

JOYCE BERNSTEIN

v.

PEOPLES TRUST COMPANY AND PEOPLES CARD SERVICES LLP

PROPOSED ADMINISTRATION AND DISTRIBUTION PROTOCOL

SUBJECT TO COURT APPROVAL

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A. DEFINITIONS

1. For the purposes of this Administration and Distribution Protocol, the following definitions will apply:

- a) “**Action**” means *Bernstein v. Peoples Trust Company et al.*;
- b) “**Administration Form**” means the form developed for the administration process that a Class Member must complete and submit by the Filing Deadline;
- c) “**Cardholder**” means a holder of a GPR and/or a SLP;
- d) “**Claimant**” means a Class Member who claims compensation from the Distribution Fund;
- e) “**Claims Administrator**” means the entity appointed by the Court to administer the Settlement Agreement and the Distribution Protocol in accordance with this Protocol as approved by the Court, and any employees of such firm;
- f) “**Class Counsel**” means Sotos LLP and Goldblatt Partners LLP;
- g) “**Class Members**” means all “consumers” within the meaning of the *Consumer Protection Act, 2002* who were Cardholders between November 29, 2011 and April 30, 2014 of GPRs and/or SLPs;
- h) “**Class Period**” means November 29, 2011 to April 30, 2014;
- i) “**Court**” means the Ontario Superior Court of Justice;
- j) “**Distribution Fund**” means the portion of the Settlement Amount remaining after deductions in respect of Administration Expenses, Class Counsel Disbursements, Class Counsel Fees, and CPF Levy, to be paid out to Class Members pursuant to the Distribution Protocol;
- k) “**GPR**” means the general purpose reloadable cards at issue in the Action;
- l) “**Notice Provider**” means the entity appointed by the Court to distribute and communicate the Settlement Approval Notice to Class Members in accordance with this Protocol as approved by the Court, and any employees of such firm;
- m) “**Settlement Agreement**” means the settlement agreement as approved by the Court;
- n) “**Settlement Amount**” means \$17,000,000.00 (CDN);

- o) “**Settlement Class**” or “**Settlement Class Member**” means Ontario consumers who were cardholders of the following Peoples Trust prepaid Visa or MasterCard payment cards between November 29, 2011 and April 30, 2014:

Non-Reloadable Prepaid Cards (SLP):

- Vanilla Prepaid Visa or MasterCard
- Give and Go Prepaid Visa
- House Points
- The Ideal Choice/Online Payment Card MasterCard
- Shell Non-Reloadable MasterCard

Reloadable Prepaid Cards (GPR):

- Nextwave Titanium+ Prepaid Visa
- EPIC Prepaid MasterCard
- Evolve Prepaid Visa
- HorizonPlus Prepaid MasterCard
- PTC Company US Dollar Prepaid MasterCard
- Shell Prepaid Reloadable MasterCard
- YesCard Prepaid Visa

- p) “**Settlement Website**” means <http://www.prepaidclassaction.ca>, the website designed and published for the purpose of providing notice to Class Members, description of this Action and the Settlement Process and containing a portal for Class Members to make electronic claims; and

- q) “**SLP**” means the single-load payment cards at issue in the Action;

B. GENERAL PRINCIPLES OF THE ADMINISTRATION

2. This Administration and Distribution Protocol is intended to govern the administration process to distribute the Distribution Fund recovered in the Action. This protocol is designed and intended to result in payment to the highest possible proportion of Class Members. To this end, Class Members who submit valid claims to the Claims Administrator will be automatically entitled to a *per capita* share of the Distribution Fund.

C. THE CLAIMS ADMINISTRATOR AND NOTICE PROVIDER’S DUTIES AND RESPONSIBILITIES

3. The Claims Administrator and Notice Provider shall administer this Administration and Distribution Protocol in accordance with the provisions of the Orders of the Court, the Settlement Agreement and the ongoing authority and supervision of the Court.

