

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

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

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

Plaintiffs

- and -

**RAY C. JARVIS aka RAYMOND JARVIS, RE/MAX NORTH COUNTRY REALTY  
INC., 1981262 ONTARIO INC., 1923129 ONTARIO INC. cob WOODSIDE POTTERY,  
NOBLE HOUSE DEVELOPMENT CORPORATION, COSTELLOS OF CRAIGHURST  
INC., 2209326 ONTARIO LTD. and MARIPOSA LANDING INC.**

Defendants

---

**MOTION RECORD  
OF THE PLAINTIFFS**

(Motion to Lift Stay/Transfer to Commercial List)

---

April 13, 2020

**GARDINER ROBERTS LLP**

Lawyers  
Bay Adelaide Centre  
22 Adelaide Street West, Suite 3600  
Toronto, ON M5H 4E3

**Alexander Melfi (LSO: 64154H)**

amelfi@grllp.com  
Tel: 416-865-6712

**Gavin J. Tighe (LSO: 34496Q)**

gjtighe@grllp.com  
Tel: 416-865-6664

Tel: 416-865-6600

Fax: 416-865-6636

Lawyers for the Plaintiffs

**TO: FALLS LAW GROUP  
A PROFESSIONAL CORPORATION**  
255 Manitoba Street  
Bracebridge, ON P1L 1S2

**Jay Herbert**  
jay@fallslaw.ca  
Tel: (705) 645-3007  
Fax: (705) 645-3998

Lawyers for the Defendants,  
Ray C. Jarvis aka Raymond Jarvis, Re/Max North Country Realty Inc.,  
1981262 Ontario Inc., 1923129 Ontario Inc. cob Woodside Pottery,  
Noble House Development Corporation, Costellos of Craighurst Inc.  
and 2209326 Ontario Ltd.

**AND TO: MARIPOSA LANDING INC.**  
29 Main Street East, Unit 101  
Hunstville, ON P1H 2C6

**AND TO: HARRISON PENSA LLP**  
Barristers & Solicitors  
450 Talbot Street  
London, ON N6A 5J6

**Timothy C. Hogan / Robert Danter**  
Tel: (519) 661-6725  
Fax: (519) 667-3362

Lawyers for the Applicant,  
PACE Savings & Credit Union Limited  
in Court File No. CV-20-635946-00CL

**AND TO: AIRD & BERLIS LLP**  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

**Sanjeev Mitra / Jeremy Nemers**  
Tel: (416) 863-1500  
Fax: (416) 863-1515

Lawyers for the Receiver,  
msi Spergel Inc.  
in Court File No. CV-20-635946-00CL

**AND TO:** The E-Service List in Court File No. CV-20-635946-00CL

# Index

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

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

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

Plaintiffs

- and -

**RAY C. JARVIS aka RAYMOND JARVIS, RE/MAX NORTH COUNTRY REALTY  
INC., 1981262 ONTARIO INC., 1923129 ONTARIO INC. cob WOODSIDE POTTERY,  
NOBLE HOUSE DEVELOPMENT CORPORATION, COSTELLOS OF CRAIGHURST  
INC., 2209326 ONTARIO LTD. and MARIPOSA LANDING INC.**

Defendants

**INDEX**

<b><u>Document</u></b>	<b><u>Tab</u></b>
Notice of Motion, dated April 13, 2020.....	1
Affidavit of Alexander Melfi, affirmed April 14, 2020.....	2
Exhibit “A” - Letter from Jay Herbert to Alexander Melfi dated Feb. 27, 2020 with enclosed Notice of Intent to Defend.....	A
Exhibit “B” - Letter from Alexander Melfi to Jay Herbert dated March 16, 2020...	B
Exhibit “C” - Email from Alexander Melfi to Jay Herbert dated March 25, 2020...	C
Exhibit “D” - Receivership Order of the Honourable Mr. Justice Hainey dated February 20, 2020 in Court File No. CV-20-635946-00CL.....	D
Amended Statement of Claim (issued Feb. 12, 2020; amended Feb. 18, 2020).....	3
Proposed Draft Order.....	4



**Tab 1**

Court File No. CV-20-277-00

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

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

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

Plaintiffs

- and -

**RAY C. JARVIS aka RAYMOND JARVIS, RE/MAX NORTH COUNTRY REALTY  
INC., 1981262 ONTARIO INC., 1923129 ONTARIO INC. cob WOODSIDE POTTERY,  
NOBLE HOUSE DEVELOPMENT CORPORATION, COSTELLOS OF CRAIGHURST  
INC., 2209326 ONTARIO LTD. and MARIPOSA LANDING INC.**

Defendants

**NOTICE OF MOTION**

The Plaintiffs will make a Motion to a Judge presiding over the Commercial List division of the Superior Court of Justice at Toronto, Ontario on a date to be scheduled, at 10:00 a.m., or as soon after that time as the Motion can be heard at the court house, 330 University Avenue, 8th Floor, Toronto, Ontario, M5G 1R7.

**PROPOSED METHOD OF HEARING:** The Motion is to be heard

☒ orally.

**THE MOTION IS FOR:**

- (a) If necessary, an Order abridging the time for service of this Notice of Motion and the Plaintiffs' Motion Record;
- (b) If necessary, an Order validating service of this Notice of Motion and the Plaintiffs' Motion Record on the Defendants and any other party entitled to receive notice of this motion;
- (c) An Order lifting the stay of proceedings on the within action resulting from the Order of Mr. Justice Hailey dated February 20, 2020 in Court File No. CV-20-635946-00CL;
- (d) An Order permanently transferring the within action from the Superior Court of Justice at Barrie, Ontario to the Commercial List division of the Superior Court of Justice at Toronto, Ontario;
- (e) Costs from any party who opposes this motion on a substantial indemnity basis; and
- (f) Such further and other relief as counsel may advise and as to this Honourable Court may seem just.

**THE GROUNDS FOR THE MOTION ARE:**

**Background to the Motion**

- (a) The Plaintiffs commenced a claim against the Defendants on February 12, 2020 via Statement of Claim issued by the Superior Court of Justice at Barrie, Ontario, which was subsequently amended on February 18, 2020;
- (b) In the Amended Statement of Claim, the Plaintiffs seek injunctive relief against the Defendants, including a *Mareva* injunction and the issuance of Certificates of Pending Litigation, as well as damages due to an alleged fraud committed by the Defendant, Ray Jarvis (“**Jarvis**”), in connection with his operation of the Defendant real estate brokerage, Re/Max North Country Realty Inc. (“**Re/Max**”);
- (c) In essence, the Plaintiffs allege that Jarvis misappropriated a significant quantum of trust funds from Re/Max’s statutory trust accounts and used those trust funds to purchase, improve and/or otherwise deal with real properties owned by the various Defendant corporations in which he has an interest;
- (d) The Plaintiffs have served the Defendants with a Motion Record seeking, *inter alia*, a *Mareva* injunction and Certificates of Pending Litigation, as well as a Supplementary Affidavit;
- (e) All of the Defendants except one have retained a lawyer to defend them in the within action but to date, none of the Defendants have delivered a Statement of Defence to the within action nor have they delivered any responding material to the Plaintiffs’ motion;

- (f) The Plaintiffs have since learned that on February 20, 2020, the Honourable Justice Hailey made an Order in Court File No. CV-20-635946-00CL (the “**Receivership Application**”) appointing msi Spergel Inc. as receiver (the “**Receiver**”) of, *inter alia*, the Defendants, Noble House Development Corporation (“**Noble House**”) and 2209326 Ontario Ltd. (“**220 Ontario**”), as well as 2307400 Ontario Inc., including with respect to real property owned by these Defendants (the “**Receivership Order**”);
- (g) As a result of the Receivership Order, the Plaintiffs’ action, and accordingly their motion, is stayed pending receipt of permission from the Receiver and/or the Court that the action can proceed;

**The Plaintiffs Seek an Order Lifting the Stay of Proceedings**

- (h) The Plaintiffs seek an Order lifting the stay of proceedings of the within action in the interests of justice;
- (i) In that regard, in the action the Plaintiffs seek judgment against the various Defendants in relation to an alleged fraud committed by Jarvis in misappropriating trust funds from the trust accounts of Re/Max, which trust funds are alleged to have been used to purchase, improve, and/or otherwise deal with the properties owned by the Defendants as set out in the Amended Statement of Claim;

- (j) The Plaintiffs have served motion material seeking a *Mareva* injunction and Certificates of Pending Litigation to preserve the assets of the Defendants pending a final determination of the issues in the Amended Statement of Claim;
- (k) While some of the Defendants and properties in the within Action are subject to the Receivership Order and the risk that the properties and assets of these Defendants being dissipated without notice is therefore lessened, other Defendants and properties are not subject to the Receivership Order;
- (l) A stay of the within action will result in prejudice to the Plaintiffs if they are unable to proceed to seek interim injunctive relief against these Defendants and properties not subject to the Receivership Order, as these Defendants may not be prevented from dealing with their assets and properties pending the completion of the Receiver's engagement and the Plaintiffs will have no ability to seek the Court's assistance in the interim to protect their interests;

**The Plaintiffs Seek to have the Within Action Transferred to the Commercial List**

- (m) In addition to the relief sought with respect to a stay of the within action, the Plaintiffs' position is that a transfer of the within action from the Superior Court of Justice at Barrie, Ontario to be heard by the Commercial List division of the Superior Court of Justice at Toronto, Ontario is desirable in the interests of justice and for the sake of expediency and efficiency;
- (n) The parties and properties subject to the within action are substantially the same as the parties and properties at issue in the Receivership Application;

