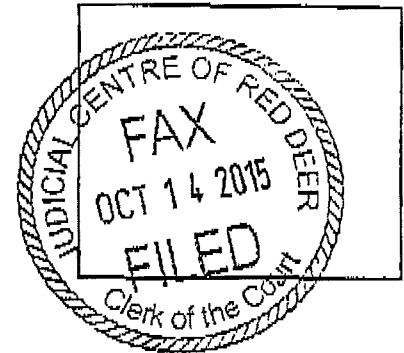


I hereby certify this to be a true copy
of the original.


for Clerk of the Court

[RULE 9.1]

Clerk's stamp



COURT FILE NUMBER

1210-01029

COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE

RED DEER

PLAINTIFFS

ALLAN RUE and DAVID JAMIESON

DEFENDANTS

ASSANTE WEALTH MANAGEMENT (CANADA) LTD.,
ASSANTE CAPITAL MANAGEMENT LTD., BRIAN
MALLEY and CHRISTINE MALLEY

DOCUMENT

CONSENT ORDERADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENTJENSEN SHAWA SOLOMON DUGUID HAWKES LLP
Barristers
800, 304 - 8 Avenue SW
Calgary, Alberta T2P 1C2Carsten Jensen, Q.C.
Gavin Price
Phone: 403 571 1520
Fax: 403 571 1528
File: 12382-001

DATE ON WHICH ORDER WAS PRONOUNCED:

October 9, 2015

LOCATION OF HEARING OR TRIAL:

Edmonton Alberta

NAME OF JUSTICE WHO MADE THIS ORDER:

The Honourable Associate Chief
Justice J.D. Rooke of the Court of
Queen's Bench

UPON THE APPLICATION of the Plaintiffs for an Order, *inter alia*, approving: (1) the
Confidentiality Agreement; (2) the form and content of the Notice of Certification and

- 2 -

Settlement and authorizing its dissemination; (3) the Plan of Notice; (4) the appointment of the Claims Administrator, and (5) setting dates for the hearing of the Approval Application; AND UPON reading the filed materials, including the Affidavit of David Jamieson sworn October 7, 2015, filed and the Settlement Agreement attached hereto as Schedule "A" (the "Settlement Agreement"); AND UPON hearing the submissions of counsel for the Plaintiffs and counsel for the Defendants; AND UPON noting the consent of the Defendants;

IT IS HEREBY ORDERED THAT:

1. Except as otherwise stated, this Order incorporates and adopts the definitions set out in the Settlement Agreement attached as Schedule "A".
2. The Approval Application shall take place on November 30, 2015 at 1:30 pm in the Court of Queen's Bench in the Red Deer Court House in Red Deer, Alberta.
3. NPT RicePoint, working with the assistance of Hemens Lawritsen Valuation Group Ltd., are appointed as the Claims Administrator and their fee of a maximum of \$175,000 plus applicable taxes thereon, is hereby approved, subject to further Order of the Court.
4. The Plan of Notice, a copy of which is attached as Schedule "B" to this Order, is approved and authorized.
5. The Notice of Certification and Settlement, a copy of which is attached as Schedule "C" to this Order, is approved as to its form and content, and its dissemination to Class Members is authorized pursuant to the Plan of Notice as approved.
6. The Confidentiality Agreement, a copy of which is attached hereto as Schedule "D", is approved and authorized.
7. Class Counsel shall, at or before the Approval Hearing, file with the Court proof of the publication and dissemination of the Notice of Certification and Settlement in accordance with the Plan of Notice.

- 3 -

8. Class Members who wish to file with the Court an objection or comment to the Settlement or to the approval of Class Counsel Fees shall deliver a written statement to Class Counsel, at the address indicated in the Notice of Certification and Settlement, no later than November 5, 2015.



Associate Chief Justice of the Court of Queen's
Bench of Alberta

CONSENTED TO:

For the Plaintiffs and the Class Members

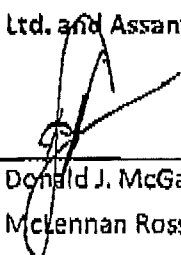


Carsten Jensen, Q.C.

Jensen Shaw Solomon Duguid Hawkes LLP

CONSENTED TO:

For Assante Wealth Management (Canada)
Ltd. and Assante Capital Management Ltd.



Donald J. McGarvey, Q.C.

McLennan Ross LLP

CONSENTED TO:

For Assante Wealth Management (Canada)
Ltd. and Assante Capital Management Ltd.

Robert Brush

Crawley MacKewn Brush LLP

CONSENTED TO:

For Brian Malley and Christine Malley

Marco Poretti

Reynolds Mirth Richards & Farmer LLP

3

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Associate Chief Justice of the Court of Queen's
Bench of Alberta

CONSENTED TO:

For the Plaintiffs and the Class Members

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Jensen Shawa Solomon Duguid Hawkes LLP

CONSENTED TO:

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Ltd. and Assante Capital Management Ltd.**

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- 3 -

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Associate Chief Justice of the Court of Queen's
Bench of Alberta

CONSENTED TO:

For the Plaintiffs and the Class Members

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Robert Brush
Crawley MacKewn Brush LLP

CONSENTED TO:

For Brian Malley and Christine Malley

Marco Poretti
Reynolds Mirth Richards & Farmer LLP

Clerk's stamp

[RULE 9.1]

COURT FILE NUMBER 1210-01029

COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE RED DEER

PLAINTIFFS ALLAN RUE and DAVID JAMIESON

DEFENDANTS ASSANTE WEALTH MANAGEMENT (CANADA) LTD.,
ASSANTE CAPITAL MANAGEMENT LTD., BRIAN
MALLEY and CHRISTINE MALLEY

DOCUMENT **CONSENT ORDER**

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT

JENSEN SHAWA SOLOMON DUGUID HAWKES LLP
Barristers
800, 304 - 8 Avenue SW
Calgary, Alberta T2P 1C2

Carsten Jensen, Q.C.
Gavin Price
Phone: 403 571 1520
Fax: 403 571 1528
File: 12382-001

DATE ON WHICH ORDER WAS PRONOUNCED: October 9, 2015

LOCATION OF HEARING OR TRIAL: Edmonton Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Associate Chief
Justice J.D. Rooke of the Court of
Queen's Bench

UPON THE APPLICATION of the Plaintiffs for an Order, *inter alia*, approving: (1) the Confidentiality Agreement; (2) the form and content of the Notice of Certification and

Settlement and authorizing its dissemination; (3) the Plan of Notice; (4) the appointment of the Claims Administrator, and (5) setting dates for the hearing of the Approval Application; **AND UPON** reading the filed materials, including the Affidavit of David Jamieson sworn October 7, 2015, filed and the Settlement Agreement attached hereto as **Schedule "A"** (the "**Settlement Agreement**"); **AND UPON** hearing the submissions of counsel for the Plaintiffs and counsel for the Defendants; **AND UPON** noting the consent of the Defendants;

IT IS HEREBY ORDERED THAT:

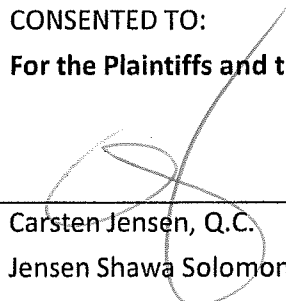
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2. The Approval Application shall take place on November 30, 2015 at 1:30 pm in the Court of Queen's Bench in the Red Deer Court House in Red Deer, Alberta.
3. NPT RicePoint, working with the assistance of Hemens Lawritsen Valuation Group Ltd., are appointed as the Claims Administrator and their fee of a maximum of \$175,000 plus applicable taxes thereon, is hereby approved, subject to further Order of the Court.
4. The Plan of Notice, a copy of which is attached as **Schedule "B"** to this Order, is approved and authorized.
5. The Notice of Certification and Settlement, a copy of which is attached as **Schedule "C"** to this Order, is approved as to its form and content, and its dissemination to Class Members is authorized pursuant to the Plan of Notice as approved.
6. The Confidentiality Agreement, a copy of which is attached hereto as **Schedule "D"**, is approved and authorized.
7. Class Counsel shall, at or before the Approval Hearing, file with the Court proof of the publication and dissemination of the Notice of Certification and Settlement in accordance with the Plan of Notice.

8. Class Members who wish to file with the Court an objection or comment to the Settlement or to the approval of Class Counsel Fees shall deliver a written statement to Class Counsel, at the address indicated in the Notice of Certification and Settlement, no later than November 5, 2015.



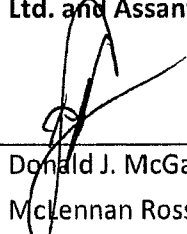
Associate Chief Justice of the Court of Queen's
Bench of Alberta

CONSENTED TO:
For the Plaintiffs and the Class Members



Carsten Jensen, Q.C.
Jensen Shawa Solomon Duguid Hawkes LLP

CONSENTED TO:
**For Assante Wealth Management (Canada)
Ltd. and Assante Capital Management Ltd.**



Donald J. McGarvey, Q.C.
McLennan Ross LLP

CONSENTED TO:
**For Assante Wealth Management (Canada)
Ltd. and Assante Capital Management Ltd.**

Robert Brush
Crawley MacKewn Brush LLP

CONSENTED TO:
For Brian Malley and Christine Malley

Marco Poretti
Reynolds Mirth Richards & Farmer LLP

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Associate Chief Justice of the Court of Queen's
Bench of Alberta

CONSENTED TO:
For the Plaintiffs and the Class Members

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Jensen Shawa Solomon Duguid Hawkes LLP

CONSENTED TO:
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Ltd. and Assante Capital Management Ltd.**

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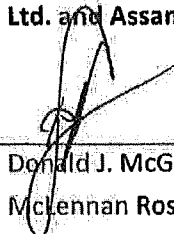
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Associate Chief Justice of the Court of Queen's
Bench of Alberta

CONSENTED TO:
For the Plaintiffs and the Class Members

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Jensen Shawa Solomon Duguid Hawkes LLP

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Ltd. and Assante Capital Management Ltd.




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Ltd. and Assante Capital Management Ltd.

Robert Brush
Crawley MacKewn Brush LLP

CONSENTED TO:
For Brian Malley and Christine Malley



Marco Poretti
Reynolds Mirth Richards & Farmer LLP

SETTLEMENT AGREEMENT

Dated the 31st day of July, 2015

Between

**Allan Rue and David Jamieson, in their capacity as proposed representative plaintiffs under
the *Class Proceedings Act*, SA 2003, c. C-16.5**

and

Assante Wealth Management (Canada) Ltd.

and

Assante Capital Management Ltd.

and

Brian Malley

and

Christine Malley

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SETTLEMENT AGREEMENT

Subject to the approval of the Court as provided herein, the Parties hereby stipulate and agree that, in consideration of the promises and covenants set forth in this Agreement and upon the granting of the Approval Order referred to below, the Action will be settled subject to the terms and conditions contained herein.

SECTION 1 - RECITALS

WHEREAS:

- I. On October 1, 2012, as proposed representative plaintiffs, Allan Rue and David Jamieson commenced the proposed Class Action in Alberta against Assante, Brian Malley and Christine Malley on behalf of themselves and investors who were clients of Assante and whose investment accounts were under the administration and direction of Brian Malley.
- II. The Plaintiffs made allegations of, *inter alia*, breach of contract, breach of fiduciary duty, breach of trust, breach of duty of good faith, and negligence in the proposed Class Action.
- III. In July, 2015, the Parties entered into mediation which resulted in an agreement to resolve the Action, subject to court approval of this Settlement Agreement.
- IV. Class Counsel have fully explained to the Plaintiffs the terms of the Settlement Agreement. The Plaintiffs have reviewed the terms of the Settlement Agreement. Based upon an analysis of the facts and law applicable to the issues in this case, and taking into account the extensive burdens, complexity, risks and expense of continued litigation, the uncertainty of the Defendants' liability and potential limits thereto, the determination of damages to the Class, any potential appeals, and fair, cost-effective and assured resolution of the claims, the Plaintiffs, with the benefit of advice from Class Counsel, have concluded that this Settlement Agreement is fair and reasonable, and in the best interests of the Class.
- V. The Defendants, with the benefit of advice from legal counsel for the Defendants, similarly have concluded that settlement of the Action subject to the terms of this Agreement is desirable, in order to achieve certainty and avoid the time, risk and expense of continuing with the litigation, including any potential appeals, and to resolve finally and completely the pending claims of the Class.

- VI. Subject to the approval of the Court and the terms of this Settlement Agreement, the Parties intend to and hereby do finally resolve the Action, and the claims that are or could have been asserted in it, without any admission of liability.
- VII. Defined terms in these Recitals bear the meanings set out in Section 2.1 of this Settlement Agreement.

NOW THEREFORE FOR VALUE RECEIVED, the receipt and sufficiency of which is hereby acknowledged, the Parties stipulate and agree, subject to the approval of the Court, that any and all claims made or that could have been made in the Action shall be finally settled and resolved on the terms and conditions set forth in this Settlement Agreement.

SECTION 2 - DEFINITIONS

2.1 Defined Terms

- (A) In this Settlement Agreement, including the Recitals and Schedules hereto:
 - (1) **Account** or **Accounts** means the Assante investment account(s) held by the Class Members that were under the administration and direction of Brian Malley.
 - (2) **Action** or **Class Action** means the class action commenced by Allan Rue and David Jamieson in Alberta against Assante Wealth Management (Canada) Ltd., Assante Capital Management Ltd., Brian Malley and Christine Malley on October 1, 2012 in the Court of Queen's Bench of Alberta, Action number 1210-01029.
 - (3) **Administration Expenses** means, individually or collectively, all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable relating to approval, implementation and administration of the Settlement, including the costs of publishing and delivering notices, the fees, disbursements and taxes paid to the Claims Administrator, and any other expenses approved by the Court which shall be paid from the Settlement Amount. For greater clarity, Administration Expenses include the Non-Refundable Expenses for the purposes of the Settlement Agreement, but do not include the Class Counsel Fees.
 - (4) **Approval Hearing** means the hearing of the Approval Application by the Court on November 30, 2015 at 1:30 pm in Red Deer, Alberta or on such other date(s) and at such other locations as may be scheduled by Class Counsel for that purpose.

- (5) **Approval Application** means an application brought by the Plaintiffs before the Court for orders certifying the Action as a class proceeding pursuant to section 5(1) of the *Class Proceedings Act*, SA 2003, c C-16.5, for settlement purposes, and approving: (1) the Settlement Agreement; (2) the Distribution Plan; (3) the Claim Form; (4) the form and content of the Approval Notice, and authorizing its dissemination pursuant to the Plan of Notice as set out in the Pre-Approval Order; and (5) Class Counsel Fees, and dismissing the Action.
- (6) **Approval Notice** means the Notice, substantially in the form attached hereto as Schedule “G” as may be amended and approved by the Court at or as a result of the Approval Application.
- (7) **Approval Order** means the order issued by the Court as a result of the Approval Application, which, amongst other things:
- (i) Certifies the Action as a class proceeding pursuant to section 5(1) of the *Class Proceedings Act*, SA 2003, c C-16.5, for settlement purposes;
 - (ii) Approves the Settlement Agreement;
 - (iii) Approves the Distribution Plan;
 - (iv) Approves the form and content of the Approval Notice including the Opt-Out Form and Opt-Out procedure, and authorizes its dissemination pursuant to the Plan of Notice as set out in the Pre-Approval Order;
 - (v) Approves the Claims Form;
 - (vi) Approves Class Counsel Fees; and
 - (vii) Dismisses the Action
- substantially in the form attached hereto as Schedule “E”.
- (8) **Assante** means, collectively, Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd.
- (9) **Authorized Claimant** means any Class Member who submits a properly completed Claim Form and all required supporting documentation to the Claims Administrator on or before the Claims Deadline, and, pursuant to the terms of the Settlement Agreement, has been approved for compensation by the Claims Administrator in accordance with the Distribution Plan.

