

## ASSANTE WEALTH MANAGEMENT (CANADA) LTD. CLASS ACTION

### NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL

This notice is to all persons who held investment account(s) with Assante Wealth Management (Canada) Ltd. or Assante Capital Management Ltd., which were under the administration and direction of Brian Malley, during the time period of January 1, 2008 through to and including December 31, 2013

### READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

### COURT APPROVAL OF THE SETTLEMENT OF CLASS ACTION

In 2012, a class action was commenced against Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd. (collectively, "**Assante**"), Brian Malley and Christine Malley (the "**Class Action**"). The Class (as defined below) includes those who were clients of Assante and whose investment accounts were under the administration and direction of Brian Malley. This Notice applies to clients of Brian Malley, Assante Wealth Management (Canada) Ltd., and Assante Capital Management Ltd. between January 1, 2008 and December 31, 2013.

The parties to the Class Action reached a settlement that has now been approved by the Alberta Court of Queen's Bench (the "**Court**") (the "**Settlement Agreement**"). The Settlement Agreement provides that the Defendants will pay \$10,000,000.00 (the "**Settlement Amount**") in full and final settlement of all claims of the Class Members. The Settlement Amount includes all legal fees, disbursements, taxes and administration expenses. In return for the Settlement Amount, the Defendants will receive releases and a dismissal of the Class Action.

The settlement is a compromise of disputed claims and is not an admission of liability, wrongdoing or fault on the part of any of the Defendants, which have disputed, and continue to dispute, the allegations advanced in the Class Action.

By an Order dated November 30, 2015, the Court certified the action as a class proceeding pursuant to section 5(1) of the *Class Proceedings Act*, SA 2003, c C-16.5 ("**CPA**"), and certified the class as a settlement class, as defined in section 4 of the *CPA*, as follows:

all persons, corporations, partnerships or other entities who held a beneficial interest in one or more investment account with Assante Wealth Management (Canada) Ltd. or Assante Capital Management Ltd., which were under the administration and direction of Brian Malley during the time period of January 1, 2008 through to and including December 31, 2013, excluding Opt-Out Parties and the named Defendants in Court of Queen's Bench Action No. 1210-01029, being Brian Malley, Christine Malley, Assante Wealth Management (Canada) Ltd. and Assante Capital Management Ltd. ("**Class**" or "**Class Members**").

The Court also approved the Settlement Agreement and declared that it is fair, reasonable and in the best interests of the Class Members. The Court also awarded Jensen Shawa Solomon Duguid Hawkes LLP (“**Class Counsel**”) legal fees, expenses and applicable taxes in the total amount of \$3,335,123.27 (“**Class Counsel Fees**”). As is customary in such cases, Class Counsel conducted the class action on a contingent fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation. The amount awarded for Class Counsel Fees includes \$270,252.94 for the reimbursement of amounts spent by Class Counsel in the conduct of the class action. The remainder, net of applicable taxes, will be Class Counsel’s only compensation for conducting the class action. Class Counsel Fees will be deducted from the Settlement Amount before it is distributed to Class Members.

Expenses incurred or payable relating to approval, notification, implementation and administration of the Settlement (“**Administration Expenses**”) will also be paid from the Settlement Amount before it is distributed to Class Members.

### **CLAIMS ADMINISTRATOR**

The Court has appointed NPT RicePoint (now RicePoint Administration Inc.) as the Claims Administrator of the Settlement. The Claims Administrator will, among other things: (i) receive and process the Claim Forms; (ii) make determinations of each Class Member’s eligibility for compensation pursuant to the Distribution Plan; (iii) communicate with Class Members regarding their eligibility for compensation; and (iv) manage and distribute the Settlement Amount. The Claims Administrator can be contacted at:

Telephone:	1-866-432-5534
Mailing Address:	RicePoint Administration Inc. P.O. Box 3355 London, ON N6A 4K3
Website:	<a href="http://www.assanteclassaction.com">www.assanteclassaction.com</a>

### **CLASS MEMBERS’ ENTITLEMENT TO COMPENSATION**

Class Members will be eligible for compensation pursuant to the settlement if they timely submit a completed Claim Form, including any supporting documentation, to the Claims Administrator.

