert against any of the foregoing, and that Direct Cash all of its present and former shareholders, parents, partners, partnerships, subsidiaries, affiliates and predecessors and each of their present and former directors, officers, servants, agents, employees, insurers, contractors, consultants and each of the successors and assigns of any of the foregoing, shall be enjoined from pursuing any such claims from and after the Effective Time of the Plan.

## **8. SUPPORT FOR THE PLAN**

The Parties hereto all covenant and agree to:

- (a) support Cash Store in obtaining as promptly as practicable Court approval of this Settlement Agreement, the Plan and the Sanction Order, and any Class Action Approval Orders, as and to the extent that the Plan, the Sanction Order and any Class Action Approval Orders concern the matters set forth in this Settlement Agreement and the settlements contemplated hereby;
- (b) execute any and all documents and perform any and all acts required by this Settlement Agreement and the settlement contemplated herein, including any consent, approval or waiver requested by Cash Store, acting reasonably;
- (c) oppose any action by any party that could interfere with, delay or impede the implementation of this Settlement Agreement, the Plan, or the granting and implementation of the Sanction Order or any other Class Action Approval Orders, as and to the extent that any such actions concern matters set forth in this Settlement Agreement and the settlements contemplated hereby; and
- (d) not take any actions or fail to take any actions that would be, in either case, inconsistent with this Settlement Agreement or the settlement contemplated herein or which would or be reasonably expected to interfere with, delay or impede (i) the implementation of this Settlement Agreement or the Plan, or (ii) the granting and implementation of the Sanction Order or any other Class Action Approval Orders, as and to the extent that any such actions concern matters set forth in this Settlement Agreement and the settlements contemplated hereby.

## **9. FURTHER ASSURANCES**

The parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the settlement and transactions contemplated by this Settlement Agreement and each party shall provide such further documents or instruments required by any other party as may be reasonably necessary or desirable to effect the purpose of this Settlement Agreement and carry out its provisions.

## **10. MISCELLANEOUS**

- (a) Currency - All dollar amounts expressed herein are in Canadian dollars except as specifically noted otherwise.
- (b) Headings – Headings of sections are inserted for convenience of reference only and do not affect the construction or interpretation of this Settlement Agreement.
- (c) Including – Where the word “including” or “includes” is used in this Settlement Agreement, it means “including (or includes) without limitation”
- (d) Number and Gender – Unless the context requires, words importing the singular include the plural and vice versa and words importing gender include all genders.

- (e) Severability – If, in any jurisdiction, any provision of this Settlement Agreement or its application to any party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions of this Settlement Agreement and without affecting the validity of enforceability of such provision in any other jurisdiction or without affecting its application to any other party or circumstance;
- (f) Time – Time is of the essence in the performance of the parties' respective obligations.

## **11. COUNTERPARTS**

This Settlement Agreement may be executed in counterparts, each of which shall be deemed to be an original and which together shall constitute one and the same agreement. Delivery of an executed original counterpart of a signature page of this Settlement Agreement by facsimile or electronic transmission shall be as effective as delivery of a manually executed original counterpart of this Settlement Agreement.

## **12. ENTIRE AGREEMENT**

This Settlement Agreement constitutes the entire agreement between the parties with respect to the matter herein. The execution of this Settlement Agreement has not been induced by, nor do any of the parties rely upon or regard as material, any representations, promises, agreements or statements whatsoever not incorporated herein and made a part hereof.

## **13. GOVERNING LAW**

This Settlement Agreement shall be governed by, and will be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in the Province of Ontario. The parties hereby attorn to the jurisdiction of the Superior Court of Justice in the Province of Ontario, in the CCAA proceeding, in respect of any dispute arising from this Settlement Agreement.

## **14. AMENDMENT**

No amendment, supplement, modification or waiver or termination of this Settlement Agreement and, unless otherwise specified, no consent or approval by any Party, is binding unless executed in writing by the party to be bound thereby.

## **15. EXPENSES**

Each of the parties shall pay their respective legal, accounting, and other professional advisory fees, costs and expenses incurred in connection with this Settlement Agreement and its implementation.

## **16. CHIEF RESTRUCTURING OFFICER**

It is acknowledged by DirectCash that the Chief Restructuring Officer shall have no personal liability whatsoever for the execution of this Settlement Agreement, any matter contained in this Settlement Agreement or any of the covenants or provisions contained herein; provided however that the Chief Restructuring Officer shall exercise the powers granted to the Chief Restructuring Officer under the Initial

Order to cause Cash Store to perform Cash Store's obligations under this Settlement Agreement and the Chief Restructuring Officer shall be bound by the DirectCash Release at the Effective Time of the Plan.

**17. MONITOR'S CAPACITY**

The parties acknowledge and agree that the Monitor, acting in its capacity as the Monitor of Cash Store in the CCAA Proceedings, will have no liability in connection with this Settlement Agreement (including in relation to any information or data provided by the Monitor in connection with this Settlement Agreement) whatsoever in its capacity as Monitor, in its personal capacity or otherwise; provided however that the Monitor shall exercise the powers granted to the Monitor under the Initial Order to perform the Monitor's obligations in respect of this Settlement Agreement and the Monitor shall be bound by the DirectCash Release at the Effective Time of the Plan.

***[Remainder of Page Intentionally Left Blank]***

**IN WITNESS OF WHICH the parties have executed this Settlement Agreement.**

**1511419 ONTARIO INC., formerly known as  
THE CASH STORE FINANCIAL SERVICE INC.**

By: William E. Aziz

Name: William E. Aziz  
Title: Chief Restructuring Officer

**1545688 ALBERTA INC., formerly known as  
THE CASH STORE INC.**

By: William E. Aziz

Name: William E. Aziz  
Title: Chief Restructuring Officer

**1152919 ALBERTA INC, formerly known as  
INSTALOANS INC.**

By: William E. Aziz

Name: William E. Aziz  
Title: Chief Restructuring Officer

**5515433 MANITOBA INC.**

By: William E. Aziz

Name: William E. Aziz  
Title: Chief Restructuring Officer

**986301 ALBERTA INC., formerly known as TCS  
CASH STORE INC.**

By: William E. Aziz

Name: William E. Aziz  
Title: Chief Restructuring Officer

**7252331 CANADA INC.**

By: William E. Aziz

Name: William E. Aziz  
Title: Chief Restructuring Officer

1693926 ALBERTA LTD.

By:

William E. Aziz

Name: William E. Aziz

Title: Chief Restructuring Officer

**DIRECTCASH PAYMENTS INC.**

By: 

Name: Jeffrey Smith  
Title: President & CEO

**DIRECTCASH MANAGEMENT INC. (in its own capacity and as general partner of the following three partnerships)**

By: 

Name: Jeffrey Smith  
Title: President & CEO

**DIRECTCASH ATM PROCESSING PARTNERSHIP by its general managing partner DIRECTCASH MANAGEMENT INC.**

By: 

Name: Jeffrey Smith  
Title: President & CEO

**DIRECTCASH ATM MANAGEMENT PARTNERSHIP by its general managing partner DIRECTCASH MANAGEMENT INC.**

By: 

Name: Jeffrey Smith  
Title: President & CEO

**DIRECTCASH CANADA LIMITED PARTNERSHIP by its general managing partner DIRECTCASH MANAGEMENT INC.**

By: 

Name: Jeffrey Smith  
Title: President & CEO

**DIRECTCASH BANK**

By: 

Name: Jeffrey Smith  
Title: CEO

**DIRECTCASH ACQUISITION CORP.**

By: 

Name: Jeffrey Smith  
Title: President & CEO

**DIRECTCASH MANAGEMENT UK LTD.**

By: 

Name: Jeffrey Smith  
Title: President & CEO

**DIRECTCASH MANAGEMENT AUSTRALIA PTY LTD.**

By: 

Name: Jeffrey Smith  
Title: President & CEO

HARRISON PENSEA LLP, on behalf of Timothy Yeoman

By:



Name: Jonathan Foreman

Title: Partner

**KOSKIE MINSKY LLP, as agent for  
Harrison Pensa LLP**

By: \_\_\_\_\_

Name: Andrew Hatnay

Title: Partner

**BENNETT MOUNTEER LLP, on behalf of**  
Roberta Stewart, Kostas Efthimiou, John Ironbow  
and Scott Meeking and Sheri Rehl

By: \_\_\_\_\_

Name: Mark Munteer

Title: Partner

**CUMING & GILLESPIE, as co-counsel to  
Bennett Mounter LLP**

By: \_\_\_\_\_

Name: Craig Gillespie  
Title: Partner

**This is EXHIBIT “D” referred to in the**

**Affidavit of SARAH A. BOWDEN**

**sworn before me, this 23<sup>rd</sup> day of September, 2015**

A handwritten signature in black ink, appearing to be "A. Bowden", written over a solid horizontal line.

***A Commissioner, etc.***

**IN THE MATTER OF  
THE CASH STORE FINANCIAL SERVICES INC.**

B E T W E E N:

Globis Capital Partners, L.P., Globis Overseas Fund Ltd., David Fortier, Darren Hughes, Marianne Dessis, Jean-Jacques Fournier and any other proposed representative plaintiffs in Ontario Superior Court Action No. CV-13-481943-00CP (the "**Fortier Action**"), Alberta Queen's Bench Action 1303 07837 (the "**Hughes Action**"), Québec Superior Court Action No. 200-06-000165-137 (the "**Dessis Action**"), Southern District of New York Action No. 13 Civ. 3385 (VM) (the "**Globis Action**") in their personal and proposed representative capacities (collectively, the "**Securities Class Actions**" and the "**Securities Class Action Plaintiffs**")

- and -

Timothy Yeoman and any other proposed representative plaintiffs in Ontario Superior Court Action No. 7908/12 CP and/or Ontario Superior Court Action No. 4171/14 in their personal and proposed representative capacities (together, the "**Yeoman Action**" and the "**Ontario Consumer Class Action Plaintiff**")

- and -

Andrew Bodnar, Roberta Stewart, Shayne Tschritter, Kostas Efthimiou, John Ironbow and Scott Meeking, Sheri Rehill and any other representative plaintiffs in British Columbia Supreme Court Action No. 154924, British Columbia Supreme Court Action No. 041348, British Columbia Supreme Court Action No. 126361, Alberta Court of Queen's Bench Action No. 0301-16243, Alberta Court of Queen's Bench Action No. 1201-11816, Saskatchewan Court of Queen's Bench Action No. 1452 of 2012, Saskatchewan Court of Queen's Bench Action No. 1453 of 2012, Manitoba Court of Queen's Bench Action No. CI 12-01-80578 and Manitoba Court of Queen's Bench Action No. CI 110-01-66061 in their personal and proposed representative capacities (collectively, the "**Western Canada Actions**" and the "**Western Canada Consumer Class Action Plaintiffs**")

- and -

William Aziz, solely in his capacity as the court-appointed Chief Restructuring Officer (the "**CRO**") of 1511419 Ontario Inc., formerly known as The Cash Store Financial Services Inc. ("**Cash Store**") and Cash Store's affiliates and subsidiaries

- and -

Cash Store, Nancy Bland, Gordon J. Reykdal, Craig Warnock, J. Albert Mondor, Ron Chicoyne, Michael M. Shaw, William Dunn, Edward McClelland, Robert Gibson, Barret Reykdal, S. William Johnson, Michael J.L. Thompson and Halldor Kristjansson (collectively, the "**Defendants**")

-and-

424187 Alberta Ltd. ("424")

## SETTLEMENT AGREEMENT

(made as of this the 22<sup>nd</sup> day of September, 2015)