4. The Claims Administrator's duties and responsibilities shall include the following:
- a) receiving information from Class Counsel, including Class Members' names and contact information, where available;
 - b) emailing the Notice to all email addresses provided to Class Counsel by the Defendants;
 - c) developing, implementing and operating the administration process;
 - d) making calculations of Class Members' entitlements under this protocol;
 - e) arranging payment to Class Members;
 - f) reporting the results of the administration process and the intended distributions to Class Counsel in a timely fashion;
 - g) performing such recalculation of the distributions as may be required by Class Counsel or if ordered by the Court;
 - h) maintaining the administration information so as to permit Class Counsel to audit the administration at the discretion of Class Counsel or if ordered by the Court;
 - i) dedicating sufficient personnel to respond to Class Members' inquiries;
 - j) remitting amounts payable to the Class Proceeding Fund;
 - k) reporting to Class Counsel respecting Claims received and administered and administration expenses;
 - l) holding the Distribution Fund in an interest-bearing trust account at a Schedule 1 bank in Canada and making all payments from the Distribution Fund from that account as authorized;
 - m) cash management and audit control; and
 - n) preparing and submitting reports and records as directed by Class Counsel or the Court.

5. The Notice Provider's duties and responsibilities will include the following:

- a) receiving information from Class Counsel, including Class Members' names and contact information, where available;
- b) emailing the Notice to all email addresses available for Class Members;

- c) providing notice to Class Members through electronic means such as Google Display Network, Facebook, Instagram and YouTube;
- d) publishing electronic advertisements targeting Class Members;
- e) sending the Text Message Notice to phone numbers available for Class Members;
- f) reporting the results of the notice delivery process to Class Counsel in a timely fashion; and
- g) preparing and submitting reports and records as directed by Class Counsel or the Court.

D. THE ADMINISTRATION PROCESS

6. Generally, the Claims Administration Process will be as follows:

- a) **Division of Distribution Fund into Pool A and Pool B:** The Distribution Fund will be divided into two pools: **Pool A** will consist of 29.2% of the Distribution Fund and will be payable to Class Members who possessed GPRs; and, **Pool B** will consist of 70.8% of the Distribution Fund and will be payable to Class Members who possessed SLPs;
- b) **Submission of Claims:** Class Members will submit claims for compensation from either Pool A or Pool B, depending on what type of card they held.
 - i. Each Claimant with a valid claim will be entitled to be paid, on a *per capita* basis, up to the average amount of fees and expired balances incurred by Class Members who held either a GPR (Pool A) or an SLP (Pool B).
 - ii. Claims will be encouraged to submit claims via electronic portal on the Settlement Website, but will be permitted to submit a paper claim, by mail, upon request.
 - iii. Claim Forms will be in form set out at “Appendix A”.
 - iv. Class Members will be limited to one claim per individual for each pool.
- c) **Deficiencies:**
 - i. Electronic claims will not be accepted for submission until Claimants have completed all required information;
 - ii. Claimants who submit a deficient paper claim will be notified by the Claims Administrator via email or telephone that their claim is deficient and be given a single opportunity to cure any deficiencies within 15 days,

following which the claim will be rejected if the deficiency has not been cured.

- d) **Validation:** The Claims Administrator will validate claims by:
 - i. reviewing the Claim Forms to determine whether they have been fully completed;
 - ii. ensuring that a Claimant has attested that he or she meets the criteria of the Settlement Class;
 - iii. ensuring that Claimants in respect of Pool A match the contact information provided by Class Counsel.
- e) **Undersubscription:** In the event that:
 - i. either pool is undersubscribed, the payout may be increased up to two times (2x) the average amount of fees and expired balances incurred by Class Members who held the type of card attributable to that pool;
 - ii. either pool remains undersubscribed after the re-allocation described in paragraph (i) above, the remaining balance may be re-allocated to the other pool up to the payout described in paragraph (i) above;
 - iii. either pool is oversubscribed, each claim under that pool will be discounted on a *pro rata* basis.
- f) **Payments to Class Members:** The Claims Administrator will make payments to claimants via e-transfer. At the request of claimants, the payment may also be made by cheque.
- g) **Report to the Court:** The Claims Administrator will provide a report on the results of the Administration and Distribution to Class Counsel, who will report to the Court.

