

COURT FILE NUMBER: 0501 08152
COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE OF CALGARY

Clerk's Stamp:

CLERK OF THE COURT

JUL 12 2011

CALGARY, ALBERTA

PLAINTIFF(S): DOUGLAS ALEXANDER and WILLIAM BARRETT, as Representative Plaintiffs

DEFENDANT(S): HMS FINANCIAL INC., et al

DOCUMENT: **ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT: McLENNAN ROSS LLP
1600 Stock Exchange Tower
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File No. 251207

DATE ON WHICH ORDER WAS PRONOUNCED: July 12, 2011

NAME OF JUDGE WHO MADE THIS ORDER: Associate Chief Justice John D. Rooke

ORDER APPROVING NOTICE TO CLASS

UPON THE APPLICATION of the Plaintiffs; IT IS HEREBY ORDERED THAT:

1. Class Co-Counsel shall send the Notice attached hereto as **Schedule "A"** with respect to the proposed approval of an Administration Plan for the initial distribution of recovered funds;
2. The Notice to Class shall be sent to the last known mailing address or e-mail address of the Class Members.

I hereby certify this to be a true copy of
the original order
Dated this 12 day of July 2011
[Signature]
for Clerk of the Court

3. Costs of this application shall be in the cause.



ASSOCIATE CHIEF JUSTICE OF THE COURT OF
QUEEN'S BENCH OF ALBERTA

Schedule "A"

Douglas Alexander and William Barrett, as Representative Plaintiffs v.
HMS Financial Inc. et al
Alberta Court of Queen's Bench Action No. 0501 08152

NOTICE OF APPLICATION FOR COURT APPROVAL OF AN ADMINISTRATION PLAN FOR DISTRIBUTION OF FUNDS and ALLOWING FOR LATE-OPT INS

TO: HMS INVESTOR CLASS MEMBERS

PLEASE **CAREFULLY** READ **ALL** OF THE INFORMATION BELOW:

- 1) Class Counsel are of the opinion that the majority of monies have been recovered in this matter (around \$5 Million) (the "Funds"). While there are still a few outstanding recovery efforts, it is unlikely that any further significant recoveries will be made.
- 2) The Representative Plaintiffs have instructed Class Counsel to seek approval from the Court to provide for distribution of the Funds to Class Members.
- 3) Further, some individuals, who are not residents of Alberta but would otherwise be Class Members, did not become aware of this Class Action until after the expiry of the original opt-in period. These individuals have contacted Class Counsel and wish to become Class Members.
- 4) The Representative Plaintiffs have instructed Class Counsel to seek approval from the Court to allow these individuals to become member of the Class.
- 5) On July 26, 2011, at 9:00 a.m. at the Calgary Court Centre, Class Counsel will be appearing before the Court to seek an Order
 - a) allowing for late-opt in non-residents to become Class Members;
 - b) approving an Administration Plan for distribution to Class Members, which will include approval of:
 - i) an initial distribution of the Funds to Class Members;
 - ii) payment of the administration costs of the initial distribution to Class Members from the Funds;
 - iii) payment of disbursements incurred by Class Counsel in this action from the Funds;
 - iv) payment of the legal fees of Class Counsel, being 33.3% of the Funds, from the initial distribution to Class Members; and
 - v) approving that any future distributions of any further recoveries be done on the same basis as the initial distribution of the Funds, including payment of legal fees of Class Counsel, without further Order of the Court or further notice to Class Members but with reporting by Class Counsel to the Court by way of Affidavit.

- 6) Should you wish to oppose the Approval of any of points 5a or 5 b above, then you must:
- a) Advise Class Counsel by email, at lsedgwick@mross.com, or fax at 780-482-9100, not later than 4:00 p.m. MST on July 22, 2011;
 - b) Provide an Affidavit setting forth the facts as to why you oppose the application to allow late-opt ins and/or approve the Administration Plan, file a copy of the Affidavit at the Court Centre in Calgary and deliver a filed copy to McLennan Ross LLP, 1600 Stock Exchange Tower, 300 – 5th Avenue SW, Calgary, Alberta T2P 3C4, no later than 4:00 p.m. MST, July 22, 2011, and
 - c) Appear in Court in Calgary on July 26, 2011, at 9:00 a.m. to present your objection to the Court.

PLEASE NOTE: a voicemail or e-mail to our offices simply stating you object is not sufficient, will not be considered a proper objection, and will not be responded to.

WHAT THIS MEANS

- If you are receiving this notice, you **ARE** a Class Member and there is nothing you need to do at this time unless you object, in which case you must follow all of the steps in paragraph 6 above.
- There is nothing you need to do at this time with respect to making a claim. A further notice will follow, if we get approval of our Administration Plan, with instructions on what you need to do to make a formal claim for a portion of the distribution.
- We do not know at this time how much money each Class Member will receive and will not know that until all claims have been submitted in the claims process. We **do know** that Class Members **will not** receive 100% of their losses back.

Please do not call us for further details on this Notice. While we understand that people get comfort from speaking with our staff, there are over 1400 class members and the time and cost of responding to voicemails from people is overwhelming, and much of what we get phone calls about are specifically set out in the Notices.

If you have specific questions, you can send them by e-mail to lsedgwick@mross.com or by fax to 780-482-9100. VOICEMAIL MESSAGES WILL NOT BE RETURNED.