

Case Summaries Dec 6 2010 - Jan 10 2011

Letters of Reprimand

Letters of Reprimand

- [s.50(b) of the *Real Estate Act Rules*] a real estate brokerage must not employ a person to trade in real estate unless that person meets the requirements of the Act, Regulations, Rules and Bylaws (1)
- [s.6(c) of the Code of Conduct] an industry member shall not participate in the creation of any contract or document that the member knows or ought to know is not legally binding, confusing or does not reflect any agreements in place. (1)

Administrative Penalties

December 2010

Clifford Turner, real estate associate, Re/Max Real Estate (Edmonton) Ltd. o/a Re/max Real Estate

- 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. Turner commenced bankruptcy proceedings on June 11, 2010 and did not inform RECA until September 27, 2010.
- \$1,000

Craig MacKenzie, real estate associate, Simco Developments Ltd. o/a Prudential Sim Realty

- 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. Turner commenced bankruptcy proceedings on April 28, 2010 and did not inform RECA until September 22, 2010.
- \$1,000

Edgar Jackson, real estate appraiser, Ed Jackson Consulting Ltd.

- Failure to notify immediately, in writing, the executive director when the industry member is disciplined by a real estate board, real estate association, mortgage

broker association, appraiser association or another professional, occupation or regulatory body [s.40(1)(b) of the *Real Estate Act Rules*]

- Mr. Jackson was disciplined by the Appraisal Institute of Canada on May 25, 2010 inform RECA until September 29, 2010.
- \$1,000

Janelle McCarthy, real estate associate, Calgary Independent Realty Ltd. o/a CIR Realty

- 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 Ms McCarthy on May, 200 and Ms McCarthy did not notify RECA until September 24, 2010.
- \$1,000

Janelle McCarthy, real estate associate, Calgary Independent Realty Ltd. o/a CIR Realty

- 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*]
- Ms McCarthy was convicted of a criminal offense Ms McCarthy did not inform RECA until September 24, 2010.
- \$1,000

Amy Csobot, real estate associate, 666716 Alberta Ltd. o/a All-Banners Realty

- 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*]
- Ms Csobot commenced bankruptcy proceedings on July 28, 2010 and did not inform RECA until September 17, 2010.
- \$1,000

Daisy Mendoza, real estate associate, 666716 Alberta Ltd. o/a All-Banners Realty

- 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*]
- Ms Mendoza commenced bankruptcy proceedings on March 11, 2009 and did not inform RECA until September 27, 2010.
- \$1,000

Sherri Shah, real estate associate, Westpoint Management o/a Maxwell Capital Realty

- 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]
- Ms Shah commenced bankruptcy proceedings on September 16, 2009 and did not inform RECA until September 21, 2010.
- \$1,000

Wendy Davidson, mortgage associate at Centum Triumph Financial Inc. at all material times and currently mortgage associate at Axiom-Urban 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]
- Ms Mendoza commenced bankruptcy proceedings on November 5, 2009 and did not inform RECA until October 4, 2010.
- \$1,000

Joseph Nwofor, real estate associate, Discover Real Estate

- 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. Nwofor commenced bankruptcy proceedings on March 17, 2010 and did not inform RECA until October 13, 2010.
- \$1,000

Larry G. Barkley, mortgage associate at all relevant times with HLC Home Loans Canada

- 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 *Real Estate Act* Rules]
- On December 30, 2008, Mr. Barkley executed an “Associate/Associate Broker Registration Cancellation” form. The form stated the associate has notified the broker in writing that he has been terminated and all related documents have been transferred to the broker. Mr. Barkley attested to the truthfulness of this application by swearing an Affidavit. Mr. Barkley did not inform his broker that he had been terminated and did not make arrangements for the transfer of documents to HLC Home Loans Canada
- \$1,500

953372 Alberta Ltd. o/a Realtyl Group

- 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

Consent Agreements

Thomas Michael Bales, formerly an associate broker with J.J. Barnicke Edmonton Ltd. and currently broker for Aquinas Corporation

Issues:

- Failure to obtain consent to dual agency in writing [s.3(b) of the Code of Conduct]
- Failure to render competent service by participating in the creation of a contract that the member knows or ought to know is not legally binding or is confusing [Code 6(c) of the Code of Conduct]
- Failed to fulfill a fiduciary duty to his client by using confidential information obtained from a client for personal gain [s.2(f) of the Code of Conduct]
- Failure to act honestly and with integrity when dealing with non-clients [s.7(b) of the Code of Conduct]
- Accepted a commission or other remuneration, directly or indirectly, for a trade or dealing from a person other than the brokerage he was registered to [s.24(c) of the *Real Estate Act* Rules]

Facts:

- Mr. Bales failed to obtain written consent to his acting as dual agent prior to doing so in two transactions
- Mr. Bales drafted a contract with did not reflect the intended agreement.
- Mr. Bales drafted a purchase contract with a party that was not a valid or existing party making the contract confusing and not legally binding.
- Mr. Bales used a prior name on a contract when he knew the company had changed names.
- Mr. Bales obtained knowledge of the price his client wanted to obtain as a result of his being in agency and entered into a transaction with the client. He obtained a profit from the purchase and resale of the property by using his knowledge of the purchase price.
- Mr. Bales referred to his role in a transaction as “Realtor” and mislead a party to believe he was acting as the party’s agent.
- Mr. Bales received remuneration through a company in which he was a shareholder and beneficiary rather than through the brokerage he was registered with.

Results:

By way of a Consent Agreement that was ratified by a Hearing Panel, Thomas Michael Bales was ordered to pay fines totaling \$12,500, costs of \$1,000 and to complete an educational requirement as a condition of his authorization to trade in real estate.

Appeals

APPEAL OF AN ADMINISTRATIVE PENALTY

Glen Gregory, real estate broker 1363997 Alberta Ltd. o/a Realty Executives Meridian

Issues:

- 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*]

Facts:

- Mr. Gregory licensed and registered a real estate associate using the RECA online system despite the associate having indicated a positive response to question 19 on the Associate/Associate Broker Application for Licence and Registration.

Results:

The Hearing Panel confirmed the Administrative Penalty of \$1500 and ordered Mr. Gregory to pay hearing costs in the amount of \$4,140.50.

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

Contact RECA

Case Summaries is published by the Real Estate Council of Alberta. Please forward your comments and suggestions to communications@reca.ca.

Executive Director - Bob Myroniuk

Director of Audit and Investigations - Joseph Fernandez

Director of Corporate Services – Dale Cawsey

Director of Education – Kirk Bacon

Director of Industry Standards – Charles Stevenson