

**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.assanteaction.com](http://www.assanteaction.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