

Federal Court



Cour fédérale

Date: 20180618

Docket: T-132-13

Ottawa, Ontario, June 18, 2018

PRESENT: The Honourable Madam Justice Gagné

BETWEEN:

**GAELEN PATRICK CONDON
REBECCA WALKER
ANGELA PIGGOTT**

Plaintiffs

and

HER MAJESTY THE QUEEN

Defendant

JUDGMENT

THIS judgment is made pursuant to the Court's Order and Reasons rendered on May 18, 2018 (*Condon v Canada*, 2018 FC 522), whereby it granted plaintiffs' motion for orders approving the Settlement Agreement, appointing the Administrator and Arbitrators, fixing the cost of Administration, fixing the amount of an honorarium for the representative plaintiffs and fixing Class Counsel's Fees.

ON READING the materials filed, including the following:

- (a) the affidavit of Luciana Brasil, sworn February 16, 2018;

- (b) the draft Judgment;
- (c) the affidavit of Jonathan Wallace, sworn February 13, 2018;
- (d) the affidavit of Sarkis Isaac, sworn February 14, 2018;
- (e) the affidavit of Gaelen Patrick Condon, sworn February 9, 2018;
- (f) the affidavit of Rebecca Walker, sworn February 8, 2018;
- (g) the affidavit of Angela Piggott, sworn February 6, 2018;
- (h) the letter from Crawford and Company (Canada) Inc. agreeing to be appointed as Administrator;
- (i) correspondence from the Ontario Public Guardian and Trustee;
- (j) this Court's order dated June 20, 2016, certifying this action as a class proceeding; and
- (k) this Court's order dated December 20, 2017, directing notice to the Class Members;

AND ON HEARING the submissions of Class Counsel and counsel for the Defendant, and being advised that the Ontario Public Guardian and Trustee takes no position on the Settlement Agreement or the form of this Judgment;

AND ON HEARING from the objectors who appeared in person by videoconference;

AND ON BEING ADVISED that no objectors appeared in person by videoconference at Edmonton, Calgary, or Halifax, despite videoconference facilities having been made available;

AND ON READING all the written objections delivered to the Court;

AND ON BEING ADVISED that all objections delivered to Sarkis Isaac have been delivered to the Court and that Mr. Isaac's affidavit has been sealed;

AND ON BEING FURTHER ADVISED that Ivan Whitehall, Q.C. and Reva Devins consent to their appointments as Arbitrators;

AND ON BEING FURTHER ADVISED that the Defendant takes no position on the issue of Class Counsel's Fees;

1. THIS COURT ORDERS that, for the purposes of this Judgment and Distribution Plan, the following definitions apply:

- (a) “**Action**” means this class action *Gaelen Patrick Condon et al. v. Her Majesty the Queen*, docket no. T-132-13;
- (b) “**Actual Loss**” means a proven loss by an Eligible **Class Member**, excluding exemplary and punitive damages, as determined by an **Arbitrator**, caused by the alleged privacy incident for which the **Eligible Class Member** has not been otherwise compensated, and the **Arbitrator** must be satisfied, on the balance of probabilities, that such loss could not have been prevented or limited by the credit protection services offered by the **Defendant**;
- (c) “**Administrator**” means Crawford and Company (Canada) Inc.;
- (d) “**Arbitrator**” or “**Arbitrators**” means Ivan Whitehall, Q.C. and Reva Devins;
- (e) “**Claim Form**” means the electronic claim form by which a putative **Class Member** may claim from the **Distribution Amount**;
- (f) “**Claims Bar Date**” means January 18, 2019;
- (g) “**Class**” or “**Class Members**” means:

All persons whose personal information was contained in an external hard drive in the control of Human Resources and Skills Development Canada (now known as Employment and Social Development Canada) or the National Student Loan Services Centre which was lost or disclosed to others on or about November 5, 2012, but not including senior management of Human Resources and Skills Development Canada, the Canada Student Loans Program, or Ministers and Deputy Ministers of the Ministry of Human Resources and Skills Development, and not including those persons who validly opted out pursuant to the certification order and did not exercise the right to opt-back into this Action;

- (h) “**Class Counsel**” means collectively, **Strosberg LLP**, Charney Lawyers, Branch MacMaster LLP and Bob Buckingham Law;

- (i) “**Class Counsel’s Fees**” means the fees, disbursements, HST and other applicable charges to **Class Counsel** asserted in this **Action**;
- (j) “**Cost of Administration**” means the amount of fees, disbursements and taxes to be paid to the **Administrator**;
- (k) “**Court**” means the Federal Court;
- (l) “**Defendant**” means Her Majesty the Queen;
- (m) “**Distribution Amount**” is the amount to be distributed to the **Class Members** after paying **Class Counsel’s Fees**, the **Cost of Administration** and an honorarium to each of the representative plaintiffs;
- (n) “**Distribution Plan**” means the **Distribution Amount** divided among each of the **Eligible Class Members** to a maximum of \$60 and, if applicable, an electronic application for arbitration;
- (o) “**Eligible Class Member**” means each **Class Member** whose electronic **Claim Form** is approved by the **Administrator** before the **Claims Bar Date**;
- (p) “**ESDC**” means the federal Department of Employment and Social Development Canada, formerly known as the Department of Human Resources and Skills Development Canada;
- (q) “**Final Order**” means a **Judgment** that, after the expiry of the appeal period set out in Rule 334.31(2) has not been appealed or leave to appeal has not been sought, or if the **Judgment** has been appealed or leave to appeal has been sought, after the final determination of such appeal or leave application if the leave to appeal is dismissed;
- (r) “**Her Majesty the Queen**” means Her Majesty the Queen, and its employees, officers, directors, servants and agents;
- (s) “**Judgment**” means this judgment;
- (t) “**Municipal Addresses List**” means the list of each **Class Member’s** municipal addresses maintained by **ESDC**, as supplemented by **Class Counsel’s** information, but excluding each **Class Member** whose letter was returned by mail to **ESDC** after mailing the Notice of Certification in 2016;
- (u) “**Notice**” means the form of the **Notice** substantially in the form attached to the **Judgment** as Schedule “B;”
- (v) “**Notice Program**” means the method of giving **Notice** to the **Class Members**, particularized in paragraph 9 of this **Judgment**;

