

## **NOTICE OF SETTLEMENT AND FEE APPROVAL HEARING**

**THIS NOTICE IS FOR ALL INDIVIDUALS WHO WORKED OR CONTINUE TO WORK FOR APPROVAL TEAM INC. BETWEEN 2018 AND JULY 30<sup>th</sup>, 2020, AS SALESPERSONS AND SALES MANAGERS AS INDEPENDENT CONTRACTORS AND THOSE WHO WORKED AS EMPLOYEES**

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

The representative plaintiff, Tom Rallis (the “**Plaintiff**”), commenced a class proceeding against the Corporate Defendants, Approval Team Inc., Sergey Barandich, Patrick Jardine, and Aleksandar Savic (collectively, the “**Defendants**”).

In this certified class action, the Plaintiff is seeking damages on behalf of all salespersons and sales managers who worked in Ontario for one or more of the Defendants between January 1, 2018 and July 30<sup>th</sup>, 2020. The proceeding is seeking damages for allegedly unpaid vacation pay, public holiday pay, Canada Pension Plan contributions, Employment Insurance Contributions, overtime pay, and failing to pay the statutory minimum wage. The Defendants have denied all of these allegations. Monkhouse Law represents the certified class (“**Class Counsel**”).

The parties to this proposed class proceeding have reached a settlement in principle on July 14, 2021 (the “**Proposed Settlement**”). The Proposed Settlement is a compromise of disputed claims against the defendants without any admission of liability by the defendants. You may be entitled to compensation under the Proposed Settlement if you fall within the following definition:

All salespersons and sales managers of Approval Team Inc. who, since January 1<sup>st</sup>, 2018 to July 30<sup>th</sup>, 2020, worked or continue to work for Approval Team Inc., as independent contractors. (the “**Certified Class Members**”).

All salespersons and sales managers of Approval Team Inc. who, since January 1<sup>st</sup>, 2018 to the date of certification, worked or continue to work for Approval Team Inc., as employees. (the “**Extended Class Members**”).

The Proposed Settlement is subject to Court approval. The Proposed Settlement, if approved, will conclude the class proceeding. The purpose of this document is to provide notice to class members that a motion will be heard on **January 10<sup>th</sup>, 2022 at 10:00 AM** by Zoom to approve the Proposed Settlement, certify the Extended Class, and approve Class Counsel’s fees. Zoom log-in details will be available from Class Counsel one week before the motion.

There are steps to be taken if you wish support or oppose the proposed settlement, and both Class Counsel and the Courts appreciate your input.

Additional information regarding the Proposed Settlement and the options available to you can be found below.

**The Ontario Superior Court of Justice has authorized distribution of this Notice, but please direct questions to Monkhouse Law (Class Counsel).**

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# BASIC INFORMATION

## 1. Why did I get this notice?

The Ontario Superior Court of Justice authorized this notice to let you know about the Proposed Settlement. Based on Approval Team Inc.'s records, we believe you may be a member of the certified class.

This notice explains the lawsuit, the Proposed Settlement, and your legal rights.

## 2. What is a class action?

In a class action, one or more people called the "representative plaintiff(s)" sue on behalf of people who have similar claims, called the "class" or "class members".

In a class action, the court can resolve all or some of the class members' claims at the same time. People who meet the definition of a "class member" are automatically included in the claim unless they choose to "opt out".

**As of November 25<sup>th</sup>, 2020 if you worked for the Defendants as an independent contractor you are no longer able to opt out.**

If you fit the definition of the "**Extended Class Member**" then you are still able to opt out of the Class Action. Please read the section on opting out carefully to ensure that both the Court and Class Counsel are made aware of your decisions.

## 3. What is this class action about?

The Plaintiff commenced this proposed class action against the Defendants on behalf of all salespeople and sales managers who worked in Ontario for the Defendants between January 1<sup>st</sup>, 2018 and July 30<sup>th</sup>, 2020 as independent contractors, as well as employees of the Defendants between January 1<sup>st</sup>, 2018 and the date of certification of the **Extended Class**.

Among other things, the Plaintiff alleges that the Defendants misclassified the above workers as independent contractors when, at law, they were employees and were therefore entitled to receive certain employment benefit payments, such as overtime pay, vacation pay, public holiday pay, Canada Pension Plan contributions and Employment Insurance contributions. The Plaintiff is seeking compensatory damages for allegedly unpaid wages, overtime pay, vacation pay, public holiday pay, Canada Pension Plan contributions and Employment Insurance contributions, as well as for punitive damages.