- (o) In that regard, pursuant to the Receivership Order the Defendants, Noble House and 220 Ontario, have been placed into receivership, along with all of the real property and other assets owned by these Defendants;
- (p) Further, the material relied upon by the Applicant, Pace Savings & Credit Union Limited, to obtain the Receivership Order indicates that Jarvis is a guarantor of the mortgage which the Applicant holds on the property subject to the Receivership Order and, as a result, Jarvis' personal assets may also be at issue in the Receivership Application;
- (q) Collectively, Noble House and 220 Ontario own five (5) of the nine (9) properties which the Plaintiffs allege received the benefit of the trust funds which were misappropriated by Jarvis from the trust accounts of Re/Max and against which the Plaintiffs seek Certificates of Pending Litigation;
- (r) By seeking Certificates of Pending Litigation against the properties owned by Noble House and 220 Ontario, as well as a *Mareva* injunction preventing these Defendants from disposing of any other assets they own, the Plaintiffs are claiming an interest in these properties and the assets of these Defendants, and will be making a claim to share in the proceeds of any sale of these properties and/or assets completed by the Receiver;
- (s) As these Defendants and their properties and assets are now subject to the Receivership Order, the Commercial List will be supervising the sale of the properties and/or assets owned by Noble House, 220 Ontario and/or Jarvis, and approving the distribution of any proceeds of the sale(s), some of which the

Plaintiffs may be entitled to receive if they obtain judgment against the Defendants;

- (t) Further, as Noble House and 220 Ontario are subject to the Receivership Order, and the guarantee of Jarvis with respect to the Applicant's mortgage on these properties may put his personal assets in jeopardy, the Commercial List will become familiar with the activities and backgrounds of these parties, which overlaps with the within action;
- (u) Accordingly, the Plaintiffs' position is that the Commercial List would be the best Court suited to deal with its claims against the Defendants and any entitlement to judgment and the proceeds of any sale of the properties and assets owned by the Defendants, rather than the Superior Court of Justice at Barrie, Ontario where the within action was commenced;
- (v) Rules 3.02, 13.1.02 and 16.08 of the *Rules of Civil Procedure* and the *Rules of Civil Procedure*, generally;
- (w) Sections 106 and 107 of the *Courts of Justice Act* and the *Courts of Justice Act*, generally; and
- (x) Such further and other grounds as the lawyers may advise.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Motion:

- (a) The pleadings and proceedings exchanged in the within action to date;



- (b) The Application Record in Court File No. CV-20-635946-00CL;
- (c) The affidavit of Alexander Melfi, affirmed April 14, 2020; and
- (d) Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

April 13, 2020

**GARDINER ROBERTS LLP**  
 Lawyers  
 Bay Adelaide Centre  
 22 Adelaide Street West, Suite 3600  
 Toronto, ON M5H 4E3

**Alexander Melfi (LSO: 64154H)**  
 amelfi@grllp.com  
 Tel: 416-865-6712

**Gavin J. Tighe (LSO: 34496Q)**  
 gjtighe@grllp.com  
 Tel: 416-865-6664

Tel: 416-865-6600  
 Fax: 416-865-6636

Lawyers for the Plaintiffs

**TO: FALLS LAW GROUP**  
**A PROFESSIONAL CORPORATION**  
 255 Manitoba Street  
 Bracebridge, ON P1L 1S2

**Jay Herbert**  
 jay@fallsllaw.ca  
 Tel: (705) 645-3007  
 Fax: (705) 645-3998

Lawyers for the Defendants,  
 Ray C. Jarvis aka Raymond Jarvis,  
 Re/Max North Country Realty Inc.,  
 1981262 Ontario Inc., 1923129 Ontario Inc.  
 cob Woodside Pottery, Noble House Development  
 Corporation, Costellos of Craighurst Inc., and  
 2209326 Ontario Ltd.

**AND TO: MARIPOSA LANDING INC.**

29 Main Street East, Unit 101  
Hunstville, ON P1H 2C6

**AND TO: HARRISON PENZA LLP**

Barristers & Solicitors  
450 Talbot Street  
London, ON N6A 5J6

**Timothy C. Hogan / Robert Danter**

Tel: (519) 661-6725

Fax: (519) 667-3362

Lawyers for the Applicant,  
PACE Savings & Credit Union Limited  
in Court File No. CV-20-635946-00CL

**AND TO: AIRD & BERLIS LLP**

181 Bay Street, Suite 1800  
Toronto, ON  
M5J 2T9

**Sanjeev Mitra / Jeremy Nemers**

Tel: (416) 863-1500

Fax: (416) 863-1515

Lawyers for the Receiver,  
msi Spergel Inc.  
in Court File No. CV-20-635946-00CL

**AND TO: The E-Service List in Court File No. CV-20-635946-00CL**

**LLOYDS UNDERWRITERS et al.**  
Plaintiffs

- and -  
Defendants

**RAY C. JARVIS aka RAYMOND JARVIS et al.**

Court File No. CV-20-277-00

<b>ONTARIO</b> <b>SUPERIOR COURT OF JUSTICE</b>  PROCEEDING COMMENCED AT BARRIE	
<b>NOTICE OF MOTION</b>	
<b>GARDINER ROBERTS LLP</b> Lawyers Bay Adelaide Centre 22 Adelaide Street West, Suite 3600 Toronto, ON M5H 4E3  <b>Alexander Melfi (LSO: 64154H)</b> amelfi@grllp.com Tel: 416-865-6712  <b>Gavin J. Tighe (LSO: 34496Q)</b> gtighe@grllp.com Tel: 416-865-6664  Tel: 416-865-6600 Fax: 416-865-6636  Lawyers for the Plaintiffs	

# Tab 2

Court File No. CV-20-277-00

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

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

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

Plaintiffs

- and -

**RAY C. JARVIS aka RAYMOND JARVIS, RE/MAX NORTH COUNTRY REALTY  
INC., 1981262 ONTARIO INC., 1923129 ONTARIO INC. cob WOODSIDE POTTERY,  
NOBLE HOUSE DEVELOPMENT CORPORATION, COSTELLOS OF CRAIGHURST  
INC., 2209326 ONTARIO LTD. and MARIPOSA LANDING INC.**

Defendants

**AFFIDAVIT OF ALEXANDER MELFI**

**I, ALEXANDER MELFI**, of the City of Toronto, in the Province of Ontario, **MAKE  
OATH AND SAY:**

1. I am a Partner in the Dispute Resolution Group at Gardiner Roberts LLP, the lawyers for the Plaintiffs in the within action, and, as such, I have knowledge with respect to the matters to which I hereinafter depose, except for information which arises from sources other than my own personal knowledge, the sources of which are all stated and all of which I verily believe.

## BACKGROUND

### The Plaintiffs' Action

2. The within action was commenced by the Plaintiffs via Statement of Claim issued in the Superior Court of Justice at Barrie, Ontario on February 12, 2020. On February 18, 2020, an Amended Statement of Claim was issued.
3. A true copy of the Amended Statement of Claim is included in the Plaintiffs' Motion Record at **TAB 3**.
4. The Amended Statement of Claim seeks various heads of relief against the Defendants named in the action, including a *Mareva* injunction and Certificates of Pending Litigation against real property owned by the various corporate Defendants.
5. The gist of the Plaintiffs' claim is that the Defendant, Ray Jarvis ("**Jarvis**"), misappropriated a significant amount of trust funds from the statutory trust accounts he was responsible for in connection with his role as the broker of record for the Defendant real estate brokerage, Re/Max North Country Realty Inc. ("**Re/Max**"), and that the misappropriated trust funds were used to purchase, improve and/or otherwise deal with the properties owned by the various corporate Defendants, in which Jarvis is alleged to have an interest.

### The Plaintiffs' Motion and the Status of the Action

6. On the same day that the Amended Statement of Claim was issued, our office served a Motion Record seeking a *Mareva* injunction and Certificates of Pending Litigation on the Defendants by sending a copy to Jay Herbert, the lawyer acting for the Defendants in this action except for the Defendant, Mariposa Landing Inc. (Mr. Herbert was not on the

record at the time but subsequently went on record after delivering a Notice of Intent to Defend on behalf of the Defendants).

7. A true copy of the Plaintiffs' Motion Record referred to above is being filed along with this Motion Record seeking a lifting of the stay of the action and a transfer of this action to the Commercial List division of the Superior Court of Justice at Toronto, Ontario, as detailed below.
8. In response, Mr. Herbert delivered a Notice of Intent to Defend on behalf of all of the Defendants, except Mariposa Landing Inc., and made a number of requests for information and documents.
9. Attached hereto and marked as **Exhibit "A"** is a true copy of Mr. Herbert's letter and Notice of Intent to Defend dated February 27, 2020.
10. Our office responded to Mr. Herbert on March 16, 2020, and enclosed a Supplementary Affidavit sworn on behalf of the Plaintiffs with respect to the outstanding motion.
11. Attached hereto and marked as **Exhibit "B"** is a true copy of my letter to Mr. Herbert dated March 16, 2020. Further, a true copy of the Supplementary Affidavit served on March 16, 2020 is being filed along with this Motion Record.
12. I followed up with Mr. Herbert via email dated March 25, 2020 but did not receive a response.
13. Attached hereto and marked as **Exhibit "C"** is a true copy of my email to Mr. Herbert dated March 25, 2020.

14. Our office has not heard from Mr. Herbert since February 27, 2020, and no Statement of Defence or responding motion material has been delivered on behalf of any of the Defendants to date.

