

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**BETWEEN:**

**LLOYDS UNDERWRITERS and 3303128 CANADA INC.  
T/A ALTERNATIVE RISK SERVICES**

Applicants

- and -

**RE/MAX RIGHT CHOICE INC.**

Respondent

**MOTION RECORD  
(returnable August 24, 2018)**

Date: August 14, 2018

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*Lawyers for A. Farber & Partners Inc., in  
its capacity as court-appointed receiver of  
the Property*

**TO: ATTACHED SERVICE LIST**

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# TAB 1

**ONTARIO  
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B E T W E E N :

**LLOYDS UNDERWRITERS and 3303128 CANADA INC.  
T/A ALTERNATIVE RISK SERVICES**

Applicants

- and -

**RE/MAX RIGHT CHOICE INC.**

Respondent

**NOTICE OF MOTION  
(returnable August 24, 2018)**

A. Farber & Partners Inc. ("**Farber**"), in its capacity as the Court-appointed receiver (in such capacity, the "**Receiver**") of: (a) any and all funds in the bank accounts of Toronto Right Choice Brokerage Inc. (formerly Re/Max Right Choice Inc.) (the "**Debtor**") as at the date of the Appointment Order (as defined below) (the "**Existing Funds**"), including, without limitation, any such funds affected by a Freeze Order made pursuant to section 25 of the *Real Estate and Business Brokers Act, 2002* (Ontario) (the "**Real Estate Act**") on November 1, 2017 (the "**Freeze Order**"); and (b) any and all real estate commissions owing to the Debtor (the "**Go-Forward Commissions**"), and together with the Go-Forward Commissions, the "**Property**"), will make a motion to a judge presiding over the Commercial List on Friday, August 24 at 10:00 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

1. **THE MOTION IS FOR**, amongst other things, one or more Orders:

- (a) if necessary, abridging the time for service and filing of this notice of motion and the motion record or, in the alternative, dispensing with same;
- (b) approving a claims procedure to be conducted by the Receiver (the “**Proposed Receivership Claims Procedure**”) in respect of claims in these receivership proceedings against the Property (the “**Receivership Claims**”), which Proposed Receivership Claims Procedure would rely significantly on an existing insurance claims procedure (the “**Insurance Claims Procedure**”) being conducted by ClaimsPro LP;
- (c) authorizing the Receiver to distribute the Property, without further order of this Court, based on the results of the Proposed Receivership Claims Procedure and the methodology proposed in the First Report of the Receiver dated August 9, 2018 (the “**First Report**”);
- (d) limiting any and all secured Receivership Claims, should any be made, to the Pre-Freeze Order Existing Funds (as defined herein);
- (e) approving the First Report and the activities of the Receiver set out therein;
- (f) approving the fees and disbursements of the Receiver and its counsel; and
- (g) such further and other relief as counsel may advise and this Court may permit.

2. **THE GROUNDS FOR THE MOTION ARE:**

- (a) pursuant to the Order of the Honourable Mr. Justice Hainey made January 8, 2018 (the “**Appointment Order**”), Farber was appointed as the Receiver, without security, of the Property;
- (b) the Appointment Order provides, amongst other things, that, in addition to the collected Property as at the date of the Appointment Order, all Persons (as defined in the Appointment Order) owing commissions to the Debtor as at the date of the Appointment Order or thereafter shall pay such commissions to the Receiver, and

that such amounts received by the Receiver shall be held in trust by the Receiver pending further order of the Court;

- (c) as set out in the affidavit of Janet Perkins affirmed November 1, 2017 (the “**Perkins Affidavit**”) and filed in support of the issuance of the Appointment Order, a copy of which is appended without exhibits to the First Report, it was feared that, without the appointment of the Receiver, parties would not remit the Go-Forward Commissions and there would be no mechanism in place to distribute the Property;
- (d) the Proposed Receivership Claims Procedure provides the Receiver with an effective mechanism to determine the quantum of claims against each category of Property (each, a “**Property Category**”), being:
  - (i) the Existing Funds at the time of the Freeze Order (the “**Pre-Freeze Order Existing Funds**”);
  - (ii) the Existing Funds that were remitted after the Freeze Order but prior to the Appointment Order;
  - (iii) the Go-Forward Commissions, to the extent that they have become owing and have been delivered to the Receiver; and
  - (iv) the other Go-Forward Commissions, to the extent that they become owing and are delivered to the Receiver;
- (e) the Proposed Receivership Claims Procedure contemplates a claims submission deadline of 5:00 p.m. (Toronto time) on September 28, 2018 (the “**Proposed Claims Bar Date**”), and any claims not submitted by the Proposed Claims Bar Date would be extinguished and forever barred in the Proposed Receivership Claims Procedure;
- (f) the Proposed Receivership Claims Procedure provides that claimants who have already submitted a claim in the Insurance Claims Procedure need not submit the same claim in the Proposed Receivership Claims Procedure;

- (g) the details and mechanics of the Proposed Claims Procedure are outlined in the First Report and the draft Claims Procedure Order, attached to the Receiver's motion record at **Tab 2**;
- (h) the Receiver's determination of each claim in the Proposed Receivership Claims Procedure would effectively constitute an allowance, revision or disallowance, in whole or in part, of each claim in the Insurance Claims Procedure for the sole purpose of acceptance (or rejection) as a claim in the Proposed Receivership Claims Procedure. The Receiver does not propose to make any binding determination or recommendation, in whole or in part, as to any claim for the purpose of acceptance (or rejection) as a claim in the Insurance Claims Procedure;
- (i) after the Claims Bar Date, the Receiver proposes that it be authorized to make distributions from the Property, as set out in more detail in the First Report and subject to the proposed Holdback (as defined in the First Report);
- (j) the Receiver and its counsel, Aird & Berlis LLP, have accrued fees and disbursements in their capacity as the Receiver and counsel thereto, respectively, which fees and disbursements require the approval of this Court pursuant to the Appointment Order;
- (k) the facts set out in the First Report;
- (l) the facts set out in the Perkins Affidavit;
- (m) the Real Estate Act;
- (n) section 101 of the *Courts of Justice Act* (Ontario);
- (o) rules 1.04, 2.03, 3.02 and 37 of the *Rules of Civil Procedure* (Ontario); and
- (p) such further and other grounds as counsel may advise and this Court may permit.

3. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:



- (a) the First Report, inclusive of the fee affidavits filed on behalf of the Receiver and its counsel;
- (b) the Perkins Affidavit; and
- (c) such further and other material as counsel may submit and this Court may permit.

Date: August 14, 2018

**AIRD & BERLIS LLP**

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*Lawyers for A. Farber & Partners Inc., in  
its capacity as court-appointed receiver of  
the Property*

**TO: ATTACHED SERVICE LIST**

**LLOYDS UNDERWRITERS, et al.**

**-and-**

**RE/MAX RIGHT CHOICE INC.**

Respondent

Applicants

Court File No. CV-17-586742-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**Proceedings commenced at Toronto**

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**NOTICE OF MOTION  
(returnable August 24, 2018)**

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*Lawyers for A. Farber & Partner Inc., in its capacity as the court-  
appointed receiver of the Property*

# TAB 2

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE

JUSTICE

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FRIDAY, THE 24TH

DAY OF AUGUST, 2018

LLOYDS UNDERWRITERS and 3303128 CANADA INC.  
T/A ALTERNATIVE RISK SERVICES

Applicants

- and -

RE/MAX RIGHT CHOICE INC.

Respondent

RECEIVERSHIP CLAIMS PROCEDURE ORDER

**THIS MOTION**, made by A. Farber & Partners Inc. ("**Farber**"), in its capacity as the Court-appointed receiver (in such capacity, the "**Receiver**") of: (a) any and all funds in the bank accounts of Toronto Right Choice Brokerage Inc. (formerly Re/Max Right Choice Inc.) (the "**Debtor**") as at the date of the Appointment Order (as defined below) (the "**Existing Funds**"), including, without limitation, any such funds affected by a Freeze Order made pursuant to section 25 of the *Real Estate and Business Brokers Act, 2002* (Ontario) (the "**Real Estate Act**") on November 1, 2017 (the "**Freeze Order**"); and (b) any and all real estate commissions owing to the Debtor (the "**Go-Forward Commissions**", and together with the Go-Forward Commissions, the "**Property**"), for an order approving a procedure for the determination and resolution of claims filed against the Property in this proceeding and authorizing the Receiver to

administer such claims process in accordance with its terms and making certain distributions in accordance with its results, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the First Report of the Receiver dated August 9, 2018 (the “**First Report**”), and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the service list although duly served as appears from the affidavit of service of Susy Moniz sworn August 14, 2018,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

### **DEFINITIONS**

2. **THIS COURT ORDERS** that for the purposes of this Order, the following terms shall have the following meanings:

- (a) “**Appointment Date**” means January 8, 2018;
- (b) “**Appointment Order**” means the Order of the Honourable Mr. Justice Hainey of the Court made on the Appointment Date in this proceeding;
- (c) “**Books and Records**” means the written material obtained by the Receiver in respect of the Property;
- (d) “**Business Day**” means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (e) “**ClaimsPro**” means ClaimsPro LLP;
- (f) “**Court**” means the Ontario Superior Court of Justice (Commercial List);
- (g) “**Cover Holder**” means 3303128 Canada Inc. T/A Alternative Risk Services;



- (h) **“Cover Holder Debtor’s Webpage”** means <http://www.reco-claims.ca/cp2017-002>;
- (i) **“Excluded Receivership Claim”** means any claim secured by the Receiver’s Charge (as defined in the Appointment Order) and any claim secured by the Receiver’s Borrowings Charge (as defined in the Appointment Order);
- (j) **“Insurance Claim”** means a claim filed under the Insurance Claims Procedure;
- (k) **“Insurance Claims Procedure”** means the claims procedure under the Professional Liability Insurance in respect of the Debtor, the submission instructions for which are found on the Cover Holder Debtor’s Webpage;
- (l) **“Insurer”** means certain Lloyds Underwriters;
- (m) **“Notice of Acceptance, Revision or Disallowance”** means a notice delivered by the Receiver informing a Receivership Creditor that the Receiver has accepted, revised or disallowed all or any part of such Receivership Creditor’s Receivership Claim, which notice shall be substantially in the form attached hereto as **Schedule “A”** and shall set out the reasons for such allowance, revision and/or disallowance, as applicable;
- (n) **“Notice of Dispute”** means a notice delivered to the Receiver by a Receivership Creditor disputing a Notice of Acceptance, Revision or Disallowance, which notice shall be substantially in the form attached hereto as **Schedule “B”** and shall set out the reasons for the dispute;
- (o) **“Notice to Receivership Creditors”** means the notice publicizing this Receivership Claims Procedure to be published in accordance with this Receivership Claims Procedure Order;
- (p) **“Person”** means any individual, general or limited partnership, firm, association, joint venture, trust, entity, corporation, limited or unlimited liability company, unincorporated organization, trade union, pension plan administrator, pension

plan regulator, governmental authority or agency, employee or other association, or any other juridical entity howsoever designated or constituted;

- (q) **“Professional Liability Insurance”** means the professional liability insurance program in which real estate brokerages, brokers and salespersons are required by the Real Estate Act to participate, which Professional Liability Insurance is underwritten by the Insurer through itself and the Cover Holder, and for which ClaimsPro is the independent adjuster and is responsible for receiving and investigating claims made thereunder;
- (r) **“Proven Insurance Claim”** means the amount and classification of any Insurance Claim as finally determined in accordance with the Insurance Claims Procedure;
- (s) **“Proven Receivership Claim”** means the amount and classification of any Receivership Claim as finally determined in accordance with this Receivership Claims Procedure;
- (t) **“Receiver’s Website”** means <https://farbergroup.com/engagements/remax-right-choice-inc/>;
- (u) **“Receivership Claim”** means any right of any Person against any of the Property in connection with any indebtedness, liability or obligation of any kind (including, without limitation, by operation of a trust), whether liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise and whether or not such right is executory in nature, including the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future that could be asserted by way of set-off, counterclaim or otherwise, which indebtedness, liability or obligation is based in whole or in part on facts existing on or prior to the date of this Receivership Claims Procedure Order (each, a **“Receivership Claim”** and,

collectively, the “**Receivership Claims**”), provided, however, that no “**Receivership Claim**” shall include an Excluded Receivership Claim;

- (v) “**Receivership Claims Bar Date**” means 5:00 p.m. (Toronto time) on **September 28, 2018**;
- (w) “**Receivership Claims Procedure**” means the procedures outlined in this Receivership Claims Procedure Order, including the Schedules hereto; and
- (x) “**Receivership Claims Procedure Order**” means this Order; and
- (y) “**Receivership Creditor**” means any Person having a Receivership Claim, including, without limitation, any beneficiary of any Property held in trust.

#### **NOTICE TO CREDITORS AND OTHERS**

##### **3. THIS COURT ORDERS that:**

- (a) the Receiver shall, no later than five Business Days following the issuance of this Receivership Claims Procedure Order:
  - (i) post a copy of the Receivership Claims Procedure Order (together with all Schedules) on the Receiver’s Website; and
  - (ii) post a link to the Cover Holder Debtor’s Website on the Receiver’s Website; and
- (b) the Receiver shall, no later than October 5, 2018, cause to be published a Notice to Receivership Creditors in both The Toronto Star and The Globe and Mail, National Edition.

#### **INITIAL ELIGIBILITY FOR CONSIDERATION BY THE RECEIVER**

**4. THIS COURT ORDERS** that all Receivership Creditors shall file an Insurance Claim in the Insurance Claims Process by the Receivership Claims Bar Date and in accordance with paragraph 5 of this Receivership Claims Procedure Order. For greater certainty, a Receivership

Creditor may elect to indicate on its corresponding Insurance Claim that such Insurance Claim should not be considered for Professional Liability Insurance purposes.

5. **THIS COURT ORDERS** that, for the purpose of the Receivership Claims Procedure, all Insurance Claims, together with supporting documentation in respect of each such Insurance Claim, must be filed with ClaimsPro in accordance with the Insurance Claims Procedure, such that they are received by ClaimsPro by no later than the Receivership Claims Bar Date.

6. **THIS COURT ORDERS** that any Receivership Creditor that does not file an Insurance Claim in accordance with the requirements of paragraphs 4 and 5 of this Receivership Claims Procedure Order:

- (a) shall be and is hereby forever barred from asserting or enforcing any such Receivership Claim;
- (b) shall not be entitled to receive any distributions from any of the Property; and
- (c) shall not be entitled to any further notice in, and shall not be entitled to participate in this proceeding commenced by the Appointment Order, except to the extent that such notice or participation is based exclusively on an Excluded Claim.

#### **DETERMINATION OF RECEIVERSHIP CLAIMS**

7. **THIS COURT ORDERS** that the Receiver shall review (and, for greater certainty, ClaimsPro shall permit the Receiver to review) all Insurance Claims filed on or before the Receivership Claims Bar Date and that the Receiver may accept, revise or disallow (in whole or in part) each Insurance Claim as a Receivership Claim in the Receivership Claims Procedure. For greater certainty, and notwithstanding anything else in this Receivership Claims Procedure Order, the Receiver shall have no authority to accept, revise or disallow (in whole or in part) any Insurance Claim as a Proven Insurance Claim for the purpose of the Insurance Claims Procedure. Upon accepting, revising or disallowing (in whole or in part) an Insurance Claim as a Receivership Claim in the Receivership Claims Procedure, the Receiver shall send a Notice of Acceptance, Revision or Disallowance to the Receivership Creditor. At any time, the Receiver

may request additional information with respect to any Receivership Claim, and may request that the Receivership Creditor file additional materials to support its Receivership Claim.

8. **THIS COURT ORDERS** that the Receiver may attempt to resolve the classification and amount of any Receivership Claim with the Receivership Creditor on a consensual basis prior to accepting, revising or disallowing such Receivership Claim.

9. **THIS COURT ORDERS** that where a Receivership Claim has been revised or disallowed (in whole or in part) by a Notice of Acceptance, Revision or Disallowance, the revised or disallowed portion of that Receivership Claim shall not establish a Proven Receivership Claim unless the Receivership Creditor has disputed the revision or disallowance and proven the revised or disallowed Receivership Claim (or portion thereof) in accordance with paragraphs 12-14 of this Receivership Claims Procedure Order.

#### **NOTICES OF DISPUTE**

10. **THIS COURT ORDERS** that if a Receivership Creditor disputes the Notice of Acceptance, Revision or Disallowance and intends to contest the Notice of Acceptance, Revision or Disallowance then such Receivership Creditor shall deliver a Notice of Dispute by prepaid ordinary mail, courier, personal delivery or electronic or digital transmission so that such Notice of Dispute is received by the Receiver by no later than 5:00 p.m. (Toronto time) on the Business Day which is fourteen (14) days after delivery of the Notice of Acceptance, Revision or Disallowance or such later date as the Receiver may agree in writing or the Court may order. The filing of a Notice of Dispute with the Receiver within the time limited therefore shall constitute an application to have the amount or status of such Receivership Claim determined as set out in paragraphs 12-14 hereof.

11. **THIS COURT ORDERS** that where a Receivership Creditor that receives a Notice of Acceptance, Revision or Disallowance fails to file a Notice of Dispute with the Receiver within the time limited therefore, the amount and status of such Creditor's Claim shall be deemed to be as set out in the Notice of Acceptance, Revision or Disallowance and such amount and status, if any, shall constitute such Receivership Creditor's Proven Receivership Claim.



## RESOLUTION OF CLAIMS

12. **THIS COURT ORDERS** that as soon as practicable after the delivery of the Notice of Dispute to the Receiver, the Receiver may:

- (a) attempt to resolve the classification and amount of the Receivership Claim with the Receivership Creditor on a consensual basis; and/or
- (b) schedule an appointment with the Court for the purpose of scheduling a motion to have the classification and/or amount of the Receivership Claim determined by the Court, and at such motion the Receivership Creditor shall be deemed to be the applicant and the Receiver shall be deemed to be the respondent.

13. **THIS COURT ORDERS** that notwithstanding the other provisions of this Receivership Claims Procedure Order, the Receiver may make a motion to the Court for a final determination of a Receivership Claim at any time, whether or not a Notice of Acceptance, Revision or Disallowance has been sent by the Receiver.

14. **THIS COURT ORDERS** that in the event that the dispute between the Receivership Creditor and the Receiver is not settled within a time period or in a manner satisfactory to the Receiver, the Receiver may make a motion to the Court for the final determination of the Receivership Creditor's Receivership Claim.

## ADEQUACY OF INFORMATION/CURRENCY

15. **THIS COURT ORDERS** that:

- (a) the Receiver may, where it is satisfied that a Receivership Claim has been adequately proven, waive strict compliance with the requirements of this Receivership Claims Procedure Order as to completion and submission of a corresponding Insurance Claim; and
- (b) any Receivership Claims denominated in a currency other than Canadian dollars shall, for the purposes of this Receivership Claims Procedure Order, be converted to, and constitute obligations in, Canadian dollars, such calculation to be effected

by the Receiver using the Bank of Canada noon spot rate on the Appointment Date.

#### **NOTICE OF TRANSFEREES**

16. **THIS COURT ORDERS** that the Receiver shall not be obligated to give notice to or otherwise deal with a transferee or assignee of a Receivership Claim as the Receivership Creditor in respect thereof unless:

- (a) actual written notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received by the Receiver; and
- (b) the Receiver shall have acknowledged in writing such transfer or assignment,

and thereafter such transferee or assignee shall for the purposes hereof constitute the “Receivership Creditor” in respect of such Receivership Claim. Any such transferee or assignee of a Receivership Claim, and such Receivership Claim, shall be bound by any notices given or steps taken in respect of such Receivership Claim in accordance with this Receivership Claims Procedure Order prior to the written acknowledgement by the Receiver of such transfer or assignment.

17. **THIS COURT ORDERS** that if the holder of a Receivership Claim has transferred or assigned the whole of such Receivership Claim to more than one Person or part of such Receivership Claim to another Person or Persons, such transfer or assignment shall not create a separate Receivership Claim or Receivership Claims and such Receivership Claim shall continue to constitute and be dealt with as a single Receivership Claim notwithstanding such transfer or assignment, and the Receiver shall in each such case not be bound to acknowledge or recognize any such transfer or assignment and shall be entitled to give notices to and to otherwise deal with such Receivership Claim only as a whole and then only to and with the Person last holding such Receivership Claim in whole as the Receivership Creditor in respect of such Receivership Claim. Provided that a transfer or assignment of the Receivership Claim has taken place in accordance with paragraph 16 of this Receivership Claims Procedure Order and the Receiver has acknowledged in writing such transfer or assignment, the person last holding such Receivership Claim in whole as the Receivership Creditor in respect of such Receivership Claim may by

notice in writing to the Receiver direct that subsequent dealings in respect of such Receivership Claim, but only as a whole, shall be with a specified Person and, in such event, such Receivership Creditor, such transferee or assignee of the Receivership Claim and the whole of such Receivership Claim shall be bound by any notices given or steps taken in respect of such Receivership Claim by or with respect to such Person in accordance with this Receivership Claims Procedure Order.

18. **THIS COURT ORDERS** that the Receiver is under no obligation to give notice to any Person other than the Receivership Creditor holding the Receivership Claim and shall, without limitation, have no obligation to give notice to any Person holding a security interest, lien, or charge in, or a pledge or assignment by way of security in, a Receivership Claim.

19. **THIS COURT ORDERS** that the transferee or assignee of any Receivership Claim:

- (a) shall take the Receivership Claim subject to the rights and obligations of the transferor/assignor of the Receivership Claim, and subject to the rights of the Debtor and the Receiver against any such transferor or assignor, including any rights of set-off which the Debtor had against such transferor or assignor; and
- (b) cannot use any transferred or assigned claim to reduce any amount owing by the transferee or assignee to the Debtor or the Receiver, whether by way of set-off, application, merger, consolidation or otherwise.

#### **SET OFF, ETC.**

20. **THIS COURT ORDERS** that the Receiver may set off (whether by way of legal, equitable or contractual set-off) against the Receivership Claims of any Receivership Creditor, any claims of any nature whatsoever, including, without limitation, contingent claims, that the Debtor may have against such Receivership Creditor arising prior to the entry of this Receivership Claims Procedure Order, provided that such set-off satisfies the requirements for legal, equitable or contractual set-off to the extent permitted by applicable law as may be determined by the Court. If there is any dispute between the Receiver and the applicable Receivership Creditor, however, neither the failure to assert set-off nor the allowance of any

Receivership Claim hereunder shall constitute a waiver or release by the Receiver of any such claim that the Receiver may have against such Receivership Creditor.

## **DISTRIBUTIONS**

21. **THIS COURT ORDERS** that the Holdback (as defined in the First Report) be and is hereby approved.

22. **THIS COURT ORDERS** that this Receivership Claims Procedure Order does not, and is not intended to, provide any Person with any entitlement to receive any distribution from any of the Property, save and except in accordance with paragraph 23 of this Receivership Claims Procedure Order, pursuant to which (and, for greater certainty, by virtue of the Holdback and the quantum of the Property) no Receivership Creditor shall be entitled to receive from the Property the full amount of such Receivership Creditor's Proven Receivership Claim.

23. **THIS COURT ORDERS** that, after the Receivership Claims Bar Date and relying upon the results of the Receivership Claims Procedure, the Receiver be and is hereby authorized to make distributions in respect of Proven Receivership Claims, without further Order of this Court and net of the applicable Holdback, according to the distribution methodology provided in the First Report; provided, however, that the Receiver is not yet authorized without further Order of this Court to make any distribution in respect of any secured Proven Receivership Claims (should any secured Proven Receivership Claims be made).

24. **THIS COURT ORDERS** that any and all secured Receivership Claims, should any be made, be and are limited to the Pre-Freeze Order Existing Funds (as defined in the First Report).

## **DIRECTIONS**

25. **THIS COURT ORDERS** that the Receiver may, at any time, and with such notice as this Court may require, seek directions from this Court with respect to this Receivership Claims Procedure Order, the Receivership Claims Procedure set out herein and the forms attached as Schedules hereto.

## **SERVICE AND NOTICE**

26. **THIS COURT ORDERS** that the Receiver shall be at liberty to deliver Notices of Acceptance, Revision or Disallowance, and any letters, notices, distributions or other documents or materials to Receivership Creditors or other interested Persons, as applicable, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic or digital transmission to such Persons at the address as last shown in any Insurance Claim submitted by such Receivership Creditor or, in all other cases, at the address that the Receiver has been able to source for such Person, if any, and any such service or notice by courier, personal delivery or electronic or digital transmission shall be deemed to be received on the next Business Day following the date of forwarding thereof, or if sent by prepaid ordinary mail, on the fourth Business Day after mailing.

27. **THIS COURT ORDERS** that any notice or other communication (including, without limitation, Notices of Dispute) to be given under this Receivership Claims Procedure Order by a Receivership Creditor to the Receiver shall be in writing substantially in the form, if any, provided for in this Receivership Claims Procedure Order and will be sufficiently given only if given by prepaid ordinary mail, courier, personal delivery or electronic or digital transmission addressed to:

A. Farber & Partners Inc.  
 in its capacity as the Court-appointed Receiver re Re/Max Right Choice Inc.  
 150 York Street, Suite 1600  
 Toronto, Ontario  
 Canada M5H 3S5

Attention: Michael Litwack  
 E-mail: [mlitwack@farbergroup.com](mailto:mlitwack@farbergroup.com)

Any such notice or other communication by a Receivership Creditor shall be deemed received only upon actual receipt thereof during normal business hours on a Business Day.

## **PROTECTIONS FOR THE RECEIVER**

28. **THIS COURT ORDERS** that in carrying out the terms of this Receivership Claims Procedure Order:



- (a) the Receiver shall have all the protections given to it by each of the Appointment Order and as an officer of this Court, as applicable, including the stay of proceedings in its favour;
- (b) the Receiver shall incur no liability or obligation as a result of the carrying out of the provisions of this Receivership Claims Procedure Order;
- (c) the Receiver shall be entitled to rely on the Books and Records without independent investigation; and
- (d) the Receiver shall not be liable for any claims or damages resulting from any errors or omissions in such Books and Records.

#### **MISCELLANEOUS**

29. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court of any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada) and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States of America, and of any other nation or state, to act in aid of and to be complementary to this Court in carrying out the terms of this Receivership Claims Procedure Order.

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## SCHEDULE "A"

### NOTICE OF ACCEPTANCE, REVISION OR DISALLOWANCE OF CLAIM REFERENCE NUMBER \_\_\_\_\_

Please read carefully the Instruction Letter accompanying this Notice.

TO: [insert name of creditor]

A. Farber & Partners Inc., in its capacity as the court-appointed Receiver pursuant to the Appointment Order of the Honourable Mr. Justice Hailey of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made January 8, 2018 in the proceedings involving Toronto Right Choice Brokerage Inc. (formerly Re/Max Right Choice Inc.) (in such capacity, the "**Receiver**"), hereby gives you notice that the Receiver has reviewed your claim submitted pursuant to the Receivership Claims Procedure Order of the Court made August 24, 2018 (the "**Receivership Claims Procedure Order**"), and has accepted, revised or rejected your Receivership Claim (as defined in the Receivership Claims Procedure Order) or any part thereof or any information relating thereto, as follows:

The Claim/Information as Submitted	The Claim/Information as Accepted

**Reasons for Acceptance, Revision or Disallowance:**

[insert explanation]

If you do not agree with this Notice of Acceptance, Revision or Disallowance, please take notice of the following:

1. **If you dispute this Notice of Acceptance, Revision or Disallowance, you must, no later than 5:00 p.m. (Toronto time) on [\_\_\_\_\_], being the Business Day which is fourteen days after the Notice of Acceptance, Revision or Disallowance is sent by the Receiver (see paragraph 10 of the Receivership Claims Procedure Order), notify the Receiver by delivery of a Notice of Dispute. The form of Notice of Dispute is enclosed.**
2. **IF YOU DO NOT DELIVER A NOTICE OF DISPUTE WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF ACCEPTANCE, REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU AND YOUR RECEIVERSHIP CLAIM SHALL BE DEEMED TO BE AS SET OUT IN THIS NOTICE OF ACCEPTANCE, REVISION OR DISALLOWANCE.**

**DATED** at Toronto, this \_\_\_\_, day of \_\_\_\_\_, 2018.

**A. FARBER & PARTNERS INC.,  
IN ITS CAPACITY AS THE COURT-APPOINTED RECEIVER PURSUANT TO THE  
APPOINTMENT ORDER OF THE HONOURABLE MR. JUSTICE HAINEY MADE  
JANUARY 8, 2018, AND NOT IN ANY OTHER CAPACITY**

**SCHEDULE "B"****NOTICE OF DISPUTE**

We hereby give you notice of our intention to dispute the Notice of Acceptance, Revision or Disallowance bearing Reference Number \_\_\_\_\_ and dated \_\_\_\_\_ issued in respect of our claim.

**Reasons for Dispute** (attach extra sheets and copies of all supporting documentation if necessary):

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Name of Receivership Creditor: \_\_\_\_\_

\_\_\_\_\_  
(Signature of individual completing this Dispute)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Please print name)

Telephone Number: \_\_\_\_\_

Email address: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

Full Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THIS FORM IS TO BE RETURNED BY PREPAID ORDINARY MAIL, COURIER, PERSONAL DELIVERY OR ELECTRONIC OR DIGITAL TRANSMISSION AND MUST BE RECEIVED NO LATER THAN 5:00 P.M. (TORONTO TIME) ON \_\_\_\_\_, BEING THE BUSINESS DAY WHICH IS FOURTEEN DAYS AFTER THE NOTICE OF REVISION OR DISALLOWANCE IS SENT BY THE RECEIVER (PURSUANT TO PARAGRAPH 10 OF THE CLAIMS PROCEDURE ORDER) TO:**

A. Farber & Partners Inc.  
in its capacity as the Court-appointed Receiver re Re/Max Right Choice Inc.  
150 York Street, Suite 1600  
Toronto, Ontario  
Canada M5H 3S5

Attention: Michael Litwack  
E-mail: [mlitwack@farbergroup.com](mailto:mlitwack@farbergroup.com)

**LLOYDS UNDERWRITERS and 3303128 CANADA INC.  
T/A ALTERNATIVE RISK SERVICES**

**- and -**

**RE/MAX RIGHT CHOICE INC.**

Court File No. CV-17-586742-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**Proceedings commenced at Toronto**

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**RECEIVERSHIP CLAIMS PROCEDURE ORDER**

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**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
Suite 1800, 181 Bay Street  
Toronto, ON M5J 2T9

**Ian Aversa (LSUC # 55449N)**  
Tel: (416) 865-3082  
Fax: (416) 863-1515  
Email: [iaversa@airdberlis.com](mailto:iaversa@airdberlis.com)

**Jeremy Nemers (LSUC # 66410Q)**  
Tel: (416) 865-7724  
Fax: (416) 863-1515  
Email: [jnemers@airdberlis.com](mailto:jnemers@airdberlis.com)

*Lawyers for A. Farber & Partners Inc., in its capacity as the Court-  
appointed Receiver of the Property*

# TAB 3

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE

)

FRIDAY, THE 24TH

JUSTICE

)

DAY OF AUGUST, 2018

)

LLOYDS UNDERWRITERS and 3303128 CANADA INC.  
T/A ALTERNATIVE RISK SERVICES

Applicants

- and -

RE/MAX RIGHT CHOICE INC.

Respondent

ANCILLARY ORDER

**THIS MOTION**, made by A. Farber & Partners Inc. ("**Farber**"), in its capacity as the Court-appointed receiver (in such capacity, the "**Receiver**") of: (a) any and all funds in the bank accounts of Toronto Right Choice Brokerage Inc. (formerly Re/Max Right Choice Inc.) (the "**Debtor**") as at the date of the Appointment Order granted by the Honourable Mr. Justice Hainey on January 8, 2018 in this proceeding (the "**Existing Funds**"), including, without limitation, any such funds affected by a Freeze Order made pursuant to section 25 of the *Real Estate and Business Brokers Act, 2002* (Ontario) (the "**Real Estate Act**") on November 1, 2017 (the "**Freeze Order**"); and (b) any and all real estate commissions owing to the Debtor (the "**Go-Forward Commissions**"), and together with the Go-Forward Commissions, the "**Property**"), for an order, amongst other things: (i) approving the First Report of the Receiver dated August 9, 2018 (the "**First Report**") and the conduct and activities of the Receiver described therein; (ii)



approving the fees and disbursements of the Receiver and its counsel; and (iii) granting certain relief in respect of the Century 21 Heritage Sourced Funds (as defined in the First Report).

**ON READING** the First Report, including the fee affidavits appended thereto on behalf of the Receiver and its counsel (the “**Fee Affidavits**”), and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the service list although duly served as appears from the affidavit of service of Susy Moniz sworn August 14, 2018,

1. **THIS COURT ORDERS** that the time for service of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the First Report and the conduct and activities of the Receiver described therein be and are hereby approved.
3. **THIS COURT ORDERS** that the fees and disbursements of the Receiver and its counsel described in the Fee Affidavits be and are hereby approved.
4. **THIS COURT ORDERS** that, for the avoidance of doubt, the Century 21 Heritage Sourced Funds constitute Property (and, more specifically, the type of Property that they would have constituted, in each underlying case when they were originally paid to Century 21 Heritage Group Ltd., had they instead been paid at such time to the Debtor’s account or the Receiver’s account, as applicable).
5. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court of any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada) and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States of America, and of any other nation or state, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

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**LLOYDS UNDERWRITERS and 3303128 CANADA INC.  
T/A ALTERNATIVE RISK SERVICES**

**- and -**

**RE/MAX RIGHT CHOICE INC.**

Court File No. CV-17-586742-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**Proceedings commenced at Toronto**

**ANCILLARY ORDER**

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
Suite 1800, 181 Bay Street  
Toronto, ON M5J 2T9

**Ian Aversa (LSUC # 55449N)**  
Tel: (416) 865-3082  
Fax: (416) 863-1515  
Email: [iaversa@airdberlis.com](mailto:iaversa@airdberlis.com)

**Jeremy Nemers (LSUC # 66410Q)**  
Tel: (416) 865-7724  
Fax: (416) 863-1515  
Email: [jnemers@airdberlis.com](mailto:jnemers@airdberlis.com)

*Lawyers for A. Farber & Partners Inc., in its capacity as the Court-  
appointed Receiver of the Property*

# TAB 4

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**B E T W E E N :**

**LLOYDS UNDERWRITERS and 3303128 CANADA INC.  
T/A ALTERNATIVE RISK SERVICES**

Applicants

- and -

**RE/MAX RIGHT CHOICE INC.**

Respondent

**A. FARBER & PARTNERS INC.  
FIRST REPORT OF THE RECEIVER  
AUGUST 9, 2018**

## INTRODUCTION

1. By Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made January 8, 2018 (the “**Appointment Order**”), A. Farber & Partners Inc. (“**Farber**”) was appointed as the receiver (in such capacity, the “**Receiver**”), without security, of:

- (a) any and all funds in the bank accounts (the “**Accounts**”) of Toronto Right Choice Brokerage Inc. (formerly Re/Max Right Choice Inc.) (the “**Debtor**”) as at the date of the Appointment Order (the “**Existing Funds**”), including, without limitation, any such funds affected by a Freeze Order made pursuant to section 25 of the *Real Estate and Business Brokers Act, 2002* (Ontario) (the “**Real Estate Act**”) on November 1, 2017 (the “**Freeze Order**”); and
- (b) any and all real estate commissions owing to the Debtor (the “**Go-Forward Commissions**”, and together with the Existing Funds, the “**Property**”).

2. For greater certainty, the Appointment Order confirms that all Persons (as defined in the Appointment Order) owing commissions to the Debtor as at the date of the Appointment Order or thereafter shall pay such commissions to the Receiver, and that such amounts received by the Receiver shall be held in trust by the Receiver pending further order of the Court. A copy of the Appointment Order is attached hereto as **Appendix “A”**.

## BACKGROUND

3. A copy of the Affidavit of Janet Perkins affirmed November 1, 2017 and filed in support of the issuance of the Appointment Order (the “**Perkins Affidavit**”) is attached hereto without

exhibits as **Appendix “B”**. As set out in more detail in the Perkins Affidavit, the Real Estate Act regulates the sale of real estate in the Province of Ontario, including the conduct of real estate brokerages, brokers and salespersons, all of whom are required to (amongst other things):

- (a) register under the Real Estate Act, which is administered by the Real Estate Council of Ontario (the “**Real Estate Council**”) on behalf of the Government of Ontario;  
and
- (b) participate in the Real Estate Council’s professional liability insurance program (the “**Professional Liability Insurance**”). The Professional Liability Insurance includes:
  - (i) consumer deposit insurance, which offers protection to consumers against the loss of deposits caused by real estate broker fraud, misappropriation of funds or insolvency; and
  - (ii) commission protection insurance, which offers protection to Real Estate Act registrants (the “**Registrants**”) against the loss of commissions caused by real estate broker fraud, misappropriation of funds or insolvency.

4. The Professional Liability Insurance is underwritten by certain Lloyds Underwriters (the “**Insurer**”) through itself and its cover holder, 3303128 Canada Inc. T/A Alternative Risk Services (the “**Cover Holder**”), both of which are the applicants in these proceedings (the “**Applicants**”). ClaimsPro LP (“**ClaimsPro**”) is the independent adjuster for the Professional Liability Insurance, and is responsible for receiving and investigating claims made thereunder. A copy of the

Professional Liability Insurance policy appended to the Perkins Affidavit is attached hereto as **Appendix “C”**.

5. On November 1, 2017, after an inspection revealed irregularities in the Debtor’s finances (including, without limitation, substantial shortfalls and other irregularities in the Debtor’s trust and general bank accounts), the Real Estate Council issued the Freeze Order to prevent funds from being withdrawn from the Debtor’s accounts. On November 2, 2017, the Real Estate Council issued the public advisory attached hereto as **Appendix “D”**, which advises of the Freeze Order, the suspension of the Debtor’s registration under the Real Estate Act and the commencement of a process by the Real Estate Council to revoke the Debtor’s registration under the Real Estate Act.

6. A five-page frequently asked questions document about the implications of freeze orders and registration suspensions is maintained by the Real Estate Council on its website ([www.reco.on.ca](http://www.reco.on.ca)), a copy of which document is attached hereto as **Appendix “E”**. Many of these frequently asked questions deal with claims under the Professional Liability Insurance (such claims with respect to the Debtor being “**Insurance Claims**”), whether in respect of consumer deposits (such Insurance Claims being “**Consumer Insurance Claims**”) or commissions owing to Registrants (such Insurance Claims being “**Commission Insurance Claims**”). The Cover Holder also maintains a webpage that is specific to the Debtor (<http://www.reco-claims.ca/cp2017-002>) (the “**Cover Holder Debtor’s Webpage**”), a printout of which is attached hereto as **Appendix “F”**, which (amongst other things):

- (a) reminds Registrants of their obligation under the Professional Liability Insurance to have Insurance Claims submitted as soon as possible; and

- (b) provides instructions to Registrants as to how and where Consumer Insurance Claims and Commission Insurance Claims should be submitted (the “**Insurance Claims Procedure**”).

7. In substance, the Insurance Claims Procedure relates to the two categories of Property over which the Receiver is appointed, being the Existing Funds in the Debtor’s accounts as at the date of the Appointment Order (including those funds affected by the Freeze Order) and the Go-Forward Commissions. As set out in the Perkins Affidavit, it was feared that, absent the appointment of the Receiver, parties would not remit the Go-Forward Commissions and there would be no mechanism in place to distribute the Property.

#### **PURPOSE OF THIS REPORT**

8. The purpose of this First Report of the Receiver (this “**First Report**”) is to provide the Court with information:

- (a) with respect to the activities of the Receiver and its counsel, Aird & Berlis LLP (“**A&B**”), since the issuance of the Appointment Order; and
- (b) to support the Receiver’s request for an order:
  - (i) approving a claims procedure to be conducted by the Receiver (the “**Proposed Receivership Claims Procedure**”) in respect of claims (including, without limitation, secured claims, if any) in these receivership proceedings against the Property (the “**Receivership Claims**”), which Proposed Claims Procedure would rely significantly on the existing Insurance Claims Procedure;

- (ii) authorizing the Receiver to distribute the Property, without further order of this Court, based on the methodology proposed in this First Report;
- (iii) limiting any and all secured Receivership Claims, should any be made, to the Pre-Freeze Order Existing Funds (as defined herein);
- (iv) approving this First Report and the conduct and activities of the Receiver described herein; and
- (v) approving the fees and disbursements of the Receiver and its counsel.

#### **DISCLAIMER AND TERMS OF REFERENCE**

9. In preparing this First Report, the Receiver has relied upon unaudited financial information and other information provided by ClaimsPro, Registrants and real estate developers. While the Receiver has reviewed the information received, such work does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Accounting Principles or International Financial Reporting Standards. Accordingly, the Receiver expresses no opinion or other form of assurance with respect to such information, except as expressly stated herein.

10. This First Report has been prepared for use by the Court and the Debtor's stakeholders as general information relating to the Debtor and for the purpose of assisting the Court to consider the relief sought herein. Materials filed in these proceedings are available on the Receiver's website at: <https://farbergroup.com/engagements/remax-right-choice-inc/> (the "**Receiver's Website**").



11. Unless otherwise stated, all references in this First Report to dollars are in Canadian currency.

#### **ACTIVITIES OF (AND COLLECTIONS BY) THE RECEIVER**

12. Since the issuance of the Appointment Order, the Receiver and/or its counsel, as applicable, has undertaken a variety of activities in furtherance of the Receiver's mandate, including:

- (a) filing the required Notices and Statements of Receiver with the Official Receiver;
- (b) advising The Toronto-Dominion Bank ("**TD Bank**") of the Appointment Order for the purpose of addressing:
  - (i) the Existing Funds in the Accounts at the time of the Freeze Order (the "**Pre-Freeze Order Existing Funds**"), being \$127,599.70 plus subsequently accruing interest, which funds continue to be held at TD Bank pending further instructions from the Receiver; and
  - (ii) the Existing Funds that were remitted after the Freeze Order but prior to the Appointment Order (the "**Post-Freeze Order Existing Funds**"), being a further \$244,495.99, which funds were held by TD Bank and are now being held by the Receiver;
- (c) obtaining access to the Commission Insurance Claims via the online platform maintained by ClaimsPro (the "**ClaimsPro Online Platform**");
- (d) reviewing the Commission Insurance Claims to determine the real estate developers, co-operating brokerages and law firms that owed, owe or will owe

amounts to the Debtor (the “**Commission Debtors**”) in respect of approximately 275 real estate transactions known to the Receiver as of the date of this First Report;

- (e) notifying the Commission Debtors of the Appointment Order and requesting of them the information required by the Receiver to assist in confirming, in the Receiver’s view, the validity of claims against the Property;
- (f) reviewing the Commission Insurance Claims and the information provided by the Commission Debtors to determine, amongst other things, the amount of the Go-Forward Commissions for each real estate transaction, and when such Go-Forward Commissions is and/or will be owing (as applicable);
- (g) collecting and taking possession of the Go-Forward Commissions, to the extent that they have become owing and have been delivered to the Receiver, totalling approximately \$250,000 as of the date of this First Report (such that, together with the Post-Freeze Order Existing Funds of \$244,495.99, a total of approximately \$500,000 of Property plus interest in certain cases is in the possession of the Receiver as of the date of this First Report);
- (h) reviewing purported agreements pursuant to which certain brokerages purportedly took assignment of the Debtor’s interests in approximately 22 real estate transactions on the eve of the issuance of the Freeze Order;
- (i) conducting and reviewing searches against the Debtor pursuant to the *Personal Property Security Act* (Ontario) (the “**PPSA**”), a copy of which certified PPSA searches is attached hereto as **Appendix “G”**. Other than PPSA registrations in

favour of Mercedes-Benz Financial Services Canada Corporation and Roynat Inc., both of which are in respect of specific equipment/motor vehicles (collateral classes over which the Receiver is not appointed), the only PPSA registration against the Debtor is in favour of Kevin Najafi (the “**Najafi PPSA Registration**”). The Najafi PPSA Registration was made on February 1, 2016, is in respect of all collateral classes, provides for a general collateral description of “*including but not limited to all inventory, consumer goods, assets, accounts receivables, equipment, and intangibles*” and is limited on its face to \$400,000. According to Mr. Najafi’s LinkedIn profile, a copy of which is attached hereto as **Appendix “H”**, Mr. Najafi was “*owner/broker*” of the Debtor from June 2014 to October 2015; and

- (j) corresponding to both Mr. Najafi and the Debtor’s director at the time of the Appointment Order, Jalil Hajimir. This correspondence included sending PPSA enquiry letters to Mr. Najafi and his counsel in respect of the Najafi PPSA Registration (the “**Najafi PPSA Enquiry Letters**”), requiring, amongst other things, that Mr. Najafi furnish to the Receiver a statement in writing of the amount of the Debtor’s indebtedness to him and the terms of payment of this indebtedness, a statement in writing specifying the actual collateral to which the Najafi PPSA Registration relates, a true copy of the security agreement(s) in respect of which the Najafi PPSA Registration was made and the location of the original security agreement(s) to the extent that the Receiver wishes to inspect same. Copies of the Najafi PPSA Enquiry Letters are attached collectively hereto as **Appendix “I”**. As of the date of this First Report, no response has been received to the Najafi PPSA Enquiry Letters. The Receiver nonetheless understands that Mr. Najafi has

submitted one or more Insurance Claim to ClaimsPro in respect of lost commissions.

## **THE PROPOSED RECEIVERSHIP CLAIMS PROCEDURE**

13. To facilitate distributions of Property by the Receiver, the Receiver is seeking approval of the Proposed Receivership Claims Procedure. The Proposed Receivership Claims Procedure would provide the Receiver with a Court-approved mechanism to determine the universe of the Receivership Claims, which the Receiver views as being a precondition before any distributions of Property can commence.

14. According to the Proposed Receivership Claims Procedure, the Receiver would rely upon the Insurance Claims submitted to ClaimsPro in order to determine the Receivership Claims against the Property, and bar any and all Receivership Claims from being asserted against the Property where corresponding Insurance Claims have not been submitted by the Receivership Claims Bar Date (as defined in the Proposed Receivership Claims Procedure Order, a copy of which is attached hereto as **Appendix “J”**). A description of the Proposed Receivership Claims Procedure is provided in the following subsections of this First Report, with the complete details of the Proposed Receivership Claims Procedure being set out in the Proposed Receivership Claims Procedure Order.

