

APPENDIX VII

Sample of Certificate of Independent Legal Advice (B'nai Brith Canada)

CERTIFICATE OF INDEPENDENT LEGAL ADVICE

I, (name of solicitor), of the City of _____, in the Municipality of _____,
MAKE OATH/AFFIRM AND SAY:

1. I am the solicitor for _____ and am a subscribing witness to this Arbitration-Agreement, and I was present and saw it executed at _____ by the said _____.
2. I verily believe that the person whose signature I witnessed is the party of the same name referred to in instrument.
3. I have advised the said _____ with respect to the within Arbitration Agreement and I believe that he(she) is fully aware of the nature and effect of the Arbitration Agreement and is signing this document voluntarily.
4. Prior to signing the said Agreement, I thoroughly reviewed the provisions of Ontario's *Family Law Act*, *Children's Law Reform Act*, *Succession Law Reform Act* and Canada's *Divorce Act* and any other family law statute or principle under statutory or common law that may affect this party in her (his) particular case and in so doing I explained what rights or benefits he or she may be foregoing by signing the Arbitration Agreement and submitting to the law and procedures provided for under that Agreement.
5. Notwithstanding the generality of the foregoing, I further explained to the person whose signature I witnessed, if necessary for the purposes of this Arbitration, that he or she had a statutory legal duty to provide to his or her spouse or person with whom he or she had cohabited full and frank written financial disclosure of his or her significant assets and significant liabilities as of the date of marriage, the date of separation and as of the date when the Arbitration Agreement was being signed, pursuant to section 56(4) of

Ontario's *Family Law Act*, or any successor legislation, as well as complete written disclosure of his or her gross yearly income for the current and past three annual taxation years, pursuant to the provisions of the *Divorce Act*, and *Family Law Act*, failing which any ruling by the arbitrator or arbitrators could be set aside or not enforced by the Superior Court and, further, to provide any proof in the form of tax returns, pay stubs, corporate tax returns and valuations of business interests or any other such documentation for such purposes, if so requested by the other spouse or by the arbitrators.

6. I have further thoroughly considered with the person whose signature I have witnessed, the educational standards or lack of them, by which the arbitrators assigned to this arbitration conformed and by which they became qualified, or not, in order to arbitrate the dispute or disputes in question under the said Agreement, including the laws and procedures to be employed under it and the extent to which the said arbitrator or arbitrators have an acquaintance with Ontario's *Arbitration Act*, *Family Law Act*, *Divorce Act*, *Succession Law Reform Act* or any of its related statutes or any of its other laws under the province of Ontario and Canada as they may be related to this dispute.

7. Since the Arbitration Agreement pertained to resolving a dispute involving an inheritance, I specifically advised the party to provide to the arbitrators the following documentation and information which I explained was obligatory under Ontario law:

- (a) any Last Will and Testament of the Deceased and probate thereof, together with any known copies of any Powers of Attorney granted to Third Parties, (if known);
- (b) any holograph Will or other document purporting to represent a testamentary instrument;
- (c) the full names, full addresses and phone numbers (if available) of any spouse or children of the deceased, (if any);
- (d) the full names, full addresses and phone numbers (if available) of any third parties that may be under a mental and/or physical disability that may have been financially dependent on the deceased;

(e) the full names, full addresses and phone numbers of any known secured or unsecured creditors of the deceased, after having obtained an execution search and Bankruptcy search, (if any); and

(f) the list of all next of kin.

SWORN/AFFIRMED BEFORE ME at the)
City of in the Province of Ontario)
this day of 200__)

_____)
A Commissioner, etc.