- (10) **Certification** means the certification of the Action pursuant to section 5(1) of the *Class Proceedings Act*, SA 2003, c C-16.5, for settlement purposes.
- (11) **Claim Form** means the form to be approved by the Court and which, when completed and submitted on or before the Claims Deadline to the Claims Administrator enables a Class Member to apply for compensation from the Net Settlement Amount pursuant to the Settlement Agreement.
- (12) **Claims Administrator** means the third-party firm selected at arm's length by Class Counsel and appointed by the Court to carry out the Plan of Notice and administer the Net Settlement Amount, and any employees of such firm.
- (13) **Claims Deadline** means the date by which each Class Member must file a Claim Form and all required supporting documentation with the Claims Administrator in order to be eligible for compensation from the Net Settlement Amount, which date shall be ninety (90) days after the date on which the Approval Notice is first published;
- (14) **Class or Class Member(s)** means all persons, corporations, partnerships or other entities who held a beneficial interest in one or more investment account with Assante Wealth Management (Canada) Ltd. or Assante Capital Management Ltd., which were under the administration and direction of Brian Malley during the time period of January 1, 2008 through to and including December 31, 2013, excluding Opt-Out Parties and the named Defendants in Court of Queen's Bench Action No. 1210-01029, being Brian Malley, Christine Malley, Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd.
- (15) **Class Counsel** means Jensen Shawa Solomon Duguid Hawkes LLP, also referred to as JSS Barristers.
- (16) **Class Period** means January 1, 2008 through to and including December 31, 2013.
- (17) **Class Counsel Fees** means the fees, disbursements, GST, costs and other applicable taxes or charges of Class Counsel, as approved by the Court.
- (18) **Confidentiality Agreement** means the Agreement substantially in the form attached as Schedule "J", and approved by the Court at the Pre-Approval Application.

- (19) **Counsel for the Defendants** means, for the Assante Defendants, Donald J. McGarvey, Q.C. of McLennan Ross LLP, and for Brian Malley and Christine Malley, Marco Poretti of Reynolds Mirth Richards & Farmer LLP.
- (20) **Court** means the Court of Queen's Bench of Alberta.
- (21) **Defendants** means, collectively, Assante Wealth Management (Canada) Ltd., Assante Capital Management Ltd., Brian Malley, and Christine Malley.
- (22) **Distribution Plan** means the plan for distribution of the Net Settlement Amount to Authorized Claimants, in accordance with the plan set out in Schedule "F", or such other plan of distribution as may be approved by the Court.
- (23) **Effective Date** means the date upon which all of the following occur or have occurred:
 - (i) the Approval Order becomes Final; and
 - (ii) the Defendants have paid the Settlement Amount into the Escrow Account.
- (24) **Escrow Account** means the interest bearing trust account, with one of the Canadian Schedule 1 banks, initially under the control of Class Counsel and then transferred to the Claims Administrator within ten (10) days of the Effective Date.
- (25) **Escrow Settlement Amount** means the Settlement Amount plus any interest accruing thereon in the Escrow Account after the payment of the Non-Refundable Expenses.
- (26) **Fee Agreement** means the Contingency Fee Agreement approved by the Court on February 20, 2013, and signed by the Representative Plaintiffs on March 25, 2013.
- (27) **Final** when used in relation to:
 - (i) the Settlement Agreement, means that the Effective Date has passed and that any right of termination has either become inoperative and of no force and effect or has been waived; or
 - (ii) a court order or judgment, means that all rights of appeal from such order or judgment, if any right of appeal lies therein, have expired, or

have been exhausted and the ultimate court to which an appeal (if any) was taken has upheld such order or judgment.

- (28) **Net Settlement Amount** means the Settlement Amount less: (i) Administration Expenses as approved by the Court; and (ii) Class Counsel Fees as approved by the Court.
- (29) **Non-Refundable Expenses** means certain Administration Expenses stipulated in section 8.1(A) of the Agreement to be paid from the Settlement Amount.
- (30) **Notice of Certification and Settlement** means the notice to the Class of Certification and the Settlement Agreement substantially in the form set out in Schedule "C", as may be amended and approved by the Court in the Pre-Approval Application.
- (31) **Notice to Terminate the Settlement** means the notice to the Class of Certification and the Settlement has been terminated at the election of the Assante Defendants because the Opt-Out Threshold has been met or exceeded, substantially in the for set out in Schedule "I" and approved by the Court in the Pre-Approval Application.
- (32) **Opt-Out Deadline** means 21 days from the date upon which the Notice of Approval is distributed in accordance with the Plan of Notice.
- (33) **Opt-Out Form** means the document substantially in the form of Schedule "H" to this Agreement, which, if properly completed and submitted by a Class Member to Class Counsel and received by Class Counsel before the expiry of the Opt-Out Deadline, excludes that Class Member from the Class and from participation in the Settlement contemplated by this Settlement Agreement.
- (34) **Opt-Out Party or Opt-Out Parties** means, individually or collectively, a person, corporation, partnership or other entity that otherwise would be a Class Member who submits a properly completed Opt-Out Form to Class Counsel and which Opt-Out Form is received by Class Counsel on or before the Opt-Out Deadline thereby excluding that Class Member from the Class and from participating in the Settlement contemplated by this Settlement Agreement. For greater certainty, if one joint owner of a joint account or one partner of an account held by a partnership opts-out of the Settlement by the procedure specified herein, but the other joint owner(s) or partner(s) do not opt-out of the Settlement, then all joint owners of the joint account and all partners who hold

the partnership account are deemed to be part of the Class and will be bound by the Settlement.

- (35) **Opt-Out Threshold** means the cumulative total of the loss sustained by the Opt-Out Parties, as calculated by using the formula in paragraphs 18-21 of the Distribution Plan found at Schedule "F" to this Settlement Agreement, that allows the Assante Defendants to elect to terminate the Settlement. The specific amount of the Opt-Out Threshold shall be set at \$1,400,000. For greater clarity, if the cumulative total of the loss sustained by the Opt-Out Parties meets or exceeds \$1,400,000 (using the formula in paragraphs 18-21 of the Distribution Plan found at Schedule "F" to this Settlement Agreement), then the Assante Defendants may elect to terminate the Settlement.
- (36) **Party and Parties** means, individually or collectively, the Plaintiffs and Defendants in the Action.
- (37) **Plaintiffs** means the representative plaintiffs in this Action, Allan Rue and David Jamieson.
- (38) **Plan of Notice** means the plan for dissemination of the Notice of Certification and Settlement and Approval Notice and Notice to Terminate the Settlement, generally in accordance with the plan set out in Schedule "B" of this Agreement, or such other plan of dissemination as approved by the Court.
- (39) **Pre-Approval Application** means an application brought by the Plaintiffs before the Court for an order approving: (1) the Confidentiality Agreement; (2) the form and content of the Notice of Certification and Settlement and authorizing its dissemination; (3) the Plan of Notice; (4) the appointment of the Claims Administrator and its fees, and (5) setting date(s) for the Approval Hearing.
- (40) **Pre-Approval Order** means the order issued by the Court as a result of the Pre-Approval Application, which, among other things:
 - (i) Approves the Confidentiality Agreement;
 - (ii) Approves the form and content of the Notice of Certification and Settlement and authorizing its dissemination;
 - (iii) Approves the Plan of Notice;
 - (iv) Approves the appointment of the Claims Administrator and its fees; and

(v) Sets dates for the Approval Hearing

substantially in the form attached hereto as Schedule "A".

- (41) **Released Claim(s)** means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, whether personal or subrogated, in respect of damages whenever incurred, and liabilities of any nature whatsoever, including interest, costs, expenses, Administration Expenses, penalties, Class Counsel Fees and lawyer's fees, known or unknown, suspected or unsuspected, in law, under statute or in equity, that the Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have as against the Releasees, relating in any way to the Action or to any allegations made or that could have been made in the Action, including, without limitation, any investment, insurance or financial advice or services provided by the Releasees to the Class Members concerning matters alleged by the Plaintiffs in the Action.
- (42) **Releasees** means, jointly and severally, the Defendants, and their respective affiliates, subsidiaries, predecessors, successors and assigns, and their respective past, present and future directors, officers, employees, trustees, servants, consultants, agents, legal counsel, insurers, reinsurers and representatives and their respective assigns.
- (43) **Releasors** means, jointly and severally, the Plaintiffs, the Class Members, and their respective heirs, executors, administrators, successors and assigns but does not include the Opt-Out Parties.
- (44) **Settlement** means the settlement reflected in the Settlement Agreement.
- (45) **Settlement Agreement** means this agreement, including the Recitals and Schedules hereto.
- (46) **Settlement Amount** means \$10,000,000.00, to be paid by the Defendants, inclusive of the Administration Expenses, Class Counsel Fees, and any other costs or expenses related to the Action or Settlement.

SECTION 3 - DISPUTES CONCERNING CLASS SIZE

3.1 Class Size

- (A) The Parties, each having conducted a diligent investigation, hereby observe that, to the best of their knowledge, the Class consists of 804 Class Members who collectively held 1480 Accounts, more or less.

3.2 Dispute Concerning Class Size

- (A) In the event that during the implementation and administration of the Settlement Agreement, a dispute arises as to the actual size of the Class, any of the Parties or the Claims Administrator is entitled to bring an Application, with notice, before the Court seeking appropriate declaration, order and relief, it being understood and agreed that:
 - (1) in no such circumstances shall the Defendants be obligated to pay any amount in addition to the Settlement Amount; and
 - (2) the existence or outcome of any such dispute shall not be a ground for the termination of the Settlement Agreement.

SECTION 4 - SETTLEMENT CONSIDERATION

4.1 Payment of the Settlement Amount

- (A) The Defendants shall cause the Settlement Amount to be paid into the Escrow Account no later than thirty (30) days after the execution of this Agreement, and in any event, no later than ten (10) days before the Pre-Approval Application is heard.

4.2 Escrow Account

- (A) Class Counsel, and then the Claims Administrator after the Settlement becomes Final, shall hold the Escrow Settlement Amount in the Escrow Account and shall not pay out any amount from the Escrow Account, except in accordance with the terms of this Settlement Agreement, or pursuant to an order of the Court made on notice to the Parties.

4.3 Taxes on Interest

- (A) All taxes payable on any interest which accrues in relation to the Settlement Amount, shall be the responsibility of the Class and shall be paid by Class Counsel or the Class

Administrator, as appropriate, from the Escrow Settlement Amount, or by the Class as the Claims Administrator considers appropriate.

4.4 No Reversion

- (A) Unless this Settlement Agreement is terminated as provided herein, the Defendants shall not, under any circumstances, be entitled to the repayment of any portion of the Settlement Amount and then only in accordance with the terms provided herein.

SECTION 5 - APPROVAL AND NOTICE PROCESS

5.1 Pre-Approval Application and Notice

- (A) The Plaintiffs will, as soon as is reasonably possible following the execution of this Settlement Agreement, bring the Pre-Approval Application.
- (B) The Defendants shall consent to the Pre-Approval Order, provided that it is substantially similar to the form attached as Schedule "A" hereto.

5.2 Dissemination of the Notice of Certification and Settlement

- (A) Upon the granting of the Pre-Approval Order, Class Counsel or the Claims Administrator, as the case may be, shall cause the Notice of Certification and Settlement to be disseminated to Class Members in accordance with the Plan of Notice as set out in the Pre-Approval Order, and the costs of so doing shall be paid as a Non-Refundable Expense as provided in section 8.1(A).

5.3 Approval Application

- (A) The Plaintiffs will thereafter bring the Approval Application before the Court in accordance with its directions.
- (B) The Defendants shall consent to the Approval Order, provided that it is substantially similar to the form attached as Schedule "E" hereto.

5.4 Approval Notice

- (A) Upon the granting of the Approval Order, Class Counsel or the Claims Administrator, as the case may be, shall cause the Approval Notice to be disseminated to Class Members, including the Opt-Out Form, in accordance with the Plan of Notice subject to any amendment or additional direction of the Court, and the cost of doing so shall be paid as a Non-Refundable Expense as provided in section 8.1(A).

5.5 Notice to Terminate the Settlement

- (A) If this Settlement Agreement is terminated after the Approval Notice has been disseminated, a Notice of Termination, substantially in the form found at Schedule "I" will be given to the Class. Class Counsel or the Claims Administrator, as the case may be, shall cause the notice of termination to be disseminated as the Court directs and the cost of doing so shall be paid as a Non-Refundable Expense as provided in section 8.1(A).

5.6 Report to the Court

- (A) After dissemination of each of the notices required by this section, Class Counsel or the Claims Administrator, as the case may be, shall file with the Court an affidavit confirming dissemination.

SECTION 6 - OPTING OUT**6.1 Awareness of any Potential Opt-Outs**

- (A) The Plaintiffs represent and warrant that:
- (1) they are unaware of any Class Member who has expressed an intention to opt-out of the Class; and
 - (2) they will not encourage or solicit any Class Member to opt-out of the Class.

6.2 Opt-Out Procedure

- (A) Each Class Member who wishes to exclude himself, herself or itself from the Class must submit a properly completed Opt-Out Form along with all required supporting documents to Class Counsel by the Opt-Out Deadline.
- (B) In order to remedy any deficiency in the completion of the Opt-Out Form, Class Counsel may require and request that additional information be submitted by a Class Member who submits an Opt-Out Form, but all such additional information shall be received by Class Counsel by the Opt-Out Deadline.
- (C) If a Class Member fails to submit a properly completed Opt-Out Form and/or all required supporting documents to Class Counsel or fails to remedy any deficiency by the Opt-Out Deadline, the Class Member shall be deemed not to have opted out of the Settlement, subject to any order of the Court to the contrary, and will in all other respects be subject to, and bound by the Settlement, the terms of this Agreement and the releases contained herein.

- (D) An Opt-Out Form shall be deemed not to have been submitted until it is actually received by Class Counsel.
- (E) The Opt-Out Deadline will not be extended unless the Court orders otherwise.
- (F) Opt-Out Parties will be excluded from any and all rights and obligations arising from the Settlement. Subject to the Opt-Out Threshold being met or exceeded and the Assante Defendants electing to terminate the Settlement, Class Members who do not opt out shall be bound by the Settlement and the terms of this Agreement regardless of whether the Class Member files a Claim Form or receives compensation from the Settlement.

6.3 Notification of Cumulative Losses of the Opt-Out Parties

- (A) Within five (5) business days after the Opt-Out Deadline, Class Counsel shall report to Counsel for the Defendants the cumulative losses of the Opt-Out Parties based on the formula found in paragraphs 18, 19, 20 and 21 of Schedule "F" to this Agreement.
- (B) Class Counsel shall also provide to Counsel for the Defendants copies of all of the Opt-Out Forms and additional information submitted to Class Counsel by the Opt-Out Parties and all supporting documents concerning the calculation of losses of the Opt-Out Parties at the same time as the report in section 6.3(A).

SECTION 7 - TERMINATION OF THIS AGREEMENT

7.1 General

- (A) This Agreement shall, without notice, be automatically terminated if:
 - (1) an order substantially in the form of the Approval Order is not granted by the Court upon the Approval Motion; or
 - (2) the Approval Order is reversed on appeal and the reversal becomes a Final Order.
- (B) This Agreement shall be terminated if the Assante Defendants elect to terminate the Settlement on the basis that the Opt-Out Threshold was met or exceeded. If the Assante Defendants so elect, the Assante Defendants shall deliver notice of that election to Class Counsel within five (5) business days of receiving the report referred to in Section 6.3(A) and the additional information outlined in section 6.3(B). Termination of

the Settlement at the election of the Assante Defendants shall be deemed to have occurred upon delivery to Class Counsel of the Notice to Terminate the Settlement, in substantially the same form as found in Schedule "I" to the Settlement Agreement.

(C) In the event this Agreement is terminated in accordance with its terms:

- (1) the Parties will be restored to their respective positions prior to the execution of this Agreement;
- (2) the Plaintiffs and the Defendants will consent to an order vacating or setting aside any order certifying this Action as a class proceeding for the purposes of implementing this Agreement and such order shall include a declaration that the prior consent certification of this Action for settlement purposes shall not be deemed to be an admission by the Defendants that the Action met any of the criteria for certification as a class action, and that no Party to this action and no other person may rely upon the fact of the prior consent certification order for any purpose whatsoever;
- (3) this Agreement will have no further force and effect and no effect on the rights of the Parties except as specifically provided for herein;
- (4) all statutes of limitations applicable to the claims asserted in the Action shall be deemed to have been tolled during the period beginning with the execution of this Agreement and ending with the day on which the orders contemplated by section 7.3(B) are entered;
- (5) this Agreement and the consent certification order will not be introduced into evidence or otherwise referred to any litigation against the Defendants.
- (6) Notwithstanding the provisions of section 7.1(C)(4), if the Settlement is terminated the provisions of this section 7 and section 8 shall survive termination and shall continue in full force and effect.