As a part of the proposed settlement there is a proposal to extend the underpayment allegations to employees of the Defendants, which may or may not be approved by the judge at the Settlement and Fee Approval hearing.

The Defendants have denied all allegations made against them in this proceeding.

#### **4. Has there been a trial?**

While the Class Action was certified on July 7<sup>th</sup>, 2020 for the **Certified Class Members**, a judge has not made any decision regarding the merits of this lawsuit or the inclusion of the **Extended Class Members**. The parties have reached a settlement agreement in principle before proceeding to a “common issues trial”. At a common issues trial a judge would have made a legal finding on the Plaintiff’s allegations, but this did not occur in these proceedings because the parties reached a settlement agreement.

<h3><b>WHO IS INCLUDED IN THE PROPOSED SETTLEMENT?</b></h3>
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#### **5. Why is there a proposed settlement?**

The Plaintiff and the Defendants have agreed to the Proposed Settlement. The Proposed Settlement is a compromise of disputed claims against the defendants without any admission of liability by the defendants.

By entering the Proposed Settlement, the parties are seeking to avoid the costs and uncertainty of a trial and the potential delays in obtaining judgment. It also means that the class members will not need to testify in court.

The Plaintiff and Class Counsel are of the view that the Proposed Settlement is in the best interests of all Class Members.

#### **6. Who is included in the proposed settlement?**

You are a Class Member and may be entitled to compensation under the Proposed Settlement if you fall within the following definition:

“All salespersons and sales managers of Approval Team Inc. who, since January 1<sup>st</sup>, 2018 to July 30<sup>th</sup>, 2020, worked or continue to work for Approval Team Inc., as independent contractors and/or employees.”

Estates of Certified or Extended Class Members may be eligible. A claim must be filed under the Proposed Settlement by the Executor or Administrator of the Estate of the Certified or Extended Class Member.

If the Proposed Settlement is approved, all Certified Class Members, except those who validly opted out of the Class Action, will be bound by the Proposed Settlement, and will automatically release any claims they may have against the Defendants relating to any conduct alleged, or which could have been alleged, in this action.

However, for the **Extended Class Members** they will be bound by the terms of the Settlement if, and only if, they do not validly opt out of the Class Action before the deadline.

## 7. What if I am not sure if I am included in the proposed settlement?

If you are not sure whether you are included in the Proposed Settlement, you may call 416-907-9249 or visit the dedicated webpage at the following address: <https://www.monkouselaw.com/approval-team-employment-standards-class-action/>.

# PROPOSED SETTLEMENT

## 8. What does the Proposed Settlement provide?

If approved, the Proposed Settlement provides that Certified and Extended Class Members are eligible for compensation.

- To receive payment, Class Members **must** fill out a claims form that details, to the best of their abilities, the dates which you worked for the Defendants, proof of working for the Defendants, and your up-to-date contact information.
- The Defendants will receive these claims forms and will review their records to verify the information you provide.
- The Defendants will send a notification letter to each Certified Class Member and explain what they have concluded regarding the Certified Class Member's work history.
- If a Certified Class Member disagrees with the Defendants' assessment, they can file an appeal with a designated referee.
- Once all appeals are resolved, the Defendants will calculate the estimated amount each Certified Class Member is entitled to receive under the settlement using a pre-determined formula.

The Proposed Settlement is for a for a global, all-inclusive amount of \$850,000 inclusive of legal fees, disbursements, taxes, settlement administration costs and/or an honorarium for the representative plaintiff.

Class Counsel is asking for the approval of fees and disbursements in the amount of \$340,965.00 This amount will be paid directly by the Defendants from the total amounts set aside to settle the class action.

A honorarium of \$10,000 is requested for the representative plaintiff.

The amount available for distribution to the class members will be \$499,035, provided that the requested legal fees and disbursements and honorarium for the representative plaintiff are approved by the Court. This amount will be distributed according to a pre-determined formula based upon the payments made to each class member and assumptions of the number of hours worked and resulting hourly rates.

A full copy of the agreement entered into by the parties in connection with the Proposed Settlement (the “**Settlement Agreement**”) will be available at: <https://www.monkouselaw.com/approval-team-employment-standards-class-action/>

## **9. What am I giving up in the proposed settlement?**

Once the Proposed Settlement becomes final, you will have given up your right to sue the Defendants in connection with the claims outlined in **Appendix A** of the Settlement Agreement. In other words, you will be "releasing" the Defendants from liability in connection with any conduct alleged, or which could have been alleged, in this action, including anything in respect of pay for allegedly unpaid wages, overtime pay, vacation pay, public holiday pay, Canada Pension Plan contributions and Employment Insurance contributions from January 1<sup>st</sup>, 2018 to July 30<sup>th</sup>, 2020. However, if you are part of the **Extended Class Members** this date range is between January 1<sup>st</sup>, 2018 and the date the Extended Class is certified by the court.

