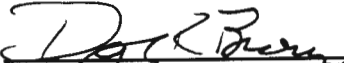




paid within seven days of the date of this order and the second of which shall be in the amount of \$2,500.00 to be paid no later than June 30, 2013.

**BY ORDER OF THE COMMISSION**

  
\_\_\_\_\_  
Director



THE MANITOBA  
SECURITIES  
COMMISSION

SCHEDULE "A"

Ex. No.: 2.  
Ex. of: J Hiebert  
Date: June 26/13  
Finlayson Reporting  
284-8060

Settlement Agreement

Timothy Jacob Paul Hiebert and Riverbend Realty Ltd. operating as  
Prudential Riverbend Realty

and

The Staff of The Manitoba Securities Commission

The Manitoba Securities Commission  
500 – 400 St. Mary Avenue  
Winnipeg, Manitoba  
R3C 4K5

## SETTLEMENT AGREEMENT

### A. Introduction

- A1. By way of a Notice of Hearing to be issued ("NOH"), The Manitoba Securities Commission ("Commission") will give notice of its intention to hold a hearing to consider whether pursuant to The Real Estate Brokers Act ("REBA") it is in the public interest for the Commission to make an order approving the settlement agreement contained herein entered into between staff of the Commission ("Staff") and Timothy Jacob Paul Hiebert and Riverbend Realty Ltd. operating as Prudential Riverbend Realty ("Settlement Agreement").
- A2. Discussions have been held between Timothy Jacob Paul Hiebert ("HIEBERT") and Riverbend Realty Ltd. operating as Prudential Riverbend Realty ("PRUDENTIAL"), collectively referred to as the respondents, and Staff in an effort to settle all issues in connection with an enforcement matter in respect of conduct or alleged conduct of the respondents in relation to the facts set out in Part B. of this Settlement Agreement ("Enforcement Matter"). A settlement of the Enforcement Matter has been reached based on the terms and conditions set forth in this Settlement Agreement.
- A3. Pursuant to the settlement, Staff agree to recommend to the Commission that the Enforcement Matter against the respondents be resolved and disposed of in accordance with the terms and conditions of this Settlement Agreement as set forth below. The respondents consent to the settlement and to the making of the consent order referred to in Part D. below, on the terms and conditions set forth in this Settlement Agreement.

### B. Statement of Facts

- B1. HIEBERT was first registered as a salesman under REBA on March 24, 2010.
- B2. At all material times, PRUDENTIAL was HIEBERT's employing broker.
- B3. As a condition of his registration, HIEBERT was required to complete Course 1 – Principles of Appraisal ("course") by March 24, 2012.
- B4. On March 22, 2012, at the request of HIEBERT, an extension was given to April 15, 2012 to complete the course.
- B5. HIEBERT failed to complete the course by the deadline of April 15, 2012.
- B6. On April 16, 2012, HIEBERT's registration was suspended.



- B7. HIEBERT and PRUDENTIAL were notified that:
- (a) HIEBERT's registration as a salesman was suspended effective April 16, 2012;
  - (b) HIEBERT was not to engage in any real estate transactions as a salesman until properly completing the course;
  - (c) upon successful completion of the course, HIEBERT and PRUDENTIAL could make a written request to reinstate his registration;
  - (d) HIEBERT's registration would expire March 23, 2013 if HIEBERT and PRUDENTIAL failed to take any action to reinstate HIEBERT's registration.
- B8. On May 4, 2012, HIEBERT wrote and passed the examination necessary for completion of the course.
- B9. On October 12, 2012, the Commission received from PRUDENTIAL a request to renew the registration of HIEBERT.
- B10. On October 15, 2012, HIEBERT's registration under REBA was reinstated.
- B11. During the period from and inclusive of April 16, 2012 to October 15, 2012 ("period of suspension"), HIEBERT, in the employ of PRUDENTIAL, continued to act as a real estate salesman, resulting in commissions and/or fees for HIEBERT in excess of \$42,000.00 and gross commissions and/or fees for PRUDENTIAL in excess of \$11,000.00.

