

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE
JUSTICE J. LAX

)
)
)
)

MON DAY, THE 8 TH
DAY OF JULY, 2013

B E T W E E N:

405341 ONTARIO LIMITED

Plaintiff

- and -

MIDAS CANADA INC.

Defendant



Proceeding under the *Class Proceedings Act, 1992*

**ORDER
(APPROVAL OF NOTICE OF SETTLEMENT APPROVAL HEARING)**

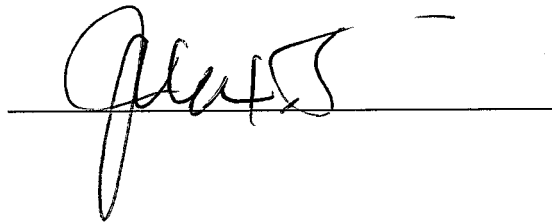
THIS MOTION made by the Plaintiff for an Order approving the Notice of Settlement Approval Hearing was read this day at the Court House, 361 University Avenue, Toronto, Ontario.

ON READING the proposed Notice of Settlement Approval Hearing attached hereto as Schedule "A" (the "Notice"), and upon being advised that the Plaintiff and Defendant consent to this Order,

1. **THIS COURT ORDERS** that the Notice be and is hereby approved.
2. **THIS COURT ORDERS** that the Notice may be sent to the class members by regular

mail to the addresses for such class members that were provided to class counsel following certification, as updated from time to time by plaintiff's counsel, as well as by email where such information is available.

3. **THIS COURT ORDERS** that the Notice shall be posted on the website of class counsel.
4. **THIS COURT ORDERS AND DECLARES** that such delivery and posting of the Notice shall be good and sufficient distribution of the Notice.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JUL - 9 2013

AS DOCUMENT NO.:
À TITRE DE DOCUMENT NO.:
PER / PAR:



SCHEDULE "A"
NOTICE OF SETTLEMENT APPROVAL HEARING

If you owned a Midas franchise shop from July 11, 2003 to May 31, 2007, you may benefit from a settlement of a class action.

This notice is to inform you of the proposed settlement of a Canadian class action lawsuit that may affect you.

This class action was brought against Midas Canada Inc. ("Midas") in relation to changes made to the Midas distribution system in Canada in 2003 that uniquely affected Canadian franchisees.

Who Will Benefit from the Proposed Settlement?

The proposed settlement is exclusively for the benefit of class members in *405341 Ontario Limited v. Midas Canada Inc.* (Ontario Superior Court of Justice, Court File Number 07-CV-333934CP).

The proposed settlement benefits all Midas franchisees which carried on business in Canada as franchisees from July 11, 2003 to May 31, 2007 under franchise agreements with Midas (the "class members"). If you opted out of the class action after receiving notification of the certification of the action as a class action, then you are excluded from the settlement of the class action.

If you are not sure if your franchise is a class member, please contact class counsel at the contact information below.

Terms of the Proposed Settlement

On April 3, 2013, the parties executed a settlement agreement (the "Settlement Agreement") that proposes to resolve this litigation for all class members. Under the Settlement Agreement, Midas will pay CAD\$8,500,000.00 for the benefit of the class (the "Settlement Amount"), which includes all legal fees, disbursements, administration expenses, and taxes. In return, all claims which were or could have been raised in the lawsuit against Midas, Midas Inc., Midas International Corporation and any of their respective parents, subsidiaries, affiliates, and other related parties will be fully and finally released and barred. The release will also require that class members refrain from disparaging Midas in relation to the matters raised or that could

have been raised in the lawsuit.

The Settlement Agreement represents a resolution of disputed claims, and Midas denies and does not admit any wrongdoing or liability in connection with the class proceeding and the settlement.

Court Approval Hearing

The Settlement Agreement must be approved by the court before it comes into effect. The hearing to approve the settlement will take place on **Thursday, September 12, 2013** at 10:00 a.m., at 361 University Avenue, Toronto, Ontario (the "Approval Hearing").

You may, but are not required to, attend the Approval Hearing. At the Approval Hearing, class counsel, Sotos LLP ("Sotos"), will request that the court approve its legal fees, which will not exceed 25% of the Settlement Amount, plus disbursements, including administration expenses, and applicable taxes ("Class Counsel Fees"). Class Counsel Fees will be deducted from the Settlement Amount before the balance is distributed to class members.

