

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MR.)
JUSTICE MAURICE CULLITY)

TUESDAY, THE
2nd DAY OF DECEMBER, 2008

BETWEEN

THOMPSON McCUTCHEON

Plaintiff

and

THE CASH STORE INC. and RENTCASH INC.

Defendants

Proceeding under the *Class Proceedings Act*, 1992

JUDGMENT

THIS MOTION, made by the plaintiff for an Order approving the proposed settlement, and approving Class Counsel fees and disbursements was heard June 4, 2008, at the Court House, 361 University Avenue, Toronto, Ontario.

ON READING the materials filed including the affidavits of Thompson McCutcheon sworn May 30, 2008, Matthew G. Moloci and exhibits sworn May 30, 2008, Jed Blackburn and exhibits sworn June 4, 2008, Matthew G. Moloci sworn June 10, 2008, R. Andrew MacRae sworn July 4, 2008, Gordon J. Reykdal and exhibits sworn

July 8, 2008, and Don Matthew and exhibits sworn November 18, 2008, the factum of the representative plaintiff, the factum of the defendants and on hearing the submissions of counsel for the representative plaintiff and counsel for the defendants.

1. THIS COURT ORDERS AND DECLARES that for purposes of this Judgment, the following definitions are applicable:

- (a) **“Action”** means this action commenced in the Ontario Superior Court of Justice in Hamilton;
- (b) **“Class”** or **“Class Members”** means all persons who obtained a payday loan from The Cash Store Inc. in Manitoba, New Brunswick, Newfoundland, Nova Scotia, Northwest Territories, Ontario, Prince Edward Island, Saskatchewan or the Yukon; and all persons who obtained a payday loan from 1152919 Alberta Ltd. (o/a Instalozans) in Ontario, Manitoba or Saskatchewan, on or before the approval date of this settlement and who, at the time that notice of this settlement is given, have repaid their loan;
- (c) **“Claim Form”** means the form attached as Appendix 1 to the Distribution Plan;
- (d) **“Class Counsel”** means Scarfone Hawkins ^{LLP};
- (e) **“Distribution Plan”** means the plan attached as Schedule “B”;
- (f) **“Post-Approval Notice”** means a notice substantially in the form of the notice attached as Schedule “C”; and,

(g) **"Released Parties"** means the defendants, 1152919 Alberta Inc. (operating as Instalozans), 367463 Alberta Ltd., Assistive Financial Corp., Advance Finance Corporation, Bridgeview Financial Corp., Dreadnought Capital Inc., Trimor Annuity Focus Limited Partnership #1, #2, #3, SAM Trust, 19695 Yukon Inc., Avenir Financial Funding Corp., Longship Capital Inc., 3074700 Nova Scotia Limited, and 1015005 Alberta Ltd., and all of their respective past and present officers, directors, employees, servants, agents, successors, trustees, heirs, executors, administrators and assigns.


2. THIS COURT ORDERS that the title of proceeding herein and all other references to "Rentcash Inc." be amended to "Cash Store Financial Services Inc."

3. THIS COURT DECLARES that the terms of settlement set-out in the following paragraphs and in the Amended Minutes of Settlement attached as Schedule "A" and in the Distribution Plan attached as Schedule "B", which are both incorporated by reference into this Judgment, are fair, reasonable and in the best interests of the Class, and the settlement be and is hereby approved pursuant to section 29 of the *Class Proceedings Act, 1992*.

4. THIS COURT ORDERS that the defendants shall give notice of the Certification Order of the Honourable Mr. Justice Cullity dated May 10, 2006 and this Judgment to the Class by no later than March 31, 2009, as follows:

- (a) a copy of the Schedule "C" notice being sent by regular first-class mail to the last known address of all Class Members as reflected in the records of the defendants;
- (b) a copy of the Schedule "C" notice to be posted in prominent fashion in poster format, with the poster measuring no less than 24" (W) x 36" (L) at each Cash Store location in Canada, until June 30, 2009 , save and except locations in Alberta and British Columbia;
- (c) a copy of the Schedule "C" notice is to be referred to in a press release to be issued by each of the defendants and Class Counsel, in a form agreeable to each;
- (d) a copy of the Schedule "C" notice is to be posted on the website of Class Counsel at www.classactionlaw.ca;
- (e) a copy of the Schedule "C" notice is to be posted on the website of the Cash Store Inc., at www.cashstore.ca, with a prominent link from the home page thereof;
- (f) a copy of the Schedule "C" notice is to be forwarded by Class Counsel to any person who requests it ("Notice Plan").

