

**SETTLEMENT AGREEMENT  
made as of February 15th, 2010**

**S.H. No. 218391**

**IN THE SUPREME COURT OF NOVA SCOTIA**

**BETWEEN:**

JENNIFER L. TOBIN

**PLAINTIFF**

**AND:**

DOLLAR FINANCIAL GROUP INC., NATIONAL MONEY MART COMPANY, SYD FRANCHUK,  
JEFFREY WEISS, 2203850 NOVA SCOTIA LIMITED carrying business under the name and style of  
Money Mart Cheque Cashing Centre, and GERALD KILDUFF

**DEFENDANTS**

**(the “Nova Scotia Action”), and**

Court file # S/C/309/04

**IN THE COURT OF QUEEN’S BENCH OF NEW BRUNSWICK  
TRIAL DIVISION  
JUDICIAL DISTRICT OF SAINT JOHN**

**BETWEEN:**

SHELLEY BAMFORD

**PLAINTIFF**

**AND:**

NATIONAL MONEY MART COMPANY,  
511742 NB Inc. and 602269 NB Inc.

**DEFENDANTS**

**(the “New Brunswick Action”) and**

**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

**(the "Newfoundland Action").**

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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 Orders approving the Settlement and directing the implementation of the terms and conditions of the Settlement as set forth in the Agreement becoming final, the Actions will be settled and compromised upon the terms and conditions contained herein:

## SECTION 1—RECITALS

### 1.1 WHEREAS:

A. Shelley Bamford commenced the New Brunswick Action, William Squires commenced the Newfoundland Action and Jennifer L. Tobin commenced the Nova Scotia Action against the Defendants named above 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 Actions 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 any trials and potential appeals, 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, the Plaintiffs, with the benefit of advice from Class Counsel, and 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 any trials and 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 negotiations on multiple occasions;

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) **Actions** means the New Brunswick Action, the Newfoundland Action and the Nova Scotia Action;
- (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 Hearings** mean the hearings to be conducted by the Courts in connection with the motions for the Approval Orders;
- (e) **Approval Hearing Date** means May 26, 2010;
- (f) **Approval Orders** means the orders made by the Courts in connection with the motions for approval of the Settlement, such orders to be substantially in the form of **Schedule F**;
- (g) **Auditor** means Grant Thornton LLP;
- (h) **Cash Credits** mean cash, if any, payable to the Credit Class Members in such amount as may be determined by the Courts;
- (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 value of the Cash Credit allocated;
  - (iii) the date he or she contacted Money Mart in respect of the 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 directed by the Courts;
- (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 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, 4<sup>th</sup> Floor, St John's NL, A1C 1B1; and Wagners, which is located at 1869 Upper Water Street, Halifax, Nova Scotia, B3J 1S9;
- (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 Courts, but does not include the fees, disbursements and expenses of the Class Counsel Representative;
- (o) ***Class Counsel Representative*** means Mike Dull of Wagners (or such other member of Class Counsel) appointed by the Courts, to monitor the implementation of the Agreement and report to the Courts;
- (p) ***Class*** 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;
- (q) ***Class Member*** means a member of the Class;
- (r) ***Common Issues*** means the common issues listed in Schedule G;
- (s) ***Courts*** mean the Court of Queen's Bench of New Brunswick, the Supreme Court of Newfoundland and Labrador Trial Division and the Supreme Court of Nova Scotia;
- (t) ***Credit Class Member*** means a Settlement Class Member with no Default Transactions;
- (u) ***Current Franchisees*** means 611282 N.B. Ltd;
- (v) ***Debt Release*** means the release by or on behalf of Money Mart, the Former Franchisees and the Current Franchisees of up to 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 in Nova Scotia, New Brunswick or Newfoundland and Labrador 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 March 31, 2010;
- (y) **Defendants** mean National Money Mart Company (“Money Mart”), Dollar Financial Group, Inc (“Dollar Financial”), Sydney Franchuk, Jeff Weiss, 511742 NB Inc., 602269 NB Inc., 10768 Newfoundland Limited carrying on business under the name and style of Money Mart, Gerry Kilduff, Ron Kuzyk, and 2203850 Nova Scotia Limited carrying business under the name and style of Money Mart Cheque Cashing Centre;
- (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 Nova Scotia, New Brunswick or Newfoundland and Labrador 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 Courts substantially in the form of **Schedule B**;
- (ee) **First Notice Orders** means the orders made by the Courts approving the First Notice and the Notice Plan, such orders to be substantially in the form of **Schedule E**;
- (ff) **Former Franchisees** mean 603000 N.B. Inc., 602268 N.B. Inc., 3081219 Nova Scotia Limited, 3085725 Nova Scotia Limited, and 11242 Newfoundland Limited, 511742 N.B. Inc., 602269 N.B. Inc., 2203850 Nova Scotia Limited (c.o.b. Money Mart Cheque Cashing Centre) , 3085726 Nova Scotia Limited and 10768 Newfoundland Limited (c.o.b. as Money Mart);

