

THE ATTACHED IS EXHIBIT H TO THE  
AFFIDAVIT OF JAY STROSBURG  
SWORN BEFORE ME THIS 6TH DAY OF  
FEBRUARY, 2010

  
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Commissioner for Taking Affidavits

## **NOTICE OF SETTLEMENT APPROVAL IN THE MATTER OF CHOCOLATE PRODUCTS CLASS ACTION LITIGATION**

**PLEASE READ THIS NOTICE CAREFULLY. IT MAY AFFECT YOUR LEGAL RIGHTS.**

**TO: All Persons in Canada who, between February 1, 2001 and December 31, 2008, purchased Chocolate Products in Canada, except the Defendants and certain parties related to the Defendants (the "Settlement Class").**

Chocolate Products mean any and all chocolate confectionary products, including boxed chocolates, chocolate bars and seasonal novelties, of the Defendants sold in Canada.

The Defendants are: Cadbury Schweppes plc, Cadbury Adams Canada Inc., Mars, Incorporated, Mars Canada Inc. (formerly known as Effem Inc.), The Hershey Company, Hershey Canada Inc., Nestle S.A., Nestle Canada Inc., and ITWAL Limited ("ITWAL"). With the exception of ITWAL, the Defendants are manufacturers of Chocolate Products. ITWAL operates a retail and foodservice wholesale distribution network, and was a major purchaser and distributor of Chocolate Products during the relevant period.

### **I. COURT APPROVAL OF CLASS ACTION SETTLEMENTS**

Class action lawsuits have been initiated across Canada alleging that the Defendants, with the exception of ITWAL, conspired to fix prices of Chocolate Products. The claim further alleges that the Defendants engaged in price maintenance.

Cadbury Holdings Limited, as the successor to Cadbury Schweppes plc, and Cadbury Adams Canada Inc. ("Cadbury Adams", collectively "Cadbury"), and ITWAL have entered into separate settlements that will resolve the allegations and litigation against them in Canada. Neither Cadbury nor ITWAL admit any wrongdoing or liability. The settlements represent resolutions of the disputed claims. The litigation is continuing against the remaining six Defendants.

Under the terms of the Cadbury Settlement Agreement, Cadbury has paid CDN \$5.7 million, plus pre-deposit interest in the amount of \$95,695.60, for the benefit of the Settlement Class Members. The settlement monies are being held in an interest bearing account for the benefit of Settlement Class Members. Under the terms of the ITWAL Settlement Agreement, ITWAL has agreed to assign to the Settlement Class any and all claims that it may have against the other Defendants in relation to any allegations asserted in the litigation. Cadbury Adams and ITWAL have agreed to provide cooperation to the Plaintiffs in pursuing their claims against the remaining Defendants.

The lawsuits were certified as class proceedings against Cadbury and ITWAL for the purpose of settlement. The lawsuits were certified on behalf of all persons in Canada who purchased Chocolate Products in Canada between February 1, 2001 and December 31, 2008. The defendants and any of their subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors or assigns are excluded as Settlement Class Members.

The Settlement Agreements were approved as being fair, reasonable, and in the best interests of Settlement Class Members by the Ontario Court on [date], the British Columbia Court on [date], and the Quebec Court on [date].

### **II. FILING A CLAIM UNDER THE SETTLEMENTS**

The calculation and timing of the distribution of the Cadbury settlement funds will be determined by further order of the courts. Further notices will be published and posted online at [www.classaction.ca](http://www.classaction.ca) advising Settlement Class Members of the process for filing a claim.

In Class Counsel's experience with similar proceedings, the majority of settlement monies are typically paid to class members who made purchases directly from the defendants or distributors of the product. Recognizing the difficulties associated with directly compensating downstream

purchasers, such class members are typically compensated through distribution to organizations that operate for their general benefit.

