

Case Summaries June 6 - 20, 2011

Letters of Reprimand

Real estate associate

- Failure to notify, in writing, the Executive Director when proceedings pursuant to the Criminal Code are commenced against the industry member [s.40(1)(g) of the *Real Estate Act Rules*]
- Criminal proceedings pursuant to the Criminal Code were commenced against the associate on or around April 23, 2009 and RECA was not notified until September 28, 2009. On November 19, 2009, the charges were withdrawn and the prosecution was discontinued.

Real estate associate broker

- 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*]
- The associate broker offered a free TV to buyers or sellers represented by the brokerage or for a client referred to the brokerage, and placed a separate sign on a property with the advertisement "Get a free TV." There was no indication on the sign of the restrictions or conditions for this incentive. The buyer of the property, represented by an associate with another brokerage, requested the TV and was advised he was not eligible.

Real estate associate

- 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*]
- The associate listed a property and created a feature sheet that indicated the flooring to be hardwood, carpet and linoleum. There was also indication of a wet bar in the basement. After being successful in purchasing the property, the buyers discovered that they were provided with incorrect information and the hardwood floors were, in fact laminate, and no wet bar existed. The associate compensated the buyers in the amount of \$8,163.75.

Real estate associate

- Failure to notify, in writing, the Executive Director when an industry member is disciplined by any real estate board, real estate association, mortgage broker association, appraiser association, or any professional, occupational or regulatory body [s.40(1)(b) of the *Real Estate Act Rules*]
- The associate was sanctioned by the Professional Standards Committee of the REALTORS® Association of Edmonton on or about April 28, 2009 and was assessed a fine. The associate did not inform RECA until on or about August 21, 2009.

Administrative Penalties

Raymond Macklem, mortgage broker, Dominion Lending Centres – The Mortgage Hub

- 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. Macklem failed to adhere to the instructions of the RECA Online User Manual and the terms of the RECA Online Electronic Filer Agreement when he processed brokerage/broker renewals online without first contacting RECA as certain aspects of the brokerage had been modified.
- \$1,500

Michael Cain, real estate broker, Re/Max House of Real Estate

- Failure to ensure proper management and control of documents or records related to licensing, registrations and related regulatory documents [s.51(1)(j) of the *Real Estate Act Rules*]
- Mr. Cain failed to adhere to the instructions of the RECA Online User Manual and the terms of the RECA Online Electronic Filer Agreement while processing an online licensing transaction when the application indicated a positive response to a question regarding suitability.
- \$1,500

Graham Mayne, real estate broker, Discover Real Estate Ltd.

- Failure to ensure proper management and control of documents or records related to licensing, registrations and related regulatory documents [s.51(1)(j) of the *Real Estate Act Rules*]
- Mr. Cain failed to adhere to the instructions of the RECA Online User Manual and the terms of the RECA Online Electronic Filer Agreement when he proceeded with online registrations before a paper copy of the appropriate form was completed and commissioned.
- \$1,500

Robert Fraser McLeod, real estate associate, Re/Max Real Estate

- Engaging 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*]
- Mr. McLeod is the sole director and voting shareholder in the corporation Robert F. McLeod Realty Ltd. which, for a period of time, was not authorized to trade in real estate, and which accepted trust deposits that were placed into a general account.

- \$2,500

Duane Springsteel, mortgage associate, TMG

- Failure to notify immediately, in writing, the executive director when proceedings pursuant to the Criminal Code 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. Springsteel on January 1, 2011 and he did not notify the Executive Director until January 25, 2011.
- \$1,000

Linda Gerchick, real estate associate broker, US Investment Realty Inc. Phoenix AZ

- Trading in real estate while unauthorized [s.17 of the *Real Estate Act*]
- RECA received information that Ms Gerchick and members of Team Gerchick would be attending and presenting information concerning real estate opportunities at a trade show. RECA sent Ms Gerchick two (2) letters of warning detailing that she and Team Gerchick were not authorized to trade in real estate in the province of Alberta and requiring that she and Team Gerchick cease trading without authorization. After receiving the first warning letter, Ms Gerchick contacted a RECA staff member and stated that any trades would be conducted by a real estate associate who was authorized to trade in real estate in Alberta. During the trade show Ms Gerchick and Team Gerchick were observed soliciting the public to purchase properties in Arizona, and to engage her and Team Gerchick to provide real estate broker services. All promotional materials were advertised under “Team Gerchick” and there was no signage either at the booth or at the seminar identifying the brokerage of the authorized associate at the booth or the seminar.
- \$25,000

Carrick Sears, real estate agent, US Investment Realty Inc. Phoenix, AZ

- Trading in real estate while unauthorized [s.17 of the *Real Estate Act*]
- Mr. Sears is a member of Team Gerchick. RECA received information that members of Team Gerchick would be attending and presenting information concerning real estate opportunities at a trade show. RECA sent Ms Gerchick two (2) letters of warning detailing that she and Team Gerchick were not authorized to trade in real estate in the province of Alberta and requiring that she and Team Gerchick cease trading without authorization. After receiving the first warning letter, Ms Gerchick contacted a RECA staff member and stated that any trades would be conducted by a real estate associate who was authorized to trade in real estate in Alberta. During the trade show Mr. Sears and other members of Team Gerchick solicited the public to purchase properties in Arizona and all promotional materials were advertised under “Team Gerchick” and there

was no signage either at the booth or at the seminar identifying the brokerage of the authorized associate at the booth or the seminar.