- (w) **“Released Claims”** means any and all manner of claims, demands, actions, suits and causes of action at common law or under Federal, Provincial or Territorial legislation alleged or which could have been asserted in this Class Action or in a province or territory or otherwise including *The Privacy Act*, C.C.S.M. c. P125; *Privacy Act*, R.S.C. 1985, c. P-21; *Privacy Act*, R.S.B.C. 1996, c. 373; *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25; *The Privacy Act*, R.S.S. 1978, c. P-24; *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31; *Right to Information and Protection of Privacy Act*, S.N.B. 2009, c. R-10.6; *Freedom of Information and Protection of Privacy Act*, S.N.S. 1993, c. 5; *Freedom of Information and Protection of Privacy Act*, R.S.P.E.I. 1988, c. F-15.01; *Privacy Act*, R.S.N.L. 1990, c. P-22; *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5; *Department of Employment and Social Development Act*, S.C. 2005, c. 34; and *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c. 11, ss. 7 and 8, whether direct or indirect action, class action, individual action, or otherwise in nature, whether personal action or subrogated, including for damages whenever incurred and liabilities of any nature whatsoever, including damages, aggravated damages, punitive damages, interest, costs, expenses, penalties and lawyer fees that the **Releasors**, or any one of them, whether directly, indirectly, representatively, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall or may have against the **Releasee**, whether known or unknown, relating in any way to any act or omission by the **Releasee** prior to the execution of the **Settlement Agreement**;
- (x) **“Releasee”** means the **Defendant** Her Majesty the Queen in Right of Canada, the Attorney General of Canada, Her and their respective representatives, employees, agents, servants, predecessors, successors, executors, administrators, heirs and assigns;
- (y) **“Releasors”** means, jointly, jointly and severally, individually and collectively, the **Class Members** and their respective executors, administrators, and heirs but not including Opt-Outs and not including the individuals who are named plaintiffs in any other proceeding against the **Defendant** in respect of the same subject matter which has not been discontinued within the meaning of Rule 334.21(2);
- (z) **“Settlement Agreement”** means the **Settlement Agreement** made as of December 5, 2017 in the **Action**, attached as Schedule “A”;
- (aa) **“Settlement Amount”** means \$17,500,000 plus an unlimited amount to pay the amounts of any **Actual Loss**; and
- (bb) **“Strosberg LLP”** means the firm of Strosberg Sasso Sutts LLP.

2. THIS COURT ORDERS AND DECLARES that the Settlement Agreement (Schedule “A”), Notice (Schedule “B”), Claim Form and Distribution Plan are fair, reasonable and are in the best interest of the Class and are hereby approved.
3. THIS COURT ORDERS AND DECLARES that the Claims Bar Date is January 18, 2019, at 5:00 pm EDT, by which date each Class Member must submit their Claim Form and, if applicable, an electronic application for arbitration for an Actual Loss, and thereafter, no Claim Form and no application for arbitration will be accepted by the Administrator after January 18, 2019, at 5:00 pm EDT.
4. THIS COURT DECLARES that Her Majesty the Queen will deliver \$17,500,000 to Strosberg LLP, in trust, within seven days of this Judgment becoming a Final Order, after which post-judgment interest will be payable at the rate of 4.0% per annum.
5. THIS COURT ORDERS that the Administrator is appointed with the duties and responsibilities set out in the Distribution Plan, the Settlement Agreement and under this Judgment on the terms outlined in the letter of engagement attached as Schedule “C”.
6. THIS COURT ORDERS the Defendant to provide the Administrator with its Class Member list electronically, including personal identifying information, so that the Administrator can validate Claims Forms.
7. THIS COURT ORDERS that the Arbitrators are appointed with the duties and responsibilities under the Distribution Plan, the Settlement Agreement, and under this Judgment, and the costs of the Arbitrators shall be paid directly by the Defendant in accordance with O.

Reg. 161/08, *Remuneration of Deputy Judges*, under the *Courts of Justice Act*, R.S.O. 1990, c. C.43, from the date hereof until the Arbitrators complete their mandate.

8. THIS COURT ORDERS that, for the purpose of aiding in the delivery of Notice to the Class Members and for the administration of this settlement, Class Counsel shall deliver an electronic list of self-identified Class Members who have registered with Class Counsel and their contact information to the Administrator and the Defendant.

9. THIS COURT ORDERS AND DECLARES that, on or before July 31, 2018, the Class Members must be given Notice of this Judgment in the following manner:

- (a) the Defendant, or its appointee, will mail the Notice to the Class Members whose names appear on the Municipal Addresses List;
- (b) Class Counsel shall post the Notice on the website www.studentloansclassaction.com and on any other websites maintained by Class Counsel dedicated to this Action;
- (c) the Administrator shall email the Notice to any person who registered with Class Counsel and provided a valid email address;
- (d) the Defendant shall post the Notice on the ESDC website and on the Canada.ca website;
- (e) Class Counsel shall send the Notice by email to the Ontario Public Guardian and Trustee;
- (f) Class Counsel, the Defendant or the Administrator will deliver the Notice to any person who requests this Notice from any one of them; and
- (g) Class Counsel, the Administrator and the Defendant will report to the Court on their activities articulated in this paragraph by August 7, 2018.

10. THIS COURT ORDERS AND DECLARES that the Defendant will pay the cost of sending the Notice to the Municipal Addresses List, described in paragraph 9(a), in addition to the Settlement Amount and the costs of the arbitration process associated with the Actual Loss process.

11. THIS COURT DECLARES that the Notice Program, described in paragraph 9, satisfies the requirements of Rule 334.33.

12. THIS COURT ORDERS AND DECLARES that each Class Member who intends to participate in the Distribution Plan, must submit to the Administrator a Claim Form and, if applicable, an application for arbitration, before the Claims Bar Date, in accordance with the Distribution Plan.

13. THIS COURT ORDERS that each Class Member who asserts an Actual Loss must, in addition to the Claim Form, submit their electronic application for arbitration to the Administrator on or before the Claims Bar Date.

14. THIS COURT ORDERS AND DECLARES that, if a Class Member does not submit a Claim Form and/or an electronic application for arbitration to the Administrator on or before the Claims Bar Date, that the Class Member, and each of their respective heirs, executors and assigns shall be forever barred from participating in the Distribution Plan but shall, in all other respects, be bound by the terms of this Judgment.

15. THIS COURT ORDERS AND DECLARES that each Class Member, and each of their respective heirs, executors, administrators, estate trustees and assigns:

- (a) forever and absolutely release, acquit and discharge the Releasee from the Released Claims;
- (b) shall not commence or continue against the Releasee any action or take any proceeding relating in any way to or arising from the Released Claims; and
- (c) shall not commence or continue against any person, any action or take any proceeding relating in any way to or arising from the Released Claims, who will or could, in connection with any such action or proceeding, bring or commence or continue any claim, cross-claim, claim over or any claim for contribution, indemnity or any other relief, against the Releasee.

16. THIS COURT ORDERS AND DECLARES that any Class Member who previously opted out of this Class Action, or any named plaintiff in any other outstanding class action or putative class action in the Federal Court or any Provincial Court or Territorial Court, which has not been discontinued or dismissed, may opt back in to this Class Action, by submitting a Claim Form to the Administrator on or before the Claims Bar Date.