### ***Reliance on the Insurance Claims***

15. The Receiver has spent considerable time reviewing and cross-referencing the Insurance Claims filed to date. ClaimsPro has received, and the Receiver has reviewed, approximately 275 Commission Insurance Claims totalling approximately \$3.0 million. The information provided in

support of each Commission Insurance Claim varies; however, most Commission Insurance Claims are supported at a minimum by the following documents:

- (a) an agreement of purchase and sale regarding the underlying real property transaction;
- (b) a co-operating brokerage agreement (or, in the case of pre-construction condominium developments, a broker referral agreement);
- (c) a contract between the salesperson and the Debtor, which provides, *inter alia*, the portion of commissions to be withheld by the Debtor (the “**Brokerage Fees**”); and
- (d) a trade record sheet prepared by the Debtor, which provides, *inter alia*, the applicable underlying real property, purchase price, salesperson and commission rates.

16. It is the Receiver’s understanding that ClaimsPro is continuing to obtain information from Commission Insurance Claims’ claimants (the “**Commission Insurance Claimants**”) as it considers necessary to determine the amount of insurance coverage by the Insurer. It is also the Receiver’s understanding that, with the exception of the Pre-Freeze Order Existing Funds, no valid Consumer Insurance Claims have or can be made against the Property because no consumer deposits have been made to the Accounts or the Receiver since the Freeze Order was granted.

17. From the Receiver’s perspective, the Insurance Claims constitute (or, as applicable, allow the Receiver to source) the best available information to determine the Receivership Claims. For example, relying on its review of the Commission Insurance Claims, the Receiver is generally able to:

- (a) identify what the Commission Insurance Claimants believe to be their Commission Insurance Claims, and how such amounts have been calculated;
- (b) identify the Commission Debtors (i.e., the real estate developers, co-operating brokerages and law firms that owed, owe or will owe, the Go-Forward Commissions in respect of the Commission Insurance Claims);
- (c) request that the identified Commission Debtors provide to the Receiver their trade information relating to the Commission Insurance Claims;
- (d) cross-reference the Commission Insurance Claims as submitted to ClaimsPro with the trade information provided to the Receiver by the Commission Debtors to:
  - (i) confirm what portion of each Commission Insurance Claim, if any, was paid to the Debtor prior to the Freeze Order;
  - (ii) confirm what portion of each Commission Insurance Claim, if any, was paid to the Debtor subsequent to the Freeze Order but before the Appointment Order;
  - (iii) confirm what portion of each Commission Insurance Claim, if any, was paid to the Debtor subsequent to the Appointment Order;
  - (iv) confirm what portion of each Commission Insurance Claim, if any, constitutes Go-Forward Commissions not yet collected; and
  - (v) determine what the Receiver believes to be the correct amount of each of the Receivership Claims and the specific Property over which such

Receivership Claims apply (i.e., the Pre-Freeze Order Existing Funds, the Post-Freeze Order Existing Funds, the Go-Forward Commissions collected and/or the Go-Forward Commissions not yet collected, as applicable).

18. In contrast, the Receiver understands that the Real Estate Council was unable to locate or obtain access to the specific real estate brokerage software that the Debtor used while in operation and that the Real Estate Council was also unable to recover any of the Debtor's physical books or records. The Receiver and its counsel, in addition to relying on the investigation being conducted by the Real Estate Council, have made several attempts to contact the director of the Debtor, Jalil Hajimir, to request, *inter alia*, the Debtor's books and records, but, to date, no response has been received. Copies of two recent letters from the Receiver's counsel to Mr. Hajimar are collectively attached hereto as **Appendix "K"**. Accordingly, other than relying upon the Insurance Claims submitted to ClaimsPro and the information directly or indirectly gleaned therefrom as set out above, the Receiver has no reliable method at its disposal to assess the Receivership Claims (other than requiring that parties resubmit Receivership Claims to the Receiver that, in substance, are already required to be made to ClaimsPro, which the Receiver considers to be a redundant exercise).

***Receivership Claims Bar Date and Notice of the Proposed Receivership Claims Procedure***

19. Based on all the information reviewed, gathered and cross-referenced by the Receiver as at the date of this First Report, the Receiver has identified that, of the Property that has been remitted to the Accounts/Receiver after the Freeze Order, certain amounts are not presently the subject of any Insurance Claim. This suggests that not all Insurance Claims have been submitted

yet and that there may be additional outstanding transactions about which the Receiver is not yet currently aware.

20. The Proposed Receivership Claims Procedure therefore provides that the **Receivership Claims Bar Date for all Receivership Claims will be 5:00 p.m. (Toronto time) on September 28, 2018.** As such, to be considered Receivership Claims in the Proposed Receivership Claims Procedure, any and all corresponding Insurance Claims would need to be filed (to the extent that they are not already filed) such that they are **received** by ClaimsPro prior to the Receivership Claims Bar Date. Failure to submit an Insurance Claim to ClaimsPro by the Receivership Claims Bar Date would forever bar, extinguish, release and discharge the underlying claim from being a Receivership Claim as against the Property, such that there would be no entitlement to receive any distribution from the Property by the Receiver or otherwise participate in these receivership proceedings. For greater certainty, although the Receiver anticipates that the vast majority (if not all) of the Receivership Claims will be in respect of Registrants' commissions, any other stakeholder wishing to assert a Receivership Claim (if any, and including ClaimsPro itself) must still submit a corresponding Insurance Claim such that it is received by ClaimsPro prior to the Receivership Claims Bar Date (and, in such situations (if any exist), the stakeholder may, where applicable, indicate on the Insurance Claim that it should not be considered for Professional Liability Insurance purposes).

21. The Receiver is unable to identify any potential stakeholders (or their contact information), other than those who are already aware of these receivership proceedings (and, in many cases, have already filed Insurance Claims). Prior to the issuance of the Appointment Order, the Receiver understands that:



- (a) the Honourable Mr. Justice Hainey of the Court issued an endorsement on December 8, 2018 (the “**Pre-Appointment Endorsement**”), a copy of which is attached hereto as **Appendix “L”**, directing that service of the application may be effected by email (i.e., to the extent that stakeholders’ email addresses were known) and an advertisement in the Toronto Star; and
- (b) the Applicants’ legal counsel filed an affidavit sworn January 3, 2018, a copy of which is attached hereto without exhibits as **Appendix “M”**, reflecting (amongst other things) that service had been effected in accordance with the Pre-Appointment Endorsement.

22. As part of the Proposed Receivership Claims Procedure, the Receiver would cause notice of the Proposed Receivership Claims Procedure to be published on the Receiver’s Website, and, for one day and by no later than October 5, 2018, in the Toronto Star and the Globe and Mail. The Receiver would also provide a link on the Receiver’s Website to the Cover Holder’s Debtor Webpage, which, as stated, provides instructions as to how and where Consumer Insurance Claims and Commission Insurance Claims should be submitted.

23. In addition to the notice that the Receiver intends to provide regarding the Proposed Receivership Claims Procedure, the Receiver has requested that the Real Estate Council publish an update to the Cover Holder Debtor’s Webpage with information regarding the Receivership Claims Procedure, and the Receiver understands that the Real Estate Council is amenable to same, provided that the Court grants the relief being requested by the Receiver regarding the Proposed Receivership Claims Procedure.

*Notices of Allowance, Revision or Disallowance*

24. The Proposed Receivership Claims Procedure would authorize and direct the Receiver to communicate its determination of each stakeholder's Receivership Claim by issuing a Notice of Allowance, Revision or Disallowance (as defined in the Proposed Receivership Claims Procedure Order) to each stakeholder who has filed an Insurance Claim by no later than the Receivership Claims Bar Date. The Receiver's determination of each Receivership Claim would be based on the information gleaned from the Receiver's review of the Insurance Claims and the information directly or indirectly gleaned therefrom, and each Notice of Allowance, Revision or Disallowance would expressly set out the quantum of the Receivership Claim that is accepted (if any) and the category or categories of Property to which it attaches, being the Pre-Freeze Order Existing Funds, the Post-Freeze Order Existing Funds, the Go-Forward Commissions collected and/or the Go-Forward Commissions not yet collected, as applicable (each a "**Property Category**", and collectively, the "**Property Categories**"). Each Notice of Allowance, Revision or Disallowance would also expressly set out the real estate transaction or transactions from which proceeds the corresponding Receivership Claim attaches (each a "**Proceeds Category**", and collectively, the "**Proceeds Categories**"). At any time, the Receiver would be entitled to request additional information with respect to any Insurance Claim for the purpose of determining the Receivership Claims.

25. The Receiver's determination of each Receivership Claim would effectively constitute an allowance, revision or disallowance, in whole or in part, of each corresponding Insurance Claim for the sole purpose of acceptance (or rejection) as a Receivership Claim. The Receiver does not propose to make any binding determination or recommendation, in whole or in part, as to any Insurance Claim for the purpose of acceptance (or rejection) as an Insurance Claim.

### ***Notices of Dispute***

26. Contemporaneously with each applicable Notice of Allowance, Revision or Disallowance, the Receiver would send a form of Notice of Dispute (as defined in the Proposed Receivership Claims Procedure Order).

27. Any stakeholder who receives a Notice of Allowance, Revision or Disallowance and intends to dispute such Notice of Allowance, Revision or Disallowance would be required to deliver a completed Notice of Dispute to the Receiver by no later than 5:00 p.m. (Toronto time) on the business day that is 14 days after the Receiver sends the Notice of Allowance, Revision or Disallowance. The filing of a Notice of Dispute with the Receiver within the time limit would constitute an application to have the amount or status of such Receivership Claim resolved as set out below.

28. Where a stakeholder who receives a Notice of Allowance, Revision or Disallowance fails to file a completed Notice of Dispute with the Receiver within the time limit, the amount and status of such Receivership Claim would be deemed to be set forth in the Notice of Allowance, Revision or Disallowance, and such amount and status, if any, would constitute the limit of such stakeholder's proven Receivership Claim.

### ***Resolution of Receivership Claims***

29. Upon receipt by the Receiver of a Notice of Dispute, the Proposed Receivership Claims Procedure provides for the resolution of such dispute by first attempting to resolve and settle the Receivership Claim on the mutual consent of the claimant and the Receiver. If it is not possible

to resolve and settle such Receivership Claim consensually, the Receiver would be entitled to bring a motion to the Court for the final determination of the Receivership Claim.

30. In addition, the Receiver would be entitled to bring a motion to the Court for the final determination of any Receivership Claim at any time, whether or not the Receiver has sent the corresponding claimant a Notice of Allowance, Revision or Disallowance.

***Distribution of Funds by the Receiver***

31. The acceptance by the Receiver of a Receivership Claim (each, a “**Proven Receivership Claim**”, and collectively, the “**Proven Receivership Claims**”) does not mean that there will be funds available from the applicable Property for distribution in respect of such Proven Receivership Claim to its claimant.

32. As part of the Proposed Receivership Claims Process, the Receiver recommends that it be authorized by this Court to make distributions after the Receivership Claims Bar Date in respect of Proven Receivership Claims, without further Order of this Court and net of the applicable Holdback (as defined immediately below), up to the amount of the Proven Receivership Claims and from their corresponding Property Category or Property Categories. To the extent that the Receiver makes distributions from a specific Property Category in respect of that Property Category’s Proven Receivership Claims, it is proposed that the recipients of such distributions (other than those in respect of secured claims, if any) would receive:

- (a) in the case of distributions being made from the Pre-Freeze Order Existing Funds, the applicable Proven Receivership Claim’s *pro rata* share of the Pre-Freeze Order

Existing Funds being distributed (the “**Pre-Freeze Order Funds Distribution Methodology**”); and

- (b) in the case of distributions being made from any other Property Category, the applicable Proven Receivership Claim’s *pro rata* share of the applicable Proceeds Category (or Proceeds Categories) being distributed from that Property Category (the “**Post-Freeze Order Funds Distribution Methodology**”).

33. The proposed distinction between the Pre-Freeze Order Funds Distribution Methodology versus the Post-Freeze Order Funds Distribution Methodology is necessary, in the Receiver’s view, given the irregularities revealed in the Debtor’s finances prior to the issuance of the Freeze Order (including, without limitation, substantial shortfalls and other irregularities in regards to the Pre-Freeze Order Existing Funds), such that the Pre-Freeze Order Existing Funds cannot be traced effectively to specific real estate transactions or other sources. As set out earlier in this First Report, the Pre-Freeze Order Existing Funds total \$127,599.70 plus interest.

34. From each Property Category (and, more specifically, from each Proceeds Category in all cases but the Pre-Freeze Order Existing Funds), the Receiver recommends that it be required by this Court to holdback the following amounts (the “**Holdback**”) before distributing any funds from such Property Category or Proceeds Category:

- (a) sufficient amounts to satisfy all disputed Receivership Claims as against the applicable Property Category or Proceeds Category, but only to the extent of such disputed Receivership Claims’ *pro rata* entitlement to a distribution from the applicable Property Category or Proceeds Category if the disputed Receivership Claims were found to be Proven Receivership Claims;

- (b) sufficient amounts, in the Receiver's discretion, to satisfy the Court-ordered charges in these receivership proceedings; and
- (c) in the case of distributions from the Pre-Freeze Order Existing Funds only, sufficient amounts to satisfy any secured Receivership Claims, if any, made against the Pre-Freeze Order Existing Funds (whether or not they are disputed Receivership Claims or Proven Receivership Claims).

35. In the event that one or more secured Receivership Claim is made, the Receiver proposes to return to Court before making a distribution in respect of same. However, the Receiver is seeking an Order at this time limiting any and all secured Receivership Claims, should any be made, to the Pre-Freeze Order Existing Funds. The Receiver believes that this is the only logical outcome as the other Property Categories consist entirely of commissions that are being held in trust (subject only to the Court-ordered charges in these receivership proceedings).

#### **CENTURY 21 HERITAGE**

36. On October 31, 2017, one day prior to the issuance of the Freeze Order, 22 real estate transactions that were being brokered by the Debtor were purportedly assigned (the "**Purported Assigned Deals**") to Century 21 Heritage Group Ltd. ("**Century 21 Heritage**"). Mario Reis, the Debtor's broker of record for these transactions, signed the purported assignment agreements on behalf of the Debtor.

37. The Receiver understands that there was no reported consideration paid by Century 21 Heritage to take assignment of the Purported Assigned Deals. The purported assignments would deprive the Debtor's estate of the applicable Brokerage Fees that would otherwise be or become

payable to it in respect of these transactions. The Receiver understands that these transactions are in respect of pre-construction condominiums for which partial commissions were paid to the Debtor prior to the purported assignments, but the final commissions were not yet due and payable at that time (and, in certain cases, are still not due and payable).

38. Following discussions between the Receiver and Century 21 Heritage, Century 21 Heritage irrevocably: (i) renounced in favour of the Debtor any and all right, title and interest that Century 21 Heritage Group may have in the Purported Assigned Deals; and (ii) authorized the Receiver to advise all applicable parties accordingly by way of an irrevocable notice and direction, which, amongst other things, directs the recipients to pay and deliver to the Receiver any and all Go-Forward Commissions that have not yet been paid. Century 21 Heritage also paid to the Receiver any and all commissions that it received as a result of having taken a purported assignment of the Purported Assigned Deals (the “**Century 21 Heritage Sourced Funds**”).

#### **INTERIM STATEMENT OF RECEIVER’S RECEIPTS AND DISBURSEMENTS**

39. A copy of the Receiver’s interim statement of receipts and disbursements as at August 9, 2018 is attached hereto as **Appendix “N”**.

#### **FEES AND DISBURSEMENTS OF THE RECEIVER AND ITS COUNSEL**

40. Pursuant to the terms of the Appointment Order, the Receiver and its counsel, A&B, shall be paid their reasonable fees and disbursements and shall pass their accounts before the Court. The Receiver and A&B have maintained detailed records of their professional time and costs.

41. The total fees of the Receiver to and including July 27, 2018 amount to \$120,444.50, plus expenses and disbursements in the amount of \$2,286.63 and HST in the amount of \$15,657.78, for

a total of \$138,388.91. The details of the time spent and services provided by the Receiver are more particularly described in the Affidavit of Hylton Levy of Farber sworn August 9, 2018, a copy of which is attached hereto as **Appendix “O”**.

42. The total legal fees incurred by the Receiver for services provided to it by A&B to and including July 27, 2018 amount to \$57,815.50, plus expenses and disbursements in the amount of \$544.39 and HST in the amount of \$7,566.02, for a total of \$65,925.91. The details of the time spent and services provided by A&B are more particularly described in the Affidavit of Ian Aversa sworn August 9, 2018, a copy of which is attached hereto as **Appendix “P”**.

43. The Receiver is of the view that these accounts are reasonable in the circumstances of these receivership proceedings. The Receiver requests that the Court approve its fees and disbursements and those of A&B.

### **RECOMMENDATIONS**

44. In light of the foregoing, the Receiver respectfully recommends that the Court grant the relief sought by the Receiver in this First Report, in the form of the draft order attached to the Receiver’s motion record.

All of which is respectfully submitted this 9<sup>th</sup> day of August, 2018.

*A. Farber & Partners Inc.*

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**A. FARBER & PARTNERS INC.**, in its capacity as the Court-appointed Receiver of the Property and not in its personal or corporate capacity



**TAB A**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE )

MONDAY, THE 8TH

JUSTICE )

*HAINES*

DAY OF JANUARY, 2018

LLOYDS UNDERWRITERS and 3303128 CANADA INC.  
T/A ALTERNATIVE RISK SERVICES

Applicants

- and -

RE/MAX RIGHT CHOICE INC.

Respondent

**ORDER**  
(appointing Receiver)

**THIS APPLICATION** made by Lloyds Underwriters and 3303128 Canada Inc. T/A Alternative Risk Services (collectively, the "Applicants") for an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing A. Farber & Partners Inc. ("Farbers") as receiver (in such capacity, the "Receiver") to, *inter alia*, collect outstanding commissions from transactions in which Toronto Right Choice Brokerage Inc. (formerly Re/Max Right Choice Inc.) (the "Debtor") is or was a broker and hold such funds in trust pending further Order of this Court and declaring that all Persons (as defined herein) now owing or who may hereafter owe commissions to the Debtor shall pay such commissions as and when due to the Receiver to be held in trust by the Receiver pending further Order of this Court, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Janet Perkins sworn November 17, 2017 and the exhibits thereto, and on hearing the submissions of counsel for the Applicants and the proposed Receiver,

no one appearing for any other person on the service list although duly served in accordance with the Endorsement of the Honourable Mr. Justice Hainey made December 8, 2017 and as appears from the affidavits of service of Clavil Henry sworn January 3, 2018 and on reading the consent of Farbers to act as the Receiver,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the notice of application and the application record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

### **APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 101 of the CJA, Farbers is hereby appointed Receiver, without security, of: (i) any and all funds currently in the Debtor's bank accounts (the "Existing Funds"), including, without limitation, any such funds affected by a Freeze Order made November 1, 2017 pursuant to section 25 of the *Real Estate and Business Brokers Act, 2002* (Ontario); and (ii) any and all real estate commissions owing to the Debtor (together with the Existing Funds, the "Property").

### **RECEIVER'S POWERS**

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof;
- (c) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on

whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including, without limitation, those conferred by this Order;

- (d) to receive and collect all real estate commissions or parts thereof now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such real estate commissions, including, without limitation, to enforce any security held by the Debtor;
- (e) to make enquiries and to report to the Court regarding, amongst other things, the entitlement of cooperating brokerages, the Debtor's former salespersons and brokers and the Debtor itself, if any, to the Property;
- (f) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (g) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (h) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (i) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor; and
- (j) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,



and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, salespersons, brokers, cooperating brokerages, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure (including any such provisions in the *Real Estate and Business Brokers Act, 2002*).

6. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully

copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. **THIS COURT ORDERS** that, notwithstanding paragraphs 5 and 6 of this Order, any requests by the Receiver under such paragraphs to the Director or the Real Estate Council of Ontario shall be reasonable and shall recognize any confidentiality and non-disclosure provisions contained in the *Real Estate and Business Brokers Act, 2002* and the Director's and the Real Estate Council of Ontario's duties and obligations under the *Real Estate and Business Brokers Act, 2002*.

8. **THIS COURT ORDERS** that all Persons now or hereafter owing commissions to the Debtor in respect of real estate transactions shall pay such commissions to the Receiver and that such amounts received by the Receiver shall be held in trust by the Receiver pending further order of this Court.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

9. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE PROPERTY**

10. **THIS COURT ORDERS** that no Proceeding against or in respect of the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Property are hereby stayed and suspended pending further Order of this Court.

### **NO EXERCISE OF RIGHTS OR REMEDIES**

11. **THIS COURT ORDERS** that all rights and remedies against the Receiver or affecting the Property are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the *Bankruptcy and Insolvency Act* (Canada) (the "BIA"), and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH THE RECEIVER**

12. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

### **RECEIVER TO HOLD FUNDS**

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

### **EMPLOYEES**

14. **THIS COURT ORDERS** that all current employees of the Debtor as of the date hereof, if any, shall not be terminated solely as a result of this Order. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree

in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

15. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

16. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER'S ACCOUNTS**

17. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to



the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise (including, without limitation, any security interests, trusts, liens, charges or encumbrances created by this Order), in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

18. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

19. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

20. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$150,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise (including, without limitation, any security interests, trusts, liens, charges or encumbrances created by this Order), in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

23. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **SERVICE AND NOTICE**

24. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (Ontario) (the "Rules"), this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol and shall be accessible from the following URL by selecting the name of the Debtor: <https://farbergroup.com/engagements/>.

25. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business

day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

#### **GENERAL**

26. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

27. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

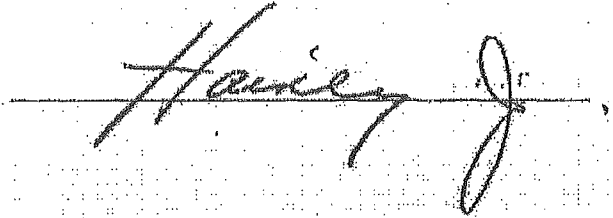
28. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

29. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

30. **THIS COURT ORDERS** that the Applicants shall have their reasonable costs of this application, up to and including entry and service of this Order, to be paid by the Receiver from the Debtor's estate and ranking in priority immediately behind the Receiver's Borrowings Charge.

31. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party

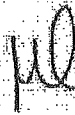
likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



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

JAN 8 - 2018

PER / PAR:



## SCHEDULE "A"

### RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. **THIS IS TO CERTIFY** that A. Farber & Partners Inc., the receiver (the "Receiver") of (i) any and all funds currently in the bank accounts (the "Existing Funds") of Toronto Right Choice Brokerage Inc. (formerly Re/Max Right Choice Inc.) (the "Debtor") and (ii) any and all real estate commissions owing to the Debtor (together with the Existing Funds, the "Property"), appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 8th day of January, 2018 (the "Order") made in an application having Court file number CV-17-586742-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

A. Farber & Partners Inc., solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

Per: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**LLOYDS UNDERWRITERS and 3303128 CANADA  
INC. T/A ALTERNATIVE RISK SERVICES**

- and -

**RE/MAX RIGHT CHOICE INC.**

Applicants

Respondent

Court File No. CV-17-586742-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**Proceedings commenced at Toronto**

**ORDER**

**KLEIN & SCHONBLUM ASSOCIATES**

Barristers and Solicitors  
Yonge-Eglinton Centre, Box 2406  
2300 Yonge Street, Suite 2901  
Toronto, ON M4P 1E4

Jeffrey S. Klein (LSUC # 17824W)

Tel: (416) 480-0221

Fax: (416) 480-0017

*Lawyers for the Applicants*



**TAB B**



Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**BETWEEN:**

**LLOYDS UNDERWRITERS and 3303128 CANADA INC.  
T/A ALTERNATIVE RISK SERVICES**

**Applicants**

**-and-**

**RE/MAX RIGHT CHOICE INC.**

**Defendant**

**AFFIDAVIT OF JANET PERKINS**

1. I, JANET PERKINS, of the Town of Aurora, in the Regional Municipality of York, in the Province of Ontario MAKE OATH AND SAY AS FOLLOWS:
2. I am a Claims Manager with ClaimsPro LP and as such have knowledge of the matters hereinafter deposed to.
3. Re/Max Right Choice Inc. ("Right Choice") is a real estate brokerage registered under the *Real Estate Business and Brokers Act, 2002* ("REBBA") to trade in real estate as a brokerage in the Province of Ontario.
4. I am advised by Mario Reis, the former broker of record of Right Choice, and do verily believe that the principal owner of Right Choice is, Jalil Hajimir. Mr. Hajimir himself is not a licenced salesperson or broker. Attached hereto and marked as **Exhibit "A"** to this my Affidavit is a true copy of a corporate search of Right Choice which indicate Jalil Hajimir to be the sole Director and Officer of Right Choice.

**REBBA**

5. REBBA, regulates the sale of real estate in Ontario. Among other things, REBBA regulates the conduct of real estate brokers, brokerages and salespersons and requires

persons to register under REBBA in order to trade in real estate, including as a brokerage, broker or salespersons.

6. *The Safety and Consumers Statutes Administration Act, 1996* (Ontario) and its associated regulations designates the Real Estate Council of Ontario ("RECO") as its sole administrator of authority of REBBA. As such, RECO is responsible for administering REBBA and its associated regulations on behalf of the Government of Ontario. RECO is a self-managed, not for profit, Federal Corporation. A Director is appointed by the Board of RECO pursuant to Section 2(1) of REBBA.
7. As indicated, Right Choice was licenced as a brokerage to trade in real estate in the Province of Ontario and did so from its office located at CenterPoint Mall, at 6464 Yonge Street, Suite 350, North York, Ontario.
8. Section 12 of REBBA requires every brokerage to designate a broker as its broker of record. The broker of record must ensure that the brokerage complies with REBBA. The broker of record was Mario Reis.
9. Section 27 REBBA requires every brokerage to maintain an account and it is designated as a Trust Account. Every brokerage is required to:
  - (a) Deposit into the account all monies that comes into the brokerage's hand in trust for other persons in connection with brokerage's business;
  - (b) At all times keep the money separate and apart from monies belonging to the brokerage; and
  - (c) Disburse the money only in accordance with the terms of the trust.
10. Section 25 of REBBA authorizes the Director (who is appointed by the Board of the Real Estate Council of Ontario ("RECO") pursuant to Section 2 (1) of REBBA) to:
  - (a) To issue a "Freeze Order" in certain circumstances including if a Director believes that it is advisable for the protection of the client and customers of a Registrant or former Registrant;

(b) Proceedings and relation to a contravention under REBBA are about the be instituted against the Registrant or former Registrant in connection with or arising out of the business in respect of which the Registrant or form Registrant is or was registered.

**APPROPRIATION OF TRUST FUNDS AND DIRECTOR'S FREEZE ORDER**

11. Right Choice ceased to carry on business on or about the 30<sup>th</sup> day of October, 2017. I am advised by Mario Reis and do verily believe that at the time of its cessation of business it maintained Trust Accounts and a General Account at the TD Canada Trust, Steeles Branch which is located at 2300 Steeles Avenue West, Vaughan, Ontario. I am further advised by Mario Reis and do verily believe that at the time of its cessation of business there was approximately \$110,000 in the Statutory Trust Account and \$40,000 in the Commission Trust Account and that Mr. Reis estimates that there ought to have been approximately \$2,500,000 in total between the two trust accounts. I am advised by Mario Reis and do verily believe that funds were electronically transferred from the Trust Accounts to General Account without any apparent reason for the transfer by Mr. Hajimir and one of his associates, Armin Ayrom.
12. As a result, the Director under REBBA issued a Freeze Order through a Public Advisory on November 2, 2017 pursuant to which it advised that on November 1, 2017 that it had issued a Freeze Order, freezing the bank accounts of Right Choice. Attached hereto and marked as **Exhibit "B"** to this my Affidavit is a true copy of the Public Advisory of the Freeze Order issued by the Director of REBBA. The Public Advisory also indicates that the registration of Right Choice has been suspended and that RECO had begun the process to revoke its registration.
13. I am advised by Mario Reis and do verily believe that he resigned as Broker of Record of Right Choice on or about November 6, 2017.

### **OPERATION OF TRUST ACCOUNTS**

14. Deposits received from purchasers pursuant to an executed Agreement of Purchase and Sale would be deposited into the Right Choice Trust Account. On closing of the transaction, the funds would be transferred to the Commission Trust Account. The fund would then be paid out of the Commission Trust Account to any co-operating broker and/or to Right Choice broker or salesperson involved in the transaction. The amount paid to the individual Right Choice broker or salesperson would be net of any share of the commission Right Choice was entitled to under the individual remuneration agreements with the particular broker/salespersons.
15. On some transactions the only role of Right Choice would be that of co-operating broker meaning that a Right Choice broker or salesperson was the "selling agent" on a property listed through another brokerage. In this event, Right Choice would receive a cheque from the listing broker for Right Choice's share of commission. These monies would be deposited directly to the Commission Trust Account and paid to the Right Choice broker/agents in the same way as described above.

### **CONSUMER DEPOSIT INSURANCE AND COMMISSION PROTECTION INSURANCE**

16. All registered sales persons, brokers and sole proprietors are required to participate in RECO's insurance program. RECO's insurance program includes Consumer Deposit Insurance, Commission Protection Insurance and Errors and Omissions Insurance.
17. Consumer Deposit Insurance protects consumers against the loss of deposits caused by real estate broker fraud, misappropriation of funds or insolvency.
18. Commission Protection Insurance protects Registrants from the loss of commission caused by real estate broker fraud, misappropriation of funds or insolvency.

19. The limits of each of the Consumer Deposit Insurance program and the Commission Protection Insurance program are \$100,000 for each claim and \$3,000,000 aggregate each occurrence.
20. Policies are underwritten by certain Lloyds Underwriters ("the Insurer") through Lloyds and through its cover holder ("the cover holder") 3303128 Canada Inc. T/A Alternative Risk Services. Attached and marked as **Exhibit "C"** is a true copy of the policies with respect to the RECO program.
21. ClaimsPro LP is the program adjuster and is responsible for receipt of claims and investigating those claims with respect to the RECO insurance program.
22. As a result of the substantial shortfall in the Trust Accounts of Right Choice, ClaimsPro has received numerous claims from consumers, salespersons of Right Choice and other real estate brokerages.

#### **COMMISSIONS TO BE COLLECTED**

23. The claims pursuant to the Commission Protection Policy from former real estate salespersons of Right Choice and other brokerages consists of two categories of claims:
  - (a) Money that was supposed to be on deposit in the Trust Accounts of Right Choice at the time of the Freeze Order ("Pre-Freeze Money"); and
  - (b) Commissions that had not yet been paid to Right Choice on account of transactions which were not yet completed ("Post Freeze Money"). The Post Freeze Money could be money due on a pending transaction from a listing broker where Right Choice was the co-operating broker and that listing broker continues to hold the commission which would otherwise have been sent to Right Choice;
  - (c) In respect of transactions that have closed or expected to close in the future and commissions have not yet been paid.

24. To date, the amount of Post Freeze Claims received by ClaimsPro amounts to approximately \$750,000. I do verily believe that there are substantially more claims that have not yet been submitted with respect to Post Freeze money and that the total will approximate or exceed \$2,000,000.
25. There is a concern amongst former salespersons of Right Choice as well as on the part of the Applicant that there is no present mechanism which exists for collecting these Post Freeze commissions. The brokerage is the only party entitled to claim and demand payment of commission due. Salespersons are not entitled to have commissions payable directly to them. Given the lack of any current operations or employees of Right Choice and the suspension of its registration and in the absence of a formal process for administering the affairs of Right Choice (such as a Receivership or Bankruptcy), there is no mechanism in place to deal with collection of outstanding commissions pending incoming funds.
26. It is necessary in all the circumstances that a Receiver be appointed to collect Post Freeze commissions owed to Right Choice and to report to this Honourable Court as to the Receiver's findings in order that a further Order as to distribution of those funds may be made in the future.
27. It will be necessary in order to sort out entitlement to funds that are the subject of the Freeze Order for some independent person to receive details of the various claims asserted against these funds and to determine the legitimacy and quantum of the claims. It is also necessary to have some individual in place to whom funds in respect of transactions that have not yet closed or are otherwise owing can be paid to and held for the benefit of claimants.
28. It is further necessary in the circumstances that an Order be made requiring all persons now or hereafter owing commissions to Right Choice to pay the said commissions to the Receiver in order that the Receiver may hold the funds in trust, make inquiries and report to this Honourable Court in like manner. The absent of the making of an Order to this effect it is feared that persons owing commissions now and in the future to Right Choice

will or may not make payment and commission income owed to Right Choice and ultimately to its salespersons will be lost as there will be no scheme in place for the effect of collection and distribution of same through a further Court Order.

29. I have discussed the situation with Hylton Levy, a partner in of A. Farber & Partners Inc., and A. Farber & Partners Inc. is prepared to be appointed as Receiver with respect to this matter.
30. I make this Affidavit in support of an Application for the appointment of a Receiver and for no other improper purpose.

*Town of Newmarket*  
 AFFIRMED at the ~~City of Toronto~~, in the )  
 Province of Ontario, this 1 day of )  
 November, 2017. )

*[Signature]*  
 A COMMISSIONER, ETC. )

(~~Jeffrey S. Klein - LSUC#17824W~~)

*[Signature]*  
 JANET PERKINS

CATHY-ANNE NELDA ELIZABETH MADILL,  
 a Commissioner, etc., Province of Ontario,  
 for Silver Vale, Barristers and Solicitors.  
 Expires March 16, 2018.

LLOYDS UNDERWRITERS, et al vs. RE/MAX RIGHT  
CHOICE INC.

Court File No.: CV-

ONTARIO  
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

**AFFIDAVIT OF JANET PERKINS**

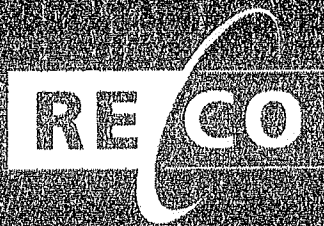
KLEIN & SCHONBLUM ASSOCIATES  
Barristers and Solicitors  
Yonge-Eglinton Centre, Box 2406  
2300 Yonge Street, Suite 2901  
Toronto, Ontario  
M4P 1E4

**Jeffrey S. Klein** (LSUC No. 17824W)  
416- 480-0221 Telephone  
416- 480-0017 Fax  
[jklein@ksalaw.com](mailto:jklein@ksalaw.com) Email  
Lawyers for the Applicants



**TAB C**





Real Estate Council of Ontario

# Insurance Program

INSURANCE BROKER

*Alternative Risk Services*

## CONTACT INFORMATION

### **Insurance Broker**

Alternative Risk Services  
36 Toronto Street, Suite 510  
Toronto, ON M5C 2C5  
Tel: 1-866-426-1666  
Fax: 1-855-529-9462  
E-mail: [info@ar-services.ca](mailto:info@ar-services.ca)  
Web: [www.reco-claims.ca](http://www.reco-claims.ca)

- Policy Wording/Coverage Questions
- Excess Coverage
- Extended Coverage

### **Claims Adjuster**

ClaimsPro LP  
16700 Bayview Avenue, Suite 211  
Newmarket, ON L3X 1W1  
Toll Free: 1-877-740-1913  
Toll Free Fax: 1-866-735-1033  
Email: [claims@reco-claims.ca](mailto:claims@reco-claims.ca)

- Errors & Omissions Claims Notification
- Commission Protection Claims Notification

### **RECO**

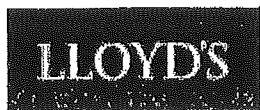
RECO Insurance Department  
3300 Bloor Street West  
West Tower, Suite 1200  
Toronto, ON M8X 2X2  
Tel: 416-207-4800  
Toll free: 1-800-245-6910  
Fax: 416-207-4820  
Email: [insurance@reco.on.ca](mailto:insurance@reco.on.ca)

- Consumer Deposit Claims Notification
- Certificates
- Insurance Renewals

Claim reporting forms are available online at [www.reco.on.ca](http://www.reco.on.ca)

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# PROFESSIONAL LIABILITY INSURANCE

Effectuated with certain Lloyd's Underwriters ("the Insurer") through Lloyd's Approved Coverholder ("the Coverholder"):

3303128 Canada Inc. T/A Alternative Risk Services  
36 Toronto Street, Suite 510, Toronto, Ontario M5C 2C5

## DECLARATIONS

**THIS IS A CLAIMS-MADE INSURANCE POLICY. PLEASE READ CAREFULLY.**

Name of Canadian Intermediary: Alternative Risk Services

Policy No.: RECO092017-01

Replaces Policy No.: RECO092016-01

Endorsements Issued at Inception: USA Jurisdiction, Terrorism Exclusion, Nuclear Incident Exclusion

1. **Named Insured:** Real Estate Council of Ontario
2. **Named Insured Address:** 3300 Bloor Street West, West Tower, Suite 1200  
Toronto, ON M8X 2X2
3. **Policy Period:** From: September 1, 2017 To: August 31, 2018  
Both days Inclusive, Standard Time at the address of the **Named Insured**
4. **Limits of Liability:**
  - Coverage A: Errors & Omissions Insurance  
Limits: \$1,000,000 each **Claim**/\$3,000,000 Annual Aggregate
  - Coverage B: Commission Protection Insurance Extension  
Limits: \$100,000 each **Claim**/\$3,000,000 Aggregate each **Occurrence**
  - Coverage C: Consumer Deposit Insurance Extension  
Limits: \$100,000 each **Claim**/\$3,000,000 Aggregate each **Occurrence**
  - Sub-Limit: **Claims** arising out of **Social Engineering Fraud** under Coverages (B) and (C) are covered up to \$10,000 each **Claim**
5. **Deductibles:**
  - Coverage A: Errors & Omissions Insurance
    - (a) \$2,500 for each **Claim** that resulted in a payment for settlement or judgment plus, if applicable:
    - (b) a further \$2,500 for each additional **Claim** against the same **Insured Member** reported within the current and prior three Policy Periods which results in a payment for settlement or judgment under this or a prior Policy.
  - Coverage B: Commission Protection Insurance Extension \$250 each **Claim**
  - Coverage C: Consumer Deposit Insurance Extension \$Nil
6. **Annual Premium:** \$373.00 per Registrant
7. **Minimum Retained Premium:** \$373.00 per Registrant
8. **Professional Services:** As defined herein
9. **Notice of Claim:**

Errors & Omissions and Commission Protection	Consumer Deposit
To: ClaimsPro LP 16700 Bayview Ave. Suite 211 Newmarket, ON L3X 1W1 Toll Free: 1-877-740-1913 Fax: 1-866-735-1033 Email: <a href="mailto:claims@reco-claims.ca">claims@reco-claims.ca</a>	To: Insurance Department Real Estate Council of Ontario 3300 Bloor Street West West Tower, Suite 1200 Toronto, ON M8X 2X2 Phone: 416-207-4800 Toll Free: 1-800-245-6910 Fax: 416-207-4820 Email: <a href="mailto:insurance@reco.on.ca">insurance@reco.on.ca</a>

The Insurance contract consists of this DECLARATIONS page as well as all coverage wordings, riders, or endorsements that are attached hereto.

#### IDENTIFICATION OF INSURER/ACTION AGAINST INSURER

This Insurance has been effected in accordance with the authorization granted to the Coverholder by the Underwriting Members of the Syndicates whose definitive numbers and proportions are shown in the Table attached to Agreement No. B0621PFDO11817 (hereinafter referred to as "the Underwriters"). The Underwriters shall be liable hereunder each for his own part and not one for another in proportion to the several sums that each of them has subscribed to the said Agreement.

In any action to enforce the obligations of the Underwriters, they can be designated or named as "Lloyd's Underwriters" and such designation shall be binding on the Underwriters as if they had each been individually named as defendant. Service of such proceedings may validly be made upon the Attorney in Fact in Canada for Lloyd's Underwriters whose address for such service is 1.155 rue Metcalfe, Suite 2220, Montreal, Québec H3B 2V6.

#### NOTICE

Any notice to the Underwriters may be validly given to the Coverholder.

In witness whereof this POLICY has been signed, as authorized by the Underwriters, by 3303128 Canada Inc. T/A Alternative Risk Services.

The Named Insured is requested to read this POLICY and, if incorrect, return it immediately for alteration.

In the event of an occurrence likely to result in a Claim under this insurance, immediate notice should be given to the Coverholder whose name and address appears above. All inquiries and disputes are also to be addressed to the Coverholder.

For purposes of the Insurance Companies Act (Canada), this Canadian Policy was issued in the course of Lloyd's Underwriters' insurance business in Canada.

The business insured/reinsured herein meets the necessary conditions to qualify as, and is being transacted as, "insuring in Canada a risk" in accordance with Part XIII of the Insurance Companies Act (Canada).

**THIS POLICY CONTAINS A CLAUSE WHICH MAY LIMIT THE AMOUNT PAYABLE.**

## COVERAGE A

### ERRORS & OMISSIONS INSURANCE POLICY

#### Section I — Insuring Agreements

In consideration of the payment of the premium, and subject to the **Limits of Liability** and the terms and conditions contained herein, the **Insurer** hereby agrees:

##### 1. **Damages**

To pay on behalf of the **Insured** all sums that the **Insured** shall become legally obligated to pay as **Damages** arising out of any **Claim** or **Claims** first made against an **Insured** during the **Policy Period** for **Professional Services**:

- (a) by reason of any act, error or omission wherever or whenever committed or alleged to have been committed in connection with or incidental to the **Insured's** activities as a **Salesperson, Broker or Brokerage**;
- (b) because of **Personal Injury** arising out of the **Insured's** activities as a **Salesperson, Broker or Brokerage**.

This **POLICY** shall only apply to **Claims** made against the **Insured** during the **Policy Period** and where the act, error or omission:

- (i) was committed during the **Policy Period**; or
- (ii) was committed prior to the **Policy Period** but of which the **Insured** had no knowledge prior to September 1, 2007, or of which the **Insured** had knowledge but could not have reasonably foreseen prior to September 1, 2007 that such act, error or omission would result in a **Claim** against the **Insured**, and which is not covered by any other insurance.

Notwithstanding the foregoing, if, during the **Policy Period** or **EXTENDED REPORTING PERIOD** (if the right is exercised in accordance with Condition 9 or 10), the **Insured** shall first become aware of any acts or circumstances which may subsequently give rise to a **Claim** against him/her which is insured hereunder and shall, during the **Policy Period** or **EXTENDED REPORTING PERIOD** (if applicable), give written notice to the **Insurer** of such acts or circumstances, then any **Claim** which is subsequently made against the **Insured** arising out of such acts or circumstances shall, for the purposes of this **POLICY**, be deemed to have been made against the **Insured** during the **Policy Period**.

##### 2. **Defence and Payment of Costs**

This insurance applies to **Claims** anywhere in the world provided that the suit is brought within Canada or the United States. In respect of the insurance coverage under this **POLICY**, the **Insurer** will:

- (a) defend in the name and on behalf of the **Insured** any action which may be brought against the **Insured**, even if such action is groundless, false or fraudulent, arising out of any **Claim** coming under the terms of this **POLICY**. The **Insurer** shall have the right to make such investigation, negotiation and settlement of any **Claim** or suit as may be deemed expedient by the **Insurer**;
- (b) pay all costs of any appeal only as so directed by the **Insurer**, attachment or similar bonds required to be furnished in connection with the contest of any **Claims** covered hereunder, but without any obligation to apply for or furnish such bonds;
- (c) pay all costs assessed against the **Insured** in any action defended by the **Insurer** and any interest accruing after the date of action upon the part of the judgment which is within the limits of the **Insurer's** liability;

- (d) reimburse the Insured for all reasonable expenses, including legal costs other than loss of earnings, incurred at the Insurer's request;
- (e) notwithstanding the foregoing sub-paragraphs (a), (b), (c) and (d), retain the right to indemnity by the Insured Member for Damages paid by the Insurer but only up to the applicable Deductible.

### 3. Coverage Limits and Deductible

- (a) The Limit of Liability – each Claim stated in the DECLARATIONS and the Deductible stated in the DECLARATIONS shall apply to each Claim. Where more than one Claim against one Insured Member or against more than one Insured Member from the same Insured Firm arises out of substantially the same cause, then both the Limit of Liability – each Claim and the Deductible stated in the DECLARATIONS shall apply as an aggregate over all such Claims.
- (b) The Limit of Liability – Annual Aggregate stated in the DECLARATIONS shall be the maximum liability of the Insurer for each Insured Member, as respects all Claims during any annual period beginning with the inception date of the Certificate of Insurance issued to the Insured Member by the Named Insured and ending with the expiry date of the POLICY.
- (c) The Insurer shall only be liable for Damages that are in excess of the Deductible and, moreover, all Defence Costs shall be paid by the Insurer in addition to the Limit of Liability and the Deductible shall not apply to Defence Costs.
- (d) If Damages are payable for settlement or judgment pursuant to this POLICY, the Insured Member (never the Named Insured) shall pay the Deductible stated in Item 5.A of the DECLARATIONS. For greater certainty, each Claim that resulted in a payment for settlement or judgment requires the payment of a \$2,500 Deductible under Item 5.A (a) of the DECLARATIONS, which amount shall be increased under Item 5.A (b) of the DECLARATIONS, by a further \$2,500 for each additional Claim against the same Insured Member reported within the current and prior three Policy Periods which results in a payment for settlement or judgment under this or a prior Policy.
- (e) When one or more Claims arising out of an error, omission, negligent act or Personal Injury giving rise to coverage under this POLICY are made jointly or severally against two or more Insured Firms or Insured Members at separate Insured Firms, then both the Limit of Liability – each Claim and the Deductible stated in the DECLARATIONS shall apply separately to each Insured Firm as an aggregate over all Claims against one or more Insured Members from the same Insured Firm.
- (f) If requested by the Insurer, the Insured Member shall make direct payments for Claims within the Deductible to the Insurer or to other parties.
- (g) All the terms and conditions of this POLICY apply notwithstanding that the amount of the Claim may be less than the Deductible stated in Item 5 of the DECLARATIONS.

### Section II – Definitions

“Anniversary” means twelve (12) months after the inception date of this POLICY and every twelve (12) months thereafter.

“Annual Premium” is the amount per Registrant that is indicated in the DECLARATIONS and is the Minimum Retained Premium in the event that a Registrant shall either retire from the business or leave the business for any reason during the Policy Period. However, a pro-rata of the Annual Premium may be charged to any Registrant that becomes a Registrant during the Policy Period. The Total Annual Premium is the total annual premium from all Registrants including any pro-rata premiums adjustments made for new Registrants during the Policy Period.

“Broker” means an individual registered by the Named Insured as defined under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended.

“Brokerage” is a corporation, partnership, sole proprietor, association or other organization or entity registered by the Named Insured as defined under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended.



