

Case Summaries July 4 - 18, 2011

Letters of Reprimand

Real Estate Associate

- Failure to ensure the role of the industry member was clearly understood by their clients and third parties[s.41(e) of the *Real Estate Act Rules*]
- An associate entered into dual agency with limitations with the sellers and buyers of a property. The seller informed the associate that there were potential issues with the property's lift system. This information was known to the associate prior to the buyers expressing their interest. Prior to the buyers agreeing to dual agency with limitations, the associate did not tell the buyers that the associate, as representative of the seller and buyer, would not be able to disclose this type of information to either party.

Real Estate Associate

- Failure to notify the Executive Director, in writing, when proceedings pursuant to the Criminal Code are commenced against an industry member [s.40(1)(g) of the *Real Estate Act Rules*]
- Proceedings pursuant to the Criminal Code were commenced against the industry member on or about December 27, 2005 and the Executive Director was not notified until September 13, 2006.

Appraiser

- Failure to adhere to the Canadian Uniform Standards of Professional Appraisal Practice [s.77(2)(a) of the *Real Estate Act Rules*]
- An appraiser who was on a lender's approved appraiser list, reviewed and signed off on an appraisal prepared by a second appraiser, who was not on the approved list. The second appraiser relied on information provided by the condominium's developer and did not take steps to verify the information. As well, the second appraiser did not provide adequate disclosure regarding the lack of verification for the comparables used in the report.

Administrative Penalties

Randell Glen Brown, real estate associate, The Real Estate Company

- Industry members must not make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so [s.42(a) of the *Real Estate Act Rules*]
- Mr. Brown answered "No" to the question regarding whether or not he had been found guilty or convicted on any Criminal Code offence on his 2009/2010 Associate Broker Renewal Application even though he had been convicted under a section of the Criminal Code of Canada in 2009.

- \$2,000

Darrell Nowosad, real estate associate, Century 21 Bamber Realty Ltd.

- 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. Nowosad became the subject of bankruptcy proceedings on November 19, 2010 and failed to notify the Executive Director until January 20, 2011.
- \$1,000

Terence Walsh, real estate associate, Sutton Group-AltaWest

- 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. Walsh became the subject of bankruptcy proceedings on December 16, 2010 and failed to notify the Executive Director until March 14, 2011.
- \$1,000

Marlon Flaig, real estate broker, Associated Real Estate Corp.

- Failure to notify immediately, in writing, the Executive Director when Criminal Code proceedings are commenced against the industry member [s.40(1)(g) of the *Real Estate Act* Rules]
- Proceedings pursuant to the Criminal Code were commenced against Mr. Flaig on June 4, 2010 and he did not notify the Executive Director until September 21, 2010.
- \$1,000

Ivan Stark, real estate associate, Roman 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. Stark became the subject of bankruptcy proceedings on November 2, 2010 and failed to notify the Executive Director until January 17, 2011.
- \$1,000

Collin Bruce, broker, Dominion Lending Centres Mortgages Mentors

- Failure to ensure proper management and control of documents or records related to licensing, registrations and related regulatory requirements [s.67(1)(i) of the *Real Estate Act* Rules]
- Mr. Bruce signed and acknowledged a registration after it was processed online; one application for registration was completed on a print out of the RECA online screen form, which is not a valid application form; the same screen print out was signed by Mr. Bruce on December 1, 2010 but the associate swore the affidavit on January 14, 2011.
- \$1,500

Ronald Schuster, real estate associate, Re/Max 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. Schuster became the subject of bankruptcy proceedings on October 29, 2010 and failed to notify the Executive Director until December 21, 2010.
- \$1,000

Christine Jacobson, real estate associate

- 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*]
- Ms Jacobson became the subject of bankruptcy proceedings on October 12, 2010 and failed to notify the Executive Director until March 2, 2011.
- \$1,000

