

**IN THE MATTER OF**

The Registrar, *Trust in Real Estate Services Act, 2002, S.O. 2002, Chapter 30, Schedule C, and Regulations, as amended, previously the Real Estate and Business Brokers Act, 2002* (the “**Act**”)

- and -

The Registrations of **Natalie Renata Smith, registered as Natalie Smit** as a broker, and **RE/MAX Legend Real Estate Inc.**, as a brokerage under the Act

**NOTICE OF PROPOSAL TO REVOKE REGISTRATION**

**WHEREAS** Natalie Renata Smit, registered as Natalie Smit (“**Smit**”), is registered as a broker under the Act, and whereas RE/MAX Legend Real Estate Inc. (“**Legend RE**”), is registered as a brokerage under the Act;

**AND WHEREAS** Section 13 of the Act provides that the Registrar may revoke a registration if in the Registrar’s opinion a registrant is not entitled to registration under Section 10 of the Act;

**AND WHEREAS** Section 14 of the Act provides that where the Registrar proposes to revoke the registration of a registrant, the Registrar shall serve notice of the proposal on the registrant;

**AND WHEREAS** in the Registrar’s opinion Smit and Legend RE are not entitled to registration under Section 10 of the Act and the Registrar proposes to revoke the registration of Smit as a broker under the Act and to revoke the registration of Legend RE as a brokerage under the Act, for the reasons that follow;

**TAKE NOTICE THAT PURSUANT TO SECTIONS 13 AND 14 OF THE ACT, THE REGISTRAR IS PROPOSING TO REVOKE THE REGISTRATION OF SMIT AS A BROKER AND THE REGISTRATION OF LEGEND RE AS A BROKERAGE.**

**A. REASONS**

1. Smit is not entitled to registration on the following grounds:
  - a) pursuant to section 10(1)(a)(i) of the Act, because, having regard to Smit's financial position or the financial position of an interested person in respect of Smit (namely Legend RE), Smit cannot reasonably be expected to be financially responsible in the conduct of business;
  - b) pursuant to section 10(1)(a)(iii) of the Act, because Smit's past conduct affords reasonable grounds for belief that they will not carry on business in accordance with law and with honesty and integrity; and
  - c) pursuant to section 10(1)(c) of the Act, because Smit, or an interested party in respect of Smit (namely Legend RE), has carried on or is carrying on activities that are in contravention of the Act or its regulations.
  
2. Legend RE is not entitled to registration on the following grounds:
  - a) pursuant to section 10(1)(b)(i) of the Act, because having regard to Legend RE's financial position, Legend RE cannot reasonably be expected to be financially responsible in the conduct of its business;
  - b) pursuant to section 10(1)(d)(iii) of the Act, because the past conduct of Legend RE's officers or directors or of an interested person in respect of the corporation (namely Smit) affords reasonable grounds for belief that its business will not be carried on in accordance with the law and with integrity and honesty; and
  - c) pursuant to section 10(1)(c) of the Act, because Legend RE, or an interested party in respect of Legend RE, has carried on or is carrying on activities that are in contravention of the Act or its regulations.

## **B. PARTICULARS**

### **IT IS ALLEGED AS FOLLOWS:**

#### ***Registration History***

1. Smit was first registered under the Act on or about September 15, 2009, and continues to be so registered.
2. Legend RE was first registered on or about January 25, 1993, and continues to be so registered.
3. Based on the records of the Real Estate Council of Ontario (“RECO”), Smit has been the broker of record of Legend RE since April 17, 2023.

#### ***Real Estate Trust Accounts***

4. All registered brokerages are required under the Act to have and maintain a real estate trust account (RETA).
5. The primary purpose of a RETA is for receiving and disbursing funds relating to trades in real estate. It is usually transaction deposit monies that flow into and out of a brokerage’s real estate trust account.
6. The Act sets requirements for the operation of a RETA – including record keeping requirements in connection to deposits and disbursements.
7. The Act also requires that a brokerage and its broker of record prepare monthly reconciliations of the brokerage’s RETA.

#### ***Inspection History***

8. On or about April 17, 2024, a RECO inspector conducted an inspection of the real estate books and records of Legend RE for the months of January 2024 to March 2024.
9. The inspection determined, amongst other things, that as of the end of March 2024, the RETA of Legend RE (“LRETA”) had a shortfall of \$271,602.00.

#### ***Investigation***

10. Based on the inspector’s observations the matter was transferred to RECO’s investigation department.
11. Upon reviewing the records of the LRETA for April 2023 to April 2024, a RECO investigator determined the following:
  - i. Multiple unauthorized disbursements had been made from the LRETA;

- ii. The brokerage had not done reconciliations for the LRETA in a timely manner for several months;
- iii. The LRETA has had a shortfall at the end of every month since April 2023; and
- iv. The brokerage had not deposited sufficient funds to correct shortfalls in the LRETA.

