

Court file # CV-08-363659-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N

KENNETH SMITH, as Estate Trustee of the Last Will and Testament of
Margaret Smith, deceased, and RONALD ADRIEN ORIET

Plaintiffs

and

NATIONAL MONEY MART COMPANY and
DOLLAR FINANCIAL GROUP, INC.

Defendants

Proceeding Under the *Class Proceedings Act, 1992*

**AGREEMENT
made as of June 5, 2009**

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Subject to Court approval as provided herein, the Parties hereby stipulate and agree that, in consideration of the promises and covenants set forth in the Agreement and upon the Approval Order approving the Settlement and directing the implementation of the terms and conditions of the Settlement as set forth in the Agreement becoming final, the Action will be settled and compromised upon the terms and conditions contained herein.

SECTION 1—RECITALS

1.1 WHEREAS:

A. Margaret Smith (now deceased) and Ronald Oriet commenced the Action against the Defendants alleging among other things that the Defendants charged, or permitted to be charged, fees for short term loans which constituted interest at a criminal rate contrary to s. 347 of the *Criminal Code of Canada*;

B. The Defendants have denied and continue to deny the Plaintiffs' claims in the Action and have denied any wrongdoing or liability to the Plaintiffs of any kind, and have raised numerous affirmative defences;

C. Based upon extensive analysis of the facts and the law applicable to the Plaintiffs' claims, and taking into account the extensive burdens and expense of continued litigation, including the risks and uncertainties associated with the completion of the Trial and any potential appeal, the risk of collection, as well as the fair, cost-effective and assured method of resolving the Plaintiffs' claims and the claims of the Settlement Class, Class Counsel and the Plaintiffs, with the benefit of advice from Class Counsel, concluded that the Agreement is fair and reasonable, and in the best interests of the Settlement Class;

D. The Defendants similarly have concluded that the Agreement is desirable in order to avoid the time, risks and expense of continuing with the Trial and any potential appeals, and to resolve finally and completely the pending and potential claims of the Plaintiffs and the Settlement Class;

E. The Plaintiffs and the Defendants engaged in lengthy, hard fought and extensive litigation, negotiations and independent mediation sessions on multiple occasions, which mediation sessions resulted in the adjournment of the Trial and the Agreement. The terms and conditions of the Agreement are recommended by the independent mediator, the Honourable Frank Iacobucci, C.C., Q.C.;

F. The Parties intend by the Agreement to resolve, terminate and finally conclude any and all Settled Claims pursuant to the terms of the Agreement, and further intend that the Released Persons shall receive complete releases and final peace from all such Settled Claims on behalf of the Settlement Class; and

NOW, THEREFORE, for value received, the Parties stipulate and agree, subject to Court approval, that any and all Settled Claims shall be finally settled and resolved on the terms and conditions set forth in the Agreement:

SECTION 2—DEFINITIONS

2.1 As used in the Agreement, including the Recitals and Schedules hereto, in addition to any definitions elsewhere in the Agreement, the following terms shall have the meanings set forth below:

- (a) **Action** means the action in the Ontario Superior Court of Justice bearing Court File No. CV-08-363659-00CP;
- (b) **Agreement** means this agreement, including all Schedules attached hereto;
- (c) **Anniversary Date(s)** means the date twelve months after the Settlement Date and the corresponding dates at the end of each twelve month period thereafter, and includes the Expiration Date;
- (d) **Approval Hearing** means the hearing to be conducted by the Court in connection with the motion for the Approval Order;

- (e) ***Approval Hearing Date*** means February 22, 2010;
- (f) ***Approval Order*** means the order made by the Court in connection with the motion for approval of the Settlement, such order to be substantially in the form of **Schedule F**;
- (g) ***Auditor*** means Grant Thornton LLP;
- (h) ***Cash Credit*** means cash, if any, payable to individual Credit Class Members as calculated in accordance with the Agreement;
- (i) ***Cash Credits Database*** means an electronic database containing at least the following data with respect to each Credit Class Member:
 - (i) his or her pro rata share of the Cash Credits;
 - (ii) the amount of the Cash Credit allocated;
 - (iii) the date he or she contacted Money Mart in respect of the Cash Credit;
 - (iv) the address provided; and
 - (v) the date the Cash Credit was paid;
- (j) ***Cash Reserve Fund*** means a fund comprising 1% of the amount of any Cash Credits;
- (k) ***Certificate*** means a paper certificate with a control number and/or bar code evidencing a \$5 Transaction Credit;

- (l) ***Cheque Cashing Fees*** mean the amount of the percentage fee and the fixed fee for each Eligible Fast Cash Advance Transaction;
- (m) ***Class Counsel*** means the law firms of Sutts, Strosberg LLP, Heenan Blaikie LLP, Paliare Roland Rosenberg Rothstein LLP and Koskie Minsky LLP;
- (n) ***Class Counsel Fees*** mean the fees, disbursements, costs, interest, GST and other applicable taxes (including any future provincial or harmonized sales tax) or charges approved by the Court, but does not include the fees, disbursements and expenses of the Class Counsel Representative;
- (o) ***Class Counsel Representative*** means Patricia A. Speight or such other lawyer, appointed by the Court;
- (p) ***Class*** means all persons who, in the period August 19, 1997 to September 9, 2007, entered into a payday loan and/or fast cash advance in Ontario with Money Mart or a Former Franchisee or a Current Franchisee which was repaid using a first party personal cheque delivered at the time the loan was obtained provided such cheque was honoured by the bank, excluding persons who opted out on or before March 9, 2008;
- (q) ***Class Member*** means a member of the Class;
- (r) ***Common Issues*** means the common issues listed in **Schedule G**;
- (s) ***Court*** means the Ontario Superior Court of Justice;
- (t) ***Credit Class Member*** means a Settlement Class Member with no Default Transactions;
- (u) ***Current Franchisees*** mean 2073518 Ontario Inc., 577509 Saskatchewan Ltd., Kilduff Investments Limited and 2042772 Ontario Inc.;

- (v) **Debt Release** means the release by or on behalf of Money Mart, the Former Franchisees and the Current Franchisees of 100% of the amounts the Indebted Class Members owe on account of the Default Transactions;
- (w) **Debt Release Database** means an electronic database containing at least the following data with respect to each Indebted Class Member:
 - (i) a list of all Default Transactions including the date of the default and the amount owing;
 - (ii) the total outstanding amount owed and payable in respect of all Default Transactions; and
 - (iii) the date that notice of the Debt Release was provided;
- (x) **Default Transaction** means a transaction of any kind engaged in by a Settlement Class Member up to and including April 30, 2009 with Money Mart, the Former Franchisees and/or the Current Franchisees which resulted in a default by that Settlement Class Member in respect of which there is still an amount owing by the Settlement Class Member on December 31, 2009;
- (y) **Defendants** mean National Money Mart Company (“Money Mart”) and Dollar Financial Group, Inc (“Dollar Financial”);
- (z) **Eligible Fast Cash Advance Transaction** means a Fast Cash Advance which was repaid using a first party personal cheque delivered at the time the Fast Cash Advance was obtained provided such cheque was honoured by the bank;
- (aa) **Eligible Services** mean all existing Money Mart products or services as of the date hereof including payday loans, cheque cashing, income tax preparation and debit cards, but excluding wire transfers, foreign exchange, and money order purchases;
- (bb) **Expiration Date** means that date that is four years after the Settlement Date;

- (cc) ***Fast Cash Advance*** means a payday loan or a fast cash advance obtained in Ontario from Money Mart or the Former Franchisees or the Current Franchisees during the Settlement Period;
- (dd) ***First Notice*** means the form of notice approved by the Court substantially in the form of **Schedule B**;
- (ee) ***First Notice Order*** means the order made by the Court approving the First Notice and the Notice Plan, such order to be substantially in the form of **Schedule E**;
- (ff) ***Former Franchisees*** mean 722906 Ontario Limited, Canadian Capital Corporation, Jenica Holdings Limited, 764815 Ontario Inc., 931669 Ontario Limited and 1556911 Ontario Limited;
- (gg) ***Indebted Class Member*** means a Settlement Class Member with at least one Default Transaction;
- (hh) ***Money Mart's Counsel*** means McCarthy Tétrault LLP Attention: John P. Brown, P.O. Box 48, Suite 5300 Toronto Dominion Bank Tower, Toronto, Ontario, Canada, M5K 1E6;
- (ii) ***Money Mart Store*** means a store operated by Money Mart or any of its Current Franchisees, anywhere in Canada, except in the Province of Quebec;
- (jj) ***New Class*** means all Money Mart customers who in the period September 10, 2007 to the last day of the Settlement Period engaged in their first payday loan and/or fast cash advance in Ontario with Money Mart or a Former Franchisee or a Current Franchisee which was repaid using a first party personal cheque delivered at the time the loan was obtained provided such cheque was honoured by the bank;

- (kk) *New Class Member* means a member of the New Class;
- (ll) *Notice Plan* means the plan for disseminating the First Notice and the Second Notice as approved by the Court, such plan to be substantially in accordance with **Schedule A**;
- (mm) *Opt-Out Period* means the period commencing on the Settlement Date and ending 60 days thereafter;
- (nn) *Parties* mean the Plaintiffs and the Defendants;
- (oo) *Plaintiffs* mean Kenneth Smith and Ronald Oriet;
- (pp) *Referee* means Reva Devins;
- (qq) *Released Persons* mean the Defendants, Former Franchisees, Current Franchisees and their respective predecessors, successors, parents, subsidiaries, affiliates, assigns, officers, directors, employees, attorneys, agents and representatives;
- (rr) *Request for Exclusion* means a properly completed and executed written request to be excluded from and to opt out of the Action substantially in the form of **Schedule D**;
- (ss) *Second Notice* means the form of notice approved by the Court substantially in the form of **Schedule C**;
- (tt) *Set-Off* means the total amount owed by the Indebted Class Members as at December 31, 2009;
- (uu) *Settled Claims* mean any claim, liability, right, demand, suit, matter, obligation, damage, loss or cost, action or cause of action of every nature and description, in law or in equity, that the Settlement Class Members have, had or may have up to

and including the date of the Approval Order, including assigned claims, whether known or unknown, accrued or which may hereafter accrue, asserted or unasserted, latent or patent, that is, has been or could have been asserted by the Settlement Class Members in the Action against any of the Released Persons arising from or in any way related to the Common Issues and/or the facts and allegations asserted in the Action. Without limiting the generality of the foregoing, Settled Claims shall include any claims for a breach or violation of s. 347 of the *Criminal Code*, for an injunction, for damages for conspiracy, punitive damages, interest and costs, and any claims for a breach or violation of any federal or provincial statute, case law, common law, other law, equity, regulation or ordinance; any claims for breach of any duty imposed by law, by contract, or otherwise; any claims based on negligence, reliance, breach of express or implied warranty, conspiracy, deceptive or unconscionable acts or practices, breach of statutory duty, consumer fraud, negligent misrepresentation/omission, reckless misrepresentation/omission or intentional misrepresentation/omission; and any claims for penalties, arising from or in any way related to the Common Issues and/or the facts and allegations asserted in the Action. Excepted always from this definition are any claims arising out of the Approval Order and the Agreement and the failure of the Defendants to comply with their obligations particularized in the Approval Order and the Agreement;

- (vv) **Settlement** means the settlement described in the Agreement;
- (ww) **Settlement Amount** means the total amount of \$27.5 million;
- (xx) **Settlement Class** means all Class Members and New Class Members excluding persons who opt out;
- (yy) **Settlement Class Member** means a member of the Settlement Class;

- (zz) **Settlement Date** means the date on which the Approval Order becomes a final order or 30 days after the date of the Approval Order if an appeal is taken from the Approval Order relating only to Class Counsel Fees;
- (aaa) **Settlement Obligations** mean collectively the obligations described in Section 5 of the Agreement;
- (bbb) **Settlement Period** means the period from August 19, 1997 to December 31, 2009;
- (ccc) **Summary Settlement Agreement** means the written agreement made by the Parties on June 5, 2009;
- (ddd) **Termination Notice** means the form of notice, if any, approved by the Court if the Agreement is terminated;
- (eee) **Transaction Credits** means credits with a value of \$30 million plus any further credits contemplated by Section 5.8 ;
- (fff) **Transaction Credits Database** means an electronic database containing at least the following data with respect to each Credit Class Member:
- (i) a list of all Eligible Fast Cash Advance Transactions including the date of each and the Cheque Cashing Fees paid in respect of each;
 - (ii) the total Cheque Cashing Fees for all his or her Eligible Fast Cash Advance Transactions;
 - (iii) his or her pro rata share of Transaction Credits;
 - (iv) the amount of the Transaction Credits allocated to him or her;
 - (v) the date he or she contacted Money Mart in respect of the Transaction Credits;
 - (vi) the address provided;
 - (vii) the date(s) the Transaction Credits were used or transferred;
 - (viii) the amount(s) of the Transaction Credits used or transferred;

- (ix) the recipient of any transferred Transaction Credits; and
 - (x) the remaining balance of Transaction Credits from time to time;
- (ggg) *Transaction Reserve Fund* means a fund comprising 1% of the Transaction Credits;
- (hhh) *Trial* means the trial of the common issues which commenced on April 27, 2009 before Justice Spies;
- (iii) *Unused Credits* means Transaction Credits with a total value of \$30 million minus the value of the Transaction Credits used up to the Expiration Date; and
- (jjj) *Unused Credits Database* means an electronic database containing at least the following:
- (i) the Unused Credits, if any, on the Expiration Date; and
 - (ii) the balance of the Unused Credits on a day-to-day basis after the Expiration Date.