17. THIS COURT ORDERS AND DECLARES that any Class Member who opts back into this Class Action pursuant to paragraph 16 above shall be bound by all terms and conditions of the Settlement Agreement and this Judgment and that any named plaintiff in any other outstanding class action or putative class action in the Federal Court or any Provincial Court or Territorial Court, which has not been discontinued or dismissed, and who opts back into this Class Action shall agree to dismiss or discontinue such claim.

18. THIS COURT ORDERS AND DECLARES that unless a Class Member successfully opted out of the Action, in accordance with the certification order of Justice Gagné made on June 20, 2016, and did not opt-back in to this Action, this Judgment and the Distribution Plan is binding upon each of the Class Members and each of their respective heirs, executors, administrators and assigns including those who are minors, unborn persons and persons under a disability.

19. THIS COURT ORDERS AND DECLARES that Gaelen Patrick Condon, Rebecca Walker, and Angela Piggott shall each be paid an honorarium in the amount of \$5,000.

20. THIS COURT ORDERS AND DECLARES that:

- (a) on December 20, 2017, this Court appointed Sarkis Isaac to receive any written objections from Class Members and report to the Court;

- (b) Mr. Isaac reported to the Court and his fees plus HST is \$5,650 and this amount is fair, reasonable and is hereby approved;
- (c) on December 20, 2017, this Court ordered an online media campaign to notify the Class of this proposed settlement and of this hearing date and Class Counsel paid \$22,600 for this online media campaign and this amount is fair, reasonable and is hereby approved;
- (d) Class Counsel arranged for Terida Systems Inc. to send notices of this motion to 57,771 putative Class Members at a cost of \$3,946.53 (fee \$3,492.50 plus HST \$454.03) which amount is fair, reasonable and is hereby approved;
- (e) Class Counsel agreed to pay \$282,829.96 to Terida Systems Inc. for a registration system instituted on February 1, 2013 and running to the present. This amount is fair, reasonable and is hereby approved.

21. THIS COURT ORDERS AND DECLARES that the terms of the contingency fee agreements between the Representative Plaintiffs and Class Counsel at 30% plus HST plus reasonable disbursements are fair and reasonable and in the best interests of the Class and these terms are approved.

22. THIS COURT ORDERS AND DECLARES THAT Class Counsel's Fees are calculated as follows:

ITEM	AMOUNT
30% of \$17,500,000	\$5,250,000.00
HST (13%)	682,500.00
Online media campaign	22,600.00
Cost of Class Counsel email notice to 57,771 putative Class Members	3,946.53
Cost of registration system	282,829.96
Cost of Sarkis Isaac for collection of objections	5,650.00
Cost of Class Counsel disbursements, including taxes	134,329.26
Honorariums - \$5,000 each	15,000.00
Total	\$6,396,855.75

23. THIS COURT ORDERS that Strosberg LLP, from the trust money received from the Defendant in this Action:

- (a) must pay the Administrator in accordance with paragraph 5;
- (b) must pay Sarkis Isaac \$5,650.00 for administering Class Member objections;
- (c) must pay Terida Systems Inc. the amount of \$3,946.53 for distributing the notice of this hearing;
- (d) must pay Terida Systems Inc. \$282,829.96 for the registration system;
- (e) must pay each representative plaintiff \$5,000 as an honorarium;
- (f) is authorized and directed to pay to Class Counsel \$6,396,855.75 for the balance of Class Counsel's Fees; and
- (g) is authorized to invest the balance of the Settlement Amount until payment to the Class Members.

24. THIS COURT ORDERS AND DECLARES that Class Counsel's Fees constitute a first charge against the Settlement Amount in favour of Class Counsel.

25. THIS COURT ORDERS that Class Counsel, the Defendant, the Administrator and/or the Arbitrators may make a motion to the Court for directions and Class Counsel may submit any further disbursements to the Court for approval.

26. THIS COURT ORDERS AND DECLARES that no person may bring any action or take any proceeding against the Arbitrators or Administrator or any of their employees, agents, partners, associates, representatives, successors or assigns for any matter in any way relating to the Settlement Agreement, the implementation of this Judgment or the administration of the Settlement Agreement, except with leave of this Court.

27. THIS COURT ORDERS that the Administrator, after completing this administration, including the Actual Loss process, may apply for a discharge as Administrator, giving at least 7 days' notice to Class Counsel and the Defendant.

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

29. THIS COURT ORDERS that Class Counsel shall serve by email a copy of this Judgment upon the Ontario Public Guardian and Trustee.

“Jocelyne Gagné”

Judge

Schedule "A"

**STUDENT LOANS CLASS ACTION
NATIONAL SETTLEMENT**

SETTLEMENT AGREEMENT

Made as at December 5, 2017

	Court File No: T-132-13
	FEDERAL COURT
BETWEEN:	
	GAELAN PATRICK CONDON, REBECCA WALKER ANGELA PIGGOTT
	Plaintiffs
	and
	HER MAJESTY THE QUEEN
	Defendant

PREAMBLE

The Representative Plaintiffs, Gaelen Patrick Condon, Rebecca Walker and Angela Piggott, (together, the "Plaintiffs"), and the defendant Her Majesty the Queen (the "Defendant"), (collectively, the "Parties"), hereby enter into this agreement providing for the settlement of actual and potential claims arising out of or relating to, without limitation, the alleged loss of the external hard drive in control of Human Resources and Skills Development Canada, now known as Employment and Social Development Canada ("ESDC") or the National Student Loan Services Center which contained the personal information of the Plaintiffs and Class Members on or about November 5, 2012, pursuant to the terms and conditions set out herein and subject to the approval of the Federal Court (the "Court") (the "Settlement Agreement").

RECITALS

A. WHEREAS on April 25, 2013, the Plaintiffs commenced a proposed class proceeding in the Federal Court, Court File No. T-132-13, against the Defendant (the “Class Action”);

B. AND WHEREAS the Class Action asserts claims for breach of contract, breach of warranty, breach of confidence, intrusion upon seclusion and negligence on behalf of all persons whose personal information was contained on an external hard drive in the control of ESDC or the National Student Loan Services Center which was allegedly lost on or about November 5, 2012, but not including senior management of ESDC, the Canada Student Loans Program, or Ministers and Deputy Ministers of the Ministry of ESDC;

C. AND WHEREAS the Class Action was certified as a class proceeding by order dated June 20, 2016 and the opt out period has expired;

D. AND WHEREAS the Defendant denies the allegations made in the Class Action, has not conceded or admitted any liability, denies that any damages are payable, and has good defences to the claims in the Class Action;

E. AND WHEREAS the Parties intend by this Settlement Agreement to resolve all past, present and future claims of Class Members in any way arising from or relating to the alleged loss of personal information which was contained in an external hard drive in the control of ESDC or the National Student Loan Services Center on or about November 5, 2012;

F. AND WHEREAS the Parties have engaged in extensive, arms-length negotiations through counsel with substantial experience in complex class proceedings that have resulted in this Settlement Agreement;