12. On May 2, 2024, a RECO investigator conducted an interview with Smit at the offices of Legend RE where Smit stated the following:

- i. Smit was the only individual who had signing authority to the LRETA as of April 2023;
- ii. Smit started making unauthorized withdrawals from the LRETA in April 2023 resulting in shortfalls in the LRETA; and
- iii. Smit was unable to correct shortfalls in the LRETA.

13. As of May 2, 2024, the balances of the accounts of Legend RE were as follows:

- General Account: -\$51,060.05;
- Commission Trust Account: \$31,227.52; and
- LRETA: \$25,098.00.

14. Smit and Legend RE have not complied with their respective legislative obligations under the Act regarding the operation of the brokerage and the LRETA, including the following provisions:

- a) Sections 12 and 27 of the Act;
- b) Sections 7 and 30 of the *General Regulation* to the Act (O. Reg. 567/05); and
- c) Sections 13 and 14 of the *Educational Requirements, Insurance, Records and Other Matters Regulation* to the act (O. Reg. 579/05).

### C. RIGHT TO A HEARING

Take notice that Section 14 of the Act provides that a registrant is entitled to a hearing by the Licence Appeal Tribunal (the "Tribunal") in respect of a proposal by the Registrar to revoke registration if WITHIN 15 DAYS after service of this notice (deemed to be on the third day after mailing by registered mail) that the Registrar proposes to revoke the registration, the Registrant mails or delivers notice in writing that a hearing is required to the following parties:

**TO:** The Registrar  
Licence Appeal Tribunal  
15 Grosvenor Street, Ground Floor  
Toronto, Ontario M7A 2G6

**AND TO:** The Registrar  
Real Estate Council of Ontario  
West Tower, Suite 1400  
Toronto, ON M8X 2X2

Section 14(4) of the Act provides that where the Registrant does not require a hearing by the Tribunal the Registrar may carry out the proposal to revoke the registration and that any person who, while not registered, trades in real estate is, subject to exceptions enumerated in the Act, in contravention of the Act and is liable to prosecution.

Section 14(5) of the Act provides that where a registrant requires a hearing by the Tribunal, the Tribunal shall appoint a time for and hold the hearing and may by order direct the Registrar to carry out the Registrar's proposal, or may substitute its opinion for that of the Registrar and the Tribunal may attach conditions to its order or to a registration.

If a registrant requires a hearing regarding this proposal and further wishes to be represented by a lawyer or agent at the hearing, it is strongly advised that the registrant make these arrangements as soon as possible. The Registrar reserves the right to oppose any request by the registrant for an adjournment of the hearing in order for the registrant to make such arrangements.

#### **D. NOTICE OF MOTION FOR COSTS**

If a hearing is requested as described in Section C and, at any time during the course of proceedings arising from this request, the Registrar believes the registrant has acted unreasonably, frivolously, vexatiously or in bad faith, the Registrar will make a request for an award of costs from the Tribunal, such costs to be paid by the registrant.

#### **E. APPLICATION OF THE STATUTORY POWERS PROCEDURE ACT**

The *Statutory Powers Procedure Act*, R.S.O. 1990, Chapter S.22 as amended ("**SPPA**") applies to the Tribunal. Section 8 of the SPPA provides as follows:

8. – Where the good character, propriety of conduct or competence of a party is an issue in a proceeding, the party is entitled to be furnished prior to the hearing with reasonable information of any allegations with respect thereto.

If a hearing is held as required by the Registrant, the Registrar states that the good character, propriety of conduct or competence of the registrant shall be an issue in the hearing and the Registrar has provided herein reasonable information of allegations with respect thereto.

## F. FURTHER PARTICULARS/SUPPLEMENTAL NOTICE

The registrant may be sent further or other particulars in respect of any matter herein or in respect of any other matter including further grounds for revocation of registration.

June 4, 2024

Joseph Richer, Registrar  
*Trust in Real Estate Services Act, 2002*

**Date**

**IN THE MATTER OF** the Registrar, *Trust in Real Estate Services Act, 2002*, S.O. 2002, c.30, Schedule C and Regulations thereto, as amended (the “Act”);

- and -

The registration of **NATALIE RENATA SMIT**, registered as **NATALIE SMIT** as a broker under the Act, and the registration of **RE/MAX LEGEND REAL ESTATE INC.**, as a brokerage under the Act;

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**NOTICE OF PROPOSAL  
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**Joseph Richer**  
Registrar  
*Trust in Real Estate Services Act, 2002*