- (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 in the provinces of Nova Scotia, New Brunswick and Newfoundland and Labrador;
- (jj) ***Notice Plan*** means the plan for disseminating the First Notice and the Second Notice as approved by the Courts, such plan to be substantially in accordance with **Schedule A**;
- (kk) ***Opt-Out Period*** means the period commencing on the Settlement Date and ending 90 days thereafter;
- (ll) ***Parties*** mean the Plaintiffs and the Defendants;
- (mm) ***Plaintiffs*** mean Jennifer B. Tobin, William Squires and Shelley Bamford;
- (nn) ***Referee*** means Reva Devins;
- (oo) ***Released Persons*** mean the Corporate Defendants, Former Franchisees, Current Franchisees and their respective predecessors, successors, parents, subsidiaries, affiliates, assigns, officers, directors, employees, attorneys, agents and representatives and the individual Defendants and their respective heirs, administrators, executors and assigns;
- (pp) ***Request for Exclusion*** means a properly completed and executed written request to be excluded from and to opt out of the Actions substantially in the form of **Schedule D**;
- (qq) ***Second Notice*** means the form of notice approved by the Courts substantially in the form of **Schedule C**;
- (rr) ***Set-Off*** means the total amount owed by the Indebted Class Members as at March 31, 2010;
- (ss) ***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 Orders, 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 Actions 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 Actions. 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 Actions.. Excepted always from this definition are any claims arising out of the Approval Orders and the Agreement and the failure of the Defendants to comply with their obligations particularized in the Approval Orders and the Agreement. Excepted also from this definition is any claim arising out of a payday loan made in any province other than Nova Scotia, New Brunswick or Newfoundland and Labrador;

- (tt) **Settlement** means the settlement described in the Agreement;
- (uu) **Settlement Amount** means the total amount of \$650,000.00;
- (vv) **Settlement Class** means all Class Members excluding persons who opt out;
- (ww) **Settlement Class Member** means a member of the Settlement Class;
- (xx) **Settlement Date** means the date on which the last of the three Approval Orders becomes a final order or 30 days after the date of the Approval Orders if an appeal is taken from the Approval Orders relating only to Class Counsel Fees;
- (yy) **Settlement Obligations** mean collectively the obligations described in Section 5 of the Agreement;
- (zz) **Settlement Period** means the period from January 1, 1997 to March 31, 2010;
- (aaa) **Termination Notice** means the form of notice, if any, approved by the Courts if the Agreement is terminated;
- (bbb) **Transaction Credits** means credits with a value of \$1 million;
- (ccc) **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 number of 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, if required;
  - (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;
- (ddd) ***Transaction Reserve Fund*** means a fund comprising 1% of the Transaction Credits.

### **SECTION 3—REQUIRED EVENTS AND COOPERATION**

#### **a) Required Motions**

3.1 The Plaintiffs will bring motions before their respective Courts requesting approval of the First Notice in the terms of the First Notice Orders 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 Courts.