SECTION 3—REQUIRED EVENTS AND COOPERATION

3.1 The Plaintiffs will make a motion to the Court requesting approval of the First Notice in the terms of the First Notice Order including orders:

- (a) approving the form and content of the First Notice and the Notice Plan; and
- (b) approving a schedule for the delivery of objectors' materials to Money Mart's Counsel and its report to the Court.

3.2 The Plaintiffs will also make a motion to the Court requesting approval of the Settlement and providing the relief specified herein, which relief shall be subject to the terms and conditions of the Agreement and the Parties' performance of their continuing rights and obligations hereunder. The Approval Order will, among other things:

- (a) amend the existing certification order in the Action to extend the class period and add the New Class Members;
- (b) approve the distributions set out in the Agreement;
- (c) reserve the Court's continuing exclusive jurisdiction over the Parties and the Settlement Class Members to administer, supervise, construe and enforce the Agreement and Approval Order in accordance with their terms;
- (d) authorize the Parties and the persons appointed by the Court to bring such motions to the Court in the Action for directions as may be required;
- (e) declare that the Defendants and/or Released Persons have released the Indebted Class Members for any claims relating to the Default Transactions;
- (f) declare that the Settlement Class Members have released the Released Persons for any claims relating to the Settled Claims;
- (g) dismiss the claims for an injunction and punitive damages;
- (h) state that "save as aforesaid the Action is dismissed without costs"; and
- (i) be substantially in the form of Schedule F.

3.3 The Parties agree that the Fast Cash Advance transactions for which there is no electronic link between origination and deposits will be treated as Eligible Fast Cash Advance Transactions for the purposes of the Settlement.

3.4 As soon as reasonably practicable after December 31, 2009, Money Mart will produce to the Plaintiffs the following electronic customer data for the Settlement Class for corporate stores, Current Franchisees' stores and Former Franchisees' stores for the Settlement Period:

- (a) records in the electronic transaction history database relating to Eligible Fast Cash Advance transactions during the Settlement Period;
- (b) a subfile of the records described in subparagraph (a) for the Credit Class Members including, if possible, an allocation of the Transaction Credits, being the Transaction Credits Database;
- (c) a further subfile of the records described in subparagraph (a), being the Debt Release Database; and
- (d) the customer ID tables for all persons listed in (a), (b) and (c) above,

provided however that Class Counsel and Money Mart may by agreement vary the contents in these databases.

3.5 The Parties will use their best efforts to agree on:

- (a) the entitlement of each Settlement Class Member to either Debt Release or Transaction Credits;
- (b) the total amount of the Set-Off;
- (c) the total Cheque Cashing Fees paid by all Credit Class Members for all their Eligible Fast Cash Advance Transactions;
- (d) each Credit Class Member's pro rata share of the Transaction Credits;
- (e) the amount of the Transaction Credits allocated to each Credit Class Member; and
- (f) a summary of the information referred to in subparagraphs (a) to (e) and to create discs containing the original data for the purposes of the Approval Hearing.

3.6 If the Parties do not reach agreement on the matters set out in Section 3.5 by January 31, 2010, the matters will be immediately referred to the Honourable Frank Iacobucci for summary determination without a right of appeal.

3.7 If the Court orders the payment of Cash Credits, the Parties will use their best efforts to agree on:

- (a) each Credit Class Member's pro rata share of the Cash Credits; and
- (b) the amount of the Cash Credit allocated to each Credit Class Member; and

failing agreement, these issues will be determined by the Court in a summary manner. This data will be incorporated into the Cash Credits Database.

3.8 The Parties shall cooperate, assist each other and take all reasonable steps in order to accomplish all events contemplated by the Agreement.

SECTION 4—NOTICE TO THE SETTLEMENT CLASS

4.1 Subject to Court approval, the First Notice and the Second Notice, substantially in the form of Schedules B and C respectively, will be published and disseminated to Settlement Class Members in accordance with the Notice Plan attached as Schedule A.

4.2 If the Settlement is terminated in accordance with the provisions of Section 12, a Termination Notice will be published and disseminated to the Settlement Class Members in a manner to be determined by the Court.

4.3 In addition to the Settlement Amount, Money Mart will pay the costs of publishing and disseminating the First Notice, the Second Notice, the Termination Notice, if any, the notice of the motion contemplated by Section 5.19 and the costs of Money Mart's Counsel to receive the objectors' materials and the Requests for Exclusion and report to the Court thereon.

SECTION 5—MONEY MART’S SETTLEMENT OBLIGATIONS

5.1 On and following the Settlement Date, Money Mart will comply with the Settlement Obligations in the manner required by the provisions of the Agreement and the directions of the Court.

a) Debt Release

5.2 After the deadline for Requests for Exclusion, Money Mart will completely and unconditionally release, forever discharge and acquit the Indebted Class Members. As set out in the Notice Plan, Money Mart will then immediately take steps to notify the Indebted Class Members that they have been released by Money Mart, the Former Franchises and the Current Franchisees from their indebtedness, that they are in good standing and that they can avail themselves of all the products and services available at Money Mart Stores, subject to normal qualification criteria.

5.3 For the purpose of implementing the Debt Release and notice thereof to the Indebted Class Members, Money Mart will create and maintain the Debt Release Database.

b) Transaction Credits

5.4 Money Mart will allocate, distribute and honour the Transaction Credits as required by the provisions of the Agreement.

5.5 Transaction Credits will be subject to the following terms:

- (a) they will only be available in \$5 increments;
- (b) they will be usable in all Money Mart Stores;

- (c) a single (1) Transaction Credit (\$5) may be applied against the purchase of any Eligible Service per transaction, except that in the case of income tax preparation services a maximum of five (5) Transaction Credits (\$25) may be applied per transaction;
- (d) they will be fully transferable; and
- (e) they will expire on the Expiration Date.

5.6 Money Mart will hold Transaction Credits totaling \$300,000 (1% of \$30 million) in the Transaction Reserve Fund and any awards relating to Transaction Credits made by the Referee will be paid from the Transaction Reserve Fund.

5.7 Indebted Class Members will not be entitled to Transaction Credits.

5.8 Each Credit Class Member will be allocated Transaction Credits on the following terms:

- (a) a Credit Class Member's pro rata share of the Transaction Credits will be the total of that person's Cheque Cashing Fees for Eligible Fast Cash Advance Transactions to the total Cheque Cashing Fees paid by all Credit Class Members for all their Eligible Fast Cash Advance Transactions multiplied by \$29.7 million (99% of \$30 million);
- (b) each Credit Class Member whose pro rata share of Transaction Credits is \$25 or less will be allocated \$25 in Transaction Credits, that is, five \$5 Transaction Credits; and
- (c) each Credit Class Member whose pro rata share of Transaction Credits is more than \$25 will be allocated Transaction Credits in an amount rounded up or down to the nearest \$5.

5.9 The Transaction Credits allocated to each Credit Class Member in accordance with Section 5.8 will be recorded in the Transaction Credits Database. Money Mart will update the Transaction Credits Database as Transaction Credits are used or transferred.

5.10 From time to time, each Credit Class Member may determine the Transaction Credits to which he or she is entitled by:

- (a) calling a toll-free number established and maintained by Money Mart;
- (b) accessing a secure internet website created and maintained by Money Mart; or
- (c) attending at any Money Mart Store; and,

when so doing, provide such information as is required by Money Mart to verify the Credit Class Member's identity.

5.11 If a Credit Class Member attends any Money Mart Store intending to do business with Money Mart or seeking information about his or her Transaction Credits, Money Mart will advise the Credit Class Member of his or her entitlements under the Agreement.

5.12 If necessary, because of outdated personal information, Credit Class Members may be required to provide updated personal information to Money Mart before receiving the Transaction Credits allocated to him or her.

5.13 A Credit Class Member may use his or her Transaction Credits for Eligible Services by attending at any Money Mart Store and presenting appropriate government issued photo identification establishing identity and each such use will be recorded electronically in Money Mart's computer records.

5.14 Alternatively, a Credit Class Member may obtain Certificates evidencing some or all of his or her Transaction Credits by:

- (a) calling a toll-free number established and maintained by Money Mart and providing such information as is required to have Certificates mailed to him or her;
- (b) accessing a secure internet website created and maintained by Money Mart and providing such information as is required to print Certificates from the website; or
- (c) attending at any Money Mart Store and providing such information as is required to obtain Certificates at the Money Mart Store.

5.15 Prior to the Expiration Date, a Credit Class Member may, from time to time, transfer some or all of his or her Transaction Credits to any other Settlement Class Member or to any other individual.

5.16 A Credit Class Member may:

- (a) transfer some or all of his or her Transaction Credits electronically in Money Mart's computer records to a named transferee by calling the toll-free number, or by accessing the secure internet website, or by attending at any Money Mart Store and, in each case, providing such information as is required to permit Money Mart to effect the transfer in its records; or
- (b) transfer a Certificate by affixing his or her signature thereon and delivering the signed Certificate to a transferee.

5.17 The transferee of a Transaction Credit may use the Transaction Credit for an Eligible Service as if he or she is a Credit Class Member, subject to normal qualification criteria.

5.18 A Transaction Credit is unused until the credit is actually applied by Money Mart as a credit in conjunction with a contract for an Eligible Service. For greater certainty, a Certificate is unused until it is used in conjunction with a contract for an Eligible Service.

c) Unused Credits

5.19 Immediately after the Expiration Date, the Unused Credits will be applied for the benefit of Money Mart customers (including all Indebted Class Members and Credit Class Members) who obtain a Fast Cash Advance or payday loan from Money Mart from that date forward in the form of a credit against Money Mart's usual and ordinary rates. The manner of the application of the Unused Credits will be fixed by the Court taking into consideration commercial reasonableness and competitive circumstances. The Unused Credits will be applied as the Court directs until they are all used. Money Mart and/or the Class Counsel Representative will give each other notice of the motion contemplated by this Section which is to be returnable on or shortly after the Expiration Date.

5.20 For the purpose of facilitating the distribution and use of the Unused Credits, Money Mart will create and maintain the Unused Credits Database.

d) The Settlement Amount

5.21 Money Mart has paid to Sutts, Strosberg LLP the sum of \$7.5 million on account of the Settlement Amount pursuant to the order of Justice Spies dated June 5, 2009.

5.22 Money Mart will pay the \$20 million balance of the Settlement Amount in the following installments:

- (a) \$2.5 million immediately after the Settlement Date;
- (b) \$10 million on July 15, 2010; and
- (c) \$7.5 million on July 15, 2011.