To be eligible for compensation under the settlement, Class Members must submit their Claim Form and required documentation postmarked no later than **March 8, 2016** (the “**Claims Deadline**”). The Claim Form is attached to this Approval Notice. The Claim Form is also available at [www.assanteclassaction.com](http://www.assanteclassaction.com) and <http://www.jssbarristers.ca/pages/class-actions/class-actions.cfm>.

Only Class Members are permitted to participate in the settlement. In particular, the following persons are not permitted to participate in the settlement: (1) “Excluded Persons”, which are defined as the named Defendants; and (ii) persons who opt out of the Class Action.

The Net Settlement Amount, after deduction of Class Counsel Fees, and Administration Expenses (the “**Net Settlement Amount**”), will be distributed to Class Members in accordance with the Distribution Plan.

Each Authorized Class Member’s actual compensation from the Net Settlement Amount will be his/her/its *pro rata* share of the Net Settlement Amount calculated as set out in paragraphs 18 through 21 of Schedule “F” to the Settlement Agreement. Entitlements of less than \$5.00 will not be paid.

If a Class Member disputes the Claims Administrator’s decision, whether in whole or in part, the Class Member may appeal the decision by bringing an Application, on notice to the Plaintiffs, Class Counsel and the Claims Administrator, in the Court. The notice must be served within 10 days after the Claims Administrator renders its final decision. The Class Member must use its/his/her best efforts to ensure that the motion is scheduled and heard within 120 days after the notice has been served. A decision of the Court shall be binding and no further appeal shall lie therefrom.

If there is a positive balance after one hundred and eighty (180) days from the date of distribution of the Net Settlement Amount to Class Members, the Claims Administrator shall, if feasible, allocate such balance among Class Members in an equitable and economic fashion. Any balance below \$25,000.00 which still remains thereafter shall be donated to the Alberta Securities Commission to be used solely for the purpose of educating investors and promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets. The Claims Administrator shall make all reasonable efforts to minimize amounts donated to the Alberta Securities Commission pursuant to the Distribution Plan.

#### **OPTING OUT OF THE PROCEEDINGS**

If you would like to exclude yourself from the settlement agreements, you can opt out by sending the Opt Out Form, which is attached to this Notice, to Class Counsel by email, regular mail or fax by no later than December 29, 2015 to:

Carsten Jensen, Q.C. / Gavin Price  
Jensen Shawa Solomon Duguid Hawkes LLP  
Lancaster Building  
800, 304 - 8 Avenue SW  
Calgary, AB T2P 1C2  
Telephone: 403.571.1520  
Facsimile: 403.571.1528  
Email: [jensenc@jssbarristers.ca](mailto:jensenc@jssbarristers.ca)  
[priceg@jssbarristers.ca](mailto:priceg@jssbarristers.ca)

If you do not opt out of the settlement agreements in the manner required by this notice, you will be bound by the terms of the proposed settlement agreements and will be barred from instituting or continuing any legal action against the Defendants in relation to the subject matter of the action.

## **COPIES OF THE SETTLEMENT DOCUMENTS**

Copies of the Settlement Agreement and the Distribution Plan may be found on the website of Class Counsel at: [www.jssbarristers.ca/pages/class-actions/class-actions.cfm](http://www.jssbarristers.ca/pages/class-actions/class-actions.cfm) and at [www.assanteclasseaction.com](http://www.assanteclasseaction.com) or by contacting Class Counsel at the contact information provided below.

## **IMPORTANT DEADLINE**

**CLAIM DEADLINE: MARCH 8, 2016**

*Claim Forms will not be accepted after the Claim Deadline. As a result, it is necessary that you act without delay.*

## **CLASS COUNSEL**

Jensen Shawa Solomon Duguid Hawkes LLP are counsel to the Plaintiffs in the class proceeding, and can be reached by telephone at 403.571.1520.

## **CLAIMS ADMINISTRATOR**

NPT RicePoint (now RicePoint Administration Inc.) has been appointed by the Court to be the Claims Administrator and is responsible for the distribution of the Net Settlement Amount. They can be reached by telephone at 1-866-432-5534 or email at [assante@ricepoint.com](mailto:assante@ricepoint.com).

## **INTERPRETATION**

If there is a conflict between the provisions of this notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

**DISTRIBUTION OF THIS NOTICE HAS BEEN AUTHORIZED**

**BY THE ALBERTA COURT OF QUEEN'S BENCH**