

13

Real Estate Transactions

Deposit Account with Teraview®	406
Payments from the Electronic Registration Bank Account	407
Confirmation from Teranet	408
Comparison of Authorization and Confirmation	409
Client Trust Ledger	409

After reading this chapter, you will be able to:

- LO1** Complete electronic transactions involving a firm's trust account in accordance with the requirements of the Law Society of Ontario.
- LO2** Understand the use of the Electronic Registration Bank Account in real estate transactions.

LO1

In 1991, the Province of Ontario and Teranet established a public–private partnership with a view to converting and automating Ontario's land registration system. The paper-based system of land registration was converted to an electronic database, and today the process of conducting real estate searches and transferring interests in land in Ontario is completed using Ontario's Electronic Land Registration System (Teraview®). Lawyers and their staff can create and submit title documents for registration, search for writs of execution, and view registered title documents from their desktops. The fees charged to a law firm for completing these searches and registering documents are paid using amounts deposited to the firm's deposit account with the Teraview® Land Registration system operated by Teranet and the firm's Electronic Registration Bank Account (ERBA).¹

Because the by-laws of the Law Society of Ontario (LSO) prohibit a third party from having unilateral access to a lawyer's mixed trust account, legal professionals needed a method to protect the integrity of client funds in the trust account and allow electronic payment of land transfer tax and registration fees. Now, law firms usually open a special ERBA when obtaining a licence to use Teraview®.

Typically, to close a simple residential real estate transaction, amounts to cover the following costs must be remitted to Teraview®:

- search costs,
- executions search against the vendors and the chargors or mortgagors,
- land transfer tax,
- registration of a transfer, and
- registration of a mortgage.

Deposit Account with Teraview®

Firms using Teraview® deposit funds with the company to cover the cost of title and executions searches. Teraview® has two bank accounts: the Deposit Account Payment Plan (DAPP) for searches and the ERBA for electronic registration. There are a number of transactions for which the deposit account is debited; a complete list of other items that can be charged to the deposit account can be found on the Teraview® website at <www.teraview.ca/en/teraview-pricing>. A deposit account activity report from Teraview® (Figure 13.1) is printed, and the total amount withdrawn from the account is recorded as a disbursement using the firm's general disbursements journal. These charges are posted to the client's general ledger and eventually billed to the client.

¹ See <www.teranet.ca>.

Teraview® Account for Leslie Lawyer & Associates (LLA) Deposit Account Activity Report—Dec. 12, 20**								
Transaction	Details	Transaction Date	User Name	Quantity	Non-Taxable Amount	Taxable Amount	Taxes	Total
Parcel register	PIN 12446 1491	12/12/20**	LLA	1	9.20	23.00	2.76	34.96
Image—download instrument		12/12/20**	LLA	1		3.00	0.39	3.39
Writs—name search		12/12/20**	LLA	1	25.30			25.30
Docket total					34.50	26.00	3.15	63.65

FIGURE 13.1 Deposit account activity report

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LO2 Payments from the Electronic Registration Bank Account

The funds required to pay the charges for land transfer tax and registration of documents are deposited into a special trust account. The exact amount needed to cover the charges is deposited into the account prior to closing and then withdrawn by Teraview® on closing.

The ERBA is a form of mixed trust account, and interest on this account accrues to the Law Foundation of Ontario.

The following special rules apply to ERBAs:

- Direct deposits or transfers from the regular mixed trust account must be the exact amounts for land transfer tax and registration fees.
- If the closing of a transaction is delayed and, therefore, documents cannot be registered, the firm must transfer the funds deposited to the ERBA back to the regular mixed trust account within five days.
- An Authorization of Withdrawal by Teranet (Form 9B) must be completed and signed by the lawyer before each Teranet withdrawal from the ERBA pursuant to sections 15(5) and 15(6) of LSO By-Law 9.² A sample completed form is shown in Figure 13.2.
- A confirmation of the Teranet withdrawal from the ERBA must be printed and compared to the corresponding Form 9B for accuracy, and the confirmation must be signed and dated by the licensee.
- Sections 15, 16, and 17 of By-Law 9 apply.

A firm does not have to use a trust account for its ERBA; it may use a general account. None of the restrictions described in sections 15, 16, and 17 of By-Law 9 apply to a general ERBA, but the firm must complete the electronic registration *before* it transfers the client's funds from a regular mixed trust account to its general ERBA to reimburse the firm for the registration fees and land transfer tax. It is a good idea to arrange adequate overdraft protection on this account.

² Law Society of Ontario, By-Law 9 (amendments current to 12 May 2023), online: <<https://www.lso.ca/about-lso/legislation-rules/by-laws/by-law-9>>.

**Form 9B
Authorization of Withdrawal by Teranet**

RE: Turnbull/Rock purchase from CLARIDGE HOMES (RIDEAU) INC.
200 Rideau Street, Suite 509, Your City, Ontario
Closing Date: December 5, 20**

Authorization:	TV008
Amount of funds to be withdrawn:	\$3,139.00
Re:	Jocelyn Turnbull and Martine Rock
	15-039
Reason for withdrawal:	Payment of land transfer tax (\$2,975.00), registration fees for transfer (\$82.00), and charge (\$82.00)

Trust account to be debited:

Name of financial institution:	Bank of Money
Account number:	458392
Person authorizing withdrawal:	Leslie Lawyer

DATED this _____ day of _____ 20**.

Leslie Lawyer

- ▶ Teraview® Account Number
- ▶ Specify amount
- ▶ Specify client name(s)
- ▶ Specify file reference number
- ▶ Give reason for withdrawal, e.g., payment of land transfer tax, document registration fees
- ▶ Specify name
- ▶ Specify number
- ▶ Specify name—print

FIGURE 13.2 Authorization of withdrawal by Teranet

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Confirmation from Teranet

Once a transaction is completed, Teranet provides a confirmation no later than 5:00 p.m. on the day immediately after the day on which the withdrawal is authorized by the lawyer pursuant to sections 15(2) and 15(3) of By-Law 9. The confirmation shows the amount of money withdrawn from the special trust account, the time and date that Teranet received authorization to withdraw, and the time and date that the confirmation was sent to the lawyer pursuant to section 15(4) of By-Law 9.

Comparison of Authorization and Confirmation

The lawyer must reconcile the information contained in Form 9B with the confirmation received from Teraview®. This is done by printing a copy of the confirmation received from Teraview® and comparing it with the written authorization (Form 9B) to verify that money was withdrawn from the special trust account by Teranet as authorized by the lawyer. The confirmation can be signed and dated by the lawyer if the amounts are correct. If the amounts are not correct, Teranet must be contacted immediately, and the error must be corrected per section 15(7) of By-Law 9.

Client Trust Ledger

The typical client trust ledger sent to the client after closing would appear as shown in Figure 13.3.

	<i>Expenditures</i>	<i>Receipts</i>
Received from mortgagee		200,000
Received from client		104,339
Paid, vendor's solicitor—balance due on closing	300,000	
Paid, Teraview®—land transfer tax	2,975	
Paid, Teraview®—registration of transfer	82	
Paid, Teraview®—registration of charge	82	
Paid, Leslie Lawyer—on account	1,200	
	304,339	304,339

FIGURE 13.3 Client trust ledger

The amount received for the closing from all sources is placed in the receipts column, and the amounts paid out by the firm are shown in the expenditures column. The total amounts at the bottom of the ledger should be equal.