G. AND WHEREAS the Parties therefore wish to, and hereby do, fully and finally resolve the Class Action without admission of liability on the part of the Defendant;

H. NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by the Parties that the Class Action be settled and that the Parties shall consent to the Court Order finally approving the settlement on the following terms and conditions:

ARTICLE 1: DEFINITIONS

- 1.1 For the purpose of this Settlement Agreement only, including the Recitals and any Schedules hereto:
- (a) *Account* means an interest bearing trust account under the control of the Claims Administrator at a Schedule 1 chartered Canadian bank. All interest accrued will be added to the fund used to compensate Eligible Class Members. The conversion rate for the Settlement Amount will be the Bank of Canada rate on the date of payment. If the Settlement Amount is not paid when due the Settlement Amount will accrue interest until paid at a rate of 4% per annum;
 - (b) *Actual Loss* means a proven loss by an Eligible Class Member, excluding exemplary and punitive damages, as determined by an Arbitrator, caused by the Alleged Privacy Incident for which the Eligible Class Member has not been otherwise compensated, and the Arbitrator must be satisfied, on the balance of probabilities, that such loss could not have been prevented or limited by the credit protection services offered by the Defendant;
 - (c) *Administration Expenses* means the reasonable fees, disbursements, taxes and any other amounts incurred or payable by the Plaintiffs, Class Counsel, or otherwise for the approval, implementation, and operation of this Settlement Agreement, including the fees, expenses and taxes of the Claims Administrator but excluding:
 - (i) Class Counsel Fees;
 - (ii) the cost paid by the Defendant for one direct mailing to the Class Members;
 - (iii) the costs of the Arbitrator(s), which will be paid by the Defendant; and,
 - (iv) costs of the administration dealing with Actual Losses after the Claims Bar Date, which will be paid by the Defendant;
 - (d) *Alleged Privacy Incident* means the alleged loss on or about November 5, 2012 of the external hard drive in the control of ESDC or the National Student Loan Services Center containing the personal information of the Class Members;
 - (e) *Approval Hearing* means a motion for the approval of the Settlement Agreement at a date, time and place fixed by the Federal Court;
 - (f) *Approval Order* means the Order of the Federal Court approving this settlement in its entirety;

- (g) *Arbitrator* means one or more persons appointed by the Federal Court to serve as an Arbitrator for the purposes of Article 3.3 at the sole cost of the Defendant;
- (h) *Claim* means a properly completed Claim Form submitted by or on behalf of a Class Member and any other required supporting documentation to the Claims Administrator on or before the Claims Bar Date;
- (i) *Claim Form* means the document that enables a Class Member to apply for benefits pursuant to the Settlement Agreement, the content of which, will be agreed upon by counsel for the Parties and approved by the Federal Court;
- (j) *Claimant* means a Class Member whose Claim Form is submitted to the Administrator for evaluation;
- (k) *Claims Bar Date* means the date which is six months after the Effective Date;
- (l) *Claims Administrator* means the entity selected by Class Counsel and appointed by the Federal Court to administer the Settlement Agreement;
- (m) *Class Action* means the action commenced in Federal Court, Court File No. T-132-13, against the Defendant which has been certified as a class proceeding;
- (n) *Class Counsel* means the law firms of Strosberg Sasso Sutts LLP, Charney Lawyers, Branch MacMaster LLP and Bob Buckingham Law;
- (o) *Class Counsel Fees* means the reasonable fees, disbursements and taxes of Class Counsel;
- (p) *Class or Class Members* means all persons whose personal information was contained in an external hard drive in the control of ESDC or the National Student Loan Services Centre which was allegedly lost on or about November 5, 2012, but not including senior management of ESDC, the Canada Student Loans Program or Ministers and Deputy Ministers of the Ministry of ESDC, not including the Opt-Outs, and not including the individuals who are named plaintiffs in any other proceeding against the Defendant in respect of the same subject matter which has not been discontinued within the meaning of rule 334.21(2) of the Federal Court rules;
- (q) *Defendant* means Her Majesty the Queen;
- (r) *Effective Date* means the date on which the Approval Order becomes final;
- (s) *Eligible Class Members* means the Class Members whose Claims Forms are approved by the Administrator;
- (t) *ESDC* means the federal Department of Employment and Social Development Canada, formerly known as the Department of Human Resources and Skills Development Canada;

- (u) *Opt-Out* or *Opt-Outs* means a person or persons who opted out of the Class Action or is deemed to have opted out of the Class Action;
- (v) *Net Settlement Amount* means the Settlement Amount minus Class Counsel Fees and minus the Administration Expenses;
- (w) *Notice* means a notice in a form approved by the Federal Court of (a) the upcoming settlement approval hearing; or (b) the approval of the Settlement Agreement;
- (x) *Parties* means the Plaintiffs on behalf of the Class and the Defendant;
- (y) *Payment* means the amount paid to Eligible Class Members on account of the inconveniences associated with the Alleged Privacy Incident;
- (z) *Plaintiffs* mean Gaelen Patrick Condon, Rebecca Walker and Angela Piggott;
- (aa) *Registration System* means a confidential, secure, encrypted, web-based claim system, hosted in Canada, accessible from a public website:
 - (i) to allow Class Members to register;
 - (ii) once registered, a Class Member must complete and submit a Claim Form provided by the Registration System, his or her asserted Actual Losses, if any, also provided by the Registration System, and upload documents;
 - (iii) to communicate decision by the Claims Administrator; and
 - (iv) to communicate between or among the Claims Administrator and Class Member(s), the Defendant, Class Counsel, the Arbitrator(s) and the Claims Administrator and/or any other person;
- (bb) *Released Claims* means any and all manner of claims, demands, actions, suits and causes of action at common law or under Federal, Provincial or Territorial legislation alleged or which could have been asserted in this Class Action or otherwise, whether direct or indirect, class, individual, or otherwise in nature, whether personal or subrogated, including for damages whenever incurred and liabilities of any nature whatsoever, including interest, costs, expenses, penalties and lawyer fees that the Releasers, or any one of them, whether directly, indirectly, representatively, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have against the Releasee, whether known or unknown, relating in any way to any act or omission by the Releasee prior to the execution of this Settlement Agreement;
- (cc) *Releasee* means the Defendant Her Majesty the Queen in Right of Canada, The Attorney General of Canada, Her and their respective representatives, employees, agents, servants, predecessors, successors, executors, administrators, heirs and assigns;

- (dd) *Releasors* means, jointly, jointly and severally, individually and collectively, the Class Members and their respective executors, administrators, and heirs but not including Opt-Outs and not including the individuals who are named plaintiffs in any other proceeding against the Defendant in respect of the same subject matter which has not been discontinued within the meaning of rule 334.21(2) of the Federal Court rules;
- (ee) *Representative Claimants* means personal representatives, executors, administrators, heirs, assigns and trustees of Class Members;
- (ff) *Settlement Agreement* or *Settlement* means this agreement, including the recitals and schedules hereto;
- (gg) *Settlement Amount* means \$17,500,000; and
- (hh) *Surplus Fund* means the balance remaining, if any, calculated as the Net Settlement Amount minus the Payment to each Eligible Class Member.