**C. Acknowledgements**

- C1. HIEBERT acknowledges and agrees that:
- (a) by operation of subsection 11(4) of REBA, during the period of suspension, HIEBERT was not registered under REBA;
  - (b) he acted contrary to subsection 3(4) of REBA by engaging in real estate trades or transactions during the period from and inclusive of April 16, 2012 to October 15, 2012 without registration;
  - (c) he acted contrary to subsection 11(4) of REBA by receiving commissions and/or fees while his registration was suspended.
- C2. PRUDENTIAL acknowledges and agrees that:

- (a) by operation of subsection 11(4) of REBA, during the period of suspension of HIEBERT's registration, HIEBERT was not registered under REBA;
- (b) PRUDENTIAL acted contrary to subsection 24(1) of REBA by continuing to permit HIEBERT to engage in real estate trades or transactions in its employ as a salesman without registration during the period of suspension;
- (c) PRUDENTIAL acted contrary to subsection 11(4) of REBA by receiving commissions and/or fees while HIEBERT's registration was suspended.

C3. Staff acknowledges that HIEBERT and PRUDENTIAL have been co-operative in the completion of this matter.

#### **D. Terms of Settlement**


- D1. In order to effect a resolution of the issues raised by the Enforcement Matter, Staff and the respondents have entered into this Settlement Agreement. Upon this basis, Staff seek an order ("Consent Order") from the Commission pursuant to subsection 11(1) of REBA that it is in the public interest that:
- (a) the Settlement Agreement be approved;
  - (b) HIEBERT make a payment to the Treasury of the Province of Manitoba in the amount of \$5,000.00, to be paid in two instalments the first of which shall be in the amount of \$2,500.00 to be paid within seven days of the date of this order and the second of which shall be in the amount of \$2,500.00 to be paid no later than June 30, 2013;
  - (c) PRUDENTIAL make a payment to the Treasury of the Province of Manitoba in the amount of \$5,000.00, to be paid in two instalments the first of which shall be in the amount of \$2,500.00 to be paid within seven days of the date of this order and the second of which shall be in the amount of \$2,500.00 to be paid no later than June 30, 2013.

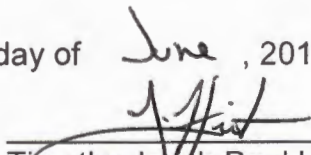
#### **E. Procedure for Approval of Settlement**

- E1. The approval of this Settlement Agreement and the making of the Consent Order set out in this Settlement Agreement shall be sought at a public hearing pursuant to the NOH to be issued.

- E2. Staff and the respondents agree that if this Settlement Agreement is approved by the Commission, it will constitute the entirety of the evidence to be submitted to the Commission in connection with the Enforcement Matter and the respondents hereby waive their respective rights to a full hearing and appeal of this matter.
- E3. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or the Consent Order referred to in Part D. above is not made by the Commission, Staff will be entitled to proceed with whatever steps it is entitled by law to take, including but not restricted to the commencement of a hearing before the Commission, unaffected by this Settlement Agreement or the settlement discussions. In the event that such steps are taken, the respondents shall have all the usual rights of an individual subject to such proceedings. If this Settlement Agreement is not approved or the Consent Order set out in Part D. above is not made by the Commission, the terms of this Settlement Agreement shall remain confidential and will not be raised in this or any other proceeding and any admissions contained in this Settlement Agreement shall be considered as without prejudice communications and in furtherance of settlement discussions, which will not be binding upon the parties and which will be inadmissible in any proceeding whatsoever.
- E4. Staff and the respondents agree that if this Settlement Agreement is approved by the Commission and the Consent Order made upon the terms set out in this Settlement Agreement, this Settlement Agreement will be a public document.
- E5. Each of the respondents agree that he/it will not raise in any proceeding this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as a basis for an attack on the Commission's jurisdiction, alleged bias, alleged unfairness or any other challenge that may be available.
- E6. If this Settlement Agreement is approved by the Commission and the Consent Order is made upon the terms set out in this Settlement Agreement, neither Staff nor the respondents will make any statement inconsistent with this Settlement Agreement.

DATED at 1:47pm, Manitoba, this 3 day of June, 2013.

  
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Witness

  
\_\_\_\_\_  
Timothy Jacob Paul Hiebert