Kelvin Jacobson, real estate associate

- 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. Jacobson became the subject of bankruptcy proceedings on October 12, 2010 and failed to notify the Executive Director until March 2, 2011.
- \$1,000

Monte Farron Jensen, broker, Sutton Group Triton Taber Realty

- Industry members must not make representations or carry on conduct that is reckless or intentional and that misleads or deceives any person or is likely to do so [s.42(a) of the *Real Estate Act Rules*]
- On or around September 30, 2010, Mr. Jensen attempted to renew registration online for his brokerage, associates and himself. He was unable to complete the transactions and was aware he was required to contact RECA directly to renew the registrations. Mr. Jensen contacted RECA and was told the registrations were not renewed. He was advised that supporting documentation was required in order to complete the registrations. Between October 1, 2010 and October 4, 2010, Mr. Jensen did not contact RECA and the brokerage licence and required registrations were not renewed. Mr. Jensen was aware of this and failed to ensure all associates and/or associate brokers were notified to cease all trading activities. Mr. Jensen continued to permit his brokerage to advertise to the public without indicating the brokerage was not licensed to trade in real estate. On October 4, 2010, an associate employed by the brokerage entered into a listing agreement on behalf of the brokerage. Mr. Jensen did not direct the associate to cancel her listing and the seller was not informed by the associate or the brokerage that the brokerage and the associate were unauthorized to trade during that time. On October 15, 2010 RECA received all supporting documents, and the renewals for the brokerage, associates and Mr. Jensen were completed. Mr. Jensen also swore an affidavit which stated that neither he nor his associate had traded in real estate since September 20, 2010.
- \$5,000

Monte Farron Jensen, broker, Sutton Group Triton Taber Realty

- Industry members must not participate in fraudulent or unlawful activities in connection with the provision of services or in any dealings so [s.42(b) of the *Real Estate Act Rules*]
- On October 1, 2010, Mr. Jensen was aware that he, his brokerage and the brokerage's associates were not authorized to trade in real estate. Mr. Jensen failed to immediately notify all associates and/or associate brokers to cease trading in real estate. Mr. Jensen continued to permit his brokerage to advertise to the public without indicating the brokerage was not licensed to trade in real estate. On October 4, 2010 an associate employed by the brokerage entered into a listing agreement on behalf of the brokerage. Mr. Jensen permitted the brokerage and the associate to continue to represent the sellers and to market the property using the MLS® system. As well, Mr. Jensen did not direct the associate to cancel her listing and the seller was not informed by the associate or the brokerage that brokerage and the associate were unauthorized to trade during that time. On October 15, 2010 RECA received all supporting documents and the renewals for the brokerage, associates and Mr. Jensen were completed.
- \$5,000

Grant Schell, real estate broker, Skycap Commercial Real Estate Ltd.

- Failure to notify immediately, in writing, the Executive Director when any business the industry member owns or has participated in as a partner, director or officer in the past three years, has any judgment(s) rendered against the business [s.40(1)(d) of the *Real Estate Act Rules*]
- A business that Mr. Schell has participated in as an officer had a judgment rendered against it on March 3, 2011 and Mr. Schell did not inform the Executive Director until March 28, 2011.
- \$1,000

Consent Agreements

Wajahat Chawdhry, real estate associate, Re/Max House of Real Estate

Issues:

- Failure to act honestly [s.41(a) of the *Real Estate Act Rules*]
- Engaged in conduct that undermines public confidence in the industry, harms the integrity of the industry and brings the industry into disrepute [s.41(g) of the *Real Estate Act Rules*]

Facts:

- Wajahat Chawdhry cheated while writing an exam for the Real Estate Brokers Course by consulting with another student taking the same exam and exchanging answers to the questions on the exam.

Results:

By way of a Consent Agreement that was ratified by a Hearing Panel, Wajahat Chawdhry was prohibited from applying for a Real Estate Broker's authorization for a period of five (5) years;

ordered to pay a fine of \$5,000; costs of \$1,000 and to complete an educational requirement as a condition of his authorization to trade in real estate.