3.2 The Plaintiffs will bring motions before their respective Courts 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 Orders will, among other things:

- (a) certify each of the Actions in their respective jurisdictions as a class proceeding;
- (b) approve the distributions set out in the Agreement;
- (c) grant to each of the Courts exclusive continuing jurisdiction over the Action commenced in its jurisdiction, including exclusive continuing jurisdiction over the applicable Parties, Settlement Class Members and the Class Counsel Fees;

- (d) grant to the Courts continuing joint jurisdiction to administer, supervise, construe and enforce the Agreement and the Approval Order in accordance with their terms in such a manner that each Court shall not make an order or give a direction in any matter of this joint jurisdiction unless that order or direction is conditional upon a complimentary order or direction being made or given by the other Courts which share jurisdiction;
- (e) authorize the Parties and the persons appointed by the Courts to bring such motions to the Courts in the Actions for directions as may be required;
- (f) declare that the Defendants and/or Released Persons have released the Indebted Class Members for any claims relating to the Default Transactions;
- (g) declare that the Settlement Class Members have released the Released Persons for any claims relating to the Settled Claims;
- (h) dismiss the Actions; and
- (i) be substantially in the form of Schedule F.

3.3 The Parties agree that Actions will be certified as class proceedings solely for the purposes of settlement of the Actions and the approval of this Settlement by the Courts.

3.4 In the event this Settlement is not approved or is terminated in accordance with its terms, the Parties agree that any prior certification of an Action as a class proceeding, including the definition of the Settlement Class, the Class Period and the Common Issues, shall be without prejudice to any position the Parties may later take on any issue in the Actions or other litigation.

#### **b) Sequence of Motions**

3.5 Subject to obtaining permission from the Courts, the parties will schedule a joint hearing of the Courts by videoconference or teleconference for the purposes of seeking approval of the Settlement.

In the event a joint hearing cannot be scheduled, the provisions which follow will apply. The Settlement Class Members in Nova Scotia will proceed with their Approval Hearing first. The Settlement Class Members in Newfoundland shall not proceed with their Approval Hearing unless and until the Supreme Court of Nova Scotia approves this Agreement. The Settlement Class Members in New Brunswick shall not proceed with their Approval Hearing unless and until the Supreme Court of Nova Scotia and the Court of Newfoundland and Labrador approve this Agreement. The motions for the Approval Hearings may be filed as soon as practicably possible in all jurisdictions but Class Counsel in Newfoundland agrees to seek an adjournment of its Approval Hearing until after the Nova Scotia Supreme Court renders its decision on the Approval Hearing and Class Counsel in New Brunswick agrees to seek an adjournment of its Approval Hearing until after the Nova Scotia Supreme Court and the Court of Newfoundland and Labrador render their decisions on the Approval Hearings.

**c) Effect of Non-Approval**

3.6 Notwithstanding any other terms of this Agreement, the Defendants may, in their sole and unfettered discretion, elect to terminate this Agreement in accordance with Section 12 if this Agreement or any part thereof is not approved by any one or more of the Courts.

**d) Data Bases**

3.7 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.

3.8 As soon as reasonably practicable after March 31, 2010, 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.

3.9 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.

3.10 The Parties shall cooperate, assist and undertake all reasonable steps in order to accomplish all events contemplated by the Agreement.

#### **SECTION 4—NOTICE TO THE SETTLEMENT CLASS**

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

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

4.3 Money Mart will pay the costs of disseminating the First Notice, the Second Notice and the Termination Notice, if any, and the costs of Money Mart's Counsel to receive the objectors' materials and the Requests for Exclusion and report to the Courts thereon.

#### **SECTION 5—THE DEFENDANTS' 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. 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 1% of their total value (i. e. \$10,000.00) 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 \$990,000.00 (i. e. 99% of \$1 million);
- (b) each Credit Class Member whose pro rata share of Transaction Credits is \$25 or less will be allocated \$25 in 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 have Certificates mailed to him or her; 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) Cash Credits**

5.19 The portion of the Settlement Amount, if any, remaining after payment of Class Counsel Fees 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 beginning 120 days after the Settlement Date.

5.20 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.

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

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

5.23 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 99% 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.

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

- (d) calling a toll-free number established and maintained by Money Mart;
- (e) accessing a secure internet website created and maintained by Money Mart; or
- (f) 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.

5.25 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.

5.26 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.