**"Certificate of Insurance"** means the certificate issued or to be issued to an Insured Member or an Insured Firm by the Named Insured pursuant to Section IV 2 of this POLICY.

**"Claim"** means an oral or written demand or the filing of a suit or the initiation of an arbitration proceeding seeking Damages for an alleged error, omission, negligent act, or Personal Injury arising out of Professional Services; or a circumstance of which the Insured has knowledge that may result in a demand seeking Damages arising out of Professional Services.

**"Damages"** means compensatory damages and Includes:

- (a) repair costs;
- (b) pre-judgment interest; and
- (c) costs of a claimant that are assessed or fixed by a court;

but does not include:

- (i) fines or penalties;
- (ii) punitive or exemplary damages.

**"Deductible"** is that indicated in the DECLARATIONS, Item 5, Coverage A and Clause 3 of Section I of this POLICY.

**"Defence Costs"** means costs incurred by the Insurer or the Named Insured in defending or settling a Claim, including legal fees and disbursements of counsel appointed by the Insurer; the fees and disbursements of experts, appraisers and witnesses; costs of alternative dispute resolution; and adjuster's fees incurred on the instructions of counsel in defending or settling a Claim.

**"Insured"** means:

- (a) the Named Insured;
- (b) any Insured Member;
- (c) any Insured Firm but only with respect to the rendering of Professional Services directly or indirectly by a Registrant;
- (d) any past, present or future officer, director, employee or independent contractor of the Named Insured, Insured Firm or Insured Member but only with respect to the rendering of Professional Services directly or indirectly by a Registrant;
- (e) the heirs, executors, administrators, assigns and legal representatives of each Insured in the event of death, incapacity or bankruptcy.

**"Insured Firm"** means any Brokerage, Broker, partnership or company, and any franchisor with which the Broker is associated, as well as their respective subsidiaries or parent companies, if any, whether created or acquired during the Policy Period with which the Registrant, whose actions or omissions are alleged to have given rise to a Claim, is or may have been associated.

**"Insured Member"** means:

- (a) a Registrant for whom the Named Insured has issued a valid and current Certificate of Insurance under the terms of this POLICY or a Brokerage; and
- (b) a Registrant who has either retired from the business or left the business for any reason other than for disciplinary reasons prior to September 1, 2012, provided the Registrant was covered under this POLICY or any previous policy of which this POLICY is a renewal in a continuous series of renewals and only in respect of Professional Services rendered while having held a valid and current Certificate of Insurance.

"Insurer" is that indicated in the DECLARATIONS.

"Limits of Liability" is that indicated in the DECLARATIONS.

"Named Insured" is that indicated in the DECLARATIONS.

"Personal Injury" means:

- (a) false arrest, humiliation, detention or imprisonment, wrongful entry or eviction or other invasion of private occupancy, or malicious prosecution;
- (b) libel, slander or other defamatory or disparaging material, or publication or an utterance in violation of an individual's right of privacy.

"Policy Period" is that indicated in the DECLARATIONS.

"Professional Services" means work as a Salesperson or Broker registered by the Named Insured under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended to trade in the Province of Ontario in real estate and shall be deemed to include, but not be limited to, the sale of a business by share transfer, but does not include any trade or trading which is regulated by the Securities Act, R.S.O. 1990, Chapter S.5, the provision of Real Estate Appraisal Services, work as a real estate consultant, real estate counselor, property manager, property management consultant and rental agent but does not include any paralegal service which is regulated by the Law Society Act, R.S.O. 1990, C. L.8 or successor legislation as from time to time amended.

"Real Estate Appraisal Services" means the provision of a market value opinion by an Insured in the course of providing Professional Services provided that a Registrant is either the author of said opinion or has reviewed and approved the opinion but does not include an opinion that is done for the purpose of financing, whether secured or unsecured, or an opinion that is done in the usual course of business by anyone with Accredited Appraiser Canadian Institute (AACI), Canadian Residential Appraiser (CRA), Professional Appraiser (P.App), Professional Valuator (P.Val) or Canadian National Association of Real Estate Appraisers (CNAREA) designations.

"Registrant(s)" is a person(s) currently or previously registered by the Named Insured under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended and can be a Salesperson, Broker or Brokerage.

"Salesperson" is an individual registered by the Named Insured as defined under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended.

### Section III — Exclusions

This POLICY does not apply to any Claim or Claims for, or arising out of:

- (a) acts, errors or omissions which are fraudulent, dishonest, criminal or malicious. However, the Insured shall be reimbursed for all amounts which would have been collectible under this POLICY if such allegations are not subsequently proven. This exclusion does not apply to any Insured who is neither the author nor an accomplice of the said acts, errors or omissions;
- (b) bodily injury to, or sickness, disease, mental anguish, mental distress or death of, any person or damage to, or destruction of, or theft of, any property, including the loss of use thereof. However, this POLICY shall cover, subject to all of the terms and conditions and exclusions contained herein:
  - (i) bodily injury to, or sickness, disease, mental anguish, mental distress or death of, any person that occurs while such person is at a property for the purpose of, in connection with, or arising out of, a trade in the Province of Ontario in real estate; and/or
  - (ii) mental anguish or mental distress of any person where it is alleged that the Insured, in connection with the sale or purchase of a property, failed to disclose an adverse condition relating to that property; and/or
  - (iii) damage to, or destruction of, or theft of, any property in the care, custody and control of the Insured for purposes of selling a property.

The coverage afforded under (b) (i), (ii), and (iii) shall be subject to a combined \$50,000 sub-limit of liability and shall not extend to any Claim in any way related to or arising out of the ownership, use or operation of any automobile, aircraft or watercraft nor to any Claim in any way related to or arising out of the ownership, use, operation or maintenance of any property occupied by the Insured, in whole or part, for, or in any way related to, business purposes.

This sub-limit of liability is part of and not in addition to the Limit of Liability otherwise afforded by this POLICY. Any Claim payable under (b) (i), (ii), or (iii) shall be subject to a deductible of \$500. This deductible is part of and not in addition to the deductible set forth in the DECLARATIONS;

- (c) failure to procure or maintain adequate insurance or bonds on assets or property;
- (d) any Claim in any way related to, or arising out of, disputes relating to commissions, fees, compensation, reward or any other form of remuneration;
- (e) any act, error or omission based upon, arising out of or attributable to any fact, circumstance or situation which has been the subject of any notice given under any policy of which this POLICY is a direct or indirect renewal or replacement;
- (f) any Claim, which is insured by any other existing valid policy or policies except in respect of any excess beyond the amount or amounts of insurance provided by such other policy or policies;
- (g) fines, penalties, taxes assessed against the Insured except that if a suit shall have been brought against the Insured on a Claim falling within the coverage hereof, seeking both compensatory damages and fines, penalties, taxes, then the Insurer shall indemnify the Insured for the costs incurred with the Insurer's consent to defend such action until judgment in the trial court, but the Insurer shall not have any liability for such fines, penalties and taxes. However, this exclusion does not apply to fines, penalties or taxes incurred by a third party and included in their Claim for Damages against the Insured;
- (h) any Claim against an Insured where such Insured has provided Professional Services with respect to a real estate transaction in which the Insured has a direct or indirect interest (including as a shareholder or otherwise as a principal in the transaction) unless the Insured has fully complied with the notice requirements under Section 32 of the Real Estate and Business Brokers Act, 2002 and Section 18, Disclosure of Interest, of the Code of Ethics as set out in Ontario Regulation 580/05 under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended;
- (i) any Claim in any way related to or arising out of disputes relating to money or other property held on deposit by an Insured;
- (j) property management where greater than 35% of either the Registrant's gross revenue or the gross revenue of the Insured Firm is derived from property management;
- (k) to any Claim in any way relating to, or arising out of, an Insured acting as a mortgage broker. This exclusion does not apply to an Insured who identifies a source of funding to a borrower and directs the borrower to the source of funding for a fee.

#### Section IV — Conditions

##### 1. Severability of Interest

It is a condition precedent of this POLICY that the activities of the Insured Member that are alleged to give rise to a Claim against the Insured were performed by the Insured Member while he or she was registered under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended to trade in real estate in the Province of Ontario. No Insured shall be entitled to the benefit of this POLICY unless this condition is fulfilled except that coverage will apply to any Insured who inadvertently or unknowingly employs or becomes associated with a Salesperson, Broker or Brokerage who is not a Registrant and against whom a Claim is made and such Insured is alleged or found to be vicariously liable. Notwithstanding the foregoing, it is agreed by the Insurer that an Insured shall be entitled to the benefit of this POLICY with respect to a Claim which arises out of the activities of an Insured Member during a period when the registration of the Insured Member with the Named Insured has lapsed or been suspended due to administrative error on the part of the Named Insured.

## 2. Certificates of Insurance

The Named Insured shall issue **Certificates of Insurance** to **Insured Members** for a maximum period of one (1) year. A **Certificate of Insurance** for any EXTENDED REPORTING PERIOD as provided for in Condition 9 or 10 of this POLICY shall be issued by the Insurer.

The Named Insured shall act on behalf of all Insureds with respect to giving and receiving notice of cancellation, the negotiation of, or any revision to, any terms and conditions on issuance or renewal of this POLICY, the payment of premiums and the receiving of any return premiums that may become due under this POLICY, and the acceptance of any endorsement issued to form a part hereof.

Any error and/or omission of the Named Insured in the issuance of a **Certificate of Insurance**, including, but not limited to, the name of the **Insured Member**, description, location, address or certificate number of the **Certificate of Insurance**, or inadvertent deletion of a **Certificate of Insurance**, shall not void or in any way impair the insurance afforded to the **Insured Member**, and the Insurer releases the Named Insured from any and all liability arising out of any such error and/or omission.

## 3. Notice of Claim

The Insured shall, as a condition precedent to the availability of the rights provided under this POLICY, give written notice to the Insurer as soon as practicable of any **Claim** made against the Insured or any circumstance likely to give rise to a **Claim** under this POLICY. The Insured shall promptly forward to the Insurer any demand, notice or summons received by the Insured. Notice given by or on behalf of the Insured to any authorized representative of the Insurer with particulars sufficient to identify the Insured shall be deemed notice to the Insurer.

It is agreed, however, that failure to give notice of any **Claim** or circumstance as outlined above, which, at the time of its happening, did not appear to involve this POLICY but which, at a later date, would appear to give rise to **Claim** hereunder, shall not prejudice such **Claim**.

Failure to give the above notices will not affect the right of any Insured who did not have knowledge of the act, the circumstance or the **Claim** made by a third party on condition that the failure to give any such notices be corrected during the **Policy Period**, or any renewal thereof.

Furthermore, the failure to give the above notices in said time will not affect the right of the Insured, if such failure has not caused prejudice to the Insurer and on condition that the failure to give any such notice be corrected during the **Policy Period**, or any renewal thereof.

Except for **Claims** against the Named Insured, notice to the Named Insured shall be deemed to be notice to the Insurer.

## 4. Cooperation

The Insured shall cooperate with the Insurer and, upon the Insurer's request, assist in making settlements and in the conduct of suits or proceedings. The Insured shall attend hearings, mediations, arbitrations, trials and examinations and shall assist in securing and giving evidence and obtaining the attendance of witnesses. The Insured shall not voluntarily make any payment, assume any obligation, make any admission to any claimant or incur any expense without the consent of the Insurer.

## 5. Consent

The Insurer may settle any **Claim** and has the right to elicit offers of settlement. If the Insured should refuse to consent to any settlement recommended by the Insurer, the Insurer may:

- (a) settle the **Claim** without the Insured's consent and the Insured will remain liable to pay the deductible as set out in Item 5. Coverage A (a) of the DECLARATIONS; or
- (b) permit the Insured to continue any legal proceedings in connection with such **Claim** independently of the Insurer. In such event, the Insurer's liability for the **Claim** shall not exceed the amount for which the **Claim** could have been settled, less the Deductible set out in Item 5. Coverage A (a) of the DECLARATIONS, plus Defence Costs incurred up to the time of such refusal.

**6. Fraud**

If the Insured shall make any Claim knowing the same to be false or fraudulent as regards the amount or otherwise, coverage for such Insured shall become null and void and all rights of the Insured herein shall be forfeited. Coverage shall continue to apply for the benefit of any other Insured who is not complicit in the fraud.

**7. Action Against the Insurer**

No action shall lie against the Insurer unless, as a condition precedent thereto, the Insured shall have fully complied with all terms of this POLICY, nor until the amount of the Insured's obligation to pay shall have been finally determined either by judgment against the Insured after actual trial or by written agreement of the Insured and the claimant, subject to the prior written consent of the Insurer. Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this POLICY to the extent of the insurance afforded by this POLICY. No person or organization shall have any right under this POLICY to join the Insurer as a party to any action against the Insured to determine the Insured's liability, nor shall the Insurer be impeded by the Insured or his/her legal representative.

**8. Cancellation**

This POLICY may be cancelled:

1. by mutual consent of the Named Insured and the Insurer;
2. by the Insurer for non-payment of premium. Such cancellation may be effected by written notice by registered mail stating when, not less than fifteen (15) days thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice and this POLICY shall terminate at the date and hour specified in such notice;
3. by the Named Insured if a change in legislation, a change in the regulations, or a change in the by-laws of the Named Insured precludes the necessity of this insurance. Such cancellation may be effected by written notice to the Insurer stating when thereafter the cancellation shall be effective.

**9. Extended Reporting Period – Named Insured**

If the Insurer or the Named Insured shall cancel or not renew this POLICY for any reason, the coverage granted by this POLICY may be extended at the option and sole discretion of the Named Insured for (a) an additional twelve (12) months upon payment of an additional premium of 50% of the total annual premium, (b) an additional thirty-six (36) months for an additional premium of 100% of the total annual premium, or (c) an additional sixty (60) months for an additional premium of 125% of the total annual premium following the effective date of such cancellation or non-renewal with respect to any Claim(s) which may be made against any Insured after termination of this POLICY but only with respect to an act, error or omission committed prior to the effective date of termination of this POLICY and otherwise insured hereunder.

The rights contained in this clause shall not arise, however, unless written notice of such election, together with the additional premium due, is received by the Insurer within thirty (30) days after the effective date of cancellation or non-renewal. This clause shall not apply to any cancellation resulting from non-payment of premium.

A Claim(s) first made during the EXTENDED REPORTING PERIOD shall be deemed to have been made on the last day of the Policy Period.

**10. Extended Reporting Period – Insured Member**

If any Insured Member shall either retire from the business or leave the business for any reason other than for disciplinary reasons, he/she shall be insured for a period of thirty-six (36) months following the date of such retirement or leave from the business for any reason other than for disciplinary reasons with respect to any Claim which may be made against such Insured Member during that thirty-six (36) month period but only with respect to an act, error or omission committed prior to such retirement or leave from the business and otherwise insured hereunder.

**11. Arbitration**

In the event of a dispute between the Insured and/or the Named Insured and/or the Insurer as to the interpretation of this POLICY, or the settlement of Claims, or the apportionment of liability, or amount of the Deductible, a single arbitrator appointed pursuant to the provisions of The Arbitration Act, 1991 shall decide such dispute.

**12. Assignment**

This POLICY shall be void if assigned or transferred without the written consent of the Insurer. If the Insured shall die or be adjudged incompetent, this POLICY will protect the Insured's heir and legal representative as the Insured with respect to Claims reported during the Policy Period and arising out of any error, omission or negligent act committed prior to the date of death or adjudged incompetency, and insured under this POLICY.

**13. Insolvency**

Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve the Insurer of any obligation hereunder.

**14. Agent**

Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or change in any part of this POLICY or stop the Insurer from asserting any right under the terms of this POLICY, nor shall the terms of this POLICY be waived or changed, except by endorsement issued to form part of this POLICY and signed by an authorized representative of the Insurer.

**15. Language**

This POLICY shall be deemed to be the language of the Insurer.

**16. Claims Summary Report**

The Insurer will remit claims summary reports, including claims reserve, to the Named Insured when necessary or upon request.

**17. Subrogation and Recovery**

In the event of any payment under this POLICY, the Insurer shall be subrogated to all rights of recovery against any person and the Insured shall execute and deliver instruments and papers and render assistance to secure such rights. The Insured shall do nothing after loss to prejudice such rights.

Any recoveries, whether effected by the Insurer or by the Named Insured, shall be applied net of the expense of such recovery, firstly to the Insurer as reimbursement of amounts paid in settlement of any Claim including Defence Costs incurred by the Insurer; secondly, to the Insured in satisfaction of any retention within the Deductible.

**18. Other Insurance**

If there is available to the Insured other valid or collectible insurance or indemnity for a loss covered under this policy, the Insurer shall be liable hereunder only for the part of any covered loss or damage which is in excess of the amount recoverable by the Insured from such other valid or collectible insurance, indemnity, trust or other accounts.

The Insurer's obligations are limited as follows:

- (a) this insurance is excess over any of the other valid and collectible insurance, whether primary, excess, contingent or on any other basis;
- (b) when this insurance is excess over other insurance, the Insurer will pay only their share of the amount of loss, if any, that exceeds the sum of:

- (i) the total amount that all such other insurance would pay for the loss in the absence of this Insurance; and
- (ii) the total of all deductible and self-insured amounts under all such other insurance; and
- (c) the Insurer will share the remaining loss, if any, with any other insurance in this Other Insurance provision that was not bought specifically to apply in excess of the **Limits of Liability** shown in the DECLARATIONS of this policy, in accordance with the Method of Sharing set out in the following paragraph.

**Method of Sharing - Other Insurance**

- (i) if all of the insurance permits contribution by equal shares, the Insurer will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of liability or none of the loss remains, whichever comes first; or
- (ii) if any of the other insurance does not permit contribution by equal shares, the Insurer will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of liability to the total applicable limits of liability of all insurers.

**19. Notice of Renewal Terms and Notice of Non-Renewal**

The Insurer, no less than one hundred and sixty-five (165) days prior to the Anniversary, shall offer irrevocable rates, terms and conditions to renew this POLICY for twelve (12) months. The Named Insured may accept or reject said offer no less than forty-five (45) days prior to the subsequent Anniversary.

**20. Canadian Currency Clause**

All **Limits of Liability**, premiums and other amounts as expressed in this POLICY are in Canadian currency.

**21. Choice of Law**

The Insurer and all Insureds under this POLICY agree that it is to be governed by and interpreted according to the laws of the Province of Ontario and any applicable Federal legislation of Canada.

**22. Economic or Financial Sanctions**

The Insurer shall not knowingly provide cover or be liable to pay any **Claim** or provide benefit hereunder to the extent that the provision of such cover, payment of such **Claim** or provision of such benefit would expose the Insurer to any sanction, prohibition or restriction under any applicable international economic or financial sanctions legislation.

## COVERAGE B

### COMMISSION PROTECTION INSURANCE EXTENSION

#### Section I — Insuring Agreements

In consideration of the payment of the premium, and subject to the **Limits of Liability** and the terms and conditions contained herein, the **Insurer** hereby agrees:

##### 1. **Loss of Commission**

To pay on behalf of the **Insured** the amount of any **Claim** for **Loss** sustained by a **Claimant** in a trade in the Province of Ontario in real estate arising out of an **Occurrence** discovered during the **Policy Period**. Payment of any **Claim** shall only apply for the benefit of a **Claimant**.

##### 2. **Defence and Payments of Costs**

In respect of the Insurance coverage under this **POLICY**, the **Insurer** will:

- (a) defend any action against the **Named Insured** or an **Administrative Employee** relating to any **Claim** that relates directly or indirectly to **Loss**;
- (b) subject to the **COVERAGE LIMITS** set out below, pay all **Defence Costs**, it being understood that the payment of **Defence Costs** will not erode the **Limits of Liability** provided by this **POLICY**.

##### 3. **Coverage Limits**

- (a) The **Limit of Liability** — each **Claim** stated in the **DECLARATIONS** shall be the maximum liability of the **Insurer** for **Loss** in any **Claim**.
- (b) The **Limit of Liability** — Aggregate each **Occurrence** stated in the **DECLARATIONS** shall be the maximum liability of the **Insurer** for any **Occurrence**. If the total amount of all **Claims** in relation to any **Occurrence** exceeds the aggregate **Limit of Liability**, then **Claims** will be settled on a pro-rata basis in the same proportion that the aggregate **Limit of Liability** bears to the total amount of all **Claims**.
- (c) If payment is made for a **Claim** under this **POLICY**, the **Claimant** (never the **Named Insured**) shall pay the **Deductible** stated in Item 5.B of the **DECLARATIONS**. The **Deductible** shall apply to each **Claim** for **Loss** but shall not apply to **Defence Costs**.

#### Section II — Definitions

The definitions under Coverage A apply to Coverage B except for the following:

**"Administrative Employee"** means a present or former employee, director, officer, manager, volunteer or committee member of the **Named Insured** acting within the scope of his or her duties in that capacity.

**"Claim"** under Coverages B and C means a demand for money.

**"Claimant"** means a **Brokerage**, **Broker** or **Salesperson** or their estates who has sustained a **Loss**, but shall not include any third party who may assert a **Claim** under a contract of assignment or factoring, provided such **Brokerage**, **Broker** or **Salesperson** was not the subject of, or responsible for, the **Occurrence**.

**"Commission"** is the remuneration owing to, to be paid to, or earned by, a **Registrant(s)** for a trade in the Province of Ontario in real estate within twenty-four (24) months prior to the date of first notification of the **Occurrence** to the **Insurer**.

**"Commission Trust"** means a constituted trust where all deposits and other monies received by or due to a **Brokerage** directed to satisfy **Commission** payable or damages or other compensation in lieu of **Commission**, plus applicable taxes, on any trade in real estate are received and held by the **Brokerage** in trust. Where the deposit is received by a listing **Brokerage**, the beneficiaries of the **Commission Trust** shall be the cooperating **Brokerage** and any



listing Salesperson or listing Broker to the extent of any agreed **Commission** amount, and the listing Brokerage as to the balance after payment of such agreed **Commission**. Where the funds are received and held by the cooperating Brokerage, the beneficiaries of the **Commission Trust** shall be the cooperating Salesperson or cooperating Broker to the extent of any agreed **Commission** amount and the cooperating Brokerage as to the balance after payment of such agreed **Commission**.

In the event that the cooperating Brokerage receives the deposit, the beneficiaries to the **Commission Trust** shall be the listing Brokerage and any cooperating Salesperson or cooperating Broker to the extent of any agreed **Commission** amount and the cooperating Brokerage as to the balance after payment of such agreed **Commission**. Where the funds are received and held by the listing Brokerage, the beneficiaries of the **Commission Trust** shall be the listing Salesperson or listing Broker to the extent of any agreed **Commission** amount, and the listing Brokerage as to the balance after payment of such agreed **Commission**.

"**Commission Trust Account**" means a trust account maintained at a Canadian chartered bank or a trust company and designated as a "**Commission Trust Account**". The **Commission Trust Account** shall be used only for the receipt and disbursement of **Commission Trust** funds, and kept separate and apart from the statutory trust account that a Brokerage is required to maintain for customer and/or client funds.

"**Deductible**" is that indicated in the DECLARATIONS, Item 5, Coverage B.

"**Insured**" under Coverages B and C means:

- (a) the Named Insured;
- (b) an Administrative Employee; or
- (c) a Registrant.

"**Limits of Liability**" is that indicated in the DECLARATIONS, Item 4, Coverage B.

"**Loss**" means loss of **Commission** which has been or, in the normal course in a trade in real estate, including the sale of a business by share transfer, but does not include any trade or trading which is regulated by the Securities Act, R.S.O. 1990, Chapter S.5, would have been or ought to have been entrusted to or received by one Registrant in its/his/her Professional Capacity but is owed to another Registrant in its/his/her Professional Capacity.

"**Occurrence**" means

- (a) Insolvency of a Registrant; or
- (b) all acts of theft, fraud, misappropriation or wrongful conversion combined, committed directly or indirectly by a Registrant or present or former employee, director, officer or manager of a Registrant of moneys or other property entrusted to, or received by, the Registrant in the Registrant's Professional Capacity; or
- (c) Social Engineering Fraud.

Regardless the number of such incidents of insolvency or the number of such acts of theft, fraud, misappropriation or wrongful conversion, they will be grouped as an amount to only one **Occurrence**, regardless of the number of Claimants who suffer a Loss.

"**Professional Capacity**" means the capacity as a Salesperson, Broker or Brokerage.

"**Social Engineering Fraud**" means a misrepresentation of fact or an intentional, malicious, willful or fraudulent act undertaken by a third party that misleads a Claimant and directly results in a Loss.

### Section III — Exclusions

This POLICY does not apply to any Claim:

1. on account of acts by any Registrant while acting as executor, administrator, trustee, guardian, conservator or in any fiduciary capacity other than as a Brokerage, Salesperson or Broker for a person other than itself/himself/herself;
2. on account of any Occurrence arising out of or attributable to any fact, circumstance or situation which has been the subject of any notice given under any policy of which this POLICY is a direct or indirect renewal or replacement.

### Section IV — Conditions

#### 1. Severability of Interest

It is a condition precedent of this POLICY that the Occurrence which is alleged to give rise to a Claim is related to a Registrant while it, he or she was registered under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended to trade in real estate in the Province of Ontario. No Insured shall be entitled to the benefit of this POLICY unless this condition is fulfilled except that coverage will apply to any Insured who inadvertently or unknowingly employs or becomes associated with a Salesperson, Broker or Brokerage who is not registered under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended to trade in real estate in the Province of Ontario and against whom a Claim is made and such Insured is alleged or found to be vicariously liable. Notwithstanding the foregoing, it is agreed by the Insurer that an Insured shall be entitled to the benefit of this POLICY with respect to a Claim which arises out of an Occurrence during a period when the registration of the Registrant with the Named Insured has lapsed or been suspended due to administrative error on the part of the Named Insured.

#### 2. Notice and Cooperation

The Insured will give notice, by submitting a detailed Notice of Claim in the prescribed form, of a Claim or an Occurrence that could result in a Claim to the Insurer as soon as practicable. For the purposes of this Section, the Insurer will also accept as notice of claim under this POLICY a Notice of Occurrence with sufficient particulars from an Insured where such Occurrence later gives rise to a Claim from a Claimant.

All Claims arising out of an Occurrence must be reported to the Insurer within twenty-four (24) months of the date of first notification of the Occurrence to the Insurer.

The Insured making the Claim and/or the Claimant shall cooperate with the Insurer and, upon the Insurer's request, assist in making settlements and in the conduct of suits or proceedings. The Insured and/or the Claimant shall attend hearings, mediations, arbitrations, trials and examinations and shall assist in securing and giving evidence and obtaining the attendance of witnesses.

Upon the Insurer's request, the Insured and/or the Claimant shall produce for the Insurer's examination all pertinent records in his/her/their possession, care or control at such reasonable times and places as the Insurer shall designate, and shall cooperate with the Insurer in all matters with respect thereto. Notwithstanding the foregoing, the obligation of the Named Insured to produce records to the Insurer is subject to the Named Insured's duties and responsibilities under legislation related to real estate or the Named Insured in the Province of Ontario, including the Real Estate and Business Brokers Act, 2002 and the regulations thereunder as from time to time amended, and every statute and regulation that may be substituted therefor or any successor legislation and/or the Administrative Agreement between the Named Insured and the Province of Ontario and/or the by-laws of the Named Insured and/or any applicable privacy laws.

The Insurer will have a maximum period of one (1) year from the receipt of Notice of Claim in which the Insurer must complete, finalize and close its investigation and present its findings on any potential Claim to the Insured and/or the Claimant. This period is granted regardless of cancellation, termination or expiration of this POLICY.

3. **Claims Summary Reports**

The Insurer will remit claims summary reports to the Named Insured when necessary or upon request.

4. **Proof of Loss**

A detailed and signed Notice of Claim shall constitute proof of Loss for each Claim submitted to the Insurer by an Insured and/or the Claimant making the Claim. Upon completing its investigation and being satisfied that coverage exists, subject to the terms and conditions of this POLICY, the Insurer shall settle each Claim within a reasonable period of time not to exceed ninety (90) days.

5. **Other Insurance, Trust and Other Accounts**

If there is available to the Insured or Claimant other insurance, indemnity, trust or other accounts, the Insurer shall be liable hereunder only for the part of any payment which is in excess of the amount actually recovered by the Insured or Claimant from such other insurance, indemnity, trust or other accounts.

6. **Subrogation and Recovery**

In the event of any payment under this POLICY, the Insurer shall be further subrogated to all rights of recovery of the Insured against any person and the Insured and/or the Named Insured shall execute and deliver instruments and papers and render assistance to the Insurer to secure such rights subject to the Insured's and/or Named Insured's duties and responsibilities under legislation related to real estate or the Named Insured in the Province of Ontario, including the Real Estate and Business Brokers Act, 2002 and the regulations thereunder as from time to time amended, and every statute and regulation that may be substituted therefor or any successor legislation and/or the Administrative Agreement between the Named Insured and the Province of Ontario and/or the by-laws of the Named Insured and/or any applicable privacy laws.

Any recoveries effected by the Insurer shall be applied net of the expense of such recovery, firstly to the Insurer as reimbursement of amounts paid in settlement of any Claim, and secondly to the Insured in satisfaction of any retention within the Deductible.

The Insurer expressly waives all rights of subrogation or recovery against any Registrant of a corporation or partnership who is neither an author, accomplice nor acting in collusion with the dishonest Registrant in respect of any Occurrence resulting in any Claim paid under this POLICY.

7. **Cancellation**

This POLICY may be cancelled:

- (a) by mutual consent of the Named Insured and the Insurer;
- (b) by the Insurer for non-payment of premium. Such cancellation may be effected by written notice by registered mail stating when, not less than fifteen (15) days thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice and this POLICY shall terminate at the date and hour specified in such notice;
- (c) by the Named Insured if a change in legislation, a change in the regulations or a change in the by-laws of the Named Insured precludes the necessity of this insurance. Such cancellation may be effected by written notice to the Insurer stating when thereafter the cancellation shall be effective.

8. **Notice of Renewal Terms and Notice of Non-Renewal**

The Insurer, no less than one hundred and sixty-five (165) days prior to the Anniversary, shall offer irrevocable rates, terms and conditions to renew this POLICY for twelve (12) months. The Named Insured may accept said offer forty-five (45) days prior to the subsequent Anniversary.

**9. Assignment**

No coverage shall apply in respect of any **Claim** where an **Insured** has assigned or transferred rights to making a **Claim** under this Coverage B without the express written consent of the **Insurer**.

**10. Action Against the Insurer**

No suit, action or proceeding of any kind to recover under this POLICY shall be brought after the expiration of five (5) years from the termination or cancellation of this POLICY in its entirety, provided, however, that if such limitation for bringing suit, action or proceeding is prohibited or made void by any law controlling the construction of this POLICY, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

**11. Arbitration Clause**

In the event of a dispute between the **Insured** and/or the **Named Insured** and/or the **Insurer** as to the interpretation of this POLICY, or the settlement of **Claims**, or the apportionment of liability, or amount of the **Deductible**, a single arbitrator appointed pursuant to the provisions of The Arbitration Act, 1991 shall decide such dispute.

**12. Canadian Currency Clause**

All **Limits of Liability**, premiums and other amounts as expressed in this POLICY are in Canadian currency.

**13. Economic or Financial Sanctions**

The **Insurer** shall not knowingly provide cover or be liable to pay any **Claim** or provide benefit hereunder to the extent that the provision of such cover, payment of such **Claim** or provision of such benefit would expose the **Insurer** to any sanction, prohibition or restriction under any applicable international economic or financial sanctions legislation.

## COVERAGE C

### CONSUMER DEPOSIT INSURANCE EXTENSION

#### Section I — Insuring Agreements

In consideration of the payment of the premium, and subject to the **Limits of Liability** and the terms and conditions contained herein, the Insurer hereby agrees:

##### 1. Loss of Deposits

To pay on behalf of the Insured the amount of any Claim for Loss sustained by a Claimant in a trade in the Province of Ontario in real estate arising out of an Occurrence discovered during the Policy Period. Payment of any Claim shall only apply for the benefit of a Claimant.

##### 2. Defence and Payment of Costs

In respect of the Insurance coverage under this POLICY, the Insurer will:

- (a) defend any action against the Named Insured or an Administrative Employee relating to any Claim that relates directly or indirectly to Loss;
- (b) subject to the COVERAGE LIMITS set out below, pay all Defence Costs, it being understood that the payment of Defence Costs will not erode the Limits of Liability provided by this POLICY.

##### 3. Coverage Limits

- (a) The Limit of Liability — each Claim stated in the DECLARATIONS shall be the maximum liability of the Insurer for Loss in any Claim.
- (b) The Limit of Liability — Aggregate each Occurrence stated in the DECLARATIONS shall be the maximum liability of the Insurer for any Occurrence. If the total amount of all Claims in relation to any Occurrence exceeds the aggregate Limit of Liability, then Claims will be settled on a pro-rata basis in the same proportion that the aggregate Limit of Liability bears to the total amount of all Claims.

#### Section II — Definitions

The definitions under Coverages A and B apply to Coverage C except for the following:

“Claimant” under Coverage C means a customer or client of a Registrant and includes an individual or any proprietorship, partnership, cooperative, society, business, association, joint venture, syndicate, company, corporation, firm or other legal or commercial entity.

“Limits of Liability” is that indicated in the DECLARATIONS, Item 4, Coverage C.

“Loss” under Coverage C means loss of deposit in the form of moneys or other property which has been or, in the normal course in a trade in real estate, including the sale of a business by share transfer, but does not include any trade or trading which is regulated by the Securities Act, R.S.O. 1990, Chapter S.5, would have been or ought to have been entrusted to or received by a Registrant in its/his/her Professional Capacity from a customer or client or their legal representative arising out of a trade in real estate, including the sale of a business by share transfer, but does not include any trade or trading which is regulated by the Securities Act, R.S.O. 1990, Chapter S.5, but does not include Commission.

### Section III — Exclusions

This POLICY does not apply to any Claim:

1. on account of acts by any Registrant while acting as executor, administrator, trustee, guardian, conservator or in any fiduciary capacity other than as a real estate Brokerage, Salesperson or Broker for a Claimant other than itself/himself/herself;
2. on account of any Occurrence arising out of or attributable to any fact, circumstance or situation which has been the subject of any notice given under any policy of which this POLICY is a direct or indirect renewal or replacement.

### Section IV — Conditions

#### 1. Discovery and Notice

When the Named Insured becomes aware of evidence of an actual or alleged Occurrence, the Named Insured will give notice to the Insurer as soon as practicable but within the Policy Period. Claims shall be reported to the Named Insured or the Insurer as soon as practicable but no later than thirty-six (36) months after the date of discovery of an actual or alleged Occurrence.

#### 2. Claims Summary Reports

The Named Insured will remit claims summary reports to the Insurer when necessary or upon request. The Insurer may request additional details on any Claim and reserves the right to an independent review in the settlement of any Claim.

#### 3. Cooperation and Proof of Loss

Upon the Insurer's request, the Insured shall produce for the Insurer's examination all pertinent records at such reasonable times and places as the Insurer shall designate, and shall cooperate with the Insurer in all matters with respect thereto. Notwithstanding the foregoing, the obligation of the Named Insured to produce records to the Insurer is subject to the Named Insured's duties and responsibilities under legislation related to real estate or the Named Insured in the Province of Ontario, including the Real Estate and Business Brokers Act, 2002 and the regulations thereunder as from time to time amended, and every statute and regulation that may be substituted therefor or any successor legislation and/or the Administrative Agreement between the Named Insured and the Province of Ontario and/or the by-laws of the Named Insured and/or any applicable privacy laws.

A detailed and signed Notice of Claim shall constitute proof of Loss for each Claim submitted to the Insurer by an Insured and/or the Claimant making the Claim. Upon completing its investigation and being satisfied that coverage exists subject to the terms and conditions of this POLICY, the Insurer shall settle each Claim within a reasonable period of time not to exceed ninety (90) days.

#### 4. Other Insurance, Trust and Other Accounts

If there is available to the Insured or Claimant other insurance, indemnity, trust or other accounts, the Insurer shall be liable hereunder only for the part of any payment which is in excess of the amount actually recovered by the Claimant from such other insurance, indemnity, trust or other accounts.

#### 5. Subrogation and Recovery

In the event of any payment under this POLICY, the Insurer shall be subrogated to all rights of recovery against any person and the Insured shall execute and deliver instruments and papers and render assistance to secure such rights subject to the Named Insured's duties and responsibilities under legislation related to real estate or the Named Insured in the Province of Ontario, including the Real Estate and Business Brokers Act, 2002 and the regulations thereunder as from time to time amended, and every statute and regulation that may be substituted therefor or any successor legislation and/or the Administrative Agreement between the Named Insured and the Province of Ontario and/or the by-laws of the Named Insured and/or any applicable privacy laws.

Any recoveries, whether effected by the Insurer or by the Named Insured, shall be applied net of the expense of such recovery to the Insurer as reimbursement of amounts paid in settlement of any Claim.

It is expressly agreed between the Insured and the Insurer that the Insurer shall be subrogated to all of the Insured's rights of recovery, including the value of any dishonest Registrant's interest in any partnership as determined by closing the said partnership's books as of the date of the discovery of the Occurrence by the Named Insured, including any amounts owing to such dishonest Registrant by the said partnership but in no event for more than the amount of coverage applicable to the INSURING AGREEMENTS of this POLICY. The Insurer expressly acknowledges that it shall waive all rights of recovery against any Registrant of the partnership in question who was neither an author, accomplice nor acting in collusion with the dishonest Registrant in respect of any Occurrence resulting in any Claim paid under this POLICY.

**6. Cancellation**

This POLICY may be cancelled:

- (a) by mutual consent of the Named Insured and the Insurer;
- (b) by the Insurer for non-payment of premium. Such cancellation may be effected by written notice by registered mail stating when, not less than fifteen (15) days thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice and this POLICY shall terminate at the date and hour specified in such notice;
- (c) by the Named Insured if a change in legislation, a change in the regulations or a change in the by-laws of the Named Insured precludes the necessity of this insurance. Such cancellation may be effected by written notice to the Insurer stating when thereafter the cancellation shall be effective.

**7. Notice of Renewal Terms and Notice of Non-Renewal**

The Insurer, no less than one hundred and sixty-five (165) days prior to the Anniversary, shall offer irrevocable rates, terms and conditions to renew this POLICY for twelve (12) months. The Named Insured may accept said offer forty-five (45) days prior to the subsequent Anniversary.

**8. Action Against the Insurer**

No suit, action or proceeding of any kind to recover under this POLICY shall be brought after the expiration of five (5) years from the termination or cancellation of this POLICY in its entirety, provided, however, that if such limitation for bringing suit, action or proceeding is prohibited or made void by any law controlling the construction of this POLICY, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

**9. Arbitration Clause**

In the event of a dispute between the Insured and the Insurer as to the interpretation of this POLICY, or the settlement of Claims, or the apportionment of liability, a single arbitrator appointed pursuant to the provisions of The Arbitration Act, 1991 shall decide such dispute.

**10. Canadian Currency Clause**

All Limits of Liability, premiums and other amounts as expressed in this POLICY are in Canadian Currency.

**11. Economic or Financial Sanctions**

The Insurer shall not knowingly provide cover or be liable to pay any Claim or provide benefit hereunder to the extent that the provision of such cover, payment of such Claim or provision of such benefit would expose the Insurer to any sanction, prohibition or restriction under any applicable international economic or financial sanctions legislation.



# PROFESSIONAL LIABILITY INSURANCE

Effected with certain Lloyd's Underwriters ("the Insurer") through Lloyd's Approved Coverholder ("the Coverholder"):

3303128 Canada Inc. T/A Alternative Risk Services  
36 Toronto Street, Suite 510, Toronto, Ontario M5C 2C5

## ENDORSEMENT NO. 1

### USA JURISDICTION ENDORSEMENT

It is hereby understood and agreed that in respect of any action brought in a court of law or in respect of any judgment, award, payment or settlement within the United States of America or within countries which operate under the laws of the United States of America (or to any order made anywhere in the world to enforce such judgment, award, payment or settlement either in whole or in part), the following conditions shall apply:

(a) Defence Costs incurred with the consent of the Underwriters in the defence or settlement or compromise of any such Claim are included within the Limit of Liability and the Deductible;

(b) the Limits of Liability is restated as follows:

#### Limits of Liability:

Errors & Omissions Insurance	(a) Each Claim	\$1,000,000
	(b) Annual Aggregate	\$1,000,000
Commission Protection Insurance Extension	(a) Each Claim	\$100,000
	(b) Aggregate each Occurrence	\$100,000
Sub-Limit: Claims arising out of Social Engineering Fraud are covered up to \$10,000 each Claim		
Consumer Deposit Insurance Extension	(a) Each Claim	\$100,000
	(b) Aggregate each Occurrence	\$100,000
Sub-Limit: Claims arising out of Social Engineering Fraud are covered up to \$10,000 each Claim		

(c) Underwriters will not be liable to indemnify the Insured for any Claim:

- (i) for or arising out of or relating directly or indirectly to actual, alleged or threatened seepage, pollution or contamination of any kind; or
- (ii) arising out of awards or damages of a punitive or exemplary nature whether in the form of fines, penalties, multiplication of compensation awards or damages or aggravated damages or in any other form whatsoever.

ALL OTHER TERMS, CONDITIONS, LIMITATIONS AND EXCLUSIONS REMAIN UNALTERED.





#### PROFESSIONAL LIABILITY INSURANCE

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36 Toronto Street, Suite 510, Toronto, Ontario M5C 2C5

#### ENDORSEMENT NO. 2

##### TERRORISM EXCLUSION ENDORSEMENT

Notwithstanding any provision to the contrary within this insurance or any endorsement thereto, it is agreed that this insurance excludes liability for loss, injury, damage, cost or expense of whatsoever nature, directly or indirectly caused by, resulting from, or in connection with, any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purpose of this Endorsement, an act of terrorism means an act, including, but not limited to, the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of, or in connection with, any organisation(s) or government(s), committed for political, religious, ideological or similar purposes, including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This Endorsement also excludes loss, injury, damage, cost or expense of whatsoever nature, directly or indirectly caused by, resulting from, or in connection with, any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism.

If the Underwriters allege that, by reason of this exclusion, any loss, injury, damage, cost or expense is not covered by this insurance, the burden of proving the contrary shall be upon the Insured.

In the event any portion of this Endorsement is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

**ALL OTHER TERMS, CONDITIONS, LIMITATIONS AND EXCLUSIONS REMAIN UNALTERED.**

NMA2951  
14/07/2002



#### PROFESSIONAL LIABILITY INSURANCE

Effectuated with certain Lloyd's Underwriters ("the Insurer") through Lloyd's Approved Coverholder ("the Coverholder");

3303128 Canada Inc. T/A Alternative Risk Services

36 Toronto Street, Suite 510, Toronto, Ontario M5C 2C5

#### ENDORSEMENT NO. 3

##### NUCLEAR INCIDENT EXCLUSION CLAUSE-LIABILITY-DIRECT (BROAD) – CANADA

It is agreed that this POLICY does not apply:

- (a) to liability imposed by or arising from any nuclear liability act, law or statute, or any law amendatory thereof; nor
- (b) to bodily injury or property damage with respect to which an **Insured** under this POLICY is also insured under a contract of nuclear energy liability insurance (whether the **Insured** is unnamed in such contract and whether or not it is legally enforceable by the **Insured**) issued by the Nuclear Insurance Association of Canada or any other insurer or group or pool of insurers or would be an **Insured** under any such policy but for its termination upon exhaustion of its limit of liability; nor
- (c) to bodily injury or property damage resulting directly or indirectly from the nuclear energy hazard arising from:
  - (i) the ownership, maintenance, operation or use of a nuclear facility by or on behalf of an **Insured**;
  - (ii) the furnishing by an **Insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility; and
  - (iii) the possession, consumption, use, handling, disposal or transportation of fissionable substances, or of other radioactive material (except radioactive isotopes, away from a nuclear facility, which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose) used, distributed, handled or sold by an **Insured**.

As used in this policy:

1. The term "nuclear energy hazard" means the radioactive, toxic, explosive, or other hazardous properties of radioactive material.
2. The term "radioactive material" means uranium, thorium, plutonium, neptunium, their respective derivatives and compounds, radioactive isotopes of other elements and any other substances which may be designated by or pursuant to any law, act or statute, or law amendatory thereof as being prescribed substances capable of releasing atomic energy, or as being requisite for the production, use or application of atomic energy.
3. The term "nuclear facility" means:
  - (a) any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of plutonium, thorium and uranium or any one or more of them;
  - (b) any equipment or device designed or used for (i) separating the isotopes of plutonium, thorium and uranium or any one or more of them, (ii) processing or utilizing spent fuel, or (iii) handling, processing or packaging waste;
  - (c) any equipment or device used for the processing, fabricating or alloying of plutonium, thorium or uranium enriched in the isotope uranium 233 or in the isotope uranium 235, or any one or more of them if at any time the total amount of such material in the custody of the **Insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste radioactive material;

and includes the site on which any of the foregoing is located, together with all operations conducted thereon and all premises used for such operations.

4. The term "fissionable substance" means any prescribed substance that is, or from which can be obtained, a substance capable of releasing atomic energy by nuclear fission.
5. With respect to property, loss of use of such property shall be deemed to be property damage.

It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this Clause is subject to the terms, exclusions, conditions and limitations of the POLICY to which it is attached.

**ALL OTHER TERMS, CONDITIONS, LIMITATIONS AND EXCLUSIONS REMAIN UNALTERED.**

01/4/96  
NMA1978a



#### PROFESSIONAL LIABILITY INSURANCE

Effectuated with certain Lloyd's Underwriters ("the Insurer") through Lloyd's Approved Coverholder ("the Coverholder"):

3303128 Canada Inc. T/A Alternative Risk Services  
36 Toronto Street, Suite 510, Toronto, Ontario M5C 2C5

#### LLOYD'S UNDERWRITERS CODE OF CONSUMER RIGHTS & RESPONSIBILITIES

Lloyd's Underwriters are committed to safeguarding your rights when you shop for insurance and when you submit a claim following a loss. Your rights include the right to be informed fully, to be treated fairly, to timely complaint resolution, and to privacy. These rights are grounded in the contract between you and your Underwriters and the insurance laws of your province/territory. With rights, however, come responsibilities including, for example, the expectation that you will provide complete and accurate information to the Underwriters with whom insurance is being negotiated. Your policy outlines other important responsibilities. Underwriters and intermediaries acting on your behalf, and governments also have important roles to play in ensuring that your rights are protected.

