

# Case Summaries June 20 - July 4, 2011

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## Letters of Reprimand

### Real Estate Broker

- A real estate broker must trade in real estate only in the name that appears on the individual's licence and in the name of the brokerage with which the broker is registered, and ensure the name of the brokerage is clearly indicated in the course of trading in real estate, including any related advertisements [s.51(1)(b)(c) of the *Real Estate Act* Rules]
  - While there is mention of the brokerage on the industry member's websites, there was no mention of the brokerage on the industry member's Twitter profile page.
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## Administrative Penalties

### Solomon Davies, real estate broker, Re/Max Elite

- Failure to ensure all documents and records related to trades in real estate required under the Act and Rules are maintained or made available by the brokerage for the purposes of a review at the registered business office of the brokerage [s.51(1)(k) of the *Real Estate Act* Rules]
- When Mr. Davies' brokerage, Realty Associates, ceased operations he advised RECA that his brokerage failed to keep records and books of account from October 2008 to July 2009 and he was unable to access brokerage information and files.
- \$1,500

### Gregory Brodeur, mortgage broker, Asset Capital Mortgage Corporation

- Failure to ensure proper management and control of documents or records related to licensing, registrations and related requirements [s.67(1)(i) of the *Real Estate Act* Rules]
- Mr. Brodeur failed to adhere to the instructions of the RECA Online User Manual and the terms of the RECA Online Electronic Filer Agreement while processing a

registration renewal when the application indicated a positive response to a question regarding suitability.

- \$1,500

#### **Darrol Cowley, real estate broker, Residential One Real Estate**

- Failure to ensure proper management and control of documents or records related to licensing, registrations and related requirements [s.51(1)(j) of the *Real Estate Act Rules*]
- Mr. Cowley terminated an associate without completing the 2010/2011 associate/associate broker registration cancellation.
- \$1,500

#### **The City of Calgary**

- 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

#### **Pipam Kumar, real estate associate, Century 21 Bravo Realty**

- 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. Kumar became the subject of bankruptcy proceedings on October 4, 2010 and failed to notify the Executive Director until January 24, 2011.
- \$1,000

#### **Len Wong, real estate broker, Re/Max Len T. Wong & Associates Real Estate**

- Made representations or carried 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*]
- The wording: "hire our brokerage which is Len's team for the price of a single agent" appears on Mr. Wong's websites. Clients enter into contracts with the real estate brokerage not with an associate or a team of associates. The wording "our client's homes sell for more money in less time" also appears. Data provided does not support the conclusion that his client's homes sell for more money in less time.
- \$2,000

## Hearing Panel Decision

### Danh Ngoc Tran, real estate associate, Re/Max Real Estate

#### Issues:

- Failed to fully inform clients what the fees for providing services will be or provide a reasonable estimate with an explanation disclosing the factors that will affect the estimate [s.5(a) of the Code of Conduct, as it was in force from October 1, 1999 to September 30, 2006]
- Failed to render competent service [s.6(c) of the Code of Conduct, as it was in force from October 1, 1999 to September 30, 2006]
- Failed to use best efforts to ensure a client had independent advice when a prudent industry member would conclude a client may lack the ability to understand the nature or consequences of entering into a real estate transaction [s.2(k) of the Code of Conduct, as it was in force from October 1, 1999 to September 30, 2006]
- Failed to disclose all relevant information or made a representation that was reckless or intentional and that misled or was likely to mislead his clients as to the potential market value of a property [s.2(e) and s.4(e) of the Code of Conduct, as it was in force from October 1, 1999 to September 30, 2006]

#### Facts:

- Sellers sought Mr. Tran's assistance in selling their home and provided him with an old MLS listing. Mr. Tran advised the Sellers that the property had not increased in value since it was listed three years prior but he did not provide a Comparative Market Analysis.
- Mr. Tran showed the property to prospective buyers, but did not enter into a Listing Contract with the Sellers at the time and he did not inform them what his fees would be for providing services.
- Mr. Tran did not list the property on MLS as the Sellers expected.
- Mr. Tran showed the property to the buyer who was a friend of Mr. Tran's family and who elected to make an offer on the property.
- Mr. Tran prepared and arranged for the buyer to sign a Dual Agency Consent form and an Offer to Purchase in the form of a Residential Real Estate Purchase Contract (REPC).
- In the REPC, Mr. Tran described the buyer as "Buyer Name and/or Nominee."
- Mr. Tran prepared a listing contract for the property and presented it to the Sellers. The Listing Contract provided the list price with a real estate commission fee. The contract also had the words "Exclusive Listing" handwritten across the top of the first page.

- Mr. Tran asked the Sellers to sign the Listing Contract but did not explain the real estate commission calculation or the fact that the listing was to be an exclusive listing that would not appear on MLS.
- Mr. Tran did not obtain the initial deposit from the buyer nor did he submit the deposit funds to the real estate brokerage as required.
- When the buyer for this property did not qualify for financing, Mr. Tran's wife expressed an interest in purchasing the property.
- Mr. Tran prepared a Notice to Purchase Contract ("NPC") describing the parties to the transaction as the Sellers and his wife's name substituted for the original buyer's name.
- Mr. Tran did not prepare a proper assignment agreement to assign the buyer's interests in the REPC to his wife.
- The Sellers signed the NPC but neither understood that another person was taking over as the buyer or that this person was Mr. Tran's wife.

#### Results:

A Hearing Panel accepted an Admission of Conduct Deserving of Sanction from Mr. Tran and ordered him to pay a fine of \$7,500; costs of \$500 and complete education requirements as a condition of his licence.

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## Suspensions

### **Tanveer Taj - Real Estate and Mortgage Associate Licence Suspension**

On June 27, 2011, the Real Estate Council of Alberta suspended the authorization of Tanveer Taj, real estate associate and mortgage associate. The suspension is in accordance with s.38(4.2) of the *Real Estate Act* and occurred as a result of Tanveer Taj's refusal to cooperate with a person conducting an investigation.

As a result of this suspension, Tanveer Taj cannot trade in real estate or deal in mortgages in Alberta at this time.

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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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