

2007 01 T 1386 CP

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION

BETWEEN:

WILLIAM SQUIRES

PLAINTIFF

AND:

DOLLAR FINANCIAL GROUP INC., NATIONAL
MONEY MART COMPANY, SYD FRANCHUK,
JEFFREY WEISS, 10768 NEWFOUNDLAND
LIMITED carrying on business under the name and
style of MONEY MART, GERRY KILDUFF and
RON KUZYK

DEFENDANTS

BROUGHT UNDER THE CLASS ACTIONS ACT
BEFORE THE HONOURABLE MR. JUSTICE THOMPSON,
CASE MANAGEMENT JUDGE

Order Approving Notice to Class Members

The following orders are given by consent of the parties upon meeting for a case management conference on April 6, 2010. Present were Justice Thompson, as case management judge, and Chesley F. Crosbie, Q.C. as counsel for the Plaintiff. Appearing by telephone was John Brown as counsel for the Defendants.

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


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

AND SUBJECT TO the parties satisfying themselves that R.7A.04(6) of the *Rules of the Supreme Court, 1986*, S.N.L. 1986, c. 42, Sch. D, does not make another jurisdiction a more convenient forum than Newfoundland and Labrador and subject to Madam

Filed April 9, 2010

Justice Hood of the Supreme Court of Nova Scotia and Mr. Justice McNally of the Court of Queen's Bench of New Brunswick, Trial Division, approving the form of Notice set out in Schedule B of the Settlement Agreement for use in those jurisdictions,

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 May 26, 2010 of the plaintiff's motion for approval of the proposed settlement with the defendants;
 - (b) **"Class Members"** means all persons who, in the period January 1, 1997 to March 31, 2010, entered into a fast cash advance in Nova Scotia, Newfoundland and Labrador or New Brunswick 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 fast cash advance was obtained provided such cheque was honoured by the bank, excluding persons who opt out;
 - (c) **"Current Franchisees"** means 10768 Newfoundland Limited;
 - (d) **"Money Mart"** means National Money Mart Company;
 - (e) **"Newspapers"** means the newspapers listed in Schedule A;
 - (f) **"Notice"** means the notice generally in the form attached as Schedule B;
 - (g) **"Notice Period"** means the period from April 19, 2010 to May 26, 2010;
and
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2. **THIS COURT ORDERS** that John P. Brown of McCarthy Tétrault LLP be appointed to receive written objections to the proposed settlement from proposed Class Members and report to the court.

3. **THIS COURT DIRECTS** that the Approval Hearing shall be held on May 26, 2010, beginning at 10:00 a.m. at the Trial Division, Duckworth Street, St. John's, Newfoundland and Labrador.

4. **THIS COURT ORDERS** that at the Approval Hearing, the court will consider objections to the proposed settlement by proposed Class Members and that objections shall be sent in written form, 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 on or before May 21, 2010.

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 May 23, 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 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 the date of this Order 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 Nova Scotia, New Brunswick and Newfoundland and Labrador 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.ChesCrosbie.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 Current 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 4 and 6;

- (b) the plaintiffs shall bear the costs of:
 - (i) posting the Notice at www.ChesCrosbie.com; and
 - (ii) delivering the Notice to any person who requests it from them.

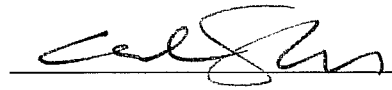
10. **THIS COURT ORDERS** that, without in any way passing on the reasonableness or otherwise of the proposed settlement, the costs particularized in paragraph 9(a) of this order, shall be paid by Money Mart and the plaintiffs as directed in paragraph 9(b) as the costs are incurred, without any right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

11. **THIS COURT ORDERS** that on or before May 23, 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 this order.

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

DATED at St. John's, in the Province of Newfoundland and Labrador, this 6th day of April, 2010.

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CARL R. THOMPSON

JUSTICE

Schedule A
LIST OF NEWSPAPERS

Location	Publication
New Brunswick	Telegraph Journal
New Brunswick	L'Acadie Nouvelle
Nova Scotia	The Herald
Nova Scotia	Le Courrier de Nouvelle – Ecosse
Newfoundland & Labrador	The Telegram
Newfoundland & Labrador	Le Gaboteur

NOTICE OF THE APPROVAL HEARING ON MAY 26, 2010 TO CONSIDER THE PROPOSED SETTLEMENT OF THE MONEY MART CLASS ACTIONS

Read this notice carefully as it may affect your rights.