1. This Settlement Agreement between the Parties (the "**Settlement Agreement**") is to resolve, in accordance with the terms more particularly set out herein, the Claims (as defined in paragraph 9 herein), howsoever arising and in all jurisdictions, including Canada and the United States, and to provide the Release (as defined in paragraph 9 herein) in favour of the Released Parties (as defined in paragraph 9 herein) on the terms and conditions set forth herein.
2. The Defendants and 424 make no admissions of liability and waive no defences available to them with respect to the Claims (as defined in paragraph 9 herein) or otherwise.
3. It is the intention of the Parties that this Settlement Agreement shall be:
  - a. approved by an order of the supervising judge in the *Companies' Creditors Arrangement Act* ("**CCAA**") proceeding bearing Court File No. CV-14-10518-00CL (the "**CCAA Proceeding**"), who is also designated to hear the settlement approval motions in the Fortier Action and the Yeoman Action under the *Class Proceedings Act, 1992* (the "**Court**"), which orders shall be submitted to the Court in form and substance acceptable to counsel to the Defendants and 424, each acting reasonably (the "**Fortier Settlement Approval Order**" and the "**Yeoman Settlement Approval Order**");
  - b. approved by an order of the class action court overseeing the Western Canada Consumer Class Actions, which order shall be submitted to the court in form and substance acceptable to counsel to the Defendants and 424, each acting reasonably (the "**Western Canada Settlement Approval Order**"); and
  - c. implemented through a Plan of Compromise and Arrangement in respect of Cash Store under the CCAA, which Plan will be presented to the Court substantially in the form attached hereto at **Schedule B** (the "**Plan**"), for sanction by the Court pursuant to an order of the Court, which shall be submitted to the Court in form and substance acceptable to counsel the Defendants and 424, each acting reasonably (the "**Sanction Order**").
4. It is also the intention of the parties:
  - a. to seek recognition and enforcement of the Sanction Order by an order of the United States Bankruptcy Court for the Southern District of New York (the "**U.S. Court**") under Chapter 15 of the United States *Bankruptcy Code*, to be submitted to the U.S. Court in form and substance acceptable to counsel to the Defendants (the "**Recognition Order**");

- b. to obtain a stipulation of dismissal of the Globis Action with prejudice and without costs by the United States District Court for the Southern District of New York (the “U.S. District Court”), pursuant to an order to be submitted to the U.S. District Court in form and substance acceptable to counsel to the Defendants (the “New York Order”, together with the Recognition Order, the “U.S. Orders”);
  - c. to obtain an order of the Superior Court of Québec (the “Quebec Court”) approving the discontinuance of the Dessis Action, pursuant to an order to be submitted to the Quebec Court in form and substance acceptable to counsel to the Defendants (the “Québec Order”); and
  - d. to obtain an order of the Alberta Court of Queen’s Bench (the “Alberta Court”) approving the discontinuance of the Hughes Action, pursuant to an order to be submitted to the Alberta Court in form and substance acceptable to counsel to the Defendants (the “Alberta Order”).
5. For purposes of this Settlement Agreement:
- a. the Securities Class Action Plaintiffs, the Ontario Consumer Class Action Plaintiff, the Western Canada Consumer Class Action Plaintiffs and the CRO, on behalf of Cash Store as a plaintiff, are collectively referred to herein as the “Claimants”;
  - b. the Claimants, 424 and the Defendants are collectively referred to herein as the “Parties”; and
  - c. the present or former directors and officers of Cash Store or its affiliates or subsidiaries are collectively referred to herein as the “D&O Defendants”.

**Payment of Settlement Amount, Cancellation of 424 Debt and Other Consideration**

6. A settlement amount of CDN \$19,033,333 (the “Settlement Amount”) shall be paid by the D&O Defendants in accordance with the terms hereof and the Plan, and shall be released to the Claimants in accordance with the terms hereof and the Plan, when all conditions precedent set out in paragraph 36 herein and the Plan have been satisfied or waived (the “Effective Date”).

7. The CDN \$2,000,000 face value of debt under the November 29, 2013 Credit Agreement of Cash Store (the “First Lien Notes”) held by 424 (the “424 Debt”) shall be cancelled, such cancellation not to be effective until all conditions precedent set out in paragraph 36 herein and the Plan have been satisfied or waived. Interest shall be payable on the 424 Debt to the date of cancellation, without prejudice to the right of Cash Store to seek an order from the Court to suspend or cancel future interest payments to all holders of the First Lien Notes. The parties agree that 424 will continue to receive interest on the 424 Debt unless and until a final order is made by the Court determining that no holder of the First Lien Notes is entitled to further interest payments.

8. The payment of the Settlement Amount, the release of the claims described in paragraphs 10 and 47 hereof, the cancellation of the 424 Debt, and the payment of certain implementation costs by the D&O Defendants, represent the full contribution or payment of any kind to be made

by the D&O Defendants and 424 in settlement of the Claims, inclusive of interest, legal fees, disbursements and taxes (including GST, HST, or any other taxes which may be payable in respect of this settlement), any costs associated with the distribution of the Settlement Amount, all costs of any necessary notice in connection with the settlement, all costs associated with the implementation and administration of the settlement and any other monetary costs or amounts associated with this Settlement Agreement or otherwise, except as otherwise expressly provided for herein.

### **Release of Claims and Bar Order**

9. As of the Effective Date, the Claimants, on behalf of themselves and their respective subsidiaries, affiliates and related companies and current and former partners, associates, employees, directors, officers and insurers, and in the case of Cash Store, of all current directors, officers and employees of Cash Store, including the CRO, and the heirs, administrators, executors, successors and assigns of each, and on behalf of any person (as defined in the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended to the date hereof, "**Person**") who claims a right or interest through the Claimants or any of them, (collectively, the "**Releasers**") shall hereby fully, finally and forever release, remise, acquit and forever discharge, without qualification or limitation, the Defendants, 424, and their respective past, present and future subsidiaries, affiliates and related companies, partners, associates, employees, directors, officers, insurers, family members, heirs, administrators, executors, successors and assigns (collectively, the "**Released Parties**" which, for greater certainty, include all of the D&O Defendants) separately and jointly, of and from any and all rights, interests, obligations, debts, dues, sums of money, accounts, reckonings, damages, claims, actions, allegations, causes of action, counterclaims or demands whatsoever, whether known or unknown, in law or equity, of whatever kind or character, suspected, fixed or contingent, that have been or that could have been asserted by any of the Releasers through to the date of this Settlement Agreement (including, without limitation, any claim for contribution, indemnification, reimbursement or any other forms of claims over that could be asserted by any of the Releasers on or after the date hereof based on events occurring prior to and through to the date hereof and including any allegation of breach of duty and/or fraud or fraudulent misrepresentation by the Released Parties) against the Released Parties, or any of them, arising out of, in connection with, or in any way related, directly or indirectly, to Cash Store and its affiliates and subsidiaries (collectively, the "**Claims**"), including, but not limited to, all claims raised or which could have been raised in the actions listed in **Schedule A** hereto (the "**Actions**"); provided that, notwithstanding anything else in this paragraph, none of the D&O Defendants shall be released under this Settlement Agreement or the Plan for or from any Claim, commenced with leave of the Court, by any Person (other than the Claimants):

- a. in respect of a claim that cannot be released under section 5.1(2) of the CCAA or section 19(2) of the CCAA;
- b. that is based on a final judgment that a plaintiff suffered damages as a direct result and solely as a result of such plaintiff's reliance on an express fraudulent misrepresentation made by the D&O Defendants, or any of them, where such D&O Defendant had actual knowledge that the misrepresentation was false; or

- c. who is a third party lender to Cash Store, solely in its capacity as a third party lender to Cash Store, unless the Claimants or any of them have (as in the case of 0678786 B.C. Ltd., formerly c.o.b. as McCann Family Holding Corporation), or may hereafter enter into, a settlement with such third party lender under or in connection with the Plan or the matters giving rise to it;

(the “**Release**” and the non-released claims listed in 9.a., 9.b. and 9.c. above being, the “**Non-Released Claims**”).

10. As of the Effective Date, the Defendants and 424, on behalf of themselves and their respective subsidiaries, affiliates and related companies and current and former partners, associates, employees, directors, officers, insurers and the heirs, administrators, executors, predecessors, successors and assigns of each, and on behalf of any Person who claims a right or interest through them, (the “**Defendant Releasors**”), shall hereby fully, completely, finally and forever release, remise, acquit and forever discharge, without qualification or limitation, the named plaintiffs in each of the Securities Class Actions, the Yeoman Action and the Western Canada Actions, and their respective counsel (collectively, the “**Released Claimant Parties**”), separately and jointly, of and from any and all rights, interests, obligations, debts, dues, sums of money, accounts, reckonings, damages, claims, actions, liabilities, allegations, causes of action, counterclaims or demands whatsoever, whether known or unknown, in law or equity, of whatever kind or character, suspected, fixed or contingent, that have been or that could have been asserted by any of the Defendant Releasors through to the date of this Settlement Agreement (including, without limitation, any claim for contribution, indemnification, reimbursement or any other forms of claims over that could be asserted by any of the Defendant Releasors on or after the date hereof based on events occurring prior to and through to the date hereof) against the Released Claimant Parties, or any of them, arising out of, in connection with, or in any way related, directly or indirectly, to Cash Store, its affiliates and subsidiaries, or the prosecution, defense or settlement of the actions set out at Schedule A hereto, (collectively, the “**Defendants’ Claims**” and the “**Defendants’ Release**”). As of the Effective Date, the Defendant Releasors will be forever barred and enjoined from prosecuting the Defendants’ Claims against the Released Claimant Parties or any other Person who may claim any form of indemnity or contribution from any of the Released Claimant Parties in respect of any Defendants’ Claims or any matter related thereto.

11. Without limiting the generality of paragraphs 9 and 10 above, the Releasors and Defendant Releasors acknowledge that the intent of the Release and the Defendant’s Release is to conclude all issues arising from the Claims and Defendants’ Claims and it is understood and agreed that this Settlement Agreement is intended to release, and does release, as of the Effective Date, not only all known actions, causes of action, claims and demands for damages, indemnity, costs, interest and loss or injury in respect of any Claims and Defendants’ Claims, but all actions, causes of action, claims and demands for damages, indemnity, costs, interest and loss or injury not now known or anticipated but which may later develop or be discovered in respect of any Claims and Defendants’ Claims, including all the effects and consequences thereof, other than any Non-Released Claims.

12. As of the Effective Date, the Releasors’ recovery from any person against whom the Releasors, or any of them, pursue a Claim for damages (a “**Third Party Defendant**”) and with

whom the Released Parties, or any of them, are judicially determined to be jointly and severally liable to the Releasers, or any of them, for damages, will be limited to the Third Party Defendant's several and proportionate share of liability, as determined by the Court, provided that the Third Party Defendant successfully proves a claim for contribution and indemnity from the Released Parties in respect of the Releasers' claim against the Third Party Defendant.

13. Prior to the Effective Date, Cash Store will formally amend in a fashion satisfactory to counsel for the Defendants and 424, each acting reasonably, any Statements of Claim in existing actions that will continue after the Effective Date, including but not limited to actions in the Ontario Superior Court Justice (Commercial List) bearing Court File Nos. CV-14-10770-00CL, CV-14-10771-00CL, CV-14-10773-CL and CV-14-10774-CL (the "Cash Store Amendments"), to provide that, to the extent the Third Party Defendants (or any of them) successfully prove a claim against the D&O Defendants or any of them and are judicially determined to be jointly and severally liable with such D&O Defendant to Cash Store for damages, Cash Store will limit its recovery from such Third Party Defendant to their several liability in accordance with paragraph 12 above. Nothing in this provision or in the proposed amendments to the existing Statements of Claim will limit Cash Store's recovery of full damages on a joint and several basis from any of the Third Party Defendants as between the Third Party Defendants themselves. As of the Effective Date, any future action commenced by Cash Store shall be similarly limited to the portion of any damages that corresponds to the proportionate share of liability of the Third Party Defendants, provided that the necessary preconditions set out above are met.