5. THIS COURT DECLARES that the Notice Plan provided for in paragraph 4 above satisfies the requirements of section 17 of the *Class Proceedings Act*, 1992, S.O. 1992, c. 6.

6. THIS COURT ORDERS that Nicholas Mastroluisi, C.A., Pettinelli Mastroluisi ^{LLP} be and is hereby appointed to receive any opt-out notices from Class Members.
7. THIS COURT ORDERS that each Class Member who elects to opt-out of the Action must do so by sending a written notice of his/her intention to opt-out to Nicholas Mastroluisi, C.A., Pettinelli, Mastroluisi ^{LLP}, by mail, 6th Floor, 1 James Street South, Hamilton, Ontario, L8P 4R5, by fax, 905-522-6574, or by e-mail, nickm@petmas.ca, on or before June 30, 2009. The written notice must be signed by the Class Member and must state his/her full name, address, telephone number, and date of birth, and a statement that he/she elects to opt-out of the Action.
8. THIS COURT ORDERS that Nicholas Mastroluisi, C.A., Pettinelli, Mastroluisi ^{LLP}, 6th Floor, 1 James Street South, Hamilton, Ontario, L8P 4R5, shall, on or before August 31, 2009 report to this Court by affidavit and advise as to the names and other identifying information of those Class Members who have opted-out of the Action, on notice to Class Counsel and the defendant.
9. THIS COURT ORDERS that any Class Member who opts-out of the Action is not entitled to participate in the Distribution Plan.
10. THIS COURT ORDERS that each Class Member who wishes to participate in the Distribution Plan must submit a Claim Form to the defendants signifying his/her intention to participate in the Distribution Plan, on or before June 30, 2009.
11. THIS COURT ORDERS that if a Class Member has not submitted a Claim Form *"the defendant, Cash Store Financial Services Inc."* to ~~details to follow~~ by June 30, 2009, he/she and his/her heirs, executors, and assigns 

shall forever be barred from participating in the Distribution Plan but shall, in all other respects, be bound by the terms of this Judgment.

12. THIS COURT DECLARES that each Class Member who does not opt-out of the Action and his/her heirs, executors and assigns, releases the Released Parties from any and all claims, rights, damages, losses, demands, obligations, actions, causes of action, suits, crossclaims, issues, debts, contracts, liabilities, agreements, costs, or expenses, of any nature or kind whatsoever, ascertained or un-ascertained, existing or claimed to exist, including unknown claims arising from facts asserted in the Action concerning payday loans obtained from The Cash Store Inc. and Instalozans, Inc. on or before December 2, 2008, and shall not commence or continue any action or take any proceeding related in any way to the released claims against any person or persons who will or could, in connection with any such action or proceeding, bring or commence or continue any claim, crossclaim, claim-over or any claim for contribution, indemnity or any other relief against the Released Parties.

13. THIS COURT ORDERS and declares that unless a Class Member opts-out of the Action, this Judgment and the Distribution Plan are binding upon all Class Members and their heirs, executors and assigns, including persons under a disability, and the requirements of Rule 17.08(4) of the *Rules of Civil Procedure* with respect to this Judgment and the Distribution Plan are hereby dispensed with.

14. THIS COURT ORDERS that the representative plaintiff shall receive payment of compensation from the defendants for his service as representative plaintiff in the

amount of \$10,000.00, and this Court orders and directs the defendants to make payment of same forthwith.

15. THIS COURT ORDERS that Class Counsel shall be paid the sum of \$500,000.00 for legal fees and expenses, in full satisfaction of its claims for fees, disbursements and G.S.T. for acting as counsel to the Class, said payment to be made by the defendants forthwith.

16. THIS COURT ORDERS that the provisions of this Judgment amend paragraphs 7, 8 and 9 of the certification Order dated May 10, 2006.


