

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

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
RSC 1985, c C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF CANNTRUST HOLDINGS INC., CANNTRUST INC.,
CTI HOLDINGS (OSOYOOS) INC., AND ELMCLIFFE INVESTMENTS INC.

Applicants

**SUPPLEMENTARY RESPONDING MOTION RECORD
OF MARK LITWIN, FRED LITWIN AND STANLEY ABRAMOWITZ**

March 16, 2021

STIKEMAN ELLIOTT LLP

Barristers & Solicitors
5300 Commerce Court West, 199 Bay Street
Toronto, ON M5L 1B9

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Lawyers for Mark Litwin, Fred Litwin, and
Stanley Abramowitz

TO: **MCCARTHY, TÉTRAULT LLP**
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Email: asteele@mccarthy.ca

Lawyers for the Applicants

AND TO: **SERVICE LIST**

**ONTARIO
SUPERIOR COURT OF JUSTICE
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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
RSC 1985, c C-36, AS AMENDED

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Applicants

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Court File No.: CV-20-00638930-00CL

**ONTARIO
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Applicants

**SUPPLEMENTARY AFFIDAVIT OF JOCELYN KEMP
(SWORN MARCH 16, 2021)**

I, Jocelyn Kemp, of the Town of Whitby, in the Regional Municipality of Durham, MAKE
OATH AND SAY:

1. I am a Law Clerk with the law firm of Stikeman Elliott LLP, the lawyers for Mark Litwin, Fred Litwin, and Stanley Abramowitz, all of whom are named as defendants in certain of the CannTrust-related litigation, as well as affiliated entities, and as such, have knowledge of the matters contained in this affidavit. To the extent that I make statements on the basis of information and belief, in each case I state the source of my information and believe it to be true. In swearing this affidavit, I do not intend to and do not waive any applicable privilege.

2. This Affidavit is supplementary to the Affidavit I swore on March 11, 2021.

3. Attached to this my Affidavit and marked as **Exhibit "A"** is a copy of an email exchange dated July 12, 2019 between Stan Abramowitz and Greg Guyatt.

4. Attached to this my Affidavit and marked as **Exhibit "B"** are copies of email communications between Brian Pukier, Greg Guyatt and David Blair relating to invoices rendered by Stikeman Elliott LLP.

SWORN by Jocelyn Kemp of the Town of Whitby, in the Regional Municipality of Durham, before me at the City of Toronto, in the Province of Ontario, on March 16, 2021, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Libby Nixon

028DDB0F5478427...

Commissioner for Taking Affidavits
(or as may be)

DocuSigned by:

Jocelyn Kemp

D27B6502F78C15F...

JOCELYN KEMP

This is Exhibit "A" referred to in the Affidavit of Jocelyn Kemp sworn by Jocelyn Kemp of the Town of Whitby in the Regional Municipality of Durham, before me at the City of Toronto, in the Province of Ontario, on March 16, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Libby Nixon

028DDB0F5478427...

Commissioner for Taking Affidavits (or as may be)

From: Greg Guyatt [<mailto:GGuyatt@canntrust.ca>]
Sent: July 12, 2019 9:57 AM
To: Stan Abramowitz <stan@forumfinancialcorp.com>
Cc: linda.fuerst@nortonrosefulbright.com; 'msanders@goldmanspring.com' <msanders@goldmanspring.com>; Mark Litwin <mark@forumfinancialcorp.com>; Eric Paul <EPaul@canntrust.ca>
Subject: RE: Indemnification and Contribution Agreement

Received.
Thank you

Greg Guyatt, CPA, CA
Chief Financial Officer
Phone: (437) 317-4464
Mobile: (416) 458-9021

From: Stan Abramowitz [<mailto:stan@forumfinancialcorp.com>]
Sent: July 12, 2019 9:51 AM
To: Greg Guyatt <GGuyatt@canntrust.ca>
Cc: linda.fuerst@nortonrosefulbright.com; 'msanders@goldmanspring.com' <msanders@goldmanspring.com>; Mark Litwin <mark@forumfinancialcorp.com>; Eric Paul <EPaul@canntrust.ca>
Subject: Indemnification and Contribution Agreement

Greg

Recall that on closing the attached Indemnification and Contribution Agreement was entered into as between the selling shareholders, on the one hand, and Canntrust Holdings Inc, on the other hand. This document provides for indemnification in certain circumstances, and in such regard in order to preserve the rights of indemnification by Canntrust Holdings Inc. to the selling shareholders, please accept this email as formal notice that CannaMed Financial Corp. will be seeking indemnity from

Canntrust Holdings Inc. pursuant to the enclosed agreement to the extent that any of the representations and warranties of Canntrust Holdings Inc. as contained in the Underwriting Agreement prove to be false or inaccurate in any respect. Section 1.1[b] of the enclosed Indemnification and Contribution Agreement provides that the representations and warranties of the selling shareholder were made wholly in reliance on the representations and warranties of Canntrust Holdings Inc.