##### *Right to Be Informed*

In dealing with Lloyd's Underwriters, you will be represented by an intermediary, such as a broker acting as your agent, and they may deal with other intermediaries. From the intermediary with whom you deal, you can expect to access clear information about your policy, your coverage, and the claims settlement process. You have the right to an easy-to-understand explanation of how insurance works and how it will meet your needs. You also have a right to know how premiums are calculated based on relevant facts.

A policy issued by Lloyd's Underwriters will expire on the day specified in the policy. If you wish to renew the policy, the intermediary with whom you deal will have to approach the Underwriters participating in it, often through another intermediary. If Lloyd's Underwriters are given the information they require to determine renewal terms for the policy at least 45 days prior to its expiry, under normal circumstances, they will advise the intermediary who approaches them of any changes to the policy terms at least 30 days prior to the expiration of the policy. Terms may subsequently change if there is a change in material facts prior to the expiration date.

Intermediaries may receive payments from Lloyd's Underwriters in a variety of ways, which may include the payment of commissions. Lloyd's strongly supports the disclosure and transparency of these commission arrangements. You have the right to ask the intermediary with whom you deal for details of how and by whom the intermediary is being paid.

Lloyd's Underwriters accept business as members of syndicates each of which is managed by a 'managing agent'. Lloyd's has risk management procedures in place in respect of the relationship between Lloyd's managing agents and any related companies that act as intermediaries. This is to ensure that the managing agent makes proper disclosures of any such arrangements. A policyholder may ask the intermediary whom he is dealing to disclose if it is a related company to a Lloyd's managing agent. Depending on the jurisdiction, disclosure may be required in writing.

##### *Responsibility to Ask Questions and Share Information*

To safeguard your right to purchase appropriate coverage at a competitive price, you should ask questions about your policy so that you understand what it covers and what your obligations are under it. You can access information through brochures and websites, as well as through one-on-one meetings with the intermediary with whom you deal. You have the option to shop the marketplace for the combination of coverages and service levels that best suits your insurance needs. To maintain your protection against loss, you must promptly inform your Underwriters of any change in your circumstances through the intermediary with whom you deal. The Underwriters with whom renewal is being negotiated must be given information required to determine renewal terms of your policy, via the intermediary whom you are dealing with, at least 45 days prior to the expiration of the policy.

#### ***Right to Complaint Resolution***

Lloyd's Underwriters are committed to high standards of customer service. If you have a complaint about the service you have received, you have a right to access the Lloyd's complaint resolution process for Canada. The Intermediary with whom you deal can provide you with information about how you can ensure that your complaint is heard and promptly handled. Disputes involving claims settlement matters may be handled by the Independent General Insurance OmbudService [www.gioscad.org](http://www.gioscad.org) where your complaint may be referred to an Independent mediator or Senior Adjudicative Officer.

#### ***Responsibility to Resolve Disputes***

You should always enter into the dispute resolution process in good faith, provide required information in a timely manner, and remain open to recommendations made by Independent observers as part of that process.

#### ***Right to Professional Service***

You have the right to deal with insurance professionals who exhibit a high ethical standard, which includes acting with honesty, integrity, fairness and skill. Brokers and agents must exhibit extensive knowledge of the product, its coverages and its limitations in order to best serve you.

#### ***Right to Privacy***

Because it is important for you to disclose any and all information required by Underwriters with whom insurance is being negotiated on your behalf to provide the insurance coverage that best suits you, you have the right to know from the Intermediary with whom you deal the purposes for which Lloyd's Underwriters will use your personal information. This information will not be disclosed to anyone except as permitted by law. You should know that Lloyd's Underwriters are subject to Canada's privacy laws with respect to their business in Canada.

12/08  
LSW1565A



#### PROFESSIONAL LIABILITY INSURANCE

Effected with certain Lloyd's Underwriters ("the Insurer") through Lloyd's Approved Coverholder ("the Coverholder"):

3303128 Canada Inc. T/A Alternative Risk Services

36 Toronto Street, Suite 510, Toronto, Ontario M5C 2C5

#### LLOYD'S UNDERWRITERS' POLICYHOLDERS' COMPLAINT PROTOCOL

Lloyd's strives to enhance your customer experience with us through superior service and innovative insurance products.

We have developed a formal complaint handling protocol in accordance with the Insurance Companies Act of Canada to ensure your concerns as our valued customer are addressed expeditiously by our representatives. This protocol will assist you in understanding the steps we will undertake to help resolve any dispute which may arise with our product or service. All complaints will be handled in a professional manner. All complaints will be investigated, acted upon, and responded to in writing or by telephone by a Lloyd's representative promptly after the receipt of the complaint. If you are not satisfied with our products or services, you can take the following steps to address the issue:

- Firstly, please contact the broker who arranged the insurance on your behalf about your concerns so that he or she may have the opportunity to help resolve the situation.
- If your broker is unable to help resolve your concerns, we ask that you provide us in writing an outline of your complaint along with the name of your broker and your policy number.

Please forward your complaint to:

##### **Lloyd's Underwriters**

Attention: Complaints Officer

1155 rue Metcalfe, Suite 2220, Montréal (Québec) H3B 2V6

Tel: 1-877-455-6937, Fax: (514) 861-0470

E-mail: [lneage@lloyds.ca](mailto:lneage@lloyds.ca)

Your complaint will be directed to the appropriate business contact for handling. They will write to you within two business days to acknowledge receipt of your complaint and to let you know when you can expect a full response.

If need be, we will also engage internal staff in Lloyd's Policyholder and Market Assistance Department in London, England, who will respond directly to you, and in the last stages, they will issue a final letter of position on your complaint.

In the event that your concerns are still not addressed to your satisfaction, you have the right to continue your pursuit to have your complaint reviewed by the following organizations:

**General Insurance OmbudService (GIO)** assists in the resolution of conflicts between insurance customers and their Insurance companies. The GIO can be reached at:

Toll free number: 1-877-225-0446

[www.giocanada.org](http://www.giocanada.org)

##### **For Quebec clients:**

**Autorité des marchés financiers (AMF).** The regulation of insurance companies in Quebec is administered by the AMF. If you remain dissatisfied with the manner in which your complaint has been handled, or with the results of the complaint protocol, you may send your complaint to the AMF who will study your file and who may recommend mediation, if it deems this action appropriate and if both parties agree to it. The AMF can be reached at:

Toll Free: 1-877-525-0337

Québec: (418) 525-0337

Montréal: (514) 395-0311

[www.lautorite.qc.ca](http://www.lautorite.qc.ca)

If you have a complaint specifically about Lloyd's Underwriters' complaints handling procedures you may contact the Financial Consumer Agency of Canada (FCAC).

Financial Consumer Agency of Canada (FCAC) provides consumers with accurate and objective information about financial products and services, and informs Canadians of their rights and responsibilities when dealing with financial institutions. FCAC also ensures compliance with the federal consumer protection laws that apply to banks and federally incorporated trust, loan and insurance companies. The FCAC does not get involved in individual disputes. The FCAC can be reached at:

427 Laurier Avenue West, 6th Floor, Ottawa ON K1R 1B9

Services in English: 1-866-461-FCAC (3222)

Services in French: 1-866-461-ACFC (2232)

[www.fcac-acfc.gc.ca](http://www.fcac-acfc.gc.ca)

07/12

LSW1542E



#### PROFESSIONAL LIABILITY INSURANCE

Effectuated with certain Lloyd's Underwriters ("the Insurer") through Lloyd's Approved Coverholder ("the Coverholder"):

3303128 Canada Inc. T/A Alternative Risk Services

36 Toronto Street, Suite 510, Toronto, Ontario M5C 2C5

#### NOTICE CONCERNING PERSONAL INFORMATION

By purchasing insurance from certain Underwriters at Lloyd's, London ("Lloyd's"), a customer provides Lloyd's with his or her consent to the collection, use and disclosure of personal information, including that previously collected, for the following purposes:

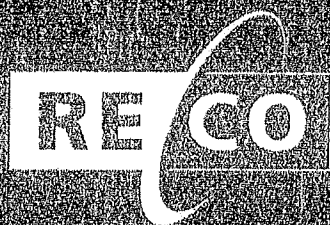
- the communication with Lloyd's policyholders
- the underwriting of policies
- the evaluation of claims
- the detection and prevention of fraud
- the analysis of business results
- purposes required or authorized by law

For the purposes identified, personal information may be disclosed to Lloyd's related or affiliated organizations or companies, their agents/mandataries, and to certain non-related or unaffiliated organizations or companies.

Further information about Lloyd's personal information protection policy may be obtained from the customer's broker or by contacting Lloyd's on 514-861-8361 or through [Info@lloyds.ca](mailto:Info@lloyds.ca).

07/05  
LSW1543





Real Estate Council of Ontario

**Alternative Risk Services**

Tel: 1-866-426-1666

Fax: 1-800-629-9462

[info@ar-services.ca](mailto:info@ar-services.ca)

[www.reco-claims.ca](http://www.reco-claims.ca)

**RECO**

3300 Bloor Street West

West Tower Suite 1200

Toronto, ON M8X 2X2

Tel: 416-207-4600

Toll-free: 1-800-245-6910

Fax: 416-207-4620


[insurance@reco.on.ca](mailto:insurance@reco.on.ca)

[www.reco.on.ca](http://www.reco.on.ca)



**TAB D**

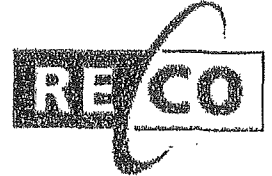
## RECO issues Public Advisory regarding RE/MAX Right Choice Inc.

 [reco.on.ca/public-advisory/reco-issues-public-advisory-regarding-remax-right-choice-inc/](http://reco.on.ca/public-advisory/reco-issues-public-advisory-regarding-remax-right-choice-inc/)

Home / Public Advisories

November 2, 2017

On November 1, 2017, under the authority of the *Real Estate Business Brokers Act, 2002* (REBBA), the Real Estate Council of Ontario (RECO) issued a Freeze Order, freezing bank accounts of:



RE/MAX Right Choice Inc., of 6464 Yonge St #250, Toronto, ON M2M 3X4.

Freeze Orders are invoked by RECO against brokerages when required to prevent funds from being withdrawn from a brokerage's accounts in order to protect consumer deposits. A RECO inspection revealed irregularities in the finances of RE/MAX Right Choice Inc., and the matter is being investigated further. Additional action may be taken and information will be made available through RECO's website.

The registration of RE/MAX Right Choice Inc. has been suspended and RECO has begun the process to revoke its registration.

Individuals concerned about the impact of this Freeze Order are asked to use the contacts listed below:

**Home buyers and sellers with questions about the impact of the freeze order, including whether a pending sale or purchase will be completed on time should contact:**

Dipak Parmar

Phone: (416) 207-3118

Toll Free: 1-800-245-6910, ext. 3118

Email: [dlpak@reco.on.ca](mailto:dlpak@reco.on.ca)

**Questions about consumer deposit claims, or other insurance-related inquiries, should be directed to RECO's Insurance Department:**

Jeremy Meuris

Phone: (416) 207-4841

Toll Free: 1-800-245-6910, ext. 4841

E-mail: [insurance@reco.on.ca](mailto:insurance@reco.on.ca)

**Cooperating brokerages for trades in which RE/MAX Right Choice Inc., holds the deposit and/or are owed commissions by RE/MAX Right Choice Inc. should contact:**

Jeremy Meuris

Phone: (416) 207-4841

Toll Free: 1-800-245-6910, ext. 4841

E-mail: [insurance@reco.on.ca](mailto:insurance@reco.on.ca)

**Employees of RE/MAX Right Choice Inc., with questions about commissions should contact the claims adjuster for RECO's insurance program:**

ClaimsPro LP

Toll Free: 1-877-740-1913

Toll Free Fax: 1-866-735-1033

E-mail: [claims@reco-claims.ca](mailto:claims@reco-claims.ca)

The insurer requires one Notice of Claim Commission Protection form per trade. Claim forms are located on the insurer's website: [www.reco-claims.ca](http://www.reco-claims.ca)

**Questions about the procedures for transferring a registration to a new brokerage should contact:**

Angela Volpe

Phone: (416) 207-5142

Toll Free: 1-800-245-6810 ext. 5142

Email: [registration@reco.on.ca](mailto:registration@reco.on.ca)

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**For media enquiries, please contact:**

M. Daniel Roukema

Senior Advisor, External Communications

Real Estate Council of Ontario

(416) 207-3102

Email: [daniel.roukema@reco.on.ca](mailto:daniel.roukema@reco.on.ca)

**About RECO:**

The Real Estate Council of Ontario regulates real estate professionals in the province on behalf of the Ontario government by enforcing the *Real Estate and Business Brokers Act, 2002* (REBBA). We protect the public interest through a fair, safe and informed marketplace. RECO holds registered brokers and salespersons to professional standards, protects the public interest, and enhances consumer confidence in the real estate profession. In addition, RECO strives to educate consumers to ensure they understand the benefits of a regulated real estate sector. For more information, visit [www.reco.on.ca](http://www.reco.on.ca).

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# TAB E



Real Estate  
Council of Ontario

## Suspensions of Registration & Freeze Orders FAQ

**For information on a specific freeze order, please visit the [Public Advisories](#) section of the Real Estate Council of Ontario's website.**



### What is a Freeze Order?

Under the *Real Estate and Business Brokers Act, 2002* (REBBA), the Real Estate Council of Ontario (RECO) may issue an order "freezing" the assets or trust funds of any registrant or former registrant if RECO believes that such an order is advisable for the protection of the public. RECO may also issue a notice of proposal to suspend or revoke a brokerage's registration in the public interest.

A freeze order is issued when RECO has concerns that funds in a brokerage's Real Estate Trust Account (RETA) or other bank accounts may be at risk. The freeze order prevents any more money from being withdrawn from the brokerage's RETA and other bank accounts. RECO may issue a freeze order if:

1. a search warrant has been issued under REBBA;
2. criminal proceedings are about to be, or have been instituted against the registrant or former registrant; or
3. proceedings in relation to a contravention under REBBA or any other Act are about to be, or have been instituted against the registrant or former registrant.

RECO cannot act as a receiver or trustee in bankruptcy, nor can RECO take ownership, control or possession of the frozen bank accounts of the brokerage. The bank accounts remain in the name of the brokerage. RECO cannot direct payments from any frozen trust money or disburse assets.

### Information for Employees of a Suspended Brokerage

#### **What happens to the brokers and salespersons employed at a brokerage with its license suspended?**

Under REBBA, independent contractors such as salespeople or brokers are classified as employees. Brokers and salespersons cannot trade in real estate while their brokerage's registration is suspended or revoked. They will need to transfer their personal registrations to another brokerage in order to continue trading in real estate. To do this, they will need to submit a transfer request to RECO and pay the



appropriate transfer fee. This request can be made online via the MyWeb self-service portal (<https://myweb.reco.on.ca/members>).

When a brokerage's registration is suspended or revoked RECO assists registrants through the transfer process as quickly as possible.

### **What happens to the listings and Buyer Representation Agreements?**

Listings and Buyer Representation Agreements are contracts between the clients and the brokerage. Even when the brokerage can no longer trade in real estate, these representation agreements are still binding contracts with the brokerage. Affected clients should seek legal advice to assist them with terminating their contractual relationship with the brokerage before entering into an agreement with another brokerage.



### **How do I get paid commissions owing from a brokerage under a freeze order?**

Brokers and salespeople who are owed commissions from a brokerage that is under a freeze order can submit insurance claims under the Insurance Program. Payment of any claim is subject to the terms of the insurance policy.

### **How long will it take for the insurer to evaluate a commission claim?**

The insurer conducts its own investigation and tries to expedite claims as quickly as possible. However, the insurer also needs to be aware of all or most of the claims against the brokerage before it can process claim payments. The maximum claim amount a broker or salesperson may make is \$100,000. The maximum amount of coverage for all commission protection claims relating to one occurrence is \$3,000,000. Payment of any claim is subject to the terms of the insurance policy.

### **I collected a deposit cheque from a consumer just prior to the freeze order. Do I deposit that cheque in the frozen trust account of my brokerage?**

RECO will arrange to have the money deposited in the brokerage's frozen account. Co-operating brokerages with trust deposits owed to the brokerage should contact RECO for instructions. Please be prepared to provide the cheque, payable to the brokerage, and the paperwork in relation to the transaction to RECO.

*You may wish to advise the consumer to submit a consumer deposit claim under the Insurance Program that registered real estate brokers and salespersons are required to participate in. Consumer deposit coverage is free of charge to consumers, but payment of any claim is subject to the terms of the insurance policy.*





Real Estate  
Council of Ontario

**I am owed a commission from a cooperating brokerage. Can I have the cheque made payable to me?**

No. The commission is contractually owed to your brokerage, not to you personally. Moreover REBBA prohibits the cooperating brokerage from paying commission to you. Additionally, REBBA prohibits you from accepting commission or other remuneration for trading in real estate from any brokerage other than the one that employs you.

RECO requests that cooperating brokerages owing commissions to a brokerage under a freeze order immediately contact RECO for instructions and be prepared to provide the cheque, payable to the brokerage, and the paperwork in relation to the transaction to RECO.

**I picked up a commission cheque made out to the brokerage, from [a cooperating brokerage], just prior to the freeze order. What do I do with it?**

RECO will arrange to have the money deposited in the brokerage's frozen account. Please immediately contact RECO for instructions and be prepared to provide the cheque, payable to the brokerage, and the paperwork in relation to the transaction to RECO.

**I am an unregistered employee of the brokerage and I am owed salary/pay. Can RECO help me?**

No. The commission protection insurance only covers commissions owed to registered brokers and salespersons, and RECO has no authority to disburse any funds from frozen brokerage accounts to pay you. You may wish to seek legal advice regarding options that might be available to you to recover your lost wages. Former employees of the brokerage may also wish to contact the Ministry of Labour regarding any rights they may have under the *Employment Standards Act*, and CRA for any questions relating to their tax status, T4 or T4A forms.

## **Information for Home Buyers and Sellers**

**Are listing agreements or buyer representation agreements with the brokerage still valid?**

When a brokerage's registration is suspended, it can no longer trade in real estate. Consumers should obtain legal advice on how to proceed. REBBA does not give RECO the legal authority to unilaterally declare that a brokerage's listing agreements and buyer representation agreements are invalid.

**I sold a house through a brokerage with a suspended registration, and the closing date is approaching. Is the deal still valid?**

The suspension of a brokerage's registration does not affect the validity of the Agreement of Purchase and Sale between a buyer and a seller. Sellers or buyers,







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who may be concerned about whether a pending sale or purchase will be completed on time due to a registration suspension, should seek advice from their own lawyers.

**I sold a house listed by a brokerage under a freeze order, and my client is expecting a portion of the deposit on the closing date. Will RECO release the deposit money?**

Consumers who are owed deposit money from the brokerage can submit insurance claims under the Insurance Program that registered real estate brokers and salespersons are required to participate in. Consumer deposit coverage is cost-free to consumers, but payment of any claim is subject to the terms of the insurance policy.

**How long will it take for the insurer to evaluate a consumer deposit claim?**

The insurer conducts its own investigation and tries to expedite claims as quickly as possible. However, the insurer also needs to be aware of all or most of the claims against the brokerage before it can process claims payments. The maximum claim amount a consumer may make is \$100,000. The maximum amount of coverage for all consumer deposit claims relating to one occurrence is \$3,000,000. Payment of any claim is subject to the terms of the insurance policy.

*The amount of the claim payment may depend in part on the number of claims made against the brokerage and the total dollar value of the claims. Until the Insurer has completed its own investigation and received all claims, the insurer may not be able to confirm the total amount of the claim payment.*

## **Information for Cooperating Brokerages**

**We owe commission amounts to a brokerage under a freeze order (brokerage A). However, brokerage A owes commission to our brokerage as well (brokerage B). Are we allowed to deduct what brokerage A owes us when we calculate our outstanding obligation to brokerage A?**

No. Your brokerage must pay the full amount of outstanding commission as it normally would. RECO will arrange to have the money deposited in brokerage A's frozen account.

Brokerages owed commissions from a frozen trust account may be eligible to make a claim under the commission protection coverage.

**How long will it take for the insurer to evaluate a commission claim?**

The insurer conducts its own investigation and tries to expedite claims as quickly as possible. However, the insurer also needs to be aware of all or most of the claims against the brokerage before it can process claim payments. The maximum claim





Real Estate  
Council of Ontario

amount a broker or salesperson may make is \$100,000. The maximum amount of coverage for all commission protection claims relating to one occurrence is \$3,000,000. Payment of any claim is subject to the terms of the insurance policy.

### **Information for Other Businesses, Trade Creditors and Organizations**

Please be advised that RECO does not act as a receiver or a trustee in bankruptcy. RECO cannot disburse any funds from frozen accounts or release any frozen assets. RECO recommends you seek legal advice regarding potential options related to recovering amounts owed to you.



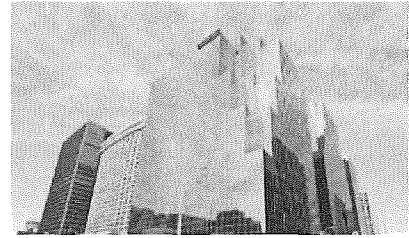
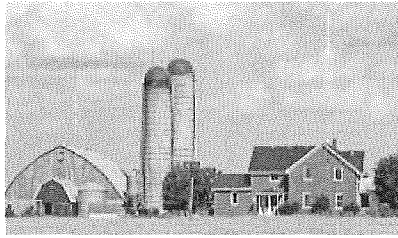
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RECO protects the public interest by administering and enforcing the *Real Estate and Business Brokers Act, 2002* (REBBA) on behalf of provincial government. RECO's jurisdiction and authority is limited to regulating the activities of registrants trading in Ontario in real estate.

There are currently more than 80,000 registered brokerages, brokers and salespersons in Ontario.

**TAB F**

Real Estate Errors and Omissions Program for RECO Registrants



powered by: **Alternative Risk Services**

[Welcome](#) [About](#) [F.A.Q.](#) [Documents](#) [Blog](#) [Contact](#)

## CP2017-002

This page will provide updates for those Registrants involved in Occurrence No. CP2017-002

### June 17, 2018

In early January 2018, a Receiver was appointed by the Ontario Superior Court for the purpose of collecting commissions on transactions which were scheduled to close after the date of the Freeze Order (made on November 1, 2017) and with respect to commissions which were owed to Re/Max Right Choice Inc. and which had not yet been paid.

While the collection of commissions is an ongoing process in that there are many transactions which have not yet closed, the Receiver expects to be in a position to schedule a date with the Court shortly and depending on Court availability to obtain a Court Order allowing it to make a distribution with respect to those commissions which have been collected to date.

The insurer has now received sufficient claim information to begin issuing payments on those claims which are not the subject of commissions to be collected or held by the Receiver. This refers to claims where commissions were paid to Re/Max Right Choice Inc. prior to the date of the Freeze Order and are not held by the Receiver. If you have a claim that has been approved for payment, you should receive documentation regarding your claim shortly. Please take the necessary time to review it and return it to have your claim paid.

### December 18, 2017

Since the town hall meeting last month, RECO's freeze order against RE/MAX Right Choice Inc. remains in effect and we continue our investigation.

In order to ensure a timely flow of commission funds, the insurer has moved to have a receiver appointed to collect and administer the outstanding commissions. If appointed, a receiver would be able to take in future commissions on behalf of the brokerage.

In order for the court to appoint a receiver, however, other debtors must be given a chance to come forward, so you may see articles or postings in the newspaper to that effect. The receivership application will be heard again in the court in early January.

We will update this page to keep you apprised of developments. In the meantime, please continue to report and provides updates regarding your claims to ClaimsPro. Your cooperation and patience is greatly appreciated.

### November 10, 2017

Yesterday a Town Hall meeting organized by RECO and was attended by Alternative Risk Services and Claimspro.

In addition to RECO's advice regarding registration and the completion of transactions in the wake of their freeze order and revocation of the brokerage's registration, the Insurer's message was to report all claims as soon as possible. Doing so will help the Insurer to assess the situation and determine next steps sooner.

The Insurer also advised that every avenue is being explored to recover deposit and commission monies and that a Receiver will likely be appointed to collect and administer outstanding commissions.

#### **November 6, 2017**

What happens when a Brokerage has a shortfall in its accounts? Well, as you may already know, RECO has already done a preliminary assessment of the Brokerage and has issued a Freeze Order on the bank assets of the brokerage to ensure that there is no diversion of remaining funds. This means that while funds can still be deposited to the account, no funds can be withdrawn until a full review is completed, and often until a Court Order is obtained. That can take a long time.

In the interim, as part of the RECO Insurance Program, the Consumer Deposit and Commission Protection coverages under your Professional Liability policy will begin to respond.

#### **Timelines**

We understand how difficult this is for you and that the missing monies are your income. We cannot, however, provide you with a timeline for processing at this time. We will update you through this link, so please check it regularly.

Rest assured that we will put the necessary resources in place to move the matter forward as soon as possible. Please be patient with the process, as it does take time to gather all the necessary information, assess the claims, and determine exactly what has happened before we can begin making claim payments. There is a lot of background activity ongoing with RECO, lawyers, and accountants – all of us are working hard to get through this for you.

We commit to determining a strategy that has the quickest resolution for you as a Registrant. The best thing you can do is get all your Notice of Claim forms in to us ASAP.

#### **Deposits**

Consumer Deposit insurance is there to protect the Consumer. If a Consumer is going to be short of funds on closing as result of either missing or frozen funds, the Insurance will step in and replace those funds up to \$100,000 per claim, and \$3,000,000 for all claims under the Occurrence. The Consumer should be directed to submit their claim to RECO as soon as possible. The [forms can be found on this website](#) under the documents tab. They should be sent to [insurance@reco.on.ca](mailto:insurance@reco.on.ca).

#### **Commissions**

Commission Protection insurance is there to protect your commissions. This policy provides coverage for any registrant making a claim for up to \$100,000. Up to \$3 million is available under the policy for all claims. Each individual transaction upon which you were due commissions is not a claim, a claim is for the total commissions due you up to \$100,000. Your total claim must be supported by separate Commission Protection Notice of Claim forms for each transaction so that each transaction can be verified by the adjuster. The [forms can be found on this website](#) under the documents tab.

Below are some hints for submitting your claims in a manner that will help us help you faster.

#### **How to submit your claim:**

1. Submit a claim form as soon as possible – it is your obligation to do so under the policy, and delay could compromise your coverage
2. One [form](#) should be used for each transaction (e.g. property).
3. If you have a co agent, each of you should submit your own forms – be sure to mention the co agency agreement
4. Please ensure that you provide your current contact information on the forms
5. Submit claims for all transactions, closed and pending, including builder deals
6. If you are an agent with a cooperating brokerage, your cooperating brokerage must submit the claim on your behalf – please speak with your brokerage as soon as possible
7. If these commissions have been advanced to you through a commission advance agency, you should also submit a claim in your name, but add the agency details to your claim (the agency cannot make that claim on your behalf – please notify the agency that you have submitted a claim)

#### **Once your claim is submitted:**

1. ALL CORRESPONDENCE WILL BE BY EMAIL – please keep all emails as evidence of your claim and its progress. It is your responsibility to ensure that emails do NOT go to your spam and that your email address is clearly provided, correct and updated if necessary

2. Claimspro will acknowledge receipt of your new claim by email
3. Your claim will be set up and assigned a number and a file handler. Claimspro will send you a second email at that time
4. The file will be reviewed and Claimspro will advise you if they need further documentation
5. Your claim will be assessed, and eligibility determined – Claimspro will communicate again with you at that time so you know your claim is in order
6. When the Insurer is in a position to make payments, you will be asked to sign a release and an assignment
7. Once those documents are in place, a cheque will be issued to you

**RECO Errors and Omissions Insurance Program**

Underwritten by certain Lloyd's Underwriters  
Endorsed by the Real Estate Council of Ontario  
Managed and distributed by 3303128 Canada Inc.  
trading as Alternative Risk Services

**Claims Forms**

*Errors and Omissions*  
Commission Protection  
Consumer Deposit

**Contact**

Alternative Risk Services  
Tel: 1-866-426-1666  
Fax: 1-855-529-9462  
36 Toronto Street  
Suite 510  
Toronto, Ontario M5C 2C5  
info@ar-services.ca

**Search**  

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2



**TAB G**

RUN NUMBER : 177  
RUN DATE : 2018/06/26  
ID : 20180626185917.73

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 1  
( 5775)

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE  
OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

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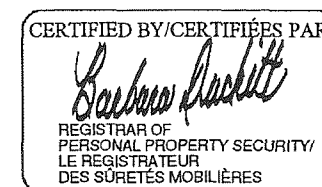
SEARCH CONDUCTED ON : TORONTO RIGHT CHOICE BROKERAGE INC.

FILE CURRENCY : 25JUN 2018

ENQUIRY NUMBER 20180626185917.73 CONTAINS 1 PAGE(S), 0 FAMILY(IES).

NO REGISTRATIONS ARE REPORTED IN THIS ENQUIRY RESPONSE.

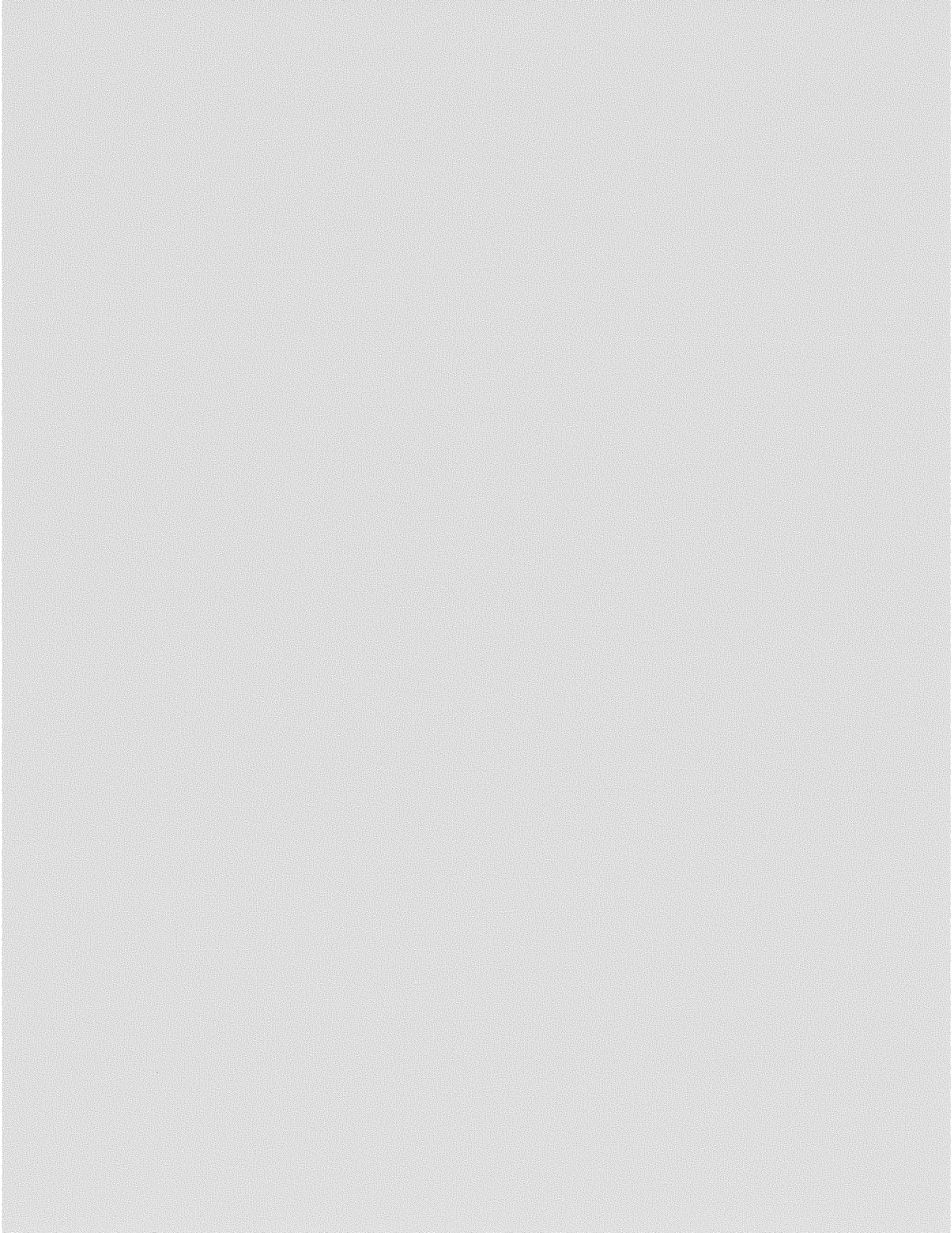
AIRD & BERLIS LLP  
ATTN: SHANNON MORRIS  
HOLD FOR PICK UP  
TORONTO ON M5J2T9



(crlj4 11/2017)







RUN NUMBER : 177  
RUN DATE : 2018/06/26  
ID : 20180626185922.74

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 1  
( 5776)

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SEARCH CONDUCTED ON : RE/MAX RIGHT CHOICE INC.

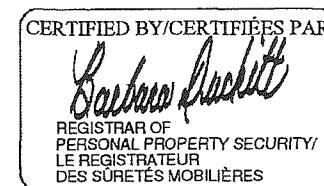
FILE CURRENCY : 25JUN 2018

ENQUIRY NUMBER 20180626185922.74 CONTAINS 8 PAGE(S), 3 FAMILY(IES).

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME  
WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER  
SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

AIRD & BERLIS LLP  
ATTN: SHANNON MORRIS  
HOLD FOR PICK UP  
TORONTO ON M5J2T9

CONTINUED... 2



(crfj4 11/2017)



RUN NUMBER : 177  
RUN DATE : 2018/06/26  
ID : 20180626185922.74

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 2  
( 5777)

TYPE OF SEARCH BUSINESS DEBTOR  
SEARCH CONDUCTED ON RE/MAX RIGHT CHOICE INC.  
FILE CURRENCY 25JUN 2018

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER  
723289698

CAUTION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTERED REGISTRATION  
FILING NO. OF PAGES SCHEDULE NUMBER UNDER PERIOD  
01 01 002 20161209 1937 1531 3608 P PPSA 6

DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

DEBTOR  
NAME

BUSINESS NAME RE/MAX RIGHT CHOICE INC.

ONTARIO CORPORATION NO.  
ON M2M 3X4

ADDRESS 6464 YONGE STREET UNIT 250 TORONTO

DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
06MAR1961 SEYYED J HAJIMIR

DEBTOR  
NAME

BUSINESS NAME

ONTARIO CORPORATION NO.  
ON L3T 1M2

ADDRESS 3 STEELE VALLEY ROAD MARKHAM

SECURED PARTY / MERCEDES-BENZ FINANCIAL SERVICES CANADA CORPORATION  
LIEN CLAIMANT

ADDRESS 2680 MATHESON BLVD. E, STE 500 MISSISSAUGA ON L4W 0A5

COLLATERAL CLASSIFICATION  
CONSUMER MOTOR VEHICLE AMOUNT DATE OF NO FIXED  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MATURITY OR MATURITY DATE  
X X X 37843 26NOV2022

YEAR MAKE MODEL VIN  
2014 MERCEDES-BENZ CLA250 WDDSJ4EB9EN059779

MOTOR  
VEHICLE

GENERAL  
COLLATERAL  
DESCRIPTION

REGISTERING D+H LIMITED PARTNERSHIP  
AGENT

ADDRESS SUITE 200, 4126 NORLAND AVENUE BURNABY BC V5G 3S8

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY \*\*\*

CONTINUED... 3

CERTIFIED BY/CERTIFIÉES PAR  
*Barbara Puckett*  
REGISTRAR OF  
PERSONAL PROPERTY SECURITY/  
LE REGISTREUR  
DES SÛRETÉS MOBILIÈRES  
(c/j1h 11/2017)



RUN NUMBER : 177  
RUN DATE : 2018/06/26  
ID : 20180626185922.74

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 3  
( 5778)

TYPE OF SEARCH BUSINESS DEBTOR  
SEARCH CONDUCTED ON RE/MAX RIGHT CHOICE INC.  
FILE CURRENCY 25JUN 2018

FORM IC FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER  
723289698

CAUTION	PAGE	TOTAL	MOTOR VEHICLE	REGISTRATION	REGISTERED	REGISTRATION
FILING	NO.	OF	SCHEDULE	NUMBER	UNDER	PERIOD
	02	002		20161209 1937 1531 3608		

DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME
---------------	------------------	---------	---------

DEBTOR  
NAME

BUSINESS NAME

ONTARIO CORPORATION NO.

ADDRESS

DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME
---------------	------------------	---------	---------

DEBTOR  
NAME

BUSINESS NAME

ONTARIO CORPORATION NO.

ADDRESS

SECURED PARTY /  
LIEN CLAIMANT MERCEDES-BENZ FINANCIAL

ADDRESS 2680 MATHESON BLVD. E, STE 500 MISSISSAUGA ON L4W 0A5

COLLATERAL CLASSIFICATION		MOTOR VEHICLE	AMOUNT	DATE OF	NO. FIXED
CONSUMER	GOODS	INVENTORY	EQUIPMENT	ACCOUNTS	OTHER

YEAR	MAKE	MODEL	V. L.N.
------	------	-------	---------

MOTOR  
VEHICLE

GENERAL  
COLLATERAL  
DESCRIPTION

REGISTERING  
AGENT

ADDRESS

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY \*\*\*

CONTINUED...

CERTIFIED BY/CERTIFIÉES PAR  
*Barbara Luckett*  
REGISTRAR OF  
PERSONAL PROPERTY SECURITY/  
LE RÉGISTRATEUR  
DES SÛRETÉS MOBILIÈRES

(c)11/11/2017



RUN NUMBER : 177  
RUN DATE : 2018/06/26  
ID : 20180626185922.74

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 4  
( 5779)

TYPE OF SEARCH BUSINESS DEBTOR  
SEARCH CONDUCTED ON RE/MAX RIGHT CHOICE INC.  
FILE CURRENCY 25JUN 2018

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER  
715311027

CAUTION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTERED REGISTRATION  
FILING NO. OF PAGES SCHEDULE NUMBER UNDER PERIOD  
01 001 3 20160404 1340 1901 5639 P PPSA 06

DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
02 NAME BUSINESS NAME RE/MAX RIGHT CHOICE INC.

04 ADDRESS 6464 #250 YONGE STREET TORONTO ONTARIO CORPORATION NO. ON M2M 3X4

DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
05 NAME BUSINESS NAME

07 ADDRESS ONTARIO CORPORATION NO.

08 SECURED PARTY / ROYNAT INC.  
LIEN CLAIMANT

09 ADDRESS SUITE 1500, 4710 KINGSWAY ST. BURNABY BC V5H 4M2

COLLATERAL CLASSIFICATION  
10 CONSUMER MOTOR VEHICLE AMOUNT DATE OF NO FIXED  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MATURITY OF MATURITY DATE  
X X X

11 MOTOR YEAR MAKE MODEL VIN  
12 VEHICLE 2015 FORD F-250 1FT7X2B62FEB34284

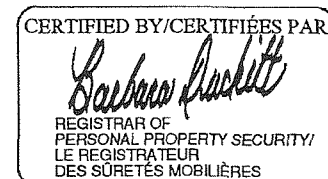
13 GENERAL TRUCK(S), CREW CAB(S), PLOW LOADED(S), PLOW(S) TOGETHER WITH ALL  
14 COLLATERAL ATTACHMENTS ACCESSORIES ACCESSIONS REPLACEMENTS SUBSTITUTIONS  
15 DESCRIPTION ADDITIONS AND IMPROVEMENTS THERETO AND ALL PROCEEDS IN ANY FORM

16 REGISTERING AVS SYSTEMS INC.  
17 AGENT

17 ADDRESS 201 - 1325 POLSON DR. VERNON BC V1T 8H2

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY \*\*\*

CONTINUED... 5



(c)jfk 11/2017)



RUN NUMBER : 177  
RUN DATE : 2018/06/26  
ID : 20180626185922.74

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 5  
( 5780)

TYPE OF SEARCH BUSINESS DEBTOR  
SEARCH CONDUCTED ON RE/MAX RIGHT CHOICE INC.  
FILE CURRENCY 25JUN 2018

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER  
715311027

00

01

CAUTION	PAGE	TOTAL	MOTOR VEHICLE	REGISTRATION	REGISTERED	REGISTRATION
FILING	NO	OF	SCHEDULE	NUMBER	UNDER	PERIOD
	002	3		20160404 1340 1901 5639		

02

03

DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

NAME BUSINESS NAME

ONTARIO CORPORATION NO.

04

ADDRESS

05

06

DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

NAME BUSINESS NAME

ONTARIO CORPORATION NO.

07

ADDRESS

08

09

SECURED PARTY /  
LIEN CLAIMANT

ADDRESS

10

COLLATERAL CLASSIFICATION					MOTOR VEHICLE	AMOUNT	DATE OF	NO FIXED
CONSUMER	GOODS	INVENTORY	EQUIPMENT	ACCOUNTS OTHER	INCLUDED		MATURITY OR	MATURITY DATE

11

12

MOTOR YEAR MAKE MODEL V.I.N.

13

14

15

GENERAL DERIVED DIRECTLY OR INDIRECTLY FROM ANY SALE AND OR DEALINGS WITH THE  
COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR OTHER PAYMENT THAT  
DESCRIPTION INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO THE COLLATERAL OR

16

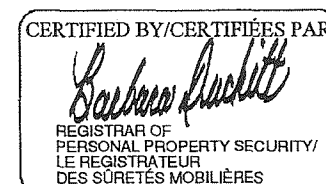
17

REGISTERING  
AGENT ADDRESS

\*\*\*FOR FURTHER INFORMATION CONTACT THE SECURED PARTY\*\*\*

CONTINUED...

5



(oj1ft 11/2017)





RUN NUMBER : 177  
RUN DATE : 2018/06/26  
ID : 20180626185922.74

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 6  
( 5781)

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : RE/MAX RIGHT CHOICE INC.  
FILE CURRENCY : 25JUN 2018

FORM 1C FINANCING STATEMENT / CLAIM FOR LITEN

00 FILE NUMBER  
715311027

01 CAUTION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTERED REGISTRATION  
FILING NO. OF PAGES SCHEDULE NUMBER UNDER PERIOD  
003 3 20160404 1340 1901 5639

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
03 NAME BUSINESS NAME

04 ADDRESS ONTARIO CORPORATION NO.

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
06 NAME BUSINESS NAME

07 ADDRESS ONTARIO CORPORATION NO.

08 SECURED PARTY /  
09 LITEN CLAIMANT ADDRESS

10 COLLATERAL CLASSIFICATION  
CONSUMER MOTOR VEHICLE AMOUNT DATE OF NO FIXED  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MATURITY OR MATURITY DATE

11 MOTOR YEAR MAKE MODEL VIN  
12 VEHICLE

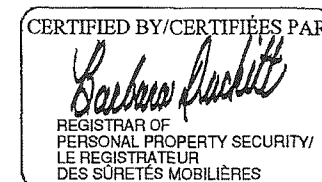
13 GENERAL PROCEEDS OF THE COLLATERAL  
14 COLLATERAL  
15 DESCRIPTION

16 REGISTERING  
17 AGENT ADDRESS

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

CONTINUED...

7



(c)jft 11/2017



RUN NUMBER : 177  
RUN DATE : 2018/06/26  
ID : 20180626185922.74

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 7  
( 5782)

TYPE OF SEARCH BUSINESS DEBTOR  
SEARCH CONDUCTED ON RE/MAX RIGHT CHOICE INC.  
FILE CURRENCY 25JUN 2018

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

FILE NUMBER  
713734497

CAUTION FILING	PAGE NO.	TOTAL OF PAGES	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER	REGISTRATION PERIOD
	001	001		20160201 1619 1862 8847	P PPSA	4

DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

DEBTOR NAME BUSINESS NAME RE/MAX RIGHT CHOICE INC.

ADDRESS 6464 YONGE STREET, SUITE 250 TORONTO

ONTARIO CORPORATION NO. 02109716  
ON M2M3X4

DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME

DEBTOR NAME BUSINESS NAME

ADDRESS

ONTARIO CORPORATION NO.

SECURED PARTY / KEVIN NAJAFI

LIEN CLAIMANT

ADDRESS 1 EMILY COURT RICHMOND HILL ON L4E 4E5

COLLATERAL CLASSIFICATION

CONSUMER GOODS	INVENTORY	EQUIPMENT	ACCOUNTS OTHER	MOTOR VEHICLE INCLUDED	AMOUNT	DATE OF MATURITY OR	NO FIXED MATURITY DATE
X	X	X	X	X	400000		X

YEAR MAKE MODEL VIN

MOTOR VEHICLE

GENERAL INCLUDING BUT NOT LIMITED TO ALL INVENTORY, CONSUMER GOODS, ASSETS,  
COLLATERAL ACCOUNTS RECEIVABLES, EQUIPMENT, AND INTANGIBLES  
DESCRIPTION

REGISTERING AGENT BLACKSTONE LAW PROFESSIONAL CORPORATION

ADDRESS 9100 JANE STREET, BUILDING L, UNIT 77 VAUGHAN ON L4K0A4

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

CONTINUED... 8

CERTIFIED BY/CERTIFIÉES PAR  
*Barbara Luckett*  
REGISTRAR OF  
PERSONAL PROPERTY SECURITY/  
LE REGISTRATEUR  
DES SÛRETÉS MOBILIÈRES

(c)1ft 11/2017)





RUN NUMBER : 177  
RUN DATE : 2018/06/26  
ID : 20180626185922.74

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

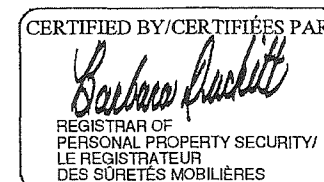
REPORT : PSSR060  
PAGE : 8  
( 5783)

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : RE/MAX RIGHT CHOICE INC.  
FILE CURRENCY : 25JUN 2018

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
723289698	20161209	1937	1531	3608
715311027	20160404	1340	1901	5639
713734497	20160201	1619	1862	8847

3 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.



**TAB H**



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## Kevin Najafi • 3rd

Owner/ Broker of Re/Max Right Choice Inc , Entrepreneur  
Toronto, Canada Area

Connect



RE/MAX RIGHT CHOICE Inc



University of Toronto



See contact info



500+ connections

Highly qualified Entrepreneur and Real Estate Enthusiast ..

Possess a solid background in successful start up and rapid growth of companies, with broad analytical and managerial skills

Strong experience in both seed-stage companies and growth companies.

Currently Owner/Broker at Re/Max Right choice Inc .