The Class Proceedings Fund which has provided funding for this lawsuit will also be entitled to a levy of 10% of the Settlement Amount less Class Counsel Fees (the "Class Proceedings Fund Levy").

At this time, the estimated amount to be distributed to the eligible class members after deduction of Class Counsel Fees and Class Proceedings Fund Levy is \$5,600,000 (the "Net Settlement Amount").

Distribution of the Net Settlement Amount

The Net Settlement Amount will be distributed to class members in accordance with a Plan of Allocation, which is also subject to court approval.

Under the proposed Plan of Allocation, you will receive a share of the Net Settlement Amount calculated as a proportion of your 2004 sales to the 2004 sales of all eligible class members.

Sales have been determined initially using store reports of royalties paid to Midas during 2004.

These sales amounts have then been adjusted for purposes of the proposed allocation in two respects:

- 1) Individual store sales over certain thresholds levels are subject to reductions; and
- 2) Sales over certain thresholds by a group of related stores are subject to reductions.

The following are the applicable proposed adjustments in calculating 2004 sales for purposes of the proposed allocation:

Individual stores:

- (a) sales from \$600,001 to \$700,000 – 10%
- (b) sales from \$700,001 to \$800,000 – 15%
- (c) sales from \$800,001 to \$900,000 – 25%
- (d) sales from \$900,001 to \$1,000,000 – 40%
- (e) sales over \$1,000,000 – 60%

Group of stores:

- (a) adjusted group store sales from \$3,000,000 to \$5,000,000 – 20%
- (b) adjusted group store sales from \$5,000,001 to \$7,000,000 – 40%
- (c) adjusted group store sales over \$7,000,000 – 60%

The reductions listed above are only marginal reductions. For example, if your store generated \$750,000 in sales, it would be adjusted to \$732,500 (\$600,000 + (\$100,000 – 10%) + (\$50,000 – 15%)).

The present calculation of 2004 adjusted sales of all potential eligible class members is \$96,991,022. Therefore, assuming a store's adjusted sales is \$732,500, that store would receive \$42,292.57 ($(\$732,500/96,991,022) \times \$5,600,000$).

Objections to the Settlement Agreement

You may object to the settlement. If you wish to comment on or object to the settlement or proposed Plan of Allocation, you should do so in writing. All comments or objections should be received by Sotos (at the address listed below) no later than **August 31, 2013**. Sotos will file all such submissions with the court. You may attend the Approval Hearing whether or not you delivered an objection. The court may permit class members to participate in the Approval Hearing whether or not

an objection was made.

A written objection should include:

- (i) your name, address, telephone number, fax number (where applicable) and email address;
- (ii) a brief description of your objection; and
- (iii) a statement as to whether you intend to appear at the Approval Hearing in person or through a lawyer, and, if through a lawyer, the name, address, telephone number, fax number, and email address of the lawyer.

If you do not oppose the Settlement Agreement or proposed Plan of Allocation, you do not need to appear at the Approval Hearing or take any other action at this time. At the Approval Hearing, Sotos will recommend the approval of the Settlement Agreement and proposed Plan of Allocation as fair and reasonable.

Further Information

For further information about this case or the proposed settlement you may contact class counsel:

Sotos LLP
1250 - 180 Dundas St. W.
Toronto, Ontario M5G 1Z8
Attention: David Sterns or Andy Seretis

T: (416) 977-0007, F: (416) 977-0717
E: dsterns@sotosllp.com or aseretis@sotosllp.com

or go to <http://www.sotosllp.com/class-actions/midas/> for further information and to download court papers in this action.

PLEASE DO NOT CALL the court. It will not be able to answer your questions about the lawsuit or the proposed settlement.

405341 ONTARIO LIMITED
Plaintiff

and
Defendant

MIDAS CANADA INC.

Court File Number: 07-CV-333934CP

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT TORONTO

ORDER
(APPROVAL OF NOTICE OF SETTLEMENT
APPROVAL HEARING)

SOTOS LLP
Barristers and Solicitors
Suite 1250
180 Dundas Street West
Toronto, ON M5G 1Z8

Allan D. J. Dick (LSUC # 24026W)
David Sterns (LSUC # 36274J)
Andy Seretis (LSUC # 57259D)

Tel: (416) 977-0007
Fax: (416) 977-0717

Lawyers for the plaintiff