

CT-2011-003

THE COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, as amended;

IN THE MATTER OF an application by the Commissioner of Competition pursuant to section 79 of the *Competition Act*;

AND IN THE MATTER OF certain rules, policies and agreements relating to the multiple listing service of the Toronto Real Estate Board.

BETWEEN:

THE COMMISSIONER OF COMPETITION

Applicant

- and -

THE TORONTO REAL ESTATE BOARD

Respondent

- and -

THE CANADIAN REAL ESTATE ASSOCIATION

Intervenor

SECOND WITNESS STATEMENT OF TARIK GIDAMY

I, Tarik Gidamy, of the City of Toronto, in the Province of Ontario, state as follows:

1. I am co-founder of TheRedPin.com Realty Inc. I am TheRedPin's broker of record and have been licensed in real estate since 1997. I have been a member of the Toronto Real Estate Board ("TREB") since that time.

2. I gave evidence at the hearing in this matter held in September and October 2012 (the "Initial Hearing"). This witness statement updates the evidence I gave at the Initial Hearing with events that have happened since that time.

3. Since the Initial Hearing, I have joined the REALTORS® Association of Hamilton-Burlington, the Niagara Association of REALTORS®, and the Brampton Real Estate Board.

Management Changes at TheRedPin

4. On April 25, 2014, Shayan Hamidi, one of TheRedPin's four co-founders, resigned as chief executive officer. Since his resignation, Joel Silver, Andrew Sloss (a consultant working with TheRedPin) and I have shared CEO responsibilities. We intend to hire a new CEO.

TheRedPin Continues to Grow

5. As of the date of this statement, TheRedPin employs 55 agents, 18 angels, with approximately 115 total staff, including management. [REDACTED]

6. Excellent service, top quality talent, good management, and continued investor support have been critical to our success. Our website, TheRedPin.com, continues to be the foundation of our growth. It provides almost all of the brokerage's leads. Heavy reliance on the Internet and technology allows scaling and growth at a pace that many traditional brokerages cannot manage without hiring an army of agents.

7. The VOW datafeed remains critical to our ability to generate traffic on our website and use our website to generate leads. TREB's VOW datafeed enables website users to see 100% of current MLS® listings on TheRedPin.com. In my experience, home buyers and sellers want the ability to search 100% of current listings online. If home buyers and sellers could not view 100% of current MLS® listings on TheRedPin.com, they would use other websites, like realtor.ca, and we would lose the lead generation our website provides.

Pricing and Compensation at TheRedPin

8. TheRedPin continues to pay inside sales agents a salary with a bonus tied to customer satisfaction. Since 2012, we have attracted agents from other brokerages who see the opportunity at TheRedPin to combine their "book of business" with TheRedPin's technology and close even more deals every year. We refer to these new agents as outside agents. Outside agents are compensated on a blended model. They receive a percentage of the commission earned by the brokerage on the deal and a bonus tied to customer satisfaction.

9. TheRedPin continues to offer a rebate to home buyers. However, it reduced its cash-back rebate from 25% to 15% effective June 1, 2014. The 25% cash-back rebate was an important way for TheRedPin to build name-recognition in its first three years and providing a rebate will remain a key component of TheRedPin brand.

10. The reduced rebate is in line with our full-service brokerage competitors. Among full-service brokerages, TheRedPin had offered the largest rebate. For example, Zoocasa offers only a 15% cash-back rebate and in our view offers an inferior product to home buyers and sellers compared to TheRedPin.

11. Reducing the cash-back rebate also permits TheRedPin to offer non-cash rebates on a deal-by-deal basis. Some non-cash rebates can provide greater value to a client than cash, such as landscaping services, furniture purchases, painters, etc. which TheRedPin can purchase in larger quantities and get a better deal than could most individual home buyers.

Introduction of a Listing Package

12. Almost all of TheRedPin's deals in its first two years were on the buy-side (i.e., acting for home buyers). We see working on the listing side of transactions as a significant growth area for TheRedPin. At the beginning of April 2014, TheRedPin introduced a Listing Package for home sellers. Since that time, listings represent approximately 20% of all of TheRedPin's MLS®-based deals. There are three pricing models:

- (a) If the home seller lists with TheRedPin, we charge a 1.75% commission to list the property.
- (b) If the home seller lists with TheRedPin and TheRedPin finds a buyer for that home (i.e., acts for the buyer as well as the seller), we charge only a 1.25% commission to list the property.
- (c) If the home seller lists with TheRedPin and hires TheRedPin when purchasing a new home as well, we charge only a 1.5% commission to list the property and we offer our regular 15% cash back rebate on the buy-side commission.