14. Prior to the Effective Date, Cash Store will formally abandon, discontinue and/or dismiss with prejudice its claims against Trimor Annuity Focus Limited Partnership, Trimor Annuity Focus Limited Partnership #2, Trimor Annuity Focus Limited Partnership #3, Trimor Annuity Focus Limited Partnership #4 and Trimor Annuity Focus Limited Partnership #6 and 0678786 B.C. Ltd. (formerly c.o.b. as McCann Family Holding Corporation) in the Ontario Superior Court of Justice (Commercial List) action bearing Court File No. CV-14-10770-00CL.

15. Prior to the Effective Date, the Ontario Consumer Class Action Plaintiff in the Yeoman Action will bring a motion to the Court for one or more orders (the "Yeoman Amendment Orders") approving the amendment, in a fashion satisfactory to counsel for the Defendants and 424, each acting reasonably, of any Statements of Claim in existing actions that will continue after the Effective Date, including but not limited to actions in the Ontario Superior Court Justice bearing Court File Nos. 7908/12 CP and 4172/14, to provide that, to the extent the Third Party Defendants (or any of them) successfully prove a claim against the D&O Defendants (or any of them) and are judicially determined to be jointly and severally liable with such D&O Defendant to the Ontario Consumer Class Action Plaintiff in the Yeoman Action for damages, the Ontario Consumer Class Action Plaintiff in the Yeoman Action will limit its recovery from such Third Party Defendants to their several liability in accordance with paragraph 12 above. Nothing in this provision or in the proposed amendments to the existing Statements of Claim will limit the Ontario Consumer Class Action Plaintiff's recovery in the Yeoman Action of full damages on a joint and several basis from any Third Party Defendant as between the Third Party Defendants themselves. As of the Effective Date, any future action commenced by the Ontario Consumer Class Action Plaintiff shall be similarly limited to the portion of any damages that corresponds to

the proportionate share of liability of the Third Party Defendants, provided that the necessary preconditions set out above are met.

16. Prior to the Effective Date, the Western Canada Consumer Class Action Plaintiff in the Western Canada Actions will bring a motion to the supervising court(s) for one or more orders (the "**Western Canada Amendment Orders**") approving the amendment, in a fashion satisfactory to counsel for the Defendants and 424, each acting reasonably, of any Statements of Claim in any of the Western Canada Actions that will continue after the Effective Date, to provide that, to the extent the Third Party Defendants (or any of them) successfully prove a claim against the D&O Defendants (or any of them) and are judicially determined to be jointly and severally liable with such D&O Defendant to the Western Canada Consumer Class Action Plaintiffs in the Western Canada Actions for damages, the Western Canada Consumer Class Action Plaintiffs in the Western Canada Actions will limit their recovery from such Third Party Defendants to their several liability in accordance with paragraph 12 above. Nothing in this provision or in the proposed amendments to the existing Statements of Claim will limit the Western Consumer Class Action Plaintiffs' recovery in the Western Canada Actions of full damages on a joint and several basis from any Third Party Defendant as between the Third Party Defendants themselves. As of the Effective Date, any future action commenced by the Western Consumer Class Action Plaintiffs shall be similarly limited to the portion of any damages that corresponds to the proportionate share of liability of the Third Party Defendants, provided that the necessary preconditions set out above are met.

17. As soon as practicable following the Effective Date, the Ontario Consumer Class Action Plaintiff in the Yeoman Action will bring motions to the Court for an order (the "**Yeoman TPL Order**") approving the abandonment, discontinuance and/or dismissal with prejudice of the claims against Trimor Annuity Focus Limited Partnership, Trimor Annuity Focus Limited Partnership #2, Trimor Annuity Focus Limited Partnership #3, Trimor Annuity Focus Limited Partnership #4, Trimor Annuity Focus Limited Partnership #5, Trimor Annuity Focus Limited Partnership #6 and 0678786 B.C. Ltd. (formerly c.o.b. as McCann Family Holding Corporation) in the Ontario Superior Court of Justice action bearing Court File No. 4172/14.

18. It is the intention of the Parties that this Settlement Agreement and the terms of the Fortier Settlement Approval Order, the Yeoman Settlement Approval Order, the U.S. Orders, the Plan and the Sanction Order will provide the Release and related claims bar orders in favour of the Released Parties and will satisfy and extinguish any and all Claims howsoever arising (other than Non-Released Claims), without opt-outs.

19. Pending the Effective Date, and subject to the occurrence of the Effective Date, no further proceedings shall be commenced or continued by the Releasers, or any of them, or the Monitor against the Released Parties, or any of them, directly or indirectly, in respect of any Claims.

### **The Orders**

20. The Parties shall seek to have the supervising justice in the CCAA Proceeding designated to hear the motion for approval of the settlement of the Fortier Action and the Yeoman Action pursuant to both the CCAA and the *Class Proceedings Act, 1992*.

*Fortier*

21. Contemporaneously with the CRO's motion for entry of a Meeting Order in the CCAA proceedings in respect of the Plan, which is currently scheduled to be heard on September 30, 2015, the Ontario Securities Class Action Plaintiff in the Fortier Action shall bring a motion to the Court, supported by the Defendants in the Fortier Action, for an order approving a notice program regarding the hearing to approve the settlement (the "**Fortier Notice Program**") as follows:

- a. notice to the Service List in the CCAA Proceeding, in the manner agreed upon to constitute notice for the purpose of the CCAA Proceeding;
- b. reasonable notice to those against whom the Release and related bar provisions are to be effective; and
- c. notice to the prospective class members in accordance with the notice plan approved by the Court in connection with the Fortier Action.

22. Regardless of their obligations under paragraph 21 above, the Parties shall abide by the Fortier Notice Program ordered by the Court and the failure to obtain an order on the terms set out in paragraph 21 above shall not be a basis to terminate the settlement.

23. Contemporaneously with the CRO's motion to the Court for the entry of the Sanction Order, the Securities Class Action Plaintiffs in the Fortier Action shall bring a motion to the Court for the entry of the Fortier Settlement Approval Order.

*Yeoman*

24. Contemporaneously with the CRO's motion for entry of a Meeting Order in the CCAA proceedings in respect of the Plan, which is currently scheduled to be heard on September 30, 2015, the Ontario Consumer Class Action Plaintiff in the Yeoman Action shall bring a motion to the Court, supported by the Defendants in the Yeoman Action, for an order approving a notice program regarding the hearing to approve the settlement (the "**Yeoman Notice Program**") as follows:

- a. notice to the Service List in the CCAA Proceeding, in the manner agreed upon to constitute notice for the purpose of the CCAA Proceeding;
- b. reasonable notice to those against whom the Release and related bar provisions are to be effective; and
- c. notice to the prospective class members in accordance with the notice plan approved by the Court in connection with the Yeoman Action.

25. Regardless of their obligations under paragraph 24 above, the Parties shall abide by the Yeoman Notice Program ordered by the Court and the failure to obtain an order on the terms set out in paragraph 24 above shall not be a basis to terminate the settlement.

26. Contemporaneously with the CRO's motion to the Court for the entry of the Sanction Order, the Plaintiffs in the Yeoman Action shall bring a motion to the Court for the entry of the Yeoman Settlement Approval Order.

*Western Canada Class Actions*

27. Within two weeks of the CRO's motion for entry of a Meeting Order in the CCAA proceedings in respect of the Plan, which is currently scheduled to be heard on September 30, 2015, the Western Canada Consumer Class Action Plaintiffs in the Western Canada Actions shall bring a motion to the Court, supported by the Defendants in the Western Canada Actions, for an order approving a notice program regarding the hearing to approve the settlement (the "**Western Canada Notice Program**") as follows:

- a. notice to the Service List in the CCAA Proceeding, in the manner agreed upon to constitute notice for the purpose of the CCAA Proceeding;
- b. reasonable notice to those against whom the Release and related bar provisions are to be effective; and
- c. notice to the prospective class members in accordance with the notice plan approved by the supervising court in connection with the Western Canada Actions.

28. Regardless of their obligations under paragraph 27 above, the Parties shall abide by the Western Canada Notice Program ordered by the Court and the failure to obtain an order on the terms set out in paragraph 27 above shall not be a basis to terminate the settlement.

29. Contemporaneously with the CRO's motion to the Court for the entry of the Sanction Order, the Western Canada Consumer Class Action Plaintiffs in the Western Canada Actions shall bring a motion to the supervising court(s) for the entry of the Western Canada Settlement Approval Order.

30. The costs of the Fortier Notice Program, the Yeoman Notice Program and the Western Canada Notice Program (collectively, the "**Notice Programs**"), subject to a cap of CDN \$200,000 in the aggregate, will be paid by the D&O Defendants within fifteen (15) days of the costs being incurred irrespective of whether this Settlement Agreement is approved by the Court or the U.S. Court. If the settlement is not approved, these costs will be non-refundable to the D&O Defendants. If the Settlement Agreement is approved as described herein, the amounts paid by the D&O Defendants in relation to the Notice Programs will be a credit to the payment the D&O Defendants are required to make in respect of the Settlement Amount. In the event that any costs of the Notice Programs are required to be credited to the D&O Defendants in respect of the Settlement Amount pursuant to this paragraph 30:

- a. the costs incurred in respect of the Fortier Notice Program shall be a credit to the amounts owing in respect of the Securities Class Actions and CRO Actions, and shall be allocated between the recipients of those amounts in amounts corresponding to the relative proportions set out in paragraphs 39(a), (b), and (c);

- b. the costs incurred in respect of the Yeoman Notice Program shall be a credit to the amount owing in respect of the Yeoman Action; and
- c. the costs incurred in respect of the Western Canada Notice Program shall be a credit to the amount owing in respect of the Western Canada Actions.

31. The Parties shall use all commercially reasonable efforts to: (i) obtain and/or satisfy any court approval order, waiver, certificate, document, or agreement; (ii) provide necessary notice to affected individuals; and (iii) fulfill any other condition reasonably necessary for the implementation of the Release and the Plan.

#### ***US Orders***

32. As soon as practicable in conjunction with the CRO's motion for entry of the Sanction Order, and in any event as soon as practicable following the entry of the Sanction Order, the Monitor shall seek the Recognition Order from the U.S. Court. Ken Coleman of Allen & Overy LLP shall be retained as U.S. counsel to the Monitor ("**U.S. Counsel**"), as foreign representative, for purposes of making the application for the Recognition Order.

33. As soon as practicable following the issuance of the Recognition Order (or the Sanction Order in the event that the Recognition Order is not granted due to a lack of jurisdictional basis), the lead plaintiffs in the Globis Action shall, by stipulation supported by the Defendants, seek the entry of the New York Order by the United States District Court for the Southern District of New York.

34. Fifty percent (50%) of the costs of U.S. Counsel (excluding any other costs or fees of the Monitor) to obtain the Recognition Order shall be paid by the D&O Defendants and fifty percent (50%) of such costs shall be paid by the CRO to be reimbursed from the Settlement Amount, subject to a total cap of CDN \$250,000 (i.e. CDN\$125,000 from the D&O Defendants and CDN\$125,000 from the CRO). Any costs in excess of CDN \$250,000 shall be borne solely by the D&O Defendants.

35. Any costs of the proceedings in the U.S. to obtain the Recognition Order that are paid from the Settlement Amount pursuant to paragraph 34 shall be allocated between the recipients of the Settlement Amount in amounts corresponding to the relative proportions set out in paragraph 39.

