

SCHEDULE “A”

Action No. 0501 08152

IN THE COURT OF QUEEN’S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

HEIKE EATON, HARLAN LIGHT, DOUGLAS ALEXANDER
and WILLIAM BARRETT, as Representative Plaintiffs

Plaintiffs

- and -

H M S FINANCIAL INC., et al.

Defendants

NOTICE OF CLASS PROCEEDING

TO: Persons, other than the Defendants, who have invested money with the HMS Scheme, directly or indirectly, and suffered a loss of all or part of that investment.

The Defendants named in this action are: H M S Financial Inc., Skyward Management Inc., Garth S. Bailey, Garth S. Bailey Professional Corporation, 990137 Alberta Ltd., 1037149 Alberta Ltd., Operating As Cedar Management, 1053382 Alberta Inc., 1070199 Alberta Ltd., 1079373 Alberta Ltd., 993638 Alberta Ltd., A-Z Investment Group, Abba Resources Unlimited, Academy Financial Inc., Academy Financial Planners & Consultants Inc., Ailanthus International Inc., Altruistic Holdings Ltd., Bailey & Dawes LLC, Bogner Industries Ltd. a.k.a. Bogner Industries Inc., B.P. Fritz Consulting Inc., Canadian Imperial Bank of Commerce, The Carpenter’s Shop Corporation, Casselman MCS Financial Inc., Cedar Pointe Consulting Group Inc., Chase Forbes Trust Ltd., CLJ Consulting LLC, Commonwealth Marketing Group Ltd., Community Credit Union Ltd., Companions Inc., The Dakota Corporation, Dana I. Carlson, Datas Consulting, Defreitas & Associates, Ethan Equities Inc., Five Continents Consulting, Five Continents Consulting Corporation, Warren Goss, Graceful Beneficence, Guessworks, Guessworks Foundation, The Hillpro Group Inc., Horizon Bank International Limited, Horizon Fiduciary Inc., HSBC Bank Canada, In House Counsel Cameron Campbell, International Investments Inc., Kamikey Services Inc., Kelso Enterprises Inc., Kingdom Advisors, Klass “A” Strategies Inc., Labalta Ltd., Legal Structures Inc., Linden Village Inn, Lindenhall Limited, Lindenhall Pty Ltd., M & M Computer Consulting, M & M Investments 101 Ltd., Maritime LLC, McCullough Financial Corporation, Michael Grosh Professional Corporation, Mountain Star Capital Corp., Mountain View Credit Union

Limited, NDX Development LLC, Numa Ltd., Oxyoke Farms Ltd., Paget Capital Ltd., Paradise Bay Holdings Inc., Phoenix Global Resources Ltd., Pine Grove Management Inc., William H. Randall, RLM Consulting LLC, Sellars Financial Inc., Talisman Financial Investments Inc., Tamika Enterprises Inc., Thor Empire Trust, Titania Consulting Inc., TJ Kelly Inc., Tools of the Carpenter, Trans Max Technologies Inc., Triple-SSS Holdings Inc., Tyrolia Foundation, Vitron Consulting Inc., Zurich Ventures Inc., A. Gary Young, Guy Bailey, Jr., Alfred Barnfield, Connie Bartel, Robert Bartel, Victor Bauman, Mylo Berstad, Nancy Buford, Cameron Campbell, Rick Childers, Blaine A. Cisna, Kevin Coombes, Ellen Kate Covey, Douglas A. Cowan, Margaret Dart, Stanley Defreitas, Don Dickerson, Eugene Leroy Duce, Arnold Dyck, Juan Exposito, Alfredo Farpon, Ray Fisher, Jack Folsom, Jim Folsom, Barie Fritz, Crystal Anne Fyn, Phyllis Fyn, Robert E. Fyn a.k.a. Colonel Fyn, Allan A. Gray, Michael Grosh, David Guess, Neil Guess, Kendra Haskett, Arnold Henry, David Henry, Gord Hiebert, Samuel Higgins, Wayne Johnson, Terry Kelly, Barbara L. King, Arthur Klassen, Edwin Knott, Ruby Leachman, George Lennox, William Lenz, Daniel Lescamela, Willie Lichtner, Lucia Ling, Barbara Lockhart, Ron Lowrie, Don MacGillivray, Danny R. MacNaughton, Norma A. MacNaughton, Michael McCullough, William McGrath, Dave Miller, Rosendo Mendez, Peter Mergenthaler, Peter Mol, Brad Mooney, Peter Morrisseau, Tom Oldridge, Roy Overton, Gertrude M. Prete, Donald Rabby, Amin Ramji, Bilkish Ramji, Stan W. Remin, Jeffrey Robinson, Daniel Romero, John Romero, Orest Rusnak, Arie Schalk, Randall Seabrook, Claude Seguin, Robert J. Sellars, William Serediuk, Peter L. Sheridan, Janet Stark, Murray Stark a.k.a. Harold Murray Stark a.k.a. Murray H. Stark, Delmer Strobel, Verna Strobel, Cheryl Taylor, Milton Teibe, Robert F. Terborg, Enrique Toscano a.k.a. Chico Toscano, Lee-Anna Toscano, Henk Ujiterlinde, Wilma Ujiterlinde, Heather Vance, Christine Williams, William A. Williamson a.k.a. Bill Williamson, John W. Willock, ohn Doe, Richard Doe, XYZ Corp., Alberta Lawyers' Insurance Association and Canadian Lawyers' Insurance Association