7.2 Effect of Exceeding the Opt-Out Threshold, Conditions Precedent and Right to Terminate the Settlement.

- (A) Notwithstanding any other provision in this Agreement, the Assante Defendants may, in their sole discretion, elect to terminate the Settlement if the cumulative losses of the Opt-Out Parties meets or exceeds the Opt-Out Threshold, provided that notice of the election to terminate is provided to Class Counsel within five (5) business days of Counsel for the Defendants receiving the report referred to in section 6.3(A) and the

additional information outlined in section 6.3(B) hereof. If the Opt-Out Threshold is not met or exceeded, the Assante Defendants' right to elect to terminate the Settlement is inoperative.

7.3 Allocation of Monies in the Escrow Account Following Termination

- (A) The Claims Administrator and Class Counsel shall account to the Court and the Parties for the amounts maintained in and disbursed from the Escrow Account. If this Agreement is terminated this accounting shall be delivered no later than ten (10) days after delivery of notice to Class Counsel that the Assante Defendants elect to terminate the Settlement.
- (B) If the Settlement is terminated, whether by the provisions of section 7.1 (A) or by the election of the Assante Defendants and the delivery of the Notice to Terminate the Settlement, the Defendants shall, within thirty (30) days after termination, apply to the Court, on notice to Class Counsel and the Claims Administrator, as may be necessary, for an order:
 - (1) declaring this Agreement null and void and of no force or effect except for those provisions listed in section 7.1(C) and section 8 (in its entirety);
 - (2) in the event of termination pursuant to section 7.1(A), determining whether a notice of termination shall be sent out to the Class Members and, if so, the form and method of disseminating such a notice;
 - (3) requesting an order setting aside, *nunc pro tunc*, all prior orders or judgments entered by the Court in accordance with the terms of this Agreement, including any order certifying the Action as a class proceeding for the purposes of implementing this Agreement; and
 - (4) authorizing the payment of the Escrow Settlement Amount to the Defendants.
- (C) Subject to section 7.4, the Parties shall consent to the orders sought in any Application made by the Defendants pursuant to section 7.3(B).

7.4 Disputes Relating to Termination

- (A) If there is any dispute about whether the Opt-Out Threshold has been met or exceeded and/or the termination of this Agreement, the Court shall determine any dispute by Application made by a Party on notice to the other Parties.

7.5 No Right to Terminate

(A) For greater clarity, no dispute or disagreement among the Plaintiffs and/or members of the Class or any of them about the proposed distribution of the Settlement Amount or the Distribution Plan shall give rise to a right to terminate this Settlement.

SECTION 8 - NON-REFUNDABLE EXPENSES

8.1 Payments

(A) Expenses reasonably incurred for the following purposes, as approved by the Court, shall be Non-Refundable Expenses, and shall be payable from the Settlement Amount, as and when incurred:

- (1) the costs incurred in connection with establishing and operating the Escrow Account;
- (2) the costs incurred in publishing and distributing the Notice of Certification and Settlement, including the associated professional fees and mailing expenses as may be applicable;
- (3) the costs incurred in publishing and distributing the Approval Notice including the Opt-Out Form, and including the associated professional fees and mailing expenses as may be applicable;
- (4) if necessary, the costs incurred in publishing and distributing the notice to the Class that the Settlement Agreement has been terminated, including the associated professional fees and mailing expenses as may be applicable; and
- (5) if the Court appoints the Claims Administrator and thereafter the Settlement Agreement is terminated, the costs reasonably incurred by the Claims Administrator for performing the services required to prepare to implement the Settlement, including any mailing expenses, to a maximum of \$40,000.00, whether or not a claim has been filed or reviewed, as approved by the Court.

8.2 Disputes Concerning Non-Refundable Expenses

(A) Any dispute concerning the entitlement to or quantum of Non-Refundable Expenses shall be dealt with by an Application to the Court on notice to the Parties.

SECTION 9 - ADMINISTRATION

9.1 Appointment of Claims Administrator

- (A) The Court will appoint the Claims Administrator to serve until such time as the Escrow Settlement Amount is distributed in accordance with the Distribution Plan, to implement the Settlement Agreement and Distribution Plan, on the terms and conditions and with the powers, rights, duties and responsibilities set out in the Settlement Agreement and in the Distribution Plan.
- (B) If the Settlement Agreement is terminated, the Claims Administrator's fees, disbursements and taxes will be fixed as set out in section 8.1(A)(5).
- (C) If the approval of the Settlement becomes Final, the Court will fix the Claims Administrator's compensation and payment schedule.

9.2 Claims Process

- (A) In order to seek payment from the Settlement Amount, a Class Member must submit a completed Claim Form to the Claims Administrator, on or before the Claims Deadline. Class Members shall be bound by the terms of the Settlement Agreement and the releases contained herein regardless of whether they submit a completed Claim Form or receive payment from the Settlement Amount.
- (B) In order to remedy any deficiency in the completion of a Claim Form, the Claims Administrator may request that additional information be submitted by a Class Member who submits a Claim Form. Such Class Members shall have until the later of thirty (30) days from the date of the request from the Claims Administrator or the Claims Deadline to rectify the deficiency. Any person who does not respond to such a request for information within this period shall be forever barred from receiving any payments pursuant to the Settlement, subject to any order of the Court to the contrary, but will in all other respects be subject to, and bound by, the provisions of this Settlement Agreement and the releases contained herein.
- (C) By agreement between the Claims Administrator and Class Counsel, the Claims Deadline may be extended. Class Counsel and the Claims Administrator shall agree to extend the Claims Deadline if, in their opinions, doing so will not adversely affect the efficient administration of the Settlement and it is in the best interests of the Class to do so.

9.3 Disputes Concerning the Decisions of the Claims Administrator

- (A) In the event that a Class Member disputes the Claims Administrator's decision, whether in whole or in part, the Class Member may appeal the decision to the Court in accordance with the provisions of the Distribution Plan. The decision of the Court will be final with no right of appeal.
- (B) No action, claim or proceeding of any kind shall lie against Class Counsel or the Claims Administrator for any decision made in the administration of the Settlement Agreement and Distribution Plan without an order from the Court authorizing such an action, claim or proceeding.

9.4 Conclusion of the Administration

- (A) Following the Claims Deadline, and in accordance with the terms of this Settlement Agreement, the Distribution Plan, and such further approval or order of the Court as may be necessary, or as circumstances may require, the Claims Administrator shall distribute the Escrow Settlement Amount to Authorized Claimants.
- (B) No claims or appeals shall lie against Class Counsel or the Claims Administrator based on distributions made substantially in accordance with the Settlement Agreement, the Distribution Plan, or with any other order or judgment of the Court.
- (C) If the Escrow Settlement Account is in a positive balance (whether by reason of tax refunds, un-cashed cheques or otherwise) after one hundred and eighty (180) days from the date of distribution of the Escrow Settlement Amount to the Authorized Claimants, the Claims Administrator shall, if feasible, allocate such balance among Authorized Claimants in an equitable and economic fashion. Any balance below \$25,000.00 which still remains thereafter shall be donated to the Alberta Securities Commission to be used solely for the purpose of educating investors and promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets.
- (D) Upon the conclusion of the administration, or at such other time as the Court directs, the Claims Administrator shall report to the Court on the administration and shall account for all monies it has received, administered and disbursed and obtain an order from the Court discharging it as Claims Administrator.

SECTION 10 - INFORMATION AND ASSISTANCE FROM ASSANTE

- (A) Assante shall provide any assistance reasonably required by Class Counsel and/or the Claims Administrator, as the case may be, regarding the obtaining of information about the identity or contact information of Class Members.
- (B) Assante shall provide any and all information reasonably required by Class Counsel and/or the Claims Administrator regarding the Accounts, including, without limitation, withdrawals and deposits into the Accounts and the dates of such withdrawals and deposits.
- (C) Assante shall cooperate in providing the information contemplated in subsections (A) and (B) immediately above - in a database or other electronic format as agreed upon by Class Counsel, the Claims Administrator and Assante, and such cooperation will not be unreasonably withheld.
- (D) Assante shall answer all reasonable inquiries from Class Counsel and/or the Claims Administrator, as the case may be, in connection with the administration and implementation of the Settlement Agreement and the Distribution Plan, and will designate a person to whom Class Counsel and/or the Claims Administrator may address such inquiries.
- (E) Class Counsel and/or the Claims Administrator may use the information obtained in accordance with subsections (A), (B), (C) and (D) immediately above for the purpose of delivering the notices specified in the Plan of Notice as approved by the Court, or otherwise for the purpose of administering and implementing the Settlement Agreement and the Distribution Plan.

SECTION 11 - RELEASES AND DISMISSALS**11.1 Release of Releasees**

- (A) Upon the date the Settlement Agreement becomes Final, the Releasors fully, finally and forever release and discharge the Releasees from the Released Claims.

11.2 No Further Claims

- (A) Upon the date the Settlement Agreement becomes Final, the Releasors shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against the Releasees or any other

corporation or person who might claim over against the Releasees, or who might claim contribution or indemnity under any statutory provision or otherwise from the Releasees, or who might seek declaratory relief in a third party proceeding against the Releasees, in respect of any Released Claim or any matter related thereto.

- (B) In the event that any Releasor should hereafter make any claim or demand or commence or threaten to commence any action, claim or proceeding against any of the Releasees in connection with the matters which are released and discharged above, the Settlement Agreement may be raised as a complete bar to any such demand, action, claim or proceeding.

11.3 Dismissal of the Action

- (A) Except as otherwise provided in this Settlement Agreement and the Approval Order, the Action shall be dismissed without costs and with prejudice no earlier than the date on which the Settlement Agreement becomes Final.

SECTION 12 - APPROVAL OF THE DISTRIBUTION PLAN

- (A) The Defendants shall have no obligation to consent to, but shall not oppose, the Court's approval of the Distribution Plan.
- (B) Unless directed to do so by the Court, the Defendants will not make any submissions to the Court relating to the Distribution Plan.

SECTION 13 - DISTRIBUTION OF THE SETTLEMENT AMOUNT

- (A) On or after the Effective Date, the Claims Administrator shall distribute the remainder of the Settlement Amount in accordance with the following priorities:
 - (1) to pay Class Counsel Fees as approved by the Court;
 - (2) to pay all Administration Expenses and Non-Refundable Expenses. The Defendants are specifically excluded from eligibility for any payment of costs or expenses under this section;
 - (3) to pay any taxes required by law to be paid to any governmental authority;
 - (4) to pay a pro rata share of the balance of the Escrow Settlement Amount to each Authorized Claimant in accordance with the Distribution Plan; and
 - (5) If necessary, to make any *cy prè*s distribution as contemplated herein.

SECTION 14 - THE FEE AGREEMENT AND CLASS COUNSEL FEES**14.1 Application for Approval of Class Counsel Fees**

- (A) Class Counsel will make an Application for fee approval to the Court. Class Counsel's application for approval of Class Counsel Fees shall be returnable together with the Approval Application.
- (B) Class Counsel is not precluded from making additional applications for expenses incurred as a result of implementing the terms of this Settlement Agreement. All amounts awarded on account of Class Counsel Fees shall be paid from the Settlement Amount.
- (C) The Defendants acknowledge that they are not parties to the Application concerning the approval of Class Counsel Fees, they will have no involvement in the approval process to determine the amount of Class Counsel Fees and they will not take any position or make submissions to the Court concerning Class Counsel Fees.
- (D) The procedure for, and the allowance or disallowance by the Court of, any requests for Class Counsel Fees to be paid out of the Settlement Amount are not part of the Settlement provided for herein, except as specifically provided in section 12(A)(i), and are to be considered by the Court separately from its consideration of the fairness, reasonableness and adequacy of the Settlement provided for herein.
- (E) Any order or proceedings relating to Class Counsel Fees, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Settlement Agreement or affect or delay the finality of the Approval Order and the Settlement of the Action provided herein.

14.2 Payment of Class Counsel Fees

- (A) Within ten (10) days of the Settlement becoming Final, Class Counsel shall transfer the Escrow Settlement Amount to the Claims Administrator, net of Class Counsel Fees approved by the Court.

SECTION 15 - NO ADMISSION OF WRONGDOING**15.1 No Admission of Liability**

- (A) Neither the Settlement Agreement nor anything contained herein is or shall be interpreted as a concession or admission of wrongdoing or liability by the Defendants,

or as a concession or admission by the Defendants of the truthfulness of any claim or allegation asserted in the Action. Neither the Settlement Agreement nor anything contained herein shall be used or construed as an admission by the Defendants of any fault, omission, liability or wrongdoing in any statement, release, or written document.

15.2 Agreement Not Evidence

- (A) Neither the Settlement Agreement, nor anything contained herein, nor any of the negotiations or proceedings connected with it, nor any related document, nor any other action taken to carry out the Settlement Agreement shall be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding.
- (B) Notwithstanding section 15.2(A), this Settlement Agreement may be referred to or offered as evidence in order to obtain the orders of directions from the Court contemplated in this Settlement Agreement, in a proceeding to approve or enforce the Settlement Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law.

SECTION 16 - CONSENT TO CERTIFICATION

- (A) The Defendants will consent to, and the Plaintiffs and Class Counsel will undertake to pursue, Certification in relation to the Class, pursuant to section 5(1) of the *Class Proceedings Act*, SA 2003, c C-16.5, for settlement purposes.
- (B) The Parties agree to take whatever steps are reasonably necessary and to co-operate with one another in order to secure Certification, and Court approval of the Settlement.

SECTION 17 - MISCELLANEOUS

17.1 Entire Agreement

- (A) Subject to the terms of Section 17.1(C), the Settlement Agreement (and its Schedules) constitutes the entire agreement among the Parties and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of the Settlement Agreement, unless expressly incorporated herein. The Settlement Agreement may not be modified or amended except in writing and on consent of all Parties and any such modification or amendment must be approved by the Court.

- (B) The Recitals and Schedules to this Settlement Agreement are material and integral parts hereof and are fully incorporated into, and form part of, this Settlement Agreement.
- (C) The Defendants have agree to a Mutual Release to be prepared upon approval of the Settlement Agreement, which agreement and Mutual Release will be binding on the Defendants notwithstanding the provisions of section 17.1(A).

17.2 Best Efforts

- (A) The Parties shall use their best efforts to implement the terms of the Settlement Agreement and to secure the Court's prompt, complete and final dismissal of the Action. The Parties agree to hold in abeyance all steps in the Action, including all discovery, other than proceedings provided for in this Settlement Agreement, the Pre-Approval Application, the Approval Application and such other proceedings required to implement the terms of this Settlement Agreement, until the Settlement is Final or the termination of the Settlement Agreement in accordance with the terms hereof.
- (B) The Parties agree that the notices and forms to be used to implement the terms of the Settlement Agreement will be substantially as attached as the Schedules to the Settlement Agreement. The Parties agree to cooperate with each other to make such revisions or changes to the notices and forms as may be required to give full effect to the terms of the Settlement Agreement.

17.3 Ongoing Jurisdiction and Governing Law

- (A) The Settlement Agreement shall be governed by, construed and interpreted in accordance with the laws of the Province of Alberta.
- (B) The Parties agree that the Court shall retain exclusive and continuing jurisdiction over the Action, the Parties and Class Members to interpret and enforce the terms, conditions and obligations under this Agreement and the Approval Order.

17.4 Severability

- (A) Any provision hereof that is held to be inoperative, unenforceable or invalid in any jurisdiction shall be severable from the remaining provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

17.5 Applications for Directions

- (A) Any one or more of the Parties or the Claims Administrator may apply to the Court for directions in respect of any matter in relation to the Settlement Agreement and Distribution Plan.
- (B) All Applications contemplated by the Settlement Agreement shall be on notice to the Parties and the Claims Administrator, provided however that, once the Settlement Agreement becomes Final and the Settlement Amount has been paid, the Defendants shall not receive notice and shall have no standing relating to any issue raised on any such motion unless the Court orders otherwise.