Specialties: Real Estate Investment, business models, strategy, negotiation, business operations, general management of mid to large size organizations, corporate development, financial services and marketing.

Show less ^

## Highlights

Reach out to Kevin for...

Probono consulting and volunteering, Joining a nonprofit.

Message Kevin

## Experience

## Owner/Broker Of Record

RE/MAX RIGHT CHOICE Inc

Jun 2014 – Oct 2015 • 1 yr 5 mos

250-6464 Yonge Street , Toronto

Over 15 years of business and real estate experience with exceptional knowledge in all aspect of real estate

## Broker of Record/ Owner

Century 21 Your Number One Realty

2006 – 2014 • 8 yrs

250-6464 Yonge Street

## Education

## Promoted



International Business  
Get an Ivey MSc in International Business & open up career opportunities.



Hot Jobs In Energy Mgmt  
Including Environmental Eng.  
Mgmt, Project Mgmt - Ryerson  
U Certificates



25% Off Until March 31st  
Commercial Carpet Cleaning.  
Eco-Friendly & Green Clean  
Products. Book Now.

## People Also Viewed



Aref Mohammadi • 3rd  
New Wave Video Productions



Jinous Azhin • 3rd  
Award winner Real Estate agent  
Royal LePage Signature Realty a  
Member of The Institute for Luxe  
Home Marketing



Mahnaz Javdan • 3rd  
Mortgage Broker at Mortgage L  
Group Inc.



Alireza Khodai • 3rd  
SignValue & Print Inc.



Roza Hemati • 3rd  
Real estate Owner in Toronto, Pt  
Real Estate Inc, Brokerage



reed tanaka • 3rd  
Real Estate Broker

Michel Friedman • 3rd  
Manager at RE/MAX Premier Inc  
Vaughan



kikoja Directory • 3rd  
Owner, Kikoja: Iranian Business C



Maral Alinejad • 3rd  
Sales Representative at Sutton C  
Admiral Realty



Michael Eisner • 3rd  
Real Estate Sales Rep at Keller W  
Referred Realty

## Learn the skills Kevin has

Managerial Economic  
Viewers: 28,796

Design Thinking: Ven  
Design

Messaging





## OREA REAL ESTATE COLLEGE

## Volunteer Experience



**Volunteer**  
Breast Cancer Society of Canada  
Health



**sponsor**  
World Vision Canada  
Children

**sponsor**  
CP 24 CHUM Christmas wish  
Children

## Skills &amp; Endorsements

## Real Estate · 63



Endorsed by Daryl King , Sales Representative and  
2 others who are highly skilled at this



Endorsed by 4 of Kevin's colleagues at CENTURY  
21®

## Investment Properties · 47



Endorsed by David Ash, who is highly skilled at this



Endorsed by 7 of Kevin's colleagues at CENTURY  
21®

## Entrepreneurship · 44



Endorsed by 3 of Kevin's colleagues at CENTURY 21®

Show more ▾

## Accomplishments

3

## Honors &amp; Awards

Grand Centurion Producer. The highest Award from the largest Real Estate company in the world.

• Top Choice Success • honored member

2

## Languages

English • SPANISH

2

## Organizations

Member of real estate board • Young President Organisation

1

## Patent

Messaging



Reactivate  
Premium

Interests



**Arianna Huffington**   
Founder and CEO at Thrive Global  
7,615,930 followers



**T. Boone Pickens**   
Founder, Chairman and CEO at BP Capital..  
1,854,642 followers

**Association of Canadian IT&Securi...**  
56 members

**RE/MAX RIGHT CHOICE**  
108 followers



**James Caan CBE**   
Serial Entrepreneur, CEO of Hamilton Bra..  
3,113,795 followers



**Bill Gates**   
Co-chair, Bill & Melinda Gates Foundation  
17,244,324 followers

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# TAB I

**AIRD BERLIS**

Ian Aversa  
Direct: 416.865.3082  
Email: [iaversa@airdberlis.com](mailto:iaversa@airdberlis.com)

June 26, 2018

**BY REGISTERED MAIL, REGULAR MAIL AND EMAIL ([najafikevin@gmail.com](mailto:najafikevin@gmail.com))**

**Kevin Najafi**  
1 Emily Court  
Richmond Hill, Ontario  
L4E 4E5

Dear Mr. Najafi:

**Re: Lloyds Underwriters et al. v. Re/Max Right Choice Inc.**  
**(Court File No. CV-17-586742-00CL)**

---

We are the lawyers for A. Farber & Partners Inc. ("**Farber**"), in its capacity as the court-appointed receiver (in such capacity, the "**Receiver**") to, amongst other things, collect outstanding commissions from transactions in which Toronto Right Choice Brokerage Inc. (formerly Re/Max Right Choice Inc.) (the "**Debtor**") is or was a broker. Farber was appointed as the Receiver pursuant to the Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "**Commercial List Court**") made January 8, 2018 (the "**Appointment Order**"). A copy of the Appointment Order is available on the Receiver's website at <https://farbergroup.com/engagements/remax-right-choice-inc/>.

By virtue of the Appointment Order, the Receiver has an interest in the Debtor's collateral as contemplated by section 18 of the *Personal Property Security Act* (Ontario) (the "**PPSA**"). The Receiver notes that you have registered a notice of a security interest in the Debtor's personal property under the PPSA (the "**Registration**").

Pursuant to and in accordance with section 18 of the PPSA, the Receiver requires that you furnish to it each of the following:

- a) a statement in writing of the amount of the Debtor's indebtedness to you and the terms of payment of this indebtedness as of today's date;
- b) a statement in writing specifying the actual collateral to which the Registration relates;
- c) a true copy of the security agreement(s) in respect of which you have made the Registration; and
- d) the location of the original security agreement(s) to the extent that the Receiver wishes to inspect the same.

Please be advised that under subsection 18(5) of the PPSA, the Receiver requests that you provide the information set forth above within 15 days after receiving this request. Delivery of the information on a more expedited basis would be much appreciated.

Furthermore, the Receiver also requires that you provide immediate access to all Records (as defined below), as required pursuant to paragraph 5 of the Appointment Order (amongst other paragraphs), which provides that all Persons (as defined therein):


*shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Persons' possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto ...*

Please note, as stated above (and without limiting the generality of same), that the Records you are required to provide to the Receiver include both physical and electronic Records, as well as access to any software required to examine such Records.

Please ensure that the Receiver is provided immediate access to all Records. In this regard, please contact Michael Litwack from the Receiver's office at [mlitwack@farbergroup.com](mailto:mlitwack@farbergroup.com) by no later than the close of business on Tuesday, July 3, 2018 to make logistical arrangements.

Yours truly,

AIRD & BERLIS LLP



Ian Aversa  
IA/jn

cc: Client (by email)

32994787.1

AIRD BERLIS



## MAILROOM DELIVERY REQUISITION

COURIER ☐

PICKUP ☐

REGISTERED MAIL ☒

Super – Half Hour (downtown only) ☐  
 Direct – 1 Hour ☐  
 Rush – 2 Hours ☐  
 Regular – 4 Hours ☐  
 Overnight – 9:00 a.m. ☐ 12:00 Noon ☐ 5:00 p.m. ☐

SPECIAL INSTRUCTIONS

Lawyer information and Matter # must be completed:

Lawyer Name:	I. Aversa	Lawyer Number:	1353
Matter Number:	142134	If Office charge, provide reason:	

Deliveries to a Residence. If no one is at home, can this package(s) be left in a safe place (mailbox, in between doors) without a signature?

Yes ☐ No ☐

DESTINATION		PICK UP FROM	
Contact:		Contact:	
Address:	Kevin Najafi 1 Emily Court Richmond Hill, Ontario L4E 4E5	Address:	
Phone Number:		Phone Number:	

File Copy Required ☐

Date: June 26, 2018

Accounting Use Only:

Way Bill #:

Amount: \$ 7.84



REGISTERED  
DOMESTIC  
CUSTOMER RECEIPT

RECOMMANDÉ  
RÉGIME INTÉRIEUR  
REÇU DU CLIENT



To Destinataire

Name Nom  
Kevin Najafi

Address Adresse  
1 Emily Court

City / Prov. / Postal Code Ville / Prov. / Code postal  
Richmond Hill ON L4E 4E5

Declared Value Valeur déclarée \$

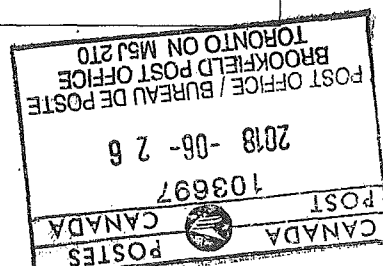
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www.canadapost.ca or/ou www.postescanada.ca

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CPC Tracking Number Numéro de repérage de la SCP

RN 118 407 415 CA



## Eunice Baltkois

---

**From:** Susy Moniz on behalf of Ian Aversa  
**Sent:** June-26-18 3:10 PM  
**To:** 'najafikevin@gmail.com'  
**Cc:** Ian Aversa; Jeremy Nemers; 'hlevy@farbergroup.com'; 'mlitwack@farbergroup.com'  
**Subject:** Lloyds Underwriters et al. v. Re/Max Right Choice Inc. - Court File No. CV-17-586742-00CL  
**Attachments:** Letter to K. Najafi (Re\_Max) - June 26, 2018.PDF

### SENT ON BEHALF OF IAN AVERSA

Please see the attached correspondence.

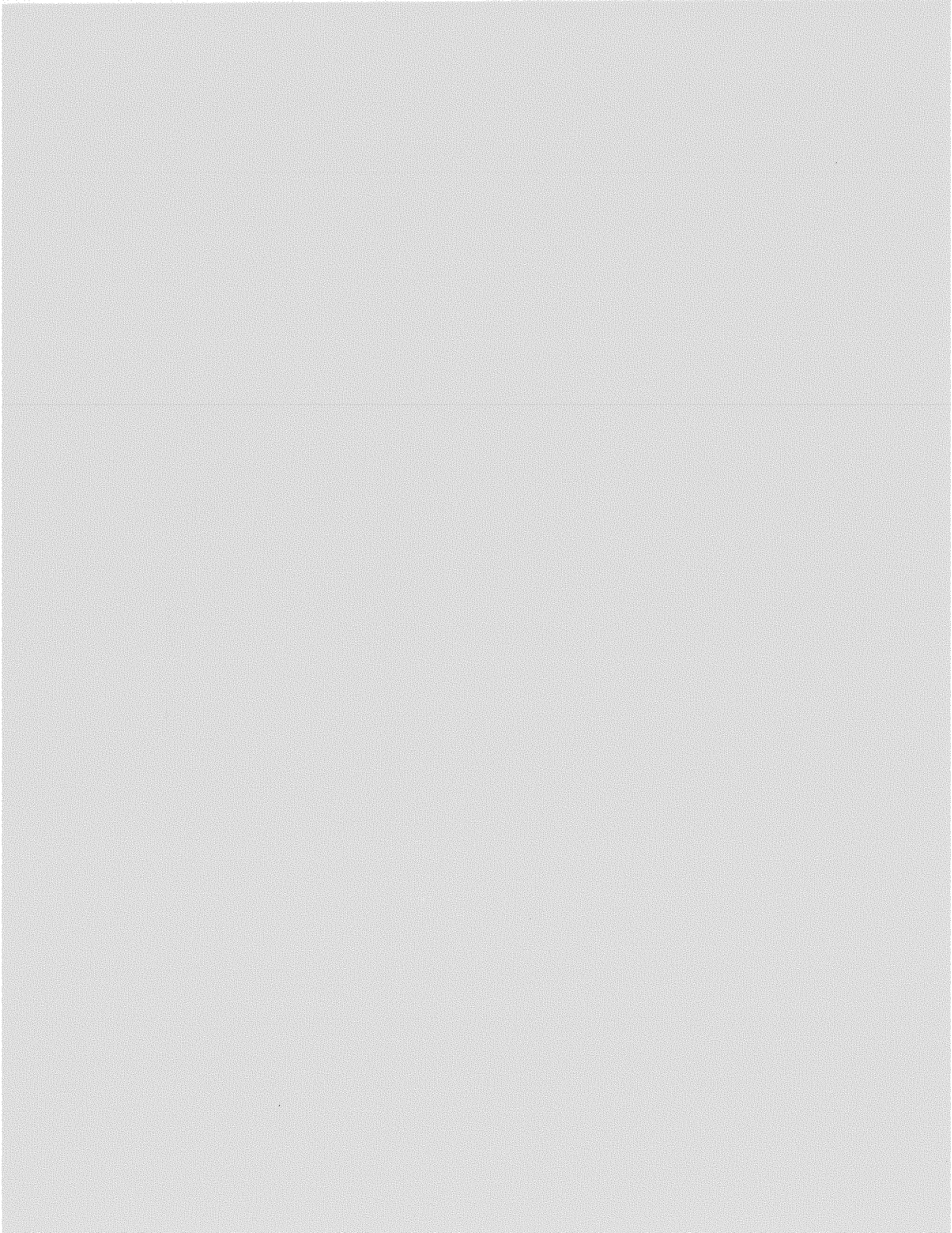
Ian Aversa

T 416.865.3082  
F 416.863.1515  
E [iaversa@airdberlis.com](mailto:iaversa@airdberlis.com)

**Aird & Berlis LLP** | Lawyers  
Brookfield Place, 181 Bay Street, Suite 1800  
Toronto, Canada M5J 2T9 | [airdberlis.com](http://airdberlis.com)

AIRD BERLIS

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If you did receive this email in error, the information in this email may be confidential and must not be disclosed to anyone.



# AIRD BERLIS

Ian Aversa  
Direct: 416.865.3082  
Email: [iaversa@airdberlis.com](mailto:iaversa@airdberlis.com)

July 20, 2018

BY EMAIL ([daltshuller@teplitskycolson.com](mailto:daltshuller@teplitskycolson.com))

## TEPLITSKY COLSON

Barristers and Solicitors  
70 Bond Street, Suite 200  
Toronto, ON M5B 1X3

Attention: David Altshuller

Dear Mr. Altshuller:

Re: **Lloyds Underwriters et al. v. Re/Max Right Choice Inc.**  
**(Court File No. CV-17-586742-00CL)**

---

We are the lawyers for A. Farber & Partners Inc. ("**Farber**"), in its capacity as the court-appointed receiver (in such capacity, the "**Receiver**") to, amongst other things, collect outstanding commissions from transactions in which Toronto Right Choice Brokerage Inc. (formerly Re/Max Right Choice Inc.) (the "**Debtor**") is or was a broker. Farber was appointed as the Receiver pursuant to the Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "**Commercial List Court**") made January 8, 2018 (the "**Appointment Order**"). A copy of the Appointment Order is available on the Receiver's website at <https://farbergroup.com/engagements/remax-right-choice-inc/>.

We understand that you are legal counsel for Kevin Najafi in connection with this matter.

By virtue of the Appointment Order, the Receiver has an interest in the Debtor's collateral as contemplated by section 18 of the *Personal Property Security Act* (Ontario) (the "**PPSA**"). The Receiver notes that a notice of a security interest in the Debtor's personal property under the PPSA is registered in favour of Mr. Najafi (the "**Registration**").

Pursuant to and in accordance with section 18 of the PPSA, the Receiver requires that Mr. Najafi furnish to it each of the following:

- a) a statement in writing of the amount of the Debtor's indebtedness to Mr. Najafi and the terms of payment of this indebtedness as of today's date;
- b) a statement in writing specifying the actual collateral to which the Registration relates;
- c) a true copy of the security agreement(s) in respect of which the Registration is made; and
- d) the location of the original security agreement(s) to the extent that the Receiver wishes to inspect the same.

Please be advised that under subsection 18(5) of the PPSA, the Receiver requests that you provide the information set forth above within 15 days after receiving this request. Delivery of the information on a more expedited basis would be much appreciated.

Furthermore, the Receiver also requires that Mr. Najafi provide immediate access to all Records (as defined below), as required pursuant to paragraph 5 of the Appointment Order (amongst other paragraphs), which provides that all Persons (as defined therein):

*shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Persons' possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto ...*

Please note, as stated above (and without limiting the generality of same), that the Records Mr. Najafi is required to provide to the Receiver include both physical and electronic Records, as well as access to any software required to examine such Records.

Please ensure that the Receiver is provided immediate access to all Records. In this regard, please contact the undersigned by no later than the close of business on Thursday, July 26, 2018 to make logistical arrangements.

Yours truly,

AIRD & BERLIS LLP

*Ian Aversa*

Ian Aversa  
IA/jn

cc: Client (by email)

33218266.1

AIRD BERLIS



# TAB J

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE ) FRIDAY, THE 24TH  
 )  
JUSTICE ) DAY OF AUGUST, 2018  
 )

LLOYDS UNDERWRITERS and 3303128 CANADA INC.  
T/A ALTERNATIVE RISK SERVICES

Applicants

- and -

RE/MAX RIGHT CHOICE INC.

Respondent

RECEIVERSHIP CLAIMS PROCEDURE ORDER

**THIS MOTION**, made by A. Farber & Partners Inc. ("**Farber**"), in its capacity as the Court-appointed receiver (in such capacity, the "**Receiver**") of: (a) any and all funds in the bank accounts of Toronto Right Choice Brokerage Inc. (formerly Re/Max Right Choice Inc.) (the "**Debtor**") as at the date of the Appointment Order (as defined below) (the "**Existing Funds**"), including, without limitation, any such funds affected by a Freeze Order made pursuant to section 25 of the *Real Estate and Business Brokers Act, 2002* (Ontario) (the "**Real Estate Act**") on November 1, 2017 (the "**Freeze Order**"); and (b) any and all real estate commissions owing to the Debtor (the "**Go-Forward Commissions**", and together with the Go-Forward Commissions, the "**Property**"), for an order approving a procedure for the determination and resolution of claims filed against the Property in this proceeding and authorizing the Receiver to



administer such claims process in accordance with its terms and making certain distributions in accordance with its results, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the First Report of the Receiver dated August 9, 2018 (the “**First Report**”), and on hearing the submissions of counsel for the Receiver and such other counsel as were present, no one appearing for any other person on the service list although duly served as appears from the affidavit of service of Susy Moniz sworn August 14, 2018,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

### **DEFINITIONS**

2. **THIS COURT ORDERS** that for the purposes of this Order, the following terms shall have the following meanings:

- (a) “**Appointment Date**” means January 8, 2018;
- (b) “**Appointment Order**” means the Order of the Honourable Mr. Justice Hainey of the Court made on the Appointment Date in this proceeding;
- (c) “**Books and Records**” means the written material obtained by the Receiver in respect of the Property;
- (d) “**Business Day**” means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (e) “**ClaimsPro**” means ClaimsPro LLP;
- (f) “**Court**” means the Ontario Superior Court of Justice (Commercial List);
- (g) “**Cover Holder**” means 3303128 Canada Inc. T/A Alternative Risk Services;

- (h) **“Cover Holder Debtor’s Webpage”** means <http://www.reco-claims.ca/cp2017-002>;
- (i) **“Excluded Receivership Claim”** means any claim secured by the Receiver’s Charge (as defined in the Appointment Order) and any claim secured by the Receiver’s Borrowings Charge (as defined in the Appointment Order);
- (j) **“Insurance Claim”** means a claim filed under the Insurance Claims Procedure;
- (k) **“Insurance Claims Procedure”** means the claims procedure under the Professional Liability Insurance in respect of the Debtor, the submission instructions for which are found on the Cover Holder Debtor’s Webpage;
- (l) **“Insurer”** means certain Lloyds Underwriters;
- (m) **“Notice of Acceptance, Revision or Disallowance”** means a notice delivered by the Receiver informing a Receivership Creditor that the Receiver has accepted, revised or disallowed all or any part of such Receivership Creditor’s Receivership Claim, which notice shall be substantially in the form attached hereto as **Schedule “A”** and shall set out the reasons for such allowance, revision and/or disallowance, as applicable;
- (n) **“Notice of Dispute”** means a notice delivered to the Receiver by a Receivership Creditor disputing a Notice of Acceptance, Revision or Disallowance, which notice shall be substantially in the form attached hereto as **Schedule “B”** and shall set out the reasons for the dispute;
- (o) **“Notice to Receivership Creditors”** means the notice publicizing this Receivership Claims Procedure to be published in accordance with this Receivership Claims Procedure Order;
- (p) **“Person”** means any individual, general or limited partnership, firm, association, joint venture, trust, entity, corporation, limited or unlimited liability company, unincorporated organization, trade union, pension plan administrator, pension

plan regulator, governmental authority or agency, employee or other association, or any other juridical entity howsoever designated or constituted;

- (q) **“Professional Liability Insurance”** means the professional liability insurance program in which real estate brokerages, brokers and salespersons are required by the Real Estate Act to participate, which Professional Liability Insurance is underwritten by the Insurer through itself and the Cover Holder, and for which ClaimsPro is the independent adjuster and is responsible for receiving and investigating claims made thereunder;
- (r) **“Proven Insurance Claim”** means the amount and classification of any Insurance Claim as finally determined in accordance with the Insurance Claims Procedure;
- (s) **“Proven Receivership Claim”** means the amount and classification of any Receivership Claim as finally determined in accordance with this Receivership Claims Procedure;
- (t) **“Receiver’s Website”** means <https://farbergroup.com/engagements/remax-right-choice-inc/>;
- (u) **“Receivership Claim”** means any right of any Person against any of the Property in connection with any indebtedness, liability or obligation of any kind (including, without limitation, by operation of a trust), whether liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise and whether or not such right is executory in nature, including the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future that could be asserted by way of set-off, counterclaim or otherwise, which indebtedness, liability or obligation is based in whole or in part on facts existing on or prior to the date of this Receivership Claims Procedure Order (each, a **“Receivership Claim”** and,

collectively, the “**Receivership Claims**”), provided, however, that no “**Receivership Claim**” shall include an Excluded Receivership Claim;

- (v) “**Receivership Claims Bar Date**” means 5:00 p.m. (Toronto time) on **September 28, 2018**;
- (w) “**Receivership Claims Procedure**” means the procedures outlined in this Receivership Claims Procedure Order, including the Schedules hereto; and
- (x) “**Receivership Claims Procedure Order**” means this Order; and
- (y) “**Receivership Creditor**” means any Person having a Receivership Claim, including, without limitation, any beneficiary of any Property held in trust.

#### **NOTICE TO CREDITORS AND OTHERS**

##### **3. THIS COURT ORDERS that:**

- (a) the Receiver shall, no later than five Business Days following the issuance of this Receivership Claims Procedure Order:
  - (i) post a copy of the Receivership Claims Procedure Order (together with all Schedules) on the Receiver’s Website; and
  - (ii) post a link to the Cover Holder Debtor’s Website on the Receiver’s Website; and
- (b) the Receiver shall, no later than October 5, 2018, cause to be published a Notice to Receivership Creditors in both The Toronto Star and The Globe and Mail, National Edition.

#### **INITIAL ELIGIBILITY FOR CONSIDERATION BY THE RECEIVER**

**4. THIS COURT ORDERS** that all Receivership Creditors shall file an Insurance Claim in the Insurance Claims Process by the Receivership Claims Bar Date and in accordance with paragraph 5 of this Receivership Claims Procedure Order. For greater certainty, a Receivership

Creditor may elect to indicate on its corresponding Insurance Claim that such Insurance Claim should not be considered for Professional Liability Insurance purposes.

5. **THIS COURT ORDERS** that, for the purpose of the Receivership Claims Procedure, all Insurance Claims, together with supporting documentation in respect of each such Insurance Claim, must be filed with ClaimsPro in accordance with the Insurance Claims Procedure, such that they are received by ClaimsPro by no later than the Receivership Claims Bar Date.

6. **THIS COURT ORDERS** that any Receivership Creditor that does not file an Insurance Claim in accordance with the requirements of paragraphs 4 and 5 of this Receivership Claims Procedure Order:

- (a) shall be and is hereby forever barred from asserting or enforcing any such Receivership Claim;
- (b) shall not be entitled to receive any distributions from any of the Property; and
- (c) shall not be entitled to any further notice in, and shall not be entitled to participate in this proceeding commenced by the Appointment Order, except to the extent that such notice or participation is based exclusively on an Excluded Claim.

#### **DETERMINATION OF RECEIVERSHIP CLAIMS**

7. **THIS COURT ORDERS** that the Receiver shall review (and, for greater certainty, ClaimsPro shall permit the Receiver to review) all Insurance Claims filed on or before the Receivership Claims Bar Date and that the Receiver may accept, revise or disallow (in whole or in part) each Insurance Claim as a Receivership Claim in the Receivership Claims Procedure. For greater certainty, and notwithstanding anything else in this Receivership Claims Procedure Order, the Receiver shall have no authority to accept, revise or disallow (in whole or in part) any Insurance Claim as a Proven Insurance Claim for the purpose of the Insurance Claims Procedure. Upon accepting, revising or disallowing (in whole or in part) an Insurance Claim as a Receivership Claim in the Receivership Claims Procedure, the Receiver shall send a Notice of Acceptance, Revision or Disallowance to the Receivership Creditor. At any time, the Receiver

may request additional information with respect to any Receivership Claim, and may request that the Receivership Creditor file additional materials to support its Receivership Claim.

8. **THIS COURT ORDERS** that the Receiver may attempt to resolve the classification and amount of any Receivership Claim with the Receivership Creditor on a consensual basis prior to accepting, revising or disallowing such Receivership Claim.

9. **THIS COURT ORDERS** that where a Receivership Claim has been revised or disallowed (in whole or in part) by a Notice of Acceptance, Revision or Disallowance, the revised or disallowed portion of that Receivership Claim shall not establish a Proven Receivership Claim unless the Receivership Creditor has disputed the revision or disallowance and proven the revised or disallowed Receivership Claim (or portion thereof) in accordance with paragraphs 12-14 of this Receivership Claims Procedure Order.

#### **NOTICES OF DISPUTE**

10. **THIS COURT ORDERS** that if a Receivership Creditor disputes the Notice of Acceptance, Revision or Disallowance and intends to contest the Notice of Acceptance, Revision or Disallowance then such Receivership Creditor shall deliver a Notice of Dispute by prepaid ordinary mail, courier, personal delivery or electronic or digital transmission so that such Notice of Dispute is received by the Receiver by no later than 5:00 p.m. (Toronto time) on the Business Day which is fourteen (14) days after delivery of the Notice of Acceptance, Revision or Disallowance or such later date as the Receiver may agree in writing or the Court may order. The filing of a Notice of Dispute with the Receiver within the time limited therefore shall constitute an application to have the amount or status of such Receivership Claim determined as set out in paragraphs 12-14 hereof.

11. **THIS COURT ORDERS** that where a Receivership Creditor that receives a Notice of Acceptance, Revision or Disallowance fails to file a Notice of Dispute with the Receiver within the time limited therefore, the amount and status of such Creditor's Claim shall be deemed to be as set out in the Notice of Acceptance, Revision or Disallowance and such amount and status, if any, shall constitute such Receivership Creditor's Proven Receivership Claim.

## **RESOLUTION OF CLAIMS**

12. **THIS COURT ORDERS** that as soon as practicable after the delivery of the Notice of Dispute to the Receiver, the Receiver may:

- (a) attempt to resolve the classification and amount of the Receivership Claim with the Receivership Creditor on a consensual basis; and/or
- (b) schedule an appointment with the Court for the purpose of scheduling a motion to have the classification and/or amount of the Receivership Claim determined by the Court, and at such motion the Receivership Creditor shall be deemed to be the applicant and the Receiver shall be deemed to be the respondent.

13. **THIS COURT ORDERS** that notwithstanding the other provisions of this Receivership Claims Procedure Order, the Receiver may make a motion to the Court for a final determination of a Receivership Claim at any time, whether or not a Notice of Acceptance, Revision or Disallowance has been sent by the Receiver.

14. **THIS COURT ORDERS** that in the event that the dispute between the Receivership Creditor and the Receiver is not settled within a time period or in a manner satisfactory to the Receiver, the Receiver may make a motion to the Court for the final determination of the Receivership Creditor's Receivership Claim.

## **ADEQUACY OF INFORMATION/CURRENCY**

15. **THIS COURT ORDERS** that:

- (a) the Receiver may, where it is satisfied that a Receivership Claim has been adequately proven, waive strict compliance with the requirements of this Receivership Claims Procedure Order as to completion and submission of a corresponding Insurance Claim; and
- (b) any Receivership Claims denominated in a currency other than Canadian dollars shall, for the purposes of this Receivership Claims Procedure Order, be converted to, and constitute obligations in, Canadian dollars, such calculation to be effected



by the Receiver using the Bank of Canada noon spot rate on the Appointment Date.

#### **NOTICE OF TRANSFEREES**

16. **THIS COURT ORDERS** that the Receiver shall not be obligated to give notice to or otherwise deal with a transferee or assignee of a Receivership Claim as the Receivership Creditor in respect thereof unless:

- (a) actual written notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received by the Receiver; and
- (b) the Receiver shall have acknowledged in writing such transfer or assignment,

and thereafter such transferee or assignee shall for the purposes hereof constitute the “Receivership Creditor” in respect of such Receivership Claim. Any such transferee or assignee of a Receivership Claim, and such Receivership Claim, shall be bound by any notices given or steps taken in respect of such Receivership Claim in accordance with this Receivership Claims Procedure Order prior to the written acknowledgement by the Receiver of such transfer or assignment.

17. **THIS COURT ORDERS** that if the holder of a Receivership Claim has transferred or assigned the whole of such Receivership Claim to more than one Person or part of such Receivership Claim to another Person or Persons, such transfer or assignment shall not create a separate Receivership Claim or Receivership Claims and such Receivership Claim shall continue to constitute and be dealt with as a single Receivership Claim notwithstanding such transfer or assignment, and the Receiver shall in each such case not be bound to acknowledge or recognize any such transfer or assignment and shall be entitled to give notices to and to otherwise deal with such Receivership Claim only as a whole and then only to and with the Person last holding such Receivership Claim in whole as the Receivership Creditor in respect of such Receivership Claim. Provided that a transfer or assignment of the Receivership Claim has taken place in accordance with paragraph 16 of this Receivership Claims Procedure Order and the Receiver has acknowledged in writing such transfer or assignment, the person last holding such Receivership Claim in whole as the Receivership Creditor in respect of such Receivership Claim may by

notice in writing to the Receiver direct that subsequent dealings in respect of such Receivership Claim, but only as a whole, shall be with a specified Person and, in such event, such Receivership Creditor, such transferee or assignee of the Receivership Claim and the whole of such Receivership Claim shall be bound by any notices given or steps taken in respect of such Receivership Claim by or with respect to such Person in accordance with this Receivership Claims Procedure Order.

18. **THIS COURT ORDERS** that the Receiver is under no obligation to give notice to any Person other than the Receivership Creditor holding the Receivership Claim and shall, without limitation, have no obligation to give notice to any Person holding a security interest, lien, or charge in, or a pledge or assignment by way of security in, a Receivership Claim.

19. **THIS COURT ORDERS** that the transferee or assignee of any Receivership Claim:

- (a) shall take the Receivership Claim subject to the rights and obligations of the transferor/assignor of the Receivership Claim, and subject to the rights of the Debtor and the Receiver against any such transferor or assignor, including any rights of set-off which the Debtor had against such transferor or assignor; and
- (b) cannot use any transferred or assigned claim to reduce any amount owing by the transferee or assignee to the Debtor or the Receiver, whether by way of set-off, application, merger, consolidation or otherwise.

#### **SET OFF, ETC.**

20. **THIS COURT ORDERS** that the Receiver may set off (whether by way of legal, equitable or contractual set-off) against the Receivership Claims of any Receivership Creditor, any claims of any nature whatsoever, including, without limitation, contingent claims, that the Debtor may have against such Receivership Creditor arising prior to the entry of this Receivership Claims Procedure Order, provided that such set-off satisfies the requirements for legal, equitable or contractual set-off to the extent permitted by applicable law as may be determined by the Court. If there is any dispute between the Receiver and the applicable Receivership Creditor, however, neither the failure to assert set-off nor the allowance of any

Receivership Claim hereunder shall constitute a waiver or release by the Receiver of any such claim that the Receiver may have against such Receivership Creditor.

### **DISTRIBUTIONS**

21. **THIS COURT ORDERS** that the Holdback (as defined in the First Report) be and is hereby approved.

22. **THIS COURT ORDERS** that this Receivership Claims Procedure Order does not, and is not intended to, provide any Person with any entitlement to receive any distribution from any of the Property, save and except in accordance with paragraph 23 of this Receivership Claims Procedure Order, pursuant to which (and, for greater certainty, by virtue of the Holdback and the quantum of the Property) no Receivership Creditor shall be entitled to receive from the Property the full amount of such Receivership Creditor's Proven Receivership Claim.

23. **THIS COURT ORDERS** that, after the Receivership Claims Bar Date and relying upon the results of the Receivership Claims Procedure, the Receiver be and is hereby authorized to make distributions in respect of Proven Receivership Claims, without further Order of this Court and net of the applicable Holdback, according to the distribution methodology provided in the First Report; provided, however, that the Receiver is not yet authorized without further Order of this Court to make any distribution in respect of any secured Proven Receivership Claims (should any secured Proven Receivership Claims be made).

24. **THIS COURT ORDERS** that any and all secured Receivership Claims, should any be made, be and are limited to the Pre-Freeze Order Existing Funds (as defined in the First Report).

### **DIRECTIONS**

25. **THIS COURT ORDERS** that the Receiver may, at any time, and with such notice as this Court may require, seek directions from this Court with respect to this Receivership Claims Procedure Order, the Receivership Claims Procedure set out herein and the forms attached as Schedules hereto.

**SERVICE AND NOTICE**

26. **THIS COURT ORDERS** that the Receiver shall be at liberty to deliver Notices of Acceptance, Revision or Disallowance, and any letters, notices, distributions or other documents or materials to Receivership Creditors or other interested Persons, as applicable, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic or digital transmission to such Persons at the address as last shown in any Insurance Claim submitted by such Receivership Creditor or, in all other cases, at the address that the Receiver has been able to source for such Person, if any, and any such service or notice by courier, personal delivery or electronic or digital transmission shall be deemed to be received on the next Business Day following the date of forwarding thereof, or if sent by prepaid ordinary mail, on the fourth Business Day after mailing.

27. **THIS COURT ORDERS** that any notice or other communication (including, without limitation, Notices of Dispute) to be given under this Receivership Claims Procedure Order by a Receivership Creditor to the Receiver shall be in writing substantially in the form, if any, provided for in this Receivership Claims Procedure Order and will be sufficiently given only if given by prepaid ordinary mail, courier, personal delivery or electronic or digital transmission addressed to:

A. Farber & Partners Inc.  
in its capacity as the Court-appointed Receiver re Re/Max Right Choice Inc.  
150 York Street, Suite 1600  
Toronto, Ontario  
Canada M5H 3S5

Attention: Michael Litwack  
E-mail: [mlitwack@farbergroup.com](mailto:mlitwack@farbergroup.com)

Any such notice or other communication by a Receivership Creditor shall be deemed received only upon actual receipt thereof during normal business hours on a Business Day.

**PROTECTIONS FOR THE RECEIVER**

28. **THIS COURT ORDERS** that in carrying out the terms of this Receivership Claims Procedure Order:

- (a) the Receiver shall have all the protections given to it by each of the Appointment Order and as an officer of this Court, as applicable, including the stay of proceedings in its favour;
- (b) the Receiver shall incur no liability or obligation as a result of the carrying out of the provisions of this Receivership Claims Procedure Order;
- (c) the Receiver shall be entitled to rely on the Books and Records without independent investigation; and
- (d) the Receiver shall not be liable for any claims or damages resulting from any errors or omissions in such Books and Records.

#### MISCELLANEOUS

29. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court of any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada) and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States of America, and of any other nation or state, to act in aid of and to be complementary to this Court in carrying out the terms of this Receivership Claims Procedure Order.

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**SCHEDULE "A"**

**NOTICE OF ACCEPTANCE, REVISION OR DISALLOWANCE OF CLAIM  
REFERENCE NUMBER \_\_\_\_\_**

Please read carefully the Instruction Letter accompanying this Notice.

**TO:** [insert name of creditor]

A. Farber & Partners Inc., in its capacity as the court-appointed Receiver pursuant to the Appointment Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made January 8, 2018 in the proceedings involving Toronto Right Choice Brokerage Inc. (formerly Re/Max Right Choice Inc.) (in such capacity, the "**Receiver**"), hereby gives you notice that the Receiver has reviewed your claim submitted pursuant to the Receivership Claims Procedure Order of the Court made August 24, 2018 (the "**Receivership Claims Procedure Order**"), and has accepted, revised or rejected your Receivership Claim (as defined in the Receivership Claims Procedure Order) or any part thereof or any information relating thereto, as follows:

The Claim/Information as Submitted	The Claim/Information as Accepted

**Reasons for Acceptance, Revision or Disallowance:**

[insert explanation]

If you do not agree with this Notice of Acceptance, Revision or Disallowance, please take notice of the following:

1. **If you dispute this Notice of Acceptance, Revision or Disallowance, you must, no later than 5:00 p.m. (Toronto time) on [\_\_\_\_\_], being the Business Day which is fourteen days after the Notice of Acceptance, Revision or Disallowance is sent by the Receiver (see paragraph 10 of the Receivership Claims Procedure Order), notify the Receiver by delivery of a Notice of Dispute. The form of Notice of Dispute is enclosed.**
2. **IF YOU DO NOT DELIVER A NOTICE OF DISPUTE WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF ACCEPTANCE, REVISION OR DISALLOWANCE WILL BE BINDING UPON YOU AND YOUR RECEIVERSHIP CLAIM SHALL BE DEEMED TO BE AS SET OUT IN THIS NOTICE OF ACCEPTANCE, REVISION OR DISALLOWANCE.**

**DATED** at Toronto, this \_\_\_\_, day of \_\_\_\_\_, 2018.

**A. FARBER & PARTNERS INC.,  
IN ITS CAPACITY AS THE COURT-APPOINTED RECEIVER PURSUANT TO THE  
APPOINTMENT ORDER OF THE HONOURABLE MR. JUSTICE HAINEY MADE  
JANUARY 8, 2018, AND NOT IN ANY OTHER CAPACITY**



**SCHEDULE "B"****NOTICE OF DISPUTE**

We hereby give you notice of our intention to dispute the Notice of Acceptance, Revision or Disallowance bearing Reference Number \_\_\_\_\_ and dated \_\_\_\_\_ issued in respect of our claim.

**Reasons for Dispute** (attach extra sheets and copies of all supporting documentation if necessary):

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Name of Receivership Creditor: \_\_\_\_\_

\_\_\_\_\_  
(Signature of individual completing this Dispute)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Please print name)

Telephone Number: \_\_\_\_\_

Email address: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_

Full Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

**THIS FORM IS TO BE RETURNED BY PREPAID ORDINARY MAIL, COURIER, PERSONAL DELIVERY OR ELECTRONIC OR DIGITAL TRANSMISSION AND MUST BE RECEIVED NO LATER THAN 5:00 P.M. (TORONTO TIME) ON \_\_\_\_\_, BEING THE BUSINESS DAY WHICH IS FOURTEEN DAYS AFTER THE NOTICE OF REVISION OR DISALLOWANCE IS SENT BY THE RECEIVER (PURSUANT TO PARAGRAPH 10 OF THE CLAIMS PROCEDURE ORDER) TO:**

A. Farber & Partners Inc.  
in its capacity as the Court-appointed Receiver re Re/Max Right Choice Inc.  
150 York Street, Suite 1600  
Toronto, Ontario  
Canada M5H 3S5

Attention: Michael Litwack  
E-mail: [mlitwack@farbergroup.com](mailto:mlitwack@farbergroup.com)

**LLOYDS UNDERWRITERS and 3303128 CANADA INC.  
T/A ALTERNATIVE RISK SERVICES**

**- and -**

**RE/MAX RIGHT CHOICE INC.**

Court File No. CV-17-586742-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**Proceedings commenced at Toronto**

**RECEIVERSHIP CLAIMS PROCEDURE ORDER**

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
Suite 1800, 181 Bay Street  
Toronto, ON M5J 2T9

**Ian Aversa (LSUC # 55449N)**  
Tel: (416) 865-3082  
Fax: (416) 863-1515  
Email: [iaversa@airdberlis.com](mailto:iaversa@airdberlis.com)

**Jeremy Nemers (LSUC # 66410Q)**  
Tel: (416) 865-7724  
Fax: (416) 863-1515  
Email: [jnemers@airdberlis.com](mailto:jnemers@airdberlis.com)

*Lawyers for A. Farber & Partners Inc., in its capacity as the Court-  
appointed Receiver of the Property*

# TAB K

**AIRD BERLIS**

Ian Aversa  
Direct: 416.865.3082  
Email: [lavarsa@airdberlis.com](mailto:lavarsa@airdberlis.com)

June 18, 2018

**BY REGISTERED AND REGULAR MAIL**

**Jalil Hajimir**  
250 Harding Blvd., Suite 32136  
Richmond Hill, ON L4C 9S3

Dear Mr. Hajimir:

**Re: Lloyds Underwriters et al. v. Re/Max Right Choice Inc.**  
**(Court File No. CV-17-586742-00CL)**

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We are the lawyers for A. Farber & Partners Inc. ("**Farber**"), in its capacity as the court-appointed receiver (in such capacity, the "**Receiver**") to, amongst other things, collect outstanding commissions from transactions in which Toronto Right Choice Brokerage Inc. (formerly Re/Max Right Choice Inc.) (the "**Debtor**") is or was a broker. As you know, Farber was appointed as the Receiver pursuant to the Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "**Commercial List Court**") made January 8, 2018 (the "**Appointment Order**"). A copy of the Appointment Order is available on the Receiver's website at <https://farbergroup.com/engagements/remax-right-choice-inc/>.

We understand that you are the Debtor's sole officer and director.

The Receiver requires that you provide immediate access to all Records (as defined below), as required pursuant to paragraph 5 of the Appointment Order (amongst other paragraphs), which provides that all Persons (as defined therein):

*shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Persons' possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto ...*

Please note, as stated above (and without limiting the generality of same), that the Records you are required to provide to the Receiver include both physical and electronic Records, as well as access to any software required to examine such Records.

Please ensure that the Receiver is provided immediate access to all Records. In this regard, please contact Michael Litwack from the Receiver's office at [mlitwack@farbergroup.com](mailto:mlitwack@farbergroup.com) by no later than the close of business on Monday, June 25, 2018 to make logistical arrangements.

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Yours truly,

AIRD & BERLIS LLP

Per:     
Ian Aversa  
IA/in

cc: Client (by email)

32904262.1

AIRD BERLIS



**REGISTERED  
DOMESTIC**

CUSTOMER RECEIPT

**RECOMMANDÉ  
RÉGIME INTÉRIEUR**

REÇU DU CLIENT



JN-F# 142134

To		Destinataire	
Name	Nom		
Jalil Hajim			
Address	Adresse		
250 Harding Blvd. St 32136			
City / Prov. / Postal Code	Ville / Prov. / Code postal		
Richmond Hill	L4C 9S3		

FOR DELIVERY CONFIRMATION	CONFIRMATION DE LA LIVRAISON
<a href="http://www.canadapost.ca">www.canadapost.ca</a>	<a href="http://www.postescanada.ca">www.postescanada.ca</a>
or/ou	
1 888 550-6333	

Declared Value	Valeur déclarée
	\$

CPC Tracking Number      Numéro de repérage de la SCP

**RN 118 407 367 CA**

33-086-584 (14-06)

**REGISTERED**

Fragile and perishable articles are not indemnified against damage. Indemnity and fees information is available on request at your postal outlet.

**Instructions**

- 1) Complete any declared value on receipt, tear on perforated line, date stamp on reverse and give receipt to customer.
- 2) Remove label from backing (except area marked X) and apply the label to front of item adjacent to address.

Apply label here  
Veuillez placer  
l'étiquette ici

**RECOMMANDÉ**

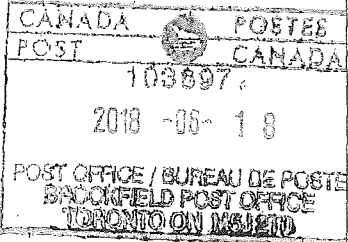
Aucune indemnité ne sera versée pour l'avarie d'un objet fragile ou périssable. Des renseignements sur les indemnités et les droits sont disponibles à votre comptoir postal.

**Instructions**

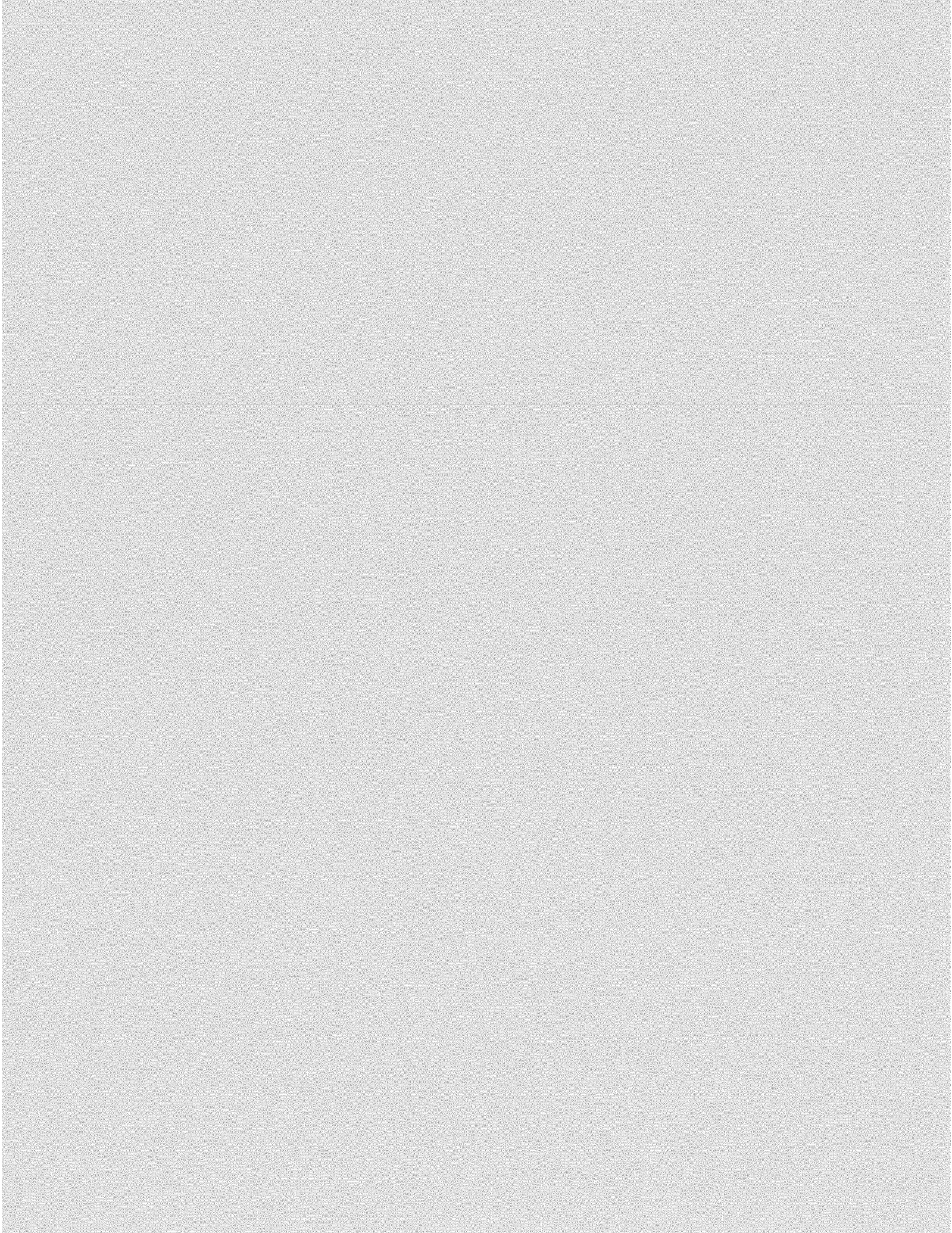
- 1) Indiquez la valeur déclarée dans la section Reçu, détachez le long du pointillé, apposez le timbre à date au verso et remettez le reçu au client.
- 2) Décollez la pellicule protectrice (sauf la partie marquée d'un X) de l'étiquette. Apposez l'étiquette sur le dessus de l'envoi, près de l'adresse.