5.23 The Court will direct to whom and when the amounts set out in Section 5.22 will be paid but such directions will not require Money Mart to pay any monies except in accordance with the schedule of payments particularized in Section 5.22.

e) Interest on the Settlement Amount

5.24 Money Mart will pay interest at the prejudgment interest rate set by the *Courts of Justice Act* from and after July 15, 2010 on any unpaid balance owing under Section 5.22(b) and from and after July 15, 2011 on any unpaid balance owing under Section 5.22(c).

5.25 No interest will be paid to any Class Members. Rather, on the Anniversary Dates after July 15, 2010, Money Mart will pay all accrued interest *cy près* to the Law Foundation of Ontario on the following terms:

- (a) to contribute to or to create the Access to Justice Fund, the capital and income of which shall be used in the discretion of the Trustees of the Law Foundation for the purpose of making grants in support of access to justice in Ontario; and
- (b) the Access to Justice Fund is not to form part of the Class Proceedings Fund established pursuant to s. 59.1 of the *Law Society Act* and is not to be paid to Legal Aid Ontario but is to be administered pursuant to sections 56(1), (1.1) and (2) of the *Law Society Act* and subject thereto in such manner as the Trustees of the Law Foundation consider appropriate.

f) Cash Credits

5.26 Money Mart will pay 10% of that portion of the Settlement Amount available for distribution as Cash Credits to the Class Proceedings Fund.

5.27 The portion of the Settlement Amount, if any, remaining after payment of Class Counsel Fees and payment to the Class Proceedings Fund will be paid by Money Mart as Cash Credits to the Credit Class Members in accordance with the Agreement. Money Mart will pay the Cash Credits to the Credit Class Members from and after July 15, 2011.

5.28 Money Mart will hold an amount totaling 1% of the Settlement Amount available for distribution as Cash Credits in the Cash Reserve Fund. Any awards relating to Cash Credits made by the Referee will be paid from the Cash Reserve Fund.

5.29 Cash Credits are neither transferable nor assignable. A Credit Class Member's right to claim Cash Credits will expire on the Expiration Date.

5.30 Cash Credits will be paid only to Credit Class Members and not to Indebted Class Members.

5.31 Credit Class Members will be allocated Cash Credits on the following terms:

- (a) a Credit Class Member's pro rata share of the Cash Credits will be the total of each Credit Class Member's Cheque Cashing Fees for Eligible Fast Cash Advance Transactions to the total Cheque Cashing Fees paid by all Credit Class Members for all their Eligible Fast Cash Advance Transactions multiplied by 89% of the amount of cash to be distributed among the Credit Class Members;
- (b) a Credit Class Member will not be allocated a Cash Credit if his or her pro rata share of Cash Credits does not equal or exceed \$10;
- (c) each pro rata share of Cash Credits which exceeds \$10 will be rounded up or down to the nearest dollar;
- (d) Credit Class Members will not be paid interest on their pro rata share of the Cash Credits; and
- (e) any portion of the Cash Credits remaining after the allocation in accordance with this Section will be allocated to the Cash Reserve Fund.

5.32 From time to time, each Credit Class Member may determine the Cash Credits to which he or she is entitled by:

- (a) calling a toll-free number established and maintained by Money Mart;
- (b) accessing a secure internet website created and maintained by Money Mart; or
- (c) attending at any Money Mart Store; and,

when so doing, provide such information as is required by Money Mart to verify the Credit Class Member's identity.

5.33 If a Credit Class Member attends a Money Mart Store intending to do business with Money Mart or seeking information about his or her Cash Credit, Money Mart will advise the Credit Class Member of his or her entitlements under the Agreement.

5.34 If necessary, because of outdated personal information, Money Mart may require Credit Class Members to provide updated personal information to Money Mart before receiving their Cash Credit.

5.35 If the Court directs that Cash Credits are to be paid to the Credit Class Members, Money Mart will pay the amount allocated to each Credit Class Member, from and after July 15, 2011. Each Credit Class Member may obtain his or her Cash Credit:

- (a) if the Cash Credit is \$200 or less:
 - (i) by attending at any Money Mart Store, presenting appropriate government issued photo identification establishing identity and requesting payment of the Cash Credit. Money Mart may require the Credit Class Member to sign a receipt or some other evidence of payment before paying the Cash Credit in cash; or
 - (ii) by calling a toll-free number established and maintained by Money Mart and providing such information as is required to have Money Mart mail a cheque in the amount of the Cash Credit to him or her. If this alternative

is exercised, Money Mart will cash the cheque at any Money Mart Store without charge; or

- (b) if the Cash Credit is more than \$200, by calling a toll-free number established and maintained by Money Mart and providing such information as is required to have Money Mart mail a cheque in the amount of the Cash Credit to him or her. If this alternative is exercised, Money Mart will cash the cheque at any Money Mart Store without charge.

5.36 The Cash Credit allocated to each Credit Class Member in accordance with Section 5.31 will be recorded in the Cash Credits Database. Money Mart will update the Cash Credits Database as Cash Credits are paid.

5.37 At the Expiration Date, Money Mart will pay the unpaid Cash Credits, the interest thereon and the balance in the Cash Reserve Fund, if any, *cy près* for the benefit of the Settlement Class to The Law Foundation of Ontario on the terms set out at Section 5.25.

g) Class Proceedings Fund

5.38 Money Mart will pay to the Class Proceedings Fund \$3 million by making annual payments equal to:

- (a) 10% of all Transaction Credits that are used in each annual period until the Expiration Date; and
- (b) 10% of the Unused Credits used in accordance with Section 5.19 during each annual period thereafter.

5.39 In addition to any amount paid in accordance with Section 5.38, if Money Mart is required to distribute Cash Credits to the Credit Class Members, it will pay 10% of that portion of the Settlement Amount available for distribution as Cash Credits to the Class Proceedings Fund on July 15, 2011.

h) Administration Expenses

5.40 Money Mart will pay all costs of administration and notice as required pursuant to the provisions of the Agreement.

5.41 For greater certainty:

- (a) Money Mart will pay such costs of the persons appointed pursuant to the provisions of the Agreement in an amount ordered by the Court; and
- (b) Money Mart will be responsible for all of its costs of implementing the Settlement and undertaking the Settlement administration.

SECTION 6—SETTLEMENT ADMINISTRATION

6.1 Money Mart's Counsel will be appointed to receive all objections to the Settlement. As soon after receipt as possible, he will provide copies of them to Class Counsel for the purposes of the Approval Hearing, and he will report to the Court thereon by affidavit on February 18, 2010 and if necessary by supplementary report at the Approval Hearing.

6.2 Money Mart's Counsel will be appointed to receive all Requests for Exclusion. As soon after receipt as possible, he will provide copies to Class Counsel and, he will report to the Court thereon at the end of the Opt-Out Period.

6.3 Money Mart will establish a Settlement administration which implements and conforms to the Agreement and the directions of the Court.

6.4 Money Mart will commence the distribution of Transaction Credits as soon as reasonably possible after the deadline for receipt of Requests for Exclusion.

6.5 Money Mart will pay the Transaction Credits that were allocated to persons who opted out into the Transaction Reserve Fund.

6.6 Money Mart shall administer the Settlement in accordance with the provisions of the Agreement under the oversight of the Court and the Class Counsel Representative.

6.7 Money Mart shall perform the Settlement administration in a rational, responsible, cost effective and timely manner.

6.8 Personal information obtained or created in the administration of the Settlement is confidential and, except as required by law, will be used and disclosed only for the purpose of distributing the notices contemplated by the Agreement and the administration of the Settlement.

6.9 Money Mart will maintain reasonably detailed records of its activities under the Agreement until one (1) year after the Court's order that all Settlement Obligations are satisfied. Such records will be made available electronically or as otherwise requested for inspection by the Class Counsel Representative, by the Court and by the Auditor.

6.10 For the purpose of fulfilling their responsibilities and duties under the Agreement, Money Mart will provide the Class Counsel Representative, the Auditor and the Referee with such access to the Cash Credits Database, the Transaction Credits Database, the Debt Release Database, the Unused Credits Database and the master database from which the above databases are generated, the Transaction Reserve Fund and the Cash Reserve Fund as they may require.

6.11 Any one or more of the Parties, the Class Counsel Representative, the Referee or the Auditor may move for directions from the Court in respect of any matter in relation to the Agreement.

a) The Referee

6.12 The Court will appoint the Referee with such powers and rights as are reasonably necessary to discharge the duties and responsibilities set out in the Agreement including those set

out in Schedule H. The Referee's appointment expires on the final determination of the motion contemplated by Section 5.19. The Court will, at this motion, decide whether the Referee's appointment should be extended and, if so, until when.

6.13 If there is any dispute regarding entitlement to Debt Release, Cash Credits, Transaction Credits, or Unused Credits, or regarding the amount of or receipt of an allocated share of any such credit which cannot be resolved by Money Mart within 30 days of receiving notice of the dispute, the Referee will resolve any such disputes in accordance with the provisions of the Agreement.

6.14 Money Mart will pay the reasonable fees, disbursements and taxes of the Referee which will be fixed by the Court.

b) Class Counsel Representative

6.15 The Court will appoint the Class Counsel Representative with such powers and rights as are reasonably required to discharge the duties and responsibilities set out in the Agreement. Class Counsel Representative's appointment expires on the final determination of the motion contemplated by Section 5.19. The Court will, at this motion, decide whether Class Counsel Representative's appointment should be extended and, if so, until when. The Class Counsel Representative may designate a member of her firm to prepare for and attend any motions. The Parties will use their best efforts to achieve a consent order on all motions.

6.16 Money Mart will pay the reasonable fees, disbursements and taxes of the Class Counsel Representative which will be fixed by the Court and in the event she designates a member of her firm to prepare and attend on motions the reasonable fees, disbursements and taxes of the designated member which will also be fixed by the Court.

c) The Auditor

6.17 The Court will appoint the Auditor with such powers and rights as are reasonably required to discharge the duties and responsibilities set out in the Agreement. The duties and

responsibilities of the Auditor include auditing on an annual basis the Settlement administration and the various databases and funds. The Auditor will deliver a copy of its report to the Court, to Money Mart and to Class Counsel Representative at the following times and on the following topics:

- (a) six months after the Settlement Date, a report on the steps Money Mart has taken to comply with its obligations with respect to Debt Release and the Debt Release Database under Sections 5.2 and 5.5;
- (b) on each Anniversary Date up to and including the Expiration Date a report calculating the amount of Transaction Credits that have not been used;
- (c) on each Anniversary Date after July 15, 2011 up to and including the Expiration Date a report calculating the amount of Cash Credits that have not been paid to the Credit Class Members, the accrued interest thereon and the balance in the Cash Reserve Fund;
- (d) on each Anniversary Date until the conclusion of the Settlement administration, a report calculating the payments to the Class Proceedings Fund contemplated by the Agreement;
- (e) on the Expiration Date and on each Anniversary Date thereafter until the conclusion of the Settlement Administration a report calculating the amount of the Unused Credits; and
- (f) on the Expiration Date and at the conclusion of the Settlement administration, a report on Money Mart's compliance with its obligations with respect to:
 - (i) accrued interest and the payments to the Law Foundation under Sections 5.23, 5.25 and 5.37;
 - (ii) Transaction Credits and Unused Credits; and
 - (iii) payment of Cash Credits.

6.18 Money Mart will cooperate with the Auditor and provide the Auditor with access to all records necessary for the Auditor to prepare the reports and to discharge its responsibilities pursuant to the Agreement.

6.19 Money Mart will pay the reasonable fees, disbursements and taxes of the Auditor which will be fixed by the Court.

SECTION 7—OPT-OUT RIGHTS

7.1 Class Members will not be given a further opportunity to opt out of the Action.

7.2 A New Class Member may opt out of the Action at any time during the Opt-Out Period in accordance with the provisions of the Agreement.

7.3 In order to opt out the New Class Member must return a completed and signed Request for Exclusion to Money Mart's Counsel during the Opt-Out Period substantially in the form in Schedule D postmarked, email or fax dated within the Opt-Out Period.

7.4 Any New Class Member who elects to opt out of the Action will:

- (a) not be bound by any orders or judgments entered in the Action except the Approval Order;
- (b) not be entitled to relief under the Agreement; and
- (c) not gain any rights by virtue of the Agreement.