13. In each case, we recommend that the home seller offer a 2.5% commission to the buyer's brokerage to encourage buyer's agents to show the home.

14. Information about the price of recent comparable sales is critical when advising home sellers about what price to list their home. If sold information was included in TREB's VOW datafeed, TheRedPin would develop the automated tools Mr. Hamidi and I testified about at the Initial Hearing. Some of these, such as more sophisticated and automated comparative market analysis ("CMA") tools, would assist our agents when advising home sellers. Using a CMA tool would also save our agents time. TheRedPin agents conduct approximately 200 CMAs per month with each taking between 30-60 minutes. Reducing that time would produce considerable time savings.

15. Had we been able to develop and make such tools available to our agents, we would have developed a Listing Package for home sellers long before April 2014. With the sold data in the VOW datafeed, we could also offer better services to home sellers through improved internal tools which would make our Listing Package even more attractive.

TheRedPin.com 2.0

16. Since 2012, we had worked to develop a mobile app through which users could interact with TheRedPin on their mobile devices. However, instead of developing a mobile app, we plan to update our entire website, TheRedPin.com, so that it works across a range of devices, whether mobile or not (e.g., mobile phones, tablets, laptops, desktop computers). This upgrade means that a stand-alone mobile app will not be necessary at this time. We expect to launch the new TheRedPin.com as a beta in the next month.

Converting Website Viewers into Clients

17. I continue to believe that the sold information in TREB's MLS® should be made available in the VOW datafeed for use by TREB's members, such as TheRedPin. If the sold data

were available we would develop the additional tools described at the Initial Hearing to better serve our clients through better tools for our agents and registered VOW users.

18. We would also use these tools to help us convert VOW users to brokerage clients. Although increasing the popularity of TheRedPin.com remains a constant goal, since the Initial Hearing, we have focused more resources on converting website visitors and VOW users to brokerage clients.

19. The number of website visitors a website "converts" into customers (i.e., the website's conversion rate) is critical for any website-based business. For example, Amazon is an industry leader with a conversion rate of approximately 14%. In other words, 14% of all website views on Amazon produce a purchase. [REDACTED]

[REDACTED]

20. [REDACTED]

[REDACTED] Thus, to improve our conversion rate, TheRedPin has developed nurturing programs to convert website users to clients. Having the sold data in the VOW datafeed would enable us to supplement our existing nurturing programs with the automated tools Mr. Hamidi and I described at the Initial Hearing, as well as others.

21. Because potential customers already have access to current listing information online on realtor.ca, TheRedPin has to offer potential customers more than just current listings to attract them to TheRedPin.com over realtor.ca, and to convert them into clients of our brokerage. Having sold information in the VOW datafeed and the innovative tools we expect to develop using it, would provide powerful new ways of first attracting and then of converting website visitors into clients. For example, on the listing side, heatmaps and other neighbourhood-specific

sold information could help us show home sellers how TheRedPin's technology can help them value and ultimately sell their home. Automated and tailored prospect matches or neighbourhood analyses could be sent to potential buyers to make them more knowledgeable about neighbourhoods that might be a good fit for them.

22. Such tools will help us show prospective sellers and buyers about the value of using TheRedPin, its technology, and its agents during the buying process. While we cannot create these tools for MLS® listings without TREB making available historical listings information in the VOW datafeed, we have developed similar tools for non-MLS® new home and condominium sales using non-MLS® data. We regularly advise our investor clients using these tools, such as by providing them information on the year-over-year changes in new home or preconstruction condominium sales prices in specific neighbourhoods. These tools enable TheRedPin to provide better service more efficiently to a segment of our customer base. We would like to extend that better and more efficient service to all of our customers but cannot without TREB making available historical information in the VOW datafeed and removing the restrictions on its use.

23. Thus far, funding from our investors rather than only brokerage revenues has fueled our growth in the hope that, in time, our business can achieve economies of scale and brand recognition across the GTA. Should TheRedPin not achieve those goals while we continue to have available capital from our investors, we would have to scale down our business and operate at a much smaller size to continue to the business.

SIGNED THIS 30th DAY OF January, 2015.


TARIK GIDAMY

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**SECOND WITNESS STATEMENT OF
TARIK GIDAMY**

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