

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) THURSDAY, THE 12TH DAY
)
JUSTICE J. LAX) OF SEPTEMBER, 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
(SETTLEMENT APPROVAL)**

THIS MOTION made by the Plaintiff for an Order approving the Settlement Agreement entered into with the Defendant, Midas Canada Inc. ("Midas Canada"), was heard this day at Osgoode Hall, 130 Queen St. West, Toronto, Ontario.

ON READING the affidavit of David Sterns sworn September 6, 2013, the affidavit of Daniel James Joseph McGolrick sworn September 6, 2013, and the settlement agreement dated April 3, 2013 attached to this Order as Schedule "A" (the "Settlement Agreement"), and on hearing the submissions of counsel for the parties and of Mr. Mark Spergel, attending in person;

AND ON BEING ADVISED that the Plaintiff and Midas Canada consent to this Order,

1. **THIS COURT DECLARES** that the Settlement Agreement is fair, reasonable and in the best interests of the Class.
2. **THIS COURT ORDERS** that the Settlement Agreement is hereby approved pursuant to s. 29 of the *Class Proceedings Act, 1992* and shall be implemented in accordance with its terms.
3. **THIS COURT DECLARES** that the Settlement Agreement in its entirety is incorporated by reference into and forms part of this Order and is binding upon the Plaintiff and Class Members who have not validly opted out of this action.
4. **THIS COURT ORDERS** that any Class Member who has validly opted out of this action is not bound by the Settlement Agreement and shall not have the opportunity to participate in this settlement.
5. **THIS COURT ORDERS** that any Class Member who has not validly opted out of this action is bound by the Settlement Agreement and may not opt out of this action in the future.
6. **THIS COURT ORDERS** that this Order, including the Settlement Agreement, is binding upon each Class Member including those persons, if any, who are minors or mentally incapable and the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with in respect of this action.

7. **THIS COURT ORDERS AND DECLARES** that each class member shall be conclusively deemed to have forever fully and absolutely released Midas Canada, Midas International Corporation, and any of their respective present and former officers, directors, agents, employees, associates, affiliates, parents, subsidiaries, predecessors, successors, and the executors, administrators, heirs and assigns of each, jointly and severally, individually and collectively (the “Releasees”) from any and all actions, causes of actions, suits, debts, dues, sums of money, claims and demands whatsoever at law or in equity or under any statute, and in any jurisdiction, that each class member ever had, now has or may hereafter have against the Releasees or any one of them arising from or pertaining to the matters raised in this action or which were or could have been raised in this action (the “Released Claim”).

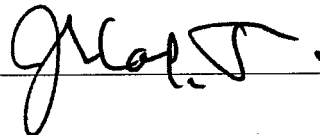
8. **THIS COURT ORDERS** that each class member shall not now or hereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or demand against any Releasee or any other person who may claim contribution or indemnity, or other claims over relief, from any Releasee in respect of any Released Claim.

9. **THIS COURT ORDERS** that no class member shall disparage the Releasees or any of them in relation to any matter that was raised or could have been raised in this action.

10. **THIS COURT ORDERS** that the Notice of Settlement Approval, attached as Schedule “B” to this Order (the “Notice”), be and is hereby approved and 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 class counsel, as well as by email where such information is available.

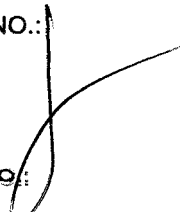
11. **THIS COURT ORDERS** that the Notice shall be posted on the website of class counsel.
12. **THIS COURT ORDERS** that the Releasees and any one of them shall have no responsibility for and no liability whatsoever with respect to the administration of the settlement described in the Settlement Agreement.
13. **THIS COURT ORDERS** that the action is hereby dismissed against Midas Canada with prejudice and without costs.
14. **THIS COURT ORDERS** that, notwithstanding the dismissal of this action, for purposes of administration of this Order, this Court will retain an ongoing supervisory role and the parties acknowledge the jurisdiction of this Court solely for the purpose of implementing, administering and enforcing the Settlement Agreement, and subject to the terms and conditions set out in the Settlement Agreement.
15. **THIS COURT ORDERS** that the Court may provide such further and other orders and directions, including orders and directions affecting third parties, as may be necessary or desirable to give effect to the Settlement Agreement.



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

SEP 13 2013

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



Court File No.: 07-CV-333934CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

405341 ONTARIO LIMITED

Plaintiff

- and -

MIDAS CANADA INC.

Defendant

Proceeding under the Class Proceedings Act, 1992

MINUTES OF SETTLEMENT

The Parties agree to settle this litigation on the following terms:

1. The defendant shall pay to Sotos LLP in trust on behalf of the class the all-inclusive sum of \$8,500,000.00 forthwith upon approval of the settlement by the court. The defendant shall not be responsible for any costs associated with the administration of the settlement, costs of providing notice, or distribution of the settlement funds.
2. The plaintiff, on behalf of the class members, shall provide a full and final release of the defendant in a form satisfactory to counsel for the defendant, which release shall be incorporated into the order approving the settlement.
3. The release shall include a provision to be negotiated between counsel which will include a non-disparagement of the defendant in relation to any matters raised or which could have been raised in this action.
4. The release shall release all claims which were or could have been raised in this action against the defendant, Midas Inc., Midas International Corporation and any of their respective parents, subsidiaries or affiliates.
5. The action shall be dismissed without costs upon receipt of the above-mentioned payment.
6. The fact of this settlement shall be posted on plaintiff's counsel's website with

language to be agreed upon between counsel for the parties.