### **The Receivership Order and the Stay of the Within Action**

15. On or about March 27, 2020, the Plaintiffs learned that the Defendants in this action, Noble House Development Corporation (“**Noble House**”) and 2209326 Ontario Ltd. (“**220 Ontario**”), had been placed into receivership pursuant an Order of the Honourable Mr. Justice Hailey dated February 20, 2020 in Court File No. CV-20-635946-00CL (the “**Receivership Application**”) which appointed msi Spergel Inc. as the receiver (the “**Receiver**”) of, *inter alia*, Noble House and 220 Ontario, as well as the real properties owned by these corporations including 3 Crescent Road, Huntsville, Ontario (the “**Receivership Order**”).
16. Attached hereto and marked as **Exhibit “D”** is a true copy of the Receivership Order dated February 20, 2020. Further, a true copy of the Application Record in the Receivership Application is being filed along with this Motion Record.
17. In that regard, most of the properties at issue in the within action are subject to Cautions registered in favour of BDO Canada Limited on or about March 5, 2019 in connection with a bankruptcy of William Player, an officer of the Defendant, Costellos of Craighust Inc., proceeding before this Honourable Court in File No. 31-2362467.
18. BDO Canada Limited is represented in the bankruptcy proceedings by Ian Klaiman, and I telephoned Mr. Klaiman on or about March 26, 2020 to inquire as to the status of the Cautions. At that time, I was informed that the Receivership Order had been made, a



copy of which I thereafter obtained through an online search of the Receiver's website on March 27, 2020. Prior to that date, the Plaintiffs were not aware that the Receivership Order had been made.

**The Plaintiffs' Motion to Lift the Stay is Necessary in the Interests of Justice**

19. Paragraph 9 of the Receivership Order expressly states that:

“THIS COURT ORDERS that no Proceeding against or in respect of the Debtors or 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 Debtors or the Property are hereby stayed and suspended pending further Order of this Court.”

20. As a result of the foregoing, the within action is stayed pursuant to the Receivership Order and cannot proceed without the permission of the Receiver and/or an Order from this Honourable Court.

21. The Plaintiffs therefore bring this motion for this Honourable Court to lift the stay of proceedings on this action imposed by the Receivership Order. Lifting the stay of the Receivership Order to allow the Plaintiffs to proceed with the within action would be in the interests of justice.

22. In that regard:

- (a) The Receivership Order made in connection with the receivership of, *inter alia*, Noble House and 220 Ontario has imposed a stay of the within action in its entirety;

- (b) As a result, the Plaintiffs are unable to proceed with their action at all pending the completion of the Receiver's engagement, permission from the Receiver and/or an Order of this Honourable Court;
  - (c) However, the within action concerns more than just Noble House and 220 Ontario, and names as Defendants Jarvis, Re/Max, and four other corporations of which Jarvis is alleged to be a shareholder, officer and/or director: 1981262 Ontario Inc., 1923129 Ontario Inc. cob Woodside Pottery, Costellos of Craighurst Inc., and Mariposa Landing Inc.;
  - (d) Further, there are a total of nine (9) properties at issue in the within action against which the Plaintiffs seek Certificates of Pending Litigation; and
  - (e) While five (5) of the nine (9) properties at issue in the within action are collectively owned by either Noble House or 220 Ontario and are therefore subject to the Receivership Order, the remainder of the corporate Defendants and the four (4) properties which they own are not subject to the Receivership Order.
23. In the circumstances, and given that the nature of the within action concerns allegations of fraud and misappropriation of trust funds, a lift of the stay imposed by the Receivership Order is necessary for the Plaintiffs to be able to continue to take the steps required to protect their interests, including by proceeding with their motion seeking a *Mareva* injunction and Certificates of Pending Litigation.

**A Transfer of the Within Action to the Commercial List is in the Interests of Justice**

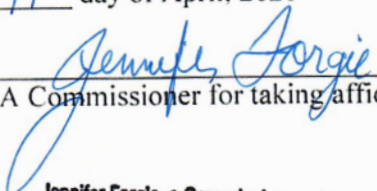
24. In addition to the foregoing, the Plaintiffs seek an Order transferring the within action from the Superior Court of Justice at Barrie, Ontario to be heard in the Commercial List

division of the Ontario Superior Court of Justice at Toronto, Ontario on the basis that a transfer of the within action to the Commercial List would be in the interests of justice.

25. First, there is a significant overlap between the parties to the within action and the Receivership Application.
26. In that regard, the Defendants in the within action are Jarvis, Re/Max, Noble House, 220 Ontario, and four other corporations of which Jarvis is alleged to be a shareholder, officer and/or director: 1981262 Ontario Inc., 1923129 Ontario Inc. cob Woodside Pottery, Costellos of Craighurst Inc., and Mariposa Landing Inc.
27. In the Receivership Application, the parties are Noble House and 220 Ontario. Further, in the Application Record filed in the Receivership Application to support the Court making the Receivership Order, the Applicant, Pace Savings & Credit Union Limited, notes that Jarvis guaranteed the obligations of, *inter alia*, Noble House and 220 Ontario. Therefore Jarvis' personal assets may be at stake if Pace Savings & Credit Union Limited suffers a shortfall following the sale of property owned by the parties subject to the Receivership Order.
28. Second, the assets and real property of Noble House, 220 Ontario, and Jarvis are at issue in both the within action and the Receivership Application.
29. In that regard, in the within action the Plaintiffs seek a *Mareva* injunction against the Defendants, including Noble House, 220 Ontario and Jarvis, and Certificates of Pending Litigation against properties owned by the Defendants, including real property owned by Noble House and 220 Ontario.

30. The Receivership Application and the Receivership Order also concern the assets and real property owned by Noble House and 220 Ontario. Indeed, as noted above five (5) of the nine (9) real properties which are owned by Noble House and 220 Ontario at issue in the within action are now subject to the Receivership Order. Further, the personal assets of Jarvis' may also be in issue as noted above.
31. Third, the Plaintiffs will be making a claim to share in the proceeds of sale of any of the properties which are sold by the Receiver in connection with the Receivership Order. Such claim will be dependent on a finding of the Court that the Plaintiffs are entitled to judgment against the Defendants, or any of them, and that the Plaintiffs are entitled to trace the allegedly misappropriated funds into the properties owned by the Defendants.
32. Accordingly, the Commercial List would be the best suited to assume jurisdiction over the within action to adjudicate the question of whether the Plaintiffs are entitled to judgment against the Defendants, or any of them, and whether the Plaintiffs are entitled to share in the proceeds of the sale of any of the properties owned by the Defendants.
33. A proposed draft Order with respect to the relief sought on this motion is attached to the Plaintiffs' Motion Record at **TAB 4**.
34. I affirm this affidavit in support of the Plaintiffs' motion to lift the stay imposed on the within action by the Receivership Order and to transfer the within action to be heard in the Commercial List division of the Ontario Superior Court of Justice at Toronto, Ontario, and for no other or improper purpose.

**AFFIRMED** before me at the City of  
Toronto, in the Province of Ontario, this  
14<sup>th</sup> day of April, 2020

  
A Commissioner for taking affidavits.

Jennifer Forgie, a Commissioner, etc.,  
Province of Ontario, for Gardiner Roberts LLP, Lawyers.  
Expires August 8, 2021.

  
ALEXANDER MELFI

# Tab A

This is Exhibit "A" referred to in the Affidavit of Alexander Melfi affirmed April 14, 2020.



---

*Commissioner for Taking Affidavits (or as may be)*

Jennifer Forgie, a Commissioner, etc.,  
Province of Ontario, for Gardiner Roberts LLP, Lawyers.  
Expires August 8, 2021.



255 Manitoba St.  
Bracebridge, ON  
P1L 1S2  
Phone: 705-645-3007  
Fax: 705-645-3998  
www.fallslaw.ca

23  
Cara Valiquette  
BComm. Hons., J.D.

Jay Herbert  
BA Hons., J.D.

Mallorie Malone  
BA Hons., M.A., J.D.

Danielle Bertin  
BA Hons., J.D.

February 27, 2020

Alexander Melfi  
Gardiner Roberts LLP  
Bay Adelaide Centre - East Tower  
22 Adelaide St W, Ste. 3600,  
Toronto, ON M5H 4E3

Via Fax: 416-865-6636

RE: Ray Jarvis, 1923129 Ontario Inc., 1981262 Ontario Inc. et al. (CV-19-629694-00CL)

Please be advised that I am prepared to confirm my retainer with respect to the parties.

Attached please find a *Notice of Intent to Defend* served in accordance with the *Rules*. I have not included Mariposa Landing Inc. I do not have instructions with respect to Mariposa Landing Inc., but I expect that they will be defending alongside the remaining parties. I respectfully request that you not take any steps against that corporation without further notice and my intention is to gather documentation and then advise if that corporation will be joining in with the main defence of the action.

As I am sure you can understand, I am currently acting on instructions from Ray Jarvis. Ray has provided instructions personally, but must also act in his different capacities for the named corporations. At this stage, we will be preparing a singular Statement of Defence, but depending on the evidence, the relationship between the parties may need to be severed.

I confirm receipt of your client's Amended Statement of cCaim and the Motion Record for a mareva injunction/CPL.

Statement of Claim and Motion Record

My current instructions are to oppose the mareva injunction and CPL Motion on behalf of my clients.



I have now reviewed the materials and find them to be deficient in information to allow my client to properly respond. Upon receiving the Statement of Claim, I noted a lack of information with respect to proof any actual fraud or proof of misappropriation. I expected that I would receive that information when I received the motion materials, but that information is still not included. Prior to responding to the Statement of Claim or the Motion Record, my client requires the further information and documentation.

I note that despite making a claim for over \$2,000,000 in misappropriated funds and a thorough investigation by RECO, there is not any actual amount of the shortfall provided or what account may have been misappropriated. Considering this investigation was completed by December 2019 and it is now almost March 2020, that information should be readily available.

I also note that currently there does not appear to be any actual loss or proof of any actual loss. RECO has received a number of claims, but most are unverified. For instance, the largest claim is by John Jarvis, who is the director of a corporate defendant in this matter. The chart provided at Exhibit M of the Affidavit of Ms. Perkins sworn February 14, 2020 (the "Affidavit") also does not state if the amounts claimed is the amount that was to be held in trust or if it is the total amount of the commissions the agents expected to receive at closing.

At paragraph 55 of the Affidavit she notes RECO has paid out \$136,207.74 with another \$85,027.73 earmarked for payment. At paragraph 48, it is noted that Re/Max accounts hold \$579,330.02 in the Consumer Deposit Trust Account and another \$18,511.47 in the Commissions Trust Account. Based on your own material there is still \$376,696.02 available to pay for claims. Therefore, any losses are unclear and remain remote at this time.