Thank you,

Stan

Stan Abramowitz
106 Avenue Road
Toronto, Ontario, M5R 2H3
416-920-0500 X 227
stan@forumfinancialcorp.com

-

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This is Exhibit "B" referred to in the Affidavit of Jocelyn Kemp sworn by Jocelyn Kemp of the Town of Whitby in the Regional Municipality of Durham, before me at the City of Toronto, in the Province of Ontario, on March 16, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Libby Nixon

028DDB0F5478427...

Commissioner for Taking Affidavits (or as may be)

From: [Brian Pukier](#)
To: [Greg Guyatt](#)
Cc: [Stan Abramowitz](#); [Mark Litwin \(mark@forumfinancialcorp.com\)](#)
Subject: RE: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements
Date: Friday, February 7, 2020 1:27:45 PM
Attachments: [Forum Financial re CannTrust Holdings Account dated February 6 2020\(111464893.1\).pdf](#)
[Forum re Zola Finance Holdings Account dated February 6 2020\(111464909.1\).pdf](#)

Greg,

I have attached our accounts for December and January. Please let us know if you have any questions.

Regards,

Brian

Brian M. Pukier

Direct: [+1 416 869 5567](#)
Mobile: [+1 416 450 7006](#)
Email: bpukier@stikeman.com

From: Brian Pukier <BPukier@stikeman.com>
Sent: Friday, November 29, 2019 2:35 PM
To: Greg Guyatt <GGuyatt@canntrust.ca>
Cc: Stan Abramowitz <stan@forumfinancialcorp.com>; Mark Litwin (mark@forumfinancialcorp.com) <mark@forumfinancialcorp.com>
Subject: RE: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements

Greg,

Attached are our accounts for the month of November on behalf of Mark and Stan, which we are providing to you pursuant to the indemnity obligations of CannTrust in favour of our clients.

Please also note that our accounts from October have not yet been paid – let me know if you would like me to resend them to you.

Regards,

Brian

Brian M. Pukier

Direct: [+1 416 869 5567](#)
Mobile: [+1 416 450 7006](#)
Email: bpukier@stikeman.com

From: Brian Pukier
Sent: Thursday, October 31, 2019 11:58 AM
To: Greg Guyatt <GGuyatt@canntrust.ca>
Cc: Stan Abramowitz <stan@forumfinancialcorp.com>; Mark Litwin (mark@forumfinancialcorp.com)

<mark@forumfinancialcorp.com>

Subject: RE: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements

Greg,

Many thanks for the prompt payment last month of our account. I have attached our October accounts to this email (we are separately tracking our time for the new Zola claim that was presented a couple of weeks ago), which are being sent to you pursuant to the indemnity obligations of CannTrust in favour of Mark and Stan. As always, please reach out if you have any questions.

Regards,

Brian

From: Brian Pukier

Sent: Sunday, September 29, 2019 1:20 PM

To: Greg Guyatt <GGuyatt@canntrust.ca>

Cc: Stan Abramowitz <stan@forumfinancialcorp.com>; Mark Litwin (mark@forumfinancialcorp.com) <mark@forumfinancialcorp.com>

Subject: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements

Greg,

At Mark and Stan's request, I am forwarding to you our account for the work we have been doing on their behalf in relation to the claims made against them in their capacity as director (in Mark's case) and officer (in Stan's case) of CannTrust. Please pay this account directly pursuant to the indemnity agreements that each of Mark and Stan have with CannTrust Holdings Inc. If you have any questions, please let me know.