1.2 Notwithstanding the definition of Class or Class Members in Articles 1.1(p):

- (a) any named plaintiff in any other outstanding class action or putative class action in the Federal Court or any Provincial Court or Territorial Court which has not been discontinued or dismissed; or
- (b) any Class Member who previously opted out of this Class Action

may opt into this Class Action by the Claims Bar Date by submitting a Claim Form to the Administrator.

ARTICLE 2: CONDITION PRECEDENT, COURT APPROVAL

2.1 This Settlement Agreement shall be null and void and of no force or effect, unless:

- (a) the Federal Court approves this Settlement Agreement; and
- (b) the Approval Order becomes final.

2.2 For greater certainty, the Approval Order becomes final when the time for appealing or seeking leave to appeal the judgment or order has expired without an appeal being taken or leave to appeal being sought or, in the event that an appeal is taken or leave to appeal is sought, when such appeal or leave to appeal and such further appeals as may be taken have been disposed of and the time for further appeal, if any, has expired.

2.3 Motions

- (a) The Plaintiffs shall first file a motion before the Federal Court for an order:

- (i) approving the form and content of the notice advising the Class Members of the proposed settlement (“Settlement Approval Hearing Notice”) and the dissemination plan thereof;
 - (ii) approving Sarkis Isaac to receive any objections to the proposed settlement; and
 - (iii) setting the date, time and place of the Approval Hearing;
- (b) The Plaintiffs shall file a second motion for approval of this Settlement Agreement;
- (c) The Orders referred to in paragraph 2.3(a) and (b) shall be in a form agreed upon by Class Counsel and counsel for the Defendant and approved by the Federal Court.

ARTICLE 3: SETTLEMENT BENEFITS

3.1 Payment of Settlement Amount

- (a) Within seven (7) days of the Effective Date, the Defendant shall pay the Settlement Amount to Strosberg Sasso Sutts LLP in trust.
- (b) Strosberg Sasso Sutts LLP will pay from trust:
 - (i) Class Counsel Fees approved by the Federal Court;
 - (ii) From time to time, the Administration Expenses approved by the Federal Court; and
 - (iii) the remainder, the Net Settlement Amount, shall be paid to the Claims Administrator for payment to the Class Members as set out below.
- (c) Strosberg Sasso Sutts LLP or the Claims Administrator will invest the monies referred to in section 3.1 in bankers acceptance issued by a Schedule I chartered Canadian bank. All interest accrued will be added to the fund used to compensate Eligible Class Members.
- (d) Strosberg Sasso Sutts LLP or the Claims Administrator shall maintain the Account as provided for in this Settlement Agreement and shall not pay out any monies from the Account, except in accordance with the provisions of this Settlement Agreement, without an order of the Federal Court made on notice to or on consent of the Parties.

3.2 Payment to the Eligible Class Members

- (a) The Claims Administrator will pay \$60 from the Net Settlement Amount to each Eligible Class Member. If the Net Settlement Amount is insufficient, the \$60 Payment will be reduced on pro-rata basis. The Claims Administrator may make electronic payments or other payments to Eligible Class Members.
- (b) As soon as practicable after the Claims Bar Date, the Claims Administrator will pay the Payment to the Eligible Class Members.

3.3 Actual Losses by Eligible Class Members

- (a) The cost of the Arbitrator(s) and the costs of administration dealing with Actual Losses after the Claims Bar Date will be paid by the Defendant.
- (b) Amounts paid to Eligible Class Members for Actual Losses will first be paid from the Surplus Fund, if any, but thereafter shall be paid directly by the Defendant, with no cap on the ultimate amount to be paid for Actual Losses to each Eligible Class Member.

3.4 Shortfall or *Cy Pres* Distribution

- (a) In the event that the total amount of each \$60 Payment, payable to each Eligible Class Member, is more than the Net Settlement Amount, the Payment to each Eligible Class Member shall be reduced on a *pro rata* basis.
- (b) In the event that there is a balance remaining in the Surplus Fund, it shall first be applied to satisfy the claims of the Eligible Class Members whom the Arbitrator determines suffered an Actual Loss and thereafter any amount remaining in the Surplus Fund shall be paid out *cy-pres* to qualified donee(s) selected by the Parties and approved by the Federal Court

3.5 Funds

- (a) All funds held by the Claims Administrator shall be deemed and considered to be in *custodial legis* of the Federal Court, and shall remain subject to the jurisdiction of the Federal Court until such time as such funds shall be distributed pursuant to the Settlement Agreement and/or further order of the Federal Court.
- (b) All taxes payable on any interest which accrues on the Settlement Amount in the Account or otherwise in relation to the Settlement Amount, shall be the sole responsibility of the Claims Administrator. The Claims Administrator in consultation with Class Counsel shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Account.

- (c) The Defendant, the Plaintiffs and Class Counsel shall have no responsibility to make any tax filings relating to the Account and shall have no responsibilities to pay tax on any income earned by the Settlement Amount or pay any taxes on the monies in the Account unless anyone of Class Counsel agrees to pay tax on any income earned on the Settlement Amount.

ARTICLE 4: ADMINISTRATION AND IMPLEMENTATION

4.1 Mechanics of Administration

- (a) Except to the extent provided for in this Settlement Agreement, the mechanics of the implementation and administration of this Settlement Agreement shall be determined by the Federal Court on motion brought by the Parties, or any of them.

4.2 Administration

- (a) The Federal Court shall appoint a Claims Administrator, approve the Registration System, and approve the payments to Eligible Class Members under section 3.2(a).

4.3 Notices

- (a) The Class Members will be advised of the Approval Hearing by:
 - (i) disseminating the Notice through an online media campaign approved by the Federal Court;
 - (ii) Class Counsel may send the emails themselves or retain Envoke.com or another Canadian company to send an email advising of the Approval Hearing and attaching the Notice to the Class Members who have registered with Class Counsel and provided a valid email address; and
 - (iii) posting a downloadable version of the Notice on the www.studentloansclassaction.com website.
- (b) If the Federal Court approves the Settlement Agreement, the Class Members will be provided notice:
 - (i) by the Defendant, at its own expense, sending the notice by direct mail to the Class Members whose mailing addresses are believed by the Defendant to be current and whose previous notice of certification was not returned as undeliverable;

- (ii) by Class Counsel posting the Notice on the www.studentloansclassaction.com website ; and
 - (iii) by the Claims Administrator sending the emails itself or retaining Envoke.com or another Canadian company to send an email to the Class Members, who registered with Class Counsel and provided a valid email address, advising them of the Settlement Agreement and the www.studentloansclassaction.com website from which the Notice can be downloaded, and the Registration System accessed.
- (c) Class Counsel and the Defendant acknowledge that no notices shall be disseminated anywhere until such time as they are approved by the Federal Court.