#### **Conditions Precedent to Implementation of the Settlement**

36. The settlement will become effective on the Effective Date when the following conditions precedent have been satisfied or waived by all of the D&O Defendants who are parties to this Settlement Agreement:

- a. issuance of the Fortier Settlement Approval Order, the Yeoman Settlement Approval Order, the Western Canada Settlement Approval Order, the Sanction Order and the U.S. Orders, provided however that the settlement and the Effective Date shall not be conditional upon the issuance of the Recognition Order in the

event that the U.S. Court refuses to issue the Recognition Order due to a lack of jurisdiction;

- b. issuance of the Québec Order;
- c. issuance of the Alberta Order;
- d. issuance by the Court of an order dismissing the Ontario Superior Court of Justice (Commercial List) action styled *The Cash Store Financial Services, Inc. v. Gordon Reykdal et al.*, and bearing Court File No. CV-14-10772-00CL (the “**CRO Action**”) with prejudice and without costs, to be submitted to the Court in form and substance acceptable to counsel to the Defendants (the “**CRO Dismissal Order**”);
- e. issuance of the Yeoman Amendment Orders, the Yeoman TPL Order and the Western Canada Amendment Order;
- f. the Fortier Settlement Approval Order, the Yeoman Settlement Approval Order, the Western Canada Settlement Approval Order and the Sanction Order shall have become final orders not subject to further appeal or challenge;
- g. amendment by Cash Store of any Statements of Claim in existing actions as set out in paragraph 13 hereto;
- h. abandonment, discontinuance and/or with prejudice dismissal of the Monitor’s motion dated September 18, 2014 in the CCAA proceedings in respect of alleged transfers at undervalue;
- i. abandonment, discontinuance and/or with prejudice dismissal of the claims against Trimor Annuity Focus Limited Partnership, Trimor Annuity Focus Limited Partnership #2, Trimor Annuity Focus Limited Partnership #3, Trimor Annuity Focus Limited Partnership #4, Trimor Annuity Focus Limited Partnership #6 and 0678786 B.C. Ltd. (formerly c.o.b. as McCann Family Holding Corporation) in the Ontario Superior Court of Justice (Commercial List) action styled *The Cash Store Financial Services, Inc. v. Trimor Annuity Focus Limited Partnership et al.* and bearing Court File No. CV-14-10770-00CL;
- j. each D&O Defendant who is a party to this Settlement Agreement shall have provided a sworn affidavit indicating that such Defendant is not a holder of any of the 11.5% Senior Secured Notes Due 2017 issued by the Cash Store pursuant to the Indenture dated as of January 31, 2012 (the “**Second Lien Notes**”) and that no “related person” of that Defendant (as such term is defined in the *Income Tax Act*) is a holder of the Notes;
- k. the D&O Defendants shall have paid the Settlement Amount in accordance with the terms hereof and the Plan; and

- l. the conditions precedent to implementation of the Plan shall have been satisfied or waived in accordance with the terms of the Plan.

37. Subject to the parties executing a written extension addendum, if the conditions in paragraph 36 are not satisfied by June 30, 2016:

- a. this Settlement Agreement shall terminate;
- b. any issued Orders listed in paragraph 36 shall be null and void;
- c. the Settlement Amount shall be returned by the Monitor to the D&O Defendants no later than five (5) Business Days after June 30, 2016 in accordance with wire transfer instructions to be provided to the Monitor no later than three (3) Business Days after June 30, 2016; and
- d. all discussions, actions, undertakings and agreements by and between the Parties in respect of the negotiation, execution and attempted implementation of this Settlement Agreement shall be without prejudice to the positions of the Parties in the Actions and/or any subsequent proceedings between the Parties.

#### **Implementation of the Settlement**

38. The Settlement Amount shall be paid by the D&O Defendants into the "Monitor's Distribution Account" in accordance with the provisions of the Plan.

39. Subject to court approval and the terms of the Plan, the Settlement Amount shall be allocated as follows:

- a. CDN \$4,875,000 to shareholder class members in respect of the shareholder claims in the Securities Class Actions;
- b. CDN \$8,904,167 to noteholder class members in respect of the noteholder claims in the Securities Class Actions;
- c. CDN \$2,750,000 to the estate of Cash Store in respect of the CRO Action, to be distributed to the secured creditors of Cash Store in accordance with their priorities as set out under the terms of the Plan;
- d. CDN \$1,437,500 to members of the class in the Yeoman Action in respect of the claims in the Yeoman Action; and
- e. CDN \$1,066,666 to members of the class in the Western Canada Actions in respect of the claims in the Western Canada Actions.

40. The CDN \$4,875,000 portion of the Settlement Amount allocated to the shareholder class members in respect of the shareholder claims in the Securities Class Actions and the CDN \$8,904,167 portion of the Settlement Amount allocated to noteholder class members in respect of the noteholder claims in the Securities Class Actions (together, the "Securities Class Action")

**Settlement Amount**”) shall be distributed pursuant to a plan of allocation to be developed by Siskinds LLP, Kirby McInerney LLP, and Hoffner PLLC (“**Securities Class Action Counsel**”) and approved by the court. No portion of the Securities Class Action Settlement Amount shall revert back to the Defendants, regardless of the quantity of claims filed or amount of funds remaining after all eligible claimants have been paid pursuant to the plan of allocation in respect of the Securities Class Action Settlement Amount.

41. The CDN \$1,437,500 portion of the Settlement Amount allocated to the consumer loan class members of the class in the Yeoman Action in respect of the claims in the Yeoman Action (the “**Ontario Consumer Class Action Settlement Amount**”) shall be distributed pursuant to a plan of allocation to be developed by Harrison Pensa LLP (“**Ontario Consumer Class Action Counsel**”) and approved by the court. No portion of the Ontario Consumer Class Action Settlement Amount shall revert back to the Defendants, regardless of the quantity of claims filed or amount of funds remaining after all eligible claimants have been paid pursuant to the plan of allocation in respect of the Ontario Consumer Class Action Settlement Amount.

42. The CDN \$1,066,666 portion of the Settlement Amount allocated to the consumer loan class members of the class in the Western Class Actions in respect of the claims in the Western Class Actions (the “**Western Canada Consumer Class Action Settlement Amount**”) shall be distributed pursuant to a plan of allocation to be developed by Bennett Munteer LLP (“**Western Canada Consumer Class Action Counsel**”) and approved by the court. No portion of the Western Consumer Class Action Settlement Amount shall revert back to the Defendants, regardless of the quantity of claims filed or amount of funds remaining after all eligible claimants have been paid pursuant to the plan of allocation in respect of the Western Canada Consumer Class Action Settlement Amount.

43. The Securities Class Action Plaintiffs and their undersigned counsel hereby acknowledge and agree that it is a term of this settlement that:

- a. No class action counsel fees shall apply in respect of the cancellation of the 424 Debt;
- b. No class action counsel fees shall apply to the CDN \$2,750,000 of the Settlement Amount allocated to the D&O Estate Claim under paragraph 39;
- c. Securities Class Action Counsel will seek approval of its fees and expenses by the Court on the following basis:
  - i. fees not to exceed more than 30% of the first CDN \$9,450,000 of the Securities Class Action Settlement Amount; and
  - ii. fees not to exceed more than 15% of the remainder of the Securities Class Action Settlement Amount,

plus reimbursement for expenses and disbursements.

44. Subject to paragraph 43, Securities Class Action Counsel will seek court approval of the fees and disbursements, plus applicable taxes, of Securities Class Action Counsel (including

counsel to the plaintiffs in the Hughes Action and Dessis Action), Goodmans LLP (in the amount of CDN \$276,573.32) The Analysis Group (in the amount of US \$112,896.98) and Paul Hastings LLP (in the amount of US \$22,825.00), as well as applicable costs of notice and administration of the settlement, plus applicable taxes, calculated in accordance with the terms hereof, to be paid as a first charge from the Securities Class Action Settlement Amount. The request for payment of such fees and disbursements does not form part of the Settlement Agreement and the Court shall be asked to consider the request for approval of those fees and disbursements separately, but contemporaneously, from its consideration of the fairness, reasonableness, and adequacy of the Settlement Agreement and Settlement Amount as a whole. The Defendants acknowledge that they are not parties to the motion concerning the approval of such fees and disbursements and that they will take no position or make any submissions to the court concerning such fee and disbursement requests.

45. Ontario Consumer Class Action Counsel will seek court approval of the fees and disbursements plus applicable taxes of Ontario Consumer Class Action Counsel, as well as applicable costs of notice and administration of the settlement plus applicable taxes, calculated in accordance with the terms hereof, to be paid as a first charge from the Ontario Consumer Class Action Settlement Amount. The request for payment of such fees and disbursements does not form part of the Settlement Agreement and the Court shall be asked to consider the request for approval of those fees and disbursements separately, but contemporaneously, from its consideration of the fairness, reasonableness, and adequacy of the Settlement Agreement and Settlement Amount as a whole. The Defendants acknowledge that they are not parties to the motion concerning the approval of such fees and disbursements and that they will take no position or make any submissions to the court concerning such fee and disbursement requests.

46. Western Consumer Class Action Counsel will seek court approval of the fees and disbursements plus applicable taxes of Western Consumer Class Action Counsel, as well as applicable costs of notice and administration of the settlement plus applicable taxes, calculated in accordance with the terms hereof, to be paid as a first charge from the Western Consumer Class Action Settlement Amount. The request for payment of such fees and disbursements does not form part of the Settlement Agreement and the court shall be asked to consider the request for approval of those fees and disbursements separately, but contemporaneously, from its consideration of the fairness, reasonableness, and adequacy of the Settlement Agreement and Settlement Amount as a whole. The Defendants acknowledge that they are not parties to the motion concerning the approval of such fees and disbursements and that they will take no position or make any submissions to the court concerning such fee and disbursement requests.

47. The D&O Defendants shall not directly or indirectly interfere with the progress of the CCAA Proceeding and, upon satisfaction of the conditions precedent to this settlement, shall release any claim of any kind whatsoever against Cash Store and its affiliates and subsidiaries, except for the claims identified in **Schedule C** hereto.

48. Subject to the claims listed in Schedule C hereto, the D&O Defendants shall, upon satisfaction of the conditions precedent to this settlement, forego any distribution of any kind, directly or indirectly, under the Plan, this settlement, or from Cash Store and its affiliates and subsidiaries, including on account of any shares or debt that may be held directly or indirectly by any D&O Defendant. Notwithstanding the foregoing, the D&O Defendants listed on Schedule C

hereto hereby acknowledge and agree that any claims they may have in respect of the matters listed on Schedule C hereto shall be subordinated to the distributions to be made under the Plan in respect of the DIP Credit Facility, the Senior Secured Credit Agreement and the Secured Note Indenture for the Secured Notes, as such terms are defined in the Plan.

49. The Claimants shall, following the Effective Date:

- a. not publicize or comment in any way, whether privately or in public, regarding any allegations against or conduct of the D&O Defendants, or any of them, related to any Claims, and shall not express any negative views as to the actions of the D&O Defendants, or any of them, related to the Claims, except as required by law or with respect to the fact that Claims were made against the D&O Defendants;
- b. not disparage the D&O Defendants, or any of them, in any way;
- c. obtain the consent of the D&O Defendants, acting reasonably, with respect to any press release regarding the settlement herein; and
- d. release any remaining non-competition covenants or fiduciary duties owed by the D&O Defendants by contract or at common law.

50. Except as set out in paragraphs 12, 13 and 14 above, nothing in this Agreement or in paragraph 49 above specifically, shall prevent: (i) Cash Store and the CRO or any Litigation Trustee appointed under the Plan and Sanction Order from continuing to make the allegations set out in the pleadings in the actions bearing Court File Nos. CV-14-10771-00CL, CV-14-10773-00CL, CV-14-10774-00CL, CV-15-531577 and CV-14-10770-00CL (as amended by the Cash Store Amendments), and such other allegations as may be properly pursued within those proceedings, or solely for purposes of those proceedings, so as to prosecute those proceedings to their conclusion, or (ii) the Ontario Consumer Class Action Plaintiff from continuing to make the allegations set out in the pleadings in the action bearing Court File No. 4172/4 (as amended by the Yeoman Amendment Orders and the Yeoman TPL Order), and such other allegations as may be properly pursued within that proceeding, or solely for purposes of that proceeding, so as to prosecute that proceeding to its conclusion.