Regards,

Brian

Brian M. Pukier

Direct: [+1 416 869 5567](tel:+14168695567)

Mobile: [+1 416 450 7006](tel:+14164507006)

Email: bpukier@stikeman.com

From: [Brian Pukier](#)
To: [Greg Guyatt](#)
Cc: [Stan Abramowitz](#)
Subject: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements
Date: Monday, March 30, 2020 4:50:48 PM
Attachments: [Forum Financial re CannTrust Account dated March 30 2020\(111654089.1\).pdf](#)
[Forum Financial re Zola Holdings dated March 30 2020\(111654118.1\).pdf](#)

Greg,

I know that you are swamped right now, so apologies for adding an email into your inbox.

In any case, for when you have gotten over the next hump, I have attached our accounts for the month of March.

Regards,

Brian

Brian M. Pukier

Direct: [+1 416 869 5567](#)
Mobile: [+1 416 450 7006](#)
Email: bpukier@stikeman.com

From: [Brian Pukier](#)
To: [Greg Guyatt](#)
Cc: [Stan Abramowitz](#); [David Blair](#)
Subject: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- May account
Date: Tuesday, June 2, 2020 4:05:37 PM
Attachments: [Forum Financial re CannTrust Account dated June 2 2020\(111879447.1\).pdf](#)

Greg and David,

I have attached our account for the month of May. Please let me know if you have any questions.

On a related topic, our April account is still outstanding – I had thought you had mentioned that you were planning to pay it in a payment run last week, so I would appreciate it if you could follow up on that.

Regards,

Brian

From: Brian Pukier <BPukier@stikeman.com>
Sent: Thursday, April 30, 2020 2:20 PM
To: Greg Guyatt <GGuyatt@canntrust.ca>
Cc: Stan Abramowitz <stan@forumfinancialcorp.com>
Subject: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- April account

Greg,

I have attached our account for the month of April. Please let me know if you have any questions.

Regards,

Brian

Brian M. Pukier

Direct: [+1 416 869 5567](#)
Mobile: [+1 416 450 7006](#)
Email: bpukier@stikeman.com

From: [Brian Pukier](#)
To: [Greg Guyatt](#); [David Blair](#)
Cc: [Stan Abramowitz](#)
Subject: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- August account
Date: Monday, August 31, 2020 3:19:20 PM
Attachments: [Forum Financial re CannTrust Account dated August 31 2020\(112131487.1\).pdf](#)

David – I have attached our account for the month of August, and would also ask if you can update me on the payment timing of our July account (which, as of this morning, had not yet been paid).

Thanks,

Brian

From: Brian Pukier <BPukier@stikeman.com>
Sent: Tuesday, August 4, 2020 11:17 AM
To: Greg Guyatt <GGuyatt@canntrust.ca>
Cc: Stan Abramowitz <stan@forumfinancialcorp.com>; David Blair <DBlair@canntrust.ca>
Subject: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- July account

David,

I have attached our account for the month of July.

Regards,

Brian

Brian M. Pukier

Direct: [+1 416 869 5567](#)
Mobile: [+1 416 450 7006](#)
Email: bpukier@stikeman.com

From: [Brian Pukier](#)
To: [Greg Guyatt](#); [David Blair](#)
Cc: [Stan Abramowitz](#)
Subject: Mak Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- September account
Date: Wednesday, September 30, 2020 4:15:00 PM
Attachments: [Forum Financial re CannTrust Account dated September 30 2020\(112277720.1\).pdf](#)

David – I have attached our account for the month of September.

Thanks,

Brian

Brian M. Pukier

Direct: [+1 416 869 5567](#)
Mobile: [+1 416 450 7006](#)
Email: bpukier@stikeman.com

From: [Brian Pukier](#)
To: [Greg Guyatt](#); [David Blair](#)
Cc: [Stan Abramowitz](#)
Subject: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- October account
Date: Friday, October 30, 2020 12:10:59 PM
Attachments: [Litwin Account dated October 30 2020\(112379504.1\).pdf](#)

David – I have attached our account for the month of October.

Thanks,

Brian

Brian M. Pukier

Direct: [+1 416 869 5567](#)
Mobile: [+1 416 450 7006](#)
Email: bpukier@stikeman.com

From: [Brian Pukier](#)
To: [Greg Guyatt](#); [David Blair](#)
Cc: [Stan Abramowitz](#)
Subject: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- November account
Date: Monday, November 30, 2020 5:37:04 PM
Attachments: [Forum Financial re CannTrust Account dated November 30 2020\(112519309.1\).pdf](#)

David – I have attached our account for the month of November, although I would note that our October account is still outstanding and we would appreciate it if that could be paid this week.