Please read this notice carefully in its entirety. This notice relates to the certification of a Class Action. If you are a Class Member, this notice contains important information about your rights described below.

If you are a Member of the Class, an Alberta resident and you do not opt-out (as defined below), you will be bound by the determination of the common issues as decided by the Court.

If you opt-out, you will not be able to participate in any monetary recovery whether by way of judgment or settlement.

If you are a Member of the Class and not an Alberta resident, then you must opt-in (as defined below) to the Class Action to participate in the Class Action, be bound by its determination, and participate in any monetary recovery.

This Notice has been sent to you in accordance with the Order of the Alberta Court of Queen's Bench.

Forms

Forms which need to be completed by Alberta residents who wish to opt-out, or non-Alberta residents who wish to opt-in to the Class proceedings, may be found at the following website, www.cuminggillespie.com.

Purpose of this Notice

This Notice is being provided to you because certain records indicated you may be a person who invested monies with the Defendants, and suffered a loss. The purpose of this Notice is to inform you that the Alberta Court of Queen's Bench has ordered that this lawsuit may proceed as a Class Proceeding on behalf of all persons who invested money with the Defendants and suffered losses.

Class Definition

Class Members are all persons, other than the Defendants, who have invested money with the HMS Scheme, directly or indirectly, and suffered a loss of all or a part of that investment (**Class Members**).

Class Counsel estimates that there are approximately one thousand people who are Class Members.

Description of the Proceedings

On June 2, 2005, an action was commenced against the Defendants surrounding the operation of an investment scheme commonly known as "HMS". It is alleged that the HMS investment scheme was not a legitimate investment activity and in fact constituted an illegal fraudulent investment scheme.

The Plaintiffs allege that the illegal Ponzi scheme operated by HMS and the other Defendants caused losses to the Class Members of approximately \$100,000,000.00.

The Plaintiffs claim damages against the Defendants in the amount of \$100,000,000.00 alleging the Defendants were involved in the operation of this illegal Ponzi scheme.

Common Issues

The Court of Queen's Bench of Alberta has determined that there will be a common issue trial to determine the following issues:

- a. What were the essential common terms of the agreements between members of the Plaintiff Class (**Class Members**) and HMS?
- b. Was the HMS Scheme a fraudulent high-yield or Ponzi scheme?
- c. Was there a systematic fraudulent or negligent misrepresentation by the HMS Defendants, and/or Lawyers, or any of them, to Class Members as part of the HMS Scheme?

- d. Did the HMS Defendants, and/or the Lawyers, or any of them, convert investment funds to their personal benefit?
- e. Did the Defendants (except HSBC, CIBC, Community Credit Union Ltd., and Mountain View Credit Union Limited), or any of them, engage in conspiracy to defraud Class Members?
- f. Did an express or constructive trust exist between the HMS Defendants, or Lawyers, or any of them, and Class Members?
- g. Are Class Members entitled to a constructive trust in relation to the HMS Defendants, or the Lawyers, or any of them? Specifically:
 - i. Were Class Members in a trust relationship with HMS Defendants, or the Lawyers, or any of them?
 - ii. If yes, did HMS Defendants, or the Lawyers, or any of them, perpetrate a dishonest or fraudulent breach of trust?
- h. Did any of the Lawyers act as counsel or trustee for Class Members?
- i. Did any of the Lawyers owe fiduciary duties or trust obligations to Class Members?
- j. Did the Financial Institutions knowingly assist or participate in a fraudulent breach of trust or fiduciary duty by one or more of the Defendants?
- k. Were HMS Principals, CCS Defendants, and/or the Lawyers, or any of them, involved in transactions with the Financial Institutions which constituted suspicious transactions?
- l. Did the Financial Institutions report suspicious transactions in connection with the HMS Scheme?
- m. Did the Financial Institutions violate any of the provisions of the *Proceeds of Crime Act*, S.C. 2000, c. C-17?
- n. Did the Financial Institutions owe a duty to Class Members in their capacity as beneficiaries of a trust?
- o. Have any of the HMS Defendants, or Lawyers, been unjustly enriched at the expense of Class Members?
- p. Further to issue (n) above, are Class Members entitled to restitution or repayment of monies or entitled to a constructive trust?
- q. Did the HMS Defendants, and/or the Lawyers, or any of them, violate any of the provisions of the *Competition Act*, R.S.C. 1985, c. C-34, the *Securities Act*, R.S.A. 2000, c. S-4, or the *Criminal Code*, R.S.C. 1985, c. C-46?
- r. Are Class Members entitled to an accounting and/or tracing of the monies received by any of the Defendants pursuant to the HMS Scheme?
- s. Are Class Members entitled to punitive and/or aggravated damages?
- t. Should interest be assessed on amounts owing under the *Judgment Interest Act*, R.S.A. 2000, c. J-1?