**Demand for Particulars:**

The following information is not stated or is missing from the Statement of Claim and the Motion Record. Please accept this letter as a Demand for Particulars with respect to the following:

Paragraph 40 of the Affidavit states that RECO conducted an investigation and determined there was a shortfall of funds in 2019. We require the following particulars:

1. The identity of the investigator or investigators who completed the investigation;

2. When the investigation began and when it was completed;
3. The actual finding of the investigation;
4. A true value of the amount that RECO claims should have been found in the Consumer Deposit Trust Account and the Commissions Trust Account;
5. The determined shortfall, if any, of the Consumer Deposit Trust Account;
6. The determined shortfall, if any, of the Commissions Trust Account;
7. If there was a forensic audit completed:
  - a. who completed the audit;
  - b. when was the audit completed;
  - c. what was the finding of the audit;
  - d. Did the audit note a shortfall in the Consumer Deposit Trust Account and/or the Commissions Trust Account;
  - e. What, if any shortfall was found in the Consumer Deposit Trust Account and/or the Commissions Trust Account
8. At Paragraph 48 of the Affidavit, it provides confirmation that RECO has access to the CIBC account held by Re/Max. We require the following particulars:
  - a. Have you completed a bank audit of the Consumer Deposit Trust Account and/or the Commissions Trust Account and/or the general account held by Re/Max;
  - b. Have you traced any of the accounts held by Re/Max to confirm where alleged funds were transferred and/or used;
  - c. Has a report been provided by CIBC (or has RECO confirmed) where the alleged misappropriated funds were transferred to.
9. From Exhibit M of the Affidavit, we require the following particulars:
  - a. are the "amounts claimed" amounts alleged that are missing from trust;
  - b. are the "amounts claimed" commissions expected to receive at the end of sale;
  - c. have you verified the "amounts claimed"
10. We require particulars with respect to the status the remaining trust claims and why they have not been paid;

**Request to Inspect:**

Along with the Demand for Particulars, prior to responding to the Motion Record or the Statement of Claim, we request to inspect the following documents:

1. the 2019/2020 records for the Consumer Deposit Trust Account;
2. the 2019/2020 records for the Commissions Trust Account;
3. Any and all documents that provide proof of fraud or misappropriation, namely, the RECO report and /or audit statement(reports);
4. Any and all documents related to the Re/Max bank accounts at CIBC, including any reports completed;
5. The Report and/or investigation notes and/or investigation findings of Dipak Parmar, Manager, Board Operations at RECO as stated at paragraph 48 and 49 of the Affidavit;
6. Any and all documents to prove that the funds allegedly misappropriated were transferred, used, deposited and/or converted from Re/Max to any other Defendants. This should include the CIBC bank records with transfer information;
7. Any and all documents to prove that the Re/Max trust funds were used in connection to any of the land you are requesting to place a CPL onto title; and,
8. Another copy of Exhibit M and N of the Affidavit as the headings are unclear in the Motion Record copy.

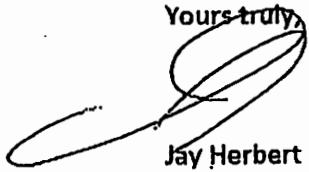
**Motion:**

While I appreciate that your client wants to move expeditiously on this matter, in my respectful opinion, the materials served do not meet the threshold required to obtain a mareva injunction or a CPL for any of the properties. Further, it would be impossible for my client to respond to extremely serious fraud claims without the benefit of the information and documents requested above. Frankly, without the documents requested, RECO has no proof that a fraud was committed or that there is any shortfall other than hearsay and that they received potential claims (which they requested).

Please note that I will be out of the office on vacation until March 9, 2020. I hope you can provide the information and documents requested during this time and I can then respond accordingly on my

return. I ask that you take no steps to note my client in default or to schedule a hearing without advising me first.

Yours truly,

A handwritten signature in black ink, appearing to be "Jay Herbert", written over the typed name.

Jay Herbert

Court File No.: CV-20-00000277-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

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

**Plaintiffs**

**- and -**

**RAY C. JARVIS aka RAYMOND JARVIS, RE/MAX NORTH COUNTRY REALTY INC.,  
1981262 ONTARIO INC., 1923129 ONTARIO INC. cob WOODSIDE POTTERY,  
NOBLE HOUSE DEVELOPMENT CORPORATION, COSTELLOS OF CRAIGHURST INC.,  
2209326 ONTARIO LTD. and MARIPOSA LANDING INC.**

**Defendants**

**NOTICE OF INTENT TO DEFEND**

The Defendants, RAY C. JARVIS aka RAYMOND JARVIS, RE/MAX NORTH COUNTRY REALTY INC., 1981262 ONTARIO INC., 1923129 ONTARIO INC. cob WOODSIDE POTTERY, NOBLE HOUSE DEVELOPMENT CORPORATION, COSTELLOS OF CRAIGHURST INC. and 2209326 ONTARIO LTD., intend to defend this action.

February 27, 2020

**Falls Law Group, A Professional Corporation**  
255 Manitoba Street  
Bracebridge, ON P1L 1S2

Jay Herbert  
LSO No. 59310G  
Tel: 705-645-3007  
Fax: 705-645-3998  
Email: [jay@fallslaw.ca](mailto:jay@fallslaw.ca)

Lawyer for the Defendants, Ray C. Jarvis aka Raymond Jarvis,  
Re/Max North Country Realty Inc., 1981262 Ontario Inc.,  
1923129 Ontario Inc. cob Woodside Pottery,  
Noble House Development Corporation,  
Costellos of Craighurst Inc., and 2209326 Ontario Ltd

**TO: Gardiner Roberts LLP**  
**Lawyers**  
**Bay Adelaide Centre - East Tower**  
**3600 - 22 Adelaide Street West**  
**Toronto, ON M5H 4E3**

**Alexander Melfi - LSO No. 64154H**  
**Tel: 416-865-6712**  
**Email: [amelfi@grllp.com](mailto:amelfi@grllp.com)**

**Gavin J. Tighe - LSO No. 34496Q**  
**Tel: 416-865-6664**  
**Email: [gitighe@grllp.com](mailto:gitighe@grllp.com)**

**Tel: 416-865-6600**  
**Fax: 416-865-6636**

**Lawyers for the Plaintiffs**

**AND TO: Mariposa Landing Inc.**  
**29 Main Street East, Unit 101**  
**Huntsville, ON P1H 2C6**

LLOYDS UNDERWRITERS et al v JARVIS et al

Court File No.: CV-20-0000277-0000

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**PROCEEDING COMMENCED AT TORONTO**

**NOTICE OF INTENT TO DEFEND**

**Falls Law Group, a Professional Corporation**  
255 Manitoba Street  
Bracebridge, ON P1L 1S2

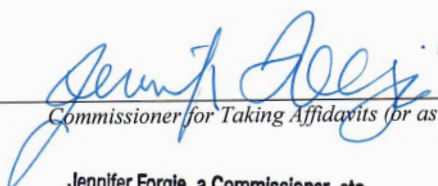
Jay Herbert (LSO # 59310G)  
Tel: 705-645-3007  
Fax: 705-645-3998  
Email: jay@fallslaw.ca

Lawyer for the Defendants, Ray C. Jarvis aka Raymond Jarvis,  
Re/Max North Country Realty Inc., 1981262 Ontario Inc.,  
1923129 Ontario Inc. cob Woodside Pottery,  
Noble House Development Corporation,  
Costellos of Craighurst Inc., and 2209326 Ontario Ltd

# Tab B



This is Exhibit "B" referred to in the Affidavit of Alexander Melfi affirmed April ...<sup>14</sup>..., 2020.



---

*Commissioner for Taking Affidavits (or as may be)*

Jennifer Forgie, a Commissioner, etc.,  
Province of Ontario, for Gardiner Roberts LLP, Lawyers.  
Expires August 8, 2021.



**Alexander Melfi**  
Direct Line: 416.865.6712  
Direct Fax: 416.865.6636  
amelfi@grllp.com

March 16, 2020

**VIA EMAIL (jay@fallslaw.ca)**

Jay Herbert  
Falls Law Group  
A Professional Corporation  
255 Manitoba Street  
Bracebridge, ON P1L 1S2

Dear Mr. Herbert,

**Re: Lloyds Underwriters et al. v. Ray Jarvis, 1923129 Ontario Inc., et al.**  
**Court File No. CV-20-277-00**  
**Our File No.: 115,427**

---

Further to your letter of February 27, 2020, please find enclosed herewith the Supplementary Affidavit of Janet Perkins sworn March 16, 2020. At the moment, we are only serving the affidavit via email as our capacity to send physical material by regular mail and/or courier is limited due to the current Covid-19 related restrictions. Hard copies will follow in due course but for now please confirm that you accept service via email. I also enclose copies of Exhibits M and N to Ms. Perkins' affidavit sworn February 14, 2020 with the headings more clearly defined as requested in your letter.

With respect to the balance of your February 27, 2020 letter, our response is as follows.

You write on page 2 that there is a "lack of information with respect to proof of any actual fraud or proof of misappropriation". In our view, the proof is in the pudding – Ray Jarvis had control of the Re/Max trust accounts as the broker of record and there are a significant amount of trust funds missing as set out in the affidavit material. By virtue of his being responsible for the trust accounts, Mr. Jarvis was the only person able to authorize any payments out of the trust accounts and therefore knew or ought to have known where the missing trust funds were paid. It is unclear what other "proof" you are seeking short of an admission from Mr. Jarvis that he misappropriated the funds from the account. If your clients deny that Mr. Jarvis misappropriated the trust funds and/or that he had knowledge of any misappropriation by others, then please put that denial in writing. Further, if your clients take the position that someone else accessed the trust accounts for which Mr. Jarvis was solely responsible to maintain, then please put that position in writing.