4.4 Duties of Claims Administrator

- (a) The Claims Administrator will:
 - (i) implement the approved Registration System;
 - (ii) receive from the Defendant, in a mutually agreed format between the Defendant and the Claims Administrator, the list of Class Members, their Student Loan Numbers and their mailing addresses believed by the Defendant to be current, and, if available, their email addresses by secure transmission;
 - (iii) receive Claim Forms from the Class Members using the Registration System's electronic version of the Claim Form only;
 - (iv) receive affidavits from Class Members by the Registration System only as an uploaded document;
 - (v) deliver monthly reports to the Defendant and Class Counsel information about the Eligible Class Members who claim Actual Losses;
 - (vi) advise Claimants whether they are Eligible Class Members by the Registration System only; and
 - (vii) implement the approved electronic payment process, and advise Eligible Class Members of the electronic payment process by the Registration System only.
- (b) If a person is not listed as a Class Member, she or he must upload into the Registration System an affidavit ("Affidavit") stating that she or he obtained a student loan and explaining why he or she is an Eligible Class Member.
- (c) If a person delivers an Affidavit, she or he will be deemed to be a Class Member for the Payment but,

- (i) if she or he asserts an Actual Loss, she or he must prove eligibility as a Class Member on the balance of probabilities; and,
- (ii) the Affidavit is subject to review by the Administrator and the Administrator may determine that the person is not an Eligible Class Member.

4.5 Actual Losses

- (a) On motion by the Defendant, the Federal Court will appoint an Arbitrator(s) who serves or served as Deputy Small Claims Court judge in the Province of Ontario and/or other individual(s) as the Federal Court may approve, with similar qualifications.
- (b) Eligible Class Members may apply for compensation for Actual Losses in the Registration System only on or before the Claims Bar Date.
- (c) The sole issues for the Arbitrator to determine are whether an Eligible Class Member suffered an Actual Loss on a balance of probabilities, and if so, the Arbitrator will assess damages; and, for greater certainty:
 - (i) The Defendant may assert all defences available at law;
 - (ii) If an Eligible Class Member did not use the credit protection services offered by the Defendant, the Arbitrator shall consider whether the credit protection services offered by the Defendant would have prevented or reduced the Actual Loss;
 - (iii) If the person was deemed to be an Eligible Class Member as set out in Article 4.4 (c), the person must establish on a balance of probabilities that his or her personal information was on the hard drive lost in the Alleged Privacy Incident.
- (d) The Defendant and Class Counsel may consult with some or all of the Arbitrator(s) to design a hearing process to decide Actual Loss. This process will be submitted to the Federal Court for approval. This hearing process, in the discretion of the Arbitrator, may allow for an in person hearing. The decision of the Arbitrator must be in writing. The Defendant and/or a Class Member have a right to appeal to the Prothonotary of the Federal Court.
- (e) The Claims Administrator will provide to the Arbitrator(s) access to the Registration System, on a read only basis, the name and contact information for any Eligible Class Member, and the Actual Loss application of any Eligible Class Member who alleges that they had an Actual Loss prior to the Claims Bar Deadline.

ARTICLE 5: RELEASES AND DISMISSALS

5.1 Releases

The Federal Court will order and declare that:

- (a) Upon the Effective Date, the Releasors forever and absolutely release, acquit, and discharge the Releasee from the Released Claims.
- (b) For the consideration provided herein, the Releasors agree not to make any claim or take, commence or continue any proceedings arising out of or relating to the subject matter of the Released Claims against any other person, corporation or entity which might claim damages and/or contribution and indemnity and/or other relief under the provisions of the *Negligence Act*, R.S.O. 1990, c N.1 or other comparable Federal, Provincial or Territorial legislation and any amendments thereto, the common law, or any other statute for any relief whatsoever, including relief of a monetary, declaratory or injunctive nature, from the Releasee.
- (c) The Parties intend that the Settlement Agreement will be approved by the Federal Court and will order the dismissal of all claims asserted or which could have been asserted by Class Members on the terms set forth herein.
- (d) Without limiting any other provision herein, each Class Member whether or not he/she receives a payment, will be deemed by the Settlement Agreement completely and unconditionally to have released and forever discharged the Releasee from any and all Released Claims, including all claims, actions, causes of action, suits, debts, duties, accounts, bonds, covenants, contracts and demands whatsoever, known or unknown, that were or could have been asserted in the litigation that is the subject of this Settlement Agreement.
- (e) The Parties agree that each Class Member, whether or not he/she receives a payment, will be forever barred and enjoined from continuing, commencing, instituting or prosecuting any action, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum or any other forum, directly, representatively or derivatively, asserting against the Defendant and Releasee, any claims that relate to or constitute any Released Claims covered by this Settlement Agreement.
- (f) Except for the relief ordered by the Approval Order, this Class Action is dismissed without costs.

ARTICLE 6: DISMISSAL OF OTHER KNOWN CLASS ACTIONS

6.1 Outstanding Class Actions

- (a) The Plaintiffs and Defendant will cooperate to stay or dismiss or limit all known class actions, but will not attempt to prohibit the remaining actions as individual actions.

ARTICLE 7: TERMINATION OF SETTLEMENT AGREEMENT

7.1 No approval by the Federal Court

- (a) If this Settlement Agreement is not approved by the Federal Court:
 - (i) Subject to any costs paid by the Defendant for Notice, the Settlement Agreement shall be null and void and shall have no force or effect, and the Parties shall not be bound by its terms; and
 - (ii) All negotiations, statements and proceedings relating to the Settlement Agreement shall be deemed to be without prejudice to the rights of the Parties and the Parties shall be deemed to be restored to their respective positions existing immediately before it was executed.
- (b) The Parties expressly reserve all of their respective rights to the extent that the Federal Court does not approve this Settlement Agreement.

ARTICLE 8: LEGAL FEES AND DISBURSEMENTS

8.1 Motion to Approve Fees and Disbursements

- (a) Class Counsel will bring a motion to the Federal Court for approval of Class Counsel Fees at the same time as the Approval Hearing. Such Fees, disbursements and taxes are awarded at the discretion of the Federal Court after hearing from Class Counsel. The Defendant will not take any position with respect to the amount of Fees requested by Class Counsel.

- (b) Class Members who have retained, or who retain lawyers, to assist them in respect of payments from this Settlement, shall be personally responsible for the legal fees and expenses of such lawyers and neither Class Counsel nor the Defendant have any responsibility for these retainers or awards that may be made.

