

# Case Summaries Jan 25 - Feb 7, 2011

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## Administrative Penalties

January 2011

### Colleen Bruce, broker, Alberta Property Management Solutions Inc.

- Participation in fraudulent or unlawful activities in connection with the provision of services or in any dealings [s.42(b) of the *Real Estate Act* Rules]
- Ms Bruce was a director of Alberta Property Management Solutions Inc (APMS) and an associate of Sutton Group – Fort McMurray.
- Between November 6, 2008 and August 11, 2009, APMS operated as a property management company trading in real estate as a real estate broker in the province of Alberta without a license.
- On May 1, 2009, a RECA staff member contacted one of the directors of APMS and explained that APMS required authorization and suggested to the director that he contact an information officer at RECA for information on how APMS could become authorized or how APMS's clients could be transferred to Sutton Group – Fort McMurray.
- APMS was authorized on August 11, 2009.
- The clients of APMS were not protected by E and O insurance and the Assurance Fund during the time APMS was not authorized
- Clients of APMS were not transferred to Sutton Group – Fort McMurray between May 1, 2009 and August 11, 2009.
- There was discussion among the directors to get a broker for APMS but no discussion on how to deal with the customers in the unlicensed company.
- \$1,500

### Leonard Clarke, broker, Sutton Group – Fort McMurray

- Participation in fraudulent or unlawful activities in connection with the provision of services or in any dealings [s.42(b) of the *Real Estate Act* Rules]
- Mr. Clarke was a director of Alberta Property Management Solutions Inc (APMS) and a broker of Sutton Group – Fort McMurray.
- Between November 6, 2008 and August 11, 2009, APMS operated as a property management company trading in real estate as a real estate broker in the province of Alberta without a license.
- On May 1, 2009, a RECA staff member contacted Mr. Clarke of APMS and explained that APMS required authorization and suggested to Mr. Clarke that he contact an information officer at RECA for information on how APMS could

become authorized or how APMS's clients could be transferred to Sutton Group – Fort McMurray.

- APMS was authorized on August 11, 2009.
- Mr. Clarke was aware that APMS had traded in real estate without authorization and the clients of APMS were not protected by E and O insurance and the Assurance Fund during the time APMS was not authorized
- Clients of APMS were not transferred to Sutton Group – Fort McMurray between May 1, 2009 and August 11, 2009 because Mr. Clarke tried to separate APMS and Sutton Group.
- There was discussion among the directors to get a broker for APMS but no discussion on how to deal with the customers in the unlicensed company.
- \$1,500

### **Lynn Edwards, associate broker, Sutton Group – Fort McMurray**

- Participation in fraudulent or unlawful activities in connection with the provision of services or in any dealings [s.42(b) of the *Real Estate Act* Rules]
- Ms Edwards was a director of Alberta Property Management Solutions Inc (APMS) and an associate broker of Sutton Group – Fort McMurray.
- Between November 6, 2008 and August 11, 2009, APMS operated as a property management company trading in real estate as a real estate broker in the province of Alberta without a license.
- On May 1, 2009, a RECA staff member contacted one the directors of APMS and explained that APMS required authorization and suggested to the director that he contact an information officer at RECA for information on how APMS could become authorized or how APMS's clients could be transferred to Sutton Group – Fort McMurray.
- APMS was authorized on August 11, 2009.
- The clients of APMS were not protected by E and O insurance and the Assurance Fund during the time APMS was not authorized
- Clients of APMS were not transferred to Sutton Group – Fort McMurray between May 1, 2009 and August 11, 2009.
- There was discussion among the directors to get a broker for APMS but no discussion on how to deal with the customers in the unlicensed company.
- \$1,500

### **Alberta Property Management Solutions Inc.**

- Unauthorized activity [s.17(a), (b), (c), (d) of the *Real Estate Act*]
- Between November 6, 2008 and August 11, 2009, Alberta Property Management Solutions Inc. (APMS), operated as a property management company trading in real estate as a real estate broker in the province of Alberta without a license.

- On May 1, 2009, a RECA staff member contacted one of the directors of APMS and explained that APMS required authorization and suggested to the director that he contact an information officer at RECA for information on how APMS could become authorized or how APMS's clients could be transferred to Sutton Group – Fort McMurray.
- APMS was authorized on August 11, 2009.
- The clients of APMS were not protected by E and O insurance and the Assurance Fund during the time APMS was not authorized
- Clients of APMS were not transferred to Sutton Group – Fort McMurray between May 1, 2009 and August 11, 2009.
- There was discussion among the directors to get a broker for APMS but no discussion on how to deal with the customers in the unlicensed company.
- \$5,000

## Consent Agreements

### **Meggie Thieu, real estate associate, The Real Estate Company Ltd. o/a the Real Estate Company**

#### Issues:

- Failed to provide to the broker all original documentation related to a trade in real estate [s.53(c) of the *Real Estate Act* Rules]
- Failed to keep the broker informed of activities being performed by the associate on behalf of the brokerage [s.53(d) of the *Real Estate Act* Rules]
- Failed to receive written informed consent of the party of a conflict of interest [s.54(3) of the *Real Estate Act* Rules]
- Failed to provide competent service [s.42(b) of the *Real Estate Act* Rules]
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#### Facts:

- Ms Thieu failed to disclose in writing of the mother-daughter relationship between her and the seller in a transaction and failed to obtain the written consent of the buyer regarding same.
- Ms Thieu failed to ensure the transaction was properly documented by completing a Waiver of Condition when the deposit was not received as contemplated or alternatively failed to complete a written extension for the deposit.
- Ms Thieu did not submit any documentation to her brokerage nor did she inform her brokerage of her activities in the transaction.