Kamal Sharma, real estate associate, Re/Max House of Real Estate

Issues:

- Failure to act honestly [s.41(a) of *the Real Estate Act Rules*]
- Engaged in conduct that undermines public confidence in the industry, harms the integrity of the industry and brings the industry into disrepute [s.41(g) of *the Real Estate Act Rules*]

Facts:

- Kamal Sharma cheated while writing an exam for the Real Estate Brokers Course by consulting with another student taking the same exam and exchanging answers to the questions on the exam.

Results:

By way of a Consent Agreement that was ratified by a Hearing Panel, Kamal Sharma was prohibited from applying for a Real Estate Broker's authorization for a period of five (5) years; ordered to pay a fine of \$5,000; costs of \$1,000 and to complete an educational requirement as a condition of his authorization to trade in real estate.

Jon Right, real estate associate, formerly registered with MaxWell South Star Realty

Issues:

- Failure to provide all documentation or trade records required under the Rules to the broker [s.23(e) of the *Real Estate Act Rules* (as they were then)]
- Failure to keep the broker informed of the activities being performed by the associate broker or agent on behalf of the brokerage [s.23(f) of the *Real Estate Act Rules* (as they were then)]
- An industry member must not knowingly or recklessly make any representations in the course of advertising or marketing a property that is untrue in any material respect [s.4(a) of the Code of Conduct (as it was then)]
- Failure to render competent service [s.6(a) of the Code of Conduct (as it was then)]
- Participation in the creation of contracts or documents that he knew or ought to have known were not legally binding, confusing or did not reflect the agreements already in place [s.6(c) of the Code of Conduct (as it was then)]

Facts:

- Mr. Right acted for clients in their efforts to purchase a property and entered into an Agency Agreement. No Agency Agreement was provided with the brokerage files.
- Mr. Right created a purchase contract listing the clients as the purchasers. The purchasers never completed the purchase, as there was a better competing offer.
- After the offer to purchase fell through, these same clients consulted with a mortgage associate, introduced to them by Mr. Right, in an effort to secure financing for the purchase of a home.
- Mr. Right took the clients to view another property and at the request of, or in collaboration with Mr. Right, the mortgage associate drafted a letter indicating the clients had secured unconditional first mortgage financing. Mr. Right presented this letter to the sellers.

- There was no financing in place.
- Mr. Right prepared a purchase contract for this second property and over time this document was amended and/or modified a number of times.
- The initial purchase contract listed the original clients as purchasers, then subsequently two other names were added as co-purchasers, as the original clients were having difficulties obtaining financing.
- Multiple copies of purchase contracts existed, not all copies of which were turned in to Mr. Right's brokerage.
- There were errors relating to these purchase offers including:
 - Improper signatures
 - Lack of clarity as to whether parties had provided their consent to the addition of co-buyers
 - Lack of clarity as to when signatures, conditions and clauses were inserted into the purchase contracts
- The original clients moved into the property and the next day, Mr. Right informed them that the lenders had declined to provide financing for the purchase of the property.
- Mr. Right was aware the buyers were unlawfully living in the property.
- Mr. Right, along with the mortgage associate, made various attempts to obtain financing for the purchase of the property.
- During this time, the sellers or their agent were never advised that financing was not in place.
- When the sellers were eventually notified, they contacted the police and the original clients were forced to leave the property.
- Mr. Right subsequently prepared a purchase contract for the property listing himself and his wife as purchasers. The purchase contract was not provided to the brokerage and Mr. Right did not advise his brokerage about the purchase.
- The sellers accepted the purchase offer of Mr. and Mrs. Right.
- Mr. Right prepared a release stating that he and his wife were forever discharged from any causes of action in consideration of the purchase of the property and Mr. Right paid \$2,000 to the sellers to cover property damage caused by his buyer clients.