With respect to your statement that "there is not any actual amount of the shortfall provided or what account may have been misappropriated" as set out on page 2, please see the content of Ms. Perkins' supplementary affidavit which addresses the current (approximate) calculation of the shortfalls in the

**GARDINER ROBERTS LLP**

Bay Adelaide Centre – East Tower  
22 Adelaide Street West, Suite 3600  
Toronto, Ontario M5H 4E3  
Tel: 416.865.6600 Fax: 416.865.6636 www.grllp.com





Commission Trust Account and the Consumer Deposit Trust Account. Due to the nature of the fraud/misappropriation in the context of a real estate brokerage business where affected transactions close and/or are resolved through the signing of a mutual release between the parties on various dates, the amount of the shortfall continues to change on a daily basis due to the receipt of new claims by our clients as transactions continue to close or get resolved in other ways. Further, as claims continue to be paid out as they are verified, the picture as to the true extent of the fraud becomes more focused. Our clients are getting closer to the actual amount of the shortfall experienced, which at this point is in excess of \$1,000,000 as per the enclosed supplementary affidavit material and the exhibits attached thereto.

In response to your demand for particulars and your request to inspect documents, to the extent Ms. Perkins' supplementary affidavit does not answer any of the information and/or documentation sought you are asking for information and documentation which are not yet available. For example, no forensic or bank audits have yet been completed to our knowledge given that (a) the extent of the shortfall continues to change as new claims are received, and (b) your clients have not defended and delivered their productions which would necessarily include a production of their bank records. Accordingly, a forensic or bank audit at this stage would appear to be premature. Further, some of the information requested would already be information within the knowledge of your clients, including information with respect to the investigation into Re/Max by RECO. In that regard, Mr. Jarvis as the broker of record of Re/Max was aware that an investigation was taking place and was aware that his registration was suspended and later revoked as a result of the investigation. To suggest that your clients need particulars of the investigation into Mr. Jarvis and Re/Max is perplexing to say the least.

In any event, we fail to understand how the particulars and documents for which you have asked are required for your clients to prepare a pleading and respond to the motion. The nature of the requests your clients have made demonstrate that they are asking for our clients to prove their case prior to trial and without having had the benefit of production from your clients of documents relevant to the claim, including copies of bank account records for the corporate defendants/owners of the properties over which the Certificates of Pending Litigation are being sought. Your clients are more than capable of responding to the Statement of Claim and the motion on the basis of the affidavit material served, and on the basis of knowing the allegations which have been made against them including the fact that Mr. Jarvis was the broker of record for a brokerage which has suffered a significant shortfall in the trust accounts for which Mr. Jarvis himself was responsible. The requested particulars are in no way required for the purposes of pleading.

With respect to documents concerning the use of the trust funds in relation to the properties for which our clients seek to have CPLs registered, the recently received Notices of Sale Under Mortgage with respect to the certain of the properties which are the subject of the motion as set out in Ms. Perkins' supplementary affidavit disclose that within mere days of Mr. Jarvis' registration with RECO being suspended, and therefore his ability to access trust funds restricted, the mortgages registered against those properties went into default. There is clearly support for the Plaintiffs' position that trust funds



from the Re/Max trust accounts were used in relation to these properties in some fashion or another, whether for mortgage payments or otherwise. If your clients have some other explanation for the current state of affairs and why these mortgages went into default shortly after Mr. Jarvis' ability to access the trust funds was restricted, kindly put that explanation in writing with supporting documentation to back up the explanation.

Finally, the recently received Notices of Sale Under Mortgage demonstrate that the issue of the CPLs has clearly become more pressing. In that regard, at least two of the Notices of Sale Under Mortgage are due to expire on March 27, 2020. Accordingly, we respectfully request that your clients consent to the registration of the CPLs on title to the properties referenced in the motion material, which consent would be without prejudice to your client(s) claiming entitlement to some or all of the proceeds of the sale of any of these properties. In this regard, if any of the properties subject to a CPL were to be sold by the mortgagees, the proceeds of sale could then be paid into Court pending further Order of the Court or agreement between the parties to preserve all of our clients' interests.

If your clients are not prepared to consent to the CPLs, then their responding motion material should be delivered forthwith so that an urgent hearing can be sought from the Court to allow at least the issue of the registration of the CPLs to be determined.

We look forward to your response at your earliest convenience. Please send any reply via email as the reliability of our fax service may be affected due to the Covid-19 restrictions.

Yours very truly,

**GARDINER ROBERTS LLP**

A handwritten signature in black ink, appearing to read 'Alex Melfi'.

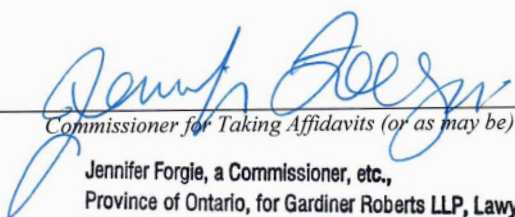
Alexander Melfi  
Partner  
AM/

Encl.

cc. Gavin J. Tighe (gtighe@grllp.com)

# Tab C

This is Exhibit "C" referred to in the Affidavit of Alexander Melfi affirmed April ....<sup>14</sup>..., 2020.



---

*Commissioner for Taking Affidavits (or as may be)*

Jennifer Forgie, a Commissioner, etc.,  
Province of Ontario, for Gardiner Roberts LLP, Lawyers.  
Expires August 8, 2021.

**Forgie, Jenny**

---

**From:** Melfi, Alexander  
**Sent:** March 25, 2020 8:48 AM  
**To:** Jay Herbert  
**Cc:** Tighe, Gavin; Madunic, Lillian  
**Subject:** FW: Ray Jarvis, 1923129 Ontario Inc., 1981262 Ontario Inc. et al.  
**Attachments:** Exhibits M and N.PDF; TORONTO-#1327809-v1-Letter\_to\_J\_Herbert\_March\_16\_2020.PDF; TORONTO-#1327586-v1-Supplementary\_Affidavit\_of\_Janet\_Perkins\_-\_March\_16\_2020.PDF

Good morning Mr. Herbert,

I am following up on the below and the attached. I don't believe we have received any response from you to date. Kindly provide us with a response at your earliest convenience.

**Alexander Melfi** • Partner

Gardiner Roberts LLP

Bay Adelaide Centre - East Tower, 22 Adelaide St W, Ste. 3600, Toronto, ON M5H 4E3

T 416.865.6712 | F 416.865.6636 | E [amelfi@grllp.com](mailto:amelfi@grllp.com) | [www.grllp.com/p/alexandermelfi](http://www.grllp.com/p/alexandermelfi)

---

**From:** Melfi, Alexander  
**Sent:** March 16, 2020 3:11 PM  
**To:** 'Jay Herbert'  
**Cc:** Tighe, Gavin; Madunic, Lillian  
**Subject:** Ray Jarvis, 1923129 Ontario Inc., 1981262 Ontario Inc. et al.

Mr. Herbert,

Please see attached correspondence and enclosures.



**Alexander Melfi** • Partner

Gardiner Roberts LLP

Bay Adelaide Centre - East Tower, 22 Adelaide St W, Ste. 3600, Toronto, ON M5H 4E3

T 416.865.6712 | F 416.865.6636 | E [amelfi@grllp.com](mailto:amelfi@grllp.com) | [www.grllp.com/p/alexandermelfi](http://www.grllp.com/p/alexandermelfi)

*Named one of Ontario's Top 10 Regional Firms by Canadian Lawyer Magazine in 2018-2019*

*Named one of the Best Workplaces in Canada for 2019 by Great Place to Work Institute*

# Tab D



This is Exhibit "D" referred to in the Affidavit of Alexander Melfi affirmed April ~~....~~<sup>14</sup>....., 2020.



---

*Commissioner for Taking Affidavits (or as may be)*

Jennifer Forgie, a Commissioner, etc.,  
Province of Ontario, for Gardiner Roberts LLP, Lawyers.  
Expires August 8, 2021.

Court File No. CV-20-00635946-00CL

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

THE HONOURABLE MR.

)

THURSDAY, THE 20<sup>th</sup>

JUSTICE HAINEY

)

DAY OF FEBRUARY, 2020

)

**PACE SAVINGS & CREDIT UNION LIMITED**

Applicant

- and -

**NOBLE HOUSE DEVELOPMENT CORPORATION, 2307400 ONTARIO INC., AND  
 2209326 ONTARIO LTD.**

Respondents

**ORDER**  
**(Appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing msi Spergel Inc. as receiver (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of Noble House Development Corporation, 2307400 Ontario Inc., and 2209326 Ontario Ltd. (collectively, the "Debtors") acquired for, or used in relation to a business carried on by the Debtors, and of the real property described at Schedule "A" to this Order, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Paul Waters sworn February 6, 2020 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, Pace Savings & Credit Union Limited and any other party present, all parties duly served as appears from the affidavit of service

of Lindsay Provost sworn February 10, 2020 and on reading the consent of msi Spergel Inc. to act as the Receiver,

### **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application 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 243(1) of the BIA and section 101 of the CJA, msi Spergel Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof, and which includes the real property described at Schedule "A" to this Order (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, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary

course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;

- (d) 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;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors;
- (h) 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 Debtors, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating

such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$250,000 and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) 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;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) 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 Debtors;

- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (r) 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 Debtors, and without interference from any other Person.

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

4. THIS COURT ORDERS that (i) the Debtors, (ii) all of the Debtors' 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, 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 Debtors, 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.

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 the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

**NO PROCEEDINGS AGAINST THE RECEIVER**

8. 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 DEBTORS OR THE PROPERTY**

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors or 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 Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

10. THIS COURT ORDERS that all rights and remedies against the Debtors, 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 BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors 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**

11. 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 Debtors, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including



without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by 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, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, 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 employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' behalf, may terminate the employment of such employees. 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*.