ACCEPTING  
LOCATION

LIEU  
D'ACCEPTATION







**AIRD BERLIS**

Ian Aversa  
Direct: 416.865.3082  
Email: [lavrsa@airdberlis.com](mailto:lavrsa@airdberlis.com)

June 26, 2018

**BY REGISTERED AND REGULAR MAIL**

**Jalil Hajimir**  
250 Harding Blvd., Suite 32136  
Richmond Hill, ON L4C 9S3

Dear Mr. Hajimir:

**Re: Lloyds Underwriters et al. v. Re/Max Right Choice Inc.**  
**(Court File No. CV-17-586742-00CL)**

---

As you are aware, we are the lawyers for A. Farber & Partners Inc. ("**Farber**"), in its capacity as the court-appointed receiver (in such capacity, the "**Receiver**") to, amongst other things, collect outstanding commissions from transactions in which Toronto Right Choice Brokerage Inc. (formerly Re/Max Right Choice Inc.) (the "**Debtor**") is or was a broker. As you know, Farber was appointed as the Receiver pursuant to the Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "**Commercial List Court**") made January 8, 2018 (the "**Appointment Order**"). A copy of the Appointment Order is available on the Receiver's website at <https://farbergroup.com/engagements/remax-right-choice-inc/>.

We refer to our letter to you dated June 18, 2018 (the "**June 18 Letter**"), a copy of which is enclosed for your reference. You have not responded to our June 18 Letter.

We understand that you are the Debtor's sole officer and director.

The Receiver requires that you provide immediate access to all Records (as defined below), as required pursuant to paragraph 5 of the Appointment Order (amongst other paragraphs), which provides that all Persons (as defined therein):

*shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Persons' possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto ...*

Please note, as stated above (and without limiting the generality of same), that the Records you are required to provide to the Receiver include both physical and electronic Records, as well as access to any software required to examine such Records.

The Appointment Order expressly requires you to deliver the Records to the Receiver, and you are therefore in breach of the Appointment Order.

Page 2

Accordingly, unless the requested Records are delivered to the Receiver forthwith, we have instructions from the Receiver to schedule an urgent attendance before a Judge of the Commercial List Court, at which attendance you will be asked to explain why you are in breach of the Appointment Order, and at which attendance the Receiver will also be seeking costs and a finding of contempt against you. We have instructions from the Receiver to proceed in this regard should the requested Records not be delivered to the Receiver by the close of business on July 3, 2018.

We very much hope that such Commercial List Court attendance will not be necessary, and that the Receiver can expect your immediate cooperation in accordance with the terms of the Appointment Order and the Receiver's requests thereunder.

Yours truly,

AIRD & BERLIS LLP

A handwritten signature in dark ink, appearing to read "Ian Aversa" with a stylized flourish at the end.

Ian Aversa

IA/jn

Encl.

cc: Client (by email)

32987920.1

AIRD BERLIS

**AIRD BERLIS**

Ian Aversa  
Direct: 416.865.3082  
Email: [iaversa@airdberlis.com](mailto:iaversa@airdberlis.com)

June 18, 2018

**BY REGISTERED AND REGULAR MAIL**

**Jalil Hajimir**  
250 Harding Blvd., Suite 32136  
Richmond Hill, ON L4C 9S3

Dear Mr. Hajimir:

**Re: Lloyds Underwriters et al. v. Re/Max Right Choice Inc.**  
**(Court File No. CV-17-586742-00CL)**

---

We are the lawyers for A. Farber & Partners Inc. ("**Farber**"), in its capacity as the court-appointed receiver (in such capacity, the "**Receiver**") to, amongst other things, collect outstanding commissions from transactions in which Toronto Right Choice Brokerage Inc. (formerly Re/Max Right Choice Inc.) (the "**Debtor**") is or was a broker. As you know, Farber was appointed as the Receiver pursuant to the Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "**Commercial List Court**") made January 8, 2018 (the "**Appointment Order**"). A copy of the Appointment Order is available on the Receiver's website at <https://farbergroup.com/engagements/remax-right-choice-inc/>.

We understand that you are the Debtor's sole officer and director.

The Receiver requires that you provide immediate access to all Records (as defined below), as required pursuant to paragraph 5 of the Appointment Order (amongst other paragraphs), which provides that all Persons (as defined therein):

*shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Persons' possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto ...*

Please note, as stated above (and without limiting the generality of same), that the Records you are required to provide to the Receiver include both physical and electronic Records, as well as access to any software required to examine such Records.

Please ensure that the Receiver is provided immediate access to all Records. In this regard, please contact Michael Litwack from the Receiver's office at [mlitwack@farbergroup.com](mailto:mlitwack@farbergroup.com) by no later than the close of business on Monday, June 25, 2018 to make logistical arrangements.

Page 2

Yours truly,

AIRD & BERLIS LLP

per:  M —  
Ian Aversa  
IA/jh

cc: Client (by email)

32904262.1

AIRD BERLIS

## MAILROOM DELIVERY REQUISITION

COURIER ☐

PICKUP ☐

REGISTERED MAIL ☒

Super – Half Hour (downtown only) ☐  
 Direct – 1 Hour ☐  
 Rush – 2 Hours ☐  
 Regular – 4 Hours ☐  
 Overnight – 9:00 a.m. ☐ 12:00 Noon ☐ 5:00 p.m. ☐

### SPECIAL INSTRUCTIONS

**Lawyer information and Matter # must be completed:**

Lawyer Name: I. Aversa Lawyer Number: 1353  
 Matter Number: 142134 If Office charge, provide reason:

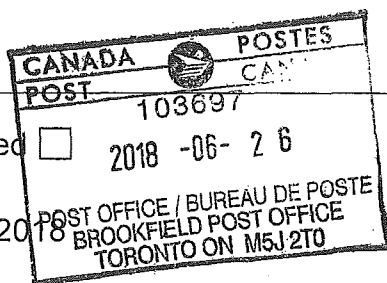
**Deliveries to a Residence.** If no one is at home, can this package(s) be left in a safe place (mailbox, in between doors) without a signature?

Yes ☐ No ☐

DESTINATION		PICK UP FROM	
Contact:		Contact:	
Address:	Jalil Hajimir 250 Harding Blvd., Suite 32136 Richmond Hill, ON L4C 9S3	Address:	
Phone Number:		Phone Number:	

File Copy Required ☐

Date: June 26, 2018



### Accounting Use Only:

Way Bill #:

Amount: \$ 9.84



**REGISTERED DOMESTIC**  
CUSTOMER RECEIPT

**RECOMMANDÉ RÉGIME INTÉRIEUR**  
REÇU DU CLIENT



Destinataire

1A - # 142134

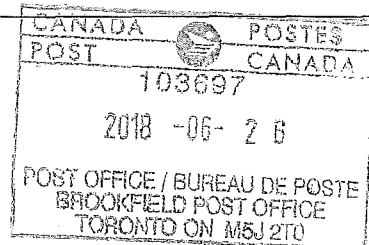
me  
Nom  
Jalil Hajimir  
Address  
30 Harding Blvd Ste 32136  
City / Prov. / Postal Code  
Richmond Hill ON L4C 9S3

FOR DELIVERY CONFIRMATION  
www.canadapost.ca  
or/ou  
www.postescanada.ca  
1 888 550-6333

CFO Tracking Number Numéro de repérage de la SCP

RN 118 407 407 CA

Declared Value  
Valeur déclarée \$



BERLIS

LLP  
181 Bay Street, Suite 1800  
M5J 2T9

~~894~~  
R.T.S.

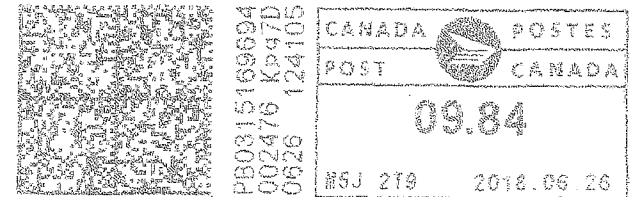
**REGISTERED RECOMMANDÉ**  
CPC Tracking Number | Numéro de repérage de la SCP  
RN 118 407 407 CA

is that this shipment does not contain dangerous goods.  
assurant que cet envoi ne contient pas de matières dangereuses.

☒ Signature Required  
Signature requise

BY REGISTERED MAIL

Jalil Hajimir  
250 Harding Blvd., Suite 32136  
Richmond Hill, ON L4C 9S3



Return to Sender  
Renvoi à l'expéditeur

This item is being returned because: Envoi retourné pour la raison suivante :

- Unclaimed ☐ Non réclamé
- No such Address ☐ Adresse inexistante
- Address Incomplete ☐ Adresse incomplète
- Moved/Unknown ☐ Déménagé / Inconnu
- No such Post Office ☐ Bureau inexistant
- Refused ☒ Refusé

Amount Due	Montant dû	Initials/Initiales
\$		

33-086-648 (08-04).



airdberlis.com



**078646 684 070 894**

RICHMOND HEIGHTS PO  
SHOPPERS DRUG MART #0897  
10620 YONGE ST  
RICHMOND HILL ON L4C 4H0  
905-884-5233



# TAB L

9:00 A.M. ~~9:30~~ A.M.  
COUNSEL SLIP

H

COURT FILE NO \_\_\_\_\_

DATE DEC 8, 2017

NO. ON LIST 6c

TITLE OF  
PROCEEDING

LLOYDS V REMAX

COUNSEL FOR:

PLAINTIFF(S)

APPLICANT(S)

PETITIONER(S)

Jeffrey S. Klein

PHONE & FAX NOS

Phone 416 480 0221

Fax 416 480 0017

COUNSEL FOR:

DEFENDANT(S)

RESPONDENT(S)

PHONE & FAX NOS

*Dec 8, 2017*

*This matter is  
adjourned to Monday  
January 8, 2018 at 9:30  
AM.*

*Service may be  
effected by email and  
an advertisement in the  
Toronto Star.*

*Hardy J*



**TAB M**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL COURT

LLOYDS UNDERWRITERS and 3303128 CANADA INC.  
T/A ALTERNATIVE RISK SERVICES

Applicants

and

RE/MAX RIGHT CHOICE INC.

Respondent

AFFIDAVIT OF CLAVIL HENRY

I, **CLAVIL HENRY**, of the City of Toronto, in the Municipality of Metropolitan Toronto, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am a Legal Assistant in the offices of Klein & Schonblum Associates, Lawyers for the Applicants, and as such have knowledge the matters hereinafter deposed to.
2. On December 8, 2017, the Honourable Justice Hainey of the Ontario Superior Court of Justice made an Order respecting service of the return of the Application. Attached hereto and marked as **Exhibit "A"** is a true copy of the said Order.

3. As a result, on December 21, 2017, I sent emails to those persons set forth in **Exhibit "B"** of my Affidavit. I had been provided a list of email addresses of real estate agents and brokers who have submitted claims to ClaimsPro LP by Janet Perkins, the Claims Manager with ClaimsPro LP. As indicated in the email, the Application Record, Notice of Return of Application and the Information with respect to the Appointment of a Receiver were attached to the email. The email sent to these person in Exhibit "B" along with the Information with respect to the Appointment of a Receiver which was attached, is set attached as **Exhibit "C"** to this my Affidavit.

4. I am advised by Janet Perkins, the Claims Manager with ClaimsPro LP and do verily believe that real estate agents and brokers with claims have been advised of a webpage and to consult it on a regular basis which webpage has been updated with respect to information regarding this matter. The webpage address is <http://www.reco-claims.ca/CP2017-002/>. Attached hereto and marked as **Exhibit "D"** is a true copy of the webpage which was updated on December 18, 2017.

5. The Order of The Honourable Justice Hainey also provided for service by way of placement of an advertisement in the publication known as the Toronto Star.

6. On December 15, 2017, the Applicants placed an advertisement in the Toronto Star. Attached hereto and marked as **Exhibit "E"** is a true copy of the advertisements that RECO placed in the Toronto Star on December 15 and 17, 2017.

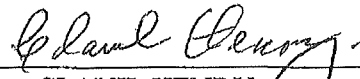
7. I have not received any contacts from those persons by virtue of the advertisements placed in the Toronto Star and I am advised by Jeffrey Klein and do verily believe that he also has not received any communication from anyone as a result of the advertisements placed in the Toronto Star.

8. I had conducted a Corporate Search on Wednesday, January 3, 2018, and as result a Corporation Profile Report dated January 3, 2018, for the Respondents indicates that by Articles

of Amendment dated December 6, 2017, Re/Max Right Choice Inc. became Toronto Right Choice Brokerage Inc. Attached hereto and marked as Exhibit "F" is a true copy of the Corporation Profile Report.

SWORN before me at the City of )  
Toronto, in the Province of Ontario, )  
this 3<sup>rd</sup> day of January, 2108. )

  
A COMMISSIONER, ETC.  
(Jeffrey S. Klein -LSUC#17824W)

  
CLAVIL HENRY



1

*This is Exhibit "A" referred to in the*

*Affidavit of Clavil Henry*

*sworn before me, this 3rd day of January, 2108*

A handwritten signature in cursive script, appearing to read 'J. S. Klein', is written over a horizontal line.

A COMMISSIONER, ETC.

(Jeffrey S. Klein – LSUC#17824W)

9:00 A.M. ~~9:30~~ A.M.  
COUNSEL SLIP

14

COURT FILE NO \_\_\_\_\_

DATE DEC 8, 2017

NO. ON LIST 6c

TITLE OF  
PROCEEDING

LLOYDS v REMAX

COUNSEL FOR:

PLAINTIFF(S)

APPLICANT(S)

PETITIONER(S)

Jeffrey S. Klein

PHONE & FAX NOS

Phone 416 480 0221

Fax 416 480 0017

COUNSEL FOR:

DEFENDANT(S)

RESPONDENT(S)

PHONE & FAX NOS

*Decombed 8, 2017*

*This matter is  
adjourned to Monday  
January 8, 2018 at 9:30  
AM.*

*Service may be  
effected by email and  
an advertisement in The*

*Toronto Star.*

*Hardy J*



*This is Exhibit "B" referred to in the*

*Affidavit of Clavil Henry*

*sworn before me, this 3rd day of January, 2108*

A handwritten signature in black ink, appearing to read 'JSK', is written over a horizontal line.

**COMMISSIONER, ETC.**

(Jeffrey S. Klein - LSUC#17824W)

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First Name	Last Name
Abolghasem	Aliasgari
Ahmad	Shalforoshzadeh
Ahmad	Nourinejad
Albert	Jung
Amira	Guirguis
Andrew	Yu
Behrooz	Rezazee
Carlos Augusto	Ruiz
Darioush	Tahmoureszadeh
Eduardo	Ramon
Gina	Razi
Forohar	Hejazi
Fulton	Clair (Century 21 Percy Fulton)
Ghazal & Alirea	Ghaffari
Harvey Kalles Real Estate	
Homayoun	Mahmoudy-Babourdy
Hossein	Salmasi
Khosrow	Eshaghi
Kouroush	Toghrol
Larysa	Osadcha
Lisa	Chi-Wan Chiu
Mahnaz	Javdan
Marvin	Yeung
Masoud	Farhadnejad
Mehrdad	Shiraz
Mohammad	Piroozfard
Mojgan	Afshar Zonouzi
Morris	Hadida
Pasha	Afshar
Pat (Parviz)	Javdan
Pejman	Nourian
Paula Lucrecia Godoy	Paiz
Razi	Gina

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Reesa Sari  
Re/Max Realtron Realty Inc.  
Re/Max Realty Specialists  
Reza  
Rezvan  
Robert  
Seyyed Ali  
Sharon (Shafagh)  
Susan  
Susan  
Veronica Mercedes  
Vissar  
Ying  
Zahran  
Zohreh

Garber  
Wanda Ellis  
Stacey Beatty  
Sarlak-Goodarzi  
Katanforoush  
Ocampo  
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*This is Exhibit "C" referred to in the*

*Affidavit of Clavil Henry*

*sworn before me, this 3rd day of January, 2108*

A handwritten signature in black ink, appearing to read "JS Klein", is written over a horizontal line.

A COMMISSIONER, ETC.

(Jeffrey S. Klein - LSUC#17824W)

## Clavil Henry

---

**From:** Clavil Henry <chenry@ksalaw.com>  
**Sent:** Thursday, December 21, 2017 11:21 AM  
**To:** 'Clavil Henry'  
**Cc:** 'jan.perkins@reco-claims.ca'  
**Subject:** Re/Max Right Choice Inc.  
**Attachments:** Application Record - return Dec 8-17.pdf; Letter to Agents & Brokers (December 21, 2017).doc; NOTICE OF RETURN OF APPLICATION (Dec 12-17).doc

We are the lawyers for Lloyds Underwriters. Attached you will find Application Record, Notice of Return of Application and information with respect to the Appointment of a Receiver.

Also, be advised that the blog/website of the Insurer of the Commission Protection Policy has been updated. You can visit at <http://www.reco-claims.ca/CP2017-002/>

---

CLAVIL HENRY  
Legal Assistant to Jeffrey Klein  
T: 416.480.0221, x 313  
F: 416.480.0017  
[chenry@ksalaw.com](mailto:chenry@ksalaw.com)

---

KLEIN & SCHONBLUM ASSOCIATES  
Barristers and Solicitors  
2901-2300 Yonge Street, Box 2406  
Toronto, Ontario M4P 1E4  
[www.ksalaw.com](http://www.ksalaw.com)

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# KLEIN & SCHONBLUM ASSOCIATES

BARRISTERS AND SOLICITORS  
ASSOCIATES-AT-LAW (NOT A PARTNERSHIP)

Jeffrey S. Klein  
Direct extension: 311  
Assistant's extension: 313  
jklein@ksalaw.com

December 21, 2017

**Re: Re/Max Right Choice Inc.**

As you are aware, the Director of the Real Estate Council of Ontario has issued a Freeze Order with respect to the bank accounts of Re/Max Right Choice Inc. on November 1, 2017. Re/Max Choice Inc. has ceased carrying on operation.

As a result of the fact that there are a number of pending transactions in which commissions have not yet been paid to Re/Max Right Choice Inc., Lloyds Underwriters, as insurer of the Commission Protection Program has commenced an Application to appoint a Receiver with respect to the outstanding commissions yet to be collected of Re/Max Right Choice Inc

Attached to this email, you will find a copy of the full Application Record which is served upon you pursuant to the Order of Justice Hainey made on December 8, 2017.

You will also find Notice of Return of Application which indicates that it will be coming back up in Court on January 8, 2018, at 9:30 a.m. At that time, it is hoped that an Order will be issued appointing a Receiver for the purposes of collecting the outstanding commissions. As you can see from the Application Record, once that process has been undertaken, the Receiver will return to Court for the purposes of obtaining direction from the Court with respect to the distribution of those commissions it has collected.

Yours very truly,

KLEIN & SCHONBLUM ASSOCIATES

Per:

*Jeffrey S. Klein*

Jeffrey S. Klein  
JSK/ch

YONGE- EGLINTON CENTRE, BOX 2406 ♦ 2300 YONGE STREET, SUITE 2901 ♦ TORONTO, ONTARIO M4P 1E4

TELEPHONE: 416.480.0221 ♦ FACSIMILE: 416.480.0017

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*This is Exhibit "D" referred to in the*

*Affidavit of Clavil Henry*

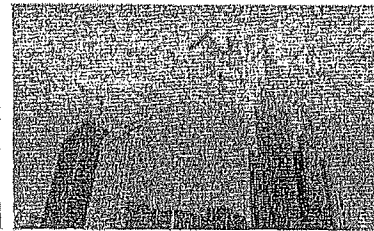
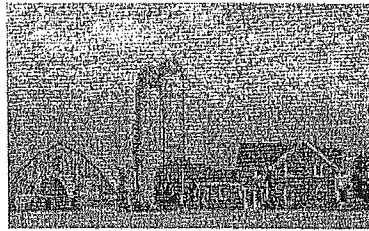
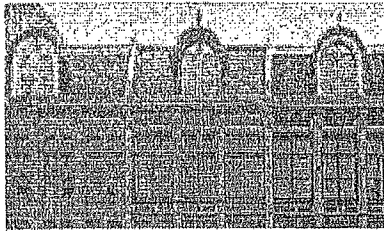
*sworn before me, this 3rd day of January, 2108*

A handwritten signature in dark ink, appearing to read 'JS Klein', is written over a horizontal line.

A COMMISSIONER, ETC.

(Jeffrey S. Klein - LSUC#17824W)

## Real Estate Errors and Omissions Program for RECO Registrants

powered by **Alternative Risk Services**[Welcome](#) [About](#) [F.A.Q.](#) [Documents](#) [Blog](#) [Contact](#)

## CP2017-002

This page will provide updates for those Registrants involved in Occurrence No. CP2017-002

### December 18, 2017

Since the town hall meeting last month, RECO's freeze order against RE/MAX Right Choice Inc. remains in effect and we continue our investigation.

In order to ensure a timely flow of commission funds, the insurer has moved to have a receiver appointed to collect and administer the outstanding commissions. If appointed, a receiver would be able to take in future commissions on behalf of the brokerage.

In order for the court to appoint a receiver, however, other debtors must be given a chance to come forward, so you may see articles or postings in the newspaper to that effect. The receivership application will be heard again in the court in early January.

We will update this page to keep you apprised of developments. In the meantime, please continue to report and provides updates regarding your claims to ClaimsPro. Your cooperation and patience is greatly appreciated.

### November 10, 2017

Yesterday a Town Hall meeting organized by RECO and was attended by Alternative Risk Services and Claimspro.

In addition to RECO's advice regarding registration and the completion of transactions in the wake of their freeze order and revocation of the brokerage's registration, the Insurer's message was to report all claims as soon as possible. Doing so will help the Insurer to assess the situation and determine next steps sooner.

The Insurer also advised that every avenue is being explored to recover deposit and commission monies and that a Receiver will likely be appointed to collect and administer outstanding commissions.

### November 6, 2017

What happens when a Brokerage has a shortfall in its accounts? Well, as you may already know, RECO has already done a preliminary assessment of the Brokerage and has issued a Freeze Order on the bank assets of the brokerage to ensure that there is no diversion of remaining funds. This means that while funds can still be deposited to the account, no funds can be withdrawn until a full review is completed, and often until a Court Order is obtained. That can take a long time.

In the interim, as part of the RECO Insurance Program, the Consumer Deposit and Commission Protection coverages under your Professional Liability policy will begin to respond.

### Timelines



We understand how difficult this is for you and that the missing monies are your income. We cannot, however, provide you with a timeline for processing at this time. We will update you through [this link](#), so please check it regularly.

Rest assured that we will put the necessary resources in place to move the matter forward as soon as possible. Please be patient with the process, as it does take time to gather all the necessary information, assess the claims, and determine exactly what has happened before we can begin making claim payments. There is a lot of background activity ongoing with RECO, lawyers, and accountants – all of us are working hard to get through this for you.

We commit to determining a strategy that has the quickest resolution for you as a Registrant. The best thing you can do is get all your Notice of Claim forms in to us ASAP.

### Deposits

Consumer Deposit Insurance is there to protect the Consumer. If a Consumer is going to be short of funds on closing as result of either missing or frozen funds, the Insurance will step in and replace those funds up to \$100,000 per claim, and \$3,000,000 for all claims under the Occurrence. The Consumer should be directed to submit their claim to RECO as soon as possible. The [forms can be found on this website](#) under the documents tab. They should be sent to [insurance@reco.on.ca](mailto:insurance@reco.on.ca).

### Commissions

Commission Protection insurance is there to protect your commissions. This policy provides coverage for any registrant making a claim for up to \$100,000. Up to \$3 million is available under the policy for all claims. Each individual transaction upon which you were due commissions is not a claim, a claim is for the total commissions due you up to \$100,000. Your total claim must be supported by separate Commission Protection Notice of Claim forms for each transaction so that each transaction can be verified by the adjuster. The [forms can be found on this website](#) under the documents tab.

Below are some hints for submitting your claims in a manner that will help us help you faster.

### How to submit your claim:

1. Submit a claim form as soon as possible – it is your obligation to do so under the policy, and delay could compromise your coverage
2. One [form](#) should be used for each transaction (e.g. property).
3. If you have a co agent, each of you should submit your own forms – be sure to mention the co agency agreement
4. Please ensure that you provide your current contact information on the forms
5. Submit claims for all transactions, closed and pending, including builder deals
6. If you are an agent with a cooperating brokerage, your cooperating brokerage must submit the claim on your behalf – please speak with your brokerage as soon as possible
7. If these commissions have been advanced to you through a commission advance agency, you should also submit a claim in your name, but add the agency details to your claim (the agency cannot make that claim on your behalf – please notify the agency that you have submitted a claim)

### Once your claim is submitted:

1. ALL CORRESPONDENCE WILL BE BY EMAIL – please keep all emails as evidence of your claim and its progress. It is your responsibility to ensure that emails do NOT go to your spam and that your email address is clearly provided, correct and updated if necessary
2. Claimspro will acknowledge receipt of your new claim by email
3. Your claim will be set up and assigned a number and a file handler. Claimspro will send you a second email at that time
4. The file will be reviewed and Claimspro will advise you if they need further documentation
5. Your claim will be assessed, and eligibility determined – Claimspro will communicate again with you at that time so you know your claim is in order
6. When the Insurer is in a position to make payments, you will be asked to sign a release and an assignment
7. Once those documents are in place, a cheque will be issued to you

Underwritten by certain Lloyd's Underwriters  
Endorsed by the Real Estate Council of Ontario  
Managed and distributed by 3303128 Canada Inc.  
trading as Alternative Risk Services

Errors and Omissions  
Commission Protection  
Consumer Deposit

Alternative Risk Services  
Tel: 1-866-426-1666  
Fax: 1-855-529-9462  
36 Toronto Street  
Suite 510  
Toronto, Ontario M5C 2C5  
info@ar-services.ca

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**TAB N**

**RE/MAX RIGHT CHOICE INC.**

**RECEIVERSHIP STATEMENT OF RECEIPTS AND DISBURSEMENTS**  
**January 8, 2018 to August 9, 2018**

**RECEIPTS**

1. Cash in Bank:		
Post-Freeze Commission Funds Received by RECO	244,495.99	
2. Commission Funds Received by Receiver	344,663.81	
3. Interest earned	1,054.21	\$ 590,214.01
TOTAL RECEIPTS		\$ 590,214.01

**DISBURSEMENTS**

4. Fees Paid:			
To Official Receiver		\$ 70.00	
5. Miscellaneous:			
Ascend license fee	275.00		
HST on administrative disbursements	35.75	310.75	
6. Trustee's remuneration			
Trustee's fees	45,066.92		
HST on Trustee's fees	5,733.42	50,800.34	
7. Legal Fees and disbursements			
Legal fees	58,359.89		
HST on Legal fees	7,566.02	65,925.91	
TOTAL DISBURSEMENTS			\$ 117,107.00
8. Net Receipts			\$ 473,107.01

**NOTES:**

1. Pre-Freeze funds of \$127,599.70 are in a frozen TD Canada Trust bank account and will be sent to the Receiver



# TAB O

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

IN THE MATTER IN THE MATTER OF THE RECEIVERSHIP OF  
TORONTO RIGHT CHOICE BROKERAGE INC.  
(FORMERLY RE/MAX RIGHT CHOICE INC.)

AFFIDAVIT OF HYLTON LEVY

I, Hylton Levy, of the City of Toronto, in the Province of Ontario, MAKE OATH  
AND STATE AS FOLLOWS:

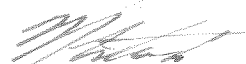
1. I am a Partner at A. Farber & Partners Inc. and, as such, have knowledge of the matters to which I hereinafter depose.
2. A. Farber & Partners Inc. was appointed receiver (in such capacity, the "Receiver") pursuant to an Order of this Court made on January 8, 2018. I make this affidavit as a supplement to the First Report of the Receiver.
3. The Receiver has rendered two invoices in this matter, being an invoice for the period to March 2, 2018 in the total amount of \$50,800.34 and an invoice for the period to

July 27, 2018 in the total amount of \$87,495.91. A summary of time is attached herewith as Exhibit 1. Copies of the two invoices rendered to date are attached as Exhibit 2.


4. The total of the Receiver's fees as outlined in Appendix 1 is \$120,444.50 together with disbursements of \$2,286.63 and G.S.T. of \$15,657.78, the sum of which equals \$138,388.91. The average hourly rate in respect of time as outlined in Appendix 1 is \$378.28.

5. This Affidavit is made in support of a motion to, *inter alia*, seek approval of the foregoing fees and disbursements as fair and reasonable.

SWORN BEFORE ME at the  
City of Toronto, in the  
Province of Ontario,  
this 9th day of August, 2018

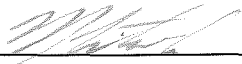
  
\_\_\_\_\_  
Commissioner for Taking Affidavits

**MICHAEL BENJAMIN LITWACK,**  
a Commissioner, etc.,  
Province of Ontario,  
while a Barrister and Solicitor.

  
\_\_\_\_\_  
Hylton Levy, CPA, CA, CFP, LIT

## EXHIBIT 1

THIS IS EXHIBIT "1" TO  
THE AFFIDAVIT OF HYLTON LEVY  
SWORN BEFORE ME THIS 9<sup>th</sup>  
DAY OF AUGUST, 2018

  
A Commissioner Etc.

**MICHAEL BENJAMIN LITWACK,**  
a Commissioner, etc.,  
Province of Ontario,  
while a Barrister and Solicitor.



A. FARBER & PARTNERS INC.  
TORONTO RIGHT CHOICE BROKERAGE INC. (FORMERLY KNOWN AS RE/MAX RIGHT CHOICE INC.)  
SUMMARY OF RECEIVER'S FEES  
MARCH 2, 2018 TO JULY 27, 2018

NOVEMBER 17, 2017 TO MARCH 2, 2018      MARCH 3, 2018 TO JULY 27, 2018

Name	Rate Per Hour	Hours	Total	Hours	Total	Total Hours	Total Fees
H. Levy	\$595.00	-	\$ -	23.75	\$ 14,131.25	23.75	\$ 14,131.25
H. Levy	\$575.00	19.35	\$ 11,126.25	-	\$ -	19.35	\$ 11,126.25
R. White	\$450.00	7.00	\$ 3,150.00	6.60	\$ 2,970.00	13.60	\$ 6,120.00
E. Cukierman	\$425.00	10.30	\$ 4,377.50	-	\$ -	10.30	\$ 4,377.50
M. Litwack	\$375.00	61.40	\$ 23,025.00	-	\$ -	61.40	\$ 23,025.00
M. Litwack	\$350.00	-	\$ -	162.00	\$ 56,700.00	162.00	\$ 56,700.00
A. Binelli	\$200.00	-	\$ -	0.50	\$ 100.00	0.50	\$ 100.00
D. Falcione	\$200.00	-	\$ -	1.00	\$ 200.00	1.00	\$ 200.00
D. Falcione	\$155.00	10.00	\$ 1,550.00	-	\$ -	10.00	\$ 1,550.00
L. Lloyd-Key	\$200.00	-	\$ -	1.00	\$ 200.00	1.00	\$ 200.00
L. Lloyd-Key	\$155.00	0.20	\$ 31.00	-	\$ -	0.20	\$ 31.00
L. Samoilov	\$200.00	-	\$ -	4.70	\$ 940.00	4.70	\$ 940.00
L. Samoilov	\$165.00	3.30	\$ 544.50	-	\$ -	3.30	\$ 544.50
G. Schmidt	\$200.00	-	\$ -	5.50	\$ 1,100.00	5.50	\$ 1,100.00
G. Schmidt	\$155.00	0.80	\$ 124.00	-	\$ -	0.80	\$ 124.00
M. Castillo	\$175.00	1.00	\$ 175.00	-	\$ -	1.00	\$ 175.00
<b>Total</b>		<b>113.35</b>	<b>\$ 44,103.25</b>	<b>205.05</b>	<b>\$ 76,341.25</b>	<b>318.40</b>	<b>\$ 120,444.50</b>

Average hourly rate \$ 378.28

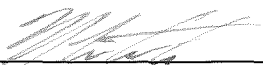
<b>Expenses:</b>		\$ 963.67	\$ 1,322.96	\$ 2,286.63
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<b>HST:</b>		\$ 5,733.42	\$ 9,924.36	\$ 15,657.78
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<b>Totals:</b>		\$ 50,800.34	\$ 87,588.57	\$ 138,388.91
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## EXHIBIT 2

THIS IS EXHIBIT "2" TO  
THE AFFIDAVIT OF HYLTON LEVY  
SWORN BEFORE ME THIS 9<sup>th</sup>  
DAY OF AUGUST, 2018

  
\_\_\_\_\_  
A Commissioner Etc.

**MICHAEL BENJAMIN LITWACK,**  
a Commissioner, etc.,  
Province of Ontario,  
while a Barrister and Solicitor.

March 12, 2018

Re/Max Right Choice Inc.  
c/o A. Farber & Partners Inc., Receiver  
150 York Street, Suite 1600  
Toronto, ON M5H 3S5

Invoice No. 14300

---

**TO PROFESSIONAL SERVICES RENDERED BY A. FARBER & PARTNERS INC. for the period ended March 2, 2018:**

DATE	SERVICE	STAFF
11/17/2017	Consulting fees - Corporate Discussions with Erez Cukierman regarding file set up and precedents; Review of the PPSA document; Call with Jeff Klein.	Levy
11/17/2017	Accounting Account Setup.	Castillo
11/20/2017	Consulting fees - Corporate Emails with Jeff Klein and Erez Cukierman.	Levy
11/28/2017	Consulting fees - Corporate Calls with Erez Cukierman; Review of draft order.	Levy
11/28/2017	Consulting fees - Corporate Review of filing material; Call with E Cukierman re application.	Litwack(M)
12/22/2017	Consulting fees - Corporate Numerous emails and calls with Erez Cukierman and Jeff Klein regarding process over the past few weeks; Calls with Ian Aversa regarding legal counsel assistance and follow up calls with Erez Cukierman.	Levy
12/22/2017	Consulting fees - Corporate Various calls and discussion with J. Klein; Review of Motion Materials and Draft Order; Internal discussion and correspondence with I Aversa & J. Nemers.	Cukierman
12/28/2017	Consulting fees - Corporate Call with Ian Aversa, Erez Cukierman and Jeremy Nemers to discuss Draft Receivership Order and comments thereon.	Levy

# FARBER

12/28/2017	Consulting fees - Corporate	Cukierman	Review of draft order and discussion with Hylton Levy, Ian Aversa and Jeremy Nemers on same.
12/28/2017	Consulting fees - Corporate	Cukierman	Correspondence with J Klein; Internal discussion and planning consideration; Correspondence with Legal Counsel providing update.
01/03/2018	Consulting fees - Corporate	Cukierman	Call with H. Levy, J. Klein, I. Aversa and J. Nemers to discuss draft order; Execute consent.
01/08/2018	Consulting fees - Corporate	Da Silva-Falcione	Draft initial website posting for M. Litwack review/approval.
01/08/2018	Consulting fees - Corporate	Litwack(M)	Discussion re Receivership appointment materials; Review of filing materials; Conference call with various parties to review filing and discuss Receivership plan; Emails and direction to prepare Receiver's website for notification page; Discussion with E Cukierman and H Levy re filing materials and providing overview of mandate; Emails re service list.
01/08/2018	Consulting fees - Corporate	White	Meeting with H. Levy, E. Cukierman and M. Litwack re new file, review supporting motion material and online searches.
01/08/2018	Consulting fees - Corporate	Levy	Numerous emails from Erez Cukierman and Ian Aversa; Conference call with Claimspro, Jeff Klein, Farber; Review of website documents.
01/08/2018	Consulting fees - Corporate	Cukierman	Internal planning meeting and allocation of duties; Correspondence with Aird & Berlis; Emails to Claimspro and Jeffrey Klein; Call with Jeffrey Klein, Janet Perkins, Ryan Withyman; Norma Ibbetson; Hylton Levy and Michael Litwack on claims process and general administrative considerations.
01/09/2018	Consulting fees - Corporate	Da Silva-Falcione	Complete website posting re: receivership appointment and circulate link to internal team; begin data entry to create estate account.
01/09/2018	Consulting fees - Corporate	Litwack(M)	Emails and discussion re publishing website for Receivership.

# FARBER

01/09/2018	Consulting fees - Corporate	Levy
	Review of emails from Aird & Berlis regarding Court Order.	
01/09/2018	Consulting fees - Corporate	Cukierman
	Email correspondence with counsel; Direction to D. Falcione to update website.	
01/10/2018	Consulting fees - Corporate	Litwack(M)
	Emails re service list; Emails re builders list for collection of commissions; Emails re bank account information; Discussion with H Levy re update on file matters.	
01/10/2018	Consulting fees - Corporate	Levy
	Review of information from Janet Perkins; Follow up discussions with Michael Litwack; Discussions regarding TD Bank.	
01/11/2018	Consulting fees - Corporate	Litwack(M)
	Revisions to Receiver's S.245 report; Emails and discussions re service list; Emails, call and discussions re bank account access; Emails re cheques deposited by J Klein; Receipt of 169 of the agent's claims, downloaded files and arranged per claim number.	
01/11/2018	Consulting fees - Corporate	Cukierman
	Review of correspondence; Call with J. Nemers and M. Litwack re: TD Bank funds; Internal discussion on administrative matters.	
01/12/2018	Consulting fees - Corporate	Da Silva-Falcione
	Review email from M. Litwack re: Notice and Statement of Receiver; update website with Service List.	
01/12/2018	Consulting fees - Corporate	Litwack(M)
	Discussions with E Cukierman re file background; Review of information provided in support of claims.	
01/12/2018	Banking - Corporate	Samoilov
	Open a new bank account. Setup the bank account in Ascend.	
01/15/2018	Consulting fees - Corporate	Litwack(M)
	Call with E Cukierman re list of addresses for agents; Discussions re requirement per s.245 for notices to agents as contingent creditors; Review of information contained in claims for addresses; Direction to G Schmidt re completing spreadsheet to provide addresses for agents; Reconciled list of claims received with list provided by Claims Pro; Email to Claims Pro with list of missing claims information; Revisions to Notice and Statement of Receiver.	

# FARBER

01/15/2018	Consulting fees - Corporate	Schmidt	Create spreadsheet with claimants contact information.
01/15/2018	Consulting fees - Corporate	White	Review court order and emails, review and amend Receiver's report, discuss with M. Litwack and E. Cukierman.
01/15/2018	Consulting fees - Corporate	Levy	Numerous calls and discussions with Erez Cukierman, Michael Litwack.
01/15/2018	Consulting fees - Corporate	Cukierman	Call with J. Klein; Discussion with M. Litwack re: 245/256 notice.
01/16/2018	Consulting fees - Corporate	Da Silva-Falcione	Review file; email to M. Litwack requesting creditors list for Notice and Statement of Receiver.
01/16/2018	Consulting fees - Corporate	Litwack(M)	Began review of claims to determine amounts owed to claimant and brokerage; Created Excel model for calculations and to create pivot tables for sorting of information; Emails and discussions throughout the day.
01/16/2018	Consulting fees - Corporate	Cukierman	Internal discussion with M. Litwack re: claim considerations; Correspondence with Claimspro; Review and provide comments on letter to co-operating brokers for commissions outstanding.
01/17/2018	Consulting fees - Corporate	Da Silva-Falcione	Create creditors list for Notice and Statement of Receiver and provide final draft to R White for approval and signature; receive final signed Notice and Statement of Receiver from R. White; file same with OSB; complete creditor and Debtor mailing; complete Affidavit of Mailing; update website with Notice and Statement of Receiver.
01/17/2018	Consulting fees - Corporate	Litwack(M)	Prepared letter draft to be sent to builders and co-operating brokerages; Discussions with R White re letter; Revisions to letter; Prepared pivot tables in Excel to organize projects by builder owner; Review of specific claims and online research for builder contact information; Prepared list for builder's mail-merge; Emails re Receiver's report and contact information; Direction re mail re-direction.
01/17/2018	Consulting fees - Corporate	White	Review and amend Receiver's report, review and amend correspondence to builders.

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01/18/2018	Consulting fees - Corporate	Da Silva-Falcione	Prepare package required for mail re-direction and cheque requisition; complete mail merge of letter to builders and mail same; correspondence to TD to advise of Receivership and request account freezing.
01/18/2018	Consulting fees - Corporate	Litwack(M)	Meeting re access to bank account; Direction re mail merge for letters to deposit holders; Signed all letters to deposit holders; Direction re bank account letter.
01/18/2018	Consulting fees - Corporate	White	Review and respond to emails, meeting with E. Cukierman and H. Levy re TD Bank and order re accounts.
01/18/2018	Consulting fees - Corporate	Levy	Discussions with Erez Cukierman, Michael Litwack, Robyn White regarding information from Jeff Klein, RECO, TD Bank accounts and other related matters.
01/22/2018	Consulting fees - Corporate	Litwack(M)	Discussions re contact with agents; Emails re direction of questions to Claimspro; Email to respond to agent inquiry with regards to claim and insurance; Review of claims to determine amounts owed to Receiver and allocation of brokerage fees.
01/23/2018	Consulting fees - Corporate	Da Silva-Falcione	Attend at post office to coordinate mail re-direction for 12 months.
01/23/2018	Consulting fees - Corporate	Levy	Discussions with Michael Litwack, Erez Cukierman and Robyn White.
01/23/2018	Consulting fees - Corporate	Litwack(M)	Call from P Prescott re representation of agents and Receivers plan of intent with regards to distribution; Continued review of claims and calculating amounts owed.
01/23/2018	Consulting fees - Corporate	White	Discuss with M. Litwack proposal from broker and calls with agents, email H. Levy re transfer of sales on eve of Freezing Order.
01/24/2018	Consulting fees - Corporate	Litwack(M)	Discussions re information provided for claims and requirements for reviewing claims to determine amounts owed; Review of claims.
01/25/2018	Consulting fees - Corporate	Levy	Update discussions with Michael Litwack and Robyn White.



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01/25/2018	Consulting fees - Corporate	Litwack(M)
	Call from agent re Receivership process and claims filed; Review of agent's claim for discussion.	
01/25/2018	Consulting fees - Corporate	White
	Discuss reconciliation with M. Litwack, review and respond to email from Ian Aversa re steps taken to date.	
01/26/2018	Consulting fees - Corporate	Da Silva-Falcione
	Follow up email to TD Account Manager to confirm file has been updated to reflect Farber as Receiver.	
01/26/2018	Consulting fees - Corporate	Litwack(M)
	Discussion with H Levy to review progress and issues.	
01/29/2018	Consulting fees - Corporate	Litwack(M)
	Call from agent; Discussion re meeting to discuss file matters.	
01/29/2018	Consulting fees - Corporate	White
	Telephone call with Erez Cukierman re issues with claims and dealing with same.	
01/30/2018	Consulting fees - Corporate	Litwack(M)
	Call from brokerage re holding commissions and subsequent e-mails; Email from P Prescott; Email re information from P Prescott; Meeting with E Cukierman, H Levy and R White to discuss filing matters; Discussions with E Cukierman re: claims review; Emails re conference call with ClaimsPro; Review and revision of draft letter to P Prescott; Call w/ I Aversa and J Nemers (counsel) to discuss P Prescott discussions.	
01/30/2018	Consulting fees - Corporate	White
	Review emails and Order, conference calls with J. Klein, H. Levy and E. Cukierman, discuss file with H. Levy, conference call with M. Litwack, E. Cukierman and I. Aversa and J. Nemers.	
01/30/2018	Consulting fees - Corporate	Levy
	Meeting with Michael Litwack, Erez Cukierman, Robyn White; Conference call with Jeff Klein, Farber regarding update, information requirements; Call with A&B, Farber to discuss correspondence with Builders and Broker.	
01/30/2018	Consulting fees - Corporate	Cukierman
	Internal planning meeting and discussion about administrative matters and letter from 21st Century; Call with J. Klein, H. Levy and R. Whyte; Call with J. Nemers, I. Aversa, R. White and M. Litwack re: assignment of commissions.	