17.6 The Defendants Have No Responsibility or Liability for Administration

- (A) Except for the obligation to pay the Settlement Amount and to provide necessary assistance pursuant to section 9 of the Settlement Agreement, the Defendants have no responsibility for and no liability whatsoever with respect to the administration or implementation of the Settlement Agreement and Distribution Plan, including, without limitation, the processing and payment of claims by the Claims Administrator.

17.7 Interpretation

- (A) In the Settlement Agreement:
 - (1) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of the Settlement Agreement;
 - (2) the recitals and Schedules form part of the Settlement Agreement;
 - (3) the terms “the Settlement Agreement”, “herein”, “hereto” and similar expressions refer to the Settlement Agreement as a whole and not to any particular section or other portion of the Settlement Agreement; and
 - (4) all amounts referred to are in Canadian Currency.
- (B) In the computation of time in this Settlement Agreement, except where a contrary intention appears:
 - (1) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days except

where reference is made to business days which shall mean Monday through Friday excluding statutory holidays; and

- (2) only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

17.8 Binding Effect

- (A) If the Settlement is approved by the Court and if the Settlement Agreement becomes Final and the Settlement Amount is paid pursuant to section 4.1 hereof, the Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Class Members, the Defendants, the Releasees, the Releasors and all of their heirs, executors, successors, predecessors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiffs shall be binding upon all the Releasors, and each and every covenant and agreement made herein by the Defendants shall be binding upon all of the Releasees.
- (B) Assante represents and warrants that:
 - (1) it has all requisite corporate power and authority to execute, deliver and perform this Settlement Agreement and to consummate the transaction contemplated hereby on its own behalf;
 - (2) the execution, delivery and performance of this Settlement Agreement and the consummation of the Action contemplated herein have been duly authorized by all necessary corporate action on its part;
 - (3) this Settlement Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligations; and
 - (4) it agrees to use its best efforts to cause all conditions precedent to the Effective Date to occur.

17.9 Survival

- (A) The representations and warranties contained in the Settlement Agreement shall survive its execution and implementation.

17.10 Negotiated Agreement

- (A) The Settlement Agreement has been the subject of arm's length negotiations and many discussions among the Parties and their counsel. Each of the Parties has been

represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafters of the Settlement Agreement shall have no force or effect. The Parties further agree that the language contained in or not contained in previous drafts of the Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of the Settlement Agreement.

17.11 Acknowledgements

- (A) Each Party hereby affirms and acknowledges that:
- (1) the Party's signatory has the authority to bind the Party with respect to the matters set forth herein and has reviewed the Settlement Agreement; and
 - (2) the terms of this Settlement Agreement and the effects thereof have been fully explained to the Party by his or its counsel.

17.12 Authorized Signatures

- (A) Each of the undersigned represents that he is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Party for whom he is signing.

17.13 Counterparts

- (A) This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a signature transmitted by facsimile or email shall be deemed an original signature for the purposes of executing this Agreement.

17.14 Notice

- (A) Where the Settlement Agreement requires a notice or any other communication or document to be given to the Parties, such notice, communication or document shall be in writing and delivered personally, by email, by facsimile during normal business hours, or letter by courier, registered or certified mail, to:

For Plaintiffs and Class Counsel:

Carsten Jensen, Q.C./Gavin Price
Jensen Shawa Solomon Duguid Hawkes LLP
Lancaster Building
800, 304 - 8 Avenue SW
Calgary, AB T2P 1C2

Telephone: 403.571.1520
 Facsimile: 403.571.1528
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For Assante and for Counsel for Assante:

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Robert Brush
 Crawley MacKewn Brush LLP
 179 John St #800
 Toronto, ON M5T 1X4
 Telephone: 416.217.0822
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 Email: rbrush@cmbllaw.ca

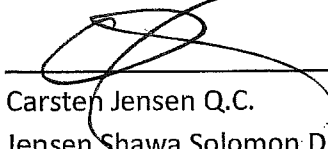
For Brian Malley and Christine Malley and for
 Counsel for Brian Malley and Christine Malley:

Marco Poretti
 Reynolds Mirth Richards & Farmer LLP
 Manulife Place
 Suite 3200-10180 101 St NW
 Edmonton, AB T5J 3W8
 Telephone: 780.497.3325
 Facsimile: 780.429.3044
 Email: mporetti@rmrf.com


The Parties have executed this Settlement Agreement as of the date on the cover page.


For the Plaintiffs and the Class Members

Per:


 Carsten Jensen Q.C.
 Jensen Shawa Solomon Duguid Hawkes LLP

For Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd.

Per: 
 Donald J. McGarvey, Q.C.
 McLennan Ross LLP

Per: 
 Robert Brush
 Crawley MacKewn Brush LLP

For Brian Malley and Christine Malley

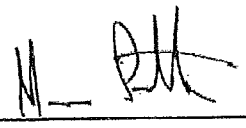
Per: _____
 Marco Poretti
 Reynolds Mirth Richards & Farmer LLP

For Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd.

Per: _____
Donald J. McGarvey, Q.C.
McLennan Ross LLP

Per: _____
Robert Brush
Crawley MacKewn Brush LLP

For Brian Malley and Christine Malley

Per:  _____
Marco Poretti
Reynolds Mirth Richards & Farmer LLP

SCHEDULE "A" - PRE-APPROVAL ORDER

COURT FILE NUMBER 1201-03854

COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE RED DEER

PLAINTIFFS ALLAN RUE and DAVID JAMIESON

DEFENDANTS ASSANTE WEALTH MANAGEMENT (CANADA) LTD.,
ASSANTE CAPITAL MANAGEMENT LTD., BRIAN
MALLEY and CHRISTINE MALLEY

UPON THE APPLICATION of the Plaintiffs for an Order, *inter alia*, approving: (1) the Confidentiality Agreement; (2) the form and content of the Notice of Certification and Settlement and authorizing its dissemination; (3) the Plan of Notice; (4) the appointment of the Claims Administrator, and (5) setting dates for the hearing of the Approval Application; **AND UPON** reading the filed materials, including the Affidavit of David Jamieson sworn October _____, 2015, filed and the Settlement Agreement attached hereto as **Schedule "A"** (the "**Settlement Agreement**"); **AND UPON** hearing the submissions of counsel for the Plaintiffs and counsel for the Defendants; **AND UPON** noting the consent of the Defendants;

IT IS HEREBY ORDERED THAT:

1. Except as otherwise stated, this Order incorporates and adopts the definitions set out in the Settlement Agreement attached at **Schedule "A"**.
2. The Approval Application shall take place on November 30, 2015 at 1:30 pm in the Court of Queen's Bench in the Red Deer Court House in Red Deer, Alberta.
3. NPT RicePoint, working with the assistance of Hemens Lawritsen Valuation Group Ltd., are appointed as the Claims Administrator and their fee of a maximum of \$175,000 plus applicable taxes thereon, is hereby approved, subject to further order of the Court.
4. The Plan of Notice, a copy of which is attached as **Schedule "B"** to this order, is approved and authorized.

5. The Notice of Certification and Settlement, a copy of which is attached as **Schedule "C"** to this order, is approved as to its form and content, and its dissemination to Class Members is authorized pursuant to the Plan of Notice as approved.
6. The Confidentiality Agreement, a copy of which is attached hereto as **Schedule "D"**, is approved and authorized.
7. Class Counsel shall, at or before the Approval Hearing, file with the Court proof of the publication and dissemination of the Notice of Certification and Settlement in accordance with the Plan of Notice.
8. Class Members who wish to file with the Court an objection or comment to the Settlement or to the approval of Class Counsel Fees shall deliver a written statement to Class Counsel, at the address indicated in the Notice of Certification and Settlement, no later than November 5, 2015.

Associate Chief Justice of the Court of Queen's
Bench of Alberta

SCHEDULE "B" - PLAN OF NOTICE

(SCHEDULE "B" TO THE PRE-APPROVAL ORDER)

Capitalized terms used in this Plan of Notice have the meanings ascribed to them in the Settlement Agreement.

PART 1 – NOTICE OF CERTIFICATION AND SETTLEMENT

As soon as possible following the issuance of the Pre-Approval Order, and in any event no later than twenty (20) days prior to the Approval Hearing:

1. Class Counsel will post the Notice of Certification and Settlement on www.assanteclassaction.com and on <http://www.jssbarristers.ca/pages/class-actions/class-actions.cfm>;
2. the Claims Administrator will arrange for the Notice of Certification and Settlement to be published once in the *Red Deer Advocate*;
3. the Claims Administrator will arrange for the Notice of Certification and Settlement to be published once in the *Rocky Mountain House Mountaineer*;
4. the Claims Administrator will, within ten (10) business days following the issuance of the Pre-Approval Order, mail and email a copy of the Notice of Certification and Settlement to each Class Member to the address provided by Assante's Counsel or the most recent address as known by Class Counsel.

PART 2 – NOTICE OF APPROVAL OF SETTLEMENT (WHICH INCLUDES THE OPT-OUT FORM, AND THE CLAIM FORM)

As soon as possible following the issuance of the Approval Order:

1. Class Counsel will post the Approval Notice on www.assanteclassaction.com and on <http://www.jssbarristers.ca/pages/class-actions/class-actions.cfm>;
2. the Claims Administrator will arrange for the Approval Notice to be published once in the *Red Deer Advocate*;
3. the Claims Administrator will arrange for the Approval Notice to be published once in the *Rocky Mountain House Mountaineer*;

4. the Claims Administrator will mail and email a copy of the Approval Notice to each Class Member to the address provided by Assante's Counsel or the most recent address as known by Class Counsel; and
5. the Claims Administrator will post the Approval Notice on its website.

Class Counsel and the Claims Administrator will also send the Approval Notice and Claim Form by mail or e-mail to any person who requests such documents prior to the Claims Deadline.

PART 3 – TERMINATION OF THE SETTLEMENT AND NOTICE TO TERMINATE THE SETTLEMENT

1. Class counsel will receive Opt-Out Forms and within five (5) business days following the Opt-Out Deadline, will inform Counsel for the Assante Defendants of the cumulative losses of the Opt-Out Parties and provide loss calculations for each Opt-Out Party.
2. If the cumulative losses of the Opt-Out Parties exceed the Opt-Out Threshold, Counsel for the Assante Defendants will have a period of five (5) business days from receipt of the information referred to in Part 3, paragraph 1 immediately above to notify Class Counsel whether the Assante Defendants elect to terminate the Settlement.
3. Upon receiving the Assante Defendants' election to terminate the Settlement, Class Counsel or the Claims Administrator, as the case may be, shall cause a Notice to Terminate the Settlement to be issued, in a form substantially similar to that found in Schedule "I", within five (5) business days of receiving the Notice to Terminate the Settlement, as follows:
 - a. Class Counsel will post the Notice to Terminate the Settlement on www.assanteclassaction.com and on <http://www.jssbarristers.ca/pages/class-actions/class-actions.cfm>;
 - b. the Claims Administrator will arrange for the Notice to Terminate the Settlement to be published once in the *Red Deer Advocate*;
 - c. the Claims Administrator will arrange for the Notice to Terminate the Settlement to be published once in the *Rocky Mountain House Mountaineer*;
 - d. the Claims Administrator will mail and email a copy of the Notice to Terminate the Settlement to each Class Member to the address provided by Assante's Counsel or the most recent address as known by Class Counsel.

SCHEDULE "C" - NOTICE OF CERTIFICATION AND SETTLEMENT

(SCHEDULE "C" TO THE PRE-APPROVAL ORDER)

ASSANTE WEALTH MANAGEMENT (CANADA) LTD. CLASS ACTION

NOTICE OF CERTIFICATION AND PROPOSED SETTLEMENT

This notice is to all persons who held investment account(s) with Assante Wealth Management (Canada) Ltd. or Assante Capital Management Ltd., which were under the administration and direction of Brian Malley, during the time period of January 1, 2008 through to and including December 31, 2013, excluding the named Defendants in Court of Queen's Bench Action No. 1210-01029, being Brian Malley, Christine Malley, Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd.

READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS.

CLASS ACTION COMMENCED IN ALBERTA HAS BEEN SETTLED

In 2012, a class action was commenced against Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd. (collectively, "Assante"), Brian Malley and Christine Malley (the "Class Action"). This notice applies to clients of Brian Malley, Assante Wealth Management (Canada) Ltd., and Assante Capital Management Ltd. between January 1, 2008 and December 31, 2013.

The parties to the Class Action have reached a proposed settlement subject to obtaining the approval of the Alberta Court of Queen's Bench (the "Court") (the "Settlement Agreement"). The Settlement Agreement provides that the Defendants will pay \$10,000,000.00 (the "Settlement Amount") in full and final settlement of all claims of the Class Members. The Settlement Amount includes all legal fees, disbursements, taxes and administration expenses. In return for the Settlement Amount, the Defendants will receive releases and a dismissal of the Class Action.

The settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault on the part of any of the Defendants, which have disputed, and continue to dispute, the allegations advanced in the Class Action.

A CERTIFICATION AND SETTLEMENT APPROVAL APPLICATION WILL BE HELD IN RED DEER, ALBERTA

Before the Settlement Agreement can be implemented, certain conditions concerning the Settlement must be fulfilled, the Class Action must be certified for the purposes of settlement, and the Settlement Agreement must be approved by the Court.

Class Members may, but are not required to, attend at the Approval Hearing which will be held on November 30, 2015 at 1:30p.m. at the Red Deer Court House, 909 – 48 Avenue, Red Deer, Alberta.

Class Members who do not oppose the proposed Settlement do not need to appear at any hearing or take any other action at this time to indicate their desire to support the proposed Settlement.

THE SETTLEMENT CLASS

The proposed definition for the settlement class is as follows:

all persons, corporations, partnerships or other entities who held a beneficial interest in one or more investment account with Assante Wealth Management (Canada) Ltd. or Assante Capital Management Ltd., which were under the administration and direction of Brian Malley during the time period of January 1, 2008 through to and including December 31, 2013, excluding Opt-Out Parties and the named Defendants in Court of Queen's Bench Action No. 1210-01029, being Brian Malley, Christine Malley, Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd. ("**Class**" or "**Class Members**").

CLASS COUNSEL FEES, CLAIMS ADMINISTRATOR AND ADMINISTRATIVE EXPENSES

In addition to seeking Certification of this Action and the Court's approval of the Settlement Agreement, Class Counsel (as identified below) will seek the approval of their legal fees, in an amount equal to 30% of the Settlement Amount, plus disbursements and applicable taxes ("**Class Counsel Fees**"). Class Counsel will also seek approval of a distribution plan (the "**Distribution Plan**").

PROPOSED DISTRIBUTION OF THE NET SETTLEMENT AMOUNT

The Settlement Amount, minus Class Counsel Fees and Administration Expenses ("**Net Settlement Amount**"), will be distributed to Class Members who are Authorized Claimants in accordance with the Distribution Plan attached as **Schedule "F"** to the Settlement Agreement, which, in general terms, provides that:

- (a) in order to be eligible to receive compensation pursuant to the Settlement Agreement, you must be a Class Member.
- (b) the Claims Administrator will determine whether a Class Member is entitled to receive compensation from the Net Settlement Amount pursuant to the Settlement Agreement and the Distribution Plan ("**Authorized Claimant**").
- (c) each Authorized Claimant's actual compensation from the Net Settlement Amount will be his/her/its *pro rata* share of the Net Settlement Amount calculated in accordance with the Distribution Plan.

If the settlement is approved, all Class Members except those who have formally opted out of the Action will be bound by the terms of the Settlement Agreement. This means that they will not be able to bring or maintain any other claim or legal proceeding against Assante, Brian Malley or Christine Malley, or any other person released by the Settlement Agreement in relation to the claims advanced in the Class Action.

If the settlement is approved, another notice to Class Members will be published which will provide instructions on how to make a claim to receive compensation from the settlement.

A copy of the Settlement Agreement including the Distribution Plan may be found at www.assanteclassaction.com and on <http://www.jssbarristers.ca/pages/class-actions/class-actions.cfm>.

CLASS MEMBERS MAY OBJECT TO THE SETTLEMENT

If you wish to comment on, or make objection to, the certification of the action for the purposes of settlement, the Settlement Agreement or Class Counsel Fees, you must provide notice in writing of your intention to do so. All such notice must be submitted to Class Counsel (at the addresses listed below) no later than November 5, 2015. Class Counsel will forward all such submissions to the Court and to Counsel for the Defendants. You may attend at the settlement approval hearing whether or not you deliver an objection.