Results:

By way of a Consent Agreement that was ratified by a Hearing Panel, Jon Right was suspended for a period of four (4) months; ordered to pay a fine of \$8,000; costs of \$1,500 and to complete an educational requirement as a condition of his authorization to trade in real estate.

Suspensions

Robert Hughes - Real Estate Associate Licence Suspension

On July 4, 2011, the Real Estate Council of Alberta suspended the authorization of Robert Hughes, currently unregistered. The suspension is in accordance with s.38(4.2) of the *Real Estate Act* and occurred as a result of Robert Hughes' refusal to cooperate with a person conducting an investigation.

As a result of this suspension, Robert Hughes cannot trade in real estate in Alberta at this time.

Lifetime Withdrawals

David Andrewsky - Lifetime Withdrawal from Industry

Calgary, Alberta – On July 5, 2011, David Andrewsky, who most recently was registered as a real estate broker with Century 21 Country Real Estate (1995) Ltd. in Fairview, applied to the Real Estate Council of Alberta (RECA) to withdraw from industry membership in accordance with section 54 of the *Real Estate Act*. Mr. Andrewsky's application to withdraw was approved by RECA and results in a voluntary lifetime prohibition from industry membership.

At the time of his withdrawal application Mr. Andrewsky was the subject of a disciplinary proceeding which, by virtue of the approved withdrawal application, is discontinued. Mr. Andrewsky's withdrawal application does not constitute an admission of misconduct.

Chris Gus Courelias - Lifetime Withdrawal from Industry

Calgary, Alberta – On July 5, 2011, Chris Gus Courelias, who most recently was registered as a real estate associate with Re/Max Real Estate (Edmonton) Ltd. o/a Re/Max Real Estate in Edmonton, applied to the Real Estate Council of Alberta (RECA) to withdraw from industry membership in accordance with section 54 of the *Real Estate Act*. Mr. Courelias' application to withdraw was approved by RECA and results in a voluntary lifetime prohibition from industry membership.

At the time of his withdrawal application Mr. Courelias was the subject of a disciplinary proceeding which, by virtue of the approved withdrawal application, is discontinued. Mr. Courelias' withdrawal application does not constitute an admission of misconduct.

Gurinderjit (Bobby) Singh Johal - Lifetime Withdrawal from Industry

Calgary, Alberta – On July 5, 2011, Gurinderjit (Bobby) Singh Johal, who most recently was registered as a mortgage associate with Walk In Approval Centre Inc. o/a Mortgage Alliance Walk In Centre in Calgary, applied to the Real Estate Council of Alberta (RECA) to withdraw from industry membership in accordance with section 54 of the *Real Estate Act*. Mr. Johal's application to withdraw was approved by RECA and results in a voluntary lifetime prohibition from industry membership.

At the time of his withdrawal application Mr. Johal was the subject of a disciplinary proceeding which, by virtue of the approved withdrawal application, is discontinued. Mr. Johal's withdrawal application does not constitute an admission of misconduct.

Susan Sparrow - Lifetime Withdrawal from Industry

Calgary, Alberta – On July 5, 2011, Susan Sparrow, who most recently was registered as a real estate associate with Coldwell Banker Battle River Realty in Camrose, applied to the Real Estate Council of Alberta (RECA) to withdraw from industry membership in accordance with section 54 of the *Real Estate Act*. Ms Sparrow's application to withdraw was approved by RECA and results in a voluntary lifetime prohibition from industry membership.

At the time of her withdrawal application Ms Sparrow was the subject of a serious investigation which, by virtue of the approved withdrawal application, is discontinued. Ms Sparrow's withdrawal application does not constitute an admission of misconduct.

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
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KEN MCCOY
Appointed from the Edmonton Real Estate Board

WENDY ROBSON
Appointed from boards outside of Calgary and Edmonton

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Appointed from commercial real estate sector

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GARY SIEGLE
Appointed from the mortgage brokerage sector

ROBERT TELFORD, CHAIR
Appointed from the real estate appraisal sector

Contact RECA

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