

REAL ESTATE COUNCIL OF ALBERTA
NOTICE OF ADMINISTRATIVE PENALTY

To: Mark Overdulve
1 2002 Luxstone Blvd SW
Box 90048
Airdrie, AB T4B 3K0

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 Mark Adrian Overdulve (Mr. Overdulve), has contravened section 17 of the Act and hereby assesses an Administrative Penalty in the amount of **\$2,000**. The evidence giving rise to the Executive Director's decision is as follows:

On October 1, 2010 your real estate appraiser authorization expired.

Between October 1, 2010 and October 13, 2010, you carried on activities of a real estate appraiser.

October 14, 2010, you remembered your authorization had not been renewed with RECA.

October 15, 2010, RECA received your completed renewal application.

October 20, 2010, RECA received an affidavit sworn by you advising 2 appraisals were completed by you since September 30, 2010.

October 22, 2010, RECA received a letter of good standing from your appraisal association.

October 22, 2010, your authorization was renewed by RECA.

During the period of unauthorized activity, you completed and received remuneration in the amount of \$1,565 in relation to 2 appraisals. During the relevant period you also continued hold yourself out as an authorized real estate appraiser; website and an advertisement in the Yellow Pages.

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 **\$2,000.00** 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 since 2006 and ought to have been aware of licensing requirements.
- Unauthorized activity has an effect on public confidence, places consumers at risk and harms the integrity of the industry.

Mitigating Factors

- You have accepted 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 **\$2,000** 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 4th day of November, 2011.

REAL ESTATE COUNCIL OF ALBERTA

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