

REAL ESTATE COUNCIL OF ALBERTA
NOTICE OF ADMINISTRATIVE PENALTY

To: Alois Frank Holland
3 Melrose Cres.
Sherwood Park, AB T8A 3T9

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 Alois Frank Holland (Mr. Holland), has contravened section 17 of the Act and hereby assesses an Administrative Penalty in the amount of **\$4,000.00**. The evidence giving rise to the Executive Director's decision is as follows:

On or about August 16, 2010, RECA sent you an e-mail reminder advising you that your real estate appraiser authorization would expire on September 30, 2010.

You stated that your computer crashed on or about the end of September, 2010, and you lost all emails including the reminder from RECA. You were relying on RECA's e-mail as a reminder to renew your real estate appraiser authorization. As a result of your computer crashing you forgot to renew your real estate appraiser authorization.

On September 30, 2010 your real estate appraiser authorization expired.

On or about October 15, 2010, you purchased a new computer.

On or about October 15, 2010, an email was sent to you from the Realtor's Association of Edmonton advising you that according to RECA's website you were not authorized as a real estate appraiser. You do not recall receiving this email at the time, due to your computer issues.

On or about October 19, 2010, you attended the Realtor's Association of Edmonton and attempted to purchase software. You became aware at that time you were unauthorized as a real estate appraiser.

On or around October 20, 2010, you attempted to renew your licence on line. You were unable to complete the renewal process and contacted RECA by telephone on October 20, 2010.

On October 25, 2010, RECA received your completed application for renewal via Canada Post.

Your licence was renewed with RECA November 17, 2010.

From the time you became aware you were unauthorized, to the time your real estate appraiser authorization was issued on November 17, 2010, you did not cease and desist to act as a real estate appraiser.

You stated that during the time period of October 1, 2010 to November 16, 2010, you completed 9 appraisals and 8 inspections for which you received total remuneration in the amount of \$8,300.00.

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 **\$4,000.00** 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 October 1, 2004, and ought to have been aware of licensing requirements.
- Your conduct was intentional. You continued to complete appraisals and inspections even though you were aware you were unauthorized.
- You received remuneration 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 accept responsibility for your unauthorized activity.
- 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 **\$4,000.00** 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 22nd day of September, 2011.

REAL ESTATE COUNCIL OF ALBERTA

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