Thanks,

Brian

Brian M. Pukier

Direct: [+1 416 869 5567](#)
Mobile: [+1 416 450 7006](#)
Email: bpukier@stikeman.com

From: Greg Guyatt <GGuyatt@canntrust.ca>
Sent: Monday, January 4, 2021 11:20 AM
To: Brian Pukier <BPukier@stikeman.com>; David Blair <DBlair@canntrust.ca>
Cc: Stan Abramowitz <stan@forumfinancialcorp.com>
Subject: RE: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- December account

Understood and thank you.

David – please proceed with payment.

Greg Guyatt

Chief Executive Officer
Mobile: (416) 458-9021
Direct: (647) 264-6409

From: Brian Pukier <BPukier@stikeman.com>
Sent: Monday, January 4, 2021 11:18 AM
To: Greg Guyatt <GGuyatt@canntrust.ca>; David Blair <DBlair@canntrust.ca>
Cc: Stan Abramowitz <stan@forumfinancialcorp.com>
Subject: RE: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- December account

Thanks for the New Years sentiments – hope you guys are doing well.

The agent's fees are all for Epiq eDiscovery Solutions – the third party that is doing the document review [REDACTED]. We could have done that in-house, but it is much cheaper to outsource that to Epiq (we do not earn any commission or fee for outsourcing it).

While I do not believe that it has been established whether Cannamed is entitled to be indemnified or not (I believe that Cannamed takes the position that it is entitled to an indemnity pursuant to the various indemnity agreements with CannTrust), in any case, Cannamed has retained separate counsel (Faskens) and the couple of time entries we have on our dockets relate to us interacting with Faskens on behalf of the Litwins. Whether Cannamed is entitled to its indemnity may be an issue for another day if or when Cannamed seeks reimbursement for the fees that it is separately paying.

Regards,

Brian

Brian M. Pukier

Direct: +1 416 869 5567
Mobile: +1 416 450 7006
Email: bpukier@stikeman.com

Stikeman Elliott

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Stikeman Elliott LLP Barristers & Solicitors

[5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada](#)

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From: Greg Guyatt <GGuyatt@canntrust.ca>

Sent: Saturday, January 2, 2021 6:47 PM

To: Brian Pukier <BPukier@stikeman.com>; David Blair <DBlair@canntrust.ca>

Cc: Stan Abramowitz <stan@forumfinancialcorp.com>

Subject: RE: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- December account

Hi Brian,

First of all I wish you the best for 2021 and hope you and your family are doing well.

With respect to the recent billing, could you please provide some colour on the magnitude of this bill? Two things in particular jump out at me, the Agent Fees which are not specified, as well as reference to Cannamed issues. Cannamed is not an indemnified party so any matters related to it should not be included in indemnification payments.

Thanks

Greg Guyatt

Chief Executive Officer
Mobile: (416) 458-9021
Direct: (647) 264-6409

From: Brian Pukier <BPukier@stikeman.com>

Sent: Thursday, December 31, 2020 9:53 AM

To: Greg Guyatt <GGuyatt@canntrust.ca>; David Blair <DBlair@canntrust.ca>

Cc: Stan Abramowitz <stan@forumfinancialcorp.com>

Subject: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- December account

David,

Attached is our December account on behalf of our client, and subject to the indemnity arrangements with CannTrust.

All the best to you and your family for the New Year.

Regards,

Brian

Brian M. Pukier

Direct: [+1 416 869 5567](tel:+14168695567)

Mobile: [+1 416 450 7006](tel:+14164507006)

Email: bpukier@stikeman.com

Stikeman Elliott

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Stikeman Elliott LLP Barristers & Solicitors

[5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada](#)

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From: [Brian Pukier](#)
To: [Greg Guyatt](#); [David Blair](#)
Cc: [Stan Abramowitz](#)
Subject: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- January account
Date: Friday, January 29, 2021 4:59:45 PM
Attachments: [Mark Litwin Account dated January 29 2021\(112745927.1\).pdf](#)

David,

Attached is our January account on behalf of our client, and subject to the indemnity arrangements with CannTrust.