ARTICLE 9: NO ADMISSION OF LIABILITY

9.1 No Admission of Liability Generally

- (a) The Parties agree that, whether or not this Settlement Agreement is approved or is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussion and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Releasee, or of the truth of any of the claims or allegations made in the Class Action or in any other pleading filed by the Plaintiffs.
- (b) The Parties further agree that, whether or not this Settlement Agreement is approved or terminated, neither this Settlement Agreement nor any document relating to it shall be offered in evidence in any action or proceeding in any court, agency or tribunal, except to seek court approval of this Settlement Agreement or to give effect to and enforce the provisions of this Settlement Agreement.

9.2 Releasee Has No Liability for Administration

- (a) The Releasee has no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement except as expressly provided herein.

ARTICLE 10: MISCELLANEOUS

10.1 Best Efforts:

- (a) The Parties shall use their best efforts to effectuate this Settlement Agreement.

10.2 Motions for Directions

- (a) The Plaintiffs, Class Counsel, Claims Administrator and the Defendant may apply to the Federal Court for directions in respect of the interpretation, implementation, and administration of this Settlement Agreement.
- (b) All motions contemplated by this Settlement Agreement, including applications to the Federal Court for directions, shall be on notice to the Parties.

10.3 Timing

- (a) Class Counsel will make their best efforts to bring the motions to approve the form of Notice being provided to the Class Members and to approve the Settlement Agreement as soon after the execution of the Settlement Agreement as possible.

10.4 Headings, etc. in this Settlement Agreement

- (a) The division of the Settlement Agreement into Articles and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement.
- (b) The terms “this Settlement Agreement”, “the Settlement Agreement”, “hereto”, “hereunder”, “herein” and similar expressions refer to this Settlement Agreement and not to any particular section or portion of this Settlement Agreement.

10.5 Ongoing Jurisdiction

- (a) The Federal Court shall retain exclusive jurisdiction over all matters relating to the implementation and enforcement of this Settlement Agreement.

10.6 Entire Agreement

- (a) This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes any and all prior and contemporaneous understandings, undertakings, negotiations, representations, communications, promises, agreements, agreements in principle, and memoranda of understanding in connection herewith. The Parties agree that they have not received or relied on any agreements, representations or promises other than as contained, or referred to, in this Settlement Agreement. None of the Parties shall be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.
- (b) This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto, and any such modification or amendment must be approved by the Federal Court.

10.7 Binding Effect

- (a) Once the Settlement Agreement is approved by the Federal Court, this Settlement Agreement shall be binding upon and inure to the benefit of the Plaintiffs, Eligible Class Members, Releasers, Releasee, Defendant, Class Counsel, Arbitrator and the Claims Administrator.

10.8 Assignment

- (a) No amount payable under this Agreement can be assigned and such assignment is null and void except as expressly provided for in this Agreement. This Agreement permits an assignment in the event of death, disability and/or bankruptcy.

10.9 Survival

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

10.10 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 an electronically scanned or facsimile signature shall be deemed an original signature for the purposes of executing this Settlement Agreement. This Settlement Agreement may be delivered and is fully enforceable in either original, facsimile or other electronic form provided that it is duly executed.

10.11 Negotiated Agreement

- (a) This Settlement Agreement has been the subject of negotiations and discussions among the Parties, each of whom 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 drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained or not contained in the previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

10.12 Dates

- (a) Dates referred to in this Settlement Agreement may be altered with the written consent of the Parties and with the approval of the Federal Court.

10.13 Language

- (a) The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English.

10.14 French Translation

- (a) A working French translation of this Settlement Agreement, and all notices pursuant to this Settlement Agreement shall be prepared and paid from the amount reserved for Administration Expenses and made available to Class Members upon request. In case of any conflicting interpretations, the English version shall prevail.
- (b) The Claim Form will be available in English and French and the Administrator shall have English and French speaking persons available to assist any Class Member.

10.15 Statements to Media

- (a) The Parties agree that no public statements shall be made regarding the Class Action or the Settlement which are in any way inconsistent with the terms of the Settlement Agreement. In particular, the Parties agree that any public statements regarding the Class Action will indicate clearly that the Settlement has been negotiated, agreed and approved by the Federal Court without any admission or finding of liability or wrongdoing, and without any admissions or conclusions as to the truth of any of the facts alleged in the Class Action, all of which are specifically denied by the Defendant.
- (b) Each Party agrees not to disparage the opposite Parties or their counsel with respect to any of the matters in issue in the Class Action or the manner in which the Settlement was conducted.

10.16 Recitals

- (a) The recitals to this Settlement Agreement are true and form part of the Settlement Agreement.

10.17 Schedules

- (a) The Schedules, if any, form part of this Settlement Agreement.

10.18 Acknowledgements

- (a) Each of the Parties hereby affirms and acknowledges that:
 - (i) He/she, or a representative of the Party, with the authority to bind the Party with respect to the matters set forth herein, has read and understands the Settlement Agreement;
 - (ii) The terms of this Settlement Agreement and the effects thereof have been fully explained to him/her, or the Party's representative, by his/her or the Party's counsel;

For Defendant:

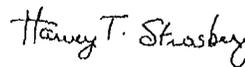
Catharine Moore/Travis Henderson

Nathalie G. Drouin
Deputy Attorney General of Canada
Department of Justice
50 O'Connor St.
Ottawa, ON K1A 0H8
Tel: 613.670.6317
Fax: 613.941.5879
Email: Catharine.Moore@justice.gc.ca
Travis.Henderson@justice.gc.ca

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

COUNSEL FOR PLAINTIFFS AND
ON BEHALF OF CLASS

COUNSEL:



Harvey T. Strosberg, Q.C.
Strosberg Sasso Sutts LLP
1561 Ouellette Avenue
Windsor ON N8X 1K5

FOR DEFENDANT:



Mark Perlman
Chief Financial Officer
Employment and Skills Development
Canada
140 Promenade du Portage
Gatineau, Québec
Canada

Schedule "B"

**CANADA STUDENT LOANS PRIVACY BREACH CLASS ACTION
NOTICE OF SETTLEMENT APPROVAL**

**WERE YOU A CANADA STUDENT LOANS BORROWER BETWEEN 2000 AND
2007?**

**IF SO, YOU MAY BE ABLE TO COLLECT MONEY OWED TO YOU FROM A
CLASS ACTION SETTLEMENT.**

VISIT WWW.STUDENTLOANSCCLASSACTION.COM

WHAT HAPPENED?

A class action lawsuit alleged that on November 5, 2012, Human Resources and Skills Development Canada ("HRSDC", now known as Employment and Social Development Canada) or the National Student Loan Services Centre lost an external hard drive that contained personal information of individuals who were student loans borrowers between 2000 and 2007.

The class action settled and now it is time to pay money to the people who had their information contained on the lost hard drive ("Class Members").

This notice sets out how Class Members can make claims for compensation and the deadline for doing so.