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01/31/2018	Consulting fees - Corporate	Da Silva-Falcione
	Follow up email to L. Gluszynski of TD to confirm that their records have been updated with receivership details.	
01/31/2018	Consulting fees - Corporate	Litwack(M)
	Conference call with ClaimsPro; Call with E Cukierman and R White; Emails with ClaimsPro.	
01/31/2018	Consulting fees - Corporate	White
	Conference call with RECO, discuss file with E. Cukierman, review and amend with M. Litwack correspondence to Pamela Prescott re assignment of sales on eve of freeze order.	
01/31/2018	Erez Cukierman	PB Trustees
	Call with ClaimsPro and M. Litwack; Directions to M. Litwack re: TD Bank Account.	
02/01/2018	Consulting fees - Corporate	Da Silva-Falcione
	Review re-directed mail; discussion with R. White re: process to deal with re-directed mail.	
02/02/2018	Consulting fees - Corporate	Da Silva-Falcione
	Discussion with M. Litwack and R. White; emails with TD contact re: request to withdraw funds deposited after the Freeze Order date and inquiry about obtaining online access to account.	
02/02/2018	Consulting fees - Corporate	Litwack(M)
	Discussions with E Cukierman re ClaimsPro; Call with Ryan Withyman; Call from agent re commissions; Call from former employee re T4; Discussions re T4s; Email to I Aversa re T4s; Emails re Receivers Notice and T4 requirements.	
02/02/2018	Consulting fees - Corporate	White
	Discuss file with E. Cukierman, email Ian Aversa re obligations re general creditors, email re bank account and correspondence to officers.	
02/02/2018	Banking - Corporate	Samoilov
	Banking, posting.	
02/05/2018	Consulting fees - Corporate	Da Silva-Falcione
	Update creditors list with additional creditors through re-directed mail; complete mailing to those additional creditors.	
02/05/2018	Consulting fees - Corporate	Litwack(M)
	Added claim information from e-mails provided by ClaimsPro for missing claims; Voicemail and call to agent; Review of master claims list to identify transaction for cheque received; Scanned and saved cheque; Draft letter to director re obligation for T4s;	

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Review of corporate profile report to confirm names and registered address of directors and officers; Discussion re journalizing deposits of trust funds for commissions; Call to former employee re T4.

02/05/2018	Banking - Corporate Banking, posting.	Samoilov
02/06/2018	Consulting fees - Corporate Revision to letter to director re T4 and T4a requirements; Direction to mail; Call from agent; Email from agent.	Litwack(M)
02/06/2018	Banking - Corporate Banking, posting.	Samoilov
02/07/2018	Consulting fees - Corporate Review/process re-directed mail.	Da Silva-Falcione
02/07/2018	Consulting fees - Corporate Discussion re meeting with Claims Pro.	Litwack(M)
02/08/2018	Consulting fees - Corporate Call and email from agents; Call from utility provider; Review and reconciliation of information from Great Land builder for commission cheques previously issued; Emails re access to Claims Pro system; Emails re new claims; Added information of new claims to server; Continued reviewing claims to calculate outstanding balances.	Litwack(M)
02/09/2018	Consulting fees - Corporate Review/process re-directed mail; update creditors list per M. Litwack; exchange messages with TD re: bank account and then telephone discussions and emails re: request for balance, statements and funds deposited after November 1, 2017.	Da Silva-Falcione
02/09/2018	Consulting fees - Corporate Email re RECO website providing false information; Email response to agent re submitting claim information per RECO website; Calls and email from creditors re claims submission; Emails re access to RECO client management system; Access to client management system; Discussions re bank account.	Litwack(M)
02/12/2018	Consulting fees - Corporate Review/process re-directed mail; discussion with R. White re: status of TD account; emails with TD re: status of bank draft and accounts; update email to M. Litwack.	Da Silva-Falcione
02/12/2018	Consulting fees - Corporate Meeting with Jan Perkins and Ryan Withyman at Claimspro office (Newmarket) to review file and determine what Receiver would be handling;	Litwack(M)

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Discussions with E Cukierman re administration of file, contact with agents, contact with builders, division of tasks between Claimspro and Receiver; Created to-do list for Claimspro and Receiver; Emails re access to TD account information; Traveling to meet with Claimspro; Review of RECO claims management system with access provided; Discussions re builder's content information and message being provided to builders.

02/12/2018	Consulting fees - Corporate	Cukierman
	Prepare for and attend meeting with ClaimsPro; Internal discussion with M. Litwack about administration and direction thereto.	
02/13/2018	Consulting fees - Corporate	Da Silva-Falcione
	Emails with TD, R. White and M. Litwack re: TD accounts, etc.; receive and save bank statements from November 1, 2017 to February 13, 2018 and email to M. Litwack re: same; provide instructions re: courier to pick up bank draft; email to TD re: request for copies of cheques as well.	
02/13/2018	Consulting fees - Corporate	Litwack(M)
	Call from/to former agent re insurance and creditors list; Call with Ryan Withyman re builders list and cheque received identified previously as stolen funds; Revisions to master claims list to include all claims identified as stolen by Claimspro; Updated builders contact information with data provided by R Withyman; Review of information provided by P Prescott with regards to assigned claims; Email to update R White and E Cukierman regarding assigned claims; Discussions re plan of action with regards to assigned claims and potential legal action required; Call from R Withyman regarding updated information.	
02/13/2018	Banking - Corporate	Lloyd-Key
	Bank reconciliation for January 2018.	
02/14/2018	Consulting fees - Corporate	Da Silva-Falcione
	Receive draft from TD re: funds deposited to bank from November 1, 2017 onward; update M. Litwack re: same; review/process re-directed mail.	
02/14/2018	Consulting fees - Corporate	Litwack(M)
	Emails from R Withyman and J Perkins; Updated master claims spreadsheet to note claims previously identified as being outside scope of Receivership due to stolen funds portion; Revision to builder contact information; Call from agent; Call from former IT consultant; Call to Camrost Felcorp; Email to Camrost Felcorp; Responding to voicemails from agents.	

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02/14/2018	Consulting fees - Corporate	Levy
	Follow up on various matters with Michael Litwack, Robyn White.	
02/14/2018	Banking - Corporate	Samoilov
	Banking, posting.	
02/15/2018	Consulting fees - Corporate	Litwack(M)
	Calls and e-mails with builders; Calls and e-mails with R Withyman; Meeting w/ H Levy and R White re various file matters; Review of claims to calculate brokerage fees owing on assigned deals; Discussions w/ E Cukierman; Reconciled amounts deposited to TD account prior to Receivership with new claims submitted; Email to L Samoilov re new cheque; Discussions and call re M Reis and information provided re payment of commissions prior to freeze order.	
02/15/2018	Consulting fees - Corporate	White
	Status call with H. Levy and M. Litwack.	
02/15/2018	Consulting fees - Corporate	Levy
	Update discussion with Michael Litwack and Robyn White.	
02/16/2018	Consulting fees - Corporate	Da Silva-Falcione
	Review/process re-directed mail.	
02/16/2018	Consulting fees - Corporate	Litwack(M)
	Review of claims filed and calculated amount of potential brokerage fees for assigned deals; Calls, discussions and e-mails re assigned deals; Calls to builders for information regarding deals list; Emails with R Withyman re information from Mario Reis.	
02/16/2018	Consulting fees - Corporate	White
	Conference call with I. Aversa, J. Nemers, M. Litwack and H. Levy re assignment of deals on eve of freeze order.	
02/16/2018	Consulting fees - Corporate	Levy
	Call with Ian Aversa, Jeremy Nemers, Michael Litwack and Robyn White regarding transferred agents issue.	
02/20/2018	Consulting fees - Corporate	Da Silva-Falcione
	Review/process re-directed mail; email to M. Litwack re: commission cheque received.	
02/20/2018	Consulting fees - Corporate	Levy
	Discussions with Michael Litwack and Robyn White regarding Pamela Prescott.	
02/20/2018	Consulting fees - Corporate	Litwack(M)
	Emails with H Levy and P Prescot re time for call; Calls to builders to obtain records related to deals; Emails and	

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call with R Withyman re contacts for accounting records and Ryan's discussions with builders; Call with H Levy re assigned deals.

02/20/2018	Banking - Corporate Banking, posting.	Samoilov
02/21/2018	Consulting fees - Corporate Follow up email to TD re: status of request for bank statements from January 1 2015 to October 31 2017 along with cancelled cheques.	Da Silva-Falcione
02/21/2018	Consulting fees - Corporate Call with Pamela Prescott regarding transaction prior to freeze order.	Levy
02/21/2018	Consulting fees - Corporate Call with Pamela Prescott and H Levy; Call with Great Lands Corporation; Email to Great Lands Corporation.	Litwack(M)
02/26/2018	Banking - Corporate Banking, posting.	Samoilov
02/28/2018	Consulting fees - Corporate Voicemail from and call to former agent.	Litwack(M)
03/01/2018	Consulting fees - Corporate Status meeting with H. Levy and M. Litwack, meeting with M. Litwack re RECO update and CRA correspondence.	White
03/01/2018	Consulting fees - Corporate Discussions re commission cheques; Review of cheques deposited; Voicemails from R Withyman; Call to Dipak (RECO); Discussions and e-mail re conversation with RECO; Meeting with R White and H Levy re update on file; Review of notices sent by CRA; Discussions re notices by CRA.	Litwack(M)
03/01/2018	Banking - Corporate Banking, posting.	Samoilov
03/02/2018	Consulting fees - Corporate Call (left voicemail) for Kevin Najaffe; Discussions re reconciliation of trades that were assigned; Review of trade records provided by P Prescott to calculate amounts that would have been payable to Re/Max Right Choice; Built spreadsheet for calculations; Email to P Prescott with list of trade records sheets missing.	Litwack(M)
03/02/2018	Banking - Corporate Banking.	Samoilov

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Expenses: Photocopies, faxes, etc.

Total for Services	\$ 44,103.25
Total for Expenses	<u>963.67</u>
Subtotal	45,066.92
HST	<u>5,733.42</u>
Current Amount Due	<u>\$ 50,800.34</u>

HST#136800752RT0001

## A. FARBER & PARTNERS INC.

**TORONTO RIGHT CHOICE BROKERAGE INC.  
(FORMERLY KNOWN AS RE/MAX RIGHT CHOICE INC.)**

### SUMMARY OF TIME INCURRED NOVEMBER 17, 2017 TO MARCH 2, 2018

Name	Total Hours	Rate Per Hour	Billing
H. Levy	19.35	\$575.00	\$11,126.25
R. White	7.00	\$450.00	\$3,150.00
E. Cukierman	10.30	\$425.00	\$4,377.50
M. Litwack	61.40	\$375.00	\$23,025.00
M. Castillo	1.00	\$175.00	\$175.00
L. Samoilov	3.30	\$165.00	\$544.50
D. Falcione	10.00	\$155.00	\$1,550.00
L. Lloyd-Key	0.20	\$155.00	\$31.00
G. Schmidt	0.80	\$155.00	\$124.00
<b>Total</b>	<b>113.35</b>		<b>\$44,103.25</b>



August 2, 2018

Re/Max Right Choice Inc.  
c/o A. Farber & Partners Inc., Receiver  
150 York Street, Suite 1600  
Toronto, ON M5H 3S5

Invoice No. 14788

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**TO PROFESSIONAL SERVICES RENDERED BY A. FARBER & PARTNERS INC. for the period ended July 27, 2018:**

DATE	SERVICE	STAFF
03/01/2018	Consulting fees - Corporate Follow up with Michael Litwack, Aird & Berlis regarding RECO, Builders, Claimspro	Levy
03/02/2018	Consulting fees - Corporate Follow up call with Steve Graff; Review of the sales process and follow up with Stephen Brown-Ohkrulik	Levy
03/05/2018	Consulting fees - Corporate Update creditors list; discussion with M. Litwack re: bank statements received; email to TD contact re: statements from 2015 on Trust Account.	Da Silva-Falcione
03/05/2018	Consulting fees - Corporate Calls and emails to builders; Calls from former agents; Review of claims; Updated calculations of claim spreadsheet to reflect application of HST; Calls with R Withyman re builders responses, issues with claims; Call from Kevin Nejafi.	Litwack(M)
03/06/2018	Consulting fees - Corporate Calls to builders and brokerages to obtain information on payment of commissions; Emails to builders to obtain information on payment of commissions; Emails with P Prescott re addresses for trades with missing information to calculate brokerage fees on assigned deals.	Litwack(M)
03/06/2018	Banking - Corporate Bank reconciliation for February 2018.	Lloyd-Key
03/07/2018	Consulting fees - Corporate Calls to builders; Emails from co-operating brokerage; Emails to builders.	Litwack(M)

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03/07/2018	Consulting fees - Corporate	Schmidt	Process redirected mail; add creditor to creditors list.
03/08/2018	Consulting fees - Corporate	Da Silva-Falcione	Review/process re-directed mail.
03/08/2018	Consulting fees - Corporate	Litwack(M)	Emails with Great Gulf Homes re information regarding cheques previously issued for commissions; Claims review for remainder of Great Gulf Homes deals; Email to Great Gulf re errors with regards to information provided and reconciliation of information.
03/08/2018	Banking - Corporate	Samoilov	Prepare and forward to CRA request to open HST divisional number and to process authorization letter. Review correspondence from CRA. Phone call to CRA re. corporate tax filing.
03/09/2018	Consulting fees - Corporate	White	Meeting with M. Litwack and H. Levy re status update
03/09/2018	Consulting fees - Corporate	Litwack(M)	Meeting re file matters with R White and H Levy; Review of trade records sent by P Prescott and updated schedule to calculate brokerage fees associated with assigned trades; Emails to P Prescott with list of missing information; Calls with builders; Call to R Withyman; Call with S Magder (lawyer); Continued reviewing claims; Call from Century 21 Percy Fulton re clarification on claims; Emails re reconciliation of records from Great Lands Corp; Review of spreadsheet provided by Great Lands Corp; Discussions re update for J Klein; Draft of email update to J Klein.
03/09/2018	Consulting fees - Corporate	Levy	Discussion with Michael Litwack and Robyn White; Call with Jeff Klein
03/12/2018	Consulting fees - Corporate	Da Silva-Falcione	Document preparation.
03/12/2018	Consulting fees - Corporate	Litwack(M)	Claims review; Call with ClaimsPro; Call to builders; Call to lawyer; Call to co-operating brokerage; Call to bankruptcy trustee of co-operating brokerage; Call from P Prescott; Discussions re assignment of deals and potential value loss; Discussions re structure for distribution with holdback; Review of claims; Review of information provided by Great Lands and updated claims information; Review of cheques received; Email to RECO with copy of cheque deposited by RECO that was not received by Receiver; Email to update J Klein on file progress; Emails to builders.

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03/12/2018	Consulting fees - Corporate	White
	Review and amend email to Jeff Klein, discuss with M. Litwack	
03/13/2018	Consulting fees - Corporate	Litwack(M)
	Review of information sent by Lanterra; Review and update to claims for agents involving Lanterra buildings; Email to Lanterra re errors with numbers; Email to/from Kyle Harris (Bankruptcy trustee of another brokerage) re agents name for deal; Review of information sent by D Parmar (RECO) for commissions paid by lawyer; Left voicemail for D Parmar.	
03/14/2018	Consulting fees - Corporate	Litwack(M)
	Review of draft invoice; Cheque requisition prepared; Meeting re update to Aird & Berlis and preparing information needed to determine cash flow for dividend payments and court order; Review of information sent by P Prescott re: amount of fees being collected on assigned deals; Review of claims to determine portion of amounts paid prior to freeze on buildings with assigned deals to determine Receivers interest in the deals.	
03/14/2018	Consulting fees - Corporate	Levy
	Review of emails from Michael Litwack to Jeff Klein and further discussions thereon	
03/16/2018	Consulting fees - Corporate	Litwack(M)
	Review of claims; Review of e-mails received from builders with information; Updated and revised claim information based on builder's report; Call with D Parmar (RECO) re cheque received by RECO; Emails w/ D Parmar.	
03/19/2018	Consulting fees - Corporate	Litwack(M)
	Calls to/from Builders; Emails to/from builders re request for information; Call with R Withyman; Reconciling amounts claimed to information provided by builders; Emails and call with builder re invoicing requirements; Continued reviewing claims; Reviewing claims to determine status of amount payable.	
03/20/2018	Consulting fees - Corporate	Litwack(M)
	Claims review for Great Lands properties.	
03/21/2018	Consulting fees - Corporate	Litwack(M)
	Claims review of Great Lands claims	
03/22/2018	Consulting fees - Corporate	Litwack(M)
	Discussions and email re impact of assigned deals on brokerage fees; Completed review of Yonge & 16th deals; Claims review; Completed analysis on assigned deals with calculations on unpaid portions of brokerage fees.	

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03/22/2018	Consulting fees - Corporate	White
	Meeting with M. Litwack re assigned deals and calculations of revenue stream related to same, interim distribution and holdback for receiver and legal fees	
03/27/2018	Consulting fees - Corporate	Litwack(M)
	Discussion w/ H Levy re value of assigned deals; Call w/ H Levy and P Prescott; Call to Ron Prescott re reconciling brokerage fee calculations discrepancies; Call from Great Lands re review of claims with outstanding information needed; Emails to builder re information needed from Tridel.	
03/27/2018	Consulting fees - Corporate	Schmidt
	Process redirected mail.	
03/28/2018	Consulting fees - Corporate	Litwack(M)
	Calls and e-mails to builders requesting information; Update to claims for Yonge & 16th and for Pier 27; Email to R Withyman.	
03/29/2018	Consulting fees - Corporate	Levy
	Call with Pamela Prescott; Discussions with Michael Litwack and review of information regarding transferred accounts	
03/29/2018	Consulting fees - Corporate	Litwack(M)
	Calls to commissions holders; Call with Remax Realtron re closed deal; Review of information sent from brokerage with assigned deals; Email to H Levy with summary of brokerage portion of fees for assigned deals; Review of claims	
04/02/2018	Consulting fees - Corporate	Litwack(M)
	Direction to G Schmidt to prepare registered letters; Drafted letter to be sent via registered mail to builders that have not yet responded.	
04/02/2018	Consulting fees - Corporate	Schmidt
	Process redirected mail.	
04/03/2018	Consulting fees - Corporate	Litwack(M)
	Review of new claims to pull information on location of deposit funds and updated contact listing for collection of future commissions.	
04/03/2018	Consulting fees - Corporate	Schmidt
	Prepare A/R letters to be sent via registered mail; Visit Canada Post.	
04/03/2018	Banking - Corporate	Samoilov
	Banking, posting.	

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04/04/2018	Consulting fees - Corporate	Litwack(M)
	Claims review of new claims submitted; Discussion w/ H Levy re revised numbers for assigned deals; Call to P Prescott (left voicemail).	
04/04/2018	Consulting fees - Corporate	Levy
	Various discussions with Michael Litwack and review of documents related to Pamela Prescott	
04/10/2018	Consulting fees - Corporate	Litwack(M)
	Calls to/from former broker re T4, claims process and information; Review of letter from CRA; Discussions re application of source deduction priority on trust funds for brokerage commissions.	
04/11/2018	Consulting fees - Corporate	Litwack(M)
	Review of claims, emails and supporting information; Calls with R Withyman.	
04/12/2018	Consulting fees - Corporate	Litwack(M)
	Emails re: records requested from TMG Builders; Call to TMG Builders counsel; Claims review; Discussion w/ R White re requirements for holdback from distributions made.	
04/12/2018	Consulting fees - Corporate	White
	telephone discussion with CRA re HST accounts, status of dealing with director	
04/13/2018	Consulting fees - Corporate	Schmidt
	Process redirected mail.	
04/16/2018	Consulting fees - Corporate	Litwack(M)
	Emails and call to counsel for builder; Emails with former agent; Claims review; Discussion w/ R White re holdback requirement from distribution.	
04/18/2018	Consulting fees - Corporate	Litwack(M)
	Review of claims; Emails w/ A Romanelli re information request per court order; Email to I Aversa and J Nemers to review plan for attending court to obtain order for distribution and options available to obtain information from certain developers.	
04/19/2018	Consulting fees - Corporate	Litwack(M)
	Claims review; Emails with I Aversa.	
04/20/2018	Consulting fees - Corporate	Litwack(M)
	Claims review.	
04/20/2018	Banking - Corporate	Samoilov
	Banking, posting.	

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04/23/2018	Consulting fees - Corporate	White
	Conference call Ian Aversa and M. Litwack re status of claims, issues with obtaining records from builders and items to be addressed in court application	
04/23/2018	Consulting fees - Corporate	Litwack(M)
	Claims review; Discussions re content for Receiver's report in support of order; Call with I Aversa and R White.	
04/23/2018	Consulting fees - Corporate	Schmidt
	Process redirected mail.	
04/24/2018	Consulting fees - Corporate	Litwack(M)
	Call with R Withyman re updates on claims review process and numbers determined by trustee; Reviewed filed claims to create listing of builders that have not yet been provided notice or have not yet provided requested information; Research on building developers to find contact information; Revisions to claims tracking spreadsheet.	
04/25/2018	Consulting fees - Corporate	Litwack(M)
	Review of claims database to determine which developers had outstanding information to prove claims.	
04/26/2018	Consulting fees - Corporate	Litwack(M)
	Prepared letters for all developers that were not sent notice as part of initial mailing; Direction re registered mail	
04/27/2018	Consulting fees - Corporate	Litwack(M)
	Emails, call and discussion re set-off claim by cooperating brokerage; Call w/ R Withyman; Began court report draft; Call from agent; Emails to builders re request for further information.	
04/30/2018	Consulting fees - Corporate	White
	discuss file with M. Litwack	
04/30/2018	Consulting fees - Corporate	Litwack(M)
	Drafting of Receivers report; Discussion w/ R White and call to P Prescott re documentation to support assignment of deals; Call to Tridel and e-mail with request for information; Call to ViaBloor and e-mail; Review and revision of letter from Aird and Berlis; Discussions w/ R White re letter from Aird and Berlis; Call with Cameron Forbes (Re/Max Realtron) re claim for set-off; Discussions re set-off claim; Call and e-mail to R Withyman re insurance claim payment and discussions with Cameron.	

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05/01/2018	Consulting fees - Corporate	White
	Review and amend letter to builders and builders lawyers	
05/01/2018	Consulting fees - Corporate	Litwack(M)
	Revised letter template for counsel's letter to builders counsel; Review of claim information to build list of legal counsel for builders; Emails w/ R Withyman re claim discrepancies; Call to Kingsway Real Estate re assigned deals on eve of RECO order; Discussions w/ R White re additional assigned deals; Email to Tridel with additional trades.	
05/01/2018	Banking - Corporate	Lloyd-Key
	Bank reconciliation for March 2018.	
05/02/2018	Consulting fees - Corporate	White
	Review and amend transaction agreement	
05/02/2018	Consulting fees - Corporate	Litwack(M)
	Continued drafting of court report; Draft of assignment agreement for deals assigned to Century 21 Heritage.	
05/03/2018	Consulting fees - Corporate	Litwack(M)
	Review of information sent by Tridel and updated claims information; Revision to agreement with Century 21 Heritage and e-mails; Discussion w/ H Levy re agreement with C21 and email to counsel re potential issues with the assignment agreement; Continued to draft court report.	
05/07/2018	Consulting fees - Corporate	Litwack(M)
	Conference call with counsel to discuss assigned deals and issues with obtaining information from builders; Emails with counsel.	
05/07/2018	Consulting fees - Corporate	White
	Conference call with I. Aversa and J. Neumers and M. Litwack re assignment of deals and issues related to same including obtaining court approval.	
05/08/2018	Consulting fees - Corporate	Litwack(M)
	Work on preparing court report.	
05/08/2018	Consulting fees - Corporate	White
	Review and respond to emails from Aird and Berlis re response to demands for information	
05/08/2018	Banking - Corporate	Samoilov
	Banking, posting.	
05/09/2018	Consulting fees - Corporate	Levy
	Review of assignment agreement and various discussions with Michael Litwack regarding status update	

# FARBER

05/09/2018	Consulting fees - Corporate	White
	Review revised Assignment Agreement, discuss same with M. Litwack	
05/11/2018	Consulting fees - Corporate	Litwack(M)
	Email to counsel re: calculation of remaining portion of brokerage fees; Review and reconciliation of information sent by NE Holdings Inc; Email to NE Holdings Inc identifying discrepancy in information.	
05/14/2018	Consulting fees - Corporate	Litwack(M)
	Receipt of cheque from Carville Investments; Review of previous correspondence with Carville; Email to Carville requesting further documents; Discussions re materials to be scheduled with court report; Discussions re holdback percentage requirement as on total collections expected.	
05/15/2018	Consulting fees - Corporate	Litwack(M)
	Review of information provided by Carville Investments and updated claims spreadsheet; Review of commission payment breakdown for cheque sent by Carville Investments and updated claims spreadsheet.	
05/15/2018	Consulting fees - Corporate	Levy
	Calls with Ian Aversa regarding status update; Discussion with Michael Litwack	
05/15/2018	Banking - Corporate	Samoilov
	Banking, posting.	
05/16/2018	Consulting fees - Corporate	Litwack(M)
	Emails with counsel re contact with counsel for builder; Scanning and sending copies of correspondence sent previously to builder.	
05/16/2018	Consulting fees - Corporate	Levy
	Updates with Robyn White and Michael Litwack; review of emails with Jeremy Nemers and Michael Litwack regarding Pemberton Group	
05/16/2018	Banking - Corporate	Samoilov
	Filing HST returns for January, February, March, and April 2018. Following up with M. Litwack re. overdue HST and corporate tax filing.	
05/17/2018	Consulting fees - Corporate	Litwack(M)
	Discussion w/ J Nemers re approach to calculation of brokerage fees outstanding; Discussions w/ R White re approach to calculation of fees and changes to receiver's report in support of calculations.	
05/18/2018	Consulting fees - Corporate	Litwack(M)
	Emails with I Aversa re calculation of brokerage fees remaining; Call with I Aversa to discuss calculation of	



# FARBER

brokerage fees remaining in consideration of funds removed from trust account.

05/18/2018	Banking - Corporate Bank reconciliation for April 2018.	Lloyd-Key
05/22/2018	Consulting fees - Corporate Review of information sent for Gates of Bayview Glen; Updated claims spreadsheet and e-mail to confirm receipt of information; Review of claims to find contracts for fixed fee and percentage based commission splits with Century 21 and Re/Max; Email to counsel with copies of agreements.	Litwack(M)
05/24/2018	Consulting fees - Corporate Emails with Aird and Berlis explaining Receiver's position with regards to calculation of brokerage fees remaining.	Litwack(M)
05/24/2018	Consulting fees - Corporate Review of emails from Jeremy Nemers and Michael Litwack	Levy
05/25/2018	Consulting fees - Corporate Review of information sent by builder and updated Excel sheet.	Litwack(M)
05/28/2018	Consulting fees - Corporate Review and amend Receiver's Report to Court	White
05/28/2018	Consulting fees - Corporate Review of information received in mail from developers; Direction for deposit of cheque received; Updated tracking schedule with received information and payment.	Litwack(M)
05/29/2018	Consulting fees - Corporate Created Excel sheet to provide counsel explanation for Receiver's position on calculation of remaining portion of brokerage fees; Email to counsel with calculations.	Litwack(M)
05/29/2018	Banking - Corporate Banking, posting.	Samoilov
05/30/2018	Consulting fees - Corporate Email to counsel with further information regarding calculation of brokerage fees and potential impact.	Litwack(M)
05/31/2018	Consulting fees - Corporate Review of information sent by builder and updated claims database.	Litwack(M)
06/01/2018	Consulting fees - Corporate Discuss court report with M. Litwack and issues identified by Aird and Berlis.	White

# FARBER

06/01/2018	Consulting fees - Corporate	Litwack(M) Call with R White to discuss progress of court report; Emails with Dipak Parmar re confirmation of RECO's efforts to obtain access to computer database; Emails with counsel to arrange time for call; Call with I Aversa and J Nemers to discuss court report progress, issues with regards to brokerage fee calculations, deal with C21 Heritage and other matters to be written in to court report.
06/03/2018	Consulting fees - Corporate	Litwack(M) Continued to draft Receiver's report; Review of bank statements available; Email re obtaining more bank statements; Email to principal of brokerage to request further information.
06/04/2018	Consulting fees - Corporate	White Discuss file administration with M. Litwack, review and amend Court Report, conference call with M. Litwack and I. Aversa and J. Nemers of Aird and Berlis re court attendance, report on other matters.
06/04/2018	Consulting fees - Corporate	Litwack(M) Review of claims spreadsheet to determine what information remains outstanding; Emails to builders to request update on requests for information; Call to co-operating brokerage to request further information; Calls from former agents requesting update; Emails re timing of court attendance; Discussions re Receiver's report; Continued to draft Receiver's report; Review of banking information to reconcile with TD bank draft received; Updated claims spreadsheet with information sent by builder; Emails and call with Aird & Berlis re timing of court attendance.
06/04/2018	Consulting fees - Corporate	Levy Update from Michael Litwack
06/05/2018	Consulting fees - Corporate	Litwack(M) Created listing for brokerages that have not responded to Receiver's request for information; Email to I Aversa with listing of brokerages with information outstanding; Review of claim information to determine counsel for builders.
06/06/2018	Consulting fees - Corporate	White Telephone call with M. Litwack re court report and with agreement with Pamela Prescott.
06/06/2018	Consulting fees - Corporate	Litwack(M) Call with R White and H Levy; Continued to draft Receiver's report; Email to P Prescott with new agreement; Call from P Prescott; Email from P Prescott; Call with R White; Email to counsel

# FARBER

06/06/2018	Consulting fees - Corporate Calls with Robyn White and Michael Litwack; Discussions with Ian Aversa	Levy
06/06/2018	Banking - Corporate Bank reconciliation for May 2018.	Lloyd-Key
06/07/2018	Consulting fees - Corporate Emails with Re/max Condos Plus; Call with Re/Max Condos Plus; Call to law firm re cheque received; Call from agents re questions about payments; Emails forwarded from I Aversa with information provided by builders; Call with I Aversa re builder information and deal with C21 Heritage; Email to P Prescott; Call with J Nemers re consumer deposits held by Re/Max and claims process.	Litwack(M)
06/08/2018	Consulting fees - Corporate Emails with R Withyman re: claims process for consumer deposits; Review of information provided by builder; Review of claim that was changed; Emailed Tridel with new unit information to make request; Direction to deposit commissions received and updated spreadsheet.	Litwack(M)
06/11/2018	Consulting fees - Corporate Review of information sent by builder and update claims spreadsheet; Conference call with counsel and P Prescott; Call with counsel; Emails to counsel.	Litwack(M)
06/11/2018	Banking - Corporate Banking, posting.	Samoilov
06/12/2018	Consulting fees - Corporate Call from Bell Canada.	Litwack(M)
06/12/2018	Consulting fees - Corporate Review of correspondence between Aird & Berlis and Pamela Prescott	Levy
06/13/2018	Consulting fees - Corporate Calls w/ C Forbes (Remax Realtron) re holding of trust funds; Call with R Withyman re new claims, insurance payments and general update; Emails with R Withyman and C Forbes; Review of new claims.	Litwack(M)
06/13/2018	Consulting fees - Corporate Email TD request for bank statements.	Schmidt
06/14/2018	Consulting fees - Corporate Review of claims; Emails with R Withyman; Emails to counsel re commissions payable.	Litwack(M)

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06/15/2018	Consulting fees - Corporate	White	Review and amend correspondence to director.
06/15/2018	Consulting fees - Corporate	Litwack(M)	Emails re contact with director; Draft of letter to director; Emails re obtaining company records.
06/15/2018	Consulting fees - Corporate	Schmidt	Follow-up with TD re requested bank statements.
06/18/2018	Consulting fees - Corporate	Litwack(M)	Review of receiver's report draft sent by Aird and Berlis; Email from P Prescott;
06/18/2018	Consulting fees - Corporate	Levy	Review of correspondence from Jeremy Nemers, Michael Litwack; Review of draft report
06/19/2018	Consulting fees - Corporate	Litwack(M)	Reconciliation of funds received for commissions and claimed amounts; Review of cheques for information to explain discrepancies in commissions; Call w/ H Levy re review of draft report.
06/19/2018	Banking - Corporate	Samoilov	Filing HST return for the period ending May 31, 2018. E-mail to M. Litwack re: outstanding tax filings. Banking, posting.
06/20/2018	Consulting fees - Corporate	Litwack(M)	Emails re funds in TD bank accounts; Emails re further actions re non-responsive brokerage; Call with H Levy.
06/21/2018	Consulting fees - Corporate	Binelli	Received telephone calls from a couple of former employees
06/21/2018	Consulting fees - Corporate	Litwack(M)	Call with agent; Receipt of funds and direction to deposit.
06/21/2018	Banking - Corporate	Samoilov	Banking, posting.
06/22/2018	Consulting fees - Corporate	Litwack(M)	Call with former agent; Comments and revisions made to draft court report; Discussions and emails with H Levy re black-lined court report; Review of information sent by builder and updated database; Emails re receipt of information; Calls with I Aversa; Prepared schedule to calculate holdback required from distribution.
06/24/2018	Consulting fees - Corporate	Litwack(M)	Call with H Levy re court report; Revisions to report and added comments for discussion purposes; Review of

# FARBER

precedent from Monster Realty court reports.

06/24/2018	Consulting fees - Corporate	Levy
	Review of the draft report and discussions with Michael Litwack	
06/25/2018	Consulting fees - Corporate	Litwack(M)
	Call with H Levy; Revisions to holdback calculations and court report comments; Review of emails re letters sent by counsel for information requests; Conference call with H Levy and counsel re review of court report, issues with distribution of funds, assigned deals and general matters; Email to counsel.	
06/25/2018	Consulting fees - Corporate	Levy
	Review of the first report of the Receiver; Calls with Ian Aversa, Michael Litwack to review and amend first report of the Receiver; Various emails and discussions with Ian Aversa regarding Century 21, developer correspondence	
06/26/2018	Consulting fees - Corporate	Litwack(M)
	Calls with I Aversa; Revised holdback calculation spreadsheet; Review of letters prepared by Aird and Berlis; Review of claim information with regards to 355 King Holdings; Emails re 355 King Holdings; Emails to provide contact information for letters.	
06/26/2018	Consulting fees - Corporate	Levy
	Numerous discussions with Michael Litwack; Review of emails from Ian Aversa and comments thereon	
06/27/2018	Consulting fees - Corporate	Litwack(M)
	Review of revised draft report sent by I Aversa; Discussion w/ H Levy.	
06/28/2018	Consulting fees - Corporate	Litwack(M)
	Review of information provided by builder and update database; Call from R Withyman to review specific claims; Call to RECO to inquire as to posting update on public advisory webpage; Reconciliation of additional funds being held for unclaimed sales.	
06/28/2018	Consulting fees - Corporate	Levy
	Review of emails from Aird & Berlis; Review of draft receiver report	
06/29/2018	Consulting fees - Corporate	Schmidt
	Follow-up with TD Bank re requested bank statements.	
06/29/2018	Consulting fees - Corporate	Litwack(M)
	Call with agent; Emails from I Aversa.; Discussion w/ H Levy; Email re payment by Greenland Corporation.	

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06/29/2018	Consulting fees - Corporate	Levy	Discussions with Jeff Klein; Call with Ian Aversa; review of emails from developers; Discussions with Michael Litwack
07/03/2018	Consulting fees - Corporate	Levy	Various emails reviewed and follow up discussions with Michael Litwack and Ian Aversa
07/03/2018	Consulting fees - Corporate	Litwack(M)	Review of draft motions prepared by Aird & Berlis; Emails re information provided by builder; Review of claim records to find co-operating agreements for builder; Downloaded files and sent to J Nemers.
07/04/2018	Consulting fees - Corporate	Levy	Various emails with Ian Aversa, Jeremy Nemers and Michael Litwack
07/04/2018	Consulting fees - Corporate	Litwack(M)	Call with RECO re adding claims process information to public advisory; Calls from former agents; Email to developer re amounts now due; Emails re payment for past due amount.
07/05/2018	Consulting fees - Corporate	Schmidt	Follow-up with TD via email re requested bank statements.
07/06/2018	Consulting fees - Corporate	Litwack(M)	Updated claims database with information provided by builder.
07/09/2018	Consulting fees - Corporate	Litwack(M)	Review of information sent by developer and added information to database.
07/09/2018	Banking - Corporate	Lloyd-Key	Bank reconciliation for June 2018.
07/10/2018	Consulting fees - Corporate	Litwack(M)	Emails re HST number.
07/10/2018	Consulting fees - Corporate	Schmidt	Follow-up with TD via email re requested bank statements.
07/10/2018	Banking - Corporate	Samoilov	Filing HST return for the period ending June 30, 2018.
07/11/2018	Consulting fees - Corporate	Litwack(M)	Reconciled cheque received from Ideal Developments; Emails re cheques received; Confirmation of claim amount calculation for ClaimsPro; Emails to arrange conference call with P Prescott.

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07/11/2018	Banking - Corporate Banking, posting.	Samoilov
07/12/2018	Consulting fees - Corporate Call w/ H Levy and P Prescott; Emails w/ I Aversa.	Litwack(M)
07/12/2018	Consulting fees - Corporate Call with Ian Aversa and Michael Litwack regarding Pamela Prescott	Levy
07/13/2018	Consulting fees - Corporate Calls with Aird and Berlis re Century 21.	Litwack(M)
07/13/2018	Consulting fees - Corporate Call with Ian Aversa, Jeremy Nemers and Michael Litwack	Levy
07/15/2018	Consulting fees - Corporate Review and commented on latest draft of Receiver's report and ancillary order; Completed spreadsheet for counsel to include contact information for developers and counsel for certain deals.	Litwack(M)
07/16/2018	Consulting fees - Corporate Review of emails with Ian Aversa and Jeremy Nemers; Follow up discussions with Michael Litwack	Levy
07/16/2018	Consulting fees - Corporate Review of new claims and added information to database; Emails to developers re new claims; Updated claims per information sent by R Withyman.	Litwack(M)
07/17/2018	Consulting fees - Corporate Review of information provided by builder and documents uploaded to ClaimsPro system to reconcile information; Response to agent inquiry.	Litwack(M)
07/17/2018	Consulting fees - Corporate Telephone call from previous employee regarding outstanding commission	Binelli
07/17/2018	Consulting fees - Corporate Follow-up with TD via email re outstanding bank statements.	Schmidt
07/18/2018	Consulting fees - Corporate Emails re contact with Kingsway; Review of information sent by builders and email to J Nemers detailing discrepancies in information.	Litwack(M)
07/20/2018	Consulting fees - Corporate Call from agent; Emails with R Withyman; Emails with Aird & Berlis re information needed by certain developer; Call w/ J Nemers.	Litwack(M)

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07/20/2018	Consulting fees - Corporate Review of the revised report on Remax; Discussions regarding certain developments and how to handle them in the report	Levy
07/23/2018	Consulting fees - Corporate Emails re request for further information; Call from H Levy re review of court materials; Review of draft report and provided details and comments as requested; Review of claims data to support comments for draft report.	Litwack(M)
07/24/2018	Consulting fees - Corporate Emails re assigned deals; Review of trade information and emails to J Nemers re specific trades with Century 21 Heritage.	Litwack(M)
07/25/2018	Consulting fees - Corporate Call with I Aversa and J Nemers to review court materials; Emails with P Prescott.	Litwack(M)
07/25/2018	Consulting fees - Corporate Review of documentation dealing with Pamela Prescott and discussions with Ian Aversa and Michael Litwack	Levy
07/26/2018	Consulting fees - Corporate Updated claims database with information sent by developer.	Litwack(M)
07/26/2018	Consulting fees - Corporate Discussions with Ian Aversa regarding Court time	Levy
07/27/2018	Banking - Corporate Banking, posting.	Samoilov
		Total for Services \$ 76,341.25
Expenses: Photocopies, faxes, etc.		Total for Expenses <u>1,230.30</u>
		Subtotal 77,571.55
		HST <u>9,924.36</u>
		Current Amount Due <u>\$ 87,495.91</u>

HST#136800752RT0001



# FARBER

## A. FARBER & PARTNERS INC.

TORONTO RIGHT CHOICE BROKERAGE INC.  
(FORMERLY KNOWN AS RE/MAX RIGHT CHOICE INC.)

### SUMMARY OF TIME INCURRED MARCH 3, 2018 TO JULY 27, 2018

Name	Total Hours	Rate Per Hour	Billing
H. Levy	23.75	\$595.00	\$14,131.25
R. White	6.60	\$450.00	\$2,970.00
M. Litwack	162.00	\$350.00	\$56,700.00
A. Binelli	0.50	\$200.00	\$100.00
D. Falcione	1.00	\$200.00	\$200.00
L. Lloyd-Key	1.00	\$200.00	\$200.00
L. Samoilov	4.70	\$200.00	\$940.00
G. Schmidt	5.50	\$200.00	\$1,100.00
<b>Total</b>	<b>205.05</b>		<b>\$76,341.25</b>

**TAB P**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

B E T W E E N :

**LLOYDS UNDERWRITERS and 3303128 CANADA INC.  
T/A ALTERNATIVE RISK SERVICES**

Applicants

- and -

**RE/MAX RIGHT CHOICE INC.**

Respondent

**AFFIDAVIT OF IAN AVERSA  
(sworn August 9, 2018)**

I, **IAN AVERSA**, of the City of Toronto, in the Province of Ontario, **MAKE OATH  
AND SAY AS FOLLOWS:**

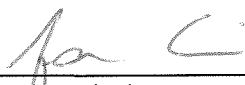
1. I am a lawyer at Aird & Berlis LLP and, as such, I have knowledge of the matters to which I hereinafter depose. Aird & Berlis LLP is acting as counsel for A. Farber & Partners Inc., in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of Re/Max Right Choice Inc.
2. Aird & Berlis LLP has prepared statements of account in connection with its mandate as counsel to the Receiver, detailing its services rendered and disbursements incurred, namely:
  - (a) an account dated January 29, 2018 in the amount of \$9,357.69 in respect of the period from December 22, 2017 to January 25, 2018;

- (b) an account dated February 27, 2018 in the amount of \$1,480.02 in respect of the period from January 30, 2018 to February 26, 2018;
- (c) an account dated March 28, 2018 in the amount of \$601.73 in respect of the period from March 1, 2018 to March 26, 2018;
- (d) an account dated April 26, 2018 in the amount of \$1,511.66 in respect of the period from April 11, 2018 to April 23, 2018;
- (e) an account dated May 29, 2018 in the amount of \$10,030.09 in respect of the period from May 1, 2018 to May 25, 2018;
- (f) an account dated June 28, 2018 in the amount of \$19,821.69 in respect of the period from May 27, 2018 to June 26, 2018; and
- (g) an account dated July 27, 2018 in the amount of \$23,123.03 in respect of the period from June 24, 2018 to July 26, 2018,

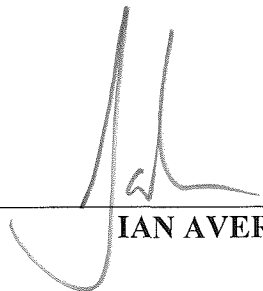
(the “**Statements of Account**”). Attached hereto and marked as **Exhibit “A”** to this Affidavit are copies of the Statements of Account. The average hourly rate of Aird & Berlis LLP is \$443.37.

3. Attached hereto and marked as **Exhibit “B”** to this Affidavit is a chart detailing the lawyers, law clerks and articling students who have worked on this matter.
4. This Affidavit is made in support of a motion to, *inter alia*, approve the attached accounts of Aird & Berlis LLP and the fees and disbursements detailed therein, and for no improper purpose whatsoever.

SWORN before me at the City of )  
 Toronto, in the Province of Ontario )  
 this 9<sup>th</sup> day of August, 2018 )

  
 \_\_\_\_\_  
 A commissioner, etc.

*A. Collins*

  
 \_\_\_\_\_  
**IAN AVERSA**

Attached is Exhibit "A"

Referred to in the

AFFIDAVIT OF IAN AVERSA

Sworn before me

this 9<sup>th</sup> day of August, 2018



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Commissioner for taking Affidavits, etc

IN ACCOUNT WITH:

**AIRD BERLIS**

Brookfield Place, 181 Bay Street, Suite 1800  
Toronto, Ontario, Canada M5J 2T9  
T 416.863.1500 F 416.863.1515  
airdberlis.com

A. Farber & Partners Inc.  
1600 - 150 York Street  
Toronto, ON  
M5H 3S5

Attention: Mr. Hylton Levy

**Account No.: 588430**

PLEASE WRITE ACCOUNT NUMBERS  
ON THE BACK OF ALL CHEQUES

File No.: 13885/142134

January 29, 2018

**Re: Re/Max Right Choice Inc. and Toronto Right Choice Brokerage Inc.**

FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ended January 25, 2018

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
IEA	22/12/17	\$495.00	1.00	\$495.00	Engaged with reviewing the application materials, additional background information and emails to and from clients and J. Nemers regarding same; Discussions and instructions to J. Nemers regarding same
SRM	22/12/17	\$350.00	1.20	\$420.00	Conduct prelims; Obtain profiles and PPSA searches and report on same
IEA	27/12/17	\$495.00	2.00	\$990.00	Engaged with reviewing revised draft order and providing comments; Discussions and instructions to J. Nemers regarding same
SRM	27/12/17	\$350.00	0.20	\$70.00	Review certified searches and report on same
JTN	27/12/17	\$325.00	2.60	\$845.00	Engaged with review of application record and related materials; Engaged with preparation of draft form of receivership order; Email exchange and telephone call with I. Aversa re same; Engaged with preparation of draft form of receiver consent; Attend to related tasks as needed

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
IEA	28/12/17	\$495.00	1.50	\$742.50	Telephone call and emails to and from clients and J. Nemers; Discussions and instructions to J. Nemers regarding same
JTN	28/12/17	\$325.00	1.40	\$455.00	Engaged with further revisions to draft receivership order and consent; Email exchange and conference call with working group re same; Attend to related tasks as needed
IEA	29/12/17	\$495.00	0.40	\$198.00	Emails to and from J. Klein, clients and J. Nemers regarding draft order, hearing and next steps
JTN	29/12/17	\$325.00	0.20	\$65.00	Prepare and issue email to J. Klein
IEA	02/01/18	\$525.00	0.30	\$157.50	Emails to and from J. Klein, clients and J. Nemers and discussions regarding same
IEA	03/01/18	\$525.00	0.40	\$210.00	Emails to and from J. Klein, clients and J. Nemers and discussions and instructions to J. Nemers
JTN	03/01/18	\$375.00	0.70	\$262.50	Attend on conference call with J. Klein, H. Levy, E. Cukierman and I. Aversa; Receipt and review of email from J. Klein; Engaged with updating of court materials; Email to working group re same
IEA	04/01/18	\$525.00	0.30	\$157.50	Emails to and from client, J. Klein and J. Nemers and discussions and instructions to J. Nemers regarding same
JTN	04/01/18	\$375.00	0.40	\$150.00	Receipt and review of executed consent from client; Emails to client and J. Klein re same; Follow-up emails re revisions thereto; Execute revisions; Attend to related matters as needed
IEA	08/01/18	\$525.00	1.50	\$787.50	Attend court; Emails to and from J. Klein, clients and J. Nemers regarding same; Discussions with client and J. Nemers regarding next steps

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
JTN	08/01/18	\$375.00	0.50	\$187.50	Email exchange with client; Instruct S. Moniz re service list; Engaged with revisions to same; Email to J. Klein re same
IEA	09/01/18	\$525.00	0.40	\$210.00	Emails to and from J. Klein, clients and J. Nemers and discussions with J. Nemers
JTN	09/01/18	\$375.00	0.10	\$37.50	Email to client re Order and related matters
IEA	10/01/18	\$525.00	0.30	\$157.50	Emails to and from J. Klein, clients and J. Nemers re service list issues and bank account information
JTN	10/01/18	\$375.00	0.20	\$75.00	Email exchange with J. Klein; Discussion with I. Aversa re same
IEA	11/01/18	\$525.00	0.50	\$262.50	Email to and from J. Klein, clients and J. Nemers and discussions and instructions to J. Nemers
JTN	11/01/18	\$375.00	1.00	\$375.00	Email exchanges and telephone call with client; Engaged with revision to service list; Receipt and review of emails from J. Klein; Attend to related matters as needed
IEA	12/01/18	\$525.00	0.40	\$210.00	Emails and discussions with J. Klein, clients and J. Nemers
IEA	15/01/18	\$525.00	0.30	\$157.50	Emails to and from Applicant's counsel, clients and J. Nemers and discussions with J. Nemers regarding same
JTN	15/01/18	\$375.00	0.10	\$37.50	Email exchange with R. Withyman
IEA	24/01/18	\$525.00	0.20	\$105.00	Emails to and from clients and J. Nemers re update and next steps
IEA	25/01/18	\$525.00	0.30	\$157.50	Emails to and from clients and J. Nemers re update and next steps
JTN	25/01/18	\$375.00	0.10	\$37.50	Receipt and review of update emails from client
<b>TOTAL:</b>			18.50	\$8,015.50	



Name	Hours	Rate	Value
Ian E. Aversa (IEA)	9.80	\$510.00	\$4,998.00
Shannon R. Morris (SRM)	1.40	\$350.00	\$490.00
Jeremy T. Nemers (JTN)	7.30	\$346.23	\$2,527.50

<b>OUR FEE</b>	\$8,015.50
HST at 13%	\$1,042.02

**DISBURSEMENTS**

**COST INCURRED ON YOUR BEHALF AS AN AGENT**

Search Under P.P.S.A.	\$112.00
Due Diligence-Gov Fee	\$32.00

Total Agency Costs	\$144.00
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**Subject to HST**

Service Provider Fee	\$63.00
Due Diligence	\$28.00
Photocopies - Local	\$29.50
Taxi	\$17.70

Total Disbursements	\$138.20
HST at 13%	\$17.97

<b>AMOUNT NOW DUE</b>	<b>\$9,357.69</b>
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THIS IS OUR ACCOUNT HEREIN  
Aird & Berlis LLP



Ian E Aversa

E.&O.E.