51. The Parties will support the implementation of the terms of this Settlement Agreement in all actions and before all applicable courts and when communicating at any time and in any manner with all or part of the proposed classes. 424 will vote in favour of the Plan, which will cancel the 424 Debt for no consideration, other than the consideration provided for hereunder, at any creditors' meeting convened in respect of the First Lien Notes and the Plan.

#### **General**

52. In the event the Settlement Agreement is terminated, the Parties will be restored to their respective positions as at March 31, 2014.

53. The provisions of this Settlement Agreement are intended for the benefit all of the D&O Defendants, as and to the extent applicable in accordance with their terms, and shall be

enforceable by each of such Persons and his or her heirs, executors, administrators and other legal representatives (collectively, the "**Third Party Beneficiaries**").

54. The Parties agree that time is of the essence in implementing this Settlement Agreement. In this regard, the Parties will use their commercially reasonable best efforts to implement and give effect to this Settlement Agreement in a timely and effective manner.

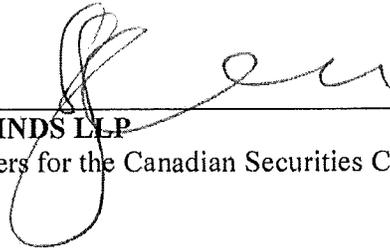
55. No amendment of this Settlement Agreement shall be binding unless executed in writing by the Parties to be bound thereby. No waiver of any provision of this Settlement Agreement shall be deemed or shall constitute a waiver of any other provision nor shall any such waiver constitute a continuing waiver unless otherwise expressed to provide it.

56. This Settlement Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The parties hereby attorn to the jurisdiction of the Superior Court of Justice in the Province of Ontario, in the CCAA Proceeding, in respect of any dispute arising from this Settlement Agreement.

57. This Settlement Agreement may be signed in any number of counterparts, all of which together shall constitute one and the same instrument. This Settlement Agreement may be executed and delivered by fax transmission or by transmission in PDF or similar electronic document format.

**SIGNATURE LINES ON NEXT PAGE**

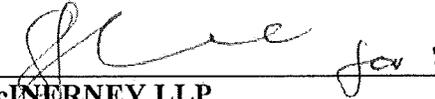
Date: September 23, 2015



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**SISKINDS LLP**  
Lawyers for the Canadian Securities Class Action Plaintiffs

Date: September 23, 2015



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**KIRBY McINERNEY LLP**  
**HOFFNER PLLC**  
Lawyers for the U.S. Securities Class Action Lead Plaintiffs

Date:

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**BENNETT MOUNTEER LLP**  
Lawyers for Western Canada Consumer Class Action Plaintiffs

Date:

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**HARRISON PENZA LLP**  
Lawyers for the Ontario Consumer Class Action Plaintiffs

Date:

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**OSLER, HOSKIN & HARCOURT LLP**  
Lawyers for the CRO

Date:

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**PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP**  
U.S. Lawyers for The Cash Store Financial Services Inc.

Date:

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**TORYS LLP**  
Lawyers for the Defendants, J. Albert Mondor, Ron Chicoyne,  
Michael M. Shaw, Robert Gibson and William Dunn

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Date:

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**SISKINDS LLP**

Lawyers for the Canadian Securities Class Action Plaintiffs

Date:

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**KIRBY McINERNEY LLP**

**HOFFNER PLLC**

Lawyers for the U.S. Securities Class Action Lead Plaintiffs

Date:

*Sept. 22/2015*

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*[Signature]*  
**BENNETT MOUNTEER LLP**

Lawyers for Western Canada Consumer Class Action Plaintiffs

Date:

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**HARRISON PENZA LLP**

Lawyers for the Ontario Consumer Class Action Plaintiffs

Date:

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**OSLER, HOSKIN & HARCOURT LLP**

Lawyers for the CRO

Date:

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Date:

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Lawyers for Western Canada Consumer Class Action Plaintiffs

Date:

*Sept. 22/2015*



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**HARRISON PENZA LLP**  
Lawyers for the Ontario Consumer Class Action Plaintiffs

Date:

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**OSLER, HOSKIN & HARCOURT LLP**  
Lawyers for the CRO

Date:

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U.S. Lawyers for The Cash Store Financial Services Inc.

Date:

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Michael M. Shaw, Robert Gibson and William Dunn

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**Date:**

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Lawyers for Western Canada Consumer Class Action Plaintiffs

**Date:**

---

**HARRISON PENSA LLP**  
Lawyers for the Ontario Consumer Class Action Plaintiffs

**Date:** Sept 23, 2015



---

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Lawyers for the CRO

**Date:**

---

**PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP**  
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**Date:**

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Lawyers for the Canadian Securities Class Action Plaintiffs

Date:

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**KIRBY McINERNEY LLP**

**HOFFNER PLLC**

Lawyers for the U.S. Securities Class Action Lead Plaintiffs

Date:

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**BENNETT MOUNTEER LLP**

Lawyers for Western Canada Consumer Class Action Plaintiffs

Date:

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**HARRISON PENSA LLP**

Lawyers for the Ontario Consumer Class Action Plaintiffs

Date:

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**OSLER, HOSKIN & HARCOURT LLP**

Lawyers for the CRO

Date:

9/23/2015

*Richard A. Rosen*

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**PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP**

U.S. Lawyers for The Cash Store Financial Services Inc.

Date:

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**TORYS LLP**

Lawyers for the Defendants, J. Albert Mondor, Ron Chicoyne, Michael M. Shaw, Robert Gibson and William Dunn

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Date:

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**SISKINDS LLP**  
Lawyers for the Canadian Securities Class Action Plaintiffs

Date:

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**KIRBY McINERNEY LLP**  
**HOFFNER PLLC**  
Lawyers for the U.S. Securities Class Action Lead Plaintiffs

Date:

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**BENNETT MOUNTEER LLP**  
Lawyers for Western Canada Consumer Class Action Plaintiffs

Date:

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**HARRISON PENZA LLP**  
Lawyers for the Ontario Consumer Class Action Plaintiffs

Date:

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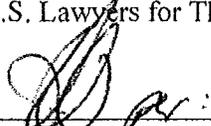
**OSLER, HOSKIN & HARCOURT LLP**  
Lawyers for the CRO

Date:

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**PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP**  
U.S. Lawyers for The Cash Store Financial Services Inc.

Date:

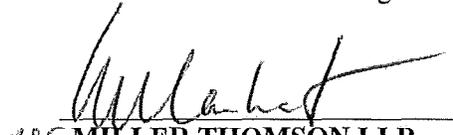


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**TORYS LLP**  
Lawyers for the Defendants, J. Albert Mondor, Ron Chicoyne,  
Michael M. Shaw, Robert Gibson and William Dunn

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Date:  
23 Sept 2015

  
per **MILLER THOMSON LLP**  
Lawyers for 424187 Alberta Ltd

Date:

**LENCZNER SLAGHT ROYCE SMITH GRIFFIN LLP**  
Lawyers for the Defendants, Gordon J. Reykdal and Edward  
McClelland

Date:

**CRAWLEY MACKEWN BRUSH LLP**  
Lawyers for the Defendant, Craig Warnock

Date:

**BARRET REYKDAL**

Date:

**S. WILLIAM JOHNSON**

Date:

**HALLDOR KRISTJANSSON**

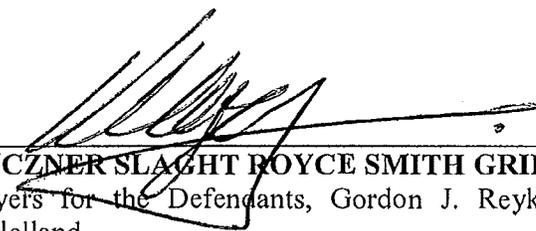
Date:

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**MILLER THOMSON LLP**  
Lawyers for 424187 Alberta Ltd

Date:

*Sept 23, 2015*



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**LENCZNER SLAGHT ROYCE SMITH GRIFFIN LLP**  
Lawyers for the Defendants, Gordon J. Reykdal and Edward McClelland

Date:

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**CRAWLEY MACKEWN BRUSH LLP**  
Lawyers for the Defendant, Craig Warnock

Date:

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**BARRET REYKDAL**

Date:

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**S. WILLIAM JOHNSON**

Date:

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**HALLDOR KRISTJANSSON**

**Date:**

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**MILLER THOMSON LLP**  
Lawyers for 424187 Alberta Ltd

**Date:**

---

**LENCZNER SLAGHT ROYCE SMITH GRIFFIN LLP**  
Lawyers for the Defendants, Gordon J. Reykdal and Edward McClelland

**Date:**

Sept 22/15



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**CRAWLEY MACKEWN BRUSH LLP**  
Lawyers for the Defendant, Craig Warnock

**Date:**

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**BARRET REYKDAL**

**Date:**

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**S. WILLIAM JOHNSON**

**Date:**

---

**HALLDOR KRISTJANSSON**

Signature page to Settlement Agreement

Date:

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**MILLER THOMSON LLP**  
Lawyers for 424187 Alberta Ltd

Date:

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**LENCZNER SLAGHT ROYCE SMITH GRIFFIN LLP**  
Lawyers for the Defendants, Gordon J. Reykdal and Edward McClelland

Date:

---

**CRAWLEY MACKEWN BRUSH LLP**  
Lawyers for the Defendant, Craig Warnock

Date: Sept 22/15



---

**BARRET REYKDAL**

Date:

---

**S. WILLIAM JOHNSON**

Date: Sept 22/15



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**HALLDOR KRISTJANSSON**

Signature page to Settlement Agreement

Date:

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**MILLER THOMSON LLP**  
Lawyers for 424187 Alberta Ltd

Date:

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**LENCZNER SLAGHT ROYCE SMITH GRIFFIN LLP**  
Lawyers for the Defendants, Gordon J. Reykdal and Edward McClelland

Date:

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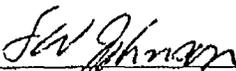
**CRAWLEY MACKAWN BRUSH LLP**  
Lawyers for the Defendant, Craig Warnock

Date:

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**BARRET REYKDAL**

Date:

---

**S. WILLIAM JOHNSON**

Date:

---

**HALLDOR KRISTJANSSON**

Signature page to Settlement Agreement

Date: Sept 23/2015

*Blake Cassel & Graydon LLP*  
**BLAKE, CASSELS & GRAYDON LLP**  
Lawyers for the Defendants, Nancy Bland and Michael Thompson