**Appendix A** of the Settlement Agreement contains a specific description of the released claims, so please read it carefully. If you have any questions about what this means, you may contact Class Counsel or you may engage your own lawyer. If you decide to retain your own lawyer, you are responsible for paying your lawyer’s legal fees.

## **10. May I remove myself from the proposed settlement?**

Yes, but only if you are part of the **Extended Class** and you do not wish bound by the terms of the settlement there will be an opportunity to opt out **after the Settlement and Fee Approval Hearing** and if the Extended Class is certified by the Court. Please refer to the following webpage for the most recent updates, opt out forms will be posted here if the Courts certify the Extended Class: <https://www.monkouselaw.com/approval-team-employment-standards-class-action/>

If you are part of the **Certified Class** the opportunity to opt out of this Class Action expired on **November 25<sup>th</sup>, 2020**, and by not opting out you agreed to be bound by any decisions made by the Representative Plaintiff and Class Counsel, including settlement.

## **HOW DO I GET PAID IF THE PROPOSED SETTLEMENT IS APPROVED**

### **11. How will I receive a payment?**

To be eligible to receive a payment under the Proposed Settlement, all Certified and Extended Class Members will be required to complete and submit a Claim Form. The Defendants will assess all claims using a pre-determined formula agreed upon by the parties and approved by the court. Certified and Extended Class Members deemed eligible for compensation under the Proposed Settlement will not need to testify in court. Once the claim is verified, Certified and Extended Class Members will receive compensation as soon as reasonably possible.

Before anyone can file the Claim Form or have their eligibility to receive payment under the Proposed Settlement assessed, the Ontario Superior Court of Justice must decide whether to grant final approval of the Proposed Settlement at the Settlement and Fee Approval Hearing (see the “**Approval Hearing**”, below).

If the Proposed Settlement is approved, you will receive additional information about the claims process, including the Claim Form, in a further notice.

### **12. How will payments be calculated?**

The Defendants, in consultation with Class Counsel will review your Claim Form and determine if you qualify for a payment. If you do, the Defendants, in consultation with Class Counsel, will determine the amount of your payment based on the pre-set formula described in the Settlement Agreement and approved by the court.

Importantly, the settlement is for a fixed amount, meaning that the Defendants do not "save" money by denying claims.

The amount each Certified and Extended Class Member will receive will depend on several factors. They are:

1. The number of Certified and Extended Class Members that apply for payment;
2. When you worked for the Defendants;
3. The amount you were paid by the Defendants; and
4. Whether you worked as an independent contractor or as an employee.

The Defendants will review their records to determine payments made to the Certified and Extended Class Member, and assumptions will be used to determine the overtime entitlements and minimum wage entitlements based on hourly rates of pay. That calculation will be used to determine what share of the settlement amount the Certified and Extended Class Member will receive. The total payment will also be dependent on the number of Certified and Extended Class Members who apply for compensation

under the Proposed Settlement and the total costs incurred in administering the settlement.

A complete copy of the Settlement Agreement can be found at on our website at: <https://www.monkouselaw.com/approval-team-employment-standards-class-action/> . The Settlement Agreement explains fully how much is being paid and how it is being distributed.

### **13. What if I disagree with the assessment of my claim?**

If you disagree with how the Defendants determined your claim you are entitled to an appeal under the Proposed Settlement. All appeals will be decided by a neutral referee.

**THE LAWYERS REPRESENTING YOU**

### **14. Who is Class Counsel?**

Monkhouse Law represents the Plaintiff. We were retained by the Plaintiff on October 17<sup>th</sup>, 2019. We have been advocating diligently on behalf of the Plaintiff and Class Members and believe the Proposed Settlement is fair, reasonable, and in the best interests of Class Members. If you wish to be represented by or receive advice from a different lawyer, you may hire one at your own expense.

### **15. Do I have to pay Class Counsel anything?**

No. Class Counsel is asking for the approval of fees and disbursements in the amount of \$340,965.00 This amount will be paid directly by the Defendants from the total amounts set aside to settle the class action. Class Counsel will not be paid unless the Ontario Superior Court of Justice declares that the proposed legal fees are fair and reasonable.