17. Counsel for the plaintiff shall prepare and file with the Court a report on the implementation and administration of the settlement including statistics as to number of claims submitted and allowed and total cash and total vouchers paid out.

18 THIS COURT ORDERS AND ADJUDGES that, save as aforesaid, the Action be and is hereby dismissed, with prejudice and without further costs.


(Signature of judge, officer or registrar)

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

DEC 5 2008

AS DOCUMENT NO.:
À TITRE DE DOCUMENT NO.:
PER / PAR: 

Schedule "A"

Court File No. 06-CV-319400CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF a Claim under the
Class Proceedings Act, 1992, S.O. 1992, c. 6**

BETWEEN

THOMPSON McCUTCHEON

Plaintiff

and

THE CASH STORE INC. and RENTCASH INC.

Defendants

AMENDED MINUTES OF SETTLEMENT

The parties, by their counsel agree to settle this action on the following terms:

1. The parties consent to certification for settlement purposes of a class consisting of all persons who obtained a payday loan from The Cash Store Inc. in Manitoba, New Brunswick, Newfoundland, Nova Scotia, Northwest Territories, Ontario, Prince Edward Island, Saskatchewan or the Yukon; and all persons who obtained a payday loan from 1152919 Alberta Ltd. (o/a Instalozans) in Ontario, Manitoba or Saskatchewan, on or before the approval date of this settlement and who, at the time that notice of this settlement is given, have repaid their loan (the "Class" and "Class Members").
2. The defendants agree to establish a Settlement Fund of \$3,000,000, consisting of \$1,500,000 cash, and \$1,500,000 in vouchers.
3. The vouchers are valid to pay future brokerage fees or for the repayment of an existing outstanding brokerage fee at The Cash Store or Instalozans. The vouchers have no expiry date and are fully transferable, but are not redeemable for cash.
4. Subject to the provisions below relating to the Minimum Settlement Amount, each Class Member submitting a claim will be paid their pro rata share of the Settlement Fund on the basis of the percentage that the brokerage fees charged to the Class Member are of the total amount of brokerage fees charged to all Class Members. The payment to each Class Member submitting a claim will be made ½ by cash payment and ½

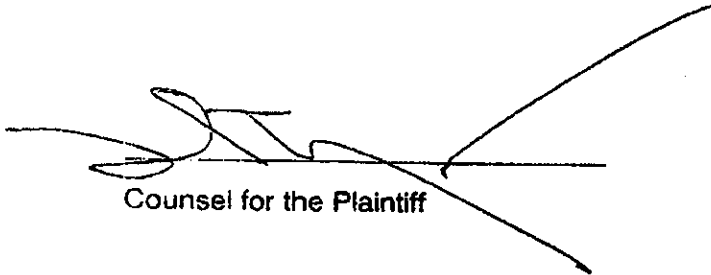
by vouchers.

5. The defendants agree to a Minimum Settlement Amount of \$1,500,000, consisting of \$750,000 cash and \$750,000 in vouchers.
6. In the event that aggregate claims of Class Members payable pursuant to section 4 total less than the Minimum Settlement Amount, the difference between the aggregate claims and the Minimum Settlement Amount shall be distributed as follows:
 - a. with respect to the cash portion of the difference:
 - i. first, pro rata allocation to Class Members who submitted a payable claim up to a maximum payment pursuant to section 4 and this paragraph of 33.33% of the brokerage fees charged to Class Members; and
 - ii. second, if there is any remains any unallocated cash difference, payment of that unallocated amount to a registered charity or charities operating in the field of credit counseling, as selected by the defendants in consultation with Class Counsel; and,
 - b. with respect to the voucher portion of the difference, pro rata distribution to Class Members submitting a claim, without limit.
7. In the event that the Cash Store Inc. changes its business model within two years of the date of the approval of this settlement, such that the vouchers allocated to the Class Members are not longer usable, the parties shall meet and negotiate an alternative method of dealing with unredeemed vouchers. In the event that no agreement is reached, either party shall be at liberty to apply to the Court for relief.
8. The plaintiff will seek the courts approval of a quantum meruit payment to the plaintiff in recognition of the plaintiff's work in this action of up to \$10,000. If an amount is approved by the court, the defendants will pay that amount to the plaintiff, and such amount will not form part of the Minimum Settlement Amount.
9. Any unclaimed portion of the Settlement Fund over the Minimum Settlement Amount will revert to the defendants following the completion of the notice, claim and opt-out provisions in section 12, below.
10. The defendants further agree that:
 - a. They agree to prepare and distribute to customers through their retail locations written credit counseling materials promoting responsible financial habits/practices and agree to spend at least \$50,000 in connection with the preparation and distribution of such materials;