THE SETTLEMENT

The defendant paid \$17,500,000 ("Settlement Amount") plus an unlimited amount for Actual Losses to settle the class action in return for a release and a dismissal of the lawsuit.

HOW MUCH MONEY CAN I GET?

Class Members who suffered inconvenience

Class Members will receive \$60 on account of the inconvenience associated with the loss of their personal information (the "Payments"). The Payments are intended to compensate Class Members for time spent responding to the potential privacy breach, estimated to be on average about four hours less legal fees and the costs of administration. In the event that the total amount of the approved claims by Class Members exceeds the amount of money available from the Settlement Amount, the Payments will be reduced proportionally.

CLASS MEMBERS WHO SUFFERED ACTUAL LOSSES

You can also claim additional amounts for any actual losses that you suffered and have not been reimbursed for ("Actual Losses"). Actual Losses must be as a result of your personal information being contained on the lost hard drive. An arbitrator will determine whether you suffered Actual Losses and, if so, assess your individual damages.

HOW DO I MAKE A CLAIM?

You can make a claim by going to www.studentloansclassaction.com and completing the brief online claim form. You must complete a claim form before January 18, 2019 @ 5:00 pm EDT.

If you are making a claim for a \$60 Payment on account of inconvenience, you only need to submit the information required on the claim form.

If you are making a claim for actual losses, you still need to submit a claim form and you also need to submit documents that show the losses you suffered and documents that prove those losses were a result of the lost hard drive. Further instruction on how to make a claim for Actual Losses can be found at www.studentloansclassaction.com.

WHO CAN MAKE A CLAIM?

You can make a claim if your information was contained on the lost hard drive. If you received a letter from the government informing you that your personal information was lost, you are a Class Member. If you did not receive that letter but believe your personal information was on the lost hard drive, you can check with the Claims Administrator or call the ESDC hotline at 1-866-885-1866 (or 1-416-572-1113 for those outside of North America) to confirm whether or not you are a class member.

WHEN DO I NEED TO MAKE MY CLAIM?

You must submit your claim form before January 18, 2019 @ 5:00 pm EDT. If your claim form is not submitted before the deadline, you will not be eligible to receive compensation.

I OPTED OUT OF THE CLASS ACTION. CAN I STILL MAKE A CLAIM?

Yes. If you opted out of the class action, you can still make a claim if you want to participate in the settlement.

DOES IT COST ANYTHING TO MAKE A CLAIM?

No, it does not cost anything to make a claim.

WHEN WILL I RECEIVE MONEY?

It is hoped that approved claims will be processed by [DATE RANGE]. The Claims Administrator will send out notices to everyone who filed a claim. Once all claims are processed, the Claims Administrator will send claimants an electronic transfer of funds.

I HAVE MORE QUESTIONS. WHO CAN I TALK TO?

For questions regarding this notice or the settlement please go to www.studentloansclassaction.com or email your questions to:

BRANCH MACMASTER LLP
Chelsea Hermanson
1410 – 777 Hornby Street, Vancouver, BC V6S 1S4
Email: chermanson@bramac.com

CHARNEY LAWYERS
Tina Yang
602-151 Bloor Street W, Toronto, ON M5S 1S4
Email: tinay@charneylawyers.com

STROSBERG SASSO SUTTS LLP
Sharon Strosberg
1561 Ouellette Avenue, Windsor, ON N8X 1K5
Email: sharon@strosbergco.com

BOB BUCKINGHAM LAW
Bob Buckingham
81 Bond Street, St. John's, NL A1C 1T2
Email: bob@buckinghamlaw.ca

INTERPRETATION

This Notice has been approved by the Court and is a summary of some of the terms of the settlement. If there is a conflict between the provisions of this Notice and the terms of the Settlement Agreement, the Settlement Agreement prevails. The complete executed Settlement Agreement can be viewed at www.studentloansclassaction.com.

Schedule "C"



February 16, 2018

Branch MacMaster LLP
Attention: Luciana Brasil/Chelsea Hermanson
1410-777 Hornby Street
Vancouver, BC V6Z 1S4

RE: Student Loans Settlement Agreement – Offer of Administrative Services

Crawford and Company (Canada) Inc., ("Crawford") by way of this letter is offering to provide its services as Settlement Administrator through appointment by the supervising court in accordance with the terms its Settlement Agreement in reference to Federal Court Docket No. T-132-13.

The Administrator has a background in class action settlement administration and is willing to provide services to Court based on its experience.

Crawford's service offering is as follows:

1. DESCRIPTION OF SERVICES Beginning on or about February 28, 2018, the Administrator will provide the following services (collectively, the "Services"):

In accordance with Part 4.4 and specifically section 4.4 (a) of the settlement agreement the Administrator shall:

- Implement the approved Registration System;
- receive from the Defendant the list of Class Members, their Student Loan Numbers and their mailing addresses and if available their email address;
- receive electronic Claim Forms and, if applicable, an electronic application for arbitration for Actual Loss using only the Registration System;
- deliver monthly reports to the Defendant and Class Counsel with information about the Eligible Class Members who claim Actual Losses and those who made \$60 claims;
- advise Claimants whether they are Eligible Class Members (or not) by the Registration System only; and, implement the approved electronic payment process, and advise Eligible Class Members of the electronic payment process by the Registration System only.

The Administrator will be guided by the Settlement Agreement under Part 4.4 as it relates to other duties and procedures required to ensure all claims are reviewed and deemed eligible or not eligible for payment.

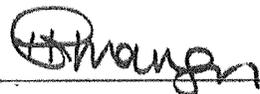
2. **PERFORMANCE OF SERVICES.** The manner in which the Services are to be performed and the specific hours to be worked by the Administrator shall be determined by the Administrator and the Court

Services will be billed monthly based on an estimated class size of 583,000 and a take up rate of 30%. Costs will be \$316,757.65 (gross). If take up is more than 30% a flat fee of \$1.65 (gross) per claim will be billed thereafter. If take up is less than 30% the Administrator will rebate/refund \$2.06 per claim down to 15% take up. There will be a guaranteed minimum payment to the Administrator of \$200,047.57 (gross) on this project.

3. **REPORTING AND DISCHARGE.** Crawford as the Administrator must report to the supervising Court, the Defendant and Class Counsel as mandated by the terms of the Settlement Agreement. Crawford's mandate as the Settlement Administrator shall terminate upon completion discharge of their mandate by the supervising court.

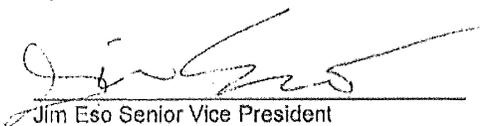
Class Counsel:

By: *Chelsea Hermanson*



Crawford and Company (Canada) Inc.:

By:



Jim Eso Senior Vice President

I have authority to bind this corporation