### **III. OPTING OUT OF THE CLASS ACTION LAWSUITS**

The deadline for opting-out (excluding oneself) of the class action lawsuits has already passed. If you did not opt-out, you will be bound by the terms of the Settlement Agreements and any other settlements and/or judgments issued in the lawsuits. If you did opt-out, you cannot participate in the Settlement Agreements or any other settlements and/or judgments issued in the lawsuits. However, you may pursue your claims outside the class action lawsuits.

### **IV. CLASS COUNSEL**

The law firms of Siskinds<sup>LLP</sup> and Sutts, Strosberg<sup>LLP</sup> represent Settlement Class Members in Ontario, and in provinces other than British Columbia or Quebec, as well as corporations of more than 50 employees in Quebec. Siskinds<sup>LLP</sup> can be reached toll free at 1-800-461-6166 ext. 2455, by email at [charles.wright@siskinds.com](mailto:charles.wright@siskinds.com), or by mail at 680 Waterloo Street, London, Ontario N6A 3V8, Attention: Charles Wright. Sutts, Strosberg<sup>LLP</sup> can be reached toll free at 1-800-229-5323 ext. 8296, by email at [harvey@strosbergco.com](mailto:harvey@strosbergco.com), or by mail at 600-251 Goyeau Street, Windsor, ON N9A 6V4, Attention: Harvey Strosberg.

The law firms of Camp Fiorante Matthews and Branch MacMaster are available to speak with Settlement Class Members in British Columbia. Camp Fiorante Matthews can be reached at 604-689-7555, by email at [jjcamp@cfmlawyers.ca](mailto:jjcamp@cfmlawyers.ca), or by mail at 4th Floor, Randall Building, 555 West Georgia Street, Vancouver, BC V6B 1Z6, Attention: J.J. Camp. Branch MacMaster can be reached at 604-654-2966, by email at [wbranch@branmac.com](mailto:wbranch@branmac.com), or by mail at 1410-777 Hornby Street, Vancouver, BC V6Z 1S4, Attention: Ward Branch.

The law firm of Siskind Desmeules s.e.n.c.r.l. represents individuals and corporations of 50 or less employees who are Settlement Class Members in Quebec. Quebec Class Counsel can be reached at 418-694-2009, by email at [simon.hebert@siskindsdesmeules.com](mailto:simon.hebert@siskindsdesmeules.com), or by mail at Les promenades du Vieux-Quebec, 43 rue De Buade, bureau 320, Quebec City, QC G1R 4A2, Attention: Me Simon Hébert.

Class Counsel legal fees and disbursements have been approved by the courts. Class Counsel is entitled to legal fees in the amount of \$---, plus disbursements in the amount of \$---, and applicable taxes in the amount of \$---. Legal fees of this amount represent 25% of the Cadbury settlement funds, plus interest. Legal fees, disbursements and applicable taxes will be paid from the Cadbury settlement funds.

### **V. QUESTIONS ABOUT THE SETTLEMENTS**

This notice contains only a summary of the Settlement Agreements and Settlement Class Members are encouraged to review the complete Settlement Agreements, available online at [www.classaction.ca](http://www.classaction.ca). Alternatively, copies of the Settlement Agreements can be mailed to you at a cost of \$10, which represents the cost of photocopying and mailing. If you would like copies of the Settlement Agreements or have questions that are not answered online at [www.classaction.ca](http://www.classaction.ca), please contact the appropriate Class Counsel. **QUESTIONS SHOULD NOT BE DIRECTED TO THE COURT.**

Updates and copies of important court filings will be posted online at [www.classaction.ca](http://www.classaction.ca).

### **VI. INTERPRETATION**

This notice contains a summary of some of the terms of the Settlement Agreements. If there is a conflict between the provisions of this notice and the Settlement Agreements, including the appendices of the Settlement Agreements, the terms of the Settlement Agreements shall prevail.

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**THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO SUPERIOR COURT OF JUSTICE,  
THE BRITISH COLUMBIA SUPREME COURT, AND THE SUPERIOR COURT OF QUEBEC**