

REAL ESTATE COUNCIL OF ALBERTA
NOTICE OF ADMINISTRATIVE PENALTY

**To: Melanie Remillard, Real Estate Broker
Northern Property Management Ltd.
220 – 289 Powder Drive
Fort McMurray, Alberta T9K 0M5**

In accordance with section 83 and the Bylaws of the *Real Estate Act* R.S.A. 2000 c. R-5, (Act), the Executive Director of the Real Estate Council of Alberta (RECA) has determined that there is sufficient evidence of conduct deserving of sanction in regard to you, Melanie Remillard, at all relevant times a broker, registered with Northern Property Management Ltd. (NPM), presently registered with Northern Property Management Ltd., to assess an Administrative Penalty. The evidence giving rise to the Executive Director's decision is as follows.

On or about April 21, 2009 Mr. and Mrs. F provided NPM a \$2,200 damage deposit in relation to the potential rental of the property located at 154 – 400 Silin Forest Road, Fort McMurray. At this time Mr. and Mrs. F had not been provided with, reviewed or signed a lease agreement and there was no written, oral or implied residential tenancies agreement. No written terms of trust were agreed to between NPM and Mr. and Mrs. F. regarding how the damage deposit will be received, held and disbursed.

NPM emailed the lease agreement to Mr. and Mrs. F. on or about April 21, 2009.

Mr. and Mrs. F. reviewed the lease agreement and decided they were no longer interested in leasing the subject property. On or about April 27, 2009 Mr. and Mrs. F. notified NPM that they had decided not to sign the Lease Agreement and requested that their damage deposit be refunded.

Ms. Remillard, the broker for NPM, refused to return the \$2,200 damage deposit to Mr. and Mrs.F.

Mr. and Mrs. F. filed a Statement of Claim against NPM for \$2,200 plus interest and costs. A trial was held, and on or about August 21, 2009 the court ordered a judgment against NPM requiring the brokerage to refund Mr. and Mrs. F. the damage deposit plus costs in the amount of \$2,520.

The Executive Director is of the opinion that NPM's conduct is in violation of section 25(2) of the Act which requires an industry member who receives money in trust, with respect to a trade in real estate, to ensure that the terms of the trust governing the use of the money are in writing and agreed to by the industry member and all other parties.

The Executive Director is of the opinion that your conduct is in violation of section 51(1)(d) of the Rules made pursuant to the Act which sets out that:

51(1)(d) A real estate broker must ensure the business of the brokerage is carried out competently and in accordance with the Act, Regulations, Rules and Bylaws.

In accordance with section 39 and section 83 of the Act and Part 4 of the Act's Bylaws, an Administrative Penalty in the amount of **\$1,500** has been assessed against you for this contravention.

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 **\$1,500** 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 Robyn Baran, Investigator, at RECA.

DATED this 26 day of August, 2011.

REAL ESTATE COUNCIL OF ALBERTA

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