7.5 Nothing in the Agreement constitutes or shall be deemed to constitute a waiver by any of the Defendants of defences based on statutes of limitations or repose, laches, prescription period or any other limitation or prescription defence. Without limiting the generality of the foregoing, nothing in the Agreement constitutes or shall be deemed to constitute a waiver of such defences in respect of any New Class Member who opts out of the Action in accordance with the provisions of this Section 7.

7.6 At the end of the Opt-Out Period, Money Mart's Counsel will report to the Court regarding all Requests for Exclusion on notice to the Class Counsel Representative and the Auditor and provide copies of all completed Requests for Exclusion.

SECTION 8—RELEASES AND JURISDICTION OF THE COURT

8.1 As of the Settlement Date, each Class Member and each New Class Member who does not opt out will have by virtue of the Agreement, and by operation of the Approval Order, individually, completely and unconditionally released, forever discharged and acquitted the Released Persons from any and all of the Settled Claims.

8.2 As of the Settlement Date, the Settlement Class Members and anyone claiming through or on behalf of any of them will be forever barred from commencing, instituting or prosecuting the Settled Claims against any one of the Released Persons in any action, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, or any other forum, directly, representatively or derivatively relating to the Settled Claims.

8.3 The Parties agree that the Court shall retain exclusive and continuing jurisdiction over the Action, Parties and Settlement Class Members to interpret and enforce the terms, conditions and obligations under the Agreement and the Approval Order.

8.4 Nothing herein shall release a Settlement Class Member from any outstanding obligation owed by a Settlement Class Member to Money Mart except to the extent that Default Transactions are released pursuant to Section 5.2.

8.5 Nothing herein shall release the Released Persons from any outstanding obligation owed by the Released Persons to a Settlement Class Member except to the extent of the release provided pursuant to Section 8.1.

8.6 Nothing herein shall release the Defendants and the Released Persons from their obligations as set out in the Agreement and in the Approval Order.

SECTION 9—CLASS COUNSEL FEES

9.1 At the Approval Hearing, Class Counsel may seek Court approval of Class Counsel Fees to be paid from and as a first charge on the Settlement Amount.

9.2 The Defendants will have no involvement in the approval process to determine the amount of Class Counsel Fees.

SECTION 10—NO ADMISSIONS/NO USE

10.1 The Agreement, whether or not approved, and any proceedings taken pursuant to the Agreement, are for settlement purposes only. Neither the fact of, nor any provision contained in, the Agreement or its Schedules, nor any action taken hereunder, shall be referenced in any other court proceedings, or construed as, offered in evidence as, received in evidence as, or deemed to be evidence of, a presumption, concession or an admission of any kind by the Plaintiffs or the Defendants of the truth of any fact alleged or the validity of any claim or defence that has been, could have been, or in the future might be asserted in any litigation, court of law or equity, proceeding, arbitration, tribunal, investigation, government action, administrative forum or any other forum, or of any liability, responsibility, fault, wrongdoing or otherwise of the Plaintiffs, the Settlement Class or the Defendants.

10.2 Any certification of the Action in respect of New Class Members pursuant to the terms of the Agreement shall not constitute, and shall not be construed as, an admission on the part of the

Defendants that either the Action, or issues arising in the Action, or any other putative or certified class proceeding, is appropriate for prosecution or trial as a class proceeding.

10.3 Except as may be required to enforce the Settlement and the Agreement, no Class Counsel, and no one employed by, associated with, or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action by any person which relates to or arose from the Settled Claims.

SECTION 11—MISCELLANEOUS PROVISIONS

11.1 The Agreement, including all Schedules hereto, constitutes the entire Agreement among the Parties with regard to the subject matter of the Agreement and shall supersede any previous agreements, representations, communications and understandings among the Parties with respect to the subject matter of the Agreement. Subject to its terms, the Agreement may not be changed, modified, or amended except in writing signed by all Parties, subject to Court approval. The Parties contemplate that the Schedules to the Agreement may be modified by subsequent agreement of Money Mart and Class Counsel and by Court order prior to and after dissemination to the Settlement Class.

11.2 The Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario.

11.3 The Agreement may be executed by the Parties in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signatures by facsimile shall be as effective as original signatures.

11.4 If the Settlement is approved by the Court and if the Approval Order becomes final, the Agreement shall be binding upon and enure to the benefit of the Plaintiffs, the Settlement Class, the Defendants, the Released Parties and all of their respective heirs, executors, predecessors, successors and assigns.

11.5 The Recitals to the Agreement are true and form part of the Agreement.

11.6 The representations and warranties contained in the Agreement shall survive its execution and implementation.

11.7 The headings of the sections of the Agreement are included for convenience only and shall not be deemed to constitute part of the Agreement or to affect its construction.

11.8 Any notice, instruction, motion for Court approval or motion for directions or Court orders sought in connection with the Agreement or other report or document to be given by any Party to any other Party shall be in writing and delivered personally, by facsimile or e-mail during normal business hours, or sent by registered or certified mail, postage paid:

- (a) if to Money Mart: McCarthy Tétrault LLP Attention: John P. Brown, P.O. Box 48, Suite 5300 Toronto Dominion Bank Tower, Toronto, ON M5K 1E6, with a copy to the General Counsel of National Money Mart Company, 401 Garbally Road, Victoria, BC V8T 5M3;
- (b) if to Dollar Financial: Osler, Hoskin & Harcourt LLP, Attention Mahmud Jamal , Box 50, 1 First Canadian Place, Toronto, ON M5X 1B8 with a copy to the General Counsel of Dollar Financial, 1436 Lancaster Ave, Suite 300, Berwyn, PA 19312;
- (c) if to Plaintiffs or the Settlement Class: Sutts, Strosberg LLP, Suite 600, 251 Goyeau St., P.O. Box 670, Stn. A Windsor, Windsor ON N9A 6V2; Heenan Blaikie, 333 Bay Street, Suite 2900, PO Box 2900, Toronto, ON M5H 2T4; Paliare Roland, 250 University Avenue, Suite 501, Toronto, ON M5H 3E5; and Koskie Minsky LLP, Suite 900, Box 52, 20 Queen Street West, Toronto ON M5H 3R3;
- (d) if to the Class Counsel Representative: Patricia A. Speight, Sutts, Strosberg LLP, Suite 600, 251 Goyeau St., P.O. Box 670, Stn. A Windsor, Windsor ON N9A 6V2;

- (e) if to the Referee: Reva Devins, Reva Devins Dispute Resolutions, 298 Heath Street East, Toronto, Ont, M4T 1T4;
- (f) if to the Auditor: Grant Thornton LLP. Suite 1600, Grant Thornton Place, 333 Seymour Street, Vancouver, B. C. V6B 0A4
- (g) if to other recipients: as the Court may specify.

11.9 The Schedules to the Agreement are:

- (a) SCHEDULE A - Notice Plan
- (b) SCHEDULE B - First Notice (of Hearing to Approve Settlement)
- (c) SCHEDULE C - Second Notice (of Final Approval of Settlement)
- (d) SCHEDULE D - Request for Exclusion (Opt-Out) Form
- (e) SCHEDULE E - First Notice Order (Form of Order)
- (f) SCHEDULE F - Approval Order (Form of Order)
- (g) SCHEDULE G - Common Issues
- (h) SCHEDULE H - Disputes to the Referee

11.10 The Parties acknowledge that they have required that the Agreement, including Schedules, be prepared in English.

11.11 No waiver of any provision of the Agreement shall be binding on any Party unless consented to in writing by such Party. No waiver of any provision of the Agreement shall

constitute a waiver of any other provision, and no waiver of any provision of the Agreement shall constitute a continuing waiver unless expressly so provided.

SECTION 12—TERMINATION OF THE AGREEMENT

12.1 The Agreement shall, without notice, be automatically terminated if:

- (a) the Approval Order is not made by the Court in a form substantially similar to Schedule F; or
- (b) the Approval Order is reversed on appeal and the reversal becomes final.

12.2 In the event the Agreement is terminated in accordance with its terms, or not approved by the Court, or any approval is reversed, vacated, or terminated by any appellate court and/or the Approval Order does not become final:

- (a) the Plaintiffs and the Defendants shall be restored to their respective positions as of the entry of the June 5, 2009 order;
- (b) the definition of Class will be as set out in the certification order of Justice Hoy dated January 5, 2007 as amended by the order of April 20, 2007;
- (c) the Trial will continue;
- (d) subject to Section 12.3, the Agreement will have no further force and effect and no effect on the rights of the Plaintiffs or the Defendants;
- (e) all statutes of limitation applicable to the New Class Members and/or repose for all claims asserted in such cases shall be deemed to have been tolled in the period June 5, 2009 to the date of termination of the Agreement;

- (f) any amounts paid or owing by Money Mart for disseminating the First Notice and the Termination Notice, if any, and to Money Mart's Counsel for receiving the objectors' materials and reporting to the Court will be paid by Money Mart and are nonrecoverable from the Plaintiffs, Settlement Class Members or Class Counsel;
- (g) there shall be no further requirement to satisfy the Settlement Obligations;
- (h) the Defendants will be given credit for the amount of \$7.5 million which was paid to Sutts Strosberg, in trust, on June 5, 2009 against any orders of costs in the Action; and
- (i) the Agreement shall not be introduced into evidence or otherwise referred to in any litigation against the Defendants.

12.3 If the Agreement is terminated, the provisions of this Section and Sections 4.2, 4.3, 10.1, 10.2, 11.8, 12.2 and the Recitals, Schedules and Definitions applicable thereto shall survive termination and shall continue in full force and effect.

SECTION 13—REPRESENTATIONS AND WARRANTIES

13.1 Money Mart and Dollar Financial represent and warrant that:

- (a) they have all requisite corporate power and authority to execute, deliver and perform the Agreement and to consummate the transaction contemplated hereby on their own behalf and on behalf of the Former Franchisees;
- (b) the execution, delivery, and performance of the Agreement and the consummation of the Action contemplated herein have been duly authorized by all necessary corporate action on their part;

- (c) the Agreement has been duly and validly executed and delivered by them and constitutes their legal, valid, and binding obligations;
- (d) they agree to use their best efforts to cause all conditions precedent to the Settlement Date to occur;
- (e) they have the right and power to provide to the Indebted Class Members the Debt Release on behalf of the Former Franchisees; and
- (f) they have the right and power to require Current Franchisees to comply with the terms of the Agreement.

13.2 The Plaintiffs represent and warrant that:

- (a) they will not pursue further litigation concerning Settled Claims, except as expressly provided in the Agreement; and
- (b) they will use their best efforts to cause all conditions precedent to the Settlement Date to be satisfied.

SECTION 14—GUARANTEE BY DOLLAR FINANCIAL


14.1 Dollar Financial hereby guarantees payment to the Settlement Class of all the debts, liabilities and obligations of Money Mart pursuant to the Agreement and the Approval Order.


14.2 Dollar Financial's guarantee is a continuing guarantee of all Money Mart's debts, liabilities and obligations pursuant to the Approval Order, Agreement and pursuant to any further orders made by the Court.

14.3 The Settlement Class Members shall not be bound to exhaust their recourse against Money Mart before being entitled to make demand to Dollar Financial if Money Mart is the subject of a bankruptcy, or proposal in bankruptcy, or a CCAA application or action. In such


circumstances, immediately following demand, Dollar Financial will satisfy Money Mart's outstanding debts, liabilities and obligations under the Agreement.

IN WITNESS WHEREOF, each of the Parties has caused the Agreement to be executed on his /its behalf by their respective counsel, effective as of June 5, 2009.



KENNETH SMITH as Estate Trustee of the Last Will and Testament of Margaret Smith, deceased


November 6, 2009




RONALD ORIET

November 6, 2009

SUTTS, STROSBERG LLP
FOR CLASS COUNSEL

November 6, 2009

Per: 

Harvey T. Strosberg, Q.C.

NATIONAL MONEY MART COMPANY

November 6, 2009

Per: 

DOLLAR FINANCIAL GROUP, INC.