A written objection should include the following information:

- (a) the objector's name, address, telephone number, fax number (where applicable) and email address;
- (b) a brief statement outlining the nature of, and reason for, the objection; and
- (c) a statement as to whether the objector intends to appear at the settlement approval hearing in person or by legal counsel, and, if by legal counsel, the name, address, telephone number, fax number and email address of such legal counsel.

INTERPRETATION

If there is a conflict between the provisions of this notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

QUESTIONS ABOUT THE PROPOSED SETTLEMENT SHOULD BE DIRECTED TO CLASS COUNSEL

Carsten Jensen, Q.C. / Gavin Price
Jensen Shawa Solomon Duguid Hawkes LLP
Lancaster Building
800, 304 - 8 Avenue SW
Calgary, AB T2P 1C2
Telephone: 403.571.1520
Facsimile: 403.571.1528
Email: jensenc@jssbarristers.ca
priceg@jssbarristers.ca

THIS NOTICE, AND DISTRIBUTION OF IT, HAS BEEN AUTHORIZED BY THE COURT OF QUEEN'S BENCH OF ALBERTA

SCHEDULE "D" - CLAIM FORM

(SCHEDULE "D" TO THE APPROVAL ORDER AND ENCLOSED WITH THE APPROVAL NOTICE)

ASSANTE CLASS ACTION

CLAIM FORM

TO BE ELIGIBLE FOR COMPENSATION YOUR COMPLETED CLAIM FORM TOGETHER WITH SUPPORTING DOCUMENTATION MUST BE MAILED TO THE CLAIMS ADMINISTRATOR NO LATER THAN _____, 2015.

INSTRUCTIONS FOR CLAIM FORM

1. If you held at least one Assante Wealth Management (Canada) Ltd. or Assante Capital Management Ltd. (collectively, "Assante") investment account that was under the administration and direction of Brian Malley, during the time period of January 1, 2008 through to and including December 31, 2013, and you are not an Opt-Out Party or a named Defendant in Court of Queen's Bench Action No. 1210-01029 (i.e., Assante Wealth Management (Canada) Ltd., Assante Capital Management Ltd., Brian Malley or Christine Malley), you are eligible to submit a Claim Form.
2. You must fill out each section of the Claim Form in its entirety.
3. You must provide all of the required documentation stipulated in the Claim Form.
4. Claim Forms must be sent by mail to the Claims Administrator postmarked no later than _____, 2015. The Claims Administrator's address is: _____.
5. Claims Forms which are postmarked after _____, 2015 may be rejected by the Claims Administrator.
6. The Claims Administrator may be reached by telephone at _____ or by email at _____.

1. IDENTIFICATION OF CLASS MEMBER
--

Name: _____
Legal Name of Class Member

Contact Person (If Class Member is a corporation)

Address: _____
No./Apt./Street City Province Postal Code

Telephone: _____
Area code/phone no. (Ext. if applicable)

Email: _____

Identification of person signing this Form (check one only):

_____ I am the Class Member.

_____ I am an authorized employee, officer or director of the above-identified Class Member. I am signing this Form to register the Class Member for settlement benefits.

_____ I am a representative of the above-identified Class Member. I am signing this Form to register the Class Member for settlement benefits. (Attach copy of court order or other official document appointing you as representative)

2. INFORMATION OF THE ACCOUNTS HELD BY CLASS MEMBER
--

of Accounts _____

Types of Accounts held (e.g.: RRSP, RESP) _____

3. REQUIRED DOCUMENTATION

I hereby enclose the following documents in support of my claim:

_____ Copy of my official identification document (driver's license or passport)

4. DECLARATION

I declare that I have read and understand the contents of this Claim Form, the Disclaimer and Instructions. I declare under penalty of perjury that the statement I have made in this Claim Form is true, correct and complete to the best of my knowledge, information and belief.

Date

Signature (Claimant or Representative)

Note: To preserve eligibility for benefits under the settlements, your completed application, together with the required documentation must be submitted to the Claims Administrator no later than _____, 2015.

Please mail this Form to the following address:

Claims Administrator

SCHEDULE "E" - APPROVAL ORDER

COURT FILE NUMBER 1201-03854

COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE RED DEER

PLAINTIFFS ALLAN RUE and DAVID JAMIESON

DEFENDANTS ASSANTE WEALTH MANAGEMENT (CANADA) LTD.,
ASSANTE CAPITAL MANAGEMENT LTD., BRIAN
MALLEY and CHRISTINE MALLEY

UPON THE APPLICATION of the Plaintiffs for an Order, *inter alia*, certifying the within Action for settlement purposes, and approving: (1) the Settlement Agreement; (2) the Distribution Plan; (3) the form and content of the Approval Notice; and authorizing its dissemination pursuant to the Plan of Notice as set out in the Pre-Approval Order; (4) the Opt-Out Form; (5) the Claim Form; and (6) Class Counsel Fees; **AND UPON READING** the materials and briefs submitted, including the Settlement Agreement between the Plaintiffs and the Defendants dated July 31, 2015 attached hereto as **Schedule "A"** (the "**Settlement Agreement**"); **AND UPON HEARING** counsel for the Plaintiffs and counsel for the Defendants, and noting the consent of counsel for the Defendants;

IT IS HEREBY ORDERED THAT:

1. Except as otherwise stated, this Order incorporates and adopts the definitions set out in the Settlement Agreement.
2. The Action is certified as a class proceeding pursuant to section 5(1) of the *Class Proceedings Act*, SA 2003, c C-16.5 ("**CPA**").
3. The certified class is a settlement class, as defined in section 4 of the *CPA*, and is defined as:

all persons, corporations, partnerships or other entities who held a beneficial interest in one or more investment account with Assante Wealth Management (Canada) Ltd. or Assante Capital Management Ltd., which were under the administration and direction of Brian Malley during the time period of January 1, 2008 through to and including December

31, 2013, excluding Opt-Out Parties and the named Defendants in Court of Queen's Bench Action No. 1210-01029, being Brian Malley, Christine Malley, Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd.

4. The Settlement Agreement is fair, reasonable and in the best interests of the Class.
5. The Settlement Agreement is approved pursuant to section 35 of the *CPA*.
6. The Settlement Agreement shall be implemented in accordance with its terms.
7. The Settlement Agreement, in its entirety, forms part of this Order and is binding upon the Defendants, the Plaintiffs and the Class Members, including those persons or estates that require litigation representatives and the requirements of Rules 2.11 and 2.18 are hereby disposed of.
8. Class Counsel Fees in the amount of \$3,000,000, plus applicable taxes of \$150,000, and disbursements in the amount of \$233,000, are hereby approved.
9. The Distribution Plan, attached hereto as **Schedule "B"**, is hereby approved as fair and reasonable, and the Escrow Settlement Amount shall be distributed in accordance with the Distribution Plan after the payment of Class Counsel Fees and Administration Expenses.
10. The form and content of the Approval Notice, substantially in the form attached hereto as **Schedule "C"**, is hereby approved;
11. The Claim Form, substantially in the form attached hereto as **Schedule "D"**, is hereby approved.
12. The Opt-Out Form, substantially in the form attached hereto as **Schedule "E"**, is hereby approved.
13. The Approval Notice (which encloses the Claim Form and the Opt-Out Form) shall be published and disseminated in accordance with the Plan of Notice.
14. On notice to the Court but without further order of the Court, the parties to the Settlement Agreement may agree to reasonable extensions of time to carry out any of the provisions of the Settlement Agreement.
15. Except for the obligation to pay the Settlement Amount and provide the information and assistance contemplated by section 10 of the Settlement Agreement, the Releasees

have no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement.

16. If the Settlement Agreement is terminated pursuant to any rights of termination therein, then:
 - (a) the Order shall be set aside, be of no further force or effect, and be without prejudice to any party; and
 - (b) each party to the Action shall be restored to his or its respective position in the Action as it existed immediately prior to the execution of the Settlement Agreement.
17. As of the Effective Date, the Releasors forever and absolutely release the Releasees from the Released Claims.
18. As of the Effective Date, the Releasors shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity from any Releasee in respect of any Released Claim or any matter related thereto.
19. Upon the Effective Date, the Action shall be dismissed against the Defendants without costs and with prejudice.

Associate Chief Justice of the Court of Queen's
Bench of Alberta

SCHEDULE "F" - DISTRIBUTION PLAN

(SCHEDULE "B" TO THE APPROVAL ORDER)

DEFINED TERMS

1. For the purposes of this Distribution Plan, the definitions set out in the Settlement Agreement, except as modified herein, apply to and are incorporated into this Distribution Plan and, in addition, the following definitions apply:
 - (a) **"Distribution List"** means a list containing the name and address of each Class Member entitled to receive a distribution, and the calculation of the Class Member's pro rata share of the Net Settlement Amount.
 - (b) **"Eligible Class Member"** means a Class Member who submits a properly completed Claim Form and all required supporting documentation to the Claims Administrator, on or before the Claims Deadline;
 - (c) **"Plan"** means this distribution plan; and
 - (d) **"Settlement Agreement"** means the settlement agreement signed by the Parties in the Class Action which was approved by the Order of the Court dated November 30, 2015.

THE OVERVIEW

2. The Distribution Plan contemplates a determination of eligibility and an allocation and distribution to each Eligible Class Member of a pro rata share of the Net Settlement Amount calculated as the proportion of his/her/its losses in relation to the total losses of all members of the Class.

GENERAL PRINCIPLES OF THE ADMINISTRATION

3. The administration to be established shall:
 - (a) Implement and conform to the Plan; and
 - (b) Employ secure and paperless systems with electronic record keeping, wherever practical.

THE CLAIMS ADMINISTRATOR

4. The Claims Administrator shall have such powers and rights reasonably necessary to discharge its duty and obligation to implement and administer the Escrow Account and the Plan in accordance with their terms, subject to the direction of the Court and Class Counsel.
5. The Claims Administrator shall administer the Plan under the oversight and direction of the Court and Class Counsel and act as trustee in respect of the Net Settlement Amount.
6. The Claims Administrator shall develop, implement and operate an administration system, utilizing electronic technology and system where practical, for the following:
 - (a) Receipt of data, information and documents concerning Class Members;
 - (b) Claim evaluation, analyses and decisions;
 - (c) Distribution analyses and Class payout;
 - (d) Administration Expense payment; and
 - (e) Cash management, audit control and reporting.
7. The Claims Administrator's duties and responsibilities shall include the following:
 - (a) Receiving the Net Settlement Amount from Class Counsel and holding it in an interest bearing trust account;
 - (b) Preparing any documents, information or protocols required for submission to and approval of the Court;
 - (c) Developing, implementing and operating electronic systems and procedures for receiving, processing, evaluating and decision making respecting claims of Class Members, including making all necessary inquiries to determine the validity of such claims;
 - (d) Making a timely decision in respect of claims filed, giving notice of its decision respecting claims promptly and making payment to Authorized Claimants in a timely fashion;

- (e) Using its best efforts to ensure that its personnel provide timely, helpful and supportive assistance to claimants in completing the claims application process and in responding to inquiries respecting claims;
- (f) Instituting a tracing process to locate the current address for those Class Members whose correspondence from the Claims Administrator or Class Counsel is returned "address unknown";
- (g) Distributing and reporting on any settlement payments;
- (h) Making payments of Administration Expenses;
- (i) Maintaining a database with all information necessary to permit the Court and Class Counsel to evaluate the progress of the administration from time to time;
- (j) Reporting to the Court and to Class Counsel respecting claims received and administered, and Administration Expenses; and
- (k) Preparing such financial statements, reports and records as directed by the Court or required by Class Counsel.

CLASS COUNSEL

- 8. Class Counsel shall have such powers and rights reasonably necessary to discharge their duties and responsibilities to oversee the implementation, administration and operation of the Settlement Agreement and Plan in accordance with their terms subject to the direction of the Court.
- 9. The duties and responsibilities of Class Counsel shall include:
 - (a) Overseeing the establishment and operation of the administration of the Plan;
 - (b) Reviewing and submitting to the Court such plans prepared for the Claims Administrator as may be required for the acceptance, processing and payment of the claims;
 - (c) Receiving and assessing information from the Claims Administrator; and
 - (d) Applying to the Court for advice and direction, where necessary.

THE CLAIMS PROCEDURE

10. The Claims Administrator shall, in accordance with the Settlement Agreement and Plan, determine the eligibility of claimants and the compensation each is entitled to and distribute the Net Settlement Amount to Eligible Class Members subject to the terms and conditions set out herein.
11. In order to participate in the distribution of the Net Settlement Amount, a Class Member must submit to the Claims Administrator, on or before the Claims Deadline, a completed Claim Form and all other required supporting documents.
12. The required supporting documentation which a Class Member must submit to the Administrator include:
 - (a) A completed Claim Form;
 - (b) A clear copy of personal photo I.D. (being a driver's license or passport); and
 - (c) If the claimant is acting in a representative capacity for a Class Member, documents confirming his/her/its authority to act such as power of attorney or other document evidencing authority to act for the Class Member.
13. Once a Claim Form and required supporting documentation are received, the Claims Administrator shall:
 - (a) Decide whether the Class Member is eligible to participate in the distribution; and
 - (b) If the Class Member is determined to be eligible, calculate his/her/its share of compensation in accordance with the terms of the Plan.
14. A decision of the Claims Administrator in respect of a claim will be final and binding upon the Class Member, subject to any Order or direction to the contrary by the Court.
15. If a Class Member disputes the Claims Administrator's decision, whether in whole or in part, the Class Member may appeal the decision by bringing an Application, on notice to Class Counsel and the Claims Administrator, in the Court. The Application must be served within 10 days after the Claims Administrator renders its final decision. The Class Member must use its/his/her best efforts to ensure that the motion is scheduled and heard within 120 days after the notice has been served. A decision of the Court shall be binding and no further appeal shall lie therefrom.

16. Any Class Member who does not submit a Claim Form and required supporting documentation with the Claims Administrator on or before the Claims Deadline will not be permitted to participate in the distribution without permission of Class Counsel or the Court. The Claims Administrator will not accept or process any Claim Form received after the Claims Deadline unless directed to do so by Class Counsel or the Court.

THE METHOD OF DETERMINING THE LOSSES OF EACH CLASS MEMBER

17. Claimants will submit their names and unique personal information to the Claims Administrator, NPT RicePoint, by the designated Claims Deadline. NPT RicePoint will then work in conjunction with Hemens Lawritsen Valuation Group Ltd. to assess whether a claimant is a Class Member and, if so, whether the Class Member suffered a loss during the Class Period and the amount of that loss.
18. In order to determine if a loss occurred, individual accounts within an investor's portfolio, with the portfolio consisting of all accounts held by an individual or jointly held by more than one individual or by a corporation through Assante Wealth Management (Canada) Ltd. and/or Assante Capital Management Ltd. during the relevant time, will be compared to a hypothetical market performance model for the same relevant time period. The hypothetical market performance model will be composed of holdings that consist of 30% risk free bonds and 70% equity.
19. The calculations will take into consideration the later start date of either January 1, 2008 or when the account was first opened and will extend to an end date of the earlier of when the account was closed or December 31, 2013. Calculations will be based on the opening balance of the account and then adjusted, if necessary, to address further contributions or any withdrawals during the Class Period. Any balance in the account as of December 31, 2013 (or the date when the account closed if the account closed prior to December 31, 2013) will also be deducted in the calculation. In addition, any losses incurred within accounts held individually, jointly or corporately by the same beneficial owner will be netted against gains from any other account(s) within the same investor portfolio, if applicable.
20. For greater clarity, Claimants shall include individuals or corporations that directly hold accounts in their names or that beneficially hold accounts through a nominee (including accounts held beneficially through Assante Wealth Management (Canada) Ltd. and/or Assante Capital Management Ltd.).
21. Where an account is held jointly by more than one individual or corporation, and it is determined that one or more of the joint account holders is a Class Member, any net

losses will be allocated to Class Members on a pro-rata basis, based on the Class Member's respective interest in an account.