## PIPEDA AND CASL

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

16. **THIS COURT ORDERS** that any and all interested stakeholders in this proceeding and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in this proceeding, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to such other interested stakeholders in this proceeding and their counsel and advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

## LIMITATION ON ENVIRONMENTAL LIABILITIES

17. **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**

18. 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**

19. 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, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

20. 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.

21. 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**

22. 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 \$250,000 (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, 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.

23. 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.

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

25. 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

26. 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/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure 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 with the following URL [www.spergelcorporate.ca](http://www.spergelcorporate.ca).

27. 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 Debtors’ creditors or other interested parties at their respective addresses as last shown on the records of the Debtors 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

28. 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.

29. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors, or any of them.

30. 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

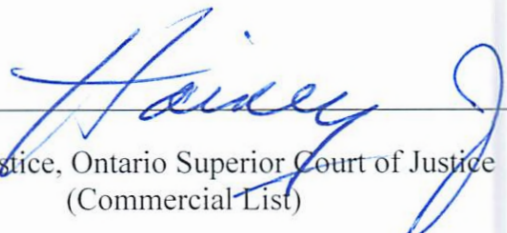


make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

31. 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.

32. THIS COURT ORDERS that the Applicant shall have its costs of this Application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

33. 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.

  
Justice, Ontario Superior Court of Justice  
(Commercial List)

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

FEB 20 2020

PER / PAR: 

**SCHEDULE "A"****REAL PROPERTY**

UNIT 1, LEVEL 1, MUSKOKA STANDARD CONDOMINIUM PLAN NO. 80 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN MT152390; TOWN OF HUNTSVILLE (PIN 48880 - 0001 LT)

UNIT 2, LEVEL 1, MUSKOKA STANDARD CONDOMINIUM PLAN NO. 80 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN MT152390; TOWN OF HUNTSVILLE (PIN 48880 - 0002 LT)

UNIT 3, LEVEL 1, MUSKOKA STANDARD CONDOMINIUM PLAN NO. 80 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN MT152390; TOWN OF HUNTSVILLE (PIN 48880 - 0003 LT)

UNIT 4, LEVEL 1, MUSKOKA STANDARD CONDOMINIUM PLAN NO. 80 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN MT152390; TOWN OF HUNTSVILLE (PIN 48880 - 0004 LT)

UNIT 5, LEVEL 1, MUSKOKA STANDARD CONDOMINIUM PLAN NO. 80 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN MT152390; TOWN OF HUNTSVILLE (PIN 48880 - 0005 LT)

UNIT 6, LEVEL 1, MUSKOKA STANDARD CONDOMINIUM PLAN NO. 80 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN MT152390; TOWN OF HUNTSVILLE (PIN 48880 - 0006 LT)

UNIT 7, LEVEL 1, MUSKOKA STANDARD CONDOMINIUM PLAN NO. 80 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN MT152390; TOWN OF HUNTSVILLE (PIN 48880 - 0007 LT)

UNIT 8, LEVEL 1, MUSKOKA STANDARD CONDOMINIUM PLAN NO. 80 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN MT152390; TOWN OF HUNTSVILLE (PIN 48880 - 0008 LT)

UNIT 9, LEVEL 1, MUSKOKA STANDARD CONDOMINIUM PLAN NO. 80 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN MT152390; TOWN OF HUNTSVILLE (PIN 48880 - 0009 LT)

UNIT 10, LEVEL 1, MUSKOKA STANDARD CONDOMINIUM PLAN NO. 80 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN MT152390; TOWN OF HUNTSVILLE (PIN 48880 - 0010 LT)

UNIT 11, LEVEL 1, MUSKOKA STANDARD CONDOMINIUM PLAN NO. 80 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN MT152390; TOWN OF HUNTSVILLE (PIN 48880 - 0011 LT)

UNIT 12, LEVEL 1, MUSKOKA STANDARD CONDOMINIUM PLAN NO. 80 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN MT152390; TOWN OF HUNTSVILLE (PIN 48880 - 0012 LT)

UNIT 13, LEVEL 1, MUSKOKA STANDARD CONDOMINIUM PLAN NO. 80 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN MT152390; TOWN OF HUNTSVILLE (PIN 48880 - 0013 LT)

UNIT 14, LEVEL 1, MUSKOKA STANDARD CONDOMINIUM PLAN NO. 80 AND ITS APPURTENANT INTEREST; SUBJECT TO AND TOGETHER WITH EASEMENTS AS SET OUT IN SCHEDULE A AS IN MT152390; TOWN OF HUNTSVILLE (PIN 48880 - 0014 LT)



**SCHEDULE "B"**  
**RECEIVER CERTIFICATE**

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

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

1. THIS IS TO CERTIFY that msi Spergel Inc., the receiver (the "Receiver") of the assets, undertakings and properties of Noble House Development Corporation, 2307400 Ontario Inc., and 2209326 Ontario Ltd. acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof, which includes the real property described at Schedule "A" to the Order, as defined below (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Order") made in an action having Court file number \_\_\_\_-CL-\_\_\_\_\_, 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\_\_.

msi Spergel Inc., solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

Per: \_\_\_\_\_  
Name:  
Title:

PACE SAVINGS &amp; CREDIT UNION LIMITED

v.

NOBLE HOUSE DEVELOPMENT CORPORATION et al

Applicant

Respondents

Court File No. CV-20-00635946-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**ORDER**

**HARRISON PENSA LLP**

Barristers & Solicitors  
450 Talbot Street  
London, Ontario  
N6A 5J6

**Timothy C. Hogan (LSO #36553S)**

**Robert Danter (LSO# 69806O)**

Tel : (519) 661-6725

Fax: (519) 667-3362

Lawyers for the Applicant,  
Pace Savings & Credit Union Limited

**LLOYDS UNDERWRITERS et al.**  
Plaintiffs

**RAY C. JARVIS aka RAYMOND JARVIS et al.**  
Defendants

- and -

Court File No. CV-20-277-00

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
  
PROCEEDING COMMENCED AT  
BARRIE

**AFFIDAVIT OF ALEXANDER MELFI**

**GARDINER ROBERTS LLP**  
Lawyers  
Bay Adelaide Centre  
22 Adelaide Street West, Suite 3600  
Toronto, ON M5H 4E3

**Alexander Melfi (LSO: 64154H)**  
amelfi@grllp.com  
Tel: 416-865-6712

**Gavin J. Tighe (LSO: 34496Q)**  
gtighe@grllp.com  
Tel: 416-865-6664

Tel: 416-865-6600  
Fax: 416-865-6636

Lawyers for the Plaintiffs

# Tab 3

AMENDED THIS FEB 18 2020 PURSUANT TO  
MODIFIÉ CE \_\_\_\_\_ CONFORMÉMENT À \_\_\_\_\_  
☒ RULE/LA RÈGLE 26.02 ( A )  
☐ THE ORDER OF \_\_\_\_\_  
L'ORDONNANCE DU \_\_\_\_\_  
DATED / FAIT LE \_\_\_\_\_  
REGISTRAR SUPERIOR COURT OF JUSTICE GREFFIER COUR SUPÉRIEURE DE JUSTICE

61

Court File No. CV-20-00000277-0000

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

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

Plaintiffs

- and -

**RAY C. JARVIS aka RAYMOND JARVIS, RE/MAX NORTH COUNTRY REALTY  
INC., 1981262 ONTARIO INC., 1923129 ONTARIO INC. cob WOODSIDE POTTERY,  
NOBLE HOUSE DEVELOPMENT CORPORATION, COSTELLOS OF CRAIGHURST  
INC., 2209326 ONTARIO LTD. and MARIPOSA LANDING INC.**

Defendants

**AMENDED STATEMENT OF CLAIM**

**TO THE DEFENDANT(S):**

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the  
Plaintiffs. The claim made against you is set out in the following pages.

**IF YOU WISH TO DEFEND THIS PROCEEDING**, you or an Ontario lawyer acting  
for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil  
Procedure, serve it on the Plaintiffs' lawyers or, where the Plaintiffs do not have a lawyer, serve  
it on the Plaintiffs, and file it, with proof of service, in this court office, **WITHIN TWENTY  
DAYS** after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of  
America, the period for serving and filing your Statement of Defence is forty days. If you are  
served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of

Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

**IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

**IF YOU PAY THE PLAINTIFFS' CLAIM**, and \$3,000.00 for costs, within the time for serving and filing your Statement of Defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiffs' claim and \$750.00 for costs and have the costs assessed by the court.

**TAKE NOTICE THIS ACTION WILL AUTOMATICALLY BE DISMISSED** if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date February 12, 2020

Issued by

*E-File*  
Local Registrar

Address of  
court office:

Superior Court of Justice  
75 Mulcaster Street  
Barrie, ON L4M 3P2



**TO:** **RAY C. JARVIS aka RAYMOND JARVIS**  
29 Main Street East, Unit 101  
Huntsville, ON P1H 2C6

**AND TO:** **RE/MAX NORTH COUNTRY REALTY INC.**  
29 Main Street East, Unit 101  
Huntsville, ON P1H 2C6

**AND TO:** **1981262 ONTARIO INC.**  
3239 Penetanguishene Road  
Barrie, ON L4M 4Y8

**AND TO:** **1923129 ONTARIO INC. cob WOODSIDE POTTERY**  
2049 Horseshoe Valley Road  
Barrie, ON L4M 4Y8

**AND TO:** **NOBLE HOUSE DEVELOPMENT CORPORATION**  
29 Main Street East, Unit 101  
Huntsville, ON P1H 2C6

**AND TO:** **COSTELLOS OF CRAIGHURST INC.**  
3239 Penetanguishene Road  
Barrie, ON L4M 4Y8

**AND TO:** **2209326 ONTARIO LTD.**  
29 Main Street East, Unit 101  
Huntsville, ON P1H 2C6

**AND TO:** **MARIPOSA LANDING INC.**  
29 Main Street East, Unit 101  
Huntsville, ON P1H 2C6



**CLAIM**

## 1. The Plaintiffs claim:

- (a) Damages in the amount of \$2,000,000 for fraud, misappropriation, breach of trust and wrongful conversion;
- (b) An accounting and tracing order with respect to the Commission Trust Account and Consumer Deposit Trust Account (defined herein) operated by Re/Max North Country Realty Inc. and over which Ray C. Jarvis aka Raymond Jarvis maintained care and control;
- (c) An order permitting the Plaintiffs to trace any and all funds that have been misappropriated by the Defendants from the Commission Trust Account and Consumer Deposit Trust Account (defined herein) operated by Re/Max North Country Realty Inc. and over which Ray C. Jarvis aka Raymond Jarvis maintained care and control into any funds, real property or personal property, however held, including without limitation the real properties described in Schedule "A" hereto, and granting constructive trusts or any necessary remedy to effect or permit such tracing;
- (d) An interlocutory and mandatory injunction restraining the Defendants from disposing, transferring, encumbering, releasing or dispossessing themselves of any real or personal property, funds, accounts or other assets owned or held in whole or in part by them, in their name or for their benefit without the consent in writing of the Plaintiffs or further order of this Court;