Rights of the Class Members

If you are a Class Member, you may receive the benefit of and will be bound by the terms of any judgment the Court issues in the Class Proceedings.

If you are a Class Member, and **a resident of Alberta**, you have the following **options**:

1. You may await the outcome of the proceedings, following which you may be entitled to the benefit of any settlement or judgment. If you choose this option, you will remain a Class Member and, subject to proving your loss, you will share in the proceeds of any settlement or judgment.
2. You may elect to opt-out of the Class; that is, you may advise that you do not want to participate in the Class Proceedings. **If you opt-out of the Class, you will not participate in any settlement or judgment and you will not receive the benefits of any settlement or judgment.** However, you will also not be bound by any settlement with or judgment against the Defendants and your claim, if any, will remain unaffected. If you wish to opt-out of the Class, you must mail or deliver a written request for exclusion in the appropriate Opt-Out Form by no later than August 14, 2009. Opt-Out Forms may be downloaded from the website www.cuminggillespie.com or may be obtained by phoning 1-800-682-2480.

If you are a Class Member, and **a non-resident of the Province of Alberta**, you have the following **options**:

1. You may do nothing, in which case you will not receive any benefit of the Class Proceedings and will not participate in the benefit of any settlement or judgment in the proceedings. However, you will also not be bound by any settlement with or judgment against the Defendants and your claim, if any, will remain unaffected.
2. Class Members will have until no later than August 14, 2009 to opt-in to the Class Proceeding by completing an Opt-In Form and provide it to Class Counsel either by e-mail at cgillespie@cuminggillespie.com, or by faxing to fax number 1-800-682-2480, or by ordinary mail or delivery to: Craig Gillespie at Cuming, Gillespie & Raymaker, Barristers & Solicitors, 1130, 396 - 11th Avenue SW, Calgary, Alberta, T2R 0C5.

Financial Consequences of the Class Proceeding

Alberta resident Class Members will be entitled to the benefit of a successful judgment of the Court or settlement on the common issues. Class Members who opt-out of the Class will not benefit from any successful judgment or settlement.

Non-Alberta resident Class Members need to opt-in to participate in the benefit of a successful judgment of the Court or settlement on the common issues.

No Class Member will be responsible for Plaintiff Class Counsel's legal fees or disbursements unless money is recovered in a settlement or judgment.

If the claims of the Class are dismissed against some or all of the Defendants, then those Defendants may seek to recover their legal costs of defending the claims against the Representative Plaintiff but not against Class Members.

Legal Fees and Disbursements

The Representative Plaintiffs have entered into a contingency fee agreement with Class Counsel. Subject to Court approval, Class Counsel will seek a fee of 33.33% of any amount recovered or, alternatively, a multiplier of 4x the hourly rate of Class Counsel accumulated over the course of the Class Proceedings, whichever is the greater, plus disbursements, plus applicable GST.

Disclosure Consequences of the Class Proceeding

Class Members will be deemed to have consented to the disclosure by Plaintiff Class Counsel to Defendants' Counsel of all information relating to their respective claim. The information will go to the Defendants' Counsel for use in the litigation or settlement, but cannot by law be used outside the litigation.

Further Information

Class Counsel in this matter is:

Cuming, Gillespie & Raymaker
Barristers & Solicitors
1130, 396 - 11th Ave SW
Calgary, Alberta T2R 0C5

Phone: (403) 571-0555
Toll Free: 1-800-682-2480
Fax: (403) 232-8818
Website: www.cuminggillespie.com
E-mail: cgillespie@cuminggillespie.com

Class Members who wish to obtain more information about the representative action should contact Niki Funk nfunk@cuminggillespie.com at Cuming, Gillespie & Raymaker.