FINAL DISTRIBUTION

22. Once all Claims that are submitted by the Claims Deadline have been processed, NPT RicePoint will then determine the total amount of net losses for all Class Members.
23. Each Authorized Class Member's actual compensation from the Net Settlement Amount will be his/her/its *pro rata* share of the Net Settlement Amount. Entitlements of less than \$5.00 will not be paid.
24. If a Class Member disputes the Claims Administrator's decision, whether in whole or in part, the Class Member may appeal the decision by bringing an Application, on notice to the Plaintiffs, Class Counsel and the Claims Administrator, in the Court. The notice must be served within 10 days after the Claims Administrator renders its final decision. The Class Member must use its/his/her best efforts to ensure that the motion is scheduled and heard within 120 days after the notice has been served. A decision of the Court shall be binding and no further appeal shall lie therefrom.
25. If there is a positive balance after one hundred and eighty (180) days from the date of distribution of the Net Settlement Amount to Class Members, the Claims Administrator shall, if feasible, allocate such balance among Class Members in an equitable and economic fashion. Any balance below \$25,000.00 which still remains thereafter shall be donated to the Alberta Securities Commission to be used solely for the purpose of educating investors and promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets

SCHEDULE "G" - APPROVAL NOTICE

(SCHEDULE "C" TO THE APPROVAL ORDER)

ASSANTE WEALTH MANAGEMENT (CANADA) LTD. CLASS ACTION

NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL

This notice is to all persons who held investment account(s) with Assante Wealth Management (Canada) Ltd. or Assante Capital Management Ltd., which were under the administration and direction of Brian Malley, during the time period of January 1, 2008 through to and including December 31, 2013

READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS.

COURT APPROVAL OF THE SETTLEMENT OF CLASS ACTION

In 2012, a class action was commenced against Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd. (collectively, "**Assante**"), Brian Malley and Christine Malley (the "**Class Action**"). The Class (as defined below) includes those who were clients of Assante and whose investment accounts were under the administration and direction of Brian Malley. This Notice applies to clients of Brian Malley, Assante Wealth Management (Canada) Ltd., and Assante Capital Management Ltd. between January 1, 2008 and December 31, 2013.

The parties to the Class Action have reached a proposed settlement subject to obtaining the approval of the Alberta Court of Queen's Bench (the "**Court**") (the "**Settlement Agreement**"). The Settlement Agreement provides that the Defendants will pay \$10,000,000.00 (the "**Settlement Amount**") in full and final settlement of all claims of the Class Members. The Settlement Amount includes all legal fees, disbursements, taxes and administration expenses. In return for the Settlement Amount, the Defendants will receive releases and a dismissal of the Class Action.

The settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault on the part of any of the Defendants, which have disputed, and continue to dispute, the allegations advanced in the Class Action.

By Orders issued by the Court of Queen's Bench of Alberta dated November 30, 2015, the Court certified the action as a class proceeding pursuant to section 5(1) of the *Class Proceedings Act*, SA 2003, c C-16.5 ("**CPA**"), and certified the class as a settlement class, as defined in section 4 of the CPA, as follows:

all persons, corporations, partnerships or other entities who held a beneficial interest in one or more investment account with Assante Wealth Management (Canada) Ltd. or Assante Capital Management Ltd., which were under the administration and direction of Brian Malley during the time period of January 1, 2008 through to and including December 31, 2013, excluding Opt-Out Parties and the named Defendants in Court of Queen's Bench Action No. 1210-01029, being Brian Malley, Christine Malley, Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd. ("**Class**" or "**Class Members**").

The Court also approved the Settlement Agreement and declared that it is fair, reasonable and in the best interests of the Class Members. The Court also awarded Jensen Shawa Solomon Duguid Hawkes LLP ("**Class Counsel**") legal fees, expenses and applicable taxes in the total amount of \$_____ ("**Class Counsel Fees**"). As is customary in such cases, Class Counsel conducted the class action on a contingent fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation. The amount awarded for Class Counsel Fees includes \$• for the reimbursement of amounts spent by Class Counsel in the conduct of the class action. The remainder, net of applicable taxes, will be Class Counsel's only compensation for conducting the class action. Class Counsel Fees will be deducted from the Settlement Amount before it is distributed to Class Members.

Expenses incurred or payable relating to approval, notification, implementation and administration of the Settlement ("**Administration Expenses**") will also be paid from the Settlement Amount before it is distributed to Class Members.

CLAIMS ADMINISTRATOR

The Court has appointed NPT RicePoint as the Claims Administrator of the Settlement. The Claims Administrator will, among other things: (i) receive and process the Claim Forms; (ii) make determinations of each Class Member's eligibility for compensation pursuant to the Distribution Plan; (iii) communicate with Class Members regarding their eligibility for compensation; and (iv) manage and distribute the Settlement Amount. The Claims Administrator can be contacted at:

Telephone: •

Mailing Address: •

Website: •

CLASS MEMBERS' ENTITLEMENT TO COMPENSATION

Class Members will be eligible for compensation pursuant to the settlement if they timely submit a completed Claim Form, including any supporting documentation, to the Claims Administrator.

To be eligible for compensation under the settlement, Class Members must submit their Claim Form and required documentation postmarked no later than _____ (the "**Claims Deadline**"). **The Claim Form is attached to this Approval Notice.** Claim Forms are also available at www.assanteclassaction.com and <http://www.jssbarristers.ca/pages/class-actions/class-actions.cfm>.

Only Class Members are permitted to participate in the settlement. In particular, the following persons are not permitted to participate in the settlement: (1) "Excluded Persons", which are defined as the named Defendants; and (ii) persons who opt out of the Class Action.

The Net Settlement Amount, after deduction of Class Counsel Fees, and Administration Expenses (the "**Net Settlement Amount**"), will be distributed to Class Members in accordance with the Distribution Plan.

Each Authorized Class Member's actual compensation from the Net Settlement Amount will be his/her/its *pro rata* share of the Net Settlement Amount calculated as set out in paragraphs 18 through 21 of Schedule "F" to the Settlement Agreement. Entitlements of less than \$5.00 will not be paid.

If a Class Member disputes the Claims Administrator's decision, whether in whole or in part, the Class Member may appeal the decision by bringing an Application, on notice to the Plaintiffs, Class Counsel and the Claims Administrator, in the Court. The notice must be served within 10 days after the Claims Administrator renders its final decision. The Class Member must use its/his/her best efforts to ensure that the motion is scheduled and heard within 120 days after the notice has been served. A decision of the Court shall be binding and no further appeal shall lie therefrom.

If there is a positive balance after one hundred and eighty (180) days from the date of distribution of the Net Settlement Amount to Class Members, the Claims Administrator shall, if feasible, allocate such balance among Class Members in an equitable and economic fashion. Any balance below \$25,000.00 which still remains thereafter shall be donated to the Alberta Securities Commission to be used solely for the purpose of educating investors and promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets

OPTING OUT OF THE PROCEEDINGS

If you would like to exclude yourself from the settlement agreements, you can opt out by sending the Opt-Out Form, **which is attached to this Notice**, to Class Counsel by email, regular mail or fax by no later than _____ to:

Carsten Jensen, Q.C. / Gavin Price
 Jensen Shawa Solomon Duguid Hawkes LLP
 Lancaster Building
 800, 304 - 8 Avenue SW
 Calgary, AB T2P 1C2
 Telephone: 403.571.1520
 Facsimile: 403.571.1528
 Email: jensenc@jssbarristers.ca
 priceg@jssbarristers.ca

If you do not opt out of the settlement agreements in the manner required by this notice, you will be bound by the terms of the proposed settlement agreements and will be barred from instituting or continuing any legal action against the Defendants in relation to the subject matter of the action.

COPIES OF THE SETTLEMENT DOCUMENTS

Copies of the Settlement Agreement and the Distribution Plan may be found on the website of Class Counsel at: www.jssbarristers.ca/pages/class-actions/class-actions.cfm and at www.assanteclassaction.com or by contacting Class Counsel at the contact information provided below.

IMPORTANT DEADLINE

Claim Deadline: _____

Claim Forms will not be accepted after the Claim Deadline. As a result, it is necessary that you act without delay.

CLASS COUNSEL

Jensen Shawa Solomon Duguid Hawkes LLP are counsel to the Plaintiffs in the class proceeding, and can be reached by telephone at 403.571.1520.

CLAIMS ADMINISTRATOR

NPT RicePoint has been appointed by the Court to be the Claims Administrator and is responsible for the distribution of the Net Settlement Amount. They can be reached by telephone at _____ or email at _____.

INTERPRETATION

If there is a conflict between the provisions of this notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

DISTRIBUTION OF THIS NOTICE HAS BEEN AUTHORIZED

BY THE ALBERTA COURT OF QUEEN'S BENCH

SCHEDULE "H" – OPT-OUT FORM

(SCHEDULE "E" TO THE APPROVAL ORDER)

ATTACHED TO THE APPROVAL NOTICE

ASSANTE CLASS ACTION SETTLEMENT OPT-OUT FORM

This form is not a registration form or a claim form. This form excludes you from participation in the Settlement Agreement between the Class and Assante Wealth Management (Canada) Ltd., Assante Capital Management Ltd., Brian Malley and Christine Malley. If you complete and submit this form, you will not be eligible to receive any benefits under the settlement. Do not use this form if you want to remain in the Class. If you want to be excluded from the Class, this form must be received by Jensen Shawa Solomon Duguid Hawkes LLP at the address below by no later than _____, 2015.

Last Name		
First Name		
Current Address		
City	Prov./State	Postal Code/Zip Code

Social Insurance Number/Social Security Number/Unique Tax Identifier
--

Telephone Number (Work)	Telephone Number (Home)
-------------------------	-------------------------

Assante Account Number(s)	Type of Account
---------------------------	-----------------

Identification of person signing Opt-Out Form (please check):

- ☐ I represent that I beneficially held an account, or am the authorized representative of a corporation that held an account, with Assante Capital Management Ltd. and/or Assante Wealth Management (Canada) Ltd. which was under the administration and direction of Brian Malley during the period January 1, 2008 to December 31, 2013. I am the above identified class member. I am signing this form to exclude myself from participating in this settlement between the Class and Assante Wealth Management (Canada) Ltd., Assante Capital Management Ltd., Brian Malley and Christine Malley.

Purpose for Opting Out [Completion of this section of the Opt-Out Form is voluntary, will not be binding on you if you choose to complete it and has no bearing on the validity of the Opt-Out Form] - (check only one):

- ☐ My current intention is to begin individual litigation against Assante Wealth Management (Canada) Ltd., Assante Capital Management Ltd., Brian Malley or Christine Malley.
- ☐ I am opting out of the class action for a reason other than to begin individual litigation against Assante Wealth Management (Canada) Ltd., Assante Capital Management Ltd., Brian Malley or Christine Malley in relation to the matters alleged in the Proceeding. I am opting out for the following reason(s):

I UNDERSTAND THAT BY OPTING OUT I WILL NEVER BE ELIGIBLE TO RECEIVE BENEFITS OBTAINED BY WAY OF THE SETTLEMENT AGREEMENT BETWEEN ALLAN RUE AND DAVID JAMIESON, IN THEIR CAPACITY AS REPRESENTATIVE PLAINTIFFS UNDER THE CLASS PROCEEDINGS ACT, SA 2003, C. C-16.5, AND ASSANTE WEALTH MANAGEMENT (CANADA) LTD., ASSANTE CAPITAL MANAGEMENT LTD., BRIAN MALLEY AND CHRISTINE MALLEY, NOR WILL I BE BOUND BY THE SETTLEMENT OF THAT ACTION.

I FURTHER UNDERSTAND THAT BY OPTING OUT, CLASS COUNSEL CAN NOT REPRESENT ME IN ANY INDIVIDUAL ACTION I MAY BRING.

I FURTHER UNDERSTAND THAT BY OPTING OUT, I WILL BE RESPONSIBLE FOR ALL LEGAL FEES AND COSTS THAT MAY BE INCURRED BY ME IF I CHOOSE TO PURSUE MY OWN INDIVIDUAL CLAIM.

Signature: _____

Date Signed: _____

This completed Opt-Out Form must be received by Class Counsel by email, regular mail or fax no later than _____. Class Counsel can be reached at:

Carsten Jensen, Q.C. / Gavin Price
Jensen Shawa Solomon Duguid Hawkes LLP
Lancaster Building
800, 304 – 8th Avenue SW
Calgary, AB T2P 1C2
Telephone: (403)571-1520
Facsimile: (403)571-1528
Email: jensenc@jssbarristers.ca
priceg@jssbarristers.ca

SCHEDULE "I" – NOTICE TO TERMINATE THE SETTLEMENT

NOTICE TO TERMINATE THE SETTLEMENT OF THE ASSANTE WEALTH MANAGEMENT (CANADA) LTD. CLASS ACTION

This notice is to all persons who held investment account(s) with Assante Wealth Management (Canada) Ltd. or Assante Capital Management Ltd., which were under the administration and direction of Brian Malley, during the time period of January 1, 2008 through to and including December 31, 2013

READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS.

CERTIFICATION AND SETTLEMENT APPROVAL ORDER

On October 1, 2012, a proposed class action was commenced by Allan Rue and David Jamieson against Assante Wealth Management (Canada) Ltd., Assante Capital Management Ltd., Brian Malley and Christine Malley in the Court of Queen's Bench of Alberta. The proposed class action has been certified as a Class Action for the purpose of a Settlement reached between the Parties. The terms of the Settlement were memorialized in a Settlement Agreement dated July 31, 2015. The Settlement Agreement was approved by the Court on _____.

Upon the Court's approval of the Settlement Agreement, members of the Class were given the right to Opt-Out of the Class on the understanding that if the cumulative losses of those members of the Class who Opted-Out, as calculated in accordance with the Settlement Agreement, equaled or exceeded the Opt-Out Threshold then Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd. had the right, upon certain terms, to Terminate the Settlement.

TERMINATION OF THE AGREEMENT

The cumulative losses of the members of the Class who have Opted-Out of the Settlement have equaled or exceeded the pre-defined figure stated in the Settlement Agreement. Pursuant to the rights of Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd., the Settlement has been terminated in accordance with the provisions of the Settlement Agreement.

As a result, the Settlement Agreement will not be implemented. The Parties to the proposed class proceeding as outlined above will be restored to their respective positions as of July 30, 2015. All members of the class, including those that delivered a written election to Opt-Out, remain potential class members in the proposed class action.

INFORMATION AND QUESTIONS

Complete information on the Settlement Agreement and its termination can be found at www.assanteclassaction.com. Questions about termination of the Settlement Agreement should be directed by email to:

Carsten Jensen Q. C. or Gavin Price

Jensen Shawa Solomon Duguid Hawkes LLP

Lancaster Building

800, 304 8th Avenue

Calgary, Alberta

T2P 1C2

Telephone: 403 571 1520

Facsimile: 403 571 1528

Email: jensenc@jssbarristers.ca or priceg@jssbarristers.ca.

This notice has been approved by the Court of Queen's Bench of Alberta.

Any questions about the substantive matters in this notice should not be directed to the courts as their administrative structures are not designed to address this type of inquiry.

SCHEDULE "J" - CONFIDENTIALITY AGREEMENT

(SCHEDULE "D" TO THE PRE-APPROVAL ORDER)

ASSANTE WEALTH MANAGEMENT (CANADA) LTD. CLASS ACTION

CONFIDENTIALITY AGREEMENT

Dated the 31st day of July, 2015

Between

**Allan Rue and David Jamieson, in their capacity as proposed representative plaintiffs under
the *Class Proceedings Act*, SA 2003, c. C-16.5**

and

Assante Wealth Management (Canada) Ltd.

and

Assante Capital Management Ltd.

and

Brian Malley

and

Christine Malley

CONFIDENTIALITY AGREEMENT

RECITALS

WHEREAS:

- I. On July 31, 2015, the Parties hereto entered into a Settlement Agreement in connection with a proposed Class Action commenced by Allan Rue and David Jamieson against Assante Wealth Management (Canada) Ltd., Assante Capital Management Ltd., Brian Malley and Christine Malley, as more particularly described in the Action and in the Settlement Agreement dated July 31, 2015 in relation to the Action.
- II. In order to give full force and effect to the Settlement Agreement, it is necessary for the Assante Defendants to provide certain personal information in respect of prospective class members who held investment accounts with Assante Wealth Management (Canada) Ltd. or Assante Capital Management Ltd. which were under the administration and direction of Brian Malley, during the time period of January 1, 2008 through to and including December 31, 2013.
- III. To protect the privacy and personal information of those Class Members who are clients or former clients of the Assante Defendants and who have not signed a representation agreement with Class Counsel in this Action, it is necessary to enter into this Confidentiality Agreement.