November 6, 2009

Per: 

Schedule A

NOTICE PLAN

1. Class Members and New Class Members will be given notice as required by the provisions of the Agreement by the notice being:
 - (a) published by the Defendants on or before a date set by the Court, once, in a one-quarter page advertisement in each of the newspapers in the list attached herewith, subject to publication deadlines;
 - (b) displayed on a sign prepared by Money Mart measuring at least two (2) feet horizontally by three (3) feet vertically and installed by Money Mart in a prominent location in each store in Ontario operated by Money Mart and its Current Franchisees throughout the relevant period;
 - (c) made available, on a single page, size 8½ inches x 11 inches, placed by Money Mart in the receptacle located at the bottom of each sign throughout the relevant period;
 - (d) posted by Money Mart on its website at www.moneymart.com throughout the relevant period;
 - (e) posted by Class Counsel on the website at www.moneymartclassaction.com throughout the relevant period; and
 - (f) delivered by Class Counsel to any person who requests it from them throughout the relevant period.

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LIST OF NEWSPAPERS

Location	Publication
Ad*reach publications	
Ajax	Ajax/Pickering News Advertiser
Barrie	Barrie Advance
Bolton	Caledon Enterprise
Brampton	Brampton Guardian
Brockville	Brockville-St. Lawrence EMC
Burlington	Burlington Post
Cambridge	Cambridge Times
Cobourg	Northumberland News
Cornwall	Cornwall Seaway News
Courtice	Clarington Canadian Statesman
Etobicoke	Etobicoke Guardian
Fort Erie	Fort Erie Times
Georgetown	Georgetown/Acton Independent
Hamilton	Mountain News, Dundas Star News, Ancaster News, Stoney Creek News
Kanata	Kanata Kourier
Kingston	This Week
Lindsay	Kawartha Lakes This Week
London	The Londoner
Markham	Markham Economist & Sun
Milton	Halton Compass
Mississauga	Mississauga News
Nepean	Nepean This Week
Newmarket	Newmarket/Aurora Era-Banner
Niagara Falls	Niagara This Week
North York	North York Mirror
Oakville	Oakville Beaver
Orangeville	Orangeville Banner
Orillia	Orillia Today
Oshawa/Whitby	Oshawa/Whitby This Week
Peterborough	Peterborough This Week
Richmond Hill	Richmond Hill/Thornhill Liberal
Sault Ste. Marie	Sault Ste. Marie This Week
Scarborough	Scarborough Mirror
Stratford	Inside Stratford/Perth
Sudbury	Sudbury Northern Life
Thunder Bay	Thunder Bay's Source
Timmins	Timmins Times
Toronto	Toronto Downtown Bulletin York Guardian East York/Riverdale/Beach Mirror City Centre Moment Bloor West Villager/Annex Guardian
Vaughan	Vaughan Citizen
Waterloo	Waterloo Chronicle

Ontario Weekly Shoppers

Belleville	Belleville Shopper's Market
Brantford	Brantford Pennysaver
Chatham	Chatham Pennysaver
Guelph	Guelph Pennysaver
Kitchener/Waterloo	K-W Pennysaver
Leamington	Leamington Shopper
Ottawa	Ottawa Pennysaver
Sarnia	Lambton County Smart Shopper
Simcoe	Lakeshore Shopper (Tillsonburg)
St. Thomas	Elgin County Market
Windsor	Windsor Pennysaver
Woodstock	Oxford Shopping News

Independent publications

North Bay	North Bay Nugget (daily)
Pembroke	The News (bi-weekly advertiser)
St. Catharines	St. Catharines Standard (daily)
Trenton	Trentonian
Welland	Welland Tribune (daily)

**NOTICE OF THE APPROVAL HEARING ON FEBRUARY 22, 2010 TO CONSIDER
THE PROPOSED SETTLEMENT OF THE ONTARIO MONEY MART CLASS ACTION**

Read this notice carefully as it may affect your rights.

This notice was approved by the Ontario Superior Court of Justice

This notice is to inform class members and proposed class members of their rights under the proposed settlement.

This notice is directed to all persons who received a fast cash advance or payday loan from a Money Mart store in Ontario between August 19, 1997 and December 31, 2009 which was repaid by a first party personal cheque delivered on the day the loan was obtained provided such cheque was honoured by the bank ("Eligible Fast Cash Advance Transaction").

A settlement has been reached in this class action, subject to court approval. The settlement is a compromise of disputed claims. The defendants do not admit any wrongdoing or liability.

The class action seeks to require Money Mart and its parent company, Dollar Financial Group, Inc., to pay damages equal to the charges on Eligible Fast Cash Advance Transactions on the theory that such charges breached s. 347 of the *Criminal Code of Canada*. Money Mart and Dollar Financial deny that they owe damages. By counterclaim Money Mart seeks judgment against each customer who owes it money with respect to any transaction.

On January 5, 2007, the court certified this action as a class action for those customers who entered into Eligible Fast Cash Advance Transactions in the period August 19, 1997 to September 9, 2007. As a result of the proposed settlement, the court will be asked to include customers who entered into their first Eligible Fast Cash Advance Transaction in the period September 10, 2007 to December 31, 2009 (collectively "settlement class").

SUMMARY OF SETTLEMENT TERMS

If the settlement is approved by the court, Money Mart will provide settlement benefits of approximately \$100 million comprised of the following elements.

The settlement class will be divided into two groups: (a) the debt forgiveness group and (b) the transaction credit group.

Members of the debt forgiveness group (as described below) will have their debts to Money Mart (as described below and currently estimated to be in the range of \$40 million) forgiven.

Members of the transaction credit group (who do not include members of the debt forgiveness group) will share transaction credits (as described below) totalling \$30 million. Members of the transaction credit group may also receive a share of an amount equal to 90% of \$27.5 million less class counsel's fees (currently claimed at \$27.5 million but subject to court approval).

The Class Proceedings Fund will receive \$3 million plus an amount equal to 10% of \$27.5 million less class counsel's fees (currently claimed at \$27.5 million but subject to court approval).

Money Mart will also pay certain expenses related to the administration of the settlement.

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DEBT FORGIVENESS AND CREDIT REHABILITATION

Money Mart will forgive 100% of all debts the debt forgiveness group members owe to it which were incurred on or before April 30, 2009 that are still outstanding on December 31, 2009, currently estimated to be in the range of \$40 million. Thereafter those debt forgiveness group members can use all of the products and services available at Money Mart stores, subject to normal qualification criteria. Debt forgiveness group members will not receive transaction credits or cash credits.

TRANSACTION CREDITS

Each transaction credit group member will be allocated the greater of \$25 in transaction credits or his or her pro-rata share of \$30 million in transaction credits calculated on the total of that person's cheque cashing fees on Eligible Fast Cash Advance Transactions to the total cheque cashing fees paid by all transaction credit group members for all their Eligible Fast Cash Advance Transactions.

Fully transferable transaction credits will be issued in \$5 increments and will expire 4 years after the date that the settlement becomes final. They will be usable in all Money Mart locations across Canada, except stores located in the province of Quebec, for all Money Mart transactions except wire transfers, foreign exchange and money orders. A single \$5 transaction credit may be used per transaction, except for income tax preparation services in which case five \$5 transaction credits (\$25) may be used.

After the expiration date any unused transaction credits will be applied for the benefit of Money Mart customers as a credit against Money Mart's usual and ordinary rate for a payday loan, in an amount and manner to be determined by the court, until the remaining credits are all used up.

CASH/CASH CREDITS

The sum of \$27.5 million in cash will be paid in instalments on and before July 15, 2011, with interest.

Class counsel fees are a first charge against the cash payment. Class counsel will ask the court to approve their fee agreement with the plaintiffs and award \$27.5 million in cash in full payment of the plaintiffs' obligations to class counsel.

If cash remains after the payment of class counsel fees and the Class Proceedings Fund award (as described below), each transaction credit group member will be allocated a pro rata share of the remaining cash as a cash credit calculated on the total of that person's cheque cashing fees on Eligible Fast Cash Advance Transactions to the total cheque cashing fees paid by all transaction credit group members for all their Eligible Fast Cash Advance Transactions, provided his or her pro rata share as calculated is equal to or exceeds \$10. If his or her pro rata share is less than \$10, no cash payment will be made. **Any cash credits allocated to transaction credit group members will be paid on or after July 15, 2011.**

Money Mart will pay any unpaid and/or unallocated cash credits and all accrued interest to The Law Foundation of Ontario to fund grants in support of access to justice in Ontario.

CLASS PROCEEDINGS FUND

The plaintiffs received financial support for the action from the Class Proceedings Fund. As a result, if the settlement is approved, Money Mart will pay the Class Proceedings Fund \$3 million plus 10% of any cash which is remaining after payment of class counsel fees.

ADMINISTRATION EXPENSES

Money Mart will pay the costs of administration, including notice, distribution of settlement benefits, independent auditing and reporting to the court.

THE APPROVAL HEARING TO CONSIDER APPROVING THE PROPOSED SETTLEMENT

The court will decide whether to approve the proposed settlement and will fix the fees, disbursements and taxes to be paid to class counsel at an Approval Hearing to be held on **February 22, 2010 at 10:00 a.m.** at the court house at 361 University Avenue, Toronto, Ontario.

OBJECTIONS

Any class member or potential class member who objects to the proposed settlement may attend the Approval Hearing in person or send a representative. **Class members and potential class members who do not oppose the proposed settlement need not appear at the Approval Hearing or take any other action at this time to indicate their desire to participate in the proposed settlement.**

The court will consider all objections to the proposed settlement by class members or potential class members. Objections shall be made in writing and be sent by prepaid mail or courier, by February 15, 2010, to: McCarthy Tétrault LLP, Attention: John P. Brown, P.O. Box 48, Suite 5300 Toronto Dominion Bank Tower, Toronto, Ontario, Canada, M5K 1E6; or by email to jbrown@mccarthy.ca.

Written objections shall include the following information:

- (a) the person's name, address, telephone number, date of birth and mailing address;
- (b) a brief statement of the objection and the reasons for the objection; and
- (c) whether the person or a representative intends to appear at the court hearing in person or by counsel, and if by counsel, the name, address, telephone number, fax number and e-mail address of counsel.

ADDITIONAL INFORMATION

Additional settlement information is available at the website www.moneymartclassaction.com; or by communicating with one of the class counsel firms acting for the settlement class members: Sutts, Strosberg LLP, Lawyers, 251 Goyeau Street, Suite 600, Windsor, ON N9A 6V4, tel: 866.396.3229, fax: 866.316.5308 or e-mail: moneymartclassaction@strosbergco.com. Class members and potential class members who consider it desirable or necessary to seek the advice and guidance of their own lawyers, do so at their own expense.

INTERPRETATION

This notice is a summary of some of the terms of the proposed settlement. If there is a conflict between the provisions of this notice and the terms of the settlement, the terms of the settlement prevail. You may review the terms of settlement at www.moneymartclassaction.com. Any questions about the matters in this notice should not be directed to the court as its administrative structure is not designed to address this type of inquiry.

NOTICE OF THE SETTLEMENT OF THE ONTARIO MONEY MART CLASS ACTION

Read this notice carefully as it may affect your rights.

This notice was approved by the Ontario Superior Court of Justice

This notice is directed to all persons ("Settlement Class Members") who received a fast cash advance or payday loan from a Money Mart store in Ontario between August 19, 1997 and December 31, 2009 which was repaid by a first party personal cheque delivered on the day the loan was obtained provided such cheque was honoured by the bank ("Eligible Fast Cash Advance Transaction").

A settlement reached in this class action has been approved by the court. The settlement is a compromise of disputed claims. The defendants do not admit any wrongdoing or liability.

The class action sought to require Money Mart and its parent company, Dollar Financial Group, Inc., to pay damages equal to the charges on Eligible Fast Cash Advance Transactions on the theory that such charges breached s. 347 of the *Criminal Code of Canada*. Money Mart and Dollar Financial deny that they owe damages. By counterclaim Money Mart sought judgment against customers who owed it money with respect to any transaction.

On January 5, 2007, the court certified this action as a class action for the class of persons with Eligible Fast Cash Advance Transactions in the period August 19, 1997 to September 9, 2007. On ●, 2010, the court approved the settlement and added as Settlement Class Members those customers who entered into their first Eligible Fast Cash Advance Transaction from September 10, 2007 to December 31, 2009 ("New Class").