- \$5,000

Tom Head, real estate agent, US Investment Realty Inc. Phoenix, AZ

- Trading in real estate while unauthorized [s.17 of the *Real Estate Act*]
- Mr. Head is a member of Team Gerchick. RECA received information that members of Team Gerchick would be attending and presenting information concerning real estate opportunities at a trade show. RECA sent Ms Gerchick two (2) letters of warning detailing that she and Team Gerchick were not authorized to trade in real estate in the province of Alberta and requiring that she and Team Gerchick cease trading without authorization. After receiving the first warning letter, Ms Gerchick contacted a RECA staff member and stated that any trades would be conducted by a real estate associate who was authorized to trade in real estate in Alberta. During the trade show Mr. Head and other members of Team Gerchick solicited the public to purchase properties in Arizona and all promotional materials were advertised under “Team Gerchick” and there was no signage either at the booth or at the seminar identifying the brokerage of the authorized associate at the booth or the seminar.
- \$5,000

Zoltan Padar, mortgage broker, MortgagePro Ltd.

- Failure to notify immediately, in writing, the Executive Director when proceedings pursuant to the Criminal Code 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. Padar on December 12, 2010 and he did not notify the executive director until February 9, 2011.
- \$1,000

Dedric Robinson, real estate associate broker, Royal LePage Summit Realty

- 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, is the subject of any bankruptcy or receivership proceedings [s.40(1)(f) of the *Real Estate Act Rules*]
- Mr. Robinson became the subject of receivership proceedings on July 20, 2010 and he did not notify the Executive Director until September 30, 2010.
- \$1,000

Hearing Panel Decision

Guy Henderson, registered with White Star Realty o/a Realty Executives White Star at all material times, most recently registered with Discover Real Estate as an associate broker, and not currently registered.

Issue:

- Failure to be actively engaged in the management of the real estate brokerage [s.21(1)(b) of the *Real Estate Act* Rules, as it was then]

Facts:

- The sole owner and one of the agents of the White Star brokerage had daily control and management over the brokerage.
- Mr. Henderson failed to clarify in writing his role as broker and the role of the owner/agent in the operation of the brokerage including any responsibilities Mr. Henderson intended to delegate to the owner/agent.
- Mr. Henderson failed to obtain an agent's contract in writing between the brokerage and the owner/agent.
- Mr. Henderson failed to ensure that the owner/agent abided by all the rules and regulations of the brokerage and with the *Real Estate Act* and Rules.
- Mr. Henderson failed to have proper scrutiny over and supervision of the activities of the owner/agent.
- When Mr. Henderson suspected the owner/agent was engaging in private sales and transactions in his locked office, he failed to insist on reviewing all files in the owner/agent's possession and having full access to his office.
- Mr. Henderson failed to be actively involved in the interviewing and hiring of prospective agents for the brokerage.
- Mr. Henderson failed to use an appropriate standard checklist to ensure a complete and consistent review of sales files, and he failed to sign and date his review to signify who performed the review and when.
- Mr. Henderson failed to ensure that there was an adequate level of supervision of the agents in the brokerage and of the employees who performed duties on behalf of the brokerage.
- Mr. Henderson delegated one or more of his broker responsibilities to the owner/agent who was under investigation by the Real Estate Council of Alberta at the time and as a result, was not qualified to carry out those delegated duties.
- Mr. Henderson failed to ensure the particulars of the delegation of his responsibilities to the owner/agent were clear and in writing, and failed to communicate the particulars of the delegation to the agents and employees of the brokerage.

Results:

A Hearing Panel of the Real Estate Council of Alberta ordered Guy Leroy Henderson to pay a fine of \$5,000, costs in the amount of \$33,190.68 and serve a 5-year suspension from acting as an associate broker or as a broker. Mr. Henderson may apply for authorization as a real estate associate.

Suspensions

Mireille McGowan - Real Estate Associate Licence Suspension

On June 7, 2011, the Real Estate Council of Alberta suspended the authorization of Mireille McGowan, real estate associate. The suspension is in accordance with s.38(4.2) of the Real Estate Act and occurred as a result of Ms McGowan's refusal to cooperate with a person conducting an investigation. As a result of this suspension, Mireille McGowan cannot trade in real estate in Alberta at this time.

Glen Checkley - Real Estate Associate Licence Suspension

On June 6, 2011 the Real Estate Council of Alberta suspended the authorization of Glen Anthony Checkley, real estate associate. The suspension is in accordance with s.38(4.2) of the Real Estate Act and occurred as a result of Mr. Checkley's refusal to cooperate with a person conducting an investigation. As a result of this suspension, Glen Anthony Checkley cannot trade in real estate in Alberta at this time.

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Appointed from residential real estate industry members

CINDY DUBRAY

Appointed from the property management 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.

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