NOW THEREFORE FOR VALUE RECEIVED, the receipt and sufficiency of which is hereby acknowledged, the Parties stipulate and agree, subject to the approval of the Court and the terms of the Settlement Agreement, as follows.

SECTION 1 - DEFINITIONS

1.1 DEFINED TERMS

(A) In this Confidentiality Agreement, including the Recitals and Schedules hereto, all capitalized terms shall bear the meanings set out in Section 2.1 of the Settlement Agreement.

(B) **Confidential Information** means any information provided by the Assante Defendants to Class Counsel in connection with proposed class members who are not clients of counsel for Class Counsel. For further clarity, this shall include any information required by either Class Counsel or the Claims Administrator to fulfill their obligations under Section 10 of the Settlement Agreement, and under the Distribution Plan attached as Schedule "F" to the Settlement Agreement, including but not limited to the following information with respect to any Class Member who is not a client of Class Counsel:

- (1) Name of the Account Holder or Holders
- (2) Last known address of the Account Holder or Holders;
- (3) Information concerning the nature of the Account Held;
- (4) Information concerning the investments held during the Class Period in the Account;
- (5) Account balances in the Account from time to time during the Claims Period as defined in the Settlement Agreement; and
- (6) Any other information agreed by the parties and the Claims Administrator, or ordered by the Court, to be reasonably necessary for the Claims Administrator or Class Counsel to fulfill their duties under the Settlement Agreement and Distribution Plan.

SECTION 2 - CONFIDENTIALITY

2.1 SCOPE OF THE AGREEMENT

(A) The Parties acknowledge and agree that:

- (1) they will keep the Confidential Information confidential, and use it only for the purposes contemplated in the Settlement Agreement;
- (2) the Confidential Information contains information relating to clients and former clients of the Assante Defendants which is confidential and should not be disclosed except in accordance with the terms of the Settlement Agreement, its Schedules and this Confidentiality Agreement; and
- (3) the execution of this Confidentiality Agreement and the sharing of the Confidential Information is not intended to, and will not, diminish the confidential nature of any of the Confidential Information.

(B) Except as expressly permitted by this Agreement, including paragraph 9 below, or with the written consent of Assante, Class Counsel, in receiving the Confidential Information, shall maintain as confidential the Confidential Information as to any person or entity other than the Claims Administrator, other lawyers, paralegals and staff within Class Counsel's office, and other persons who are required to review the material in the ordinary course of the administration and execution of the terms of the Settlement Agreement, in the same manner as Class Counsel maintains its own confidential and proprietary information and documents.

(C) By entering into this Agreement, Class Counsel affirms its commitment to treat all Confidential Information shared with it as confidential in nature and to honour the confidence at all times even following the conclusion of the Action.

2.2 PROCEDURES

(A) Assante, when providing Confidential Information to Class Counsel or the Claims Administrator, shall designate those written materials as confidential in writing. Assante will mark such written materials with a designation such as "Confidential Documents". The failure to use that precise designation shall not waive any applicable confidentiality nor the effectiveness and applicability of this Confidentiality Agreement.

(B) If it should be determined by a court of competent jurisdiction that there has been any waiver of confidentiality by reason of any sharing of Confidential Information contrary to the terms of this Agreement, the waiver is intended only as a restricted waiver.

(C) If disclosure of any Confidential Information is sought from Class Counsel or the Claims Administrator by legal process or by any court, arbitrator, or tribunal, Class Counsel or the Claims Administrator shall provide prompt written notice of such requested disclosure to Counsel for Assante as identified in the Settlement Agreement. For greater certainty and without limiting the generality of the foregoing, in the event that Class Counsel or the Claims Administrator receives a request or demand, by subpoena, court document or otherwise, from any person, or any court order, that appears to call for the disclosure or production of any Confidential Information, Class Counsel shall:

- (1) inform the person or entity requesting the information that it is confidential;
- (2) immediately notify, unless prohibited by law, Counsel for Assante of:
 - (i) the existence, source, nature and contents of the request or demand, or
 - (ii) any misappropriation or misuse of the Confidential Information by any person which may come to its attention;
- (3) make its reasonable best efforts to provide Counsel for Assante with 5 business days' notice so as to provide Assante with an opportunity to seek a sealing or confidentiality order from the Court (which it is agreed will not be opposed by Class Counsel or the Claims Administrator) or such other relief as Assante deems necessary; and
- (4) if compelled to disclose Confidential Information, Class Counsel may disclose that portion, and only that portion, of the Confidential Information that it is compelled to disclose.

(D) Nothing in this Agreement shall limit the right of Class Counsel or the Claims Administrator to use or disclose documents or information provided by its clients, even in the event of the subsequent receipt of the same information from Assante pursuant to this Agreement, subject to Paragraph 3.2(E) below.

(E) In the event that the Settlement is terminated pursuant to the terms of the Settlement Agreement, Class Counsel and the Claims Administrator shall no longer be at liberty to use the Confidential information in any way and must return all Confidential Information to Assante

without any copies being made or stored electronically, within 14 business days of termination of the Settlement. In such an event, Class Counsel and the Claims Administrator will continue to maintain the confidentiality of the Confidential Information subject to Class Counsel being retained in the Action by the Class Member to whom the Confidential Information relates.

(F) The Parties agree that they will continue to be bound by this Agreement following the conclusion of the Settlement

(G) Disclosure of any Confidential Information in violation of this Confidentiality Agreement will cause Assante to suffer irreparable harm for which there is no adequate legal remedy in damages. Accordingly, Class Counsel and the Plaintiffs acknowledge and agree that, in addition to all other remedies which a non-breaching Party may have, immediate injunctive relief (including mandatory injunctive relief) and specific performance are appropriate and necessary remedies for a violation or a threatened or anticipated violation of this Agreement. No remedy will be exclusive and no failure or delay by Assante in exercising any right, power or privilege under this Agreement will operate as waiver thereof.

SECTION 3 - MISCELLANEOUS

3.1 ENTIRE AGREEMENT

(A) The Settlement Agreement and its Schedules, and this Confidentiality Agreement, constitute the entire agreement among the Parties and supersede all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of the Settlement Agreement, unless expressly incorporated herein. The Confidentiality Agreement may not be modified or amended except in writing and on consent of all Parties and any such modification or amendment must be approved by the Court.

(B) The Recitals hereto are material and integral parts hereof and are fully incorporated into, and form part of, this Confidentiality Agreement.

3.2 ONGOING JURISDICTION AND GOVERNING LAW

(A) This Confidentiality Agreement shall be governed by, construed and interpreted in accordance with the laws of the Province of Alberta.

(B) The Parties agree that the Court shall retain exclusive and continuing jurisdiction over the Action, the Parties and Class Members to interpret and enforce the terms, conditions and obligations under this Confidentiality Agreement.

3.3 SEVERABILITY

(A) Any provision hereof that is held to be inoperative, unenforceable or invalid in any jurisdiction shall be severable from the remaining provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

3.4 APPLICATIONS FOR DIRECTIONS

(A) Any one or more of the Parties or the Claims Administrator may apply to the Court for directions in respect of any matter in relation to this Confidentiality Agreement.

(B) All Applications related to this Confidentiality Agreement shall be on notice to the Parties and the Claims Administrator, provided however that, once the Settlement Agreement becomes Final and the Settlement Amount has been paid, the Defendants shall not receive notice and shall have no standing relating to any issue raised on any such motion unless the Court orders otherwise.

3.5 INTERPRETATION

(A) In this Confidentiality Agreement:

(1) the division of the Confidentiality Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of the Confidentiality Agreement;

(2) the recitals form part of this Confidentiality Agreement; and

(3) the terms “this Confidentiality Agreement”, “herein”, “hereto” and similar expressions refer to the Confidentiality Agreement as a whole and not to any particular section or other portion of the Confidentiality Agreement.

3.6 BINDING EFFECT

(A) If the Settlement is approved by the Court and if the Settlement Agreement becomes Final and the Settlement Amount is paid, the Confidentiality Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Class Members, the Defendants, the Releasees, the Releasors and all of their heirs, executors, successors, predecessors and assigns.

(B) Assante represents and warrants that:

(1) it has all requisite corporate power and authority to execute, deliver and perform this Confidentiality Agreement and to consummate the transaction contemplated hereby on its own behalf;

(2) the execution, delivery and performance of this Confidentiality Agreement and the consummation of the Action contemplated herein have been duly authorized by all necessary corporate action on its part; and

(3) this Confidentiality Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligations.

3.7 SURVIVAL

(A) The representations and warranties contained in the Confidentiality Agreement shall survive its execution and implementation.

3.8 NEGOTIATED AGREEMENT

(A) The Confidentiality Agreement has been the subject of arm's length negotiations and many discussions among the Parties and their counsel. Each of the Parties has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafters of the Confidentiality Agreement shall have no force or effect. The Parties further agree that the language contained in or not contained in previous drafts of the Confidentiality Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of the Confidentiality Agreement.

3.9 ACKNOWLEDGMENTS

(A) Each Party hereby affirms and acknowledges that:

(1) the Party's signatory has the authority to bind the Party with respect to the matters set forth herein and has reviewed the Confidentiality Agreement; and

(2) the terms of this Confidentiality Agreement and the effects thereof have been fully explained to the Party by his or its counsel.

3.10 AUTHORIZED SIGNATURES

(A) Each of the undersigned represents that he is fully authorized to enter into the terms and conditions of, and to execute, this Confidentiality Agreement on behalf of the Party for whom he is signing.

3.11 COUNTERPARTS

(A) This Confidentiality Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a signature transmitted by facsimile or email shall be deemed an original signature for the purposes of executing this Agreement.

The Parties have executed this Confidentiality Agreement as of the date on the cover page.

For the Plaintiffs and the Class Members

Per: _____
Carsten Jensen Q.C.
Jensen Shawa Solomon Duguid Hawkes LLP

For Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd.

Per: _____
Donald J. McGarvey, Q.C.
McLennan Ross LLP

Per: _____
Robert Brush
Crawley MacKewn Brush LLP

For Brian Malley and Christine Malley

Per: _____
Marco Poretti
Reynolds Mirth Richards & Farmer LLP

SCHEDULE "B" - PLAN OF NOTICE

(SCHEDULE "B" TO THE PRE-APPROVAL ORDER)

Capitalized terms used in this Plan of Notice have the meanings ascribed to them in the Settlement Agreement.

PART 1 – NOTICE OF CERTIFICATION AND SETTLEMENT

As soon as possible following the issuance of the Pre-Approval Order, and in any event no later than twenty (20) days prior to the Approval Hearing:

1. Class Counsel will post the Notice of Certification and Settlement on www.assanteclassaction.com and on <http://www.jssbarristers.ca/pages/class-actions/class-actions.cfm>;
2. the Claims Administrator will arrange for the Notice of Certification and Settlement to be published once in the *Red Deer Advocate*;
3. the Claims Administrator will arrange for the Notice of Certification and Settlement to be published once in the *Rocky Mountain House Mountaineer*;
4. the Claims Administrator will, within ten (10) business days following the issuance of the Pre-Approval Order, mail and email a copy of the Notice of Certification and Settlement to each Class Member to the address provided by Assante's Counsel or the most recent address as known by Class Counsel.

PART 2 – NOTICE OF APPROVAL OF SETTLEMENT (WHICH INCLUDES THE OPT-OUT FORM, AND THE CLAIM FORM)

As soon as possible following the issuance of the Approval Order:

1. Class Counsel will post the Approval Notice on www.assanteclassaction.com and on <http://www.jssbarristers.ca/pages/class-actions/class-actions.cfm>;
2. the Claims Administrator will arrange for the Approval Notice to be published once in the *Red Deer Advocate*;
3. the Claims Administrator will arrange for the Approval Notice to be published once in the *Rocky Mountain House Mountaineer*;

4. the Claims Administrator will mail and email a copy of the Approval Notice to each Class Member to the address provided by Assante's Counsel or the most recent address as known by Class Counsel; and
5. the Claims Administrator will post the Approval Notice on its website.

Class Counsel and the Claims Administrator will also send the Approval Notice and Claim Form by mail or e-mail to any person who requests such documents prior to the Claims Deadline.

PART 3 – TERMINATION OF THE SETTLEMENT AND NOTICE TO TERMINATE THE SETTLEMENT

1. Class counsel will receive Opt-Out Forms and within five (5) business days following the Opt-Out Deadline, will inform Counsel for the Assante Defendants of the cumulative losses of the Opt-Out Parties and provide loss calculations for each Opt-Out Party.
2. If the cumulative losses of the Opt-Out Parties exceed the Opt-Out Threshold, Counsel for the Assante Defendants will have a period of five (5) business days from receipt of the information referred to in Part 3, paragraph 1 immediately above to notify Class Counsel whether the Assante Defendants elect to terminate the Settlement.
3. Upon receiving the Assante Defendants' election to terminate the Settlement, Class Counsel or the Claims Administrator, as the case may be, shall cause a Notice to Terminate the Settlement to be issued, in a form substantially similar to that found in Schedule "I", within five (5) business days of receiving the Notice to Terminate the Settlement, as follows:
 - a. Class Counsel will post the Notice to Terminate the Settlement on www.assanteclassaction.com and on <http://www.jssbarristers.ca/pages/class-actions/class-actions.cfm>;
 - b. the Claims Administrator will arrange for the Notice to Terminate the Settlement to be published once in the *Red Deer Advocate*;
 - c. the Claims Administrator will arrange for the Notice to Terminate the Settlement to be published once in the *Rocky Mountain House Mountaineer*;
 - d. the Claims Administrator will mail and email a copy of the Notice to Terminate the Settlement to each Class Member to the address provided by Assante's Counsel or the most recent address as known by Class Counsel.

SCHEDULE "C" - NOTICE OF CERTIFICATION AND SETTLEMENT

(SCHEDULE "C" TO THE PRE-APPROVAL ORDER)

ASSANTE WEALTH MANAGEMENT (CANADA) LTD. CLASS ACTION

NOTICE OF CERTIFICATION AND PROPOSED SETTLEMENT

This notice is to all persons who held investment account(s) with Assante Wealth Management (Canada) Ltd. or Assante Capital Management Ltd., which were under the administration and direction of Brian Malley, during the time period of January 1, 2008 through to and including December 31, 2013, excluding the named Defendants in Court of Queen's Bench Action No. 1210-01029, being Brian Malley, Christine Malley, Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd.

READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS.

CLASS ACTION COMMENCED IN ALBERTA HAS BEEN SETTLED

In 2012, a class action was commenced against Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd. (collectively, "Assante"), Brian Malley and Christine Malley (the "Class Action"). This notice applies to clients of Brian Malley, Assante Wealth Management (Canada) Ltd., and Assante Capital Management Ltd. between January 1, 2008 and December 31, 2013.

The parties to the Class Action have reached a proposed settlement subject to obtaining the approval of the Alberta Court of Queen's Bench (the "Court") (the "Settlement Agreement"). The Settlement Agreement provides that the Defendants will pay \$10,000,000.00 (the "Settlement Amount") in full and final settlement of all claims of the Class Members. The Settlement Amount includes all legal fees, disbursements, taxes and administration expenses. In return for the Settlement Amount, the Defendants will receive releases and a dismissal of the Class Action.

The settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault on the part of any of the Defendants, which have disputed, and continue to dispute, the allegations advanced in the Class Action.

A CERTIFICATION AND SETTLEMENT APPROVAL APPLICATION WILL BE HELD IN RED DEER, ALBERTA

Before the Settlement Agreement can be implemented, certain conditions concerning the Settlement must be fulfilled, the Class Action must be certified for the purposes of settlement, and the Settlement Agreement must be approved by the Court.

Class Members may, but are not required to, attend at the Approval Hearing which will be held on November 30, 2015 at 1:30p.m. at the Red Deer Court House, 909 – 48 Avenue, Red Deer, Alberta.

Class Members who do not oppose the proposed Settlement do not need to appear at any hearing or take any other action at this time to indicate their desire to support the proposed Settlement.