**PAYMENT OF THIS ACCOUNT IS DUE ON RECEIPT**

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 1.3% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS ACCOUNT IS DELIVERED.

GST / HST Registration # 12184 6539 RT0001

NOTE: This account may be paid by wire transfer in Canadian funds to our account at The Toronto-Dominion Bank, TD Centre, 55 King Street West, Toronto, Ontario, M5K 1A2. Account number 5221521, Transit number 10202, Swift Code TDOMCATTTOR. Please include the account number as reference.

IN ACCOUNT WITH:

**AIRD BERLIS**

Brookfield Place, 181 Bay Street, Suite 1800  
Toronto, Ontario, Canada M5J 2T9  
T 416.863.1500 F 416.863.1515  
airdberlis.com

A. Farber & Partners Inc.  
1600 - 150 York Street  
Toronto, ON  
M5H 3S5

Attention: Mr. Hylton Levy

**Account No.: 590924**

PLEASE WRITE ACCOUNT NUMBERS  
ON THE BACK OF ALL CHEQUES

File No.: 13885/142134

February 27, 2018

**Re: Re/Max Right Choice Inc. and Toronto Right Choice Brokerage Inc.**

FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ended February 26, 2018

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
IEA	30/01/18	\$525.00	0.30	\$157.50	Telephone call and emails to and from clients and J. Nemers re update and next steps
JTN	30/01/18	\$375.00	0.30	\$112.50	Email exchange and telephone call with client; Attend to related matters re same
IEA	02/02/18	\$525.00	0.40	\$210.00	Telephone call and emails to and from client and J. Nemers re update and next steps
JTN	02/02/18	\$375.00	1.10	\$412.50	Receipt and review of email and voicemail from client re T4 slips and receivership notices; Consider same in conjunction with provisions of Receivership Order; Discussions with I. Aversa re same; Prepare response to client; Attend to related matters as needed
IEA	14/02/18	\$525.00	0.10	\$52.50	Emails to and from client and J. Nemers re update and next steps
IEA	16/02/18	\$525.00	0.40	\$210.00	Telephone call, emails and discussions with clients and J. Nemers and discussions with J. Nemers regarding same

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
JTN	16/02/18	\$375.00	0.40	\$150.00	Attend on conference call with client re status update and steps moving forward
TOTAL:			3.00	\$1,305.00	

Name	Hours	Rate	Value
Ian E. Aversa (IEA)	1.20	\$525.00	\$630.00
Jeremy T. Nemers (JTN)	1.80	\$375.00	\$675.00

OUR FEE	\$1,305.00
HST at 13%	\$169.65

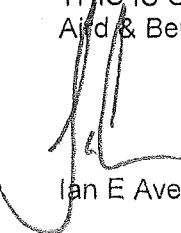
**DISBURSEMENTS**

**Subject to HST**

Photocopies - Local	\$4.75
HST at 13%	\$0.62

AMOUNT NOW DUE	<u><u>\$1,480.02</u></u>
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THIS IS OUR ACCOUNT HEREIN  
Aird & Berlis LLP

  
Ian E Aversa  
E.&O.E.

**PAYMENT OF THIS ACCOUNT IS DUE ON RECEIPT**

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 1.3% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS ACCOUNT IS DELIVERED.

GST / HST Registration # 12184 6539 RT0001

NOTE: This account may be paid by wire transfer in Canadian funds to our account at The Toronto-Dominion Bank, TD Centre, 55 King Street West, Toronto, Ontario, M5K 1A2. Account number 5221521, Transit number 10202, Swift Code TDOMCATTTOR. Please include the account number as reference.

IN ACCOUNT WITH:

**AIRD BERLIS**

Brookfield Place, 181 Bay Street, Suite 1800  
Toronto, Ontario, Canada M5J 2T9  
T 416.863.1500 F 416.863.1515  
airdberlis.com

A. Farber & Partners Inc.  
1600 - 150 York Street  
Toronto, ON  
M5H 3S5

Attention: Mr. Hylton Levy

**Account No.: 593602**

PLEASE WRITE ACCOUNT NUMBERS  
ON THE BACK OF ALL CHEQUES

File No.: 13885/142134

March 28, 2018

**Re: Re/Max Right Choice Inc. and Toronto Right Choice Brokerage Inc.**

FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ended March 26, 2018

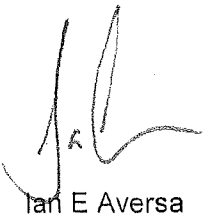
LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
IEA	01/03/18	\$525.00	0.20	\$105.00	Emails to and from clients and J. Nemers regarding update and next steps
JTN	01/03/18	\$375.00	0.10	\$37.50	Email to client
IEA	04/03/18	\$525.00	0.10	\$52.50	Emails to and from J. Nemers
JTN	04/03/18	\$375.00	0.10	\$37.50	Email exchange and telephone call with I. Aversa re status
IEA	08/03/18	\$525.00	0.30	\$157.50	Discussions with J. Nemers re update and next steps; Emails to and from client re same
IEA	09/03/18	\$525.00	0.20	\$105.00	Telephone call with H. Levy regarding update and next steps
JTN	14/03/18	\$375.00	0.10	\$37.50	Receipt and review of status update email from M. Litwack
<b>TOTAL:</b>			1.10	\$532.50	

Name	Hours	Rate	Value
Ian E. Aversa (IEA)	0.80	\$525.00	\$420.00
Jeremy T. Nemers (JTN)	0.30	\$375.00	\$112.50

OUR FEE	\$532.50
HST at 13%	\$69.23

AMOUNT NOW DUE	<u>\$601.73</u>
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THIS IS OUR ACCOUNT HEREIN  
Aird & Berlis LLP



Ian E Aversa

E.&O.E.

**PAYMENT OF THIS ACCOUNT IS DUE ON RECEIPT**

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 1.3% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS ACCOUNT IS DELIVERED.

GST / HST Registration # 12184 6539 RT0001

NOTE: This account may be paid by wire transfer in Canadian funds to our account at The Toronto-Dominion Bank, TD Centre, 55 King Street West, Toronto, Ontario, M5K 1A2. Account number 5221521, Transit number 10202, Swift Code TDOMCATTOR. Please include the account number as reference.

32124300.1

IN ACCOUNT WITH:

**AIRD BERLIS**

Brookfield Place, 181 Bay Street, Suite 1800  
Toronto, Ontario, Canada M5J 2T9  
T 416.863.1500 F 416.863.1515  
airdberlis.com

A. Farber & Partners Inc.  
1600 - 150 York Street  
Toronto, ON  
M5H 3S5

Attention: Mr. Hylton Levy

**Account No.: 596286**

PLEASE WRITE ACCOUNT NUMBERS  
ON THE BACK OF ALL CHEQUES

File No.: 13885/142134

April 26, 2018

**Re: Re/Max Right Choice Inc. and Toronto Right Choice Brokerage Inc.**

FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ended April 23, 2018

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
IEA	11/04/18	\$525.00	0.20	\$105.00	Emails to and from client re update and next steps
IEA	18/04/18	\$525.00	0.40	\$210.00	Emails to and from client and J. Nemers re update and next steps and discussions with J. Nemers re same
JTN	18/04/18	\$375.00	0.20	\$75.00	Receipt and review of email from client; Email exchange and discussion with I. Aversa re same
IEA	19/04/18	\$525.00	1.00	\$525.00	Emails to and from client and J. Nemers re update and next steps and discussions and instructions to J. Nemers re same; Engaged with reviewing draft letter and providing comments; Emails to and from clients and J. Nemers re same
JTN	19/04/18	\$375.00	0.40	\$150.00	Engaged with review of, revisions to and further drafting of template letter re records
IEA	23/04/18	\$525.00	0.50	\$262.50	Telephone call and emails to and from clients regarding update and next steps; Update to J. Nemers regarding same

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
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TOTAL:			2.70	\$1,327.50	
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Name	Hours	Rate	Value
Ian E. Aversa (IEA)	2.10	\$525.00	\$1,102.50
Jeremy T. Nemers (JTN)	0.60	\$375.00	\$225.00

OUR FEE	\$1,327.50
HST at 13%	\$172.58

**DISBURSEMENTS**

Subject to HST

Photocopies - Local	\$10.25
HST at 13%	\$1.33

AMOUNT NOW DUE	<u>\$1,511.66</u>
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THIS IS OUR ACCOUNT HEREIN  
Aird & Berlis LLP

  
Ian E Aversa

E.&O.E.

**PAYMENT OF THIS ACCOUNT IS DUE ON RECEIPT**

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 1.5% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS ACCOUNT IS DELIVERED.

GST / HST Registration # 12184 6539 RT0001

NOTE: This account may be paid by wire transfer in Canadian funds to our account at The Toronto-Dominion Bank, TD Centre, 55 King Street West, Toronto, Ontario, M5K 1A2. Account number 5221521, Transit number 10202, Swift Code TDOMCATTTOR. Please include the account number as reference.

IN ACCOUNT WITH:

**AIRD BERLIS**

Brookfield Place, 181 Bay Street, Suite 1800  
Toronto, Ontario, Canada M5J 2T9  
T 416.863.1500 F 416.863.1515  
airdberlis.com

A. Farber & Partners Inc.  
1600 - 150 York Street  
Toronto, ON  
M5H 3S5

Attention: Mr. Hylton Levy

**Account No.: 599205**

PLEASE WRITE ACCOUNT NUMBERS  
ON THE BACK OF ALL CHEQUES

File No.: 13885/142134

May 29, 2018

**Re: Re/Max Right Choice Inc. and Toronto Right Choice Brokerage Inc.**

FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ended May 25, 2018

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
IEA	01/05/18	\$525.00	1.00	\$525.00	Engaged with reviewing correspondence from client; Discussions and instructions to J. Nemers re same; Engaged with reviewing revised version of draft letter and emails and discussions with J. Nemers re same
JTN	01/05/18	\$375.00	0.80	\$300.00	Receipt and review of email from client; Engaged with review of, revisions to and further drafting of letter to certain uncooperating parties; Email to client re same; Email to and discussions with I. Aversa re same
IEA	02/05/18	\$525.00	0.50	\$262.50	Engaged with reviewing revised version of draft letter and discussions and instructions to J. Nemers re same; Emails to and from clients and J. Nemers re same
JTN	02/05/18	\$375.00	0.30	\$112.50	Telephone call with client re draft letter; Email to and discussion with I. Aversa re same
IEA	03/05/18	\$525.00	1.00	\$525.00	Emails and discussions with client and J. Nemers re issue of letters;



LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
					Engaged with reviewing draft agreement and correspondence from client and discussions with J. Nemers re same
JTN	03/05/18	\$375.00	1.40	\$525.00	Discussion with M. Litwack re letters to uncooperating parties; Engaged with revisions to and separation of letters re same; Email exchange with client re same; Engaged with finalization and issuance of letters; Receipt and review of draft agreement from client; Consider same; Telephone call with I. Aversa re same; Attend to related matters as needed
IEA	04/05/18	\$525.00	0.50	\$262.50	Emails to and from client and J. Nemers regarding letters to developers, draft assignment agreement and update and next steps; Discuss and instructions to J. Nemers regarding same; Emails to and from counsel, client and J. Nemers regarding correspondence re request for records
JTN	04/05/18	\$375.00	0.20	\$75.00	Receipt and review of response from A. Romanelli; Email exchange with client re same; Attend to related matters as needed
JTN	05/05/18	\$375.00	0.10	\$37.50	Receipt and review of email from A. Romanelli
IEA	07/05/18	\$525.00	1.00	\$525.00	Engaged with reviewing correspondence from client; Discussions with J. Nemers regarding same; Telephone calls and emails to and from clients and J. Nemers; Discussions and instructions to J. Nemers regarding same
JTN	07/05/18	\$375.00	0.60	\$225.00	Receipt and review of email and attachments from M. Litwack re A. Romanelli; Attend on conference call with client re same; Email to A. Romanelli
IEA	08/05/18	\$525.00	1.00	\$525.00	Emails to and from clients, J.

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
					Nemers and counsel re demand for documents; Discussions and instructions to J. Nemers re same; Emails re same
JTN	08/05/18	\$375.00	2.50	\$937.50	Receipt and review of emails from A. Romanelli and client; Prepare and issue lengthy email to T. Bilots and V. Belovich re same; Engaged with drafting of assignment agreement re Century 21 Heritage Group Ltd.; Email exchanges and telephone call with I. Aversa re same
IEA	09/05/18	\$525.00	0.50	\$262.50	Engaged with reviewing correspondence and documents re request for records and emails to and from clients and J. Nemers re same; Emails to and from clients and J. Nemers re draft assignment agreement and next steps re same
JTN	09/05/18	\$375.00	0.80	\$300.00	Engaged with revisions to draft agreement re Century 21; Email to client re same; Receipt and review of email from V. Belovich; Email exchange with client re same; Telephone call with I. Aversa re same
IEA	11/05/18	\$525.00	0.30	\$157.50	Engaged with reviewing documents from client and emails to and from clients and J. Nemers
JTN	11/05/18	\$375.00	0.10	\$37.50	Receipt and review of email from M. Litwack re Century 21
IEA	14/05/18	\$525.00	0.20	\$105.00	Emails to and from counsel, clients and J. Nemers
JTN	14/05/18	\$375.00	0.10	\$37.50	Discussion with I. Aversa re status and potential next steps
IEA	15/05/18	\$525.00	0.20	\$105.00	Telephone call with client re update and next steps; Voicemails re requests for information and discussions and instructions to J. Nemers re same
JTN	15/05/18	\$375.00	0.30	\$112.50	Receipt and review of voicemails from J. DeTommaso re Pemberton /

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
					Gates of Bayview Glen; Discussion with I. Aversa re same; Email to client re same
IEA	16/05/18	\$525.00	0.40	\$210.00	Emails to and from clients and J. Nemers and reviewing documents from client; Discussions with J. Nemers re same
JTN	16/05/18	\$375.00	0.40	\$150.00	Email exchange with client; Receipt and review of letter to Pemberton Group / Gates of Bayview Glen; Email to J. DeTommaso
IEA	17/05/18	\$525.00	0.60	\$315.00	Emails and discussions re request for documents and discussions and instructions to J. Nemers re same
JTN	17/05/18	\$375.00	0.70	\$262.50	Discussion with M. Litwack re status; Email exchange and discussion with I. Aversa re same; Telephone message for, emails to and discussion with J. DeTommaso; Attend to related matters as needed
IEA	18/05/18	\$525.00	0.40	\$210.00	Telephone call with client regarding update and next steps and discussions with J. Nemers regarding same; Emails and discussions regarding request for records
JTN	18/05/18	\$375.00	0.20	\$75.00	Receipt and review of email from J. DeTommaso; Email to client re same; Discussion with I. Aversa
IEA	21/05/18	\$525.00	0.20	\$105.00	Emails to and from J. Nemers regarding request for records
IEA	22/05/18	\$525.00	0.60	\$315.00	Engaged with reviewing documents from client and discussions and instructions to J. Nemers re same; Emails to and from clients and J. Nemers re same
JTN	22/05/18	\$375.00	1.00	\$375.00	Receipt and review of comments from client re Gates of Bayview Glen; Engaged with review of three template agreements re Century 21 and Re/Max, as applicable; Meeting with I. Aversa re same

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
IEA	23/05/18	\$525.00	0.50	\$262.50	Emails and discussions with J. Nemers re update and next steps; Emails to and from clients and J. Nemers re same
JTN	23/05/18	\$375.00	0.30	\$112.50	Engaged with preparation of draft email to client re outstanding questions re Century 21
IEA	24/05/18	\$525.00	0.50	\$262.50	Engaged with reviewing documents and correspondence from client; Emails to and from client and J. Nemers and discussions with J. Nemers
JTN	24/05/18	\$375.00	0.20	\$75.00	Email exchanges with client; Receipt and review of email re Dundas Square; Reply email to Dundas Square
IEA	25/05/18	\$525.00	0.30	\$157.50	Emails to and from clients and J. Nemers and discussions with J. Nemers
<b>TOTAL:</b>			19.70	\$8,842.50	

Name	Hours	Rate	Value
Ian E. Aversa (IEA)	9.70	\$525.00	\$5,092.50
Jeremy T. Nemers (JTN)	10.00	\$375.00	\$3,750.00

<b>OUR FEE</b>	\$8,842.50
HST at 13%	\$1,149.53

#### DISBURSEMENTS

#### Subject to HST

Postage	\$19.68
Imaging/Scanning	\$0.50
Photocopies - Local	\$13.50
<b>Total Disbursements</b>	<b>\$33.68</b>
HST at 13%	\$4.38

<b>AMOUNT NOW DUE</b>	<b>\$10,030.09</b>
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THIS IS OUR ACCOUNT HEREIN  
Aird & Berlis LLP



Ian E Aversa

E.&O.E.

**PAYMENT OF THIS ACCOUNT IS DUE ON RECEIPT**

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 1.5% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS ACCOUNT IS DELIVERED.

GST / HST Registration # 12184 6539 RT0001

NOTE: This account may be paid by wire transfer in Canadian funds to our account at The Toronto-Dominion Bank, TD Centre, 55 King Street West, Toronto, Ontario, M5K 1A2. Account number 5221521, Transit number 10202, Swift Code TDOMCATTTOR. Please include the account number as reference.

32730930.1

IN ACCOUNT WITH:

**AIRD BERLIS**

Brookfield Place, 181 Bay Street, Suite 1800  
Toronto, Ontario, Canada M5J 2T9  
T 416.863.1500 F 416.863.1515  
airdberlis.com

A. Farber & Partners Inc.  
1600 - 150 York Street  
Toronto, ON  
M5H 3S5

Attention: Mr. Hylton Levy

**Account No.: 602287**

PLEASE WRITE ACCOUNT NUMBERS  
ON THE BACK OF ALL CHEQUES

File No.: 13885/142134

June 28, 2018

**Re: Re/Max Right Choice Inc. and Toronto Right Choice Brokerage Inc.**

FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ended June 26, 2018

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
JTN	27/05/18	\$375.00	0.20	\$75.00	Telephone call with I. Aversa re status and next steps
IEA	28/05/18	\$525.00	0.40	\$210.00	Discussions with J. Nemers and emails to and from clients and J. Nemers
JTN	28/05/18	\$375.00	0.50	\$187.50	Engaged with review of application record re Century 21 matters; Discussion with I. Aversa re same; Email to client re same
IEA	29/05/18	\$525.00	0.40	\$210.00	Emails to and from clients and J. Nemers and discussions with J. Nemers re same
JTN	29/05/18	\$375.00	0.10	\$37.50	Email exchange with client
IEA	30/05/18	\$525.00	0.20	\$105.00	Emails to and from clients and J. Nemers and discussions with J. Nemers
JTN	30/05/18	\$375.00	0.10	\$37.50	Email exchange with client
IEA	31/05/18	\$525.00	0.10	\$52.50	Emails to and from J. Nemers
IEA	01/06/18	\$525.00	1.40	\$735.00	Telephone call and emails to and from client and J. Nemers regarding update and next steps

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
JTN	01/06/18	\$375.00	1.50	\$562.50	Engaged with review of Excel spreadsheet prepared by client; Attend on conference call with client and I. Aversa
IEA	03/06/18	\$525.00	0.10	\$52.50	Emails to and from client and J. Nemers
IEA	04/06/18	\$525.00	1.00	\$525.00	Telephone call and emails to and from clients and J. Nemers regarding update and next steps; Discussions and instructions to J. Nemers regarding same
JTN	04/06/18	\$375.00	0.30	\$112.50	Receipt and review of email from H. Levy; Email exchange with M. Litwack; Attend on conference call with client
IEA	05/06/18	\$525.00	0.60	\$315.00	Emails to and from client and J. Nemers; Telephone call with client; Discussions with J. Nemers
IEA	06/06/18	\$525.00	1.00	\$525.00	Emails to and from clients and J. Nemers re letters re requests for records; Discussions and instructions to J. Nemers re same; Engaged with issuing letters and emails to and from clients and J. Nemers re same
JTN	06/06/18	\$375.00	0.40	\$150.00	Receipt and review of email from client; Instruct E. Baltkois re issuance of form letter to additional parties; Receipt and review of further emails from client; Discussion with I. Aversa re same
IEA	07/06/18	\$525.00	1.20	\$630.00	Engaged with reviewing correspondence and documentation re requests for records and emails and discussions re same; Telephone call with client and J. Nemers re update and next steps; Discussions and instructions to J. Nemers re draft report and corresponding motion materials

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
JTN	07/06/18	\$375.00	5.10	\$1,912.50	Engaged with review of, revisions to and further drafting of First Report; Discussion with I. Aversa re same and related matters; Telephone call with client
IEA	08/06/18	\$525.00	0.50	\$262.50	Engaged with reviewing documents and correspondence regarding requests for records and emails and discussions regarding same; Discussions with J. Nemers regarding draft report and next steps regarding same
JTN	08/06/18	\$375.00	5.50	\$2,062.50	Engaged with continued review of, revisions to and drafting of First Report; Discussion with I. Aversa re same
JTN	09/06/18	\$375.00	0.10	\$37.50	Receipt and review of email from P. Prescott
IEA	10/06/18	\$525.00	0.20	\$105.00	Emails to and from P. Prescott, client and J. Nemers
IEA	11/06/18	\$525.00	0.60	\$315.00	Conference call with client, P. Prescott and J. Nemers; Telephone call with client and J. Nemers; Emails to and from client and J. Nemers re same
JTN	11/06/18	\$375.00	0.70	\$262.50	Attend on conference call with P. Prescott; Telephone call with client re same; Prepare draft email for client to send to P. Prescott
IEA	12/06/18	\$525.00	0.40	\$210.00	Emails to and from counsel, client and J. Nemers and discussions with J. Nemers
JTN	12/06/18	\$375.00	2.10	\$787.50	Engaged with further drafting of First Report; Email to P. Prescott; Discussion with I. Aversa
IEA	14/06/18	\$525.00	0.30	\$157.50	Emails to and from clients and J. Nemers and discussions and instructions to J. Nemers re same
JTN	14/06/18	\$375.00	0.80	\$300.00	Engaged with further drafting of First Report



LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
IEA	15/06/18	\$525.00	0.30	\$157.50	Emails to and from clients and J. Nemers and discussions and instructions to J. Nemers
JTN	15/06/18	\$375.00	0.20	\$75.00	Discussion with I. Aversa re Ideal Developments; Email to S. Sowdagar re same
IEA	17/06/18	\$525.00	0.20	\$105.00	Emails to and from J. Nemers regarding request for records and draft report
IEA	18/06/18	\$525.00	2.00	\$1,050.00	Engaged with reviewing draft letter to principal and providing comments; Discussions and instructions to J. Nemers regarding same; Emails to and from clients and J. Nemers regarding same; Engaged with reviewing the draft report and providing comments; Discussions and instructions to J. Nemers regarding same; Emails to and from clients and J. Nemers regarding same
JTN	18/06/18	\$375.00	4.90	\$1,837.50	Receipt and review of email from S. Sowdagar; Engaged with drafting of letter to J. Hajimir; Email exchange with client re same; Issue letter; Engaged with further drafting of First Report; Receipt and review of email from P. Prescott; Discussions with I. Aversa; Attend to related matters as needed
IEA	19/06/18	\$525.00	0.20	\$105.00	Telephone call with client re update and next steps
IEA	20/06/18	\$525.00	0.20	\$105.00	Emails to and from clients and J. Nemers re update and next steps
JTN	20/06/18	\$375.00	0.10	\$37.50	Discussion with I. Aversa re claims procedure
IEA	21/06/18	\$525.00	0.30	\$157.50	Engaged with reviewing correspondence re request for records and emails to and from clients and J. Nemers re same

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
IEA	22/06/18	\$525.00	0.50	\$262.50	Emails to and from clients and J. Nemers; Emails to and from counsel, clients and J. Nemers
IEA	24/06/18	\$525.00	1.00	\$525.00	Engaged with reviewing past documents and correspondence in preparation of call with clients and emails and discussions with client and J. Nemers re same
IEA	25/06/18	\$525.00	3.00	\$1,575.00	Telephone call and emails to and from clients and J. Nemers regarding the draft report and next steps; Engaged with reviewing and revising report and preparing several letters regarding same
JTN	25/06/18	\$375.00	1.20	\$450.00	Attend on conference call with client and I. Aversa re draft report, related matters and next steps
SRM	26/06/18	\$350.00	0.10	\$35.00	Order updated PPSA searches
<b>TOTAL:</b>			40.00	\$17,412.50	

Name	Hours	Rate	Value
Jeremy T. Nemers (JTN)	23.80	\$375.00	\$8,925.00
Ian E. Aversa (IEA)	16.10	\$525.00	\$8,452.50
Shannon R. Morris (SRM)	0.10	\$350.00	\$35.00

**OUR FEE** \$17,412.50  
HST at 13% \$2,263.63

#### DISBURSEMENTS

Subject to HST

Postage \$88.56  
Photocopies \$8.00  
Photocopies - Local \$25.75  
Imaging/Scanning \$6.50

Total Disbursements \$128.81  
HST at 13% \$16.75

**AMOUNT NOW DUE**

**\$19,821.69**

THIS IS OUR ACCOUNT HEREIN  
Aird & Berlis LLP



Ian E Aversa

E.&O.E.

**PAYMENT OF THIS ACCOUNT IS DUE ON RECEIPT**

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 1.5% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS ACCOUNT IS DELIVERED.

GST / HST Registration # 12184 6539 RT0001

NOTE: This account may be paid by wire transfer in Canadian funds to our account at The Toronto-Dominion Bank, TD Centre, 55 King Street West, Toronto, Ontario, M5K 1A2. Account number 5221521, Transit number 10202, Swift Code TDOMCATTTOR. Please include the account number as reference.

IN ACCOUNT WITH:

**AIRD BERLIS**

Brookfield Place, 181 Bay Street, Suite 1800  
Toronto, Ontario, Canada M5J 2T9  
T 416.863.1500 F 416.863.1515  
airdberlis.com

A. Farber & Partners Inc.  
1600 - 150 York Street  
Toronto, ON  
M5H 3S5

Attention: Mr. Hylton Levy

**Account No.: 605285**

PLEASE WRITE ACCOUNT NUMBERS  
ON THE BACK OF ALL CHEQUES

File No.: 13885/142134

July 27, 2018

**Re: Re/Max Right Choice Inc. and Toronto Right Choice Brokerage Inc.**

FOR PROFESSIONAL SERVICES RENDERED on your behalf throughout the period ended July 26, 2018

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
JTN	24/06/18	\$375.00	0.20	\$75.00	Engaged with review of and revisions to draft summary status email to client re various matters
IEA	26/06/18	\$525.00	3.40	\$1,785.00	Engaged with reviewing and revising the draft report and emails to and from clients and J. Nemers re same; Telephone call with client re same; Engaged with preparing and issuing several letters re requests for information and documentation; Emails to and from clients and J. Nemers re same; Several emails to and from parties and client re requests for information and records
JTN	26/06/18	\$375.00	0.10	\$37.50	Telephone call with I. Aversa re status
IEA	27/06/18	\$525.00	2.00	\$1,050.00	Engaged with reviewing and revising the draft court materials and emails to and from clients and J. Nemers regarding same; Discussions and instructions to J. Nemers re same; Emails and discussions re requests for instructions and PPSA searches

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
JTN	27/06/18	\$375.00	1.80	\$675.00	Engaged with drafting of notice of motion; Email exchange with I. Aversa re same; Telephone call with I. Aversa re strategy re non-cooperating parties and related matters
IEA	28/06/18	\$525.00	1.00	\$525.00	Emails to and from S. Morris and J. Nemers re updated PPSA search results; Emails and discussions with J. Nemers re draft order
SRM	28/06/18	\$350.00	0.20	\$70.00	Review and report on updated PPSA search
JTN	28/06/18	\$375.00	4.40	\$1,650.00	Engaged with drafting of claims procedure order and schedules thereto; Email to I. Aversa re same
IEA	29/06/18	\$525.00	1.00	\$525.00	Telephone call and emails to and from client and J. Nemers re draft court materials and next steps; Emails to and from parties re request for records and instructions; Discuss and instruct J. Nemers re same
JTN	29/06/18	\$375.00	2.10	\$787.50	Engaged with further drafting of and revisions to claims procedure order; Engaged with drafting of ancillary order; Email exchanges with builders and client; Telephone calls with I. Aversa; Email draft orders to client; Attend to related matters as needed
IEA	02/07/18	\$525.00	1.50	\$787.50	Engaged with reviewing and revising claims procedure order and ancillary order; Emails to and from clients and J. Nemers re same; Emails re requests for records and information
JTN	02/07/18	\$375.00	0.10	\$37.50	Email exchange with I. Aversa re P. Prescott
IEA	03/07/18	\$525.00	1.00	\$525.00	Emails to and from clients and J. Nemers re draft court materials and next steps re same; Emails re requests/responses re information records

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
JTN	03/07/18	\$375.00	1.40	\$525.00	Engaged with drafting of further email to P. Prescott re Century 21; Email to I. Aversa re same; Engaged with drafting of further email to J. DeTommaso re same; Email to I. Aversa re same; Email exchange with client re same; Email exchange with J. DeTommaso; Email exchange with client re results of same and follow-up questions
IEA	04/07/18	\$525.00	1.00	\$525.00	Telephone call and emails to and from clients and J. Nemers; Emails and discuss re various requests for information and next steps re same
JTN	04/07/18	\$375.00	0.70	\$262.50	Engaged with review of material provided by Metropia re 181 Bedford Road, Unit 2502; Prepare draft emails to M. Litwack and D. Spiegel re same; Discussion with I. Aversa
IEA	05/07/18	\$525.00	0.20	\$105.00	Telephone call and emails to and from clients and J. Nemers
JTN	05/07/18	\$375.00	0.20	\$75.00	Email exchange with R. Le re 181 Bedford; Discussion with I. Aversa re same
IEA	06/07/18	\$525.00	0.20	\$105.00	Emails to and from clients and J. Nemers
JTN	06/07/18	\$375.00	0.10	\$37.50	Receipt and review of email from J. DeTommaso; Email to M. Litwack re same
IEA	09/07/18	\$525.00	0.30	\$157.50	Emails to and from clients, J. Nemers and others regarding reports for information and discussions with J. Nemers regarding same
JTN	09/07/18	\$375.00	0.30	\$112.50	Receipt and review of email from R. Le re 181 Bedford Road; Email exchange with M. Litwack re same; Prepare and issue responding email to R. Le re same
IEA	10/07/18	\$525.00	0.20	\$105.00	Telephone call and emails to and from clients and J. Nemers

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
IEA	11/07/18	\$525.00	0.20	\$105.00	Emails to and from client and J. Nemers
IEA	12/07/18	\$525.00	0.20	\$105.00	Emails to and from clients and J. Nemers and discussions and instructions to J. Nemers re same
JTN	12/07/18	\$375.00	0.10	\$37.50	Receipt and review of email from M. Litwack re P. Prescott
IEA	13/07/18	\$525.00	1.00	\$525.00	Telephone call and emails to and from clients and J. Nemers; Discussions and instructions to J. Nemers regarding next steps
JTN	13/07/18	\$375.00	0.30	\$112.50	Email exchange and conference call with client re status update
IEA	15/07/18	\$525.00	0.20	\$105.00	Emails to and from clients and J. Nemers
JTN	15/07/18	\$375.00	0.10	\$37.50	Email exchange with M. Litwack re Century 21
IEA	16/07/18	\$525.00	2.50	\$1,312.50	Emails to and from clients and J. Nemers regarding update regarding draft report, draft orders and next steps; Discussions and instructions to J. Nemers regarding same; Engaged with reviewing draft report and providing comments; Emails and discussions regarding same; Engaged with reviewing draft documents/correspondence regarding Century 21 and providing comments; Emails and discussions regarding same
JTN	16/07/18	\$375.00	1.50	\$562.50	Engaged with drafting of notice and direction re Century 21; Email to and discussion with I. Aversa re same; Prepare draft cover communication to P. Prescott re same; Discussion with I. Aversa re First Report and matters related thereto
IEA	17/07/18	\$525.00	1.00	\$525.00	Emails to and from clients and J. Nemers re Century 21; Discuss and instruct J. Nemers re further amendment to draft report and related motion materials

LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
JTN	17/07/18	\$375.00	1.40	\$525.00	Receipt and review of emails from H. Levy and I. Aversa re P. Prescott; Discussion with I. Aversa re same; Email to P. Prescott; Engaged with review of and further revisions to and drafting of First Report; Discussions with I. Aversa re same
IEA	18/07/18	\$525.00	1.00	\$525.00	Emails to and from counsel, clients and J. Nemers; Discuss and instruct J. Nemers re same
JTN	18/07/18	\$375.00	0.10	\$37.50	Receipt and review of email from client re J. DeTommaso
IEA	19/07/18	\$525.00	0.30	\$157.50	Emails to and from clients and J. Nemers
IEA	20/07/18	\$525.00	1.30	\$682.50	Several emails to and from clients and J. Nemers and discussions and instructions to J. Nemers; Engaged with reviewing and revising the draft report and the corresponding motion materials and emails to and from clients and J. Nemers regarding same
JTN	20/07/18	\$375.00	6.20	\$2,325.00	Engaged with further review of, revisions to and drafting of First Report; Engaged with further review of, revisions to and drafting of Claims Procedure Order; Engaged with further review of, revisions to and drafting of Ancillary Order; Engaged with further review of, revisions to and drafting of Notice of Motion; Email exchanges and telephone call with M. Litwack re J. DeTommaso; Email exchanges and discussions with I. Aversa re court materials and K. Najafi; Prepare and issue letter to D. Altshuller re same; Attend to related tasks as needed
IEA	23/07/18	\$525.00	0.30	\$157.50	Emails to and from clients and J. Nemers regarding the draft report, motion materials and requests for information and discussions with J. Nemers regarding same



LAWYER	DATE	RATE/ HOUR	TIME	VALUE	DESCRIPTION
JTN	23/07/18	\$375.00	0.40	\$150.00	Engaged with revisions to draft email to J. DeTommaso; Email exchange to M. Litwack re same; Email to J. DeTommaso
IEA	24/07/18	\$525.00	1.00	\$525.00	Emails to and from clients and J. Nemers; Engaged with reviewing documents from clients; Engaged with reviewing correspondence and documents from Century 21
JTN	24/07/18	\$375.00	0.20	\$75.00	Receipt and review of comments to draft First Report from client; Receipt and review of email and attachments from P. Prescott
IEA	25/07/18	\$525.00	1.10	\$577.50	Telephone call and emails to and from clients and J. Nemers re draft report, corresponding materials and next steps re same and go forward plan; Discussions and instructions to J. Nemers re same
JTN	25/07/18	\$375.00	1.10	\$412.50	Attend on conference call with client re status; Engaged with revisions to First Report
IEA	26/07/18	\$525.00	0.50	\$262.50	Engaged with booking a court date and emails and discussions re same; Emails to and from clients and J. Nemers re hearing and draft court materials
<b>TOTAL:</b>			45.40	\$20,380.00	

Name	Hours	Rate	Value
Jeremy T. Nemers (JTN)	22.80	\$375.00	\$8,550.00
Ian E. Aversa (IEA)	22.40	\$525.00	\$11,760.00
Shannon R. Morris (SRM)	0.20	\$350.00	\$70.00

<b>OUR FEE</b>	\$20,380.00
HST at 13%	\$2,649.40

**DISBURSEMENTS**

**COST INCURRED ON YOUR BEHALF AS AN AGENT**

Search Under P.P.S.A. \$16.00

**Subject to HST**

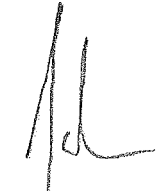
Service Provider Fee	\$9.00
Postage	\$49.20
Photocopies - Local	\$9.00
Imaging/Scanning	\$1.50

Total Disbursements	\$68.70
HST at 13%	\$8.93

**AMOUNT NOW DUE**

**\$23,123.03**

THIS IS OUR ACCOUNT HEREIN  
Aird & Berlis LLP



Ian E Aversa

E.&O.E.

**PAYMENT OF THIS ACCOUNT IS DUE ON RECEIPT**

IN ACCORDANCE WITH THE SOLICITORS ACT, ONTARIO, INTEREST WILL BE CHARGED AT THE RATE OF 1.5% PER ANNUM ON UNPAID AMOUNTS CALCULATED FROM A DATE THAT IS ONE MONTH AFTER THIS ACCOUNT IS DELIVERED.

GST / HST Registration # 12184 6539 RT0001

NOTE: This account may be paid by wire transfer in Canadian funds to our account at The Toronto-Dominion Bank, TD Centre, 55 King Street West, Toronto, Ontario, M5K 1A2, Account number 5221521, Transit number 10202, Swift Code TDOMCATTTOR. Please include the account number as reference.

**REMIT TO:**

Aird & Berlis LLP  
Brookfield Place, 181 Bay Street, Suite 1800  
Toronto, Ontario, Canada M5J 2T9  
T 416.863.1500  
F 416.863.1515  
airdberlis.com

A. Farber & Partners Inc.  
File No.: 13885-142134  
Account No.: 605285  
Date: July 27, 2018

**REMITTANCE SLIP**

Total Fees	\$20,380.00
Total Non-Taxable Disbursements	\$16.00
Total Taxable Disbursements	\$68.70
Total HST	\$2,658.33
<b>AMOUNT TO BE PAID</b>	<b><u>\$23,123.03</u></b>

**PLEASE REMIT WITH PAYMENT IN CANADIAN FUNDS**

This account may be paid by wire transfer in Canadian funds to our account at The Toronto-Dominion Bank, TD Centre, 55 King Street West, Toronto, Ontario, M5K 1A2. Account number 5221521, Transit number 10202, Swift Code TDOMCATTTOR. Please include the account number as reference.

Attached is Exhibit "B"

Referred to in the

AFFIDAVIT OF IAN AVERSA

Sworn before me

this 9<sup>th</sup> day of August, 2018

  
A handwritten signature in dark ink, appearing to be "A. C.", is written over a horizontal line.

Commissioner for taking Affidavits, etc

## STATEMENT OF RESPONSIBLE INDIVIDUALS

*Aird & Berlis LLP's professional fees herein are made with respect to the following individuals*

<b>Lawyer</b>	<b>Call to Bar</b>	<b>Hrly Rate</b>	<b>Total Time</b>	<b>Value</b>
Ian Aversa	2008	2017 \$495.00	4.90	\$ 2,425.50
		2018 \$525.00	57.20	\$30,030.00
Jeremy T. Nemers	2014	2017 \$325.00	4.20	\$ 1,365.00
		2018 \$375.00	62.40	\$23,400.00
<b>Clerk/Student</b>	<b>Call to Bar</b>	<b>Avg Hrly Rate</b>	<b>Total Time</b>	<b>Value</b>
Shannon Morris	N/A	\$350.00	1.70	\$ 595.00

*\*Standard hourly rates listed. However, in certain circumstances adjustments to the account were made.*

**LLOYDS UNDERWRITERS, et al.**

-and-

**RE/MAX RIGHT CHOICE INC.**

Applicants

Respondent

Court File No. CV-17-586742-00CL

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

**Proceedings commenced at Toronto**

**AFFIDAVIT OF IAN AVERSA**

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

**Ian Aversa (LSUC # 55449N)**  
Tel: (416) 865-3082  
Fax: (416) 863-1515  
Email: [iaversa@airdberlis.com](mailto:iaversa@airdberlis.com)

**Jeremy Nemers (LSUC # 66410Q)**  
Tel : (416) 865-7724  
Fax : (416) 863-1515  
Email : [jnemers@airdberlis.com](mailto:jnemers@airdberlis.com)

*Lawyers for the Receiver*

# TAB 5

**SERVICE LIST**  
(Current as of June 19, 2018)

**TO: KLEIN & SCHONBLUM ASSOCIATES**

Barristers and Solicitors  
Yonge-Eglinton Centre, Box 2406  
2300 Yonge street, Suite 2901  
Toronto, ON M4P 1E4

**Jeffrey S. Klein**

Tel: (416) 480-0221  
Fax: (416) 480-0017  
Email: [jklein@ksalaw.com](mailto:jklein@ksalaw.com)

---

*Lawyers for the Applicants*

**AND TO: A. FARBER & PARTNERS INC.**

150 York Street, Suite 1600  
Toronto, ON M5H 3S5

**Hylton Levy**

Tel: (416) 496-3070  
Email: [hlevy@farbergroup.com](mailto:hlevy@farbergroup.com)

**Erez Cukierman**

Tel: (416) 496-3765  
Email: [ecukierman@farbergroup.com](mailto:ecukierman@farbergroup.com)

**Michael Litwack**

Tel: (416) 496-3087  
Email: [mlitwack@farbergroup.com](mailto:mlitwack@farbergroup.com)

*Court-appointed Receiver*

**AND TO: AIRD & BERLIS LLP**

Barristers and Solicitors  
Brookfield Place  
Suite 1800, 181 Bay Street  
Toronto, ON M5J 2T9

**Ian Aversa**

Tel: (416) 865-3082  
Email: [iaversa@airdberlis.com](mailto:iaversa@airdberlis.com)

**Jeremy Nemers**

Tel: (416) 865-7724  
Email: [jnemers@airdberlis.com](mailto:jnemers@airdberlis.com)

*Lawyers for the Court-appointed Receiver*



**AND TO: REAL ESTATE COUNCIL OF ONTARIO**

3300 Bloor Street West  
West Tower, Suite 1200  
Toronto, ON M8X 2X2

Attention: Robert Maxwell

**AND TO: TORONTO RIGHT CHOICE BROKERAGE INC. (formerly RE/MAX  
RIGHT CHOICE INC.)**

3 Steele Valley Road  
Thornhill, ON L3T 1M2

---

Attention: Jalil Hajimir

**AND TO: TORONTO RIGHT CHOICE BROKERAGE INC. (formerly RE/MAX  
RIGHT CHOICE INC.)**

499 16<sup>th</sup> Avenue  
Thornhill, ON L4C 7A7

Attention: Jalil Hajimir

**AND TO: AARON CRANGLE**

Barrister and Solicitor  
197 Spadina Avenue, Suite 400  
Toronto, ON M5T 2C8

Fax: 647-479-0344

**AND TO: TEPLITSKY COLSON**

Barristers and Solicitors  
70 Bond Street, Suite 200  
Toronto, ON

**David Altshuller**

Tel: (416) 865-5338

Fax: (416) 365-0695

Email: [daltshuller@teplitskycolson.com](mailto:daltshuller@teplitskycolson.com)

*Lawyers for Kevin Najafi*

**AND TO: DEPARTMENT OF JUSTICE**  
120 Adelaide Street West, Suite 400  
Toronto, ON M5H 1T1

**Diane Winters**  
Tel: (647) 256-7459  
Email: [diane.winters@justice.gc.ca](mailto:diane.winters@justice.gc.ca)

---

**Email Service:**

jklein@ksalaw.com; hlevy@farbergroup.com; ecukierman@farbergroup.com;  
mlitwack@farbergroup.com; iaversa@airdberlis.com; jnemers@airdberlis.com;  
daltshuller@teplitskycolson.com; diane.winters@justice.gc.ca

31460229.2

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**LLOYDS UNDERWRITERS, et al.**

-and-

**RE/MAX RIGHT CHOICE INC.**

Respondent

Applicants

Court File No. CV-17-586742-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**Proceedings commenced at Toronto**

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**MOTION RECORD  
(returnable August 24, 2018)**

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**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
Suite 1800, 181 Bay Street  
Toronto, ON M5J 2T9

**Ian Aversa (LSUC # 55449N)**  
Tel: (416) 865-3082  
Fax: (416) 863-1515  
Email: [iaversa@airdberlis.com](mailto:iaversa@airdberlis.com)

**Jeremy Nemers (LSUC # 66410Q)**  
Tel: (416) 865-7724  
Fax: (416) 863-1515  
Email: [jnemers@airdberlis.com](mailto:jnemers@airdberlis.com)

*Lawyers for A. Farber & Partner Inc., in its capacity as the court-  
appointed receiver of the Property*