You will not need to pay any legal fees out of your own pocket for services from Class Counsel relating to the Class Action. If a Class Member retains other lawyers or a personal representative, that Class Member is responsible for paying their own lawyer or representative's fees, disbursements, and taxes.

## **PARTICIPATING IN THE PROPOSED SETTLEMENT AND FEE APPROVAL HEARING**

### **16. Participating in the Proposed Settlement and Fee Approval Hearing**

You may participate in the hearing to voice your support for the proposed settlement, you may object to the proposed settlement if you disagree with all or part of it, and

you may also voice support or disapproval of the proposed legal fees payments. The Court will consider your views.

Participation in the hearing is optional. You may choose to wait for the outcome of the hearing.

### **17. How do I tell the Court if I support the proposed settlement?**

To express your support for the Proposed Settlement, the proposed legal fees, or both, you may write a letter that includes the following:

- Your full name, current mailing address, email address and telephone number;
- A statement saying that you support the Proposed Settlement, legal fees, or both;
- The reasons you support the Proposed Settlement, legal fees, or both, along with any supporting materials; and,
- Your signature or that of your legal agent acting with your instructions.

You may mail or email your letter to:

Approval Team Inc. Class Action c/o Monkhouse Law, 220 Bay Street, Suite 900, Toronto, Ontario, M5J 2W4 Email: approvalteam@monkhouselaw.com
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### **18. How do I tell the Court if I do not support the proposed settlement or legal fees?**

To object to the proposed settlement, you may either:

- a. Make a written objection:** Write a letter or email that includes the following information:
  - Your full name, current mailing address, email address and telephone number;
  - A statement saying that you object to the Proposed Settlement or the legal fees or both;
  - The reasons you object to the Proposed Settlement, legal fees, or both, along with any supporting materials; and
  - Your signature or that of your legal agent acting with your instructions.
- b. Make an oral objection at the approval hearing:** You must fill out an Objection Form and indicate that you intend to appear at the hearing to object.

The approval hearing before the Court is scheduled to be heard in Toronto, Ontario on **January 10, 2022 via Zoom**.

All objecting letters or emails, including any Objection Forms, must be sent on or before November 30<sup>th</sup>, 2021 at 5:00 pm to:

Approval Team Inc. Class Action  
c/o Monkhouse Law, 220 Bay Street, Suite 900,  
Toronto, Ontario, M5J 2W4  
Email: approvalteam@monkouselaw.com

## **THE APPROVAL HEARING**

### **19. When/where will the Court decide whether to approve the Proposed Settlement and/or the legal fees?**

The Ontario Superior Court of Justice will hold the Approval Hearing via Zoom on **January 10<sup>th</sup>, 2022**. Zoom log-in details will be available from Class Counsel one week before the motion.

This is a public hearing, and you may attend if you wish. As a Class Member, you may also ask to speak, but you do not have to.

The hearing date could be moved to a different date or time without additional notice. If you plan to attend the hearing, we recommend you check Class Counsel website at <https://www.monkouselaw.com/approval-team-employment-standards-class-action/> or call 416-907-9249.

At the hearing, the Court will consider whether the Proposed Settlement is fair, reasonable, and in the best interests of the Class. If there are objections, the Court will listen to the people who submitted an Objection Form and asked to speak at the hearing.

After the hearing, the Court will decide whether to approve the Proposed Settlement. We cannot guarantee when the Court will release its decision.

The Court will, at the same, consider whether the proposed legal fees are fair and reasonable.

### **20. What if I do nothing?**

If you do nothing, you are deemed to have accepted the Proposed Settlement. If you are part of the Extended Class, you will be bound by the settlement unless you opt out of the Class Action. The approval hearing will proceed, and the Court will consider

whether the proposed settlement is fair, reasonable, and in the best interests of the Class. You will have no further opportunity to make objections to the Court with respect to the Proposed Settlement.

## GETTING MORE INFORMATION

### **21. How do I get more information?**

This notice summarizes the proposed settlement. For full details, a copy of the Settlement Agreement is available at <https://www.monkouselaw.com/approval-team-employment-standards-class-action/>

If you have any questions, you may send them to:  
Approval Team Inc. Class Action  
c/o Monkhouse Law, 220 Bay Street, Suite 900,  
Toronto, Ontario, M5J 2W4  
Email: [approvalteam@monkouselaw.com](mailto:approvalteam@monkouselaw.com)