This notice was approved by the Supreme Court of Nova Scotia, the Court of Queen's Bench of New Brunswick and the Supreme Court of Newfoundland and Labrador

This notice is to inform 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 Nova Scotia, New Brunswick or Newfoundland and Labrador between January 1, 1997 and March 31, 2010 which was repaid by a first party personal cheque delivered on the day the loan was obtained in respect of which cheque cashing fees were paid, provided such cheque was honoured by the bank ("Eligible Fast Cash Advance Transaction").

A settlement has been reached in class actions commenced in Nova Scotia, New Brunswick and Newfoundland and Labrador, subject to court approval. The settlement is a compromise of disputed claims. The defendants do not admit any wrongdoing or liability.

The class actions seek 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.

As a result of the proposed settlement, the court will be asked to certify a class of all persons who, in the period January 1, 1997 to March 31, 2010, entered into a fast cash advance in Nova Scotia, New Brunswick or Newfoundland and Labrador 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 fast cash advance was obtained in **respect of which cheque cashing fees were paid**, provided such cheque was honoured by the bank, excluding persons who opt out (collectively "settlement class members").

SUMMARY OF SETTLEMENT TERMS

If the settlement is approved by the court, Money Mart will provide settlement benefits of approximately \$5 million comprised of the following elements.

The 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 (as described below and currently estimated to be in the range of \$3.3 million) to Money Mart 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 \$1 million. Members of the transaction credit group may also receive a share of \$650,000.00 in cash less class counsel's fees (currently claimed at \$600,000.00 but subject to court approval).

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

DEBT FORGIVENESS AND CREDIT REHABILITATION

Money Mart shall forgive 100% of all debts of settlement class members owed to it which were incurred on or before April 30, 2009 that are still outstanding on March 31, 2010, currently estimated to be in the range of \$3.3 million. Thereafter those settlement class members whose debts have been forgiven can use all of the products and services available at Money Mart stores, subject to normal qualification criteria. Any settlement class members who receive debt forgiveness shall not receive transaction credits or cash credits.

TRANSACTION CREDITS

Each settlement class member who does not have a debt forgiven by Money Mart under the settlement will be allocated the greater of \$25 in transaction credits or his or her pro-rata share of \$1 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 settlement class members who do not have debts forgiven by Money Mart under the settlement 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 in Nova Scotia, New Brunswick or Newfoundland and Labrador 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.

CASH/CASH CREDITS

The sum of \$650,000.00 in cash will be paid for the benefit of Settlement Class Members.

Counsel will ask the court to approve their fee agreement with the plaintiffs and award \$600,000.00 in cash in full payment of the plaintiffs' obligations to counsel.

Cash remaining after the payment of counsel fees those settlement class members who do not have debts forgiven by Money Mart under the settlement 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 settlement class members who do not have debts forgiven by Money Mart under the settlement 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.

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 **May 26, 2010 at 10:00 a.m.** at:

- a) the courthouse in Halifax, Nova Scotia at the Nova Scotia Supreme Court (General Division), The Law Courts Building, 1815 Upper Water St., Halifax, NS;
- b) the courthouse in St John's, Newfoundland at the Supreme Court of Newfoundland and Labrador, St. John's Trial Division Courthouse, 309 Duckworth Street, P.O. Box 937, St. John's, NL, A1C 5M3; and
- c) the courthouse in Saint John, New Brunswick at the Court of Queen's Bench, Saint John Provincial Building, 110 Charlotte Street, Saint John, NB, E2L 2J3.

OBJECTIONS

Any potential class member who objects to the proposed settlement may attend the Approval Hearing in person or send a representative. **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 potential class members. Objections shall be made in writing and be sent by prepaid mail or courier to: McCarthy Tétrault LLP, Attention: John P. Brown, P.O. Box 48, Suite 5300 Toronto Dominion Bank Tower, Toronto, Ontario, Canada, M5K 1E6, on or before May 21, 2010.

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 websites: <http://wagnerslawfirm.com> and <http://www.chescrosbie.com>; or by communicating with one of the Class Counsel firms acting for the class members: Crocco Hunter Purvis Johnson, which is located at 105 Cornell St., Unit 3, Woodstock, N.B. E7M 1K7; Ches Crosbie Barristers, which is located at 169 Water Street, 4th Floor, St John's NL, A1C 1B1; and Wagners, which is located at 1869 Upper Water Street, Halifax, Nova Scotia, B3J 1S9. 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.