SUMMARY OF SETTLEMENT TERMS

Money Mart will provide settlement benefits of approximately \$100 million summarized as follows.

The settlement class is divided into two groups: (a) the debt forgiveness group and (b) the transaction credit group.

Members of the debt forgiveness group (as described below) shall have their debts to Money Mart (as described below and totalling \$W million) forgiven.

Members of the transaction credit group (who do not include members of the debt forgiveness group) shall share in: (a) transaction credits (as described below) totalling \$30 million, and (b) cash credits (as described below) totalling \$X million.

The Class Proceedings Fund shall receive \$Y million.

Class counsel shall receive \$Z million.

HTS

DEBT FORGIVENESS AND CREDIT REHABILITATION

Money Mart will forgive 100% of all debts of debt forgiveness group members owed to it which were incurred on or before April 30, 2009 that are still outstanding on December 31, 2009, currently estimated to be in the range of \$W million. Thereafter those debt forgiveness group members can use all of the products and services available at Money Mart stores, subject to normal qualification criteria. Debt forgiveness group members will not receive transaction credits or cash credits.

TRANSACTION CREDITS

Each transaction credit group member will be allocated the greater of \$25 in transaction credits or his or her pro-rata share of \$30 million in transaction credits calculated on the total of that person's cheque cashing fees on Eligible Fast Cash Advance Transactions to the total cheque cashing fees paid by all transaction credit group members for all their Eligible Fast Cash Advance Transactions.

Fully transferable transaction credits will be issued in \$5 increments and will expire 4 years after the date that the settlement becomes final [insert]. They will be usable in all Money Mart locations across Canada, except stores located in the province of Quebec, for all Money Mart transactions except wire transfers, foreign exchange and money orders. A single \$5 transaction credit may be used per transaction, except for income tax preparation services in which case five \$5 transaction credits (\$25) may be used.

After the expiry date [insert] any unused transaction credits will be applied for the benefit of Money Mart customers as a credit against Money Mart's usual and ordinary rate for a payday loan, in an amount and manner to be determined by the court, until the remaining credits are all used up.

CASH/CASH CREDITS

The sum of \$27.5 million in cash will be paid in instalments on and before July 15, 2011, with interest.

Class counsel fees are a first charge against the cash payment. The court approved class counsel fees in the amount of \$●, [leaving \$● remaining for distribution as cash credits.]

Transaction credit group members will be allocated a pro rata share of the remaining cash [insert \$] as a cash credit calculated on the total of that person's cheque cashing fees on Eligible Fast Cash Advance Transactions to the total cheque cashing fees paid by all transaction credit group members for all their Eligible Fast Cash Advance Transactions, provided his or her pro rata share as calculated is equal to or exceeds \$10. If his or her pro rata share is less than \$10, no cash payment will be made. **Any cash credits allocated to transaction credit group members will be paid on or after July 15, 2011.**

Money Mart will pay any unpaid and/or unallocated cash credits and all accrued interest *cy près* to The Law Foundation of Ontario to fund grants in support of access to justice in Ontario.

CLASS PROCEEDINGS FUND

The plaintiffs received financial support for the action from the Class Proceedings Fund. As a result, Money Mart will pay the Class Proceedings Fund \$3 million plus 10% of any cash which is remaining after payment of class counsel fees [insert \$].

ADMINISTRATION EXPENSES

Money Mart will pay the costs of administration, including notice, distribution of settlement benefits, independent auditing and reporting to the court.

DO NOTHING IF YOU WISH TO PARTICIPATE IN THE SETTLEMENT

Settlement Class Members are automatically included in the settlement and need not do anything at this time to indicate that they wish to participate in the settlement.

IF YOU ARE A MEMBER OF THE NEW CLASS, YOU MUST OPT OUT IF YOU DO NOT WISH TO PARTICIPATE IN THE CLASS ACTION

New Class Members who do not wish to participate in the class action and the settlement must opt out or exclude themselves from the action. If you wish to opt out, send the Request for Exclusion form at the bottom of this notice or obtain a Request for Exclusion form from any Ontario Money Mart location or from www.moneymart.ca or www.moneymartclassaction.com. **You must send the signed Request for Exclusion form on or before 5:00 p.m. E.T. on ● to McCarthy Tétrault LLP, Attention: John P. Brown, by pre-paid mail or courier, at P.O. Box 48, Suite 5300, Toronto Dominion Bank Tower, Toronto, ON M5K 1E6 or send an email to jbrown@mccarthy.ca.**

A New Class Member who opts out of the class action will not be entitled to participate in the class action or the settlement. His or her right to pursue a claim in a separate proceeding will not be affected. Each New Class Member who opts out will not receive any benefit from the settlement. No New Class Member will be permitted to opt out after ● at 5:00 ET.

SETTLEMENT INFORMATION AND INFORMATION ON OBTAINING SETTLEMENT BENEFITS

Information about the settlement and how to obtain settlement benefits is available on the web sites at www.moneymart.com and www.moneymartclassaction.com or may be obtained by calling 800.●.

Questions for class counsel should be directed to: Sutts, Strosberg LLP, 600-251 Goyeau Street, Windsor ON N9A 6V4, Tel: 1.800.● (toll free), Fax: 1.● (toll free), E-mail: moneymartclassaction@strosbergco.com.

Any questions about the matters in this notice should **NOT** be directed to the court because its administrative structure is not designed to address this type of inquiry.

This notice is a summary of the terms of the Approval Order. If there is any conflict between the provisions of this notice and the terms of that order, the order shall prevail.

REQUEST FOR EXCLUSION FOR NEW CLASS MEMBERS

I do not want to be included in the class action against Money Mart and Dollar Financial. I want to opt out (be excluded from) this class action. My information is as follows:

Print Name Postal Code:

Date of birth: Telephone:

Address: Email address:

City: Date:

Province: Signature:

Note: This form is only applicable to persons who entered into their first fast cash advance and/or payday loan repaid by a first party personal cheque from a Money Mart store in Ontario after September 9, 2007.

[This Notice is subject to change at the Settlement Approval Hearing to reflect the orders made at that time]

Schedule D

REQUEST FOR EXCLUSION

I do not want to be included in the class action against Money Mart and Dollar Financial. I want to opt out (be excluded from) this class action. My information is as follows:

Print Name	_____	Postal Code:	_____
Date of birth:	_____	Telephone:	_____
Address:	_____	Email address:	_____
City:	_____	Date:	_____
Province:	_____	Signature:	_____

Note: This form should only be used by customers of Money Mart in Ontario who, after September 9, 2007, entered into their first fast cash advance and/or payday loan and repaid it by a first party personal cheque.

Schedule E

Court File No.: CV-08-363659-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE JUSTICE)
PAUL PERELL)
)

THURSDAY, THE 6th DAY
OF NOVEMBER, 2009

B E T W E E N

KENNETH SMITH, as Estate Trustee of the Last Will and Testament of
Margaret Smith, deceased, and RONALD ADRIEN ORIET

Plaintiffs

and

NATIONAL MONEY MART COMPANY and
DOLLAR FINANCIAL GROUP, INC.

Defendants

Proceeding Under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the plaintiffs for an order:

- (a) approving the Notice of the Approval Hearing; and
- (b) approving the method of dissemination of the Notice;

was heard this day at the Court House, Toronto, Ontario.

ON BEING ADVISED that the parties have entered into a proposed settlement,
which is subject to court approval,

HTS

ON READING the materials filed and on hearing the submissions of counsel for the plaintiffs and the defendants,

1. THIS COURT ORDERS AND DECLARES that for the purposes of this order, the following definitions apply and are incorporated into this order:

- (a) “**Approval Hearing**” means the hearing on February 22, 2010 of the plaintiffs’ motion for approval of the proposed settlement with the defendants scheduled by the order of Justice Perell dated July 14, 2009;
- (b) “**Class Members**” means all persons who, in the period August 19, 1997 to September 9, 2007, entered into a fast cash advance and/or a payday loan transaction in Ontario with Money Mart or a franchisee of Money Mart which was repaid using a first party personal cheque delivered at the time the loan was obtained provided such cheque was honoured by the bank, excluding persons who opted out on or before March 9, 2008;
- (c) “**Money Mart**” means National Money Mart Company;
- (d) “**Newspapers**” means the newspapers listed in Schedule A;
- (e) “**Notice**” means the notice generally in the form attached as Schedule B;
- (f) “**Notice Period**” means the period from January 4, 2010, to February 22, 2010; and
- (g) “**Proposed Class Members**” means those persons who, in the period September 10, 2007 to December 31, 2009, entered into their first fast cash advance and/or a payday loan transaction in Ontario with Money Mart or a franchisee of Money Mart which was repaid using a first party personal cheque delivered at the time the loan was obtained provided

such cheque was honoured by the bank, excluding persons who opt out as hereinafter ordered by the court.

2. THIS COURT ORDERS that John P. Brown of McCarthy Tétrault LLP be appointed to receive written objections to the proposed settlement from Class Members and Proposed Class Members and report to the court.
3. THIS COURT DIRECTS that the Approval Hearing shall be held on Monday, February 22, 2010, beginning at 10:00 a.m. E.T. at the court house, 361 University Avenue, Toronto, Ontario.
4. THIS COURT DIRECTS that objections to the proposed settlement by Class Members and Proposed Class Members shall be sent in writing, on or before February 15, 2010, by pre-paid mail or courier to McCarthy Tétrault LLP, Attention: John P. Brown, P.O. Box 48, Suite 5300, Toronto Dominion Bank Tower, Toronto, ON M5K 1E6 or by email to jbrown@mccarthy.ca.
5. THIS COURT DIRECTS that the written objections referred to in paragraph 4 of this order shall include the following information:
 - (a) the name, address, phone number, email address and date of birth of the person seeking to object to the settlement of the class action;
 - (b) a brief statement of the objection and the reasons for the objection; and

- (c) whether the person or a representative intends to appear at the Approval Hearing in person or by counsel, and if by counsel, the name, address, telephone number, fax number and email address of counsel.
6. THIS COURT ORDERS that John P. Brown or his designate shall, on or before February 18, 2010, report to the court, by affidavit, with a copy to all counsel, the names of the persons who objected and their objections and, if necessary, by supplementary report at the Approval Hearing.
7. THIS COURT ORDERS that the Class Members and the Proposed Class Members shall be given notice of the proposed settlement and the Approval Hearing by the Notice being:
- (a) published once only by Money Mart immediately following January 4, 2010 in a one-quarter page advertisement in each of the Newspapers, subject to publication deadlines;
- (b) displayed on a sign prepared by Money Mart measuring at least two (2) feet horizontally by three (3) feet vertically and installed by Money Mart in a prominent location in each store in Ontario operated by Money Mart and its franchisees throughout the Notice Period;
- (c) made available, on a single page sized 8 ½" by 11", placed by Money Mart in the receptacle located at the bottom of each sign throughout the Notice Period;
- (d) posted by Money Mart on its website at www.moneymart.com throughout the Notice Period;

- (e) posted by plaintiffs' counsel on the website at
www.moneymartclassaction.com throughout the Notice Period; and
 - (f) delivered by plaintiffs' counsel to any person who requests it from them
throughout the Notice Period.
8. THIS COURT ORDERS Money Mart and its franchisees stock the receptacle at
the bottom of the sign in each store so that it always contains a supply of Notices.
9. THIS COURT ORDERS that:
- (a) Money Mart shall bear the costs of:
 - (i) producing the signs;
 - (ii) delivering the signs to each of its corporate and franchise stores in
Ontario;
 - (iii) maintaining the signs;
 - (iv) producing and providing adequate copies of the Notices;
 - (v) publishing the Notice in the Newspapers;
 - (vi) posting the Notice on its website www.moneymart.com;
 - (vii) Mr. Brown receiving the written objections and reporting as
required by paragraphs 2 and 6;
 - (b) the plaintiffs shall bear the costs of:
 - (i) posting the Notice on the website at www.
moneymartclassaction.com; and
 - (ii) delivering the Notice to any person who requests it from them.

10. THIS COURT ORDERS that, without in any way passing on the reasonableness or otherwise of the proposed settlement, the costs particularized in paragraph 9 of this order, shall be paid by Money Mart and the plaintiffs as directed in paragraph 9 as the costs are incurred, without any right to recover these costs in the event that the settlement is not approved.

