

Case Summaries Sept 12 - Oct 3, 2011

Letters of Reprimand

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]
- On or about February 2008 and March 1, 2009, four separate agreements for sale were entered into between buyers and a seller for the purchase of individual condominium units. The seller requested the associate enter firm sales of four condominium units onto the MLS system. On or about April 23, 2009, information for two units was entered and on or about April 27, 2009, information on the remaining two units was entered into the MLS system. The list date and the sold date for the units was shown as the same day with “0” days on the market. In the MLS entries, there was no comment or disclaimer noted in the property description to indicate when the property was originally sold or that the purpose of the MLS listing was to provide historical data.

Administrative Penalties

Alois Frank Holland, appraiser

- Acting as a real estate appraiser without appropriate authorization [s.17 of the *Real Estate Act*]
- Mr. Holland’s licence expired on September 30, 2010. Mr. Holland became aware he was no longer authorized on or about October 20, 2010 and attempted to renew his licence online. He was unable to renew online and sent his completed application to RECA by mail. Mr. Holland’s licence was renewed on November 17, 2010. From the time Mr. Holland became aware that he was not authorized until the time his real estate appraiser authorization was renewed, Mr. Holland continued to act as a real estate appraiser completing 9 appraisals and 8 inspections for which he received remuneration.
- \$4,000

Keith Fraser, real estate associate registered with Coldwell Banker-Ontrack Realty (Coldwell Banker) at all relevant times and currently registered with Worth Metro 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]
- Mr. Fraser entered into an oral agreement with clients through which he offered to purchase their house if it did not sell by the time the possession date on the house they were building was near. Mr. Fraser did not document this guaranteed sale agreement in writing nor did he inform his broker about it. At the time the clients signed a Residential Real Estate Seller Brokerage Agreement for their property, Mr. Fraser and his clients were under the understanding the guaranteed sales agreement was still in effect. The clients' newly built home was nearing completion and their current home was still not sold. At no point during the listing period did Mr. Fraser offer to buy the clients' home as he had agreed to under the guaranteed sales agreement. Because Mr. Fraser did not fulfill his guaranteed sale agreement with the clients, they incurred expenses when their existing home sold with a later possession date.
- \$1,500

Keith Fraser, real estate associate registered with Coldwell Banker-Ontrack Realty (Coldwell Banker) at all relevant times and currently registered with Worth Metro Realty

- A real estate broker, associate broker, or associate must not advertise, offer or enter into an guaranteed sale agreement except on behalf of the brokerage with which that broker, associate broker or associate is registered [s.63 of the *Real Estate Act* Rules]
- Mr. Fraser entered into an oral agreement with clients through which he offered to purchase their house if it did not sell by the time the possession date on the house they were building was near. This guaranteed sale agreement was not offered on behalf of Mr. Fraser's brokerage.
- \$1,500

Keith Fraser, real estate associate registered with Coldwell Banker-Ontrack Realty (Coldwell Banker) at all relevant times and currently registered with Worth Metro Realty

- Except in accordance with section 20, no industry member shall make a representation to a seller of real estate that the industry member or another person

on the industry member's behalf will pay to the seller a fixed or determinable amount of money within a fixed or determinable amount of time [s.19 of the *Real Estate Act*]

- Mr. Fraser entered into an oral agreement with clients through which he offered to purchase their house if it did not sell by the time the possession date on the house they were building was near. Mr. Fraser did not document the guaranteed sale agreement in writing. No trust account was opened in any financial institution in which Mr. Fraser deposited money payable under a guaranteed sale agreement. No money was deposited into any bank account representing a minimum of 5% of the total amount that may be payable under the guaranteed sale agreement.
- \$3,000

Consent Agreement

Walid Fakhreddine, real estate associate

Registered at all material times with Elite Ownership Group Ltd. o/a Re/Max Elite and currently registered with Re/Max Real Estate (Edmonton) o/a Re/Max Real Estate

Issues:

- Failure to provide competent service [s.41(b) of the *Real Estate Act Rules*]
- Made representations or carried on conduct that was reckless or intentional and that misleads or deceives any person or was likely to do so [s.42(a) of the *Real Estate Act Rules*]

Facts:

- Mr. Fakhreddine created a contract with an expiry date that did not exist (February 30, 2006) and an incorrect signing date (January 2006, when in fact it was January 2009)
- Mr. Fakhreddine failed to verify the identity of the corporation that was to receive additional deposit monies and failed to verify that the corporation had a trust account as per the requirements of receiving and maintaining trust monies.
- Mr. Fakhreddine indicated himself as a witness to a signature when he in fact did not witness the signature.
- Advertising on Re/Max Elite signage set out that a condominium building was a CMHC-approved building, when it was not.

Results:

By way of a Consent Agreement ratified by a Hearing Panel of the Real Estate Council of Alberta, Walid Fakhreddine was ordered to pay fines in the amount of \$6,000, costs of \$1,000 and complete educational requirements.

Suspensions

Kenneth Moore and Mortgage Advantage Inc. - Licences Suspended

Calgary, Alberta - On September 7, 2011, the Real Estate Council of Alberta suspended the authorization of Kenneth Moore, mortgage broker. The suspension is in accordance with s.38(4.2) of the *Real Estate Act* and occurred as a result of Kenneth Moore's refusal to cooperate with a person conducting an investigation.

As a result of this suspension, Kenneth Moore may not deal in mortgages as a mortgage broker in Alberta at this time.

On September 9, 2011, pursuant to s. 35(2)(c) of the *Real Estate Act Rules*, the Executive Director of the Real Estate Council of Alberta suspended the licence of Mortgage Advantage Inc., mortgage brokerage, operating in Calgary. The suspension of the mortgage brokerage resulted when its broker was unable to perform the duties and responsibilities of a broker as outlined in the *Real Estate Act Rules*.

As a result of this licence suspension, Mortgage Advantage Inc. may not deal in mortgages as a mortgage brokerage in Alberta at this time.

Alison Poste - Real Estate Appraiser Candidate Licence Suspended

Calgary, Alberta – On September 19, 2011, pursuant to Section 38.1(1)(a) of the *Real Estate Act Rules*, the Executive Director of the Real Estate Council of Alberta suspended the licence of Alison Poste, real estate appraiser candidate. The licence suspension resulted from Alison Poste's failure to comply with a condition attached to her licence.

As a result of this suspension Alison Poste may not act as a real estate appraiser in Alberta at this time.

Rakesh Patel - Mortgage Associate Licence Suspended

Calgary, Alberta – On September 22, 2011, pursuant to Section 38.1(1)(a) of the *Real Estate Act Rules*, the Executive Director of the Real Estate Council of Alberta suspended the licence of Rakesh Patel, mortgage associate registered with Centum Diversified Mortgages. The licence suspension resulted from Rakesh Patel's failure to comply with a condition attached to his licence.

As a result of this suspension Rakesh Patel may not deal in mortgages as a mortgage associate in Alberta at this time.

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

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Appointed from the public

WAYNE MCALISTER, CHAIR-ELECT

Appointed from the Calgary Real Estate Board

KEN MCCOY

Appointed from the Edmonton Real Estate Board

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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.

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