Regards,

Brian

Brian M. Pukier

Direct: [+1 416 869 5567](#)
Mobile: [+1 416 450 7006](#)
Email: bpukier@stikeman.com

From: Greg Guyatt <GGuyatt@canntrust.ca>
Sent: Friday, February 26, 2021 1:26 PM
To: Brian Pukier <BPukier@stikeman.com>; David Blair <DBlair@canntrust.ca>
Cc: Stan Abramowitz <stan@forumfinancialcorp.com>
Subject: RE: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- January account

Thanks for following up Brian, apologies for the delay. Over to you DB, please pay asap.

Greg Guyatt

Chief Executive Officer
Mobile: (416) 458-9021
Direct: (647) 264-6409



www.canntrust.com

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From: Brian Pukier <BPukier@stikeman.com>
Sent: Friday, February 26, 2021 1:25 PM
To: Greg Guyatt <GGuyatt@canntrust.ca>; David Blair <DBlair@canntrust.ca>

Cc: Stan Abramowitz <stan@forumfinancialcorp.com>

Subject: RE: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- January account

Greg and David – you are normally pretty consistent in paying these invoices within 30 days, so I wanted to make sure this last one has not fallen through the cracks. I will get you the February invoice later today or on Monday.

Brian

From: Brian Pukier <BPukier@stikeman.com>

Sent: Friday, January 29, 2021 4:59 PM

To: Greg Guyatt <GGuyatt@canntrust.ca>; David Blair <DBlair@canntrust.ca>

Cc: Stan Abramowitz <stan@forumfinancialcorp.com>

Subject: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- January account

David,

Attached is our January account on behalf of our client, and subject to the indemnity arrangements with CannTrust.

Regards,

Brian

Brian M. Pukier

Direct: [+1 416 869 5567](tel:+14168695567)

Mobile: [+1 416 450 7006](tel:+14164507006)

Email: bpukier@stikeman.com



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Stikeman Elliott LLP Barristers & Solicitors

[5300 Commerce Court West, 199 Bay Street, Toronto, ON M5L 1B9 Canada](#)

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From: [Brian Pukier](#)
To: [Greg Guyatt](#); [David Blair](#)
Cc: [Stan Abramowitz](#)
Subject: Mark Litwin and Stan Abramovitz -- Legal expenses subject to indemnity agreements -- February account
Date: Monday, March 1, 2021 12:29:41 PM
Attachments: [Mark Litwin Account dated February 28 2021\(112892371.1\).pdf](#)

David,

Attached is our February account on behalf of our client, and subject to the indemnity arrangements with CannTrust.

Regards,

Brian

Brian M. Pukier

Direct: [+1 416 869 5567](#)
Mobile: [+1 416 450 7006](#)
Email: bpukier@stikeman.com

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, RSC 1985, c C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CANNTRUST HOLDINGS INC., CANNTRUST INC., CTI HOLDINGS (OSOYOOS) INC., AND ELMCLIFFE INVESTMENTS INC.

Court File No.: CV-20-00638930-00CL

ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST	
Proceeding commenced at Toronto	
AFFIDAVIT OF JOCELYN KEMP SWORN MARCH 16, 2021	
STIKEMAN ELLIOTT LLP Barristers & Solicitors 5300 Commerce Court West 199 Bay Street Toronto, Canada M5L 1B9 Peter Howard LSO#22056F Tel: (416) 869-5613 phoward@stikeman.com Ashley Taylor LSO #39932E Tel: (416) 869-5623 ataylor@stikeman.com Eliot Kolers LSO #38304R Tel: (416) 869-5637 ekolers@stikeman.com Lawyers for Mark Litwin, Fred Litwin and Stanley Abramowitz	

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, RSC 1985, c C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CANNTRUST HOLDINGS INC., CANNTRUST INC., CTI HOLDINGS (OSOYOOS) INC., AND ELMCLIFFE INVESTMENTS INC.

Court File No.: CV-20-00638930-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**SUPPLEMENTARY RESPONDING
MOTION RECORD**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Peter Howard LSO#22056F
Tel: (416) 869-5613
phoward@stikeman.com

Ashley Taylor LSO #39932E
Tel: (416) 869-5623
ataylor@stikeman.com

Eliot Kolers LSO #38304R
Tel: (416) 869-5637
ekolers@stikeman.com

Lawyers for Mark Litwin, Fred Litwin and Stanley Abramowitz