

# Case Summaries Nov 15-Dec 6 2010

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## Letters of Reprimand

November 2010

2 Letters of Reprimand

- [s.42(a) of the *Real Estate Act Rules*] making representations or carrying on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so (1)
  - [s.67(1)(e) of the *Real Estate Act Rules*] failing to ensure the business of the brokerage is carried out completely and in accordance with the Act, the Bylaws and these Rules (1)
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## Administrative Penalties

### **Ammar Faheem**

**Real estate associate, Vision Realty Inc. o/a Century 21 Bravo Realty**

- Failure to notify, in writing, the executive director when judgment(s) were rendered against him in relation to the provision of services or sale of good to consumers [s.40(1)(c) of the *Real Estate Act Rules*]
- Mr. Faheem had a judgment rendered against him on September 2, 2009 and did not notify RECA until September 24, 2010
- \$1,000

### **James Solomon**

**Mortgage associate, Axis Mortgage Inc. o/a Verico Axis Mortgage**

- Failure to notify immediately, in writing, the executive director when the industry member is the subject of any bankruptcy proceedings [s.40(1)(e) of the *Real Estate Act Rules*]
- Mr. Solomon commenced bankruptcy proceedings on July 30, 2010 and did not inform RECA until September 28, 2010.
- \$1,000

**Aaron Alberts****Real estate associate, Toole Peet & Co. Limited o/a Prudential Toole Peet Real Estate**

- Failure to notify, in writing, the executive director when proceedings pursuant to the Criminal Code were commenced against her [s.40(1)(g) of the *Real Estate Act Rules*]
- Proceedings pursuant to the Criminal Code were commenced against Mr. Alberts on September 12, 200 and Mr. Alberts did not notify RECA until September 22, 2010.
- \$1,000

**Terry Atkinson Realty Ltd.**

- The brokerage failed to submit to the Real Estate Council of Alberta the required accounting documents not later than three months after the end of the brokerage's fiscal year. [s.91 (4) of the *Real Estate Act Rules*]
- \$1,500

**969637 Alberta Ltd o/a Dominion Lending Centres Mortgage Options**

- The brokerage failed to submit to the Real Estate Council of Alberta the required accounting documents not later than three months after the end of the brokerage's fiscal year. [s.92 (1) of the *Real Estate Act Rules*]
- \$1,500

**Kenneth Richter****Real estate associate, 4<sup>th</sup> Street Holdings Ltd. o/a RE/Max Real Estate (Central)**

- Failure to notify immediately, in writing, the executive director when the industry member is convicted of any criminal offence or any other offence under any law of any country, province or state, excluding provincial or municipal highway traffic offences resulting in only monetary fines and/or demerit points[s.40(1)(h) of the *Real Estate Act Rules*]
- Mr. Richter was charged with a criminal offense in the State of Arizona on March 11, 2010 and RECA was not informed until September 15, 2010.
- \$1,000

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## Hearing Panel Decisions

### Genseric Fung

Real estate associate, 814355 Alberta Ltd. o/a Royal LePage Summit Realty

#### Issues:

- Failure to disclose, in writing to the parties, any interest, direct or indirect, that the industry member has in a transaction [s.28(a)(i) of the *Real Estate Act* Rules (as they were then from Oct. 1, 1999 and September 30, 2006), s.62(1)(b) of the *Real Estate Act* Rules, in force as of Oct. 1, 2006)
- Carried on conduct that was reckless or intentional and that mislead any persons or was likely to do so [s.4 of the Code of Conduct (as it was then), s.42(a) of the *Real Estate Act* Rules]
- Discouraged a party to a trade in real estate from seeking expert advice [s.42(d) of the *Real Estate Act* Rules]
- Engaged in conduct that undermines public confidence in the industry, harms the integrity of the industry or brings the industry into disrepute [s.42(g) of the *Real Estate Act* Rules]

#### Facts:

- Mr. Fung represented the buyers in a transaction. The Offer to Purchase was subject to two conditions, one being a mortgage financing condition.
- The buyers had problems obtaining mortgage financing and Mr. Fung informed the seller that he may be taking over the REPC by having the buyers' interest in the REPC assigned to him.
- The seller advised Mr. Fung that he would not consent to this.
- The buyers signed an assignment of their interest in the REPC to Mr. Fung and Mr. Fung submitted a Notice to Purchase Contract to the sellers' agent waiving both the conditions.
- Mr. Fund failed to advise the sellers or the seller's agent that the buyers had assigned the property to him.

#### Results:

The Hearing Panel found that Mr. Fung's conduct to be deserving of sanction, in that:

- Mr. Fung failed to advise the sellers or the sellers' agent that he had an interest in the property contravening s. 28(a)(i) of the Real Estate Act Rules (as they were then), s.62(1)(b) of the Real Estate Act Rules ,
- Mr. Fung misled the sellers and the sellers' agent by not advising them of his interest in the property contravening s.4 of the Code of Conduct (as it was then), s.42(a) of the Real Estate Act Rules

The Hearing Panel ordered Mr. Fung to pay a fine of \$4,000; costs in the amount of \$3,200 and successfully complete an educational requirement.

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## **Council Members 2010-2011**

### **BILL BUTERMAN**

Appointed from non-AREA industry members

### **KEVIN CLARK**

Appointed from residential real estate industry members

### **CINDY DUBRAY**

Appointed from the property management sector

### **GORDON GRAYDON**

Appointed from the public

### **CONNIE LECLAIR**

Appointed from the public

### **WAYNE MCALISTER, CHAIR-ELECT**

Appointed from the Calgary Real Estate Board

### **KEN MCCOY**

Appointed from the Edmonton Real Estate Board

### **WENDY ROBSON**

Appointed from boards outside of Calgary and Edmonton

### **RALPH SALOMONS, PAST CHAIR**

Appointed from commercial real estate sector

**CHERYL SCHINDEL**

**Appointed from boards outside of Calgary and Edmonton**

**GARY SIEGLE**

**Appointed from the mortgage brokerage sector**

**ROBERT TELFORD, CHAIR**

**Appointed from the real estate appraisal sector**

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## **Contact RECA**

Case Summaries is published by the Real Estate Council of Alberta. Please forward your comments and suggestions to [communications@reca.ca](mailto:communications@reca.ca).

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Director of Education – Kirk Bacon

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