## SCHEDULE A

1. *Globis Capital Partners, L.P. v. The Cash Store Financial Services Inc. et al.*, Southern District of New York, Case 13 Civ. 3385 (VM)
2. *Fortier v. The Cash Store Financial Services, Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-13-481943-00CP
3. *Hughes v. The Cash Store Financial Services, Inc. et al.*, Alberta Court of Queen's Bench, Court File No. 1303 07837
4. *Dessis v. The Cash Store Financial Services, Inc. et al.*, Quebec Superior Court, No: 200-06-000165-137
5. *The Cash Store Financial Services, Inc. v. Gordon Reykdal et al.*, Ontario Superior Court of Justice, Court File No. CV-14-10772-00CL
6. *Timothy Yeoman v. Gordon J. Reykdal et al.*, Ontario Superior Court of Justice, Court File No. 4171/14
7. *Timothy Yeoman v. The Cash Store Financial Services Inc. et al.*, Ontario Superior Court of Justice, Court File No. 7908/12 CP
8. *Bodnar et al. v. The Cash Store Financial Services Inc. et al.*, Supreme Court of British Columbia, Vancouver Reg. No. S041348
9. *Stewart v. The Cash Store Financial Services Inc. et al.*, Supreme Court of British Columbia, Vancouver Reg. No. S154924
10. *Stewart v. The Cash Store Financial Services Inc. et al.*, Supreme Court of British Columbia, Vancouver Reg. No. S126361
11. *Tschritter et al. v. The Cash Store Financial Services Inc. et al.*, Alberta Court of Queen's Bench, Calgary Reg. No. 0301-16243
12. *Efthimiou v. The Cash Store Financial Services Inc. et al.*, Alberta Court of Queen's Bench, Calgary Reg. No. 1201-11816
13. *Meeking v. The Cash Store Financial Services Inc. et al.*, Manitoba Court of Queen's Bench, Winnipeg Reg. No. CI 10-01-66061
14. *Rehill v. The Cash Store Financial Services Inc. et al.*, Manitoba Court of Queen's Bench, Winnipeg Reg. No. CI 12-01-80578
15. *Ironbow v. The Cash Store Financial Services Inc. et al.*, Saskatchewan Court of Queen's Bench, Saskatoon Reg. No. 1452 of 2012
16. *Ironbow v. The Cash Store Financial Services Inc. et al.*, Saskatchewan Court of Queen's Bench, Saskatoon Reg. No. 1453 of 2012

**SCHEDULE B**

**Form of Plan of Compromise and Arrangement**

**SCHEDULE C**

**CLAIMS NOT RELEASED BY D&O DEFENDANTS**

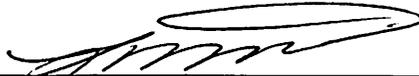
1. Craig Warnock's claim (if any) for compensation in respect of any and all damages or losses he may have suffered arising from his employment by and termination from The Cash Store Financial Services Inc., which may include but not be limited to claims for compensation in respect of pay in lieu of notice of termination, severance pay and/or the loss of benefits or other entitlements, howsoever arising, whether common law or statutory.
  
2. Michael Thompson's claim (if any) for compensation in respect of any and all damages or losses he may have suffered arising from his employment by and termination from The Cash Store Financial Services Inc., which may include but not be limited to claims for compensation in respect of pay in lieu of notice of termination, severance pay and/or the loss of benefits or other entitlements, howsoever arising, whether common law or statutory.

6490051

**This is EXHIBIT “E” referred to in the**

**Affidavit of SARAH A. BOWDEN**

**sworn before me, this 23<sup>rd</sup> day of September, 2015**

A handwritten signature in black ink, appearing to be "A. Commissioner", written over a horizontal line.

***A Commissioner, etc.***

**DID YOU TAKE A PAYDAY LOAN FROM  
THE CASH STORE OR INSTALOANS IN  
ONTARIO ON OR AFTER SEPTEMBER 1, 2011?**

**If so, read this notice.**

**Class Action Settlements have been Reached for  
Borrowers from Ontario locations of The Cash Store  
and Instaloes**

**A hearing will be held on November 19, 2015** where lawyers for Borrowers will seek a court Order approving the settlements reached on behalf of Ontario borrowers ("Ontario Settlements"), the method of distributing the settlement funds to borrowers ("Settlement Distribution Plan,") and the fees and expenses to be paid to lawyers ("Counsel Fees.")

**IMPORTANT DEADLINE**

**You have a right to object** if you do not agree with the proposed Ontario Settlements, Settlement Distribution Plan, or request for Counsel Fees. If you wish to object, you must file an objection by November 9, 2015.

**FOR DETAILED INFORMATION**

visit [www.ontariocashstoresettlement.com](http://www.ontariocashstoresettlement.com)

**OR CALL 1-800-263-0489, ext. 759**

**This is EXHIBIT “F” referred to in the**

**Affidavit of SARAH A. BOWDEN**

**sworn before me, this 23<sup>rd</sup> day of September, 2015**



***A Commissioner, etc.***

# DID YOU TAKE A PAYDAY LOAN FROM THE CASH STORE OR INSTALOANS IN ONTARIO ON OR AFTER SEPTEMBER 1, 2011?

**Ontario Class Action Settlements have been reached. Please read this notice.**

## **CLASS ACTION LAWSUITS WERE FILED**

Class action lawsuits were filed in connection with “payday loans” offered by The Cash Store and Instalozans (collectively “The Cash Store”) in Ontario for loans made on or after September 1, 2011 (collectively “Ontario Class Actions.”) These lawsuits were filed against The Cash Store, their directors and officers, parties known as third party lenders, and a group of companies owned by or affiliated with DirectCash Payments Inc. (“DirectCash”) which provided a series of products and services in connection with the payday loans.

The lawsuits were filed on behalf of all Canadians who entered into payday loans in Ontario with The Cash Store from September 1, 2011 onward (the “Borrowers.”)

The Ontario Class Actions claim that the defendants’ payday loans had an unlawful structure and that Borrowers were charged too much money for interest on their payday loans and for other fees on credit cards, debit cards, insurance policies, bank accounts, and for other items. Among other things, the Ontario Class Actions asked the Court to order the improper fees and interest be returned to Borrowers.

## **CASH STORE OBTAINS CCAA PROTECTION**

On April 14, 2014, The Cash Store became insolvent and obtained protection from its creditors under the *Companies’ Creditors Arrangement Act* (“CCAA”) by order of the Ontario Superior Court of Justice (Commercial List) in Toronto, Ontario (the “Court.”) The CCAA protection extends to the directors and officers of The Cash Store. The Cash Store no longer operates and all of its assets were sold while it was under CCAA protection. Claims against it are now being managed by the Court under Canadian insolvency law.

## **SETTLEMENTS HAVE BEEN REACHED**

Lawyers for Borrowers (“Class Counsel”) in the Ontario Class Actions have created settlements with The Cash Store, and its directors and officers, within the CCAA Proceedings. Settlements have also been reached with a number of other defendants; namely, the DirectCash parties and some of the third-party lenders of The Cash Store (collectively, “the Settling Defendants.”)

The Settling Defendants together have agreed to pay over \$10 million, plus a share of any future litigation recoveries by The Cash Store, to settle the Ontario Class Actions. In exchange, the litigation against them will end and they will be provided with a full release for all legal claims made against them (the “Ontario Settlements.”)

The Ontario Settlements will be presented to the creditors of The Cash Store in its CCAA proceedings at a creditors’ meeting on [date]. If the creditors approve the Ontario Settlements, they will be built into a CCAA Plan of Compromise and Arrangement to be put before the Court for approval. A plan to distribute the Ontario Settlements to Ontario Borrowers will also be brought before the Court for approval (the “Settlement Distribution Plan.”) The objective of the Settlement Distribution Plan is to distribute the monetary recoveries in the Ontario Settlements to Borrowers for the costs of borrowing charged to them. To see a copy of the

proposed Settlement Distribution Plan, visit:  
[www.ontariocashstoresettlement.com](http://www.ontariocashstoresettlement.com).

The Court must also approve the fees of the Class Counsel. The actions have been underway since 2012. These lawyers act on a contingent fee basis: this means that they have taken the risk that they would not be paid for their legal work or reimbursed for the out-of-pocket expenses they have paid in connection with the case if the Ontario Class Actions were unsuccessful. As such, the lawyers will request that legal fees of 25% of the Ontario Settlements, plus out-of-pocket expenses and applicable taxes, be paid.

## **COURT APPROVALS**

Motions will be brought before the Court for: a) approval of the Plan of Compromise and Arrangement containing the Ontario Settlements, including approval of the releases; b) approval of the Settlement Distribution Plan; and c) approval of Class Counsel fees, out-of-pocket expenses, and applicable taxes.

If the Court approvals are granted, Ontario Borrowers who took a loan at an Ontario location of The Cash Store, Instalozans, or one of their affiliated companies any time on or after September 1, 2011 will automatically be eligible to make a claim for compensation under the Settlement Distribution Plan.

If you wish to object to the approvals to be sought in the Ontario Class Actions, please send your written objection to Class Counsel at the contact particulars below by November 9, 2015. The lawyers will make your objection known at the creditors’ meeting and at the settlement approval motion scheduled for November 19, 2015 at 3:30pm at 361 University Ave, Toronto. **Please do not contact the Courts with an objection—they cannot process it.**

**If you do not wish to object, you do not need to take any action at this time.**

## **IF THE COURT APPROVALS ARE GRANTED**

Public notices to Borrowers will be made to announce the opening of the claims process under the Settlement Distribution Plan in the near future so that Borrowers can claim settlement money.

**All Borrowers are encouraged to find and keep any documents they may have relating to any loan from The Cash Store in Ontario on or after September 1, 2011. Those documents will help Borrowers to claim their settlement money.**

## **CLASS COUNSEL**

If you have an objection or have any questions, contact Class Counsel or visit the settlement website:

Harrison Pensa LLP, Attn: Jonathan J. Foreman  
450 Talbot Street  
London, ON N6A 4K3  
Tel: 1.800.263.0489 ext. 759  
Fax: 1.519.667.3362  
[cashstore@harrisonpensa.com](mailto:cashstore@harrisonpensa.com)  
[www.ontariocashstoresettlement.com](http://www.ontariocashstoresettlement.com)

**This is EXHIBIT "G" referred to in the  
Affidavit of SARAH A. BOWDEN  
sworn before me, this 23<sup>rd</sup> day of September, 2015**



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*A Commissioner, etc.*

The Cash Store Class Action  
Notice Plan

The Short- and Long-Form Notices of Settlement Approval Hearing will be distributed to Class Members as follows:

- 1) by distribution to major news and broadcast outlets across Canada, in English and French, through a Press Release on Canada Newswire which includes a social media feed to facilitate recirculation of the Press Release;
- 2) through a social media campaign utilizing Facebook and Twitter, which will specifically target special-interest groups who are likely to be interested in the matter such as those who have accessed payday loan and credit counselling agency websites online;
- 3) by direct mail, fax, and/or e-mail to:
  - a) all persons who have contacted plaintiffs' counsel about the litigation
  - b) all persons or organizations who request a copy of the Notice, and
  - c) any other potentially interested parties identified by plaintiffs' counsel; and
- 4) by posting the notice on a dedicated settlement website at [www.ontariocashstoresettlement.com](http://www.ontariocashstoresettlement.com) and [www.ontariocashstoresettlement.ca](http://www.ontariocashstoresettlement.ca), as well as on the website of plaintiffs' counsel at [www.harrisonpensa.com](http://www.harrisonpensa.com).

**Short-Form Notice**

The Short-Form Notice of Settlement Approval Hearing will be distributed to Class Members as follows:

- 5) by publication (one time) in a weekday edition of the following newspapers:
  - a) in the "Life" section of The National Post; and
  - b) in the "Life" section of The Toronto Star;
- 6) by publication (one time) in the Metroland family of newspapers, distributed in the geographical areas in Ontario where The Cash Store and Instalozans branches were formally located;

### **Long-Form Notice**

The Long-Form Notice Settlement Approval Hearing will be distributed to Class Members as follows:

- 7) the Consumers' Council of Canada by
  - a) posting a website link to the Notice on the Council's Homepage of its website,
  - b) posting the Notice under the "Class Action Notices" section of the "Council News" page of their website,
  - c) posting a website link to the Notice on the Council's Facebook page, and
  - d) posting a link to the Notice on the Council's Twitter feed;
  
- 8) to ACORN (Association of Community Organizations for Reform Now), an independent, national organization of low- and moderate-income families comprised of approximately 70,000 members, by:
  - a) posting the Notice under the "Campaigns – Fair Fees" section of their website, and
  - b) posting the Notice on its Facebook page.