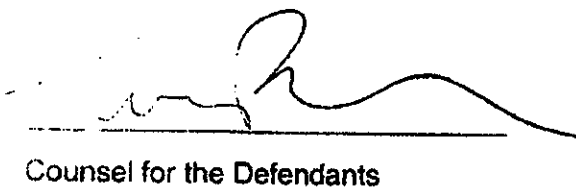
- b. Effective as soon as practicable, and in any event no later than December 31, 2007, all loans brokered by the defendants will be offered through more than one-third party;
 - c. No "rollovers" on any payday loan transactions will be permitted at any Cash Store or Instalozans location;
 - d. The Defendants will undertake to comply with any future legislative changes applicable in the jurisdictions covered by the settlement.
11. The administration of this settlement will be undertaken by the defendants at their expense, subject to reporting to, supervision by, and auditing by Class Counsel and review by the court.
12. The following notice, claim and opt-out provisions will apply:
- a. Notice of certification and this settlement ("the Notice") shall be by regular mail to the address of the Class Members in the records of the defendants;
 - b. Class Members shall have the right to opt out of this action within 90 days of the date of mailing of the Notice by submitting an opt-out form by regular mail to Nicholas Mastroluisi, C.A., Pettinelli, Mastroluisi LLP, 6th Floor, 1 James Street South, Hamilton, Ontario, L8P 4R5. The defendants agree to pay the reasonable fees, costs and expenses associated with the opt-out administrator;
 - c. Class Members shall have the right to submit a claim under the terms of this settlement within 90 days of the date of the Notice by submitting a claim form by regular mail within that time period;
 - d. The defendants will process claims on a timely basis, and in any event within 90 days of the receipt of a claim made with the time limit in c., above; and
 - e. In the event that the defendants determine that a claim submitted is not that of a Class Member or otherwise within the terms of this settlement, the defendants will notify the person claiming of the defendants' intention to reject the claim by regular mail, with a copy to class counsel. Any dispute with respect to a claim submitted shall be dealt with in accordance with the provisions of section 14, below.
13. The defendants agree to pay the reasonable legal fees and disbursements of counsel for the plaintiffs, to be agreed and approved by the court.
14. Any dispute with respect to the application or interpretation of these minutes shall be finally determined in a summary fashion by Weir Milne of Kerygma Reconciliation Services. The defendants agree to pay the reasonable fees, costs and expenses associated with this option.

15. The plaintiff and defendants consent to judgment in accordance with these Minutes, including any amendments required by these Minutes to the order of the Court dated May 10, 2006. The judgment shall contain a full and final release in favour of the defendants, 1152919 Alberta Inc. (operating as Instalozans), 367463 Alberta Ltd., Assistive Financial Corp., Advance Finance Corporation, Bridgeview Financial Corp., Dreadnought Capital Inc., Trimor Annuity Focus Limited Partnership #1, #2, #3, SAM Trust, 19695 Yukon Inc., Avenir Financial Funding Corp., Longship Capital Inc., 3074700 Nova Scotia Limited, and 1015005 Alberta Ltd. and each of their respective directors, officers and employees, with respect to all claims and causes of action of Class Members who have not opted out of this settlement which have been raised or might have been raised in this action.
16. Counsel for the plaintiff shall prepare and submit to the Court a report with respect to the implementation of the settlement, including statistics as to the number of claims submitted and allowed, and the total cash and vouchers paid out.
17. These minutes of settlement are conditional on approval in all respects by the Ontario Superior Court of Justice, failing which, this settlement shall be null and void and without prejudice to the position of the parties in any continuing litigation.

Dated, December 2, 2008



Counsel for the Plaintiff



Counsel for the Defendants