THE SETTLEMENT CLASS

The proposed definition for the settlement class is as follows:

all persons, corporations, partnerships or other entities who held a beneficial interest in one or more investment account with Assante Wealth Management (Canada) Ltd. or Assante Capital Management Ltd., which were under the administration and direction of Brian Malley during the time period of January 1, 2008 through to and including December 31, 2013, excluding Opt-Out Parties and the named Defendants in Court of Queen's Bench Action No. 1210-01029, being Brian Malley, Christine Malley, Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd. ("**Class**" or "**Class Members**").

CLASS COUNSEL FEES, CLAIMS ADMINISTRATOR AND ADMINISTRATIVE EXPENSES

In addition to seeking Certification of this Action and the Court's approval of the Settlement Agreement, Class Counsel (as identified below) will seek the approval of their legal fees, in an amount equal to 30% of the Settlement Amount, plus disbursements and applicable taxes ("**Class Counsel Fees**"). Class Counsel will also seek approval of a distribution plan (the "**Distribution Plan**").

PROPOSED DISTRIBUTION OF THE NET SETTLEMENT AMOUNT

The Settlement Amount, minus Class Counsel Fees and Administration Expenses ("**Net Settlement Amount**"), will be distributed to Class Members who are Authorized Claimants in accordance with the Distribution Plan attached as **Schedule "F"** to the Settlement Agreement, which, in general terms, provides that:

- (a) in order to be eligible to receive compensation pursuant to the Settlement Agreement, you must be a Class Member.
- (b) the Claims Administrator will determine whether a Class Member is entitled to receive compensation from the Net Settlement Amount pursuant to the Settlement Agreement and the Distribution Plan ("**Authorized Claimant**").
- (c) each Authorized Claimant's actual compensation from the Net Settlement Amount will be his/her/its *pro rata* share of the Net Settlement Amount calculated in accordance with the Distribution Plan.

If the settlement is approved, all Class Members except those who have formally opted out of the Action will be bound by the terms of the Settlement Agreement. This means that they will not be able to bring or maintain any other claim or legal proceeding against Assante, Brian Malley or Christine Malley, or any other person released by the Settlement Agreement in relation to the claims advanced in the Class Action.

If the settlement is approved, another notice to Class Members will be published which will provide instructions on how to make a claim to receive compensation from the settlement.

A copy of the Settlement Agreement including the Distribution Plan may be found at www.assanteclassaction.com and on <http://www.jssbarristers.ca/pages/class-actions/class-actions.cfm>.

CLASS MEMBERS MAY OBJECT TO THE SETTLEMENT

If you wish to comment on, or make objection to, the certification of the action for the purposes of settlement, the Settlement Agreement or Class Counsel Fees, you must provide notice in writing of your intention to do so. All such notice must be submitted to Class Counsel (at the addresses listed below) no later than November 5, 2015. Class Counsel will forward all such submissions to the Court and to Counsel for the Defendants. You may attend at the settlement approval hearing whether or not you deliver an objection.

A written objection should include the following information:

- (a) the objector's name, address, telephone number, fax number (where applicable) and email address;
- (b) a brief statement outlining the nature of, and reason for, the objection; and
- (c) a statement as to whether the objector intends to appear at the settlement approval hearing in person or by legal counsel, and, if by legal counsel, the name, address, telephone number, fax number and email address of such legal counsel.

INTERPRETATION

If there is a conflict between the provisions of this notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

QUESTIONS ABOUT THE PROPOSED SETTLEMENT SHOULD BE DIRECTED TO CLASS COUNSEL

Carsten Jensen, Q.C. / Gavin Price
 Jensen Shawa Solomon Duguid Hawkes LLP
 Lancaster Building
 800, 304 - 8 Avenue SW
 Calgary, AB T2P 1C2
 Telephone: 403.571.1520
 Facsimile: 403.571.1528
 Email: jensenc@jssbarristers.ca
 priceg@jssbarristers.ca

THIS NOTICE, AND DISTRIBUTION OF IT, HAS BEEN AUTHORIZED BY THE COURT OF QUEEN'S BENCH OF ALBERTA

SCHEDULE "J" - CONFIDENTIALITY AGREEMENT

(SCHEDULE "D" TO THE PRE-APPROVAL ORDER)

ASSANTE WEALTH MANAGEMENT (CANADA) LTD. CLASS ACTION

CONFIDENTIALITY AGREEMENT

Dated the 31st day of July, 2015

Between

**Allan Rue and David Jamieson, in their capacity as proposed representative plaintiffs under
the *Class Proceedings Act*, SA 2003, c. C-16.5**

and

Assante Wealth Management (Canada) Ltd.

and

Assante Capital Management Ltd.

and

Brian Malley

and

Christine Malley

CONFIDENTIALITY AGREEMENT

RECITALS

WHEREAS:

- I. On July 31, 2015, the Parties hereto entered into a Settlement Agreement in connection with a proposed Class Action commenced by Allan Rue and David Jamieson against Assante Wealth Management (Canada) Ltd., Assante Capital Management Ltd., Brian Malley and Christine Malley, as more particularly described in the Action and in the Settlement Agreement dated July 31, 2015 in relation to the Action.
- II. In order to give full force and effect to the Settlement Agreement, it is necessary for the Assante Defendants to provide certain personal information in respect of prospective class members who held investment accounts with Assante Wealth Management (Canada) Ltd. or Assante Capital Management Ltd. which were under the administration and direction of Brian Malley, during the time period of January 1, 2008 through to and including December 31, 2013.
- III. To protect the privacy and personal information of those Class Members who are clients or former clients of the Assante Defendants and who have not signed a representation agreement with Class Counsel in this Action, it is necessary to enter into this Confidentiality Agreement.

NOW THEREFORE FOR VALUE RECEIVED, the receipt and sufficiency of which is hereby acknowledged, the Parties stipulate and agree, subject to the approval of the Court and the terms of the Settlement Agreement, as follows.

SECTION 1 - DEFINITIONS

1.1 DEFINED TERMS

(A) In this Confidentiality Agreement, including the Recitals and Schedules hereto, all capitalized terms shall bear the meanings set out in Section 2.1 of the Settlement Agreement.

(B) **Confidential Information** means any information provided by the Assante Defendants to Class Counsel in connection with proposed class members who are not clients of counsel for Class Counsel. For further clarity, this shall include any information required by either Class Counsel or the Claims Administrator to fulfill their obligations under Section 10 of the Settlement Agreement, and under the Distribution Plan attached as Schedule "F" to the Settlement Agreement, including but not limited to the following information with respect to any Class Member who is not a client of Class Counsel:

- (1) Name of the Account Holder or Holders
- (2) Last known address of the Account Holder or Holders;
- (3) Information concerning the nature of the Account Held;
- (4) Information concerning the investments held during the Class Period in the Account;
- (5) Account balances in the Account from time to time during the Claims Period as defined in the Settlement Agreement; and
- (6) Any other information agreed by the parties and the Claims Administrator, or ordered by the Court, to be reasonably necessary for the Claims Administrator or Class Counsel to fulfill their duties under the Settlement Agreement and Distribution Plan.

SECTION 2 - CONFIDENTIALITY

2.1 SCOPE OF THE AGREEMENT

(A) The Parties acknowledge and agree that:

- (1) they will keep the Confidential Information confidential, and use it only for the purposes contemplated in the Settlement Agreement;
- (2) the Confidential Information contains information relating to clients and former clients of the Assante Defendants which is confidential and should not be disclosed except in accordance with the terms of the Settlement Agreement, its Schedules and this Confidentiality Agreement; and
- (3) the execution of this Confidentiality Agreement and the sharing of the Confidential Information is not intended to, and will not, diminish the confidential nature of any of the Confidential Information.

(B) Except as expressly permitted by this Agreement, including paragraph 9 below, or with the written consent of Assante, Class Counsel, in receiving the Confidential Information, shall maintain as confidential the Confidential Information as to any person or entity other than the Claims Administrator, other lawyers, paralegals and staff within Class Counsel's office, and other persons who are required to review the material in the ordinary course of the administration and execution of the terms of the Settlement Agreement, in the same manner as Class Counsel maintains its own confidential and proprietary information and documents.

(C) By entering into this Agreement, Class Counsel affirms its commitment to treat all Confidential Information shared with it as confidential in nature and to honour the confidence at all times even following the conclusion of the Action.

2.2 PROCEDURES

(A) Assante, when providing Confidential Information to Class Counsel or the Claims Administrator, shall designate those written materials as confidential in writing. Assante will mark such written materials with a designation such as "Confidential Documents". The failure to use that precise designation shall not waive any applicable confidentiality nor the effectiveness and applicability of this Confidentiality Agreement.

(B) If it should be determined by a court of competent jurisdiction that there has been any waiver of confidentiality by reason of any sharing of Confidential Information contrary to the terms of this Agreement, the waiver is intended only as a restricted waiver.

(C) If disclosure of any Confidential Information is sought from Class Counsel or the Claims Administrator by legal process or by any court, arbitrator, or tribunal, Class Counsel or the Claims Administrator shall provide prompt written notice of such requested disclosure to Counsel for Assante as identified in the Settlement Agreement. For greater certainty and without limiting the generality of the foregoing, in the event that Class Counsel or the Claims Administrator receives a request or demand, by subpoena, court document or otherwise, from any person, or any court order, that appears to call for the disclosure or production of any Confidential Information, Class Counsel shall:

- (1) inform the person or entity requesting the information that it is confidential;
- (2) immediately notify, unless prohibited by law, Counsel for Assante of:
 - (i) the existence, source, nature and contents of the request or demand, or
 - (ii) any misappropriation or misuse of the Confidential Information by any person which may come to its attention;
- (3) make its reasonable best efforts to provide Counsel for Assante with 5 business days' notice so as to provide Assante with an opportunity to seek a sealing or confidentiality order from the Court (which it is agreed will not be opposed by Class Counsel or the Claims Administrator) or such other relief as Assante deems necessary; and
- (4) if compelled to disclose Confidential Information, Class Counsel may disclose that portion, and only that portion, of the Confidential Information that it is compelled to disclose.

(D) Nothing in this Agreement shall limit the right of Class Counsel or the Claims Administrator to use or disclose documents or information provided by its clients, even in the event of the subsequent receipt of the same information from Assante pursuant to this Agreement, subject to Paragraph 3.2(E) below.

(E) In the event that the Settlement is terminated pursuant to the terms of the Settlement Agreement, Class Counsel and the Claims Administrator shall no longer be at liberty to use the Confidential information in any way and must return all Confidential Information to Assante

without any copies being made or stored electronically, within 14 business days of termination of the Settlement. In such an event, Class Counsel and the Claims Administrator will continue to maintain the confidentiality of the Confidential Information subject to Class Counsel being retained in the Action by the Class Member to whom the Confidential Information relates.

(F) The Parties agree that they will continue to be bound by this Agreement following the conclusion of the Settlement

(G) Disclosure of any Confidential Information in violation of this Confidentiality Agreement will cause Assante to suffer irreparable harm for which there is no adequate legal remedy in damages. Accordingly, Class Counsel and the Plaintiffs acknowledge and agree that, in addition to all other remedies which a non-breaching Party may have, immediate injunctive relief (including mandatory injunctive relief) and specific performance are appropriate and necessary remedies for a violation or a threatened or anticipated violation of this Agreement. No remedy will be exclusive and no failure or delay by Assante in exercising any right, power or privilege under this Agreement will operate as waiver thereof.

SECTION 3 - MISCELLANEOUS

3.1 ENTIRE AGREEMENT

(A) The Settlement Agreement and its Schedules, and this Confidentiality Agreement, constitute the entire agreement among the Parties and supersede all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of the Settlement Agreement, unless expressly incorporated herein. The Confidentiality Agreement may not be modified or amended except in writing and on consent of all Parties and any such modification or amendment must be approved by the Court.

(B) The Recitals hereto are material and integral parts hereof and are fully incorporated into, and form part of, this Confidentiality Agreement.

3.2 ONGOING JURISDICTION AND GOVERNING LAW

(A) This Confidentiality Agreement shall be governed by, construed and interpreted in accordance with the laws of the Province of Alberta.

(B) The Parties agree that the Court shall retain exclusive and continuing jurisdiction over the Action, the Parties and Class Members to interpret and enforce the terms, conditions and obligations under this Confidentiality Agreement.

3.3 SEVERABILITY

(A) Any provision hereof that is held to be inoperative, unenforceable or invalid in any jurisdiction shall be severable from the remaining provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

3.4 APPLICATIONS FOR DIRECTIONS

(A) Any one or more of the Parties or the Claims Administrator may apply to the Court for directions in respect of any matter in relation to this Confidentiality Agreement.

(B) All Applications related to this Confidentiality Agreement shall be on notice to the Parties and the Claims Administrator, provided however that, once the Settlement Agreement becomes Final and the Settlement Amount has been paid, the Defendants shall not receive notice and shall have no standing relating to any issue raised on any such motion unless the Court orders otherwise.

3.5 INTERPRETATION

(A) In this Confidentiality Agreement:

(1) the division of the Confidentiality Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of the Confidentiality Agreement;

(2) the recitals form part of this Confidentiality Agreement; and

(3) the terms "this Confidentiality Agreement", "herein", "hereto" and similar expressions refer to the Confidentiality Agreement as a whole and not to any particular section or other portion of the Confidentiality Agreement.

3.6 BINDING EFFECT

(A) If the Settlement is approved by the Court and if the Settlement Agreement becomes Final and the Settlement Amount is paid, the Confidentiality Agreement shall be binding upon, and enure to the benefit of, the Plaintiffs, the Class Members, the Defendants, the Releasees, the Releasors and all of their heirs, executors, successors, predecessors and assigns.

(B) Assante represents and warrants that:

(1) it has all requisite corporate power and authority to execute, deliver and perform this Confidentiality Agreement and to consummate the transaction contemplated hereby on its own behalf;

(2) the execution, delivery and performance of this Confidentiality Agreement and the consummation of the Action contemplated herein have been duly authorized by all necessary corporate action on its part; and

(3) this Confidentiality Agreement has been duly and validly executed and delivered by it and constitutes its legal, valid and binding obligations.

3.7 SURVIVAL

(A) The representations and warranties contained in the Confidentiality Agreement shall survive its execution and implementation.

3.8 NEGOTIATED AGREEMENT

(A) The Confidentiality Agreement has been the subject of arm's length negotiations and many discussions among the Parties and their counsel. Each of the Parties has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafters of the Confidentiality Agreement shall have no force or effect. The Parties further agree that the language contained in or not contained in previous drafts of the Confidentiality Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of the Confidentiality Agreement.

3.9 ACKNOWLEDGMENTS

(A) Each Party hereby affirms and acknowledges that:

(1) the Party's signatory has the authority to bind the Party with respect to the matters set forth herein and has reviewed the Confidentiality Agreement; and

(2) the terms of this Confidentiality Agreement and the effects thereof have been fully explained to the Party by his or its counsel.

3.10 AUTHORIZED SIGNATURES

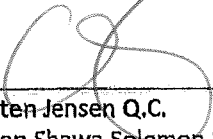
(A) Each of the undersigned represents that he is fully authorized to enter into the terms and conditions of, and to execute, this Confidentiality Agreement on behalf of the Party for whom he is signing.

3.11 COUNTERPARTS


(A) This Confidentiality Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a signature transmitted by facsimile or email shall be deemed an original signature for the purposes of executing this Agreement.

The Parties have executed this Confidentiality Agreement as of the date on the cover page.

For the Plaintiffs and the Class Members


Per: 
Carsten Jensen Q.C.
Jensen Shawa Solomon Duguid Hawkes LLP

For Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd.

Per: 
Donald J. McGarvey, Q.C.
McLennan Ross LLP

Per: _____
Robert Brush
Crawley MacKewn Brush LLP

For Brian Malley and Christine Malley

Per: 
Marco Poretti
Reynolds Mirth Richards & Farmer LLP

The Parties have executed this Confidentiality Agreement as of the date on the cover page.

For the Plaintiffs and the Class Members

Per: _____
Carsten Jensen Q.C.
Jensen Shawa Solomon Duguid Hawkes LLP

For Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd.

Per: _____
Donald J. McGarvey, Q.C.
McLennan Ross LLP

Per: _____
Robert Brush
Crawley MacKewn Brush LLP

For Brian Malley and Christine Malley

Per: _____
Marco Poretti
Reynolds Mirth Richards & Farmer LLP