

REAL ESTATE COUNCIL OF ALBERTA
NOTICE OF ADMINISTRATIVE PENALTY

To: Darren Gibbons
417, 10147 112 St NW
Edmonton, AB T5K 1M1

In accordance with section 83 and the Bylaws of the *Real Estate Act* RSA 2000 c R-5, (Act), the Executive Director of the Real Estate Council of Alberta (RECA) is of the opinion that Darren Gibbons (Mr. Gibbons), has contravened section 17 of the Act and hereby assesses an Administrative Penalty in the amount of **\$5,000**. The evidence giving rise to the Executive Director's decision is as follows:

On September 27, 2010, you paid your real estate appraiser fee, via RECA's online system, in the amount of \$425.00, for the 2010/2011 licensing year. You did not complete the licence application process as required, and your authorization was not renewed. September 30, 2010 your real estate appraiser authorization expired.

Between October 1, 2010, and November 17, 2010, you carried on the activities of a licensed real estate appraiser without authorization.

On November 18, 2010, you learned you were not authorized as a real estate appraiser.

On November 24, 2010, RECA received an affidavit, a letter of good standing from AIC, and an original, incorrectly completed licence application.

On December 3, 2010, RECA was in receipt of a correctly completed licence application.

On December 9, 2010, you were authorized as a real estate appraiser.

Between the period of October 1, 2010, and November 17, 2010, you completed 12 appraisals for which you received remuneration in the amount of \$15,875.

The Executive Director is of the opinion that the above noted conduct is in violation of section 17 of the *Real Estate Act* which sets out that:

17 No person shall

- (a) trade in real estate as a real estate broker,
 - (b) deal as a mortgage broker,
 - (c) act as a real estate appraiser, or
 - (d) advertise himself or herself as, or in any way hold himself or herself out as, a mortgage broker, real estate broker or real estate appraiser
- unless that person holds the appropriate authorization for that purpose issued by the Council.

In accordance with section 83 of the *Act* and Part 4 of the Bylaws, the Executive Director hereby assesses an Administrative Penalty in the amount of **\$5,000** against you.

The circumstances of this matter indicate the following aggravating and mitigating factors were considered:

Aggravating Factors

- You have been a licensed and practicing real estate appraiser in the province of Alberta since March 20, 2007, and ought to have been aware of licensing requirements.
- You received remuneration in the amount of \$15,875 for the unauthorized activity.
- Unauthorized activity has an effect on public confidence, places consumers at risk and harms the integrity of the industry.

Mitigating Factors

- You accepted responsibility for your unauthorized activity and ceased the activity upon becoming aware of it
- You have no prior discipline history

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. A person who pays an Administrative Penalty may not be charged under the *Act* with an offence in respect of those contraventions.

This sum of **\$5,000** is payable to RECA within thirty (30) days of the date of issuance of this Notice of Administrative Penalty. If you fail to pay the amount set out in 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 RECA.

If you dispute this Notice of Administrative Penalty in accordance with section 83.1 of the Act, you may appeal it 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 in relation to the contravention.

If you have any questions in regard to this Notice of Administrative Penalty, please contact Carla Sasley, Investigator, at RECA.

DATED this 15th day of November, 2011.

REAL ESTATE COUNCIL OF ALBERTA

Per: *Joseph Fernandez*, for
Bob Myroniuk
Executive Director