- (e) An interlocutory injunction restraining any person or entity having custody or control of any real or personal property, funds, accounts or other assets owned or held in whole or in part by the defendants, in the name of the Defendants or for the benefit of the Defendants from disposing, transferring, encumbering, releasing or dispossessing himself, herself or itself of themselves of such real or personal property, funds, accounts or other assets without the consent in writing of the Plaintiffs or further order of this Court;
- (f) Punitive damages in the amount of \$500,000;
- (g) Leave to register Certificates of Pending Litigation on title to the properties as set out more particularly in Schedule "A" hereto;
- (h) Pre-judgment and post-judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
- (i) Costs of this proceeding on a substantial indemnity basis; and
- (j) Such further and other relief as this Honourable Court deems just.

#### THE PARTIES

2. The Plaintiffs, Lloyds Underwriters ("Lloyds") and 3303128 Canada Inc. T/A Alternative Risk Services ("ARS"), are insurance companies which have provided certain policies of insurance to registrants with the Real Estate Council of Ontario ("RECO").
3. RECO is a self-managed, not for profit, Federal Corporation. The *Safety and Consumer Statutes Administration Act*, 1996, S.O. 1996, c. 19 and its associated regulations designates RECO as the sole administrator of the *Real Estate Business and Brokers Act*,



2002, S.O. 2002, c. 30, Sch. C ("**REBBA**"). RECO is responsible for administering REBBA and its associated regulations on behalf of the Government of Ontario.

4. 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 salesperson.
5. The Defendant, Re/Max North Country Realty Inc. ("**Re/Max**"), is a real estate brokerage previously registered with RECO under REBBA to trade in real estate as a brokerage in the Province of Ontario.
6. The Defendant, Ray C. Jarvis aka Raymond Jarvis ("**Jarvis**"), was at all material times an officer, director and shareholder of Re/Max. Jarvis was also a registered real estate salesperson with RECO under REBBA and the broker of record for Re/Max. As the broker of record for Re/Max, Jarvis was required to ensure that the brokerage and all of its personnel complied with REBBA including with respect to the operation and maintenance of trust accounts.
7. 1981262 Ontario Inc. ("**198 Ontario**") is a corporation incorporated in Ontario. At all material times, Jarvis was a director, officer, shareholder and the controlling mind of 198 Ontario.
8. 1923129 Ontario Inc. cob Woodside Pottery ("**192 Ontario**") is a corporation incorporated in Ontario. At all material times, Jarvis was a director, officer, shareholder and the controlling mind of 192 Ontario.

9. Noble House Development Corporation ("**Noble House**") is a corporation incorporated in Ontario. At all material times, Jarvis was a director, officer, shareholder and the controlling mind of Noble House.
10. Costellos of Craighurst Inc. ("**Costellos**") is a corporation incorporated in Ontario. At all material times, Jarvis was a director, shareholder and the controlling mind of Costellos.
11. 2209326 Ontario Ltd. ("**220 Ontario**") is a corporation incorporated in Ontario. At all material times, Jarvis was a director, officer, shareholder and the controlling mind of 220 Ontario.
12. Mariposa Landing Inc. ("**Mariposa**") is a corporation incorporated in Ontario. At all material times, Jarvis was a director, officer, shareholder and the controlling mind of Mariposa.

## **BACKGROUND**

### **The Commission Trust Account and the Consumer Deposit Trust Account**

13. Section 27 of REBBA requires every brokerage to maintain an account designated as a trust account and 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.



14. Commissions payable to real estate salespersons registered with Re/Max and other brokerages in connection with real estate transactions involving Re/Max were required to be deposited into and maintained in the trust account Re/Max was required to operate under REBBA, referred to as the Commission Trust Account.
15. The Plaintiffs provide insurance coverage to real estate salespersons registered with Re/Max and other brokerages for the loss of commissions in certain circumstances, including theft, fraud, misappropriation or wrongful conversion of funds, from the Commission Trust Account by any present or former employee, director, officer or manager of Re/Max.
16. In addition to the Commission Trust Account, deposits paid by consumers to Re/Max in connection with real estate transactions involving Re/Max were required to be deposited into and maintained in the trust account Re/Max was required to operate under REBBA, referred to as the Consumer Deposit Trust Account.
17. The Plaintiffs also provide insurance coverage to consumers who have paid deposits with respect to real estate transactions to Re/Max for the loss of those deposits in certain circumstances, including theft, fraud, misappropriation and wrongful conversion of funds, from the Consumer Deposit Trust Account by any present or former employee, director, officer or manager of Re/Max.

**Investigation and Remedial Actions by RECO against Re/Max and Jarvis**

18. A Director is appointed by the Board of RECO pursuant to Section 2(1) of REBBA. Section 25 of REBBA authorizes the Director to:

- (a) Issue a “Freeze Order” in certain circumstances including if a Director believes that it is advisable for the protection of the clients and customers of a registrant or former registrant under REBBA; and
  - (b) To institute proceedings in relation to a contravention under REBBA against a registrant or former registrant in connection with or arising out of the business in respect of which the registrant or former registrant is or was registered.
- 19. As a result of investigation by RECO into Re/Max and Jarvis in or around 2019, it was determined that there was a shortfall of funds in both the Commission Trust Account and the Consumer Deposit Trust Account maintained and operated by Re/Max and for which Jarvis was responsible.
- 20. On December 31, 2019, RECO issued a Notice of Proposal to revoke Jarvis’ and Re/Max’s registrations as a salesperson and brokerage under REBBA, respectively. RECO also issued an Order to immediately suspend Jarvis’ and Re/Max’s registrations in order to protect the public.
- 21. On January 24, 2020, RECO revoked the registrations of Jarvis and Re/Max as a result of the shortfalls discovered in the Commission Trust Account and the Consumer Deposit Trust Account.
- 22. Further, the Director issued a Freeze Order on January 27, 2020 as a result of the shortfalls discovered in the Commission Trust Account and the Consumer Deposit Trust Account, freezing the bank accounts of Re/Max.



**Misappropriation and Conversion of Trust Funds by Jarvis**

23. The Plaintiffs plead that Jarvis has stolen, misappropriated and wrongfully converted funds in the sum of approximately \$2,000,000 from the Commission Trust Account and the Consumer Deposit Trust Account required by REBBA to be maintained on behalf of salespersons, other brokerages and/or consumers.
24. Full particulars of the fraudulent conduct of Jarvis is not known to the Plaintiffs but is known to the Defendants.
25. The Plaintiffs further plead that Jarvis' theft, misappropriation and wrongful conversion of funds from the Commission Trust Account and the Consumer Deposit Trust Account constitutes a breach of trust.
26. The Plaintiffs allege that the Defendants utilized the stolen, misappropriated and wrongfully converted funds to purchase, improve and/or otherwise deal with certain real estate, including but not limited to:
  - (a) 14 Manitoba Street, Bracebridge, ON described as PIN 48114-0337, title to which is registered in the name of 220 Ontario;
  - (b) 3 Crescent Road, Huntsville, ON described as PIN 48880-0015, title to which is registered in the name of Noble House;
  - (c) 205 Ontario Street, Burk's Falls, ON described as PIN 52139-0183, title to which is registered in the name of 220 Ontario;
  - (d) 89 Ontario Street, Parry Sound, ON described as PIN 52142-0217, title to which is registered in the name of 220 Ontario;

- (e) 3239 Penetanguishene Road, Oro-Medonte, ON described as PINs 58534-0204, 58534-0160 and 58534-0009, title to which is registered in the name of Costellos;
  - (f) 2019 Horseshoe Valley Road, Craighurst, ON described as PIN 58534-0205, title to which is registered in the name of 198 Ontario;
  - (g) 2049 Horseshoe Valley Road, Craighurst, ON described as PIN 58534-0008, title to which is registered in the name of 192 Ontario;
  - (h) 3747 Highway 44, Sudbury, ON described as PIN 73348-0481, title to which is registered in the name of Noble House; and
  - (i) 430 Couchiching Point Road, Orillia, ON described as PIN 58687-0265, title to which is registered in the name of Mariposa.
27. The Plaintiffs further plead that the Defendants have utilized the stolen, misappropriated and wrongfully converted funds to purchase, improve and/or otherwise deal with other properties of which the Plaintiffs are not yet aware, but which are known to the Defendants.
28. The full particulars of the Defendants' use of the misappropriated funds to purchase these properties and/or make mortgage payments thereon, are not known to the Plaintiffs at this time but are known to the Defendants.
29. The Plaintiffs are entitled to trace and recover those misappropriated funds, through a constructive trust over the real properties, or otherwise.
30. The Plaintiffs plead that they are entitled to Certificates of Pending Litigation on title to the above-noted properties.