5.27 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 beginning 120 days after the Settlement Date. Each Credit Class Member may obtain his or her Cash Credit 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. Money Mart will cash the cheque at any Money Mart Store without charge.

5.28 The Cash Credit allocated to each Credit Class Member in accordance with Section 5.25 will be recorded in the Cash Credits Database. Money Mart will update the Cash Credits Database as Cash Credits are paid.

5.29 Money Mart will not be obligated to pay Cash Credits to any Credit Class Member if the Credit Class Member is in default in respect of any transaction with Money Mart, unless and until the Credit Class Member cures such default.

5.30 On the Expiration Date any Cash Credits not collected by a Settlement Class Member, including any Cash Credits in the Cash Reserve Fund and any Transaction Credits not collected and/or used by a Settlement Class Member, including any Transaction Credits in the Transaction Reserve Fund, shall immediately revert to Money Mart.

**d) Administration Expenses**

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

5.32 For greater certainty:

- (a) Money Mart will pay such costs of the auditor and referee appointed pursuant to the provisions of the Agreement as are ordered by the Courts; 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

### a) Money Mart's Obligations

6.1 Money Mart's Counsel will be appointed to receive all objections to the Settlement and as soon after receipt as possible will provide copies of them to Class Counsel for the purposes of the Approval Hearing and will report to the Courts thereon by affidavit, and if necessary will update the report at the Approval Hearings.

6.2 Money Mart's Counsel will be appointed to receive all Requests for Exclusion and as soon after the deadline for receipt of Request for Exclusions as possible will provide copies of them to Class Counsel and will report to the Courts thereon at the next scheduled hearing.

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

6.4 Money Mart will not commence the distribution of Transaction Credits until after the deadline for the receipt of Requests for Exclusion.

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

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 Courts' orders that all Settlement Obligations are satisfied. Such records will be made available electronically or as otherwise requested for inspection by the Class Counsel Representative or by the Courts.

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 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 Courts in respect of any matter in relation to the Agreement.

**b) The Referee**

6.12 The Courts 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 30 days after the Expiration Date.

6.13 If there is any dispute regarding entitlement to Debt Release, Cash Credits or Transaction 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 Settlement Class Member will be directed to the Referee who will deal with 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 Courts.

**c) Class Counsel Representative**

6.15 The Courts 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. The Class Counsel Representative's appointment expires 30 days after the Expiration Date.

6.16 Money Mart will pay the reasonable fees, disbursements and taxes of the Class Counsel Representative which will be fixed by the Court.

**d) 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 5.3;
- (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 (including those in the Transaction Reserve Fund), the amount of Cash Credits that have not been paid to the Credit Class Members and the balance in the Cash Reserve Fund.

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. Money Mart will pay the reasonable fees, disbursements and taxes of the Auditor which will be fixed by the Court. The Auditor's appointment expires 30 days after the Expiration Date.

## **SECTION 7—OPT-OUT RIGHTS**

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

7.2 In order to opt out the 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.

7.3 Any Class Member who elects to opt out of the Actions will:

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

7.4 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 Class Member who opts out of the Actions in accordance with the provisions of this Section 7.

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

## **SECTION 8—RELEASES AND JURISDICTION OF THE COURTS**

8.1 As of the Settlement Date, each Settlement Class Member who does not opt out will have by virtue of the Agreement, and by operation of the Approval Orders, 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 Courts shall retain exclusive and continuing jurisdiction over their respective Actions, Parties and Settlement Class Members to interpret and enforce the terms, conditions and obligations under the Agreement and the Approval Orders.

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 Orders.

#### **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 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 or the Defendants.

10.2 Any certification of the Actions in respect of Settlement 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 Actions, or issues arising in the Actions, 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 this Settlement Agreement, no Class Counsel, and no one currently or hereafter 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, or relates to or arises from claims in respect of Fast Cash Advances or payday loans offered or provided by Money Mart or any of its past or existing franchisees anywhere in Canada.

## 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 Courts 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 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 Nova Scotia.

