

Case Summaries August 8 - 22, 2011

Letters of Reprimand

Real Estate Associate

- Failure to provide competent service [s.41(b) of the *Real Estate Act* Rules]
- The real estate associate released keys to buyers without approval or consent from the vendors or their representatives

Real Estate Associate

- Made representations or carried on conduct that was reckless or intentional and that misled or deceived a person or was likely to do so [s.41(a) of the *Real Estate Act* Rules]
- The real estate associate created a fact sheet that stated the size of a property. The property was sold to buyers who the associate also represented in a dual agency capacity. The buyers relied on the information as being accurate in relation to property size. When the buyers attempted to sell the property, it was determined the size was smaller than originally indicated.

Administrative Penalties

Shane Olin, real estate broker, NAI Commercial

- Failure to ensure proper management and control of documents or records related to licensing, registrations, and related regulatory requirements [s.51(1)(j) of the *Real Estate Act* Rules]
- Mr. Olin's broker registration as well as the licence renewal for NAI Commercial were processed online by the brokerage despite positive responses to the questions regarding suitability.
- \$1,500

Patrick O'Sullivan, real estate agent, US Investment Realty Inc. Phoenix, AZ

- Mr. O'Sullivan is a member of Team Gerchick. RECA received information that members of Team Gerchick would be attending and presenting information concerning real estate opportunities at a trade show. RECA sent Ms Gerchick two (2) letters of warning detailing that she and Team Gerchick were not authorized to trade in real estate in the province of Alberta and requiring that she and Team Gerchick cease trading without authorization. After receiving the first warning letter, Ms Gerchick contacted a RECA staff member and stated that any trades would be conducted by a real estate associate who was authorized to trade in real estate in Alberta. During the trade show Mr. O'Sullivan and other members of Team Gerchick solicited the public to purchase properties in Arizona and all promotional materials were advertised under "Team

Gerchick” and there was no signage either at the booth or at the seminar identifying the brokerage of the authorized associate at the booth or the seminar.

- \$5,000

Joseph Guziak, real estate associate, Sterling Real Estate

- Failure to notify immediately, in writing, the Executive Director when the industry member is the subject of bankruptcy proceedings [s.40(1)(e) of the *Real Estate Act* Rules]
- Mr. Guziak became the subject of bankruptcy proceedings on December 7, 2010 and failed to notify the Executive Director until June 9, 2011.
- \$1,000

John Mayberry, real estate associate, Reliance Real Estate

- Failure to notify immediately, in writing, the Executive Director when the industry member is the subject of bankruptcy proceedings [s.40(1)(e) of the *Real Estate Act* Rules]
- Mr. Mayberry became the subject of bankruptcy proceedings on October 14, 2010 and failed to notify the Executive Director until January 11, 2011.
- \$1,000

Consent Agreements

Kevin Russell, real estate associate registered with Rosemary D. Clamaron o/a Centaur Real Estate at all material times and currently registered with Panda Realty Inc. o/a Coldwell Banker/Panda Realty

Issues:

- Failure to act honestly [s.41(a) of the *Real Estate Act* Rules]
- Failure to provide competent service [s.41(b) of the *Real Estate Act* Rules]

Facts:

- Mr. Russell advised a client that he had seen a copy of a second deposit cheque in order to reassure her in waiving conditions when in fact he had not seen the cheque.
- Mr. Russell relied on information from the seller as to the size of the apartment units and did not make any effort to confirm the sizes. This information was relied upon by the buyer in making an offer.
- When Mr. Russell and the buyer eventually measured the units it was discovered they were smaller than originally stated.

Results:

By way of a Consent Agreement ratified by a Hearing Panel of the Real Estate Council of Alberta, Mr. Russell was ordered to pay fines in the amount of \$3,500, costs of \$500 and complete educational requirements.

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