31. The Plaintiffs plead that as a result of the theft, misappropriation, wrongful conversion and breach of trust by the Defendants, they are and will be obligated to pay claims made pursuant to the policies of insurance which they provided to consumers, real estate salespersons, and other brokerages.
32. The Plaintiffs plead that they have received numerous claims to date from consumers, real estate salespersons and other brokerages who were entitled to payment from the Commission Trust Account and/or the Consumer Deposit Trust Account, and that they will continue to receive numerous claims. Further particulars of these claims will be provided prior to trial.
33. The Plaintiffs plead that the Defendants are liable to them for the amounts they have paid and will be required to pay funds to consumers, real estate salespersons and other brokerages as a result of the Defendants theft, misappropriation, wrongful conversion and breach of trust as pleaded herein.
34. The Plaintiffs pleads that they are entitled to an accounting and a tracing order with respect to the Commission Trust Account and Consumer Deposit Trust Account and all funds which are or were held in these accounts.
35. The Plaintiffs seek interlocutory relief to preserve any assets currently held by the Defendants that may be at risk of being transferred out of this Honourable Court's jurisdiction or fraudulently dissipated in an effort to avoid enforcement of any judgments arising from the within action.

36. As a result of the matters set out herein, the Plaintiffs are entitled to pierce the corporate veil of the Corporate Defendants to trace and recover any of the proceeds from the fraudulent conduct pleaded herein and paid out to those corporations, or on their behalf.
37. The conduct of the Defendants described herein was highhanded and reprehensible and was undertaken with full knowledge that such conduct was improper and would cause harm to the Plaintiffs, and others. The conduct of these Defendants entitles the Plaintiffs to punitive or exemplary damages in the amount claimed or as this Honourable Court may deem just. The conduct of the Defendants constitutes an independently actionable wrong.
38. The Plaintiffs plead and rely on the provisions of the *Real Estate Business Brokers Act, 2002*, S.O. 2002, c. 30, Sch. C and the regulations thereunder.
39. The Plaintiffs propose that this action be tried in Barrie, Ontario.

Date: February 12, 2020

**GARDINER ROBERTS LLP**  
Lawyers  
Bay Adelaide Centre, East Tower  
22 Adelaide Street West, Suite 3600  
Toronto, ON M5H 4E3

**Alexander Melfi (LSO: 64154H)**  
amelfi@grllp.com  
Tel: 416-865-6712

**Gavin J. Tighe (LSO: 34496Q)**  
gjtighe@grllp.com  
Tel: 416-865-6664

Tel: 416-865-6600  
Fax: 416-865-6636

Lawyers for the Plaintiffs



**SCHEDULE "A"**

1. 14 Manitoba Street, Bracebridge, ON described as PIN 48114-0337 (LT)
2. 3 Crescent Road, Huntsville, ON described as PIN 48880-0015 (LT)
3. 205 Ontario Street, Burk's Falls, ON described as PIN 52139-0183 (LT)
4. 89 Ontario Street, Parry Sound, ON described as PIN 52142-0217 (LT)
5. 3239 Penetanguishene Road, Oro-Medonte, ON described as PINs 58534-0204 (LT), 58534-0160 (LT) and 58534-0009 (LT)
6. 2019 Horseshoe Valley Road, Craighurst, ON described as PIN 58534-0205 (LT)
7. 2049 Horseshoe Valley Road, Craighurst, ON described as PIN 58534-0008 (LT)
8. 3747 Highway 44, Sudbury, ON described as PIN 73348-0481 (LT)
9. 430 Couchiching Point Road, Orillia, ON described as PIN 58687-0265 (LT)

**LLOYDS UNDERWRITERS et al.**  
Plaintiffs

- and -

**RAY C. JARVIS aka RAYMOND JARVIS et al.**  
Defendants

Court File No.:

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
BARRIE

**AMENDED STATEMENT OF CLAIM**

**GARDINER ROBERTS LLP**

Lawyers

Bay Adelaide Centre – East Tower  
22 Adelaide Street West, Suite 3600  
Toronto, ON M5H 4E3

**Alexander Melfi (LSO: 64154H)**

amelfi@grllp.com

Tel: 416-865-6712

**Gavin J. Tighe (LSO: 34496Q)**

gjtighe@grllp.com

Tel: 416-865-6664

Tel: 416-865-6600

Fax: 416-865-6636

Lawyers for the Plaintiffs

# Tab 4

Court File No. CV-20-277-00

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE	)	DAY, THE	DAY
	)		
JUSTICE	)	OF APRIL,	2020

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

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

Plaintiffs

- and -

**RAY C. JARVIS aka RAYMOND JARVIS, RE/MAX NORTH COUNTRY REALTY  
INC., 1981262 ONTARIO INC., 1923129 ONTARIO INC. cob WOODSIDE POTTERY,  
NOBLE HOUSE DEVELOPMENT CORPORATION, COSTELLOS OF CRAIGHURST  
INC., 2209326 ONTARIO LTD. and MARIPOSA LANDING INC.**

Defendants

**ORDER**

**THIS MOTION**, brought by Lloyds Underwriters and 3303128 Canada Inc. T/A Alternative Risk Services, for an Order lifting the stay of proceedings imposed by the Order of the Honourable Mr. Justice Hainey dated February 20, 2020 and an Order permanently transferring the within action to be heard on the Commercial List, was heard this day at the Court House, 330 University Avenue, 8<sup>th</sup> Floor, Toronto, Ontario.

**ON READING** the Notice of Motion and the Affidavit of Alexander Melfi sworn on April \_\_\_\_, 2020, and on hearing the submissions of counsel for Lloyds Underwriters and

3303128 Canada Inc. T/A Alternative Risk Services and other counsel present at the hearing of the motion,

1. **THIS COURT ORDERS** that the stay of proceedings of the within action imposed by the Order of Mr. Justice Hainey dated February 20, 2020 shall be and is hereby lifted for the sole purpose of permitting the Plaintiffs in the within action to continue and prosecute their claims against the Defendants as set out in the Amended Statement of Claim attached hereto, including to seek interim injunctive relief against the Defendants as set out in the Amended Statement of Claim, to establish the Defendants' liability to the Plaintiffs, if any, and thereafter to enforce any applicable judgment against the assets of the Defendants.
2. **THIS COURT ORDERS** that enforcement of any final judgment obtained by the Plaintiffs in the within action against Noble House Development Corporation, 2209326 Ontario Ltd., and/or 2307400 Ontario Inc., all of which are in receivership pursuant to the Order of Mr. Justice Hainey dated February 20, 2020, shall be stayed pending further Order of this Court.
3. **THIS COURT ORDERS** that nothing in this Order shall be deemed to require msi Spergel Inc., as the receiver of Noble House Development Corporation, 2209326 Ontario Ltd., and 2307400 Ontario Inc. appointed pursuant to the Order of Mr. Justice Hainey dated February 20, 2020, to defend the within action or to take any other steps in respect of the within action, including, without limitation, production of documents or participating in any discovery proceedings, and that msi Spergel Inc. shall not be liable for any costs with respect to the within action.

4. **THIS COURT ORDERS** that nothing in this Order shall be deemed an acceptance or approval by msi Spergel Inc. of any of the allegations made in the Amended Statement of Claim in the within action.
5. **THIS COURT FURTHER ORDERS** that the within action bearing Court File No. CV-20-277-00 commenced in the Superior Court of Justice at Barrie, Ontario, be and is hereby transferred permanently to the Commercial List division of the Superior Court of Justice at Toronto, Ontario located at 330 University Avenue, 8<sup>th</sup> Floor, and is assigned Court File No. CV- \_\_\_\_\_ -00CL to be continued under the following style of cause:

Court File No. CV- \_\_\_\_\_ -00CL

**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**

Plaintiffs

- and -

**RAY C. JARVIS aka RAYMOND JARVIS, RE/MAX NORTH COUNTRY REALTY  
INC., 1981262 ONTARIO INC., 1923129 ONTARIO INC. cob WOODSIDE POTTERY,  
NOBLE HOUSE DEVELOPMENT CORPORATION, COSTELLOS OF CRAIGHURST  
INC., 2209326 ONTARIO LTD. and MARIPOSA LANDING INC.**

Defendants

---



**LLOYDS UNDERWRITERS et al.**  
Plaintiffs

- and -  
Defendants

**RAY C. JARVIS aka RAYMOND JARVIS et al.**

Court File No. CV-20-277-00

<p><b>ONTARIO</b> <b>SUPERIOR COURT OF JUSTICE</b>  PROCEEDING COMMENCED AT BARRIE</p>	
<p><b>ORDER</b></p>	
<p><b>GARDINER ROBERTS LLP</b> Lawyers Bay Adelaide Centre 22 Adelaide Street West, Suite 3600 Toronto, ON M5H 4E3</p> <p><b>Alexander Melfi (LSO: 64154H)</b> amelfi@grllp.com Tel: 416-865-6712</p> <p><b>Gavin J. Tighe (LSO: 34496Q)</b> gtighe@grllp.com Tel: 416-865-6664</p> <p>Tel: 416-865-6600 Fax: 416-865-6636</p> <p>Lawyers for the Plaintiffs</p>	

**LLOYDS UNDERWRITERS et al.**  
Plaintiffs

- and -

**RAY C. JARVIS aka RAYMOND JARVIS et al.**  
Defendants

Court File No. CV-20-277-00

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
  
PROCEEDING COMMENCED AT  
BARRIE

**MOTION RECORD  
OF THE PLAINTIFFS**

(Motion to Lift Stay/Transfer to Commercial List)

**GARDINER ROBERTS LLP**  
Lawyers  
Bay Adelaide Centre – East Tower  
22 Adelaide Street West, Suite 3600  
Toronto ON M5H 4E3

**Alexander Melfi (LSO: 64154H)**  
amelfi@grllp.com  
Tel: 416-865-6712

**Gavin J. Tighe (LSO: 34496Q)**  
gjtighe@grllp.com  
Tel: 416-865-6664

Tel: 416-865-6600  
Fax: 416-865-6636

Lawyers for the Plaintiffs