11. THIS COURT ORDERS that on or before February 22, 2010, Money Mart and plaintiffs' counsel shall report to the court, by affidavit, with a copy to all counsel, with respect to their compliance with the relevant provisions of paragraph 7.

12. THIS COURT DECLARES that any one or more of the plaintiffs, defendants or Mr. Brown may apply to the court for further directions.

Justice Paul Perell

KENNETH SMITH et al.

vs. NATIONAL MONEY MART COMPANY et al.

Plaintiffs

Defendants

Court File No. CV-08-363659-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT WINDSOR

Proceeding Under the Class Proceedings Act, 1992

ORDER

SUTTS, STROSBURG LLP

Lawyers
600 Westcourt Place
251 Goyeau Street
Windsor ON N9A 6V4

HARVEY T. STROSBURG, Q.C.

Tel: (519) 561-6228
Fax: (519) 561-6203
LSUC #126400

SOLICITORS FOR THE PLAINTIFFS

FILE: 73-107-000
REF: HTS/ba

Schedule F

Court File No.: CV-08-363659-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE JUSTICE) DAY, THE DAY
)
PAUL PERELL) OF , 2010

B E T W E E N

KENNETH SMITH, as Estate Trustee of the Last Will and Testament of
Margaret Smith, deceased, and RONALD ADRIEN ORIET

Plaintiffs

and

NATIONAL MONEY MART COMPANY and
DOLLAR FINANCIAL GROUP, INC.

Defendants

Proceeding Under the *Class Proceedings Act, 1992*

APPROVAL ORDER

THIS MOTION, made by the Plaintiffs for an order amending the Certification Order and for approval of the Settlement of the Action pursuant to subsection 29(2) of the *Class Proceedings Act, 1992*, in accordance with the terms of the Agreement, and for the fixing of Class Counsel Fees, was heard on February 22, 2010 at Toronto, Ontario.

ON READING the following:

- (a) notice of motion;
- (b) the Agreement;
- (c) the Certification Order;

HTS

- (d) the affidavits of:
- (i) David Stratas sworn on the ● day of ●, 2009;
 - (ii) Kenneth Smith sworn the ● day of ●, 2009;
 - (iii) Ronald Adrien Oriet sworn the ● day of ●, 2009;
 - (iv) **[NTD: More affidavits to be added.]**

AND ON HEARING the submissions of counsel for the Parties, no objectors having appeared *[or upon hearing the objectors]*:

AND ON BEING ADVISED that:

- (a) the Plaintiffs in the Action consent to this judgment;
- (b) the Defendants in the Action consent to this judgment;
- (c) John P. Brown of McCarthy Tétrault LLP consents to being appointed to receive Requests for Exclusion;
- (d) Reva Devins consents to being appointed Referee;
- (e) Patricia A. Speight consents to being appointed Class Counsel Representative;
- (f) Grant Thornton LLP consents to being appointed Auditor;
- (g) the Current Franchisees have been given notice of this motion;
- (h) Dollar Financial Group, Inc. has guaranteed Money Mart's settlement obligations in the terms set out in Section 14 of the Agreement; and
- (i) there have been no (OR ●) written objections to the proposed Settlement received by John P. Brown or his designate, **[NTD: Revise after February 18, 2010.]**

AND WITHOUT any admission of liability on the part of either of the Defendants, both Defendants having denied liability,

1. THIS COURT ORDERS AND DECLARES that for the purposes of this judgment, the following definitions apply:

- (a) *Action* means the action in the Ontario Superior Court of Justice bearing Court File No. CV-08-363659-00CP;
- (b) *Agreement* means the agreement between the Parties dated as of June 5, 2009 attached as **Schedule ●**;
- (c) *Approval Order* means this order;
- (d) *Auditor* means Grant Thornton LLP;
- (e) *Cash Credits* mean cash in the amount of \$●;
- (f) *Certification Order* means the order of Justice Hoy dated January 5, 2007 certifying this action as a class proceeding as amended by her order dated April 20, 2007;
- (g) *Cheque Cashing Fees* mean the amount of the percentage fee and the fixed fee for each Eligible Fast Cash Advance Transaction;
- (h) *Class Counsel* means the law firms of Sutts, Strosberg LLP, Heenan Blaikie LLP, Paliare Roland Rosenberg Rothstein LLP and Koskie Minsky LLP;
- (i) *Class Counsel Fees* mean the fees, disbursements, costs, interest, GST and other applicable taxes (including any future provincial or harmonized sales tax) or charges approved by the Court, but does not include the fees, disbursements and expenses of the Class Counsel Representative;
- (j) *Class Counsel Representative* means Patricia A. Speight or such other lawyer, appointed by the Court;
- (k) *Class* means all persons who, in the period August 19, 1997 to September 9, 2007, entered into a payday loan and/or fast cash advance in Ontario with Money Mart or a Former Franchisee or a Current Franchisee which was repaid using a first party personal cheque delivered at the time the

loan was obtained provided such cheque was honoured by the bank, excluding persons who opted out on or before March 9, 2008;

- (l) **Class Member** means a member of the Class;
- (m) **Court** means the Ontario Superior Court of Justice;
- (n) **Credit Class Member** means a Settlement Class Member with no Default Transactions;
- (o) **Current Franchisees** mean 2073518 Ontario Inc., 577509 Saskatchewan Ltd., Kilduff Investments Limited and 2042772 Ontario Inc.;
- (p) **Debt Release** means the release by or on behalf of Money Mart, the Former Franchisees and the Current Franchisees of 100% of the amounts the Indebted Class Members owe on account of the Default Transactions;
- (q) **Default Transaction** means a transaction of any kind engaged in by a Settlement Class Member up to and including April 30, 2009 with Money Mart, the Former Franchisees and/or the Current Franchisees which resulted in a default by that Settlement Class Member in respect of which there is still an amount owing by the Settlement Class Member on December 31, 2009;
- (r) **Defendants** mean National Money Mart Company (“Money Mart”) and Dollar Financial Group, Inc (“Dollar Financial”);
- (s) **Eligible Fast Cash Advance Transaction** means a Fast Cash Advance which was repaid using a first party personal cheque delivered at the time the Fast Cash Advance was obtained provided such cheque was honoured by the bank;
- (t) **Fast Cash Advance** means a payday loan or a fast cash advance obtained in Ontario from Money Mart or the Former Franchisees or the Current Franchisees during the Settlement Period;
- (u) **Fee Agreement** means the Retainer and Agreement Respecting Fees and Disbursements made as at August 12, 2003 between Harvey T. Strosberg and Margaret Smith and Ronald Oriet;
- (v) **Former Franchisees** mean 722906 Ontario Limited, Canadian Capital Corporation, Jenica Holdings Limited, 764815 Ontario Inc., 931669 Ontario Limited and 1556911 Ontario Limited;
- (w) **Indebted Class Member** means a Settlement Class Member with at least one Default Transaction;

- (x) **New Class** means all Money Mart customers who in the period September 10, 2007 to the last day of the Settlement Period engaged in their first payday loan and/or fast cash advance in Ontario with Money Mart or a Former Franchisee or a Current Franchisee which was repaid using a first party personal cheque delivered at the time the loan was obtained provided such cheque was honoured by the bank;
- (y) **New Class Member** means a member of the New Class;
- (z) **Notice Period** means the 4 year period following the Settlement Date;
- (aa) **Opt-Out Period** means the period commencing on the Settlement Date and ending 60 days thereafter;
- (bb) **Parties** mean the Plaintiffs and the Defendants;
- (cc) **Plaintiffs** mean Kenneth Smith and Ronald Oriet;
- (dd) **Referee** means Reva Devins;
- (ee) **Released Persons** mean the Defendants, Former Franchisees, Current Franchisees and their respective predecessors, successors, parents, subsidiaries, affiliates, assigns, officers, directors, employees, attorneys, agents and representatives;
- (ff) **Request for Exclusion** means a properly completed and executed written request to be excluded from and to opt out of the Action substantially in the form of **Schedule ●**;
- (gg) **Notice** means the form of notice substantially in the form at **Schedule ●**;
- (hh) **Settled Claims** mean any claim, liability, right, demand, suit, matter, obligation, damage, loss or cost, action or cause of action of every nature and description, in law or in equity, that the Settlement Class Members have, had or may have up to and including the date of the Approval Order, including assigned claims, whether known or unknown, accrued or which may hereafter accrue, asserted or unasserted, latent or patent, that is, has been or could have been asserted by the Settlement Class Members in the Action against any of the Released Persons arising from or in any way related to the Common Issues and/or the facts and allegations asserted in the Action. Without limiting the generality of the foregoing, Settled Claims shall include any claims for a breach or violation of s. 347 of the *Criminal Code*, for an injunction, for damages for conspiracy, punitive damages, interest and costs, and any claims for a breach or violation of any federal or provincial statute, case law, common law, other law, equity, regulation or ordinance; any claims for breach of any duty imposed by law, by contract, or otherwise; any claims based on

negligence, reliance, breach of express or implied warranty, conspiracy, deceptive or unconscionable acts or practices, breach of statutory duty, consumer fraud, negligent misrepresentation/omission, reckless misrepresentation/omission or intentional misrepresentation/omission; and any claims for penalties, arising from or in any way related to the Common Issues and/or the facts and allegations asserted in the Action. Excepted always from this definition are any claims arising out of the Approval Order and the Agreement and the failure of the Defendants to comply with their obligations particularized in the Approval Order and the Agreement;

- (ii) **Settlement** means the settlement described in the Agreement;
 - (jj) **Settlement Amount** means the total amount of \$27.5 million;
 - (kk) **Settlement Class** means all Class Members and New Class Members excluding persons who opt out;
 - (ll) **Settlement Class Member** means a member of the Settlement Class;
 - (mm) **Settlement Date** means the date on which the Approval Order becomes a final order or 30 days after the date of the Approval Order if an appeal is taken from the Approval Order relating only to Class Counsel Fees; and
 - (nn) **Settlement Period** means the period from August 19, 1997 to December 31, 2009.
2. THIS COURT ORDERS that the definition of class in the Certification Order is hereby amended to add to the Class the members of the New Class.
 3. THIS COURT ORDERS that the form of Request for Exclusion is hereby approved.
 4. THIS COURT ORDERS that John P. Brown of McCarthy Tétrault LLP be and is hereby appointed to receive Requests for Exclusion from New Class Members and

report to the Court thereon.

5. THIS COURT ORDERS that:
 - (a) each New Class Member who wishes to opt out of this class action shall submit by mail, courier or email a properly completed Request for Exclusion to John P. Brown within 60 days of the Settlement Date; and
 - (b) if a New Class Member fails to submit a properly completed Request for Exclusion within the Opt-Out Period, the New Class Member shall be deemed not to have opted out of the Action.

6. THIS COURT ORDERS AND ADJUDGES that the Settlement of the Action as set out in the Agreement is fair and reasonable and in the best interests of the Settlement Class Members and is hereby approved.

7. THIS COURT ORDERS that the Agreement is incorporated by reference into this Approval Order and is hereby provided.

8. THIS COURT ORDERS that Reva Devins is appointed as Referee, until the final determination of the motion contemplated by Section 5.19 of the Agreement, or until further order of this court, on the terms and conditions and with the powers, duties and responsibilities set out in the Agreement.

