

# Case Summaries May 17 - June 6, 2011

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## Letters of Reprimand

- A real estate broker, associate broker or associate, must not directly or indirectly, advertise, communicate or offer to any person an incentive except an incentive that is provided by and on behalf of the brokerage with which he is registered [s.54(1)(d) of the *Real Estate Act Rules*]
- A real estate broker, associate broker or associate must not make an inducement unless at the time of making the inducement, he delivers to the person to whom the inducement is made a statement signed by the (i) the real estate broker, associate broker or associate and (ii) if applicable, the other person involved in the inducement, clearly setting out all details of the inducement [s.54(1)(3) of the *Real Estate Act Rules*]
- A real estate broker, associate broker or associate, must not directly or indirectly, provide an inducement unless the inducement is provided by and on behalf of the brokerage with which the real estate broker, associate broker or associate is registered, details of the inducement are provided in writing and the broker has provided written approval [s.54(2) of the *Real Estate Act Rules*]
- A real estate associate broker and associate must trade in real estate only in the name that appears on that individual's licence and in the name of the brokerage with which that individual is registered [s.53(a) of the *Real Estate Act Rules*] (2)
- 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*]
- A mortgage broker or associate must not directly or indirectly, provide an inducement unless the inducement is provided by and on behalf of the brokerage with which the mortgage broker or associate is registered, details of the inducement are provided in writing and the broker has provided written approval [s.70(2) of the *Real Estate Act Rules*]

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## Administrative Penalties

### **James Nealon, real estate associate, Re/Max Elite**

- 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. Nealon on June 10, 2010, and he did not notify the Executive Director until September 21, 2010.

- \$1,000

**Darrel Jackson, real estate associate, Maxwell Capital 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. Jackson became the subject of bankruptcy proceedings on May 27, 2009, and failed to notify the Executive Director until September 29, 2010.
- \$1,000

**Tom Lam, mortgage broker, Argentum-Urban Mortgage**

- Failure to ensure proper management and control of documents or records related to licensing, registrations, and related regulatory documents [s.67(1)(i) of the *Real Estate Act* Rules]
- Mr. Lam failed to adhere to the instructions of the RECA Online User Manual and the terms of the RECA Online Electronic Filer Agreement while registering an associate whose application indicated a positive response to question 20, regarding suitability.
- \$1,500

**Ronald Mercier, real estate broker, Fullcorp Holdings Inc.**

- 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. Mercier failed to adhere to the instructions of the RECA Online User Manual and the terms of the RECA Online Electronic Filer Agreement while processing the brokerage when the application indicated a positive response to the questions regarding suitability.
- \$1,500

**Greystone Property Management Corporation**

- Trading in real estate while unauthorized [s.17(a) of the *Real Estate Act*]
- Greystone Property Management Corporation (Greystone) conducted property management activities between the period of January 1, 2009 and February 2, 2009 without appropriate authorization from the Real Estate Council.
- Greystone commenced property management services on behalf of former clients and received trust funds respecting those clients.
- \$6,500

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## Consent Agreements

### **Kulwinder Singh Kang, real estate associate, All-Banners Realty**

#### Issues:

- Industry members must not make representations that are reckless or intentional and that mislead or deceive any person or are likely to do so [s.42(a) of the *Real Estate Act* Rules]

#### Facts:

- Mr. Kang was charged under the Criminal Code with an offence in or around July 2009, but answered “no” to the question on his 2009/2010 RECA Application for Registration that asked if any proceedings pursuant to the Criminal Code of Canada had been commenced against him since his last application.
- Mr. Kang swore an Affidavit that all questions were answered truthfully and completely.
- In reliance of the information, RECA renewed Mr. Kang’s registration.
- On or about February 2010, Mr. Kang was convicted of an offence.
- Mr. Kang appealed his conviction and his sentence was stayed pending the appeal.
- Mr. Kang sent a letter to RECA advising of the charge, his appeal and his stay pending the appeal.
- Mr. Kang’s appeal of the conviction was successful and a verdict of not guilty was entered on the charge.

#### Results:

By way of a Consent Agreement that was ratified by a Hearing Panel, Kulwinder Singh Kang was suspended for a period of one (1) month; ordered to pay a fine of \$2,000; costs of \$500 and complete an educational requirement as a condition of his authorization to trade in real estate.

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## Disciplinary Action

### **Daren M. Broers, mortgage associate with Mortgage 1 Corporation or mortgage broker with Pioneer West Acceptance Corporation, at all material times**

#### Issues:

- Failure to be professional in dealings with the public and other industry members [s.7 of the Code of Conduct as it was then]
- Failure to notify the Executive Director when the 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.49(1)(b) of the *Real Estate Act* Rules]

Facts:

- Mr. Broers engaged in illegal trading and distribution of securities, contrary to the *Securities Act*, R.S.A. 2000, c.S-4, in that as President and a Director for Mortgage 1 Corporation, Mr. Broers solicited sales of M1C securities from investors, raising money while unregistered to trade in securities.
- This conduct was prosecuted by the Alberta Securities Commission (ASC) and a sanction was imposed on Mr. Broers.
- Mr. Broers failed to report the ASC decision to the Executive Director.

Results:

A Hearing Panel accepted an Admission of Conduct Deserving of Sanction from Mr. Broers and ordered the suspension of all licences issued to him by the Real Estate Council of Alberta for a period of 30 months commencing September 28, 2009. The Hearing Panel also ordered that Mr. Broers pay costs in the amount of \$10,000 and complete an education requirement as a condition of his licence.

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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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