

REAL ESTATE COUNCIL OF ALBERTA
NOTICE OF ADMINISTRATIVE PENALTY

To: Michael Cain
RE/MAX House of Real Estate
20-2439 54 Ave SW
Calgary, Alberta T3E1M4

In accordance with s.83 of the *Real Estate Act*, R.S.A. 2000 c.R-5 (the “*Act*”), the Executive Director of the Real Estate Council of Alberta has determined that Michael Cain has contravened s.51(1)(j) of the Rules made pursuant to the *Act* and as such an Administrative Penalty is warranted. The Executive Director’s reasons for this decision are as follows:

Section 51(1)(j) of the Rules made pursuant to the *Act*, states that a real estate broker must ensure proper management and control of documents or records related to licensing, registrations and related regulatory requirements.

As a result of information provided to RECA on October 4, 2010, RECA requested you provide a statement in your own words explaining why on October 6, 2010, you processed the registration for K.B. online when the application indicated a positive response related to question 22.

On May 30, 2011, as a result of the request for information sent out to you on May 16, 2011, RECA received correspondence indicating you forwarded K.B. to the RECA office to have his associate/associate broker application for registration processed. You also indicate that on October 6, 2010, your Administration Manager, J.C., was instructed to process the application online at the brokerage.

RECA records do not corroborate this information, nor are the instructions you allege were provided by RECA staff, in keeping with RECA policies and guidelines.

On October 6, 2010, according to the RECA Online activity log, you processed the licence renewal for K.B. at the brokerage.

This activity was in contravention of s.51(1)(j) of the Rules made pursuant to the *Act* and the RECA Online Electronic Filer Agreement you entered into with RECA, which states in part that the broker agrees to follow the procedures and guidelines established for users of RECA Online, and comply with any applicable legislation.

The RECA Online User Manual states in part that before a broker is to proceed with any online licensing transaction, they are to ensure that the applicant has **not** selected a “yes” answer to any of the suitability questions, and that if they have, the broker is to forward the application to RECA for processing.

Additionally, the 2010/2011 associate/associate broker application for registration states in section C and that if the applicant answered YES to any of the suitability questions that the broker is to provide copies of all relevant documentation along with the application to RECA.

You failed to adhere to the instructions of the RECA Online User Manual and the terms of the RECA Online Electronic Filer Agreement. This is a contravention of s.51(1)(j) of the Rules and subject to an Administrative Penalty in the amount of **\$1,500.00**.

Payment of this Administrative Penalty shall be accepted by the Executive Director as complete satisfaction of the amount of the penalty and no further proceedings under Part 6 of the *Act* will be taken against you in respect of the contravention herein.

The penalty is payable to the Real Estate Council of Alberta within thirty (30) days of the date of issuance of this Notice of Administrative Penalty. If the penalty is not paid in accordance with this notice, the Executive Director may commence legal action against you to recover the amount owing in respect of the Administrative Penalty as a debt due to the Real Estate Council of Alberta.

If you dispute this Notice of Administrative Penalty in accordance with s.83.1 of the *Act*, you may appeal to a Hearing Panel. You will be given a full opportunity consistent with procedural fairness and natural justice to present evidence before the Hearing Panel and make representations to the contravention.

If you have any questions in regard to this Notice of Administrative Penalty, please contact Shawna Douglas, Information and Licensing Coordinator, at the Real Estate Council of Alberta.

DATED this 3rd day of June, 2011.

REAL ESTATE COUNCIL OF ALBERTA

Per:

Bob Myroniuk
Executive Director