9. THIS COURT ORDERS that Grant Thornton LLP is appointed as Auditor, until further order of the Court, on the terms and conditions and with the powers, duties and responsibilities set out in the Agreement.
10. THIS COURT ORDERS that Patricia A. Speight is appointed as Class Counsel Representative, until the final determination of the motion contemplated by Section 5.19 of the Agreement, or until further order of this court, on the terms and conditions and with the powers, duties and responsibilities set out in the Agreement.
11. THIS COURT ORDERS that Money Mart pay the fees, disbursements and taxes of John P. Brown or his designate, the Referee, the Auditor and the Class Counsel Representative in an amount(s) fixed by the Court.
12. THIS COURT ORDERS that the Notice is approved.
13. THIS COURT ORDERS that the Class Members and the New Class Members shall be given notice of the approval of the Agreement, and the New Class Members shall be given notice of the opt-out deadline, by distribution of the Notice in substantially the following manner immediately following the Settlement Date:
 - (a) by the Defendants publishing the Notice, once, in a one-quarter page advertisement in each of the newspapers listed at Schedule ●, subject to publication deadlines;

- (b) by Money Mart displaying the Notice on a sign measuring at least two (2) feet horizontally by three (3) feet vertically and installing and maintaining this sign in a prominent location in each store in Ontario operated by Money Mart and its Current Franchisees throughout the Notice Period;
 - (c) by Money Mart making the Notice available, in an 8 ½” by 11” pamphlet version, in a receptacle located at the bottom of each sign throughout the Notice Period;
 - (d) by Money Mart posting the Notice on its website at www.moneymart.com throughout the Notice Period;
 - (e) by Class Counsel posting the Notice on the website at www.moneymartclassaction.com; and
 - (f) by Class Counsel delivering the Notice to any person who requests it.
14. THIS COURT ORDERS that Money Mart and its Current Franchisees stock the receptacle at the bottom of the sign in each store so that it always contains a supply of Notices.
15. THIS COURT ORDERS AND DECLARES that the notice program described in paragraph 13 of this order satisfies the requirements of sections 17(3) to 17(6) of the *Class Proceedings Act, 1992*.
16. THIS COURT ORDERS that after publication and distribution of the Notice as directed in paragraph 13(a) to (f) of this order, counsel for the Parties shall file

with the Court affidavits confirming the publication and distribution of the Notice in accordance with paragraph 13(a) to (f).

17. THIS COURT ORDERS AND DECLARES that this Approval Order, including the Agreement, is binding upon each Settlement Class Member, including those persons who are minors or are mentally incapable, and the requirements of Rule 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with. For greater certainty, each Class Member and each New Class Member who does not opt out in accordance with the terms of this Approval Order is bound by the Approval Order, whether or not such person receives a distribution, or whether such person claims compensation.
18. THIS COURT ORDERS that on or before ●, 2010, John P. Brown or his designate shall report to the Court, the Defendants and Class Counsel the names of the New Class Members, if any, who opted out of the Action.
19. THIS COURT ORDERS that any person who validly opts out of the Action is excluded from the Settlement Class, shall have no rights with respect to the Settlement, and shall receive no benefit pursuant to the Settlement Agreement.
20. THIS COURT ORDERS AND DECLARES that Money Mart has paid Sutts, Strosberg LLP the sum of \$7.5 million on account of the Settlement Amount pursuant to the order of Justice Spies dated June 5, 2009.

21. THIS COURT ORDERS that Money Mart pay the \$20 million balance of the Settlement Amount in the following installments:
- (a) \$2.5 million immediately after the Settlement Date;
 - (b) \$10 million on July 15, 2010; and
 - (c) \$7.5 million on July 15, 2011.
22. THIS COURT ORDERS that Money Mart shall pay the \$20 million as follows:
[NTD: To be inserted by Justice Perell.]
23. THIS COURT ORDERS that \$● in Cash Credits are to be paid to the Credit Class Members from and after July 15, 2011 in accordance with the provisions of Section 5.27 of the Agreement. **[NTD: This paragraph will be included in the judgment if Justice Perell awards Cash Credits.]**
24. THIS COURT ORDERS that Money Mart allocate, distribute and honour the \$30 million in Transaction Credits in accordance with the Agreement.
25. THIS COURT ORDERS that Money Mart shall apply any Unused Credits as the Court may order in accordance with the Agreement.
26. THIS COURT ORDERS that Money Mart pay the Class Proceedings Fund the sum of \$3 million, plus such other amount as set out in the Agreement, at the time and in accordance with Sections 5.38 and 5.39 of the Agreement.

27. THIS COURT ORDERS AND DECLARES that:

- (a) by virtue of the Agreement and this Approval Order, each Indebted Class Member is individually, completely and unconditionally released, forever discharged and acquitted from any and all of his or her Default Transactions;
- (b) each Settlement Class Member has, by virtue of the Agreement and of this Approval Order, individually, completely and unconditionally released, forever discharged and acquitted the Released Persons from any and all of the Settled Claims;
- (c) Settlement Class Members and anyone claiming through or on behalf of any of them is forever barred from commencing, instituting or prosecuting the Settled Claims against any one of the Released Persons in any action, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, or any other forum, directly, representatively or derivatively;
- (d) the Court shall retain exclusive and continuing jurisdiction over the Action, Parties and Settlement Class Members to interpret and enforce the terms, conditions and obligations under the Agreement and this Approval Order;
- (e) nothing herein shall release a Settlement Class Member from any outstanding obligation owed by a Settlement Class Member to Money Mart except to the extent that Default Transactions are released pursuant to subparagraph 27(a) above;

- (f) nothing herein shall release the Released Persons from any outstanding obligation owed by the Released Persons to a Settlement Class Member except to the extent of the release provided pursuant to subparagraph 27(b) above; and
 - (g) nothing in this paragraph releases the Defendants, the Current Franchisees and the Former Franchisees from their obligations as set out in the Agreement and in this Approval Order.
28. THIS COURT ORDERS that Class Counsel, any person employed by, associated with, or a partner with Class Counsel shall not, directly or indirectly, participate or be involved in or in any way assist with respect to any claim made or action by any person which relates to or arose from the Settled Claims.
29. THIS COURT ORDERS that any one or more of the Parties, Class Counsel, Class Counsel Representative, the Referee, the Auditor or John P. Brown or his designate may apply to the Court for directions in respect of the implementation and/or the administration of the Agreement or relating to any other matter.
30. THIS COURT ORDERS that any one of the Parties may apply to the Court for directions in respect of the termination of the Settlement or any matter relating thereto.
31. THIS COURT ORDERS that no person may bring any action or take any proceedings against the Referee, the Auditor, the Class Counsel Representative,

John P. Brown or any of their employees, agents, partners, associates, representatives, successors or assigns, for any matter in any way relating to the administration of the Agreement or the implementation of this Approval Order except with leave of this Court.

32. THIS COURT ORDERS that, in accordance with section 32(2) of the *Class Proceedings Act, 1992*, the Fee Agreement is hereby approved.
33. THIS COURT ORDERS that Class Counsel Fees be and are hereby fixed at \$●, being \$● on account of fees, plus \$● on account of GST thereon and \$● on account of disbursements and \$● on account of GST thereon.
34. THIS COURT ORDERS that except as provided herein, the Action is hereby dismissed without costs and with prejudice.

Justice Paul Perell

KENNETH SMITH et al.

vs. NATIONAL MONEY MART COMPANY et al.

Plaintiffs

Defendants

Court File No. CV-08-363659-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT WINDSOR

Proceeding Under the *Class Proceedings Act, 1992*

APPROVAL ORDER

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SOLICITORS FOR THE PLAINTIFFS

FILE: 73-107-000
REF: HTS/ba

Schedule G

COMMON ISSUES

1. Have Money Mart and the Franchisees received interest in excess of an effective annual rate of 60%, when calculated in accordance with generally accepted actuarial practices and principles, on each Fast Cash Advance and Payday Loan in Ontario in the Class Period which was repaid by a cheque dated on the day after the due date specified in the Fast Cash Advance Agreement and Payday Loan Agreement?
2. Is each Fast Cash Advance Agreement and Payday Loan Agreement made in Ontario with a Class member in the Class Period void or invalid? If so, why?
3. Alternatively, are the provisions relating to interest, cheque cashing fees and item fees in each Fast Cash Advance Agreement and Payday Loan Agreement made in Ontario with a Class member in the Class Period invalid or void by reason of illegality? If not, what effective annual interest rate, if any, were Money Mart and the Franchisees entitled to charge on each such Fast Cash Advance and Payday Loan?
- 4(a). If the answers to common issues 1 and 2 or 3 are yes, was Money Mart unjustly enriched when it directly received a percentage of the franchise fees from the Franchisees and/or the illegal interest from the Class Members?
- 4(b). If the answer to 4(a) is yes, is Money Mart a constructive trustee holding a percentage of the franchise fees it received from the Franchisees and/or the illegal interest it received for the benefit of the Class members? What amount is held by Money Mart in the constructive trust?
- 5(a). If the answers to common issues 1 and 2 or 3 are yes, was Dollar Financial unjustly enriched when it received a percentage of the royalty payments from Money Mart?
- 5(b). If the answer to 5(a) is yes, is Dollar Financial a constructive trustee holding a percentage of the royalty payments for the benefit of the Class members? What amount is held by Dollar Financial in the constructive trust?
6. Is Money Mart and/or Dollar Financial required to account to the Class? If so, why and how?
7. Have Money Mart, Dollar Financial and the Franchisees conspired one with the other? If so, who conspired with whom, when, where, why and for what purpose?
8. Is Dollar Financial vicariously liable or otherwise responsible for the acts of its subsidiary Money Mart? If so, why?
9. Is Money Mart and/or Dollar Financial liable to pay damages to the Class? If so, why and in what amount?

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10. What is the amount of the Total Interest?
11. Should the court assess damages in the aggregate, in whole or in part, for the Class? If so, what is the amount of the aggregate damage assessment and who should pay it to the Class?
12. Should Money Mart and/or Dollar Financial pay punitive damages to the Class? If so, who, why, in what amount and to whom?
13. Should Money Mart, the Franchisees, Dollar Financial, their servants and agents and any other person having notice of the injunction be enjoined from charging or collecting interest, an item fee and a cheque cashing fee on any Fast Cash Advance and Payday Loan in Ontario which, in total, results in an effective annual interest rate of more than 60% at the time the Fast Cash Advance Agreement and Payday Loan Agreement was entered into?
14. Should Money Mart and/or Dollar Financial pay prejudgment and postjudgment interest, at what annual interest rate, and should the interest be simple or compound interest?

SCHEDULE H
DISPUTES TO THE REFEREE

NATURE AND TIMING OF DISPUTES

1. A dispute concerning whether:

- (a) a person's name should appear in the Transaction Credit Database and/or Cash Credit Database;
- (b) a person's Fast Cash Advance transaction history is accurate; or
- (c) the Transaction Credits and/or Cash Credit allocated to a person is/are correct;

shall be made in writing to the Referee on or before that date that is six (6) months after the Settlement Date. No disputes shall be submitted thereafter and the Referee shall not accept any disputes thereafter.

2. A dispute concerning whether:

- (a) a person's name should appear in the Debt Release Database; or
- (b) a Settlement Class Member has been treated in accordance with the provisions of the Settlement in the use or transfer of Transaction Credits and/or payment of a Cash Credit;

shall be made in writing to the Referee on or before the Expiration Date. No such disputes shall be submitted thereafter and the Referee shall not accept any such disputes thereafter.

EVIDENCE

3. The person asserting the dispute shall provide objective evidence in support of his or her position in the dispute.

DISPUTE RESOLUTION

4. The Referee shall forthwith provide Money Mart with a copy of each dispute received. Money Mart shall have thirty (30) days thereafter to resolve the dispute and report back to the Referee in writing.

HTB

5. If the dispute is not resolved by Money Mart, the Referee shall resolve the dispute in a summary manner that shall proceed either by telephone conference or in writing, as she may decide.
6. The parties to any such summary procedure shall be the person with the dispute and Money Mart.
7. All decisions of the Referee shall be in writing and the Referee's decision shall be final and binding and there shall be no right of appeal therefrom whatsoever.
8. Money Mart shall correct the database(s) as may be required as a result of the resolution of a dispute.

TRANSACTION RESERVE FUND AND/OR CASH RESERVE FUND

9. Any awards arising as a result of the resolution of a dispute shall be paid and accounted for by Money Mart in the Transaction Reserve Fund or the Cash Reserve Fund, as applicable.

REPORTING

10. On notice to Money Mart and the Class Counsel Representative, the Referee shall report to the Court on each Anniversary Date up to and including the Expiration Date on the number and nature of disputes in that period and the results of disputes.

SMITH et al.

Plaintiffs

v. NATIONAL MONEY MART COMPANY et al.

Defendants

Court File No. CV-08-363659-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDINGS COMMENCED AT WINDSOR

AGREEMENT

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