7. Notice to the members of the class of the terms of the settlement shall be subject to the approval of counsel for the parties and approval of the court.

8. Counsel for the plaintiff will submit to counsel for the defendant a copy of any materials to be filed in court in connection with the motion for approval of this settlement and will consider any comments from counsel for the defendant, provided however that counsel for the plaintiff shall not be obliged to make any changes which are inconsistent with their duties as class counsel or with the terms of the settlement.

9. This settlement is conditional upon approval of the court. Counsel for the plaintiff and defendant shall both support this settlement and recommend its approval on all of its terms.

10. This settlement does not involve any admission of liability by the defendant and any such liability is denied.

Agreed to on this 3rd day of April, 2013.

ON BEHALF OF 405431 ONTARIO LIMITED

I have the authority to bind the company.



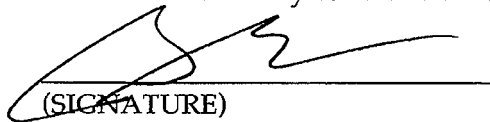
(SIGNATURE)

D. McGarrick

(PRINT NAME)

ON BEHALF OF MIDAS CANADA INC.

I have the authority to bind the company.



(SIGNATURE)

BRIAN MACIAK

(PRINT NAME)

NOTICE OF SETTLEMENT APPROVAL

SCHEDULE "B"

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 settlement of a Canadian class action lawsuit that may affect you.

The Court approved the terms of the settlement at a hearing which took place on September 12, 2013.

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 Settlement?

The 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 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 Settlement

Midas will pay CAD\$8,500,000.00 for the benefit of the class (the "Settlement Amount"). In return, all claims which were or could have been raised in the lawsuit against Midas 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 in the lawsuit.

The settlement represents a resolution of disputed claims, and Midas denies any wrongdoing or liability in connection with the class proceeding and

the settlement.

Distribution of the Settlement Amount

The Settlement Amount, after deduction of certain amounts described below, will be distributed to class members in accordance with a Plan of Allocation that has been approved by the court.

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

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

These sales amounts have then been adjusted for purposes of the 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 adjustments in calculating 2004 sales for purposes of the 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 are \$732,500, that store would receive \$42,292.57 $((\$732,500/96,991,022) \times \$5,600,000)$.

Full details regarding the requirements to submit a claim and the terms and conditions of the settlement agreement are posted at <http://www.sotosllp.com/class-actions/midas/>

How to Submit a Claim for Payment

In order to submit a claim for payment, you must complete the statutory declaration attached to this notice. The statutory declaration must be sworn before a commissioner of oaths, which includes any lawyer practicing in Ontario, a notary public or other commissioner approved by the province in which you reside.

Deadline for Submitting Claim

All claims forms must be submitted by no later than **January 15, 2014**.

If, after the expiry of the deadline, certain class members have not applied for their share of the settlement proceeds, any remaining balance, less any amount ordered by the court to be paid to class counsel for the administration of the settlement ("Surplus"), will be paid proportionately to the class members which have submitted a valid claim. Any Surplus will be paid within thirty days following the expiry of the deadline.

Other Matters: The Court has approved class counsel fees in the amount of CAD \$2,125,000 plus disbursements and HST. This amount will be paid from the Settlement Amount. You will receive a certificate showing the amount of HST attributable to your share of the fees so that you may claim any credit that may be available.

In addition, the Class Proceedings Fund which has provided funding for this lawsuit will be entitled to a levy of 10% of the Settlement Amount less class counsel fees and disbursements.

Further Information

For further information about this case or the 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 settlement.

STATUTORY DECLARATION

CANADA)	
PROVINCE OF _____)	IN THE MATTER OF the settlement
_____)	of 405341 <i>Ontario Limited v. Midas Canada</i>
_____)	Inc., Ontario Superior Court of Justice,
_____)	Court File No. 07-CV-333934CP (the "Action")

I, _____, of the _____ of _____, in the Province of _____, do solemnly declare:

1. I am the _____ of _____ (the "Class Member") and as such have knowledge of the matters herein deposed to.
2. The Class Member is a subsisting corporation that is not in bankruptcy or receivership.
3. The Class Member operated a Midas franchise in Canada from July 11, 2003 to May 31, 2007 pursuant to a franchise agreement with Midas Canada Inc.
4. Please check one which applies:
 - The Class Member has not sold, pledged or assigned the proceeds of the Action to a third party and there is no Requirement to Pay existing in respect of the proceeds of the Action in favour of any tax authority.
 - The Class Member has sold, pledged or assigned the proceeds of the Action to a third party or there is Requirement to Pay existing in respect of the proceeds of the Action in favour of any tax authority.
5. The Class Member has not entered into a separate settlement with Midas Canada Inc. in respect of its claim in the Action or released Midas Canada Inc. from liability in this Action (other than for any release that may have been contained in a standard form Dealer Agreement or renewal agreement).
6. The Class Member and its principals promise not to disparage Midas Canada Inc. in relation to the matters raised or that could have been raised in the Action.

AND I make this solemn declaration conscientiously believing it to be true and knowing

that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

SWORN before me at the)
_____ of _____, in the)
Province of _____)
this ____ day of _____, 2013)
)
)

_____ l/s

A Commissioner for Oaths, etc.

405341 ONTARIO LIMITED
Plaintiff

MIDAS CANADA INC.
Defendant
and

Court File Number: 07-CV-333934CP

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT TORONTO

ORDER
(SETTLEMENT APPROVAL)

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