Results:

By way of a Consent Agreement that was ratified by a Hearing Panel, Meggie Thieu was ordered to pay a fine of \$3,000; costs of \$500 and to complete an educational requirement as a condition of her authorization to trade in real estate.

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## Hearing Panel

*December 2010*

**Alman Adel, former real estate associate, Century 21 Central Realty Inc., Century 21 Terrace Real Estate Ltd., Signet Real Estate Ltd. o/a Signet Commercial and Esquire Realty Inc. o/a Esquire Management Group**

Issues:

- Participated in fraudulent or unlawful activities in connection with real estate or mortgage transactions [s.7(c) of the Code of Conduct]
- Failure to act in his clients' best interest [s.2(a) of the Code]
- Failure to disclose at the earliest practical opportunity any direct or indirect interest the industry members may have as a result of a business or family association with a potential buyer or seller [s.2(l) of the Code]
- Failure to cooperate with, and provide any information requested to, any representative of the Council carrying out their duties and responsibilities under the *Act* [s.7(d) of the Code; s.41(h) of the Rules; s.38(4) of the *Act*]
- Failure to provide all documentation or trade records required under the Rules to the broker [s.23(e) of the Rules]
- Participated in the creation of a document or form of communication that the member knows or ought to know is false or misleading [s.4(d) of the Code]
- Failure to act fairly, honestly and with integrity when dealing with non-clients [s.7(b) of the Code]
- Failure to be professional in dealings with the public and other industry members [s.7 of the Code]
- Failure to practice in strict accordance with the *Act*, Rules, Bylaws and Regulations and any other laws that govern trading in real estate or mortgage transactions in Alberta [s.7(a) of the Code]
- Holding himself out to be an authorized industry member when he had not been issued a licence and was not registered with a brokerage licensed by Council [s.6(4) of the Rules]

## Facts:

- Mr. Adel participated in mortgage fraud by using a straw buyer.
- Mr. Adel involved a client in an illegal scheme for his own benefit which ultimately caused financial hardship to his client.
- Mr. Adel's wife was the seller of a condo but Mr. Adel did not make her identity known to the buyer.
- Mr. Adel did not provide documentation or attend interviews requested by RECA during the investigations. He did not return phone calls nor did he answer letters sent to him.
- Mr. Adel refused to answer questions in relation to investigation files claiming that his lawyer had given him this legal advice. The Hearing Panel found that Mr. Adel's refusal to answer questions amounted to failure to cooperate and that this was conduct deserving of sanction.
- Mr. Adel did not submit trade records or documents to his broker in relation to a transaction.
- When completing RECA licensing applications, Mr. Adel provided false information on these applications which included providing false information about his criminal record, falsely advising that he had never been in bankruptcy when in fact he had been, advising RECA that he had never been known by any other previous name when in fact he had been. Mr. Adel also swore affidavits that these applications were correct and truthful when in fact they were not.
- Mr. Adel acted in a non-professional manner when attending at the RECA offices and dealing with RECA staff by yelling at a RECA employee and causing a disturbance at RECA's offices.
- Mr. Adel did not keep his broker at Esquire Management informed about his transactions nor did he deliver related documents to the broker in a timely manner.
- Mr. Adel failed to comply with terms and conditions that were placed on his authorization to trade in real estate.
- Mr. Adel traded in real estate while unauthorized.

## Results:

A Hearing Panel found that Mr. Adel's conduct to be deserving of sanction for 16 of 23 allegations brought against him and ordered Mr. Adel to pay a fine of \$63,500 and costs in the amount of \$152,584. Mr. Adel is not eligible to re-apply for authorization to return to the industry for 10 years and must successfully complete educational requirements prior to re-licensing.

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## Lifetime Withdrawal

### **Lynn Marcel Notschaele, Mortgage Associate**

On January 26, 2011, Lynn Marcel Notschaele, mortgage associate, most recently registered to Caplink Financial Corporation, applied to the Real Estate Council of Alberta (RECA) to withdraw from industry membership, in accordance with section 54 of the Real Estate Act (REA).

At the time of his application, Mr. Notschaele was the subject of conduct proceedings to determine whether he:

- Made representations or carried on conduct that was reckless or intentional and that misled or deceived any person or was likely to do so [s.42(a) of the REA Rules]
- Discouraged a client, customer or a party to a trade in real estate or deal in mortgages from seeking legal counsel or expert advice [s.42(d) of the REA 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 REA Rules].

At the time of the withdrawal application approval, there had been no disciplinary hearing, admissions or findings of fact. By virtue of operation of the Real Estate Act, Part Three, conduct proceedings are discontinued. Mr. Notschaele's application to withdraw was approved by RECA and results in a voluntary lifetime prohibition from industry membership.

### **Douglas Arnott – Real Estate Associate**

On January 26, 2011, Douglas Arnott, real estate associate, most recently registered to Colliers International Inc. o/a Colliers International, applied to the Real Estate Council of Alberta (RECA) to withdraw from industry membership, in accordance with section 54 of the Real Estate Act (REA). At the time of his application, Mr. Arnott was the subject of conduct proceedings to determine whether he:

- Failed to act honestly [s.41(a) of the REA Rules]
- Failed to act in his clients' best interest [s.41(b) of the REA Rules]
- Participated in fraudulent or unlawful activities in connection with the provision of services or in any dealings [s.42(b) of the REA 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 REA Rules]

At the time of the withdrawal application approval, there had been no disciplinary hearing, admissions or findings of fact. By virtue of operation of the Real Estate Act, Part Three, conduct proceedings are discontinued. Mr. Arnott's application to withdraw was approved by RECA and results in a voluntary lifetime prohibition from industry membership.

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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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