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 Courts and if the Approval Orders become 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 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 the Defendants Money Mart and Dollar Financial Group: 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 and a copy to the General Counsel of Dollar Financial Group, Inc., 1432 Lancaster Ave., Berwyn, PA 19312;
- (b) if to Plaintiffs or the Settlement Class: 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, 4<sup>th</sup> Floor, St John's NL, A1C 1B1; and Wagners, which is located at 1869 Upper Water Street, Halifax, Nova Scotia, B3J 1S9;

- (c) if to the Class Counsel Representative: Mr. Mike Dull, Wagners, which is located at 1869 Upper Water Street, Halifax, Nova Scotia, B3J 1S9
- (d) if to the Referee: Reva Devins, Reva Devins Dispute Resolutions, 298 Heath Street East, Toronto, Ont, M4T 1T4;
- (e) if to the Auditor: Grant Thornton LLP. Suite 1600, Grant Thornton Place, 333 Seymour Street, Vancouver, B. C. V6B 0A4
- (f) if to other recipients: as the Courts 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) if one or more of the Approval Orders are not made by the Courts in a form substantially similar to Schedule F; or
- (b) if one or more of the Approval Orders are 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 Courts, or any approval is reversed, vacated, or terminated by any appellate court and/or the Approval Orders do not become final:

- (a) no motion to certify any of the Actions as a class action on the basis of the Settlement Agreement to approve the Settlement Agreement which has not been heard, shall proceed;
- (b) any order certifying the Actions as a class action on the basis of the Settlement Agreement and approving this Settlement Agreement shall be set aside and declared null and void and of no force or effect, and anyone shall be stopped from asserting otherwise;
- (c) the Plaintiffs and the Defendants shall be restored to their respective positions as of the date of the Agreement;
- (d) the Actions will continue;
- (e) 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;
- (f) all applicable statutes of limitation and/or repose for all claims asserted in the Actions shall be deemed to have been tolled in the period from the date of this Agreement to the date of termination of the Agreement;
- (g) 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 Courts will be nonrecoverable from the Plaintiffs, Settlement Class Members or Class Counsel;
- (h) there shall be no further requirement to satisfy the Settlement Obligations; 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 the Section and Sections 4.2, 4.3, 10.1, 10.2, 11.6, 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 the Former Franchisees;

- (b) the execution, delivery, and performance of the Agreement and the consummation of the Actions 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 the Debt Release to the Indebted Class Members; 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 Orders.

14.2 Dollar Financial’s guarantee is a continuing guarantee of all Money Mart’s obligations pursuant to the Approval Orders, Agreement and pursuant to any further orders made by the Courts.

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 February 15<sup>th</sup>, 2010.

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| <hr/> <p><b>WITNESS</b></p> | <hr/> <p><b>WAGNERS</b><br/><b>As solicitors for, and on behalf of Jennifer L. Tobin</b></p> |
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|----------------------|--|
| <hr/> <b>WITNESS</b> | <hr/> <b>CROCCO HUNTER PURVIS JOHNSON</b><br>As solicitors for, and on behalf of Shelley Bamford   |
| <hr/> <b>WITNESS</b> | <hr/> <b>CHES CROSBIE BARRISTERS</b><br>As solicitors for, and on behalf of William Squires  |
| <hr/> <b>WITNESS</b> | <hr/> <b>MCCARTHY TETRAULT LLP</b><br>Solicitors for National Money Mart Company, Dollar Financial Group, Inc, Sydney Franchuk, Jeff Weiss, 511742 NB Inc., 602268 NB Inc., 602269 NB Inc., 603000 NB Inc., 611282 NB Inc., 10768 Newfoundland Limited carrying on business under the name and style of Money Mart, 111242 Newfoundland Limited, Gerry Kilduff, Ron Kuzyk, 2203850 Nova Scotia Limited carrying business under the name and style of Money Mart Cheque Cashing Centre, 3081219 Nova Scotia Limited; 3085725 Nova Scotia Limited, 3085725 Nova Scotia Limited |

**Settlement Agreement  
made as of February 15, 2010**

**Wagners**

1869 Upper Water Street  
Halifax, Nova Scotia  
B3J 1S9

Raymond Wagner

Solicitors for Jennifer L. Tobin

**Crocco Hunter Purvis Johnson**

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**Ches Crosbie**

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Ches Crosbie

Solicitors for William Squires