**This is EXHIBIT “H” referred to in the  
Affidavit of SARAH A. BOWDEN  
sworn before me, this 23<sup>rd</sup> day of September, 2015**

A handwritten signature in black ink, appearing to be "A. Commissioner, etc.", written over a horizontal line.

*A Commissioner, etc.*



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## SEARCH NEWS



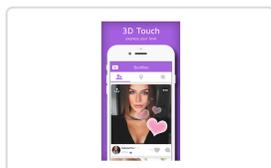
## FEATURED NEWS RELEASES



## Cadillac Fairview Begins Roll-Out of New Brand Identity; Unveils New Direction to Unify... (<http://www.newswire.ca/news-releases/cadillac-fairview-begins-roll-out-of-new-brand-identity-unveils-new-direction-to-unify-iconic-shopping-centres-across-canada-528481611.html>)

ONTARIO, Sep 21, 2015, 08:00 ET

Refreshed corporate logo and new brand identity for Canada's most dynamic commercial real estate company also includes the rebranding of shopping centres New consumer experiences and technology will play key role as Cadillac Fairview changes Canadian definition of...



## Introducing BUMPN: Express Your Love With 3D Touch (<http://www.newswire.ca/news-releases/introducing-bumpn-express-your-love-with-3d-touch-528185911.html>)

ONTARIO, Sep 18, 2015, 10:00 ET

OTTAWA, Sept. 18, 2015 /CNW/ - Make room on your home screen for Bumpn! This killer new location based social media.....



**Reitmans (Canada) Limited gets moving with new HYBA activewear banner (<http://www.newswire.ca/news-releases/reitmans-canada-limited-gets-moving-with-new-hyba-activewear-banner-528095011.html>)**

QUEBEC, Sep 17, 2015, 04:32 ET

MONTREAL, Sept. 17th, 2015 /CNW Telbec/ - Montreal-based fashion retailer Reitmans (Canada) Limited is excited to.....



**Canadian Art Foundation celebrates 20th anniversary of its Gala and... (<http://www.newswire.ca/news-releases/canadian-art-foundation-celebrates-20th-anniversary-of-its-gala-and-annual-auction-with-countrys-art-community-528169471.html>)**

ONTARIO, Sep 18, 2015, 07:37 ET

TORONTO, Sept. 18, 2015 /CNW/ - The Honourable Michael Coteau, Minister of Tourism, Culture and Sport with.....



**Seeking Feedback on Caledon's Cheltenham Badlands: Online Survey and... (<http://www.newswire.ca/news-releases/seeking-feedback-on-caledons-cheltenham-badlands-online-survey-and-public-consultation-meetings-528044581.html>)**

ONTARIO, Sep 17, 2015, 11:12 ET

CALEDON, ON, Sept. 17, 2015 /CNW/ - The Ontario Heritage Trust and its partners are seeking feedback from the public.....

[View All News Releases > \(/news-releases/news-releases-list\)](#)

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**Federal Election 2015 (<http://www.newswire.ca/news-releases/federal-election->**

## 2015-320423512.html)

Sep 18, 2015, 16:15 ET

CPhA Welcomes NDP Commitment to Improve Prescription Drug Access and Affordability for Canadians (<http://www.newswire.ca/news-releases/cpha-welcomes-ndp-commitment-to-improve-prescription-drug-access-and-affordability-for-canadians-528247831.html>)

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Sep 17, 2015, 23:05 ET

Assembly of First Nations National Chief Says the Federal Party Leaders Debate Ignores First Nations Economic Issues (<http://www.newswire.ca/news-releases/assembly-of-first-nations-national-chief-says-the-federal-party-leaders-debate-ignores-first-nations-economic-issues-528142131.html>)

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Sep 17, 2015, 11:52 ET

Family Caregivers team to engage Canadians during leaders' debate on the economy (<http://www.newswire.ca/news-releases/family-caregivers-team-to-engage-canadians-during-leaders-debate-on-the-economy-528051941.html>)

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Sep 17, 2015, 10:00 ET

Federal public sector workers gather in advance of federal election to raise awareness about the impact of cuts to vital public services (<http://www.newswire.ca/news-releases/federal-public-sector-workers-gather-in-advance-of-federal-election-to-raise-awareness-about-the-impact-of-cuts-to-vital-public-services-528032851.html>)

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Sep 17, 2015, 05:59 ET

Alzheimer Society urges federal parties to act on dementia (<http://www.newswire.ca/news-releases/alzheimer-society-urges-federal-parties-to-act-on-dementia-528002821.html>)

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Sep 16, 2015, 09:00 ET

Premier Kathleen Wynne endorses Toronto Centre candidate Bill Morneau (<http://www.newswire.ca/news-releases/premier-kathleen-wynne-endorses-toronto-centre-candidate-bill-morneau-527852631.html>)

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Sep 15, 2015, 18:11 ET

Steelworkers Support Mulcair's Plan to Defend Auto Sector, Boost Manufacturing (<http://www.newswire.ca/news-releases/steelworkers-support-mulcairs-plan-to-defend-auto-sector-boost-manufacturing-527776671.html>)

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Sep 15, 2015, 16:39 ET

Psychiatrists Praise NDP for Bringing Focus on Mental Health Care to the Federal Election (<http://www.newswire.ca/news-releases/psychiatrists-praise-ndp-for-bringing-focus-on-mental-health-care-to-the-federal-election-527761041.html>)

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View All Federal Election 2015 news (<http://www.newswire.ca/news-releases/federal-election-2015-320423512.html>)

## Syrian Refugee Crisis (<http://www.newswire.ca/news-releases/syrian-refugee-crisis-328130851.html>)

06:59 ET

The UPS Foundation funds critical UN relief shipments to aid in global Syrian refugee crisis (<http://www.newswire.ca/news-releases/the-ups-foundation-funds-critical-un-relief-shipments-to-aid-in-global-syrian-refugee-crisis-528475101.html>)

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Sep 19, 2015, 17:03 ET

Faster help for Syrian and Iraqi refugees without compromising Canadian security (<http://www.newswire.ca/news-releases/faster-help-for-syrian-and-iraqi-refugees-without-compromising-canadian-security-528381161.html>)

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Sep 17, 2015, 12:00 ET

The Catholic Church launches appeal in response to refugee crisis (<http://www.newswire.ca/news-releases/the-catholic-church-launches-appeal-in-response-to-refugee-crisis-528053311.html>)

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Sep 16, 2015, 17:51 ET

Statement attributable to Hanaa Singer, UNICEF Representative in Syria on child casualties (<http://www.newswire.ca/news-releases/statement-attributable-to-hanaa-singer-unicef-representative-in-syria-on-child-casualties-527949001.html>)

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Sep 16, 2015, 11:02 ET

Steelworkers Humanity Fund Supports Syrian, Burundian Refugees (<http://www.newswire.ca/news-releases/steelworkers-humanity-fund-supports-syrian-burundian-refugees-527871821.html>)

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Sep 16, 2015, 10:37 ET

The Salvation Army Continues to Assist Syrian Refugees (<http://www.newswire.ca/news-releases/the-salvation-army-continues-to-assist-syrian-refugees-527867951.html>)

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Sep 16, 2015, 08:30 ET

UNICEF: Millions of children across conflict-hit Syria deprived of education (<http://www.newswire.ca/news-releases/unicef-millions-of-children-across-conflict-hit-syria-deprived-of-education-527847341.html>)

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Sep 16, 2015, 08:15 ET

Canada's leading aid agencies call on Canada to deepen its commitment to Syrian refugees (<http://www.newswire.ca/news-releases/canadas-leading-aid-agencies-call-on-canada-to-deepen-its-commitment-to-syrian-refugees-527845931.html>)

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View All Syrian Refugee Crisis news (<http://www.newswire.ca/news-releases/syrian-refugee-crisis-328130851.html>)

## Company Earnings (<http://www.newswire.ca/news-releases/company-earnings-319943641.html>)

Sep 18, 2015, 18:08 ET

Goldcorp to release 2015 third quarter results and host conference call and webcast on October 29th (<http://www.newswire.ca/news-releases/goldcorp-to-release-2015-third-quarter-results-and-host-conference-call-and-webcast-on-october-29th-528280921.html>)

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Sep 18, 2015, 17:49 ET

Pacific Insight Electronics Delivers Record Revenues for Fourth Quarter and Fiscal Year-End (<http://www.newswire.ca/news-releases/pacific-insight-electronics-delivers-record-revenues-for-fourth-quarter-and-fiscal-year-end-528275661.html>)

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Sep 18, 2015, 11:36 ET

Sunwah International Reports Fiscal 2015 Financial Results (<http://www.newswire.ca/news-releases/sunwah-international-reports-fiscal-2015-financial-results-528199401.html>)

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Sep 17, 2015, 17:30 ET

Gluskin Sheff + Associates Inc. Announces Fourth Quarter and Fiscal 2015 Results (<http://www.newswire.ca/news-releases/gluskin-sheff--associates-inc-announces-fourth-quarter-and-fiscal-2015-results-528105271.html>)

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Sep 17, 2015, 17:00 ET

Pason to Release Third Quarter 2015 Results on November 4, 2015 (<http://www.newswire.ca/news-releases/pason-to-release-third-quarter-2015-results-on-november-4-2015-528100201.html>)

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Sep 17, 2015, 09:00 ET

CP third-quarter 2015 results: Conference call with financial community on October 20, 2015 (<http://www.newswire.ca/news-releases/cp-third-quarter-2015-results-conference-call-with-financial-community-on-october-20-2015-528021721.html>)

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Sep 17, 2015, 09:00 ET

AGF Management Limited to Release Third Quarter Results on September 30, 2015 (<http://www.newswire.ca/news-releases/agf-management-limited-to-release-third-quarter-results-on-september-30-2015-528021771.html>)

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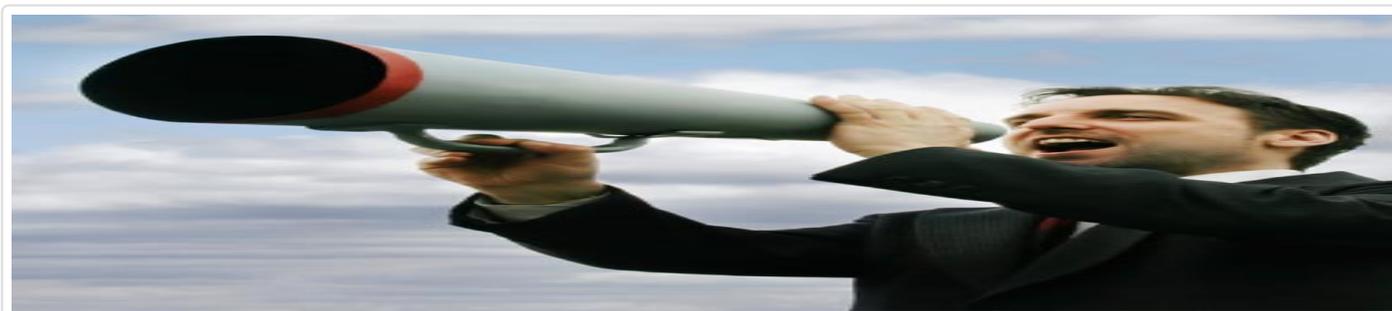
Sep 16, 2015, 09:00 ET

EXFO Investor Advisory - Fourth-quarter and year-end financial results for fiscal 2015 (<http://www.newswire.ca/news-releases/exfo-investor-advisory---fourth-quarter-and-year-end-financial-results-for-fiscal-2015-527853021.html>)