E. CLASS COUNSEL

- 7. Class Counsel shall oversee the claims process and provide advice and assistance to the Claims Administrator and the Notice Provider regarding this Administration Protocol and Distribution Protocol and the claims process.

F. RESIDUAL DISCRETION

8. Notwithstanding the foregoing, if, during the Administration Process, Class Counsel have reasonable and material concerns that the Administration and Distribution Protocol is producing an unjust result on the whole or to any material segment of the Class Members or that a modification is required or recommended, they shall move to the Court for approval of a reasonable modification to this Administration and Distribution Protocol or for further directions with respect to the distribution of the Distribution Fund.
9. In arriving at a determination that an unjust result is occurring or that a modification is required or recommended, and in considering what modification may be required, Class Counsel may seek comments or input from the Defendants and/or the Claims Administrator.

G. RESIDUAL DISTRIBUTION

10. If there remains any amount of the Distribution Fund after the distribution has been made to all valid claims in accordance with the provisions of this Administration and Distribution Protocol (as modified, if applicable), Class Counsel shall make an application to the Court to determine how such funds should be distributed. In preparing a proposal in respect of how to distribute any excess monies, Class Counsel will consider all relevant factors, including the utility and efficacy of a *cy près* distribution, if appropriate.

H. CONFIDENTIALITY

11. All information received from Class Counsel, the Defendants and/or the Class Members is collected, used and retained by the Claims Administrator and Notice Provider pursuant to, *inter alia*, the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 for the purpose of administering the claims of the Class Members.

APPENDIX “A”

CLAIMS FORM

Instructions:

- **Fill out all information requested below.**
- **Claims are limited to one per individual.**
- **All information must be true and accurate to the best of your ability.**
- **Incomplete claims will be rejected**

1.	Name:	First Name Last Name		
2.	Address	Address Line 1 Address Line 2 Unit City Province Postal Code		
3.	Date of Birth	Day	Month	Year
4.	Email	Email		
5.	Telephone Number	Telephone		
6.	Were you a Cardholder of one of the following Peoples Trust prepaid Visa or MasterCard payment cards between November 29, 2011 and April 30, 2014:	<p>Non-Reloadable Prepaid Cards:</p> <input type="checkbox"/> Vanilla Prepaid Visa or MasterCard <input type="checkbox"/> Give and Go Prepaid Visa <input type="checkbox"/> House Points <input type="checkbox"/> The Ideal Choice/Online Payment Card MasterCard <input type="checkbox"/> Shell Non-Reloadable MasterCard <p>Reloadable Prepaid Cards:</p> <input type="checkbox"/> Nextwave Titanium+ Prepaid Visa <input type="checkbox"/> EPIC Prepaid MasterCard <input type="checkbox"/> Evolve Prepaid Visa <input type="checkbox"/> HorizonPlus Prepaid MasterCard <input type="checkbox"/> PTC Company US Dollar Prepaid MasterCard <input type="checkbox"/> Shell Prepaid Reloadable MasterCard <input type="checkbox"/> YesCard Prepaid Visa		
7.	If yes, did you reside in Ontario at that time	Yes/No		
8.	Did you acquire and/or use the card for consumer purposes?	Yes/No		

9.	I would like my payment to be provided by	Mail/E-Transfer
10.	Declaration and Affirmation Under Oath: I declare and affirm under oath that the information stated above is accurate to the best of my knowledge and that I was a Cardholder of a Card on which this claim is based.	Yes/No
11.	Date	August 26, 2020

NOTE – IT IS A CRIMINAL OFFENCE TO MAKE A FALSE STATEMENT