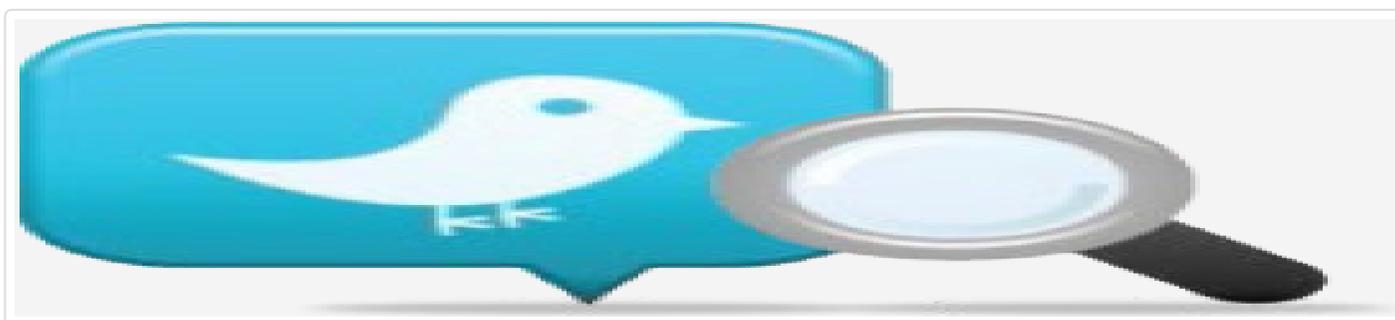
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View All Company Earnings news (<http://www.newswire.ca/news-releases/company-earnings-319943641.html>)

## Thought Leadership



News Release Boot Camp: What You Need to Know (<http://cnw.newswire.ca/knowledge-center/CNW-News-Release-Boot-Camp-What-You-Need-to-Know.html?LSC=N-CO-2.2.1-Recommendation&CO=N-CO-2.2.1&LS=newswire-dot-ca&LSP=20K>)



Brand Exposure: Media Monitoring and The Bottom Line (<http://cnw.newswire.ca/knowledge-center/Brand-Exposure-Media-Monitoring-and-The-Bottom-Line.html?LSC=SE-CO-1.1.3P-Recommendation&CO=SE-CO-1.1.3P&LS=newswire-dot-ca&LSP=20K>)

## Popular Blog Posts



Are You Putting All of Your Digital Eggs in One Basket? (<http://cnw.newswire.ca/blog/Are-You-Putting-All-of-Your-Digital-Eggs-in-One-Basket.html>)

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(<http://cnw.newswire.ca/blog/profile--cheryl-muir-communications-and-media-engagement-corix.html>)

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**This is EXHIBIT "I" referred to in the  
Affidavit of SARAH A. BOWDEN  
sworn before me, this 23<sup>rd</sup> day of September, 2015**



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*A Commissioner, etc.*

**≡ MENU**

# About Us

Metroland, Ontario's largest and most successful community newspaper publisher, provides local news and advertising in Canada's heartland.

We publish over 100 [community newspapers](http://metroland.com/newspapers) (<http://metroland.com/newspapers>) with over 125 editions that span from London in southwest Ontario to Ottawa in the northeast, with concentration around Toronto and the Greater Toronto Area.

[OUR HISTORY \(HISTORY\)](#)

[OUR EXECUTIVE TEAM \(EXECUTIVES\)](#)



Metroland Media is one of Canada's leading community media companies with operations in newspapers, digital properties, flyer distribution, printing, consumer shows, magazines, directories and online commerce.

Metroland strives to be the leading source of community news and information for readers and to provide the most effective and innovative advertising solutions for businesses in their community.

Metroland has strong ties and deep relationships in the communities it serves. Its newspapers and websites frequently earn industry association awards recognizing excellence in their content.

Metroland's community newspapers enjoy exceptional reach and readership in their markets where they also act as leading distributors of flyers to households on behalf of advertisers.

Through its network of publications, digital properties, distribution services, consumer shows and online commerce, Metroland Media provides advertisers with a broad array of effective and innovative advertising options for connecting with consumers.

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## Metroland Media

Metroland Media is one of Canada's leading community media companies with operations in newspapers, digital properties, flyer distribution, printing, consumer shows, magazines, directories and online commerce.

[CONTACT US \(HTTP://METROLAND.COM/CONTACT\)](http://metroland.com/contact)

## Press Releases

Enthusiast Gaming Live, Inc. to debut Canada's Largest Video Game Expo This November (<http://metroland.com/press-releases/enthusiast-gaming-live-inc-to-debut-canada-s-largest-video-game-expo-this-november>)

SEPTEMBER 11, 2015

Metroland Media supports the TORONTO 2015 Pan Am and Parapan Am Games Torch Relays (<http://metroland.com/press-releases/metroland-media-supports-the-toronto-2015-pan-am-and-parapan-am-games-torch-relays>)

MAY 7, 2015

### Links of Interest

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[Newspapers \(http://metroland.com/newspapers\)](http://metroland.com/newspapers)

[Terms of Use \(http://metroland.com/terms-of-use\)](http://metroland.com/terms-of-use)

[Advertising Terms & Conditions \(http://metroland.com/advertising-terms-and-conditions\)](http://metroland.com/advertising-terms-and-conditions)

[Accessibility for Ontarians with Disability \(http://metroland.com/accessibility\)](http://metroland.com/accessibility)

Metroland Media Group announces investment in Nest Wealth (<http://metroland.com/press-releases/metroland-media-group-announces-investment-in-nest-wealth>)

AUGUST 4, 2015

Metroland newspapers shine in Local Media Association's Best of 2014 Editorial Contest (<http://metroland.com/press-releases/metroland-newspapers-shine-in-local-media-association-s-best-of-2014-editorial-contest>)

APRIL 29, 2015

<http://www.torstar.com/index.cfm>



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**This is EXHIBIT “J” referred to in the  
Affidavit of SARAH A. BOWDEN  
sworn before me, this 23<sup>rd</sup> day of September, 2015**

A handwritten signature in black ink, appearing to be "A. Commissioner", written over a horizontal line.

*A Commissioner, etc.*

Select Language ▼

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## About Us

### Operating Principles

The Consumers Council of Canada works collaboratively with consumers, business and government in support of consumers' rights and responsibilities, seeking an efficient, equitable, effective and safe marketplace for consumers. The Council is a member of the [Canadian Consumer Initiative](#).

The Council advocates for the [charter of International Consumer Rights](#), to which it has added a ninth, the Right to Privacy, and they include:

- The right to safety.
- The right to choose.
- The right to be heard.
- The right to be informed.
- The right to consumer education.
- The right to consumer redress.
- The right to a healthy environment.
- The right to basic needs.
- The right to privacy.

**The Consumers Council of Canada is committed to:**

*A Voice for Consumers:* We endeavor to be a voice for consumers across Canada.

*Listening to Consumers:* We work to listen to consumers and develop policy consistent with what we are told.

*Consumer Empowerment:* We provide leadership in educating and informing consumers about their rights and responsibilities.

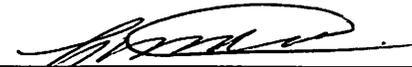
*Integrity:* We endeavour to conduct our business in ways that are consistent with the highest professional and ethical standards.

*Stakeholder Involvement:* We actively seek the advice of a broad range of stakeholders, including other consumer groups, and assess the specific suggestions made, to incorporate, where appropriate, their advice into the Council's policies and programs.

*Excellence in Client and Member Services:* We strive to provide the high levels of service to our clients and members.

*Financial Sustainability.*

**This is EXHIBIT “K” referred to in the  
Affidavit of SARAH A. BOWDEN  
sworn before me, this 23<sup>rd</sup> day of September, 2015**



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*A Commissioner, etc.*



## UNITING COMMUNITIES FOR JUSTICE

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### About

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#### ACORN Canada

ACORN (Association of Community Organizations for Reform Now) Canada is an independent national organization of low- and moderate-income families. We have over 70,000 members organized into twenty neighbourhood chapters in nine cities across Canada. We believe that social and economic justice can best be achieved with a national active membership who are invested in their organization and focused on building power for change!

Since 2004 our members have won several important victories including: Provincial Payday Lending legislation in Ontario and BC, and working in coalition to raise the Minimum Wage in Ontario to \$11/hour plus indexing to inflation.

Other national and provincial campaigns: Remittance Justice, Digital Access to Opportunities, Healthy Homes and Disability and Social Assistance Rights. All of our offices offer free tax preparation services.

People power makes change happen – [click here to JOIN!](#)

#### Toronto ACORN

Toronto ACORN was founded in 2004, with the first organized group in Canada being formed in Weston / Mt Dennis after tenants took their slum-lord to task and won \$250,000 in rent abatements. In the next ten years Toronto ACORN spread to every part of the city leading the fight and winning significant victories including raising the minimum wage; strengthening of the enforcement of apartment building standards; regulating the payday loan industry in Canada; and countless improvements in our neighbourhoods. In the next year we plan to fight for a new Residential Tenancy Act; to turn up the heat on predatory lenders that sell consolidation loans; to continue our fight to get the city of Toronto to license all landlords in the city; and to keep the pressure on to close the digital divide.

Toronto ACORN has local meetings in your neighbourhood and they are always open for new people to get involved. [Join Toronto ACORN now!](#)

#### Nova Scotia ACORN

Nova Scotia ACORN started out in Sydney, Cape Breton back in 2011. In 2012, NS ACORN moved to the HRM and first started organizing in North Dartmouth. We established our North Central Halifax Chapter in May 2014 and our Dartmouth North Chapter in September 2014 -- and we will be coming soon to a neighbourhood near you!

In the meantime, we've been busy fighting back against slumlords, pushing the city to introduce landlord licensing, and campaigning for better living conditions for public housing tenants. Nova Scotia ACORN is also fighting for the return of rent control to Nova Scotia, a living wage, and affordable access to the internet.

Want to join the fight? [Join ACORN!](#)

#### Ottawa and Gatineau ACORN

Ottawa and Gatineau ACORN has over 16,000 members committed to fighting for change. Like any union or association, membership decides the drives the of the organization, while determining that the vast majority of our resources go towards organizing door to door, block to block, and city to city. Our local chapters include: Vanier (our first), Overbrooke, Britannia, Mechanicsville, Carlington, South Ottawa, and we have an at-large chapter for those who do not live in our member dense neighborhoods. We also have a chapter in Gatineau. We began organizing in Ottawa in December 2007.

Some of our victories include winning \$800,000 worth of investments from the city of Gatineau to renovate Parc Fontaine in 2014; winning investments to fix and renovate parks in the east and west end of Ottawa; forcing landlords to invest millions in apartment building repair with our Healthy Homes campaign; winning a new appliance maintenance bylaw in the city of Ottawa; fixing Social Assistance, stopping disability discrimination, working with allies to raise the income clawback amount – and many more!

[Join Ottawa ACORN now!](#)

#### BC ACORN

BC ACORN started organizing in 2005, starting with our first chapter, Surrey. Since then we have built up six more chapters across the lower mainland (New Westminster, Burnaby, Tri-Cities, Whalley, Guildford, and Newton). Some of our biggest victories include: Canada's first living wage policy in New Westminster; the introduction of a healthy homes bylaw in Surrey; regulation of payday lending; and many local victories against slumlords!

Despite losing our office in an explosion in 2013, BC ACORN is stronger than ever and continuing the fight for healthy homes, disability rights, and closing the digital divide!

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To help build a grassroots campaign – Pour aider à bâtir Campagne locale

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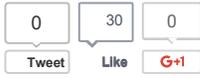
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- Halifax Media Co-op: Welfare recipients demand real consultation
- Ottawa Community News: Disability activists seek boost in housing allowance

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TIMOTHY YEOMAN  
IN THE MATTER OF THE COMPANIES'  
CREDITORS ARRANGEMENT ACT, R.S.C. 1985,  
c. C-36 AS AMENDED

v. GORDON J. REYKDAL, MICHAEL J. L. THOMPSON et al.

Court File No. 4171/14  
Court File No. CV-14-10518-00CL

Plaintiffs

Defendants

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT LONDON

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